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Highway Patrol Corporals Take Promotional Examination

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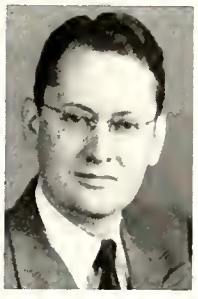
Highway Patrol Promotes Officers According To Merit



By

DONALD HAYMAN

Assistant Director Institute of Government

Thirty-nine North Carolina State Highway Patrolmen were promoted at a ceremony in the State Capitol in Raleigh on Friday, June 29, 1951. The officers were promoted to fill vacancies caused by the 1951 General Assembly's addition of a 105-man troop to the Highway Patrol, and by recent transfers to the expanded Auto Theft Bureau and the newly established permanent weighing stations.

The promotions were made on the basis of competitive examinations conducted by the six ranking commissioned officers of the Patrol and the staff of the Institute of Government. Although the idea of requiring law enforcement officers to take competitive examinations to determine eligibility for promotion has been used successfully for a number of years in several other states, it is a bold break from tradition in North Carolina.

Competitive examinations to determine eligibility for promotion were first ordered by Colonel James R. Smith, Commanding Officer of the Patrol, to fill three corporal vacancies in November, 1950. The first examinations were considered so successful and so beneficial to the morale of the Highway Patrol that a similar examining procedure was ordered in filling corporal, sergeant, and lieutenant vacancies caused by the increase in the size of the Patrol and an expansion of the State's highway safety program.

The competitive examinations given the eligible officers were as arduous and demanding as the day and night work to which they are accustomed. The first competitive tests were given to 100 patrolmen (privates first class) on consecutive days in April in Chapel Hill and Lake Lure. These patrolmen had all served at least four years as members of the Patrol and were eligible for promotion to corporal. In May, all 24 corporals and all 24 sergeants were ordered to Chapel Hill where they took a four hour written examination and were given a 20 minute oral examination by an examining board composed of the six ranking commissioned officers of the Patrol pictured below.

Although each examination varied according to the duties of the positions to be filled, all patrolmen and non-commissioned officers took a standard intelligence test plus detailed examinations over the legal and administrative subjects essential to their Patrol work. To reduce personal favoritism and to increase the objectivity of the oral examining board, each oral examination followed a standardized procedure. The officer's service record was first reviewed. Then each patrolman was asked certain standardized questions by the members of the examining board. Following the examination each member of the board rated each officer on a specially prepared oral examination rating form as to his (1) initiative, (2) character, perseverance, and personal habits, (3) maturity of judgment, (4) ability to obtain

(Continued on inside back cover)

Highway Patrol Oral Examining Board

1951 Automobile Legislation

By JOHN FRIES BLAIR
Assistant Director, Institute of Government

What phenomenon is this
Than which nothing deader is?
The dead await a resurrection;
Does Motor Vehicle Inspection?

Questions like these were asked continually during the 1951 session of the General Assembly, and now that the session has adjourned they continue to be asked. Nine inspection bills were introduced, a number of them pollinated in the Gilbertean mind of Joseph King. With what the *Greensboro Daily News* called its "incomprehensible disdain for highway safety measures," the legislature killed them all. The only legislation of this type that did pass was a resolution, H.R. 203, admonishing the State Highway Patrol to spend more time in making spot checks to see that vehicles are properly equipped. In paradoxical contrast to the refusal of the legislature to pass any of the inspection bills, the Finance Committee of the Senate reported unfavorably a bill to require the Division of Purchase and Contract to sell its motor vehicle inspection equipment.

It is difficult to demonstrate statistically the effectiveness of a motor vehicle inspection program. That vehicle defects cause or contribute to a small but fairly stable proportion (at least 5%) of motor vehicle accidents is well established. In a much larger proportion of cases the condition of the vehicle before the accident is either not ascertainable after the accident or is not reported. It is a matter of common knowledge that motor vehicle defects can develop quickly, and that the unadjusted lights or unequalized brakes corrected at the inspection lane may not be the defects that would have caused the accident. The ideal is the motor vehicle owner who gives his car the same care that the hunter gives his gun. It will, if one may venture to predict, be up to another legislature to decide to what extent an inspection program is conducive to this end, whether it is too troublesome, and whether it is too expensive.

EQUIPMENT

In the backwash of sentiment against the inspection program, and in the rush of adjournment, a bill, S.B. 101, which might have helped the equipment situation somewhat, was lost. It would have required a motor vehicle to be equipped with a safe steering assembly and a leak-proof exhaust system. Standards for these things are hard to define, and the bill was amended in the Senate to change the specifications before it was finally killed in the House. The difficulty of establishing standards may have been the reason that the bill was reported unfavorably during the last days of the session. Nevertheless, it is often a matter of surprise when people learn that the statute says *nothing* about the steering wheel or steering assembly, and that the only thing it says about the exhaust system is that there must be a *muffler* in good working order and in constant operation. G.S. 20-128.

In view of the influx of foreign-made cars, an act, Ch. 293, was passed requiring mechanical or electrical turn signals on cars which have the steering wheel on the right. The provision is quite logical, since the driver of such a vehicle cannot give the hand signals as required by the statute. A bill, H.B. 210, which would have required directional signals on *all* cars manufactured after 1951 was reported unfavorably.

A slight change was made (Ch. 370) in the way vehicles hauling gasoline must be labeled. They may now carry the name of the lessee rather than that of the owner.

The section, G.S. 20-125(b), requiring that emergency vehicles (police cars, fire department and fire control vehicles, and ambulances used for emergency calls) be equipped with bells, sirens, or exhaust whistles was rewritten and expanded (Ch. 392) to make sure that it covers the vehicles of volunteer fire departments and patrols as well as those of paid organizations and that it covers service outside as well as inside a city and to permit the chief and one assistant chief of every police and fire department to use such equipment on a privately-owned vehicle while actually engaged in the performance of official or semi-official duties. Another act (Ch. 1161) extended the section to cover vehicles driven by inspectors of the North Carolina Utilities Commission.

A bill to require governors on the cars of those convicted of speeding more than sixty-five miles an hour (H.B. 510) was reported unfavorably.

If an automobile is hereafter confiscated for the illegal transportation of alcoholic liquor, or is now in the custody of the law, and it is found that the automobile has been altered to increase its speed, the court must order that the vehicle be put back in its original condition before it is sold, or, if the alterations would be too extensive, that it be turned over to a governmental agency or public official for use in the performance of official duties only. The act does not destroy the liens of creditors, Ch. 850.

WEIGHT

Much of the discussion which preceded the session of the legislature had to do with the weight of trucks and busses. Apprehension had been expressed concerning injury to both the primary and the secondary roads. Provisions, however, were killed which would have eliminated the 5% increase in axle weight formerly permitted on heavy-duty roads (S.B. 384); reduced to 32,000 pounds the maximum weight on two tandem axles between 48 and 96 inches apart (S.B. 383); and eliminated the 1-ton leeway before the penalty accrues for overloading the licensed weight of a vehicle on ordinary roads (S.B. 296) and on light-traffic roads (S.B. 136). Some of these provisions, however, were incorporated in two bills which did pass. The much-amended S.B. 183 (now Ch. 1113) came out in the following way: It is now a misdemeanor to refuse to permit a vehicle to be weighed or to refuse to drive it on the scales in order that it may be weighed. The 5% increase over the statutory weight is eliminated in so far as it applies to (1) the gross weight of 16,000 pounds on any one axle when the wheels attached to it are equipped with high pressure solid rubber or cushion tires and (2) the gross weight of 18,000 pounds on any one axle when the wheels attached to it are equipped with low-pressure pneumatic tires. The penalties for overloading are raised and are now on a sliding scale of 1 cent per pound for the first 2,000 pounds, 2 cents per

pound for the next 3,000 pounds, and 5 cents per pound thereafter. The State Highway and Public Works Commission is authorized to fix higher weight limitations at reduced speeds when the point of origin or destination of the vehicle is located on any light-traffic highway, farm-to-market road, or other road of the secondary system. It retains the power to issue permits for excess weight. Ch. 988 directs the commission to establish from six to twelve permanent weighing stations, which are to be operated by uniformed personnel. If a vehicle is found to be overloaded, the operator is to unload enough of the material to bring the vehicle within the statutory weight limit, and the material unloaded is to be cared for at the risk of the owner or operator. Vehicles transporting perishable foods for human consumption may be allowed to proceed without removing the overload if the owner or operator pays the taxes and penalties due or makes arrangements with the Commissioner of Motor Vehicles for paying them. The Commissioner of Motor Vehicle is also directed to purchase portable scales. Ch. 942 eliminates the provision formerly in the law that a vehicle with a gross weight in excess of 50,000 pounds shall not be licensed unless the engine furnishing the motive power has a piston displacement of 350 cubic inches or more.

As to busses, Ch. 495 permits a passenger bus with three axles to have an over-all length of 40 instead of 35 feet and permits such a bus to have a weight, when fully equipped, of 30,000 pounds.

G.S. 20-116(h) was rewritten to authorize the State Highway and Public Works Commission, as between two *primary* highways, to designate one as a truck route when, on the basis of an engineering and traffic investigation, safety or the public interest will be served thereby. The highway selected as a truck route must be so designated; the other route must be marked by signs shewing the maximum gross vehicle weight or axle load authorized thereon. The operation over the other route of any vehicle whose gross vehicle weight or axle load exceeds the minimum shown on the signs is a misdemeanor except when point of destination of the vehicle is located thereon. Ch. 733.

THE STATE HIGHWAY PATROL

Demonstrating that it believed in enforcement, however sceptical it may have been as to inspection and other proposed methods of increasing highway safety, the legislature made sufficient money available under the Appropriations Act (Ch. 642) to enlarge the State Highway Patrol by 105 members and to add seven radio operators and eight mechanics.

The Department of Motor Vehicles was made responsible for moving the household goods, furniture, and personal apparel of a patrolman and of the members of his household when he is transferred other than at his own request. Ch. 285. [A bill which would have made the Department of Motor Vehicles responsible for moving the effects of other state employees when transferred under similar circumstances (H.B. 1222) was reported unfavorably.]

State highway patrolman had formerly been allowed until August 1, 1947, to transfer membership from the Teachers' and State Employees' Retirement System to the Law Enforcement Officers' Benefit and Retirement System. The time within which they may do so has now been extended to August 1, 1951. Ch. 567.

A bill which would have required all highway patrol cars to be painted alike and in conspicuous colors (S.B. 180) was defeated, as was one which would have required the payment of two-thirds of his regular salary, in lieu of compensation under the Workmen's Compensation Act but in addition to all other benefits, to any patrolman totally and permanently disabled from injuries received in line of duty. H.B. 1111.

CHIEF OF POLICE VACANCY

The City of Kings Mountain has announced a vacancy in the office of chief of police and will receive applications from persons meeting the following qualifications:

1. Five years of police work with at least one year of supervisory experience;
2. High school graduation;
3. Between 30 and 45 years of age;
4. Good physical condition;
5. A thorough knowledge of approved principles and practices of police work.

Salary will be commensurate with training and experience. Persons desiring to apply for this position should contact Mr. M. K. Fuller, City Administrator, Kings Mountain, North Carolina. Interviews will be by appointment only.

THE RULES OF THE ROAD

The changes in the statutes with respect to the rules of the road are surprisingly few in view of the immense discussion on these points which preceded the legislative session.

Speed. Only one state-wide act with respect to speed reached final passage. Ch. 782 authorizes the State Highway and Public Works Commission to establish speed zones, and to fix the speed limits therein, on public highways near rural public schools. The act applies only outside the limits of cities and towns. The commission must determine that the proximity of a school to a highway and the number of children in attendance make the maximum speed permitted by the general law un-reasonable or unsafe and must erect appropriate signs. Punishment for violation is by fine or imprisonment or both, in the discretion of the court. The act seems to add nothing to the power of the State Highway and Public Works Commission to fix speeds lower than those authorized by the general law on "any part of a highway" [G.S. 20-141(d)], except that only a "determination," not an "engineering and traffic investigation" is required, and that the penalty for a violation is discretionary rather than fixed.

It is only at intersections that local authorities have the power to lower speeds on through highways within the limits [G.S. 20-141(f) and 20-169]. S.B. 90, which would have given them power to lower to twenty miles an hour the speed at schools on such highways was defeated, even though the schools may not be located at intersections.

Defeated also were bills the intent of which was to reduce to fifty miles an hour the speed limit on highways where the hard surface is less than eighteen feet wide (H.B. 20), to reduce to forty miles an hour the speed limit on highways where the hard surface is less than sixteen feet wide (H.B. 199), and to reduce to forty miles an hour the speed for all except the smallest trucks (H.B. 540).

The definitions of "business district" and "residence district," in the present statute are perennially confusing. S.B. 115, which attempted, at least, to clarify these definitions, failed.

H.B. 1, which would have changed the penalties on certain speeding offenses, was reported unfavorably.

It is at least open to question how much transferrence there is between

watching stock car races and speeding on the highway. Apparently the legislators thought there was little. At any rate a bill to make stock car races illegal (S.B. 89) was killed.

Reckless driving. It is now illegal to drive recklessly, not only on a highway, but also on "any drive, driveway, road, roadway, street or alley" upon the grounds or premises of public or private hospitals, educational institutions, orphanages, churches, or state institutions. Ch. 182.

Drunken driving. Should it be illegal for a person to operate a vehicle on the highway while suffering from an overdose of barbiturates, insulin, sulphonimides, antihistaminec drugs, or benzedrine? S.B. 51, which would have made it illegal to do so while under the influence of *any* drug was not reported by the Senate Committee to which it was referred.

The statute against driving a vehicle while under the influence of intoxicating liquor or narcotic drugs was extended, however, to make it apply, not only to highways and to the drives, roads, alleys, etc., of hospitals, colleges, universities, schools, and public institutions, but also to those of churches and orphanage. Ch. 1042.

When is a person too drunk to drive? There are many ways to prove drunkenness. S.B. 491, which would have regulated and prescribed the evidentiary value of blood tests for alcohol was not reported out of commitee.

Under Section 2 of the *General Ordinances of the State Highway and Public Works Commission* it is illegal to "pile" any lumber "or other material" on the highway or its shoulders, ditches, or drainways. Under Section 17 it is illegal to "throw" any "soil, debris or trash" into the drainage ditches. S.B. 360, which would have made it illegal to discard any whiskey, wine, or beer bottles or cans on the streets or highways or upon the land of another without the owner's permission, was reported unfavorably.

Two bills which would have changed penalties for drunken driving (H.B. 1, referred to under "Speeding" and H.B. 94) were killed.

Hand signals. Hand signals must now be given *continuously* for the last *hundred* feet traveled before stopping or turning. Ch. 360.

Transporting things. Bills which would have made more stringent the requirements for fastening tobacco hogshead to the bodies of trucks (H.B. 841), required the covering of animal carcasses (H.B. 247), and required the covering of crushed rock if the load extends above the sides of the vehicle (S.B. 397) were all reported unfavorably.

Warning signals. There has heretofore been a bad omission in the law, in that a truck, trailer, or semi-trailer disabled on the highway was required to display warning signals (red flags in the daytime, flares or lanterns at night) "not less than two hundred feet in the front or rear of such vehicles." The omission has been supplied The statute will now read "front and rear." Ch. 1165.

Hit-and-run driving. Police officers have been much troubled by the fact that the so-called "hit-and-run" statute, G.S. 20-166, did not tell the motorist what to do if he ran into a parked car or other object, stopped, and found damage of less than $25.00 and no one around. Good practice required that he make an attempt to find the owner, and if he could not, that he leave in a conspicuous place, perhaps under the windshield wiper, his name and address and the name and address of the owner of the car he was driving. However, the statute seemed to require only that he stop. S.B. 52, which did not pass, would have required such a person, or one involved in any accident involving property damage, injury, or death to remain at the scene of the accident until a report had been made to a law enforcement agency, unless it was necessary to leave in order to obtain or receive medical aid or to report the accident, in which case he would have been required to return to the scene of the accident and not to leave until permitted to do so by an officer or by the driver or owner of the other car. Penalties in property damage cases would also have been increased and would have formed the basis for the mandatory revocation of licenses. Courts would have been forbidden, in personal injury and death cases, to suspend judgment upon payment of the costs.

The method suggested for dealing with an obvious defect in the law was perhaps too drastic. A committee substitute was brought in but was rereferred to the committee and then reported unfavorably. A less drastic revision should have a good chance of passage at the next session of the legislature.

A complete system for the reporting of accidents is the back-bone of any accident prevention program, since it is from these reports that the causes of accidents can be ascertained and on the basis of them that remedial measures can be taken. Ch. 794, therefore, which makes it mandatory for city and county police officers to report accidents which they have investigated to the Department of Motor Vehicles by the fifth of the month following the investigation, should go a long way toward forming the basis for such a prevention program.

It is not accidents, however, but *convictions* that form the basis for mandatory revocations of licenses, and in some instances, for suspensions also. Clerks of court are now required by law to forward records of such convictions (G.S. 20-24), but since no incentive is offered, some of them do not do so. A bill (H.B. 125) which would have provided a fee in such cases, to be taxed as part of the costs and retained by the clerk, was reported unfavorably.

Effective July 1, 1951, the Department of Motor Vehicles is authorized to furnish without charge to the United States Veterans Administration, the State Veteran's Commission, local veterans commission, and any of their agents, certified copies of accident reports filed with it by state, county, or city police officers. Ch. 309.

The leading book on the subject, *State Traffic Law Enforcement*, published by the National Safety Council, has the following to say on the confidential nature of accident reports (p. 106): "Accident reports filed by both the individual operator and the police officer should be for the confidential use of the department. This may be a matter of statute or, in some cases, of departmental policy. In any case it is extremely important that these records should not be open to public inspection. Unless their confidential nature is preserved, complete and accurate reporting can never be achieved." Nevertheless, the North Carolina statute [G.S. 20-166(e)] has heretofore required that the reports of *police officers* filed with the department shall be subject to inspection by members of the general public at all reasonable times. Ch. 823 extends this practice somewhat, in that it authorizes the department to furnish any member of the public a certified copy of any such report upon the payment of a $1.00 fee.

LOCAL REGULATIONS OF TRAFFIC

For years it has been customary for the General Assembly to make regulations with respect to traffic in certain beach areas. Ch. 305 extends such regulations in Dare County for an additional eight miles south of the Roanoke Sound bridge. Ch. 446 establishes

such regulations in Brunswick County from Caswell Beach to Lockwood's Folly Inlet, and a different set of regulations from Lockwood's Folly Inlet to Shallotte Inlet.

Of more interest to the historian of the motor vehicle law are six bills dealing with local regulations, since they represent, in part, an attempt to get the legislature to do for local communities that which, under our statewide system of motor vehicle regulation, they cannot do for themselves. Ch. 588 prohibits certain persons, between certain hours, to park on the property of public schools, churches, or religious denominations in Stanly County. Ch. 26 regulates parking, loading, and unloading on certain streets in the village of Erwin. Three bills make a definite departure from state law in lowering to twenty-five miles an hour the speed of any tractor-trailer combination and of any truck or other vehicle having an overall length of more than 21 feet or a gross weight of 18,000 lbs. or over on *all* the streets of Wallace (Ch. 742). Warsaw (Ch. 475), and Wilmington (Ch. 474). The bills also prohibit such vehicles, except when passing, from following each other at a closer distance than 150 feet over the streets of those municipalities. Of such local bills, only S.B. 417, which would have lowered the speeds on a portion of Highway 150 in Lincoln County, was lost.

FINANCIAL RESPONSIBILITY OF DRIVERS

The present "Motor Vehicle Safety and Responsibility Act" locks the door after the horse has been stolen. If a person is involved in an accident, has a judgment for more than $50.00 rendered against him for injury to person or property arising out of the accident, and fails to satisfy the judgment within sixty days, his operator's or chauffeur's license and his registration certificates will be suspended. Apparently it was the intent of the statute that they should not be restored until proof of financial responsibility (usually an insurance policy or bond) for *future* accidents is given, although there is room for argument that the sections requiring proof of financial responsibility (G.S. 20-230 and 20-231) apply only to suspensions under other provisions of the law. At any rate, no provision is made under the statute that the judgment on the basis of which the suspension took place must be settled before the license is restored. S.B. 81 (identical with H.B. 225), which would have altered this situation, was not a compulsory insurance act. It would, however, have required the posting of proof of financial responsibility *after the accident* instead of after the nonpayment of the judgment, and the security would have covered *that accident* as well as subsequent ones. Since posting security after an accident, and on short notice, as a condition of retaining a license would in many cases have been inconvenient if not impossible, the net effect presumably would have been that a far higher proportion of persons would have taken out insurance before they became involved in accidents, and that many of those who were unwilling to insure and unable to pay for accidents after they had them would eventually have been driven from the roads. This is class legislation, but whether it is class legislation against the indigent operator or in favor of the perhaps equally indigent victim of the accident is difficult to determine. The necessity of driving without accidents, of paying for them when they occur, or of supplying insurance to provide against them does not seem too grievous a burden to be borne. Nevertheless the bill was postponed indefinitely by the House after having been passed, in an amended form, by the Senate.

TAXICABS

Taxicab operators are at last required to give proof of ability to respond in damages. Ch. 406 forbids the governing body of a municipality to issue a certificate of convenience and necessity for the operation of taxicabs if proof of ability to respond in damages is not filed with the governing body and forbids persons operating outside a municipality to engage in such business unless proof is filed with the Board of County Commissioners. The proof required is an ordinary "5 and 10" policy, that is, for bodily injury to one person in any one accident, $5,000; for bodily injury to two or more persons in any one accident, $10,000; for injury to property, $1,000. Operators of fifteen or more cabs must carry for each cab insurance of twice the above coverage for bodily injury to persons. Operators in cities of over 50,000 inhabitants may, with the approval of the governing bodies of their municipalities, participate in trust or sinking funds instead of posting liability insurance.

Macon County (Ch. 591) and Cherokee County (Ch. 216) now have special acts relating to the operation of taxicabs.

The City of Durham, which had a special act with respect to the taxation of taxicabs, now brings itself under the general law. Ch. 702.

In Moore County (Ch. 69) and Cherokee County (Ch. 217) it is now a misdemeanor punishable by a fine of up to $50.00 or imprisonment of up to thirty days to refuse to pay a taxi fare unless the operator of the cab has failed to file a schedule of his fees with the county commissioners and with the governing body of the town in which he operates.

TRAFFIC COURTS

For years there has been some agitation for a separate or different system of courts to handle traffic violations. Persuasive arguments can be made both for and against such courts. The recent legislature did not feel inclined to make innovations in this field. First, a bill which would have provided a system of traffic commissioners was reported unfavorably (H.B. 1055); then one which would have created a state-wide system of traffic courts (H.B. 1195). A joint resolution (H.R. 115) which would have created a commission to study the advisability of uniform costs in traffic cases was reported unfavorably in the Senate after having been passed by the House. Even a little bill from Richmond County (H.B. 144) which would have added certain moving violations to the jurisdiction of the traffic bureau in the Town of Hamlet and fixed penalties for those violations was reported unfavorably after passing one house.

GOVERNMENTAL LIABILITY FOR TORTS

It is axiomatic that the State is immune from liability for torts it has committed on its citizens unless it has waived its governmental immunity. When an individual was injured by a road machine, a school bus, or a patrol car, it was customary, up through 1945, to have the legislature pass a special act for his relief. In 1947 and and in 1949, although many special acts were introduced, the legislation came out in the form of an omnibus claims bill. In the 1951 legislature, however, the Industrial Commission was endowed with the functions of a court for hearing claims of this kind. Ch. 1059. Claims which had previously arisen were referred to it for investigation, and claims which arise in

the future are to be so referred. The State having taken over increased responsibility for city streets under the Powell Bill, the number of claims is likely to increase, and the new "Court of Claims," thus informally created, is likely to become an important part of our judicial structure.

In contrast to the state, a city is ordinarily liable for injuries caused by its vehicles, etc., when they are engaged in a proprietary function; not when they are engaged in a governmental function. In *Stephenson v. Raleigh*, 232 N.C. 42, 59 S.E. 2d 195 (1950), the Supreme Court of North Carolina held that a city could not, without legislative authority, waive its immunity in connection with its governmental acts, and that it therefore had not done so in that case, even though it had taken out insurance to cover its hypothetical liability. The legislative authority which was lacking before is supplied by Ch. 1015 as to the whole state and by Ch. 596 as to Durham County. A city may now take out liability insurance to protect its citizens against its acts, even in the performance of its governmental functions, and may waive its immunity to the extent of the insurance coverage.

PARKING

Parking has long been a major municipal problem. It has now become big business also. This legislature, in three important bills, authorized municipalities to issue revenue bonds for parking facilities and to pledge parking meter revenues for the payment of such bonds (Ch. 703), to issue bonds for financing off-street parking facilities (Ch. 704), and to create parking authorities (Ch. 779).

G.S. 160-200(31) restricts the use of parking meter revenues to "the purpose of making such regulation effective and for the expenses incurred by the city or town in the regulation and limitation of vehicular parking, and traffic relating to such parking on the streets and highways of said cities and towns." The legislature, however, passed many local acts authorizing the use of such revenues, not only for those purposes, but also for such purposes as street lighting (Ch. 144), curbs and gutters (Ch. 631), general law enforcement (Ch. 234, 275), a police pension fund (Ch. 880), playgrounds and recreational facilities (Ch. 144, 445, 339, 626, 871), a county library (Ch. 445), and the General Fund (Ch. 339). Questions have been asked as to the constitutionalty of such acts, and a case was recently decided by the Supreme Court, which, it had been anticipated, would settle the matter, but the decision turned upon other grounds.

The foregoing matters concern municipal authority and finance. Of less importance but more interest from the standpoint of the enforcement of the automobile law is a very neat demarcation which the legislature made with respect to inferences of car ownership. The legislature passed Ch. 494, which provides that, in actions for personal injury, wrongful death, or property damage arising out of a motor vehicle accident, proof of ownership of the vehicle at the time of the accident is prima facie evidence that the vehicle was being used with the owner's authority. It refused to pass a state-wide act (S.B. 257) and a series of local bills (S.B. 516, H.B. 897, and H.B. 1178) that would have provided that, in the enforcement of parking regulations, the fact of ownership, as shown by the records of the Department of Motor Vehicles, should be prima facie evidence that the owner parked the vehicle in the place where it was discovered. These bills do not, as newspaper comment suggested, change the burden of proof. They merely put on the defendant the burden of adducing evidence to raise issue the burden of proving which remains as it was before. They all raise inferences which may be contrary to fact. The raising of such inferences by law is nothing new. It is condoned by text writers in those cases where the public policy against the evil sought to be corrected is strong enough to counterbalance a departure from the strict logic of observed experience. It has become a commonplace in drug, lottery, and liquor cases. The decision of the legislature, therefore, was that the public policy against property damage, personal injury, and death was strong enough, that against parking violations insufficient to warrant playing tricks with logic.

DRIVERS' LICENSES

In view of an unfortunate incident of an eight-year-old child driving a farm tractor many miles down a highway, Ch. 764 makes it illegal for a person under fourteen to operate a road machine, farm tractor, or implement of husbandry on any highway except one adjacent to the land on which he lives, and on that only if he is engaged in farming operations.

Ch. 542 fills a bad gap in the law by making it illegal for anyone to operate a motor vehicle as a chauffeur without a chauffeur's license, unless he is exempted from having a license under G.S. 20-8. It also makes chauffeur's licenses expire annually on the birthdays of the licensees. No person may now be licensed whose license is suspended or revoked in the state of which he was a resident at the time of the suspension or revocation. It is also unlawful to reproduce or to possess a reproduction of a driver's license unless the reproduction or possession is authorized by the Commissioner of Motor Vehicles.

Under Ch. 1196 a person may apply for a new license at any time within sixty days prior to the expiration of his old license, and a license issued to him then, or at any time within twelve months after the expiration of his old license, will expire automatically four years from the expiration date of the old license. A person whose license has expired may not be convicted of driving without a license if he produces in court a valid new license issued within thirty days after the expiration of the old license. Also, no chauffeur's license is to expire within less than six months from the date of issuance.

Ch. 1202 redefines "revocation" as follows: "Revocation shall mean that the licensee's privilege to drive a vehicle is terminated for the period stated in the order of revocation." The "period of revocation" remains the same as the period within which a new license could not be applied for under the former act; that is, one year in ordinary cases, three years in the case of a second conviction of driving under the influence of intoxicating liquor, and permanently in the case of a third or subsequent conviction of driving under the influence of intoxicating liquor. The purpose of the bill, as stated by the introducer, was to make it clear that, after the time of revocation has expired, if a person is apprehended while driving without a license in his possession he is guilty only of driving without a license and not of driving while his license is revoked. There is a possibility, however, that in accomplishing this purpose the bill has destroyed the power of the department to require a new examination at the end of the revocation period, that the license must be returned to the licensee, and that revocation has become merely suspension under another name and in some cases for a longer period. Only in the case of a permanent revocation is it clear that an application for a new license must be

(Continued on page 16)

Institute For County Accountants

By JOHN ALEXANDER McMAHON
Assistant Director, Institute of Government

An Institute for County Accountants was held at the Institute of Government from noon on Tuesday, May 15, to noon on Friday, May 18. The basis for discussion was the recently-completed "Guidebook for County Accountants." The purpose of the meeting was two-fold: (1) to acquaint the accountants with the powers and duties, methods and practices of their office as set forth in the guidebook; and (2) to receive suggestions and criticisms on the content of the present edition of the guidebook looking toward a second edition.

The first purpose, acquainting the accountants with the powers and duties, methods and practices of their office, dictated the agenda of the meeting. The subjects covered included: (1) background and purpose of governmental accounting in general, and the County Fiscal Control Act in particular; (2) appointment and bond of the accountant; (3) procedures for budget-making, including the adoption of the appropriation resolution and the resolution levying taxes; (4) organization of general and subsidiary ledgers; (5) accounting for cash receipts including cash reports, cash receipts registers, and special problems in accounting for tax receipts; (6) accounting for cash disbursements, including the use of requisitions, purchase orders, vouchers, and disbursements registers; (7) accounting for taxes receivables, transfers of appropriations, and year-end encumbrances; (8) accounting for bond funds, fixed assets, fixed liabilities, debt service funds, and sinking funds; (9) trial balances and closing books; (10) financial reports to the boards of commissioners and to the public; (11) budgetary controls, including pre-audits of encumbrances and expenditures, periodic reports, and external audits.

The second purpose, receiving suggestions and criticisms looking toward the improvement of the present edition of the guidebook, was accomplished through the cooperation of the accountants present. Numerous questions were raised and the discussions that followed brought out additional items to be included in the next edition. Some of the questions will entail additional research, and the results will be disseminated to county accountants in the near future and will be included in the next edition.

Following the meeting, copies of the guidebook were mailed to all county accountants not present, with the request that they study it and write the Institute all suggestions and criticisms they have. Additional copies are being mailed to County Attorneys with the same request.

Accountants review new Institute Guidebook.

Mr. McMahon leads a discussion among the accountants.

The Institute plans to bring out the new edition of the guidebook, changed in accordance with the suggestions and criticisms received and to be received within the next year.

Attending the Institute for County Accountants were:

Name	County
Mr. Francis E. Liles	Anson
Mr. Morris Isaac	Avery
Mr. P. G. Cain	Bladen
Mr. M. L. Fisher	Bladen
Mr. C. A. Priest	Bladen
Mr. Luther Brisson	Bladen
Miss Lillian Ross	Burke
Mrs. Joe Spencer	Caldwell
Mr. John F. Carpenter, Sr.	Catabwa
Mr. E. L. Shields	Cherokee
Mr. L. P. Smith	Clay
Mr. R. E. Nimocks	Cumberland
Mr. Jay Howard	Davidson
Mr. F. W. McGowen	Duplin
Mr. Howard Holloway	Durham
Mr. M. L. Laughlin	Edgecombe
Mr. W. N. Shultz	Forsyth
Mr. Melvin C. Holmes	Franklin
Mr. W. J. Webb	Granville
Mr. Hugh L. Ross	Guilford
Mr. H. D. Carson, Jr.	Harnett
Mr. M. R. McDaniel	Henderson
Mr. J. A. McGoogan	Hoke

(Continued on inside back cover)

The Powell Bill: More Aid For Street

By JOHN ALEXANDER McMAHON
Assistant Director, Institute of Government

Notice to Mayors: The Highway Commission has sent out letters to all mayors asking for two kinds of information: (1) A letter was sent out on April 24, 1951, asking all mayors to submit information on the last election in their city or town and on what funds are provided for general operating expenses. If you have not answered this letter, do so at once. If you did not receive this letter, notify Dr. Henry W. Jordan, Chairman, State Highway and Public Works Commission, Raleigh, immediately. (2) A letter was sent out on May 16, 1951, setting forth the steps to be taken by each city or town in computing street mileage. This mileage information is to be obtained as of July 1, 1951, and is to be forwarded to the Highway Commission between July 1 and August 1, 1951. If you have not received this letter, notify Dr. Jordan. If you have received it, be sure proper steps are being taken to obtain this information and be sure it is forwarded as per instructions to the Highway Commission. Failure to answer these two letters from the Highway Commission may result in forfeiture of your town's share of Powell Bill money. No other steps need be taken by your city or town, unless you receive further instructions from the Highway Commission.

The ratification of the Powell Bill[1] on March 15, 1951, was the outgrowth of a two-decade struggle by officials and citizens of cities and towns to obtain a larger share of the Highway Fund for construction and maintenance of streets. The struggle began just after the State accepted responsibility for all rural roads in 1931, and resulted in annual appropriations for construction and maintenance of streets of $500,000 in the fiscal years ending 1936 to 1941, increased to $1,000,000 annually in the fiscal years ending 1942 to 1949, and again increased to $2,500,000 annually in the fiscal years ending in 1950 and 1951.

Though the Powell Bill was the subject of much legislative controversy during the 1951 session, the controversy centered around the means of raising money for additional aid to streets. This was in marked contrast to previous years' controversies, which centered around the question of whether or not streets did deserve a larger share of the Highway Fund. The removal of this latter question from the 1951 debate was due in large measure to the State-Municipal Road Commission, which concluded after much study that streets should receive the same treatment from the State as that afforded roads,[2] and to the Governor and the State Highway and Public Works Commission, who took the position that streets did indeed deserve more of a share of the Highway Fund than they had been receiving.

Thus general agreement as to the advisability of additional aid to streets was reached and the question was not opened, leaving only the question as to how the additional aid was to be financed. The General Assembly refused to follow the suggestion of the Governor, who stated that additional aid should be financed by the levy of additional taxes, and instead passed legislation financing the additional aid with the revenue from existing taxes.

The terms of the Powell Bill as finally ratified by the General Assembly are as follows:[3]

AN ACT TO PROVIDE FOR THE MAINTENANCE OF CITY STREETS CONSTITUTING PARTS OF THE STATE HIGHWAY SYSTEM BY THE STATE HIGHWAY AND PUBLIC WORKS COMMISSION AND TO APPROPRIATE FUNDS FROM THE HIGHWAY FUND FOR THE PARTIAL MAINTENANCE OF OTHER CITY STREETS AND TO SET FORTH A PUBLIC POLICY FOR THE CONSTRUCTION AND MAINTENANCE OF ALL STREETS IN THE CITIES AND TOWNS.

WHEREAS, all citizens, regardless of rural or urban residence, pay the same rate of motor vehicle license and gas tax, to the State Highway Fund; and

WHEREAS, the 1931 General Assembly placed the entire cost of construction, reconstruction, and maintenance of all rural roads upon the State Highway Fund, thereby relieving the counties of all ad valorem property taxes for roads; and

WHEREAS, there remains a heavy ad valorem tax on urban property for the construction and maintenance of streets, which burden should be lessened;

Therefore: It is the declared policy of the State:

1. That all streets in cities and towns which are now, or hereafter may be, a part of, continuation of, or a connecting link between highways, shall be declared a part of the State Public Roads System, and shall be wholly constructed, reconstructed and maintained by the State Highway and Public Works Commission out of the State Highway Funds.

2. The cost of the construction, reconstruction and maintenance of all other streets in the cities and towns of the State, shall be equalized, between the cities, towns, and the State, as may be determined by the General Assembly. The construction and main-

1. Chapter 260 of the Session Laws of 1951, later amended by Chapter 948 of the Session Laws of 1951. Chapter 260 was identified during the course of its legislative history as Senate Bill 120, and Chapter 948 was identified as House Bill 916. The Powell Bill was named for its main sponsor, Senator Junius K. Powell of Columbus County, the chairman of the Senate Public Roads Committee.

2. The report of the State-Municipal Road Commission is contained in *Popular Government*, December, 1950, pages 10-13. The report of the Institute of Government to the Commission, which formed the factual basis for the Commission's report, is contained in *Popular Government*, September, 1950.

3. Chapter 260, Session Laws of 1951, as amended by Chapter 948.

tenance of such streets shall remain under the jurisdiction of the cities and towns. *Now therefore*:

The General Assembly of North Carolina do enact:

Sec. 1. From and after July 1, 1951, all streets within municipalities which now or hereafter may form a part of the State Highway System shall be maintained, repaired, improved, widened, constructed and reconstructed by the State Highway and Public Works Commission, to the same extent and in the same manner as is done on roads and highways of like nature outside the corporate limits and the costs of such activities shall be paid from the State Highway and Public Works Fund. Provided, that municipalities shall be required to provide one-third of the cost of acquisition of right-of-way for new streets or for relocating or widening old streets. The appropriations in the Budget Appropriation Bill of 1951-53, the same being Senate Bill 9 and House Bill 7, for the maintenance of State highways, both within and without cities and towns, together with any other appropriations for such purposes hereafter made, shall be used by the State Highway and Public Works Commission for the purposes specified in this section as well as for maintaining other portions of the State Highway System.

Sec. 2. In addition to the amounts to be expended under the preceding section, there is hereby annually appropriated out of the State Highway and Public Works Fund a sum equal to the amount that was produced during the preceding fiscal year by ½ of one-cent tax on each gallon of motor fuel taxed by Sections 105-434 and 105-435 of the General Statutes, to be allocated in cash on or before October 1st each year after the ratification of this Act to the cities and towns of the State in accordance with the following formula:

One-half of said Fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the population of each eligible municipality bears to the total population of all eligible municipalities as indicated by the latest certified Federal decennial census, and one-half of said Fund shall be distributed among the several eligible municipalities of the State in the percentage proportion that the mileage of public streets in each eligible municipality which do not form a part of the Highway System bears to the total mileage of public streets in all eligible municipalities which do not constitute a part of the State Highway System.

No municipality shall be eligible to receive funds under this Act unless it has within the four-year period next preceding the annual allocation of funds conducted an election for the purpose of electing municipal officials and currently imposes an ad valorem tax or provides other funds for the general operating expenses of the municipality. It shall be the duty of the mayor of each municipality to report to the State Highway and Public Works Commission such information as it may request for its guidance in determining the eligibility of each municipality to receive funds by virtue of this Act and in determining the amount of allocation to which each is entitled. Upon failure of any municipality to make such report within the time prescribed by the State Highway and Public Works Commission, the State Highway and Public Works Commission may disregard such defaulting unit in making said allotment.

The funds to be allocated under this section shall be paid in cash to the various eligible municipalities on or before October 1 each year after the ratification of this Act.

No allocation to cities and towns shall be made under the provisions of this section from the one cent per gallon additional tax on gasoline imposed by Chapter 1250 of the Session laws of 1949, unless and until said additional one cent per gallon gasoline tax produces funds which are not needed for or committed by said Chapter 1250 of the Session Laws of 1949, to the payment of the principal of or the interest on the secondary road bonds issued pursuant to the provisions of said Chapter 1250 of the Session Laws of 1949. The State Highway and Public Works Commission is hereby authorized to withhold each year an amount not to exceed 1% of the total amount appropriated in Section 2 for the purpose of correcting errors in allocations: Provided, the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allotted for the following year.

The word "street" as used in this section is hereby defined as any public road maintained by a municipality and open to use by the general public, and having an average width of not less than sixteen (16) feet. In order to obtain the necessary information to distribute the funds herein allocated, the State Highway and Public Works Commission may require that each municipality eligible to receive funds under this Act submit to it a statement, certified by a registered engineer or surveyor, of the total number of miles of streets in such municipality. The State Highway and Public Works Commission may in its discretion require the certification of mileage on a biennial basis.

Sec. 3. The funds allocated to cities and towns under the provisions of Section 2 of this Act shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes.

Each municipality receiving funds by virtue of this Act shall maintain a separate record of accounts indicating in detail all receipts and expenditures of such funds. It shall be unlawful for any municipal employee or member of any Governing Body to authorize, direct, or permit the expenditure of any funds accruing to any municipality by virtue of this Act for any purpose not herein authorized. Any member of any Governing Body or municipal employee shall be personally liable for any unauthorized expenditures. On or before the first day of August each year, the treasurer, auditor, or other responsible official of each municipality receiving funds by virtue of this Act shall file a statement under oath with the Chairman of the State Highway and Public Works Commission showing in detail the expenditure of funds received by virtue of this Act during the preceding year and the balance on hand.

That in the discretion of the local governing body of each municipality receiving funds by virtue of this Act it may contract with the State Highway and Public Works Commission to do the work of maintenance, repair, construction, reconstruction, widening or improving the streets in such municipality; or it may let contracts in the usual manner as prescribed by the General Statutes to private contractors for the performance of said street work; or may undertake the work by force account. The State Highway and Public Works Commission within its discretion is hereby authorized to enter into contracts with municipalities for the purpose of maintenance, repair, construction, recon-

struction, widening or improving streets of municipalities. And the State Highway and Public Works Commission in its discretion may contract with any city or town which it deems qualified and equipped so to do that the city or town shall do the work of maintaining, repairing, improving, constructing, reconstructing, or widening such of its streets as form a part of the State highway system.

Sec. 4. Sections 136-36, 136-37, 136-38, as amended by Chapter 290 of the Session Laws of 1947, 136-39, 136-40, 136-41 of the General Statutes and all other laws and clauses of laws in conflict with this Act are here-by repealed.

Sec. 5. This Act shall be in full force and effect from and after its ratification.

The Powell Bill thus (1) makes the State Highway and Public Works Commission responsible for all streets forming part of the State highway system, and (2) divides the proceeds of ½ of a cent of gasoline tax among eligible cities and towns for work on streets. The precise provisions of the Act are discussed in the following paragraphs, along with some of the problems that may arise in the interpretation of these provisions.

The Preamble

The Preamble declares the policy of the State to be (1) that "all streets . . . which . . . may be, a part of, continuation of, or a connecting link between highways, shall be declared a part of the State Public Roads System, and shall be wholly constructed, reconstructed and maintained by the State Highway and Public Works Commission out of State Highway Funds"; and (2) that the cost of constructing and maintaining all other streets shall be equalized between the cities and towns on the one hand and the State on the other.

The provision concerning the streets which shall be the responsibility of the Highway Commission is, as will appear from the following paragraphs, much broader than the terms of the rest of the Act. Since, however, the Preamble has no direct legislative effect, it is controlled by the terms of the rest of the Act.

Highway Commission Responsibility for Streets

Section 1 of the Act provides in part as follows:

> . . . all streets within municipalities which now or hereafter may form a part of the State Highway System shall be maintained, repaired, improved, widened, constructed, and reconstructed by the State Highway and Public Works Commission, to the same extent and in the same manner as is done on roads and highways of like nature outside the corporate limits and the cost of such activities shall be paid from the State Highway and Public Works Fund. Provided, that municipalities shall be required to provide one-third of the cost of acquisition of right-of-way for new streets or for relocating or widening old streets.

Streets included

There are two possible ways to interpret the phrase "all streets within municipalities which now or hereafter may form a part of the State Highway System." The first is that the only streets included are those which carry numbered highways, i.e., those with either a U. S. or N. C. route number. This interpretation is supported by the fact that those rural roads and highways which carry a U. S. or N. C. route number make up the "State Highway System." There are about 1,100 miles of streets carrying route numbers. The second interpretation is that both the streets that carry numbered highways and the streets that are the urban extensions of the County Road System are included. This interpretation is supported by the fact that both of these types of streets have been to some extent the responsibility of the Highway Commission in past years, and it can be argued that the term "State Highway System" was used not in its technical sense as meaning the roads and streets carrying numbered routes, but in a broader sense as meaning all roads and streets which are the responsibility of the State; in this latter sense the term would include both the State Highway System and the County Road System. There are about 2,300 miles of streets meeting this broader definition, for it would include not only the streets that carry numbered highways but also the streets that are the urban extensions of the County Road System. The Highway Commission has chosen to use the broader definition, believing that it is the one the General Assembly intended.

The Highway Commission, having previously designated both the streets that carry numbered highways and the streets that are the urban extensions of the County Road System, knows what streets meet this definition at the present time in each city and town. As far as streets which may "hereafter" meet the definition are concerned, the Highway Commission will apparently have full control over the addition, alteration, and abandonment of streets for which it is responsible. This authority is granted the Commission by present law,[4] and is subject only to the provision that the number of highways entering a county seat or principal town can not be reduced without the consent of the governing body of the town.[5]

Street work to be done

The Highway Commission is to work the streets for which it is responsible "to the same extent and in the same manner as is done on roads and highways of like nature outside the corporate limits." This may mean (1) that the work to be done on a particular street is to be measured by the work done on the road or highway immediately joining or connecting with the street; or (2) that the work is to be measured by work done on roads and highways carrying comparable traffic volumes; or (3) that the work is to be measured by work done on streets in heavily-populated unincorporated areas like Kannapolis. One statute which has been law for over 25 years may shed light on the interpretation of the foregoing clause: G.S. 136-27, which provides that, when the Highway Commission finds it necessary to connect a highway with an improved street in a city or town, it shall construct the connecting street so as "to be uniform in dimensions and materials" with the highway. It might be argued that this requirement will govern the interpretation of the same-extent same-manner clause of the present Act, and that the interpretation in (1) above is the correct one. On the other hand, it might be argued that, since the present Act did not use the terminology of G.S. 136-27, another interpretation was meant. At any rate, it is possible that the street width to be constructed and maintained and the type of construction and maintenance itself may be measured in one of three different ways, any one of which might result in a standard of work different from the others.

The phrase "to the same extent and in the same manner" does not indicate what aspects of streets are to be the responsibility of the Highway Commission. Thus, some, all, or none of the following may be the responsibility of the Highway Commission: (1) structures, such as underpasses, overpasses, grade separations, and pedestrian crossings; (2) areas that intersect with other streets; (3)

4. G.S. 136-54 to 136-64.
5. G.S. 136-56.

median strips separating traffic lanes; (4) areas reserved for parking; (5) curbs and gutters; (6) storm sewers; (7) sidewalks.

Construction and maintenance

The amount of construction, reconstruction, widening, and improvement to be done in a given year is not specified. Presumably, the Highway Commission is to consider streets which "form a part of the State Highway System" as integral parts of one state road and street system, constructing, reconstructing, widening, and improving all streets and roads as the needs of traffic dictate and as the availability of funds permits. Presumably, the amount to be done, when and where to do it, what to do first, and the decisions on grade, structures, and surface treatment are, in the final analysis, within the discretion of the Highway Commission.

The scope of maintenance and repair work on streets is not defined. The terms "maintenance" and "repair" probably do not include street cleaning, and they may or may not include water removal, mud removal, leaf removal, snow removal, removal of debris from storms or accidents, repair of cave-ins and washouts due to natural causes, and repair of cave-ins and washouts due to failure of city utility lines.

Preventive maintenance

The Highway Commission has been given no specific authority in the Act to prevent damage to streets for which it is responsible. G.S. 136-93, however, giving the Highway Commission "complete and permanent control" over any "road or highway other than streets not maintained by the [Commission] in cities and towns," seems to provide sufficient authority to prevent damage to roads and streets for which it is responsible. That section prohibits the making of cuts for the installation and repair of utility lines in a state-maintained street surface without a written permit from the Commission, and other provisions in the same section seem to be sufficiently broad to allow the Commission to remove limbs of trees, signs, or other objects that may fall into the right-of-way, damaging the street surface and presenting an accident hazard.

Tort liability

No provision has been made in the Act for tort liability arising from improper maintenance and construction. The present law[6] provides that "so long as the maintenance of any street and/or bridges within the corporate limits of any town be taken over the State Highway and Public Works Commission, such town shall not be responsible for injuries to persons or property resulting from the failure to maintain such streets and bridges." Perhaps this relieves the cities and towns from liability arising in connection with work for which they have no responsibility and leaves them with liability for that work for which they are responsible, but this is not clear. For example, if a city repairs a break in a street for which the Highway Commission is responsible without waiting for the Commission to do the work, and negligence in the manner of making the repair causes an accident, a question arises as to whether or not the city is liable. Furthermore, nothing in the present law refers to the tort liability of cities and towns for injuries resulting from failure to construct streets in a "reasonably safe manner."[7] Will cities and towns still be liable for failure in this regard, even when the Commission makes the decisions or does the actual construction?

The tort liability of the Highway Commission is covered by a new 1951 law.[8] It provides that the Commission shall pay damages arising out of the negligent acts of their employees when the latter are within the scope of their employment and when there has been no contributory negligence on the part of the claimant. Claims are to be heard and determined by the Industrial Commission. This seems to cover liability arising out of construction and maintenance work on streets in cities and towns.

City and town responsibility

The provision in Section 1 of the Act that municipalities shall provide "one-third of the cost of acquisition of right-of-way for new streets or for relocating or widening old streets" substitutes a rigid requirement for a flexible practice. Previously the Highway Commission has required cities and towns to pay one-third of the cost of right-of-way, but it has waived this requirement in cases where the payment would work a hardship. For example, the Highway Commission has waived or modified the requirement in cases where expensive right-of-way has been purchased to build a street or road which will be of little benefit to the city or town. This flexibility is now replaced by a rigid statutory rule, leaving no loopholes for exceptional cases. Moreover, the term "right-of-way" is not defined, and it may or may not include, in addition to the land purchased for the right-of-way, the cost of moving buildings and the cost of moving utility lines. In this connection, G.S. 136-18(j) might authorize the Commission to impose the cost of moving utility lines upon the owners of the lines, that is, on the public utilities concerned, since the provisions of that statute seem to be sufficiently broad to cover such a situation.

In the absence of specific provision to the contrary, it is probably true that, generally speaking, cities and towns retain responsibility for traffic control, the erection of traffic signals and markings, traffic law enforcement, street lighting, and the installation and repair of utility lines and underground facilities. Exceptions may arise out of G.S. 136-18(c), authorizing the Commission to regulate parking on "any street which forms a link in the state highway system," and G.S. 136-18(t) and 136-30, authorizing the Commission to regulate all signs within the right-of-way of certain streets for which it is responsible. The erection of traffic signs (route signs and directional markers) probably remains the responsibility of the Highway Commission under the provisions of G.S. 136-30.

The Cash Allocation

Section 2 allocates in cash to eligible cities and towns an amount "equal to the amount that was produced during the preceding fiscal year by ½ of one-cent tax on each gallon of motor fuel taxed by sections 105-434 and 105-435 of the General Statutes." These sections levy the seven cent gasoline tax, and the seven cent tax on motor fuel, respectively. At the present time, the proceeds of ½ of one cent of tax amount to around $4,500,000. The Act does not specifically state whether refunds for gasoline sold to the United States, for gasoline used in aircraft or boats, or for gasoline used for non-highway purposes[9] are to be considered in arriving at this amount. The Act might be interpreted on the one hand as requiring that the eligible cities and towns get ½ of one cent before refunds are deducted, making the Highway Fund

6. G.S. 160-54.

7. See *Willis v. New Bern*, 191 N.C. 507, 132 S.E. 286 (1926).

8. Chapter 1059, Session Laws of 1951.

9. Refunds are provided for by G.S. 105-439 and 105-446.

stand the entire burden of refunds. On the other hand, the Act might be interpreted as meaning that the eligible cities and towns are to receive an amount equivalent to ½ of one cent of tax that would otherwise go for road purposes, making streets as well as roads stand the burden of the refunds. Since refunds amount to perhaps $2,000,000 or more a year, the first interpretation would give the eligible cities and towns perhaps $300,000 more than would the second.

The cities and towns eligible to receive a share of the cash allocation are those which have conducted an election for municipal officials within the four-year period preceding each annual allocation and which levy an ad valorem tax or provide funds from other sources for the general operating expenses of the city or town. Thus two requirements must be met by each city or town: it must have held a recent election of municipal officials, and it must raise money in some manner for operating expenses, either from taxes or other sources, such as revenues from municipally-operated utilities or revenues from ABC stores.

The proceeds of the ½ of one cent are to be allocated one-half on the basis of population and one-half on the basis of mileage of streets which are not the responsibility of the Highway Commission. The population basis is to be computed according to the last certified Federal decennial census, with no provision made for exceptional growth between census periods, nor for towns incorporated shortly after a census period, nor for towns inadvertently omitted from the certified census. This may mean that eligible towns incorporated after a census period will not share in the allocation on the basis of population until the next census period, and the same may be true of eligible towns inadvertently omitted.

The allocation on the basis of street mileage is to be based on reports from the several cities and towns, and the Highway Commission is authorized to require a statement by a registered engineer or surveyor as to the mileage in each city or town. The Act would seem to require that all eligible incorporated cities and towns may share in the allocation on the basis of street mileage, even though some of them might not share in the population allocation as is pointed out in the foregoing paragraph.

Mayors of cities and towns are made responsible for submitting such reports as may be required by the Highway Commission in order to determine eligibility and amount of allocation. In default of proper reports, the Commission may disregard the defaulting city or town in making the allocation.

EXPENDITURE OF CASH ALLOCATION BY CITIES AND TOWNS

Section 3 of the Act provides in part as follows:

> The funds allocated to cities and towns under the provisions of Section 2 of this Act shall be expended by said cities and towns only for the purpose of maintaining, repairing, constructing, reconstructing, or widening of any street or public thoroughfare including bridges, drainage, curb and gutter, and other necessary appurtenances within the corporate limits of the municipality or for meeting the municipality's proportionate share of assessments levied for such purposes.

The "streets" or "public thoroughfares" on which the allocation may be spent are not defined. The definition of "street" in Section 2 of the Act is limited in application to that section alone according to the definition itself. Whether or not a sidewalk, or a median strip, or a parking facility, on-street or off-street, is a "necessary appurtenance" within the meaning of the Act is not clear. And the meaning of the word "maintenance" is uncertain (see page 11). The uncertainty as to the meaning of these terms in the face of the criminal and civil liability provided for mis-expenditure of funds may cause trouble for city and town officials responsible for proper expenditure.

The allocation may be spent on any street in a city or town. Therefore the allocation can be used to supplement the work done by the Highway Commission on the streets for which that agency is responsible.

Section 3 also provides that eligible cities and towns may contract with the Highway Commission, the Commission to do the work selected by the city or town and the city or town to pay the Commission from the allocation. The same section provides that the Commission may contract with cities and towns which are qualified and equipped, the cities and towns to do the work on streets which are the responsibility of the Highway Commission and the Commission to pay the city or town the cost of the work done.

THE EFFECT ON THE $2,500,000 APPROPRIATION

The $2,500,000 annual appropriation for street work in cities and towns made for the fiscal years ending in 1950 and 1951 was administered under the terms of G.S. 136-36 to 136-41. Those sections provided that the Highway Commission was to allocate the appropriation to the cities and towns under a formula provided therein and was to spend the allocation on the streets of the cities and towns. Any unexpended balance remaining to the credit of a city or town at the end of a fiscal year was to be added to the allocation for the next fiscal year. All of these sections were repealed by Section 4 of the present Act, the repeal being effective as of the date of ratification, March 15, 1951. Repeal of the old sections on March 15 raises two questions: (1) May the Commission spend money in cities and towns from the old $2,500,000 appropriation between March 15 and June 30, 1951, since the machinery for that expenditure has been repealed? The Commission has taken the position that it may spend the old appropriation on streets that carry numbered highways and streets that form the urban extensions of the County Road System, since it is responsible for those streets under the new Act, but that it may not spend the old appropriation on other streets, even though the old sections authorized that, since those sections have been repealed. (2) Will any unexpended balance on July 1, 1951, revert to the Highway Fund, or will it be added to the cash allocation turned over to the eligible cities and towns under the terms of the present Act? G.S. 143-18, requiring that all unexpended maintenance appropriations revert to the credit of the fund from which appropriated, may require that any unexpended balance revert to the Highway Fund.

CONCLUSION

Undoubtedly, the Highway Commission will have to make many, if not most, of the decisions on interpretation made necessary by the Act in its present form. Until those decisions are made and put into effect, no accurate forecast is possible of the division of responsibility between the Highway Commission and the cities and towns regarding street work. Nor is any forecast possible at the present time of the amount of money each city and town will receive under the cash allocation. That will depend on the cities and towns which are eligible to share in the allocation, the total population of eligible cities and towns, the total mileage of streets not the responsibility of the Highway Commission in eligible cities and towns, and total receipts from gasoline taxes during the fiscal year ending June 30, 1951.

New Planning Legislation

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

North Carolina's city planning agencies, which have sometimes felt themselves handicapped by lack of sufficient legal authority to carry out their plans, received new tools of major importance from the 1951 General Assembly. Foremost among these was the Urban Redevelopment Law, while significant measures relating to streets and highways, the perennial parking problem, recreation, and zoning were also enacted. These grants of power to the cities and towns are of general interest.

URBAN REDEVELOPMENT LAW

Enactment of the Urban Redevelopment Law (Sess. Laws, 1951, c. 1055; H.B. 378) represents a shift in emphasis in the planning of our cities. Up to the present major reliance has been placed upon regulatory measures, such as zoning, which were designed to prevent certain unwholesome conditions from arising. This new act is a weapon for attacking *existing* unwholesome conditions and bringing about their correction.

For the first time, cities with populations of 25,000 or more are authorized to clear "blighted areas" within their limits and sell the cleared land for redevelopment in accordance with a comprehensive plan for the city. Passage of the act also enables North Carolina municipalities to take advantage of the loans and grants from the federal government authorized by Title I of the Housing of 1949 (Public Law 171, 81st Congress).[1]

The means of exercising this power is through the creation of Redevelopment Commissions, somewhat similar in nature to existing Housing Authorities. These commissions may be established by resolution of the local governing body, on findings that blighted areas exist in the municipality and that the redevelopment of such areas is necessary in the interest of the public health, safety, morals, or welfare. The commission thereupon is incorporated by the Secretary of State and exists more or less independently of the city government, although the Mayor and City Council are responsible for appointing its members.

The new law sets forth in some detail the procedures to be followed by the Redevelopment Commission. As a first step it contemplates that that Commission shall secure from the city planning commission the designation of areas in need of redevelopment and recommendations as to the most suitable form of development. This is in accordance with the provisions of the Federal Housing Act, under which funds are made available only to those communities possessing a comprehensive plan for the development of the community as a whole.[2]

"BLIGHTED AREAS"

Only a "blighted area" may be designated for redevelopment. This is defined as "an area in which there is a preponderance of buildings or improvements (or which is predominantly residential in character), and which, by reason of

[1] dilapidation,
[2] deterioration,
[3] age or absolescence,
[4] inadequate provision for ventilation, light, air, sanitation, or open spaces,
[5] high density of population and overcrowding,
[6] unsanitary or unsafe conditions, or
[7] the existence of conditions which endanger life or property by fire and other causes, or
[8] any combination of such factors,

[a] substantially impairs the sound growth of the community, [b] is conducive to ill health, transmission of disease, infant mortality, juvenile deliquency and crime, and [c] is detrimental to the public health, safety, morals or welfare; *Provided*, no individual tract, building, or improvement shall be considered a part of any blighted area nor subject to the power of eminent domain herein granted unless it is of the character herein described and substantially contributes to the conditions rendering such area blighted." (It will be seen that the proviso to this definition substantially decreases the utility of the new law, for almost all forms of redevelopment require assembly of large tracts of land, without scattered lots being left in their present status.)

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

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

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[1] For an analysis of the benefits available under the federal law, see the article entitled "Slum Clearance and Urban Redevelopment" by W. M. Cochrane, at page 9 of the November, 1949, issue of Popular Government.

In brief, the federal government, through the Housing and Home Finance Agency, will make temporary loans for surveys and planning redevelopment areas, loans to cover the costs of assembling and clearing the land and preparing it for resale, and grants of two-thirds of the difference between such costs and the sum received on resale of the land.

[2] The Housing and Home Finance Agency has interpreted this to mean the community must have (1) *a plan for physical development*, including a land use plan, a plan for circulation facilities (streets, railways, etc.), a plan for public utilities, and a plan for community facilities (schools, parks; playgrounds, governmental buildings, etc.); (2) *a program for development and redevelopment*, including a program of public improvements and an over-all slum clearance and redevelopment program; and (3) *administrative and regulatory measures for controlling and guiding the development of the community*, including zoning and subdivision regulations.

has a wide range of powers, foremost of which are the power of eminent domain and the power to issue bonds.

Local planning boards will find a real opportunity for affirmative action toward reshaping their cities, as a result of the strong emphasis placed upon their role by both the federal act and the new state law. It is expected that the opportunity to secure federal funds will result in wide interest in this program in the cities to which the new law is applicable.

STREETS AND HIGHWAYS

A second major item of interest to planning boards, as to all city officials, was the passage of the Powell bill (Sess. Laws, 1951, c. 260; S.B. 120). This bill is discussed at greater length elsewhere in this issue of Popular Government. Its two main provisions are (1) for the State Highway and Public Works Commission to take over the responsibility for maintenance, construction, etc. within the cities, of all streets forming a part of the State Highway System and (2) for it to allocate funds to cities for street work in an amount equal to the sum produced during the preceding fiscal year by one-half of one cent of the present gallonage tax on motor fuel.

From the standpoint of city planning, this bill has two effects. In the first place, it necessitates close relationships between the municipalities and the Highway Commission in the making and carrying out of street plans. Secondly, the bill in some measure furnishes relief from the municipalities' increasingly critical financial condition. The extent of such relief will have to be shown by experience.

Attempts to regulate the details of construction of streets and highways were generally unsucessful. A bill (H.B. 569) authorizing the State Highway Commission and the cities and towns of the state to establish limited-access highways (parkways and freeways) was passed by the House but was reported unfavorably by a Senate committee. The Senate committee also gave an unfavorable report to a bill (S.B. 267) seeking roughly the same ends, which forbade the construction without a permit from the Highway Commission of commercial entrances into state highways and required that construction of such entrances be in accordance with minimum standards on file in the office of the Commission. However, the General Assembly passed an act providing for establishment of a State Turnpike Authority with power to build limited-access highways as toll roads (Sess. Laws, 1951, c. 894; S.B. 216).

Advocates of highway beautification were encouraged by the enactment of a statute empowering the State Highway Commission to select, plant, and protect trees, shrubs, vines, and grasses along the right-of-way of highways, and to construct roadside parks, picnic aseas, scenic areas, and other turnouts for the safety and convenience of highway users (Sess. Laws, 1951, c. 372; H.B. 571). However, a resolution calling for the beautification of highway entrances to the state (H.R. 914) and a bill requiring owners of junk yards along the highway to erect fences blocking them from view (H.B. 1076) were given unfavorable reports.

An amendment to Charlotte's charter (Sess. Laws, 1951, c. 936; H.B. 805) is of interest to officials desiring to lessen the cost to the city of street widening projects. Under this amendment, the city is authorized to purchase, with any available funds, property immediately adjacent to corner lots, where the City Council finds that the value of such property is less than the value of the corner property. The city may then transfer this property, at private sale, to the owner of the corner lot in exchange for such of his property as is needed for street purposes. The owner is thus left with a corner lot of the same size, so that he does not suffer, while the city gains from paying only for interior, rather than for corner property. The charter amendment also authorizes the city to use funds received from the state and federal governments for permanently improving, opening, or widening streets within the city without making local assessments, where the City Council finds after a hearing that such permanent improvements are necessary in the public interest.

PARKING

Strong legislative interest in the increasingly difficult parking problem was evidenced by the passage of three bills of general application. The first (Sess. Laws, 1951, c. 703; S.B. 243) authorizes the issuance of *revenue bonds* by municipalities in order to acquire or build parking facilities. These are defined to include lots, garages, parking terminals, or other structures, either single or multi-level and either at, above, or below the surface of the ground.

The second act (Sess. Laws, 1951, c. 704; S.B. 244) authorizes the issuance of *general obligation bonds* by municipalities in order to acquire or build such parking facilities. The act provides that revenues from the parking facilities and from on-street parking meters must be pledged in payment of such bonds, and in addition special assessments must be levied against property which is benefited by the provision of the facilities. Procedures for establishment of a particular facility are to be initiated by a petition from a majority in interest of the property-owners who would be assessed.

The third parking act (Sess. Laws, 1951, c. 779; S.B. 365) authorizes cities to create semi-independent Parking Authorities with power to establish and operate off-street parking facilities and to issue up to $3,000,000 of negotiable bonds secured by authority revenues in order to finance such projects. Cities are empowered to transfer property, with or without consideration, to such Authorities; to purchase or condemn land for them; to close or widen streets for their convenience; and to pledge proceeds from on-street parking meters in payment of principal and interest on Authority bonds (even though cities and state are specifically exempted from liability on such bonds). Property of the Authority is exempt from taxation, and its bonds are exempt from all but transfer and estate taxes. The life of the Authority is to be five years or until all its obligations have been paid off; thereafter it will cease to exist and its property will revert to the city.

Because of the present poor market for revenue bonds backed by revenues from parking facilities, experts in the field of municipal finance feel that the second of these acts will be of the most utility. As experience proves the soundness of bonds backed by such revenues, perhaps the first and third acts may be used more widely.

Largely as the result of opposition from local civic organizations, a bill (S.B. 143 authorizing the city of Raleigh to use a portion of Moore Square for a parking lot) was reported unfavorably by a House committee after passing the Senate.

RECREATION

The task of establishing a tax-supported recreation program was eased somewhat by an amendment to the Recreation Enabling Law requiring only a majority of those voting (rather than a majority of the registered vot-

ers) in order for a recreation tax or bond issue proposal to pass and eliminating the requirement of a special registration prior to a recreation election (Sess. Laws, 1951, c. 933; H.B. 492). The composition of Recreation Commissions was altered slightly by another act (Sess. Laws, 1951, c. 126; S.B. 140), which reduced the number of members from ten to "five or more," eliminated the prohibition against members succeeding themselves, and made the heretofore mandatory appointment of designated ex officio members merely permissive.

As in the past, the search for sources of recreation funds apart from taxation continued. Special acts authorized Windsor (Sess. Laws, 1951, c. 144; H.B. 227), Lenoir (Sess. Laws, 1951, c. 445; H.B. 420), Rockingham (Sess. Laws, 1951, c. 339; H.B. 425), and Kings Mountain (Sess. Laws, 1951, c. 626; H.B. 865) to devote a part of the funds derived from their parking meters to recreation purposes, although the constitutionality of this procedure has been open to question. Another special act empowered the Wayne County Board of Commissioners to make contributions out of county funds to any Community Building project or program within any incorporated municipality in the county (Sess. Laws, 1951, c. 555; S.B. 426).

ZONING

The most important legislative action in the field of zoning was a continuation of the trend towards special grants of authority for municipalities to zone the perimeter areas beyond their city limits. There was only one zoning act of statewide application: Sess. Laws, 1951, c. 1203; H.B. 1182, which made buildings constructed by the state and its political subdivisions subject to local zoning ordinances. A special act for Winston-Salem (Sess. Laws, 1951, c. 157; S.B. 157) provides that only a majority vote of members of its Board of Adjustment (rather than 4/5ths vote) shall be necessary in order to grant a variance or exception or to overrule the Building Inspector.

The trend toward extra-territorial zoning powers was begun in 1949, when Raleigh, Chapel Hill, Gastonia, and Tarboro were authorized to zone for one mile beyond their limits. The 1951 General Assembly added to this list the towns of Statesville (Sess. Laws, 1951, c. 238; S.B. 245), Farmville (Sess. Laws, 1951, c. 441; S.B. 263), Mooresville (Sess. Laws, 1951, c. 336; H.B. 335), and Kinston (Sess. Laws, 1951, c. 876; H.B. 1064). Chapel Hill's zoning powers were enlarged to include an area for four miles beyond its limits, excluding the town of Carrboro and areas outside Orange County (Sess. Laws, 1951, c. 273; H.B. 408). A bill extending Southern Pines' zoning powers for one and one-tenth miles was reported unfavorably by a House committee (H.B. 1059). As a means of assuring fairness to residents of the perimeter areas, the Statesville, Farmville, Mooresville, and Kinston acts provide for appointment of four such residents to membership on the zoning commission during its consideration of those areas. The Chapel Hill act grants representation on the local Board of Adjustment as well, when that board is considering cases arising in the perimeter areas.

The Cherry Point Marine Corps Air Station Zoning Commission, created by the 1949 General Assembly to zone areas of Craven and Carteret Counties adjacent to the base, was reorganized along different lines. Its authority over Newport Township in Carteret County was taken away (Sess. Laws, 1951, c. 227; H.B. 355), and a Newport Township Zoning Commission was created, with authority both within the township itself and over an area for 600 feet on both sides of U. S. Highway No. 70 from the township line to the Carteret-Craven County line (Sess. Laws, 1951, c. 1001; H.B. 1129). The Cherry Point commission was then reconstituted as the Havelock Zoning Commission, with jurisdiction over portions of Craven County adjacent to the base (Sess. Laws, 1951, c. 757; H.B. 973). The Carteret and Craven County Board of Commissioners were given authority to act as Zoning Boards of Adjustment to hear appeals from cases in their respective counties.

Two counties sought authority to zone areas within their limits. Dare County was empowered to appoint a Zoning Commission with power to zone selected areas of the county, upon petition of 15 per cent of the property owners of such areas (Sess. Laws, 1951, c. 1193; H.B. 1167). The act leaves the Board of Commissioners authority to make any amendments to the zoning plan after recommendations by the Zoning Commission. It does not apply to areas within the corporate limits of any town in the county. A similar proposal for Guilford County (H.B. 1128) was reported unfavorably by a House committee.

HOUSING

Two bills relating to housing were introduced, and both met with failure. The first (S.B. 525) would have extended the time within which defense housing projects may be initiated; it received an unfavorable committee report in the Senate. The second (S.B. 393), which provided for the creation of a Housing Review Board for the city of Durham, passed the Senate but was not reported out by a House committee. This board would have heard appeals from decisions of the public officer enforcing a minimum housing standards ordinance enacted under authority of Article 15 of Chapter 160 of the General Statutes.

STATE PLANNING

Some measure of state planning was proposed by three bills submitted during the session. One of these, as introduced, directed the Department of Conservation and Development to prepare extensive programs for the development of water resources in the various river basins of the state. It passed the Senate successfully, but in the House it was amended to give the Department control only over irrigation projects utilizing waters of the state (Sess. Laws, 1951, c. 1049; S.B. 578).

The other two bills might be coupled together. The first (Sess. Laws, 1951, c. 1067; S.B. 608) empowers the Governor and Council of State, upon recommendation of the Board of Public Buildings and Grounds, to purchase additional land for future state buildings in the vicinity of Capitol Square in Raleigh. The second (Sess. Laws, 1951, c. 1132; H.B. 919) directs the State Board of Buildings and Grounds to prepare a long range building policy program and to notify the governing body of the city of Raleigh as to its needs, for the information of that body as it considers zoning amendments. As introduced, this bill would have required state agencies throughout the state to prepare such programs.

MISCELLANEOUS ACTS OF INTEREST TO PLANNING BOARDS

A number of miscellaneous acts of interest to planning boards were enacted by the 1951 General Assembly. An extensive Civil Defense Act (Sess. Laws, 1951, c. 1016; S.B. 306) was adopted, which calls for preparation of defense plans at the various levels of government and authorizes the expenditure of funds therefor. Although

unnecessary after adoption of this act special acts authorized Guilford County (Sess. Laws, 1951, c. 247; H.B. 221), New Hanover County (Sess. Laws, 1951, c. 1123; H.B. 857), and the city of Wilmington (Sess. Laws, 1951, c. 1124; H.B 859) to make appropriations for civil defense.

An amendment to Section 115-85 of the General Statutes increases from 10 to 30 acres or the size of tracts which may be condemned for public school sites and authorizes existing sites under that size to be enlarged by condemnation (Sess. Laws, 1951, c. 391; S.B. 290). Two other bills deal with cemeteries: one (Sess. Laws, 1951, c. 385; S.B. 251) authorizes municipalities to take by eminent domain cemeteries adjoining municipal cemeteries; the other (Sess. Laws, 1951, c. 1044; S.B. 565) authorizes municipalities to exercise the same powers over cemeteries they own outside their limits as they have over cemeteries within their limits.

The new Stream Pollution Act (Sess. Laws, 1951, c. 606; H.B. 53) is of interest to planners insofar as it encourages cities to provide adequate sewage disposal and treatment systems. Another statute (Sess. Laws, 1951, c. 941; H.B. 866) provides for the financing of such systems. A number of special acts relate to water supplies. One (Sess. Laws, 1951, c. 49; H.B. 152) authorizes High Point to make rules and regulations for the protection of its water supply lake. Another (Sess. Laws, 1951, c. 550; S.B. 389) authorizes the Town of Dunn to acquire and operate the water supply and sewage systems of the village of Erwin. Others authorize the extension beyond their limits of the Waynesville (Sess. Laws, 1951, c. 1217; H.B. 1202) and the Asheboro (Sess. Laws, 1951, c. 1221; H.B. 1209) water systems.

CONCLUSION

It has been said by eminent planning authorities that the field of planning is as wide as government itself. This being true, perhaps we have not indicated in the above summary all of the acts passed by the 1951 General Assembly which are of interest to planners. However, it will be seen from the discussion that significant steps have been made in several fields in which planning boards have been hampered in the past. As the concept of city planning takes stronger root in North Carolina, it may be anticipated that the course of legislative action will parallel its developing needs.

Automobile Legislation

(Continued from page 6)

made (after five years, as under the former act).

It is now a felony (if it was not before) for a driver's license examiner to accept a bribe. Ch. 211.

Several other bills in this field failed to pass, including the one (S.B. 114) which would have denied an operator's or chauffeur's license to a person becoming sixteen who could not read or write.

REGISTRATION OF VEHICLES

For purposes of the motor vehicle law, and this has a particular bearing on registration, Ch. 770 provides that a person does not terminate his residence in North Carolina by temporarily leaving the state; he is presumed to remain a resident (1) if his family continues to reside in the state, (2) if his children continue to attend school in the state, or (3) if he maintains a dwelling in this state as a place of occupancy which is not used by persons other than members of his family.

Hereafter the Commissioner of Motor Vehicles may require only one registration plate in times when there is a threatened or actual metal shortage. When only one plate is issued it will be attached to the rear of the vehicle. Provision is also made for the surrender and replacement of plates which have become illegible. Ch. 102.

Licensed amateur radio operators may now receive special plates bearing their radio call letters upon payment of an extra fee. These plates are to be permanent, and are to be in addition to the regular license plates issued annually. Ch. 1099. Bills which would have changed the present method of issuing official license plates (S.B. 197), allowed any individual to have his initials on his license plate upon payment of an extra fee (H.B. 697), and provided special plates for members of the General Assembly (H.B. 719) and for those whose licenses have been revoked for drunken driving (H.B. 268) all failed.

Rural fire departments will now be entitled to permanent registration plates. Ch. 388.

A dealer's license and license plates must now be rescinded and cancelled if the dealer willfully fails to deliver a proper certificate of title to a vehicle sold by him, or if he delivers a certificate of title to such vehicle which does not show a proper and correct transfer. A slight change, also, is made in the wording of the section, G.S. 20-79, which relieves a dealer of the necessity of securing certificates of title for vehicles which are to be sold by him as new vehicles. Ch. 985.

Common carrier flat rate registration plates may now, at the option and with the written consent of the motor vehicle owner, be transferred to the new owner of the vehicle. Ch. 188.

Ch. 1110, which has nothing to do with the motor vehicle act as such, extends the provisions of G.S. 14-401.4 with respect to the willful removal, destruction, alteration, or covering of manufacturer's serial, engine, or other numbers or marks on machinery or apparatus (including farm equipment) and authorizes the Department of Motor Vehicles to supply new numbers for any that have been obliterated and to prescribe where they shall be affixed.

Ch. 1120, which also does not become part of the Motor Vehicle Act, authorizes the Utilities Commission, after notice and hearing, to order the revocation and removal of license plates for up to thirty days from vehicles of carriers of persons or property for compensation for the willful violation of certain sections of the Truck Act of 1947 and the Bus Act of 1949.

DEPARTMENTAL MATTERS

The Department of Motor Vehicles will *not* be required to publish lists of motor vehicle registrations and of driver's licenses. S.B. 399 was defeated. Local police chiefs want these lists as aids to enforcement, but the experience in other states has been that they are tremendously expensive and are difficult to keep up to date. The information is, of course, available by radio from Raleigh.

The Department of Motor Vehicles and the Department of Revenue will hereafter be permitted to exchange information when such information is needed for the proper enforcement of laws for which either department is responsible. Ch. 190.

Under Ch. 819 "franchise haulers" become "common carriers of property;" "franchise bus carriers" become "common carriers of passengers;" and "contract haulers" become "contract carriers." The act also provides that an operator who is a lessor must be licensed in North Carolina if the lessee is to deduct from gross revenue for tax purposes the payments he makes under the lease; permits a lessee from a "for hire passenger carrier" to deduct such payments; requires that a copy of the lease be maintained by the lessee, along with his records and receipts, in order that his payments to the lessor may be clearly reflected; and exempts from

gross revenue the amount earned by a common carrier of passengers from coach rentals.

Ch. 571 provides that when a vehicle is leased to a common carrier of property or passengers and is used by the lessee in his business, the lessee may elect to be considered the owner for the purposes of the motor vehicle law. If he fails, however, to transfer the title or any license issued to him pursuant to the act within twenty days after the termination of the lease, he will be liable for an additional tax.

The lessee of a vehicle leased from the United States will be considered the owner of the vehicle for purposes of the Motor Vehicle Act. Ch. 705.

A vehicle whose sole operation in carrying the property of others is limited to transportation of the U. S. mail is not to be considered a "for hire" vehicle within the definition of "contract haulers." Ch. 1023.

Institute for County Accountants

(Continued from page 7)

Miss Flora E. Wyche	Lee
Mr. J. S. Smitherman	Montgomery
Miss Maida Jenkins	Moore
Mr. J. S. Ellis	Nash
Mr. C. F. Smith	New Hanover
Mr. Ira A. Ward	Orange
Mr. Graham K. Eubank	Onslow
Mr. T. C. Brooks	Person
Mr. J. L. Rhodes	Polk
Miss Mary T. Covington	Richmond
Mr. W. D. Reynolds	Robeson
Mr. J. E. Haynes	Rowan
Mr. C. H. Metcalfe	Rutherford
Mr. T. J. Gill	Scotland
Mr. George M. Justus	Transylvania
Mrs. Julia C. Read	Vance
Mr. A. C. Hall	Wake
Mr. C. Bryan Aycock	Wayne

Highway Patrol Promotes Officers

(Continued from page 1)

cooperation, (5) ability to supervise and train subordinates, and (6) ability to plan and carry out difficult assignments.

After all of the examinations were carefully graded, the grades of each patrolman were averaged and patrolmen were ranked according to their average grade. Each officer promoted was selected from among the officers making the highest grades on the promotional examinations. Where officers received comparable grades, the officer with the greatest seniority was given preference.

Although the idea of requiring applicants for the Highway Patrol to pass rigid physical, mental, and oral examinations has proved beneficial over the years, only the future will reveal the long term consequences of these promotional examinations. Coming within 18 months of the Patrol's decision to give general statewide publicity to all attempts to recruit new patrolmen, this similar break with tradition may elevate law enforcement as a career and a profession in the eyes of the entire state.

Officers promoted according to new rank and new official station are as follows:

Captain: D. G. Lewis, Fayetteville.

Lieutenants: S. L. Willard, Salisbury, and C. R. Williams, Fayetteville.

Technical Sergeants: H. R. Frymoyer, Greensboro, W. B. Kelly, Fayetteville, S. D. Moore, Salisbury, W. W. Stone, Greenville.

Supply Sergeant: J. D. Griffin, Raleigh.

Sergeants: Victor Aldridge, Siler City, W. S. Clagan, Washington, T. W. Fearing, Goldsboro, Logan B. Lane, Salisbury, John Laws, Raleigh, W. S. McKinney, Greensboro, J. E. Mosteller, Gastonia, W. V. O'Daniel, Rockingham, A. L. Taylor, Henderson, F. W. Reynolds, Wadesboro, O. R. Roberts, Charlotte, and B. L. Walker, Statesville.

Corporals: R. H. Chadwick, Williamston, Ernest Guthrie, Hertford, M. E. Guy, Monroe, J. S. Hackett, Wilson, J. H. Harrelson, Reidsville, J. S. Howell, High Point, H. J. Hunt, Newton, O. H. Lynch, Southport, C. M. Jones, Roxboro, J. S. Jones, Danbury, J. B. Kuykendall, Hendersonville, O. J. Mitchell, Asheboro, B. C. Nesbitt, Laurinburg, M. S. Parvin, Carthage, R. E. Sherrill, Raleigh, C. L. Teague, Charlotte, R. F. Williamson, Dunn, J. L. Wilson, Oxford, and R. W. Young, Elizabethtown.

Considerable progress has already been made in bringing the Patrol up to its newly authorized strength of 528 in spite of the Korean war and the rising cost of living. Sixty-six new recruits graduated from a six-week training course conducted by the Institute of Government on June 16 and entered on duty as patrolmen on June 25. Forty-seven new recruits are now in training in Chapel Hill, and Colonel James R. Smith has recently announced that applications are now being received from qualified applicants desiring to attend a third traffic law enforcement training school to be conducted by the Institute of Government between July 30 and September 8, immediately following the closing of the present school.