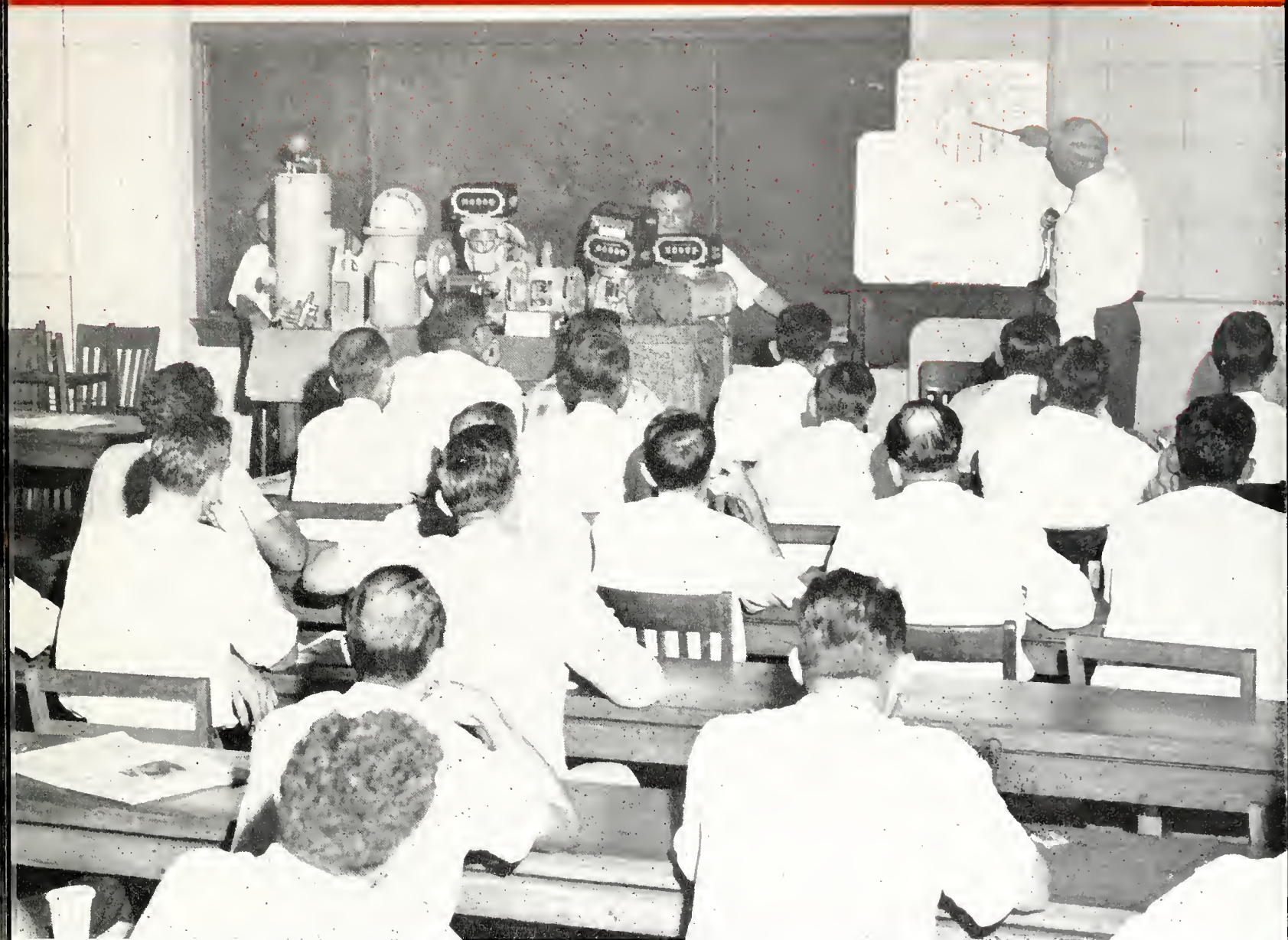


Popular Government

October 1951



Classroom Scene from a School Conducted by the Gasoline and Oil Inspection Division of the N. C. Department of Agriculture and the Institute of Government

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UNIVERSITY OF NORTH CAROLINA
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THE CLEARINGHOUSE

Recent Developments of Interest to Cities and Towns of North Carolina

Water Plants

This summer's dry weather posed critical tests for municipal water supplies in North Carolina. In some cities plant capacity was not enough to meet the summer's demand. In others the source fell off to such an extent that emergency measures had to be taken.

West Jefferson's supply ran so low that an emergency ordinance had to be enacted regulating the use of water for non-vital purposes such as car-washing, side-walk washing, and lawn sprinkling. Similar measures were not sufficient in Carthage where the springs virtually dried up and the town had to borrow trucks from neighboring towns to carry water into the town for essential drinking and washing purposes.

The emergency prompted quick action in Roxboro whose present filtering plant, built in 1923 with a capacity of 1,000,000 gallons a day, has been working overtime to meet a demand that has reached as high as 1,500,000 gallons a day in the hot months. This summer the town faced a continual crisis, has run out of water on a few occasions, and has had to keep an emergency tank available to offset a possible breakdown in case of a fire. But soon construction will start on a new \$500,000 plant equipped to furnish 3,000,000 gallons of water a day. The work should be completed in 14 months.

Morganton is even farther along. A new \$450,000 water pumping station and filter plant will soon make the emergencies of 1951 ancient history. Reidsville is calling a bond election for the approval of a \$625,000 bond issue to finance the enlargement and extension of the water system.

State Help In Street Construction

The State Highway and Public Works Commission announced early in September that it would not for the present enter into agreements with small towns to do work on streets with the funds made available to the towns under the Powell Bill. (Under the Powell Bill money is being turned over to the cities and towns of

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COVER

Cover: Pictured here is a typical classroom scene at schools conducted by the Institute of Government during the summer. See article on page 4.

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the State to aid them in the construction and maintenance of streets.) The Commission had announced this policy in August but was asked to reconsider its stand by the North Carolina League of Municipalities. The League and many of the small towns believe that the Highway Commission, with its trained men and equipment, could make the amounts of money given the small towns go farther than the towns could.

The Highway Commission has taken the position that the primary and secondary road programs, being the Commission's first responsibility, have first call on the men and equipment of the Commission. But the Commission, in its early September announcement, held out hope to the towns by saying that after the completion of the \$200,000,000 bond program sometime next year the present policy may be changed and some help may be forthcoming. Governor Scott has also said that the Commission's own road program should come first, but that the Commission should help the towns if it has time.

Winston-Salem ABC Board

The Winston-Salem Board of Aldermen has established an ABC board to manage the city liquor control stores approved by a vote of the people in a city-wide election on July 14. The chairman of the three-man board is to be the full-time chief administrative officer and will receive an annual salary of \$7,500. The other two members are to serve part-time and will receive an annual salary of \$1,200 each. The ordinance requires that the chairman give a bond of \$25,000 and that each other member give a bond of \$10,000. The board is authorized to establish and operate five stores within the city. The board of aldermen has approved the appointment of Guy T. Ward, Jr. as the first chairman for a three-year term, J. R. Merrill, Jr. as a member for a two-year term, and L. D. Long as a member for a one-year term. Their successors in office will serve for terms of three years each.

New Ordinances

Among the new ordinances received by the Institute of Government from North Carolina cities and towns are the following:

Winston-Salem. Establishing an east-west dividing line from which street numbers are to be assigned. After September 15 new street numbers will be in effect and all streets running east and west will have prefix of "east" or "west" according to location with respect to the line. Gives city building inspector the duty of reassigning street numbers.

—Prohibiting persons under the influence of barbiturates and other hypnotic drugs from driving inside the city.

—Permitting the installation, with police department approval, of sidewalk benches within the shopping district of the city, provided the area is well-lighted and regularly patrolled.

Edenton. Permitting the removal by the police department to a designated garage of any motor vehicle left unattended, disabled, parked illegally, or parked on the street for a period of more than 48 hours after notice has been given to remove the vehicle. No impounded vehicle is to be released until the towing, storage and other charges have been paid. For the disposal of unclaimed vehicles, the registered owner is to be deemed the owner for advertising purposes.

Spindale. Requiring all domestic fowls to be securely enclosed on the premises of the owner, and prohibiting the construction of a house or roosting place for domestic fowls within 100 feet of any residence.

Louisburg. Making it unlawful to leave motor vehicles on the town streets for a period of more than 24 hours.

Greensboro. Permitting city employees covered by personnel rules to take a paid vacation of not less than 60 nor more than 90 days upon filing application for retirement if they have reached the age of retirement or are within 90 days of the age of retirement and if they have been employed by the city for 30 years or more. The city manager is to determine the length of the vacation, taking into consideration the best interests of the employee from the standpoint of the retirement system. All accumulated leave to which the employee is entitled is to be included in this final paid vacation.

Salute!

This month **Popular Government** salutes three veteran city employees.

J. O. Duval has retired as city clerk of Greenville after over 29 years of service in that capacity. He was the oldest employee in continuous service in the history of the city.

Chief L. L. Jarvis, chief of police in Greensboro, was honored by the city council for his many years of distinguished service when he retired this summer.

L. L. Ledbetter, city treasurer of Charlotte, was honored in a council resolution calling attention to the completion of 30 years of faithful and efficient service in August, and he remains at his job.

Traffic and the T-Man

Sixteen North Carolina cities went through 1950 without a single fatal traffic accident. Chapel Hill, Smithfield, Dunn, Laurinburg, Tarboro, Morehead City, Asheboro, Reidsville, Salisbury, Mooresville, Belmont, Kings Mountain, Lincolnton, Lenoir, Canton, and Waynesville have received inscribed plaques from the Highway Safety Division of the Department of Motor Vehicles to mark their perfect records.

Perhaps the bigger, the more tragic, story is to be found in the cities not so honored. While local governmental officials, state officials, highway officials, traffic experts, and private citizens grope for ways to reduce the traffic toll, the accidents continue to pile up. There is a story in every morning's newspaper.

Traffic control is the number one problem of law enforcement officers. Unfortunately there is probably no police force in the country with the personnel to patrol adequately the streets and roads in its jurisdiction. So difficult has it become that some cities, under the lead of **Kansas City, Missouri**, have inaugurated a plan for detecting traffic violations with the assistance of private citizens. The program is entirely preventive in nature, and works in this fashion.

The chief of police selects a small group of citizens as traffic reporters or T-Men, and their identity is known only to him. Each T-Man is expected to set a good example for the community by his own driving, and is requested to detect traffic violations

occurring in the city. He is equipped with a number of post cards addressed to the police department on which are printed blanks for the name and address, if known, and license number of the violator's car and for a description of the traffic regulation violated. In lieu of a signature the T-Man puts his number. When the police department receives the report, the following letter is immediately sent to the violator:

Dear Mr. Jones:

Motor vehicle bearing North Carolina license 666-111, registered in your name, has been reported by a city T-Man as having been driven in such a manner as to create a traffic hazard, to wit: Running through a red light. The location where this occurred was reported as the intersection of Able Avenue and 1st Street.

The time reported as having occurred was 11:00 p.m.

We know that you, or anyone you authorize to drive your car, does not want to be the cause of, or the victim of, a traffic accident. For that reason, we hope you will accept this letter as a reminder of the necessity of observing safe driving practices at all times.

Because of our interest in the safety of all our citizens, we ask your help in reducing deaths and injuries by continuous carefulness in driving and walking. Your acknowledgment of this letter, together with such comment as you care to make, will be appreciated. Sincerely,

John Smith, Chief of Police

In no case does the police department attempt to secure convictions on the written report of a T-Man, and the name of the reporter is never revealed. The program is educational, and it is hoped that by calling violations to the attention of the guilty driver, that he will be more careful in the future.

More complete information on the conduct of a T-Man safety program may be obtained by writing to the Institute of Government.

Council Procedure

Busy city councils and boards of aldermen are looking more and more to procedures that will speed up the conduct of council meetings and insure that council members and aldermen are better informed on the business to be transacted. **Winston-Salem's** board of aldermen recently voted to

require the secretary to the board to furnish each alderman a copy of each ordinance and resolution proposed for consideration at the next meeting at least 36 hours in advance of that meeting. It further instructed the secretary to furnish each alderman a copy of the agenda at the same time, and directed that members of the press be given the same advance copies of ordinances, resolutions, and the agenda. Proponents of the measure argue that the aldermen will be better informed and better able to act upon the suggested legislation at the time of the board meeting, that the public will be better informed on the business to be transacted at the meeting, and that no minority group will be able to push through controversial legislation in the absence of some board members. These arguments were all expressed when the adoption of an advance agenda similar to that of Winston-Salem was urged in Charlotte.

Durham's Annual Report

North Carolina cities interested in publishing an annual report should study the annual report of the city of **Durham** for the year 1950-51. Attractively printed and profusely illustrated, the booklet uses interesting summaries, simple charts, and clever drawings to portray the work and achievements of the city government during the year. Featured are the public works projects to be built from the bond issues in the amount of \$5,275,000 approved by the voters in May, 1951. The report includes short write-ups for each department and a financial statement for the year.

Municipal Briefs

Law Enforcement. The **Winston-Salem** police department has declared war on gutted mufflers. They are too noisy . . . **Raleigh's** police patrols have been cautioned to drive no faster than 40 miles per hour except when actually chasing violators of the law. . . . **Greensboro** has added six policewomen to help patrol the downtown traffic area.

Airports. Airline service by Capital Airlines was reinstated in **Hickory**, on August 15 following the expenditure of \$500,000 by the city in bringing the airport into compliance with the standards of the Civil Aeronautics

Board. General Robert Eichelberger was the principal speaker at the ceremonies. East-west service to Hickory by Piedmont Airlines has been requested and the decision is in the hands of the Civil Aeronautics Board.

Outside Services. **Lenoir** has increased its water rates for customers living outside the city limits. **Warsaw** has fixed a charge of \$25 per hour for the use of the town fire truck on out-of-town calls. The fire department has been authorized to reduce or eliminate the charges on particular calls if it sees fit. The charge is not to apply when other towns officially call for help.

Zoning. A permit for the construction of a temporary steel-frame, wooden roof auditorium for the Billy Graham Evangelistic Crusade has been issued by the **Greensboro** city council. The building is classified as a tent and will be torn down when the Crusade is completed. . . . **Franklin** has appointed a zoning commission to work out a zoning plan for the town.

Building Regulation. A city-wide inspection of homes to locate fire hazards will be made this fall by the **Greensboro** fire department. A two-way radio system capable of warning firemen and trucks on inspection duty that a fire is in progress makes the inspection program possible. . . . The Consolidated Board of Health for **Wilmington** and **New Hanover County** has adopted a revised plumbing code after several months of study. The code is more in line with modern practice and is being made more understandable by a series of drawings to illustrate its requirements. It also permits some minor repairs to be made by persons other than licensed plumbers. The

code will be printed in booklet form for distribution. . . . As an example of the work carried out under unfit housing ordinances, the progress report of the **Charlotte** department for July shows the following:

Inspections made	274
No. of housing units brought up to standard	252
No. of property owners cited for hearings	10
No. of housing units condemned	8
No. of bathing facilities installed	238

The city council is considering an amendment to the ordinance which would require the installation of water heating facilities in connection with the installation of bathtubs and showers.

Miscellany. The **High Point** city council has directed its city manager to recommend a list of holidays to be observed by city employees. . . . **Chapel Hill** has purchased a resuscitator for use in connection with accidents in the town. University personnel are instructing firemen and policemen in its use. . . . **Spindale** has purchased a new patrol car. . . . **Smithfield** has a new fire truck. . . . The new **Elbert Ivey Memorial Library** in **Hickory** should be completed by November 1. . . . **Charlotte** has let a contract for the construction of a new animal shelter for the pet department at a price of \$14,037. The city has also directed its traffic engineer to complete a survey of the city parking situation and has appropriated \$1,500 to cover the cost of the survey. . . . City and town tax rates have been adopted. A high of \$2.30 per \$100 and a low of \$0.50 per \$100 have been noted.

Recent Developments of Interest to Counties of North Carolina

Blowing Rock Conventions

The 44th Annual Convention of the State Association of County Commissioners and the State Association of County Accountants opened at the Mayview Manor in Blowing Rock on Monday, August 27, and closed on Wednesday, August 29.

The session on Tuesday afternoon was given over to addresses by the Honorable Harry McMullan, Attorney

General, Mr. Kerr Craige Ramsay, member of the Legislature from Rowan County, and Mr. Keith L. Seigmiller, Executive Secretary, National Association of County Officials, Washington, D. C. Mr. McMullan reviewed the work of the 1951 General Assembly, giving attention to those acts of particular interest to county officials. Mr. Ramsay discussed the workings

of the legislature as observed by a member of it, giving particular attention to the fate of the legislative program of the Association of County Commissioners. Mr. Seigmiller explained the work of the National Association of County Officials. The latter, he said, is mainly concerned with the relations of the several counties of the United States to the federal government, and is secondarily interested in the relationship of the counties of one State with the counties of another, when problems arise between them. The peculiar problems of the counties of one State are the province of the people of that State and the National Association leaves those to be worked out by state associations.

The session on Tuesday morning was an open meeting of the Board of Directors of the State Association of County Commissioners, to which all attending the convention were invited. A number of topics were discussed, including construction of school buildings and the need for equalization of school facilities, construction of health centers and the necessity of providing separate facilities, and county health programs.

The State Association of County Accountants met on Monday evening and heard Mr. W. E. Easterling, Secretary, North Carolina Local Government Commission, discuss the growth of local debt and local valuations over the past several years. Although a large amount of bonds has been issued since the end of World War II, debt as a percentage of assessed valuations has been decreasing because of the more rapid increase in valuations. Mr. Donald Hayman, Assistant Director of the Institute of Government, discussed the responsibilities of county commissioners under the merit system for health and welfare employees.

At the final session on Wednesday morning, the constitution of the State Association of County Commissioners was amended to provide for the election at the convention of a president and two vice-presidents, and for the appointment by the Board of Directors of an executive secretary-treasurer. New officers elected were: Mr. John F. Long, Iredell County, President; Mr. C. A. Hasty, Robeson County, 1st Vice-President; Mr. Lloyd Amos, Guilford County, 2nd Vice-President; Mr. John E. Boone, Northampton County, 1st District Director; Mr. A. D. Swindell, Beaufort County, 2nd

District Director; Mr. L. E. Ray, Cumberland County, 3rd District Director; Mr. R. P. Holding, Johnston County, 4th District Director; Mr. Lloyd Amos, Guilford County, 5th District Director; Mr. E. P. Jones, Scotland County, 6th District Director; Mr. P. K. Dry, Rowan County, 7th District Director; Mr. Roy Craft, Forsyth County, 8th District Director; Mr. W. E. Webb, Sr., Iredell County, 9th District Director; Mr. Coke Candler, Buncombe County, 10th District Director. Mr. J. Henry Vaughan, Nash County, continues as Executive Secretary-Treasurer.

The State Association of County Accountants elected the following officers: Miss Mary T. Covington, Richmond County, President; Mr. C. Bryan Aycock, Wayne County, 1st Vice-President; Mr. Roy Moore, Union County, 2nd Vice-President; Miss Flora E. Wyche, Lee County, Secretary; Mr. J. E. Haynes, Rowan County, representative of the Association to the Board of Directors of the State Association of County Commissioners.

Indiana Loses Federal Welfare Aid

Indiana law permits the publication of the names of persons receiving public assistance benefits, and, under the law, names of persons receiving old age assistance, aid to dependent children, and other forms of aid have been published. Publication of that information is contrary to the federal law, so the Federal Security Administrator has withheld federal funds from Indiana on the basis of the violation of federal law.

The State has filed suit in the Federal Court challenging the FSA action. And a bill has been introduced in Congress to prohibit withholding of federal funds on this ground.

Sheriffs' Convention

The North Carolina Sheriffs Association held its annual convention at Carolina Beach from August 15 to 17. Featured on the program were the Honorable Harry McMullan, Attorney General, Dr. Ellen Winston, Commissioner of Public Welfare, and Basil Sherrill, Assistant Director of the Institute of Government.

Health Centers

A public health center has recently been dedicated in Beaufort County. Secretary of State Thad Eure, who

spoke at the dedication, stated that this was the 11th health center completed in the State this year and that 18 more are in sight. The county spent \$19,000 for the center, the State \$17,000, and the federal government \$8,600; the town of Washington gave a \$7,000 lot for the center.

Davidson County has recently received bids on a proposed health center. The low bid, totaling \$65,000, has been sent for approval to the appropriate State and federal agencies which are cooperating in the construction. The center will be located on the Thomasville-Lexington highway near Lexington.

The Advantages of Local Government

Mr. Keith L. Seigmiller, addressing the State Association of County Commissioners (see above), said that there are three reasons why local government must remain strong: (1) The government is best which is closest to the people and thus sensitive to their wishes; the government in the city halls and county courthouses meets this definition. (2) Democratic government at the local level where everyone can see it strengthens the faith in the democratic system at all levels. (3) A foreign ideology would have much less chance of corrupting a large number of strong local governments than one central government in whose hands lay all power.

Brief Notes

For over fifty years the general law of the State has prohibited county commissioners from practicing law. This prohibition was made inapplicable to Anson County by the 1951 General Assembly so that a lawyer elected to the board of commissioners could take his seat. . . . Scotland County, has recently appointed a County Director of Civil Defense. In case of disaster, subversive action, or enemy action, this officer is empowered to use county equipment and county personnel as he sees fit. . . . All county employees of Warren County have been placed under social security by action of the board of commissioners. . . . Durham County recently sold \$2,000,000 worth of hospital bonds at an interest rate of 1.73%. The municipal bond market is

(Continued inside back cover)

850 Officials Attend Institute

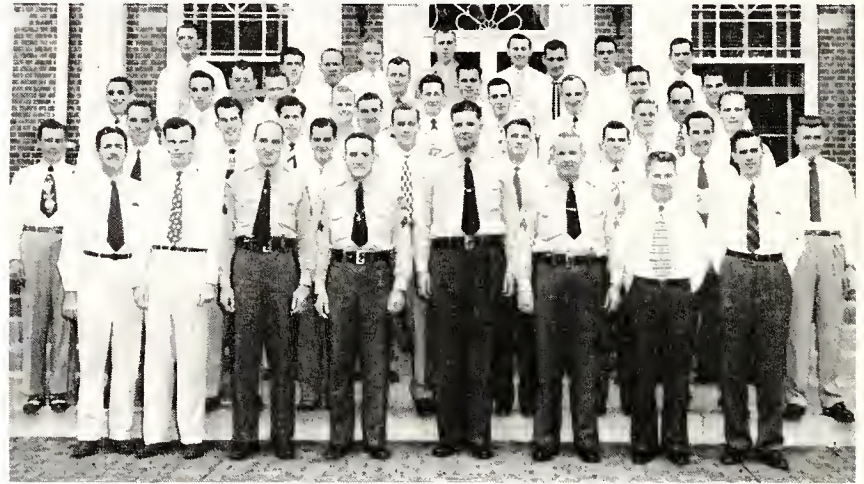
By Hope Marshall of the Institute Staff, and Willis C. Bumgarner and William E. Poe, Jr., Assistant Directors of the Institute of Government

Highway Patrol Training Schools

In one of the most extensive Highway Patrol training programs attempted since the strength of the organization was doubled in 1947, 143 new patrolmen were graduated from three successive six-week training schools conducted by the Institute of Government for the State Highway Patrol from May 7 through September 1 at the Institute's training barracks in Chapel Hill.

The authorization of an additional 105-man troop by the 1951 General Assembly—the only major recommendation of the Governor's Advisory Committee on Highway Safety to achieve legislative approval—and the constant demands of the armed forces created the need for new personnel. Even with the addition of its newly-trained members, however, the Patrol has yet to reach its total authorized strength of 528 men. In spite of the fact that applications have been numerous, the Patrol has steadfastly refused to sacrifice its standards for the sole purpose of acquiring a full compliment of men.

Following a standing policy of selecting men on the basis of character investigations and competitive physical and mental examinations, three groups of applicants who had responded to Col. James R. Smith's public announcement that vacancies existed in the Patrol were asked to



Members of the Third Highway Patrol School are pictured with Captain C. A. Speed who was in charge of that school.

report on specified dates at Fort Bragg for physical examinations by Army medical personnel and for written and oral examinations conducted jointly by members of the Institute staff and the commissioned officers of the Patrol. Applicants selected from these groups were invited to come to Chapel Hill to undergo six weeks of intensive training.

Throughout each school sixteen-hour days were the rule rather than the exception. From six o'clock in the morning until ten at night trainees found that their time was fully occupied in struggling with a curriculum that included at least partial coverage of every phase of traffic law enforcement in its broadest sense. By far

the largest proportion of the classroom schedule was allotted to a detailed study of the motor vehicle laws—that is, the rules of the road, the weight and equipment requirements for vehicles, and the driver license laws. However, the student patrolman almost as often found themselves embroiled in detailed legal discussions of patrol jurisdiction, the law of arrest, problems in search and seizure, motor vehicle title and registration provisions, common law and statutory crimes, and the laws relating to alcoholic beverages. Aside from the legal topics, some twenty hours with each group were devoted to a study of first aid, sixteen or more hours were allotted to training for public speaking; and as much time as possible was used for basic lectures on governmental structure, history, geography, and even spelling. In addition, of course, each trainee made frequent visits to the pistol range for training in the proper use of firearms and received several hours of instruction in the art of self-defense. Driver training, automobile care, use of the radio, and the procedure for filing routine forms and reports were fitted into the overall program as time permitted.

Instruction in courses within the legal field was provided almost solely by members of the Institute staff using guidebooks and other materials prepared in large part by the staff. Assistant Director Ernest Machen,



Above are the members of the Second Highway Patrol School, including Captain W. B. Lentz who was in charge of both the first and second schools.

Schools During the Summer

for example, taught the courses in arrest and search and seizure, using two books prepared by him and published by the Institute. The motor vehicle laws were taught by John Fries Blair and William E. Poe, both using a book prepared for this purpose by Mr. Blair.

Supplementing this instruction with lectures based on long years of experience on the job were members of the Patrol assigned to the school. Privates First Class Barnes, Greeson, Smith and Wilson conducted all of the classes in first aid; Sergeants Laws and Stewart supervised the training with firearms; Sergeants Clark and Johnson conducted classes in self-defense and in use of the radio; Sergeant McKinney, a former school-teacher, taught geography, history, and spelling; and both McKinney and Sergeant Jones gave instruction in accident investigation and reports.

Captain W. B. Lentz of Troop C was the officer in charge of the first two schools and likewise rendered valuable assistance as a teacher. Like his successor, Captain C. A. Speed of Troop E, in command of the third and last school, Captain Lentz attended most of the classes and made comments whenever it seemed appropriate. Basil L. Sherrill, Assistant Director of the Institute in charge of the Patrol training program throughout this period, took time from his administrative duties to teach liquor law enforcement and to fill in at various other times when the occasion demanded.

Maximum use was made of outstanding persons in their fields whenever arrangements could be made for them to appear on the program. Special Superior Court Judge Susie Sharpe spoke for an hour on two separate occasions, drawing on her judicial experiences to counsel the new patrolmen. Other speakers drawn from the large family of public officials included Superior Court Solicitor Charles T. Hagan, Chief J. I. Waller of the Winston-Salem Police Department, Secretary of State Thad Eure and State Auditor Henry Bridges.

Periodically throughout each school the trainees were subjected to thorough written examinations in all subjects included in the curriculum. A careful and systematic check was made on the progress of each student, and those falling below certain standards

were called in by officials in charge of the school for conferences which in a number of instances led to the student's dismissal from the school. The 143 trainees who successfully completed the six-week course were immediately sworn in as members of the Patrol and were assigned for a short period to work with an experienced officer before moving to their permanent stations.

Dept. of Agriculture's School for Gasoline Pump Mechanics

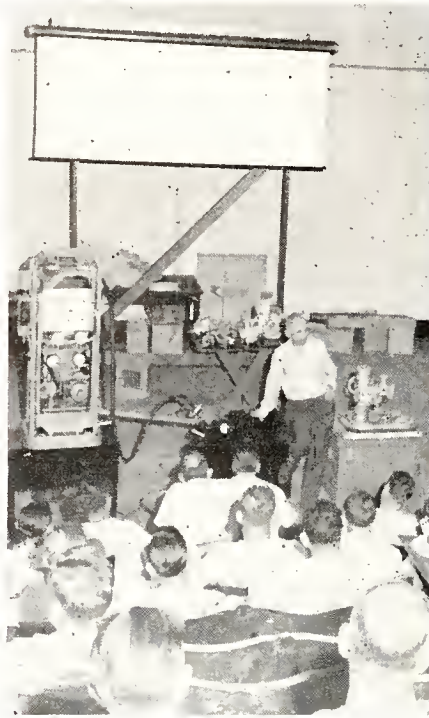
The Institute of Government cooperated with Mr. C. D. Baucom, head of the Gasoline and Oil Inspection Division of the North Carolina Department of Agriculture, in holding the first school for Gasoline Pump Mechanics on September 6 and 7, 1951 in Chapel Hill. Mr. Baucom had worked out a regulation with the approval of the Gasoline and Oil Inspection Board by which qualified pump mechanics might be registered and invested with the authority to make the necessary repairs to condemned pumps and meters, and upon a sworn statement as to accuracy the owner would be permitted to use the pump or meter until it could be inspected and resealed by a state inspector. The purpose of the school, therefore, was to train registered pump mechanics and those who would

like to become registered mechanics for their job under this regulation. The end result will be to put these condemned pumps and meters back into use as soon as they have been repaired and made to meet the minimum standards and tolerances.

Mr. Baucom was very fortunate in obtaining some of the best men in the field for teachers in this school. The faculty was made up of engineers, sales managers, sales engineers and service managers of ten companies which manufacture gasoline pumps and meters. The A. O. Smith Corporation of New York and California sent Wilson Milligan, Charles F. Beckwith and Tom Ficken; E. J. Reinhart taught the courses on Browser pumps and meters for Browser, Inc. of Fort Wayne, Indiana; D. W. Kingsley and Howard Siebold represented Ralph H. Brodie Co., Inc., of New York and California. Gilbert and Barker of West Springfield, Mass., sent C. A. P. Thomas, Lawrence Marchese, Albert Howes and Walter Brundrett; Milton Jeffries was here from the Granberg Corporation of California; Walter H. Sieger and Emmett F. Wehmann came from the Neptune Meter Company of New York; C. B. Johnson and C. M. W. Rand, Jr. taught the Rockwell meter course for Rockwell Manufacturing Company of Pennsylvania and Georgia; Ben Harry and H. W. Barnes came from the Veeder-Root, Inc. of Connecticut; Herman Rost was from the Wayne Pump



Mr. C. D. Baucom (Fourth from left), head of the Gasoline and Oil Inspection Davidson, and his faculty for the Gasoline Pump Mechanics' School



Mr. E. J. Reinhart lectures to a class of gasolina pump mechanics

Company of Fort Wayne, Indiana; and William M. Hoxie came from the John Wood Company of Muskegon, Michigan.

Mr. Baucom expected about four hundred people to attend, and four hundred and five mechanics arrived in Chapel for the school from all over the state. The University opened Lenoir dining room and three dormitories especially for them.

School for Field Representatives of Highway Safety Division

The men and women who perform the dual functions of training North Carolina's schoolbus drivers and doing highway safety promotional work throughout the state were brought together for their first training school at the Institute of Government during the first week in August. Twenty-one men and four women, employed by the Highway Safety Division of the Department of Motor Vehicles, took time out from their work and subjected themselves to forty-three hours of concentrated classroom instruction in the short space of five and one-half days during the hottest part of the summer.

Ten of those attending this school had gone to work for the Department only a month earlier, while the remaining fifteen were representatives

who had been in the field for several years. For all it was a new experience to be brought together in one group for the purpose of acquiring new information, standardizing procedures, and learning new techniques to do the full job for which they are employed.

The ten new members of the group were chosen in June on the basis of a character investigation and competitive oral and mental examinations. Captain L. R. Fisher, who was succeeded by H. D. (Tarvia) Jones as director of the Highway Safety Division, announced the openings for new employees and called upon the Institute to aid in selecting the best qualified applicants. Mr. Jones actually put this program into effect when he assumed his duties as head of the division.

Under the general supervision of former Assistant Director John Fries Blair, the week-long school found the field representatives studying county and city government, the structure of the road, public speaking, care of vehicles, public relations, and display work. Also, some four hours were devoted to a study of a new handbook for school bus drivers, which was compiled by the experienced field representatives.

Members of the Institute staff provided about half of the instruction, while personnel of the Department of Motor Vehicles conducted most of the other classes. Dr. Ralph Brimley, superintendent of schools in Forsyth County, lectured for two hours on classroom psychology and spent another hour giving his view of the school-bus transportation problem and the driver training program. Other outside speakers included G. E. Miller from the State Department of Public Instruction.

Z. E. Helms, chief of the Driver Improvement Section of the Highway

Safety Division, and James E. Civils, special field representative, worked closely with members of the Institute staff in conducting the classes.

Sewage and Industrial Wastes Treatment School

The Sewage and Industrial Wastes Treatment School was held at the University of North Carolina on September 10-14, 1951. This school, which was sponsored by the North Carolina Sewage Works Association and conducted by the Institute of Government in cooperation with the School of Public Health of the University, is a continuation of the short courses in sewage disposal. Three courses were offered this year, small plants, intermediate and advanced, to about fifty-six people who were sewage plant operators from North Carolina towns and cities or representatives from North Carolina industries. Classes were held in the School of Public Health and taught by men from the State Board of Public Health, the School of Public Health, from industry, Departments of Public Works of large cities outside of North Carolina, Departments of Public Health from other states and from the National Council for Stream Improvement.

Schools for Wildlife Protectors

The entire membership of the Protection Division of the Wildlife Resources Commission attended training schools conducted by the Institute of Government for wildlife protectors this summer.

Three consecutive school sessions



Sewage and Industrial Wastes Treatment School



Wildlife Protectors Training School July 9-July 28, 1951

were required in order to harmonize the exigencies of the protection service and the facilities of the Institute of Government. The first session extended over a three-week period from July 9 through July 28. This school was attended by twenty protectors who have been employed by the Commission since the similar schools conducted at Chapel Hill last year. In addition, fifteen new applicants attended this school. These applicants were selected from a large group which had been recommended to the Commission by the supervisors of the nine wildlife protection districts in the state. The basis of their selection was a series of competitive and aptitude examinations administered by the Institute of Government. The Commission recognizes that an impartial job of wildlife protection cannot be expected from protectors appointed under pressure of local politics, and has adopted the practice of making selections on merit alone.

The second and third sessions were refresher schools for the personnel who attended the schools last year. Each of these sessions consisted of one week of intensive training, running from August 4th through August 9th and from August 11th through August 16th, respectively. A total of

fifty-one wildlife protectors, wildlife patrolmen and wildlife supervisors attended these schools.

The curriculum of all three schools stressed the substantive fish and game laws, the law of arrest and the law of search and seizure. In addition, the first school completed the Standard and Advanced courses in First Aid training. Personnel from other divisions of the Wildlife Resources Commission also conducted classes relating to their particular departments.

The fullest cooperation was received from the Commission both before and during the schools. Some practical law enforcement experience was necessary as a background for the understanding of the problems peculiar to wildlife protection work. In order to provide this experience, Mr. G. A. Jones, Jr., Chief of the Protection Division, deputized the representative of the Institute of Government who conducted the schools and accompanied him to various districts of the state to work with the protectors in the area. This procedure proved invaluable as a method of gaining a common perspective through which to approach the many problems brought to the school by the personnel attending.

A guidebook for wildlife protectors

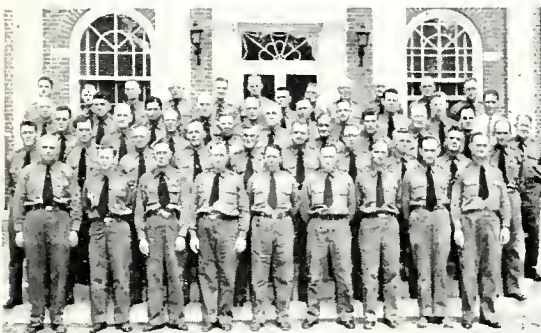
is now in the process of completion at the Institute of Government. The training schools, followed by the guidebook, constitute a new advance in North Carolina's campaign for better law enforcement by better equipped law enforcement officers.

Driver License Examiners' School

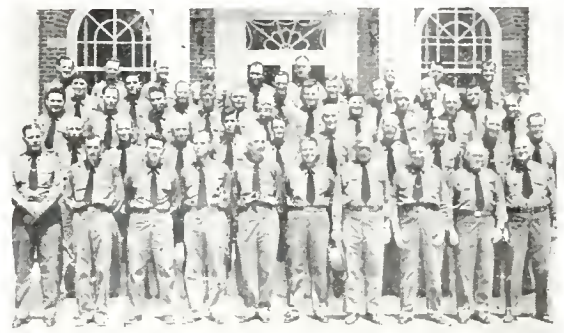
During the months of August and September every driver license examiner employed by the Department of Motor Vehicles attended either a two-week training school or a two-day refresher school conducted by the Institute of Government in Chapel Hill. Twenty new examiners were picked from a group of thirty applicants who were invited to attend the training school, thus increasing the total number of examiners in the state to 120—the largest group ever employed for this purpose by the state.

For many of the experienced examiners the two-day refresher course was reminiscent of ten days of concentrated study which they underwent at the Institute when the Department added fifty-nine new examiners on July 1, 1947. Since that time these examiners have been busily engaged in carrying out the driver re-examination program which has caused well over a million drivers to apply for new licenses since the program went into effect in 1947. With an anticipated total of one and one-half million drivers on our highways by the end of another year and with the first of the fourth-year expirations already coming up, an increase in personnel was essential to relieve the congestion at the examining stations.

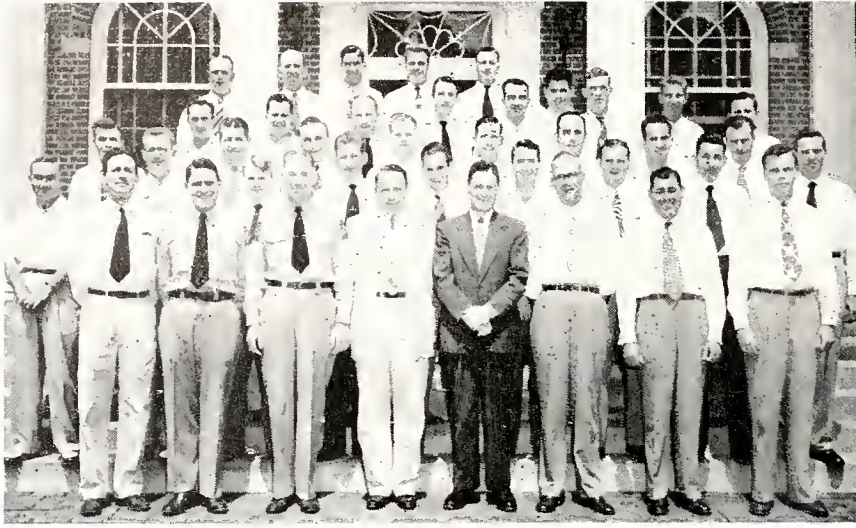
The new examiners were selected for the first time by representatives of the Department and of the Institute after public announcement by the director of the Highway Safety Division that applications for the twenty open positions were being considered. A preliminary character in-



Left: Wildlife Protectors at Aug. 4-9 Refresher School.



Right: Wildlife Protectors at Aug. 11-16 Refresher School.



Driver License Examiners' Training School

vestigation of each applicant was made, followed by competitive mental and oral examinations. Of the thirty applicants who attended the training school, twenty were assigned to stations immediately and ten were placed on a waiting list to fill vacancies as they occur.

The concentrated two-weeks course for the new examiners consisted of some seventy-eight hours of classroom work in addition to twenty hours of supervised study. Included in the curriculum were twenty-four hours devoted to detailed study of the examiner's manual. This manual constitutes the North Carolina adaptation of the uniform manual in use in many of the states and is based on a study of the examiners' manuals used in all of the states. The present edition of the manual, which has been revised and enlarged on two occasions by the Institute, was compiled and edited during the past summer by Robert Giles of the Institute staff with the assistance of Howard C. Olson of N. C. State College. Mr. Olson, who has assisted the Department in training its examiners in the

use of the ortho-rater (an instrument which enables each examiner to give vision tests under scientifically controlled conditions), gave four hours of instruction in this school.

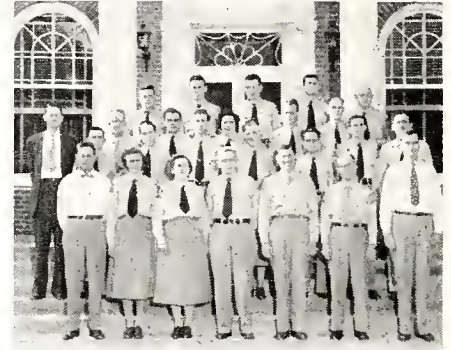
The motor vehicle laws—the rules which the law lays down as to the kind of vehicle that may be driven and how it must be driven on the roads—received special attention also. With an eye towards increased efforts in the direction of organizing public support for safety programs, ten hours of instruction in public speaking were included. Less time was devoted to topics such as accident reporting, office procedure, road tests, county and city government, and the court system.

A unique feature of the school was the appearance of Alan Canty, executive director of the recorder's court clinic in Detroit, who lectured for six hours on the psychology of the driver. Mr. Canty's remarks were directed principally at informing the examiners of certain traits which indicate that a particular applicant for a license should be subjected to a more thorough examination than other applicants, or else refused a license completely.

Six members of the Institute staff, a representative of the National Safety Council, and five representatives of the Department of Motor Vehicles also participated in giving classroom instruction. Certificates of successful completion of the course were awarded to the thirty applicants—all males.

The first of five two-day refresher schools for the experienced examiners began on September 3rd, and the last group completed its course on September 13th. In an effort to stand-

(Continued on page 14)



Second Driver License Examiners' Refresher School



Third Driver License Examiners' Refresher School



Fourth Driver License Examiners' Refresher School



First Driver License Examiners' Refresher School



Fifth Driver License Examiners' Refresher School

Responsibility of County Officials for Hiring, Paying, and Firing Merit System Employees

By Donald B. Hayman, Assistant Director Institute of Government

Among North Carolina county officials the Merit System is a favorite topic of conversation. Their opinions vary widely as to the advantages and disadvantages of present Merit System requirements. Both critics and proponents agree, however, that county officials will probably have to learn to live with the Merit System. Congress in the past has shown no inclination to alter present Merit System requirements for governmental units receiving federal health or welfare grants-in-aid, and future prospects are that county officials will have to meet some sort of merit system requirement as long as they accept federal aid.

In an effort to assist counties with their personnel problems, the Institute of Government has been studying personnel laws and practices in North Carolina for several years. During this time the Institute has received several requests from county officials concerning their legal responsibilities to, and in connection with their merit system employees. The Institute's findings were presented to the 44th annual convention of the State Association of County Commissioners and County Accountants meeting in Blowing Rock, N. C., August 27, 1951. The contents of that report are reproduced here with the hope that a knowledge of their legal responsibilities to merit system employees and their legal duties under the merit system will assist county officials to live with the Merit System.

The legal responsibilities under the Merit System of four groups of county officials will be considered at this time. These county officials are (1) county commissioners, (2) members of the county board of welfare, (3) members of the county board of health, and (4) the county superintendent of welfare and the county health officer.

RESPONSIBILITIES OF MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS

To Welfare Employees

An analysis of G.S. 108-11 and the regulations of the State Board of Welfare reveal that members of the board of county commissioners have the following five responsibilities in

connection with the merit system employees of the welfare department.

- (1) Responsibility of *appointing one member* of the county welfare board;
- (2) Responsibility of *meeting with* the county welfare board in joint session *to determine the number and salary* of county welfare employees;
- (3) Responsibility of *approving the budget* of the county welfare department;
- (4) Responsibility, after agreeing to the budget, *to levy taxes* to provide the county's share of county welfare administrative expenses; and
- (5) Responsibility of *granting the amount of vacation time, sick leave, and petty leave* approved by the State Board of Welfare.

At the present time the Board of County Commissioners appoints one member of the county welfare board. The person appointed may be a member of the board of county commissioners or some other person.¹ Members of the welfare board are appointed for three year terms and may be re-appointed but are not eligible for more than two successive terms.

The county commissioners, under G.S. 108-38, seem to be required to consult with the county welfare board concerning the number and salary of county welfare employees. This section provides that the county commissioners in joint session with the county welfare board shall determine the number and salary of county welfare employees, having been advised by the county superintendent of public welfare and the state board of public welfare. Of course the salary of each welfare employee must at least be set at the minimum and not above the maximum salary approved by the Merit System Council for each class of positions.² In practice this joint meet-

ing is usually held when the budget is being considered for approval. In a few counties joint meetings are seldom held even when the county commissioners are considering the welfare budget for the coming year.

Once the welfare budget has been approved by the county commissioners, they are required by law to levy taxes to provide the county's share of the county welfare department's administrative expenses.

The State Board of Welfare under their rule making powers, G.S. 108-57 (b) determines the hours of attendance, vacation, sick leave and other types of leave granted to county welfare employees. Although the state board would have final authority over these matters, they appear to have attempted to determine and follow the wishes of the county commissioners and the residents of the county.

To Health Employees

County commissioners have three responsibilities in regard to their county health employees.

- (1) The chairman of the board of county commissioners *serves as an ex officio member* of the county board of health;
- (2) The county commissioners are responsible for *determining if the county health employees will be under the merit system*; and
- (3) The county commissioners are responsible for *approving the budget of the county health department and approving all health expenditures before they are paid*.

As indicated above, the board of county commissioners are represented on the county board of health by their chairman who serves as an ex officio member.

Although the board of county commissioners have no choice under present state law about meeting the merit system standards for welfare employees, they are not required to bring their health employees under the merit system. Merit system coverage is one of the requirements, however, of the contract which may be negotiated annually between the county commissioners and the State Board of Health. After a contract is

1. The person appointed must be a qualified voter of the county in which he is appointed. A change of residence to another county would automatically vacate the position.

2. G.S. 126-14. "North Carolina Merit System Rule," North Carolina Merit System Council, Durham, N.C., Article IV, Section 2, paragraph 2. (mimeographed)

signed it may be cancelled upon written notice at any time before the 15th of the month by either the county commissioners or the State Board of Health. Of course if the county commissioners of a county do not sign a contract or cancel their contract, their county ceases to be eligible for either federal or state funds for financing their health program.³

The state-county public health grant-in-aid contract contains the following provisions: (1) specified sums shall be contributed for the county health department budget by the county and the state (the federal grant is a part of the state grant), (2) the health officer shall be hired in accordance with Merit System regulations, (3) the health officer shall have sole authority to employ, direct, and replace all other members of the staff of the health department, (4) all appointments are to be made in conformity with the merit system act, (5) the signature of a member of the local board of health, selected by the board is required on all Merit System forms relating to employment or change of salary or classification, (6) the salaries of the staff must be approved by the State Board of Health and conform to the compensation plan of the Merit System Council, and (7) vacation time, sick leave, and petty leave shall be granted in accordance with personnel regulations adopted by the State Board of Health and approved by the Merit System Council.

RESPONSIBILITIES OF MEMBERS OF THE COUNTY BOARD OF WELFARE

The county welfare board has the following six legal responsibilities pertaining to merit system employees:

- (1) Two members of the board *select the third member* of the county board of welfare;
- (2) The board *appoints* the county welfare superintendent;
- (3) The board *determines the sal-*

3. The amount of state and federal funds received by the county health departments during the 1950-51 fiscal year varied between \$6,089 in Hyde to \$59,339 in Guilford. For the 53 counties with county health departments and without separate city health departments, the average state and federal health grant was \$20,167.17. For the 43 counties belonging to one of the 18 district health departments the average state and federal health grant per county was \$10,430.48. Of each dollar spent for local health service during the 1950-51 fiscal year, the federal government contributed 11.8 cents, the state 24.4 cents and the local governments 63.8 cents.

ary of the county welfare superintendent;

- (4) The board *prepares the administrative budget* for the county welfare department;
- (5) The board in joint session with the county commissioners *determines the number and salary* of county welfare employees; and
- (6) The board *dismisses, demotes, or suspends* the county superintendent of welfare.

The member of the county welfare board selected by the county commissioners and the member designated by the State Board of Public Welfare are given the responsibility of selecting the third member. If they are unable to agree, the third member is appointed by the resident judge of superior court of the district in which the county is situated.⁴

One of the most important responsibilities of the county welfare board is the selection of the county welfare superintendent.⁵ In selecting the superintendent the county board must appoint a person meeting the qualifications established by the Merit System. However, in requesting a list of qualified eligibles for the position, the welfare board may specify that only eligibles of a particular race, sex, or residence (for example, resident of the county) be certified. Before a superintendent takes office the chairman of the county board of welfare must sign the merit system appointment form.

Although G.S. 108-13 makes the county welfare board⁵ responsible for determining the salary of the county superintendent of welfare in accordance with the merit system compensation plan, actually any action they take concerning number or salary of employees, must be submitted to and approved by the board of county commissioners. The county welfare board *only* prepares the administrative budget; the budget must

4. There are two exceptions to this general law. Ch. 270, *Public Laws of 1941*, provides that in Wake county the third member is appointed by the Raleigh City Council. Ch. 106, *Public Laws of 1939*, provides that in Wilkes county the third member must be approved by the State Board of Public Welfare.

5. Ch. 270, *Public Laws of 1941*, provides that the Mecklenburg County commissioners and the Mecklenburg County welfare board shall appoint and set the salary of the superintendent of public welfare in accordance with the rules and regulations of the Merit System.

be approved by the county commissioners.

The dismissal authority of the county board of welfare is greater than is usually supposed. Each superintendent of welfare, like all other merit system employees, must serve a six month probationary period. At any time during the probationary period the superintendent may be dismissed by the county welfare board. When dismissed during the probationary period, the superintendent has no right of appeal to or hearing before the Merit System Council. However, the reasons given for the dismissal must be submitted in writing to the personnel officer of the State Board of Welfare and a copy filed with the Merit System Supervisor.

The county welfare board may dismiss the welfare superintendent after he has completed his probationary period for any of six causes, if the superintendent is given 15 days notice in writing by registered mail to his last known address. If the superintendent is dismissed for some other reason not included among the six, he can probably go to court and get the court to restore him to his job and force the county to pay his back salary. A county superintendent of public welfare may be dismissed if he is—

- (1) negligent,
- (2) inefficient,
- (3) unfit,
- (4) guilty of gross misconduct,
- (5) convicted of any crime involving moral turpitude, and
- (6) guilty of engaging in political activity.

Political activity is defined by Article XVI of the Merit System Rule as (1) taking active part in political management of a political campaign or, (2) use of official authority or influence to interfere with an election or affect the results thereof. The welfare superintendent of course retains the right to vote as he pleases and to express privately his opinions on all political subjects.

After written notice the county board of welfare may suspend a superintendent of welfare without pay for delinquency or misconduct for a period not to exceed 30 calendar days in any one calendar year. The board may also demote a superintendent for inefficiency or for other causes. In all cases of suspension or demotion the superintendent has the same rights of appeal to the Merit System Council as in cases of dismissal.

A county superintendent who is dismissed, demoted, or suspended has the right to appeal to the Merit System Council within 30 days after the effective date of the dismissal, demotion, or suspension. The appeal must be in writing and must be transmitted to the Merit System Supervisor who must arrange a formal hearing before the Council within 10 days after receipt of the appeal. The county welfare board may attend the hearing, present witnesses, and give evidence before the Council. Within 3 days after the hearing the Council must make its recommendations in writing to the county board of welfare for their consideration.

The recommendation of the Merit System Council is advisory and is not binding upon the county welfare board. Of course because of the Council's reputation and because of the very nature of the hearing process, a county board would be hesitant to disregard the advisory recommendation. However, after considering the recommendation of the Merit System Council, the county welfare board may make any decision which it chooses, and its decision will be final when recorded in the permanent records of the county welfare board.

RESPONSIBILITIES OF MEMBERS OF THE COUNTY BOARD OF HEALTH

Members of a county board of health have the following five responsibilities in connection with their county health employees.

- (1) The three ex officio members of the board of health *appoint* the four public members;
- (2) The county board of health *fills all vacancies* which occur among the four public members;
- (3) The county board of health *appoints* the county health officer;
- (4) The county board of health *dismisses, suspends, or demotes* the county health officer; and
- (5) The county board of health *selects* one of its own members who is authorized to sign all merit system forms relating to employment, change of salary, or classification.

G.S. 130-18 provides that the ex officio members of the county board of health, the chairman of the board of county commissioners, the mayor of the county seat, and the superintendent of public instruction, must meet annually during the first week in January to appoint one of the four public members of the county board

of health. The public members appointed for four year overlapping terms include one dentist, one physician, one registered pharmacist, and one public-spirited citizen. If a physician, dentist, or pharmacist is not a resident of the county, the vacancy may be filled with a public-spirited citizen.

All vacancies in membership of the public members of a county board of health are to be filled by the county board of health at its next regular meeting following the creation of the vacancy.⁶ In case any public member appointed to fill a vacancy is a public official or officer, his duties as a member of the county board of health are deemed to be ex officio.

G.S. 130-21 as rewritten in 1945 provides for both the hiring and dismissal of the county health officer.

"The county board of health shall elect a health officer meeting the qualifications set forth by the Merit System Council and subject to the provisions of chapter one hundred and twenty-six of the General Statutes. The term of office of the county health officer shall be at the pleasure of the county board of health."

Although it is clear that the county health officer is appointed by the county board of health in accordance with the merit system act, the procedure for dismissing the health officer remains in doubt as G.S. 126-13 provides that

"A permanent employee who is dismissed, suspended, or demoted shall have the right to appeal to the (Merit System) council not later than thirty days after the effective date of the dismissal, suspension, or demotion."

To date neither the Supreme Court nor the Attorney General has ruled on this point. It seems highly probable that county health officers have no right of appeal to the Merit System Council and that they can be dismissed with or without cause at any time by the county board of health.

The third provision of the contract which is annually negotiated between county commissioners and the State Board of Health requires the signature of a member of the

local board of health, selected by the board, on all Merit System forms relating to employment, change of salary, or classification. The signature is to indicate that the county board of health "is apprised of and approves the rates of pay involved." This provision of the contract would permit the designated board member to veto any action of the county health officer relating to employment, change of salary, or classification. The attorney general has not ruled as to whether it would apply in case of dismissal.

RESPONSIBILITIES OF THE COUNTY SUPERINTENDENT OF WELFARE AND THE COUNTY HEALTH OFFICER

The responsibilities of the county welfare superintendent and the county health officer for their merit employees appear to be the same. Both have the following three responsibilities:

- (1) *appoint* all subordinate employees in accordance with merit system regulations;
- (2) *dismiss, demote, or suspend* all subordinate employees in accordance with merit system regulations; and
- (3) *separate employees*, without prejudice, because of lack of funds or curtailment of work.

The Merit System procedure for dismissing, demoting, or suspending employees has already been described in connection with the county board of welfare's responsibility for dismissing, demoting, or suspending the county superintendent of welfare. As the county welfare superintendent and the county health officer are similarly responsible for their employees, they follow a similar procedure in dismissing, demoting, or suspending the persons they supervise.

The Merit System Rule, (Article XII, Section 4) concerning separations due to lack of funds or curtailment of work provides (1) no permanent employees may be separated while emergency, temporary, provisional, or probationary employees are serving in the same class of position in the same agency, and (2) the order of separation shall be based upon service ratings and seniority under a formula to be established by the Merit System Supervisor, after consultation with the agency, and approved by the Merit System Council. To date, the state and county health departments have had no system of service ratings.

6. If a member of a county board of health transfers his residence outside the county he serves, he vacates his office. Should the former board member attempt to continue to exercise the office, he is subject to quo warranto proceedings to oust him from usurping the position. (G.S. 1-515).

SUMMARY

The responsibility of county officials for hiring, paying, and firing merit system employees is much greater than is generally supposed. Although the county commissioners as a board may not hire or fire a single health or welfare employee, they determine (1) the number of health and welfare employees, (2) within limits the salary of each health and welfare employee, (3) decide whether or not the local health employees are to be covered by the merit system. The chairman of the board of county commissioners serves as a member of the county board of health and with other ex officio members appoints the four public members of the board. As a board, they hire the health officer from a list of eligibles certified by the Merit System Council. One county commissioner may serve on the county board of welfare or the county commissioners may select a representative who will help appoint the third member of the county

board of welfare and the county welfare superintendent.

If the services of either the health officer or the welfare superintendent are unsatisfactory during the first 6 months of their employment, the unsatisfactory employee may be discharged immediately without hearing or appeal. Although the law is slightly contradictory, it seems to provide that the term of office of the county health officer shall be at the pleasure of the county board of health. From this it appears that even a health officer with several years of service in a county may be dismissed by the county board of health at any time without notice, hearing, or opportunity to appeal to the Merit System Council.

A county welfare superintendent could also be dismissed, demoted, or discharged by the county board of welfare but only for *cause* and with an opportunity to appeal to the Merit System Council. Cause is defined as negligent, inefficient, unfit, guilty of gross misconduct, conviction of any crime involving moral turpitude, or

guilty of engaging in political activity.

If the welfare superintendent should appeal the dismissal, demotion, or suspension, the county welfare board is required to consider the Merit System Council's advisory recommendation. Having considered the Council's advisory recommendation, the welfare board may make any decision they choose, and their decision will be final.

The county health officer and the welfare superintendent appoint all of their subordinate employees from lists of qualified eligibles certified by the Merit System Council. They are also responsible for dismissing, demoting, or suspending any of their employees. If the employee should appeal his or her case, the same procedure is followed as when the welfare superintendent appeals. The health officer or the welfare superintendent must consider the Merit System Council's advisory recommendation and then decide the case as he thinks best, and his decision will be final.

Allocating Powell Bill Funds

By James S. Burch, Engineer of Statistics and Planning of the North Carolina State Highway and Public Works Commission and Earl H. Tyndall, Jr., Research Analyst

Yes, we fully expected it would be a rough job, and it was! One might think that allocating about \$4½ million dollars cash to the North Carolina Cities and Towns would be a pleasure. Maybe so. But to do it precisely by law and on time, the first time, was really a complex and involved matter. And, we had to do it without any extra personnel or any additional appropriation.

First of all, there were the questions—what is a town—how many towns—list them! A special historical study first had to be made. So back in March and April, this study was completed. It meant checking on over 600 towns which had been chartered by the State at one time or another. The study showed that about 575 were still in existence, even though many were inactive.

Second, we had to determine which towns were "eligible" under the Act, as regards local elections and currently providing local funds. We wrote letters to 575 Mayors on April 24, attached a copy of the law, and requested replies to questions about eligibility. Dozens of these letters were returned by the Post Office

marked unknown, not incorporated, no post office, etc.

Meanwhile, local elections were being held, Mayors were being changed, and there was much confusion. In about three weeks, we had a tentative list of eligible towns; and on May 16, we outlined to each the steps to be taken to file a claim and qualify. It was then that the towns and cities had to get busy. Very few of the 389 had exact mileage records or maps, and scores had to establish their town limits on the ground. All had to get out and measure their street mileage, and this had to be done by, or to the satisfaction of, a Registered Engineer or Registered Land Surveyor. We urged that all start their measurement work promptly. Those who did not were in "hot water" just before the August 1 filing deadline.

The May 16 letter was followed by another letter about ten days later to towns whose status was still in doubt.

About this time, there developed much misunderstanding, and—in some cases—suspicion that the Commission was looking for an excuse to disqual-

ify towns; although of course, there were no grounds for these suspicions. In every case, it developed that either (1) the Mayor has misplaced his letter from us, (2) had not read it or, (3) had overlooked the need for action. There were phone calls, letters and visits from many towns—especially the smaller ones. Our mail was heavy, and a careful system of checking and posting was necessary in order to maintain accurate data on over 380 municipalities.

On June 26, we wrote all Mayors again, calling attention to the August 1 deadline, and requesting the submission of Certified Statements and Certified Maps as soon as possible after July 1.

Realizing that many towns had no Engineer, the North Carolina League of Municipalities had organized to provide Engineering and Map services to towns which applied (for a fee), and these Engineers started their work in early June and covered some sixty towns.

Beginning July 1, the certified data and maps began to come into our office at the rate of a dozen or two dozen towns a day. The reader will

understand the systematic work required to examine, check, post, and acknowledge the data at this rate. A quick calculation showed that the towns would have to submit data at the rate of about 20 per day to meet the deadline.

Meanwhile, final 1950 United States Census population figures had not been received from Washington, and it took the intervention of a United States Senator to secure these figures on North Carolina municipalities in time.

By July 17, it was apparent that the claims were coming in too slowly, and that there would be a last minute rush. At that time, 230 of the 380 had not filed, and the month of July was half gone. Furthermore, it was found that dozens of towns were retaining engineers or surveyors who were not registered. Such being a legal requirement, these claims had to be returned. Many small towns failed to properly execute the Certified Statement, or failed to furnish a clearly marked certified street map. These, too, were returned.

On July 17, another letter was mailed out to all towns which had not qualified. Lists were furnished the League, and their staff wrote letters, sent wires, and made phone calls to towns likely to be delinquent. In many cases personal visits were made by their staff.

The pace quickened to some extent, but by July 26, there were still dozens of towns not heard from. So on that date another and final letter was dispatched with a final warning. The "last minute" towns flocked in just within the time limit. And so, by the deadline of August 1, out of 389 apparently eligible towns, only three failed to file, and there were only four others whose filings were not clear and acceptable. Thus, on August 2, we could and did compute the amounts of the allocation for each city and town, subject to a possible change of about one-tenth-of-one percent in rate, and these allocation figures were mailed out to every qualified municipality on August 10, after appearance in the press. In this way, any town could anticipate and budget its allocation, and could look forward to early payment of an exact amount in cash.

Yes, it was a big job. It was thoroughly planned, carefully followed and completed exactly on time. The vast majority of the municipal officials understood the problem and were most cooperative. To the League of

Municipalities goes much credit for helping us, and helping scores of towns to make proper filings on time. However, this report would not be complete if we failed to state that scores of towns, almost all very small, did a poor job in filing their claims.

One point should be made clear. Under the law, the State Highway Commission was to pay out a fixed sum, and this sum was found to be \$4,543,096.20. This sum was to be paid out no matter how many towns, how many miles of streets, or how much the population. When this point is well understood, it will be clear that the Commission had no financial interest whatever in the allocation.

The Commission's interest was twofold. First, to follow the letter and spirit of the law, regardless of the Commission's opinion of the law; and second, as a servant of all the people of the State, to see that the allocation was made carefully, on documentary evidence, apparently correct, properly certified, and otherwise in conformance with the requirements of the law. In this sense, it acted, in many respects as a referee, protecting the interest of all towns against the improper claim of any town, whether the improper claim was intentional or accidental. Incidentally, our examination revealed several dozen cases where the claims had to be reduced, and in each case the towns were notified. Every single point at issue has been cleared up with every qualified town, and we have no current protests.

This Act fixed responsibility both on the Commission and on the municipalities. A street is or is not a "System" street. If it is, the State has the primary financial responsibility for its upkeep and improvement, and it is not included in the town's mileage claim. If it is not a "System" street, the town, and not the State, has the responsibility for it, and it is included in the town's mileage claim. There is no twilight zone—the responsibility is fixed.

The Commission is doing its best to meet its responsibilities, and will mail out checks before October 1. The towns and cities, too, have their definite responsibilities, and these cannot be shifted to the State. It is believed that they, too, will quickly determine and properly fulfill these responsibilities.

There remain many basic questions not covered by the Act. There will be some misunderstanding for a while. But much progress has been made in understanding and following this new

and controversial Legislation, and it should not be too difficult to operate under it, if each official will carefully follow its requirements.

BOOKS RECEIVED

COUNTY GOVERNMENT ACROSS THE NATION. Edited by Paul W. Wager. Chapel Hill: The University of North Carolina Press. 1950. \$7.50. Pages xiii, 817.

Almost universally the 48 states of the United States have subdivided themselves for purposes of government into counties, and these counties usually serve as the agency of the state in the administration of such functions as holding courts, conducting elections, operating schools, building and maintaining local roads, and many others. There are 3,050 counties in the United States, with variations in the form of government and the functions performed not only between states but between counties in the same state. The result has been that textbooks and treatises on county government have in striving for the general ignored the particular, leaving as a virgin field the investigation of the peculiarities of county government across the nation. Into this field has stepped Professor Paul W. Wager of the Political Science Department of the University, editing a book composed of 48 studies of 48 typical counties, one in each of the 48 states.

Thirty people besides Professor Wager have contributed studies of typical counties, with the result that people familiar with the local scene in the different parts of the nation have been able to select a typical county and analyze its relations, as well as the relations of other counties in the state, with the state and federal government.

Professor Wager has written an excellent introduction covering the nature of counties, their growth historically in form as well as in performance, their relations with the parent state in general as well as in the machinery for such state-wide operations as schools and roads, and an estimate of what the future holds for county government. The editor is firmly convinced that not only are counties not losing out as governmental units but in effect are gaining responsibilities and exercising additional powers.

The interest of the book to county officials in North Carolina lies not so much in the chapter covering North Carolina as in the comparison of

(Continued Inside Back Cover)

Recovery of Old Age Assistance Payments After Death of Recipient

Chapter 1019 of the Session Laws of 1951 creates a general lien upon the real property of any person who has received old age assistance to the extent of such assistance paid to the recipient after October 1, 1951. Several questions arose as to the proper construction of the law, and these were presented to the Attorney-General by the State Superintendent of Public Welfare, Dr. Ellen B. Winston. A digest of the questions presented and the answers given by the Attorney-General is found in this article.

Question. Does the county pay initial costs for filing notice of the lien in the clerk's office?

Answer. In my opinion the county is required to pay the initial cost of filing the lien since the statute seems to place upon the county the duty of seeing that the lien is filed after the death of the recipient. In the end the costs of collecting any claim are prorated against the United States, the State, and the county in proportion to the share of the sum collected to which each may be entitled. These prorations are not made, however, until the funds due by virtue of the lien have been collected.

Question. The statute requires that the statement of lien to "be filed in the regular lien docket and shall be cross-indexed showing the name of the county filing said statement as a claimant and the name of the recipient as owner." Does this mean that the statement of lien will merely be placed in the lien docket or that it will be recorded in the lien docket as other liens are recorded?

Answer. It is our view that the statement of lien is to be recorded in the regular lien docket.

Question. What procedure shall the county attorney follow upon notification of the death of the recipient?

Answer. Within one year after the death of the recipient the county attorney should file a claim against the recipient's estate for the total amount of Old Age Assistance paid to or for the benefit of such recipient from and after October 1, 1951. If the claim is denied in writing, he can sue upon it within six months after such rejection. See G.S. 28-112. Suit is not the only remedy to enforce the claim.

The county attorney can bring an action to foreclose the lien against the estate of the decedent.

Question. What is the procedure for the cancellation of the lien?

Answer. This lien is to be cancelled as any other general lien. Receipt of payment can be entered in the lien docket by the county attorney.

Question. Does this lien take priority over taxes?

Answer. In general, this lien is the same as any other lien, and in those cases where taxes prevail in priority over other liens, the same would be true as to this lien.

Question. If no administrator is appointed, how is the claim handled?

Answer. If no administrator is appointed and the claim is sufficient to justify action by the county attorney, an administrator can be appointed under subsections 3 and 4 of G.S. 28-6. If there is no estate except sums of money owing to the deceased which amount to less than \$500, and these sums are paid into the office of the clerk under G.S. 28-68, then the clerk can disburse the funds as provided in that section and, if sufficient funds remain, pay the claim as a general debt.

Question. Does interest accrue and, if so when?

Answer. Interest does not accrue unless an action is brought to foreclose the lien and the amount is reduced to judgment.

Question. What is the effect of dower and curtesy rights?

Answer. The lien does not create any rights that will affect dower and curtesy any more than any other lien.

Question. The statute apparently provides two statutes of limitations of the enforcement of the lien: (1) No action to enforce the lien may be brought more than ten years from the last day on which assistance is paid; and (2) Nor more than one year after the death of any recipient. Which limitation should be followed?

Answer. If the recipient receives assistance up until the time of death the action must be brought within one year after his death. If the recipient receives assistance for a period of time and then becomes ineligible to receive further assistance, the action

must be brought within ten years of the last payment. It seems to us that the ten-year limitation contemplates an action brought to enforce the lien during the lifetime of a former recipient.

Question. Is the foreclosure of the lien postponed because the property is occupied as the home site by a surviving spouse or by a minor dependent child?

Answer. That the property is occupied as the home site by a surviving spouse or by a minor dependent child does not prevent any county attorney from bringing suit and having the amount of the claim and the priority of the lien fixed. This merely prevents him from subjecting the property to the lien by sale so long as it is so occupied.

Question. The act does not say in whose name an action shall be brought to enforce the claim, but the United States and the State share in the proceeds of collection. Should the United States and the State be made parties in any action?

Answer. It is thought that the county is the only proper party to institute an action, since the responsibility of enforcement is placed upon the county. The United States and the State are only parties in that they share in the distribution of the proceeds according to the funds which they have contributed to the recipient.

Driver License Examiners School

(Continued from page 8)

ardize procedures being followed by examiners in all parts of the state, each group was made up of about twenty examiners drawn from stations scattered throughout North Carolina. Also in attendance for most of the sessions were the district supervisors and the chief license examiner.

During each two-day session some eight hours were devoted to a study of the new examiner's manual with Robert Giles of the Institute staff leading the discussions. Chief Examiner Elton Peele spent four or more hours with each group in an

(Continued Inside Back Cover)

The Attorney General Rules

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

Prepared by Max O. Cogburn and Clifford Bruce Thomas

Assistant Directors
Institute of Government

GAME LAW

Manner of dealing with game animals committing depredations. (1) Does G.S. 113-87 authorize private citizens, in protecting their property from depredations by game animals, to use a gun or light from an automobile or truck situated upon a publicly maintained roadway adjoining the citizens property?

(2) Can one use a gun or light from an automobile upon ones neighbor's lands while assisting him in the protection of his property?

To: G. A. Jones, Jr.

(A.G.) Both of these questions must be answered in the negative. Private property owners are restricted to use of guns and lights from automobiles within the confines of their property. Guns or lights can not be used by one upon the property of another, even when assisting him in stopping depredations. The right to kill game animals to prevent depredations is personal unto the suffering property owner. If lands are leased or rented, the right to use guns or lights from automobiles extends to the lessee or the owner of the lands.

PROPERTY TAXES

Lien for unpaid personal property taxes. A man owns personal property which he lists for taxes in 1948, 1949, and 1950, but he does not pay the taxes due thereon. In 1951 he purchases a tract of real estate located in the same township in which he lists his personal property taxes. Does a lien for these unpaid personal property taxes attach to the real estate purchased by the taxpayer?

To: J. C. Sigmon, Jr.

(A.G.) No. Under sections 1401 and 1704 of the Machinery Act, personal property taxes and poll taxes listed for any given year do not attach to real estate acquired by a taxpayer subsequent to January 1st of such year.

Attorney's fees in foreclosure. Is a county attorney entitled to the attorney's fee provided for in subsection (K) of G.S. 105-391 in proceedings brought under G.S. 105-392 when the person owing the taxes comes in and pays them after a letter has been mailed out to him?

To: J. F. Jordan

(A.G.) No. Subsection (K) of G.S. 105-391 provides that costs in an action brought under that section may include one reasonable attorney's fee for the plaintiff, not to exceed five dollars. This attorney's fee applies only to actions and does not, in my opinion, apply to proceedings under G.S. 105-392.

RECORDERS COURTS

New trial for newly-discovered evidence. Can a County Recorder's Court grant a new trial upon additional evidence discovered after verdict has been rendered and judgment or sentence imposed?

To: Jesse C. Sigmon, Jr.

(A.G.) No. The right to grant a new trial for newly discovered evidence belongs only to the Superior Court and a convicted defendant always has the right to appeal to the Superior Court where he obtains a trial *de novo* in nearly all instances. New trials for newly discovered evidence, so far as inferior courts are concerned, must be instituted upon motion in the Superior Court after exhaustion of appeal from the inferior court.

JUVENILE COURTS

Process to bring juvenile into court. Are defendants under 16 years of age properly before juvenile court on a warrant transferred from a justice of the peace or must such warrant be dismissed and the juvenile defendants brought before the court under petition as provided under G.S. 110-25?

To: J. E. Mewborn

(A.G.) A justice of the peace has no jurisdiction over juveniles and therefore his warrant would be invalid and cannot be used for hearing charges in juvenile court. The only manner by which juveniles can be brought before juvenile courts is under the provisions of G.S. 110-25.

Custody of Children. Does the judge of a juvenile court have jurisdiction over a controversy concerning the custody of a child, where the controversy is between the parents of the child who are living in a state of separation but are not divorced?

To: B. F. McMillan

(A.G.) No. It seems to me that the Superior Court would have jurisdiction of this case because of Chapter 1010 of the Session Laws of 1949.

JUSTICE OF THE PEACE

Summons served in county other than where issued. A summons has been issued to a county other than that of which the issuing justice of the peace is a resident. Can the summons be served on defendant if found in the county of issuance without having on it the certificate of the clerk of the superior court?

To: G. W. Williams

(A.G.) G.S. 7-140 and G.S. 7-141 seem to require that a summons which is issued to a county other than that of which a justice of the peace is a resident, shall either be endorsed by a justice of the county in which it is

to be served or that it shall bear the certificate of the clerk of the superior court of the issuing county that the issuing justice of the peace is a justice of the peace in his county. I do not think that service by the sheriff on a defendant in the county of issuance would be sufficient unless the summons had the certificate on it.

Disqualification of justice. Can a justice of the peace issue the process and try the case when the plaintiff in the action is the jewelry store partner of the justice of the peace, who is suing one of the jewelry store's delinquent customers?

To: H. H. Brown

(A.G.) The justice of the peace can issue process for claim and delivery against those persons who owe money to the jewelry store of which the justice of the peace is a partner. This is a ministerial act and can be performed by a justice even though he has an interest in the case. *White v. Connelly*, 105 N. C. 65, *Evans v. Etheridge*, 96 N. C. 42.

The justice of the peace can NOT try the case under the maxim "No man can be judge of his own cause." Where a judge has an interest in the case or is a party to the action, he is disqualified to hear the case. *Williams v. Bannen*, 116 W. Va. 1, 178 S.E. 67, *Tumey v. Ohio*, 273 U.S. 510, 47 Crt. 437.

Justice Court Continuances. Does Rule 15 of G.S. 7-149 permit a justice of the peace to continue an action for more than a total of 30 days?

To: E. H. Morris

(A.G.) In my opinion this statute means that from time to time a JP can continue a case but that all the continuances combined can not exceed 30 days, for the very purpose of this statute was to get matters disposed of before the justice.

CRIMINAL LAW AND PROCEDURE

Confiscation of unfortified wine. Is a person convicted of public drunkenness entitled to receive back duly licensed unfortified wine which was on his person at the time of the arrest?

To: Richard G. Long

(A.G.) Yes. There is no law permitting the confiscation of duly licensed unfortified wine found on a person at the time of his arrest, assuming that it is legal to sell such wine in the county where the arrest is made.

Suspension of sentence on paying prosecuting attorney's fee. Can a criminal sentence following a conviction for writing a bad check be suspended on the condition that the defendant pay a reasonable fee to the attorney

who served as the prosecutor in the Justice's Court?

To: H. L. Swain

(A.G.) In my opinion the requirement of the payment of a fee to a prosecuting attorney in a criminal case as one of the conditions for the suspension of a sentence is not proper. Such a condition is void. Sentence can, however, be suspended upon the condition that a defendant convicted of forgery pay the amount of the check to the complaining party. *State v. Ray*, 212 N. C. 748.

Allowable sheriff's expenses. Where a criminal who is being held in another state signs a waiver of extradition and an officer from this state goes after him without going through the extradition process, can the officer be allowed his expenses for the trip so made?

To: W. Kerr Scott

(A.G.) While ordinarily an extradition agent could not get his expenses allowed unless there has been a use of the extradition process, nevertheless, such agent may get such expenses, even if he has not made use of the extradition process, where he is acting upon a waiver of extradition.

No Fixed Punishment. A statute prohibits an act but fixes no punishment for violation of the statute. If the statute is violated would the violator be indictable? If so, what punishment could be given him?

To: George M. Harris

(A.G.) If a person violates such a statute he could be indicted and, if convicted, may be punished as for a misdemeanor. *State v. Bishop*, 228 N. C. 371; *State v. Bloodworth*, 94 N. C. 918, 920. Where an express punishment is not fixed for a misdemeanor, it is to be punished as a misdemeanor at common law. This punishment could be either fine or imprisonment and the imprisonment could be as much as two years in the common jail.

Requirement of Oaths Before Executing Public Office. May a prosecuting attorney perform the duties of his office without taking the oath of office by appearing and being recognized as a 'friend of the court' at each session?

To: F. B. Aycock, Jr.

(A.G.) I know of no authority for a prosecuting attorney to be appointed at each session of the court as a 'friend of the court'. G.S. 128-5 requires a public officer to take an oath of office.

LIQUOR LAWS

Location of wholesale warehouses in dry counties. Can beer wholesalers maintain their warehouses in counties where the sale of beer has been voted out?

To: C. A. Upchurch

(A.G.) The 1951 ABC Act, which amended Art. 11 of G.S. Chapter 18, in my opinion would permit beer wholesalers to maintain their warehouses in counties where the legal sale of beer has been voted out.

PRIVILEGE LICENSE TAXES

National Banks. Can a city levy a privilege tax upon a national bank doing business within the city?

To: Grover Jones

(A.G.) I am of the opinion that a municipality is without authority to require the payment of a privilege tax by a national bank as a condition precedent to the bank's engaging in business within the municipality. Such a tax is prohibited by 12 U.S.C.A., section 548. See *Second National Bank v. Caldwell*, 13 F. 429.

Peddlers. A large number of business firms which have their location outside of a county operate trucks in the county to sell and make deliveries. Some of these firms sell directly from the trucks and take orders for future deliveries. Many are wholesalers who sell only to merchants. Are these firms subject to pay a peddler's license tax in the county where they carry on these operations?

To: J. C. Ellis

(A.G.) A wholesaler who has an established warehouse in this state and who sells only to merchants for resale is not subject to the tax levied on peddlers by G.S. 105-53, even if he takes orders for future deliveries, sells directly from a motor vehicle, or does both. Of course, if the wholesaler does not maintain a warehouse in this state and does not sell exclusively to merchants for resale, he is liable for the peddler's tax if he makes any sales and immediate delivery from the vehicle which he is operating.

Cleaning Establishments. A pressing establishment pays the state privilege license tax for operation. It operates in one county and solicits business in another county. It does not solicit business in or near an incorporated town or city. Is it liable for an additional state tax for soliciting cleaning outside of its own county and city?

To: R. M. Lee

(A.G.) Yes. The license issued under section 139 of the Revenue Act is administered by the Revenue Department as being an authorization to carry on business at the location named and in the rural areas of the county in which the establishment is located. Under this interpretation, the dry cleaning establishment would be required to secure an additional state license for the additional county in which it solicits business.

MOTOR VEHICLE LAWS

Drunken driving: punishment for second offense. If the warrant or bill of indictment does not charge a second or subsequent conviction, can a convicted defendant be sentenced as for a second or subsequent conviction? In determining the period for which a license may be revoked or suspended, may prior convictions of drunken driving be considered when they are not mentioned in the warrant or bill of indictment?

To: Barney P. Jones

(A.G.) 1. Since G.S. 20-179 fixes a more stringent punishment for second and subsequent convictions of drunken driving than for first convictions, when the Court attempts to punish for a second or subsequent conviction of drunken driving the warrant or bill of indictment must charge the number of the conviction. The fact of second or subsequent conviction is an element of the offense

and it must be charged. *State v. Walker*, 179 N. C. 730 (1920).

2. In determining for how long to revoke or suspend a license for drunken driving the number of convictions may be considered whether or not they are mentioned in the warrant or bill of indictment. The reason for this is that the suspension or revocation of a driver's license is not a part of the punishment imposed for an offense committed, nor is it a penalty in addition to the judgment for conviction. It is merely the forfeiture of a conditional temporary permit for the failure to observe the conditions under which the license was issued.

License revocation for fraud. A person is convicted of drunken driving and has his license revoked. Later in an application for a new license he states that he has never had a license suspended, revoked, or cancelled. While in possession of this license and before it was cancelled by the Department of Motor Vehicles the person operates a motor vehicle. The department learns of this after his conviction for speeding and provides that he cannot apply for a new license for two years from the date of his conviction, on the theory that the license was a nullity and that therefore the person operated a motor vehicle while his license was revoked. Was this action correct?

To: Thomas L. Johnson

(A.G.) No. Even though the license was fraudulently obtained it was not void. It was subject to cancellation under G.S. 20-15(a). Until cancelled it was valid in the hands of the licensee. Since the license had not been cancelled, the person was driving under a license and was not guilty of driving a motor vehicle while his license was revoked.

Fees for reissuance of driver's licenses. Should the Department of Motor Vehicles require the payment of a fee of two dollars for the issuance and reissuance of driver's licenses which have been suspended or revoked?

To: L. C. Rosser

(A.G.) In my opinion, the Department of Motor Vehicles should collect a fee of two dollars for the reissuance without examination of licenses which have been suspended or revoked. G.S. 20-7(j).

Municipal regulation of speed limits. May a municipality change the speed law around parks and playground areas where there are no hazards other than children?

To: H. E. King

(A.G.) Speed limits fixed by state law at intersections may be reduced by a municipality when an engineering and traffic survey shows that the speed fixed by the state law is unsafe or unreasonable at the intersection. G.S. 20-141(f). They may also reduce the limits fixed by state law to not less than 25 miles per hour on streets within the municipality which are not a part of the state highway system. These provisions may be used by a municipality to regulate speed around parks and playgrounds if the conditions warrant such regulation.

MUNICIPALITIES

Beer permits. Does a municipality have authority to enter into a contract with the North Carolina State Board of Alcoholic Control which would, in effect, prohibit the issuance of permits to sell beer for off-premises consumption only?

To: Livingston Vernon

(A.G.) I find no statutory authority for a municipality to enter into such an agreement. The State Board of Alcoholic Control has the sole power to determine the fitness and qualification of an applicant for a permit to sell, manufacture, or bottle beer.

Unclaimed water service deposits. Can the funds a municipality accumulates as result of uncalled-for subscriber deposits for water service be used for general municipal expenses?

To: W. W. Williams, Jr.

(A.G.) In my opinion these unclaimed deposits escheat to the University of North Carolina under G.S. 116-25 and may not be used for general municipal expenses.

Removal of graves. A private burial ground is voluntarily conveyed to a municipality. Can the municipality remove the graves of persons interred therein, and if so, what procedure must be followed to make the disinterment and reinterment lawful?

To: B. Pennell

(A.G.) In my opinion G.S. 65-13 authorizes a municipality which has purchased a cemetery to remove graves from such property after thirty days notice to the relatives of the deceased persons (if there are relatives known), and if no relatives are known, then after publication of a notice of such removal once a week for four weeks in some newspaper having a general circulation in the county in which such cemetery lies. G.S. 65-13 also sets forth the duty of the municipality to select a suitable place for graves so removed and provides for the manner of removal and cost of removal. It should be pointed out that a municipality does NOT have the authority to obtain cemetery property by condemnation proceedings.

Plumbing Inspection Fees. Are housing authorities established under the Provisions of Chapter 157 of the General Statutes exempt from the plumbing inspection fees which cities may normally charge?

To: R. Warren

(A.G.) See G.S. 157-26. I am of the opinion that the following provision of that statute is sufficiently broad to exempt housing authorities from plumbing inspection fees:

"The authority shall be exempt from the payment of any taxes or fees to the state or any subdivision thereof."

COUNTIES

Unauthorized expenditure. An industrial school and orphanage is operated within a county. The board of county commissioners has no control over its management and does not audit its affairs. However, through agreement with the board of directors of the school, the county welfare de-

partment has been responsible for the admission of all children to the school. Does the board of county commissioners have authority to appropriate county funds to the school?

To: Nat S. Crews

(A.G.) No. The school is not an agency of the county government. *Ketchie v. Hedrick*, 186 N. C. 392. For a case approving such an appropriation because the requisite agency and control by the county were found, see *Airport Authority v. Johnson*, 226 N. C. 1.

Employment of near relatives: Is a policy not to allow the hiring of near relatives, set down by the State Board of Public Welfare, binding on county boards of public welfare even though the N. C. Merit System Council has not promulgated such a policy?

To: M. F. Ormond

(A.G.) In my opinion the State Board of Public Welfare, as a matter of administration, has the authority to prohibit county boards of public welfare from employing near relatives in the same agency or board of welfare. I am advised by the superintendent of the Merit System Council that the state policy of not employing near relatives is in accord with the policy of the Merit System Council and in view of this fact that the policy of the State Board of Public Welfare could be made binding on the county units.

SCHOOL CONSTRUCTION

Architects fees. Can the County Treasurer turn over all or a portion of the funds raised for the erection of a new school before the State Superintendent of Public Instruction has approved the plans for the new building, so that the architect who made the plans may be paid?

To: J. T. Arledge

(A.G.) See G.S. 115-84. "But the board shall not be authorized to invest any money in any new house that is not built in accordance with plans approved by the state superintendent." In my opinion, under the language quoted above, architects' fees and other expenses may not be paid until the plans have been approved by the State Superintendent of Public Instruction.

DOUBLE OFFICE HOLDING

1. Is an attorney who serves as prosecuting attorney and county attorney guilty of double office holding?

To: F. B. Aycock, Jr.

(A.G.) A county attorney is not considered a public officer within the meaning of Art. XIX, Section 7, of the Constitution. A prosecuting attorney of a recorder's court is a public officer.

2. Can a person serve as a member of the county board of welfare and as a member of the county board of education, at the same time without violating Article XIV, Section 7 of the Constitution of North Carolina which prohibits double office holding?

To: M. C. Campbell

(A.G.) Yes. Commissioners of public charities are excepted from the prohibition of the Constitution against double office holding. A member of the county welfare board is a commis-

sioner of a public charity. Therefore, a person may at the same time be a member of both the county board of welfare and the county board of education.

Brief Notes

(Continued from page 3)

stronger than it was several months ago, when higher interest rates were the rule. . . . Gaston County has its first woman deputy sheriff, an expert stenographer. She will work at the desk in the sheriff's office, will be able to serve summons, subpoenas, and warrants to people who come to the office, and will be able to take statements from persons about a crime. . . . The Alamance County grand jury has recommended that the county find some way to obtain additional office space for county departments. The sheriff and the register of deeds are particularly pressed for space. . . . Halifax County and Roanoke Rapids are working out arrangements for use of the city police radio by the sheriff's department. The plan involves a payment by the county to the city to cover a portion of the cost of maintaining equipment and paying operators' salaries. The county ABC board has previously made a similar arrangement with the city.

Driver License Examiners School

(Continued from page 14)

effort to standardize the road test procedure, the ortho-rater tests, and the matter of handling departmental forms and records. Director H. D. Jones of the Highway Safety Division addressed each group on the topic of public relations. The schools were under the general supervision of William E. Poe, Assistant Director of the Institute of Government.

Present plans contemplate that additional refresher schools of this nature will be held periodically for the examiners in the field.

Books Received

(Continued from page 13)

county government as they know it with county government in other states. And all citizens interested in local government are certain to profit from a study of the local governmental systems used throughout the United States in the administration of those affairs that have been made the province of county government.

GOVERNMENTAL LABORATORY BUILDING INSTITUTE OF GOVERNMENT



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