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Wildlife Protector Trainees

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COVER

Every section of the State is represented by the Wildlife Protector Trainees shown, with instructor and supervisory personnel, in the cover photograph. These men are participating in an intensive pre-service training school conducted by the Institute of Government for the Wildlife Resources Commission. The variegated course of instruction, including such subjects as self-defense, law enforcement, conservation, and first aid, is designed to produce helpful public servants as well as efficient law enforcement officers.

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THE CLEARINGHOUSE

NOTES
From North Carolina Counties

County Accountants' School

The annual school for county accountants was held by the Institute of Government at the University Law School in Chapel Hill on March 10, 11, and 12. In addition to the regular sessions, the accountants went to Raleigh on the morning of March 11 for a visit to the General Assembly.

Among the topics discussed were: *Financing public schools,* the discussion being organized around a guidebook recently published by the Institute.

Leasing county homes and the advantages and disadvantages arising from the practice. The conclusion reached was that officials in any county considering a lease should get in touch with the State Department of Public Welfare and discuss with officials of that department the situation in their county, since some counties will benefit from such a lease and others will not.

Fire insurance on county buildings and the premiums savings that can be obtained by the use of a co-insurance clause in the insurance contract and by the writing of insurance for periods of more than one year.

Rural fire protection possibilities under present laws and the types of protection afforded in the counties which have embarked on a fire protection program for the rural areas. Philip P. Green, Jr., of the Institute staff, led the discussion on this subject.

Dog laws governing the taxation and vaccination of all dogs and the methods that can be used to control stray, wild, and rabid dogs.

Legislation of interest to accountants and an explanation of the various provisions of such legislation. Mr. J. Henry Vaughan, secretary-treasurer of the State Association of County Commissioners, discussed the action taken by the General Assembly in recent days on legislation affecting counties.

In addition, the final session on Thursday morning was devoted to a discussion of a series of problems that face the accountants of the various counties. Proper methods of levying taxes, proper establishment of a fund for each tax levy, protection of county money and county property, reports to be made by accountants, and other questions came in for attention. The questions and answers used in the discussion are being mimeographed and will be mailed to all county accountants during the latter part of March.

Property Tax News

As the final figures on **Forsyth County's** new revaluation are determined, the county tax supervisor has held a series of meetings with all county officials and employees in an effort to insure that the members of the county family understand the purposes, methods, and objectives of the reappraisal program. This is only a part of the county's effort to familiarize the public with its tax problems, but it shows the county recognizes that the public expects county officials and employees to be able to answer questions about taxes whether they work in the tax department or not. A deputy sheriff who can answer questions about a revaluation program will be helping both the county government and the taxpayers.

Citizens as individuals and through their organizations often complain about property taxes, tax administration, and assessments, but they are seldom asked to take an active part in studying the things they criticize. News from several places indicates that this picture is undergoing change. In **Mecklenburg** the county commissioners have asked a group of citizens to serve as investigators and assistants to county tax authorities in working out some solution to the tough problems involved in the listing and assessing of personal property — especially household and kitchen furniture. In **Burke County** the commissioners have appointed a representative group of taxpayers to study the whole problem of the prop-

County Accountants in Session in Chapel Hill

erty tax and its administration in that county and bring in recommendations. The significant thing about both of these groups lies in the fact that they are working with the officials for constructive change; they are not standing on the sidelines hurling criticism without responsibility.

One of the most interesting results of this year's tax program in **Forsyth** has to do with business firms in the area outside **Winston-Salem.** County records show that the listing of business inventories in the county increased 14% from 1950 to 1951, 15.49% from 1951 to 1952, and 55.8% from 1952 to 1953. This startling rise between 1952 and 1953 was recently reported by the acting tax supervisor, who pointed out that there were 688 such rural firm listings in 1952 against 1,072 such firms disclosed in a 1953 survey conducted in connection with the recent revaluation. While some of the difference can be accounted for by the establishment of new businesses since January, 1952, the supervisor is forced to the conclusion that a considerable number of rural firms have simply not been listing their assets and inventories for taxation.

Under the terms of a recent ordinance, the **Raleigh** city council has created the office of city tax supervisor to be filled by appointment of the city manager. The person filling this position will have duties comparable to those performed by a county tax supervisor in so far as the law permits those functions to be performed by a city or town.

County Buildings

Work has begun on a $72,000 enlargement and modernization of the **Cabarrus County** courthouse, including the construction of two new wings, installation of elevators, and installation of fire-proof vaults for court records. . . . **Cleveland County** and the city of **Shelby** are joining together in plans for beautification of the courthouse grounds. The estimated $10,000 cost will be borne jointly by county and city and will include the laying of additional walkways, the replanting and removal of existing shrubbery, and a complete reseeding of the grounds. . . . **Dare County** is building a health center in **Manteo.** . . . **Bertie County** has raised its $22,500 share of a $100,050 nurses' home by private subscription. No county funds will be used to finance the project, the rest of the cost coming from state and federal sources. . . . **Wake County** voters have recently approved the issuance of $5,500,000 in school building bonds. Only 20% of the eligible voters went to the polls, but those who did approved the bond by an 8-to-1 vote. . . . **Hertford County** is considering the issuance of $25,500 in bonds for the improvement of the jail. . . . And **Surry County** is faced with repairing from $300 to $500 in damage done when thieves broke into the courthouse. In addition to the damage, which included jimmied doors, two cracked safes, and one cracked vault, the county lost over $600 in cash, $1,200 in checks, and three pistols.

Miscellany

Forsyth became North Carolina's newest county manager county on March 2, when W. N. Schultz, county accountant since 1925, was named county manager, effective April 1. An assistant county manager will also be named in the near future. The new manager was appointed by the board of county commissioners under authority granted in G.S. 153-20, and he will have the duties and responsibilities prescribed in G.S. 153-21 and 153-22. . . . **Dare County** is considering the adoption of a plumbing code. As the first step in the preparation of the code, the board of commissioners has asked all plumbers in the county to get together and work out acceptable provisions. . . . **Buncombe County** has recently appointed a dog warden under the provisions of Chapter 931, Session Laws of 1951 (G.S. 67-30 to 67-36). . . . Early signs of spring: February newspaper articles of school budget deliberations in **Forsyth** and **Guilford** counties.

Newton and **Catawba County** have signed a rural fire protection contract, under which the county will pay the town $1,200 a year plus $75 for each call answered. The town agreed to purchase a $6,000 truck designed for rural fire-fighting, title to which will pass to the county after five yearly payments.

NOTES
From North Carolina Cities

Parking

The **Winston-Salem** board of aldermen has created a parking authority and has awarded a contract to a private firm for a parking survey. The action followed rulings by the city attorney that funds from on-street meters could not be used for the survey, but that non-tax funds of the city could be used for this purpose. The city attorney also ruled that the city could no longer lease or rent space on the streets to taxicab companies or other individuals.

Members of the **Raleigh** parking authority have submitted their resignations, on the basis that recent Supreme Court decisions have prevented an effective off-street parking program. The city council persuaded them to continue on a stand-by basis, pending disposition of measures to be submitted to the General Assembly.

Traffic consultant W. F. Babcock has recommended that merchants in **Durham's** downtown business area provide 650 off-street parking spaces on an assessment basis. Under the proposal the estimated cost of $1,250,000 would be paid over a 15-year period. . . . **High Point** has decided to rent 10 parking spaces in its off-street lot to individuals on a monthly basis.

Greensboro collected a total of $97,960.64 with its parking meters during 1952. The bulk of this amount, $71,303, was taken by on-street meters, with the remainder coming from the city's five off-street lots. In 1951 the city collected $86,278 with its parking meters. . . . A method whereby the city could enforce parking regulations on off-street lots has been suggested by **Winston-Salem's** city attorney. Under the plan the city would send notices to motorists who failed to pay penalties for overparking, warning them to keep off city lots in the future. Those who again violated regulations would be arrested and prosecuted as trespassers.

Hendersonville has hired a lady

supervisor for its parking meters and has removed 25 meters from the streets, so as to afford space for employees of nearby manufacturing establishments. . . . **Forest City, Smithfield,** and **Marshall** are replacing all of their parking meters with new automatic meters. **Elkin** is making a 60-day test of a new type of meter, preparatory to replacing existing models.

Recreation

Statesville citizens will vote March 10 on a $230,000 bond issue and tax for recreational facilities. Proceeds would be used for construction of two swimming pools and two public recreation buildings. . . . **Boone's** town board has again agreed to support a summer recreation program. . . . **Charlotte** has awarded contracts for construction of another municipal swimming pool. . . . **Siler City** has called for bids on a $90,000 swimming pool.

A recreation consultant for **Winston-Salem** has announced plans for "the finest Negro park in the South." Under the plans a 490-acre site, presently owned by the city, would be developed to include a golf course, swimming pool, camping grounds, and a 25-acre lake for boating and fishing. The park would be a part of a $2,750,000 capital improvements program. The consultant also advised formation of a city-county recreation department, which would take over the functions of four city commissions already in the field.

Annexation

Durham's city council has directed a study of the potential costs and tax returns which would result from annexation of a number of areas. Among the items of information which city departments were directed to gather were (a) the total number of houses in fringe areas having both water and sewer service, (b) the number having only one of these services, (c) whether existing sewage disposal plants could service additional areas, and (d) comparative costs of maintaining similar homes inside and outside the city.

Scotland Neck and **Greensboro** have recently annexed small areas adjacent to their limits. . . . The **Wallace** commissioners have established a committee consisting of one commissioner and three prominent townspeople to explore the possibilities of annexing areas desiring police and fire protection. . . . **Charlotte** has annexed three school sites and another small tract.

Streets and Traffic

Wilson has adopted ordinances requiring all trucks passing through the city to use a designated truck route and requiring persons constructing driveways across city sidewalks to secure permits to do so. . . . **New Bern** has established loading zones in its business district which may be used for no other purpose between 8:00 A.M. and 6:00 P.M. on weekdays. . . . **Wilmington** has modernized its street-lighting system to provide almost 25 per cent more light in outlying areas and all-night lighting in the central business district where lights were formerly extinguished at 11 P.M. The cost to the city of the changes will be approximately $200 per month. . . . **Waynesville** has decided to establish a "white way" on its Main Street, with greatly increased street lighting.

Raleigh has added two streets to its one-way system. . . . **Durham** has channelized 10 more intersections, in carrying out the plans of a traffic consultant. . . . **Albemarle** completed 50,855 linear feet of street improvements in 1952. . . . **Wilmington** will hire 12 policewomen to work at dangerous school crossings. They will not have the power of arrest but will report offenders and testify in court. . . . **Franklin** has eliminated parking on one side of a through street to facilitate traffic. . . . **Rocky Mount** has authorized its police chief to acquire an electrical speed detector (radar).

Fire Protection

Fire Chief Clarence E. Morris of **Albemarle** has issued a comprehensive report on the operations of his department in 1952. Altogether the department answered 192 alarms. Fire loss was $13,559.60, a per capita loss of $1.16. . . . **Newton** is taking measures to secure a fire insurance rate reduction. Major measures involved are the purchase of minor items of fire department equipment and work on the town's water distribution system so as to insure a pressure of 20 pounds at each hydrant. . . . **Wilmington** has adopted a new fire prevention ordinance after two years of study. . . . **Hendersonville** has purchased a new fire truck. The department now has three pumpers and a city service truck. . . . **Raleigh** has contracted for a new 1,000 g.p.m. pumper. . . . **Zebulon** has acquired a truck for rural fire-fighting within seven miles of town. The truck and its services will be financed by dues paid by rural residents.

Public Improvements

Charlotte will receive bids on March 13 for a 2,500-seat auditorium and an adjoining 10,000-seat coliseum. . . . **Wilson** has approved plans for a new city-county health center. . . . Plans are being prepared for a new **Wrightsville Beach** town hall, which will house the police station, town clerk's office, fire station, and a motor vehicle repair shop. . . . **Chapel Hill** has purchased a 25-acre tract outside of town for a new cemetery. . . . **High Point** has accepted bids for a new $180,000 library building. . . . **Longview** has dedicated a new municipal building.

Utilities

The **Albemarle** city council has voted to lower water rates for industrial consumers, in an effort to attract more industry to the city. The new rates are $1.00 per 10,000 gallons for the first 200,000 gallons, $.70 per 10,000 gallons for the next 200,000 gallons, and $.65 per 10,000 gallons for all over 400,000 gallons. The city presently has filter plant capacity of 6,000,000 gallons per day, which is approximately three times present consumption. . . . **Statesville** has set a $140 fee for the installation of residential water meters outside the city limits. . . . **Durham** has adopted an ordinance requiring each family in a duplex or apartment house served by only one water meter to pay a minimum monthly water charge of $1.50. The requirement would apply only to families whose apartments contain both a kitchen and a bathroom.

Mount Airy voters have approved issuance of $602,500 of water and sewer bonds. Town Engineer F. G. Doggett estimated that improvements made possible by the vote would take care of the city's normal development for 10 years. . . . **Burgaw** citizens have voted to issue $130,000 of water and sewer bonds. . . . **Sanford** was scheduled to vote March 3 on a $900,000 bond issue to finance a new

reservoir filtering plant, pipelines, and tank, drawing from Deep River.

Siler City has called for bids on approximately $186,000 of water and sewer main construction. . . . **Burlington's** new $425,000 sewage filter plant was scheduled to go into operation this month. . . . **Rose Hill** has been replacing two-inch water lines with six-inch lines for fire protection purposes. . . . **Winston-Salem** has asked for bids on about $1,000,000 of water and sewer system projects. . . . **Durham** has announced that it wishes to purchase additional land for its watershed.

Nine out of ten applications for water service received by the **Charlotte** water department are from beyond the city limits, according to Superintendent Walter Franklin. Outside users are required to install their own lines and to pay water rates 1½ times the in-town rate. In return for maintaining the lines, the city receives title to them on extension of the city limits to include them.

Kinston has contracted to purchase supplementary electric power from the Carolina Power and Light Company, pending enlargement of the municipal power plant. . . . **Windsor's** town council has voted to install new switching equipment connecting the town's power distribution system with a Virginia Electric and Power Company substation. . . . **New Bern** voters have rejected a plan to exchange the city's rural electric distribution lines for the gas storage plant and distribution system owned by Carolina Power and Light Company within and adjacent to the city limits. The city will now seek permission to lease its rural lines to the company for 10 years, after which the company will purchase them.

New Bern has amended its plumbing code to authorize not more than two separate dwellings in single ownership to tie into one sewer connection. When ownership is separated, an additional connection must be made. . . . Plans have been announced for conversion of **Kernersville's** telephone system to dial service. . . . **Dunn** has begun a program to connect all dwellings in town with its sewerage system.

Slum Clearance and Urban Redevelopment

Wilmington has adopted a new minimum housing standards ordinance, modeled after the **Charlotte** ordinance. The ordinance requires inside running water, installed kitchen sink, inside bathing facilites (tub or shower), installed water closet, installed electric lighting facilities, installed heating facilities, and screens on all outside openings. It will not go into effect until the removal of rent controls applicable to local property.

The **Winston-Salem** board of aldermen has voted to request the advance of an additional $50,000 of federal funds in order to make detailed studies of and plans for an area proposed for redevelopment. In addition, it has directed city enforcement officials to concentrate their efforts outside the proposed redevelopment area in enforcing the city's minimum housing standards ordinance. The actions followed several bitter hearings on the proposals.

Planning

Statesville's city planning board has submitted a set of subdivision regulations to the city council for approval. The regulations would require all streets, except in exceptional circumstances, to have rights-of-way of 50 feet. Developers would be required to install storm drainage facilities and permanent markers. . . . The **Carrboro** zoning commission is completing a proposed zoning ordinance. . . . Committees have been appointed by the **Hickory** and **Longview** governing bodies to make arrangements for creating a joint planning board.

James A. Hancock, head of the **Winston-Salem** inspection department, has proposed a new consolidated filing system for his department. A separate card would be prepared for each of the approximately 30,000 buildings in the city, showing its address, date of construction, inspections by the department, and other information. Hancock estimated the system would cut out about 40 steps required under the present system. . . . **Fayetteville** has set a fee of $15 to be paid by each applicant for a zoning amendment, to cover advertising and administrative costs.

The **Winston-Salem** Chamber of Commerce has published an industrial directory for **Forsyth County.** The directory includes the address of each company, the principal officer, the number of employees, and the products manufactured. Copies will be sent to government procurement and other organizations to encourage contracts for local products, and they will also be used in seeking to attract new industries.

Raleigh has added the following definitions to its zoning ordinance:

"Family: A family is any person or group of persons occupying a family dwelling unit or equivalent thereto as defined in this ordinance.

"Family Dwelling Unit: A family dwelling unit is a room or group of rooms used or designed to be used for habitation which contains or is designed to contain facilities for cooking and dining.

"Rooming House: A rooming house is a family dwelling unit which is used or designed to be used primarily for single family occupancy, plus the rental of rooms for habitation.

"Equivalent Family Dwelling Unit: For purpose of computing the families per acre permitted by this ordinance the following shall be considered equivalent to a family dwelling unit:

(a) Any three rental rooms (not provided with cooking facilities) of a rooming house in addition to the primary family dwelling unit."

Miscellany

Waynesville has set April 8 as the date for an election to determine whether beer can be sold legally in the town. . . . **Wilmington** has purchased an earth moving machine to enlarge operations of the city's land fill disposal system, placing the city incinerator on a stand-by basis for possible future use. . . . **Wallace** has placed a 30-day quarantine on all dogs in the town, after deaths of three dogs in which rabies was suspected. . . . **Nashville's** town board has urged the creation of a new county dog warden position.

Petitions are circulating in **Southern Pines** preparatory to an election concerning adoption of the city manager plan. . . . **Jacksonville's** board of aldermen and **Kings Mountain's** city planning board have requested legislation providing for such an election. . . . **Greenville** has promoted four firemen and one policeman. . . . Nine **Greensboro** employees have received certificates for completing a course in police administration.

The **Winton** town board has voted to conduct an annual inventory of all town equipment, a report of which will be kept in the mayor's office. . . . **Durham's** city council has voted to install a public address system in the

(Continued on inside back cover)

Driver Education in High Schools

By

Edward Lane-Reticker

Assistant Director
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(This article is based on a study bearing the same title, recently prepared by Mr. Lane-Reticker and published by the Institute of Government at the request of the State Superintendent of Public Instruction, Dr. Charles F. Carroll.)

In the past ten years more than 300,000 Americans have lost their lives on the highways. Traffic accidents are one of the principal causes of death in the United States and the chief cause for persons between the ages of five and twenty-four.

There is no question that highway safety is one of the major and urgent problems of state and local governments. Nor is there any doubt that the funds which can be made available are often inadequate to meet the need. Therefore, it has become of first importance to utilize the most effective and efficient means to reduce the number of highway deaths and injuries. To an increasing extent, people are looking to driver education as one of the most promising methods of dealing with this problem.

The purpose of this article is to raise some of the more important questions which are being asked and are likely to be asked about driver education:

(1) Is driver education needed?
(2) How effective is it in reducing accidents?
(3) How much does it cost?
(4) What are the best and most practical kinds of driver education?
(5) How does it compare with other methods of accident reduction in cost and effi ciency?
(6) Is driver education a responsibility of the schools?
(7) If it is, where does it rank among their other responsibilities?

Because of insufficient information, final answers to many of these questions are not possible now, What this article attempts to do is to present some of the facts which have been accumulated to date in the hope that they will be helpful in planning for the future.

Growth of Driver Education

By 1924, when the automobile had been part of American life for just a little less than 30 years, there were already fifteen and a half million cars registered in the United States and 20,000 Americans were being killed on the highways each year. Recognizing education as one method of dealing with this national problem, the National Conference on Street and Highway Safety recommended a program of safety education in public schools. In the following years scattered schools over the country began experimenting with various types of driver education. By the late 1930's the movement had gathered momentum and the two basic types of driver education, classroom training and practice driving, had already emerged. Following the Second World War, which arrested the development of driver education, renewed efforts succeeded in expanding the program enormously. The most recent national figures, those for the school year 1952-53, showed that over 8,000, or about one-third of the nation's public high schools, were offering driver education courses, consisting either of classroom instruction or of both classroom instruction and practice driving. These schools were training almost half of the nation's high school students who reached the legal driving age. Because of the time and expense involved in practice driving, most of the students were trained by the schools which offered classroom instruction only, even though these schools amounted to only one-fourth of the total number offering driver education courses.

Need for Driver Education

Many articles on highway safety are written on the assumption that the teenage driver is the most serious safety problem. Studies indicate that while he has more than the average number of accidents, he may not be so dangerous a driver as the one between the ages of twenty and twenty-four. On the other hand, it is difficult to get an accurate comparison of the accident rates of different age groups since the average mileage driven by members of each age group is not known. Most of the better studies of the problem now available have compared accident figures for each age group, taking into account the number of licensed drivers in each group. On this basis, figures from several states show that drivers in their early twenties have the greatest number of accidents. They also have the greatest number of violations. Despite the fact that the record of the driver in his early twenties may be even worse than that of the teenager, the latter is the one more accessible to education since he is more likely to be in school.

Since the younger driver seems to have more accidents than the average, the question of whether or not there is a need for driver education is essentially the question of its effect on accidents. The problem is not only whether driver education reduces accidents, but whether, considering the time and expense involved, it is a more efficient method of reducing accidents than other methods of accident reduction such as enforcement.

Results of Driver Education

At present, while there is no information about the relative efficiency of the various approaches to highway safety, there are about thirty reports of the results of driver education with regard to its effect in reducing accidents and violations. Of these, about half are simple reports of general accident or violation reduction among young drivers following the institution of driver education courses in various states and cities. The remaining reports might be loosely called statistical studies of varying degrees of thoroughness.

While perhaps none of these studies is statistically sound, an attempt to summarize them may be useful. Generally they attempted to determine the effect of driver education by comparing the accident and violation records of a trained group of drivers with the records of an untrained group. However, all of the studies ignored at least some of the many factors which, apart from training, might well account for the difference in the accident and violation records of trained and untrained groups.

Perhaps the most serious omission in several of the studies was the difference in the accident records of

boys and girls. There is considerable evidence that girls have far fewer accidents than boys, regardless of training. Several of the studies which showed the greatest difference between the records of trained and untrained drivers failed to separate the records of boys and girls. An analysis of the numbers of girls and boys in those studies which considered them separately discloses that more than half of the trained drivers were girls and about 80% of the untrained drivers were boys. Studies which fail to separate the records of boys and girls may be measuring a sexual difference rather than the effect of training.

Another factor that may account for some of the difference between the records of trained and untrained drivers is attitude. There is reason to believe that the attitude of the driver may be highly significant in determining his accident and violaton record. Snce most driver education courses are elective, there is a likelihood that those who enroll have good attitudes to begin with and might, therefore, have been better drivers even without training.

Some of the studies used trained groups of drivers drawn from high schools while the untrained drivers taken for comparison were selected at random from the same age group. It is not yet known what effect educational level has on accident and violation records, but, until it is determined that it has no effect, studies which compare trained high school students with untrained persons of the same age selected at random will be open to question.

These are only a few of the factors that were not controlled in many of the studies which have been completed. The results of the studies vary greatly. In Delaware, trained drivers were reported to have 77% fewer accidents than untrained. In Camden, New Jersey, on the other hand, trained drivers were reported to have more than twice as many accidents as untrained drivers. On the whole, the more carefully controlled studies tend to show smaller differences between the trained and untrained drivers. The average accident reduction shown by the studies which failed to separate the records of boys and girls and to limit the untrained group to high school students was 72%. In the studies which separated the records of boys and girls, the average accident reduction shown was 24%. In the studies which both separated the accident records of boys and girls and also limited the untrained group to high school students, the average accident reduction was 14%.

None of these figures should be accepted as showing the effect on accident rates of driver education because they are merely averages of the figures shown by the present studies. If used to show accident reduction, they are open to all of the many objections to the individual studies, and to the additional objection that the studies were not comparable and cannot be averaged. Regarded as showing nothing more than the average reductions shown by the present studies, they indicate that future research needs to be much more carefully controlled.

While it may be justifiable to say that driver education does reduce accidents, it is impossible to say how much it reduces them. When the results of carefully controlled research are available, the figure may be even lower than the lowest of the three given above, or it may be much higher.

Costs and Types of Programs

It is not possible to obtain accurate cost figures for driver education; but, on the basis of available information, some estimates can be given. The total cost for a thirty-six hour classroom course in driver education, including salary, texts, materials and equipment, should be no more than $5.00 per student. When six hours of dual-control practice driving are added to the classroom work, the cost rises to about $35.00, or seven times the cost of classroom work alone. This is largely due to the fact that a practice driving instructor teaches only one student at a time while the classroom instructor teaches thirty or more. In addition practice driving involves expenses for gasoline, insurance, lubrication, oil, washing, garaging, maintenance, and repair, although ordinarily there is no cost for the car itself, which is usnally contributed by an automobile dealer.

While the dual-control method of practice driving is in general use, schools in large cities have been giving driver training to several students at the same time using specially constructed practice driving areas equipped with several cars. With this method, known as the multiple-car plan, it may be possible to give a student a thirty-six hour classroom course and ten hours of practice driving at a cost of about $12.50, exclusive of the cost of the practice driving area. Because of the cost of the practice driving area and for other reasons, this type of practice driving seems best adapted to large schools in large communities.

There has been some experimentation with special classroom training devices which are used to develop essential manipulative skills used in driving. These may reduce the amount of practice driving necessary or enable the student to begin practice driving at a more advanced level. Recently there has been some attempt to develop home teaching materials to be used by parents when giving driving instruction. The purpose of these is to make it possible to coordinate classroom work with actual driving in schools which lack funds or time for a practice driving program.

Whether practice driving is worth the additional expense is not known at present. Only two studies—in Massachusetts and Cincinnati, Ohio—have compared the results of classroom courses on the one hand and courses including practice driving on the other. They showed very little difference in the accident records of boys with classroom training only and boys who had taken courses including practice driving. Practice driving did seem to improve the accident records of girls and the violation records of both boys and girls.

Driver Education in North Carolina

The history of driver education in North Carolina properly begins with legislation enacted in 1927. In that year the General Assembly directed the State Highway and Public Works Commission to publish a digest of the traffic laws for use in the public high schools of the state. Each year enough copies for all high school teachers were to be delivered to the Superintendent of Public Instruction, and all high school students were to receive at least one lesson a week in the traffic laws until the entire contents of the digest had been read and explained. (G. S. 20-212 through 20-215.)

It would seem that many schools offered the required instruction for a time but later discontinued it. Some schools may have integrated the materials into social studies, health, and other courses. In January of this year, the Superintendent of Public Instruction and the Commissioner

of Motor Vehicles requested the Institute of Government to prepare up-to-date materials on the traffic laws suitable for use in all of the State's high schools.

In 1939, the General Assembly again showed its interest in traffic safety by passing Joint Resolution No. 29 directing the Superintendent of Public Instruction to add safety education to the course of study in all public elementary schools. The course was to cover safety at home, on the playground, at school, and on the highways. Also, in the late 1930's, about 11,000 high school students and some adults took driver education courses given in several parts of the state and sponsored by the Works Progress Administration.

During the war driver education in high schools was very limited; but since then perhaps half of the state's public high schools have offered some form of driver education courses, in addition to the school bus driver training conducted by the Safety Field Representatives of the Department of Motor Vehicles. Many of the schools have offered the courses for a time and then discontinued them for a variety of reasons such as lack of funds, heavy teacher loads, and inability to obtain cars. Others schools, particularly those with small enrollments, offer the course periodically because they do not have enough students who request it in any one year.

In the school year 1947-48, the first year in which the Department of Public Instruction collected driver education figures from schools, 60 schools reported such courses. The following year the number was down to 44. In 1949-50 it rose to 213, and in 1950-51 it rose again to 402 where it remained during 1951-52. These figures are not based on complete reporting; last year for example only about 60% of the high schools replied to the Department's questionnaire. Of these 402 schools, 250, or 62%, offered only classroom courses, while 152, or 38%, included practice driving. Altogether the 402 schools trained 13,310 students or about 25% of all those eligible. The classroom courses accounted for 8,750 students, and the courses including practice driving accounted for 4,560. Whether more complete reporting would increase these figures is not known. It seems likely that the schools not reporting would generally be those without driver education.

Figures for the current school year, 1952-53, are not yet complete. As of March 1, 1953, 530, or 55% of the state's 950 high schools, have reported. On the basis of these returns it seems that the number of schools offering driver education may have declined sharply from last year. So far 85 schools have reported driver education courses in operation this year. This is 9% of all public high schools in the state. Discontinuance of their driver education courses have been reported by 51—in some cases discontinued temporarily and in other cases discontinued indefinitely. Since the questionnaire used this year called for more detailed information than those used in the past, it may well be that schools with driver education courses are taking more time to fill them out and that more complete returns will greatly alter the present figures.

Of the 85 schools reporting driver education courses as of March 1, 1953, 68 report classes including practice driving; 14 report classroom courses only; one reports practice driving only; and two report that they have driver education courses but do not specify the type.

Answers to questions inquiring about costs indicate that detailed cost records are not generally available. Some schools with practice driving stated that the total cost per student, including items paid for from non-school funds, was well over $100. In one case it was over $150. Net cost per student, including only items paid for from school funds, generally ran under $20. However, few schools gave any detailed cost information, and it is impossible to draw conclusions at this time. Until more complete records are kept, there is no way of knowing how North Carolina costs compare with those for the country as a whole.

The plan now being used by Forsyth County is an example of good utilization of available facilities. Classroom instruction is given in each high school by a regular member of the school's faculty. The County Board of Education has hired a special practice driving instructor who visits each school in turn and gives this type of instruction. Individual schools are able to give the classroom work at about the same cost as that of any other classroom subject of the same length, and the time of the practice driving instructor is shared by all.

Considerable light is thrown on the problems of driver education in North Carolina by the replies to the questionnaire of the schools which have discontinued driver education. One of the reasons given most frequently by small schools was that teachers were already overloaded with required courses and it was impossible to spare time for extra courses. Another reason given by several schools was the lack of qualified teachers. In this connection one principal pointed out that because driver education was not a required course many teachers felt that it offered little job security and therefore were unwilling to make the effort to qualify for the teaching of it. Lack of demand for the course was cited in a few instances as the reason for discontinuance. One principal who gave this reason remarked that students in his school obtained their drivers' licenses almost as soon as they became sixteen and, once licensed, were no longer interested in driver education. He suggested that a special learner's permit be established and issued at the age of fifteen and a half. Such a permit would allow the operation of a driver education training car only.

Several smaller schools discontinued their course because of failure to obtain automobiles or failure to obtain definite commitments of automobiles in time to include the course in their schedules. This is understandable because dealers who lend cars will generally prefer to lend them to the larger schools, which will be able to make the most use of them.

In schools which discontinued their course because of failure to obtain cars, it probably would have been possible to give a classroom course in driver education. Therefore, such discontinuance may indicate a feeling on the part of those responsible for the decision that driver education without practice driving is not worthwhile.

Some schools mentioned prohibitive costs as the reason for discontinuance of courses including practice driving. These were generally small schools which were unable to call on community support to bear the major expenses.

Outlook for the Future

In any consideration of steps which can be taken to increase the amount of driver education in the state, the problem must be seen as part of the over-all educational problem facing North Carolina. It is not only in driver education, but in many other

areas, that much needs to be done to improve the state's accomplishments in public education. Recent figures show that North Carolina ranks 31st among the states in the average salary paid its teachers. It ranks 42nd in the amount of money it spends on education per pupil. An indication of the size of the task confronting the state is provided by the scores of North Carolina students on the Selective Service College Qualification Tests given in 1951. In these tests, given to determine the draft status of college men, North Carolina students ranked 40th in the country both in average score and in the number of those qualifying for deferment. While 64% of all students who took the tests scored at least 70 (the qualifying score for all students except seniors, for whom the qualifying score was 75), only 46% of the North Carolina students achieved this score.

In the whole field of education, North Carolina's needs are great and the funds limited. In planning for the improvement of the schools it will be necessary to weigh each measure carefully and decide which are essential and which can be postponed until the essential measures have been taken.

With regard to driver education, four main courses of action are open to the state:

(1) It can continue its present policy;
(2) it can put classroom driver education courses into all schools;
(3) it can underwrite the cost of practice driving instruction in all schools; or
(4) it can underwrite the cost of a controlled experiment in driver education.

1. *Present Policy.* At present it is the responsibility of local school authorities to determine whether or not they will have driver education in their schools, and the kind and amount of driver education. State-allotted teachers are often used to teach the driver education courses and, therefore, the state pays much of the instructional cost of the present local programs. Since the State Superintendent of Public Instruction has prescribed the courses necessary for 10 of the 16 credit units required for high school graduation, the other six units may be made up of courses approved but not required by the state. Local authorities must decide what electives are to be offered. In many cases the number of teachers is small and the choice of one elective will necessarily eliminate another from the curriculum. At present, provided the demand for the course is great enough and a regular high school teacher is qualified, schools can and do use state-allotted and state-paid teachers for driver education courses just as they do for other non-required courses. While some state-allotted teachers give practice driving instruction as well as classroom work, this is usually possible only at a considerable loss to other phases of the school's work, because in dual-control practice driving a teacher can instruct only one-thirtieth as many students as he can in an ordinary classroom subject.

2. *Classroom Instruction for All Schools.* Classroom courses in driver education could be made part of the required curriculum for high schools. This could probably be done under the power of the Superintendent of Public Instruction to approve courses of study, and without legislative action. In general, additional funds would not be necessary for such a program, but the requirement of driver education would mean that other elective courses might have to be eliminated. If classroom driver education were thus incorporated into the standard high school curriculum, individual schools would still be free to add practice driving if they saw fit and if they could obtain the necessary funds.

3. *Practice Driving Financed by the State.* The state could assume all or part of the expense of offering practice driving instruction to all high school students. This could be done directly through teachers hired by the state and serving individual schools on a part-time basis. In this event, it would probably be necessary for the state to assume the expense of driver education for all high school students, since a program not sufficient in scope to reach all eligible students would result in discrimination against some. This might be difficult to justify under a state school system.

The cost of such a program can be estimated from available figures. The minimum school year in North Carolina is 180 days. The average teacher's salary is about $2,900, and the expected 10% increase will raise it to about $3,200. If each teacher were able to reach 125 students a year and taught both a 36-hour classroom course and a six hour dual control practice driving course, 400 teachers at a total cost of $1,280,000 per year would be required. If the special teachers taught only practice driving and regular teachers taught the classroom work, 334 special teachers at a total cost of $1,068,840 per year would be required. There is some reason to believe that the average salary of driver education instructors is well below that of teachers as a whole since the field is a new one and driver education teachers would tend to be younger. However, it is probably safest to use the average for all teachers until definite information is available.

Special state teachers such as these would present some problems of administration. Generally, though the State pays the salaries of teachers, hiring and firing are within the province of the local school boards. If driver education teachers are employed from State funds, it will have to be determined whether they will be responsible to the State Department, to county boards of education, or to local administrative units.

One method by which a state can give partial support to practice driving without discriminating against some schools is being used in Pennsylvania. The cost of a driver's license has been increased $2 and the extra money is placed in a driver education fund. This fund is used to reimburse schools for part of the costs incurred for driver education. Each school with an approved program is entitled to that fraction of the fund obtained by dividing the number of students it trains in a year by the number trained throughout the state. Therefore, if a school trains 60 students in a year and the total number trained is 6,000, the school is entitled to one percent of the money in the fund. The law provides, however, that no school may receive more than $10 per student. The more students trained in the state as a whole, the less money per student any one school is able to get. However, these payments added to local funds may make practice driving possible in many schools which would not be able to offer it otherwise.

4. *Controlled Experiment.* A way in which a limited amount of state money might profitably be expended with benefit to all the schools in the state is the financing of a carefully controlled experiment and the evalua-

(Continued on inside back cover)

Court Rules Cities Must Compensate Landowners Next to Water Tanks

By
Philip P. Green, Jr.
Assistant Director
Institute of Government

Two recent decisions by the North Carolina Supreme Court have focussed attention upon one of the more ticklish problems faced by municipal administrative officials and governing bodies: the proper location of water storage tanks. As cities grow in population, it becomes necessary to provide additional water storage facilities to serve particular areas. Quite commonly, good engineering practice dictates the location of such facilities. But legal, financial, social, or political problems related to this location may force the city to choose another spot.

The two recent decisions did not help this situation. In *Raleigh v. Edwards*, 235 N.C. 671, 71 S.E. 2d 396 (1952), the court held that the city must pay compensation to property-owners throughout a subdivision where the water tank would violate restrictive covenants applicable to the subdivision. In *McKinney v. High Point*, 237 N.C. 66 (1953), the court found that adjoining property owners may be entitled to compensation for the "taking" of their property resulting from construction of a water tank, even though no such covenants exist.

RALEIGH V. EDWARDS

The city of Raleigh decided in 1951 that it would need to erect a water tank in the Budleigh section of the city. An unoccupied corner lot was selected as the site for the tank. The city might have chosen to put the tank in the rear of nearby property which it was already using as the site of a fire station, but because of the difference in altitude of the two properties, the city would have had to increase the height of the tank at considerably greater cost.

When it was unable to reach an agreement with the property owners for a purchase of the property, the city instituted a condemnation proceeding. Two adjoining property owners sought leave to intervene in the proceedings as omitted claimants. After an appeal to the Supreme Court [reported in 234 N.C. 528, 67 S.E. 2d 669 (1952)] this permission was granted.

The interveners thereupon set up alternative defenses. First, they attempted to prevent construction entirely by claiming that (a) erection of the tank would constitute a nuisance, (b) such a nuisance committed by the city would constitute a "taking" of their property within the principle of eminent domain, and (c) such a "taking" of their dwelling was forbidden by Section 40-10 of the General Statutes. In the event that this argument should not succeed, the interveners argued that since the property was covered by restrictive covenants limiting the use of property in the subdivision to "private dwelling purposes only," they had an interest in land for which the city must pay compensation.

The city entered a demurrer to these defenses, which was overruled first by the clerk and then by the judge of Wake County Superior Court. On appeal, the Supreme Court modified and affirmed this judgment.

Opinion of the Court

Justice Johnson, in writing the court's opinion, only partially agreed with the interveners' first argument. Citing *Dayton v. Asheville*, 185 N.C. 12, 115 S.E. 827 (1923) and a number of other North Carolina cases, he ruled that where a governmental project is created and maintained so as to constitute a nuisance substantially impairing the value of private property, it will be held to be a "taking" of such property in a constitutional sense. This is true even though the city could not be restrained against committing the nuisance.

However, the chain of the argument was broken by two factors: First, there was no showing yet of the existence of a nuisance—a water tank is not a nuisance *per se*, and until it was erected there could be no proof that it would be operated and maintained as a nuisance. Secondly, the city's right to condemn property for its water system is derived from G.S. 160-205, which provides for procedures under Article 2 of Chapter 40, whereas G.S. 40-10 is a part of Article 1 of that chapter and does not apply to such condemnation.

The interveners' second argument was more successful. Justice Johnson pointed out that there are two lines of cases in other states with respect to whether or not compensation must be paid to other owners in such a situation.

The first line regards restrictive covenants as equitable servitudes, or interests in land, for the violation of which compensation must be paid. The second line of cases regards them as mere contractual rights; since the condemning agency was not privy to the contracts, these cases have found that it has no liability under them.

Justice Johnson then held that the North Carolina court regarded restrictive covenants as property interests, for which compensation must be paid. It is easy to see how this decision would multiply the costs to the city whenever it wishes to place a water tank in an area covered by such restrictions. However, it may be that a jury would find the value of such restrictions to be slight in the case of property owners at some distance from the tank.

McKINNEY V. HIGH POINT

In the spring of 1950 the city of High Point announced publicly that it intended to build a water tank in the northeast section of the city and that it was considering several sites. After several public hearings to allow citizens to register any complaints, the city selected and purchased a site on August 1 and let a contract on August 15 for construction of the tank. Work was completed in August, 1951.

The tank, as completed, was approximately 184 feet high, was supported by nine large steel towers imbedded in concrete, and was surrounded by a high wire fence. It held 1,000,000 gallons of water.

The plaintiffs in this case owned property, the rear of which was across the street from and in the shadow of the tank. Pursuant to provisions of the city's charter, they filed a claim for damages with the city on September 15, 1951. After waiting more than 30 days, without action by the city, they then brought this action in Superior Court asking $7,500 damages.

Plaintiffs' Contention

The plaintiffs' amended complaint,

as construed by the Supreme Court, included four main contentions: (a) that the tank constituted a violation of the city's zoning ordinance, (b) that its erection was negligent, (c) that it was a nuisance, and (d) that it was a "taking" of plaintiff's property for which compensation must be paid.

The city demurred to the complaint on the grounds that (1) no cause of action was stated, (2) the water tank was erected by the city in its governmental function for the sole purpose of supplying adequate water and water pressure to serve the area and fight fires therein, (3) the complaint made no allegation of physical invasion or taking of property and any injury was *damnum absque injuria* for which no recovery could be obtained, (4) the allegations of the complaint were speculative and the conclusions imaginary, and (5) the allegations were contrary to known scientific facts and did not support the conclusions reached.

In the trial court Judge Patton overruled this demurrer. On appeal by the city, the Supreme Court modified and affirmed the judgment.

Court's Opinion

Justice Parker, speaking for the court, held that the plaintiffs had expressed a valid cause of action with their fourth contention: that construction of the water tank constituted a "taking" of a portion of their property rights. With respect to the other three contentions he ruled that no cause of action had been shown.

Plaintiff's argument with respect to the zoning ordinance was based upon the fact that the site of the tank was located in a Residence A district, in which only certain types of structures (not including water tanks) were permitted. The ordinance provided that municipal utility installations could be erected in any district with the approval of the board of adjustment, but this approval had not been secured. Thus there was, on the face of the matter, a clear violation of the zoning ordinance. In its recent Cherry Point zoning case [*Harrington & Co. v. Renner*, 236 N.C. 321 (1952)] the Supreme Court held that an individual sustaining injury to his property from violation of a zoning ordinance would have a cause of action. There, of course, the violation was by an individual rather than by a governmental unit.

In discussing this contention, Justice Parker pointed out that in other jurisdictions there is an apparent split of authority on the point of whether or not a city is bound by its own zoning ordinance. On analysis, however, he found that the basic issue involved is whether the proposed construction is an exercise of the city's governmental function or of its proprietary function. In this case he ruled that "It is a fair inference that [the tank] was erected for the purposes of public health, sanitation, fire protection, and selling water for gain to its inhabitants and businesses within the city. Under our former decisions we conclude, and so hold, that the erection of this water tank was done by the defendant in its governmental capacity and [therefore] that its zoning ordinances did not apply."

An interesting question was raised by the provisions of Chapter 1203 of the Session Laws of 1951 (now G.S. 160-181.1), which provides that "All provisions of this article [the zoning enabling act] are hereby made applicable to the erection and construction of buildings by the State of North Carolina *and its political subdivisions*" (emphasis supplied). It seems that this act would make *all* actions (governmental or proprietary) by the city subject to the provisions of its own zoning ordinance. However, in the case at bar Justice Parker pointed out that the construction of the water tank was well under way by the time the act was ratified, and the act by its terms had effect only "from and after the date of its ratification." In later cases this will not be true.

With respect to plaintiffs' contention that the city was negligent in its erection of the tank, Justice Parker found no allegations in the complaint to support this conclusion of law.

Similarly, he dismissed the contention that the tank constituted a nuisance. Such a tank is not a nuisance *per se*, he ruled, and in the absence of a showing that the city was in some way negligent in the design, construction, maintenance, or operation of the tank or that the tank was in any way different from other such tanks, no cause of action was stated.

However, while the city would not be liable in *damages*, the court nevertheless ruled that it must pay fair *compensation* for any property it

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Books Received

The Art of Detection. By Jacob Fisher. New Brunswick, N. J.: Rutgers University Press. 1948. $2.75. Pages 248.

Handbook of Criminal Investigation. By Colonel Maurice J. Fitzgerald. New York: Greenberg Publishers, 201 E. 57th Street. 1952. $3.50. Pages 234.

Organized Crime and Law Enforcement. By American Bar Association Commission on Organized Crime. New York: The Crosby Press. 1952. Pages 317.

Selected Essays on Family Law. By the Association of American Law Schools. Brooklyn, N. Y.: The Foundation Press. 1950. $9.50. Pages 1122.

The Sixth Amendment to the Constitution of the United States. By Francis H. Heller. Lawrence, Kansas: The University of Kansas Press. 1951. $3.50. Pages 195.

Commentaries on the Constitution 1780-1860. By E. K. Bauer. New York: Columbia University Press. 1950. $4.75. Pages 400.

The Liquor Tax in the United States 1791-1947. By Tun Yuan Hu. New York: Columbia University Press. 1950. $2.75. Pages 188.

The Federal Taxing Process. By Roy Blough. New York: Prentice-Hall, 70 Fifth Avenue. 1952. Pages 506.

The Lawyer Lectures. Boston: Lawyers' Brief & Publishing Company, 68 Devonshire Street. 1952. $7.50. Pages 227.

Police Organization and Management. By V. A. Leonard. Brooklyn, N. Y.: Foundation Press. 1951. $5.00. Pages 500.

The Instrumental Detection of Deception, The Lie Test. By C. D. Lee. Springfield, Illinois: Charles C. Thomas. 1953. Pages 268.

Theft, Law and Society. By Jerome Hall. Indianapolis, Indiana: Bobbs-Merrill. 1952. Pages 398.

A Manual for Administrative Analysis. By J. M. Pfiffner and S. O. Lane. Dubuque, Iowa: William C. Brown Co., 1951. Pages 81.

The Attorney General Rules . . .

COUNTIES

Contract Between County Commissioner and County. Can a county commissioner enter into a contract with the county to furnish the county coal or other supplies?

To: Stacy C. Eggers, Jr.

(A.G.) No. G.S. 14-234 provides: "If any person, appointed or elected a commissioner or director to discharge any trust wherein the state or any county, city or town may be in any manner interested, shall become an undertaker, or make any contract for his own benefit, under such authority, or be in any manner concerned or interested in making such contract, or in the joint profits thereof, either privately or openly, singly or jointly with another, he shall be guilty of a misdemeanor." A county commissioner cannot make such a contract with the county without being guilty of a misdemeanor.

Discounts on Bills from County Hospital. A board of county commissioners passed a resolution appointing a board of trustees for the county hospital and defining their duties and powers. The resolution also fixed the duty of the trustees as to charges by the hospital for its services. Can the trustees now grant discounts on hospital bills to its employees, members of the medical staff and trustees? The resolution made no provision for discounts.

To: Jerry L. George

(A.G.) Since the resolution did not provide for such discounts, they may not be given. The resolution will have to be amended if the county commissioners wish to grant such authority.

Use of Hospital Bond Funds. A county hospital was constructed following the issuance of $700,000 in hospital bonds. An unencumbered balance of $85,000 remains in the hospital funds out of the bond issue. May these bond funds be used to remove an old hospital building, pay for additional equipment for the hospital, and build and equip a laundry for the hospital?

To: Fred P. Parker, Jr.

(A.G.) Yes. G.S. 131-126.23(a) provides: "The cost of planning and acquiring, establishing, developing, constructing, enlarging, improving, or equipping any hospital facility or the site thereof may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds or other obligations of the municipality as the governing body of the municipality shall determine." Under this broad statutory authority, the county may use part of the remaining funds for the indicated purposes.

County Commissioners; Payment of Premiums on Blanket Bond for Employees Other Than Department Heads. A board of county commissioners desires to take out a blanket bond covering the faithful performance of county employees other than department heads required to give bond by G.S. 109-3. County commissioners are authorized to pay the premiums on bonds of the officers enumerated in G.S. 109-3 when they are paid a fixed salary. G.S. 109-4. May the county commissioners pay the premiums on the blanket bond for employees other than department heads?

To: W. Clarence Kluttz

(A.G.) As stated G.S. 109-4 authorizes the payment of premiums on the bonds of certain officers. G.S. 153-9(11) authorizes the county commissioners to take and approve the official bonds of certain enumerated county officials. G.S. 153-1 provides that counties have the powers prescribed by statute and those necessarily implied by law, **and no others.** By implication from these statutes it is doubtful that county commissioners have authority to pay the premiums on a bond for other employees. There is no objection to including employees other than department heads in the blanket bond provided the employees themselves pay their proportionate part of the premium.

MUNICIPALITIES

Local Improvements; Work Done by Forces of the Municipality. Voters of a town in a special election approved the issuance of $50,000 in bonds for extension and improvement of the town's water system. Can the town board spend this money on labor and materials under the supervision of the town's water superintendent or must the project be submitted for bids and let to contractors?

To: Charles H. Dorsett

(A.G.) G.S. 160-84 provides that the governing body of a municipality shall have the power to determine the character and type of construction and of material to be used in making a local improvement **and whether the work shall be done by the forces of the municipality or by contract.** G. S. 143-129 provides that no construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than $2,500 shall be performed, nor shall any contract be awarded therefor unless the provisions of the section are complied with. This section does not apply to the state or its subdivisions in the expenditure of public funds where the total cost of any repairs does not exceed $15,000. G.S. 143-135.

I am of the opinion that G.S. 160-84 is not applicable since the contemplated expenditure is considerably more than $15,000. In the absence of a local act authorizing use by the town of its own forces, I am of the opinion that the work must be done by contract in conformity with the provisions of G.S. 143-129.

Furnishing Water Outside Corporate Limits. Can a city furnish water to consumers outside the corporate limits?

To: N. S. Forester

(A.G.) A city or town may furnish water "to any person, firm or corporation desiring the same outside the corporate limits", and for this purpose, may acquire and hold rights of way, water rights and other property, both within and without the city limits. G.S. 160-255.

Use of A. B. C. Funds for School Construction. Can a town give part of its A. B. C. funds to the town administrative school unit for the purpose of making repairs to a school building?

To: M. R. McCown

(A.G.) Under Article 9 of the North Carolina Constitution and various provisions of Chapter 115 of the General Statutes, the responsibility for the maintenance of the public schools, including the construction of school buildings, is upon the State, the counties and the school districts. No provision of law places responsibility for the school system or the erection of buildings upon municipalities. In the absence of an act of the Legislature providing otherwise, a town has no authority to give its funds to the town administrative school unit for the purpose of making repairs on a school building. I am of the opinion that the General Assembly has full authority to make changes in the allocation of net profits of A. B. C. stores.

DOUBLE OFFICE HOLDING

Town Clerk and Assistant Recorder. May one person be assistant recorder of a recorder's court and also town clerk?

To: John D. Canady

(A.G.) The office of town clerk and that of assistant recorder are both offices within the meaning of Article XIV, Section 7 of the Constitution which prohibits double office holding, and one person may not hold both these offices at the same time.

Recorder or Vice-Recorder and Chairman of County Board of Elections. Can the recorder or vice-recorder or the solicitor or his assistant, all of whom are appointed under a local act, serve as chairman of the county board of elections without violating Article XIV, Section 7 of the Constitution?

To: R. R. Friday

(A.G.) No. G.S. 163-11 specifically provides that "no person shall serve as a member of the county board of elections who holds an **elective** public office or who is a candidate for any office in the primary or election." While this section speaks in terms of elective offices, it is thought that the positions of recorder, vice-recorder, solicitor and assistant solicitor are all public offices or places of trust or profit within the contemplation

of Article XIV, Section 7. Therefore, a person may not hold one of these offices and also serve on the county board of elections without violating this double office holding provision of the Constitution.

SCHOOLS

District School Committee; Expenditure of Funds for Repair of Building Rented to Teachers and Public. A district school committee plans to remodel out of funds on hand a building originally built to house teachers. The custom has been to rent to the public as well as to teachers. Does the district school committee have authority to expend funds for repair and construction of a teacherage, a portion of which will be rented to the public?

To: W. W. Speight

(A.G.) G.S. 115-84 and G.S. 115-157(b) expressly authorize county and city administrative units to include in their budgets funds for dormitories and homes for teachers. G.S. 115-88 expressly prohibits a city or county administrative unit from expending money for the erection or repair of a building unless the site is owned by the board. G.S. 115-90 makes it the positive duty of city and county administrative units to keep their buildings in repair.

If the funds on hand are tax funds levied as a local supplement in conformity with the provisions of G.S. 115-361 and G.S. 115-362, they cannot be used for the purposes indicated because of the limitations contained in those sections as to the purposes for which such funds can be employed. If, however, they are non-tax funds, there is no objection to the committee's use of the funds for the purpose indicated.

Condemnation of Property. May a school board condemn property in anticipation of the need for additional school buildings? At present the board has no funds for building and any construction would require a bond election.

To: Claud Grigg

(A.G.) While G.S. 115-85 authorizes school bonds to condemn land when suitable sites for schools cannot be obtained by gift or purchase, it is very doubtful that a school board can condemn land when no immediate construction is contemplated.

AD VALOREM PROPERTY TAXES

Revaluation of Real Property in Non-Quadrennial Year. If a lot or tract has increased in value by reason of the paving of an adjacent street or road since the last revaluation of real property, may the county tax authorities increase the assessment of the tract or lot in a year other than one in which the county is conducting a general revaluation?

To: Albert J. Ellis

(A.G.) G.S. 105-279(d) authorizes revaluation of real property in a non-quadrennial year if the value of such property has increased since the time of the last revaluation "by virtue of some extraordinary circumstances in trade or business . . .," but so far as I have been able to find, this provision has not been construed by the courts in this connection. It is my opinion that such an increase in value would not fall within the scope of the quoted provision. Far from being an extraordinary circumstance or a circumstance of unusual occurrence, paving of streets and roads is in fact a very usual occurrence. While I know of one instance in which this provision of the statute was invoked with respect to one tract to *reduce* the valuation because of the very special circumstances under which the condemnation of a large number of acres worked a particular hardship in a particular case, I have never known this statute invoked in order to *increase* a valuation.

CLERKS OF COURT

Execution on Judgments. Does a board of county commissioners have authority to instruct the clerk of Superior Court to issue execution on judgments which have been rendered in County Court and Superior Court against bondsmen?

To: Fred P. Parker, Jr.

(A.G.) It is the duty of the clerk of Superior Court to issue executions within six weeks as a matter of course. G.S. 1-305. G.S. 138-2 provides that in case the service performed shall be ordered by any proper officer of the state, or of the county for the benefit of the state or county, the fees need not be paid in advance; but if for a county, the fees shall be paid by the board of commissioners out of county funds. While G.S. 115-382 places certain responsibility for the collection of fines and forfeitures upon the county superintendent of schools, the two quoted statutes construed together are controlling. A proper procedure would be for the county commissioners to adopt a resolution requesting the clerk of Superior Court to issue execution in cases of final judgments for bond forfeitures, upon application of the county attorney.

NOTARY PUBLIC

Adoption of a Seal. A notary public upon leaving his home county applied for and received a new commission, duly recorded with the Clerk of Superior Court, in another county. Before receiving his new seal the notary acknowledged and affixed the seal he used in his home county to a conditional sales contract. Is the notary's acknowledgment valid?

To: Gurney D. Brinkley

(A.G.) G.S. 10-2 requires a notary public to qualify by taking before the Clerk of Superior Court an oath of office and by depositing with said Clerk a certificate of his commission. G.S. 10-9 provides that official acts by notaries public shall be attested by their notarial seals.

I am of the opinion that any symbol or device which will make an imprint upon the paper may be adopted by a notary public as his seal. See in this connection DEANS v. PATE, 114 N.C. 194. Therefore, the legality of the conditional sales contract can not be contested solely because the notary used an old seal before receiving his new one.

MOTOR VEHICLE LAW

Admissibility of Radar Speed Evidence. Is the radar speed detecting device known as the "whammy" legal? What are the requirements for the inspection of the device?

To: Walter F. Massey

(A.G.) Evidence of speed obtained from the operation of this device is properly admissible in the courts of this state. While a local ordinance or regulation may govern the inspection of the device, in the absence of such an ordinance or regulation the question of inspection would bear only on the value of the evidence and not on its admissibility in court. There is no specific time period within which the device must be inspected.

Financial Responsibility of Taxicab Operators. May the governing board of a city accept a deposit of cash or government bonds as proof of financial responsibility by a taxicab operator?

To: Paul F. Smith

(A.G.) While G.S. 20-280 speaks in terms of an insurance policy or participation in a sinking fund, under STATE v. SASSEEN, 206 N.C. 644, a city may accept a deposit of cash or United States Government securities in lieu thereof.

Financial Responsibility. An insurance company issued a policy to an insured under the assigned risk plan. The insured later junked the car he had owned at the time the policy was issued and bought another. He did not report the change of vehicles to the company within thirty days as required by the policy. The insured has had an accident with the second car. Is the insurance company liable for the damages?

To: Waldo Cheek

(A.G.) The liability of the insurance company is governed by the terms of the policy, there being nothing in the Financial Responsibility Act which imposes further liability. Under the terms of the policy, the man in question was no longer insured after he had failed for more than thirty days to notify the insurance company of the change of vehicles. Therefore, the insurance company is not liable for the damages arising out of the subsequent accident.

Clearinghouse

(Continued from page 4)

council chamber. . . . **Charlotte's** city council has ordered a job analysis of all municipal departments, to be completed prior to the making of the 1953-54 budget. The survey will be conducted by city personnel.

Fayetteville has required its taxicabs to switch to metered operations. Rates will be $.35 for the first mile or fraction for one passenger, $.10 for each additional 2/5 of a mile, $.10 for each additional passenger, $.10 for each grocery bag in excess of one per passenger, $.10 for each piece of hand luggage, $.50 for each footlocker or bulky package of over 50 pounds, $1.00 for small trunks, and $1.50 for large trunks. . . . **Roxboro's** board of city commissioners has approved an increase from ten to fifteen cents for bus fares to various suburbs.

Clinton has undertaken a large-scale rat-eradication campaign. . . . **Siler City** has abandoned the fee system for its policemen and has raised their salaries $25 per month to compensate for the amounts lost. . . . **Wilson's** board of commissioners has ordered a crackdown on slot machines and after-hour beer sales in private clubs. . . . **Madison** has authorized the showing of Sunday movies beginning at 3:00 P.M. and 9:00 P.M.

Warrenton's town board has taken over temporarily the operation of the town-owned hotel. The move followed unsuccessful operation by lessees over a period of almost 30 years. . . . **Lenoir** has adopted ordinances forbidding minors under 18 in local pool halls and requiring contractors to erect covered passageways for pedestrians whenever they undertake construction work near sidewalks.

Rocky Mount has adopted a new garbage-collection ordinance. Collections will be made twice weekly in residential districts; thrice weekly from markets, apartment houses with 10 or more apartments, schools, and charitable institutions; and six times weekly from hotels, restaurants, hospitals, office buildings, theaters, and the business district. Industrial waste must be disposed of by the operator of the factory, and the owners of businesses may be required to dispose of the excess over 100 gallons per week.

Another **Rocky Mount** ordinance makes it "unlawful for the owner of any lot located within any block where at least twenty-five per cent of the frontage of the block is permanently improved, or within 200 feet of any residence within the City of Rocky Mount, to permit weeds and vines more than 24 inches in height or other offensive animal or vegetable matter to remain on the lot in such location and condition as to be a nuisance. . . ."

Driver Education

(Continued from page 8)

tion of the experiment in terms of costs and results. An additional goal of the experiment might well be the determination of the best way of organizing a driver education program in the state and to what extent such a program should be the responsibility of the state on the one hand and local authorities on the other. If a controlled experiment is undertaken, the services of persons competent in statistical method and cost accounting should be utilized.

Whatever the course of action finally adopted, the problem of driver education must be considered in its double setting as part of two larger problems: highway safety and high school education. In planning a particular program, four major questions must be answered:

(1) Is driver education the responsibility of the schools or of others?

(2) If it is the responsibility of the schools, what is its relative importance among the other responsibilities of the schools?

(3) What is the best and most practical type of driver education for the state?

(4) At what level (state, county, or local) should the responsibility for driver education be placed?

Supreme Court

(Continued from page 10)

"took" by erecting the tank, as outlined in connection with the first argument in *Raleigh v. Edwards*. The court stated:

> "The amended complaint alleges that the construction and maintenance of this tank in a zoned Residence 'A' District has cheapened, and materially damaged their property; that the maximum height of a public or semi-public building permitted by the defendant's ordinance is 60 feet and this tank is 184 feet high; that their home stands in the shadow of it; that it is painted a bright silver color so that the reflection of the rays of the sun upon it causes a continuous and blinding glare; that the construction, maintenance and operation of the tank has defeated the purpose for which the section was zoned. These allegations allege a taking of plaintiffs' property for which compensation must be paid. . . ."

The court mitigated the amount of such compensation by ruling that

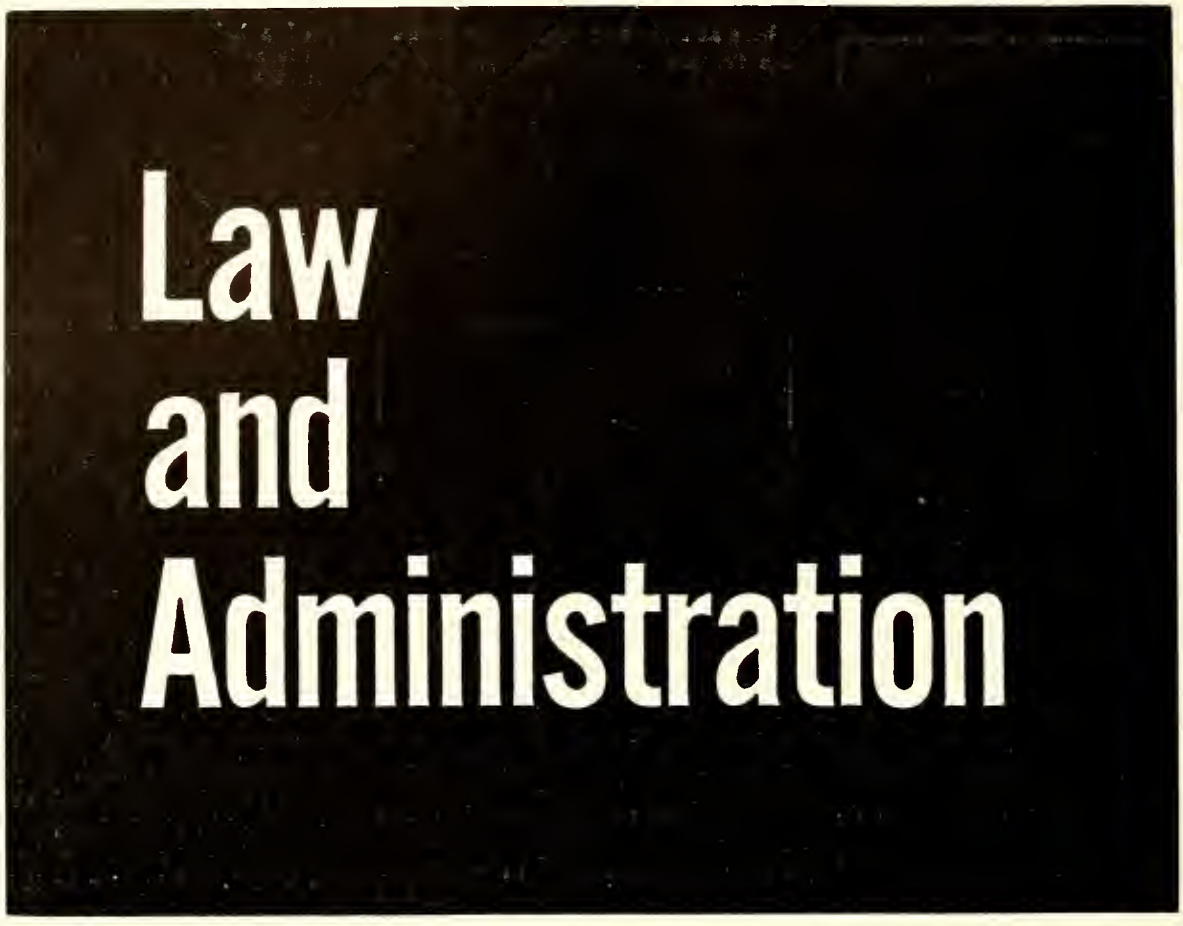
> "The allegations in the amended complaint that said tank constitutes a constant hazard to plaintiffs' property from airplanes, windstorms, tornadoes, cyclones and electrical storms; that there is a constant hazard to plaintiffs' property from the danger of said tank leaking or bursting seem to be too uncertain, contingent and speculative to be considered as an element of damages, and are not susceptible of the exactness of proof required to fix a liability."

These statements raise the question of exactly what property rights were "taken" for which compensation must be paid. Cases such as *Dayton v. Asheville*, cited above, regard the committing of a nuisance by the city as a "taking," insofar as it impaired the use of adjoining property. Here, the court found that there was no nuisance, but it seems to place recovery upon the facts (a) that the glare from the silvery tank impaired the use of plaintiffs' property and (b) that there was a violation of the zoning ordinance. The second ground would seem to represent an extension of existing law.

CONCLUSION

In ordering the city to pay compensation for the establishment of water tanks to property owners other than those whose land is taken, the Supreme Court has raised the cost of such projects and may force cities to establish their tanks in locations which are generally unsuitable from an engineering standpoint.

While there can be little quarrel with the soundness of the legal reasoning by which the court arrived at its conclusions, these cases would certainly seem to be in conflict with the reasoning of the line of cases headed by *Winchester v. Ring*, 312 Ill. 544, 144 N.E. 333 (1924). There it was pointed out that adjoining landowners are not entitled to compensation when the city establishes a cemetery, hospital, police station, fire station, or similar institution next to their property, because they share in the benefits common to the community resulting from such establishment.



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