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Basic Police Training School

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Chapel Hill

The New Motor Vehicle Safety Responsibility Act

Since the advent of the automobile, legislatures have been increasingly concerned with a twofold problem of highway safety. They have been constantly confronted with the problem, first, of how to reduce the number of motor vehicle accidents, and second, of how to provide greater financial protection for victims of financially irresponsible drivers. Despite legislative efforts aimed at the primary problem of reducing traffic accidents, the toll of persons killed and injured in motor vehicle accidents and the amount of property damage resulting from such accidents have climbed steadily. The result of these disturbing increases, therefore, has been to bring sharply into focus the need for adequate legislation designed to make motorists more responsible for damages caused by their negligent conduct on the highways.

Realizing the need for providing greater financial protection for users of the highways, the 1953 General Assembly last spring enacted a new Safety-Responsibility Law which becomes effective in North Carolina on January 1, 1954, at 12:01 A.M. Although North Carolina has had a workable financial responsibility law since 1947, it has been grossly inadequate in providing financial protection for North Carolina motorists. The new statute, however, increases the likelihood of recompense for innocent accident victims, and brings North Carolina financial responsibility legislation in line with the laws now in effect in the majority of the other states.

In general, the security provisions of the new Safety-Responsibility Law say to each operator and owner of a motor vehicle involved in an accident: "Your money or your license—either deposit security with the Commissioner of Motor Vehicles sufficient to cover all possible damages up to \$11,000 which may arise from the accident or your license to drive will be suspended." The law applies to all accidents resulting in bodily injury or death or damage to the prop-

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COVER PICTURE

Shown on the cover is the graduating class of the Basic Police Training School, held at the Institute of Government from September 27 to November 20, 1953. The men are gathered in front of the training barracks. They attended classes here and slept in a nearby building. (See story on page 3).

erty of any one person in excess of \$100. It is not applicable to an owner or driver who at the time of the accident was protected by an automobile liability insurance policy providing minimum coverages of \$5,000 for bodily injury or death of any one person, with a limit of \$10,000 for all persons killed or injured, and \$1,000 for property damage in any one accident. The new law is also inapplicable to drivers or owners who have qualified as self insurers or who are otherwise exempt.

The purpose of the new law is to encourage motorists to purchase liability insurance voluntarily as a means of indemnifying innocent victims of highway accidents. The new statute is not a compulsory insurance law, but it does provide undesirable consequences should a motorist be involved in an accident without adequate insurance coverage. Although no actual statistics are available, it is estimated that only about 35 per cent of North Carolina drivers are now covered by automobile liability insurance. Under the new law it is expected that as many as 90 per cent of the drivers in North Carolina will carry insurance coverage voluntarily in order to avoid the sanctions imposed by the statute in the event of an accident.

Accident Reporting

While enacting the new Safety-Responsibility Act last spring, the North Carolina General Assembly also strengthened the accident reporting laws. Since the administration of any safety-responsibility law is based entirely upon an effective and rigidly enforced accident reporting law, it was necessary to strengthen the accident reporting statutes in order to assure that all accidents requiring action by the Department of Motor Vehicles under the Safety-Responsibility Law would be reported to it. Under the accident reporting law, as rewritten by the 1953 General Assembly, every driver involved in a collision resulting in injury to or death of any person or total property

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THE CLEARINGHOUSE

A summary of events of particular interest to city, county, and state officials

Public Works Planning

Several North Carolina cities have been asked by the Municipal Finance Officers Association to supply information concerning their capital improvements programs, including projects now under way and those which are projected in the next five years.

In making the request Joseph F. Clark, executive director of MFOA, stated that a high-level agency in the federal government had requested the association's assistance in determining the overall status of and plans for capital improvements programs in governmental units. He pointed to "the close relationship of governmental expenditures at all levels to general economic conditions, and particularly of that relationship during emergency periods," and stated that the information is essential in order that plans can be made before any economic emergency arises.

Water Rates

Publicity has recently been given in several North Carolina cities to a situation where the occupant of a single family residence is paying proportionately more for his water than the occupants of apartment houses or multi-family dwellings which have a single water meter for all dwelling units and therefore have the advantage of discounts for greater consumption. The solution proposed by

one North Carolina city in an effort to remove this discrimination may be of interest.

Raleigh's city council recently passed an ordinance defining the procedure to be followed in computing water charges where one meter serves more than one dwelling unit and the ordinance was drafted on this principle: That the charge for water where one meter serviced more than one dwelling unit should be on the basis of a minimum charge for each dwelling unit served with discounts computed for each dwelling unit as if there were a separate meter servicing each such unit. These steps would have to be taken to compute the charge for an apartment house or multi-family dwelling serviced by a single meter:

1. The minimum monthly charge is to be the multiple of dwelling units served times the minimum charge for a single-family dwelling unit.
2. Charges in excess of the minimum monthly charge and discounts to be allowed are to be computed on the basis of each dwelling unit served; the proportionate share of each dwelling unit is to be determined by dividing the total monthly consumption by the number of dwelling units served.
3. The same rules are to apply where two or more meters are used to measure consumption on a given piece of property,

rather than computing the charge on the basis of the aggregate of water passing through all the meters.

Since it is difficult to determine the number of dwelling units in some houses where more than one family lives, the council defined a dwelling unit as each part of a building containing two or more rooms (including bath) with cooking facilities which is designed or used by one or more persons for residence purposes.

Tax Supervisors' Annual Conference

With more than 100 people in attendance, tax supervisors from more than half the counties met at the Institute of Government on November 19, 20, and 21 for the annual session of the Tax Supervisors Association. Mr. Rufus A. Grier, President of the Association, presided at the opening meeting and appointed two committees to serve for the conference: To the Nominations Committee he named Max Hamrick of Cleveland, Melvin Holmes of Franklin, R. C. Harris of Cabarrus, J. A. McGoogan of Hoke, and M. L. Laughlin of Edgecombe. Mr. Laughlin served as chairman. To the Resolutions Committee he named Roy J. Moore of Union, J. P. Fulk of Surry, M. G. Williams of Lenoir, Miss Flora Wyche of Lee, J. D. Potter of Carteret, and Mrs. Mary G. Burgin



1953 Tax Supervisors' Meeting

of McDowell. Mrs. Burgin served as chairman.

The first day's program was devoted to consideration of the information that should be passed on to list takers by the tax supervisors when instructing them before the January listing period. In this connection the Institute of Government presented and explained the new edition of its *Instructions for the Use of County List Takers*, which is being made available to the counties in numbers sufficient to provide every list taker in the state with a personal copy.

On November 20 William F. Hester of Guilford, chairman of the Association's Legislative Committee, reported on the changes in the Machinery Act enacted by the 1953 General Assembly as a result of efforts by the Association. Mr. Hester then introduced the members of the Association's special committee charged with studying the Machinery Act with a view to preparing additional amendments for presentation to the 1955 General Assembly: J. C. Ellis of Nash, F. W. McGowen of Duplin, W. D. Reynolds of Robeson, and C. E. Gwin of Catawba. Mr. Hester served as chairman of this group and the Institute of Government, through Henry W. Lewis, acted as its secretary. A half-day's session of the Association was devoted to hearing this committee explain the statutory changes that had been proposed for its consideration. Additional suggestions for study by the committee were received from the floor, and later in the session the committee was charged with continuing its work with a view to reporting again to the Association at its meeting in 1954.

Through the courtesy of the North Carolina Association of Certified Public Accountants, the tax supervisors and their guests had an opportunity on the afternoon of November 20 to see a large and varied exhibit of accounting and business machines of interest to persons in tax and accounting work. Trained operators were on hand to demonstrate the machines and answer questions for the group.

On the final day of the meeting, J. C. Bethune, Secretary of the State Board of Assessment, and James S. Currie, Director of the Department of Tax Research, conducted a discussion of the revised form used by counties in reporting on valuations and taxes to the state agencies these

two officials serve. Later on the final day, in view of the widespread interest in the recent experience of a number of counties in conducting revaluations of real property, the Association heard detailed accounts of revaluations from twelve counties: Caldwell—James H. Sherrill; Cleveland—Max Hamrick; Davidson—Eugene T. Morris; Guilford—W. F. Hester; Lee—Miss Flora Wyche and W. T. Chaffin; Lenoir—M. G. Williams; Mecklenburg—Rufus A. Grier; Montgomery—A. P. Guyer; Northampton—J. Ivey Bridgers; Orange—S. M. Gattis; Richmond—Miss Mary T. Covington and Raymond Smith; and Rowan—R. L. Lyerly.

At its annual business meeting the Association adopted a resolution recommending continuation of the work of the committee studying the Machinery Act and recognized the absence of one of its most faithful members by resolving that, "The Association expresses regret in the absence of Mrs. Stella Spencer. Due to illness Mrs. Spencer missed her first meeting of the Tax Supervisors Association since beginning her official duties with Caldwell County."

Voting resulted in the election of the following Association officers for 1954: Porter G. Cain of Bladen, president; R. B. Gates of Lincoln, first vice-president; and C. Bryan Aycock of Wayne, second vice-president.

The new president announced reappointment of the Legislative Committee and the Machinery Act Study Committee. He then named the following persons to serve as a committee to collect and study ideas concerning the form used in reporting valuations to the State Board of Assessment and Department of Tax Research: Miss Flora E. Wyche of Lee, U. W. Daugherty of Craven, R. L. Lyerly of Rowan, A. P. Guyer of Montgomery, and James H. Sherrill of Caldwell. Mr. Sherrill is to serve as chairman.

Bond Sales

In late October and November the Local Government Commission sold bonds of the following governments (the government, the amount of the bonds, the purpose for which the bonds were issued, and the effective interest rate are indicated):

Cumberland County, \$1,350,000 hospital bonds, 2.62%; Greenville School District of Pitt County, \$750,-

000 school building bonds, 2.85%.

Carolina Beach, \$289,000 water and sewer bonds, 4.35%; Hickory, \$73,000 water bonds, 1.89%; Mount Airy, \$602,000 water and sewer bonds, 2.83%; Raleigh, \$618,000 water, \$1,347,000 sewage disposal plant, \$500,000 storm sewer, and \$250,000 recreation facilities bonds (\$2,715,000 total), 2.49%; and Statesville, \$230,000 recreation facilities bonds, 2.70%.

Arson Investigators' School

Fifty-two law enforcement officers and firemen from all over North Carolina attended the second annual School for Arson Investigators given by the Institute of Government at Chapel Hill on December 1-5. The group included 16 firemen, 13 city policemen, 6 deputy sheriffs, 7 state investigators, 6 special agents, and 3 military investigators. Richard A. Myren, Assistant Director of the Institute, was in charge of the school.

Highlighting the program was a demonstration burning of a 1941 Oldsmobile which pointed up the difficulty of "accidentally" burning an automobile. The balance of the schedule was evenly divided between specialist topics for the investigation of arson and other unlawful burnings and topics of more general interest to persons engaged in the investigation of crime.

Certificates of attendance were awarded to the participants by Albert Coates, Director of the Institute, at the completion of the School on Saturday, December 5.

Wildlife Protectors' School

Twenty-two prospective wildlife law enforcement officers attended the seventh pre-service Wildlife Protector's School conducted by the Institute of Government for the Wildlife Resources Commission. The session extended over a period of three weeks from November 29 through December 19.

In addition to the Commission's trainee personnel, the school was attended by Walbert H. Kennedy, Assistant Chief of Law Enforcement for the Tennessee Game and Fish Commission, for the purpose of observing the methods employed by the

Institute in training North Carolina's law enforcing officers.

The curriculum consisted of various theoretical and practical subjects, including instruction in the substantive game and fish laws and regulations, the law of arrest and search and seizure, the law of evidence, criminal investigations, public speaking, game and fish management, first aid, and the use of firearms. Personnel of both the Institute of Government and the Wildlife Resources Commission participated in the instructional program.

Trainees who successfully completed the course of instruction will be eligible for employment by the State as game and fish law enforcement officers.

Basic Police School

Twenty-three city and town policemen completed the eight-week Basic Police Training School conducted by the Institute of Government which began on September 27, 1953, and were awarded certificates by Chancellor Robert Burton House of the University of North Carolina at graduation exercises in the court room of the University Law School the evening of November 20. Other speakers who participated in the final exercises were Henry P. Brandis, Jr., Dean of the Law School; C. L. Lineback, president of the North Carolina City Managers' Association; W. H. Carper, chairman of the police training committee of the Association; Albert Coates, Director of the Institute of Government; and Jack Elam, Assistant Director of the Institute, who was in charge of the School and presided at the graduation ceremony.

The members of the graduating class were: Eugene Alcon, Burlington; Carl E. Buchanan, Hickory; J. D. Bulla, Asheboro; Maycon L. Burleson, Jacksonville; R. B. Byrd, Durham; J. D. Cook, High Point; Shaw Cooke, Jr., High Point; William F. Crocker, Raleigh; Graham T. Dalton, Winston-Salem; W. A. Davis, Fayetteville; B. E. Gibbs, Elizabeth City; H. L. Gladden, Kings Mountain; A. J. Hayes, Jr., Wilson (who was elected class secretary); Lyndon B. Jernigan, New Bern; Belton J. Livingston, Jr., Laurinburg; Robert R. Maye, Morganton; Edwin R. Medbury, Greensboro; Roy H. Mitchell, Sr., Reidsville (who was elected class president); James G. Morris, Asheville; Roy R. Pearson, Statesville;

Leroy F. Pollard, Raleigh; Lloyd B. Shumake, Mooresville; and Wilbur C. Smoot, High Point.

These men varied widely in age, size of department, location of home town, education, and police experience. Their ages ranged from twenty-one to forty-two, and their home towns spread from Asheville in the west to Elizabeth City in the east. They came from departments ranging in size from less than 10 officers to more than 175. Some of them had just entered police service and had as little as six months' experience, while others had served up to fourteen years. Two men had completed two years of college, but two others had not gone farther than the seventh grade. The rest ranged between a seventh grade education and the completion of high school.

The school involved eight weeks of hard work. Classes began at 8:30 in the morning and ended at 5:30 in the afternoon, Monday through Friday, with an hour for lunch. The study hall was open theoretically from 7:30 to 9:30 at night, but not a night passed when the lights went out before 11:30. The men were free each weekend, and trips home provided a welcome break in the school routine.

The first week was devoted to background subjects intended to prepare the students for their study of the law and police techniques. The introductory period included instruction in sources of law, the court system, organization and jurisdiction of federal, state, and local law enforcement agencies, police history, and related subjects. The physical training program was started, as were classes in typing. Each student was required to type his notes at night, and permanent notebooks were compiled which will be useful later as permanent sources of information and for teaching which the men will be called upon to do in their own departments.

During the second and third weeks the men concentrated on legal subjects, particularly criminal law and motor vehicle law. The purpose was to prepare them for later courses in patrolling and investigative techniques. The physical training program was continued throughout these weeks.

The fourth week was used for instruction in police driving practices and accident investigation in cars furnished by the State Highway Patrol. The physical training program was continued, and lectures began in the law of arrest.

Lectures and demonstrations in the field of criminal investigation, arrest, and search and seizure were given in the fifth and sixth weeks. The physical training program concluded with an intensive course in arrest and defensive tactics in the gymnasium. Lectures in the law of evidence were begun in the sixth week.

On Monday of the seventh week mock trials were conducted, and the students were given an opportunity to testify and have their performances criticized. The last four days of the week were spent on the pistol range of the Durham Police Department. Only one man failed to qualify on the practical pistol course developed by the F.B.I., and he missed by only three-tenths of one point.

A variety of subjects were taught during the last week of the school. First aid and liquor law were stressed, jail operation was discussed briefly, and the men were given a chance to learn about human behavior, mental disorders, and alcoholism from an outstanding psychiatrist. The last day closed with a study period so the men could finish their notebooks, and the school ended with graduation Friday night.

The Institute of Government acknowledges with appreciation the contributions which the following agencies and persons made to the school:

The Federal Bureau of Investigation, through William A. Murphy, Special Agent in Charge, and Special Agents Arthur B. Lea, P. B. Beachum, Sam Smith, and Rufus Powell;

The State Bureau of Investigation, through James W. Powell, Director; and Special Agents James F. Bradshaw, Jr., Lewis A. Williams, John L. Boyd, James R. Durham, and Haywood R. Starling;

The North Carolina State Highway Patrol, through Major W. B. Lentz, Sergeants E. W. Jones and C. L. Teague, and Patrolman First Class D. L. Bradley;

Jeter L. Williamson, Chief, Greensboro Police Department, Captain Paul B. Calhoun, and Lieutenant Ralph Sink;

Thomas W. Davis, Chief, Raleigh Police Department, and Captain A. J. Pavlovsky;

James I. Waller, Chief, Winston-Salem Police Department, and Captain Justus M. Tucker;

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NOTES

From North Carolina Cities

Annexation

By a vote of three to one, residents of four suburban areas adjacent to Leaksville have approved annexation by the city. The town's population will be increased by more than 1,200 persons. . . . Lumberton has again changed its plans and is now considering annexation proposals which would bring North Lumberton, East Lumberton, West Lumberton, and two other suburban areas into the city. If carried through, the annexation would about double the size of the city and would require expensive development in some of the areas. The charters of East and North Lumberton, as incorporated towns, have been revoked preliminary to the annexation proposal.

Water and Sewer Improvements

Issuance of \$55,000 in bonds to finance water and sewer system improvements has been approved by about eight to one in a recent Hot Springs election. . . . Mount Airy's board of commissioners have let contracts for expanding the city water system at a cost of \$400,000. The project includes construction of a reservoir, pumping system, raw water basin, and new filter plant and will provide the city a daily water supply of between two and three million gallons. . . . A new storage lake holding 10,000,000 gallons of water and fed by a large spring has been completed in Pittsboro. . . . Denton is also completing a new 10,000,000 gallon reservoir. . . . A firm of consulting engineers has advised Charlotte's city council that three new 1,000,000 gallon water tanks will be needed on the outskirts of the city to help meet future needs.

Public Works

Modernization of Waynesville's electrical system has been completed at a cost of \$50,000. . . . A new \$30,000 electric power substation is nearly completed and will increase Shelby's kilowatt capacity from 7,200 to 10,080. . . . Hendersonville had to stop permitting garbage collectors from outside the city to use the city's sanitary land fill when a study showed

that about 30 per cent of all waste buried in the fill came from outside the city. . . . Contracts have been let by the Statesville board of aldermen for the construction of two swimming pools and recreation buildings. The total amount approved was \$208,352. . . . An election in Elizabethtown on the issuance of \$70,000 in bonds to purchase a fire truck and to build a new town hall resulted in a comfortable margin for the bond issue.

Parking

To accommodate motorists who do not want to park as long as one hour, Wilson is considering placing a 12-minute parking zone (and meter) on the corner of each block. Other North Carolina cities have adopted this idea with success. . . . A special committee studying ways of meeting Durham's parking problems has made recommendations to the city council. Among the recommendations were these: (1) That parking meters be installed in the central business area; (2) That the city council determine whether on-street and off-street parking are to be responsibilities of the city and if so, to what extent. If it is determined that the city has such responsibility, the committee suggested that the city devote parking meter revenues (estimated at \$50,000 a year) to helping provide off-street parking, either by cooperation with private property owners and local business groups or by public ownership of off-street parking lots.

A superior court judge has ruled that Winston-Salem cannot enforce parking regulations on its parking lots through prosecution for violation of the slot machine law (G.S. 14-108). The court ruled that the statute had no application to parking meters. Now the city has decided to keep the lot in operation and to discourage persistent violators by towing away their cars for trespassing on city property. As the procedure works, a parker who refuses to pay a ticket will have his refusal to pay recorded. If he again parks and refuses to pay, he will get a registered letter from the city asking him not to use the city lot. If he again parks, his car will be towed away and he will be required to pay a \$5 towing charge to recover the vehicle. City officials hope

that this method will be effective in carrying out the spirit of the parking lot idea.

Planning and Zoning

Greensboro has amended its subdivision regulations to require developers to install curbs and gutters. The regulations had earlier required grading of streets, installation of storm drains, and installation of water and sewer lines by in-town developers.

Hickory has adopted a new airport zoning ordinance, under the authority of Article 4 of Chapter 63 of the General Statutes. The ordinance regulates the height of trees and structures in the vicinity of the airport and prohibits uses which will (a) interfere with radio communication between aircraft and the field, (b) make it difficult for aircraft pilots to identify field lights, (c) result in glare in the eyes of approaching pilots or otherwise impair visibility, or (d) in any other way endanger aircraft using the field.

The City-County Planning Board of Winston-Salem and Forsyth County has been preparing a zoning amendment to permit property-owners to have smaller front yards where their yards have been lessened by street-widening projects. Under existing law a street widening project would render all structures complying with the current requirements non-conforming uses. . . . Smithfield is considering establishment of a Planning Board. . . . Murfreesboro and Carrboro have created zoning commissions to prepare zoning ordinances for their towns.

Fluoridation

After the city council voted to add fluorine to Statesville's water supply last summer, a petition signed by 2,000 citizens required the calling of a special election on the subject. In the election held in October, the city's voters turned down fluoridation by a vote of 1,949 to 444. . . . The Goldsboro board of aldermen meanwhile voted against adding fluorides at the present time but decided not to have an election.

Municipal Building

Construction began in November on the new Mooresville municipal building, and town officials expect to move in sometime next September. Contemporary in style, the handsome

new building will contain 17,500 square feet of floor space, will be equipped with air conditioning, and will cost \$166,688. Large parking areas are provided in the rear of the building.

Care has been taken in drawing plans to make special provisions for each municipal function. The ground floor opens onto the parking lot in the rear of the building and contains the jail, offices for the police department, apparatus room for the fire department, and the water department shop. On the first floor, which opens onto the street, will be the courtroom (over the jail), firemen's dormitory (over the apparatus room), offices for the water and tax departments, and the city council chamber. Offices for other governmental agencies and for the future use of the city government are contained on the second floor.

Miscellaneous

Jacksonville has appointed a television inspector to enforce the TV ordinance. . . . Following construction of a new town water system, **Knightdale** has organized a volunteer fire department and negotiations are underway for the purchase of a used fire truck. . . . **Chapel Hill** is considering an ordinance that will limit the places in town where produce salesmen can park and sell on the street.

Charlotte has advised officials of industrial plants emptying waste into Sugaw Creek that the new disposal plant will be completed in 1954 and that industries must be prepared to comply with the Industrial Waste Ordinance when the plant is opened.

The **Conover** Volunteer Fire Department is making a house-to-house campaign to sell fire extinguishers, in hopes of placing at least one in every home.

Dr. Haywood Taylor, Pathologist, Duke University;

Dr. Roger W. Howell, Head of the Department of Mental Health, School of Public Health, University of North Carolina;

Milton B. Byrd, Chief of Law Enforcement, Winston-Salem Board of Alcoholic Beverage Control;

Dr. W. A. Wolff, Bowman Gray School of Medicine;

Dr. Lee M. Brooks, Head of the Department of Sociology and Anthropology, University of North Carolina;

Cecil Duncan, Deputy State Fire Marshal;

J. V. Morgan, Solicitor, High Point Municipal Court; and

Michael Ronman, Instructor in Physical Education, University of North Carolina.

Governmental Officials And CPA's Meet

At the Fourteenth Annual Symposium held in Chapel Hill in November by the North Carolina Association of Certified Public Accountants in conjunction with the University of North Carolina and Duke University, a special one-day program was arranged for county and municipal officials and CPA's who conduct governmental audits. The morning session was devoted to a study of problems involved in the installation of machine systems of accounting together with a visit to the accounting machine exhibit held in conjunction with the symposium. A variety of machines by most of the companies in the field was on display. Short talks on machine installation were given by Ralph Dixon, Director of Public Accounts, Winston-Salem, and W. Burton Hair, CPA, Burlington. The afternoon session was devoted to a discussion of the relationship of a county or city with its independent auditor. Joseph F. Clark, Executive Director, Municipal Finance Officers Association, Chicago, spoke on what a government can expect from a CPA; W. E. Easterling, Secretary, North Carolina Local Government Commission, spoke on the statutory requirements concerning audit contracts; and Laurence B. Maddison, CPA, Scotland Neck, spoke on the evils of competitive bidding. The program was arranged jointly by the Governmental Accounting Committee of the CPA association and the Institute of Government.

NEW ORDINANCES

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

Hickory. Creating and defining truck traffic routes which must be followed by all trucks traveling through the city except when it is necessary to use another street to reach a destination for loading and unloading.

Laurinburg. Establishing regulations for the removal of garbage and other refuse. Sets forth detailed provisions concerning receptacles for different types of refuse and the responsibility of each property owner and the city in the removal and disposal of each type of refuse.

Raleigh. Removing \$15 license tax on U-drive-it vehicles.

— Requiring public utility companies using city streets to relocate underground conduits at their own expense if the conduits interfere with

public works construction or repair by the city.

Rocky Mount. Regulating the production, transportation, processing, handling, sampling, examination, grading, labeling, regrading, and sale of milk and milk products; the inspection of dairy herds, dairies and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors; and the fixing of penalties. Applies to all milk and milk products sold for ultimate consumption within the city or its police jurisdiction. Incorporates the provisions of "Milk Ordinance and Code—1953 Recommendations of the Public Health Service." Health ordinances are not ordinarily adopted by North Carolina cities which are served by county health departments, but Rocky Mount is one of three North Carolina cities still maintaining a city health department.

Enforcement Division, Wildlife Resources Commission;

Archie Gilbert, Head of the Weight Enforcement and Theft Division, Department of Motor Vehicles;

Malcolm B. Seawell, Solicitor, Ninth Judicial District, and Assistant Solicitor John W. Campbell;

T. A. Early, Inspector of Correctional Institutions, Department of Welfare;

The Clearinghouse

(Continued from page 3)

W. B. Julian, Captain, Durham Police Department;

George Franklin, General Counsel, North Carolina League of Municipalities;

W. Clifton Bumgarner, Chief, Law

NOTES

From North Carolina Counties

Schools

A matter of interest to county officials is the recent appointment by Governor Umstead, in accordance with a resolution of the 1953 General Assembly, of a commission to study and codify the State's public school laws. The commission is composed of Fred Folger, Mount Airy lawyer, chairman; Stacy Weaver, superintendent of the Durham city schools, secretary; R. L. Harris, Roxboro, former lieutenant governor; H. J. Truett, Swain County clerk of superior court; Charles McCrary, former president of the North Carolina State School Board Association; Fred C. Hobson, superintendent of the Yadkin County schools; and C. Reid Ross, superintendent of the Fayetteville city schools. The commission held its first meeting in early November and will meet again in early February. The task of the commission will be to study the public school sections of the General Statutes, many of which are contradictory and out of date, and to rewrite and consolidate those laws to clarify the situation.

Another matter of interest is the consideration of the formula by the State Board of Education with which to allocate the proceeds of half of the \$50 million bond issue to schools. Under the law passed authorizing the sale of bonds, the General Assembly stipulated that \$25 million was to be allocated to the counties under a formula worked out by the State Board in which need and ability to pay are to be taken into consideration. The State Board has not as yet announced the allocation formula.

Meanwhile, in anticipation of the receipt of State funds, a number of counties have begun to study their school needs. **Stanly County** has already had an overall study made by three consultants, including a school superintendent from a nearby county, a consultant from the State Board of Education, and a private consultant. The abandonment of five schools was recommended, and the need for primary classrooms was stressed. **Wilkes County** has completed a part of its study by a committee composed of the county school superintendent, a

county commissioner, and two members of the county board of education, with particular attention being paid to the need for additional classrooms and science laboratories.

Macon County has called on the people in the Division of Schoolhouse Planning of the State Board of Education to help survey school needs, with emphasis on the needs of individual schools and a survey of pre-school age children who will enter school in the next six years. **Durham** city school officials have had the same people survey needs at several of their schools. **Alamance County** has engaged a private consultant to undertake a study of school needs and population trends to anticipate the distribution of school population in future years. And **Catawba County** has asked the Division of Schoolhouse Planning if it can help in a survey of the schools of that county.

Officials of the **Mecklenburg** and **Charlotte** schools have been working with their joint school planning consultant to meet the schoolhouse problem in the suburban fringe area outside the city limits. The Charlotte unit has not built schools in the area, because pupils living there are not part of the Charlotte unit, and the Mecklenburg unit has not built schools in the area for fear the schools would shortly be absorbed by annexation of the area by the city. Several possible solutions are being considered.

Three special school supplement votes are in the news. **Jacksonville** township voters will vote on a 15-cent tax in early December (after this magazine went to press). Voters in the **Durham County** Administrative Unit have submitted petitions for a 33-cent maximum tax in the county schools area; the vote will probably be held in early December. And **Lillington** school district voters defeated a 15-cent tax in mid-November.

Special Districts

The need for urban services in the built-up areas outside city limits has sparked drives to create special districts in a number of counties. The **Battleground Fire District** north of Greensboro apparently has the honor

of being the state's first special-tax fire protection district created under provisions of Article 3A of Chapter 69 of the General Statutes. Residents of the district voted almost 10-1 in favor of its formation at a special election held December 5. Three days later the voters by a 4-1 margin created the state's first such district straddling a county line, the **Guilford Fire District** near Archdale.

The **Union County** Board of Commissioners has received a petition for the formation of a **West Monroe Sanitary District**, while **Buncombe County** has approved the addition of another to its long list of sanitary districts. Under Article 6 of Chapter 130 of the General Statutes such districts may perform a wide variety of municipal-type functions.

County Homes

Mecklenburg County is considering building a new county home, to cost perhaps over \$300,000. **Guilford County** has recently let to contract the installation of a sprinkler system in its home. While these improvements to county-operated homes are being considered and under way, the trend to leased homes in smaller counties continues. **Chowan County** has recently leased its home on a one-year basis with option in the lessee to renew for an additional year. **Vance County** is about to lease its home, and **Rowan County** is considering closing its home and transferring the residents to private boarding homes. As has been mentioned before in these pages, the idea of the lease or abandonment of county homes stems from the fact that county homes residents are supported 100 per cent from county funds, whereas residents of leased homes or private boarding homes are eligible for old age assistance and supported in part from State and federal funds.

Juvenile Delinquency

Forsyth County's two detention homes for juvenile delinquents have been singled out by Dr. Ellen Winston, State Commissioner of Public Welfare, as a model way to handle part of the juvenile delinquency problem. A report on the homes, first of their kind in North Carolina, has been submitted to a U.S. Senate investigating committee at the latter's request for information on the problem. **Wake County** may soon have a similar home to keep youthful of-

fenders out of the county and city jails. Plans have been drawn and the building will be financed from around \$30,000 of ABC funds. It is expected to house a maximum of 10 children, it will be operated by county home personnel, and meals will be prepared at the county home. On another front, **Guilford County**, in conjunction with **Greensboro** and **High Point**, will soon have in operation a domestic relations and juvenile delinquency court. At first it will be financed as a joint venture by all three governments, but it is planned that in several years the county will assume full financial responsibility.

County Buildings

The **Chatham County** jail has recently been repainted. . . . Work on the \$125,000 **Surry County** office building is progressing in spite of delays due to shortages of critical building materials. The building will house the various farm agencies, the library, and provide other office space and an assembly hall. . . . **Forsyth County** has received the approving opinion of New York bond attorneys on their proposed issuance of \$500,000 in revenue bonds to expand facilities at the airport. The facilities when built will be leased to an airline, and the debt service will be met from the proceeds of the lease. . . . **Anson County** is considering the need for additional vault and filing space in the courthouse; an extensive remodeling of the courthouse interior would be necessary in order to provide such space. . . . **Durham County** will shortly undertake a repair and redecorating project on its welfare department building.

Miscellaneous

Counties and cities in which beer and wine can be sold recently split around \$2,500,000 as their annual share of the beer and wine crown tax. Cities and towns in which such beverages can be sold received about \$1 per capita, and counties received the same per capita figure based on people living outside unincorporated cities and towns. . . . The **Northampton County** Memorial Library has a brand-new bookmobile to bring library service to the rural residents of the county. The bookmobile replaces a panel truck which had previously been used, the latter being turned over to the Negro Branch Li-

brary in Rich Square . . . **Forsyth County** is considering the purchase of a mailing machine for county offices and the installation of a telephone switchboard in the courthouse. It is thought possible that one employee might be able to handle both. . . . The **Iredell County** sheriff's department joined the steadily increasing ranks of sheriffs' departments that are wearing uniforms. Sheriff Charlie Rumble now has all of his paid deputies wearing tan pants, khaki shirts, forest green ties, and dark brown jackets. The shirt and jacket sleeves have identification patches.

Leaders of nine Northwestern North Carolina counties have agreed to coordinate their programs for developing the area's resources in agriculture, industry, tourist trade, and community improvement. Residents of **Alleghany, Ashe, Davie, Forsyth, Stokes, Surry, Watauga, Wilkes, and Yadkin County** have joined in preliminary discussion of the project. . . . The **Macon County** Industrial Committee has made a complete survey of the labor potential of the county. Results of the survey will be distributed throughout the county to groups interested in industrial development.

Property Tax Notes

Assessing Personal Property

Use of what is called a "percentage rule" for the assessment of household and kitchen furniture for tax purposes has been on the increase in North Carolina in the years since World War II. Briefly the system is this: Tax listers are instructed to inform taxpayers that in listing the value of household and kitchen furniture the county will accept no less than a stated percentage of the value of the taxpayer's house and lot. The percentage is one that has been set by the county commissioners as reflecting a reasonable approximation of the value of household and kitchen furniture in the particular county; the chosen percentage will be governed by the general level of real property assessment in the county. The highest percentage used in North Carolina is 20%. Fifteen or 10% is more common. When this rule is used it can not be made final; the law requires the tax authorities to hear any protest against application of the rule and, if the facts justify it, make a reduction. Conversely, if application of the rule results in an inadequate valuation of a given taxpayer's household and kitchen furniture, the tax officials have a duty to place a higher value on the tax books. Two points are involved: The rule can never be used as anything more than a convenient rule of thumb or starting point for assessing such property; the rule can be applied to household and kitchen furniture only—it cannot be used for other

kinds of personal property (machinery, farm equipment, luxury items, sporting equipment, etc.)

Mecklenburg County has had a special citizens' committee working on the personal property listing problem, and one of the committee's recommendations was the use of a percentage rule. The idea was to eliminate the need for having taxpayers actually make their listings in person each January. This, of course, is impossible so long as North Carolina requires taxation of personal property. The percentage rule is useful only for household and kitchen furniture—other kinds of personal property would still have to be itemized—and the rule cannot be employed as a legal substitute for appraisal; it is only a help.

Orange County and Lincoln County, among others, are tackling the difficulties of personal property listings by increasing the use of standardized schedules of value for an infinite variety of personal property items. This is a sound approach to the problem so long as personal property must be listed.

Changing Township Boundaries

County tax supervisors and county tax collectors, frustrated by the clerical and billing complications arising from the fact that special district lines all too often cross township boundaries, will be heartened by recent action of the Pitt County

commissioners. Realizing the difficulties involved, the commissioners there rearranged township lines so as to conform with special district lines, adding two new townships in the process.

Listing of Inventories

The recent experience of Alamance and New Hanover counties with regard to checking inventory listings can be helpful to all counties. Using the authority granted by the Machinery Act, these counties checked local tax inventory listings against inventory listings for State tax purposes. The checks revealed what, at first impression at least, indicated wide discrepancies, usually to the detriment of the county's listings. But, while the first impression was correct in many instances, both counties found that differences can often be explained by the taxpayers' use of differing fiscal years and inventory dates and by the fact that taxpayers' property all over the State may, on first inspection, appear to be in one county only. This experience demonstrates the usefulness of such checks, but it also serves as a warning to the counties who make the check to use care not to make hasty decisions about interpretation of information found on State returns.

TRAFFIC NOTES

Enforcement Paying Off

Commissioner of Motor Vehicles Edward Scheidt was described in a news item recently as "Mr. Frustration of 1953," because the fatality total on North Carolina highways continued to rise in spite of the vigorous efforts of Mr. Scheidt and the members of the highway patrol. However, the month of November saw the 1953 fatality total drop below that for the identical period for 1952, and there is a good possibility that the final results for 1953 will show a drop from the 1115 fatalities recorded in 1952. Meanwhile there is no doubt that the strict enforcement policy is in effect. The number of arrests made by the patrol for traffic violations in recent months is up about 40 per cent in 1953 over the same months in 1952.

Radar and Speed Check Devices

Random samplings from about the state show the effectiveness of the patrol's use of radar cars and speed check devices (electric stop-clocks). The Raleigh City Court convicted 29 speeders caught in one day; near Gastonia 59 speeders were arrested

in an eight hour period; and 74 were arrested in one week in Mecklenburg County as a result of a speed-clock check.

An interesting note on the use of the "whammy" by the patrol and city police is the results of a poll of its members made by the Winston-Salem AAA club. Of 1690 replies received to a questionnaire, 1398 favored use of such devices on the highways, and only 292 were opposed.

Traffic Safety School

The reaction to the first traffic safety school in the state, set up at Fuquay Springs, has been so favorable that other schools are underway now at Roxboro, Henderson, and Lumberton. There are now 450 graduates of the Fuquay Springs school, many of them volunteers. Judges in the areas in which such schools are held will suspend sentences in traffic cases on the condition that the violator successfully complete the traffic safety course, consisting of three sessions of about an hour and a half each once a week on highway safety, under the direction of highway patrolmen.

Saturation

The saturation plan, which has a highway designated for saturation guarded by a patrolman for every 10 miles, is still being used, and the evidence to date indicates that the plan is effective. Newspaper reports of saturation in Granville, Hertford, and Rutherford counties list no fatalities on any of the saturated highways.

Unmarked Cars

Colonel James R. Smith revealed in a speech before a civic club recently that the patrol now has 100 cars with no identifying colors or markings. Apparently it is now possible in every county in the state that the car driving behind a motorist may be a patrolman, even though the car is an ordinary looking blue or green color.

Books of Current Interest

ADMINISTRATION OF CRIMINAL LAW. By Ernst W. Puttkammer. Chicago 37: University of Chicago Press. 1953. \$5.00. Pages 249.

THE POLICEMAN'S GUIDE. By Cornelius F. Caholane. New York 16: Harper & Brothers, 49 East 33rd Street. 1952. \$3.50. Pages 275.

THE DETECTION OF MURDER. By William F. Kessler and Paul B. Weston. New York 22: Greenberg, Publishers, 201 East 57th Street. 1953. \$3.50. Pages 239.

LIE DETECTION AND CRIMINAL INTERROGATION. By Fred E. Inbau and John E. Reid. Baltimore: The Williams & Wilkins Company. 1953. \$5.00. Pages xi, 242.

THE TRAFFIC IN NARCOTICS. By Harry J. Anslinger, U. S. Com-

missioner of Narcotics, and William F. Tompkins, U. S. Attorney for District of New Jersey. New York: Funk and Wagnalls, 153 East 24th Street. November, 1953. \$4.50. Pages xi, 354.

THE UNEASY CASE FOR PROGRESSIVE TAXATION. By Walter J. Blum and Harry Kalven, Jr. Chicago: University of Chicago Press. 1953. \$2.50. Pages viii, 107.

HIGHER EDUCATION IN THE FORTY-EIGHT STATES. By the Council of State Governments. Chicago 37: 1313 East 60th Street. 1952. \$5.00. Pages xiv, 317.

IOWA MODEL ORDINANCES. By the Institute of Public Affairs and College of Law of the State Univer-

(Continued on outside back cover)

Fayetteville Adopts Social Security Coverage For City Employees

By G. W. RAY

City Manager
Fayetteville, N. C.

Fayetteville employees and officials became disturbed in 1947 because no provision existed for retiring elderly municipal employees who could no longer perform their duties. At that time municipal employees were excluded from Federal Social Security and only a few members of the Fayetteville police department belonged to the N. C. Law Enforcement Officers' Benefit and Retirement Fund. Because the retirement needs of Fayetteville employees were not being met, officials and employees requested and secured the passage of a bill by the General Assembly establishing a Fayetteville Pension Fund.

The Fayetteville Pension Fund as established on April 1, 1947, was administered by a three-man board of trustees who served without compensation. The city Treasurer and City Attorney were the Treasurer and Attorney for the fund. The fund was financed by (1) a City appropriation of \$10,000 the first year and of \$5,000 a year thereafter, (2) a deduction of 3 per cent from the first \$3,000 of each member's salary, (3) a city contribution of 2 per cent of the first \$3,000 of each member's salary, and (4) receipts from the sale of abandoned property and from interest on investments.

The plan provided that a policeman with 20 years of continuous service might retire at 55 years of age or after. All other members with 20 years of continuous service might retire at 60 or more. The retirement benefit in each case was 50 per cent of salary at time of retirement with a maximum benefit payment of \$1,500 a year. Employees totally and permanently disabled in line of duty received 33 1/3 per cent of salary if they had been employed 5 years or less, with an increase of 1 per cent being allowed for each additional year of service beyond 5 (up to a maximum of 50 per cent of former salary). This disability benefit was also limited to a maximum of \$1,500 a year.

Survivors' benefits were limited. If an employee were killed in the line of duty, his widow or dependent relative was eligible for a pension.

The amount of the pension and its duration were at the discretion of the Board of Trustees; however, the pension could not exceed \$500 a year. If a member died before retirement, his widow received a refund of his payments plus 3 per cent interest.

For the first few years the plan was in operation, employees were permitted to discontinue their membership at will and to withdraw their deposits. Later this practice was discontinued and an employee who had become a member of the plan was required to continue his membership as long as he was employed by the City. This requirement resulted in some employees leaving their jobs temporarily in order to withdraw their payments. Membership in the plan was optional with new employees.

By 1950, some City employees were asking for an increase in benefit provisions because revenues of the fund were in excess of annual disbursements. Fortunately the members of the retirement board and others in City administration were already fearful that benefits promised under the plan were in excess of the fund's ability to support them without an increase in revenue. With this thought in mind, city authorities requested the Institute of Government in early 1951 to make a study of the plan and to give advice as to changes that should be made to strengthen it.

Fund Unsound

As the Institute's study progressed, it became increasingly obvious that the Fund was not on a sound basis. Plans for amending the Fayetteville Pension Fund during the 1951 session of the General Assembly were dropped, and the Institute's suggestion that a complete actuarial survey of the pension fund be made was approved by the Board of Trustees. Subsequently, the City Council approved an appropriation for an

actuarial study of the fund and the firm of George B. Buck, New York City, was engaged to make an investigation of the fund as of June 30, 1952.

The report of the actuarial firm was received in November, 1952. It showed that the fund's benefits to a new employee cost an average of 8.07 per cent of creditable salary if he were a general employee and 14.86 per cent of creditable salary if he were a policeman. However, because all employees of the City in 1947 were given credit for prior service and because contributions had been less than the cost of benefits promised, an accrued liability of \$385,060 had developed. To wipe out this accrued liability and to provide adequate revenue for the fund would have required an annual appropriation of \$77,753.

When the retirement board, the City Council, and administrative officials realized that \$77,753 a year would be required to finance the pension fund, or \$41,253 more each year than had previously been paid to it from all sources, it was decided that the best interests of the employees of the City would be served by abandoning the Fund and by providing retirement benefits under some other plan.

Social Security

The principal reasons for the decision to repeal the original Act were that under the Federal Social Security law, Fayetteville city employees were ineligible for coverage as long as they were covered by any other local or state retirement plan, and Old Age and Survivor's Insurance was found to offer greater benefits at a lower cost than would be available under any other plan. Subsequently, a suitable bill was prepared and presented to the 1953 General Assembly repealing the Fayetteville Pension Fund as of June 30, 1953, and providing a new retirement plan for City employees. All employees eligible for retirement under the old plan were permitted at their option to retire under it prior to June 30, and two employees exercised this privilege.

The new bill was duly enacted into law. In brief, the new Act repealed the Fayetteville Pension Fund, guaranteed the rights of retired employees, provided for bringing general employees under Old Age and Survivor's Insurance, provided for the City to match policemen's contributions to the Law Enforcement Officer's Benefit and Retirement Fund, and established a new Fayetteville Supplementary Retirement System.

As rapidly as possible after July 1, 1953, requirements of the law were put into operation. A contract with the Social Security Agency was executed July 29, and all City employees, except police officers, were covered under the contract. To avoid the usual lapse of six quarters during which a person must be covered under the Social Security program before he is eligible for benefits thereunder and to provide maximum benefits to employees, retroactive taxes were paid to January 1, 1951, or to the date a person was employed by the City if this date were later than January 1, 1951.

Assets of the abolished pension plan were disposed of as follows: All contributions of employees who had retired prior to June 30, all City contributions (less pensions paid), plus all interest earned on investments, were paid into an account called Fund A; contributions by employees not eligible for retirement were placed in an account called Fund B. Retroactive Social Security taxes of each employee who was a member of the old retirement system were paid out of Fund B; the balance of each employee's contribution remaining in the fund was paid to him unless he requested that it be paid into the supplementary retirement fund provided for in the 1953 retirement law. The taxes of those who had not been members were paid by the City and deducted from the wages of the employees at the rate of \$8.00 each month. The City's portion of retroactive taxes was paid from Fund A. The balance remaining in Fund A is to be used in paying pensions to those on retirement, and when the fund is exhausted, their pensions become a direct obligation of the City.

Supplementary Plan

The purpose for creating a supplementary retirement plan can best be explained by the following quotation from the 1953 bill: "It is the intent of this article that each employee of the City of Fayetteville

who was a member of the Pension Fund for the Employees of the City of Fayetteville as of June 30, 1953, shall upon retirement receive a Social Security benefit and/or a retirement allowance which would be at least a substantial substitute for the benefit he would have received if he retired under the provisions of the abolished pension fund, provided that

(a) he transfers his contributions from the Pension Fund for the Employees of the City of Fayetteville to the Supplementary Retirement System,

(b) he does not withdraw such contributions prior to retirement, and

(c) policemen shall not be eligible to retire at an age earlier than other employees."

The supplementary fund is financed by a 3 per cent deduction from salaries of general employees up to \$3,000 and by a like contribution from the City. For police officers who join the supplementary fund, the contribution is 5 per cent of the first \$3,000 of their salaries with a matching contribution from the City. The 2 per cent larger City contribution on account of police officers is justified by the fact that the City is paying the Social Security tax for all other employees.

Retirement benefits under the supplementary plan were established until 1955. At that time the City Council is required, under provisions of the 1953 Act, to have an actuarial analysis made to determine the benefits that can be provided, on a sound basis, from the revenues enumerated above. The results of this analysis are to be used in preparing a permanent schedule of benefits which the 1955 General Assembly will be asked to legalize by way of an amendment to the present law.

Perhaps the most difficult problem encountered in the revision of the Fayetteville Retirement Plan was caused by the policemen not being eligible for Old Age and Survivor's Insurance coverage under the Federal Social Security program. This condition was caused by the fact that all full-time law enforcement officers in North Carolina are eligible for membership in the North Carolina Law Enforcement Officers' Benefit and Retirement Fund and hence ineligible for O. A. S. I. coverage. Only eight Fayetteville officers were members of the Law Enforcement Officers' Fund on June 30.

In the belief that the North Carolina Law Enforcement Officers' Benefit and Retirement Fund offered the best protection available to police officers, all Fayetteville policemen were encouraged to join. Members of this fund are required to contribute 5 per cent of salary up to \$5,000, and the new Act requires that the City pay to the fund 5 per cent of the first \$3,000 of each member's salary.

Membership in the Fayetteville Supplementary Plan is optional with police officers as it is with all other employees. If a policeman joins both the state Law Enforcement Officers' Benefit and Retirement Fund and the local Supplementary Fund, the City's 5 per cent contribution will be paid to the local fund and not to the State fund.

Conclusion

It would not be reasonable to expect all employees to give wholehearted approval to the sweeping changes made in their retirement provisions, but the vast majority approved the bill before it was presented to the General Assembly. Since its enactment, the majority of employees seem to be pleased with it. From an administrative point of view, however, there are two disappointing phases of its acceptance: one is that only 36 employees have joined the supplemental plan; the other is that 23 police officers have not joined the state Law Enforcement Officers' Benefit and Retirement Fund. Of these 23 officers, only one is included in the 36 members of the Supplemental Plan.

Encouraging phases of the revised plan are that 396 employees are now members of one or more retirement plans as compared with 235 under the old plan. Formerly there were 165 employees without retirement insurance of any kind; now there are only 22, and it is hoped that this number will be reduced considerably over the next few months. Under the abandoned plan, a deficit was accruing at such a rapid pace that it is doubtful if the City would or could have supplemented its revenues sufficiently to pay all the benefits promised. By following expert actuarial advice, we believe the Fayetteville retirement program is on a much firmer basis than it was, and that Fayetteville employees will fare much better in the years ahead because of the changes made this year.

The Attorney General Rules . . .

MUNICIPAL POLICE POWER

Several recent rulings place interpretations on the police power of North Carolina municipalities in situations commonly occurring throughout the state.

Regulation of Signs on Sidewalks Abutting State-Maintained Highways. As a result of the Powell Bill which gives the State Highway and Public Works Commission responsibility for the construction and maintenance of city streets which form part of the highway system, questions have arisen concerning the extent of that responsibility. Specifically, in view of the provision of G.S. 136-30 that the State Highway Commission "shall have power to control all signs within the rights of way of State Highways," does a municipality still have the power to regulate by ordinance the erection or non-erection of commercial signs upon the portion of State-maintained streets lying between the paved portion and the property line and particularly the sidewalk?

To: I. R. Williams

(A.G.) It is my opinion that the right of the municipality to adopt ordinances affecting the erection of signs and placing of other impediments along the sidewalks of a municipality would not encroach upon any authority of the State Highway and Public Works Commission and, if otherwise valid, would be sustained. The sentence in G.S. 136-30, in my opinion, has reference only to highway signs, guide signs, and warning signs used and erected in connection with the highways, and I think this is true also as to G.S. 136-31, 136-32, 136-33 and 136-18(t). I do not understand that the Powell Bill in any wise deprives the town of ownership of the rights of way and police jurisdiction over State-maintained highways but only imposes a burden and duty upon the State Highway and Public Works Commission. I have advised that the Commission has no responsibility with reference to the construction of curbs and sidewalks on such streets by reason of this legislation, and I do not believe that *Ham v. Durham*, 205 N.C. 107 (holding that a sidewalk is part of a street) would give the Commission, under the Powell Bill, any responsibility for the maintenance and construction of sidewalks along State-maintained streets.

Keeping Private Alleys Open.

There are in North Carolina cities many privately-owned alleyways running from city streets between buildings. Frequently the city collects trash and garbage from these alleyways. If the city wishes to keep the alleys open for the purpose of fire protection and to remove trash, can it prohibit property owners from parking their automobiles so as to block the alley entrances?

To: A. W. Cowper

(A.G.) It would seem that the city, in the exercise of its general police power, does have the authority to pass an ordinance requiring the alleyways in question, whether they are technically public or private alleys, to remain open for the purpose of fire protection and the removal of trash therefrom. See G.S. 160-55; 160-200(6); 160-200(10); 160-200(26); 160-52. See also G.S. 160-236. The case of *Parsons v. Wright*, 223 N. C. 520, may throw some light on the subject.

Prohibiting the Keeping of Horses.

What would be the legality of each of the following types of ordinances regulating the keeping of horses within the corporate limits of a city?

1. Prohibiting the keeping of horses anywhere in the city.
2. Prohibiting the keeping within a certain minimum distance of dwellings, schools, etc.
3. Prohibiting the keeping in a certain defined area within the city and outside that area prohibiting the keeping within certain minimum distances from dwellings, etc.
4. Prohibiting the keeping in a certain defined area within the city but having no restrictions in the remainder of the city.

To: E. C. Ipock

(A.G.) I am of the opinion that either method would be valid but that (2) is the strongest since there are a few contrary decisions concerning (1) and an ordinance following the lines of (3) or (4) might be found not reasonable and not uniform enough to meet constitutional tests. See *State v. Hord*, 122 N.C. 1092 (upholding ordinance prohibiting hog pens within 100 yards of a dwelling); *State v. Rice*, 158 N.C. 635 (prohibiting the keeping of hogs and pigs within the corporate limits); *State v. Stowe*, 190 N.C. 79 (holding valid an ordinance making it unlawful to keep a cow within a certain described area within the city); 32 ALR 1372; McQuillin on Municipal Corporations, Sec. 24.295. In *State v. Bass*, 171 N.C. 780, the Court held that stables within a town are not regarded as nuisances *per se*, regardless of how they are kept, but owing to their objectionable character when too near a building, an ordinance reasonably regulating their location is valid. Such an ordinance must be reasonable and uniform and afford protection to all citizens alike.

Requiring Weed and Trash Removal from Lots. G.S. 160-200(8) authorizes a city to require the destruction of noxious weeds, and if the city must do the job because the property owner refuses to do so, the city may recover the expense by assessment of the cost as a special assessment. Can an

ordinance requiring the removal of noxious weeds also require the removal of trash or offensive matter and provide for recovery of the expense by assessment?

To: H. C. Doby, Jr.

(A.G.) In the absence of a clear showing that the trash or offensive matter is detrimental to the health, morals, comfort and safety of the public, I do not think that G.S. 160-200(8) or G.S. 160-55 authorizes a levy and collection of assessments for anything except noxious weeds.

Criminal Procedure. What authority do police officers have to inspect hotel lobbies and the hallways and guest registers of apartment and boarding houses?

To: J. V. Morgan

(A.G.) Very careful consideration has been given to your letter of September 1, in which you ask for an opinion on the questions set out below. As our Supreme Court has not ruled directly on your questions, they present some difficulty.

1. Do police officers have authority to go into the lobbies and hallways of hotels, apartment houses, and boarding houses without first securing the approval of the owner or manager? Police officers have the same authority [G.S. 160-21] to make arrests and to execute criminal process, within the town limits, as is vested by law in a sheriff. It is my opinion that police officers, upon reasonable grounds, have a right to go into a hotel lobby to make an investigation and that they can go in a lobby without a warrant. I have come to the conclusion that within contemplation of law an apartment house and a boarding house may not always fall within the category of public places. I believe the decisions will bear me out that such places are not *per se* open to the public. 35 Words and Phrases. Therefore, if an officer were going to enter an apartment house or a boarding house, he should have a warrant for a person whom he reasonably suspects of being therein.

2. Do police officers have the right to inspect the guest registers at hotels, motels, inns, and other similar places? I have been unable to find any court decision on this question. However, it is my opinion that a police officer does not have the right at his mere whim to conduct such an inspection. If the officer has a warrant for a person and he reasonably believes that such person is in the hotel, then, in such event I believe the officer would have a right to inspect the guest register in order to ascertain if the person were in the hotel, for a warrant may be executed at any place where the person named therein can be found.

SHERIFFS

Fee for Service of Summons Issued Outside the County. A local fee bill applying to the sheriff of Cabarrus County provides that when a fee is not fixed in the Act, the fee charged shall be as now fixed by law in Cabarrus County, and that for service of a thirty-day summons, the fee shall be \$2.00. G.S. 162-6 in pertinent part provides that when the summons in a civil action or special proceeding shall be from any court or any county other than his own, the sheriff's fee for service shall be \$1.00 per defendant. Which law is applicable when a summons issued outside Cabarrus County is sent to the sheriff of Cabarrus for service?

To: E. M. Logan

(A.G.) It is my opinion that the fee schedule in the local bill applies only to process issued in the County of Cabarrus. Note that G.S. 162-6 makes special reference to the fee to be charged when the summons is issued from any court or county other than the sheriff's own county, and I believe that it prevails.

DOMESTIC RELATIONS

Uniform Reciprocal Enforcement of Support Act. Does the term "court," as used in G.S. 52A-11, referring to the preparation of the certificate required by that section of the uniform Reciprocal Enforcement of Support Act, include the clerk of the Superior Court?

To: W. S. Babcock

(A.G.) It is our opinion that the term "court" means the clerk of the Superior Court and, therefore, that all clerks would sign the certificates referred to in that section.

SCHOOLS

Member of County Board of Education as Attendance Officer. Can the county board of education under authority of G.S. 115-304 appoint one of its members as attendance officer and pay the cost of such service?

To: L. B. Leatherwood

(A.G.) In the absence of a statute granting such authority, the board would not, in my opinion, have any right to appoint one of its own members to this position as the law prohibits any member of a board from contracting with a board for his own benefit. G.S. 14-234.

PRIVILEGE LICENSE TAXATION

Mechanical Rides. A business establishment operates individual coin-operated machines designed to give a "ride" on a "horse" or "space ship." Such rides are not the principal business of the merchant but are a sideline activity. What privilege license tax may a city or county collect from a merchant for the operation of these mechanical toys?

To: T. C. Hoyle

(A.G.) In my opinion the operation of these toys falls within the provisions of G.S. 105-66 (Section 131 of the Revenue Act.) That section provides that the operator shall procure a license for operating these machines and "shall pay for each subject enumerated" a specific license fee. In my opinion the words "each sub-

ject" refer to each device, and the operator should purchase a separate license for each separate device.

Tax-paid Liquor Purchased from Illegal Source. Is the possession of tax-paid liquor purchased from an illegal source a violation of the law?

To: L. A. Martin

(A.G.) You state that a defendant has been charged with unlawful possession of liquor, having purchased the same from a filling station operator, the same being a pint of bonded whiskey bearing a Salisbury liquor store label. This man sets up as a defense that the seal had not been broken and, therefore, he had a right to the possession.

Under the provisions of G.S. 18-58 it is unlawful for a person to purchase any liquor in this State from any source except from a lawfully operated ABC store. A person who violates this section is guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court.

Furthermore, it is our opinion that such person is guilty of unlawful possession. You will find that under the case of *State v. Barnhardt*, 230 N.C. 223, that the exemption in transporting liquor where the seal is unbroken depends upon the fact that the liquor is acquired from an ABC store in this State or legally purchased in another state and the transportation must be direct to his home, and the burden is on the defendant to establish that he is lawfully complying with this section, which is G.S. 18-49. The so-called Turlington Act is in force in all counties of the State except as modified by the ABC Act. Thus, it seems to me that the defendant in the case stated by you is indictable for unlawful possession as well as transportation.

Under the circumstances outlined in your letter I think that both the seller and purchaser could be indicted for a conspiracy to violate the liquor laws of the State.

Safety Responsibility Act

(Continued from Inside
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\$100 or more must now make two reports. First, he must notify the nearest police authorities immediately by the quickest means of communication. This provision increases the likelihood that accidents will be investigated by law enforcement officers whose reports are the Department's most reliable source of information in the administration of the Safety-Responsibility Law. Second, a motorist involved in a reportable accident must also make a written report to the Department of Motor Vehicles within 24 hours after the accident. Reports must be made

on accident report forms which are supplied by the Department of Motor Vehicles and which may be obtained from the Department, any highway patrolman, police department or sheriff's office. For complete protection under the law, it is important that each driver fill in the report accurately and completely, particularly with respect to liability insurance information. Motorists would be well advised to obtain a copy of the accident report form issued by the Department, study it and then keep it readily available in their cars at all times.

Under the old accident reporting statute, the report submitted by an investigating officer was probably sufficient to meet all requirements of the law, but under the 1953 statute each operator of a motor vehicle involved in an accident is now personally responsible for submitting a written report of the accident. The report of an investigating police officer is in addition to, and not in lieu of, the written report required of the driver. Reports must be made by both drivers involved in the accident, regardless of who was at fault. Although accident reports made by investigating officers are available to the public, the reports submitted by motorists involved in accidents are confidential and cannot be used in court. In order to assure compliance with the accident reporting statute, the Commissioner of Motor Vehicles is directed to suspend the license of any person who fails to make the required accident report to the Department. The license of such person remains suspended until his report has been filed and for an additional period of 30 days in the discretion of the Commissioner.

Security

After receipt of the first report of a motor vehicle accident by the Department of Motor Vehicles, the report is examined carefully by the Safety-Responsibility Section of the Department. The report is examined first to determine whether or not the accident falls within the provisions of the Safety-Responsibility Law. Although all accidents involving personal injury or death are reportable and subject to the Safety-Responsibility Law, accidents involving only property damage may sometimes be reportable yet not be subject to the provisions of the Safety-Responsibility Act. Accidents involving only property damage are reportable if

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the total apparent damage done to both vehicles was \$100 or more, yet the security provisions of the Safety-Responsibility Law apply only when the property damage of any one person is in excess of \$100.

When the Safety-Responsibility Section determines that an accident falls under the law, it is then necessary to examine the accident report to determine whether the drivers are exempted from the security provisions of the law because of insurance coverage or other exemptions. Drivers who submit evidence of adequate insurance coverage with their accident reports are immediately exempted from operation of the Act; other insured drivers who have not filed adequate proof of insurance coverage may have their licenses suspended unless the required information is submitted to the Department within 60 days after the Department receives the report of the accident. It should be noted that although an owner of a motor vehicle involved in an accident is not required to file an accident report unless he was also the driver at the time of the accident, every owner, as well as every operator, is subject to the Safety-Responsibility Law unless he was adequately covered by insurance. The Act is made specifically inapplicable to the owner and operator of a motor vehicle which was legally parked at the time of an accident or which was involved in an accident in which the only injury or damage suffered was by such owner or operator. An owner is also exempted if his motor vehicle was being operated or was parked without his permission at the time of the accident.

If either the driver or owner of a motor vehicle involved in an accident is uninsured, the Safety-Responsibility Section will then determine from the information contained on the accident report forms the amount of security which he must deposit with the Department in order to satisfy possible judgments for damages arising from the accident. In fixing the amount of security to be deposited, the Department does not attempt to determine who was at fault in the accident since the law is made applicable to both parties automatically without a prior determination of liability. The Commissioner may, however, later reduce the amount of security ordered in any case if in his judgment the amount ordered is excessive. It is important that every accident report submitted to the Department contain a complete descrip-

tion of all property damage sustained in the accident in order that an accurate appraisal of pecuniary damages can be made. If garage estimates are available they should be included with the accident report when mailed to the Department. In personal injury cases the Department will attempt to obtain more complete information than is contained on the accident report forms by mailing to all injured persons forms on which the nature and extent of their injuries can be adequately described. The personal injury report form also provides for a certification by the attending physician.

Within approximately 40 days after receipt of a report of the accident, an official order of the Department of Motor Vehicles requiring security deposit or suspension of license will be sent to each driver and owner who is subject to the Safety-Responsibility Law. In the event the required security is not deposited on or before the effective date of the order as shown thereon, the suspension becomes effective and the delinquent driver or owner must return to the Department all driver licenses issued to him. Although the statute requires only that the Department give at least 10 days notice prior to the suspension of a license, it is expected that in most cases drivers will have at least 20 days after receipt of an official order in which to deposit security before the suspension for failure to make the required deposit becomes effective.

In addition to depositing security in the amount determined by the Commissioner and stated on the official order issued by the Department, any person can retain his driver's license if he does any one of the following things prior to the effective date of the suspension of his driving privilege:

- (1) File evidence with the department of having been released from liability. A release must be notarized to be acceptable to the Department and must be signed by all persons who were injured or whose property was damaged in the accident. Release forms are obtainable from the Department of Motor Vehicles. The Department will not accept the release of a minor unless such release has been executed by the guardian of the minor and approved by the court.

- (2) File evidence with the Department of a final adjudication of non-liability. An abstract of final judg-

ment must be submitted. It must be in favor of the person who seeks to retain his license with respect to all persons injured or whose property was damaged in the accident.

- (3) File a duly acknowledged settlement agreement or notarized copy thereof with the Department. The agreement, to be acceptable, must include all persons having claims arising from the accident and must state the monetary amount of settlement and the dates of payments. The agreement must be signed before a Notary Public by all parties to the agreement. Any subsequent default in an installment payment under a settlement agreement will result in immediate suspension of the driver's license of the defaulting person.

A person whose license has been suspended under the law may regain his license at any time by depositing the amount of security fixed by the Department or by filing evidence of compliance with any of the provisions discussed in the paragraphs above. If such a person is unable to comply with any of the provisions which would effect a reinstatement of his driving privilege, the earliest time at which he may regain his driving privilege is one year from the effective date of the suspension of his license. Even then, before his privilege to drive can be reinstated, such person must file an affidavit with the Department to the effect that during the year following his suspension no action at law has been instituted against him for damages arising out of the accident. If a suit has been instituted within the year following the suspension, the Department must keep such person's license until a final determination of the action has been made. If in the final determination of the case, the person is found not liable, his license will be returned. If he is found liable, he will get his license back when he satisfies the judgment, but not until he does.

In the event an operator or owner deposits security as required by the Commissioner, he of course may continue to drive. The security deposited, however, will be used to pay any judgments rendered against the person making the deposit, or on whose behalf the deposit was made, so long as the action was begun within one year after the date of the accident. The deposit will also be applied to any payment in settlement, agreed to by the depositor, of claims arising out of the accident. The security

deposit or balance remaining after payment of judgments or settlements, will be returned to the depositor when satisfactory evidence has been filed with the Commissioner that there has been a release from liability, a final adjudication of non-liability, or a duly acknowledged settlement agreement. At the end of one year after the date of the accident, the depositor will also be entitled to a refund of his security deposit if he can file a notarized affidavit that during such period no action for damages has been instituted against him and that no judgment for damages remains unpaid. If an action has been instituted within the year following the accident, the deposit will be retained by the Department as a potential source of funds for the satisfaction of any judgment rendered against the person on whose behalf the deposit was made.

Appeals

We have seen earlier that the new Safety-Responsibility Law is applicable automatically to both parties involved in an accident regardless of who was at fault. This gives strength to the law and provides an incentive for motorists to purchase liability insurance coverage. Nevertheless, motorists are afforded adequate legal protection from unreasonable and arbitrary decisions of the Commissioner through appeals to the courts. Moreover, when a person files a petition for a review of any order of the Commissioner requiring the suspension of his license or the posting of security, the order of the Commissioner is automatically suspended until a final determination of the review has been made. In fact, this provision which permits the mere filing of a petition for review to suspend an order of the Commissioner may prove to be a means by which many drivers subject to the law can retain possession of their driver's licenses and avoid the suspension and security requirements. Negligent, as well as careful drivers, through calculated delays in hearings before the courts may continue to drive pending final determination of their petitions.

Also, conspicuous by its absence in the new law is any provision which makes it unlawful for a person to drive while his license is suspended under provisions of the Act. Probably the only offense with which such a person could be charged is operating a motor vehicle without an operator's or chauffeur's license.

Conclusion

Regardless of any possible inherent weaknesses, the new Safety-Responsibility Act is a step in the right direction. When 1954 rolls around, North Carolina motorists will be afforded increased protection against negligent drivers, but they will also assume greater responsibilities for their own conduct on the highways. They must be financially responsible for consequences of any accident in which they are involved or lose their privilege to drive. Not designed primarily to reduce the number of traffic accidents, the new law provides financial protection for users of the highways by increasing the likelihood that more accident victims will be compensated. Cooperation of the courts in the expeditious handling of petitions for review and a vigorous enforcement of the accident reporting law by the Department of Motor Vehicles will mean much to the ultimate success of the new law.

Books

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sity of Iowa, in cooperation with the League of Iowa Municipalities. Iowa City, Iowa. 1953. \$10.00. Unpaged.

MUNICIPAL OFFICIAL'S HANDBOOK ON SNOW REMOVAL, STREET CLEANING, REFUSE COLLECTION AND DISPOSAL, STREET CONSTRUCTION AND MAINTENANCE. By William S. Foster, *Engineering Editor, The American City Magazine*. New York: *The American City Magazine*, 470 Fourth Avenue. October, 1952. \$3.00. Pages 109.

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THE STATES AND THE NATION. By Leonard D. White. Baton Rouge: *Louisiana State University Press*. 1953. \$2.75. Pages x, 103.

IDEAS AND ISSUES IN PUBLIC ADMINISTRATION. Edited by Dwight Waldo. New York: *McGraw-Hill Book Company, Inc.*, 330 West 42nd Street. 1953. \$5.50. Pages x, 402.

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THE FEDERAL COURTS AND

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