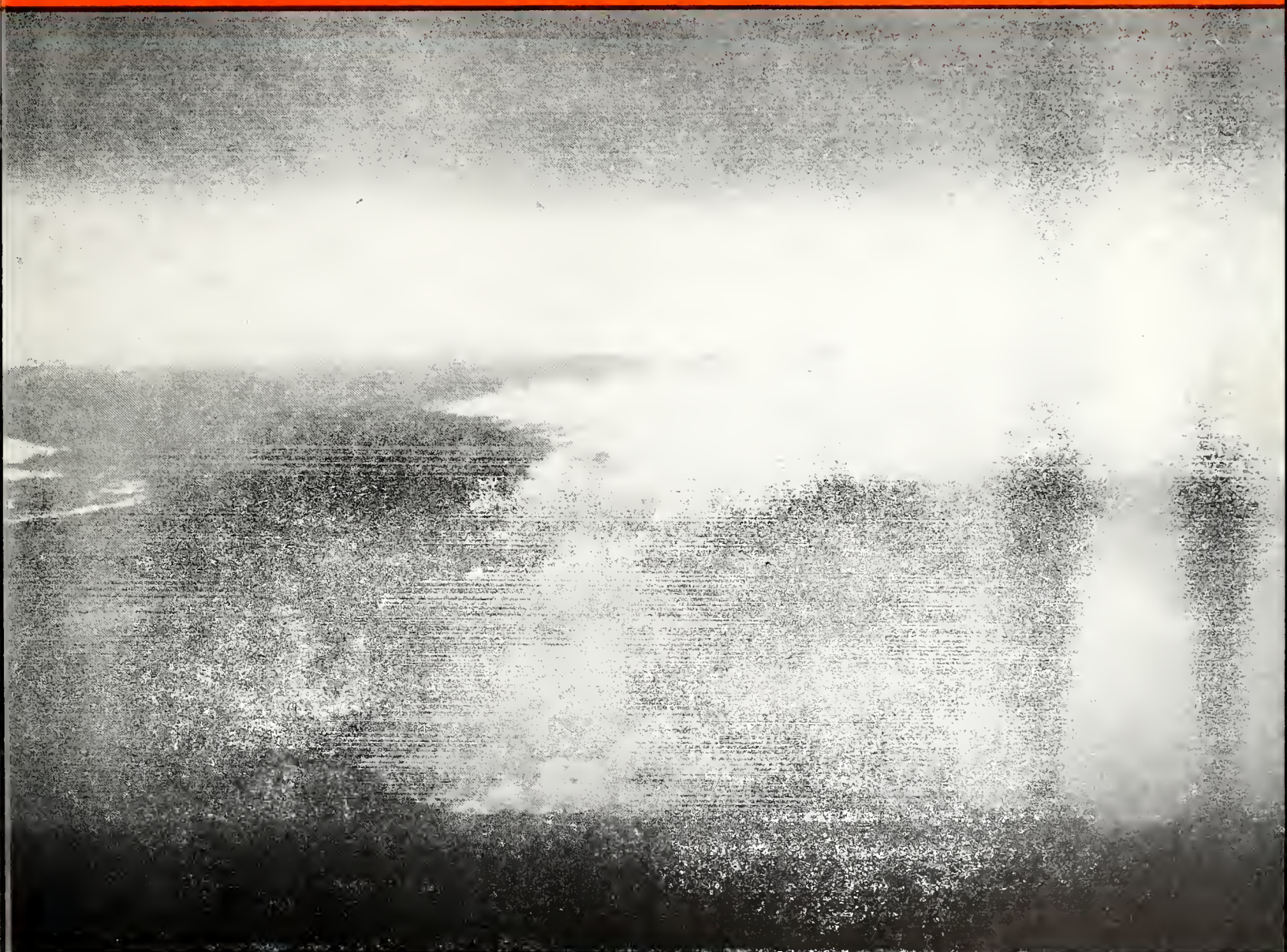


Popular Government

February 1956



Accidental or Deliberate?

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UNIVERSITY OF NORTH CAROLINA
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COVER

This month the Institute offered its first course to personnel of the Division of Forestry in the Department of Conservation and Development, who must answer the question posed on our cover whenever a forest fire strikes. This fire, which burned over 175,000 acres of Hyde, Tyrrell, and Washington Counties last spring, was the largest in the history of the state.—Photo courtesy of News Bureau, Dept. of C. & D.

THE CLEARINGHOUSE

Forest Fire Law Enforcement School

The first Forest Fire Law Enforcement School ever conducted by the Institute of Government was held in Chapel Hill January 17-19 for approximately 25 members of the Division of Forestry of the North Carolina Department of Conservation and Development. Students at the school were specially selected to be instructors in later training programs for personnel of the division, which is headed by State Forester Fred H. Claridge.

Students were welcomed at the opening session by Albert Coates, Director of the Institute of Government; P. W. Tillman, Assistant State Forester in Charge of Fire Control; and Richard A. Myren, Assistant Director of the Institute, who was in charge of arrangements for the school.

Instructors at the school were Ralph C. Winkworth, Fire Prevention Forester for the Division of Forestry, who spoke on "Motives for Incendiary Forest Fires" and supervised the presentation of a series of case histories of incendiary forest fire investigations; Lt. Neal Forney, Chief of the Youth Bureau of the Charlotte Police Department, who described "Juvenile and Mentally Ill Fire Setters"; W. G. O'Neal, Investigator of the North Carolina Department of Insurance, who spoke on "Field Interviews" and "Interrogations"; and Mr. Myren, who gave instruction in "Elements of Crimes," "Presentation of Evidence in Court," and "The Law of Arrest."

Law Enforcing Officers To Vote on Social Security

March 28 will be referendum day for all members of the Law Enforcement Officers' Benefit and Retirement Fund except municipal policemen. On that day, law enforcement officers will determine whether they want to be brought under Old Age and Survivor's Insurance.

On October 26 state and local public employees belonging to the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System voted overwhelmingly to coordinate their retirement systems with federal Old Age and Survivor's Insurance. The March 28 election will permit the members of the other state-wide retirement system to decide whether

SHERIFF HONORED

Sheriff C. J. McDonald, of Moore County, was recently awarded the county's foremost personal service award, the Builders Cup of the Sandhills Kiwanis Club, for "outstanding contributions to the upbuilding of Moore County, without thought or hope of personal gain."

Superior Court Judge W. A. Leland McKeithan made the award in behalf of the club, paying tribute to Sheriff McDonald for the "efficient, fair and impartial manner in which he conducts his high office, placing duty and service above all other considerations, so that he has won respect not only in his county but throughout the whole region and state." Sheriff McDonald was further cited for his fine record of leadership in civic projects, including his service as a Presbyterian elder and his activity as a Kiwanian.

C. J. McDonald has been sheriff of Moore County continuously since 1928 and is the state's senior sheriff in point of service. He has served as president of the N. C. Sheriffs' Association. Known as a fearless officer, he has at least once been wounded in the line of duty. The Institute of Government joins in commending Sheriff McDonald for his fine record and the high honor that has been bestowed upon him.

they desire to be brought under Social Security.

If the referendum carries, all law enforcement officers other than municipal policemen (who are specifically excluded by federal statute) will be eligible for coverage. Unlike the plans voted on last fall by other state and local employees, the plan to bring law enforcement officers under Social Security will provide Social Security coverage in addition to full five per cent membership in a retirement system.

This will mean larger retirement benefits for law enforcement officers. There are at least two reasons for this "preferred" treatment for law enforcement officers. The first is the fact that the average law enforcement officer retires at an earlier age

than do other public employees. With retirement from the officers' fund optional after age 50 (if an officer has 20 years of service) and OASI benefits not now available before age 65, it is desirable to keep officer and employer contributions high in order that early retirement will be economically possible when necessary because of health or politics.

A second factor undoubtedly is that with the county's share of the cost of officers' retirement allowances now coming from a \$2.00 court cost tax, counties are not now contributing directly to the cost of the retirement of their deputy sheriffs as they are for other employees. As for state law enforcement officers, the additional cost of the OASI tax will be paid from a five per cent supplementary contribution made by the state to the Law Enforcement Officers' Benefit and Retirement Fund on behalf of state employees under a 1949 statute.

If the March 28 vote is in favor of the new plan, each county with its other employees now under Social Security will have to pay a two per cent tax on the first \$4,200 of annual salary paid to its sheriff and his deputies. The officers will have to pay a like amount. As a consequence of these payments, officers or their dependents will be permitted to qualify for generous retirement or survivors benefits.

Thirty district meetings have been scheduled throughout the state to acquaint state and local officers with the particulars of the new plan. The meetings will be held at the troop headquarters or district headquarters of the State Highway Patrol at the time and dates indicated in the accompanying table. All law enforcement officers eligible to vote will receive detailed information by mail about the new plan, but they are also urged to attend at least one of these special meetings in order that they may have all of their questions about the new plan answered. State Auditor Henry Bridges, chairman of the Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund, is planning to attend each of the 30 meetings.

Although municipal policemen may not vote in this referendum, bills have been introduced in the Senate by Senators Ervin and Scott to amend the federal Social Security act to permit North Carolina policemen to be brought under Social Security.

Schedule of Meetings on Social Security Referendum

Town	Date	Time
Raleigh (Hall of House)	Feb. 3	2 PM
Asheville	Feb. 6	9 AM
Bryson City	Feb. 6	2 PM
Shelby	Feb. 6	7 PM
Lenoir	Feb. 7	10 AM
N. Wilkesboro	Feb. 7	2 PM
Statesville	Feb. 7	5 PM
Salisbury	Feb. 8	9 AM
Gastonia	Feb. 8	1:30 PM
Charlotte	Feb. 8	4 PM
Albemarle	Feb. 9	9 AM
Lexington	Feb. 9	1 PM
Winston-Salem	Feb. 9	4 PM
Durham	Feb. 13	9 AM
Graham	Feb. 13	1 PM
Greensboro	Feb. 13	4 PM
Rockingham	Feb. 14	10 AM
Lumberton	Feb. 14	2 PM
Fayetteville	Feb. 14	5 PM
Pittsboro	Feb. 15	10 AM
Smithfield	Feb. 15	2 PM
Goldensboro	Feb. 15	5 PM
Henderson	Feb. 20	9 AM
Rocky Mount	Feb. 20	1 PM
Greenville	Feb. 20	4 PM
Wilmington	Feb. 21	11 AM
New Bern	Feb. 21	4 PM
Washington	Feb. 21	8 PM
Ahoskie	Feb. 22	10 AM
Elizabeth City	Feb. 22	3 PM

Local Government Notes

Airports

Shelby voters approved a \$295,000 airport construction bond issue in November. This sum will be matched by the federal government to provide the funds necessary for the construction of a new airport. A bond issue of \$180,000 to finance improvements in the Statesville airport was rejected by the voters early in December.

The county commissioners of Onslow County have applied to the Civil Aeronautics Administration for a grant to help build a commercial airport. The commissioners have not yet decided definitely whether the airport will be constructed, even if the CAA approves the grant.

Water

Gastonia is now fluoridating its drinking water. . . . Water rates have been increased in Aberdeen to meet increased costs of operating the water department. The minimum monthly rate for town residents is now \$2.50 compared with the old rate of \$1.75 for the first 5,000 gallons. Water consumers living outside the town

limits will pay a minimum charge of \$3.75 a month.

Kinston has increased tapping charges for both city residents and outside users. City residents will now pay charges varying from \$60 for a ¾ inch tap to \$248 for a 2-inch one. Those outside the city will pay double these charges.

Greensboro is considering the building of a new dam which would provide storage of 800,000,000 gallons of water. Estimated cost of the dam is \$750,000.

Water & Sewer Bonds

Statesville voters have approved a \$675,000 bond issue for additions and improvements in the water and sewer facilities. Most of these funds (\$550,000) will finance the development of a watershed which will provide the city with an additional 7,500,000 gallons of water daily. The other \$125,000 will permit the expansion of existing water and sewer facilities.

A bond issue of \$190,000 to improve Murphy's water system has been approved. An issue of \$1,500,000 approved by Lenoir voters will finance the enlargement of the city's

water system and the construction of additional filtering facilities. The new project will increase Lenoir's daily water supply from 1,500,000 gallons to 4,500,000 gallons.

A bond issue of \$485,000 has been approved in Shelby for the extension of the sewer system. A new pumping station and main sewer line will be constructed to carry the sewage from Hickory Creek to the Broad River, since the creek is no longer able to handle the city's sewage.

Roanoke Rapids voters have approved an issue of \$1,320,000 for the extension and improvement of water and sewerage systems. Cary's new sewage disposal plant has been placed in operation.

Gastonia voters will go to the polls on February 21 to pass on a proposed bond issue of \$3,250,000. Included in the package bond election are \$400,000 for water improvements, \$1,250,000 for the electric system, and \$1,600,000 for the construction of a new sewage disposal plant.

Lillington is considering a new water filtering plant to replace wells as the source of its water. A bond issue of \$145,000 will be necessary to finance the improvement.

BOND SALES

During the last four months of 1955, the Local Government Commission sold bonds for the following governmental units. The unit, the amount of bonds, the purpose for which the bonds were issued, and the effective interest rates are indicated.

Unit	Amount	Purpose	Rate
Columbus County	\$370,000	School building	2.87
Duplin County	105,000	Refunding	3.14
Guilford County	2,500,000	School building (bond anticipation notes)	1.82
Harnett County	1,000,000	School building	2.64
Lincoln County	35,000	Refunding	2.10
Martin County	300,000	School building	2.18
Person County	950,000	School building	2.87
Vance County	480,000	School building & courthouse	2.60
Asheboro	550,000	Water	2.68
Chapel Hill	102,000	Sewer & equipment	2.46
Charlotte	3,598,000	Water, sewer, street, fire station & auditorium	2.70
Elizabeth City	52,000	Fire equipment	2.48
Monroe	525,000	Water & sewer	2.54
Oak City	70,000	Water	3.78
Rae ford	60,000	Water & sewer	3.37
Raleigh	2,900,000	Water & sewage disposal	2.30
Roanoke Rapids	275,000	Street improvement	2.54
Tarboro	100,000	Electric system	2.57
Taylorsville	220,000	Water and sewer	3.86
Greenville School District (Pitt County)	750,000	School building	2.67
Hobbs town School District (Sampson County)	470,000	School building	3.26

THE AUTHORITY OF COUNTIES TO ADOPT SPEED REGULATIONS

A recent Attorney General's Opinion, by Assistant Attorney General Robert E. Giles, has cleared up a most troublesome area of local law enforcement: the power of counties to lower the state speed limit on the streets of out-of-town subdivisions.

This opinion was in answer to an inquiry from Mr. Thomas A. Banks, County Attorney for Wake County. Wake County had received numerous requests from citizens of the area for regulation of motor vehicle traffic in the Country Club Hills subdivision of Raleigh. These requests posed a very difficult problem. The streets of that subdivision being outside the corporate limits of Raleigh, the Raleigh police had no jurisdiction; as the streets had not been accepted as part of the state highway system, the State Highway Commission had no authority to act. This left the county as the only possibility, and this brought up the question of a county's power to set and maintain speed limits.

Mr. Giles expressed the opinion that by virtue of G.S. 20-141 (f1), a county does have authority to act where the streets in question are not part of the state highway system. He stated that since G.S. 20-141 (f1) gives "local authorities" the power to fix, by ordinance, speed limits of not less than 25 miles per hour on those streets not part of the state highway system, and since by virtue of G.S. 20-38(m) a county is a "local authority," counties do have this power.

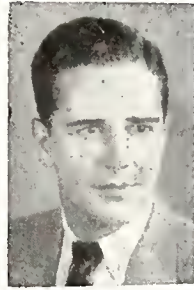
The effect of this opinion is to explain that counties have the power to lower speed limits, post signs, and to enforce those limits on streets not within the corporate limits of any municipality, and not part of the state highway system. As a direct result of this opinion the Wake County Board of Commissioners has ordered a speed limit of 25 miles per hour on Granville Drive in the Country Club Hills subdivision of Raleigh.

Applicable Laws

For a complete understanding of this opinion, a review of the applicable state law is necessary.

General Regulations

The two sections of the North Carolina speed law with which most citizens are familiar are G.S. 20-141(a) and G.S. 20-141(b). They read as follows:



By
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Director
of the
Institute of
Government

"(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions then existing.

"(b) Except as otherwise provided in this chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

1. Twenty miles per hour in any business district;
2. Thirty-five miles per hour in any residential district;
3. Forty-five miles per hour in places other than those named in paragraphs 1 and 2 of this subsection for vehicles other than passenger cars, regular passenger vehicles, pick-up trucks of less than one ton capacity, and school busses loaded with children;
4. Fifty-five miles per hour in places other than those named in paragraphs 1 and 2 of this subsection for passenger cars, regular passenger carrying vehicles, and pick-up trucks of less than one ton capacity."

SH & PWC Powers

While these limits control speeds on every street or highway in the state open to the public as a matter of right, they are subject to change.

G.S. 20-141(d) provides:

"Whenever the State Highway and Public Works Commission shall determine upon the basis of an engineering and traffic investigation that any speed hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, said Commission shall determine and declare a reasonable and safe speed limit thereat, which shall be effective when appropriate signs giving notice thereof are erected at such intersection or

other place or part of the highway."

This statute enables the State Highway and Public Works Commission by ordinance to lower speed limits at intersections, bridges, and other dangerous places. A violation of such lowered speed limit is a misdemeanor.

Another statute, G.S. 20-141.1, also enables the State Highway and Public Works Commission to lower the applicable speed set out in G.S. 20-141(b) in the proximity of rural schools, when such speed is deemed greater than is reasonable and safe. Such lowered speed limit becomes effective when appropriate signs are erected. A violation of a speed limit established under the latter section is also a misdemeanor.

Local Government Powers

The state legislature has also given to "local authorities" the power to alter state speed laws. This, of course, was the subject of the Attorney General's opinion. G.S. 20-38(m) provides a definition for "local authorities." It reads: "Every county, municipality, or other territorial district with local board or body having authority to adopt local police regulations under the Constitution and laws of this State." G.S. 20-141(f1) reads as follows:

"Local authorities in their respective jurisdictions may in their discretion fix by ordinance such speed limits as they may deem safe and proper on those streets which are not a part of the State highway system and which are not maintained by the State Highway and Public Works Commission, but no speed limit so fixed for such streets shall be less than twenty-five miles per hour, and no such ordinance shall become or remain effective unless signs have been conspicuously placed giving notice of the speed limit for such streets. A violation of any ordinance adopted pursuant to the provisions of this subsection shall constitute a misdemeanor punishable by a fine not to exceed fifty dollars (\$50.00) or a prison sentence of not more than thirty days."

This statute empowers local authorities to reduce the stated state speed limit to a minimum of 25 miles per hour. The normal subdivision being

what is defined as a "residential district," the state speed limit would be 35 miles per hour. This means that the local authority may establish any speed between 25 and 35 miles per hour in residential districts whose streets are not part of the state highway system.

Upon a reading of the above two statutes together, it is apparent that counties do have the power to lower the general speed limits in those areas described in these two sections.

Another statute which gives some additional power to local authorities is G.S. 20-141(f). That statute allows local authorities to lower speeds at intersections or on any street or highway in the vicinity of schools or recreational areas. This may be done following an engineering and traffic investigation, and becomes effective when signs are posted. In such areas there is no minimum limit as in G.S. 20-141(f1).

Legal Considerations

From a legal standpoint, whether or not a county can exercise these powers is dependent upon (a) whether the General Assembly may constitutionally delegate such power to the county and (b) whether the General Assembly has in fact made such delegation. As we have seen in the preceding section, the statutory grant of power has certainly been made to counties, in a form apparently sufficient to meet the requirement of G.S. 153-1:

"Every county is a body politic and corporate, and has the powers prescribed by statute, and those necessarily implied by law, and no others; which powers can only be exercised by the board of commissioners, or in pursuance of a resolution adopted by them."

With regard to the constitutional issue, it is still somewhat unclear under the North Carolina Constitution as to the extent to which a county may be granted regulatory powers. In this instance, however, the power granted is not general authority to enact regulations, but rather mere power to alter the state speed law within certain restricted limits. And in addition, the penalties for violating such modified laws are fixed by the statute, rather than being left in the discretion of local authorities. So it would appear likely that the form of the statute has met any constitutional problems.

What Is a Street?

It is necessary to an understanding of when a county has authority

under the statutes set out and discussed above, to know what is meant by the expression "streets which are not a part of the State highway system." This involves first knowing what a street is, and then a determination as to whether the particular street is a "part of the State highway system." To explain this in his opinion, Mr. Giles set out G.S. 20-38(cc), which reads as follows:

"Street and Highway.—The entire width between property lines of every way or place of whatever nature, *when any part thereof is open to the use of the public as a matter of right* for the purposes of vehicular traffic."

This gives rise to the question: "When is a way or place open to the use of the public as a matter of right?" The answer to this question is important to us since the state speed laws have no application except on public streets and highways. Some subdivisions are entered over "private ways," which are privately owned streets.

A private street may become a public one in three ways: by eminent domain, or purchase by a governmental unit; by prescription, or adverse use by the public; and by what is known as dedication. We are mainly concerned with the third, which is most likely to give rise to the problem presented in the Attorney General's ruling. It might be well to stress, however, that in every case the county attorney should be consulted as to whether a particular street is a public one.

Dedication

Black's Law Dictionary defines "dedication" as: "An appropriation of land to some public use, made by the owner, and accepted for such use by or on behalf of the public." It is an offer by the owner of the land, made to the public (or the local government which represents it), to give land to the public's use.

As is the case with any offer, for a dedication to be binding upon the owner, it must first be accepted. The governmental unit or agency may accept formally, as by an ordinance or resolution; or it may informally accept by its actions, such as the assumption of the responsibility of maintaining and cleaning the streets in question. A dedication to a particular governmental unit or state agency may take the form of a deed of the land in fee or the grant of an easement or right-of-way over the land.

Land can also be dedicated in such a manner that it may be accepted by

the public at large, and thus become binding upon the owner. This occurs when a lot is sold to an individual, and the deed either includes or refers to a plat or map on which a street is shown, or when the deed reserves an easement for a street. In *Shaffner v. Town of Carolina Beach*, 216 N.C. 778, 7 S.E. 2d 13 (1940), the court said: "It is a settled principle that if the owner of land, located within or without a city or town, has it subdivided and platted into lots and streets, and sells and conveys the lots or any of them with reference to the plat, nothing else appearing, he thereby dedicates the streets, and all of them, to the use of the purchasers, and those claiming under them, *and of the public.*" Acceptance by the public is manifested by its use of the street when opened.

It is in this manner that streets of a subdivision, located outside a municipality and not accepted by the State Highway Commission, may become public streets and highways and subject to the state speed laws. As Mr. Giles noted in his opinion, no signs need be posted for the state laws to apply on any public street or road, whether the same has been accepted by a governmental unit or not.

Incidents of Acceptance

When a street within the corporate limits of a city is dedicated and accepted by the city, the city thereupon assumes responsibility for its maintenance. It should be noted that there is a danger that a city, *without meaning to*, might informally accept a street—merely by cleaning or scraping it, for instance. It would seem, however, that a city might lower the state speed law under G.S. 20-141(f1) with no danger of a court holding that this action alone constitutes informal acceptance. The danger of informal acceptance would not seem to concern counties, as they are without authority to bind themselves to maintain streets.

Privately built out-of-town streets may, upon dedication, be accepted by the State Highway and Public Works Commission. When this happens those streets become part of the state highway system. After acceptance by the State Highway Commission, the streets concerned are maintained by the Commission, and the laws are enforced by the State Highway Patrol.

Local Speed Law Enforcement

When privately built out-of-town streets are dedicated to the public by one of the methods previously discussed, but not accepted by the State
(Continued on page 7)

USE OF A SUMMONS RATHER THAN A WARRANT FOR MISDEMEANANTS

North Carolina's General Assembly, at its 1955 session, authorized issuance of a summons in lieu of an arrest warrant in certain misdemeanor cases. This procedure is a significant advance in our law which should be fully utilized by both law enforcement officers and the courts of North Carolina. This legislation was first recommended to the General Assembly at its 1949 session by a distinguished special commission on the improvement of the administration of justice in North Carolina, headed by Sam J. Ervin, Jr., then a Justice of the North Carolina Supreme Court and now senior Senator from North Carolina to the Congress of the United States. It was resubmitted to the 1955 session by the Judicial Council. Similar provisions are in effect in England and in most of the states.

An amendment to G.S. 15-20 outlines the new procedure in the following language:

"In all cases of misdemeanors any officer authorized by law to issue warrants in criminal actions may issue a summons instead of a warrant of arrest when he has reasonable ground to believe that the person accused will appear in response to the same. The summons shall be in the same form as the warrant except that it shall summon the defendant to appear before a magistrate, or some officer having the jurisdiction of a magistrate, at a stated time and place. If any person summoned fail, without good cause, to appear as commanded by the summons, he may be punished by a fine of not more than twenty-five dollars (\$25). Upon such failure to appear the said officer shall issue a warrant of arrest. If after issuing a summons the said officer becomes satisfied that the person summoned will not appear as commanded by the summons he may at once issue a warrant of arrest. In all proceedings held pursuant to said summons the hearing and trial shall be upon the summons in the same manner and with the same effect as if the hearing and trial were on a warrant."

Some of the questions which might be asked about this new act are: What is the relationship of the summons to the arrest warrant and to the "citation" or "ticket"? What are the advantages of the summons over the arrest warrant and the ticket? In what sort of a case should the



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summons be used? What sort of a form should the summons take?

Relationship to the Arrest Warrant and Ticket

Use of the summons is a procedure half way between the traditional arrest warrant and the citation. It has some of the characteristics of both and yet is different from either. It is similar to the arrest warrant in that it must be issued by a judicial magistrate or some other officer, such as law enforcement warrant officer, who is authorized to issue arrest warrants. The procedure for obtaining the summons is also the same as for an arrest warrant. The complaining witness, whether an officer or private citizen, must be put under oath by the magistrate and examined as to the facts in the case. If the magistrate believes that the person accused has probably committed the alleged violation, he issues the summons. The officer then serves the summons in the same fashion as an arrest warrant. (It may be that personal service of the summons is unnecessary. Service in the same manner as with a civil summons is authorized by many states. Since this is essentially a notice procedure, such non-personal service would seem to be justified. But there is no special provision governing service in our new law, so it would appear to be wisest to rely on personal service until this matter is clarified by a court or attorney general ruling.) Here the similarity to an arrest warrant ceases, however. When an arrest warrant is served, the subject must immediately be brought in before a magistrate to have a preliminary hearing and to have bail set. This is not necessary with a summons. Under the summons, the subject is merely required to appear at the time and place set in the summons for the hearing and trial. When the accused appears, the

similarity to procedure under an arrest warrant takes up again, and the trial and hearing are held under the summons just as they would be under an arrest warrant in a similar case. The summons is the document authorizing trial as well as the record in the case.

A summons is different in several respects from the well known citation. The summons must be issued by a magistrate, while the citation may be issued by a law enforcement officer himself. It is a separate and distinct misdemeanor for the subject to ignore the summons, whereas it is not a crime for him to ignore a citation. A subject who ignores a summons may be fined up to \$25 for so doing. This criminal sanction makes the summons more than a gentleman's agreement between the law enforcement officer and the citizen that the latter will appear in court on the date set, which is the actual status of the citation or ticket. But the new summons is also similar in some ways to the traditional citation. There is no arrest involved in the service of either upon a citizen. Consequently, the requirement of immediate preliminary hearing and opportunity to have bail set does not follow such service. If the citizen does ignore either the summons or a citation, the proper procedure is to arrest him under authority of an arrest warrant.

Advantages of the Criminal Summons

Principal advantages of the criminal summons follow from the need which it is designed to fill. Our criminal law has been enlarged tremendously in recent years by the addition of regulatory provisions which are not "criminal" in the traditional sense of the word. These detailed regulations of minor facets of human conduct have become necessary because of the growing complexity of organized society. Law enforcement agencies, through the simple expedient of making violation of the regulations misdemeanors, have been given the responsibility for enforcement of these regulatory laws, probably because they are the only organizations available for 24-hour a day supervision. Many present day students of law enforcement problems argue that this practice alienates the public toward law enforcement officers, thus

Figure One

STATE OF NORTH CAROLINA--ORANGE COUNTY
 IN THE COUNTY RECORDER'S COURT

STATE
 vs.
 RECOGNIZANCE

In this case the defendant and his sureties, come into court and acknowledge themselves indebted to the State of North Carolina in the sum of Dollars. The conditions of the above obligation are such, that if the above-bounded defendant shall make his personal appearance in the next term of this Court, to be held at the courthouse in Hillsboro, N. C., on the day of 19...., and not depart the same without leave, then the obligation to be null and void, otherwise to remain in full force and effect.

Witness our hands and seals, this day of 19....
 (Seal)
 (Seal)

Sworn to and subscribed before me, this day of 19....
 Justice of the Peace

NORTH CAROLINA--ORANGE COUNTY

. one of the subscribers to the above undertaking, being duly sworn, says that he is a resident and freeholder in the State of North Carolina, and is worth the sum of \$ over and above all his debts and liabilities and exclusive of property exempt from execution.

Sworn to and subscribed before me, this day of 19....
 Justice of the Peace

Bond \$
 No

THE STATE
 vs.
 SUMMONS FOR

Issued day of 19....

SUBPOENA AS WITNESSES

COUNTY RECORDER'S COURT

Exec'd day of 19....
 By Officer

NORTH CAROLINA--ORANGE COUNTY
 In The County Recorder's Court

The State
 vs.
 SUMMONS FOR

. being duly sworn on information, says that on or about the day of 19...., with force and arms, at and in the County aforesaid, and within Orange County did willfully, maliciously and unlawfully against the statute in such cases made and provided, and against the peace and dignity of the State.

Sworn to and subscribed before me,
 this day of 19....
 (Seal)
 (Seal)
 Justice of the Peace

STATE OF NORTH CAROLINA

To the Sheriff or other lawful officer of Orange County--Greetings:

These are Therefore to Command You forthwith to summon the said to appear before the Judge of the County Recorder's Court in the Town of Hillsboro at o'clock on the day of 19...., to answer the above charges set forth in the affidavit, and be dealt with according to law.

Given under my hand and seal, this day of 19....
 (Seal)
 Justice of the Peace

(Note: Refusal to honor this summons after service is a misdemeanor punishable by fine of up to twenty-five dollars.)

JUDGMENT

The defendant comes into Court and pleads
 After hearing the evidence in this case, it is adjudged that the defendant is are guilty and
 Notice of appeal in open court. Notice waived and
 It is further ordered that the defendant
 give a justified bond in the sum of Dollars for appearance at the Superior Court of Orange County, to be held at the Courthouse, in the Town of Hillsboro, on the day of 19...., and in default thereof to be committed to jail.

I,, Clerk of the County Recorder's Court, hereby certify that the above judgment is a true copy taken from the Minutes of said Court and now on file in my office.

. Clerk County Recorder's Court

The following witnesses were recognized in the sum of Dollars each to appear and testify in behalf of the State and not depart without leave of said Court:

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complicating the job of enforcing the traditional criminal law. These studies have led to the suggestion that independent units of inspectors interested only in the enforcement of such regulations be set up. Such a force would not be dependent upon public support in any other function. This suggestion has not gained much support.

As an alternative, many states have authorized the use of the summons as a partial solution to the problem of enforcement of these regulations. The big advantage of the summons is that there is never an actual arrest made, with the accompanying humiliation and inconvenience. A hearing is held on the summons which is similar to trial on an arrest warrant, but more in the nature of a civil proceeding against the citizen. This means that there is no "criminal record" of arrest against the citizen. The factor of convenience is important to the law enforcement agency as well as to the citizen. It not only means that the citizen can go about his planned routine for the day, making his court appearance at a later time when he has been able to integrate that appearance into his plans, but also makes it possible for the law enforcement officer to stay out on his beat, giving primary attention to enforcement of the traditional criminal law. This has been the greatest advantage of the citation. It also saves the citizen the cost of obtaining bond for his appearance. This minimizing of the role of the professional bondsman in the enforcement of the law will be something of a value in itself, since establishment of his proper role and regulation of his activities is one of the big headaches today in the administration of the criminal law.

Cases in Which Used

There is a growing pressure to use the summons procedure in more and more of the less serious regulatory-type misdemeanors. Some states require that the summons be used in all misdemeanor cases. This would not be wise in North Carolina under the present laws, which classify such serious offenses as assaults with a deadly weapon with intent to kill as misdemeanors. When to use the summons was left by the new act, properly, to the discretion of the issuing magistrate. He is authorized to use the summons "when he has reasonable grounds to believe that the person accused will appear in response to the same." This should allow its use in most misdemeanor cases not handled

with the issuance of a citation. In traffic cases, it could very well be used for all local violators except in cases involving manslaughter or cases which would result in mandatory revocation of the driver's license. Similar rules of thumb could be established for other classes of offenses.

The Form

There are three purposes which the form of the summons must serve. It must give notice to the accused citizen of the charge against him and of the time and place at which the hearing is to be conducted; it must sufficiently state the charge against the accused to allow him to prepare an intelligent defense; and it must constitute an adequate record of the proceedings so that the accused cannot again be forced to answer for the same act. Since these are the same functions which the traditional arrest form must serve in misdemeanor cases which do not go to indictment, that form should be satisfactory for a summons with only minor changes. Figure 1 illustrates the form which a summons might take. This form would satisfy all of the statutory requirements. If the day comes when service may be accomplished by other than personal service, a copy may be served on the accused and the original kept in the office of the clerk of the issuing magistrate for hearing and record purposes. A similar slight modification of the arrest form should fulfill the needs for a summons form for most courts.

Summary

This new provision in our law for the use of a summons in many misdemeanor cases is a definite advancement which should be utilized to the fullest by our courts and law enforcement officers. The principal advantages are greater convenience and substantial saving in time for both the citizen and law enforcement officer. It will reduce the cost of the action to both the citizen and state, and should foster a greater spirit of cooperation with law enforcement agencies among the non-criminal violators of regulatory provisions.

County Speed Limits

(Continued from page 4)

Highway Commission, the problem presented to Mr. Giles arises. Assuming that the district is residential and that the state speed limit of 35 miles per hour applies, who is to

enforce that limit? Who may take advantage of G.S. 20-141(f1) and lower the state limit to a safer, 25 mile per hour limit? As we have seen, the counties have this power, and should upon petition from citizens of such areas exercise it.

That the sheriff or deputy sheriffs have the power to enforce all state laws has never been questioned. They can enforce the speed limits in these out-of-town subdivisions. If, in a particular case, the county has not seen fit either to post signs or to lower the state limit, the citizens of such areas may still call upon the sheriff when the speed laws are constantly violated. In those cases where the counties have seen fit to act, the sheriff's department might maintain some sort of patrol through such areas from time to time.

Another solution is available in those cities and towns to whose police departments the state legislature has given extra-territorial power. In those cases the city police may enforce the law on public streets and roads for a certain distance outside the city limits. As a matter of fact, many cities and towns already patrol the streets of subdivisions located outside their corporate limits. Such patrols might result out of agreements between the county and city officials.

Private Ways

It might be well to say a few words about those private streets which remain private streets. As we have seen, whether a street is "public" depends upon whether it has been dedicated and accepted.

As dedication amounts to an offer by the owner of the land, we must look to his intent in order to determine whether an offer has in fact been made. Nothing else appearing, when a street is opened up for the use of the public, or when lots are sold with reference to a plat on which a street appears, most courts will hold such street to have been dedicated. It becomes a "public street." When, on the other hand, the owner of such a street takes action showing his intention to retain control of the street (such as posting at the entrance thereto a sign marked "Private Way"), this may indicate that he has no intention of dedicating the street to the public, and it remains private property.

Another manner in which a street may be kept private is that illustrated by the situation of the Southern Methodist Assembly Grounds at Lake Junaluska. There a gate is set
(Continued on inside back cover)



PUBLIC PERSONNEL

By DONALD B. HAYMAN

Assistant Director, Institute of Government

Classification and Pay Plan

The Mecklenburg County ABC Board, effective December 1, 1955, adopted a classification and compensation plan covering all of its employees. This is the first classification and compensation plan to be adopted by such an agency in this state. The need for this type of study has become increasingly apparent to a number of ABC boards as more and more counties have placed their county employees under a classification and pay plan. The Mecklenburg ABC plan was prepared by R. E. Lee and Company of Charlotte at a cost of approximately \$2,000. In making the survey, the work of all 90 ABC employees in the county was studied and 19 different classes of positions were established.

The Mecklenburg ABC compensation plan differs in three respects from any compensation plan heretofore adopted by a county governmental unit in North Carolina. In the first instance, it is the first pay plan to provide for annual automatic increments for three of the six steps above the minimum salary. The Mecklenburg County pay plan covering all other county employees provides for automatic increments for the first three steps of the eight steps above the minimum. The pay plans in effect in Durham, Guilford, Orange, Onslow, and New Hanover counties provide for only two of six steps above the minimum to be automatic increments.

Second, the ABC pay plan provides that each employee's salary within the pay range for his position will be determined by his length of service.

Third, the ABC pay plan provides that under exceptional circumstances, if a former employee who is unusually competent desires reappointment or if an exceptionally well qualified applicant with unusual training and/or experience applies, he may be appointed as many as three steps above the minimum.

The first difference cited above provides that each employee will re-

ceive automatically a \$10 to \$20 a month raise at the end of each of his first three years of service if he is good enough to keep from getting fired. Such a provision is undoubtedly based on the theories (1) that an employee will be worth more to an organization after he has worked with it for a time, and (2) that he will be a happier employee, and hence a more efficient employee, if he can look forward to monetary progress on the job. Experience in both government and private business provides considerable evidence of the validity of these theories.

Supervisors and personnel officers have long debated whether salary increments should be automatic or granted as earned. Employees, for understandable reasons, usually urge that all salary increments should be automatic. Administrators and supervisors recognize that, regardless of the bait dangled in front of two employees, one may do twice the work of another who receives the same base pay. Supervisors also realize that because of the difference in the difficulty of jobs, a janitor or clerk may learn his job much quicker than an accountant or enforcement officer.

Most of the pay plans adopted by governmental units in North Carolina in recent years have been a compromise of the two extremes. Most county pay plans provide for automatic increases at the end of six and twelve months of service on the "worth more" theory. Increases after the first year are only for superior or improved performance. The city of Charlotte's pay plan (which is the only public pay plan in the state which adopted the seniority or automatic increment exclusively) and the Mecklenburg ABC Board pay plan represent the greatest acceptance of the seniority or automatic principle in North Carolina to this time. The ABC Board plan, unlike most other county pay plans, does not permit an outstanding employee started at the minimum to be given a merit increase at the end of six months.

The second difference provides that all employees will be given full credit for past service and that their salaries within the pay range will be determined by the length of their service. This is a result of the first difference. Both of these differences reduce the authority and discretion of the ABC Board. However, the fact that the new plan for the 90 employees costs only \$4,560 for the rest of the fiscal year seems to indicate that this provision has not been excessively costly.

The third difference permits the ABC Board to hire new employees as many as three steps above the minimum. This provision is slightly more liberal than the provisions now in effect in other county pay plans. Only the experience of the ABC Board in using it or abusing it will determine its desirability.

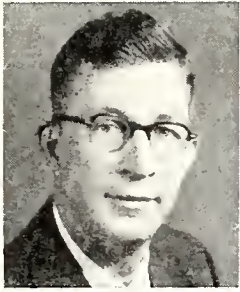
The above differences, although important, are relatively minor. The leadership of the Mecklenburg ABC Board in adopting the new classification and pay plan should be recognized and applauded. Other ABC Boards should follow the working of this classification and pay plan with extreme interest.

Municipal Personnel Manuals

Both Salisbury and Tarboro have recently adopted municipal personnel manuals. The following are some of the headings used in organizing the contents of the Salisbury personnel guide, which became effective January 1: employment policy; overtime, holidays; leave of absence; vacation; military leave; jury leave; sick leave; personal injury accidents; vehicle accidents; federal social security and N.C. Local Governmental Employees' Retirement System; promotions, demotions, and transfers; layoffs and suspensions; and grievances among employees.

A number of the provisions of the Salisbury personnel guide will be of interest to the officials and employees of other governmental units. For

(Continued on page 10)



PUBLIC SCHOOLS

By JOSEPH P. HENNESSEE

Assistant Director, Institute of Government

Governor Luther H. Hodges delivered an address of major interest to all school officials at the annual meeting of the North Carolina State School Boards Association in Chapel Hill on November 16. Addressing over 300 public school officials assembled from all sections of the state, the Governor called attention to the need for school buildings, personnel policies, and more economical administrative operation of the schools. "Prepare to assume more and more responsibilities for the maintenance and guidance of our public schools," he said, "and stay with this serious and important job."

Since this speech did not receive the statewide coverage that a speech of its magnitude deserves, major excerpts are reproduced here which it is thought will be of particular interest to local officials and citizens.

Governor's Address

"With your permission I would like to talk to you today about the part which, as I see it, you as school board members must play in the never ending—although perhaps not always as apparent as now—struggle to keep and improve our public schools. I can say right to begin with that your part will not be merely a leading one, but the leading part in this struggle. This may have been true in the past—certainly it has to some extent—but in the future that lies ahead the manner in which local school boards assume and discharge their responsibilities will, to a greater and greater extent, determine the status and character of our public schools."

"In considering your responsibilities as school board members, it will be well always to keep in mind that your communities are depending upon you to formulate school policies and see that those policies are carried out. You do not have to administer or actually carry out the day-by-day tasks connected with running the schools, but you do have to determine within the framework of the laws governing our schools what broad courses are to be followed and how they are to be followed. For instance, school board members do not have to prepare and teach courses in vocational education, but school boards should determine to what extent the curriculum shall include such courses and see that steps are taken to

implement whatever your decision may be. You should be diligently curious as to why certain courses are given and why others are not given. School board members do not have to serve as admission officers, but school board members must determine the guides and make the rules and regulations by which children can properly be assigned to particular schools."

"I am sure that all of you are already aware of the increasing policy making responsibilities which are placed upon you. School law changes made by the 1955 General Assembly make clear the over-all State policy of returning more and more responsibilities for setting school policies to local boards. In view of the situation which our schools face, and in anticipation of the increased tempo of what may well turn out to be a real struggle to properly maintain public education in our State, it is my opinion that the trend toward local self-determination in school matters should and will continue. This is necessary in order that we may have a system which can bend to the winds of what we all hope will be only temporary storms, without breaking and shattering as the result of frigid inflexibility maintained to satisfy somebody's notion of what constitutes a perfect and happy world. Whether we like it or not, it would be blind folly indeed to ignore the potential destructive ability of these storms; and in my opinion, you may expect in the coming months and years to be called on more and more to assume responsibilities of leadership in protecting the public schools in your communities and in our State. May I urge you, yes implore you to continue your service as school board members. Strength and character, courage and patience will be needed. Anybody can give up, the strong will hold on."

"You may as well be thinking in terms of how you can make known your policies to the citizens you represent, and how you can organize their interest and support for your efforts. You are the connecting link between the professional educators and the general public. It is your job to help the educators get their plans and programs carried out; at the same time it is also your job to bring to the plans and programs of the educators the influence of the practical citizen who understands the community's needs and desires. This is most important. Public opinion must be with you and will be with your efforts if you are careful to keep it informed and

convinced that it is the future of our State in the person of our children that you are seeking to protect and guard from harm or from mediocrity. Plan carefully on how to enlist active popular support and you may be sure you will get it if your policies are deserving. People want leadership and they want schools They deserve the best of both."

"Another aspect of school operation which is worthy of serious deliberation on your part is that of school personnel policies. There are some 50,000 employees now in the public school system of the State, and this number will naturally go up every year. These employees are under the direction of Boards of Education and local school officials. The job of recruitment, employment, orientation, and the provision of good working conditions and personnel policies is definitely in the area of school board policy responsibility. I am told that there is relatively little being done along these lines and that there is possibly some hesitancy about taking on the problems. It would seem to me that unless you do something to change this you are apt to continue to be plagued with teacher and worker shortages, high turnover, and less than good personnel efficiency."

"I would like to offer a suggestion not original with me as to how you might go about developing sane and workable personnel policies. In many of the communities represented here there are businesses which have personnel offices and departments. Running these offices are highly trained experts who would probably be willing to give you the benefit of their knowledge and experience if you called on them in the interest of your community schools. I suggest that you try asking them to help you. Or perhaps your Association could secure a number of industrial personnel workers from various industries within the State to serve on a Personnel Advisory Committee to work out helpful suggestions for you which could be printed and distributed among you. These are just one or two ways you might approach the thing; what is important is that you do begin working on it."

"And now by way of summary I would like to review what I have attempted to suggest during this brief talk: Prepare to assume more and more responsibilities for the maintenance and guidance of our public schools, stay with this serious and important job; spend even more time and careful effort in formulating

school policies which are compatible with the wishes and desires of your communities; and develop machinery for making your policies known and for enlisting the affirmative support of your citizens for public education. Specifically I have called to your attention the need for school buildings facilities, the need for personnel policies, and the need for more economical administrative operation of our schools. The specific matters I mentioned are, of course, only a few of the things which you must deal with when you return home. Do not let my limited discussion lead you to believe I am under the impression that these few problems are even a substantial part of your total school board work. I know, and your communities know, and your State knows the great amount of time and effort you contribute at no small personal sacrifice toward the maintenance and improvement of our public schools. In fact the real point I want to leave with you today is that the State—and as your Governor, I try to speak for the State—is deeply appreciative of your devoted service, and that the State will continue to depend on you to safeguard the proper development of its dearest possession—namely, its children.”

First Delegate Assembly

A delegate system of local board representation was inaugurated at the 1955 meeting of the North Carolina State School Boards Association. Under this system each member unit is allowed a maximum of five delegates, the exact number being determined by a formula based on the number of teachers employed within the unit. Of a possible maximum of 400 delegates, some 300 attended the first delegate assembly, a highly successful beginning for the new system.

Officers Elected

Dr. Charles E. Jordan, chairman of the Durham County board of education and vice-president of Duke University was reelected president of the association for a two year term. John R. Foster, chairman of the Greensboro board of education, was named vice-president, and Dr. Guy B. Phillips, former dean of the school of education and now director of the summer school of the University of North Carolina, was reelected executive secretary-treasurer.

The board of directors was expanded from five to seven members and an all-new board was elected to serve staggered terms of two to four years. Directors elected to serve for four years were Barton Hayes, Hudson; Charles G. Rose, Jr., Fayetteville; and George R. Edwards, Rocky Mount. Directors elected for two year terms were W. W. Sutton, Goldsboro; E. P. Dameron, Marion; Dr. Ralph Fike, Wilson; and Dr. Herbert Spagh, Charlotte.

Policies Adopted

A policy committee composed of Chairman Howard E. Carr, Charles G. Rose, Jr., George R. Edwards, and W. J. Chandler, recommended and the delegates adopted seven statements of policy and action for the association; that:

(1) The president of the association appoint to a legislative committee 18 representatives, one from each of the 18 districts, and that he add to the committee Mr. Ben Fountain, Jr., to serve ex officio as secretary.

(2) The association encourage an effective plan for the implementation at the local level of the “N.C. White House conference report” with all of its objectives.

(3) The association propose a study of the advantages and wisdom of a four-year term of office for superintendents of the administrative units.

(4) The association stress the importance of county-wide organizations of all district committee members.

(5) The association consider the advisability of conducting an institute for selected school board members to provide better direction of school board activities.

(6) The association encourage more active participation of the State School Boards Association on a state and local level in the selection of candidates for any public office dealing with any phase of public education.

(7) The association encourage intervisitation of neighboring administrative units by county and city school boards.

Public Personnel

(Continued from page 8)

example, it provides that each applicant for municipal employment shall be required to pass a physical examination. Employees will be paid overtime when they work in excess of 30 minutes of authorized overtime per day. Employees will be paid double time for authorized work on holidays. Sick leave for salaried employees may be accumulated to a total of 60 days. Weekly employees may accumulate a total of 12 days of sick leave. Department heads may suspend employees for as many as 30 days for cause. Discharged employees may appeal to the city manager for a hearing within 15 days. All persons discharged will be given one week's notice or receive one week's regular pay at the time of dismissal.

The provisions concerning grievances among employees are as fol-

lows: “Every effort will be made to provide good working conditions for all employees in order to avoid and preclude grievances. Any full-time employee with a grievance may first take it up with his Department Superintendent or Chief and if the difference cannot be resolved, the grievance may be brought before the City Manager. Such conferences with the City Manager may be private if the employee so desires.

“The City Manager will be available to confer with any City employee concerning any grievance or on any personal matter. Discussion pertaining to personal problems will be kept strictly confidential. However, it should be understood that there can be no secrecy in discussions of matters pertaining to the employee's job. The duty of the City Manager is to settle grievances through the clearing up of misunderstandings or the bringing to the attention of proper authorities any variances from established policy, and he may in some instances be required to assemble needed information to determine facts. Supervisors and employees should fully understand that such procedure falls within the scope of his duties. The full cooperation of both parties is essential to reaching a decision in such matters.”

The Tarboro personnel manual also became effective on January 1. Although the Tarboro and Salisbury personnel manuals are similar on a surprising number of points, the Tarboro manual contains two provisions not covered in the Salisbury personnel guide. The first is a sick leave credit for all employees as of January 1, 1955. Because Tarboro has not had a formal sick leave plan previously, it was considered desirable to give employees with years of prior service some credit for their previous years of service. In order to do this they adopted a plan of granting sick leave credits ranging from 12 days for employees of one year to 150 days to employees of 40 years.

The Tarboro personnel manual also contains a pay plan for all city employees. The manual establishes a five-step pay range for each of the 72 different classes of positions. The first step (or minimum) is the rate paid at initial employment. The second step is an automatic step to be granted after the completion of six months of service. The third, fourth, and fifth steps are to be granted when merited after two, five, and ten years, respectively, of total continuous service.

THE ATTORNEY GENERAL RULES . . .

PUBLIC HEALTH

Regulating bulk milk dispensers.

To: Dr. O. D. Garvin

(A.G.) A district board of health has authority under G.S. 130-166(4) to adopt a regulation providing for an inspection and sampling service to insure that milk dispensed through bulk milk dispensers meets proper standards from a health standpoint.

MOTOR VEHICLES

Use of electrical turn signals in daytime. Is a turn signal given by means of an electrical device a sufficient signal in the daytime?

To: Joseph G. Williams

(A.G.) Under the provisions of G.S. 20-154, an electrical turn signal is a sufficient signal even though given in the daytime.

Location of rural mail boxes; driving on the left. Has your office ruled that rural mail boxes must be located on the right side of the highway?

To: W. S. Moretz

(A.G.) While the location of rural mail boxes is of no concern to this office, this office has ruled that rural mail carriers are not entitled to drive on the left side of the highway. G.S. 20-146 requires all motor vehicles to be driven on the right side of the highway, except under certain specified conditions, delivering mail not being one of them.

Accidents: interpretation of the phrase "total property damage." In computing total property damage for the purpose of G.S. 20-166.1(a), should the damage to one's own car be included?

To: Joseph D. Blythe

(A.G.) G.S. 20-166.1(a) requires the driver of a vehicle involved in a collision resulting in "total property damage to an apparent extent of one hundred dollars (\$100.00)" to give notice of such collision to the specified police officer. In my opinion, damage to the driver's own automobile must be included.

Speeding through two counties. A patrolman clocks a driver in one county at 95 miles per hour, follows him into another county at the same rate of speed, where he finally apprehends him. The driver has been tried and convicted for speeding in the first county. May he now be tried for speeding in the second county?

To: W. Blount Rodman

(A.G.) While a single act may be an offense against two sovereigns, in which case the offender may be convicted and punished by each of the sovereigns, such is not the case here, since counties are not sovereign. The state may not try an offender twice for the same act merely because it was committed while crossing county lines. It is, however, entirely possible for a motorist to commit two or more distinct offenses of speeding on the same trip by observing the legal speed limit for a period between two acts of speeding. The mere fact that a motorist slows down momentarily, as for a curve, would not, in my opinion,

convert his speeding into two offenses. The point at which a law abiding interval splits an offense into two offenses must be determined by the facts of the particular case.

Purchase of city tags by dealers using state dealers' tags. Must automobile dealers using state dealers' tags on their vehicles purchase city tags?

To: C. N. Alston

(A.G.) G.S. 20-97 authorizes cities and towns to levy a license tax of \$1.00 per year upon any motor vehicle resident in the city or town. There is no exception for dealers' cars. If a vehicle is being regularly used in the city by a dealer who resides in the city, the city could levy a \$1.00 license fee on the vehicle.

Registration of vehicle owned by resident but kept in another state. When a vehicle is purchased by a North Carolina resident for use in another state and is registered and properly licensed there, may it be temporarily brought into North Carolina without a North Carolina license plate?

To: William R. Winders

(A.G.) G.S. 20-50 provides that the owner of a vehicle intended to be operated upon any highway of this state and not exempt from the registration requirement shall register the vehicle with the Department of Motor Vehicles before it is so operated. The fact that it was purchased for use in another state does not exempt the vehicle from the requirement of a North Carolina license plate if the owner changes his mind and operates it on the highways of this state. G.S. 20-83 exempts a resident of another state from the requirements but expressly provides that a *bona fide* resident of this state may not use registration plates of another state. An owner of a motor vehicle registered in another state and not exempted under the reciprocity provision may obtain a trip license good for thirty days from the Department of Motor Vehicles. The fee is one-tenth the annual fee.

The Financial Responsibility Act and the Statute of Limitations. Does the Financial Responsibility Act change the statute of limitations applicable to the institution of an action for damages arising out of an automobile collision?

To: J. Shepard Bryan

(A.G.) No. G.S. 20-279.7 provides that when an operator's license has been suspended for failure to deposit security, the suspension shall not be for more than one year if proof is filed that no action for damages arising out of the accident has been instituted during such year. This does not cut off the right to bring an action, but relates only to the duration of the suspension. I assume if an action has been instituted within the year, that the Department of Motor Vehicles would retain the security until the action has been determined, even if there is no judgment until after the expiration of the year.

RECORDERS' COURTS

Prosecuting attorney; residence requirement. Is a prosecuting attorney of a municipal recorder's court required to be a resident of the municipality in which he serves?

To: G. W. Ball

(A.G.) Even though the prosecuting attorney of a municipal recorder's court is not required by statute to be resident of the municipality in which he serves in such capacity, it is my opinion that, since a prosecuting attorney is a public officer of the municipality, he is required under the Constitution to be a qualified elector therein.

JUSTICES OF THE PEACE

Removal of causes; procedure. (1) Must the defendant swear that he will not get a fair and impartial trial before he is entitled to removal to another justice of the peace? (2) If removal is granted, should the removing justice send his warrant to the trial justice or retain it and let the trial justice issue his own warrant?

To: G. L. Flowers

(A.G.) (1) All that is required [G.S. 7-147] is a written request for removal directed to the justice of the peace and signed by the applicant. (2) Although the statute does not spell out the procedure for removal in detail, the general practice is for the justice of the peace to enter a written order of removal and to send all the papers to the justice of the peace to whom the case has been removed.

Removal of causes; fees. When a cause is removed from one justice of the peace to another [G.S. 7-147], who gets the fees?

To: G. L. Flowers

(A.G.) The justice of the peace who issues the process is entitled to the fees for issuing the same, plus the fees for the removal. The justice of the peace who actually tries the case will be entitled to the remaining fees. The party seeking the removal should pay the removal fee at the time he makes his request. The initial fees for the issuance of process should be taxed by the justice trying the case, collected from the loser, and remitted to the justice who issued the process.

Soliciting official business; collection agency. May a justice of the peace properly operate a collection agency in addition to his judicial duties?

To: N. I. Aderhold

(A.G.) G.S. 14-245 makes it a misdemeanor for a justice of the peace to solicit official business or patronage for his office, and it would be hard to conduct the collection business without falling into a violation of this statute. If a justice did operate a collection agency in addition to his judicial duties, he would not be warranted or authorized to institute cases before himself for the collec-

(Continued on inside back cover)

Books of Current Interest

Municipal Finance

MUNICIPAL FINANCE ADMINISTRATION. *Chicago 37: International City Managers' Association, 1313 E. 60th Street. 5th ed., 1955. \$7.50. Pages 461.*

The purpose of this fifth edition, like the earlier ones, is to provide a handy reference volume for municipal administrators and a text for students of municipal finance administration. The volume assumes some familiarity with the common operations and techniques of municipal finance, and its objective is to help the administrator analyze his duties and responsibilities and to suggest approaches and methods that other administrators have proved by actual experience. Because of this emphasis, city managers and mayors, as well as financial officers, will find it extremely helpful.

Major changes from the fourth edition published in 1949 include (1) a complete re-writing of the two budget chapters to reflect the progress made in budgetary techniques through emphasis on performance data, (2) addition of a chapter on special assessments, and (3) major revisions of the chapter on tax assessment administration and in the chapter on long-term planning.

The remaining chapters, which have been brought up to date, discuss the role of finance administration in municipal management, organization for finance administration, municipal revenues, municipal accounting, cost accounting, financial reporting, treasury management, debt administration, purchasing and storing, and a number of other fiscal activities.

This book is a "must" for the municipal administrator who has financial duties or who must understand financial administration. A study of it will give him new insight into financial techniques and will suggest approaches and methods to improve financial administration in his municipality.

Criminal Law

ILLEGAL ENFORCEMENT OF THE CRIMINAL LAW: ROLE OF THE SUPREME COURT. *By Albert R. Beisel, Jr. Boston: Boston University Press. 1955. \$2.75. Pages 112.*

Professor Beisel discusses the unhappy lot of the policeman who, in

order to enforce the law, must break it. He emphasizes the "necessity for law which would protect and sustain the social interests in individual privacy and, at the same time, would afford a challenge to law enforcement to meet these high standards without loss of efficiency" in a series of three lectures entitled, "The Problems and the Legal Controls," "Standards of Legality for Searches and Seizures and Wiretapping," and "Illegal Confessions, Invasions of Privacy and the Privilege Against Self-Incrimination." After an examination of the nature of these problems and the legal means presently available for their control, Professor Beisel inquires into the role of the Supreme Court of the United States in controlling illegal law enforcement in these areas. A new study of an old problem.

PROBLEMS IN CRIMINAL LAW.

By Curtis Bok. Lincoln 8: University of Nebraska Press. 1955. \$2.00. Pages 78.

This book is composed of three lectures, constituting the fourth in the Roscoe Pound Lectureship Series. In the first lecture, "The Trial," Judge Bok is "concerned now with the trial itself, as a method of finding facts and establishing guilt and innocence." He touches upon the lack of popularity the criminal law enjoys today and is particularly concerned with the part psychiatry plays throughout the course of the law.

Judge Bok deals with the substantive law in his second lecture. He deplores the practice of constantly adding new laws necessitated by our advancing civilization while at the same time failing to repeal our outworn laws. The natural result is a mumbo-jumbo criminal code which, in most cases, is thoroughly inadequate.

Penology and its treatment is the subject of the author's third lecture. How effective are our present penal practices in the light of criminal statistics? Is the treatment of criminals as individuals, using correctional treatment suited solely to the individual, to be deciered?

Planning

LAND USE CONTROLS. *By Frank E. Horack, Jr., and Val Nolan, Jr. St. Paul, Minn.: West Publishing Co. 1955. \$4.75. Pages 235.*

This is a long-awaited contribution to legal literature which will be of benefit to all city attorneys, city planners, and other officials concerned with the regulation of land development. Although prepared as a supplementary casebook for a law school course in property, it has a much wider application. Readers will find herein most of the leading cases in the areas of zoning, subdivision control, and urban renewal and redevelopment, together with liberal excerpts from planning literature. It should be added to every municipal library.

Personnel Administration

PERSONNEL AUDIT AND APPRAISAL. *By Thomas J. Luck, New York 36: McGraw Hill Book Company, Inc., 330 W. 42d Street. 1955. \$6.00. Pages 317.*

A complete analysis of the various techniques in operation today used to evaluate the worth of personnel activities. Tests, job analyses, guided interviews, employee-attitude surveys and performance ratings, as well as statistical, sociometric, psychological, and functional methods are discussed in simple language which can be readily understood by anyone who has a basic knowledge of personnel work.

Juvenile Delinquency

YOUTH AND THE LAW: HANDBOOK ON LAWS AFFECTING YOUTH. *By Frederick J. Ludwig. Brooklyn 1: The Foundation Press, 268 Flatbush Avenue Extension. 1955. \$5.50. Pages 386.*

An excellent and exhaustive treatment of a currently important subject: juvenile delinquency. *Youth and the Law* treats not only youth under the criminal or penal law but also the protection of young persons at work, the parents' obligation, the law of contracts and torts as it affects children, etc.

Political Science

GOVERNING URBAN AMERICA: STRUCTURE, POLITICS, AND ADMINISTRATION. *By Charles R. Adrian. New York 36: McGraw-Hill Book Company, Inc., 330 W. 42d Street. 1955. \$5.50. Pages 452.*

Here is a new textbook written primarily for the student of political science and government presenting and analyzing what "he needs to know about his city and its governmental operations." Emphasis is on post-war materials, particularly those concerned with the trend towards suburbia and metropolitan area problems.

Numerous case studies are included which do much toward making this book good reading as well as excellent reference material.

RESEARCH FRONTIERS IN POLITICS AND GOVERNMENT. By Stephen K. Bailey and others. *Washington 6: The Brookings Institution. 1955. \$2.75. Pages 240.*

As new problems present themselves to the practitioner in politics and government, new research techniques are being developed to meet them. This volume reviews these new techniques which, in some cases, have not yet been published or been made readily available to the public. Legislators and administrators will find much of interest to them as will those concerned with organization theory, voters and elections, the nominating process, comparative state politics, and party realignment, among others. A wealth of new ideas in eight lectures.

GOVERNMENT BY THE PEOPLE: THE DYNAMICS OF AMERICAN NATIONAL GOVERNMENT.

By James M. Burns and Jack W. Peltason. *New York 11: Prentice-Hall, Inc., 70 Fifth Avenue. 2d ed., 1954. \$8.65. Pages 905.*

Conversational in style, *Government by the People* presents the actual operation of our federal government: Congress and its committees, bureaus and agencies, the Supreme Court, among others. The problems discussed include such current issues as the use and abuse of congressional investigations, federal spending and taxation, and the balance between our economic and military defenses.

Trial Practice

MEDICOLEGAL ASPECTS OF HEAD, NECK AND BACK INJURIES. Edited by Felix F. Stumpf and Wilma S. Horwitz. *Berkeley: University Extension, University of California. 1955. Apply. Pages 528.*

This book is addressed to the principle that an attorney who can master the Rule in Shelley's Case can understand herniation of the nucleus pulposus through the annulus fibrosus. Automobile accidents are producing a flood of personal injury litigation having to do especially with the head and spinal column. Such injuries are difficult to diagnose, hard to treat, and tend to be long-lasting in effect. In the Fall of 1955, the California State Bar's program in continuing education took up these injuries through the University of California Extension Division, using this book as a text.

In part one, the medical terminology of head, neck and back injuries is both

explained in detail and used in context. Treatment is illustrated and described for use in evaluating damages. In part two, 300 pages are devoted to personal injury practice in California, giving forms, case citations, and case histories, together with complaints, affidavits, and principles for weighing offers to compromise claims. (D.J.S.)

Books Received

VICHY POLITICAL DILEMMA. By Paul Farmer. *New York 27: Columbia University Press, 2960 Broadway. 1955. \$5.50. Pages 376.*

FOREIGN POLICY ANALYSIS. By Feliks Gross. *New York 16: Philosophical Library, Inc., 15 E. 40th Street. 1954. \$3.75. Pages 179.*

THE SOVIET IMPACT ON SOCIETY. By Dagobert D. Runes. *New York 16: Philosophical Library, Inc., 15 E. 40th Street. 1953. \$3.75. Pages 202.*

THE ARMENIAN COMMUNITY. By Sarkis Atamian. *New York 16: Philosophical Library, Inc., 15 E. 40th Street. 1955. \$4.75. Pages 479.*

POLITICS AND SCIENCE. By William Esslinger, with a foreword by Albert Einstein. *New York 16: The Philosophical Library, Inc., 15 E. 40th Street. 1955. \$3.00. Pages 167.*

CASES AND MATERIALS ON LEGISLATION. By Frank E. Horvack, Jr. *Chicago: Callaghan & Company, 6141 North Cicero Avenue. 1954. \$9.75. Pages 1060.*

HANDBOOK OF PARLIAMENTARY PROCEDURE. By Henry A. Davidson. *New York 10: The Ronald Press Company, 15 E. 26th Street. 1955. \$3.75. Pages 292.*

A HISTORY OF UNITED STATES FOREIGN POLICY. By Julius W. Pratt. *New York 11: Prentice-Hall, Inc., 70 Fifth Avenue. 1955. \$9.25. Pages 808.*

SILENT SERVICE IS NOT ENOUGH!—AWWA PUBLIC RELATIONS MANUAL. *New York 17: American Water Works Association, Inc., 521 Fifth Avenue. 1955. \$1.50.*

SOCIAL FOUNDATIONS OF EDUCATION. By Harold Rugg and William Withers. *New York 11: Prentice-Hall, Inc. 70 Fifth Avenue. 1955. \$5.40. Pages 771.*

A TRADE UNION ANALYSIS OF TIME STUDY. By William Gomburg. *New York 11: Prentice-Hall, Inc., 70 Fifth Avenue. 2d ed., 1955. \$7.50. Pages 318.*

CONSUMER ECONOMICS. By James N. Morgan. *New York 11: Prentice-Hall, Inc., 70 Fifth Avenue. 1955. \$8.00. Pages 440.*

WALT WHITMAN'S CONCEPT OF THE AMERICAN COMMON MAN. By Leadie M. Clark. *New York 16: Philosophical Library, Inc., 15 E. 40th Street. 1955. \$3.75. Pages 178.*

AG Rulings

(Continued from page 11)

tion of claims, since he would have an interest in these collections.

NOTARY PUBLIC

Acknowledgement of instruments; financial interest. Can a partner in a small loan business who is also a notary public take acknowledgements on chattel mortgages given to secure the repayment of funds loaned by the business?

To: W. W. Jones

(A.G.) G.S. 10-1(c) provides that "A notary public who, individually or in any fiduciary capacity, is a party to an instrument, cannot take the proof or acknowledgement of himself in such fiduciary capacity or of any other person thereto." Considering this statute, as well as the general law [See 66 C.J.S.—Notaries—Section 6e], we are of the opinion that a partner who is a notary public cannot make legal and valid acknowledgements and certifications for the benefit of the partnership.

County Speed Limits

(Continued from page 7)

up at the entrance to the grounds, and the general public must pay a fee to use the streets on those grounds. Those streets are private streets, upon which the state speed laws have no application.

The Attorney General has ruled that even though signs setting a speed limit are posted on private ways, they have no legal effect. The only remedy which an owner of private streets has against the violators of his signs is an action in trespass.

Should any private person place road signs on a street, he may be running a risk of criminal prosecution. In a portion of Mr. Giles' opinion, he proposed the following question: "Do private citizens living within the subdivision area have authority to post 'Caution' or 'Go Slow' or 'Reduce Speed' signs on the streets in such subdivision?" To this he responded that he could find no authority for private citizens to take such action. Further he referred to G.S. 136-32.1, which makes it a misdemeanor for any person to erect or maintain any warning or direction sign similar to official highway signs or markers within 100 feet of any highway right of way. Thus it appears that should a private citizen erect such a sign on any public road or street he would be guilty of a misdemeanor.

IT'S A PSYCHOLOGICAL FACT: PLEASURE HELPS YOUR DISPOSITION

How's your disposition today?

EVER YIP LIKE A TERRIER when things go wrong? That's only natural. But — it's a psychological fact that pleasure helps your disposition!

That's why everyday pleasures — like smoking, for instance — mean so much. So if you're a smoker, it's important to smoke the most pleasure-giving cigarette — Camel.



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For more pure
pleasure — have a
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*"I've tried 'em all —
but it's Camels for me!"
Rock Hudson*



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No other cigarette
is so rich-tasting
yet so mild!

ROCK HUDSON AGREES with Camel smokers everywhere: there is more pure pleasure in Camels! More flavor, genuine mildness! Good reasons why today more people smoke Camels than any other cigarette.

Remember this: pleasure helps your disposition. And for more pure pleasure — have a Camel!