

POPULAR GOVERNMENT

November 1965

Published by the Institute of Government
The University of North Carolina at Chapel Hill

A GUIDE
TO
DRAWING
WARRANTS

PUBLICATIONS
of the
INSTITUTE of GOVERNMENT
JANUARY 1963-
MARCH 1965

COUNTY GOVERNMENT
IN NORTH CAROLINA



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STREET DEFECTS

September 1965

EIGHT and EQUIPMENT
of MOTOR VEHICLES
in NORTH CAROLINA

NOTARY PUBLIC GUIDEBOOK
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NOTARY PUBLIC
GUIDEBOOK

By Joseph S. Ferr

IMPACT of
FEDERAL
INSTITUTIONAL
DECISIONS
on the STATES

Criminal Law
and Procedure

REGULATION of
INTOXICATING LIQUORS
in NORTH CAROLINA

the ROLES of
the MANAGER,
MAYOR, and
COUNCILMEN
in
POLICY MAKING:

A Study of Twenty-
North Carolina Cities

By B. JAMES HARRIS 1965

In This Issue:

Freedom Under Law

**the District Court
Judge in
North Carolina**

**the Dilemma in
Police Recruiting**

**Insurance Purchasing
through an
Advisory Committee**

**Medical Aspects
of Traffic Safety**

**Financial
Considerations
of Prospective
Bond Bidders**



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Contents

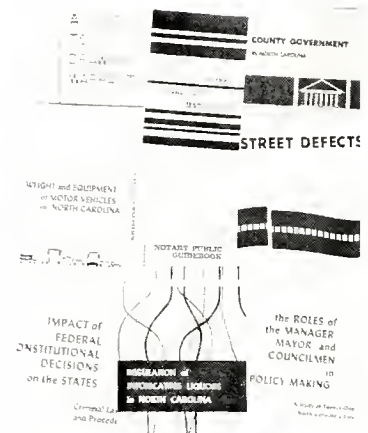
Freedom Under Law by Malcolm B. Seawell	1
The District Court Judge in North Carolina by C. E. Hinsdale	3
The Dilemma in Police Recruiting by Norman E. Pomrenke	7
Insurance Purchasing Through an Advisory Committee by Michael G. Allen	9
Parking, Penalties and the Public: the Dilemma of the Dollar by Allan Ashman	13
Medical Aspects of Traffic Safety by John Morris, M.D.	14
Financial Considerations of the Prospective Bond Bidder by Logan V. Pratt	17
Institute Holds AAMVA Driver Improvement Course	20
Notes from Cities and Counties	21
Institute Schools, Meetings, Conferences	24
Attorney General's Rulings	26
Book Reviews	27

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This month's cover is many covers—a potpourri of recent Institute publications.

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FREEDOM under LAW

by Malcolm B. Seawell

[Editor's Note: Malcolm Buie Seawell is chairman of the State Board of Elections and a former Attorney General of the State of North Carolina. Earlier, as a Solicitor of the Superior Court, he successfully prosecuted Ku Klux Klan officials for violations of the law. This article is adapted from his address during graduation ceremonies of new North Carolina State Highway Patrolmen from the Basic Training School conducted by the Institute of Government. The date was August 19; the place, the Institute's Knapp Building Auditorium. Mr. Seawell's advice, especially near the conclusion, is directed to the troopers, but the substance of his presentation has general interest and application.]

The Citizen and the Law

Freedom is and must remain freedom under law. Without law, one man's freedom is another man's enslavement — simply because might supplants right.

A law is simply an enactment of an elective legislative body requiring a course of conduct or prohibiting a course of conduct of every citizen within its purview. Any law which is designed for the purpose of denying rights of citizenship to any citizen will not pass the acid test of constitutionality. The enforcement of the law in such a manner that the rights of citizens are denied is likewise unconstitutional.

It is a far better thing for citizens to follow constitutional and legal procedures in voicing disapproval than it is for them to stand in open revolt and disobedience to the law. It is the climate of revolt and disobedience to the law and to authority in which the

Burch Society, the Black Muslims, the Ku Klux Klan, and all other hate groups in the country thrive and seek to spread their poison.

These organizations are not interested in obeying the law — they are interested in violating the law. They are not interested in building — they are interested in destroying!

The Citizen and the Klan

We have, within the past few months, been subjected in this State to public demonstrations by the Klan, the members of which have given the public a true picture of what that outfit stands for. The appearance of the robed Klan attorney with three members charged with wilful and deliberate murder in the State of Alabama presents the Klan in its true perspective. The Klan is an organization which, through the major part of its history, has been for native-born white, protestant supremacy, at all costs. In all its infamous history, since the days of reconstruction, no person can point out one constructive accomplishment of that outfit, one act by that organization which has furthered the cause of humanity.

This robed 'brotherhood' has not in 100 years produced a person who could fill the shoes of those it despises: the humble worker, the foreign-born good citizen, the devout Catholic, the law abiding Jew — and, among the number of those despised by the Klan may be listed George Washington Carver, a Negro who, through his devotion, promoted the welfare not alone of his own race but of his white neighbors in Alabama, in Mississippi, and throughout the South; John Fitzgerald Kennedy, the first Catholic President, who was murdered by a hate

monger; and, for those who prefer the flag of the Confederacy to the Stars and Stripes, the Jew, Judah Benjamin, who was active in the southern cause in the Civil War and served successively as Attorney General, Secretary of War, and Secretary of State in the Cabinet of Jefferson Davis, President of the Confederacy.

Recently, the Grand Dragon, Carolina Klan, said that, within two or three years, 75 of the State's 100 sheriffs would be members of the Klan. I doubt that any of them will become members of the Klan, but I would like to give you this advice — if one of you decides to join the Ku Klux Klan, please make the announcement while you are at home so you will have a change of clothing.

The Court Decisions and Individual Rights

During your lifetime, great changes have taken place in the law. Examples are the school decision of 1954 on the part of the Court and the Civil Rights Act of 1964 on the part of the Congress. The many decisions of the courts with respect to individual rights and freedom of the individual indicate that these considerations are paramount in the philosophy of the Supreme Court.

To contend that such considerations are Communist inspired is nonsense. Under Communism, the individual means little compared to the state. Under Communism, an individual is assigned to a job, to a place where he lives, and changes neither without permission of the state. There is total regimentation of the people.

"The State" is less than five million members of the Communist Party controlling 230 million people.

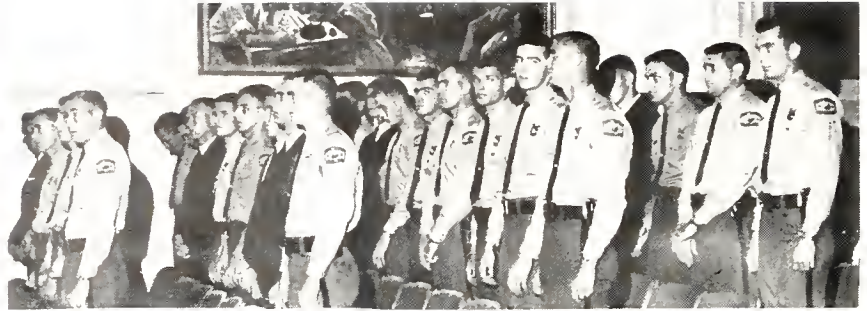
THE GENERAL ASSEMBLY'S SPECIAL SESSION ON THE 'SPEAKER BAN'

The December issue of *Popular Government* will include a report on the November special session of the North Carolina General Assembly called by Governor Dan K. Moore to act on the recommendations of the 'Speaker Ban' Commission that the controversial law

banning Communist and Fifth Amendment pleaders from speaking on the campuses of state-supported institutions be amended to return the policy-making power to the Boards of Trustees. Also in the next issue will appear articles on the Wildlife Resources legislation enacted by the 1965 regular General Assembly, transportation of intoxicating liquor, and the new Intermediate Court of Appeals in North Carolina.



One of thirty-four new troopers is congratulated following his graduation from the Basic Patrol School at the Institute of Government in October. Left to right are the Reverend Mr. Henry E. Turlington, pastor of Chapel Hill's University Baptist Church; Institute Director John L. Sanders; Robert L. Gunn, in charge of the SHP Basic School; North Carolina Assistant Motor Vehicles Commissioner Joseph W. Garrett; and Major C. Raymond Williams of the Patrol.



Author Seawell addresses the State Highway Patrol graduation audience in August. Others, from left to right, are Basic Patrol School Director Bob Gunn; then Commissioner Edward Scheidt, North Carolina Department of Motor Vehicles; and Col. David T. Lambert, Patrol Commander.

In this country, you can get in your automobile and travel unmolested wherever you choose. Here, you may travel by train or plane from North Carolina to California without asking permission of any official, while, in the USSR, the citizen must get a permit before taking a trip inside his own country.

The Importance of Obedience to the Law

The greatest threat to our well being, to our survival as a democracy, does not lie in Communism itself, but rather lies in our continued self-enforced ignorance of what this enemy is. Through sheer ignorance grows the belief that every disorder of every organization with which we are not in sympathy is Communist inspired, controlled and directed.

People should obey the law. Elected officials are oath-bound to defend and protect the law. How have some elected officials reacted to their sworn

duties? Their responses have been massive resistance, open defiance, denials of right to register and to vote, disobedience to court orders.

The voting rights bill passed by Congress should be named the "George Wallace Voting Rights Bill," because, through his actions, he fathered that bill just as surely as though he had drawn it and introduced it in Congress.

The Tragedy of Defiance of the Law

The words and actions of the public officials in defiance of the law and of their oaths of office have destroyed the confidence of members of Congress and have exhausted the patience of the courts. Through rebellion, these officials have destroyed the true meaning of "states' rights" to the trash heap. This rebellion and defiance has furthered the cause of "civil rights" a hundred-fold more than all the demonstrations and

marches throughout the south.

To what avail is defiance? Defiance to the laws of the United States is nothing new. The end results are always the same. One hundred thirty years ago, South Carolina decided it was not going to obey the law of the United States. A Southern President, Andrew Jackson, told the people of that State: "The laws of the United States must be executed." And that was that.

I have no sympathy for those who set out on a course of conduct in defiance of the law. They may be called conscientious defiers of the law or be given any other high-sounding title—the simple fact is that they breach the law and do violence to the system under which we live.

To sanction, encourage, or condone a wilful violation of civil law is a step toward anarchy. It is the duty of a citizen to obey civil law. No citizen has the right to select for obedience those laws which he considers "good

(Continued inside back cover)

The District Court Judge in North Carolina

by C. E. Hinsdale

In November, 1966, the voters of six judicial districts, totalling 22 counties, will elect 17 district court judges. These judges will take office on the first Monday in December, 1966, and phase one of the State's three-phase conversion to a new system of lower courts will begin. Phase two begins in December, 1968, when several dozen district court judges, representing perhaps 20 more judicial districts, and about 60 more counties, will take office. In 1970 (phase three) judges will be elected to serve the few remaining districts of the State not already under the new system. In all, approximately 100 full-time district court judgeships will be filled, replacing entirely the present patchwork "system" of 180-odd recorder-type judges and courts below the level of the superior court.

District court judges are *elected*, and the filing deadline for the 1966 primary is fast approaching. In the few short weeks remaining, potential candidates for the office of district court judge, both from the ranks of incumbent recorder-type court judges and from the citizenry generally, must weigh the pros and cons of public service in a new, and largely different, judicial office. This article is devoted to a discussion of the office of district court judge, with a view to informing both the prospective candidate and the voting public.

District Courts in North Carolina

Judicial Districts	No. of Judges	Counties
1	2	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
12	4	Cumberland, Hoke
14	3	Durham
16	3	Robeson, Scotland
25	3	Burke, Caldwell, Catawba
30	2	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain

The North Carolina Constitution, Article IV, Section 8 states:

"The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit; but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner provided by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected . . . The number of District Judges . . . shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled, for the unexpired term, in a manner provided by law . . ."

Section 9 of the Constitution provides that the Chief

Justice may transfer district judges from one district to another for temporary or specialized duty. Subject to the Chief Justice's supervision, assignment of district judges within each local court district shall be made by the chief district judge. Sec. 15(2) authorizes the General Assembly to provide by general law for the removal of district judges for misconduct or mental or physical incapacity. Sec. 21 provides that when a district court becomes operative in a particular county, the lower court judges in that county, except mayors and justices of the peace, become district judges for the remainder of their respective terms.

There are no other direct references in the Constitution to the office of district judge. Save for the one extremely important restriction that he must be elected, the General Assembly was left with a substantially free hand as to what kind of creature the district judge was to be.

The General Assembly in the "Judicial Department Act of 1965" (Chap. 310, S. L. 1965) used its free hand to create a judgeship of substantial prestige and importance. First the legislature abandoned the present system of part-time lower court judges by providing that each district court judge must devote his full time to the duties of the office. An annual salary of \$15,000, to be paid by the State, was specified for the office, and district judges become regular contributing members of the Teachers' and State Employees' Retirement system, and of the social security system. Reimbursement for judicial travel and subsistence will be at the rate for State employees generally (currently 8c per mile and \$12 per day).

District court districts are coterminous with superior court judicial districts. Since probably all districts will have at least two judges, the Chief Justice of the Supreme Court will appoint — eventually — 30 chief district judges, each to serve at his pleasure. A vacancy in a district judgeship is filled for the unexpired term by appointment of the Governor from nominations submitted by the bar of the affected district. If the district bar fails to submit nominations within two weeks from the date the vacancy occurs, the Governor may appoint to fill the vacancy without further delay. District judges may be suspended or removed from office for the same reasons generally as the present lower court judges, sheriffs, prosecutors, police officers or constables (G.S. 128-16), and also for "mental or physical incapacity." Before removal, a full due-process hearing is required before a superior court judge, with right of appeal to the Supreme Court. These provisions are set forth in detail in Art. 14 of the Act.

So much for the formal trappings of office. To see what the office is really like, it is necessary to go into more fundamental matters such as jurisdiction of the district court, powers of the chief judge, the opportunities for specialization among judges by types of cases, and the judge's relationship to other judicial officials such as the

judges and the clerks of superior court, magistrates of the district court, and the Administrative Officer of the Courts.

Jurisdiction of the District Court

Generally speaking, the district court will have exclusive jurisdiction over misdemeanors, and over preliminary examinations when the offense charged is a felony. This is the situation at present in most counties and cities having a recorder's court. There will be no jury in a criminal case in district court, however, and the defendant will be tried on a not guilty plea even though he requests a jury trial. This is the practice now only in a minority of our lower courts. The accused, if convicted, is entitled, of course, to a trial *de novo* on appeal, with a 12-man jury.

The civil jurisdiction of the district court will be different in both substance and procedure from the vast majority of recorder-type courts now in existence. First, the money value jurisdictional limit of the court is \$5,000, which is exceeded by fewer than 10 of the present 180-odd recorder-type courts. This limit is merely "proper", that is, not jurisdictional; if all parties agree, there is no limit to the monetary value of a suit which may be brought in district court. It is likely, of course, that the bulk of the cases exceeding \$5,000 in money value will be filed in superior court, but the significant point is that, regardless of the amount in issue, in presiding over such trials the district court judge must conduct the trial precisely as though he were sitting in superior court.

Special proceedings, as before, remain initially within the province of the superior court clerk, and a few important non-monetary matters, such as constitutional issues, certain types of injunctions, eminent domain proceedings, and receiverships, are "properly" brought only in superior court. Actions involving domestic relations matters, both civil (annulment, divorce, alimony, child support and child custody), criminal (if nonfelonious), and juvenile, are properly heard in the district court before the judge. Finally, in civil actions, a 12-man constitutional jury is available, on demand, in district court, and it must be selected and instructed under the same rules as in superior court.

In summary, the trial duties of a district court judge in civil actions are identical in most respects to those of a superior court judge. Domestic relations and juvenile matters are additional responsibilities of the district court judge. All the training and skill of an experienced practicing attorney will be called for by these duties. While laymen are not prohibited from holding this office, it is difficult to see how a lay judge could preside, for example, over contested civil proceedings, especially if jury instructions are required, without an unacceptable percentage of appeals and reversals by higher courts. It is to be hoped that the prestige plus the substantial compensation of this office will persuade qualified attorneys to run for election to district court judgeships.

Special Duties of the Chief District Judge

All districts scheduled for activation in 1966 are allotted two or more judges, and it is quite likely that by the time the last district is activated in December, 1970, even the smallest district can justify at least two judges. In such districts, the Chief Justice will appoint

one of the district judges as chief district judge. This designation carries with it an additional \$500 per year, but the additional compensation is in no sense comparable to the added responsibilities.

The chief judge has "administrative supervision and authority over the operation of the district courts and magistrates" in his district. His major duties include:

"(a) Arranging schedules and assigning district judges for sessions of district courts;

(b) Arranging or supervising the calendaring of matters for trial or hearing;

(c) Supervising the clerk of superior court in the discharge of the clerical functions of the district court;

(d) Assigning matters to magistrates, and prescribing times and places at which magistrates shall be available for the performance of their duties;

(e) Making arrangements with proper authorities for the drawing of civil court jury panels and determining which sessions of district court shall be jury sessions;

(f) Arranging for the reporting of civil cases by court reporters or other authorized means;

(g) Arranging sessions, to the extent practicable, for the trial of specialized cases, including traffic, domestic relations, and other types of cases, and assigning district judges to preside over these sessions so as to permit maximum practicable specialization by individual judges;

(h) Promulgating a schedule of traffic offenses for which magistrates and clerks of court may accept written appearances, waivers of trial, and pleas of guilty, and establishing a schedule of fines therefor;

(i) Assigning magistrates, in an emergency, to temporary duty outside the county of their residence, but within the district; and

(j) Designating another district judge of his district as acting chief district judge, to act during the absence or disability of the chief district judge." (Sec. 7A-146)

It is obvious that this partial list of powers (additional powers are scattered throughout the Act and will be discussed later) gives the chief judge broad authority over the conduct of the judicial business of his particular district court district. It does not extend, of course, to the *judicial* acts of his fellow judges, or of the clerks of court (except on appeal), or of the magistrates in matters properly assigned to them (again except on appeal), but in *administrative* matters his power and responsibility is complete, subject only to the general supervision of the Chief Justice. While this may at first glance appear to be too much of a burden to place on a judge who is expected to be an active trial judge, in fact many of these chores are susceptible of reduction to a standing rule, or rules, needing modification but rarely, so that time actually devoted to *administration*, once the preliminary period of adjustment is past, should be no more than a few hours or less a week. This, at any rate, is the thinking, apparently, of the Courts Commission and of the General Assembly, for no office or secretarial assistance, other than that normally afforded by the clerk's office, is provided.

Judicial Specialization. Article IV of the Constitution, consistent with the modern trend toward unified, all-

purpose courts, speaks of only one kind of district court judge. The 1965 implementing Act also speaks of only one type of judge — *the* district court judge. Neither Constitution nor statute prohibit specialization by subject matter by district judges, however, in the interest of efficient administration of justice. The Act, in fact, encourages specialization "to the extent practicable" by assignment by the chief judge, as noted in Sec. 7A-146 (g), quoted above. No judge is assured, prior to his election, however, of assignment, for example, to domestic relations cases, or to nonjury actions to the exclusion of all other types of judicial business. Substantial assurance can be given, of course, in some of the districts with three or more judges, by assignment of the chief judge, but even in these districts trial schedules, vacations, illness, etc., will make it a virtual certainty that any judge, on occasion, must discharge judicial business other than that in which he might ordinarily specialize. Any other arrangement would result in a waste of judicial manpower, with added expense and delays.

The advantages of specialization were recognized by the General Assembly in an additional respect. Sec. 7A-147 provides that, in a three-or-more judge district, if the chief judge and the Administrative Officer concur, one or more judgeships may be designated as specialized judgeships. In each case the specialty must be designated in advance and filed with the State Board of Elections. A candidate for a district judgeship desiring to specialize, for example, in domestic relations or traffic matters, could file for such a specialized judgeship. This provision has the advantage of permitting both the candidate and the voter to know in advance the nature of the candidate's duties. A specialized judge would, however, in the interest of efficient utilization of judicial manpower, be subject to general assignment by the chief judge, when so needed, and for this reason he would have at all times the full powers of a regular district judge.

This provision for specialized judgeships cannot be utilized in any judicial district the first time judges are elected, however, as there will be no "chief judge" with whom the Administrative Officer can concur in designating a specialty. The earliest year this provision can be effective is 1970. The delay was deliberate, to provide ample opportunity to observe the workings of the new system, and to weigh the feasibility of voter participation in this limited type of statutory specialization.

Relationship of District Judges with Other Officials of the General Court of Justice

In the vast majority of our present recorder-type courts, appeals to the superior court are tried *de novo*. Little or no opportunity is afforded for the superior court to supervise effectively the lower courts, in either their judicial or administrative functions. The lower court judge is, in fact, responsible to no judicial official for his performance of duty. He should be independent, of course, in the exercise of his judicial discretion, *subject to review on appeal*; in the routine business affairs of the courts, however, there is no reason why he should not be subject to supervision in the interest of efficient overall coordination of the machinery of justice.

The 1965 Act makes the district court judge a fully-integrated cog in the wheels of justice. The chief judge is, of course, subject to the general supervision of the

Chief Justice. And while criminal actions on appeal to the superior court will still be tried *de novo*, the superior and district court judges are both officials of one unified, statewide General Court of Justice, and Sec. 7A-281 provides that "The superior courts have power to issue any remedial writs necessary to give general supervision and control over the proceedings of the district courts of their respective judicial districts." Furthermore, appeals from the district court to the superior court in civil matters will be *on the record*, with power in the superior court to dismiss, affirm, remand, reverse, modify, vacate, or take other appropriate action.

On the administrative side, district and superior court judges will operate independently of each other, for the most part. In judicial matters, each will be served by the clerk's office. Neither is provided separate secretarial or office facilities. Each (the chief district judge and the senior regular resident superior court judge) hires and fixes (within State-set limits) the salary or salaries for court reporters for his trial division and district, or alternatively, requests electronic recording equipment from the State. The only overlapping area of any concern is likely to be in courtroom use. Presumably superior court trial sessions, scheduled by the State, will continue to have priority in the use of the main — and frequently only — courtroom in each county suitable for jury trials. The chief district judge has authority to schedule district court sessions, with and without a jury, but this authority will undoubtedly have to be exercised only after consideration of the superior court schedule in each county. In some counties this will pose a serious problem, one which will be solved ultimately only by providing additional courtroom facilities.

The chief district judge is going to be tied much closer administratively to the Administrative Officer of the Courts than to the superior court judge. The Administrator, working under the Chief Justice, will exercise general administrative supervision over the entire District Court Division. The line of communication in most matters will probably be directly to the clerk of superior court, as the chief local administrator for the system, but the chief district judge is charged (Sec. 7A-146(c)) with supervising the clerk in the discharge of the clerical functions of the district court. Beyond any question the Administrator is going to have to rely heavily on the chief judge in each district not only for supervision, but for advice and recommendations, especially in the early days of the new system when lots of local common sense will be needed to supplement tentative and perhaps general regulations from the central office. Furthermore, the new Act specifically provides that the Administrative Officer controls the salaries of magistrates, and assistant and deputy clerks of court; concurs in the adequacy of additional seats of court; approves the use of part-time prosecutors and additional magistrates; furnishes supplies and equipment; prescribes forms and business methods; prepares the budget; assists the Chief Justice in the transfer of district judges for temporary or specialized duty; and makes overall recommendations concerning the operations of the system. All of these matters are of keenest personal and professional interest to the chief district judge.

Looking at the local judicial organization, the district judge, especially the chief district judge, will be concerned with two officials: the clerk of superior court and the magistrate, the latter a new, statutory officer of

the district court. It is likely that his statutory supervision over the work of the clerk will be general and non-specific, especially since the clerk's office becomes, in practical effect, a State office, operated largely in accordance with uniform regulations issued by the State.

The chief judge's relations with the magistrate, however, are likely to be less impersonal. In the first place, he must prescribe the times and places at which each magistrate will conduct judicial business, and, of even more difficulty, decide which magistrates shall be authorized to try small claims cases, and, finally—probably by standing rule—assign or withhold assignment of each small claim case. Since the district judge must hear all appeals from the magistrate, he is going to be keenly interested in the quality of justice dispensed by the latter. Although he does not have the magisterial appointment power, his recommendations concerning salary (to the Administrative Office) or reappointment (to the senior regular resident superior court judge) are likely to carry great weight, and for alleged misconduct he has the power to suspend a magistrate from office, pending a hearing in superior court. If a county needs additional magistrates the chief judge, under Sec. 7A-171, initiates the machinery for obtaining the needed assistance.

Special Powers of Chief District Judges over Traffic Offenses

The 1965 Act provides a somewhat new and different approach to the handling of traffic offenses. Gone will be the haphazard, unsupervised, and sometimes unfair system of traffic justice now administered by over 1000 lower court judges, mayors and justices of the peace. *The responsibility and authority for the fair and efficient adjudication of traffic misdemeanors will be centralized in the hands of the chief district judges*, of whom there will be only 30 for the entire State. The magistrate, it is true, is in some ways a replacement for the abolished justice of the peace, but in traffic matters he is merely a clerical arm of the district court judge.

In traffic offenses, the magistrate will be allowed to accept guilty pleas only, and even then only to offenses specifically listed by the chief district judge. The amount of the fine will be specified for each listed offense. (Costs of court, of course, are uniform.) It is not likely that offenses for which confinement is appropriate, or which involve serious moving violations, will be listed. The chief judges are required by law to assemble once a year to prescribe, among other things, a uniform statewide list of traffic offenses for which magistrates may accept written waivers of appearance and trial and pleas of guilty. Persons charged with traffic offenses who desire to plead not guilty will be bound over by the magistrate, if probable cause is found, for trial by the district court, or for grand jury action. The subject of North Carolina's handling of traffic cases in the new district court system is discussed more fully in the October, 1965, issue of *Popular Government*.

Miscellaneous Powers of Chief District Judge

Some of the duties of a chief district judge, quoted earlier from Sec. 7A-146, are reasonably clear and require no discussion; other duties have been amplified in earlier comments regarding specialization and the judge's relationship with the clerk and the magistrate. A few duties, mentioned in Sec. 7A-146, or elsewhere in the 1965 Act,

or both, require special consideration.

The courtroom facilities at authorized seats of court other than county seats (e.g., Hickory, Canton, Fairmont, etc., in 1966-67) must meet the joint approval of the chief district judge and the Administrative Officer of the Courts. (Sec. 7A-130) The cities concerned may in some instances have to improve the appearances of their courtrooms. If the chief district judge determines that a city courtroom does not meet minimum standards of adequacy for a "temple of justice" (and there are some that do not), he is not required to schedule sessions of court in that facility.

In districts which have counties with 100,000 population or over, the chief judge may determine (again jointly with the Administrative Office) that "special counselor services" should be made available in the district to the judge or judges hearing domestic relations cases. (Sec. 7A-134) In the next biennium, the one-county district of Durham and the two-county district of Cumberland-Hoke are covered by this provision. It was the general intent of this section to make available, in the larger counties, professional assistance to a judge specializing in domestic relations (including juvenile) matters roughly to the same extent that such assistance is now available in these counties. The Administrator fixes the number of counselors per district, considering (presumably) the previous level of such services in the district, as well as the availability of State funds. The chief district judge appoints the chief counselor and the designated allowance of assistant counselors, if any, for his district, and they serve at his pleasure. In counties where this system is established, it will operate independently of, but, it is hoped, in cooperation with, the county welfare department.

The Constitution (Article IV, Sec. 21) provides that certain lower court judges continue in office as district court judges for the remainder of their terms when a district court is established in their county. There may be several of these "holdover" judges in phase one (to December, 1968). A holdover judge will perform such duties "as the chief district judge shall determine." (Sec. 7A-145) The chief judge may assign a holdover judge to full-time service, if he is needed, at the annual salary paid regular district court judges. If the chief judge does not consider a holdover judge qualified, however, he is not required to assign him to trial sessions or other judicial business involving difficult matters of law. The salary of the holdover judge will be not less than that which he was receiving formerly, and may be adjusted upward by the Administrator if the judge is assigned to duties requiring more time than he devoted to his former judgeship. To eliminate any problem with respect to holdover judges in phase two of the transitional period, Sec. 7A-145 contains this provision:

"The term of any judge taking office after the ratification of this Act [27 April 1965] to serve any existing inferior court in a county shall, unless it has sooner expired, automatically expire on the date on which a district court is established for that county."

Sec. 7A-192 states in part that the chief district judge and any *district judge designated in writing by him*, may in chambers hear motions and enter interlocutory

(Continued on page 23)

the Dilemma in Police Recruiting

by Norman E. Pomrenke

For several years the majority of the local law enforcement agencies in the United States have experienced a serious problem in recruiting capable persons into the police service. According to recent developments the same problem exists in North Carolina. In some cases, merely replacing normal attrition, is becoming an insurmountable task. In addition to this dilemma, police administrators are voicing and hearing the constant demand for more police officers to combat the increasing crime rate and the complex traffic problem. Add to this the complexities of the preventative aspects regarding juveniles and police manpower needs appear to be awesome.

police salary structures. One large police department, involved in a major police scandal, actually expected to recruit competent personnel with an entrance salary of \$275. This appears to be indicative of a general philosophy regarding the local police service in too many instances.

If we accept the premise that recruitment is critical today, can we expect this problem to lessen in the future? There is little doubt that police recruitment has become a problem of the first magnitude. Most recruiting programs fail to attract a sufficient number of candidates, thus making any selection process inadvertently lower qualitative requirements. The failure of recruiting pro-

ous police agencies in the nation, with beginning salaries above \$7,500, are experiencing difficulties in attracting sufficient candidates. New York City with a top patrolman salary of \$9,000 — reached in three years — is finding recruiting difficult. If all psychological factors regarding attracting candidates to the police service were analyzed, we would probably find that the greatest deterrent to recruiting is one of "position status" resulting from the public attitude toward authority and police in general. This attitude spills over into all segments of our society.

In American society the police officer is generally looked upon with mixed emotions, and this ambivalence



Attraction

Many commentators in the police service, both external and internal, continue to review recruiting techniques that have some degree of success. Their review generally consists of methods of attraction. Other commentators dwell solely on salary factors. Neither phase can be ignored in police recruitment. Needless to say, initial police salaries are low considering the results that are expected from the police service. In personnel administration there is a maxim that states, "Adequate salaries do not insure competent personnel, but, you seldom attract competent personnel without adequate salaries." It is amazing the level of service munici-



The author (left), an assistant director at the Institute of Government, lectures to a Police Administration class being held at the Knapf Building.

palities receive and expect considering programs gives indications of becoming more acute and points strongly to becoming more serious in the future.

One of the measurements, that tends to indicate the increased acuteness in attracting recruits, is the number of police officers recruited immediately following World War II. Many of these men now form the nucleus of a number of municipal police departments. This identical large number will become eligible for retirement during the period 1965-70. Should any appreciable number of this group exercise their option to retire, the result would become alarming.

Position Status

Even though salary is a primary factor, there appears to be an even greater underlying factor that contributes to the dearth of candidates entering into the police service. Vari-

can be traced to the development of our society. Actually, the police officer is related to the citizen at two levels and in two distinct roles. As a member of society he is the employer of police. As an employer of police he has developed certain attitudes toward the general concept of law and order. These attitudes are primarily philosophical abstractions which form an integral part of society. He realizes that law and order are essential in a civilized society. However, the individual has difficulty in the application of these philosophical abstractions when the law pertains to him as an individual. Generally, the individual replaces the philosophical abstractions of law and order by very real considerations of self-interest and convenience. Actually, then, the police service, from the public point of view, is an incongruity, since the police must, in course of duty, sometimes arrest or inconvenience those



Jim Stinchcomb (left), of the International Association of Chiefs of Police, Washington, D. C., lectures on general aspects of criminology during the Police Administration Course. The Course includes 160 hours of work in 9 sessions.

they serve.

The basic public ambivalence toward the police service lies in the inconsistency and variation of the laws the police agency enforces. This makes the local police service unlike any other enforcement agency within our society. If we consider *mala in se* offenses such as murder, robbery, and other morally wrong offenses, we find that society's collective and individual views generally coincide. However, if we consider the *mala prohibita* offenses, especially in the area of traffic enforcement, we find a vast difference between the abstract view by society and the realistic view by the individual. Essentially, the average person cannot equate his predicament as a violator to the abstract need for law by society. Generally speaking therefore, the average person wants the law, but what he wants it for is the other guy. Miller on Criminal Law states, "... crimes *mala in se* are those so serious in their effects on society as to call for the practically unanimous condemnation of its members; while crimes *mala prohibita* are violations of mere rules of convenience designed to secure a more orderly regulation of the affairs of society."

The general public attitude toward local police thus developed is usually based upon the regulatory offenses — more specifically certain *mala prohibita* offenses that regulate human behavior. This distinguishes local police from the federal law enforcement agencies. The enforcement functions of federal agencies are basically limited to a prescribed series of offenses, most of which are consid-

ered *mala in se*. Thus the concept of "position status", applied to local police, becomes non-existent with other law enforcement agencies.

The responsibility to lessen the present image of the local police service rests with all segments of society including the police service. Historically the police service has never been a popular or attractive position. It was generally left to a particular socio-economic class in the past and only recently have attempts been made to upgrade. From time immemorial police have been accused of being corrupt or at least in league with the crooks. Sometimes they were, but this legacy has remained despite the marked progress in the professionalism of police and the increased standards of local police departments in recent decades.

Problems in recruitment, and especially attraction, will continue until the image of the local police service is elevated. The remedy cannot be instant, for creating an image is a long and arduous task. If efforts were concentrated by all facets of municipal administration, attracting a suitable number of candidates for the police service would be possible.

Role

The role of the police officer in our modern democratic society has a vast impact upon the preservation of our basic freedoms. Despite the fact that the last two decades has seen major improvements in the police service, these improvements can still be broadened. In a period that has been characterized by remarkable technological advances, the progress of the enforcement arm of government must continue to grow correspondingly.

Perhaps the most perplexing impediment to progress in law enforcement has been our inability to clearly define tasks and thereby to evaluate the true need for police personnel. In a community that measures police service solely in terms of tax dollars, the need for highly motivated and efficient persons is not likely to be met. There is no question that law enforcement continues to fill its ranks with a number of persons that are not capable of professional serv-

ice. It is the rare police or local administrator that can break from the pack and invest his staff with quality rather than quantity.

Status vs. Service

People, in general, are attracted to a particular occupation or profession for a variety of reasons which normally lead to success or satisfaction within that particular position. "The successful person is the one whose work brings him true satisfaction."

What do you regard as success? Is the man who makes the most money the most successful? Or is it the man who works the fewest hours? Is direct service to humanity an important goal for you? Do you require the respect, even the envy, of your fellows, or are you capable of being happy in doing what you like regardless of whether it brings prestige?¹

According to Professor Ruch, these or similar questions are answered when we choose to enter a certain occupation or profession. Ruch further states, "It is important to recognize that people in general are very much influenced by what other people think of their work and obtain satisfaction from knowing that they are in a profession respected by others." The concept of "occupational status" is becoming a more pronounced factor in determining the type of employment an individual chooses to enter.

The status consciousness of our society has been the subject of many books, and it is becoming an important aspect in job determination. The business and industrial world has realized this and adjusted its organizations accordingly, particularly in attracting the type of personnel they need. "Most men will put forth a considerable amount of effort in order to win the respect of their associates, that is, to maintain and improve their social status."²

What is this term "status"? Pro-
(Continued on page 28)

1. Floyd L. Ruch, *Psychology and Life*, 4th Edition, Scott, Foresmann and Company, 1953, p. 357.
2. William H. Newman, *Administrative Action*, 2nd Edition, Prentice Hall, Inc., 1964, p. 392.

Insurance Purchasing through an Insurance Advisory Committee

by Michael G. Allen

[Editor's Note: The following article has been adapted from the author's address to the Municipal Finance Officers Conference, March 4, at the Institute of Government. Mr. Allen is executive secretary of the Charlotte-Mecklenburg Insurance Advisory Committee.]

Acquiring proper and adequate municipal insurance is a complex problem. Although this article cannot create insurance experts or even answer all of the questions, perhaps it will encourage finance officers to open the filing cabinet, take out the folder marked "Insurance," dust it off, and give it careful review. Recognition of insurance problems and suggested sources for assistance in solving these problems will be the major considerations of this article.

This discussion of municipal property insurance covers five phases: first, the problem; second, how Charlotte and Mecklenburg County have met the problem; third, where to seek aid in a given area; fourth, how to go about purchasing insurance; and fifth, some ideas or thoughts for local investigation.

The Problem

Most assuredly an insurance problem exists for municipalities. Many local officials have asked specific questions, and insurance is becoming more and more important to everyone. Insurance will continue to become increasingly more important to the municipality. Twenty-five years ago insurance was available and, of course, it was purchased — but probably on a piecemeal basis. The public lacked the awareness of insurance that it has today. Now, the minute two cars come together, be it a minor accident or a major one, everybody seems to have sore necks and sore backs because they know insurance is involved. Today close friends don't hesitate to sue and sometimes help each other in the suit, because of insurance. Due to

lessons learned in the so-called "Hurricane Alley" along the east Carolina coast, the public has become familiar with extended property insurance coverages, and when a small maintenance problem comes up in the home, insurance coverage is investigated. Municipal agencies also need to take a closer look at their insurance coverage and seek competent assistance. Laymen wouldn't think of trying to solve their own legal or medical problems, and insurance is not too different. Insurance is a professional business and the assistance of professionals is needed by governments.

Another problem is the adequacy of local insurance programs. The majority of today's municipal insurance programs haven't been upgraded or investigated in many years. Twenty years ago a blanket bond in the amount of \$5,000 on employees might have been sufficient, but today it is not reasonable for a city with a multi-million dollar budget to have a blanket bond of only \$5,000. This is false economy. A program that is not adequate to cover the majority of exposures of a municipality is no better than no program at all.

The Insurance Advisory Committee

What is this Charlotte-Mecklenburg Insurance Advisory Committee? Some history of the insurance program in the city and county will illustrate this new concept in municipal insurance programming.

The City of Charlotte, the County of Mecklenburg, and the other related agencies once handled their programs pretty much on the same basis that many municipalities do. They had a group of area insurance agents whom they called an insurance committee. When insurance assistance was needed, the municipal agency called on this committee, which tried to solve the problem. That was sufficient several years ago. Charlotte was not so large as it is today, and insurance problems

weren't so complex. But as Charlotte grew, the problems grew. The local agents realized that they were not doing an adequate job of looking after the insurance of the city and the county. And, due to the complexities of the situation, municipal insurance was taking up more and more of their time. The agents began looking for a better way to handle the situation. They devised what is now called the Charlotte-Mecklenburg Insurance Advisory Committee.

Basically this is a committee formed jointly by the city council and the county commissioners. Three members of the Committee are appointed by the council and three by the commissioners. Members are appointed for three-year staggered terms, as are members of many other municipal boards. This insurance committee operates under a set of by-laws drawn up by the local independent agents in the county and adopted by the council and the commissioners. The by-laws empower the six-man board to employ a full-time executive secretary. He is essentially an insurance manager for the City of Charlotte and the County of Mecklenburg. The secretary is charged with the responsibility of discovering exposures, suggesting adequate coverage, and continually upgrading the insurance plans of municipal agencies.

In addition to serving the needs of the city and the county, much more is involved. Through the Charlotte-Mecklenburg Insurance Advisory Committee goes the insurance for the city, county, schools, auditorium-coliseum, airport, park and recreation commission, ABC board, housing authority, redevelopment commission, public library, and Central Piedmont Community College — a considerable amount of insurance. Individual insurance problems are not so large. But combining cities, counties, schools and the other agencies in an area creates a very large insurance program. For example, the Charlotte-Mecklenburg Board of Education is the largest single busi-

ness in Mecklenburg County, the 40th largest school board in the United States. Many corporations not nearly so large have their own insurance departments. By the same token, why shouldn't a municipality have an insurance department? The Advisory Committee is just that. It has given the municipal agencies an insurance department of their own.

Financing

When the Advisory Committee was formed, the agents said, "We will foot the bill." Necessary coverage is purchased from a local independent agent through the Advisory Committee office. The Committee is billed for the net, or wholesale, premium. The Committee bills the City of Charlotte or other agency the gross, or retail, premium. The commission on the insurance is retained by the Committee to pay the expenses of the office.

At the end of the fiscal year any remaining commission or "profit" is distributed to all independent insurance agents doing business in Mecklenburg County. Commissions are distributed on a point basis. Points are assigned to the various agencies based on such factors as size of office (number of employees residing in Charlotte and Mecklenburg County), amount of payroll, and percentage of time devoted to insurance. There is a maximum number of points an agent can receive, so that one large agency does not get the majority of left-over commissions.

Obviously, these insurance agents are receiving less money on the municipal accounts. However, they are civic-minded members of the community and, above all, taxpayers. They want to make certain that the insurance programs of Charlotte and Mecklenburg County are adequately handled on an economical basis. The committee idea has eliminated from the agents' shoulders a considerable amount of work which took much of their time away from more productive business. Since the Committee has been in business, I feel that the plan has worked very effectively, and from all indications the local agents are very pleased.

The question has been asked, "Do we deal through stock or mutual insurance companies?" The Committee makes no distinction whatsoever between stock or mutual companies. Some distinction, however, is made in

that the Committee deals with insurance agents who are independent businessmen in the city and county. Thus the Committee does not deal through direct-writer insurance companies, for these companies or agents do not have latitude in the placement of their business (since they represent only one company and no commission is involved). They operate on a fee basis and have no commission to contribute to the operation of the Insurance Advisory Committee.

Committee Functions

What does the Committee do in Mecklenburg County? There is far more to insurance than simply renewing policies. Some of the points on Committee action covered below may give impetus for local investigation.

Record Keeping

First, an office is maintained with records of all insurance policies carried on municipal agencies. This is advantageous in that Committee members are experienced insurance people, able to keep current, up-to-date records of all policies in force.

Budget Preparation

Second, the Committee prepares insurance budgets. It is difficult even for an experienced insurance man to project insurance costs for the coming year. I cannot imagine how people unfamiliar with insurance are able to project it easily and accurately. I feel that budget preparation has been an invaluable Committee service to municipal agencies in the Charlotte-Mecklenburg area.

Construction Planning

New construction is preplanned. When the mayor cuts the ribbon at a new fire station, he will be followed by State engineers who will examine the building to determine the fire insurance rate. Even a small discrepancy found in the building would increase that rate. It would be too late then to make a construction adjustment to eliminate this deficiency charge. Thus the committee works with the architect *when the building is on the drawing board*, giving him assistance in determining what the rate will be on the building when it is completed and looking for small changes that can save untold dollars in insurance premiums over the life of the building.

Various construction departments

are assisted and advised in determining if contractors have adequate insurance.

Loss Adjustment

The Committee assists in the adjustment and coordination of losses when they occur. In the past when an adjuster had a loss for a municipal agency, he often had difficulty finding exactly which department to contact to have various forms completed and signed. The Committee coordinates this activity and also eliminates wasted time for city and county officials in discussing losses with adjusters. Committee-adjuster conferences precede conferences with the municipal officials at which the adjustment is completed. If it is necessary to speed up a claim adjustment, the Committee attempts to implement a speedy and satisfactory conclusion.

Lease Negotiations

Practically every lease signed has some insurance provisions. The Committee assists in complying with insurance requirements in leases negotiated by the city and county and advises on such matters.

Safety

A municipal safety program can save considerable amounts on insurance. An injured employee out of work must be replaced; so the savings go further than just insurance costs.

Certificate Standardization

Certificates of insurance from various insurance companies are all different and it is often difficult to determine what the certificate says. The Committee has devised its own insurance certificate. It is fairly simple, so that any clerk can check the right-hand corner to be sure that all blanks are properly filled out.

Renewal Checks

Mistakes are made now and then. Insurance policies are complicated and all are different. The Committee checks renewals closely for accuracy, and occasionally errors are located. These are worked out with the insurance company and agent. On occasion this has resulted in sizable savings.

Information Service

Answering insurance questions is also a Committee function. Daily, various questions come up: "Can we do this or that and are we covered for

this or that?" Because city and county officials need a central source from which to obtain answers to insurance questions, the Committee attempts to give immediate decisions.

Exposure Searching

The Committee continually looks for exposures, because uninsured items are bound to exist in an area as large as Charlotte - Mecklenburg. Various department heads are questioned to determine if all exposures are properly covered. New buildings going up, new employees being hired, new purchases — all are examined to see if they will be adequately covered.

Sources of Assistance

Where can a finance officer find insurance help? Perhaps a small town can't afford a set-up like this; its insurance premiums might not support an organization such as that of Charlotte and Mecklenburg. But some areas, by combining cities, counties, school systems, and other agencies, could definitely support such a program. Other areas of North Carolina are looking into this insurance plan and several are very close to going into business. Additional areas will definitely take an interest in it. The Advisory Committee has received inquiries from interested cities and towns not only in North Carolina but throughout the United States. But what about the smaller areas which can't afford a full-time man?

An independent insurance agent may be a fellow civic club or church member, and readily accessible. These independent agents are taxpayers. They are civic-minded and more than happy to assist the home community. Even a small town can set up an insurance committee. Local independent agents, given the community's confidence, would probably be happy to form a committee to look after local insurance and serve as a reference source. Such agents represent a multitude of companies, including the larger ones in the country. All they have to do is telephone an insurance company to obtain a group of professionally experienced agents to assist the local government. The companies want business, and they are eager to be of assistance.

By forming advisory committees, local agents become sources of assistance. Local officials usually have more than enough to do without the added burden of handling insurance prob-

lems — a professional job that needs professional attention. Perhaps the local committee can't hire a full-time man, but the committee chairman can be the contact man.

Insurance Purchasing

A discussion of methods of purchasing insurance involves the pros and cons of bidding on insurance. Insurance is an intangible product and I do not believe in taking bids on intangibles. Would anyone consider taking bids on legal or medical advice? I doubt it, and I don't think you can take bids on insurance advice. If all that is needed is a policy, then possibly a bid could be accepted; generally much more is needed than the mere policy.

Many people think all insurance is good. Assuredly, it is not. Specifically, all municipal insurance is not good. The experience of Charlotte will illustrate my point. Charlotte's automobile experience was horrible. Losses were exceeding the premiums. One day Charlotte officials called their agents' advisory committee and advised that the automobile fleet policy for Charlotte had been cancelled because of adverse experience. The group of agents in charge of Charlotte's business ran into great difficulty reinsuring the fleet. In one office they weren't even allowed to sit down. They received an approval from another local office, only to be rebuffed by that firm's New York office. At length they were successful in finding a company that agreed to write the policy — but only on a retrospective rating basis, including the workmen's compensation coverage.

A retrospective rating is basically a cost-plus plan. The company will charge an estimated premium, pay the losses, provide the service, and at the end of the policy year return to the city any difference in the losses and the premium (after deducting taxes, service, and miscellaneous charges). In that manner the city is rewarded for good experience.

After the first year's operation of the retrospective rating plan, the City of Charlotte received a check for an adjustment of \$32,000. This was possible not just because they had an insurance policy, but because they had something more. The insurance company had sent safety engineers to work with the Charlotte safety engineer. They gave serious attention to safety, and with a workable safety pro-

gram in Charlotte they were able to reduce claims and realize those savings. Savings during the second year of the plan's operation, just ended in January, were even larger.

Such savings would not have been possible had bids been taken on the fleet insurance. The bidder is looking for the low dollar and the low dollar would have been so low that the company would not have been able to provide the safety engineering services.

There are 100 pennies in a dollar. Insurance companies are not in the business of giving money away, and it is certain they will make a profit — or try to. The State requires that of every premium dollar, technically 50 cents in losses should be returned to the policy holder. In other words a 50 per cent loss ratio is allowed. The following are not accurate figures, but they will serve for comparison. Assume that an insurance company says, "Out of every premium dollar we are going to pay 50 cents in losses. We are going to use 40 cents of it to pay the services, the adjusters, engineering services, taxes, and other fees. We will make ten cents profit." When it comes to bidding on an unprofitable account, the insurance company will look at it and say, "We will have to pay more than 50 cents in losses. We will probably have to pay 75 cents." Certainly that extra 25 cents is not going to come out of the profit dime. It will come out of the services, thereby reducing those services. The old adage "you get just what you pay for" is true.

Service can't be written into the specifications. Furthermore, specifications should be drawn up by an expert, and bids received need expert analysis. I do not feel that taking bids is the answer to low-cost municipal insurance.

Obtaining Adequate Service

Instead of taking bids, the Charlotte - Mecklenburg Insurance Advisory Committee obtains quotations on insurance. The Committee consists of experienced insurancemen who know which companies can give the service and the facilities that are needed. They know which ones have local adjusters stationed in Charlotte who can give round-the-clock assistance. They know which ones have appraisers on their payrolls who can appraise public buildings. They know which ones pay their clients locally. All of these things enter into the determination of which

companies will be asked for quotations.

Charlotte's boiler insurance policy will serve as an example. In Charlotte and Mecklenburg County boiler insurance covered the city, county, schools, and all other related agencies under one policy. In making a study of this policy, papers were knee deep and still it was impossible to tell which boilers were covered and which weren't. It was known, however, that very few boilers were insured. After a list of all locations owned by the city, county, schools, and other agencies had been compiled, it was determined that there were approximately 350 where boiler exposure might exist. It would be necessary to visit every location to determine the boiler exposure.

To rate a boiler insurance policy, a description of the boiler, its size, and various other items need to be known. There were only a dozen companies in North Carolina which were writing boiler insurance, and not all of those 12 had facilities in Charlotte and Mecklenburg County to gather the necessary information. Letters were sent to the 12 companies with a list of locations, stating that the Committee would entertain quotations for adequate coverage for these municipal boilers. The companies had to have the facilities to visit these locations to determine the exact boiler exposures. Quotations were received from only five or six companies. Those which did not submit quotations were those which lacked boiler inspectors. In boiler insurance the inspection service is vital, as is immediate assistance in the event of a claim. There is no time to wait for a man to be flown in from the West Coast.

After receiving the various quotations, the entire Advisory Committee met and evaluated them to determine not only from a *cost* but from a *coverage* standpoint what was being offered and which was the best and most economical for the municipal account. Thus the Committee does not arbitrarily purchase policies from any and everybody. Studies are made and the market is shopped.

Insurance Splitting

The idea of dividing insurance business among all agents in a given locality is of concern to many prospective municipal insurers. Many reason that, "There are 15 agents in town and we feel that we have to give all of

them a little of this business or they will be angry." How many barbers or doctors or lawyers are angry with individuals who are not among their clientele? Certainly one does not use every lawyer in town for legal advice.

If insurance is split into ten or 15 small parcels, no single agent really gets enough business to care about. Writing an insurance policy is quite an expensive operation on the part of the agents. Most of them realize that they are actually losing money by writing the little policies and prefer not to have them. If business is divided too finely, no one agent really feels a service obligation to the municipality.

For example, assume that municipal business is split among various agents all over town. A new policy comes out which would save money and offer better coverage. One agent may assume that another agent will inform the municipality about the new policy, and the other agent may assume that the first agent will pass along the information. Perhaps in three years the municipality will discover that had it bought that policy when it first became available, a considerable saving would have been realized.

I firmly believe in putting all my eggs in one basket or in one area: this gives the agent an obligation to keep the insurer abreast of new developments. It also gives the insurer a definite answer source for problems. Use of an insurance advisory committee permits a single "basket" and still distributes commissions among the agents.

Specific Examples For Local Investigation

A discussion of some specific examples may suggest points to compare against present municipal insurance programs. Following are a number of brief cases taken from the report of the first year's operations of the Charlotte-Mecklenburg Insurance Advisory Committee.

Vandalism Coverage

The City of Charlotte added vandalism coverage on all buildings. A study determined the number of vandalism losses to Charlotte's properties. Results of the study demonstrated that quite a bit was being spent on paying these losses out of the municipal pocketbook, whereas insurance was considerably cheaper.

Construction Contracts

The Advisory Committee assisted the engineering department with insurance requirements in city contracts. The basic problem is evaluating the insurance carried by contractors working for the city. Serious study should also be given to the amounts of insurance required of municipal contractors. One electrical contractor was found to be working on a multimillion dollar hospital with a third-party, property damage liability insurance limit of \$5,000.

Employees' Bonds

Bonding programs warrant serious study. The \$5,000 blanket bond on a municipality with a multimillion dollar budget is simply not realistic. Probably this limit of coverage can be increased to a much larger limit, particularly if there is excess coverage on specific employees, at not much increase in cost. At a nominal increase in cost, the Committee increased blanket bond coverage from \$5,000 to \$100,000.

Shopping can sometimes save money. For example, a treasurer's bond was renegotiated at a \$440 per annum saving. [*Editor's Note: An article covering municipal bonding more fully will appear in a forthcoming issue of Popular Government.*]

Fire Insurance

Fire alarm systems were obtained for a major building, thereby reducing the fire insurance rate. In one major building, insured for many thousands of dollars, installation of a fire alarm reduced the fire rate sufficiently to more than outweigh the cost of the alarm. One unused fire alarm was found in the fire department and was installed at practically no cost at all. A minor change such as addition of "no smoking" signs sometimes reduces the rate. With competent assistance, one can find out exactly what is being charged in the fire rate on specific buildings.

Fire insurance rates were reduced by improving gasoline pump arrangements in the county garage. A gasoline pump was located inside the garage building. By removing the pump outside and a sufficient distance away, the fire insurance rate was reduced considerably.

Fire insurance rates for Mecklenburg County were further reduced by

(Continued on page 25)

PARKING, PENALTIES and the PUBLIC: the Dilemma of the Dollar

by Allan Ashman

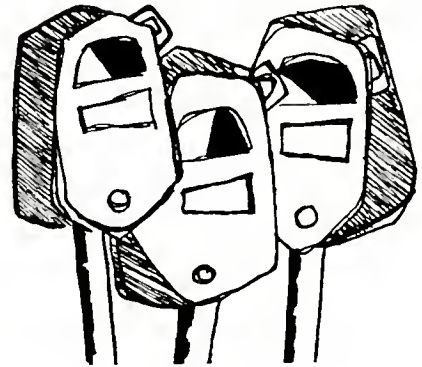
Municipalities in North Carolina may enforce their municipal ordinances either by imposing monetary penalties to be sued for in a civil action of debt,¹ or by prosecuting under the law of the State which makes violations of municipal ordinances a misdemeanor, punishable by a fine of up to \$50 or imprisonment not over 30 days.² Confusion seems to arise over the difference in the two methods and in the disposition of the payments collected from offenders thereby. The North Carolina Supreme Court has made a distinction between a penalty and a fine. A "penalty" is said to be in the nature of a debt and must be sued for in a civil action while a "fine" is held to be the sum of money forfeited to the court and the sentence pronounced by the court for the violation of the criminal law of the State.³

But why does this distinction seem important? The reason lies in the language used in Art. IX, §5 of the North Carolina Constitution which provides that: "All moneys, stocks, bonds and other property belonging to a county school fund; also the net proceeds from the sale of estrays; also the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal or military laws of the State . . . shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State." (Emphasis added.) It has been held in *Board of Education v. Henderson*⁴ that this section appropriates all fines for violation of the penal laws of the State to the county school fund — whether the fines are for violations of town ordinances, made misdemeanors by G.S. § 14-4, or other criminal statutes. "This is not so with regard to 'penalties',"

the Court added, "which the defendant may have sued for and collected out of offenders violating its ordinances. These are not penalties collected for the violation of a law of the State, but a town ordinance."⁵

Assume, then, that we have a city ordinance which establishes an on-street parking meter system with a proviso that the owner or operator of a vehicle parked in violation of the ordinance may pay the sum of one dollar as a penalty, in full satisfaction of each violation, and that failure to make the payment of one dollar, within a stipulated period, will render the owner or operator subject to criminal prosecution. Our first question is what does this \$1 voluntary payment constitute? Is it a civil penalty to be retained by the municipality, or a criminal fine to be directed to the county school fund? In practice the voluntary payment has been treated as a civil penalty with the moneys collected going to the municipality. If the motorist voluntarily elects to pay the required penalty the money has been retained by the city whereas if the motorist fails to comply with the payment provisions and is subsequently prosecuted under G.S. §14-4, any "fine" imposed upon conviction has gone to the county school board.

However, there is no case which has interpreted the nature of the one dollar payment. It would probably be safe to say that the procedures adopted by the municipalities in regard to the \$1 payment have developed by analogy rather than by case law. The system which has evolved is one where the cities impose penalties for violations of their ordinances governing on-street parking, and do not attempt for practical purposes — because of the "non-criminal" nature of the violation and the sheer volume of ordinance violations in this area — to prosecute under G.S. §14-4, except



where the violator refuses to pay his \$1 penalty.

Thus it would appear that the custom and usage with regard to the disposition of the \$1 payment is based not so much on what the Constitution states or seems to mean, but on the optimism of the municipalities that no one will question such a simplified, and ostensibly sensible, regulatory scheme and that those "notified" of a traffic or parking infraction will pay the \$1 penalty forthwith.

A recent advisory opinion of the Attorney General's office, however, would seem to jeopardize some of these methods for enforcing on-street parking violations in North Carolina municipalities.⁶ The opinion states, in essence, that moneys collected by the city of Burnsville for overtime parking in the town's parking meters are in the nature of "fines", as the term has come to be understood, and under Art. IX, §5 of the Constitution must be directed to the Yancey County Board of Education. This conclusion in effect reverses an earlier opinion of this same office which held the \$1 payment to be in the nature of a civil penalty and not within Art. IX, §5.⁷

The recent opinion states that "whether we label this money appropriated as a 'fine' or 'penalty', . . . is inconsequential," since, "according

(Continued on page 22)

1. N. C. Gen. Stat. §160-52 (1964)

2. N. C. Gen. Stat. §14-4 (1953)

3. *Board of Education v. Henderson*, 126 N. C. 689, 36 S.E. 158 (1900)

4. *Id.* at 692, 36 S.E. at 160, 161

5. *Ibid.*; See also *School Directors v. Asheville*, 137 N.C. 503, 509, 50 S.E. 279, 284 (1905)

6. Opinion of the Attorney General, 26 Aug. 1965, to Mr. William Atkins at Burnsville

7. Opinion of the Attorney General, 24 Feb. 1960, to Mr. Harry C. Martin of Asheville.

Medical Aspects of Traffic Safety

by John Morris, M.D.

[Editor's Note: Dr. Morris has been a leading advisor on medical matters to the State Department of Motor Vehicles. This article is adapted from his remarks to the AAMVA Driver Improvement Training Course held at the Institute earlier this fall and covered in more detail on page 20.]

When we think of the medical aspects of traffic safety, we naturally turn at first to consideration of the older driver, the senior citizen. Of drivers 65 and over, the accident rate, in terms of miles travelled, is exceeded only the rate for drivers under 25 years of age. Frequently reported errors made by older drivers include inattention, failure to drive in the proper lane, failure to signal or to observe stop signs and signals, and unreasonably slow driving on busy highways.

These are the problems that face an older driver in today's traffic:

- As age progresses, hearing and eyesight are less keen.
- Judgment is slower. It takes longer to recognize traffic situations and to make the necessary decisions.
- Physical dexterity is weakened. Older people haven't the same ability to act with speed and decisiveness in an emergency.
- Older drivers are more susceptible to injury and death. What would have been a minor accident at an earlier age could mean serious injury or death now.
- The older driver is apt to forget that the volume of traffic is increasing all the time and that new rules and regulations are being continually introduced.

Safety for Senior Citizens

To meet these problems we suggest the senior citizen consider the following points. They are designed to make driving safer for him and his family, and, equally important, safer for the *other* motorist who all too often pays dearly for the poor driver's mistakes.

1. Get his doctor's frank advice about his driving ability. If he is advised to avoid heavy or fast traffic or night driving, follow this advice.
2. He should keep himself fit and well. Drive only when he feels up to it.
3. He should *NOT* drive after taking medication unless his doctor says it is safe to do so. Many drugs prescribed for high blood pressure, for nervousness, for heart disease, for infections, for diabetes and many other conditions can prolong the life of the older person. But the same drugs can cost him *his* life and the lives of others if he gets behind the wheel of an automobile.



4. He should be alert — and try to anticipate any sudden or unsafe action by other drivers, pedestrians, and especially children.
5. He should keep up to date on traffic laws and rules of safe driving. We sincerely believe any driver's salvation on the road today depends on his ability to drive defensively.
6. He should have a driving instructor check his driving and make suggestions. This can help polish up his driving knowledge and skill and keep him informed about current traffic laws and procedures.
7. Every trip, long or short, should be planned before setting out. Heavily travelled or high-speed routes should be avoided. It is advisable to stay away from routes or zones that bother him.
8. He must not obstruct faster moving traffic by unreasonably

slow driving. If he is impeding traffic behind him, he should pull off the highway and allow it to pass. Better still, he should choose another route or a less busy time of day or week to travel.

9. He should keep his car and its equipment in safe condition and take his car in for regular check-ups. He should not only have the conventional rear-view mirror but also a side-view mirror. Crowded roads today make this item indispensable on *all* cars.
10. He should keep his windshield, headlights, and his own vision glasses clean. Dirt on any of these interferes with vision, especially at night.
11. He should install and use safety belts for every passenger. Why should the person in the back seat not have the same protection afforded by seat belts that is given the ones riding in the front? Just recently on Highway 70-401 South from Raleigh, two passengers in the back seat were killed when the ones in the front were not. Belts could have perhaps saved their lives. In my 25 years of treating automobile casualties by no means were they all riding in the front seat. And many back-seat passengers are ejected when the doors fly open and are killed on the hard surfaces of road, rock, tree, or car.

In evaluating the senior citizen and his responsibility to operate a motor vehicle — and this applies not only to the older driver but to all driver license applicants — notice should be taken as to whether the car is in safe operating condition. If the tires are slick, brakes are poor, steering is faulty, lights are defective, or other glaring defects are present this marks this individual as a careless and reckless driver. On today's high speed

highways with crowded traffic, there is no place for the driver who is careless about the safety up-keep of his car. Any driver with an obviously unsafe car should be suspected as one who is not concerned about his own safety or that of others — and careful thought should be given to whether he deserves to have the privilege of driving. As Sidney J. Harris recently pointed out in his column: "The plain fact is that few of us are willing to pay the price to reduce the highway death toll to its unavoidable minimum."

Medical Problems

For certain medical problems of a specific nature we will consider some views held by various medical groups. Any discussion should be prefaced by a note of caution when it comes to interpreting what I am going to say. People are different. A condition which may make one person an unsafe driver may interfere little or not at all with another. Therefore, each case must be considered individually. Non-medical persons are not expected to make the decisions. Indeed, they should not try to do so. But they must know something about these medical conditions and what they mean so they can recognize the potentially disabling possibilities and have these driver applicants properly evaluated by the proper medical authorities.

Nearly all experts in the field of traffic safety, those who have spent years in study in the effort to do something about the traffic toll, are in accord that driver behavior from whatever cause is the major problem. Certain medical conditions may be responsible for faulty driver behavior. Without attempting to list all the medical problems which might affect driver ability, the more frequently encountered conditions will be discussed at some length.

Black-Outs

The term "black-out" is used to indicate a temporary loss of consciousness, a loss of realization of what is going on around oneself. It can be due to a variety of conditions which may affect the heart, the blood vessels, the parathyroid gland, the pancreas, the pituitary gland, the adrenal glands, and others. A "black-out" may result from epilepsy. From whatever cause, it is a condition which

INDICATIONS FOR MEDICAL EXAMINATIONS

Licensees or applicants may be requested to have medical examination under many conditions, and the following are suggested circumstances under which examination would be indicated:

1. Following accidents in which the driver indicates contributing medical factors such as loss of consciousness, failure to see collision objects, etc.
2. The presence of gross physical impairments at the time of application for, or renewal of, driver's license. Candidates should present themselves in person for renewal as well as original license
3. Upon written notification by a responsible individual
4. Reports from physicians as required by law
5. Reports from physicians on voluntary basis
6. Notification from other states received through the National Driver License Register
7. Staff physician reports at the time of discharge from mental institutions
8. On the basis of previous examinations which have revealed medical limitations
9. Following multiple accidents or multiple offenses within prescribed calendar periods
10. Licensees placed in the assigned-risk pool for reasons other than financial liability or minimal licensing age
11. School health reports reviewed at the time of enrollment in driver training classes

must be positively and completely identified and this can only be done by a doctor. It may be curable, it may not. It certainly may be fatal if it occurs while one is driving a car. The responsibility of the licensing officer is great to avoid letting a person with admitted "black-out" spells, or even suspected ones, drive until he has had a complete medical evaluation.

Epilepsy

Perhaps only a very small number of accidents result from epilepsy. It has been estimated at less than one per cent. But uncontrolled epilepsy is death on the highway. The AMA recommends a two year period without a seizure and assurance that control is satisfactory before allowing a person to drive. A careful explanation to the patient will nearly always convince him that he should not drive unless he is controlled.

There are two forms of epilepsy. One is characterized by a state of suspended animation. The person

seems to be in a daze. He does not necessarily fall out but he usually does not react to any stimulation. If driving, he may "freeze" to the steering wheel, be unable to turn the wheel, apply brakes, blow a horn, or in other ways avoid an accident even though he may have plenty of time. He sees, yet he does not comprehend. He hears, but his senses are so dulled he cannot react to warning signs. He will run a red light, or a stop sign, or go off a curve and turn over, or pile into the rear of a stopped car ahead.

This is known as a *petit mal* seizure. It literally means "little sickness" or "little malady."

This is contrasted to what is known as the "grand mal" seizure or attack, or "big sickness". The latter is a loss of consciousness and is accompanied by convulsions in which there are severe muscular contractions, the head and neck are pulled backward or to one side, the eyes roll back in the head, the patient bites his tongue, foams at the mouth, grits his teeth,

often turns blue, and if standing or sitting will fall in the floor and can possibly injure himself. One can imagine the result if he is driving a car. These attacks can be set off by a drink of alcohol, fatigue, night driving with oncoming bright lights, emotional stress, and other factors. We have found a night-time bus driver in one of our larger cities who has epilepsy. He asserted he had not reported the condition because he only had seizures in the daytime. This we doubt.

In any event, even a controlled epileptic who is seizure-free for two years should not drive a commercial or passenger-carrying vehicle. The risk is too great.

Before leaving epilepsy, bear in mind that some of the drugs which are used to control epilepsy produce profound drowsiness in some people. The doctor must weigh this factor carefully in assaying the safety factor in this driver.

Emotional Disturbance

While discussing diseases of the nervous system one must be ever mindful of the emotionally disturbed. We must suspect very strongly that many of our one-car, one-occupant fatal accidents which have no logical explanation may be suicidal. The behavior problem who has delusions of persecution, who rebels against the law and society, who is angry and resentful toward police and/or parents may indicate resentment or contempt for the traffic laws and regulations which are set up to safe-guard the public. The suspicions of the licensing officer may not be scientific and may be groundless — but unless he is suspicious he will miss many. In a careful history and physical examination, or examination of this person's past history, or his driving record, or his police record, there may be found a clue to a potentially unsafe driver.

If psychiatric cases have been treated and released from treatment, the attending physician should certify that this patient can drive safely and is taking no medications which will affect his driving ability.

Alcoholism

Known or suspected alcoholics need careful evaluation — the responsibility of the attending doctor. The licensing officer should neither desire

nor have such responsibility. If his condition is arrested, as proven by medical testimony and a long period of sobriety, then he may be as safe as any driver. But with the high percentage of drinking drivers involved in accidents today, a long, hard look at these people should be taken and proof of sobriety required.

Cardio-vascular Diseases

This term is used to apply to the various conditions affecting the heart and blood vessels. Many diseases of the heart vary in degree, in response to medication given as treatment, and in other ways. Perhaps more so-called "black-outs" result from heart conditions than from any other. Certainly heart conditions which are causing dangerous symptoms make their owners hazardous drivers.

Any applicant who says he has had heart trouble or is taking medicines for his heart should bring a statement from his physician saying it is safe for him to drive, or else he should be sent for complete medical evaluation.

Patients with high blood pressure take a variety of medication today. Some reduce the pressure too much, causing fainting or dizziness. The patient should refrain from driving until he is certain his medicines are not going to affect him adversely. Again, certification by his doctor is indicated.

Orthopedic Conditions

With persons who have one or more limbs missing but are fitted with artificial limbs the driving test may determine one's ability to drive. Deformities, arthritis, stiff spines which limit the field of vision, and other orthopedic conditions all have to be carefully evaluated. The doctor and the license examiner can work together to determine the safety factor in many of these cases. With modern care it is easier for the handicapped than it once was, and accessories are available to overcome certain physical handicaps. It depends on each individual.

Medical Assessment

It is not practical to go into a large number of medical conditions but I would like to summarize briefly. In general, the individual should be assessed medically to determine the

answers to the following questions:

1. Has the person the physical and mental ability to manipulate the controls?
2. Is the person likely to suffer excessive fatigue that will impair his driving ability?
3. Does the person have the required vision and hearing for safe driving?
4. Has the person any physical or mental disorder likely to cause confusion or a sudden loss of consciousness while driving?
5. Is the person likely to suffer a temporary impairment of mental, physical, or functional capacity due to alcohol, drugs, injections, or medical treatment, etc., making it unsafe for him to drive?
6. Does the person have good emotional control or has he signs of antisocial behavior or an emotional disturbance making it unsafe for him to drive?

These questions require answers by physicians in most instances. The organized medical association in each state should establish a review board. Licensing officers should request examinations for doubtful applicants, have these reports reviewed, and act on the medical opinions. Every unsafe driver eliminated may be a life saved. We want to give the benefit of the doubt to the driver applicant but so many cases leave no doubt.

Another practical point is to give serious thought to the reported cases of suspected unsafe drivers. Members of certain drivers' families have usually weighed the pros and cons carefully before reporting old Uncle John to authorities. Most of these complaints have basis in fact. It is too late after a 76-year-old couple has driven in the wrong direction to their death in a head-on collision on a super highway. It is too late after a wild 19- or 20-year-old has spun off a curve carrying himself and others to their death. We are compelled to try to diagnose these cases before they happen, not after. For then truthfully we have done too little, too late.

A final reference is the *Medical Guide for Physicians in Determining Fitness to Drive a Motor Vehicle*, published by the American Medical Association. We use it in North Carolina and it is very helpful. □

Financial Considerations of the Prospective Bond Bidder

by Logan V. Pratt

[Editor's note: This article is a transcript of an address delivered by Mr. Pratt before the municipal finance officers of North Carolina, assembled at the convention of the North Carolina League of Municipalities in Asheville, October 29. In his closing remarks he pointed out that in order to maintain good credit ratings, municipal finance administrators must constantly furnish adequate, up-to-date financial information and other material of interest concerning the locality to rating organizations such as the North Carolina Municipal Council, Moody's Investment Service, Standard & Poor, investment bankers, and other interested buyers of their bonds. Mr. Pratt pointed out that in the last thirty years the interest cost that North Carolina local governments must pay has dropped from $\frac{1}{4}\%$ above the national average to a range between that average and $\frac{1}{4}\%$ below it. He lauded W. E. Easterling, Secretary of the Local Government Commission, for his work in improving the soundness of North Carolina municipal credit.]

Pratt is Vice President of R. S. Dickson & Co., investment securities analysts, in Charlotte.]

Aside from market conditions, the primary concern of the investment banking firm in reaching its determination of a proper bid for a new issue of municipal bonds is the ability and the willingness of the issuing unit to meet its obligations. These conclusions must be satisfied not only as to its present ability but for as long as up to 30 years or more in the future. Also, in addition to the firm's task of convincing its customers of the borrowing unit's current as well as projected financial integrity, the firm must be in a position to offer its customer a rate of return commensurate with the risk involved. For example, an investor would expect to receive a larger rate of return on his money from a bond of a small county, which has relatively

few assets, as compared to a bond of a large county, which boasts substantial resources.

What then are the primary financial considerations in arriving at an appropriate bid? Though their relative importance may vary depending on the particular type of bond being issued, there are certain factors paramount to the financial well-being of any governmental unit. Also, although a number of points we discuss might be considered more in the realm of technical problems within the bailiwick of the planners of the issue, they are nevertheless factors which cannot be dismissed by the prospective bidder.

Debt Ratio

This term refers to the ratio of the outstanding debt to the assessed valuation. In approaching this ratio, it is often considered beneficial to segregate net debt from gross debt. This is accomplished by subtracting from the gross debt any sinking funds and self-supporting obligations. The latter refer to those bonds issued for utility purposes, and consequently productive of earnings. Their importance will be discussed later but suffice it to say that the net figure arrived at will present a truer picture of the actual debt burden as applied to the assessed value of the property securing it. If the derived ratio is high, it could indicate that the debt might result in an unreasonable burden when measured against taxable resources.

Though no line can be drawn between what should be considered a high and low ratio, by way of interest, the debt ratio of our top rated counties in North Carolina would average about $3\frac{1}{2}\%$, while our weaker counties would be more in the neighborhood of 5% . In both instances, the ratios of our towns and cities would be considerably lower due to their deduction from gross debt of self-supporting utility bonds. In studying a unit's history, it very often appears

that while the assessed valuation has remained fairly constant or risen only slightly over the years, the debt has progressively increased. Such a situation should be carefully watched. A word of warning: unless it is known what percentage the assessed valuation bears in relation to the true valuation, the debt ratio can be misleading. For example, in North Carolina the percentage of assessed to true value would average in the area of 50% to 60% ; while in South Carolina the percentage would range closer to 15% . Consequently, towns with identical resources in the two separate states with the same amount of debt would have ratios of wide variance.

Debt Service Schedule

The plan for retirement is most important. Where the issue is arranged on a serial basis, (i.e., bonds maturing each year over a span of years) they should be so scheduled as not to create a heavy load in any one year. This can only be determined by examining not only the current issue, but also the outstanding retirement schedule. Where, on the other hand, the issue is set up on a term basis (i.e., all bonds to mature in one specified year), the ordinance providing for the issue should be studied to see if it makes adequate allowance for periodical payments into a sinking fund to insure adequate funds for payment of the bonds on maturity.

It has often been necessary to refund the issue where sinking fund provisions were insufficient, or where sufficient, anticipated funds did not develop. Implicit in this same consideration is the question of the issuance of additional debt. Though it might well be impractical from the standpoint of a unit's presently outstanding debt to issue bonds with declining debt service requirements, it is certainly the most salutary method in looking ahead to the problems of expansion involved in anticipated growth. Primarily, however, the major concern is whether the schedule has been so arranged that the current issue will neither unduly conflict with requirements of previous bonds nor form an obstacle to the orderly issuance of future debt.

Floating Debt

Current obligations, as opposed to long-term funded debt, are sometimes referred to as "floating debt." The amount of this debt at any one

period plays an important role in the unit's financial structure. Generally it is payable from, and often in anticipation of, tax receipts. Inasmuch as general obligation debt (a fixed liability) looks upon the tax coffers for its security, any large competition for the same moneys could spell trouble. Consequently, a large increase in the floating debt without a comparable increase in tax receipts should be viewed with caution. A favorite vehicle in North Carolina is the bond anticipation note. As the name implies, these are payable from the sale proceeds of an expected bond issue and as such are excluded from the financial analysis of a new issue.

Overlapping Debt

It is not unusual for a municipality to have little debt of its own and yet discover that coming out with a new issue poses a difficult problem. For although its own financial statement is excellent, it might well be located in an area heavy in debt. While its own tax rate may be small, the combined rate of the overlapping authorities might be such as to create an oppressive burden, particularly in the event of adverse economic conditions. Conversely, one governmental unit may contain within its boundaries any number of towns, districts or authorities. Obviously, the debt of the latter cannot be dismissed in any financial analysis of the former. As an illustration, one of the finest credits in South Carolina is that of Greenville County. A recent financial statement indicated its gross debt to be \$2,482,000 with a per capita debt of \$11.83. However, located within the county are various water and sewer districts, a school district, an auditorium district, a hospital district, a fire district, an airport district and five cities or towns. Adding the combined debt of these to the aforementioned county figure results in a total debt for the area of over \$37,000,000 and a per capita debt of \$176.55.

Per Capita Debt

As the term implies, this index reflects the total debt, whether current or long-term, divided by the population. Consequently, it more nearly relates to the weight of financial responsibility borne by each individual. This is another situation where an historical evaluation can be most re-

vealing. If, over the years, the debt has increased without a corresponding rise in the population, there could be reason for alarm.

Source of Payment

This would have to be the primary financial consideration, as the issue must stand or fall depending upon actual ability to meet its debt requirements when due. The source of payment would of course vary depending upon the particular type of bond issued. The large grouping of bonds referred to as general obliga-

CREDIT ANALYSIS OF GENERAL OBLIGATION MUNICIPAL BONDS

I. PURPOSE OF CREDIT ANALYSIS:

The aim of credit analysis is to:

1. Evaluate the *ability* of the issuer to pay its debts.
2. Evaluate the *willingness* to pay debts.
3. Determine whether there are significant *features of weakness* which *may lead to trouble in the future*.
4. Assist in comparison of one issuer with another—*thus placing the credit in a category as to quality*.

II. ABILITY TO PAY: Evaluation of an issuer's ability to pay its debts involves a study of both economic and financial statistics. At a minimum it requires knowledge of the following:

Economic:

- a. Location and transportation facilities.
- b. Population trends—quantitative.
- c. Population characteristics—qualitative.
 - (i) Racial characteristics.
 - (ii) Wealth as measured by home ownership, per capita assessed valuation, family income, education, etc.
- d. Character of local economy—industrial, residential, trading and commerce, agricultural, mining, suburban, resort, etc., and diversification of sources of employment.
- e. Presence of stabilizing institutions—colleges, governmental establishments, etc.
- f. General economic indicators—employment, building permits, bank deposits, etc.

III. FINANCIAL ANALYSIS:

- a. The burden of the debt.
 - (i) Per capita debt as compared with other issuers of similar size.
 - (ii) Relationship of debt to assessed valuation.
 - (iii) Debt trend over a period of years.
 - (iv) Prospective need for public facilities.
 - (v) Multiplicity of overlapping governmental units.
- b. The character of the debt.
 - (i) Maturity scheduling.
 - (ii) Purpose of issuance—evasion of debt limits.
- c. Current Operating record.
 - (i) Tax limitations.
 - (ii) Tax collections.
 - (iii) Amount of aid from other agencies—principally state aid.

tions are based upon the full faith and credit — or unlimited taxing power — of the issuing unit. Consequently, the tax rate and collection record is of the utmost importance. Too small a rate could result in an embarrassing situation should, for example, current expenditures become abnormally large in any one year, thereby pressing uncomfortably close to the tax receipts set aside for fixed charges. On the other hand, a high tax rate, though needed to service the unit's obligations, may have risen to such an extent as to impel resistance.

IV. **WILLINGNESS TO PAY** is much more difficult to evaluate than "ability to pay" since there are no specific quantitative measurements. Among the items to study are:

- a. Past record of debt payment—defaults, if any, or delays in payment of debt service.
- b. Debt refunding.
- c. Willingness to adopt realistic budgets and levy adequate taxes for current requirements.
- d. Type of government and political situation.
- e. General fiscal management and reporting.

V. **SPOTTING POTENTIAL TROUBLE:** Future trouble spots may often be foreseen by the careful analyst through study of generally available information. Among the indicators of potential trouble ahead are:

Economic:

- a. Declining population.
- b. Extraordinarily rapid population growth.
- c. Shift of the racial or the economic character of the population.
- d. Declining general economy—loss of industrial plants, change of fashions, change in modes of transportation, obsolescence or depletion in major industry.

Financial:

- a. Restrictive tax limitations.
- b. Heavy accumulation of debt.
- c. Imprudent scheduling of debt.
- d. Accumulation of operating deficiencies.

VI. **CREDIT CATEGORIES AND RATINGS:** Ratings should never be used as a substitute for analysis, but may be considered as a guide for placing various issuers in a category. The two rating agencies recognize that there can be "high A" and "low A" bonds, for example, and only careful study of statistics can enable an analyst to understand why there may be a wide difference in price and value between the two. The following gives the approximate characterizations of the two services with their appropriate ratings:

APPROXIMATE CHARACTERIZATION	MOODY'S	STANDARD & POOR'S
Best quality—"gilt edge," "prime"	Aaa	AAA
High Grade	Aa	AA
Higher medium grade—investment quality	A	A
Lower medium grade	Baa	BBB
Speculative—uncertain	Ba	BB
Lacking in investment character	B	B
Poor standing—may be in default	Ca	CC
Extremely poor prospects	C	C

This table is reprinted with the permission of the Investment Bankers Association of America.

To cause protest it is not necessary that the tax be prohibitive but just that it exceed the previous all time high. It may very well be paid — and usually is — but no one should be surprised if the delinquency collection percentage should rise.

Another question to be considered is "who pays the taxes?" Is the town's tax base supported by a relatively few businesses and individuals who own the large majority of land subject to *ad valorem* taxes, or is the ownership of property divided over a large segment of the population? A

list of the largest taxpayers is most helpful. Are the businesses well known, permanent organizations with large payrolls, or are they small, seasonal or unstable?

Before leaving the subject of taxes, it is well to encore our caveat. Inasmuch as the tax rate is geared to the assessed valuation, it will have little meaning unless the relationship of the assessed value to the true value is known. Again, using the two Carolinas as an example, the tax rate of the average South Carolina town would appear inordinately high when

compared to the average North Carolina community. The disparity, of course, lies in the different methods of relating the two valuations.

General Obligation Bonds

It is the general obligation unlimited tax bond which is by far the most prevalent in North Carolina. Even though the bond may be issued for utility purposes, and thereby generate supporting income, it nevertheless derives its ultimate security from the *ad valorem* tax. However, it is with general obligation *utility* bonds that North Carolina towns and cities are able to offer, as an added attraction, a double-barreled security.

By North Carolina statute so much of the net income received by a municipality from the operation of any revenue producing project "after paying all expenses of operating, managing, maintaining, repairing, enlarging and extending such enterprise" must be applied first to the payment of interest and principal on the bonds issued for the project. Needless to say, this greatly enhances the credit standing of utility bonds and places in the hands of the investment analyst intent upon bidding on the issue the advantage of having two sources of payment on which to base a decision as to the strength of the security. It might be that although the tax rate is low or collections poor and in arrears, the income received from the utility is easily sufficient to service the debt without resort whatsoever to the tax receipts.

Another type of general obligation is known as the "limited tax" bond. Though never seen locally, they are quite common in a number of other states. In an appraisal of this kind of issue, much depends upon the difference between the tax being imposed and the authorized limit. For example, if the tax limit is set at \$2 per hundred, and this amount is already the levy, there is no margin of safety in the event of an increase in operating expenses, a need to issue additional bonds, or a decline in assessed valuation.

Revenue Bonds

The second large category of municipal issues is revenue bonds. As indicated earlier, the large majority of issues in North Carolina are general obligations, and the only bonds supported solely by revenues are possibly

(Continued on page 22)



Certificates are awarded at the final luncheon session of the Institute of Government-American Association of Motor Vehicle Administrators Driver Improvement School held at the Institute. The program is held annually at the Institute in September. Here, the AAMVA's Preston Poore speaks at the luncheon which was held at the Carolina Inn. At the speaker's right are Edward Scheidt, then North Carolina Commissioner of Motor Vehicles, and John L. Sanders, Institute of Government Director (only part of face visible).

Institute Holds AAMVA Driver Improvement Course

The seventh annual regional course for driver licensing improvement or administration personnel, conducted jointly by the Institute of Government and the American Association of Motor Vehicle Administrators, drew the largest attendance and had the most diversified subject matter ever. This Driver Improvement Training Course was attended by 32 representatives of motor vehicle programs from 14 states, the District of Columbia, and Canada.

Conducted by Elmer Oettinger of the Institute of Government and C. Preston Poore and John Kerrick of the AAMVA, the two-week program was held September 20-October 1 at the Institute's Knapp Building in Chapel Hill and included sessions on such important topics as legal aspects of driver improvement, medical aspects of driver improvement, psychological testing, age as a factor in driver improvement, effectiveness of driver clinics, factors influencing decision making, conducting the interview and hearing, and effective oral and written communications.

In addition to Oettinger, Poore, and Kerrick, the instructional staff included Donald Hayman, Assistant Director, Institute of Government; Richard R. McMahon, Program Analyst, Training Center on Delinquency and Youth Crime, Institute of Government; Frank Altobelli, Insur-

ance Institute for Highway Safety, Joseph P. Hennessee, General Counsel, AAMVA, Lewis G. Polk, Accident Prevention Division, U. S. Public Health Service, all of Washington, D. C.; J. T. Baker, Hearing Officer, North Carolina Department of Motor Vehicles, Greensboro; L. E. Birdsong, Field Representative, AAMVA, Jackson, Mississippi; Dr. John Morris North Carolina Industrial Commission and Advisor for the North Carolina Department of Motor Vehicles, Morehead City; Laeron Roberts, North Carolina Department of Motor Vehicles, and C. F. Waters, head, Driver Improvement and Accident Records Section of the North Carolina Department of Motor Vehicles, both of Raleigh.

Speaker for the final certificates award luncheon was then Commissioner Ed Scheidt of the North Carolina Department of Motor Vehicles. Driver Improvement officials registered for the program included Ralph E. Blackstone, London, Ontario, Canada; A. Dewey Jordan, District of Columbia; James Chancy and Don H. Keirn, Florida; James A. Palmer, Indiana; David Finch, Frederick E. Hodges, and Sim F. McCarty, Kentucky; Hardy M. Meredith and Leo Reeder, Louisiana; Charles T. Devilbiss and Raymond R. Dick, Maryland; Ralph L. Motley and Erwin Ray Williams, Mississippi; Peter W.



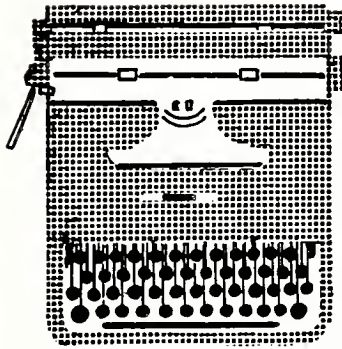
AAMVA official John Kerrick discusses problem with A. Dewey Jordan, Chief of the Processing Branch, Driver Register Service, Office of Highway Safety in the U. S. Department of Commerce. This shot was taken during class break.



This is a typical moment in a question-and-answer session at the end of a lecture period during the AAMVA-Institute of Government Driver Improvement School. Officials from 14 states, the District of Columbia, and Canada were in attendance.

Scott, Missouri; Joseph E. Cheress and Joseph W. Layton, New Jersey; Vance L. Harper and Willoughby C. Wheless, North Carolina; Lester Hendrix, Charles R. Hughes, Harry

(Continued on page 25)



● NOTES FROM . . .

CITIES AND COUNTIES

Airports

A land acquisition project for the regional airport at *Friendship* got under way when the *Greensboro - High Point* Airport Authority voted to buy four separate tracts with a total of 53 acres.

Alcoholic Beverage Control

Three previously dry *Duplin* County towns have okayed ABC stores. *Kenansville* voted 119 for and 97 against; *Faison*, 134-69; and *Warsaw*, 212-155. A county-wide ABC issue was defeated several months ago.

A recount requested by dry forces in the *Reidsville* ABC election gave an additional three votes to the wet forces, who wound up leading by 31 votes. The final count: 1,659 for ABC, 1,628 against.

Health

Cumberland County voters have approved a \$4.1 million bond issue for hospital improvements. Seven per cent of the registered voters appeared at the polls to cast the 1,461 to 841 ballot.

Historic Preservation

North Carolina's Travel Council has voted unanimously to officially protest the "historical desecration" of changing picturesque place names of the State's rural roads to numerical designations. Under the new system, such names as Rabbit Hop, Pigeon, Long Hungry and Hardscrabble have been replaced by numbers.

The nation's first historical museum for a Civil War governor has been dedicated near *Weaverville* to the tune of "Dixie" and the sound of Confederate muskets and cannon. The occasion marked the official opening of the visitors' center at the birthplace of Zebulon Baird Vance, soldier-statesman called from the bat-

tlefield to take the reins of office as Tar Heel governor during the conflict.

In *Fayetteville* the first phase of a beautification project at Market Square has been launched. Initial attention is being given to improvements and decoration of the Market House itself. The oval-shaped plot occupied by the building will be landscaped and enhanced by decorative brick walls and steps.

Housing

Contracts have been awarded for construction of 425 units of low-rent public housing in *Charlotte*.

Reservations and preliminary loan contracts have been approved by the Public Housing Administration for construction of 130 units for the *Hamlet* Housing Authority and 100 units for the *Southern Pines* Housing Authority. Each project includes 30 units of housing for the elderly.

Libraries

Chapel Hill's public library has received a federal grant of \$98,610 for construction of a new building. The grant represents 38 per cent of the estimated total cost for the new facility; the remaining 62 per cent will be supplied locally by a \$150,000 bond issue approved in a July referendum and from other sources.

Parking

The 829 parking meters in *Fayetteville* have been changed to comply with the city's new parking ordinance. Meters now operate by use of a given coin and not by any combination of coins of lesser denomination.

Planning and Zoning

Chapel Hill aldermen have adopted a detailed zoning ordinance amendment setting up a new multi-family,

high-density district and placing tighter restrictions on trailer parks. The board also adopted recent revisions and additions to the North Carolina state building code in order to bring the code up to date.

A workable program for community improvement has been adopted by the *Morganton* City Council. The Program is primarily a reaffirmation of the urban renewal and public housing projects and adoption of revisions of State building, housing and electrical codes.

Gastonia planning and zoning commission members have recommended adoption of a zoning ordinance to provide for "greenways,"—park-like areas left without buildings in areas subject to flooding.

Durham County's controversial subdivision control ordinance has been adopted two and a half years after the idea was first conceived.

Taxation

Institute staff member Henry Lewis met with *Rutherford* County commissioners recently to explain details of revaluation for tax purposes. The county must revalue property in 1968 and 18 months are necessary to plan the action.

Traffic Safety

Chapel Hill aldermen have launched a crackdown on speeders by approving purchase of a new \$1200 radar speed-checking "whammy" device. The board also approved a tow-in ordinance for automobiles illegally parked in newly-opened lanes on the town's main street.

Pressure-sensitive tape is being tested as a marking device on *Winston-Salem* streets. It was chosen in the search for a more efficient, less

Parking Penalties and the Public

(Continued from page 13)

to our Constitution, the clear proceeds of all penalties, forfeitures and fines collected in the several counties for any breach of the penal laws of the state including city ordinance, would be appropriated for the 'establishing and maintaining free public schools.'

Unfortunately, this problem probably entails more than a simple semantic distinction. The question is not really whether moneys collected by a municipality for parking violations are to be denominated "fines" or "penalties", but rather whether they are fines or penalties, as the case may be, *in violation of the penal laws of the State*. The North Carolina Supreme Court made it clear that a penalty imposed for a violation of a municipal ordinance is not a "penalty" for a "breach of the penal or military laws of the State," but a penalty to be sued for in a civil action of debt and to be retained by the city.⁸ Only a penalty or fine imposed by a court in a prosecution under G.S. §14-4 would come within the directive of Art. IX, §5.⁹

In distinguishing between a "fine" and a "penalty" the Attorney General's opinion cites *State v. Rumfelt*,¹⁰ apparently as the authority for

the proposition that there is no real distinction at all between these terms for the purpose of construing Art. IX, §5. However, it should be recognized that in *Rumfelt*, the Supreme Court of North Carolina was called upon to interpret the nature of the \$1 "penalty" provided for in G.S. § 20-162.1 — the so called "prima facie" rule of evidence that registered ownership of an illegally parked car is sufficient proof for conviction. The Court held that when this prima facie rule of evidence is relied upon by the State, it is done so only in an action prosecuted by the State (or by a municipality) to punish a defendant for a violation of the criminal law. The word "penalty", then, as used in G.S. §20-162.1 was said by

the Court to be equivalent to a criminal "fine" and not a civil "penalty". Rather than interpreting the nature of the \$1 voluntary payment paid for violating a city ordinance, *Rumfelt* involves the construction of a statutory *involuntary payment*. If the Court meant its language to be of broader application than G.S. §20-162.1, it would seemingly have to overrule the *Henderson* case, discussed above.

To be sure this is not a simple problem. The questions are complex and it is difficult to determine, accurately, the implications of any answer. The Attorney General's office has advanced one conclusion. The Supreme Court of the State has yet to rule on this matter. □

Financial Considerations for . . . Bidders

(Continued from page 19)

five natural gas issues, two airport issues, an electric issue and a small number of water revenue issues. However, no statement is scrutinized more closely by the investment banker than that of a proposed revenue financing. Since the taxing power of the issuer is generally expressly exempted from any liability, it is especially incumbent on the prospective bidder to satisfy himself that ample revenues will be made available and that the ordinance authorizing the issue contains adequate safeguards for the protection of the bondholder.

The various tests to be applied can probably best be stated in a series of questions.

- If the purpose of the present

issue is to construct an addition to an already existing project, then are the engineer's estimates for future growth consistent with the system's past growth?

- If the system is to be built from the proceeds of the sale and has no established earnings, are the engineer's projections realistic and comparable to the established growth of like projects in similar areas?

- Do the bonds constitute a first lien on the revenues or are they secondary to the demands of an earlier issue?

- Having been supplied with

(Continued top of page 23)

8. Board of Education v. Henderson, supra, note 3 and 4; see also School Directors v. Asheville, supra, note 5.
9. Query, how can you impose a criminal "fine" or "penalty" without any kind of criminal process. The Attorney General's opinion would seem to indicate that this can be done.
10. 241 N.C. 375, 85 S.E. (2d) 398 (1955)

troublesome method than painting for marking streets. Presently being tried downtown as a marker for on-street parking spaces, the tape will be considered for directional arrows, lane and other markings if it proves satisfactory in the initial testing.

Durham councilmen have called on the city administration to investigate means by which the city can act to improve traffic safety and help curtail the rising tide of traffic accidents in Durham. By the end of October 13 traffic fatalities had occurred in the city.

Two major speed zone changes in Wilmington have gone into effect,

both resulting from an overhauling of city traffic ordinances and both reducing speed limits.

Utilities

Wilmington's campaign in behalf of a \$5,550,000 bond issue for two sewage treatment plans has taken a major turn as the city council unanimously adopted a proposal to avoid a tax increase and place the entire cost of the project upon water and sewer uses. Previously the financial plan was based on a proposed 30-cent tax increase and a 37½ per cent water-sewer charge increase.

Morganton voters have okayed a million dollar bond issue for water

system improvements. The votes was 598 to 130 to authorize expansion of the Catawba River filtration plant and other improvements.

Fewer than half the registered voters went to the polls in *Elon College* to approve a \$40,000 water bond issue for construction of a new 200,000 gallon storage tank, drilling of another well and installation of pipes from the well to the present storage tank.

Stanley's new million gallon water tank has gone into service. The facility was built at a cost of \$62,000 and will serve 2,500 residents and the town's business and industrial plants.

the earnings figures, whether actual or projected, how do they compare with the actual debt service requirements? A reasonable comfortable ratio would be for the earnings to be one and one-half times debt service. If they are only one times debt service, then the caution flag should fly as the issue might well be in for rough sledding.

- Have adequate rates been established and does the ordinance guarantee that they will be maintained at a level sufficient to cover future debt service?
- Does the bond ordinance contain adequate reserve funds?
- Is provision made for the issuance of additional bonds, either on a parity with or junior to the current issue? And if so, what minimum revenue coverage is required for debt service before additional bonds

can be issued?

- Are the normal provisions for insurance contained in the ordinance and what remedies are made available to the bondholder in the event of default?

These then are some of the major considerations to which the prospective bidder must pay particular attention. By way of interest when revenue bonds first appeared on the scene in any volume, there was a great deal of skepticism concerning their value. However, as time proved their worth, they gained tremendously in acceptance and some are so strongly backed as to be among the most highly regarded municipals in the market today.

Though indirectly related to the financial statement, it is of the utmost importance to the bidder to study the total economy of the unit. Does it depend on one industry, or one crop, or is the economy diversi-

fied to such a degree that the failure of one or more industries or crops would have little effect on the general prosperity? Though size of itself has little to do with a good credit standing, as witness the fact that a number of our large cities in the country do not have the best ratings, it must be obvious that inherent in size is greater diversification. Geographical location can be of vital significance. Is the town or county located in a "poverty pocket" or is it in an area that might expect significant growth?

The character of the people can be, and usually is, its most important asset. This is most often evidenced in tangible reports such as its tax collection record, or perhaps in its total debt history. If the unit defaulted on either principal or interest in the past, what has been done since then to rectify the problem, and where possible, have steps been taken to prevent the same or similar situations
(Continued on page 28)

The District Court Judge . . .

(Continued from page 6)

orders in all cases pending in the district courts of the district. This provision was designed, among other reasons, to permit the chief district judge to restrict the in-chambers authority of an unqualified judge. This is the only difference between the *judicial* authority of a chief judge and other district judges (excepting holdover judges).

The power of the chief district judge to arrange schedules and assign judges for sessions of district court will present no particular problem in those districts which have only one, two, or even three seats of court. A degree of specialization can be had in these smaller districts, since travel from one seat of court to another will not take an excessive amount of time, and only under rare circumstances should a judge need to hold sessions in two separate courthouses the same day. In the larger rural districts, however, where the seats of court increase, and the number of judges most often does not increase proportionately, specialization will be inhibited by time and space factors. To be specific, and to take perhaps the two worst examples, judicial districts one and 30, each with seven counties and only two judges, present almost insurmountable barriers to specialization. Since each county should have at least one session of district court each week, for traffic misdemeanors, preliminary hearings, juvenile matters, etc., even limited specialization would require both judges to travel a great many hours each week, if not daily. In these districts, the only practicable solution appears to be for the chief judge and second judge to divide the districts into two subdistricts, each handling *all* district court trials within his own subdistrict. The chief judge would retain ultimate administrative control over the entire district, of course, but could delegate some of the routine

administrative matters to the judge of the other subdistrict.

A final duty of chief district judges concerns the appointment of a reporter or reporters for their respective districts, and fixing their compensation and allowances within limits set by the Administrative Officer. The shortage of competent reporters is already acute, and those now employed by the superior court may choose to remain there, leaving the district court little choice but to follow the alternative permitted by Sec. 7A-198—request the State to furnish electronic recording equipment for installation in the district courtroom. This is not necessarily a poor choice, comparatively, since this type of equipment has demonstrated a high degree of reliability in recent years, and is coming into widespread use in courts in other jurisdictions. Usage of this equipment, however, will require some conscious adjustment to its limitations on the part of the judge, as well as counsel.

1966 Primary Filing Deadline

The chart accompanying this article lists the 22 counties from which the State's first 17 district court judges will be elected. Under G.S. 163-119, by analogy to superior court judges and solicitors, who are nominated by districts, the last date for filing as a candidate for the office of district court judge is March 18, 1966.

This date is not entirely free of doubt, however, since superior court judges and solicitors take office in January, while district court judges take office the first Monday in December after the election, the same day county officials take office. If it should be held that the analogy under G.S. 163-119 to county officials is stronger than to "district" officials, then 16 April would be the last date for filing. An inquiry of the Attorney-General may be necessary to settle this ambiguity. □



Institute of Government and University of North Carolina Law School Faculty got together for a joint supper September 28 at the Carolina Inn. The occasion was designed to further already close ties between the two units of the University. Shown left to right are former Chancellor William B. Aycock, once again a law professor; Institute of Government Director John L. Sanders; Vice Chancellor J. Carlyle Sitterson (back to camera); and Institute Assistant Director Ben Loeb.



Caught in earnest conversation at the Law School-Institute of Government reception and supper are (left to right) UNC Chancellor Paul F. Sharp; Law Professor Kenneth L. Penegar; Law School Dean Dickson Phillips (back to camera); Institute Assistant Directors Professor Donald B. Hayman and Assistant Professor David G. Warren; Institute Research Associate Robert E. Phay (profile view); and Law Professor Frank R. Strong.

Ernest W. Ross (far right), Executive Director, Stanly County Industrial Development Commission, speaks to an officers training seminar of the Department of Conservation and Development held at the Institute in October.



INSTITUTE SCHOOLS MEETINGS CONFERENCES



Shown above is a classroom scene from the twelfth annual course in Municipal Administration at the Institute of Government. Institute staff member Jake Wicker has charge of the school, assisted by staff member Ken Howard. This year's enrollment is 33 for the 12-session

program. The course includes an introduction to municipal government, techniques of municipal administration, municipal finance, public personnel administration, city planning, municipal line functions and policies, and closes with a municipal management seminar.

Insurance Purchasing

(Continued from page 12)

deletion of high-rated buildings of no utility value. Some counties have old buildings of no value whatsoever. By studying the fire insurance schedule, one can find if insurance is still in effect on them. Ask the question, "If the building burned, would it be rebuilt?" A building which would not be rebuilt has no value, and insurance for it is unnecessary.

A study was made of the Board of Education's fire insurance, which is written on a public and institutional policy. The public and institutional property policy is for selected agencies, including municipalities, is written on a blanket basis,¹ and greatly reduces the premiums. Sometimes the reduction over a straight fire insurance policy is as much as 25 to 30 per cent.

The Committee investigated a new type of deductible policy with a disappearing or franchise deductible clause. Basically this deductible in the Mecklenburg County school system's insurance is \$5,000, which completely disappears at \$25,000. The insured bears any loss under \$5,000, and the insurance company will pay 125 per cent of any loss between \$5,000 and \$25,000. When the loss reaches \$25,000, there is no deductible and the full amount of loss is paid subject to the policy conditions. In other words, this is catastrophe insurance. It eliminates the insurance company expense of handling small claims and features a considerable rate reduction. For the Board of Education in Charlotte and Mecklenburg County, the annual fire insurance cost was reduced by \$8,600 a year. The new deductible clause has proved economical, for the amount of losses paid from Board funds have not come near the savings realized.

The Committee reviewed fire coverage and rates for the Airport Authority, increasing the limit by a million dollars and reducing annual costs by \$700. This was achieved simply by making a study of the fire insurance rates. One airport building, actually a hangar, had been rated as an open shed for extended coverage. The rate for windstorm damage coverage on open sheds is rather high, while the

1. There are several ways that fire insurance can be written: *specifically*, which means so much insurance on each building, or *blanket*, which means all buildings owned by the insured are insured for a given amount of money applying to all buildings.

rate for hangars is considerably lower. This correction reduced the overall rate of all Airport properties, since the policy was on a blanket basis.

Data Processing Equipment

Data processing equipment was surveyed and extra expense coverage was obtained. The growing use of data processing equipment in municipal government creates a great insurance headache. Most municipalities are leasing equipment and in 90 per cent of these leases, the leasing company adequately insures the *machines*. But what about the *data* in the machines? Destruction of the punched cards would require reproduction of those cards. Additional insurance was obtained to cover the cost of reproduction.

Workmen's Compensation

Mecklenburg County carried a \$500 deductible workmen's compensation policy. Basically the county was self-insured for all compensation losses below \$500; then an insurance company took over for the excess. Using the adequate available records, a study was made of exactly how much the county was paying for this insurance and exactly how much was paid under the deductible policy for small losses. We found that by buying insurance for *all* of the workmen's compensation losses, considerable amounts could be saved. Accurate records are needed for self-insurance programs, as are periodic studies to determine if these programs really are costing the municipality money. Possibly, insuring the exposure would be more economical. In addition to the cost of losses to Mecklenburg County, the Advisory Committee had to consider the amount of *time* spent by employees in paying those losses. Somebody's time is involved in administering a self-insurance program.

A mathematical error was found during a review of the experience modification on the Board of Education's workmen's compensation policy. Correcting it changed a ten per cent debit into a ten per cent credit. Through this correction the policy cost was reduced 20 per cent. Insurance companies are human and they can make mistakes. The State, in determining the experience modification on this large policy, merely made an error.

Multi-Peril Policy

The ABC Board converted to a

multi-peril policy at a saving of approximately \$2,000 for three years. The multi-peril policy, or SMP, is something new — a package concept similar to the usual homeowner's policy, but available now for municipal agencies. Sometimes it can result in considerable savings. It is not practical for all municipal agencies, but in Charlotte the ABC Board, the college, and the Park and Recreation Commission are perfectly suited to this type of policy.

Excess Liability

The Coliseum-Auditorium Authority obtained an excess liability policy with catastrophe limits. The Indianapolis Coliseum explosion and the Baldwin Hills Dam break in California were serious losses, and if those two areas had not had excess liability insurance with limits in millions, those cities would have been in serious trouble. The Committee studied the buildings in Charlotte visited by large numbers of people and the possibility of providing excess liability limits on them. Such insurance is not unreasonably expensive. It is bought in millions of dollars of liability limits; and with adequate third party liability insurance on the basic buildings, the excess limits are not so expensive. Catastrophe policies should be investigated for application to municipal coliseums, auditoriums, and similar structures.

I hope that the experience of Charlotte and Mecklenburg will highlight the benefits to be derived from a continuing, centralized review of a local government's insurance program and will inspire serious insurance study in other cities and counties. Local independent insurance agents can give competent advice for upgrading insurance programs. Always remember that insurance is no good until it's needed — and then it's too late to buy it. □

. . . AAMVA Driver Improvement Course

(Continued from page 20)

Jones, James Redman, and Ed Wehling, Oklahoma; Laurence O. Alewine and Horace D. Carter South Carolina; Richard Dawson, Tennessee; Frank Fisher, Vastine F. Fritsch, John H. Grant, and Joe B. Roberts, Texas; and C. Dean Van Gorden, Wisconsin. □

Attorney General's Rulings

ALCOHOLIC BEVERAGE CONTROL:

Diversion of Funds

23 September 1965
A. G. to Ray Brady

Question: Have small county and municipal ABC units the authority under G.S. §18-45(15) to expend the law enforcement fund for the purpose of subsidizing local police and sheriff's deputies?

Answer: It appears to be the intent of G.S. §18-45(15) for the local ABC units to have special law enforcement officers appointed by, and directly responsible to, the unit for the specific purpose of enforcing the prohibition laws of the State. While this office has ruled under peculiar circumstances, that certain ABC funds could be expended to supplement salaries of policemen in towns where ABC stores were located, we do not believe that this can be taken as a general rule. Therefore, it is our opinion that, as a general proposition, county and municipal ABC units *do not have* the authority to subsidize or supplement local police and deputy sheriff's salaries in lieu of hiring ABC officers as directed by statute.

Sales in Dry Counties

10 September 1965
A. G. to R. G. Jones

Question: What is the law on selling whiskey and beer in a dry county?

Answer: The sale of non-taxpaid, as well as taxpaid, liquor and the sale of beer in a dry county is unlawful in North Carolina. Possession of whiskey in a dry county outside the home is unlawful unless being transported from an ABC store to the home.

Search and Seizure

18 August 1965
A. G. to William E. Uzzell, Jr.

Question: If a person has a reputation and record for selling intoxicating beverages, dealing in a wholesale way, or transporting same, may an ABC

officer search the car without a search warrant or consent of the person?

Answer: G.S. §18-6 provides that an officer may search an automobile or other vehicle or baggage without a search warrant when the officer sees or has absolute knowledge that there is intoxicating liquor, equipment or material designed or intended for use in making liquor in such automobile, vehicle or baggage. Therefore, mere reputation or record for selling, dealing in liquor or transporting same is not sufficient to authorize the search of an automobile without a warrant. If the owner of the automobile or the person in charge thereof consents to the search, then the officer does not need a search warrant.

DIVORCES:

18 August 1965
A. G. to J. E. Mullen

Question: What is the validity of Mexican divorces in North Carolina?

Answer: If the party obtaining the divorce has established a bona fide domicile in the divorce-granting jurisdiction and has complied with its laws pertaining to divorce, then North Carolina will afford full faith and credit to the divorce decree, provided, that the decree was valid and enforceable in the divorce-granting jurisdiction.

EDUCATION:

Teachers' and State Employees Retirement

27 September 1965
A. G. to Nathan H. Yelton

Question: Under what circumstances can a member of the State Employee's Retirement System file a claim for credit for teaching service prior to 1941?

Answer: If anyone seeks to secure retirement benefits after July 1, 1965, and has credit for not less than ten years of membership service, such person is entitled within G.S. §135-

4(a) to prior service credit for service rendered before July 1, 1941.

ELECTIONS:

Corrupt Practices Act—Political Contributions by Labor Unions

28 September, 1965
A. G. to John E. Giles

Question: Is a labor union prohibited from contributing to a candidate or campaign committee in a State primary or general election under G.S. §163-196(14)?

Answer: The statute referred to deals with corporations. Under its terms, a corporation will be criminally liable if it makes a payment to or for the benefit of a political campaign or if it reimburses another for doing so. A labor union would be affected by its provisions only if it were incorporated; the Secretary of State reports that no labor unions are incorporated in this State.

MUNICIPALITIES:

Sewerage Systems

20 September 1965
A. G. to Ford M. Meyers

Question: Can a city legally construct a septic tank in a shopping center located outside the city limits for use until such time as an outfall line is placed in service by the city — the shopping center having granted the city an easement for the construction of a sanitary sewer outfall line to serve an area that was annexed by the city and having been granted, in turn, permission to connect to the outfall line?

Answer: The city would not be authorized to expend funds to construct the septic tanks unless it should be determined that such construction would equal fair compensation for the easement granted. While it is proper to let people in an area outside the city limits which has to be crossed to reach other areas within the city connect with the sewer lines when completed, the construction of this large septic tank should be for the exclusive purpose of serving property owners outside the city and would not be incidental to a city sewer line.



Book Reviews

THE CASE FOR LIBERTY by Helen Hill Miller. Chapel Hill: The University of North Carolina Press, 1965. 254 pp. - \$5.95.

This book has unusual method and purpose which sets it apart from run-of-the-mine research and gives it point. The author has sought to single out "court cases, judicial hearings, sittings of special investigative tribunals, and even actions by mock courts" which led to or influenced the passage of the American Bill of Rights. Her chapters bear titles which are the tenets of the first ten Amendments to the United States Constitution. Each chapter provides a general background for the particular Amendment and then delves into a specific case which influenced its adoption. The "influences" range from the famed Zenger case in New York, which exemplifies the Amendment requiring that "Congress shall make no law . . . abridging the freedom . . . of the press . . .," to the cases involving the regulators in

Hillsborough, North Carolina, which influenced the right that "excessive bail shall not be required, nor excessive fines imposed . . ." Local and state officials will find especially interesting actions and characterization of the Crown-appointed Colonial officials in those immediate pre-Revolution days. E. O.

THE STATEMAN'S YEAR-BOOK 1965-66, Edited by S. H. Steinberg. New York: St. Martin's Press, Inc., 1965. 1726 pp.—\$10.

The one hundred and second edition of **THE STATEMAN'S YEAR-BOOK** updates information of governmental and related nature of the nations of the world and their subdivisions, and for international organizations. As a general source of diversified information, this volume has considerable worth for the public official and the interested private citizen. It has value both for those who want to know the governmental, educational, religious, financial, or population facts about North Carolina and for those who need to find out that United Nations membership is up from 50 to 114, or the names of the new member states of the British Commonwealth. The compact make-up of the book greatly facilitates its use. E. O.

Other Books of Interest

- **DEFENSE OF THE POOR IN CRIMINAL CASES IN AMERICAN STATE COURTS.** By Lee Silverstein. American Bar Foundation, 1965. 280 pp. \$7.
- **THE LIBRARY TRUSTEE.** By Virginia G. Young. New York: R. R. Bowker Company, 1964. 184 pp. \$7.50.

have an election among the resident freeholders and the people residing within the present sanitary district?

Answer: No election is held in the sanitary district itself unless there has been an appropriate petition therefor as set out in the second paragraph of a subsection (a) of G.S. § 130-148 (B).

Question 3: Will it be necessary to have a public hearing?

Answer: A public hearing is necessary, and it is held jointly upon request of the sanitary district board, at a time and place which the State Health Director and the chairman of the sanitary district board shall fix.

ZONING:

Junk Yards

15 September 1965
A. G. to T. H. Suddarth, Jr.

Question 1: May county boards of commissioners regulate the location and operation of junk yards by ordinance other than by a county-wide or area zoning ordinance?

Answer: A county has no authority to regulate the location and operation of a junk yard except through a county-wide or area zoning ordinance.

Question 2: Are aggrieved parties entitled to secure an injunction on the grounds that a junk yard would substantially devalue their property, or must they wait until the operation of the junk yard has become a nuisance?

Answer: It is doubtful that a party would be able to secure an injunction on the anticipated proposition that a junk yard would devalue their property. The parties in question would probably have to wait until devaluation had actually occurred in order to enjoin its operation.

Sewerage and Water Works

26 August 1965
A. G. to Donald P. Brock

Question: May a town legally enact an ordinance prohibiting the drilling of wells in the town limits?

Answer: We assume that the ordinance would prohibit the drilling of wells on a person's own property, where the water system is available, in order to have the net result of requiring the property owners to use the city water.

We find no authority whereby a municipality may prohibit a property owner from drilling a well upon his own property. Neither do we find any authority for a municipality to require property owners to connect to a water system which is available in lieu of using his own water supply.

SANITARY DISTRICTS:

Extension of Boundaries

16 September 1965
A. G. to Clarence L. Pemberton

Question 1: Where more than 80 per cent of the resident freeholders of an area have petitioned for annexation to a sanitary district, will it be necessary to have an election among them in order to annex the area?

Answer: The procedure for extension of a sanitary district is set forth in detail in G.S. §130-148. It will be necessary to hold an election in the area proposed to be annexed, and that election is participated in by all qualified voters, irrespective of whether they are resident freeholders or not.

Question 2: Will it be necessary to

the Dilemma in Police Recruiting

(Continued from page 8)

fessor E. H. Johnson of North Carolina State University states, "Each person occupies a social position in the organizational patterns of the groups of which he is a member. This position is status."³ A person may occupy a position of low or high status. More specifically, what is the status of a policeman? Using, for a moment, prestige and status synonymously, an occupational prestige scale consisting of 90 occupations ranked the policeman as 55, interestingly below that of an undertaker, 47, and a playground director, 54.⁴ "A Japanese Occupational scale ranked the policeman 17th out of 30."⁵ With this as a guide we may assume that the policeman's status is far from what it should be in order to attract the caliber of men needed in the law enforcement profession.

Chief W. H. Parker, in his address to the graduating class at the Los Angeles Police Academy in April, 1951, said, "Will you take the inner satisfaction of a job well-done as sufficient reward and, out of the very satisfaction and joy of rendering service to your fellow man, be adequately compensated if we continue to provide you with the financial means for at least a modest dignified way of living?"⁶ As noted earlier, many people are satisfied with serving humanity, presently these are some of the people that the law enforcement profession attracts. The pay is too low, working conditions too erratic and hazardous, and certainly the status or prestige is too low to attract the caliber of men who are needed to make Law Enforcement a true "profession" worthy of all its accompanying connotations.

Chief W. H. Parker describes the problem as follows:

The pay and prerequisites offered (in municipal law enforcement) are equivalent to those afforded in other occupations no less demanding in qualifications than the police service. What

then are the depressing factors that stamp the police job as undesirable? Some of the handicaps are physical hazards, unusual hours of duty, lack of promise of great financial reward, and limited advancement. The greatest single deterrent to police recruiting, however, is one of status resulting from the public attitude toward the police.⁷

August Vollmer was not exaggerating too greatly when he opined that the average police officer is expected to have "... the wisdom of Solomon, the courage of David, the strength of Sampson, the patience of Job, the leadership of Moses, the kindness of the Good Samaritan, the strategy of Alexander, the faith of Daniel, the diplomacy of Lincoln, the tolerance of the Carpenter of Nazareth, and finally, an intimate knowledge of every branch of the natural, biological, and social sciences."⁸

This is expected by the total society that has endowed the police officer with a sub-standard salary and inadequate positional status. Obviously there is an incongruity between what is expected and commensurate factors received.

There is a prevalent stereotyped image of the present police officer which presents him as a unique individual. The stereotype portrays him many times as a blundering incompetent or a malicious rogue. This stereotype is to be found with regularity in books, magazines, motion pictures, and television and does much

to develop the public image of the police officer. This ever present stereotype does much to hamper attempts by the police to achieve professional status.

High prestige or position status is a prerequisite to attract qualified candidates into the local police service. High prestige creates a higher morale and allows individuals to perform more effectively and efficiently.

It is a well-known fact that any society receives the type of law enforcement it wants.

Responsibility

The dilemma in police recruiting will never be solved until inherent structural weaknesses are eradicated. The responsibility for eradicating weaknesses is incumbent upon the police profession, the general society, and local governmental administration.

If the present image of the police is coupled with the prevailing salary structure, it is no wonder that police departments are experiencing difficulty in recruiting quality personnel. A partial solution to the dilemma in police recruiting must be accepted by the police profession. An awareness by the police administration of the present stereotype of police by society in general appears to be the beginning. Continued training attempts in areas of community relations and human relations has improved the image of police in certain areas.

There appears to be a direct correlation between the quantitative and qualitative elements of training and the stereotyped image of the police service. Without an improvement in image, police recruiting will always be critical. □

7. William H. Parker, "The Police Service—A Key to Community Quality," *Journal of Criminology, Criminal Law and Police Science*, June, 1954, pp. 273, 279.
8. V. A. Leonard: *Police Organization and Management*, Brooklyn, The Foundation Press, p. 123.

Financial Considerations . . .

(Continued from page 23)

from occurring again? In the event of default, the manner in which it occurred is of consequence. Was it purely of a technical nature, such as an oversight on the part of an official in belatedly depositing funds with the paying agent; or was it of a more serious caliber, such as might be traced to a general apathy on the part of the townspeople or indifference of town officials in meet-

ing their obligations.

In conclusion, what is the assignment of the dealer in examining the standing of a community prior to placing his bid? The task cannot be taken lightly. A million dollars or more of the firm's capital might well be committed on one bid. Basically speaking, the dealer must, after a careful appraisal of the financial and economic condition of the borrower, decide upon the credit and risk involved. What rate of return should the bondholder reasonably expect to receive? This answer when related to bond market conditions in general will determine his bid. □

3. Elmer Hubert Johnson, *Crime, Correction, and Society*, The Dorsey Press, 1964, p. 20.

4. Bernard Barber, *Social Stratification*, Harcourt, Brace and Co., 1957, pp. 102-104.

5. *Ibid.*, pp. 107-108.

6. William H. Parker, *Parker On Police*, Edited by O. W. Wilson, Charles C. Thomas Publisher, 1957, pp. 21-22.

Freedom under Law

(Continued from page 2)

laws," and to reject and disobey those laws which he personally decides are "bad laws" — and this is not a matter of national origin or race. It applies to you, to me, to Martin Luther King, and to Governor Wallace. It also applies to members of a church, no matter how "conscientiously" they may consider it their duty to break the law.

If we as individuals or groups or denominations condone violations of civil law, or, as it has been put, encourage or condone "civil disobedience," we take a step down the same path walked by those who dynamite churches and murder freedom riders.

The Necessity of Discipline under Law

We must be disciplined under law to be good citizens. We cannot continue to deny rights of citizenship—we cannot neglect our duty as free citizens under a democratic form of government.

This discipline under law applies to

everyone. It particularly applies to the law enforcement officer.

Education at all levels, I sincerely believe, should provide training in citizenship and offer that discipline which we so badly need. We need it because we are all — of every race, color and creed — inseparably joined together in our nation and in our world. We do not need regimentation, but we do need a people who realize their obligations to their neighbors, whoever their neighbors may be.

It should be our hope to build, under law, a nation of people who will demonstrate to the whole world that we can live at peace with each other and at peace with other nations.

The prayer of George Washington should be remembered today:

"Almighty God, we make our earnest prayer that Thou wilt keep the United States in Thy holy protection; that Thou wilt incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government; to entertain a brotherly affection and love for one another and for their fellow citizens of the United States at large."

The Patrol and the Public

After the ceremonies today you will be out on the highways in a State where few parents would trust a teenager with \$400 of the family funds — but where too many parents turn over to those same teenagers a \$4000 family car — without thought as to where the teenager is going, how he drives, or when he will be back.

You will find communities where jurors are indifferent to traffic violations. You will find judges who differ greatly in their sentences. You will become disturbed at some verdicts. Lawyers will irritate you with browbeating tactics. You will sit around court all day (usually on your 'day off') awaiting the call of your cases. Let me give you this one bit of advice—don't lose your temper or you will lose your case.

Finally, I ask you to become part of the community to which you are assigned. Be a member of a church, of a civic club, take part in the recreation program of the community, get to know the people — so that they may know you, and, through you, may respect both you and the law which you enforce. □

ANNOUNCING

A one-day workshop for newly-appointed city and county planning board members.

Wednesday, December 8

Elizabeth City, North Carolina

9:30 A.M. - 4:45 P.M.

Place to be announced

Subjects to be covered: planning board organization and procedures, scope and contents of city and county planning programs, zoning, subdivision regulations, urban renewal

For: all newly-appointed city and county planning board members, city councilmen and county commissioners, building inspectors, managers, city and county attorneys, and other local officials interested in city and county planning programs and problems

For further information, write or call: Robert E. Stipe or Philip P. Green, Jr., Assistant Directors, Institute of Government, Chapel Hill; or John A. Donnelly, Chief Planner, Eastern Area Office, Division of Community Planning, North Carolina Department of Conservation and Development, Raleigh, North Carolina.



*What's a seven letter word
for flavor?*

1 2 3 4 5 6 7
W I N S T O N

**Change to Winston and change for good...
for good taste every time!**



Winston tastes good...like a cigarette should!

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