

POPULAR GOVERNMENT

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COVER

Our cover picture shows members of the Courts Commission at a 1964 winter meeting in Raleigh. The names of the members, shown and not shown in this shot, appear on the inside back cover of this issue. For the questions confronting the Commission, see page 1 ff.

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MAJOR POLICY ISSUES TO BE CONSIDERED BY THE COURTS COMMISSION

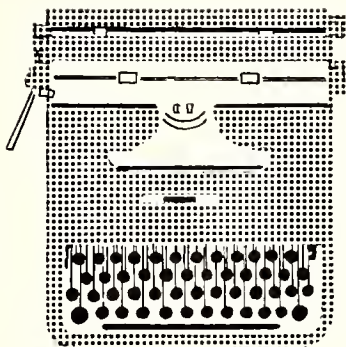
By C. E. HINSDALE, Assistant Director, Institute of Government

The Courts Commission was created by the 1963 North Carolina General Assembly to recommend legislation to the 1965—and later—sessions of the Legislature to implement the new Judicial Article of the State Constitution. Since the Constitution establishes only the broad outlines of the new system, the Courts Commission must make many major, far reaching policy decisions concerning what kind of a lower court system North Carolina is to have. Here is a list of some of the important questions which the Commission is now attempting to answer.

1. *Problems of Transition (1963 to 31 Dec. 1970, and later)*. Art. IV, Sec. 21 of the Constitution provides that a system of district courts shall be established throughout the State not later than 1 January 1971, and in general terms specifies what rules, laws and procedures shall be applicable in the interim. Sec. 21 also specifies that inferior court judges in office at the time of the transition to a district court system shall become district court judges for the remainder of their respective terms.
 - a. How shall the district court system be effectuated during the period of transition? Shall there be: (1) immediate geographical districting of the entire state, but with activation of only a few "pilot" districts; (2) immediate geographical districting of pilot districts only; or (3) immediate creation of the District Court Division, to consist of such districts as may be established from time to time, accompanied by a detailed statute setting forth the jurisdiction, organization and other specifics of a prototype district court, and separate legislation "feeding in" particular pilot districts?
 - b. What special provisions, if any, shall be made for "hold-over" inferior court judges, especially in districts in which the number of such judges may exceed the number of regular district judges prescribed for that district?
 - c. What provision should be made to obtain flexibility in judicial manpower—to provide additional judges when required to handle excess workloads?
2. *Jurisdiction*. Sec. 10 provides that the General Assembly shall prescribe the jurisdiction and powers of the district courts, Magistrates, and Clerks of Superior Court. This will undoubtedly affect the jurisdiction of the Superior Court.
 - a. Superior Court
What shall be its trial jurisdiction?—appellate jurisdiction?
 - b. Clerk of Superior Court
Shall the Clerk of Superior Court retain his present jurisdiction over probate matters?—special proceedings?—juvenile matters?
 - c. District court
What shall be its jurisdiction in criminal matters?—civil matters? Shall it have jurisdiction over probate matters?—domestic relations matters?
 - d. Magistrate
What shall be his civil powers?—criminal powers?—non-judicial powers, if any?
3. *Territory*. Sec. 8 requires the General Assembly to divide the State into a convenient number of district court districts, and to prescribe where the district court shall sit, with at least one seat in each county.
 - a. District courts
What shall be the criteria for determining the size of districts (population, county lines, amount of judicial business, etc.)?
Shall any county be divided into more than one district?
Shall each county be a separate district?
Shall counties be grouped into districts, and if so, shall the groupings be coterminous with Superior Court judicial districts?
Shall the districts be single-judge or multi-judge districts, or both?
Shall the judges specialize by subject matter?
What criteria shall be used in determining the number of seats of court per county?—and in locating them?
 - b. Magistrates
Shall Magistrates serve a district, a county, or a lesser area?
4. *District Court Judges*. Sec. 8 specifies that District Court Judges shall be elected for each district for a term of 4 years, and provides that the General Assembly shall determine the number of judges and how vacancies shall be filled. Sec. 21 provides that inferior court judges now in office shall become District Court Judges for the remainder of their respective terms. Sec. 15 requires the General Assembly to provide removal procedures.
 - a. Shall District Court Judges be full-time or part-time, or both?
 - b. What criteria shall be used in determining the number of judges per district?
 - c. By whom shall they be removable? How shall vacancies be filled?
 - d. What special rules, if any, shall govern "hold-over" judges?
5. *Magistrates*. Sec. 8 specifies that the senior regular resident Superior Court Judge shall appoint, for a two year

- term, from a list of nominees submitted by the Clerk of Superior Court, one or more Magistrates per county. Magistrates shall be officers of the district court, and the General Assembly shall determine their number.
- a. Shall Magistrates be full-time, or part-time, or both?
 - b. What criteria shall be used in determining the number of magistrates?
 - c. What shall be the salary of full-time Magistrates?—part-time Magistrates?
 - d. By whom shall they be removable?
 - e. What shall be the extent of the District Court Judge's authority over Magistrates?
 - f. Shall Magistrates be assigned any of the civil functions (marriage, etc.) of JPs?
6. *Clerical Functions of District Court.* Sec. 15 provides that District Court Clerks shall be removed for such causes and in such manner as the General Assembly shall provide, with right of appeal. (This is the sole provision concerning District Court Clerks in the new Article IV.)
- a. Shall there be a District Court Clerk (and Clerk's office), separate and apart from the Clerk of Superior Court?
In some counties?—in all counties?—in districts only?
 - b. Shall the Clerk of Superior Court serve *ex officio* as Clerk of District Court? Would this violate the Constitutional provision against double office holding?
 - c. If there is to be a separate Clerk of District Court, how shall he be selected?—for what term?
 - d. What shall be his power, authority, and duties?
7. *Prosecution in District Court.* Sec. 16 provides that criminal actions in the district courts shall be prosecuted in such manner as the General Assembly shall prescribe.
- a. Shall there be a District Court Solicitor, separate and apart from the Superior Court Solicitor?
 - b. If so, how shall he be selected, and for what term?
 - c. Shall there be such a solicitor for each district?—each county?
 - d. Shall the Superior Court Solicitor be District Court Solicitor *ex officio*?
 - e. Shall the District Court Solicitor serve full-time or part-time, or both?
8. *Courtroom Facilities.* Sec. 8 provides that the district court shall sit in at least one place in each county. Sec. 18 provides that the operating expenses of the judicial department shall be paid by the State.
- a. How shall courtroom and clerical facilities be arranged for, especially when the district court sits in a county at a place or places other than the county Court House?
 - b. What provisions shall be made for courtrooms for Magistrates?
9. *District Court Jury.* Sec. 10 provides that the General Assembly shall prescribe the jurisdiction and powers of the district court, including the Magistrate, and that appeals from Magistrates shall be heard *de novo*, with right of trial by jury. Sec. 11 provides that the General Assembly shall prescribe rules of procedure and practice for the district court, not limiting or abrogating the right of trial by jury. Sec. 12 specifies that jury trials may be waived in civil cases.
- a. Shall the district court have a twelve-man jury?
 - b. If so, shall appeals go to the Superior Court on matters of law only?
 - c. If a 12-man jury is waived in district court in a criminal case, can this waiver be made binding in Superior Court?
 - d. Shall the Magistrate have a six-man jury?
 - e. Shall appeals from the Magistrate go before the District Court Judge, or to the Superior Court?
10. *Costs and Financing.* Sec. 18 provides that the General Assembly shall prescribe uniform schedules of costs and fees for each division of the General Court of Justice. Operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be borne by the State. (Article IV does not require that fees and costs shall be paid in to the State Treasury.)
- a. What shall be the schedule of costs (fees) in the superior court?
 - b. What shall be the schedule of costs (fees) in the district court?—before the Magistrate?
 - c. Shall the present \$2 collection (G.S. 143-166) for the Law Enforcement Officers' Benefit and Retirement Fund be continued?
 - d. What shall be done about the \$.50 to \$2.00 fee now collected by some local courts for local benefit funds?
 - e. Shall costs be remitted to the State *in toto*, or a portion retained locally?
 - f. Who shall fix and pay the salaries of the Clerk of Superior Court and of his office personnel—the State or the county, or both?
11. *Status and Authority of the Administrative Office of the Courts.* Sec. 13 provides that the General Assembly shall provide for an administrative office of the courts to carry out the provisions of Article IV.
- a. Who shall appoint the Administrative Officer, and for what term?
 - b. What shall be his duties?
 - c. To whom shall he be responsible?
12. *Rules of Procedure.* Sec. 11 provides that the General Assembly shall prescribe the rules of procedure and practice for the superior and district courts. This authority may be delegated to the Supreme Court, with power retained to alter or repeal any rule or rules promulgated by the Supreme Court.
- a. Who shall prescribe the rules of procedure for the superior court?—the district court?
 - b. Shall there be special rules for proceedings before a Magistrate? If so, who shall prescribe them?
 - c. Shall there be special procedures established for traffic law violations?—domestic relations matters?

These are the major issues facing the Courts Commission. Even a casual glance at this list should be enough to convince anyone of the great scope and complexity of the undertaking. It is safe to say that the most far reaching changes in a century are at hand for our judicial system. As the Commission finds answers to these problems, and as the General Assembly translates these answers into law, so our system of lower courts will enter the twentieth century.



● NOTES FROM . . .

CITIES AND COUNTIES

Airports

Drawings of the proposed improvement to the *Siler City* Municipal Airport are ready and the project will be up for bids this month. The airstrip will be lengthened by 1,000 feet to a total of 4,600 feet and a taxi strip, access road, and plane parking apron will be added. Landing lights, a new wind direction signal and other navigation aids will also be included in the project.

Further steps toward getting the *Hickory* Municipal Airport in line for the installation of instrument landing equipment have been taken by the Board of Aldermen. Improvements are being made near the new terminal building where maintenance shops and hangar facilities will be erected.

Central Business Districts

Off street parking for *Plymouth* shoppers has been expanded to a lot adjacent to the town office. Parking will be free. The new lot will help to offset a parking ban on two blocks of the central business district.

Sixty-five parking spaces will be available to *Wilson* shoppers in a new lot within one of the city's busiest business blocks. The parking lot is the first step in the redevelopment of the downtown business area as envisioned by the Downtown Redevelopment Commission of the *Wilson* Chamber of Commerce. The plan ultimately calls for other parking developments and malls on two streets.

Bessemer City has joined the ranks of the meterless cities. The action came through a petition by downtown merchants who wanted the meters removed as an aid to shoppers. The meters had been hooded on a 90-day trial basis prior to the removal action.

Education

Anson County citizens passed a special bond election by a five to one margin to provide \$850,000 for school construction, repairs and equipment in county, *Morven*, and *Wadesboro* schools.

Surry County Community College will

be located on a 48 acre tract of land near *Dobson* and *Surry* Central High School. The site will have the college located centrally within the county.

Unemployed residents of *Onslow* County who lack job training are being given free schooling in automobile mechanics under the county's new manpower development and training program. The 48-week course has an enrollment of 15 and is being conducted at the Industrial Education Center in *Kinston* until *Onslow* County's own new Center is completed.

Night classes leading to an adult high school diploma have been arranged through the *Perquimans* County Board of Education. The program is open to those over 21 years of age and will be financed by individual tuition charges.

Fire Prevention

Louisburg's City Council has put the final approval stamp on a contract with *Franklin* County for the operation of a county-wide central fire alarm system. The new system will be operating in conjunction with the present fire alarm system at the *Louisburg* fire station.

Three communities are benefitting from new fire stations. In *Rocky Mount* the new fire department headquarters have 17,000 square feet of floor space at a cost of \$246,000. The department has 45 uniform firemen and 25 volunteers. *Youngsville's* fire department has moved into its new \$12,000 home which will also house town offices. *Greensboro* is adding a new suburban station at a cost of \$108,000.

History

Microfilming of *Nash* County records of permanent value has been undertaken by the State Department of Archives and History. Items microfilmed included records of deeds and other land transactions, marriage records, indexes to vital statistics, court minutes, judgment dockets, orders and decrees, special proceedings, bonds of officials and fiduciaries, wills, records of estates and min-

utes of meetings of county commissioners and other county boards.

The *Nash* microfilming is being done as part of a state-financed program which eventually will record all valuable county records in North Carolina on film. More than a third of North Carolina's counties have suffered serious courthouse fires in which all or a major portion of their records were lost; other losses have come from steam, water, insect and rodent damages, thefts, and general wear and tear.

An organization has been set up in *Durham* to plan a joint commemoration of the centennials of General Johnston's surrender to General Sherman at the Bennett Place and the accession of Tar Heel native Andrew Johnson to the Presidency in April 1965.

Representatives to the Andrew Johnson-Bennett Place Commemorative Committee include residents of *Raleigh*, *Durham*, and *Hillsboro* and representatives of a number of historical associations in the area.

Three downtown homes are first on the list of restoration projects in *Beaufort*. The Turner home dates to 1767 and the nearby Thomas house was built in the early 1800's. The Avery place, third in the group, is likely too far gone for restoration, but the property could be used to provide a grassy park area next to the Thomas house.

The *Beaufort* restoration is being promoted as an added tourist attraction for the coastal city. In 1962 eight million people visited historic sites and restorations throughout America and the idea of community restorations is on the upswing.

Author Manly Wade Wellman of *Chapel Hill* has begun work on a series of monographs tracing the historical development of *Winston-Salem* from 1766 to the present. The 14-volume history will appear in connection with the 200th birthday of the city. Wellman has previously written the histories of *Warren*, *Gaston*, and *Moore* counties.

(Continued on page 22)

Justices of the Peace in North Carolina-1963

By C. E. HINSDALE, Assistant Director,
Institute of Government

EXPLANATION

Data in this chart has been collected from figures supplied by the Fiscal Year 1963 Report of the Law Enforcement Officers' Benefit and Retirement Fund and by a December, 1963 questionnaire returned by 96 of the Clerks of Superior Court.

In some instances the TOTAL column will not equal the sum of the preceding three columns, for one or more of several reasons: (1) unfilled vacancies created by death or resignation; (2) failure of *elected* JPs to qualify; (3) election and legislative appointment of the same JP; and (4) arbitrary exclusion of JPs known, (or, in a few cases, strongly suspected) to be primarily Police Desk Officers commissioned as JPs for the purpose of issuing warrants. (This last category is rapidly vanishing since the new Constitutional Amendment prohibits the same person holding both offices.) A relatively large number of legislative appointees who failed to qualify are also excluded from the TOTAL. Column 6 represents only those JPs who forwarded to the State Treasurer the \$2 tax collected in criminal cases.

In a few cases the column 5 TOTAL is smaller than the column 6 number of JPs active in criminal cases. This is explainable by the dates of the reporting periods involved—column 5 is a December, 1963 figure, whereas column 6 represents the fiscal year ending 30 June 63.

Recapitulation

While over 900 JPs hold office in North Carolina, only a small percentage of this number work at it as a full time occupation. Many try a case only now and then—about one-third of the total try no criminal cases at all—and some limit their "practice" to the issuance of warrants.

Nearly half of the statewide total is *elected*. This is the primary method of coming into office in 33 counties. Leading counties are Johnston, with 30 elected, and Wake and Sampson, with 26 each. Thirty-seven counties, on the other hand, did not use the elective process for JPs at the last election.

About one-third of the statewide total qualified under a *legislative appointment*. While many more than this were actually appointed, only about 52% of the appointees bothered to qualify. Robeson

County leads with 54 appointees, but only 15 of this number qualified. Legislative appointment was the primary method of coming into office in 39 counties. Twenty-five counties, however, did not use this method at all in 1963.

About one fourth of the statewide total was appointed by the resident superior court judge. New Hanover County leads this group with 25 appointees. Thirty-seven counties have no JPs appointed by this method.

On the average, there are slightly over nine JPs per county. Counties with the fewest include Alleghany, McDowell, Pamlico and Perquimans, with only one each. Counties with the highest number include Wake (35), Rockingham (30), Sampson (27), Harnett (25), Guilford (22), Mecklenburg and Johnston (21 each). At least 31 JPs were appointed by both methods, or both appointed and elected (including 18 in Mecklenburg County).

From these figures one clear cut conclusion emerges. As in many aspects of North Carolina's present system of lower courts, lack of uniformity is the rule.

I COUNTY	II Elected 1962	III Gen'l Assembly 1963 App't'd/Qualified	IV App't'd by Res. Super. Ct. Judge	V TOTAL (Dec. 1963)	VI Active in Crim. Cases (LEOB&RF)	VII Notes
ALAMANCE	1	(17) 4	11	16	5	several inactive
ALEXANDER	3	(0) 0	0	3	3	
ALLEGHANY	0	(4) 1	0	1	2	
ANSON	0	(9) 9	0	9	6	
ASHE	0	(9) 4	0	4	5	
AVERY	0	(22) 11	0	11	4	
BEAUFORT	3	(0) 0	0	3	4	
BERTIE	0	(10) 4	2	4	7	2 appt'd by G.A. & SCJ
BLADEN	3	(4) 3	2	8	8	
BRUNSWICK	3	(3) 3	1	7	6	
BUNCOMBE	2	(3) 3	1	6	5	
BURKE	2	(5) 5	0	7	6	
CABARRUS	3	(8) 4	1	8	4	
CALDWELL	8	(0) 0	3	11	7	
CAMDEN	2	(3) 2	0	4	0	
CARTERET	1	(0) 0	7	5	4	3 PDO-JPs exclu.
CASWELL	1	(27) 14	1	16	10	
CATAWBA	17	(0) 0	1	18	12	4 issue warrants only
CHATHAM	14	(0) 0	0	14	9	
CHEROKEE	13	(1) 1	2	8	4	7 elec. did not qualify
CHOWAN	0	(3) 3	0	3	3	
CLAY	2	(3) 2	0	4	2	1 elec. did not qualify
CLEVELAND	10	(0) 0	3	13	10	2 issue warrants only
COLUMBUS	9	(11) 0	1	10	9	
CRAVEN	11	(0) 0	9	8	5	5 elec. failed to qualify; 7 PDO-JPs exclu.

I COUNTY	II Elected 1962	III Gen'l Assembly 1963 Appt'd/Qualified		IV Appt'd by Res. Super. Ct. Judge	V TOTAL (Dec. 1963)	VI Active in Crim. Cases (LEOB&RF)	VII Notes
CUMBERLAND	3	(0)	0	5	8	8	13 PDO-JPs excl.
CURRITUCK	0	(5)	5	4	4	3	
DARE	0	(4)	4	0	4	2	
DAVIDSON	13	(0)	0	2	15	6	8 inactive
DAVIE	0	(8)	7	0	7	1	
DUPLIN	19	(0)	0	0	19	15	one death
DURHAM	5	(1)	1	9	9	1	6 PDO-JPs excl; 5 inactive
EDGEcombe	6	(0)	0	3	9	8	1 issues warrants only
FORSYTH	19	(0)	0	1	20	6	
FRANKLIN	0	(13)	4	4	8	7	
GASTON	9	(9)	0	4	13	5	
GATES	0	(5)	3	0	3	1	
GRAHAM	0	(2)	2	0	2	3	
GRANVILLE	0	(9)	4	4	8	5	2 PDO-JPs excl.
GREENE	6	(0)	0	0	6	4	
GUILFORD	20	(7)	1	1	22	12	
HALIFAX	—	(15)	—	—	20	20	total estimated
HARNETT	8	(36)	16	1	25	12	
HAYWOOD	0	(10)	8	0	8	4	
HENDERSON	2	(1)	1	3	6	5	
HERTFORD	0	(7)	5	3	8	5	
HOKE	2	(1)	1	0	3	1	
HYDE	0	(9)	4	1	3	3	1 double apptmt; 1 resign.
IREDELL	2	(3)	2	1	5	4	
JACKSON	0	(2)	1	3	4	2	
JOHNSTON	30	(1)	0	3	21	21	8 elected did not qualify; 4 resigned
JONES	0	(3)	3	0	3	3	
LEE	0	(13)	11	0	11	8	
LENOIR	7	(0)	0	3	10	7	3 issue warrants only
LINCOLN	4	(0)	0	2	6	5	
McDOWELL	2	(1)	1	0	1	3	1 death, 1 resignation
MACON	0	(9)	5	0	5	4	
MADISON	0	(12)	5	1	6	5	
MARTIN	0	(5)	5	0	5	5	
MECKLENBURG	18	(18)	18	14	21	9	18 elec. also appt'd by G.A. 11 PDO-JPs excl. only 4 active
MITCHELL	0	(26)	13	1	14	3	
MONTGOMERY	0	(4)	4	0	4	5	
MOORE	0	(1)	0	9	10	11	
NASH	4	(11)	11	3	10	9	col. 3 includes cols. 2 & 4; 1 resign.
NEW HANOVER	4	(0)	0	21	7	2	18 PDO-JPs excl.
NORTHAMPTON	0	(16)	13	3	19	14	
ONslow	14	(1)	0	0	13	13	
ORANGE	0	(1)	1	4	5	3	
PAMLICO	0	(2)	2	0	1	2	1 resignation
PASQUOTANK	2	(0)	0	2	4	1	
PENDER	5	(0)	0	4	9	8	
PERQUIMANS	0	(1)	1	0	1	1	
PERSON	0	(31)	6	0	6	4	1 issues warrants only
PITT	17	(0)	0	14	17	19	3 deaths; 10 PDO-JPs not incl. total estimated
POLK	—	(1)	—	—	4	4	
RANDOLPH	6	(2)	2	2	10	7	
RICHMOND	5	(4)	0	6	11	11	2 issue warrants only
ROBESON	0	(54)	15	0	15	2	
ROCKINGHAM	19	(0)	0	11	30	22	
ROWAN	5	(8)	4	2	11	4	2 inactive
RUTHERFORD	2	(0)	0	5	7	9	
SAMPSON	26	(1)	0	0	27	22	
SCOTLAND	0	(0)	0	3	3	1	1 issues warrants only
STANLY	0	(10)	5	0	5	4	
STOKES	2	(0)	0	4	6	4	2 issue warrants only
SURRY	9	(0)	0	15	11	8	13 PDO-JPs not incl.
SWAIN	2	(2)	1	1	4	4	
TRANSYLVANIA	5	(1)	1	1	4	2	3 elec. did not qualify
TYRRELL	0	(4)	4	0	4	0	
UNION	3	(6)	5	0	8	7	
VANCE	0	(12)	12	0	12	6	5 inactive
WAKE	26	(3)	1	14	35	24	7 PDO-JPs excl.
WARREN	0	(4)	3	1	4	3	
WASHINGTON	—	(6)	6	—	6	2	total estimated
WATAUGA	4	(1)	1	1	6	4	
WAYNE	13	(1)	1	1	13	10	2 elec. did not qualify
WILKES	0	(20)	11	2	13	6	
WILSON	5	(9)	7	0	14	7	
YADKIN	—	(5)	—	—	6	6	total estimated
YANCEY	1	(15)	8	0	9	3	
TOTAL	462	(614)	328	246	927	629	



Some of the more than 100 delegates to a special seminar on the problems and potentials of modern underground wiring register for the conference, jointly sponsored by the Institute of Government and the North Carolina section of the American Institute of Planners. The group included officials and industry representatives and met at the Knapp Building in March.



Pat D. Huff, representing Duke Power Company in Charlotte, makes a point regarding feasibility of underground power distribution during the special planning seminar.

INSTITUTE SCHOOLS MEETINGS CONFERENCES

Short term investment of surplus funds is the topic during this session of the annual Municipal Finance Officers School held at the Institute in March. Panel discussion leaders included George Coltrane, Assistant Director, Institute of Government; Dan Umstead, Durham Finance Director; and Ernest Ward, Rocky Mount Finance Director.



Part of the first session of the annual Seminar for City and County Managers was devoted to problems of crime and delinquency. Judge Mason P. Thomas, Wake County Domestic Relations and Juvenile Court, speaks during a panel discussion. On the left are Lynn D. Swanson, Consultant on Specialized Police Services for Children and Youth, Federal Department of Health, Education and Welfare; and Jesse James, Assistant Director, Institute of Government. At right is Milton Rector, Director, National Council on Crime and Delinquency.



PLANNING AND URBAN REDEVELOPMENT

in Smaller Communities

By GEORGE J. MONAGHAN, Administrator

Division of Community Planning

North Carolina Department of Conservation and Development

(Editor's Note: This article is adapted from an address by the author at the quarterly meeting of the Carolina Association of Redevelopment Officials at Raleigh on January 16, 1964. Because of its perspective, topicality and pertinence to public officials and public spirited citizens, it is believed that the article will be read with considerable interest.)

I'd better preface my observations with a statement as to my ignorance—and my qualifications. I know very little about urban redevelopment. The Division of Community Planning is not engaged in urban renewal planning in any community in the State. We are, however, deeply involved in planning in the state. Through our staff of 19 professional city planners we are now assisting the planning boards in 65 cities and counties to prepare plans to guide their future development. Assistance in 14 other communities in western North Carolina is being provided through the staff of the Western North Carolina Regional Planning Commission. Like urban redevelopment, this assistance to communities is made possible by federal participation. The federal government pays up to 2/3 of the cost of this work, while the local communities pay the remaining 1/3. We are able, under the program, to assist communities in any aspect or area of general planning—land use plans, thoroughfare plans, Central Business District (CBD) plans, Overall Economic Development Plans (OEDP), workable program elements, and so forth.

One deep concern that we as an agency have been guided by is a desire to be of continuing and close assistance to the communities with which we work. It isn't enough to help a town prepare a plan for 1980, if the planner can't help on the current land development problems that the town is facing. And if his plans are to have any significance and his recommendations any implementation, the planner must have his relationship with the city over an extended period of time. That the cities we assist feel the same way is borne out by the fact that out of the 49 cities in our most recent six projects, 26 of them were simply

continuing a relationship that had been set up in one, two, or three previous contracts with our Agency.

So much for essential background. Now to the subject at hand.

In the broad sense urban redevelopment is an ever continuing process of building and rebuilding the homes, streets, parks, and commercial buildings that make up a city. Within this concept, planning is a part of urban redevelopment. But, in a narrower definition, urban redevelopment is a federal program of assistance available to communities to attack the problem of blight by clearing slums, rehabilitating areas on the threshold of becoming slums, and conserving areas that are still sound. In this sense, urban redevelopment can be a valuable part of a comprehensive community planning program. Just as the planner can recommend zoning or subdivision regulations to carry out the general plan, so he can recommend urban renewal to implement other aspects of it. Perhaps the only feasible way to collect land for commercial or industrial reuse in the location that is prime for that purpose would be through renewal. Perhaps a major recommendation of the thoroughfare plan can be implemented only through renewal. So, whether, we regard planning as a tool of redevelopment or redevelopment as a tool of planning, they are closely related and dependent upon one another.

Up to now, we have been talking about the way planning and redevelopment could or should operate together. Now let's consider how well they have worked together in North Carolina and how valuable urban renewal has been as a tool to implement comprehensive planning.

By "smaller communities" I mean those under 50,000 population, since these are the communities with which we work. All of the cities over that size in North Carolina have their own full-time planning staff. Of the 11 cities under 50,000 population in the State that are actively in urban redevelopment, the Division has current contracts to provide assistance to nine of them. Of the remaining two, one was able to

retain the services of a resident planner with our encouragement. The other has requested our assistance and we are awaiting federal approval to actively begin working with them. What does the record show as far as coordination between planning and redevelopment is concerned? I would say, as a first indicator of coordination, that a general, comprehensive plan should exist prior to urban renewal detailed planning. For without general planning, the urban renewal project might not serve the real needs of the community in that area. And it seems to me, then, that a comprehensive plan should be required not only before the "execution" stage but even before approval of a survey and planning application. In the 11 cities under 50,000 in population that are in redevelopment in North Carolina, only four had a general plan prior to urban renewal planning.

By general planning, I mean a plan larger in scope and area that recommends the location of future land uses, thoroughfares and community facilities in that larger area. If the renewal project is for a portion of the downtown area, there should be a general plan for the entire downtown that would recommend an automotive and pedestrian circulation system, areas for new buildings and for parking, and such community facilities—such as governmental buildings—that might be required in the area. Without this general plan, urban renewal might enhance the project area to the detriment of the downtown as a whole.

Now it is true that to go into the "execution" stage, the city is required by the federal government to have a land development plan. But in my opinion, those cities that get into renewal before general planning have put the cart before the horse. The planner in that city has a difficult time getting the city to look beyond the project area to overall city-wide or CBD-wide considerations. The plan for the project area begins to dictate the plan for the larger area.

One particular study that is almost

invariably undertaken after a city is well along in survey and planning—or beyond—is the so-called neighborhood analysis. Because it is a workable program requirement, city after city sanctimoniously goes through the ritual of surveying its blight and delimiting treatment areas long after the project or GNRP boundaries are decided on. It's just a base that the city has to touch to play the game of redevelopment. One can only hope that peripheral values result from these studies.

To repeat, only four of the 11 smaller cities now in renewal had what I would consider to be the desirable planning-renewal time sequence. In two cities, the planners are now hurrying the general plan to completion so as not to delay the "execution" stage of the redevelopment project. This is a problem that should work itself out. Since 79 communities now are actively preparing plans, the proper ground work is being laid for urban renewal.

Another criterion of a good planning renewal relationship that I would look for, is whether or not the planner and planning board participated in a meaningful way in the identification of the project area—whether it participated not just at the formal certification of the area as being eligible—but as a significant voice of assistance in that determination. While the latter is more difficult to determine, it seems to have been the case in at least the majority of smaller cities now in renewal.

The third criterion that I would look for is a continuing exchange of views and information between the Planning Board and the Redevelopment Commission. Here I am forced to conclude that in many cities these two groups go their own way, each advised by their own technical assistance. They exchange views only on those occasions when they are required to do so to carry the program.

Two factors contribute primarily to this separation between planning and renewal boards. They are as follows:

1) The renewal people tend to expect too much from a general plan. General planning, in fact, is only of small but critical value to the renewal effort. It cannot answer the tremendous questions that arise in the course of treating a project area. If the general plan does identify the best future use of the area, and the thoroughfare and community facilities needed in the project area, I would feel it has done all that the renewal people can expect of it.

2) Planners on the other hand, are educated in the use of colored pencils. They have an irrepressible urge to re-do or amend any plan that comes their way. The only reason the Lord was able to create the universe in seven days was because there were no planners around to "critique" his efforts. Planners have a responsibility, in their relationship with

renewal specialists, not to be hypercritical of project plans that are prepared and presented for their consideration or approval.

To overcome the gulf that one frequently finds between the two boards, I would recommend that one member from each board be appointed, as a non-voting participant, to sit in on the deliberations of the other board. I would also recommend regular quarterly joint meetings of the two boards for progress reports from each, even when "there is nothing to report."

As a final criterion of a good planning renewal relationship I would ask this question, "Where the general plan made specific recommendations in the renewal area, were these recommendations implemented by the renewal project, or were they ignored?" Here I find that in the majority of cases the planning recommendations—even if only a recommended major thoroughfare through the area—have been picked up and implemented.

My conclusion then, about the planning renewal relationship in North Carolina's smaller communities is that there is substantial need for closer coordination. Part of the blame for this lies in the communities, part with their technical advisors, and part with the Housing and Home Finance Agency (HHFA). I can only ask you, each of your own community, to honestly examine this relationship and decide on the steps that should be taken to bring planning and renewal as close together as they should be.

I am sure that in the minds of the general public there is no distinction between the activities of city planning and urban redevelopment. A defeat for planning is a defeat for redevelopment. A success for redevelopment enhances and facilitates planning in the community.

Let us go on to another aspect of urban redevelopment in North Carolina. As I said, there are 11 cities under 50,000 in population in urban redevelopment in the State. Four of those cities have projects in "execution." When one considers that there are 29 cities between 10,000 and 50,000 population in our State and 89 cities between 2,500 and 10,000 population, and also that there are over 100,000 dilapidated dwellings outside of the metropolitan areas of our state, I can't help but question whether urban renewal is growing rapidly enough to be of real significance in our state as a whole. After all, the 11 current projects in cities under 50,000 population involve the relocation of fewer than 2,000 families.

I feel that urban renewal is a valuable tool for community improvement that should be used much more than it is at present.

Part of the difficulty that stands in the way of a wider use of urban renewal

is the complexity of the program: it's an art and science in itself—and it's built upon a mountain of paperwork and regulations. This complexity requires sustained dedication at the local level to persevere through to the "execution" stage and beyond. This is completely different from the 701 programs of federal assistance for planning. The only paperwork at the local level is a two-page resolution requesting our assistance. The rest of the paperwork associated with the program is completed at the state level. I might mention that it usually takes us about two days to complete an application for federal matching funds, and there is a minimum of paperwork in the course of a project. Approval of a project generally comes three months after our application.

Much of the complexity of renewal is inevitable, but I feel sure that a significant amount of the delay and wasted motion could be avoided if there was more carry-over from one city to another.

Let's look for a moment at another tool available to the comprehensive planning program: zoning. If the people in Greenville, or Rockingham, or Wendell, or any other community want assistance on zoning, where can they turn? There are at least three agencies which provide various types of specialized professional assistance in the State—the League of Municipalities, the Institute of Government, and our Division. All three agencies can draw upon their experience in this subject matter in many other cities and can give them disinterested advice. These agencies, moreover, are close at hand and are politically sensitive organizations.

But where can a city go for disinterested assistance and advice about urban renewal? The programs of the Housing and Home Finance Agency (HHFA) and its associated agencies, the Farmers Home Administration, and other federal agencies are becoming increasingly sophisticated and comprehensive. Our means of evaluating these programs and getting assistance, have simply not kept pace with the potentials of the programs. By and large, we still look to the individual community and the alert, interested individuals therein, to discover what is going on and attempt to interpret its usefulness in that one community. Here, I feel that all of us who are professional Urban Redevelopment Directors and Redevelopment Commission members have a special responsibility. We must look beyond the scope of our day to day job, beyond the limits of our own communities and develop ideas and recommendations and an organizational framework that will bring the benefits of urban renewal to many, many more of the smaller communities and to the people of North Carolina.

This is a job that remains to be done.

Planning in Great Britain - A Series

PART II: ORGANIZATION AND BASIC PROCEDURES

By PHILIP P. GREEN, JR.
Assistant Director, Institute of Government

Introduction

In the first article of this series we described the general setting within which English planning programs are carried on: the population and its distribution on the land, characteristic patterns of development, the organization of local government, and some of the fundamental problems confronting the nation. In this article we shall outline the statutory provisions governing the organization and operation of British planning efforts. (We shall not describe the programs in Scotland and Northern Ireland, but they are generally similar to those in England.)

The beginnings of planning legislation in England are to be found in the Public Health Act of 1848 (which gave local governments some control over construction of new buildings and private streets), the Housing of the Working Classes Act of 1890 (which provided for removal of insanitary dwellings and the building of new housing for workers), and the Housing, Town Planning, etc., Act of 1909 (which authorized local authorities to prepare "town planning schemes . . . as respects any land which is in course of development or appears likely to be used for building purposes with the general object of securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of the land and of any neighbouring lands"). The latter act is regarded as the first official recognition of planning as an appropriate function of local government in England. It is interesting to note that the same year, 1909, saw the creation of the Hartford (Conn.) Commission on the City Plan, the first official city planning commission in the United States.

Further acts in 1919, 1923, 1925, 1929, 1932, 1943, and 1944, extended the scope of local planning powers, but the passage of the Town and Country Planning Act of 1947 is generally regarded as the most significant legislative event in the history of English planning. Although it was amended in several significant respects in 1953, 1954, and 1959, and recodified in 1962, this act re-

mains the basis for much of what is described below. As we shall see, it is a most remarkable piece of legislation.

Planning Organization

The original 1909 law granted planning authority to county district councils (boroughs, urban districts, etc.), obviously regarding planning as a localized function. Counties were not brought into the picture, except in certain unusual circumstances, until 1929. At that time they were empowered to act jointly with other local authorities in preparing and enforcing plans, and county district councils were authorized to relinquish their planning powers to the county if they wished. At this stage, the situation was not unlike that in North Carolina today.

By 1947 it was recognized that the county districts were generally too small in their territorial coverage to plan effectively, and the 1947 act and its successors provided that the county itself (or the large cities designated as county boroughs) should be the local planning authority. On the other hand, provision was made for delegating authority to administer and enforce planning regulations to any county district council within the county. In other words, the county council (or county borough council) now has sole authority to prepare and adopt plans, but the responsibility for day-to-day and case-by-case administration of development under these plans may be turned over to smaller units within the county.

The inception of regional planning was in 1919, when two or more local authorities were first authorized to act together in preparing a plan and to appoint a joint committee for that purpose. This power has been continued under the present-day statutes. But there has been a significant addition: the Minister of Housing and Local Government may now designate a district composed of all or portions of two or more counties and appoint a "joint planning board" as the agency to prepare plans for the district. This is designed to take care of a situation where the national govern-

ment sees a need for larger-scale planning but the local governments concerned are unable or unwilling to get together on a common plan.

Although there has been no extensive use of this power, the Ministry did in fact commission the making of certain regional plans on its own initiative during World War II, and there has been considerable discussion recently of the desirability of creating large-scale regional planning authorities.

An American finds particularly interesting the fact that planning powers have for the most part been left in the hands of the elected governing boards. Except in the case of joint planning boards and the advisory committees which may be appointed by a council which so desires, there are no agencies corresponding to the American planning board, board of zoning adjustment, redevelopment commission, or housing authority. The governing board fills all of these roles.

Normally, of course, the *entire* council does not exercise these functions. As we have seen, councils usually operate through committees (which may even have subcommittees), and this is true of the planning function as well as other governmental functions.

Counties normally have full-time professional planning staffs, and the larger county districts exercising delegated functions may also have such staffs, or the county staff may operate area offices. These staffs operate with respect to the planning committee of the council in much the same way as do the planning staffs of the larger North Carolina cities.

There is one other element of importance in the organization for local planning. This is the national government, represented chiefly by the Minister of Housing and Local Government — although the Minister of Transport, the Minister of Agriculture, the Board of Trade, and the Secretary of State for Industry, Trade, and Regional Development all play important roles.

The Minister of Housing and Local Government has the "duty of securing consistency and continuity in the fram-

ing and execution of a national policy with respect to the use and development of land throughout England and Wales." In performing this duty, he has, as we have seen, authority to influence local planning organization through the creation of joint planning boards. He may also—and sometimes does—by regulation authorize (or even require) counties to delegate their enforcement and administration powers to county district councils. Once an appropriate planning organization has been created, he has important functions relating to planning and land-use control processes. His approval is required for all local development plans (whose contents he has specified generally through regulations) and subsequent amendments thereto. In the actual regulatory process, he may—and does—by regulation specify types of development for which no permission shall be required, procedures for making application for permission, requirements for hearings, etc. Appeals from the decisions of local planning authorities may be taken to the Minister, and he has authority to "call in" certain cases for his decision even before local authorities have acted.

No industrial development involving more than 5000 square feet of floor space may be undertaken without an industrial development certificate issued by the Board of Trade. Cases relating to agricultural uses must be referred to the Minister of Agriculture, and where highway access or highway safety is involved the Minister of Transport must be consulted. Recently the Secretary of State for Industry, Trade, and Regional Development has undertaken considerable responsibility for regional planning.

It will be seen that the degree of involvement by national departments is unlike anything to be found in the United States (with the possible exception of the role of the federal Housing and Home Finance Agency in urban renewal programs). However, the difficulty of handling local planning problems within the jurisdiction of even a county is pointed up by the facts that London's Green Belt runs through six counties lying totally beyond the County of London, and that virtually all of the major cities have constructed "housing estates" or undertaken major responsibilities for the expansion of towns far outside their limits. The interest of the national government in planning problems grows out of such situations as these. And in a land-short situation, no local authority can be permitted to contradict or impede national policies.

Plan-Making

Several significant developments have occurred with respect to the actual making of plans since 1909, but the most significant is undoubtedly the requirement of the 1947 act and its successors

that all counties and county boroughs *must* prepare plans and revise them at least once every five years thereafter.

The 1909 act was purely permissive in its terms. A 1919 revision was a precursor of the 1947 requirement, making it mandatory that certain local authorities with populations over 20,000 prepare plans and enabling the Local Government Board, a national agency at that time, to direct the making of plans by particular local authorities. These provisions were repealed in 1932, however, so that the 1947 act was truly the first full-scale requirement that all local units authorized to plan should actually do so. This requirement is unmatched in American planning acts, which traditionally speak in permissive terms.

As we have already noted, the county and the county borough are the units of government directed to prepare plans. The statute directs, however, that the county consult with the council of any county district whose land is shown in its plan and consider any representations made by that council.

Since the first act in 1909 the national government has played a role in the plan-making process. Currently the Minister of Housing and Local Government must give his approval of the original plan and of any revisions thereto; he may direct that proposals for revision be submitted to him at any time; and he may himself amend the plan or direct another planning authority with an interest in the proper planning of the area to prepare plans for it (and require the local planning authority to reimburse him or the neighboring authority for expenses incurred in preparing or amending the plan). In other words, the Minister has almost complete authority over the contents of the plan.

In addition, the Minister by rules and regulations specifies the procedures to be followed in preparing and adopting the plan—including notice and public hearings—and the nature of the plan documents.

It is the Minister's approval process that, as might be expected, has caused the greatest complaint among local planning officials. It is reported that the median time required for approval of the initial county development plans prepared under the 1947 act was more than 40 months, and even the processing of the five-year revisions has been time-consuming.

Although the 1909 act limited plans "to land which is in course of development or appears likely to be used for building purposes," this restriction was largely removed by 1932, and today plans may cover all lands within the authority's jurisdiction. However, provision is made for plans covering only a portion of such area, pending preparation of an overall plan.

The statute is no more explicit than American planning acts in defining the nature of the plan. It merely states that a "development plan" means a plan indicating the manner in which a local planning authority propose that land in their area should be used, whether by the carrying out thereon of development or otherwise, and the stages by which any such development should be carried out. . . . [Any such plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals in question with such degree of particularity as may be appropriate to different parts of the area; and any such plan may in particular:

"(a) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the plan;

"(b) designate, as land subject to compulsory acquisition by a Minister, local authority or statutory undertakers [public utilities], any land allocated by the plan for the purposes of any of their functions . . . ;

"(c) designate as land subject to compulsory acquisition by the appropriate local authority—

"(i) any land comprised in an area defined by the plan as an area of comprehensive development . . . or any land contiguous or adjacent to any such area;

"(ii) any other land which, in the opinion of the local planning authority, ought to be subject to compulsory acquisition for the purpose of securing its use in the manner proposed by the plan.

". . . For the purposes of this section, a development plan may define as an area of comprehensive development any area which, in the opinion of the local planning authority, should be developed or redeveloped as a whole for any one or more of the following purposes . . .

"(a) for the purposes of dealing satisfactorily with extensive war damage or conditions of bad lay-out or obsolete development, or

"(b) for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the development or redevelopment of any other area, or

"(c) for any other purpose specified in the plan. . . ."

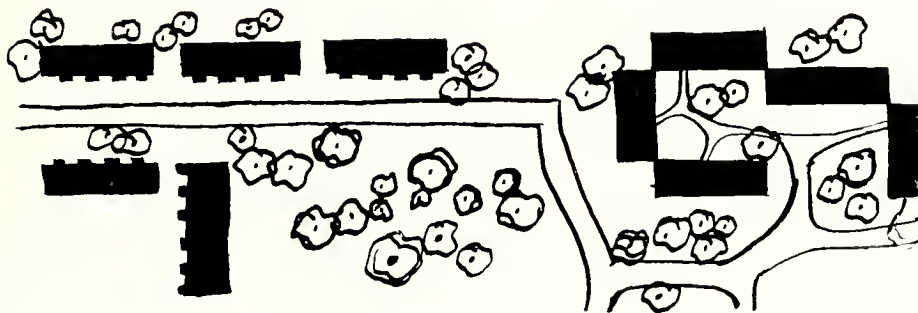
The basic requirements for plans are contained not in the statutes but rather in the rules and regulations issued by the Minister of Housing and Local Government. These provide that there should be a written statement, certain basic maps, and such other maps as are appropriate. The written statement is expected to include such matters as assumptions and estimates, policies to be fol-

lowed, descriptions of major projects and proposals, and a statement of the proposed staging of development.

In a county borough there are two required maps: (a) a town map at a scale of six inches to the mile, showing areas intended primarily for residential, commercial, or industrial uses, groups of civic buildings, school sites, playing fields and open spaces, and major streets; and (b) a programme map, showing the stages of proposed development. In a county, the required maps are (a) a county map at a scale of one inch to the mile, with much less detail than is shown on town maps, and (b) a programme map. In addition, there may be town maps for those areas of the county where more detailed planning is needed.

In both a county borough and a county, there may also be (1) comprehensive development area maps at a scale of 25 inches to the mile, giving very detailed coverage of areas where this degree of control is considered important; (2) designation maps, showing land subject to compulsory acquisition by a Minister, local authority, or "statutory undertaker;" and (3) street authorization maps, showing locations of new roads and private streets.

American planners would probably find these plans most notable for their small scale maps and the generality of their written statements—although there have been recent movements in the di-



rection of greater detail and specificity in both maps and statements.

Carrying Out Plans: Regulation

The basic mechanism through which plans are carried into effect is a requirement that "planning permission" must be received before there can be any development of land. Development is defined as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

This broad definition is limited somewhat by provisions that the following are not considered to involve development:

"(a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially

affect the external appearance of the building . . . ;

"(b) the carrying out by a local highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;

"(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

"(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

"(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

"(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Minister . . . , the use thereof for any other purpose of the same class."

On the other hand, to avoid doubt the statute specifically declares that the following constitute a "material change in use" and therefore "development": (a) the use of a single dwellinghouse for two or more dwellings, (b) the deposit of refuse or waste materials on land (including existing dumps, where either the

superficial area of the dump is increased or the height of the deposit is increased so as to rise above the level of adjoining land), and (c) the display of advertisements on any external part of a building not normally used for that purpose.

The statute sets forth certain minor circumstances in which planning permission shall not be required for development and certain circumstances in which permission is deemed to have been granted. The largest leeway for development without permission is that mentioned in subsection (f) above, however. The Minister of Housing and Local Government has promulgated a list of 18 Use Classes under his authority. Any person may change the use of his property to another use within the same class as its existing use without applying for permission; but he may not change to

a use falling within another class without going through regular approval procedures.

Within a county borough (large city), the county borough council—usually through its planning committee—has authority to grant, deny, or grant conditionally "planning permission" to develop. Within a county, the county council basically has this authority. However, as we have seen, counties are authorized to delegate this authority to county district councils within their jurisdiction. In practice, there have been many delegation agreements, differing in detail from county to county. In most cases, provision is made for an appeal from some local decisions to the county council; and applications for development of certain types considered critical to the success of the plan may automatically go before the county rather than district authorities.

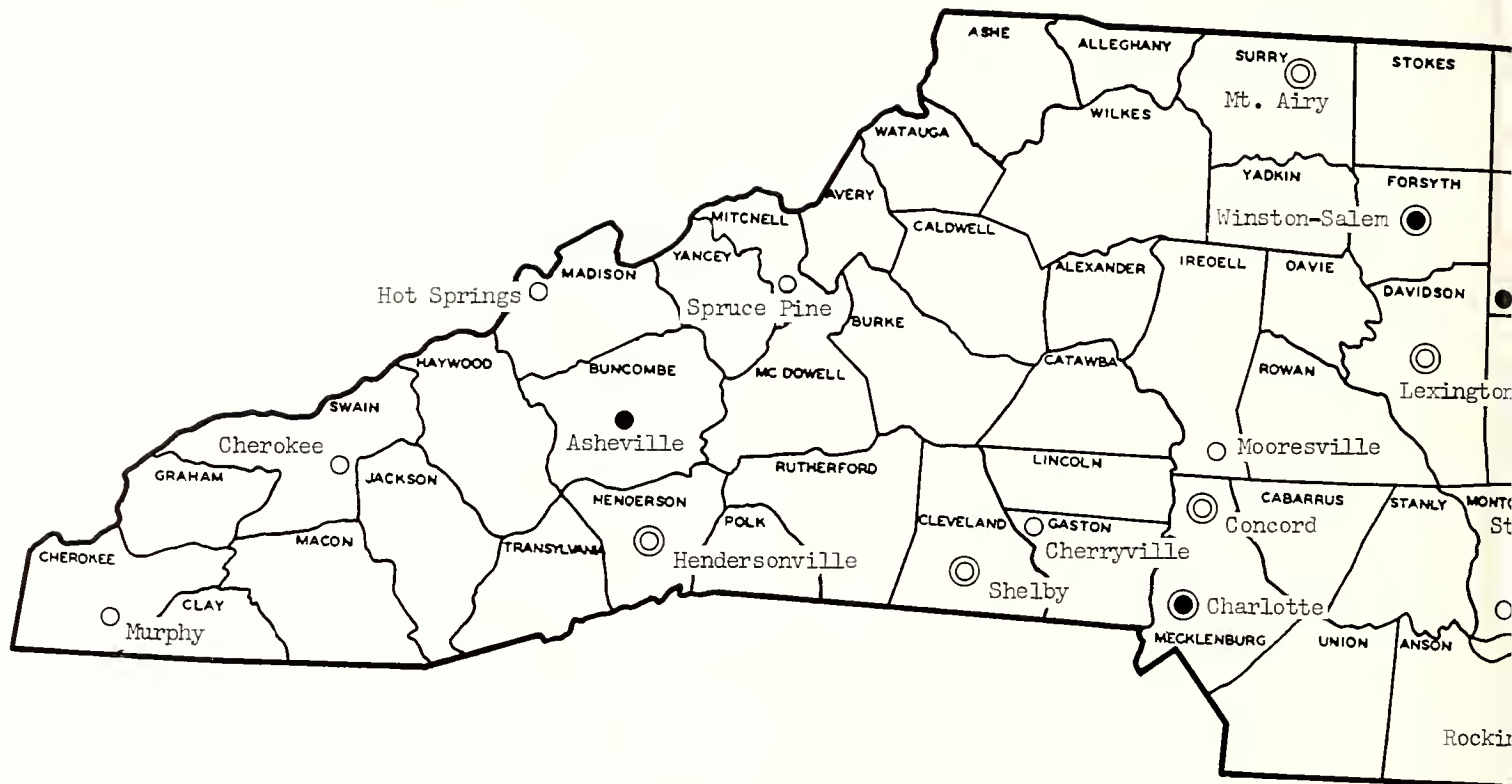
Appeals may be taken to the Minister of Housing and Local Government from the decisions of local authorities, and court proceedings are occasionally brought where it is alleged that there has been a violation of the statute. Appeals to the Minister have risen to a rate of over 13,000 a year, with consequent extended delays in their handling. It is reported that in the average case as much as 10 months may elapse between the original application and the decision on appeal, of which seven months may be consumed between the time of filing of the appeal and its decision. A fairly significant proportion (as much as one-third) of the appeals filed with the Minister may be withdrawn before decision. Of the remainder, it appears that favorable action (overruling the decision of the local authority) may be achieved in one-fourth to one-third of the cases.

There are basic differences between British and American practice in dealing with individual cases. The British law draws no distinction between the type of development activity which is governed by subdivision regulations in America and that which is governed by the zoning ordinance in America. More important, the British law does not even make provision for written regulations of this type. To the maximum degree possible, it contemplates dealing with individual applications on a case-by-case, administrative basis, rather than through the application of detailed ordinance provisions.

While the statute (supplemented by regulations issued by the Minister) is quite explicit with regard to procedural requirements, it deliberately is quite vague as to the standards to be followed by local authorities in granting or denying planning permission: ". . . where an application is made to a local planning

(Continued on page 24)

**DISTRIBUTION
DEVELOPMENT
AS OF OC**



Legend:

**TOTAL NUMBER OF UNITS IN PLANNING,
UNDER CONSTRUCTION, OR OCCUPIED**

- 1000 +
- 500 - 999
- ⊙ 100 - 499
- Under 100

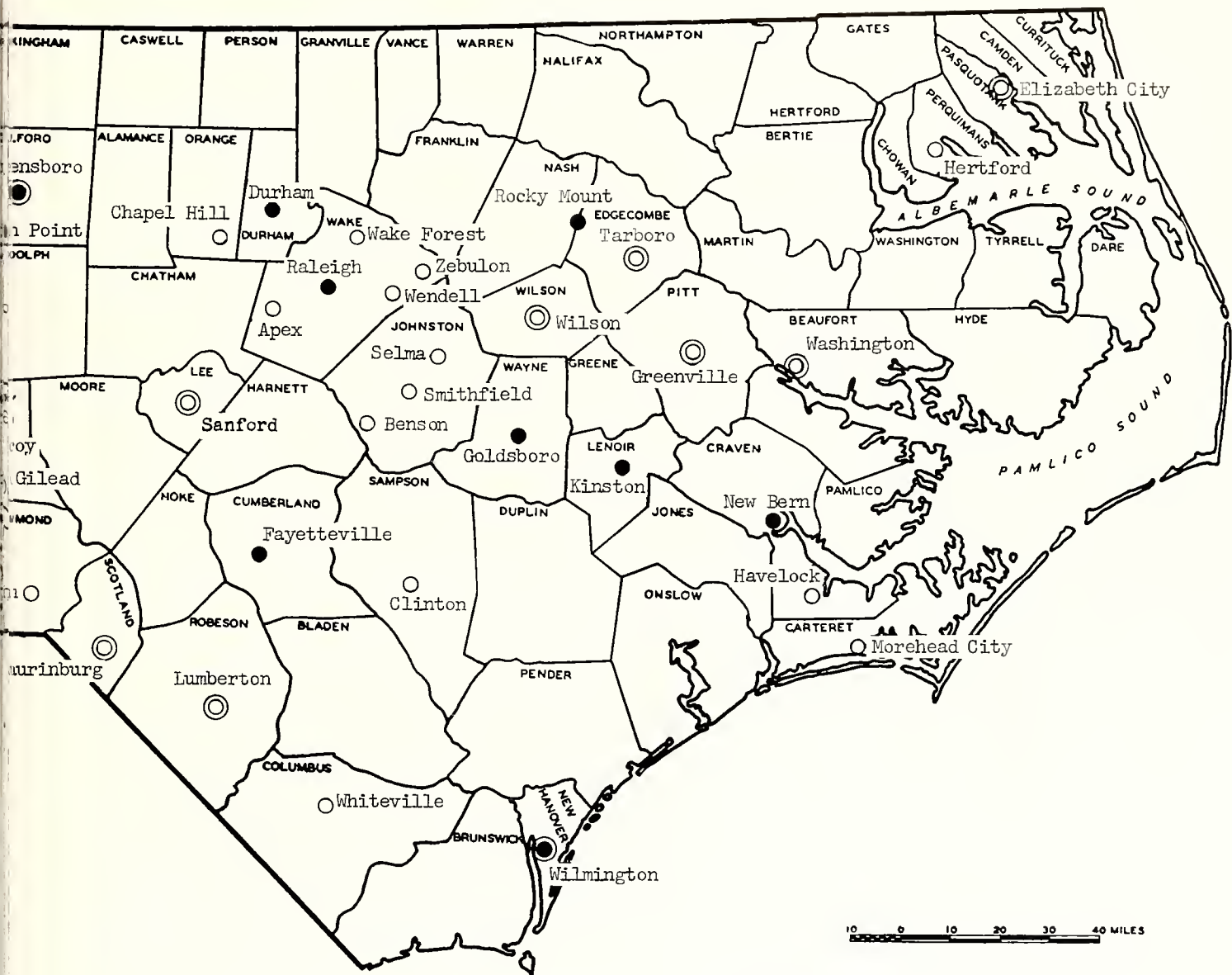
***PUBLIC
HOUSING
IN
NORTH
CAROLINA***

By RUTH L. MACE,
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The federal public housing program, established by Congress in the United States Housing Act of 1937, provides federal subsidies to promote the construc-

tion of "decent, safe and sanitary dwellings" for "families . . . in the lowest income group . . . who cannot afford to pay enough to cause private enterprise . . . to build an adequate supply" of accommodations to meet their needs. Under this program, communities, acting through their local housing authorities (created under state law—North Carolina is Chapter 157 of the General Statutes), issue bonds to build and operate projects to house low-income families. The local authority plans, builds, owns and operates the public housing. It is entirely a public corporate entity. The federal government underwrites the

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IN NORTH CAROLINA
OCTOBER 31, 1963



bonds and helps pay them off with annual subsidies. Maintenance and operating costs are paid from rents which are set according to family incomes, generally at 20 percent below rents for standard private housing in the community. The state law exempts low-rent housing from local taxes; however, local housing authorities make regular voluntary payments in lieu of taxes up to ten percent of shelter rents.

North Carolina communities have been participating in this program since very shortly after its inception. A dozen of the 45 housing authorities now in existence¹ are more than 20 years old.

Housing authorities were established in Charlotte, Raleigh, Wilmington, and Winston-Salem in 1938, and in the following year in High Point, Kinston, and New Bern. During the next two pre-war years, authorities were set up in Greensboro and Fayetteville, and the Eastern Carolina Regional Housing Authority was organized.

While there are a substantial number of mature housing authorities in the state, more than half of those currently functioning are new, having been established subsequent to the enactment of the Housing Act of 1961 which authorized the construction nationally of an

additional 100,000 units of public housing.

As 1963 drew to a close, public housing developments were on the ground, in construction, or in various stages of planning in 51 North Carolina localities. Approximately 16,000 dwelling units are included in these developments which will house about 65,000 North Carolinians. Details about these developments are shown in the accompanying table on the following page.

1. As of this writing, there are 43 municipal housing authorities, one county authority, and one regional authority.

PUBLIC HOUSING IN NORTH CAROLINA (As of 10-31-63)

City Size Group	No. of Cities in Group	City	Total Units		Occupied	Number of Units Under Constr.	In Planning
			Number	% of State Total			
100,000	3		4899	31%	3994	0	905
		Charlotte	2020		1420	0	600
		Greensboro	1341		1036	0	305
		Winston-Salem	1538		1538	0	0
50,000-100,000	4		3154	20%	2604	0	550
		Asheville	592		592	0	0
		Durham	870		650	0	220
		High Point	780		450	0	330
		Raleigh	912		912	0	0
25,000-50,000	5		3350	21%	3068	115	167
		Fayetteville	512		512	0	0
		Goldsboro	725		725	0	0
		Rocky Mount	520		520	0	0
		Wilmington	1193		1078	115	0
		Wilson	400		233	0	167
10,000-25,000	11		2575	16%	1572	258	745
		Chapel Hill ^c	60		0	0	60
		Concord	152		152	0	0
		Elizabeth City ^c	150		0	150	0
		Greenville ^b	225		0	0	225
		Kinston	644		644	0	0
		Lexington ^c	130		0	0	130
		Lumberton	125		125	0	0
		New Bern	579		471	108	0
		Salisbury	240		180	0	60
		Sanford ^c	120		0	0	120
		Shelby ^b	150		0	0	150
Under 10,000	27		1824	12%	460	278	1086
		Apex ^{c,a}	10		0	10	0
		Benson ^b	50		0	0	50
		Cherokee ^c	36		0	0	36
		Cherryville ^b	50 ^c		0	0	50 ^c
		Clinton ^b	70		70	0	0
		Havelock ^b	50		0	50	0
		Hendersonville ^b	150		0	0	150
		Hertford ^c	44		0	0	44
		Hot Springs ^c	20		0	0	20
		Laurinburg	200		200	0	0
		Mooreville ^b	76		0	0	76
		Morehead City ^b	90		90	0	0
		Mt. Airy ^b	150		0	0	150
		Mt. Gillead ^b	30		0	0	30
		Murphy ^b	40		0	40	0
		Rockingham ^b	75		0	0	75
		Selma ^c	68		0	0	68
		Smithfield ^c	100		0	0	100
		Spruce Pine ^b	22		0	0	22
		Star ^c	26		0	26	0
		Tarboro	100		100	0	0
		Troy ^c	50		0	0	50
		Wake Forest ^a	52		0	52	0
		Washington ^c	165		0	0	165
		Wendell ^a	18		0	18	0
		Whiteville ^b	50		0	50	0
		Zebulon ^a	32		0	32	0
Wayne County ^c			90		90	0	0
		TOTALS	15,892	100%	11,788	651	3453

^c New program (initiated since 1960)

^a Development administered under Wake County Housing Authority

^b Development administered under Eastern Carolina Regional Housing Authority

^c Approximate

Sources: U.S. Public Housing Administration. *Consolidated Development Directory*, June 30, 1963. Report SA-11A. Washington: 1963. and . . . *Development Progress Directory*, October 31, 1963. Report S-11. Washington: 1963.

Testamentary Disposition of Bodies in North Carolina

By JAMES C. HARPER, Research Assistant,
Institute of Government

To attempt to anticipate all probable effects of a statute which closely relates to the tender sentiments and instincts of humanity, but which leaves to interpretation a number of significant questions, is to embark upon a hazardous course. In such case the writer may have to depend largely upon educated guesswork, both as to questions raised and answers offered. Nevertheless, all that is generally required before one succumbs to the temptation to embark upon such course is one question, timely and properly asked by a source with a legitimate interest in the subject matter. Behind this attempt to correlate the statutory provisions for testamentary disposition of one's mortal remains with the more complex law of wills and the general concept of property rights in dead bodies, there exists an inquiry from a proper source.

A member of the North Carolina Board of Anatomy¹ has asked a number of questions, the essence of which may be reduced to a single query: "What is the legal effect of the statutory provisions by which one may will his body or parts thereof to medical science, taking into consideration all probabilities concerning survivors' rights and ultimate disposition?" Through what we hope to be a logical and understandable sequence, this is an effort to provide the Board with an answer.

1. N.C. Gen. Stat. 90-211 provides: "The North Carolina Board of Anatomy shall consist of three members, one each from the University of North Carolina School of Medicine, the Duke University School of Medicine, and the Bowman Gray School of Medicine of Wake Forest College, appointed by the deans of the respective medical schools. This Board shall be charged with the distribution of dead human bodies for the purpose of promoting the study of anatomy in this State, and shall have power to make proper rules for its government and the discharge of its functions under this article." This Board, or its individual members, can be expected to have a vital interest in the laws concerning testamentary disposition of bodies for medical purposes, for it is to the Board or the medical schools represented by the individual members that the majority of bequeathed bodies are delivered for disposition according to the will. See also note 26, below, and Appendix.

The Authority for Testamentary Disposition of Bodies

The statutory authority for testamentary disposition of bodies in North Carolina was not enacted until 1951.² However, in 1908, the North Carolina Supreme Court said in a dictum that it could be done.³ Notwithstanding the early judicial declaration and the subsequent legislation, there does not appear to have been a case decided in this State directly involving testamentary disposition of bodies. Therefore, all conclusions with respect to any legal controversies which may follow testamentary disposition must be reached without benefit of precedent or any clearly outlined statutory procedures.

The whole statutory authority for testamentary disposition of mortal remains is found in the following sections:

§90-216.1. *Bequest for purposes of medical science or rehabilitation of the maimed authorized.*—Any person who may otherwise validly make a will in this State may by will dispose of the whole or any part of his or her body to a teaching institution, university, college, State Department of Health, legally licensed hospital or any other legally licensed hospital, agency or commission operating an eye bank, bone or cartilage bank, a blood bank or any other bank of a similar nature and kind designated for the rehabilitation of the maimed. (1951, c. 773, s. 1.)

§90-216.2. *Donee and purpose of bequest.*—Persons so donating or bequeathing the whole or any part of their bodies under the provisions of §90-216.1 may designate the donee or may expressly designate the purpose for which his or her body, or any part thereof, is to be used, but such shall not be necessary. If no

2. Article 14A, Chapter 90, General Statutes of North Carolina; SL 1951, c. 773.

3. *Kyles v. Southern Railway Co.*, 147 N.C. 394, 61 S.E. 278 (1908). See also N.C. Gen. Stat. 90-217, amended last in 1933, which refers to the right of a person to will his body.

donee is named by the donor in his will, then any hospital in which the donor may depart this life or any available physician or surgeon shall be considered the donee and have full authority to take the body or the part thereof so donated and thereafter to use the body or the part thereof so donated for the purposes designated by the donor, or if no such purpose has been designated, then for purposes in accordance with the intention of this article. (1951, c. 773, s. 2.)

§90-216.3. *No particular form or words required; liberal construction.*—No particular form or words shall be necessary or required but any written statement or last will and testament or codicil shall be liberally construed to effectuate the intent and purpose of the persons wishing to donate their bodies or any part thereof for the purpose elaborated in this article. (1951, c. 773, s. 3.)

§90-216.4. *Provision effective immediately upon death.*—Any provision in any last will and testament or codicil which donates the body of the testator or any part thereof as provided by this article shall become effective immediately upon the death of the testator and the authority for any hospital, physician or surgeon to remove said body or any part thereof shall be such last will and testament or codicil. (1951, c. 773, s. 4.)

§90-216.5. *Co-operation of North Carolina State Commission for the Blind.*—The North Carolina State Commission for the Blind is hereby authorized to help and assist in the execution and furtherance of the purposes of this article insofar as it concerns any eye bank and may provide for the registration of the names of persons in need of having their eyesight restored. (1951, c. 773, s. 5.)

It is suggested that these provisions are clear and unequivocal in granting a broad authority which is to be liberally

person who has willed his body or any part thereof. But it is important to note that the article does not authorize such disposition by *nuncupative* will.⁴ The article does not, however, contain any provisions relating to objection or intervention by survivors after the death of the testator. It appears either that the draftsmen did not anticipate subsequent intervention, supposed any such would be met in due course, or desired to limit intervention simply by not referring to it.

Whatever the reason, it is clear that complicated questions can arise concerning the ultimate disposition of a willed body when survivors intervene and either object to the intended use or claim the body for purposes of burial in the condition in which it was left when life departed.⁵

Prior Arrangements to Preclude Controversy

It seems that persons who wish to bequeath their bodies or parts thereof for purposes stated in the article quoted above should not only be familiar with the right, but that they should also be advised to make necessary prior arrangements to foreclose any possibility of misunderstanding on the part of survivors at the time the will is to be carried out. In this regard, several significant suggestions have come from the North Carolina Board of Anatomy, from officials of medical institutions to which bodies are willed, and from practicing attorneys to the effect that there are several persons or officials in every case who should be formally notified of the making of a will in which the body of the testator is bequeathed. The spouse, or next of kin, of the testator and the executor or executrix named in the will rank at the top of the list of persons who should be advised.⁶ Then it seems appropriate that the family physician or a hospital in which the testator might be under treatment should be provided with notice of such a will. And in some cases it may be advisable to notify the family minister. Even more important the beneficiary institution should be made aware of the intent of the testator to have his body or some part thereof delivered to it for the proper disposition. (See Appendix.)

We have emphasized this last suggestion, in many cases, because time is of

(Suggested item for inclusion in the Last Will and Testament of any person wishing to bequeath his or her body* to the North Carolina Board of Anatomy for medical purposes.)

ITEM NO. ____: In accordance with the provisions of Article 14A, Chapter 90 of the General Statutes of North Carolina, I hereby bequeath my body to the North Carolina Board of Anatomy, to be used for medical study and research at any medical school or other lawful institution to which it may be delivered by the Board, in the instruction of medical students, or for any other lawful purpose deemed necessary by the Board for the advancement of medical science or rehabilitation of the maimed.

Immediately after my death, my Executor (Executrix) is authorized and directed to deliver my body to the North Carolina Board of Anatomy; provided that in the event the North Carolina Board of Anatomy or any medical school or other lawful institution in North Carolina will not, for some reason, accept my body for the purposes herein stated, I authorize and empower

said Executor (Executrix) to pay my funeral expenses and to erect at my grave such monument and make such provision for the care of my grave as he (she) may deem proper.

* Although a similar form might also be used to bequeath certain parts or tissues of the body, such as cornea, blood vessels, bone or cartilage, since in such case it is probable that more specific arrangements would be necessary, we have declined to suggest a specific form for such purposes. However, the *North Carolina Eye Bank, Inc., 2041 Queen Street, Winston-Salem, North Carolina*, provides prospective donors of cornea with information and forms upon which to make such bequests. Similarly, it is suggested that any hospital or medical school could be consulted for particular information concerning specific bequests of other parts or tissues.

Note: It is further suggested that the probable surviving spouse and next of kin of the testator be informed of the making of this Item at the time of execution, and that the family physician or hospital in which the testator might be treated, the funeral director designated to arrange for memorial services (if one has been selected), and perhaps in some instances the minister of the testator's Church also be informed.

the essence. Since it is expressly provided that a will or codicil bequeathing the body of a testator or any part thereof is to become effective immediately upon death,⁷ and since it is common knowledge that (for humane reasons if for no other) time is of considerable importance in the disposition of mortal remains, it seems that the beneficiary institution should have a record of each body intended for it so that it might be ready to accept delivery from the physician, mortuary, or hospital without the necessity of inquiry.⁸ Moreover, when the bequest is of tissues or organs which are to be used in treatment of the living, the necessity for immediate action on the part of the hospital or other institution in obtaining such bequest becomes paramount. In the latter type of case it is very important that both the persons who first become aware of the death of

the testator and the beneficiary institution be able to carry out the provisions of the will.⁹

The Rights of Survivors Absent Testamentary Disposition

Perhaps nowhere in the law of wills is there a greater need for an enlightened attitude on the part of persons with some responsibility for implementation of the testator's wishes than in the area under discussion here; for in dealing with this type of will we are not only concerned with the cardinal rule by which wills are interpreted—that the intent of the testator be carried out—but also with the "tender sentiments and instincts of humanity [which] are embedded deep in the hearts of men, and cannot be ignored."¹⁰ Thus, while the law is clear in that it provides for an absolute right in "any person who may

7. N.C. Gen. Stat. 90-216.4.

8. It has been suggested that the testator or his attorney should notify the beneficiary institution by letter of the bequest and possibly from whom to expect delivery of the body upon death of the testator. With such notice on file, the beneficiary institution could then identify the bequest at the time of delivery or notice of intended delivery of the body was made, and therefore avoid being compelled to make inquiries as to whether or not there was a will or objections on the part of survivors. In any event the beneficiary institution should know under what authority a body is delivered to it, and the names of survivors of the deceased. ("Beneficiary institution" is used in these notes and in this paper in lieu of a better term. "Legatee" would perhaps be more technically correct, but we hesitate to denominate a body as a "legatee.")

9. See Woodruff, M. F. A., *The Transplantation of Tissues and Organs*, Chas. C. Thomas, Springfield (1960), where on page 216 the following statement is made: "The tissues now obtained and stored in most banks are as follows: cornea, skin, blood vessels (including aorta), bone and cartilage. It used to be thought essential to remove these tissues within three or four hours of death, but it now has been shown that, provided the body is placed in a refrigerator soon after death, this time may be considerably extended. For cornea Rycroft regards the upper safe limit as 15 hours; for arteries and the other tissues enumerated, 24 hours' delay is permissible. Should it become worthwhile to bank and transplant whole kidneys and endocrine tissues, however, the permissible period of delay will probably be very much less."

10. See *Mills v. Cemetery Park Corp.*, 242 N.C. 20, 27, 86 S.E.2d 893 (1955).

otherwise validly make a will in this State¹¹ to dispose by will of his or her body, practical questions arise as to what consideration should be given to objections by the surviving spouse or next of kin. The law is silent in this regard. On the other hand, there is nothing in the law of wills which states that a beneficiary may not decline a bequest.¹² Accordingly, despite the existence of a will which they know validly to confer upon them the right to dispose of the body of the testator, most officials in beneficiary institutions—as a matter of practice—prefer to relinquish possession without argument to survivors who object. There sometimes remains, however, a question whether the particular survivor has a right to the body, which injects a further question as to whether a final disposition may be made of a body of which a final disposition has already been made.

The law is clear with regard to those survivors in whom the *quasi-property* right in the body of a decedent vests in the absence of a testamentary disposition.¹³ The North Carolina Supreme Court has said:¹⁴

The right to the possession of a dead body for the purpose of preservation and burial belongs, in the absence of any testamentary disposition, to the surviving husband or wife or next of kin. . . .

While a dead body is not property in the strict sense of the common law, yet the right to bury a corpse and preserve its remains is a legal right which the courts will recognize and protect, and any violation of it will give rise to an action for damages. . . .

Thus, if there is a surviving spouse, the right to the body, when there is no testamentary disposition or the testamentary disposition is declined, belongs solely to the surviving spouse;¹⁵ but if there is no surviving spouse or if at the time of death the deceased was divorced, the right vests in the next of kin.¹⁶ In other words, if there is a surviving spouse, the next of kin do not acquire any rights

unless, it seems, the surviving spouse cannot be located or for some reason is found to be incompetent.

Therefore, if a surviving spouse—or, in the event there is no surviving spouse, the next of kin—should not object to the disposition under the will, then it seems that no other person, irrespective of relationship to the testator, could lawfully claim the body. Furthermore, a beneficiary institution might be subjected to liability if it releases the body to one who would not have been entitled to the body had there been no testamentary disposition (especially where the one entitled has assented to the disposition). For example, suppose that T dies after having made a will in which he bequeathed his body to M. Immediately following his death his body is delivered to M with the assent of W, his surviving spouse. Then D, T's daughter, comes in and objects to the intended disposition. Would M be taking legal risks to relinquish the body to D?

The answer is yes. According to the consistent decisions of the North Carolina Supreme Court, D has no right which could supervene the assent of W.¹⁷ In fact, W has no legal right to prevent the bequest, even if she objected to the disposition under the will.¹⁸ But, as stated earlier, it seems that in most every case where the surviving spouse (or next of kin with the superior right in the event of no will) objects to the testamentary disposition the beneficiary, as a matter of policy, simply declines the bequest and delivers the body for burial. In the example cited above, should M relinquish possession of the body of T to D, over the objection of W, M could be liable in damages to W. It has been held that a wife may maintain an action for the wrongful withholding of the body of her deceased husband,¹⁹ as well as for wrongful mutilation.²⁰ Therefore, might she not also maintain an action for *wrongful disposition*? On the other hand, since D in the situation put could not, with W living, maintain an action for wrongful withholding or even for mutilation, it appears that she could not under these circumstances maintain an

(Form for delivery of bequeathed body to the North Carolina Board of Anatomy.)

STATE OF NORTH CAROLINA
_____ COUNTY

The undersigned Executor of the estate of _____ deceased, hereby delivers to the North Carolina Board of Anatomy, the body of the deceased _____ to be disposed of in accordance with Item _____ of the Last Will and Testament of said deceased.

A copy of Item _____ of said Last Will and Testament (is attached hereto) (will be forwarded to the Board within ten days).

Executor

The undersigned (surviving spouse) (next of kin) of _____ hereby assents to the effectuation of Item _____ of the Last Will and Testament of the deceased as herein provided.

WITNESS:

Date

action against the beneficiary institution.²¹

Some Practical Considerations Concerning Ultimate Disposition

It is generally understood that any person who wishes to will his or her body or any parts thereof to a lawful beneficiary will have in mind some ultimate disposition. Entire bodies are ordinarily bequeathed for purposes of study and research in the institution to which the bequest is made. Parts, organs and tissues are usually willed for purposes of treatment of the maimed and disabled. Thus, in the latter category there seldom arises a question concerning ultimate disposition of the body; for it is usually interred or cremated under the direction of the survivors as in any other case. The parts, organs or tissues are simply removed before the body is embalmed or cremated.²² In cases where the entire body is bequeathed, the ultimate disposition is ordinarily accomplished by cremation by the beneficiary institution after the intended purpose has been carried out.²³

21. *Op. cit.*, note 16, 17.

22. It appears that the process of embalming would destroy all organs and tissues for purposes of transplantation. See note 9, *supra*.

23. Though there is no provision made in the statutes for such disposition, we are advised that when research and study upon bodies have been completed, the remains are cremated by the medical institution. However, we are also advised that ashes are properly and ceremoniously handled and may be delivered to the survivors upon request. If there is no such request, the ashes are discreetly and humanely disposed of by the institution.

11. N.C. Gen. Stat. 90-216.1.

12. N.C. Gen. Stat. 31-42.2 provides that any devise or bequest, which for any reason fails to take effect, shall pass under the residuary clause of the will. However, since it appears that only real and personal property may become residue of an estate, and that a body is neither, the only place the body could go after a failure of the bequest would be to the person with the superior right to dispose of it—the surviving spouse or next of kin.

13. See *Bonaparte v. Funeral Home*, 206 N.C. 652, 175 S.E. 157 (1934).

14. *Kyles v. Southern Railway Co.*, 147 N.C. 394, 398, 61 S.E. 278 (1908).

15. *Ibid.*

16. See *Morrow v. Cline*, 211 N.C. 254, 189 S.E. 885 (1937) and *Morrow v. Southern Railway Co.*, 213 N.C. 127, 195 S.E. 383 (1938). See also *Gurganious v. Simpson*, 213 N.C. 613, 614, 197 S.E. 163 (1938).

17. *Morrow v. Cline*; *Morrow v. Southern Railway Co.*, *supra*; *Lamm v. Shingleton*, 231 N.C. 10, 55, S.E.2d 810 (1949); *Floyd v. Atlantic Coastline Railway*, 167 N.C. 55, 83 S.E. 12 (1914).

18. As stated in *Kyles v. Southern Railway Co.* (note 14), the right to dispose of the body vests in the surviving spouse or next of kin *absent testamentary disposition*. Moreover, N.C. Gen. Stat. 90-216.4 expressly provides that such bequest is to become effective immediately and that the will itself constitutes authority for removal of the body in accordance therewith. Thus it appears that even a surviving spouse or next of kin has no legal right to a body that has been willed, even though the beneficiary may be willing to relinquish possession upon request.

19. *Bonaparte v. Funeral Home*, *supra* note 13.

20. *Kyles v. Southern Railway Co.*, *supra* note 14.

The fact that a deceased has willed his body to medical science does not preclude a memorial service or funeral from being conducted in a proper fashion before the body is removed to the beneficiary institution, or any service conducted with the mortal remains in *absentia*. Thus, while a testamentary disposition of the body perhaps will have some effect upon the arrangements for memorial services, with respect to religion and custom, there appears to be no reason why customary procedures could not be followed in most cases as if no testamentary disposition had been made.²⁴

Outside the realm of highly personal feelings and customary procedures, however, there exist other factors which will at times influence the manner in which the wishes of such a testator are carried out. Conceivably, when a testator who has willed certain organs or tissues for treatment of the living meets with death in such a fashion as to virtually destroy those organs or tissues, the bequest would also be destroyed and there would be no use in attempting to effectuate it. Similarly, when a testator makes a will while a resident of the State in which he bequeaths his body to a particular institution within the State, and then, without revoking or amending that portion of his will, dies in a foreign state, problems concerning transportation and expenses incident thereto will arise. If, but for the testamentary disposition, the survivors would cause the body to be interred or cremated in the foreign state, it is suggested that perhaps the beneficiary might decline the bequest rather than to burden himself or the family of the deceased with considerable transportation costs. Moreover, if a testator, after having made a will while a resident of this State (in which he bequeathed his body to a beneficiary in this State), should remove his residence to another state, questions of interpretation of the will under the laws of the state of residence will arise.

It is deemed to be important, then, for all persons wishing to will their bodies to be aware of these and any other contingencies which might, at the time of death, influence the effectuation of the bequest, and to consider them carefully any time the will is changed or the testator removes to another state or to a place within the State which is distant from the beneficiary institution.

24. We are informed by the Board of Anatomy that it is not only permissible but quite appropriate that bequeathed bodies be embalmed before they are delivered to the medical institution, although in most cases they may require further and more extensive preservation processes before they are acceptable for the intended use. We are also informed that certain fixed fees are payable to the funeral home for the initial embalming and transportation to the beneficiary institution when no other arrangements have been made.

(Suggested form for notification of beneficiary institution of the execution of a will in which the body of the testator is bequeathed.)

*Dr. _____
 _____ North Carolina Board of Anatomy
 _____ School of Medicine
 _____, North Carolina
 Dear Doctor _____:

Under the provisions of Article 14A, Chapter 90, of the General Statutes of North Carolina, I have this date executed my Last Will and Testament, and in Item No. _____ of said document I have bequeathed my body to the North Carolina Board of Anatomy, to be disposed of in accordance with the provisions of said Item.

Furthermore, those persons whose signatures are affixed below and who may survive me have been informed of said bequest and assent thereto. The Executor (Executrix) named in my Last Will

and Testament is _____, whose address is _____, Said Executor (Executrix) has been authorized and directed to deliver my body immediately after my death to the North Carolina Board of Anatomy, for disposition as in My Last Will and Testament directed.

 Relationship to Testator
 (Signature)

 Relationship to Testator
 (Signature)

 Relationship to Testator
 (Signature)

 Testator

 Address

* At the time of this writing Dr. J. E. Markee, Department of Anatomy, Duke University School of Medicine, is Chairman of the Board. However, it is suggested that this letter might be forwarded to the member of the Board at any of the three medical schools, or to each of them.

Although the statute²⁵ provides for a wide range of prospective beneficiaries of bequeathed bodies, it appears that at least some of the probable complications which could arise from unexpected events or circumstances occurring or existing at the time of death might be avoided by a careful selection of the beneficiary institution. It is understandable that many testators would wish that their bodies be received by the medical school which they may have attended or which is located at a college or university which they may have attended. Similarly, it appears that many testators might will their bodies to a particular hospital, or to a particular physician or institution authorized to accept them. But if the donor is more concerned about the purpose of the bequest than the beneficiary institution, the procedure described in the next paragraph might be considered, as it would lessen the possibility for complications after the death of the testator.

Bodies may be willed specifically to the North Carolina Board of Anatomy for distribution to any of the three schools of medicine in North Carolina.²⁶ Thus, in the event of unequal supply and demand between the three institutions to which bodies are ordinarily willed, the Board could shift and distribute according to the needs of any school, while carrying out the wishes of the testator.

Conclusion

One of the primary reasons for this

25. N.C. Gen. Stat. 90-216.1.

26. See N.C. Gen. Stat. 90-211 (*supra* note 1). While there is no requirement that the Board be named beneficiary in order that it may make ultimate disposition of willed bodies according to needs at any of the three medical schools, such a suggestion seems to hold considerable practical significance. (See Appendix.)

comment on the laws concerning testamentary disposition of mortal remains is to disseminate pertinent information to any person or official who has an interest. Out of respect for the profoundly sentimental nature of these considerations, it is felt by those who have asked the questions and the writer that litigation in this area should be assiduously avoided. Officials of hospitals and medical schools are indeed loathe to interfere with the tender sentiments of bereaved survivors of persons who have willed their bodies, yet at the same time they are vitally interested in the legal consequences which could flow from their failure to comply with the wishes of a testator, or which might arise from misunderstanding on the part of the testator or his survivors.

With this in mind, our purpose has been to note the laws covering testamentary disposition of bodies or parts thereof and to mention some of the practical matters which perhaps ought to be taken into consideration by testators, their attorneys, and their families. In addition, we have attempted to provide some guides by which prospective donors, physicians, medical schools, hospital officials, and other persons may be directed in dealing with cases of this sort.

● ALL-AMERICAN CITY ●

News of Gastonia's selection as an All-American City by the National Municipal League and *Look* magazine came at press time. Special coverage of this honor will appear in the May issue of *Popular Government*.

A Social-Therapeutic Community

in a Correctional Institution:

SOME IMPLICATIONS FOR EDUCATION

By DENNIE L. BRIGGS,

Consultant on Research and Training,
Training Center on Delinquency and Youth Crime

(Editor's Note: The research project described in the following article was authorized and funded by the California Legislature in an effort to find more effective means to rehabilitate a select group of youthful, intelligent, first-offenders convicted of aggressive crimes. These offenders are of special interest as there is evidence that they are increasing in numbers, the rate of recidivism is high and their crimes are becoming more violent. They are difficult management problems in correctional institutions. North Carolina had over one thousand youthful felony offenders committed to the Prison Department last year who were similar to those studied in California.)

Mr. Briggs is temporarily serving as a consultant to the Training Center on Delinquency and Youth Crime at the Institute of Government. The Training Center Staff and correctional administrators in North Carolina are planning a series of pilot projects which will make greater use of the offender himself in studying and coping with the problems of crime and delinquency. Implementation of these projects will involve extensive training of staff to carry out new concepts of treatment in correctional institutions and in the free community.

The following article was part of a symposium presented at the annual meeting of the California Association of Women Deans and Vice Principals at Santa Monica, in March, 1963. The author expressed his indebtedness to the inmate social therapists, especially Lee Pollard¹ and Dane Werner, for many of the ideas presented. At that time Mr. Briggs was supervisor of the Pine Hall Project at the California Institution for Men at Chino.)

Goals of correctional institutions (formerly called prisons) and educational institutions (primarily secondary schools, colleges and universities) are rather strikingly similar and the likenesses seem to far outweigh the differences.

1. Pollard, L. "The Inmate Social Therapist: A New Role in the Treatment of the Adult Delinquent." *Correctional Review* Nov.-Dec. 1963, p. 16-19.

While students of educational facilities ostensibly come to gain knowledge and experiences in mastering future life situations, convicted felons come to correctional institutions to pay their debt to society, hopefully, to "unlearn" some life patterns which have hindered their participation in society and perhaps to learn more adaptable ways of handling things. Of course, the practices of both institutions do not always carry out the philosophies, and many of the constituents learn to adapt to the social system of the institution in order to survive, thus the growth experience becomes far different than its intended purpose. Convicted felons are living testimony that social institutions—the families, the communities, the schools—have not been successful in preparing them to live freely or creatively in society. Such is equally true of mental patients, those who are not readily able to adapt to new skills due to automation, many of the aged and the poor. While the controversy over whether formal education ought to be concerned with corrective and creative emotional undertakings continues, a significant portion of society cannot function effectively regardless of the amount of knowledge which has been imparted through traditional educative processes.

And, while no one is yet ready to advance the hypothesis that adult delinquency is predicated on social and institutional pathologies, there does seem to be some close relationship. Delinquency, incidentally, is defined as "failure, omission, or violation of duty," and not strictly "breaking the law" in the legal sense. To some degree, and in various ways, we are all delinquent.

Several years ago, a series of research projects was authorized and financed by the California State Legislature, called the Intensive Treatment Program. The over-all program, now in its eighth year, was intended to learn more effective ways to treat adult felony offenders. Some findings, while results are still being gathered and studied, have had an influence on programs of several correctional institutions and at least two new ones have designed not only programs

around the projects, but architecture as well. We believe some of the observations from these studies also have begun to shed light on the opportunity system provided through the formal educational systems and upon the democratic process generally.

The Pine Hall Project. One of the several projects under the over-all strategy of the Intensive Treatment Program is concerned with learning more about the youthful, adult, first-offender convicted of aggressive crimes. The project has been concerned with studying the effects of the institution on their lives and to experiment with alternative means of helping them to come to terms with life in more creative ways. The study sample will eventually consist of 300 men, with a control group. The men were for the main part from 18 to 25, and newly admitted to an adult correctional institution, although many of them have been in juvenile halls, county probation departments and wards of the California Youth Authority. They were carefully screened and had to have average or higher intelligence; the mean academic achievement was 11 years, and well over 40 percent were sentenced for homicide, robbery and burglary. Many have used narcotics, and many have had outbursts of acting-out while under the influence of alcohol, but none were chronically alcoholic. All were volunteers, and final selection, both the study sample and the control group, was made largely by the inmates themselves.

Program Rationale. The program is called a "therapeutic community," patterned after the work of Jones² at Belmont Hospital in England, and Wilmer,³ at the Oakland Naval Hospital, Elias⁴ in New Jersey, Empey⁵ in Utah, Grant⁶

2. Jones, M., *The Therapeutic Community: A New Treatment Method in Psychiatry*. NY: Basic Books, 1953.
3. Wilmer, H. A. *Social Psychiatry in Action: A Therapeutic Community*. Springfield: Thomas, 1958.
4. McCorkle, I. W., A. Elias, and F. L. Bixby, *The Highfields Story: An Experimental Treatment Project for Youthful Offenders*. NY: Holt, 1958.
5. Empey, L. and J. Rabow, "The Provo Experiment in Delinquency Rehabilitation." *Amer. Sociol. Rev.* 26: 679, (1961)
6. Grant, J. D. and M. Q. Grant. "A Group Dynamics Approach to the Treatment of Non-Conformists in the Navy." *Amer. Acad. Polit. and Soc. Sci.* 322: 126, (1959).

and Briggs⁷ in the U.S. Navy; all following somewhat the early ideas of Aichhorn.⁸ The 30 men live together in open dormitories, have their own work projects, and come together seven days per week for total group (community) meetings. The staff consists of five correctional officers, two correctional counselors and a supervisor. A clinical psychologist and a research assistant are responsible for the research aspects, and they, together with various outside persons in the social sciences, provide consultant services to the project.

Group Meetings. Each morning after breakfast, the men and staff sat down together for a community meeting lasting for one hour and fifteen minutes. This was seen as singly the most important time of the day for everyone, for here the current social tensions of the community were presented, discussed and analyzed to see the resultant effects of the members' behavior on everyone. The meeting was opened by the men themselves reading a log which they keep, noting significant behavior occurring the past 24 hours of the residents which the entire community ought to know about.

It was through the discussions in this daily community meeting, that much of our own thinking has been influenced, for here the men have the opportunity to discuss, establish, and practice for themselves and as an organized social group, many of the democratic processes which most of us subscribe to at least in principle. The meetings were serious, well-disciplined by the men themselves, and although a high degree of social decorum was present, the freedom of discussion was impressive to most all who visited. The staff usually played relatively inactive roles in the meetings, but were always present, and my own role was ideally to make a short, concise summary at the close, pointing out some general observations, or themes of the interaction occurring in the group meeting itself. I might raise questions or attempt to generalize. Sometimes the men themselves summarized the meeting.

There have been times when the community was experiencing a crisis and the men extended the meeting for another hour to see if they could work out a solution. The meetings were intimate, thoughtful, sometimes explosive, and sometimes moved people to tears as behavior and social structure were examined. The meetings always had continuity from day to day and the community might stick with a problem for days, even weeks until it had been thoroughly discussed. The unit recently moved to a different housing unit, in order to have more autonomy from the

main institution. This topic occupied the community meetings for over two weeks, as the men were planning, discussing, and working through the changes, which involved taking less desirable living quarters to have more freedom to practice their new learning. These discussions were impressive when one considers that for most of the men, immediate physical gratification has been an integral, if not dominating part of their life pattern.

Staff Seminar. Following the community meeting, the staff gathered for a seminar lasting an hour, and the men cleaned up their housing unit, had committee meetings, further discussed the large group meeting, and socialized. The staff reconstructed the community meeting on a blackboard, noting the seating arrangement, who spoke first, what was said and the general observations. From these collective observations, they drew general themes which seemed to be predominant in the community. The seminar was seen as an important teaching device, in what Dr. Jones has called a "living-learning" situation.⁹ Staff, by not concentrating on psychological interpretation (but did develop dynamic understanding) became more precise in their observations of social interactions as they occurred in the meeting. Wilmer has commented on the staff seminar:

... as a training device, the staff meetings brought order, form, and deeper meaning out of the community meetings and gave the staff insight into the behavior and the communications of the patients. . . . The meetings served too as a form of transmissive education in which the older staff members of the society indoctrinated the newcomers.¹⁰

Staff Selection and Training. Most of the staff were young, were selected as persons who might serve as models for the men, and had a minimum of preconceived ideas about inmates, rehabilitation or treatment. We were more concerned with them as people than with their backgrounds. Training was accomplished on the job and was rather intensive, as is involved examination of one's own personality and role conception, and then required the person to build a more suitable role for himself. The process, in our experience, took about six months, regardless of the person's background or training. Staff attrition was fairly high, as many persons could not effectively function in this atmosphere where a minimum of opportunities were available for staff to play familiar roles.¹¹

Following the staff seminar, the community broke up into small groups for

another hour. Currently there are four of these, three led by correctional officers who are in training and the other one by three of the men. I rotated each day and visited a different small group as a consultant, as did the psychologist. The small groups, which we have called "social therapy groups," concentrated on the social behavior of the men as they interacted with each other in the work and living situations. Value was not placed on historical material, and when it did enter the meetings, someone usually asked what bearing this had on current observable behavior. The small groups might take up the topic of the community meeting and explore it in greater depth, or they might concentrate on various individuals in the group.

A one-hour staff training seminar was also held in which one person who was currently assigned as leader of a small group, presented his group on the blackboard, much as the earlier staff seminar for the community meeting. In addition, three afternoons per week there was a total staff meeting lasting an hour and a half, where the staff attempted to examine their own interactions and tensions.

Inmate Involvement. Opportunities to play various roles and to assume real responsibility for the operation of the unit, were constantly made available to the men.^{12,13} The men themselves developed a high degree of responsibility for their community. A rather impressive social organization has evolved to meet the constantly changing needs of the community. Currently there is a personnel committee consisting of two men for special assignments, four research clerks, a barber, maintenance man, etc. The unit was also actively involved in training new staff members for the recently established narcotics institution, the California Rehabilitation Center at Corona. Each month, seven of the men conducted a training session, teaching new staff about group treatment, and have come to be recognized teachers in their own right. For over one year, the unit has had no staff on duty nights from 11:00 p.m. to 7:00 in the morning, turning the unit over to an inmate watch stander. A roaming security patrol from the main institution took an official count twice during the night. The watch standers were selected, trained and supervised by the inmate personnel committee, who frequently removed a man even if his attitude was not properly in line with their estab-

12. Briggs, D. L., J. M. Dowling and A. V. Ladiana, "Observations on Staff Roles in a Social-Therapeutic Community" Proceedings of the 93rd Congress of Corrections, 1963.

13. Briggs, D. L. "Convicted Felons as Innovators in Social Development Projects." Proceedings of the Norco Conference, Grant, J. D. (ed) Experiments in Culture Expansion, 1963.

7. Briggs, D. L., "A Therapeutic Community in an Overseas Naval Hospital," *Military Med.* 122: 233-240 (1958).

8. Aichhorn, A., *Wayward Youth*, NY: Viking Press, 1935.

9. Jones, M. *Social Psychiatry in the Community, in Hospitals and in Prisons*, Springfield: Thomas, 1962.

10. Wilmer, p. 48.

11. Jones, *Social Psychiatry*.

lished standards.

A screening committee was in existence, composed of one man from each small group who selected all new candidates coming into the unit from those who were determined as generally eligible by the staff. They also governed terminations, set and maintained the standards for treatment progress and recommended when a man was ready to leave the project to go on to some other program such as school, vocational training, etc.

Ten men, chosen by the personnel committee, served as "social therapists," who were seen as models of desirable social behavior.^{14,15} They came under the closest scrutiny by the community and took the most hostility. They distributed themselves among the men at work, in the housing unit and at sports, observing behavior which they were obligated to feed back into the various group meetings. Consequently, at times they were called "snitches," etc., but, by their patience and persistence, they earned a high degree of respect from the community. Men frequently would seek them out to tell them things they were concealing, knowing full well that these would be fed back into the community, usually the next day.

The social therapists had a daily one-hour "tutorial" by a different staff member to discuss their roles and the tensions they came under, and might use this hour to obtain further information which would help them in their work with the men. The staff shared quite freely their professional knowledge in the hopes that with new tools, the social therapists would become more skilled. In addition, they have completed an upper-division psychology course through the extension division of University of California at Riverside, taught one night per week by a staff member.

The newest small social therapy group, in some ways is the most exciting venture the men have undertaken, for here a group of men are being recognized as "treators" in their own right. Originally designed as a means to help some of the men who seemed to have the most difficulty in getting involved in treatment, and who were still acting out in anti-social means, it now is taking in all new members until it reaches a maximum of ten men and will then become a closed group. Two men who were advanced in treatment began it, and a third who is responsible for the maintenance of the housing unit has joined the group, as we have assigned the men to him to supervise as a work project. These three group

leaders keep accurate notes each day on their meetings and the behavior of the men assigned to them, have supervisory sessions with the staff and present their meeting in a weekly staff seminar the same as the staff, for their own training and for general staff feedback.

Current Observations on Social Processes. It is interesting to see the degree of sophistication which the men have achieved in understanding, structuring and operating their own community, utilizing many democratic processes; more so, since nearly all could be seen as "failures" to live by these processes prior to incarceration; and, strange indeed, to see the experiment grow and mature in a prison, which traditionally, has been and is the antithesis of democracy.

Three factors seem important at this time in describing the phenomena: (1) Staff have allowed the men to assume roles which the men could define for themselves to meet their own and the community's needs rather than those the staff traditionally thought were proper for them. The men needed opportunities to see what *should* be done rather than what *ought* to be done. (2) The process has allowed the staff to assume new roles in which they could examine their own purpose, and take account of latent skills rather than prescribed roles based on job descriptions, education, etc. (3) Progress and recognition were not measured by who a person was or what he absorbed out of the treatment process, but by what he contributed. The question is no longer raised as to "what has a man gained from treatment," but "what has he put back into the community." Likewise staff members were recognized for their contributions, and little attention was paid to their position, formal education, etc. We have had a young physician who volunteered his time to be with us as part of his training in psychiatry. He performed custodial functions such as taking counts, etc., and was recognized for his aptness in feeding back material into the groups, etc., rather than his medical background.

The community seems to be setting up a situation in which a group of rebellious young people can evolve a social system they can examine, control and accept or reject. They evolved creative and meaningful concepts of themselves and their relationships in the world. In contrast to their outside experiences, where everything was thrust upon them, they now had to earn the things which mattered the most to them. Freedom, to the adult delinquent, is a series of "rights" which might include his family (or lack of one), his community, his gang, etc., and thrust upon him. Often he neither understood nor wanted them, and was never asked about it. He learned that freedom was not free, and that rights carry obligations while laws carry

dictates. The liberty that was gained in 1776 has little meaning to him but he must experience it for himself. He must have opportunities to assimilate "rights" and have the freedom to choose those he wants, with ample opportunities to discuss his choices, even when wrong, without retaliation by punishment from adults.

Our over-all assumption was that adult delinquents, when given the opportunity and when confronted with social problems, seek creative solutions, as they are not as bound by tradition as most of us. They may decide to have a man locked up, as they sometimes do, because he has transcended the limits the community can tolerate, but they do not forget him. He is usually brought back to the meetings the next day and the day after, until they have helped him work his problems through and assimilated him back into their community.

It is interesting that these projects have evolved in prisons with men and women who legally have no "civil rights." In a sense some are more fortunate than many who have them, for they have the opportunity to earn them, and not have them thrust upon them. They learn the meaning of rights and how to use them effectively for their own as well as the community's good.

Treatment, or education, to us is a dynamic, ever-changing process which involves the examination of preconceived images of people, concepts and processes, to discover the meaning to individuals and the culture as a whole. Traditional counseling, like some traditional education, does not often allow or encourage questioning but functions as Wendell Johnson once said, to "pour the new wines of possibility into the old bottles of tradition."

Traditionally, staff have *invented meaning* for persons in institutions, even those of higher learning. Ideally, the student, or person undergoing treatment, should have an atmosphere where he might *discover meaning*. Much of this, we feel, is due to the meaningless roles and positions which staff traditionally occupy. The perpetuation of arbitrary role enforcement and "required courses" often carries merely the hope, frequently flimsily disguised, that someday it will have some meaning and use to the student. Unfortunately there is little follow up to *know*. Our residents are currently not concerned with treatment models which the staff have designed or introduced but, collectively and individually, they are looking for means to help themselves master important life situations in more effective ways. The inmate work supervisor recently was overheard talking to a group of new men, who appeared to be loafing when I

(Continued on page 24)

14. Briggs, D. L. "Convicted Felons as Social Therapists," *Corrective Psychiat. and J. Soc. Therapy*, 9:122-128 (1963).

15. Werner, J. D. "Measuring the Motive," Grant, J. D. (ed) *Experiments in Culture Expansion*, Proceedings of the Norco Conference, 1963.

NOTES FROM CITIES AND COUNTIES

(Continued from page 3)

Housing

Carrboro has enacted its first condemnation ordinance. The ordinance will be directed at unsafe buildings which can be repaired and at those which are unsafe and unrepairable.

* * *

An updated minimum housing program is under way in *Washington*, designed to eliminate in a three to five year period all housing conditions which are unsafe, unsanitary or otherwise not suitable for human habitation.

* * *

Law Enforcement

Between 35 and 40 law enforcement officers attended a five-day training school in East Albemarle, sponsored by the *Albemarle* Police Department and the *Stanly* County Sheriff's Department. Covering a wide range of topics, the school was staffed by members of the State Bureau of Investigation and *Hickory* attorney Samuel D. Smith.

* * *

Libraries

Burlington Industries Foundation has added \$3,000 to the fund being raised for construction of headquarters for the *Johnston* County Library System and the *Smithfield* Public Library. The Z. Smith Reynolds Foundation had previously given \$10,000 to the fund, which has a goal of \$25,000. The project will take \$150,000 with the county and city each providing \$50,000.

* * *

Durham County school library facilities were named first in the nation in the *Encyclopedia Britannica's* 1964 school library competition. The award was based on library growth and improvement in a nationwide competition with school systems of all sizes. The award of \$2,500 will be divided on a per pupil basis among the 14 county schools for purchase of additional books.

* * *

Clemmons will have a branch of the *Winston-Salem/Forsyth* Library, which will take the place of bookmobile visits. The library will remain in temporary quarters until 1968 when a permanent building has been included in the budget.

* * *

Under new North Carolina legislation, a *Lincoln-Gaston* Regional Library is being established to serve patrons in both counties. The library board will have a budget of \$28,000 provided by the state and federal governments.

* * *

Aulander commissioners have accepted the gift of a memorial library and a

special election for the approval of a library tax will be held. The gift, a memorial to Sallie Harrell Jenkins, consists of a library site and a sum not to exceed \$25,000 for construction and equipment of the building.

* * *

Municipal Bond Elections

Marshall and *Hot Springs* voters overwhelmingly approved two bond issues for improvement and enlargement of sanitary sewer systems in the two towns. The results in *Marshall* were 271-11 in favor of the \$79,000 issue. In *Hot Springs* the vote was 148-52 for a \$61,000 expenditure.

* * *

Following close on the heels of the town's critical water shortage during the recent 1963 drought, there was no surprise when *Pittsboro* voters gave hearty support to a \$200,000 water bond issue. Only 40 of the town's 400 registered voters failed to come to the polls. The proposed water system will be sufficient to take care of the town's needs for the next 25-30 years.

* * *

Planning

Board members named to the newly organized *Ashe* County Planning Commission represent a cross section of the county's population. The commission has been established to examine all aspects of the county's economy and to cooperate with federal, state and local agencies to develop ways and means of improving local living standards.

* * *

Public Buildings

Newly occupied in *Granville* County is the \$150,000 office building which relieves an overcrowded courthouse and brings Welfare and Extension Service offices to the first floor levels.

All of *Elizabeth City's* municipal offices, including the police department, are now housed in a new \$400,000 contemporary building. The exterior is of orange panels and buff brick on pilings and the building includes a drive-in payment window for utilities customers.

* * *

Public Health

Cleveland County voters numbered 5,500 at the polls to give the green light to trustees of *Cleveland Memorial* and *Kings Mountain* Hospitals to proceed with a two million dollar expansion program. The bond issue passed with a relatively small majority.

* * *

Durham County Commissioners have given partial support to a regional health

planning council for the Research Triangle area. Additional finances will be secured through governmental contributions, health interests and donations from corporations and individuals.

* * *

Public Utilities

Plans and specifications for *Newton's* proposed out fall sewer line and treatment plan are being presented to the North Carolina State Stream Sanitation Committee for approval. The project is scheduled to get under way early this year.

* * *

Out-of-town residents using the water supply at *Pittsboro* experienced a 50% rate increase on March 20. The increase applies only to private users, and not to commercial consumers. Along with the water rate increase went one for garbage collection outside the town limits.

* * *

Sanitation

Albemarle has purchased a new garbage hauling unit of the standard load packer type with rear access, necessary in some of the narrow *Albemarle* alleys.

* * *

Garbage disposal is making headlines in *Raleigh*. The present land-fill areas will serve the city for five more years and additional sites can probably be found to handle refuse disposal for an additional 15 or 20 years. After that disposal will become a serious problem.

The current proposal is for a "garbage train" which would collect *Raleigh* refuse and deposit it at some distant point to be loaded on barges and dumped into the ocean near *Morehead City*. *Kinston*, *Burlington* and *Selma* have expressed interest in the plan which might include a number of central Piedmont cities. *Raleigh's* trash accumulation by that time would fill 20-25 railroad cars daily and the addition of cars from other cities would form a train of considerable length.

As expected, the plan is receiving little welcome at the other end of the line. *Morehead City* residents feel that they have enough water contamination problems as it is without the addition of new pollution elements. One suggestion offered in the coastal city was that their sewage might be sent to *Raleigh*, in order to effect economies in the train system, which would otherwise involve empty cars going westward.

Taxation

Plans for a 1965 tax revaluation in *Dare* County have been scrapped by the county commissioners. The last revaluation was in 1958 and cost estimates for current revaluation have increased 100 percent. Plans now are to defer the revaluation until 1967.

NORTH CAROLINA CENTER FOR EDUCATION IN POLITICS

By DONALD R. MATTHEWS, Associate Professor,
Department of Political Science,
University of North Carolina

(Editor's Note: The author is the Director of the newly formed North Carolina Center for Education and Politics. His account of its purpose and formation follows.)

The first annual conference of the North Carolina Center for Education in Politics was held at the Institute of Government February 7-8. The Center is an organization devoted to the improvement of the teaching of American government and politics in North Carolina colleges and universities. It is affiliated with and currently financed by the National Center for Education in Politics, an organization begun in 1947 by Chief Justice Arthur T. Vanderbilt of New Jersey.

Representatives of the following institutions attended the meeting: Appalachian State Teachers College, Asheville-Biltmore College, Atlantic Christian Col-

lege, Bennett College, Catawba College, Charlotte College, Davidson College, Duke University, East Carolina College, Greensboro College, High Point College, Johnson C. Smith University, Mars Hill College, North Carolina Agricultural and Technical College, North Carolina College, North Carolina State of the University of North Carolina at Raleigh, Pembroke State College, Pfeiffer College, Saint Augustine's College, Shaw University, University of North Carolina at Chapel Hill, University of North Carolina at Greensboro, Wake Forest College and Wilmington College.

Pre-primary polls of registered voters, student internships in Washington and Raleigh and traveling lectures are in the spring 1964 plans of the newly organized North Carolina Center for Education in Politics.

Political science classes from colleges

throughout the State will measure changes in voter attitudes toward political candidates and issues by taking two pre-primary polls this spring in the latter weeks of March and May. Each class will select a precinct within the vicinity of its school and interview a random sample of about 100 registered voters. Study of interviewing techniques, campaign issues and candidates, and questionnaire objectives will be undertaken by the students before the interviews are conducted.

Students will analyze the information gained through their interviews, and on primary election night will make predictions as to how their precinct will vote, how the entire election will go and why. Their predictions can be tested immediately as the final election returns come in.

Six college students will be selected and financed by the Center for summer internships in Washington and Raleigh. Students going to Washington will work for United States Congressmen, while the others will work either with gubernatorial candidates or in Republican or Democratic Party headquarters in Raleigh.

Making arrangements for a traveling lecture program in which visiting lecturers would speak at a number of North Carolina colleges, instead of just one, will be among the Center's projects for 1964. The Center will also make some grants to schools to assist their projects aimed at furthering student education in politics.

State officials of the Democratic and Republican parties were invited to the Center's Friday evening banquet. Mrs. Herbert McKay of Chapel Hill, Democratic National Committeewoman, Mrs. Louise Rogers of Charlotte, Republican National Committeewoman, and Mrs. Leif Valand of Raleigh, Vice Chairman of the Democratic Executive Committee attended. Professor Paul Tillett, Assistant Director of the Eagleton Institute of Politics at Rutgers University gave a talk on "The Use of Case Studies in Teaching American Government and Politics" at the Saturday luncheon.



The author (center) presides at first conference of Center for Education in Politics.

INSTITUTE SCHOOLS, MEETINGS, CONFERENCES

Delegates to the annual School for County Accountants held in February follow copies of a report on the county ambulance study while Assistant Director of the Institute of Government Rodley Ligon discusses the study.



THE INSTITUTE

In the News

Canton *Enterprise*, January 30

Among the topics explored at the recent Public Utility Management School at the INSTITUTE OF GOVERNMENT were practical aspects of utility accounting, utility extension policies, employee selection, supervision of employees, legal aspects of utility management and public relations.

* * *

Raleigh *News and Observer*, February 1

Election laws are only as good as election officials who enforce them, members of the Raleigh League of Women Voters were told at a unit meeting devoted to a study of voter registration.

Group leaders suggested that North Carolina should consider divorcing precinct level offices from political party requirements and shift to a merit basis. Also, uniform training requirements for officials through an agency such as the INSTITUTE OF GOVERNMENT would be beneficial.

* * *

Chapel Hill *Weekly*, February 2

"This is Carolina," an interview program picturing the special services of the University available to the people of the State as a whole, as well as to the students, is one of several new series scheduled for WUNC radio during the spring semester.

The first program in the series will be an interview with JOHN SANDERS, Director of the Institute of Government.

* * *

Editorial, Hickory *Daily Record*, February 19

One of the little noticed points in the report prepared last fall by JESSE JAMES, of the North Carolina Institute of Government, covering his study of the Hickory Police Department, was the fact that the per capita cost for police protection in Hickory tops other cities of its population class.

James pointed out that this does not necessarily mean that the per capita cost is too high in Hickory, nor that other cities are receiving more for their tax dollars. Doubtless among the major reasons for this higher cost is the fact that the City of Hickory is a retail and service center and a source of employment for a large territory, making the crowd on Hickory streets larger than in most cities of our population.

* * *

North Carolina's Work Release Program received good coverage in the

March 8 issue of Family Weekly. In the article by Arturo F. Gonzalez, Jr., the program is explained in terms of a case study and interview with one of the participating prisoners.

Based on experiments in Wisconsin, the program was outlined for Tar Heel use by Assistant Director of the Institute of Government V. LEE BOUNDS in 1957. The program permits qualifying prisoners to work outside prison walls at their regular jobs, returning to confinement at night and on weekends.

* * *

ALUMNI HEADLINE . . .

Former Institute of Government staffer AL HOUSE is the new national president of the Young Democratic Clubs. House, a Roanoke Rapids lawyer, defeated a Boston labor official for the key YDC position.

* * *

John Greenbacker, *The Daily Tar Heel* (Chapel Hill), March 8

Careers for Carolina, a program of discussion of opportunities in state government, held at the Institute of Government, presented a comprehensive picture of state government's various activities. The program, sponsored by the University of North Carolina Student Government and the Institute, opened with an address by GEORGE ESSER, Executive Director of the North Carolina Fund, and an Assistant Director of the Institute.

Institute of Government Director JOHN SANDERS headed a panel discussion of government administration which included as panelist, Assistant Director ROBERT STIPE, who spoke on city and county planning. HENRY LEWIS, an Assistant Director of the Institute, appeared on a panel discussion of county government.

DOROTHY KIESTER and BEN OVERSTREET, JR., of the Training Center on Delinquency and Youth Crime, took part in a discussion of social services at the state level. Other speakers and panelists included University of North Carolina faculty members, state and local government officials, and UNC student leaders.

A Social-Therapeutic Community

(Continued from page 21)

walked through the housing unit. The men were concerned that I would think they were not working when they should be. He replied to them, with all the as-

Planning in Britain

(Continued from page 11)

authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations . . ." As we have seen, the usual plan is stated so broadly and mapped at such a small scale as to be of little help in dealing with individual cases.

The Minister has given a certain amount of guidance through circulars and regulations setting forth policies and standards, and he annually publishes a collection of "Selected Planning Appeals" summarizing the facts of particular cases and the action taken (with reasons). However, perusal of these documents will leave the average local planning authority member without any firm understanding of the limits within which he should operate.

While it is recognized that circumstances differ (especially where technical considerations are involved) and that it may be difficult to write out standards in sufficient detail to cover all possible variations in circumstance, an American lawyer cannot be faulted for pointing out the dangers of arbitrary or capricious treatment under such a system. At the least, a requirement that regulations be written out puts the local planner to the necessity of thinking through his proposals—and in some detail. There is considerable thinking presently going on in British planning circles along these lines, one outgrowth being the movement mentioned earlier towards more explicit statements of policy in development plans and perhaps more precise mapping.

It should also be noted that the granting of planning permission is in the hands of elected officials, and that these officials undoubtedly are made to feel the advantage of relying on precedent in the common-law tradition. This factor may be adequate to prevent the more flagrant abuses. In addition, there is provision for compensation to the property owner in certain cases—a subject which will be dealt with in a later article.

Within the framework of this basic structure, the British law provides for special treatment of "caravans" (our "mobile homes" or "trailers"), outdoor advertisements, Green Belts, ribbon development along highways, industrial buildings, historic buildings, and buildings of special architectural character, and even measures for the preservation of trees and the control of neglected land

surance of someone who had thoughtfully surveyed the total situation, "what does it matter what Briggs thinks, as long as you know what you are doing?"

which has become unsightly or offensive. Because many of these subjects are deserving of more extensive consideration, we shall deal with them in future articles of this series.

Carrying Out Plans: Positive Actions

The preceding section outlined the basic processes of regulating development. British planning laws cannot be described solely in terms of their negative effects, however. To a far greater extent than is true in America, the British planners have authority to undertake affirmative measures to carry out their plans.

Foremost among these is the actual planning and construction of entire New Towns, under the New Towns Act of 1946. We have mentioned earlier the far greater amount of public housing to be found in England than America, totaling 40 per cent of all new residential construction as recently as last year. This type of housing has been provided in England since 1890. By way of contrast, the first American public housing dates only from the early 1930's. Well before World War II, the larger cities in England were running out of land within their boundaries on which to construct such housing. In an effort to break up the increasing congestion and the undesirable effects of continued massive growth, they begin siting their "housing estates" at a considerable distance from the city. Unfortunately, the people housed in such estates still worked, for the most part, in the city, and this decentralization added to serious transportation problems as they went to and from work.

On the basis of this experience, the theory of New Towns evolved—calling for construction of entire self-contained communities, complete with industries, businesses, and all the other features of an ordinary town. The New Towns Act of 1946 enabled the Minister to designate the sites of such towns and to appoint development corporations to plan, build, and operate such towns. Up to the present 17 new towns have been established—13 in England and Wales and 4 in Scotland, and the national government is currently in the process of establishing a so-called "second wave" of such towns. Since they are planned from the ground up, they constitute an unparalleled opportunity.

A variant of the New Town appeared in 1952, with legislation under which a city could agree with a small existing town to finance a major part of its expansion to house and provide jobs for significant numbers of residents from the city. A number of such schemes are in effect.

In addition, the British have granted local units authority to carry on redevelopment programs similar to those in America, although without the same measure of financial support from the national government. These programs re-

ceived a major impetus, of course, from war damage. The Ministry now estimates that more than half of existing known slum areas in the country have been cleared and expects that the remainder will have largely been eliminated in the next ten years. Some 400 towns cur-

rently have redevelopment proposals which are planned or under way, and there is a significant number of central business district projects.

These subjects too hold much interest for American planners, and later articles will treat them in more detail.

BOOK REVIEWS

PROCEDURE AND EVIDENCE IN THE JUVENILE COURT. By Advisory Council of Judges of the National Council on Crime and Delinquency. 1962. 84 pp.

This is the third guidebook by the Advisory Council of Judges of the National Council on Crime and Delinquency, and the second one concerned with the juvenile court. In this book the Council gives consideration to legal procedures and safeguards. The book reflects a current trend in thinking on the difficult dilemma of the juvenile court in maintaining its social philosophy and viewpoint, its informality and friendly atmosphere, and at the same time avoiding the risk of a casual disregard of the basic rights of the child and his family, rights which can only be preserved by retaining protective legal procedures.

The chapters include cautionary consideration of procedures beginning with petition and notice to the child and his family, the legal aspects of the court hearing, the right to counsel and the court's responsibility for providing it, legal problems of evidence and adjudication.

This book is a must for juvenile court judges and would be of much interest and assistance to any attorney who has occasion to practice in the juvenile courts or to be concerned with procedures in the juvenile court.

GUARDIANSHIP AND PROTECTIVE SERVICES FOR OLDER PEOPLE.

The Report of a National Council on the Aging Project under a Grant from the Frederick and Amelia Schimper Foundation. Project Director Virginia Lehmann, Editor Geneva Mathiasen. NCOA Press, 1963. 184 pp. \$4.50.

The foreword to this book states that the study of this important area of help to the aging was "conducted in response to a growing sense of urgency on the part of both public and private groups regarding the need for a definitive professional analysis, both intensive and extensive, of the realities and trends in the handling of problems of older people in the area of guardianship and protective services." This book does a good job of fulfilling that need.

The book covers the subjects of the scope and nature of the need for guardianship and protective services; assist-

ance with financial management; care and supervision; the law as a base for care and supervision; commitment procedures; and, protective service.

THE PRESS IN PERSPECTIVE, edited by Ralph D. Casey, Louisiana State University Press, Baton Rouge. 217 pp. \$6.00.

Both editors and public officials have much to gain from reading carefully this volume. The authors for the most part are members of the press but include historians and theologians. Their presentations are drawn from Press Guild lectures at the University of Minnesota over a period of years following World War II. Among the most of many thoughtful contributions are those of Henry Steele Commager, Elmer Davis, Eric Severeid, Gerald W. Johnson, Reinhold Niebuhr and Louis M. Lyons. Historian Commager's piece on "Federal Centralization and the Press" is a masterpiece which needs reprinting for the widest possible audience.

Cover Picture

The members of the Courts Commission for North Carolina appearing in the cover picture are: (left to right) Senator Lindsay C. Warren, Jr., Goldsboro, Chairman; Representative Steve B. Dolley, Jr., Gastonia; Representative A. A. Zollicoffer, Jr., Henderson; John Alexander McMahon, Chapel Hill; Representative H. P. Taylor, Jr., Wadesboro; Senator Wilbur M. Jolly, Louisburg; Karl W. McGhee, Wilmington; Representative David M. Britt, Fairmont; Senator J. J. Harrington, Lewiston; Senator Staton P. Williams, Albemarle, and Professor J. Dickson Phillips, Chapel Hill. Members not present when the picture was taken are: A. D. Folger, Jr., Madison; L. W. Lloyd, Robbinsville; James B. McMillan, Charlotte, and Representative J. Eugene Snyder, Lexington.

The primary duty of the Courts Commission is to draft legislation implementing the new Judicial Article of the Constitution of North Carolina. The Commission's initial report is due to be presented to the 1965 North Carolina General Assembly when it convenes. The term of the Commission expires on December 31, 1970. The cover photo was taken January 10, 1964, in the Legislative Building in Raleigh.

BOND SALES

From January 28, 1964 through March 17, 1964, the Local Government Commission sold bonds for the following governmental units. The unit, the amount of bonds, the purpose for which the bonds were issued, and the effective interest rates are given.

<i>Unit</i>	<i>Amount</i>	<i>Purpose</i>	<i>Rate</i>
<i>Cities:</i>			
Bethel	60,000	Sanitary Sewer	3.09
Blowing Rock	55,000	Sanitary Sewer	3.76
Bryson City	66,000	Water	3.71
Cary	415,000	Sanitary Sewer	3.74
Edenton	170,000	Sanitary Sewer	3.16
Elkin	38,000	Fire Station	3.23
Franklinton	140,000	Sanitary Sewer	3.84
Hamlet	85,000	Sanitary Sewer	3.44
Liberty	310,000	Sanitary Sewer	3.83
Morganton	900,000	Sanitary Sewer	3.03
Pine Level	11,000	Water	4.02
Sanford	840,000	Water, Sanitary Sewer, Airport	3.58
Warrenton	110,000	Sanitary Sewer	3.26
Wendel	150,000	Water	3.89
Wilson	2,000,000	Electric Light	2.99
Winston-Salem	4,730,000	Water, Sanitary Sewer, Fire Station, Fire Equipment	2.98
Youngsville	17,000	Municipal Department, Fire Station	3.57
<i>Counties:</i>			
Carteret	1,000,000	School Building	3.86
Gaston	500,000	Community College	3.02
Lincoln	530,000	School Building	3.22
Mecklenburg	5,400,000	School Building	2.92
New Hanover	1,425,000	School Building	3.18
Pitt	89,000	Courthouse	2.97
Wilson	105,000	School Building	2.91
Stokes School District	75,000	School Building	3.27

ANNOUNCING

7th Annual North Carolina Planning Conference

at the Institute of Government
Chapel Hill
April 24-25

Keynote Address by F. Carter Williams, A.I.A., Member, Raleigh City Planning Commission

Panel Discussions:

Historic Preservation

Design in Urban Renewal

New Concepts in Housing: Planned-Unit Development with A Home Association

The Need for an Urban Landscape

The Role of Government in Community Appearance

Annual Conference Address by Werner K. Sensbach, A.I.P., A.I.A., Director of City Planning, Roanoke, Virginia

Sponsored by the Institute of Government, University of North Carolina, and the North Carolina Section, American Institute of Planners

Address inquiries to Robert E. Stipe, Assistant Director, Institute of Government, University of North Carolina, Chapel Hill, North Carolina

In the Next Issue

What factors affect the votes of North Carolina Legislators? The three geographical divisions of the state—Mountains, Piedmont, Coastal Plains? The degree of urbanization? The relative population? Other factors? You can find answers in *Voting Patterns in the North Carolina House of Representatives: 1961* by Clyde L. Ball, appearing in our May issue.

Do you know what a "Green Belt" is? Read "Green Belts and Other Devices Used in Rural Areas," which is Part III of the series on *Planning in Great Britain* by Philip P. Green, Jr.

LOOKING AHEAD TO JUNE. What exactly is the North Carolina Fund? Its purpose? Its directions? Progress to date? Who has assumed leadership in community interest in the Fund? Beginning in our June issue, a two-part article on *The North Carolina Fund*.