POPULAR GOVERNMENT

February 1965

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

In This Issue:

POPULAR GOVERNMENT

Published by the Institute of Government

COVER: Governor Dan K. Moore pauses beneath the State Capitol dome on his first day in office.

Contents

Volume 31 February 1965 Number 5

POPULAR GOVERNMENT is published monthly except January, July and August by the Institute of Government, the University of North Carolina, Chapel Hill. Editorial, business and advertising address: Box 990, Chapel Hill, N. C. Subscription: per year, $3.00; single copy, 35 cents. Advertising rates furnished on request. Second class postage paid at Chapel Hill, N. C. The material printed herein may be quoted provided proper credit is given to POPULAR GOVERNMENT.

Trial and Pre-Trial Publicity

By Judge J. Braxton Craven, Jr.

Chief Justice, United States District Court for Western North Carolina

(Editor's Note: This article is adapted from the author's remarks to the Second Annual Press-Broadcasters Court Reporting Seminar, November 10, 1964. Judge Craven's comments, which range beyond the immediate subject, have especial interest in the light of his judicial experience. The Seminar is conducted annually by the Institute of Government and co-sponsored by the Institute, the North Carolina Press Association, and the North Carolina Association of Broadcasters, with the cooperation of the University of North Carolina Schools of Law and Journalism.)

Respect for Working Press

I have much more respect for the working press than I used to have—and I have always had right much. Superior court judges in North Carolina (I was one for five years) do not write judicial opinions. Federal judges do. Maybe too much. In the last three years I have written approximately 400 printed pages published in Fed. Supp. or Fed. 2d, and perhaps another 300 pages that even I (and I am not unbiased) could not inflict upon the long-suffering reading members of the Bar. Writing opinions is by far the hardest and most challenging thing I have ever attempted to do. Like most lawyers and judges, I have a tendency, which I constantly fight, to write what I call "tedious Gothic." I can't seem to say what I mean any other way. I have sometimes marveled at your ability to condense in a few columns of space what has happened in one or two days of trial time with everyone talking almost at once for hours on end. You don't always succeed, as you well know, but you do it with surprising frequency. Although I am not passing out any Nobel prizes for literature, I can't resist noting a few especially excellent news accounts of trials I conducted.

Some time ago I was assigned to hold court in the Eastern District of North Carolina at New Bern, and it fell to me to sentence Kirchofer and Thompson, of a securities firm, for fraud. A judge is supposed to represent the sober second thought of the community. Sometimes it's harder to do it than to know what it is. Leniency from the bench requires much more moral courage than does harshness. Some people don't mind harshness so long as it's someone else's ox being gored. Most people want justice for the other fellow and for themselves mercy. In the securities debacle, hundreds, and perhaps thousands, of eastern North Carolina citizens lost large sums of money—some of them their life's savings. I heard the evidence and the arguments for more than a full day. One defendant had already served a term of imprisonment under sentence of the state court, and the other was a sick man. I decided that both ought to be given a sentence and that the sentence ought to be suspended and that they be placed on probation. Very conscious of the justifiable indignation of their many victims, I carefully explained at great length why I reached the lenient decision. I had three reasons, and enlarged on them. I would not have been surprised to have received letters of protest from injured persons all over the State, and I think I would have but for the news account written by Bill Womble and published in the Raleigh *News and Observer* which fairly and accurately, but succintly, stated all three of my reasons for deciding on suspended sentences. That kind of reporting helps me do my job. When I am next in the Raleigh area, I shall more confidently be able to do what I think is right.

Last summer, in the sensitive area of civil rights, I largely approved a school plan of the Buncombe County Board of Education, but felt required to make the Board do some things that it would rather not have done. The hearing took all day. What I said after it was over took at least a half hour and ran to many hundreds of words. In a report remarkable for its concise accuracy, Phillip Clark reported not only what had been done, but *why* it was being done. As in the securities fraud case, I have had not one single letter of protest, and I think it might have been otherwise but for the excellence of the reporting.

Newspaper Headlines

My wife used to work for the Asheville *Citizen Times*, and I learned from her (is she right?) that the reporter seldom has anything to do with the headline. Since most people *scan* newspapers, headlines are very important. In another civil rights case last summer, after a full hearing, I entered an order approving *verbatim*, without the slightest change, the plan of operation of the schools proposed by the defendant school board. In large block letter headlines, the *Charlotte Observer* reported the next morning "Integration Plan for Statesville Schools is Okayed." Another newspaper reported in the same size block letter headline "City Schools Under Court Order." I thought the first headline more accurately expressed what occurred.

Although I think the Charlotte *Observer* is a great newspaper, I do not always like its headlines. Recently, reporting a suspended sentence I had given a Forest City woman who had pleaded guilty to embezzling $7,000.00 from a Bank & Trust Company, the headline read "Divorcee Gets Suspended Term in Forest City Embezzlement Case." It might just as well have read (but for the additional space required) "Abandoned Mother Gets Suspended Term in Forest City Embezzlement Case." The impact is different. Although there were several reasons for the suspended sentence imposed, I thought one of them was especially newsworthy, but it was not printed. Especially significant to me

was that the president of the bank appeared as a witness for the embezzler and testified in her favor. He had gotten her another job and expressed his continuing faith in her. I would like very much for that to have been printed, because I am very conscious of the constant criticism that the country is going to the dogs because the judges are mollycoddling criminals. It isn't so.

Built-In Punishment

Most crimes have their own built-in punishment without regard to what sentence, if any, may ever be imposed by a judge. The Forest City abandoned mother, or divorcee, whichever you prefer, earns now about one-half of what she did before. She and her father have mortgaged their home to make complete restitution, which will have to come out of half the salary that she previously earned. And her good name is destroyed. She probably will never again occupy a position of trust with consequent higher remuneration. This is true of the two securities firm members and of a post office employee whom I sentenced recently. He now makes less than $3,000.00 a year instead of $8,000.00, has lost all retirement benefits, and must live with the shadow of shame that he has cast over a splendid young son. Why also imprison him? Restitution has been made. Only a small sum of money was involved. What is to be gained from the viewpoint of society in a term of imprisonment? He will never embezzle again. Indeed, he will never have the chance to do so because he won't be able to get that good a job.

Or take the case of the lawyer whom I recently sentenced for fraudulent failure to file income tax returns. I required him to pay a $2,500.00 fine. The civil penalties for his tax delinquencies will more than double (with interest) the original tax liability. He will end up at least $20,000.00 short of what he would have had if he had paid his taxes as they came due. His other losses are beyond computation. Clients have, of course, quit him, and others that might be attracted to him will not come. Most important of all, I think, in some cases, is the loss of human dignity and self-respect.

Efficacy of Short Sentences

I was once told by an assistant solicitor that when I came to hold court the criminals danced in the streets. I would like to think it so, but I rather doubt it. I firmly believe in the efficacy of the short sentence. Nobody keeps statistics on these things as far as I know, but I suspect I am given to the short sentence more than most judges. I define short sentence to mean less than six months. I suspect I impose as many such sentences as any judge who ever sat on a bench. I think that many young offenders, particularly in crimes of violence, are helped by an active sentence of from thirty days to six months. Terms of longer than six months—certainly longer than a year—have no rehabilitating effect, in my opinion. The prisoner tends to become hardened and comes out often bragging that he built his time standing on his head, and could do it again. With that attitude, he likely will.

I read somewhere once that in one of the western European countries the maximum punishment for any offense was fifteen years. I think such a limitation might be a wise one except in those rare instances where the protection of society demands that the offender be put away for a longer period or even forever. No judge, in my opinion, is wise enough to determine precisely how long a man ought to be imprisoned. Parole boards can do it much better than judges—not because they are wiser men, but because they have much more information about the prisoner—how he gets along with fellow prisoners, his attitude toward guards, willingness to work, general behavior. All sentences ought to be in effect indeterminate. And to protect against disparity of sentence—the greatest single demoralizing factor in prison—sentences longer than a certain minimum ought to be reviewable by appellate courts.

My only sentencing regrets are where I have been too harsh. Looking over my scrapbook last week, I read an account of my sentencing a 27-year-old young man in Asheville to fifteen years for a multiple series of breaking and entering cases. I had written across it: "And you believe in short sentences." I doubt if I helped him or society by such an extended sentence. Reading the news clipping, I felt that I had probably made what Judge Pless calls a "wrong mistake," i.e., egregious judicial blunder. Fortunately, we have a parole law and a competent parole board to mitigate and partially correct such blunders. I know of no job requiring greater moral courage than that of parole officer. It takes both wisdom and courage to separate murderers, for example, into two categories—those few who will again menace society and must be penned up forever, and the others who may with reasonable safety to society be given a second chance.

I have tried literally dozens of homicide cases—at least 50, and possibly 100. It is hard to believe that I have tried eight women for killing their husbands and/or boyfriends in Buncombe County alone. This is especially interesting to me because I married a Buncombe County woman. My father-in-law long contended that it was not against the law in Buncombe County.

Non-deterrence of Capital Punishment

In the great majority of homicide cases I have tried, the solicitor has seen fit to indict for only second-degree murder or manslaughter. In quite a few he has indicted for first-degree murder and made sounds about the gas chamber, but hasn't been really serious about it. The gas chamber does have the effect, perhaps, of encouraging one charged with a capital offense to plead guilty to a lesser degree of the crime rather than to face a trial wherein his life is sought. But it is mostly bluff. The cost and difficulty of trying a man for his life is so great that most solicitors do not lightly undertake it. In 1963 in America, less than one-half of one percent of murderers were sentenced to death. Capital punishment can't be much of a deterrent when the odds are nearly 200 to 1 of beating it.

In only two cases have I presided over a trial where the capital penalty was sought in dead earnest. In 1959 in Asheville, the solicitor for the State sought the death penalty for five Ne-

gro boys, age 14 to 17, charged with the rape of a white woman. You could have cut the tension in the courtroom with a knife. Prayer meetings were held in Negro churches all night. The State was entitled to 48 peremptory challenges and the defendants to 112 preemptory challenges to the jury. In order to select a jury of 14 members (two alternates), it was necessary to summon 374 people. Selection of the jury took two to three days and cost a vast sum of money. The spectacle—too much like a Roman circus—ended with the entry of eight guilty pleas and the mandatory life sentence for each of the adolescent defendants.

My other experience with capital punishment was the second trial of George Cecil Cook in Cleveland County. In that case it took *two days* to pick the jury and *five hours* to try the case. You can see that the tail often wags the dog. Jurors' fees alone came to $1,986.00. Four hundred people were summoned on the special venires from which selection was made, and nearly two out of three who were examined stated that they did not believe in capital punishment. The State paid defense counsel for the first trial, the appeal to the Supreme Court, and the second trial. The result was a recommendation for life imprisonment, which could have been accomplished in the first place with one-tenth the cost in time and money.

I am convinced that capital punishment is not worth what it costs in terms of time, money, and loss of human dignity. It will eventually go, and I note with pleasure that it was voted out recently in Oregon. One bad side effect of the controversy over capital punishment is that it distracts us from more important problems (more important except to the handful who are executed) of penology, such as disparity of punishment, parole standards, work release, recidivism, social and metnal defectives—and what to do with them, etc., etc.

Pre-Trial Publicity

Have you begun to suspect that I have nothing to say about pre-trial publicity? You are almost right. I cannot recall a single instance of pre-trial publicity which I felt prevented me from according to the State and the defendant a fair trial. Pre-trial publicity does undoubtedly increase the cost of sensational criminal trials to some extent. There will always be

The author makes a point during his lecture.

some prospective jurors who insist upon examination that they have read so much about it that they have a fixed opinion that the defendant is guilty (or not guilty) and are thus excused. But the jury fees unnecessarily paid out to such persons does not amount to much, and the time lost in court is not great. Certainly such additional expenditures would not justify abridging the freedom of the press. I clipped out of the Charlotte *Observer* and read with much care a pre-trial account of the Rinaldi murder trial appearing on the beginning day of the trial. It told of the trial beginning on Monday; that Rinaldi's wife was found dead, battered, and gagged at 1:30 P.M. on December 24 (1963) in their Chapel Hill apartment; that the defendant planned to testify; that Rinaldi had been in jail since last August—held without bail; who the lawyers were; that seventeen witnesses had been subpoenaed for the prosecution and twenty for the defendant, of which six were summoned for both sides.

None of the foregoing reported facts would, in my opinion, prejudice a prospective juror. I do not believe the trial is made appreciably more difficult by such reporting.

In most instances, the objections to pre-trial publicity are more than balanced by the importance of a free press. I am not sure but what it is so in all cases.

Frank Wetzel was tried twice for his life for the murder of two highway patrolmen, and my recollection is that both trials occupied the press to a remarkable extent. I don't recall ever asking Judge Fountain, who tried at least one of the cases, about it, but I would not be surprised to learn from him that press coverage to such an extreme extent may have made his job more difficult. Yet, the rather amazing fact remains that if this be termed trial by newspaper the result in both cases was, nevertheless, a recommendation of mercy and life imprisonment. It is difficult to imagine the State contending that it is hurt by such pre-trial publicity, and Wetzel could not possibly have hoped for more than leniency. Perhaps the Wetzel cases teach us not that pre-trial publicity prevents a fair trial, but that excess publicity is lacking in dignity for the press and all concerned. I think we all instinctively react against the circus aspects of the Jack Ruby trial, but even there I do not think that he was prevented from having and getting a fair trial.

Conclusion

In England, I understand that the inherent contempt power of the courts is commonly invoked to curtail the press reporting of trials. It has been suggested that a strong judiciary in America should copy the English judges.[1]

The famous newspaperman, H. L. Mencken, supported such a proposal: "Journalistic codes of ethics are all moonshine. . . . If American journalism is to be purged of its present swinishness . . . and God knows it's needed . . . it must be accomplished by external forces."[2]

I do not agree with Mencken. If any controls are needed, they ought first be imposed on prosecutors, law enforcement officers, and defense attorneys.

The only general conclusion I can come to is this: an independent judiciary and a free press are both essential. The sense of responsibility of the press in North Carolina is such that there is no irreconcilable conflict between the two, and I envision none in the foreseeable future.

---

1. 16 Oklahoma L.R. 337; 14 Syracuse L.R. 450; 42 Mass. L.Q. 8; 63 Harvard L.R. 340.
2. 16 Oklahoma L.R. at 349.

Jesse James to HEW

Jesse James has accepted an appointment with the Children's Division of the U. S. Department of Health, Education, and Welfare in Washington. James had served since July, 1963, as an Assistant Director of the Institute of Government. His primary areas were criminal investigation and law enforcement.

The Right of Privacy

By William C. Lassiter

General Counsel, North Carolina Press Association

Lassiter discusses privacy.

(Editor's note: The author presented this article as part of his lecture to the Second Annual Press-Broadcasters Court Reporting Seminar. His article "Libel: Qualified Privilege of Reporting Judicial Proceedings," drawn from his remarks to the first Seminar, appeared in the February-March, 1964, issue of Popular Government.)

Press and public alike should be aware that an individual has a right of privacy which is protected by law. This right has been defined by the courts in a number of cases. It has been held that: the right of privacy is "founded upon the claim that a man has the right to pass through this world, if he wills, without having his picture published, his business enterprises discussed, his successful experiments written up for the benefit of others, or his eccentricities commented upon either in handbills, circulars, catalogues, periodicals, or newspapers; and, necessarily, that the things which may not be written and published of him must not be spoken of him by his neighbors, whether the comment be favorable or otherwise.[1]

Definition

The "right of privacy" is the right of a person to be free from unwarranted publicity or unwarranted appropriation or exploitation of one's personality, publicizing of one's private affairs with which the public has no legitimate concern, or the wrongful intrusion of one's private activities in such manner as to outrage or cause mental suffering, shame or humiliation to a person of ordinary sensibilities, and its violation is a tort.[2]

The right of privacy may be defined as the right to live one's life in seclusion, without being subjected to unwarranted and undesired publicity. In short, it is the right to be let alone. There are times, however, when one, whether willingly or not, becomes an actor in an occurrence of public or general interest. When this takes place, he emerges from his seclusion, and it is not an invasion of his right of privacy to publish his photograph with an account of such occurrence.[3]

> "A person who unreasonably and seriously interferes with another's interest in not having his affairs known to others or his likeness exhibited to the public is liable to the other."[4]

North Carolina Case

The only case which has been decided by the North Carolina Supreme Court involving the "right of privacy" is Flake v. Greensboro News Company (1938).[5] The Court recognized the right of privacy in that decision.

The Flake case involved the unauthorized publication, by mistake, of a photograph of a lady radio artist in a newspaper advertisement advertising a certain type of bread, indicating that the plaintiff whose picture appeared was a member of a vaudeville troupe which was appearing in Greensboro. The plaintiff was not a member of the vaudeville troupe and had not endorsed the bread and had not authorized the use of her photograph. The North Carolina Supreme Court held that the unauthorized use of one's photograph in connection with an advertisement or other commercial enterprise gives rise to a cause of action which would entitle the plaintiff, without allegation and proof of special damages, to a judgment for nominal damages, and to injunctive relief, if and when the wrong is persisted in by the offending parties. The Court stated that upon the record in that case, "it appears that said photograph was used by mistake and without malice and that the defendant immediately desisted from the use thereof upon the discovery of the mistake and made due apology therefor," and therefore the plaintiff was entitled to recover only nominal damages.

The Court, in the Flake case, through Mr. Justice Barnhill, made the following comment, which points to interesting questions for future decision:

> "In determining to what extent a newspaper may publish the features of an individual under any given circumstances necessarily involves a consideration of the constitutional rights of free speech and of a free press. People do not live in seclusion. When a person goes upon the street or highway or into any other public place he exhibits his features to public inspection. Is a newspaper violating any right of the individual, or doing more than exercising the right of a free press, when it publishes a correct image of such features? Must a distinction be drawn between those in private life and those in public office or public life, and if so, when does a person cease to be a private citizen and become a public character? If a newspaper may publish the features of an individual in connection with an article that is laudatory, does it not also possess the right to publish the same in connection with an article that is critical in its nature so long as it speaks the truth? If the people are entitled to know about their Governor, or

1. Roberson v. Rochester Folding Box Co. (1902) 171 N. Y. 534, 64 N. E. 442, 443.
2. Smith v. Doss (1948) 251 Ala. 250, 37 So. (2d) 118, 120.
3. Jones v. Herald Post Company (1929) 230 Ky. 227, 18 S. W. (2d) 972, 973; Berg v. Minneapolis Star & Tribune Co. (1948-D. C., Minn.) 79 Fed. Supp. 957, 961.
4. Restatement of Torts, p. 398. Sec. 867.
5. 212 N. C. 780, 195 S. E. 55.

their President, or other public servant, is doing and saying, is it reasonable to hold that they are not entitled as a matter of course to ascertain and know through the newspapers his physical features and appearance? These and many other questions which may hereafter arise, in connection with this type of litigation, are not now before us for decision." (195 S. E. 55, 63).

In *Prosser on Torts* (2nd Ed.), p. 643, we find the following statement:

"Beyond all this there are plaintiffs who have not sought publicity or consented to it, but through their own conduct or by pure misfortune find that they have become "news." Those who unwillingly attract public attention by being accused of crime, or becoming associated with crime, or suicide or divorce or other interesting events, even as innocent bystanders, become reluctant public characters for a period, and "until they have reverted to the lawful and unexciting life led by the great bulk of the community, they are subject to the privileges which publishers have to satisfy the curiosity of the public as to their leaders, heroes, villains and victims." On this basis much sensational reporting of the details of private lives is privileged merely because it is justified by the public's desire to read."

Photographs and Privacy

It seems clear that if a photograph is taken and used without the permission of the subject for commercial or trade purposes, damages may be recovered by the person photographed.

In Martin v. New Metropolitan Fiction, Inc. (1931)[6] the defendant published a magazine, "True Detective Mysteries," consisting principally of articles and purporting to be true stories of crime, its detection and punishment. An article dealing with a murder trial was accompanied with a photograph taken in the courtroom which pictured the mother of the woman who had been slain by the defendant, seated by the Assistant District Attorney, with a notation that when the defendant passed close by on his way to the witness stand, the mother cried out: "I could kill that man with my own hands." The mother brought a civil action for damages for the alleged unauthorized publication of her photograph in violation of a New York State law on privacy. The Court decided in favor of the plaintiff (the mother) holding that the photo was published for purposes of trade to enhance the value of the article from the standpoint of the public—thus, violating the mother's right of privacy.

Normally, however, the unauthorized publication of photographs in connection with news events does not violate the right of privacy of the person or persons so photographed. For example, it was held in the following cases that the right of privacy was not violated by the publication of the photographs referred to:

(a) A woman had posed voluntarily for a photograph with four other persons, including her husband and his chauffeur, at an airport. At a later date the photograph, excerpted so as to show the woman with the chauffeur, was published for purposes of trade to nection with a divorce case then pending. The woman sued the newspaper for libel and for violation of her alleged right of privacy. The action was dismissed as to the latter cause of action.[7]

(b) Right of privacy held not violated by the incidental use of a picture of a minor daughter in a group picture of a family on the occasion of a story on a criminal charge against the father.[8]

(c) A newspaper published a story of the murder of a man and photographs of the man and his wife. The wife had been present on a public street when her husband was stabbed. The wife sued on the ground of the violation of privacy, but her suit on that ground was dismissed.[9]

(d) In a Federal case, it was held that there was no violation of the right of privacy when a newspaper made an unauthorized publication of a photograph of a courtroom scene showing two persons involved in a divorce proceeding.[10]

(e) A newspaper published a photograph of a woman who had committed suicide in a public place; her husband had requested that the picture not be used. It was held that husband's right of privacy had not been violated because the woman had become an actor in an occurrence of general news interest to the public.[11]

(f) A radio narrative telling how the plaintiff's father had disappeared from the community, going to another state for a period of years, and how an innocent man had been tried for his murder and acquitted, was held in Smith v Doss (1948)[12] not to constitute an invasion of his daughter's right of privacy, the court saying that the broadcast was the subject of legitimate public interest, since by his own acts the father has made himself a public character.

General Rule

The following comment appears under Section 867 of the *Restatement of Torts:*

". . . . liability exists only if the defendant's conduct was such that he should have realized that it would be offensive to persons of ordinary sensibilities. It is only where the intrusion has gone beyond the limits of decency that liability accrues. These limits are exceeded where intimate details of the life of one who has never manifested a desire to have publicity are exposed to the public, or where photographs of a person in an embarrassing pose are surreptitiously taken and published.

". . . . In determining liability, the knowledge and motives of the defendant, the sex, station in life, previous habits of the plaintiff with reference to publicity, and other similar matters are considered. A distinction can be made in favor of news items and against advertising use. It is only when the defendant should know that the plaintiff would be justified in feeling seriously hurt by the conduct that a cause of action exists. If these conditions exist, however, the fact that the plaintiff suffered neither pecuniary loss nor physical harm is unimportant. The damages whether nominal, compensatory or punitive can be awarded in the same way in which general damages are given for defamation."

6. 248 N. Y. S. 359.

7. Thayer v. Worcester Post Co. (1933) 284 Mass. 160, 187 N. E. 292.

8. Hillman v. Star Pub. Co. (1911) 64 Wash. 691, 117 Pac. 594.

9. Jones v. Herald Post Co. (1929) 230 Ky. 227, 18 S. E. (2d) 972.

10. Berg v. Minneapolis Star & Tribune Co. (1948) 79 Fed. Supp. 957.

11. Metter v. Los Angeles Examiner (1939) 35 Cal. App. (2d) 304, 95 Pac. (2d) 491.

12. 251 Ala. 250, 37 So. (2d) 118.

MUNICIPAL RECORDS and RECORD MANAGEMENT

By Admiral A. M. Patterson
Assistant State Archivist (Local Records)
Department of Archives and History

Increasing Value of Records

Municipalities are faced with growing problems incident to the rapid increase in population and rhe fact that what was formerly a rural society in North Carolina is fast becoming an urban one. Not the least of these problems is the proliferation of public records. Municipal government is big business and as in the case of any business enterprise a large volume of administrative and fiscal records must of necessity be created in connection with government operations.

A sizeable portion of each tax dollar is devoted to record keeping. For the sake of economy of operations municipal officials need to adhere to effective programs of creation, maintenance, preservation, and disposal of public records. In order to develop such a program they need to be familiar with the general statutes relating to public records and with the local records program administered by the State Department of Archives and History.

Numerous general statutes deal with the authority and responsibilities of municipal officials with respect to the public records in their custody, and to the supervisory responsibilities of governing bodies in connection with these records. No effort will be made to cover all of these statutes, but the provisions of the more important ones will be discussed herein. As specific problems or questions arise, the pertinent statutes should be referred to. Most applicable general statutes are contained in the appendix to *The Municipal Records Manual*, referred to below.

Disposal of Records

Chapter 121 of the *North Carolina General Statutes* pertains to the State Department of Archives and History. Of particular interest to municipal officials are G.S. 121-2 (12) and G.S. 121-5. The former authorizes the Department to appoint advisory committees to advise and assist in records marters. The latter (1) permits public officials to rurn over to the Department for permanent preservation in the State Archives records no longer required for official business and authorizes the Department to make certified copies of such records, (2) sets up a procedure for the destruction of public records (of which more later), (3) allows the Department to issue implementing instructions concerning disposal of records, and (4) absolves public officials from liability when they have disposed of records in accordance with the terms of G.S. 121-5.

Security Microfilming Program

The 1959 General Assembly enacted legislation authorizing and directing rhe State Department of Archives and History to carry out, at State expense, a statewide program of inventorying (and scheduling), repairing as necessary, and microfilming for security, permanently valuable county records (G.S. 121-5.1). Although the act did not specifically include municipal records, efforts are being made to microfilm those of permanent value—primarily minutes of the council or other governing body—while operating in the various counties. The security negatives are stored in the State Archives and in the event of loss of an original record a microfilm copy may be procured from the Department at cost.

Public Records Act

Chapter 132 of the General Statutes is entitled "Public Records Act." The act (1) defines public records; (2) fixes responsibility for their care; (3) prohibits their destruction, sale, loan, or other disposition without the approval of the State Department of Archives and History; (4) requires legal custodians to demand return of records in illegal possession of others; (6) requires custodians to make records available to the public and to provide safe storage for them; (7) empowers the Department to examine the condition of public records and ro aid and advise officials in the solution of records problems; (8) requires the Department to administer a records management program for all levels of state and local government and requires the cooperation of public officials; requires the Department, in cooperation with governing bodies, to establish and maintain a program of selection and preservation of records essential to government operation and to the protection of rights and interests of persons; and finally, (9) specifies that an official who fails to perform any duty required by Chapter 132 shall be guilty of a misdemeanor.

Photographic Reproduction of Records

Article 2A, Chapter 153 of the General Statutes (G.S. 153-15.1 through 153-15.6) concerns the photographic reproduction of records. When enacted in 1951 its provisions pertained to counties only, but in 1955 the county act was extended to include municipalities also (G.S. 160-508 and 160-509). The act empowers governing bodies (1) to purchase, rent, lease, contract for, or otherwise acquire equipment, supplies, and service for photocopying, photographing, or microphotographing of records and (2) to authorize municipal officials to phorocopy, photograph, or microphotograph (microfilm) their records, using equipment or system provided by the governing body, and using film or material of durable quality, and to provide safe and convenient storage for microfilm copies. It provides that photographically reproduced copies of records shall be deemed as originals for all purposes and shall be admissable in evidence in courts and administrative agencies. Subject to the approval of the State Department of

Archives and History in each instance, it permits the disposal of original records after they have been photographically reproduced. (The admissability of photographic reproductions in evidence is covered in greater detail in G.S. 8-45.1 to 8-45.4. It authorizes governing bodies of two or more municipalities to contract for joint use of photographic reproduction equipment and services. While not specifically spelled out in the act, there does not appear to be any legal objection to a municipality and a county contracting jointly for equipment and services. Finally, it authorizes the production of duplicate sets or copies of any reproductions, such sets or copies to be given safe storage in a building separate from the one housing the original records.

Records Management Program

Under the provisions of G.S. 132-8.1 enacted in 1961, the State Department of Archives and History was authorized and directed to administer "a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official records." Under this program it is the duty of the Department to "establish standards, procedures, and techniques for effective management of public records, to make continuing surveys of paper work operations, and to recommend improvements in current records management practices, including the use of space, equipment, and supplies employed in creating, maintaining, and servicing records." The act requires cooperation of public officials in administering the program.

The records management program provided for in G.S. 132-8.1 is applicable to all levels of state and local government. Due to fiscal and personnel limitations, however, the implementation of the program has been limited primarily to state and—to a lesser extent—county agencies. The Department has advised and assisted a number of municipalities in scheduling and disposing of obsolete records, but to date only faltering steps have been taken in other areas of municipal records management.

Municipal Records Manual

In November, 1960, under the authority contained in G.S. 121-2(12) to appoint advisory committees, the Director of the State Department of Archives and History appointed the Advisory Committee on Municipal Records, consisting of representatives of the staffs of the Department, the Institute of Government, and the North Carolina League of Municipalities, together with a number of municipal officials representing various offices of municipal government. This committee performed an outstanding service in preparing *The Municipal Records Manual*. It was prepared under the provisions of G.S. 121-5, which authorizes the Department to issue additional instructions relative to the disposal of public records, and in implementation of G.S. 132-8.1, which requires the Department to administer a records management program. In March 1961 copies in sufficient numbers to serve the needs of each municipality were mailed to all city (town) managers or clerks. Unfortunately, in some instances the availability of copies was not made known to all department and agency heads. Officials who have not had access to copies should so inform their manager, or clerk, as the case may be.

The *Manual*, probably the first of its kind in the United States, has found wide acceptance and approval. It includes general information and instructions, recommended retention and disposal schedules for records usually found in municipal offices, and an appendix containing pertinent general statutes. It is true that it does not list all records which may be found in various offices and it is difficult to keep it corrected up-to-date, but it is a useful guide in determining how long records should be retained. The schedules are not mandatory, but if followed a great deal of obsolete material may be destroyed, thus providing space for current records. As pointed out in Article 13, Section 1, of the *Manual*, the disposal schedules do not eliminate the necessity for obtaining concurrence of the State Department of Archives and History and the final approval of the governing body prior to destruction.

Problems of New Techniques

In this era of rapid developments in electronic and mechanical fields, many devices are becoming available for use in records creation and data recording and retrieval. Our large cities are perforce spending large sums of money for microfilm, punch card, electronic computer installations, and other expensive equipment. Often only the advice of the salesman, who understandably may tend to oversell his product, is available to city officials. In the not too distant future the State Department of Archives and History hopes to be able to offer more advice and assistance in these areas as well as in all areas of records management.

During the last five years the Department has had considerable experience with microfilm and will be glad to give municipal officials the benefit of any knowledge gained as a result. Microfilm can play an important role in providing security for important records and in saving space, but both the installation and use of microfilm equipment are expensive and require very careful evaluation and planning. Records to be filmed must be carefully arranged and indexed. The film must be made available for the convenience of the staff and the public, with readers and reader-printers supplied in adequate numbers. The indiscriminate microfilming of records, such as canceled checks, vouchers, tax receipts, and other records of short term value, is generally a waste of money. An orderly plan of disposal of obsolete records is cheaper and far more effective.

Records management problems are rapidly reaching such proportions in some of our larger municipalities that the creation of the position of records administrator should at least be given consideration. One of the larger counties has established such a position and it has resulted in considerable economy in operation. A records administrator could supervise and coordinate programs and systems, making them available to all departments, and could serve as a liaison official with the State Department of Archives and History in all matters of interest and concern to the Department.

Municipal officials having records problems and who may desire the assistance of the State Department of Archives and History may address requests to the State Archivist, P. O. Box 1881, Raleigh, North Carolina. Those who have problems concerning retention and disposal should first refer to *The Municipal Records Manual* prior to submitting requests. If records to be destroyed are not included in the *Manual*, a recommended period of retention should be included in the request.

Garbage Collection and Disposal by Counties

By Warren Jake Wicker,
Assistant Director, Institute of Government

(Editor's Note: The following article is an excerpt from the Institute publication County Government in North Carolina, *published this month.)*

Refuse collection and disposal is today a problem wherever people live, whether in rural or urban areas. Too many of the goods we consume come in containers which are difficult to dispose of easily. This problem affects farmers and suburbanites as well as city-dwellers; and the littered roadsides, beaches and mountain paths—as well as unsightly dumps along many highways—all attest to its extent. The fact that dumping trash along highway rights of way, or on another's property, is a criminal act [G.S. §§ 14-399 and 14-128] has been of little value in solving the problems because enforcement is exceedingly difficult. Moreover, the real need is for positive action to provide adequate and satisfactory collection and disposal.

Landfills, such as this one in Gaston County, aid garbage control.

Cities for many years have offered collection and disposal services, and in recent years counties have started providing services also. North Carolina counties have been slower in taking action than have counties in many other states, but a number are now involved.

County involvement takes two forms: regulation of practices of private persons, and provision of services. County regulatory activity may be undertaken by either the county boards of health or, in some cases, by the boards of county commissioners. Only the commissioners are authorized to provide services.

County Boards of Health

The authority of county boards of health to regulate the collection and disposal of garbage is based on the broad rule-making powers set forth in G.S. § 130-17, which gives local boards of health authority to make such rules and regulations ". . . as are necessary to protect and advance the public health."

Regulations adopted by the boards of health may cover all aspects of collection and disposal which affect the public health. Such regulations typically cover four major areas:

(1) the type of containers in which garbage is placed;

(2) sanitation standards for equipment used in the collection of garbage and refuse;

(3) standards and methods for disposal; and

(4) requirements relating to the licensing of collectors.

Usually, a permit is required before a private individual may provide collection service. Such a permit is issued only after the board of health has found that the equipment to be used is adequate and that provision for the sanitary disposal of refuse collected has been made. Regulations covering containers in which garbage is placed awaiting collection, of course, apply to individual homeowners, businesses, and others responsible for the accumulation of refuse. Collection permits may be revoked for violation of regulations. And G.S. § 130-203 makes violation of local health regulations a misdemeanor and provides for a fine of not more than $50 or imprisonment not to exceed 30 days.

Among the counties which are known to have regulations adopted by the local board of health are: Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Polk, Rutherford, and Wilson. Copies of a recommended model set of regulations are available from the State Board of Health.

Regulation

County Commissioners—Health

G.S. § 153-10.1 grants authority to the boards of commissioners in 18 counties to make rules and regulations with respect to the collection and disposal of garbage—authority essentially parallel to that normally exercised by the county boards of health. Authority of the commissioners, however, is limited to the areas of the county outside of municipal boundaries—unlike the authority of boards of health, which is countywide.

The 18 counties covered by the statute are: Cabarrus, Gates, Graham, Guilford, Henderson, Hertford, Hoke, Jackson, Martin, McDowell, Mecklenburg, Northampton, Polk, Scotland, Stokes, Transylvania, Wayne, and Wilson. Two other counties, Burke and Haywood, have similar authority under special legislation. [Session Laws 1961, ch. 304 and 187]

County Commissioners—Business

All counties in the state, except for Johnston and Vance, have authority

to regulate the "business" aspects of garbage collection and disposal under G.S. § 153-272.[1] This statute grants authority to the commissioners to regulate the collection and disposal of garbage by private persons, firms, and corporations *outside* municipal boundaries ". . . for the purpose of encouraging and attempting to insure an adequate and continuing service of garbage collection and disposal where the board deems it desirable."

In exercising this authority, the board of commissioners may:

(1) issue licenses or permits for the collection and disposal of garbage;

(2) prohibit collection and disposal by unlicensed persons;

Providing for garbage disposal and collection with'n the county helps eliminate unsightly dumps like this.

(3) grant licensed persons exclusive rights to collect in designated areas; and

(4) regulate the fees charged for private collection and disposal services.

Action under this statute has usually been taken in order to assure adequate service to all areas of a county. Often small private collectors with inadequate equipment will start a service, perhaps with a lower price than is offered by an existing collector, and soon experience financial trouble. The result is frequently a business loss for the operator and periods of no collection for the homeowner. In some cases, the county commissioners have established uniform rates for the different levels of service (once or twice a week collection, from front or back yards). More often, however, both rates and exclusive collection rights for certain collectors in designated areas have been established in an attempt to assure collectors enough business to justify their investment in adequate equipment.

Among the counties which have adopted regulations under G.S. § 153-272 are Catawba, Guilford, Cleveland and Alamance.

Provision of Services

County Authority

All counties in the State, except Johnston and Vance, are also authorized to provide garbage collection and disposal services for areas outside municipal boundaries as a county activity. [G.S. § 153-273.] Under this statute, counties may:

(1) establish and operate collection services;

(2) establish and operate disposal facilities;

(3) contract with any city or town to collect or to dispose of garbage; and

(4) charge fees for the use of disposal facilities.

The statute further provides that if a county undertakes to provide collection service, it *must* charge fees for such services adequate to meet the costs of collection expenses.

County Activity

County activity in the collection and disposal of refuse is becoming more widespread, with regulation (as noted above) usually preceding actual participation in collection and disposal. To date, county involvement varies from small payments to cities, in return for permission for private collectors to use city disposal facilities, to direct collection and disposal.

As of the end of 1964, only Dare County is known to be directly involved in collection. The county provides collection service over part of Roanoke Island and on the Dare beaches under a contract with a private collector, who is also responsible under the contract for proper disposal.

Disposal Arrangements

A number of counties, including Forsyth, Lee, Wilson, and Mecklenburg, make payments to a city within the county and in rteurn the city permits private collectors and individuals from outside the city to use its disposal facilities. Payments vary between $2,000 and $12,000 a year. Some cities permit private collectors and individuals to use their disposal facilities on a fee basis without county involvement. This arrangement works reasonably well with private collectors, but often poses difficult administrative and policing problems with respect to private individuals.

Several counties have provided disposal facilities. For more than ten years Durham County has operated a landfill through its Health Department. It is available for use without charge to all persons and private collectors within the county. Gaston County is operating one landfill on a similar basis, the first of a series projected to provide eventually disposal sites within a reasonable distance of all areas of the county. Guilford County contracts with a private collector to operate a landfill which is available to both individuals and other collectors in the county, however, the landfill operator is permitted to make and retain reasonable service charges in addition to the payment received from the county.

While the need for disposal services exists countywide in almost all counties, county activity often creates problems of equity for the city resident who finances his own collection and disposal services through city taxes and then helps support additional disposal services for areas outside the city through his county tax payments. While operating approaches such as those used in Durham, Dare and Gaston counties (where substantial service is provided to people inside the cities as well as outside) tend to reduce these inequities, the problem has not been entirely eliminated. The inequities are exceedingly small in actual outlays—usually involving only a few thousand dollars.

An approach to this problem in some other states has resulted in the county becoming responsible for all disposal on a countywide basis, the county facilities being used by both municipal collection services and by private collectors and individuals outside the municipalities. Counties in Pennsylvania, New Jersey, Connecticut, California and Ohio are among those which have adopted this approach. No North Carolina counties have yet adopted this approach, although some consideration to arrangements of this type has been given by a few county officials.

1. Although article 22 of chapter 153 refers to "garbage," it is clear that in common understanding and usage the term is used to cover *all* types of refuse. The companion statute cited above (G.S. § 153-10.1) makes this broad intent more explicitly by reference to "trash, debris, garbage, litter, discarded cans or receptacles or any waste matter whatsoever . . ."

PLANNING in GREAT BRITAIN — A Series

Part VI: Architectural Controls

By Philip P. Green, Jr.

Assistant Director, Institute of Government

Introduction

A striking development in the American city planning movement in recent years has been the greatly revived interest in what may be loosely described as "beautification"—or in the more sophisticated professional lingo, "urban aesthetics." Laymen and professional planners alike have become far more concerned with the visual environment in our cities, and this concern has led in turn to questions as to how far local governments can or should go in regulating the appearance of buildings.

Until recently, our courts have answered such questions with the response, "Not very far." Unless some definite tie between the proposed regulation and the traditional "police power" objectives of public health, safety, morals, and general welfare could be shown, it would be held invalid—and aesthetic regulations could not always be shown to have such ties. But such cases as *State ex rel. Saveland Park Holding Corp. v. Wieland*, 269 Wis. 262, 69 N.W. 2d 217 (1955), cert. denied, 350 U.S. 841 (1955), indicate that the courts may now be more willing to find such a connection.

This trend has been particularly noticeable with respect to historic areas, such as Beacon Hill or Nantucket or Annapolis or Charleston. Architectural controls for historic areas have been sustained by such widely separated courts as those of Massachusetts, Louisiana, and New Mexico. It is reasonable to expect that more such regulation will be attempted as time goes by.

Against this background, the experience of the English in regulating the appearance of new buildings and in preserving historic buildings has particular relevance. England's local authorities have been exercising these types of regulation for much of this century, and both their accomplishments and their failures contain lessons for those contemplating such regulation in America.

We shall discuss the British architectural controls in this article and their devices for preserving historic buildings in the next article of the series.

The Legal Basis of Architectural Controls

Anyone searching for the statutory basis for controls over architectural design in Britain is struck by the fact that apparently there is presently no specific provision granting authority for such controls. The Town and Country Planning Act requires that a property owner secure "planning permission" before undertaking development, but it is vague as to the criteria to be applied by the local planning authority in granting such permission. It merely requires that the authority "have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations." Statutory provisions relating to the development plan are similarly silent with respect to control of design. Apparently the only real mention of design control is in a provision authorizing the Minister to constitute an independent tribunal to hear appeals from decisions "relating to the design or external appearance of buildings."

Nor is one helped by the Rules and Orders issued by the Ministry of Housing and Local Government. The Town and Country General Development Order, 1963 (which is the latest of a series of such orders) mentions design only in passing. It authorizes the making of an "outline application" where an applicant wishes to secure permission for the erection of a building for a specific purpose "subject to the subsequent approval of the authority with respect to any matters relating to the siting, design or external appearance of the buildings, or the means of access thereto. . . ." This would seem to indicate an assumption that such matters are to be considered in dealing with the normal application for planning permission.

Ministry Circulars

That such an assumption has in fact been made is indicated by both (a) the circulars and memoranda issued by the Ministry for the guidance of local officials and (b) the actual practice of local authorities in dealing with applications for permission.

There is an implication that there should be control over building design, for example, in the Ministry's 1947 circular setting forth a Model Form of Application for Planning Permission. This requires, among other things, that the application include building plans showing: "(a) the materials to be used; (b) the colour of the external walls and roofs; (c) a plan for the roof and for each floor; (d) elevations of all sides of the building excluding party walls, and (e) the level of the ground floor, and of the site in relation to the level of the adjoining street or streets."

A 1950 circular entitled "Notes on the Siting of Houses in Country Districts" contained the following statements: "In building new houses in villages Authorities are urged to pay particular attention to siting and layout. Villages often owe much of their charm and atmosphere to the variety of styles which have developed side by side during the years, and there is much to be said for continuing the

tradition by scattering new houses singly or in twos and threes about the village." Similar statements stressing need for careful siting and consideration of design appear in circulars dealing with a variety of subjects.

Finally, in the Ministry's publication, *Selected Planning Appeals*, the following policies are set forth:

"One of the objects of planning is to prevent bad design and to encourage good. But unfortunately it is not possible to lay down rules defining what is good and what is bad; and much may in any event turn on the site. Moreover, opinions can often differ.

"It is therefore difficult to offer useful advice to intending developers other than the obvious advice that they should take trouble to ensure that the designs submitted are good. If they are in doubt how to ensure this, the authority may be able to help them if they ask for advice before starting on plans.

"Two questions can arise on design. The first is whether the design is bad in itself: fussy, or ill-proportioned, or downright ugly. The second is whether, even if the design is not bad in itself, it would be bad on the particular site: right out of scale with close neighbours (which does not mean that it need be similar to neighbouring designs), an urban design in a rural setting, or a jarring design or the wrong materials in a harmonious scene.

"It is obviously desirable that in operating control over design authorities should be guided by the advice of a qualified architect; and if a district council have not got this, the county council may be able to assist them. Authorities should always be prepared to arrange for this architectural adviser to discuss proposals with developers, whether at the outset on a request for advice or when plans have been submitted about which they are doubtful. Criticism should be constructive and not negative and should have regard to the developer's needs and wishes.

"Planning control should not be used to stifle initiative and experiment in design; a design is not bad because it is new and different—it may be very good. Designs should be rejected only if the objection is clear and definite and can be explained. It is not enough to say that a design will 'injure the amenities' or 'conflict with adjoining development'; it must be explained why it will do so.

"In general, planning control of design should be exercised with great restraint. But where a design is plainly shoddy or bady proportioned or out of place, the authority should not hesitate to ask for something better."

Practices: Plan Provisions

In establishing and carrying out a system of architectural control, it might be expected that a local authority would make use both of its development plans and of the system of day-to-day control involved in granting "planning permission" for development. Unfortunately, one hoping to find a "design plan" of the type advocated by such American planners as Kevin Lynch is doomed to disappointment.

A pamphlet considered a standard reference, *Development Plans Explained* by B. J. Collins, notes that "The Development Plan itself says little or nothing about architecture, but this does not mean that the planning authority thinks it of little consequence. Architecture will be the medium more than any other by which the proposals of the Development Plan will be translated into realities. The Development Plan must make fine architecture possible. It must, if it can, make it probable. But good architecture is something which no government and no planning authority can guarantee. All they can do is to take steps favourable to its production. Even these must be taken with exceptional care, for official intervention can do great damage."

Mr. Collins' initial statement certainly appears to be borne out by the facts, for few of the Development Plans examined in a sampling by the author of this article contained more than terse general statements relating to architecture.

One plan contained the statement, for example, that "It is intended that the attractive character of the town and its surroundings shall be preserved, and that all new development, wherever it occurs, shall take full advantage of natural features and pay due regard to the character of adjoining development." It must be conceded that such a statement becomes meaningful when a town or a neighborhood truly has "character," but this is hardly an effort to formulate specific principles to be observed.

Another stated, "It is the policy of the County Council, as Local Planning Authority, to exercise their powers for controlling the design and external appearance of buildings by refusing permission for buildings not well designed in themselves, or having inadequate regard to their setting, and by calling the attention of applicants to features in their designs which are considered to need further review."

A major city's plan contains these provisions under the heading of "Design":

"Development control policies generally are aimed at trying to achieve a positive improvement, and two main lines of approach are used in this work. In the first instance, the Council is concerned to achieve the highest standards in architectural design and landscaping of new projects. A great many schemes are submitted for approval without much thought having been given to their external appearance, let alone their impact on the surrounding environment. It is hoped that more and more people will consult the City Planning Department at the earliest opportunity and that this co-operation may prove fruitful in improving the standards of design throughout the City. All applications are scrutinized, not only from the point of view of technical provisions such as car parking, daylighting, etc., but also in relation to:

"(a) The external appearance of the building, both in itself and its relation to adjoining buildings;

"(b) Landscaping proposals for the open areas around such building.

"There are many parts of the City where new development or redevelopment will not take place in the early future, or indeed at all, and where great efforts are needed to clean up the buildings in order to get rid of the grime of centuries, to secure coordinated painting schemes, the removal of unnecessary clutter, and generally to ensure that each street is made as attractive as possible. It is the Council's intention to stimulate the carrying out of this work by voluntary associations wherever possible."

Obviously, such provisions of the plan provide little in the way of guidance to the developer and leave the planning agency considerable leeway in dealing with individual proposals.

In contrast, a publication issued by

the Peak Park Planning Board called *Building in the Peak*, while not a part of a plan, nevertheless gives a full statement of the rationale behind its architectural controls as well as setting forth in detail the Planning Board's views on appropriate siting, architectural style, building materials, landscaping, and even the colors which must be used in new buildings or alterations of old buildings in the area over which it has jurisdiction. It may be pointed out that this area already had a highly distinctive character, and that the use of certain types of materials (limestone and gritstone) and certain architectural approaches ("a basic narrow-span rectangular plan with gabled roof and long ridge line" with a minimum of ornamentation) was traditional long before the Planning Board imposed its controls.

Practices: Development Controls

It appears, therefore, that the day-to-day decisions on the granting or denial of planning permission for specific development constitute the "cutting edge" of architectural control, that such decisions are unrestricted by the terms of any specific statutory grant of power or by any rule or regulation of the Ministry, and that they are rarely guided by any explicit principles set forth in a Development Plan. On the other hand, it seems to be considered "beyond dispute" that local planning authorities have possessed general power to regulate buildings' appearance since the first planning act in 1909 and that the only legal questions relate to the application of this power in specific cases. How, then, have they exercised such power?

Organization

From an organizational standpoint, it should be recalled that since 1947 the *counties* (and county boroughs) have possessed the responsibility for making development plans, and the professional planning staffs are with rare exceptions located in those units of government. But the counties may (and in the case of certain large county districts, must) delegate the day-to-day administration of planning controls to *county districts*. The county district councils are elected boards, rarely possessing technical planning staffs to assist them. Yet they have primary responsibility for deciding that a given set of building plans is architecturally acceptable. This poses obvious problems.

Some counties, in an effort to meet this difficulty, at first attempted to educate the district councils as to architectural principles. The Kent County Council planning staff, for example, prepared an illustrated statement of "good" and "bad" architectural features, to be incorporated in each delegation agreement. On the whole, this approach has not proved overly successful.

A second approach is for the county planning department to include an architectural section, which is available to advise district councils whenever problems involving design appear in an application. To make this approach more effective, an area planning officer of the county department may screen all applications before they reach the district council, referring any which seem to raise design questions to the architectural section.

Private architects seem to be rather fearful of this approach, pointing out that the "best" architects are not always willing to accept the limitations on income and other restrictions involved in governmental service. (In the case of the county boroughs—the very large cities—there are greater opportunities for effective architectural practice, since the county boroughs construct so much housing, and this argument is less likely to be made with respect to them than in the case of the counties.) They are worried that a "second-rate" architect in such a position may seek to become a petty dictator over architectural design in the county.

A third and probably the most common approach is to make use of a panel of local architects in an advisory capacity. Usually the services of such professionals are made available free of charge. To avoid placing too much of a burden upon a few people, some panels are constituted with a revolving membership, with a different set of architects serving in each interval of time.

An obvious difficulty with this approach is that when the advisory panel is not being paid, planning officials feel an understandable reluctance to request its services with respect to every application which is filed. Also, the panel may not wish to engage in extended negotiations with a property owner during the period before his desires jell into a plan, as a paid officer of the county might. If the owner retains an architect, other architects on the panel may have problems as to how far they may ethically go in criticising his work. And if there is revolving membership, this is apt to disrupt any continuity of policy in treating individual cases.

Disposition of Cases

With these varied organizational approaches, coupled with a general lack of guidance from statutes, rules and regulations, or plans, the treatment of individual proposals might be expected to vary in different districts, and this seems to be what has occurred. Reportedly, most local district councils have some reluctance to interfere with architectural design, but when they do, they have a tendency to be conservative in their tastes. Reflecting the views of the public they represent, they are apparently a little slow to accept "contemporary" designs. This in turn has created resentment among the practicing architects, who feel their art is being censored by ignorant judges. One of the outstanding British architects, Sir Basil Spence, even went so far as to suggest in his inaugural address as president of the Royal Institute of British Architects several years ago that the Ministry might consider abolishing all local planning committees for a time.

As we have seen, the Ministry has forthrightly expressed the view that "Planning control should not be used to stifle initiative and experiment in design; a design is not bad because it is new and different—it may be very good." The Minister has followed up his viewpoint in his decisions on appeals from refusals of planning permission. Whenever he feels that the main objection to a proposal is that it is done in a contemporary style, he is likely to overrule the district council's refusal of permission. On the other hand, he is prepared to reject proposals which are patently out of character with surrounding development.

In analysing the cases, we might first outline the pertinent factors, as mentioned in the Ministry's policy statement and the plan provisions quoted earlier in this article.

The first question is whether the proposed building, in the words of the Ministry, "is bad in itself: fussy, or ill-proportioned, or downright ugly." It may be the general form or dimensions of the building to which

objection is made, or it may be the materials, details (such as placement of windows, treatment of doors, etc.), or even the color of the building.

The next question has to do with how well the building harmonizes with its setting, "whether, even if the design is not bad in itself, it would be bad on the particular site: right out of scale with close neighbours . . . , an urban design in a rural setting, or a jarring design or the wrong materials in a harmonious scene." The objection may be to the bulk of the building, its general architectural style, its materials, details, color, or even its siting on the lot.

Finally, questions may be raised concerning the landscaping of the land associated with the building. In some cases, through effective landscaping an otherwise objectionable building may be rendered acceptable in a particular setting.

Most planners would probably agree that the first type of defect is most typical of structures designed by laymen rather than by architects—or not "designed" at all. On the other hand, even architects may be guilty of designing buildings without giving proper consideration to their surroundings. (This unfortunately seems to be typical of some of the great prima donna architects, who seem to feel that the force of their own buildings will be sufficient to dominate their surroundings.)

To show how these factors are dealt with in particular cases, perhaps the most effective form of presentation is to reproduce the statements of actual decisions as reported in the Ministry publication, *Selected Planning Appeals*. Unfortunately from the standpoint of analysis by separate categories, most of the reported cases combine elements of the first two questions in our list. We shall endeavor to separate them as best we can. (In each case, a local planning authority has denied planning permission to an applicant or placed conditions on its permission which are unsatisfactory to him. When the Ministry "allows" an appeal, it is overruling the local authority; when it "dismisses" the appeal, it is sustaining the authority's decision.)

Individual Building Design

Case No. 1

"A firm of builders had obtained permission to build at Long Withy Estate, Sutton Coldfield, eighty-nine houses of conventional type, *i.e.*, with hipped roofs and tile-hung or plastered bay window projections. Their agents had found that there was a preponderant demand for houses of a contemporary style, *i.e.*, with simple gabled roofs and clean-cut lines, and permission had been obtained for the substitution of twenty-four such houses for the conventional houses originally permitted. The council subsequently refused permission for another twenty-five in contemporary style.

"The appellants claimed that the demand for contemporary houses was persistent. Other local authorities had welcomed houses of this style, which were well designed and would not harm local amenities.

"The council said they were not opposed to houses of modern design, and had allowed twenty-four, but permission for an additional twenty-five would create an enclave of such houses in the middle of the estate. There should be as much variation as possible in the streets of a housing estate. Demand for modern-style houses might fall in the future and difficulties in reselling them might cause the area to deteriorate.

"The Minister noted that the council did not object to the design of the proposed houses and that the point at issue was simply whether a greater proportion of such houses should be allowed on the estate in question. In view of the apparent demand for this particular style of house and the quality of the design and appearance of the buildings, there was no special merit in maintaining a greater proportion of houses of conventional style.

"Appeal allowed."

Case No. 2

"The council objected to the design of a proposed bungalow at 17 Ascerton Close, Sidmouth, the main point at issue being the front porch. The front elevation showed the main door set back about 2 feet behind an arched porch about 10 feet wide and 8 feet high and springing from a height of about 4 feet 6 inches above ground. On one side this arch was supported by a thin brick pier, about 1 foot in depth; thus leaving a gap of about 1 foot between the pier and the windows of the w.c. almost directly behind it.

"Acting on the advice of their Advisory Panel of Architects the council approved the application subject to the conditions:

"(i) that a square headed opening with a supporting wall on the side should be constructed in preference to the arch and free standing pier on the front elevation;

"(ii) that the stone chimney on the side elevation should be less steeply battered. (The appellants raised no objection to this condition.)

"The council thought that a square headed opening would be more in keeping with the rectangular shape of the building and that the low springing of the arch would restrict the entrance and possibly, cause danger to people using the door after dark. Furthermore, the pier would exclude light and ventilation from the w.c. window.

"The appellant disputed the suggestion that the arch was out of keeping with the rectangular shape of the building; it seemed to stem from a rigid objection on the part of the advisory panel to the use of arches. The alternative design would not improve the dwelling. The second objection was also misplaced, because 8 feet of the porch width had headroom of not less than 6 feet. As for the w.c. window, he particularly wanted it in this position. While he appreciated that light might be restricted he did not consider it likely that ventilation would be, or that the council's alternative would be an improvement in this respect.

"The Minister took the view that it was wrong of the council to criticize such a small detail as an entrance porch on a bungalow for an individual plot. The bungalow was of better design than most speculatively built property of a similar character. He did not agree that the round arch was out of character in a rectangular bungalow with a pitched roof, and it could in fact be contended that it formed a pleasant contrast. It was at least reasonably in scale and proportion.

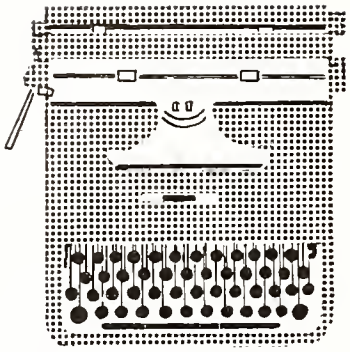
"Appeal allowed and first condition discharged."

Building in a Particular Setting

Case No. 3

"The county council objected to the design of a house to be built on the side of the village green at Meo-

(Continued on page 16)



● NOTES FROM . . .

CITIES AND COUNTIES

Annexation

Effective January 1, *Landis* aldermen annexed a parcel of land southwest of the town.

* * *

Annexation of the Washington Heights section to the city of *Washington* gives the community an additional 58.5 acres. The city school board plans to purchase 30 of the acres as a site for construction of an elementary school early this year.

* * *

Wilmington's population jumped by 10,000 when 9.5 square miles of territory were added to the eight square miles already included within the city's limits.

* * *

The City of *Gastonia* hopes to complete the extension of city services to newly annexed areas by next spring. A new northside sewage disposal plant is expected to be in full use by January 1, 1966.

* * *

Goldsboro aldermen are considering annexation of a new subdivision despite a warning that the step could cost taxpayers "thousands upon thousands of dollars." The objection is to a portion of the subdivision ordinance which allows unimproved contiguous property to come into the city by petition—thereby making the city liable for drainage costs.

* * *

Central Business District

The Institute of Government is studying the problem of how *Durham* can raise the $2.9 million necessary to finance its share of a proposed Downtown Conservation Project. One possibility is the creation of a special tax district.

* * *

A lighted marquee along the northwest side of the downtown square in *Mocksville* is adding to the beauty of the business section.

Civil Defense

Civil Defense Director Walter H. Wilford has been honored by the City of *Jacksonville* for his services to the city and to *Onslow County*. Among his accomplishments are installation of a county-wide alarm system which can be used for both fire and atomic attack warnings.

* * *

Wallace's 200-bed Civil Defense Hospital Emergency Unit has been moved into a permanent home in a 30 by 50 foot prefabricated steel structure on the town hall property.

* * *

County Government

In order to learn the attitude of citizens throughout *Carteret* County on matters which county commissioners can be of help, the board scheduled a series of "meet-the-people" meetings in December. The aim was for closer cooperation between municipal governing boards and the county board as well as closer contact with people outside major town areas.

* * *

Education

Ground was broken early in December for Sandhills Community College at *Southern Pines*. Construction is under way with an opening in the fall of 1965 in mind.

* * *

Governor Terry Sanford was on hand to deliver the inaugural address and formally open the new buildings of Gaston College in December. Dr. Robert Benson is president of the college, located near *Dallas*.

* * *

Finances

Durham's city council is considering installing complex computer equipment. Eventually the system could save the city as much as $493 per month by phasing out some clerical personnel and reducing costs of data processing now done by a private firm on a contract basis. The big hitch is the estimated cost of the first year of operation, before the equipment would begin to reap dividends.

* * *

Fire Protection

Winston-Salem aldermen have voted uanimously to abandon the city's lever-box fire-alarm system in favor of a telephone system under which public safety telephones would be installed at every intersection where there is a traffic signal. At present there are about 180 such intersections.

* * *

Historic Preservation

Orange County will buy more than $7,500 worth of historic hand-made bricks being removed from a razed building on courthouse square in *Hillsboro*. The bricks, to be offered for resale, date from the old Hillsborough Academy of 1815.

* * *

A nine-member Beautification Advisory Committee has been named in *Fayetteville* to aid municipal officials in identifying and improving historic landmarks.

* * *

Industrial Expansion

A nine-member board of directors for the newly-organized *Nash* County Business Development Authority has been appointed by the Board of County Commissioners. The Authority is empowered to issue revenue bonds to finance construction of buildings for new industry in the county.

* * *

Law Enforcement

Two *Greenville* newsmen and a local police officer have been installed in the National Police Hall of Fame at North Port Charlotte, Florida. Mayor S. Eugene West has presented certificates to that effect to Stuart Savage of *The Daily Reflector*, Roy Hardee of Television Station WNCT, and Officer Y. Z. Newberry.

Libraries

Authorization to continue their study and begin soliciting funds for a new *Bertie* County Library has been given by county commissioners.

* * *

Zebulon Community Library directors have voted unanimously to purchase the building housing the Zebulon Post Office for the library's future home. The post office is being abandoned because local postal service has outgrown the building's facilities. However its downtown location, size of 1,900 square feet, and general appearance make it ideal for a library.

* * *

Franklin County readers are using the facilities of a new county library in *Louisburg*, open six days a week.

* * *

Shepard - Pruden Memorial Library in *Edenton* has picked up additional support from the Edenton Chamber of Commerce which approved plans for the new facility and passed a resolution asking the *Chowan* Board of Commissioners to contribute $20,000 toward the library.

* * *

Parking

Albemarle's downtown parking situation has received considerable discussion in recent city council meetings. More rigid enforcement of present parking limit laws is a prime consideration. One idea is conversion of parking meters to one-coin meters so that each will operate with a specified coin to afford a stated length of time for parking.

* * *

Newton merchants have been disappointed over the abuse of their parking meter operation. The city's unusual parking operation gives a courtesy nickel to auto operators who park overtime at a meter. The loan is issued instead of a fine and the operator is asked to repay in an envelope provided under the vehicle's windshield. Cars parked longer than two hours get the regular ticket which means a fine from $1 to $1.50.

The scheme is costing merchants more and more and is not resulting in the desired turnover of parking originally intended. Newton police have launched a "get tough" policy which will include an $8 warrant for folks who haven't paid fines within five days.

* * *

Chapel Hill has added several metered parking spaces on downtown Franklin Street for the exclusive use of motorcycles and motorbikes—which are appearing with increasing frequency on the adjacent UNC campus.

* * *

A long-standing controversy over parking for jurors at *Durham's* county and city courts has reached solution. Jurors will now be allowed to park free of charge at the new municipal parking garage, two and a half blocks from the courthouse. The 258 unpaid juror parking tickets turned in to the court with the directive for the county to square it with the city will apparently be forgotten.

* * *

The sale of $88,000 in bonds to support a 98-space municipal metered parking lot in *Kinston* has been completed. A target date of April 1 has been set for opening the lot—in time to help with Easter shopping crowds.

* * *

Razing of a warehouse in downtown *Shelby* will be the first step in alleviating downtown parking problems. The land will yield 25 to 30 additional parking spaces.

* * *

Planning and Zoning

Carteret County will receive $6,000 in federal funds to assist in planning. The county will add $3,900 to buy development plans based on the recent land use survey, zoning recommendations for two more areas to be chosen by the County Planning Commission, plus continuing service by consultants within the state division of community planning.

* * *

The Research Triangle Regional Planning Commission has formally accepted a federal grant of $20,860 to finance revision of a comprehensive plan for growth and development of the Research Triangle area. *Durham*, *Chapel Hill*, and *Raleigh* are the principal communities involved.

* * *

Public Health

Rep. Wilbur Mills, Arkansas, made the principal address when the new $230,000 addition to *Alleghany* County Memorial Hospital was dedicated. The wing, named for the late U. S. Rep. Robert Lee Doughton, doubles the hospital's size.

* * *

Public Housing

Aldermen have authorized the city of *Morganton* to enter into a contract with the Morganton Housing Authority for construction of 100 low-rent housing units.

* * *

Safety

For the third consecutive year the community of *Albemarle* and *Stanly* County has been presented a certificate of achievement by the national Auto Industries Highway Safety Committee. Thirteen other Tar Heel communities are being so honored for 1964.

* * *

Sanitation

Agreement has been reached by the City of *Reidsville* and *Rockingham* County over installation of water and sewer facilities to industries outside the city limits.

* * *

Beginning in January *Albemarle* began using a new sanitary land fill located northwest of the city. Capacity of the old land fill has been exhausted and it will be closed completely.

* * *

A long-awaited federal grant of $464,000 to be used in construction of *Goldsboro's* sewage disposal lagoons has been approved by the Public Health Service.

* * *

Charlotte may join the ranks of the garbage train users. At present the city has only 3 garbage trains and 51 rear-end packers, but if the train experiment proves successful it will convert to the new system.

* * *

Backyard garbage pick-up service was instigated in *Raeford* late in 1964. Beautification was a major factor in effecting the change from curbside pick-ups.

* * *

Efficiency and beautification were listed as the reasons for *Lenoir's* change to backyard garbage collection. New sanitation equipment is in use and a city ordinance limits each residence to two cans of not more than 30 gallons in capacity.

* * *

A plan to eliminate trash dumps dotting the highways of *Carteret* County has been announced by County Commissioner Chairman A. B. Cooper. Deputy sheriffs in each section of the county have been requested to locate isolated areas—but accessible by car or truck—where trash can be dumped. Present dumps will

be cleaned up and posted.

* * *

Countywide garbage collection and disposal is being planned for *Yadkin* County as the result of action taken by the Yadkin County Planning Board. The program would be implemented by private franchises to operate in all sections of the county. A monthly fee of $2 would be charged for weekly collection in waterproof trucks. The ordinance will not apply to residents of incorporated towns within the county.

* * *

An initial step toward providing sewage facilities in the western areas of *Roxboro* has been taken by the City Council after hearing a preliminary report of a survey conducted in that area. A field survey will be continued to determine cost of a pumping station and various gravity sewer lines to be pumped into the main line running to the city's new sewage treatment plant north of Roxboro.

* * *

Siler City's new sewage plant east of the town has been completed and in operation since late in December.

* * *

The Housing and Home Finance Agency has approved a public facility loan of $175,000 to aid *Burnsville* in improvement of sewer facilities. The funds will be used jointly with an additional $205,000 in accelerated public works funds approved previously.

* * *

A $55,000 federal grant has been approved to help *Zebulon* build a sewage treatment plant. Construction of the $200,000 facility will begin in March and is expected to be completed by December. The town's share of the $145,000 expense was obtained in a 1961 bond issue election in which 98 percent of the voters favored the issue.

* * *

Streets and Highways

Winston-Salem has thrown in the towel on attempting to control access along Peters Creek Parkway. Voting to let down the access bars dealt a death blow to attempts by the City-County Planning Board to control access along the Parkway in an effort to preserve its capacity as a major traffic mover.

* * *

Taxation

Catawba County commissioners have ordered the county's first revaluation of property in eight years by awarding an appraisal contract of $135,000. The county's gross real estate worth in 1964 was computed at about $196 million.

* * *

Water

A change from quarterly to monthly billing for water in *Roxboro* became effective in December.

* * *

Morehead City commissioners have voted to charge a $5 fee for inspection of storm sewer tap-ins. The town is encouraging businesses which use water in air conditioning systems and for other business purposes to duck the expense of treated water in favor of the storm sewer tap-ins.

Planning: Architectural Controls

(Continued from page 13)

pham Green as being of a suburban character out of keeping with the character of the village and detrimental to the amenities of the green. They pointed out that the village was an attractive spot of more than local interest, and one of the few villages in Kent developed around a green. The adjoining buildings were of considerable character and charm, and the proposed design was unworthy of this setting. Its defects were the vertical emphasis given by the form of the plan and the bay window extending through two floors; the pyramidal form of the roof; the poor fenestration on one of the side elevations; and the design of the porch and the chimney coping. A design with a more horizontal emphasis was needed.

"The appellant said that householders nearby had no objection to this design, which the rural district council had been prepared to approve. He contended that he and his designers were conscious of the need to preserve the character of the green and that the submitted plan was more in keeping with existing buildings than the alternative suggested by the planning authority. He particularly wished to have a bay window upstairs.

"The Minister considered that the authority's criticisms of the design were valid, and that a house of the proposed design would be quite unsuitable and out of keeping with nearby dwellings around the attractive village green.

"Appeal dismissed."

Case No. 4

"Chiseldon is an attractive, compact village on varied levels about 3 miles from Swindon. The appeal site was part of the garden of an interesting 18th century house in the High Street, about 100 yards from the parish church.

"The appellant wanted to build a single-storey house of contemporary design. It was argued on her behalf that the proposed design was the most satisfactory when considered in relation to the site, its surroundings, elevation and levels. It should not be considered bad because it was new and different. The appellant also asserted that no tangible reasons had been given for refusing the detailed designs.

"The council refused to approve the detailed plans of the proposed bungalow because they thought the building would not harmonize with the adjoining property. They did not consider that the roof would be in character with the other dwellings and they thought that the solution might be to provide for a pitched roof.

"The Minister could not accept this objection. While the contemporary design differed from the traditional style of properties recently built in the village, he considered that the proposed building should sit very well on a sloping site. The Minister thought that the building would, in fact, add to the architectural character and interest of the locality.

"Appeal allowed."

Case No. 5

"Pucklechurch, a village north-east of Bristol, consists mainly of grey stone cottages and houses with gables and pantiled roofs. Some of the larger houses are listed under section 30 of the 1947 Act [as possessing outstanding architectural merit].

"The appellant wished to erect an 'L' shaped semi-bungalow on a site on the north-east outskirts of the village facing westwards towards a small open space. She contended that her specially designed semi-bungalow with a high pitched roof would maintain the character of the village far better than the existing building (a dilapidated cottage) on the site or the council houses

THIS MONTH AT THE INSTITUTE

	February
Short Course on Basic City Planning Techniques	1-13
Highway Patrol In-Service School 3	1- 3
Wildlife Investigative Techniques School	1- 5
New County Commissioners School	3- 5
Highway Patrol In-Service School 4	8-10
Police Administration Course	9-12
N.C.A.I.P. Conference	12
Municipal and County Administration Course	12-13
Highway Patrol In-Service School 5	15-17
Wildlife Investigative Techniques School	15-19
City Managers Seminar	18-20
Conference of North Carolina Association of County Attorneys	18-19
Wildlife Investigative Techniques School	22-26
North Carolina Fund Training Course	22-March 13
Police Administration Course	23-25
Public Welfare Supervisors Seminar—Group II	24-26
Municipal and County Administration Course	26-27

on the opposite side of the road.

"The council considered that the design of the proposed dwelling was out of keeping with the existing buildings close to the site. They argued that this part of the village was worthy of special architectural treatment and drew attention to an undeveloped frontage of some 70 feet between the appeal site and the property to the east where it would be difficult to refuse permission for similar development if the appeal were allowed.

"The Minister thought that the appellant's proposals were for a stock suburban dwelling which would have nothing in common with the simple rectangular two-storey village cottages, and would inevitably appear as an intrusion. In his opinion there was no reason why it should be impossible to design a dwelling to meet both the appellant's special requirements and those of the site. It need not necessarily be a mere copying of what already existed, since it could well be done in a contemporary idiom and be a part of the continuing growth of the village.

"Appeal dismissed."

Case No. 6

"A condition imposed in granting permission for the erection of a bungalow in the village of Walvey required that the colour of the roofing tiles should be 'antique,' dark brown, or dark red. The appellant wanted a green roof.

"The appellant stated that the site adjoined the first of many farm fields and was separated from them by a natural green hedge. The village itself had a variety of dwellings with roofs varying in colour and texture including dark red, dark brown, 'antique' and sand shade tiles, corrugated iron and slate. He contended that the designer of the bungalow had attempted to produce a building in character with the existing village. Green was the predominant colour in the country for much of the year and the mellow grey green tiles proposed would blend harmoniously with the colours of the village.

"The council stated that the appeal site was in an attractive rural part of Warwickshire. The character of much of the county's countryside was derived from the many groups of pleasant farm buildings, hamlets and villages built in traditional materials, mainly stone, red brown bricks and red tiled roofs. They contended that it was a mistake to think that individuality in design could be achieved by the use of striking roof coverings and maintained that good design could be achieved by reliance on good proportion and detail, and the use of traditional colours.

"The Minister noted that within a short distance of the appeal site there were roofs of many colours and types. He could not accept that the colour of the tiles wanted by the appellant would be out of keeping with the surroundings, nor could he see any other reason sufficient to justify the condition.

"Appeal allowed and condition discharged."

Case No. 7

"A proposal to build a terrace of five houses on a piece of flat land fronting on to the village green in the compact Cumberland village of Bassenthwaite had been approved subject to a condition that their roofs should be covered with local slates, because the village was mostly made up of stone buildings with Westmorland slate roofs.

"The appellants, a housing association, said that these houses were to be built as part of the council's housing programme. They would have liked to use local slate for the roofs but this would add [$266] to the cost of each house which would mean [31 cents] more per week on the rent. The use of green or grey Marley tiles, which were to be seen in other parts of the Lake District, would lead to a considerable saving in an area where it was important to keep rents low.

"The Cumberland County Council thought that builders in this district, which was visited by many thousands of tourists every year, should be obliged to use special materials. The use of traditional lakeland building materials could not always be insisted on, but some measure of consistency was necessary in the villages if their character was not to be lost. The site, facing the village green, was an important one, and the houses on it should fit in harmoniously with their neighbours, some of which had been built with roofs of local slate by the appellants themselves. The difference in cost was not enough to justify using unsuitable tiles.

"The Minister thought it imperative that local slates should be used, considering the unspoilt character of the village, the fact that nearly all its buildings had stone walls and slate roofs, and the conspicuous position of the site.

"Appeal dismissed."

Case No. 8

"The appeal was against a refusal to permit the erection of a block of six flats on the site of some condemned cottages in Chapel Street near the centre of the village of Grassington, about nine miles north of Skipton. Permission was refused on the grounds that the proposal, because of its height, general appearance and siting, would be inappropriate for the locality.

"The appellants explained that they intended to build a block of six flats in a three-storey building with garages below. The garages had been included at the suggestion of the Planning Officer and it was also at his suggestion that one storey had been omitted from

the original proposal. The building would be faced with stone. The pitch of the roof had been reduced following discussions with an officer of the rural district council. The building would have a ground floor area of 2,330 square feet and it would be 24 feet 9 inches high to the eaves and 27 feet to the ridge. The flats had to be on three floors to make the scheme an economic proposition and the building could not be set back from the road. The character of Grassington was changing. It was becoming more urban. The buildings were of all sizes and heights and the roof pitches varied widely. There were several buildings near the appeal site which were bigger and higher than the proposed flats would be. The proposed building had no features alien to the locality and it would not disturb the amenities of the neighbouring residents.

"The council accepted that residential development was appropriate on the site in question, and had no objection in principle to flats. Their objection was to the size of the proposed block and its design in relation to the neighbouring properties, including cottages about 17 feet high to the eaves. The council realized that the low pitched roof had been included so as to reduce the overall height of the building, but it was alien to the district and, because of the height of the building, it would be especially noticeable. The spacing of the windows had been governed by the internal layout without consideration of the effect on the appearance of the front elevation. A building of such bulk required a more spacious setting and the design was more appropriate in a town. The building would affect the day-lighting of the cottages opposite.

"The Minister noted that although there were some three-storey buildings in Grassington most of the houses were low ones with two storeys and fairly steeply pitched roofs. He thought that the proposed building would be urban in character, too big for the site, out of keeping with other buildings in the locality, and likely to overshadow the houses opposite. He concluded that it would tend to spoil the character of Grassington.

"Appeal dismissed."

Landscaping

Case No. 9

"A firm of motor-vehicle manufacturers wished to build new and larger premises. The proposed site, part of a new industrial estate, was some six acres of open land adjoining the Wolverhampton-Stafford trunk road (A.449) about a mile south of the village of Penkridge. The appellants' detailed plans were approved subject to seven conditions, including:

(i) A tree and shrub planting scheme should be agreed with the council within 3 months and the trees or shrubs planted within a further 12 months.

(ii) The west elevation fronting the road should be faced with facing bricks approved by the council and the wall should be built up to form a level parapet so as to screen the roof line.

"The main building was to be about 400 feet long and 150 feet wide, the length being divided into 14 sections. The roof comprised 12 main north lit bays of the form commonly known as 'saw-tooth'. Attached to the front of the building was to be a low, flat roofed extension with overhanging eaves, containing office, store room, etc.

"The appellants contended that the building would look like a factory, honestly indicating its purpose. The serrated elevation would provide interest, whereas the screen wall with a level coping, as suggested by the council, would be monotonous and interfere with the roof lighting. Nor would the planting of trees serve any useful purpose, for there was no need to screen the building from the nearby coal wharf and lorry garage or to give it a rural disguise.

"The council replied that the requirement to plant trees and shrubs was intended to ensure that the setting of the building harmonized with its rural surroundings. An unbroken belt of trees was not suggested, but a few carefully disposed groups which would break up the facade and add interest to the forecourt. They thought that the long front of the building, with its 'saw-tooth' silhouette, would produce a restless effect and it should be hidden behind a level parapet. The surface should be treated by variations in texture.

"The Minister noted that this would be the first factory on a new estate and considered it important that a good standard of design should be adopted at the outset. The proposed building was grimly utilitarian. The Minister thought that something much more presentable was called for, especially as the site was conspicuous from the main road. He agreed too that some landscaping between the building and the main road would enhance the appearance of the factory. In his view the appellants would be well advised to consult an architect on all these matters.

"(It seemed to the Minister that the council's conditional permission was misconceived as the application had been a detailed one. It was clearly wrong to permit the building of a factory in accordance with detailed plans and at the same time impose conditions requiring the plans to be changed. He therefore . . . dealt with the appeal as if the application had been made to him in the first instance.)

"Application refused."

Tree Preservation

In connection with landscaping, it might not be inappropriate to mention one special type of power possessed by planning authorities. This is power to issue (subject to confirmation by the Minister) a so-called "tree preservation order" whenever it appears "expedient in the interests of amenity." Such an order may apply to a single tree or to a forest area, and may forbid the cutting down, topping, lopping, or willful destruction of trees except with the consent of the local planning authority and then only subject to such conditions as may be imposed by the authority. As used in urban areas, this type of order may be directed at a single tree of importance.

Unhappily, such orders are not always fully effective, as Mr. William Small reported in the October, 1964, issue of *Town and Country Planning* (the journal of the English Town and Country Planning Association):

"Recently I visited a site where permission had been given for six houses. There could have been more but for a tree preservation order on a dozen fine oaks and beeches. Looking at them closely, I could see that they were being insidiously attacked. Apart from the normal builders' practice of hitting 6-inch nails into them, parking bulldozers up against them, and smothering their bases in gravel, some of them showed signs of deliberate damage.

"I am told that in some cases contractors are injecting poisonous nitrite solutions into trees. Why? Quite simple. Any one such tree may stand in the way of another house. And

each house may mean an extra 1000-pound profit on the land. So a little judicious mayhem may bring forth the required permission to fell."

Current Attitudes on Architectural Controls

Since a far greater proportion of British planners than American planners come from architectural backgrounds, one might expect that they would be far more concerned with regulation of architectural details than is true of our planners. Curiously enough, the prevailing attitude seems, however, to be one of great caution and circumspection.

There seems to be general agreement that such regulation has prevented numbers of "bad" structures from being built. But there is equal agreement that the effect has not been to encourage "good" structures to the desired extent—on the contrary, many planners feel that the result of regulation has been to discourage innovation and to cause many builders to "play safe" with traditional types of buildings.

They agree that architectural controls have been useful chiefly where an area already has a distinctive "character" which one wishes to preserve or where there are outstanding features which one wishes to protect. (In Durham, for example, no building is permitted of a height which would overshadow the cathedral and the castle on the skyline.)

Some planners believe that a better approach than the present one would be simply to require that every structure be designed by an architect. Others point out that there are poor architects as well as good ones, and this requirement alone would not prevent abuse. Still others point out that even good architects may fail properly to relate their work to its surroundings, and the net effect may be grotesque.

On balance, the prevailing attitude would probably approach that set forth by B. J. Collins in his pamphlet, *Development Plans Explained*, which we cited earlier:

"One point may be dealt with at once. The authority need have no qualms about insisting upon minimum standards as to what we might call 'literacy' in design. Among the drawings submitted for approval it is very easy to distinguish faults so elementary, so objectionable and so universally condemned by architectural taste, that the design may be called architecturally illiterate. A planning authority is abundantly justified in refusing to pass these as they are.

"Just as an editor might promise freedom of speech to his contributors but be justified in vetoing elementary faults of spelling and grammar springing from sheer want of education, so may a planning authority with skilled architectural advice do the like with abysmally unskilled designs submitted for its approval. It is a great reproach to this country that so much building has been carried out not under the direction of trained architects.

"Here is a clear field for valuable work. The best advice is available to planning authorities, often through panels of architects which ensure broadmindedness and guard against the possible narrowness of outlook of a single arbiter of taste, however distinguished. Many authorities have for years thrown themselves wholeheartedly into such work. But when architectural control begins to extend beyond an insistence on 'literacy', the system presents dangers and pitfalls. Authorities are tempted to reduce architecture to compliance with their own ideas. It begins to be an interference with freedom of artistic speech. It may lead to dogmatism about a new building harmonizing with existing ones. This may be a laudable idea. But harmony can take many forms: in architecture it means different things to different people. Control is too apt to mean enforcing the styles and manners of building that are familiar and traditional. But architecture is not a static art. Its progress involves trials of new harmonies and new contrasts; it involves experiment. In a word, it involves freedom.

"If public control invokes the law to enforce the taste of a panel or committee we may successfully strain out many mediocre and unworthy designs. But we shall also run the risk of straining out valuable qualities which can only flourish in conditions unhampered by undue emphasis on existing conventions. When public control with the sanction of the law makes deep incursions in the field of artistic criticism it will probably be a conventional and traditional irreproachability which tends to be sought. This may or may not be true of a panel of architects, but it will almost certainly be true of executive committees which have to adopt or reject their advice. Elected representatives are naturally animated by considerations of what predominates in the general public's taste; and the public taste moves slowly. At the hands of such a system architectural schemes which savour of the advanced, the unorthodox or the brilliant start at a disadvantage. Administrative control of land use and development is one thing; administrative control in the field of aesthetics, other than a simple censorship of the inferior, may be quite another. It may discourage originality and may even frustrate the development of genius. It is too high a price to pay and it will stifle architecture.

"The way to obtain good building is to employ the best architects and allow them to work in conditions of opportunity and freedom. . . . The censorship of architecture, apart from what has been said, is best carried out not by law but by encouraging creative work and cultivating the force of public opinion."

Thus, we find that the planners most concerned with the importance of good architectural design tend to draw back from exercising the very considerable powers which are available to them in England for controlling such design. Despite more than a half-century's experimentation, they are still unsure as to the desirability and effectiveness of this type of regulation.

BOOK REVIEW

THE MANY LIVES OF NORTH CAROLINA WOMEN. Report of the Governor's Commission on the Status of Women, 1964. 95 pp.

According to Dr. Anne Firor Scott, Chairman of the Governor's Commission on the Status of Women, "It is our belief that the recommendations contained in this Report, if acted upon by public and private groups, will not only improve the status of women in North Carolina but will improve the quality of life for all our citizens."

The result of a thirteen-month study by the Commission, the Report depends largely on the work of nine committees set up to study the various roles of women in the State: women at work, women at school, women and politics, home and com-

(Continued inside back cover)

At left Richard McMahon, program analyst for the Training Center on Delinquency and Youth Crime, emphasizes a point at the blackboard during a seminar for assistant probation supervisors. At his left is Willard Dean, assistant supervisor from Greensboro. At right three assistant probation supervisors reflect on proceedings during the seminar. From left to right are Harold Bowers, Elizabeth City; Gordon Sands, Wilson; and Robert L. Everett, Kinston.

Proposed legislation for the 1965 General Assembly was discussed when members of District Three of the North Carolina Association of Registers of Deeds met in December at the Institute. Above, left to right, are J. Chandler Eakes, Lee County register; Allan Markham, Assistant Director, Institute of Government; and Lemuel Johnson, Chatham County register and chairman of the Association's Legislative Committee.

INSTITUTE SCHOOLS MEETINGS CONFERENCES

Above left are North Carolina Forest Rangers who attended a five-day school at the Institute of Government. Among topics presented were search and seizure, elements of crime, motive, law of arrest, evidence, plaster casts, warrants, policy, courtroom procedure, and interrogation and interview. Above right, Ranger Orlie Moss chats with Assistant Director Ben Loeb, Institute staff member in charge of the school.

North Carolina State Highway Patrol sergeants at right are attending the second of 14 in-service training schools at the Institute. These schools are held annually for all Patrol members.

Press and broadcasting officials confer at the November Press-Broadcasters Court Reporting Seminar. President Harry Severance of the North Carolina Association of Broadcasters (foreground, facing camera) looks thoughtful as he listens to President James H. Harper, Jr., of the North Carolina Press Association. In background, the two Executive Secretaries, Ed Rankin of the Broadcasters (left, hands on glasses) and J. D. Fitz of the Press, confer. Rankin has since been appointed Director of the State Department of Administration by Governor Dan K. Moore.

State Senator Lindsay C. Warren, Jr., addresses the Press-Broadcasters Seminar banquet. His subject was "North Carolina's Future Courts System." Warren is Chairman of the State Courts Commission. At right is John Sanders, Director of the Institute of Government.

Dean A. Wayne Danielson of the University of North Carolina School of Journalism makes a point at the Press-Broadcasters banquet. Listening is Institute Assistant Director Elmer Oettinger, director of the Court Reporting Seminar, who presided at the banquet.

– Book Review –

(Continued from page 19)

munity, women as volunteers, minority women, and women under the law. In each of these chapters the committee examines the situation and concludes by making recommendations to particular groups for further study or direct action.

Women constitute 34 percent of North Carolina's labor force. The Committee looked at working conditions for women, the effects of the increasing employment of women upon the life of society, and the steps necessary to promote the larger goals of the community. Several myths about working women were exploded and many generalizations about women and employment were found to need re-examination.

As students, women were viewed from kindergarten through adult education. The committee's major objective in this area was to answer in part the question "To what end should a woman become educated?"

Although the number of women in the state holding public office is quite small, the committee felt that women exerted great political influence in their responsibility to create understanding of the relationship between political decisions and daily life.

With 36.5 percent of all mothers in the State in the labor force, the relationship of women to home and community takes on new significance. The committee explored areas in which public action can promote personal happiness and security and increase community well-being.

In examining women as volunteers the committee viewed the functions of voluntary organizations, their make-up and problems, and outlined a number of guiding principles for effective voluntary organizations.

In addition to the problems which they share with all women, minority women, both Negro and Indian, have particular problems. Numerous recommendations for upgradnig minority education and employment were made.

After years of effort, women's civil and political rights are presently well protected by North Carolina law and the Commission found no recommendations to make on this score. However it did offer suggestions on legislation related to employment and social insurance.

Presented in an attractive format, the Report pinpoints problems of vital significance to the life of North Carolina and brings up matters deservnig further consideration and action. Additional copies of the Report may be obtained through the University Extension Service, 218 Abernethy Hall, Chapel Hill.

Credits: Cover, Associated Press photo by Perry Aycock, Courtesy Raleigh News and Observer. *Photos on pages 8 and 9, courtesy Gaston County; all other photographs by Charles Nakamura. Sketch on page 2 and design by Lynn Deal.*

Just as cream rises to the top...

...quality in a cigarette stands out.

It is this quality that has gained and held the loyalty of Camel smokers... has kept Camel by far the largest-selling, best-liked regular cigarette in America.

The best tobacco makes the best smoke.

It's as true today as ever before.

It's why millions of smokers proudly say, "Camel, please."

Make it Camel Time right now!