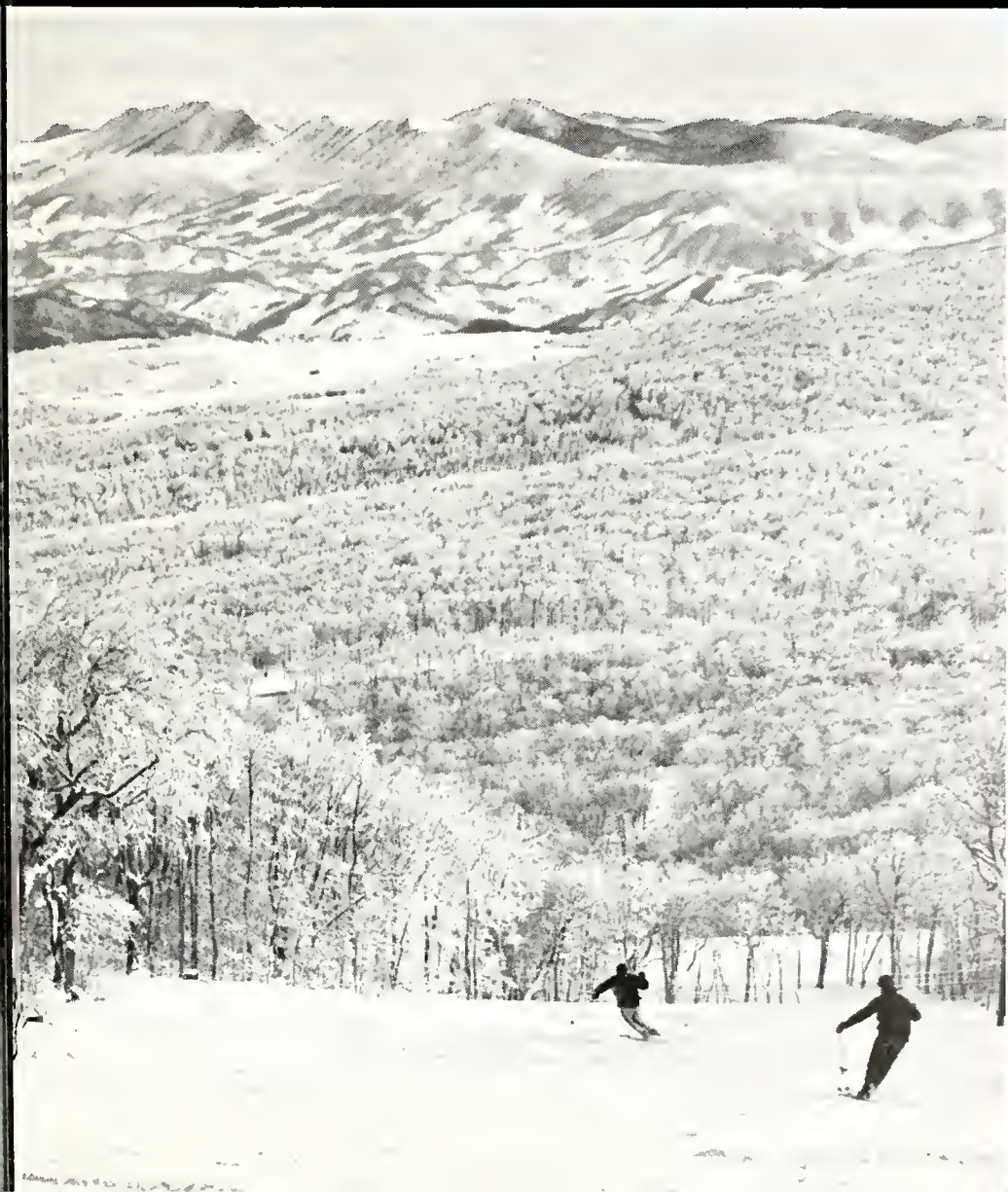


# POPULAR GOVERNMENT

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## This month

Campus Unrest  
and the Law

Municipal Elections,  
Partisan or Nonpartisan?

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Roster for 1971

Assigned Risk

Voting Statistics

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*This month's cover—North Carolina ski country. This photo of the slopes at Beech Mountain is courtesy of the N. C. Department of Conservation and Development.*



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# *CAMPUS UNREST*

## *AND THE LAW*

by A. Kenneth Pye

Over the past few years, the attitude of the American people toward campus unrest has escalated from concern to consternation. In September, the President's Commission on Campus Unrest referred to unrest on our college campuses as a "crisis" that "has no parallel in the history of the nation," with "roots in divisions of American society as deep as any since the Civil War." Campus unrest deserves the concern of all Americans, but particularly of those who are interested in the legal problems of education.

Historically, college campuses have been centers of social criticism. But, over this past decade, America's colleges and universities have experienced demonstrations, disruptions, and violence of an intensity and frequency unknown to earlier times. The President's Commission refers to the phenomenon as a crisis of violence and a crisis of understanding.

The quality of protests has varied. On some campuses, dissent has been limited to peaceful demonstrations. Other campuses have had such nonviolent disruptions as the interruption of classes, speeches, or meetings or general campus strikes and boycotts. A number of schools have seen malicious violence in the form of arson, damage to buildings and furniture, destruction of private property, or personal injury. Campus unrest has also brought a new kind of rhetoric to campuses. Suggestions, reports, and petitions have been replaced on some campuses by "nonnegotiable demands"—demands for amnesty to lawbreakers and threats by highly politicized student groups to halt the normal operations of the university unless its administration yields.

I do not suggest that all or most students have participated in these forms of protest. Most students are still concerned with obtaining an education (or at least a degree), and many express apathy toward matters unrelated to this end other than social or athletic activities. Moreover, the public often misunderstands the numbers of students who are involved and the nature of the protests that are staged. Mass media, for instance, sometimes tend to lump all campus protests—from the peaceful demonstrations to violent, unlawful acts—under the single rubric of "campus unrest," thus grouping student protesters who maintain a silent vigil in front of a chapel with vandals who burn down an ROTC building. And some representatives of the academic community have been less than helpful when they have classified conduct such as false imprisonment, or the occupation of buildings, as nonviolent disruptive protest. The President's Commission has performed a valuable service in distinguishing between unrest and violence.

Campus unrest has been most prevalent in large institutions with highly select student bodies, but it would be a tragic mistake to write it off either as an Ivy League-California phenomenon, or as the product of a small band of revolutionaries who seek to destroy our basic institutions. I believe that unrest is still spreading and that many colleges that have been spared until now may soon have their hour of truth unless we can change the mood of many of our youth.

The causes for this campus unrest and what we should do have been the subjects of many learned studies, including the Report of the President's Commission, and much inexpert comment. Thus far, most of the studies have concentrated on student concerns—"what's bugging the kids," in the campus vernacular. In general, they have found that many students assert serious grievances, some of which have considerable merit.

Some of their complaints, for example, concern the values and priorities of higher education. Students object to impediments in the channels of communication among students, faculty, and administration, to a lack of responsiveness by administrators and faculties, to the impersonality of university life in our very large institutions. They object to their inability to participate in decisions that affect their lives on the campus. Many of them charge their university with hypocrisy, arguing that while the university expresses concern with faculty teaching, it frequently promotes on the basis of faculty research; while the university embraces the ideal of high living standards for all Americans, it provides relatively low wages to non-academic employees; while the university pays lip service to the concept of due process, it refuses students the right to participate or to be represented by a lawyer in disciplinary hearings; and while the university professes to be concerned about social problems of the community, it demolishes low-income housing to expand athletic facilities.

**TO UNDERSTAND THE DISSATISFACTION** among these students, it is important to recognize that there is a wide cleavage between many faculty and many students concerning the role of the university in American society. Most faculty members believe that a university should teach and conduct research and try to be neutral in controversial social problems, functioning as an objective truth-seeker. They assent to these goals while recognizing that

**The author, Chancellor of Duke University and former Dean of the Duke Law School, presented this address in New Orleans before the National Organization for Legal Problems of Education.**

the practical problems of university financing—the increased dependence on government and foundation support and the significance of investment income and alumni giving, particularly in private schools—inevitably require a conscious concern by university administrators with the state of the stock market and with national priorities.

Many students, on the other hand, not only maintain that universities have become a handmaiden of the military-industrial complex, but also reject the concept of institutional neutrality as constituting a worthwhile objective. They seek, in the words of Congressman Brock, for the university to become "partisans of the progressive forces in society"; and they do not suffer from modesty in presuming to know which forces in society are, in fact, progressive.

These students disagree with perhaps most Americans outside universities concerning the very purpose of a university education. Probably most Americans think that universities exist primarily to provide education to students in order that they will be able to do the tasks required in a constantly advancing society—in short, that universities exist primarily to benefit the society of which they are a part. Many students, however, maintain today that universities exist primarily for students, and some suggest that it is illegitimate to think of higher education as a supplier for the needs of business or the professions, at least at the undergraduate level. Obviously there is some truth in each approach, but the difference in emphasis may become extremely important when a question arises concerning whether a Black Panther should teach a course in race relations, or whether ROTC should be retained in a curriculum.

The young people of our country have great faith in the capacity of all Americans to make decisions that affect their lives. They speak of the university as a community and, at times, their concept of community seems to be akin to that of an Athenian city-state, modified by a one man-one vote requirement, in which the university president's office is the twentieth-century equivalent of the Agora. Some believe that janitors should have an equal say with faculty members in determining

the policies of the university, and that students should have a voice in the kinds of decisions made in the past by the president or the board of trustees. This egalitarian idea frequently conflicts with the hierarchical nature of universities and the preferred status of certain faculty members, particularly in universities where there is a clear distinction between tenured faculty and others. It also constitutes a threat to the traditional distribution of power within the university. Many faculties and administrators believe that it would produce anarchy if taken to the extremes that some assert to be proper.

In addition, there are particular problems faced by minority students, many of whom have been taken from second-rate high schools and plunged into a highly competitive university world. Traditional degree programs may have little relevance to what they feel they must know in order to provide leadership for their people. And there are special problems faced by the predominantly black institutions.

Some of these problems cannot be solved in the near future. We are in a period when universities are reassessing their objectives and modes of operation. The most common panacea suggested is to increase student participation in university governance. This is easily granted if you are reasonably sure that the university will be stronger as a result of new allocations of power; it is much harder if you think the university will be weaker. It is by no means certain that a high level of student participation in such matters as the appointment, promotion, or retention of faculty will improve the teaching or research capacities of institutions of higher learning.

Some student complaints can be solved now. They have not been dealt with, partly because of intransigence and vested interests that should not be permitted to frustrate attempts at change. Universities can and should assume the responsibility of dealing with student complaints about university-related grievances. Society can legitimately expect higher education to do a better job in seeking solutions than it has done in the past. But the essential point that must be understood is that campus unrest will still exist, even if a satisfactory resolution of these matters is achieved.

**STUDENT PROTESTS ON MOST CAMPUSES** are not limited to matters of university cognizance. Many college students are equally or more critical

of American society's perception and response to the problems facing it. Many students speak in terms of the "establishment," including the government, the churches, and the business community. The concerns and criticisms of our students are directed to problems of racial discrimination, poverty, the values of materialism, the draft, the quality of environment, the defense budget, and the incapacity of the young to translate their concern into effective political action. Students feel wide disagreement with the priorities that they claim the "system" has set for the allocation of societal resources to meet national needs. They simply do not believe that capable men, acting in good faith, would tolerate the conditions that they deplore. They are unwilling to believe that there is a limit to funds or trained manpower available to change the directions in which our society has been proceeding for a quarter of a century. Many seem to believe that history began with the blast at Hiroshima.

The war in Vietnam is of overriding concern. Our military engagement there is not viewed, by many students, as a legitimate effort to stop the expansion of world Communism; nor do they feel that we are in Southeast Asia to protect the right of freedom-loving people to choose their own form of government. Many students view Vietnam as an example of national aggrandizement in the conduct of our international affairs, in which we are supporting a military dictatorship solely for the purpose of furthering the aims of an imperialistic policy.

Some students, of course, support our national policy. Many, perhaps most, are in the middle; they simply do not know whether we should have gone into Vietnam, but they think we probably ought to get out faster than we are.

The general concern over the war, and its effect upon the allocation of national resources to meet pressing social needs, created a tinderbox. Our sudden incursion into Cambodia last May and the outrage over the deaths at Kent State produced the sparks that flared into unprecedented student responses across the nation.

The most frightening message to many universities from the events of last May was the extent to which campus unrest could be triggered by events in no way connected with their campuses. Tranquility on campuses was jeopardized—no matter how well a university president had been able to achieve rapport with his student body; regardless of the channels of communication that had

been erected; despite the responsiveness of the institution to the perceived needs of the students. The solutions to internal problems had little effect on the kinds of general protests that emerged as a result of external actions beyond the control of the university. No university was consulted before the United States went into Cambodia; no university was consulted by the Ohio National Guard. Yet these events were capable of producing a nationwide student solidarity that reflected itself in protests ranging from peaceful demonstrations to felonies in many institutions across the country.

I do not want to be misunderstood. I am not trying to shift the responsibility for campus unrest to the federal government and, as I shall later indicate, I accept President Nixon's and Professor Sidney Hook's argument that college administrators and college faculty must accept responsibility for order and discipline on college campuses. My point is that the assumption of this responsibility may reduce violence, but it will not dissipate unrest, because some of the causes for this unrest are outside of the cognizance of universities. The President's Commission clearly indicated that they realize the true issues in calling for both leadership from the President and tolerance by the students in solving these great problems which face the Republic.

**IN CATALOGING STUDENT GRIEVANCES** about the university and society, I have deliberately refrained from referring to them as **causes** of student unrest. It is fashionable to assume that an expressed **grievance** and a **cause** are the same things, but frequently they are quite different. Often a disturbance erupts, followed by the assertion of grievances that bear little relation to the reasons for the disturbance. The structure of American higher education is quite different from that in most countries in the world, and our social problems are also different. Yet student unrest is not confined to the United States. During the decade France, Italy, Germany, South America, Japan, and even Red China have experienced similar unrest with greater intensity than ever before.

The President's Commission seems to attribute campus unrest to the "new culture" emerging among students and their growing lack of tolerance to others who are apathetic or disagree; but this approach is likewise more descriptive of the malaise than the cause. Frankly, I do not know the causes of the student unrest, and I am suspicious of people

who claim they do. One of our problems is the obvious difficulty of finding a cure for the disease when we are not yet sure of its cause.

But perhaps we do not need to know the exact underlying causes with precision. It may be enough if we appreciate the relationship between campus unrest and the concept of authority in society.

Students are dissatisfied with how those in authority are dealing with problems that they think have self-evident solutions. Student unrest, whether peaceful or violent, lawful or unlawful, basically reflects a loss of confidence in the capacity and/or motivation of those in authority. This loss of confidence is not confined to campus authority; it extends to government, the church, and business. Neither is this loss of confidence a monopoly of students; it simply is more prevalent within their ranks. The student demand for greater participation in educational policy and administration reflects this loss of confidence in those who are exercising authority within the university and is an assertion of their belief that they can deal more effectively in these areas.

**ANY CHALLENGE TO AUTHORITY** in society has long-range consequences to the law because the law embodies the concept of authority and the obligation of obedience to its dictates. But the legal order has been faced with challenges to authority before and dealt with them successfully. If we were involved with only a peaceful, lawful challenge to authority, whether in the form of campus or civil authority, few problems would be raised for law enforcement in practice.

Frequently, however, the challenge to authority on the campus is in the form of unlawful activities—unlawful either under civil law or unlawful under university disciplinary rules. Open violation of law, seemingly tolerated by those in authority, whether on or off the campus, involves a much more serious problem. In addition, the campus unrest of the last few years has produced a novel theory that any use of force to prevent violations of law, or to arrest lawbreakers, is basically invalid if those who have violated the law have behaved in a non-violent manner. In short, the use of force to enforce law is per se invalid if applied to nonviolent lawbreakers. I regret that there is considerable support for this doctrine on college campuses. We see it expressed in the student solidarity which results from the use of force to carry away demonstrators who are blocking a road, or who are sitting

in a building, and in demands that campus police be unarmed.

Law enforcement also has a particular interest when student protest is accompanied by the assertion that civil authority cannot be legitimately extended to the campus. This assertion is usually the basis for demands that police not be called to a campus. This medieval concept of "benefit of clergy" or "sanctuary" on the university campus poses a threat to the very structure of our legal system, for if members of a university community can ignore the law on the campus, it is easily argued that the same privilege should be available to other groups in society who confine their unlawful activities to nonpublic areas.

**IT IS THIS CRISIS OF AUTHORITY** that seems to me to be the focal point of the law's concern with campus unrest. The basic question is how the challenge should be met.

In recent months, a number of simplistic solutions have been offered. University presidents are told that they should "throw out the lawbreakers," or even those who are not breaking the law but are "obstructionists." Sometimes these assertions are not unlike the demands of the Central Committee of a Communist party that revisionists be expelled. Police and prosecutors are urged to provide prompt and effective law enforcement which, translated, may mean the use of as much force as is necessary to quell any unlawful activity, without regard to the consequences of such action. In the language of the Philippine insurrection, the police are told to civilize them with a Krag.

Of course, there are times when students should be expelled and times when police should be used to maintain or restore order. There have been times when patience may have exceeded the bounds of sound judgment. But let us never oversimplify our situation. The problems facing us are too sophisticated to ignore the importance of discretion in choosing proper courses of action in different circumstances.

Most students on our campus do not engage in unlawful activities; they believe that the American way of life is a good way to live, and that authorities are, by and large, devoting their best efforts to improving our society. These students, however, are considered by some of their more radical colleagues as being apathetic or simply "uneducated."

The proponents of campus disorder strongly desire to radicalize or otherwise mobilize these "inactive" students. The principal tactic of mobilization is to encourage overreaction by those in authority, thus demonstrating the inflexibility of the "system"—its unwillingness to change, and its ruthlessness in dealing with dissent. Any person in authority—whether a university president, a chief of police, or a prosecutor—must be mindful that his response to the challenge requires that he think first of its impact on the uncommitted mass of students. Actions that demonstrate justice, fairness, and competence, as well as authority will greatly promote the steadfast confidence of the great majority of students.

We have seen situations in which a delay in calling police may have encouraged disrupters to engage in more flagrant conduct, and other cases in which inaction or undue leniency toward lawbreakers may have destroyed the deterrent effect of punishment and thus encouraged additional misconduct. We have also seen times when the intervention of police in large numbers did little to restore order, but did a great deal to "turn on" previously uncommitted students. Those in authority, whether on or off the campus, must be granted the discretion to call the shots as they see them. I do not agree with the recommendation of the President's Commission that when "criminal violence occurs on the campus, university officials should promptly call for the assistance of law enforcement agencies" if this means the immediate introduction of substantial police onto the campus in all cases of violence.

Frequently the issue will be posed in terms of whether the immediate restoration of order is worth "the risk of broadening the support for the radical movement, polarizing campus opinion, and radicalizing previously uninvolved persons." The practicalities of the situation will often pose a dilemma. In such a situation, it is well to remember the adage provided us by Robert Townsend in his recent book, **Up the Organization**: "The Charge of the Light Brigade was ordered by an officer who was not on the field."

**WHERE A UNIVERSITY ADMINISTRATOR** is confronted with campus unrest, he normally has several alternatives. First, he can do nothing. Sometimes this is the only course of action that he should follow, since many of the most annoying disruptions will involve activity protected by the First

Amendment—activity that violates neither university rule nor any law.

Sometimes, prudence dictates that he take no action even when he is confronted by conduct that does violate a university rule, or even a law. These occasions may be few, but they exist. Thus, when a group of students block a road as a symbolic gesture of sympathy to students killed at Kent State, wisdom may dictate that they be neither arrested by local police nor subjected to university disciplinary procedures if the duration of their misconduct is short and the motivation of their behavior is clear.

In most cases on the campus, as in society as a whole, a violation of law requires a response designed to prevent further disruption and to impose a sanction upon those who have transgressed. This response does not always require that the university call upon the city or state to invoke formal criminal procedures. Universities should have at their disposal a number of internal techniques to deal with campus unrest. Every university should have a code of conduct specifically prohibiting various types of disruptions and setting forth penalties for violations. Every university should have a code of procedure that establishes tribunals to try alleged violations of the substantive code. Most institutions have some kind of substantive rules, but many have no provisions designed to deal specifically with the kinds of misconduct now being committed. Furthermore, either the vagueness of the substantive provision or inadequacies of procedural due process within the university judicial system may invalidate any effective use of these internal disciplinary procedures if they are subjected to judicial review. There is an urgent need that universities examine and redraft their substantive and procedural rules in order to be prepared for a disruption.

The tendency of courts to review expulsions with a fine-toothed comb honed on criminal cases of the last decade emphasizes the need for well-drafted codes.

In my judgment, every university ought to have a specific provision for interim suspension within its arsenal of techniques. Some of our campuses have experienced deliberate attempts to frustrate university disciplinary proceedings by the interruption of hearings, threats to witnesses, and even violence. When a student's continued presence on the campus constitutes an immediate threat of injury to the well-being or property of members of the university community or to the property or functions of the university, the appropriate univer-

sity administrator should have the right to suspend the student, subject to a prompt hearing of charges against him. The student may thereby be suspended until a hearing is conducted; he is not then free to continue his activities on campus until he has been found innocent or guilty following a hearing. The difference may be crucial to internal attempts to maintain order.

**INEVITABLY THE INTERVENTION** of civil authorities will sometimes be required. This intervention may take several forms: the issuance of an injunction; selective arrests; the introduction of substantial numbers of police on the campus; civil suits for damages. All have advantages and disadvantages.

Recently, the trend has been toward the use of injunctive relief. Apparently Professor Hook, whose article was distributed by President Nixon to college presidents across the country, believes that a university should routinely seek injunctive relief when "a situation acquires a gravity beyond the power" of a university to cope with it. I view such an approach as naive, to say the least. It is frequently necessary to use local law enforcement officers to serve process. In most states, the injunction is not self-enforcing, although at least one state statute makes a violation of an injunction a crime in itself. There may be practical problems of providing notice required by statute or the Constitution before an *ex parte* restraining order can be obtained. Enforcement of an injunction through court proceedings may involve some of the same problems as those presented when police are used to quell a disturbance. A university that is not prepared to enforce the injunction through contempt proceedings should not seek one. To obtain an injunction in such a situation might permit a court decree to be flouted by students with impunity.

There may be significant procedural problems involved in establishing proof of notice of the injunction when the defendant is brought before the court in contempt hearings. The problems of identification when large numbers of students are involved may be substantial, and when the evidence is insufficient, an acquittal may have the effect of re-enforcing the status of the offenders within the campus community. An improvidently secured injunction may have the effect of polarizing resistance to university discipline. Improper resort to the injunction for the purposes of restraining the exercise



of First Amendment freedoms may result in lower court denials or appellate court reversals embarrassing to the university and may contribute to the dissidents' arguments that the university does not respect basic constitutional rights.

In determining whether to seek injunctive relief, a university may wish to consider other factors as well. Violation of an injunction may be punishable even when the injunction should not have been granted, but enforcement of the sanction of contempt in such a case may, in practice, contribute to a disrespect for the law. Indiscriminate use of injunctions may encourage disruptions if students conclude that they can engage in disruptive activity without fear of arrest or university disciplinary proceedings as long as they are prepared to yield to a court order when the university seeks injunctive relief. Certainly no institution should depend upon the injunctive relief as a routine technique for maintaining order.

**UNIVERSITY SECURITY FORCES** are small. In many universities they are poorly trained and poorly equipped, even compared with local police departments. A university security force will simply be unable to maintain or restore order in a disturbance of any size. Professor Hook suggests that the first line of defense should be faculty and student marshals, armed with cameras and empowered by the academic community to maintain order. Student and faculty marshals may prove useful as monitors of a march or in dissuading some students from joining the ranks of the disrupters. I shudder to consider their impact in situations like those experienced at Columbia, San Francisco State, or Wisconsin, and I doubt that we could master the recruitment problems even if I

agreed with Professor Hook about using untrained scholars and students as a "first line of defense."

But it is not always necessary or wise for large numbers of police to come on campus to try to do what the academic community cannot accomplish. The local police force may also be too small or inadequate to deal with the disruption effectively. Many disturbances reach a peak fairly quickly and then subside fairly rapidly, particularly if the weather is bad. In such cases it may be a better practice to wait it out, if there is not an eminent threat of danger to persons or property, take photographs with a long-range camera, and then arrest previously identified suspects on an individual basis. Too little use has been made of the technique of selective arrests after the disturbance has subsided.

Sometimes a substantial number of police will be needed on the campus to stop or prevent an unlawful activity—violence or eminent threat of violence—when the university is unable itself to maintain or restore order. The use of large numbers of police on campus to restore order carries with it an inevitable threat of provocation by radical students followed by overreaction from inexperienced police. This is a risk that sometimes must be accepted. But risks can be minimized with planning. Pre-disturbance planning to coordinate efforts of campus authorities and the local police, in the event that they are required to act together during a disruption, is essential. The history of police intervention on campus during recent years has shown clearly how little planning and coordination have sometimes been done before an emergency has occurred. This is no more the fault of the police than of the university. Assessing blame for the past is unimportant; we must try to prevent similar problems from arising in the future.

# MUNICIPAL ELECTIONS— partisan or nonpartisan?

by H. Rutherford Turnbull, III

Should municipal elections be partisan, with candidates' party affiliation listed on the ballot, or nonpartisan? This is a difficult question to answer because every plausible argument for either system can be satisfactorily rebutted. In the last analysis, one's choice is based more on unarticulated, rather broadly principled preference than on irrefutable logic and demonstrable facts. Partly for this reason, reference to facts and figures, names and personalities, or cities and their officials is barely relevant.

Still, it is interesting that the Charlotte-Mecklenburg Charter Commission studying city-county consolidation has voted *for* partisan elections in the proposed consolidated city-county. Charlotte elections are presently nonpartisan, but the county's are partisan. In Winston-Salem, which shares with Charlotte many similar governmental problems, some people are considering a nonpartisan system.

Let me try, without espousing either, to review the arguments for

both systems, moving from nonpartisan to partisan.<sup>1</sup>

Municipal corporations originally served very limited purposes: they provided clean water and fire-fighting companies, and they built streets and furnished street lighting. In accomplishing these purposes, it was sufficient for them to function like private businesses: at low cost, with maximum efficiency, and somewhat distantly removed from their stockholders, the public. This historical fact has led to the argument that there is no Republican or Democratic way to perform these functions. Therefore, the argument goes, municipal elections should be nonpartisan. But this argument is increasingly vul-

nerable. Any city's functions now seriously affect the quality of its citizens' lives, and each party is developing its own policy for curing urban ills. As a matter of providing technical services, it is true that there is no Republican or Democratic way to fight a fire or build a street. As a matter of policy, however, it is not. The fundamental policy of whether to build streets or whether street-building has higher priority than fire-fighting can be very much a partisan issue. This is, of course, a very simple example from which many other examples and principles can be taken.

A closely related argument is that the two major parties lack a definite "municipal program"—that their platforms and policies on national or state levels tend to be general and similar in nature and in any case do not involve local issues. Hence, it is argued, parties do not offer the voters an effective choice between local programs and policies. The contrary argument is that the parties do indeed have a general philosophy of government that very much involves local issues and is increasingly pertinent to the cities.

1. Many of the arguments were set forth in Zimmerman, *Designing an Electoral System for a Consolidated Government*, 35 *POPULAR GOVERNMENT* 1-3 (March, 1970). Specific references to that article are omitted hereafter. The fundamental arguments are detailed in BANFIELD AND WILSON, *BIG CITY POLITICS* (1965); WOOD, R., *SURBURBIA, ITS PEOPLE AND ITS POLITICS* (1958). Williams and Adrian, *The Insulation of Local Politics Under the Nonpartisan Ballot*, 53 *AMERICAN POLITICAL SCIENCE REVIEW* 1052-63 (1959); and Adrian, *A Typology for Nonpartisan Elections*, 12 *WESTERN POLITICAL QUARTERLY* 449-58 (1959).

AUTHOR'S NOTE: I am grateful to Ann Lofin for her help in assisting in preparing parts of this article. Mrs. Lofin is a third-year law student at the University of North Carolina and is employed as a research assistant at the Institute of Government.

By the same token, it is argued that local issues are obscured in partisan elections, especially if the elections for municipal offices are held at the same time as state and national elections. Local issues are said to be divorced from national and state partisan issues. Consequently, in nonpartisan elections, the voters' attention is said to be focused on local issues, local policies, and local conditions, so that voters exercise their municipal franchise more intelligently.

Similarly, it is said that nonpartisan elections do not permit or encourage the same degree of voter apathy or blind loyalty as partisan elections, whereas in a partisan system the voters rely on the party label rather than on a study of the candidates and issues. By extending this argument from the voters to the municipal officials, it is argued that councilmen elected in partisan elections tend to vote by blind loyalties to their party when a more considered and reflective vote is expected of them and might produce a better result.

Shifting the emphasis from the voters and the officeholders to the candidates, some people contend that nonpartisan elections prevent a city from being dominated by one party. They claim that few cities have a genuine two-party system, that city governments tend to be dominated by one party, which has no effective opposition. This argument leads to another: that the highly qualified persons in the minority party decline to run for office because they cannot be elected, even if they are clearly better qualified than the majority party candidate. This results in a net loss to the city in the sense that fewer qualified persons become candidates. The argument continues that a weak minority party easily is co-opted by the majority party: it will cooperate in exchange for a few political plums and handouts, and, by cooperating, will become less effective, less the vocal opposition that is deemed necessary in a two-party country. Some rebuttal is possible:

*This article is adapted from an address before the Winston-Salem Chamber of Commerce. The author is an Institute staff member.*

not every opposition party will agree to go along in exchange for favors, highly qualified minority candidates do run successfully, and a majority party need not necessarily produce consistently unsatisfactory government if its members participate in party primaries.

Another argument for nonpartisan elections is that they facilitate recruiting and electing successful businessmen and professionals as independent candidates — people who normally will not run for a city council in a partisan election, who will not run with a party label attached to their names.

Still another argument in favor of nonpartisan elections is that the party is no longer interested enough to find good candidates for city elections. The reason for this disinterest is said to be that civil service is replacing patronage jobs, so that the party no longer has the opportunity to dispense jobs or to receive contributions. The party's attention is where patronage still remains—on the state and national levels.

In an age when the federal government seems to be the "wealthiest" of our governments and when it engages in large-scale financial aid to local government, it is suggested that nonpartisan government on the local level will be advantageous in securing for local government the largess of the federal government, and that, contrarily, partisan local government may impede opportunities for federal-local cooperation.

Finally, nonpartisan local government is thought to be a device for removing control of local government policies and functions from partisan considerations; local officials elected under a nonpartisan system are thought to be less

susceptible to leverage and control by state or federal officials elected on a partisan basis. The extent to which this argument holds water depends in part on (1) the legal relationship of the local and state government, as, for example, the degree of home rule (if any) permitted to local government under state constitutions or state legislative enactments; and (2) the degree of involvement of the state government in local affairs, as, for example, where the state has assumed the responsibility of financing services that previously have been financed locally.

The conclusions of two early students of nonpartisan governments on these arguments which collectively suggest that nonpartisanship insulates local politics from state or national partisan politics are noteworthy. One study of mid-western cities that have populations between 50,000 and 75,000, are located outside the metropolitan orbit, are subject to a manager-council form of government, have an industrial and manufacturing economy, and have no vestige of party apparatus, concluded that partisan considerations *are* relevant to understanding municipal electoral politics. It found that (1) voting for nonpartisan slates of candidates was analogous to, though not the same as, voting for political parties' candidates and that the *similarity* of voting patterns in the two systems cast doubt on the complete separability of nonpartisan and partisan politics; (2) as slate competition became keener and issues were more sharply delineated, the correlation between slate-voting and party-voting increased; and (3) nonpartisanship tended to attract a higher Republican Party turnout and therefore to aid Republican voters in controlling municipal government. Nevertheless, another study concludes that, by and large, nonpartisanship has achieved its goal of effectively removing the regular party machinery from involvement in municipal politics and that the insulation arguments are supportable.

The major argument against partisan elections is inextricably bound up with the civil service-merit system reform movement. It is that partisanship breeds patronage, which in turn breeds bad government. The inroads made by the civil service-merit system into the patronage aspects of partisan government have largely removed that objection, but not always to the advantage of the citizen: if Mayor Lindsay of New York City had been able to control his city's employees through the normal partisan methods, the city might have been spared strikes by sanitation workers, transit employees, teachers, policemen, and firemen. And it is precisely because Mayor Daley of Chicago does control his city employees through partisan channels that he is able to govern Chicago and secure to its citizens highly efficient public services. And *this* despite the fact that Chicago has nonpartisan elections.

We cannot discuss partisanship without acknowledging our natural revulsion at candidates who, unlike Caesar's wife, are not above reproach. We have an inherent suspicion of partisan candidates—we feel they are "obliged" and "spoken for"—and we sense that dirty tactics, back-scratching, and improper trading-off are inevitable in partisan politics. Somehow we do not have that sense about nonpartisan elections. This may be because a nonpartisan form of local government reflects a highly integrated community life that has a powerful capacity to introduce conformity among the citizenry, that views partisanship as being in bad taste, that refuses to recognize the constant and persistent cleavages in the electorate that partisanship sometimes resolves, and that relies upon faith in an American political ethos in which the individual voters are trusted to arrive at a correct consensus on local issues through a process of "right

In 1969, among North Carolina cities with populations over 2,500, eleven held partisan elections to select members of the city council. Ninety-four cities held nonpartisan elections.

In cities of a population of 25,000 or more: Partisan elections were held in Asheville, High Point, Winston-Salem. Nonpartisan elections were held in Burlington, Charlotte, Durham, Fayetteville, Gastonia, Goldsboro, Greensboro, Raleigh, Rocky Mount, Wilmington, and Wilson.

In cities of a population of 10,000 to 25,000: Partisan elections were held in Albemarle, Concord, Kinston. Nonpartisan elections were held in Chapel Hill, Eden, Elizabeth City, Greenville, Henderson, Hickory, Jacksonville, Lenoir, Lexington, Lumberton, Monroe, New Bern, Reidsville, Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, and Thomasville.

In cities of a population of 5,000 to 10,000: Partisan elections were held in Asheboro, Lincolnton, Williamston. Nonpartisan elections were held in Belmont, Canton, Clinton, Dunn, Forest City, Graham, Hendersonville, Kings Mountain, Laurinburg, Mooresville, Morehead City, Morganton, Mount Airy, Newton, Oxford, Rockingham, Roxboro, Smithfield, Southern Pines, Tarboro, Washington, and Waynesville.

In cities of a population of 2,500 to 5,000: Partisan elections were held in Rutherfordton, Spencer. Nonpartisan elections were held in Ahoskie, Ayden, Beaufort, Bessemer City, Boone, Brevard, Cary, Cherryville, Clayton, Dallas, Davidson, Edenton, Elkin, Enfield, Erwin, Farmville, Fuquay-Varina, Garner, Granite Falls, Hamlet, Kernersville, Longview, Louisburg, Lowell, Marion, Mount Holly, Mount Olive, Murfreesboro, North Wilkesboro, Plymouth, Raeford, Red Springs, Scotland Neck, Selma, Siler City, Spindale, Spring Lake, Spruce Pine, Valdese, Wadesboro, Wake Forest, and Whiteville.

reason" and a call to the "common higher good" which replaces the parties' roles of tutoring and leading.

Historically the party system has been an efficient and expedient method of running government, and people have found in the party a way to move up on social and economic levels. In the past, until World War II at least, the party was a provider of jobs, friendship, and social and economic opportunity. For many immigrants in the nineteenth century and for many of their children in the twentieth century, the party was the key to a better life. For many of our disadvantaged citizens in this third of the twentieth century, it may provide the same key.

One pro-partisan argument is that many "good" prospects will

not become candidates unless they receive the financial support and campaign workers that the party can offer. This contention is the exact reverse of the argument that "good" men do not want to assume a party label. But the fact remains that many people would not have entered politics without the support of the party organization, and, on the other hand, many qualified independents have entered nonpartisan government because, they say, they could be "above" the party system. Perhaps the crux of the matter is not whether one system generically induces better prospects to run than another, but simply how the individual prospect feels about becoming a candidate. Interestingly, people do not usually cross over from

NATIONWIDE BALLOT AFFILIATION FOR GENERAL CITY ELECTIONS

Classification	% of Reporting Cities			% of Reporting Cities		
	No. of Cities Reporting	Nat'l Party On Ballot	Nat'l Party Not On Ballot	No. of Cities Reporting	Group Affiliation On Ballot	Group Affiliation Not On Ballot
<b>Population Group</b>						
Over 500,000	24	41.7%	58.3%	17	5.9%	94.1%
250,000 to 500,000	25	24.0	76.0	19	—	100.0
100,000 to 250,000	90	41.1	58.9	57	3.5	96.5
50,000 to 100,000	208	31.7	68.3	148	6.1	93.9
25,000 to 50,000	427	33.3	66.7	300	9.7	90.3
10,000 to 25,000	1,057	34.4	65.6	692	10.8	89.2
5,000 to 10,000	1,049	36.9	63.1	685	12.4	87.6
Under 5,000	514	11.9	88.1	388	5.2	94.8
<b>Form of Government<sup>1</sup></b>						
Mayor-Council	1,387	50.8	49.2	667	6.7	93.3
Council-Manager	1,229	17.7	82.3	982	5.0	95.0
Commission	174	30.5	69.5	118	2.5	97.5
Town Meeting	62	43.5	56.5	35	8.6	91.4
Representative Town Meeting	28	39.3	60.7	16	6.3	93.8
<b>City Type<sup>1</sup></b>						
Central	252	37.3	62.7	171	4.1	95.9
Suburban	1,348	36.9	63.1	925	15.2	84.8
Independent	1,280	32.8	67.2	822	6.4	93.6
<b>Geographic Region<sup>1</sup></b>						
Northeast	767	75.7	24.3	338	21.6	78.4
North Central	901	26.2	73.8	661	13.9	86.1
South	768	21.9	78.1	520	2.6	97.4
West	444	6.1	93.9	390	5.6	94.4
All Cities over 5,000	2,880	35.1	64.9	1,918	10.5	89.5

<sup>1</sup>Includes only cities over 5,000.

Source: *Municipal Year Book*, 1968.

a partisan to a nonpartisan candidacy or vice versa.

Nonpartisan local elections, it is argued, weaken state and national parties because there are fewer rewards available for party workers and because the parties become dormant in "off" years. It is in "off" years that most local elections are held. On the other hand, partisan elections are said to be necessary for the health of the national parties, because local parties are the foundations of the national parties. By the same logic, it is argued that city officeholding is a training period for candidates for state and national offices: it is in municipal office that many of our future state and national representatives learn the governmental and partisan ropes.

Generally, a partisan system is thought to attract greater citizen participation in the democratic process. This is because the party structure provides constant opportunities for the citizens to work as precinct officers, committee members, campaign staff, etc. There seems to be a built-in permanence about a party structure, constantly providing ingress to the party, access to the candidates and incumbents, and a ready opportunity to work at being involved in the political and democratic process. By contrast, the nonpartisan system, it is argued, requires almost constant gearing-up for elections, does not provide as permanent a structure for citizen participation, and operates more on an ad hoc, personality-related basis. It can-

not provide as much ingress, access, and opportunity as a partisan system. (Of course, a nonpartisan system does not preclude party involvement; indeed, there is very persuasive evidence that parties do in fact endorse nonpartisan candidates, and also that in a nonpartisan system such groups as the "Better Government Committees" or "Citizens for Good Government" play a role very much like that of a political party, although not on the same basis.) The citizen groups tend to be responsive to crisis and react to undesirable situations, and when the crisis has passed or the situation remedied, to dissolve. They simply do not provide the same opportunities for citizen participation as the parties do. Or so the argument goes.

Nonpartisan elections are said to cause a low turnover in the membership of a local governing board and generally to favor incumbents. Incumbents, the argument goes, are likely to justify their past mistakes, to become entrenched in their political and governmental philosophies, to become resistant to change, and to repudiate progressive ideas and programs. The argument is that while nonpartisan government does not exactly correlate with conservative government, it has that tendency, all other things being equal. Partisan government, on the other hand, is said to be more representative of the political philosophy of the average citizen; partisan candidates are said to be frequently elected with a mandate to change, to take certain action. Partisan government, then, is thought to correlate less with conservatism and more with responsive and at least middle-of-the-road government.

Partisan elections, by the same token, are said to facilitate "protest voting." Under nonpartisan government, for example, the voter has trouble identifying the incumbents whom he wants to be rid of—for whatever reason; he cannot focus as easily on those who failed to provide satisfactory government

(Continued on inside back cover)

# MEMO:

## on registration of 18- to 20-year-olds

SUBJECT: Registration of 18, 19, and 20 year olds

FROM : ALEX K. BROCK  
Executive Secretary

TO : Chairmen and Executive Secretaries of  
County Board of Elections

The United States Supreme Court has ruled that all states must allow persons 18-20 years of age, who are otherwise qualified, to register and vote in national elections only. This means that North Carolina will commence registration of those persons 18-20 years of age who are otherwise qualified under our state requirements to register. All other prerequisites must still be met----the only change is the minimum age. And it is important to understand that these newly enfranchised voters will not be qualified to vote in State or local elections, but will be able to vote in national elections. In other words, the first election in which the 18-20 year olds will be eligible to vote will be the 1972 election for President, Vice-President, U. S. Senate and Congress only.

Since this ruling must go into effect on January 1, 1971, we have outlined below the strict procedure which all county boards must follow until further change is announced by the State Board of Elections:

### RULES FOR REGISTERING 18-20 YEAR OLDS

- (1) Registration of 18-20 year olds must be accomplished in the office of the County Board of Elections only. Precinct registrars will not be authorized, until further notice, to register these individuals in their respective precincts. Precinct registrars should advise all interested applicants below age 21 to effect their registration at the office of the County Board of Elections. All registrars should be notified, immediately, of this procedure.

- (2) Each Chairman, Executive Secretary or other authorized officer must register these newly enfranchised voters during regular office hours in the office established by the County Board of Elections as required by GS163-67 and STATE BOARD RULES and REGULATIONS for establishment of modified full-time offices.
- (3) Registration shall be on the same forms as are now used for all other registrants. However, all copies of the registration records of 18-20 year olds shall be maintained and preserved in one separate file (all copies together) until the specific administrative details are announced by the State Board of Elections at the training Seminars to be conducted during early 1971. DO NOT PUT IN BINDERS. The details and processing relative to 18-20 year olds shall be uniform and shall be clearly identified to all county election officials in ample time prior to any election in which these young voters are eligible to vote. The dates of the State Board's Seminars will be announced later.
- (4) Each registrant should be required to present proof of his date of birth by producing a birth certificate, drivers license or other document which indicates date of birth.
- (5) Registrants shall not be given a literacy test but shall be required to sign the registration record where the signature of voter is indicated. In the event an applicant is unable to sign his name, then the officer before whom he appears shall execute his form and accept the applicant's "mark" as illustrated:

(His X mark) Sam Jones

and then sign applicant's name for him.
- (6) No person shall be registered who has not reached his eighteenth (18th) birthday at the time he presents himself for registration.
- (7) No person shall be registered unless he otherwise qualifies under the provisions of GS163-55.
- (8) Students shall not be registered in counties where they are temporarily residing while attending a business school, trade school, college or university. Any applicant who is determined to be a "student" should be advised that he is eligible to register in the county or state of his legal residence only.
- (9) All unusual situations or cases not specifically covered by these rules should be brought to the attention of the State Board by the Chairman or Executive Secretary of the County Board of Elections so involved for a ruling.
- (10) General information consistent with these rules should be made available to local news media by each County Board of Elections for the information of the general public.

At Raleigh this 28 day of December 1970.

FOR THE STATE BOARD OF ELECTIONS:

/s/ Alex K. Brock  
Executive Secretary

# REGISTRATION STATISTICS

Note: The State Board of Elections and its Executive Secretary, Alex K. Brock, since 1966 regularly have compiled statistical data showing the total number of persons registered to vote in North Carolina and, of the total, the number affiliated and not affiliated with a political party and the number of whites, Negroes, and Indians registered to vote. The Board also has assembled similar data for each county. The statewide data are produced below, with an indication of percentage change and notes prepared by H. R. Turnbull of the Institute of Government.

Total Statewide Registration				Republican Registration			
	<i>Increase</i>	<i>Decrease</i>	<i>% Change</i>		<i>Increase</i>	<i>Decrease</i>	<i>% Change</i>
Dec. 1968-Dec. 1969				Dec. 1968-Dec. 1969			
from		2,077,538	10.1	from		448,637	10.8
to		1,867,327		to		400,014	
total		210,211 <sup>1</sup>		total		48,623 <sup>4</sup>	
Jan. 1970-June 1970				Jan. 1970-June 1970			
from	1,867,327		1.7	from	400,014		2.2
to	1,899,090 <sup>2</sup>			to	409,000		
total	31,763			total	8,986		
July 1970-Dec. 1970				July 1970-Dec. 1970			
from	1,899,090		2.4	from	409,000		4.1
to	1,945,187 <sup>3</sup>			to	426,159		
total	46,097			total	17,159		
Democratic Registration				American Party Registration			
	<i>Increase</i>	<i>Decrease</i>	<i>% Change</i>		<i>Increase</i>	<i>Decrease</i>	<i>% Change</i>
Dec. 1968-Dec. 1969				Dec. 1968-Dec. 1969			
from		1,568,859	9.7	from	6,584		3.2
to		1,415,432		to	6,795		
total		153,427 <sup>4</sup>		total	211 <sup>5</sup>		
Jan. 1970-June 1970				Jan. 1970-June 1970			
from	1,415,432		1.5	from		6,795	5.3
to	1,437,949			to		6,429	
total	22,517			total		366	
July 1970-Dec. 1970				July 1970-Dec. 1970			
from	1,437,949		1.8	from	6,429		.3
to	1,464,055			to	6,449		
total	26,106			total	20		
				Independent and No-Party Registration			
	<i>Increase</i>	<i>Decrease</i>	<i>% Change</i>		<i>Increase</i>	<i>Decrease</i>	<i>% Change</i>
Dec. 1968-Dec. 1969				Dec. 1968-Dec. 1969			
from				from		52,234	13.6
to				to		45,086	
total				total		7,148 <sup>5</sup>	
Jan. 1970-June 1970				Jan. 1970-June 1970			
from				from	45,086		1.3
to				to	45,712		
total				total	626		
July 1970-Dec. 1970				July 1970-Dec. 1970			
from				from	45,712		6.1
to				to	48,524		
total				total	2,812		

1. Mr. Brock attributes this decrease to an "unprecedented number of new countywide registrations" during that period.

2. Of a total of 1,899,090 voters, 581,845 (or approximately 30.6%) voted in the May, 1970, primary elections.

3. Of a total of 1,945,187 voters, 941,074 (or approximately 48.3%) voted in the November, 1970, general election.

4. Mr. Brock reports that the decrease for each major political party (Democrat and Republican) "appears to reflect approximately the same net loss," suggesting that the new countywide registration affected the parties' registration equally and was neutral in its effect.

5. Mr. Brock points out that since no registrants of the American Party would have been in the registration records long enough to be purged because of death or emigration from the state, "it is reasonable that the total figures would not indicate a decrease." He also attributes the decrease in the independent or no-party category to purging and new registration.



White Persons Registered				Non-White Persons Registered			
	Increase	Decrease	% Change		Increase	Decrease	% Change
Dec. 1968-Dec. 1969				Dec. 1968-Dec. 1969			
from		1,745,490	9.9	from		315,128 Negro	9.3
to		1,571,508		to		285,745	
total		173,982		total		29,383	
Jan. 1970-June 1970				from		11,359 Indian	11.3
from	1,571,508		1.6	to		10,074	
to	1,597,545			total		1,285	
total	26,037			Dec. 1969-June 1970			
July 1970-Dec. 1970				from	285,745 Negro		1.9
from	1,597,545		2.6	to	291,330		
to	1,639,704			total	5,585		
total	42,159			from	10,074 Indian		1.3
				to	10,215		
				total	141		
				June 1970-Dec. 1970			
				from	291,330 Negro		1.2
				to	294,880		
				total	3,550		
				from	10,215 Indian		3.7
				to	10,603		
				total	388		

## New Books in the Institute Library

Chapman, Brian. *Police State*. New York: Praeger Publishers, 1970.

Lewis, Howard R. *The Medical Offenders*. New York: Simon and Schuster, 1970.

Previtt, Kenneth. *The Recruitment of Political Leaders: a Study of Citizen Politicians*. Indianapolis: Bobbs-Merrill Co., 1970.

Public Personnel Association. *Human Factors in Supervising Minority Group Employees*, prepared by James H. Morrison. Conference Leaders' Guide. Chicago: The Association, 1970.

Revelle, Roger, and Landsberg, Hans II. *America's Changing Environment*. Boston: Houghton Mifflin Company, 1970.

U. S. President. Commission on Campus Unrest. *Report of the Commission on Campus Unrest: Special Reports: the Killings at Jackson State, the Kent State Tragedy*. New York: Arno Press, 1970.

Wollett, Donald H. and Chanin, Robert H. *The Law and Practice of Teacher Negotiations*. Washington: The Bureau of National Affairs, 1970.

# NORTH CAROLINA GENERAL ASSEMBLY 1971

## Members of the State Senate (Democrats Unless Otherwise Indicated)

SENATE DISTRICT	NAME	COUNTY	ADDRESS
1st (2)			
Bertie	J. J. Harrington	Bertie	Lewiston
Camden	George M. Wood	Camden	Camden
Chowan			
Currituck			
Gates			
Hertford			
Northampton			
Pasquotank			
Perquimans			
Washington			
2nd (1)			
Beaufort	Ashley B. Futrell	Beaufort	1206 Summit Ave., Washington
Dare			
Hyde			
Martin			
Tyrrell			
3rd (1)			
Carteret	Norris C. Reed, Jr.	Craven	P. O. Box 89, New Bern
Craven			
Pamlico			
4th (2)			
Edgecombe	Julian R. Allsbrook	Halifax	Drawer 40, Roanoke Rapids
Halifax			
Pitt	Vernon E. White	Pitt	Winterville
Warren			
5th (1)			
Greene	Charles H. Larkins, Jr.	Lenoir	P. O. Box 3029, Kinston
Jones			
Lenoir			
6th (1)			
Onslow	William D. Mills	Onslow	Rt. 1, Maysville
7th (1)			
Franklin	John T. Church	Vance	420 Woodland Rd., Henderson
Granville			
Vance			
8th (2)			
Johnston	J. Russell Kirby	Wilson	1711 Brentwood Cir., Wilson
Nash			
Wilson	Henry M. Milgrom	Nash	Battleboro
9th (1)			
Wayne	Thomas E. Strickland	Wayne	Rt. 2, Goldsboro
10th (2)			
Duplin	John J. Burney, Jr.	New Hanover	1130 Forest Hills Dr., Wilmington
New Hanover			
Pender	Stewart B. Warren	Sampson	P. O. Box 745, Clinton
Sampson			

SENATE DISTRICT	NAME	COUNTY	ADDRESS
11th (2) Durham Orange Person	Gordon P. Allen	Person	Roxboro
	Claude Currie	Durham	P. O. Box 3849, Durham
12th (2) Wake	J. Ruffin Bailey	Wake	924 Cowper Dr., Raleigh
	Jyles J. Coggins	Wake	2901 Ridge Rd., Raleigh
13th (1) Chatham Harnett Lee	William W. Staton	Lee	636 Palmer Dr., Sanford
14th (2) Cumberland Hoke	John T. Henley	Cumberland	216 Lake Shore Dr., Hope Mills
	N. Hector McGeachy, Jr.	Cumberland	2011 Winterlochen Rd., Fayetteville
15th (1) Bladen Brunswick Columbus	S. Bunn Frink	Brunswick	Shalotte
16th (1) Caswell Rockingham	W. C. Taylor	Caswell	Rt. 1, Yanceyville
17th (1) Alamance	Ralph H. Scott	Alamance	Rt. 1, Haw River
18th (3) Guilford Randolph	Hargrove (Skipper) Bowles	Guilford	700 Country Club Dr., Greensboro
	L. P. McLendon, Jr.	Guilford	201 Kimberly Dr., Greensboro
	Coolidge Murrow (R)	Guilford	506 Overbrook Dr., High Point
19th (2) Davidson Montgomery Moore Richmond Scotland	Charles B. Deane, Jr.	Richmond	P. O. Box 784, Rockingham
	William P. Saunders	Moore	910 E. Mass. Ave., Southern Pines
20th (1) Robeson	Luther J. Britt, Jr.	Robeson	603 W. 25th St., Lumberton
21st (1) Alleghany Ashe Stokes Surry	Fred Folger, Jr.	Surry	1015 North Main St., Mt. Airy
22nd (2) Forsyth	Harry Bagnal (R)	Forsyth	2861 Wesleyan Ln., Winston-Salem
	Hamilton C. Horton, Jr. (R)	Forsyth	P. O. Box 2836, Winston-Salem

SENATE DISTRICT	NAME	COUNTY	ADDRESS
23rd (1) Rowan	Phillip J. Kirk, Jr. (R)	Rowan	Rt. 5, Box 238, Salisbury
24th (2) Anson Cabarrus Stanly Union	F. O'Neil Jones Frank N. Patterson, Jr.	Anson Stanly	Box 205, Wadesboro 446 N. Tenth St., Albemarle
25th (1) Davie Watauga Wilkes Yadkin	Donald W. Bingham (R)	Davie	Rt. 1, Advance
26th (2) Alexander Catawba Iredell Lincoln	Bobby Lee (Bob) Combs Norman H. Joyner (R)	Catawba Iredell	500 21st St., S.E., Hickory Rt. 1, Box 322BE, Statesville
27th (3) Mecklenburg	Philip Jackson Baugh Eddie Knox Herman A. Moore	Mecklenburg Mecklenburg Mecklenburg	2018 Sharon Rd., Charlotte 1016 Redcoat Dr., Charlotte Rt. 1, Box 375, Matthews
28th (1) Burke Caldwell	David T. Flaherty (R)	Caldwell	803 Hospital Ave., Lenoir
29th (2) Cleveland Gaston	J. Ollie Harris Marshall A. Rauch	Cleveland Gaston	Box 627, Kings Mtn. 1121 Scotch Dr., Gastonia
30th (1) Avery McDowell Rutherford	Clyde Norton	McDowell	Old Fort
31st (2) Buncombe Madison Mitchell Yancey	I. C. Crawford Lamar Gudger	Buncombe Buncombe	10 Hampshire Cir., Asheville 189 Kimberly Ave., Asheville
32nd (1) Haywood Henderson Polk	Zebulon Doyle Alley	Haywood	P. O. Box 1018, Waynesville
33rd (1) Cherokee Clay Graham Jackson Macon Swain Transylvania	Dr. Carl D. Killian	Jackson	Cullowhee

# NORTH CAROLINA GENERAL ASSEMBLY 1971

## Members of the House of Representatives (Democrats Unless Otherwise Indicated)

HOUSE DISTRICT	NAME	COUNTY	ADDRESS
1st (2)			
Camden	W. T. Culpepper, Jr.	Pasquotank	1705 Parkview Dr., Elizabeth City
Chowan			
Currituck	Philip P. Godwin	Gates	Gatesville
Gates			
Pasquotank			
Perquimans			
2nd (2)			
Beaufort	Archie Burrus	Dare	Manteo
Dare	William R. Roberson, Jr.	Beaufort	313 College Ave., Washington
Hyde			
Tyrrell			
Washington			
3rd (3)			
Carteret	Chris Barker, Jr.	Craven	3911 Trent Pine Dr., New Bern
Craven			
Pamlico	Joe L. Bright	Craven	Rt. 2, Vanceboro
	Ronald Earl Mason	Carteret	Beaufort
4th (3)			
Onslow	Richard S. James	Pender	Maple Hill
Pender	J. F. Mohn	Onslow	P. O. Box 265, Richlands
	Carl V. Venters	Onslow	6 E. Bayshore Blvd., P. O. Box 160, Jacksonville
5th (2)			
New Hanover	Howard A. Penton, Jr.	New Hanover	1517 Country Club Rd., Wilmington
	George Rountree, III (R)	New Hanover	222 Princess St., Wilmington
6th (2)			
Bertie	Roberts H. Jernigan, Jr.	Hertford	401 N. Curtis St., Ahoskie
Hertford			
Northampton	Perry Martin	Northampton	Rich Square
7th (2)			
Halifax	J. A. Everett	Martin	P. O. Box 25, Palmyra
Martin	C. Kitchin Josey	Halifax	Scotland Neck
8th (2)			
Pitt	Sam D. Bundy	Pitt	Farmville
	H. Horton Rountree	Pitt	Greenville
9th (2)			
Greene	Harold W. Hardison	Lenoir	P. O. Box 128, Deep Run
Jones			
Lenoir	Daniel T. Lilley	Lenoir	1805 Sedgefield Dr., Kinston
10th (2)			
Wayne	Mrs. John B. Chase	Wayne	Eureka
	William P. Kemp, Jr.	Wayne	102 North Andrews Ave. Goldsboro

HOUSE DISTRICT	NAME	COUNTY	ADDRESS
11th (1) Duplin	T. J. Baker	Duplin	306 E. Cliff, Wallace
12th (2) Bladen Sampson	James C. Green	Bladen	Clarkton, Coharie Acres
	C. Graham Tart	Sampson	Clinton
13th (2) Brunswick Columbus	R. C. Soles, Jr. Thomas Harrelson	Columbus Brunswick	Tabor City Southport
14th (3) Edgecombe Nash	Allen C. Barbee	Nash	Spring Hope
	Larry P. Eagles	Edgecombe	806 St. Patrick St., Tarboro
	Julian B. Fenner	Nash	1604 Waverly Dr., Rocky Mount
15th (3) Johnston Wilson	J. M. Gardner	Johnston	825 Vermont St., Smithfield
	J. Marvin Johnson	Johnston	717 Sunset Dr., Smithfield
	J. Ernest Paschall	Wilson	113 E. Nash St., Wilson
16th (2) Franklin Vance Warren	Bobby W. Rogers	Vance	Lakeview Dr., Henderson
	James D. Speed	Franklin	Rt. 3, Louisburg
17th (2) Caswell Granville Person	James E. Ramsey William T. Watkins	Person Granville	Roxboro Thorndale Dr., Oxford
18th (3) Durham	George W. Miller, Jr.	Durham	2701 Augusta Dr., Durham
	Kenneth C. Royall, Jr.	Durham	64 Beverly Dr., Durham
	Willis P. Whichard	Durham	3920 Kelly Dr., Durham
19th (4) Wake	Robert L. Farmer	Wake	107 Kipling Place, Raleigh
	Samuel H. Johnson	Wake	4816 Morehead Dr., Raleigh
	Howard Twiggs	Wake	2929 Wycliff Rd., Raleigh
	Robert W. Wynne	Wake	412 Hillandale Dr., Raleigh
20th (2) Chatham Orange	Ike F. Andrews	Chatham	Box 267, Siler City
	Carl M. Smith	Orange	408 Westwood Dr., Chapel Hill
21st (2) Alamance	W. S. Harris, Jr.	Alamance	Rt. 1, Box 581, Graham
	James E. Long	Alamance	2707 Cobbside Dr., Burlington

HOUSE DISTRICT	NAME	COUNTY	ADDRESS	
22nd (2)	Harnett	Gerald Arnold	Harnett	P. O. Box 38, Lillington
	Lee	Jimmy L. Love	Lee	Rt. 4, Sanford
23rd (4)	Cumberland	Norwood E. Bryan, Jr.	Cumberland	P. O. Box 24, Fayetteville
		Sneed High	Cumberland	338 Devane St., Fayetteville
		Glenn R. Jernigan	Cumberland	2414 Rolling Hill Rd., Fayetteville
		Joe B. Raynor, Jr.	Cumberland	345 Winslow St., Fayetteville
24th (4)	Hoke	Joy J. Johnson	Robeson	Box 455, Fairmont
		Neill L. McFadyen	Hoke	111 S. Highland St., Raeford
	Scotland	Mary H. Odom (Mrs. L. W., Jr.)	Scotland	Box 7, Wagram
		Gus Speros	Robeson	Maxton
25th (2)	Rockingham	Jule McMichael	Rockingham	Country Club Dr., Reidsville
		Wesley D. Webster	Rockingham	Madison
26th (6)	Guilford	Henry E. Frye	Guilford	1920 Drexmore Ave. Greensboro
		Clifton T. Hunt, Jr. (R)	Guilford	3502 Madison Ave., Greensboro
		Robert Odell Payne (R)	Guilford	P. O. Box 6, McLeansville
		C. W. (Charlie) Phillips	Guilford	210 S. Tremont Dr., Greensboro
		W. Marcus Short	Guilford	Suite 228, Southeastern Bldg., Greensboro
		McNeill Smith	Guilford	2501 W. Market St., Greensboro
27th (2)	Montgomery Randolph	Colon Blake (R)	Montgomery	Candor
		John Randolph Ingram	Randolph	Oakmont Dr., Asheboro
28th (1)	Moore	T. Clyde Auman	Moore	West End
29th (1)	Richmond	Thomas B. Hunter	Richmond	618 Fayetteville Rd., Rockingham
30th (5)	Forsyth	E. Lawrence Davis	Forsyth	321 Banbury Rd., Winston-Salem
		Fred C. Farmer (R)	Forsyth	1231 Cloister Dr., Winston-Salem
		Howard A. Jemison (R)	Forsyth	Rt. 8, Robin Hood Rd., Winston-Salem
		C. Dempsey McDaniel (R) Ed M. McKnight (R)	Forsyth Forsyth	Rt. 1, Kernersville Rt. 2, Keithgayle Dr., Clemmons

HOUSE DISTRICT	NAME	COUNTY	ADDRESS
31st (2) Davidson	Joe H. Hege, Jr. (R)	Davidson	1526 Greensboro St., Lexington
	J. Eugene Snyder (R)	Davidson	402 Park St., Lexington
32nd (1) Stanly	Richard Lane Brown, III	Stanly	623 East Cannon Ave., Albemarle
33rd (2) Anson Union	Richard S. Clark	Union	702 Kintyre Dr., Monroe
	Foyle Hightower, Jr.	Anson	715 East Wade St., Wadesboro
34th (2) Rowan	Austin A. Mitchell (R)	Rowan	1302 W. "A" St., Kannapolis
	Robie L. Nash	Rowan	232 Richmond Rd., Salisbury
35th (2) Cabarrus	James C. Johnson, Jr. (R)	Cabarrus	335 Eastcliff Dr., Concord
	Dwight W. Quinn	Cabarrus	213 S. Main St., Kannapolis
36th (7) Mecklenburg	James Tully (Jim) Beatty	Mecklenburg	3716 Rhodes Ave., Charlotte
	Hugh Campbell, Jr.	Mecklenburg	1428 Scotland Ave., Charlotte
	Laurence A. Cobb (R)	Mecklenburg	158 McAlway Rd., Charlotte
	Peter A. Foley	Mecklenburg	3908 Blowing Rock Way Charlotte
	Ernest L. Hicks	Mecklenburg	500 Clement Ave., Charlotte
	Craig Lawing	Mecklenburg	Rt. 9, Box 195G, Charlotte
	James B. Vogler	Mecklenburg	2001 Randolph Rd., Charlotte
37th (3) Alleghany Ashe Stokes Surry	P. C. Collins, Jr.	Alleghany	Laurel Springs
	J. Worth Gentry	Stokes	King
	George W. Marion, Jr.	Surry	Forest Oaks Dr., Dobson
38th (2) Wilkes Yadkin	John Walter Brown (R)	Wilkes	Rt. 2, Box 84A, Elkin
	Jeter L. Haynes (R)	Yadkin	Jonesville
39th (2) Davie Iredell	J. P. Huskins	Iredell	220 E. Broad St., Statesville
	Arthur L. (Sap) Smith	Iredell	Rt. 1, Mooresville
40th (2) Catawba	Robert Q. Beard (R)	Catawba	Rt. 3, Box 416, Newton
	G. Hunter Warlick (R)	Catawba	227 31st Ave., N.W., Hickory



HOUSE DISTRICT	NAME	COUNTY	ADDRESS
41st (4) Gaston Lincoln	David W. Bumgardner, Jr.	Gaston	209 Peachtree St., Belmont
	C. E. Leatherman	Lincoln	307 N. Roberta Ave. Lincolnton
	Jack L. Rhyne	Gaston	Rt. 1, Box 1S1B Belmont
	Carl J. Stewart, Jr.	Gaston	1855 Westbrook Cir., Gastonia
42nd (3) Alexander Burke Caldwell	William M. Fulton (R)	Burke	207 Myrtle St., Morganton
	Donald R. Kincaid (R)	Caldwell	P. O. Box 637, Lenoir
	Teral T. Bostian (R)	Alexander	Rt. 1, Box 429, Taylorsville
43rd (3) Cleveland Polk Rutherford	Robert Z. Falls	Cleveland	1308 Wesson Rd., Shelby
	Robert A. Jones	Rutherford	122 Woodland Ave., Forest City
	W. K. Mauney, Jr.	Cleveland	P. O. Box 628, Kings Mtn.
44th (1) Avery Mitchell Watauga	James E. Holshouser, Jr. (R)	Watauga	Boone
45th (4) Buncombe McDowell	Hugh Beam	McDowell	Crescent Dr., Marion
	Claude DeBruhl	Buncombe	Rt. 1, Box 480, Candler
	Herschel S. Harkins	Buncombe	P. O. Box 7266, Asheville
	John S. Stevens	Buncombe	8 Pine Tree Rd., Asheville
46th (1) Henderson	J. T. Mayfield (R)	Henderson	322 Kendale Ct., East Flat Rock
47th (2) Haywood Madison Yancey	Ernest B. Messer	Haywood	15 Forest View Cir., Canton
	Liston B. Ramsey	Madison	Marshall
48th (1) Jackson Swain Transylvania	Charles H. Taylor (R)	Transylvania	Box 66, Brevard
49th (1) Cherokee Clay Graham Macon	Erwin Patton	Macon	Franklin

# ASSIGNED RISK IN NORTH CAROLINA

## some alternatives for depopulating and improving the program

by Elmer R. Oettinger

The single most salient fact about assigned risk in North Carolina is that about one in every four passenger motor vehicles—some 500,000—currently is placed in the Assigned Risk Plan. The further significance of this figure can be appreciated from a look at national percentages, with North Carolina's name at the top of the list. Nearest to North Carolina on the list of states in assigned risk is South Carolina, almost ten percentage points behind. In most states the percentage of vehicles on assigned risk is less than 3 per cent; in many it is less than 1 per cent.

Accordingly, a primary challenge to the Governor's Commission on Automobile Liability Insurance and Rates for the State of North Carolina is to "depopulate" the Assigned Risk Plan. To do that requires a careful preliminary analysis of the causes of North Carolina's overpopulation. For only through certain location and identification of the sources of our trouble can we hope to recognize and propose logical and effective solutions.

To alleviate assigned risk, suggestions have been made to (1) abolish compulsory insurance; (2) change the mandatory bureau system to one of open or competitive ratings; (3) change the name and nature of the Assigned Risk Plan, providing a reinsurance plan or pool; (4) eliminate arbitrary placements by agents and companies through such various means as further statutory limitations on cancellations and non-renewals, re-evaluating categories of risks, upgrading the training of agents, and changing statutory requirements for premium financing. Each of these proposals presupposes a specific cause for the

overpopulation of assigned risk in North Carolina. Each may be relevant and partly right. None may provide the ultimate and perfect answer in and of itself. Therefore it becomes imperative that each aspect of the problem be considered and carefully analyzed and the primary causes for our assigned risk problems sorted out and evaluated, as prerequisite to considering alternative solutions. Here is a discussion of some major problems and alternatives.

### Compulsory Automobile Insurance

Is making automobile insurance compulsory the key to our troubles with assigned risk? Two comments can be made with some assurance. First, a compulsory insurance system like North Carolina's does encourage the population of Assigned Risk. Second, compulsory insurance is not the only factor in the population of Assigned Risk in this state. Let us consider each of these ideas.

A compulsory insurance system requires many drivers to buy automobile insurance who would not otherwise do so. It also requires insurance companies to accept among these unwilling buyers a number of people who are not the sort of risk they would accept voluntarily and a number of others who would be borderline. Thus is created the situation of the unwilling buyer and the unwilling seller. Further, in a state where assigned risk is made easy because every driver must have insurance, the incentive is to turn to the Assigned Risk Plan rather than to shop in the voluntary market. So, the very

*The author, an Assistant Director at the Institute, prepared this report as part of his assignment with the Governor's Study Commission on Automobile Liability Insurance and Rates for the State and its Subcommittee on Assigned Risk.*

fact of compulsory insurance does influence the population of assigned risk upward. It even seems to influence some companies and agencies to place in the Assigned Risk Plan vehicles belonging to people who would qualify in other jurisdictions for the voluntary market. (This point of agent and company placement in assigned risk will be discussed separately later.)

Yet the case against compulsory insurance as a populator of Assigned Risk can be overstated. The percentage of vehicles on assigned risk in the only other two states having compulsory insurance, New York and Massachusetts, falls far below the percentage in North Carolina. The New York percentage has risen recently from 6 to 10 per cent and is causing some concern. In Massachusetts, the assigned risk population was last quoted around 3 per cent, although their plan differs substantially from ours and the substandard market appears to flourish more there. Even if it be noted that the New York percentage ranks high, perhaps third behind South Carolina, Massachusetts remains low, and the North Carolina percentage remains in a stratosphere all its own.

No doubt the Commission has as one of its alternatives to reduce assigned risk the recommendation that the compulsory insurance system be abolished. That would leave the state with a financial responsibility act similar to those deemed sufficient in 47 of 50 states. It would also leave the state with an uninsured motorists provision, as in other states, and such coverage could be made compulsory if desired.

Abolition of compulsory insurance would permit a number of motorists currently carrying automobile liability insurance to cancel or not renew their policies. Although figures on insurance coverage are inexact, an end to the compulsory insurance law would in all probability reduce substantially the number and percentage of motorists who are protected by and are protecting others through auto liability insurance policies. To illustrate, the number of North Carolina drivers estimated to abide by the compulsory law and carry auto insurance is variously placed at from 90 to 97 per cent. The estimated percentage of drivers covered by insurance in noncompulsory states ranges from as low as 60 per cent in Georgia to as much as 90 per cent in Ohio. A removal of compulsory aspects from automobile insurance in North Carolina, then, is likely to reduce substantially both the number of motorists and vehicles covered and the amount of coverage. It appears equally likely

to stimulate the activity of substandard companies and their efforts to sell auto insurance at exceptionally high rates to lesser risks in North Carolina. These probable results must be weighed against the probable partial depopulation of Assigned Risk to be expected from any removal of compulsory insurance from our state law.

One possible alternative to compulsory insurance, is the "Virginia Plan." The State of Virginia requires a \$50 fee from any motorist electing not to carry automobile insurance. The fee goes into a fund to pay losses incurred under uninsured motorists' endorsements. Presumably, the very existence of the fee also encourages motorists voluntarily to buy auto liability insurance rather than pay the extra amount to register his vehicle. Virginia claims that 95 per cent of its motorists are insured. (The Virginia Plan, incidentally, involves first-party insurance—that is, insurance to protect oneself against an uninsured motorist.) The assigned risk population is rising rapidly in Virginia at the present time. So, whether adoption of the Virginia Plan would help depopulate Assigned Risk in North Carolina remains a question.

Another factor that needs to be considered is the prevailing public attitude toward compulsory insurance. Several years ago newspaper editorials and cartoons inveighing against compulsory insurance were much in evidence. Recently these seem to have vanished. This may reflect a change in public opinion. The earlier years brought a much more vocal and published opposition to compulsory insurance than the present. Although no exact measure of public attitude appears to have been undertaken, and the foregoing statements are based primarily upon impression, it would appear that caution may be advisable in any drastic decision to eliminate compulsory insurance.

## **The Mandatory Bureau System Of Ratings**

Would a change from our present rating system to one of open or competitive ratings relieve the current market constriction enough to decrease the Assigned Risk overpopulation? A number of insurance company representatives claim that it would. They charge that rates are inadequate and that an open market permitting individual companies to adjust their rates upward would bring about a considerable reduction of the number of vehicles on assigned risk.

There is no doubt that states with open ratings systems have much smaller populations of assigned risks than North Carolina. It is also true that states with Prior Approval and File and Use systems have a much smaller percentages of vehicles in their assigned risk program. For that matter, Texas, which has a

mandatory bureau system somewhat different from ours, has only 4 per cent of its state's vehicles on assigned risk.

In North Carolina, a low-wage, low-income state, auto liability rates are not considered low by the average consumer. But auto insurance rates are low in North Carolina as compared with those in other states. The state appears to be about eighth from the lowest in the nation in over-all rates. The system of "rating in concert," together with a "no deviation" statute, and the power of the Commissioner to decide whether to accept, reject, or accept in part the recommendations of the rating bureau, and the power of appeal to the courts all contribute to the present rating situation. However, to assume that because state insurance rates are low in comparison with the national average is a conclusive reason to raise them would seem to be a non sequitur.

Other considerations have relevance. For instance, the voluntary market has been highly profitable in North Carolina, yet this possibility has not been used to reduce the size and growth of the Assigned Risk Plan. Specifically, North Carolina from 1964-67 had a most favorable loss ratio in the voluntary market, (63%, 61%, 59%, 59%), and an adverse loss ratio in the assigned risk market (137%, 134%, 127% NA). These figures raise questions requiring answers on the desirability of surcharging assigned risk and seeking out the significance of these distinctions in terms of need for change.

The question of company profits becomes important when adequacy of rates is questioned. What is considered as profits is crucial in determining actual profits. Thus, whether all or part of investment income should be considered as a part of profits is vital to the percentage of profit finally arrived at. And the question whether all or part of investment income should be considered in reclaiming profits remains a tartar. The image of impressive insurance company plants and holdings is not lost upon the general public. The public at large undoubtedly would not oppose a "fair profit" for auto insurance companies, but it might be hard pressed to believe that companies are not presently affluent and prospering. Further, the profitability of other lines (e.g., life insurance) makes it difficult to consider objectively what is a fair profit in auto insurance.

The existence of an industry-controlled ratings bureau in North Carolina raises other questions. Recommendations to the Insurance Commissioner for rate increases arouse consumer suspicions and relate to the degree of consideration the Commissioner gives the needs of the insured in making his final decision. Whether the system itself or the Commissioner or a combination has kept North Carolina auto insurance rates low, the fact of low rates alone is not enough

basis for changing a system with a primary hope of reducing the Assigned Risk Plan.

In fact, the probable results of going to a competitive rating system or any other need to be weighed with care and skill prior to any decision. Where open rating systems have been established, rates appear to have risen substantially within a short time. There is no reason to believe the experience of North Carolina would be otherwise. The whole purpose of insurance companies in proposing a shift to the open ratings system is to provide a vehicle within which the individual company controls its rates and can set its own levels of "adequacy." The Commission must consider both whether such an event is desirable and whether the general public in North Carolina is prepared for such a development in rates.

Moreover, the Commission has to consider whether the advantages to a declining Assigned Risk population to be expected in going to another system are outweighed by disadvantages that may inhere under the system. For example, an open competition system would require a very considerable increase in personnel in the State Insurance Department, ranging from rate analysts and underwriters to legal and public information personnel. That is to say, the decisions of the Ratings Committee and those of the Assigned Risk Committee are intertwined and interdependent. Each must consider the effect of its decisions upon the purview of the other. In this connection the Committee should note that some Open Rating states (e.g., New York) authorize a return to Prior Approval in areas where an open competition is not working. The modified Open Competition system, with File and Use appended, seems to be working out in Georgia but has brought about a 90-day moratorium in Florida due to problems.

Another point needs to be made on rates. It appears that some decisions of major companies are based more upon rates in a region or at national level than upon rates in an individual state. Any effect of a different system of ratings on rates and even on assigned risk might be dependent on considerations out of as well as within the state.

Finally, the very constriction of the auto insurance market in this state may represent a pressure tactic by insurance companies to achieve chosen ends, including rate increases. Some states (New Jersey) have reacted to the company pressures with changes of systems and rate increases; others (Massachusetts) have passed more restrictive legislation, reflecting determination to resist such tactics.

## Placement On Assigned Risk

Do agents and companies arbitrarily place people in assigned risk who do not belong there? Theoretically

cally, no one is placed in assigned risk. Only vehicles are qualified for the Assigned Risk Plan, and being there is looked upon as something of a privilege. Actually, the system does not work that way. If more than 70 per cent of North Carolina drivers whose vehicles are on assigned risk qualify under the Safe Driver Reward Plan, and if some 56 per cent of those whose vehicles are on assigned risk in North Carolina appear to have had no accidents or perhaps significant violations, then, at the very least, the system itself needs redefinition. Clearly the Safe Driver Reward Plan is no accurate guarantee of safe drivers. The Commission has heard ample testimony to indicate that agents and the public often turn quickly to the Assigned Risk Plan rather than shop in the voluntary insurance market. The lazy or insensitive agent deserves censure for this sort of activity. So do any companies that make it unreasonably difficult for normally qualified risks to obtain insurance voluntarily.

The establishment of categories of risk may be suspect. Although our statutes make it unlawful to cancel auto insurance policies because of age alone, it appears that many insurance companies require extensive and costly medical examinations of older drivers, often with no other grounds than age as a reason. While this alone would violate no law, the use of fragile information obtained this way to deny voluntary coverage might be questioned in terms of spirit. Insurance officials in half a dozen other states called to the attention of the Commission's Travel Committee current statistics indicate that the older driver is not an exceptional risk. Similarly, the application of assigned risk to newly moved persons (without immediately available credit ratings), divorcees, unhappy or separated married couples, some who have to finance premiums, the driver who has had one or more accidents without fault, and perhaps even the young (above age twenty) would seem to require more evidence of justification than assertions of actuarial soundness. There seems reason to believe that companies and agents are much more willing to place such persons on assigned risks in states that have systems not to their liking, such as North Carolina, than in other states.

Such inequities in practice cannot be condoned. The practices raise strong questions as to the need for upgrading the training and ethics of agents and consideration of possible additional legislation relating to policy cancellations and renewals, present payment to agents and aid by companies, and the present law and practices related to premium financing. The latter deserve special attention. Where insurance agents work with finance companies and make financing their primary interest, their financing of premiums sometimes leads, upon default of premium payment, to policy cancellation and placement under the

Assigned Risk Plan. The agent can do this under power of attorney, inherent in such financing plans.

The Commission, thus, should consider the effect of premium financing on the Assigned Risk Program. Clearly, limitations may be made if desirable on who may indulge in premium financing, when interest may be charged, the percentage and amount of interest that may be charged, whether insurance agents can or should engage in premium financing at all, and whether company financing should be made available to those on assigned risk as to the voluntarily insured.

## The Assigned Risk Plan Itself

Our Assigned Risk Plan provides a convenience and even a necessity to many drivers. Yet the present plan has enough inherent problems to raise serious questions as to whether it should not itself undergo change, regardless of decisions as to other changes. (1) It creates a stigma. Drivers whose vehicles are assigned to the plan feel a sort of second-class citizenship. (2) It creates discrimination. Even without surcharge and with the privilege of insurance, drivers on assigned risk recognize that they are discriminated against in low liability insurance limits, difficulty in obtaining other coverage (and high charges when they can get it), and, sometimes unjust placement in the plan. (3) Questionable evaluation of risks. Age, youth, marriage, credit, and a host of other characteristics and conditions—some suspect—do get into the placement on assigned risk. (4) Limits. Limitation to 15/30/5 in liability insurance and no provision for other coverage creates quite a barrier and hazard to the driver in Assigned Risk. (5) Difficulty getting other insurance. (See above.) (6) Surcharge. The absence of surcharge raises questions as to whether there should be a differential between those on assigned risk and those with voluntary insurance. (7) Premium financing. Many on assigned risk are not affluent and have problems financing their premiums. Some are there because they had voluntary insurance cancelled when they were unable to meet premiums. (8) Fault. Many on assigned risk are without driving fault. This raises another question as to whether specified fault should be a prerequisite to placement on assigned risk, unless by request.

## Conclusion

The alternatives facing the Commission come in varied forms and combinations.

- (1) Compulsory insurance be abolished.
- (2) A change to a system of open ratings.

(3) A change to a system of open ratings with strong backup controls in the form of reversion to a prior approval or mandatory bureau system under specified conditions and in specified areas. It could propose more rating territories, even the 260 Plan.

(4) Revisions in the present system to provide for rating deviations under upward, downward, or both under controlled conditions or for changes in the Rating Bureau or Commissioner mode of selection and functions.

(5) A training and education program prerequisite to licensing for agents and companies and designed to upgrade their operations.

(6) Legislation additionally limiting the conditions of cancellation and nonrenewal of policy.

(7) Reforms in the premium financing of policies so as to limit or end the activities of agents or companies and change the circumstances relating to financing of assigned risk.

(8) Major revisions in the present Assigned Risk Plan including changes in regard to limits, availabilities, surcharges, risk evaluation, and other factors.

(9) An entirely new plan for handling the present Assigned Risk Plan. This latter point is given some elaboration in (10).

(10) Any one of several reinsurance plans or pooling. The Canadian facility plan, the Florida proposal by former Commissioner Broward Williams, the Michigan plan, the State Farm Mutual proposal of a National Insurance Placement Facility, and the plan proposed by Professor John W. Hall all embrace the pool approach. These plans are described in detail in a Department of Transportation report which has been analyzed for the Commission. The advantages and disadvantages of assigned risk versus the pool or reinsurance plans are discussed in that document. They add up to both advantages and disadvantages from the standpoint of the insurer. They would appear to add up primarily to advantages for the insured. The removal from sight and obvious stigma of the less desirable driving risk would be accomplished through a pool run quietly and effectively and without surface hullabaloo. A name change, such as the proposed change to the North Carolina Reinsurance Plan, would help to remove any feeling of discrimination. However, in such an arrangement, the insured need not know he is in a special plan. The problems of control could be worked out through liaison and responsibility for full disclosure to the State Insurance Department.

ment. It is proposed that the Commission examine each of these plans closely to determine their applicability to North Carolina.

If the Assigned Risk Plan is retained, the Commission should consider whether it is possible and desirable to apply the program to the driver rather than to the vehicle. Substantial advantages are likely to accrue if this approach proves feasible. Certainly such an arrangement is fairer to the individual driver.

Adoption of any of the major proposals discussed here or any combination of proposals would almost inevitably require a very considerable readjustment by the public, insurance companies, agents, and the Insurance Department. However, not to try to solve the overcrowding and other problems of Assigned Risk would be to place a mark of failure upon the work of the Commission. The Commission must make certain that no remedy is accepted which is worse than the disease itself. Certainly some of the alternatives may raise as many snakes as they kill. Here are some illustrative potential debits and credits. The revocation of compulsory insurance might make it possible to restrict eligibility requirements for assigned risk and assure the removal of some drivers from the assigned risk rolls, but it probably would place more uninsured drivers on the highways and increase problems with the substandard market. A change of rating systems might help depopulate Assigned Risk, but any new system would require major and readjustments that would go far beyond the problems of assigned risk and might include substantial increases in rates and departmental personnel. Upgrading the qualifications of agents and brokers may be both feasible and desirable, and so may limitations on premium financing and consideration of continuing policies or tighter controls on cancellations and non-renewals; yet all these together may make insufficient though helpful dents in the Assigned Risk population. Revisions within the Assigned Risk Plan, if retained, seem highly desirable, but once again the effect on total population of the plan is uncertain. Change to a reinsurance or pool plan could eliminate immediate difficulties of the present Assigned Risk Plan, but would risk at least equal danger of overuse and excessive costs unless strong, intelligent planning and controls are in evidence.

In sum, while there may be more than one way to defuse the assigned risk problems, we must recognize that none is foolproof or bugproof. And, finally, to get the best admixture will require objective thinking and ultimate coordination with the full responsibilities and planning of the Commission and the General Assembly.

## Municipal Elections (Continued from page 11)

—there are no clearly identifiable majority and minority groups, no “villains” for him to oust. In a partisan system, by contrast, voting by party lines is (for all of its other virtues and faults) one way of identifying the undesirable incumbents.

Nonpartisan elections are said to be personality oriented rather than issue oriented. This is because policy issues are generally avoided in nonpartisan campaigns so that the voters have a harder time identifying issues with particular men in a nonpartisan election. Partisan elections, on the other hand, tend to make voters focus more on the issues than on the candidates—or so it is argued.

Political parties are thought to be effective screening agents for local candidates. The party leadership knows what qualities a candidate should have, and it recruits those men for primaries. Of course, the party may be so weak that it will accept anyone to run on the ticket and give a weak candidate the undeserved opportunity to win. In Charlotte it was said that parties are the only way a “poor” man can get a chance to be elected; parties provide workers and funds, and more important, they provide the electorate with qualified candidates because the business of any party is winning, and only qualified candidates are winners. The reverse was also heard: the poor man who lacks party endorsement is effectively barred from running, and sometimes not even the best of men, with ample personal resources available, will run for fear of being stigmatized by the party label.

One of the most persuasive arguments for partisan government is negative; it proceeds upon a profound criticism of the nonpartisan system. Generally, the nonpartisan system has been closely associated

with manager-council forms of government and with the reform movements that were responsible for introducing the civil service-merit system in local government. It is argued that the nonpartisan system and the reform movement, with its civil service, rely on “unfettered individualism”—they make the individual citizen himself responsible for being the watchdog of local government. They de-emphasize the role of the party and the role of the chief executive, the mayor. They thus deprive the citizenry of one of the most effective checks on incumbent councilmen: the opposition of the other party, the desire of the other party to expose weaknesses in character and in voting habits. The English have a term for it—the “loyal opposition”—but whether loyal or not, opposition is needed, especially as the city’s population and area grow in size, its governmental operations grow in proportion to population growth, and its policy decisions grow in complexity.

Advocates of partisanship tell us that nonpartisan government, which tends to correlate with manager-council forms of government, seems to classify many governmental functions as nonpolitical—the argument about no Republican or Democratic ways to build streets. We are led to believe that there is something insidious about this habit of classifying governmental functions as nonpolitical. Once the classification is made the professional—the city employee, the bureaucrat—tends to assume the decision-making initiative and authority: it is he, not a party acting through its incumbents, who originates policy and gets programs under way. Nonpartisanship thus tends to reduce the arena of public debate by removing many issues from the political arena and placing them in the administrative realm, where they are beyond the

political policy-making process, a process which historically has involved the parties. In essence, the thrust of this argument is that nonpartisan government reduces the opportunity and capacity of the citizen to have an effect on local issues. Control by full-time professionals may be the result. It also may have been the objective. The argument concludes that professionalism in government may be desirable, but it has its price and its risk.

The price and the risk are that the citizen not only is required to determine the ways and means of governmental operation, but also must choose between the competing priorities in governmental functions. “He is required to define, year after year, the goals of government itself and to resolve persistent political disputes.” These requirements bear too heavily on the citizen and induce him to become apolitical. His responsibilities, were he to fulfill these requirements, are “so consuming that he becomes indifferent,” and the “purest democracy” thus requires “no democratic action or responsibility at all.”



Let me end as I began, with no brief to make for any of these arguments and, indeed, with a word of caution about the defensibility of some of them. And let me state the traditional homily, to which I subscribe, that neither a nonpartisan nor partisan system will necessarily assure good people in government, nor necessarily provide “bad” people. It is as easy to throw away a vote on an inept party candidate as on an incompetent independent. In the end, what makes for good government is not the system but the people in it.

## 1970 County Government Election Statistics

Note: The following tabulation prepared by Institute staff members summarizes the results of the 1970 elections for county commissioners.

—J.S.F., H.R.T.

Commissioners	468	Counties controlled	
Democrats	363	by Democrats	78
Republicans	105	Counties controlled	22
by Republicans			
Incumbent Democrats		Counties with all	
re-elected or not subject to election in 1970	262	Democrats	66
Incumbent Republicans		Counties with all	
re-elected or not subject to election in 1970	75	Republicans	16
Newly elected Democrats	101		
Newly elected Republicans	30		

Counties in which control of the Board changed as a result of 1970 elections:

Dem. to Rep.: Brunswick, Cherokee, Clay, Jackson, and Mecklenburg.

Rep. to Dem.: Iredell, Madison, Stanly, Stokes, and Surry.

Counties in which all incumbents were re-elected, or in which no election was held in 1970: Alleghany, Bertie, Buncombe, Bladen, Caldwell,<sup>1</sup> Carteret,<sup>1</sup> Cabarrus, Caswell, Chatham, Columbus, Duplin, Davie, Edgecombe, Gaston, Granville, Greene, Halifax, Harnett, Guilford, Hoke, Hyde, Henderson, Johnston, Martin, Pasquotank, Person, Pitt, Richmond, Sampson,<sup>1</sup> Transylvania, Tyrrell, Vance, Watauga, Wilkes, Wilson, and Yancey.

Counties controlled by Republicans: Avery, Brunswick, Burke, Caldwell, Carteret, Catawba, Cherokee, Clay, Davidson, Davie, Forsyth, Guilford, Henderson, Jackson, Mecklenburg, Mitchell, Randolph, Rowan, Sampson, Watauga, Wilkes, and Yadkin.

Incumbents not seeking re-election	115
Incumbents defeated in either primary or general election	104

<sup>1</sup>. No election held in 1970; next election in 1972.