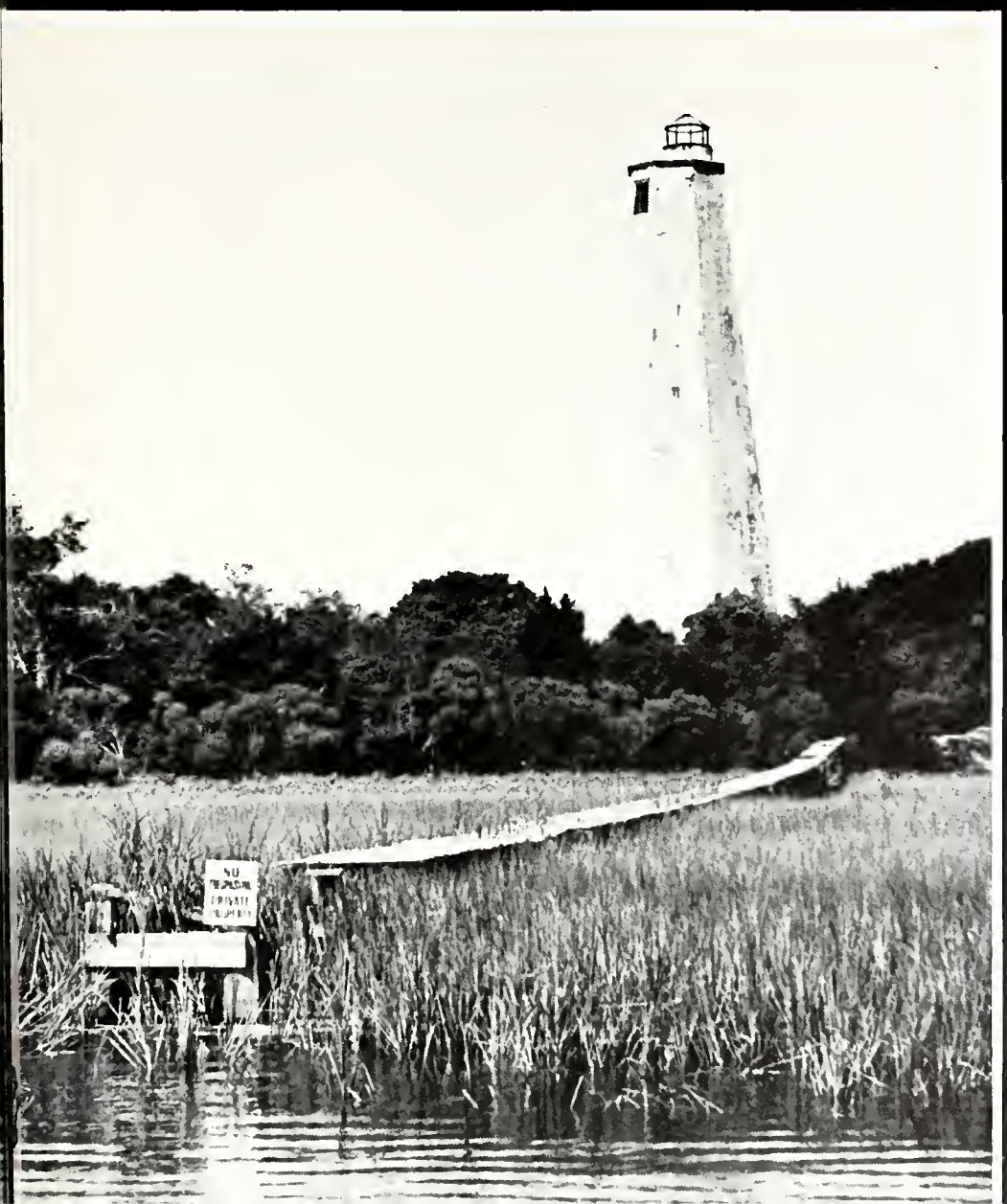
POPULAR GOVERNMENT

May / 1972

PUBLISHED BY THE INSTITUTE OF GOVERNMENT
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL



This month

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Improving local planning boards

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VOLUME 38 MAY 1972 NUMBER 8

Published monthly except January, July, and August by the Institute of Government, the University of North Carolina at Chapel Hill. Change of Address, editorial business, and advertising address: Box 990, Chapel Hill, N. C. 27514. Subscription: per year, $3.00; single copy, 35 cents. Advertising rates furnished on request. Second-class postage paid at Chapel Hill, N. C.

Expulsion and Suspension of Public School Students

part two: procedural due process

by Robert E. Phay and Anthony B. Lamb

This is the second of two articles that review the recent case decisions on the expulsion and suspension of public school students. The first article (February issue of *Popular Government*) reviewed the *recent* litigation in the area of student substantive rights and what the courts have said are permissible and impermissible reasons for expelling a student.[1] This article reviews *recent* litigation concerning the procedural rights of students before they may be expelled for violating school rules. Both of these articles were written in conjunction with research for *The 1972 Yearbook of School Law*, a review of court decisions in the school area from July 1, 1970, through December 31, 1972. This book will be published this summer by the National Organization on Legal Problems in Education (NOLPE).

Until recently, few procedural requirements were placed upon the school when it decided to suspend or expel a student. Education was considered a privilege, not a right, and school expulsions were generally not reviewed by the court. Today education is considered a right that cannot be denied without proper reason and unless proper procedures are followed. Courts now require that students be accorded minimum standards of fairness and due process of law in disciplinary procedures that may terminate in expulsion. Minimum standards in cases of severe discipline of students are generally thought to include (1) an adequate notice of the charges against the student and the nature of the evidence to support those charges, (2) a fair hearing, and (3) an action that is supported by the evidence.[2] The recent cases that have discussed the procedural requirements on schools before they can expel a student are discussed under the appropriate sections that follow. It should be remembered that most of the cases reviewed here are not United States Supreme Court decisions or opinions of state or federal courts that apply directly to North Carolina schools, but they show the general state of the law as it is emerging.

In determining whether procedural due process has been afforded an expelled student, courts have frequently held that no particular procedural model is required.[3] They have noted, as a federal district court in Michigan did recently, that the hearing procedure will vary depending on the circumstances of the particular case.[4] It will vary from an informal hearing with the teacher or principal when only minor discipline is involved to a full hearing when expulsion is contemplated. Thus courts generally have applied procedural due process standards only when the school imposed the severe penalty of removal from school for a long time. However, there are exceptions. For example, a New York lower court found a lack of due process when a school revoked a student athlete's letter;[5] the school could take a letter away from an athlete for flagrantly violating the training rules against smoking and drinking, but to do so it was

1. For a more extensive review of the literature dealing with the expulsion of students, see R. Phay, SUSPENSION AND EXPULSION OF PUBLIC SCHOOL STUDENTS, (NOLPE, Topeka, Kansas 1971). This article updates that publication.

2. See Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), *cert. denied*, 368 U.S. 930 (1961); Buttny v. Smiley, 281 F. Supp. 280 (D. Colo. 1968); and *General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education*, 45 F.R.D. 133, 147 (W.D. Mo. 1968).

3. *See, e.g.*, Whitfield v. Simpson, 312 F. Supp. 889 (E.D. Ill. 1970).

4. Davis v. Ann Arbor Pub. Schools, 313 F. Supp. 1217 (D. Mich. 1970).

5. O'Conner v. Board of Educ., 65 Misc. 2d 40, 316 N.Y.S.2d 799 (Sup. Ct. 1970).

obliged to use a "basically fair procedure." It is likely that courts will continue to extend procedural due process to the less severe penalties of the school as was done here.

• **Application to Private Schools.** The Fourteenth Amendment and its due process clause applies only against the state and its agencies, and thus private schools are exempt from its application unless sufficient "state action" can be established. In recent years courts have been more willing to find "state action" and apply constitutional standards to private institutions,[6] but private schools have usually escaped such application. For example, a federal district court in Indiana held that not enough state action was involved in accrediting Catholic high schools to make the private schools subject to the constitutional requirements of due process in disciplinary hearings.[7] The court felt that what little involvement there was was not related to the disciplinary proceedings of these schools. Nevertheless, private schools are going to find it increasingly difficult to avoid having due process standards applied to them as they become more involved with state programs and state funding.

• **Immediate Suspension.** Courts have uniformly upheld summary suspensions of five to ten days. A recent Second Circuit Court opinion upheld a school board's power to suspend a student summarily for up to ten days for participating in a sit-in.[8] The Fifth Circuit Court of Appeals also upheld summary suspensions for ten days, but found an additional thirty-day suspension without a hearing to be too long.[9] An Indiana federal district court is in accord; it found a school code granting principals the authority to suspend students for a maximum of five days without a hearing was constitutional if the school code provided standards for suspension.[10] The standards that existed in this case consisted of an outline of the kinds of misbehavior that warranted summary suspension. A federal court in New York also upheld a principal's authority to suspend summarily for up to five days without a hearing.[11]

A federal district court in Florida, however, found a ten-day suspension to be too severe a penalty without notice and a hearing.[12] The court said that guilt or innocence was not relevant: students have a constitutional right to a hearing before being suspended for any considerable time. In this case the principal and the school board met the night after a student walkout and decided to suspend the student summarily for ten days. Another Florida federal district court, however, concluded that a ten-day suspension without a prior hearing was permissible since an immediate hearing would probably disrupt the school more than the original misconduct.[13] The court noted that such a suspension would produce only limited injury since no permanent entry was made in the student's record and the parents were immediately notified and invited to discuss the reasons for the suspension.

In California, state law forbids suspending a student for more than one semester and requires the principal to arrange a meeting with the parents within three days of the suspension. The state court of appeals held that such a suspension is only "provisional" until the student is afforded the opportunity of a hearing before the school board.[14]

• **Exhaustion of Administrative Remedies.** Courts generally require students to exhaust administrative remedies before seeking a judicial remedy in either a state or a federal court. Exhaustion of school remedies usually means that the school's action is final and the student has at least sought review of the action by the school board. Exhaustion of remedies also may require the student to complete any review provided by a state administrative procedure act. If the plaintiff alleges the infringement of a fundamental right or racial discrimination, however, the courts generally do not require that the student first seek an administrative remedy, unless the action is not ripe for adjudication.

When a case becomes suitable for judicial review without an exhaustion of administrative remedies is a difficult question to answer. Frequently the answer will depend on considerations of judicial economy and the adequacy of the local provisions for administrative review. For example, in one case the Fifth Circuit recognized that the student had not exhausted his administrative remedies but nevertheless decided the case on its merits.[15] Noting that the district court had already conducted a hearing and that there was evidence that the school board would have affirmed the punishment, it refused to refer the case back to the school board. Similarly, a federal district court in Florida refused to require a student to exhaust his administrative remedies when those remedies did not provide the basic protection required by due process.[16] In Louisiana a federal district court held that when a student alleges that disciplinary action is

Mr. Phay is an Institute of Government faculty member whose field is school law. Mr. Lamb is a 1972 graduate of the UNC Law School and was a research assistant at the Institute.

6. Van Alstyne & Karst, *State Action*, 14 STAN. L. REV. 3 (1961).
7. Bright v. Isenbarger, 314 F. Supp. 1382 (N.D. Ind. 1970). *But see* Healy v. James, 445 F.2d 1122, 1150 (2nd Cir. 1971), in which the court noted in dicta in a college case that "[W]e yield to none in our profound belief that the full panoply of constitutional rights, duties, privileges, and immunities should be fully implemented on every campus, whether of a public or private college. . . ." *See also* Green v. Connally, 330 F. Supp. 1150 (D.D.C.), *aff'd sub nom.*, Coit v. Green, 40 U.S.L.W. 3287 (Dec. 20, 1971), denying tax-exempt status to private schools that discriminate in admitting students
8. Farrell v. Joel, 437 F.2d 160 (2nd Cir. 1971).
9. Williams v. Dade County School Bd., 441 F.2d 299 (5th Cir. 1971).
10. Beahm v. Grile ..... F. Supp. ..... (N.D. Ind. 1971).
11. Jackson v. Hepinstall, 328 F. Sup. 1104 (N.D. N.Y. 1971).
12. Black students *ex rel.* Shoemaker v. Williams, 317 F. Supp. 1211 (M.D. Fla. 1970).
13. Banks v. Board of Pub. Instruction, 314 F. Supp. 285 (S.D. Fla. 1970).
14. S. v. Board of Educ., 20 Cal. App. 3d 86, 97 Cal Rptr. 422 (1971).
15. Stevenson v. Board of Educ., 426 F.2d 1154 (5th Cir. 1970).
16. Tillman v. Dade County School Bd., 327 F. Supp. 930 (S.D. Fla. 1971).

applied differently on account of race, he is not required to pursue the state administrative remedies.[17] In California, on the other hand, a court of appeals held that a trial court did not have jurisdiction to review the constitutionality of a school dress regulation when the student had not exhausted her administrative remedies.[18] The regulation required all female students to wear uniforms.

● **Vagueness and Specificity of Regulations.** In recent years, courts have required specificity in rules the violation of which could result in expulsion. Although an expulsion need not be pursuant to an adopted regulation, it may be declared unconstitutional if the student could not reasonably have understood that his conduct was prohibited. Several cases have considered this issue. A federal district court in Massachusetts upheld a school that placed students on probation and prohibited them from participating in the athletic program without a prior written rule forbidding the offending conduct.[19] The punishment was for attending a school dance with "beer on their breaths." The court pointed out that the students knew the act was wrong and the public policy was clear, both factors weighing heavily in favor of the school administration. It noted, however, that the power to punish without written rules is not limitless and that "the imposition of a severe penalty without a specific rule might be constitutionally deficient under certain circumstances."

A federal district court in Indiana found that the notice requirements of due process were satisfied when the school code enumerated several types of misbehavior that would result in summary suspension and provided examples of behavior that would result in suspension after a hearing.[20] In rejecting a challenge to the statutory powers of a school principal to suspend a student summarily for up to ten days for "serious misconduct," a federal district court in Florida said the term would have been unconstitutionally vague in a criminal statute, but was "readily determinable and easily understood within the framework of the public school system."[21]

In Texas, a federal district court found a regulation that provided for automatic suspension for participating in sit-ins, boycotts, walkouts, etc., to be overbroad and vague.[22] The court said that school officials have the power to bar disruptive activity, but they must aim at the evil they wish to prevent and not make constitutionally protected activities per se illegal. In this case, no standard had been provided by which to judge when the rule would be automatically applied or when students would be subject to the regulation.

● **Notice.** Proper notice involves four different aspects, all of which must be satisfied to comply with procedural due process. The first is notice of the types of conduct that, if engaged in, will subject the student to disciplinary action. This type of notice is discussed in the preceeding section on vagueness and specificity of regulations. The second is notice of the specific charges against the student and the nature of the evidence supporting the charges. The third is sufficient notice of the student's procedural rights before the disciplinary hearing. During the past year and a half the courts considered several of these aspects of notice. A Florida federal district court held that proper notice for a school disciplinary hearing includes notice of the specific charges against the student, the names of the witnesses, and a summary of their testimony.[23] A New Jersey appellate court rendered a similar decision.[24] In an Illinois case in which the acts of misconduct had continued over a period of time and many conferences had been held with the parents, a federal district court found that two days was adequate advance notice of the hearing.[25] In Michigan a student challenged his suspension on the grounds that the written list of charges required by school regulations had not been sent to his parents.[26] A federal district court rejected his claim on the basis that the suspension culminated many specific acts of misconduct. Since the school had sent several letters to the parents, had conferred with them, and called them on the phone, the parents had as much actual notice as they would have received in a written list and the requirements of due process had been met.

● **Search and Seizure.** Until recently, the school's right to search a student's person or his locker has been little questioned. The Fourth Amendment's prohibition against unreasonable searches and seizures, as applied to the states and their instrumentalities through the Fourteenth Amendment, was generally thought inapplicable to school searches. Several recent court opinions, however, have recognized that the school's right to search is not unlimited.

A California decision that considered the Fourth Amendment but found no constitutional violation is illustrative.[27] In this case the principal, acting on information from an informant and the student's intoxicated behavior, ordered him to empty his pockets against his protest and without a warrant. The court said that the Federal Constitution allowed school authorities certain control over students and ruled that in light of the principal's limited alternatives, the search had not been unreasonable under the Fourth Amendment.

17. Griffin v. DeFelice, 325 F. Supp. 143 (E.D. La. 1971).
18. Noonan v. Green, 276 Cal. App. 2d 44, 80 Cal. Rptr. 513 (1969).
19. Hasson v. Boothby, 318 F. Supp. 1183 (D. Mass. 1970). *See also* Melton v. Young, 328 F. Supp. 88 (E.D. Tenn. 1971), permitting a principal to suspend a student for wearing a Confederate flag as an arm patch at a recently integrated high school although there were no written regulations prohibiting it.
20. Beahm v. Grile, ... F. Supp. ....., (N.D. Ind. 1971).
21. Banks v. Board of Pub. Instruction, 314 F. Supp. 285 (S.D. Fla. 1970).
22. Dunn v. Tyler Independent School Dist., 327 F. Supp. 528 (E.D. Tex. 1971).
23. Banks v. Board of Pub. Instruction, 314 F. Supp. 285 (S.D. Fla. 1970).
24. Tibbs v. Board of Educ., 114 N.J. Super. 287, 276 A.2d 165 (App. Div. 1971).
25. Whitfield v. Simpson, 312 F. Supp. 889 (E.D. Ill. 1970).
26. Davis v. Ann Arbor Pub. Schools, 313 F. Supp. 1217, (E.D. Mich. 1970).
27. *In re* G., 11 Cal. App. 3d 1193, 90 Cal. Rptr. 361 (1970).

A New York supreme court held that the already broad power of school officials to search students can be extended to beyond schoolhouse property.[28] In this case the "discipline coordinator" noticed a suspicious bulge in the student's pocket while taking him to his office. The student suddenly bolted and the coordinator pursued him, catching him several blocks from the school. Before the police arrived, the coordinator took possession of the drugs and drug apparatus in the student's pocket. The court held that school authorities must have such power to control, restrain, and correct students as is necessary to perform the duties of a teacher and accomplish the purposes of education.

The Texas Court of Civil Appeals refused to suppress evidence in the case of a student who had been searched by his principal.[29] The student had been absent from an assigned class and was sent to the principal's office. Noticing a bulge in one of the boy's pockets, the principal ordered him to empty them. Under protest, the student removed thirty-seven LSD tablets from his pockets. The court refused to suppress the evidence even though the record failed to show sufficient justification for the search under usual Fourth Amendment standards.

A New York case in which the student was convicted as a youthful offender with evidence seized from his school locker under an invalid search warrant reached the United States Supreme Court for a second time.[30] Convicted in 1966, the student appealed; the case reached the Supreme Court for the first time in 1968. After the Supreme Court remanded the case for further consideration and the New York court completed its hearings and sustained the conviction, the student sought a writ of habeas corpus in federal district court. The court also upheld the admissibility of the evidence and said that since it was the vice-principal who had voluntarily opened the student's locker, the search would have been valid without any warrant at all. School authorities, the district court noted, have an affirmative duty to supervise students and consequently retain sufficient control over their school lockers to be able to freely consent to a locker search. To an appeal from this decision, the Supreme Court has denied certiorari.

The Delaware Supreme Court refused to suppress evidence taken from a student by a vice-principal. The vice-principal suspected the student might have drugs in a coat he was carrying because the student was out of class without permission and had been known to experiment with drugs. Although the student resisted, the vice-principal took the coat, searched it, and found ten packets of hashish. The court recognized that the vice-principal's actions were those of a state official and subject to the restrictions of the Fourth Amendment. It ruled, however, that a principal stands in loco parentis to pupils for disciplinary purposes, and therefore a "reasonable suspicion" was sufficient to justify a search of the student.[31]

Although the decisions reviewed above recognized that student searches by school authorities are subject to at least some Fourth Amendment restrictions, a New York City criminal court recently ruled otherwise. It held that a school official has a duty to investigate when he has a reasonable suspicion that drugs exist.[32] Such suspicion justifies even a search of the person. Since the school administrator does not act in concert with the police, the court considered him to be a private person to whom the Fourth Amendment prohibition against unreasonable searches and seizures does not apply. This conclusion of the nonapplicability of the Fourth Amendment to the school situation is contrary to most decisions in this area.

● **Delay of Hearing.** Due process requires that students be given a hearing within a reasonable time after the act of misconduct. Where the hearing is delayed, the student's argument is analogous to that of a criminal denied a speedy trial. Nevertheless a federal district court in Texas held that the "absence or deficiency of an initial hearing may be cured by a valid subsequent hearing."[33] In this case a twelve-week delay had occurred between the suspension and the hearing. Since the parents had received prompt notice of the suspension and their right to request a hearing, their failure to request the hearing made them responsible for the delay. A Massachusetts federal district court, reviewing the procedure in an expulsion hearing, denied a student's request for a continuance of the hearing pending the outcome of all criminal proceedings. It considered that the delay was not "for a reasonable or ascertainable time."[34]

● **Self-Incrimination.** School disciplinary proceedings have generally been viewed as administrative proceedings that are not sufficiently criminal in nature to require the Fifth Amendment's protection against self-incrimination. The question of self-incrimination usually arises when a student's conduct results in his being charged with a school offense and violating a criminal law. In such situations, students often contend that they cannot be compelled to testify in the disciplinary hearing because the testimony, or leads from it, may be used to incriminate them at the later criminal proceedings. In two New York cases that considered this defense, the argument was rejected and the courts refused to enjoin expulsion hearings.[35] In denying their request, the courts held that the

28. People v. Jackson, 65 Misc. 2d 909, 319 N.Y.S.2d 731 (Sup. Ct. 1971).
29. Ranniger v. State, 460 S.W.2d 181 (Tex. Civ. App. 1970).
30. Overton v. Rieger, 311 F. Supp. 1035 (S.D. N.Y.), *cert. denied*, 401 U.S. 1003 (1971).
31. State v. Baccino, 282 A.2d 869 (Del. Super. 1971).
32. People v. Stewart, 63 Misc. 2d 601, 313 N.Y.S.2d 253 (N.Y. City Crim. Ct. 1971).
33. Pervis v. La Marque Independent School Dist., 328 F. Supp. 638 (S.D. Tex. 1971).
34. Pierce v. School Comm. of New Bedford, 322 F. Supp. 957 (D. Mass. 1971).
35. Johnson v. Board of Educ., 62 Misc. 2d 929, 310 N.Y.S.2d 429 (Sup. Ct. 1970); and *In re* Manigaulte, 63 Misc. 2d 765, 313 N.Y.S.2d 322 (Sup. Ct. 1970).

students could object at the criminal trial to incriminating statements made at the expulsion hearing and that no Fifth Amendment right had been jeopardized.

• **Type of Hearing.** In discussing the type of hearing required by due process, a federal district court in Michigan held that the procedure in an expulsion hearing need not amount to a formal trial procedure "with the right to cross-examine witnesses."[36] Such a requirement, it said, would be an intolerable administrative burden and would disrupt the functioning of the school. The actual procedure would vary on the circumstances from very informal conferences with the staff to a full hearing before an impartial panel.

• **Cross-Examination.** Courts are divided over whether students have the right to confront and cross-examine witnesses at expulsion hearings. A Michigan federal district court said that such a procedure would be "totally at variance with the student-school relationship" and would impose intolerable burdens on the school administration.[37] A federal district court in Illinois also supports this view.[38] A New Jersey appellate court, on the other hand, said that absent the most compelling circumstances, witnesses should be produced at the hearing to testify and be cross-examined.[39]

• **Impartiality of the Hearing Body.** The most fundamental aspect of due process is the right to a fair and impartial hearing. A federal district court in Indiana held that prior official involvement renders impartiality difficult to maintain.[40] It found that when the principal made the initial decision that a suspension action would be brought, sent the notice of the hearing, conducted the hearing, and made findings of fact and conclusions, it was too difficult for him to be sufficiently impartial as the trier of fact for the minimal requirements of due process to be complied with.

• **Sufficiency of Evidence.** A fundamental requirement of due process is that no disciplinary action be taken without sufficient evidence to justify the charge. A federal district court in Indiana said that a school code should include a standard for the quantum of evidence required to support disciplinary action and remanded the case for the addition of such a standard.[41] However, the court found that code requirements for the formal findings of fact met the minimal requirements of due process by requiring written support for the conclusions drawn. A Florida federal district court simply said that the imposition of sanctions "shall only be on the basis of substantial evidence."[42]

36. Davis v. Ann Arbor Pub. Schools, 313 F. Supp. 1217 (E.D. Mich. 1970). *Accord*, Jackson v. Dorrier, 424 F. 2d 213 (6th Cir. 1970), *cert. denied*, 400 U.S. 850 (1971).
37. Davis v. Ann Arbor Pub. Schools, 313 F. Supp. 1217 (E.D. Mich. 1970).
38. Whitfield v. Simpson, 312 F. Supp. 889 (E.D. Ill. 1970).
39. Tibbs v. Board of Educ., 114 N.J. Super. 287, 276 A.2d 165 (App. Div. 1971).
40. Beahm v. Grile, ... F. Supp. ..... (D. Ind. 1971). *Accord*, Matter of Jean Dishaw, 10 Ed. Dept. Rep. ..... N.Y. Comm'r. Decision No. 8176.
41. Beahm v. Grile, ... F. Supp. ..... (D. Ind. 1971).
42. Black Students *ex rel.* Shoemaker v. Williams, 317 F. Supp. 1211 (M.D. Fla. 1970).

• **Transcript.** A federal district court in Massachusetts held that a student does not have a constitutional right to make a stenographic or mechanical recording of his disciplinary hearing.[43] Some states, however, have recently provided for a transcript at school expense to avoid a hearing de novo on appeal.

• **Open Hearing.** Courts have uniformly held that a public hearing is not required for compliance with procedural due process in expulsion hearings. It should be noted that the Sixth Amendment provision for a public trial is not for the benefit of the public; it is for the protection of the accused. This constitutional safeguard is met if two or three neutral observers are allowed in the hearing room. A federal district court in Massachusetts said that a student does not have a right to require a school board disciplinary hearing to be open to the public when a statute authorizes such hearings to be in executive session.[44]

• **Findings of the Hearing.** A Florida appellate court held that a school board finding that a student was "guilty of misconduct as charged" was insufficient to justify expulsion.[45] The court said that one purpose of a finding of fact was to permit judicial review of the administrative decision; when the findings are insufficient to justify expulsion or to permit review, the case will be remanded for further findings. A federal district court in Indiana said that hearing guidelines met constitutional standards when they required the trier of fact to include in his findings of fact all the evidence that entered into his final decision, the reasons for resolving key issues, and the reasons for taking certain actions.[46]

Conclusion

"The history of liberty has largely been the history of observance of procedural safeguards."[47] The issues of procedure just reviewed are primarily concerned with the student's liberty—his right not to be denied a public education unless accorded minimum standards of due process of law. Although many may consider these procedural requirements to constitute a serious interference with internal school discipline, constitutional standards are only requiring that students be treated fairly and granted the type of procedure in expulsion cases that school administrators would demand for themselves if subject to a dismissal action. It should be emphasized that schools are not being denied full authority to regulate conduct calculated to cause disorder and interfere with educational functions. They are only being required to act fairly before they impose the severe penalty of expulsion.

43. Pierce v. School Comm. of New Bedford, 322 F. Supp. 957 (D. Mass. 1971).
44. Pierce v. School Comm., 322 F. Supp. 957 (D. Mass. 1971).
45. Veasey v. Board of Pub. Instruction, 247 So.2d 80 (Fla. Ct. App. 1971).
46. Beahm v. Grile, ... F. Supp. ..... (D. Ind. 1971).
47. Felix Frankfurter in McNabb v. U.S., 318 U.S. 322, 347 (1943).

Municipal Administration Classes

GRADUATION exercises for the Institute's 18th annual course in Municipal Administration and the 8th annual course in County Administration were held at the Institute on May 20, 1972. (See page 8 for Art Jones's commencement address.) There were 70 members in the two sections of the 1972 Municipal Class, the largest in the history of the course.

Ralph Carlson, Assistant Director of Utilities for Shelby, was named winner of the George C. Franklin Award, which is made each year to the most distinguished graduate of the Municipal Administration Class by the N. C. League of Municipalities.

Joseph Sanders, Coordinator for Wake County, won the most distinguished member award given each year to the outstanding graduate of the County Administration Class by the North Carolina Association of County Commissioners.

The members of the city and county classes are pictured and their names listed on these two pages.

County Administration Class

Municipal and County Administration Graduates

MUNICIPAL ADMINISTRATION CLASS (I): **Fred P. Baggett,** Associate City Attorney, Raleigh; **Ernest G. Barfield,** Town Manager, Princeville*; **Larry G. Beck,** City Planner, Lexington; **Nannette Mercer Boykin,** Adm. Asst., Williamston; **Roger A. Briggs,** Chief, Western Field Office, N. C. Division of Community Services; **Charlotte Cole,** Town Clerk, and Treasurer, Hillsborough; **Donald T. Davis,** City Administrator, Morehead City; **Robert C. Drumwright,** City Clerk and Tax Collector, Graham; **Harvey C. Foust,** Recreation Director, Morganton; **William W. Gillespie,** Purchasing Agent, Gastonia; **Clarence E. Grubb,** Asst. Dir. Pub. Utilities, High Point; **C. W. Hemmingway,** City Clerk, and Finance Director, Jacksonville; **Alfred Herring,** Administrative Clerk, Warsaw; **Z. B. Hill,** Asst. Finance Director, Raleigh; **Glenn Ivey Hodge, Sr.,** Chief Insp. and Zoning Adm., Garner; **Joseph E. Johnson,** Chief Inspector, Asheville; **James M. Law,** Utilities Engineer, Raleigh; **Donald G. Lewis, Jr.,** Asst. City Manager, Laurinburg; **Kenneth M. Michalove,** Municipal Coordinator, Asheville; **James W. Mills,** City Manager, Wendell; **Henry P. Moss, Jr.,** City Manager, Beaufort (S.C.); **James Craven Mullen, Jr.,** Tax Clerk, Garner; **Edward D. Owens,** Chief Inspector, Raleigh; **Morris A. Robertson,** Police Lieutenant, Winston-Salem; **James Edwin Robinette,** Adm. Asst. to City Mgr., Gastonia; **Donald W. Roseman,** Chief of Police, Gastonia; **William C. Singletary, Jr.,** Supt., of Recreation, Raleigh; **Charles R. Southerland,** Dir. of Public Works, Goldsboro; **Howard W. Spell,** Tax Collector, Clinton; **William G. Stewart,** Accountant, Greensboro; **Harold E. Strong, Sr.,** Adm., Div. of Comm. Serv., State of North Carolina*; **Carroll M. Sullivan,** Fire Chief, Morganton; **Dillon F. Watson,** City Planner, Greenville; **Raymond G. Welch,** Asst. Traffic Engr., Greensboro; **Virginia S. Whitfield,** Town Clerk, Mebane.

MUNICIPAL ADMINISTRATION CLASS (II): **Archie G. Andrews, Jr.,** Code Enforcement Supervisor, Greensboro; **Murdies R. Arnold,** Assoc. Dir., Charlotte-Mecklenburg Community Relations; **Ronald C. Aycock,** Executive Director, Region L Council of Governments; **Graham C. Beachum,** Public Works Asst. Dir., Raleigh; **J. William Becton,** Executive Director, Human Relations Comm., Durham; **Marion L. Berkley,** Safety Coordinator, Raleigh; **Mark Burnham,** Regional Planner, Research Triangle Regional Planning Commission; **Russell J. Byerly,** Director of Finance, Thomasville; **Ralph Carlson,** Asst. Dir. Utilities, Shelby; **David W. Duncan,** Sewerage System Engr., Charlotte; **James C. French,** Director of Personnel, Durham; **Bill Guy,** Staff Attorney, N. C. League of Municipalities; **Ronald C. Harrell,** Dir. of Utilities, New Bern; **George D. Harrelson,** Town Manager, Kernersville; **Thomas Wayne Horne,** Adm. Asst., Lumberton; **Ernest T. Jefferson,** Assistant Town Manager, Cary; **Ralph H. Lassen,** Asst. Dir., Central Area Office, Comm. Resources, Dept. Nat. and Econ. Resources; **David Austin Little,** Supt. Sanitation, Wilmington; **Dale W. Long,** Chief Zoning Insp., Charlotte; **Perin Mawhinney,** Chapel Hill; **John K. McNeill, Jr.,** Asst. Dir., Eastern Office, Div. Comm. Serv., Dept. Nat. and Econ. Resources; **J. Foster Owen,** Dir. Finance and Personnel, Salisbury; **Robert N. Pressley, Jr.,** Asst. City Engr., Charlotte; **David E. Pruden,** Asst. City Mgr., Shelby; **C. Mark Raby, Jr.,** Director of Finance, Rocky Mount; **James E. Robinson,** Asst. Dir. Rec. and Parks, Burlington; **Chesley Burgwyn Sellers, Jr.,** Supt. Publ. Bldgs. and Maint., Wilmington; **Robert C. Smith,** City Engineer, Asheboro; **Sherrill J. Smith,** Assistant Fire Chief, Durham; **Steven F. Watts,** System Design Manager, Charlotte; **Simon Algah White, Jr.,** Personnel Analyst, Charlotte; **Bobby R. Williams,** Lieut., Director of Juvenile Div., Goldsboro Police Department; **Max E. Wineinger,** Supt. of Sanitation, Raleigh; **William H. Wood, Jr.,** Asst. City Engineer, Wilmington; **Gary A. Workman,** Asst. to City Manager, Newton.

COUNTY ADMINISTRATION CLASS: **Walter C. Allen,** Personnel Tech., Mecklenburg; **Christopher Fulk,** Asst. Budget Director, Forsyth; **S. Leland Grady,** Tax Collector, Duplin; **Edward D. Harper,** Purchasing Agent, Forsyth; **B. F. Helms,** County Planner, Moore; **Kenneth D. Hill,** Engineering Administrator,

(Continued on page 10)

*Because of unavoidable personal and official obligations, these class members were unable to meet attendance requirements. Certificates will be awarded to them after they have attended make-up sessions.

MORE IS NOT BETTER

by Arthur W. Jones

A DOZEN YEARS AGO, when I was a member of the Charlotte-Mecklenburg Chamber of Commerce board of directors, the newly elected president asked for ideas to consider for the upcoming year's "program of work." In response, I suggested that we form a committee to develop ways and means of limiting the growth of metropolitan Charlotte. When this blasphemy became known, everything hit the fan. I was a traitor to the Chamber's cause of more and more growth, a bigger city with more and more businesses and industries and greater and greater payrolls to spend in more and more stores and service facilities, with more profits and more dividends to stockholders. I was a treacherous, perfidious, disloyal, treasonous, shortsighted human Trojan Horse. I was nominated to be tarred and feathered and run out of town on a rail—all for suggesting that **more is not better.** Had I stomped on the flag, besmirched motherhood, and profaned the Deity, all at once, there would have been less outcry from the establishment. Sacrilege! Heresy! I was **daring** to attack and bring calumny upon the sacred cow—the god of Gross National Product!

Today, bolstered by some years of experience in the state legislature, which, like all legislatures, unsuccessfully and frustratingly tries to deal with our social ills, I am even more firmly convinced that, in the words concluding the report of the Commission on Population Growth and the American Future, "We can no longer support the uncritical population growth ethic that 'more is better.'"

Since I am not a professional in demography, ecology, and related human sciences, let me cite the testimony of a few experts. Sir Julian Huxley says, "Population is the problem of our age so severe that it has initiated a new and critical phase in the entire history of the species. The middle ages were brought to an end by a major revolution in thought and belief which stimulated the growth of secularization at the expense of significance in art and religion, generated the industrial-technological revolution with its stress on economics and quantitative production of goods at the expense of significance in quality, human values and fulfillment, and culminated in what we are please to call the Atomic Age, with two world wars behind it, the threat of human annihilation before it, and an ideological split at its core." (In the last 60 years, there have been more murders, more brutality, and more destruction than in any comparable period previously: more human beings have been killed than in all previously recorded history!)

And now we are in the beginnings of **another** major revolution affecting human destiny, with ecology and humanism in the forefront of thought and action. Instead of thinking that we'll master the world and perhaps ruin it in the process (but not really caring because we're going to an afterworld anyway in our primitive "two-world" system of thought), the aim of the new revolution is to achieve a balanced relationship between man and nature in **this** world, here and now, and attain equilibrium between human needs and this world's resources. Dr. René DuBos points up our dilemma: ". . . the age of affluence, technological marvels and medical miracles is paradoxically the age of chronic ailments, of anxiety and even utter despair."

Paul Ehrlich puts it this way: ". . . the explosive growth of the human population is the most significant terrestrial event of the past million millenia . . . no geological event in a billion years, not the emergence of mighty mountain ranges, not the submergence of entire subcontinents, nor the occurrence of periodic glacial changes, has posed a threat to life on earth comparable to that of human overpopulation."

Roland Usher warns: ". . . the immediate danger to the safety and future well being of this country lies in the unwillingness of the American people to believe the incredible." Let me paraphrase that—the immediate danger to the safety and future well being of this country is the unwillingness of this audience to believe what Art Jones will say in the next fifteen minutes.

When U Thant stepped down as Secretary General of the United Nations, he warned: "I do not wish to seem overdramatic, but I can only conclude from the information available to me as Secretary General, that the members of the United Nations have perhaps ten years left in which to subordinate their ancient wars, curb the arms race, save the environment and defuse the population explosion. If such a global partnership is not forged within the decade ahead, I deeply fear that these problems will have reached such staggering proportions that they will be beyond our capacity to control."

Robert McNamara, President of the World Bank says, ". . . over 50% of

those living on this finite planet today are condemned to a standard of living plagued by deprivation, indignity and a poverty corrosive of human decency, characterized by hunger and malnutrition, high infant mortality, low life expectancy, illiteracy and chronic unemployment. Social tensions, political turbulence and inevitable irrational eruption into violence are the final fruits of unmanageable population pressures."

A few weeks ago, the 100 scientists who comprise the Club of Rome reported on the limits to growth and concluded that our society's short-term concerns generate the present exponential growth that is driving the world to the earth's limits and ultimate collapse. Read it . . . you'll like it!

A few months ago, Britain's leading scientists reported in **Blueprint for Survival** that ". . . Unrestricted industrial and population expansion must lead to the breakdown of society and of the life-support systems on this planet . . . probably by the end of the century and most certainly within the lifetimes of our children. Our governments are either refusing to face the relevant facts or are deliberately briefing their people in such a way that the seriousness is played down: result: we are muddling our way to extinction."

THE UNITED STATES DOES NOT have a population policy. However, Congress may have taken the first step two years ago when it authorized the Commission on Population Growth and the American Future. Last month that commission made its final report to the Congress, the President, and the American people, advocating such a policy. President Nixon, rejecting major provisions, condemned it out of hand and it was obvious that he hadn't even read the report. He timed his release so that it was within 24 hours of a letter giving total support to the Roman Catholic Church in its efforts to nullify New York's progressive abortion law. In vetoing the law that would return women to the dark ages, Governor Rockefeller properly cut the President off at the knees, both for his views and for gratuitously interfering with state legislation. The only thing the President could be "wronger" on is the obscenity in Indo-China, which, as John Knight said recently, now brings us to the brink of World War III.

We are a nation dominated by materialism—devoted to production of "things." Given our background, it is not surprising that most of our leaders are profit oriented businessmen of the "Fortune 500" variety, who still believe that a soaring population is the golden key to solving any creaks and kinks our society and economy may develop. Up to now, the prevailing Chamber of Commerce mentality has assumed that population and industrialization could expand infinitely and unrestrictedly on this finite planet. The exact reverse is the case.

Consider the following: (1) Nobel prizewinner Borlaug says that today's starvation and malnutrition (which result in **23,000 deaths each day**) will rise to massive proportions in the next two decades, despite food-production breakthroughs.

(2) to stave this off, the environment is being manipulated and the more pesticides we use to produce food, the larger quantity and the higher strengths we will have to use.

(3) the more forests we cut down, the more flood control dams must be built.

(4) our technology moves more and more people into the cities that already are in deep trouble; and in your life time they will double in size and become even more unmanageable.

(5) mental illness, anxiety stresses, and psychosomatic disease are increasing, and new studies show these can be biologically inherited from mother to child.

(6) vast housing gaps remain and will grow greater, while we have to run like hell just to keep up with our present housing miseries.

(7) problems in educating the young are growing. Just look at the continuing defeat of school bond issues.

(8) crime and our inability to control it increase daily. It has risen nine hundred percent since J. Edgar Hoover took over the FBI.

(9) drugs, poverty, ghettos, racism, unemployment—all are growing.

(10) despite new technological methods, the waste disposal problem is becoming insoluble; and atomic waste disposal **is** insoluble.

War itself is directly or indirectly the result of population pressures. Our 5 per cent of the world's population, now requiring and getting over 60 per cent of all the free world's raw material resources, will in the next two decades demand nearly 100 per cent of all such resources. These **countries are NOT going to let us have them.** Copper mines and oil wells are being nationalized; ITT is losing its holdings in parts of South America; and etc. This is the wave of the future and it sets the stage for even more war, because behind all wars are economic stresses made steadily worse by ever increasing population.

Now with the Carolina Population Center at Chapel Hill, the author delivered the commencement address at the graduation of the Institute's 1972 Municipal and County Administration class. This article is adapted from that presentation.

Japan's population pressures were the real reason for Pearl Harbor. Having lost the war for more territory, she turned to family planning and a national policy of cheap or free abortion and stabilized her population in 25 years. Hitler cried **Lebensraum**—living room—for his high-birthrate Germans. The present fight in Vietnam is not for the reasons advanced by Nixon and the Pentagon military-industrial establishment. Indo-China is the rice bowl of the entire world, and whoever controls that part of the Orient's food supply will control the Orient. Note that just the Orient's increase in population over three years equals the entire U. S. population; and these people will demand food.

Thus we see that population pressures at present rates of growth will **continue** the deterioration of the quality of life and, in the opinion of most leading scientists, eventually lead to the collapse of civilization, most likely within our children's or grandchildren's lifetimes, when demographers project 10 to 14 billion humans on earth.

Grim? Yes—but there is hope. It lies, and **only** lies in immediate all-out effort to stop expotential growth. We **must** seek a stationary population by equalizing births and deaths in all countries of the world, including, if indeed not starting, in our country.

HOW IS THIS TO BE DONE? It is not simple: it is highly complex. It cannot be immediate. In this country it will take 50 to 75 years, although Japan did it in less than half that time largely through adopting a national policy of legal, cheap (if not free) abortion, plus massive education in family planning.

The first step is a goal of a two-child instead of a three-child average family. A two-child average family in the year 2072 would result in a population in the United States of 350 million

people; a three-child average family would result in a staggering 1 billion!

The first step in achieving an average of two children per family would be to eliminate unwanted fertility, the the objective being not restriction, but rather the enrichment of human life that is produced. Great economic and social benefits would accrue.

According to the findings and recommendations of the Commission on Population Growth and the American Future, the following implementations are in order within the framework of a responsible national population policy and program:

- Federal enactment of a Population Education Act to help provide school systems with well-planned population education programs.
- Massive national programs of information about human sexuality and responsible parenthood based on understanding and knowledge.
- Adoption of the proposed Equal Rights Amendment to the Constitution in order to neutralize the traditional encouragement to bear children and to elimination discrimination based on sex, thus opening careers other than mother and housewife for women.
- Avoidance of unwanted births through increased research in contraception and the popular availability of the results, enabling all—regardless of age, marital status, or income—to avoid unwanted births.
- Availability of abortion services, although with the admonition that termination of early pregnancy **not** be considered a primary means of fertility control.
- Extension and improvement of all other fertility-related services, such as sterilization, prenatal, and pediatric care.
- No increase in legal immigration and stoppage of illegal immigration.
- Provision of national population distribution guidelines to help local, state, and regional planning. This would mean greater control over land use.

Finally, we should welcome and plan for a stationary population, which among other things, would (1) increase per capita income; (2) increase discretionary spending per family; (3) free more women for the labor force, especially in provision of **services** rather than in production of more goods; (4) curtail growth of perambulator sales, but increase sales of golf carts; (5) swap a numerically bigger market for one relatively smaller but richer; (6) help realize the goal of a higher quality of life for all.

THIS IS THE RATIONAL, sane approach. Those who refuse to join in this effort automatically join those who, insanely, will eventually force an increase in the death rate. And what does it profit this generation to gain the whole world, only to bequeath to their children and grandchildren a world in which they find life far less worth living—a world in which the Four Horsemen (war, famine, disease, and wild beasts) will inevitably ride roughshod over humans unfortunate enough to follow those of this generation who are so ignorant or unwilling that they are breeding themselves to death?

Will we equalize births and deaths? **Will** we be willing to slow industrial growth to the point that investment in new, non-polluting plants will not exceed the retirement of the old? **Will** we abandon "planned obsolescence"? **Will** we trade our desire for material goods for a preference for services, recreation, creative talent, personality skills, music, art, and libraries?

I would like to hope that as a society we can and will do these things voluntarily as befits an informed, democratic society. I hope that the realization sinks in that our nation no longer can afford to uncritically accept the traditional population growth ethic that "More is Better."

But if enough people continue to so believe, and if enough people agree with our president in rejecting outright the only way out of our dilemma and thereby nullifying the promising, fruitful study and recommendations of our most knowledgeable and world-reputable leaders in these matters, then I'm pessimistic. In that case, some future president will be compelled to recommend that Congress impose necessary governmental coercions that will trample underfoot our present ideas of constitutional rights and marital privacy and substantially diminish personal liberties—this in order to achieve family limitations.

Let me put it another way: the story is told of an OEO field worker assigned to carry the message and program of family planning to the upper reaches of West Virginia's high mountains and coves. He was explaining to two old, wrinkled, weather-beaten codgers the true meaning of unchecked population growth. He said, "Do you know fellas, that somewhere in the world there is a woman that gives birth to a baby every one-third of a second!" "Wow," said one, "Don't you think somebody oughta find her and stop her?" But the worker kept on "And if something isn't done to stop population growth, in 25-50 years those beautiful West Virginia mountain sides will be covered with **houses**, standing **back-to-back**!" "Wow!" said the other old fella. "And if something isn't done, in 50-100 years these hillsides will be covered with **people standing back to back**!" Whereupon, after a thoughtful moment, the first one said, "Well, Luke, you know **that** will stop it fer sure!"

Well, it will be stopped, "fer sure"; (1) **we** can stop it, voluntarily and sanely or (2) **government** will stop it sooner or later, involuntarily and coercively, or (3) **nature** will eventually stop it, savagely and insanely.

Time is running out for us to make our choice. As the barker running the pea-under-the-nutshell game at the county fair used to say, "y'pays yer money 'n takes yer choice." We must make our choice, and as Terry Sanford says: "Carry the message—it's later than we think."

Graduates *(Continued from page 7)*

Forsyth; **Ralph R. Hunter**, Auditor-Tax Collector, Washington; **M. Kramer Jackson**, Planning Director, Northwest Planning Council; **Odessa Priddy Johnson**, Assistant to County Manager, Rockingham; **R. G. Leary**, Asst. County Manager, Onslow; **George D. Morris, Jr.**, Housing and Community Dev. Specialist, State of North Carolina, Div. Comm. Services; **W. Sanders Mosley**, Dir. of Data Processing, Forsyth; **Donald R. Nichols**, Asst. Dir., Piedmont Triad Criminal Justice Planning Unit; **Richard M. Perkins**, County Manager, Burke; **Joseph Sanders**, Coordinator, Wake; **George A. Seay**, Manager's Office, Guilford; **John T. Smith**, Tax Supervisor, Iredell; **Herschell F. Snuggs**, County Manager, Stanly; **Nicholas E. Vlaservich**, Delinquent Tax Collector, Gaston; **Stella Newton Womack**, Assistant Auditor, Rutherford.

The CHARLOTTE-MECKLENBURG CRIMINAL JUSTICE PROJECT: A Report

by Douglas R. Gill

In mid-1970 the Law Enforcement Administration (LEAA), a part of the United States Department of Justice, asked the City of Charlotte and Mecklenburg County to participate in LEAA's "Pilot City Program." This nationwide program was designed to provide eight medium-sized metropolitan areas with research and analysis staff in an attempt to improve criminal justice.

The city and county decided to participate in what has become known as The Mecklenburg Criminal Justice Pilot Project and sought staff from the Institute of Government. The Institute faculty members who participated are: Stevens Clarke, lawyer; Douglas Gill, lawyer; Gloria Grizzle, public administrator; Ronald Lynch, police administrator; and Richard McMahon, psychologist. Clarke, Gill, and Grizzle have continued with the project, while Lynch has left for another position in Georgia and McMahon has returned to other work at the Institute. Following is a brief description of the work that has comprised the Pilot Project.

The Pilot Project has tried to (1) provide assistance in local efforts to apply analytical approaches to "criminal justice" planning and program development; (2) undertake research that gives reasonable promise of being useful in supporting local efforts to improve criminal justice; and (3) develop tools for defining and diagnosing problems and for approaching the development of ways to cope with these problems. The Pilot Project has approached these tasks such that local capabilities have been improved in the process.

These tasks have been embodied in three forms: staff work for committees and councils, work with individual agencies, and independent research. A description of each of these follows.

WORK WITH COMMITTEES

The Community Drug Action Committee. Working with the Community Drug Action Committee has been an attempt to combine the knowledge and talents of people informed about drug abuse in Charlotte-Mecklenburg with systematic planning techniques. Work with the committee was undertaken as part of the Pilot Project partly to exemplify what can be done to cope with complex social problems at the community level. The program resulting from the committee's work has been endorsed by 22 local agencies and presented to the State Drug Authority, the State Law and Order Division, the State Department of Mental Health, the National Institute of Mental Health, the Law Enforcement Assistance Administration, and the Bureau of Narcotics and Dangerous Drugs. Applications for federal grants to implement the program are now being developed.

The Community Drug Action Committee was originally appointed by the mayor of Charlotte. It has twenty-seven members, including representatives of various county, city, and private agencies concerned with drug abuse in Charlotte-Mecklenburg and some private citizens. Gloria Grizzle began work with the committee in the early summer of 1971 after the Charlotte City Manager's office approached the Institute of Government about staff assistance for the committee. At that time the committee had existed for several months and was eager to progress toward its goal—overseeing the development of a comprehensive program to combat drug abuse. The committee's first move after Miss Grizzle began working with it was to decide which method it would use to arrive at a comprehensive

program. It then directed its subsequent efforts in conformity with that method. The major elements of the committee's work were:

1. A survey was conducted to discover what drug-related activities were already being carried out by agencies, physicians, ministers, and industries in Charlotte-Mecklenburg. Projects being tried by other communities throughout the nation were reviewed, and 44 project ideas for this community were proposed.

2. As a tool for clarifying what results were expected from the drug program, the Committee developed a model describing what it believed to be the relationships of various factors leading to drug abuse and its consequences. The proposed projects were then assessed by identifying those factors in the model upon which each project would be expected to have an impact. The assessment of each project also included judgments about the likelihood that the impacts would be realized, the relative desirability of various impacts, target groups that would be reached, and the cost of implementing the project.

3. The interrelationships of projects were then examined to determine compatible clusters of projects and the appropriate staging needed in order to arrive at a comprehensive program.

4. Finally, the funding level recommended for each group of projects was re-examined to determine whether the amounts recommended were reasonable in terms of the staffing, equipment, and other expenses required to implement the program.

5. An evaluation design was developed for the preventive and law enforcement parts of the program. In order to lay a baseline for evaluating the preventive efforts, questionnaires were filled out by students in 43 junior and senior high schools in Charlotte-Mecklenburg on March 15.

The Delinquency Prevention Planning Committee. The Delinquency Prevention Planning Committee is an ad hoc group of representatives from thirteen various private and public law enforcement, educational, social service, and mental health agencies. It was organized in April-May 1971 on the initiative of the Bethlehem Center (a Methodist settlement house), the chief court counselor, and the supervisor of Charlotte-Mecklenburg school social workers. The committee sought to plan a comprehensive program for alleviating school adjustment problems (truancy and disruption) as a way of controlling delinquency. The committee was not established by authority of any public agency or official. It includes representatives from the directors of most private agencies serving children and youth and also includes members who work for many of the public agencies. Many of these latter members, however, sit essentially as individuals rather than as representatives of their agencies.

The committee's procedure was to invite separate proposals from each member agency, classify these by function and need served, establish priorities informally, and then produce a working draft of the outline for a comprehensive interagency program.

The Mecklenburg Criminal Justice Council. The new work with the Mecklenburg Criminal Justice Planning Council is an attempt to extend versions of the analytical technique used with the Drug Action Committee to a group with broader concerns.

The Planning Council is a ten-member group appointed by the city and county managers with the central task of preparing

> . . . for Charlotte-Mecklenburg . . . a written criminal justice improvement program outlining the major goals and approaches for criminal justice improvement for a five-year period. The statement would indicate the approximate level of spending for each element of the approach. The statement would serve to channel the efforts of personnel from operating agencies who develop criminal justice projects, especially those intended to use federal funds. (Statement adopted February 17, 1972.)

The council's membership includes representatives (state and local) from police, court, and correctional agencies.

The council has performed a number of tasks, including allocating available grant funds, and is now, before proceeding further with developing an approach to its works, awaiting the preparation of background papers on (1) the harm caused by various crimes (2) some descriptive statistics about the criminal justice system, and (3) basic improvements that have been undertaken in other jurisdictions.

WORK WITH INDIVIDUAL AGENCIES

The Charlotte City Manager's Office. The Pilot Project's work with the city manager's office has included developing some information on the extent and nature of public drunkenness in Charlotte and passing on some of the material on handling public drunks prepared by Michael Crowell. The Pilot Project has also prepared a paper outlining some of the issues in using LEAA funds and has sat with an informal group attempting to design an approach for the manager's office to use in developing a capability for analyzing problems and evaluating activities, with an initial focus in the criminal justice area.

The Mecklenburg County Manager's Office. The county is serving as the organizational home for a pre-trial release program in Mecklenburg County. Stevens Clarke is beginning an evaluation of that

The author whose field at the Institute is criminal justice, heads up the Institute team that serves as resource staff to the Charlotte-Mecklenburg's pilot study in the administration of criminal justice.

program to determine what savings in jail time it is effecting and what price, if any, it is paying in increased nonappearance for trial.

The Charlotte Police Department. The work done with the Charlotte Police Department includes (1) working with the Personnel and Training Bureau in considering a new approach to training recruits, (2) outlining an approach for systematically assigning patrol manpower, and (3) Ronald Lynch's developing and running a management training course that includes some members of the Charlotte Police Department.

The Juvenile Diagnostic Center. The county-supported Juvenile Diagnostic Center (primarily a pretrial detention facility for juveniles) has recently begun a federally funded project aimed at diverting adjudicated delinquents from training schools by providing the judge an alternate—a probation-like setting. Richard McMahon assisted substantially in developing the proposal that led to initial funding of the program, and Clarke is now beginning an evaluation of that program to (1) determine to what extent delinquents who would otherwise have been assigned to training school are now handled by the diversion project, and (2) compare the relative effects of the diversion project and training schools on rearrest and school adjustment of the juveniles.

RESEARCH

Continuance Study. With the cooperation of the solicitor and the assistant solicitors, Clarke collected and tabulated the reasons for continuing cases in the district and superior courts for a one-week period. Each assistant solicitor carried in his pocket a tablet of forms upon which he indicated the reason for each continuance granted in his court.

Calendar Analysis. Data were tabulated from copies of daily court calendars from each court handling criminal cases to provide a count on the outcome of each appearance of a case before the court, including dispositions of cases that are not final (principally continuances). These data have been compiled in two fairly simple charts under Clarke's direction.

Court Case Histories. This research, also carried out by Clarke, is based upon a large sample of jackets containing the documents on criminal cases. The research is providing information on the length of time from arrest to disposition of various kinds of cases and numerous other data such as the amount of time that a defendant spends in jail while awaiting trial.

Analysis of Relationship Between Crime Rates and Census Data. Gloria Grizzle is undertaking a statistical analysis of the variation in rates of various crimes from one census tract to another. She hopes to determine the extent to which the variation in crime rates can be "explained" by the differences in social and economic conditions reflected in census data.

Analysis of Trends and Seasonal Fluctuations in Crime Rates. Gloria Grizzle is also doing an analysis of reported crime rates for the years for which data are available. The analysis can be used to help make a short-run projection of future crime rates, including their seasonal fluctuations.

Mecklenburg Tax Office Receives Award

The Mecklenburg County Tax Supervisor's Office has been chosen to receive a New County USA Achievement Award for its computerized real property revaluation program by the National Association of Counties (NACo).

The New County Award is presented to counties for improvement of government services. Mr. Rodney L. Kendig, director of the New County USA Center, congratulated the Mecklenburg County Tax Supervisor's Office for its contribution to more effective county government.

Mecklenburg decided to convert from a manual to a computer-oriented system of property appraisal for the 1971 revaluation. Revaluation—the updating of property values to equalize taxes—is required in North Carolina once every eight years. Already the most populous county in North Carolina, Mecklenburg's population is expected to grow to three-quarter million by 1990. This fact, coupled with a booming building rate, made it essential to modernize procedures so that the appraisal staff could keep pace with the county's rapid rate of expansion.

The Mecklenburg system is notable for many reasons. When the computer is fed raw material gathered by appraisers, who visit each parcel, it is able to print out the descriptive data, sketch the building, calculate the square footage, apply the base appraisal rate, compare this with the market data, and finally compute the appraised and assessed value. Most of these time-consuming and error-prone tasks were previously performed manually.

Other assets of the system are the ability to store a vast amount of information, the immediate retrieval of this information, and the use of video display terminals to allow the public to obtain various information simply and quickly. Because property records can be updated continually, the new system will also significantly simplify and reduce the cost of future revaluation programs.

Tax Supervisor Robert P. Alexander says the new appraisal system made the 1971 revaluation the most accurate and equitable ever experienced in Mecklenburg. For the first time, all three principal techniques

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by Philip P. Green, Jr.

COMMENT

IMPROVING LOCAL PLANNING BOARDS

RECENTLY I WAS ASKED to speak on "The True Role and Responsibility of Local Planning Boards." The phrasing of the title struck me, since it clearly implied that something had gone wrong and that planning boards were not exercising the role and responsibility for which they were designed. This raised the question of what that role and responsibility were supposed to be.

As a lawyer, I have a tendency to look first at the law when I am seeking an answer to a problem. So in seeking to discover the true role of a planning board, I first looked at G.S. 160–22—the statute under which municipal planning boards have operated in North Carolina since 1919. Here I found the following statement:

"Every city and town in the State is authorized to create a board to be known as the Planning Board, whose duty it shall be to make careful study of the resources, possibilities and needs of the city or town, particularly with respect to the conditions which may be injurious to the public welfare or otherwise injurious, and to make plans for the development of the municipality." (Since 1945 counties have been authorized to create planning boards under almost identical language in G.S. 153–9 [40].) This was the first "role and responsibility" of a planning board in North Carolina—to make studies and to prepare plans.

Then as various legal tools were developed for carrying out plans, further references to the planning board appeared in the statutes: by 1971 a planning board was legally necessary in order to prepare a zoning ordinance (G.S. 160–177; G.S. 153–266.15) and to advise the governing board as to amendments (G.S. 153–266.15); to administer subdivision regulations (G.S. 160–266.3; 153–266.4); to carry on an urban renewal program (G.S. 160–456, –462, –463); and to prepare an economic development program (G.S. 158–13). So here are further legal responsibilities.

The recent comprehensive revision of the basic laws of our state relating to municipalities, which went into effect through the efforts of the 1971 General Assembly on January 1, 1972, continues these responsibilities with respect to zoning, subdivision regulation, urban renewal, and economic development. But it includes a new listing of basic powers and duties of a "planning agency":

> (1) Make studies of the area within its jurisdiction and surrounding areas;
> (2) Determine objectives to be sought in the development of the study area;
> (3) Prepare and adopt plans for achieving these objectives;
> (4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
> (5) Advise the council concerning the use and amendment of means for carrying out plans;
> (6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct;
> (7) Perform any other related duties that the council may direct. [G.S. 160A–361.]

So much for the legal role and responsibilities of the planning board. If I were a "strict constructionist" I might say, "This is all there is to be said." But let's try to put a little meat on these dry bones and see what actually has been the role of planning boards and then what I think should be their role.

First, a little tour through history: Why did our statutes (and others like them around the country) call for the creation of a nonpaid citizen appointive planning board as an essential element of a local planning program? This is a strange device, found nowhere else in the world to my knowledge.

To understand this, we must look at the nature of the draftsmen who prepared this legislation. The two most important were Alfred Bettman of Cincinnati and Edward Bassett of New York City. Both were reformers, products of the "muckracking" period, who deeply distrusted the politicians who were elected to govern our cities and who had no experience with professional local officials such as city managers (who were themselves an outgrowth of the same period). Bassett and Bettman hoped to create independent planning agencies, composed of public-spirited and influential citizens (like themselves) who could rise

above the day-to-day cares of petty politicians and administrative officials and develop true long-range and broad-gauged plans for the city's development. They were less concerned with how those plans might be carried out.

So we see in their writings that the planning board is to be composed of members of what is now called the power structure of the community. They point out that it is a mechanism through which the city can secure the services of prominent persons who do not care to engage in the turmoil of a political campaign, or who live in the suburbs and would not be eligible for office in the central city, or who wish to get a grounding in municipal problems before running for office. The terms of these members should be greater than the terms of elected officials and should be staggered, so that no political faction could unduly influence the make-up of the board. The planning board should have no direct contact with the administrative officials of the city, lest it be diverted into solving day-to-day problems rather than devising long-range plans. It should have authority to hire and fire its own staff and should be almost completely independent in its use of that staff.

In other words, the planning board was regarded as sort of an Olympian group, composed of the "real" public-spirited power structure of the community, concerned alone with long-range problems and plans, standing aside from the government and perhaps a little bit contemptuous of those lesser creatures dealing with day-to-day problems.

WELL, AS YOU MIGHT SUSPECT, this was just too much. Planning boards that tried to operate this way soon found that they were having little or no impact on the course of events. So in the late 1930s and early 1940s there was a pronounced shift in the thoughts of the planning theorists, towards the concept of a full-time planning department, squarely within the normal governmental structure, hired and fired by the manager and directly responsible to him, with immediate inputs into the decision-making processes of local government. The planning board had served its time and now it should be discharged.

Unfortunately for this view, most planning legislation called for the creation of a planning board if you wished to have a planning program, and there seemed to be problems in changing all this legislation. So the planning board was continued, while all our cities that could afford one hired a full-time planning department and the others made use of professional consultants. The planning board then floated along on the edges of reality, occasionally being asked to advise the professional planners as to the attitudes of the community and routinely being asked to fulfill its statutory duties of advising the council on the approval of subdivision plats and the disposition of proposed zoning amendments. Even in this role it wasn't very good, because it lacked professional expertise that would give its advice some technical value; and because real community leaders didn't much care to waste their time in such a reduced capacity, its membership usually didn't carry enough political weight to be able to influence the council on major issues.

I don't mean to offend anyone with this description of the general state of affairs, but my observation has been that the average planning board contributes very little to true planning within its community; the planning is done either by professionals or not at all. The advice that it gives to the council is either largely as a mouthpiece of the professional planning staff or is largely worthless. The planning board has little influence either with the community or with the council.

NOW WHAT DO I THINK should be done to revive the planning board, give it a significant role and responsibilities, and make use of untapped potential? In the first place, it seems quite obvious that the weakest part of most current planning programs is in the determination of goals and objectives. Looking back at the new statutory listing of duties of the planning agency, we see that the determination of objectives falls between the making of studies (which tell us what the situation is) and the making of plans (which tell us how to arrive at our objectives). This is a matter that the professional planner is not well suited to handle. Ordinarily there are any number of alternative objectives that could be sought in any given field. Many of these are of equal merit from a professional standpoint, and the choice among them should properly reflect community attitudes and desires rather than professional norms. This selection is thus more a political than a professional determination, and the planner is not usually a good politician —or for that matter, even a native of the community. So here is a natural role for the planning board. It should constitute the focal point and leadership for community-wide consideration of goals, objectives, problems, and policy alternatives.

As I see it, the primary reason for the weakness of most planning boards in fulfilling this function (of setting goals and objectives) is that they are too narrowly based. The statutes have until now limited their membership to between five and nine, and they are rarely a representative group. But the new municipal statute authorizes a planning board of any size and composition (so long as there are at least three members). It seems to me that we ought to embark on an era of much larger and more representative planning boards, which could thoroughly explore the possible goals of the community and make a realistic (politically, economically, and socially) selection. This is a task in which the community leaders can be enlisted and should be enlisted.

Secondly, to me it seems obvious that many of the plans being prepared are pedestrian and not

broad-gauged enough, and they fail to represent the best available judgment and intelligence within the community. In part because of this, the advice given to the council (supposedly based upon these plans) is too often second rate. To break out of this trap, an effort should be made in each community to attract to the enlarged planning board that is now possible the best brains within the community. This means people with every type of relevant training and experience. Their knowledge will be invaluable both in selecting the objectives and in the development and critical analysis of plans to achieve those objectives. And from them can be selected those best qualified to advise the council on particular types of issues, or to make administrative determinations such as approval of subdivision plats—not as the full planning board speaking on every issue but as a group of specialized boards. Advice from such groups will carry weight—particularly when it proceeds from a background of participation in the promulgation of goals, objectives, and plans of a comprehensive sort.

Third (and this may seem the most radical idea of all), I believe that a major function that planning programs are supposed to perform (but often do not) is to help coordinate governmental programs. It seems to me ridiculous that nonpaid citizen boards are making policy decisions in every aspect of local government with no common reference points—and consequently their decisions come into frequent conflict. I suggest that the planning board ought to include the full membership of the board of education, the board of social services, the redevelopment commission, the housing authority, the recreation commission, the board of health, the library board—of all other such boards in your community. These should participate in determining goals and objectives, should participate in making unified plans that affect their functions along with others, and should in the process gain some understanding and background knowledge of the general policies and principles to be followed in achieving a better community.

IN SUM, I AM SUGGESTING that our planning boards be drastically reorganized; that they become larger and more representative, that they include far more of the persons with specialized knowledge who are available in every community, and that they include the membership of all the other policy-making boards in the community. I am suggesting that the full membership of this large board should pass upon goals and objectives for the community, and that these goals and objectives not be limited to physical development as at present but encompass social and economic goals as well. I am suggesting that this large group be broken down into specialized committees which would join in the making of specific plans to achieve objectives and which would have specialized roles in advising the council on particular types of matters. For the routine administrative tasks of approving subdivision plats or passing on proposed zoning amendments, utilities extensions, the appearance of proposed public buildings, etc., there would also be specialized committees. But they would all be working within a larger framework, both organizationally and conceptually.

With this type of organization and this type of concept, I believe our planning boards could take a true leadership role in developing better communities and ultimately a better state—the role which was hoped for by those who first provided for the creation of planning boards. Without some new shot in the arm of this or another sort, I am afraid that our planning boards will simply mummify, without the dignity of a pyramid to mark their final resting place.

Book Review

THE NEW DEAL IN THE SUBURBS: A History of the Greenbelt Town Program, 1935-1954, by Joseph L. Arnold. Columbus, Ohio: Ohio State University Press, 1971. 246 pp. and bibliography. $10.00.

At a time when ordinary citizens as well as planners are taking a fresh look at the possibilities of new town development for providing new solutions to social, economic, and environmental problems, this slim book provides much of interest. The author has been exceedingly diligent in ferreting out the human factors as well as governmental actions which led to the building of Greenbelt, Maryland; Greenhills, Ohio; and Greendale, Wisconsin. Unlike other such projects, in that they were designed to relieve unemployment and resettle the poor at the same time as they were pioneering new design approaches, and burdened with a necessity for undue haste in their construction, these towns failed of ultimate success. But the author illuminates both successes and failures in such a way as to make this a valuable record of experience—as well as a highly interesting book to read. (PPG)

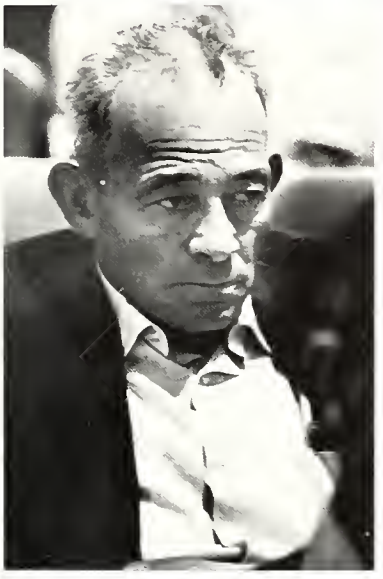
Tax *(Continued from page 13)*

of appraisal (market, cost, and income approaches) were used extensively and appraisals average 90 per cent of market value, considered an excellent standing.

There are many side benefits to the system, including the use of data by other departments (e.g., planning and building inspection) and increased public service. Officials from more than fourteen states have come to look at the Mecklenburg system, and the general feeling is that the system's potential is only beginning to be tapped.

The Tax Supervisor's Office is the second Mecklenburg County department to be awarded a NACo award. The Child Development Day Care Program of the Social Services Department was chosen to receive an award in April. County representatives are expected to attend the National County Convention in Washington June 25-27 to formally accept these awards for Mecklenburg County.

PEOPLE



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