POPULAR GOVERNMENT

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

Social Security / School Suspension Policy /
The South / Recidivism / The Legislature

Summer 1977

POPULAR GOVERNMENT

Vol. 43 / No. 1 Summer 1977

Cover Photo: This issue contains two articles on the South. The cover photos are images of southern scenery and people. The sunflower was photographed by Fred Pierce of the Chapel Hill Newspaper. The pictures of Franklin County's Laurel Mill (Clay Nolen, photographer) and of the fishermen were courtesy of the Travel and Promotion Division, Department of Natural and Economic Resources. The line drawings in this issue were done by Ted Clark.

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Published four times a year (summer, fall, winter, spring) by the Institute of Government, the University of North Carolina at Chapel Hill, #438300. Country Club at Raleigh Road, Chapel Hill. Mailing address: Box 990, Chapel Hill, N.C. 27514. Subscription: per year $6.00. Second-class postage paid at Chapel Hill, N.C.

Dropping Out of Social Security: Pro and Con

H. Gray Hutchison, Sr.

Editor's Note: Inflation and the monthly increase in the cost of food is a problem recognized by each employee, legislator, commissioner, and councilman. The eventual cost of Social Security or a vested retirement allowance is more difficult to comprehend. When the present is filled with many uncertainties, not many people try to look at the long-range consequences of "popular" courses of action urged by friends or friendly interest groups.

Congress periodically has broadened Social Security coverage and increased the average Social Security benefit. Today all private employees and 78 per cent of the 12,000,000 state and local governmental employees have Social Security coverage. Tremendous pressure is exerted on Congress to increase Social Security benefits because 30 per cent of private-sector employees have no other retirement program. If the needs of these private employees are to be met by Social Security alone, will public and private employees who have Social Security as a supplement to their full retirement allowance receive excessive benefits? Will the cost of an increasingly expensive Social Security program and a full retirement system be burdensome? For example, the "escalator" or automatic cost-of-living provision effective since 1972 has increased the average Social Security benefit by 23.3 per cent in the past five years. This provision increased Social Security benefits by 6.4 per cent in 1976 and by another 5.9 per cent on July 1, 1977. The latter increase will boost the cost of Social Security by $5.3 billion for the year ending September 30, 1978. On the other hand, are these increases proper and necessary for all employees, including state and local employees, in this time of rapid inflation?

In North Carolina, 220,000 state employees are covered by Social Security. These include all state employees except 825 extension employees who belong to the federal retirement system and a few thousand part-time exempt college students who work on college campuses. All state employees except those in temporary positions also belong to one of two statewide retirement systems, the Teachers' and State Employees' Retirement System or the Law Enforcement Officers' Benefit and Retirement System.

In North Carolina local government, all 100 counties and nearly all cities and towns have brought their employees under Social Security. An estimated 112,000 local government employees in North Carolina are covered by Social Security. Less than 2,000 policemen and firemen in eight major cities are now exempt from Social Security coverage as a result of their public employment. Most of these policemen and firemen enjoy at least minimum Social Security coverage because of past military service, self-employment, or moonlighting. Each of the exempt policemen or firemen belongs to at least one public retirement system. An estimated 55,000 of the local government employees covered by Social Security also belong to the Local Governmental Employees' Retirement System.

Urged on by retired teachers and state employees, North Carolina legislators have enacted cost-of-living adjustments for retired local and state employees of 47.4 per cent since 1969 (3 per cent in 1970, 4 per cent in 1971, 3 per cent in 1972, 3.4 per cent in 1973, 6 per cent in 1974, 8 per cent in 1975, 7 per cent in 1976 and 6.5 per cent in 1977 (7 per cent to persons retired before July 1, 1975) and 6.5 per cent in 1978.

During 1976 newspaper headlines reported that New York City's financial crisis was forcing the city to terminate Social Security coverage for 362,000 employees or 90 per cent of the New York City employees under Social Security. Smaller headlines in newspapers across the country noted that 188 other jurisdictions that employ 84,660 persons had filed notice of intent to withdraw from Social Security during 1977 and 1978. These included the State of Alaska, several cities in California, Louisiana, and Texas, and Burke and Forsyth counties in North Carolina, among others. The board of county commissioners in each of the two North Carolina counties gave notice of intent to withdraw from Social Security effective July 1978.

Social Security coverage is mandatory for private-sector employees. Because of the constitutional question that prevents the federal government from taxing state and local

governments, Social Security was made optional for state and local governments. The act extending Social Security coverage to public employees provided that (1) action to terminate coverage of public employees must be taken by the state rather than by employees; (2) the state must give two years' advance notice of its desire to terminate Social Security coverage; and (3) once coverage has been terminated for a group of employees, it can never again be provided for that group.

Although the city of New York in February 1977, acted to cancel the notice of withdrawal and the employees of Burke and Forsyth counties represent less than .5 per cent of all state and local employees in North Carolina, the action of their governing bodies raises questions that should interest some of the 332,000 North Carolina state and local employees who are covered by Social Security.

(1) What benefits does Social Security today extend to covered employees or to the survivors of a covered employee?
(2) What will Social Security cost employees in the future, and what benefits will it provide in the future?
(3) What are the reasons for and against a governmental unit's withdrawing from Social Security?
(4) Will other state and local governmental programs suffer if Social Security and retirement programs are not coordinated more carefully in the future?
(5) Can a reasonable retirement income policy be established for public employees when benefits are determined by two independent authorities, one federal and one state? If so, how?

The following article includes excerpts from a speech by H. Gray Hutchison, Sr., president of Hutchison and Associates, Inc., Raleigh, to the County Finance Officers' Conference at the Institute of Government in Chapel Hill on March 1, 1977. Because of its length, the entire speech could not be reproduced here. Benefit tables and statistical information have been updated to reflect the automatic cost-of-living adjustment effective July, 1977. We hope that the information provided by Mr. Hutchison will help state and local officials be better prepared to answer the first three questions listed above. We also hope that the article will encourage consideration of the final two questions.

Mr. Hutchison acknowledged assistance and quoted at length from the following sources: *Public Hearings Before the Sub-Committee on Social Security, April 26-28, 1976*, U.S. House of Representatives, Committee on Ways and Means; *Public Employees' Pension Funds*, Robert Tilove, Columbia University Press, 1976; *Reference Manual on 1976 Social Security and Medicare*, Commerce Clearing House, 1976.

Donald Hayman

SOCIAL SECURITY AFFECTS each and every one of us — either directly or through a member of our family. It is of special interest to finance directors, since local governments have a choice of remaining in or getting out. As an employer, they must know the facts in order to inform employees and help local government officials make a wise decision on remaining in or dropping out of Social Security.

Social Security has had two major goals since the beginning: (1) to provide benefits related to wages, and (2) to help eliminate poverty. The first could be called the "insurance element" and the second the "welfare element." Since the two factors have separate purposes, they must be considered individually. Congress has always had to balance the two.

The antipoverty welfare element accounts for (1) the high replacement ratios for employees with low average earnings; (2) the wife's benefit (although that provision reduces substantially the value of Social Security to a working wife); and (3) benefits to minor children and wives of disabled workers. It also accounted for the fresh-start eligibility requirement of 1951, which permitted newly covered employees to become eligible for benefits quickly. Obviously, a large contribution is therefore needed to support the welfare element, and that subtracts from what is available for the insurance element.

As to the insurance element, it has been possible to argue that every worker would receive more than he contributed. However, by taking the employer contribution into consideration, a case can be made that for some groups of employees greater benefits could be provided by a combination of these contributions without Social Security. But calculations of this kind have invariably overlooked the history of repeated liberalization of Social Security.

Social Security benefits

Eligibility. Most employees are at least vaguely familiar with the benefits provided by Social Security. The provisions are detailed, and only the major requirements for benefits are outlined here. Eligibility for most benefits payable under Social Security requires that the individuals be "fully insured." A public employee can attain "fully insured" status by having 40 quarters of coverage or by having one quarter of coverage for each calendar year after 1955 (or the year in which he becomes 21) before the year he died, became disabled, or attained age 62. A person is "currently insured" if he has at least six quarters of coverage during the thirteen-quarter period ending with the quarter in which he dies or becomes entitled to old-age or disability benefits.

Retirement benefit. The key to determining a person's level of benefits under Social Security is his "primary insurance amount" (PIA). To determine the PIA, it is necessary first to determine the individual's average monthly wage. The average monthly wage having been determined, the primary insurance amount can be calculated from a formula or from tables published by the Social Security Administration. Table 1 shows the formula on an incremental and

cumulative percentage basis to the maximum covered wages. This formula points up the "welfare element" of Social Security.

A fully insured individual retiring at age 65 or later is entitled to a monthly old-age benefit equal to his primary insurance amount. If he retires between 62 and 65, his full benefit is reduced five-ninths (5/9) of 1 per cent for each month that the benefit is paid before age 65.

The wife of a man entitled to old-age benefits qualifies for a wife's benefits if her husband has reached 62 and the couple has been married for at least one year. The woman who begins to receive a wife's benefit at age 65 or later receives a monthly benefit of half her husband's primary insurance amount. This holds true even though her husband's benefits were reduced for his early retirement. However, if she accepts payment before 65 and has no eligible child in her care, her monthly benefit is permanently reduced.

Survivor's benefit. Each child of a person who died fully or currently insured qualifies for benefits. If the child is under age 18 and is unmarried, the benefit is 75 per cent of the primary insurance amount, subject to the maximum family benefit limitations. The child's benefit stops when he dies, marries, or reaches age 18 unless he is disabled or a full-time student at an educational institution and younger than 22. The widow of a man who died fully or currently insured qualifies for a mother's benefit if she is not remarried and has an eligible child in her care. The benefit is 75 per cent of the primary insurance amount.

When the last child becomes ineligible for benefits, all benefits to the widowed mother cease; however, if her husband died fully insured, she is eligible for a widow's benefit after reaching 60 if she has not remarried. The amount of the benefit is 100 per cent of the primary insurance amount at 65 but may be received as early as 60. If the widow accepts early benefits, the full benefit is reduced by nine-fortieths (9/40) of 1 per cent for each month the benefit is paid before age 65.

Disability benefit. A totally and permanently disabled individual under 65 qualifies for disability benefits if he meets the statutory test. His disability benefit equals 100 per cent of the primary insurance amount.

A five-month waiting period precedes the start of disability benefits. A worker is eligible for disability (a) if he would have been fully insured had he been 65 (62 for a woman) when his waiting period began, (b) if he has at least 20 quarters of coverage in the forty-quarter period ending with the current quarter, and (c) if he is disabled as defined by law. A person's disability benefits continue until his disability ceases, he dies, or reaches 65.

Maximum and minimum benefits. The minimum primary insurance amount after June 1977 is $114, regardless of the amount of the worker's average monthly wage. The total of all benefits payable on the basis of an individual's earnings cannot exceed the amount set forth in the maximum benefit table (see Table 2).

Cost-of-Living adjustment in benefits. Since July 1972, an "escalator provision" has provided for automatic cost-of-living increases in benefits when the consumer price index increases by 3 per cent or more between certain base quarters. The base quarter is either the first quarter of a year or any calendar quarter

Table 1

Computation of Primary Insurance Amount
July 1977

Average Monthly Earnings	Benefit as a % of Average Monthly Earnings	Cumulative	
		Average Monthly Earnings	% of Average Monthly Earnings
1st $110	145.90%	$110	145.90%
Next 290	53.07	400	78.60
Next 150	49.59	550	70.69
Next 100	58.29	650	68 78
Next 100	32.42	750	63.93
Next 250	27.02	1,000	54.70
Next 175	24.34	1,175	50.18
Next 100	22.96	1,275	48.05

Table 2

Social Security Benefits as Percentages of Average Monthly Covered Earnings and Maximum Benefit
July 1977

Average Monthly Earnings	Primary Benefit		Primary and Wife's Benefit		Maximum Family Benefit	
	Amount	%	Amount	%	Amount	%
$ 76 or less	$114.30	150	$171.45	226	$171.45	226
100	147.10	147	220.65	221	220.65	221
200	208.70	104	313.00	157	313.00	157
300	261.00	87	391.50	131	428.15	143
400	315.40	79	473.10	118	575.25	144
500	364.40	73	546.60	109	668.60	134
600	418.60	70	627.90	105	740.70	123
700	452.20	65	678.30	97	809.80	116
800	492.40	62	738.60	92	861.70	108
900	519.50	58	779.25	87	909.15	101
1,000	546.50	55	819.75	82	956.40	96
1,100	570.90	52	856.35	78	999.00	91
1,200	594.70	50	892.05	74	1041.00	87
1,275	611.70	48	917.55	72	1070.40	84

in which a legislative benefit increase becomes effective. There is no automatic increase in benefits in a year that follows immediately a year that had a legislative increase. The 6.4 per cent increase in benefits effective July 1976, and the 5.9 per cent increase in benefits effective July 1977 were automatic increases. Congress has raised the maximum wage base in the tax rate schedule every time the benefits have been increased in the past.

Taxability of benefits. Social Security benefits are exempt from the federal income tax. North Carolina and most other states exempt Social Security benefits from state income taxes. Benefits payable to survivors, including the lump-sum death benefit, are not subject to federal estate tax.

Medicare. Medical benefits for aged persons under federal government sponsorship include: (a) a basic hospital insurance plan ("Part A" Medicare) financed under the Social Security program, providing for "certain hospital and related" care benefits, and (b) a voluntary supplementary medical insurance plan ("Part B" Medicare). These benefits are jointly financed by contributions from participants and general revenues and cover physicians' and surgeons' charges and certain other health services. Of the 5.85 per cent of the first $15,300 of salary that covered employees pay into Social Security (this is matched by a tax on employers), 0.9 per cent goes for "Part A" Medicare. This hospital insurance rate is currently scheduled to go up gradually to 1.5 per cent as the total tax is increased gradually to 7.45 per cent in the year 2001.

Part A Medicare is provided for those who have reached 65 and are eligible for benefits under the Social Security Act. Some people who are not eligible for retirement benefits by the usual test may be eligible under the Basic Part A plan because of several special eligibility provisions.

Since July 1, 1973, a person who is 65 or over but is not entitled to old-age benefits and does not qualify as transitionally insured may voluntarily enroll in the basic plan. He must be a resident and citizen of the United States or a resident alien who has lived in the United States for five continuous years preceding enrollment. Furthermore, he must also be enrolled in the supplementary medical insurance program (Part B). Any public or private organization including a state may enroll its employees on a group basis. Those who voluntarily enroll must pay a monthly premium. The premium for July 1, 1976, through June 30, 1977, is $45 per month.

The increasing rates for Social Security and hospital insurance have been of particular concern to firemen and policemen, who already have adequate staff retirement programs and frequently moonlight in Social Security jobs to qualify for a minimum benefit. For them, full participation in Social Security would mean an additional tax and reduction of take-home pay.

Reasons for dropping out of Social Security

Social Security trust fund is going broke — Pro. The rapid increase in benefits in the last few years, 68.3 per cent since 1969, has rapidly depleted the Social Security trust fund. There has been considerable publicity in the media about this fact, and this has heightened uneasiness among those who have the option of dropping out of Social Security. This is not unlike the situation in which a rumor that a bank is about to go bankrupt panics depositors, who hastily withdraw their funds and thus create a run on the bank, completing a self-fulfilling prophecy.

Social Security trust fund is not going broke — Con. In recent years higher wages and the higher cost of living have been reflected in abnormally high increases in Social Security benefits. Because of the number of people covered under So-

President Carter's proposals for financing Social Security

In his May 9 message to Congress, President Carter proposed that Social Security's growing deficits be eliminated by means of a large tax increase for employers, a gradual increase in the wage base on which employees must pay taxes, a small tax increase for self-employed workers, and the transferral of general tax revenues to the Social Security Fund in periods when unemployment is over 6 per cent. Although Congress may enact some of the recommendations during 1977, most of the recommendations may not be seriously considered until 1978.

The following are the principal recommendations included in the President's proposed program:

(1) The wage base upon which employers would pay Social Security taxes would be increased in three annual steps — from $16,500 to a maximum of $23,400 in 1979, to a maximum of $37,500 in 1980, and on all wages in 1981.

(2) The $16,500 wage base upon which employees now pay taxes is scheduled to increase automatically in the future with increases in the cost of living. The proposed amendments would increase the wage base an additional $600 in 1979, 1981, 1983 and 1985.

(3) The Social Security tax rate paid by both employers and employees would increase 0.25 per cent in 1985 and 0.75 in 1990.

(4) The self-employed tax rate would be increased beginning in 1979 from 7 per cent to 7.5 per cent.

(5) The benefit formula adopted in 1972 has been revised. Future benefits will increase at the same rate as wages, but the ratio of benefits to final earnings will not exceed 45 per cent at retirement.

(6) Up to $14 billion of U.S. general treasury revenue will be transferred to the Social Security Trust Fund through 1982 to replace payroll taxes, which were not collected because unemployment rates after 1975 exceeded 6 per cent.

cial Security and particularly because of the number about to begin receiving benefits, Congress will not allow the Social Security system to go bankrupt. It will support the system with general revenues before it will allow bankruptcy. Because private-sector benefit plans are coordinated with Social Security, elimination of Social Security would be very disruptive for the total pension program of the country and the national economy. The recent enactment of the Employee Retirement Income Security Act and its guarantee of benefits is evidence that Congress intends to support both the public and private pension field as part of an overall national objective. The use of general revenue funds for the welfare portion of Social Security is appropriate. If this were done, the insurance portion of the Social Security program could be made actuarially sound.

Fear of higher payroll taxes — Pro. Payroll taxes have risen more rapidly than the cost of living. Despite the tax increases, there has been agitation for greater contributions by both employees and employers in order to maintain the "solvency" of the Social Security system. A number of governmental units have elected to drop Social Security because employees and governmental employers fear rising taxes and feel that they could do better with their money invested elsewhere.

Payroll taxes will not rise sharply — Con. Today millions of people are paying more Social Security taxes than income taxes. Social Security has been criticized for being a regressive tax — one that places a greater burden on those in the lower income levels. Congress has repeatedly delayed increases in Social Security tax rates because of this problem. Advocates of using general revenues to support the welfare portion of Social Security are calling for an equal sharing of costs by general revenues, employers, and employees. Since the work force is diminishing and the number of people collecting benefits is increasing, general revenues may be a logical solution. Recent unemployment has reduced Social Security tax receipts and increased the number of older workers retiring. As the unemployed are helped to find jobs, the flow of taxes to the Social Security trust fund will increase.

Withdrawal increases take-home pay — Pro. Many of the employees urging governmental units to withdraw from Social Security are now covered by adequate staff retirement programs, have a spouse who is covered by Social Security, are already fully insured, or have earned minimum benefits on a moonlighting job. Withdrawal from Social Security would increase their take-home pay by 5.85 per cent and free the employers' contribution for a 5.85 per cent salary increase. Studies in two major cities in North Carolina have shown that policemen and firemen decided to stay out of Social Security because of the additional payroll deduction. Many of the policemen and firemen were moonlighting and had earned minimum Social Security credits on a "windfall benefit" basis.

National Social Security system necessary — Con. Pension plans and Social Security were originally established because it is human nature to "live for today." If Social Security is to be a national program consisting of part welfare and part insurance benefits, there is no valid argument for excluding any employees, whether they be state or local employees, federal civil servants, or workers for nonprofit corporations. There is considerable support in Congress now for mandatory coverage of every citizen. Constitutional issues continue to pose problems, but alternatives are being considered whereby the employee can be required to come under the plan even if the employer cannot constitutionally be mandated to pay his share of the tax. This would be accomplished either by providing half-benefits based on employee contributions or by resolving the constitutional issue and requiring that state and local governments participate as other employers. Anything short of total mandatory coverage for all the nation's employees results in adverse selection, as moonlighting or short-service employees draw benefits from another system and also from Social Security without fully contributing to Social Security.

Local government fiscal problems — Pro. Financial aid was given to New York City during its recent financial crisis by the federal government on the condition that the city put its finances in order. Some people have suggested that New York City withdraw from the Social Security program. Withdrawal would save $253 million in employer contributions per year and increase city workers take-home pay by a similar amount. The total cost of retirement plans, including Social Security, to the city of New York is $1,601 million. While Social Security represents a very small part of this total, unfortunately the New York State Constitution prevents the reduction of benefits in its other plans. The only way for the city to save money is to withdraw from Social Security.

Withdrawal from Social Security will not solve local fiscal problems — Con. Analysis of the financial implications of withdrawing from Social Security has revealed the following information. Of the 362,000 New York City employees who were to have been taken out of Social Security, approximately 100,000 would have no other coverage and thus would be deprived of benefits altogether. In the event of retirement, death, or disability, they or their survivors might be forced to the welfare roles for direct welfare payments. According to some estimates, it would cost $62 million more than the city was paying into Social Security to replace all of its benefits for city employees.

This fact and strong employee opposition to withdrawal caused New York City to cancel its request for withdrawal from Social Security. However, New York City's basic problem is unresolved. Over-liberal pension plans negotiated with labor unions permit many employees to retire on more than their effective take home pay. Under the New York Constitution, retirement plans cannot be reduced or offset by Social Security.

According to media reports, San Jose, California, which has withdrawn from Social Security, had improved benefits for employees by 25 per cent at a savings to the city. Actually, costs were redistributed, and the city picked up additional costs. Employees in the low-paying categories contributed less and those in high-paying categories contributed more. The motivation to withdraw came from collective-bargaining discussions initiated by the employees, most of whom had ten years of participation in Social Security and thus could not lose their benefits.

A study made for California state employees, who have not yet withdrawn, indicated that a payroll replacement would require a cost of 12.3 per cent of the payroll.

An actuarial study for the state of Alaska indicated that full replacement of all Social Security benefits would require a cost of 22 per cent of the total payroll; the cost of partial replacement would be 12.5 to 19.25 per cent of total payroll.

If large number of public employees do withdraw after qualifying for minimum benefits, payroll taxes will go up. This might result in direct federal subsidies to the program. If this happens, the people who have withdrawn from Social Security and are entitled to either minimum or no benefits may in effect still be paying via income taxes with all other citizens for the welfare portion of Social Security.

Better private pension plans — Pro. The principal argument for those who advocate withdrawal from the system is that, because they would not have to pay for the welfare portion of the program, they could get greater benefits for their money. A detailed comparison of benefits of a young and an older employee is discussed in the following section.

Better private pension plans — Con. The case for withdrawal is usually centered on the employee with ten or more years of Social Security coverage or the employee who anticipates retiring at an early age after twenty or twenty-five years of public employment and membership in a retirement system.

Calculations of that kind invariably omit the history of repeated liberalization of Social Security benefits. A static comparison of a private pension plan and Social Security can never be valid. Such a comparison is now inappropriate as the statutory escalation provision makes the ultimate value of Social Security so much greater. Robert Tilove has calculated the value of Social Security retirement benefits for a single male who was 34 in January, 1937, and retired at the end of 1976. The value of the benefits provided by the 1939 law would have been 5 per cent less than the value of total Social Security taxes paid on the man's wages, assuming his earnings remained the same. However, the value of his actual benefits was more than three times the value of total contributions on his behalf and more than six times his own contributions.

Another actuary, Paul Jackson, found that over the period 1950 to 1968, Social Security benefits, excluding Medicare, had increased at an annual rate of about three times the cost of living and 25 per cent faster than weekly pay.

The following problems must be faced by a governmental unit that withdraws from Social Security and promises employees that they will be provided comparable benefits. (1) All employees with less than ten years of coverage under Social Security will lose their benefits, and another pension plan must be provided to replace all benefits. (2) Future employees will be ineligible for the underlying base of Social Security benefits and must be provided the full range of benefits. Employees leaving government service would have their Social Security benefits reduced by the lost years of service. Employees with ten years of coverage would lose disability benefits after five years because of the additional requirement for disability retirement. (3) Because of the cost-of-living factor in Social Security, any comparison must not be based on a static assumption of continuation of present wages or other actuarial assumptions to provide a fixed benefit at retirement. Contributions that would provide a 100 per cent benefit based on present earnings would produce only about 70 per cent as a result of a higher cost of living after retirement, assuming a 5 per cent increase per year. (4) All Social Security benefits are, by statute, exempt from federal income taxes and from North Carolina income taxes. Benefits from other programs that come from employer contributions are fully taxable at retirement. Employee contributions under current tax laws are taxed either on a full recovery of contributions or under the annuity rule that exempts permanently a portion of the benefits for the rest of the lifetime of the participant, with the remainder being fully taxable. (5) The difficulty of replacement in the private market, because of the substantial benefits now in existence, has both a market limitation on the underwriting of benefits and a cost of replacement.

Social Security benefits and private plans

Tables 3 and 4 illustrate the difference between Social Security benefits provided to a young employee and an older employee. For the young employee, the private insurance industry provides a form of survivor's insurance with a specified percentage of pay to a widow and an additional percentage for each dependent child, but the normal limit on this is 50 per cent of income. In Table 3 we see that for the first 17 years, 94.18 per cent of income is provided; for the next two years, 80.73 per cent is provided; and for the next two years, 40.37 per cent. Social Security will provide no further income to the widow (because there are no dependent children) until she reaches age 65, at which time she will be entitled to draw 53.82 per cent of income. She may take a reduced benefit at age 60.

For disability, private carriers normally limit their coverage to 66 2/3 per cent and at the most to 70 to 75 per cent of income. They are reluctant to go higher than this because with the tax-free aspects of

Table 3

Social Security Benefits For Young Employee
July 1976

1. Assumptions:

Man: Age 29	Current compensation:	$10,710.00
Wife: Age 26	Current average monthly compensation:	$10,290.00
Children: Ages 1, 3, 5	Average monthly compensation at 65:	$10,710.00

2. If employee died immediately, the survivor's benefits (combining widow and children's benefits) would be:

Years of Payment	Benefit
1-17	$840.60 per month
18-19	$720.60 per month
20-21	$360.30 per month
22-39	None
For life	$480.40 (widow's benefit at age 65)

3. If employee became disabled immediately the monthly disability benefits would be:

Years of Payment	Benefit
1-19	$840.60 per month (max. benefit)
20-21	$720.60 per month (worker + ½ for one child)
For life	$480.40 per month (worker only)

4. If employee lives to age 65 (assuming no salary increases), retirement benefits would be:

Worker:	$489.40 per month (beginning at age 65)
Wife:	$183.49 per month (beginning at age 62)
Together:	$672.89 per month

5. If employee dies after retirement, the benefit to widow would be: $489.40 per month

Table 4

Social Security Benefits for Older Employee
July 1976

1. Assumptions:

Man: Age 50	Current compensation:	$15,300.00
Wife: Age 47	Current average monthly compensation:	$ 7,286.00
Children: Ages 22, 24, 26	Average monthly compensation	$11,081.00

2. If employee died immediately, survivor's benefits would be:

Years of Payment	Benefit
0-18 years	None
For life	$399.20 per month to widow at age 65

3. If employee became disabled immediately, the monthly disability benefits would be (after waiting period):

Years of Payment	Benefit
0-15 years	$399.20 per month (disability)
For life	$399.20 per month (retirement)

4. If employee lives to age 65 (assuming no salary increases), retirement benefits would be:

Worker:	$496.90 per month (beginning at age 65)
Wife:	$186.34 per month (beginning at age 62)
Together:	$683.24 per month

5. If employee dies after retirement, the benefit to widow would be: $496.90 per month

disability income, the disabled employee could be netting more during his convalescence than his regular take-home pay. This might encourage the employee to continue in his disability status rather than recover and return to work. Table 3 shows Social Security paying 94 per cent compensation for the first 19 years, 81 per cent for the next two years, and 54 per cent from then until 65, at which time the disability income becomes a retirement income in the same amount. Disability coverage therefore is very difficult to replace in the private market.

We estimate that the cost of Social Security survivor's benefits would run from 2.4 to 3 per cent of pay in Table 3 and disability from .75 to 1 per cent of pay for a range of from 3.15 to 4 per cent. Even if the benefits could not be fully replaced by a private plan, we estimate that 4 per cent of payroll saved in Social Security taxes would have to be earmarked for this partial replacement.

If the employees' own share of Social Security were accumulated at 6 per cent interest, it would amount to $74,633 at age 65. Converting this on the basis of a full benefit for the worker at 65 and a reduced benefit for his wife at 62, a total of $557 would result on a joint and 72 per cent survivor basis (which is equal to Social Security).

If, in addition to the employee contribution, one-third of the employer contribution were also accumulated at 6 per cent interest, the combined joint and 72 per cent survivor benefit would have increased to $740.80 at age 65. On the surface this would appear to be a much better buy than Social Security, as shown in Table 3.

However, as was mentioned earlier, Social Security has a built-in automatic cost-of-living increase, and most actuaries would assume, on the basis of past experience, that at least a 5 per cent cost-of-living increase following retirement should be built into any retirement plan. A private pension plan without this feature would have the effect of reducing the amount of income beginning at 65 by 5 per cent. It is estimated that the joint and 72 per cent income

payment of the private plan would amount to $518.56, which is less than that projected for Security. In addition, it would be necessary to purchase Medicare at $45.00 per month per person. This would further reduce this income by $90.00 per month, leaving a net of $428.56 as compared with the $672.79 under Social Security.

Table 4 indicates the Social Security benefits for an older employee if the governmental unit should withdraw from Social Security. It should be noted that while the current compensation of this older worker is 50 per cent greater than the compensation of the younger worker, his current average monthly compensation for Social Security purposes is $7,286, compared with the younger worker's $10,290. This is accounted for by the dropout of five years, thus leaving higher years of earnings for the younger worker than for the older worker.

In the survivor's benefit area, Social Security provides no benefits immediately if the children are over 18; however, a survivor's benefit to the widow of 40 per cent of income could be paid under a private plan to age 65, whereas no benefits are paid under Social Security. In the area of disability, the private plan could pay 66 2/3 of benefit versus the 31.31 per cent under Social Security in this particular example. This points up that for individual cases, private benefits can be equal to or greater than Social Security, but the problem must be viewed in the context of the total benefits for a single individual and for all employees of a governmental unit.

If the older worker's employer withdrew from Social Security, he and his wife, on a joint benefit and 72 per cent survivor's benefit, would still have $439.73 when he reached 65. This results from his having ten years of coverage. His average wage comes down, but his benefit does not reduce that dramatically.

If his own contributions to age 65 are accumulated at 6 per cent, they would amount to $20,833. This converts to a joint benefit and 72 per cent survivor benefit of $155 per month. Using the employee's own contribution plus one-third of the employer's, the employee and his wife would receive $207 per month when he reached 65. Assuming a 5 per cent cost-of-living increase after retirement, the benefit that could be purchased would reduce from $206.77 to $144.74. If this were added to the Social Security, even though his unit has withdrawn from Social Security, the older employee would receive a total of $584.47 per month. This is less than he would receive if he had continued with Social Security to 65. Medicare would not have to be deducted from this as in the case of the younger employee, since the older employee is fully insured and he and his wife would be entitled to Medicare.

Conclusions

Because of the complexities of replacing Social Security benefits, no unit should terminate Social Security without a complete and exhaustive actuarial study by a qualified actuarial consulting firm. Even though such a study may show that for a particular unit it would be to the employees' interest to withdraw because of windfall profits and other particular circumstances, it is questionable whether public policy should permit taking advantage of the system and the other Social Security taxpayers in this manner — especially in view of the welfare aspect of the program that should be borne equally by all citizens.

The issue of withdrawing from Social Security is forcing Congress to look realistically at the problems of the system. The following issues should be included in any reassessment of the system: (1) a decoupling of the wage and cost-of-living increase, which have caused most of the recent financing problems; (2) the possible use of general revenues to finance the welfare portion of the program, thus making the insurance part more viable; (3) extension of coverage to all citizens of the country, including state and local governmental employees, employees of nonprofit organizations and federal civil service; and (4) either removal of the right to or imposition of severe penalties on organizations that do elect to withdraw from the plan. □

A Primer on Due Process for Student Expulsions

Robert E. Phay

UNTIL RECENTLY, when a public school decided to suspend or expel a student it had to meet very few procedural requirements. Education was considered a privilege, not a right, and courts generally did not review school expulsions. Today education is considered a right that cannot be denied without proper reason or without following proper procedures. Courts now require that students be accorded minimum standards of fairness and due process of law before they may be suspended or expelled.

In most states, these procedural requirements arise from the state and federal constitutions. The most important requirement comes from the Fourteenth Amendment to the United States Constitution, which says that no person shall be deprived of "life, liberty, or property, without due process of law." Still, due process requirements do not impose any particular practices on the school disciplinary procedure. Due process is a flexible concept, and whether it is afforded in a particular case depends on the circumstances of that case.

The exactness and formality required of the procedure used in student discipline depend on the seriousness of the punishment that may be imposed. Thus, if the only penalty that may be given is an extra assignment or a detention after class, no formal procedure is usually required. At one time, only if the case involved long-term suspension or expulsion was the school legally obliged to give the student such guarantees as a notice and a hearing and to take action only when the charges are supported by the evidence. But in a recent decision the United States Supreme Court has extended some of the due process requirements to all school suspensions regardless of duration. Another federal court recently ordered that full procedural safeguards apply whenever a student is to be transferred from one school to another. Thus the concept of due process continues to expand in the school setting.

Still, an informal procedure much like that now used in most schools is legally permissible in suspension and expulsion cases if the student is fully aware of his rights and voluntarily chooses the informal type. Also, the courts have not required the more elaborate procedures when the dismissal is based on academic failure. Thus only when the issue is misconduct and the student may be suspended or expelled is the school usually required to afford him the opportunity to have the more formal procedure.

Specific rules on student conduct

In general, a school may expel a student for any conduct that either disrupts the educational process or endangers the health or safety of the student, his classmates, or school personnel. Under these circumstances, the expulsion need not be pursuant to established school board regulations. One federal district court noted that "[d]ue process is not affronted when students are disciplined for violations of unwritten rules when misconduct challenges lawful school authority and undermines the orderly operation of the school."

Usually, however, disciplinary action is based upon a breach of school regulations governing student conduct. It is important that these rules be clearly and explicitly stated. Indeed, an expulsion or suspension may be declared unconstitutional if there was no reasonable basis for the student to understand that his conduct was prohibited. If he did not understand, he did not have adequate

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The author is an Institute faculty member who specializes in school law. This article is adapted from his monograph entitled *The Law of Procedure in Public School Student Suspensions and Expulsions* published in 1977 by ERIC and the National Organization for Legal Problems in Education (NOLPE).

notice of the impropriety of his action before he committed it, and a basic requirement of due process thereby had been denied him.

A California case yields an example of a rule that was too vague and therefore unenforceable against the student. A student had been expelled for violating a rule prohibiting "extreme hair styles." In overturning the expulsion, the court said that the regulation "totally lacks the specificity required of government regulations which limit the exercise of constitutional rights." A helpful statement of what specificity is required in school regulations is provided by a Texas case:

> School rules probably do not need to be as narrow as criminal statutes but if school officials contemplate severe punishments, they must do so on the basis of a rule which is drawn so as to reasonably inform the student what specific conduct is prescribed [sic]. Basic notions of justice and fair play require that no person shall be made to suffer for a breach unless standards of behavior have first been announced, for who is to decide what has been breached?

Courts are particularly firm in requiring specificity when the free-speech guarantees of the First Amendment are involved. For example, a regulation requiring a student to "conduct himself as a lady or a gentleman" is too vague to serve as a basis for restricting student conduct that may involve speech. When the conduct does not involve the expression of First Amendment freedoms, however, less strict requirements may be imposed. For example, a Pennsylvania court found school regulations prohibiting students from "flagrant disregard of teachers," "loitering in areas of heavy traffic," and "rowdy behavior in the area of heavy traffic" to be adequate. The court rejected the complaint of students who had been suspended for 30 days under these rules that the rules were too vague.

The requirement that school disciplinary rules be specific obviously means that they must be written. Oral statements of school board policies are often too vague and too easy to misinterpret. Thus it is important that the school board adopt written regulations on student conduct, that these regulations be stated as clearly and with as much detail as possible, and that the rules be publicized so that they reach all affected parties — students, parents, and the community that the school serves.

Notice

The due process requirement that the student receive proper notice obligates the school in several ways. First, it must forewarn the student of the type of conduct that, if engaged in, will subject him to expulsion. This aspect of notice was discussed in the preceding section.

Second, it must give the student accused of a violation and his parents notice of the charges against him and the nature of the evidence supporting those charges. Although some courts have held that notice may be given by telephone or other appropriate method, a written statement is preferable. Besides saying what the student is alleged to have done, the statement should refer to the specific rule or regulation that has been violated and tell when and where a hearing on the charges is to be held. But this statement need not be drawn with the specificity of criminal charges. It need only be detailed enough to give the student a fair opportunity to present a defense at his hearing. Such notice is recommended even when the student fully admits to the conduct with which he is charged.

An informal procedure . . . is legally permissible . . . if the student is fully aware of his rights and voluntarily chooses the informal type.

Also, although prior notice of the hearing is an absolute requisite for due process, the school discharges its responsibility if it honestly tries to reach the student and his parents by telephoning him and sending a registered letter to his home. If the student cannot be reached because he has changed his address or deliberately avoids notification, he cannot later complain that he did not receive notice.

Third, the school must tell the accused student where and when the hearing will take place and give him some reasonable time to prepare for it by scheduling the hearing for several days after he has been notified of the charges against him. Two school days would probably be a minimum time between the notice and the hearing unless the student agrees to an immediate hearing. Several courts, however, have held that a high school student must be given a minimum of five days' notice before a hearing on his expulsion.

Fourth, the school must tell the student in advance what rights he will have at the hearing. This requirement can be accomplished by sending him, when he is notified of the charges, a printed statement outlining the procedure. It is good practice for the school to include a complete disciplinary and procedural code in its student handbook. If

this is done, sending the student a copy of the handbook should satisfy this aspect of notice.

Since many students will prefer an informal procedure, a form on which the student can waive the formal process should accompany the statement of charges. If the student chooses the informal procedure, the school need not hold a formal hearing. However, he should be given reasonable time to consider whether he will waive the hearing, and his decision should be made only after he consults with his parents or guardian.

The hearing

A fundamental aspect of due process is the right to a fair hearing. Although the hearing need not adhere to the technical rules of a court of law, it must be conducted in accordance with the basic principles of due process. These principles were spelled out as follows in a case before the federal Fifth Circuit Court of Appeals:

> The nature of the hearing should vary depending upon the circumstances of the particular case . . . . [B]ut a hearing which gives the . . . administrative authorities . . . an opportunity to hear both sides in considerable detail is best suited to protect the rights of all involved . . . [T]he rudiments of an adversary proceeding may be preserved without encroaching upon the interests of the [school] . . . . [T]he student should be given the names of the witnesses against him and an oral or written report on the facts of which each witness testifies. He should also be given the opportunity to present . . . his own defense against the charges and to produce either oral testimony or written affidavits of witnesses in his behalf.

Although a hearing is a basic requirement of procedural due process, a student may waive this right. In fact, several recent decisions have dealt with what constitutes a waiver. For example, in a Massachusetts case in which a high school student was suspended and warned that another suspension would mean dismissal, the federal district court found that the refusal of the student and his father to go to the superintendent for reinstatement after the instant suspension amounted to a waiver of any hearing with respect to subsequent dismissal. But in a New York case that involved a suspended student who had not responded to a school notice that he should contact the superintendent within five days to arrange the hearing, the court held that if the statutes provide a right to a hearing, the school could not assume that the student had waived it. It also said that the hearing should be scheduled and the parent and pupil advised of the date and their appropriate rights.

Right to counsel

This section raises two questions: First, does procedural due process require the school to permit a student to have legal counsel in a school disciplinary proceeding that might lead to a long-term suspension or expulsion? Second, should the school permit legal counsel when a student thinks that only a lawyer can protect his interests?

The cases are divided on whether legal counsel is a requirement of procedural due process. Still, probably few courts today would find that the student has no constitutional right to legal counsel in a hearing that might result in expulsion. Whether or not the student is permitted legal counsel, he has a constitutional right to parental representation — or representation by another adult if his parents cannot advise and assist him properly. If the parents' interests are shown to be hostile to his, the student has the right to determine who will accompany him to the hearing. Further, if the school attorney is present at the hearing to assist in the school's case, clearly the student cannot be denied the right to have an attorney. Otherwise, the proceeding will be unfairly stacked against the student and thus constitute a denial of due process.

The danger in permitting the student to have counsel is that then the school board feels that the school attorney needs to be present, and the whole proceeding becomes unnecessarily adversarial. In most cases, the student's parents or some other nonlawyer adult of his choosing, such as a social worker, guidance counselor, or minister, would probably satisfy the need to see that a fair hearing is conducted. However, if the student (or his parents) thinks that only an attorney can properly represent him in an expulsion proceeding, I strongly recommend that the school permit him to have legal counsel. A refusal may appear to be an admission by the school that its case is weak. By refusing a student's request for an attorney in an expulsion case, the school may lose far more in the community's eyes than it gains.

Inspection of evidence

As the section on notice observed, the student must be told the nature of the evidence against him. Along with this fundamental requirement of due process is another requirement that the student be permitted to inspect in advance any affidavits or exhibits that the school plans to introduce at the hearing. Schools may, however, be ob-

ligated to protect faculty evaluations of other students' performances and behavior from inspection. Such records are usually considered confidential. A similar issue concerning prior inspection of evidence is whether this right extends to the list of witnesses and to copies of their statements. It is now generally agreed that the accused student must be told who the principal witnesses against him are unless doing so would physically endanger the witness.

Trier of fact — impartiality of the hearing

A fair hearing presupposes that the accused student will have an opportunity to present his case before an impartial trier of fact — that is, someone who will assess the facts without preconceived ideas. But what constitutes an impartial trier of fact? Clearly, the Sixth Amendment's requirement of a trial by an impartial jury of one's peers is not required in student disciplinary cases, because the Sixth Amendment applies only to criminal prosecutions.

Nor is a hearing board or tribunal necessarily required, though I strongly recommend that the school use a hearing panel for expulsion cases. Usually in such cases the principal is the trier of fact, though most states require the superintendent or the school board to approve expulsions and long-term suspensions. Generally the principal will have prior knowledge, if not direct involvement, with the case. In fact, he is often the primary school official present when the school rule is broken, and his testimony will determine whether the student will be suspended or expelled.

Although I seriously question the soundness of the principal's being the trier of fact in an expulsion case in his school and strongly object to his assuming this role when he has had direct involvement in the case, the courts have not usually found that commingling of the decision-making and prosecutorial functions makes the hearing invalid, unless it can be shown that the principal's involvement has prejudiced him so that he cannot impartially and fairly consider the evidence.

A student is entitled to have a different trier of fact, or a different member of a panel, if he can show that the trier has bias, malice, or personal interest in the outcome of the case. If the hearing procedures provide an opportunity to prove bias, the constitutional requirement for an impartial trier of fact will have been met.

A Wisconsin case illustrates an appropriate handling of a situation that involved a school administrator who was too closely connected with the student misconduct to be the trier of fact. The case concerned students at Oshkosh State University who faced expulsion on charges of breaking into the president's office, threatening him, and holding him prisoner. Under the university's rules, the president considers appeals from student discipline cases and makes recommendations to the board of regents. In this case, however, the regents wisely excused the president from participation in the hearings and asked a former state Supreme Court justice to conduct the hearings and mak recommendations. This procedure represents a fair and easy way to eliminate conflicts of interest. However fair the president could have been in this situation, the school avoided the likely accusation that it had not provided an impartial tribunal.

By refusing a student's request for an attorney . . . , the school may lose far more in the community's eyes than it gains.

The same considerations apply to public school expulsions. Although not required by law, the best procedure in expulsion cases in which the principal has been a direct participant in the actions that are the basis for the expulsion is to ask a member of the school's faculty or, preferably, a panel consisting of a teacher, a parent, and a student to serve as trier of fact.

The role of the school attorney

Recent litigation has challenged the school board attorney's role in school expulsion cases. The results have been mixed. A lower Pennsylvania state court held that the requirements of due process demand that a school attorney assume either an adversary or judicial role: he may not assume both. Thus the court found that the school attorney's dual function as both prosecutor and adviser to the school board at a presuspension hearing violated due process.

A federal district court in Pennsylvania more recently disagreed. It held that due process was not violated when a school solicitor acted as both judge and prosecutor at a student dismissal hearing. The court was concerned with the cost and general undesirability of overly formal disciplinary procedures and found that "[a]s long as the student is given a formal hearing by the school board and is represented by counsel, . . . it is reasonable for the school solicitor to prosecute the case against him or her, rule on evidentiary questions, and advise the board as to probable action." Nevertheless, it is wise to separate the functions for the same reasons that prosecutional and adjudicatory func-

tions of the administrator should be separated in the expulsion process.

Witnesses — confrontation, cross-examination, and compulsory production

In criminal prosecutions and most administrative proceedings, the defendant may confront and cross-examine witnesses testifying against him, call his own witnesses, and compel witnesses to attend the trial or hearing. In a student disciplinary hearing, the student certainly may call his own witnesses. The procedure would be a charade if he did not have this right. However, the court decisions conflict over the student's rights to confront and cross-examine witnesses and to compel witnesses to attend the hearing.

A few public schools and colleges still do not permit students to confront and cross-examine witnesses. When the right has been denied and the issue litigated, the courts have disagreed whether the right is required as a matter of procedural due process. In a federal court of appeals decision, the Fifth Circuit held that a full-dress judicial hearing with the right to cross-examine witnesses is not required because (1) it is impractical to carry out, and (2) the attending publicity and disturbance may be detrimental to the educational atmosphere. This is the position most generally taken by the courts in the years immediately after that case, and the Fifth Circuit Court later reaffirmed its view in another case.

Most recent cases, however, take the opposite view. A federal district court in North Carolina observed that it considered the right to confront and examine witnesses to be a basic requirement of due process. A Kansas court noted that "[t]he right to cross-examine adverse witnesses on disputed questions of fact can scarcely be overemphasized." The court acknowledged problems with cross-examination in the school setting but held that cross-examination must be allowed at least when the outcome depends on the credibility of witnesses whose statements conflict. The court suggested that when cross-examination is required by the circumstances, the school's interest could be protected by holding the hearing in private and by "limiting the scope of cross-examination to prevent the student or his lawyer from badgering witnesses."

Professor Clark Byse of the Harvard Law School has suggested an alternative to complete rejection or full granting of confrontation and cross-examination rights in student disciplinary hearings. He proposed that confrontation and cross-examination be required only when they are "the conditions of enlightened action." Thus if the expulsion proceeding hinges on the credibility of testimony received, confrontation and cross-examination would be "conditions of enlightened action." In such a situation confrontation and cross-examination should be required as a matter of both good school policy and constitutional due process.

The student and his counsel must be told what [his record] contains . . .

Another way to deal with the problems of cross-examination is to distinguish between student and teacher adverse witnesses. A federal district court in Nebraska made such a distinction when it held that the student had a right to confront and cross-examine an adverse teacher witness, but not necessarily to confront and cross-examine adverse student witnesses. This solution would eliminate at least some of the concern caused by cross-examination, since presumably a teacher would be less subject to fear of reprisal for testifying against a student than would another student.

Evidence

Another troublesome issue that often arises in expulsion hearings is whether technical rules of evidence are to be applied. Since the expulsion hearing is an administrative proceeding rather than a judicial or quasi-judicial trial, the common law rules of evidence do not apply. In fact, the Fifth Circuit Court of Appeals recently pointed out the fallacy of trying to apply the technical rules of evidence in an administrative hearing conducted by laymen. It said that "basic fairness and integrity of the fact-finding process" are the criteria for judging the constitutional adequacy of the disciplinary hearing, and it declined to place the duty of applying the technical rules of evidence on a board of laymen. Thus the hearing board must be reasonably free to determine what evidence should be considered and the weight it should be given.

Another issue that occasionally arises is the extent to which a student's record may be used as evidence in a disciplinary proceeding. Several New York cases have held that a student's anecdotal record is relevant in determining the severity of the punishment to be administered if guilt is established. To admit evidence from the record that does not relate directly to the conduct in question constitutes error on the basis of which the student may seek to have the decision reversed. Even

when his record is being properly considered, the student and his counsel must be told what it contains so that he will have an opportunity to challenge its validity and accuracy.

In one case in which a student was denied permission to present evidence he thought would be helpful to his position, the appellate board ordered a new hearing at which the student was to be permitted to present the evidence he claimed he was prevented from introducing earlier.

Self-incrimination

At both the high school and university levels, 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 both a school offense and a violation of a criminal law. When both criminal and disciplinary proceedings are pending, students have maintained 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 proceeding. This objection, based on the Fifth Amendment's protection against self-incrimination, has been raised unsuccessfully in several college cases, though courts in at least three cases have suggested that the privilege against self-incrimination is available at a hearing on expulsion.

Another issue that occasionally arises is whether a student may postpone a suspension or expulsion hearing pending a criminal proceeding that stems from the same conduct. Courts have consistently held that a delay need not be granted.

A *Miranda* type of warning also does not apply to a school investigation of alleged misconduct.

Sufficiency of evidence

The third requirement of minimal process in school expulsion cases, besides adequate notice and a fair hearing, is that disciplinary action be taken only if the charges are supported by "substantial evidence." The term "substantial evidence" has special meaning. A federal district court adopted this definition:

> [S]ubstantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. . . . Accordingly, it "must do more than create a suspicion of the established . . . it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury . . . ." The substantiality of evidence must take into account whatever in the record fairly detracts from its weight . . .

An example of evidence insufficient to justify expulsion occurred in a case in which a university expelled students on the basis of a police list of students arrested at a protest rally. The court held that the list furnished no basis for the university to take disciplinary action against the students for disruption of the school because the list contained only their names and no statement of their particular conduct. Thus a school cannot expel a student without enough evidence to prove the charge it makes against him. To do so would be arbitrary and capricious and therefore unlawful.

Disciplinary action may be taken only if the charges are supported by "substantial evidence."

Alone among the courts, a federal district court in Michigan has suggested (a) that any standard lower than a "preponderance of evidence" would have the effect of requiring the accused to prove his innocence, and (b) that the higher standard of "clear and convincing evidence" may be required.

Mass hearings

At times, school authorities have found it desirable or necessary to conduct expulsion hearings in which charges were considered simultaneously against many students. This procedure was upheld when the University of Colorado tried 65 students who had locked arms to deny access to university buildings. The students admitted acting as a group, and the court held that they could be tried as a group. Commenting on the constitutionality of this procedure, one writer made the following observation:

> There certainly is no legal impropriety in holding a joint trial. I don't believe that even with assistance of counsel the student could constitutionally insist upon a separate trial, despite the possibility that a kind of prejudice may occur because of testimony in one part of the trial that relates to another student.

This position finds support in a New York case in which students challenged a three-day suspension on the ground that the disciplinary board was arbi-

trary in selecting those to be charged with misconduct. Seventeen were suspended out of an estimated 200 to 250 students who participated in a protest sit-in. The commission ruled that since the charges against them were based on personal identification, the disciplining of these 17 when many more students might have engaged in the same misconduct did not constitute arbitrariness or harassment.

Double jeopardy

Students have argued that the Fifth Amendment's prohibition against double jeopardy prohibits the application of both criminal and administrative sanctions against the same person for a single offense. This claim has no legal basis: the double-jeopardy principle applies only in criminal cases. Thus a student who is expelled from school and later tried in criminal court for the same offense has no more been subjected to double jeopardy than a person who is convicted of drunken driving in an automobile accident and later is sued for negligence. The state may impose both a criminal and a civil penalty for the same offense. The school can even suspend a student for an offense after he is found innocent of it in juvenile court.

A student may also be punished twice for the same offense. In an Ohio case, the principal suspended a student for ten days; when the boy returned to class after the suspension, the superintendent expelled him for the rest of the semester. The Ohio appellate court found no question of double jeopardy in the case, observing that suspension and expulsion are separate punishments. Suspension is an immediate response by the principal to the misconduct, whereas expulsion is a sanction reserved to the superintendent after he reviews the offense.

Public hearing

Does a student have a right to a public hearing? Two courts have held that he has no right to an open hearing if state law authorizes the school committee to go into executive session whenever matters to be discussed, if made public, might adversely affect anyone's reputation. The North Carolina public meetings statute, G.S. 143-318.3 (b), permits the board of education to hear, consider, and decide "disciplinary cases involving students in closed session."

Transcript of hearing

The courts are divided over whether the school must provide a transcript of the hearing when the student requests one. Still, it is clear that if an appeal is to be made, a transcript must be available unless the appeal is to be based on an entirely new presentation of the case. The proceeding can easily be tape-recorded and transcribed if an appeal is taken.

Appeal

Most state statutes either require that expulsions be made by the school board or permit an expelled student to have his expulsion reviewed by the board. Most states also have an administrative procedure act that permits an appeal from a final administrative decision to a state court. Thus if the student thinks that he has been denied a statutory or constitutional right or that the administrator or school board has acted arbitrarily or capriciously, he may appeal the decision to a state court. Most challenges to student discipline actions, however, have arisen in the federal courts under section 1983 of the Civil Rights Act of 1871, thus greatly reducing the significance of a right to appeal to a state court. □

The Sun Belt Phenomenon — A Second War Between the States?

Charles D. Liner

IN 1976 *BUSINESS WEEK* published a series of articles entitled "The Second War Between the States . . . A Bitter Struggle for Jobs, Capital, and People."[1] The articles concerned what is referred to by many journalists and political analysts as the "Sun Belt phenomenon," the shift of population, jobs, income, and political power away from the Industrial Belt of the North and toward the Sun Belt. The Industrial Belt is the area of heavy population and industrial concentration stretching westward from Massachusetts, Connecticut, New York and New Jersey through Pennsylvania, Ohio, Indiana, Illinois, and southern Michigan. The Sun Belt includes the southeastern and southwestern states and the southern portion of the West. The journalists may be guilty of overdramatization by using the analogy of civil war, but the phenomenon they describe is real and has important implications for southern economic development.

What is happening is quite simple — the Sun Belt is growing much faster than the rest of the country, and some would say that the Sun Belt is growing at the expense of the Industrial Belt. From 1970 to 1975 population in 15 southern states increased 8.6 per cent compared with 4.8 per cent for the nation as a whole, while population in the Industrial Belt states increased by less than 1 per cent.[2] Population in New York and Rhode Island actually decreased during this period. Some of the differences in growth were caused by differences in natural population increase, which reflect the continuing drop in the fertility rate, but much of the difference was due to net in-migration to the South and net out-migration from the North. About 40 per cent of the population increase in the South was due to net in-migration, and only Louisiana had net out-migration. The Industrial Belt states, on the other hand, lost 1.6 million people through out-migration — only Massachusetts had net in-migration. Net in-migration in New York and Illinois exceeded 3 per cent of the 1970 population.

The Sun Belt phenomenon is also reflected in growth of personal income. Personal income in 15 southern states increased 62.8 per cent from 1970 to 1975 compared with 53.8 per cent for the nation and 45.9 per cent for the 10 Industrial Belt states.[3] The growth rate of personal income was higher than the national growth rate in all 15 southern states and lower than the national growth rate in all 10 Industrial Belt states. Growth rates in per capita personal income in the 15 southern states during this period averaged 51.2 per cent compared with 45.3 per cent for the 10 Industrial Belt states.

Employment in the Sun Belt has been growing at more than twice the rate for the nation as a whole. During the period 1970-75 total nonagricultural employment in 15 southern states increased

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1. May 17, 1976.

2. Population estimates are from U.S. Bureau of the Census, *Current Population Report*, Series P-25, No. 640, November 1976, Table 1. As classified for this article, the South includes Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; the Industrial Belt includes Connecticut, Indiana, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, Rhode Island, and Pennsylvania.

3. Personal income data are from U.S. Bureau of the Census, *Statistical Abstract of the United States, 1976* (97th edition), Washington, D.C., 1976, Tables 643 and 644.

16.1 per cent, compared with only 7.5 per cent for the nation.[4] The most dramatic contrast is in manufacturing employment. Between 1969 and 1973 each of the New England and Middle Atlantic states — including Massachusetts, New York, New Jersey, and Pennsylvania — suffered absolute declines in manufacturing employment.[5] In New York, which had the largest decrease, manufacturing employment fell 13.4 per cent. But manufacturing employment increased in all the southern states except Maryland.

While the old central cities of the Industrial Belt — Boston, Chicago, New York, and Detroit — have been declining, the cities of the Sun Belt — Atlanta, Dallas, Houston, Miami, San Diego, and many smaller cities — have prospered and grown.[6]

If the journalists are correct in describing the Sun Belt phenomenon as a conflict or a "war" between the states, the South appears to be winning. But if we are to understand what is happening and what it portends for the future, we must ask *why* it is happening. Journalists attribute the Sun Belt phenomenon to good climate, cheap land and labor, low unionization rates, low taxes, the fiscal crises of New York and other northern cities, the energy crisis, effects of federal spending, and the increasing number of retired people who want to move to warm climates. There is no doubt that these factors have been important, but we must look for more fundamental explanations.

We must not be misled into believing that the Sun Belt phenomenon is entirely recent — that all of a sudden the northern economy has begun to crumble and the South has at last risen again. The Sun Belt phenomenon is not new. It is a continuation of what has been happening for much of the past century. The fact that we are now experiencing net in-migration of population after decades of net out-migration may be somewhat misleading. In the past the South experienced a large outmigration of population as a result of the massive decline of agricultural employment caused by increased agricultural productivity. Today this massive shift has been largely completed, and continued southern economic progress has provided more and better jobs in the South.

The gap between economic development in the South and North has been closing ever since the end of Reconstruction, when textiles and other industries began coming to the South. In fact, the discrepancy between per capita personal incomes of southern and northern states has been narrowing more slowly in recent decades than during the first part of this century. In 1900 per capita income in the South was half of per capita income in the nation as a whole. Between 1900 and 1920 per capita income in the South rose to 60 per cent of per capita income for the nation. Thirty years later, in 1950, the percentage had increased to only 71.9 per cent, and in the next 20 years it rose to only 78.3 per cent.[7]

These figures may be somewhat misleading because they compare southern economic growth with the substantial growth in other parts of the nation. Economic development in the South has been dramatic and sustained, especially since the beginning of World War II. Per capita income increased 200 per cent during the 1940s, 57 per cent during the 1950s, and 82 per cent during the 1960s.[8] In spite of the rapid growth in nonagricultural employment, the South experienced net outmigration and population decreased during each of these decades because the growth was not sufficient to absorb the massive decline in agricultural employment. Today, as this decline is completed, employment in the South is growing, the South continues to capture a larger share of manufacturing employment, and increased prosperity and urbanization have led to growth in services, finance, wholesale and retail trade, government services, and other activities that serve the new southern market.

THUS, THE SUN BELT PHENOMENON is not new, and we do not have to look for new developments or causes. To understand southern progress we must keep current developments in historical perspective. In the nineteenth century, very basic economic, technological, social, and political forces caused industrial development to be highly concentrated in the Industrial Belt, particularly in large northern cities.[9] The economic

4. Lawrence K. Lynch and E. Evan Brunson, *Southern Growth, 1970-1975* (Research Triangle, N.C.: Southern Growth Policies Board, 1976).

5. *Urban Land Institute, Industrial Development Handbook* (Washington, D.C.: Urban Land Institute, 1975), Table 6-29.

6. Many central cities have declined in previous decades while the surrounding metropolitan areas have grown in population. From 1970 to 1974 the largest metropolitan areas as a group experienced no population growth. Eight of the 15 largest areas are estimated to be losing population. From 1970 to 1974 metropolitan population increased 77 per cent in the South but fell 0.1 per cent in the North. U.S. Bureau of Census, *Current Population Reports*, Series P-25, No. 618, January 1976.

7. Thomas H. Naylor and James Clotfelter, *Strategies for Change in the South* (Chapel Hill: The University of North Carolina Press, 1975), Table 2.1.

8. *Ibid.*

9. For an analysis of the historical development of the Industrial Belt, see Edward L. Ullman, "Regional Development and the Geography of Concentration," *Papers and Proceedings of the Regional Science Association* 4 (1958).

momentum thus established in the North carried over into the twentieth century, so that the Industrial Belt, and especially northern cities, have continued to dominate national economic activity.

Today most of the forces that originally led to industrial concentration in the North have weakened or disappeared.

In the period before 1840, American economic development centered around agricultural production. Growth and development meant opening up the hinterland and providing transportation for basic commodities. It was during this period that cities began to grow around ocean and river ports and later at strategic railroad locations. This occurred not only in the North, where Boston, New York, and Chicago became major economic centers, but also in Norfolk, Wilmington, Charleston, and New Orleans. But the progress of the industrial revolution and the rise of a minerals-based industrial economy changed the regional balance, setting the pattern for industrialization, urbanization, and population that is still largely in place today. While the South remained predominantly agrarian and lost its economic base during the Civil War, the North quickly developed into an industrial giant with an economy based on raw materials, especially coal and iron ore, centered around water and railroad transportation systems, and supported by large and prosperous internal markets for its products. Since most production was primary manufacturing using raw materials, the location of industrial activities was determined by location of raw materials or access to transportation and bulk-handling facilities. Even today in northern cities the predominant influence of transportation access is obvious — cities grew around water and rail terminals, and most firms located near these facilities to keep transportation costs low. Once this pattern of industrialization was established in the North, it became self-sustaining. The North, with its large urban population and high incomes, became a vast and profitable market for the products of industry. As industry became concentrated, new firms were formed to provide services to existing firms.

In the first half of the twentieth century the Industrial Belt maintained its position of economic dominance. By mid-century the Industrial Belt, which contained less than 8 per cent of the nation's land area, accounted for 52 per cent of the nation's income, 50 per cent of retail sales, and 70 per cent of industrial employment.[10]

10. *Ibid.*

Today most of the forces that originally led to industrial concentration in the North have weakened or disappeared, and fundamental changes have gradually loosened the constraints that tied industry to large central cities and the Industrial Belt. The economy is no longer dominated by primary production, with its reliance on access to raw materials, water and railroad facilities. The increasing importance of secondary and tertiary production, which is not as constrained by location of bulk transportation facilities, has meant that firms are more footloose — they can move to areas outside central cities and to areas with lower wages. The old, multi-storied plants of the northern cities were made obsolete by mass production technologies, which required large lots for sprawling plants. Widespread automobile ownership and increasing personal incomes freed the public from having to live in central cities or near their jobs and at the same time permitted firms to decentralize and draw their work force from a large surrounding area. The rise of markets, first in the West and later in the South and Southwest, created new incentives for economic growth outside the Industrial Belt. Federal programs during the New Deal, defense spending during World War II and the Cold War, and space exploration also contributed importantly to decentralization.

As a result of all these factors, the predominant trend in location of economic activity in recent decades has been decentralization — away from central cities, away from the Industrial Belt, and toward the Sun Belt.

But why has industry been attracted to the South, a region that had almost no industrial base left after the Civil War and has suffered the chronic handicaps of a poorly educated, predominately rural labor force, inadequate capital, and poor non-urban markets? To attribute the substantial long-term economic progress of the South only to low wages, low taxes, low unionization, and good climate is not enough. We must seek more basic causes.

One of the most important contributions to southern economic progress has been the availability of surplus labor. Without this surplus labor, wages would not have remained low for very long. Because the South was primarily agrarian, it had millions of workers eager for the higher earnings of nonagricultural employment. The dramatic increase in agricultural productivity and perhaps the effects of federal agricultural programs drove millions to towns and cities in the South and other regions. This large available labor force has kept southern wages low and has attracted labor-intensive industries away from the higher wage

(continued on page 23)

THE STATE OF THE INSTITUTE

Each year the Director of the Institute of Government makes an official report to the Chancellor of the University of North Carolina at Chapel Hill. We think that readers of Popular Government will be interested in a few comments based on our 1976-77 report. — Editor

Role and method

For those not familiar with the Institute, we should point out that, as a part of the University, it has a two-fold mission: to help public officials and employees perform effectively the tasks of governing the State of North Carolina and its counties, cities, and towns, and to help increase public understanding of state and local government. The Institute's work is reflected in *teaching, research, publishing, and professional advisory services* ("consulting"). While necessarily concerned with questions of public policy, we leave to others the initiation and advocacy of changes in policies and programs of government.

Schools, seminars, courses, conferences

Teaching activities of the Institute usually take the form of intensive courses of short duration, primarily designed for the in-service training of elected and appointed governmental officials. While many courses are planned to help experienced officials increase and update their knowledge of both the laws they administer and methods of administration, the Institute continually offers introductory courses for those who find themselves in government posts without training or experience.

During the past year the instructional activities that have consumed the longest periods of time have been:

— 16 weeks of basic training for new State Highway patrolmen
— 13 weeks of in-service schools for Wildlife Enforcement officers
— A 165-hour course in Municipal Administration (two sections)
— A 165-hour course in County Administration.

In the same period we offered introductory courses for new:

— county commissioners
— tax assessors
— tax collectors
— municipal and county finance officers
— registers of deeds, and
— magistrates.

Outreach

In the nine months opening on July 1, 1976, and ending on March 31, 1977, 6,000 people attended Institute schools and conferences held *in Chapel Hill;* by the end of June 1977 this number should exceed 8,000. For the same nine-month period, hours of contact with students at these Chapel Hill events totaled 108,000. When figures for the final three months of the reporting year are included, the total Chapel Hill contact hours will exceed 145,000.

For the first nine months of the current reporting year, 7,000 people attended schools and conferences *outside Chapel Hill* sponsored or co-sponsored by the Institute, for a total of 26,000 student contact hours. A reasonable projection suggests that by the end of June attendance at events outside Chapel Hill will exceed 8,000, for a total of 52,000 student contact hours.

Thus, if our projections are correct, in the current reporting year the Institute of Government's faculty will have reached 16,000 persons in the classroom, for a total of 197,000 student contact hours.

Publications

Enrollment figures at Institute events are impressive, but they must be read with an understanding that our faculty spend only about 20 per cent of their time in formal teaching. Since the Institute's large constituency cannot all be brought into classroom settings with any degree of regularity, the faculty must reach them through technical publications of a high order. Our publications include treatises, guidebooks, textbooks, monographs, special studies, bulletins, and a variety of other items. Our most recent catalog shows more than 700 Institute publications listed under 61 subject headings and 95 authors. During the last ten years our records show that, on the average, the Institute issues more than 65 new publications each year. We now publish nine periodicals. These are:

Popular Government, published since 1931, and eight series of special bulletins — Health Law, Local Finance, Local Government Law, Property Tax, School Law, Trial Judges, Administration of Justice, and Planning.

The following selection of 1976-77 faculty publications illustrates the breadth of Institute concern:

— Clarke, Crowell, Drennan, and Gill, *North Carolina Crimes: A Guidebook for Law Enforcement Officers*

— Dennis, *The North Carolina Local Government Commission: a Descriptive and Interpretative Analysis*

— Hinsdale (with R. Chaney), *Conditions of Adult Probation – Legal and Illegal*

— Lawrence, *Local Government Finance in North Carolina*

— Ross, *Boards of Health in North Carolina; a Guidebook for Board Members*

— Solberg (with R. Leonard), *Notary Public Guidebook for North Carolina*

— Thomas, *Protective Services in North Carolina*

— Farb, *Chart of the Administrative Organization of State Government* and a set of supplements, *Internal Organization of North Carolina State Executive Departments*

— Vogt, *Capital Improvement Programming: A Handbook for Local Government Officials*

— Watts (with L. Hogue), *Abating Obscenity As a Public Nuisance by Local Ordinance*

Advisory services

Consulting and other professional services, which require about 30 per cent of our faculty's time, are made available on request to state and local officials and agencies (including study commissions). They constitute both a useful aid to clients and a valuable means of expanding the competence of Institute faculty members. Advisory assignments carried out by Institute faculty members in the current reporting year include:

— Commission on Correctional Programs. Legislation on public drunkenness (Michael Crowell); sentencing and parole (Stevens Clarke); and motor vehicle law (James Drennan)

— Four committees of the Legislative Research Commission. Water resources (Milton Heath); improving the professionalism of local building inspectors (Philip Green); sex discrimination (Michael Crowell); and land records information systems (William Campbell)

— Group Child Care Consultant Services (Mason Thomas)

— Commission to Revise the Public School Laws (Anne Dellinger)

— Criminal Code Commission (Poindexter Watts and Douglas Gill)

— Land Policy Council (Milton Heath and Philip Green)

— Mental Health Study Commission (H. R. Turnbull)

— Administrative Office of the Courts. A study of local court facilities and financing (Joseph Ferrell)

— A consortium composed of representatives of the Criminal Justice Training and Standards Council, the Community College System, the Justice Academy, and the Law Enforcement Training Officers Association as well as the Institute of Government to develop a basic training curriculum in criminal justice (Douglas Gill).

Work with the legislature

Since the 1930s one of the principal clients of the Institute of Government has been the General Assembly. We have maintained, primarily for the members of that body, a reporting service comprised of daily bulletins summarizing proposals introduced and calendar action taken, weekly local legislation bulletins, computer-prepared status reports on public and local bills, weekly summaries, and special bulletins in the fields of Criminal Justice, Higher Education, Public Education, Liquor Law, and Property Tax. Other beneficiaries of this reporting service are numerous state and local governmental officials, newspapers, and television stations.

A second aspect of the Institute's legislative work is offering counsel for standing committees, some for full-time service, some for limited subject

matter. In the recent session, members of the Institute faculty worked regularly with ten Senate and thirteen House standing committees.

New programs

During the past year we have continued to initiate new instructional programs — some of a one-time nature, some planned for continuation; some in Chapel Hill, some at regional locations; some sponsored by the Institute; some co-sponsored. Here is a selection of these new programs and events:

— Three two-day training programs for experienced magistrates (Joan Brannon)

— A conference for attorneys for and administrators of the community college system and a course in school law for presidents of community colleges and technical institutes (Robert Phay)

— A series of regional schools for jail personnel co-sponsored by the Jail and Detention Services Unit of the State Department of Human Resources (Stevens Clarke and Anne Dellinger)

— A series of eighteen regional six-hour seminars on public health and mental health law co-sponsored by the UNC School of Public Health (H. R. Turnbull and Patrice Solberg)

— A series of child-abuse workshops in each of four regions of the state (Mason Thomas)

— A school for new local finance officers (David Lawrence and John Vogt)

— Three regional training programs for State Department of Correction pre-release and after-care trainers (Richard McMahon)

— Sixteen three-day programs in management by objective for the State Department of Correction (Ronald Lynch and Richard McMahon)

— A five-day basic course for industrial developers co-sponsored by the UNC Department of Geography and the State Division of Economic Development (Donald Liner)

— A week-long training program on environmental monitoring and planning for the the State Department of Natural and Economic Resources (Milton Heath).

Program flexibility

Although the Institute of Government's substantive programs are developed, assigned, executed, and evaluated on a long-term basis, the orderly process of program development is subject to the practical effect of the Institute's commitment to be responsive — and quickly responsive — to the needs of state and local government in North Carolina. This responsive role makes it impossible to plan and staff the entire work program at the beginning of a year, then leave it to realize itself without further administrative concern. Almost daily, requests for assistance (through instruction, research, and consultation) are received that had not been anticipated when the year's work was being laid out. Yet each requires a response — affirmative if possible — and that often requires faculty members to shift emphasis and much effort to be made in determining which staff members are available to attend to the request, in making arrangements for financing, and in dealing with the client.

Faculty and supporting staff

Today the faculty of the Institute of Government (including the librarian) has grown to an authorized complement of 34 positions; the full-time supporting staff has stabilized at 39 positions. In a typical year, we will also employ from eight to ten full-time law clerks and research assistants in summer and five part-time during the academic year. Although the administrative structure of the Institute is simple — we have no divisions or substructures within the faculty — we do have effective working teams or groupings based on fields of interest and responsibility — for example, our Criminal Justice Administration, Local Government, and Court groups.

Facts about faculty

Twenty-four members of the current Institute of Government faculty were trained as lawyers; three were trained in Public Administration; and one each was trained in Psychology, Social Work, Economics, and Library Science. The lawyers come from a wide selection of law schools — six from Harvard, five from the University of North Carolina, four from Duke; two each from Vanderbilt, Yale, and Columbia; and one each from George Washington, Miami, and the University of California at Los Angeles. Half the faculty are native North Carolinians; the other half come from almost every region of the country.

The longest tenure of any member of our present faculty is 31 years; the shortest, one month; the average tenure of the present faculty is eleven years, five months; the median, eleven years, three months.

Financing the Institute

For convenience, the current financial status of the Institute of Government may be presented under three source headings:

State appropriations: There are two state appropriation budgets totaling $1,078,896 for the year — the regular operating budget ($1,043,986) and the State Government Intern budget ($34,910).

Revenue accounts: There are three budgeted revenue accounts that total $596,996 — the short-course account ($459,809), the Legislative Reporting Service account ($86,500), and the residence hall account ($50,687). Income for these accounts is derived from many sources, including some fifty contracts, retainer arrangements, grants, and special projects.

Trust funds: The Institute administers two small special-purpose funds that come to a total of $37,607.

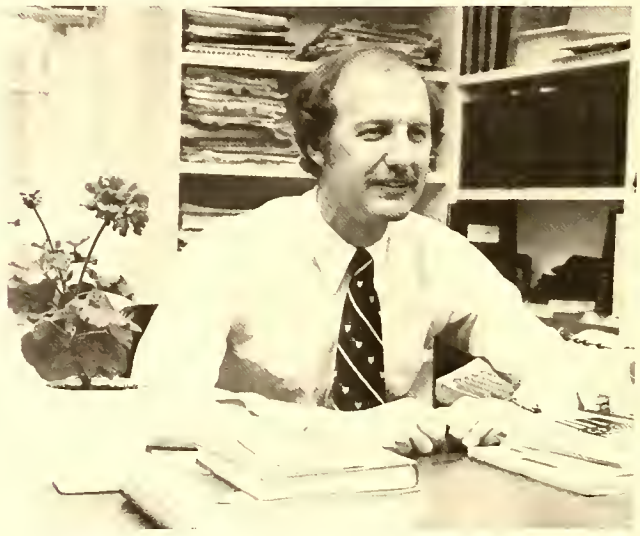
— Henry W. Lewis

Newcomers to the Institute Faculty

Bonnie E. Davis

Bonnie Davis, a native of Florida, joined the Institute faculty in March. She has a bachelor's degree from the University of Florida at Gainesville and graduated from the University of Florida College of Law in 1975. Before coming to the Institute, Ms. Davis worked as a staff attorney for the Orange County Legal Services and for the Wake County Legal Aid Society. Her special fields include social services and county government.

Richard Ducker, who also came to the Institute in March, is originally from Colorado. He received a bachelor's degree from the University of Colorado, a master's in urban planning from the University of Wisconsin, and a law degree from the University of California at Los Angeles. He has worked extensively in the area of city planning and recently spent sixteen months in Holland working in international land use control. His special fields include urban planning, land use, and environmental law.



Richard D. Ducker

areas of the North. Even though most of the industrial jobs that went to southerners were relatively low-wage jobs, they nevertheless increased incomes dramatically because they paid substantially more than agricultural jobs, they were filled by the unemployed, or they brought new workers, especially women, into the labor force. Meanwhile, the North, which had relied earlier on its own rural population, and until World War I on mass immigration from abroad, also benefited from the South's surplus workers, who were attracted to the North by higher wages, continued growth of employment opportunities, and more attractive public welfare programs. Until the late 1960s, the large northern cities continued to grow because of southern migration, though most of the growth was in the suburbs rather than the central cities.

Today low wages and surplus labor in the South are still a major attraction for industry and a major contributor to increased incomes. However, as was mentioned before, the huge supply of labor from agriculture has been largely exhausted. Less than 5 per cent of the southern labor force is now engaged in agriculture. The proportion of women in the South's labor force is higher than the national rate, so the potential for more workers from this source may not be very great. The post-war baby boom has added to the labor supply, but in the near future this source will also decline.

Since both taxes and personal incomes are higher in the North, the North has the potential to win any competition for giving the most attractive tax breaks.

In short, the era of surplus labor may be nearing its end. This should lead gradually to higher wages in the South. Higher wages do not necessarily mean that industry will no longer be attracted to the South — if the labor supply becomes tight in the South, it should become even tighter in the North. And northern firms can no longer rely on immigration from the South for their work forces. The end of surplus labor means that the growth in incomes because of the shift from agricultural employment, or underemployment, to industrial or commercial employment will be lessened; thereafter, growth in incomes can come about only through increased productivity. Increased productivity requires a better educated, better trained work-force, adequate capital to finance labor-saving equipment, adequate energy supplies, and aggressive, innovative management.

A second major factor in southern economic progress is a result of past economic progress — the development of better markets in the South. While the South is still a relatively poor region, past growth in incomes and urbanization have created new and growing markets. As a result, more products are being manufactured in the South to serve southern markets. More important, the rise in income and urbanization has created increased employment in services, finance, transportation, retail and wholesale trade, communications, and government. Furthermore, improvements in transportation, especially in the highway system, have united southern markets.

Third, it is important to recognize that economic growth in the South is very dependent upon growth in the national economy. Most of the growth in the South is not due to an actual shift of economic activity from the North to the South. Only about 1.2 per cent of employment gains in the South can be attributed to in-migration of firms, and only about 1.5 per cent of employment losses in the North can be attributed to out-migration of firms.[11] To a large extent the South is competing not for existing jobs but for new jobs. Most new jobs come about through the growth of existing firms, from new plants of multi-plant corporations, or from new or expanded firms that serve expanding markets. As national markets expand, firms in the Industrial Belt can build additional plants in the South to serve the southern and national markets. When national growth falters, as it did during the Depression and the recession of 1973-75, southern growth may also falter. For example, from 1973 to 1975 growth in disposable per capita income tended to be lower in southern than in northern states.[12]

Finally, we should not neglect the importance of climate, energy, and public tax and expenditure policies. Climate has been a predominant factor in the growth of Florida, Arizona, New Mexico, and other areas of the Sun Belt, especially since the advent of air conditioning, but the combination of climate, high fuel costs in the Northeast, and the location of energy supplies in Texas and other

11. Peter M. Allaman and David L. Birch, *Components of Employment Changes for States by Industry Group, 1970-72*, Joint Center for Urban Studies of M.I.T. and Harvard University, September 1975. See Table 9 of C. L. Jesunius and L. C. Ledebur, *A Myth in the Making: The Southern Economic Challenge and Northern Economic Decline*, Economic Development Research Report (Washington, D.C.: Economic Development Administration, 1976). Births of new firms accounted for 34.5 per cent of employment gains and expansion of firms accounted for 64.3 per cent of the employment gains in the South. In the North, deaths of firms accounted for 53.8 per cent and contraction of firms accounted for 44.7 per cent of employment losses.

12. See Jesunius and Ledebur, *A Myth in the Making*, Figure 8, which is based on *Survey of Current Business*, U.S. Department of Commerce 56:4 (April 1976.)

southern states has become especially important since the Arab oil embargo.

Statements of northern political leaders and others would suggest that government tax and expenditure policies have played a major role in the Sun Belt phenomenon. Federal expenditures, starting with the New Deal and the Tennessee Valley Authority and continuing through World War II, the Cold War, and the space program, have surely benefited the South immensely. Relatively low state and local taxes have increased the advantages of the southern states. But the effects of tax and expenditure policies should be kept in perspective. Low state and local taxes are not, as some would have us believe, a major cause of southern economic growth — indeed, a considerable amount of research suggests that state and local taxes are a relatively unimportant determinant of business location decisions.[13] Northern political leaders decry the shifting of federal tax dollars from the northern states to southern states, but the shift occurs not so much because the southern states are especially favored but because the southern states are poorer than northern states and therefore subject to lower federal taxes. In fact, federal government spending per capita in the South is only slightly higher than in the North and lower in both the North and South than the national average, and federal taxes as a percentage of income are only slightly lower in the South than in the North.[14] As incomes in the South continue to rise, taxes paid to the federal government should also rise, and many of the federal spending programs that have favored the South because of its low income and low tax capacity may be revised or redirected.

IF THE NORTH views the Sun Belt phenomenon as a war between the states, it may begin to fight harder than it has in the past. Although the Sun Belt phenomenon is not new, it seems that the North has become concerned about it only recently, after the New York City fiscal crisis and the exodus of many corporate headquarters dramatized the situation. New York State has already begun to take steps to repeal some business taxes, to offer tax subsidies to business, and to relax environmental regulations. Governor Carey has said, "We must make New York a profitable state in which to do business — a state with business incentives and a business climate that will be competitive with any state in the Union."[15] Wisconsin has also revised its tax system with industry in mind.[16]

Since both taxes and personal incomes are higher in the North, the North has the potential to win any competition for giving the most attractive tax breaks. The North can also retaliate in other ways. Labor unions can put pressure on national corporations, step up their organizational efforts in the South, and seek countervailing measures through changes in federal programs, laws, and regulations.

Less than 5 per cent of the southern labor force is now engaged in agriculture.

Unfortunately, economic development in the South has left an industrial structure that may not favor future economic growth. The South has captured an increasing share of manufacturing employment, but manufacturing grows more slowly than other sectors. Southern economies are heavily weighted toward slow-growing industries — for example, textiles, apparel, furniture — and toward labor-intensive industries, for which the potential for productivity improvements may be relatively small. In short, while the South has been growing faster than the North, the type of development we have experienced may not be conducive to future growth.

In the War Between the States the Confederacy won most of the battles but still lost the war. Today the South has many advantages over the North in the competition for jobs — it can win the battles, at least for a while longer. But looking to the day when the "war" is over — when there is an equilibrium in the regional location of jobs and population — whether the South will have won depends not only on whether our wages and incomes are high and whether we have a healthy and diversified industrial structure, but also on whether we provide a good life for our citizens. In many ways the North has failed to do this despite economic prosperity, and this is one major reason for the South's advantages today. Let us hope that the South can do a better job. □

13. C. D. Liner, "The Effect of Taxes on Industrial Location," *Popular Government* 39 (Supplement), 1974.

14. Jesunius and Ledebur, *A Myth in the Making*, pp. 28-34 and Tables 11 and 12. In fiscal year 1975 federal government spending was $1,356 per capita in the South and $1,224 in the northern industrial tier, compared with the national average of $1,412. Federal taxes as a percentage of income in 1975 were 23.0 per cent in the South and 24.9 per cent in the northern industrial tier compared with the national average of 23.9 per cent.

15. Quoted in *Dun's Review* 108: 2 (August 1976), 27.

16. Governor Patrick J. Lucey, "Wisconsin's Tax Reform: Both Progressive and Pro-Business," *Challenge* (May/June, 1974).

Summertime and the Livin' Is Easy: The Quality of Life in the South

John Shelton Reed

SOME FORTY YEARS AGO, H. L. Mencken and one of his cronies set out to study the "level of civilization" in each of the (at that time) 48 states. They put together a variety of quantitative indicators of health, wealth, literacy, governmental performance, and so on — and triumphantly announced in the *American Mercury* that "the worst American state" was Mississippi. Alabama was next, followed by the other eleven southern states, with only New Mexico — at number 40 — breaking up the otherwise solid South. The four "best" states were Massachusetts, Connecticut, New York, and (believe it or not) New Jersey — in that order.

A similar study was published just last year. It is much more sophisticated, methodologically, than Mencken's, and it has replaced his word "civilization" with the more modish phrase "quality of life," but it uses basically the same sorts of indicators — measures of economic well-being and governmental services — and it comes up with substantially the same results: the "quality of life" in the South is the poorest in the country. South Carolina has replaced Mississippi in last place, but the southern states are all at the bottom of the scale.

Of course Southerners have been familiar with criticisms like this for a long time — since the 1850s, anyway. Those who have felt obliged to defend the South have usually replied with variations on the theme that man doesn't live by bread alone. One of the most eloquent statements of this position appeared in the manifesto *I'll Take My Stand*, which was published at just about the same time Mencken was collecting his statistics. Its philosophy can be summarized by the southern folk maxim that *success* is getting what you want, but *happiness* is wanting what you get.

Now, certainly there have been versions of the good society besides just one in which everybody is happy. Samuel Johnson could scoff at happiness as a criterion for quality of life: a bull, he said, standing in a field, with lots of grass and a cow nearby, probably thinks he's the happiest creature alive. But a contributor to a recent symposium on the "quality of life" concept has pointed out that nearly all discussions of the concept, lately, have taken for granted that the quality of life in a society *means* the extent to which it makes for individual happiness — or satisfaction — or what the economists mean by their special use of the word "welfare." Mencken used the same criterion: "a condition of general happiness is the issue of the earth's great business."

And certainly, as somebody said once, happiness is no laughing matter. I'll come back to some of the problems with using individual happiness as a defining measure of the "quality of life," but — for the moment — let's accept the general consensus that it should be so, or at least that happiness is an important component of the concept.

One development in the social sciences since Mencken's time, and one that has an important bearing on this question, is the elaboration and refinement of sample survey techniques and of social-psychological measurement. It is no longer true that "of happiness and despair we have no measure." We don't have to *assume* anymore that

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wealthy people are happier than poor ones: we can *show* that this is so, and — equally important — we can show when and under what conditions it is not so. And when we ask the question "What is the worst American state?" we can adduce an entirely different sort of evidence: direct, social-psychological measurement of satisfaction. When we do this, we get some interesting results.

Now, even if we restricted ourselves to the kinds of things that governments ordinarily collect statistics about, there are reasons to doubt the perennial conclusion that the quality of life in the South is relatively poor. We find striking differences in the South's favor, for example, in suicide rates, in rates of mental illness, in rates of alcoholism, heart disease, and other stress-related health problems. Each of these differences is open to several interpretations, of course, but — taken together — they suggest that we shouldn't jump to conclusions about the quality of Southerners' lives. There is also the matter of migration statistics. It is well known by now, I suppose, that there has been net in-migration to the South by whites for some time. I'm told that for the last few years there's been net in-migration by blacks as well. The social and demographic characteristics of these immigrants suggest that many of them are responding to something more than just economic opportunity.

It's when we turn to the survey evidence, though, that the contradictions get really striking. Merle Black, a Texan who teaches political science at the University of North Carolina at Chapel Hill, examined sample data from the citizens of thirteen states — including the five southern states of North Carolina, Alabama, Texas, Louisiana, and Florida. Everyone was asked this question: "All things considered, would you say that your state is the best state in which to live?" Over all, about 63 per cent of the respondents felt they were currently living in the best state. But there was huge variation in this figure from one state to another. By this measure, the "best" of the thirteen states examined was — well, North Carolina, where more than 90 per cent of the natives felt that their state was the best. Alabama was second, by this measure, followed by the other southern states. Only California — fourth of the thirteen — ranked higher than any southern state. The "worst" state in the opinion of its residents, was Massachusetts — Mencken's "best" state! — where only about 40 per cent of the sample felt that their state was the best, "all things considered." New York was also one of Mencken's "best states," but it does just about as poorly. It looks as if my fellow Tennesseean, Brother Dave Gardner, may have been right when he said that the only reason people live in the North is that they have *jobs* there. (He said that he had never heard of anyone retiring to the North.)

For the thirteen states that Merle studied, the rank-order correlation between Mencken's index of "civilization" and Black's measure of satisfaction was a *negative* .76. The northeastern states were civilized and discontent, the southern states happily backward — and the Midwest was, as usual, mediocre all the way around. Only California was above average in both respects, and only South Dakota was below.

In my own work, with a series of Gallup polls dating back to 1939, I've found very similar results. When Americans are asked where they would most like to live if they could live anywhere they wanted, a constant finding is that Southerners like it *where they are* better than any other Americans, except possibly Californians.

Isn't this odd? Why don't Southerners realize how bad off we are? Or, for that matter, why don't Northeasterners appreciate how *well* off *they* are? Looking for expert opinions, I polled a small sample of my colleagues in the Sociology Department at UNC-Chapel Hill. A few of them — transplanted Yankees — suggested that Southerners are too ignorant to know any better. But that just won't do. Most of the people who said this were Ph.Ds — who can be presumed to "know better" but still choose to live in North Carolina. Besides, Merle Black's data show that, among North Carolinians generally, those with more education, more opportunities for travel, and so forth are no less likely to regard North Carolina as the "best state" than anyone else. In Massachusetts, it's *true* that the people who "know better" like their state less, but that's not the case

in North Carolina. As a matter of fact, *nothing* makes any difference in the generally high evaluation that North Carolinians have of their state. Merle shows that black North Carolinians are as enthusiastic as white ones, rich ones are as enthusiastic as poor ones (but no more enthusiastic), and urbanites like the state as well as rural folks. Only recent migrants (and I emphasize *recent)* have an evaluation of the state that is less than overwhelmingly favorable. It looks as if Thomas Wolfe was on to something when he wrote in his notebook: "New England is provincial and doesn't know it, the Middle West is provincial, and knows it, and is ashamed of it, but, God help us, the South is provincial, knows it, and doesn't care."

No, the paradox these data present can't be explained by saying that Southerners don't know any better — although, of course, some don't. I think part of the contradiction is more apparent than real. What is a poor and ignorant Tarheel telling us when he says that North Carolina is the "best state?" Why, he's telling us that it's better to be poor and ignorant in North Carolina than in any other state. Sure, he'd rather be rich, but he probably doubts that he can *really* improve his economic condition by leaving. If he thought that, he'd no doubt leave.

Obviously it's better to be rich than poor — and if it's not obvious, there's plenty of evidence to prove it. It's *not* so obvious that it's better to live in a rich state than in a poor one. In fact, there are good reasons to suppose that living in a rich state makes rich folks feel less rich, and poor folks feel poorer. So any *given* individual may be psychologically "better off" in a state like North Carolina, or Alabama, where the *average* individual is worse off.

Besides that, the kind of economics and politics that can make a state healthy, wealthy, and wise — "civilized," as Mencken would have it — can have at least short-run effects that people experience as debits in the "quality of life" ledger. For example, New York spends twice as much per pupil on education as North Carolina. Score one for the quality of life in New York when those pupils finish school. But North Carolina's taxes are about half of New York's, *per capita*. Score — how much? — for the quality of life in North Carolina right now. Workers earn half again as much in Illinois as in South Carolina. But they're on strike for an average of four to ten times as many days in a given year — often with negative consequences for *other* people's "quality of life." Connecticut's homicide rate is only half of Virginia's. But many Virginians would find Connecticut's gun-control laws an

obnoxious interference with their personal freedom. New Jersey is more highly industrialized than Arkansas. But Arkansas' air is cleaner.

My point isn't that the southern states are preferable in each of these comparisons. (I, for one, would be glad to pay higher taxes to improve education in North Carolina, since I have to teach graduates of North Carolina high schools.) I'm just pointing out that a given individual can quite rationally be unwilling to trade a clear and present good thing for a distant and hypothetical benefit — which will probably accrue to someone else in any case. It's perfectly reasonable to want to be *born* in New York — you'll have a better statistical chance of surviving to adulthood, getting a decent education, and entering a high-paying occupation. But it may also be reasonable to want to *live* in North Carolina — your money will go further and you'll enjoy life more. (I think the migration statistics are telling us that people are starting to notice this.)

ANYWAY, IF WE RECOGNIZE that workers in what we can call the "Menckenian" tradition are measuring one thing and that the people who talk about "satisfaction" are measuring another, we've gone a long way toward explaining the apparent discrepancies. There are some interesting questions left, though. For instance, what is it about the southern states that their residents like so much? I've already suggested a few possible answers, but I want to press on — without fear and without research, as somebody once said. I want to press on to argue that there are things that everybody wants (or almost everybody) and that Southerners have more of. I think we can explain why Southerners like their communities and their states so much — and it's not that the climate affects their brains directly (as one of my colleagues suggested).

Let me describe a whimsical "quality of life" index that I have constructed, one that I think does a fantastically good job of predicting which states are lovable and which aren't. This index has two components: *mean winter temperature*, and *robberies per 100,000 population* in 1971. These two factors explain nearly two-thirds of the variation in the ranks of the states on Merle Black's "best state" question. Obviously, people like safe, warm places.

This finding tells us more than that, though. It's a roundabout way of telling us what is important to people when they're deciding whether someplace is a good place to live. Each of these components — climate and robberies — is standing in, so to speak, for a host of other characteristics. The average winter temperature has all sorts of implications for people's way of life (or "lifestyle," if you prefer). And the robbery rate tells us a lot about personal relations and social stability. I suggest to you that this is the sort of thing people have in mind when they say that North Carolina is the "best state" — or that Massachusetts isn't.

About three years ago, another fellow and I asked a sample of North Carolinians, "What would you say is the *best thing* about the South?" More than two-thirds of our respondents mentioned natural conditions — the benign climate, the clean air, the forests and wildlife, the easy pleasures of a life lived largely outdoors. There's nothing uniquely southern about this taste: the frequent mob scenes in our nation's parks tell us that. But Southerners can indulge themselves more easily and more often than their less favored brethren — and our data show that that is important to them.

Incidentally, I don't think it's accidental that climate hasn't turned up in most "quality of life" indexes. Most of them have been constructed by intensely practical men, concerned with *policy* — and there's not a whole lot the government can do about the weather. At least not yet. Thank God. Dr. Johnson wrote:

> How small, of all that human hearts endure,
> That part that kings or laws can cause or cure.

Words to make a political scientist gnash his teeth, but we need to keep them in mind when we talk about what makes people happy.

The other component in my little index, the number of robberies per 100,000 population, reflects another major concern of Americans: what was called, not too long ago, "crime in the streets." Poll after poll shows that many Americans don't feel safe. Now it has been almost traditional to put the homicide rate into "quality of life" indexes — and the South doesn't do too well on that score. But the thing about homicide, especially in the South, is that it's not "in the streets." It's often in the home, and usually between friends. And even in the South it's pretty unusual. What's more common, and what people are scared of, is being robbed, mugged, raped, or burgled by a *stranger*. And North Carolina's robbery rate is only one-tenth of New York's.

I think in some ways the most important effects of the robbery rate (and all that it implies) are indirect — the suspicion and distrust that follow from it, the absence of easy and cordial interaction with strangers. This kind of thing is important to people, too. When we asked what the best thing about the South was, half of our respondents said that the people were: that Southerners are friendly, they're polite, they take things easier, they're easier to get along with. Two recent studies from the University of Michigan document the obvious fact that personal relations are important to all Americans — that we *all* rely on face-to-face interaction for the greater part of the satisfaction we get from life. But the North Carolinians in our poll seem to feel, and I agree with them, that the texture of day-to-day life is more pleasant in the South — particularly in fleeting, secondary interactions (like those with saleselerks and secretaries and cabdrivers and policemen and — I regret to say — students). A good part of nearly everybody's day is taken up with precisely that kind of interaction. It might as well be pleasant.

Here again, the effects of state government and of the economy are really pretty remote. The kinds of things that Mencken and other toilers in that vineyard are measuring don't really have much to tell us about this aspect of "quality of life." Of course, Southerners *know* what Mencken was trying to tell them. Very few of our respondents mentioned politics or economics when we asked

them what they liked best about the South, and nearly a third mentioned them when we asked what they liked *least* about their region. I read these data to say that state and local politics don't make much of an impression on most individuals, just living day-to-day, except as an entertaining sideshow. Perhaps especially entertaining in the South.

IF I HAD THE TIME — and the weather weren't so nice — I could probably go on to explain the rest of the variation in the lovability of states. I'd start with observed facts (like that homeowning is an important value for most Americans) or with sound theoretical propositions (like that people are more comfortable in culturally homogeneous communities) and I'd translate those into measures that we could look up in the *City and County Data Book*. But I hope I've made my point — or rather points. Let me spell them out.

First, we need to be clear whether we're talking about the "quality of life" of a *given* person or of the *average* person. Second, nearly all "good things" come at a price, and we need to be sensitive to that. Third, we can't impose our own definition of "good things" on people — they will perversely continue to use their own. Fourth, there are many important aspects of the good life that policy-makers can't do anything about, and last, that Providence has seen fit to endow the South with more than its share of this bounty. And we can be thankful for that. □

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Composition of the North Carolina Legislature, 1967-77

Michael Crowell

THE NORTH CAROLINA GENERAL ASSEMBLY has undergone considerable change in the last decade. There have been two reapportionments. A legislative services office was established and its staff gradually expanded, then a fiscal research division was added. Various methods of organizing interim studies were experimented with, and for a while, bills could be filed between sessions. Computers have been used for storing the text of bills and for keeping track of legislation. The presiding officer of the Senate, the lieutenant governor, became a full-time official. The structure of the appropriations committees has undergone several changes: the committees of the two houses met separately for two years, "super subcommittee" sessions were opened to the press, base budget committees were added, and in 1977 the entire Senate became a "ways and means" committee. Campaign reporting and financial disclosure laws were enacted, and lobbyists subjected to new reporting regulations. Legislative participation in selection of appointed officials increased, and in a few instances legislative confirmation of gubernatorial appointments was added. Legislative pay substantially increased also, though it still is no bonanza for the members.

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Annual sessions

One other change that has taken place recently and has evoked considerable comment is the switch to annual sessions. Although the State Constitution still provides for biennial meetings, 1977 is the fifth straight year the General Assembly has been in session. The 1973 Assembly had almost a full session in 1973 and then met several more months in 1974 by using its power to reconvene on any day of its choosing. The 1975 legislature held a full session in '75 and came back in '76 for two weeks of budget revision and medical malpractice legislation and the 1977 General Assembly will return in 1978. In addition to an attempt to keep up with increasing legislative business (some of which may be attributable to the availability of additional staff to work on members' ideas), the move to annual sessions was probably stimulated by two events. One was the election of a Republican governor in 1972, leaving the overwhelmingly Democratic legislature without the traditional gubernatorial leadership that facilitates the transaction of business. The other was the national economic slump, which meant there was less state money to be appropriated, it was more difficult to decide priorities for the scarcer funds, and there was too little predictability to allow appropriations to be made for two full years.

In North Carolina annual meetings have been accompanied by increasingly long legislative sessions. This trend began before the 1973 Assembly initiated the annual-session experiment and has continued since then. The following figures show how much longer the sessions have become with each legislature.

Working days spent in session for last five legislatures

1967	*1969*	*1971*	*1973*	*1975*
106	121	141	161	181

Effect on legislative membership

In the spring of 1975 an issue of this magazine was devoted to the North Carolina General Assembly. One article dealt with annual sessions and contained interviews with five legislative leaders. The first question asked was whether the kind of people who become legislators would change if North Carolina permanently adopted annual sessions. All five legislators said yes, that annual sessions would promote professional legislators, people whose primary occupation is being a legislator. Citizens with businesses to manage or who work for someone else would not be as likely to serve and would be replaced by those who are independently wealthy, retired, or otherwise without an occupation to require all their attention, such as people just finishing school or housewives.

Has this happened? Has there been any significant change in the make-up of the North Carolina General Assembly as a result of the five-year run of annual sessions? If so, is it the result of annual sessions, or is there some other explanation?

In a partial attempt to answer these questions, the composition of the last six General Assemblies has been reviewed. Data on the occupation, sex, and race of the members for the 1967 through 1975 legislatures were taken from the *North Carolina Manual* compiled by the Secretary of State. In some instances the biographical sketches included there left some doubt as to the exact nature of the legislators' business interests, but that did not occur often enough to affect the overall results. There was no such problem with regard to the members of the 1977 General Assembly since 1975 legislation requires them to file detailed financial disclosure statements with the Legislative Library. Instead of listing one occupation for each legislator, the charts below give the total number of businesses listed for all the legislators. In many instances an individual legislator is counted more than once because he has several distinct business interests. For example, many of those who are farmers also sell farm equipment or own a store or have some other business. The 1977 financial disclosure statements more fully reveal these additional interests than do the biographical sketches in the *Manual* for earlier years. Several legislators who have consistently listed "lawyer" as their only occupation in the biographical sketches of the *North Carolina Manual* turn out to be at least part-owners of real estate and insurance agencies, car dealerships, and a variety of other enterprises. Also, it is easier to tell from the financial statements who is employed by someone else and who is actually retired.

Occupations of legislators

Tables 1-3 give the results of the survey. Remember that legislators with more than one business interest have been counted under each interest. Also, when the information was available, those who are listed as retired have also been counted under their most recent occupation before retirement.

Several things should be kept in mind when looking at these tables.

— The increases in business owners and managers in 1977, including those with insurance and real estate agencies, are most likely simply the result of more accurate reporting.

— The decrease in lawyers is real. The data on farmers are probably just as reliable. Many of those listed as farmers have other business interests as well.

— Several categories, such as publishers, have too few numbers to allow any generalizations.

— The increase in teachers is probably accurate and only slightly inflated by those who have some other occupation (such as lawyer) and do occasional teaching. Several of those who are retired have also been listed under the teacher category.

— The "other" category is made up principally of housewives and, to a lesser extent, ministers. The increase in the number of "others" and teachers over the last few years parallels the increase in the number of women members.

Results

A few observations may be made from the data shown in the tables. The number of lawyers serving in the General Assembly has decreased substantially, from 60 in the 1967 session (and even more in the next two sessions) to only 40 in 1977. The decrease has come most drastically since the initiation of annual sessions. Apparently the time away from legal practice has been too great a burden for many lawyer legislators. Another possibility is that lawyer legislators have been caught in the fallout from Watergate, a scandal often publicized as being managed exclusively by members of the bar.

The number of farmers serving in the General Assembly has also de-

Table 1

Senate and House Combined (total = 170 members)

	1967	1969	1971	1973	1975	1977
Lawyer	60	69	69	59	54	40
Owner, manager or executive of business (other than one listed below)	57	51	57	54	52	70
Farmer	36	27	23	21	18	18
Owner, executive of insurance agency	8	4	7	11	15	17
Owner, executive of real estate agency	13	11	9	11	13	16
Savings & loan or bank executive	9	9	13	6	6	3
Owner, executive of hotel	6	3	3	2	1	0
Publisher, owner or executive of radio or TV station	5	5	4	5	4	3
Teacher or administrator	9	9	10	15	16	19
Employee of business	7	9	10	13	10	8
Other professional	0	3	0	2	3	2
Other (unemployed, minister, housewife, gov't employee)	6	7	5	6	11	11
Retired	7	10	10	8	13	16

creased during the last decade, but the initiation of annual sessions seems not to have affected this already existing trend. With increasing urbanization of the state, and with two reapportionments giving greater representation to the Piedmont area, the number of farmers has been going down anyway and might have been expected to continue.

The number of business owners and executives seems not to have changed very much. The numbers are higher for 1977 than for previous years, but that seems to be mostly the result of more complete reporting by legislators.

Although the numbers for the years prior to 1977 are not completely reliable, the number of legislators who are employees of others seems to have genuinely increased. This is largely due to the increase in the number of teachers and school administrators. When those who are either employed by someone else (including teachers) or retired or unemployed are totaled, the figures for the last decade are as follows: 29 in 1967; 35 in 1969; 35 in 1971; 42 in 1973; 50 in 1975; and 54 in 1977. The switch to annual sessions seems to have had no particular effect on this figure unless it is shown in the increase in the number of retired persons. There is no doubt that the number of teachers has increased, but it is hard to see how that increase is affected by annual sessions. The number of housewives has definitely gone up, but it is still small, and the increase may result from other factors such as the women's movement.

As far as occupations of General Assembly members are concerned, the one thing that can be said with assurance is that the number of lawyers has gone down substantially with the advent of annual sessions. The other changes in the composition of the legislature over the last decade do not appear as likely to have been influenced by annual sessions. It may well be that the kind of people who can afford to serve in the General Assembly are already there and that increasing the length or frequency of sessions does not make much difference in the legislature's make-up. Data from subsequent years will undoubtedly clarify the picture.

Table 2

Occupation of Senate Members (Total = 50 senators)

	1967	1969	1971	1973	1975	1977
Lawyer	17	22	21	19	15	14
Owner, manager or executive of business (other than one listed below)	17	17	18	18	17	23
Farmer	10	3	5	3	2	6
Owner, executive of insurance agency	1	2	2	4	6	5
Owner, executive of real estate agency	6	3	3	3	4	5
Savings & loan or bank executive	3	4	7	3	5	2
Owner, executive of hotel	2	0	0	1	0	0
Publisher, owner or executive of radio or TV station	1	0	1	1	1	0
Teacher or administrator	2	2	2	2	3	4
Employed by business	0	2	1	4	2	2
Other professional	0	2	0	0	0	0
Other (unemployed, housewife, minister, gov't employee)	2	2	2	1	3	1
Retired	1	1	3	2	2	1

Other states

In the spring of 1975, *State Government* magazine, a quarterly published by the Council of State Governments, ran an article by Carl Tubbesing on the effect of the switch to annual sessions in six states. He found that the effect varied considerably in Georgia, Maryland, Michigan, Mississippi, Pennsylvania and South Dakota, but that for the most part, going to annual sessions had no demonstrable impact on the composition of the legislature. The one exception was the number of lawyers, but unlike the situation in North Carolina, the consistent result in the other states was an increase in the number of attorney legislators. This was attributed to their more flexible schedules. (Perhaps more North Carolina attorneys practice alone or in small firms so that this flexibility is not present.)

There were other changes in those six states, but they were not consistent among the states. The number of farmers went down in some states, but up in others; the same was true with insurance agents and others. Also, in several of the states it was not clear that the switch to annual sessions meant longer time in session since legislators had made regular use of special sessions while they were still supposed to be meeting only once every two years.

As in North Carolina, the period surveyed for those six states was one of many other changes for the legislatures, making it hard to assess the impact of annual sessions alone.

Other effects of annual sessions

If annual sessions have not had much effect on the occupations represented by legislators, except for

lawyers, have they made any other differences in the composition of the General Assembly? Two other areas that were explored were the representation of women and blacks in the General Assembly and the turnover rate. Table 4 shows the changes in the membership of women and blacks in the legislature over the last decade.

Table 3

Occupation of House Members (Total = 120 representatives)

	1967	1969	1971	1973	1975	1977
Lawyer	43	47	48	40	39	26
Owner, manager or executive of business (other than one listed below)	40	34	39	36	35	47
Farmer	26	24	18	18	16	12
Owner, executive of insurance agency	7	2	5	7	9	12
Owner, executive of real estate agency	7	8	6	8	9	11
Savings & loan or bank executive	6	5	6	3	1	1
Owner, executive of hotel	4	3	3	1	1	0
Publisher, owner or executive of radio or TV station	4	5	3	4	3	3
Teacher or administrator	7	7	8	13	13	15
Employed by business	7	7	9	9	8	6
Other professional	0	1	0	2	3	2
Other (unemployed, minister, housewife, gov't employee, etc.)	4	5	3	5	8	10
Retired	6	9	7	6	11	15

Table 4

Election of Blacks and Women to the General Assembly, 1967-77

	BLACKS					
	1967	1969	1971	1973	1975	1977
Senate	0	0	0	0	2	2
House	0	1	2	3	4	4
Total	0	1	2	3	6	6
	WOMEN					
	1967	1969	1971	1973	1975	1977
Senate	3	2	0	1	2	4
House	1	1	2	8	13	19
Total	4	3	2	9	15	23

It is difficult to draw conclusions from the data for blacks except to say that their representation in the General Assembly is not even close to their proportion of the population, and that annual sessions have probably made no difference. Although the number of black members increased during the period of annual sessions, so few people are involved that it would not be proper to make any generalization from the data.

The increase in the number of women legislators has been more dramatic and has largely occurred concurrently with the introduction of annual sessions. It is easy to say that the increase in women legislators simply reflects the basic social changes taking place with regard to women's roles, but there may be more to it than that. A review of the occupations of the women who have come to the legislature in the last several years shows that probably half of them are either housewives or retired. If lengthier and more frequent sessions make legislative service less attractive to people with substantial investments in private businesses, they open the door for other citizens who are not so tied down by business obligations, such as housewives and retired people. Perhaps the increase in the women's delegation that would have been expected as a result of the women's movement of the 1970s has been boosted in North Carolina by the switch to annual sessions. Although a number of the new women legislators fit into the same occupational categories as the men they replaced, a higher proportion of the women than men in the General Assembly are not employed and thus possibly better able to serve annually.

Turnover

North Carolina has traditionally had one of the highest turnover rates for a state legislature. In a survey reported in the Summer 1974 issue of *State Government*, Alan Rosenthal found that from 1963-71, the overall turnover rate for state senates was 30.4 per cent and for state houses of representatives, 36.1 per cent. For the same period,

Figure 1

Trends in the North Carolina General Assembly, 1967–77

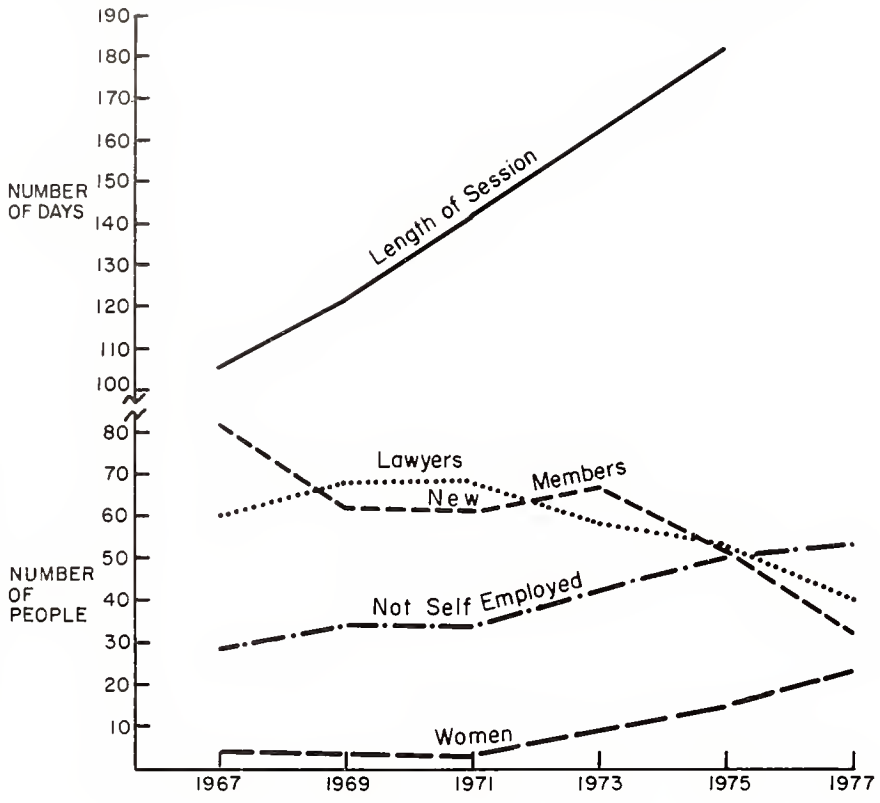

Table 5

Turnover in the General Assembly

	1967	1969	1971	1973	1975	1977
Senate (50 members)						
Number of members who were not in the legislature previous year	21	20	18	17	21	9
Numbers of members who were not in the Senate previous year	24	23	22	27	24	14
House (120 members)						
Number of members who were not in the legislature previous year	60	42	43	51	31	24
Number of members who were not in the House previous year	61	44	44	51	31	25
Senate and House (170 members)						
Number of members who were not in the legislature previous year	81	62	61	68	52	33

the turnover rate for the North Carolina Senate was 54.4 per cent, second highest in the country, and the rate for the House was 40.6 per cent, sixteenth highest. (The Senate rate is so high partly because North Carolina, unlike many other states, does not give a longer term to senators. Generally, the longer the term for which an office may be held, the less turnover there is. It should also be remembered that during the period in which the survey was made, many states were undergoing reapportionment, and the comparisons between states may not be as dependable for that period.)

Table 5 shows North Carolina's experience with turnover in the last decade.

The change is obvious; in the two legislative elections following annual sessions, the number of new members elected has decreased dramatically. The change has taken place in both houses and is clearly at odds with previous North Carolina experience.

What explanation is there for this change in North Carolina's turnover rate? Why are more legislators holding on to their jobs? Several possibilities come to mind, some of them attributable to annual sessions and some not. Consider these possible explanations:

— These were years when there was a Republican governor, which might make a seat in the Democratic General Assembly seem more valuable to the member so that he is less likely to give it up.

— The additional time spent in session has given more publicity to legislators, which might make it easier to be re-elected. Before annual sessions, with the General Assembly not meeting in the second year of the legislator's term, little or no publicity would have been received in the election year.

— It may be that the additional media exposure has made the legislative seat more attractive and prestigious, thus making it less likely an incumbent would give it up voluntarily.

— In addition, all the changes outlined at the beginning of this article have resulted in a more powerful

legislature, a more attractive position for legislators.

— The pay increase that went into effect for members of the 1975 legislature, though it certainly did not make the job high-paying, was at least enough of an increase to keep a member from losing money and thus make it more likely that he would stand for re-election.

— With the advent of annual sessions, the people who ran and were elected liked the idea of serving for long periods of time and do not wish to give up the office. These people may have essentially the same business interests as those who served before annual sessions, but they have a different perspective on what the legislative job should be.

— The decrease in turnover is just an oddity that will disappear in 1979.

Summary

The North Carolina General Assembly is an institution that has undergone considerable change in the last decade. One major change is that the legislature has begun to meet regularly every year rather than every other year. Concurrent with that change, several other things have happened. The number of lawyers and farmers serving in the General Assembly has decreased significantly; the decline in lawyers seems at least partly attributable to annual sessions, but the drop in farmers seems part of a longer trend. The number of members who are re-elected each session has gone up dramatically in the years following annual sessions, but it is difficult to figure out why. The number of women elected has also increased significantly, and this may be more the result of the women's movement than annual sessions. The number of legislators who are not self-employed has also increased substantially over the last decade and may be partly due to annual sessions; housewives and retired people may be better able to come to Raleigh each year than people with businesses that need their personal attention.

Figure 1 demonstrates these changes. That the changes have taken place is clear, but with so many changes in the legislative institution taking place over the last decade, it is not possible to tell how much the composition and turnover in the General Assembly has been affected by annual sessions and how much by other factors. Several more years' experience might offer additional evidence. □

Prisoners Who Return to Crime

North Carolina's Recidivism Rate

Editor's Note: This article is based on a study by Ann D. Witte and Peter J. Schmidt, professors of economics at the University of North Carolina at Chapel Hill. The study was prepared under contract with the North Carolina Department of Correction.

RECIDIVISM, OR RETURN TO CRIME after release from prison in North Carolina, was analyzed in this study, which identifies some prisoner characteristics associated with recidivism. Obviously, some prisoners are more likely to return to prison than others. If the prison system can recognize those most likely to return, in the future it can spend more time and money on programs designed to help them avoid recidivism. The study also provides the Department of Correction with a method of evaluating its programs: the recidivism rate of prisoners who participated in a program can be compared with the rate that they would have exhibited without the program, as predicted by the model developed in the study.

The primary objective of the study was to develop statistical "models," or mathematical statements, relating post-release recidivism to various characteristics of the persons released. These models are not considered sufficiently accurate to predict whether a given individual will be convicted of a new crime after release, but are reliable enough to predict the behavior of groups of prisoners — defined in terms of characteristics measured in the study — in terms of their likelihood of recidivism.

The study dealt with the frequency, severity, and types of crimes that inmates released from a North Carolina prison engaged in after their release. Three measures of post-release crime were used: (1) the length of time between release from prison and conviction of another crime, (2) the "seriousness" of the conviction, and (3) the specific offense involved. Seriousness of conviction was measured in two ways — the length of the prison sentence received, and whether the crime was a felony or a misdemeanor. Crimes (both felonies and misdemeanors) were grouped into three categories: crimes against persons, such as assault; crimes against property, such as burglary, larceny, and robbery; and all others.

The data and variables

The study involved 641 men in medium- and minimum-security prisons in North Carolina in 1969 or 1971.[1] No women were included because they were generally confined in the Correctional Center for Women in Raleigh or in half-way houses in other parts of the state. Also, because of the pur-

This study was summarized by David Vogel, a student in the School of Journalism at the University of North Carolina at Chapel Hill, and by the editors of Popular Government.

1. More precisely, the data consisted of information on a random sample of 297 men who were in prison custody and on work release in the South Piedmont region of the state in 1969 and 1971, and a random sample of 344 men in prison but *not* on work release in the same region for those two years. Before these subjects were selected, people with the following characteristics were eliminated from consideration: those who were not released from prison by June 1973, died in prison, or escaped; those convicted of offenses that made work release very unlikely (sex and drug offenses); and those in prison for public drunkenness. (These data were the basis for an earlier study of the effectiveness of work release.) See Witte, "Work Release in North Carolina: An Evaluation of its Effects After Release from Incarceration" (N.C. Dept. of Correction, Raleigh, N.C., 1975); Witte, "Work Release in North Carolina's State Prisons," *Popular Government* 41 (Winter 1976), 32. The South Piedmont prison populations from which the samples were taken are quite similar to the prison population in medium- and minimum-security prisons throughout North Carolina. Hence, the models developed here should be quite similar to models developed on a random sample of men in medium- and minimum-custody facilities throughout North Carolina. (See Witte, "Work Release in North Carolina," 10-12.)

pose for which the data were originally collected — to evaluate the work-release program — individuals convicted of sex crimes and serious drug offenses were excluded since they would be unlikely to qualify for work release. Public drunks were not included because they were not in prison long enough to qualify for work release. With these exceptions, the results obtained with these data are representative of the North Carolina prison population in medium- and minimum-security institutions, which made up 66 per cent of the entire state prison population in 1974.

The 641 men in the sample were followed after their release from prison for a period ranging from three to 71 months and averaging 37 months. Data were collected on their criminal convictions during this period. Careful statistical checks were performed to see whether this variation in the follow-up period affected recidivism as measured in the study. It did not, probably because 90 per cent of those who received new convictions after release did so within 24 months.

Other studies of recidivism have considered the importance of such factors as the offender's criminal record, age, race, education, marital status, and history of alcohol or drug abuse. Information on all of these was collected in the North Carolina study. Each subject's criminal record before he was incarcerated was examined to determine how old he was when first arrested and how many convictions he had received *before* the conviction that sent him to prison and resulted in his being included in the study. The seriousness and type of each crime for which he was incarcerated was recorded. Data were also collected regarding the number of rule violations he committed while he was in prison,[2] whether he participated in the work-release program, and whether he was paroled from prison or released unconditionally.

The likelihood of committing crimes after release

Of the 641 men studied, 450, or 70 per cent, were found to have been reconvicted (of a new crime) after release from prison during the follow-up period. Sixty-one per cent were convicted of misdemeanors and 9 per cent of felonies; 10 per cent were convicted of crimes against persons (including both felonies and misdemeanors); 18 per cent were convicted of crimes against property, and 43 per cent, of other types of crimes. Fifteen persons, or 2 per cent, were returned to prison for noncriminal parole violations. For purposes of the study, such parole violations were counted as misdemeanors and in the "other" crime category. A total of 207, or 32 per cent, received new prison sentences (sentences of 15 days or more) during the follow-up period.

Of the 641 men studied, 450, or 70 per cent, were found to have been reconvicted . . . after release from prison during the follow-up period.

Statistical analysis indicated that the following factors had a significant and substantial relationship to whether a released man was reconvicted: whether the crime for which the man had most recently served prison time was a felony or a misdemeanor; the number of convictions resulting in prison terms that he had received before that most recent prison term (i.e., convictions that occurred before the conviction and prison term that resulted in his being included in the study); whether he had a serious alcohol or drug abuse problem; his race; age (both on release and when first arrested); and whether he was released from his most recent prison term on parole or unconditionally. A person whose most recent imprisonment was for a felony was much more likely to be reconvicted of a felony than a person who had served time for a misdemeanor. As one might expect, a history of one or more convictions (before the one that resulted in inclusion in the study) was associated with a higher likelihood of being convicted of a misdemeanor or felony (or both) after release.

The younger a man was at his first arrest, the more likely he was to be reconvicted of a felony. The younger he was at his release from prison, the more likely he was to be reconvicted of either a felony or misdemeanor. This finding simply reflects the fact that people's criminal tendencies decline with age.

Being released from prison on parole, rather than unconditionally, generally meant a lower chance of reconviction. This may be because ex-offenders are less likely to get into trouble again when they are supervised by parole officers. It may also mean that those who were released early from prison on parole were less crime-prone than those who must serve their full sentences, possibly because they had served less time in prison or because of other (unknown) factors not included in the study.

To illustrate the cumulative impact of the factors that were found to be related to reconviction, three groups were compared: an "average" group, which

2. Rule violations are violations of the rules governing the conduct of prisoners. They include such things as the possession of forbidden items — alcohol, drugs, weapons, etc. — and fighting.

possessed the average characteristics of the entire group of men studied; a "low-risk" group, which possessed very favorable (noncrime-prone) characteristics; and a "high-risk" group, which possessed very unfavorable characteristics. Table 1 shows how the three groups differed in significant characteristics and the probability of reconviction for each group. The high-risk group's chance of reconviction for a felony was 42 per cent — several hundred times that of the low-risk group (0.1 per cent). The figures for reconviction of a misdemeanor were 28 per cent and 3 per cent respectively.

These factors were further analyzed to see whether their influence varied with the types of crime for which the subjects were reconvicted. Being an alcoholic or drug abuser was more strongly associated with crimes against persons and "other" crimes than with property crimes. (The relationship to "other" crimes is probably due to the fact that crimes such as illegal possession and sale of drugs are included in the "other" category.) Having a history of imprisonment before the most recent prison term was related about the same extent to all three crime categories. Being released on parole (rather than unconditionally) was associated with a lower likelihood of reconviction of all three types of crime, but seemed to have more beneficial effect on crimes against persons than on other crimes.

Other things being equal, the fact that a man was white meant he was more likely to be reconvicted than a nonwhite; this finding was confirmed with additional statistical tests. Being white increased a man's chance of reconviction for a misdemeanor more then his chance of reconviction for a felony, and the misdemeanor tended to be in the "other" category. Thus, the greater probability of reconviction for whites was due mainly to their greater likelihood of conviction of misdemeanors such as nonsupport, possession of marijuana, disorderly conduct, and public drunkenness.

Length of time until reconviction and reincarceration

The researchers found that a man would generally be reconvicted sooner, and also sent back to prison sooner, if he was addicted to alcohol or drugs, if he was white, and if he was released unconditionally rather than on parole. Also, the more convictions that were on his record (before the most recent one that sent him to prison), and the younger he was upon release from prison, the sooner he was likely to be reconvicted and returned to prison.

Table 1

Comparison of Risk Groups: Reconviction

	Average Group	Low-Risk Group	High-Risk Group
Proportion white	50%	0%	100%
Proportion whose most recent imprisonment was for a felony	31%	0%	100%
Proportion having serious drug or alcohol problem	48%	0%	100%
Proportion released from prison on parole (rather than unconditionally)	32%	100%	0%
Average number of incarcerations before most recent prison term	2.2	0.0	4.0
Age when released from most recent prison term	32	50	18
Age when first arrested	23	40	13
Probability of reconviction during follow-up period of:			
a. Misdemeanor	18%	3%	28%
b. Felony	5%	0.1%	42%

As might be expected, being reconvicted does not necessarily mean being sent back to prison. The length of time from release until return to prison is much longer than the time between release and reconviction. Persons in the average group have almost a 90 per cent chance of staying out of prison for at least a year, and those in the low-risk group have a 94 per cent chance. Even those in the high-risk group have a 57 per cent chance of avoiding reincarceration for a year or more after their release.

Seriousness of post-release crime: Total amount of reincarceration

The researchers analyzed the total amount of reincarceration (i.e., prison sentences) of the individuals for convictions after prison release. Seventy per cent of the men studied either were not convicted of any new crime during the follow-up period or, if they were, did not receive a prison sentence. The rest of the men received sentences during the follow-up period that ranged from one to 480 months (life imprisonment was assigned a value of 480 months) and averaged 45 months.

Using a multivariate statistical technique, the researchers selected those factors that were related significantly to total post-release reincarceration. ("Related significantly" means that the observed relationship is unlikely to be an accidental result of sampling.) This technique also produced estimates

of the amount that each factor added or subtracted from total reincarceration, other things being equal. The factors found to have a significant and substantial relationship to the total amount of post-release incarceration were race, convictions before entering prison, whether the individual participated in the work-release program before release from prison, whether he had a serious alcohol or drug abuse problem, and whether he was married at the time of release. Also, the younger a man was when first arrested and the younger he was when released from prison, the more post-release incarceration he was likely to experience. Table 2 indicates the estimated amount of increase (plus sign) or decrease (minus sign) in total post-release incarceration associated with each of these factors. It should be noted that, for each of the factors, the estimated increase or decrease measures the contribution of *that factor alone, taking all other factors into account.*

Comparison of average, low-risk, and high-risk groups shows the cumulative impact of the factors identified as important. Table 3 shows how these three groups were defined and how they differed in the likelihood of receiving post-release prison sentences totaling more than 12 months during the follow-up period.

Several characteristics were discovered that for some reason were associated with total reincarceration but had not shown up in the previous analysis of the length of time until reconviction. If an inmate was married when he was released, he was likely to be reincarcerated less — in other words, be convicted either of fewer crimes resulting in prison, or of fewer crimes for which he received shorter sentences — than if he was single. Participation in work release was also associated with lower post-release incarceration, which confirms the results of an earlier study of the North Carolina prisoner work-release program.[3] That study found that participation in work release reduces the seriousness of post-release criminal activity although it does not affect other measures of recidivism such as the length of time until return to prison.

.Race, which had been found to be related to the speed of reconviction, also proved to be related to total post-release incarceration. Whites received an estimated 19.3 months more post-release incarceration than blacks (Table 2), other things being equal. However, as explained earlier, whites were more likely to be convicted of misdemeanors and less likely to be convicted of felonies than blacks. Thus, the increase in total reincarceration associated with being white is probably a result of an accumulation of short sentences for relatively minor crimes.

The individual's age was also quite important, as Table 2 indicates. The researchers estimated that if two men had similar characteristics except for age when they were released from prison, the older man would be incarcerated for about two months less during the follow-up period for each year by which his age exceeded the younger man's. For example, if the man was five years older than another man when the two were released, his

3. See Witte, "Work Release in North Carolina's State Prisons," 33-37.

Table 2

Estimated Effect of Factors Found to be Related to Total Post-Release Reincarceration

Factor	Estimated Effect
Race	+19.3 months if white
Convictions before entering prison	+2.5 months for each conviction
Work release	-21.1 months if participated in program while in prison
Alcohol or drug abuse	+47.9 months if serious alcohol or drug problem
Marital status	-36.4 months if married when released from prison
Age at first arrest	-2.1 months for each additional year of age
Age at release from prison	-1.9 months for each additional year of age

Table 3

Comparison of Risk Groups: Total Post-Release Reincarceration

	Average Group	Low-Risk Group	High-Risk Group
Proportion white	50%	0%	100%
Average number of prior imprisonments before entering prison	2.2%	0%	4.0%
Proportion who participated in work release while in prison	46%	100%	0%
Proportion having serious alcohol or drug problem	48%	0%	100%
Proportion married when released from prison	31%	100%	0%
Average age when first arrested for crime	23	50	18
Average age when released from prison	31	40	13
Estimated proportion who received post-release prison sentences totaling:			
a. More than 12 mos.	20%	0.9%	63%
b. More than 24 mos.	17%	0.6%	58%

post-release reincarceration would be an estimated ten months less than the younger man's. The study also indicated that the younger a person was when his criminal "career" began (as determined indirectly by the date of his first arrest), the more post-release incarceration he would likely experience.

It is interesting that the length of the follow-up period for an individual had no noticeable effect on his length of time sentenced. It would be expeeted that individuals followed for 70 months, for example, would have more time to commit more crimes and therefore would tend to have a higher total of time sentenced than those who were followed for only 30 months. However, most persons who returned to crime did so relatively fast; as explained earlier, 90 per cent of those destined to receive new prison sentences were sentenced within two years of release from prison.

Summary

The study points to five factors strongly associated with criminal recidivism: age, race, serious alcoholism or drug abuse, previous criminal record, and whether release is unconditional or on parole. The released North Carolina prisoner most likely to resume criminal activity — no matter how it was measured — was a young white alcoholic or hard drug user who had served his full sentence before release and had many previous convictions. The released prisoner with the most optimistic prognosis was an older nonwhite who did not abuse drugs or alcohol, was released on parole, and had had no previous convictions.

Other things being equal, the fact that a man was white meant that he was more likely to be reconvicted.

These findings could be used in a variety of ways. For example, rehabilitation programs could be tailored to take into account the various characteristics (except race) that the study found were related to recidivism. More time and money could be spent to rehabilitate those prisoners more likely to return to crime or efforts could be concentrated on those more likely to respond to treatment. However, the most likely use of the findings is in evaluating rehabilitative programs at the North Carolina Department of Correction.

Regardless of the success of rehabilitation, those inmates with a high likelihood of recidivism could receive more intensive parole supervision. In this way, the parole system could concentrate on those from whom society is most likely to need protection. □

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