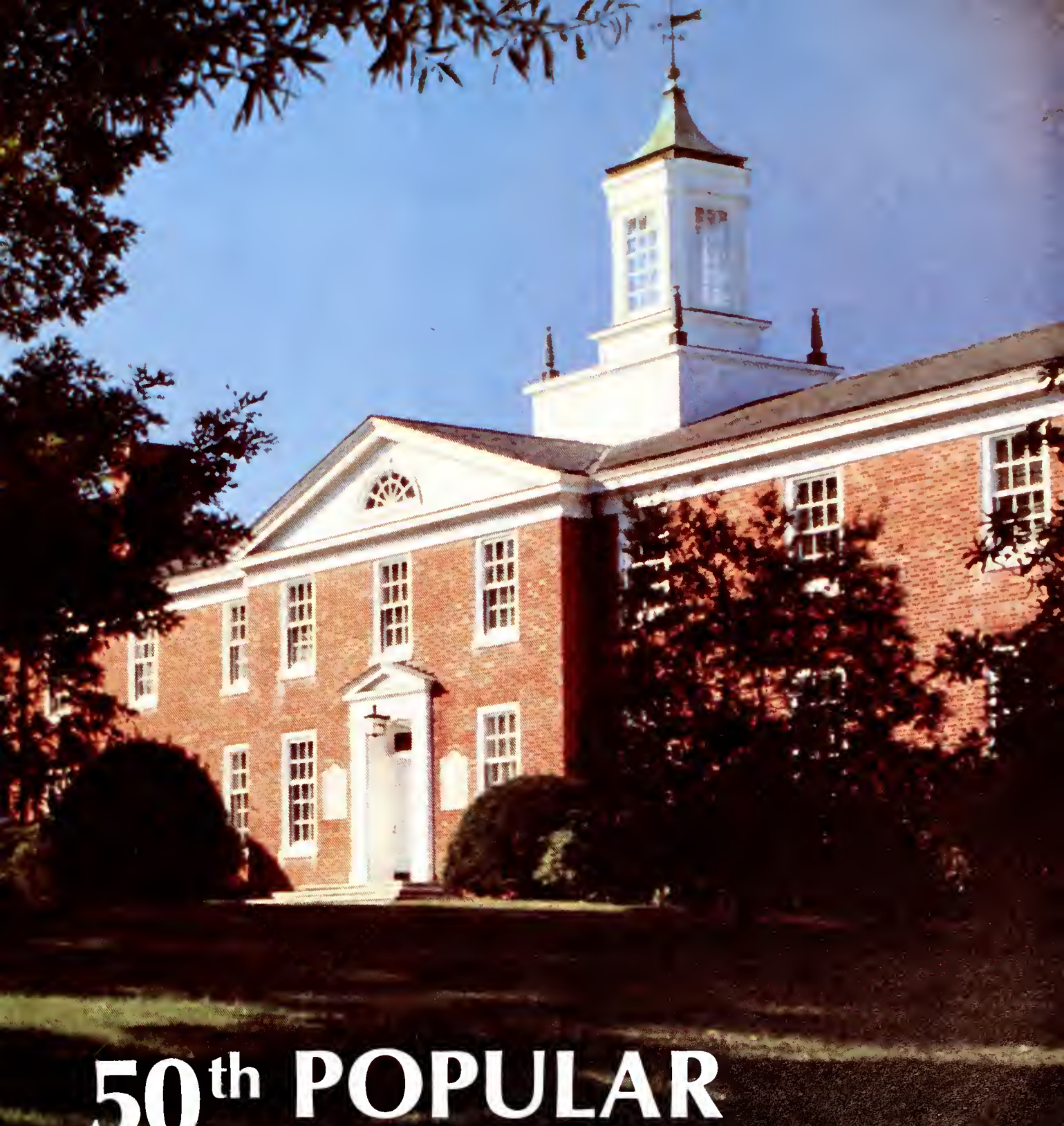

50th ANNIVERSARY POPULAR GOVERNMENT

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POPULAR GOVERNMENT

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EDITOR: Stevens H. Clarke
MANAGING EDITOR: Margaret E. Taylor
EDITORIAL BOARD: William A. Campbell, Anne M. Dellinger (on leave), James C. Drennan, Charles D. Liner, and Warren J. Wicker
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The Institute of Government at Fifty

THE FISCAL YEAR 1981-82 marks the fiftieth anniversary of the Institute of Government. The Institute's gestation had extended over several years as Professor Albert Coates had sought an appropriate institutional form through which to realize his conviction that The University of North Carolina should become a major source of help to government in this state. Early in 1931, he described in the first issue of *Popular Government* the problems facing state and local government: how to obtain effective and fair administration of the criminal law, sound and honest financing of government, and efficient and economical delivery of governmental services within the context of a democratic system that highly valued the frequent election of many public officials and raised few significant standards for entry into the public service. There he also sketched out his early ideas as to how these problems might be tackled through careful analytical studies of governmental institutions, policies, and programs and through conferences of public officials to discuss matters of common concern.

The movement Mr. Coates described had yet no name or place of habitation. In the course of 1931 and early 1932, however, he drew it into focus as an institution consisting of a group of men putting their full time and effort into studying, writing, and teaching about state and local government in North Carolina for the primary and immediate benefit of the public officials and employees who staffed those governments. The second issue of *Popular Government*, dated June 1932, was the first to blazon forth the title of the envisioned organization: "The Institute of Government" and declare its location to be the University at Chapel Hill.

That issue reported that 300 citizens from throughout the state had met in Chapel Hill on May 6, 1932, to give "their unanimous and enthusiastic approval" to the program of "the Institute of Government, designed for continuous study and constructive improvement of the governmental institutions, functions and processes in the cities, the counties and the state, in the light of our experience and against the background of experiments in government and its administration throughout America and the world." In that publication, Mr. Coates laid down his conception of the Institute, its purposes, objectives, and modes of operation. To a remarkable degree, the Institute of 1981 embodies that dream projected half a century ago.

This commemorative issue of *Popular Government* is not primarily a recital of the history and achievements of the Institute of Government in the service of North Carolina, such as might be indulged on this occasion. It consists instead of a series of articles describing important changes that have occurred in North Carolina state and local government during the Institute's lifetime. To

Former Institute directors Henry Lewis and Albert Coates, former faculty member Elmer Oettinger, and Director John Sanders on the occasion of Dr. Oettinger's retirement in June 1979.

some of these changes, the Institute has made substantial and sustained contributions in aid of the policymakers who led in accomplishing them. The court reform movement that began in the late 1950s, achieved much, and continues today is one example of the Institute's participation in the improvement of government. These articles show that North Carolina's governments, state and local, have perceived and responded to the needs of their citizens for improved governmental services and protection and for fairer ways of financing governmental operations. One of the Institute's main functions is to help public officials to anticipate and understand the needs and opportunities confronting their governments; to identify the most appropriate responses to those needs and opportunities; to effect the responses chosen in the most practicable and constructive manner; and to administer the resulting organizations, programs, and policies efficiently, responsibly, and economically.

The Institute carries on its work in several ways: by providing a wide variety of training programs for local and state officials, both in Chapel Hill and throughout the state; by writing, printing, and distributing publications to serve that clientele as classroom texts and office reference works; by responding to officials' requests for advice and information on legal and administrative issues; by providing various professional services in aid of the General Assembly; and by responding to citizens' requests for information on their public roles and responsibilities. In his article in this issue, Henry Lewis describes well the Institute's approach, style, and working methods.

Through these means, the Institute of Government reaches directly — in the classroom, by personal interview and telephone and letter, and through the printed page and tape recordings — many thousands of people each year. We have no scientific gauge for measuring the impact and value of this work. We can assess it indirectly, however, through the requests we get for continuing and expanding our training, consultation, research, and other services. That probably is the most reliable measure of the value our work has in the eyes of those best able to judge it. Ultimately, however, we must rely on our conviction that public officials want to perform responsibly and effectively and that they are willing and able to seek and use improved knowledge and understanding to the benefit of their constituents. Thus we share with all who are engaged in it faith in the efficacy of education.

Credit for what the Institute of Government has achieved is due many people — far too many for all to be noted here. But I must acknowledge our debt to Albert and Gladys Coates, for the creative idea that became the Institute and the devotion and determination to see it prevail; to Henry Lewis, for a professional lifetime of exemplary service to the Institute culminating in five years as its Director; to the men whose faith in the Institute led them to finance its beginning years; to the public officials of North Carolina, who were willing to admit their need for the kind of help we could provide, to seek and profit from it, and to encourage their associates to do the same; to the officials of both The University of North Carolina and The University at Chapel Hill, who have been encouraging and helpful; and the many people who have served the Institute in every employment relationship — faculty and supporting staff, full-time and part-time, short-term and long-term, names remembered and names forgotten.

One of the founding principles of the Institute is that having a long-term, professional staff with defined areas of responsibility and competence enables the accumulation of knowledge and understanding of government in theory and in action, both here and elsewhere, that makes the Institute all the more effective in its teaching, research, and advising functions. Many people have constituted that professional group over the years since 1933, when the first staff members were hired. They have come, learned, and labored for short periods or long at tasks sometimes conspicuous but more often little known to any except the colleagues and public officials with whom they worked. But all have contributed to the institution they served and to the betterment of government in North Carolina. The thirty-two men and women who constitute the Institute of Government faculty in 1981, aggregating nearly 400 years of service here, are the worthy successors of all who have gone before them. They exhibit outstanding professional abilities, deep concern for North Carolina and its well-governing, and strong commitment to the service of the University, the public officials, and the people of this state. I am proud to serve with them and to claim for them and their predecessors chief credit for the accomplishments of the Institute of Government. □

— John Sanders

The Institute's Faculty & Principal Fields of Activity

John L. Sanders, Director

Rebecca S. Ballentine: Institute librarian; public libraries; governmental information for citizens

Grainger R. Barrett: General county government; city and county clerks; cable television; obscenity laws

Joan G. Brannon: Court administration; magistrates; school records and state personnel records; civil duties of sheriffs

William A. Campbell: State and local taxation (especially collection); environmental protection; real and personal property records; public records

Kenneth S. Cannaday: Trial court specialist; pattern jury instructions; criminal law and procedure; editor, *Legislative Bulletin for Court Officials*

Stevens H. Clarke: Criminal justice; law regarding prisons, probation, and parole; statistical analysis of administration of justice, crime and delinquency; evaluation of criminal justice programs; motor vehicle law; boat law; editor, *Popular Government*

Michael Crowell: Elections laws; governmental employer-employee relations; the General Assembly; criminal law and procedure

Bonnie E. Davis: Social services; family law; domestic law; general county government (procedure); charitable solicitations; mental health and retardation law; guardianship; public education; special education

Anne M. Dellinger: (on leave) Public education; jails

James C. Drennan: Administration of courts and criminal justice; motor vehicle law

Richard D. Ducker: Zoning, subdivision regulation, and other land-use controls; city and county planning; building inspection, housing, community development, and urban renewal; environmental protection; economic development

Robert L. Farb: Criminal law and procedures; prosecutor training; state government; editor, Legislative Reporting Service; news media-government relations; police attorneys

Joseph S. Ferrell: The property tax (especially listing and assessing); general county government (board of commissioners — structure, powers, and duties); the General Assembly (local legislation and reapportionment); the North Carolina Constitution; legal aspects of county finance

Philip P. Green, Jr.: City and county planning, zoning, subdivision regulation, and other land-use controls; building inspection; housing, community development, and urban renewal; environmental protection

Donald B. Hayman: Personnel administration; municipal and county management; state government; public administration; supervisory training; coordinator of Institute of Government Summer Intern Program; placement director of MPA Program

Milton S. Heath, Jr.: Environmental protection and natural resources management; coordinator of legislative services; land-use regulation; public utilities; state government legislation

C. E. Hinsdale: The court system — jurisdiction, structure, organization, procedure, and personnel; judicial education, legislation, administration, selection, removal, retirement; jury selection; judicial commitment of the mentally ill; conditions of probation; law of contempt; public defenders; Coordinator, North Carolina Courts Center

Robert P. Joyce: Governmental employer-employee relations; news media-government relations

David M. Lawrence: Municipal and county government; municipal and county finance; interlocal cooperation; governmental consolidation; public records; open meetings

Charles D. Liner: Economics of financing and providing state and local public services; state and local taxation and expenditures; economic development; state budget; revenue estimation; data processing

Ben F. Loeb, Jr.: Motor vehicle law; fire protection law; legal aspects of dental practice; eminent domain; animal control

Ronald G. Lynch: Police administration; criminal law and procedure; public administration; organizational psychology; management; juvenile justice; corrections

Richard R. McMahon: Organizational psychology; management; juvenile justice; corrections; public administration; police administration

Robert E. Phay: Public and higher education; public libraries

Jacqueline Beatty Queen: Health law (other than mental health)

John L. Sanders: Constitutional revision; legislative representation; state government

Ann L. Sawyer: State government; administrative law; liquor law and legal problems associated with alcoholism; drug law; youth education in law and government

Michael R. Smith: Criminal law; criminal law enforcement; correctional law; duties of sheriffs; civil liability of public officers

Mason P. Thomas, Jr.: Juvenile law and corrections; child abuse and neglect, social services, and welfare programs; law and the elderly

A. John Vogt: City and county budgeting; capital planning and finance; revenue sharing; local government revenues; cash management

L. Poindexter Watts: Criminal law and procedure; prosecutor training; game and fish law; implied-consent laws; chemical tests for alcohol

Warren Jake Wicker: Municipal and county administration and finance; public purchasing; water and sewerage services; municipal annexation; special assessments; city-county consolidation; public administration; solid waste; public utilities

Fifty Years of North Carolina State Government

Ann L. Sawyer

Every age and every era, of course, has its conflicts, its struggles, its travail . . . . We are face to face with the supreme test of our collective common sense, of our intellectual and moral courage, and of our faith in the essential soundness of this commonwealth.

Governor O. Max Gardner, 1931

THROUGHOUT the last fifty years, significant changes have occurred in the philosophy, functions, and organization of North Carolina state government. Many of these changes have been tied to the politics, public pressures, and financial conditions of the moment. This was especially true in 1931 — a time when prices dropped sharply, when many North Carolinians lost their farms, homes, and businesses and thousands could not pay their taxes. The situation called for drastic responses by state government. As a result, North Carolina adopted measures considered revolutionary at the time.[1] This year the Governor and the General Assembly face another special set of problems: how state government can best respond to continuing inflation; the declining revenue from gasoline taxes; the increasing demands from consumers, minorities, and other groups; and the need for industrial growth without sacrificing environmental quality. Although state government in 1981 is much larger and more complex than in 1931, it is still based on values of moderation, fiscal responsibility, and conscientious administration. This article will survey some of the major changes in the organization and administration of state government over the past fifty years as reflected in the executive branch.

The author is an Institute faculty member whose specialties include state government and administrative law.

1. A number of these reforms were based on a report from The Brookings Institution (Institute for Government Research) submitted to Governor O. Max Gardner: *Report on a Survey of the Organization and Administration of County Government in North Carolina* (Washington: The Brookings Institution, 1930). For further discussion of this report, see the article on local government in this issue by Warren J. Wicker. For further explanation of financial reform, see Charles D Liner's article on that subject in this issue.

The Governor

Although the duties and powers of the Governor have been widely discussed during the last fifty years, few significant constitutional changes have occurred in his role as chief executive.

In 1977, after years of controversy, a constitutional amendment allowed the Governor (and the Lieutenant Governor) to be elected to two consecutive four-year terms. Governor James B. Hunt's success in getting this measure through the General Assembly — which traditionally has opposed strengthening the executive branch — illustrates his great popularity with the General Assembly and his shrewdness in timing.

North Carolina's new Constitution of 1971 for the first time gave constitutional recognition to the Governor's budget powers. Article III, Section 5(3), requires that the Governor prepare and recommend a budget to the General Assembly and mandates that the budget as enacted by the legislature be administered by the chief executive. But even before the new Constitution, the Governor had extensive statutory budget powers. For example, in 1931 he was ex officio Director of the Budget and thus head of the Budget Bureau, which gave him direct and effective supervision over all state agencies and departments. In 1957 the budget office was placed within the Department of Administration, but in 1979, in an effort to enhance the Governor's authority over fiscal management, it was brought directly into his office. Over the past fifty years, the Governor's budgetary powers have provided an increasingly effective way to supervise and direct the activities of state departments, agencies, and commissions, and it is not surprising that the Governor has sought firm control over Budget Office activities.

The 1971 Constitution also clarified the Governor's role as chief executive. In him was vested "the executive power of the State," rather than merely "the supreme executive power of the State," as was the case until 1971.

Another new provision of the 1971 Constitution [art. III, sec. 5(10)], part of a larger reorganization of state government, empowers the Governor to reorganize and consolidate agencies, subject to legislative disapproval if the changes affect existing statutes.

A fifth significant constitutional change withdrew the Governor's power to grant paroles. Since the 1930s, the Governor had been assisted by a Commissioner of Paroles and an Advisory Parole Board and therefore had not been involved in daily parole operations, but he retained his formal power over paroles until it was removed by constitutional amendment in 1954. The General Assembly vested the parole power in a Board of Paroles, to be created by it, in 1955. However, the Governor retains the power to grant pardons and commutations of sentences.

Other powers of the Governor that have been discussed and continuously evaluated since the 1930s include his appointive authority, his role as comman-

der in chief of the state militia, and his lack of a veto over legislation — a lack unique among American governors.

The proposed Constitution of 1933, which was never submitted to the voters because of a legal technicality, required that the Governor's appointments to the constitutional offices be approved by a majority of the Senate. Though the proposed constitution was never voted on, the issues it raised — including the Governor's powers in general — continued to provoke strong feeling. By 1936 the controversy over whether the Senate should approve the Governor's appointments of constitutional officers had become less important, largely because of the growing number of new departments, offices, commissions, boards, and agencies created by statute and subject to the Governor's plenary appointment power. This power, which extended to approximately 110 offices and agencies in 1936,[2] by one estimate involved more than 300 statutory bodies and 45 nonstatutory advisory groups in 1980.[3] However, restraints on the Governor's removal powers have remained; his removals from many appointive offices are limited to situations in which he has "good cause."

One long-debated issue dealing with the Governor's appointive power concerns the proposal to establish a "short ballot" to reduce the number of elected state executive officers to five: the Governor, Lieutenant Governor, Auditor, Treasurer, and Attorney General. In this proposal, the Secretary of State, Superintendent of Public Instruction, and Commissioners of Agriculture, Labor, and Insurance would be appointed by the Governor or, in the case of the Superintendent, by the State Board of Education. However, the latest attempt to obtain the necessary constitutional amendment failed in the 1971 General Assembly — probably because the legislators preferred popular election and were reluctant to strengthen the Governor's appointive powers further, and because the amendment lacked support from the incumbents in those offices.

Efforts to give the Governor the veto over legislation have persisted since it was proposed in the abortive 1933 Constitution. The last serious attempt was defeated in 1971, when the legislature rejected a proposed constitutional amendment, but the issue remains lively.

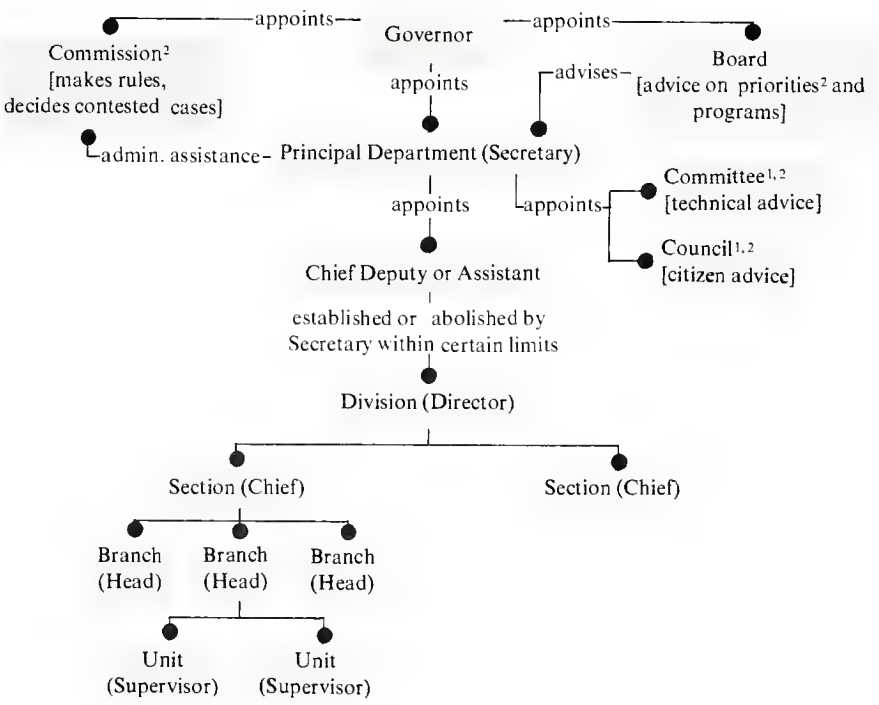
In evaluating the power and influence of the Governor's office over the past fifty years, it is clear that a Governor with leadership ability, especially in a state dominated by a single political party, can exercise much more effective supervision over executive and administrative affairs than the scant provisions of the Constitution suggest. However, since many of his powers are statutory, the Governor must always be aware of the legislature's ability to affect adversely or eliminate much of his authority.

State government reorganization

Although efforts to reorganize state government are most closely identified with the late 1960s and early 1970s, legislation to pare down the executive branch has persisted throughout the past half-century. In 1931 the executive branch consisted of the Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, and Attorney General and sixty state departments, boards, and commissions — including such familiar organizations as the departments of Agriculture, Labor, Insurance, Revenue, and Conservation and Development. Faced with having to cut expenditures during the Depression, the 1933 General Assembly set out to reorganize the state's various agencies. One of its first acts was to appoint a committee to recommend changes and consolidations designed to eliminate all agencies "not immediately essential to the effective and proper administration of the State's affairs." Fifty-three agencies were abolished and some of their duties were transferred to the remaining agencies, to be performed without extra appropriations.

Figure 1

General Organization of a Principal State Department



( ) name of agency head
[ ] agency's chief function

1. Some of these are appointed by the Governor.
2. Some members are specified by the particular statute creating the body.

2. M. R. Alexander, "The Governor — His Powers and Duties Today and Yesterday," *Popular Government* 3 (February 1936), 17.

3. John L. Cheney, Jr., ed., *North Carolina Manual* (Raleigh: Department of the Secretary of State, 1979), p. 450.

But after the financial crisis, state government began to grow again; by the mid-1930s, some commentators began to express concern over the multiplication of state government departments that expanding business activity and government problems caused.[4] In 1941 the General Assembly made sweeping organizational changes. In 1944 a constitutional amendment added the commissioners of Agriculture, Labor, and Insurance to the Council of State, a constitutional body of elected officials whose concurrence is required for the exercise of many gubernatorial powers — reflecting the increased importance of these executive officers. Meanwhile, reorganization — and the appointment of special commissions to study it — continued to be a popular topic. Beginning in 1953, the General Assembly created a series of commissions to study the structure of state government. Various commission recommendations were adopted, but it became apparent that more drastic measures were needed. By the end of the 1960s, North Carolina state government consisted of over 200 agencies.[5]

A State Constitutional Study Commission was established in 1968 and ultimately drafted the Constitution of 1971. During its work, it concluded that the complex state administrative apparatus was impossible for any governor to supervise effectively, and it recommended an amendment requiring the General Assembly to reduce the number of principal administrative departments to not more than 25 by 1975. This Administrative Reorganization Amendment was approved by the voters in 1970. In response to this amendment, in 1971 the General Assembly passed an Executive Organzation Act that created 19 state departments, which included the Offices of the Governor and Lieutenant Governor and the following departments: Administration; Agriculture; Art, Culture, and History; Commerce; Human Resources; Insurance; Justice; Labor; Military and Veterans Affairs; Natural and Economic Resources; Public Education; Revenue; Secretary of State; Social Rehabilitation and Control; State Auditor; State Treasurer; and Transportation and Highway Safety. The act grouped agencies by function and provided for two types of transfers to move existing agencies into their assigned departments: Type I transfers, in which the principal department head obtained complete authority over the agency, and Type II transfers, which transferred to the department responsibility only for administrative assistance. Elected department heads were allowed to retain their statutory authority, but other department heads were to be appointed by and serve at the pleasure of the Governor. In June 1972, Governor Robert Scott designated the principal department heads and the Council of State as his Executive Cabinet to advise him on matters that could affect state governmental operations.

Although the 1971 Reorganization Act made great strides toward achieving the constitutional mandate, further administrative action and legislation were needed to make the required reduction fully effective by 1975. The General Assembly by a resolution directed the Legislative Research Commission to review the progress of reorganization and report to the 1973 session.

The 1973 session moved further toward reorganization by enacting legislation to structure in detail four principal state departments: Human Resources, Cultural Resources, Revenue, and Military and Veterans Affairs. These laws established standard nomenclature and functions for the major units within the departments that were intended to serve as prototypes for all of state government. The 1974 short session continued the work begun in 1973 by completing the internal reorganization of the departments of Correction and Natural and Economic Resources, and the 1975 General Assembly reorganized the last three departments headed by gubernatorial appointees: Administration, Commerce, and Transportation. The general structure of state departments as mandated by the Executive Organization Act of 1973 appears in Figure 1.

Like its predecessors, the 1977 General Assembly was heavily involved in reorganization legislation, although from a different perspective. The constitutional mandate to reduce the number of state departments had now been met, which left the legislature free to concentrate on shifts of programs among departments — especially in the departments of Transportation and Commerce and in the new departments of Natural Resources and Community Development and Crime Control and Public Safety.

In December 1980, the principal departments headed by an appointed officer are these: Commerce, Revenue, Natural Resources and Community Development, Transportation, Crime Control and Public Safety, Cultural Resources, Correction, Human Resources, and Administration. (The Department of Community Colleges will join this list in January 1981.) The Council of State has retained its established ten-member composition: Governor, Lieutenant Governor, State Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Secretary of State, and the Commissioners of Agriculture, Insurance, and Labor.

Highways and prisons — a case history

Because of Depression-related economic problems, the State Highway Commission was reorganized in 1931. The Governor appointed the members of the reorganized commission — a full-time chairman plus six part-time members from the state at large. In addition to managing 10,317 miles of state highways, the new Commission took over maintenance of 46,500 miles of roads that previously cost the counties $8,250,000 a year to maintain.[6] In addition, all county prisoners who were serving 60 days or more were placed under the Highway Commission's management; their sustenance was to be paid from state gasoline and motor vehicle license taxes.[7] Two years later, the State Highway Department and State Prisons were merged into a single State Highway and Public Works Commission. As in 1931, the chief purpose of the change was financial: Prison labor was an economical way to improve highways while at the same time providing gainful employment for inmates and helping to make the prison system more self-supporting. Future expenses of the

4. *See, e.g.*, Dillard S. Gardner, "What About the Commissions?" *Popular Government* 5 (January 1938), 16-17.

5. John L. Cheney, Jr., ed., *North Carolina Government, 1585-1974* (Raleigh: Department of the Secretary of State, 1975), p. 804.

6. North Carolina Historical Commission, *North Carolina Manual, 1933* (Raleigh: Historical Commission, 1933), p. 37.

7. *Ibid.*

prison system were to be borne by the Highway Fund instead of the General Fund. Shortly thereafter, the Highway Patrol, which had been a part of the Highway Department and was incorporated into the new Commission, was transferred into the Department of Revenue — again for economic reasons. The Patrol then assumed the major responsibility for enforcing the motor vehicle taxes and fees administered by the Revenue Department.

For seventeen years this merger seemed to be satisfactory, but by the early 1950s support for separating the prison system from the highway system began to grow. Proponents of separation felt that the prisons should not be controlled by commissioners who were primarily concerned with road construction and maintenance and saw prisoners as a cheap labor source — especially as the belief grew that criminal offenders should be rehabilitated. In 1954 the Commission on State Government Reorganization recommended interim measures in an attempt to resolve some of the Commission's internal problems. As a result, the Director of Prisons was given greater autonomy in administering the prison system and a four-year fixed term of office, which meant that he could no longer be removed at will by the Highway Commission with gubernatorial consent. The director acquired practically full control over the custody and treatment of inmates; the only power over prisoners that was left with the Highway Commission was to contract for their hire.

Finally, in the most significant piece of legislation passed in 1957, the General Assembly severed the state prison system from the Highway Department, thus ending a marriage of economic necessity and permitting better program planning and development by both agencies.

The Highway Commission and its successors. One predictable aspect of state government over the past fifty years has been the tendency of newly elected Governors to reorganize the Highway Commission. The Commission membership has ranged from 18 to six (plus an appointed chairman) — sometimes members were chosen to represent districts and at other times were appointed to represent the state as a whole. The Executive Organization Act of 1971 consolidated the Department of Motor Vehicles and the State Highway Commission into a single Department of Transportation and Highway Safety. In 1973 the Commission was replaced by a Board of Transportation — charged with forming general highway policies — and a new Secondary Roads Council — responsible for adopting annual work programs for secondary roads in each county. The Department continued its pattern of reorganization throughout the 1970s — probably because it was highly susceptible to changes in the political climate. For instance, in 1977 the General Assembly abolished the Secondary Roads Council, and all transportation funds since then have been allocated by the Board of Transportation, which was reorganized in 1977. The Board's duties now include maintenance of the most extensive state-supported highway system in the country, aviation and mass transit responsibilities, driver licensing and vehicle registration, and development of bikeways.

Prison administration. Administration of North Carolina's prisons also underwent a series of structural changes after the Highway and Public Works Commission was dismantled in 1957. The duties of the Director of Prisons at first were unchanged, although he was to be appointed by the newly created Prison Commission instead of the Highway Commission. In 1967 the State Prison Department was replaced by the Department of Correction, but the composition of the governing board and the duties and selection of the Commissioner of Correction (successor to the Director of Prisons) remained substantially unchanged. However, the title changes were significant because they stressed the newly emerged importance of rehabilitation as a function of the prison system. In 1974 the Department was reorganized to meet the constitutionally mandated state government reorganization; within it were established three divisions — Prisons, Youth Development, and Adult Probation and Parole. A single Board of Correction replaced earlier separate boards for correction, youth development, and probation matters. The Department continues to stress progressive methods for treatment of inmates, such as a recently developed inmate grievance procedure.

State government adapts to meet changing needs

Beginning in the 1930s North Carolina began to recognize the modern concept of government as a service agency for its citizens. As the people demanded more and better services from government, its structure expanded, its cost increased, and taxes became heavier. Significant changes in government structure resulted from growth in the fields of social services, health, transportation, conservation, employment services, consumer protection, and cultural affairs. The state's response to some of these matters is described below.

Public health and welfare. Fifty years ago health and public welfare services were furnished by separate boards: the State Board of Charities and Public Welfare and the State Board of Health. Today all such services are combined under one Department of Human Resources.

The State Board of Charities and Public Welfare was responsible for investigating and supervising the whole state system of charitable and penal institutions; for studying social conditions, orphanages, county homes, jails, and mental hospitals; and for promoting the welfare of dependent and delinquent children. It also appointed county boards of charities and public welfare and county superintendents of public welfare to supervise school attendance, probation, enforcement of child labor laws, recreation, and assistance for the unemployed. The Board supervised three state mental hospitals, five juvenile training schools, the North Carolina Orthopedic Hospital for Crippled Children, and the Farm Colony for Women at Kinston.[8] When the Social Security System began in the 1930s, the Board became responsible for administering benefit payments to the aged needy, the blind needy, and dependent children. The growth in services — partly caused by federally mandated programs and the need for state involvement in such programs — created a complex and confusing structure for state supervision of county administration of public

8. North Carolina Historical Commission, *North Carolina Manual, 1929* (Raleigh: Historical Commission, 1929), p. 158.

welfare programs. The 1969 General Assembly enacted major legislation to simplify and clarify the system.

In 1931 the State Board of Health was responsible for planning county health programs, investigating causes of disease, keeping vital statistics, operating the State Laboratory of Hygiene, sanitary engineering and inspections, maternity and infancy programs, health education, medical inspection of state institutions, and inspection of water supplies. Perhaps the Board of Health's most significant activity during that period was the extension and strengthening of county health programs. By 1949 all 100 counties had local health departments. In 1945 the state took its first step into curative medicine by creating the Medical Care Commission. Legislation establishing the Commission provided that the state would assume one-third of the cost of building and equipping local hospitals and partly fund construction of the four-year University of North Carolina Medical School and North Carolina Memorial Hospital, and also required that hospitals be licensed by the Commission. Another significant piece of legislation, adopted in 1963, established the North Carolina Department of Mental Health, which consolidated functions formerly performed by the departments of Public Health and Public Welfare. The law was intended to provide better coordination for mental health services (including the four state mental hospitals) and local inpatient treatment and matching funds for counties that established comprehensive community mental health centers.

In 1973 the Executive Organization Act combined the functions of the Welfare and Health boards into the Department of Human Resources, which has very broad responsibilities and is second only to education in the amount of money it receives. Human Resources includes these divisions: Mental Health Services (includes alcohol and drug abuse); Youth Services (has a new emphasis on community-based methods for treatment of juveniles); Social Services (spends the largest percentage of Department funds); Services for the Blind; Facility Services (has responsibility for licensing health and social service institutions, radiation facilities, and charitable solicitation organizations); Vocational Rehabilitation; Health Services; and Special Institutional Services (includes one state school for the blind and three schools for the deaf). The Department's three Assistant Secretaries administer fields considered especially important — Children, Aging, and Alcohol and Drug Abuse.

Employment. In a major reorganization in 1931, the Department of Labor became responsible for administering free employment offices, assembling industrial statistics, and supervising child labor. The latter task had been performed by the Child Welfare Commission, which was dissolved in the reorganization. A new Industrial Commission was created in 1929 to administer the Workmen's Compensation Act. A Department of Personnel, established in the early 1930s, set standard salaries for workers in state departments, classified all new employees, and made rules regarding vacation, sick leave, and similar policies.

Occupational diseases were an important issue in the 1930s just as they are today. In 1935, in an effort to restrict the effect of a State Supreme Court ruling on occupational diseases, the legislature passed a bill that included in that designation only 25 specific disabilities, but the same law made the Labor Commissioner and the Industrial Commission responsible for eliminating the industrial-dust hazard and carrying on relevant public educational work.

The Depression spawned a fourth law that has had lasting benefit to workers. In 1936 the legislature passed an Unemployment Compensation Act and created the Employment Security Commission to administer it. Benefits under the new law were set at $15 per week for up to 16 weeks per year.

In 1973 an extensive Occupational Safety and Health Act was passed. It primarily adopted the standards for working conditions found in the similarly named federal law, placing state-level administration in the Department of Labor.

The Department of Labor is now also responsible for inspecting and regulating

The Institute and State Government

Teaching and conferences. The Institute holds an annual seminar for public information officers, which is co-sponsored with the state Association of Government Information Officers. It also holds programs for state and local government reporters.

Consultation. The Institute provides drafting and special reports for the Governmental Evaluation Commission, which is evaluating over 130 state agencies that license certain occupations and professions. Institute faculty members assist state departments in other ways, such as drafting rules and regulations and participating directly in some departmental programs. They have worked with a number of state departments — including State Treasurer, Insurance, Administration, Justice, Labor, Public Instruction, Community Colleges, Secretary of State, Commerce, Revenue, Natural Resources and Community Development, Transportation, Crime Control and Public Safety, Cultural Resources, Correction, and Human Resources.

Periodicals and bulletins. Many articles that appear in *Popular Government* relate to state government, and the Fall 1980 issue was entirely devoted to state government.

Other publications. Two charts — *Administrative Organization of North Carolina State Government* and *Internal Organization of North Carolina Executive Departments; North Carolina Primary and General Election Law and Procedure; The Precinct Manual; Notary Public Guidebook; North Carolina Marriage Laws and Procedures;* and *The Law and the Elderly in North Carolina.*

boiler and pressure vessels, mine safety and health, administering the wage and hour laws, and regulating private employment agencies. The Employment Security Commission and Industrial Commission — administrators of unemployment compensation and workmen's compensation laws, respectively — are now in the Department of Commerce, and state personnel matters are handled by a commission in the Department of Administration.

Conservation and industrial development. Conservation and industrial development are not new issues in North Carolina. In 1931 a Department of Conservation and Development, which was managed by a director and a twelve-member board appointed by the Governor, was responsible for protection of the state's animal, land, and water resources. It inventoried the state's raw materials to determine possible development of industry, and its Division of Public Relations worked to attract industry and promote tourism.

Attracting industry has long had a high priority in North Carolina. As early as 1937 the General Assembly appropriated $250,000 for that purpose. During the first eight months of 1939, when the country had finally emerged from the Depression, North Carolina acquired 51 new industries and 66 new additions were made to existing plants — mostly textile mills. But the industrial prosperity of the war years abated during the late 1940s, and by the 1950s North Carolina faced an industrial crisis. To spur industrial growth, Governor Luther B. Hodges launched a massive advertising and tax-incentive program to attract new industries to North Carolina. Efforts were begun in 1955 to develop a state and regional center of industrial, governmental, and academic research laboratories and programs — the Research Triangle Park. Efforts have continued to attract new industry — especially electronics and chemicals. The center of the industrial recruitment effort is the Division of Economic Development within the Department of Commerce.

As industry and population grew in North Carolina, pollution and dwindling resources became environmental problems. The first major environmental concern was water. In 1957 and 1958 the General Assembly consolidated existing water management programs into a new Department of Water Resources — the first recognition that conservation functions should be separated from industrial development. In 1967 the General Assembly added air pollution control to Water Resources and renamed it the Department of Water and Air Resources (governed by a state board with the same name). In passing the 1971 Executive Organization Act the legislature once more renamed the Department — Natural and Economic Resources — and again six years later — Natural Resources and Community Development. In 1974 the Board of Water and Air Resources became the Environmental Management Commission, which suggested broader ultimate responsibility for this agency than it had originally.

The 1974 law also substantially restructured the Board of Conservation and Development and renamed it the Board of Natural and Economic Resources. Like the Highway Commission, it was subject to frequent changes in size and membership.

The present Department of Natural Resources and Community Development concentrates on preserving and protecting North Carolina's natural resources and quality of life. Its divisions include Environmental Management, Energy, Marine Fisheries, Forest Resources, Earth Resources, Community Assistance, and Parks and Recreation. The Department administers a wide variety of new laws on coastal area management, oil pollution, toxic substances, solid and hazardous wastes, floodways, dam safety, drinking water, soil conservation and sedimentation control, air and water pollution, and endangered plants.

Cultural affairs. North Carolina has fostered the arts during the past fifty years. The mainspring of this movement was the North Carolina Art Society, which was placed under state patronage and control by the General Assembly in 1929. The society spearheaded creation in 1943 of a State Art Gallery in Raleigh, which later became the North Carolina Museum of Art. The museum is a state agency that operates under a state-controlled board. A new art museum building has almost been completed under the supervision of a State Art Museum Building Commission, which was created in 1967. The North Carolina Arts Council, also created in 1967 and now a part of the Department of Cultural Resources, is charged with promoting interest in the arts. State government has also given significant support to musical activities. The North Carolina Symphony, which began in 1932, was one of the first state symphonies in the country, is governed by a Board of Trustees, and operates under Cultural Resources. The Department's other activities include the State Library, theater arts, Archives and History, and historic preservation.

The consumer movement. During the past fifty years consumer-oriented issues have received increasing attention. The first major consumer protection agency was the Utilities Commission, created when the Corporations Commission was abolished in 1934. As in many other governmental structural changes of that time, the new Commission was created for economic reasons — it was cheaper to have all duties reside in a single Public Utilities Commissioner than in the three-member Commission he replaced. The 1934 Commission had many of the responsibilities retained by its counterpart today, including regulation of railroad, telegraph, telephone, electric, gas, bus, and other public utilities. Banking, which had been regulated by the Commission, was placed under an independent agency in 1931 — not surprising in light of the particular problems encountered by that industry at that time. Banking and other financial institutions are today primarily regulated by separate commissions located within the Department of Commerce. The Utilities Commission, also located in the Department of Commerce, has had a Public Staff since 1977 to represent the interest of the consuming public — indicating the legislature's awareness of the need to consider the public before licensing or rate decisions are made. The Commission itself now consists of seven members who are appointed by the Governor and subject to legislative confirmation.

Other state departments also have incorporated new agencies to address consumer needs. In 1969 the Department of Justice established a Consumer Protection Section to protect citizens from unfair and deceptive trade practices. The Department of Agriculture has a strong consumer protection program that includes analysis of foods, dairy products, drugs and cosmetics for wholesomeness,

sanitation, and proper labeling. It also administers a Weights and Measures Law and a Gasoline and Oil Law (both intended to ensure that citizens receive the quality and quantity promised by the product they purchase) and enforces agricultural marketing and branding laws to protect farmers and consumers. The Insurance Department's consumer information division responds to questions and complaints about insurance matters.

Centralization, fragmentation, and other trends. Despite repeated attempts to reduce the number of state agencies, state government has continued to grow. One reason for growth is federal legislation (especially in the health, social services, and environmental areas) that often begets new programs on the state level — either to enable the state to receive federal funding or to allow the state, instead of the federal government, to administer a particular program such as OSHA. Another reason is the increased regulation of many occupations and professions, which has resulted in the piecemeal creation of over 100 licensing boards and programs. A third reason is that government has had to provide its own supporting services. In 1931 the housekeeping needs of state government were mostly served by two agencies, a Board of Public Buildings and Grounds (consisting solely of members ex officio from executive agencies) and a Division of Purchase and Contract. Purchase and Contract centralized the contracting for supplies for government and supervised state purchasing through competitive bidding (another 1930s economy measure with results still evident today). As state government continued to grow, a more centralized and comprehensive system of supporting services became necessary. The Department of Administration was created in 1957 in part to manage the construction and maintenance of physical facilities and to do government planning, management analysis, and property inventory and control.

People have worried about the growth of state administrative agencies since the 1930s. In 1939 a law was passed to establish uniform procedures for the 22 licensing boards in operation at that time. Its intention was twofold: first, to give licensees and applicants for licensure an opportunity to be heard before actions were taken that could adversely affect them; second, to provide adequate judicial review. Other legislation required state agencies to file a copy of their rules and regulations with the Secretary of State. The growth of administrative agencies and the lack of public accountability for their activities brought about the Administrative Procedure Act in 1974. This law establishes uniform procedures for agency rule-making and judicial types of activities and requires that the public be allowed to participate in agency actions that affect them.[9]

Other legislation was enacted in the 1970s to control the growth of state agencies. The Sunset Law, passed in 1977, requires a formal, periodic performance evaluation of approximately 130 state regulatory programs — including many of the licensing boards previously mentioned. Unless the General Assembly re-creates the agencies and programs scheduled for "sunsetting," they will automatically expire. Thus far, only five programs have been allowed to die at the end of their allotted period; the laws governing approximately twenty other agencies have been amended to improve their enforcement powers. In 1977 the General Assembly established a standing committee to review all agency rules and regulations to determine whether agencies are acting within their statutory authority. If the committee decides that a rule is outside an agency's statutory mandate, it may file a formal objection with the agency. If the agency fails to respond, the committee may recommend appropriate legislation to the next legislative session. Other statutes, including the Open Meetings Law and a broadly interpreted Public Records law, have been used to force agencies to make their decision-making more open to the public.

Conclusion

The structure of state government changes. Over the past fifty years, North Carolina state government has adapted to meet financial conditions, new philosophies of its proper role, and political considerations. Its most significant changes have been based not on novel ideas but on national trends and external pressures. Movements common to many state governments — centralization, reorganization, "sunset" review, citizen openness and access, and greater emphasis on the delivery of services — have been reflected in the structure of the executive branch. The Great Depression, World War II, and subsequent conflicts have created economic and social problems for our state, and changes in government operations have resulted. Moreover, in the past fifty years the public's conception of what government's role should be has changed greatly. Before the Depression, problems like unemployment and poverty were considered local matters for which counties and towns were responsible — if they were the responsibility of government at all. Today the state as well as the federal government is expected to try to solve these and many other social problems — an expectation reflected in the wide variety of special advocacy bodies that exist within the Department of Administration. The desire for state government to solve social problems will have to be reconciled with the present movement to reduce centralized governmental regulation and to bring the delivery of government services closer to local control. As society's goals and problems change, North Carolina's executive branch can be expected to undergo continuous study and reorganization. ■

9. For a discussion of the Administrative Procedure Act and other efforts to control the growth of state bureaucracy, see Ann L. Sawyer, "What Local Governments Need to Know About the State Administrative Process," *Popular Government* 46 (Summer 1980), 43-49.

Five Decades of Local Government in North Carolina

Warren Jake Wicker

THE CHANGES in North Carolina's local government during the half-century from 1930 to 1980 were as revolutionary as they were necessary. The most significant ones were made in the first decade, but other important actions were taken later that built on the changes in the early 1930s.

When those years began, the Great Depression was the central fact of life for public officials at all governmental levels. Never again has the economy reached such depths. On January 9, 1931, Governor O. Max Gardner recommended that the salaries of all state and local officials be *cut* 10 per cent in light of the economic picture.[1] Forty-nine years later, in May 1980, Governor James B. Hunt, Jr., recommended a 10 per cent salary *increase* for all state employees and teachers. The General Assembly accepted both recommendations.[2]

The period opened with 5-cent cotton and 20-cent gasoline and closed with 90-cent cotton and $1.20 gasoline. It was a half-century in which family size decreased and the movement from agricultural employment ran its course. Automobile travel became universal, air travel matured, an infinite variety of newspapers and magazines flooded the marketplace, and radio and TV filled the airways. The world experienced a global war and several lesser conflicts. Personal values and lifestyles changed for many citizens — especially during the 1960s and 1970s.

But some things changed little. The two major political parties persisted. People continued to complain about taxes and governmental services and functions continued to expand, as they had during most of the state's history.

The state's population nearly doubled (80 per cent) during the fifty years (see Table 1). But it grew fastest during the 1920s — by almost 24 per cent. Since then increases have varied from 12.2 per cent during the 1960s to almost 15 per cent for the 1970s.

North Carolina's municipal population has increased at a faster rate than the total state population for every decade except the 1970s. From 1930 to 1980 the number of people who lived in cities and towns increased from 34 per cent to about 42 per cent. The urbanized population, as defined by the Bureau of the Census, jumped from 26 per cent of total state population to 45 per cent in 1970. When the 1980 Census findings are reported, probably half of all North Carolinians will be classed as urban.[3]

The specific actions, trends, and conditions that surround the actions of state and local officials during this fifty-year period cannot all be discussed in this article, but some of the more important actions, trends, and general events and conditions appear in the chronology on page 15.

Changes in local, state, and federal roles

The chief state-local actions in the past half-century came in the early 1930s, when primary responsibility for financing schools, roads, and prisons was shifted from counties and districts to the state. Even in the twenties there was widespread belief that local taxes were too high — that property taxes in particular were burdensome and relief was needed; and the Depression had made effective tax collection difficult for many units.[4] By November 30, 1933, a total of 61 counties and 146 cities, more than half the state's local governments with indebtedness, had defaulted on their debt obligations.[5] North Carolina had more municipalities in default than any other state.[6]

Even earlier many people thought that local property tax burdens should be reduced and more functions should be shifted to the state. In 1928 the North Carolina Tax Commission wrote:

> We are convinced that it would be sound public policy to lift so much of the tax on property in every county as is levied to maintain [certain] county highways . . . ; to place the maintenance of all such public highways under the State Highway Commission....[7]"

Two years later, in the special report of its study of North Carolina county government prepared for Governor Gardner, the Brookings Institution made the same point.[8]

School expenses had also been growing rapidly. The Brookings study found

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The author is an Institute faculty member whose specialties include local government administration.

1. "Biennial Message to the General Assembly," in *Public Papers and Letters of Governor Oliver Max Gordner*, compiled and edited by Edwin Gill and David LeRoy Corbitt (Raleigh, N.C.: North Carolina Council of State, 1937), pp. 27-28. (Cited hereafter as *Gardner Papers*.)

2. N.C. Public Laws 1931, c. 429, § 20. Local governments were authorized to cut salaries, and many did so. Authorization was necessary, since the legislature then set many local salaries. N.C. Sess. Laws 1979, c. 1137.

3. This estimate is based on preliminary estimates for some jurisdictions as reported in the press. Urban areas, according to the U.S. Census, includes all incorporated places of 2,500 or more plus urban areas around cities that have a population of 50,000 or more. The estimate is thus not the same as the population figure for all incorporated places.

4. *Gardner Papers*, pp. 156-68.

5. *Report of the Local Government Commission, 1934* (Raleigh, N.C.: December 20, 1934), p. 8.

6. T. N. Grice, "Local Governmental Debt Problems," *Popular Government* 2, no. 3 (January 1935), 1.

7. Quoted in *Report on a Survey of the Orgonization and Administration of County Government in North Carolina* (Washington, D.C.: The Brookings Institution, 1930), pp. 13-14. (Cited hereafter as Brookings, *County Government Survey*.)

8. *Ibid.*, p. 14.

that between 1903 and 1928 current expense outlays for public schools (excluding capital outlay and debt service) increased eighteen times; per-pupil expenses increased nine-fold. Some state aid was being provided, but it funded only one-fourth of the schools' current expenses, leaving the balance to be raised from local property levies. The Brookings study suggested that more state support was needed to relieve the property tax.[9] The 1931 General Assembly responded by directing its education committees to report a bill providing for state support of the constitutionally required six-month school term so that the schools would be "general and uniform in all the counties and shall be maintained by the State from sources other than the ad valorem taxation of property."[10]

9. *Ibid.*, p. 103.

10. N.C. Public Laws 1931, c. 10. Funds were provided later in the session. N.C. Public Laws 1931, c. 430.

Thus the basic pattern of school finance that continues to this day was formed in the bottom of the Depression from economic necessity. The state became primarily responsible for financing school operating costs, while counties supplied the buildings and any "enrichment" programs and/or "supplements."[11]

The consequences of these changes in major financial responsibilities may be seen in the changes in the state and local tax bill (see Table 2). In 1929 local taxes accounted for about two-thirds of the state-local total, while state taxes were about one-third. By the mid-thirties these proportions had reversed,[12] and by the '40s the state's portion was even greater.

11. The general pattern has not been followed without some deviation: Four state bond issues have been floated to finance school building construction, and school administrative units finance at least small portions of some operating costs under the current allocation formulas.

12. Henry Brandis, Jr., "State-Local Tax Bill Passes $100 Million Mark," *Popular Government* 5, no. 2 (November 1937), 3.

Table 2 also shows the magnitude of governmental actions. During the approximately 50 years covered by the data, state taxes increased by a factor of 84, while statewide county taxes increased 16 times and municipal taxes increased 21 times. (As the note to Table 2 indicates, city taxes are overstated in this tabulation and state and county taxes understated.)

Charlotte's and Mecklenburg County's 1980-81 budgets of more than $175 million each illustrate the changes. This sum (unadjusted for inflation) is more than five times the total of all state taxes in 1929 and almost double the total of all state and local taxes in North Carolina in that year! It is also larger than any *federal* budget for any year before the Civil War.[13]

But the gross changes suggest more growth in taxes and services than is found when taxes are considered in relation to population and income growth (see Table 3). Per capita income in North Carolina increased sixteen times — from $349 to $5,935 — between 1929 and 1978. During the same period per capita taxes increased 21 times; as a result, taxes as a percentage of income rose only from 9.0 per cent in 1929 to 11.3 per cent in 1978. By this measure, the growth of state and local government over the half-century is much more modest.

While the shift in major financing responsibility from local governments to the state for roads, prisons, public schools, and (in the 1960s) the court system changed the relative roles of state-local financing greatly, the growth of state aid and shared taxes has also increased the state government's role. Before 1930, state aid was growing but still small.[14] There was some state aid for local schools and county roads and more limited aid for libraries, welfare, and health purposes. When the state began to tax intangible property in 1937, it also began a special tax-sharing relationship with local governments (see Table 4).

13. U.S. Bureau of the Census, *Historical Statistics of the United States, 1789-1945* (Washington: GPO), p. 297.

14. *Gardner Papers*, p. 166.

Table 1
North Carolina Population: County, Municipal, and Nonmunicipal, 1930-80 (in millions)

Year	Municipal	Nonmunicipal	County (or total)	Municipal (as percentage of total)
1930	1.06	2.11	3.17	34.0%
1940	1.23	2.34	3.57	34.4
1950	1.50	2.56	4.06	36.9
1960	1.91	2.65	4.56	41.9
1970	2.17	2.91	5.08	42.8
1980	2.43	3.41	5.84	41.6

Source: U.S. Census for years indicated, 1930-70. The 1980 figures are from preliminary Census reports for 1980.

Table 2
North Carolina State and Local Tax Bills for 1929, 1942, and 1978 (in millions)

	1929		1942		1978	
Unit	Amount	Percentage	Amount	Percentage	Amount	Percentage
State	$31.2	32.1%	$109.5	70.1%	$2,657.4	71.7%
Counties	38.4	39.6	27.3	17.5	654.1	17.6
Cities	15.6	16.0	15.9	10.2	352.5	9.5
Districts	11.9	12.3	3.5	2.2	44.7	1.2
Total	$97.1	100.0%	$156.2	100.0%	$3,708.7	$100.0%

Source: North Carolina Department of Tax Research, *Statistics of Taxation, 1950*, p. 4; *1968*, pp. 6, 9; *1978*, p. 5. This tabulation overstates the cities' 1978 tax bill and understates the counties' and states' tax bills. The cities' share of taxes levied by the counties and the state (local sales tax and the state gasoline, beer and wine, franchise, and intangibles taxes) are tabulated as part of the cities' tax bill.

Cities and counties began to share proceeds from the beer and wine taxes in 1948; cities began to share franchise tax revenues in 1950 and gasoline tax revenues in 1951. North Carolina's city governments now receive about three times as much state aid in the form of shared taxes as county governments do. They also receive about one-third of the revenues from the local sales tax levied by counties. As a result, per capita revenues from shared taxes is more than ten times greater for cities than for counties (Table 5).

State grants to cities (as opposed to shared tax revenues) have been limited during the past fifty years. Patrick Healy, Jr., then Executive Director of the North Carolina League of Municipalities, describing the League's 1935 legislative program, observed that while the state's takeover of roads and schools had enabled local governments to reduce property taxes in 1932 and 1933 by $12,280,000, the cities' reduction amounted to only $560,000 — the rest ($11,720,000) was made by counties and special districts. Municipalities were crying for relief. They asked for unrestricted authority to levy privilege license taxes and made a strong case for a share of the gasoline taxes.[15] The General Assembly responded by providing the first state aid for city streets in 1935. Street aid slowly increased until 1951, when the gasoline tax-sharing legislation was enacted to help cities finance street construction and maintenance. General state aid to cities (in addition to shared taxes) has grown since 1930 but is still limited. In 1980 it was approximately $57.5 million — or $23.66 per capita.[16]

County governments, in contrast, receive substantial amounts of general state aid in addition to shared taxes — principally for welfare, health, and hospital purposes. In 1980 this general state assistance to counties was approximately $172.5 million — or $29.58 per capita.

On the other hand, if state tax-sharing and aid arrangements are viewed from the standpoint of individual citizens (who all pay state taxes on the same basis), it may be seen that proportionally more of the state tax proceeds are returned to a local government to benefit North Carolina citizens who are city dwellers than is returned for those who live outside cities.

Counties have received substantial state aid in the form of four bond issues for school construction ($500 million between 1949 and 1973).[17] Along with cities and other local units, they have also (in 1971 and 1977) received some $380 million in Clean Water Bonds proceeds to finance water and sewerage facilities.[18] More recently cities and counties have received transitional assistance to improve salaries of law enforcement personnel.[19]

State-shared taxes and general aid is equal to about 30 per cent of counties' local tax revenues and 40 per cent of cities' local tax revenues. In North Carolina the state government raises about 71 per cent of all revenue raised by state and local governments for general expenditure (schools, health, welfare, highways, courts, administration, etc.). Nationally, only 55.5 per cent is raised by state governments.[20]

But local officials' perceptions have not changed over these years. Concern over state-mandated programs was strong throughout the past fifty years — especially within county governments, which are most affected by these required programs. In 1935 the North Carolina Association of County Commissioners included this plank in its legislative platform:

> We request that notice be given to the County Commissioners of any bill which affects the revenues of the county or which increases the expenses of the county and forces an unbalanced budget. There are numerous instances where county budgets have been unbalanced by the passage of legislation increasing the expenses of a county without providing any revenue to take care of the increase.[21]

Forty-five years later the Association again adopted several resolutions relating to state support for mandated programs, including a call for a state revenue-sharing program for counties.[22]

Table 3
Per Capita Income and State and Local Taxes in North Carolina for Selected Years, 1929-78

Year	Per Capita Income	Per Capita Taxes	Taxes as • percentage of Income
1929	$ 349	$ 31.40	9.0%
1934	214	34.00	11.2
1942	466	44.20	9.5
1966	2,054	216.82	10.6
1978	5,935	671.27	11.3

Source: North Carolina Department of Tax Research, *Statistics of Taxation, 1946*, p. 48; *1968*, p. 11; *1978*, p. 9.

Table 4
State Tax Revenues Shared with Cities and Counties for Selected Years, 1937-78 (in thousands)

Unit and Tax	1938	1948	1950	1952	1968	1978
Counties						
Intangibles	256	1,378	1,408	1,819	10,248	22,790
Beverage		1,166	1,326	1,263	2,524	5,002
Total	256	2,544	2,734	3,082	12,772	27,792
Cities						
Intangibles	178	988	1,060	1,378	5,521	11,381
Beverage		609	798	1,036	2,760	7,094
Util. Franchise			536	671	2,406	37,513
Gasoline				4,543	9,959	32,017
Total	178	1,597	2,394	7,628	20,646	88,005

Source: North Carolina Department of Tax Research, *Statistics of Taxation, 1942*, p. 267; *1968*, p. 250; *1978*, p. 201.

15. *Ibid.*, pp. 13, 20.

16. The state grant figures are from a preliminary and unpublished study by the Office of State Budget and Management.

17. N.C. Sess. Laws 1949, c. 1020; *id.* 1953, c. 1046; *id.* 1963, c. 1079; *id.* 1973, c. 658.

18. *Id.* 1971, c. 909; *id.* 1977, c. 677.

19. N.C. GEN. STAT. §§ 114-26 through 37.

20. Advisory Commission on Inter-governmental Relations, *Significant Features of Fiscal Federalism*, 1978-79 ed. (Washington: GPO, May 1979), Table 9.

21. John L. Skinner, "Legislation Sponsored by the County Commissioners," *Popular Government* 2, no. 3 (January 1935), 20.

22. Resolution No. 5, adopted by the North Carolina Association of County Com-

Table 5
Per Capita and Total State and Local Shared Taxes Received by Cities and Counties in North Carolina, 1978

Revenue source	Total (in mils.)	Per Capita
From State Taxes		
Counties		
Intangibles	$ 22.8	$ 3.90
Beverage	5.0	.86
Total	$ 27.8	$ 4.76
Cities		
Intangibles	$ 11.4	$ 4.69
Beverage	7.1	2.92
Util. Franchise	37.5	15.43
Gasoline	32.0	13.17
Total	$ 88.0	$36.21
From County Taxes		
Cities		
Local Sales	$ 48.5	$19.96
County Total	$ 27.8	$ 4.76
City Total	136.5	56.17

Source: Table 4 and local sales tax distributions as reported in *Statistics of Taxation, 1978*. Per capita distributions were calculated with the 1980 populations shown in Table 1 and are thus slightly understated.

Federal aid to North Carolina state and local governments increased greatly during the past half-century, as did federal involvement in local government action. Probably even those who foresaw the trend in its beginning would not have anticipated the extent to which federal aid and federal involvement have grown.[23]

Federal regulatory actions affecting local government increased slowly between 1930 and 1960, increased more rapidly during the 1960s, and expanded greatly during the 1970s. Concern over the increasing federal role in state and local governmental activities led the Advisory Commission on Intergovernmental Relations (ACIR) to launch a major study of that role in 1976. The Commission found four notable characteristics of the federal government's role:[24] (1) great growth since the 1930s; (2) assumption of new roles for providing social benefits, managing the economy, protecting the environment, and pursuing other innovative goals — involvement in virtually all functions of government; (3) dramatic growth of the federal aid system in the past two decades; and (4) the mounting burden of federal regulations, paperwork, and intrusion into the activities of individuals, businesses, nonprofit corporations, and state and local governments.

The ACIR reports that federal aid to state and local governments had reached only about $250 million a year in 1927. In 1934, with the relief programs in place, that aid totaled $2.4 billion. It declined in the 1940s, rose again in the 1950s, and reached $7.0 billion in 1960. It had tripled to $24.0 billion by 1970, and tripled again by 1980 to an estimated $82.9 billion. Almost 25 per cent of state and local *general expenditures* in North Carolina is now met from federal funds.[25]

The shift in the governmental mix over the past half-century has been dramatic. The relative shares of tax funds used to support state and local activities in 1929 and 1977 show the changes.[26]

	1929	1977
Federal	NA%	32.1%
State	32.1	49.3
Counties	39.6	13.5
Cities	16.0	4.9
Districts	12.3	.2
Total	100.0%	100.0%

Because this tabulation does not include revenues from municipally owned utilities and from the operation of ABC stores, the role of cities is understated. The increasing roles of the state and federal governments was the chief change during these years. Changes in city and county roles will be examined later.

Numbers and structure

Though the number of county governments has remained at 100, the number of all North Carolina local governmental units, as usually defined, has decreased since 1930.[27] In 1931 the state had 1,383 school districts, which were abolished with the shift in organization and financing of public schools.[28] There are now 144 school administrative units, which are classed as dependent agencies of county governments and not as separate units of local government. These 144 administrative units include 69 county units that serve an entire county, 31 county units that serve part of a county, and 44 "city" units that serve a portion of a county centered in one or more cities.

A study made in 1932 identified 386 cities and towns in North Carolina — a number that declined to 369 in another study made in 1941.[29] By 1950 there were 383, 411 in 1960, 428 in 1970, and 458 in 1980. Special districts and other local units (authorities and independent commissions, but excluding school and road districts) have increased from 139 in 1932 to 302 in 1977; these are principally rural fire districts, sanitary districts, and housing authorities. [While the number of units other than cities and counties is significant, their functions are limited and their share of the total governmental picture is relatively small (see Table 2).]

Cooperative actions among local governments expanded after World War II, when regional associations were formed under local initiative or in response to federal requirements.[30] By the mid-1960s some 20 federal programs required regional or areawide planning as a condition for funding local government projects. In 1968 the Office of

missioners at its convention in Charlotte, August 16, 1980.

23. See the comments by Paul V. Betters in International City Managers' Association, *Municipal Year Book, 1934* (Chicago: ICMA, 1934), pp. 33-36.

24. Advisory Commission on Intergovernmental Relations, *The Federal Role in the Federal System: The Dynamics of Growth — A Crisis of Confidence and Competence* (Washington: ACIR, July 1980), p. 2.

25. *Ibid.*, Table A-13.

26. The 1929 information is taken from Table 2. The amount of federal aid in 1929 is unknown but was undoubtedly very small. The 1977 figures were developed from various reports by the U.S. Bureau of the Census and the North Carolina Division of Tax Research.

27. The first comprehensive study of the number of governmental units in the United States was undertaken by William Anderson at the University of Minnesota in the early 1930s. The information in this article on the number of school districts and municipalities is from Anderson's reports in the 1935 and 1943 *Municipal Year Books*.

28. See the article on state and local finance in this issue for further information on these changes in the financing of public education.

29. See note 27. The number of cities is the number receiving state street aid. Information on other units is from the U.S. Bureau of the Census' 1977 Census of Governments.

30. See Office of Intergovernmental Relations, *Regionalism in North Carolina* (Raleigh: Dept. of Natural Resources and Community Development, 1980).

A Chronology of North Carolina Local Government, 1930-80

This listing shows key events and actions, governmental trends, and general conditions that affected local government during the past 50 years. Some significantly affected local government in North Carolina. Others are listed to suggest the general environment in which local governments took action.

1930s

North Carolina Tax Commission reports (1928-30)
Great Depression
Brookings Report on County Government (1930)
Shift to state of primary responsibility for financing roads, schools, and prisons (1931)
Local Government Commission created (1931)
Federal aid for local public works (effective start of federal-local relations)
Prohibition repealed (1933)
Federal Social Security Act (1935)
First state aid for city streets (1935)
Urbanization rate declines to one-third of 1920 rate
Population growth drops to half the population growth during the 1920s
Shift to state of intangibles tax collection (1937)
Federal housing legislation (1937)
City housing action authorized (1937)
Federal wage and hour legislation (1938)

1940s

Counties empowered to create housing authorities (1941)
World War II
Planning authorized for counties (1945)
Retirement of local government debt
Local public works delayed because of war
First general municipal annexation statute (1947)
Post-war baby boom — continues into 1950s
Decline in agricultural employment
Public school building bonds — $50 million (1949)

1950s

First transcontinental commercial TV broadcast (1951)
Urban redevelopment authorized for cities (1951)
Expansion of city and county government services and facilities
Increase in federal aid
Cities allocated share of state gasoline tax (1951)
Land-use regulatory powers granted to counties (1951)
Public school building bonds — $50 million (1953)
Brown v. Board of Education (desegregation) (1954)
Urbanization rate increases — suburban growth
Korean War
County authority to provide water and sewerage services (1955)
Interstate highway system funded (1956)
First U.S. domestic jetliner service (1958)
Municipal Government Study Commission reports (1958)
New annexation law, expansion of city and county land-use regulation authority, and major thoroughfare planning procedures enacted (1959)
N.C. Association of County Commissioners re-establishes executive office (1959)

1960s

County authority to provide solid waste services (1961)
Regional planning authorized (1961)
Increased federal aid to local governments
Silent Spring published (1962)
Baker v. Carr (one man, one vote) (1962)
Vietnam War (1961-73)
Smoking and lung cancer linked
Public school building bonds — $100 million (1963)
Shift to state of responsibility for the court system
General ordinance power for counties (1963)
Federal civil rights legislation
Voting Rights Act of 1965
The Pill becomes available
Regional organizations (LROs, COGs) established
Bankcard use spreads
Medicare (1966)
Community college system established
Council-manager government increases
Medicaid adopted
Local-option sales tax authorized (1967-69)
Growing professionalization in local government administration
Local government salaries achieve parity with private-sector salaries
Land-use regulation increases
Municipal population growth rate declines to half the rate during the 1950s

1970s

Federal and state environmental legislation
Local Government Study Commission (1967-74)
City government law, G.S. 160A, revised (1971)
Open-meetings statute enacted (1971)
City public transit authorized (1971)
Clean Water Bonds — $150 million
U.S. Constitution amended to lower voting age to 18 (1971)
Federal revenue-sharing (1972)
County government law, G.S. 153A, revised (1973)
Local government finance law revised (1971-73)
Substantial home rule provided
School busing for desegregation upheld by U.S. Supreme Court (1971)
County public transit authorized (1974)
Energy concerns, especially over oil
Public school building bonds — $300 million (1973)
Constitution's local government finance provisions revised (1973)
Federal aid reaches plateau
Increased shares of state's gasoline and franchise taxes for cities
Procedural and substantive due process required for students and public employees
Women's movement
Federal rehabilitation act (1973)
New York city financial crisis (1975)
State public kindergartens established
Broad community development authorized for cities (1975)
Computers come of age in local government
Decline in birth rate continues
Constitutional amendment to authorize industrial facilities financing (1976)
Decentralization of urban development
Decline in agricultural employment runs its course
Clean Water Bonds — $230 million
Environmental concerns reach plateau
Council-manager plan spreads
Double-digit inflation
Proposition 13 adopted in California (1978)
Local Government Advocacy Council created (1978)
Association of County Commissioners and League of Municipalities occupy joint headquarters facilities (1979)

Management and Budget issued Circular A-95, which required multicounty review for many federal programs and encouraged the formation of regional agencies. Seventeen Lead Regional Organizations (LROs), which covered the entire state, were authorized in 1970 (one was divided in 1979 so that there are now 18). Each LRO is created by its member governments — cities and counties — and depends entirely on local, state, and federal financing. Besides serving as regional review agencies, the LROs frequently undertake regional planning work, provide technical assistance to the member governments, and deliver some services financed with federal, state, and local funds. North Carolina regional organizations seem to be more active than those elsewhere in the nation. In 1977 North Carolina ranked second only to Texas in the amount of money these regional agencies spent or distributed.[31]

Though detailed information on the structure and organization of city and county governments throughout the past half-century is not available, several trends may be noted from the limited studies and surveys that have been undertaken. The most significant trend has been the move to council-manager government in both cities and counties, as Table 6 shows.[32]

Acting under charter authorizations, Hickory and Morganton adopted the council-manager plan in 1914, followed by Elizabeth City, High Point, and Thomasville in 1915. The General Assembly authorized all cities to adopt the council-manager plan in 1917.[33]

County governments received general authority to adopt the manager plan in 1927.[34] Robeson County adopted the plan in 1929, the first county to do so. But as Table 6 shows, the counties moved slowly to the manager plan; before 1970 only 18 had adopted it, compared with 64 since then.

Fourteen other counties achieved some central administration in 1929 through full-time service by the chairman or some other board member.[35] In addition, Buncombe and Jackson counties had the real commission form of government in which the three commissioners of each county served in full-time supervisory capacities.[36]

Table 6
Adoption of Manager Plan by Decades, 1930-80

Decade	Cities	Counties
Before 1930	15	2
1930s	8	1
1940s	19	2
1950s	19	4
1960s	29	9
1970s	34	64
1980 Total	124	82

Source: Unpublished study by Donald B. Hayman (Chapel Hill: Institute of Government, 1980).

County commissioners clearly did not favor the manager form in the early years after its authorization. In 1935 the secretary of the County Commissioners Association complained about the state's neglect of county government and the attitudes of ordinary citizens toward county officials:[37]

> The only worthwhile thing given to us by the Carpet-Bagger Constitution was the commission form of county government, which, in my opinion, is far better than the county manager, dictator or any other form. If the General Assembly will pass a few laws, which the Commissioners Association is only too glad to suggest to them, we will promise the state better local government at far less cost.

This statement — coming only a few years after the Brookings study of county government had suggested major administrative reforms and the merger of many counties to create more economically sized units — indicates that some county officials resisted the complaints of citizens and reformers.

The manner of electing county governing board members has changed but little since 1932.[38] At that time 49 boards had five members and 48 had three members; the other three had either six or seven members. Today 77 have five members and 14 have three (the rest have either six or seven members). In 1929 the term of office in most counties was two years; only 11 had staggered four-year terms. Today 69 counties have staggered four-year terms, 17 have straight four-year terms, ten have a combination, and only four have two-year terms. At-large election has dominated throughout the period. Thirty-two counties with at-large elections now have district residence requirements — a small increase since 1929.

Methods of selecting city governing bodies also have changed very little. Popular election remains the principal method used to select the mayor, and governing board sizes — despite several changes in individual boards — have remained generally the same. At-large elections are still heavily used — as might be expected, since most North Carolina cities are small. One significant change has been the shift from two-year terms to staggered four-year terms. About half of the cities now have staggered four-year terms, double the proportion of forty years ago.

The dramatic change in North Carolina city government has been the marked increase in council-manager government — especially during the 1960s and 1970s. All cities with a population of at least 10,000 and 89 of the 118 cities with a population over 2,500 have the council-manager plan.

Finally, the revision of the general law affecting cities (1971)[39] and counties (1973)[40] brought statutory home rule to

31. U.S. Bureau of the Census, *1977 Census of Governments: Regional Organizations* 6, no. 6 (Washington: GPO, 1978), Table 2.

32. Unpublished study on council-manager plan adoptions by Donald B. Hayman (Chapel Hill: Institute of Government, 1980).

33. Municipal Corporations Act of 1917, N.C. Public Laws 1917, c. 136.

34. N.C. Public Laws 1927, c. 91.

35. Brookings, *County Government Survey*, p. 40.

36. *Ibid.*, p. 37.

37. Skinner, *op. cit. supra* note 21, at 12.

38. The comparisons in these paragraphs are based on the Brookings County Government Survey (see note 7) and the following studies published by the Institute of Government: Grainger R. Barrett, *Form of Government of North Carolina Counties* (1978); George H. Esser, Jr., *Forms of City Government in North Carolina* (Chapel Hill, N.C.: Institute of Government, February 1955); Joseph S. Ferrell, "Apportionment of North Carolina Cities and Counties: December 1, 1965" — an updating of John Alexander McMahon's *Composition and Election of Boards of County Commissioners*, Special Bulletin No. 19, November 1953, issued by the North Carolina Association of County Commissioners and contained in a mimeographed *Cases and Materials on Local Apportionment*, prepared by the Institute of Government in 1966; Ferrell, *Form of Government of North Carolina Counties* (1969).

39. N.C. Sess. Laws 1971, c. 698.

40. N.C. Sess. Laws 1973, c. 822.

cities and counties with respect to form of government, the size of the governing board, and how its members are elected. Changes may now be made by local action (a referendum is required for counties and may be required for cities); previously these changes could be made only by the legislature or with its permission. It is still too early to judge the significance of these changes for local government. The number of special legislative acts changing salaries, terms of offices, or election procedures has declined sharply during the past ten years,[41] but it is not evident that shifting *how* changes may be made has had any influence on *which* changes are being made.

41. For a report on local legislation affecting cities, see David M. Lawrence, "Cities," in *North Carolina Legislation, 1979* (Chapel Hill, N.C.: Institute of Government, 1979), p. 40.

Services and functions

The state's governmental traditions, population growth, rising personal incomes, and changing economy are reflected in changes in the roles of county and city government during the past half-century.

County governments were originally established as administrative subdivisions of the state to administer state functions within convenient areas of the state: roads, schools, justice, land recordation, and the like. Cities, in contrast, were units of local self-government and were authorized to perform public services and functions for people living in an urban setting. Since colonial days the functions of both cities and counties have been expanding to meet the changing needs of citizens — especially evident in recent years as North Carolina's counties have moved from administrative subdivisions to full-fledged units of local self-government.

While the historical development seems clear and inevitable from today's perspective, it was not so clear fifty years ago. The Brookings report to Governor Gardner mentioned above suggested that counties perhaps should be abolished altogether and their duties transferred to state agencies.[42] But because the study's authors recognized that this approach would probably not be accepted, most of their recommendations were directed to the improvement of county government administration, the transfer of functions and responsibilities

42. Brookings, *County Government Survey*, pp. 11-12.

The Institute and Local Government

Teaching and conferences. The Institute offers a number of courses for people who work in local government. (Some of these have been mentioned in other articles in this issue.) The Municipal Administration course (165 hours of instruction), which is designed for managers and other chief key administrators, has been offered for 27 years; graduates number more than 1,200 from 175 different cities and towns. The seventeenth annual County Administration class (10 sessions — 165 hours) will graduate this year; some 350 officials from 75 different counties have completed the course. The Institute's biennial course for new county commissioners has a long tradition and is offered with the cooperation of the North Carolina Association of County Comissioners; some 85 per cent of the 101 commissioners who were first elected in 1980 attended the two 1980 sessions. The school for newly elected mayors and councilmen had been offered for over 30 years in cooperation with the North Carolina League of Municipalities; over 300 new officials attended the 1980 session.

Consultation. Institute faculty members consult with local government officials in many areas — zoning and planning, administration, finance, local ordinances, environmental protection, social services, public records, open meetings, public purchasing, water and sewerage services, municipal annexation, special assessments, city-county consolidation, public utilities, and personnel.

Periodicals and bulletins. *Local Government Law Bulletin, Land Records Bulletin, Round Table* (city and county clerk's newsletter), *Social Services Bulletin,* and *Health Law Bulletin.*

Publications. The Institute puts out a great many publications for local officials. A few representative ones are listed here: *County Government in North Carolina; County Salaries in North Carolina; Form of Government of North Carolina Cities; Form of Government of North Carolina Counties; Handbook for North Carolina County Commissioners; Multiple Officeholding in North Carolina; North Carolina Cities — An Introduction; Oaths of Office for the Use of City, County and State Officials in North Carolina; Open Meetings and Local Governments; Suggested Rules of Procedure for the Board of County Commissioners; Suggested Rules of Procedure for a City Council; Suggested Rules of Procedure for Small Governing Boards; When Counties and Cities Dispose of Property; An Introduction to Municipal Zoning; Legal Responsibilities of the Local Housing Inspector in North Carolina; Legal Responsibilities of the Local Plumbing Inspector; Legal Responsibilities of the Local Zoning Administrator; Planning Legislation in North Carolina; Special Use and Conditional Use Districts; Eminent Domain Procedure; North Carolina Law and the Health Department; The Law and the Mentally Handicapped in North Carolina;* and *A Guidebook to Social Services in North Carolina.*

to the state, and the consolidation of counties into more economically sized units. As we have seen, the transfers to the state were accomplished to a remarkable degree — though the courts were not transferred for some thirty-five years.[43]

No movement to eliminate counties was ever mounted. In fact, state actions of the past half-century have enhanced and enlarged county powers rather than diminished them. At the same time — because of the concerns for efficiency, economy, and coordination that produced the suggestion to eliminate counties — several attempts have been made at city-county consolidation, but none has been approved.

Most services and functions that cities are authorized to engage in were largely in place before 1930. The major additions to city powers since that time have been for public housing, urban redevelopment, public transportation systems, and community development and related activities. During the same period all of these powers were granted to counties. In addition, counties received authorization in areas in which cities were already active: land-use regulation, general ordinance-making authority, water, sewerage, and solid waste. Both units have received authority for a host of other functions and activities of lesser importance — manpower training, human relations, art museums, rescue squads, beach erosion control, and others.

Four stages may be observed in the course of state authorization for cities and counties to perform services and functions needed in an urban society and in the local units' responses. First, urban areas recognize a need and the state empowers city governments to provide the service or function. Second, citizens who live outside cities and towns find that they also need the service or function and the state empowers county governments to provide it. Third, some county governments undertake independent activities, but joint city-county financing or joint administration are increasingly used. Fourth, the county government assumes full responsibility for a function or service countywide.

This pattern is not followed exactly for every service or function, but its general outlines may be seen with regard to many functions. For example, libraries were originally authorized for and supported by cities. Counties were then empowered to operate libraries, and joint libraries were frequently created. Today almost all libraries are county government responsibilities at the local level. Hospitals were originally city government functions; today they are county functions. Solid waste collection and disposal started with cities; now disposal is largely a county function, and county collection services are increasing. Water and sewer services were originally only city activities; every county in the state has now been involved in providing them to some degree, and providing them is a rapidly increasing county concern. Recreation and parks were first authorized for cities; many counties now provide them, and in some instances the city and county programs have become totally county operations. Fire protection was originally a matter for city government. High-level fire protection is still largely a city government function, but rural fire protection under county government direction or support has become widespread in the past two decades. Both types of units are somewhat involved in most activities; city and county arrangements for these activities vary greatly, since North Carolina's Interlocal Cooperation Act[44] permits great flexibility.

The end of this half-century finds both cities and counties authorized to provide a wide range of services and functions. At the local level, counties alone (or nearly alone) provide public schools, community colleges, public health services, agricultural extension services, land recordation, and social services, while cities alone provide streets and sidewalks and gas and electric systems.

Although in the past fifty years North Carolina cities and counties have emerged as two strong and important types of general local governments, with (by national standards) very broad powers for counties, much of the traditional division of responsibilities remains. City governments are still the chief units for public services needed only (or needed at higher levels) by city dwellers — streets, water and sewer, solid waste collection, and fire and police protection — while county governments are principally concerned with those services and functions needed by all citizens.

The past half-century has been a period of marked economic development, and the state's municipal population has increased 130 per cent. As a result, city governmental services have greatly expanded with financial assistance from county, state, and federal governments. During this period county populations also increased some 85 per cent, and county governments have become vigorous — largely because North Carolina has emphasized general-purpose local governments and restricted the use of special districts and other forms of special-purpose governments.[45]

Special studies and major changes

One cannot review 50 years of local government in North Carolina without being struck by the way special studies and study commissions have been used in developing major changes in how the state's local governments are organized and operate. Although many studies were made and many commissions existed, three stand out.

Brookings and related studies. The Brookings Institution's studies of state and county government early in Governor Gardner's administration, together with the work of the tax commissions that preceded and paralleled those studies, set the stage for the massive changes in the early 1930s. The transfer of primary responsibility for public schools, highways, and prisons has already been discussed. Equally important was the passage of the Local government Act in 1931, which created the Local Government Commission and established state-supervised requirements relating to local government indebtedness, the sale of bonds, and fiscal control.[46] The fiscal soundness of North Carolina's local governments is to a very large

43 See the article on court reform in this issue.

44 N.C. GEN. STAT. §§ 160A-460 through -464.

45. As the discussion indicates, county governments did not become complete units of local self-government on a certain date — the status evolved over several years. See the chronology on page 15. If a single year had to be picked as the one during which the scales were tipped, it would probably be 1963, when general police powers were first granted to counties.

46. N.C. Public Laws 1931, c. 60.

measure attributable to the Local Government Commission.[47]

Municipal Government Study Commission. Created by the 1957 General Assembly,[48] the Municipal Government Study Commission spent two years studying city governments and their ability to control and direct growth and meet the increased demands for local governmental services. Acting on its recommendations, the 1959 General Assembly greatly enlarged city and county authority to plan and regulate land use, provided for the adoption of major thoroughfare plans by the state and cities, and enacted a new municipal annexation procedure based on the axiom that territory that is urban should become municipal. The thoroughfare and annexation statutes soon became models for the nation while cementing in place the principle that local governmental functions in North Carolina should fall primarily to cities and counties.[49] These actions also strengthen the state's position as the "regional" government — that is, as the next layer geographically larger than a county — through its key role in highway construction and maintenance.[50]

Local Government Study Commission. In 1967 the General Assembly created another study commission to examine the powers, duties, functions, structure, policies, and limitation of the state's counties, cities, towns, and other local governmental units and to make recommendations for both legislation and constitutional amendments.[51] Over the next six years the Commission put forth a stream of recommendations that the General Assembly acted on. The basic city and county law was recodified. The local finance law (which regulates indebtedness and fiscal control) was revised, updated, and made uniform for most local governments. A revision of the Constitution's local government finance provisions was offered and later approved by the voters. The Constitution's "necessary expense" provision was dropped, and local governments were authorized to create special taxing areas within their jurisdiction.[52] The Local Government Study Commission also developed the constitutional and legislative provisions that restrain and discourage incorporation of new cities and towns near existing ones — giving preference to expanding existing cities by annexation over incorporating new cities within existing urban areas.[53]

The study device seems to have worked well. It allows a thorough examination of current conditions and the forecasting of future demands. The record above shows that the studies of the last fifty years were effective. The changes that they generated are still in place with only minor modifications to meet changing conditions.

Summary

In the past half-century — a period of economic growth, advancing technology, and changing values and lifestyles — North Carolina's city and county governments have greatly expanded their functions and modified their structures. The most signifcant trends may have been:

- —Shift of primary responsibility for financing roads and public education to state government.
- —Emergence of counties as full-fledged units of local self-government with authority to provide a broad range of services and functions.
- —Expansion of state aid to cities and counties.
- —Heavy expansion of federal regulation and financial aid.
- —Establishment of cities and counties as the principal units of local government, with only very minor roles for other forms of local governments.
- —Structural home rule for cities and counties and improvement in administrative arrangements.
- —Establishment of sound financing practices, fiscal control, and adequate revenues.

Many observers think that state and federal financial assistance to local governments has reached a plateau. If so, the flexibility and broad range of powers developed for city and county governments in North Carolina since the Great Depression will probably continue for the rest of this century with only minor change.[54] ■

47. For a recent "outside" evaluation, see Allan G. Billingsley and Paul D. Moore, "Defining New York State's Role in Monitoring Local Fiscal Affairs," *Governmental Finance* 8, no. 4 (December 1979), 12-16.

48. N.C. Sess. Laws 1957, J. Res. 51.

49. Advisory Commission on Intergovernmental Relations, *ACIR State Legislative Program — 1970 Cumulative* (Washington, D.C.: GPO, August 1969). The North Carolina annexation statute is the model recommended. Regulations of the U.S. Bureau of Public Roads on major thoroughfare planning closely follow the North Carolina arrangements.

50. There has been no significant pressure in North Carolina to create sub-state governments that are larger than counties. The state's heavy financing role and the increasingly active roles of city and county governments have eliminated a need for an intermediate level, although state programs are often regionally administered and local programs often regionally financed and administered.

51. N.C. Sess. Laws 1967, J. Res. 76.

52. N.C. CONST., art. V.

53. *Id.* art. VII; N.C. GEN. STAT. § 160A-9.2.

54. See, for example, Alan Beals, "Some Hard Realities Face City Officials in the '80s," *Nation's Cities Weekly* 3, no. 42 (October 20, 1980), 5; see also the ACIR report cited in footnote 24 above.

Fifty Years of the General Assembly

Milton S. Heath, Jr.

THE NORTH CAROLINA GENERAL ASSEMBLY consists today, as it did fifty years ago, of a 50-member Senate and a 120-member House. But apart from this conspicuous continuity almost everything else about the General Assembly as an institution has changed.

The physical facilities have improved. In 1931, and indeed until 1963, the Senate and House met in the historic and beautiful but very cramped chambers of the State Capitol. Each member had a desk that doubled as an office; from this desk in spare moments he could dictate his mail to one of a handful of pool secretaries shared with the other 169 members. The chambers were a tight fit in every way — aisles were narrow, galleries and podia were cramped, news reporters literally sat in one another's laps at the press table, and the members filed out of daily sessions into a tiny rotunda where they rubbed elbows and shoulders with lobbyists and constituents. There were no committee meeting rooms in the Capitol; members sprinted to and from borrowed meeting rooms in state offices scattered around Capitol Square.

Today's physical setting presents a striking contrast. Since 1963 the General Assembly has been housed in a spacious State Legislative Building designed specifically for the needs of legislators. All of the facilities needed for a functional legislature were expanded and brought under one roof. But activities and personnel have already outgrown that space, and in 1981 the Assembly will expand into another new building across the street.

You could write a book comparing the physical setting of 1930 and 1980 (or the quarter-century mark in between — 1955). Consider, for example, access to information and the eating and living arrangements in Raleigh.

The new Legislative Building has, among other things, its own library — something far beyond the dreams of a 1955 or 1931 legislator. The Legislative Library illustrates an important trend that I will stress later — the growing tendency of the contemporary legislature to build an independent base for itself.

In keeping with the realities of the modern world, the General Assembly has its own computer-based data-retrieval systems: one for printing bills and another for tracking the progress of legislation. The bill-printing system makes it much easier for the legislature and the public to follow the changing text of a bill as it moves through the legislature. The bill status service and the video terminals that allow broad access to it make almost any conceivable information on bill status available to anyone in the Legislative Building at the press of a button. These systems mean that you can easily and promptly grasp what is afoot in the legislature on any given subject. It is hard to imagine getting along without them.

A truly humane improvement in the legislative plant is the addition of a snack bar and cafeteria. Today's legislators can eat lunch together or with constituents in the Legislative Building, whereas their predecessors had to choose between lunch in a bag, no lunch, or a time-consuming trip to a downtown eatery.

The "togetherness" made possible by the legislative cafeteria helps to fill an important gap: no longer are legislators all housed in one hotel, the Sir Walter, whose lobby was the meeting place for the members and their constituents. Today's legislator is more likely to live in an apartment miles away from Capitol Square; the affluence of the '60s and '70s apparently hastened an end to the tradition of one shared downtown hostelry for legislators. The loss of the commons that was the Sir Walter is at least partly compensated for by the coming of the legislative cafeteria.

As the legislative physical plant has expanded, so have the staff and budget to go with it. Staffing models for American legislative bodies have ranged from the congressional model at one extreme to the early traditional

The author is an Institute faculty member who has worked with the General Assembly for many years. He wishes to thank his present and former colleagues Henry Lewis, John Sanders, Philip Green, and Michael Crowell of the Institute of Government and Richard Hatch of WUNC-TV for generously sharing with him their views on the evolution of the General Assembly.

state legislative model at the opposite extreme. The congressional model features professional and clerical staffs for every member, for every standing committee, and for the body as a whole (such as the Legislative Reference Service of the Library of Congress, the Office of Legislative Counsel for each house, and the recently expanded Congressional Budget Office). The early traditional state legislative model was a study in contrast. It had little or no professional legislative staff and clerical staff only for the body as a whole (such as the principal clerks, reading clerks, and sergeants-at-arms), and it relied heavily on executive departments to provide bill-drafting services and staffing services for key committees like appropriations and finance.

Through the early 1960s North Carolina stayed with the traditional state legislative staffing model, but in the years since the State Legislative Building was completed it has moved steadily toward the congressional model, as have most state legislatures.

Until the mid-1960s, House and Senate legislative staffs consisted of the two reading clerks and the offices of the principal clerks, the sergeants-at-arms, and the engrossing and enrolling clerks. A small pool of committee clerks kept the minutes of standing committees and helped individual members answer their mail. The presiding officers and a few other legislative leaders had their own secretaries. The Attorney General's Office drafted most of the bills; the Institute of Government published its bulletin services and staffed most interim study commissions; and the State Budget Office and Revenue Department advised the appropriations and finance committees.

Today each member has his own secretary, a Legislative Fiscal Research Office provides independent legislative staff services on money matters, the now full-time presiding officers have their own staff, a separate legislative office drafts bills, and a growing full-time group of professionals in the Legislative Services Office (together with the Institute of Government) staffs standing committees and provides other legislative services. All of these services and units (except for the presiding officers' staffs) are directed and supervised by the Legislative Services Office. The number of full-time professional staff — attorneys, fiscal experts, managers, and librarians — has grown from essentially none in 1931 to 43 in 1979. Figures tell the story more simply:

	Legislative operating budget	Total employees
1931 and 1933 (average per biennium)	$166,043	127
1953 and 1955 (average per biennium)	$511,920	196
1977 and 1979 (average per biennium)	$13,614,511	634

What was the cost, then and now, of passing a bill? During the 1931 and 1933 sessions, the average per statute was $130; during the 1977 and 1979 sessions, it was $10,350. Allowing for a 550 per cent inflationary factor, it cost almost fifteen times as much to pass a bill in 1979 as in 1933.[1]

Somewhat surprisingly, the total volume of legislation — measured by the number of laws enacted — has increased only marginally since 1930 and actually has declined about 5 per cent since 1955. The 1931 and 1933 legislatures passed an average of 1,276 new laws each biennium; the 1953 and 1955 legislatures, an average of 1,389 new laws; and the 1977 and 1979 legislatures, an average of 1,315 new laws (including special sessions).

These aggregates, however, disguise the fact that during this half-century the number of statewide laws almost *doubled* while the number of local acts more than *halved.* Here are the figures:

	Local acts	Public acts
1931 and 1933 (average per biennium)	762	514
1953 and 1955 (average per biennium)	916	446
1977 and 1979 (average per biennium)	355	1,010

As the data show, these changes occurred entirely during the past 25 years; local acts actually increased and public acts decreased between 1931-33 and 1953-55.

The decline in local legislation is a tribute to the reforms of 1969-75 in local government enabling laws and in procedures for handling local bills. The increase in public legislation probably reflects such factors as heightened expectations of state government and longer legislative sessions. The average number of *calendar* days spent in session by a legislature has increased 32 per cent — from 135.5 days per session in 1931 and 1933 to 180 days per session in 1977 and 1979. (It actually fell from the 1931 figure to 130.5 days in the 1953 and 1955 sessions.)

1. Adjusted for consumer price index of 214.1 in May 1979, compared with 38.8 in 1933 (1967 = 100). U.S. Bureau of the Census, *Statistical Abstract of the United States,* 100th ed. (Washington, 1979), p. 483. *Economic Report of the President* (Washington, 1979), p. 239.

What has happened to the composition of the General Assembly while the Institute of Government was growing from infancy to its fiftieth anniversary?

Most publicized and probably most important has been the "one-man, one-vote" requirement imposed by the U.S. Supreme Court in *Baker v. Carr* and its progeny.[2] The major impact of this monumental decision on North Carolina legislative politics was to eliminate the historical representation of each county by one member of the House and to shift the basis for allocation of seats in both houses to population basis exclusively.

The base of representation in the General Assembly has also been broadened moderately in other, less dramatic ways (see Table 1). For example, the lawyer-dominated (or lawyer- and farmer-dominated) legislature exists no more. Lawyers, who made up almost half of the General Assembly in 1931-33, now account for less than one-fourth of the membership. Farmers have fallen from the 20 per cent range to the 15 per cent range. Other groups, such as realtor-insurers and educators, that used to be no more than 5 per cent now account for 10-15 per cent of the legislature. The number of lawyers has declined so far, especially in the Senate, that the ability of standing committees to address bills with complex legal issues is impaired. The decline in lawyers probably results from the financial and professional hardships caused by longer and more frequent sessions.

Though still largely a white male group, the General Assembly now has an average of 10 to 15 per cent women members and 3 per cent black members. The legislature is still dominated by a single party (Democrat), but Republicans are approaching a stable 10 per cent or higher after reaching their high-water mark of over 25 per cent in 1973. (Substantial gains in the 1980 election brought the Republican contingent back up to 20 per cent, but the 10 per cent range is more characteristic of recent years.)

During the past five decades the General Assembly has become an increasingly experienced body. Turnover rates have fallen from approximately 50 per cent to roughly 20 per cent, and average legislative experience has grown from one term or less to more than two terms (almost three terms in the Senate) (see Table 1). These trends, along with the trend toward longer sessions and the now established practice of annual sessions, are producing legislators with considerably more in-session experience.

For long-time legislature-watchers, some related leadership patterns have changed even more strikingly. We now have a full-time paid Lieutenant Governor and the potential (now realized) for a two-term Governor and a two-term Lieutenant Governor. As we moved to a full-time Lieutenant Governor, who continues to preside over the Senate and appoint its committees, the House of Representatives broke its tradition of one-term Speakers. Along with these changes has come a marked break in a long-standing pattern of rotating chairmanships for Senate and House committees. The 1979 General Assembly had 13 repeating chairmen in the House and nine in the Senate. Three of the House chairmen were three-term chairmen; two Senate chairmen were five-termers, and one was a seven-term chairman. Repeating committee chairmen were not unknown to the legislatures of twenty-five or fifty years ago, but there does appear to be a clear shift away from the old pattern of rotating chairmanships, especially in the

Table 1
Legislative Composition and Turnover
(Stated in averages for two regular sessions)

	1931-33	1953-55	1977-79
Lawyers			
Senate	63%	43%	25%
House	42.5	36	21
Farmers			
Senate	15	35	10
House	24.5	27.5	18
Realtors-Insurers			
Senate	4	11	16
House	6.6	8	14.6
Educators			
Senate	2	2	10
House	0.8	4	11
Blacks			
Senate	—	—	3
House	—	—	3
Women			
Senate	1	—	9
House	0.8	0.8	15
Republicans			
Senate	4	3	9
House	5.4	10	8.8
Turnover[1]			
Senate	48	38	14
House	64	42	24
Ave. legis. service[2]			
Senate	0.9 terms	1.46 terms	2.87 terms
House	1 term	1.74 terms	2.17 terms

[1]Turnover = the percentage of members at the beginning of a session with no previous service in either house.

[2]Average legislative service = average terms of previous service in house at the beginning of a session.

2. Baker v. Carr, 369 U.S. 1986 (1962); Reynolds v. Sims, 377 U.S. 533, 568 (1964), as to state legislative representation, and, in North Carolina, Drum v. Seawell, 249 F. Supp. 877 (M.D. N.C. 1965).

Senate (see Table 2). (Granted, the increase in repeating chairmanships may be closely linked to the tenure of a multi-term presiding officer.)

Altogether there seems to be a shift away from the discontinuity that was typical of past legislatures and toward continuity of both leadership and membership.

Table 2
Repeating Legislative Committee Chairmanships

Year	Number of Repeating Chairmen: Senate Committees	House Committees
1979[a]	9	13
1977	7	4
1955[b]	0	10
1953	1	4
1933[c]	0	6
1931[d]	1	3

a. Includes two three-term House chairmen, two five-term Senate chairmen, and one seven-term Senate chairman.
b. Includes one four-term House chairman.
c. Includes one four-term House chairman.
d. Includes two three-term House chairmen.

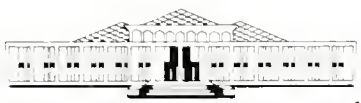
Today's aspiring legislator faces a very different set of demands and expectations from those encountered by his 1955 or 1931 predecessor. These include longer and more frequent legislative sessions, the political fallout of reapportionment, increased public sensitivity to ethics, and increased accountability for campaign spending.

Annual legislative sessions have become a fact of life in North Carolina even though the State Constitution still provides for regular biennial sessions. The most obvious reason for annual sessions is the practical need for frequent budgetary review in an inflationary period. But whatever their merits, annual sessions combined with longer sessions and greater demands for between-session service on study commissions are a heavy drain on the time and resources of the traditional Tarheel "citizen-legislator." This fact is probably reflected in the changing composition of the legislature — for example, the declining number of lawyer-legislators and the growing number of members who do not have full-time jobs. One might hazard a guess that if North Carolina has not yet moved into the era of the "professional legislator," the stage is set for this to happen under favorable conditions — for example, if legislators' salaries were increased somewhat.

Legislative reapportionment, especially in the House, has markedly changed the conditions of running for office in many districts. The typical *rural* candidate for a House seat in 1931 or 1955 represented a single county, knew nearly everyone in his district, and could run a low-key campaign that leaned heavily on old ties and lifelong friendships. Today, he probably runs in several counties against unfamiliar opposition and must develop an organization based on a cross-section of alliances. In short, he must become a "politician" quite unlike his predecessors.

A typical *urban* candidate for a House seat in 1931 or 1955 was a member of a small (one to three members) delegation, thought of himself as a spokesman for the city or county at large, and rarely found it necessary to join with fellow members in a "delegation" position. Today he is likely to be part of a larger delegation, to be less a spokesman for the city or county at large than for a particular section or social group, and to find himself often involved in "delegation politics" by organizing the delegation, holding caucuses, etc.

From the moment they begin to campaign for office, today's legislators encounter legally imposed ethical requirements that did not apply to their predecessors. The 1974 Campaign Finance Act requires filing of frequent and detailed reports on contributions and expenditures, and it limits the nature and amount of various campaign expenditures. And the 1975 Legislative Ethics Act requires filing of statements of economic interest by all candidates and articulates a number of ethical principles to guide sitting legislators.

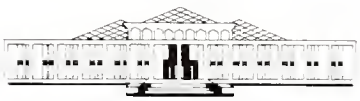


The legislative power base, as compared with the executive power base, has been strengthened in several important ways during the past half-century. A substantial expansion in legislative staff has already been mentioned. The concentration of the additional staff in two strategic areas (lawyers and fiscal analysts) is notable. With a large and growing corps of lawyers on the staff, the General Assembly is developing an increasing autonomy in bill-drafting and legal analysis. And by assembling a large pool of fiscal analysts in the Legislative Fiscal Research Office and hiring an independent counsel to the appropriations committees, it has eliminated the need to use executive budget office personnel as staff to the appropriations committees, as it formerly did.

Recent legislation has considerably expanded the legislative oversight or "watchdog" role. An actuarial-note procedure has been developed that permits the legislature to evaluate independently the actuarial consequences of retirement bills,[3] and the Senate has instituted a fiscal-note procedure that requires a fiscal analysis of bills whose fiscal effects may not be readily

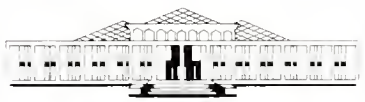
3. N.C. GEN. STAT. §§ 120-112 to -114; Senate Rule 42.2.

apparent.[4] A current "Sunset review" process provides for performance evaluation of some executive boards and agencies and terminates them unless the legislature renews their charters. The Sunset process could also be extended to other executive agencies.[5] A Joint Legislative Commission on Government Operations has a continuing general responsibility for evaluating governmental programs and practices.[6] And an Administrative Rules Review Committee of the General Assembly now reviews all proposed regulations of executive agencies for conformance with statutory authority.[7] (An illustration of the legislature's growing power base is a recent suggestion by the Attorney General, an executive officer, that the General Assembly be given a veto power over administrative rules through this review process.)[8]



The General Assembly has become more of a continuous presence in state government. This is the cumulative result of (a) longer legislative sessions, (b) more frequent legislative sessions, (c) greater between-session involvement in state government by the Advisory Budget Commission, the Legislative Services Commission, and the Legislative Research Commission, and (d) a growing number of appointments of legislators to policy boards of administrative agencies.

By and large the General Assembly and its processes have become more representative and more accessible and open to the people of North Carolina. Most legislative committee meetings are much more open and accessible than they were 25 or 50 years ago — both because of the policies exemplified by the Open Meetings Law and because committee meeting schedules are more reliable and meeting places are more accessible. The installation and use of electronic voting machines strengthens legislative accountability. And the broadened base of legislative representation makes the General Assembly representative of North Carolinians in more walks of life.



The combined effect of some of the changes discussed in this article has brought North Carolina more into the mainstream of contemporary American state legislatures. Ten years ago the Citizens Confer-

4. Senate Rule 42.1.

5. N.C. GEN. STAT. §§ 143-34.10 to -34.21.

6. *Id.* §§ 120-71 to -79.

7. *Id.* §§ 120-30.24 to -30.35.

8. By chronicling the expansion of legislative powers I do not mean to imply that the executive branch has declined in authority. The two-term potential for the Governor and the growing control of the executive branch over its personnel are two recent examples of an expanding executive power base.

The Institute and the General Assembly

Teaching and conferences. The Institute assists the Legislative Services Office in providing a biennial legislative orientation conference for new members of the North Carolina General Assembly — a program that the Institute started in 1966.

Consultation. Since the late 1960s, Institute faculty members have served as regular counsel for a number (recently averaging 15 per session) of standing legislative committees. The Instititue of Government has also furnished staff assistance for many years to legislative study commissions that have requested it.

Periodicals and bulletins. During sessions of the General Assembly the Institute maintains a Legislative Reporting Service with an office in the State Legislative Building. The Service publishes the *Daily Bulletin*, which digests each bill introduced in the House or Senate that day and summarizes all legislative action taken on the floor of each chamber. The *Bulletin* is mailed each evening to about 1,600 city and county officials and delivered to a number of state offices; a copy is also placed on each legislator's desk. Other legislative reports prepared by the Institute include a *Weekly Bulletin of Local Legislation*, a *Weekly Legislative Summary*, and a variety of end-of-session reports and analyses.

Other publications. At the close of each legislative session, the Institute issues one of its major publications. *North Carolina Legislation* — a summary of that year's legislation that is of interest to North Carolina public officials. The Institute also publishes a *Legislative Handbook* — written as a reference for new legislators — that is helpful to those who want an understanding of how the General Assembly is organized and how it conducts its legislative business.

Governor Terry Sanford addresses a joint session of the legislature in 1961 in the old Capitol building (left). Photo on right shows the House chamber in the new legislative building, which opened in 1963.

ence on State Legislatures published a comprehensive study of state legislatures that sought to evaluate whether the state legislatures were functional, accountable, informed, independent, and representative.[9] Much to the dismay of Tar Heels, the North Carolina General Assembly was ranked forty-seventh among the 50 state legislatures in the Citizens Conference evaluation. Although strong criticisms were leveled at some of the study's premises, this low ranking suggested that North Carolina might not have kept pace with consensus reform trends in state legislatures.

The Citizens Conference study concluded with a set of recommendations to "improve" the legislature in each state. The record of the intervening decade shows that North Carolina has not responded positively to some of these recommendations — for example, establishing single-member districts, reducing the number of committees and committee assignments, and publishing committee proceedings and roll calls. But it has responded to other recommendations — for example, strengthened professional staff support, electronic voting, more continuity of leadership, open and well-publicized committee meetings, and annual sessions. These changes have brought North Carolina much closer to the norms that were reflected in the Citizens Conference report and probably would raise the General Assembly's ranking if a similar evaluation were conducted today.

Conclusion. This examination of the General Assembly's fifty-year track record leaves a number of positive impressions:

—The General Assembly has expanded facilities and staff services to meet needs. The expansion has kept pace with modern developments, computerization, and other technology.

—An excessive turnover rate in Senate and House membership has been reduced, and continuity in leadership has been strengthened.

—The General Assembly has become more broadly representative, more open, and more accessible. It has been willing to lengthen its sessions and meet more frequently in response to increasing demands.

—It has managed its workload intelligently, reducing attention to purely local matters while enlarging its output of statewide legislation.

—The legislative "watchdog" function has been strengthened.

—All in all, the General Assembly has moved more into the mainstream of American legislative philosophy and practice.

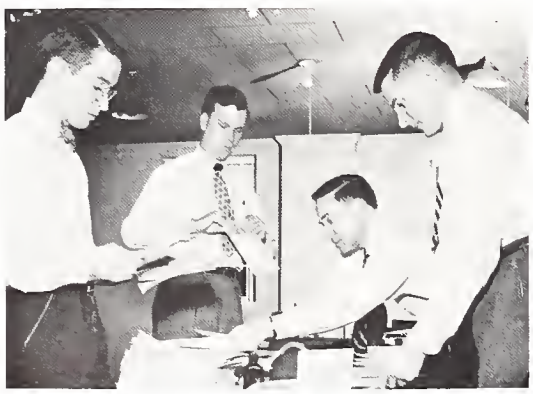
9. The Citizens Conference on State Legislatures, *State Legislatures: An Evaluation of Their Effectiveness* (New York: Praeger Publishers, 1971).

Bibliographic Note: The factual information in this article concerning bills, laws, and legislators is gathered from the *North Carolina Manual,* which at one time was published by the North Carolina Historical Commission but for many years has been edited and published by the Secretary of State, and from *North Carolina Government 1585-1974,* published by the Secretary of State and edited by John L. Cheney, Jr. (Winston-Salem: Hunter Publishing Co., 1975)

The subject of this article has been dealt with by several of the author's present and former Institute of Government colleagues in previous *Popular Government* articles, sometimes in much greater detail: "Legislating in the Old Capitol" (Fall 1977, 11; Michael Crowell, "Composition of the North Carolina Legislature, 1967-77" (Summer 1977); "The General Assembly" (entire issue, Spring 1975); Clyde L. Ball, "Voting Patterns in the North Carolina House of Representatives: 1961" (May 1964); Catherine M. Maybury, "Turnover in the Membership of the General Assembly" (February 1957).

Some reservations and questions inevitably arise in an evaluation of this sort. Have the changes in legislative composition — like the marked reduction in the number of lawyer-legislators — left undesirable gaps that in some ways impair the legislature's ability to do its work? Is the enlarged legislative staff adequately trained and structured for effective performance? Have potential abuses and the need for restraint been adequately considered in the rush to expand the legislature's role and power base? Is the legislature able to cope with lobbying pressures? Should further response be made to those recommendations of the Citizens Conference on which no action has been taken? Does the General Assembly adequately respond to the most compelling issues that face the people of North Carolina? Is the deliberative process in good working order, or are too many important proposals being considered without adequate attention to their substance? Are the processes for careful study of complex, long-term issues in good working order? Should the length and scope of the short (even-year) sessions be considered more carefully to reduce the likelihood of hasty actions on substantial issues?

These questions might serve as a beginning agenda for those who are concerned with the future of the General Assembly in the next half-century. ■



The Legislative Service

The Institute of Government's Legislative Service operating in Raleigh in the early fifties.

Is It the Same Institute?

Henry W. Lewis

Editor's Note: At my request, Henry Lewis wrote this article in response to the question posed in its title. He does not claim to speak for the Institute of Government. Rather, he has set down some unresearched impressions derived from an affiliation with the subject that began in 1946.

FROM THE BEGINNING, with scarcely a handful of staff, the Institute of Government took state and local government — gloriously undefined — as its sphere. Today it has over thirty men and women on its faculty, and its domain of concern remains the same. Years of experience and demonstration of capacity to deal with the legal and administrative complexities of North Carolina government have increased the public's appetite for Institute services. The concomitant problem for the Institute has been when and how to respond affirmatively to those demands, weighing its faculty capacity, the significance of each opportunity, the political hazards, and how an affirmative response might affect work that is already under way or promised.

A statewide concern

The Institute of Government has not deviated from its initial determination to understand "the law in action," and it continues to concern itself with pragmatic rather than textbook solutions. Without limiting the scope of its study and research, it must still ask, "What is the North Carolina law?" "Will it work in Ashe County?" "Can it be developed in Goldsboro?" Unlike most university-based governmental research agencies, the Institute has a prescribed laboratory in which all of its studies, analyses, and ideas must be tested — North Carolina and its units of local government.

The author was Director of the Institute of Government from 1973 to 1978.

This is a large state, with well-defined geographic and economic divisions that produce healthy and useful variety. But, throughout North Carolina's history, seeds of discord and dissension have lurked in these regional variations. The Institute has consistently functioned on the premise that a broad perspective enhances the likelihood of sound governmental policies and has tried to bring the solutions as well as the problems of each region to the attention of all. At the same time it has realized that the essential governmental community is the state itself and that problems, challenges, and solutions are best understood and dealt with in a statewide context. Neither ignorance nor intelligence is restricted to a given region.

The Institute of Government continues to study and teach *fundamentals*, eschewing the fads that perennially arise to distract the lazy and unwary from the central responsibilities of government. I once heard Albert Coates address a professional group whose members were profiting from the ignorance of local officials who were charged by law with sophisticated duties for which they were unprepared. To my discomfort, he said, "The Institute of Government is in business to put you out of business." What he meant was that the Institute acknowledged government's need for expert advice, but felt that government should develop its own experts — and that the Institute was going to devote its best efforts to that end. This remains true. But let me mention some things that have changed.

Shifts and changes

My first experience with the Institute's legislative reporting service came in the General Assembly of 1947. At that time our staff held only a precarious foothold. But sixteen years later, when North Carolina opened a new legislative building, the Institute was assigned its own office space and seats in the Senate and House chambers — eloquent evidence of a major change in Institute status without a shift in either its procedure or its objective. I doubt that any other American legislature places so much reliance on the reporting work of an agency that it does not control.

In my early days with the legislature I observed its custom of assigning troublesome proposals for statutory change to study commissions in order to achieve prolonged postponement or dignified death. But in the 1950s, almost overnight, North Carolina's legislative and executive leaders seized upon impressively manned interim commissions as useful means of tackling issues too complex for patchwork legislation. A surprising number of these groups looked to the Institute for professional help. Work with study commissions proved to be excellent experience for Institute faculty members, and the

reputation they gained for knowledge and unbiased analysis brought a demand for similar services from a number of standing committees of the legislature. I believe that this demonstration of what competent counsel could do for interim commissions and in-session committees laid the foundation for the General Assembly's establishment of its own permanent research agency.

Areas of influence

The last fifty years have been marked by profound changes in both state and local government in North Carolina: constitution, criminal code, court system, county and municipal organization and finance, executive branch reorganization, statutory regulation of the uses of property through planning and environmental controls — the list goes on. In many of these, Institute representatives have taken important parts — not as policy merchants but as counsel, helping to define fundamental questions, suggesting alternative approaches and means, drafting and redrafting proposals for legislation, urging decision-makers to face problems and reach conclusions that they themselves understood, could explain, and were willing to defend. I take pride in our faculty's resilience in adapting itself to serve the changing needs brought on by the rapid shifts in both governmental policy and structure.

An easily overlooked measure of Institute influence has been the recent development of training agencies and programs for public officials and employees within governmental departments and the state's other educational institutions. Though they have rarely emulated the Institute's emphasis on study, research, and familiarity with actual practice, these training agencies have validated the conviction that persons assigned to governmental tasks deserve good training. The proliferation of these new on-the-job programs has brought the Institute face to face with a potential duplication of effort unimagined in the early years when its staff struggled to convince others that effective and productive government demands both superior scholarship and first-rate instruction. Although many of the new programs and agencies have demonstrable merit and meet genuine needs, some have not always met the standards that North Carolina deserves. Nevertheless, within their capacities and time limitations, Institute faculty have, with rare exceptions, responded freely to requests for help in carrying out these programs. In candor, however, I feel that the state itself — aided by the Institute, the University, and other educational institutions — should give all such programs and agencies careful scrutiny and evaluation before institutionalizing and engrafting them into budgets.

Staff and faculty

When a bust of Albert Coates was installed in the Knapp Building in 1976, I made these remarks to the assembled Institute family:

> . . . the Institute of Government has the most carefully chosen faculty in the University. I believe this statement to be true [now] and that so it has been from the time Albert Coates chose Henry Brandis, Dillard Gardner, Buck Grice, Marion Alexander, Ed Scheidt, and Harry McGalliard. The reason is simple and is tied to the vital thread that has kept the Institute alive and healthy: We seek, first, men and women who have academic qualifications of a very high order; this is a *sine qua non* but by no means the only test. We then seek evidence of the capacity to perform. And, finally, we do all within our power to find men and women who, so far as they and we can determine, believe that the mission of the Institute is worth their best professional and personal efforts.

In 1946 I was awestruck before the *breadth* of Peyton Abbott's knowledge of the ins and outs of North Carolina's public law. In 1981 I am equally impressed by the *depth* of knowledge that my colleagues display in the fields for which they have responsibility. It has never been easy to find and attract men and women with the unique combination of brains, commitment, tenacity, and personal warmth essential to effective performance at the Institute. We have made some mistakes in selecting faculty; the wonder is that fifty years have produced so many successes. Traditionally, law school graduates have constituted the major portion of the faculty, but, from the first, men and women from other disciplines have been represented in the Institute, and they have often been the leaven in the dough.

In the mid-1970s I analyzed Institute faculty losses over the most recent fifteen-year period and found that we had lost, on the average, one and one-half persons per year — a low rate of turnover for an academic agency. But even that small loss did much to account for the Institute's practice of continuous recruitment: People qualified for Institute work are not plentiful, and it is imperative to keep an eye open for likely candidates.

In the not unnatural desire for staff stability, it has been easy to forget the renewed strength the Institute obtains from constant infusions of new talent. At the same time, the low rate of loss has brought dividends that could not have been anticipated fifty years ago. Long tenure has enabled faculty members to achieve not only great professional and technical skill but an invaluable perception of reality — "what will work in

North Carolina" — that gives them an unmatched reputation for both reliability and integrity. In North Carolina governmental circles, one has only to mention the names of our senior colleagues to find support for this assertion. The Institute has become a treasury of administrative experience as well as a laboratory for governmental research.

Methods and techniques

It is fair to say that the methods of study and instruction employed early in its history remain the mainstays of the Institute's work today. I recall Henry Brandis's injunction when we had to fill a vacancy in our local government staff in 1973: "Whoever you pick," he said, "make sure he understands how essential it is to go into the local offices to see at first hand what is being done and see what the problems are." Nor have I forgotten the invaluable assistance I received from John Fries Blair and other colleagues who read my manuscripts and observed my teaching. The sense of responsible partnership was strong in the Institute of 1946, and it remains strong in 1981. The effective Institute faculty member seeks criticism of his work from his associates and freely returns the favor.

Although many more officials visit the Institute staff for advice and consultation in 1981 than was the case in 1946, the faculty — perhaps as a product of growing maturity and increased demands on its time — does not get out into governmental offices with the frequency and diligence that it once did. (Even as I write this, however, I think of Michael Crowell's recent apprenticeship as a local prosecutor.) Now and then, one hears that the Institute is growing "academic" — a statement with which I do not agree, but the mere suggestion is a word to the wise.

Self-examination

Conservatism is traditional among lawyers, so it is not surprising that an organization heavily stocked with attorneys should be slow to adopt techniques of research, dissemination, and evaluation that elsewhere seem commonplace. But innovation has occurred at the Institute of Government — often at the prodding of faculty members outside the legal profession — and I am confident that, as new techniques give evidence of effectiveness, more changes will come.

Some of the Institute's best work was published in *Popular Government* in the 1930s. As the faculty has grown in numbers, stature, and specialization, increased emphasis has been placed on comprehensive publications to meet particular governmental needs. Although occasional studies have appealed to wider audiences — I think of Jim Paul's work on *Brown v. Board of Education* and Bob Farb's study of gubernatorial succession — I suspect that few Institute publications appeal to the citizen in the way it was hoped that *Popular Government* might. The persistent cry for instruction and publications that have immediate use to responsible officials understandably, if unhappily, crowds out the efforts the Institute has always intended to make in helping North Carolinians outside government understand it.

Not infrequently we have been asked how the Institute evaluates programs, faculty members, publications — in brief, itself. Although wary of adopting institution-wide means for measuring performance, individual faculty members have made admirable progress in devising methods of appraising the effectiveness of their own work. But the Institute itself has not been careless in this regard. It has been pragmatic: Officials buy new publications if they have profited from earlier ones; they attend or send associates to classes, seminars, and schools if prior experience with them has proved productive; those who have profited from publications and classroom instruction seek advice from faculty members whose work has helped them. This is the Institute cycle or process; if any element suffers a breakdown, the effect on the others is soon apparent, and corrective steps are in order.

Philosophic base

I first saw the Institute of Government as a clutch of young veterans of World War II working on the outskirts of the University at Chapel Hill to erect within that University an institution devoted to the study of both the legal bases and the day-to-day practices of state and local government — an endeavor calculated to illumine students, practitioners of government, and, inevitably, citizens who looked to the University for intellectual leadership. Albert Coates, the founder, remained the Institute's director for the first fifteen years of my tenure, ample time for me to experience as well as observe this dynamic dreamer's determination to accomplish that goal. Later I participated in the same process under John Sanders' skillful leadership.

The little band that I joined worked in a modest building of unique floor plan. Each of us had an office. (I will never forget how, as we grew in numbers, we divided and re-divided the available space to retain that luxury.) There were a few dormitory rooms on the third floor, and the entire structure was lined with bookshelves, cabinets, and display facilities — visible evidence of a careful plan to use the entire building as library and laboratory for the study and analysis of government "in books" and "in action." *But there were no classrooms!* Unthinkable to those who complain of the limited teaching space in our present home but not strange in the Institute's formative

years. The explanation lies in educational philosophy.

The Institute's foundation stone was *study* of government; its staff — however designated — were *students* of government. Writing of whatever sort was the product of study; writing led to publication. *Popular Government,* whose rocky fifty years we celebrate, was the first and, for a long time, the only vehicle the Institute had for bringing the results of those studies to officials and citizens who might profit from them. Formal classroom instruction in the Institute was in its infancy. Informal give-and-take between staff members and public officials — usually in governmental settings — led to small meetings, conferences, even schools, in which Institute "students" exchanged what they had learned with officials whose accounts of their own experiences and penetrating questions put those "students" to the test. From these encounters both sides learned. We borrowed classrooms as the demand for instruction increased.

Being both student and instructor, the Institute faculty member does not conceive of himself as the initiator or advocate of governmental policy. True to his Institute inheritance, he remembers that the most effective teacher insists that students learn to analyze issues (toughen their thought processes), opens new possibilities to their minds, leads them to sources of information; yet leaves them — even forces them — to develop answers on their own. This is the philosophic ground for the Institute's often misunderstood reluctance to advocate particular policies, solutions, or candidates. For a faculty composed of concerned men and women, this self-imposed discipline is not always easy to exercise: On one side lies the Scylla of academic insipidity, on the other the Charybdis of political activism. Yet, in my judgment, loyalty to that principle has been largely responsible for the Institute's credibility.

Wherewithal

Perhaps a word about money is not out of place. Once within the University, the Institute of Government was assured a budgetary niche, but that security has not produced the level of financing needed to support a faculty and program of the quality North Carolinians have come to expect. Understandably, University authorities find it easier to grasp the financial problems of departments with resident students than those of an agency whose constituency is not so visible. Except for the generosity of a few individuals in its earliest days, the Knapp Foundation's magnificent help with a building in the 1950s, and the recent welcome benefactions of Paul and Margaret Johnston, the Institute has not attracted many donors. (Someone has suggested that the word "government" in its name may scare off private money.) In the post-World War II world of grants — foundation and public — we have received far less money than might have been expected. Why? Directly or subtly, those who make grants have objectives in mind for their giving; it is not strange that they want a hand in how their money is spent. I must report that the Institute's fierce determination to set its own program priorities — make an independent judgment how best to serve North Carolina's governmental needs — has won for it much admiration but very little cash.

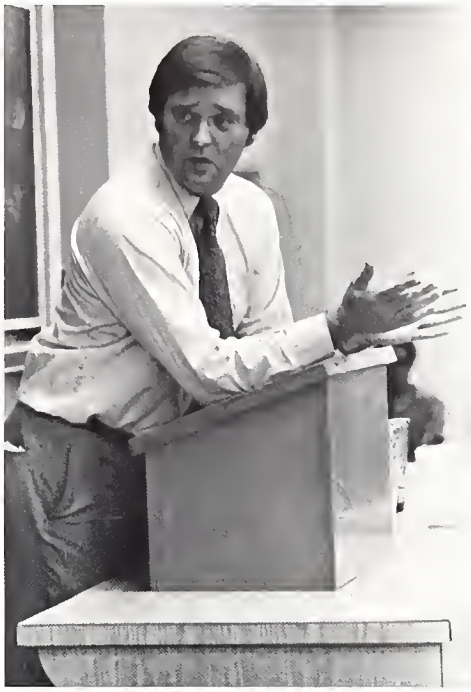
Fame and reputation

I have spoken of the Institute in 1946 as being "on the outskirts" of the University. I might have added that its staff worked without the security of tenure — a precarious position in such a setting. Today, although the word "institute" presents inherent obstacles for people accustomed to dealing with schools and departments, *the* Institute has come of age within the University family. Tenure was conferred thirty years ago. Nevertheless, the Institute of Government is not in the mainstream of academic life — nor was it ever intended to be. But, as a vital arm of educational outreach to crucial segments of North Carolina's population, it has the respect and support of the University community — a respect derived in large part from our faculty's competent execution of sensitive roles in both general faculty governance and University administration.

Despite the Institute's growing maturity, its work is not as well known in Chapel Hill and throughout North Carolina as one might expect. Now and then I see indications that it is better known in professional circles outside this state than inside. And misperceptions persist even where its work is known. Some University friends wonder why such an agency is not part of state government itself, and some in government wonder why it is situated in the University. Neither group sees clearly how vital it is for the Institute to be able to study, analyze, publish, and teach unfettered by government control and uninhibited by political considerations. Only in the academic setting can it be free to be unbiased and responsible to the citizens for whom, in the last analysis, state and local government exist. This is neither a simple nor a facile role, and the Institute has not been invariably successful, but no one can question its efforts to that end.

The real issue

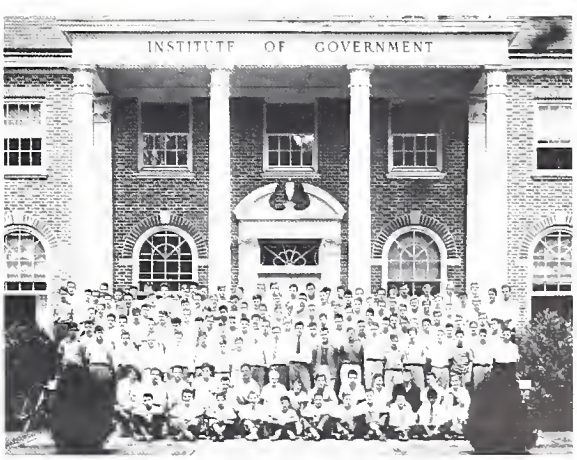
When Steve Clarke, editor of *Popular Government,* asked me to write about how the Institute of Government has changed in its first half-century, I was somewhat reluctant, but eventually I responded with what you have read above. My answer to the inquiry is simple: Of course, the Institute has changed. *But not very much!* ■



A scattering of Institute of Government activities through the years: Wildlife school, Highway Patrol graduation, faculty, classes, the N.C. Attorney General teaching at the Institute, the former Institute building on Franklin Street in Chapel Hill.

The Institute...

Law enforcement meeting at the Institute in 1947. Institute Director Albert Coates and Governor Terry Sanford (then an Institute faculty member) are on opposite ends of the first row. Henry Lewis (Director from 1973-78) is second from left, third row.



State and Local Government Finance Over the Past Fifty Years

Charles D. Liner

WHEN THE Institute of Government was founded in 1931, North Carolina was suffering from the initial shocks of the worst economic crisis in the nation's history. The Great Depression — by reducing the tax base and the ability of people and businesses to pay taxes — created a severe crisis in state and local government throughout the nation. But the crisis was especially severe in North Carolina because the fiscal condition of the state and local governments was worse than in other states — perhaps worse than in *any* other state when the Depression began.

But North Carolina's response to its fiscal crisis was more radical and more far-reaching than that of any other state. Through drastic measures taken in 1931 and 1933, the state was able to reduce the burden of taxation and maintain basic governmental services. It was the only state to keep the public schools open without interruption during the Depression. Of more far-reaching consequence, however, the state's response to the crisis produced a radical realignment in the fiscal and administrative responsibilities of the state and local governments, a restructuring of the tax system, a redistribution of tax burdens, and a system of fiscal controls on local governments. These measures, which amounted to a virtual revolution in the state's fiscal system, shaped the course of fiscal affairs for the next 50 years and produced lasting benefits to the people of the state by reducing reliance on property taxes, more nearly equalizing the provision of public services, providing a more equitable distribution of the tax burden, and providing for a tax system that produced sufficient growth in tax revenues to finance a phenomenal expansion in governmental programs.

The fiscal chaos of 1931

When the General Assembly convened to face the crisis in 1931, North Carolina's system of governments, along with its economy, seemed on the verge of collapse and bankruptcy. Local governments were finding it increasingly difficult to collect property taxes. Tax rates had been increased substantially during the 1920s to finance a large increase in expenditures; state and local taxes as a percentage of income rose from 4.7 per cent in 1920-21 to 10.1 per cent in 1929-30.[1] The property tax, which provided two-thirds of total state and local tax revenues, became especially burdensome when the Depression struck because tax assessments were not reduced but income from land and employment fell sharply. The overall collection rate fell from 96 per cent in 1928-29 to 87 per cent in 1930-31, 32 counties collected less than 80 per cent of total levies in 1930-31, and 15 counties collected less than 70 per cent.[2] The amount of taxes advertised as delinquent amounted to about 13 per cent of total property tax collections.

Just as serious, however, was the overwhelming burden of debt. The total debt service requirement of the state and local governments was equal to 37 per cent of total state and local tax collection.[3] The State Tax Commission reported in 1930 that debt service on existing indebtedness of local governments would require an average property tax rate of $1 on the total state valuation for 10 years following 1929, at a time when the average county-wide tax rate for all purposes was $1.21.[4] Two towns would have had to levy a tax rate of $4.75 just to cover debt service! Governor O. Max Gardner remarked that North Carolinians had not just anticipated the future — they had spent it.

Counties and towns began to default on their debt payments. By November 1933, 61 counties and 146 municipalities had defaulted.[5] North Carolina had more defaults by far than any other state — one-fifth of all defaults in the nation to that time.

This perilous fiscal condition had come about for several reasons. Except for the agricultural sector, which had been plagued by falling commodity prices throughout the decade, the 1920s was a time of prosperity, increasing industrialization and urbanization, and expanding government expenditures. The public's enthusiasm for improving public schools, which had begun in 1900, continued during the 1920s. Growing towns and cities needed new streets and sewer and water systems (which were financed from general revenues at that time), more policemen and firemen, and other services. Public health and welfare services were expanded. But the greatest growth in expenditures was due to an increase in automobile use and popular enthusiasm for better roads. In 1921 the state took over 5,500 miles of county roads to form the state highway system and then improved the roads so much

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The author is an economist on the Institute of Government faculty whose fields include state and local finance.

1. Clement Harold Donovan, "The Readjustment of State and Local Fiscal Relations in North Carolina, 1929-1938" (unpublished doctoral diss., University of North Carolina, Chapel Hill, 1940), p. 102.

2. *Report of the Tax Commission* (Raleigh: 1932), pp. 46-47.

3. *Ibid.*, p. 64.

4. *Report of the Tax Commission* (Raleigh: 1930), p. 244.

5. *Report of the Local Government Commission* (Raleigh: 1934), p. 8.

that North Carolina gained a national reputation as "the Good Roads State."

The large increase in government spending was financed by increasing tax rates and by borrowing, which was facilitated by a ready bond market. Although the state had continuously increased its financial aid for schools, roads, and public health, local governments still had primary responsibility for financing schools, county roads, short-term incarceration of prisoners, the lower courts, public health, public welfare, and social services (to the extent that any were provided) as well as local law enforcement and other services. The pressure to increase government services and public spending therefore fell mainly on the local property tax. The economic euphoria of the 1920s and the bullish bond market created an atmosphere that led to increasing borrowing and eventually to an overburdening level of debt. The proponents of improved roads even argued that roads cost nothing since they would generate sufficient economic growth and tax revenues to finance the debt. Local debt tripled during the 1920s, while state debt increased sixteen times.[6]

The excessive indebtedness was also due to a breakdown in fiscal controls on local governments. For example, it was common to finance operating deficits with short-term notes or to issue revenue-anticipation notes and then refinance them with long-term bonds.

The fiscal revolution of 1931-33

Under the leadership of Governor O. Max Gardner, the General Assembly, during the longest and perhaps most momentous session in the state's history, responded to the crisis by enacting or initiating several bold measures that were unprecedented in any state.[7]

—The state assumed financial responsibility for operating the constitutionally mandated six-month school term. The General Assembly declared that "the public school system for the constitutional term of six months shall be general and uniform in all counties and shall be maintained by the state from sources other than ad valorem taxation on property." This measure alone meant that the state doubled its support of the public schools.

—The state assumed responsibility for financing, constructing, and maintaining *all* county roads. The State Road Act abolished all local road boards, prohibited counties from levying property taxes for roads, and placed full responsibility for about 45,000 miles of roads in the hands of the State Highway Commission.

—The state assumed responsibility for all county prison camps and all prisoners sentenced to 60 days or more.

—Salaries of state employees and state expenditures in general were reduced substantially.

—The Local Government Commission was established to regulate local government debt and to help local governments cope with defaults and the overbearing problem of debt.

—To finance the increased state responsibilities, the rates of almost all major state taxes were increased, and the state levied a temporary statewide property tax (which was repealed in 1933).

By the time the General Assembly convened in 1933, the economic crisis had deepened, and the state faced a large deficit. Nevertheless, the General Assembly carried the fiscal revolution even further by assuming responsibility for operating expenses of an eight-month term in all the schools throughout the state and by enacting a statewide 3 per cent retail sales tax.

The long-term effects of the fiscal revolution

The measures taken in 1931 and 1933 were designed to solve the immediate

Table 1
Total State and Local General Expenditures by Function, (Amounts in millions[1]) 1930-31 and 1977-78

	1930-31		1977-78		Percentage
	Amount	Percentage	Amount	Percentage	increase[2]
Education					
Public schools	$28.5	47.2%	$1,682.2	28.0%	5,802%
Higher education	2.2	3.6	808.7	13.5	36,659
Total (including other education)	30.7	50.8	2,592.0	43.2	8,342
Highways (excluding city streets)					
State	4.5	7.5	527.2	8.8	11,615
Counties and road districts	5.8	9.6	—	—	—
Total	10.3	17.1	527.2	8.8	5,018
Other state functions					
Hospitals and correctional institutions	1.9	3.1	651.7	10.9	34,200
All others	3.8	6.3	625.4	10.4	16,358
Total	5.7	9.4	1,277.1	21.3	22,305
Other local government functions					
Counties	5.6	9.3	771.6	12.9	13,678
Municipalities (including streets)	8.1	13.4	836.7	13.9	10,229
	$60.4	100.0%	$6,004.6	100.0%	9,841%

1. Current dollars. See footnote 2.

2. The increase in the Implicit Price Deflator (a price index for government purchases) for state and local government purchases of goods and services was 721 per cent between 1931 and 1978. Bureau of the Census, *Historical Statistics of the United States*, Part 1, Table E 1-22, p. 198, and *Statistical Abstract of the United States*, 1979, Table 781, p. 476.

Source: *Report of the Tax Commission* (Raleigh: 1932), Table XVI; U.S. Bureau of the Census, *State Government Finances, 1977-78*, and *Governmental Finances in 1977-78*.

6. Donovan, "State and Local Fiscal Relations," p. 102.

7. For a full account, see *ibid.* and Paul V. Betters, ed., *State Centralization in North Carolina* (Washington, D.C.: The Brookings Institution, 1932).

crisis caused by the Depression, but they have had a profound long-term influence on governmental finance. In the short run they kept the schools open, maintained the roads, and sharply reduced the burden of property taxes (total property tax revenues fell 43 per cent between 1930-31 and 1933-34, while other tax revenues increased 35 per cent). More important for the long run, however, they (1) dramatically realigned state-local fiscal responsibilities, (2) created a tax structure based primarily on statewide income and consumption taxes that proved to be very responsive to economic and population growth, and (3) established fiscal and debt controls that helped to place local fiscal affairs in a sound condition.

The centralization of fiscal responsibility. The fiscal revolution centralized fiscal responsibility for the major government services at the state level. Basic financial responsibility for three major functions — schools, roads, and prisons — was shifted from county government entirely to the state. (Schools and roads had accounted for two-thirds of total state and local expenditures in 1930-31, and almost two-thirds of local expenditures. See Table 1.) Federal legislation of the mid-1930s centralized financial responsibility for public welfare and social services programs, which thereafter were financed largely with federal funds distributed to counties through the state. Later the state centralized financial responsibility even further by largely underwriting the court system (the state began financing all court operating expenses during the 1960s), hospitals, community colleges, and other services and by sharing its revenue sources with local governments. Public school finance is somewhat less centralized today than in 1933 because now many local school units supplement the basic state school funds with revenues from local sources. However, North Carolina still finances a higher proportion of school costs than all but three other states.[8]

The restructuring of the tax system. The addition of the state retail sales tax and the realignment of fiscal responsibilities brought about a dramatic shift in the pattern of tax burdens and set in place a tax system that profoundly affected the growth and distribution of public services during the ensuing decades.

The reforms immediately and permanently reduced reliance on local property taxes. By 1933-34, total property tax levies had fallen to 56 per cent of the 1930-31 level.[9] Property tax revenues as a percentage of total state and local tax revenues fell from 63 per cent in 1930-31 to 42.5 per cent in 1933-34 and to 34 per cent in 1936-37.[10] Today, the property tax accounts for only 23 per cent of total tax revenues — far lower than the national average. The greatest significance of this reduced reliance on local property taxes was that the ability of local units to finance schools, roads, welfare programs, and other services no longer depended on the local tax base, which had always varied greatly — especially between rural and urban counties. By centralizing financial responsibility the state moved toward a system of finance in which most funds needed for statewide services such as schools, public welfare, and social services programs are financed by taxes that are levied in accordance with ability to pay — without regard to the residence of the taxpayers — and disbursed according to need. Thus, relatively wealthy urban taxpayers help to finance schools and other services in areas with less ability to pay. The result is greater equality in the provision of services and greater equity in tax burdens.

The retail sales tax was enacted even though some state leaders, including Governor Gardner, objected to it on grounds that it fell most heavily on poor people (that is, they regarded it as regressive). The sales tax was enacted because there was no other way to fund the state takeover of school finance and still balance the state budget. Furthermore, though the sales tax may have been regressive, sales tax revenues replaced revenues from the property tax, which was also regarded as regressive and very burdensome, and the use of the tax to finance schools resulted in a redistribution of tax dollars from relatively well-off jurisdictions to the poor jurisdictions. In the ensuing decades, the progressive state personal income tax increasingly counterbalanced the regressivity of the sales tax and other consumption taxes.

Growth in state revenues

The tax structure that was created by adding the retail sales tax to the existing income, gasoline, and business taxes served the state well during the post-Depression decades, when economic and population growth, rising incomes, and other factors produced increasing pressures for expanded and improved public services. Only one other state adopted both a progressive income tax and a retail sales tax before North Carolina did. These taxes have since been almost universally recognized as broad-based levies essential to finance statewide programs and to achieve equity. The retail sales tax brought in a large amount of revenues at a relatively low tax rate and financed the state takeover of school expenses, helped to bring the state through the Depression, and financed an expansion in government services even during the 1930s. Sales tax collections continued to grow with the economy and today account for one-fifth of total state and local tax revenues even though the state tax rate remains at 3 per cent (the local governments may add an additional 1 per cent rate).[11]

But the feature of the tax system that contributed most to the phenomenal growth in state tax revenues over the past 50 years was the personal income tax. In 1933 this tax was primarily a tax on the wealthy, even though the structure of the tax and tax rates were largely those in effect today. With the system of exemptions and deductions incorporated into the tax, a family's income had to reach about $4,000 before it became subject to taxation, and even then the first $2,000 of taxable income was taxed at only 3 per cent. But $4,000 was a relatively high income in 1933 — the Governor's salary was only $6,390 and the Secretary of State's only $4,050. Few

8. The state's share of state and local funds, 78.3 per cent in 1977-78 was exceeded only by the Alaskan, Hawaiian, and New Mexican shares. Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism*, 1978-79 edition (Washington: ACIR, May 1979), Table 13, p. 20.

9. Donovan, "State and Local Fiscal Relations," Appendix B, p. 235.

10. *Ibid.*, Appendix C-1, p. 236.

11. At first certain basic food commodities like milk and flour were exempt from taxation. In 1941 all food was exempted, but this exemption was repealed in 1961 to finance additional expenditures for schools.

people had to file income tax returns, and most of them paid little or no taxes.

But as incomes increased during and after World War II, more taxpayers became subject to taxation and then gradually fell into higher tax rate brackets. This was a relatively painless way to increase income tax revenues and to finance the expansion in public services because taxpayers paid more taxes only when their incomes increased. The same was true of the retail sales tax and other consumption tax collections, which increased as people had more money to spend.

The increase in state tax collections has indeed been phenomenal. In 1933-34 the personal income tax brought in less than $1 million and accounted for only 1.1 per cent of total state and local tax revenues. In 1979-80 the tax, though basically unchanged except for the addition in 1937 of the highest tax bracket (7 per cent), brought in $1.2 billion and accounted for almost one-fourth of total tax revenues.

Table 2 shows the sources of state and local tax revenues in 1930-31 and 1977-78. Total tax collections increased from $95 million to $3.584 billion. As mentioned earlier, property tax collections fell from 63 per cent of the total to only 23 per cent, while retail sales tax collections increased from nothing to 20 per cent. Poll taxes have been abolished, but the state added the cigarette and soft drink taxes in 1969.

Increased reliance on intergovernmental grants. The centralization of financial responsibility at the state level and the expansion of federal involvement in state and local public services has led to a dramatic increase in intergovernmental aid. In 1930-31 local tax revenues accounted for over two-thirds of total state and local revenues. In 1977-78 revenue from local taxes and charges accounted for only 24 per cent of total revenues. Of total local general revenues, 47 per cent came from the state and 12 per cent directly from the federal government.[12] Whereas federal aid before 1933 was limited largely to grants for highways, land grant colleges, and vocational rehabilitation programs,[13] by 1977-78 federal aid amounted to 26 per cent of total state and local general revenues.

12. U.S. Bureau of the Census, *Governmental Finances in 1977-78* (Washington: GPO, 1979), Table 13, p. 23.

13. Donovan, "State and Local Fiscal Relations," Table XXXIV, p. 187.

Table 2
Total State and Local Tax Revenues in North Carolina, (Amounts in millions) 1930-31 and 1977-78

	1930-31		1977-78	
	Amount	Percentage	Amount	Percentage
General property tax	$59.9	63.1%	$ 836.8	23.3%
Highway taxes				
Motor fuel	12.4	13.1	303.0	8.5
Other	6.9	7.3	117.4	3.3
Income taxes				
Individual	1.0	1.1	848.2	23.7
Corporation	4.9	5.2	230.1	6.4
Retail sales	—	—	736.2	20.5
Corporation franchise	4.7	4.9	162.3	4.5
Inheritance and gift	1.0	1.0	36.9	1.0
Poll	1.0	1.0	—	—
Other — total	3.1[1]	3.3	312.9[2]	8.7
Cigarette	—	—	19.4	0.5
Soft drink	—	—	22.1	0.6
Alcoholic beverage	—	—	79.8	2.2
Insurance premium	—	—	64.0	1.8
Total	$94.9	100.0%	$3,583.8	100.0%

1. Primarily business license taxes ($2.3 million)
2. Includes local and state license taxes.

Source: *Report of the Tax Commission* (Raleigh: 1932), Table III, p. 32; U.S. Bureau of the Census, *Governmental Finances in 1977-78*, Table 13, p. 23; state tax collection reports.

New governmental functions and services

The tax structure set in place in 1933 enabled the state to finance an ever increasing variety of programs and functions as well as to expand existing programs. In 1930-31, public schools and roads accounted for 64 per cent of total state and local expenditures; in 1977-78, these two functions accounted for only 37 per cent of total expenditures (see Table 1), even though the state and local school units increased expenditures for schools and added many new programs (such as the twelfth grade, vocational education, and kindergarten). Total state and local spending, including spending financed by the federal government, increased by a factor of 100 between 1931 and 1978, while prices of goods and services purchased increased by a factor of only 8 (Table 1).

The first major expansion in programs began during the 1930s, when for the first time the federal government became heavily involved in financing public welfare and social services programs (through grants to the states), employment security (financed by a new payroll tax), and income security programs as well as other New Deal programs that were intended to bring about national economic recovery. Public welfare and social security programs begun then on a relatively modest scale have since burgeoned and have been augmented by numerous other programs, especially during the 1960s and 1970s. The baby boom that followed World War II and post-war prosperity led to vast increases in expenditures on education, first in public schools and later for higher education. During the 1960s the state created a large system of community colleges and expanded the state higher education system by elevating all state-funded four-year institutions to university status. After World War II, with the aid of federal grants, the state launched a major hospital program that provided for the construction of hospitals in all regions of the state. During the late 1960s and the 1970s, the environmental movement led to a large expansion in environmental regulation and programs.

Indebtedness and fiscal soundness. In 1930-31 North Carolina's per capita debt was exceeded only by that of New York, a much wealthier state; by 1976-77 only one state had a lower per capita

debt.[14] In 1930-31 North Carolina's local governments were probably in worse financial shape than any other state's. Today, when the fiscal condition of local governments is a widespread national problem, North Carolina local governments are in very sound fiscal shape.

The credit for this improvement can be attributed in large part to four factors associated with the events of the early 1930s: (1) The fiscal fiasco of the early 1930s was a valuable lesson for the state's leaders. (2) The Local Government Commission helped local governments to refinance and pay off their debts and regulated local debt and fiscal practices under state fiscal control laws. (3) The centralization of financial responsibility, by reducing the load on the local property tax base, enabled local governments to improve their fiscal condition and expand and improve public services without resorting to high property tax rates. (4) The state tax system produced ever growing revenues that have enabled the state to finance new and expanded state programs, to finance increased state responsibility for programs administered by counties for the state, and to relieve local governments of fiscal responsibility (as when the state assumed financial responsibility for operating the courts during the 1960s). This tax system has allowed the state government to share its revenues and tax base with local governments — for example, by sharing the gasoline tax with municipal governments; increasing the local share of intangible property, utility franchise, and alcoholic beverage tax revenues; and allowing counties to add a 1 per cent levy to the state retail sales tax.

14. U.S. Bureau of the Census, *1977 Census of Governments* (Washington: GPO, 1978-80).

Then and today

The contrast in state and local governmental finance between 1931 and today is dramatic indeed. In 1931 the North Carolina governments provided a narrow range of public services in a predominantly rural, agrarian state. Public schools and roads accounted for over two-thirds of governmental expenditures. Local governments were largely responsible for financing the major public services — including schools, roads, prisons, courts, and public welfare — and two-thirds of the tax revenues in the state came from the local property tax. The quality of local public services varied with the size of the local tax base. Many local governments had experienced a decade of unsound, irresponsible fiscal practices, and both they and the state were over their heads in debt.

Today the situation has changed in almost every respect. North Carolina is much more industrialized and urban. While most of its population still resides in rural areas and small towns, the farm population and reliance on agriculture have diminished sharply.

The state and local governments provide a wide array of public services and programs unimagined 50 years ago. Public schools and roads account for only one-third of total expenditures. While per capita expenditures are low compared with per capita expenditures in other states, this results largely from the state's low wages and salaries, its continuing rural and small-town character, and its low per capita income. If the level of public services among states is compared on the basis of number of public employees per population, instead of dollars spent, North Carolina ranks higher than much wealthier states like Connecticut and Massachusetts.

Primary responsibility for financing major government services now lies with the state. The federal government is also heavily involved in financing state and local programs. Reliance on the property tax, which now accounts for only one-fourth of total tax revenues, has been reduced by the centralization of fiscal responsibility, new sources of revenue (in particular the local-option sales tax and increased use of charges like water and sewer fees), increased state and federal grants, and the disproportionate growth of income tax revenues. Property tax rates are relatively low in North Carolina. Per capita state and local taxes are relatively low compared with taxes in other states because the state's per capita income is low. (While the rates on the property, sales, and gasoline taxes are relatively low, the state's income tax burden is relatively high compared with other states'.)[15]

Finally, North Carolina local governments' fiscal condition has been completely reversed—from perhaps the worst in the nation to one of the soundest.

Thus the measures taken 50 years ago did more than solve the immediate fiscal crisis. They provided a more equitable and efficient system of governmental responsibility for financing basic statewide services. And they provided a system of state and local taxation that distributed tax burdens more fairly while providing sources of revenues that have enabled the state and its local governments to improve and expand public services as the state grew and prospered. ■

15. ACIR, *Significant Features*, Table 50, p. 76.

The Institute and State and Local Government Finance

Teaching and conferences. The Institute holds courses for public finance officers, purchasing officials, data processing officials, and tax assessors and collectors.

Consultation. County tax supervisors, city and county tax collectors, and local finance and purchasing officials have had a long association with the Institute. Institute staff not only help with specific and broad areas of local finance, but also participate in many conferences and meetings of finance and purchasing professional associations at the state level.

Periodicals and bulletins. *Property Tax Bulletin, Local Government Finance Bulletin,* and two issues of *Popular Government* devoted to finance: Winter and Spring 1978 (Vol. 43, nos. 3 and 4).

Other publications. *Capital Improvement Programming; Annual Finance Calendars of Duties for City and County Officials; Financing Capital Projects; Local Government Finance; The Local Government Budget and Fiscal Control Act; An Outline of Statutory Provisions Controlling Purchasing by Local Government; Annotated Machinery Act* (1971) and *Supplement* (1973); *Annual County and Municipal Property Tax Calendars; The Property Tax in North Carolina — An Introduction; Property Tax — Exemptions and Classifications; Lien Foreclosure Forms; Interest Tables; Collection;* and *Revaluation* (audiovisual).

The Institute and Public Education

Teaching and conferences. The Institute offers a semester course in public school law and higher education law each year. It also holds short annual conferences for school attorneys, school board members, principals, and community college and technical institute administrators.

Consulting. The Institute provides consulting services for North Carolina school board members and attorneys and public school and higher education administrators.

Periodicals. The *School Law Bulletin* is a quarterly publication written for school administrators and board members. Each issue contains several articles on subjects that directly affect the operation of schools; each article analyzes a school law issue and recommends how the governing board or administrator should handle it. The *Bulletin* also reports on recent litigation in the school law area.

Other publications. *School Law Cases and Materials; Reduction in Force; The Law of Suspension and Expulsion; Student Suspensions and Expulsions; North Carolina Constitutional and Statutory Provisions with Respect to Higher Education; A Legal Guide for North Carolina School Board Members; Local Acts Creating and Providing for North Carolina City School Administrative Units;* and *North Carolina School Law: The Principal's Role.*

A Half-Century of Concern for Criminal Justice

L. Poindexter Watts

ALBERT COATES founded the Institute of Government because of his interest in criminal justice. In the 1920s he was teaching his criminal law course from appellate decisions, in the then-established law school tradition, and learned that those high court cases constituted only .4 per cent of the caseload. This set him to wondering in what ways the law in action might differ from law in books. His story has been told many times: how his investigations led him to ride with enforcement officers on patrol; how he discovered that he could learn much but also had things to teach; his subsequent invitations to lecture at conventions of police and sheriffs; and finally a statewide meeting of federal, state, and local law enforcement officers in Chapel Hill in 1930. These experiences shaped his conviction that North Carolina needed a clearinghouse of information, since knowledge and techniques developed in one jurisdiction could greatly benefit others. It took only a short step of logic for Coates to examine other areas of public law and conclude that there was a need for an Institute of Government to help public officials at all levels of government cope with law in action and law in books.

In the early, precarious days of the Institute, the Coates idea of providing training for officials represented radical thinking. And that a university-connected staff or faculty should undertake the task was clearly preposterous! Many jurisdictions in this state, for example, quite literally hired new police officers, gave them a badge and a gun, and sent them out on the streets to enforce the law. As late as 1943 the *Reader's Digest* reflected the novelty of the Coates mission in its title for a story on the Institute: "Don't Shoot Your Sheriff: Teach Him!"

This article will trace some of the major state and national developments in law enforcement and criminal justice since Coates founded the Institute and give some examples of how the Institute responded to them.

The author is an Institute faculty member who works in the field of criminal justice.

Through the end of World War II

The mobility afforded by the mass-produced automobile caused vast social problems in the 1920s. One of its first appreciable results was an upsurge of sensational crime in previously crime-free, quiet communities. Bank robbers and kidnappers could ride in, commit their crimes, and escape before local law enforcement could react. Also, during Prohibition the demand for illegal liquor helped trigger a sharp increase in the size and number of gangs and criminal syndicates. The resulting social concern led to studies of the crime problem and the criminal justice system. The first noteworthy study took place in Cleveland, sponsored by the Cleveland Foundation. The eminent Roscoe Pound of the Harvard Law School designed the study, and the report appeared in 1922. Public bodies or civic groups in other major cities formed their own crime commissions and issued reports throughout the 1920s. The studies make impressive reading even today; they culminated at the end of the decade with the federal government's first major undertaking regarding local crime. The Hoover Administration created the National Commission on Law Observance and Enforcement, which issued its series of reports in 1931 — the year that Albert Coates printed the first issue of *Popular Government*. Report Number Eleven of this series, the most controversial, brought national attention to law enforcement abuses — especially the widespread use of the "third degree."

Other responses of the period may be noted: the creation of state police and highway patrols (the North Carolina State Highway Patrol was founded in 1929); the American Law Institute's undertaking to reform and streamline criminal procedure, which resulted in a model act (the *Code of Criminal Procedure*) in 1930; and the revitalization of the Federal Bureau of Investigation under the leadership of J. Edgar Hoover. Establishing the FBI National Academy to train selected local law enforcement officers undoubtedly ranks as one of Hoover's most significant early acts. Hoover also created national files for fingerprints and other criminal record information, established a national crime investigation laboratory, and began compiling and publishing the yearly Uniform Crime Reports. In the Institute's first years, agents of the FBI gave indispensable aid by teaching in schools for law enforcement officers. One agent was given an extended leave of absence to come to Chapel Hill and organize a series of schools.

The push for radical reform of the entire criminal justice system that had gained momentum in the 1920s was blunted by the Depression. Few basic changes occurred in North Carolina or elsewhere, and the major result was a self-defensive strengthening of police professionalism. A constitutional change in 1938 created the North Carolina Department of Justice, and the state investigative officers provided for in 1937 formed the nucleus of the new State Bureau of Investigation (SBI)

modeled on the FBI. The Institute analyzed and publicized the constitutional proposal, concluding that it was importantly symbolic even though the General Assembly could probably do most of the things contemplated by the proposal without the amendment; and soon after the proposal passed, experienced SBI agents began instructing in the Institute's law enforcement schools.

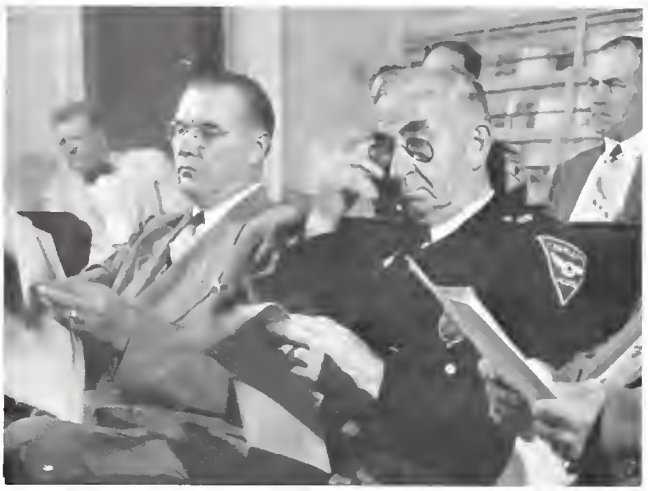
Postwar developments

Gas rationing and the low wartime speed limit had cut traffic fatalities drastically. But the end of the war started the curves for fatalities, injuries, and property damage climbing once more, and North Carolina responded by beefing up its State Highway Patrol. Members of the Highway Patrol had always taken part — as students and as instructors — in the Institute's law enforcement programs, but in 1946 the Institute entered into a formal relationship with the Patrol that was to last for over 30 years: the Institute would conduct the basic training programs for the Patrol in Chapel Hill. The first school lasted eight weeks; law was taught by the Institute's staff lawyers, and other subjects were taught by a variety of law enforcement instructors — from the Patrol, the FBI, the SBI, and the Traffic Institute of Northwestern University.

The arrangement with the Patrol set the pattern for the Institute in its period of expansion in a number of ways. The relationship was not merely with the Patrol but also with the Department of Motor Vehicles (and later with successor agencies to which the Patrol was assigned). The Institute taught other officials of the Department, including driver license examiners, hearing officers, and weight station personnel, and it also provided consultation and legislative drafting services. Other agencies with which the Institute formed especially close training and consulting relationships included the North Carolina Wildlife Resources Commission and the predecessor of the Department of Correction. With the blessings of an interested governor, one Institute faculty member in the early 1950s designed a reorganization of the state prison system to eliminate chain gangs — removing leg shackles from prisoners assigned to work on the highways. As a result, until the 1970s the Institute provided extensive consultation with and training for prison and probation officials. Other state agencies that approached the Institute for law enforcement training in the 1950s included the Division of Forestry (in what is now the Department of Natural Resources and Community Development) and the State Board of Alcoholic Control (then the agency to which State ABC officers were assigned). It is worth noting that the two law enforcement agencies that have been most closely associated with the Institute, the Patrol and the Wildlife Resources Commission, are generally regarded by their peers as among the best in the country.

Into the late 1950s the major thrust of the Institute's criminal justice programs remained law enforcement. The original Coates conception had brought judges and prosecutors into joint conferences of criminal justice officials, and he made use of them in training enforcement officers, but extensive programs for them alone came later.

John Dominis



In 1950 Charlotte Police Chief Littlejohn and others attended a planning session for proposed law enforcement schools to be held at the Institute.

The criminal law revolution

In the 1950s the United States Supreme Court began to show a concern for police abuses by gradually tightening its standards on whether a confession was so "involuntary" that its admission into evidence violated due process and required the Court to overturn the state criminal conviction. Because these decisions turned on a complex of factors, it was not usually clear how they applied in other situations. Since the Court could review only a handful of cases, the decisions left some uncertainty but never posed a serious threat to established law enforcement practices. Matters changed rapidly after the Court ruled in *Mapp v. Ohio* (1961) that evidence obtained by an unconstitutional search and seizure must be excluded from the suspect's trial.

On the face of it, *Mapp* should have caused little difficulty here, because the North Carolina statutes already imposed an exclusionary rule in search cases. But the massive national outcry by police over *Mapp* alerted many North Carolina criminal defense lawyers to the issue of admissibility of evidence, which became a major weapon in the defense of criminal suspects.

Although many of the U.S. Supreme Court decisions during the 1960s and 1970s were aimed at police practices, the direct impact fell upon the trial courts; they had to determine whether to exclude evidence. Perhaps the most wrenching Supreme Court decision was in *Gideon v. Wainwright*, which in 1963 required that the courts furnish lawyers for criminal defendants unable to

afford the cost of a private attorney. Three other 1963 decisions, dealing with the federal habeas corpus rights of state prisoners, probably had the greatest long-term effect. These decisions substantially lowered the threshold for challenging state criminal convictions on constitutional grounds and gave the lower federal courts a way of effectuating the decisions of the U.S. Supreme Court that would have been impossible for the Court itself to match through its review process.

At first the Institute's most direct services to judges and prosecutors were through the summaries of North Carolina legislation and its digests in *Popular Government* of court decisions and Attorney General rulings. The quality of guidebooks and other publications primarily intended for enforcement officers was high enough that they were often useful to lawyers in the criminal courts, but the Institute produced little material especially for these court officials. This changed in 1963 as a direct result of the "revolution" in criminal procedure that began with the *Mapp* case. In its tradition of responding to needs, the Institute undertook to produce memoranda and articles analyzing the impact of the various federal decisions. The Institute was geared to respond far more quickly than the scholars in the law schools, and Institute faculty members in its law enforcement schools had become experienced in presenting complex legal issues pragmatically but without misleading oversimplification.

Throughout the 1960s the Institute produced and mailed a series of timely memoranda to criminal justice officials analyzing the latest U.S. Supreme Court decisions that would affect those officials in their day-to-day work. The memoranda also covered other important developments, such as the passage of the federal Civil Rights Act of 1964 with its provisions invalidating criminal trespass convictions under certain circumstances. The memoranda were often followed up by sessions for affected officials in Chapel Hill or in the field, plus appearances on the programs of the officials' associations.

To grow or not to grow

After Albert Coates retired as Director of the Institute in 1962, the faculty went through a long self-examination. The enormous growth of government in the 1960s and 1970s could be anticipated, and the Institute had to decide its future course. Should it remain a relatively small collegial group of university faculty members? Or should it vastly enlarge its staff to carry out Albert Coates's original promise to render all necessary services to state and local public officials? One astute faculty member, long before the creation of the Law Enforcement Assistance Administration (LEAA) and its massive grants, forecast the possibility of 200 staff members in the criminal justice area alone.

With some misgivings the faculty decided to stay relatively small and to concentrate on teaching, consulting, and publishing on legal, administrative, and financial matters for public officials. An immediate consequence of this decision was the Institute's withdrawal from such law enforcement subjects as firearms training and forensic science.

Another consequence of the Institute's decision to limit the range of its services was the development by a number of agencies of their own training facilities and staffs. The most recent and important example occurred in the late 1970s when the State Highway Patrol moved its training from the Institute to a location outside Raleigh. Institute faculty members commuted for over a year to deliver the legal lectures for which the Institute was responsible, but the arrangement was terminated by mutual consent. The Department of Crime Control and Public Safety, which now includes the Patrol, has attached to it members of the Attorney General's office who teach, and their efforts are supplemented by other members of the Department of Justice.

The Institute's faculty, when it decided to limit its services, foresaw and accepted the growth of other agencies and institutions to provide services to governmental officials. To the extent that this growth has brought competition, the faculty has generally felt that it has been healthy. The main danger of being removed from basic training of law enforcement officials — which the Institute continues to guard against — lies in losing touch with line officials and developing an "ivory tower" mentality. The Institute continues to strive to combine university-level scholarship and analytical ability with a pragmatism learned from close association with those who do the actual work of government.

Wildlife Resources officers teaching trainees some basic law enforcement techniques. Wildlife Resources Commission personnel spend approximately four months each year conducting training sessions at the Institute of Government.

Developing a basic law enforcement curriculum

In January 1963 a group of executives of local law enforcement agencies from across the state met in Winston-Salem to discuss the need for delivering basic police training at the local level. Despite the Institute's long-standing desire to serve in this area, adequate training by the Institute's faculty was a hopeless task, given the vast numbers of law enforcement personnel involved and their high turnover rate. The larger police and sheriffs' departments had their own in-house basic training, but the smaller agencies had no place to turn.

At the Winston-Salem meeting, the major complaint of most agencies concerned their recruits' deficiencies in general educational skills — poor conceptual ability and poor training in English composition that handicapped investigation, report-writing, and testifying in court. The group reluctantly concluded that a short basic law enforcement training school could probably do little to make up for years of educational deficiency and decided to set a minimum basic training curriculum of 60 hours. The group asked a committee to work on the exact content of the curriculum and devise a detailed course outline for each subject. Many police chiefs pressed for a longer basic curriculum, but the smaller departments demurred that they were so short in manpower that they could not afford to have people away at school for longer than 60 hours. This was especially the case with small sheriffs' departments that found their civil duties to be more demanding than criminal enforcement.

The industrial education centers (later absorbed by the Department of Community Colleges), which had federal funds for vocational education and classroom space in centers scattered throughout the state, bid successfully to take control of basic law enforcement training for the smaller law enforcement agencies. Institute of Government faculty members attended the Winston-Salem meeting and served on the curriculum committee. They helped to shape the basic curriculum and detailed course outline and taught most of a pilot 60-hour course in Fayetteville in April 1963.

After this initial effort came later moves to increase the number of hours in the basic course, which led to legislation in 1971 that mandated a basic curriculum. The Criminal Justice Training and Standards Council first had jurisdiction over the matter, but in 1979 it was superseded by the North Carolina Criminal Justice Education and Training Standards Commission. The Institute of Government's Director has been an ex officio member of each agency, and the Institute has led in setting minimum standards for and certifying law enforcement officers. In 1977 and 1978, it contributed substantial portions of the textbooks and training materials that constitute the present Basic Law Enforcement Training curriculum, a 240-hour course developed jointly by the North Carolina Justice Academy, the Department of Community Colleges, the Training and Standards Council, the North Carolina Law Enforcement Training Officers' Association, and the Institute to meet the new minimum standards set by the Training and Standards Council. As in 1963, Institute faculty members also taught in the pilot course that successfully launched the new curriculum.

Court reform and its aftermath

The Institute contributed much to the court reform in North Carolina that began in the mid-1950s. This contribution started with Institute staffing of the original studies of problems in the judicial system, assistance to the Bell Committee[1] in drafting its report and proposed constitutional amendment, and continuing research, consultation, and drafting services to the legislature during the two bienniums required to change the State Constitution. During implementation, Institute faculty worked closely with the Courts Commission and the newly created Administrative Office of the Courts. An Institute faculty member drafted almost all of the implementing legislation in Chapter 7A of the General Statutes. These events are documented in C. E. Hinsdale's article elsewhere in this issue but should be noted here because of the changes that court reform caused in the Institute's work in criminal justice.

The Institute's activities with the Bell Committee and the General Assembly and the resultant overhauling of the courts no doubt led judges to turn to the Institute for

1. The Bell Committee was formally known as the North Carolina Bar Association's Committee on Improving and Expediting the Administration of Justice in North Carolina.

assistance with their programs. By the early 1960s, the Conference of Superior Court Judges of North Carolina had begun to request technical assistance from the Institute in its educational programs. Still, judges remained conscious of their independence and to this day retain final control of all conference programs.

The Institute's work for judical officials includes serving as secretariat and publisher for the Conference's Committee on Pattern Jury Instructions, playing a major role in the training programs for district court judges sponsored in conjunction with the Administrative Office of the Courts, conducting the AOC-sponsored training programs for magistrates, and preparing a variety of books and other publications like the recently completed *Bench Book* and the *Clerk's Manual,* which is now in process. (The Institute's new Courts Center was described in the Fall 1980 issue of *Popular Government.*)

Work with prosecutors

The relationship between the Association of Superior Court Solicitors and the Institute that began in the 1950s continued through the next decade, but the Institute had no effective way of reaching the many part-time solicitors in the recorder-level courts except through its publications. These became greatly important (as noted previously) during the years of the Warren Court's major decisions in the criminal justice area, but obviously more needed to be done. When these solicitors were replaced during the 1960s by district court prosecutors, it became possible to hold systematic training schools at the Institute. The new prosecutors were full-time state employees, and their training was underwritten by the Administrative Office of the Courts. In January 1971 elected superior court solicitors (later renamed district attorneys) became responsible for prosecution in both district and superior court, with the help of assistant district attorneys — the number based on the district attorney's caseload. Both the district attorney and his assistants are full-time state employees.

The AOC turned to the Institute for help in implementing the new system of prosecution. It applied, with Institute aid in grant-writing, directly to the Law Enforcement Assistance Administration for major funding over several years of a program for prosecutors — primarily through training sessions and special publications. The grant was funded, and a valuable series of activities began just as North Carolina was implementing its new system of prosecution.

The first school under the grant was held in December 1970 for the newly elected district attorneys who would soon begin to supervise prosecution in both the lower and superior courts. Three identical three-day schools

The Institute, Law Enforcement, and Criminal and Juvenile Justice

Teaching and conferences. The Institute of Government sponsors and/or participates in educational programs for superior and district court judges (including juvenile court judges), prosecutors, public defenders, clerks and assistant clerks of court, magistrates, sheriffs, police chiefs, probation and parole officers, juvenile court counselors, State Bureau of Investigation agents, wildlife law enforcement officers, marine fisheries law enforcement officers, campus police, and Division of Motor Vehicles hearing officers and license and theft officers.

It also worked with other agencies to develop a model 240-hour police basic-training course, offered through the Community College System.

Institute faculty teach an undergraduate course in criminal justice within the Political Science Department at The University of North Carolina at Chapel Hill.

Consultation. Institute faculty members provide consultation services to police attorneys, alcohol law enforcement officers, and alcohol beverage control officers as well as to all the public officials mentioned above. They have served as consultants to the Criminal Code Commission since its inception in 1970. They currently assist committees of the North Carolina General Assembly that consider criminal justice matters, serve as staff to the Courts Commission and commissions considering revisions of alcohol control and wildlife laws, and provide administrative support to the News Media-Administration of Justice Council of North Carolina.

Periodicals and bulletins. Since 1975 the Institute has published 55 issues of the *Administration of Justice Memoranda;* these bulletins discuss issues of current concern to criminal justice officials.

Other publications. Current Institute publications that are used by criminal justice officials include *North Carolina Crimes; Search Warrants in North Carolina; Laws of Arrest, Search, and Investigation; Arrest Warrant Forms; Law of Probation and Parole; Kids and Cops; Criminal Justice Legislative Bulletin; Manual for Magistrates; Handling Writs of Execution* (Sheriffs' Civil Duties); *Driver's License Law; Motor Vehicle Law;* and *North Carolina Extradition Manual.*

(For other activities affecting courts, see the article by C. E. Hinsdale in this issue.)

open to all prosecutors (district attorneys and their assistants) followed early in 1971. These training sessions have continued over the years. The format has varied with the amount and source of funding, but most prosecutors regard them as invaluable. Recent additions have been special-subject sessions (a five-day homicide seminar and a three-day seminar on rape and sex offenses) and an annual school for new prosecutors that concentrates entirely on prosecution in district court nonjury cases.

The Institute has continued to work with prosecutors in many ways. The old Association of Superior Court Solicitors evolved into the North Carolina District Attorneys Association, and the Institute gives it staff assistance for a number of projects, including biennial publication of its packages of proposed legislation. In addition, the Institute takes a major part in planning the educational sessions for the Association's semiannual conferences.

Legislative drafting

Drafting statutes has always been a part of the Institute's work. The Institute's role in preparing the court-reform statutes was noted above, but it has participated in many other projects in all fields.

Beginning in 1964, an Institute faculty member worked with a study commission on revising the outdated marine fisheries laws. Because these laws were closely interrelated with the fish and game laws administered by the Wildlife Resources Commission, the project grew into a comprehensive proposed revision of the conservation laws governing marine and estuarine and wildlife resources that was introduced in the General Assembly in 1965. During legislative consideration, a committee deleted the part dealing with the game laws, but a revised jurisdictional division of the two principal agencies over fisheries resources did result, along with a comprehensive set of laws for both marine and inland fisheries. In 1975, at the request of the Wildlife Resources Commission, the Institute again began work on game law revision. A proposed revision was defeated in 1977 after many emotional debates featuring fox hunters versus trappers, but it was resubmitted in 1979 and passed after much in-session revision.

Other important criminal justice projects on which the Institute has served in a drafting capacity include proposals in 1969 and several sessions thereafter by the Judicial Council; the 1969 revision of the riot laws; recodification of the alcoholic beverage control laws in Chapter 18A; the revision of the Chapter 20 rules of the road; revision of the boat law in Chapter 75A; and, most recently, work with the Knox Commission, the Bar Association, and the Governor's Office in researching and drafting the presumptive-sentencing act. The Institute has also worked with the advisory committee appointed by the Governor and the Chief Justice that is studying the presumptive-sentencing act, recommending guidelines for implementing it, and proposing further amendments.

One major drafting project involving the Institute has been assistance over the years to the Criminal Code Commission. Of the four original drafting consultants appointed, two were Institute faculty members; of the five present consultants, three are Institute faculty members and one is a former member. The Commission's work has resulted in two packages of criminal procedure legislation that now appear in Chapter 15A of the General Statutes: the Pretrial Criminal Procedure Act and the Trial and Appellate Procedure Act. The Commission is now drafting a comprehensive new criminal code.

Criminal justice ferment and experimentation

The 1960s and 1970s were a period of great social change. Established authority came under attack from all sides — from civil rights activists, from blacks, from feminists, from the large youth cohort then in our population, and from numerous other interest groups. Increasing urbanization, the concentration of blacks and the poor in inner cities, and loss of family cohesion added to the problems of society. A vast increase in violence and crime accompanied these other changes; as in the 1920s, it gave rise to a variety of study efforts. There were the Kerner Commission report on urban riots, the President's Crime Commission report (leading to federal funding of crime-fighting efforts), and promulgation of criminal justice standards by several groups, beginning with the monumental project of the American Bar Association.

Young male prisoner project. During this period many experiments were made in the criminal justice area. Though many of them failed, at least we know a great deal more about what will *not* work and have some insight into what *will* work. An early experiment involved major work in juvenile crime and corrections at the University of North Carolina at Chapel Hill from 1963 to 1966. One notable project, which grew out of the effort, involved cooperation of University faculty and the State Prison Department to see whether a different method of treatment and intensive counseling could modify the disruptive behavior of aggressive young male prisoners — one of the most difficult of all groups. The Institute's special staff, assembled for the overall program, assisted significantly in this young-prisoner project; although the experiment was not entirely successful, those who participated learned a great deal. As a result of the program, the Institute added a psychologist and a social worker to its permanent faculty. The social worker later instituted a number of new programs for social workers across the state, and the psychologist has

increased the range of services the Institute can offer in the area of management, corrections, and law enforcement.

LEAA funding becomes available. After the Crime Control and Safe Streets Act of 1968 created the LEAA, funding for new programs in the criminal justice area increased greatly. Perhaps the major controversy in passing the act was whether the LEAA should give block grants or categorical grants. Many people foresaw that recipient states would spend the grant funds foolishly or give them to people with political clout rather than spend them where they would be most effective in fighting crime. But there was strong resistance to control from Washington on how the anti-crime money would be spent. In compromise, each state was given a block grant but was required to create a state planning agency to chart a crime-fighting program and set priorities for spending the money. The result was a scramble from late 1968 into the early 1970s for qualified criminal justice planners — a new and scarce breed at that time. The Institute responded to the problem by lending one of its faculty members for six months to serve as the first director of research of a new state planning agency — now called the Governor's Crime Commission.

Mecklenburg project. Among the experimental programs mounted by the Institute, the Mecklenburg Criminal Justice Pilot Project stands out. In 1970 the LEAA selected a group of cities across the United States for pilot studies to see whether establishing criminal justice programs in these cities would have any real-world impact. The Charlotte-Mecklenburg urban area was chosen as one of the pilot cities, and the LEAA contracted with the Institute to administer the program there.

In keeping with the Institute's tradition of nonadvocacy, the Institute's grant proposal indicated that it would assemble a team of experts to help, on request, public officials in Charlotte and Mecklenburg County analyze problems and work out operational difficulties in fields of criminal justice. Writing grant proposals was specifically included. The Institute, however, would not advocate particular programs to the local officials.

In 1971 the Institute began a three-year project in Charlotte-Mecklenburg. It added new faculty members with skills in criminal justice research, in data gathering, and in organizational and interpersonal skills. The Mecklenburg pilot project generated many reports and surveys valuable to criminal justice researchers and was especially helpful in pointing out the pitfalls of putting theories into practice in a local political system. On balance, the Institute considers the project a success even though the LEAA was somewhat disappointed that the Institute faculty stuck to the original terms of the grant and did not try to persuade Charlotte-Mecklenburg officials to undertake certain experimental programs in criminal justice that were then in vogue.

Sentencing study. A current project of great importance is the North Carolina Sentencing Study — conducted by the Institute for the Governor's Crime Commission and funded by the National Institute of Justice. The plan is to compare sentencing practices before and after the effective date of the presumptive-sentencing act. Because the act's effective date has been delayed, the study may have to be refunded and extended to meet its goals, but much can be learned from data now being collected in the "baseline" phase of the study.

Courts Center. Two of the Institute's recent programs in cooperation with the Crime Commission demonstrate its continuing adaptability. In the first, the Institute has used grant funds from the Crime Commission to set up the North Carolina Courts Center within the Institute. This center is hiring new staff and faculty and systematically uses the talents of existing staff and faculty in support of justice officials attached to the courts: judges, prosecutors, public defenders, and clerks. Under the impetus of the new organization, the Institute is expanding the range of its services to court-related officials. The experience to date is favorable, and the prospects are that these additional programs will become a permanent part of the Institute's offering.

Executive training. The other project is a cooperative venture between the Crime Commission, the UNC School of Business Administration, and the Institute. It adapts an existing program of the School of Business Administration for corporate executives to the needs of officials working in police, courts, and corrections. The Institute was heavily involved in designing the curriculum for justice executives and will participate in the instruction. If the first two planned sessions are productive, undoubtedly further cooperative sessions will follow.

Landmark events and ongoing programs

In concluding this survey of the Institute's role in criminal justice over the past half-century, it is appropriate to touch on a few other important events and current activities.

A major event in criminal justice training was the formation under the Department of Justice in the early 1970s of the North Carolina Justice Academy at Salemburg. This organization undertook to provide training for both local and state law enforcement and corrections officials, and its efforts obviously overlapped with programs that had formerly been carried on by the Department of Community Colleges and the Institute of Government. The Institute, adjusting to the changes, took its usual pragmatic approach and developed an effective working relationship with the Justice Academy. The Director of the Institute has from the beginning been a member of the Justice Academy's board, and Institute faculty members have helped to develop basic law enforcement curricula for use at the Academy and also

as part of the basic statewide standards. It is now commonplace for the Institute to invite Justice Academy staff members with special expertise to participate in its programs, and Institute faculty often appear at Salemburg.

The Institute also played the midwife's role in developing the State Bureau of Investigation's in-house training program. Institute faculty members were consulted when the extensive training program for new SBI agents was formulated, and they took part in the first 480-hour SBI Academy course of instruction held at The University of North Carolina at Asheville in 1969. Institute faculty continue to teach certain portions of the SBI Academy course.

In addition, over the years several Institute faculty members have worked with state and local officials who are interested in chemical tests for alcohol to detect drinking drivers on the highways.

The Institute has made some special efforts at explaining major legislative changes to officials who will be affected by those changes. When the North Carolina Controlled Substances Act replaced the Uniform Narcotic Drug Act in 1971, the Institute organized a series of nine regional one-day seminars at which it distributed copies of the complex new law and instructed on the more important effects of the new legislation. The sessions were heavily attended in all locations by law enforcement officers, judges, magistrates, and prosecutors.

In 1974, in conjunction with consultants from the Criminal Code Commission and staff from the Justice Academy at Salemburg, the Institute began a similar round-robin — more ambitious in scope, covering more locations — when the new Pretrial Code of Criminal Procedure became effective.

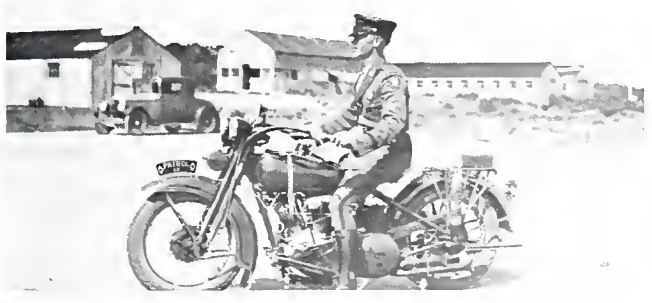
Other current Institute activity in criminal justice and related fields includes work on the law of juvenile delinquency and juvenile courts, teaching and consultation regarding management of criminal justice agencies, and empirical research in criminal justice. In the juvenile justice area, it has played a major role in assisting statutory reform and recodification. The current emphasis is on writing and updating the Institute's publications (*Kids and Cops*, a legal guidebook for police and others) and on providing training, in cooperation with the Administrative Office of the Courts, for district judges who wish to be certified as juvenile court judges.

In the field of management for criminal justice officials, which supersedes the former emphasis on police administration, the Institute now provides a variety of services: courses in management and supervision for police and probation/parole personnel, consultation with law enforcement and correctional agencies on organizational development, assistance in planning and conducting assessment centers that involve testing and evaluating candidates for promotion to management positions, and help with retreats that allow an agency's personnel to discuss their management concerns in a relaxed setting away from the pressures of daily work. One important consultation project involves the planning and testing of a new case management system for probation supervision in cooperation with the North Carolina Department of Correction.

The Institute continues to conduct conferences once or twice each year on current research in criminal justice and crime prevention. At these conferences, researchers present their findings and discuss them with criminal justice officials.

This summary of the Institute's work in criminal justice is necessarily selective, but it clearly shows that concern for criminal justice has been and still is a major part of the Institute's overall program. Many other states, copying North Carolina, have founded institutes of government, but no other institution has had an equivalent emphasis on criminal justice. The Institute's criminal justice program has changed to reflect, on occasion, changes in the number, skills, and interests of faculty members. More often and more importantly, however, the changes have been in response to changes in needs of state and local officials and agencies. The Institute sincerely hopes and plans to adapt to new challenges and to serve as well in the future as it has in the past. ■

North Carolina Highway Patrolman on motorcycle (about 1930); Highway Patrolman on Route 64 (about 1950).



The State...

A microcosm of North Carolina through the past fifty years: roads and railroads, highway construction, public schools, driver training (first WPA driving school in the South, 1938), tobacco factory, textile mill, dock worker, mountain crafts — and the land.

Changes in the North Carolina Court System

C. E. Hinsdale

IN AN ARTICLE on the first page of the first issue of this magazine (January 1931), Albert Coates discussed some issues affecting the courts a half-century ago: disparities in sentences that were handed down for similar offenders, the proper purposes of punishment, and semiannual rotation of superior court judges from district to district. These problems are still with us, and proposals to solve them are being actively considered by the legislature or legislative agencies as this fiftieth anniversary issue of *Popular Government* goes to press.

Are these unsolved problems typical of the judicial scene? Can we conclude that little progress has been made over the years in addressing and solving the problems affecting the courts? Not at all. In fact, modernization of the state's court system is an outstanding example of progressive government in North Carolina in mid-century. While some of the old problems linger — punishment philosophies and judge rotation have been debated here for more than a century — most of the major ills that afflicted North Carolina's courts in the first half of the century have been cured or minimized, and in the 1980s this state is nationally recognized for its modern court system.

In the '30s and '40s changes in North Carolina's courts — changes for the better, that is — were not impressive. By local legislative acts the number of dissimilar lower courts continued to grow, and year by year the need for drastic surgery to bring order to a chaotic "system" became increasingly evident. The Supreme Court was expanded from five to seven justices. More than one superior court judge per district was authorized. Waiver of indictment by grand jury, except in capital cases, was also permitted. Rotation of judges continued to be debated.[1]

The pace of change quickened in the 1950s, with the inauguration of Governor Luther Hodges. The Governor entered politics after a highly successful career as a textile executive. He cast a businessman's eye at our court system and was appalled at what he saw, particularly the level of courts below the superior court. In no two counties of the state was the picture the same. Confusion, uncertainty, inefficiency, and neglect abounded. There were nearly 200 city and county courts — the products of local acts and general laws with local modifications — and no two were alike. They differed in jurisdiction, procedure, personnel, and costs and in the quality of justice they dispensed. Most were operated by part-time officials, and dozens of the judges were nonlawyers. Some courts operated primarily for local profit and charged costs of court well above per-case expenses. A few localities had specialized juvenile courts, but in most counties the clerk of court performed this function as an additional duty. Below this chaotic level of misdemeanor courts — some with civil jurisdiction and some without, some with a jury and some without — was the court of the justice of the peace, which was the prime example of neglect in the entire judicial system. Originally a respected squire who dispensed neighborhood justice responsibly, the JP had failed to keep pace with the changing times and no longer served his purpose well. Hundreds of JPs — most of them untrained in the law and many unlettered as well — competed with each other to determine guilt in petty misdemeanor cases because they were compensated not by salary but by fees extracted from convicted defendants. Some also tried small civil cases under a similar fee system, and JP frequently was derisively referred to as "judgment for the plaintiff." Justices of the peace charged fees that varied widely from county to county and even from JP to JP within a county, and their procedures varied widely also. The office of JP was not supervised, and appeal for correction of error — or at least for a different result — was usually in a city or county court (by trial de novo) with hazards of its own.

There were some problems with the state superior court and Supreme Court also, such as case backlog and delay (what court in this century has not had this problem?), but these difficulties were mild compared with the widespread chaos and inefficiency of the lower courts. In 1955 Governor Hodges aimed his heaviest fire at the lower courts when he called on leaders of bench and bar to clean up their own house. The North Carolina Bar Association responded by appointing a Committee on Improving and Expediting the Administration of Justice. State Senator J. Spencer Bell of Charlotte was chairman, and the Committee was called the Bell Committee.

The Bell Committee

In November 1955 the Bell Committee, composed of many distinguished and dedicated lawyers and laymen, began an exhaustive study of the existing court system. It received financial support from several private foundations, and Institute of Government staff did its research and drafting. As the committee, after thorough study and debate, reached tentative recommendations for improvements, it distributed them to lawyers and other interested citizens for comment, and later drafts reflected this feedback. A committee consensus on

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The author is an Institute specialist on the courts system.

1. See W. Bobbitt, *The Rotation of Superior Court Judges* 26 N.C. Law Rev. 335 (1948); F. Paschal, *The Rotation of Superior Court Judges,* 27 N.C. Law Rev. 181 (1948).

recommendations for major changes was presented to the State Bar Association at its annual convention in 1958. The Association approved the package of changes as a proposed constitutional amendment, and it was introduced in the 1959 session of the General Assembly.

A basic premise of the Bell Committee recommendations was that responsibility and authority for administration of justice should be centralized in the Chief Justice and the Supreme Court. To assist the Chief Justice and the Court in overseeing the administrative functions, an Administrative Office of the Courts would be created. Rule-making authority for all courts would be vested in the Supreme Court. The hodgepodge of courts below the superior court would be entirely replaced by a uniform district court system with the same jurisdiction, procedures, personnel, and costs in all counties. The state would support the entire court system and receive the costs-of-court proceeds in return. A court of appeals would be authorized to relieve the Supreme Court of some of its caseload. Magistrates would replace justices of the peace, but would have diminished authority and be subject to supervision at the trial court level. District court judges would be appointed by the Chief Justice on nomination of the senior resident superior court judge in each judicial district.

The Bell Committee's recommendations that would have concentrated administrative and judicial power in the Supreme Court — power that in most instances had resided in the General Assembly — were received by the legislature with some hostility. After debate in committee and on the floor of each house, most of these features of the proposal were removed, and legislative authority was restored. The bill was so severely crippled by this — in principle, if not in fact — that its sponsors moved to postpone further consideration, and court revision for the 1959 session came to an end.

After the 1959 session the Bell Committee resumed its work and, in the light of legislative reaction to its proposal, presented a new proposal to the 1961 General Assembly. This bill also tended to transfer authority to the Supreme Court in a number of details, and the General Assembly reacted pretty much as it had before. It returned authority to itself over some matters so that the bill that survived divided authority over the court system between the courts and the legislature. As finally ratified, the act provided that the voters should decide on the new judicial article (Article IV) of the Constitution at the next general election (November 1962).

In the interval from ratification to the general election, the Bar Association and other civic groups mounted a major public education effort that paid off at election time. The amendment was adopted by a 3-2 majority.

The new Judicial Article provided only a skeleton court organization on which the details of an operating system of courts needed to be fleshed out. Recognizing that this was a major undertaking, the Article specified an eight-year period — until January 1, 1971 — for the legislature to make the new system fully operational throughout the state.

In December 1962, after the constitutional amendment was ratified, the Bell Committee met with a special committee appointed by Governor Sanford to draft proposals for implementing the amendment. The Committee soon realized that the task of drafting jurisdictional, procedural, and organizational statutes in time for presentation to the 1963 General Assembly was simply not possible. It settled for one bill creating an Administrative Office of the Courts and another bill establishing a Courts Commission to implement the amendment over the next seven years. The legislature ignored the first bill as premature. The latter bill, as amended, provided for a fifteen-member commission — at least eight members with legislative experience — to be appointed jointly by the Governor, the President of the Senate, the Speaker of the House, and the chairmen of the four judiciary committees. In the fall of 1963 under the chairmanship of State Senator Lindsay C. Warren, the North Carolina Courts Commission began the massive task of implementing the Judicial Article.

The North Carolina Courts Commission — 1963 to 1975

The new Judicial Article vested all of the state's judicial power in one court — the General Court of Justice — with an Appellate Division consisting of the Supreme Court; a Superior Court Division (the existing superior court); and a District Court Division. The last division, which replaced all courts below the superior court including the justice of the peace, had to be created from whole cloth. To this major task the Courts Commission first addressed itself.

In the beginning the Commission made two important decisions. First, it decided to take advantage of the time allowed in the Constitution for implementing the District Court Division — until January 1971 — and phase in the new system over three successive bienniums. This course would allow a few counties and districts to be "guinea pigs," and the other districts could profit from whatever mistakes might arise in Phase 1. Then the legislature could make adjustments on the basis of experience. Seven districts volunteered for activation in December 1966; a larger group came aboard in 1968; and a final group completed the transition in December 1970. This arrangement worked well. No major adjustments had to be made between phases, but the gradual introduction of a wholly new court system enabled both the state and the counties to avoid major adjustment problems that might have arisen if the "sudden death" approach of shifting the state and all 100 counties at one time had been adopted. Second, for convenience and simplicity — and to avoid divisive political struggles — the Commission decided to extend the boundaries of the superior court judicial districts down to the district court level without change. This decision to have identical administrative districts for all trial court functions — both judicial and prosecutorial — proved to be sound. It contributed to the public's understanding and acceptance of the new system, and it is still in place.

The District Court Division

Officials. The new constitutional amendment provided that district court judges should be elected by districts to serve for four-year terms, but it left the manner of filling vacancies up to the legislature. The Commission seized this opening to recommend that vacancies in district judgeships be filled by the Governor from nominations submitted by the local bar. This they felt was a desirable step away from partisan politics toward merit selection; it also was a principle that had been proposed by the

Bell Committee but opposed by the 1959 General Assembly. This proposal was adopted by the legislature and remains the law today, although subsequent efforts to de-emphasize partisan politics in the selection of judges generally have not met with success. The provision for district judges to serve full time did away with the unsatisfactory part-time nonlawyer judge so common under the old system and has been largely successful. A direct requirement that all district judges be lawyers could not be imposed because another section of the Constitution prohibits such a special qualification for officeholders. Only seven or eight (out of 136) nonlawyers have occupied district court judgeships throughout the 1970s, so the problem has been a modest one.[2]

When it abolished the office of justice of the peace, the new Judicial Article created the office of magistrate. This official of the district court would be appointed for each county by the senior resident superior court judge on nomination of the clerk of superior court and would serve a two-year term. While this method of appointment may not have been the most desirable (it is still being criticized), it was a necessary political compromise. Acutely aware of the evils of the JP system, the Commission made every effort to avoid them. The magistrate was given authority to issue criminal process and accept guilty pleas to certain motor vehicle and other minor offenses, but he was not allowed to try not-guilty plea cases, or to impose a sentence of over thirty days' confinement or a fine of $50, or both. He was to be supervised by the clerk of the superior court with respect to his paperwork and by the chief district judge with respect to his hours and judicial duties. The chief district judge was authorized but not required to assign trials of small claims [not more than $300 (now $800)] to the magistrate. The magistrate's compensation was fixed by the state and did not depend on his decision in any civil or criminal case. While the magistrate's power has been expanded somewhat since 1966 and he is an essential member of the judicial team, he is now an accountable official with less judicial discretion and less opportunity to abuse what he has than the former justice of the peace.

Once decisions had been made with respect to judges and magistrates, the Commission found it relatively easy to solve the district court's remaining personnel problems. The senior resident superior court judge was authorized to appoint a full-time prosecutor to prosecute district court misdemeanors. The prosecutor was to be independent of the superior court solicitor, but the intention was to merge the two offices as soon as judicial district and solicitorial district lines could be made the same. The easiest decision was what to do about district court paperwork. It was given to the clerk of superior court, who was made clerk of all trial courts in each county. The clerk was placed on a state salary and his nonjudicial functions were to be supervised by the Administrative Officer of the Courts.

Jurisdiction. Several crucial decisions were made after prolonged debate over the jurisdiction of the district court in relation to the superior court (the court of general civil and criminal jurisdiction). The district court was given a regular twelve-person civil jury, on request of either party. Its "jurisdiction" was limited to cases of $5,000 or less in value. For flexibility, the limit could be waived under certain circumstances; the procedural rules were to be the same as in superior court. The district court thus became a "little superior court," in civil matters, and appeals from it went directly to the new Court of Appeals on the record. A few types of cases, not based on monetary value, were assigned to one court or the other. Domestic relations matters, for example, were to be heard in district court; injunctions and constitutional issues were ordinarily to be initiated in superior court; and exclusive jurisdiction over probate matters was to remain with the clerk. This arrangement has proved sound and efficient for over a decade.

On the criminal side, giving the district court a constitutional jury and thereby eliminating appeals to superior court for jury trial de novo for misdemeanors was considered but rejected. The Commission felt that, in terms of space or personnel, the system could not support the demand for jury trials. All misdemeanors were to be first tried by a district court judge, with appeal (upon conviction) allowed for jury trial (trial de novo) in superior court. While this scheme is working, it is inefficient and very expensive for both the state and the defendants and has resulted in charges that the district court is a "second class court." This trial de novo system is likely to be re-examined in the 1980s.

Uniform court costs. The new judicial article that was adopted in 1962 required the General Assembly to prescribe a schedule of uniform court fees and costs for the entire state. Under this mandate the Commission devised a schedule of costs for each level of court, both civil and criminal, that replaced dozens of cost items in scores of lower courts throughout the state. For the first time a lawyer or litigant could know in advance what the court costs would be in any court in any county in North Carolina. Certain portions of the costs were to be retained by the city or county for support of law enforcement or court facilities, but the major item of costs went to the state for support of the General Court of Justice. By constitutional direction the state in return assumed support of all operating expenses of the court system, which relieved cities and counties of the substantial expense of clerks' salaries and jurors' fees.

Administrative Office of the Courts

The new Constitution called for an Administrative Office of the Courts to carry out the provisions of the new Judicial Article. The Commission recommended that the Administrative Officer, who was to be appointed by the Chief Justice, assume the day-to-day housekeeping functions of the Judicial Department. This post became a major position, since the Constitution required a uniform statewide and state-supported court system. The Administrative Officer now acts as the nonjudicial executive for all levels of the system: He collects and publishes statistics, prepares and administers the budget, prescribes record-keeping systems, supervises the clerks' nonjudicial functions, and supervises juvenile probation officers. With jurisdiction over many hundreds of judicial department employees and a current budget of over $70 million, the Administrative Office is an essential part of the judicial machinery.

2. An amendment to the Constitution, approved by the voters in November 1980, requires that future district judges be lawyers.

The foregoing recommendations for the District Court Division of the General Court of Justice were adopted by the 1965 General Assembly in the landmark Judicial Department Act of 1965. With only modest adjustments in fifteen years, they have provided a sound and workable system that is probably as modern as any in the country.

ESTABLISHING A DISTRICT COURT system was a significant beginning, but the Courts Commission had much more work to do. While attention had been focused for some years on the evils of the lower court system, other problems were arising. The Supreme Court's caseload was becoming unmanageable. The laws respecting jury selection and exemption procedures showed urgent need of overhaul; and the temporary district court prosecutorial system required integration into the superior court solicitorial system, which itself also needed attention. These tasks occupied the Commission's attention in the 1965-67 biennium.

Court of Appeals

When the Commission first convened, it found that the Supreme Court's caseload had reached the maximum efficient level. Mindful that the legislature had not approved the earlier Bell Committee recommendations for an intermediate court of appeals, the Commission first thought that curtailing of the unrestricted right of appeal to the Supreme Court was the only alternative. But a modest proposal to curtail certain civil appeals produced a strong opposition in the legislature and the Commission abandoned the idea for the 1965 session. Since the appellate caseload did not shrink, the Commission recommended an amendment to the new Judicial Article to authorize a second court in the appellate division. Selling the idea this time was less difficult. A six-judge (increased to nine in 1969) court was created. After studying the most successful statutes that created similar courts in other states, the Commission designed a modern jurisdictional statute for the North Carolina Court of Appeals that successfully permits that court — sitting in panels of three — to hear and dispose of appeals in a great majority of all appealed cases. The State Supreme Court then can consider truly important cases that merit resolution on the highest level.

The caseload continues to mount, however, and although the appeals court was increased to twelve judges in 1977, it may be necessary in the 1980s to reconsider the right of unrestricted access to the appellate courts.

Jury selection

In 1967 the Commission found that many of the state's laws concerning preparation of lists of prospective jurors, selection of jury panels, and exemptions from jury service were over 100 years old, and decades of patchwork amendments had merely burdened and complicated the law rather than modernized it. Favoritism in jury selection, or failure to select jurors, was possible, and the number of statutory exemptions from service — over three dozen — meant that any raw list of potential jurors had to be suspect as a valid cross-section of the community. The Commission decided to overhaul the entire system. Jury selection was transferred from the county commissioners to an independent commission; reliable sources of names (the tax and voting records) were specified; selection of names was required to be at random; all exemptions from service were eliminated; and a tamper-proof machinery that divided selection duties between the jury commission, the clerk of court, and the register of deeds was prescribed. A judge could grant an excuse or deferment for reasons of compelling personal hardship or when service would be contrary to the public welfare, health, or safety. In 1977 use of time-saving data processing equipment was authorized; a number of counties now use this equipment in jury selection without damaging the essential principles emphasized in the 1967 changes.[3]

Prosecutorial reform

When the Commission examined the machinery for prosecuting crimes in the superior court — the office of solicitor — it found that office to be as out-of-date and inefficient as the lower court system and the juror selection system. Solicitors were part-time officials. While some solicitors found that their public duties claimed nearly all their time, others — who received the same pay — had time also for private civil law practice. Since solicitors had less work than judges had, there were fewer solicitorial districts than judicial districts. Solicitors' districts frequently overlapped two or more judicial districts, which led to confusion in scheduling criminal courts and sometimes required the solicitor to be in two courtrooms at the same time. The Commission recommended that the number of solicitorial districts be increased from 24 to 30 to equal the number of judicial districts, and that the solicitorial and judicial district boundaries be the same. The solicitors (renamed district attorneys in 1974) were made full-time state employees, and some districts with heavy caseloads had assistant DAs. As these changes took place the office of district court prosecutor was merged into the district attorney's office, which became responsible for prosecuting all crimes in all trial courts of the state. Simplicity, uniformity, and efficiency were cognizable by-products of this reorganization.

Juvenile law revision

In the third biennium (1967-69) of its work, the Commission concentrated on two major new projects — revision of the laws with respect to juvenile jurisdiction and procedure and the representation of indigents. In 1966 (*Kent*) and 1967 (*Gault*), the United States Supreme Court expanded the procedural rights of delinquent children. These decisions hastened the need for modernizing North Carolina's laws on juvenile jurisdiction and procedure.[4] Jurisdiction in these cases was taken from the clerk of court (in most counties) and given to the district court judge, who was expected to become sensitive to the special needs of children and expert in the specialized laws that applied to children.

Counsel for indigents: public defenders

Another U.S. Supreme Court case began an expansion of indigent defendants' right to representation by counsel

3. For a description of jury selection using data processing equipment, see Henry C. Campen, Jr., and Harry C. Martin, "Justice and Efficiency: Computer-Aided Jury Selection in Buncombe County," *Popular Government* 44 (Spring 1979).

4. Kent v. United States, 383 U.S. 541 (1966); *In re* Gault 387 U.S. 1 (1967).

and required a thorough revision of the state's laws in this area.[5] In this state the Commission led the way by proposing a comprehensive statute that spelled out the situations in which counsel must be provided at public expense, by setting up uniform procedures for assigning counsel from the private bar, and by establishing experimental public defender systems in two judicial districts. The public defenders, now about 50 in number in six districts, have proved in the busier districts that they can provide quality defense services to indigents at somewhat less cost than the assigned counsel system, and further expansion of their services is being considered.

Measures to improve the judiciary

The General Assembly of 1969 made the temporary (seven-year) Courts Commission a permanent statutory body with long-range oversight of the state's judicial system — a tribute to the Commission's effectiveness in three successive legislatures. In December 1970, the last of North Carolina's 100 counties converted to the new district court, and one year later the new solicitorial organization was completed. The court reform envisioned by the constitutional amendment of 1962 was complete.

But the work of the Courts Commission continued. Its seven-year study of the system led it to conclude that, although the structure of the General Court of Justice was modern and efficient, personnel improvements were needed. Especially was this true of the judges. While the state judiciary had never had a scandal, the Commission felt that not enough high-quality attorneys were being attracted to judicial careers, and it recommended a number of important measures that in the long run would improve the quality of the judiciary. Three of these involved constitutional amendments.

The Commission had observed that there was a small percentage of judges who, because of the mental or physical disabilities of advancing age, had "passed their peak." It recommended that the General Assembly be empowered by constitutional amendment to set a mandatory retirement age for judges and that this age be set by statute at 72 for appellate judges and 70 for trial judges. Within a few years after these measures were ratified, the average age of the judiciary had been lowered considerably. The arbitrary age limit may on rare occasion cut off a judge still in his prime, but generally the limits have operated to enhance overall vigor and efficiency at all levels of the judiciary.

For the occasional judge whose substandard performance was due not to age but to personal or professional misconduct, the Commission found that the remote possibility of removal by impeachment was no deterrent. It recommended, again by constitutional amendment and statute, that a Judicial Standards Commission composed of judges, lawyers, and laymen be established to receive complaints about judicial misconduct, to conduct investigations, and to recommend to the Supreme Court, where appropriate, censure or removal of an offending judge. In the seven years that this innovation has been in effect, six judges have been censured and one has been removed.[6] More important, several judges have retired while under investigation, and all judges have been alerted to the high standards expected of them.

While these two measures were steps in the right direction, a more positive measure was necessary to attract talented attorneys to the bench. Judicial

5. Gideon v. Wainwright, 372 U.S. 335 (1963).

6. A recommendation to remove a second judge is pending.

The Institute and the Courts

Teaching and conferences. The Institute sponsors and takes a professional role in continuing educaton programs for superior court judges, district court judges, clerks and assistant clerks of superior court, and magistrates. In addition, it conducts orientation courses for trial judges and magistrates. Faculty instruction for these officials emphasizes basics, plus new developments in statutory and case law. Courses are taught at the Institute and throughout the state, and outside experts are brought in to assist as needed.

Consultation. Besides offering consultation services to the above-mentioned officials, various Institute faculty members serve from time to time as consultants to permanent and ad hoc legislative study commissions and to House and Senate judiciary committees and courts committees. For example, the Institute has served in a research and drafting capacity for the Courts Commission since 1963, and is now serving the Sentencing Committee.

Periodicals. In support of its program for trial judges, the Institute issues *Pattern Jury Instructions* (four volumes) and the *Trial Judges' Bench Book*. It has also produced a *Magistrate's Manual* and is now preparing a *Clerk's Manual* for clerks of superior court. Memoranda on current developments are issued as the need arises. Many of the publications issued to criminal justice officials are also useful to judicial officials.

North Carolina Courts Center. This facility is an integral part of the Institute, designed to expand our services to judges, district attorneys, public defenders, clerks of court, magistrates, and other court officials. Funds supplied to the Center from the Governor's Crime Commission have recently been used to add professional and staff support, provide increased audiovisual capabilities, fund visiting instructors, and pay for additional printing and publications.

salaries were very modest compared with the income of a successful lawyer in his mid-forties — the prime recruiting age — and retirement benefits were inadequate. There were no survivor benefits for appellate and superior court judges, and retirement compensation for district court judges was much less than that of their brethren at a higher level. Over the past decade the Commission's recommendations for higher take-home pay have met with moderate success (although more needs to be done) and the Uniform Judicial Retirement Act of 1973 that was adopted through Commission efforts is generous.

A final major Commission effort concerned the selection of judges. North Carolina's partisan election method for judges, in which the Governor fills many mid-term vacancies by unilateral appointment, like the method used by many other states, has been condemned for putting politics above talent as a qualification for judicial office. The Commission recommended a nonpartisan plan that required the Governor to appoint a judge from a panel of names submitted by a nominating commission composed of lawyers and laymen whose sole function is to screen applicants for judgeships and to select the most qualified nominees who can be persuaded to accept the office. This plan, now adopted in whole or in part in a sizable number of states, had been proposed by the Bell Committee but was rejected by the legislature in 1969 — and again in 1971, 1973, and 1975 when proposed by the Courts Commission. Under North Carolina Bar Association sponsorship in 1977, the merit plan again failed because the General Assembly preferred the "if it ain't broke, don't fix it" approach that had provided a satisfactory — if undistinguished — judiciary over the years. A fifth effort to sell nonpartisan merit selection of judges in 1979 — this time with the active backing of Governor Hunt, who had been experimenting with a nominating commission for selecting superior court judges — also failed. Over twelve productive years the Courts Commission's major proposals have all been adopted except merit selection of judges.

North Carolina Courts Commission — 1979

In 1975 the Commission, which had become a target for the enemies of the judicial selection proposal with which it had become closely identified, and was itself a victim of a no-more-worlds-to-conquer feeling, was terminated by the General Assembly. For four years no single body was charged with general, long-range oversight of the judicial system. The acute need for such a body became obvious, and the General Assembly in 1979 created a new Courts Commission. The 1979 Commission has the same powers as the original one, although its composition is somewhat different. The most notable and regrettable difference is that it has fewer legislative members, which may mean that its recommendations to future legislatures will have tougher going than the original Commission's proposals had.

The new Courts Commission became fully functional in the summer of 1980 and immediately tackled a long agenda of proposals for improving the judicial system. Several of these (decriminalization of traffic offenses, improvements in salary scales of clerks and assistant district attorneys, and expansion of the roles of public defenders and trial court administrators) were mandated by the General Assembly or recommended by the Governor. Recommendations to the General Assembly on these items can be expected in 1981 and later legislative years. Other major proposals, some very far reaching, await study: elimination of misdemeanor trials de novo in superior court, curtailment of the right of appeal to lighten the workload of a hard-pressed Court of Appeals, elimination of trial court calendaring problems, and that hardy old perennial — curtailment or modification of rotation of superior court judges. It is hoped that the new Commission, under the chairmanship of Representative Parks Helms, will be as successful as its predecessor. ■

Superior court judges meeting at the Institute of Government in 1957. (Former Governor Dan Moore is second from right.)

The Bell Committee at work in the fifties.

Facts About the Institute

Attendance at schools and conferences

Over 5,000 people attended Institute-sponsored schools and conferences in Chapel Hill during the 1979-80 fiscal year. In addition Institute faculty taught in regional and district schools and conferences that were attended by another 14,500 people.

The Institute's program includes introductory courses for many groups of public officials in law and administration related to their offices. In 1979-80 courses were offered for new tax assessors and collectors, city and county finance officers, registers of deeds, magistrates, school finance officers, assistant district attorneys, purchasing agents, superior and district court judges, city and county clerks, and recently elected mayors, councilmen, and sheriffs.

Longer courses are also taught each year, including nine 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; a four-week police executive development program; a three-week pre-service school for wildlife enforcement officers; a 90-hour course in personnel administration; two 70-hour basic schools for magistrates; a 70-hour course for newly appointed magistrates; and a 50-hour course in higher education law for community college presidents.

Institute faculty also spend a great deal of time in research, writing, consulting, and advising the governmental clients (agencies as well as individuals) that they serve.

Publications

Each year, besides its quarterly magazine *Popular Government*, the Institute publishes nine series of bulletins in special subject-matter areas and a number of books. This past fiscal year (1979-80) the Institute publications office sold 110,060 Institute books and periodicals. Nearly 400,000 copies of Institute publications (chiefly daily legislative bulletins) were issued to report on the work of the 1979 General Assembly. An inventory made in August 1980 showed 311 different, current publications that are available from the Institute. Receipts from publications sales were over $135,000 in 1979-80.

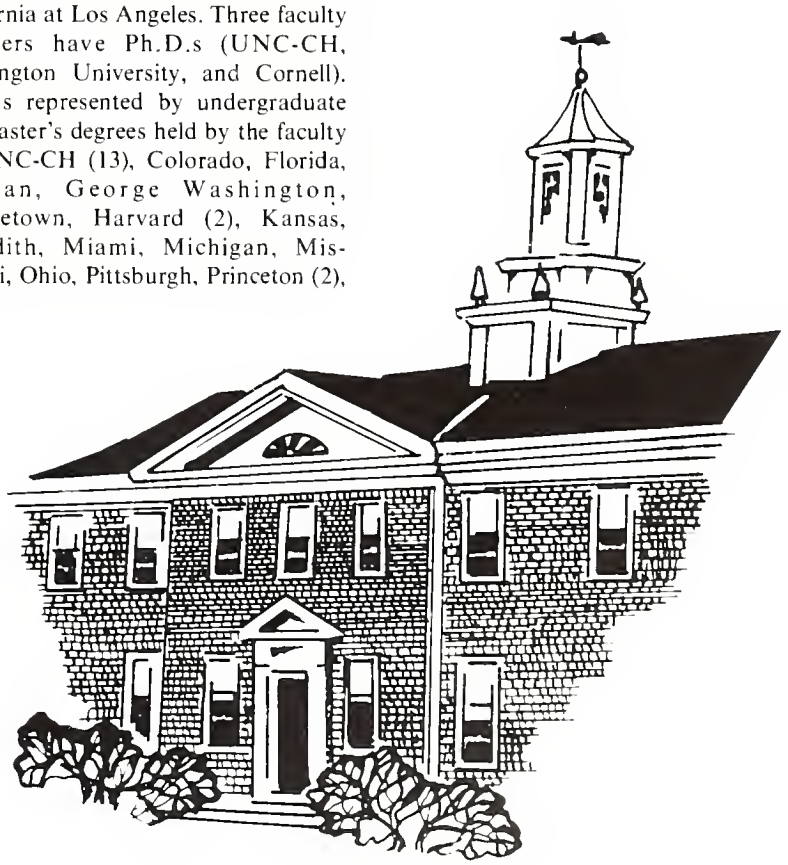
Library

The Institute of Government library contains 16,000 bound volumes, a unique collection of 30,000 pamphlets, and over 400 journals and periodicals. Total circulation in 1979-80 was 5,971.

The faculty

Academic background. Most Institute of Government faculty members hold law degrees; eight are from the Law School of The University of North Carolina at Chapel Hill. Other faculty members hold law degrees from Harvard (5), Columbia (3), Vanderbilt (2), Yale (2), Duke (2), George Washington, Miami, Florida, and the University of California at Los Angeles. Three faculty members have Ph.D.s (UNC-CH, Washington University, and Cornell). Schools represented by undergraduate and master's degrees held by the faculty are UNC-CH (13), Colorado, Florida, Furman, George Washington, Georgetown, Harvard (2), Kansas, Meredith, Miami, Michigan, Mississippi, Ohio, Pittsburgh, Princeton (2), Rice, Smith, Southwestern at Memphis, Tennessee, Tulane, Vanderbilt, Wisconsin, and Wofford.

Growth. The Institute of Government's history began with Albert Coates, who founded the Institute in 1931. Henry P. Brandis, Jr., Dillard S. Gardner, T. N. (Buck) Grice, Edward Scheidt, and George W. Bradham joined the staff in 1933, and Marion Alexander, Harry McGalliard, and Malcolm Seawell came in 1935. After World War II (1946) there were seven faculty members, two secretaries (Edna Clark and Del Markham) and one other worker, Lewis (Jack) Atwater, who helped with everything — printing, mailing, janitorial work, and so on. By 1950 the faculty numbered 10; by 1960, 23; by 1970, 27. Today Institute personnel include 32 faculty members, a supporting staff of 41, and 15 other part-time employees: research assistants, law clerks, student assistants, and MPA student assistants. Two faculty members have been with the Institute for over 30 years, one for 25-30 years, three for 20-24 years, seven for 15-19 years, three for 10-14 years, seven for 5-9 years, and nine for less than 5 years.



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