

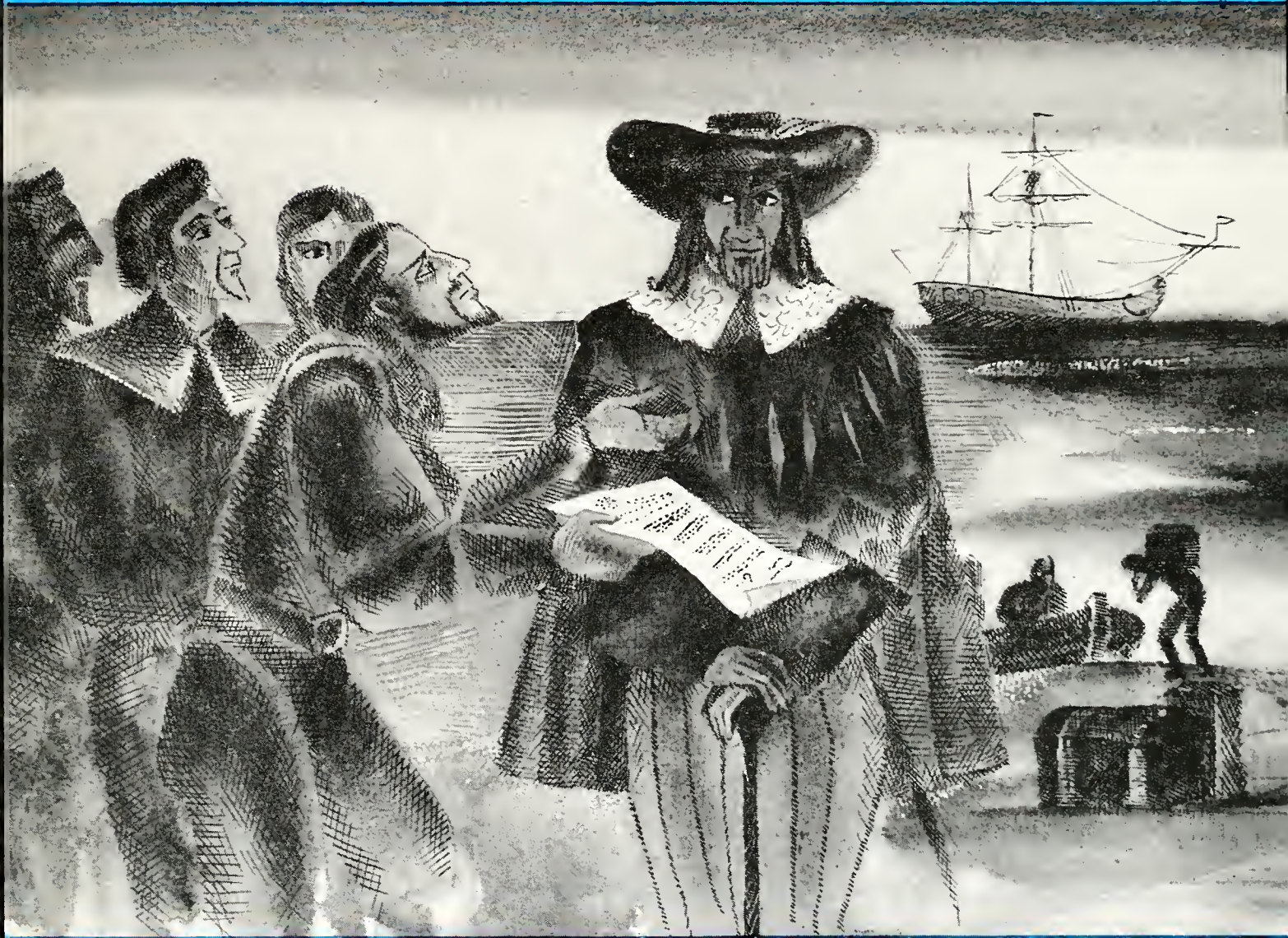
POPULAR GOVERNMENT

May 1965

Published by the Institute of Government

The University of North Carolina at Chapel Hill

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In This Issue:

Energy in the 21st Century

North Carolina's Film Board

CATV: Yes or No?

Law for the Non-Lawyer

Juvenile Courts and School Attendance

New: Alignment of Mental Health Facilities



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The cover painting was used as a color "still" picture in the North Carolina Film Board production The Road to Carolina. (See p. 5 ff.) It shows Governor Carteret about to sail for England with a petition of protest from early Carolina colonists to the Crown. The time was the late 17th century; the occasion, the "Culpepper Rebellion."

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ENERGY

in the 21st Century

By Milton S. Heath, Jr.

Assistant Director, Institute of Government

Note: This article was adapted by the author from a paper he prepared for one of a series of seminars held this year at the U.N.C. School of Public Health on the subject of "Man's Environment in the 21st Century." Publication of the complete series is planned by the University of North Carolina Press. R. A. Kampmeier, consultant engineer and former Assistant Manager of Power for TVA, was a discussant for this paper at the seminar. The author gratefully acknowledges having benefited from Mr. Kampmeier's remarks in adapting the paper for publication.

As I took a last look at this article before it went to press, it dawned on me that anyone who reads a piece on "Energy in the 21st Century" must at least have tucked away in a corner of his mind an image of something like a Buck Rogers show. Having read the article myself I will have to admit that there is very little trace of Buck Rogers having ever been there. So, for those of you who came looking for Buck, I might as well tell you now, "I'm not him!"

I will be discussing such subjects as "sources of energy," the shifting "mix" of the energy market, and some things that I believe the energy industry ought to be doing as it moves into the next century. Fortunately there are some outstandingly good current studies on energy prospects, of which I have taken generous advantage. These include two major reports published by Resources for the Future within the last five years, "The National Power Survey" issued last fall by the Federal Power Commission, and an Interdepartmental Energy

Study which to my knowledge has not yet been published.¹

The Shifting "Mix" of the Energy Market

A good place for me to begin is by portraying how the energy pie is sliced up today in the United States.

In round terms, petroleum is our major source of energy today with almost 40 per cent of the market, followed by natural gas at almost 30 per cent and coal at about 25 per cent. The remainder is divided up more or less equally between hydroelectric power and natural gas liquids, with a negligible proportion in nuclear energy.

You do not have to look back in time very far to see a rather different picture. For example as recently as 1940—though oil, gas and coal were the big three in energy—the order was different; coal controlled half of the energy market, oil less than one-third, and natural gas only one-eighth. If you turned your sights back another one-half century to the gay 'nineties you would see that the market was divided mainly between coal and *fuel wood*, coal having slightly the larger share. Two decades before that it was also coal and wood, but with wood having the edge on coal.

A graphic portrayal of these relationships, covering the century beginning in 1850, would show the near total dominance of wood as an energy source a century ago; then the rise and fall of anthracite and bituminous

coal; then the next wave of oil and gas beginning around 1900.²

All of this goes to illustrate one of the trademarks of the energy business: that is, the extent to which one fuel, one energy source can substitute for another. It has been estimated that one-half of all energy consumption in this country today is directly competitive with at least one other alternative source, and that an additional 45 per cent is indirectly competitive. (By indirectly competitive is meant, for example, that coal would be indirectly substituted for gas if electric home heating generated from coal were to cut into the natural gas share of the residential heating market.)

The fact of substitutability does not mean of course that substitution of energy sources comes about easily or quickly. One major obstacle that always stands in the way of shifts in energy sources is the capital intensiveness of the energy economy. From production to consumption, heavy investments are inherent in the energy business—all the way from oil and gas wells, gas pipelines, electric generating plants and transmission lines to the furnace in your home or the car you drive (which is gasoline operated rather than battery powered). The electric utility industry measured by capital investments is quite the largest industry in the United States. Next largest is petroleum refining, and natural gas is not far down the list at sixth largest.³ Needless to say you don't plow under these investments overnight.

Thus there is a strong built-in economic resistance to substitution of

1. Landsberg, Fischman and Fisher, "Resources in America's Future" (Resources for the Future, 1963). Schurr, Netschert et al., "Energy in the American Economy, 1850-1975" (Resources for the Future, 1960). Federal Power Commission, "National Power Survey: Guidelines for the Growth of the Electric Power Industry" (1964).

2. Schurr, Netschert et al., "Energy in the American Economy, 1850-1975," (Resources for the Future, 1960), p. 37-38.

3. Federal Power Commission, *National Power Survey* (1964), p. 11.

fuel sources, but substitution does occur and it is typically expressed in these long-range swings that we noted from 1850 to the present.

To carry this analysis one step further, substitution of energy sources may be triggered in one of several ways.

It may result from a change in consumer preferences. (I have a gas furnace at home now, but not long ago I spent a year in an old house with a manually operated coal furnace. That, is, a coal furnace and a shovel. You won't catch me using that kind of heating system by choice any time soon!)

The shift may be a function of the fuel source itself. A particular fuel may become scarcer, therefore more costly, and lose out to another fuel by price competition. Or a fuel may simply be made obsolete by other economic developments—as wood is obsolete in a modern industrial economy, or as coal (used directly) is an obsolete fuel in terms of inter-planetary travel.

Finally, a shift in the mix of this market may result from something that happens, speaking broadly, at the "production end." For example, one of the significant facets of the energy business is that it must involve a great deal of transportation—from gas pipelines and coal shipments to electric transmission. Therefore, transportation is a large cost element in the total price of a fuel, and price competition in the transportation business can exercise an important influence on choice of fuel. For instance, not long ago the railroads came to the realization that they could quote much better prices for large-scale coal shipments than they had ever dreamed of, and they began doing it. This in turn has helped to stimulate increased use of coal as fuel for generation of electricity, and coal production today is booming where ten years ago this was a declining industry. All of this is attributable in a material degree to reduced railroad freight rates.

Substitutability will undoubtedly continue to be a feature of the energy economy in the future. Also substitution of energy sources will no doubt continue to be triggered from time to time by external factors, such as changing consumer preferences or price competition in the transportation sector. Therefore, the projection of energy use into the 21st century,

or for that matter anytime, is a pretty speculative business. A famous historical illustration is the 50-year coal demand prognosis made in the year 1900 by H. S. Fleming. Mr. Fleming in forecasting coal consumption made a splendid projection of over-all energy requirements for the year 1950 but overestimated the demand for coal by about 200%.⁴

Despite the warnings of experience there are some brave souls who have made projections of the energy economy into the 21st century and, shortly, I will review them. It may be helpful though if I lead into this with some preliminary remarks on the current state of the art. This will be done necessarily with a broad brush, which is the limit of my competence.

Sources of Energy

Using a breakdown employed in the Interdepartmental Energy Study, there are five major sources of energy within our technical horizons:

Fossil fuels (coal, oil, gas, etc.)—now our primary sources and likely to continue to be into the 21st century.

Fission fuels for nuclear energy—mainly uranium and thorium.

Fusion fuels for thermonuclear fusion processes—some form of hydrogen such as deuterium, and possibly a secondary material such as tritium, which is a fuel that must be bred from lithium.

Mechanical energy—a category which includes hydroelectric power, tidal power and wind power.

Thermal energy—theoretically this includes ocean gradients, temperature gradients in the earth or geothermal energy, and radiant energy from the sun.

To list energy sources in this way does not quite do justice to some processes that are being researched and developed for producing or using energy.

For example, there are several promising new methods of generating electricity on a commercial basis. One is the fuel cell which is an electrochemical device that has the basic elements of a battery, but unlike a battery does not store but only produces energy.

4. Schurr, Netschert et al., "Energy in the American Economy, 1850-1975," (Resources for the Future, 1960), pp. 71-72.

It is potentially capable of using all sorts of fuel from coal to hydrogen-oxygen, and it may have a variety of applications ranging from space travel to conventional electric power systems. One of its valuable traits is a very high efficiency potential in producing energy.

Another promising experimental approach in electric power production is magnetohydrodynamic generation or "MHD" for short. This is a process in which power is generated by forcing a jet of ionized gas through a magnetic field. Like the fuel cell it has the virtue of a much higher potential efficiency than conventional steam electric generation. There are some technical problems yet to be overcome here, but it would not be surprising if both MHD and fuel cells were an established part of the landscape by the end of this century. This is a pretty good bet, really, because there is not only a theoretical interest but a lively existing commercial interest in R and D on these processes.

Returning to this five-fold breakdown of energy sources, and asking the question, "Where is the principal reliance for energy likely to be placed 35 years hence?" we can begin by eliminating some items.

Take the "mechanical energy" category. Wind power and tidal power generation are technically feasible—there is no dispute on this score. But the amount of energy that is likely to be produced economically here is so small that for practical purposes we can forget about it. Even the best and most widely heralded of American tidal projects, Passamaquoddy, doesn't really measure up as a power project. It is a piece of genuine political inspiration, and it may be very good for the State of Maine, but as a power project it compares rather poorly with alternative sources.

Still in the "mechanical" category, if you move over to hydroelectric energy it's another story. Although hydropower is going to have a diminishing slice of the energy pie, we will probably still be building and using hydro projects in the 21st century. Good hydro projects have several great virtues: notably, low cost energy production, flexibility and permanence—this is not a wasting resource. Hydro will continue to be a principal energy source in some areas like the Pacific Northwest and a valuable part of electric utility systems

elsewhere. To illustrate the feature of flexibility, consider that not too long ago hydroelectric power was usually used to meet baseloads on electric systems, while steam electric generation carried the peak loads. Today (except in areas of unusually good hydro projects like the Pacific Northwest) the tables are turned: as a result of a revolution in steam power technology you are likely to find steam carrying the baseload and hydro the peak. Hydro very readily accommodates this new role, because it costs next to nothing to operate and maintain a hydroelectric project.⁵

In speaking of hydroelectric generation I should mention the latest development here, the pumped storage or "pump back" project. A pumped storage project takes water downstream from a reservoir and pumps it back up into the reservoir when the demand on an electric system is at its lowest, usually at night, so that the water will be available to generate electricity during the day when the system is straining to meet peak demands. Thus, it converts cheap off-peak power into valuable on-peak power, and has the practical effect of doing what is technically impossible, storing electricity in large quantities. This is a real stroke of economic and technical genius and we will see many pumped storage projects being built in the years ahead.

Consider now the "thermal energy" and "fusion fuels" categories. The consensus of expert opinion is that these are not likely to be substantial energy sources by the year 2000. In the thermal area there is some experimental activity and even commercial production from geothermal sources. The more important potential of course lies in harnessing radiant energy from the sun and thermonuclear energy by the fusion process. It would be unwise to write off these possibilities as energy sources in the year 2000, simply because the payoff for successful development of them would be truly spectacular. Because of this pot of gold waiting at the end of the rainbow there is great incentive for R and D here and it may produce re-

sults. Nonetheless, in making an orthodox projection you would probably ignore these two categories.

This brings us to the point of beginning for most energy projections for the 21st century, where we can be on even terms with the experts. By way of illustration, consider the projection made in a 1963 *Resources for the Future* publication "Resources in America's Future."⁶ This projection identifies as the energy market the fossil fuels (coal, oil, natural gas, and natural gas liquids); hydroelectric power; and finally nuclear power. It shows all of these sources increasing absolutely. (During this period a threefold increase in total energy use is posited.) But, proportionately, the chart shows coal continuing its downward slide, all the way down to 13% in the year 2,000; oil about holding its own; natural gas falling off a bit (because of impending scarcity); natural gas liquids and hydro together holding their own; and only nuclear energy as a big gainer, going from almost ground zero now to 14% in the year 2,000.

There is an interesting story lately on nuclear power which might possibly be the long-awaited breakthrough that could bring about an even more rapid rise in nuclear generation. Until quite recently there was very little optimism on the nuclear front, and one might commonly find in reliable current publications, such as the two RFF studies, statements like the following: "The question of competitiveness is still quite open . . .,"⁷ or "The attainment of costs that are low enough to be competitive . . . is still an objective, not a reality."⁸

In the face of this guarded pessimism, there was a surprising announcement last spring by Jersey Central Power and Light Company of plans to construct a new 500-600 megawatt Oyster Creek plant as a nuclear installation—a plant that had been anticipated to be a conventional steam-electric facility. Jersey Central's choice was an economic one. This plant is expected to generate power at less than 4 mills cost, which is multiples

less than the then prevailing cost of nuclear energy. The key to this development was an unexpectedly low bid on the reactor by General Electric; and G.E. and the other major electric equipment suppliers have subsequently published comparably low general price schedules on nuclear power plant equipment.

The Jersey Central announcement provoked a quantity of skeptical industry comment and some anguished cries from competitors like the coal interests. My interpretation is that this falls in the tradition of the "external" developments affecting the energy market that I mentioned earlier. The equipment industry was dealt a staggering blow several years ago by the anti-trust price-rigging prosecutions, and has since been searching for a way out of the wilderness. It seems a reasonable speculation that the equipment suppliers have now seized upon nuclear power equipment as the "handle" and are now in the promotional phase of an effort to develop nuclear power—which would explain their low, low prices. While the final account has not been taken, it may well be that (in a manner of speaking) the rise of nuclear energy has been accelerated by the unusual short-cut of anti-trust violations in the electric equipment business!

Adequacy of Energy Resources

Now, I should like to make a few observations about the over-all adequacy of our energy resources. This subject has been thoroughly reviewed in the recent reports, and what I have to say is but a distillation of their findings.

First, it is apparently the consensus of expert opinion that the energy needs of our economy should be met with no increase in fuel source prices through the end of the century. Going even beyond this, it is a keynote of the FPC National Power Survey that the long-term declining cost trend in production of electricity should continue at least through FPC's 1980 target date, and that the declining cost of power produced at conventional steam generating stations should furnish a "moving target" for nuclear power.

Second, under even the most extreme demand assumptions our coal resources should supply the demand for coal with no increase in cost.

5. The remarkable improvements that have been made during the past decade or two in the technology of conventional steam electric generation, and accompanying advances in transmission techniques, are a complete story in themselves. This story is recounted with great interest in the Federal Power Commission's "National Power Survey," for those who wish to pursue this subject.

6. Landsberg, Fischman and Fisher, "Resources in America's Future," (*Resources for the Future*, 1963) figure 15-5, p. 291.

7. Landsberg, Fischman and Fisher, "Resources in America's Future," (*Resources for the Future*, 1963) p. 234.

8. Schurr, Netschert *et al.*, "Energy in the American Economy, 1850-1975" (*Resources for the Future*, 1960) p. 24.

Third, on the basis of rather sketchy information it is unlikely that nuclear power fuel sources will be in any danger of exhaustion.

Fourth, the fuels that are apparently in relatively scarce supply are natural gas and (to a lesser degree) petroleum. On the most extreme demand assumptions these resources, especially gas, might begin to be in short supply and to rise in cost by the end of the century. It is frustrating to attempt projections in this area, though, because the industry data on proven reserves only covers 10 to 12 years supply, and there is apparently no really sound factual basis for assessing adequacy of the resources. Moreover, there are new technical processes in the works—such as shale oil production and gasification of coal—that could upset all calculations.

Finally, all bets would be off if economical processes are developed for tapping the almost inexhaustible resources of solar energy or thermonuclear fusion. The fusion process will serve to illustrate.

In the jargon of the trade nowadays one may hear references to the term "Q" as a measure of energy. One Q of energy equals one quintillion btu. This is a magnitude almost beyond the comprehension of any of us, for our total national annual use of energy can be expressed as a fraction of one Q—and is projected to remain less than one Q through this century. Relating this to fusion, one can see that there is obviously an almost unlimited energy potential in thermonuclear fusion when he learns that the estimated energy equivalent of world supplies of the probable fuels (mostly oceanic) runs into *millions* or even *billions* of Q!

Suggested Goals for the Energy Economy

In conclusion I would like to suggest some goals for the energy economy as it moves toward the 21st century—and by goals I mean social or economic objectives, rather than technological ones.

No catalogue of such goals could be complete without reference to the subject of conservation; so this will be my starting point. Considering the history of the industry, the state of the art and the sources of energy, it is difficult to discern any danger of

total exhaustion of energy resources lying ahead, or to arouse any *general* concern in the name of conservation. What may be more worthy of concern is the conservation of particular resources for their best usage, notably natural gas. This is the fuel whose adequacy has been most frequently questioned, and it is a fuel that is especially well adapted to certain uses, such as residential heating. Clearly, then, one legitimate long-term goal for the industry can be to establish more definitively the extent of this resource, perhaps through an agency such as the FPC, and if conservation is needed, to consistently discourage low priority uses, again probably through the mechanism of the FPC. What I am suggesting, in effect, is the need for a "natural gas survey" paralleling the National Power Survey.

Another reasonable objective is that we may come into the 21st century preserving, and hopefully even strengthening, the limited protections that consumers enjoy against the monopoly power inherent in the energy industry. The principal protections we consumers have lie in public regulation and in some semblance of competition between alternative distributors of energy. These rather frail safeguards are under constant attack and their preservation is no easy task. (The competition sometimes takes the form of competing fuels, sometimes of different kinds of distributors of the same fuels.) There seems to be a prevailing feeling that it is to be deplored when private, co-operative and municipal electric distributors take to squabbling with one another. Frankly, it makes me feel a lot safer and happier to see them at one another's throats.

Another goal that I feel might well be pursued at leisure sometime during the next three and a half decades is obtaining a better understanding of the role of energy in economic development and in resource development. Bruce Netschert delivered an intriguing speech on this subject in Knoxville last year when he challenged the prevailing assumption (notably prevailing in Knoxville) that electric power development, especially large hydroelectric projects in underdeveloped nations, goes hand in hand with regional or national economic development. The gist of his argument was that these projects consume a great

deal of scarce capital and are relatively unproductive in economic terms. Periodically I find myself recurring to a related question to which I have never heard a genuinely satisfying answer: that is, what is the relationship between comprehensive hydroelectric power development and regional resource development? How, for example, has an agency such as TVA contributed through its electric power system to development of regional resources, including water, by comparison with reasonably enlightened private utilities within their domains? How does a river-basin-oriented development compare with development oriented to population centers? Anyone familiar with this business realizes that the investigators would be well advised to come garbed in bullet proof vests, but this cannot detract from the merit or necessity of suggesting it as a long-term goal.

Finally, I want to suggest a collection of objectives that can be loosely grouped under the heading of more rational use and development of energy resources. Another label for this group of objectives might be, "environmental aspects of resource development." Without pursuing any of these in detail or attempting to catalogue them all I am going to mention three or four.

(1) One area that is beginning to cry out for sound policy guidelines involves the shaping and the financing of multiple purpose reservoir developments in which hydroelectric power plays a part. How much should be required of a hydroelectric project in the way of recreational and water quality provision or enhancement? Who is to pay the cost, especially on private hydro projects licensed by FPC? How much should we concern ourselves about uniformity of policy in this area? These are questions troubling a number of people, and no one has the answers yet.

(2) With the advent of nuclear power production on a commercial scale, the problem of disposing of nuclear wastes may soon go critical. Thus far the question has been discussed mainly in polite, muted tones of deference to the Atomic Energy Commission, but long before the year 2000 this approach may not work any longer. While the answers may boil down to questions of dollars and cents

(Continued on page 21)

THE NORTH CAROLINA FILM BOARD:

A Unique Program in Documentary and Educational Film Making

By Elmer Oettinger

Assistant Director, Institute of Government

(EDITOR'S NOTE: This article is adapted from a paper presented before the annual meeting of the Society of Cinematologists, Museum of Modern Art, New York, N. Y., on March 22, 1965. The author has taught in the Department of Radio, Television, and Motion Pictures at the University of North Carolina at Chapel Hill and is a charter member of the Society of Cinematologists, national organization of film scholars, critics and historians.)

Crisis

The North Carolina Film Board and Ben Jonson would appear to have something in common: Jonson's epitaph. The epitaph of Shakespeare's bricklayer-playwright friend was "O Rare." That phrase could be, at once, the trademark, virtue, and danger of the only state-sponsored film producing agency in the country.

Initiated under the auspices of the Governor's Office, financed primarily by a private foundation, and headed by a Canadian director of established professional skills, the North Carolina Film Board since September, 1962, has undertaken a program of twenty documentary and educational films, designed to portray the people and illuminate the problems, themes, and life of the State. Thirteen of the films have been completed and shown. Three have been "shot" but not processed—due to lack of funds. One was not produced. Three are expected to be ready for distribution by June. They had better be. For June 31st will mark an end to the Film Board's operating funds, and, unless a new home, family, and budget are found this spring, its sixteen to nineteen films will remain but a monument to what was and what might have been, a rather unusual monument perhaps worthy of that epitaph: "O Rare!"

Since, according to every indication, the Film Board will die in the hot, dry summer, a printed record of its history and performance seems both appropriate and important at this time. And, although two and three-quarters years is a short life span, some analysis of its problems and worth, actual and potential, may be in order.

Origins

The story of the Film Board combines documentary and romance. To understand how it came about, it is necessary to know something about North Carolina's former Governor, Terry Sanford. During his term in the Executive Mansion (1961-1965), Sanford, friend of the arts, surrounded himself with creative minds. Among his

advisors was John Ehle, a professor in the Department of Radio, Television, and Motion Pictures at the University of North Carolina at Chapel Hill. Out of that association came such ideas as a special program for superior students, a State-supported school of the arts, and the North Carolina Film Board. Each idea became a reality.

For the Film Board, a fourteen-member Advisory Board was appointed. Among the members were educators, ranging from college presidents to sociologists; and mass media representatives, including newspaper and television executives. Four members with backgrounds in cinema were named a sub-committee on production standards. The four were Paul Green, Pulitzer Prize playwright and former motion picture scenarist; John Grierson, Scotch author of the definitive book on screen documentary (who was visiting North Carolina at the time); George Stoney, filmmaker and professor at Columbia University, a native of Winston-Salem and graduate of the University at Chapel Hill; and Borden Mace, film executive with the Heath-De Rochemont Corporation. The sub-committee has not played an active role, however.

Other members appointed to the Advisory Board included Dr. Lewis Dowdy, President, A & T College, Greensboro; Harmon Duncan, general manager, WTVD-TV, Durham; James Gray, industrialist, Winston-Salem; Dr. Horace Hamilton, sociologist, N. C. State College, Raleigh; Dr. Guyon Johnson, sociologist, Chapel Hill; P. R. Latta, organized labor representative, Raleigh; Dr. David R. Middleton, East Carolina College, Greenville; Sam Ragan, executive editor, *News & Observer*, Raleigh; Dr. W. D. Weatherford, educator, Black Mountain; and Lawrence O. Weaver, film distributor, Greensboro.

On the recommendation of Ehle and Stoney, the Governor invited James Beveridge, a Canadian, to come to North Carolina and take over as Director of the new Film Board. Beveridge had begun his apprenticeship training in motion pictures in 1940 with the National Film Board of Canada. His experience had included the direction of some forty films in India for the Shell Oil Company, compilation films in Algeria and Latin America, a film on comparative religion featuring Arnold Toynbee, and, beginning about 1960, the *Crossroads Series*, seven half-hour films sketching and analyzing the role of the Middle East in the world today. Approached by Stoney and Ehle, Beveridge came down to North Carolina, had breakfast with Governor Sanford at the executive mansion in



The Film Board shoots a scene for Land of Beginnings with actress Marjalene Thomas, who plays Eleanor Dare in Paul Green's The Lost Colony. The hidden baby represents the legendary Virginia Dare.

August, 1962, and moved to North Carolina the following month to begin work as Director of the Film Board.

Financing and Distribution

The Governor had arranged for the Richardson Foundation, set up by the company which manufactures Vick Products, to finance the administrative and operational costs of a small film organization for a three-year program. The Foundation's contribution, between \$125,000 and \$150,000 covered the costs of a minimal staff, but, of course, did not contribute to the film budget. Beveridge employed an assistant director, combination film editor and production manager, secretary, and librarian, and was in business. His assistant director is Ben Mast, graduate of the Department of Radio, Television and Motion Pictures at U.N.C. at Chapel Hill (and a former student of mine) whose subsequent experience was in the armed services and on networks in both television and films. The film editor and production manager is Mrs. Beveridge, who has served as training officer for the remainder of the staff and part-time production assistants.

Governor Sanford took a personal interest in the program. The Governor's Office, in co-operation with Federal agencies of the State government, commissioned a group of films concerned with people and subjects of interest and importance to North Carolina, set a priority list, and arranged to have the films financed in the main through departmental appropriations. The films are of the half-hour variety with one exception. That one runs an hour. The total cost for the twenty productions will reach about \$600,000 or an average of \$30,000 per film.

Distribution of the films within the State was arranged by making prints available for showing on loan from several agencies: the North Carolina Adult Film Project, controlled by the State Library and working through public libraries throughout the State; the Bureau of Audio Visual Education at the University in Chapel Hill, which lends films for nominal cost to public schools, institutions of higher learning, and local clubs and civic groups; the Audio Visual section of the State Department of Public Instruction in Raleigh; the Film Library of the State Board of Health; the State Department of Archives and History; and the Film Board itself.

The titles of the films suggest the nature and variety of subjects: *The Ayes Have It*, *Food and the Future*, *Welcome to Work*, *The Vanishing Frontier*, *Land of Beginning*, *The Search for Excellence*, *The Road to Carolina*, *Mirror of the Past*, *North Carolina's Tribute to President John F. Kennedy*, *Minority Report* (a series of four films), *The Goodliest Land*, *The Outer Banks*, and *Coastal Fishing*. Two films, in the process of editing, deal respectively with *Pre-Natal Care* and *School Consolidation*. In effect, all the films are 16 millimeter public affairs documentaries. A closer look at some of them will illustrate the variety of subject matter and the approach.

Films Completed and Available

The Ayes Have It shows the North Carolina General Assembly in action. In the words of the producers: "This candid documentary moves in for a close-up of the North Carolina Legislature in actual session. [It] examines the functions and mechanics of legislation, 'lobbying' and other pressures for law enactment. [It] goes home with the lawmaker to witness how he tests the opinion pulse of the people he represents." Following a private screening of three of the North Carolina Film Board productions in New York, Howard Thompson reviewed them in the *New York Times* of May 8, 1964. In part, his review said:

"Using an unobstrusive [sic] camera almost like an eavesdropper, Mr. Beveridge's unit has recorded a remarkably lucid and humon study of the inner and outer workings of State legislation in *The Ayes Have It*. The picture captures the deceptive placidity of the State assembly in session, shifts to tense committee and sub-committee sessions in strategic professional lobbying and then goes to home districts. The entire film, especially in the informal testimonies of State representatives, is beguilingly filled with present Carolinian drawl. The 38-minute movie [uncut] was made during the 1963 Legislative Session."

Food and the Future deals with the achievements of North Carolina farmers and food processors. The technique, as in many of the films, include direct interviews coupled with on-the-spot action to show the experiences of growers, handlers, and retailers, and to evaluate prospects for farming and the food industry in the State in the future.

Welcome to Work takes the viewer to a little town with the wonderful name of Siler City and unfolds its story of progress from an agricultural to an industrial community. Viewers are brought in on the planning and organization campaign of the Town Development Corporation. They look at and listen to leading citizens, including executives of new industries lately moved to town, discussing the Siler City plan of action. The film illustrates how one "industry hunting" campaign brought results. In effect, it is a sort of microcosm in the macrocosm of the State's industrial development. Not all of the films were produced by Beveridge and his cohorts. *Welcome to Work* was farmed out to Nicholas Read, another film producer who is an alumnus of U.N.C. at Chapel Hill.

The Vanishing Frontier, produced in co-operation with Charlotte television station WBTV was endorsed by the President's Appalachian Regional Commission, anticipated the anti-poverty program. The producers explain the film eloquently: "A panoramic view of North Carolina's mountain communities, with first-hand statements and opinions

from local citizens, old-timers, authorities on mountain life. Tracing the melancholy history, the present stresses and strains, the poverty and promise of America's most neglected, most maligned, and yet most fiercely independent people, the film presents poignant evidence of the nation's last lingering frontier, of 19th century pioneers giving way to a 20th century of change and growth." The other films run about 28 minutes each, but *The Vanishing Frontier* goes 58 minutes.

Howard Thompson found *The Vanishing Frontier* "penetrating study of problems confronting the mountain population." He adds: "As a comprehensive reflection, with statistics, of a misunderstood, anachronistic people, this picture evokes an extraordinary, pure-grained candor in interviews with natives and regional authorities. . . . The film is based on the findings of a 1962 survey of the Appalachian Chain by the Ford Foundation and Southern Council, and explores 22 counties in western North Carolina." Wilma Dykeman, author of *The Tall Woman*, a best selling book about the North Carolina mountains, said: "*The Vanishing Frontier* explores, reveals, and interprets with cool intelligence and a warm sympathy the paradoxes, problems, and promises of our mountain region. In this timely and absorbing film the country and people speak for themselves and their challenges to themselves and to all America." John L. Sweeney, executive director of President Johnson's Appalachian Regional Commission, wrote: "This film description of the cause of present Appalachian hardships and the determination of the people to overcome these conditions is the most effective presentation I have seen."

Land of Beginnings takes a North Carolina family, consisting of young parents and school age children on a trip through the coastal region of the State. There they discover and enjoy "aspects of [an] eventful past." The producer accurately notes that "their voyage in time goes from the 20th century (the outer banks, U.S.S. North Carolina, Wright Brothers Museum and Monument) back to the 16th century ("The Lost Colony," fine plantations, Revolutionary and Civil War battlefields, Tryon Palace, Orton [Plantation], Edenton, Brunswicktown, and Bath)." It is doubtful that Rod Sterling could have scripted a more effective contrast between the present and the very different world of Colonial America.

The Search for Excellence is concerned with education. It presents "the role, present and potential, of the consolidated schools set against the background of changing communities, increased mobility, mergers or shifts between city and county boundaries, and greater need for utilization of teaching resources and with consolidation of school systems between city and county areas. It was photographed in four North Carolina communities: Greenville, Winston-Salem, Charlotte, and Waynesville." A preview in early May drew applause from educators. *The Search for Excellence* was directed by Henwar Rodakiewicz, whose career as a documentary film maker goes back to *The City* (1939) and includes the 1961 film *The Dropout*, made for the National Education Association, and two CBS Twentieth Century programs, *Class of '58* and *Generation Without A Cause*, and an ABC-TV series ranging from *Psychotic conditions* to *FDR*. Rodakiewicz has Carolina roots in that as a boy he attended a private elementary school at Pinehurst. The cameraman for this film is Roger Barlow who

worked on *The City* with Rodakiewicz twenty-six years ago.

The Road to Carolina, as Howard Thompson saw it, "combines live-action photography by Grant Crabtree, also a Canadian, period illustrations and dramatic sketches by Phillip Stapp, the New York animator, to suggest the first century of North Carolina. The succession of images, effectively interspersed with views of Carolina landscapes, unfolds quickly. Ben Mast's narration is informative, and the color is first-rate. The 30-minute film was made for eighth grade students, and it began circulating in State schools in January, 1964." To add to Mr. Thompson's analysis, I would note that the film uses graphic paintings and still picture material with a moving camera. It includes "extensive documentation of historic places, paintings, artifacts, buildings still remaining in the State. . . . Brilliant art work and original film animation depict chapters of early Colonial history, such as the Culpepper Rebellion, Tuscarora Wars, migrations of Highlanders, Scots-Irish and German settlers, French and Indian Wars."

In *Mirror of the Past* the classic elegance of "18th century life" is recaptured in a film visit to the reconstructed first capitol of North Carolina, Tryon Palace. There is shown Governor Tryon and his family in their daily activities amid the business and pleasures of colonial life. There are also close-up details of fine crystal, china, paintings, *objets d'art*. The nature of the film is, of course, historical.

Another sort of history was made in *North Carolina's Tribute to John F. Kennedy*. This film document records special ceremonies held May 17, 1964, in Kenan Stadium at the University of North Carolina in which North Carolina paid tribute to the late President. Many thousands of Tar Heels attended the memorial program. Viewers are told that "their gate receipts largely achieved a \$230,000 goal embodying the contribution of the State toward the Kennedy Library, national objective of \$10,000,000." Appearing in the film are such individuals as Mrs. Joseph P. Kennedy, Senator Edward M. Kennedy, then Secretary of Commerce Luther Hodges, Governor Sanford, and evangelist Billy Graham. A copy of the color motion picture has been presented to Mrs. John F. Kennedy.

The *Minority Report* consists of a series of four films which present "the reasons behind racial protest in North Carolina and the essential aspirations of Negro youth of today." The titles are *Goodbye to Carolina*, in which students from A & T College tell why they expect to find careers outside the State; *A Knocking at the Gate*, in which students from North Carolina College at Durham reveal their philosophy of civil rights; *We Are Not Alone*, in which Bennett College girls talk over with students from Panama the feelings of minority groups; and *Vote—And the Choice Is Yours*, in which Fayetteville State College students explain why the Negro exercises or does not exercise his voting rights.

Films in Progress

The films mentioned heretofore have all been completed. Of the remaining six, three near completion and are expected to be released in June. They are titled *Pre-Natal Care*, *Coastal Fishing*, and *Why We Kill*. *Pre-Natal Care* is being produced in color by Nick Read under a

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CATV: Yes or No?

A Challenge for Our Cities

I. Background, Development, and the New FCC Ruling

Preface

Community Antenna Television has a controversial place on the agenda of local governing bodies across the land. Local television, or CATV, as it is known, has mushroomed until, in the short span of fifteen years, it has come to offer a service, a controversy, and a challenge—and sometimes all three—to literally hundreds of communities. CAT may be easy to spell, but add the V and the question arises for every municipality: Which way lies victory for the people of the community? CATV not only has their tongues; it has the ears of countless harassed public officials.

The emotional upshot of CATV has been clear. Television networks and stations have become alarmed. Many have fought the spread of cable television. Others, including at least one network, have bought into a CATV system in a sort of hedge. Telephone companies have seen the opportunity for expanding their business and become involved. Municipalities have received countless applications to establish CATV systems and have held stormy hearings. In many cases CATV applications have been approved and systems installed; in others, applications have been denied. For some time television stations had appealed to the Federal Communications Commission to assert its authority over cable television. Others were not so sure that authority existed. Until a few weeks ago, the situation was chaos. No governmental agency, other than local city government, appeared to have any effective control over CATV. And haphazard individual action assured only a willy-nilly spread of CATV systems. At that point the FCC acted.

In a recent important policy decision, the Federal agency asserted its authority and intention to regulate all Community Antenna Television systems; promulgated regulations for those CATVs using microwave radio relay lengths and promised rules for all other types of CATVs; moved to protect commercial and educational telecasting against the unimpeded inroads of CATV; revealed an intention to limit cable television to a subsidiary role; and, over-all, placed firm control on community antenna television, coupling pertinent questions with incisive comments and promising to spell out more sweeping regulations as time goes on.

General Application

When the two articles on the following pages were prepared, the FCC had not acted on CATV. That accounts for the emphasis on the absence of governmental controls. The articles still have validity and importance, however, in that they throw light upon variant courses of action which have been and are being followed by North Carolina communities in approaching the question of whether to approve CATV or not. Furthermore, the authors, both city attorneys who have had central responsibility in advising local officials on CATV applications, have provided guidelines and insights which can be of value to other North Carolina officials faced with similar problems.

It may be worth noting that the National League of Cities now has advised mayors and city managers not to make any further decision on granting franchises for CATV systems until the FCC has implemented its initial announcement with clarifying deci-

sions. The League reasons that the FCC's initial and contemplated further action may bring some co-ordination among television groups on their attitudes toward and relationship with CATV. It also, and more specifically, notes that the FCC ruling may affect the holdings in pending law suits relating to municipal liability, copyright infringement, and other questions arising out of cable television.

History and Development

What is Community Antenna Television? In essence, it is a service through which television signals are brought in, often from considerable distances, via antenna and cable. Conceived about 1950, it provided a way of bringing television to homes in areas not reached or reachable through usual television channels. The idea spread from eastern Pennsylvania to other states. Television station licensing was frozen from 1948 to 1952 as the FCC worried with problems of interference and essential hinges in station assignment. Actually, no one was worried then about this little "extra" service. But when the FCC freeze was lifted, CATV did not lose its wings; it spread them. Today, over 1,600 cable antenna television systems are in operation in the United States and 400 more systems are in the planning or development stage. It is estimated that more than 1,700,000 homes with 5,500,000 viewers are receiving their TV programs by cable television.¹ That is reported to be about three per cent of all U.S. television viewers. In addition, Canada has some 500 CATV systems. Figures on

(Continued on page 21)

1. David Lachenbruch, "He Plants His Antennas in Every Corner of the Nation," *TV Guide*, April 24-30, 1965, p. 16.

II. Legal Aspects of CATV

FAYETTEVILLE ACTS

By J. O. Talley, Jr.

Fayetteville City Attorney

Three CATV Applications

The City Council of Fayetteville has had three confrontations with the legal aspects of municipal licensing, regulation and ownership of cable television facilities. In the first, several years ago, application was made by a cable television company for a franchise. Extended hearings were held, but the Council never made any determination, and the applicant lost interest. In the second, a different company applied several years later, and after a series of hearings, was granted a franchise. This company never constructed under its franchise, and the franchise was eventually declared voided. Some years after this experience with the second applicant, other applicants came before the City Council and, following a series of

hearings, one of these applicants, a corporation composed of local citizens, was granted a franchise.

Widespread Public Interest

It has been our experience that hearings on this matter fill the city council hearing room more fully than hearings on anything else with the possible exceptions of dog-leash ordinances and some zoning matters. If a city is faced with a consideration of CATV, spirited and sustained opposition may be expected, not only between applicants for such a franchise, but opposition to all such applicants from local theater interests and TV sales and repair businesses. Nevertheless, it is becoming clear over the country that this is a legitimate business, being franchised by more and

more cities, and it is to be expected that opposition to such a franchise in the case of any given city will, in time, probably be disregarded by a city council and a franchise of some sort given.

Franchise Ordinance Considerations

Our own study of the matter has convinced us that the permission to install such a business in a given city should be in the form of a franchise ordinance. The NIMLO model ordinance form upon this matter is most useful for study by city attorneys and others concerned. Other ordinances from other cities that have progressed in this matter will also be quite useful.

Without attempting to cover all points that should be in an ordinance, conscious attention and clear decision should be made, followed by careful drafting, upon the following points:

1) The term of the franchise. This should not be too long. Fifteen years appears to be the average fair length, taking into account the necessity for the business to grow and pay its indebtedness and have expectations of reasonable return, without tying the

To consider the legal aspects of community antenna cable television means to take a look at CATV operations from a legal standpoint but not necessarily to supply answers. At the outset, it must be recognized that CATV is comparatively new and there are no decisions in North Carolina and few in other courts in the United States to establish guide lines by which to gauge the future. There are some aspects of cablevision which have been decided by the courts or which have been generally accepted. One of these is the power to regulate.

Regulation

The Federal Power Commission has no jurisdiction over CATV.

In *Wentronix, Incorporated, vs. Federal Communications Commission* 331 Fed (2nd) 782, the court said:

"While a community antenna operation is not subject to the jurisdiction of the commission, its use of microwave must be li-

censed by it."

There are bills in Congress to confer jurisdiction upon the commission but these bills have so far failed of passage. (There are two strong lobbies in Washington which are advocating and opposing this legislation. One composed of an association of broadcasters named Television Accessory Manufacturers Association (TAME for short) advocates FCC regulation and another named National Community Television Association (NCTA) opposes FCC regulation.) It may be that ultimately the FCC will have control of CATV but, as of this writing, it has none.

The State Utilities Commission has not undertaken to regulate CATV as an independent operation under the powers conferred upon it by Chapter

62 of the General Statutes and it has none unless the power is conferred by subsection 23 of Section 3 which, among other definitions, defines a public utility as one "conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission where such service is offered to the public for compensation."

The utilities commissions of other states have generally taken the same view, and so I think it may be assumed at the present juncture that state utility regulatory bodies have no jurisdiction over CATV. This leaves the sole regulation, if that is desirable, with the municipality over whose streets the operation is conducted.

G.S. 160-222 provides in part as

RALEIGH WAITS

By Paul F. Smith

Raleigh City Attorney

city to a long future it cannot predict.

2) Clear delineation of the scope of the franchise with, for example, permission or prohibition of any local program origination or anything that is generally described under the amorphous term of "Pay TV."

3) If the city owns and maintains any utility poles in its public streets, the franchise ordinance should be tied

to a requirement that a carefully prepared and comprehensive pole use agreement be entered into as a separate but related document with the city.

4) Typical provisions for care in the construction, repair, and reconstruction of facilities and cuts in the street and erection of poles and the like, with the usual safety features.

5) Deliberate and careful control

by the city council of maximum installation charges and service charges to individually connected residences and buildings.

6) The minimum number of channels of good quality that will be made available.

7) Provisions for the lapse of the franchise if construction is not undertaken, faithfully prosecuted, and completed within a reasonable time. In

follows:

"Power to make, improve and control. The governing body of the City shall have power to control, grade, macadamize, cleanse and pave and repair the streets and sidewalks of the City and make such improvements thereon as it may deem best for the public good, . . . and regulate, control, license, prohibit and prevent . . . placing therein of pipes, poles, wires, fixtures and appliances of every kind, whether on, above or below the surface thereof, etc. . . ."

This section not only confers the right to license but also the right to regulate. This would include, I think, the right to set reasonable conditions on which the license is given including the right to fix charges.

It is my conclusion, therefore, that municipalities may, under this section of the Statute, permit the use of the streets for erecting poles and stringing wires and cables either above or below the ground surface even to a private business if it appears to be in the public interest and if it does not unreasonably interfere with the public use of the streets. We should have the answer to this in a case now pending in the Superior Court of Wake County entitled, "Angell vs. City of Raleigh," which now stands for trial on its merits at an early date.

Contentions of the Parties in the Angell Case

About nine months ago, a group of businessmen approached the City Council about a license to conduct a CATV system over the streets of Raleigh. This group, composed entirely of local businessmen of substantial means and without outside backing so far as is known, is now incorporated as Southeastern Cablevision

Company. The group presented an ordinance which it had prepared granting a license but there was immediate opposition from other local groups. The opponents were the moving picture operators, the television owners within the immediate area (except the educational station of the University of North Carolina), and the local merchants who sell and service radio and television sets and antennas.

After several public hearings the heat of the controversy subsided somewhat and a general ordinance was adopted which authorized on a non-exclusive basis the installation and operation of CATV in Raleigh upon the conditions contained therein. These conditions were principally that the location of poles should be approved in advance; that the rates of charge to customers should not exceed a maximum amount for connections and rentals; that contracts with utilities companies for the use of their poles should not be exclusive; that only broadcasts received from stations licensed by the FCC should be carried, except for weather and time signals, and that these programs should be carried in their entirety; that there could be no pay TV nor commercial advertising except that carried on regular programs; that there should be a minimum number of stations carried at all times without degradation; that the operation would be subject to such taxes for the use of the streets, the privilege of doing business and ad valorem taxation as might be from time to time determined by the City Council; that the operators should at all times abide by the ordinances of the City of Raleigh as they might from time to time be changed; that the operation would be subject to electrical inspections; that there should be adequate insurance for the public protection and a bond

to guarantee that the operation would be installed and conducted within a period of fifteen months from the granting of the privilege; that neither the grantee nor its employees could sell or service radio or television sets or parts, and that the license could not be assigned without the consent of the City except as security for a loan. A license would run for fifteen years.

The moving picture opponents seemed to be satisfied with the ordinance and the television broadcasting opponents bought into the Southeastern Cablevision Company and, therefore, withdrew their opposition. The television and radio merchants, however, were not satisfied and after making an unsuccessful effort to procure a petition requiring a referendum, brought suit against the City alleging that the ordinance was invalid; that suit is now pending.

The Southeastern Cablevision Company was allowed to become a co-defendant. On March 10, final preliminary motions were disposed of and as stated above, the case now stands for trial on its merits.

G.S. 160-2 (6) authorizes a municipality:

"To grant upon reasonable terms franchises for public utilities, such grants not to exceed a period of sixty years, unless renewed at the end of the period granted . . ."

The Charter of the City of Raleigh does not restrict the issuance of franchises to public utilities, but it does provide that no franchises shall be granted except upon the approval of the voters of the City at an election.

Angell with others, plaintiffs in the suit, contend that the ordinance adopted by the City of Raleigh constitutes the grant of a franchise and that it is invalid because no election has been held in conformity with the

our own ordinance we required substantial beginning of service within fifteen months.

8) Typical provisions for the removal of equipment and facilities upon loss or lapse of the franchise.

9) Typical provisions as to indemnity with additional security of prescribed insurance policies.

10) To the revenue that would be expected by the city from ad valorem taxation of the value of the facilities

installed, and revenue from the pole rental agreement, if any, a very important point of the business paying to the city a percentage of its annual gross receipts should be considered. Some city councils, particularly where local businessmen are concerned, have deliberately not provided for this revenue. However, the evidence over the country is that it is quite equitable to demand and provide for such a percentage. Perhaps the caution here

should be for the city to go slowly and to investigate experiences of other cities thoroughly and to provide for the highest attainable amount of such revenue.

Many other points will and ought to engage the attention of city officials in what will be, for any city, a long and intensive consideration of a complex matter. In this, as in all such matters, the city attorney will bear a heavy share of the work. □

city charter.

The defendants contend that the grant is a license rather than a franchise and is authorized by G.S. 160-222, quoted above.

Plaintiffs contend that even if the ordinance does not authorize the grant of a franchise, the City has no right to permit the use of the streets for a purely private purpose for a fixed period of time and rely upon a line of cases including *Royster Guana Company vs. Lumber Company*, 168 N.C. 337, (1915), where it was said:

"The town authorities hold the streets in trust for the purpose of public traffic, and cannot, *in the absence of statutory power*, grant to anyone the right to obstruct the street, to the inconvenience of the public, even for public purposes and for private purposes not at all . . . for the entire street from side to side and from end to end belongs to the public.

Any permanent obstruction of a permanent highway, such as would be caused by the erection of a fence or building thereon, is of itself a nuisance, though it should not operate as an actual obstruction to travel, or work a positive inconvenience to anyone. It is an encroachment upon a public right, and as such is not to be permitted by law to be done with impunity."

The defendants say the G.S. 160-222 confers the necessary statutory power.

Plaintiffs contend that to grant a license under the ordinance would be a violation of Article 1, Section 7 of the State Constitution which provides:

"No persons or set of persons are entitled to exclusive or separate emoluments or privileges from

the community but in consideration of public service."

Defendants contend that the privilege is available to all persons who can meet the conditions of the ordinance without discrimination even though all persons may not be financially able to avail themselves of it and that there is no discrimination.

I will not undertake to predict the outcome of this action. However, I do find that the general distinction between a franchise and a license is stated in 23 Am. Jur. 716 as follows:

"While the courts have found it difficult to draw an exact line of demarcation between a franchise and a license, their general character and nature are well defined. A license has been generally defined as a mere personal privilege to do acts upon the land of the licensor, of a temporary character, and revocable at the will of the latter unless, according to some authorities, in the meantime expenditures contemplated by the licensor when the license was given have been made. A franchise, however, is neither personal nor temporary, and it is not revocable at the mere will of the grantor in the absence of a reservation of such right."

In *Cab Company vs. Charlotte*, 234 N.C. 572, the court discussed "franchise" as follows:

"It is well to examine the meaning and scope of the word 'franchise' as used in the Statute. Here it denotes a right or privilege conferred by law—a special privilege conferred by government on an individual, natural or corporate, which is not enjoyed by its citizens generally, of common right. 37 C.J.S., *Franchises*, Section 1; 23 Am. Jur., *Franchises*, Section 2; *Ballentine, Law Dictionary*, Page 525. Ordinarily the

grant of a franchise when accepted and acted on creates a contract which is binding on the grantor and the grantee. 37 C.J.S., *Franchises*, Section 8. Hence, the grant of a franchise contemplates, and usually embraces, express conditions and stipulations as to standards or service, and so forth, which the grantee or holder of the franchise must perform. 37 C.J.S., *Franchises*, Section 20, Page 165."

Before leaving this case, attention might be called to that part of the provision of G.S. 160-2 which provides only for the granting of franchises to public utilities. CATV under the present definition of utilities is not included unless it falls in the category of telephone and telegraph and other forms of communication.

Telephone Entry into Field

On March 8, the North Carolina Utilities Commission approved a tariff submitted by Southern Bell Telephone and Telegraph Company fixing rates of charge to be made for the use of coaxial cable which it would install on its telephone poles for those persons who wish to distribute radio and television signals on a rental basis.

In substance, the telephone company proposes to string its own cable and not only charge a rental for its use but require the user to guarantee the payment of the cost of the installation if the use is not conducted for a period of ten years and the rental charge paid for that period. It does not propose to have any contractual obligation with the customer. It will simply be the medium through which the CATV operator will convey the signal to the customer who will contract directly with the CATV operator.

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THE JUVENILE COURT'S ROLE IN *SCHOOL ATTENDANCE*

By Mason P. Thomas, Jr.

Assistant Director, Institute of Government

Editor's Note: The author formerly was Judge of the Wake County Domestic Relations and Juvenile Court.

North Carolina has had a compulsory school attendance law for some fifty years. A few counties and cities have had attendance or truant officers to work with school attendance problems; however, in many areas the attendance law has not been enforced due to lack of personnel.

Recently, there has been a growing interest in school attendance problems in North Carolina. The General Assembly re-wrote the school attendance law in 1963. The truant officer of the past is now called a school attendance counselor. This change of name reflects a change of philosophy concerning enforcement. State funds were appropriated in 1963 for employment of school attendance counselors across the State.

A school attendance counselor may need to resort to court action if counseling with parents and children fails. Counselors are sometimes upset by their experiences with attendance cases in juvenile court. They expect the Court to solve these problems—"to do something." They may expect punitive action, such as a fine or a jail sentence.

Juvenile court judges also feel frustrated with school attendance cases. Such cases tend to present complicated social problems. The judge may feel that the school attendance counselor should have done more counseling with the child or his family before bringing the case into court.

Thus school personnel and judges tend to see school attendance cases from different points of view. They share a common goal—to secure regular school attendance of eligible children. Better communication between

the schools and juvenile courts is necessary.

Philosophy of Juvenile Court

Courts are generally regarded as places of punishment. The traditional criminal court philosophy has been that the "punishment should fit the crime." Criminal courts have historically been concerned with retribution and deterrence of others from unlawful behavior. Sometimes, punishment for the offense seems more important than rehabilitation of the offender in our adult criminal courts.

Social reformers reacted against the application of criminal court philosophy and procedures to child offenders. The juvenile court was established in North Carolina in 1919 to treat and protect delinquent and neglected children under sixteen years of age. Juvenile courts are given specific jurisdiction over children who are truant from school.

The juvenile court philosophy was a rather drastic change from traditional criminal court philosophy. In children's cases, the focus changed from punishment for the offense to study and treatment of the delinquent child according to his needs. The juvenile court was given a protective role. It is required by law to offer treatment and rehabilitation services to delinquent, neglected or dependent children.

Sound juvenile court philosophy has a solid foundation in North Carolina statute law (G.S. 110-21 through 110-24) and in judicial interpretations of these laws. The juvenile court has a constant duty to give each child "such oversight and control in the premises as will conduce to the welfare of such child and to the best interest of the State." The public may be excluded from juvenile court hear-

ings. Children's cases may not be heard at the same time as adult criminal cases. Juvenile court records are confidential. If a child is found to be delinquent, he has not been convicted of a criminal offense. A child under the jurisdiction of the juvenile court is a ward of the State and "is subject to the discipline and entitled to the protection which the court should give such child under the circumstances disclosed in the case."

The constitutionality of our juvenile court was immediately tested in the case of *State vs. Burnett*, 179 N.C. 735 (1920). The State Supreme Court established that the purpose of the juvenile court system is to save a child from the stigma of being tried as an adult offender.

Court Practices in School Attendance Cases

Enforcement of the compulsory school attendance law is not exclusively the function of the juvenile court. School attendance counselors have a choice of several courts. This choice should be based on the needs of the particular case.

One possibility is to petition the juvenile court that a child under the age of sixteen is delinquent or truant and in need of the services of the court. If the child is found to be within the jurisdiction of the juvenile court, the court may develop a treatment plan according to the needs of the child.

Another choice may be for the school attendance counselors to sign a criminal warrant against parents who fail to require their child to attend school. Such a warrant takes the case to a justice of the peace, a recorder's court or the domestic relations court, depending upon the court resources of the county in which the

case arises. The case then becomes a criminal matter with the usual adversary procedures.

An examination of this choice of courts may help attendance counselors make the best choice. This decision depends upon a number of variables, including the court resources of the particular community, the relationship between the judges and the school attendance counselors, and the philosophy of the school attendance personnel and the local courts.

The school attendance counselor might first ask about the reasons for truancy in a particular case. Is it poverty? Is it the attitude of the parents? Are there relationship problems between the parents and the child involved? Does the child have sufficient intelligence to compete in the school setting?

Some parents don't feel that school attendance is very important. They may keep their children out of school to do housework, babysitting or a variety of other jobs. The school attendance counselor should work with such parents on a counseling basis to help them understand their responsibility for school attendance of their children. If this counseling is not effective, a criminal warrant against such parents may be appropriate. If a criminal warrant is used and a conviction obtained, a fine or a jail sentence is possible.

If poverty is involved, a fine is not appropriate. If the children need more adequate clothing in order to feel accepted at school, help is needed from community resources. If the child is a behavior problem, then the parents may be doing the best they can. Both the parents and the child may need the casework help available through the resources of the juvenile court or other community agencies. If such social problems are involved, a juvenile court petition seems preferable so that the court and its staff can take a look at the social aspects of the case.

What Does the Juvenile Court Have a Right to Expect From the School Attendance Counselor?

Generally, the juvenile court judge has the right to expect that the school attendance counselor has worked with the child and his parents before tak-

ing court action. He should visit the home and interview the parents concerning their responsibility under North Carolina law. Perhaps the school attendance counselor could offer the parents a choice—the parents themselves can be responsible for the child's school attendance or court action will be taken by the attendance counselor.

If social problems are involved, the school attendance counselor should make an effort to help the child and his family solve these problems. He might help the parents to use community resources, such as the local welfare department, for financial assistance or clothing. He might help the parents evaluate the child's mental ability to compete in the school setting through referral for a psychological examination. The school attendance counselor might work with parent-child relationship problems. If such relationship problems are beyond his professional capacity, the counselor could make a referral to local mental health resources for evaluation or treatment. If a parent is unemployed, the school attendance counselor might refer him to the Employment Security Commission for job training or placement.

Preparation for the Juvenile Court Hearing

If the school attendance counselor decides to bring a case into court, thought should be given to preparation for the court hearing. The counselor should go to the juvenile court and sign the petition, which gives the court staff the right to make a social study of the situation. Both the school attendance counselor and the principal of the school should plan to attend the court hearing. They should come prepared to give facts from their own knowledge concerning the child's school attendance, his adjustment in school, and their efforts to work with the child and his parents.

Role of the School Attendance Counselor After a Court Hearing

After the hearing, the school attendance counselor should follow the progress of the child under the plan worked out in the juvenile court. If this plan is not successful, it seems important for the counselor to get

the case back into court. At the second hearing, he should be present to give the court facts about developments in the case.

Alternatives of the Juvenile Court

When a child is brought into juvenile court for truancy, the judge has several possible alternatives. In some cases, the initial court experience is enough for the parents to be able to take more responsibility for their child's school attendance. In such cases, the court may decide to leave the basic responsibility for school attendance with the parents, while the court retains jurisdiction over the child if they are not able to secure regular attendance.

Some truant children are placed on probation under the supervision of the juvenile court probation staff. This implies court supervision of the child while he continues to live in his own home. One typical requirement of probation is that a child attend school regularly.

In some cases, truancy is related to neglect of parents or lack of effective parental supervision. The juvenile court may feel that placement of a child away from his own home is in his best interests. Sometimes relatives offer possible placement resources for such children. In other cases, the court must depend on the foster-homes under the supervision of the local welfare department.

Most juvenile court judges are reluctant to commit a child to training school for truancy alone. It seems much wiser to make an effort to work with the child and his family in the community, using all available resources. In a few cases, commitment to one of the state training schools may be the best choice. This should be considered as a last resort after other efforts to work with the child in his own home have failed.

There are no simple answers to the problems presented by school attendance cases. The position of school attendance counselor requires as much intelligence, imagination, and sensitivity as any person can bring to the job. The counselor must like people. He must maintain a professional relationship with them at the same time that he carries a role of authority. This balance is difficult to achieve.

SOMETHING NEW FOR NORTH CAROLINA:

the Department of Mental Health

By Dr. William E. Thomas

Editor's Note: Dr. Thomas is Chief Psychiatrist with the Department of Mental Health. This article is adapted from his address to the 1965 Conference of County Accountants at the Institute of Government in March.

In July 1963 the North Carolina Department of Mental Health was established by the General Assembly, bringing together under a single department various functions formerly carried out by the Hospitals Board of Control, the Department of Public Health, and the Department of Public Welfare. A better coordination of mental health activities was among the major goals of the legislation.

Under Dr. Eugene Hargrove, Commissioner of Mental Health, three divisions were established along functional lines, each headed by a Deputy Commissioner: the Division of Mental Retardation (Dr. Sam Cornwell, Director), the Division of Mental Hospitals (the director of which is as yet unnamed), and the Division of Community Mental Health Services (Dr. Charles R. Vernon, Director). There is also, of course, that all-important division without which *nothing* gets done—the Division of Business Administration, under Mr. Roy Purser and Pat Webb.

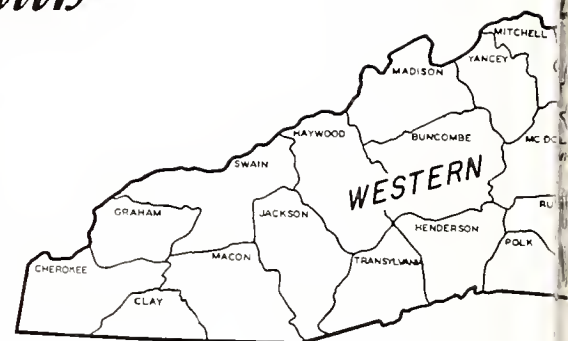
Among the special programs that operate under the Department of Mental Health are: the Alcoholic Rehabilitation Center, Wright School for emotionally disturbed children, the Mental Retardation Institute at Butner, the Mental Health Clinic at Central Prison, the Mental Health Education Section, and the Statistics and Research Sections. For the past year, the Department of Mental Health has been working very closely with the Planning Staff of the Governor's Mental Health Council. This latter group has been doing a monumental job of assessing the mental health needs of the state and organizing the job of planning being done all over the state to meet these needs.

Out of the planning efforts being carried on at the county, state, and

national levels, the broad outlines of a plan for the provision of adequate mental health services for North Carolina are now beginning to emerge. Let us consider the picture that seems to be gradually taking form on the horizon, beginning at the level of the state programs. There is no plan to increase the size or capacity of the four state mental hospitals significantly. It does appear that there will be very significant changes in their functioning, however. It is likely that these facilities will soon be regionalized, with Cherry Hospital serving the eastern region, Umstead the north central region, Dix the south central region, and Broughton the western region. The four centers for retarded (Caswell, O'Berry, Murdoch, and Western Carolina) will be similarly regionalized. These state facilities will then serve as major regional centers for their areas, providing extended treatment and special services to patients that cannot be provided through local facilities.

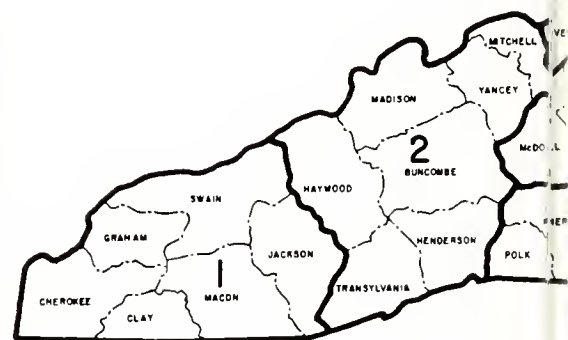
Many patients who have been admitted to the state hospitals, however, plus many more patients with emotional problems who needed hospitalization but didn't get it, will be admitted to local, community hospitals or other inpatient facilities near their homes. Here they will get quick, effective treatment, and in most cases, be ready to go home within a few days. This is now quite feasible with new treatment methods, and has been demonstrated repeatedly to be a workable and effective plan. It avoids extended separations from family, friends, and communities, and takes maximum advantage of the human capacity to "bounce back" from emotional upsets, given quick help from professional mental health workers, plus the advantages of family and community.

These local, inpatient units for psychiatric patients will not be alone, however. They will be but one part of a local network of mental health services called a "comprehensive com-



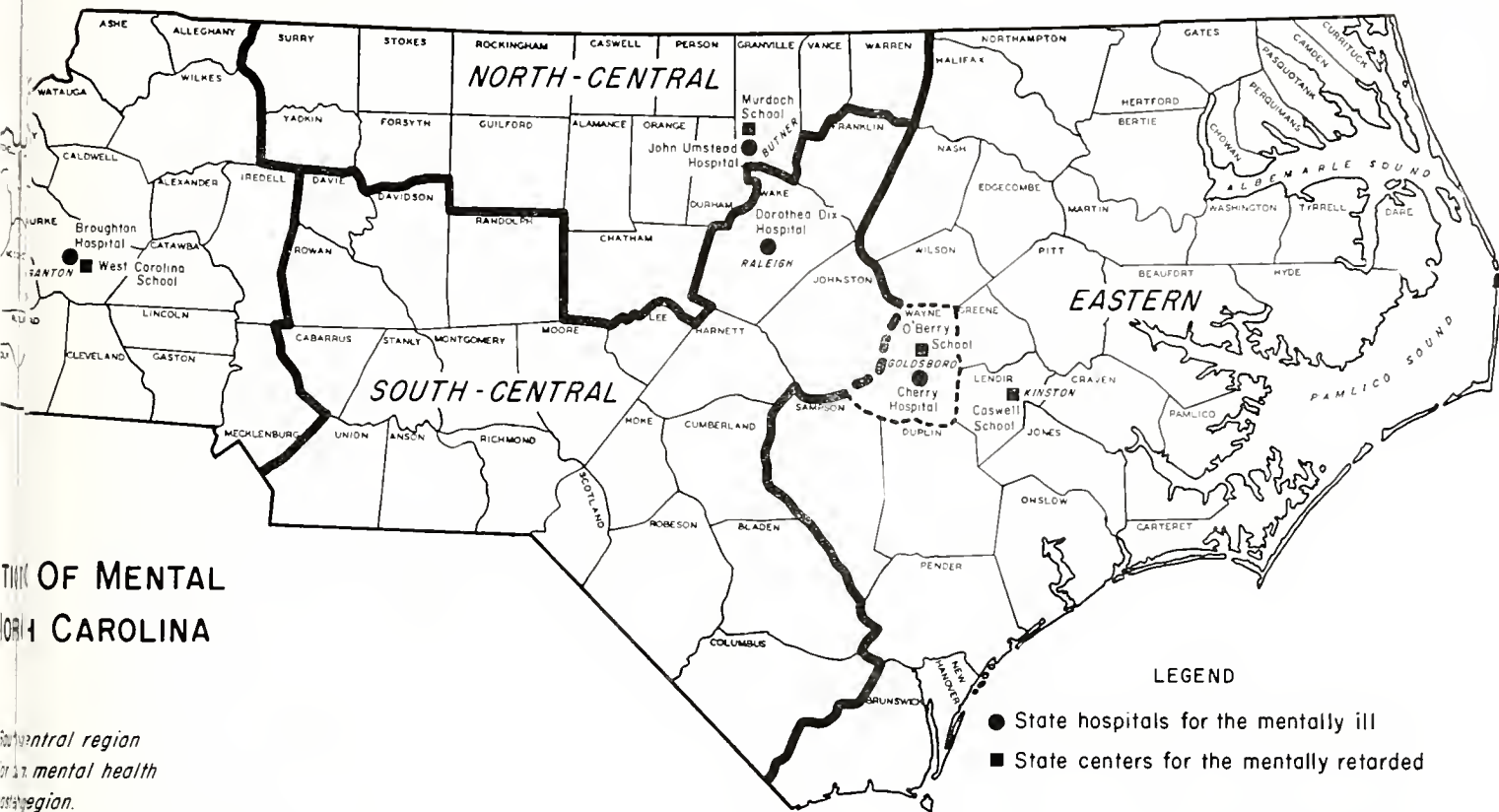
PROPOSED REGIONALIZATION HEALTH FACILITIES IN NORTH CAROLINA

Note: Wayne County is considered in the Southern region for mental retardation purposes. For other purposes, it is considered in the Eastern region.



PROPOSED INTO A COMPREHENSIVE MENTAL

munity mental health center." Twenty-seven of these will be developed across the state, each serving a population of 75,000 to 200,000. Includ-



ed in the network of services will be outpatient treatment, emergency services, partial (day/night) hospitalization, and community services

(consultation and mental health education). These various services will not necessarily be located under the same roof—in most cases they probably

will not, in fact—but all will be closely linked together, with free exchange of patients, staff, and records
(Continued on page 20)

AN INTRODUCTION TO

Law for the Non-Lawyer

By Roddey M. Ligon, Jr.

Forsyth County Attorney

Editor's Note: This article has been adapted from the first chapter of Mr. Ligon's book, North Carolina Hospital Law, published by the Institute of Government in cooperation with the North Carolina Hospital Association. Ligon is a former Assistant Director at the Institute.

Law has been defined by Blackstone as a "rule of civil conduct prescribed by the supreme power of the state commanding what is right, and prohibiting what is wrong." *Black's Law Dictionary* states "that which must be obeyed and followed by citizens, subject to sanctions or legal consequences, is a law."

Sources of Law

Common Law

One of our principal sources of law is the so-called "common law." As distinguished from law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs.¹ The common law developed in England and was brought to this country with the settlers. In 1776, this country declared its independence from the British crown and the American law emanates from that date. In achieving independence, we did not, however, deny the Law of England. That great body of English law, based upon customs and precedence, which existed prior to 1776 is even today considered to be an integral part of our system of law. So much of the common law as is not destructive of, repugnant to, or inconsistent with our form of government, and which has not been repealed or abrogated by statute or become obsolete, is in full force and effect in North Carolina today.²

Stare decisis applies in our system of jurisprudence. This doctrine means "to abide by, or adhere to, decided cases."³ Under this doctrine a deliberate or solemn decision of a court made after argument on a question of law fairly arising in the case, and necessary to its determination, is an authority, or binding precedent in the same court, or in other courts of equal or lower rank in subsequent cases where the very point is again in controversy. This does not mean that the court is not free to overrule a prior decision. While a prior ruling should ordinarily be strictly

adhered to, there are occasions when departure is rendered necessary to vindicate plain, obvious principles of law and remedy continued injustice. Nevertheless, when an appellate court has decided a question of law in a given fact situation, the overwhelming probabilities are that the court will again reach the same conclusion when the same fact situation is again before the same court or a lower court in the same state. Therefore, in trying to answer a question of law it is necessary for us to look at what the court has determined in prior decisions as the probabilities are that the court would reach the same conclusions if the same question were again raised. In this way we can use decisions of the North Carolina Supreme Court as rules of law inasmuch as, under the doctrine of *stare decisis*, the court would probably reach the same conclusion in the future. Also, where the court has not passed upon a specific question being explored, we can take decisions which the court has rendered and reason by analogy in an effort to determine what decision the court will probably reach in answer to the question being explored.

Federal Sources

The federal sources of law include the United States Constitution, statutes enacted by Congress, rules and regulations adopted by federal administrative agencies which carry the force and effect of law, treaties negotiated by the executive branch of the federal government and approved by the Senate, and decisions of the federal courts. The federal government in some areas is supreme. For example, the federal government has exclusive jurisdiction over the coining of money or the regulation of interstate commerce. In the past few years there has been a tremendous increase in the power of the federal government and this has been achieved primarily by a liberal interpretation of certain provisions of the federal constitution (as the interstate commerce clause, for example).

State and Local Sources

The sources of state and local law include the North Carolina Constitution, the statutes enacted by the North Carolina General Assembly, rules and regulations adopted by state administrative agencies which carry the force and effect of law, ordinances or rules and regulations adopted by political subdivisions of the state carrying the force and effect of law (such as city ordinances, rules and regulations adopted by county boards of health, etc.) and decisions of the various state courts. The regulations adopted by state and local administrative agencies, and the ordinances adopted by political subdivisions of the state, must be supported by a delegation of authority from the Gen-

1. *Black's Law Dictionary*, 4th ed., p. 345.

2. N. C. Gen. Stat. §4-1.

3. *Black's Law Dictionary*, 4th ed., p. 1577.

eral Assembly in order to be valid.

It should be remembered that the federal government is a government of delegated powers. That is, the federal government has only such power as has been delegated to it in the United States Constitution. The tenth amendment of the United States Constitution states: "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people." In other words, in all issues or matters which are not federal in nature, it is the prerogative of the individual sovereign state to regulate and control. The states thus retain the so-called "police power." This power has nothing to do with law enforcement as the word "police" would indicate; it means that the states retain the power to regulate in the interest of public health, public safety, public morals, and general welfare. Thus, the State of North Carolina may prohibit one from practicing medicine without a license by virtue of its police power, the power to regulate for the protection of the public health.

Major Divisions of the Law

The two major divisions of the law are criminal law and civil law. Criminal cases are those brought by the state against a citizen. The purpose of the criminal case is not to give redress to an injured citizen but to determine whether one accused of anti-social action is guilty as charged, and to provide appropriate punishment if the accused person is found guilty of such conduct. Criminal cases are further broken down as felonies and misdemeanors, with felonies being the more serious and misdemeanors the less serious crimes.

Civil cases are cases brought by one citizen against another citizen in which the first citizen seeks to recover damages (or obtain other relief) from the second citizen because of some act or failure to act on behalf of the second citizen. There is less social interest in the civil case than in the criminal case. In the civil case society merely provides the court system as a forum for use by the injured citizen to seek redress for his wrong. The purpose is to provide a means by which an injured citizen can get redress for an injury done him. The civil suit may involve a suit for damages for breach of contract, a tort action for damages, or a special proceeding (such as bankruptcy or the probate of a will). There are several types of tort actions. For example, a suit for damages for malpractice or negligence, false imprisonment, assault and battery, invasion of right of privacy, libel and slander, etc., are all tort actions.

Criminal Proceedings

The criminal proceeding begins with an arrest. In all cases, the arresting law enforcement officer must obtain a warrant, either before the arrest is made or "as soon as may be" thereafter. This is a check by a judicial officer on the judgment of a law enforcement officer. The purpose of the arrest warrant requirement is to obtain a judicial determination of whether there is "probable cause" to inconvenience the citizen subject to answer a charge of crime. Only the story of the law enforcement officer is available. At this stage, the law does and must operate primarily on suspicion.

The arrested subject must be brought before a magistrate for a preliminary hearing "as soon as may be" after arrest. At that time, the subject may request a delay in the hearing for him to engage and consult with counsel. At

the preliminary hearing, the same determination of "probable cause" is made as when the arrest warrant is issued, but after the citizen as well as the arresting officer has had an opportunity to tell his side of the story.

In certain minor cases (misdemeanors), the preliminary hearing may be the actual trial, in which cases the warrant of arrest serves three purposes: (1) authority for the officer to make the arrest; (2) as the document on which trial is based in substitution for an indictment; and, (3) as a record of the trial which the accused is entitled to have kept to prevent double jeopardy.

In all felony cases and in some misdemeanor cases the next step is the drawing of an indictment by the solicitor. This is the formalization of the decision to prosecute. The solicitor has complete freedom of choice in this area. He need make explanations to no one, and there are only two possible checks on his power, neither of which is necessarily effective. One is the fact that he must be elected in this State. The other is that the Governor may appoint a special prosecutor to fill his office in certain rare instances, which are usually so extreme that the solicitor himself is indicted. (This is not to be confused with the fact that special prosecutors can be appointed to assist solicitors in some cases.)

After the solicitor has drawn the indictment, the grand jury must pass on it. The grand jury is a body of 18 citizens which can act on a vote of 12 (G.S. 9-25 makes many local modifications to the general grand jury law). They meet in closed session with neither the accused nor the State having the right to be present before them. They hear the witnesses noted on the indictment, and decide the same issue decided twice before, whether there is "probable cause" to hold the citizen to answer to the charge of crime. If they so find, they declare the bill of indictment submitted to them by the solicitor to be a "true bill." If not, they make a finding of "no true bill." This is theoretically a check by an independent body of citizens on the previous judgments of law enforcement and judicial officers as to probable cause (at the warrant and preliminary hearing stages).

The grand jury may also bring out a "presentment" against some citizen not accused before them, based on their own knowledge and investigations. This takes the place of the determinations of probable cause at the warrant and preliminary hearing stages, and goes directly to the solicitor for the drawing of a bill of indictment. If he chooses to draw one, it is resubmitted either to the same grand jury or to a subsequent one, and is thereafter treated just as any other bill of indictment.

The finding of a true bill of indictment is followed by arraignment. This is calling the defendant before the judge to have the bill of indictment read to him and to determine how he will answer that indictment. In general, jeopardy, for the purposes of double jeopardy, attaches at this point.

Trial, following arraignment, is the stage at which the jury determines what the facts were, the judge determines what law should apply, and the jury then applies the law to the facts as found. The State must prove its case against the defendant by "proof beyond a reasonable doubt." The trial jury consists of 12 persons who must act unanimously.

Sentencing by the judge occurs next. Here the judge may have discretion or he may not. Where he does have discretion he may hear additional evidence to guide him, such as the testimony of probation officers.

These steps may be followed by an appeal. From inferior courts in North Carolina, the appeal is first made to the Superior Court, where a completely new trial is held. Further appeals, if taken, lie to the North Carolina Supreme Court. In certain types of cases, an appeal may be had to the United States Supreme Court.

The steps outlined above constitute generally "due process of law" in a criminal case.

Civil Proceedings

The procedural safeguards discussed above which must be met prior to trial in criminal cases do not exist in civil cases. Any citizen can sue any other citizen. The question in whether he can recover—whether the second citizen will be held liable in damages. The only protection which we have is that a civil suit is expensive for the one who brings it, and that there is available an action for malicious abuse of process against one who brings purely harassing suits against a fellow citizen.

The pleadings begin a civil action. These are the legal papers which must be filed. First comes the complaint. This is a formal statement by the citizen who believes himself injured stating what the injury was and how much money will make him whole again. The defendant may demur to the complaint. This is, in effect, a statement that, even admitting for the purpose of argument (and for that purpose only) that everything the plaintiff says is true, he still has no case against the defendant and should be thrown out of court as a matter of law. If the judge agrees and the demurrer is upheld, the complaint is defective and the plaintiff may not proceed with the complaint unless he appeals and has the ruling sustaining the demurrer overturned. If the judge does not agree, the demurrer is overruled and the defendant must answer.

An answer by a defendant is a statement of his version of what the facts are. Since the ruling of the demurrer has established that the plaintiff has a case if he can prove what he has alleged, the defendant in his answer must deny some or all of the allegations of the plaintiff, or else allege new facts which explain away the claims of the plaintiff. In this manner, the pleadings narrow the issues to those which will be contested at trial.

Trial of a civil action is quite similar to trial of a criminal action. Certain differences in procedure are pointed out below under the heading "Order of Events at Trial." The roles of the judge and jury are the same. The principal difference is in the burden of proof. In a civil case, the plaintiff need only show that he is entitled to judgment "by a preponderance of the evidence" as opposed to the "proof beyond a reasonable doubt" rule used in a criminal case.

The successful party to a civil case is given a legal document known as a judgment as proof of his victory. Usually the judgment states that one party owes the other a definite sum of money. Execution of the judgment is the process of turning it into cash by legal action. The sheriff is given the judgment and is required to seize sufficient assets of the defendant to satisfy the judgment when sold. Any balance is turned over to the defendant. Of course, the defendant may voluntarily pay the judgment without such action. If the defendant does not have assets with which to satisfy the judgment, the docketed judgment remains a lien against realty acquired for a period of ten years.

Order of Events at Trial

Criminal Cases

1. Impaneling the jury. A list is made each year by county officials of persons qualified for jury duty in the county. From this group, a number of names are chosen at random to attend each term of superior court as potential jurors. In open court, these names are placed in a hat and drawn out one at a time by a young child "below the age of reason." As each juror is called, he is examined by the solicitor and by the attorney for the defendant as to his qualifications to sit in the case. Each juror is subject to challenge either for cause or peremptorily.

a. Challenge for cause is based on the premise that the individual could not sit objectively in the case. It may be that he is a friend or relative or, on the other hand, an enemy of the defendant. Or in a capital case, he may state that he does not believe in capital punishment. He may also have already formed an opinion of the guilt or innocence of the defendant which he does not believe he can purge from his mind. Each side has an unlimited opportunity to challenge for cause.

b. Peremptory challenges are those for which the challenger need give no reason. A decision to challenge on this basis is made by a lawyer, with the aid of his client, on the basis of what psychology he has learned in the course of his practice in an attempt to obtain a jury which he believes will look on the evidence which he will offer most sympathetically. In criminal cases, the number of peremptory challenges allowed depends on the type of case. In capital cases, the State is allowed six and the defendant fourteen. In noncapital cases, the State is allowed four and the defendant six.

2. Presentation of the case for the State. A case, in any action at law, is built by the presentation of evidence which may be classified as follows:

a. Oral testimony. This comprises the bulk of the evidence in most cases. It begins with direct examination of each witness by the attorney for the side calling the witness. This is followed by cross-examination by the opposing attorney. Redirect and recross-examination may also occur. Still further examination may occur, but seldom does because of rules limiting the scope of inquiry at each step. Cross-examination is limited, in general, to material brought out on direct; redirect to that touched on in cross; and recross to that discussed in redirect.

b. Physical evidence. This is material which speaks for itself. An example might be the floor mat (introduced in a murder case) which came from the trunk of the defendant's automobile and which is stained with blood of the victim's type.

c. Documentary evidence. This might be, for example, a written statement of a defendant in a criminal case, a contract in a suit for breach of contract, or a medical record in a malpractice action.

d. Direct evidence. This is defined in various ways by different writers but usually refers to evidence which, if believed by the jury, will itself be sufficient to sustain a conviction. An example is an eyewitness testimony that the defendant did commit the crime with which he is charged.

e. Circumstantial evidence. This is evidence which does not, in itself, prove the point for which it is introduced, but from which that point may be inferred by one or a series of inferences. For example, proving that the murder

weapon belonged to the defendant would allow an inference, nothing else appearing, that the defendant used it to commit the murder, but would not be direct proof of that point. Circumstantial evidence is admissible in both civil and criminal actions and will support a conviction for any offense, including a capital offense.

3. When the evidence for the State is in, it is customary for the defense to make a motion for a nonsuit, which is equivalent to asserting that, even if all the evidence of the State was believed, it is not sufficient to convict as a matter of law. If granted by the judge, this ends the case.

4. Presentation of the case for the defense.

a. The defense may actively present a case just as the State does. The above would be applicable in that event.

b. Frequently, however, the defendant makes no active defense, relying on his cross-examination of the witnesses for the State to destroy the case of the State. In this event, the judge instructs the jury that the defendant is, in effect, saying that the case of the State is so obviously insufficient to convict that he is not even going to bother with putting on any evidence in rebuttal. The defendant takes his chances on whether the jury in fact so believes. The defendant in a criminal case cannot be required to give testimony that would tend to incriminate him. He may voluntarily testify in his own behalf, and if he does so he may be cross-examined fully.

5. A motion to dismiss is usually entered by the defense after presentation of the case for the defense. This is the same as the motion for a nonsuit mentioned above, except for the stage of the proceedings at which it comes.

6. Arguments to the jury are made in support of their respective cases by both the solicitor and the attorney for the defense after the defendant "rests" his case. The solicitor makes his argument first, it being the right of the defendant to have the last word.

7. Open courtroom proceedings are closed with the charge of the judge to the jury. In this, the judge summarizes the testimony for the benefit of the jury and instructs them in the law to be applied to the facts which they find to exist in the case.

8. The jury then retires to the jury room to deliberate on the case in private.

Civil Cases

The procedure at the trial of civil cases is essentially the same as in criminal cases, except in the opening and closing. The opening statements to the jury are made by both attorneys in a civil case, but are not made in a criminal case. These statements are a preview of the case on each side, in which the attorneys set out what they intend to prove and what they contend the situation to be.

The closing of a civil case differs from that in a criminal case only in the order in which the arguments are made. In a civil case the plaintiff, the party with the burden of proof, has a right to the last closing argument unless the defendant puts on no evidence, in which event that right shifts to the defendant.

Elements of Oral Testimony

1. Most of the evidence submitted to the triers of fact in any action at law is in the form of oral testimony. Because of this fact and because of the importance and general misunderstanding of the function of cross-examina-

tion, the nature of oral testimony is mentioned here. The oral testimony of a witness involves a series of events which are listed chronologically below:

a. Obtaining knowledge of some sort which is pertinent to the case. This is the first and basic event in the relationship of the witness to the case. This knowledge may have been obtained by any one of the five senses or by any combination of them.

b. Retention of the knowledge from the time of acquisition to the time of trial is the second factor in the appearance of the witness.

c. Power of narration, or ability to paint for the jury the picture which he has in his own mind, is the third capacity involved.

d. Truthfulness or sincerity is element number four. The witness must convey the information which he acquired, remembered, and is capable of conveying to the jury with truthfulness.

2. These four elements of oral testimony are all tested by cross-examination. It is commonly assumed that cross-examination tests only the truthfulness of the witness, and that cross-examination is, in itself, tantamount to an accusation of falsehood. This is not true. Cross-examination is a duty which every lawyer owes to his client whenever any doubt or lack of knowledge exists as to:

a. The capacity or opportunity of the witness to have gained the knowledge which he has testified to.

b. The ability of the witness to remember facts in the detail which the witness claims to have remembered them, from the time of the alleged acquisition of knowledge until the time of testimony.

c. The ability of the witness to convey ideas to others.

d. Whether the witness is attempting to convey his knowledge accurately or whether he is falsifying his memory.

The Medical Practitioner as an Expert Witness

As a general rule, the opinion of a lay witness is not admissible in court. The ordinary witness must, with few exceptions, testify to facts within his own knowledge or derived from his own perception. But the expert witness may be called upon to give opinion evidence. Expert witnesses are those who are skilled in any science, art, trade or occupation. An expert witness may testify to facts within his own knowledge or he may give his opinion upon assumed facts. Also, the expert witness is entitled to an expert witness fee.

The appearance of the medical practitioner as an expert witness is becoming a more and more frequent occurrence because negligence suits against medical practitioners are becoming more frequent, and because expert testimony is being more frequently utilized in other civil and criminal actions involving personal injury. Preparation for the appearance will depend on the location and nature of the case. It will probably consist of a series of informal communications and short interviews between the lawyer and the medical expert.

The medical expert should instruct the lawyer as to medical facts and terminology involved in the case. The lawyer should bring some independent knowledge to this phase of the preparation, but the amount of that knowledge will vary with the circumstances. The differential diagnosis employed is of extreme importance to the lawyer since this is where attack is usually centered. The expert

should also give some thought to and advice on the probable line of expert testimony which will be taken by the opposition.

The lawyer should instruct the expert as to:

1. The theory on which the case is to be tried. This will make the courtroom proceedings more interesting and understandable to the expert.

2. Some of the philosophy of trial by the common law adversary system which affects the giving of evidence by oral testimony.

3. Certain mechanics of testimony which will make the appearance of the expert more effective.

4. The purpose and theory of cross-examination should be explained, at least to the extent of discussing the four elements of oral testimony mentioned above.

Philosophy of Trial by the Adversary System

The adversary system is based on the premise that two partisan advocates will present all the pertinent information in the case, bring out the weakness in each bit of evidence, and give the triers of fact the best possible material on which to determine what actually happened. The judge is merely an arbiter in theory, although his umpiring may have a decisive effect in some cases. It is the unfortunate fact that in some close cases, the issues are often decided by the comparative skill of the opposing lawyers.

Each lawyer has a right to present his case in the order that he deems best for his client. This may result in the expert being forced to answer yes or no to a question capable of that answer, but which will probably give a false impression to the jury when so answered without qualification. In such a case, however, the opposition has a right to bring out the qualifying and explanatory matter at a later stage of the proceedings. Flat requirements of yes and no answers, although possible, are relatively rare.

Usually the lawyer and judge, when appealed to, will allow qualification. Of course, some questions are inherently incapable of yes or no answers. This should be stated when these are asked.

Mechanics of Testimony

1. A witness should look the part he represents. Mere mention of proper professional business attire and good posture on the witness stand is made here for completeness.

2. A witness should listen to the questioner when being questioned, and then turn to the triers of fact when stating his answer.

3. All answers should be stated in a loud enough voice so that everyone in the courtroom can hear without straining.

4. No question should be answered until thoroughly understood.

5. Notes should be used for detail to insure accuracy and completeness of testimony.

6. Testimony may be required by either the narrative or question and answer methods. The former is especially effective for the presentation of expert testimony, since it allows the lawyer to sit down and get out of the center of focus, giving the expert full sway. Here, completeness on the part of the expert is all important. The question and answer method is characteristic of cross-examination and of any case which the lawyer wants to build to a definite peak in the testimony. Here, answers should be precise and limited to the information asked without information being volunteered.

7. Be prepared and able to make simple drawings and diagrammatic representations on the blackboard, or to use other visual aids. This will facilitate the understanding of the court and jury and frequently constitutes the most important and effective contribution of the expert.

DEPARTMENT OF MENTAL HEALTH

(Continued from page 15)

from one service to another. Under these circumstances, it will be very easy for a patient to be shifted from one mode of treatment to another without going very far, and without losing contact with those who have been treating him. A patient being treated by his family doctor will be able to gain admission to the inpatient unit for a brief period and still be treated by his doctor. A patient receiving outpatient treatment at the mental health clinic can be admitted to the inpatient unit, shifted to day-care treatment, discharged to outpatient care, and eventually be turned over to his family physician, who would continue the treatment, with consultation from the center. All this would be done without losing the continuity of contact with the original team—the psychiatrist, clinical psychologist, psychiatric social work-

er, mental health nurse, and, in this case, the family physician.

Eventually, these community mental health centers are expected to add additional services such as extensive diagnostic services, rehabilitation (vocational, educational, and social) pre- and after-care (foster homes, half-way houses, and home visiting), training for mental health personnel, and research and evaluation.

Perhaps at this point, it is time to stop and take a look at where we stand today in local, community mental health services, and at the mechanisms for developing the comprehensive centers.

The law which established the North Carolina Department of Mental Health also provided that the department should participate as a partner with local governmental units in the development of local mental health

services. A Board of County Commissioners may designate itself as a Local Mental Health Authority and apply to the Department of Mental Health for matching funds to establish mental health services. Upon approval of the local plan, and assuming the availability of funds, the Department of Mental Health will provide two-thirds of the first \$30,000 of operating budget and one-half of the balance. Payments are made quarterly, the first quarter payment being based on the budget submitted at the beginning of the fiscal year and subsequent payments being based on the actual expenditures of the prior quarter. Regular monthly reports of expenditures are submitted to the department.

At the present time some 48 counties have formal agreements and some form of active mental health program with the Department of Mental Health. These vary from rather large programs such as the one in Charlotte

ENERGY IN THE 21ST CENTURY

(Continued from page 4)

rather than public health absolutes, to find a solution to this problem is certainly a reasonable goal for the balance of this century. Of equal if not greater import may be the development of livable standards for siting of nuclear power plants.

(3) The age-old difficulties of mopping up the after-effects of extractive industry are with us today in various sectors of the energy economy, particularly with regard to strip mining of coal. It seems to me a respectable long-term goal that strip mining of coal should only be permitted if a reasonable degree of restoration of the surface can be assured by the beneficiaries. The question of whether the coal producer or the coal purchaser (such as an electric utility) should be held ultimately responsible here should not be allowed to distract attention from the overriding public interest in protecting or restoring the land surface.

(4) Finally, I will recur to a subject that was one of the themes of an earlier paper in this seminar series on transportation—that is, the social problems entailed by the increasing use of personal autos as the principal means of transportation in and around

to some very interesting beginning efforts such as the one in the Ashe-Alleghany - Avery - Watauga Mental Health Authority.

None of the present programs have all of the five necessary features of a comprehensive mental health center, although some of them are now close to it. In most, and probably all, center areas some construction will be necessary to house certain parts of the program. Provision for Federal grants, to cover 63 percent of the costs of such construction, has been made by Congress. (A bill now before Congress would provide, in addition, 75 percent of the initial cost of staffing these centers.) Many areas of the state are already well along in developing plans for construction. These will be processed through the Department of Mental Health and the Medical Care Commission, both of which stand ready to be of help in bringing local mental health planning to fruition.

cities. The author of that paper, Mr. Mertz, pointed up quite effectively the adverse impact of the automobile upon the central city. In the context of a discussion of energy it is appropriate to stress one additional facet, the air pollution problem. There is a growing body of evidence that the gasoline-powered car is not only strangling the municipal body politic but also strangling the individual human beings involved. The latest piece on the subject is a lead article in a recent issue of the *Saturday Review* by a research chemist who, in the course of analyzing the Los Angeles smog situation, pointed out that exhaust fume controls about to be imposed on California in the name of public health may actually turn out to have more adverse than beneficial health effects. He concluded by saying: "It is my own considered conviction, and I know it is shared by many colleagues, that the only sure technical solution for the urban air pollution problem is the outlawing of the internal combustion engine in cities."⁹ Mr. Mertz in his paper noted several possible alternatives to the gasoline buggy, including the bicycle and various "big brother" devices that might reduce the need for urban travel. I suggest that the most practical solution lies in the manipulation of energy sources in either of two ways, enabling us to both remove the source of pollution and reduce the traffic problems. One of these ways is through electrified rapid rail transportation, which would reduce the congestion and at the same time remove the source of energy (and with it the pollution) to a distance far from the city in a large electric generating plant. The other solution is the battery-powered automobile. Almost invariably the first reaction is that this is a quaint and rather laughable notion. I recall feeling that way myself sometime ago. However, more and more people are beginning to take this idea seriously. For example, FPC was brave enough to suggest it in the National Power Survey, and the *Saturday Review* article I mentioned also supports it.

The greatest barrier to any solu-

tion, of course, is our national psychological attachment to the combustion engine car. I think it is a reasonable goal that, by the time the year 2000 rolls around, we will have found some acceptable way of surmounting this obstacle in the interest of general health and well being.

In conclusion we should recur to the larger picture of the sum total of these environmental problems. We can fully appreciate the coming impact of these problems only in the context of the probable growth of energy use in the national economy. Consider electric power, by way of example. Historically the nation's use of electric energy has doubled every ten years. The energy prophets tell us that this trend is likely to persist for the foreseeable future. At the risk of erring on the side of conservatism, however, assume that the use of electricity doubles only once in fifteen years during the next few decades. At this rate electric production would have doubled (over 1965) by 1980, would have quadrupled by 1995, and would be eight times as large by the year 2010. If the environmental problems associated with energy production and use seem troublesome today, what will they be in the years ahead when multiplied many times over? Under the circumstances it makes all sorts of sense to be doing some hard thinking on these issues today.

CATV: Background

(Continued from page 8)

cities using CATV systems are not easy to come by. However, at this writing, the question of cable television "pitch" or "fight" could be noted in headlines in at least a half dozen papers. Such headlines as "Revived Cable TV Fight Looms Here,"² "Bell Telephone Likely to Supply Cable TV locally,"³ and "Plan Outlined to Board: Cable TV Pitch Has Made It K. M."⁴ could be read in representative North Carolina papers. Similarly, a top metropolitan daily, reflecting the nationwide nature of the problem, carried a front-page headline "Master Antenna Proposed for

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2. *Durham Morning Herald*, Wednesday, March 24, 1965.

3. *The Asheville Citizen*, Friday, April 2, 1965.

4. *The Gastonia Gazette*, Sunday, March 14, 1965 (referring to Kings Mountain).

9. Donald E. Carr, "The Poison Air Around Us," *Saturday Review*, February 27, 1965; p. 50.



Pictured at top left is Dr. O. Glenn Stahl, President, Public Personnel Association, giving the key address at the annual luncheon during the Institute for Personnel Officers and Civil Service Commissioners. The Institute was held in April at the Knapp Building. Shown at top right are Institute of Government Assistant Director Don Hayman, left, and John W. McDervitt, personnel director, Home Security Life Insurance Company, Durham, during a discussion of civil rights and equal employment practices. At right is Dr. I. E. Ready, Head, State Department of Community Colleges, who discussed the training and development of administrative, technical, and professional personnel during the Institute.



Book Reviews

THEY CLOSED THEIR SCHOOLS. By Bob Smith. Chapel Hill: The University of North Carolina Press, 1965. \$5.95.

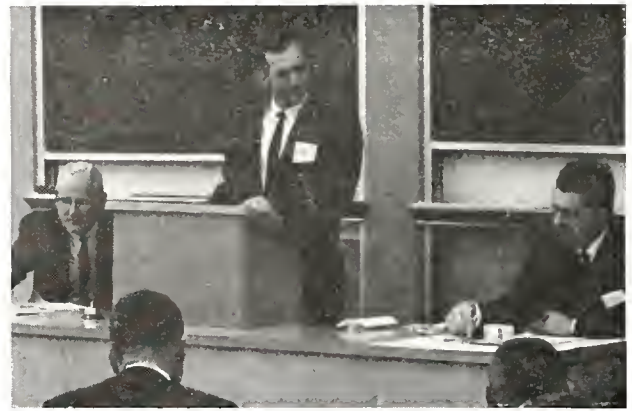
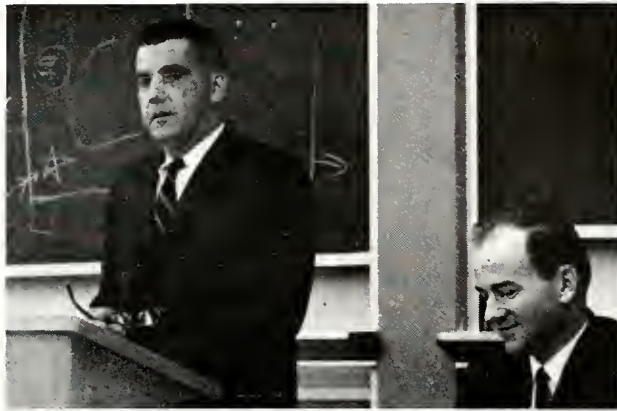
This is the story behind one of the original school segregation cases which produced the historic decision of the United States Supreme Court in 1954, the story of the closing of the Prince Edward County, Virginia, public schools to avoid court-ordered desegregation. The account is based largely upon on-the-scene observations of the author and interviews with many of the participants on both sides of the long and inconclusive struggle. The book contains few details about the long, frustrating legal battle which was waged in the federal courts contemporaneously with the social and political upheaval in the county; and offers few, if any, revelations about either. It does provide, however, an apparently accurate and objective analysis of most of the significant events and circumstances which occurred in Prince Edward County from 1951 through late 1964, developed in

an interesting though non-chronological style. In the opinion of the reviewer, the situation in Prince Edward County and perhaps wherever school segregation is still at issue can best be characterized by the author's words: "Only a questionable understanding of human needs could lead a county in the United States of America in the mid-twentieth century to close its public schools and the victims to shun education for four years."—A. W. M.

PRESIDENTIAL LEADERSHIP OF PUBLIC OPINION. Elmer E. Cornwell, Jr. Bloomington: Indiana University Press, 1965. 370 pp. \$6.95.

What techniques have Presidents of the United States in our century used to lead and influence public opinion? What available techniques have not been employed? These are primary inquiries of this valuable book on ways and means used by our chief executives "to inform the electorate and to win approval of [their administrations'] acts." Especially valuable are the chapters dealing with the modern Presidential press conference and the use of radio and television by the White House.

Of interest are the sections relating to the mastery by President Franklin D. Roosevelt of radio and the ways in which Presidents Eisenhower and Kennedy met the challenge of television. The author obviously has had access to correspondence and other historic materials which give his study significance and validity. Several references relate to North Carolinians. One reads: "... Mr. Roosevelt has written a note [January 21, 1939] to President Frank Graham of the University of North Carolina thanking him for his favorable comments about an appearance by Secretary of Labor Perkins on the University campus. After noting the odds the administration faced in getting its story past the hostile press, he closed: "Sometimes I wish the advent of television could be hastened.'"—E. O.



INSTITUTE SCHOOLS MEETINGS CONFERENCES

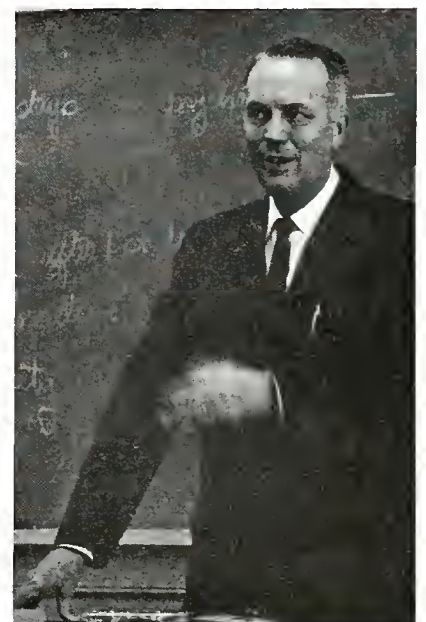
The Annual Conference of the North Carolina Tax Collectors Association was a March event at the Institute of Government. Shown at top left are Leigh Wilson, assistant executive director, North Carolina League of Municipalities, left, and Institute of Government Director John Sanders, right. Wilson spoke on the future

of the city in North Carolina. Pictured at top right during a panel discussion of maintenance of unit-wide records of taxes due are, left to right, Plato Davenport, Mecklenburg-Charlotte Collector of Revenue; Gray Wheeler, Craven County Tax Collector; and Frank M. Hauser, Jr., Goldsboro Tax Collector.



In progress above is a discussion of "the tax collector as others see him" during the annual tax collectors conference at the Institute. From left to right are Mrs. Adelaide Walters, then Chapel Hill alderman; Allan Markham, Institute of Government; Forrest Campbell, Greensboro city councilman; and Henry W. Lewis, Institute of Government, who had charge of the conference.

Dr. Norman Desrosiers, right, medical director of the Alcoholic Rehabilitation Center at Butner, addressed the April seminar for probation officers on the topic "The Problem Drinker." Some of the attending officers are shown below.



North Carolina Film Board

(Continued from page 7)

federal grant from the Department of Health, Education, and Welfare. *Coastal Fishing* reports on the State's fishing industry, showing methods of operation, types of catch, seasonal patterns of work, and providing some appreciation of the economic difficulties and prospects. *Why We Kill* is concerned with traffic safety and makes an effort to get at root causes.

The other three films have been "shot" but may not be processed, due to lack of funds. They are *The Outer Banks*, *The Goodliest Land*, and *The Piedmont Crescent*. *The Outer Banks* depicts the lovely almost-islanded coastal strip in terms of geography, history, and potential. The area shown marks the earliest settlement of English speaking people in North America, and the film captures its unusual attraction and places emphasis on present and prospective action designed to protect and preserve the Outer Banks. *The Goodliest Land* assesses the "problems, aspirations, and prospects for eastern North Carolina," amid a "crisis of change," revealing the plans, thoughts, and ideas of local residents, including planners, educators, historians, businessmen, and farmers. *The Piedmont Crescent* shows the industrial heart of the State, stretching crescent shaped from Raleigh to Charlotte, emphasizing factors in its rapid development and the challenge of co-ordination in its future. Despite the importance and topicality of the subject matter of these three films, Film Board personnel are pessimistic about their chances of being finished and shown.

These are the Film Board's productions. It may be noticed that the subjects are historical and topical, current and non-current, varied and yet always related to the life, the problems, and the people of the State.

Virtues, Problems, and Limits

As in the case of many new endeavors, the North Carolina Film Board may have more problems than are immediately soluble. There are problems relating to production, to distribution, and, most imminent and compelling, to the life of the Film Board itself. The last problem comes first and, at the moment, raises root questions. A distribution system has been worked out for the State, but it could stand augmentation. For example, out of a total of forty-six extant prints of *The Ayes Have It*, eighteen are now in the possession of the Film Board, sixteen have been purchased, and nine are deposited with lending organizations. The forty-two prints of *The Road to Carolina* are evenly divided—fourteen each with the Film Board, on deposit, and purchased. There are only four prints each of *Food and the Future* and *Vote—And the Choice Is Yours*. Only one print of the *Food* film has been purchased, and only two copies from among the four *Minority Report* films.

Howard Thompson in *The New York Times* called the three films he attended "thoroughly professional examples of documentary technique." It is possible to agree with Mr. Thompson, yet at the same time be aware of the limitations as well as the virtues of the films. Certain strengths and weaknesses are inherent in their very concept and nature of the undertaking. First there was the Governor's vision of producing films which would be of service to

the State. He sold that vision to a number of able cinema people, including John Grierson, George Stoney, and Jim Beveridge. The origins and controls of the idea, thus, required that film subjects be worked out in co-operation with the Governor and certain State agencies and that they represent preoccupations and problems and themes of the people and the State. Accordingly, most of the films produced in the first three years, upon analysis, concern themselves with social and economic changes affecting the lives of citizens of the State. The others relate to cultural and fine arts subjects. In general, the documentary technique is used to identify and clarify the processes of change which are confusing many people and involve a search for meaning in the pace and passion of the time. Through the motion picture, some four million North Carolinians hopefully may better know themselves, may recognize the analysis of certain difficult aspects of their own lives, and their own basic involvement of the people in these films. The film medium has an added advantage of standing up longer than other communication media.

Control

Inevitably, in film circles, the question of the control of the director over his material arises. Beveridge makes clear that the priority in order of subject matter was established for him by the Governor's Office. He acknowledges that, at least in the case of the four *Minority Report* films, his production unit had something less than full sway. Yet he thinks of the North Carolina project as challenging and exciting with tremendous potential. He points out that producing documentary films is extremely difficult where there are partisan considerations or commercial sponsorships. He feels he has been blessed by the absence of these conditions and that the sponsorship of the State government has been beneficial rather than restraining in most ways. In fact, so far as the State is concerned, the authority over scripting, casting, and production have resided with Beveridge or his designees.

The *Minority Report* films are exceptions. According to Beveridge, these films were video-taped in pretty much the way and form the students wished them. Although he concedes that such circumstances are not desirable or acceptable in usual film production, he feels that the objectors fail to consider both the problems in making such films and the primary objective of the Film Board productions: to prepare material with informational and interpretative value for the State and its people.

Themes and Purposes

Beveridge feels that these films catch the process of change in a way that takes account of local circumstances and local idiom. He notes that the virtues and limitations of this approach are inherent in all the Film Board's concepts and programs. To illustrate his point he cites a statement by Lewis Dowdy, President of A & T College in Greensboro, a member of the Film Board, who at a recent Board meeting reported that when he showed the *Minority Report* film on voting, he showed it *for a specific purpose* to a Negro student audience. Dowdy and other Film Board members would agree with Beveridge that the Board serves and should serve a local specific purpose. So would John Grierson. Talking with Beveridge in Canada before he came to North Carolina, Grierson, excited about the documentary prospect in the State, said: "Make it local; keep it local; exploit the local use of each subject."

Beveridge has done that. He has been faithful in his use of Tar Heel locales, local themes, and local citizens in his films. His employment of non-actors is reminiscent of the approaches of the great screen documentary directors, Sergei Eisenstein and Robert Flaherty, to film art. Some of his scenes could not have been scripted as effectively as they were voiced spontaneously by local inhabitants.

Design and Method

Beveridge sees his method as part and parcel of the essential design. He calls it "the candid method and structural documentary treatment." He identifies the use of local spokesmen as a means of catching the personality and flavor of the State and its people. While he does not see this kind of film project as suitable to every state, he believes that it works in North Carolina. He says with zest and conviction: "Here is a State of four to five million people, big enough with established values, local identity and attitudes, deriving from its own history and geography, to maintain its own film board. Film is one means of helping to preserve and identify this individuality in a state and its localities. It counters the homogenization process which is at work throughout our land."

He sees his first two and one-half years in terms of "trying to establish a working ground for the applied use of documentary and public affairs and civics." He is convinced that this form of documentary inevitably "really approaches television." He explains that the Film Board approach has a relationship to television news and documentary in that these new films contribute to interpretation of times and events and have a clarifying and explanatory function that "takes off" from the news. A special program for superior students, the development of food processing plants and agricultural diversification, and rapid industrial development are as much news and as current and topical in North Carolina as voting rights. And, of course, such subjects as *Pre-Natal Care* are universal. (George Stoney's *All My Babies*, an award-winning film, deals with a related subject.) It is not surprising, therefore, that the Film Board's production on *Pre-Natal Care* will be used by health directors in all states of the union and that a public affairs committee at national level will develop publicity and support for the film in each state. The Children's Bureau of the Department of Health, Education, and Welfare hopes that this film may lead to parallel programs in states throughout the nation.

Beveridge is interested in additional ways and means of marketing the films. Already such organizations as the National Education Association have expressed an interest in helping market films done and projected. But first of all the Film Board needs a lease on life. The need of funds and commitment is at hand. Governor Sanford is no longer in office.

The Film Board and the Future

Until a few days ago Beveridge and his cohorts had hope that the Film Board might have a future in North Carolina. Recent events seem to have foreclosed their hopes. Beveridge had looked toward State or foundation funds to assure the Board's future. Actually, it appears that Richardson Foundation funds may be continued, at least for the purpose of helping in the distribution of the completed films. But the two possibilities for sound financ-

ing under assured aegis have gone up in smoke like old celluloid film. Beveridge and others have tried to assure the continuation of the Film Board through legislative action (1) to make the Film Board an agency of State government with an appropriation of its own or alternatively (2) to associate the Board with one of the branches of the Consolidated University of North Carolina. Their stratagems have not worked. In fact, no bill has been introduced in either Senate or House in the 1965 General Assembly concerning the Film Board. A compelling reason has been that key members of the House and Senate Appropriations Committee have not appeared to take a favorable view toward continuing the program with State funds. There are at least some indications that not everyone is happy with the completed films, especially the *Minority Report* group.

Too, new items are not easily wedged into the State budget. Appropriations demands in North Carolina, as in most states, always exceed available revenues. More often than not, new items give way to a more familiar tried-and-true one. The administration of Governor Dan K. Moore does not have identity with the origins or activities of the Film Board. Although there have been talks with persons who are part of the State administration and close to the Governor, there have been no promises.

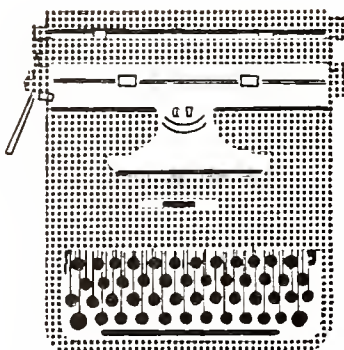
On the other hand, conversations between Beveridge and the Chancellors of both Chapel Hill and Raleigh branches of the University at one time seemed to have some chance of bearing fruit. University administrators showed some interest and apparently checked out the possibilities. Some persons at the Chapel Hill and Raleigh branches would like to see a Film Board attached to the University and available for education-related enterprises. But again, the decision has been negative.

As another possibility, Beveridge actually had in mind the possibility of having legislation introduced either to set up a State Film Act, similar to that which established the National Film Board of Canada, or provide for the Film Board to become part of the University structure. It should be noted, however, that the Canadian effort was furthered by its timing—coming at the onset of World War II in 1939—and that no such circumstance appears to exist at the moment which would move the State of North Carolina to act or react favorably to the proposal of a State-financed independent Film Board.

Role of the Advisory Board

Unfortunately, until recently, the fourteen-member Advisory Board, which might have been of considerable assistance at this point, had been convened only twice and served in a negligible role. As Beveridge noted in a recent report to the Board, its function had never been precisely determined, no chairmen appointed, and "no definition of the rights, duties, and capacities of the Board" made. He continued: "It is clear that a future Board should be able to assume a much more active role in promoting and developing the use of films produced by this agency and in advising and helping to program the choice of films for production." He advocated "an extensive collaboration with other similar agencies in the State," including "the In-School Television Service, Department of Public Instruction; the Consolidated University Television Stations at Chapel Hill, Raleigh, and Greensboro; the Communica-

(Continued inside back cover)



● NOTES FROM . . .

CITIES AND COUNTIES

Airports

Wayne County Commissioners have agreed to appropriate \$87,500 toward a new airport, if the money is available. *Goldsboro* aldermen followed suit with an identical promise of funds. The Goldsboro-Wayne County Airport Authority had previously requested \$135,000 of each governing body. The local fund guarantee was necessary to satisfy the federal government and pave the way for approval of a budget and matching federal funds.

Beautification

Representatives of *Durham's* three leading industries have met with the city beautification commission to pledge their continued cooperation in efforts to beautify the city. City schools are doing their part by phasing out garbage cans in favor of large single refuse units. Industry will aid beautification by attempting to provide adequate and attractive employee parking facilities.

Chapel Hill's "beauty bill" allows the town board to name a commission to control the exterior appearance of new buildings in certain areas to insure that the town retains its present character.

Carrboro commissioners have approved an ordinance which will allow the town clerk to give owners of property in poor condition a week to clean it up. If the property remains unsightly, town employees will effect the clean up and bill property owners for the work.

Beautification became an official concern of *Charlotte's* city council as it appropriated \$6,500 to spruce up a few strategic spots around the city. If the results look good, money for

an expanded beautification program might be included in the city's 1965-66 budget.

A lonely basket of petunias which bravely hung from a Hay Street lamp post in *Fayetteville* is gone. In its place is another basket overflowing with artificial pink blossoms. Both baskets were put up by the Downtown Merchants Association on a test basis to see if the addition of greenery will improve business.

Community Progress

A committee for continuing good government in *Brevard* has been organized. Its purpose is to carry out an educational program on the advantages of continuing the council-manager form of government in the town.

As its official emblem *Greensboro* has adopted a flag of dark green showing Revolutionary War hero Major General Nathaniel Greene astride his horse. The figures, bounded by a wreath of oak leaves, are yellow as are the legend "City of Greensboro, North Carolina" and the fringe bordering the flag.

Education

Wayne County's board of education has abolished school districts in favor of a single county-wide district. The action stripped a dozen district committees of their power to hire and fire teachers, and gives the committees only advisory status.

Names for new *Winston-Salem* schools will be chosen before construction contracts are let, according to a new policy. A standing "naming committee" will select the names in four categories: former community leaders, former educational leaders,

former state and national leaders, and geographical areas.

In order to expedite voting in the county, the once loosely defined and often questioned boundary between *Hickory* city schools and *Catawba* County schools has been set along specific lines.

A multi-million dollar child development center—the first of its kind in the nation—is being planned for the Frank Porter Graham School in *Chapel Hill*. The Chapel Hill School Board, Learning Institute of North Carolina (LINC), and the University of North Carolina have joined forces to establish a broad comprehensive program to aid disadvantaged children.

The Frank Porter Graham Child Development Research and Demonstration Center is expected to have an enrollment of about 850 children when it opens in September 1966. It will include two basic units: a day care center to accommodate 230 children aged six weeks to five years; and a 24-classroom laboratory elementary school for 600 children in grades one through six.

Attendance at the non-districted school, which will offer the latest in special educational programs, will be by preference with tuition and fees on a sliding scale based on ability to pay.

Elections

Annexation of an area populated by 10,000 has called for creation of three new voting precincts in *Wilmington* where a massive voter registration has been underway.

Dallas is purging its registration books. A complete new voter registration was completed by the end of

April, the first in 14 years.

Fire Protection

Whiteville's town council is deliberating on whether or not to drop the present outside fire coverage plan and adopt a new system which would require a yearly protection payment for a home or business within three miles of the fire station.

Chapel Hill's third fire station will be located on an undeveloped lot near the northeastern entrance to the city.

Libraries

Plans are proceeding for construction of a \$90,000 public library building in *Whiteville*. About 45 per cent of the overall cost will be supplied through a federal grant.

Public Health

Lincoln County has reached an impasse. Although a \$975,000 bond election to provide the county with a 100-bed community hospital passed by a slim margin, the 10 cent tax increase portion was defeated. The bond money was to pay the county's share in construction costs of the actual building, the tax increase to help pay for the first three years of operation.

Current feeling is that the hospital will not be built, since federal funds which would pay the bulk of the \$2.2 million needed for construction, are granted upon a reasonable guarantee that there will be operational money for the initial years.

Public Housing

Final plans for *Chapel Hill's* 60-unit low-cost public housing project have been approved by the Chapel Hill Housing Authority. The design will be contemporary with outside coverings of aluminum and wood siding alternated with brick.

Public Utilities

Thirty-one voters made possible the \$410,000 *Aboskie* water department expansion and 60 the \$110,000 street department expansion in a recent referendum election. Only 256 out of a voter registration of 1,500 went to the polls making the voter turnout an average of one of 16.

Any plans *Oakboro* residents may have had for a new water filtering

plant and distribution system are dead. Voters defeated by an almost four to one margin the plan to sell the town's water system to the *Oakboro* Water Association, which planned to construct a new filter plant.

Ground has been broken in *Maiden* for a \$475,000 water plant a mile north of the town limits. Plans for the project include construction of a dam on *Maiden* creek which will form a 50 million gallon storage reservoir.

RAILLERY

The Recorder's Courtroom at *Kernersville* will get a rail in front of the judge's bench because the judge is tired of "people leaning on the bench."

The public works superintendent thinks the idea is excellent because "every bar needs a brass rail."

Objecting to the rail is the mayor who feels that everyone should be allowed to get as close to the judge as possible, and recalls one time when he got a better deal by talking in the judge's ear in a railless courtroom.

The court solicitor jests that he had people like the mayor in mind when he asked for the railing.

"In that case," says the public works superintendent, "we can build a picket fence around the bench."

Conover voters overwhelmingly approved a \$100,000 water bond issue with a vote of 371 to 38.

Recreation

Machinery has been set in motion to establish a county-wide recreation organization in *Buncombe County*. The newly established recreation council will work to develop facts and figures toward a blueprint for the program which will embrace cultural activities and arts and crafts as well as sports activities.

Winston-Salem aldermen have voted to spend an additional \$27,862 for construction of the four public swimming pools to be built by the end of next summer. The additional appropriation runs the total to \$863,321.

Steps toward developing *Graham's*

new *Quaker Creek* Reservoir as a recreation area have been taken by the *Graham* city council. An access control building will be constructed which will serve as a multi-purpose headquarters and refreshment center for the recreation area. An *Alamance County* boat club will provide free tours of the lake area for county residents wishing to spend an afternoon examining the 175-acre reservoir.

Sanitation

One lone dissenter appeared in the \$750,000 bond referendum in *Robbins*. The vote was 65 to 56 to one in favor of construction of a sewage disposal plant. Only 57 of nearly 600 eligible voters made it to the polls.

Fayetteville's garbage train has been in operation since mid-March. The train system is now in effect in *Durham*, *Winston-Salem*, *Greensboro*, *Laurinburg*, *Sanford* and *Southern Pines*.

Streets and Highways

The proposed ten million dollar span across the Cape Fear River at *Wilmington* has gained federal governmental approval. The vertical lift bridge will support a four-lane highway. Construction should begin in approximately 12 to 15 months and should be completed within four-and-a-half years from that date.

Ordinances established speed limits on the streets of *Mebane* have been passed in compliance with recommendations of the State highway department.

Taxation

Gaston County's lengthy property revaluation has come to an end. It took \$400,000, four years, and an average of 30 people working full time to assemble the data. The resulting tax assessment will be on a 50 per cent ratio basis.

Urban Renewal

The first step of an urban renewal project for *Goldsboro* is now in operation, according to guidelines prepared by the Housing and Home Finance Agency. Local governmental and civic groups are working to increase public understanding and support of the program.

CATV: Background

(Continued from page 21)

City: Community TV Plan Is Sent to Board With Estimate."⁵

Pros and Cons

Why is CATV so sought and so opposed? What are its values? What are its dangers? The two articles on the following pages suggest both virtues and problems. Among its chief attractions are the making available of programs from various networks and stations which could not otherwise be seen, providing a clear, unmarred picture; and offering a range of variety and choice in programming. For these privileges cable television subscribers usually pay an installation fee averaging around \$20 and a monthly service charge of about \$5. CATV is operating in at least some 46 states at present. Before the year is out, it is expected to be operative in all fifty. Since the CATV systems do not "broadcast" in the usual sense nor go beyond single state lines, the question of Federal regulation has been real and complex. Yet, CATV systems raised questions of such magnitude to standard electronic communications that the FCC apparently felt it could no longer ignore them. The Commission specifically seeks guidance from Congress and comment from telecasters and other interested parties. Among the questions asked in the FCC ruling in which suggestions are invited regarding future policy, are these: Should CATV systems be limited to bringing in programs of relatively distant stations? Should they be permitted to originate programs? If so, should they then operate under FCC regulations which apply to regular television stations, such as the equal time for political candidates rule? Will CATV have an effect on the satisfactory operation of new UHF stations in large cities? Should television stations and network owners be allowed to own local CATV systems? These questions point up a threat that many telecasters have felt existed for the television industry. For example, if CATV will not carry programs of local stations but chooses to bring in those from more remote areas, a question arises as to the effect on the operation of the local owner.

The new FCC ruling makes clear that the agency expects to protect

broadcast freedom on television. It has set forth beginning directions, yet the end is not in sight. Congress, through committee chairmen, already has indicated its interest in the subject. The FCC recognizes the necessity for congressional support in its effort. On the other hand, Frederick W. Ford, president of the National Community Television Association and former FCC member, has stated his conviction that "Congress will intervene to prevent such an unprecedented assumption of jurisdiction by an administrative agency and . . . will hold

hearings in the near future and adopt legislation which will provide for the orderly development of both television broadcasting and community antenna receiving systems in the public interest." Meanwhile, those who govern locally are making their choices on the basis of what they see as the best welfare of their respective communities. The answers have been varied: pro, con, and let's wait a while. But they have rarely been easy to arrive at. Nor, pending further FCC or Congressional action, are they likely to be. □

CATV: Raleigh

(Continued from page 11)

In the early discussion of the CATV ordinance which was before the Raleigh City Council, there were persistent rumors that the telephone company contended that it could engage in CATV under its existing authority from the utilities commission and under its existing municipal franchises.

The company contends that the extension of cable on its poles and the transmission of television signals falls within its authority to transmit telephone and telegraph communications. It relies upon the following decisions to support that view:

Southern Bell vs. City of Meridian, 131 So. 2d 666 (1961); *Ball v. American Telephone and Telegraph Co.*, 86 S. 2d 42; *Independent Theatre Owners v. Arkansas Public Service Commission*, 361 S. W. 2d 642 (1962); *In Re New York Telephone Co.*, 34 PUR 3d 115; *Ohio Telephone and Telegraph Co. v. Steen*, 85 N. E. 2d 579; *Pacific Telephone and Telegraph Co. v. City of Los Angeles*, 282 P. 2d 36 (1955); *Application of the Pacific Telephone and Telegraph Co.*, Decision No. 67334 (Calif., June 3, 1964).

The contention of the telephone company is of first impression in this state and I certainly would not be willing to concede the point.

It is axiomatic that a public service company must render service to all of the public and unless I read the tariff filed by Southern Bell Telephone and Telegraph Company incorrectly, the commission has no authority to require the telephone company to render any service at all to the public. Suppose the utilities commission

directed the telephone company to serve a certain individual. How could it comply if the CATV operator did not want that particular person as a customer? Or suppose the utilities commission undertook to require the CATV operator to render the specific service directed and the CATV operator answered that you have no jurisdiction over me. The arrangement as proposed would be a departure from historic principle of utilities regulation.

No doubt the telephone company would contend that the municipality could not charge a franchise tax for this additional service because of the restriction now imposed on municipalities by Statute (GS 105-120). The cablevision operator, if he erected his receiving tower outside of the municipal limits, could contend that he was not within the municipal taxing limits so far as franchise tax is concerned because he does not operate on his own cable. If he undertakes to conduct business with his customers, he would be carrying on business within the municipality and would be subject to a business license tax.

Conclusion

On the whole, such an arrangement would be most unsatisfactory so far as the municipality is concerned. There are many municipalities in North Carolina served by Southern Bell Telephone and Telegraph Company. It is a matter of enough importance for those municipalities to be giving consideration to what their legal position might be when and if the tariff proposals are put into effect.

Obviously, there are many questions concerning CATV. Are there any satisfactory answers? □

⁵ *The New York Times*, Sunday, May 2 1965, pp. 1, 42.

North Carolina's Film Board

(Continued from page 25)

tion Center and Department of Radio, Television, and Motion Pictures at Chapel Hill; and, informally but realistically, the privately-owned commercial television stations throughout the State." Beveridge himself (informally but also realistically) fingered the dike to be plugged before anything else is possible, when he says: "... The central problem is one of continuing finance; whether from State funds alone, or from a combination of sources such as State and Federal government plus other non-government agencies." He pointed out: "All of this will require effective and active promotion and a considerable amount of 'leg work' and liaison at an authoritative level, throughout the State and perhaps further afield."

In seeking the opinions and suggestions of the Board at "this critical stage" Beveridge realizes that the action comes late. Members of the Board are influential, but time is short. He is determined that any future Film Board not be amorphous in functions or otherwise handicapped. He would be pleased to accept future responsibility, administratively, to a Board, a Chancellor, or a Governor's office, but he wants independence to confer and contract for films with varied groups, institutions, and organizations in the State. He wishes to be free to step across lines and work with departments—e.g., extension divisions, alumnae, and with outside groups. In a word, he wants to work for the State and its people in the broadest concept, not at the behest or under production control of an institution or an agency. But his wishes seem at this point no more than a prelude to an inevitable fade-out.

Comments and Inquiries

Beveridge has been heartened by an increasing number of inquiries about the Film Board and its films and by occasional editorials praising the work to date and urging that the Board be continued. He will smilingly show you a letter from the chairman of the Oregon State System of Higher Education, a physician, requesting "a complete listing of the films available" and "information as to the basic structure and organization of the Board." And he will place in your hand an editorial from the *Asheville Citizen-Times* entitled "Assembly Should Vote Funds to Operate N. C. Film Board." The editorial states in part: "Especially in view of North Carolina's desire to sell itself and its attractions to tourists in this country and abroad, the Film Board deserves State financial backing. The Board is also doing an important job in showing how baffling community problems, such as school consolidation, can be worked out and in teaching North Carolinians, old and young, more about their heritage."

Meanwhile, schools, state agencies, and film and television libraries are making available the prints of the fourteen completed films. Soon the entire series will be available. More persons are seeing the films daily. If there has been resentment in some circles at the *Minority Report* films, there appears to be building throughout the State a residue of good will toward and interest in the Film Board productions.

There is a further paradox in that while Beveridge believes he detects a reluctance on the part of officials to propose statutory help, at the same time he senses an evident wish in some quarters to keep the program going. Accord-

ingly, although aware of the odds, he has continued to bend every energy to see that the film production continues its lease on life. Recently he wrote influential persons throughout the State in these words:

The North Carolina Film Board needs support from the citizens of the state in order to continue the program of educational and public-affairs films begun two years ago.

If you have seen and approved of the work of the Film Board, would you consider making your support known to [the Legislature's Appropriations Committee chairmen].

There is a feeling among Film Board people that even two more years of life probably would be sufficient to convince enough Tar Heels of the film project's worth to assure its continuation.

Conclusion

If some of the films made under the aegis of Beveridge are, like Bacon's books, to be tasted, some to be chewed, and some swallowed and digested, surely audiences will become aware of that and make necessary distinctions.

What has been done obviously is only a beginning. The Film Board's films can be judged only in the context of their indigenous purpose and relative effectiveness in meeting those goals. Some recognition must be given to the effort to combine film and television documentary and extension and enlargement of news and news commentary benefits. The "lovely art," as Gilbert Seldes calls the moving picture, has been enhanced, not diminished, by this experiment in local and regional documentary. A dream has given birth to reality. Whatever happens, there will be fifteen to twenty films on North Carolina which will remain available to inform and exalt a people about their heritage and their times. The State owes more than a bow to the professional skills and energies of Jib Beveridge and his staff. Inevitably there remains room for growth in film artistry and awareness of local cinematic themes, traits, backgrounds, and potential, looking towards realization of the State's film potential.

So much remains to be told. Jim Beveridge knows that. So do others who are interested. No doubt, motion pictures on people, stories, events in this one State, as yet undreamed, may someday prove to be better films than anything yet done. There is a reservoir of themes and talent untapped. Hamlet was eternally right when he told Horatio: "There are more things on heaven and earth than are dreamt of in thy philosophy."

If a beginning has been made to putting North Carolina on film, what has been done is only a fragment, a symbol, a vision of the region's potential and challenge in bringing art to reality and reality to art. For the State the decision of life or death for the Film Board has meaning for the future.

Whether the idea will or should spread to other states, to other regions, remains to be seen. The concept and work of the Film Board already had had impact; they will have more. For North Carolina is only one small part of a region, a nation, a world whose people are still seeking to know who they are and why, and where they have been and where they are going, and in these inquiries Beveridge and his staff, using the visual, moving image, have been diligent in their quest—a quest which may have only just begun, but may end tomorrow. □

Institute of Government

Schools for New Mayors and Councilmen

A new series of four district schools for newly elected mayors and councilmen will be held as follows:

- Monday-Tuesday, June 14-15—Chapel Hill
Sessions at the Institute of Government.
- Thursday-Friday, June 17-18—Kinston
Sessions at the new City Hall. Special tour of City Hall at the close of program on afternoon of the 17th.
- Tuesday-Wednesday, June 22-23—Charlotte
Sessions at the Charlotte-Mecklenburg Library. Tour of Library with Hoyt Galvin at end of program on afternoon of the 22nd.
- Thursday-Friday, June 24-25—Asheville
Sessions at the Asheville-Biltmore College.