POPULAR GOVERNMENT

June 1966

Published by the Institute of Government
The University of North Carolina at Chapel Hill

In This Issue:

Work Release in North Carolina ■ Total Development for North Carolina ■ How Accounting Systems Affect the Independent Audit ■ Problems and Prospects of Environmental Health Planning ■ The Third Alternative in Zoning Litigation

This month's cover illustration symbolizes North Carolina's work release program. The complete story begins on page 1.

POPULAR GOVERNMENT

Published by the Institute of Government

Contents

Volume 12 June 1966 Number 9

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

Work Release in North Carolina

by Allan Ashman

[*Editor's Note: Ashman is an Assistant Director at the Institute of Government working in correctional law.*]

Introduction

It has been said that we, in the United States, concentrate primarily upon teaching our prisoners to be good inmates, and little else.[1] It is true that often in the past we have defeated rehabilitative efforts by failing to give prisoners the kind of responsibility which would prepare them for a return to the free community. However, this is not the case today. In North Carolina and throughout the country, penologists are recognizing the importance of correctional treatment which will bridge the gap between imprisonment and parole and gradually prepare inmates to return to the community and to assume the responsibilities of free men.

Perhaps the most significant and far-reaching development toward this end has been the acceptance and expansion in recent years of the work release program. Although the implementation of the work release program in this country can be traced back more than 50 years to a pioneer piece of legislation in Wisconsin, popularly known as the Huber Law,[2] only during the past decade has it gained acceptance and momentum. Since the Huber Law was enacted in 1913, at least 24 states[3]—20 in the past nine years—and the Federal Government[4] have made legal provision for some form of "day-parole," "work-furlough," "day-work," or, as it is more commonly known, work release.

Work release is quite simple both in theory and in practice. Under the plan selected prisoners leave the institution to which they are committed to work at jobs in the community during the daytime and return to confinement after working hours. A prisoner's earnings are used to pay for his room and board expenses while incarcerated and for the support of any dependents. Whatever money is left after taxes and other miscellaneous commitments (e.g., paying fines or meeting union dues) is held in trust for the prisoner until he is discharged. Thus, instead of serving "dead time" behind bars, a prisoner in the work release program contributes to his maintenance by paying his way, and to the support of his dependents. It is hoped that through such a re-introduction to society a prisoner will develop, or regain, self-respect and a sense of responsible citizenry. Gertrude Samuels, writing in the *New York Times Magazine*, puts it quite succinctly when she states that "the basic objective of work release is to build a bridge of self-respect and responsibility between abnormal prison life and normal community living."[5]

The Work Release Law in North Carolina

In 1957 North Carolina enacted into law its first work release measure.[6] Codified as G.S. § 148-33.1, the new law granted work release privileges to inmates of the State prison system enabling them to maintain employment in the free community, to pay the cost of their prison keep, and to support their dependents.[7] However, the 1957 legislation restricted eligibility for the program to misdemeanants who had "not previously served a term, or terms, or parts thereof totaling more than six months in jail or other prison . . ."[8] These restrictions resulted in only 16 inmates being recommended by the courts for work release during the first two years of the program.[9]

Faced with mounting criticism from judges and people in the correctional field who argued that the work release law should be made more inclusive, the 1959 General Assembly amended G.S. § 148-33.1(*a*) to include felons with sentences up to five years.[10] The amended statute permits the presiding judge of the sentencing court to recommend to the State Prison Department that a per-

1. See Samuels, *Working Their Way Through Jail*, N. Y. Times, Nov. 14, 1965, § 6 (magazine), p. 172.

2. Wis. Stat. Ann. ch. 53, § 56.08 (Supp. 1963).

3. See Grupp, *Work Release*, 44 Prison J., no. 1 (1964), at 4-6, where the author lists those states which have made some kind of provision for work release. [Nebraska (1917), West Virginia (1917), Massachusetts (1950), Virginia (1956), California (1957), Idaho (1957), Minnesota (1957), North Carolina (1957), North Dakota (1957), Wyoming (1957), Arizona (1959), Illinois (1959), Montana (1959), Oregon (1959), Missouri (1961), Washington (1961), Michigan (1962), Florida (1963), Indiana (1963), Maryland (1963), Pennsylvania (1963), South Carolina (1963), and Hawaii (1937).] The 1965 Iowa Legislature passed a work release statute making work-release privileges available to county jail prisoners at the discretion of the district court. Rubin, *Developments in Correctional Law*, Crime and Delinquency, April, 1966, at 187.

4. The Prisoner Rehabilitation Act of 1965, 79 Stat. 675 (1965), 18 U.S.C.A. § 4082 (Supp. 1965). This new legislation allows Federal prisoners temporary release privileges for work, or for training, in the free community, and extends leaves for up to 30 days. These leaves may be granted so that a prisoner can visit a dying relative or attend a funeral of a relative, obtain medical services not otherwise available, seek employment for after his release from prison, or for "any other compelling reason consistent with the public interest."

5. Samuels, *supra* note 1, at 160.

6. N. C. Sess. Laws 1957, c. 540.

7. *Ibid.* See also Bounds, Changes Made In Prison Law And Administration In North Carolina 1953-1960, (1960), at 138 (Special Study, Institute of Government).

8. N. C. Sess. Laws 1957, c. 540.

9. See Bounds, op. *cit. supra* note 7, at 138.

10. N. C. Sess. Laws 1959, c. 126.

son "sentenced to imprisonment for a term not exceeding five years . . . be granted the option of serving the sentence under the work release plan . . ."[11] The 1963 General Assembly further extended G.S. § 148-33.1(*b*) to include any *prisoner* with a term of years. The 1959 General Assembly had empowered the Board of Paroles to authorize the State Prison Department "to grant work release privileges to any inmate of the State prison system serving a term of imprisonment *not exceeding five years,*" with the only qualification being, "that in any case where the inmate being considered for work release privileges has not yet served a fourth of his sentence if determinate or a fourth of his minimum sentence if indeterminate, the Board of Parole shall not authorize the Prison Department to grant him work release privileges without considering the recommendations of the presiding judge of the court which imposed the sentence."[12] [Emphasis added] The 1963 amendment simply deleted the words "not exceeding five years" from G.S. § 148-33.1 (*b*).[13]

North Carolina's work release law, then, as it has emerged over the past nine years, compares most favorably with other jurisdictions. While in most states work release generally is limited to misdemeanants,[14] North Carolina has been instrumental in making felons eligible for work release privileges.[15] Also, many jurisdictions authorize work release only in the discretion of the sentencing court.[16] North Carolina provides that both the sentencing court and the State Board of Paroles may authorize work release assignments.[17] North Carolina can also boast of an unfragmented, uniform, state-wide work release system. This is possible because misdemeanants as well as felons are sentenced to the State Prison Department and are, therefore, eligible for work release under the State prison system. In many jurisdictions, notably Wisconsin and California, work release is the responsibility of the county. For example, in Wisconsin the county sheriff, not the Prison Department, administers the work release program.[18] But note, that the 1965 Wisconsin Legislature extended work release to state prisoners, with the exception of life-termers. This would seem to entail some state responsibility for the administration of work release in Wisconsin.[19] California not only requires that the county board of supervisors appoint the county sheriff or probation officer as "Work Furlough Administrator,"[20] but that the county adopt the work furlough program by county ordinance or resolution.[21]

11. N. C. GEN. STAT. § 148-33.1(a) (1964); The ultimate authority to grant, or withdraw, work release privileges to eligible inmates is vested in the Director of Prisons.
12. N. C. Sess. Laws 1959, c. 126.
13. N. C. Sess. Laws 1963, c. 469, §§ 1, 2.
14. For example, until this past year Oregon's law was limited to misdemeanants with sentences less than six months. [Oregon now extends work releases to all prisoners Rubin, *supra* note 3, at 187]. In Indiana the law applies only to misdemeanants "who are responsible for the financial support of a dependent spouse." See Grupp, *Work Release in the United States*, 54 J. CRIM. L., C. & P.S. 267 (1963); See also, Grupp, *supra* note 3, at 7.
15. N. C. GEN. STAT. § 148-33.1(a) & (b) (1964).
16. See Grupp, *supra* note 3, at 10; See also Gruop, *Work Release in the United States*, 54 J. CRIM. L., C. & P.S. 267 (1963), at 269.
17. N. C. GEN. STAT. § 148-33.1(a) & (b) (1964).
18. See Kepner, *An Analysis of the Wisconsin Huber Law*, Informational Bulletin No. 151, The Wisconsin Legislative Reference Library, (1956).
19. See Rubin, *supra* note 3, at 187.
20. CAL. PEN. CODE. § 1208(a) (Supp. 1963); See also McMillan, *Work Furlough For the Jailed Prisoner*, Federal Probation, March, 1965, at 33.
21. *Ibid.*

The Implementation of Work Release in North Carolina

Housing and Employment

The employment of inmates in the free community and the quality of their confinement are subjects which arise in most discussions of work release. In North Carolina, if an inmate is to be eligible for work release privileges he (or she) must, among other things, "have suitable employment or offer of suitable employment in a locality where facilities for work release inmates have been provided."[22] This regulation not only states that employment is a prerequisite for work release, but it suggests that employment is contingent upon the existence or availability of prison facilities in a given locale. The Prison Department plans to expand its facilities for housing work release inmates so that more inmates can be made eligible for the program, and so that it will, one day, be possible to locate the majority of work release inmates in or near the communities in which they are to be released.

A persistent question which confronts most work release jurisdictions is whether separate facilities should be provided for work release prisoners. While positions vary, most advocates of work release would not recommend traditional confinement as serving the purposes of the program. Initially, it was mandatory for prisoners with work release privileges in North Carolina to be quartered apart from prisoners serving regular sentences.[23] However, the 1961 General Assembly amended G.S. § 148-33.1 (*c*) so that the section no longer requires work release inmates to be housed separately from non-work release prisoners.[24] The 1961 amendatory act provided that it was its purpose and intent "to allow the State Prison Department to determine the extenr to which it is necessary and practicable to quarter prisoners with work release privileges apart from other prisoners."[25] At present, not all the prison units in the State, which house and handle work release inmates, separate work release from non-work release prisoners.[26] Although there have been no indications that this has worked to the detriment of either the work release inmates or the non-work release members of the prison population,[27] the Prison Department is rapidly moving ahead to convert a number of prison units throughout the State into exclusively work release units.

Another question which often is asked is whether work release should be limited to those inmates who are already employed at the time they are sentenced.[28] It is argued that while such a policy may "tend to include only the best risks, ease administration, and minimize costs . . . it probably excludes those who have the most to gain from a well contrived and well implemented program."[29] While the work release program in North Carolina might favor men who happen to be employed at the time of sentencing, it certainly does not discount men who might receive offers of employment after commitment to pris-

22. Regulations Governing the Administration of the Work Rele se Program, § 3-101, N.C. Prison Department (1966); See also N.C. GEN. STAT. § 148-33.1(c) (1964).
23. See N.C. Sess. Laws 1957, c. 540; 1959, c. 126.
24. N.C. Sess. Laws 1961, c. 420.
25. *Ibid.*
26. Information provided in an interview by Garland B. Daniel, Supervisor Prison Job Placement, N.C. Prison Department, January, 1966.
27. *Ibid*; See also Samuels, *supra* note 1, at 164.
28. See Grupp, *Work Release in the United States*, 54 J. CRIM. L., C. & P.S 267 (1963), at 270.
29. *Ibid.*

on.[30] The criteria used by the Department in placing prisoners in jobs is: 1) that the job be suitable for the inmate, and 2) that the inmate attempt to select a job in an area closest to his home.[31] It is not unusual for an inmate on work release to remain with his job after he is discharged from prison, unless he happens to be far from his home.

Indeed, there is far more difficulty in bringing women inmates into the work release program. Not only are there fewer job opportunities for women, but greater care must be taken in placing a woman even when a position becomes available.[32] For example, the Prison Department would not encourage a female inmate, particularly one who has been convicted for prostitution, to work as a waitress if there was the possibility that she might be put into uncomfortable or compromising situations. Another reason why it is difficult to place women on work release is the lack of women's work release facilities. There is only one correctional institution for women, and that is located in Raleigh. This restricts women inmates to work in the Raleigh area.

Support of Dependents

Under G.S. § 148-33.1(f)(3) the Prison Department acts as a transmittal agent, mailing to county departments of public welfare for eventual distribution to the prisoner's dependents "any additional balance" from a prisoner's earnings after standard payroll deductions and other statutory distributions.[33] However, most of the families of prisoners who are on work release are already receiving some form of welfare assistance, and the intended purpose of these work release contributions, to supplement welfare assistance, often is frustrated by a rather complex and unrealistic budgeting procedure.

When a prisoner with dependents is placed on work release, the local county department of public welfare receives notification to this effect.[34] The county department of welfare is then asked to make an investigation to verify dependency and to determine the amount which the prisoner should contribute towards his family's support. The amount of the first work release check is shown in a family's budget as a resource and a revision is made for the amount of welfare's contribution, based upon what the prisoner should be able to contribute. When the family has received three work release checks, they are averaged and the average amount is reflected in the family's budget as a resource.

This approach is considered by many to be unsatisfactory because most work release checks vary sharply in amount from month to month and represent the residue of earnings after the cost of maintaining the prisoner is deducted from his earnings.[35] The family never knows what income to expect and the welfare department's procedures for issuing Public Assistance checks do not permit quick changes in their assistance payments. In the case of one woman, her welfare assistance check was terminated because the amount of her husband's first work release check was more than the amount indicated on the budget. While the first work release check, which terminated the welfare grant, was $197.32, the next check was for $96.52 and the third for $4.19.[36] After determining an average payment the welfare grant was reinstated, but only after this family had suffered great financial hardship.

It, therefore, becomes necessary at times to supplement Public Assistance and work release contributions with General Assistance. This procedure turns out to be not only costly to counties, but impossible in most counties because they either have no General Assistance program or they have an inadequate one.[37] It has been suggested that perhaps it would be helpful to the prisoner's family if the family need were given first priority on the prisoner's earnings. It has also been suggested that if the State were to take full advantage of existing Federal law relating to Public Assistance, certain earned income could be discounted in determining need.[38] Whatever the answer, it is evident that the work release program will suffer, indirectly, unless a proper and equitable solution to these budgetary matters can be arranged.

The Growth of the Program

The number of men and women who have been placed on work release in North Carolina has risen dramatically in the past few years. [See Figure I.] This rapid growth is even more remarkable in light of the estimation made by Garland B. Daniel, Supervisor of Prison Job Placement, that approximately 81 percent of those on work release completed the program "successfully"—that is, without committing a single serious infraction either on or off the job.[39] According to Mr. Daniel, the 19 percent who did not complete the program successfully usually failed for reasons such as going to their place of residence rather than to work and for using intoxicants. Less than one percent actually failed to return to prison.[40]

A by-product of the rise of work release in North Carolina has been its accompanying economic advantages to the people of the State. Inmates who participate in the work release program not only contribute to the economy as taxpayers, but they relieve the general public from some of the burden of paying their prison keep and supporting their families through welfare. This has resulted in increased savings to the taxpayers of North Carolina. [See Figure II]. Figure II reflects how much North Carolinians have benefited from the program over the past four years.

30. Although the Prison Department does not serve as an employment agency, it is no longer uncommon for satisfied or interested employers to solicit the Department for prospective work release employees. Under these circumstances more men are being given the opportunity to participate in the work release program even though they were unemployed when sentenced and committed to prison. Daniel, *supra* note 26.

31. *Ibid.*

32. *Ibid.*

33. See N.C. GEN. STAT. § 148-33.1(f)(1) & (2) (1964).

34. Information on welfare procedures provided by Villard C. Blevins, Director, Catawba County Department of Public Welfare. Letter from Mr. Blevins, January 26, 1966.

35. Information provided by Wallace H. Kuralt, Director, Mecklenburg County Department of Public Welfare. Letter from Mr. Kuralt, January 27, 1966.

36. *Supra* note 34.

37. *Supra* note 35.

38. *Ibid.*

39. Information, statistics and charts used in this article were provided by Garland B. Daniel, *supra* note 26.

40. These approximations would seem to reflect the situation in other work release jurisdictions. For example, of 95 men who had been placed on work release in King County in the State of Washington through December, 1965, five had been removed from the program for infractions, and one because he failed to return to jail. The County Letter, National Association of Counties Research Foundation, (1965). Out of 325 persons granted work release privileges in Orange County, California, during the first two years of their program, 19 inmates were removed for violations, but only one for failing to return to jail. See McMillan, *supra* note 20, at 34.

However, the growth of work release in North Carolina has had a somewhat ironical twist. The number of prisoners *placed* on work release during the past year dropped markedly. [See Figure I.] Rather than indicating that the program might be faltering, this decline can be attributed to the fact that the number of prisoners *available* for work release dropped because of the continuing pressures upon the Prison Department to meet its commitments to other State agencies.[41] For example, the Prison Department is not only under contract with the State Highway Department to supply men to work on the State highways, but must also continue to supply men to maintain prison industries. Assuming, then, that the interest of the inmate and the public in work release does not wain in the future, and that the Prison Department's commitments do not change, it would appear that the Prison Department may soon be confronted with a rather delicate policy question for which there may be virtually no satisfactory answer. On the one hand, the Department does not want to risk sacrificing established and dependable programs, and would prefer to leave open as many opportunities as possible for prison employment and activity. Then again, the Department does not want arbitrarily to curtail the number of men who can be placed on the work release program in any given year, for fear of preventing the program from achieving its full potential. Perhaps the only thing of which we can be sure is that whatever the Department decides to do, it will have an important effect upon the course and shape of prisoner rehabilitation programs in the State.

41. *Supra* note 26.

FIGURE I*†

Participants in the Work Release Program

	Work Release Applications Approved 1957-Dec. 31, 1965	*Number Remaining on Work Release*
Felons	1917	406
Misdemeanants	5249	601
Total	7166	1007

Of the 1007 remaining on work release
579 were recommended by the Courts
428 were recommended by the Board of Paroles

Annual Figures

	No. Placed on Work Release	*No. Remaining on Work Release††*
1957-1960	116	28
1961	236	125
1962	870	331
1963	1763	761
1964	2240	1009
1965	1941	1007
TOTAL	7166	

* See footnote 39 in text.

† All data in Figures 1-2 covers the period from 1957, when the work release program was implemented, through December 31, 1965.

†† The figures for each year are cumulative totals. Those inmates remaining on work release for more than one year are reflected in each year's total. Thus, the 1007 represents the total number of inmates remaining on work release as of Dec. 31, 1965.

FIGURE II

Total Earnings and Disbursements Through December 31, 1965, of the 7166 Participants Approved for Work Release

TOTAL EARNINGS		$5,587,352.12
Expenses:		
Jail Fees	$ 79,274.43	
Support of Families	1,494,369.42	
Personal Expense	650,839.60	
Terminal Settlement	818,288.21	
Received by the Prison Department for:		
Maintenance	$1,839,195.79	
Transportation	456,207.01	
Total Prison Deptartment cost	2,295,402.80	
Total Expenses		5,338,173.46
BALANCE IN TRUST FUND		$ 249,178.66

Annual Figures

	Total Earnings	*Prison Maintenance*	*Transportation*	*Support to Families*
1957-1960	$ 95,064.92	$ 32,937.53	$ 5,811.77	$ 31,943.57
1961	137,469.49	38,951.64	8,613.50	43,264.98
1962	508,000.91	159,358.14	35,601.61	167,319.09
1963	1,111,571.83	380,242.63	92,336.27	297,363.66
1964	1,728,762.66	589,619.16	149,763.40	437,662.47
1965	2,006,482.31	638,086.69	164,080.46	516,814.65
TOTALS	$5,587,352.12	$1,839,195.79	$456,207.01	$1,494,368.42

Conclusion

Work release is an alternative to the more conventional theories of confinement and rehabilitation. It is a tool which allows a correctional administrator to give variety and flexibility to a rehabilitation program.[42] Work release permits some inmates to retain their employment and to continue to support their families. It provides other inmates, who have not had employment, with the opportunity to obtain employment and to begin to support their families. But apart from its obvious economic attraction, work release is a period when an inmate can begin to assume the responsibilities of a free man. While he is on work release an inmate lives in two worlds—prison and the free community. During this time he has ample opportunity to develop attitudes and habits which will determine in which world he wishes to live permanently.

There is still much that can be done to improve the quality of work release. For example, King County in the State of Washington provides work release inmates with psychological testing and counsel by professionally trained personnel. This is one kind of step which could be most useful in assisting a prisoner to adjust to society. Unfortunately, work release is still quite new and there are many questions, but few answers. Very little scientific research has been conducted on the rehabilitative effects of work release. Does work release assist an inmate to return to society? Is the recidivist rate lower among work release inmates than it is among non-work release prisoners? How does work release affect a prisoner's attitude toward his family? Although work release has scored impressive economic successes, it would seem that these are among the questions which must be answered before any firm, large-scale commitments can be made to the program. □

42. For example, one of the provisions of N.C. GEN. STAT. § 148-4 (Supp. 1965) authorizes the Director of Prisons to permit a prisoner to make home visits. At the outset, the policy of the Prison Department will be to permit home visits only to prisoners who have been on work release, and who have demonstrated over the period of time they have been on the program that they can be trusted with increased responsibility. In a sense, the work release program is serving as a platform from which the Prison Department can control and direct the implementation of new and more dramatic rehabilitative efforts.

Total Development for North Carolina

by Robert E. Phay

[*Editor's Note: Phay is an Assistant Director at the Institute of Government who is working in the area of federal assistance programs.*]

At the turn of the century, Governor Charles B. Aycock pledged his administration to improving educational opportunities in North Catolina. He realized that his plan would succeed only through efforts of the people at community levels and not through the activities of a few state officials. With this idea in mind he canvassed the state with the Superintendent of Public Instruction and other state educational leaders spreading a message of better schools. His spark caught fire. Excited by the challenge of improving the public schools, the towns and counties of North Carolina increased local school taxes, improved schoolhouses and built new ones, and increased teachers' salaries. Governor Aycock had sold an idea to the people, and the people returned to him and to themselves the best public educational system in the South.

In much the same spirit, Governor Dan K. Moore has initiated his program for the total development of North Carolina. From May 2 to 6, Governor Moore and a group of state officials involved in the state's economic development held a series of five carefully planned regional meetings (see map). Planned and presided over by Wayne Corpening, the State Coordinator for Economic Development, the group presented a program of explanation and promotion of the total development concept to almost 6,000 of the state's municipal and county leaders.

Development Areas

Each of the programs lasted a full day, with speeches from state officials in the morning and a series of question and answer sessions in the afternoon. The morning part of the program was divided into six areas of development:

1—Roads and highways;
2—Agriculture;
3—Community planning and development;
4—Vocational and technical training;
5—Higher education; and
6—Financing total development.

A state official working in and responsible for the statewide planning in each of these areas addressed the group. Each talk dealt with the relationship of the local community to the state agencies working in the area and how an individual could get his town, city, or county moving ahead with the assistance of the proper state agency. The key points of the speakers in the six listed areas can be briefly stated as follows:

Roads and Highways

Joe Hunt, Chairman of the State Highway Commission, emphasized the importance of reducing urban congestion by constructing new interstate highways and of improving the state's farm to market transportation by upgrading the rural and secondary road system. If the program of total development is to succeed, he stressed, cities and counties must work closely with each other and with the state government in order to build the best possible system of roads and highways.

Agriculture

James Graham, Commissioner of Agriculture, and Dr. H. Brooks James, Dean of the School of Agriculture and Life Sciences at North Carolina State University at Raleigh, spoke on the relationship of agriculture to the state's economic welfare. Commissioner Graham emphasized the impact of farm income—a gross of $1,400,000,000 in 1965—on the state's economy. He pointed out that if North Carolina is to achieve total economic development, markets must be expanded, farm production increased, and marketing made more efficient.

Continuing with this theme, Dr. James noted the importance of agriculture research and education in achieving these aims. He said that these goals will be achieved if each individual supports community and area development programs, local extension advisory groups, and "on-the-farm" research projects.

Community Planning and Development

Dan E. Stewart, Director of the State Department of Conservation and Development, addressed himself to the need to sell North Carolina as a better place in which to work and play. In stressing this need he pointed out that nevertheless there are in North Carolina communities and counties with declining populations and with per capita incomes far below the state and national averages. Such handicaps as inferior water and sewer systems, substandard housing, and inadequate local planning in these communities impede the full development of their economies. Improvement in these areas is achieved when "local people accept the responsibility to make their communities better places to live and do business, by using the services that are available to do the job."

Vocational and Technical Training

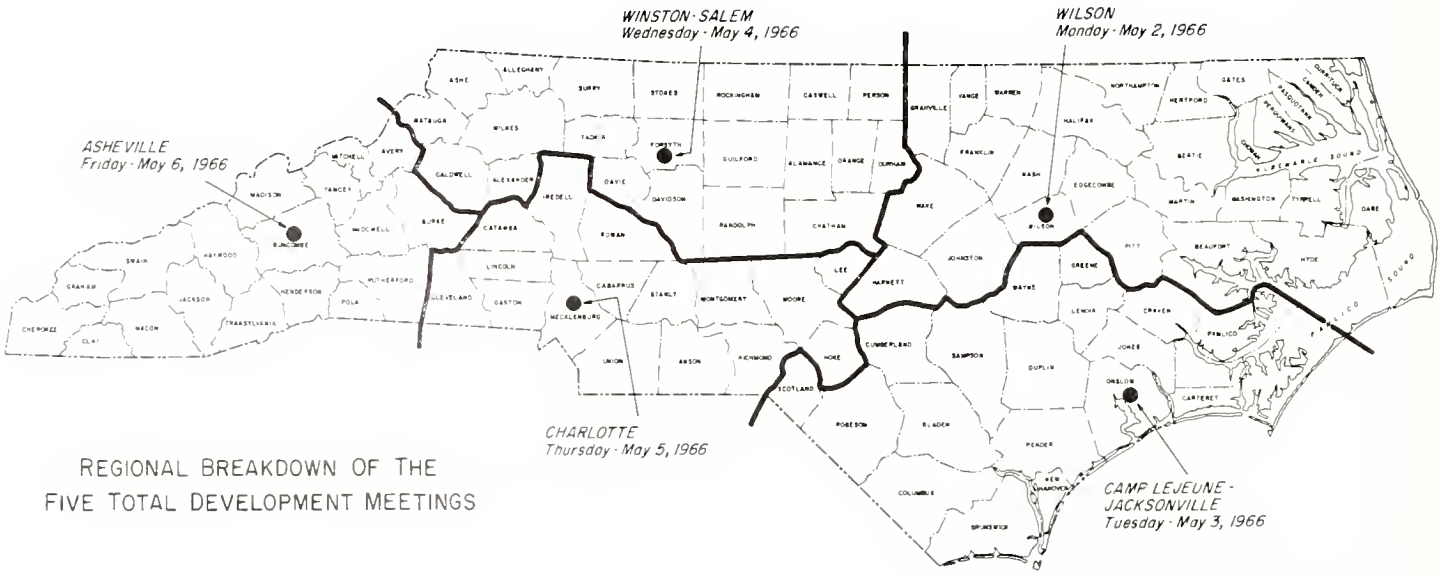
Edward H. Wilson, supervisor of special extension programs of the Department of Community Colleges, spoke on the need for more technically trained people to support the state's industry and commerce. He emphasized that North Carolina must provide, for the unskilled and those who have been displaced by automation, training in the fields that will be the basis for the state's future development—for example, electronics and heavy industry. This training is presently available in our community colleges, technical institutes, and industrial education centers. Community leaders can both reduce work shortages and increase productivity when they encourage the underskilled sections of their local work force to seek new training and education.

Higher Education

Dr. John T. Caldwell, Chancellor of North Carolina State University at Raleigh, requested full support for education—from the kindergarten to the graduate schools of the Consolidated University. Education, Dr. Caldwell maintained, is necessary to achieve society's goal of a higher quality of life. His emphasis, however, was on higher education—"an indispensable prerequisite for the fullest possible development of the great majority of our people." North Carolina's 62 colleges and universities, he concluded, must be supported both in individual good will and in substance if the state is to achieve a high level of economic and cultural development.

Financing Total Development

Beginning his address with the rhetorical question "What can North Carolina afford?" State Treasurer Edwin Gill suggested that perhaps the question might better



REGIONAL BREAKDOWN OF THE FIVE TOTAL DEVELOPMENT MEETINGS

be asked whether North Carolina can afford to limit the resources it commits to this program of total development. He took exception to those who counsel restraint in forging ahead with industrial expansion: Inflation is not curbed by curtailing expansion, he held; greater productivity is one of the answers to inflation, and any spending that strengthens the industrial potential of the state and nation should be encouraged.

Governor Moore: Total Development

Following these speeches, lunch—barbecue at meetings in the eastern part of the state and usually roast beef in the west—was served, and then Governor Moore spoke to each conference. In his talk Governor Moore defined total development: It is the fullest development of the state's capital and human and natural resources so that North

Carolina may produce a better way of life for each of its citizens. It means providing a better educational system, new agricultural markets, and more and better job opportunities; constructing better roads, hospitals, and recreational facilities; and improving community services and cultural advancement opportunities. In other words, the total development program is concerned with every aspect of society that goes into producing a high-quality life.

Governor Moore then developed each of the six subject areas covered by the morning speeches and elaborated upon what he was doing at the state level to help communities and counties fully realize the goal of total development. As he spoke, the purpose of these meetings became apparent. It was to introduce the community leaders of North Carolina to state government and the assistance programs operated by the state and federal governments and to inform local leaders of the services that are available to their units to help develop community potential.

At the conclusion of each address, the Governor announced the initiation of a new program or a new development of a recently established program that particularly affected the region in which he was speaking. The following announcements were made at the cities indicated.

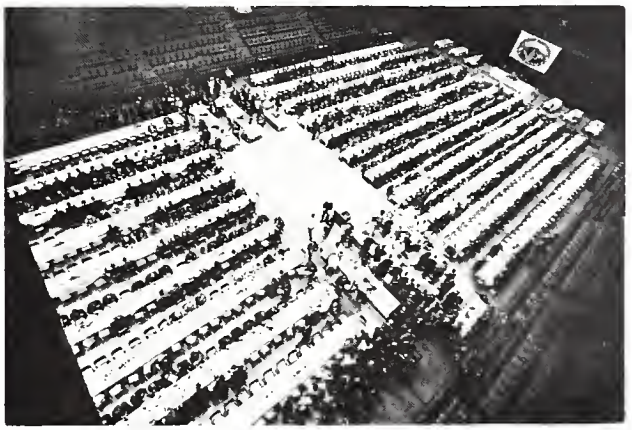
Work-Study Program for Civil Engineering Assistants

Wilson—At the first meeting, which was held in Wilson, Governor Moore announced the establishment of a work-study program to train high school graduates as civil engineering assistants. The program will commence in September under the direction of the W. W. Holding

Governor Dan K. Moore is greeted by U. S. Marine Corps personnel on his arrival at Camp Lejeune for the second of five meetings on total development in North Carolina.

Speaking at the Coliseum in Charlotte, Governor Moore makes an announcement concerning development in the Piedmont Crescent.

Local officials attending the total development meeting at Winston-Salem's Coliseum line the luncheon tables.



Technical Institute of Raleigh. The Institute will operate the program in cooperation with the State Department of Community Colleges, the State Highway Commission, and the State Personnel Department. Students will alternate for three-month periods between the classroom and employment in the State Highway Department until the curriculum is completed and a degree in civil engineering technology awarded. The cooperative training program is aimed at permitting students to gain practical job experience and a formal education by the integration of theory and practice into a single program.

Coastal Studies Institute

Camp Lejeune — The establishment and funding ($100,000) of a Coastal Studies Institute was announced

at the second meeting. The Institute's assignment will be to compile and maintain data and studies done by other research groups and to extend the scope of the research currently being carried out. Particular emphasis will be put on research concerned with the restoration, protection, and development of North Carolina's 328-mile coast line through reducing the damage that results from hurricanes and the erosion of the Outer Banks.

Urban Planning Training Program

Winston-Salem—The establishment of a new training program in urban planning was announced at the third meeting. The program is to be operated by the State Department of Conservation and Development to fill an existing shortage of trained planning personnel. The program is to begin with eight trainees who will spend six months in study and on-the-job training. At the completion of this six months they will be assigned to one of the field offices of the Division of Community Planning.

The Governor also announced that 120 new jobs will become available when Varco Steel, Inc., of Pine Bluff, Arkansas, locates a new plant at the Kernersville Industrial Park. This new industry was obtained, he said, largely through the efforts of community leaders.

Piedmont Crescent Advisory Committee

Charlotte—In Charlotte the Governor announced that funds for the work of his Advisory Committee of the Piedmont Crescent are assured—that $30,000 ($5,000 over the goal) had been raised. These funds will be matched on a 2-to-1 basis by the U. S. Department of Housing and Urban Development. The total $90,000 will enable the committee of more than 100 business and industrial leaders to establish a professional planning staff that will work with state and local agencies and organizations in promoting sound and orderly development of the Crescent area.

Appalachian Development

Asheville—Two announcements were made at the meeting in Asheville; both involved programs concerned with the development of the Appalachian region. The first was an announcement that the Appalachian Regional Commission had approved the site selection for the Appalachian Corridor highway that will cross the North Carolina mountains into Georgia. The Governor also announced the opening of the Southwestern North Carolina Economic Development Commission Office in Sylva. This is the second of seven offices to be opened under the Appalachian Regional Development Act.

Specific Community Problems

The Governor concluded each address with the announcement appropriate to that meeting. The conference then broke into six question and answer groups for discussion of specific problems of community development. Each discussion group considered a different aspect of community development; basically the groups were organized around the six subject-matter areas covered in the morning session —roads, agriculture, economic development, community planning, vocational training, and higher education. These group meetings represented a shift from the general, overall picture of total development to the specific problems of the local city or county. They enabled those attending to relate the goals of the statewide program to those of their communities. They also provided participants with an opportunity to ask questions and receive counsel from high-ranking state officials. For most of the nearly 6,000 who attended the meetings, these sessions constituted the most important part of the program.

The People's Responsibility

Governor Moore has inaugurated his ambitious program of Total Development for North Carolina just as Governor Aycock did before him with the earlier program for public schools; the burden has been placed upon the people. Only if the business, educational, governmental, and religious leaders of the state's communities become excited about working and planning for a balanced, diversified development of their individual communities will the Governor's program succeed in any measure. The charge he made—*Total Development Depends on You*—simply means that development on the local level depends not upon the state officials who addressed the meetings, but upon the people in the towns and cities of North Carolina. All that the Governor and his administration can do is make known what help—state and federal—is available. Armed with this information, the community or county must examine itself and discover what areas need improvement. It may need a new public library, a better school building, an improved water and sewer system, a new industry, or the diversification of its agricultural program. Whatever the need may be, the local community must identify it and then begin to work on it. The state and its facilities stand ready to assist. □

FEDERAL MONEY FOR TOTAL DEVELOPMENT

In order to inform community leaders of the federal aid programs available to local governments, the State Planning Task Force has produced a booklet, *Federal Assistance for Local Government,* written by Robert E. Phay, an Assistant Director of the Institute of Government.

To obtain a copy of this booklet, write either the State Planning Task Force, 127 Halifax, Raleigh, North Carolina, or the Institute of Government, University of North Carolina, Chapel Hill, North Carolina.

[*Editor's Note: Mr. Parnell is a Certified Public Accountant with the firm of W. M. Russ and Company, Raleigh. His article is adapted from an address to the 1966 Seminar for City and County Managers held in February at the Institute of Government.*]

How Accounting Systems Affect the Independent Audit

by Carl M. Parnell, C.P.A.

Relationship of Auditing and Accounting Systems

It might seem that auditing and accounting systems would be relatively unsuited for marriage, but consider these points of compatibility that suggest the possibility of wedded bliss:

(1) Both subjects are related to the central core of accounting theory and practice.

(2) Auditing presently includes, in most instances, the question of internal control, which is a key aspect in the consideration of accounting systems.

(3) Auditing involves in large measure the audit of the accounting system that produces the figures that appear in the financial statements. It is important to understand how accounting figures originate, what evidence exists for those figures, and how reliable the evidence is likely to be.

(4) "Constructive auditing"—that is, diagnosing the client's ills or short-comings in the course of conducting the examination of financial statements—is especially dependent on a knowledge of accounting systems.

(5) Audit trails are an important consideration in the design of an accounting system.

Political Problems

Some of the problems connected with governmental audits stem from the basic nature of local governments as political bodies. For example, the frequent changes in administration are somewhat characteristic of local units and may result in questions such as to whom the auditor is responsible, or even as to the validity of his appointment.

Closely related to the preceding is the fact that employees of governmental units are often hired for political reasons. This practice makes it very difficult to develop and maintain a smoothly functioning accounting and internal control system. The resulting inadequacy of the accounting records and the internal control tends to require the auditor to undertake substantial bookkeeping services. Such inadequacies have the further effect of increasing the extent of the audit procedures which he must apply before he can confidently express an opinion on the audit.

Accounting System Problems

The problem of accounting systems as they affect the independent audit is only one part of the battle. If there is a problem in the municipality's accounting system, other aspects of the municipality will be affected before it reaches the auditor.

Let us try to typify the accounting system problems met in an examination of a city or county:

Slowness

One of the major types of deficiencies of an accounting system is its inability to produce information promptly. The city or county manager needs his information speedily if it is to be of use to him. He also needs the firm of Certified Public Accountants that audits his unit's records to furnish to him their opinion as to the financial condition of the municipality as soon as possible after the close of its accounting period, along with their management letter setting forth their recommendations or suggestions for improvements. The sooner he learns these facts the faster he can do something constructive to improve the situation and thus improve his financial posture.

What causes the system to produce data too sluggishly? I think we have all encountered these situations many times.

(a) The accountant's mental attitude. Often he considers himself the controller of archives rather than an important part of the managerial team.

(b) A desire for unrealistic accuracy. How many times does one find the accountant who refuses to close the books until all of the vendor's invoices have been received? Had he decided to estimate the amount of invoices not yet received, or, in many cases, had he even decided to omit them altogether, his accounts would have been reasonbly accurate.

(c) An unhealthy belief in procrastination. He never does anything today that can be put off until tomorrow.

These are just a few reasons. But the result is that the accountant is short-changing management.

Inaccuracy

Another problem auditors often observe is the existence of errors so material in nature or in numbers that they destroy the reliability of the accounting system.

Many causes contribute to this condition. Some of the more important ones are worth mentioning.

(a) Incompetent accounting leadership is perhaps the most prevalent cause. The municipality's chief accountant is unqualified, either as an accountant or supervisor, to make sure that his direction is sound and that his staff is following his directions.

(b) Understaffing is a common cause. An overburdened accounting staff is prone to make mistakes and to have too little time to check its work.

(c) Inadequate cummunication with operating departments gives rise to many errors. In one instance, the accounting department may fail to get all the facts or may fail to get them correctly. And in another case,

the operating management may fail to examine the accounting reports and tell the accounting department of any obvious errors or inconsistencies.

Overly Complex Procedures

When procedures become too complex we generally find them giving rise to each problem previously discussed:

(a) Too great a delay in producing accounting data.
(b) Too many errors.

There are two or three predominant causes for this condition:

(1) Perhaps the procedures have grown complex over the years by failure to discard unnecessary features, or perhaps the development of a new procedure has been supervised by an illogical mind.

(2) Excessive concentration on trivia invariably gives rise to complicated methods. This is often stimulated by an almost pathological fear of making mistakes or leaving the door open to the remotest possibility of fraud. It results in such phenomena as accounting for paper clips while matters of fundamental importance escape attention altogether.

(3) Perhaps one of the most significant causes is the endeavor of the accounting staff to comply with unrealistic demands, policies or procedures imposed by management.

A Lax System of Internal Control

We should all have ingrained in us the understanding of a need for efficient control. It helps to provide for more accurate accounting data and helps to close the doors against the more prevalent risk of error, loss and fraud.

Unfortunately we fail to find the understanding or the desire to formulate the minimum requirements for an effective system of internal control. This is very important for the auditor. Time will not permit him to go into detail for each transaction which has occurred within a city, town, or county for the entire year. He must rely upon an effective system of internal control to satisfy himself that the procedures followed are good accounting practices.

The smaller town is often unable to afford the luxury of such a system. Yet, as it grows, it sometimes tends to continue its previous deficiencies rather than realize that, with a bigger staff, it is now in a position to provide better internal protection.

Problems Outside the Examination

Up to now we have considered the more common types of accounting system problems that beset the auditor in his examination. Now let us examine a couple of problems that are outside the current examination.

System Changes

Changes in the operation of accounting systems are just as important to the auditors as specific accounting problems—in fact, they may have a lot more to do with efficient performances of the audit. Discussion of proposed system changes with the Certified Public Accountant will help him plan his audit—he might have some suggestions helpful for preserving good internal control. In fact, he might be able to help design the system. Advance work on the accounting system is especially important as more and more records are handled by electronic data processing equipment. Since electronic equipment is frequently able to process information from beginning to end without intervening records of manual accounting, many of the customary points of verification just do not exist. Certainly, no auditor would want his problems to delay progress in record-keeping. Nevertheless, time spent in joint study of audit requirements may make it possible for the system to simplify auditing.

Cooperation in Advance

Cooperation and coordination of effort do not mean leaving each other alone. Cooperation needs to be continuous, throughout the year as well as at audit time. Most cities and counties do not engage auditors until late in the fiscal year. This does not give the municipality or auditor the opportunity to discuss problem areas and come to some agreement about them. It is impossible to over-emphasize the desirability of advance consultation. Not only does this avoid surprising the auditor when he works on the audit, but he might have an idea that would help solve a problem. The best time to settle accounting and auditing problems is when they occur, not after the annual report has been delivered. □

Book Reviews

ORIGINS OF THE COMMON LAW. Arthur R. Hogue. University of Indiana Press, Bloomington, 1966. 276 pp. $6.50.

Although I would not go so far as to say that Mr. Hogue's book should be required reading for first year law students, I will say that it should be strongly recommended. Mr. Hogue saw a need for a book about the early history and development of the English common law that could be understood by persons with no legal training as well as by those just beginning the study of law; he has succeeded to a remarkable degree in filling that need.

Origins of the Common Law is a well-balanced introduction to the systems of royal and local courts, the system of land tenure, the social structure created by feudalism, and the uneven but tremendously important relationship between kings and barons that prevailed in 12th and 13th century England. The author's discussions of free and unfree land tenures and of the complex interplay between royal and local courts are the book's salient strong points. The book suffers from only one real weakness —and this may be due to a bias in this reader rather than from a shortcoming in the book—and that is a lack of analysis when dealing with the forms of action and the absence of any substantial discussion of their impact on the direction of the growth of the common law. — W.A.C.

Durham will be host to the North Carolina League of Municipalities 1966 Convention October 20-22.

The 1966 ICMA Conference will be in Phoenix, October 23-27. □

The Problems and Prospects of Environmental Health Planning

by Carl Johnson

[*Editor's Note*: *Mr. Johnson has been manager of Guilford County since 1963. His article has been adapted from his keynote address to the Ninth Annual North Carolina Planning Conference held at the Institute of Government May 5-6.*]

Goals

The goal of environmental health has long been to provide clean food, water, and neighborhoods for people in the areas served. In recent years the need to insure clean air has been added to our list of concerns. As areas become more densely populated, provision of the basic needs becomes more difficult. As our cities expand into rural areas, additional problems develop. Planners would probably add to the list of needs provisions for good zoning, good roads, industrial development and expansion, and beautification of our communities.

Every citizen has a right to expect all of these provisions and they can best be planned and provided for the community as a whole by people trained in the various special areas of discipline.

Environmental Forces

The major forces which shape our environment might be grouped into natural resources and human-related factors. Natural resources include climate, soil, topography, and water supply. Human-related factors include the cultural and sociological backgrounds of the people, their sources and levels of income, stability or mobility of the population, and its rate of growth. The sum total of these and other similar factors or forces represents the environment affecting each individual in a community. These factors act both individually and collectively, and must, therefore, be studied individually and collectively.

At this conference we shall examine many of the problems involved in dealing with environmental forces as they relate to several areas of human endeavor. In the rural portions of our state, environmental problems may appear simpler than in urban areas. There, where man is thought of as being independent and self-sustaining, the complexities of the urban world may appear superficially somewhat distant. Nevertheless, those who are products of an urban environment need to recognize the close touch with and the profound knowledge of their environment that our rural people have. It is, perhaps, through this strength of knowledge drawn from living in intimate contact with natural forces in our environment that our countryside has come to have the qualities of serenity and peace, life sustenance and permanence, and exceptional beauty.

But it has not always been this way. During the 1930's misunderstanding of natural environmental forces in the midwest led to the needless soil losses of the Great Dust Bowl. Here in North Carolina a past lack of understanding of how nature has built and maintains the sand bars that form our Outer Banks brought about extensive destruction of one of our great natural wonders. But as we have learned from these mistakes and gained from our experiences, the problems of dealing with the rural environment have become simpler, though essentially unchanged.

Problems

Waste Disposal

As more and more of our lifegiving and beautiful rural land becomes urban, a similar strength of knowledge and breadth of experience will be necessary if we are to make this new environment similarly healthful and appealing. In industrial as well as residential areas, we must guard especially against mishandling of the many and volumimous waste products of our urban areas, for many of our urban environmental problems are directly caused by such mishandling. Contamination of our air, our water and our soil is nothing more than irresponsible disposal of unwanted things.

Actually, effective waste disposal procedures frequently create increased productivity. In Los Angeles, when the petroleum industries began treating their gaseous wastes, they discovered marketable by-products. Consequently the usefulness, rather than the hazards of these waste products, has been realized. From such experience we in North Carolina can benefit.

Contamination of our soil and underground water with human waste is a problem of great magnitude. We have made great strides in our urban areas in eliminating the more primitive types of "convenience facilities," but we must also recognize the limitations of even the best individual sewage disposal systems. Every soil has its maximum absorbtion capacity. We must use caution not to overburden our soils with populations too concentrated—either in the form of residential or commercial development. We need also to recognize the needless multiplication of costs which results from failure to provide public sewage disposal facilities at the onset of development, when we know that they will have to be provided sooner or later.

Water Pollution and Availability

As for water pollution, we must first recognize that this is inherent in its use. We wash with it, dispose of waste with it, and use it for such purposes as industrial processing, all of which result in its pollution. I suppose the relevant point is essentially that we can avoid polluting our water only by not using it. It undoubtedly is true that if we were not aware of the great convenience and value of large central water supplies we would all be at least less wasteful in our use of water. Certainly we are inclined to be almost casual in our acceptance of a ready and pure water supply for the luxury it is in many other areas of the world.

Since availability of water is a growing concern of all urban areas, it would appear that more emphasis should be placed on development of more efficient methods of managing

(Left to right) Ronald Scott, Greensboro Planning Director; Dr. H. R. Ellinwood, Guilford County Health Director; Charles H. Davis, planning consultant; and Eugene Gulledge, President of the North Carolina Home Builders Association, field questions from the audience during the Ninth Annual North Carolina Planning Conference held in May at the Institute. More than 200 city, county, and State officials turned out for the two-day meeting, which was devoted to the general subject of planning and environmental health.

Far right, Guilford County Manager Carl Johnson delivers the keynote address to the Conference.

water supply and disposal. Nowhere would this be more welcome than in my own county of Guilford where, because of our location at the headwaters of some rather small streams, we have at our disposal relatively limited sources of water—in a rapidly growing area that already must support a population exceeding 270,000. In an era of rapidly changing technology, we can ill afford to permit the systems providing perhaps our most important single natural resource to remain unchanged.

Human Resources

We know that if in our residential, commercial, and industrial areas we can avoid material waste and create a healthy environment, we can avoid also the waste of human resources. Our public health people understand this, perhaps, best of all. But our planning people are also working toward this end. Through the convenient location of human activities within an environment conducive to the accomplishment of those activities, the most efficient use of human resources can be achieved. To this end we must accomplish an urban arrangement that provides the best possible inter-relationship of commercial, industrial, residential, social, educational, and cultural activities. In so doing I should hope many of our traffic patterns would begin to make more sense, for it is in this area that I feel the greatest danger to my own personal health and safety!

When our urban areas begin to relate one to the other in this kind of orderly fashion, and when we as individuals begin to understand more about our urban environment, what we see will be more meaningful to us. This understanding is not as easily attained in an urban area as it is in rural areas for the problems are more complex. Our cities may not be peaceful and serene, but they may be vibrant and alive. They should be life-giving and permanent. And if we respect our urban visual environment and if we respect one another, our cities will be beautiful to us.

Solutions

To achieve this healthy and visually satisfying environment requires effective interdisciplinary research, planning, and action programs involving both public and private interests. Please bear in mind the equal emphasis on all three words—*research*, *planning*, and *action*—for like the minimum number of legs on a piece of furniture each must provide a share of support to a development program. Each will aid in encouraging self-discipline within the various public and private interests and forces which must all contribute to and share our environment of tomorrow.

Though we still shall need some public controls over private development consistent with total community interests, those of us with public responsibility must realize that controls of whatever type should emphasize guidance toward positive environmental goals, not controls for their own sake, which are inherently negative.

It is most important that we emphasize long range planning to insure provision of our basic environmental needs. As specialists in public health and planning we see our own roles in long range context relatively easily. Happily, we find excellent perspective throughout all segments of community leadership. We should in addition make increasing efforts to encourage our entire citizenry to look toward and plan for our environment of tomorrow. A strong interest and awareness on the part of every individual citizen concerning our future is the best possible force supporting sound planning for tomorrow.

Informed citizens will quickly realize that lack of planning for the environment of tomorrow is in the long run far more costly to the community than planning today.

We need to begin now to project our environmental needs at least a generation ahead, recognizing at the same time the inherent need for future reevaluation and adjustment of plans and action programs as facts and conditions change. Short range community planning and action have a valid place in providing stepping stones toward our goals as we see them, but too often they have only the quality of being stop gap measures forced on us by unanticipated situations. Too often problem solutions developed to meet emergency needs are applied only for want of better alternatives which it is too late to use.

We must also emphasize the need for dealing with our environment not only community-wide, but region-

Planning and Zoning

by

Philip P. Green, Jr.

[*Green, an Institute Assistant Director, works in the fields of planning and zoning, industrial development, building inspection, and area development.*]

Rebuilding Cities

Not all of the effects of war are bad. Many a veteran of World War II can testify that his forced four-year separation from home and job enabled him to make a fresh start on a completely different career. The same was true of cities. Terrible as were the bombings which destroyed cities all over Europe and Asia, they enabled many a historic city to embark upon a "new career" which would otherwise not have been possible.

These thoughts were sparked by a striking new book which has come to my desk—Percy Johnson-Marshall's *Rebuilding Cities* (Chicago: Aldine Publishing Co., 1966, $15). As Professor Johnson-Marshall describes the developments which have led city after city to drift, inexorably it has seemed, into a doomed condition of overcrowding, muddle, transportation jams, air pollution, and all the other evils that we see today, he is moved to point out that only the shock of the bombing was able to make people see that all this was not necessary.

Professor Johnson-Marshall speaks as an insider. He was on the scene as a practicing planner at Coventry even before the Germans levelled the center of that city, and he participated in the making of the "bold comprehensive plan" which guided its rebuilding. After a period of military service he became the head of the Reconstruction Areas Group in the Town Planning Division of the London County Council Architect's Department. As such he was responsible for much of the planning for the rebuilding of London's bombed areas. More recently, while serving as Professor of Urban Design and Regional Planning at the University of Edinburgh, he has applied his earlier experience to plans for rebuilding portions of that undamaged city.

In his work Professor Johnson-Marshall has had intimate contact with all the major figures in British planning circles since the war, and he has also kept in touch with leading figures on the Continent. One may be confident, therefore, that his thinking reflects exposure to the major views of his generation.

The book itself is handsomely put together—beautifully printed and illustrated. Its major interest to planners will be its detailed accounts of the planning which went into the reconstruction of London, Coventry, and Rotterdam. After furnishing an account of the historical setting of the areas involved, the story lets us see the approach of the planners, the conditions and objectives which they considered of major importance in shaping the plans, the successive steps through which the plans evolved, and the end results on the ground.

In addition to this "inside view" of some of the most original and effective planning of our time, the book contains an introductory section covering the historical development of cities, the changes which have taken place over the years in their principal components, and some of the major theories which have been put forth for the redesign of cities so as to reflect contemporary needs and technology. If there is a weak point in the book, it is to be found here, for it gives the impression of having been prepared as a series of illustrated lectures—or perhaps a refresher course in main themes of planning theory.

One other criticism may be voiced. It appears to me that a more coherent statement would have resulted if the illustrations had been placed at appropriate points in the text rather than grouped at the end of each chapter. Under the current arrangement, one has the feeling that he is reading the same material twice.

Regardless of such carping, this will be a handsome addition to any planning library and an intellectual contribution for those who take it off the shelf. The illustrations alone would justify the price.

Derelict Buildings

Anyone driving through North Carolina cannot help but notice the number of derelict structures which litter the countryside. Abandoned farms, tobacco barns, country stores, roadhouses, etc., compete with automobile graveyards and billboard concentrations in damaging the visual image of our state. At a time when the Governor's Beautification Commission and the State Highway Commission are concerned about the latter two types of eyesores, someone should be thinking about the disposition of derelict buildings. In cities, such build-

---

wide and state-wide, for environmental problems seldom stop at political or geographic boundary lines. In North Carolina we need a program of planning and action that represents dedicated, cooperative and determined efforts of all of us.

Our late President, John F. Kennedy, once observed that problems are best solved ahead of time, when diagnosis of a problem is difficult but the solution relatively easy, rather than waiting until the time when diagnosis of a problem has become obvious, but the solution difficult. □

ings can be demolished as nuisances. In rural areas any such legal action is currently stymied, awaiting the conversion of G.S. 153-9(55) into an act of statewide application. Pending this legislation, it would seem that a little leadership might produce effective programs of voluntary action. County planners take notice.

An Unusual Law Review

Planners aren't given much to reading law reviews. But the more I examine its contents, the more I believe they will be passing up a good bet if they fail to read the symposium on "Land Planning and the Law: Emerging Policies and Techniques" published as the March, 1965, issue of the U.C.L.A. Law Review. This $2 volume, available from the Law Review, U.C.L.A. School of Law, Los Angeles, California 90024, contains more food for thought than several new books on planning theory—or a dozen issues of the AIP Journal. Even a listing of its contents would consume more space than we have available here, so just spend the $2 if you are interested in the way things will be going in the planning field during the upcoming decades. □

The Third Alternative in Zoning Litigation

by Fred P. Bosselman

[*Editor's Note: This article is reprinted from the March and April, 1965, issues of* Zoning Digest, *published by the American Society of Planning Officials, 1313 East 60th Street, Chicago, Illinois 60637. Mr. Bosselman is a Chicago attorney associated with the firm of Ross, Hardies, O'Keefe, Babcock, McDugald and Parsons.*

One of the serious deficiences in the operation of American law relating to planning and zoning has been the "all or nothing" approach which our courts have taken with respect to "hardship" cases. When the courts have found that regulations went too far in restricting a particular property owner, they have held them unconstitutional and invalid—to the possible detriment of the public interest. Where they have found that the regulations fell short of this degree of harshness, they have sustained them—placing in some cases a relatively heavy burden on the property owner. Only the Board of Adjustment [with its power to grant variances] and the City Council [with its power to amend the ordinance] have been able to grant effective relief to such a property owner.

In contrast, the British laws permit a much broader range of planning controls, but when a particular property owner can show that he has been prevented from making reasonable use of his property, he can collect monetary compensation.

A small move in this direction was taken by the provisions of the Federal Highway Act of 1965, which authorizes compensatory payments to the owners of roadside properties for the removal of existing billboards and junkyards.

The author of the accompanying article sets forth the intriguing proposition that this type of relief has been permissible all along, within the framework of existing American planning laws. In his view, all that is required is a change in the legal pleadings in particular cases.

Because his view, if proved correct, would go a long way towards removing an objectionable feature of our practice, we have secured permission from his publishers to reprint the article in full for the consideration of our readers.]

Practical Applications of Damage Payments

The average zoning case resembles a Grade B movie, done on a low budget with a stereotyped plot. The cast of characters changes, but the cynical appraisers and the earnest planners all sound much alike. The typical case involves a "builder" who wants to build something and a zoning ordinance that won't let him. The court resolves the dispute in a simple and inflexible fashion. Either the builder gets to build it—or he doesn't. The application of the zoning is either valid or it isn't; there is no third alternative, no compromise.

In fact, if not in law, almost all zoning disputes involve questions of degree. To serve the public interest, zoning regulations restrict some individuals and benefit others. However, the constitution prohibits society from achieving its goals by too severely restricting the rights of the individual. In the words of Holmes, ". . . a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change." Most zoning disputes thus require a balancing of the interests of society against the interests of the individual. Although this balancing involves difficult questions of degree, the dispute is unfortunately resolved in one of two ways—either the builder builds it or he doesn't.

Because of this inflexibility, whenever the degree of individual harm passes the constitutional balancing point, the individual wins a complete victory and society sustains a complete loss. And this loss may pave the way for others. How many commercial strips began with a single hamburger stand or gas station on a country highway?

The harm to the builder that so often outweighs the public interest is ordinarily financial harm, the depreciation of the value of the builder's property. The run-of-the-mill zoning case involves no intangible civil rights, such as freedom of speech, but only a man's right not to have the value of his property unreasonably depreciated. This property right, unlike most other constitutional rights, can be translated into cash. In perhaps four out of five of the zoning disputes now won by the builder, he could have been compensated without allowing him to construct the building he desired. He could have been paid damages.

The British have experimented with the use of "damage" payments as a means of compromising land use controversies. But, as Professor Mandelker has pointed out, Americans have never done so: "In these circumstances, the American dualism of police power (no compensation)—eminent domain (full compensation) breaks down. Planning restrictions which severely limit freedom of choice might not be fully sustainable under the police power. Yet full compensation under the eminent domain power is neither necessary not practicable." The result is a continual overturning by the courts of zoning regulations. Zoning by the courts, and the threat of it, makes effective planning difficult if not impossible in some of the areas where the impetus to urban growth is greatest. If adequate planning of these fringe areas is to be maintained, we must create some means of compensating citizens unreasonably damaged by zoning regulations.

Before examining the legal aspects of using damages as a third alternative in zoning litigation, it would be helpful to consider some instances in which this method would be useful.

Open Space

It has proved very difficult to re tain privately owned open space in urbanizing areas. The lure of high land values and the pressure of high taxes entice farmers to abandon agriculture.

The tangled problem of open space preservation is a Gordian knot which many lawyers and planners have tried to untie. Terms such as conservation easement, owners' guarantee, development right, and aquifer recharge district spin through the more ethereal journals until reels the mind. Meanwhile, the villagers on the firing line have ignored these advanced theories and are hacking at the knotty problem of open space preservation with the blunt sword of restrictive zoning. When they see a swamp, they zone it "Swamp." Permitted use: "Ducks."

Unfortunately for the villagers, the courts often fail to appreciate the masterful simplicity of this approach. As the Supreme Court of New Jersey said in striking down a recent instance of "swamp zoning": "While the issue of regulation as against taking is always a matter of degree, there can be no question but that the line has been crossed where the purpose and practical effect of the regulation is to appropriate private property for. . . open space."

Restrictive zoning just has not been effective to preserve open space. Professors Krasnowiecki and Paul have summed up its deficiencies in concise terms: "Following each successful attack on the regulation as applied to particular property, the plan must either be abandoned as to such property or reinstated through condemnation at values inflated by the passage of time."

Agricultural zoning supplemented by damage awards may be the most effective method of preserving open space. The typical farmer will not require compensation, but by paying damages to the exceptional farmer whose property is no longer susceptible of economical agricultural development, the over-all agricultural character of the area can be maintained, and the snowballing effect of intruding commercial and residential uses can be prevented. What is needed, in effect, is an exurban soil bank.

Vested Rights

Frequently a builder catches a municipality unawares, with its zoning barriers down. The builder rushes around trying to spend as much money as he can in hopes of obtaining a "vested right" before the zoning is changed; the town rushes through hearings hoping to amend the zoning ordinance before the first shovelful of earth is turned. Different state courts have used widely differing approaches to these vested right cases.

These cases can be equitably resolved through the use of cash payments. The builder who has spent a thousand dollars in reliance on the existing zoning should not be treated as if had a contract with the town giving him the right to build. But neither should the rezoning be considered an act of God. The builder can be adequately compensated by a cash reimbursement in the amount of his reasonable expenditures in reliance on the superseded zoning.

Highway Frontage

Probably the most common source of zoning disputes is a highway traversing a residential area. There are few purchasers for residential property fronting on a busy highway. The courts, impressed with the builder's inability to sell his property for residential use, often hold the zoning invalid. The typical consequence, strips of commercial uses along the highway, is offensive both to the neighbors and to the public at large. While proper platting might have obviated the problem, this is no help to those who must live with it.

In many instances a damage award could prevent the development of such commercial strips. If the noncommercial character of the parcels least susceptible to residential development (e.g. the corner lot) can be preserved through the payment of damages, the municipality may be able to support its zoning for the remainder and nip the strip in the bud. The cost of the damage award would be a cheap price for such a result. (It would also remove some of the incentive for deliberate bad platting that leaves land for commercial speculation.)

Although damage awards would be useful in some cases involving open space, vested rights, highway frontage or other similar problems, damages should not be awarded in every such case. Many cases in these areas can be properly handled through the existing all-or-nothing techniques. Only in the "tough cases" will the third alternative be needed. To illustrate the limited applicability of the

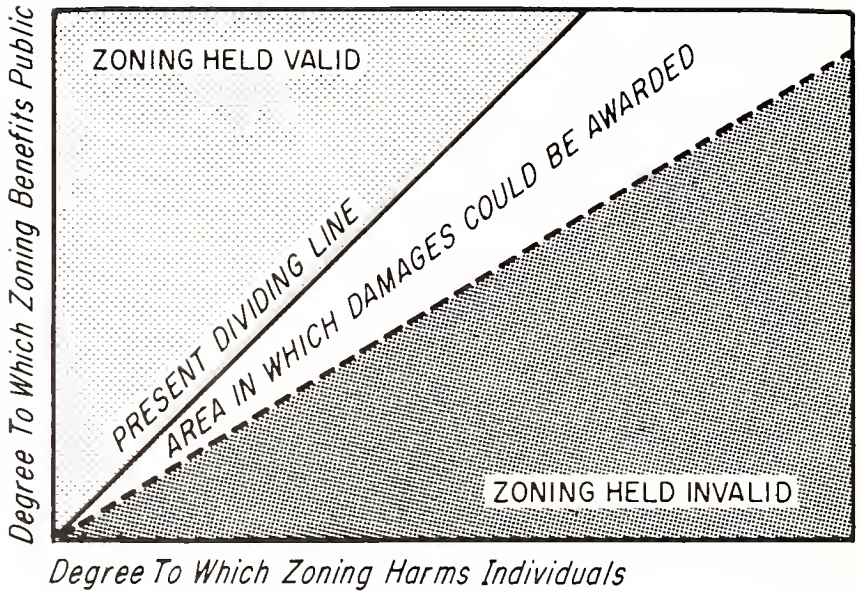
damage award the chart shown here may be helpful.

The three following rules might help to delineate the area in which the use of the damage award is appropriate. Damages should never be awarded unless all three requirements are satisfied.

(1) *The zoning serves the public benefit.* There are cases in which no good reason can be advanced to justify the zoning. Even in states where the ordinance is afforded a strong presumption of validity, the courts occasionally—and quite rightly—gag at a zoning regulation that seems pointless. If the zoning serves no public purpose, it should be held invalid. There is no reason to grant damages in such a case.

(2) *The only injury to the plaintiff is economic.* Only property rights can be measured in dollars and cents, and only if property rights are the only rights involved in the case should the damage award be used. If the complaint involves a question of the right to build a church or to post a political sign or to build an odd looking house, damages are not appropriate.

(3) *The extent of the injury exceeds the accepted bounds of the police power.* Of course, most zoning regulations do not require compensation. The individual must accept reasonable restrictions on his property for the benefit of society. Only when these restrictions impose an unreasonable burden on the individual should compensation be provided.



A Look at History

In American courts today the suit for damages is undoubtedly the most prevalent form of litigation. Why hasn't the damage suit been used in zoning cases? The answer to this question requires a look at history.

Damages Versus Specific Relief

At one period in the history of Anglo-American law, an award of damages was virtually the only form of relief available. Forms of specific relief were created by the English courts to grant relief which could not be granted in the standard common law action for damages. Specific relief, meaning a court order relating to a specific fact situation as opposed to a general direction to pay damages, includes the currently common declaratory judgment, mandamus, and injunction. Only when an award of damages was inadequate to do justice would the court grant specific relief.

The reason for the court's hesitancy was a sound one—the difficulty of enforcing decrees for specific relief. Our contemporary judiciary, more secure in the power structure, has been less hesitant to grant specific relief but has, nevertheless, had problems enforcing its decrees. This is evident not only in such dramatic areas as school segregation and legislative reapportionment but also in the more homely field of zoning. What form of specific relief should be granted when zoning has been held invalid? Does the property become unzoned? Does the court "rezone" it in general or specific fashion? Or may the town modify the zoning slightly and force the builder to start litigating all over? Each state has its own solution, none completely satisfactory.

The use of the damage award avoids these problems. It is a familiar form of relief, involving no novel concepts of property, no extensive legislative or administrative framework. In most areas of American law the judgment for damages has retained its primacy as the type of relief that courts prefer to grant. Even in a zoning case the applicant for an injunction makes the stock allegation—that an action for damages is an inadequate remedy. Why is this allegation never challenged when it appears in the builder's zoning complaint? The answer lies, I suspect, in the history of zoning litigation.

Zoning in Historical Perspective

"Unconstitutionality" is a peculiarly American invention. The United States Supreme Court was not satisfied to occupy the subordinate position of the English courts. It looked upon itself as a check on the abuse of power by Congress and the state legislatures. To furnish such a check, the court relied not only on the threat of damages being awarded to parties injured by legislative action, but also on a stronger weapon, the injunction.

As the nineteenth century progressed, the injunction became a common judicial weapon. Claims of unconstitutionality were most frequently brought by commercial interests objecting to governmental regulation. They believed in laissez faire as a civil right for which no amount of cash could compensate, and the courts agreed. The damage suit as a remedy against legislative abuse became almost forgotten.

Zoning was born in this jurisprudential milieu. Many courts looked on it with a dubious eye. Many judges believed zoning inconsistent with the American spirit of individualism. They saw zoning as some socialistic scheme as dangerous as child labor laws. During the first quarter of the twentieth century, builders saw a good chance that the courts would upset the entire idea of zoning. They asked the courts for broad equitable

relief. Half-way measures, such as damage awards, were not even considered.

In the late twenties, the United States Supreme Court reinforced this pattern in two famous cases. In *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926), it upheld the technique of zoning. But where zoning was misapplied to particular property, as in *Nectow v. City of Cambridge*, 277 U. S. 183 (1928), the court held the particular application invalid, enjoined the city from enforcing its zoning, and permitted the builder to construct what he pleased. As this pattern became the custom, zoning litigation became set in its inflexible mold.

The Return of the Damage Suit

Despite the pervasiveness of the injunction as a remedy against government, the damage suit persisted as an alternative remedy in some types of cases. These may offer analogies for awarding damages in zoning cases. One form of damage action against the government is the suit in inverse condemnation. The property owner claims that his property has been taken by the government without just compensation and asks for damages to be measured as if the government had condemned the land. The action in inverse condemnation originated in cases where property was actually occupied by the government, but the federal courts have expanded the doctrine to award damages for a wide variety of governmental actions short of an actual "taking" of the property. Because the court which enjoins an invalid zoning ordinance usually makes a finding that the application of the ordinance constitutes a "taking" of property without due process of law, why wouldn't an action for inverse condemnation be available to award damages for the taking?

Another development which may present an analogy to the awarding of damages in zoning actions is the abolition by many state courts of municipal immunity from tort liability. While most of the cases which have construed municipal immunity have involved routine personal injury litigation, the courts could award damages in other actions against municipalities if they believe the result would be socially desirable. Courts might well feel that experimentation with damage awards would be worth trying on zoning cases. Nothing, after all, could be much worse than the present morass.

Choice of Relief

An award of damages is less generous to the plaintiff than an injunction. The builder is usually speculating that the value of the property will increase considerably when his building is constructed. This potential increase in value is unlikely to be adequately reflected in the amount of damages he is awarded. It is unlikely, therefore, that builders will actively seek damages.

The choice of relief, however, is not wholly made by the plaintiff. The court has the power to award damages even though the plaintiff has requested only specific relief. A common example of the use of this power is in common law nuisance actions. The plaintiff typically requests that defendant stop operating his slaughterhouse, funeral parlor, or hi-fi set because it constitutes a nuisance. If the court finds that a nuisance exists, but that the extent of the injury is minor in comparison to the importance of the defendant's operations, the court may award damages instead of an injunction. Professors Harper and James, in their treatise on the law of torts, explain this process:

> It will be noted that when plaintiff asks for injunctive relief against an alleged nuisance, there may be two processes of balancing harm against damage. Before the court finds the existence of a nuisance at all, a balancing process takes place in a comparison of the harm of which the plaintiff complains with other factors, including the hardship to the defendant. But even if the court, after consideration of all the pertinent factors, concludes that a nuisance exists, it does not necessarily follow that it will be enjoined. After another balancing process, the court may come to the conclusion that the hardship occasioned to the defendant by enjoining his entire activity might so out-weigh the harm caused to the plaintiff by its continuance that the latter must be content with the recovery of damages.

Why couldn't the courts use the same technique in zoning cases? The court could refuse to issue an injunction because of the existence of an adequate remedy in damages. The choice of relief lies, in the first instance, with the trial court. Even if the plaintiff seeks specific relief, the court can refuse to grant it and award only damages.

Practical Affects of Damage Awards

The legal technicalities which permit the use of damage awards in zoning cases are undoubtedly of less interest than the practical effect of awarding damages. These concluding sections will attempt to predict the over-all cost of the use of damages, and their effect on the quantity and "quality" of zoning litigation.

Cost

Municipal attorneys cringe at the idea of any new form of damage suit against a municipality. But the payment of damages may actually save the taxpayers money.

One of the goals of sound planning is municipal economy. The zoning implements the plan, directing municipal growth in the way that will make the most efficient use of the town's financial resources. Whenever a court busts the zoning, it punches a hole in the plan, and this may open the way for a substantial hike in expenditures. For example, when a court finds a minimum lot size requirement unreasonable, the decision usually affects a substantial area and may compel large expenditures for utilities. The payment of a few damage claims to protect the zoning may forestall much larger costs.

Another alleviating factor is that the town would, in effect, have an option either to pay the damages or to rezone the property and thereby moot the case. Thus the court has the first option in deciding whether to award damages or specific relief, but the municipality will have an option of its own. If it finds the damages too expensive it can always rezone the property rather than pay the damages. The court could not reasonably force the municipality to pay damages if it is willing to rezone.

Where the zoning is designed to promote a purpose broader than the purpose of the individual municipality, it would be only appropriate that the damages be paid by a regional, state, or national body. In an agri-

cultural zoning case, for example, an individual municipality might justifiably complain about paying the entire bill to retain a large tract of open space for a metropolitan area. The grant of a few damage awards might be the impetus that would goad the states or the federal government into making this money available on a metropolitan level.

On the neighborhood level the municipality has another possible source of capital—contributions from the neighbors. Suppose a court finds that a vacant corner lot in a residential zone has little value for anything but highway commercial uses and awards substantial damages, say $15,000. Now the town fathers, who perhaps are not vitally concerned whether a gas station is built there or not, can tell the vociferous neighbors to "put up or shut up." Many zoning restrictions primarily benefit the immediate neighbors rather than the town as a whole. In these cases it is appropriate for the neighbors to pay the bills.

If the municipality desires to enforce very severe zoning restrictions (such as "swamp zoning"), the damages may amount to nearly the full value of the property. In such cases the municipality may just prefer to acquire the property by condemnation. It should be noted, however, that damages can be paid without the bond issue or referendum which may be necessary before the municipality can condemn.

To summarize, in the absence of experience with this type of damage suit it is difficult to predict its cost. However, the municipality's option to rezone—and the possibility of contributions from other sources—should permit avoidance of unwanted municipal expenditures.

Quantity of Litigation

Would the availability of damages in zoning cases cause everybody and his brother to start bringing lawsuits? Again it is difficult to be certain in the absence of experience, but my guess is probably not.

The initiation of a lawsuit challenging a zoning regulation is tedious and expensive. First comes the debilitating process of exhausting one's local remedies. Any reasonably resourceful municipality can tie up an amendment application for a year or more with public hearings before a planning commission and town board. Then six months to a year may be needed to prepare and file a lawsuit and obtain a decision from the local judge. If this decision is appealed, another year or two is likely to be consumed. Bringing lawsuits is not the way to overnight riches.

Furthermore, the costs of litigation will serve to discourage frivolous complaints. The fees of lawyers and expert witnesses for the trial of a zoning case can often amount to $10,000, with an additional $3,000 to $6,000 if an appeal is taken. No rational man will risk money of this sort unless the prospective gains are substantial.

A sizeable proportion of present zoning litigation is financed by national retailing chains or housing developers or by speculators who anticipate selling to such a customer. The cost of litigation is treated as part of the cost of acquiring new locations. But what oil company would "take an option on a lawsuit" if the outcome was likely to be merely an award of damages to the property owner rather than permission to build a new gas station? The disappearance of these national "speculators" from the ranks of the plaintiffs might actually reduce the volume of zoning litigation.

Quality of Litigation

The desire to improve the quality of zoning litigation is not merely a search for what Karl Llewellyn called the "beautiful" in law. True, nothing is more artistically depressing than some of the three or four hundred zoning opinions written by appellate courts in this country last year. Most of the opinions are based on a skimpy, low-budget trial record. The briefs raise none of the interesting issues but are likely to discuss, on one side, only the extent of the plaintiff's alleged loss of property values, and on the other side, the "presumption of validity" attached to municipal ordinances. No wonder the judicial opinions that come out of such litigation are hardly works of art.

But no one is forced to read all these uninspiring opinions. The evil to be cured is substantive, not artistic. The opinions, in addition to their deficiences in style, ignore vital issues of planning and constitutional law that are highly important to our society. Dick Babcock wrote over ten years ago that ". . . zoning ordinances contain many fundamental questions of major importance to urban planning which have not been brought forward for challenge . . .," and that statement is still true today. The plaintiffs' lawyers fail to raise these issues because they see a good chance of success using the tried and true technique of showing only the extent of the plaintiff's loss of property values.

Two examples illustrate this: A town creates a restricted retail district forbidding gas stations. The town is motivated primarily by an oversupply of existing gas stations. The real issue here is between the need to regulate competition and the policy against creating a monopoly. The important constitutional question is whether there has been a violation of plaintiff's right to equal protection of the laws. In how many cases has this issue been present, and in how few has it been adequately discussed!

Large lot zoning is another technique containing potential legal issues that are rarely given serious consideration. The difference in the value of land zoned for quarter-acre lots and land zoned for three-acre lots is, in the long run, one of the least important issues in such a case. Yet the questions of interest to the planner—the suitability of the topography for intensive development, the demand for housing of various types, and the effect of intense development on transportation facilities—are rarely argued in depth, while the comparison of property values is too ofen the central part of the case.

If the comparison of property values could entitle the plaintiff only to damages, then the plaintiff would find it necessary to raise these more important legal issues to obtain the specific relief he really desired. He would be forced to show, for example, that the zoning conferred no public benefit because it was not based on good planning principles, or that it violated the plaintiff's civil rights. (Norman Williams outlined many of these silent issues in his articles in *Zoning Digest* in 1961.) Zoning litigation could then become a real forum for challenging competing planning theories and testing important policy issues, rather than a mere adding machine totaling up "before" and "after" property values and weighing the difference against some vague presumption of validity.

The most serious problems that I foresee in the use of damage awards

are determining the proper amount of the damages, and making provision for change in light of changing conditions.

Measure of Damages

The ordinary zoning case, as typically tried under existing law, already provides a ready-made but rough measure of damage. The real estate experts testify to the value of the property as zoned and its value if developed according to the builder's desires. The difference in value is the injury which the plaintiff alleges is caused by the regulation. While this evidence is now used to justify specific relief, the same general type of evidence could be used to prove the builder's damages.

This measure of damages is now used only in a rough way to show the existence of an injury substantial enough to justify specific relief. If it were necessary to show an exact amount of damages, the present technique would need refinement. If the zoning is found unreasonable, the plaintiff should be entitled to damages only for the loss in value caused by the unreasonable part of the zoning. For example, if the real issue is whether residential use or highway commercial use should be permitted, the builder should not be able to prove up the value of the property as a ready-mix plant. The only relevant values should be the difference between the property's value zoned for residential use and zoned for highway commercial use. In other words, the starting point for measuring damages should be the value of the property under the most restrictive reasonable zoning.

The concept of "most restrictive reasonable zoning" is a simple one. The first premise is that zoning is constitutional, and that the municipality may reduce the value of property if the zoning is reasonable. Then the court must decide how much the municipality could reduce the value of the property without overstepping the bounds of reasonableness. Assume that only residential uses are being considered and the dispute involves the density of housing to be permitted. The present zoning allows only one dwelling unit per acre. Plaintiff sought rezoning to permit four dwelling units per acre but was rejected. The court finds that two dwelling units per acre would have been a reasonable classification without compensation, but that one dwelling unit per acre is not. The measure of damages is the difference between the value of the property at two dwelling units per acre and the value at one dwelling unit per acre.

Where a greater variety of uses is being considered, the computation involves more steps but is in essence the same. The concept of "most restrictive reasonable zoning" can be thought of as the antithesis of the appraiser's "highest and best use." In the frontier days of land development, the highest or more intensive use was thought to be the best, but today the community often thinks the least intensive use is the best. The lowest degree of intensity of use on which a community can insist without overstepping the bounds of reasonableness thus becomes an important benchmark for testing the validity of zoning restrictions and for measuring the damages to those injured by invalid restrictions.

The Monopoly Factor

When the dispute involves commercial uses, for which the demand is more limited than for housing, the measure of damages is often complicated by the monopoly factor. The value of a gasoline station depends greatly on the extent of its competition. A monopoly position will greatly increase its value, but should this monopoly factor be considered in computing damages?

As an example, assume that two major streets cross in a residential district. The four corner lots are all vacant, but the rest of the property in the neighborhood is built up with houses. The vacant lots, like the rest of the area, are zoned for residential use. Plaintiff, who owns one corner lot, brings suit challenging the zoning. His real estate experts testify that plaintiff's proposed gas station would be a veritable gold mine. Of course, their predictions anticipate that his station would be the only one in the area. If the court finds that nothing less than highway commercial zoning is reasonable, heavy damages are likely to be awarded because of this evidence.

When the builder on the opposite corner later tries his case, it is again assumed that his station will enjoy a monopoly, since after all, the first builder was paid only cash and has constructed no gas station. This process could be repeated four times on the four corner lots. Thus the aggregate of the damages measured singly might be far greater than the total damages if measured for the area as a whole.

The solution to this problem might be to measure the value of plaintiff's property on the assumption that if his property were rezoned, other property might also have to be rezoned. If the most restrictive reasonable zoning of one corner is for highway commercial uses, the same zoning should probably apply to the other corners. Thus the value of each corner lot must be appraised as if there were to be gas stations on each corner. In this way each property owner would receive only his proportionate share of the total increase in value which would accrue to the entire corner if it were reclassified for highway commercial uses.

The potential commercial strip is another area where the monopoly factor must be given consideration. The expert witness who testifies to the "need" for new commercial uses in the area usually assumes that plaintiff's will be the only one of its kind. But if in fact the grant of the rezoning would cause the development of a commercial strip, the resulting depression in the value of each individual parcel should be taken into account in measuring damages.

Another technique for insuring that the monopoly factor would be given proper attention would be for the municipality to implead the owners of similarly situated property as additional plaintiffs. The presence of all property owners would prevent any one owner from attaching an artificial monopoly value to his property.

Zoning Changes

Perhaps the most difficult problem associated with the use of the damage award in zoning cases is determining the long-range effect of the damage award. The surrounding area may undergo significant changes. Is the successful plaintiff's property to be forever restricted to the uses permitted at the time the damages were awarded? If the municipality later wants to liberalize the zoning, can it get some of its money back?

Again perhaps nuisance law is the best analogy. When a court finds that one party has violated rights of another by creating a nuisance, various remedies are open. The court may en-

join the nuisance or direct that its operations be modified; it may award lump sum damages or it may direct that damages be paid periodically until the nuisance is eliminated. In such cases either party can move to reopen the case by showing a change in the relevant conditions. A similar flexibility would be available in zoning cases. The court could adjust the type and amount of relief from time to time to take into account changing circumstances.

The panoply of rights and remedies which would be applied by the type of equitable decree we are discussing bears a close resemblance to a complex division of property rights—such as is found in the English system or the proposed variants on it—whereby various covenants, easements, and other property interests are obtained by the government. The law relating to property rights, however, is antiquated and inflexible. As Norman Williams put it recently, "If anyone wants to avoid the complications in zoning law by shifting major emphasis to covenants, my strong suspicion will be that he has never experienced one of the law's real baptisms of fire—by being initiated into the mysteries of touch-and-concern, privity of estate, affirmative and negative obligations, dominant tenements, change-of-neighborhood, and the like."

The law relating to nuisance, however, has always been flexible, easily molded to meet changing conditions. For this reason, nuisance law holds more hope as an analogy for improving land use control than does any system requiring a drastic reform of property law.

Conclusion

Damage awards are not an all-purpose panacea which will solve all the problems of land use controls. They are only a tool which can be used to fashion gradually a system of land use control better than the one we now have. But they are an existing tool that can shape and reshape remedies as new problems arise. No claim is made that the technique is free of difficulties, but common law courts are accustomed to solving difficulties; I think they should start to work on these. □

Education and the Law

By Allan W. Markham

Do you know the statutory responsibilities of public school personnel for fire safety and the teaching of fire prevention in the public schools? The North Carolina General Statutes impose specific duties on local school officials in regard to both of these responsibilities.

Provisions requiring instruction on fire prevention are found in at least three chapters of the General Statutes. Section 115-37 provides that the outline course of study for the public schools prepared by the Department of Public Instruction shall include instruction in fire prevention at the appropriate grade levels. The course of study outlines are required to be followed by all local school boards. By the terms of G.S. § 113-60 local forest rangers and deputy rangers are required to distribute to all public schools in their respective counties the books, periodicals, and other literature on forest preservation provided by the State and federal forestry agencies. The rangers and teachers in the schools are responsible for keeping these publications conspicuously placed in the schools and are required by the statute to "prepare lectures or talks to be made to the pupils . . . on the subject of forest fires, their origin and their destructive effect . . ."

The foregoing statutes deal with the requirements for teaching fire prevention generally. There are several sections of the law dealing specifically with fire prevention and fire safety in the school. Under the terms of G.S. § 69-7, the Commissioner of Insurance, the Superintendent of Public Instruction, and the State Board of Education have the joint duty "to provide a pamphlet containing printed instructions for properly conducting fire drills in all schools and auxiliary school buildings . . ." In addition, this statute requires the principal of each public and private school to conduct at least one fire drill every month during the regular school session. These drills "shall include all children and teachers and the use of various ways of egress to assimulate evacuation . . . under various conditions, and such other regulations as prescribed by the Commissioner of Insurance, Superintendent of Public Instruction, and State Board of Education." The statute further directs the Commissioner and State Superintendent to provide for the teaching of "Fire Prevention" in the colleges and schools of the State and arrange for the adoption of a textbook for the purpose. Finally, October 9 is designated by the statute as "Fire Prevention Day" in the observance of which officials of all organized fire departments shall participate.

The public school laws, Chapter 115 of the North Carolina General Statutes, contain fairly extensive and detailed provisions concerning fire prevention and safety in the school. Section 115-150 contains almost identical provisions to those of G.S. § 69-7. In addition, this statute places upon the principal the duty to inspect all buildings in his charge at least twice a month for the purpose of keeping them safe from fire hazards. The principal shall file with his superintendent monthly written reports, in duplicate, stating the date of the last fire drill, the time required for evacuation of each building, that all required inspections have been made, and such other information as is deemed necessary for fire safety by the Commissioner of Insurance, the State Superintendent, and the State Board of Education. A copy of the report is to be forwarded by the superintendent to the chairman of the local school board. Sections 115-150.1 and 115-150.2 contain additional detailed requirements for inspection of school buildings by principals, building and electrical inspectors, and local fire marshalls. Reports of all inspections shall be kept on file by the superintendent of each administrative unit for three years. Section 115-150.3 provides that any person willfully failing to perform any of the duties imposed by G.S. §§ 115-150 through -150.2 shall be guilty of a misdemeanor and liable to a fine of up to $500. □

Attorney General's Rulings

Compiled by Allan Ashman

CONFLICT OF INTEREST
Public Officers

7 March 1966

A. G. to Jule McMichael

Question: Can a member of a county board of commissioners sell milk to the county, or city, board of education without violating the criminal laws of the State?

Answer: We do not believe that G.S. § 14-234 or G.S. § 14-236 would prohibit a county commissioner from selling milk to the boards of education. However, if a member of the board of education has a pecuniary interest in the commissioner's milk operation then he would run afoul of G.S. § 14-236 and G.S. § 14-237. This office has also ruled that, under G.S. § 14-234, where a county board of education was appointed by the county board of commissioners, such appointive power by the commissioner would prohibit the commissioner from entering into contracts with the board of education.

COUNTIES
County Planning Boards

28 March 1966

A. G. to Fred Folger, Jr.

Question: A county desires to enter into a contract with the Federal government for a water and sewer survey. What must it do in order to enter into such an agreement?

Answer: G.S. § 153-9(40) is the relevant general law on the subject. Pursuant to this statute a county must, first, establish a County Planning Board which, in turn, is authorized to contract for Federal grants.

COURTS
Assistant Solicitors

15 March 1966

A. G. to Thomas D. Cooper

Question: After Decemter 1, 1966, can a board of county commissioners continue to appoint a "first" assistant solicitor of superior court and set his salary?

Answer: No. The two relevant statutes are G.S. § 7A-43.2 and G.S. § 7A-43.3. G.S. § 7A-43.2 provides that:

"A superior court solicitor, with the approval of the Administrative Officer of the Courts, may designate one or more qualified attorneys to assist in the prosecution of the criminal dockets of his solicitorial district when: (1) criminal cases accumulate on the dockets of the district beyond the capacity of the solicitor to keep the dockets reasonably current; or (2) the prosecution of criminal cases in a specific location in the solicitorial district would be better served. Attorneys designated under the authority of this section shall receive thirty-five dollars ($35.00) per diem for each day they prosecute in court, and they shall serve for such time as may be authorized by the Administrative Officer of the Courts."

G.S. § 7A-43.3 provides that:

"In addition to the assistant solicitors otherwise provided for in this article, the board of commissioners of any county may, in its discretion, authorize the solicitor to appoint a competent attorney to assist him in the prosecution of the criminal docket of the superior court of the county. The assistant solicitor so appointed serves at the pleasure of the solicitor, who assigns his duties. The compensation of the assistant solicitor shall be fixed by the board of commissioners after consultation with the solicitor, and it shall be paid from the general fund of the county. The board may terminate the compensation at any time upon 30 days' notice."

Both sections become effective, statewide, on the first Monday in December, 1966. In view of the explicit language of G.S. § 7A-43.3 we are of the opinion that after the first Monday in December, 1966, the only method to secure a first assistant solicitor for a county is to comply with G.S. § 7A-43.2. This would be true even if the county were not implementing the new district court system, pursuant to G.S. § 7A-131, until the first Monday in December, 1968.

DOUBLE OFFICE HOLDING

28 March 1966

A. G. to Ralph C. Sutton

Question: Can chairmen of county boards of commissioners, superintendents of county schools, superintendents of county welfare departments or other appointive office holders, serve as members of Local Economic Development Commissions without violating Article XIV, Sec. 7 of the State Constitution?

Answer: We are of the opinion that persons appointed to Local Development Commissions or Economic and Industrial Commissions would be public officers under Article XIV, Sec. 7 of the State Constitution. Members of county boards of commissioners and superintendents of county schools have been held to be public officers and would not be eligible to serve on such commissions. Although superintendents of public welfare are public officers, they are exempt from the double office holding prohibition since they are placed in a category of public charity. In determining an individual's status as a public officer it is immaterial whether he is elected or appointed to his office.

MUNICIPALITIES
Annexation Procedure

29 March 1966

A. G. to Harley B. Gaston, Jr.

Question: A city is considering annexation. The boundaries recommended by the Planning Board call, in several instances, for the right-of-way line or the center line of certain streets. Would G.S. § 160-453.16 (e) require that a municipality include land on both sides of the street when a street is used as a boundary for a municipality?

Answer: G.S. § 160-453.16(e) states that:

"In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use nat-

ural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality land on both sides of the street and such outside boundary may not extend more than 200 feet beyond the right-of-way of the street."

Although this section is subject to interpretation, we believe that it requires that a municipality include land on both sides of the street when a street is used as a boundary for a municipality. A street is not a natural topographical feature within the meaning of this section. As a practical matter it would appear impossible for a street to be used as a boundary under the wording of this section, since the requirement that land must be included on both sides of the street would clearly make the outside boundary not the street, but the line located beyond the right-of-way of the street. Therefore, it would appear that the outside boundary line of a municipality should stop short of a street right-of-way unless the municipality desires to include property on the other side of the street.

STATE AGENCIES

Expenditure of Funds

2 March 1966

A. G. to George R. Jost

Question: For what purposes can the State Board of Water Well Contractor Examiners expend public funds?

Answer: We are of the opinion that while it is implicit in the powers of a State examining board to employ an attorney to represent it, the Board of Water Well Contractor Examiners would be without authority to hire a "lobbyist". While the Board would have no authority to advertise in news media for any general purpose, it could legitimately advertise to announce Board examinations or to specifically call the law to the attention of those affected by it. Under the authority of G.S. § 87-71, which allows the Board to employ necessary personnel for the performance of its functions, it is our opinion that the Board could employ expert consultants but could not pay the expenses of a meeting of water contractors and public health officials on a wholesale basis. The Board also has implicit authority to expend funds to reprint the Act relating to the Board of Water Well Contractor Examiners, any regulations duly adopted, and supplemental information designed to assist in securing compliance with the law. While such information could include a reasonable amount of educational material relating to the existing law, or to proposed amendments, it should not include materials which comprise an effort to alter the law. □

BOND SALES

From March 29, 1966, through May 3, 1966, the Local Government Commission sold bonds for the following governmental units. The unit, the amount of bonds, the purpose for which the bonds were issued, and the effective interest rates are given.

UNIT	*AMOUNT*	*PURPOSE*	*RATE*
Cities:			
Ahoskie	445,000	Water Bonds, Street Improvement Bonds	3.85
Cary	375,000	Water Bonds	4.09
Greensboro	3,500,000	Water Bonds	3.43
Hertford	500,000	Water Bonds, Sanitary Sewer Bonds	4.00
High Point	2,500,000	Water, Sanitary Sewer, Street Improvement, Fire Station	3.43
Madison	20,000	Public Library Bonds	4.45
Raleigh	200,000	Public Library Bonds	3.55
Counties:			
Duplin	64,000	Refunding School, Refunding Road and Bridge	3.69
Henderson	80,000	School Refunding Bonds	4.09
Mecklenburg	7,800,000	School Building Bonds	3.41
Vance	85,000	Refunding School, Refunding Courthouse	3.58
Wayne	225,000	Refunding School; Road, Bridge, and General Refunding	3.85
Wilson	240,000	Refunding School Bonds	3.54

Managers' Association Names 1966-67 Officers

Chapel Hill City Manager Robert H. Peck will head the North Carolina City and County Managers' Association for 1966-67. His election came during the association's recent convention in Asheville.

William H. Batchelor, Rocky Mount Manager, will serve as vice-president and Anson County Manager L. P. Zachary of Wadesboro will be secretary-treasurer. Elected directors are J. Harry Weatherly, Mecklenburg County Manager, Charlotte; Jack F. Neel, City Manager, Roxboro; and I. Harding Hughes, City Manager, Durham. □

Traffic Safety Awards Go to Fifteen Cities

Fifteen North Carolina cities received North Carolina State Motor Club traffic safety awards for 1965 for fatality free records last year. *New Bern*, *Jacksonville*, *Roanoke Rapids* and *Kinston*, all with no fatalities for more than a year, represented the above 10,000 population group. Awards in the 5,000-10,000 group went to *Morehead City*, five fatality-free years; *Canton* and *Mooresville*, four years; *Mount Airy*, *Belmont* and *Southern Pines*, two years; and *Forest City*, *Roxboro*, *Smithfield*, *Oxford*, and *Rockingham*, one year. □

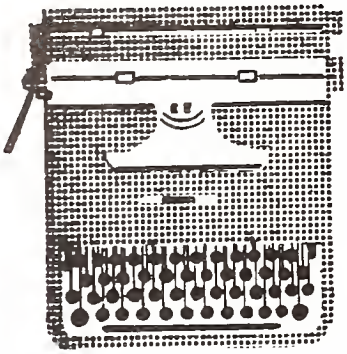
Throughout the year 14 groups of State Highway Patrolmen have attended in-Service Training Schools at the Institute of Government. The final group is shown here. Staff member Norm Pomrenke has had charge of the sessions which serve as a refresher course and to keep the Patrol abreast of new developments in law and government.

The Virginia State Crime Clinic and Richmond Professional Institute sponsored their fourth semi-annual law enforcement seminar in April. General topic was "Police Service—The Evolution of a Profession." Institute of Government Assistant Director Norm Pomrenke (second from right) spoke on "The Concept of Police Professionalization." Shown with him are, at left, Carroll R. Hormachea, Law Enforcement Program, RPI; Quinn Tamm, Executive Director, International Association of Chiefs of Police, Washington, D. C.; and at right, Inspector Harold W. Barney, Tampa Police Department.

New tax collectors were concerned with "The Fundamentals of Property and Privilege License Tax Collection" when they attended a five-day school at the Institute in April. This eleventh annual course for new county and municipal tax collectors was under the direction of Institute Assistant Director Henry Lewis. Lewis is shown second from right as he discusses the collection of personal property taxes with a group of collectors.

INSTITUTE SCHOOLS, MEETINGS, CONFERENCES

Planning and environmental health set the theme for the 9th Annual North Carolina Planning Conference at the Institute in May. At right Tom Broughton, Division of Commerce and Industry, North Carolina Department of Conservation and Development, discusses finer points of industrial development. Far right, Southgate Jones, Chairman of Durham's City Beautiful Commission, discusses practical problems of community appearance during a session on "The Visual Environment."



● NOTES FROM . . . CITIES AND COUNTIES

AIRPORTS

Wilson commissioners have authorized acquisition of land for a joint *Rocky Mount*-Wilson airport to be located 11 miles from Wilson and seven miles from Rocky Mount.

* * *

Work is expected to begin soon on construction of a $134,000 *Elkin* Municipal Airport.

* * *

While *Harnett* County's newly named airport authority searches for a new county airport site, *Angier* and *Fuquay* have announced plans for a new airport with a 2,500 foot runway to serve industrial firms.

* * *

Union County voters blocked plans at the polls for a new airport. The vote in a $98,000 bond issue was 3510 against and 1231 for. The issue carried only one of 24 precincts—and that by two votes.

* * *

Goldsboro has a new air terminal at the eastern edge of Seymour Johnson Air Force Base, built at a cost of $26,500.

* * *

Contracts for construction of the *Henderson* Airport will be let later this month. Finances are being shared by the city, *Vance* County, and the federal government.

* * *

ANNEXATION

For the first time in history, *Denton's* town limits have been extended. Town commissioners have accepted a 20,000 square foot northeastern area into the town limits—marking the first change since 1908.

* * *

CATV

Whiteville has granted a cable television franchise on a 10 year basis.

* * *

Aboskie has asked for sealed bids from cable television firms interested in installing local service. Nearby *Murfreesboro* has franchised a CATV firm which guarantees the city a straight five per cent of the gross revenue with an annual guarantee of $500.

* * *

COMMUNITY FACILITIES

Winston-Salem will seek $108,000 in federal funds to help pay for an expanded community recreation center at 14th Street Park. The building would be used by the Experiment in Self-Reliance as a neighborhood service center.

* * *

COMMUNITY IMPROVEMENT

Elizabeth City's workable program for community improvement has been recertified by the Department of Housing and Urban Development.

* * *

Kings Mountain's community improvement plan has received local approval and the community is in the process of applying for federal funds to use in eliminating and preventing slums and blight.

* * *

Pittsboro copped top honors in a beautification and clean-up campaign sponsored through state garden clubs by the Sears Foundation. Efforts of Pittsboro's Civic Improvement Council were rewarded with a $500 prize. Last year's winner was also a *Chatham* County community—*Siler City*.

* * *

Mount Airy and *Chapel Hill* were among Tar Heel cities taking part in clean-up, paint-up, fix-up campaigns during May.

* * *

EDUCATION

Lillington will be the site of a new vocational school which will offer a nine-month carpentry and plumbing program. The program is to be operated as a branch of Central Carolina Technical Institute.

Guilford County voters gave a solid okay to $14 million in school construction bonds in a light vote. Public schools will receive $13.5 million for the next four years and $500,000 is earmarked for Guilford Technical Institute.

* * *

Harnett County has received a $250,000 federal grant for a manpower development and training program in bricklaying, plumbing, carpentry and electricity. The 18 month program will train 120 unemployed and unskilled men.

* * *

Construction of a new wing at *Catawba* Valley Technical Institute near *Hickory* will increase its size by 50 per cent and relieve library and lunch period crowding.

* * *

FIRE PREVENTION

Edenton councilmen have approved a negotiated bid for construction of a new fire station. Cost is estimated at $85,000.

* * *

A *Lincoln* County civic club is raising funds to purchase small, reflective stickers to be placed on bedroom windows to assist firemen in efficient rescues in the event of home fires.

* * *

Some 350 firemen and industrial representatives from all areas of North Carolina and neighboring states attended the 38th Annual Fire College, held at *Winston-Salem* in May. One of the main courses of instruction during the five-day school featured structural fire problems. Thirty dwelling structures were used in the training session, providing instruction under realistic conditions.

* * *

HEALTH

Gaston County voters, by a margin of almost two to one, said no to a

new hospital during a special election. The total vote of 17,755 was some 10,000 votes above the usual bond election turnout.

* * *

Cornerstone laying ceremonies have been held in *Wilmington* for the new $9.5 million *New Hanover* Memorial Hospital. The new facility will have 404 beds and is expected to employ about 800 persons.

* * *

Preliminary plans are being made for a 350-bed $8 million hospital in *Wayne* County. Plans are to be completed by next spring so that construction can get underway by June 30, 1967.

* * *

Nash County voters okayed a $5.5 million hospital in a close bond election. The vote was 2,419 to 2,198 with 52.4 per cent of the county's voters going to the polls. A maintenance tax levy was also approved by a slim margin.

* * *

Forty acres near *Lincolnton* have been selected as the site for a new *Lincoln* County General Hospital.

* * *

Federal funds amounting to $925,000 have been granted for enlargement of *Sampson* County Memorial Hospital. The plan calls for adding 50 rooms, extensive enlargement of laboratory and X-ray facilities, and a new physical therapy department.

* * *

HOUSING

Monroe is moving ahead with plans for public housing following a public hearing which offered no opposition to the town's low-rent housing plan.

* * *

Contracts have been let for construction of 40 units of low-rent housing by the *Elizabeth City* Housing Authority.

* * *

The *Mount Airy* Housing Authority has received a $50,854 federal loan for construction of 40 low-rent homes —20 to be designed for the elderly.

* * *

Federal approval has been granted the *Durham* Housing Authority for a 200-dwelling housing development on a 19-acre tract in the Hayti section.

* * *

Construction of 16 dwelling units for elderly persons is underway in *Keetertown*, east of *Mooresville*.

* * *

A large low-rent housing project will be built in *High Point*'s urban renewal area by a private developer, sold to a local non-profit Negro citizen's group, and financed by the federal government. The 150-unit project will have single-family and multi-family units and is expected to be completed by late summer 1967.

* * *

LIBRARIES

"The Public Library of *Johnston* County and *Smithfield*" has been adopted as the name for that area's new joint library. A new library building is expected to be completed this summer at a cost of more than $400,000.

* * *

A bequest of approximately $400,000 will be used to construct a new library for *Kernersville*. The bequest also includes a tract of land for the building.

* * *

A soaring contemporary sculpture of polished steel by George Jolley sets the theme for *Union* County's new public library—one of the first to be built in North Carolina under a program made possible by matching federal funds. The *Monroe* facility houses 35,000 volumes and has space for more than double that number.

* * *

Two pink granite sculptures of children by Ogden Deal are located in an open courtyard in front of the new *Davie* County library in *Mocksville*.

* * *

Gunn Memorial Public Library in *Yanceyville* will be dedicated June 29 with Lt. Governor Robert W. Scott as principal speaker. Construction began on the $114,000 building in June, 1965. The building can house 35,000 volumes and will be headquarters for the Hyconeechee Regional Library system of *Caswell*, *Orange* and *Person* counties.

* * *

MUNICIPAL BUILDINGS

The proposed new court room for *Red Springs* will seat 110 and provide a jury room, judges chambers and a conference room.

* * *

Northwestern Bank directors have donated a *Hendersonville* bank building to *Henderson* County for use as a public facility.

* * *

Tenants have moved into *Martin* County's new office building diagonally across from the courthouse in *Williamston*. The welfare department will occupy the entire lower floor and upstairs occupants will include the soil conservation service and the ASC.

* * *

PLANNING AND ZONING

Goldsboro planners have come to grips with the long-standing source of confusion—separate city streets with common names. A public hearing will be held this month to consider renaming certain streets.

* * *

Nash County commissioners have approved establishment of a nine-member planning board to help chart orderly development of the county.

* * *

Cleveland County commissioners have named 10 members to a long-awaited planning board which will study and make recommendations about the county's long-range needs.

* * *

RECREATION

A $215,000 federal insurance loan will be used to develop a recreational area near *Burgaw* in *Pender* County.

* * *

Winston-Salem's four new public swimming pools—called the most complete swimming centers in the state—have opened on a seven-day weekly schedule. All are L-shaped and designed primarily for recreational swimming, but include requirements for AAU swimming and diving meets, water carnivals, water ballets, synchronized swimming and life-saving and water safety instruction.

* * *

SANITATION

Lincoln County commissioners have made plans to establish garbage dump areas and landfills in each township in the county. One would serve the *Lincolnton-Ironton* area, another *Howard's Creek*, and a third *Catawba Springs*.

* * *

TAXATION

A complete revaluation of all real property in *Forsyth* County began late in April. The county's last revaluation saw property values leap from $503 million in 1958 to $1 billion in 1959, but the present revaluation is not expected to be so dramatic.

* * *

Forsyth County commissioners have agreed to delete an optional method of paying property taxes on a percentage basis in a tax listing by

mail plan. The mail listing is being given a one-year trial and had at first included the option of counting personal property at 10 per cent of real property value.

* * *

TRAFFIC SAFETY

A new policy to reduce the number of exits and entrances to shopping centers and at the same time speed the flow of traffic has gained approval of *Charlotte's* city council.

* * *

URBAN RENEWAL

Durham's redevelopment commission has okayed two urban renewal projects and is pushing toward another geared at renewing a downtown area by providing new traffic arteries.

* * *

Aboskie is investigating the use of federal funds in a downtown redevelopment program aimed at keeping Main Street alive.

* * *

Hickory councilmen have authorized the Hickory Urban Redevelopment Commission to apply for a federal planning grant of $238,810 to survey and plan two urban renewal projects.

* * *

The revitalization of downtown *Charlotte* came closer to reality when city councilmen said they wanted to move forward as quickly as possible on eight specific projects, among them a parking garage and convention center.

* * *

UTILITIES

Durham councilmen have requested a $980,000 federal grant for use in sewer outfalls and treatment facilities planned by the city in the near future.

* * *

In a solid vote of 9 to 1, *Brevard* voters approved a special bond election for improvement of sanitary sewers. The actual count was 492-56. In addition to the $315,000 approved in the bond vote, the town will have $189,000 in federal funds available for the project.

* * *

Mitchell County voters gave an emphatic yes to a $125,000 water bond issue with a vote of 2,003 to 56. The funds were needed to provide water for an industrial plant expected to employ 500 workers on an annual payroll exceeding one million dollars. *Spruce Pine* has received a $100,000 federal grant toward the project.

* * *

Granite Quarry voters have okayed issuing bonds for not more than $375,000 to install a municipally owned sewer system. The count was 229 for, nine against.

* * *

Henderson is eyeing Kerr Lake as a possible permanent and inexhaustible water supply. An engineering study is underway to determine the feasibility of the source in opposition to the present source at Southerland's Lake.

* * *

Johnston County will assist the town of *Benson* in extending water and sewer lines to an industrial site.

* * *

Waynesville officials are considering a recommendation that the town spend about $308,000 for expansion of its water storage and distribution system in anticipation of future needs.

* * *

Kinston councilmen have approved an extended aeration sewage disposal system which will cost approximately $1 million less than the straight lagoon method, with which the city has been experimenting, or a conventional mechanical plant. Cost of the system will be defrayed by a federal grant and contributions from industrial firms.

* * *

Monroe officials have asked for a $200,000 federal grant to implement the first phase of a long range water plan. The initial plan calls for construction of a new water tank, additional distribution lines and an increase in finished water capacity. The second phase will include modification of the existing plant to process more water, and the final phase will include another lake, new filter plant, underground storage facilities, and additional distribution lines.

* * *

Smithfield is seeking federal assistance to finance an estimated $842,000 in improvements to water and sewer facilities.

* * *

Laurinburg town fathers hope to receive a $235,000 federal grant to apply to a planned million dollar upgrading of the city's sanitary sewer system.

* * *

Orange County and *Mebane* are working toward a joint water and sewer project which would serve new industries.

* * *

Kinston has adjusted its domestic electric rates to coincide with those being charged by a private power company operating in an adjacent area. To defray the loss of funds to the city, a $1.50 monthly garbage surcharge will be put into effect.

* * *

Raeford councilmen have agreed to go ahead with enlargement of the sewer disposal plant. The present two-year old plant is already overtaxed with industrial demands.

* * *

Enfield has received a federal grant of $177,600 for construction of a sewage disposal plant and increasing the capacity of the sewer line from the town to the plant. Contracts have been awarded.

* * *

Greenville will use a $330,000 federal grant to construct a sewer outfall system in North Greenville.

* * *

Kings Mountain voters, in record-making fashion, agreed by a vote of 458 to 19 to issue up to $1,300,000 in sewer bonds.

* * *

The *Nash* County Planning Board will receive a $13,500 federal grant for a year-long study of water and sewer needs in rural areas.

* * *

Lincolnton has received a federal grant of $325,000 for construction of a new sewer plant on the South Fork River. Contracts have been awarded.

* * *

Federal funds amounting to $53,850 have been allocated for *Wendell's* proposed $180,500 sewerage system and plant.

* * *

Windsor has requested federal assistance in constructing a two-stage lagoon disposal system for an industrial firm. The project would cost $84,000.

* * *

Bryson City has applied for a federal grant of $241,500 for construction of a sewerage treatment facility including pumping stations and interceptor lines.

* * *

Financing for a water and sewerage disposal project for *Nashville* will come from a $115,500 federal grant and a $255,000 federal loan. A supplementary bond issue of $60,000 will also be necessary to cover the cost of

the sewerage project.

* * *

Durham's attempts to secure federal grants to help finance extension of water and sewer services to newly annexed areas are not expected to delay extension of the services, according to City Manager Harding Hughes.

* * *

Warren County in eligible for federal public works aid and has engaged an engineering firm to assist in implementing requests to the federal government for various projects. □

Institute staffer Richard McMahon lectures on human behavior during a session of the basic training program for probation officers held at the Institute of Government in May. He also spoke to the group on the role and function of probation officers.

Role playing in the form of mock interviews was among the techniques practiced during the probation officers training program. At right probation officers act out their parts in a class demonstration.

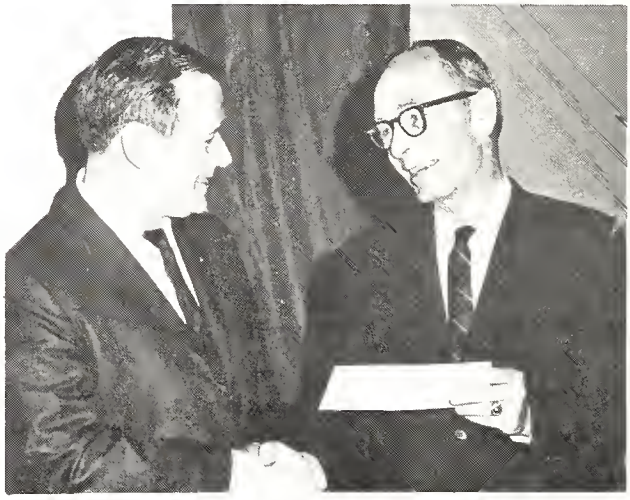
INSTITUTE SCHOOLS, MEETINGS, CONFERENCES

Juvenile probation councilors, meeting at the Institute in May, hear a report from a class member as Institute staffer Dorothy Kiester looks on. The conferees included councilors attached to domestic relations courts as well as those working with public welfare departments.

Richard McMahon, left, and Ben Overstreet, right, conduct a session of the probation officers training program. Overstreet lectured on the history of probation and pre-sentence investigation and disposition. Other institute staff members taking part in the school were Mason Thomas, Dorothy Kiester, and David Warren.

Municipal, County Administration Courses Graduate 42

The 1966 winner of the George C. Franklin Award, given each year by the North Carolina League of Municipalities to the member of the Municipal Administration Class with the most distinguished record, is John B. Fennell, Finance Director for the City of Charlotte. Above (left) he receives the Award from League President, Mayor J. Garner Bagnal of Statesville.



Commissioner Fred Jones of Hertford County, President of the North Carolina Association of County Commissioners, (above right) presents the Association's first annual Award to the outstanding member of the County Administration course, H. L. Jenkins, Union County Manager.

Graduation exercises for the Institute's 12th class in Municipal Administration, with 29 members, and its 2nd class in County Administration, with 13 members, were held on Saturday, May 21. Fred H. Weaver, Vice-President of the Consolidated University of North Carolina, addressed the graduates.

Members of the Municipal Class were: William Baird, Chief Inspector, Raleigh; Carl Lee Beaman, Clerk-Treasurer, Farmville; Warren M. Browning, Assistant Finance Director, Wilmington; Joe Evans Dixon, Director, Personnel and Purchasing, Wilmington; Maurice Wesley Downs, Clerk-Treasurer, Fayetteville; John B. Fennell, Finance Director, Charlotte; William David Ford, City Clerk, Oxford; John P. Greene, Data Processing Supervisor, Durham; Louis Dexter Hubbard, Jr., Assistant Manager, Raleigh; C. Herbert Jones, Tax Collector, Reidsville; John Alfred Jones, Jr., Engineer, Greensboro; Jimmy W. Kiser, City Attorney, Charlotte; Albert F. Lucas, Manager, Selma; George McCarthy, Accountant, Fayetteville; George W. Morgan, City Clerk, Roanoke Rapids; Sammy L. Myers, Administrative Assistant, Fire Dept., Winston-Salem; Samuel H. Owen, Jr., Industrial Engineer, Winston-Salem; Lawrence A. Parker, Manager, Cherryville; James L. Prillaman, Building Inspector, Asheboro; William G. Royster, Manager, Henderson; Ora William Sapp, Director, Recreation Commission, Lumberton; Ray E. Shaw, Jr., Treatment Plants Superintendent, Greensboro; Bruce H. Smith, City Treasurer, Charlotte; Joseph C. Taylor, Manager, Lumberton; Virgil Truitt, Water and Sewer Superintendent, Tarboro; Jerry W. Turpin, Clerk-Treasurer, Reidsville; Henry Edward Tysinger, Utilities Director, Thomasville; Ernest Vincent Wilkie, Fire Captain, Durham; and Charles Eugene Worley, City Clerk, Graham.

The County Class was composed of: C. Bryan Aycock, Accountant, Wayne; Roland Beck, Manager, Davidson; Jimmy D. Clowers, Assistant Accountant, Forsyth; Charles M. Cobb, Accountant, Martin; Victor H. Denton, Planner, Division of Community Planning; John A. Donnelly, Planner, Division of Community Planning; Robert S. Gidney, Tax Collector, Cleveland; Joseph R. Hendrick, Manager, Cleveland; H. L. Jenkins, Manager, Union; Curtis R. Kennedy, Inspection Director, Guilford; Ira L. McDowell, Chairman, Board of Commissioners, Randolph; Faison W. McGowen, Accountant, Duplin; and James W. Williamson, Assistant Auditor, Craven.

For about two-thirds of the 165 hour course, which extended over 12 weekends between October and May, the members of the two classes met together when the sessions were devoted to study of law, finance, administration, and functions of common interest. The classes met separately when the subject matter was of chief interest only to city or to county officials.

The members of the two classes are shown together on the facing page.

The '966 Municipal and County Administration Class

The final examination for the courses was in the form of practical problems involving planning, personnel, supervision, and local finance. Members of the classes were divided into problem solving groups—several of them are shown at work here.

Credits: Photos—p. 7, top right, photographic Laboratory, Marine Corps Base, Camp Lejeune; p. 7, left, Jeep Hunter; p. 7, lower right, Frank Jones; inside back cover, top, U.N.C. Communications Center; all other photos Charles Nakamura. Cover and other illustrations, layout and design, Lynn Igoe.

Everybody complains about government.

Now meet some guys who are doing something about it.

The men you see above are amateur politicians. Not a professional baby-kisser among them. They are just good citizens. Men of action. This year, thousands of young men like them will take their lead from the U. S. Junior Chamber of Commerce's National Committee on Governmental Affairs. They will carry out a far-reaching and constructive program designed to awaken every American citizen to his duty to have his say in government — local, state and Federal.

This company is pleased to join the Jaycees and other responsible organizations in spreading this message across America. For we feel that until an individual accepts his responsibilities as a citizen, he speaks from a weak position when he complains about government. Thus, we strive to practice good corporate citizenship. And our corporate policy is to urge every Reynolds officer and employee to accept his governmental obligations. Because we believe that **it is the people who DO things that make a community GO.**

CHAIRMAN, BOARD OF DIRECTORS

PRESIDENT

RJR R. J. REYNOLDS TOBACCO COMPANY

TOBACCO PRODUCTS • FOOD AND INDUSTRIAL CORN PRODUCTS • FRUIT JUICE BEVERAGES • PACKAGING MATERIALS