POPULAR GOVERNMENT

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In This Issue:

Our cover features an unusual shot of the 1967 North Carolina General Assembly in action. This photograph by Charles Nakamura was taken from the House balcony and catches the legislators in perspective.

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Municipal Incorporation in North Carolina: Approaches and Considerations

by Warren Jake Wicker and Lee Quaintance

Quaintance and Wicker

[*Editor's Note: The authors, both assistant directors of the Institute of Government, have consulted with community groups interested in incorporation and helped prepare municipal charters, most recently for Erwin.*]

If the present North Carolina General Assembly follows the practice of its predecessors of the past twenty years, it will incorporate between one and eight towns in its 1967 session. Forty-four special acts incorporating municipalities were enacted in the ten biennial sessions between 1945 and 1965, and four more towns were incorporated by special administrative procedure in the same period.

Why are new towns incorporated? Ideally, incorporation is a response to the felt need of people living close together. They establish a town because it is a form of governmental authority designed first, to regulate personal conduct and the use of property in behalf of the health, safety, and welfare of the whole community; and, second, to provide essential public services that people need because they live close together. However, fulfilling these two functions need not confine the town's goals just to providing that measure of police protection or other indispensable public services that will make life merely secure. Ultimately, equally important is the town's role in providing those elements such as parks, playgrounds, and over-all planning that will not only help make the life of its inhabitants secure but enrich that life as well.

Unfortunately, towns are sometimes created in response to a lesser order of needs and with different goals from those described above. Some towns have been incorporated merely as a defense against annexation by another town, and in a few cases incorporation has been used as a device by real estate developers to gain tax benefits.

Sometimes, regardless of what needs or goals prompted a community to incorporate, towns are created that have too little population and too small an economic base to be efficient governmental units. Such units not only fail to provide basic services to their residents, but may stand as roadblocks in the path of orderly development of other communities.

METHODS OF INCORPORATION

Incorporation by legislative act is by far the most frequent means of legally constituting new town governments in North Carolina, but the alternative of incorporation by an administrative procedure also exists.

The General Statutes[1] provide for administrative incorporation on a petition, signed by a majority of the electors and freeholders resident in the proposed town, to the Municipal Board of Control, composed of the Secretary of State, the Attorney General, and the Chairman of the Utilities Commission. This board has, under the present statute, no discretion in granting incorporation, but merely determines that the petition satisfies certain minimal statutory requirements.[2] This method of incorporation has not been used often

1. G.S. 160-192, -198.

2. Chiefly, these statutory requirements are that the area proposed for incorporation contain at least 50 persons of whom at least 25 must be freeholders and 25 must be qualified voters. The assessed value of taxable property in the proposed town must be at least $25,000, and no part of the town may be within an already incorporated town or within three miles thereof. The petition to the Board of Control must be signed by a majority of the qualified voters residing within the proposed town boundaries. Detailed provisions are set down for the contents of this petition and a public hearing upon it is provided.

Table 1

Municipal Incorporations in North Carolina by the Municipal Board of Control, 1917-1966

Year of Incorporation	Name	1960 Pop.
1917	Franklinville	686
1919	Columbia	1,099
1920	Connelly Springs	N.A.
1920	Myers Park	N.A.
1920	Ronda	510
1920	Valdese	2,941
1921	Fairfield	N.A.
1922	Burnsville	1,388
1923	Simpson	302
1923	Spindale	4,082
1923	Washington Park	574
1924	Smithtown	199
1924	Sparta	1,047
1926	East Flat Rock	N.A.
1927	Harmony	322
1927	Wilson Mills	280
1928	Ansonville	558
1928	Arapahoe	274
1928	Lansing	278
1930	Arlington	590
1939	Bertie	393
1941	Bonnie Doone	4,481
1941	Holly Ridge	731
1949	Carolina-Virginia Coastal Highway	N.A.
1949	Draper	3,382
1951	Spray	4,565
1963	Love Valley	78*

Source: Information supplied by the Office of the Secretary of State.

*—Indicates 1960 population as estimated under G.S. 160-4.1 for purposes of determining distribution of state-shared taxes for towns not included in the 1960 U. S. Census of Population.

N.A.—Indicates population figure not available.

in recent years. As Table 1 indicates, twenty-seven towns have been incorporated by the Municipal Board of Control since its creation in 1917; only four of these have been incorporated from 1945 to the present.

Incorporation acts passed by the General Assembly are commonly called town "charters." These charter acts vary considerably in their content. They usually grant the town all of the comprehensive municipal powers provided in Chapter 160 of the General Statutes of North Carolina, but they may contain terms that modify or expand these powers to accommodate particular problems or objectives of the town. Each act will define the corporate boundaries of the town and stipulate whether or not the incorporation is to be subject to a vote of the qualified voters who are residents of the town. Of the forty-four incorporation acts passed by the General Assembly in the past twenty years, twelve have provided for incorporation subject to a local election, and thirty-two have created the new towns directly by the legislative act. A listing of legislative incorporation acts is shown in Table 2.

The General Statutes prescribe no standards that an area must meet before it can be incorporated by special act of the legislature. No threshold requirements are set as to the size of the area, its population, its tax base, or its proximity to other incorporated municipalities.[3] Nor are these issues likely to be raised in the legislative process of considering an incorporation act. Incorporation acts are local bills and therefore are normally passed expeditiously through the legislative process as a matter of courtesy to the legislator who introduced the bill. In practice, legislators introduce incorporation bills only for communities located within their county or district. The only time an incorporation bill is likely to be challenged, once it has entered the legislative process, is when a conflict of opinion arises over its propriety among legislators from the same district or when the act creating the town contains some special provision that affects statewide interests. Consequently, the policy decision on whether a town should be incorporated is largely dependent on the exercise of discretion and foresight by the people of the community seeking incorporation and their legislators before legislation for that purpose is introduced. If the act incorporating a town is enacted subject to a local election, a final act of discretion is vested in the voters. However, this discretion is very limited; it is confined to saying "yes" or "no" to a complete project rather than participating in the design stage of a plan of government.

How ought the discretion of legislators, local leaders interested in municipal incorporation, and residents of the area proposed for incorporation to be exercised? This

3. Incorporation standards have been adopted by statute in some states. For example, one of the Illinois standards for incorporation is that a village must have a minimum population of 400 and a city 2,500. In Wisconsin the smallest municipal government that can be formed is a metropolitan village, which must have an area of two square miles and a population of 2,500, with a density of 500 per square mile; if it is within a stated mileage of another city, it must meet other requirements. In Oregon, if a town that wishes to incorporate is within three air miles of a city of 5,000 or less, it must secure the consent of that city; if it is within six air miles of a city of 5,000 or more, it must secure the consent of that city. See: The Advisory Commission on Intergovernmental Relations, *1967 State Legislative Programs* (Washington: Government Printing Office, 1966), pp. 450-57. In at least three states (Minnesota, Wisconsin, and California), administrative agencies have been empowered to review and approve proposed incorporations. See: Clarence J. Hein and Thomas F. Hady, "Administrative Control of Municipal Incorporation," *Western Political Quarterly*, XIX (1966), 697-704.

is a policy matter to be determined by these individuals on the basis of many judgments that arises from their particular circumstances and that of the community in question. It is a question for those directly involved to answer. The concerned parties may, however, find certain tools useful in securing the background and information that will aid an informed exercise of their discretion.

The outline given below represents by no means a mandatory course of action; it is illustrative of steps that have been followed in some communities and are designed to make an organized, informed, and democratic approach to incorporation.

STUDYING INCORPORATION

The following steps presume the existence of a group or committee that has decided to examine the possibility of incorporating the community. This committee might be an association of businessmen, a service club, or an *ad hoc* group of residents, to name a few possibilities. The steps outlined for this group are discussed with reference to incorporation by legislative act, but such a study process could also be used in preparation for administrative incorporation by the Municipal Board of Control.

Preliminary Inquiry

The first task of such a group is a preliminary inquiry to see whether the incorporation idea should be pursued further or dropped at this point. The committee:

1. Seeks to learn, probably by informal conversations, the initial views on the question of incorporation of representative individuals and interested groups within the community.
2. Explores whether there are needs for service or for regulations now inadequately met in the community that show promise of being dealt with better by an incorporated town.

Table 2

Municipal Incorporations in North Carolina by Legislative Act, 1945-1965

Session of Incorporation	Name	1960 Pop.
1945	Draper (E)	3,382
1947	Broadway	466
1947	Jamestown[1]	1,247
1947	Kure Beach	293
1947	Morrisville	222
1949	Deep Run (E)[2]	183
1949	Gaston	1,214
1949	Pinehurst[3]	1,124
1949	Surf City	264*
1951	Askewville	195
1951	Spring Lake	4,110
1951	White Lake	130
1953	Havelock (E)	2,433
1953	Kill Devil Hill	268
1953	Long Beach (E)	102
1955	Long Beach	102
1955	Stanfield (E)	471
1955	Yaupon Beach	89
1957	Danbury	175
1957	Emerald Isle	14
1957	Gold Point	98
1957	Harkers Island (E)	1,362
1959	Barnardsville	199
1959	Bayshore Park	21
1959	Cape Carteret	52
1959	Chocowinty (E)	580
1959	Havelock (E)	2,433
1959	Leaksville-Spray (E)[4]	10,992
1959	Ocean Isle Beach	5
1959	Trent Woods	517
1961	Boiling Springs Lake	0*
1961	Bunnlevel (E)	N.A.
1961	Chadwick Acres	N.A.
1961	Nags Head	728*
1961	Red Oak	N.A.
1963	Ranlo (E)	2,067*
1963	Southern Shores	N.A.
1963	Spencer Mountain	N.A.
1963	Sunset Beach	39*
1963	Tar Heel	77*
1963	Topsail	97*
1965	Alliance	N.A.
1965	Centerville	N.A.
1965	King (E)	N.A.

Symbols:

(E)—Indicates incorporation subject to a referendum election.

*—Indicates 1960 population as estimated under G.S. 160-4.1 for purposes of determining distribution of state-shared taxes for towns not included in the 1960 U. S. Census of Population.

N.A.—Indicates population figures not available.

1. Actually a revival, although termed an "incorporation." Jamestown was originally incorporated in 1816.

2. Actually a revival, although termed an "incorporation." Deep Run was originally incorporated in 1925.

3. Incorporated as a city for law enforcement purposes only.

4. Subject to an election (that failed) on the consolidation of Leaksville and Spray. The act was in effect an attempt at merger although termed an "incorporation."

3. Discusses growth prospects and development patterns in the area with the county planning commission, if there is one, or with other people knowledgeable on these matters, such as officials of the county and nearby cities.

These three actions are probably undertaken as a unit. From consideration of the responses to these three inquiries, the committee decides whether to pursue the question further.[4] If its decision is in the affirmative, the remaining steps of this outline might be in order. In reaching this decision, the committee might choose to broaden its inquiry into the needs and expectations of the community by conducting a comprehensive opinion poll of its residents. The Junior Chamber of Commerce of Erwin conducted such a community survey (with a questionnaire to every household) before the incorporation study there. The survey form used in Erwin was developed by the United States Junior Chamber of Commerce and contained 60 questions designed to permit the people of a community to evaluate all the services and facilities of the community, both public and private. More limited surveys, of course, could be designed.

Preliminary Determination of Town Boundaries

The second task of the committee is to make a preliminary determination of the town boundaries on which to base its analysis of the consequences of incorporation. Hopefully, the boundaries selected by the committee reflect its findings in the preliminary investigation with a particular eye to the probable growth pattern of the community. These preliminary boundaries may be modified a number of times before any final town limits are selected for inclusion in a bill to incorporate the town. Nonetheless, they serve as a necessary frame of reference for study of the incorporation proposal.

Examination of the Prospects of Incorporation

The third task of the committee is research into the basic tax and service prospects of a town comprised of the area proposed for incorporation. This research would involve collection of data that permit estimates of the following:

1. The assessed value of property subject to taxation within the proposed town boundaries.
2. The level of expenditures required to provide the basic town services that are considered desirable.
3. The revenues that will be available to the proposed town, or that must be raised by it to meet the anticipated level of expenditures.

Rough estimates in all three cases can probably be developed by most committees. An assessed value figure for the proposed town, in rough form, can probably be secured from the county tax supervisor. Approximate levels of services and rough cost estimates can often be secured from officials in nearby municipalities, especially if the neighboring municipalities are of similar size. From the same source, members of the committee could probably obtain a rough estimate of the amount of revenue that would likely be available from state-shared taxes and from minor miscellaneous sources. The difference between this amount and the projected cost of service would be the amount to be raised from local taxation. With estimates of the assessed valuation subject to local taxation and the amount of funds needed, the necessary local tax rate can also be estimated. When these steps are completed, both individuals and the community have a general picture of the service and financial consequences of incorporation.

Table 3 sets forth per capita amounts of various revenues and expenditures that are fairly typical of North Carolina towns with populations of about 1,000. While the information set forth in the table is typical, it does not indicate the wide range that is actually found. Often, some of the services shown are simply not provided at all, and in other cases, they are provided at a much higher level than indicated. For example, expenditures for police protection in a small beach community are likely to be several times higher than would be found in a small town that serves primarily as a retail center. The figures shown here might be used by a committee studying incorporation as an initial estimate, *but they should be used with great caution and adjusted to reflect conditions of the community.*

Considerable latitude for error in the committee's assessments exists when judgments are based on rough approximations. Professional assistance does not guarantee errorless estimates, but it may produce a fuller and more nearly accurate development of the facts. A number of sources can be suggested for professional assistance in studying incorporation. The North Carolina League of Municipalities has staff field workers who may be able to assist and advise the committee in drafting a report on incorporation. Some private consulting agencies work on projects of this sort. The Institute of Government has done a number of incorporation studies for citizen groups.[5] While it does not always have staff time available for detailed studies, the Institute is prepared at any time to offer assistance and guidance of a less formal type. This would include consultation services and provisions of Institute publications that the committee might find useful in its work.

4. Variations of this first step in studying incorporation have occurred in recent months in the unincorporated communities of Cullowhee in Jackson County and Buies Creek in Harnett County. In each of these communities a public meeting was held at the outset of inquiry into incorporation. At this meeting the question whether to continue study into the prospects for incorporation was considered. In Cullowhee the decision was for further study; Buies Creek voted not to continue.

5. Formal Institute studies of this type include the following: Wicker, *Incorporation or Annexation? A Report to the People of Harbor Island* (1957); Wicker, *Havelock, N. C.: A Report on Incorporation* (1959); Warren, *Parkwood Association—Procedures and Considerations Involved for a Homeowners' Association to Become an Incorporated Municipality in North Carolina* (1965); Quaintance and Wicker, *Erwin, North Carolina—A Special Report on Incorporation* (1966).

Table 3

Sample Per Capita Revenues and Expenditures for a Small Municipality in North Carolina[1]

A. General Fund

	Amount
Revenues	
Property tax	$29.00
Poll tax	.20
Auto tags	.40
Licenses and permits	1.20
Other miscellaneous revenues	1.10
State aid and shared taxes	
Intangibles	1.30
Franchise	.70
Beer and wine (if their sale is permitted in county)	1.10
Powell Bill (street aid)	5.00
Total	$40.00
Expenditures	
Police	$8.00
Fire (volunteer department)	2.00
Streets	8.00
Recreation	1.00
Street lights	1.00
Garbage collection and disposal	6.00
Administrative (covers expenses of governing board, attorney, clerk and tax collector, town hall and other buildings, office expenses, inspections, etc.)	9.00
Debt service (perhaps for streets, fire trucks, and town hall)	5.00
	$40.00

B. Utility Fund

	Amount
Revenues	
Water and sewer rates	$15.00
Connection fees and charges	1.00
Total	$16.00
Expenditures	
Water and sewer operations	$ 9.00
Debt service on water and sewers	7.00
Total	$16.00

1. As noted in the text, these figures represent a sample of levels found in communities of about 1,000 population. Some communities will probably not provide some of the services at all, and new communities, of course, will not have any debt-service requirements for the first year or so of operation.
The revenue figures shown here can probably be used for very rough estimates of state aid and shared taxes. Auto and poll taxes can easily be estimated by the committee. The differences between the amount of revenue raised from these sources and projected total expenditures is the amount to be raised by local property tax.
In some small towns, water and sewer facilities are supported in part from taxes. There is a trend, however, toward making these functions completely self-supporting through customer fees; for this reason they are shown separately and as self-supporting in the table.

FURTHER STEPS IN INCORPORATION

When the incorporation study has been completed, a fourth task is in order for the committee—the presentation of the committee's basic findings to the community. The most democratic way to do this is, perhaps, by a public meeting called to discuss the results of the committee's work. If a formal report has been prepared by or for the committee, it might well be reproduced and distributed throughout the community before the public meeting.

Presentation of Findings to the Community

Everyone in the community should be invited to attend the meeting, and a special invitation should go to the legislators from the county or district in which the proposed town is located. This gives the legislators an opportunity to observe firsthand the reactions of the people of the community. At the meeting someone reports on the background to the committee's formation, outlines the steps necessary for incorporation, describes the proposed boundaries, and presents the findings of the committee's incorporation study. The point should be stressed that the budget and level of taxation formulated in the study are not recommendations but merely estimate what might be expected if the level of services described are undertaken by the governing board of the town. After a full discussion on these matters, a vote on the question of securing legislation necessary to incorporate might be taken. If the vote clearly is against incorporation, then all efforts presumably cease, at least until growth or other changes in the community suggest that the question should be raised again. If the vote is favorable, then election of a new steering committee to develop a specific draft of a bill to incorporate the town might be appropriate, or approval might be given for the original study committee to continue in this new capacity.

Preparation of Incorporation Legislation

The major decisions for the steering committee to make, with or without further public meetings as it may determine, include the following:

1. Final town boundaries;
2. Mayor-council or council-manager form of government;
3. Number of councilmen;
4. Two- or four-year terms of office for the mayor and members of the council;
5. Partisan or nonpartisan town elections, and whether they are to be conducted at large or by wards;
6. The need for special charter provisions to deal with particular governmental problems or

objectives of the community;
7. Whether incorporation of the town is to be subject to a local referendum and its time, if one is to be held;
8. The time for the election of the initial town officers.

When these decisions have been made, the steering committee then is in a position to draft the necessary legislation to incorporate the town. The assistance of a local attorney is most useful in this work. In addition, assistance may be obtained from the office of the Attorney General, the League of Municipalities, and the Institute of Government.

Enactment of the Incorporation Legislation

The steering committee then presents the completed incorporation act to the legislators from the county or district in which the proposed town is located and seeks their agreement to introduce and secure passage of this legislation.

If incorporation is to be subject to a local referendum election, the steering committee might, following passage by the legislature of the incorporation act, undertake such public information and educational efforts designed to inform the people of the community about the issue as it deems appropriate.

After the election the steering committee ends its services, either because the incorporation is killed or because a governing board has been created that will carry on thereafter.

CONCLUSION

The procedure outlined here is by no means a mandatory one for incorporation. It is one method that has been used advantageously in several variations by a number of North Carolina communities. Any incorporation study modeled after this outline might well vary the steps to accord with local needs and the resources available, in terms of time and money, to undertake such a study.

Not all of the communities that have followed this general format have decided to incorporate. Complex factors are reflected in these decisions against incorporation, but insofar as they result from the negative findings of the incorporation study, they reveal the strength of the procedure.

These steps are designed not to promote incorporation but to involve the interested parties in a process that will prepare them for an informed exercise of judgment in determining whether incorporation is desirable for a community.

Ideally, this procedure calls for more from a legislator in determining whether to introduce legislation to incorporate a town than inquiry solely into whether there is organized opposition to incorporation. It calls for more from those who favor or oppose incorporation than an emotional attachment to their positions. It calls for more from the inhabitants of the community generally than inquiry solely into whether incorporation will result in a raising or lowering of their property taxes. All of these people are invited to participate in a broader inquiry into the general prospects of town government and offered opportunities to exercise discretion in approving or disapproving an incorporation proposal. □

PLANNING CONFERENCE ARRANGED

Governor Dan K. Moore heads a list of distinguished speakers who will address a joint conference of city and county managers, planners, and planning board members at the Institute of Government on April 6-8. The three-day program, jointly sponsored by the North Carolina City and County Managers' Association, the North Carolina Planning Association, the North Carolina Section of the American Institute of Planners, and the Institute of Government, will examine the future of urban development in North Carolina.

Governor Moore will deliver the keynote address on Thursday morning, April 6. The afternoon session on that day will feature economist Phillip Hammer of Washington, D. C., on "A Strategy for Economic Development." William Slayton, executive vice-president of Urban America, will address the conference on Thursday evening. His topic will be "The Future of Urban America."

Friday's sessions will examine changing social values, the influence of science and technology on the form of urban development, and the changing roles and organization of American Government. Speakers will be Mark F. Ethridge, former publisher of the *Louisville Courier-Journal* and now Lecturer in Journalism at the University of North Carolina at Chapel Hill, John P. Eberhard of the U. S. Bureau of Standards, and Dr. Gilbert Y. Steiner of the Brookings Institution.

The concluding address of the conference will be given on Saturday morning, April 8, by R. Mayne Albright, Raleigh attorney, who will draw on the previous three days of discussion to suggest the general nature and direction of state and local governments for the remainder of this century.

The conference format calls for the use of small discussion groups following each of the major addresses. In these sessions those attending the conference will focus directly on current issues and problems facing North Carolina. Members of the sponsoring organizations will serve as moderators and discussion leaders for these meetings.

Managers, planners, and planning board members have received invitations by mail. Other officials who wish to attend should write to the Institute for further information and reservations.

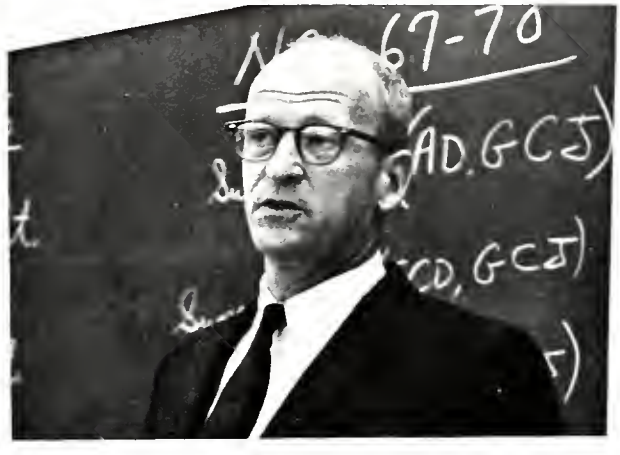
MODERNIZATION OF JUROR SELECTION PROCEDURES

A Courts Commission Recommendation

by C. E. Hinsdale

[*Editor's Note: The Courts Commission, a 15-member legislative commission appointed in 1963 to draft, by December, 1970, all the legislation necessary to implement the new Judicial Article of the State Constitution, secured the adoption, as its first major task, of the Judicial Department Act of 1965. Phase II of its proposals consists of four major legislative recommendations to the 1967 General Assembly. One of these recommendations is reform of our present laws (primarily Chapter 9, Jurors, of the General Statutes) with respect to preparation of jury lists, selection of jury panels, exemption of certain persons from jury service, excusing prospective jurors, etc. The following has been extracted, substantially verbatim, from the Commission's Report to the 1967 General Assembly.*

C. E. Hinsdale, Assistant Director of the Institute, serves the Courts Commission as staff director, and assisted in the preparation of its recommendations and report. Other Commission recommendations will be covered in future issues of Popular Government.]



Hinsdale

Inadequacy of Present System

Many of our present laws concerning preparation of lists of prospective jurors, selection of jury panels, and exemptions from jury service were enacted a century or more ago. Over the decades there have been patchwork amendments, many of which served merely to complicate and burden the law rather than to modernize it. The result is a jury selection system which, through one defect or another, operates under serious handicaps. The new Judicial Article and the implementing Judicial Department Act of 1965, with their requirements for statewide uniformity and State responsibility for the operating expenses of the judicial system, make it clear that these handicaps can no longer be tolerated.

One of the shortcomings of our present jury system is the procedure for preparation of jury lists. In nearly all of the counties of the State, lists of prospective jurors are, by statute, prepared by the county commissioners. In many counties the commissioners no longer have the time for proper performance of this tedious, non-policy-making function. Public confidence in the administration of justice calls for removal of the preparation of lists of prospective jurors from the county commissioners, and vesting this duty in a continuing body which can give it the detailed attention it deserves, unfettered by political considerations.

A second major shortcoming of our present jury selection procedure is the large number of *exemptions* (not to be confused with disqualifications or personal excuses) from jury service. Nearly three dozen categories of exemptions, totaling many thousands of otherwise eligible citizens, currently exist in our General Statutes.[1] Some of these exemptions were placed in the law scores of years ago. Whatever may have been the justification for the particular exemption when adopted, it has in nearly all cases ceased to exist. Few, if any, of the current exemptions bear any measurable relation to the public health or safety. Their variety and volume is so great, moreover, as to raise a doubt in some minds as to whether the constitutional right to a trial by a jury of one's peers is infringed. Such an issue has in fact been raised in this State, and has recently been litigated. Notwithstanding the result of that case, it must be conceded that existing exemption statutes deprive criminal defendants, as well as civil litigants, of access in the jury box to a large cross section of the community. Such wholesale exemptions are likely to be viewed with increasing concern by the courts.

1. The majority of exemptions is contained in G.S. 9-19, but G.S. 90-45 exempts dentists, G.S. 90-150 exempts chiropractors, and G.S. 127-84 exempts "contributing members of the national guard."

Having concluded that the procedures for preparation of the jury list should be modernized, and that exemptions from jury service should be drastically curtailed, if not altogether eliminated, the Commission examined General Statutes Chapter 9, Jurors, with a view to making the necessary changes therein. On close inspection, Chapter 9 was seen to be in need of a complete overhaul. Many sections contain outdated language; other sections are outdated in substance; and a large number of local act modifications to general law sections have destroyed uniformity of application. Accordingly, in the interest of clarity, simplicity, uniformity, and economy, the Commission deemed it advisable to rewrite Chapter 9 in its entirety. Such a course has resulted in a number of changes in substance and procedure other than the two major changes already noted, but these additional changes for the most part merely conform the over-all subject matter to the major changes, and are not considered of sufficient substance to merit independent treatment in this report.

Essential Principles of a Fair and Efficient Jury Selection System

Before embarking on the revision of Chapter 9, the Commission deemed it advisable to formulate a set of principles for its guidance in designing a fair and efficient system for the selection of jurors. These principles are:

1. Jury service is an obligation of citizenship in a democracy.
2. The burden of service should fall *equally* on all qualified citizens.
3. The selection procedure should be well publicized and above suspicion.
4. Consistent with the requirement that it be demonstrably honest and impartial, the selection process should be simple and inexpensive.
5. Persons selected for jury service should be given adequate notice in order that they may have sufficient time in which to arrange their affairs in anticipation of service.
6. Excuses from service should be granted only for compelling personal hardship, or when requiring service would be clearly inimical to the public health or safety. This determination should be made by a judicial official.
7. Applications for excuses from service should be heard, as a matter of convenience and administrative efficiency, in advance of the convening of the court.
8. To promote economy of manpower, pooling of jurors, when practicable, should be authorized.

Procedure for Selection of Jury Lists and Jury Panels

In relieving the board of county commissioners of the function of preparing a list of prospective jurors, the Courts Commission felt that this purely ministerial task should be given to a new and independent body, to be designated a jury commission. To insure its responsibility to the electorate, however, the members of the commission should be appointed by elected officials, and they should serve for short terms. To facilitate continuity, they should be eligible for successive appointments if they have served satisfactorily. The Commission accordingly recommends a jury commission of three persons—one member appointed by the board of county commissioners, one by the clerk of superior court, and one by the senior regular resident superior court judge. They should serve for two year terms. Their compensation would be fixed by the board of county commissioners, in its discretion, but probably on a per diem basis rather than a salary, since in most counties their duties should not take more than a few days or weeks each biennium. Clerical assistance, as needed, should be furnished to the commission by the clerk of superior court.

The jury commission should prepare a list of prospective jurors biennially. To prepare the list more often would be unnecessarily expensive; to prepare it less frequently, in this time of increasingly transient populations, would result over a period of years in a list with a large percentage of names of persons who could not be located, or who have died, or who for various other reasons are not available for service.

To give the counties time to prepare for the new procedure, it should be made effective January 1, 1968. The first jury commissioners should be appointed not later than October 1, 1967, and their work should be completed not later than 30 days before the beginning of the biennium on January 1, in order to provide ample time for the summoning and excusing procedure (outlined in a later section of this report) to work effectively before the first jury sessions of court in January, 1968.

The sources of names available to the jury commission should include the tax lists of the county (the commonest source of names at present) *and* the voter-registration lists, and in addition any other source deemed by the commissioners to be reliable. Both tax and voter-registration lists should be used, since the use of the former only would result in the omission of the names of married women, for example, as well perhaps as other blocks of eligible citizens. Some duplication of names will occur, but this can be minimized by alphabetizing the names after their selection. Not all names from any one source need be used, provided a uniform systematic selection method (e.g., every third name) is used. The list when completed should contain at least three times as many names as were drawn for

jury duty in all courts of a particular county in the preceding biennium. A larger number of names would be a waste of labor; a smaller number might unduly limit the element of chance, an essential feature of an impartial selection process.

Consistent with its belief that the burden of jury service should be shared by the largest possible number of citizens, the Commission recommends disqualification for service for the following reasons, and none other: non-citizenship of the State, non-residence in the county, under the age of 21, physical and mental incompetence, conviction of a felony or having entered a plea of nolo contendere to an indictment charging a felony, adjudged non compos mentis, and service within the preceding two years. The last disqualification is inserted to minimize hardship on any individual, and to eliminate "professional" jurors. These are, broadly speaking, the disqualifications of current statutes and case law and, in the opinion of the Commission, cannot reasonably be decreased. Unqualified persons are subject to challenge for cause in the event they are inadvertently included in the original list by the jury commission.

The present equipment and ritual for drawing a jury panel—involving hundreds (sometimes thousands) of name-bearing scrolls, a child under the age of ten, a two-compartment, two-lock, two-key jury box—is over-elaborate, expensive, and inefficient. After studying methods for drawing juries in other jurisdictions, the Commission concluded that a simpler, less expensive, and more nearly tamper-proof system could easily be devised. It recommends the following: names from pre-existing, reliable sources (the tax and voter-registration rolls primarily) are copied on 3 x 5 cards, alphabetized, numbered consecutively, and deposited with the register of deeds; small discs or markers, similar in size, weight, and appearance, each bearing a number corresponding to a number on the jury list, are kept by the clerk of superior court in a locked box; when a panel of jurors is required, the clerk publicly withdraws from the box a quantity of discs or markers equal to the number of jurors desired; the numbers on the discs so withdrawn are given to the register of deeds, who matches the number received with the numbers on the cards, thereby creating a list of names of prospective jurors, to be summoned by the sheriff.

To assure impartiality in the selection of names placed on the jury list (the 3 x 5 cards), the list would be open to public inspection, and the jury commission would be required to file with the list a statement of the sources used and the procedures followed in preparing the list.

The number of jurors to be drawn for a particular session of court would not be inflexibly specified by statute, but would be left up to the discretion of the senior regular resident superior court judge for superior court sessions, and the chief district court judge for district court jury sessions. Pooling of jurors, in the interest of convenience and economy, would be authorized (but not required) between and among various jury sessions of court.

Excusing Prospective Jurors from Jury Service: Procedure

No single facet of the present procedures for jury selection gave the Commission as much difficulty as the lengthy list of statutory exemptions from service. The Commission examined each occupational grouping on this list, and consistent with its basic premise that jury service is a solemn obligation of all qualified citizens, concluded that no single occupation merited a blanket exemption. The Commission recognized that members of a few occupations, closely allied to the public health or safety, might merit relief from jury service on occasion *on an individual basis*. To exempt in advance all members of any occupation, however, would be unfair to other occupations, to litigants, to the general public, and to individual members of the exempted occupation who might desire to assume their legitimate portion of one of the burdens of citizenship. The Commission accordingly recommends that the number of statutory exemptions from jury service be reduced to zero, thus restoring the tradition of trial by a jury of one's peers to its fullest scope.

To take care of those relatively infrequent occasions when relief from jury service is warranted, the Commission recommends a procedure by which individuals, of whatever occupation, may be excused upon a showing of (1) compelling personal hardship, or (2) that requiring their service would be contrary to the public health or safety. To facilitate the convenience of those who desire to apply for an excuse from service under these standards, provision is made for a superior or district court judge (depending on the particular district) to hear applicants for excuses prior to the date of the session of court for which the applicant has been summoned. The summons, which must be issued at least 15 days prior to such date, must inform the prospective juror of the time, place, and procedure for applying for an excuse. Persons excused for any particular session of court may, in the judge's discretion, be required to serve at a subsequent session of court.

The pre-trial excuse procedure described above is in addition to the traditional power of a presiding judge to excuse prospective jurors at the beginning of a session of court.

Grand Jurors

The Commission recommends no major changes in current law with respect to the drawing of jur-

ors for the grand jury. G.S. 9-25, which authorizes in many counties the selection of nine new grand jurors each six months, and thus facilitates continuity and experience, is recommended for extension to all counties. On those occasions when new grand jurors are to be chosen, nine numbers will be added to the numbers ordinarily drawn from the jury box. The grand jury's authority to inspect jails, workhouses, and county homes is specifically continued.

Miscellaneous Changes

In modernizing the language and procedures of Chapter 9, various other relatively minor changes have been recommended. A few illustrations will suffice to indicate the general nature and extent of these: the term "talesmen," together with its "freeholding" requirement, has been abolished, but the concept continued in the term "supplemental jurors"; challenges for cause for failure to pay taxes have been eliminated; peremptory challenges in criminal cases have been transferred from Chapter 15 (Criminal Procedure), in the interest of organizational integrity of subject matter; and the three oaths currently prescribed for petit jurors have been combined into one. Sections dealing with various other matters such as special venires, challenges for cause, and alternate jurors were brought forward substantially unchanged in substance. □

Planning and Zoning

by Robert E. Stipe

Better Public Hearings

Sometimes I get the distinct impression—both from attending meetings of planning commissions and zoning boards of adjustment and from reading newspaper accounts of such meetings—that a lot of time is being wasted, and that the boards themselves, property owners, and the public at large are all being short-changed. It has always been a mystery to me why otherwise well-organized businessmen, plant managers, professional people, and others who serve on such boards go completely to pot from an organizational standpoint when they come together as an official body to transact public business.

Let me hasten to add that I don't think this colossal wasting of time is the result of malice, laziness, ignorance, or any such thing. Much of it results simply from a lack of organization in general and from mere inattention to the distressingly bad physical conditions under which many such boards and commissions—especially those in the smaller towns—attempt to conduct their business.

Have you ever tried to conduct a public hearing on a zoning amendment in a room in which the acoustics were so bad that most of the audience couldn't hear what was going on? Have you ever attended a zoning hearing in a room so small that a few well-organized opponents took up all of the available space prior to the meeting and thus effectively excluded the opposition? Have you ever heard a fellow board member vote "yea" or "nay" on a zoning proposition and been absolutely convinced at the time that he wasn't even sure of the location of the property involved?

And how often have you seen the city planner, whether an outside consultant or a member of the resident staff, tack up a sketch or map of property in question that couldn't be seen or read from five feet away?

While I said earlier that these practices are not insidious, invidious, or anything like it, they are sufficiently widespread that they deserve some thoughtful attention from planners and board members alike. None of the problems presented are impossible or even expensive to solve.

On the matter of hearing, I would hazard a guess that at least 50 per cent of the heated argument encountered at public hearings stems from the misunderstanding of assertions made at the front table that were not heard correctly by people more than ten feet distant. In this situation, there is not much justification for the failure of even a small city or town to provide a public address system, with microphones appropriately placed both in the audience and at the board table. Public address (or "PA") systems have a number of advantages. For one, they tend to solve the acoustical problem in the overly large council room designed many years ago to double as both an auditorium and a meeting room. For another, they tend to cut down on the unnecessary gabbling that takes place both in the audience and at the board table.

Another major advantage, often overlooked, is the order and reason that microphones tend to build into the proceedings, whether a meeting of the council, the planning board, zoning board of adjustment, or some other group—especially when the microphone is ostensibly hooked up to a tape recorder. I have seen any number of blow-hards

intent on making long, obfuscatory, and repetitive speeches transformed instantly into creatures of brevity and sweet reasonableness when confronted with such a set-up. In fact, I have heard of one public agency accused of not even connecting the microphone, but using it only for such a strategic purpose.

The tape recorder or "tape deck," which can very easily and inexpensively be added to the public address system, provides another benefit as well, in that it makes available a complete record of the proceedings from which either minutes or a complete transcription can be prepared following the meeting. This approach has a special advantage to zoning boards of adjustment, on which falls perhaps the heaviest legal responsibility for complete and accurate minutes of its proceedings. Boards that follow this procedure need not build up a large inventory of expensive tape. They merely reuse old tapes after the minutes have been prepared and the time for taking an appeal from the board's decision has expired.

As to the board member who sits through the proceedings with only a dim understanding of where the property under discussion is located and the conditions in that area, the answer again is a relatively simple one. It is to post on the walls of the meeting room a number of pertinent maps and other materials that the board as a whole should have available for ready reference. A minimum list of such maps would include a property line or tax map of the city (reduced to an appropriate size for wall mounting), a current land-use map, a copy of the zoning district map, and a colored print of the city's comprehensive plan. The land-use plan is perhaps the critical one, since in spite of the very practical requirement that zoning amendments be in accordance with such a plan, most amendments to come before the planning board and council are not checked for compliance with it. There would be a no more useful strategem than to have a copy of the plan sitting on the wall staring the planning board, the council, and the board of adjustment in the face at every turn. This is equally true of the major thoroughfare plan and other plans for public facilities. When materials of this nature are mounted for reference purposes, they should probably be covered with clear acetate or some other transparent material to minimize the damage from the incidental (and inevitable) scribbling that takes place.

A special word should be said about the desirablility of posting an aerial photograph of the entire city for convenient reference. This will normally be a mosaic (i.e., a composite of many small sectional or individual photographs) showing the entire area of planning and zoning jurisdiction. Ideally, planning board, board of adjustment, and council members should visit individual properties under consideration before taking action with respect to them, but in practice this is rarely possible. Thus, the availability of an aerial photograph to provide a picture of the property and conditions in the general neighborhood is a useful alternative to on-site visits or inspections by the board members themselves. Photographs used for aerial mosaics may be acquired at relatively little cost from the U. S. Department of Agriculture through the local county agent and from many other sources.

Improving the visibility of maps and other materials presented by the planner is partly a matter of more sensible draftsmanship. But it is also a matter of using modern materials and techniques to advantage. For example, there are a few zoning boards of adjustment in North Carolina that routinely make photographs of all individual properties subject to an appeal before the board. It is only a short step forward from this to have the secretary or building inspector provide black-and-white slides suitable for viewing by the entire board at the public hearing. In fact, the Land Corporation now markets a film for inexpensive Polaroid cameras that can produce a 2¼ x 2¼ inch slide at a cost of about 35¢ with a minimum of fuss and immediate, on-the-spot processing. Photographs and slides made by the board secretary or enforcement official, in addition to orienting the board member who has not viewed the property personally, are often a useful foil to the sometimes misleading picture presented by the applicant himself.

I don't suggest that the above measures, in and of themselves, will produce an alert, well-informed board, ready to conduct its business in a more expeditious manner. One board with which I am familiar and probably many others number among their membership the citizen who, in spite of long tenure on the board, in almost every case to come before it will ask questions like "What zone is this property in? What's the setback requirement in this district?" that suggest that he is totally unfamiliar with the ordinance. In this situation the city might usefully provide each member of the board with a notebook and prepared partitions in which to keep a current copy of the ordinance, minutes of prior meetings, rules of procedure, and other useful information. Such a gimmick would not only tend to minimize embarrassing situations like the one above and strengthen the public "image" of the board, but would also bring to the attention of individual board members each change in the ordinance at the time it is enacted. Changes in zoning district boundaries should immediately be entered on the wall map referred to earlier. □

A NEW EXPERIMENTAL HOUSING PROGRAM FOR NORTH CAROLINA:

A Part of the State's Total Development

by E. L. Rankin, Jr.

[*Editor's Note: The author is Director of Administration of the State of North Carolina. This article is based on his remarks at a conference on the Federal Housing Administrations Below Market Interest Rate Program at the Sir Walter Hotel in Raleigh.*]

These are unusual times we are living in, and we often cannot meet the demand of these times in the usual way. With the convening of this conference in collaboration with The North Carolina Fund and Urban America, our State Government for the first time in its history acknowledges its intention to work toward the goal of good housing for all North Carolinians. In taking on this task, our chief interest, of course, is in a decent and healthful living environment for our people.

At the same time, we are concerned with the economic development of the State—in particular here, with the local housing industry, home builders, building materials suppliers, mortgage lenders, architects, and all the others whose work is to produce and market homes for the residents of this State.

What is the background of this new State Government activity, and what is it that we hope to do?

Several years ago, the Institute of Government issued a report on housing in North Carolina which concluded that our State faces a housing problem of major proportions. Finding that four of every ten North Carolinians are poorly housed according to 20th Century standards, the report pointed up the fact that our total housing resource is markedly poorer in quality, quantity and variety than that of the Nation as a whole and the South Atlantic Region of which we are a part. The report further found that, for whatever reasons, North Carolinians are not making full use of the many and various Federal housing aids, designed to stimulate the production of housing for low and lower-middle income families and for the needs of such special groups as the elderly.

Federal Incentives to Improving Housing

Confronted with these facts, this Administration made application to the Federal Government for a grant to assist State Government in getting the word around about available Federal aids and incentive programs and in providing statewide advice and assistance to individuals and groups, public and private, who are willing to undertake the construction of new housing (or the renovation of existing housing) for families and individuals of limited means. Recognizing the need for such action, The North Carolina Fund joined with the State in putting up the required local share to match the Federal grant awarded to us.

As a convenient means of quickly building the needed awareness and understanding of existing Federal incentives and to make economical use of the best talent to explain these programs, we have decided on a series of statewide and regional conferences devoted to special programs designed to accomplish a particular housing goal.

This is the first conference of the series, and, as you know, we will be devoting our attention today to the Federal Housing Administration's below market interest rate program (in Federalese, the 221-d-3 program). Since you will be hearing about this from the experts for the rest of the day, I will only point out that this program will not compete with the normal housing market. Future conferences will cover special housing programs for the elderly, housing aids for people who live in rural areas, and new approaches to public housing. The public housing conference will also explore the intricacies of the new rent-supplement program.

The State's Activity in Housing

While this conference marks the ceremonial beginning of your State Government's new and experimental housing program, we have actually been at work on this for a number of months, as many of you know. In February of last year we appointed Mr. Luther C. Hodges (the nephew of our esteemed

former Governor) as the State's housing specialist. With other members of the staff of the Department of Administration's State Planning Task Force, Mr. Hodges has been traveling about the State talking with public officials and other concerned people about the housing problems in our localities. I know that many of you here today have met with him when he visited your communities. Mr. Hodges is responsible for the arrangement of these conferences and for the continuing advisory service the State hopes to provide to those who decide to take up the challenge of building and rehabilitating to meet the housing needs of our citizens of limited means.

Following Mr. Hodges' appointment, the Governor in April named a 39-man advisory committee on low-income housing, with Ed Holmes of Pittsboro as its chairman. This committee consists of builders, realtors, mortgage lenders, and others with a record of interest and concern with housing, and is well represented here today.

The job that we have set ourselves has four major segments:

(1) To educate all of the State as to what housing aids are available;

(2) To communicate to the housing industry the need of this large, moderately profitable, unserved market among low and lower-middle income families and special-need groups;

(3) To communicate with and encourage civic and community leaders, and to stimulate action as well as talk; and

(4) To advise and assist those who take up our challenge.

You may be interested to learn that we are the first State in the Nation to launch a program of this type.

I should point out, however, that North Carolina is not alone in its concern for housing. Fourteen other States and Puerto Rico provide direct financial aid in the form of loans or mortgage insurance for sale or rental housing. In years to come, North Carolina may decide to undertake similar programs or to chart some new course that may be appropriate at the time. For the present, however, we see a more limited role—that of doing our best to insure that what is presently available is used as fully and effectively as possible, and to use the traditional methods of housing construction known to us all in some new ways.

In tackling North Carolina's housing problem, the State is being joined by The North Carolina Fund and, to a limited extent, by Urban America, which with the Fund, is joining in the sponsorship of today's meeting.

In the near future, we hope to engage the services of an expert in the field of housing for the elderly. I would also like to call to your attention the fact that our next meetings will focus on housing for the elderly. We expect to join with the Governor's Coordinating Council on Aging in conducting these sessions in the near future. □

Utility Management School Meets

The 1967 Utility Management School was held at the Institute from January 23-26. Open to all supervisory personnel of public utility operations in North Carolina, the school is offered from time to time under the joint sponsorship of the North Carolina section of the American Water Works Association, the North Carolina Pollution Control Association, the North Carolina Water Works Operators Association, the Department of Environmental Sciences and Engineering at the Universiy of North Carolina at Chapel Hill, and the Institute of Government.

The sessions covered the broad areas of management, personnel, utility law, government in North Carolina, utility extension policies, and public relations. At the first dinner meeting, W. E. Knight of the Department of Water Resources spoke on "Accidental Spills," and at the second dinner meeting Dr. Charles Weiss of the UNC Department of Environmental Science and Engineering spoke on "Current Research at Chapel Hill."

These utilities officials are obviously hearing an important point.

County Officials at the Institute

The third week of January was county week at the Institute. The 1967 School for County Commissioners was held on January 16-18 with more than 100 officials in attendance for part or all of the sessions. And on January 18-20 the annual school for County Accountants was conducted, 58 officials representing 41 counties attending.

The School for County Commissioners is held every two years and is designed primarily for new commissioners. During the three-day period the commissioners reviewed the organization of county government, county powers to tax and spend money, budgeting, personnel administration, planning, and purchasing. There were special sessions on county functions: schools, health, welfare, law enforcement, fire protection, courts, antipoverty programs, and economic development. A major feature of the School was an address on the evening of the 17th by Fred D. Hauser, President of the North Carolina Association of County Commissioners and Chairman of the Forsyth County Board of Commissioners. Mr. Hauser discussed the role of the county commissioners and the opportunities and problems of public service.

The program for the Accountants' School focused on accounting, administration, and law. Accounting problems and procedures in the areas of welfare, community colleges, courts, and various federally aided programs were considered. A panel consisting of H. R. Gray, Pitt County Accountant; Carl Johnson, Guilford County Manager, Harry Walker, Forsyth County Accountant; and Donald Hayman, Assistant Director of the Institute of Government, discussed the various

. . . Quick reference to a big book on county government.

These commissioners are listening to a discussion of county finance.

Dorothy Kiester of the Institute staff, who discussed public welfare programs before the commissioners, continues the discussion after class with an interested official.

administrative roles of the accountant. John Morrisey, General Counsel of the North Carolina Association of County Commissioners, led discussions of proposed changes in local taxing authority and constitutional and statutory provisions relating to finance. □

Above, the county commissioners give close attention to their speaker. On the upper left, Ed Hinsdale, who discussed the recent changes in the North Carolina courts system, talks with a commissioner. On the lower left, Institute staff member Jake Wicker continues his discussion of purchasing in an after-class session.

At the bottom of the page, the county accountants hear a speaker. Just below, John Morrisey, General Counsel of the North Carolina Association of County Commissioners, leads a discussion with county accountants on finance law.

THE NORTH CAROLINA SUPREME COURT LIBRARY: *A Brief History*

by Raymond M. Taylor

[*Editor's Note: The author is Marshal-Librarian of the Supreme Court of North Carolina. An attorney, he formerly practiced law in Wilson and served as adjunct professor of business law at Atlantic Christian College.*]

If government is to be "of laws and not of men,"[1] its laws must be recorded and preserved in an orderly manner that will make them accessible to all who are concerned with government.

It could have been such a realization in 1812 that caused the General Assembly of North Carolina then to adopt the law that resulted in the establishment of what today is the 63,000-volume North Carolina Supreme Court Library.

The law was ratified on Christmas Day of that year, and the law library that it established became and has remained especially important since it is North Carolina's only official repository of the printed legislative acts, codes, and court decisions of the federal government and the governments of each of the individual states of the United States.

Although relatively few people other than lawyers and State officials ever have heard of the Supreme Court Library, the results of its users' work have great influence upon the lives of all citizens of North Carolina.

Foremost among the users of the Library are the Chief Justice and the six Associate Justices of the Supreme Court of North Carolina. They also are the trustees of the Library,[2] and their chambers and courtroom, like the Library, are in the Justice Building facing Capitol Square in Raleigh.

Other official users include the Governor and his staff, members of the General Assembly and their staffs, the Attorney General and his staff, and representatives of many other areas of State Government.

Although full utilization of the Library's facilities is difficult for persons not trained in the use of law books, the Library frequently is used by students, newsmen, and laymen who are interested in various aspects of the law.

Taylor

It is remarkable that the Library has survived through the 154 years of its history, because it has been moved many times, had its custody passed around among a variety of officials, had no formally trained librarian on its staff until 17 months ago, and had no more than a minimum budget and staff at any time.

The Founding

Both the present Supreme Court Library and the present North Carolina State Library had their beginning with the 1812 law that placed upon the Secretary of State the duty to collect books and documents received from the executive and the Congress of the United States and the executives and legislatures of the several states, and to bind, catalogue, and keep those documents "for the use of the members of the General Assembly, heads of departments and judges of the supreme courts only."[3]

Responsibility for the library collection from 1812 to 1871 shifted back and forth between the Secre-

1. Adams, Mass. Const., Declaration of Rights art. 30 (1780). 30 (1780).

2. N.C. Gen. Stat. § 7-31 (1953). They are Chief Justice R. Hunt Parker and Associate Justices William H. Bobbitt, Carlisle W. Higgins, Susie Sharp, I. Beverly Lake, J. Will Pless, Jr., and Joseph Branch. Justice Sharp is "Library Chairman" by appointment of the Chief Justice.

3. 2 Rev. Laws of N.C., ch. 838 (Potter 1821).

tary of State and a Librarian.[4] During at least the latter years of that period the law books were separated from the non-law materials, and the State Librarian, then O. H. Perry, prepared a *Catalogue of the North Carolina Law Library, Supreme Court Room* that was published in 1866.[5] Approximately 2,000 books are listed in that catalogue.

February 15, 1871, marks the formal separation of the law books from the non-law materials, the law collection being called the "law library of the supreme court" and the remainder of the collection being called the "state library."[6]

The State's total library collection had been known by several names. The 1812 law gave it no name at all; by 1817 it was referred to as the "Library of the State";[7] it sometimes was referred to as the "Public Library";[8] and it also was called the "State Library."[9]

Perry's 1866 *Catalogue* refers to the law collection as the "North Carolina Law Library," the 1871 law calls it the "law library of the supreme court,"[10] and an 1872 law calls it the "supreme court library."[11]

That 1872 law directed that library funds be divided between the two libraries, appointed "the governor and judges of the supreme court" trustees of the "supreme court library," and appointed "the governor, superintendent of public instruction and the secretary of state" trustees of the "public library."

The Supreme Court Library then was located in the Capitol, where the Court had been assigned quarters upon that building's completion in 1840.[12] Also housed in that building were the State government's executive branch, which now has exclusive occupancy of the Capitol, and the legislative branch, which remained in the Capitol until the completion of the State Legislative Building in 1963.

The Building

On March 5, 1888, the Supreme Court got its own building.[13] It was the present Labor Building on the northeast corner of Edenton Street and Salisbury Street in Raleigh. Known as the "Supreme Court Building,"[14] that structure housed the Supreme Court, the Supreme Court Library, and the non-law collection that by then was called the State Library.[15]

The Supreme Court Library had a substantial collection to move to that new building. The volume count was approximately 4,000 in 1883[16] and "nearly" 10,000 in 1892.[17] By 1900 the count exceeded 13,000,[18] and by 1914 the Supreme Court Library had more than 20,000 volumes.[19]

In 1914 the Library moved again, this time to the present State Library Building, then called the Administration Building. That structure is on the south side of Morgan Street, between Salisbury Street and Fayetteville Street, facing the Capitol, and its dedication ceremonies were held February 1, 1914.[20]

Finally, in July, 1940,[21] the Supreme Court moved into its present home, the six-story Justice Building on the south side of Morgan Street, between Fayetteville Street and Wilmington Street, facing the Capitol. The Supreme Court Library then consisted of approximately 39,000 volumes,[22] and most of them were shelved on the Justice Building's fifth floor, where the Library offices were and are located.

In its Justice Building home the Library has grown by an average of almost 1,000 volumes per year,[23] and the count as of January 1, 1967, was 63,346.

The Library occupies approximately two miles of shelving spread over the entire fifth floor and located also in more than 20 rooms on the other five floors of the Justice Building. These rooms include the Justices' chambers, offices of the Court's officers, the courtroom and conference room of the Supreme Court, and the ground floor area that was assigned to the Library in 1966.

The Collection

The collection is especially valuable not only because of the near completeness of its holdings of original state and federal session laws, codes, and reported cases, but also because of the unique nature of many of its books.

The oldest is a book written in Law French and "Imprinted at London in Fleteftrete, within Temple Barre at the figne of the hande and ftarre by Richarde Tottyl the xxii of October Anno. Domini 1576." almost four centuries ago. Its title page is missing.

Another volume, this one written in Law Latin, was printed in 1614, six years before the Pilgrims landed at Plymouth Rock. It is *A Booke of Entries* containing a preface by Sir Edward Coke, who had just become the first Lord Chief Justice of England and who as Attorney General in 1603 had prosecuted Sir Walter Raleigh.[24]

A volume popular with school children is one printed in 1586, a year before Virginia Dare was

4. See BRADLEY, CATALOGUE OF THE SUPREME COURT LIBRARY 3 (1914); 2 Rev. Laws of N.C., ch. 838 (Potter 1821); Res., N.C. Laws 1817, p. 75; Res., N.C. Laws 1831-32 p. 141; N.C. Laws 1840-41, ch. 46; N.C. Pub. Laws 1870-71, ch. 70.
5. The *Catalogue* was printed in Raleigh by "Nichols, Gorman & Neathery, Book and Job Printers."
6. See N.C. Pub. Laws 1870-71, ch. 70.
7. Res., N.C. Laws 1817, p. 75.
8. Res., N.C. Laws 1825, p. 90; N.C. Laws 1840-41, ch. 46.
9. Res., N.C. Laws 1840-41, p. 110; N.C. Laws 1844-45, ch. 62.
10. N.C. Pub. Laws 1870-71, ch. 70, § 3.
11. N.C. Pub. Laws 1871-72, ch. 169, § 1.
12. PATON, *Description of the Capitol*, N.C. MANUAL 19, 19 (1965).
13. BRADLEY, *supra* note 4, at 5.
14. JONES, FOR HISTORY'S SAKE 115. (1966).
15. *Ibid.*
16. BRADLEY, *supra* note 4, at 4.
17. BRADLEY, CATALOGUE OF THE SUPREME COURT LIBRARY III (1892).
18. BRADLEY, CATALOGUE OF THE SUPREME COURT LIBRARY 5 (1900).
19. BRADLEY, CATALOGUE OF THE SUPREME COURT LIBRARY 5 (1914).
20. *Ibid.*
21. See EXPLANATIONS (CODE OF 1943), ch. 7, § 1427(a).
22. See [Feb. 1940-Feb. 1941] N.C. SUP. CT. LIBRARIAN REP. 1.
23. See [1964] N.C. SUP. CT. MARSHAL-LIBRARIAN ANN. REP. 6.
24. See 6 ENCYCLOPEDIA BRITANNICA 34 (1965).

The Supreme Court Library occupies the entire top floor and has books on each of the other five floors of the Justice Building in Raleigh. The building was completed in 1940 and houses the Supreme Court and its staff and Library, the Attorney General and a portion of his staff, State Bureau of Investigation headquarters, the Administrative Office of the Courts, and offices of the North Carolina State Bar. (Travel and Information Division Photo, Department of Conservation and Development.)

born to a family of Raleigh's colony on Roanoke Island. Written in Law French, it is *La Graunde Abridgement, Collecte & eferie, per le Iudge trefreuerend Sir Robert Brooke Chiualer, nadgairs chiefe Iustice del common Banke.*

Although the first three books printed in North Carolina were the *Journals* of the house of Burgesses for 1749, 1750, and 1751, no copies of these books are known to be in North Carolina today, and the first book to be printed in North Carolina and still to be found in the state is *A Collection of All the Public Acts of Assembly, of The Province of North Carolina: Now in Force and Use.* It was printed in New Bern by James Davis, who also printed the early *Journals.*[25]

The Supreme Court Library does not have a copy of the first edition of the *Collection* that was published in 1751, but it has two copies bearing the date 1752 and containing the laws included in the 1751 edition plus laws passed "At a General ASSEMBLY, held at *Bath*-Town, the Thirty Firft Day of *March*, in the Year of our Lord One Thoufand Seven Hundred and Fifty Two."

25. Powell, *Introduction*, JOURNAL OF THE HOUSE OF BURGESSES (1749) vii, x-xi (1949). This *Collection* is known as "Swann's *Revisal*," and Powell states: "Only one copy—in the Public Record Office, London—is known of each of the *Journals* which preceded the *Revisal*." *Id* at xi

Not only does the Supreme Court Library have hundreds of books more than a century old, but also new books arrive daily. The Library receives the latest cases and laws from the state and national capitals and from private publishers as soon as they are printed.

In addition, the Library maintains a collection of the codes of ordinances of almost 50 North Carolina municipalities, complete sets of more than 100 legal periodicals such as *The North Carolina Law Review* and the *International Society of Barristers Quarterly*, and several thousand treatises, textbooks, enevelopedias, dictionaries, and digests pertaining to the law generally or to special phases of it such as torts, trusts, criminal law, agency, constitutional law, medical jurisprudence, and negligence.

The Librarians

Since 1871 when the "law library" and the "state library" formally were separated, the Supreme Court Library has been in the charge of an officer of the Supreme Court.

The 1871 law made it "the duty of the clerk of the supreme court to take charge of the law library of the supreme court, under such rules and regula-

tions as the justices of said court may prescribe."[26] Thus, William Henry Bagley, who then was Clerk of the Supreme Court, became responsible for the library. He was a former newspaper editor, State Senator, and Confederate officer who served as Supreme Court Clerk from 1869 to 1886.[27]

Bagley, at the Court's direction, employed a deputy to act as Librarian,[28] and he was relieved of his library responsibilities completely in 1883 when Robert Henry Bradley, who had been Supreme Court Marshal since 1879, became Librarian.[29] Bradley's election to the Librarian's position was by authority of an 1883 law that made the Justices alone the trustees of the Library and had the effect of removing the Governor as a trustee.[30] Bradley was the first person to hold the formal title of Supreme Court Librarian as well as the first to be both Marshal and Librarian.[31]

Bradley twice moved the Supreme Court Library, first from the Capitol to the present Labor Building, and from there to the present State Library Building. While in his charge the Library grew from what he called "a mere skeleton of a library, with about four thousand volumes,"[32] to a collection that by 1914 contained "more than twenty thousand volumes."[33] In 1885, early in Bradley's period of service, the Court adopted the rule that still exists relative to the borrowing of books from the Supreme Court Library.[34]

Bradley's service terminated with his death in 1918. His successor as Marshal and Librarian was Marshall DeLancey Haywood, whose early career had included service as Assistant State Librarian and Assistant Supreme Court Librarian.[35]

Haywood is remembered particularly for his historical writings, which include *Governor William Tryon, and His Administration in the Province of North Carolina 1765-1771* (1903), *Lives of the Bishops of North Carolina* (1910), and *Ballads of Courageous Carolinians* (1914). He served as Marshal and Librarian until his retirement in 1930.

A former newspaperman, John Alexander Livingstone, became Librarian in 1930.[36] He had been an editor of newspapers in Gastonia and Wilmington and had worked as state news editor, legislative reporter, editorial writer, and Washington correspondent for *The News and Observer* prior to beginning his service with the Court.[37]

Livingstone was associate editor of the *Commercial Law Journal* during part of his tenure as Supreme Court Librarian. His service as Librarian ended with his death in 1937.[38]

Unlike his predecessors and successors, Livingstone was Librarian only; he did not hold the office of Marshal. Edward Murray, who had been Assistant Librarian under Haywood, was elected Marshal when Livingstone was elected Librarian.[39] Murray continued to perform the Marshal's duties, but did not use the title, even after he became Clerk of the Supreme Court.[40]

The 31-year-old scholar-lawyer who succeeded Livingstone was Dillard Scott Gardner, who had practiced law for three years and served four years as Assistant Director of the Institute of Government immediately before his election as Marshal and Librarian of the Supreme Court.[41]

Gardner, who served in the dual positions until his death on April 15, 1964, had the unenviable task of moving the Library from the present State Library Building to the Justice Building in 1940, and the arrangement of shelving and books still is substantially as he planned it.

During his tenure the collection grew from approximately 35,530 volumes[42] to more than 60,000 volumes,[43] and he became recognized as a writer and authority in several areas of law including evidence, jurisprudence, and the North Carolina Constitution.

Gardner's eminence as a law librarian is indicated by his service in 1956-57 as President of the American Association of Law Libraries.[44]

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26. N.C. Pub. Laws 1870-71, ch. 70, § 3.

27. See Haywood, *The Officers of the Court, 1819-1919*, 176 N.C. 800, 806-809 (1919).

28. BRADLEY, *supra* note 19, at 4.

29. See Haywood, *supra* note 27, at 819-820.

30. N.C. Laws 1883, ch. 100. See also N.C. Pub. Laws 1871-72, ch. 169, § 1.

31. Haywood, *supra* note 27, at 819.

32. BRADLEY, *supra* note 19, at 4.

33. *Id.* at 5.

34. *Id.* at 4. The rule now is Supreme Court Rule 41(2), as follows: "No book belonging to the Supreme Court Library shall be taken therefrom, except in the Supreme Court chamber, unless by the Justices of the Court, the Governor, the Attorney General, or the head of some department of the executive branch of the State Government, without the special permission of the Marshal of the Court, and then only upon the application in writing of a judge of a Superior Court holding court or hearing some matter in the city of Raleigh, the President of the Senate, the Speaker of the House of Representatives, or the chairman of the several committees of the General Assembly; and in such cases the Marshal shall enter in a book kept for the purpose the name of the officer requiring the same, the name and number of the volume taken, when taken, and when returned." N.C. SUP. CT. R. 41(2).

35. See 17 WHO'S WHO IN AMERICA 1084 (1932).

36. [Fall 1930] N.C. SUP. CT. MINUTE DOCKET 56. Livingstone's election was effective November 15, 1930. *Ibid.*

37. See 17 WHO'S WHO IN AMERICA 1432 (1932).

38. See 1 WHO WAS WHO IN AMERICA 737 (1943); 212 N.C. iii (1937).

39. [Fall 1930] N.C. SUP. CT. MINUTE DOCKET 56. Murray's election as Marshal was effective November 15, 1930, "with additional duties as Assistant Librarian to be assigned by the Court . . . ." *Ibid.*

40. This information was given to the writer by three present Supreme Court employees who also were employed by the Court during the time that Livingstone was Librarian. The *North Carolina Reports* do not list a Marshal for those years. See 203 N.C. iii (1933); 204 N.C. iii (1933); 205 N.C. iii (1934); 206 N.C. iii (1934); 207 N.C. iii (1935); 208 N.C. iii (1936); 209 N.C. iii (1936); 210 N.C. iii (1937); 211 N.C. iii (1937); 212 N.C. iii (1938). Murray was designated Acting Clerk effective July 13, 1932. [Spring 1933-Fall 1934] N.C. SUP. CT. MINUTE DOCKET 5. He was appointed Clerk effective June 28, 1933. *Id.* at 120.

41. See 32 WHO'S WHO IN AMERICA 1105 (1962).

42. See [Feb. 1937-Feb. 1938] N.C. SUP. CT. LIBRARIAN REP. 3.

43. [Feb. 1963-Feb. 1964] N.C. SUP. CT. LIBRARIAN REP. 3.

44. See generally Brandis, *Memorial to Dillard Scott Gardner*, 11 N.C. BAR 43 (1964); and Oliver, *In Memory of Dillard S. Gardner*, 57 L. LIB. J. 242 (1964)

Recent Developments

On June 3, 1964, the writer of this article was elected Marshal-Librarian effective July 1 of that year.[45] Several subsequent developments in the Supreme Court Library's history have been as follows:

1. *Increased Appropriation*—Although the Library's appropriation for books and binding for the 1964-1965 fiscal year was only $9,000, a $14,165 allotment from the Contingency and Emergency Fund in November, 1964, made a total of $23,165 available for books and binding in that fiscal year.[46] The appropriation for 1965-1966 was increased to $15,458 and for 1966-1967 was set at $15,073.[47] Thus, the Library has been able to make far greater progress than before had been possible, the average annual appropriation for the preceding 14 years, 1950-1964, having been only $6,342.[48]

2. *Code Collection*—By virtue of the 1964 allotment from the State's Contingency and Emergency Fund the best available annotated code of each state of the United States has been acquired, some of the new codes replacing small unannotated ones. Also, municipal codes have been given to the Library by almost 50 North Carolina municipalities.

3. *Textbooks*—The Library's treatise and textbook section has been up-dated by the purchase of later editions and the latest supplements of books already in the collection and by the addition of new volumes in important areas of the law.

4. *Tax Service*—The Library's first complete loose-leaf tax service was acquired in 1965.

5. *Rare Book Room*—Work is being completed on a room for the storage of rare books. Special equipment will keep the room's temperature and humidity at a constant level at all times.

6. *Ground Floor Addition*—On December 12, 1966, the first books were moved into the Library's new ground floor addition, in which extensive remodeling and the installation of new shelving in quarters formerly occupied by the Board of Paroles have provided space for the storage of approximately 10,000 books.

7. *Professional Librarian*—On October 1, 1965, Miss Alice Cameron Reaves began work as Assistant Librarian. She received her M.S. in Library Science from the University of North Carolina at Chapel Hill and has the distinction of being the first formally trained librarian to be a member of the Supreme Court Library staff. Her first major project is the setting up of a satisfactory records system for the Library.

8. *Staff Addition*—A Contingency and Emergency Fund allotment in September, 1964, and a legislative appropriation in 1965 made possible the employment of a Secretary to the Marshal-Librarian. Miss Diane June Jackson held that position from September 11, 1964, to February 10, 1967, and has the distinction of the first addition to the Library staff in perhaps half a century.[49] She was succeeded by Mrs. Gayle H. Pshyk.

9. *Copying Service*—A copying service was put into operation in September, 1965, as a result of an appropriation for that purpose by the 1965 General Assembly. This service enables persons throughout the state to obtain copies of Library material easily and quickly. During the first full year of the service's operation 2,127 copies were made pursuant to 203 requests from persons in 32 different cities. Most copies are mailed or delivered within one hour after the request for them is received. Because the Library has no reference or research service, however, it can fill copy rquests only when they include full, exact, and complete citations of the material of which copies are desired. The copy charge is twenty cents per page, but members of the General Assembly may obtain copies without charge when such material is for their official use as legislators.

In addition to the Marshal-Librarian, the Assistant Librarian, the Secretary, and the Janitor-Messenger, William Lee Person, the Library sometimes is staffed by the seven Research Assistants to the Justices of the Supreme Court.[50] The Research Assistants, who are recent law school graduates serving one-year clerkships with the Court, rotate with the regular Library employees in keeping the Library open on Saturday mornings from 9:00 a.m. until 12:00 noon. Library hours on Monday through Friday are from 9:00 a.m. until 5:00 p.m. Night use is by special permit as provided by law.[51] □

45. [Spring 1964-Fall 1965] N.C. Sup. Ct. Minute Docket 2-3.
46. [1964] N.C. Sup. Ct. Marshal-Librarian Ann. Rep. 23.
47. [1965] N.C. Sup. Ct. Marshal-Librarian Ann. Rep. 16-18.
48. See [1964] N.C. Sup. Ct. Marshal-Librarian Ann. Rep. 23.
49. The Library *Catalogue* issued in 1914 states that it was "Prepared and Arranged by R. H. Bradley, Librarian, Assisted by Hubert L. Shaw." Bradley, *supra* note 19, at 1. That indicates that the Library staff in 1914, as on July 1, 1964, when this writer took office, consisted of a Librarian and Assistant Librarian.
50. The Research Assistants for 1966-1967 are as follows: Walter W. Baker, Jr., Frederick Eugene Hafer, Joseph W. Moss, Thomas J. Bolch, Steve Glass, T. Alfred Gardner, and Edward T. Cook.
51. See N.C. Gen. Stat. § 7-32 (1953).

FOREST RANGERS

January 23-27 were the dates of the most recent Forest Rangers' School that was held at the Institute. The course is under the direction of Assistant Director L. Poindexter Watts, whose special fields include wildlife law.

County Attorneys Meet

Twenty-six of North Carolina's county attorneys attended a two-day conference at the Institute of Government on February 24-25. The program featured a legislative report by John T. Morrisey, Sr., General Counsel of the North Carolina County Commissioners and Secretary-Treasurer of the North Carolina Association of County Attorneys. In addition, several Institute staff members spoke: C. E. Hinsdale on "The District Court System—a Progress Report"; Joseph S. Ferrell on "Impact of the 1966 Amendments to the Fair Labor Standards Act on School and Hospital Employees"; Henry W. Lewis on "Some Property Tax Exemption Problems"; and David G. Warren on "Legislation Affecting Ambulance Service." A panel consisting of Heman Clark, Cumberland County Attorney; Robert D. Holleman, Durham County Attorney; and K. R. Hoyle, Lee County Attorney, with Joseph S. Ferrell of the Institute as moderator, discussed "Financing an Industrial Development Program: Limitations on County Expenditures."

A business meeting of the North Carolina Association of County Attorneys concluded the session.

Legislative Study Commission Reports:

I. REPORT OF THE COMMISSION TO STUDY AND RECOMMEND LEGISLATION ON CERTAIN CRIMINAL LAWS RELATING TO PUBLIC MORALITY

[*Editor's Note: The Commission to Study and Recommend Legislation on Certain Criminal Laws Relating to Public Morality was created by Joint Resolution 75 of the 1965 General Assembly. Its membership included Dr. James Taylor Vernon of Morganton and Dr. Hans Lowenbach of Durham, both physicians; Mr. Charles B. Young of Raleigh, Mr. Jack Moody of Siler City, Mr. Doran J. Berry of Fayetteville, Mr. James T. Hedrick of Durham, and Senator J. Ruffin Bailey of Raleigh, all attorneys; Mr. V. L. Bounds, Director of Prisons, and Dr. Eugene A. Hargrove, Commissioner of Mental Health, both ex officio. Mr. Bounds was chairman.*

The duties of the Commission, as prescribed by the resolution, were "to study the laws and procedures in other states relating to the matters currently covered by G.S. 14-177 and G.S. 14-202.1 [crimes against nature; taking indecent liberties with children]" and to

a. Consider and recommend to the 1967 General Assembly the adoption of adequate laws dealing with said offenses and offenders;

b. Consider and recommend pre-conviction and post-conviction psychiatric examination of those charged or convicted of violating any said laws;

c. Consider and recommend legislation looking to the early detection of potential dangerous offenders and their necessary detention, care, and treatment;

d. Consider and recommend legislation concerning the detention, treatment, and rehabilitation of those committed to any prison or institution on account of said offense.

The Commission's report to the Governor follows.

Laws Dealing with Offenses and Offenders

Section 14-177 of the General Statutes of North Carolina provides: "If any person shall commit the crime against nature, with mankind or beast, he shall be guilty of a felony, and he shall be fined or imprisoned in the discretion of the court." This law has antecedents in old English statutes. Modifications made from time to time in North Carolina have not completely clarified the scope of this section, but sexual acts with animals, acts between humans *per anum*, and acts between man and man *per os* are clearly covered. Dictum in one North Carolina case suggests that this statute encompasses all acts of "a bestial character" related to sodomy and buggery "whereby degraded and perverted sexual desires are sought to be gratified." The punishment for its violation was reduced in 1965 from imprisonment for not less than five or more than sixty years to fine or imprisonment in the discretion of the court (which results in a maximum imprisonment of ten years).

Section 14-202.1 of our General Statutes, which was enacted in 1955, provides: "Any person over 16 years of age who, with intent to commit an unnatural sexual act, shall take, or attempt to take, any immoral, improper, or indecent liberties with any child of either sex, under the age of 16 years, or who shall, with such intent, commit, or attempt to commit, any lewd or

This month Popular Government *continues its publication of legislative study commission reports. The February issue carried reports of the Study of the Revenue Structure of the State of North Carolina, the Election Laws Revision Commission, the Board of Water Resources on the Progress of the Water Law Study, and the Commission on Aviation. The December issue contained the Report of the Commission to Study the Board of Trustees of the University of North Carolina.*

lascivious act upon or with the body, or any part or member thereof, of such child, shall, for the first offense, be guilty of a misdemeanor and for a second or subsequent offense shall be guilty of a felony, and shall be fined or imprisoned in the discretion of the court." This statute has been construed as complementary and supplementary to G.S. 14-177, condemning those acts of an unnatural sexual nature against children under 16 years of age by persons older than 16, which acts cannot be reached and punished under the provisions of G.S. 14-177.

A survey of the laws in other jurisdictions revealed that only two states, Illinois and New York, had enacted laws relating to unnatural sexual acts and child molesting that were substantially different from the analogous statutes of North Carolina. (Punishments ranged quite widely, however, even in the states with substantive provisions similar to North Carolina's.) In addition, the American Law Institute's Model Penal Code and its Tentative Draft of the Model Penal Code served as examples of legislative variations from the more common pattern found throughout the United States.

These four examples of legislation raised two major possibilities: (1) that the criminal sanction against deviate behaviour between consenting adults be removed; and, (2) regardless of the presence or absence of a prohibition against such behaviour between consenting adults, that the offenses included within the present crime-against-nature statute be graded into degrees, each carrying different penalties.

Neither the Illinois criminal code nor the final version of the Model Penal Code included deviate behaviour between consenting adults among criminal acts. The New York legislation and the tentative draft of the Model Penal Code both treated such behaviour as low-grade crimes. All four of these legislative examples, however, to some extent graded into various offenses some differing types of behaviour that are now included within other states' crime-against-nature laws.

After consideration of both of these major possibilities, the Commission concluded that both of them should be rejected and recommends that the existing laws now be retained. The Commission also recommends, however, that continued study be directed toward the problems reflected by these possibilities and the part the criminal law should play in resolving the difficulties. The reasons, briefly stated, for these recommendations follow below under the pertinent headings.

Removal of criminal sanction against deviate behaviour between consenting adults. The Commission took note of the argument that even though it may be a legitimate concern of the state to control such deviate behaviour, other factors militate against a state's use of the criminal law as a means of trying to effect this control. In short, this argument says that such a criminal law does no good in reducing the amount of such behaviour that occurs, and on the other hand, the law causes damage that could otherwise be avoided. No good comes of the law, the argument goes, because the kinds of people who do such acts are not deterrable by the fear of punishment and, even if they were, the threat of apprehension is so slight that no such fear is created. The harm done by such a law is said to include these effects: the threat of revelation to the police is a tool in the hands of blackmailers wishing to victimize such deviates; efforts by the police to enforce such laws are difficult and divert their efforts from preventing other crimes that are more directly harmful; and the criminality of such behaviour makes it more appealing to some of its practitioners. The Commission believes that these considerations do not compel a change in the statutes under study.

In the first place, the facts upon which such considerations are based do not appear to have been clearly established. It is not clear that the law fails to discourage deviate behaviour; even if there is no deterrent effect on present practitioners, it seems possible that the moral disapproval of society evidenced by such a statute might discourage the spread of deviate practices. The Commission is unwilling to assume that negative impacts of the law occur in North Carolina in the absence of dependable evidence.

Secondly, the Commission acknowledged a further consideration for maintaining the present law: the possibility that removal of an *existing* criminal sanction may create the appearance that the State now positively condones that behaviour which was previously prohibited.

Grading of Various Acts Now Included Within "Crime Against Nature" and "Child Molesting." The movement towards more refined grading of various kinds of deviate behaviour is evidenced by all of the recent legislative efforts mentioned earlier. (New York's new law, for example, includes sodomy in the first, second, and third degrees.) North Carolina's law certainly lacks any advantages that such grading might have; a brief inquiry into the offenses for which prisoners had been committed to the North Carolina prison system revealed that among those who had been imprisoned for crime against nature were those who had committed deviate acts with consenting adults, with animals, with unwilling adults, and with unsuspecting children.

The Commission is not yet convinced that at this time any of the legislative models studied would promote individualized justice better than the existing law as modified by the 1965 General Assembly. The judge now has a wide discretion to impose punishment ranging from a fine to imprisonment for ten years, and has the advantages of probation and of the rehabilitative work release programs, as well as conventional imprisonment, open to him as dispositional measures.

Continued Study. A persuasive factor in the Commission's recommendations that no alternative now be made in North Carolina's crime-against-nature and taking-indecent-liberties-with-children laws is the lack of knowledge that would justify any change. The Commission believes that enactment of legislation recommended in this report will result in an accumulation of reliable information throwing light into areas where the darkness of doubt about the dependability of reported research, or the blackness of a void, has impeded pursuit of the purposes for which this Commission was created; therefore, the Commission also recommends adoption of a joint resolution by the 1967 General Assembly providing for the appointment of a Commission to continue and extend the work of this Commission.

Psychiatric Examination of Offenders

This Commission, influenced by the needs for treatment well known to the general public, psychiatrists, and prison officials and by legislative and judicial needs for further information about persons charged with or convicted of violating the laws under study, considered the possibility of providing psychiatric and medical examinations that could be used in three ways: by the judge following conviction to help determine an appropriate sentence; by the correctional agencies receiving the defendant for treatment and rehabilitation; and by researchers investigating sexually deviant behaviour of humans in order to accumulate information which would either support the continuance of, or suggest changes or modifications in, our present laws dealing with such behaviour.

The Commission believes that legislation providing for pre-conviction psychiatric and medical examinations is needed. Present statutory provisions for post-conviction examinations would seem to be adequate if fully implemented.

The proposed legislation would require thorough psychiatric examinations of all persons judicially charged with the crime against nature or child molesting if the defendant consents to such an examination. If the defendant were convicted, the results of this examination could be used by the judge in determining the disposition and by correctional agencies receiving the offender for treatment and rehabilitation. Whether the defendant were to be convicted or acquitted, however, a report of the examination would be filed with the State Department of Mental Health to be available for research. Only if the report were to be used by the judge or a correctional agency following conviction could the name of the defendant be linked with his report.

Since psychiatric knowledge is rapidly increasing, the Commission also recommends that this legislation on pre-conviction examination of charged offenders be reviewed periodically. The Commission recommends the adoption of a resolution by the 1967 General Assembly calling for review by a commission of psychiatrists appointed by the Governor with the advice of the Medical Society of the State of North Carolina and of the Executive Committee of the North Carolina Neuropsychiatric Association.

Early Detection of Potential Offenders

This Commission found no basis for recommending legislation looking to the early detection of potential dangerous offenders and their detention, care, and treatment. A review of reports regarding efforts made to establish methods for early detection and treatment of potential offenders left the Commission with the impression that research results have not yet pointed the way for legislative action in this area.

Detention, Treatment, and Rehabilitation

The Commission recognizes that offenders against the criminal laws under study present particularly difficult problems regarding detention, treatment, and rehabilitation. The treatment needs of this group may be aggravated by the labeling effects of conviction and by the consequences of incarceration in a one-sex society where privacy is practically eliminated.

Reports of detention, treatment, and rehabilitation practices of other states were studied in relation to resources available or likely to become available to the correctional and mental health agencies in North Carolina. This Commission recommends support for the approach being made in North Carolina toward the development of improved medical, mental health, and other rehabilitative programs within the State prison system by cooperative efforts of the Prison Department, the Department of Mental Health, and other public and private agencies, coupled with the plans of the Prison Department for improving its physical facilities and staffing patterns. This approach recognizes that the criminal offense for which an inmate in incarcerated is but one of a complex of factors that should be considered in determining appropriate detention, treatment, and rehabilitative measures for an individual offender.

The feature which distinguishes North Carolina's program is its recognition that offenders against the same laws may not necessarily have the same underlying psychopathology. Accordingly, psychiatric services provided offenders by this program are based upon the individual's psychiatric treatment needs rather than on the particular crime of which he was convicted. Furthermore, these psychiatric services are provided to prison inmates within the structure of the prison system. Behind this approach lies the belief that psychiatric attention to the problems of prison inmates

is an integral part of a comprehensive correctional program.

Since both correctional and psychiatric techniques are needed in this approach, the Commission believes strengthening cooperative efforts by correctional and mental health agencies should be encouraged. To this end the Commission recommends that the General Statutes specifying the powers and duties of the State Department of Mental Health, and providing for divisions of that Department, be amended to as to facilitate further development of programs conducted by the State Department of Mental Health in cooperation with the State's correctional and penal institutions and agencies, and so as to provide for a Division of Correctional Mental Health Services to administer such programs.

The Commission desires to conclude this report by expressing its indignation about the conditions within the State prison system, revealed by the prison officials, which result in sexual assaults being inflicted by predatory inmates on relatively defenseless inmates, assaults which prison personnel are apparently unable to prevent because of the inadequacy of physical facilities and staffing patterns. The Commission recommends and urges legislative action appropriate to enable the Prison Department to correct these deplorable conditions.

Joint Resolution 75 of the General Assembly of 1965, creating this Commission, did not require us to draft the bills necessary to put our recommendations into effect. But to aid consideration of them, we have prepared tentative drafts of bills embodying these recommendations. Final drafts will be prepared for presentation to the 1967 General Assembly.

Summary of Recommendations

The following are brief restatements of recommendations made in the body of this report.

Recommendations for Legislation

a. That the 1967 General Assembly adopt a joint resolution providing for the appointment of a Commission to continue and extend the work of this Commission.

b. That the 1967 General Assembly enact legislation to provide for pre-conviction psychiatric and medical examinations of persons judicially charged with violations of G.S. 14-177 or G.S. 14-202.1 who consent to such examinations with the understanding that the examination reports will be used for research regardless of the outcome of the criminal action and that, in the event of conviction, the reports will be made available to the sentencing judge and to any correctional agency receiving the offender for treatment.

c. That enactment of the recommended legislation providing for psychiatric and medical examinations of persons charged with these offenses be followed by adoption of a joint resolution providing for the appointment of a commission with special competence to evaluate periodically such legislation in the light of increasing psychiatric knowledge and to recommend any changes necessary to take advantage of advances in knowledge and understanding.

d. That the 1967 General Assembly enact legislation to facilitate further development of programs conducted by the State Department of Mental Health in cooperation with the State's correctional and penal institutions and agencies and to provide for a Division of Correctional Mental Health Services within the Department of Mental Health to administer such programs.

Other Recommendations

a. That the 1967 General Assembly make no changes in existing statutes on crime against nature (G.S. 14-177) and taking indecent liberties with children (G.S. 14-202.1).

b. That no legislation be enacted by the 1967 General Assembly regarding the early detection of potential offenders and their detention, care, and treatment.

c. That support be given to the development of improved medical, mental health, and other rehabilitative programs within the State prison system by cooperative efforts of the Prison Department, the Department of Mental Health, and other public and private agencies.

d. That support be given to plans of the Prison Department for acquiring the means to correct the deplorable conditions facilitating sexual assaults within the State prison system. □

Credits: Photos for the article on the Supreme Court Library are courtesy of Raymond Taylor and the Department of Conservation and Development. All other photos are by Charles Nakamura.

II. THE MOTOR VEHICLE RESPONSIBILITY AND COMPULSORY INSURANCE COMMISSION REPORT

[*Editor's Note: The Motor Vehicle Responsibility and Compulsory Insurance Commission was established by Resolution 90 of the 1965 General Assembly. Its charge was to make a detailed study of the present statutory provisions for motor vehicle safety and financial responsibility, to make such recommendations and appraisals as it deemed advisable, and to report its findings, conclusions, and recommendations to the 1967 General Assembly. The Commission met many times in the interim between the sessions of the legislature, with wide coverage by the news media, to hear comments and to receive communications from interested organizations and citizens throughout the State. Its report appears below.*

The Commission membership included Mr. Charles D. Arthur of Raleigh; Mr. Richard C. Erwin, Sr., of Winston-Salem; Mr. Alan H. Newcomb of Matthews, who died during the course of study; Mrs. Kester A. Sink of Mount Airy; Mr. Walker Taylor, Jr., of Wilmington; Rep. W. R. Britt of Smithfield; and Sen. J. Ruffin Bailey of Raleigh, who served as chairman.]

SUMMARY OF RECOMMENDATIONS

1. That the present plan of compulsory insurance be retained.

2. That the minimum limits under our compulsory insurance plan be increased from 5/10/5 to 10/20/5.

3. That the safe-driver insurance plan established by the 1961 General Assembly and amended by the 1963 Session of the General Assembly be revised so as to more realistically relate ratings for insurance purposes to the risk involved.

4. That G.S. 20-309(e), which provides for the 30-day suspension of a person's driver's license for his failure, after proper notice, to turn in his motor vehicle tag or recertify insurance coverage to the Department of Motor Vehicles, be retained in its present form with two minor revisions, which have been requested by the Department of Motor Vehicles to clarify administrative procedures.

5. That a Commission be established immediately following the 1967 General Assembly consisting of the same number of people with at least one from the House of Representatives and one from the Senate and charged with continuing the study into the general area of problems arising out of the financial responsibility and compulsory insurance laws, but broadened so as to have the added responsibility of exploring all remedies to improve the present intolerable record of casualties to lives, limbs and properties resulting from the operation of motor vehicles. This Commission should keep an open mind to exploring innovations discovered by others or found here to handle more adequately and less burdensomely the financial responsibility requirements which are felt necessary and should consider ways and means to de-populate our present assigned risk plan. More study is needed in the issuance and requirements for retention of driver's licenses. Safety programs, driver education programs and many other areas related to this problem should properly be studied by this Commission.

RETENTION OF COMPULSORY INSURANCE

The scheme of responsibility as set out in the 1953 and 1957 Acts is to insure every person operating a motor vehicle in the State of North Carolina either has the protection of a policy of liability insurance or has filed other evidence of financial responsibility which he is allowed under the statutes.

The 1953 Act has been referred to as "Responsibility *After* Act." It requires an operator of a motor vehicle to prove financial responsibility after he has been involved in an accident involving death or injury or an accident in which the property damage exceeds the amount of $100.00. The Commissioner of Motor Vehicles has authority to determine the amount of security sufficient to satisfy any judgment of damages resulting from an accident as may be recovered against the operator. This Act is administered by the Driver License Division of the Motor Vehicles Department. This pattern of responsibility *after* is a necessary ingredient of our present plan and of the future plan as envisioned by this Commisssion, in that it affords an effective tool for the removal, from the highways of the State of North Carolina, of those who will operate a motor vehicle in spite of the laws requiring compulsory insurance or other evidence of financial responsibility before a driver may register his automobile, and if this statute is used properly in connection with the 1957 Act, many of the problem drivers presently stalking our highways will be unable to continue to do so.

The 1957 Act, which has been referred to as the "Responsibility *Before* Act," requires that the owner of a motor vehicle, prior to the registration thereof, certify that he has financial responsibility. Prior to the 1957 Act, it was estimated that some thirty-five (35%) per cent of the motor vehicles in North Carolina were uninsured. During the 1965 General Assembly, it was estimated that only about eight

(8%) per cent of the motor vehicles operating with North Carolina registrations were uninsured. It is obvious to this Commission that the 1953 Act by itself was inadequate in that it allowed motorists to operate motor vehicles without having insurance or financial responsibility and required only after a serious accident that they show financial responsibility by making a security deposit. Experience under that Act also showed that in many bad accidents in which death or permanent injury ensued, the victims never received any financial relief or restitution from the persons liable. At the time of this report, according to the best estimates available today, there are a little over three (3%) per cent of the drivers of North Carolina with registered vehicles uninsured, and under our present statutes, this number can and will be decreased.

While the Commission has heard from many sources some discontent with the present plan of financial responsibility and compulsory insurance, there has been no plan offered which in the opinion of this Commission better meets the needs of the general public of North Carolina than does our present plan; and although North Carolina is one of only three states having compulsory insurance before the registration of a motor vehicle, it has not been shown to the satisfaction of this Commission that the problems in this State are any different from the problems in all of the other 49 states relating to responsibility in connection with the operation of motor vehicles.

The fact of the matter is that every state will continue to have problems with matters relating to financial responsibility and liability insurance, whether it be compulsory or otherwise, so long as the people who operate motor vehicles lack the responsibility to live up to the standards which must be established for their own protection.

The preponderance of evidence is that the basic problem facing the insurance industry and the people throughout the length and breadth of this entire Nation and particularly the people of North Carolina is a *deterioration in driver attitude* and a *deterioration of public indignation* over needless highway slaughter. This is the *disease.* The assigned-risk situation, higher costs of insurance and all of our other problems are really only *symptoms* of the disease.

This Commission recommends that the State of North Carolina continue its present plan as provided under the 1953 and 1957 Acts with the revisions hereinafter recommended.

MINIMUM LIMITS UNDER COMPULSORY INSURANCE PLAN INCREASED

The Commission recommends to the 1967 General Assembly that the minimum limits under our compulsory insurance plan be increased from 5/10/5 to 10/20/5. The evidence is clear and convincing that there is a need and a public demand for this increased requirement of financial responsibility. In a day of rising costs of hospital and medical expenses, a grave social problem exists in failing to compensate injured parties adequately. It also recognizes that with increased costs of these services as well as increased costs of attorneys fees and cost of living generally, a sum of money adequate several years ago is not adequate today.

In making this recommendation, however, the Commission is aware of certain consequences, among which are the following:

• (1) *Increase in the cost of insurance appreciably for all citizens now carrying only minimum coverage.*

Figures show that an increase in minimum limits from 5/10 to 10/20 would immediately bring premium increases ranging from $4.00 to $52.00 per year. We must be reminded that insurance companies must collect premiums from those who buy insurance protection in order to pay for claims involving personal injuries, property damage, costs of handling claims and defense of suits and other expenses. The greater the awards for such claims, the higher the insurance premium rates will be. The public eventually foots the bill.

• (2) *Adverse effect on the overall loss experience which could lead to greater rate increases in the future.*

As long as North Carolina is a compulsory insurance state, it will be known that an offending driver, by complying with the law, would have 10/20/5 limits instead of 5/10/5 limits. This could increase demands for settlement and could also tend to increase jury verdicts rendered in accident cases. If this happens, it could only have the effect of making the cost of insurance go up.

• (3) *Cause insurance market to become more restrictive and force more insureds into the assigned-risk plan.*

The assigned-risk plan is already overpopulated, and with the greater exposure that insurance companies will have by increased minimum limits, it is certainly possible and reasonable to assume that the companies will be less likely to write voluntarily as many risks for 10/20 as they are willing to write for 5/10 limits. Therefore, this may cause and lead to a larger number of assigned-risk insureds.

• (4) *Doubling minimum liability limits may increase noncompliance.*

Many of our citizens have difficulty in paying the costs of insurance under the present compulsory plan. Many drivers make down payments on insurance premiums in order to get a license, and when they fail to make balance of payments as due, their insurance is

cancelled. Unfortunately, most of these people continue to drive without insurance, and if the drivers are doing this with the cheaper cost of 5/10/5, it is reasonable to expect that with the more expensive insurance the more the tendency will be for increased lapses in coverage.

At the present time it is estimated that there is approximately ninety-seven (97%) per cent compliance with the 5/10/5 minimum limits. This has increased since the 1965 Legislature from approximately ninety-two (92%) per cent compliance, which is a very good record. Doubtless, doubling the minimum insurance limits will have a tendency to again lower the percentage of compliance by our drivers unless, of course, continued effort is made to enforce continuous coverage.

The Commission recognizes that our border states have financial responsibility laws as follows: Virginia—15/30; Tennessee—10/20; South Carolina—10/20. Indeed, the financial responsibility requirement of a vast majority of these states requires minimum limits of 10/20/5. This vividly points out that if a North Carolina citizen, with the present minimum limits, were involved in an accident in any of these states, his minimum limits would not come up to the minimum financial responsibility requirements in these states. Certainly liability insurance, to serve its original purpose of financially protecting a driver from his own negligence as well as its social purpose of financially protecting others on the highways, must be adequate in the larger number of cases to cover costs resulting from injuries.

Therefore, this Commission, with full knowledge of the foregoing, recommends that the minimum limits for personal injury be raised as follows: from $5,000 to $10,000 for one personal injury in an accident; from $10,000 to $20,000 for all personal injuries in one accident; and that property damage in the amount of $5,000 in one accident remain the same.

SAFE-DRIVER INSURANCE PLAN

The 1961 General Assembly by House Bill 930—An Act to Reward Safe Drivers by Amending Article 25 of Chapter 58 of the General Statutes to Equitably Regulate Automobile Liability Insurance Rates and Establish a Safe Driver Reward Plan—rewrote G.S. 58-248.8 as follows:

> G.S. 58-248.8 Rates to Distinguish Between Safe and Non-Safe Drivers. The Commissioner of Insurance, in the manner prescribed in Article 25 of Sub-Chapter V of Chapter 58 of the General Statutes, is directed to establish a Safe-Driver Reward Plan which adequately and factually distinguishes between classes of drivers having safe-driving records and those having a record of chargeable accidents, convictions of major traffic violations and/or a series of minor traffic violations.

The 1963 General Assembly by amendment effective September 1, 1963, deleted the words "and/or a series of minor traffic violations" at the end of the paragraph in House Bill 930 and inserted a paragraph which designated the points that could be charged. The Commission unanimously feels that in order to afford the beneficial aspects of the concept of the safe-driver insurance plan, it is necessary that the present rigid point plan be eliminated and that the Commissioner of Insurance be permitted, within the bounds established in the 1961 statute, to establish a safe-driver insurance plan as will meet the needs of the times and will more realistically relate automobile insurance rating to the risk involved.

Safe-driver insurance plans represent an attempt to reflect in automobile insurance rating the proposition that, in the aggregate, automobile drivers who have violated the motor vehicle laws or who have been involved in one or more automobile accidents in the past are more likely to be involved in automobile accidents in the future. That such is the case has been demonstrated by several studies, one of which appears in "*A Review of Point Systems with Recommendations for Administrative Procedures*" by Dr. Wallace N. Hyde, North Carolina Department of Motor Vehicles. Dr. Hyde studied the records of the Department of Motor Vehicles with regard to a sample of Forty Thousand, Four Hundred, Sixty-seven (40,467) North Carolina drivers in an attempt to determine whether drivers convicted of one or more motor vehicle law violations not arising from accidents tended, on other occasions, to be involved in more accidents than drivers with fewer such violations or than drivers with no such violations. His results were summarized in Table 1.

Table 1

Average Accidents for North Carolina Drivers with Various Numbers of Violations

Number of Non-Accident Violations	Drivers in Total Sample	Average Accidents per Driver
0	29,984	.167
1	5,921	.391
2	2,221	.560
3	1,042	.699
4	595	.857
5	704	1.001
Total	40,467	—

• *Popular Appeal.*—The safe-driver insurance plan idea appeals to a large number of motorists who feel that a heavy share of total automobile insurance premiums should be paid by those who "cause the accidents." Undoubtedly, it was this sentiment that gave rise to the legislation enacted by the 1961 North Carolina General Assembly which required establishment of a "safe driver reward plan."

The Safe-Driver Insurance Plan placed into effect September 1, 1961, by order of the then Commissioner of Insurance Charles F. Gold, differed substantially from the plan proposed on behalf of the insurance carriers by the North Carolina Automobile Rate Administrative Office and the North Carolina Fire Insurance Rating Bureau. The 1961 Plan remained in effect until September 1, 1963, when a revised and much less severe Safe-Driver Insurance Plan was ordered into effect by Commissioner Edwin S. Lanier as the result of legislation (G.S. 58-248.8) enacted by the 1963 General Assembly.

• *Point Value.*—The 1961 Plan, like the current plan adopted in 1963, translated violation and accident record into rate modification by means of a point system shown in Table 2.

Table 2

	Points 1961 Plan	Points 1963 Plan
Manslaughter	8	8
Highway racing	8	6
Prearranged highway racing	8	8
Driving drunk	6	6
Hit and run (bodily injury)	6	6
Transporting liquor	6	6
Driving while license suspended or revoked	6	6
Hit and run (property damage)	3	3
Reckless driving	3	3
Passing stopped school bus	3	3
Speeding over 75 m.p.h.	3	3
Illegal passing	3	1
Speeding over 55 but not over 75	1	(a)
Following too closely	1	(a)
Driving on wrong side of road	1	(a)
Any other moving traffic violation	(b)	None
Chargeable accident, B.I. or $100 P.D.	2	1
Two or more accidents P.D. less than $100	2	1

(a) One point for each two convictions of the same offense.
(b) One point for each violation in excess of one.

Table 3

No. of Points	Rate
0	Basic rate less 10%[a]
1	Basic rate increased 5%
2	" " " 20%
3	" " " 35%
4	" " " 50%
5	" " " 75%
6	" " " 100%
7	" " " 125%
8 or more	" " " 150%

(a) Basic rate without discount if principal operator has not been licensed three years.

Other than with respect to the number of points assigned for accidents and for certain of the less serious but much more numerous motor vehicle violations, the 1963 Safe-Driver Insurance Plan is almost exactly like its predecessor. Like the 1961 Plan, it applies in the same way to assigned risks and risks insured voluntarily. Points, or lack of points, are converted to rates through use of a table which adds surcharge to, or subtracts a credit from, "manual" or "basic" rates as shown in Table 3.

• *How Many Points and Credits.*—To what extent the 1963 Safe-Driver Insurance Plan affects premiums paid by North Carolina insureds is illustrated by Table 4, which shows how non-fleet private passenger automobiles, insurance for which was written during the fourth quarter of 1964, were divided according to number of points.

The total "Rate Factor" of .93 (Column 5) has been determined by comparing the total actual premium (Column 4) with the total premium that all of these insureds would have paid (Column 6) if all insureds had been charged "basic" or "manual" rates. This shows that the rate credits granted under the 1963 Safe-Driver Insurance Plan to the 894 out of 1,000 insureds who earned the credit more than offset the rate surcharges paid under the Plan by the 78 out of 1,000 insureds who were assigned points. The aggregate credits exceeded the aggregate debits by seven percentage points: 1.00 – .93=7%. Under the 1961 Plan, 828 out of 1,000 insureds earned the 10 per cent "salf driver" credit, and 131 out of 1,000 were assigned points. Credits exceeded debits by only four percentage points.

This effect of any insurance rating plan on total premium, where credits and debits are not offsetting, is called "off-balance." Since it obviously takes some number of premium dollars to pay losses and expenses and to provide for a reasonable profit in connection with providing and servicing private passenger automobile liability insurance in this State, any off-balance must be offset by rate-level adjustment. Where the off-balance is a credit, both credits and debits in the rating plan will be applied to a higher level of basic rates.

Table 4

North Carolina Distribution by S.D.I.P. Points
Fourth Quarter—1964

(1) Points	(2) No. of Cars	(3) Percentage of Total Cars	(4) P.D. Premium	(5) Rate Factor	(6) Premium Rate Factor
0	357,704	89.4%	$5,406,674	.90	$6,007,416
1	22,603	5.6	500,600	1.05	476,762
2	2,715	0.7	73,018	1.20	60,848
3	2,396	0.6	77,453	1.35	57,373
4	1,294	0.3	44,960	1.50	29,973
5	333	0.1	12,923	1.75	7,385
6 or more	1,965	0.5	77,207	2.25 (c)	34,314
0(a)	6,567	1.6	201,657	1.00	201,657
NA(b)	4,650	1.2	109,093	1.00	109,093
	400,227	100.0%	$6,503,585	.93	$6,984,821

(a) Principal operator not licensed three years.
(b) Safe-Driver Insurance Plan not applicable—vehicle owned by partnership or corporation.
(c) Combining those having 6, 7, and 8 points, rate factors of 2.00, 2.25, and 2.50 respectively.

• *Premium Distribution.* — The above distribution by Safe-Driver Insurance Plan point category also reveals the following facts about how the Plan works:

1. The owners of the 89.4% of the vehicles subject to the "safe driver credit" pay about 83% of the premium. Under the 1961 Plan, the 82.8% who earned the credit paid only 74% of the premium.

2. The owners of the 7.8% of the vehicles subject to rate surcharge because of applicable points pay 12% of the premium. Under the 1961 Plan the owners of 13.1% of the vehicles subject to higher rates because of point assignment paid almost 20% of the total premium.

• *Results.*—Experience with the Safe-Driver Insurance Plans in this State simply verify the results of the previous studies, as Table 5 shows:

Average number of claims per 100 cars insured during the period was about twice as high among insureds paying increased premium because of point assignment under the Plan as among the other insureds. The data for accident years 1963 and 1964 are not separable as to whether points were assigned under the 1961 Plan or the 1963 Plan. The 1961 Plan was effective until September 1, 1963, and some policies rated under the 1961 Plan were in effect in 1964.

• *Premium Redistribution.* — As shown above, the 1963 Safe-Driver Insurance Plan provides for the assignment of fewer points especially in connection with the less serious but more numerous motor vehicle violations and in connection with accident involvement. The 1963 Plan brought about no change in the rating value of points.

Four actual cases (see Table 6) rated under the 1963 Plan shortly after it became effective illustrate how the automobile liability insurlina insureds were affected by the revised Plan:

There are now many insureds who have had three, four, five or more moving traffic violations during the last three years and who are receiving the same "safe driver" credit as are insureds who have never received a traffic ticket.

No one pays a higher surcharge under the 1963 Plan than was done under the 1961 Plan. Since many insureds pay a lower surcharge and since more insureds now qualify for the "safe driver" credit, the result of the 1963 Plan change is that a larger share of the premium burden is now borne by those who have clean driving records.

Table 5

North Carolina Private Passenger Automobile Liability Insurance, Claims Per 100 Cars Insured

Year	Points		No. Points	
	B.I.	P.D.	B.I.	P.D.
1962	3.2	11.7	1.9	6.3
1963	3.3	12.6	2.0	6.3
1964	4.1	15.0	2.1	6.7

REVOCATION OF REGISTRATION AND DRIVER'S LICENSE WHEN FINANCIAL RESPONSIBILITY NOT IN EFFECT

The 1965 General Assembly by Senate Bill No. 441 amended G.S. 20-309(e) in Section 2 thereof as follows:

Sec. 2. Subsection (e) of G.S. 20-309, as the same appears in the 1963 Cumulative Supplement to Recompile Volume 1C of the General Statutes, is hereby amended by adding at the end thereof the following:

The Department of Motor Vehicles upon receiving notice of cancellation or termination of an owner's financial responsibility as required by this Article, shall notify such owner of such cancellation or termination, and such owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 15 days from date of notice given by the Department, certify to the Department that he has financial responsibility effective on or prior to the date of such cancellation or termination. Failure by the owner to certify that he has financial responsibility as herein required shall be prima-facie evidence that no financial responsibility exists with regard to the vehicle concerned, and, unless the owner's registration plate has been forwarded to the Department of Motor Vehicles, the Department of Motor Vehicles shall revoke the owner's registration plate and suspend his operator's license for 30 days. In no case shall any vehicle, the registration

of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, his spouse, or any child of the spouse, or any child of such owner, within less than 30 days after the date of receipt of the registration plate and operator's license by the Department. As a condition precedent to the reregistration of the vehicle, the owner shall pay the appropriate fee for a new registration plate.

More time was taken up by the Commission in connection with this particular section of the General Statutes than any other one. Although every case reported was an "extreme hardship case," when all the facts and all the evidence given in support of the hardship had been heard, each simply boiled down to the fact that people had procrastinated and had failed to re-certify their insurance coverage within the time required or to set in motion the machinery necessary to get insurance within the time allotted. In many cases the insured had actually misstated the conditions to the Motor Vehicles Department in the first report of the hardship.

It is the opinion of the Commission that this Statute should be kept intact insofar as possible, and that we should be extremely cautious not to throw every case open to hearing and decision by some administrative officer. As has been stated before in this report, during the 1965 Session of the General Assembly, we were told that about ninety-two (92%) per cent of the people operating motor vehicles registered in North Carolina were complying with the financial responsibility and compulsory insurance laws. As was also stated, at the present time, from the best evidence that can be assembled, approximately ninety-seven (97%) per cent of the people operating motor vehicles registered in North Carolina are complying with the same laws. This Commission is convinced that the increased compliance is a direct result of the "get-tough" policy on persons who fail to maintain continuous coverage.

In the earlier days in the enforcement of this particular section, it seemed almost impossible to handle the volume of cases which came before the Motor Vehicles Commissioner. Today, this has diminished and we think that the "shake-down cruise" is now an accomplished fact, and that the people of North Carolina finally realize that we mean business when we require the filing of evidence of financial responsibility and maintenance of continuous coverage.

CANCELLATIONS

Cancellation of automobile liability insurance policies in this state has been a widespread complaint and was an important subject properly brought to the attention of this Commission. While this subject will always be a source of concern and may even always be a widespread and, yes, even a popular complaint against our pres-

Table 6

1. *Insured—G. E., Charlotte*

Points 1961 Plan	Points 1963 Plan		
—	—	8-61	Speeding 45 in 35 zone
1	—	10-62	Stop-light violation
—	—		
1	0		
1.05 of basic rate	.90 of basic rate		Reduction of 14%

2. *Insured—J. H., Hendersonville*

Points 1961 Plan	Points 1963 Plan		
—	—	5-61	Speeding 45 in 35 zone
1	—	5-62	Speeding 55 in 45 zone
2	1	6-62	Chargeable accident (B.I. & P.D.)
1	—	2-63	Speeding 55 in 45 zone
—	—		
4	1		
1.50 of basic rate	1.05 of basic rate		Reduction of 30%

3. *Insured—S. D., Charlotte*

Points 1961 Plan	Points 1963 Plan		
—	—	1-61	Speeding 35 in 20 zone
1	—	2-61	Speeding 55 in 45 zone
3	3	2-61	Reckless driving
1	—	2-63	Failure to yield
2	1	2-63	Chargeable accident (B.I. & P.D.)
—	—		
7	4		
2.25 of basic rate	1.50 of basic rate		Reduction of 33%

4. *Insured—G. H., Raleigh*

Points 1961 Plan	Points 1963 Plan		
—	—	10-60	Speeding 52 in 35 zone
1	—	2-61	Speeding 45 in 35 zone
3	1	5-61	Improper passing
1	—	11-61	Speeding 48 in 35 zone
1	—	2-61	Speeding 75 in 60 zone
2	1	6-62	Chargeable accident ($175 P.D.)
—	—		
8	2		
2.50 of basic rate	1.20 of basic rate		Reduction of 52%

ent plan of financial responsibility and compulsory insurance, it is felt by the Commission that the problem is largely exaggerated and somewhat out of proportion to the facts in the situation. A study by the Honorable Edwin S. Lanier, Commissioner of Insurance of North Carolina, announced the results of a study of such cancellations for private passenger cars during the months of April through December, 1965, inclusive. He stated:

> Under North Carolina law, an insurance company can cancel a policy of liability insurance during the first sixty (60) days of the policy period without disclosing to the insured reason for the cancellation. Thereafter, cancellation can be made only for certain reasons set forth in law. The company can also refuse to renew a policy. However, upon written request made by the insured within five (5) days after receipt of notice from the insurer of its intention not to renew, the insurer must, under the law, state in writing its reason or reasons for not renewing the insurance coverage.
>
> In March, 1965, Commissioner Lanier called on all insurance companies selling automobile liability insurance in North Carolina to furnish the North Carolina Insurance Department statistics regarding termination of automobile liability insurance policies in North Carolina. Widespread complaints about cancellation of some people's automobile liability insurance policies made members of the General Assembly, the public, and the Commissioner want the *facts* about the situation.
>
> The study deals with two groups of cancellation: (1) cancellations and non-renewals *made on motion of the insurance companies*; and (2) cancellations and non-renewals *made on motion of the owners of private passenger cars.*
>
> For the months of April-December, 1965, cancellations during the initial 60-day period of the insurance policies totaled 23,853, and the non-renewal of policies totaled 25,492. The combined total of the "within-first-sixty-days" cancellations and the non-renewals is equivalent to a cancellation and non-renewal rate of 4.7% per year of the approximately 1,400,000 private passenger automobile liability insurance policies (many covering more than one vehicle). In other words, in 1965 *for every 1,000 private passenger automobile liability insurance policies, 47 were cancelled or not renewed by choice and act of the insurance companies.*
>
> Then there were cancellations and non-renewal of automobile liability insurance policies *made on choice by and/or act of the insureds.*
>
> Based on the approximately 1,400,000 private passenger automobile liability insurance policies, there were 119,252 cancellations and non-renewals for the months of April-December, 1965, inclusive, which is equivalent to a cancellation and non-renewal by insureds at a rate of 11.3% per year. A large part of the cancellations in this group were in the Assigned Risk category, and the cancellations were made under the Power of Attorney authority given premium finance companies by automobile owners who borrowed money from the premium finance companies to pay their premiums, and who defaulted in making their scheduled payments.
>
> Finally, there were 87,306 cancellations and non-renewals during the nine months period by act or no action of the owners of cars for such reasons as: car was sold; car was junked; owner moved to another state, etc. On an annual basis, 8.3% were in this group.

The Commission concludes that no remedial legislation is needed in this area except insofar as a continuing study may aid in reducing problems in the area of premium financing cancellations.

ASSIGNED-RISK PLAN

The North Carolina Automobile Assigned Risk Plan has as its dual purpose to provide a means whereby motorists who are not exempt from the North Carolina Financial Responsibility Laws and who are unable to purchase automobile liability insurance in the regular market may apply for and obtain such insurance, and to provide for equitable distribution of these applications for insurance among the insurance companies writing such insurance in North Carolina. The assigned-risk plan has been in existence for the same purposes since 1947, when the first North Carolina Financial Responsibility law was enacted. Its operating expenses are paid by the insurance carriers through the North Carolina Automobile Rate Administrative Office.

The North Carolina Automobile Assigned Risk Plan was not the first assigned-risk plan, nor is it unique in its conception or operation. There is an automobile assigned-risk plan serving the same purposes for each of the other states, and according to the information that can be compiled by this Commission and all who have assisted it, the other states are having the same problems that this state is having.

We do believe, however, that a realistic approach to solving the problem of rating for automobile insurance purposes to the risk involved by a courageous approach to the safe-driver insurance plan will relieve some of the problems involved in the assigned-risk plan. While it is true that in 1964 it was determined that some 17.6% of the non-fleet private passenger cars registered in North Carolina were in the assigned-risk plan and that 70% of the drivers in the plan enjoyed the so-called "clean driving record" and accordingly qualified for the safe-driver credit or minimum premium, a large number of these same drivers have had from one to several traffic violations charged on the records of the

Motor Vehicles Department. The present safe-driver plan does not adequately reflect the driving record of these persons who, experience and studies have shown, are more prone to accidents than those without traffic violations. There are cases on record where the drivers license has been suspended by the Motor Vehicles Department for cumulative violations, and yet the same person has no points under the safe-driver plan and still enjoys the minimum rate.

It is suggested that the Assigned-Risk Plan is overpopulated; however, we would propose that to reduce the population in this plan, we must adopt some realistic incentive to the driver and to the insurance companies which would entitle the driver to a favorable consideration. We, therefore, suggest that the recommended Commission continue the work of trying to get the insurance companies to come up with some proposal which will help depopulate this assigned-risk plan and which will be fair to the insurance carriers as well. We also suggest that the assigned-risk plan actually have its name changed so as to eliminate for the driver who is put into this plan any social stigma or psychological stigma he may feel is attached.

It should be pointed out in this report that an assigned-risk policy costs no more than the same rating classification for a policy written in the voluntary market. Today, the same minimum limits or 10/20/5 are available to the assigned-risk applicant upon his request. Under our proposal of increasing minimum limit requirements, the increased cost for any particular premium classification would be the same in the assigned risk as it would be in the voluntary market.

GENERAL FINDINGS

While no recommendations have been made by this Commission in the field of law enforcement or in the investigation by the Insurance Department of irregular actions of some insurance agents handling automobile insurance, we feel that serious thought should be given to these subjects. With the increased number of drivers and vehicles on the State's highways today and with the many duties handled by the Highway Patrol, we feel that the present force should be substantially increased and that patrolmen be relieved, as far as is possible, of all duties other than the enforcement of traffic laws.

Likewise, the Insurance Department should be adequately staffed to be able to promptly investigate insolvent agents whose irregularities have caused numerous citizens the loss of continuous insurance coverage and the resulting suspension of license and mandatory surrender of automobile license plates.

CONTINUE THE STUDY OF MOTOR VEHICLE FINANCIAL RESPONSIBILITY AND COMPULSORY INSURANCE

It is the unanimous recommendation of this Commission that the 1967 General Assembly authorize the establishment of a Commission which will succeed this Commission for the purposes of continuing this study as it is felt that we do not have the answer to all of the problems, nor will we be able to, in a few short years, attain the kind of results that the public has the right to expect without continuing this study and broadening it into the rights and privileges involved in operating motor vehicles by the citizenry of this State.

The establishment of the District Courts throughout the State will be some help in uniform enforcement of motor vehicle laws, but these courts will not be fully operative until 1971.

The second ray of hope for driving improvement is seen in the work done since 1963 by the North Carolina Motor Vehicles Department in cooperation with a Medical Advisory Board. A program has been launched to review the driving records of persons with physical and mental defects. This study and this research has resulted in the revocation of some drivers' licenses and the non-issuance of some.

In the early stages of the Commission's deliberations, we were told by a very prominent citizen of North Carolina that there is a feeling among too many people that they have an inalienable right to operate a motor vehicle and that this had developed an individual and public indifference to highway slaughter. There is actually a feeling among some people that the fact that they have insurance releases them from further responsibility for their actions in connection with the operation of a motor vehicle. There is also evidence that hit-and-run violations are on the increase. We think that there is some relation between this and our compulsory insurance laws.

Our recommendations as contained in this report will be implemented by bills for presentation to the Legislature. However, these bills, if adopted, will only alleviate the problems relating to financial responsibility and compulsory insurance. This Commission is keenly aware that unless something more is done by the Legislature to bring about a change in the attitude of those individuals who operate motor vehicles carelessly and recklessly, this implementation will have gone for nought. The General Assembly should emphasize *with action* that driving a car is a privilege granted by the State and not an inalienable right conferred on a citizen. Violations of this privilege must be promptly and decisively dealt with, and continued violations must result in prolonged suspension, or even permanent revocation, of this privilege. Penalties for violations must have greater and more direct reflection in insurance rates; those responsible for accidents or with a record of violations should pay a greater proportion of the cost than those with no violations.

Yes, the automobile insurance financial responsibility situation is, in the words of some who appeared before our Commission, somewhat

in an untidy mess—not because of the insurance industry; not because of the Motor Vehicles Department; not because of our law enforcement officers or the Courts; not because of our Assigned-Risk Bureau or the North Carolina Insurance Department; but because of the acts of many irresponsible motor vehicle operators, their basic operating attitude, and the manner in which they can get by with this attitude even when it results in death or destruction of property. We, of this Commission, believe this strongly, and we further believe that if the members of the General Assembly will also believe this strongly enough to pass laws oriented in this direction, North Carolina will be well on its way toward solving this great social problem—the disease which has been referred to earlier in this report. □

HOUSING CONTRACTS

During the month of February, contracts were awarded as follows: Wadesboro Housing Authority (NC-50-1) for 100 units to W. H. Weaver Construction Company, Greensboro, $814,000, general contractor; Wells and West, Murphy, $148,160, plumbing; Basic Electric Company, Charlotte, $43,333, electrical; and Aire-Flo Heating and Air Conditioning Company, Greensboro, $30,425, heating; Chapel Hill Housing Authority (NC-46-1) for 40 units to W. H. Weaver Construction Company, Greensboro, $492,900, general; Durham Electric Company, Durham, $22,900, electrical; and Copelan Plumbing Company, Durham, $71,345, plumbing.

During the same period, reservations and preliminary loan contracts were approved by the Department of Housing and Urban Development as follows: Graham Housing Authority (NC-59-A), 100 units, 20 of them elderly units; Roxboro Housing Authority (NC-60-A), 150 units, 50 of them elderly units; and Sanford Housing Authority (NC-35-B), 150 units, 50 of them elderly units.

THE SHEPPARD CASE:

I. The Facts and the Law

by Elmer Oettinger

Dr. Samuel Sheppard was acquitted in December, 1966, of charges of murdering his pregnant wife, Marilyn. Yet Sheppard, a Bay Village, Ohio, osteopath, had served ten years in prison following conviction on the same charge in 1954.

Sheppard's release and acquittal came only at the end of a series of reversals of earlier judgments by Appellate Courts. In 1964 the United States District Court held that Sheppard was not afforded a fair trial and granted a writ of habeas corpus subject to the state's right to try him again.[1] The Court of Appeals for the Sixth Circuit reversed the District Court by a divided vote.[2] The United States Supreme Court reversed the Court of Appeals on the grounds that Sheppard "did not receive a fair trial consistent with the Due Process Clause of the Fourteenth Amendment."[3]

In a lengthy opinion, to which there was only one dissent (Mr. Justice Black), Mr. Justice Clark attributed the reversal to the failure of the state trial judge to "fulfill his duty to protect Sheppard from the inherently prejudicial publicity which saturated the community and to control destructive influences in the court room." The decision cast new light on the question of prejudicial pre-trial and trial publicity and the responsibilities of the judiciary and the news media to control publicity which may be prejudicial to the defendant and the judicial process. At the same time, it left unanswered enough questions so that bar and press have reacted with varying interpretations of its significance. The news media have tended to emphasize the Supreme Court's censure of the trial judge; the bench and bar have noted its condemnation of the newspaper and broadcast media.

The facts of the case were these: Marilyn Sheppard was clubbed to death in her upstairs bedroom in the early morning hours of July 4, 1954. Samuel Sheppard found the body. He told officials that he had fallen asleep on a downstairs couch after neighborhood friends had left the previous evening. He remembered being half-awaked by his wife, who told him she was going to bed, and then, much later, waking again on hearing her cry out. He dashed upstairs to his wife's bedside, struggled with a form, and was knocked unconscious by a blow on the back of his neck. Arising, he tried his wife's pulse and found it lifeless, made sure his son was secure in his room, heard a noise downstairs, chased a form out the door to the lake shore, wrestled with it on the beach, and again was knocked out. Recovering, he called a neighbor—the Mayor of Bay Village, Ohio, a Cleveland suburb—who, with his wife, came over immediately. He told them he did not know what had happened but asked that something be done for Marilyn. The mayor's wife went up to the wife's body and called the police. The house and premises were then searched, photographed, and taken into "protective custody," and Sheppard and many other persons were interrogated.

As reported in the Supreme Court opinion, the pre-trial and trial publicity given Sheppard and the case by newspapers, radio, and television was sensational and often irresponsible. Newspaper headlines stressed the doctor's supposed lack of cooperation (although the court said he "made himself available for frequent and extended questioning without the presence of an attorney"), his refusal to take a lie detector test, his family's "protective ring" around him, his alleged extra-marital affairs, and the minute details of his performance in and out of court. Editorials urged the coroner to "quit stalling" and demanded Sheppard's arrest. Articles quoted police (who never testified in court) regarding evidence that was said to indicate Sheppard's guilt.

The mass media accused the defense of "mass jury tampering" because it took a random public opinion poll of Sheppard's guilt or innocence, charged that the hiring of a well-known criminal lawyer was a concession of guilt, asserted that defense counsel was "throwing road blocks in the way of the prosecution," and demanded to know who would speak for Marilyn. One newscaster compared Sheppard "to a perjuror and compared the episode to Alger Hiss's confrontation with Whittaker Chambers."[4] Meanwhile officials exhorted Sheppard to confess in advance of the trial, and the trial judge declined to do anything about the prejudicial publicity during the trial. A defense motion relating to a telecast critical of Sheppard was overruled by the judge, who said: "Well, I don't know, we can't stop people, in any

1. 231F Supp. 37 (D.C.S.D. Ohio 1964).
2. 346F 2d 707 (1965).
3. 32 U.S. 916 (1966).
4. *Ibid.*

event, listening to it. It is a matter of free speech and the court can't control everybody . . ."

The United States Supreme Court in its opinion criticized the trial judge for the carnival atmosphere which he permitted at the trial. It contradicted the trial judge's opinion that neither he nor anyone else "could restrict prejudicial news accounts." It pointed out that such publicity could have been avoided by limiting the presence of the press at the judicial proceedings, insulating the witnesses from newspapers and radio and television stations, and controlling "the release of leads, information, and gossip to the press by police officers, witnesses, and the counsel for both sides." The opinion pointed specifically to the judge's refusal of the requests of defense counsel that the jury be asked whether they had read or heard "specific prejudicial comments about the case."

There can be little doubt that the Court assigned primary responsibility to the trial court to control the trial process, but it was also highly critical of the failure of the press to assume responsibility appropriate to its purposes. The Sheppard case, therefore, stands as a warning to all who would inhibit or exhibit the judicial process and, by so doing, defeat the right of an accused to a fair trial.

II. The Effect of the Decision on Court and Press

It has been said, on the one hand, that the United States Supreme Court decision in the case of Dr. Samuel H. Sheppard, petitioner, v. E. L. Maxwell, warden, limits the types and nature of pre-trial and trial publicity which the news media may give to a defendant in a case. On the other hand, it has been claimed that the holding in the Sheppard case placed the onus on the trial judge, and that the court's criticism of the press was, therefore, secondary and relatively unimportant. The fact is that the Court in the Sheppard case was extremely critical of both the news media and the trial judge.

Neither judiciary or press can blink the Supreme Court's verbal castigation by pointing a finger at the other. For example, the Court stated: "While we cannot say that Sheppard was denied due process by the judge's refusal to take precautions against the influence of pre-trial publicity alone, the court's later rulings must be considered against the setting in which the trial was held. In the light of this background, we believe that the arrangement made by the judge with the news media caused Sheppard to be deprived of Judicial serenity and calm to which [he] was entitled." In other words, the judge should have taken precautions against the overdose of tasteless pre-trial publicity given Sheppard in the case but his failure to do so was not *alone* a sufficient cause for reversal on the grounds that due process had been denied. However, under the circumstances, the judge's "arrangements" with the news media *did* disrupt the essential dignity of the judicial process to the point of prejudicing the defendant's rights.

The circumstances to which the Court refers—the setting in which the trial was held—and to which the Court objects, was specified and the news media cited: "Bedlam reigned at the courthouse during the trial," "newsmen took over practically the entire courtroom," "newsmen hounded most of the participants in the trial, especially Sheppard," some twenty reporters staring at Sheppard and taking notes were permitted to sit inside the bar (the place reserved for counsel) and "within a few feet of the jury box and counsel table," "the movement of reporters in and out the courtroom caused frequent confusion and disruption of the trial," "participants in the trial, including the jury, were forced to run a gauntlet of the reporters or photographers each time they entered or left the courtroom," and a "total lack of consideration for the privacy of the jury was demonstrated by the assignment to a broadcasting station of space next to a jury room on the floor above the courtroom, as well as the fact the jurors were allowed to make telephone calls during their five-day deliberations."

The United States Supreme Court quoted the lower court opinion of the Ohio Supreme Court: ". . . murder and mystery, society, sex and suspense were combined in this case in such a manner as to intrigue and captivate the public's fancy to a degree perhaps unparallel to recent annals. Throughout the pre-indictment investigations, the subsequent legal skirmishes and the nine-week trial, circulation-conscious editors catered to the insatiable interest of the American public in the bizarre. . . . In this atmosphere of a 'Roman holiday' for the news media, Sam Sheppard stood trial for his life." The Supreme Court went on to say: "Indeed, every court that has considered this case, save the court that tried it, has deplored the manner in which the news media inflamed and prejudiced the public."

It is not surprising, then, that respective bar and press groups cite the Sheppard case in efforts to charge the other with responsibility for most of the "free press-fair trial controversy." In fact, however, the decision cites fault in court and press and, in effect, calls upon each to exercise appropriate responsibility to assure a fair, effective judicial process.

Regional Workshops on the Uniform Commercial Code

A series of five regional workshops on the Uniform Commercial Code as it affects the office of Register of Deeds will be held during the latter half of March. The workshops are designed for both registers of deeds and their staffs.

The dates and places of the five meetings and the counties in each region are follows:

REGION 1 **Tuesday, March 21** **Greenville**

Elvira Allred, Pitt County, Hostess

Warren, Franklin, Nash, Wilson, Greene, Craven, Carteret, Pamlico, Beaufort, Hyde, Dare, Tyrrell, Washington, Martin, Edgecombe, Halifax, Northampton, Hertford, Bertie, Gates, Chowan, Perquimans, Pasquotank, Camden, and Currituck

REGION 2 **Wednesday, March 22** **Goldsboro**

Eula Whitley, Wayne County, Hostess

Wake, Johnson, Lenoir, Jones, Onslow, Duplin, Pender, New Hanover, Brunswick, Columbus, Bladen, Sampson, Robeson, Scotland, Hoke, Cumberland, and Harnett

REGION 3 **Friday, March 24** **Graham**

Duke Paris, Alamance County, Host

Stokes, Rockingham, Caswell, Person, Granville, Vance, Durham, Orange, Guilford, Forsyth, Davidson, Randolph, Chatham, Lee, Moore, Montgomery, and Richmond

REGION 4 **Tuesday, March 28** **Statesville**

Lynn Nesbit, Iredell County, Host

Watauga, Ashe, Alleghany, Surry, Yadkin, Wilkes, Caldwell, Alexander, Davie, Rowan, Catawba, Lincoln, Gaston, Mecklenburg, Cabarrus, Stanly, Union, and Anson

REGION 5 **Wednesday, March 29** **Asheville**

William Diggs and Jesse Searles, Buncombe County, Hosts

Cherokee, Graham, Clay, Macon, Swain, Jackson, Transylvania, Haywood, Madison, Henderson, Polk, Rutherford, Cleveland, Burke, McDowell, Avery, Mitchell, and Yancey

WATCH

for these new Institute Publications . . .

The Laws of Arrest, Search and Seizure, and Evidence

by Allan Ashman
Douglas R. Gill
and William A. Campbell

County Finance

by Robert G. Byrd

The April Calendar . . . Schools and Conferences

°Municipal Administration	March 31-April 1 April 14-15 April 28-29
Building Inspection Course	March 31-April 1 April 21-22
Wildlife Testing	April 3-5 April 10
Probation Officers	April 3-5 April 19-21
10th Annual Planning Conference	April 6-8
Public Welfare Workers	April 10-14
Local School Boards In-Service Conference	April 14-15
Highway Department Pre-Retirement	April 17-18
Training Impact Project	April 18-20
Delinquency Control Institute	April 24-27
New Tax Collectors	April 24-28

°Already in session. Enrollment closed.