

POPULAR GOVERNMENT

NOVEMBER, 1967

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This Month . . .

A View from the Year 2000

A New Look at the Office of County Clerk

What About Councils of Government?

Poor Housing Hurts Us All



Our seasonal cover picture is representative of downtown North Carolina. Actually it looks west on Chapel Hill's Franklin Street. Battle-Vance-Pettigrew (left) has just been converted from dorm to University office building.

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Councils of Governments— Something New?

by Lee Quaintance

[*Editor's Note: The author was formerly with the Institute of Government in the field of municipal law. He is now on the staff of the Treasurer of Illinois.*]

Americans of all ages, all conditions, and all dispositions constantly form associations. They have not only commercial and manufacturing companies, in which all take part, but associations of a thousand other kinds, religious, moral, serious, futile, general or restricted, enormous or diminutive.

Alexis de Tocqueville
Democracy in America, Vol. II, Ch. 5

A liking for associations was one of the chief characteristics of American democratic life observed by de Tocqueville in his travels here in the 1830's. Since so many of his observations have timeless relevance to American life, it is probably not surprising that in April of this year 500 people from over forty states went to Washington for the sole purpose of discussing a "new" type of association called "COG's."

"COG's" are "Councils of Government." Although COG's differ greatly in their organization and activities, all present councils share the characteristic of being voluntary associations composed of elected officials from governing bodies of local governments within a region. These councils are "voluntary" in that they do not have the legislative power to bind their constituent governments or the power to levy taxes. They seek voluntary cooperation of local governments on regional approaches to regional problems.

More than fifty COG's are now in operation throughout the country, with at least thirty-five more in various stages of consideration. Compare these figures with those of mid-1965, when only twelve COG's were counted in existence (the first of these, the

Supervisors' Inter-County Committee in the Detroit area, was formed in 1954), and it is clear that COG's are rapidly gaining favor among local officials. In response to the interest in COG's, the National Association of Counties and the National League of Cities have jointly established a National Service to Regional Councils to provide information and to assist local officials in the development of COG's.¹

Some COG's include representatives from school districts and special districts, state legislators, and congressmen among their members; some do not. Some function with little or no staff and perform only the function of getting their members together socially; at least one has a staff of more than fifty members and is engaged actively in planning for its region. Vice President Humphrey, in a speech prepared for the Washington conference on COG's, found these differences an understandable feature of an experimental institution and observed that "... there is no 'pat' form that a council of government should take. As a matter of fact, this is a very unique American concept: what works is what's best, and what you find you need is what you ought to adopt."

What Works?

To find "what works," the best approach is to look at the forms that COG's are now taking and at what they are doing. The prime authority on this subject is Professor Royce Hanson of the American University in Washington, who has distinguished five types or present stages of development of councils of government.²

1. The National Service is located at 1725 K Street N.W., Suite 511, Washington, D. C.; Richard C. Hartman, Director.

2. The outline of types of COG organization and function is taken chiefly from Mr. Hanson's speech at the Washington Conference on COG's. It has been reprinted in the May, 1967, issue of *Southern City*, the official organ of the North Carolina League of Municipalities. A fuller analysis may be found in the booklet *Metropolitan Councils of Governments* (Washington: Government Printing Office, 1966), prepared by Hanson for the Advisory Commission on Intergovernmental Relations.

The first two types are little more than social organizations of local officials. They are formed either as defensive coalitions of city and county officials who fear that some more drastic form of interlocal cooperation (like metro) may be forced on their region or who simply think that organized social contact may be somehow desirable. Hanson holds little hope that either of these types will work in a significant way on regional problems, although they may evolve into something of value if they do not stagnate and become excuses for doing nothing.

A third type of COG distinguished by Hanson is basically a regional planning commission differing from present regional planning authorities only in that its governing board is made up of elected officials instead of persons appointed by local governments. This type of council confines itself primarily to activities supported by regional planning grants under section 701(a) of the Housing Act of 1954.

The fourth type of council is one that develops the powers given by section 701(g) of the Housing and Urban Development Act of 1965 and Title II of the Demonstration Cities and Metropolitan Development Act of 1966. Under these acts, COG's may be assigned the function of reviewing and commenting upon applications by governments of the region for federal grants. The comments do not limit federal discretion in regard to an application, but they may be persuasive. The requirement of review is seen by some as a device to foster agreement on priorities and lessen the chance of duplicating services in a region.

A fifth type of COG is characterized as a "regional policy making and action council." Essentially this is a COG that has successfully established itself as an institution of regional political leadership through confidence among its members in the political utility of regional action and also through the services of a competent staff that delineates regional problems and proposes solutions.

COG's and North Carolina Law

So long as councils of government function only in the manner of voluntary mediums for the exchange of ideas between local governmental officials, they do not require legal authority. It is when they move beyond this role into the expenditure of public moneys or the undertaking of governmental or quasi-governmental functions that statutory power becomes necessary. Statutory authority in North Carolina for COG's to assume any of the five types of roles described by Professor Hanson was provided by a statute passed in the 1967 session of the General Assembly.

This act (G.S. Ch. 160, art. 8A; N.C. Sess. Laws, 1967, Ch. 797) is similar in its scope and content to a model act recommended by the U.S. Advisory Commission on Intergovernmental Relations.³

3. Advisory Commission on Intergovernmental Relations, 1967 *State Legislative Program* (Washington: Government Printing Office, 1966), pp. 367-71.

Article 8A authorizes two or more municipalities, two or more counties, or municipalities and counties jointly to create a regional council of local officials. The council shall have such powers and duties as specified in identical resolutions passed by the governing boards of the creating governments. These powers and duties may be altered upon adoption of identical amending resolutions.

The resolutions creating a council shall designate its name, specify the number and terms of representatives to serve on the council from each government, set out the method for determining the financial support of the council from the member governments, and state that the fiscal procedures of the council shall substantially comply with the municipal or county fiscal control statutes. The resolution may provide for compensation of council members and establish rules for conduct of the business of the council.

All representatives on the council shall be elected members of the governing bodies of member governments. The representatives on the council shall choose a chairman from among themselves, adopt rules for operation of the council not inconsistent with those established by the resolutions, and hold regular meetings, all of which shall be open to the public.

If granted power to do so by the creating resolutions, and within limits of available funds, the council may hire and fix compensation of employees and contract with consultants, agencies of the state or federal government, or any member government for employee services. The council may accept and disburse funds, grants, and services from the state or federal government or any other governmental unit. Each member municipality and county may appropriate funds and services to the council and levy taxes for this purpose annually.

New member governments may be admitted to a council upon their adoption of the resolution then in force among the other members and upon consent of all the existing members. This consent is to be signified by amending the creating resolutions to add the name of the new government to the membership. Any member government may withdraw from a council at the end of any fiscal year upon 60 days' notice.

The North Carolina act authorizing councils of government specifies that they shall have power to promote cooperation and coordination among member units; make recommendations for review and action to member units and other public agencies performing functions in the region; and study such of the following governmental problems common to two or more member units as may be specified in the resolutions: health, safety, welfare, education, recreation, economic conditions, regional planning, or regional development; and further they may exercise such other

powers specified in the resolutions as can be exercised by their member units and are necessary to deal with problems of mutual concern.

Thus, control over the creation and scope of authority of councils rests firmly in the hands of local governments. No government becomes a member of a council without passing a resolution to do so, and the powers of a council so created are set by these resolutions. Any power that member governments may exercise may be exercised by a council so long as this delegation satisfies Article 8A's broadly stated standard of being "necessary or desirable for dealing with problems of mutual concern."

COG's in North Carolina

At present, at least seven COG-type organizations are in operation in North Carolina, or are being considered. The oldest of these is probably CAGO—the Cleveland Association of Governmental Officials, which was formed in the summer of 1963 and includes city, county, and school board officials of Cleveland County in its membership. CAGO counts among its accomplishments the encouragement of cooperation on land-use plans, a joint agreement on the purchase of law enforcement vehicles, and involvement as a unit in the planning and financing of poverty programs in the county. It operates as a nonprofit corporation, since it was organized prior to the enactment of the North Carolina COG statute. Three other groups organized before enactment of Article 8A share some of the characteristics of COG's. These are the informal organization of local officials in Robeson County, the Wake County Association of Mayors, and the informal organization of local officials (both city and county) in Guilford County which has made a practice of holding meetings with its state legislators prior to each session of the General Assembly.

Since the enactment of Article 8A, at least four COG's have been formed or are in the process of consideration. One of these would be made up of county officials in the rural counties of Bertie, Gates, Hertford, and Northampton. Groundwork has been laid for one made up of county and city officials in the Charlotte SMSA (including members from Mecklenburg, Union, Lincoln, and Gaston counties) and for one in the Winston-Salem, High Point, Greensboro SMSA (including members from Forsyth, Guilford, Yadkin, Randolph, and perhaps Alamance and Davidson counties). In addition to their involvement in a larger COG, city and county officials in Forsyth county have already formed another mini-COG to be made up of officials from the county, the cities of Winston Salem and Kernersville, and two sanitary districts in the county. Thus, there is a potential new development: a COG within a COG.

COG's and the Real World

By way of inquiring what practical and tangible benefits may be gained from the creation of regional councils, we may well ask who or what has kept local governments from cooperating together until this idea came along?

There is no single reply to this question, but three responses serve as a partial answer. First, local governments cooperate considerably more than is sometimes thought, both informally through municipal and county leagues and personal contacts of governmental officials and formally through mutual contracts for services and the operation of some public facilities in common. Second, some statutory and constitutional bars to fuller cooperation have existed. Third, absence of greater cooperation than already exists in many fields comes from a lack of desire and not from legal bars.

Statutes like North Carolina's new law authorizing the creation of councils of governments go a considerable way to eliminate any legal bars to cooperation, and they establish a format for dispelling through understanding some of the attitude bars to greater cooperation. But a realistic assessment should recognize that some of these attitude bars are based on real differences in the priority of needs, in the financial capacity, and in the desires of individual governmental units. Many of these differences cannot be overcome by the periodic fellowship of a meeting of a voluntary council of governments. A failure to recognize this political reality is evident in the perennial efforts to "modernize" local government simply by consolidating or otherwise reducing the number of local governmental units.⁴ COG's designed with achievable goals will not be formed primarily with the object of this type of structural reform. However, COG's may be able through voluntary cooperation of governments to accomplish some of the substantive objectives which are sought by crusades for structural reform—such as eliminating duplication of services and improving the quality and economy of services by broadening the scale of their administration.

Also, it should be recognized that the cooperative efforts that might be engendered by councils of local governments are limited by the scope of governmental problems. Today speakers often refer, as the Secretary of Housing and Urban Development did at the Washington conference on COG's, to the possible need for "new" institutions to "meet the new problems of metropolitanism" and note, as the Vice President did at the same meeting, that "problems are no longer just citywide—they are metropolitan wide." In reality, metropolitan problems are not new; they are by and

4. A recent study that seems to place its emphasis on this way is *Modernizing Local Government*, by the Council for Economic Development (a nonprofit study organization). For a critique of this report, see Frank Smallwood, "Modernizing Local Government: A Second Look," in *Nation's Cities*, V (March, 1967), 21-23.

large the same "people" needs and problems that exist everywhere, although they are intensified by urbanization, and they require efforts at solution by all levels of government. In speaking of local government, it is sometimes maintained that many problems, such as air and water pollution and law enforcement, are "metropolitan" because they transcend city limits. But many of these problems that cannot be solved by single municipalities acting alone also cannot be solved either by a group of municipalities or other local governments acting in concert. The scope of many governmental problems exceed the responsibilities and the financial, legal and political capacity of local government.

Because of their voluntary nature and the other inherent limitations on their function, it is reasonable to suggest that councils of governments will be most successful in fostering cooperation on problems for which immediate, noncontroversial, and inexpensive solutions are possible. Thus, among the achievements of some of the existing COG's have been cooperative ventures in regard to planning, purchasing, insurance, personnel salary plans, and police communications.

Probably the orientation of councils toward planning rather than the actual operation of services will continue. Problems of accommodation will sometimes arise between a COG and existing planning agencies. The planning function of COG's may be strengthened in some regions, particularly in Standard Metropolitan Statistical Areas, by insistence on the part of federal agencies that applications for grants be reviewed and commented upon by a COG or some

other acceptable planning agency with regional authority.

It is possible that councils may evolve and develop in a number of new directions as they gain the confidence of their members and the benefit of competent staff. One possibility, yet to be tried in any state, would be a legislative grant to councils of authority to approve municipal and special-district formation and expansion within a region. In California such power is granted on a county basis to local agency formation commissions made up of representatives of county and city government and the public, but this power has yet to be expanded to a regional basis.⁵

While the barriers to the effective operation of voluntary COG associations are numerous, the benefits of cooperation may be great. De Tocqueville's observation of the American fondness for associations has been noted. He also observed a measure of success in our operation of associations that may offer hope for the potential of COG's. He wrote:

I met with several kinds of associations in America of which I confess I had no previous notion; and I have often admired the extreme skill with which the inhabitants of the United States succeed in proposing a common object for the exertions of a great many men and inducing them voluntarily to pursue it.⁶

5. For a discussion of California's LAF's, see Robert L. Small, "Powerful Tool against Fragmented Government," *Nation's Cities*, V (February, 1967), 20-21.

6. *Democracy in America*, Vol. II, Ch. 5.

Law Review Honors Albert Coates

Albert Coates has been honored again. The founder and first director of the Institute of Government was paid tribute by his law students in the most recent issue of the *North Carolina Law Review* (June, 1967), which is dedicated to him. In their dedication the editors call Professor Coates "a man whose contributions to both his students and their education, and to the people and State of North Carolina have been both invaluable and immeasurable."

The article cites Coates' "forty-five years of full-time teaching in the Law School" and his founding of the Institute of Government as major achievements. It relates how Coates "started going to school to law enforcing officers, and then to other officials, working on the job in city halls, county courthouses, and state departments—working as an apprentice in their offices on weekends and holidays and summer vacations—studying the 'law in action.'"

The article goes on to say:

The Institute of Government literally grew out of Professor Coates' Law School classrooms and brought about a working partnership between those classrooms and state and local government centers throughout North Carolina. He was the founder of the Institute and its guiding light for 30 years. He was its Director from the time of its founding in the late 1920's until his retirement in 1962. The things he learned had a definite influence on his teaching at the Law School. They helped to bridge the "gap" with which he was concerned, by enabling him to pass on to his students the things he learned from city, county, state, and federal officials.' Thus, in rendering a public service by establishing the Institute of Government. Professor Coates also rendered a service to his students, and "tied the Law School classrooms into the city halls, county courthouses, state departments and federal agencies in North Carolina."

The *Law Review* writers make note of Coates' "wit, zeal, vitality, and above all, effectiveness, a wide variety of illustrations drawn from his studies of the law in action to drive home to his students the 'pegs' in the framework of the law," or the

"the distinctive and interesting flavor" of his classes. They conclude that, when he completes two more years of half-time teaching in the Law School, "he will be sorely missed, and never forgotten."

Anecdotes about Albert Coates are legion and often true. The *Law Review* dedication includes several. One runs as follows: "The head of a civic club years ago wrote Professor Coates asking how few people he would be willing to talk to about the Institute of Government. Professor Coates replied that he tried to follow the example of the Master, who said, 'where two or three are gathered together in my name, there will I be also,' and then added this observation: 'some of my friends say they have seen me walking along the street talking to myself about the Institute of Government and that this was the most interested audience I ever had.'"

The piece also gives recognition to the role of Mrs. Coates in helping her husband realize his dreams, and its final paragraph summarizes the accolade:

Space here is too short to re-count the many contributions this man has made to his State and to the students in this Law School. However, suffice it to say that few men or women have ever rendered such lasting service to North Carolina as has Albert Coates. This is attested by the student award of the Dialectic and Philanthropic Societies in recognition of "public service"; by the O. Max Gardner Award by the Trustees of the University to that member of the faculty of the Consolidated University of North Carolina who has rendered the most distinctive service in the past year; by the John J. Parker Award of the North Carolina Bar Association "for conspicuous service to jurisprudence"; and by the recent award from the State of North Carolina for "his creative accomplishments in the field of public service." He has taught a great percentage of the lawyers in this State. Those of us who were privileged to be in his classes will remember him forever. We are truly grateful that Professor Albert Coates was a part of our legal education.

SINCE hindsight is almost always better than foresight, I have decided today to look back rather than forward. The year is now 2000 (the N. C. Section of AIP is still meeting on Friday afternoons each month). The subject will be how the present structure of government in North Carolina—familiar to all of you—came about.

While on this subject, we will take a look primarily at the changes that have taken place in the past half-century, with special attention to the conditions and events of the early part of this period—1950 to 1967—since that period saw a significant public transition and the emergence of forces and attitudes that underlie our present governmental structure and the attitudes of people toward their government.

You should be clear that I am primarily concerned with government in North Carolina, but I shall make considerable reference to what has happened in other parts of the country in the last 50 years, because plainly the governmental structure that has evolved in this state is influenced by, and in turn influences, what happens elsewhere.

One of the most difficult jobs in viewing clearly where, why, and how we have come to where we are is in sifting the data. I recall that when I was a youth all of human history was divided into “recorded” history and history prior thereto. Without hesitation, I would suggest that the twentieth century brought what may be properly labeled as “overly recorded” history. Never before have so many written, pictured, and taped so much about everything. To cull from this mammoth heap of recorded information and impressions what is significant and relevant is far from easy.

The Setting

If we are to understand why we are where we are at the start of the twenty-first century, an examination of some of the major elements in the scene during the 1950's and 1960's is essential. I

propose to take these in two parts—first, a look at the national scene, and second, another look at some of the particular factors within the state.

The National Scene

While an infinite number of forces, influences, and events have left their mark, I shall point today to only four:

1. The continuing advances and changes in science and technology
2. The evolution in representation
3. The revolution in race relations
4. The preoccupation with “urban” problems

Some of these forces have been positive and some negative in relation to the development of our current structure of government.

And, of course, none of these were “born” in the 1950's and the 1960's. But in each case we saw significant trends developing during that period—trends and approaches that have shaped the nature of government today.

The Change in Technology

The first of these, the changes in technology, needs little comment. The evidence of the change is all about you and easily observed. Moreover, in terms of governmental structure and functions, it is the least important of the four. How we sustain ourselves, provide for food, clothing, and shelter, what we do for recreation, and how we consume leisure have all undergone major change. But the influence of technological change on governmental structure within our states has been rela-

LOOKING BACKWARD

from the year

2000

Jake Wicker talks about how
we will have dealt with our problems

tively small. Only in the areas associated with transportation has the technological change factor been dominant.

• *The Evolution in Representation*

The second major determinant of our present governmental structure, which also dates from this period of history under discussion, is the change in representation that took place at that time, stemming from the "one man, one vote" ruling of the U.S. Supreme Court.

That this ruling led in a few years to representational changes is well known. New legislative districts were formed, and at the local level many units changed from election by wards and districts to election at large. These, of course, were not structural changes and in themselves would not justify listing "one man, one vote" as a major factor. There were, however, two other changes—one procedural and one substantive—that grew out of this and have had significant impact on government today.

The first of these is the change to popular national election of the President, which took place in the late 1970's. "One man, one vote" helped pave the way for this change, and the popular election of the President has assisted materially in bringing a national view to governmental problems today.

The second change resulting from the "one man, one vote" ruling was a more subtle one that few historians or students of politics have properly appreciated. Prior to "one man, one vote," the belief (largely unfounded) was current that there were serious rural-urban

conflicts in this country. State legislatures were said to be "rurally dominated." Cities and urban problems were neglected. Mayors cried aloud and academicians professed to observe dispassionately the wretched behavior about which the mayors cried. It cannot be denied that in some places and at some times there were conflicts that might properly be characterized as rural-urban. But seldom in our history have we made such a large mountain out of such a small mole hill.

I should give credit, of course, to a few political scientists who even before "one man, one vote" had taken the trouble to actually examine what was happening and then reported that for the most part it was all a myth. But myths die slowly, and not until the 1980's did this one finally die and citizens and officials and scholars begin to see problems in a clearer context, rather than in the mythical rural-urban conflict pattern.

The representational change also helped students and officials to see more clearly the interrelationships of existing governments. In the mid '60's, for example, (and this sort of thing continued into the '70's as well), the mayor of Detroit complained that the state governments had been only silent spectators to the plight of the cities—while "conditions of city dwellers worsened year by year." Similar laments were standard from mayors all over the country. And in California in 1969 a group of mayors, representing cities in which 88 per cent of the state's population resided and which elected 85 per cent of the members of the California legislature, still complained about "them" and how "they" (the state government) were failing the cities (us).

But as I have suggested, a clearer view of things was emerging. People began to realize that we are they and they are we, and better informed public action on this basis was soon to be. For this, to a

large degree, we can thank the U.S. Supreme Court and its decision in *Baker v. Carr*.

• *The Revolution in Race Relations*

Much of American history has been conditioned by race relations—and the future will certainly feel the same influences. Nevertheless, while the race problem is still with us, the country made major steps forward in race relations in the 1950's and the 1960's. I have in mind here, of course, the desegregation decisions of the U.S. Supreme Court in the 1950's and 1960's and the civil rights legislation of the Congress during the '60's. These were major milestones and laid the basis for the more satisfactorily integrated society that we have today.

I would not suggest, and neither would you, that racial prejudice has vanished. All of us are more prisoners than students of the past. We are what we have known—and so are our children. A number of you here today 40 years ago were marching down Franklin Street in an attempt to open theaters and restaurants to Negroes. You have not forgotten—and neither have those who opposed you.

But while the racial revolution in an individual sense is yet incomplete, the progress we have made has had a significant influence on urban form and governmental structure, especially in two areas.

In the first place, it was well recognized 50 years ago that major improvement in the educational opportunities for Negroes (and for poor whites as well) was necessary. This aspect of our educational task and our response to it was perhaps the major factor in bringing about a more rational approach to the organization and financing of education. The consolidation of many of the exceedingly small school districts found over much of the country resulted. Without the major court decisions and legislation of the 1950's and 1960's, these changes would have been longer in coming.

Editor's Note: This article is taken from a talk made before the North Carolina Section of the American Institute of Planners earlier this year at the Institute of Government. The author's field at the Institute is public administration and finance.

But there was another result also. At mid-century we recognized that our central cities were becoming more and more the home of the poor and of racial minorities, and that to permit this to continue would make increasingly difficult the attack on all the public problems related to race—housing, employment, health, welfare, etc. This fact, coupled with the obvious and expressed desire of most Americans for suburban and small-town living, explains the decline of major cities and the slowing of the growth rate of intermediate-sized cities. Our largest cities, for example, have approximately the same population today that they had 30 years ago in 1970. (Part of this pattern, of course, is the result of improvements in the “pill” and its wide-spread use in public health and welfare programs—but that is outside my discussion today.)

I should also note that improvements in transportation and communications make it increasingly possible for Americans to opt for the 10,000 to 200,000 population communities that they prefer and still have all the financial and cultural advantages formerly associated with the larger and denser urban centers. But without question, a major force in the shaping of local governmental structure and the urban areas that it serves was the revolution in race relations.

• *The Preoccupation with “Urban” Problems*

The fourth major conditioning characteristics of the first part of the last half-century was its preoccupation with *urban* problems. And I underline *urban*. The significant aspect of this characteristic is that during the period we came to see that the so-called *urban* problem was grossly mislabeled, and as is always the case, once we eliminated our misconceptions about the “urban” problem, we were able to move more constructively in meeting a number of important public needs.

It is both amusing and instructive to recall the preoccupation of the period with urban problems. On every side there were books, articles, speeches, conferences, meetings, etc., on the “urban problem.” Everyone, from presidents to plumbers, talked and wrote about the urban crisis. When one views the whole period, one wonders what life would have been like without this preoccupation. Just who invented the crisis is not clear, but it is certain that the country could not have existed without it (or a reasonable substitute). Without the urban crisis the publishing world would probably have folded, and unemployment and underemployment in academic circles would have reached catastrophic proportions. Perhaps never before in history have we had such a successful make-work fetish.

(One smiles to remember that one of the social critics of the period, Michael Harrington, made repeated attacks on the auto and oil industries and what they are doing to America at the same time that the Ford Foundation was supporting so much of the “urban crisis” activity, including work in the antipoverty field—the Harrington homestead.)

The unfortunate consequence of the typical response to the “urban crisis” (which one observer characterized as varying from the miniskirt to the minibus) was that “urban crisis” was equated with “city government crisis,” with “metropolitan” crisis, and with “regional” crisis. It was thus a conceptual blanket that covered the subject but at the same time, unfortunately, obscured the real problems. And much of the activity of the period might be accurately described as futile effort in all directions.

Such sweeping assertions ought to be supported, at least in a minimum way. Fortunately, we have a good summary of the reaction to the “urban crisis” in a volume prepared by a professor of city planning at MIT for the U. S. Advisory Commission on Intergov-

ernmental Relations in 1966. And we may start with the preface by Vice President Humphrey, which suggested that the book “develops the beginnings of an intergovernmental strategy to utilize effectively the resources of the federal system to support *metropolitan* objectives.” (Emphasis added.)

The title of the book is *Metropolitan America: Challenge to Federalism*. We see both in the title of the book and in the quotation from the Vice President how the “urban crisis” blanket obscures.

Take the quote from the VP. What are the *metropolitan* objectives? And how do they differ from *nonmetropolitan* objectives? Or from *state* objectives? Or from *rural* objective? Or from *national* objectives?

The fact is, of course, that they are not different. Our problems were primarily those of income, of race, of education, of public health and welfare, of transportation, of crime prevention, and so on. These are in essence *people problems*, and in a country as socially and economically interconnected and interdependent as the United States was in the mid-twentieth century, this interrelationship was already abundantly clear.

The truly metropolitan objectives—primarily water supply and sewage disposal (and occasionally a few other concerns in particular places) accounted for an exceedingly small part of the total public responsibility. Transportation was often mentioned as a regional or metropolitan concern, and certainly some aspects were. Attention to these aspects on a regional level was entirely appropriate, but as the advent of the Interstate Highway System (the 1950’s) indicated, this problem, too, had already emerged as more national than regional.

(I should not leave the impression that the ACIR summary was all off base. Despite the failure to analyze clearly the problems, the Commission’s recommendations in a number of areas did meet specific

problems quite appropriately—especially in areas of local finance.)

Another indication of the cloudy “urban crisis” complex may be seen in a newspaper report from Atlanta, Ga., dated January 25, 1967. On that date the assistant secretary for demonstrations and intergovernmental relations of the Housing and Urban Development Department met with representatives of cities from eight southern states to announce the “Model Cities” program, which, he said, offered cities a workable method to “tackle the obstinate, persistent, harmful problems of slum life and all its side effects.” He noted that the purpose of the program is to “change people and to change institutions” (which covers about everything). The change in people, he said, would come by “upgrading education, health, social and employment skills.” The change in institutions would come by eliminating blocks in the “opportunity system” that “keep people in poverty.”

The news account did not indicate the nature of the blocks to opportunity of an institutional nature, but it is interesting to note that the program with respect to individuals was labeled a “model cities” program and anticipated that most applications would come from city governments. But in North Carolina and in much of the rest of the nation, most city governments were not then (and are not now) involved in education, health, or employment programs. Clearly, our preoccupation with the “urban crisis” (which we equated with city government) led to the misorganization of public programs.

The historical fact is that city governments were junior partners in providing public services and functions needed by an “urban” people. Our major domestic expenditures at mid-century were for education, highways, welfare, and health. And over most of the country these were more than local responsibilities—largely county,

state, and federal (with special districts for schools in many places). This fact was clear, but its import was slow in acceptance.

For example, a study of the 900 governments in the San Francisco Bay Area in 1960 indicated that of all local government expenditures: school districts spent about 40 per cent; counties spent about 33 per cent; cities spent about 20 per cent; and other special districts about 7 per cent.

Large sums of state and federal aid (since greatly increased) were then going to counties and school districts to aid in meeting *real* urban problems that have to do with people, to say nothing of direct state expenditures and federal aid through the state for the same purposes.

And yet the mayors of these Bay Area cities were complaining that the state and federal governments had no concern for “urban” problems—meaning too few grants to city governments. But the *people* of the cities were being served, because they were also county, school district, state, and national citizens as well as city citizens.

Closer to home, we see the same lack of perspective. From an editorial in the *Charlotte Observer* of January 2, 1967, we find the state government taken to task for its lack of concern with cities and urban problems. The writer noted that in Connecticut the state encouraged cities to go into urban redevelopment by meeting half of the local share of the cost, while in North Carolina the state supported urban redevelopment not at all.

What the writer did not report (and probably had not considered) was that if one looked at all state and local expenditures in the two states at that time, he would have found that (1) the proportion of federally raised funds used to finance them about equal, but (2) in North Carolina 57 per cent were state provided, while in Connecticut only 42 per cent were state provided. For the major urban needs—education and highways—

state-level support was much higher in North Carolina than in Connecticut. Again we see the distorting effects of the “urban crisis” preoccupation of the period.

Early in this mid-century period, there was much concern with metropolitan governments, with regional governments, city-county consolidations, and the like. But a significant trend arose in the late '50's—the bloom was off metropolitan government. Academic types and chamber of commerce types both continued to push for such approaches far into the 1970's, but a recognition eventually came that organizational changes, while important in a few areas, had been overstressed. Not only did the people not want big local government (and for a democratic people, this value must in the end be accorded some weight), but also the problems that demanded public action were not really, as we have seen, problems for consolidated governments, or metro-governments. Existing general-purpose governments (counties and cities) were found to be quite satisfactory when the problems were seen in perspective.

And the absence of perspective was sometime astonishing. A high-level study commission in Chicago, for example, recommended a metropolitan government for the area—an area beset with financial disparity among the local units of government, an area with serious racial problem where partisan politics had a long and glorious tradition. But as Professor Gilbert Y. Steiner noted in his analysis of the commission's report, *Metro-politan Government and the Real Word: The Case of Chicago*, the commission made a long recommendation urging metro-government without once using the words “Republican,” “Democrat,” or “Negro.”

Thus we see that by 1970, as a result of Supreme Court action, civil rights legislation, and the experience with attempts at metro-governments, the country had come to a better understanding of the

real nature of our "urban" problems and we were able to move to where we are today.

The North Carolina Setting

Having looked at the national setting in which we started the last half-century, and which has had a major influence on our present governmental arrangements, let us now note briefly some of the peculiar characteristics of the North Carolina setting.

In the first place, and as you well know, the governmental structure within North Carolina has changed little in the past 50 years—because *the development of a form of state and local government suitable for an urban people occurred in North Carolina before it did in the nation generally.*

The younger members of the audience may not think twice about this—they accept the present arrangement. But those of us who are older can easily recall that a statement such as this 50 years ago might have raised immediate doubts in almost any public group.

We all know now that the structure of government in North Carolina at mid-century was often pointed to as a model (not what it did, but its structure). Both cities and counties had extensive powers of planning and zoning. Essentially all governmental activities were performed by general-purpose governments; the multitude of overlapping and small units to be found in many urban areas were simply not present in North Carolina. Municipal annexation powers and extraterritorial powers were widespread and generally adequate to the job of guiding urban development (although not always used). And the division of responsibility between the state and local levels resulted in primary state responsibility for major urban functions and a total state-local tax structure that was much less regressive than was typical of the nation. We were, and still are, relatively speaking, a poor state—but in terms of gov-

ernmental structure we were prepared for an urban society.

How did this come about? It came about because of our poverty. Starting in the 1920's and 1930's, we created a structure designed to meet the *public needs of people*. They were not rural problems nor urban problems. They were *people problems and public problems*. And to a considerable extent the leadership of the day let the form follow the demands of the function.

As I have noted before, the turning point nationally in meeting the "urban crisis" of the mid-century came when it was recognized as a people problem rather than an urban problem. Thus the North Carolina structure, which was developed prior to that time out of poverty and desperation, was a reaction to the very needs that were not seen in perspective elsewhere until later. I don't mean to suggest that there have been no changes in the North Carolina structure since the 1950's. There have been, and I will review these shortly, but the most important ones—the changes that fitted the structure to an urban society—were made before 1960 and mostly before mid-century.

Let us look briefly at some of the most important of these changes:

1. State acceptance in the 1930's of responsibility for education—at all levels. This is a change that has also taken place elsewhere since that time.

2. State acceptance of responsibility for all highways outside of municipalities and for major streets inside. Thus in the early 1930's we had a structure for planning and meshing our urban and metropolitan areas (even if we didn't have any). It was not until the late 1950's, however, that we saw the culmination of the structural arrangements necessary when procedures for thoroughfare planning were established. We still debate at times about how well the planners are performing. But it was ever thus, and the structure is ade-

quate. (I should note that the structure eliminated regional transportation planning needs—we jumped beyond the regional level to the state level.)

3. State support of public health, undertaken along with other states in the early part of the century, has continued.

4. North Carolina had the first state recreation commission, and it developed, with others, an early interest in parks. Thus again we have planning and operation at the state level, rather than at a lower metro or regional level.

5. County government has been authorized to undertake almost every function performed by cities, and has increasingly done so over the years as needs have become essentially county-wide in nature. County government was on the scene, it was organized, and we have made use of it.

6. We were fortunate in that we had less attachment to the myth of rural-urban conflict in North Carolina than other places. This fact enabled us to shift financing and functions between levels of government in a pragmatic manner. It supported a flexibility of viewpoint that was important. I speak here, of course, in relative terms. North Carolina has had its share of inflexible minds—some of them in legislative and executive seats.

I should note, however, that a legislature by all standards "rural" in nature was responsible for creating the structure of government that today serves an urban population.

7. We have had flexibility of action. We have not been burdened with home-rule charters or with a state constitution that requires statewide action on every front. This has permitted adaptation, experimentation, and local leadership, while at the same time, political traditions have assured in a very real sense as much home rule as is generally found anywhere.

8. Finally, I should point to the "state" view of things, which had

been part of the general climate for many years and which made the changes easier. Part of this attitude dates to developments in the colonial period, but in a large degree it reflects the presence of the University and its role in the state over the past two centuries.

Many other factors, of course, were important in launching the state and its government into the latter half of the twentieth century, but they are either less important or are related to those I have mentioned.

Government in the Year 2000

In closing let us look now at where we stand today—at how things have changed since the 1950's. I have already indicated, North Carolina has continued (and the nation has moved forward) in its reliance on the three general-purpose units of government—the state, the county, and the cities.

We have shared with the nation the increase in federal-level support of many state and local functions. These functions, of course, are really national concerns, and in the past 50 years we have simply witnessed an expansion of federal-

level support. Perhaps the most significant modification in federal support came in the early 1970's, when string-free, federal block grants were first initiated. (This, of course, had to await the revolution in race relations that I mentioned earlier as a significant development of the early years of the past half-century).

We have seen a continuation of the merger of city and county school administrative units. In another year we shall probably have fewer than 100 school administrative units in the state (down from 170 at mid-century).

In 1985 the first merger of two counties occurred. Three more mergers have come about since that time, and it seems likely that this pattern will continue until the 100 counties of the 1950's are reduced to about 80. The advantages to merger, of course, are quite limited and whether they take place is of little concern.

City-county consolidation is still a matter of discussion, and may come on the scene within the next few years. As yet, no county, in area, is predominantly urban, and complete city-county merger prob-

ably will not occur until that condition develops.

One of the most interesting developments of the last 50 years is a nondevelopment. Early in this period there was considerable discussion of county parks and of regional park systems. The expansion of the state system has eliminated this approach, and counties and cities are now providing only quite small local parks and playgrounds. In general, parks of significant size and green areas are provided by the state (the latter, of course, is a development of the last 20 years).

Finally, and on a political level, the movement of mayors into the political mainstream is a significant change for North Carolina. This change has resulted not from the increased growth of cities, but from the recognition by the mayors that they can and should act at the state level, not as a spokesman for city government interest, but as a representative of a sizable group of state citizens, who happen to live in their city. They have thus changed from special pleaders into effective political leaders with wider influence.

Welfare Commissioner Clifton M. Craig

addresses a group of county welfare board members in October.



Attorney General's Rulings

Compiled by George M. Cleland

COUNTIES

Levy of Tax to Finance Ambulance Services

13 September 1967

A.G. to Norman, Rodman, and Hutchins

Question: Can the county commissioners levy a special tax on property in order to finance the costs of assuring adequate and continuing ambulance services in the county *without a referendum*?

Answer: Yes. The 1967 General Assembly provided enabling legislation in GS 153-9(58) for such a tax when as a "necessary expense" and "special purpose." The Supreme Court has never passed on the constitutional question of whether the financing of ambulance service by a county would constitute a "necessary expense," and the legislature's declaration so far do not control the Court. However, the Court held in *Biekett v. Commission*, 177 N.C. 433, that a statute enacted by the General Assembly is deemed to be constitutional until declared invalid by a court of competent jurisdiction. Therefore, the board of county commissioners would be protected if it saw fit to act pursuant to the 1967 law.

COUNTY COMMISSIONERS

Ambulance Service, Tax Referendum

A.G. to H.H. Taylor, Jr., October 17, 1967

Question: Can a county hold a referendum on whether a tax

should be levied to raise funds for the financing or subsidizing of ambulance services?

Answer: G.S. 153-9(58) authorizes the county commissioners to levy a tax for that purpose *without* a vote. There is *no* authority for the county to conduct a referendum on this question *unless and until* a court of competent jurisdiction holds that a tax so levied is unconstitutional as not being a "necessary expense." In that event the statute does authorize a referendum on the tax levy and if the voters approve, the tax may be levied.

COURTS

Appointment of Counsel for Defendants at Recorder's Court Preliminary Hearings

15 August 1967

A. G. to G. M. Harris

Question: May the recorder's court judge appoint counsel for indigent defendants at preliminary hearings?

Answer: No. The authority to appoint counsel for indigent defendants at preliminary examinations in felony cases is restricted to superior and district court judges under GS 15-5.4; so is the authority to fix attorney fees for services rendered at such hearings.

Clerks of Superior Court, Public Office Age Requirement

15 August 1967

A. G. to Lee J. Greer

Question: Is there a minimum age requirement for the position of deputy clerk of superior court?

Answer: Yes, 21 years. A deputy clerk of superior court is a public officer; therefore, under the provisions of the North Carolina Constitution such a person would have to be 21 years of age.

Compensation of Constables, District Court System

8 August 1967

A. G. to Livingston Vernon

Question: Under the District Court System no provision is made for paying constables for their services in making arrests and attending court. How are constables to be compensated for these services?

Answer: There is no provision allowing compensation to constables for enforcement of criminal laws.

Jurisdiction of District Courts

27 February 1967

A. G. to Daniel K. Edwards

Question: Does the district court have exclusive original jurisdiction over violations of the Municipal Fiscal Control Act?

Answer: GS 7A-272 provides: "Except as provided in this article, the district court has exclusive, original jurisdiction for the trial of criminal actions, including municipal ordinance violations, below the grade of felony, and the same are hereby declared to be petty

misdemeanors." Violations of the Municipal Fiscal Control Act (GS Ch. 160, art. 33) would be within the exclusive jurisdiction of the district courts since such violations are misdemeanors by virtue of GS 160-412.

Jury Commission, Double Office Holding

2 May 1967

A. G. to James R. Strickland

Question: May a public official such as register of deeds, sheriff, or coroner serve as a member of the county jury commission?

Answer: No. The recent legislation establishing uniform jury commissions (SL 1967, Ch. 218) makes jury commission members public officers; as such, they are constitutionally precluded from, simultaneously, holding other public office.

CRIMINAL PROCEDURE

Public Drunkenness Punishment

28 September 1967

A. G. to Martin R. Peterson

Question: What punishment applies to a conviction for public drunkenness which occurs after the effective date (July 6, 1967) of the new statewide public drunkenness law in GS 14-335 when the offense itself occurred prior to that date?

Answer: The punishment provided by the local act governing the offense prior to the new statewide law must be compared with the punishment provided by the new law and then the lesser punishment must be imposed. This will also apply to convictions that occur in the superior court after an appeal from a lower court where both the offense and trial in the lower court occurred prior to the effective date of the new statute.

Public Drunkenness Sentences for Repeaters

28 September 1967

A.G. to Martin R. Peterson

NOVEMBER, 1967

Question: What sentence must be imposed if a person convicted of a second offense of public drunkenness within a twelve-month period is to be committed to the custody of the State Department of Correction (formerly called State Prison) under the new statewide public drunkenness law?

Answer: The sentence must be given in the words of the statute, GS 14-335(b): "not less than 30 days and not more than six months." This section contemplates that the sentence shall be imposed with a definite minimum term of 30 days and a definite maximum term of six months, giving the Commissioner of Correction the discretion to release a person committed under this section at any time after that person has served the minimum term or to require the maximum term. Therefore, the trial judge may not set the limits of the sentence but, in the words of the statute, he may impose a fixed indeterminate sentence.

MEDICAL EXAMINER

Appointment of Coroner as Medical Examiner Under the New Law, Double Office Holding

8 November 1967

A. G. to Ben Eaton

Question: Would the appointment of a coroner as medical examiner, under the provisions of the new medical examiner law in GS 130-197, constitute double office holding?

Answer: No. Although a coroner and a medical examiner are both considered public officers, GS 130-197 merely authorizes the duty of medical examiner to be imposed on the coroner. He will perform the duties of medical examiner ex officio, when requested by the Chief Medical Examiner.

Effective Dates of the New Statewide Medical Examiner System Law

8 November 1967

A.G. to Ben Eaton

Question: What is the effect of the new medical examiner act in GS Ch. 130, article 21, on the counties operating under one of the old medical examiner acts of 1955 or 1965 and on the counties without a medical examiner?

Answer: The 1955 medical examiner act in GS Chapter 130, Art. 21, is completely repealed in January 1, 1968. The 1967 law provides for a medical examiner in *every* county to be appointed by the state's Chief Medical Examiner. The new law is effective in *all* counties on January 1, 1968, except those counties which have actually appointed a medical examiner under the enabling provisions of the 1965 Medical Examiner Act (GS Ch. 152A, applying to only 19 counties) or a local act. It is noted that only eight counties have implemented the 1965 medical examiner act. In these counties the new law will be effective on July 1, 1969; they may not withdraw from the 1965 act until that time.

LET'S EXAMINE RECORD-KEEPING and the OFFICE of COUNTY CLERK *

by Eunice Ayers

* *The term clerk is used here to mean the clerk, the recorder, the clerk-recorder, or the register of deeds.*

History of the Recording Function

Recording documents is one of the oldest functions of government in the world and, unfortunately, one of the least understood. The practice of stamping an official seal on documents was common in Babylon many centuries before the birth of Christ. Yet very few local government officials and even fewer citizens truly understand the importance of recording. Very few people know how the functions of the clerk-recorder (the word "clerk" is used in the remainder of this article to indicate the title of clerk, recorder, clerk-recorder, or register of deeds) contribute to the working of local government.

Shortly after 1587, the famous "Lost Colony" of Manteo, North Carolina, site of the first English settlement in America, mysteriously disappeared, leaving behind the intriguing word "Croatan" carved

on a tree to baffle future settlers. The word "Croatan" probably referred to an island off the coast of North Carolina between Pamlico Sound and the Atlantic Ocean to which Raleigh's Roanoke Island Colony moved in 1587. While this botanical registration may not be the first recording act in the New World, it demonstrates that North Carolina has very deep roots in the recording function.

The earliest mention of recording a deed in the New World was found in the Plymouth Colony records of 1627. A contract for the bargain and sale of land was apparently required to be written into the books of the Colony. In 1636, a Plymouth Colony law required that all sales, exchanges, gifts, mortgages, leases, and other conveyances of house and lands were to be recorded before the Governor, committed to public record, and the fees paid thereon.

In 1640, the Massachusetts Bay

Colony general court passed a law similar to most recording laws of today. It stated that: (1) acknowledgment was a prerequisite of recording; (2) the main details of the transaction had to appear on the record; and (3) the priority of record also meant priority of title unless possession was given to the grantee.

In 1661, the oldest known recorded deed in North Carolina was executed by Kilcoganen, the king of the Yeopim Indians, who conveyed a tract of land on the Perquimans River to a George Durant. This deed was later recorded and now appears as Deed No. 374 in Deed Book A in the office of the Register of Deeds of Perquimans County, North Carolina.

In 1682, a Pennsylvania General Assembly law required all charters, gifts, and conveyances of land to be recorded within two months or be void in law. A North Carolina law

Appointment vs. Election of Clerk? Home Rule? Civil

of 1715 required that conveyance of land would not be valid unless acknowledged or proven and registered by the public register within twelve months from the date of the deed.

The development of recording laws emphasized securing a reliable land-holding record to prevent fraudulent claims by concealing transfers and to protect subsequent land purchasers. Also, the development of recording laws in the United States was indigenous—the product of many different influences. For example, in North Carolina, in 1633, King Charles II executed a charter to eight Lord Proprietors authorizing them to establish a colonial government and to make grants of land to individual settlers. The theory behind this charter was based on the belief that all land in the British Empire was originally vested in the king. However, more subtle influences helped to shape the development of recording laws in this country: the Dutch system of land registration; the system of acknowledgments prevalent by borough customs; enrollment of bargains and sales under 27 Henry VIII c. 16 (1536); and the local customs of New York and Middlesex by which “registries” were provided. Thus, recording laws developed by an integration of many different practices.

Recordations: Characteristics and Functions of the County Clerk

Let's look at the dominant characteristics and functions of county clerks. Taken together, the county offices constitute one of the largest depositories of public records in every state. Important public and governmental affairs as well as commercial and private

matters are affected by the variety of records and documents maintained by county officials. Many concepts pertaining to the creation, maintenance, and disposition of records are regulated by state laws, but the attitude, interest, and co-operation of county officials can greatly influence the quantity and utility of county records.

In most states, the greatest share of county records is maintained by the county accountant, the county clerk, the county sheriff, the health department, the local school system, the tax assessor-collector-supervisor, and the welfare department. But the major custodian of records is the county clerk. The county register of deeds in North Carolina maintains records related to the title of real or personal property and vital statistics—such as births, marriages, and deaths. On the other hand, the clerk of superior court maintains records related to court affairs and the administration of estates of deceased persons. Most counties in recent years have experienced an increased volume of public records, especially records of a permanent or long-term nature. Every indicator points to a continuation of this trend, thereby increasing work loads and the responsibilities of most county clerks.

What are the major characteristics of county clerks? In the spring of 1966, the National Association of County Recorders and Clerks (NACRC) conducted a survey among clerks, recorders, clerk-recorders, and registers of deeds. From 3,049 counties, 536 clerks responded to the NACRC survey (a monumental return of 17.6 per cent!). The response was not exactly encouraging, but enough questionnaires were returned to validate the survey statistically. If the pic-

ture presented here is not an accurate one, the Association is not to blame. Rather, the blame must lie with those counties that chose to abrogate their responsibilities to our Association. Perhaps the next survey may be more representative and more clearly reflect the nature and characteristics of all county clerks.

Aided by Mrs. Aliceann Fritschler, assistant director of research for the National Association of Counties, and by Mr. Charles Monroe, director of data processing, Week's Division of the Hanes Corporation, NACRC compiled and correlated the returns. The major characteristics and functions of the “average” clerk are shown in Table I (page 17).

Analysis of Characteristics

- Let's examine our “average” county clerk. First, consider personal characteristics—age, education, and sex.

He is 50 to 60 years old. But in the northeast region (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont) and the north central region (Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin), most clerks are 40 to 50 years old. Thus, in 40 per cent of the states and in the most populated areas of the country, the majority of clerks are 40 to 50 years old.

The “average” clerk is a high school graduate, but 50 per cent of the respondents had at least one year of college, 9 per cent graduated from a four-year college, and 4 per cent had some form of post-baccalaureate training. It is interesting to note that the southeast region (Alabama, Arkan-



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sas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia) claims the largest number of clerks with a four-year college education—15 per cent. The far west region (Alaska, California, Hawaii, Oregon, and Washington) follows at a close second with 11 per cent.

Perhaps this education characteristic is indicative of the very basic, rapid, and all-encompassing change that is presently occurring in the Southeast and Far West. Perhaps it means that where a great increase in population occurs, a corresponding change occurs in the educational characteristics of officeholders. Perhaps it is almost axiomatic that as population increases and problems become more complex, the educational level of public servants also tends to increase to meet the needs of the people they serve.

Sixty-four per cent of the county clerks are men. However, there is a bright side. In the northwest region (Idaho, Kansas, Montana, Nebraska, North Dakota, South Dakota, and Wyoming) an equal number of clerks are women. This may not be considered a "significant trend" but it is somewhat encouraging.

- Second, let's consider the legal aspects of the county clerk's office: 93 per cent of the clerks are elected; 89 per cent have their responsibilities spelled out in state laws; 71 per cent serve four-year terms; and 60 per cent of their salaries are set by state laws.

I think it is time to gain more independence from state legislatures. As our country urbanizes at an increasingly rapid pace, as recording functions of county officials becomes more complex, as state legislatures fall further behind in meeting the needs of local governments, and as unique local prob-

lems call for unique local solutions, I think the local electorate and groups that constantly use our services should answer the questions of: election versus appointment, legal responsibilities of the office, term of office, salary of the officeholder, and other related questions. The Far West and the Southeast lead the way in appointing county clerks.

Perhaps as counties become more urbanized and citizens demand more sophisticated approaches to solve complex problems, proper record-keeping may play an important role in the shift from elected to appointed county clerks. I think state legislatures should permit counties to adopt measures that would correspond to the wishes of the local electorate and to their unique local problems. I firmly believe that each county should have the right to determine the legal requirements for its coun-

Uniformity in Record-Keeping?

ty clerk's office. If the electorate desires to elect its county clerk—fine. But if it desires to appoint him, it should have the right and the legal authority to do so. Some may argue that the expertise of an appointed county clerk is no greater than that of an elected clerk simply because many clerks are elected time after time after time. In some isolated situations, this argument may be true. But according to the NACRC survey, it is fallacious. The survey indicated that the greatest number of clerks have served less than four years, and more than 50 per cent have served less than eight years. The hard fact of the matter is that there is a significant amount of turn-over in the county clerk's office.

Also, as counties experience a steady in-migration of new citizens, political offices become highly contested. The old "power structure" may find itself on the outside looking in. In other words, urbanization tends to breed competition for political offices, and competition may mean more turn-over in the county clerk's office and all other elected positions.

● Third, let's consider what the county clerk does. Notice that not one of his functions is considered "policy-making" in nature. Not one function has as its primary purpose the setting of public policy. All of the functions reported in the NACRC survey are basically administrative, technical, quasi-legal, and court-related functions. Why, then, should officials responsible for administrative functions be elected the same as officials that determine the course and direction of public policy (such as county governing boards)?

I can think of no logical reason for electing county clerks. Similarly, I can think of no logical reason for electing any county official primarily concerned with administrative functions. Contrary to what some may argue, the county clerk is not an intricate part of the policy-making process of

county government. Clerks do not make public policy. Clerks carry out policy established by state and county legislative bodies. Clerks may influence or affect the direction of policy through their political party affiliations and state associations, but the fact remains that acting as purchasing agent, collecting fines and taxes, issuing marriage licenses, maintaining vital statistics, preparing the county budget as part of their duties as clerks to the governing boards, registering deeds, registering wills, supervising county buildings, supervising elections, vote counting, and voter registration are not policy-making duties.

However, one aspect of "home rule" is making some progress in

county government. Although 60 per cent of the clerk's salaries are set by state legislatures, the salaries of 31 per cent of clerks are set at the local level by county ordinances, charter, or governing bodies. I am happy to see this trend develop, and I am confident that it will continue as our country becomes more sophisticated and our counties accept their proper place in the scheme of local government of the future.

● Fourth, let's take a look at the sources of revenue that county clerks use to operate their offices. Forty-three per cent of the clerks operate their offices from budgeted appropriations approved by the county governing bodies. However, 41 per cent of the clerks operate out

Table I

Title:	County Clerk (60%)
Sex:	Male (64%)
Age:	50-60 Years (33%)
Education:	High School Graduate (42%)
Legal Basis of Office:	State Law (89%)
Legal Status:	Elected (93%)
Term of Office:	4 Years (71%)
Limits of Terms Served:	None (90%)
Present Tenure:	0-4 Years (29%)
Average Annual Budget:	\$61,218
Source of Funds:	Budget Only (43%)
Average Annual Salary:	\$7,195
Salary Established by:	State Law (60%)
Number on Staff:	10 (average)
Staff Appointed by:	County Clerk (82%)
Staff Subject to Merit or Civil Service System:	No (85%)
Functions and Duties:	
Register Deeds (75%)	
Clerk to County Board (61%)	
Supervise Elections (56%)	
Issue Marriage License (54%)	
Maintain Vital Statistics (46%)	
Prepare County Budget (43%)	
Register Wills (39%)	
Vote Counting (39%)	
Voter Registration (36%)	
Collect Fines (19%)	
County Purchasing Agent (17%)	
Supervise County Buildings (11%)	
Collect Taxes (11%)	
Issue Auto License (8%)	

Characteristics of Register Officials: By U. S. and Regions

Characteristics of Office	Region I N=30	Region II N=138	Region III N=139	Region IV N=95	Region V N=86	Region VI N=54	Region I-VI N=536
<i>Sex</i>							
Male	23	102	98	47	48	22	186
Female	6	35	40	47	36	30	348
Unspecified	1	1	1	1	2	2	8
(34%)							(50%)
(2%)							(2%)
<i>Title</i>							
Clerk	16	97	64	35	64	27	303
Clerk-Recorder	6	36	61	55	14	22	194
Other	8	5	14	5	8	5	45
(60%)							(35%)
(5%)							(5%)
<i>Status of Office</i>							
Elected	25	123	138	92	84	42	505
Appt. by Bd. of Co. Comm.	1	8	0	1	0	3	13
Appt. by Adm. Officer	0	0	0	1	0	1	2
Appt. by Others or Unsp.	3	7	1	1	2	8	22
(93%)							(2%)
(0%)							(0%)
(5%)							(5%)
<i>Term of Office</i>							
1 year	0	1	0	0	1	0	2
2 years	3	6	16	23	19	0	67
3 years	6	0	0	0	0	0	6
4 years	12	95	120	68	64	43	402
5 years	3	0	0	0	0	0	3
6 years	1	11	0	1	0	0	13
8 years	0	13	0	0	0	0	13
Indefinite or Undeter.	2	8	0	1	0	9	20
Unspecified	3	4	3	2	2	2	16
(2%)							(3%)
(3%)							(3%)
<i>Limit of Terms</i>							
No Limit	27	132	112	93	75	50	489
Two (2)	1	0	21	0	0	0	21
Four (4)	0	0	0	0	1	0	1
NA or Unspecified	2	6	6	2	10	4	30
(90%)							(3%)
(1%)							(1%)
(6%)							(6%)
<i>Legal Basis of Office</i>							
State Law	24	116	134	87	81	42	484
Ordinance	2	6	0	0	1	2	11
Charter	1	3	0	0	0	4	8
Other & Unspecified	3	13	5	8	4	6	39
(89%)							(2%)
(1%)							(1%)
(8%)							(8%)
<i>Age</i>							
20-30	0	7	3	3	4	1	18
30-40	2	19	20	8	10	5	64
40-50	11	44	46	25	17	17	160
50-60	9	48	42	30	28	22	179
Over 60	6	18	22	27	25	8	106
Unspecified	2	2	6	2	2	1	15
(3%)							(3%)
(12%)							(12%)
(29%)							(29%)
(33%)							(33%)
(20%)							(20%)
(3%)							(3%)

<i>Education</i>	<i>12</i>	<i>54</i>	<i>60</i>	<i>47</i>	<i>32</i>	<i>20</i>	<i>225</i> <i>(42%)</i>
High School Grad.	1	20	24	21	21	9	96 { 34 %
One (1) Year College	6	20	19	13	18	9	85 %
Two (2) Years College							
Three (3) Years College	2	8	8	1	2	2	23 { 14 %
Four (4) Years College	4	21	9	6	5	6	51 %
5+ Years College	2	8	4	0	3	4	21
Unknown or Unspecified	3	7	15	7	5	4	41 <i>(8%)</i>
<i>Number of Years Present</i>							
<i>Position</i>							
0-4 years	9	35	45	28	27	14	158 <i>(29%)</i>
5-8 years	9	25	38	22	15	11	121 <i>(22%)</i>
9-12 years	6	24	15	14	10	11	80 <i>(15%)</i>
13-16 years	2	17	12	11	10	6	57 <i>(11%)</i>
17-20 years	1	16	12	7	9	6	52 <i>(10%)</i>
21-24 years	0	6	3	6	5	3	23 <i>(4%)</i>
25-28 years	0	3	4	1	4	0	12 <i>(2%)</i>
29-32 years	1	8	5	1	1	0	16 <i>(3%)</i>
33-36 years	0	0	4	0	1	1	5 <i>(1%)</i>
37-40 years	0	0	0	2	0	0	2
41-44 years	0	0	0	1	0	0	1
45-48 years	0	0	0	0	0	0	0
49-52 years	0	0	0	0	0	0	0
53 +	0	0	0	1	0	0	1
Unspecified	2	4	2	1	3	2	14 <i>(2%)</i>

Characteristics of Register Officials: By U. S. and Regions (Continued)

	Region I N=30	Region II N=138	Region III N=139	Region IV N=95	Region V N=86	Region VI N=54	Region I-VI N=536
<i>Total Annual Budget</i>							
Total	\$5,370,999	\$7,389,371	\$4,872,488	\$2,043,888	\$5,063,485	\$8,440,146	\$33,180,377
Average	\$ 179,033	\$ 53,546	\$ 35,054	21,515	58,878	\$ 156,299	\$ 61,218
<i>Appropriation Funds</i>							
Fees Only	6	37	21	4	16	6	90
Budget Only	7	38	74	48	38	29	234
Fees & Other Revenue	7	39	28	31	15	12	132
Unspecified	10	24	16	12	17	7	86
<i>Duties & Responsibilities</i>							
Prepare Co. Budget	3	55	49	76	31	18	232
Purchasing	0	26	22	23	18	2	91
Supervisor of Co. Bldg.	0	20	11	17	11	1	60
Issue Marriage License	4	92	89	19	61	24	289
Issue Auto License	8	19	3	3	10	1	44
Keeping Vital Stats.	4	52	59	60	43	28	246
Voter Registration	1	32	45	53	38	23	192
Supv. of Elections	5	55	77	81	58	25	301
Vote Counting	4	48	38	59	39	22	210
Decds Registration	27	113	76	83	74	31	404
Clerk to Co. Bd.	2	90	56	80	70	27	325
Wills Registration	8	69	30	26	49	29	211
Tax Collection	5	34	8	3	5	3	58
Fines Collection	5	13	34	3	30	19	104

Legend

Region I: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont.
 Region II: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.
 Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin.
 Region IV: Idaho, Kansas, Montana, Nebraska, North Dakota, South Dakota, Wyoming.
 Region V: Arizona, Colorado, Nevada, New Mexico, Oklahoma, Texas, Utah.
 Region VI: Alaska, California, Hawaii, Oregon, Washington.

of fees and other revenues they collect. I think it is important from the standpoint of public accountability and effective inter- and intragovernmental relations that fees and other revenues be funneled directly into the county's general fund. Clerks should be required to operate their offices from annual appropriations approved by their county governing boards. County governments would then benefit from a relative increase in general fund revenues that would generally be greater than the annual operating expense of the county clerk's office. However, it is discouraging to note that 17 per cent of the county clerks depend on fees as their primary source of operating revenue. I would be negligent if I did not stress the backward and dangerous nature of this situation, especially from fiscal control and political standpoints.

● Fifth, the staff of the county clerk's office is next considered. Eighty-two per cent of the clerks appoint their own staff, and 85 per cent reported that their staffs are not under a civil service or merit system of employment. Thus their appointments may be more a matter of political party affiliation than of personal qualifications. Although not required to do so, I have requested the county personnel department to screen applicants and rank potential employees according to their personal qualifications. I then merely choose personnel from among the top qualifiers. The best method of establishing an effective and efficient staff is to hire primarily according to personal qualifications rather than political affiliations. The method and manner by which a staff operates is a direct reflection on the person who supervises that staff. Therefore, as a responsible county official (even though partisan-elected) a clerk might be expected to hire qualified personnel regardless of party affiliations. Unfortunately, this is not always the case.

Notice also that many of the functions performed by county clerks have nothing to do with recording *per se*: Three concern elections, two concern collecting fines and taxes, and four deal with administration—county budget, clerk to the county governing board, county purchasing agent, and supervising county buildings. What have these duties to do with recording?

It is significant that a few counties, especially in California and Oregon, have combined election and recording functions into one department. But let's carry this type of functional consolidation one step further. Why not consolidate all recording, election, and court-related matters under one roof? Suppose real and personal property matters, court-related matters, vital statistics, election matters, vote counting and voter registration were combined in one department of county government. Suppose further that the consolidated department was directed by a person trained and educated in recording, election, and court-related matters. Suppose

business and allows a high degree of interdepartmental cooperation between all county officials, elected and appointed. The county manager acts as a liaison agent for the clerk of superior court (county court), the sheriff, and this office in our dealings with the board of county commissioners concerning administrative and fiscal matters of our elective offices.

Effective local government (county and city) depends on interdepartmental cooperation. In my own case, I cooperate with the county manager and his staff in administrative, fiscal, and research matters concerning this office; the personnel department screens all prospective applicants, changes employee status, budgets proposed salaries affecting my staff, and handles other personnel matters; the county accounting department receives daily deposit reports; the county attorney coordinates all matters of legal procedure and related matters; the county purchasing department procures all supplies and equipment for this office through a centralized purchasing operation; the general

About this article Mrs. Ayers says:

*"If I have provoked controversy,
I intended to."*

Comment from our readers is invited

further that each division was headed by a competent specialist in each of the fields. I think this is carrying consolidation of inter-related functions to a logical conclusion, regardless of state constitutional or statutory prohibitions that exist in most states today

This "umbrella" organization is especially relevant to the many interdepartmental functions that most county clerks perform. We in Forsyth County are fortunate to have a very effective county manager form of government. The county manager system has simplified that administration of county

services department maintains the premises; the county health department supplies this office with vital statistics records; we furnish the tax supervisor quick copies of all real property records after we microfilm and index them; we furnish the sheriff's department with a list of names and addresses of persons called for jury duty. And we work closely with the city-county planning board concerning subdivision plats before they are recorded. In addition, we perform a number of other functions for federal and state agencies; file federal tax liens and make monthly

reports to the Commissioner of Revenue for payment of recording fees; record discharge papers for armed services veterans and furnish copies of all records for veteran benefits; furnish vital statistics to the State Board of Health and other intergovernmental functions too numerous to mention.

● Sixth, let's consider the question of record-keeping uniformity. I'm not concerned with the requirement of region- or nation-wide uniformity at this point because the largest problem exists within state boundaries. Before we can consider interstate uniformity, intrastate variations must be wiped out. In North Carolina, we are approaching the problem of functional uniformity through the Uniform Commercial Code, uniform fees and forms, and uniform court systems, just to mention a few. I am pleased to see this trend develop because it is a perfect example of a state legislature willing to assume its proper responsibility toward local government. State legislatures should assume the major burden of requiring record-keeping uniformity. However, state legislatures should also recognize that local governments have a responsibility to insure that the uniform state requirements are administered effectively and efficiently. Since counties are creatures of the state, state legislatures should allow counties enough leeway to solve their own unique local problems in a responsible manner. This means state legislatures must allow counties to adopt administrative procedures that will effectively carry out the state's mandate for uniformity.

Conclusion

Throughout this article I have stressed the historical development of recording laws and the characteristics and functions of the "average" county clerk, and I hope that I have raised some thought-provoking ideas about our functions and our future. If I have

provoked controversy, I intended to. It is time for all county-oriented associations to suggest ways toward gaining a more effective and efficient county government. Instead of *reacting* to proposals advanced by others, we must develop our own proposals and let others defend the outdated status quo. The best possible method that we can use to accomplish this goal is to be willing to see the weaknesses of our present county government system and to develop the necessary intestinal fortitude to eliminate those weaknesses. This should lead to a more effective, efficient, democratic, and responsive form of county government capable of meeting the needs of its citizens within the framework of a modern society.

I regret that we have no method of analyzing past performance or of tracing historical development over the past 20 years to really grasp the true significance of our constantly changing society. Change is inherent in every dynamic society, and county government is part of society.

As counties reorient themselves to perform more effectively the tasks demanded by the electorate, they will slowly lose the oft-quoted epithet of the "dark continent of American politics." Among other progressive innovations, a county personnel plan, properly defined and administered to provide adequate political protection and a frame work for responsible employee initiative and growth, may help to eliminate the criticism that county employment is essentially a form of political patronage. County officials, and especially we elected officials, must realize that in order to survive in a sophisticated urban society, counties must: (1) reorganize themselves to provide the number and level of services demanded by all the citizens; and (2) subject themselves to an honest and critical examination of the manner in which they have operated for the last two or three centuries. If this

is done, county government will play a large and dominant role in the local government of the future. If it is not done, county government will fade into nothingness and eventually disappear because of its inability to adjust to a changing society.

Unfortunately, many counties deserve the derogatory remarks thrown their way. I am not excluding my own Forsyth County in this remark. We, as responsible county officials, must not be satisfied with the status quo in the face of changing conditions, technological innovations, and an increasing number of complex governmental problems and functions to perform. County officials must act. The only reason we exist is to provide services demanded by the people. Let's act to provide those services as effectively, efficiently, and economically as possible! Let's think positively and act progressively! Let's help bring county government into the twentieth century and lead all forms of local government into the twenty-first century!

Credits: The cover picture is courtesy of Jock Lauterer and the *Chapel Hill Weekly*. Lynn Igoe did the drawing on page 23.

THE COSTS OF POOR HOUSING IN RURAL NORTH CAROLINA



by Paul H. Guthrie, Jr.

[Editor's Note: The author is Assistant Coordinator of the State Planning Task Force.]

We live in an exciting and rapidly changing world. Changes are occurring almost daily and, as these changes occur, so must our governmental approaches to the problems presented for public solution. Things that were once outside of the regular operations of local units of government have become the new needs of today and the obligations of tomorrow. More than 30 years ago one court expressed it this way:

Needs that were narrow or parochial a century ago may be interwoven in our day with the well-being of the nation. What is critical or urgent changes with the times (*Helvering v. Davis*, 301 U. S. 619).

To some extent housing and the counties' role falls into this category—a modern need, born of current, changing circumstances and necessary for the continued well-being and prosperity of our state.

Historically, the county has been responsible for the care of the poor and the maintenance of the public health. From the earliest sessions of our General Assembly, the county has been charged with a responsibility for the poor. More recently, the county has been responsible for the vast majority of the local public health programs. And still more recently, public

hospitals supported by county governments have replaced private institutions as the major source of hospital care in North Carolina. Thus the county has always had a concern, a responsibility, and a legislative mandate for the health and welfare of its citizens.

It is declared . . . that in such urban and rural areas [where] there is a lack of safe or sanitary dwelling accommodations available to all inhabitants thereof and that . . . many persons of low income are forced to occupy overcrowded and congested dwelling accommodations . . . that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the citizens of the state . . . [when] these conditions cannot be remedied by the ordinary operation of private enterprise . . . [then] the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent. [G.S. 157-2]

This was the statement of the legislature in 1935 and again in 1941—that public housing is related to the public health and welfare and is a public purpose. The North Carolina Supreme Court has agreed.

Why the Present Concern

Now for just a moment let's go behind this language and see whether we can determine why public housing has become a public need and what has happened to the free-market principle of supply and

demand. Why is there now pressure for public action?

First, never in this country have low-income groups been housed by their own devices. Throughout history someone else has provided the capital to house the poor. In ancient time, in Europe, the Lord of the Manor provided the shelter for his laborers. In our state, tenants and slaves were housed by the landowner in "exchange" for their labor. In the early days of the textile industry, the mill towns developed as housing financed by the employer, for his employees. In other areas the church aided in the housing of the poor, and the county poor farm was provided for the destitute. Today, few of these forms still exist—the slave is gone, tenancy is rapidly decreasing, the mill town is disappearing, and the county poor farm is vanishing. In our rapidly changing world "cash money" has replaced "in kind" expenditure. The net result is that the historical providers of low-income housing have left the field and there is a serious gap in provision.

To this lack of capital, we can add several additional factors that affect the supply of housing and the type of housing: changes in modern life, the rapidly increasing desires for better housing by people of all income levels, and today's world's continuing demands for higher

levels of attainment—just to stay abreast of relative income levels.

The question, then, becomes: Who will provide the housing needed by low-income individuals if the private sector is no longer able to supply such housing on its own? And second, if this is a public purpose, what are some of the problems involved?

It is difficult for those of us who live and work in an affluent community and surroundings to understand freely and easily the nature of this state's housing needs. And we would all like to believe that a man, through his own labor, without assistance from an outside or public source, should be able to house his family and provide a sufficient life for them. *Yet in North Carolina today such a goal is impossible to reach within existing conditions.*

Approximately 35 per cent (420,000) of our occupied housing units have been classed as unsound or lacking elementary health facilities. Of these units, about 200,000 are classified as overcrowded. Perhaps the real question to ask at this point is why we have so many unsound units. The answer lies in our income levels. Recent studies indicate a relatively high correlation between income levels and housing needs (.86). Since North Carolina is one of the lower states in comparative income levels, we are faced with a correspondingly low level of satisfactory housing.

For a moment, let's think about this problem in concrete terms. How much housing will a family income of \$3,000 a year buy? For an average family of four, not much. Assuming the normal taxes, etc., our family of four probably has around \$225 a month to spend. Food at a minimum will cost \$60-\$80. Fuels, utilities, etc., could run another \$20-30 per month. Most experts feel that housing should account for perhaps 25 per cent of the household budget. Given this, our family of four would have about \$60 per month for housing.

Out of the total family budget, then—after food, housing, utilities—the family would have, at a maximum, perhaps \$50 a month for clothing, school supplies, transportation to work, medicines, health care, insurance. There is not very much flexibility in this budget.

What Can the Poor Afford

But we still have the hard question—how much housing will this \$60 per month buy for a family of four? In the housing purchase area, assuming the most advantageous mortgage agreement on a thirty-year loan for \$10,000, payments before taxes would run \$65. Taxes would cost another \$6-10 per month. Therefore, our family of four, in 30 years under conventional circumstances, could hope to acquire at most a \$6,000-\$10,000 dwelling unit—that is, of course, if conventional loan institutions should consider (1) that the family with that income level is a good risk; (2) that the property to be acquired is a worthy risk; and (3) that the unit bought or constructed will last out the terms of the agreement. What all this really boils down to is that under existing, conventional circumstances, for people in the income levels of our family of four, it is virtually impossible to purchase adequate living quarters. The sole remaining possibility for the family is to rent. Think now about your community. How many places in your town or county could a family of four rent and live comfortably in for \$60 a month? As you can see, the market is limited. Yet in North Carolina today more than 35 per cent of all families earn less than our family of four. Almost 400,000 families must find quarters with less than the \$60 per month that this family has to spend.

For these reasons it seems clear that conventional circumstances and the private market are economically unable to provide the housing necessary for low-income people. This is not a criticism of the

housing industry; it is rather a statement of plain economic fact. The investment and money markets for housing are national in scope. We are in the lower one-third of the income scale; the most reliable markets for national investment are elsewhere. They offer the first attraction to the large-scale investor. The low-income market comes far behind.

Where Is the Greatest Need

Let's add a further dimension to our dilemma. Where are the poorest housing units? In the city slum? In the built-up areas? Not at all. The poorest housing is in the smaller towns and rural areas. Our greatest problems lie in these places. That is not too surprising. Remember that we spoke earlier of the high correlation between income and housing. Well, incomes are higher in the cities than in the rural areas. More jobs are available in the cities and cash income is higher and more consistent. All of this has its effect upon housing. More than half of all the housing in rural North Carolina is considered substandard by modern standards. But why, then, do we always think of the cities as the places with the poor housing? This misconception rises from the fact that in cities, poor housing stands out as an entity (the slum, the deteriorating neighborhood, etc.). In rural areas the poor house may be standing alone surrounded by trees, fields, perhaps attractive flowers, yet it is still substandard. Another facet is that in the cities where the poor housing is located close together, the public problem of dealing with it has seemed easier: the density has made planned approaches simpler. Therefore, public agencies have been created to deal with such urban areas. In the rural areas, or in the small towns where the management problems of scattered needs have impeded activity, little if any public action has begun.

Again, in the rural areas because of the problems of scale

and size, local governments have not had the resources to deal as well with the problem of housing as have their big-city cousins. And not only do these smaller places have more problems, but they also have less useable capital available to help develop a housing program.

Local Authority in the Field of Housing

I think we have now touched upon the chief concerns of rural area and in this matter—the problems of money, of location, of supply and scale, and of management. Now let's consider authority. Can North Carolina counties, along with cities, develop low-cost housing programs? Yes, they can.

In 1935 the legislature passed the Housing Authority Act (GS Ch. 157). In 1941, this act was extended to include county authorities and regional authorities (Public Laws of 1941, Ch. 78). Such authorities have been upheld by the courts as a valid public purpose (see, for example, 213 N.C. 744; 221 N.C. 334). Specifically, this act states that in addition to the city authorities that can be established (included, of course, is their ten-mile-radius authority), counties over 60,000 population or two or more counties with an aggregate population of over 60,000 persons may form housing authorities. These authorities (either county-wide or regional) can be established after petition by 25 residents and a finding of fact by the county commissioners that (1) unsanitary or unsafe inhabited dwellings exist in the county, and/or (2) that sufficient safe and sanitary dwelling accommodations are lacking in the county. Upon establishment, the commissioners must appoint an authority board or representatives to a regional multi-county board. Such county or regional boards then have the same authority and responsibility as any city housing authority established under Chapter 157. In this capacity the authority may investigate, de-

termine, make recommendations, and carry out projects affecting housing needs.

Fairly clearly, legal authority exists for county activity in public housing. The problem for counties, is not one of ability but of commitment and approach.

The Costs of Poor Housing

But before we talk about approaches, we might consider the costs of continued inactivity in this area and why the legislature as far back as 1941 considered it of sufficient concern to pass enabling legislation.

What is it that is so bad about poor housing? What does it do to our communities? How does it affect their growth and development? What, in real dollars, are the implications of having, outside the cities, half of the people ill housed? Very simply, substandard housing costs this state money and drains off a good share of its resources. It is (given the close correlation between income and poor housing) a sign of low incomes. Most people, given more money, would seek better quarters, running water, inside plumbing, solid roofs, rodent-free structures, and attractive surroundings. But until the income problem is solved, with better education and more skilled jobs, the housing situation will grow more acute. (And in realistic terms, poor housing will tend to slow down the attainment of these goals of higher incomes, better education, and higher-paying jobs).

In terms of the public health and welfare, substandard housing encourages poor community health, promotes unsanitary conditions, and is a potential threat to the well-being of the community. Such conditions, engendered by poor housing, tend to lower the values of property, cause large increases in public expenses, and lend themselves to a general deterioration of the community. The irony of all of

this is that when poor housing begins to cause increased community costs, it is the better properties that must bear the burdens. The poor properties contribute to the general revenues inversely to their cost to the community. In rural areas, substandard dwellings have their effect more on the individual, and in this manner upon the community. While there is some effect upon neighborhoods, the effects upon the residents are the most severe. Perhaps the greatest damage is to the young. With poor health and poor housing, poor schooling becomes commonplace. Education becomes sporadic, classes are missed, and opportunities are lost. If a child enters the first grade sufficiently behind his fellow students in experience and continues to lose ground in his early years, under the usual educational system he will continue to fall behind until he drops out and becomes a charge to society. This is a direct cost to the community. With improvement in housing and living conditions, the risks and the threats to the public health and welfare can be reduced. More individuals can become contributing members to their communities; children will be better able to compete in our rapidly accelerating educational processes; and public expenditures in the years ahead can be used for programmatic results rather than for stop-gap current expediences.

All of these comments and more stem from poor housing. In a nutshell, then, poor housing—impoverished housing—is a blight upon the community, responsible for additional costs to society, and destructive to economic progress.

What Can Be Done

With this background—the need, the problems of adapting low incomes and resources into productive housing components, the unattractive conventional market, the community costs of poor and substandard housing—it must be asked, What can be done? Some

people believe that the first step is the creation of an interest group, such as a housing authority, to take the lead. Across the nation, some 2,600 communities have done this; 177 counties are now operating better than 52,000 dwelling units. Currently in our state there are low-rent housing activities in 44 counties, almost all of them in towns and cities. But much more is needed. In our state, where our need is rather uniform, representing a large segment of our total population, we need to consider a more unified approach. Our efforts should be on several levels.

First, we need to prepare an effort at the local level to analyze our local needs, to determine just what is currently available to help our needs. Many localities are not fully aware of the resources currently available. For example, under more traditional approaches the resources of the Farmers' Home Administration are available to rural people and communities. Rural housing loans are available to people living in rural areas and in communities with under 5,500 population. Loans can be made for construction and repair of houses and purchase of sites at a marketable interest rate. Other programs are available for farmers, elderly persons, and communities. It might be observed that these "modest" home-loan programs have certain drawbacks. First, such loans are made only to owners and long-term lessors of property. Second, loans are predicated upon the existing income level and the ability to repay. As we projected earlier with our family of four, both of these limits, and especially the ownership requirements, cut deeply into the user potential. Yet, how many citizens are aware of these programs?

Next, after examining local needs and developing an awareness of existing resources, we must make a concerted effort to reduce our shortcomings. This may well involve (and probably will, given

existing legislation) the establishment of a housing authority, but it should not be limited to just that. In this consideration of public housing programs, we need to think also about the condition of existing housing. Can we, as public bodies, do something about this? Do we enforce health and sanitary requirements? Are there building codes? Would local planning and zoning help development? Are some forms of housing that are not adequate being sold to low-income families?

With regard to the establishment of authorities in rural counties, the more traditional methods of public housing are not sufficient. Yet some of the new approaches do offer the opportunity for advancement and also involve local builders, etc., in the market. For example, let me combine a couple of newer approaches (at least superficially) into a rural concept.

In many rural communities and especially in the county, large masses of new dwellings are not needed in one place. Many units need repair, upgrading, etc. Some need to be torn down. But in strictly gross terms, only a handful of new units are needed in any one geographic position. So in management terms, tooling up a complete organization to handle this volume (from construction to opening) is not practical. Yet under a turnkey and scattered-site approach with local builders, a local organization might begin a program, purchase the units complete, and manage them upon acceptance. Likewise, a renovation and leasing program might also be worked out in smaller communities and rural areas.

Finally, in any multi-site effort at the local level, we need to think "organization"—not merely in our counties and small communities, but also at the state level. In terms of management and efficiency of operation, if we are truly to attack this serious problem of housing, we must think of our local and regional

operations as basically managing operations, designed to propose new programs and operations and to study in a limited fashion local needs but not to be highly technically competent with complete expertise. This technical competency could be supplied by a program of state support, available to all local operations, on a regional or statewide basis, and able to provide the staff back-up necessary to begin programs, prepare the basic operations and formulas, and assist the local units in initial management. In this way trained personnel can be used to the best advantage and a maximum effort can be made, using local people and local builders to provide better local housing.

Conclusion

No easy answers and simple programs will suffice to meet housing needs in our rural communities. I have pointed out a few of those needs, some of the costs of unsound housing, and a few of the approaches that might be applicable to our rural communities and small towns. No estimate of cost outlay for local programs can be made until programs are created. Yet clearly the costs involved are not merely those of operating a program, but rather the real and far more significant costs that our unsound dwellings convey to the next generation of county and town taxpayers.

Poor housing is a community condition, representative of a fault in our local economy. If we are to move North Carolina forward as a growing industrial state, able to keep pace with our neighbors and the rest of the country, we must make it possible for all our people to find decent housing. If we don't, we will continue to pay the costs of more health problems, larger numbers of school dropouts, more community problems, less industrial expansion, and a continued low-income level.

HEATH BECOMES INSTITUTE OF GOVERNMENT'S ASSOCIATE DIRECTOR



Milton S. Heath, Jr., is now Associate Director of the Institute of Government. The announcement by Director John L. Sanders revealed that Heath will devote half-time to administrative duties.

All full-time professional staff of the Institute are faculty members of the University of North Carolina at Chapel Hill. Heath is a professor of Public Law and Government. He has served on the Institute faculty since 1957, having expertise in such areas as legislation and natural resources law. He has been in charge of the Institute's Legislative Reporting Service for 1965 and the 1967 sessions of the North Carolina General Assembly. During a leave from the University, from 1964 to 1965, he was technical assistant to the chairman of the Federal Power Commission in Washington. Heath received his undergraduate degree in 1949 from Harvard, where he was graduated magna cum laude and Phi Beta Kappa, and then was a Stone Scholar at Columbia Law School, receiving an LL.B. Degree in 1952.

Sanders calls Heath "able, versatile, experienced and industrious." Noting his pleasure that Heath "has agreed to share in the administrative work of the Institute of Government," the Director comments: "I am sure that he will be most helpful in maintaining and enlarging the effectiveness of the Institute's programs of service to the state and its local governments."

Coming next month

COUNTY FINANCE

by Robert G. Byrd

... A comprehensive treatment of constitutional and statutory law concerning the levy of taxes, expenditure of public moneys, and incurrence of debt for county governments.

SOCIAL INSECURITY: THE POLITICS OF WELFARE. *Gilbert Y. Steiner*. Rand McNally and Company, 1966. 270 pp. \$6.00.

It is both a pleasure and a relief to read a book about the American public welfare system that is well researched but not pedantic, critical but not carping. And more: the prose style is remarkably felicitous.

To provide background for his analysis of current welfare problems in the United States, Mr. Steiner begins his book with a discussion of the movement of welfare out of the private and into the public domain and follows it with a chapter on the philosophy underlying the original Social

Security Act and the "withering away fallacy." Inasmuch as growing caseloads, particularly in AFDC—cause so much public concern, it is particularly timely to have such a cogent discussion of why our social insurance programs are largely irrelevant in alleviating our public assistance problems.

The two subsequent chapters illuminate two matters often difficult to understand: first, congressional actions in making public assistance appropriations (actions which, the author says, do not necessarily reflect congressional sentiment about the program); and second, state and federal exercise of power, both complementary and conflicting.

In the chapter titled "The Politics of Eligibility," Mr. Steiner

discusses with insight such problems as midnight welfare searches, birth control information for clients, retention of earned income, and residence requirements. In the next chapter he takes up the crucial matter of change, and what impedes change. Here, he is critical—and it is hard criticism—of The Welfare Establishment. The same can be said of his treatment, in the following chapter, of "The Social Work Syndrome."

Unlike much that is written about public welfare, this is not a book that fires broadsides at the program and lets it go at that. The last chapter contains some specific recommendations for how, in the author's opinion, the program should be changed. E.M.F. □



Book Reviews

CONVICTION: THE DETERMINATION OF GUILT OR INNOCENCE WITHOUT TRIAL. *Donald J. Newman*. Little, Brown, and Company, 1966. \$8.50.

This volume, second in the American Bar Foundation series on the administration of criminal justice, describes the results of a survey carried out in Kansas, Michigan, and Wisconsin in 1956 and 1957 of practices of freeing, or accepting guilty pleas from, those charged of crime without a formal trial and of reducing, before accepting guilty pleas, many of those original charges. The estimate that 90 per cent of all criminal convictions occur by guilty plea without trial hammers home the importance of the subject matter.

The author's analysis of the survey data reveals the tangled complexity of this root system of

the administration of criminal law. Reductions of charges may occur because the evidence will not support the original charge. But other reasons also exist, all with involved variations: as payment for the "purchase" of a defendant's guilty plea without trial; to avoid labeling the defendant with conviction of the crime with which he originally was charged; to avoid the necessity of sentencing for the period required by law for the original charge; because mitigating circumstances lessen the seriousness of the charged violation; or because the characteristics of the defendant make the conduct seem less serious. And acquittal without trial may occur not only because the facts can support no charge, but also to free the defendant for rehabilitation outside the prison system, to permit him

to make restitution to the victim of his crime, to maintain the respectability of the otherwise "clean" defendant, to avoid conviction for acts thought to be only technically criminal, and to express disapproval for enforcement methods.

The problems raised by knowledge of these practices far transcend the obvious questions of the propriety of the prosecutor's and court's permitting the acquittal of those factually guilty or the conviction for crimes less serious than that of which defendants are factually guilty. Is avoidance of a trial load by means of a stream of uncontested guilty pleas a worthy objective? If so, is the plea bargain system the best way to achieve the objective? The only way? If the criminal system works despite deliberately failing to convict a per-

Book Reviews

son of the crime he actually did, then why is it necessary to have that crime on the books at all—merely to provide the state a lever with which to pry out a guilty plea? Does the state pay the price of charge reduction by suffering more crime?

One strength of the book also contributes to (in my view) one of its weaknesses—possibly over meticulous organization. The very organization which spotlights the many factors that underlie a decision to accept a guilty plea to a reduced charge or a decision to acquit without trial also gives what I suspect is a slightly misleading impression of the existence of clear dividing lines between one factor or another. It also contributes to a sense of repetition as the same fact is used repeatedly to illustrate

different subheadings (e.g., the almost routine practice in Michigan of reducing armed-robbery and sale-of-narcotics charges).

The importance of the information in the book generates a desire for more information, much of it quantitative. The impression is clear that usually a charge is reduced primarily as payment for a guilty plea; achievement of the other advantages so carefully outlined (e.g., avoidance of a mandatory sentence believed too harsh) are only bonuses with, or even rationalizations for, winning the guilty plea. But is it not imperative in order to take meaningful action about plea bargaining to have some sense of the frequency of charge reductions that would occur even if the prize of a guilty plea were not awarded? And the fear that without guilty pleas induced by charge reduction the courts would choke on criminal trials needs confirmation or denial by knowledge of the quantity of

guilty pleas that would occur if charges were made simply on the basis of what the evidence and justice would bear.

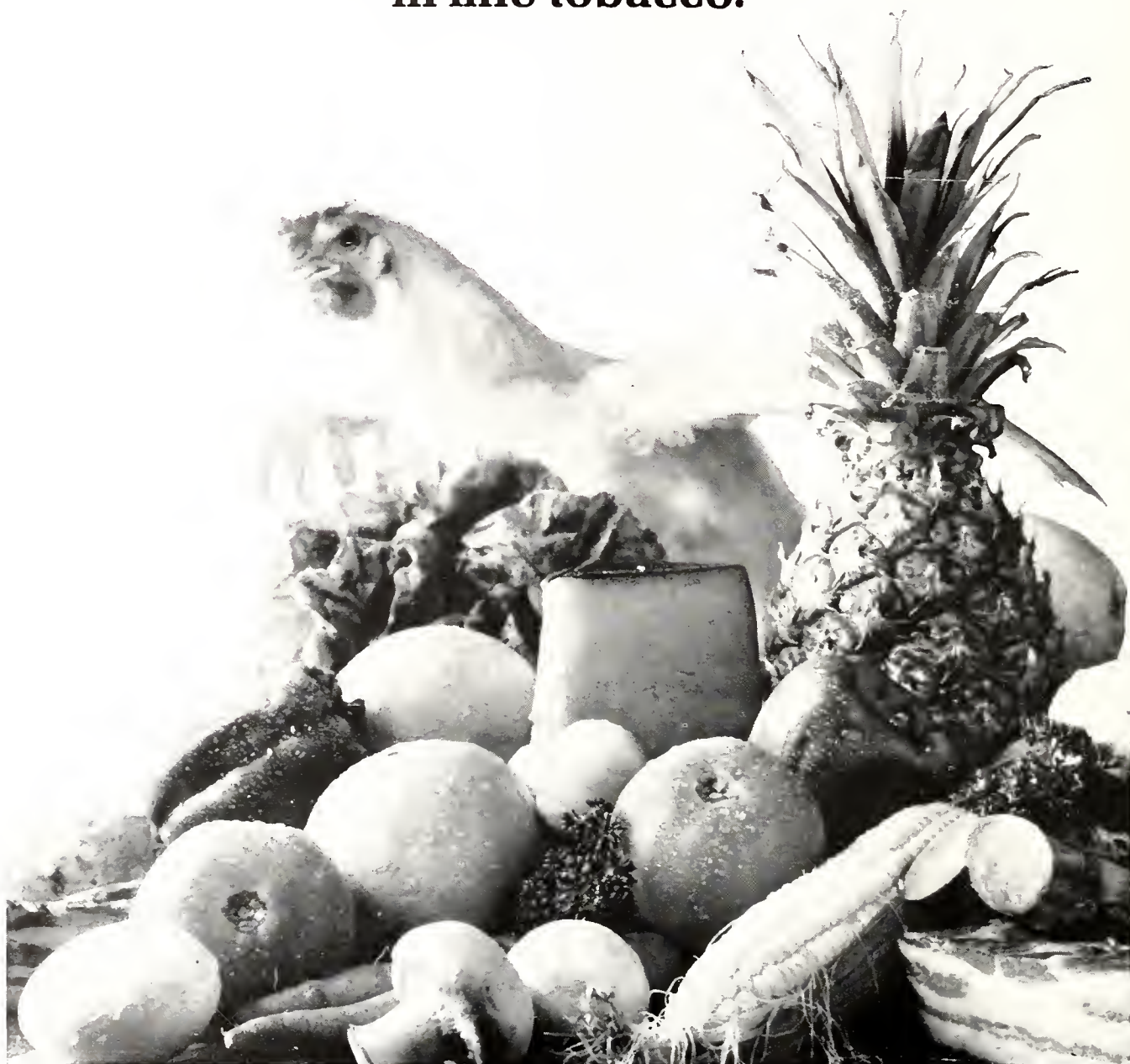
Publication of this book offers knowledge that is certain to be used importantly. The author's careful limning of the often unrecognized part that knowledgeable and conscientious attorneys can play in the plea-negotiating process (including the rehabilitative effect of such assistance, a consequence largely unconsidered by anyone whose consideration of it could be of any practical impact) will insure the prominent citation of this book in some future decisions of the United States Supreme Court that aim at more effective participation of counsel in the plea-bargaining process. One hopes that state legislatures will give the book careful consideration in ample time to take action that will influence the direction of the Supreme Court's decision. D.R.G. ☐

The Municipal and County Administration Class

This annual course, which begins in October and runs through May, meets for its first session in October.



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