NORTH CAROLINA FOCUS

A North Carolina Center for Public Policy Research Book

North Carolina Focus

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Dedicated to Brad Stuart (1950-1980), our fellow worker and friend, who helped us all focus more clearly on North Carolina's future.

PREFACE

While no text can fully describe the complex process of governing North Carolina, this anthology analyzes many of the issues that have dominated the North Carolina political arena in the past few years. As such, it may serve as a useful guide to students of North Carolina by illustrating some of the many influences on the policymaking process in this state.

The first chapter of *North Carolina Focus* gives an historical overview of North Carolina's political development and describes some of the contradictions that have characterized North Carolina's people and their political struggles. The second chapter analyzes the constitutional history of the state, and Chapters 3-6 follow the lines of the North Carolina Constitution. Chapter 3 corresponds to Section I of the Constitution, the Bill of Rights, and the following three chapters examine the legislative, executive, and judicial branches of state government. The final chapters analyze various aspects of many of the key issues facing North Carolina policymakers today: the budget, economic development and the environment, energy, and education.

Most of the articles that appear in *North Carolina Focus* have been previously published by the North Carolina Center for Public Policy Research, either as policy reports or as articles in the Center's quarterly magazine, *N.C. Insight.* All facts were pertinent at the time these articles were originally published; publication dates appear at the beginning of each article.

N.C. Center for Public Policy Research

The North Carolina Center is an independent research and educational institution formed to study state government policies and practices without partisan bias or political intent. Its purpose is to enrich the dialogue between private citizens and public officials, and its constituency is the people of this state. The Center's broad institutional goal is the stimulation of greater interest in public affairs and a better understanding of the profound impact state government has each day on everyone in North Carolina.

A non-profit, non-partisan organization, the Center was formed in 1977 by a diverse group of private citizens "for the purposes of gathering, analyzing and disseminating information concerning North Carolina's institutions of government." It is guided by a self-electing Board of Directors, and has some 600 individual and corporate members across the state. The Center's staff of associate directors, fellows, and interns includes various scholars, students, journalists, and professionals from around the state. Several advisory boards provide members of the staff with expert guidance in specific fields such as education, publications, and fund raising. The Center is forbidden by law from lobbying or otherwise attempting to influence directly the passage of legislation.

Center projects include the issuance of special reports on major policy questions; the publication of a periodic magazine called *N.C. Insight;* the production of forums, seminars, and television documentaries; the maintenance of a speakers bureau; and the regular participation of members of the staff and the board in public affairs programs around the state. An attempt is made in the various projects undertaken by the Center to synthesize the integrity of scholarly research with the readability of good journalism. Each Center publication represents an effort to amplify conflicting views on the subject under study and to reach conclusions based on a sound rationalization of these competing ideas. Whenever possible, Center publications advance recommendations for changes in governmental policies and practices that would seem, based on our research, to hold promise for the improvement of government service to the people of North Carolina.

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North Carolina: People, Culture and History

North Carolina is a state of immense vitality, variation, and change. Hailed by many as a progressive symbol of the contemporary South's modernization and by others as being among the most conservative of Southern states,[1] North Carolina provides an interesting contrast of forms and behaviors. The state is endowed with a tremendous geographic beauty and range that often serves as a guide to political battles. Its political history has been enriched by an extensive Indian heritage and the oldest colonial settlement in North America. Combined with its regional location and size, North Carolina has had a prominent role in many chapters of American development.

DISCOVERY AND SETTLEMENT: THE HISTORIC PERIOD

The first recorded discovery of North Carolina was made by a French expedition along the coast led by Giovanni da Verrazano in 1524. Two years later a Spanish expedition led by Lucas Vazques de Ayllon established a temporary settlement on "Rio Jordan" (assumed to be Cape Fear) and Hernando de Soto crossed through the Western part of the state in 1540. Still, the Historic Period of North Carolina did not really begin until 1584 with the explorations and settlement attempts of Sir Walter Raleigh.

After receiving a patent from Queen Elizabeth I in March 1584, Raleigh dispatched Captains Phillip Armas and Arthur Barlowe to discover a suitable site for a colony. The expedition arrived at the Carolina coast in early July, entered the Pamlico Sound and, after two months of exploration, returned to England carrying two Indians, Manteo and Wanchese.

Barlowe's report of the expedition was enthusiastically received in England and, in 1585, Raleigh established the first English colony in America on Roanoke Island. Beset by numerous problems, the colony was abandoned less than a year later with the settlers returning to England on the ships of Sir Francis Drake. A second attempt to establish a permanent settlement was made in 1587—the famous "Lost Colony" celebrated in the state's history and folklore.

Later settlement attempts in the region were slow to develop, and patents granted to Sir Robert Heath and later ceded to the Duke of Norfolk failed to produce hoped for growth and interest in the colony. Settlement in the area of Albemarle Sound in 1662 attracted attention and in 1663 a charter was issued by King Charles II of England to eight Lord Proprietors of Carolina.

THE PROPRIETARY PERIOD

The Proprietary Period (1663-1729) marked the first formal governance of the region. Albemarle County was established and divided into precincts whose residents chose representatives to an assembly. This assembly, with the court system, council and governor (appointed by the Proprietors) constituted the government. In 1669 "The Fundamental Constitutions of Carolina" was adopted to promote settlement and protect property rights. The document, written by British philosopher John Locke whose works were later used in fashioning both the Declaration of Independence and the United States Constitution, provided for a feudal system through which grants of land, titles of nobility, and ruling class privileges were established. The Fundamental Constitutions established the Anglican church, but also allowed the practice of other religious beliefs. Administrative details—the registration of births, deaths, marriages, and land titles—were included, as was a provision assuring trial by jury. Freeholders were beneath the nobility, permitted to own land and slaves. Leet-men were bound to the land as tenants of the nobility. Freeholders were also represented in the proprietory parliament, but this was a limited privilege as the parliament could not initiate any legislation. The eight Proprietors made up the Palantine's Court—the supreme agency of government. The actual government was vested in the governor and his council, chosen by the Proprietors in conjunction with the parliament.[2]

The Fundamental Constitutions, while establishing an elaborate blueprint for government, was ill-suited for the wilderness civilization of North Carolina. In spite of the fact that the document was declared to be "perpetual and unalterable," it went through five editions before being completely abandoned less than 30 years later.[3]

The Proprietors failed to give Carolina a stable government and the Proprietary Period was marked by mismanagement, slow growth, and violent internal strife. A number of incompetent officials and governors took office, only to be driven out later. Commerce was severely handicapped by Virginia's refusal to ship Carolina tobacco and lack of adequate surface transportation. Development was slow and it was not until 1706 that the colony had its first town—Bath.

THE ROYAL PERIOD

In 1729 North Carolina became a Royal province when

George II purchased the shares of seven of the eight Lords Proprietors. "Royalization" brought little by way of structural change, but did result in more efficient administration. This period was marked by a steady growth in population and the expansion of settlement throughout the colony. The population of less than 35,000 in 1729 increased to nearly 300,000 by 1775.

Even though population and commerce flourished during the period of royal administration, North Carolina became an active participant in the struggle for independence from Great Britain. Defying the colonial governor, delegates were elected and sent to the first Continental Congress in 1774. Royal rule ended in 1775 when Governor Joseph Martin was forced to flee and the Provincial Congress took control of the government. The new congress met in New Bern, Halifax, and Hillsborough. The Halifax Resolves (April 12, 1776) were adopted and North Carolina became the first colony to sanction American Independence. The Mecklenburg Declaration of May 20, 1775 preceded the Halifax Resolves (and its date appears on both the state flag and seal) and stated North Carolina's wish to establish its independence from Great Britain. There is some doubt, though, as to the authenticity of the exact date of the Mecklenburg Act.[4]. It is from this official sanctioning of American Independence that the state slogan "first in freedom" is derived.

THE REVOLUTIONARY WAR AND EARLY STATEHOOD

At the end of the Revolution, North Carolina entered into the Articles of Confederation with the other former colonies. The state sent representatives to the Constitutional Convention at Philadelphia in 1787, although a state convention called to ratify the document in 1788 voiced fears of a strong central government and voted to reject the new federal Constitution until a Bill of Rights had been added. A second convention, meeting in 1789, ratified the document.

North Carolina's first state Constitution outlined the organization of state government and contained a Declaration of Rights that established the individual rights of the citizen. Following the federal model, it provided for the separation of powers in the executive, legislative and judicial branches, but placed the greatest power in the General Assembly. In addition to legislative duties, the Assembly also chose all executive officers (including the governor) and all judicial officers. No system of local government was expressly outlined, but there were

provisions for such local officers as sheriff, constable, justice of the peace, and coroner. Two representatives and one senator were to be elected by the voters of each county, and each of the six towns would send a member to the House of Representatives. Only landowners of 50 acres could vote for senators, and property qualifications also applied to candidates for the General Assembly and governor.[5]

The period from 1790 to 1835 was marked by a lack of development and political inequality. The state was dominated by the landed aristocracy of the Eastern coastal plain although the population of the less prosperous Western counties far exceeded their Eastern counterparts. The gerrymandering of county electoral districts and a refusal to create new counties in the more populous West led to a general discontent that finally resulted in the calling of a constitutional convention in 1835. Numerous governmental reforms and constitutional amendments were adopted by popular vote. The thrust of the new constitution centered on the reallocation of representation and the popular biennial election of the governor. Amendments were also adopted that fixed the membership of the House at 120 and the Senate at 50—the present numbers.

Following the convention, until the Civil War, North Carolina politics was marked by constructive reforms and a genuine two party system. State aid was given for the building of roads, railways, and a system of free public education. Reforms were enacted in taxation policy, criminal codes, and of the legal status of women.

SECESSION, RECONSTRUCTION AND THE LATE 1800s

North Carolina seceded from the Union on May 20, 1861—the last Southern state to join the Confederacy. With the defeat of the Confederate states, North Carolina voted to repeal the ordinance of secession, abolished slavery, and repudiated the war debt. In 1868, a new Constitution was adopted and the Fourteenth Amendment to the United States Constitution was ratified. North Carolina was readmitted to the Union on July 20, 1868.

The new state Constitution was far more majoritarian and democratic than past documents, providing for the direct popular election of all state executive officers, judges, and county officials, as well as legislators. Executive terms were expanded to four years. Property qualifications for voting and officeholding were abolished, and the Senate was apportioned on the basis of population instead of property. Legislative sessions were made

annual. A simple and uniform court system was established, constitutional provision was made for a system of taxation, free public schools, and a uniform system of county government was outlined.[6].

Traditional interests regained control in the 1870s and the Democratic Party gave North Carolina adequate government administration that excluded Blacks. Many of the majoritarian elements of the 1868 Constitution were either amended or abolished. Legislative sessions became biennial again. The court system, previously reformed and made uniform, was brought back under the power of the General Assembly. Persons guilty of certain crimes were barred from voting and racial segregation was required in the public schools.

The General Assembly dominated the state's politics and administration during this period, and the Democratic Party dominated the General Assembly. The Democratic control favored large business interests and ignored the needs of the mass of farmers that made up much of the state's population. This led briefly to a successful coalition between the newly formed Populist Party and the Republicans that resulted in the election of Daniel L. Russell as Governor in 1896. The fusion ticket failed to carry out most of its proposed reforms, but did contribute to the temporary return of Blacks to political participation.* Capitalizing on this latter issue, the Democratic Party regained control in 1900 and promptly introduced Constitutional provisions for a literacy test and poll tax. Both had the effect of limiting the suffrage rights of thousands of North Carolinians—black and white.

NORTH CAROLINA SINCE 1900

Politics in North Carolina since 1900 has centered on two main concerns—the end of segregation and the stimulation of economic development. Tied to both of these concerns have been a number of issues, causes, and personalities.

Through the first four decades of the 1900s, the integration of Blacks into the mainstream of North Carolina politics and society was generally a moot point. Although not as repressive as some of its Southern neighbors, and described as "progressive" in V.O. Key's *Southern Politics*[8], Blacks in North Carolina did not enjoy full citizenship in deed, fact, or law.

**George White, a Black Republican, was elected to the U.S. Congress in 1898. His subsequent defeat in 1900 began a 28-year period during which no Black served in the U.S. Congress.*[7]

Following the Brown decision in 1954, race became a key issue in the state's politics. North Carolina made halting attempts at school integration in 1957 and avoided the "massive resistance" experience of Mississippi, Alabama, and Louisiana.[9] U.S. Senator Frank Porter Graham, a moderating influence, was defeated in 1950 by his opponents' appeals to racism. However, I. Beverly Lake, Sr., a staunch segregationist, was similarly rejected in two consecutive gubernatorial primaries in the 1960s. By then, civil rights activists had led successful demonstrations in Durham and Greensboro. The adoption of the Voting Rights Act and similar federal legislation in 1964 and 1965 ended *de jure* barriers to full political participation by Blacks, and has led to the gradual emergence of prominent Black leaders in local and statewide politics.

The economic development of the state has depended largely on growth in the textile, furniture, and tobacco industries. In all three, North Carolina ranks first in the nation by most indices. The state's economic position was improved considerably by a post-war road construction and modernization. Recent efforts to bring in other industries have further boosted North Carolina's wage structure, tax base, and productivity.

At the same time, efforts to enhance the output of farmers have been intensified. North Carolina continues to be a major agricultural state, ranking first in the nation in the production of tobacco and sweet potatoes and second in farm population with 40 percent of its tillable land used in farming. Important agricultural commodities include poultry, cotton, fruits, soybeans, pork feed grains, and dairy products.

The diversity of North Carolina is reflected in its geography, institutions, and its people. The selections in this anthology highlight this diversity in the state's culture, history, and politics. It begins with a profile of North Carolina aptly titled "Forces of Paradox."

Footnotes

1. Thad L. Beyle and Merle Black, eds., *Politics and Policy in North Carolina* (New York: MSS Information, 1975).
2. Hugh T. Lefler and Albert R. Newsome, *North Carolina: The History of a Southern State* (Chapel Hill: University of North Carolina Press, 1973).
3. Ibid, p. 35.
4. Hugh T. Lefler and William S. Powell, *Colonial North Carolina: A History* (New York: Charles Scribner and Sons, 1973), p. 268.

5. Summary of the Constitution taken largely from the League of Women Voters, *North Carolina: Our State Government* (Raleigh: League of Women Voters, 1976) p. 7.
6. Ibid, p. 8.
7. Michael Barone, Grant Ujifusa and Douglas Matthews, *The Almanac of American Politics 1980* (New York: E. P. Dutton, 1979), p. 652.
8. V. O. Key, *Southern Politics In State and Nation* (New York: Random House, 1949).
9. An interesting analysis of the entire era and process of desegregation politics following Brown is found in Jack W. Peltason, *Fifty-Eight Lonely Men: Southern Judges and School Desegregation* (Urbana, Ill.: University of Illinois Press, 1961).

Forces of Paradox
A Profile of North Carolina

Bill Finger

On February 22, 1978, *The New York Times* ran a front-page story entitled, "North Carolina's Leaders Worried by Blemishes on the State's Image." The article summarized recent events that had cast the state in its most negative national image in this century: the Joan Little trial, the J.P. Stevens textile campaign, the Wilmington 10 and Charlotte 3 cases, the University of North Carolina desegregation controversy, and the state's death row population and incarceration rate. Covering both sides of the story, the *Times* piece included subsections labeled "Reappraisals Rejected by Liberals" and "Fly Specks On A (White) Table Cloth," quoting Terry Sanford's folksy rejection of these events as aberrations. But the thrust of the story was that North Carolina could no longer be viewed as an enlightened Southern state.

V.O. Key had dubbed North Carolina a "progressive plutocracy" in his classic state-by-state study, *Southern Politics* (1948). This assessment became a yardstick for the next generation of journalists and academics. "Many see in North Carolina a closer approximation to national norms," wrote Key. "It enjoys a reputation for progressive outlook and action in many phases of life, especially industrial development, education, and race relations."

Today, these three arenas of life—industrial development, education, and race relations—remain at the top of the concerns of many North Carolinians. Ironically, though, lack of progress in these three has been chiefly responsible for the declining image of the state.

In 1975, journalist Jack Bass and pollster Walter DeVries undertook an update of the Key study. The Rockefeller Foundation funded Bass and DeVries, just as it had funded Key in 1948. The methodology followed Key's, interviews primarily with politicians and emphasis on economic and political changes. But their project led to opposite conclusions. In their *Transformation of Southern Politics,* Bass and DeVries ended the North Carolina chapter like this: "When one compares indices of economic development, the level of participation and modernization of the

political process, the relative neglect of long-standing social problems, the controlling oligarchy's perpetuation of 'no-growth-if-it-hurts-us,' two decades of a congressional delegation among the most conservative in the South, and the emergence of race as a significant political issue, what remains is a political plutocracy that lives with a progressive myth."

How far down does the Bass and DeVries conclusion bring North Carolina? And how far ahead of the rest of the South had Key placed the state? Why was North Carolina perceived for so long as the enlightened buffer between the backward South and the rest of the nation? And why does it now hover near the bottom in many measurements of progress such as average wage (50th), infant mortality (47th), per capita population in prison (44th), and per capita spending on public school education (41st)?

In recent years, North Carolinians have taken to debating about the state, often in a "blemishes" vs. "I love it here" framework. Editorialists, politicians, and citizens have rallied behind North Carolina, both defensively and with an open mind, with a deeply rooted love for their state. Most of those who believe the *New York Times* assessment is correct often defend North Carolina on other issues. And many of the state's resident critics still cherish it as a place to live. This fervor people feel about North Carolina seems to nourish the debate, to supply the energy North Carolinians expend to ponder over the opportunities to change their state even while relishing the attributes that keep them here. This process of reflection involves more than banter at a Saturday night cocktail party or at family discussions at Sunday dinner. It's thoughtful, serious stuff—carried on no less fervently by the average man or woman on the street than by politicians, scholars, and journalists—and it does make a difference in the lifestyle Tar Heels have made for themselves.

Attitudinal surveys have found that North Carolinians like where they live as well, if not better than, persons in any other state.* In a research project in progress in Roanoke Rapids, worker after worker, whether for or against the union, from a black or a white tradition, is saying, "I like it here." Pro-South sociologists like John Shelton Reed contend that intangibles—climate, natural resources, a closeness to the land, vacation

*A landmark study for such measurements is the 1968 Comparative State Elections Project. Undertaken by the Institute for Research in Social Science at UNC-Chapel Hill, it surveyed the attitudes of 7,600 people across the country and targeted 13 states for public opinion polls. In North Carolina, 82.3 percent of the respondents felt they lived in the best state. This rate was higher than any of the 13 states and easily topped the national sample (62.6 percent). For an overview of the quality of life literature, see "Measuring North Carolina's Quality of Life" in this chapter.

opportunities, clean air, small-town friendships, and family networks—soften the impact of economic indicators, resulting in such sentiments as the Roanoke Rapids workers are expressing. Other pro-South voices, like the quarterly *Southern Exposure*, view these intangibles as a tradition which makes grappling with the social indicators, racial controversies, and union battles more possible, more hopeful perhaps, than for the rest of the country.

People on both sides in the "blemishes" vs. the "I love it here" debate rarely overcome clichés to address the fundamental forces at work in this paradoxical state. Writers and scholars who examine the region, regardless of approach or emphasis, by definition place the South rather than North Carolina at the center of concentric circles of analysis. When statistical profiles of the state are attempted, such as the Bass-DeVries project, investigators tend to concentrate on electoral politics, one of the more visible and easily measurable sides of life. But often less than a third of the state's eligible voters go to the polls, a critical fact that limits the scope of the conclusions from such research designs.

An examination of the state from a somewhat different perspective—in a multidisciplinary, holistic fashion—might add another dimension to these studies and might fuel an even more intensive debate among North Carolinians interested not only in the past but also in the future of their state.

A Progressive Image in Transition

Key's 1948 study traced the Tar Heel distinctiveness to the Civil War. North Carolina refused to call a secession convention, and even after it joined the Confederacy, pockets of the state remained loyal to the Union. The difference, according to Key, lay in the number of slaves and the type of slave holdings in North Carolina. In 1860, North Carolina had fewer slaves (331,000) and many fewer holdings of 50 or more (744) than any other principal slave-holding state. South Carolina, with a smaller total population, had 402,000 slaves and 1,646 holdings over 50. While plantations certainly existed, the baronial structure of the Old South never took hold in North Carolina. Consequently, the Civil War did not shatter the state's economy to the extent it did to

much of the plantation South.

When Henry Grady promoted his "New South" vision at the Atlanta Exposition of 1887, North Carolina had the best natural resources and mind set in the region for launching its "Cotton Mill Campaign." Editorials and sermons alike proclaimed the textile mill the "salvation of the South." Financiers raised local capital where possible and solicited funds from the North as early as 1895, establishing a mill at every river fork. North Carolina's plentiful waterpower and cotton acreage provided key raw ingredients. But most important was the abundant labor supply, mainly yeomen farmers working war-ravaged land. Mill agents crisscrossed the mountains and Piedmont signing up entire families for their villages. The contracts promised free schools and houses, libraries and amusement halls, enough to eat, and work for the whole family.

The "New South" dream at the close of the 19th century did indeed put portions of the South back on its feet. Waves of families unable to scratch out a living left the mountains. Population in the Piedmont increased, and cotton farmers had a new and ready market close to home. Mill villages themselves delivered on some expectations, like schools and ball teams. But a 14-hour workday was added to the agents' idyllic picture. Many owners of this era were charitable and knew their workers personally, but a deep-rooted paternalism was born in the process. Scattered protests took place in the 1890s, the earliest efforts at unions in North Carolina, but they were quickly squelched. There were always more workers ready to take strikers' places and keep up the torrid surge of the industry.

"Between Durham and Shelby," wrote North Carolina historian S.H. Hobbs in 1930, "almost every little town has one or more small cotton mill." But this era of the small patron was spawning a new kind of North Carolina entrepreneur. From 1923, the peak of the postwar surge, to 1933, New England lost 40 percent of its mills. The newer, lower-waged Southern industry increased fivefold. Nowhere did growth accumulate more rapidly than in North Carolina. And textile mills were not the only empires springing to life.

A group of powerful plutocrats emerged in the first third of the century who have left legacies still intact in the state. In 1919, 23-year-old Spencer Love risked $80,000 to seize control of a single mill. By his death in 1962, his investment had grown into the world's largest textile company, Burlington Industries. Its annual sales now exceed $2 billion, and it is the state's leading

industrial employer (31,000). "Uncle Charlie" Cannon carved out a fiefdom not far away at Kannapolis. Still unincorporated today, the Cannon textile center ranks number two in industrial employment (21,000). Two Cone brothers from the noted Baltimore family established their textile chain with a ring of mills around Greensboro. James "Buck" Duke also got into the act. He used stock manipulation, a squeeze on small tobacco farmers and manufacturers, and modern advertising for pre-rolled cigarettes to gain monopoly control of the tobacco industry. When the Supreme Court broke up his American Tobacco into competing companies, R.J. Reynolds was waiting from his Winston-Salem base to rival Duke. Finally, furniture builders settled around High Point and westward towards the Blue Ridge forests, establishing the other labor-intensive industry that still dominates North Carolina.

From 1900 to 1939, North Carolina increased its value of manufactured products 1,397 percent, far more than any other Southern state except Texas, a close second. From a national viewpoint, this meant North Carolina was more modern than other Southern states. From a millworker's point of view, it meant the stretch-outs of 1929, the 1934 general strike (the largest in the nation's history), occasional organized protests but almost always, no bargaining leverage with the employer.

THE RISE OF THE KKK

Key also called North Carolina progressive for its moderation in race relations. He explained that the plantation politics of other deep South states did not take hold in eastern North Carolina, where the concentration of counties with more than 40 percent black population was located. North Carolina did not have an exclusively "Black Belt" region like Alabama or Mississippi; the state's eastern counties had concentrations of white tenant farmers as well. Key felt that this white yeoman presence moderated racist structures because of the commonality of experience of blacks and whites. Moreover, the white farmers often served, as Key put it, as the "opposition to the political machine, to the economic obligarchy of manufacturing and financial interest." But another kind of opposition also flared in the eastern counties, a kind which Key failed to identify.

The "Red Shirt" campaign of 1898, for example, left blood stains in Wilmington still remembered in the riots of the 1970s. A Republican-Black coalition ruled the city, maintaining control in

the wake of the Populist uprisings of the decade. As black editorialists spoke out and black officials attempted to implement changes, armed white citizens took matters into their own hands. Rioters burned the black newspaper and patrolled the streets. Black officials fled the city or resigned. Others were killed. In the 1900 elections, Republicans were defeated throughout the state. One party—and one-race—politics ruled the state until the late 1960s when the Voting Rights Act of 1965 began to have some impact.

Most importantly, Key failed to mention Ku Klux Klan activities. The Klan appeared in North Carolina in 1867, numbering up to 40,000 members during Reconstruction (1865-76). In 1871, federal troops were sent to North Carolina to suppress these night riders, and a federal grand jury indicted many of those involved. In the 1870s, the Klan gradually shrunk in size, not because of the indictments but because its goal of white supremacy had been achieved in most areas by the end of Reconstruction. During the 1920s and again in the 1960s, the Klan revived in the state as in the rest of the South. As late as the mid-1970s, Smithfield welcomed travelers with a large billboard reading, "Join and Support the United Klans of America, Inc." While the sign may have been an isolated symbol, the message could not be forgotten by the hundreds of thousands of Tar Heels and out-of-state tourists who passed it on their way to the beach. "Support the United Klans of America" could only serve to implant the impression that North Carolina was the hottest bed of Klan activity.

In September, 1979, the white supremacy movement—and media coverage of it—began a chapter which is still unfolding. Representatives of various Klan factions, the Nazi Party, and the National States' Rights Party met together in Louisburg. A series of such meetings followed where representatives of the leftist group, the Workers Viewpoint Organization (later the Communist Workers Party), appeared. Self-avowed Klansmen and communists exchanged taunts, first with words and finally with gunfire. The shootings at Greensboro on November 3, 1979, stoked growing national attention to still another Klan revival. Post-shootout Greensboro—the marches, trials, investigations, and the 20th anniversary of the Woolworth's lunch counter sit-ins, which helped launch the civil rights movement from Greensboro—made North Carolina an easy target for worldwide coverage. The state's image, rightly or wrongly, suffered.

Finally, Key pointed to North Carolina's educational

tradition as perhaps the most moderating influence towards "national norms." The University of North Carolina schooled a number of state politicians. While some leader emerged through political dynasties, like the Shelby group, no demagogue, like a Huey Long, took power. UNC not only provided a place where people like Sam Ervin and Thomas Wolfe could rub shoulders in the debate clubs or in the theatre, the University leadership set high standards for the whole state. Building on the activist newspaper tradition that Josephus Daniels had established at the *News and Observer*, for example, the UNC School of Journalism trained a generation of writers for an exceptional group of North Carolina dailies. And the University helped spawn the whole discipline of Southern studies by supporting the work of Howard Odum and his associates at the Institute for Research in Social Science.

More than any other person, Frank Graham, president of the University from 1930 to 1949, established the tone and standards for this tradition. But ironically, his entry into politics might have served to release the long-simmering racism in the state. During the forties, Graham joined with Eleanor Roosevelt, A. Philip Randolph, and others to work for economic and social progress through the Southern Conference for Human Welfare and other groups. In 1948, Gov. Kerr Scott, known as the "little-man's Governor," appointed Graham to complete a U.S. Senate term. In the 1950 campaign for a full term, Graham faced racist smear tactics not known in North Carolina since the early 1900s. Willis Smith's supporters flooded the state with handbills reading "White People Wake Up" and with innuendos linking Graham to the Communist Party. Smith defeated Graham, unlocking the race issue for future electoral campaigns.

MODERATING A REVOLUTION

Despite Frank Graham's defeat and the unleashing of racist forces, North Carolina maintained its progressive image through the '50s and into the '60s, primarily because of Luther Hodges and Terry Sanford. Both Hodges and Sanford had notable achievements as governors and perhaps because of their accomplishments, reached positions of stature in national politics, Hodges as President Kennedy's Secretary of Commerce and Sanford as President of the Democratic Party's Charter Commission (1972-1974).

Dubbed the "businessman" governor, Hodges began the long

process of leading the state into the modern industrial era. After industrialists, Love, Cannon, Duke, Reynolds, and the others had firmly established their companies, North Carolina remained an agricultural state with only low-wage industry. But Hodges pulled together the right combination of capital, commitment, and cooperation to launch the Research Triangle Park. Today, the area houses Monsanto, IBM, General Electric, the Research Triangle Institute, the Environmental Protection Agency, and scores of think tanks, including the National Humanities Center. Speculation surfaced in 1980 that the multi-million-dollar silicon electronic industry might become based at the Park. Largely because of the Research Triangle, from 1970-1975, Raleigh-Durham was the fastest growing metropolitan area in North Carolina and thirteenth fastest in the South.

Hodges preserved a liberal image for the state, despite his resistance to the 1954 Supreme Court decision banning school segregation. As governor, Hodges appealed to the all-black North Carolina Teachers' Association to endorse separate schools. He also proposed a voluntary segregation system called the Pearsall Plan. Speaking before North Carolina A&T students in 1955, Hodges attacked the NAACP, using the word "Nigra." Students scraped their feet in protest, one of the early A&T-based actions which eventually led to the famous Woolworth sit-ins in 1960.

Sanford, Hodges' successor in the governor's mansion, was more politic, and more liberal, in dealing with race relations. He kept an open door to protest leaders like Floyd McKissick and supported gradual desegregation. At the same time, he continued Hodges' search for more capital-intensive industry, and he established community colleges, technical institutes, the North Carolina Fund (a forerunner to the federal anti-poverty programs), and the School for the Arts. All the while, Sanford, by inspiring a generation of North Carolinians to dedicate a significant portion of their lives to public service, was building another political plutocracy of sorts. While Sanford never developed a political machine in the tradition of the Shelby dynasty, his demonstrated concern for North Carolina did instill a similar commitment in others, persons now sprinkled in various leadership capacities throughout the state. Sanford's combination of political astuteness, day-to-day fairness, and a vision of progressive moderation rang consistent with the traditions that V.O. Key described in 1948.

Building on the accomplishments of Frank Graham and Kerr Scott, Hodges and Sanford set into motion a number of

moderating influences within the state, through industrial recruitment, gradual desegregation, administrative innovations, and stimulation of new leaders. But when Sanford left office in 1965, more fundamental changes were beginning to sweep the South. Combining a groundswell of collective, grassroots protests with a growing national sentiment for social change, the civil rights movement began rattling the chains still binding the region into a unique racial and class structure. The "movement" pursued the revolutionary goal of "freedom now," of a permanent transformation of the South's caste system, primarily in the deep South. What zeal that remained for North Carolina was dissipated through the moderating, absorbant structures set into motion by Hodges and Sanford. While some bitter civil rights battles were waged in North Carolina, particularly in Chapel Hill and Durham, no mass upheaval occurred. Statewide protests, as in Mississippi, Alabama, Georgia, and South Carolina, took place in North Carolina only a decade later.

During the early and middle 1970s, racial protest exploded in Asheville, Oxford, Charlotte, Chapel Hill and Wilmington. No longer linked exclusively to the goals of the 1960s-style civil rights movement, the protests focused on economic as well as social reforms, and in the process stimulated a more complex matrix of social transition within the state, both substantive and symbolic. Among the range of events grouped by the *New York Times* feature as "Blemishes on the State's Image," the J.P. Stevens unionization campaign perhaps best illustrates this transition. Pro-union workers active in a 1963 election at the seven Roanoke Rapids mills (where the work force was predominantly white prior to implementation of the 1964 Civil Rights Act) and an influx of black workers, many of whom had been involved in earlier civil rights efforts, combined forces on a sultry August day in 1974 to win a majority of the 3400 votes.

As the union organizing campaign spread throughout the state, churches, civil rights organizations, and women's groups blanketed the nation with appeals to support the Stevens workers. Meanwhile, the Joan Little, Wilmington 10, and Charlotte 3 cases collectively sparked an international examination of the state, causing Amnesty International to ask, "Do political prisoners exist in the United States?" When HEW launched a series of affirmative action campaigns following the Carter election in 1976, the University of North Carolina desegregation case became front-page national news, and education experts within and outside the state took a closer look

at what many had considered a model higher education system in the South. Finally, after the Klan-Communist Workers showdown in Greensboro—however coincidental the location might have been—copy-hungry journalists fell into easy characterization of the state which many may have remembered from past travels to the beach as a place that "Support(s) the United Klans of America."

A generation ago, V.O. Key explained why North Carolina led the region in social indices and in image. In 1975, Bass and DeVries, after a reexamination of the social and political indicators, characterized the state as a "progressive myth." Then in 1978, *New York Times* writer Wayne King, a North Carolina native, appraised the state's image as blemished, its symbolic stature receding. North Carolina, in fact, no longer leads the South in social indicators (as detailed in the following pages). And, as the *Times* story indicates, the state's image has slipped at least to a level of equality with other "New South" states. Social scientists and journalists have researched, catalogued, and reported this transition in North Carolina. But few, if any, have adequately explained the causes of this transformation.

Have the moderate, nationally respectable North Carolina traditions which were established in the first half of the century and nurtured into ongoing structures primarily by Gov. Sanford, resulted, inevitably, in incremental social progress? Put another way, did these same structures ensure gradual progress—however illusive such a term is, when considering emotional as well as economic indicators—instead of more dramatic leaps, which other Southern states experienced in the aftermath of the civil rights movement? If moderating structures did prevent dramatic strides, effectively lowering North Carolina's relative rank in the region, two alternative scenarios could unfold. The traditions unique to the state might sustain a longer lasting, albeit gradual, social progress; or conversely, the traditions might continue to prevent a cathartic, dramatic spurt of change. In either case, global economics, the energy crisis, and Sunbelt growth are becoming as important to the state as caste and class have been. With its unique history on which to build, North Carolina is moving rapidly into a world community.

The Crystal Ball of 'Balanced Growth'

While the investigative press has probed the declining North Carolina image and low social indices, the business, travel, and lifestyle writers have emphasized the growing attractions of the state, part of the wondrous growth sweeping the region: the Sunbelt phenomenon. In the same issue of *Newsweek*, you might read of the increase in per capita income in the South and over a few pages be struck by the low industrial wages still being paid. Where does the truth lie?

North Carolina, with 5,577,000 people, is the 11th largest state; in the South, only Florida and Texas are bigger. Yet just five cities—Charlotte, Durham, Greensboro, Raleigh, and Winston-Salem—have over 100,000 people. The population grew 12 percent from 1950 to 1960, and 11.4 percent from 1960 to 1970, but during both decades there was a net outmigration (-8.1 and -2.1 percent, respectively). From 1970 to 1976, however, the growth rate slackened to 7.6 percent, and for the first time there was an in-migration of 2.4 percent (the Sunbelt phenomenon). As the state grew larger, the urban population rose from 31 to 44 percent. But still, more than 50 percent of the people in the nation's 11th largest state live in rural areas.

Socio-economic evolution in North Carolina combined with the state's geography to keep the population dispersed. In the coastal plain, numerous small farms produced tobacco and vegetables. Industry sprung up in the Piedmont, along the river forks and eventually in clusters of cities along the best road systems. In the mountains, furniture plants located near the forests, small farmers scratched out a living, and tourism grew as the nation—and the N.C. Division of Travel and Tourism—discovered the Smokies. This dispersal produced a complex, even paradoxical, economic base.

In 1969, the latest year for which census data is available, North Carolina had more farms than any Southern state except Texas, Tennessee, and Kentucky. But during the 1970s, the state was also the eighth largest industrial producing state and had the highest percentage of people working in factories of any state (32 percent of all 1977 employment). North Carolina leads the nation in textiles, tobacco, and furniture production. But the low-wage textiles and apparel sectors (44 percent of the state's 1977 manufacturing force) have kept North Carolina's average industrial wage in the national cellar, a constant 72 percent of the

national average since 1972 (May, 1980 ranking, 50th at $5.23/hour).

Since Gov. Hodges began an industrial recruitment campaign in the 1950s, every administration has at least given lip service to improving the industrial mix. In the Holshouser and Hunt years, the "balanced growth" concept has received more attention and publicity than in any administration since Hodges'. The theory is often either oversimplified or made to sound unnecessarily complex. Let's recruit higher-wage industry so we can close the wage gap, the simplistic version goes, but let's retain our unique small-town dispersion, thus avoiding the creation of sprawling cities and urban blight. The complex version is often rendered in language that only professional planners can understand.

What lies behind such explanations is a set of complex questions. Can higher-wage industries from other states be recruited on an equal basis to agricultural areas, to rural counties that already contain some low-wage industry, and to urban areas? Or does "balanced growth" result more often in lower-wage industry moving intrastate, migrating from North Carolina's urban areas into rural locations, while higher-wage industry recruited from outside the state moves into metropolitan concentrations?

Gov. Hunt and his chief policy developer, Arnold Zogry, are the leading advocates for the "dispersed urbanization" tactic that is a fundamental characteristic of "balanced growth." Critics of the policy range from Labor Commissioner John Brooks, who says that the most rural areas form the least competitive labor markets, to North Carolina National Bank Senior Vice President Frank Gentry, who feels dispersing economic growth out of metropolitan regions is inefficient and will hurt the state's economy.

Framing economic development too exclusively by balanced growth discussions, however vigorous the debates, can artificially narrow a broader range of policy questions. For example, balanced growth could be a way of absorbing displaced tobacco workers (small farmers, tenants, and sharecroppers) into low-wage industry (especially apparel plants). At the same time, a low-wage base in more urban counties might be upgraded (especially with the electronics industry in the Research Triangle area). If the plan could work in this way, the state might then increase the percentage of its workers in higher-wage sectors and increase the state's average wage.

The "conventional wisdom" scenario raises at least three serious questions. First, can "balanced growth" successfully upgrade the industrial mix? According to Mr. Zogry's Division of Policy Development, the average weekly wage in North Carolina in *high paying industrial sectors* actually declined (in real dollars) from 1962 to 1976 (*Balanced Growth in North Carolina: A Technical Report*, December, 1979). Secondly, even if industry does become more concentrated in higher-wage sectors in the future, will a low-wage base actually spread across more portions of the state, specifically into the most rural areas? Finally, and perhaps most importantly, are interrelated issues, such as the transitions within North Carolina's agricultural economy, not being addressed directly but being buried by attention to balanced growth, especially the landing of high-wage electronics firms?

Public policy analysts have attempted to go beyond narrow discussions of "balanced growth" in a variety of ways. Recent studies by demographers and planners, for example, have recast the traditional triad of coastal plain, Piedmont, and mountains. In 1975, UNC geographers suggested in their *North Carolina Atlas* that the state's counties be divided into four types: Piedmont industrial, dispersed urban, coastal plain agricultural, and recreational fringe (the extreme eastern and western counties). The authors determined their divisions through aggregate data, using many of the same poverty indicators that appear in the county-by-county data in the Appendix. The poorest counties were the recreational extremes; slightly better-off were the coastals, then the dispersed urbans. The Piedmont industrial counties had the highest economic and social indices. In 1979, the North Carolina Center for Public Policy Research published two studies on economic development and industrialization (*Which Way Now?* and *Making North Carolina Prosper*) in which the authors urged policymakers to develop county definitions more relevant to economic growth such as urban, urban fringe, and rural.

Irrespective of methodologies and theories, a few fundamental questions remain to be answered: Can North Carolina achieve a higher wage and reduce poverty but not accelerate an urban sprawl? Can state policymakers affect where industry relocates? Is additional industry advantageous to a state that's a national leader in industrial output per capita yet remains at the bottom in wages?

As recently as 1975, the Raleigh Chamber of Commerce

discouraged unionized industries (the Miller Brewing Company and the Xerox Corporation) from coming to the area. In nearby Smithfield, the chamber resolved that higher wages for a proposed industry would be "disruptive" to the local labor market. In 1978, Gov. Hunt helped break this pattern by encouraging Philip Morris, which is unionized in Virginia, to locate in Cabarrus County, where Cannon Mills officials were discouraging the plant. But Hunt has not taken the more difficult political step of recruiting unionized firms to the state, even after UNC regional planner Emil Malizia in a 1975 study for the state correlated the state's low wage rate with the low percentage of union contracts.

Less than seven percent of the state's work force is unionized, the lowest rate in the country. In 1974, the Textile Workers Union won a much-proclaimed victory among 3,400 J.P. Stevens millworkers in Roanoke Rapids. But the enlarged Amalgamated Clothing and Textile Workers Union has not been able to negotiate a contract. A national boycott and companywide organizing campaign have repeatedly called attention to the Stevens' lawbreaking record, and liberal groups have offered support to the textile workers. But the campaign has moved at the pace of a 12-hour shift. In June, 1980, six years after the Roanoke Rapids election, the 4th U.S. Circuit Court of Appeals found Stevens guilty of bargaining in bad faith. Despite recent rumors of a settlement, there is still no contract.

Other unions are undertaking scattered campaigns in North Carolina. The Teamsters are building a broader base in both industrial and public employee arenas. And the AFL-CIO's Industrial Union Department has helped the tiny Furniture Workers Union gain a foothold with a contract at a Thomasville Furniture Industries plant in West Jefferson, a mountain community in Ashe County. But a different type of worker group—one without the handicap in North Carolina of being a union—has proved to be the most successful in communicating its concern to state officials.

Basing its appeal on health hazards, and using the traditional organizing tool of collective action, the Carolina Brown Lung Association has demonstrated that workers' organizations can affect power alignments within the state's governmental and industrial structures. In 1980, Gov. Hunt appointed a special commission to determine why workers' compensation cases take so long to resolve (an average of over two years), the state courts handed down several landmark

decisions favoring the claimant, and the General Assembly broadened coverage to include workers disabled by byssinosis prior to 1963. The most dramatic development, though, may have occurred in May of this year [1980], when the textile industry placed full-page ads in the state's newspapers saying smoking—rather than cotton dust—was the primary cause of lung problems, quoting as their evidence the U.S. Surgeon General's report on the hazards of tobacco. Not since Buck Duke and R.J. Reynolds competed two generations before had the state's most powerful industrial blocs fought their battles before the public.

But industrial workers voice only one group of wage earner's concerns. The service sector—from policemen and garbage workers to teachers, secretaries, and government employees—pose special problems for union organizers, employers, and policymakers as well. From 1970 to 1976, the fastest growing job category in the South was services, increasing by 32 percent. But in North Carolina, services grew by only 24 percent, barely higher than the national rate. At the same time, the state was increasing its overdependence on the manufacturing sector. The "balanced growth" strategy attempts to pull much of the new industry into rural clusters of towns, but ironically, the service sector expands more quickly from growth in metropolitan areas rather than in small cities.

As North Carolina's service sector does expand, albeit slower than the rest of the region, unions face the additional problem of a state law prohibiting contracts between public employee organizations and units of government. Efforts by organized labor and the North Carolina Civil Liberties Union (which contends that the law prohibits the constitutional guarantee of freedom of association) to change this law have met massive resistance in the legislature.

BEYOND STATE POLICIES—REBATES AND RECESSION

Factors other than state policies may determine what income levels and employment opportunities North Carolinians will have in future years. Many Northern companies—part of the Sunbelt phenomenon—are locating where they can get the most local help.

A Massachusetts-based electronics firm, Data General Corporation, for example, recently built a plant in rural Johnston County. At the company's urging, Johnston Technical Institute began a digital electronics course to train its workers. Now the

Wake County Commissioners have rezoned an Apex site from residential to industrial and have agreed to spend $540,000, according to the *News and Observer*, to help Apex build a water line for another Data General plant. Announcing the new plant, the company's North Carolina manager said, "We are a totally non-union company and intend to stay that way."

Electronics manufacturing will boost wages slightly and add some jobs, but will new industries take up the slack from the textile industry? During the 1974-1975 recession, unemployment in textiles reached an astronomical 30 percent for several months. The state's overall 10.2 percent unemployment rate was the highest since the Employment Security Commission began keeping records in the last years of the Depression. What happened in the recovery is well illustrated by Alamance County, a Piedmont industrial county dominated by textiles and Burlington Industries' first corporate home.

In 1974, Alamance County had an unemployment rate of 5.6 percent. In 1975, unemployment grew to 9.5 percent, dropping only to 9.0 percent and 8.1 percent in 1976 and 1977, respectively. At the same time, the percentage of the county's nonagricultural workers in manufacturing decreased from 60 percent in 1970 to 50 percent in 1977, a 17 percent decrease.* While Alamance County has recovered to some extent, electronics and auto assembly plants have been responsible, not textiles. The percentage of workers in textiles has dropped from 46 to 39 percent, a *15 percent decrease.** Three out of every 20 textile workers were never rehired after the recession. Or as Luther Hodges, Jr. put it before a Congressional committee, "Burlington (Industries) has fewer workers today than it had when the recession began... yet production capacity and productivity were improved." In July, 1980, one of every seven Burlington Industries employees—10,000 out of 67,000—worked in a foreign country.

Capital investments—such as the shuttleless, air-jet looms from West Germany—are replacing people. "The textile industry is becoming more automated," says Dame Hanby, associate dean in the N.C. State School of Textiles. "That really is the future of the industry." In 1974, 300,000 North Carolinians worked in textiles; now only 249,000 weavers and spinners and balers are left.

*These figures illustrate rates of change, not net change. On percentage of workers in manufacturing: a decrease of 10 percent (60-50) results in a 17 percent decrease [(60-50) ÷ 60]. On percentage in textiles: a decrease of 7 percent (46-39) results in a 15 percent decrease [(46-39) ÷ 46].

The textile industry is more prepared for the recession of 1980 than it was in 1975. Inventories and work forces have been kept to a minimum, for example, to avoid large layoffs. Even so, the 1980-81 slump might accelerate the replacement of people with machines. "I would call it (textiles) a capital intensive industry now," Charles Dunn, the director of the N.C. Textile Manufacturers Association, said recently. "They (the companies) are going in the direction of investment in machinery as fast as they can get the capital together," continued Dunn. "So much of the industry's economy is international. If we can modernize and remain more efficient, we can compete."

Others would argue that textiles remains labor intensive. In any case, the percentage of the state's work force is shrinking dramatically in the very industry that lifted North Carolina onto its feet a century ago. Yet the state has designed no serious job retraining plan specifically for displaced workers. And in the spring of 1980, unemployment in the state topped six percent, the highest level since 1975.

Minorities Get The Squeeze

If the current recession does cut into North Carolina's jobs, minority groups—blacks, women, Indians, farmworkers, and welfare recipients—will be hurt the most. About 18 percent of North Carolina's citizens are poor, some one million people, according to federal income guidelines. And if poor people are now receiving some form of welfare, or will need help during a recession, they won't get rich in North Carolina. From 1963 to 1976, state and local expenditures on each person increased threefold ($232 to $926). During the same period, however, the portion of the state budget spent on public welfare per person remained at 8.2 percent, lower than the rates of Mississippi or Alabama, usually considered to be the poorest state in the country. Meanwhile, from 1970 to 1976, the state's per capita income was growing at the slowest rate of any Southern state (except atypical Florida), and left North Carolina ranked 40th in the nation in 1977. Those most affected by these measurements are black, one of every four North Carolinians.

In 1970, the median family income for North Carolina blacks was $4798 compared to $8524 for the state's white families and $9958 for U.S. white families. According to a study published in the *North Carolina Review of Business and Economics* in July, 1976, the black earnings deficit is due to two distinct influences: first, a concentration of blacks in the lowest paying jobs (white workers in these jobs also get the lowest wages); and secondly, blacks being paid less than whites in the same job, which is illegal. The study found that if blacks were paid the same as white workers doing the same job, the deficit would be decreased 44 percent. If the distribution of black workers among occupations were the same as the white distribution, the deficit would be decreased by 56 percent. If both changes were made, the black earnings deficit would be zero and average black earnings would increase 80 percent. Among the study's conclusions, manpower planners were urged to utilize increased legal assistance to eliminate the illegal sources of the deficit.

The Office of Federal Contract Compliance keeps yearly racial and sexual breakdowns on all job categories for companies receiving federal contracts (ranging from J.P. Stevens to Westinghouse in North Carolina). The discrimination record at a company like J.P. Stevens was bad enough to have triggered a company-wide investigation by the Equal Employment Opportunity Commission. For two years, Stevens resisted the EEOC probe through maneuvers by Whiteford Blakeney, the anti-union legal specialist in Charlotte. The EEOC won the initial procedural battles but the substantive study—and actions—remain to be completed. In one Title VII suit, the courts have forced Stevens to give back wages to blacks and women who were discriminated against in hiring and promotions. Other Title VII suits against Stevens are being appealed. Both administrative and legal channels, by and large, have proved cumbersome and slow in forcing change in the private sector.

More jobs are opening up to blacks and women in the service sector, as they are in industry, but discrimination remains a problem here as well. In Wake County, for example, the percentage of black full-time employees increased from 18 percent in 1976 to 21 percent in 1978, yet blacks have remained largely in the lowest paying jobs.

Political participation is another measurement of black progress since the civil rights era. Unlike Mississippi and Alabama, where scores of blacks have been elected to office (and where the Voters Education Project spent substantial time and

money), few North Carolina blacks have become important political forces. Howard Lee, former mayor of Chapel Hill, has been the most visible black leader, but after narrow defeats for Congress and for Lieutenant Governor, Lee moved to a low-profile post, secretary of Natural Resources and Community Development under Gov. Hunt. The General Assembly has had few black leaders, and those who have been elected have represented traditional interests. Henry Frye, the first black elected to the House since 1899, is an attorney with ties to the banking community. No important black leadership has emerged, however, from new voting blocs created by widescale voter registration drives. In 1980, there are only five blacks in the 170-person General Assembly. The record is somewhat better on boards and commissions, where 11 percent of the appointments are black.

There has long been an active black presence in North Carolina's financial community because of Durham's North Carolina Mutual Life Insurance Company and older leaders like Asa Spaulding and John Wheeler. But in contrast to states where the civil rights movement was centered, a newer generation of black leadership has been slow to emerge. Only a few leaders have taken bold initiatives. Attorneys Julius Chambers and James Ferguson, for example, have established wide credibility through the *Swann v. Mecklenburg* school desegregation case, Title VII actions, and defense of the Wilmington 10. Floyd McKissick, in attempting to build Soul City, has not been so successful. In recent years, the most political segments of the black community have consumed enormous energy defending the Wilmington 10 and Charlotte 3, dissipating much of the local organizing, particularly in the schools, when Ben Chavis, Jim Grant and the others were arrested. Gov. Hunt's resolution to the cases—shortening the prison terms enough for release but refusing to grant pardon—indicates the overall posture of a "New South" governor towards black activists.

Unlike blacks, women have assumed strong leadership positions, "one area," Bass and DeVries write, "in which North Carolina does stand out in the South." A bipartisan Women's Political Caucus was formed in 1972, which resulted in women participating widely in electoral politics and reaping the rewards that come from such work. Twenty-one women won seats in the 1979 General Assembly, and North Carolina led the South with 23 percent of its appointive boards and commissions composed of women. This record built on the work that women had performed

in politics for free for so many years. At the same time, the middle and upper income League of Women Voters, Federation of Women Clubs, and National Organization of Women were further enhancing the reputation of women's leadership in the state.

Even so, the primary gains have accrued to the professional classes. Ironically, some women who have benefited the most from the women's movement, people like Susie Sharp and Juanita Kreps, have not been strong women's rights advocates. At the same time, women political activists have often focused on goals, like the Equal Rights Amendment, associated primarily with professionals. Hourly wage earners and welfare mothers, on the other hand, have received fewer identifiable benefits. Despite these disparities, some leaders have become important symbols of change across class divisions and in some cases, have affected substantive reforms as well. Rep. Ruth Cook, for example, guided legislation requiring day care licensing through the General Assembly, a valuable improvement for working women, and Rep. Wilma Woodard has worked for reforms at Women's Prison.

THE FORGOTTEN MINORITIES

Each year, 209,000 men, women and children pick apples, beans, peppers and other vegetables on North Carolina farms. From May to September, another 29,000 migrants travel into the state, coming up the east coast stream that starts in Florida. Of these, 13,000 go to 314 camps in Sampson, Harnett and Johnston counties alone. A high percentage are black; about one of every six is Chicano.

Dennison Ray, director of Legal Services of North Carolina, views the state as "one of the very worst for migrants and farmworkers," but few think of this as a "farmworker" state. While migrants' wages are now covered by federal minimum wage law, no Cesar Chavez has organized a serious advocacy or watchdog structure in the state. Consequently, conditions remain beyond the law and more wages end up in the crew leaders' pockets than in the workers'. According to a U.S. Department of Labor study, a migrant pays an average of $35 per week to a crew leader for food, but that food costs as little as $5.

In addition to working the vegetable-growing counties in the east, migrants travel into the apple orchards in western counties like Haywood. The geographical division creates some problems both for advocacy groups such as the Farmworker Legal Services,

and for enforcement agencies, such as state and federal labor officials.

Not far from the Haywood County migrant camps are 6,000 Cherokees on a Bureau of Indian Affairs (BIA) Reservation. In the 1830s, 1,000 Cherokees hid in the Smokies when federal troops forced the tribe on a "Trail of Tears" to Oklahoma. The descendents of those protesters depend today, ironically, on a tourist trade that caricatures the Indian of the wild West. On the edge of the Great Smokey Mountain National Park, the most visited in the nation, the town of Cherokee has become an overcommercialized strip featuring tomahawks, moccasins, and headdresses made in Taiwan. The irony of such dependence came full circle in the 1979 summer season when high gas prices kept many tourists at home. Because of the low local revenues generated from tomahawk sales, the Cherokees had reduced local services last winter [1979-80].

Like the migrant population, the state's Indians are divided by the industrial Piedmont. The other major tribe, the Lumbees, are concentrated in Robeson County. They don't have to contend with the isolation of a reservation, but because they do not have official BIA tribal status, the Lumbees do not receive BIA benefits. For many years, Robeson had three school systems—white, black, and Indian—exacerbating the problems of pluralism. Today, moving towards integration, discrimination remains, but opportunities also surface. In the J.P. Stevens organizing campaign, for example, the workers' committee is approximately one-third black, white and Indian. The Indian presence has lessened the black-white tensions that often occur in union efforts here. Like the Cherokees who refused to die under forced march, the Lumbees have fought hard to maintain their tradition, perhaps best symbolized by the Indian-oriented college, now Pembroke State University.

Pembroke's origins go back to the Croatan Indian Normal School, which began as a single structure built in 1887 with Indian labor and money. Later known as "Old Main," the building became the campus landmark. When Old Main burned in 1972, the Lumbees rallied and rebuilt it. In 1979, the Lumbees rallied again, this time vigorously debating the four choices proposed by a selection committee from which to choose Pembroke's new president. Two of the candidates were Indians, both North Carolina natives. Neither was picked by the UNC Board of Trustees, leaving various Lumbee factions at least disappointed if not extremely bitter.

The Lumbee tradition is now in a complex transition: while the Lumbees are being integrated into the mainstream of society (the first Lumbee legislator sat in the General Assembly in the mid-1970s), there is at the same time a stronger public focus on the Lumbee heritage (the Lumbee outdoor drama, "Strike At the Wind," performed near the town of Pembroke, has become a popular statewide attraction). Pembroke State's changing status also symbolizes this transition. Still considered an "Indian" school by many, this University has now become a part of the larger political world of the consolidated University of North Carolina.

THE TAR HEEL WAY

If the politics surrounding the Pembroke University president's position suggest insensitivity, the Tar Heel posture on the UNC desegregation case has painted the plutocracy right into a corner. Prompted by an NAACP Legal Defense Fund suit, negotiations between UNC and HEW had been in the works for some years. William Friday, elevated to head the statewide system consolidated in the early 1970s, had been reporting steady progress. No one had challenged this stance, particularly "liberal" North Carolina journalists, many of whom had trained only a stone's throw from Friday's home in Chapel Hill.

But in 1978, the Legal Defense Fund's suit pushed HEW Secretary Joe Califano near contempt of court. HEW promptly escalated its pressures on UNC to integrate. Suddenly, data began appearing to the public for the first time: the black/white percentages throughout the 16-campus system reflected prolonged patterns of segregation; the physical plants at the five predominantly black schools were pitifully underfunded; and neighboring black and white campuses were duplicating programs.

These revelations and the HEW threat of stopping federal funds precipitated an intense round of North Carolina-style politicking. Gov. Hunt and President Friday defended the traditions of the university system and explained that the state couldn't possibly compromise the prestige of the Chapel Hill, Raleigh, or Greensboro campuses. Established black leaders joined with Friday in wanting to preserve the identity of the black campuses. Former civil rights attorney Chuck Morgan came aboard to head the UNC legal team. The state press defended UNC; the legislature spent more on black schools. In the end,

public relations, legal maneuvering, and increased appropriations won the round. The fund cutoff was avoided. But administrative hearings have begun in the case's next stage, and the final solution remains unclear.

The same UNC Board of Governors that was jockeying with HEW had only recently shown its true colors on a clear-cut issue. Gov. Hunt had approved a planning grant for a labor education center within the university system, and the legislature had given tentative approval. Thirty states have such university-based programs, including Alabama, Arkansas, and Virginia. And in the UNC system, business seminars are standard curriculum. But when the issue reached open debate among the Board of Governors in 1978, persons like state Senator Cass Ballenger, a manufacturer from Hickory, intensified their opposition. "One thing that attracts business to the state is the fact that we don't have many labor unions," said Ballenger. "Everybody talks around it, but it's true." He went on to say that the labor center would represent an "endorsement" of labor by state government. Facing such opposition, Gov. Hunt's support disappeared and the Board killed the center.

The UNC desegregation case continues to be discussed privately and formally negotiated in hearings. What the public is left with, however—especially in light of the labor center action—is the specter of retrenchment at the heart of North Carolina progressivism, Chapel Hill. When faced with federal pressures to integrate, no George Wallace or Ross Barnett stood up in open defiance. The resistance seems more complex, more subtle. But it remains, nevertheless, resistance. Some on the UNC Board have the university's future as their primary concern, for black and white, and are willing to consider such far-reaching changes as mandatory "districting" at the higher education level, similar to the primary grades. But others involved in the UNC conflict seem to have a different concern at heart; how will it affect the state, and me, politically?

The Politics of Careers

The current crop of political leaders falls roughly into two molds: career politicians like Gov. James Hunt, Attorney Gen-

eral Rufus Edmisten, [former] U. S. Senator Robert Morgan, Insurance Commissioner John Ingram, and former Gov. Robert Scott, or career ideologues like U.S. Senator Jesse Helms.

Hunt, Edmisten, Morgan and Ingram began their careers practicing law in the little towns of Wilson, Boone, Lillington and Asheboro. Each used his background "close to the people" to peg future campaigns. Bob Scott drew on his father's legacy as the little-man's governor who built roads (the same Gov. Scott who appointed Frank Graham to the Senate) for his alliance with the Scotch-Irish stock. Helms matured with philosophical ideals instead of political ambitions. From a Raleigh television studio, he broadcast impassioned conservative commentaries across eastern counties. This base, almost accidentally, catapulted him into the national right wing vanguard.

North Carolina careerists have survived by combining their "down-home" backgrounds with a savvy instinct for knowing which issues and slogans attract support—and votes. John Ingram has drawn on a latent hostility to big business to project himself as a modern-day populist working for the little man. After the Watergate hearings fortuitously created the image of probing legal investigator for Rufus Edmisten, he returned to North Carolina and successfully ran for attorney general. Jim Hunt built a national reputation as a "New South" governor by initiating and publicizing programs pegged to national issues. His education and "new generation" campaigns, for example, successfully piggybacked the "International Year of the Child." And Jesse Helms chose to broaden his constituency beyond eastern North Carolina and to transfer his energy into the electoral area at a time when sentiments consistent with his views were expanding throughout the state and nation.

The 1978 U.S. Senate race revealed a fascinating mix of North Carolina political tendencies. In the Democratic Party primary, John Ingram, the insurance commissioner who had championed the average ratepayer against the big insurers, upset Luther Hodges, the former governor's son and board chairman of the North Carolina National Bank. The state plutocrats from business associates to Terry Sanford protégés like Duke's Joel Fleishman and manpower planner George Autrey had lined up with Hodges. But Ingram had been elected statewide before and Hodges had not. By campaigning "for the people" and against the banks, Ingram pulled off a surprise victory, edging Hodges and far out-distancing state Senators Lawrence Davis and McNeill Smith. Prominent state legislators and attorneys from

the state's two largest firms in Winston-Salem and Greensboro respectively, both Davis and Smith had developed a statewide reputation and network of supporters from having worked in various legal, consumer, and social welfare groups. And each ran a vigorous campaign. Even so, neither could mount a serious challenge to the eventual winner.

In the general election, Ingram faced incumbent Jesse Helms in a knockdown affair that attracted national attention. The state Democratic Party rank-and-file, exhausted and divided after the primary, never cranked into high gear. Meanwhile, Republican strategist Tom Ellis managed the Helms campaign with a budget of $7.5 million ($12.05 per vote), much of it from national contributors, and 100 full-time salaried employees. Ingram had $265,000 ($.26 per vote) and the loyal, but difficult to identify, "populist" base that had carried him to victory in the primary. The financial disparity, the difficulty in unseating an incumbent, and the increased willingness of North Carolinians from rural and urban areas to vote Republican proved too many obstacles to an Ingram victory.

Since winning his Senate seat, Jesse Helms has not let his national contributors down. He has led such conservative causes as "saving" the Panama Canal and has established a group of right-wing, tax-exempt organizations, the American Family Institute, the Center for a Free Society, and others. At the same time, Helms seems as established in North Carolina as he does nationwide. Recently, an anonymous donor gave $500,000 to Chowan College in eastern North Carolina for a gymnasium to be named after Helms. A Helms supporter has added a brick and mortar legacy to the messages that Helms has been sending to the eastern counties—once rock-firm Democratic Party country—for a generation.

Over the past decade, several other politicians have achieved wide reputations and yet failed to sustain themselves as careerists in state politics. In 1972, from a small law firm in Boone, Jim Holshouser tapped the area's Republican taproot, which reached back to the Lincoln era. Holshouser had Richard Nixon's coattails to ride. But what finally pushed him into the governor's mansion as the first Republican chief executive since the 19th century may have been the media-oriented campaign of the Democratic candidate, banker Skipper Bowles. After a hotly contested primary, in which he narrowly defeated Pat Taylor, Bowles ran a big-budget electronic media campaign instead of a traditional nuts-and-bolts county-based race. But the strategy

seemed to backfire and the Republicans won, Holshouser as well as Helms. Holshouser and his mountain-wing Republicans set up a vigorous administration, but they never really gained control of the party. Helms' popularity remained too strong among Republicans as well as many lifelong Democrats, especially those in the eastern counties where his broadcasts had built him an ideological base.

Throughout the last 20 years, race has continuously been a distinctive but sometimes subtle theme in North Carolina politics. Bass and DeVries took a close look at voting patterns in such bitterly fought racial campaigns as the Lake gubernatorial race in 1964, the George Wallace 1968 presidential primary, the 1972 Helms campaign, and the Goldwater and Nixon races. The counties giving these candidates the highest vote were located in the coastal plain, stretching from Pender and Duplin through Wilson, Nash, Wake and Person. Bass and DeVries found that this pattern did not result from party orientation (the races involved Republicans, Democrats and an Independent), economic ideologies (some were economic conservatives, others populists), or ruralism (Raleigh and Durham followed the patterns). "Race is the key," they wrote. "The fact is that the black population is concentrated in those areas... and the reaction of the white voter in those areas has been distinctly racist."

Race, as well as sex, has seemed to be a major factor not only in presidential voting patterns but also in the judicial election process. In North Carolina, as in the rest of the South, white males have dominated the judiciary either by appointing political allies to fill vacancies or by pushing forward particular candidates through the leadership of local bar associations. While judges of wisdom and fairness have certainly emerged, a pluralistic selection process has not. Once a judge has been seated, rarely does he (or an occasional she) lose at the polls. Moreover, public scrutiny of judges remains minimal compared to the public's assessment of administration officials. Consequently, the numbers of black and women state judges remain very small.

The federal courts reflect similar patterns. Not only the judges but all employment at the North Carolina federal courts remains largely white male. In fact, according to a 1979 study by the Southern Regional Council, blacks are less represented in North Carolina's federal courts than in any other Southern state (3 percent of the personnel). And only 4 percent of the professionals employed in the state's federal courts are female.

The historical influence of racism is perhaps most dramatically reflected in the criminal justice system, specifically the prisons. In 1977, North Carolina was 23 percent black but 57 percent of the prison population was black. Discrimination in education and employment no doubt contributed to such statistics. "Discrimination exists in every stage of the criminal justice system," says Pauline Frazier, a member of a N.C. Department of Correction official advisory board and director of Offender Aid and Restoration. One of every 20 minority men in the state is either imprisoned, on probation, or on parole. The figures for white males are five times lower.

Discrimination has contributed to a large prison population for the state, 310 per 100,000 people, number seven in the country. These figures also result from other interrelated factors: uneven sentencing within counties, the lack of good lawyers for the poor, and the Department of Correction's determination to build more prisons (the state has appropriated over $80 million in recent years for prison construction).

THE HIGHEST EXPECTATION—PRIDE

The paradoxes in North Carolina range wide. It seems clear that V. O. Key's "progressive plutocracy" is as outdated as the Dixiecrat era during which he wrote and that the blemishes identified by the *New York Times* represent more than a string of isolated events. At the same time, migration trends show that more people are coming to North Carolina than are leaving; workers no longer flee to Northern cities for jobs, and Northerners are escaping energy bills, high taxes, and crowded cities for the "good life" here. Songwriter James Taylor, a Chapel Hill native who moved north, captured the feeling that most Tar Heels retain in today's mobile world with his hit tune, "Carolina On My Mind."

Like the rest of the South and the nation, North Carolina faces a new era of complex transitions, few of which can be isolated from broader economic and social patterns transcending even national boundaries. But the South, and perhaps especially North Carolina, faces opportunities and responsibilities which much of the North relinquished generations ago: a chance to manage growth, to retain control of natural resources, to decentralize community development, and to provide equal opportunity from birth. No longer can North Carolina frame its goals by "national norms."

With a dispersed urban structure and system of small farms, in a combination perhaps unmatched in the nation, North Carolina is ideally suited for managed growth if the strengths of both the urban and rural traditions are nurtured. Beaches, mountains, rivers, and open spaces—rather than coal, natural gas, or oil—provide a natural resource base that the state can protect and continue to enjoy. Small town networks already provide a decentralized base for energy production systems powered by the sun, water, and wind and for housing and employment enterprises independent of recession patterns. The traditions embraced in small farmers and yeomen factory workers reflect social stamina and an instinct for survival, while the legacy of individuals like Frank Porter Graham creates a compelling vision for present and future leaders willing to meet the state's challenges with boldness and initiative.

North Carolina is an enduring paradox of "paternalism and protest," as the labor historian Melton McLaurin described the state at the turn of the century. The forces of paradox have created all that is worth preserving here, as well as all that is worth working to make better. Boosters and critics alike have high expectations for North Carolina. And meeting the highest of these expectations might be required in order to regain an image—and reality—of which all the people can be proud.

Progressivism in Decline

In the preparation of the previous article a number of persons assisted in conceptualization of themes and critiques. The response below from Dr. James S. Ferguson came as a personal letter, handwritten in a brief sitting. Dr. Ferguson's background and experiences, no doubt, enabled him to address in a spontaneous style some of the most perplexing "forces of paradox."

A native Mississippian, Dr. Ferguson did his academic work at Millsaps College (in Jackson, Mississippi), Louisiana State University, Yale University, and the University of North Carolina at Chapel Hill, where he received his Ph.D. in history in 1953. He taught history at Millsaps from 1944 to 1962 and served as Dean of the Millsaps Faculty (1954-62). In 1962, he became Dean of the Graduate School at the University of North Carolina at Greensboro, and from 1966 to 1979 served as Chancellor there. Last summer, Dr. Ferguson returned to teaching and is now a member of the history faculty at UNC-Greensboro.

July 15, 1980

Dear Bill,

Thank you for sending me a copy of your article, "The Forces of Paradox." I found it very interesting and thought provoking, although I take issue with it mildly in a few places (especially where my own ox—the University—is gored).

First of all, North Carolina's progressive image was somewhat misleading even when V. O. Key presented it. The late Francis B. Simkins, one of the South's leading historians, believed that publicists had misread the meaning of the influence of Frank Graham and his associates in North Carolina. At best, he said, Graham's liberalism represented a thin veneer and his nonconformity was tolerated mostly on the basis of personal respect and warm friendship. "It was realized," said Simkins, "that a disarming generosity rather than a rational understanding had made him into a radical, and that despite his utterances he was a member of an old family with friends among the rich and politically powerful."

In 1950, however, when Texas oil, anti-New Dealism, and the Black Belt (disturbed over Truman's Civil Rights Commission and Graham's role on it) were striking for control of the government, basically conservative North Carolinians were not willing to return their beloved senator to Washington. North Carolina was fitting into Southern (and national) political trends at that time. (Claude Pepper was also fired in Florida.)

*The so-called "educational renaissance" in North Carolina, 1890-1910 (when Aycock, Joyner, **et al** expanded the public schools) was also based in part on fictions, especially if one looks at the May, 1980 issue of the **Journal of Southern History** (see article by Kousser). The schools were improved but very inequitably, and racism asserted itself in school policies as surely as in the Wilmington riots of 1900, etc. At no time (even in the 1950s and 1960s) did North Carolina lead the South in socio-economic indicators. It was and remains basically a poor, low-income state.*

Yet, even after one recognizes that North Carolina's "progressive image" was exaggerated and somewhat distorted, it was true that in the 1950s and 1960s the state was different from most other Southern states—markedly different from the Deep South where you and I lived, different enough to eschew massive resistance with its horrible violence and regressiveness. Can we forget Emmett Till, Medgar Evers, the three civil rights workers murdered and buried at Philadelphia, and dozens of other brutalities? After all, Charlotte, Greensboro, and Winston-Salem adopted "token integration" without court action, and North Carolina never attempted to use the Pearsall Plan (while aristocratic Virginia lent its respectability to massive resistance and a six-year closing of the public schools in Prince Edward County). True, extensive desegregation didn't come until the Mecklenburg busing decisions, but even then North Carolinians did not react with violence (as did Boston, for instance, in progressive Massachusetts?). The opponents of desegregation did not attempt to exterminate those with whom they disagreed as had been true in the massive resistance states. I know of **no instance** *in which economic pressure has been used in North Carolina to suppress dissent (although I cannot speak with authority on anti-union activities).*

North Carolina has had greater diversity geographically and demographically (ethnically) than other southern states and this fact has contributed to some degree, I believe, to greater tolerance of dissent than prevails in most of the South. And, yes, Dr. Frank Graham, Willis D. Weatherford, Will Alexander, Paul Green and a host of others (Irving Carlisle, a Winston-Salem lawyer, was not appointed U.S. Senator in 1954 because he believed in the "law of the land") showed some understanding of a progressive society. You are quite correct in your assessment of the way Luther Hodges and Terry Sanford gave those ideas a modified expression.

That progressivism has declined in North Carolina in the 1970s is unquestionably true, and I do not begin to understand all the reasons for that. Of course, there has been a similar development in the nation as a whole. North Carolina may have fallen heir to the image of being the home of the Klan (although we know that Klansmen are few in number and seem not to have respectability), but diverse California even nominated a Klansman for congress. To repeat, though, the state's image is blemished, and in your article you cite valid illustrations of the blemishes.

I must say a little something about "my gored ox," the University. In the first place, you seem to accept the report on differences in plants at the state schools as publicized by Mary Berry during her famous three-day swing through North Carolina. Allocations of buildings and equipment are of course made according to size and missions of the various universities. It would be easy to demonstrate the superiority of A&T's plant to ours in many programs. Of course, I am not saying that an equalization construction program was not in order, but I am saying that the differentials in plant are not as gross as depicted by the HEW.

A more fundamental question on this matter is: "What is progressive?" The policy of the Office of Education (or HEW) leads not to desegregation but to resegregation, the maintenance of the black schools as black schools—possibly to a forced discontinuance of programs that have been proven to be effective for blacks as well as whites. The discontinuance of UNC-G's School of Nursing (which has a black enrollment above 10 percent—indeed our overall black enrollment is above 10 percent) would take away from those people the opportunity to secure quality nursing education as surely as it would deprive our white students of such education without any assurance that the displaced people would move into favored programs in the predominantly black schools. The confusion of leaders as to the goals of "dismantling the dual systems" underscores the questions: "What is

progressive in such a situation? "What is in the interest of a desegregated society?"

You are very much on target with regard to the vetoing of the Labor Institute.

I repeat, your article is a good one. My comments are not intended to provide any modification of it. I thoroughly enjoyed reading it. I look forward to seeing you sometime before long.

Best wishes,

Jim Ferguson

Measuring North Carolina's Quality of Life

Tom Murray

The quality of life has always been an issue in North Carolina, even before there was a state by that name. An early English explorer called what was to become North Carolina "the goodliest land under the cope of heaven," and colonial visitors routinely praised the state's air and fields, its forests and rivers. The area's "quality of life" became known across the ocean, even as European settlements were first springing up.

There is some dispute now about whether North Carolina is still "the goodliest land," but in many ways, the state still has that reputation even today. Vacationers, visitors, lifelong residents, and northern transplants all extol the state's climate and beaches, its scattered towns and friendly people. But at the same time, some North Carolinians know that their average wage is the lowest in the nation and that the state's per capita spending on public education ranks North Carolina in the bottom 20 percent of the nation. Economic and social measurements suggest that North Carolina is a poor state, one in which people would not want to live. Yet the state's population is growing.

What is the quality of life in North Carolina? Why do people seem to like living in a state that ranks low in economic indicators? And how does an investigator measure these factors so as to explain the differences?

In 1968, the Comparative State Elections Project (CSEP) at the University of North Carolina at Chapel Hill polled 7,600 people across the country about their political attitudes. At the same time, the CSEP targeted 13 states for an in-depth analysis of persons' opinions towards the state in which they resided. The overall study, considered a landmark survey among social scientists, found that North Carolinians liked where they lived more than people in any other state. In the nationwide sample, 63 percent of the persons polled said they liked their state, but in North Carolina, 82 percent of those questioned liked their home. This percentage ranked North Carolina at the top of the 13 targeted states.

But another type of study, also recognized by social scientists

as a definitive report, came to an opposite conclusion. In 1970, Dr. Ben-Chieh Liu used a wide range of quantitative measurements, such as census data, newspaper readership, and state expenditures, to rank the 50 states in a variety of categories such as economic status, education, health, and welfare. He built on the work of earlier analysts of economic and social conditions, including President Eisenhower's Commission on National Goals and journalist H.L. Mencken's survey, *The Worst American State.* In Liu's cumulative ranking, North Carolina placed 45th among the 50 states.

At first glance, these two studies seem to indicate an inexplicable paradox: a happy and contented population lives in a state that is very poor. But a closer analysis reveals less a paradox than a two-pronged viewpoint of the state's "quality of life." Using different methodologies for quite different purposes, social scientists reached opposite conclusions. When seeking to assess the degree to which an individual is satisfied with his or her condition of life, analysts use public opinion polls. They attempt to quantify feelings and beliefs, such as degree of happiness, rather than economic or social indicators. When trying to determine if a state is rich or poor, investigators measure and compare social conditions. They quantify things or services, such as number of physicians per capita or state expenditure on education, rather than feelings or beliefs.

Policy analysts now base many of their planning decisions on numbers, quantifying the various "qualities of life" with charts and rankings. North Carolina consistently shows up low in economic and social indicators but high in degree of personal satisfaction. Because such a contrast is not easy to understand, a planner might pick one type of study—an attitudinal survey or an economic report—to support a particular viewpoint, rather than incorporating both types of reports into planning decisions. But doing so can skew the policy-making decision process towards a single set of assumptions, and hence a narrowly focused conclusion.

In a 1974 address at a symposium on the changing South, University of North Carolina sociologist John Shelton Reed offered a suggestion for utilizing information from both types of studies. A pro-South commentator, Reed defended the region against the social scientists who have focused only on the poverty indicators. "In my own work with a series of Gallup polls dating back to 1939, I've found... when Americans are asked where they would most like to live, if they could live anywhere, a constant

finding is that Southerners like it where they are better than any other Americans, except possibly Californians."[1] Reed went on to explain that things that make individuals happy—climate, clean air, unspoiled forests, wildlife, small town manners, and friendly people—have not been included in the studies focusing on economic and social indicators. Then, leaving his preference for opinion polls aside, he gave a clue to policy analysts who depend on quantitative assessments for making decisions.

"If we can recognize that workers in what we can call the 'Menckenian' (and Liu) tradition are measuring one thing, and that the people who talk about 'satisfaction' are measuring another," Reed explained to the 1974 gathering at Sweet Briar College in Virginia, "we've gone a long way toward explaining the apparent discrepancies."

AN AMERICAN TRADITION

In 1787, the preamble to the U.S. Constitution established a tone for the detailed document that followed. A central purpose for the country, as expressed in that preamble, is a phrase to which presidents and speechmakers have returned for 200 years: "to promote the general welfare." An illusive phrase, "the general welfare" has always fascinated American writers and social scientists, who have searched for ways to divide the concept into more manageable subsets. And this ambition—to categorize and to comment on American life—has been an ongoing enterprise. For some compelling reason, we Americans want to identify and measure our "quality of life."

Examining American life in the 18th and 19th centuries, writers used diaries, letters, essays, and novels rather than quantitative reports. Thomas Jefferson (*Notes on the State of Virginia*, 1787), Alexis de Tocqueville (*Democracy in America*, 1835), and others offered social commentary. Henry David Thoreau and Edith Wharton depicted life in New England; Mark Twain and Theodore Dreiser recorded experiences in the Midwest. Novelists George W. Cable and Walter Hines Page rooted their work in the Old South, as did the former slaves who recounted their life stories to the Federal Writers Project during the Depression (*The Slave Narratives*, 1970). The classics of the American literary tradition might well be considered forerunners to the 20th century's statistically-based examinations of social circumstances.

In this century, as the concept and discipline of sociology

took shape, American commentators began considering statistical comparison in gauging social conditions. The first effort at measuring "quality of life" from this perspective came in 1931 when journalists H.L. Mencken and Charles Angoff used data from such sources as *Statistical Abstract of the U.S. in 1930* and *World Almanac 1931* to evaluate the 48 states and the nation's capital. They grouped the raw data into four categories: 1) wealth (tangible and taxable property per capita, percentage of population paying income tax, average income tax paid, etc); 2) education (illiteracy, public school enrollment, days of school session, etc.); 3) health (deaths from malaria, infant death rate, supply of dentists and physicians, etc.); and 4) public order (lynchings, death rate from homicides, etc). They did not use sophisticated mathematical computations to interpret the data. The Northern and Western states got the highest ratings; the ten "worst" states were Southern. North Carolina ranked as high as 31st on the public order scale, but poor showings in the other categories (wealth, 43rd; education, 43rd; and health, 46th) resulted in the state placing 43rd overall.[2]

While the Mencken/Angoff research design was crude by modern social science standards, their overall conception anticipated the next major effort to establish quality of life criteria. In his 1959 State of the Union message, President Eisenhower proposed establishing a Commission on National Goals to define the proper standards for a national well-being. "If progress is to be steady we must have long-term guides," President Eisenhower said. "The establishment of national goals... would not only spur us on to our finest effort but would meet the stern test of practicality." The President's Commission recommended measuring quality of life on the basis of individual equality, living conditions, agriculture, technology, economic status, education, health and welfare, and state and local government—groupings similar to those used by Mencken/Angoff.

Despite the innovations of the Mencken/Angoff study and recommendations of the Eisenhower Commission, few social scientists went beyond such obvious sources as census data, per capita income, and Gross National Product (GNP) for evaluating American life. Through the early 1960s, the Mencken/Angoff study remained the only significant multi-dimensional comparison of social conditions in different parts of the country.

The tumult of the 1960s, combined with the gradual expansion of American higher education, stimulated a new

emphasis in American research and self-examination. Leading scholars echoed the civil rights and anti-war protests with a new wave of studies and books. John Kenneth Galbraith, for example, criticized the prevailing practice of evaluating national well-being from such indicators as the GNP, and social commentators like Michael Harrington attempted to develop new methods of assessing social and economic discrimination. As political events were influencing academic directions, university disciplines were becoming more specialized and more skewed towards quantitative analysis. A new generation of sociologists, psychologists, economists, statisticians, and even historians were turning to computers as a primary research tool.

Working within this intellectual and social climate, in 1970, Dr. Ben-Chieh Liu produced the first significant comparison of the states since the Mencken/Angoff report. Liu used sophisticated methods of data collection and analysis, including computer technologies, and drew on the Eisenhower Commission's criteria design to establish the standard for subsequent quality of life studies. As in the Mencken/Angoff report, the Liu study found the Southern states in the bottom ten positions and New England and Western states in the top ten spots. North Carolina achieved its highest ranking, an "average" score, in the "technology" and "individual equality" catagories. For the technology rating, Liu calculated the number of scientists per 100,000 people, expenditures on industrial research and development, and other measurements. Individual equality included comparisons of racial and sexual differences in income, unemployment, and education. Liu found the state "substandard" in all other categories, ranking North Carolina (and West Virginia) last in agriculture (median income of farmers and farm managers, number of motor vehicles per farm, acreage value of land, number of tractors per farm, etc.) and 49th in state and local government (population subscribing to newspapers, percentage of voting age population registered and voting, government employee salaries, etc.). Combining all the categories, Liu ranked North Carolina as having the 45th best quality of life in the country.[3]

As research techniques became more sophisticated, the purposes for the studies became more important. Federal and state governments began to base more kinds of appropriations on the results of such studies. Journalists learned to utilize quality of life survey results. And policy groups started commissioning quality of life studies to assist them in the planning process.[4]

Many of the quality of life studies which compare social conditions began to concentrate on urban areas rather than on states.[5] These studies rated North Carolina cities both as excellent and as poor places to live. In a 1977 study, for example, urbanologist Ralph H. Todd, using modern data analysis techniques and the traditional Mencken/Angoff categories, examined Charlotte, Greensboro, and 98 other American cities. In his overall results, Todd ranked Greensboro number 5 out of all the cities studied, the only Southern city in the top 9. Charlotte placed in the upper half in most categories and had an overall rating of 19.

Liu, in a metropolitan area analysis similar to his state design, found some North Carolina cities as better places to live than others. The Greensboro/Winston-Salem/High Point area, considered in the "large" category (over 500,000 persons), rated "substandard" overall, 59th out of 65. In the "medium" group (200,000-499,999), Liu judged Charlotte "adequate," Raleigh "good," and Fayetteville "substandard," 78th out of 83. In the "small" category (fewer than 200,000), Asheville and Durham ranked "above average," but Wilmington ranked "poor," 85th out of 93.

Greensboro's exceptional performance in Todd's survey and low rating in the Liu study indicate how research design and choice of data components can affect a study's conclusion. Todd studied Greensboro as a separate city, while Liu grouped it with Winston-Salem and High Point. In addition, Todd and Liu looked at different data. For example, in measuring the environment, Todd included the number of days of sunshine while Liu compiled water pollution, noise, and visual pollution factors.

In 1975, another type of study brought out the extreme differences that can emerge from variations in research design, particularly when applied to an area of controversy.

UNC Professor of City and Regional Planning Emil Malizia, in a study for the North Carolina Department of Administration, linked North Carolina's average weekly wages (consistently ranking 50th) to the predominance of labor-intensive industry and to the low percentage of union members in the state (ranking 49th or 50th consistently). Richard F. Potthoff, a research analyst for Burlington Industries, challenged Malizia's conclusions, arguing that other indicators such as the cost of living and the low educational level of workers accounted for North Carolina's low wages, not the number of union members or capital-intensive industries.[6]

Since the 1931 Mencken/Angoff study, then, most of the reports utilizing quantitative analysis techniques have ranked North Carolina and other Southern states low. A 1979 study examined North Carolina exclusively to see how the state may have changed. North Carolina State sociologists Robert L. Moxley and Ronald C. Wimberley, grouping data in the traditional categories of economics, education, health, and social life, compared the state's counties according to size (metropolitan, over 50,000 population; urban, 20,000 to 49,999; semi-rural, 2500 to 19,999; and rural, below 2500). Moxley and Wimberley concluded that quality of life in North Carolina was low relative to other states but had improved faster than rural and semi-rural areas, widening the disparities between city and country living.

A FUTURE QUALITY OF LIFE

If the economic indicators show that North Carolina is poorer than most other states, why do people like to live here? Reed and others who have analyzed opinion polls suggest that intangibles like small town manners, climate, and family structure tend to compensate for low wages, spending on health and education and other economic and social variables. Economists and planners, on the other hand, tend to favor more growth as a prerequisite for improving North Carolina's low economic factors.

The quality of life studies reveal a certain mystery within the state, a very real set of social conditions that are worse than in many other parts of the country but also a genuine affection for the state as "home." Past studies, however, cannot anticipate the prospects for improving economic and social conditions without harming the things that cause contentment. The task for policymakers, then, is to understand the validity of both types of polls. A single-minded determination to raise wages is an admirable goal, for example, so long as the long-term effect on the "contentment" factors is also considered. Conversely, nurturing decentralized social structures and cultural opportunities will enhance a love for the state so long as education, health, wages, and the economic factors are also improved.

Alfred Stuart, professor of geography and earth sciences at the University of North Carolina at Charlotte, identifies a central question for the future. "Can we have more income, urbanization and government without creating more alienation and dislocation?" A sincere effort to understand both types of quality of life studies may help in formulating some useful answers.

Footnotes

1. John Shelton Reed, "Summertime and the Living' Is Easy: The Quality of Life in the South," The University of North Carolina Newsletter, 59 (December 1974) and also *The Enduring South: Subcultural Persistence in Mass Society*, Chapel Hill: The University of North Carolina Press, 1974.

2. Charles Angoff and H.L. Mencken, "The Worst American State," *The American Mercury*, 24 (September, October, November 1931), pp. 1-16, 177-188, 355-371. It is reprinted in *Democracy in the Fifty States*, edited by Charles Peters and Oliver P. Williams, Chicago: Rand McNally, 1971, pp. 7-32.

3. Ben-Chieh Liu, *The Quality of Life in the United States 1970*, Kansas City: Midwest Research Institute, 1973.

4. See Environmental Protection Agency, *The Quality of Life Concept: A Potential New Tool for Decision Makers*, Washington: U.S. Government Printing Office, 1973; Angus Campbell, Philip E. Converse, and Willard L. Rodgers, *The Quality of American Life: Perceptions, Evaluations, and Satisfactions*, New York: Russel Sage Foundation, 1976.

5. The four most important studies of urban areas are: Department of Housing and Urban Development, *The 1978 HUD Survey on the Quality of Community Life: A Data Book*, Washington, D.C.: U.S. Government Printing Office, 1978; Michael J. Flax, *A Study in Comparative Urban Indicators: Conditions on 18 Large Metropolitan Areas*, Washington, D.C.: Urban Institute, 1972; Ben-Chieh Liu, *Quality of Life Indicators in U.S. Metropolitan Areas: A Statistical Analysis*, New York: Praeger, 1976; Ralph H. Todd, "A City Index: A Measurement of a City's Attractiveness," Review of Applied Urban Research, Vol. 5, July, 1977.

6. Emil Malizia, "The Earnings of North Carolinians," Raleigh: The Office of State Planning, Department of Administration, 1975; Richard Potthoff, "A Study of the Determinants of Geographical Earnings Differentials," unpublished paper, a speech delivered at Chapel Hill, 1977.

7. Robert L. Moxley and Ronald C. Wimberley, *Changing Social Structure and Quality of Life in North Carolina*, Raleigh: Department of Sociology and Anthropology, North Carolina State University, 1979.

CHAPTER 2

The Constitutional Setting of North Carolina Politics

A constitution is a contract between the people and the government. It is a consensual document in which the people of a society grant certain powers to a government while protecting their own rights through restrictions placed upon the government. Constitutions state the fundamental laws and ideals by which a nation or state is to be governed. The foremost document of American democracy, in fact its very basis, is the United States Constitution.

Overshadowed by the preeminence of the United States Constitution are the constitutions of the individual states, some of which are older than the federal document. Each state has its own constitution establishing the form of government and guaranteeing rights in each jurisdiction.

These constitutional statements of law, rights, and principles are different from legislation. A constitution is a product of the direct vote of the people (whereas legislation results from the votes of elected representatives). Ratification, revision, or adoption of constitutional provisions is one of the few examples of direct democracy found in the United States. This direct power of the people is expressed in the current North Carolina Constitution in Article I, section 2:

> All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

ADOPTION OF THE NORTH CAROLINA CONSTITUTION

North Carolina has had three constitutions in its state history—the Constitutions of 1776, 1868, and 1971. The current North Carolina Constitution was drafted after two major attempts at substantial revision (occurring in 1959 and 1968) failed. These revision attempts illustrated the need to completely rewrite the Constitution of 1868 to update numerous provisions and provide necessary tools for effective state government in the twentieth century. The revised text and six independent amendments were presented to the voters on November 3, 1970. The proposed Constitution was approved by a 393,759 to 251,132 vote. Five of the six proposed amendments were also adopted.

THE NORTH CAROLINA CONSTITUTION: RIGHTS AND POWERS

Following a short preamble proclaiming thanks to God for the existence of "our civil, political and religious liberties," the

North Carolina Constitution lays out, in Article I, a Declaration of Rights to be enjoyed by and guaranteed to its citizens. The inclusion of a Declaration of Rights in the first Article dates back to the original Constitution of 1776. The 1971 Constitution added guarantees covering the freedom of speech (section 14), equal protection of the laws (section 19) and a prohibition against exclusion from jury service or other discrimination by the state on the basis of race or religion—all guaranteed by the United States Constitution and now explicitly recognized by the state.

Included in these guarantees to the citizenry is a detailed accounting of legal due process, elections, and individual liberties. The language of the Article is direct; each right is stated in the imperative so as to make clear that the rights enumerated are commands not mere admonitions. In addition, section 36 acknowledges that the listing of rights found in Article I is in no way exhaustive and that other rights held by the people are not to be impaired or denied.

Article II details the organization and operation of the state legislature. The article begins by vesting the legislative power of the state in the General Assembly, which consists of a Senate and House of Representatives. Sections 2 through 5 establish the number of members each branch shall have—50 for the Senate and 120 for the House—their terms of office, and place certain restrictions on the drawing of legislative districts. Sections 3 and 5 specifically discuss the apportionment of Senate and House seats, respectively, and orders that each "shall represent, as nearly as may be, an equal number of inhabitants." This order for equity was, until the late 1960s, an often abused facet of legislative practice.

The qualifications required of an individual holding office in the General Assembly are few and are dealt with in sections 6 and 7. Senators must be at least 25 years of age, a qualified voter of the state, have resided in the state for 2 years and for 1 year in the district for which they were chosen. These requirements are the same for members of the House of Representatives, except that no age limit is established for the lower house.

The legislative process is covered in the remainder of Article II, sections 11 through 24. Regular biennial and extra sessions are provided for in section 11. Legislative officers, compensation and records are outlined in sections 13 through 19. Sections 23 and 24 place specific limitations on the purview of legislation enjoyed by the General Assembly. The most important of these concerns revenue bills and the Constitution establishes a particular

process by which the General Assembly must address this topic.

The role of the executive was considerably affected by the drafting of the 1971 Constitution. Scattered grants of power were collected into a single article—Article III—and this brought the role of governor into clear focus as the leader of state government. Section 5 is the base of the governor's power. In this section the duties and powers of the state chief executive are enumerated. Included in section 5 is the power to prepare the state budget, which was elevated from a statutory grant to a constitutional power by the 1971 Constitution. In addition, the governor enjoys extensive administrative reorganization powers. This gives the governor authority to affect agency reduction, consolidation, or reorganization, subject only to a vote of disapproval by either house of the state legislature.

No change was made concerning the tenure or the list of independently elected executive officials. These officials—the secretary of state, auditor, treasurer, superintendent of Public Instruction, attorney general, commissioner of Agriculture, Insurance and Labor—are all members of the Council of State.

Article IV covering the judiciary was subject to little change following the judicial reorganizations of 1962 and 1965. General grants of power and organization, worked out primarily in 1962, are reinforced by the 1971 Constitution.

The state Constitution established a unified statewide judicial system consisting of three branches: the Appellate Division, the Superior Court Division, and the District Court Division. In addition to the General Court of Justice, Article IV grants the General Assembly the authority to vest in administrative agencies "such judicial powers as may be reasonably necessary" for the performance of their assigned duties (section 3) and establishes the state Senate as the court for all trials of impeachment (section 4).

For the most part Article IV is concerned with the organization and operation of each division of the court sytem. Section 6 details the Supreme Court, section 7 the Court of Appeals, section 9 the Superior Court, and section 10 the District Courts. In each section the membership and selection of judges for a particular court are outlined as are meeting times and staffing provisions. Judges for the Supreme Court, Appeals Court and Superior Court all serve terms of eight years, while District Court judges serve terms of four years.

The jurisdiction of the courts is outlined in section 12. Except as otherwise provided by the General Assembly, the Superior

Court has original general jurisdiction throughout the state. The jurisdiction of both the Appeals and District Courts, while certainly distinct, are both prescribed, as mandated by the Constitution, by the General Assembly.

The 1971 Constitution made extensive editorial and substantive changes in Article V—provisions concerning taxation and finance in North Carolina. Provisions from other articles were condensed into a single location and former provisions were editorially expanded to make clearer their meaning.

The basic framework of the state's tax system is described in section 2. The goal of this section is to insure application of tax plans in "a just and equitable manner." The General Assembly has sole power to classify property for taxation. Specific exemptions—for property belonging to the state, counties and municipal corporations—are part of this section. In addition, the state income tax, with certain specific exemptions, is also described in section 2.

Sections 3 and 4 of Article V concern limitations upon the increase of state and local government debt. The power to secure debt on the full faith and credit of the state is given only upon formal approval by a majority of qualified voters of the state. Local governments are subject to this same restriction, with debt for these units subject to majority vote approval from voters within the local unit.

While these first five articles form the bulk of the state Constitution, important policy items are given constitutional status in the remaining articles—Articles VI through XIV.

Provisions for voting and elections are covered in Article VI. Outlined here are traditional sections concerning voter eligibility, registration and disqualification.

Article VII places the power to provide for local government with the legislature. Limits on grants of incorporation are described in section 1, election of sheriffs mandated in section 2 and city-county consolidations covered in section 3. This article reflects the subordinate legal and structural position occupied by local governments vis-a-vis the state.

Article VIII covers the grant of power given the legislature for establishing general acts concerning the creation of corporations. Corporations are granted legal standing in section 2 of this article.

Article IX establishes an unified educational system and eliminates a host of obsolete provisions concerning the operation

of school administration and finance found in the 1868 Constitution. (Many of these provisions pertained to racial matters whose constitutionality had either been questioned or already invalidated outright.)

The education article calls for a nine month school term, open to all students equally and compulsorily. The principle of local responsibility for the provision of public education is affirmed in section 2. In addition, organization of the school system throughout the state is also outlined. The superintendent of Public Instruction is the chief administrative officer of the State Board of Education and the Board administers educational funds to be delegated by the state for education. The article also vests power to the state for operation of a system of higher education and affirms the importance of the benefits that derive to the citizens of the state through the expansion of the University of North Carolina.

Homesteads, personal property and exemptions are enumerated in Article X. The separate rights of married women are described in section 4 protecting them from debts, obligations and engagements made solely by their husbands.

Punishments, corrections and charities are grouped together and provided for in Article XI. The death penalty is established at the constitutional level in section 2 of this article. Defining the duties of a board of public welfare is charged to the state legislature in section 4.

Article 13 lists the procedures and requirements for constitutional revision and amendments. The importance of the people in the process of constitution-making is the dominant element of this article. Section 2 explicitly reserves to the people the right of revision or amendment to the state's fundamental law.

The state Constitution closes with a series of miscellaneous items covering the boundaries of the state and establishes Raleigh as the permanent seat of government for North Carolina. Significantly, perhaps reflecting the state's abundance of resources, the conservation of natural resources is given constitutional status in section 5 of Article XIV.

CONCLUSION

State constitutions establish the fundamental law of a state and provide an insight into the nature of the attributes and culture of a state. Those provisions of law or statements of

concern, benefit and rights established in the Constitution are held by the people themselves and can only be changed by their direct action.

In many instances state constitutions are overly detailed and excessively long documents concerned as much with transitory issues as substance of general principle. The relatively short and stable Constitution that establishes the nature of North Carolina government avoids most of these problems by granting sufficient power to the various actors in the state government process while avoiding nagging restrictions of only temporal matter.

Sources

For a complete discussion of constitution making in North Carolina see John L. Sanders, "A Brief History of the Constitutions of North Carolina" in the *North Carolina Manual, 1979.*

"Article I: The Rights of the Citizen"

In a famous essay defending the notion of "States' Rights," James J. Kilpatrick notes a key distinction between the state and the individual: "Individuals have rights, states have power."[1] The preceding chapter illustrates the long-time concern of North Carolinians with this distinction embodied in Article I of the state Constitution.

Article I is an explicit statement of those rights that the state guarantees to all of its residents, rights that the various institutions and agencies enumerated in later articles are to serve, but not encroach upon. The demand for this guarantee of individual rights by North Carolina predates the state's entry into the federal system—the North Carolina State Constitution included a "Bill of Rights" before the U.S. Constitution was adopted. While the exercise of these rights has certainly been flawed—the Black population was explicitly excluded from many of these guarantees before the adoption of the 1971 state Constitution—the placement of these rights in the first article of the state's fundamental law is a conscious and intentional statement as to their primacy.

The rights of the citizen included in Article I cover the basic freedoms of speech, press and religion. In addition, free and frequent elections are noted as a fundamental right of the people "for redress of grievances and strengthening of the laws." Sections 18 through 30 of the Article outline the equal protection of law and due process guarantees enjoyed by all state residents. The primacy of the people is declared in section 2 and the expansion of rights beyond the outlines of Article I are noted in section 36.

The selections in this chapter address some of the contemporary issues and facets of the rights guaranteed all citizens in North Carolina.

Footnote

1. "A Case for States' Rights," in *A Nation of States*, Robert A. Goldwin, editor, Chicago: Rand McNally & Co., 1961, pp. 88-105.

Government Secrecy vs. Public Access

Fred Harwell

There are bad apples in most bureaucratic barrels, so it is not surprising when high-level government employees occasionally depart from office under strained circumstances. But the resignations under fire of two members of the State Banking Commission on April 27, 1978, proved to be more disruptive and controversial than most other personnel shake-ups. Within days of the announcement that the Banking Commissioner and the Deputy Banking Commissioner had been asked to resign because of official misfeasance, the Raleigh *News & Observer* was suing for full disclosure of the investigative report which had led to the dismissals and the Executive Branch had been cleaved by Governor Hunt's release of a "summary" of the report over the objections of the Justice Department and the State Bureau of Investigation. While interest in the resignations soon subsided, Hunt's handling of the matter left questions both about the legality of his actions and about the state's policies regarding suppression of information gathered at taxpayers' expense and used to shape decisions which affect the lives of its citizens.

Debate about "public access" has always been an essential aspect of politics in this country. "A popular government without popular information," James Madison warned the framers of the Constitution, "is but a prologue to a farce or a tragedy or perhaps both." The Bill of Rights, ratified in 1791, seemed to embody the concept of "public access" in the First Amendment admonition that "Congress shall make no law... abridging the freedom... of the press...." But it was not until 1966, after 11 years of committee consideration, that Congress enacted the Freedom of Information Act (5 U.S.C. 552), which for the first time gave private citizens, including journalists, clear authority to obtain the release of many previously unavailable federal documents and records. The Freedom of Information Act (FOIA) repealed an earlier law which reserved the government's right generally to withhold information "for good cause found" and "in the public interest." These vague standards had effectively foreclosed public

access by placing the burden on private citizens to prove, first, that there was no "good cause" for denying the release of records and documents, and then that the petitioner was "legitimately and properly concerned" about the information being sought.

North Carolina has no state freedom of information law, but the concept of public access to government documents has been manifest in state statutes since at least 1935. That year the General Assembly produced "An Act to Safeguard Public Records..." which declared, among other things, that documents of the state "and of the counties and municipalities thereof constitute the chief monuments of North Carolina's past and are invaluable for the effective administration of government, for the conduct of public and private business, and for the writing of family, local and state history." The 1935 law defined "public records" as all written and printed matter "made and received in pursuance of law by the public officers" of the state as well as of counties and municipalities, and required that "every person having custody of public records shall permit them to be inspected and examined at reasonable times...."

Over the years this early public records law has been revised by the General Assembly, and as recently as 1975 the definition of "public records" was substantially expanded to include "all documents...or other documentary material, regardless of physical form or characteristics." (G.S. 132-1) At the same time, exceptions have been carved out of the definition of "public records," including state tax returns and state personnel files. Such statutory exceptions are usually intended to protect personal or proprietary information from unnecessary disclosure. They reflect, among other things, a legislative effort to balance the concept of public access against the practical need to maintain the confidentiality of some government records. In North Carolina this balance is achieved by patchwork "privacy" amendments to various provisions of the General Statutes. Under federal law the balance is established by refinements in the controlling language of the FOIA which are enumerated within the law itself, and by the Privacy Act of 1974 (5 U.S.C. 522), which provides for disclosure of the existence of federal records kept on private citizens and for inspection by individuals of records which pertain to them.

While the Freedom of Information Act and the Privacy Act have not been devoid of criticism and controversy, they are generally regarded as positive steps in the direction of greater public access. The disorganized state approach of combining an

omnibus public records law and a variety of specific privacy amendments, on the other hand, has restrained access in North Carolina with sometimes befuddling statutory gymnastics. In 1975 the legislature removed state personnel files from the inspection provisions of G.S. 132-6 but not from the definition of "public records" in G.S. 132-1, thereby creating a hybrid document that is both "public" and unavailable to the public. (G.S. 126-22) A separate 1975 amendment (G.S. 126-23) specified that certain personnel information was, after all, to be held open for inspection, while another amendment (G.S. 126-24) declared that "all other information" in state personnel files "is confidential." In 1977 the legislature elaborated this statutory maze with additional "personnel act" amendments, but it soon became apparent that the unwieldy effort to dampen access had, instead, swamped it. One of the first bills introduced in the 1978 General Assembly was an amendment to G.S. 126-24 for the purpose of allowing the easier release "of certain information pertaining to state employees," including justifications for promotions and firings.

A less complex but more troubling exception to the public records law was enacted in 1947 as an amendment to Chapter 114, pertaining to the State Bureau of Investigation. Language was added to G.S. 114-15 which stated that "all records and evidence collected and compiled by the Director of the Bureau and his assistants shall not be considered public records... and may be made available to the public only upon an order of a court of competent jurisdiction." Disclosing little or no sensitivity to questions of public access or the protection of individual privacy, the language of this amendment has been interpreted by state courts as a broad prohibition against releasing the contents of SBI documents to anyone. Under state law even a criminal defendant is accorded no right to view the SBI reports relating to his case, and the North Carolina Supreme Court has consistently ruled that a judge's refusal to give SBI reports to a criminal defendant is not grounds for overturning a lower court judgment. The matter is less clear under federal law, where U.S. Supreme Court opinions suggest that a defendant might be entitled under some circumstances to have access to such reports.

Though often subjected to courtroom attack, the 1947 amendment to G.S. 114-15 had never seemed politically controversial until May 10, 1978. On that date, without deferring to the authority of a judge, Governor Hunt released his "summary" of the SBI investigation into the activities of the two

Banking Commission officials who had recently resigned. In doing so, Hunt was following a suggestion made several days earlier by *News and Observer* editor Claude Sitton, who wrote without reference to the language of the statute that its purpose was merely to prevent disclosure of "unverified information" and "the identities of SBI informants." In his newspaper column, Sitton opined that the purpose of the law could "be served... by making a sanitized version of the report" available through the Attorney General rather than the courts. The Governor's summary, which did omit sensitive information such as the names of sources, nevertheless contained verbatim passages from the original Bureau report. Opinions about the implications of Hunt's actions would differ, but some state attorneys conceded later that by unilaterally releasing portions of the SBI files the Governor might have violated the letter if not the spirit of the General Statutes of North Carolina.

Governor Hunt's decision to reveal the substance of the SBI report did more than place him in a tender legal position and open a schism between his office and the Justice Department. It also brought into sharp focus the need for reorganization and clarification of state laws pertaining to public access. Recognizing that "this case raises serious questions about the handling of SBI investigative reports," the Governor acknowledged that "the citizens of North Carolina should have a full accounting of the circumstances behind the resignations of two top (state) officials.... Clearly, we have a conflict between the public's right to know and the need for confidential SBI investigations. It is difficult to know how to reconcile that conflict."

The issue of access versus confidentiality had been raised in this instance because members of the Attorney General's staff who were sworn agents of the SBI conducted an investigation into the activities of two public officials. The Governor and his staff agreed with journalists, who were trying to obtain information about the circumstances of the resignations, that the public had a right to know what was going on inside the State Banking Commission. "We simply had a responsibility to account for the firings," Gary Pearce, the Governor's press secretary, explained. "Our responsibility was to account for why we wanted them to resign." According to Jack Cozort, Hunt's legal advisor, the Governor "realized there was some problem" with the release of the SBI report. "We resolved it by releasing basically what we considered a summary rather than the report

itself," Cozort said. "You do come to a point sometimes when the people do have a certain right to know, particularly when an investigation involves essentially public servants. The people deserve more explanation about that than they would (about) other SBI investigations which may not necessarily involve public employees."

But other state lawyers disagreed, both with Hunt's decision and with his resolution of the statutory conflict between access and confidentiality. Assistant Attorney General Andrew Vanore, who represented the Justice Department in the newspaper suit to obtain the full report, objected to the precedent which he said might be set by the release even of a summary of the investigation. He argued that SBI work would be impeded in the future, especially if sources feared that their identities might be revealed. Mike Carpenter, legal advisor to the Director of the Bureau, felt that G.S. 114-15 effectively barred disclosure either of the report or of a summary of its contents: "I think it was the intent of the legislature to make it absolutely clear that SBI reports were not to be made available to the public without a court finding it something that ought to be done. I don't think the legislature intended that a private citizen could walk in off the street and say I want to see a copy of an SBI report...."
What was the legislature's intent?

In North Carolina, as in many other states, it is often difficult to know precisely what policies have been codified in the General Statutes because there is no "legislative history" or other record of committee discussion and floor debate. Reasonable extrapolation based on the language of the statute is frequently the only means of arriving at an interpretation of the policies which lie behind the words, though even this is not always a successful, or even satisfactory, process. The language of G.S. 114-15 plainly removes SBI "records and evidence" from the definition of public documents. But what are "records and evidence?" William Lassiter, counsel for the *News & Observer*, took the view that G.S. 114-15 did not even apply. "It is my opinion," he said, "that the (SBI) report does not come within the meaning of 'all records and evidence.'" Not surprisingly, Lassiter's interpretation agitated the opponents of disclosure in the Justice Department and the SBI. They feared that every one of the more than 5,000 investigative reports produced annually might be thrown open to public scrutiny. "What we're trying to do," said Carpenter, the Bureau's lawyer, "is to protect the principle" of confidentiality.

Intensifying distrust of big government has recently resulted in a profusion of both state FOIA laws guaranteeing access to information and state privacy laws limiting "official" intrusions into the private lives of private citizens. Although three limited privacy bills were passed by the 1975 North Carolina General Assembly, including the amendments pertaining to state personnel files, the state's information access law has never been overhauled to bring it into line with changes in the relationship between the people and their public servants. When "An Act to Safeguard Public Records..." was added to the statutes in 1935, there was no State Bureau of Investigation.* Since 1947, when SBI records were accorded at least a limited cloak of secrecy, the Bureau has expanded both in numbers of agents and in the scope of its operations. If each of the more than 5,000 reports filed annually by the SBI were about a different person, one in every one thousand North Carolinians might have been the subject of a confidential state policy inquiry during 1977. Over the past decade, a dossier with information about one in every one hundred North Carolinians might have been added to SBI records. But under state law there is no way for private citizens to determine whether they have ever been investigated by the SBI or, if they have, to find out what information has been gathered about them and why.

There is, clearly, a substantial need to protect the confidentiality of certain government records. Names of police sources and unverified hearsay which might damage the reputations of innocent people are only two of the most obvious examples. But there is also a fundamental need to ensure broad access to government information, if only to assess the performance of public servants and to constrain the expansion of state power. Both the Freedom of Information Act and the Privacy Act of 1974 contain specified exemptions which protect confidentiality while allowing broad access both to records of government activities and to records kept by the government on the activities of its citizens. There are few indications that FOIA and Privacy Act requests for information in FBI and CIA files have actually hampered the legitimate operations of these

*Enabling legislation to establish the SBI was enacted in 1937. Organizationally, the Bureau was transferred to the Justice Department, and thus to the control of the Attorney General, in 1971. Under current law, the SBI has original jurisdiction to investigate damage and theft involving state property and "to investigate and prepare evidence in the event of any lynching or mob violence." In addition, the Bureau is authorized at the request of the Board of Elections to investigate possible vote frauds, and is required to aid the Governor with "such services (as, in his judgment) may be rendered with advantage to the enforcement of the criminal law." (G.S. 114-15)

agencies, even though such requests have revealed illegal and over-zealous investigations by both.

In North Carolina, the State Bureau of Investigation operates behind a veil of secrecy that shields it from public review and invites abuses of its power. No issues of national or state security justify the suppression of information about the range and depth of its methods and procedures. The Bureau is unlike other state government agencies both in its purpose and in its potential for intrusion and misuse, but these differences suggest a greater rather than a lesser need for constant oversight. How is the public to judge the adequacy or inadequacy of the SBI's work? How are the Governor and the Attorney General to be held accountable at the polls for the activities of the Bureau? How is the General Assembly to monitor the expenditure of public funds allocated to the SBI, which totalled $6.599 million during fiscal 1977? Indeed, how under current law are the legislators to determine whether any of that money was spent to investigate them?

In an open democracy, government secrecy can be nothing more than a limited and specific exception to the general premise that the people's business should always be open to the people. In North Carolina, this premise has been blurred both by vague statutory language and by *ad hoc* exceptions to the public records law. A comprehensive, reasonably qualified clarification of "public access," a state freedom of information act and a state privacy act, should be on the agenda for consideration during the 1979 session of the General Assembly. In addition, the legislators should carefully study the broad statutory powers of the Governor and the Attorney General to manage the SBI, with a view to retrieving some control themselves over the clandestine activities of the Bureau. Without such steps, public officials and private citizens are likely to remain trapped between the letter and the spirit of the current law, and state government will more and more take on the appearance of "a farce or a tragedy or perhaps both."

Who Should Decide Where People Live?
Rights of the Mentally Handicapped

Roger Manus and Barbara Blake

Richard Cohen is 23 years old and has "moderate" mental retardation. For the first 20 years of his life, his mother kept him at home, protecting him from many activities of normal children. He had a job as a dishwasher once, when he was living at home in Miami, Florida, but he got fired.

Almost three years ago, Richard moved to Asheville, where he got a job through Handi-Skills, an Asheville program for physically and mentally handicapped people. And he moved into the "big house" sponsored by the Buncombe County Group Homes for the Developmentally Disabled, Inc. Today, Richard is still working through Handi-Skills, sorting equipment for the Asheville Plastic Company.

"We have breakfast together," says Cohen. "Then we go to our jobs. When we get home, we have dinner together. On my cooking nights, my specialty is meatloaf."

Across the state in a downtown Raleigh neighborhood, Doris Jones does most of the cooking for the seven women in a home sponsored by Community Group Homes, Inc. A Raleigh native, Doris has worked as a switchboard operator and a file clerk for Seaboard Railroad. Now 67, she has been living in the two-story frame house since leaving Dorothea Dix Hospital eight years ago.

"Most of the women come here from Dix," says Jones. "This is a place for a lot of people who don't really have any place to go. I went to Dix back when I was real depressed, you know. I couldn't talk to anybody without crying. They (the Dix staff) helped me find this place."

The group homes in Asheville and Raleigh are part of a nationwide de-institutionalization movement—an effort to bring some people with mental handicaps out of institutions and to help others avoid institutions in the first place. Most people with mental retardation and mental health problems—like Richard Cohen and Doris Jones—have spent most of their lives outside of institutions, often living with a family member in a sheltered or isolated situation void of many opportunities. And many other people have spent years in institutions because alternative facilities simply have not existed. Today, about 500 mentally

disabled people live in group homes and supervised apartments in North Carolina. But over 1,000 more are waiting to move into a community setting.

Since the late 1800s, states have maintained special institutions for a large number of people who seemed to be mentally different.* At first, institutions were intended to shelter the residents from societal abuses. Reformers such as Dorothea Dix devoted their lives to helping provide a place for the "mentally afflicted," the term used in the 19th century. But by the early 1900s, institutions began expanding for the opposite reason: to protect society, so the rationale went, from the sick, subhuman elements, the menaces to law-abiding citizens. Images of the mentally handicapped as diseased burdens of charity pervaded the society, creating a set of myths that persist today. Many human service providers in hospitals and in the community no longer subscribe to these myths, but little has been done to educate the general public about such false images. People still pity, fear, and resent people like Richard Cohen and Doris Jones, simply because they were once in an institution or have moderate retardation.

Such attitudes have fostered discrimination against handicapped people in employment, education, social services, and housing, all fundamental needs for an independent life. In the last 15 years, federal and state legislation has begun to help handicapped people overcome these barriers to community living. Employers that receive federal funds can not discriminate against the handicapped, for example. And North Carolina school systems must now serve children with special needs. (See box at the end of the article for a summary of existing civil rights legislation for handicapped citizens.)

In 1975, the North Carolina General Assembly voted to allow handicapped citizens the right to live in residential communities. The statute appeared to give group homes the right to exist despite what local zoning ordinances or restrictive convenants in private property estates may say. Since the law passed, nevertheless, people opposed to group homes in their neighborhoods have successfully blocked or delayed group home openings throughout the state.

"The statute is non-specific," says H. Rutherford Turnbull,

*The confinement of mentally different people actually began much earlier. Connecticut's first house of corrections, for example, was established in 1722 for "rogues, vagabonds, beggars, fortune tellers, diviners, musicians, drunkards, prostitutes, pilferers, brawlers, and the so-called mentally afflicted."

an attorney at the Institute of Government who specializes in mental health law. "It is not clear how far the courts would give it precedence over local ordinances."

The "non-specific" nature of the statute became very obvious in Asheville last fall, when Buncombe County Group Homes for the Developmentally Disabled requested a zoning permit to build a second home in the middle-income Kenilworth neighborhood. Asheville's City Council had never considered how zoning and building code regulations might apply to group homes. No organized opposition had questioned the first home, the stone house where Richard Cohen lives. But the residents of Kenilworth mounted a campaign to block construction of the second one.

"I think it's a great idea, but I certainly do feel that the residents of Kenilworth need to have a lot more understanding of what the home is for," says Shirley Chamberlain, a resident who attended many of the Council meetings.

"They're afraid their property values will go down," says Cohen. "They think we might rob them or throw rocks in the windows."

Buncombe County Group Homes for the Developmentally Disabled held a meeting to explain the homes to the neighborhood. "We tried to talk frankly and openly about the program," says Dr. Raymond Standley, president of the group's board of directors, "to stop rumors and untruths from going around, to answer any questions."

But even those neighbors receptive to the group home idea didn't feel the meeting was enough. "The people in the community feel we have been dealt somewhat a low blow," says Marvin Chambers, a past president of the Kenilworth Residents Association and the parent of a retarded child. "The feeling seems to be that if someone had tried to educate the people as to what the intent of the home is, there would be a lot less bad feelings now. It's created a lot of animosity, and in my opinion, it does something detrimental to the whole program."

Some people, however, experienced in starting group homes say that a prior community education effort can be counter-productive. "It only emphasizes the differences of handicapped persons and makes them like second-class citizens," says Jean Stager, the mental retardation specialist for Durham County. "You or I didn't have to ask permission to move into a neighborhood. Such efforts more often only serve to heighten community apprehensions by making a big deal out of a very unremarkable occurrence."

The Asheville opposition is just one example of the difficulties group homes have had in finding receptive neighborhoods. Opposition has flared across the state, from Raleigh and Knightdale to Burlington, Greensboro, China Grove, and Salisbury. Just outside of Chapel Hill, for example, a group of neighbors mounted a petition drive and a vigorous lobbying effort to force the Area Mental Health Board to withdraw its support of a proposed group home for children with mental retardation. The opposition group claimed to be concerned for the welfare of the group home children, afraid that the children would not fare well with neighborhood children on the school bus, for example. But during a hearing before the Area Mental Health Board, other fears emerged. People opposed to the home said that they were scared their property values might go down and that they might not be safe. When the Area Mental Health Board remained committed to the home, the opponents filed a lawsuit. But the suit failed, and after several months of delay the group home was established.

Community resistance is usually based on a fear of property values going down or a fear of increased crime. But experts suggest that these concerns are groundless. Princeton professor Julian Wolpert, for example, studied 52 group homes in 10 communities, using "control" neighborhoods for comparison. His study, released in 1978, found that group homes have no negative impact on house selling or moving and that group homes were generally better maintained than nearby homes. The study concluded that "property values in communities with group homes had the same increase (or decrease) in market prices as in matched control areas" and that "immediately adjacent properties did not experience property value decline."

North Carolina experts agree that property values are not affected by group homes. "This fear has been shown to be baseless," says Turnbull, the Institute of Government attorney.

Turnbull has also written entensively on the crime issue. "There is substantial evidence that mentally **retarded** people are not more prone to criminal activity than non-handicapped people and that, with proper supervision (such as provided in group homes and in community-based employment, treatment, and education), they are less likely to become involved in the criminal justice process than non-handicapped people."

The situation for mentally **ill** people is more complex. But a recent report of the President's Committee on Employment of the Handicapped, after a three-year study of a halfway house for

people with mental health problems, found no evidence of criminal-type offenses. "Recent data indicates that the incidence of violent or felonious acts apparently has no significant relationship to mental illness," writes Turnbull.

And the evidence goes beyond the purview of experts. In 1976, the American Association on Mental Deficiency released a national study of attitudes towards homes for developmentally disabled people. It showed that community opposition decreased **after the homes opened** in 87 percent of the cases. "Neighbors just don't give themselves a chance to become acquainted with people who are mentally different," says Toni James, western regional advocate for the Governor's Advocacy Council for Persons with Disabilities. "Community education is essential, but handicapped people cannot wait until that long process is finished. There ought to be a law to help get the ball rolling."

State law does not specifically forbid the use of restrictive covenants or local zoning ordinances to block the establishment of group homes in residential neighborhoods. During the Asheville debate, the City Council imposed a moratorium on zoning and building permits for such homes until regulations could be agreed upon and made into law. After weeks of debate, the City Council granted a permit for the new home, ruling that the Kenilworth applications had been made before the moratorium was imposed and that zoning restrictions could only affect future group homes. While the new Kenilworth home appears to be proceeding as planned, the fate of future homes—in Asheville at least—rests on a clarification of state law.

The state has a vital interest in the fate of group homes: it currently licenses group homes; it funds area mental health authorities, which may use some of these funds to help establish group homes; it operates four psychiatric hospitals and four mental retardation centers, where the cost per person is higher than community-based residential placement; and it funds community-based treatment and educational programs. But in 1975 and again in 1979, legislation designed to clarify the group home statute was defeated in the General Assembly. These bills required local governments to grant permits to group homes on the same bases as they do for similar dwellings. The bills, based on model statutes developed by a number of groups including the American Bar Association and the Ohio State University Law Reform Project, included a statement of policy, a definition of a group home, a definition of the types of handicapped people eligible to live in a group home, and a provision that state

licensing would override local zoning and building codes and restrictive covenants.

In the 1975 law which did pass, however, the General Assembly seemed to support a policy of de-institutionalization for the state. But this policy has too often been thwarted, usually by neighborhood opposition to group homes, and probably will continue to be without a strengthening of the sort proposed in 1975 or 1979. A coalition of disabled people, parents, advocates, and human service providers will again ask the General Assembly to clarify the current law in 1981.

If the Legislature responds, more people like Richard Cohen and Doris Jones will find a place to live other than a restrictive home or an institution. "I'm a little independent at Handi-Skills but not all the way," says Cohen. "I would like an outside job. My counselor thinks I'm going to be ready before too much longer. Living in the group home was the first step. I'm just taking it one step at a time."

Community-Based Service
Requirements of North Carolina Law

1. A judge who presides over an involuntary commitment hearing must determine whether commitment to a program less restrictive than a state psychiatric hospital is appropriate and available.
2. Before admitting a child to a state psychiatric hospital, a judge must first determine that a placement less restrictive than a psychiatric hospital is insufficient to meet the child's needs.
3. Local social service agencies must provide protective services to abused, neglected, or exploited mentally handicapped adults and children.
4. Guardians of adults adjudicated incompetent must prefer community-based treatment and residential services over institutional services.
5. State and local governments may not discriminate in housing against mentally handicapped adults and children.
6. Area mental health authorities must have plans for using state, regional, and local facilities and resources to provide mental health services to the citizens in that area.

Excerpted with permission from "Group Homes for the Mentally Handicapped," by H. Rutherford Turnbull (Institute of Government, University of North Carolina at Chapel Hill, 1980)

Protective Legislation

In the last decade, a number of laws have passed Congress and the North Carolina General Assembly aimed at reversing historical patterns which have segregated disabled people in institutions or isolated them in their homes. Most are based on the constitutional principle of the least restrictive alternative: when a

government significantly intrudes in a person's life, it must do so in a way that is least restrictive of the person's freedom. The normalization principle—using means which enable disabled persons to live as normally as possible—has been the other underlying basis for most of the legislative developments. The major ones are listed below:

Education

1. Equal Education Opportunities Act (1974, 1975, General Assembly). Primarily policy statements and procedures for due process hearings to resolve disputes.
2. Chapter 927 (1977 General Assembly). Known as the Creech bill, it establishes the state policy of providing a free and appropriate public education to children with special needs. An "appropriate" education is one provided in the least restrictive setting, i.e., as integrated as possible with non-handicapped children, and one that also meets the particular needs of each child according to an individualized education plan developed jointly by parents and educators.
3. Public Law 94-142 (1975, Congress). Similar to, but more comprehensive than, the state law discussed above (Chapter 927). Binding on all school systems which receive any federal money.

Non-Discrimination

1. Section 504, Vocational Rehabilitation Act (1973, Congress). Prohibits discrimination against handicapped persons wherever federal funds are used. Implementing regulations refer specifically to public schools, colleges and universities, health and welfare agencies, and federal grantees in areas of employment and architectural accessibility.
2. Section 503, Rehabilitation Act (1973, Congress). Requires affirmative action (more than non-discrimination) to employ handicapped persons by companies with federal contracts over $2,500.
3. Architectural Barriers Act (1968, Congress). Intended to assure the physically handicapped ready access to and use of buildings that are constructed, financed or leased by or on behalf of the United States.

Protective Services

Protection of the Abused, Neglected or Exploited Disabled Adult Act (1975, General Assembly). Provides that a court order can be obtained to protect disabled adults who are neglected, abused, exploited or denied essential services by their caretakers or for whom there is no one to give legally adequate consent for essential services.

Financial Assistance and Benefit Programs

Social Security Disability Insurance, Supplemental Income (SSI), Aid to Families With Dependent Children (AFDC), and state/county Special Assistance all provide financial assistance which can help to make community living financially possible for disabled people who are eligible. Medicare and Medicaid pay the costs of health services in the community, although they have also been used to pay for institutionalization. The federally funded and state administered Vocational Rehabilitation (VR) Program provides rehabilitative services to disabled people with "employment potential." North Carolina also administers the federally funded Title XX Program which makes possible Adult Day Activity Programs (ADAPs) and other social services.

Community Mental Health

Community Mental Health Centers Act (1963, Congress). Makes funds available to community mental health centers that have comprehensive mental health programs for people in a defined geographical area. In North Carolina, 41 locally governed "area programs" administer mental health, alcohol, and drug abuse

services as well as mental retardation services. Because of a lack of funding, the community services are not at all comprehensive.

Developmental Disabilities

Mental Retardation Facilities Act (1963, as amended, Congress). Known as the DD Act, it requires statewide planning to improve services and eliminate unnecessary institutionalization.

Developmentally Disabled Assistance and Bill of Rights Act (1975, Congress). This amendment to the DD Act requires the states to assure, in exchange for federal money, quality services, individualized planning, a near-prohibition on the use of physical restraints, a prohibition on excessive drugging, and placement in the least restrictive setting for persons who become severely disabled before the age of 22. One federal appeals court has interpreted this law to mean that practically everyone presently in a Pennsylvania institution should be in community settings instead. This law's requirements as discussed here have had little impact in North Carolina.

Involuntary Commitment

Involuntary Commitment Statute (1973, 1977, and 1979, Congress). Provides that a person with mental health problems may not be committed to a mental health facility without his consent unless he is dangerous to himself or others. A person with mental retardation may only be committed if he has an accompanying behavior disorder that makes him dangerous to others. The commitment decision must be made by a judge and the respondent has the right to an attorney (paid for by the state if necessary). This process may be used to commit a person to an outpatient facility as well as an institution. Commitment must be to the least restrictive setting available.

Advocacy

Governors Advocacy Council for Persons with Disabilities (1979, General Assembly). Consolidated two existing advocacy agencies. Council staff members provide information to legislators, work with parent and consumer groups and are advocates for individual disabled people who face discrimination.

Possible Future Developments

1. enforcement of existing laws to promote de-institutionalization;
2. a more explicit statutory commitment to de-institutionalization;
3. a reordering of state financial commitment to favor community services instead of institutions;
4. the abolition of the commitment to institutions of people who are labeled dangerous to themselves merely because they cannot care for themselves;
5. the expansion of the non-discrimination obligation (Vocational Rehabilitation Act, Section 504) beyond only federal grantees;
6. a state law prohibiting the use of zoning or restrictive covenants to obstruct the establishment of small, scattered supervised community residences for disabled persons.

Undisclosed Disclosures?
A Passive Approach to Campaign Finance Reporting

Martin Donsky

The Campaign Reporting Office of the state Board of Elections, set up to administer the campaign finance reporting law enacted by the General Assembly in 1974, has focused exclusively since it was established on processing reports of contributions and expenditures required to be filed under the law. Two full-time clerks spend most of their time reading the reports looking for obvious errors such as the failure to list the address or full name of a contributor, checking the arithmetic, and filing the reports neatly away.

By no means is this processing unimportant. The law, enacted to replace the old, loophole-strewn Corrupt Practices Act, requires candidates to register with the Campaign Reporting Office and, during the campaign, to file periodic reports of contributions and expenditures. The reports, which are open to public inspection, must identify all contributors who give more than $50, and they must itemize all expenditures. But checking the reports is only one of several things that must be done to insure that Tar Heel voters know as much as possible about campaign money—the "mother's milk" of electoral politics.

The law itself has some key weaknesses, and there is no reason why the elections board should not actively lobby for the needed changes. For example, the campaign law does not require identification of contributors' occupations. Without such information, it is difficult to determine which interest groups are lining up behind which candidates.

An analyst thoroughly versed in Tar Heel biography should be able to pick out the most prominent contributors to specific campaigns, but unless occupations are identified there is no way to determine the full extent to which members of any particular interest group, be they doctors, lawyers, bankers, textile executives, anti-abortionists, or environmentalists, are providing money to selected candidates. As a result, there is no way to examine a politician's voting behavior after the election in terms of his financial backers.

The elections office could do more with the information it

already receives from candidates. It could easily publish periodic reports listing the amounts of money raised and spent by candidates in various campaigns. It could also, on its own initiative, inform the public of how much money was spent in different campaigns and during an entire election season. All this information could be provided in an annual report. After several years, the Campaign Reporting Office could begin charting contributions and expenditures, watching to see whether each succeeding campaign is more or less expensive than the preceding ones. Further, the Campaign Reporting Office, simply by spending some time reviewing the reports, could also provide information on such topics as media expenditures, use of campaign consultants, dependency on bank loans, and candidates' use of personal funds to campaign for office.

None of this is currently being done. The reason is simple. The officials charged with day-to-day administration of the law—state elections director Alex K. Brock and Mrs. Rosemary Stowe, head clerk of the reporting office—do not see their roles as requiring aggressive monitoring of the financial underpinning of political campaigns.

Take Brock's approach to the budget of the Campaign Reporting Office. Since the office's inception, he said in an interview [1978], the yearly budget has been about $60,000 or $70,000. He has never sought an increase from the General Assembly. (The office also has a reserve fund. The legislature appropriated $50,000 in 1974. Brock said $32,000 of that $50,000 is left).

Mrs. Stowe, a former legal secretary, and another clerk are the only full-time employees in the reporting office. During campaign seasons, Brock hires two part-time clerks, usually using secretaries who worked in the General Assembly. Brock said it would be possible for the Campaign Reporting Office to issue periodic public reports, but "We have the information here. If the press or anybody else for that matter wants it they can print it."

Brock acknowledges that he does not take an activist view of monitoring campaign finance. He uses two words to describe the reporting office's chief job—"administer" and "process." He says the office is primarily concerned with making sure that candidates register when they declare their candidacies, and file required reports of contributions and expenditures on time with the Campaign Reporting Office.

The results of that attitude are perhaps best demonstrated

by the case of a political committee that calls itself the North Carolina chapter of the National Committee for a Two-Party System. The committee was formed in the early 1970s by some prominent black politicians, including Soul City developer Floyd McKissick and Larnie Horton, former president of Kittrell College who served as a political aide to former Gov. James E. Holshouser Jr. The committee's primary purpose was to promote black involvement in the Republican Party which, in North Carolina as elsewhere, has been largely white.

In the fall of 1974, the committee contributed at least $5,000 to Tar Heel candidates on the ballot that November. Among the recipients of funds was William E. Stevens, the GOP candidate for the U.S. Senate.

Following the disclosure requirements of the campaign reporting law, the candidates listed the contributions in their official reports filed with the Campaign Reporting Office. Three of the candidates, all of whom were seeking seats in the N.C. House of Representatives, reported contributions of $1,000 each from the committee—fairly sizeable gifts for a race at that level.

The law also requires political committees such as the McKissick-Horton organization to disclose their financing with the reporting office. But the organization never bothered to take the first step in the public disclosure process—simply registering as a political committee with the Campaign Reporting Office. The committee did not register, or file any statements of contributions or expenditures, until the fall of 1975, nearly 12 months after the elections. And it did not register until after newspaper reporters, examining records in the Campaign Reporting Office, discovered on their own that the committee had made political contributions but had neither registered as a committee nor filed reports of contributions and expenditures.

Mrs. Stowe was quoted in a Sept. 23, 1975, article in the *Durham Morning Herald* as saying she was unaware of the group's existence until she was shown records in the previous two weeks of candidates who reported receiving money from the committee. Subsequently, the committee, under pressure from the elections board (which, in turn, was under pressure from the news media), registered and filed a financial report.

One question remained. Why didn't the clerks in the Campaign Reporting Office detect the violations on their own? After all, both Brock and Mrs. Stowe have said on several occasions that the office "audits" all reports (Neither will discuss the audit procedures, because, they say, they don't want to give

away any secrets). I asked Mrs. Stowe that question. She shrugged her shoulders, gave me a puzzled look, and said simply that she had never heard of the organization until I asked her about it.

The Campaign Reporting Office did not discover in its own "auditing" of campaign reports that the committee was not registered because nobody bothered to check. But isn't checking precisely the job of the office?

Brock, a skilled politician who has served as elections director for more than a decade with little controversy, defends the reporting office's conduct in the matter of the Horton-McKissick political committee. The reporting office does not have staff or the time to search out would-be violators. The office, he said, relies on the press and others to provide it with such information.

To search out violators—to aggressively monitor the law—Brock declared, would anger the General Assembly. The legislature, he contends, has never liked the disclosure law and, even though it has had nearly five years to get used to the law, is still leary about it. "We have found that with the sentiment being what it is in the General Assembly that our operation has had to prove itself to members of the legislature. We feel we are performing the exact role the legislature wanted," he said.

Brock clearly believes that his thinking is in tune with the General Assembly. That may be true, but it is highly questionable whether the legislature is in tune with the public.

Public disclosure of campaign financing is here to stay. The politician who occupies the governor's office now was the moving force behind adoption of the 1974 law (it was an issue in his 1972 campaign for lieutenant governor) and has been a staunch defender of it since then. Perhaps it is time for Jim Hunt's 1976 campaign theme—a "new beginning"—to be applied to the Campaign Reporting Office.

The Presidential Primary
Sweeping Away Local Stakes

Thad Beyle

On May 6, 1980, the voters of North Carolina cast ballots for presidential hopefuls and for state and local candidates. The presidential primary and the regular party primaries for North Carolina offices were lumped together into one grand day of voting.

Many political observers feel that such an election has a negative effect on the state's political system, that state and local primaries should be divorced from the presidential primary. A growing number of political scientists contend that the presidential sweepstakes in primary states has a nationalizing influence on state campaigns—obscuring local issues, setting up coattail effects, and dissipating available campaign money, workers, and media attention.

During the 1970s, the North Carolina General Assembly has vacillated on the issue. In 1971, the legislature voted to hold the state's first presidential primary on the first Tuesday in May, 1972, to coincide with the regular party primaries for all national, state, and local positions. But this first combined primary apparently had sufficient negative effects to change the legislators' minds. The General Assembly decided to move the 1976 presidential primary to March and delay the regular state and local primaries to mid-August.

This shift, however, only raised new problems. Separate primaries cost the taxpayers more. The August primary probably gave an advantage to incumbents with higher name recognition and added a hindrance to challengers who had to get out a high vote in the peak of vacation season. The split schedule also extended primary politics over too long a time.

So for 1980 the General Assembly switched back to the first model with a combined presidential and state primary in early May. Because of the nature of the presidential primary campaigns this year [1980] some of the problems encountered in 1972 were absent (availability of money and workers), but the nationalizing effect on issues was more apparent. The debates over Iran, Afghanistan, inflation and presidential competency often obscured issues that candidates for governor, lieutenant

governor, and insurance commissioner raised. National and international issues will also influence state and local races in the fall general election. It is likely, therefore, that the 1981 General Assembly will again debate proposals for changing the North Carolina primary so as to disentangle the national and state primary process.

Changes in the presidential nominating process during the last decade have made state primaries the key element in selecting the Democratic and Republican candidates. In 1968, only 14 states held a presidential primary; this year [1980], 34 states sponsored such a vote—a 143 percent increase in 12 years. The nationalizing effect of this trend has spread across the country, not just into North Carolina.

The solution to the problems of combined national and local primaries seems to lie in changing the state election process to the off-presidential years. Some states have moved elections to even-numbered years in which there are not national contests, and have extended state executives' terms from two or four years, so that state and national elections would never fall on the same year. Others have shifted state elections to odd-numbered years, which accommodates states like North Carolina that elect state legislators biennially. Such a transition is difficult politically, since an extra election becomes necessary, but it can be accomplished. Illinois, for example, recently switched state elections to the even-numbered, off-presidential years. Illinoisans voted in a general election in 1976 for two-year terms. But no other state which switched years has had to hold an extra election.*

Some states began to implement this solution about the time others, such as North Carolina, were instituting a presidential primary. During the 1968-1980 period, when presidential primaries increased from 14 to 34, eight states switched their local elections to off years. In 1968, 21 states ran combined elections: by 1980, only 13—including North Carolina—still conducted combined presidential and state primary voting.

Shifting the state elections to off-presidential years could have significant positive results:

- State and national issues and personalities could be more effectively separated and voters could focus on just one set of issues instead of two;

The states that switched state level elections to non-presidential years are: (1948-1968) Colorado, Connecticut, Florida, Georgia, Maine, Massachusetts, Michigan, Minnesota, Nebraska, Ohio, Tennessee; (1968-1980) Arizona, Illinois, Iowa, Kansas, New Mexico, South Dakota, Texas, Wisconsin. (All but Illinois also switched from two-year terms to four-year terms for governors and hence did not have to hold an extra election.)

- The media would be able to maintain a steadier and more consistent focus on state or national issues and campaigns;
- Candidates, contributors, workers, observers, and voters would not be torn by competing national and state interests and loyalties; and
- The "coattails effect" of national political personalities would be minimized in state elections.

In North Carolina, the General Assembly could consider holding state-level elections in 1984 for limited (two-year) terms, followed by elections in 1986 and thereafter for regular terms for governor, lieutenant governor, and council of state positions. The General Assembly could restrict those who seek offices with limited terms (governor, lieutenant governor) to six years in office (1984-90) or to ten years, the short term and two full terms.

This system would still require state legislators, who have two-year terms, to run on presidential election years. To remove all conflicts, the General Assembly could vote to hold future elections in odd-numbered years. The phase-in period similar to the one described above could be determined for off-year, even-numbered years.

National and state political observers are decrying the decline of the political party and the rise of personality and media politics. The increasing use of the presidential primary might well have significantly reduced the importance of state parties and their leadership. Separating the presidential and state level contests could help resist any further declines in state political parties. Whether this change would allow state parties to recover lost ground, however, is not clear, especially in North Carolina where personality and factional politics predominate.

Before the General Assembly shuffles the primaries around again, serious attention should be given to new ways—tried and proven in other states—of disentangling federal and state politics and campaigns. Changing the state's electoral calendar would allow candidates, campaign workers, political reporters, and most importantly, the voters, to focus on real, local issues rather than overwhelming, less-controllable national and international situations.

Article II: The Legislature

The General Assembly is the oldest governmental body in North Carolina. Described in Article II of the state Constitution, the legislature is the electoral forum in which the interests of the state's residents are translated into law.

North Carolina has a bicameral legislature with the General Assembly consisting of a Senate and House of Representatives. Since 1835 the membership of the Senate has been set at 50 and that of the House set at 120. Both bodies are apportioned by population with members of both houses elected biennally from districts containing approximately equal populations. The General Assembly convenes in odd-year biennial sessions on the first Wednesday after the second Monday in January. The legislature may divide the biennial sessions into annual segments.

Reflecting the doctrine of "separation of powers," the legislative branch of North Carolina government is equal with, but independent from, both the executive and judiciary. The major role of the General Assembly is the enactment of general and local laws governing the affairs of state. In addition, the legislature provides and allocates the funds necessary for operating the government by enacting tax and appropriation laws, and conducts investigations into such operations of the state as it deems necessary for regulation and funding.

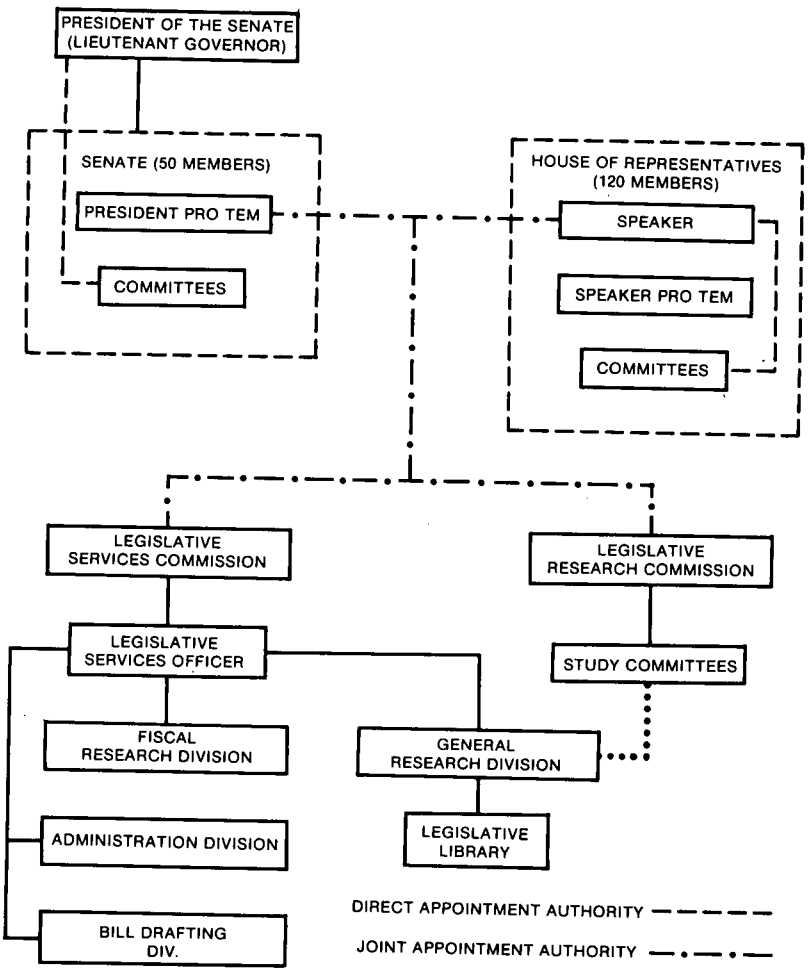
While the enactment of law depends upon votes by individual legislators, much of the actual drafting and research of legislation comes from committees composed of legislative members and their staffs. Committees are organized around subject matter headings and members do most of the work on the final version of any bill that is ultimately voted on by the entire body in committee. Senate committees are appointed by the lieutenant governor, who serves as the presiding officer of the Senate; House committees are appointed by the speaker of the House, who is elected from among the membership of the House.

Staff services are essential in assisting the members of the General Assembly. The Legislative Services Commission and Legislative Research Commission are two permanent staff bodies that perform various functions for the General Assembly that facilitate the legislative process. In addition, special study commissions can be established to investigate specialized subjects for the General Assembly, and standing committees are authorized to meet during interim periods for complete consideration of matters that confront them.

The following selections discuss the operation and make-up

of the legislature in North Carolina.

ORGANIZATIONAL CHART
THE LEGISLATIVE BRANCH



Legislative Leadership in 1981

Ferrel Guillory

"I think the legislative branch is the most important of all... much stronger, much better and much closer to the people than it was when I came here 20 years ago."
Rep. Liston Ramsey (D-Madison)

The legislators expected to be the most effective leaders in the 1981 General Assembly are, to a large extent, atypical lawmakers. They tend to be more experienced, less parochial, more partisan, less interested in another public office, and more interested in the legislature as an institution than their colleagues. Representatives Liston B. Ramsey, Allen Adams and William T. (Billy) Watkins and Senator Kenneth C. Royall, Jr. and Harold W. Hardison—all Democrats who are expected to have leading roles in the 1981 session—may seem like quintessential legislators to a casual observer. But close inspection makes clear that, as a group, they have certain attributes that set them apart. Each of these five persons has succeeded in the internal politics of the institution, has devoted considerable time to governing, and has a special inclination for exercising power and maneuvering within the legislative process.

The state legislature, a difficult community to lead at best, is composed of men and women who represent local constituencies but must set statewide policy. They are "citizen" legislators, part-time public officials whose attention is divided between state government and personal professions. In addition, the legislature's structure and rules make it seem designed more to stop than to enact legislation. For a bill to become law generally takes a majority vote in two committees and twice in both the House and Senate. Falling short of a majority only once at any point in the process can kill a bill. There are 71 standing committees, each a power center of sorts, within the two houses.

Because of the nature of the General Assembly and because of political tradition, the most important leader of the legislature is not a legislator at all but rather the governor. He influences the legislative agenda more than any leading lawmaker and, as the most visible state official, can marshall public opinion behind his

positions and programs. The governor loses in the legislative-executive power relationship in only one important aspect. He does not have veto power; acts of the General Assembly go directly into law.

On major issues, more often than not, the governor initiates and the legislature reacts. "There's really no room (for an alternative program)," says Lt. Gov. James C. Green. "The speaker (of the House) doesn't have a program," explains Ramsey, who is in line to become the 1981 speaker. And the legislator who does take the lead on an issue, to be effective, usually enlists the governor. "A legislator who's got a good plan would be a fool not to go to the governor," says Royall, a veteran legislator.

In reacting to the executive, the North Carolina General Assembly does not differ from the U.S. Congress, where committees seldom act on legislation without first soliciting the views of the president and his cabinet departments. Nevertheless, North Carolina legislators often remain jealous of their institution's prerogatives as a co-equal branch of government, including giving close scrutiny to the governor's initiatives. In the 1981 session, the legislator likely to be most forceful in asserting those prerogatives is the blunt, no-nonsense, yet unpretentious, man preparing to take over as House speaker, Liston Ramsey of Madison County.

Two things, in particular, illuminate the way in which the 61-year-old, nine-term legislator thinks. He is a mountain Democrat, who has been shaped by the often-fierce Democratic versus Republican politics of western North Carolina. And he views himself as a professional legislator and politician, while most other Tar Heel lawmakers still pay homage to the "citizen" legislator ideal. "I want to be professional at something," Ramsey says, chuckling.

A retired building materials merchant, Ramsey has more time than most legislators for government. He serves on the Advisory Budget Commission and the governor's blue-ribbon highway commission. Even when the legislature is not in session, he travels to Raleigh two or three times a month—a 570-mile round trip from his hometown of Marshall to the state capitol. "Obtaining and maintaining political power is his whole life," says a former legislator.

Yet Ramsey's ambitions have taken him as far as he wants to go, as he puts it, to the "top spot." "There is no other job in state government I'd accept other than being a House member and

being speaker," he says. Consequently, the 1981 General Assembly almost certainly will be free of the kind of tensions present from 1977-80 between Lt. Gov. Green and House Speaker Carl J. Stewart, Jr., culminating in Stewart's unsuccessful challenge of Green in the 1980 Democratic primary for lieutenant governor.

Ramsey will not compete with Green for statewide office. Moreover, the two men have been legislative allies in the past. When Green was speaker in the mid-1970s, he appointed Ramsey chairman of the powerful Finance Committee. Now, Green can hardly contain his glee at the prospect of Ramsey as speaker: "If you go back through history, I doubt you'll find a speaker and a lieutenant governor who were as compatible as myself and Liston Ramsey."

While Green and Ramsey indeed share many of the characteristics of traditional rural legislators, it would be a mistake to think of them as political twins. Ramsey, in fact, has a strong streak of New Dealism and populism absent from Green's tight-fisted conservatism. Ramsey has advocated tax cuts for lower income families, whereas Green has not been a champion of tax reform. He has supported the Equal Rights Amendment and gubernatorial succession, which Green opposed. And the new speaker is closer to Gov. James B. Hunt, Jr. than is the lieutenant governor, personally and in political philosophy.

"When it comes to taxpayers' money, I'm a conservative," says Ramsey. But he's quick to add, "In a rural county, with a low per capita income, these people fare better under a more liberal type of federal government.... Of course, it's the same for the state."

Ramsey's style of leadership may surface most visibly in his committee assignments. He might well try to prevent legislators from the banking, manufacturing, insurance, and other special interests from dominating the committees handling legislation affecting their businesses. "There will be a lot closer examination of the proposals by the special interest groups," says Al Adams, a Wake County legislator and a close Ramsey ally. Ramsey also favors legislators who will stand firm for the House position in budget negotiations with the Senate. Last session, says Adams, "With (Senate leaders) Hardison and Royall up there in the appropriations process, they (senators) were calling the shots... I'm sure Liston will take care of that situation."

Key appointees, says Ramsey, will be Democrats with seniority, but there will also be a fairly wide dispersal of

assignments. "I'm not going to let one person occupy three or four positions," says Ramsey. "If more House members are involved, then I will have been a good speaker." Such a dispersal allows Ramsey to favor a large circle of legislators, who in turn will be indebted to him, but it also keeps the speaker himself as the supreme power center in the House.

Ramsey will probably surround himself with co-leaders from a wide geographical and philosophical spectrum. House members mentioned as potential leaders under Ramsey are Billy Watkins, Allen Adams, George W. Miller, Jr., Gordon H. Greenwood, and Allen C. Barbee.

ON THE SENATE SIDE

While the House awaits a rearranging of its leadership with Ramsey moving in as a new speaker, the Senate faces four more years under the gavel of Lt. Gov. Green, a stern taskmaster who sets a drill-sergeant's pace for lawmakers. Technically, the lieutenant governor is not a legislator but a part of the executive branch with duties to be assigned by the governor. However, because of his political differences with Gov. Hunt, Green has had few executive duties.

His relationship with Hunt and his experience (eight terms as a state legislator before becoming lieutenant governor) have driven Green to concentrate on his role as presiding officer of the Senate. A tobacco warehouseman and a legislator of the old school, Green knows parliamentary tactics and relies on those lawmakers he trusts and who have supported him. Unlike some modern legislators who seek out and enjoy repartee with the media, Green deals with the press reluctantly. Reponsive to the conservative-business wing of the Democratic Party, Green's leadership is the "epitome of cronyism," according to a senator working under him for the past four years.

Looking back on his legislative career, Green takes pride in several specific acts which he shepherded through the General Assembly, such as the rewriting of the state's highway laws, which established a formula for deciding the number of paved secondary roads each county would get. "(That) germinated right here," Green recalls, his right forefinger tapping his temple.

But above all, Green has concerned himself with the state budget, not so much about what can be added to it, but what can be taken out. His campaign literature has depicted Green as "trouble" for the "big spenders in state government." In

particular, he stressed examination of the base or "continuation" budget, those appropriations that finance existing operations at their current level. He feels that government has expanded so fast in recent years that some programs which should be phased out have gotten permanent "line-item" status in the continuation budget.

"Money is always the principal concern of any legislative session," says Green. "It's more important to take a look at what's in the continuation budget than what's in the expansion budget." As House speaker, he set up the legislature's first Base Budget Committee and instructed it to reduce spending in continuing operations of state government. As lieutenant governor, he appointed a Ways and Means Committee to coordinate spending proposals of the Appropriations Committee and taxing measures of the Finance Committee. And for 1981, he has promised a renewal effort at cutting the continuation budget.

In past years, the competition between Green and Hunt has made the Senate a tense and unhappy place to work. In 1977, for example, they struggled over whether Green would become chairman of the state Board of Education. Green's chief legislative ally, president *pro tem* Craig Lawing, asserted at the time, "It's getting pretty hairy around here." Hunt finally prevailed, and appointed his choice, Dr. David Bruton. Then, in 1980, a Green-Hunt race for governor became a possibility, but Green decided to run for re-election.

While Green and Hunt clearly remain divided by personal styles and political philosophies, the competition between them seems to be relaxing. Hunt cannot run for governor again in 1984. And Green does not appear to be bitter about past battles. Concerning the state Board of Education chairmanship, for example, Green says, "I don't recall any struggle that Jim Hunt and I had...the press blew it up." A more harmonious relationship between the Governor and Lieutenant Governor should exist in 1981.

Green will likely depend on the same senators who have played leading roles under him in the past four years, including Harold Hardison, Craig Lawing, and Kenneth Royall, Jr. Of these three, Royall has the most influence on the General Assembly. But few outside of state government realize the extent of his power. "When it comes to the budget area, he is as close to a god-like figure as you can get," says a public official. "He accomplishes a lot by sheer mystique...he loves power."

Like Ramsey, Royall can devote more time to governing than

most legislators. The son of the United States' last Secretary of War, Royall developed a thriving furniture and household decorating business which his sons now direct. When the legislature is not in session, Royall spends at least three days a week on his governmental duties. Simply listing the bodies on which Royall serves gives some idea of the scope of his influence: the Advisory Budget Commission, the Legislative Service Commission, the Government Operations Commission, chairman of a mental health study commission, the governor's commission on the retarded, a committee on wilderness camps, and a committee on the hearing impaired. He also chairs the Southern Legislative Conference and serves on the board of the National Conference of State Legislatures.

Royall has extended his power because he knows how to master the most critical information for a legislator. "I spend a considerable amount of time studying what is going on," he says. "Being prepared is the name of the game." Since most legislators have neither the time nor the inclination to study things in the depth Royall does, lawmakers often go to him for details, for analysis, and for budget figures, which he can often quote from memory. His key position in the legislature gives him considerable influence on executive agencies as well. "If they're unreasonable, I don't mind telling them," says the Senator.

Sen. Royall shares with Rep. Ramsey a deeply-held interest in the legislature as an institution. Though he once briefly contemplated running for governor, Royall's tenure as a public official has been marked by efforts to strengthen the power of legislators. For example, he has promoted legislation to divest the lieutenant governor of the power to appoint Senate committees and to give the legislature greater control in the implementation of the state budget. Similarly, Liston Ramsey pays special attention to legislative rules and has the highest regard for the legislative branch because of its direct relationship with citizens. "We are the only tax levying authority," says Ramsey. In preparation for 1981, Ramsey plans to draft a manual for committee chairmen. Moreover, Ramsey rejects the notion that a special panel independent of the General Assembly should be set up to handle reapportionment—perhaps the most publicized issue before the 1981 legislature—on the grounds that it is the legislature's duty to redraw legislative districts.

THE MAJOR TASK—THE LEGISLATURE ITSELF

Dedication to the legislature as an institution, which many of the 1981 leaders have, is a particularly crucial attitude. "Leadership is required to help pull things together and set priorities... to counsel, stroke, and hold hands as well as take the heat and protect members on occasional issues," says Alan Rosenthal, director of the Eagleton Institute of Politics at Rutgers University. "It is required to negotiate with the governor on behalf of the legislature.... It is required to take responsibility for the legislature as an institution." But Rosenthal, in a recent speech to Florida lawmakers, noted a trend toward legislators increasingly using the legislature as a political stepping stone and seeking increased power and autonomy. This has contributed, he said, to a weakening of the legislature, which depends on teamwork among leaders and followers.

The North Carolina General Assembly has suffered, in the past, from leadership that was too parochial, that hoarded power, that was responsive to special interests and lacked a broad vision of the needs of the people of a relatively low income state. The state has generally had a cautious conservative legislature, pushed periodically to spurts of reform and progressive legislation generally by activist governors. Although it has made giant strides in improving its internal operations in the past decade, the North Carolina legislature is not immune to the trends—cited by Rosenthal—towards diffusion and individual initiative in which legislators worry more about their own political futures than about the future of the institution.

But in his speech, Rosenthal spelled out a challenge to legislative leaders for which lawmakers like Ramsey and Royall may be particularly suited. "Leaders have a special responsibility," he said, "not for pronouncements that get the attention of the state house press corps, but for quiet, slow, loving work. The major task for leaders, as I see it, is not education policy, not health policy, not social services policy, not even tax policy. The major task is the legislature itself—its role, its operation, its standing with the people, its future." This is not the kind of leadership that captures wide public attention, but it is the kind of leadership North Carolina could get from people like Liston Ramsey and Kenneth Royall.

Relying on Legislative Study Commissions

Susan M. Presti

Legislative study commissions play a pivotal role in the making of North Carolina policy. Meeting primarily between sessions of the General Assembly, they provide the legislature—a body of part-time lawmakers without full-time personal staffs—with an effective mechanism to study numerous issues in depth. Since the General Assembly meets for an average of only seven months every two years, extensive and dispassionate studies can rarely be completed during a legislative session. Study commissions provide the time for careful deliberation upon which legislation is often based.

The primary goal of a study commission is to assess an issue fully and to make recommendations to the General Assembly for dealing effectively with that issue. A legislative study commission usually takes one of four forms: 1) a subcommittee of the Legislative Research Commission (LRC); 2) an *ad hoc* independent study commission; 3) a standing committee of the General Assembly extended into the legislative "off-season"; or 4) in rare cases, a state agency.

The legislature assigns most topics either to the LRC or to independent study commissions. In 1973-74, when the General Assembly experimented with full annual sessions, many standing committees were extended between the sessions, thus reducing the number of interim study commissions. Subsequent legislatures have not been "full-time," and the number of interim study commissions, especially those within the LRC, has increased.

LEGISLATIVE RESEARCH COMMISSION

The LRC, the comprehensive study body of the General Assembly, has a standing mandate to investigate topics assigned to it. The LRC meets only while the legislature is out-of-session.[1] Established in 1965, it receives a biennial budget, which can be revised during the short session. The speaker of the House and the president *pro tempore* of the Senate serve as co-chairmen of the LRC, each appoints five persons from his respective chamber to

serve as members.[2] A House or Senate resolution can assign topics to the LRC; either LRC chairman can also direct the LRC to study an issue. Resolutions and chairman directives set a report date for the study, which must be completed before the opening of the designated session.

The Commission works primarily through sub-committees, grouped into broad categories such as education, human resources, and public service. The 12-person Commission allocates the LRC budget among its subcommittees; the LRC chairmen appoint the subcommittee members, usually legislators, and select a senator and a representative to co-chair each subcommittee. Subcommittees are staffed with research, legislative drafting, and clerical services by the Legislative Services Office. By law, the LRC subcommittees must be appointed within 15 days after the close of the legislative session.

An LRC member oversees each broad category to ensure that the subcommittees organize themselves, operate within their budgets, and complete their reports on time, and to serve as a liaison between the subcommittees and the full LRC. This provides a line of communication between the LRC leadership and the subcommittees, explains Sen. Charles Vickery (D-Orange), a Commission member. "The supervising member doesn't have any great influence (on the actual conduct of the study), but he does have some," says Vickery.

The subcommittee conducts its work, formulates its recommendations, prepares its draft legislation (if there is any), and submits its report to the LRC through the supervising Commission member. The Commission usually transmits the report unrevised to the General Assembly. "The LRC is a coordinating commission," says Carl Stewart, speaker of the House—and thus co-chairman of the LRC—from 1977 to 1980. As Stewart explains the process, the LRC delegates topics to subcommittees, receives subcommittee reports, and transmits them on to the General Assembly; it does not act as an advisory committee since it does not comment on the reports of its subcommittees.

But the LRC is not an apolitical body. By working through the supervising member, the leadership of the LRC can encourage a subcommittee to call certain individuals to testify at the subcommittee's meetings. And the LRC members, some of the most powerful and well-respected persons in the legislature, can act on their own or collectively to help ensure that a particular recommendation will be adopted by the General Assembly.

INDEPENDENT STUDY COMMISSIONS

Independent legislative study commissions differ from the LRC subcommittees more in form than in function. Each one is created by separate legislation.[3] Its membership may be appointed by the LRC chairmen, the governor, the head of a state agency, or anyone so designated by the legislation. Independent study commissions generally have fewer legislators as members than do LRC subcommittees of similar size. The members and staff of independent commissions are often experts in the particular area being studied. For example, the Community College and Technical Institute Planning Commission included a university president, community college officials, businessmen, legislators, and the director of the Institute of Government—appointments made by the governor, the president *pro tempore* of the Senate, and the speaker of the House.

Independent study commissions usually receive larger funding allocations than do LRC subcommittees and often have a longer period of time to conduct a study than does the LRC. The Commission on Prepaid Health Plans had a $60,000 budget for the 1979-80 fiscal year; the Governmental Evaluation (Sunset) Commission, established in 1977, is not scheduled to report to the General Assembly until 1981 and 1983. The reports and recommendations of independent study commissions often receive more publicity than do those of the LRC, making them generally more visible outside the legislature.

THE PERMANENCE OF STUDY COMMISSIONS

While the independent commissions tend to be more prestigious than the LRC subcommittees, the legislature depends on both. "There's always going to be two kinds of studies, long-term, complicated ones, and smaller scale studies," says Michael Crowell, an attorney at the Institute of Government who has followed the workings of the General Assembly throughout the 1970s. "The legislature needs a way to cope with both of them." If a subject merits the additional time, status, and expertise available through an independent commission or if state political leaders promote a subject strongly, this topic usually goes to an independent commission. Otherwise, observers and participants in the legislative process seem to agree, it will be referred to the LRC. "It is very difficult to get money for an independent study commission unless it is well justified," says Rep. Lura Tally (D-Cumberland), a member of both the LRC and the House

Appropriations Committee.

The General Assembly may renew the mandates of both LRC subcommittees and independent study commissions from session to session. The 1979 General Assembly, for example, extended the life of the Sports Arena, Revenue Laws, and Aging subcommittees of the LRC, all of which originated in previous sessions. The Local Government Study Commission, established as an independent study commission by the 1967 General Assembly, did not disband until 1973, and the independent Mental Health Study Commission has been operating since 1973.

The General Assembly looks upon the recommendations of its various study commissions with considerable respect. "Definitely a bill that's been researched has a better chance of passing," says Sen. W. Craig Lawing (D-Mecklenburg), co-chairman of the LRC. Stewart agrees: "The fact that it's gone to the LRC and it's been discussed tends to give more weight and credibility to a piece of legislation. Its chances of passage are greatly enhanced."

Over the past 15 years, the LRC has evolved as the "premiere interim legislative study device," says Terrence Sullivan, director of the legislature's General Research Division. The reliance on the study commission concept in general and the LRC in particular will probably remain constant as long as the North Carolina legislature continues as a "citizen," part-time body, and as long as the leadership of the General Assembly feels that the LRC is the most effective forum for considering most study topics. "There's got to be a mechanism for continuity and carry-over and for political reality to express itself," says Sen. Vickery. "The LRC provides that. If the LRC were not in place, something else would be."

Footnotes

1. The LRC may meet during a legislative session only to receive the report of the Administrative Rules Review Committee.
2. The 1979-1980 LRC members (all Democrats): Senators Henson Barnes, Melvin Daniels, Jr., Carolyn Mathis, R.C. Soles, Jr., and Charles Vickery; and Representatives Chris S. Barker, Jr., John R. Gamble, Jr., H. Parks Helms, John Hunt, and Lura Tally.
3. Because each independent study commission is created by individual legislation, the Appropriations Committee determines the funding allocation for every independent commission. In funding the LRC, the Appropriations Committee allocates an overall budget, but the Commission itself subdivides this total among its subcommittees.

The Budget Session
a permanent fixture?

Jack Betts

Twenty years ago this coming February [1981], the 170 members of the General Assembly convened for the last time in the old Capitol. In 1963, they strolled down the hill to a sparkling new marble, brass, and cinderblock mausoleum to conduct the peoples' business. The lawmakers settled into their new quarters in much the same way they had been settled in the old Capitol. They still came to Raleigh during January of the odd-numbered years, at a date fixed either by law or the Constitution. When they got good and ready, usually after five or six months, they left. Good and ready usually came a day or so after the Appropriations Committees finished work on the state's biennial budget, occasionally in May, a few times in July, but usually sometime in June.

During World War II, the sessions were abbreviated—January 6 to March 10 in 1943, January 3 to March 21 in 1945. By the 1950s, a five-month period was the norm. Occasional special sessions were called by the governor or the legislators to enact "emergency" bills, such as the Speaker Ban Law (1965), or to deal with a budget matter that couldn't wait for the next regular session to roll around in the odd-numbered year.

While legislators and governors have come and gone since the move 20 years ago, more permanent fixtures have arrived at the new legislative building. Professional staff members have been hired and computers installed. An electronic voting machine now records votes in the beat of a heart. And in 1973, the groundwork was laid for what may become one of the most important permanent fixtures of the future—the Budget Session.

Throughout the 20th century, Democrats had controlled the legislature and the governor's office. But in 1973, they were suddenly faced with their first Republican governor. At the same time, they had to make up an increasingly complex two-year budget which had reached $4 billion. Some say the legislature decided to come back the next year for a second session just to keep an eye on the Republicans in the governor's mansion. Others feel the growing budget brought them back. In any case, the General Assembly reconvened in January of 1974, the first

"regular" session in the 20th century during an even-numbered year. They stayed for three months before going home, apparently satisfied that the seat of government was in no undue risk of tumbling.

The next session, in 1975, ran to its usual five months, just as the recession was setting in. The economy remained stagnant throughout the year, causing state revenues to fall $288 million short of the two-year budget passed in 1975. In theory, the Advisory Budget Commission (ABC), the powerful budget-making committee of legislators and gubernatorial appointees, exists, among other reasons, to act as a safety valve in such situations, making certain interim budget changes as needed. But the legislators decided to make sizable budget cuts themselves—to come back in 1976 for a short session. It would be limited, they said, to the budget, and any other item that a two-thirds vote of each house wanted to take up. It would be, they said, the "budget" session.

But in that first official money meeting, the General Assembly took up matters other than just the budget. In 1976, medical malpractice insurance rates were causing a stir. Besides making the budget cuts—the reason they came back to Raleigh in the first place—the legislators approved a new way of insuring doctors. Then they went home.

In 1978, another phenomenon developed. When the Budget Session convened, supposedly for the purpose of reviewing the $8 billion biennial budget adopted the year before, there weren't any cuts to make. Quite the contrary. There was $279 million left in the kitty, from reserves and reversions (money appropriated but unspent). The honorables voted themselves a 25 percent pay hike beginning in the 1979 session and gave the governor a six percent raise. They found $7 million for the N.C. State Vet school and $8.5 million for a brand new state office building—one that would provide new quarters for the legislators themselves.

Just after the session closed, several lawmakers began realizing what had happened. "If we could have foreseen last year that we would have this $279 million credit balance, I would have said, no, let's not have this session," Lt. Gov. Jimmy Green said in June, 1978. "Let's leave that money in the bank as an emergency cushion against the sort of shortfall in revenue we saw in the 1975 session. When we in this state are fortunate enough to experience a credit balance at the end of a fiscal year, all this money does not have to be spent. Some funds ought to be placed aside, a reserve for a time when we are not so fortunate, or should be used to

reduce taxes.

The spending spree didn't consume the entire '78 session, however. There was also liquor by-the-drink. The Senate had approved local option liquor by-the-snort in the 1977 session. While the dry forces seemed to have had it whipped in the House, they had not forced the vote that might have killed it in the 1977-78 session. In the 1978 short session, called the Budget Session by the legislators, the liquor by-the-drink bill—still alive in committee—came up for a vote in the House. It was promptly voted down. But the next day, it was miraculously resurrected, just in time to be approved and passed into law.

LOBBYING THE BUDGET SESSION

The experiences of the '76 and '78 sessions could have served as an indication of what might surface in 1980. But during the regular 1979 session neither Lt. Gov. Green nor House Speaker Carl Stewart took any effective initiatives to put stricter limits on the companion 1980 Budget Session. At the completion of business in 1979, the legislators adopted a resolution to reconvene June 5, 1980 "for review of the budget for fiscal year 1980-81 and for consideration of other certain bills." The official session of the legislature never really ended between 1979 and 1980; it simply adjourned. Hence "other certain bills" could be considered in 1980, including those that had passed one of the houses of the legislature, reports from study commissions, and non-controversial local bills. Anything else would have to be approved by a two-thirds vote of each house.

When June 5 arrived, however, so did a resolution authorizing the legislature to consider 16 new bills—not bills that had some standing in committees, but totally new bills. The list included a couple of hot ones from the finance industry, long regarded as the most powerful lobbying group, along with insurance interests, in the legislature. Introduced in the House and Senate at the same time, the resolution for the bills required only a majority vote. To this day, no one is confessing to having come up with the resolution, or to managing it into a majority vote instead of the two-thirds prescribed for the Budget Session. Even though majority leader Liston Ramsey, who will be speaker of the House in 1981, refused to sponsor it, it passed. The finance bills went on the calendar and into the House Banking Committee. The Committee and the finance lobbyists began an intense struggle over credit legislation that had to run its course in the

three weeks anticipated for the Budget Session.

The money lobby sought authority to remove or raise the legal limits on rates for most types of loans, and for a time it appeared that a carefully crafted alliance of banks, finance companies, and businesses offering credit would succeed in winning these goals. But Gov. Jim Hunt pronounced his opposition to them, and Rep. J. Allen Adams of Wake County outmaneuvered former state Sen. John Jordan, the chief finance lobbyist, in the House Banking Committee, where most of the bills were killed. An almost audible sigh of relief filled the great halls of the building. Members had been grumbling for weeks that the finance industry had sought too much at too poor a time. Barely five months before an election is not when legislators want to vote on raising loan rates.

It was the finance lobby's first major defeat in the legislature in recent history, and opinion divided on what it meant. Some argued that if the banks could be beaten once, they could be beaten again, but the old hands took a more seasoned view. "They'll be back," said one knowledgeable legislative staff member. "And if the economy's in the shape it is now, they'll get what they want."

The finance lobby wasn't the only group using the Budget Session for special concerns. Gov. Hunt came to the short session

Courtesy of Duane Powell, News and Observer

with a package of budgetary proposals which a Republican might describe as a "wish list," especially in an election year. Astute and well-organized, Gov. Hunt did not miss the opportunity to tap the three-week Budget Session for some adjustments to the state budget. Most importantly, the Governor sought and obtained legislative authority to change the way of financing highway construction from a total allocation method for a project to a "pay as you go" system. While this might well be a more modern and efficient way of doing the state's business, the timing could appear suspect.

This change in highway financing created a $53 million budget surplus which had not existed when the legislators came to town. Putting this newly-created "surplus" with existing reserves and reversions, the appropriations committees expanded the 1980-81 budget by $358 million. While the November election made raising the interest rates on loans a difficult package to swallow, passing a hefty 12.5 percent pay package for teachers and state employees took no worry at all. Just as the "pay as you go" system might modernize highway financing, the teachers and state employees needed the salary boost to keep up with inflation. But these meritorious points are not the issue here. The three-week June session functioned in a much broader way than the stated purpose of a "review of the budget."

In 1976, the short session made budget cuts but also functioned like an emergency session, responding to the medical malpractice insurance crisis. In 1978, in allocating the extra monies available, the legislators expanded the Budget Session in such a way as to begin transforming the biennial budget process into an annual undertaking. By 1980, the Budget Session functioned as a short version of a regular legislative session, making annual budget decisions and considering totally new packages of legislation. Does this trend point towards eventual annual sessions of the General Assembly? Or do legislators now recognize that the Budget Session has evolved beyond its original purpose?

THE FUTURE OF THE BUDGET SESSIONS

John L. Allen Jr., the General Assembly's Legislative Services Officer, detects some unhappiness among many legislators about the continuing use of the Budget Session for other matters. "There are some reservations about the mini-

sessions," Allen says. "(The legislators) try to hold them to the basic things, but as you can see, they almost bust open."

Some legislators don't like dealing with so much shortly before general elections. Others are unhappy for the same reason enumerated by Green in 1978: if they didn't have to spend the reserves and reversions during the Budget Session, they'd have that much more money to allocate during the main budget-making process in the regular sessions.

State Sen. Harold Hardison, chairman of the Senate Appropriations Committee and politically close to both Green and Hunt, is weary of trying to do too much in so short a time during the Budget Session. "It was a good idea when it was originated," says Hardison. "It's a damn good idea when it was originated," says Hardison. "It's a damn good idea to have your budget reviewed every year. But not to spend everything you have. That just tears your reserves and your reversions up. If your budget needs some revisions, or some cuts, you can do it. But don't expand it, no sir."

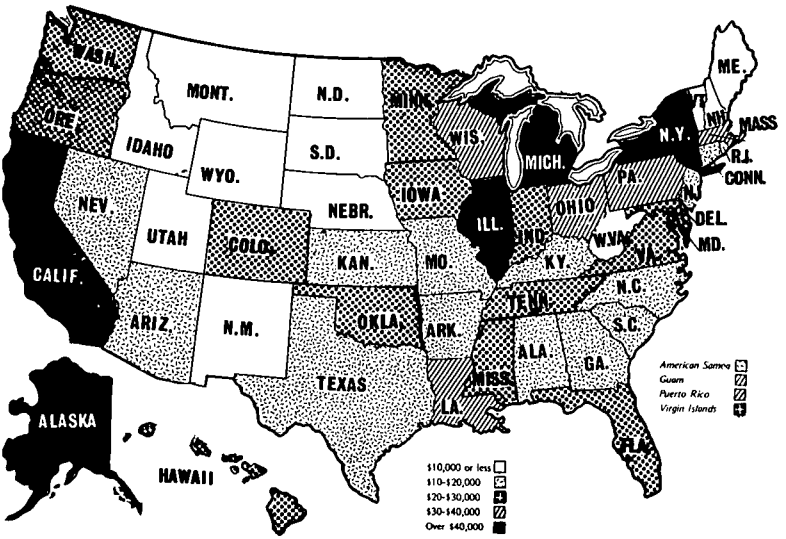
Other legislative leaders are also suggesting that the Budget Session should be limited to a strict budget review, with only critical legislation considered when necessary. Rep. Adams, a close ally of the new House speaker, may want to address this issue in the 1981 legislature. "If we could realistically limit it to the budget, if we could effectively deal with all our other bills in the regular session, making sure they got considered, then I'd be for it," says Adams. "The tendency now is to say we can finish a bill in the short session if we see it isn't going to pass during the regular session, and that's bad."

But Jordan, who served only one term in the legislature but who operates as if he were a senior member, disagrees. "I think that would be a mistake to limit it, because you increase the likelihood of special sessions. If you have a budget session, you should leave it open-ended for emergencies. And the legislature can touch base just about every six months. I think most of them probably feel that the budget session is very perfunctory anyway, since the budget they approve generally tracks what is recommended by the Advisory Budget Commission."

CONCLUSION

The N.C. General Assembly, like its counterparts in other states, will continue to grow in the size of its staff, the number of bills introduced, and the actual quarters it fills. But the notion of

1977-78 Biennial Compensation for State and Territorial Legislators



Map courtesy of the Council of State Governments, Lexington, Kentucky.

the citizen-legislator is a time-honored tradition in North Carolina, revered despite the fact that the General Assembly has a high turnover rate. Being a legislator takes too much time and often too much income from careers to avoid this turnover. The average North Carolina lawmaker got about $19,000 in salaries and expenses for the 1977-78 biennium, ranking the state 31st in the nation in compensation for legislators. The prospect of expanding the Budget Session towards the scope of a full session seems unlikely. Neither the sentiment nor the salaries for making the legislator a full-time professional exists. After the grinding work of passing the budget, the legislators are ready to quit Raleigh.

But the General Assembly may begin to change in ways that affect the Budget Session. "Most recently, legislatures have been... increasingly concentrating on governmental evaluation and oversight activities," says William Pound, director of state services for the National Conference of State Legislatures (NCSL). "This has not meant a turning away from legislative improvement concerns. It implies an evolution of these concerns from the removal of constitutional restrictions on legislative activity, compensation, and session time, to making more effective use of legislative time and resources."

In the *1980 Book of the States*, an annual publication of the

Council of State Governments, Pound writes, "The 1980s will almost certainly witness a continuation of this search for ways to better utilize legislative time. Both the attempt to maintain the role of legislator as something other than a full-time profession and the need to provide time for legislative oversight activities will require this."

If the national trend applies to the North Carolina legislature, in terms of finding better ways to use legislative time, then the focus of the Budget Session may indeed change from its recent evolution as a short, but otherwise regular session. Legislators may once again turn to the "real" regular session for completing all of its main legislative business.

Any attempt to do so will no doubt be met with strong opposition from the Governor, who has gotten much legislation passed in the last two budget sessions [1978 and 1980]. Many observers consider the office of governor in this state dominant over the legislature, despite the absence of a gubernatorial veto. Especially in the last two sessions, the Governor had influence because of the prospect of his serving a second term. But in 1981, Hunt becomes a kind of lame duck governor. His influence in the General Assembly will diminish since the 1983-84 session will be his last as governor. Setting the agenda for the 1982 Budget Session might be easier for legislators, knowing that strictly limiting the short session curtails the activity of the chief executive.

Twenty years ago, North Carolina began to modernize the General Assembly. The new building provided space for attorneys and secretaries, for computer terminals and supporting services. In 1981, the General Assembly expands again, into the new office building across Lane Street, just in time for more bills, larger budgets, and greater oversight functions.

But the question remains: what will become of the Budget Session? The legislators now have had enough experience with the short session to know what to expect in the future. The experience of 1980 completed the evolution from budget overview to full-scale activities. If the legislators do hope to curtail the 1982 Budget Session, they will approach the 1981 session with a determination to write a biennial budget and to complete the major business. If not, they will be aware of what the opening gavel might bring come June of 1982.

Lobbying for the Public Interest

Ruth Mary Meyer

During the winter and spring of 1973, Anne Taylor spent more time in the cinder block labyrinth of the General Assembly than in the comfort of her Raleigh home. She logged more hours on 'round-the-state telephone calls than in carpools for her children and got paid no more for attending countless governmental meetings than she did for cooking her family's dinners. But her efforts paid off. In the right place at the right time, she helped rescue the $11.5 million state parks appropriation from certain defeat by tapping a broad-based "environmental" constituency.

"The environmental coalition worked all night to bring our statewide networks into action," recalls Ms. Taylor, a lobbyist for the Sierra Club in 1973. "A deluge of phone calls and telegrams saved the bill." Like other "public interest" lobbyists, Taylor had begun to appear more and more frequently at legislative hearings and at the lawmakers' doors. The protests of the 1960s had turned into concerted activities "within the system" for the 1970s. New political groups championing a cause or seeking to bring about a reform mushroomed throughout the country. They descended upon the U.S. Congress and swept through the halls of state legislatures.

"It was a natural outgrowth of the activism of the Kennedy-Johnson era," says Rep. George Miller of Durham, a 10-year House veteran whose legislative career spans this period. "The country needed a respite from the years of civil rights strife and anti-Viet Nam war demonstrations, and this seemed like a more peaceful way to get things done, by working through the system."

While the numbers of "public interest" groups and lobbyists began growing in North Carolina during this period, they did not represent an entirely new genre of lobbyist for the General Assembly. The State Council for Social Legislation, for example, had lobbied for a wide range of social concerns since the 1920s, and the League of Women Voters had worked for legislative reforms since the 1950s, such as reapportionment of the General Assembly. But prior to 1970, the public interest lobbyist had almost always been a tangential force.

The escalation of public interest lobbying in the 1970s took

several forms. Some lobbyists worked for a broad range of social concerns, from prison alternatives to public kindergartens. Others focused on single areas of interest—the environment, womens' issues, welfare rights, labor needs, consumer complaints. At the same time coalitions emerged, tapping the constituencies of many public interest groups, most notably around the Equal Rights Amendment and tax reform issues. Finally, near the end of the decade, lobbies became active around single-shot issues such as abortion.

As public interest lobbyists multiplied, so did the study of this phenomenon. Writing in *Lobbying for the People*, published by Princeton University Press in 1977, Jeffrey Berry defined a public interest lobby as one that "seeks a collective good, the achievement of which will not selectively and materially benefit the membership or activists of the organization." This definition excludes groups which engage in some public interest lobbying but have as their primary purpose the benefit and protection of their membership. The N.C. AFL-CIO, for example, worked for a wide range of issues during the 1970s, including the ERA and public kindergartens, but it acted as a special interest lobby when fulfilling its principal role of promoting labor legislation. Conversely, groups considered public interest lobbies by this definition might sometimes work for legislation of direct benefit to their constituency. For example, the N.C. Council of Churches, whose legislative agenda embraced many social concerns through the decade, occasionally functioned as a "church" lobby, protecting such "church" concerns as the tax exemption for a minister's residence.

Establishing criteria for deciding which groups function as public interest lobbies leads to a more complex set of questions. In the August 24, 1980, issue of *The New York Times Magazine*, the Washington-based journalist Tom Bethell examined the 10-year history of Common Cause, a group which has worked primarily to reform campaign financing, committee seniority systems, and other governmental systems. Bethell attempted to show how some of the legislation Common Cause sponsored early in the decade has lead to abuses rather than to reforms. To support a major point, Bethell quotes Adam Smith, the 18th century social philosopher. "By pursuing his own interest (the individual) frequently promotes that of the society more effectually than when he really intends to promote it," Smith wrote over 200 years ago. "I have never known much good done by those who affected to trade for the public good." Bethell gives the founder of Common

Cause, John Gardner, a shot at responding to the laissez-faire sentiments of Smith: "I have said since we (Common Cause) began that the special interests are legitimate. Most people belong to one. The right to influence Government is clear in the right-to-petition clause of the First Amendment. Where we balk is that we don't want them to use money in a way that corrupts the public process."

While Bethell focuses on the national level, his most probing question applies to North Carolina as well. "Does public-interest lobbying make good law?" Bethell asks. In order to answer that question for North Carolina, one must first understand the role of the public interest lobbies in the 1970s—the kind of legislation they helped get passed, the ramifications of their successes, and the reasons for some failures. Then a reader cannot only grapple with the question Bethell raises, but might also have some insights into the future. Will public interest groups be able to sustain their influence in the political climate of the 1980s? If so, how will they be most effective?

WHAT ROLE IN SUCCESS?

In the early 1970s, influential legislators like Willis Whichard of Durham shepherded a series of environmental bills through interim study commissions and into law. The N.C. Environmental Policy Act, the Environmental Bill of Rights, the Mining Act, the Pesticide Law, and the Clean Water Bond Act all passed in 1971. In 1973, besides voting $11.5 million for state parks, the General Assembly passed the Sedimentation Control Act and the Oil Pollution Act. Despite these successes, a difficult battle remained in 1974 over a complex piece of land-use legislation, the Coastal Area Management Act (CAMA). Whichard, the bill's chief sponsor, knew CAMA needed a favorable report from the interim study commission to boost its chances of success. Getting such a favorable report required the assistance of public interest lobbyists, people like Anne Taylor.

"They were very helpful in orchestrating the regional hearings on CAMA," remembers Whichard, now a judge on the N.C. Court of Appeals. "Members of the legislature simply could not go out and look for people to testify. The environmental groups did this for us. But there is no way environmentalists could have pushed this bill through alone. They simply don't have that kind of influence. Put them together with the times being right, the executive support we had for the bill, and

favorable economic conditions—then their support adds a very positive dimension."

In 1975, Senator William Creech of Raleigh sponsored landmark legislation providing for "mainstreaming" into the public school system many handicapped children who were previously excluded from attending regular classes. Asked how much the support of public interest groups had helped, Creech said, "Unfortunately, I never felt it was a *cause celebre* with any of them (public interest lobbyists), which the bill deserved. They helped, of course, but the ultimate success of the bill was mostly due to the work we (legislators) did ourselves."

Most public interest lobbyists agree with the sentiments expressed by Whichard and Creech to a certain point. But they feel that "the times being right," as Whichard put it, didn't just happen. "Certainly it's true," says one lobbyist, that we wouldn't get anywhere pushing bills that neither the legislature nor the public are ready for. "But," she adds, "it's often our spadework in educating both the public and the legislators that brings them to this point."

By spotlighting areas where reform is needed, public interest groups have helped to shape public awareness of problems and to prepare the way for legislation which addresses certain issues. At the same time, such groups have offered citizens concerned about highly visible problems—such as the PCB spill along North Carolina highways—a channel through which to act and a means of exerting political muscle through collective action. Whether functioning as a prophetic voice or as a vehicle for wide-ranging citizen expression, these groups have had their greatest political impact when they involved the widest constituent support. One of a public interest lobbyist's most vital tasks has been to act as a communicator with the membership of the organization and to bring forth letters and telegrams from home districts at critical stages of a bill's progress.

During the 1970s, public interest groups have been the driving force behind a wide range of successes—from consumer and environmental bills to prison reform and day care licensing (see Success Stories in the Public Interest at the end of this article). Organizations have also lost sustained battles over such controversial measures as abolition of the death penalty, no-fault insurance, merit selection of judges, a bottle recycling bill, and a statewide land use plan. These remain on the agenda as "unfinished business."

Two of the most publicized failures came despite the joining

together of public interest forces into coalition efforts—North Carolinians for Tax Reform (26 organizations) and North Carolinians United for ERA (49 organizations). The tax reform group formed in 1973 behind proposals put forth by Sen. McNeill Smith which emphasized removing the sales tax on food. The ERA coalition, active throughout the seventies, has depended upon many persons already involved in broad public interest efforts, such as members of the League of Women Voters and the American Association of University Women. Others joined the pro-ERA coalition because of strong feelings on this single issue.

The successes and the failures of the public interest groups point towards a distinctive pattern of lobbying. Most of the successes involved a great deal of public education as well as persistent lobbying efforts over several sessions of the legislature. Similarly, what have been listed as failures might well have served a valuable educational function among the legislators and with the public.

Has the legislation these groups have helped to produce really turned out to be in the public interest? Common Cause received wide praise for the election and governmental reforms it helped to bring about, for example, but these same reforms may have resulted in unintended consequences. Political action committees (PACs) have proliferated, apparently sapping the strength of political parties and creating new election dynamics at both state and federal levels.

Rigid reporting requirements may have spawned more secretive campaign finance systems than existed prior to the reform being passed. And single-issue interest groups have become prominent, and at times fearsome, factors in elections across this state as well as the rest of the nation.

While disclosure of the source of contributions still meets with wide approval, civil libertarians and others have called the limitations on the amount of contributions an infringement on the right to free political expression. Common Cause still stands behind these limitations as a means of curbing the influence of wealthy contributors, but recognizes that they have caused some new abuses. These, the group contends, should be addressed through new reform legislation as they become apparent rather than by scrapping the limitations, as some advocate.

Reforms brought about by the work of environmental groups have also drawn criticism for adding to production costs and making U.S. products less competitive on the world market. The increased paperwork generated by environmental impact

statements and other required reports have forced industry to take on added personnel and caused the government bureaucracy to grow. While conceding some negative effects, most environmentalists remain convinced that these procedures safeguard the health of citizens and protect the environment for future generations. Responsible industry spokesmen contend, on the other hand, that the same results could be obtained with less costly and time-consuming methods.

Some critics as well as some supporters of public interest lobbies feel these groups may have "peaked" in their effectiveness during the 1970s and indeed, conservative trends, the loss of seasoned leadership, and declining volunteerism may make public interest lobbies a less powerful force in future sessions of the General Assembly. "The times are less turbulent now," says Sen. Gerry Hancock of Durham, former Common Cause state chairman and lobbyist. "People are less willing to look to government for solutions."

Most observers of the General Assembly consider it a more conservative body than in recent years, less open to the social and consumer legislation public interest groups have traditionally worked for. Many of the legislators who worked closely with public interest groups, such as Willis Whichard and McNeill Smith, have left the legislature. "If I were going back to the General Assembly now," says former League of Women Voters lobbyist Barbara Smith, "I would seek out conservative legislators who at least see the problems if not necessarily the same solutions." Sen Hancock adds, "It's going to be particularly incumbent on public interest groups to demonstrate as much interest in efficiency and responsible management in government as they have (shown) about other issues in the past."

Loss of leadership to jobs in state government and elsewhere may also hamper public interest lobbying. Special interest lobbyists enhance their effectiveness by building up contacts, friendships, and trust in the legislature over a long period of time, which serves them and their clients well. Public interest lobbyists, in contrast, have a high turnover rate. Most cannot afford to work fulltime for more than one or two sessions as a volunteer or at the modest salaries usually offered, no matter how great their commitment. Some of these people who had developed considerable expertise went into state government jobs at the beginning of the Hunt administration and are now pursuing their goals from inside state government. Anne Taylor, for example, now works in the state Department of Natural Resources and

Community Development regulating some of the laws she helped get passed. While Taylor and others can play an important role "on the inside," they can no longer be outspoken advocates for their causes. They have a new set of political constraints. At the same time, the public interest groups have lost some of their most capable leadership.

Ten years ago there would have been an abundance of new talent to replace those who have moved on. Today, the near disappearance of the full-time volunteer limits the ability of public interest groups to function as they have in the past. While some groups such as the Council of Churches employ staff and a paid lobbyist, others have traditionally relied completely on volunteers. Many of those in the latter category are now trying to come up with funds to pay the people who will take their causes to the legislature. "For the first time ever, we have put into our annual budget a stipend for our lobbyist," says Marion Nichol, League of Women Voters state president. This stretches already tight resources to the limit, and in today's depressed economy contributions to political groups, which are not tax deductible, are shrinking.

Some of these difficulties may explain the proliferation of the "single issue" lobby groups during the latter half of the 1970s. At a time when both volunteers and money are scarce, it is easier to get both committed to a single, passionate issue than it is to a broad legislative program. The effort is focused, understandable, and prone to make people take sides, all of which is appealing to individuals with multiple demands upon their time. The issues these groups rally around are often highly emotional: pro- and anti-ERA, pro-abortion vs. pro-life, pro- and anti-liquor by-the-drink, pro- and anti-nuclear energy.

Some public interest lobbyists, however, do not feel that the causes for which they have worked are on the decline. They believe that citizen effectiveness in government is maturing and may be even more effective in the future, that single-issue groups may be the most visible but not the most persevering. Taking knowledge gained as a citizen activist into the systems that administer the laws offers a new stage for influence, some believe. At the same time, some public interest constituents are expanding their activities away from a legislative emphasis to regulatory issues, locally controlled enterprises (especially in the energy area), and monitoring the administration of the many laws already passed. "Throughout the 1970s, environmentalists gained sophistication," says Anne Taylor. "I wanted to be on the

inside to try to make all those laws work. How they are implemented is the key to it."

Taylor does not see herself as an isolated example of a public interest lobbyist who has remained active in a different setting. "Environmentalists will be an even more recognizable constituency during the 1980s." She points to a September, 1980, meeting with Gov. Hunt to illustrate her point. "Over 200 environmental leaders came to the reception," she says. "They demonstrated an awareness, a seriousness, and a sophistication far greater than in past years. I am convinced that the environmental lobby is having a strong impact on the environmental ethic of the people of the state."

CONCLUSION

Public interest groups in North Carolina have been a constructive force in the passage of progressive legislation over the past decade. They will undoubtedly continue to be, especially if they choose issues which strike a responsive chord with citizens and are politically attainable. Long-standing goals are not likely to be abandoned, but some might be addressed more successfully in public education campaigns than in the General Assembly. Monitoring the laws that have been passed has become an important new function for public interest organizations, and may play an even greater role in their future activities.

Public interest groups continue to give a voice to concerned citizens who otherwise would have none. In the process, they tend to train some able political leaders for the future and to provide a balance in the General Assembly to the special interest lobbies, which would otherwise predominate. While critics may always regard them as "idealistic 'do-gooders,'" they play an important part in representing citizen interests in the lawmaking process.

"The information that the public interest groups are able to put in my hands is invaluable," says Rep. Miller. "To me that is the best thing they do. That forms the basis of my willingness to go to bat for an issue and convince other legislators."

SUCCESS STORIES IN THE PUBLIC INTEREST

During the 1970s, the number, size and activities of public interest groups in North Carolina greatly increased. Below is a

description of the principal public interest organizations active in the General Assembly during the last decade (in alphabetical order). Included is a synopsis of their major successes. (This is not a definitive list of groups but rather a representative sample.)

Carolina Action: Although not primarily organized for statewide lobbying, Carolina Action does on occasion appear at the General Assembly to lobby for certain issues. And the organization has sometimes maintained a paid lobbyist there. Attempting to channel the collective power of low and moderate income people in the political process, Carolina Action has worked on issues such as tax and utility rate reform which would transfer the burden to those most able to pay. In 1977, they succeeded in getting "lifeline" rates for senior citizens receiving social security payments. In 1977, along with Insurance Commissioner John Ingram, they supported a successful effort to get "clean risk" auto insurance, removing penalty fees for those with clean driving records. The group has some 2,300 families as members.

Common Cause: Founded by John Gardner in Washington in 1970, this group has focused on reforming the governmental processes to make them more open and accountable at the federal and state level. Common Cause first lobbied in North Carolina in 1972; today the state chapter has about 3,000 members. Many state legislators consider this group a moving force behind the Campaign Finance Reporting Act (1974), the Legislative Ethics Act (1975), the revised Lobbyist Registration Act (1975), the installation of electronic voting equipment in the General Assembly (1975), the Sunset Law (1977), and the revised Open Meetings Act (1979).

League of Women Voters of North Carolina: The state chapter was founded in the 1920s, was dormant during the Depression and revived after World War II. Active in the General Assembly since 1951, the 1,400-member League has generally played a supportive role for many bills rather than a leading role with any one. In 1971, however, the League did originate a bill to ratify the 19th Amendment to the U.S. Constitution (women's suffrage). Taken tongue-in-cheek even by some League members at the time, it has served a purpose during the repeated attempts to ratify the Equal Rights Amendment, reminding legislators that their predecessors' fears about this once volatile issue had proved to be groundless. The League's strong involvement in the ERA campaigns during each legislative session of the 1970s has

diverted some of its energy from other parts of its legislative program. Nevertheless, it has played an active role in the environmental coalition and lobbied for a number of other social issues.

N.C. Consumer Council and Consumer Center of N.C.: The primary lobbyist for these groups during the 1970s was Lillian Woo. Others such as Rep. Ruth Cook, formerly the State Council for Social Legislation lobbyist, and Wilbur Hobby, president of the N.C. AFL-CIO, joined Ms. Woo in working to keep interest rates down on small loans and to watchdog specific consumer issues. For example, in 1975, Ms. Woo helped get a bill passed that allows a monitoring of the amount pharmaceutical companies spend in the promotion of their products through free drug samples to physicians. "It was important to find out how much pharmaceutical companies were adding to product cost through this type of promotion," explains Woo. Another important success was the passage of the Retail Credit Installment Act, which protects the buyer using installment sales plans (1971).

N.C. Council of Churches: Throughout the 1970s the Council has been represented by Collins Kilburn, one of the most respected and durable of the public interest lobbyists. The Council represents 27 ecclesiastical bodies from 17 denominations, some 6,500 congregations and 1.4 million church members. It has concentrated on improving the prison system, working on such issues as community-based alternatives, fair sentencing legislation, and improvement of prison facilities and services. Speaking of the Fair Sentencing Act of 1979, Kilburn says, "That act would have passed anyway because it was the Governor's bill, but I definitely think we made some impact on the length of the sentences." The Council also claims credit for an increased appropriation in 1977 expanding the number of prison chaplains from 3 to 15.

Parent-Teacher Association: The PTA, another group that predates the 1970s, focuses its legislative efforts chiefly on the quality of public education and the health and welfare of children. In the past decade, the PTA helped in the lowering of class sizes and a number of improvements in school bus safety. It worked for the Equal Education Opportunities Act and lent citizen support to the Governor's primary reading program and competency testing bills (1977). Lobbyist Jan Holem calls the PTA a "sleeping giant" politically. With 212,000 members statewide, its clout could be enormous if its membership could be fully mobilized behind their programs.

Public Interest Research Group: PIRG, founded in 1972, now has chapters on seven university campuses (six of them at private colleges). Students themselves do the digging to find issues needing attention, then select their legislative priorities before each session of the General Assembly. Their early issues were an ophthalmologist bill concerning the pricing of eye glasses and support of the state OSHA bill (1973). In 1979, they spearheaded the passage of a generic drug bill which allows pharmacists to fill prescriptions with cheaper generic drugs if authorized by the physician and requires prescription blanks to provide a space for this authorization.

Sierra Club and Conservation Council of N.C. (CCNC): These two groups, together with the League of Women Voters, formed an effective environmental coalition throughout the 1970s. The Sierra Club, a national organization of over 150,000 members (2,500 in North Carolina), began in 1892 in California under the leadership of conservationist John Muir. Among other achievements, the Club was instrumental in helping to create the National Park Service and the National Forest Service. Active in the General Assembly throughout the 1970s, the Sierra Club has often provided technical information to legislators. The 500-member Conservation Council, launched early in the 1970s, has usually taken a more activist stance by initiating litigation efforts and proposing far-reaching conservation legislation. During the first half of the decade the General Assembly was literally spitting out major environmental bills during each session, and the coalition vigorously supported all of them. (The major ones are mentioned in the text of the article). The second half of the decade was chiefly a holding action, fighting off attempts to weaken or repeal the laws already passed. The victories of 1971, 1973, and 1974 made North Carolina a national leader in environmental legislation.

State Council for Social Legislation: This coalition of over 20 state organizations, ranging from the N.C. Library Association to the N.C. State Federation of Women's Clubs, has lobbied for various social concerns in every General Assembly since 1921. Rep. Ruth Cook of Wake County, the Council's lobbyist for four sessions before she became a House member in 1975, engineered the Council's most significant success in recent years: mandatory licensing of day care centers (1971). In 1967, the General Assembly defeated the proposal but established a study commission on the topic. During the two-year study, several legislators became advocates of the bill, and in 1969, the study

commission recommended mandatory licensing. But still it failed. Finally, in 1971, it passed, demonstrating some critical aspects of successful public interest lobbying—education of legislators, patience, and persistence. Other significant successes include mandatory reporting of child abuse and neglect (1971) and the Bill of Rights for the mentally ill (1973).

Campaign Financing, Ethics Act & Open Meetings

Conflicting Interests for Citizen Legislators

Bertha (B) Merrill Holt

> In framing a government which is to be administered over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.
>
> James Madison, Federalist Paper Number 51, 1788

At the dawn of the republic, James Madison recognized the need for ethics legislation in America. A student of colonial governments, Madison might have reflected on the 1757 campaign that George Washington waged for a position in the Virginia House of Burgesses. Washington allegedly won his seat by doling out 28 gallons of rum, 50 gallons of rum punch, 34 gallons of wine, and 46 gallons of beer.

By the bicentennial birthday of the nation, the American voters were probably more skeptical of their politicians than at any point since Madison first contemplated how the government might "control itself." Watergate had destroyed the hope that Thomas Jefferson had expressed 200 years before, that "the whole art of government consists in the art of being honest." In the wake of Watergate, the Congress and state legislatures passed the most dramatic spurts of ethics legislation ever codified into American law.

During the 1970s, the N.C. General Assembly attempted to regulate through statute that group of people perhaps most difficult to oversee in the entire state—themselves. In 1973, the legislators passed the Campaign Finance Reporting Act,[1] in 1975 the Legislative Ethics Act,[2] and in 1979 an expanded and updated Open Meetings Law.[3] This body of statutes, at the least, enables today's voters to make more informed decisions about elected officials than were possible in 1972. At the most, the laws require elected officials to function at standards higher than those expected in everyday business, to reveal their personal

finances, and to be sensitive to the inherent conflicts of interest for "citizen" lawmakers, persons who divide their time between the state's business and their personal careers.

Some feel that, collectively, these laws have already gone beyond what ethics law should do—inform the electorate so that the burden of honest government rests on the voters as much as the officials themselves. Advocates of more controls argue, on the other hand, that ethics regulations should not only inform citizens but also protect them by including specific prohibitions and restrictions which prevent special interests from using the law-making process for their own advantage.

In the General Assembly, the legislators concerned about ethics seem to agree on one thing at this point: we have a lot of relatively new legislation on the books, let's try to make these laws work before passing any more. The existing laws do not seem to have raised the level of public trust in government. Why should more legislation build more trust?

But while we may not need more ethics legislation at this time, we do need an increased awareness of ethics and the way in which the existing ethics laws function. Legislators, the media, and the public need to go through an education process about ethics. One way to begin that process is to understand exactly what the existing laws say.

THE STATE OF THE LAW

The Campaign Finance Reporting Act (1973) specifies the way state and local campaigns may be financed and requires strict reporting processes for both contributions and expenses. (See "Major Provisions" section.) The State Board of Elections administers the Act; various district attorneys enforce it, depending upon the county of infraction. This Act makes a great deal of information available to the public which could formerly be kept secret. The campaign reports, however, do not have to include the profession or business of individual contributors, which makes a full assessment of the influence of contributors difficult.

Provisions of the Act also attempt to eliminate the ability of large contributors—both individual and organizational—from dominating campaign spending. These provisions have resulted in the rapid growth of political action committees (PACs). A PAC provides a mechanism through which employees or members of corporations, business entities, insurance companies, labor

unions, or professional associations can contribute to a candidate. All of the above groups are prohibited from making contributions directly to a candidate.

The Legislative Ethics Act (1975) went a step further, establishing for the first time in North Carolina standards of conduct for the legislators themselves. The Ethics Act has three primary components:

1) It defines what constitutes bribery, prohibits a legislator from using for personal gain confidential information which was received because of his position, and prohibits a legislator who has an economic interest which would impair his independence of judgment from acting in a legislative matter to further his interest.

2) It requires each candidate for nomination to the General Assembly as well as all elected legislators to file a statement of economic interest with either the county Boards of Election (candidates) or the Legislative Services Office (where legislators must file every other year). These statements are open to the public. (See "What Must be Disclosed" section.)

3) It creates a nine-member Legislative Ethics Committee to administer and enforce the Act. The chairman of the Committee alternates each year between a representative and a senator. Of the other eight members, the Senate and House each get four; they are selected from lists submitted by majority and minority leaders in each chamber. (See "Powers of the Committee" section.)

In 1979 significant revisions in the state's Open Meetings Law passed the General Assembly. This "sunshine legislation" requires most meetings of public officials to be open to the public, but contains some notable—and controversial—exceptions such as meetings of the Advisory Budget Commission and the Council of State. In the long run, open meeting legislation may prove to have more influence than any other ethics-oriented law in raising the ethical standards of elected officials.

In addition to these three pieces of legislation, there is a Governmental Ethics committee in the House and a North Carolina Board of Ethics in the executive branch. In 1979, House speaker Carl Stewart established Governmental Ethics as a "select" committee. Liston Ramsey, who is expected to be the House speaker in 1981, plans to upgrade the committee from "select" to "standing," giving it a more permanent position in legislative affairs.

In 1977, Governor James Hunt established the N.C. Board of

Ethics by issuing Executive Order Number One. The Order requires that certain executive branch employees and appointees publicly disclose financial interests annually. Voters do not have the direct control over appointed officials that they do over those who are elected. Hence, providing financial information may not be as effective a deterrent to conflict-of-interest situations for administrative personnel as it is for elected officials. The N.C. Board of Ethics can help to watchdog ethics problems within the administrative branch of state government by identifying potential conflicts and recommending remedial action.

Despite these laws and committees, enforcement of ethics has been difficult. Legislators, the media, and the public often do not understand the sentiment behind the ethics law. Because members of the General Assembly are "citizen" legislators, they must often call upon colleagues who have expertise in an area for advice and assistance concerning an issue under consideration. Legislators who are attorneys for insurance companies, for example, may know best how insurance functions. Because most legislators support themselves in a professional enterprise which inevitably is affected in some way by state law, almost all of them face potential conflicts-of-interest in the lawmaking process. The Ethics Act attempts to address conflicts within this body of citizen lawmakers. "The real question you must look at is, 'Have they profited in a way someone else couldn't?'" says former Sen. Willis Whichard, now a judge on the N.C. Court of Appeals.

Since the Legislative Ethics Act passed, only one conflict-of-interest complaint has been filed—against a member of the House. In that instance, the Legislative Ethics Committee held a hearing and exonerated the member. The voters in the home district, however, did not re-elect this member to the next General Assembly. The people have the final judgment, after all, to "hire" their representatives and to "fire" them. But short of hiring and firing, the quality of lawmaking can improve as a knowledge of ethics becomes more widespread.

ANTICIPATING CONFLICTS-OF-INTEREST

In January of this year [1980], the Center for Legislative Improvement (LEGIS/50) sponsored a workshop for the members of the House Select Governmental Ethics Committee and the Senate Rules Committee. Part of a five-state Legislative Ethics Project funded by the National Endowment for the Humanities and the U.S. Office of Personnel Management, the

seminar was held, as LEGIS/50 puts it, "to assist citizen legislators in coping with the ethical dilemmas that arise during public service." LEGIS/50 used video-tapes to depict conflict-of-interest predicaments which citizen legislators have faced in other states. The 18 members of the General Assembly who attended completed questionnaires about the situations and discussed the ethical dimensions of each. Most felt the exercise was a valuable tool.

Plans for an orientation seminar for new 1981 legislators are now underway. This conference would utilize such aids as the videotapes from the LEGIS/50 meeting. Plans are also being made to utilize the services of the National Conference of State Legislatures for a workshop designed especially for the N.C. General Assembly; this session would analyze the status of the state's ethics legislation.

Anticipating conflict-of-interest situations for citizen legislators—and dealing with such situations when they arise—is not an easy task. American governmental bodies face real dilemmas in the world of ethics, perhaps best identified in a 1962 speech which former Chief Justice Earl Warren delivered, called "Law Floats in a Sea of Ethics." In it, he said: "Not everything which is wrong can be outlawed, although everything which is outlawed, is, in our Western conception, wrong. For many years, legislatures and courts have endeavored to define for corporate and government officials what constitutes a conflict between their public responsibilities and their private interests. None has yet been able to state in legal terms rules that will at the same time afford both freedom of dynamic action by the individual and protection of the public interest."

Footnotes

1. Commonly known as the Campaign Finance Reporting Act, its official name is An Act to Regulate Contributions and Expenditures in Political Campaigns. See Chapter 1272, 1973 Session Laws, 2nd Session, 1974.
2. See Chapter 564, 1975 Session Laws.
3. See Chapter 655, 1979 Session Laws.

MAJOR PROVISIONS OF CAMPAIGN FINANCE REPORTING ACT

- Anonymous contributions and contributions made in someone else's name are prohibited.
- No contributions over $100 can be made in cash.
- Only the campaign treasurer can accept contributions and appropriate funds.
- No individual or political committee can contribute more than $3,000 to any candidate or political committee.
- Violations can result in fines and imprisonment for contributors as well as candidates.
- An out-of-state contribution over $100 must be accompanied by a written statement containing the name and address of the contributor.
- Contributions records must include names and addresses of out-of-state contributors over $100 and all in-state contributors over $50. Expenses must be reported in detail by type and amount. All media payments must be made by check, each item recorded separately.
- Corporations, business entities, insurance companies, labor unions, and professional associations cannot make any contributions, cannot use money or property, and cannot reimburse any organization or individual for money and property-use on behalf of, or in opposition to, any candidate or political committee—or for any political purpose.

See NC. General Statutes 163-278.1 through 163-278.26.

POWERS OF LEGISLATIVE ETHICS COMMITTEE

- Prepare forms for and receive statements of economic interest.
- Prepare list of ethical principles and guidelines to aid legislators in dealing with conflicts of interest.
- Identify potential conflicts of interest and suggest rules of conduct.
- Advise committees regarding conflict problems in considering specific legislation.
- Issue advisory opinions on specific questions raised by individual legislators.
- Investigate complaints both on own motion or by formal public hearing (includes subpoena power) and dispose of the complaints (dismiss; refer to Attorney General if criminal statute allegedly

violated; or refer to appropriate house of General Assembly for censure, suspension, or expulsion).

WHAT MUST BE DISCLOSED?

Includes interests held by filer and members of his or her immediate household.

- Business associations.
- Real estate at a fair market value in excess of $5,000.
- Indebtedness in excess of $5,000.
- Vested trusts valued in excess of $5,000.
- Occupations of members of immediate household and types of clients/customers.
- Business associations which do business with the state.
- If professional person, a list of categories of clients; from which fees in excess of $2,500 were received.

See N.C. General Statutes 120-85 through 120-106.

Reapportionment—The 1981 Version

Susan M. Presti

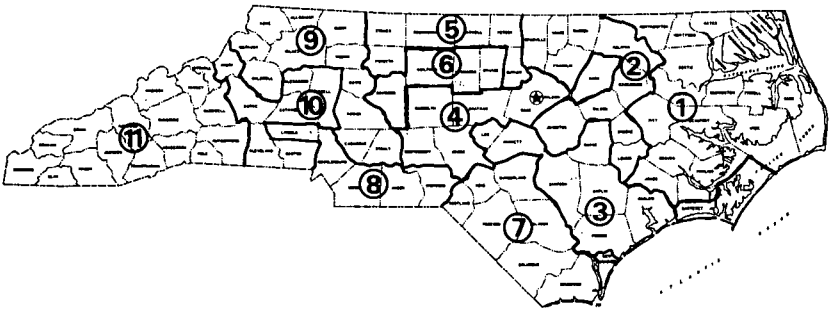
> From 1952 until 1962, six contiguous North Carolina mountain counties were located in six separate congressional districts...
>
> In 1962 a district was created which included coastal plain, mountains, and piedmont (counties). The district stretched 200 miles along the Virginia border, but was only 20 miles wide.[1]

Reapportionment[2]—the redrawing of electoral district lines based on the results of each decennial census—looms as one of the most important tasks facing the 1981 General Assembly. National population shifts and those within North Carolina during the past decade could result in significant changes for the state. When the final results of the 1980 census are released, the state may gain a twelfth congressional seat; within the state the power balance between the coastal, piedmont, and mountain districts may be upset. "(Reapportionment) will be, in my opinion, the key issue of this General Assembly," says Alex K. Brock, director of the State Board of Elections.[3]

Historically, the power to reapportion has been wielded in a highly political fashion. The majority party in a state legislature has traditionally sought to limit the minority party's influence by drawing grossly misshapen districts. In 1812, Massachusetts Governor Elbridge Gerry approved a reapportionment plan in which one district was so distorted it resembled a salamander. Such legislative legerdemain has thereafter been referred to as "gerrymandering."

Throughout the 1920s, as more of the country's rural population migrated to cities and as political machinations continued to dominate reapportionment decisions, electoral districts within individual states grew to increasingly disparate sizes. In 1946, for example, Cook County, Illinois, contained 914,000 citizens while a downstate district had only 112,000.

In *Baker v. Carr* (1962), the U.S. Supreme Court established judicial jurisdiction over questions of reapportionment. A series



of landmark decisions followed, known as the "one person, one vote" rulings, in which the Supreme Court began to redress electoral district imbalance stemming from many types of discrimination—political, racial, sexual, ethnic, rural-urban, etc. These rulings, combined with regulations included in federal and state policies, have created a complex set of criteria for reapportioning.

Because the profusion of new regulations has complicated the reapportionment process, many states have turned to computers and independent commissions as the most practical means of redrawing electoral districts. For the 1981 reapportionment, several states are relying extensively on computers. The New York Legislative Task Force on Reapportionment has spent almost $1 million on a computer package.[4] California, Oklahoma, Minnesota, Illinois, New Mexico, Indiana, Texas, Michigan, and many other states are expected to use computers for sophisticated mathematical analyses of proposed districts.

Seventeen states have utilized independent commissions rather than depending exclusively on their legislatures. Eleven states use independent commissions for actual apportionment; six use them in an advisory capacity or as a fallback unit in case the state legislature cannot develop a suitable plan. Legislation now before Congress would vest all responsibility for congressional reapportionment in independent commissions that would be established in each state.

THE NORTH CAROLINA EXPERIENCE

Factors unique to North Carolina also complicate the reapportionment process. As the Piedmont counties grow, for example, they are becoming so large that they cannot be grouped easily with contiguous neighbors to form electoral districts. Their combined populations are too large. (Electoral districts must be

composed of counties with contiguous borders.) The North Carolina Constitution prohibits the division of counties into smaller units for the purpose of redistricting state electoral zones. This restriction may create problems for redistricting the Piedmont, problems that will carry over to congressional reapportionment. There is no federal law preventing a small unit—for example, a township—from being used as the primary building block of congressional districts, but North Carolina has a long history of refusing to break county boundaries for representational purposes.

In addition to the demands of equal population, any redistricting plan in North Carolina must meet the demands of equal representation. Republican, minority, rural, and liberal voters—usually concentrated in specific parts of the state—should be districted so that their votes can have a fair expression, not gerrymandered in such a way as to undermine their strength. One further complication for North Carolina is the Voting Rights Act of 1965. Because of past evidence of voting discrimination in 39 counties, the Act requires that any reapportionment affecting these counties must be approved by the U.S. Attorney General. He must determine that "the plan in question does not have the purpose or intent of abridging the right to vote on account of race or color," says David Hunter of the Justice Department's Voting Rights Section. If the Attorney General rejects a North Carolina reapportionment proposal, a new plan has to be developed.

Court decisions in the 1960s forced the General Assembly to develop new plans for North Carolina. In both 1965 and 1966, a U.S. District Court rejected the state's reapportionment. Finally in 1967, the courts accepted the legislature's plan. In 1971, the Justice Department successfully challenged portions of the redistricting that affected the 39 counties cited in the 1965 Voting Rights Act. The redistricting of the unaffected 61 counties was allowed to stand.

Despite the complexities of the task, the North Carolina General Assembly has not yet appointed any legislative committees to prepare for the pending reapportionment. Some preliminary work has been done in the state but has not been coordinated by the legislature. The General Assembly's Division of General Research is preparing a reapportionment briefing book for legislators which will summarize pertinent court decisions, federal and state restrictions, and logistical questions on reapportionment. The state Office of Data Services has performed some computer runs on the preliminary census data. If

requested by the legislature, the Office could provide computer services to aid in reapportioning the state. In 1971, no computers were used "at all", according to Clyde Ball, then Legislative Services Officer.

The process the General Assembly will use to reapportion North Carolina in 1981 will not become clear until the General Assembly convenes. Rep. Liston Ramsey (D-Madison), in all likelihood the next speaker of the House, says that the process probably will be similar to that of 1971: a House committee will be established to redistrict the House, a Senate committee will be established to redistrict the Senate, and a joint committee will be established to reapportion congressional districts. Each committee will consider plans submitted by any legislator, and Rep. Ramsey already has invited North Carolina's eleven congressmen to submit reapportionment plans to the General Assembly. Each committee will propose its final plan as a piece of legislation that must be ratified by both houses. (In 1971, the Senate accepted the proposed plan of the House and the House accepted the Senate's plan.)

According to Ramsey, the use of computers in the 1981 reapportionment "will be up to the chairmen of the various committees." And like 1971, apparently no serious consideration will be given to the idea of an independent reapportionment commission. Ramsey rejects the concept of an independent commission for North Carolina. "I expect the legislature to do it (reapportionment) because the Constitution says we shall do it," he says.

Citing the Constitution serves to disguise the fact that reapportionment still is perceived by many legislators and others as being the sole domain of state legislatures. Nationwide, politicians from both parties tend to see reapportionment as legitimate political booty. Larry Mead, a member of the Republican National Committee research staff, has said, "We want reapportionment to be fair, but the state legislatures are sovereign. Our job isn't to save ourselves but to build the party from the bottom up."[5] Consequently, "the national drive by Republicans to control more statehouses by electing more Republican legislators in November is keyed to the upcoming reapportionment," writes Dan Pilcher.[6]

Rapid changes in reapportionment law over the last twenty years have increased the complexity of redistricting; rapid changes in reapportionment technology have increased the number of ways to develop redistricting plans. Despite these

changes, North Carolina in 1981 will reapportion itself in much the same way it has in the past. "Reapportionment is a political process... and that's the way it should be," says Brock.

Footnotes

1. Douglas Edward Markham, "Reapportionment in North Carolina," an honors thesis submitted to the political science faculty of the University of North Carolina at Chapel Hill, 1978 (portions published as "Reapportionment in North Carolina: Another Gerrymander in 1981?," *Carolina Politics*, January, 1979).
2. In this article, "reapportionment" refers to both the reapportionment of North Carolina's congressional districts and the redistricting of electoral zones for the state legislature.
3. Raleigh *News and Observer*, September 25, 1980.
4. The expenditure to date, of which the state expects to recoup as much as 50 percent through time-sharing of computer services.
5. Janet Simons, "Reapportionment: Here it Comes Again," *State Legislatures*, November/December 1978.
6. Dan Pilcher, "Reapportionment: The New Ingredients," *State Legislatures*, April 1980.

Article III: The Executive

The focal point of North Carolina politics is the office of the governor. As the chief executive officer in the state, the governor directs a multi-billion dollar enterprise of nearly three hundred thousand employees. Under the present Constitution, the office of the governor is one of nineteen major departments in the executive branch of state government. Of these, the governor maintains appointment or review power over nine—Commerce; Administration; Correction; Cultural Resources; Human Resources; Crime Control and Public Safety; Natural and Economic Resources; Revenue; and Transportation. In addition, the governor maintains immediate jurisdiction over such assistants and personnel that may be required to perform the executive functions of the state.

The governor is elected every four years and, with the enactment of a constitutional amendment in 1977, can succeed himself for one additional term of office. The office has extensive budgetary powers and responsibilities, but has no veto power over legislation. (North Carolina is the only state in which the governor does not possess this power.)

The governor oversees the execution of all state law and is the state's chief executive officer with responsibilities for all phases of budgeting. He holds the power to convene the General Assembly in special session if necessary and delivers legislative and budgetary messages to the legislature. In addition, the governor is chairman of the Council of State, which he may call upon for advice on allotments from the Contingency and Emergency Fund and for disposition of state property. The constitutional powers of the office also include the authority to grant pardons, commutations, and issue extradition warrants and requests. The governor also enjoys extensive organizational powers, controls the expenditures of the state, and is responsible for administration of all funds and loans from the federal government.

In this section, the policy and administrative demands of the current governorship are analyzed.

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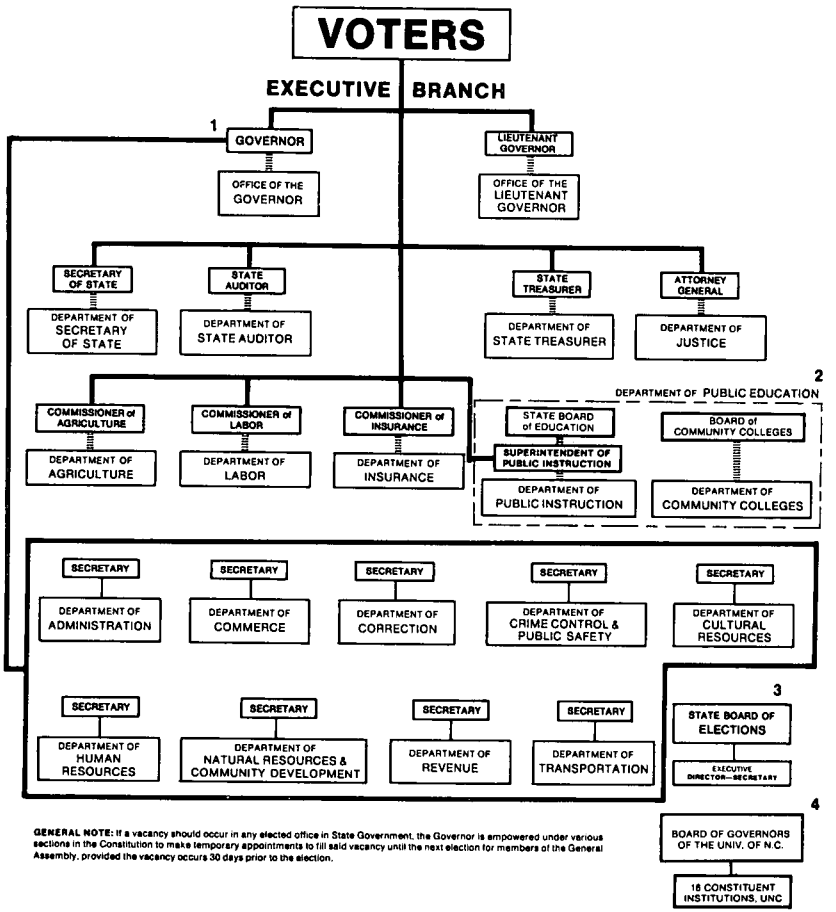
*The other nine departments are headed by elected officials. These nine officials are: Secretary of State, Auditor, Treasurer, Attorney General, Superintendent of Public Instruction, Commissioners of Insurance, Labor, Agriculture, and the Lieutenant Governor.

ORGANIZATIONAL CHART OF
NORTH CAROLINA STATE GOVERNMENT



1. The Governor and the other 9 elected officials of the Executive Branch form the Council of State. The heads—called "Secretaries"—of the other executive departments are appointed by the Governor and serve at his pleasure.
2. The State Board of Education serves as "head" of the Department of Public Education. 11 of its 14 members are appointed by the Governor, subject to confirmation by the general assembly in joint session. The Lieutenant Governor, State Treasurer, and Superintendent of Public Instruction, who is secretary to the Board, are *ex officio* members. The Superintendent of Public Instruction heads the Department of Public Instruction and the President of Community Colleges heads the Department of Community Colleges.
3. The State Board of Elections is an autonomous agency whose members are appointed by the Governor. The Executive Director-Secretary is appointed by the board and with a supporting staff provides administrative services to the board and to the local boards of elections in the counties.
4. The Board of Governors are elected by the General Assembly. The Board elects a President of the University system, who serves as chief administrative officer of the University. Each of the 16 institutions within the system then has its own board of trustees.

The North Carolina Governorship: An Agenda

Thad L. Beyle

In 1971, the Citizens' Conference on State Legislatures (now Legis 50) published a study of the capabilities of the 50 state legislatures (*The Sometimes Governments*). North Carolina's General Assembly was ranked 47th. Since the publication of that report, the North Carolina legislature has taken a number of steps to improve its capabilities. A legislative research and fiscal division now provides it with information and analysis. Annual sessions have replaced biennial sessions to bring the legislature's decision-making process, especially in the budget area, closer to the day-to-day fiscal realities of state government and the economic situation in the state. The legislators have raised their own salaries and "perks" so that service in the General Assembly will now be compensated at a rate more in line with the responsibilities and costs of providing that service. A new legislative building will provide better quarters for legislators, staffs and committees to work in. While these measures may only allow the North Carolina General Assembly to "keep up with the Joneses" among state legislatures, each represents a positive step toward making our General Assembly more capable and effective.

At virtually the same time the CCSL report was issued, a study comparing the governorships of the 50 states was published. This study of the formal powers of the governors was conducted by political scientist Joseph A. Schlesinger of Michigan State University and was printed in a state government textbook used fairly widely on college campuses (Herbert Jacob and Kenneth Vines, *Politics and Policy in the American States*). The study focuses on the formal powers which each governor had or lacked: appointments, budget, tenure and veto. Schlesinger evaluated each governorship on these formal powers, assigning a score for the level achieved in each state. He then summed the scores to provide an overall score and ranked the states from top to bottom.

Again, North Carolina fell toward the bottom, tied at 43 with three other states (New Mexico, Mississippi, Indiana). Only the governorships of Florida, South Carolina, West Virginia and

Texas ranked as having weaker formal powers. The reasons for this low ranking of the North Carolina governorship were fairly obvious: no veto power, a one-term limit, shared budget-making power with the General Assembly, and separately elected executive officers in a Council of State. (Of course the North Carolina governor has had considerable other sources of power that have been well used by the incumbents to achieve their goals. See "At the Top of the Heap" in this chapter.)

Since the Schlesinger study, two major steps have been taken to alleviate the structural problems and lack of power in the governorship. A major state government reorganization reduced significantly the more than 200 separate and even independent agencies and grouped the remaining into a series of nine departments headed by gubernatorially appointed secretaries. Only the eight separately elected Council of State officers and their departments and the lieutenant governor remained outside gubernatorial control. The voters of the state approved a constitutional amendment that will allow a governor to serve two consecutive four-year terms.

Thus, two branches of North Carolina state government that were ranked toward the very bottom of the ladder as the 1970s opened have been considerably strengthened.

On the governor's side, however, an agenda remains to provide that office with essential powers that are now restricted in part or even lacking. This agenda is important despite the series of strong and able governors we have had the good fortune to elect over the past few decades—a series of governors who were strong and able despite constitutional and statutorial restraints on their ability to govern. The agenda for a stronger governorship in North Carolina still includes the following:

THE VETO

There are many variations on the veto—total, item, amendatory—just as there are variations on how a legislature can override a governor's veto—the votes of a majority elected, two-thirds present, or two-thirds elected. North Carolina's variation, no veto at all, is unique in the states, and careful participants and observers must ask whether the other 49 states or we are out of line.

The veto gives the governor one more check on legislative action, but still leaves the basic power in legislative hands. The legislators can override an unpopular or unwise veto. The veto

gives the governor one more weapon with which to fight for his program and to stop what might be unwise or poorly written legislation and policy. Without the veto, the governor must fall back on his negotiating and persuasive powers. He must use patronage, the budget and whatever other "green stamps" he has to achieve his goal.

The veto, however, may not be as fearful a weapon as some would suppose. In a 1976 survey by the National Governors' Association, 23 of the 31 governor's offices that responded indicated use of the veto is not the same as a legislator's vote for or against a particular bill. Rather they presumed that a bill passing both houses should be signed unless the governor had very strong objections to it. Only three of 30 responded that even if the bill were a "bad" bill (one for which the governor would not vote were he a legislator), should it be vetoed. Thus, the use of the veto in other states indicates a rather judicious approach by the governors, and one should anticipate that it would be used in a similar manner in North Carolina.

THE GOVERNOR'S BUDGET

North Carolina's state budget system has strong and weak aspects. Chief among the weak aspects is the power which the 12-member, executive-legislative Advisory Budget Commission has in the development—and in some cases—execution of the budget. While the budget presented to the General Assembly is often called "The Governor's Budget," this is a misnomer. It really reflects a series of compromises and decisions already struck between the governor and the members of the Advisory Budget Commission, whose majority is appointed by and who are key legislative leaders.

Joint executive-legislative preparation of the budget was a rather common practice across the states in the past, but most states have moved toward a governor's budget, developed by his or her staff and presented to the legislature for its consideration. As in North Carolina, other state legislatures have increased their capacity to anticipate, analyze and react to the governor's budget by staffing separate legislative budget offices. Although there are certain political advantages in having early legislative leadership involvement on the budget, the state should investigate the potential advantages of having a governor's budget *and* a strong, separate legislative budget office.

COMPLETING REORGANIZATION

The reorganization of state government in the early 1970s left the administrative organization of the state only partially reorganized. The nine cabinet departments bring together many agencies and provide the governor with a means of coordinating certain state government activities. However, nine separately elected officials still remain outside gubernatorial control, as do the agencies they head. Some of these offices should remain separately elected since their independence furthers citizen control over state government and ensures a "check and balance" on too much accumulated authority in any one office. These would include the Attorney General (elected in 42 states) and the Auditor (elected in 25 states), who in part or totally perform "watchdog" functions over the rest of state government.

While 18 states elect their chief state school officer, the general trend in the states over the past few years has been to have the superintendent appointed by boards of education. These boards are appointed by the governor, appointed by the governor and the legislative leadership or—in 12 states—separately elected. With an appointed Superintendent of Public Instruction, electoral politics are removed from the administrative head of the department and placed explicitly in the board or the governor's office. The recent Renfrow report to the General Assembly explored the methods of selecting the superintendent for North Carolina. Its findings and suggestions should be re-reviewed and considered seriously.

A state government wag once suggested that the "Treasurer's Office ought to be abolished and its responsibilities given to a bank, and the Secretary of State's job done away with and given to a couple of secretaries." While that is obviously an overstatement, there are valid reasons for suggesting that these offices might not be of separately elected constitutional status even though both are elected positions in 38 states. While not a sharp trend, reorganization efforts across the states in the middle 1970s have leaned toward making these two offices appointive and bringing them under gubernatorial control. The argument that this would provide the governor with too much fiscal power is rebutted by maintaining and enhancing the separately elected Auditor's and Attorney General's offices with their oversight functions.

The trends are clear for three other separately elected officers in the Council of State. An increasingly fewer number of states now separately elect their Secretaries of Agriculture (12 states),

Insurance (11) and Labor (5). These are viewed as executive departments, with functions and activities not unlike other executive departments, which should fall under the direct control—policy, appointive, budgetary, and managerial—of the governor. Furthermore, if these are separately elected, there could just as logically be separately elected heads of other executive departments such as Natural and Economic Resources, Social Services, Transportation and so on.

The departments of Agriculture, Insurance, and Labor serve interested and involved constituencies. Any change in these departments will be of concern to those constituencies. The three departments are also currently headed by strong, politically identifiable personalities. Removing them from the electoral process represents a challenge to their own political ambitions. But again, North Carolina stands out clearly as one of the few states with so many constitutionally elected officials, when so many other states are moving in the opposite direction—and for good and solid reasons.

THE LIEUTENANT GOVERNOR

These are five basic models of the duties and functions of the lieutenant governorship across the 50 states:

- Traditional Plan (24 states). Presides over the Senate and has some executive branch responsibilities, serving as a "combination" officer with both executive and legislative duties.
- Executive Plan (9 states). Is exclusively an executive officer with no legislative responsibilities.
- Legislative Plan (6 states). May perform some executive duties, but has legislative duties primarily (presides and has significant legislative powers).
- Administrative Plan (6 states). Performs Secretary of State functions or Secretary of State is first in line of succession.
- Senate Leader Plan (5 states). Is the leader of the Senate, speaker or president, is in the direct line of succession, and is selected from the Senate membership rather than by the voters.

The North Carolina lieutenant governor clearly falls into the Legislative Plan. The lieutenant governor not only presides over the Senate but appoints committees and their chairmen. In the National Governors' Association survey in 1976, incumbent and former governors were asked whether they gave any assignments to their lieutenant governors. The results were clear—and

striking. Governors were considerably more likely to provide assignments—and important ones too—to their lieutenant governor and to take steps to make these heir apparents ready for the job of governor if the lieutenant governor had no legislative assignments. While the governors did make some assignments if the lieutenant governors' legislative duties were only minimal, e.g. presiding as in the Traditional Plan, the message was still there: the lieutenant governor can not have a second constituency in state government, especially if the constituency is in the legislature, and still be close to the governor. If the real power and responsibility of the lieutenant governor do lie in his or her potential to be governor, then being close to the governor is of paramount importance. While North Carolina has seen a varying set of relationships between governors and lieutenant governors over the years, the cooperation that often occurs must overcome severe constitutional, constituency and political obstacles.

North Carolina should explore making better use of its lieutenant governors in state administration so they might be considerably more able to make a smooth transition to the governor's chair should that be necessary. Two immediate steps should be considered: team election of the governor and lieutenant governor and elimination of the office's legislative duties so the lieutenant governor can become a working part of the executive branch of state government and the governor's administration.

The team election of the governor and lieutenant governor has two possible variations, only one of which would appear possible in North Carolina. One option is to have governor-lieutenant governor teams run in the primary for party endorsement and then have the team choices of each party vie jointly for victory in the general election (four states use this method). This would considerably alter the political abacus of primary politics in the state and unduly restrict the primary process. The second option is to have separately contested governor and lieutenant governor primaries and then have the governor and lieutenant governor choices in each party run as teams in the general election (21 states use this method). While separate constituencies are at the heart of the party primaries, the party's constituency elects the team to office. The major purposes for the team election approach are to avoid the embarrassment of having two individuals from different parties (as was true in the Holshouser-Hunt situation) and to minimize the tension if they are of different factions within the same party (as is true in the Hunt-Green situation).

The shifting of lieutenant governor responsibilities away from a legislative base and toward a more executive-gubernatorial base is a trend developing across the states. In 1950, only four states had lieutenant governors with no legislative functions. In 1976, there were 15. Divorcing the lieutenant governor from legislative powers evidently allows the governor to consider the lieutenant governor as a member of his or her administration and to delegate responsibilities such as liaison work with the legislature, state agencies, groups, and governments and officials at other levels in the federal system. The lieutenant governor is also likely to get specific administrative and policy assignments and to be called upon to perform certain ceremonial functions. It is still up to the governor to provide the assignments, but the lieutenant governor is in a much better position structurally to undertake an assignment.

Again, current personalities and the so-called "political ladder" may seem to militate against taking such steps. But our leaders should adopt the kind of approach taken in the successful passage of the gubernatorial succession amendment and step above these arguments to see what leads to better state government for North Carolina and its citizens.

This is the short agenda for action. There are other items which some observers may feel have greater priority. But as the debate intensifies over whether government can operate effectively to solve our problems at all, and as the feeling that policy solutions and administration of programs can not continually be shifted to Washington where they don't seem to work, the spotlight is shifting to the state capitals and their governors and legislatures. Is the capability there? Anachronistic methods, antiquated restrictions and inability to fulfill mandates can lead only to serious questioning of the state's ability to carry out their part of the federal bargain. The serious consideration and adoption of these agenda items could help North Carolina and its state government to fulfill its own part of that bargain for us, its citizens.

At the Top of the Heap

Bob Dozier

Because North Carolina's chief executive does not have veto power, the office of the governor often seems weaker and more ceremonial than it really is. Taken together, other powers available to the governor make him the most important official in state government. The governor's strength inheres largely in his control of the state's budget. He not only prepares and proposes the budget, he administers it once it is enacted by the General Assembly. The Advisory Budget Commission works with the governor to prepare recommended budgets for consideration by the legislature. The governor appoints four of its twelve members. These four may or may not be legislators; by statute, the other eight are members of the General Assembly.

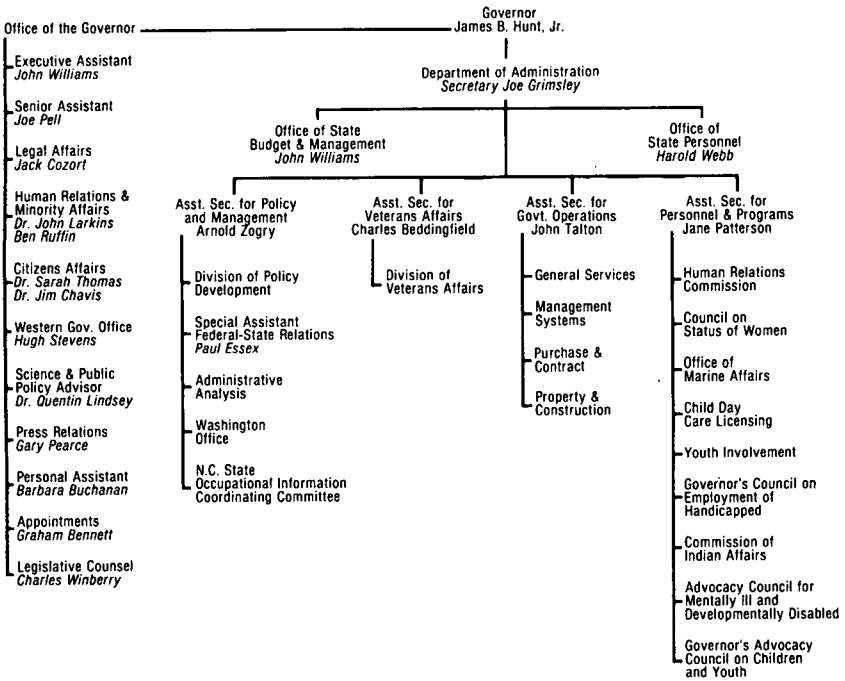
Control of the budget is the basis of the governor's influence in the nineteen departments that constitute the Executive Branch of state government. This is especially true in the eight departments whose elected secretaries have powers not subject to gubernatorial control. The remaining nine secretaries, all appointed by the governor and more directly under his dominion constitute the cabinet. Of these, the Department of Administration is the most important. Through it, the governor exercises power over all the other departments.*

The North Carolina Manual describes the Department of Administration as "the business, management, and policy development office of state government and the administrative arm of the Governor's office." First established in 1957 during the administration of Governor Luther Hodges, the Department's main functions are to regulate expenditures of state money; manage state property; run the state personnel system; manage the state's programs for veterans; and house assorted small boards, advocacy groups, and agencies. It is a grab bag of functions that cut across the boundaries of other more narrowly defined departments. As Joe Grimsley, the Department's

*The cabinet includes the secretaries of the Departments of Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Human Resources, Natural Resources and Community Development, Revenues, and Transportation. The eight elected officials head the Departments of Secretary of State, State Auditor, State Treasurer, Justice, Agriculture, Labor, Insurance, and Public Education. The Offices of the Governor and Lieutenant Governor are the other two executive departments.

How the Governor Organizes His Power

Italicized names are directly responsible to Governor Hunt.



Secretary says, "You don't treat the Department like it's just another department. It's a first among equals."

These functions are not simply administrative. Control of jobs, money for jobs, and development of comprehensive government policy are natural opportunities for a governor to create and exercise political power as well as administrative leadership. Governor James B. Hunt, Jr. relies on two areas of the Department so regularly that his connections with them can be considered direct rather than subordinate to his relationship with Secretary Grimsley. These are the Office of State Budget and Management headed by John Williams ($40,000) and the Office of State Personnel directed by Harold Webb ($36,936).*

*Salaries noted in this article were effective in May, 1978, prior to changes made by the 1978 General Assembly.

In January, 1978, John Williams became Executive Assistant to the Governor while retaining his duties as state budget director (his entire salary is still paid by the Department of Administration). This dual role is unique in recent North Carolina government. Hunt admits that he has "pulled the budget closer to the Governor's Office" because "if you know what you want to do programmatically, you've got to have the budget close to you." As Executive Assistant, Williams is Hunt's liaison with the nine cabinet departments and has the authority to speak for the Governor. As budget director, he has the power to authorize the transfer of funds among various government programs and, in some instances, within such programs. His clout in each role is immense, partially because he holds both jobs.

Williams has offices near the Governor in the Old Capitol and in the Department of Administration. A wealthy Raleigh businessman, he is working full-time in state government after having been active in politics for many years. He served on the Advisory Budget Commission from 1969 until 1973. To indicate his importance within the Hunt administration, Williams' pay is intentionally set above that of Joe Grimsley. At $39,900, Grimsley is the second highest paid member of the cabinet and, as Secretary of the Department of Administration, is nominally Williams' boss. Dr. Sarah Morrow ($57,108), Secretary of the Department of Human Resources, is the most highly paid cabinet officer.

The Office of the Governor was legally created as one of the 19 major departments of the Executive Branch in 1971. As of April 30, 1978, its budget for fiscal year 1977-78 included $1,439,986, of which $1,232,730 came directly from the General Fund (state revenues other than highway funds). The budget included an additional $55,000 in state funds transferred from the Science and Technology Committee in the Department of Commerce. The rest of the budget was funded by federal grants and a private foundation gift that supported planning for a science high school. In 1975-76, the last full fiscal year of the Holshouser Administration, the Governor's Office received $831,747 from the General Fund. Nearly two-thirds of the state appropriation for the Governor's Office is spent on salaries and fringe benefits, including the $45,000 salary and $5,000 expense account allotted to Hunt. The Governor's Mansion, his official residence in Raleigh, has a separate budget of $231,196 (as of April 30, 1978) funded by the Department of Administration.

The Governor is authorized "to appoint such personal staff as he deems necessary to carry out effectively the responsibilities of his office" [G.S. 147-12(9)]. Employees of the Governor's Office are not subject to the provisions of the State Personnel System [G.S. 126-5(b)]. Simply put, Hunt exercises the governor's traditional broad personal authority to select, appoint, and pay his staff as he pleases. The Department of Administration pays the salaries of some people who are formally members of the Governor's Office, while some key advisors to Hunt work in the Department itself. Only the Governor and about a third of the staff paid through the Governor's Office actually have offices in the Old Capitol. The others work in the Department of Administration building.

The following summaries describe the important divisions of the Governor's Office aside from the special role Williams plays.

Senior Assistant. Joe Pell ($40,000), a successful Surry County businessman, handles patronage, political support, and special projects. Hunt calls him "my eyes and ears in the field." Pell chairs weekly meetings of the Governor's staff and provides limited supervision of their work.

Legal Affairs. Jack Cozort ($20,124), a Wake Forest law graduate, left a job in the Attorney General's office to become policy advisor and legal counsel to Hunt.

Human Relations and Minority Affairs. Dr. John Larkins ($32,436), a black leader with more than thirty years' experience in state government, is a Special Assistant to Hunt who helps coordinate minority patronage and political support. On May 1, 1978, Ben Ruffin ($32,436), a black leader from Durham, left his job as Director of the State Human Relations Commission to join Dr. Larkins. As a policy advisor, Ruffin specializes in issues affecting minorities and the poor. Geoff Simmons ($17,460) is Ruffin's assistant.

Office of Citizen Affairs. Hunt established this office to promote volunteer services and better communications between citizens and government. It is divided into the Office of Citizen Help, Community Involvement Programs, and a Citizen Participation group.

Dr. Sandra Thomas ($30,900), a vice-president of Meredith College on leave, is serving as Executive Director of the Office of Citizen Affairs. Dr. Jim Chavis ($26,772) directs the Citizen Help program as Chief Ombudsman. He is on leave from his post as Dean of Student Affairs at Pembroke State University.

Western Governor's Office. The director of Hunt's

Asheville office is Hugh Stevens ($21,120), a Hunt political supporter and former U.S. marshal. The Western Executive Residence in Asheville receives $3,314 annually for maintenance from the Department of Administration.

Science and Public Policy Advisor. Dr. Quentin Lindsey ($37,428), a Harvard-trained economist, promotes the use by state and local governments of scientific research resources in North Carolina. Dr. Lindsey taught Hunt as both an undergraduate and graduate student at N.C. State and later persuaded the Governor to spend two years (1964-66) in Nepal working for the Ford Foundation in an economic development program.

Press Relations. Special Assistant Gary Pearce ($28,092), a former *News & Observer* reporter and editor, runs Hunt's press office. Either Pearce or his assistant, Stephanie Bass ($18,300), approves a final draft of each speech the Governor delivers.

Personal Assistants. Barbara Buchanan ($22,140) is Hunt's Special Assistant and personal secretary for appointments in the Capitol. Two other secretaries work with her. Priscilla Hartle ($20,124 paid by the Department of Administration) schedules the time Hunt spends outside the Capitol.

Appointments. Graham Bennett ($16,644), a scheduler in the Hunt gubernatorial campaign and son of Bert Bennett, a Winston-Salem businessman and longtime Democratic Party insider, coordinates Hunt's appointments to state boards, commissions, and other bodies (Hunt will make roughly three thousand appointments during his four-year term). His assistant, Lucie Duffer ($16,644), is paid by the Department of Administration.

Legislative Counsel. Charles Winberry, a Rocky Mount attorney who directed Robert Morgan's 1974 Senate campaign, is Hunt's lobbyist in the General Assembly. His work includes research, writing, and bill drafting, as well as political chores. He works full-time when the General Assembly is in session. The Department of Administration pays him $3,000 for each month he works.

Despite the availability of this expensive, extensive staff, Hunt must rely on research and policy support scattered throughout the bureaucracy to handle the diverse issues he faces. By bringing experts from throughout state government together, Hunt has concentrated this help in the Division of Policy Development under Arnold Zogry ($37,428), Assistant Secretary for Policy and Management in the Department of Administration. This think-tank unit was formed in January, 1977, as the

successor to the Division of State Planning. Through an approach of "more action than paper," Zogry, Grimsley, and Hunt believe the Division can bring expert information to bear on both pressing and long-range problems, thus serving as the key to creating overall state policy. The Division's work is divided into four areas: economic research under Kenneth Flynt ($30,900), Chief Economic Advisor to the Governor; economic development under Peter Rumsey ($28,092); regional programs directed by Bill Hall ($28,092); and human development headed by Florence Glasser ($23,208) and Ted Parrish ($26,772).

The Division of Policy Development has a budget of roughly $1.6 million, of which about $780,000 (as of April 30, 1978) comes from state funds. The Division absorbed the Office of Intergovernmental Relations in 1977, and its budget, therefore, includes $199,000 to cover North Carolina's share of the administrative costs of the Appalachian Regional Commission and the Coastal Plains Regional Commission. Most federal fund requests from local governments pass through the Division before going to Washington. Paul Essex ($35,664), the Governor's Special Assistant for Federal/State Relations, maintains his office here even though he reports directly to Hunt. The Division also houses Betty Owen ($25,524), the Governor's Special Assistant for Education. Overall, the Division of Policy Development has about forty-five employees, roughly half of whom make more than $15,000 annually.

The state's office in Washington is also under Zogry's direction. Its staff monitors and lobbies Congress and the entire federal government to protect North Carolina's interests. Most of its $129,854 budget goes for salaries, including those of Patricia Shore ($35,664), William Garrison, Jr. ($26,772), and Judy Love ($21,124).

Harold Webb, head of the Office of State Personnel, wields power in personnel matters parallel to Williams' control of the budget. Hunt works closely with both Webb and Joe Pell, his patronage man. The power to transfer or demote a worker is almost as effective a control tool as the power to hire or fire him. The 1977 General Assembly effectively established five years as the probationary period during which a state employee is subject to any of these sanctions without recourse to the State Personnel System's grievance procedures. Using authority created by the 1975 General Assembly, Hunt designated 868 "policy-making positions" in 1977, thus exempting them from the protections of the Personnel System regardless of the length of service in state

government of those who occupy such offices.

By making Williams his Executive Assistant and Director of the Office of State Budget and Management, Hunt has integrated day-to-day control of the budget with his own office, thus consolidating the centers of executive power in state government. By exercising direct control over personnel, budget, and policy decisions, Hunt has begun to make the bureaucracy respond to his will. The 1977 constitutional amendment that permits a governor to serve a second term has extended his authority over a bureaucracy that could formerly use delaying tactics while awaiting the arrival of a new governor. Despite the absence of veto power, the office of governor in North Carolina affords its occupants diverse opportunities to control state government. By skillfully exploiting most avenues available for exercising the influence of his position, the present governor has demonstrated that the governorship itself is often misjudged as weaker than it truly is.

The Unelected: Gary Pearce
Press Secretary and Political Advisor

Henry Wefing

At 8:30 on three or four mornings a week, three men sit down together in the library of the executive mansion. They are James B. Hunt Jr., the governor of North Carolina, John A. Williams, the Governor's executive assistant and head of the State Budget Office, and Gary Pearce, the Governor's press secretary. The Governor and Williams sit at opposite ends of a sofa, the Governor with a briefcase at his feet, Williams with a thick file folder in his lap. Pearce sprawls on a sofa across from the other two men.

On one particular morning, the conversation touches on a broad range of subjects—from the allocation of social services funds to the latest letter from the U.S. Department of Health, Education, and Welfare on the University of North Carolina's desegregation plan. The subjects are raised by Williams, who pulls letters, reports, and memoranda out of his folder and hands them to Hunt for comment or instructions. Pearce does more than listen. The press secretary plays an active part in this meeting of the inner circle of the Hunt administration.

He interrupts Hunt, for example, during discussion of a pending minor appointment in the energy field to suggest that the Governor might want to "look at it again" in light of the fact that the man under consideration has been unsympathetic to the development of unconventional sources of energy. Hunt acknowledges Pearce's observation and raises names of other potential appointees. Later, the Governor would characterize Pearce's comment on the appointment as "one small example" of the way the press secretary influences his decisions. But there are others.

Pearce is one of two men who meet with the Governor during the first hour-and-a-half of most working days, and he attends those meetings as a participant rather than as an observer. He does the final drafting of all of Hunt's major speeches. He usually travels with the Governor, and, by his estimate, he spends more time with the Governor than anyone in state government except the Governor's security guards. Gary Pearce is more than the Governor's press secretary. He is Jim Hunt's advisor, confidante, aide, and friend.

But Hunt and Pearce choose their words carefully when describing the way in which the press secretary exerts his influence in state government matters. Neither will cite specific state policies that bear the stamp of Gary Pearce. Pearce is a policy advisor, according to the Governor, in the sense that the Supreme Court makes law, the analogy suggesting that Pearce's role is to react to policy initiatives rather than to introduce them.

Hunt describes Pearce as someone who helps him think things out and reason through his decisions, as someone whose influence is communicated in "a subtle, reflective way" to make the Governor aware of different sides of an issue. Hunt also sees Pearce as an advisor who, because of his inside knowledge of the bureaucracy and his contacts with many people in and out of state government, is able to give him a sense of "how things are going, how people are feeling."

Pearce sees his influence as deriving largely from the fact that he sits in on so many of the Governor's key discussions. In some of those discussions, he is able to give "a little bit of a push or a nudge" to affect a policy. But the press secretary does not pretend to offer the Governor a point of view he would not hear otherwise. Because of his penchant for seeking out many views on all subjects, Pearce says, the Governor would get from one source or another the same kind of counsel even if his press secretary were not there. Perhaps and perhaps not. The point is that Pearce is there.

Pearce owes his job to his friendship with Paul Essex, the Governor's special assistant for federal-state relations. Essex was wire editor of the Raleigh *News & Observer*, where Pearce worked as a copy boy while he was a student at North Carolina State University. Pearce was hired, by his account, on the basis of Essex's recommendation and an hour's conversation with Hunt over lunch. Pearce was not unknown to Hunt; he had covered the General Assembly for the *News & Observer* in 1975, when Hunt was lieutenant governor. But it was not until after he had been hired that he and the Governor discussed the press secretary's role fully. That discussion, Pearce recalls, took place on a cold, winter day when he and Hunt drove back to Raleigh from a campaign appearance in High Point and Hunt stayed overnight with Pearce and his wife, Donna.

Hunt and Pearce agreed on what would be their cardinal principles in dealing with the press—accessibility and openness—and during that discussion the two men first began to develop the deep respect and mutual trust that now characterizes

their relationship. Hunt: "I have never met a more honest man than Gary Pearce," Pearce: "He (Hunt) is one of the most open-minded, tolerant people I have ever met."

Outwardly, Hunt and Pearce are, as a newspaper once phrased it, an "odd couple." At the Governor's weekly press conferences, for example, the two men present a study in contrast. Hunt stands behind a lectern, his posture duly formal, if not stiff. His hair is neatly trimmed and styled, and he wears a coat and tie. Pearce lounges on a bench or a chair at the side of the room. His hair is long and rumpled, and he wears neither coat nor tie.

Pearce's habit of dressing casually in the businesslike world of state government has earned him a small measure of notoriety—notoriety the press secretary appears to enjoy. Although he professes to be wary of embarrassing the Governor by his informal attire, he wears coat and tie only for sit-down dinners. He walks the corridors of the state Capitol in open-necked sport shirt, slacks and loafers. He says the fact that the Governor has never said anything to him about his dress or long hair except in a joking way "says a lot about him." He sees Hunt's tolerance of his personal style as symbolic of the Governor's broader tolerance and his willingness to consider new ways of doing things.

Pearce attributes his own willingness to consider new ways of doing things to the climate in which he grew up. He was a student during the late 1960s, that much-chronicled period of student protest. He participated in demonstrations against the Vietnam War while he was at State, and he had a hand in organizing some of them, including a joint UNC-State march on the Capitol in 1970 in the wake of the shootings at Kent State University. Other participants in that march included Stephanie Bass, who now works as Pearce's assistant, and Jack Cozort, the Governor's legal counsel. Although he describes himself and his fellow demonstrators as "young and naive" and partially motivated by fears of being drafted, Pearce has no regrets about his involvement in the protest movement. He describes the experiences of his generation as "one of the good things we bring to government." Many of his peers became cynical about government and politics and swore off involvement in public life. Those like himself who decided to work in government, he argues, tend to dismiss the automatic, easy approaches to government problems and to ask why new approaches can't be tried. "There is nothing government needs more."

The rapport between Hunt and Pearce has made Pearce a

more effective press secretary. The members of the capital press corps view him as an advisor to Hunt, and they consequently have confidence in his ability to represent the Governor's view with an insider's knowledge. Talking to Gary Pearce is "like talking to the Governor himself," according to Martin Donsky, who covered state government for the *News & Observer* and the *Durham Morning Herald.* Pearce says he makes a conscious effort to use the Governor's own words when he discusses a state policy with the press.

Pearce's style, of course, is not at all like the Governor's. One capital reporter, talking off-the-record about Pearce, distinguished between the form and the substance of the press secretary's representation of the Governor. He noted that Pearce refers to the Governor as "Hunt," the same way a reporter refers to him, "and sort of rolls his eyes," but the content of what he says is "that Hunt's a great governor." That reporter and others remember that Pearce was known during his coverage of the legislature for his imitations of state officials. Hunt was one of his favorite subjects.

The capital reporters value Pearce's openness and his willingness to make the Governor available to them—through a hurried interview during a brief break in the Governor's schedule, through a telephone call when Hunt is traveling, and through the weekly press conferences. Hunt describes the press conferences as a joint idea of his and Pearce's and as "one of the best things we've ever done." The press conferences, the Governor says, make him accessible to the press on a regular and frequent basis, and they help him spot problems in state government. Pearce thinks the biggest advantage of the press conferences is that they help the Governor do a better job because "every week he's got to be on top of everything." The press conferences have also helped Hunt and Pearce benefit from the comparison reporters inevitably make of press relations in the Holshouser and Hunt administrations. The former Governor held infrequent news conferences, and some of those were limited to discussion of a single topic.

Reporters say they can rely on Pearce to be truthful. "I've never known him to lie," says A.L. May, who covers the Governor for the *News & Observer.* "If there is any deception, if it can be called that, it's in not telling something he knows. On the whole, he does a damned good job." Pearce does not pretend that he tells reporters everything he knows. A reporter who walks into the press office and asks him "What's happening," is not likely to get

a juicy news tip. But if the reporter has a specific question, he is likely to get an answer. "He's as open as anybody in that kind of public relations, public information position as any of us have ever seen," says Susan Jetton of the *Charlotte Observer.* Pearce insists, in return for being open with the press, that reporters tell the Governor's side of issues. Most of the reporters who cover the Governor can cite instances of Pearce's being "mad as hell" about stories that were critical of the Governor without presenting Hunt's side. Pearce acknowledges that he responds promptly and strongly when a reporter writes a story without touching base with him or the Governor. His assumption in responding is that the next time the reporter will tell the Governor's side "to keep Pearce from getting on my ass."

A press secretary, in the words of one of the reporters who covers Hunt, is "a weird animal," a person who has to be loyal to the man whose views he represents and yet open and truthful with reporters who see themselves as adversaries of his boss. He is also required to articulate and defend positions with which he may not agree. Pearce says he has no difficulty with that requirement because he is given an opportunity to argue his point of view while a decision is being discussed. Once the decision has been made, though, he becomes the Governor's spokesman. "My only reason for existing," he says, "is because the Governor doesn't have time to sit down with each reporter... I don't believe you can be in this job and have your own crusade to push. Only one of us was elected." Pearce is comfortable in his job because he is able, as he puts it, "to get my two cents in." The other side of the coin is that reporters feel comfortable dealing with the press secretary because they know he has been in on the decision-making.

"The key to professionalizing press relations," wrote Joseph P. McLaughlin, Jr., a former campaign press officer and reporter, in an article in *State Government* (Winter, 1977), "is to hire a press officer who is capable of providing policy advice and to involve him in the decision-making process... Eventually, reporters and editors will recognize the press officer not as just a messenger told to deliver a particular version of a decision but as someone who was there when the decision was made and who may even have influenced it."

Gary Pearce is recognized as that kind of press officer.

Article IV: Justice in North Carolina

The most striking characteristic of the judiciary in the United States is its duality. While the federal court system works throughout the country, each state also has its own system of courts. Both state and federal courts have certain powers and operate under certain jurisdictional limitations, but the two systems are not always mutually exclusive.

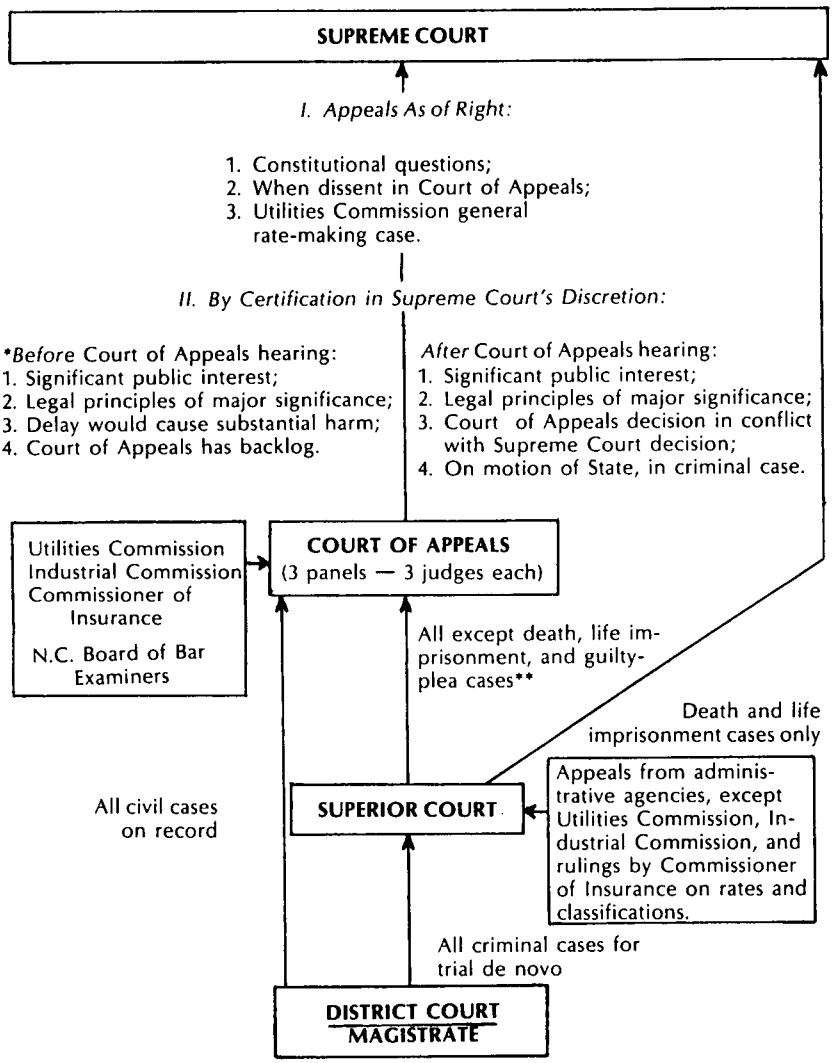
Article IV of the North Carolina Constitution sets out the organization of the "General Court of Justice" in North Carolina, which is comprised of a Supreme Court, a Court of Appeals, and a system of superior courts and district courts throughout the state. To these courts daily fall the task of resolving disputes between citizens in a civilized and orderly fashion, the prosecution of the criminally accused, the protection of life, liberty, and property—in short, the pursuit of justice that is a fundamental concern in all democratic societies.

Symbolic of the courts are the judges, public officials with broad policymaking power and daily opportunities to affect the lives of people across the state. Judges routinely make decisions with profound effects not only on those involved in the judicial process, but on public institutions as well. Perhaps no other government official is required to intervene as directly and often in the affairs of private citizens as is a judge.

In this section the judicial system of North Carolina is described and several issues now confronting the North Carolina courts are analyzed.

GENERAL COURT OF JUSTICE

Routes of Appeal — 1977



*Utilities and Industrial Commissions and Insurance Commissioner cases *must* be heard by Court of Appeals *before* Supreme Court can hear.

**Post-conviction hearing appeals go to Court of Appeals by writ of certiorari only, and no further.

Source: The Judicial System in North Carolina by Joan G. Brannon, 1977, Administrative Office of the Courts.

North Carolina's Judicial System: A Brief Summary

William F. Harris II

"From the early Colonial period, North Carolina's judiciary has stood as a perplexing and controversial component of government—the focus of recurrent attention, dissatisfaction and adjustment."

This chapter presents a condensed view of North Carolina's court system as a basis for understanding the nature of court facilities examined in this report. A brief history of the State's judicial system, from Colonial times to the present, points out a recurring pattern of reform and modification of the courts and their procedures. Particularly notable was the judicial reorganization of the 1960's which transformed a diverse, loosely organized set of courts into a unified statewide system, a change which has had profound implications for the "county" court house. The three-tiered structure of the General Court of Justices is outlined, and key judicial officials are identified.

HISTORICAL SKETCH

The court reform movement that in the 1960's reached its culmination in North Carolina was consistent with an attitude toward the courts which has been in evidence since their beginnings. From the early Colonial period, North Carolina's judiciary has stood as a perplexing and controversial component of government—the focus of recurrent attention, dissatisfaction and adjustment. And, while the workings of the individual courts in their courtrooms may have been publicly obscure, there has been a marked political awareness of the courts as a system, as vision and desire coalesced again and again for change in the formal structure of the judiciary.

The history of the courts in North Carolina and the principal source of the controversy alluded to above can be capsulized by the notion of "reform." Here the term is taken to mean correcting abuses and remedying problems within the existing structure

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and also re-forming, making over and recasting the overall structure of the courts itself. The general pattern has been one of decrying abuses, perceiving weaknesses, proposing reform, enduring its delay and finally enacting partial reform. That each reformation was consequential but less than fully satisfying probably ensured the continuation of a reformist attitude, which has surfaced once more in recent years.

COLONIAL PERIOD

As early as 1700, when the royal governor established a General (or Supreme) Court for the colony, argument arose over the appointment of associate justices. According to one authority,[1] the Assembly accorded the King the right to name the chief justice but unsuccessfully tried to win for itself the power to appoint the associates. Other controversies surrounded the creation and jurisdiction of courts and the tenure of judges, which the Assembly argued should be for good behavior as against the Governor's decision for life appointment. Eventually "the Assembly won its fight to establish courts and the judicial structure in the province was grounded on laws enacted by the legislature," which was said to be more familiar with local conditions and needs.[2]

Over the ensuing years, North Carolina alternated between periods of legislatively enacted reforms (like tenure for good behavior and the Court Bill of 1746, which contained the seeds of the post-Revolutionary court system) and periods of stalemate or anarchy after such enactments were nullified by the royal authority. A more elaborate system was framed by legislation in 1767 to last five years, but it was not renewed because of the persisting disagreement between local and royal partisans. As a result, North Carolina was without higher courts until after Independence.[3]

At the lower court level during this period, judicial and county government administrative functions were combined in the authority of the justices of the peace, who were appointed by the governor.

AFTER THE REVOLUTION

When North Carolina became independent in 1776, the colonial structure of the court system was retained largely intact. The Courts of Pleas and Quarter Sessions—the county court

which continued in use from about 1670 to 1868—were still held by the assembled justices of the peace in each county. During this time, however, the justices were appointed by the governor on the recommendation of the General Assembly. They were paid out of fees they charged litigants. On the lowest level of the judicial system, Magistrates Courts of limited jurisdiction were held by justices of the peace, singly or in pairs, while the county court was out of term.

At the higher court level, the new Constitution of 1776 authorized the General Assembly to appoint judges of the Supreme Courts of Law and Equity. In response, a year later, three Superior Court judges were appointed and judicial districts were created. Sessions were supposed to be held in the court towns in each district twice a year under a system much like the one that had expired in 1772. Just as there had been little distinction in terminology between General Court and Supreme Court prior to the Revolution, the terms Supreme Court and Superior Court were also interchangeable during the period immediately following.

It is notable that "one of the most perplexing problems confronting (the new state of) North Carolina was the judiciary—from bottom to top....From its inception in 1777 the state's judiciary caused complaint and demands for reform."[4] Infrequency of sessions, conflicting judge's opinions, insufficient number of judges and lack of means for appeal were cited as problems, although the greatest weakness was considered to be the lack of a real Supreme Court.

In 1779, the legislature required the Superior Court judges to meet together in Raleigh as a Court of Conference to resolve cases which were disputed in the districts. This court was continued and made permanent by subsequent laws. The justices were required to put their opinions in writing to be delivered orally in court. The Court of Conference was changed in name to the Supreme Court in 1805 and authorized to hear appeals in 1810. Because of the influence of the English legal system, however, there was still no conception of an alternative to judges' sitting together to hear appeals from cases which they had themselves heard in the districts in panels of as few as two judges.[5] In 1818, though, an independent three-judge Supreme Court was created. It was to review entire cases that had been decided at the Superior Court level, not simply questions of law.

Meanwhile, semi-annual Superior Court sessions in each county were made mandatory in 1806. The State was divided into six circuits, or ridings, where the six judges were to sit in rotation,

two judges constituting a quorum as before. During this period, the county court of justices of the peace continued as the lowest court and as the principal agency of local government.

AFTER THE CIVIL WAR

Major changes to modernize the judiciary and to make it more democratic were made in 1868. A holdover from the English legal system—the distinction between law and equity—was terminated as the common law system was replaced by a civil code of law. The county court's control of local government was abolished. Capital offenses were limited to murder, arson, burglary and rape, and the Constitution stated that the aim of punishment was "not only to satisfy justice, but also to reform the offender, and thus prevent crime." The membership of the Supreme Court was raised to five, and the number of Superior Court judges was increased to twelve. The selection of the justices (including the designation of the chief justice) and the Superior Court judges was taken from the legislature and given to the voters, although vacancies were to be filled by the governor until the next election. The Court of Pleas and Quarter Sessions—the county court of which three justices of the peace constituted a quorum—was eliminated. Its judicial responsibilities were divided between the Superior Courts and the individual justices of the peace, who were retained as separate judicial officers with limited jurisdiction.

Amendments to the 1868 Constitution in 1875 reduced the number of Supreme Court justices to three and the Superior Court judges to nine. The General Assembly rather than the governor was given the power to appoint justices of the peace. Most of the modernizing changes in the post-Civil War Constitution, however, were retained, and the judicial structure that had been established continued without significant modification through more than half of the next century.

BEFORE REORGANIZATION

By the time systematic court reforms were proposed in the 1950's and -60's, a multitude of legislative enactments to meet rising demands and to respond to local political pressures had heavily encumbered this basic judicial structure. These piecemeal changes and additions to the court system were most evident at the lower, local court level, where hundreds of courts, specially

created by statute, operated with widely dissimilar structure and jurisdiction.

By 1965, when the most recent major reforms were implemented, the court system in North Carolina had four levels: the Supreme Court, with appellate jurisdiction; the Superior Court, with general trial jurisdiction; the local statutory courts of limited jurisdiction, and justices of the peace and mayor's courts, with petty jurisdiction.

The top two courts were statewide courts. The Supreme Court's membership had again been raised to five in 1888 and to seven in 1937. At the Superior Court level, the State had been divided into 30 judicial districts and 24 solicitorial districts. The 40 Superior Court judges (who rotated through the counties) and the district solicitors were paid by the State. The clerk of Superior Court, who was judge of probate and often also a juvenile judge, was a county official. There were specialized branches of Superior Court in some counties for matters like domestic relations and juvenile offenses.

The lower two levels were local courts. At the higher of these levels, there were more than 180 recorder-type courts. Among these were the county, municipal, and township recorder's courts; county general, criminal and special courts; and domestic relations and juvenile courts. Some of these had been established individually by special legislative acts more than a half-century earlier. Others had been created by general law since 1919. About half were county courts and half were city or township courts. Jurisdiction included misdemeanors (mostly traffic offenses), preliminary hearings, and sometimes civil matters. Judges were usually part-time and were either elected or appointed locally.

At the lowest level were about 90 mayor's courts and approximately 925 justices of the peace. These officers had similar criminal jurisdiction over minor cases with penalties up to $50 fine or 30 days in jail. Justices of the peace also had civil jurisdiction of minor cases and were compensated by the fees they charged. They provided their own facilities.

COURT REORGANIZATION

The need for a comprehensive evaluation and revision of a court system that had become thus distended resulted in the establishment of the Court Study Committee as an agency of the North Carolina Bar Association. The Committee issued its report, calling for reorganization, at the end of 1958. A legislative

Constitutional Commission, which worked with the Court Study Committee, finished its report the next year. Both groups called for a court system which would be state-operated, uniformly organized throughout the State, and centrally administered. Trial courts were organized into 30 judicial districts, which in turn were grouped into four geographical divisions. A particularly important part of the proposal was the elimination of the local statutory courts and their replacement by a single District Court; the office of justice of the peace was to be abolished, and the newly fashioned position of magistrate would function within the District Court as a minor judicial office.

There was some disagreement, however, on three issues: 1) how the General Assembly and the Supreme Court would divide the power of making procedural and administrative rules; 2) prescribing the jurisdiction of the lower courts and the system of appeals, and 3) exercising fiscal supervision. Compromises were reached in the constitutional amendments proposed to implement them, but they were defeated in the legislature in 1959. The proposals were reintroduced and approved in 1961. The general outline of the reformed court system embodied in these constitutional provisions was endorsed by popular vote in 1962, and three years later the legislature passed statutes to put the system into effect by stages. By December 1970, all of the counties and their courts had been incorporated into the new system whose unitary nature was symbolized by the name, General Court of Justice.

The designation of the entire 20th Century judicial system as a single, statewide "court," with components for various types and levels of caseload, was adapted from North Carolina's earlier General Court, whose full venue extended to all of the 17th Century counties.

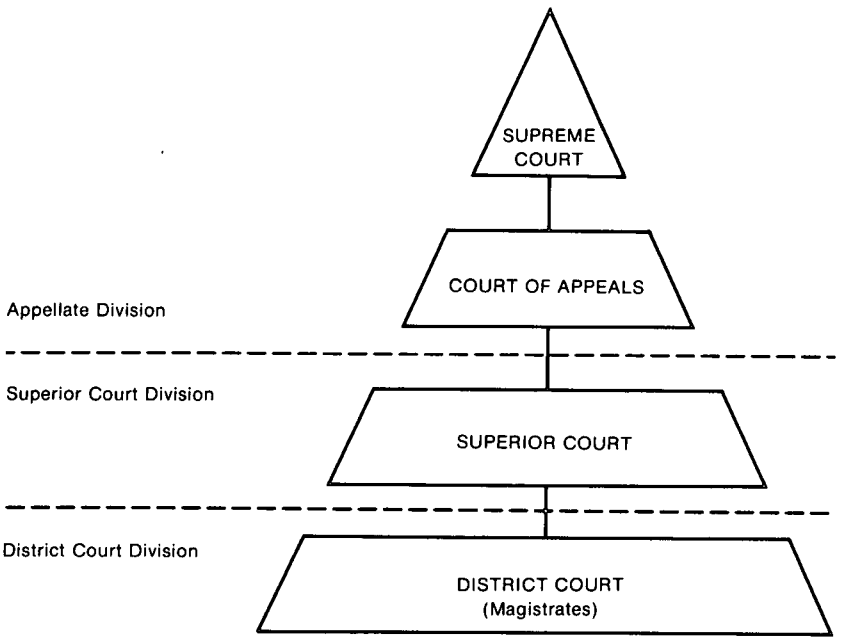
AFTER REORGANIZATION

Notwithstanding the comprehensive reorganization adopted in 1962, the urge to reform has continued apace. In 1965, the Constitution was amended to provide for the creation of an intermediate Court of Appeals. It was amended again in 1972 to allow for the Supreme Court to censure or remove judges upon the recommendation of the Judicial Standards Commission. As for the selection of judges, a persistent movement was evidenced by another constitutional amendment, proposed but defeated in the legislature in1976, to appoint judges according to "merit" instead

of electing them by popular, partisan vote.

OUTLINE OF THE COURT STRUCTURE

North Carolina's judicial system is a three-tiered structure known collectively as the General Court of Justice. The three levels correspond to a division of judicial labor within the unified court system to accommodate these essential functions: review of cases (Appellate Division); trial of major cases (Superior Court Division); and trial of the large volume of minor cases (District Court Division).



ORGANIZATIONAL CHART OF NORTH CAROLINA'S JUDICIAL SYSTEM

APPELLATE DIVISION

Supreme Court. At the apex of the judicial structure is the seven-member Supreme Court, which sits in Raleigh to review procedural questions and interpretations of the law arising from the lower courts. The court's caseload consists of lower court actions involving the death penalty or life imprisonment, substantial constitutional questions, dissent at the Court of

Appeals level, utilities rate-making decisions, or the exercise of the Supreme Court's own discretionary review. The Chief Justice and the six Associate Justices are elected on a statewide basis by popular vote for eight-year terms.

Court of Appeals. The twelve-judge (nine until 1977) intermediate Court of Appeals sits in panels of three in Raleigh (although it may sit elsewhere and has done so on rare occasions) and hears the great volume of appeals originating in the State Court system. Court of Appeals judges are also elected for terms of eight years.

SUPERIOR COURT DIVISION

The superior court has general trial jurisdiction and must hold at least two sessions annually in each of the state's counties. With the creation of eleven new judgeships by the 1977 General Assembly, there are now 58 regular and eight special superior court judges to serve the state's 31 judicial districts. This will be increased to 32 on January 1, 1979 when the 27th Judicial District will be divided into 27A (Gaston County) and 27B (Cleveland and Lincoln counties). North Carolina requires more extensive rotation of its trial judges than any other state. A regular superior court judge must rotate through the judicial districts within his geographic quarter of the State, holding court for at least six months in each district. Thus, he would hold court for only a half-year every five years or so in the district where he has residence. Regular judges are elected for eight-year terms. Special judges are appointed and may be assigned to hold court in any county.

The superior court shares a general civil jurisdiction with the district court, but the superior court is the proper division for cases involving more than $5,000. The criminal jurisdiction of the superior court extends to all felonies and some misdemeanors, including misdemeanor charges that are closely connected with felony charges as well as misdemeanor convictions at the district court level which are appealed for a new trial in superior court.

DISTRICT COURT DIVISION

The district court has limited jurisdiction. Most cases arising in the state court system are disposed of here. For civil cases involving $5,000 or less, the district court is the proper division for trial, which may include a jury. In criminal matters, the district court's jurisdiction extends to all misdemeanors and to

preliminary hearings on felony charges; trial is without a jury. This court division also has jurisdiction of proceedings against juveniles.

District Court Judges. There were 124 district court judges in 1977, elected to four-year terms. District court judges hold court in rotation among the counties in their district. Districts at this level of court correspond to the superior court judicial districts.

Magistrates. A total of 627 magistrates were authorized to be appointed in 1977. Magistrates are nominated in each county by the clerk of superior court, are appointed by the senior resident superior court judge, and work under the supervision of the chief district judge. Magistrates are officers of the district court, paid by the State, and in many cases work part-time. Their civil jurisdiction includes small claims involving $500 or less. In criminal matters, the magistrate tries worthless check cases involving $50 or less, accepts guilty pleas in cases involving no more than a $50 fine or 30 day jail sentence, issues warrants and conducts first appearance hearings.

OTHER KEY OFFICIALS

District Attorneys. The State is divided into prosecutorial districts that correspond with the judicial districts except in the case of the 27th Judicial District, which is divided into prosecutorial Districts 27A and 27B. A district attorney is elected to a four-year term by the voters in each district. The responsibility of the district attorney and his assistants is to represent the state in criminal and certain juvenile matters. The district attorney is also responsible for the calendaring of criminal cases.

Public Defenders. By 1977, the public defender system had been established in five judicial districts for the representation of indigent defendants in criminal matters. Public defenders substitute for the system of privately assigned counsel used in most districts at the present. Some public defenders are appointed by the senior resident superior court judge from recommendations by the district bar. Their terms are four years.

Clerks of Superior Court. The clerk of superior court is required to maintain a system of consolidated records for both the district and superior courts. Thus, there is one trial court clerk in each county, elected by voters in the county for a four-year term. The clerk is also judge of probate and special proceedings. He is authorized to issue warrants and accept trial waivers in minor

traffic cases.

Court Reporters. Reporters are required to record verbatim courtroom proceedings, including the testimony of witnesses, orders, judgements and the judge's instructions to the jury, which are required when appeals are taken. Reporters are not involved in district court criminal sessions since, on appeal, there is an entirely new trial. Court reporters are appointed by the senior resident judge for superior court and by the chief district court judge for district court.

Probation and Parole Officers. Probation and parole officers serve a similar role for adults as do court counselors for juveniles. They interview defendants and advise the court on the suitability of the accused for probation. They counsel with and maintain supervision of individuals on parole or probation status as directed by the courts or parole board and report on violations of any conditions of probation or parole. Probation and parole personnel are in the Department of Corrections, an agency of the executive branch.

Juvenile Court Counselors. North Carolina has a uniform court counselor program operated under the supervision of the Administrative Office of the Courts to provide intake, probation and after-care services to juveniles. Judicial districts have from four to twenty-three court counselors who not only have the duties of juvenile probation officers but also conduct a preliminary inquiry to determine whether a juvenile petition should be filed against the child.

THE ROLE OF JURIES

Superior court utilizes a jury of twelve persons in criminal cases except where a guilty plea is entered and in civil cases unless trial by jury is waived. Juries may also serve in district civil court but are not utilized in district criminal cases or in cases before a magistrate.

A master jury list is prepared every two years in each county by a jury commission composed of three private citizens. All competent, adult citizens who have not been convicted of a felony or served on a jury during the preceding two years are eligible for jury service. The list is developed by taking names from tax and voter registration rosters in a systematic manner to avoid favoritism and discrimination. For each week of court, a group of prospective jurors—usually 36 to 48, but occasionally more in large counties—is randomly selected from this list. A trial juror

normally serves one week.

The grand jury consists of eighteen persons, half drawn from the jurors called for the first criminal term after January 1 and half from those called for the first criminal term after July 1. The grand jury, unlike trial juries which must decide on issues of guilt or innocence in criminal cases, is charged with the responsibility of determining whether there is probable cause for a charge that a person committed a crime for which he is accused and for which trial would be held in the superior court. When probable cause is found, the accused is thereby indicted, a necessary prerequisite to trial in the superior court, unless the accused waives the grand jury process. Indictment can be waived except in a capital case or in a case in which a defendant is not represented by counsel.

Additionally, the grand jury is required to inspect the county jail and is empowered to inspect other county offices and agencies for a report to the court. In some cases, court facilities have been determined inadequate and recommendations to eliminate such deficiencies have been made by the grand jury.

Footnotes

1. Lefler, Hugh Talmage and Albert Ray Newsome. *North Carolina: The History of a Southern State.* 1963 Edition, p. 142.
2. Ibid, p. 142.
3. Battle, Kemp P. *An Address on the History of the Supreme Court* (Delivered in 1888). 1 North Carolina Reports, p. 847.
4. Lefler, pp. 291, 292.
5. Battle, p. 848.

The Role of the Judiciary in Making Public Policy

John V. Orth

A hundred years ago in the novel *Billy Budd*, Herman Melville gave us a fictional account of one type of judge. Captain Vere, whose very name means truth, was called upon to judge a crewman who had unintentionally killed one of the ship's officers. While recognizing that the defendant was innocent in the eyes of God, Captain Vere ordered him to be executed. The judge, he said, must enforce the law as it is, and the law required the order he gave. Although Captain Vere himself is fictional, judges with a Captain Vere philosophy are not. Indeed, historians tell us that Captain Vere was modeled on Lemuel Shaw, a famous Massachusetts judge and Herman Melville's father-in-law.

At about the time that Melville was writing *Billy Budd*, North Carolinians were hearing much the same thing about judging that Captain Vere had said. But in North Carolina the spokesman was not a fictional character; he was the state's "fighting judge," Walter Clark, who for over 20 years was Chief Justice of the North Carolina Supreme Court. Clark based his philosophy in terms of popular sovereignty: "Whatever tends to increase the power of the judiciary over the legislature diminishes the control of the people over their government." The question, for Clark, was whether the people governed themselves through their representatives, or were governed by their judges.

The ideal that judges should enforce the law, not make it, has attracted many judges, not just in the last century. Susie Sharp, Justice of the North Carolina Supreme Court from 1962 to 1975 and Chief Justice from 1975 to 1979, often expressed this position. As she once put it, there are four steps in deciding a case: 1) state the facts; 2) state the issue raised by the facts; 3) state the law relevant to the issue; and 4) decide the issue in light of the law. Using this method, any two judges should make the same decision. If a judge thinks legislation is desirable, he may say so, but may not anticipate the legislation by judicial decree.

Charles Becton, the newest member of the North Carolina Court of Appeals and the only black judge on that court, has a similar outlook. "I view the role of the judiciary in the traditional

sense," he said, "of applying the law—not making it."

If the judge's role is so limited, why do talented men and women leave lucrative careers in private practice to don judicial robes? Why is an effort made to see that more women and members of minority groups are chosen as judges? And why are judicial decisions so anxiously awaited by persons not party to the suits?

The answer to the last question, of course, is that in the American legal system the judge does more than decide disputes: he or she makes precedents, which guide other judges. The rule of following prior decisions in similar cases is known by the Latin phrase *stare decisis*, "to stand by decided matters."

Yet this answer only makes the other questions more perplexing. If the judge is bound by statutes and the decisions of his predecessors, why, aside from the emoluments, should anyone want the office? And why, once minimum qualifications are met, should society care who holds it?

The answers to these questions lie in the process of judicial decision-making. First of all, our law is more than a collection of statutes and precedents. Every judge swears above all to uphold the Constitution of the United States. In addition, every state judge swears to uphold the Constitution of his state, except to the extent that it conflicts with the federal Constitution. Every state judge must swear to deny effect to any law that violates either Constitution. Because the U.S. and state Constitution embody many American ideals, the judiciary is called upon from time to time to measure laws against fundamental assumptions, and to throw out those laws that do not conform with the expressions of the Constitutions. Our constitutional system encourages an independence of mind among the judiciary.

JUDGES DO MAKE LAW

Much of a judge's day-to-day work, of course, involves matters more mundane than constitutional adjudication. Statutes must be construed, which involves more than reading plain language. Anyone who has ever tried to puzzle his way through a statute knows that the meaning is often far from plain. But statutes in the modern world of regulation must be fitted into the complicated machinery of the modern state. Since a statute is produced in the political give-and-take of legislative bargaining, many gaps and inconsistencies may be left for the courts to deal with, as best they may. Charged with the duty of carrying out the

will of the legislature, the modern judge must read the statutes in such a way that public policy will be effectuated, not stymied. In the case of *Morrison v. Burlington Industries*, for example, the North Carolina Supreme Court has been asked to construe the Workers' Compensation Act as it applies to disability caused by brown lung disease. The N.C. Industrial Commission, which administers the workers' compensation laws, needs a definite rule, and the textile industry, insurance companies, textile workers, and the general public are also watching the outcome closely.

In addition to clarifying the statutes, a judge must also restate the common law. When interpreting a statute, the court is enforcing a law made by the legislature. When applying the common law, on the other hand, the court is enforcing a rule made by judges. The common law is, by definition, non-statutory law—law made by past judicial decisions in keeping with the then current views of public policy. As society changes, so does the common law in order to conform to changed conditions. Should the judges fail to update the common law, the legislature will be forced to act. The Workers' Compensation Act, for example, was originally enacted because of public dissatisfaction with common law rules that limited employer's liability for injuries to workers on the job.

The renovation of the common law, however, need not await legislative action. What the judges have done, they also undo. In 1967, for example, Justice Susie Sharp wrote an opinion in which the judges of the N.C. Supreme Court reversed the common law rule of "charitable immunity." Until that decision, charities running hospitals in North Carolina were not liable for injuries to patients caused by the negligence of their employees. Because she recognized that hospitals relying on their immunity might not have taken out liability insurance, Justice Sharp limited the new rule to the case before her and to similar cases arising subsequently. In effect, the decision was like a statute—only it hadn't been passed by the legislature and signed by the governor. On this ground, three of the seven judges dissented from Justice Sharp's opinion.

Within limits, judges do make law. The common law is their creation, and statutes require their interpretation. All law must constantly be squared with the Constitution. And the Constitution means what judges decide it means.

MAKING PUBLIC POLICY EVERY DAY

The realization that judges are policymakers came early in the history of the United States. More than 150 years ago a campaign began to replace the common law with statutory law in the form of a comprehensive code. Deprived of the common law and under the watchful gaze of the legislature, the judges would have less room to maneuver. But the codification movement failed to reach its goals. After winning a famous victory in modernizing legal procedure, the movement faded away.

A more widespread response to the felt need to make judges more accountable was the movement for an elected judiciary. If they were going to legislate, the argument ran, let them run for office like other legislators. Beginning with Mississippi in 1832, one state after another adopted constitutional provisions requiring the election of all state judges. Chief Justice Walter Clark of North Carolina even called for a national crusade for the election of federal judges.

The election of state judges has not succeeded, however, in making them accountable as policymakers. Even ambitious lawyers have hesitated to turn judicial elections into out-and-out political campaigns. The people have never wanted active politicians on the bench, for fear that the life, liberty, or property of individual litigants could become political footballs. The practice arose early in North Carolina, as elsewhere, to reduce judicial elections to mere form. Every North Carolina judge mentioned in this article was first appointed by the governor to fill a vacancy. In any later election, the judge runs as an incumbent.

The fact that a judge may escape effective challenge at the polls does not mean that he has a free rein. As mentioned above, there are limits to judicial law-making. And a judge who misbehaves may, of course, be impeached. But the most effective restraint on a judge is his or her own sense of integrity and mission.

How activist do North Carolinians expect the state's judges to be? A purely passive bench would have left an outmoded "charitable immunity" on the books, and washed its hands like Captain Vere when he condemned Billy Budd. In time, perhaps, the legislature would have changed the law, but until then individuals would have suffered. Groups that can more easily influence the legislature than the courts will reasonably prefer that the courts in most cases await legislative fiat. Lobbying is an accepted part of the legislative, but not the judicial, process. Investigation is more easily carried out by legislative committees

than by judges. And horse trading is an inevitable part of the legislative process.

For present purposes, perhaps, the most that should be said is that, whether activist or not, judges are making public policy every day. They bear watching.

Public Defender System
The Verdict Is Out

Stan Swofford

Early this year [1980], N.C. Supreme Court Chief Justice Joseph Branch, seeming frustrated and somewhat piqued over the irate letters he was receiving from court-appointed attorneys dissatisfied with their fees, said "it might be time to look into the possibility of a statewide public defender system." His predecessor, former Chief Justice Susie Sharp, said the same thing in a speech to the state bar three years ago, and reiterated it in a recent interview—more than 10 years after the state initiated a "pilot" public defender system which has grown to encompass only five judicial districts. And Governor Jim Hunt this year has indicated strongly in a public statement that he would prefer a vastly expanded public defender system.

Their reasons have to do mainly with money. The fund set aside by the Administrative Office of the Courts (AOC) to pay court-appointed lawyers ran out in March, 1980, almost three months before the end of the fiscal year. The AOC was forced to request—and fortunate to receive—$1.7 million from the state budget office to cover the deficit.

Every available study shows that a public defender office, consisting of a full-time staff of lawyers employed by the state to represent indigents in criminal cases, is less costly than the court-appointed or assigned counsel system. For the fiscal year ending June 30, 1979, the state paid almost $4.6 million for court-appointed lawyers in 28,998 cases—an average of $157.55 per case. At the same time in the five public defender offices (Guilford, Cumberland-Hoke, Mecklenburg, Gaston and Buncombe), the cost to the state to represent 10,972 cases was $1,149,780 or $104.79 per case.

Although money may be the catalyst, it is not the only reason officials are looking toward the possible expansion of the public defender system. Another is fairness, equality of representation for all indigent defendants. Chief Justice Branch believes that "generally speaking, the public defender with his experience will be better." And, says John Haworth of High Point, president of the North Carolina Bar Association, "The public defender system has made available to a class of people who badly need it, good,

very good representation. The public defender is able to gain a level of expertise in criminal law that private practitioners might not be able to acquire."

Mary Ann Tally has been the chief public defender in Fayetteville for four years and has been with the office since 1974. She says that fairness and equal treatment of indigent defendants should be the main issue. A court-appointed lawyer must file a motion before a judge in order to obtain an investigator at the state's expense, but each public defender office has at least one professional investigator on staff. Tally's office has two. The Guilford County office has three. "The big thing, however, in the public defender's office is expertise," Tally says. "We practice criminal law and that's it."

The limited public defender system in North Carolina has its origin in a flurry of U.S. Supreme Court decisions during the 1960s that broadened the rights of indigent defendants. Prior to 1963, indigent persons were entitled to counsel only in capital cases. Compensation to the court-appointed lawyer was made by the county. That year, however, the U.S. Supreme Court held in *Gideon v. Wainwright* that a state had to furnish counsel to any indigent defendant charged with a felony. The North Carolina General Assembly was in session at that time and enacted a bill providing counsel as a matter of right for indigents charged with a felony and awaiting trial in Superior Court.

In 1967, responding to other decisions of the Supreme Court, the General Assembly extended the right of indigents to counsel in preliminary hearings in felony cases and for juveniles charged with an act which would constitute delinquency. Later in the case of *Argersinger v. Hamlin* the U.S. Supreme Court ruled that no indigent, unless he waived his right, could be imprisoned for any offense unless he was represented by counsel.

Then, in 1970, North Carolina began public defender programs in Guilford and Cumberland counties. Former state Representatives Sneed High of Fayetteville, and Marcus Short of Greensboro, among others, helped establish these pilot programs.

The question before North Carolina now is how to supply such counsel by the fairest and most economical means possible. The state has at least three options. First, it can continue with a court appointed system and find ways to supplement the current budget. Secondly, the state, in cooperation with local bar associations, can take the legislative and administrative steps necessary to expand the existing public defender programs into a statewide system. Finally, the state bar association, in

conjunction with the General Assembly, could fund a private, nonprofit organization to oversee the public defender function. Or some combination of these options could be attempted.

Almost every state and national authority concerned with the problem believes the answer lies with a vastly expanded statewide public defender system. Ten states have statewide public defender offices supported by state funds, according to Howard Eisenberg, director of the National Legal Aid and Defender Association. Six more, including North Carolina, Eisenberg says, have some type of statewide indigent representation system supported by state funds. The other states have haphazard systems on a county-by-county basis, supported by county tax dollars.

"I think we've got to go to an expanded public defender system," former Chief Justice Sharp has said. "But as undesirable as the present situation is, I would hate to see the socialization of the practice of criminal law. I think the private bar must continue to play an important part in the defense of indigent defendants."

Many state and federal experts share an enthusiasm for an expanded public defender system, so long as it remains closely aligned with the private bar. In the past, local bar associations have decided whether to establish public defender offices in their district. Some local bars, according to N.C. Bar Association President Haworth, apparently have felt that it would take money away from young lawyers just beginning practice.

"This is true," says Rep. Parks Helms of Charlotte, chairman of the North Carolina Courts Commission, established by the 1979 General Assembly to study such issues as the public defender system. "But the defendant needs to be assured of getting competent counsel." Alternatives for training young lawyers might be established to substitute for the training attorneys now get through the court appointed system, says Helms, himself an attorney.

Jim Little, who served as public defender in Fayetteville, N.C. and who now is in private practice, also believes the private bar should not be left out of a statewide indigent defender program. One reason again is economics. A statewide system probably would not work in the extremely rural areas of the state, he says. In such areas a private attorney or several private attorneys probably could be retained to represent indigents.

Dennison Ray, director of Legal Services of North Carolina, the organization which represents indigents in civil legal

proceedings, believes that a public defender office could be established in each of North Carolina's 33 judicial districts. Each should work in conjunction with the private bar, Ray says. "It should not become just another state institution."

Little and other court observers see little danger in statewide public defender offices becoming more of a "political steppingstone" for ambitious court officials than any other public office. Little, former Chief Justice Sharp, and others do feel, however, that public defenders should be chosen by some merit selection process if possible. Little also feels strongly that the system should be independent of the judiciary. That is, judges should not be given the power to determine who represents an indigent defendant, just as a judge does not decide who represents a person with money.

In recent weeks, North Carolina officials responsible for designing the criminal defense system have begun a closer review of the type of system which could best function in this state. On April 14, 1980, Governor Hunt wrote state Rep. Helms asking the N.C. Courts Commission to determine whether the state should expand the public defender system. In his letter, Hunt said he hoped the "study could be completed by the fall of this year for consideration by the 1981 General Assembly."

"The Governor has an open mind about it," says Gary Pearce, the Governor's press secretary. "In the past, he (Hunt) felt, as a lawyer, that the court-appointed system worked better," says Pearce. "But he now feels the public defender system may be better."

On April 18, 1980, the Courts Commission met in Raleigh, its second meeting since being established. The Commission voted to accept the request from the Governor and decided to hold a hearing on the public defender system as a step in preparing recommendations for the General Assembly.

The Wisconsin program, which the National Legal Aid and Defender Association considers a model system, combines the public defender system with the assigned counsel system. And it is entirely out of the hands of the judiciary. It is funded by the state and administered by a nine-member board, at least five of whom must be private attorneys.

The board sets standards for indigency, and the public defender or his representative decides whether a defendant meets those standards. The board appoints a chief public defender who "puts out all the fires," according to Eisenberg of the National Legal Aid and Defender Association, and who attends to the day-

to-day business of running the system. The board decides on a county-by-county basis the number of indigent defendants to be represented by assigned private counsel and the number to be represented by attorneys working for the public defender offices and establishes standards for attorneys participating in the system.

The Wisconsin judiciary is kept entirely out of the system. "If a judge has nothing to do with determining who represents a person with money," Eisenberg asks, "why should he have anything to say about who represents an indigent defendant?" When a person who feels he cannot afford an attorney is arrested in Wisconsin, he can call a toll-free number which connects him with the nearest representative of the state public defender system. If the defendant is in an area rather far from the nearest public defender office, the central office assigns a private attorney known to be qualified in the field of law involving the charges against the indigent defendant.

All attorneys participating in Wisconsin's indigent defender program—the private lawyers and those working fulltime in the public defender offices—have at their disposal "brief banks" and other collected legal data, private investigators, and the expertise and cooperation of the central public defender office administered by the chief public defender. "I think the arrangement with and the cooperation of the private bar is absolutely essential," Eisenberg says. "Without it, the program would be too institutionalized. The state on the one hand would be trying to imprison the defendant, while on the other it would be trying to allow him to go free." The participation of the bar "keeps everyone honest."

Alternatives to Incarceration

Alan McGregor
Libby Lewis

"There has been a tendency to overuse prisons, making prison the first choice instead of the last choice. By last choice I mean a conscious decision made about the needs of the offender, the community and the resources available. If any sentence other than imprisonment is appropriate, it should be used."

Amos Reed, Former Secretary
North Carolina
Department of Correction

"The kids were responsible and reliable," says David Nickell. "They performed the work we asked them to do. And they worked hard." Nickell has the quick, temperate voice of someone accustomed to efficiency. He has just completed moving the Durham County Library's 80,000 volumes to a new home on North Roxboro Road.

"I spent more time with the kid who couldn't read than with the others," says Nickell. "He was rude and rebellious at first. Then I found out he was embarrassed. He couldn't shelve books because he couldn't read. He was in for truancy. He skipped school all the time."

When Jerry Smith (not his real name) came before a Durham judge for truancy, the judge did not send Jerry to a correctional institution. Instead, the judge assigned him to Offender Aid and Restoration (OAR), which supervises the Durham library project. Like other nonprofit agencies participating in the community service program, OAR serves offenders of all ages but primarily young offenders who have little if any criminal record.

"Sure, the community service program takes work," says Nickell, explaining the demands and benefits for the library and the offenders. "During the move, we had him (Jerry) clean books instead of shelve."

"It'll be more difficult to find that kind of job now," says Nickell as he prepares to install the fire alarm system, one of the last steps in the move. "But the library is committed to helping keep people out of jail. It's worth it."

Commitment to corrections alternatives, like OAR's community service program, is growing in North Carolina—and not only on the local level. At a February [1980] press conference, Governor James Hunt boasted the success of another alternative which allows non-dangerous offenders to repay crime victims for stolen or damaged property, instead of serving time in prison. In this program, called restitution, offenders work at their regular jobs—the unemployed are aided in finding jobs—and make regular monetary payments until full renumeration is met.

In 1977, the General Assembly funded restitution officer positions so that the program now operates statewide. In January, 1980, offenders in these programs returned over $320,000 to more than 13,000 individuals and businesses. More than $3 million has been paid since the 1977 legislation passed.

The Governor's acclaim for restitution signals a top-level nod to what was once a hypersensitive subject in state corrections policy. The handful of judges and district attorneys who used restitution before the 1977 law was enacted find themselves suddenly in vogue.

"I've been using restitution for years," says District Court Judge Milton Read of Durham, "but there has been more attention paid it in the past six months than ever before."

[Former] Secretary of Corrections Amos Reed agrees. There is a "broadening consensus among administration officials that alternatives to incarceration are increasingly acceptable and necessary," says Reed.

But Hunt's and Reed's pronouncements are only a beginning. Thus far, the state has made a minimal commitment to alternatives. The Salvation Army and other private groups, for example, operate all six of the halfway houses in the state, which focus on counseling and getting jobs for offenders. Other approaches such as dispute settlement centers and youth alternative programs rely on private funding and volunteer support. Aside from restitution and probation, official support for alternatives has depended mostly upon individual efforts such as those of Judge Read, some district attorneys, and officials at the Department of Crime Control and Public Safety, which is separate from the Department of Corrections.

Even so, corrections reform advocates welcome the new wave of support for restitution and other community-based programs. "We're not used to having so many allies in high places," says Lao Rubert, director of the Prison and Jail Project of North Carolina, a Durham-based group working for alternative

sentencing. "But recently, when we talk about community-based corrections," says Rubert, "we find a lot of powerful heads nodding in the affirmative."

What is the impetus for this growing acceptance of corrections alternatives? And how can community groups and state policymakers build on the successes of the limited initiatives to date?

North Carolina's 81 state prisons are holding some 5,000 prisoners over the system's normal capacity of 10,900, an overcrowding rate of 35 percent. Such numbers severely affect minimal comforts, quality of services, and self-respect, says Pauline Frazier, director of Offender Aid and Restoration of North Carolina. "But it usually takes a tragedy—an Attica or a New Mexico State—for the public to see these," says Frazier.

In 1968, a riot at Raleigh's Central Prison left six inmates dead and 77 persons wounded. In 1975, a protest at Women's Correctional Center in Raleigh brought out guards in riot gear, resulting in injuries but no deaths. During this period, officials were attempting to streamline administrative procedures and improve mail delivery, food quality, library access, and other minimal services. Public attention on the inequities for women in the prison system was beginning. And occasional rehabilitation efforts—work release, high school equivalency, and vocational training— were being tried. But the local tragedies and minor reforms did not divert officials' attention from a single preoccupation: solving the problem of overcrowding.

In 1974, corrections officials requested major capitol construction funds from the General Assembly. The legislature then created a Commission on Sentencing, Criminal Punishment, and Rehabilitation, headed by Charlotte Senator Eddie Knox, and charged it to develop "a comprehensive long-range policy recommendation setting forth a coordinated state policy on correctional programs."

In 1977, the Knox Commission reported back with a number of recommendations and a warning that sobered the lawmakers. "Unless immediate action is taken," the Commission reported, "it is likely the Federal courts will intervene in the operations of North Carolina's prisons."

The specter of federal court intervention did what violence at Central Prison and the crush of inmates in facilities throughout the state had not. It prompted some official support from the Department of Corrections for alternative sentencing programs. And most dramatically, it was the catalyst within the General

Assembly for a massive $103 million appropriation for prison construction. "It's much easier to get dollars from the General Assembly for new prisons than for alternatives," says OAR Director Frazier, who serves on the Corrections Planning Committee, the official advisory board to the Department of Corrections. A traditionally conservative legislature has led the state to rely heavily on prison construction, Frazier believes.

The Knox Commission report also resulted in the 1977 passage of the Local Confinement Act, which was designed to place short-term misdemeanants in city and county jails rather than in state prisons. Placing over 1,000 misdemeanants into local jails in 1978 reduced the state prison population that year. But the number in local jails rather than state facilities has stabilized at about 1,300, and the state prison population has since expanded back to the pre-1977 levels.

Another Knox Commission initiative may soon have some effect on the overcrowding problem, but perhaps to make it worse rather than better. The presumptive, or fixed, sentencing bill which takes effect this summer [1980] is designed to reduce disparity in sentencing from judge to judge. While the legislation will make sentences more uniform, some crimes will carry longer sentences than many judges presently render. Moreover, the legislation has replaced the parole system, an important instrument in controlling prison population levels, with a standardized good behavior system. Some corrections experts worry privately that presumptive sentencing might contribute to overcrowding.

State officials project more growth in the prison population through at least 1985. In addition to funding construction projects, from the $27 million Central Prison complex to the field units being built in various locations, the state must also absorb increasing maintenance costs, now nearly $7,000 per prisoner each year.

"The state has felt for some time that it is running a few steps in front of the federal courts," says Frazier. "But it has not been able to substantially reduce overcrowding."

Amos Reed predicts the prison population growth rate will decrease if alternatives are "systematized" and "if people understand that the actions of criminals are being properly addressed by the new programs."

Alternatives, if properly supervised and utilized, can do more though than keep people out of jail. "We told one youth who couldn't read or write about the literacy programs in the area and

showed him that the library has materials for him too," says David Nickell.

Four of the six youths who helped Nickell move 80,000 volumes in Durham had never been inside of a public library before. "They got a chance to really know the place," says Nickell. "They checked out films, cassettes, books, and school catalogues." One of the youths serving time in the library applied for a full-time job there after his sentence was fulfilled.

But local successes like the library program are still the exception. Successful alternative programs demand extensive resources, funds, and people from the community in which they operate—for counseling, tutoring, monitoring, finding jobs, providing transportation, and other services. Placing responsibility for corrections in the community is not only difficult but also unfamiliar. Incarceration has always provided local citizens, as well as state officials, a quick, convenient solution to crime. Isolating offenders from community view prevented people from having to understand what prisoners must go through or to face what problems the prison system creates for the larger society.

Corrections experts like Frazier realize that acceptance and involvement in community-based programs will not be automatic. "Alternatives will have to be sold to the community," says Frazier. "So far, no one is claiming responsibility for doing the selling." The authority for developing alternative sentencing programs is dispersed through a number of state, local, and private agencies. These programs depend on the coordination of district attorneys, judges, social service agencies, the Department of Corrections, volunteer groups, and private organizations.

A strong impetus from the community is necessary for so many different groups to work together effectively. At the same time, funding, technical assistance, and cooperation is essential from the state. The legal community, the judicial system, the General Assembly, and the Department of Corrections are as important actors in alternative programs as the Durham County Library, the YMCA, the Salvation Army, and other agencies involved in community corrections.

More and more advocates are emerging to assist Frazier, Rubert, Reed, and the others. The North Carolina Council of Churches, the Presbyterian Synod of North Carolina, and other denominational agencies have undertaken education campaigns. The Governor's office has proposed an in-depth study of alternative corrections. The Prison and Jail Project of North

Carolina is organizing a blue-ribbon citizens committee to prepare an action plan for the 1981 General Assembly.

Even with the support of these diverse groups, developing programs that merge restitution, justice, and rehabilitation will be difficult. As alternative sentencing becomes more prevalent, new problems may emerge.

Additional alternative programs will be dealing with more and more people who have not completed high school or can't even read. (See section immediately following the article.) David Nickell, for example, had to devise a special task for the youth who couldn't read well enough to re-shelve books. A great deal of imagination—and funding—will be necessary to meet the needs of large numbers of people who have similar problems.

Official expansion of alternatives could also be accompanied by the same racial imbalance found in the current patterns of imprisonment. "It is likely that alternatives will suffer a similar bias," says Frazier. "Whites may be referred to alternative programs more than blacks." The only way to prevent discrimination from seeping into alternatives may be through close monitoring by citizens' groups, private agencies, and local and state government officials—another form of community commitment.

The long-range challenge for alternatives to incarceration—creating programs that provide restitution and at the same time attack the cause of crime—makes equal demands on state officials, like Governor Hunt and [former] Secretary Reed, and on community leaders, like Pauline Frazier and David Nickell. If state and local officials as well as community groups respond to this challenge, North Carolina can move closer to the new corrections philosophy espoused by Reed: "If any sentence other than imprisonment is appropriate, it should be used." But the state has much to do before it can claim Reed's statement as current policy. State officials are standing at a crossroads. Will they choose to continue supporting expensive construction projects, which do not guarantee a solution to overcrowding? Or will they give substantial backing to programs that can make prison the last choice instead of the first?

WHO GOES TO PRISON IN NORTH CAROLINA?

In 1978, North Carolina ranked seventh in the nation in the percentage of population in prison. The state's prisons and jails

held 310 of every 100,000 people—even though the state had one of the nation's lowest rates of non-violent crimes. More populous states like Massachusetts and Pennsylvania had far higher non-violent crime rates but less than half the number of prisoners.

Sentence length has contributed heavily to this pattern. In 1969, the average sentence in North Carolina was 2.7 years. After a decade of toughening attitudes on crime, that average has nearly doubled.

A description of the state's prison population suggests that the criminal justice system has filled the prisons with people who have the least power in the society, with little regard for whether prison is the appropriate form of punishment. Moreover, as Pauline Frazier, a member of the Department of Corrections official advisory board puts it, "Discrimination exists in every stage of the criminal justice system."

- Two out of every five prisoners are under 25 years of age.
- Three-fourths of those in state prisons have not graduated high school. Almost half of those admitted to prison left school before the 10th grade.
- Over 50 percent of the state's prisoners are black or members of other minority races. Less than a quarter of the state's population are minorities.
- One of every 20 minority men in North Carolina is either imprisoned, on probation, or on parole. The figures for white males are five times lower.
- About 50 percent of the people in prison were convicted of economic or victimless crimes. Twenty percent of those admitted to prison are charged with forgery, passing worthless checks, traffic violations, crimes against morality, and drug offenses. Only one of every five prisoners was convicted of a physically violent or dangerous crime.

ALTERNATIVES THAT ARE WORKING

Community Service Restitution Project. Begun in 1979 under the sponsorship of Offender Aid and Restoration of Durham, this program has already diverted 75 offenders from the court system in Durham County. The District Attorney's office, judges, and more than thirty public service agencies including the YMCA, Salvation Army, and Durham County Library have cooperated to launch this program. Non-dangerous offenders are

assigned for up to 60 hours of labor. For many first offenders, successful completion of their community service results in charges against them being dropped so that they will not retain criminal records.

Court Youth Alternatives Program. Since its inception in 1978, more than 150 youthful offenders have participated in the Court Youth Alternatives Program (CYAP) in Raleigh. All participants in the program, sponsored by Re-Entry, Inc. must work or go to school full-time. Each youth must also do 75 hours of community service work under the sponsorship of one of some 50 cooperating nonprofit agencies in Wake County. One-to-one support is provided to each participant by volunteer sponsors. By completing the program successfully, 80 percent of the youths avoided further prosecution.

Dispute Settlement Centers. In Wilmington and Chapel Hill, local district attorneys are referring cases to Dispute Settlement Centers where a trained mediator can best deal with the case away from the costly and formal proceedings of the courts. The mediator helps community members solve problems arising from the case, including conflicts between family members, customers and businesses, and neighbors. Resolutions often occur before the need for criminal prosecution. Offender Aid and Restoration of North Carolina operates the Wilmington center; the Dispute Settlement Center of Chapel Hill operates the Chapel Hill center.

Halfway Houses. Over the last two years, 75 men have been housed at Troy House, a ten-year-old therapeutic community for criminal offenders in Durham. Men come to Troy House under federal and state programs. Some residents are under active prison sentences under contract from the Federal Bureau of Prisons or the state Department of Corrections. Others are on probation or have been sentenced directly to the halfway house. While in residence at Troy House, the men benefit from counseling programs aimed at coping with vocational, personal, and family challenges. Jobs are mandatory for the residents and not less than one-half of their income is kept in savings for use after their release.

Re-Entry's halfway house in downtown Raleigh has housed more than 175 men over the last three-and-a-half years. Life at Re-Entry is much like that at Troy House. Counseling and jobs are integral to the program.

There are four other halfway houses in North Carolina. Houses in Charlotte, Winston-Salem, and High Point are

operated by the Salvation Army. The fourth is operated privately in Sanford.

Extended Work Release Program. The South Carolina Department of Corrections uses this program, which William Leeke, the director of the South Carolina system, calls the "most progressive program we've got going." When an individual has been on work release two months and has met other criteria, the person can then live in a sponsor's home while serving the balance of the sentence. Participants pay $5.00 a day for their own supervision. "This decompression chamber approach has given us a lot more flexibility in taking people from confinement and helping them to work their way back into the community," says Leeke.

A Balance of Interests
Dealing with the Juvenile Offender

Brad Stuart

In 1972, the authors of a North Carolina Bar Association study of the state's training schools wrote that their findings should be received with "indignation, even outrage." The system of training schools for juvenile offenders was "a total failure."

Ostensibly set up to provide education and counseling to wayward children, the eight training schools were in fact little more than prisons. Bleak, understaffed, they did not even provide their charges with basic dental and eye care, let alone deal with the more difficult problems of emotional and mental development. The report, titled *As the Twig Is Bent*, spoke of neglect and "mistreatment of helpless children."

While physical brutality by school personnel was rare, some school authorities were said to encourage their wards to pursue and to beat up children who attempted to escape. The study concluded that "it is difficult to inculcate moral principles in a young child who lives under custodial conditions, sleeps in an overcrowded dormitory, is deprived of family identification, and who if he tries to escape may be hunted by his fellows like an animal and punished by being isolated in a cell equipped with only a mattress."

Into this system the state poured not only its violent and larcenous young, but children under the ill-defined legal label "undisciplined"—the runaway, the truant, the unmanageable, the unwanted. These undisciplined children (so-called status offenders because offenses such as truancy are illegal only because of the offenders' status as children) helped swell the commitment rolls to the point that North Carolina had more children per capita in training schools than any other state in the nation. The Bar Association called the training schools "a dumping ground for unfortunate children, most of whom have committed no crime whatsoever."

It took three years for the legislature to respond, but in 1975, the N.C. General Assembly passed a bill to help implement the central recommendation of *As the Twig Is Bent:* the creation statewide of community-based alternatives to training schools. Instead of being dumped in training schools, status offenders—

and delinquents other than hard-core incorrigibles—were to be helped by foster care, group homes, counselors, special school programs and mental health therapy in their own communities.

There is a kicker to the bill, a provision which helps make House Bill 456 one of the most important and controversial changes in state juvenile law since the creation of a separate juvenile court in 1919. The provision,* in effect, forbids the commitment of minors to training schools on account of any status offense—any offense which is not a crime if committed by adults. In fact, the state's power to keep nondelinquent but undisciplined children in any type of long-term custody has been eliminated.

The effective date of the provision was delayed two years. As the 1977 implementation date drew near, the legislature saw that communities around the state weren't ready to deal with all the runaways, truants, and unmanageable children who had before been sent to training schools. The provision was delayed again. It went into effect July 1, 1978.

"Deinstitutionalization" of status offenders—a goal of federal juvenile justice policy and a requirement for state receipt of federal funds under the Juvenile Justice and Delinquency Prevention (JJDP) Act—is now an accomplished fact in North Carolina. The overall rate of commitment to training schools has dropped by about one-third. From July through October of this year [1978], 222 children were committed to training schools, compared to 363 during the same months in 1977. As of December 4, 1978, there were 685 children in training schools, as compared with more than 1,600 in 1972.

The overwhelming majority of professionals involved in children's services generally support the changes that are occurring and back the intent of House Bill 456.

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*Before the ban on incarceration of juvenile status offenders took effect July 1, many children were committed to the state training schools in a two-stage process. First, the juvenile court would adjudicate them as status offenders because of being truant, running away or being generally out of control of their parents, and would place them on probation. The terms of probation generally required the child to stop committing the offenses that brought him to the attention of the court. If the original offense were truancy, the probation order would order the child to go to school. Secondly, when the children repeated their status offenses following probation—persisting in their truancy, for instance—they were declared "delinquent" for violating a court order. As delinquents, they could be incarcerated in training schools.

The wording of the section of House Bill 456 that bans incarceration for status offenses can be understood only if this two-stage process is understood. The section states that G.S. 7A-278(2), which gives the legal definition of delinquency, "is rewritten to omit the words 'or a child who has violated the conditions of his probation.'" This means that children can no longer be declared "delinquent" solely because of probation violation. And, if not delinquent, they can not be sent to training schools.

In conversations with officials in Raleigh and with professionals elsewhere in the state, however, two basic concerns emerged. Most feel that state and local governments have appropriated only a fraction of the funds needed to make community services a viable alternative to training schools. And some feel H.B. 456 went too far in placing an absolute ban on incarceration of minors for status offenses. Opponents argue for repeal of this provision, arguing that it removes any "stick" the courts have to enforce compulsory school attendance laws and allows rebellious runaways to remain on the street.

UNMET NEEDS

There is no comprehensive body of data on the needs of troubled youth in North Carolina, nor is there a simple estimate of the amount of money required to provide adequate juvenile services, according to Ken Foster, director of the Community-Based Alternatives (CBA) program of the Division of Youth Services. There is little doubt, however, that, three years after its passage, the resources have not been provided to carry out the intent of House Bill 456.

The legislation appropriated only $15,000 for each of the next two years [July 1, 1978-June 30, 1980]. The money went to set up CBA, a planning program in the Department of Human Resources. Despite scant funds, former CBA director Dennis Grady and Foster, his successor, are generally credited with doing an excellent job of organizing county participation. County governments were to be the major actors in the community-based program. Ninety-seven counties agreed to join in the effort.

In February, 1977, the Legislative Commission on Correctional Programs (the Knox Commission) recommended that the General Assembly appropriate $3 million for each year of the 1977-79 biennium for the support of community-based alternatives. The legislature chose to appropriate only half of that: $1 million the first year, $2 million the second. Counties were asked to chip in a maximum of 30 percent of that in match monies. Because many counties didn't have the funds, according to Foster, they were allowed to use "in kind" matches in the form of program facilities already in place.

By the time the state money is distributed to the 97 participating counties, it is stretched pretty thin.

"Last year, Forsyth County, one of the most populous counties in the state, received $30,000 in state CBA funds," said

Ann Ryder, who supervises child mental health programs for the North Central Region, a quarter of the state. "How can that money spread among eight local agencies keep children in the community and give them the help they need? I can't think of any case where a community has supplemented state money enough to make a really viable community-based alternative to training schools."

There are some federal funds available: $1.6 million per year from the JJDP Act, North Carolina's reward for passing House Bill 456. But according to Barbara Sarudi, chairman of the state Juvenile Justice Planning Committee, which helps allocate federal grant monies, JJDP funds will be used to make up for other federal funds—seed monies from the Law Enforcement Assistance Administration—which are drying up. She added that North Carolina's fiscal commitment to community-based services for juveniles is small in comparison to other states'. She said, for example, that Minnesota spends $30 million and neighboring Virginia spends $18 million annually.

When a complaint is brought against a child for a status offense, it is the counselors of the juvenile court who try to locate the group home, alternative schooling or other services the youth may need. One of them, intake counselor Danny Smith of Lillington, had these bitter comments: "What the state has said in effect is, 'You can't put your problem kids in state institutions, but we're not going to give you the resources to deal with their problems at home.' It costs $16,000 a year to keep a kid in training school. They let him out and throw us a few pennies."

Many of the service needs of status offenders are shared by other troubled youths, including delinquents and children with mental problems.

Some kids become status offenders by running away from family fights. They need a decent place to stay—perhaps a temporary shelter home with house parents—until things simmer down enough for them to go home. Some have been abused by their parents (a study by Yale law students R. Hale Andrews and Andrew H. Cohn found that in over a third of the cases of children being brought into the New York state courts on status offense petitions in 1974 the parents could have been charged with statutory abuse or neglect.) Some have learning disabilities or are emotionally disturbed and need intensive therapy.

The lack of temporary shelters and foster homes for runaways was cited repeatedly in interviews. Even in Wake County, where Wake House serves as a shelter, court counselors

reported that runaways are often locked up in the county's juvenile detention center because there is no room in the shelter.

This writer spent two days at the Wake County Courthouse, observing juvenile court and interviewing court officials. All of one afternoon a 14-year-old boy sat in a room outside the counselors' offices waiting for a place to stay. He had fled from home after being repeatedly beaten by his brother, a counselor said. When no place was found for him, he finally went back to his first refuge, the home of a friend whose parents didn't want him in the house. His parents, the counselor said, had not phoned the boy in the two weeks he had been away.

Other children without access to friends' houses or shelter homes don't fare so well. When the state's eight detention centers* are too full or too far away for police to drive, children are locked up in county jails. A total of 2,600—delinquents, disturbed children and status offenders alike—were lodged in jails last year [1978], according to Wiley Teal, state juvenile detention director. Since the law forbids contact with adult prisoners, children are segregated in solitary lockups. Though the average stay is eight to ten days, Teal said he knew of cases in the recent past of children remaining in jail cells for up to a month.

"We had a girl in here (from a small community outside Raleigh)," said Steve Williams, [former] chief court counselor for District 10. "She said, 'My mama and daddy are drunk; they were beating me. I'm not going home.' The emergency shelter was full. There were no foster homes. What do we do with her? We locked her up. Absolutely insane."

State officials and professionals cited a long list of children's service needs now unmet. Two which were mentioned regularly were the lack of programs for borderline retarded children who, without special help, can become truants and discipline problems, and so-called "multi-handicapped" children who are emotionally disturbed and retarded. Both kinds of children are generally excluded by the entrance requirements of existing programs and hence fall through the cracks.

The lack of adequate mental health services in North Carolina is most clearly seen in cases of the most seriously disturbed, the kids who, when untreated, cause the most trouble.

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*The only state-operated juvenile detention facility is in Fayetteville. Because of stipulations attached to the federal funds used to build it, the center won't accept status offenders. County-operated detention centers are in Asheville, Charlotte, Winston-Salem, Greensboro, Durham, Raleigh and Wilmington.

This writer observed a hearing in a Wake County courtroom for a 15-year-old delinquent girl charged with violation of probation. The girl was seriously mentally ill, both counselor and judge agreed. She needed intensive inpatient therapy. Because the state Dorothea Dix Hospital's juvenile unit was full, she was "temporarily" committed to training school. Later in the morning, another disturbed youngster appeared in the courtroom. A gangly boy wearing no shoes and an odd smile, he, too, had been turned away from Dix. Sent home on medication, by afternoon he had court officials scrambling for a detention order. As one of them put it, "That boy who went crazy over the weekend? He's done it again! Went home, tore all the lights out of the house and tried to kill his mama! He's downstairs in a straitjacket."

Child mental health specialist Ryder said that the John Umstead Hospital, which serves the North Central region, also regularly turns away children who need intensive care, "including ones who are dangerous to others."

Dr. Lenore Behar, the head of the state's mental health programs for children, acknowledged that the hospitals are turning away acutely ill youngsters. She spoke of a cruel trade-off, saying the need to provide adequate outpatient community services competes with the need to provide decent care and facilities in institutions. In both areas, she said, there is a critical shortage of funds.

Despite the glaring deficiencies, recent progress in providing services for troubled children is substantial, and in recent years the funding picture has improved markedly. The CBA unit intends to ask for a doubling of funds this legislative session—to $4 million—according to Foster. Mental health funds for children have more than doubled in the past three years, the current annual budget being $25.8 million. CBA resources for problem students have been greatly magnified by the cooperation of the public schools in creating programs for disruptive students and truants. In-school suspension programs have decreased the number of students expelled from school in some areas. Alternative schools, such as Ocean Sciences Institute in Wilmington, have been created. In mental health, the state-supported Wilderness Camping program operated by the Eckerd Foundation has reportedly helped some of the most severely disruptive and disturbed boys to become self-reliant, mentally and physically fit. In the juvenile courts, trained counselors have been hired in all court districts, and their caseloads (averaging 42

cases per month) are not generally seen as excessive.

Certainly not all of these efforts were in direct response to House Bill 456. But the bill has been the primary impetus of new programs for troubled children. And it is the "kicker" provision of the bill which many say has been the key force for change.

The ban on committing status offenders to training schools "is forcing us to do what needs to be done," said Ms. Ryder. "It was too easy to send these kids out of town. And once out of sight you usually forgot them. Even the most dedicated professionals do. Because you've always got a new face in front of you."

"The court used to be seen as the answer, somebody you could pass the kid to when you gave up," said Goldsboro court counselor Donna Ramsey. "The courts could pass him on to training schools. They could send him home and the cycle would start all over again. Now that cycle has stopped."

REPEAL SOUGHT

Opposition to the new law focuses on its central paradox—that the bill designed to encourage community-based programs for status offenders allows children to refuse those programs and to hit the street instead.

Twice since 456 was passed, the North Carolina Association of District Court Judges has called for repeal of the section banning forcible confinement of status offenders. One opponent whose voice carries very far on this issue is Gil Burnett, chief judge of the Fifth District (New Hanover County). Well-known for his advocacy of children's services, Judge Burnett helped initiate Ocean Sciences Institute and is also credited with developing an evaluation program for juvenile offenders in his court which is perhaps the most systematic and thorough of any in the juvenile court system.

Judge Burnett argues that the commitment ban makes the courts incapable of enforcing the laws forbidding status offenses. "It kills the compulsory school attendance law. It kills the legal right of a parent to control his child."

He argues that children under 16 are too immature and vulnerable to get along on the street and says that unless the court has the ultimate sanction of training school, the street is where many kids will end up.

"Before the law was changed, the threat of training school was used as a lever to get these children into education and mental health programs. I'm concerned with civil rights. But

people, at a given time in their lives, need help when they aren't prepared to accept it."

There are preliminary indications that the problem Judge Burnett points to is already surfacing. Apparently, some children are successfully refusing any custody whatsoever. Bill Safriet, supervisor of child mental health services for the eastern region, said group homes for girls in his region had been nearly empty since the law's passage. The same was not the case with boys' groups homes, which, unlike the girls' homes, had never held many status offenders. Williams, the [former] district court counselor, reported the group home in Wake County also had difficulty in convincing girls to stay there. Both Williams and Safriet attributed the attendance problems to the effect of the new 456 provision.

Judge Burnett wants the law changed so that it demands that judges use (not just consider) community services for status offenders, but with training school commitment possible as a last resort.

Other court officials would make an either-or request of the legislature. "A lot of judges feel they should either give us the ultimate sanction necessary to enforce court orders or get status offenders entirely out of the jurisdiction of the juvenile court," said Fred Elkins, chief court counselor in Durham.

Despite the opposition among court officials, one jurist may have inoculated the 456 provision against repeal. His intent was exactly the reverse.

George Bason, chief district court judge for the Tenth District (Wake County) won permission from N.C. Supreme Court Chief Justice Susie Sharp to put House Bill 456 into effect in Wake County one year ahead of the rest of the state. Part of his motivation, he now says, was his belief that the experiment would discredit the law before it became effective.

Eschewing the only means of enforcing probation—the threat of training school commitment—Judge Bason's court placed kids adjudicated as status offenders under "informal and voluntary court supervision." This meant that court counselors would direct them to community services and try to persuade them to accept services offered, but could not force the kids to do anything. (As was the case previously, most of the children with complaints of status offenses lodged against them were dealt with solely by intake counselors. They never appeared in court for adjudication).

The experiment made reluctant converts of both the judge

and chief court counselor Williams. Both said the voluntary supervision procedure was generally as effective as probation in addressing status offenders' problem behavior.

Many kids continue with undisciplined behavior in either instance, Judge Bason said. "They (incorrigibles) didn't respond to probation and training school and they won't respond to 456. One difference is that now they're not sent to schools of crime, elbow to elbow with murderers and rapists."

Only seven of the 209 status offense cases studied during the experiment were judged by court counselors to be "less successful" than they would have been under the old system. On the other hand, only five were judged to be "more successful."

Students in local schools were informed that the new provision was in effect. Truancy did not increase.

The relative success of the experiment is all the more important because Judge Bason is chairman of the Juvenile Justice Code Revision Committee, which will advise this session [1979] of the legislature on needed changes in juvenile law. The committee will "endorse 456", he said. Moreover, he is adamantly opposed to removing status offenders from the jurisdiction of the courts. The ability of police to pursue and apprehend runaways, he says, is often crucial to their protection. Without jurisdiction, adults who exploit runaways could not be prosecuted for contributing to the delinquency of minors.

Juvenile court jurisdiction also allows the courts to punish parents who don't try to stop their children from committing offenses. Responding to the new law's removal of sanctions against truants themselves, Judge William H. Freeman sentenced two Winston-Salem women to 30-day jail terms for allowing their children to skip school. The Juvenile Justice Code Revision Committee, according to Judge Bason, is seeking legislation to expand on this concept, making parents subject to contempt citations if they do not fully cooperate in their children's court-ordered treatment programs. Another reason for jurisdiction is that "court counselors in some multicounty districts represent the only real resource for troubled children for 40 or 50 miles. Without jurisdiction, this resource would be lost," Judge Bason said.

Neither Judge Bason nor Williams is absolutely sanguine about 456, however, and with the possible exception of Grady and Foster in Youth Services, neither is anyone else we spoke to.

"I'm as little concerned about the lack of an ultimate sanction as anyone," said Williams. "But I am concerned, because I have

seen how some children can be positively coerced into accepting some discipline, settle down and be O.K. I'd like to have a training school in Timbuktu, and never send anyone to it, but have kids know it's there so they're willing to accept something else."

Robert Collins, staff attorney for the Juvenile Justice Code Revision Committee, sums up the position of those supporters of 456 who realize some kids will be hurt by it:

"Some people say training school should be available as a lever to coerce kids," he said. "But if a lever means anything, it has to be used. And to incarcerate a person who hasn't committed a crime is absolutely unjust.

"What we're talking about is a balance of interests. Some kids will be on the streets because of this. Some of them will grow up all right; some will be hurt out there—but not, in my judgment, as many as were previously hurt by the state. Give the state the option of training school for kids who have committed no crime and those places will always be dumping grounds. We've tried that way. Let's give the new way a chance."

Jailing Runaways and Truants
A Novel Approach to Juvenile Law

Brad Stuart

When the controversial juvenile law known as House Bill 456* went into effect one year ago [1978], many judges around the state felt that their authority had been undermined. Juveniles who had committed offenses such as truancy and running away from home were not to be committed to training schools, according to the new law. Instead they would be sent to "community-based alternatives" such as group homes, regular counseling sessions, or alternative school programs. Without the threat of being forcibly confined to a training school, however, some children persisted in their "status offenses" (so-called because the offenses are illegal only because of the offenders' legal status as children) and refused to participate in any of the alternative programs. Judges felt they had no "stick," no ultimate punishment for these offenses, and many thought court counselors and social workers insufficiently persuasive to keep undisciplined youths off the streets and out of trouble.

Judge Zoro J. Guice Jr., of Hendersonville, came up with a novel legal remedy. For status offenses which are repeated despite court orders, Judge Guice has found children in contempt of court and sentenced them to terms of 29 days in jail.

Authorities on juvenile law are concerned about Judge Guice's incarceration of status offenders, which was revealed by the North Carolina Center for Public Policy Research. Legal experts are disturbed that children have been jailed following hearings in which they had no attorney to protect their rights. The jailing itself may be illegal, according to some experts. Though there is some question about whether Judge Guice's actions contravene the letter of the law, there is no doubt that the incarcerations violate the spirit of juvenile laws now on the books and are contrary to the official juvenile justice policy of the state.

Asked whether he felt his actions may have violated the spirit of the law, Judge Guice had a succinct reply. "I don't care what the spirit of the law is," he said. He called House Bill 456 "the worst piece of legislation ever written." Anybody who willfully

*Session Laws 1975, Chapter 929.

violates an order of his court can be cited for contempt, he said, and he stressed that "anybody" includes juveniles and adults alike.

Judge Guice has supporters. Martha Griffin, court counselor in the 29th judicial district where Judge Guice holds court, said she and the parents of the incarcerated children were in agreement that the jail terms were necessary and proper. One girl had skipped school, run away from a group home for juveniles and, having been forbidden by the court to continue her truancy, "failed to abide by the court order by not going to school," Ms. Griffin said. Judge Guice sentenced her to 29 days in a solitary lock-up separated from other prisoners, according to Ms. Griffin. After eight days, the judge released the girl, who immediately ran away. At last report, the unidentified girl was still "at large." If apprehended, the girl will serve out the remainder of her 29-day term and the judge will sentence her to an additional 29 days for running away, according to Ms. Griffin.

Judge Guice confirmed that he had sentenced juveniles to 29-day jail terms for violating court orders forbidding status offenses. But he said he would not comment on the particulars of any case involving juveniles.

Asked whether she thought the children, in their early teens, were better off in jail than on the streets, Ms. Griffin said, "Some of them are. Yes I do." One boy had been "sleeping under bridges." And she cited the cases of five girls who had repeatedly run away from home the previous summer. Four of them were eventually convicted of delinquent acts, she said, and two of the girls had been "staying with convicted murderers and rapists." To stop such behavior, Ms. Griffin said, "you have to show them that the court is not something you can thumb your nose at. You have to show that the court means business." Judge Guice lets them out after a few days if he thinks they have learned their lesson, she said. "The judge is trying to get their attention."

Others disagree with Judge Guice's actions on practical, as well as legal, grounds. "It doesn't work," said Steve Williams, [former] chief court counselor in the 10th Judicial District (Wake County). "You said yourself the girl ran away as soon as they let her out. Did going to jail change her behavior? It does not work! I'd beat them if it would work. It does not work!"

Williams and 10th District Judge George Bason, chairman of the state Juvenile Justice Code Revision Committee, agree that there is a group of undisciplined youths who will be helped neither by social workers nor by incarceration. Some will go on to commit

adult crimes. "Most of them will grow out of it and be all right," Judge Bason said in an interview for an article in the Winter, 1979 *N.C. Insight*. Bason believes that incarceration can do serious psychological damage to children and is in many instances far worse than leaving undisciplined kids on the street.

The legal issues are complex, but one expert said in an interview that Judge Guice had clearly "exceeded his legal authority." Mason Thomas, a member of the faculty at the Institute of Government in Chapel Hill and the state's acknowledged authority on juvenile law, wrote in a letter subsequent to the interview that "the use of the contempt power to incarcerate a juvenile in jail for a status offense is contrary to current statutory policy for North Carolina law." Thomas cited House Bill 456, as well as laws dealing with detention facilities for juveniles and authorized punishments for violations of juveniles' probation. He quoted G.S. 11-22, which provides that if a juvenile offender violates probation, "the court may make any disposition of the matter authorized by G.S. 7A-286." Thomas said this statute "lists the alternative dispositions available to a district judge in a juvenile case.... The use of the contempt power for jail confinement is not an authorized disposition." Thomas said the law allows juveniles to be confined to a "holdover facility"—a jail cell separated from those of adult prisoners—but "G.S. 153A-222 limits jail detention in a holdover facility to *five calendar days*. A holdover facility is intended to be what the name implies: a place of temporary custodial confinement pending transfer to an approved juvenile detention home."

The parents' approval of the jailings and the children's lack of legal counsel are among the most disturbing aspects of the cases, according to Thomas. "There was no advocate for the child's point of view... no attorney involved to protect the child's legal and constitutional rights."

Dennis Grady, deputy director of the Division of Youth Services in the Department of Human Resources, flatly calls jail terms for status offenses "illegal." But there is no unanimity of opinion on whether Judge Guice has contravened the letter of the law. The Attorney General's office declined to give an official opinion to the North Carolina Center for Public Policy Research, since the Center is not a state agency, but did say in a letter that "a court has very broad contempt powers under Chapter 5 of the General Statutes. Among other reasons stated, a court may punish 'for contempt willful disobedience of any... order lawfully issued by any court.'" Steven Shaber, an attorney with the

Attorney General's office, said in an interview, however, that incarceration for status offenses violated the intent, if not the letter, of current juvenile law. This is also the opinion of Robert Collins, staff attorney for the Juvenile Justice Code Revision Committee. Collins feels the incarcerations are legal under the contempt laws, but nonetheless improper. Collins has a poster on his office wall that shows a picture of a girl in her early teens looking through the bars of a jail cell. "There are many ways to abuse a child," the poster reads. "Jail is one of them."

A civil suit challenging the incarcerations would be one way to resolve the legal questions, according to Marian Durham of the Governor's Advocacy Council on Children and Youth. The Council is seeking to halt any further incarcerations, and becoming a party to a civil suit is one option, Ms. Durham said. The suit, however, would have to be filed on behalf of children already jailed. Because court officials in the 29th District refuse to discuss particular juvenile cases, the names of these children are not yet known.

CHAPTER 7

Article V: Financing North Carolina Government

All of the services rendered by state government have a cost that is ultimately borne by the individual citizen. While the determination of what programs are to be funded and which are not reflects the general philosophy of the governor and the General Assembly, the process by which budgets are made greatly influences the provisions of services in any state. The financing of North Carolina government is described in Article V of the state Constitution. Indicative of its importance in the actual maintenance of state government, the finance Article is the most detailed article in the state Constitution. Article V outlines both the state's sources of revenue and the procedures by which this revenue can be expended.

Budget and finance decisions involve more than "bottom line" accounting procedures. The budget is both a source of financial information and a presentation of the services provided to the state's citizens. The entire range of government activities is involved in this process. State agencies and departments submit budget requests, which are incorporated into a budget by the governor. The budget produced by the governor is then submitted to the General Assembly, which is charged with approving and enacting the final fiscal plan for each biennium.

The Office of Budget and Management (OBM), originally a part of the Department of Administration but now housed in the governor's office, is a key link in the fiscal process of state government. Under the overall direction of the governor, the state OBM coordinates the budgets of the various state departments. It is through OBM that the governor both prepares and controls state expenditures.

The budget requests formulated by the executive are considered by the Advisory Budget Commission (ABC) consisting of 12 members, four each being appointed by the governor, the lieutenant governor in his role as president of the Senate, and the speaker of the House. Those items approved by the ABC become part of the official budget message considered by the General Assembly. The General Assembly makes the final decisions concerning the budget.

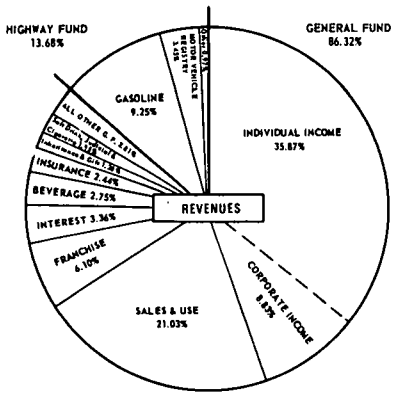
Article V of the state Constitution requires that North Carolina state government operate with a balanced budget. To fund projects for which expenditures might exceed anticipated income, the issuance of voter approved bonds is required. When expenses appear to be "out-running" revenue, the governor and the ABC may make adjustments to keep the budget in balance.

Financing state government is a controversial aspect of

state administration and the following selections tap many of these current controversies as they exist in North Carolina.

STATE OF NORTH CAROLINA
REVENUES AND EXPENDITURES FOR THE FISCAL YEAR ENDING
JUNE 30, 1980

REVENUES



GENERAL FUND:		
Income:		
Individual	$1,180,507,067	
Corporation	290,632,136	$1,471,139,203
Sales and Use		691,902,227
Franchise		200,814,972
Interest		110,401,212
Beverage		90,461,024
Insurance		80,258,938
Inheritance and Gift		42,149,422
Soft Drink		21,970,740
Judicial Department Receipts		20,958,979
Cigarette		18,031,230
License		13,394,976
Building and Loan		8,481,451
Other		70,459,980[a]
Total General Fund		$2,840,424,354[b]
HIGHWAY FUND		
Gasoline	$ 304,437,602	
Motor Vehicle Registration	113,673,758	
Interest and Miscellaneous Revenue	29,515,751	
Property Owners, Cities and Towns Participation	2,405,858	
Total Highway Fund		$ 450,032,969[c]
TOTAL REVENUES		$3,290,457,323

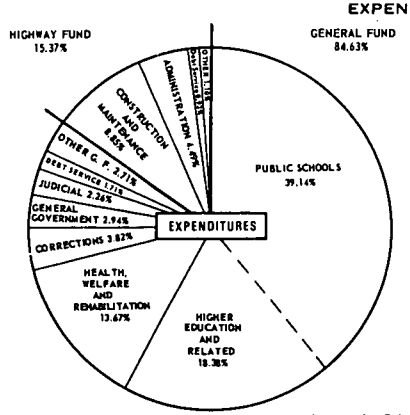
NOTES: Revenues do not include (1) Federal Aid other than General Shared Federal Revenue, (2) receipts of special funds, (3) institutional earnings, (4) proceeds from sale, lease, or rental of State property, and (5) agricultural fees and receipts.

[a]Includes General Shared Federal Revenue amounting to $56,901,247.

[b]Excludes reversions of capital improvement appropriations amounting to $1,133,957 and Federal Anti Recession Funds amounting to $9,800.

[c]Excludes (1) $4,940,000 transferred from General Fund, (2) receipts of $480,539 for Comprehensive Employment and Training Act, and (3) $1,828,918 in Grants and General Participation.

EXPENDITURES



GENERAL FUND:		
Education:		
Public Schools	$1,230,099,473	
Higher Education	556,843,452	
Related Education Activities*	20,867,846	$1,807,810,771
Health, Welfare and Rehabilitation		429,814,253
Corrections		120,052,369
General Government		92,509,135
Judicial		71,077,496
Debt Service		53,795,956
Public Safety and Regulation		33,230,580
Resource Development and Preservation		29,448,556
Agriculture		17,664,356
Legislative		4,868,817
Total General Fund		$2,660,272,289**
HIGHWAY FUND:		
Construction and Maintenance	$ 278,283,534	
Administration	140,980,890	
State Aid to Municipalities	34,444,690	
Debt Service	29,292,661	
Total Highway Fund		$ 483,001,775
TOTAL EXPENDITURES		$3,143,274,064

NOTES: Expenditures from special funds, from institutional earnings, from Federal Aid and for permanent improvements other than roads are excluded. Highway expenditures from Federal Aid amounted to $213,343,904.

*Includes expenditures of $17,716,070 for operation of the Department of Cultural Resources and expenditures of $3,151,776 for the N. C. School of the Arts.

**Excludes $84,378,719 for capital improvements.

N. C. DEPARTMENT OF REVENUE
TAX RESEARCH DIVISION

North Carolina's Fiscal Revolution

Charles Liner

North Carolina's tax structure, a product of a major tax reform in 1921 and bold legislative action in the 1930s, has put this state in an enviable position. North Carolina is less in need of basic tax reforms than most states and far less susceptible to radical initiatives like California's Proposition 13. The state tax structure, which automatically produces substantial increases in revenues at existing rates as the state's economy grows and prospers, should afford an opportunity in future years for the state to improve government services through increased spending and, at the same time, to reduce North Carolinians' tax burden, either directly by reducing state tax rates or indirectly by enabling local governments to reduce property taxes.

North Carolina's enviable position is primarily the result of a reorganization of government finance and taxation that occurred during the 1931 and 1933 sessions of the General Assembly in response to a major fiscal crisis precipitated by the Great Depression. North Carolina's fiscal revolution was unprecedented in American history, and to this day no state has come close to matching the boldness of the measures taken then.

Counties and municipalities were in serious financial trouble even before the Depression. In 1928 per capita state and local debt in North Carolina was 4¼ times the average in other states and higher than in any state except New York; property tax levies for debt service equaled 46 percent of total property tax levies. With the onset of the Depression, the burden of debt and high property tax rates produced a serious financial crisis for counties and municipalities and popular demand for relief from high property tax rates.

In response to these conditions, the 1931 General Assembly took over responsibility for all operating expenses of the public schools for a six-month term and full operating and financial responsibility for all county roads and prisons. Thus, in one stroke the state assumed responsibility for three major functions of county government that had been financed mainly from local property taxes. These measures reduced county property tax levies by 29 percent and total property tax levies by 20 percent in only one year. The state also created the Local Government

Commission to control local debt and to help local governments cope with their debt problems.

Despite these measures the fiscal crisis had worsened by the time the General Assembly convened in 1933. More than 60 counties and about 150 of the 200 municipalities faced default in debt payments, and the state faced a large deficit for the current fiscal year. The 1933 General Assembly responded as boldly as the 1931 legislature. It committed the state not just to keeping the schools open but also to extending the term of every school in the state to eight months. North Carolina thus became the first state to finance equal school terms throughout the state (the eight-month school term was then the longest state-supported term in the nation). The General Assembly also abolished the state property tax, which had been imposed temporarily to finance schools, and abolished all local school property taxes. To finance its new responsibilities and to balance the budget, the General Assembly increased rates on state taxes and enacted the 3 percent retail sales tax and alcoholic beverage taxes.

The fiscal revolution of 1931-33 was based on two key and long-established principles: first, that the state is ultimately responsible for achieving a uniform, statewide school system; and, second, that the state should derive revenues to support state programs from taxes other than the property tax, which it should leave to counties and municipalities to use for their purposes.

The first principle had been established when the state created the statewide school system in 1839 by mandating equal school terms and by distributing state funds on a per capita basis. The principle had been reaffirmed in the 1868 Constitution, which required a general and uniform school system with a minimum term of four months (the term was increased to six months in 1918). Before 1931 the main problem in achieving a uniform school system was that schools had to be financed largely by state and local property taxes. To achieve the constitutionally mandated school term, poor counties with low tax bases had to impose higher property tax rates than wealthier counties. Urban counties were able to spend more for schools and to have a longer school term than rural counties. Between 1901 and 1931 the state tried to remedy this problem by making a special appropriation to an "equalizing fund," which was distributed only to the poorer counties to bring their school terms up to the minimum and to equalize tax rates, but the urban counties were still able to provide better schools and longer terms.

Full state funding of the eight-month school term in 1933

brought schools in poorer, rural areas to full equality, at least financially, with schools in urban areas. At the same time, however, the General Assembly reaffirmed the policy that the people could tax themselves to improve their schools above the level provided by the state. The legislature abolished the existing local school taxes, but it authorized the holding of referenda on levying an additional property tax to supplement the state-financed school programs.

The second principle, the separation of state and local revenue sources, had been established in 1921, when the state eliminated the state property tax and replaced the lost revenues by enacting a progressive income tax on individuals, a corporation income tax, and a state gasoline tax to finance a new state highway system created when the state took over responsibility for 5,500 miles of county roads.

The fiscal revolution of 1931-33 not only solved the immediate fiscal crisis but also provided long-lasting benefits to the state. First, it permanently reduced reliance on the property tax. Second, it gave the state a tax structure that was very responsive to economic growth and therefore enabled the state and local governments to cope with post-war fiscal pressures caused by the baby boom and increased demand for government services. Third, it resulted in a more equitable distribution of government services, particularly for public schools, and a fairer distribution of tax burdens.

Between 1930-31 and 1936-37, local tax revenues fell from two-thirds of total state and local tax revenues to slightly over one-third. County property tax revenues were reduced by half between 1928-29 and 1933-34. Today, property taxes account for less than 25 percent of total state and local revenue, compared with an average of over 36 percent for the nation (in recent years the percentage has been about 43 percent in California and over 50 percent in some northeastern states).

The shift of financial responsibility for schools, roads, and prisons and the reduced reliance on local property taxes proved especially beneficial after World War II, when the baby boom and general prosperity increased the demand for schools and other government services. As it turned out, the tax system adopted in 1933 enabled the state to meet increased demands without significantly changing the tax structure or even raising tax rates, whereas in most states property tax rates increased substantially and most states had to enact new income or sales taxes and increase rates on existing taxes. This is perhaps the most

remarkable aspect of the fiscal revolution. It produced a tax structure that has remained essentially unchanged. (The gasoline tax has increased from 6 cents to 9 cents, although 1 cent is earmarked for municipal streets, and the top income tax bracket of 7 percent was added in 1937, but otherwise the rates of the three major state taxes have not changed.) Yet this tax structure has brought about dramatic increases in state tax revenues that permitted the state to increase expenditures and improve programs. State tax revenues have grown from $44 million in 1933-34 to over $2.3 billion in 1977-78. Between 1969-70 and 1977-78, General Fund tax collections increased at an average annual rate of 12.1 percent despite two recessions during this period. This growth rate results in a doubling of tax revenue about every six years.

The constant growth in its tax revenues — which finance not only state-operated programs like highways, prisons, higher education, and mental hospitals but also schools and other health, education, and welfare programs administered by counties acting as agents of the state — has enabled the state to increase expenditures dramatically in every area, expand existing programs, and inaugurate new programs. (A large system of community colleges, for example, was created almost from scratch in the 1960s.) General Fund expenditures today are over eight times the level of 1959-60 and over 16 times the level of 1949-50. Total state expenditures have increased from only $50 million in 1933-34 to almost $4 billion in 1977-78. This constant growth has also enabled the state to relieve fiscal pressures on local governments by taking over financial responsibility for the courts system and by sharing its tax base with local governments, the most noteworthy example being the local-option sales tax.

There are four central issues today in state and local government finance in the United States: the fiscal condition of cities and states, the role of the property tax, equality in school finance, and growth in government spending and taxation. The fiscal condition of North Carolina counties and cities contrast sharply with the condition that existed before the fiscal revolution. Both the state and local governments have low debt and good credit ratings (only two states had lower per capita state and local debts in 1975-76). Reliance on the property tax is low, property tax rates are lower than in most states and fairly stable in most places, and, in contrast to the situation in many other states, local schools do not depend primarily on local property tax

revenues.

But the last two issues do present questions for North Carolina. Disparities in school finance between poor and wealthy jurisdictions are not as large as in many other states, where the method of financing schools mainly from local property taxes has come under attack in the courts. But significant disparities do exist because the state no longer finances all operating expenses and the wealthier school districts are better able to supplement state funds with local funds. Although federal grants, which tend to favor poor jurisdictions, offset differences in local funds to some extent, essentially the same situation exists today that existed before 1931 — poorer counties must impose higher property tax rates than wealthier counties in order to raise a given amount of revenue. (The same problem exists with respect to state-mandated programs that must be financed from local property taxes.) It is interesting that a recent study commission recommended a system of equalizing school grants like that used between 1901 and 1931.

Controlling the growth of government spending and taxation is perhaps the key issue in government finance today. Many states have enacted or are considering tax or spending limitations of one sort or another. North Carolina ranks 49th in per capita state and local government spending and 45th in per capita state and local taxation. These low rankings are due in part, however, to the state's low income, the relatively low cost of living, and to the fact that there are no large cities and most people live in small towns or rural areas where per capita expenditures tend to be low. It is paradoxical, nevertheless, that North Carolina ranks among the top few states in growth of state and local government spending. Between 1965-66 and 1975-76, for example, per capita general expenditures of state and local governments in North Carolina increased 209 percent, a rate surpassed by only five states (Hawaii, Maryland, New Jersey, New York, and South Carolina).

Because the growth in state spending in North Carolina has been financed by a tax structure that automatically produces large increases in revenue with constant tax rates, there has been relatively little popular resistance so far to the growth in government spending financed from state revenue. There is constant pressure at the local level to keep property tax rates low, but property tax revenues also have generally increased substantially because of economic and population growth and increases in real estate values.

Most North Carolinians would probably agree that the growth in government expenditures since World War II has been justified by the needs created in shifting from a predominantly rural to a more urban and industrialized state, and also by the need to expand and improve public schools and higher education to serve the burgeoning school-age population. But the question for today is not whether past growth in spending and taxation has been justified but whether such growth should continue at the same rate as in the past. Since the demands on state tax revenues should not be as great as they have been in the past, North Carolina should be able to both improve government services through increased spending and provide some relief from current tax burdens.

One new element is the high rate of inflation. Until the rate of inflation increased in the late 1960s, state revenues increased mainly due to real growth in the state's economy. But state income taxes increase the percentage of income paid in taxes even when the increase in income merely offsets increases in the cost of living.

Increases in revenues from the existing state tax structure are independent of the need for government spending. In the past, although there has been a surplus of revenues over expenditures every year since the Depression, the General Assembly has chosen eventually to spend all tax revenues, and on occasion it has increased some tax rates and enacted minor new taxes such as the soft drink and cigarette taxes. But today the state no longer faces the huge demands for increased spending that it faced earlier. For example, in education, which accounts for two-thirds of General Fund expenditures, the state now faces a baby bust instead of a baby boom — school enrollments are falling and will continue to fall. The point is not that the level of state spending is adequate but rather that there is a good chance that in the years ahead the pressure to spend the large increases in revenue generated automatically by the existing tax structure may not be as great as it has been in the past.

If the General Assembly should choose to reduce the rate of growth in state spending, it will have to take deliberate action to reduce the growth in tax revenues, for otherwise tax revenues will continue to increase as in the past. Assuming continued growth in the state's economy, if the tax structure is not changed we can expect total state tax revenues to double roughly every six years.

If the General Assembly chooses to provide a general reduction in tax burdens, it has essentially three options. First, it

can reduce state taxes. The main candidates would be the personal income tax and the retail sales tax, since gasoline tax revenues are not growing very fast. Reduction of rates or even repeal of other state taxes would not provide general tax relief. The problems in granting tax relief through the personal income tax are that (1) this tax is usually regarded as the most equitable tax because it is based on ability to pay and (2) the poorest families and individuals do not pay income taxes and therefore would not receive tax relief. However, the tax could be "indexed,"or adjusted annually to account for inflation, so that tax revenues increase only with increases in real incomes. The retail sales tax rate of 3 percent is already low—only three states have lower rates, and 30 states have higher rates. One possibility is to exempt food sales from the retail sales tax. While this measure would provide relief for everyone, it would result in a large loss of revenue at once—over $150 million in state revenues next year [1980] and over 25 percent of local government sales tax revenues. The state could recover some of the lost revenues, however, by increasing the state and local sales tax rates on items other than food.

A second option is for the state to use its growing revenues to enable counties and municipalities to reduce the property tax. This could be done in one or both of two ways. First, the state could share its tax base or its revenues with local governments, perhaps through a general revenue sharing program similar to federal revenue sharing, thereby enabling local governments to reduce property taxes. Second, the state could take over more of the financial responsibility for statewide or state-mandated programs that are now partly financed by counties through the property tax.

As a third option, the state could provide direct property tax relief through a circuit-breaker system similar to those already enacted in more than half the states. With a circuit-breaker system, the state would give an income tax credit or a rebate for local property taxes that exceed a certain percentage of family income. The circuit-breaker is intended to relieve excessive property taxes on the poor and elderly. It is not, however, a general tax relief measure.

The fiscal revolution of 1931-33 left North Carolina with a sound system of state and local finance and a state tax structure that has permitted an expansion and improvement of government services without the need to increase tax rates substantially or to enact major new taxes. As the state's economy

grows and prospers, tax revenues from the existing tax system will continue to increase as they have in the past. Since the demands on state tax revenues should not be as great as they have been in the past, North Carolina should be able to both improve government services through increased spending and provide some relief from current tax burdens.

Rigid Fiscal Conservatism Can Be Costly
Exorcising Depression's Ghosts

Ferrel Guillory

The ghosts of the Great Depression haunt North Carolina's modern Legislative Building. And some of the noise accompanying the adoption of a revised 1979-81 state budget has been akin to the screams of an exorcism.

The economic crash of half a century ago sent the state budget into the red by $7 million in 1931-32. That stunning experience reinforced the traditional North Carolina devotion to fiscal conservatism—a devotion that evolved during the succeeding years into increasingly rigid rituals in the handling of the state's money.

Lately, however, Governor Hunt and a few other officials have sought to introduce a modest measure of financial liturgical reform, aimed at making the rituals somewhat less rigid. The basic devotion to conservatism has not been abandoned, but the dispute over such issues as the "cash flow" plan for financing highway projects was rooted in a resistance to any deviation from the time-honored rituals.

As Charles D. Liner of the Institute of Government has pointed out, North Carolina reacted forcefully to the Depression. The state asserted its responsibility for a uniform public school system and replaced the state property tax with a solid tax structure, including a sales tax, that has responded well to economic growth. "North Carolina's fiscal revolution was unprecedented in American history, and to this day no state has come close to matching the boldness of the measures taken then," Liner wrote in *N.C. Insight*, the publication of the N.C. Center for Public Policy Research.

Among the 50 states, North Carolina's fiscal integrity remains, as Liner said, "enviable." Nevertheless, the extent to which state government has gone in the name of protecting that integrity has exacted other types of costs. Through the rituals of a balanced budget and conservative revenue estimates and the devotion to a Triple A bond rating, North Carolina often has been timid at best in putting the taxpayers' money to use to meet the needs of those taxpayers.

Millions of dollars have been allowed to languish in banks for

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too long—a sweet deal for bankers, but not necessarily for people in need of education, health care and other services. Reluctance to jeopardize the highest possible bond rating—which has the advantage of lower interest rates—has resulted in hesitancy and caution in issuing bonds to raise money that could have been put to use to help the people. Keeping its eyes more closely on the bottom line than on human needs, the state went without a kindergarten program until only eight years ago and a system of rural health clinics until only six years ago. Around 20 percent of the state's people still suffer from substandard housing. School children still attend class in decrepit buildings.

In the cause of a balanced budget, the legislature customarily has used markedly conservative estimates of anticipated revenues. This has permitted much crowing about "surpluses," but it also has forced taxpayers to pay out significantly more money than is actually returned to them in services.

The institution of annual legislative sessions has been one of the reforms of the rigid rituals. Now, at least, taxpayers' money does not have to sit around in bank accounts for two years before being put to use. With annual sessions, budgets can be maneuvered closer to reality.

It is not likely that Governor Hunt would have proposed the "cash flow" plan were the Highway Fund not being so severely squeezed between inflation and declining gasoline consumption. But once officials began looking into the plan, they discovered that other states practice the method without financial harm and that the state's traditional "fiscal integrity" approach to handling highway funds was in fact hurting taxpayers.

Boiled down to essentials, this is what the change means: under the traditional system, the state would not build a road project until all the money needed was in hand; under the "cash flow" system, the state can build a road project a segment at a time as the money flows in year-by-year.

"With the skyrocketing cost of petroleum-based products in highway paving, construction costs have gone up 20 percent per year or more," Hunt wrote legislators. "The interest the state receives on cash balances has been about 10 percent. Thus, we are losing 10 percent each year."

In other words, ultra-rigid devotion to fiscal conservatism sometimes does not make good financial sense. And yet, North Carolina has often acted as if one sip of some other potion would surely turn it into a fiscal drunk. Fiscal conservatism is so ingrained in the North Carolina psyche that it is not about to be

dislodged as a principal precept of state government, but it's about time some of those Depression-era ghosts that keep the state from serving its people as well as it should were exorcised.

A Surprise Package Called "Appropriations"

Fred Harwell

The process of enacting a comprehensive appropriations bill for state government has undergone swift and sometimes sweeping transformation since the General Assembly decided in 1973 to experiment with annual rather than biennial sessions. Some of the recent innovations have been laudable; some have not. When the legislature passed a revised 1976-77 budget during the brief 1976 session, it discovered a way to short-circuit legislative deliberation by packing the "appropriations" bill with substantive (or non-money) provisions having policy implications far beyond the mere expenditure of state funds. The same thing could occur again when the General Assembly convenes in May for the summer session of 1978.

During the dark days of the 1975 recession, the legislature enacted a biennial budget and coincidentally resolved to return for a review of the bill the following year. The 1976 session was supposed to be limited to budgetary matters, and indeed only three additional subjects (medical malpractice, Utilities Commission nominations, and appointments to Senate committees) were ever approved for consideration by the leadership. Yet this short session produced substantive legislation affecting:

- the rule-making procedures of administrative agencies;
- state criminal procedures;
- the retirement program for local government employees;
- community college personnel policies;
- the methods of distributing state publications;
- the site of mental commitment hearings; and,
- the organization of the Youth Services Commission.

In addition, the 1976 General Assembly enacted a law which affected dismissed state employees, the disposition of property transferred between agencies of state government, and the internal redistribution of funds by the Governor and his administration. All of these matters were dealt with exclusively as additions to the revised appropriations bill, though none directly involved new expenditures of state money. All had detailed policy implications apart from any indirect effect on the

state budget, but none was ever sent to a substantive committee for evaluation.

Political and economic circumstances undoubtedly conspired to produce the bloated appropriations revision of 1976. Money was tight, and a governor from the opposition party occupied the Mansion. But the main impetus for loading the budget bill with these "special provisions" seemed to come from the legislature's own 1975 adjournment resolution, which strictly limited the subjects available for consideration the following year. To overcome this self-imposed impediment, the leadership adopted a broad but politically selective definition of "budgetary matters" and then swept various favored provisions into the appropriations bill. Other disfavored topics, such as day-care licensing, were blocked by the leadership and simply never reached the floor.

The political and economic circumstances of the 1978 legislature will, of course, be quite different from those of the 1976 session. But the General Assembly will come to Raleigh this year under an adjournment resolution that is similar to the one passed in 1975. Resolution 75 (Senate Joint Resolution 915) in effect limits this year's session to consideration of certain bills pending from 1977 (of which liquor-by-the-drink is the most prominent), a few bills implementing current study reports, and "bills directly affecting the state budget for fiscal year 1978-1979." If such language appears to prohibit the addition of substantive riders to the revised budget bill, it also creates a situation very similar to the one which induced passage in 1976 of an appropriations law hastily encumbered with diverse and significant substantive provisions.

The inclusion of non-money legislation in a short-session appropriations bill is a dubious practice for several reasons. Doing so may require the leadership to trample on the spirit of an adjournment resolution and compel one chamber, the House, to ignore its own Rule 43, which states that no amendment "shall be in order unless (it is) germane to the bill under consideration." But the most persuasive objection to this procedurally quixotic activity is that it concentrates too much power in the hands of a select group of legislators and precludes the substantive debate in committee and on the floor which is essential if the policy implications of proposed legislation are to be explored before it passes into law.

For practical as well as political reasons, the complicated appropriations process is controlled by a "super subcommittee"

of about a dozen senators and representatives, usually the chairmen of the various appropriations committees and the leaders of both chambers. Substantive debate is virtually unheard of in an appropriations committee meeting, where the focus is necessarily on monetary rather than policy matters and the size of the group generally limits intensive consideration of pending measures. Because more than half the legislators are members of at least one appropriations committee, and therefore have presumably participated in organizing the bill, there is almost never any real debate on the floor once the unwieldly money bill finally gets there. Many legislators, effectively estranged from the process, never know the details of the law they vote to enact.

All of the circumstances which ordinarily depress debate on appropriations matters are intensified during a short session, effectively stifling any opportunity for detailed consideration of the policy implications of the legislation which gets passed. Because of time constraints, there are greater than usual pressures on all legislators not to crack the fragile compromises, including the addition of "special provisions," which have already been struck among the members of the "super sub." As a result, the likelihood increases that substantive matters with potentially profound policy dimensions will slip through uncontested in the appropriation process and be enacted unwittingly before their practical ramifications can be adequately considered.

Liquor-by-the-drink may get most of the publicity during this summer's session [1978] of the North Carolina General Assembly, but much of the legislature's real work will be done within supposedly limited confines of the appropriations bill. If past practices are followed, the reins of state government will fall into the hands of a few powerful legislators during the month of June, and policy decisions of possibly far-reaching consequence may be made in haste and without due deliberation. It has happened before, and it could happen again.

The Advisory Budget Commission—
Not as Simple as ABC

Mercer Doty

A suit recently filed in Wake County Superior Court and a bill prepared for the state Senate at the end of the 1979 legislative session both focus attention on apparent conflicts between the functions of the Advisory Budget Commission (ABC) and the provisions of the state Constitution dealing with the separation of executive and legislative powers and with the governor's authority for the preparation and administration of the state budget.

The 1925 General Assembly passed the Executive Budget Act in an effort to bring order to the state's chaotic budget and appropriations processes. That legislation created the Advisory Budget Commission, a body originally conceived to advise the governor during the preparation of his budget recommendations to the General Assembly. In addition, the ABC was designed to provide a small group of informed legislators who could assist their colleagues during the appropriations process.

In the years that followed 1925 and especially since 1940, the influence of the ABC has been extended by amendments to the original act, by the enactment of other legislation that assigned additional duties to the Commission, and most notably by special provisions inserted in appropriations bills. Today the ABC is involved in a variety of executive functions and its role in budget preparation goes far beyond supplying advice to the governor.

Discussions about the proposed budget between executive and legislative officials are essential to effective budget and appropriations processes and will occur under any circumstances. But some factors that first led to the creation of the ABC—for example, the extended dispersion of legislators between legislative sessions—have vanished with the advent of annual sessions, frequent legislative meetings in Raleigh, more adequate legislative staff support, abundant budget and expenditure data, good communications, and easier travel. The Advisory Budget Commission is now but one of several formal and informal arrangements to bring together governors, legislators, and state agency officials in the development of budget recommendations for the General Assembly. And there is some question, in light of

Excerpted from *The Advisory Budget Commission: Not as Simple as ABC,* published by the North Carolina Center for Public Policy Research, 1980.

these changing circumstances, about whether the ABC has outgrown not only its original purpose but also its usefulness.

During the last two decades there has been growing awareness by legislators and governors alike of the extent to which members of the ABC can ease the passage of the governor's budget proposals by the General Assembly. In making the most of this situation, governors have tended to accept all but the most serious meddling by the ABC in executive functions. On the other hand, legislative members of the ABC have encouraged procedures that maintain or increase their own influence while limiting the effective participation of other legislators in matters referred to appropriations committees. As a result, few legislators other than Commission members seem to become familiar with the entire budget, much less with substantive policy matters reaching far beyond questions of funding that have been confined to the money committees.

The combined effects of the burgeoning power of the ABC and of the practices nurtured by its activities have profound effects on state government. They formally involve legislators in the governor's exclusive constitutional responsibility for the preparation and administration of the budget. They intrude on the independence of the legislature. And they limit the development and participation of legislators in the work of the General Assembly.

There is real need to address these problems in the General Assembly. Even with enlightened leadership, the selection of the best courses of action to alter the role of the ABC will be a difficult and delicate task. The objectives to be sought in making these changes are to:

—eliminate the constitutional conflicts inherent in the activities of the ABC;
—retain an appropriations process that has the political and administrative capacity to produce adequate appropriations bills in a reasonable time;
—assign such authority as is needed to keep the appropriations process moving in the General Assembly to the presiding officers of the Senate and the House of Representatives; and
—broaden effective legislator participation in the appropriations process.

There are a relatively large number of options that would accomplish some or all of these objectives, including amending

the state Constitution to exempt the ABC from some of its provisions, amending the Executive Budget Act to redefine the function of the Commission, and abolishing the ABC. Although complete removal of the Advisory Budget Commission from the state government scene may be the surest way to solve the constitutional problems, less drastic changes could also achieve that result while retaining the Commission's more positive features.

It is proposed that the role of the ABC be altered by amending the Executive Budget Act and other statutes to limit the Commission's involvement in the execution of the governor's constitutional responsibility for the preparation and administration of the budget, to strengthen the influence of the Senate and House presiding officers over the ABC and appropriations committees, and to increase the number of legislators who are effectively involved in an appropriations process to review more thoroughly the governor's budget recommendations and their policy implications. These study proposals would essentially establish the ABC as a legislative body that is less subject to the influence of the governor and less capable of projecting the governor's influence into the legislature's appropriations decision. As redefined in these recommendations, the principal functions of the ABC would be to provide a formal group of knowledgeable and responsible legislators and non-legislators with which the governor can discuss his budget recommendations, to assist other legislators in understanding the governor's budget proposals, and to observe the execution of the approved budget as directed by the General Assembly.

THE BUDGET AND APPROPRIATIONS PROCESS TODAY

Although in recent years the General Assembly has met annually, the most important budget sessions occur in odd years, a carryover from the time when those were the only years in which the legislature convened. About midsummer, prior to an odd-year session of the General Assembly, the Office of State Budget and Management of the Department of Administration sends out budget preparation instructions prescribing the format and the time sequence for submitting agency budget requests. In late summer or early fall the Advisory Budget Commission briefly visits selected state institutions, especially those that will seek funds for renovations and new construction. During this tour, which usually involves 5 to 10 days of travel, the Commission and

the accompanying budget office and legislative staff members are shown the facilities, briefed by the responsible officials, and generously wined and dined. The departments' budget requests for continuing existing programs are submitted in September, followed by their requests for new or expanded programs and capital improvements in October or November. In September or October public hearings are also held on the expansion requests, and in November the Advisory Budget Commission begins its consideration of the entire budget.

The Commission's work usually begins with a review of the anticipated revenue situation for the next two years and a summary of the continuation requests. Of greatest interest to the Commission and the governor is the difference between the total of the continuation requests (which have in some cases been modified by the budget office) and the available resources. This difference establishes a limit within which new or expanded programs and new capital improvement projects may be funded.

The Commission then reviews brief summaries of the departments' expansion requests and their costs which have been prepared by the state budget office. Although most of the requests recommended by the budget office are approved, some are discussed at length, and some are deferred for more information or because of other considerations. When acting on the budget, Commission meetings are usually closed to outsiders.* Although the departments' expansion requests are screened by the governor's budget office, requests that are important to department heads or to the governor find their way to the Commission.**

Once all requests have been considered and acted on by the ABC, the budget preparation work of the Commission is finished and the budget office goes through several hectic weeks preparing the final document for presentation to the General Assembly early in January. This document is commonly referred to as "the recommended budget" because it embodies the recommendations of the governor and the ABC.

A few days after the legislature convenes, the governor presents his budget message to a joint session of the two houses. On that occasion the budget document(s) are placed on the

*The North Carolina open meetings law excludes from its provisions "meetings of the Advisory Budget Commission held for the purpose of actually preparing the budget required by the provisions of the Executive Budget Act..."

**In accordance with the provisions of the Executive Budget Act this screening process of the budget office is not applied to the budget requests of the state auditor and state treasurer.

legislators' desks but they are, until that moment, not generally available to the public. About the same time, identical appropriations bills based on the recommended budget are introduced in each house by the chairmen of the appropriations committees.

Within a week or two following the governor's budget message, the 85 or more members of the joint appropriations committee begin their work.* That committee which has in recent years been composed of over half the members of each house, usually starts its consideration of the budget with a summary of the recommendations of the governor and the Advisory Budget Commission by the budget staff, including the revenue estimates on which the budget is based. During the next several weeks the departments are afforded the opportunity to present to the joint appropriations committee their "supplemental requests" which are essentially petitions for funds that were cut from the departments' original requests submitted to the budget office, with occasional further additions prompted by new circumstances.

Following the presentations of "supplemental requests," the joint appropriations committee is usually organized into subcommittees for more detailed consideration of individual department budgets in four groupings: general government and transportation, education, human resources and corrections, and base budget. In the 1979 session these subcommittees were upgraded to committee status, but they still function essentially as subcommittees of the joint appropriations committee. The base budget committee (or subcommittee) first appeared in the 1973 session and was originally intended to give more thorough consideration to the continuation budget recommendations. The other committees devote most of their attention to the recommendations and supplemental requests for new or expanded programs and for capital improvements. In recent years this division of responsibility has caused considerable difficulty because the actions of the base budget committee were not always consistent with those of the other appropriations committees and because the overlapping subject matter of committees made staff support very difficult. These problems were largely solved in 1979 by assigning to the base budget committee the

*Although the title "joint appropriations committee" is commonly used, the House and Senate appropriations committees are separate bodies that sit jointly in considering appropriations matters, as required by the Executive Budget Act. The rules of both houses reserve to each of these committees the right to vote separately.

same legislators who were assigned to the other three committees, except for the chairmen. The result was that both the continuation and expansion recommendations and the supplemental requests for a department were reviewed by the same group of legislators. However, once the budget comes to the legislature, no one group of its members considers the entire document in the manner of the earlier review by the Advisory Budget Commission.

The legislative review of the recommended budget proceeds very slowly during March, April, and May, accompanied by an enormous volume of paper from the departments, interest groups, and staffs. During the same period, especially in times of economic uncertainty, the joint committee on the economy is considering the administration's revenue estimates and those of the legislative staff. The administration's final estimate is usually presented in early April, following the revenue department's report of first quarter tax collections. Once this estimate is received and accepted or modified by the joint committee on the economy, the pace of legislative budget activity picks up. The appropriations committees finish their work and present their reports to the full committee in late April or early May. Totals are calculated and compared to the estimate of the revenue that will be available. The difference is the amount of projected available revenue that can be appropriated for supplemental requests from the departments or for a few of the hundreds of special appropriations bills introduced by individual legislators. First, however, the "main" appropriations bills for operations and for capital improvements must be enacted as required by the Executive Budget Act.

As those two bills are being shaped into their final form, legislative activity intensifies as members of the General Assembly attempt to have added to these "main" bills appropriations of particular importance to them. They can be certain that such projects are assured if they are included in these two bills when they are reported out of the joint appropriations committee: few legislators can recall any session in which these bills were substantially amended on the floor of either house. During this period the funds for some special bills and supplemental requests may be added to the two main bills. These final additions and other adjustments are made by a relatively small group of key appropriations committee members that includes the chairmen of the full appropriations committee as well as the chairmen of the other four appropriations (sub)

committees. This group of final arbiters is referred to as "the supersub" and it is usually an *ad hoc* committee appointed near the end of the appropriations process by the chairmen of the Senate and House appropriations committees.

As the appropriations bills are being readied to report out of committee, procedures are developed to deal with the numerous special appropriations bills. These procedures vary considerably from one session to the next, depending on the preferences of the leadership and the amount of money that is expected to be available for these purposes. Although there are exceptions, most special bills are designed to appropriate funds for small local projects or department programs of interest to particular legislators or communities, such as historic sites, studies of various state problems, small state office buildings, and local festivals. Some special appropriations bills duplicate supplemental requests presented by the departments and occasionally result in a major appropriation. For the 18 years through the 1978 session the amount appropriated from the General Fund for special bills averaged about $9 million per year or less than 1 percent of the total General Fund appropriation. During the same period net supplemental General Fund appropriations averaged about $45 million per year or about 4 percent of the total General Fund appropriation.*

About mid-June the two appropriations bills for operations and capital improvements are reported out of committee in both houses and described in varying detail by the appropriations committee chairman. Although floor discussion and some debate on these bills is not uncommon, they are rarely amended and are normally ratified by both houses within a week. Soon afterwards the committee chairmen also report out those special bills given favorable reports by their committees. Some of these bills generate serious controversy, especially if they become the focal points for disagreements between the leadership of the two houses. However, most special bills are also ratified within a week or two, opening the way for the General Assembly to consider adjournment.

The months of appropriations committee activity are paralleled to some extent by the activities of the finance committees as they consider bills to alter the state tax structure. As with appropriations, the administration's tax measures are

*Net supplemental appropriations are the net appropriations added by the General Assembly to the recommendations of the governor and the ABC, exclusive of appropriations for special bills.

usually introduced through identical bills in each house. Other tax bills, often reflecting legislative initiative, may be introduced in either house. In some years the finance committees consider many bills jointly but often their work is done independently. The General Assembly usually takes a more independent stance with respect to finance matters than is the case with appropriations matters. As a result, the resolution of differences in tax measures is often very time consuming although the number of issues raised may be far less than those raised by the appropriations bills. Obviously it is essential for the General Assembly to decide on its tax measures before the joint appropriations committee can determine the revenue expected to be available in the next two years. This need for coordination between tax and appropriations matters was one of the reasons given for the creation of a Senate committee on ways and means in 1977.*

The General Assembly normally adjourns within a week or two following the passage of the appropriations measures. The budget office of the Department of Administration, which has followed the entire appropriations process closely, must then translate most of the large single sums in the appropriations bills into the detailed budget structures of the departments that reflect the changes made in the appropriations committees. The resulting "certified budgets" are the initial budgets for the individual departments for the upcoming fiscal year. These budgets will change in the course of the year that follows because of changing circumstances and other factors, using the flexibility provided in the Executive Budget Act and in the appropriations bills themselves. Such modifications are closely controlled by the budget office and may require the approval of the Advisory Budget Commission in some important instances.**

Appropriated funds for operations cannot be spent until they are allotted to the departments. The amounts allotted are based on quarterly requests from the departments as approved or

*The Executive Budget Act designates the appropriations and finance committee chairmen of both houses as members of the ABC. This was a logical requirement in 1929 when the state tax system was reenacted (and often changed) during each session of the legislature. Since 1939, however, the state has had a permanent revenue act, the existence of which has reduced the responsibilities of the finance committees as well as the likelihood of significant changes in the tax structure. Under current circumstances the need for finance committee chairmen to serve on the ABC permanently seems to be questionable.

**There are many "gray areas" concerning budget execution matters that must be approved by the ABC. Some agencies request the Commission's approval of proposed actions to reduce the possibility that the actions will be questioned or criticized later, even though there may be no clear requirement to take the proposals to the ABC. In these instances the endorsement of the ABC clearly makes it more difficult to assign responsibility for the actions to individuals or even to the executive branch.

modified by the budget office. In the event allotments must be reduced because of insufficient revenues, they must be reduced on a *pro rata* basis with the approval of the Advisory Budget Commission. Once a department has received its approved quarterly allotment, it may issue or request the issuance of properly supported checks or warrants drawn on the state treasurer. Such checks or warrants are reviewed prior to their release for payment by the state disbursing officer or, in some agencies, by his counterpart there. This "preaudit" is an additional control to prevent unauthorized expenditure.

Funds appropriated for capital improvements are excluded from the allotment procedures described above for operating funds. Capital improvement appropriations are normally allotted after contracts are awarded. The funds then move into separate construction accounts for each project from which disbursements may be made generally as described for operating funds but subject to additional control by the Office of State Construction in the Department of Administration. As indicated earlier, the Advisory Budget Commission also has a significant role in the execution of some capital improvement projects. When requested by a state agency, the governor and the Advisory Budget Commission, acting together, may increase or decrease the costs and scope of a capital improvement project "within the capital improvement appropriation to that agency or institution for that biennium." The governor and the Commission may also "authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly when funds become available by gifts or grants," if requested by a state agency and when, in the opinion of the governor and the Commission, such action is in the best interest of the state.* It is generally agreed that some latitude in the execution of construction projects is highly desirable to allow adjustments to be made in response to cost increases and unforeseen circumstances. And, in most states, the authority to make these adjustments is divided between the governor and some other body that includes legislative representation.

In understanding the budget and appropriations process, it is important to note the roles of the principal staffs, the budget office of the Department of Administration, and the fiscal research division of the General Assembly. In the preparation of the recommended budget by the governor and the Advisory

*General Statute 143-18.1.

Budget Commission, staff support is provided exclusively by the executive central fiscal staff, the budget office. The legislative finance and appropriations committees, on the other hand, also rely heavily on staff support from the fiscal research division, which prepares the final main appropriations bills. Both the budget office and the fiscal research division closely monitor all phases of the budget and appropriations process so they can keep their respective leaders informed.

Development and the Environment: A Tender Balance

The "paradox" of North Carolina is nowhere more apparent than in the economic demographics of the state. As Brad Stuart notes:

> Despite favorable climate and terrain, a general abundance of water and other raw materials, and a strategic location among major national markets, North Carolina remains poor relative to other states. Its industrial wages are the lowest in the nation... In per capita income North Carolina ranks 41st among the states... The fact that the state's labor force participation rate is among the highest in the country means that the average family must have more members at work in order to make ends meet.[1]

Juxtaposed with these dismal statistics, however, are figures (as reported by Tom Murray in Chapter 1) showing North Carolinians to be the "most satisfied" of citizens, with the natural environment of the state cited as a major factor of this satisfaction. Indeed, the conservation of natural resources and the protection of the environment enjoys constitutional status in Article XIV, section 5 of the state Constitution.

Since the administration of Governor Luther Hodges, North Carolina has attempted to formulate statewide development policies that would economically benefit all North Carolinians while not destroying the natural elements that underlie much of the quality of life in the state. In general, these policies have been employed to attract new industry to North Carolina and to expand wages, skills and social services. The most recent expression of this aim is the Balanced Growth Policy initiated by the administration of Gov. James B. Hunt.

The "balanced growth" approach focuses concern on providing more diverse and better jobs where people live and on closing the income gap between North Carolina and the United States. As the name suggests, the policy is not to be one of expansion for its own sake, but one that coordinates the many elements that constitute "quality of life." Key to this approach is the attraction of diverse industries and their placement throughout the state rather than in a few urban clusters.

In this chapter the role of the state and its success in improving the quality of life for all its citizens is examined.

Footnote

1. Brad Stuart, *Making North Carolina Prosper*, published by the North Carolina Center for Public Policy Research, 1979, p. 9.

Which Way Now?
Economic Development and Industrialization in N.C.

Doris Mahaffey & Mercer Doty

THE N.C. ECONOMY IN THE 1960s AND 1970s

North Carolina is viewed by many of its citizens as a largely rural state, a largely agricultural state, and a state of small cities. All of these conceptions are true, but at the same time they may be misleading.

It is true that, in 1970, 56 percent of the North Carolina's population lived in rural areas compared with 27 percent of the United States. It is also true that North Carolina has the second highest proportion of the population living outside of its major city (Charlotte) of all states in the Union. In 1972 North Carolina led the nation in value of crops and livestock consumed at home, and ranked number one in tobacco and sweet potato production, second in the nation in rural farm population, sixth in cash income from crops and livestock, and eleventh in all farm sales.

This is only a part of the story. North Carolina also has the eighth largest manufacturing work force in the nation, although it ranks eleventh in total population. A larger proportion of its industrial work force is employed in manufacturing than that of any other state. From 1966 to 1976 only Texas and California gained more jobs in manufacturing than did North Carolina.

North Carolina is the least unionized state in the nation—that is, a lower proportion of its non-agricultural workers are unionized than any other state—although in 1972 it was 28th in the U.S. in number of union members, with 139,000 industrial workers belonging to unions. Its production workers receive the lowest average hourly wage in the fifty states.

From 1960 to 1976 North Carolina per capita personal income increased by 240 percent, compared to 190 percent for the United States as a whole. Even so, North Carolina ranked only 41st in the nation in average per capita income—ahead of South Carolina, Alabama, Mississippi, Tennessee, Louisiana, Arkansas, North Dakota, New Mexico and New Hampshire—with a per capita income level only 84 percent of the U.S. average.

Perhaps the fundamental change in the 1960s, in both North Carolina and in the nation, was the decline in the relative

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importance of agriculture in the economy—especially in terms of employment. In North Carolina the steady movement from an agrarian to an industrial based economy entered its final "phase" as the increased mechanization of agriculture led to the decline in the profitability of small farming operations. This was important throughout the United States. But, since North Carolina farms averaged only 84 acres per farm in 1960, compared to the national average of 296 acres, the effect was particularly pronounced here. Increased mechanization brought about a consolidation of farms and a dislocation of disemployed farm laborers, who generally migrated out of the state or to urban areas within the state. This shift in population increased the available labor supply in urban areas and encouraged firms from industrial states to locate in southern cities. These firms were further enticed by the lower wages, lower land prices, and lower taxes found in the South compared to the North. The incoming northern firms usually paid higher wages than the typical southern firms which usually needed a higher proportion of low-skill workers in their production processes. Existing southern firms were less able to pay high wages than the new northern firms and could not compete as successfully for urban labor. Therefore, some of the southern firms moved to rural areas of the state to take advantage of the growing rural manufacturing work force as well as the lower average wages, lower land prices, and lower service costs in these areas.

The location of manufacturing firms in the rural areas—typically textiles, furniture, or apparel—partially reduced the flow of disemployed agricultural workers to urban areas, since it permitted them to take jobs near their homes. At the same time the concentration and availability of employment opportunities in lower-skilled occupations in rural regions tended to reinforce the low level of educational attainment characteristic of these areas of North Carolina. Lack of opportunities for the more highly skilled or educated reduced incentives to complete high school, while inducing those who did to seek employment in larger cities or other states.

During the 1960s, more people moved out of North Carolina than into it. At the same time, the rate of increase of the population in larger North Carolina cities was much faster than the rate of population increase in U.S. cities as a whole. In the 1970s both these trends changed. Small cities in North Carolina, which had been losing population in the 1960s, began to grow (some quite rapidly), while the growth of larger cities slowed.

Meanwhile, more people were moving into the state than out of it, largely following increased job opportunities.

The general movement of people from rural areas in the 1960s was an indication of the impact that major changes in the farm production process would have throughout the state.

The movement of people in the 1970s is consistent with a new type of economic system—the dispersed urban manufacturing system. Modern technology places many demands on the economy. It requires higher volumes of capital equipment per worker and usually more space for that equipment. It also needs room for transportation arteries and facilities to make the best use of more flexible transportation systems. For these reasons even more sophisticated industries have been moving to the suburbs and rural areas in the 1970s.

RECENT N.C. ECONOMIC DEVELOPMENT POLICIES

Since the 1930s, Americans have become increasingly convinced that government has a potent influence in the economy and that it can use this influence to improve the well-being of the nation or state. Consistent with this trend, state government has become more involved with the state economy, starting in North Carolina with Governor Luther Hodges who in the late 1950s announced a public policy in support of economic growth.

More recently, political concerns have become increasingly economic in nature, so that politicians have felt compelled to address economic issues in their campaigns and to act on them during their terms of office.

The demand for government services is thought by economists to be directly related to the level of income in the economic system. That is, as people's incomes rise, the amount of services they demand from their government increases. As has been noted, the per capita level of income in North Carolina increased dramatically in the 1960s, so that the demand for government services has also increased. Moreover, this increase was accompanied by broad changes in the economy—the decline in agriculture and the growth in manufacturing, for example—as well as by the major movements of people in the state. These changes generated political as well as economic concerns and established the political need for a state economic development policy.

In 1972, the Scott administration outlined the Statewide

Development Policy. Its central theme was "problems rising largely out of the economic transformation of rural regions." The policymakers believed that North Carolinians wanted to retain the "small city character" of their state and avoid the congestion caused by the rapid urbanization of the industrial North. If the rapid growth of the 1960s continued, a decline in the quality of service provision and increased congestion seemed unavoidable. The objective of the Statewide Development Policy was to encourage the growth of small cities, so that population would not be overly concentrated in large cities.

The policy sought to minimize the movement of people in the state by providing jobs for people where they live. In order to do this, the Statewide Development Policy established a "Growth Center Policy" to set priorities for public investment. The designation of growth centers was based on the capacity of an urban area or "cluster" to attract a larger population base through expanded job opportunities and increased public services. This is what the policymakers meant by calling for the "creation of a network of smaller urban centers which, along with the major cities, can maintain a jobs-people-public services and environmental balance that supports a higher standard of living throughout the state."

Although mentioned in the Scott administration, diversification of the state economy took on new importance during the Holshouser administration. The thrust of the Holshouser economic development effort centered on strengthening the North Carolina economy by recruiting high-growth industries to the state, particularly the durable goods industries such as machinery, metals, transportation equipment, and instruments manufacture. The high-growth non-durable goods industries such as chemicals, plastics, and rubber were also encouraged.

The recession of 1974 and 1975 both demonstrated the need for further diversification and disrupted the strides in industrial diversification that had already been made. North Carolina was particularly hard hit by the recession for several reasons. First, manufacturing employment is usually affected more adversely by recessions than other sectors of the economy (with the exception of construction), and North Carolina has a relatively high concentration of employment in manufacturing. Employment in trades, services, and government does not fluctuate very much over business cycles, so areas (unlike North Carolina) which have a higher proportion of employment in these sectors are not as greatly affected by recessions.

Secondly, the consumer non-durables industries such as textiles and apparel, which comprise almost 50 percent of the manufacturing employment in North Carolina, were particularly hard hit. Textiles experienced employment losses of greater than 18 percent of the work force and apparel lost in excess of 14 percent. Lumber and furniture, two other traditional industries comprising 15 percent of North Carolina employment, were also seriously depressed.

Thirdly, the fabricated metals and electrical and non-electrical machinery industries, which were among the industries involved in North Carolina's more successful diversification efforts, were also hard hit and furthermore, slow in recovering. Typically, these industries are very sensitive to business cycles, so that while they may be hurt by a recession they typically recover more quickly. This quick recovery did not happen in North Carolina.

The losses in textiles and apparel were notable because previous recessions had not affected these sectors as much as the durable goods sectors. The changes in American buying habits related to the decline in the textile and apparel industries emphasized the need to diversify the economy. At the same time, recovery in these industries was relatively rapid.

Overall, North Carolina's economy recovered more quickly than the economies of other states, with unemployment dropping below the national average in the fall of 1975 and remaining favorable thereafter. Per capita income, on the other hand, did not improve relative to that of the U.S., and this poor performance became the focal point of the next administration's economic development policy.

Governor Jim Hunt had campaigned for office with the promise of closing the "income gap" between North Carolina and the U.S. Still recognizing the strategic importance of issues raised by previous administrations (the need for industrial diversification in the state as a whole, as well as the need for increased employment opportunities in rural areas), the Hunt administration has tried to weave these objectives into its development policy. That policy is directed toward increasing the per capita income level of North Carolinians. The importance of industrial diversification is that drawing higher-wage and technology industry to the state is viewed as an essential device for increasing North Carolina's per capita income. The slogan "more and better jobs" catches this aspect of the development program. The importance of drawing economic opportunities to rural areas

is underscored by higher unemployment rates in rural areas, lower income levels, and the fact that over 50 percent of North Carolina's population resides in those areas.

THE BALANCED GROWTH POLICY

The Hunt administration had adopted the Balanced Growth Policy in order to bring these diverse concerns together into one economic development policy. The formulation of the Balanced Growth Policy has been the task of the State Goals and Policy Board, an executive advisory group established by Governor Scott and revived by Hunt. The findings of the Board's investigations concerning balanced growth and the concerns of the North Carolina public will be formulated into recommendations and submitted to the 1979 legislature for adoption. A preliminary draft has been outlined in *A Balanced Growth Policy for North Carolina: A Proposal for Public Discussion* (or *BGP*, 78), printed in June 1978.

The objectives of the Balanced Growth Policy are (1) to provide more and better jobs where people live, (2) to provide more and better services that people and industry need, (3) to maintain a clean environment, and (4) to keep agriculture a vital part of the economy.

A major point of the Board's report and the one most visibly espoused by the Hunt administration is the Jobs Location Policy. According to the report,

> It is the policy of the state of North Carolina to encourage diversified job growth in different areas of the state, so that sufficient work opportunities at higher wage levels can exist where people live. (*BGP*, 78, p. iv.)

Essentially, what the Balanced Growth Policy attempts is simultaneously to direct the state's efforts to reduce dislocations in the economy due to the search for job opportunities, to strengthen the North Carolina economy through industrial diversification, and to close the income gap between North Carolina and the U.S. achievement of any of these goals would be considered a major accomplishment for the administration. The attempt to put all three goals into one consistent package can only be marveled at as remarkable sleight-of-hand.

Indeed, two major controversies have resulted from the Balanced Growth Policy. The first involves the notion that the administration is really pushing two policies under one name, (i.e., the Balanced Growth Policy). In their current form, these "two policies" are not entirely compatible. There is, on one hand,

a policy directed at raising North Carolina incomes to the national level. Industrial diversification is a major element of this policy, since higher-wage industries are thought by many to be the "key" to improving North Carolina's relative income standing. On the other hand, there is the attempt to locate job opportunities in rural areas. Diversification may or may not be consistent with this policy, but to require that rural industrialization be a means of diversifying the state economy will undermine not only diversification efforts but also rural industrialization efforts, and improve North Carolina's relative income standing only in the long run, at best.

The second controversy involves differing "positions" on the overall effectiveness of state policy in guiding or intervening in the state's economic development process. One view is that the state can do little to influence the developmental process. This is contrary to the current notion that not only can the state do something, it must do something.

An additional reservation concerns the misplaced focus of North Carolina development strategy rhetoric. Too much emphasis is placed on status rather than performance. The year-to-year ranking of the state in terms of per capita personal income, for example, may be misleading. From 1974 to 1975 North Carolina's per capita income fell from 38th to 41st in the nation, but much of this "decline" reflects the impact of drought on North Carolina agriculture over the prior two years. North Carolina has a relatively higher dependence on agriculture than many of the states which gained in comparison, and some of the agricultural states in the Midwest had very good years during the same period which improved their relative standing.

Performance has been an important consideration in the administration's appraisal of economic development, but much of the rhetoric surrounding the state's economy contains comparisons with other states that are of little value in selecting policy or in assessing results.

THE CONTROVERSIES

One side of the Balanced Growth Policy is the dispersion of new industry in rural and smaller urban areas of the state. The point of emphasis is the location of job opportunities in areas of greatest need.

Firms that typically locate in rural areas generally pay wages which are not as high as those in urban areas and which

will not increase the level of wages in the state. However, the location of firms in rural areas will increase rural income due to lowered unemployment rates and the increased participation of the rural population in the labor force. As more jobs become available other people who had not previously considered working, such as women, or who had become discouraged in trying to find a job, such as minorities and young people, will find work. The types of jobs which will raise income levels by increasing employment rates are not often the same ones which will help diversify the economy. Increased employment rates are stimulated by the more traditional North Carolina industries, such as textiles and apparel, requiring little skill and relatively little machinery and capital investment per worker.

High-wage industries could be induced to locate in rural areas, but they would not have the employment creating effects that a more traditional firm would have in the rural area, nor would they pay wages as high as those paid by a similar firm in an urban area. They generally will not employ those that the traditional low-wage firms would employ: the discouraged worker, the housewife, or the teenager. Instead they will demand a higher-skilled worker who will often come from another higher-paying job, perhaps to get closer to home. Moreover, they will pay lower wages than the same job located in a more urban area since firms in rural areas face less competition for skilled and semi-skilled workers.

The other side of North Carolina's economic development policy emphasizes attracting a greater variety of industries to North Carolina to strengthen the economy and raise the income level. The administration wants to bring "more and higher-paying jobs" to the state. According to the Balanced Growth Policy, it seeks "more and better jobs" for the rural areas with high unemployment and under-employment. However, the same policy statement (*BGP*, 1978) notes that the larger cities remain a principal attraction for industrial growth and that their vitality is a prerequisite for rural industrialization. In a sense, the growth of rural areas is dependent on the overall growth of the state, just as North Carolina in the 1960s was dependent on the overall growth of the United States. As *A Balanced Growth Policy for North Carolina* suggests,

> To some extent, where jobs will locate depends upon total job growth in the state. If overall growth is slow, there will be fewer jobs to go around and the number of these jobs locating outside of the main economic centers may be too small to support the labor force. If overall job growth is stronger, larger numbers of

additional jobs in small cities and rural areas is possible. Continued emphasis on state economic development therefore is important.

These considerations suggest a number of important questions about North Carolina development policy. Is it the policy of the state to take all the industry it can get in the hope that some of it will choose to locate in needy rural areas? If so, what tools does the state have to prevent over-industrialization of the urban areas and their fringes, and what can be done to lure appropriate industry to more rural locations? What are the other implications for this state of small towns?

Is the state's fascination with national rankings making it more difficult to select and follow a course of action that might produce somewhat less "growth" but more "balance"? Are small communities misled into expecting more than can be delivered by industrial development? And is the state the best custodian for rural development efforts, or is it time for these areas to recognize the reality that state employees, quite naturally, put the state first with its individual local governments somewhat farther down the list?

Since Luther Hodges' administration, industrial recruitment has been at the heart of the North Carolina economic development policy. For the current administration the selection of an appropriate industrial recruitment strategy would seem to be no less important. However, a major problem results from the fact that the most effective type of industrial recruiting for raising the statewide average wage is not necessarily the most effective for improving employment opportunities and raising income levels in needy areas of the state. The result seems to be a lot of scrambling to get industry and a lot of talk about the new plants that locate outside of the major urban centers. Press releases from the Governor's office regularly report the successes in both cases. This makes it possible to pursue the goal of raising the statewide average wage through more and more industrialization while appearing to be equally concerned about the development of needy rural areas.

Administration officials maintain that they are achieving balanced growth objectives. High-paying industries are locating in some rural areas. However, in a statement discussing North Carolina's economic development policy, Secretary of Commerce "Lauch" Faircloth confirmed that the administration is banking on a current trend: "Industries themselves are showing more interest in smaller communities." The fact that those smaller communities receiving the most attention are conspicuously

located with a 50-mile radius of a larger city seems to be overlooked.* Many areas outside the 50-mile radius do not consider the state's approach adequate, and industrial recruiters from some of these outlying areas have organized to encourage greater effort to get industrial prospects to their communities.

Many of these recruiters remember the "Governor's Award" program initiated during the administration of Governor Bob Scott. The awards were given to communities that prepared themselves for new industry by meeting certain criteria set by the state, such as establishing community development teams to welcome and assist industrial prospects. Unfortunately, a lot of towns that got awards expected industry to follow, but it often did not. The net result of the program was some success and a good deal of disappointment.

The "Governor's Award" experience raises a further question about the state's ability to direct economic growth. Some, such as Lynn Muchmore, the state planning officer in the Holshouser administration, argue that "the state can do little to affect economic development." Others are more optimistic. Certainly the Hunt administration's initiatives to harness federal programs to state development policies would seem likely to increase the influence of state government. On the other hand, this achievement also increases the need for clear and realistic state policies and raises the central question of what those policies are or ought to be.

ADDITIONAL AREAS OF CONCERN

Any responsible North Carolina economic development policy should explicitly recognize the dependence of the North Carolina economy on that of the U.S., and national trends must be reflected in any state economic development strategy. The major national concerns with great bearings on the state economy are the rising costs of energy, the nationwide decline in manufacturing employment, and the growing international trade deficit.

The most immediate challenge to North Carolina and the nation is the inefficient use of energy in maintaining the

*The work of Alfred W. Stuart and James W. Clay of the Department of Geography and Earth Sciences, University of North Carolina at Charlotte, published in a paper, "Balanced Growth Policy for North Carolina, *A Response*" is notable for this observation and for its analysis of problems associated with attempts to attract high-wage industry to rural areas of the state, for its conclusions with respect to the limitations of the balanced growth policy, and for its identification of development policy alternatives.

American standard of living. The need to guide development in ways that consider the increasing costs of energy is especially important in North Carolina where the dispersed living pattern and extensive highway network are components of an "energy-intensive" life style. Failure to anticipate high energy costs has led to inefficient development patterns and higher costs of production for American manufacturers in comparison to their foreign counterparts. Extensive commuting in private automobiles to rural or suburban manufacturing establishments indirectly increases American costs of production because firms must pay workers enough to draw them to a given location.

Relatively unrestricted industrial recruitment has greatly contributed to the inefficient use of land in North Carolina, particularly in the urban fringe areas along the interstates, where the advantages of good transportation are the greatest. Firms are abandoning urban locations in favor of sites on the urban fringe to escape out-dated tax structures and increasing traffic congestion in central business districts.

While the nation's energy problems cannot be solved at the state level, North Carolina economic development policy must address the implications of future shortages on the state's pattern of industrial development. The state simply does not have enough leverage to insure that its attempt to "get firms to locate where people are" will greatly mitigate the problem. The development of energy-efficient land use patterns (especially in urban and urban fringe areas) and the encouragement of extensive mass transit (especially in rural and urban fringe areas and consistent with contemporary commuting patterns) are essential for dealing with the energy situation.

The continuing nationwide decline in manufacturing employment raises some questions about North Carolina's emphasis on industrial recruitment, especially in view of the state's attractiveness to manufacturing operations. The dispersed settlement pattern, the highway network, and the labor situation have all contributed to this state's comparative advantage. However, the state must recognize the potential risk over the long run of too much emphasis on manufacturing. Increased competition from abroad (not just in textile manufacture but also in the manufacture of higher-technology goods) and the greater sensitivity of manufacturing employment to cyclical changes in the economy make additional dependence on manufacturing a precarious strategy.

North Carolinians do need jobs and, in the short run,

providing additional manufacturing jobs for rural residents may be the most efficient way to meet this need. However, the best way to get more jobs in rural areas might be through incentives to encourage expanding North Carolina firms to locate there. The state has potentially greater influence over the management decisions of the many manufacturing firms within its boundaries than it does over the decisions of companies located elsewhere. Nevertheless, providing a majority of new jobs in rural areas in manufacturing should be viewed as an interim measure. In the long run, the state should seek to encourage alternative occupations for the people in these areas that are more consistent with national trends and more likely to contribute to their economic stability.

The recognition of different growth possibilities and different needs of the residents in different parts of the state (i.e., the urban, the rural, and the urban fringe areas) should strengthen the North Carolina economy, particularly in the context of the world economic system. As the competitive advantage of the United States in the manufacture of high-technology industry erodes, other activities must be enhanced to enable the U.S. to import necessities from abroad. The importance of agriculture and agriculture-support industries is vital. North Carolina's prime agricultural land should not be diverted to industrial uses, and special incentives should be developed to encourage the expansion of agricultural production.

Alternative industries potentially benefiting more rural areas of the state also include recreation-avocation or health-related industries, centering around the current recreational attractions and current health and educational facilities in the state. The potential for increasing tourism-related activities in the state is substantial, especially as Americans increasingly try to use their leisure time more efficiently and as foreigners find the United States a less expensive vacation place.

RECOMMENDATIONS

1. The state should adopt a "growth management policy" that recognizes and builds on the differing patterns of growth in different counties and regions in order to maximize the benefits of probable growth to all North Carolinians. As parts of the "growth management policy," the state should:
   a. Develop definitions of the three types of areas—urban, urban fringe, and rural—that are consistent with the

characteristics of North Carolina development and that emphasize the most significant economic differences among the three types of areas.

b. Amend the General Statutes (Chapter 153A, Article 18) to *require* counties to accomplish multi-county economic development planning and to require the establishment of county planning boards that are representative of the general population in each county. The General Statutes should be further amended to specify that county economic development research must include a detailed analysis of the existing economic structure of the county and its surrounding regions, county objectives with respect to unemployment, per capita income, income and employment stability, multiplier effects, industrial mix, commuting and employment patterns, and measures to reduce the costs of essential goods and services. Amendments to the General Statutes should also require that county economic development plans specify in detail the economic structure the plan is designed to produce.*

c. Appropriate $1 million for allocation to the counties to accomplish the research and planning addressed in Recommendation 1b above. This appropriation should be distributed by a formula that provides more funds to counties with low average per capita income and less funds to counties with high average per capita income. Not less than five percent of each county's allocation should be used in presenting to the public the results of the research and planning outlined in Recommendation 1b.

d. Require approval of county economic development plans by citizen planning boards not later than July 1, 1981, as a prerequisite for local government participation in non-mandated state and federal economic development programs.

e. Direct state agencies to periodically provide each county, at no cost, specific information needed for

*The existing Councils of Governments (COGs) are logical organizations to accomplish these research and planning tasks. However, existing multi-county regions are not always satisfactory units for economic planning. Regardless of where the research and planning is done, the responsibilities for approving and implementing plans should rest with the county commissioners.

county economic development planning, consistent with the state agencies' areas of responsibility.

f. Request the University of North Carolina, in cooperation with private colleges and universities, as part of their public service programs, to systematically identify the major growth and growth management problems and opportunities in North Carolina's urban, urban fringe, and rural areas, to indicate the major policy and investment options for dealing with these problems and opportunities, and to distribute the results of this research to all local governments and to appropriate state agencies by July 1, 1980.

g. Request the private colleges and universities, in cooperation with their public counterparts, to develop specific proposals for introducing into rural areas new opportunities for economic growth other than through manufacturing. These proposals should include consideration of potential destination recreation areas, multi-county and multi-state opportunities, and the potential of the state's health, education, avocation, agricultural support, and recreation industries. Special consideration should be given to proposals that can offset the likely impact of increased foreign textile competition on North Carolina communities that are heavily dependent on textile plants for employment. The results of this research should be distributed to all local governments and to appropriate state agencies by July 1, 1980.

2. Request the Commissioner of Labor, the Secretary of the Department of Natural Resources and Community Development, and the President of the Department of Community Colleges to study ways of increasing the opportunities for low-income people to gain technical skills through Comprehensive Employment and Training Act (CETA) programs, apprenticeship programs, and the programs offered by community colleges and technical institutes, especially in rural areas, and to report the results to the Governor and the General Assembly by January 15, 1980.

3. Appropriate $40,000 to the Board of Governors of the University of North Carolina to support a joint project of the urban public and private universities to identify the major North Carolina problems associated with urban economic development and to propose state and local strategies and actions which would enable urban citizens to more fully understand and more

effectively manage urban growth problems. The results of this project should be distributed to all local governments and to appropriate state agencies by July 1, 1980.

4. Establish a study commission to recommend to the Governor and the 1981 session of the General Assembly changes in the General Statutes to clarify and strengthen the state's role in water management. The commission should examine the actual resources devoted to water management at the state level in light of relevant legislation already enacted. The study should be governed by the recognition that the availability and economical delivery of fresh water to areas that require it is a question distinct from the total amount of water in the state. Ultimately, the state will have to establish a system for reconciling competing demands for the same water.

5. Request the Governor's Committee on Rural Public Transportation to recommend to the Governor by December 1, 1979, specific incentives for businesses and government units and, if required, appropriations that will encourage the development of rural transportation systems, in order to increase the access of rural workers to employment opportunities near towns and cities and to reduce the impact of higher fuel costs on such access.

Making North Carolina Prosper
A Critique of Balanced Growth and Regional Planning

Brad Stuart

Regional Development Plans: An Idea Aborted

During the past two administrations, planning on a multicounty level was posed as the basic means to implement state development policy. This implementation, however, has never taken place. The proposed role of multicounty regional planning has been eviscerated in the Hunt administration's policy. This is the most important change in state development policy since the policy's initiation by the Scott administration, and the change comes at the very time when the state appears to be winning influence over federal funds to put the long-dormant policy into effect. It is important to look at the functions of the regions proposed in earlier state development policy, and to understand why the proposed role has not been realized.

Multicounty regional planning emerged first in the United States as a result of the pressures of metropolitan growth. Problems of urban sprawl, air and water pollution, and traffic congestion did not stop at city or county lines. Realizing this, officials from a number of metropolitan areas around the country in the 1950s and early 1960s formed voluntary associations of local governments. Though organizations such as the Metropolitan Washington Council of Governments (composed of county and municipal governments in Maryland, Virginia and the District of Columbia) originated as very informal forums for elected officials to discuss common problems, staffs were soon hired to do formal planning studies.

In rural areas regionalism got its start with the passage of federal legislation in the mid-1960s forming the Appalachian Regional Commission, the Coastal Plains Regional Commission, and the Economic Development Administration (EDA), each of which mandated planning in multicounty districts. Officials in these organizations saw the single county as too small for economic planning. Rural industrialization to relieve poverty

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was a goal of all three organizations. Regional studies were seen as necessary to plan for industrial growth because both the resources that attract an industry to a given rural location and the economic and environmental impacts of the industry once it arrives are spread out over a multicounty area. As economist Gene Summers testified in the 1974 Congressional hearings on rural development:

> The present EDA policy of requiring multicounty development planning is a wise and necessary one in view of the evidence that impacts of plant location are diffused over a large geographic area. While the impacts appear to affect the host county more noticeably in some respects, the overall impact is a dispersed one. Industrial development is a multicounty regional rather than a community phenomenon. Hence planning and programming efforts should be executed consistent with this reality.

There were good reasons for consolidating planning at the multicounty level, rather than going to a yet broader scale. Planning at the multicounty scale was thought to be manageable. And it was close enough to the community level to allow real community and citizen participation in the planning efforts. Each of the federal rural development agencies mandated provisions for citizen participation in the planning process. Ideally, community residents could help decide how and where they wanted their communities to grow. Economist H.S. Wadsworth noted, in the rural development hearings, that industries carefully screen communities before deciding where to locate, and added, "If this is a reasonable procedure for industry, should not communities also evaluate prospective industries as to whether the location of that industry in their community is in their own best interest?"

FEDERAL SUPPORTS OF REGIONALISM

In North Carolina, regional planning organizations were formed in the late 1960s in both metropolitan and rural regions. EDA and ARC districts were drawn in the East and in the mountains, and in the Piedmont Triad local officials began to meet in an informal organization that was the forerunner of an official council of governments. The incentives for the creation of these regional organizations were linked not only to EDA and ARC but to other federal programs including those of the Department of Housing and Urban Development and the Office of Management and Budget. A number of federal agencies in the

late 1960s were encouraging or requiring local governments to participate in regional planning as a condition of receiving federal funds.

One of the most important federal supports of the COGs is the A-95 Review process, so-called because it was authorized by the 1969 *Circular A-95* of the Office of Management and Budget. The process involves a review of each major federally funded project by the "areawide" clearinghouse—a regional organization, usually a council of governments—as well as by the state clearinghouse. The state clearinghouse in North Carolina is the Department of Administration. Material describing the proposed project is circulated by the areawide clearinghouse to local governments and agencies whose interests might be affected. Meanwhile the state clearinghouse gets comments on the project from various state agencies. Formal comments by the clearinghouse and by other agencies reviewing the application are attached to the application itself as it is sent to Washington.

The importance of *Circular A-95* to the viability and function of the regional organizations is immense. To begin with, the circular played a key role in the creation of the regions. Part IV of the Circular encourages governors to develop statewide systems of planning districts. The suggestion was followed by Governor Scott in his executive order creating the regions. Secondly, the A-95 structure is important in providing a structure for intergovernmental cooperation, and in giving the regional staff a role of important influence. Through A-95, the regional staff, as well as the state Department of Administration, can recommend that a project application be rejected. Federal agencies do not have to abide by the clearinghouse recommendations, but the potential for the review to help or hurt the applicant's chances are nonetheless real.

Despite the key federal role, the expansion of regionalism in North Carolina was a product of North Carolina initiative as well as federal fiat. A group of scholars at the University of North Carolina developed the ideology of regionalism years before the federal agencies got into the act. Headed by Professor Howard Odum, the Regionalists were well known to post-War New South intellectuals for blaming Southern underdevelopment on Southern provincialism. They preached the need for social and economic study, and they saw planning at a translocal level as the basis for rational development decisions. Aside from its indigenous intellectual roots, regionalism was originally a crucial part of state development policy, not an adjunct imposed

from outside the state. The birth of regionalism in North Carolina was coincident with the birth of Governor Scott's Statewide Development Policy and the two were closely related.

GOVERNOR SCOTT CREATES THE REGIONS

Governor Scott established the original 17 state planning regions by an executive order of May 7, 1970. A "lead regional organization" was designated by the Governor in each of the 17 regions. All but a few of these organizations were councils of governments (COGs), voluntary associations of municipal and county governments, with staffs responsible to boards of directors made up solely of local elected officials. The exceptions were planning commissions and economic development commissions which had some minority representation on their boards by non-elected citizens.

The principal mission of the regional organizations, Scott said, was "to plan for the coordinated growth and development of the state." Other announced purposes of the regions were "to enhance the supply of services available to the people in each region; to solve urgent problems of the regions; to streamline state government by providing one set of regions to be used for administrative and data collection purposes."

Regional boundaries are sometimes chosen because they encompass a single metropolitan area, a single labor market (often defined by commutation patterns or circulation of job advertisements) or a single natural area such as a river basin. North Carolina's regions were chosen according to a variety of criteria, including the three criteria above; the transportation time from the perimeters to central meeting places; the inclusion of at least 100,000 population and three counties; "psychological ties" among the people in the region; and the presence of regional organizations created before Governor Scott's executive order. In other words, there was no common formula.

The lead regional organizations are structurally weak. They are composed of local governments which can renounce their membership at any time. They have no independent taxing power, no power of property condemnation, and no independent power to implement the plans they draw up. They are weak by design. According to written statements of the Scott administration,* the regional organizations were designed so that they

*Scott's executive order, a section of the 1971 *Handbook on Regionalism* authorized by Joseph W. Grimsley, the Governor's special assistant for developmental programs, and the *Statewide Development Policy*.

would not become a new level of government. Rather than subordinating local governments, regionalism was to be a vehicle to strengthen local governmental units in order to carry out the state development policy.

The structural weakness was to be countered by three factors which would supposedly make the regional organizations viable and important: the importance of regional planning in obtaining federal funds; voluntary local cooperation; and—most importantly—a strong state mandate.

If regional planning was going to work in North Carolina, it would require state leadership. Governor Scott spoke of a "state-regional partnership." The *Statewide Development Policy* said that "state government will have to undertake a series of obligations in relating to the region." State agencies were to use the regions for data collection and were directed to consult with the LROs in policy formation. They were to "delegate to the Lead Regional Organizations, or specialized regional planning bodies, those statewide and regional planning elements which require considerable local input of data and citizen participation." State agency field offices were to cover regions whose boundaries were contiguous with the boundaries of the 17 planning regions.*

THE REGIONAL DEVELOPMENT PLANS

More important than any other aspect of state leadership was the pledge that the state would bring strong guidance to the regional planning efforts. The state would help broaden sporadic local planning efforts and help unify the hodgepodge of federally financed efforts. The *Statewide Development Policy* promised that the state would provide the LROs technical assistance and policy guidance "not only to assist these organizations in their work efforts but also to assure that a consistent statewide approach is being adopted in the preparation of plans and programs for regional development."

The "consistent statewide approach" was to be brought about through the state's *requirement* that each LRO create a Regional Development Plan. The plan was to be comprehensive, and the state was to intercede with several federal agencies to

*This has been done, with the exception of the regions used by the Department of Transportation. According to Pearson Stewart, assistant secretary of transportation and a former COG director, the role of the regional organizations in transportation planning has always been too small to justify changing the lines of the Department of Transportation regions.

persuade them to accept the Regional Development Plan in lieu of the more specialized plans called for by each federal agency's guidelines.

The regional plans were to be extensions of the statewide development policy, the basic means of its implementation. As the policy statement said, "The regional plan becomes a more refined document than the *Statewide Development Policy* as well as being an operational statement for carrying out this policy."

As expressed in the proposal for the Regional Development Plans, the charge given the LROs to plan for the state's economic and environmental future was to be very strong and broad. A crucial element of the proposed plans rings with implications for growth management. LROs were to be responsible for planning the "determination of an urban settlement plan" for each of the regions. The LROs were responsible for "determination of the public facility needs of growth centers; establishing locational priorities for the allocation of public investment funds; identification of priority investment projects for the coming year." These three related responsibilities were potentially very heady and important. If these responsibilities were ever realized, the paper plans of the LROs would become very powerful documents. Controlling the location and timing of public investments in a deliberate effort to influence the future settlement pattern of a region—it was a planner's dream.

Once the federal agencies were convinced to go along with the state policy, the effort would become truly comprehensive. "The ultimate intent of the Statewide Development Policy and the Regional Development Plan is to cover the entire range of public investment projects that utilize state and federal funds," the policy document states.

During the last half of Governor Scott's term, the newly formed LROs organized to begin their grand role in state development policy. But only eight months after the original development policy was published, the Democrats lost the governor's office to Republican James E. Holshouser Jr.

NEW GOVERNOR, NEW PLAN

Holshouser authorized the inception of a new statewide development plan. It took two and a half years for the new policy document to emerge. In the meantime the idea of the regional development plans languished. The new administration was

supportive of the regions and would, in fact, move to expand their role, but the turnover in administrations resulted in a vacuum in state policy. The vacuum was present at a time when the LROs were struggling to get on their feet. They wrote their plans for submission to federal agencies, built their A-95 review process, helped local governments pursue federal dollars, wrangled with political and administrative problems, and waited for Raleigh to give them their charge in state development policy.

In September 1974, the Holshouser administration published its growth and development plan. Prepared by the Research Triangle Institute, the plan was called *Economic Development Strategy: Phase I.* Phase II was to come with the formation of "regional development strategies." These were similar to those proposed in the Scott plan, but with a new emphasis on industrial recruitment. Each region would be analyzed to determine the specific types of industries that would best suit the region's economy and resources. As shall be explained shortly, these industrialization strategies were seen as a promising means to counter the negative income effects of growth dispersal.

With the new industry targeting element, the regional development strategies of the Holshouser administration were to be even grander than those proposed by the Scott administration. But again they met the same fate. The regional plans—Phase II of the development strategy—didn't get done. In fact, Phase II never got started.

"We never really got close to implementation," said former state planning chief Lynn Muchmore. "We never got far enough to where the regions played a major part in our discussions."

George Little, Secretary of Natural and Economic Resources during the final year of the Holshouser administration, offered two reasons for the failure of the regional plans to get under way. First, internal dissention made the regional organizations weak vehicles for planning. "They were fighting with themselves, fighting with the local governments," he said. "The problem there was not state government. The problem was with the COGs." Secondly, he said, it was too late in the administration's term of office to start the regional venture. "Phase II would have come in 1977 and 1978," which was after the Hunt administration took office.

CONTROVERSY AND INERTIA

Muchmore, however, gives another reason, one which helps

explain why the regional studies did not get under way immediately upon completion of Phase I. There was "a conflict in the advisory structure," Muchmore said in an interview. A chief cause of the conflict was Muchmore himself, who opposed major aspects of the state development strategy. Muchmore was opposed to the continuing policy of deliberately dispersing growth, a policy which he referred to as "inherited from the Scott administration." He was also cool to what he saw as the overemphasis of RTI's Phase I study on targeting specific industries for recruitment.

While state planner, Muchmore commissioned studies, directed by Dr. Emil Malizia of the Department of City and Regional Planning at UNC-Chapel Hill, that concluded that North Carolina's mix of industry was only a small part of the reason for the state's wage gap. Low education and skills levels, low productivity per man hour, low capital investment per worker as compared to the same industries in other states, and the low level of unionization were all parts of the explanation for the wage gap, according to the studies. The researchers' most intense interest was in the unequal relation between management and labor in North Carolina, and the press gave page one coverage to Malizia's advocacy of a state posture more sympathetic to unions. The furor that resulted was a major embarrassment to the administration and to Muchmore personally, who was attacked by pro-union forces for failing to publish the studies in a timely manner and attacked by the anti-union forces for commissioning the studies in the first place.

The studies generated little action on the part of the government. The pro-union recommendations were impossible to carry out in North Carolina's political climate and the unionism controversy generated so much noise that few people heard the points made by the researchers about subjects other than unions. Aside from being neutralized themselves, the studies helped to stall the RTI development effort. "The studies planted doubts about a strategy that dealt mainly with industrial mix," said Muchmore. "We had the Governor in a difficult position. He had advisors saying industrial mix is not the route to take. And on the other hand, he had RTI and NER saying 'here's a menu for industrial development.'" The result, he added, was that "nothing happened." The Governor "couldn't make up his mind, and people at the upper levels lost interest in the RTI report. It's unfortunate. They didn't follow up on our studies either."

THE BIRTH OF THE TARGET INDUSTRY PROGRAM

One year after the RTI report came out, Loyd Little wrote in the *Carolina Financial Times* that the $80,000 study had stirred up all the excitement usually accorded "the discovery of a new fern." But despite disappointing reception by most of the Holshouser administration, *Economic Development Strategy: Phase I* made a substantial policy impact, even without the follow-up of a Phase II. The impact was solely restricted to NER, the one department, according to reporter Little, that showed much positive interest in the report. The "target industry program" for industrial recruitment began with the RTI study. The RTI study, and its accompanying appendices, provided recruiters means of determining which specific industries would best improve the prosperity of the state, according to the industries' wage rates, creation of jobs, use of limited resources, and—as predicted by an input-output model of the state's economy—trade with existing North Carolina enterprises. Besides targeting specific industries, the plan was used to help target specific industrial sites. According to former NER Secretary James Harrington, a new brewery at Eden was the showpiece of the Holshouser administration's target industry program. A high-wage firm, the brewing company was sold on the Eden site on the basis of NER information about the site's water resources.

The Hunt administration has continued and expanded the target industry program called for in Phase I. The administration already has its own list of Edens. Fears that a recent reorganization of NER would hurt the program have not been realized. The split of NER into the Department of Commerce and the Department of Natural Resources and Community Development formally separated recruiters from resource experts, but the two groups continue to work closely together, according to officials in both departments. The Governor himself has taken part in the target industry program by making well-publicized trips to woo preselected industries. The effort has been professionally staffed. The Commerce Department's new director of economic development, Larry Cohick, is a nationally respected industrial developer and former executive vice president of the American Industrial Development Council.

The progress of the state's economic development programs, however, might have been even more notable if Phase II had been put into effect. One important idea to be fulfilled by Phase II was that people of each region would be provided a means to

understand their own resources and to formally decide what public action to take in conserving or developing them. Each region would plan how to build upon what it had. The RTI consultants believed that this sort of planning might allow development to be accelerated, particularly in the lagging rural regions that were the focus of the state policy of growth dispersal.

PLANNED AGGLOMERATION: THE INDUSTRIAL COMPLEX

One possibility to be explored by each of the regional studies was the potential for planned "industrial complexes." This proposal was extremely significant because it spoke to the central dilemma of the state growth policy—that its goal of growth dispersal ran counter to its other basic goal of increasing wages and income. The RTI consultants were acutely aware of the benefits of agglomeration and of the costs of dispersal. When they used their computer models to predict state and regional income as growth was hypothetically dispersed to rural regions, the results were always disappointing. Statewide income suffered and though the lagging regions' economies improved, they remained in a lower stage of development. The industrial complexes were to be designed to provide agglomeration benefits even in regions without larger "self-sustaining growth centers." If deliberately planned agglomerations—industrial complexes—could accelerate the transition of the lagging regions to a higher stage of development, the negative income effects of dispersal could be partially overcome.

The researchers, directed by Dr. James Street, were sensitive to the possibility of such planned complexes because they themselves worked in one—Research Triangle Park. The development of an industrial complex involves a planning and promotion effort in which a number of related enterprises are induced to locate in proximity to one another. By developing resources used in common and by trading with one another, enterprises induce growth in the complex and elsewhere in the regional economy. An example given in the RTI report is a complex on the "petroleum refining theme." The idea was that if a petroleum refinery were to locate somewhere in North Carolina, the state would attempt to locate other petroleum-related industries around it. The refinery itself, the researchers showed, would use few local products or services. But as part of a complex, the refinery would be surrounded by six other industries linked to

the refinery and to each other: industrial chemicals; agricultural chemicals; synthetic rubber; paints and allied products; asphalt products; and carbon and graphite products. Each of these industries would buy more local "inputs" such as labor, services, and products than would the refinery. The report contains a table showing the proportion of inputs bought locally by each of the industries of the proposed complex and states:

> The average of total local inputs of 72 percent is an indication that a high percentage of the income created by the complex will remain in the local area. It can be compared to the rather low total for the petroleum refining sector (45 percent). This table suggests that, without the total complex development, the refinery sector alone would add little more than the payroll of its employees.

Unmentioned in the RTI report is the fact that advance consideration of specific types of industrial promotion would give citizens a chance to voice opposition to specific industries. Citizens might well decide, for instance, that a complex of refineries, asphalt and chemical plants is precisely the type of development they don't want. The report does indicate, however, that citizens and officials would have a number of alternative complexes to choose from. Listed are 53 possible industrial complex themes, from the "soybean oil theme" to the "printing theme" to the "office machines theme."

REGIONAL PLANNING CRUCIAL

Regional study and planning is crucial to the industrial complex idea. A complex cannot be adequately planned, RTI economists Paul Mulligan and Phil McMullin said in interviews, without thorough study of a region's present economy and resources. Research Triangle Park, for instance, was designed to build upon the resources uniquely available in the Triangle area, including the intellectual resources represented by the three universities of UNC-Chapel Hill, N.C. State and Duke University. Understanding the area's resources and the constraints and opportunities they represent, deciding the type of development to stimulate, targeting land for development and for preservation, planning the promotion effort, planning transportation, utilities and other site improvements—a wide variety of study and planning efforts must be accomplished to make the industrial complex idea work.

By itself, the statewide development strategy was too broad. The regional strategies would bring it down to cases. The

researchers wrote:

> Chapter 3 of this study has supported the conclusion that the regions of the state are in different stages of economic development and that strategies must be tailored to the specific opportunities and needs of each region. In regions where labor participation rates are low and manpower skills are limited, per capita personal income may still be improved through growth in the traditional low skilled manufacturing sectors. However, there may be opportunities for accelerating the transition to a higher stage of industrial development through industrial complex development. If such opportunities exist, they should be proposed to or generated by the lead regional organizations or other representatives of the political units of the regions. The North Carolina economic development strategy provides a base from which to build consistent regional strategies.

It's impossible to say how valuable the regional development strategies would have been. No one knows because the strategies were never formed. Their creation was blocked by controversy, red tape and inertia.

Goals for Regional Development Planning

The idea of using the lead regional organizations to plan the implementation of state development policy has withered on the vine. Yet, because of federal initiatives, planning somewhat similar to that envisioned by the Scott and Holshouser administrations has been done by the LROs. The federally funded plans are less ambitious and less unified than those earlier proposed by the state. But they have, at least, been done.

The N.C. Center for Public Policy Research has studied the development plans of five regions, with particular attention to the more comprehensive development plans such as the Areawide Action Plans sponsored by the Appalachian Regional Commission and the Overall Economic Development Programs sponsored by the U.S. Economic Development Agency. The Center analyzed these studies to see what has been done in regional development planning and to try to arrive at some general ideas to guide future development planning that may emerge at the local or regional level.

The Center conducted interviews at six regional agencies—in the urban Piedmont regions of F, G, and J, the mountain regions

of B and E and the Coastal Plains region P. Because Region J was just beginning to undertake a comprehensive development plan, however, the analyses were restricted to planning documents of the other five regions.

There is a great deal of useful information in the COG plans examined by the Center, information that local and state policymakers would do well to study. There was little purely perfunctory planning—plans written to no purpose other than to meet grant requirements—though there were apparent examples of this. There were basic gaps in the plans, however. Certain flaws were shared by most of the plans and may be generalized here.

FRAGMENTED FUNDS, FRAGMENTED PLANS

Comprehensiveness suffered, in part, because planners tended to ignore issues not dealt with by the federal agency funding the plan. Stimulating the birth and growth of small businesses, for instance, should be a crucial part of any economic development strategy. (According to a 1979 report by Robert Wise, staff director of the Council of State Planning Agencies, "The overwhelming majority of new jobs come from the birth of new firms and the expansion of relatively small independent corporations, *not* from branch plants, headquarters, or the relocation decisions of multiplant corporations.") Yet the economic development documents of the regions gave little recognition to the possibility of helping small entrepreneurs through the provision of information or the extension of credit. The Small Business Administration (SBA) offers programs in this area. But the SBA got no mention in reports funded by EDA.

Similarly, skills training programs and other manpower activities got little mention in the EDA-funded documents. If you want to read about manpower issues, you have to go to the regional studies funded by the U.S. Department of Labor, and these studies concentrate on the Labor Department's Comprehensive Employment and Training Act (CETA) program. Interviews with community college officials indicated that regional manpower plans play no central role in the design of vocational education curricula.

The unified planning which might have come about through state leadership is missing.

Another problem with a number of the documents is that, while the information presented was clearly based on a

considerable research effort, the theoretical framework was unclear. The reader is not given enough idea of how the authors were thinking about the regional economy, and the goals of the plans are not sufficiently concrete so as to help inform and evaluate specific development decisions.

To evaluate the plans, this Center needed a theoretical framework including a list of objectives that should be included in all comprehensive economic development plans. Dr. Edward Bergman, a professor in the Department of City and Regional Planning at UNC-Chapel Hill and an expert on economic development issues, was enlisted as a consultant. Dr. Bergman helped the Center define the objectives and, using them, helped analyze the plans.

SEVEN OBJECTIVES

In devising an economic development strategy, one must specify precisely what type of economic structure is sought. To do so, one must first analyze the existing structure—both its potentials and limitations—in light of several objectives. These should, at minimum, include the following:

A. Reduction of Unemployment. The rate of unemployment is not determined merely by the level of activity in a local economy. It also depends upon the participation rates of various components of the labor force—including those defined by age, sex or race—and the opportunities available to people who make up these labor force components. Some barriers to employment—lack of adequate day care facilities, for instance, or workplace discrimination—affect some components without similarly affecting others. In addition, the structure as well as the rate of unemployment can be affected by the types of opportunities offered. For example, part-time job opportunities often provide employment for some workers who would otherwise remain unemployed. Part-year work schedules can also reduce the unemployment due to other seasonal factors in the local economy (agriculture, tourism, etc.). In short, reduction of unemployment goes beyond merely increasing economic activity and includes questions of labor force composition and the structure of current employment.

B. Growth In Per Capita Income. In addition to reducing unemployment, a further objective would be to increase total

income available to the resident population. This generally implies higher average wages paid to workers, as well as a higher rate of employment. Per capita income is also affected by the age structure of the population, since children and old people do not usually hold full-time jobs. The age structure of the population may be affected by migration, which is, in turn, influenced by economic opportunity.

C. Stability of Income and Employment. Local economies which provide above average wages and below average unemployment rates may still be unstable over time. Instability creates risks that are costly and potentially avoidable.

One form of stability is seasonal. Activity in some industries may be determined by growing seasons, fashion trends, holiday sales, and tourist seasons. To counteract the seasonal unemployment which may result, an economic strategy might seek other seasonal industries or employments which complement the seasonal elements of the existing economy.

A second form of instability occurs when a local economy mirrors or exaggerates the national economy during a business cycle. A severe drag on the local economy occurs if its major industrial components either start down the business cycle earlier, go down further or recover later than the national economy. (Textiles, for instance, were much harder hit by the 1974-75 recession than other sectors of the economy.) While it is difficult to predict when or how severe a national downturn in the business cycle will be, one can predict the local consequences of a given business cycle and selectively choose to develop more stable industries to reduce the instability of the local economy.

A third form of instability occurs over the long term. Industries generally go through historic phases of growth, stability and decline. These changes can be anticipated and adaptive actions can be started well in advance of the economic crises such changes can bring upon local economies. A community whose economy is dominated by industries which are declining nationally may do well to ask itself what it lacks in skills or other resources necessary to attract high-growth industries that would promise lasting economic benefits. Some changes which drastically affect the long-term stability of an economy cannot be anticipated, the shutdown of military bases being one example. Planning for such contingencies is a part of a realistic economic development strategy.

D. Total Multiplier. Nearly all economic development planners are familiar with export multipliers. These relate income derived from "export" industries (those which sell their goods and services outside the local economy) to the local demand for goods and services. Export multiplier analysis has led to attempts to further develop industrial sectors which sell goods and services outside the local economy. The export multiplier is an important concept but it involves only a partial consideration of the total multiplier effect.

The total multiplier analysis focuses attention on capturing the maximum percentage of the value of local production and retaining it for development purposes. Local economic development planners should seek ways to maximize this percentage and expand the total multiplier effect. Since all wage earners generally reside within a local economy, there is little difficulty in retaining the value of production paid as wages. Accordingly, increasing labor's share of the value of production is one way of expanding the earnings component of the total multiplier. This component consists of cash wages plus deferred retirement payments, medical services or other forms of indirect compensation. Increasing labor's share might be done by increasing worker productivity or by increasing labor's bargaining power. The former generally implies skill training and the latter implies increasing employer competition for labor services through having more firms competing or higher-wage firms competing, allowing workers to collectively bargain, or attracting union firms.

Another component of the total multiplier consists of the distributed earnings paid to owners of capital. Since share ownership of corporations is widely dispersed, the economic development strategist may wish to favor local ownership of industries. This may mean an emphasis on small business and indigenous entrepreneurship, or even a consideration of community-based enterprises. By maximizing the percentage of distributed earnings paid to local residents, one also improves the process of capital accumulation in the local economy.

Finally, a direct goods and services multiplier results from local purchases of goods and services necessary for industrial production. These include materials as well as locally purchased business services. The goods and services multiplier is likely to be higher in local economies rich in smaller, single establishment firms and businesses. Franchise businesses or branch plants of

vertically integrated firms* tend to buy more goods and services outside of the local economy through their own corporate networks. Local ownership of business and industry also enhances this aspect of the total multiplier.

E. Industrial Clusters. Establishing a functional group of industries in a local economy provides a strong base for attracting and holding together the core of a local economic structure. Empirical evidence demonstrates the existence of such clusters, which develop for a number of different reasons. Apart from historical accident, the most prevalent reason given for the geographic clustering of industries is the fact that firms which routinely buy or sell each other's products locate together to reduce costs of purchasing and transportation. Another cause of such clustering may be the local availability of a resource which is common to otherwise wholly different firms. Abundant sources of energy, steam, water, or other resources often draw together an enduring complex of industries and firms. Other factors may include the availability, at low cost, of private business services or public infrastructure. The former case may apply to ample warehousing, trucking, legal or other services. The latter may apply to improved harbors, terminals, sewerage and other public services.

Industrial clusters or complexes may be highly productive in advancing a local economy. In considering a strategy to stimulate industrial complexes, economic development planners should analyze the existing economic structure to determine the presence of factors which could attract industrial clusters as well as the absence of key elements in this process. In at least some cases, the absent elements may be those, such as infrastructure and information, which may be provided through public action.

F. Rational Patterns of Housing, Employment Centers and Commutation. Rational use of land demands thoughtful analysis of patterns of work places and residences and efficiently routed commutation among them. Planning ahead for housing, transportation, industrial site development and other land uses can reduce costs due to unplanned sprawl, enhance overall environmental quality, and better organize development for other aspects of community life.

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*A vertically integrated firm controls several different production processes within the same industry. For instance, a vertically integrated oil firm would own its own oil wells, refineries, transport systems and filling stations. It would have little need to buy oil, refining capacity or other goods and services from firms other than its own subsidiaries.

G. Increased Real Incomes of Residents. In addition to increasing per capita income, economic development planners should seek ways to reduce the costs of necessary goods and services, thereby increasing real incomes. This objective is related to F. above because rational and compact development patterns can reduce travel requirements and reduce the cost of public services. Other policies might lower the costs of energy (e.g. public electric distribution systems, district heating systems), housing (non-exclusive zoning regulations, increasing availability of credit), and food (assisting farmers markets, renting publicly owned land for garden plots).

This Center's analysis of individual COG development plans is based upon the perception of whether—and how well—the plans dealt with these seven basic objectives: reduction of unemployment; growth in per capita income; stability; total multiplier; industrial clusters; rational geographic development patterns; and increasing real income through lowering costs.

The study that comes the closest to dealing comprehensively with our seven objectives is the draft *Overall Economic Development Program for Region G* written by Arcelia Wicker and Karen Hitchcock of Region G's Piedmont Triad Council of Governments. The sad irony is that this organization was torn in two shortly after the development plan was completed. Local governments in the western half of the region withdrew from the Triad council, and another lead regional organization has been designated for the new Region I. Technically sound planning is apparently not enough to ensure either viable plans or viable planning agencies. The fate of regionalism depends as much upon politics as upon planning. Politically, regionalism is in trouble.

Making North Carolina's Image

Robie Patterson

"Quite often, the 'image' of a community... is even more important than the factual analysis." Special Business Department Report, *Dun's Review.*

"To visitors from all over the globe, North Carolina has become a special gathering place for the pursuit of pleasure, relaxation, good food and drink, and a taste of America that is uniquely down home and high style all at once." Brochure from N.C. Travel and Tourism Division, first place award in worldwide competition of *Travel/Holiday* and *The Travel Advisor.*

"Texas leads as the 'most likely choice' for the next plant location, followed by California, North Carolina, and Georgia." Facility Location Divisions, *Fortune.*

North Carolina has no "Department of Image," but putting the state's best foot forward is a full-time job for some 100 state employees working with a budget of $4 million. The state Department of Commerce spends almost $2 million a year advertising North Carolina as a good place to vacation and to do business. Moreover, corporate recruiters, ad agencies, chambers of commerce, university officials, and performing artists all find themselves selling the state in the normal course of day-to-day activities. Promoting the state has become an implicit part of doing business, from Gov. Hunt's meeting in Chicago with the head of Sears, Roebuck and Co. to the North Carolina Symphony's performance at Carnegie Hall. And glossy ads in 95 newspapers and magazines across the country are selling "North Carolina."

"To many people who have never been to North Carolina, and who don't even know anyone who has, North Carolina is the governor," says Hunt. When he meets corporate executives in Chicago or West Germany or Japan, Hunt usually opens his remarks by saying, "I bring you greetings from North Carolina, the eleventh most populous state and one of the fastest growing states in the nation."

A former speechwriter for Hunt explains the importance of that opening. "When the governor says that we might very well

be the tenth largest state in the next census, people are shocked. They have no idea North Carolina is that big. Corporate officials are thinking market. When you crack the top ten, they know you have a market."

Attracting industry and commerce, though, represents only a part of the state's promotional effort. Brochures and ads sell the state to vacationers with spectacular panoramas of the hazy Smokies and aerial shots of the ribbon-like Outer Banks. Every year 300,000 people write the Division of Travel and Tourism for free pamphlets and maps. "We have five pieces of literature that won first place in international competition this year," says Travel and Tourism Director Daniel Roth. "Switzerland came in second."

Selling North Carolina as a distinctive tourist attraction has become a science. More than 80 percent ($1.5 million) of the state's economic development advertising budget goes towards promoting tourist industries. McKinney Silver and Rockett, the largest ad agency in the state, has the job of determining the best way to promote North Carolina.

"If you think about North Carolina, who the hell will think this funny piece of geography is a great place to vacation?" says Michael Silver, executive vice president of the agency. "We're not an entertainment mecca. We have nothing to compete with Disney World. You've got to love nature. You've got to want a certain kind of family vacation."

As well as creating travel ads, the agency designs the state's industrial development advertisements, aimed at selling the state both to business persons and to their families. Ads in domestic and international trade publications promote the state as a place "where living is a pleasure." "More PhD's per capita" live in the Triangle area than anywhere else in the country, says one ad. "North Carolina has a labor force that's pro-work and a government that's pro-business," says another.

Promoting North Carolina is not left to chance. Hunt recently appointed an official Advisory Committee on Travel and Tourism. A private trade association, the Travel Council of North Carolina, Inc., coordinates promotion and lobbying for the tourist industries. Through the North Carolina Industrial Developers Association, representatives of private businesses and local governments work to attract industry to the state. And city and county chambers of commerce, as well as individual industries such as banks and utilities, know the importance of promoting their areas as something special and unique.

"Over half of the new plant locations reported for the past five years were in the South," says a 1977 *Fortune* magazine survey. Promoting image is not a new activity for the state, but in an era of Sunbelt growth, it has grown into a sophisticated business.

SELLING BEACHES AND MOUNTAINS

McKinney Silver and Rockett handles $28 million in accounts a year. Clients include Piedmont Airlines, North Carolina National Bank, Pine State Creamery Co., Goodmark Foods Division of General Mills, Carolina Power and Light Co., and, since July of 1976, the North Carolina Department of Commerce. Accustomed to designing ad campaigns for major business clients, the firm approaches the state's account with equal sophistication and experience.

"Each year we develop a marketing plan," says Michael J. Silver, executive vice president of the agency. "We do a hell of a lot of digging. We don't just throw darts."

For the travel package, Silver and his staff first determine exactly what kind of people travel. What are their ages, educational levels, incomes, and family composition? When do they travel and where do they go? What do they do when they arrive? And how much money do they spend? Only after compiling these statistics is the firm ready to design the ad campaign.

"Not everyone travels," Silver says. "Those who do have very specific characteristics. We find out where our most promising prospects are. We want to waste the fewest dollars on those who don't fit the profile."

The ads are designed to appeal to people who want a unique North Carolina-style vacation. First, they must persuade people that North Carolina has what they want in a vacation. But Silver has found that these ads must also convince families to spend their "extra" money on traveling instead of on something else. "Our competition is not Virginia or South Carolina or Georgia," says Silver, "but wall-to-wall carpeting, furniture, and paneling." To attract people who might spend vacation money on their homes instead, the agency places ads in home improvement and decorating magazines. "We're fighting them on their own turf," Silver says.

While the firm must choose the right type of publications, it must also time the messages carefully. "We tend to cluster the

ads, particularly in the gloomy, cold-weather states, during the first quarter of the calendar year," Silver says. "How gloomy, how slushy, how freezing, how stir-crazy people are—that affects the response rate."

Timing is important for another reason: North Carolina needs more tourists, not during the traditional summer vacation months, but during the spring and fall "shoulder seasons." "Now there's a problem," Silver says. "We can't selectively promote. We can't say, 'we want you to write for information, we want you to come to North Carolina, but for God's sake promise you'll come October through May.'" So the agency tries to appeal to the families most likely to take off-season vacations and to time the ads to coincide with when those families plan their vacations.

Besides researching family vacation habits and studying market trends, Michael Silver has to be aware of less tangible data. Like the private sector, the state has a side to its "business" that an ad agency can't control. "Current events and news coverage are a powerful influence," Silver told the N.C. Governor's Conference on Tourism in a speech last May. "Remember the Joan Little case? There's no way of estimating what effects, if any, it had on visitors or potential visitors from out of state," Silver said. "It sure didn't enhance our state's image, though."

Ad campaigns, like news coverage, build an image. To put the state's best foot forward, ads focus on North Carolina's most benign and most cherished common denominator—its natural resources. "There's something different around every corner," one ad reads, "from the wide beaches to the mile-high mountains."

One Environmentalist's View From Inside State Government

Anne Taylor

After years of grass-roots lobbying campaigns launched on a dime and sustained on adrenalin, the environmental movement in North Carolina can boast of some excellent environmental laws. The work of environmental lobbyists and the actions of committed state officials and legislators have made North Carolina a forerunner in many areas of environmental protection.

North Carolina is one of the few states to have enacted a State Environmental Policy Act fashioned after the "law-of-all environmental-laws," the National Environmental Policy Act, which gave birth to the Environmental Protection Agency. The Coastal Area Management Act has made this state a leader in coastal protection legislation. And North Carolina has an excellent Sedimentation Pollution Control Act.

Grass-roots activists fought numerous pitched battles during the late 1960s and early 1970s to gain protection of the state's air, land, and water. In 1973, a lobbying campaign resulted in the record appropriation of $11 million for the state parks. The unprecedented funding had appeared doomed until hundreds of people, notified during a frenzied, 20-hour effort to reverse unfavorable action in a committee of the General Assembly, victoriously brought the $11 million alive again and on its way to reality. The Committee for the New River organized every existing environmental group into a united front to protect forever the second oldest river in the world. During the peak of that debate, the auditorium of the legislature was awash with people wearing blue and white banners proclaiming "New River Like It Is!"*

The success of many of the lobbying efforts was due to "The Network," an elaborate system of telephone chains that covered and still cover the state. Lobbyists and observers in the North Carolina General Assembly orchestrated letter writing, petitions,

*Other laws enacted during the peak years of the environmental movement in North Carolina included the Natural and Scenic Rivers Act, the Land Policy Act, and Land Conservation Act, the Floodway Act, the Capacity Use Act, and the Oil Pollution Control Act.

telegrams, and those godforsaken midnight "calls to action" through the network. They produced slide shows, tapes, and other materials to educate the troops and rally them to bigger battles and greater victories. It was hard work and it required long hours. But it was fun. And from it emerged close friendships and a sense of camaraderie.

The environmentalists had an impact on the Congress as well as on the North Carolina General Assembly. National environmental organizations benefited mightily from the North Carolina grassroots network and even from some North Carolina shenanigans that piled the halls of Congress with mailbags and jammed lawmakers' telephones with calls.*

North Carolina volunteers who lobbied in the Congress did not find it easy. The complicated legislative proposals being debated required a lot of homework, and, of course, it was expensive to make calls or to visit Washington. I remember vividly the time when the Washington office of the Sierra Club offered to pay the plane fare if someone from North Carolina would visit a North Carolina congressman whose vote at a critical point in committee deliberations was considered essential to passage of the Clean Air Act. I was able to overcome my fear of plane travel only by remembering that someone was needed. My husband, left alone for the first time with our 1- and 3-year old sons, loathes clean air to this day.

When Friends of the Earth in Washington asked environmental organizations to hold a press conference in North Carolina on the Clean Air Act, the Conservation Council of North Carolina, the League of Women Voters, and the Sierra Club scratched up $26.50 for the use of a room in Raleigh's Velvet Cloak and for coffee and doughnuts for the press. We contacted TV, radio, and newspapers and spent hours researching a carefully worded joint statement that the League of Women Voters was to deliver. The media turnout was overwhelming, and panic began to mount in the three intrepid spokespersons as the TV lights went on. We made a last-minute call to Friends of the Earth in Washington, more, I think, to build our confidence than to verify every word in the statement. The three of us sat down, Drew Diehl of the Conservation Council of North Carolina and I flanking our fearless leader and spokeswoman, Carol Schroeder.

*North Carolina environmentalists helped ensure passage of the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Resource Conservation Recovery Act, the Federal Insecticide, Fungicide, Rodenticide Act, the Forest Management Act, the Wilderness Act, and others.

The first words Carol uttered were in a whisper: "I can't do it, Anne—here," and she shoved the prepared statement into my freely sweating hands. With the exception of my four-year-old son wandering on camera, the press conference appeared surprisingly professional when it was aired on the six o'clock news.

The tide of success and experience gained at the state and federal levels swept our people into activities and organizations aimed at local environmental ordinances. "The Network" swelled even further. Over the years tight bands of friendship formed among people, many of whom had never met, and some who still have not. Even to this day, when its members need it, the Network is used, although in quieter and less visible ways.

And it is quieter now—the environmental movement is less visible. We have all been asked if, or told that, the environmental movement is dead. It is not dead at all. But it has turned to the grueling task of implementation. One obvious measure of the silence of the movement is the shrinking number of well-informed environmental press reporters in North Carolina. Grass-roots leaders have scattered too. Many became legislators, council people, and interestingly enough, even bureaucrats, often to the shock or at least the skepticism of the grass-roots troops. Others simply went back to living their lives. We went on to other things or back to our neglected families to watch the world improve. Great laws had been born and powerful mechanisms were in place. But few of us thought or planned much beyond the heat of the battles or the celebrations of winning. I first realized that we could not rest on our legislative accomplishments after I naively wrote a letter to Republican Governor Jim Holshouser suggesting names for appointment to the Sedimentation Pollution Control Commission we had lobbied so hard and successfully for. The President of the League of Women Voters told me I was wasting my time because all of my candidates were Democrats and several were even women. Later, the state passed a law stating that North Carolina's Air Quality standards could not be any stronger than the minimum federal standards, regardless of the fact that our air is uniquely fragile. Then came the state's authority to implement for the Environmental Protection Agency the National Pollution Discharge Elimination System (NPDES) permits under the Clean Water Act. We belatedly realized that the permits were no longer subject to the National Environmental Policy Act.

From 1974 to 1977, we found ourselves more on the outside than ever before while implementation of these laws began to

take place in a bureaucratic maze few of us comprehended. We had not adequately planned for our involvement in the care and maintenance of the state, federal and local laws we had played so great a part in creating. Pieces are scattered among departments, divisions, units, sections and offices of government—each with its own extraordinarily narrow part to play in the enhancement of what altogether was to be environmental protection.

Boards, councils and commissions at the state level were formed for every imaginable environmental purpose.* With a few notable exceptions however, environmentalists have not been appointed to these decision-making bodies, and they have not yet joined together to go about demanding representation. The few who have been appointed find their commitment to the total of environmental quality relegated to a small piece and kept separate and apart from the other pieces that make up the whole—the land, the water, and the air.

How we arrived at this disjointed state of affairs is not too important and may even have been unavoidable. Laws came into effect at different times with varying degrees of funding. Officials charged with authority to implement tended to interpret their roles to match their own degree of commitment. Political and special interest pressures served to set priorities. I recall an air quality standard setting hearing before the North Carolina Air Quality Council so complex that I spent well over 60 hours preparing a three-page statement against weakening existing standards. I found myself 20th in line to speak after pin-striped, wing-tipped attorneys from powerhouses such as Shell, Exxon, CP&L, Duke Power, Southern Furniture manufacturers and other conglomerates. A humbling experience shared repeatedly by many of us "environmentalists."

Being, as I am now, on the "inside," it is graphically clear that the very nature of bureaucracy perpetuates our dilemma. Only the public is in a position to raise a question about how one section, division, unit, individual, or even department of state government serves its intended purpose. Fondly referred to as "turf," no one within government dares step on another's. People mumble and grumble. But to cast the first stone, you had best be sure you have nothing, absolutely, to lose.

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*Among them were the Sedimentation Pollution Control Commission, Environmental Management Commission, Health Services Commission, Air Quality Council, Water Quality Council, The Coastal Resources Council, Marine Science Council, Land Policy Advisory Committee, Solid Waste Committee, the Trails Committee, and the 208 Policy Advisory Committee.

Great leaders with strong commitments can transcend the turfs. Some of that ability to step above narrow boundaries is emanating from Washington. President Carter, through EPA Administrator Doug Costle, has proposed uniform standards for public participation requirements in three of the federal acts, the Resource Conservation Recovery Act, the Safe Drinking Water Act, and the Clean Water Act. Interested citizens could better understand and take advantage of avenues and opportunities for participating if one approach applied to all of these laws. Final regulations for uniform public participation under the three acts were published in the February 16, 1979, *Federal Register*. They include "general provisions which require open processes of government and efforts to promote public awareness in the course of making decisions in programs and activities of the three acts."

Two other federal initiatives are before the state now in the State/EPA Agreement and Consolidated Grants Legislation. Through these two pending mechanisms, a percentage of the grants to the state under four of the six major environmental laws (the Resource Conservation Recovery, Clean Air, Clean Water, and Safe Drinking Water Acts) could be used to coordinate the administration of these laws, to place increased funds in programs to meet environmental needs unique to North Carolina, or to create new programs not now being adequately addressed in North Carolina. The possibilities are almost unlimited.

For instance, no one state agency is now capable of adequately responding to the increasing incidence of hazardous materials contamination. Whether it is PCBs, asbestos in public buildings, the mysterious tree kill in Northwest Wake County or any of the growing number of environmental insults affecting our quality of living and peace of mind, the state response is divided into the limited authorities and responsibilities of several agencies of government. Critical gaps are left open without comprehensive administration of a total state response.

If, as Thomas Jefferson believed, "people are inherently capable of making proper judgments when they are properly informed," a massive North Carolina program of effective environmental management through public involvement and public education could be established through a consolidated grants proposal bringing the total environment as encompassed in the four federal acts into a North Carolina perspective.

There are many possibilities under this federal initiative, but there is also a great deal the state could do without waiting for the federal government.

Let me offer one possibility that I think is worth pondering—perhaps because of my volunteer's experience with shoestring budgets and my great faith in the power of grass-roots commitment. The Land Quality Section of the Land Resources Division of the Department of Natural Resources and Community Development has 13 people who are responsible for enforcing the Sedimentation Pollution Control Act. That is an incredibly insignificant number of people when you consider the thousands of construction projects going on each day throughout the state. Soil runs off the construction sites, and into our creeks and streams, clogging channels, causing flooding, killing fish and wildlife and increasing our water treatment costs. We now consider two alternatives: accept ineffective enforcement of that law or increase the budget of the Land Quality Section to expand its staff. One is not acceptable, and the other is astronomically expensive if manpower is ever to be adequate. Consider a third alternative. The Division of Environmental Management of NRCD has 400 employees, many of whom are constantly out in the "field" doing air quality work or water quality work. They have no responsibility for sedimentation. But they are certainly capable of spotting violations of a state law and reporting them to those who are charged with enforcement of the Sedimentation Pollution Control Act. Should this team approach spread to the department's forest and park rangers, the wildlife and marine fisheries employees, we would have expanded our enforcement capability a hundred fold at no extra cost to taxpayers. The Land Quality Section could go about managing and administering the law of the state much more effectively by preparing for the increased reporting. If the public also becomes aware of the requirements of the Act and ways they can participate in enforcement, we begin to see even greater possibilities of social pressure relieving the number of enforcement proceedings necessary to stem the flow of soil into once clear and living streams.

The teamwork should extend into other environmental areas as well as sedimentation pollution control. The dumping of hazardous wastes and air and water quality violations present more complex problems. But there is no reason to believe that the average engineer, biologist, botanists, and informed citizen cannot discern a problem outside of his or her particular specialty. There is no reason to believe that such individuals would hesitate to report questionable activities to the responsible state agency if they realized that by so doing they were enhancing

the quality of their own lives.

It is not mawkish to describe what might result if such an approach were managed in a carefully orchestrated schedule of administration as a conservation ethic or a state stewardship. All of us, after all, whether we happen to be inside or outside of state government, are stewards of this beautiful state. As one of the six highest growth states in the highest growth region of the United States, North Carolina faces the monumental challenge of developing a healthy economy while, at the same, preserving a healthy environment.

State government could do a great deal in environmental protection with its large dollar and personnel resources. Tremendous strides have already been made in some areas by dedicated officials who are committed to improving and protecting the quality of North Carolina's economic and environmental well-being. But the role of the public should not be underestimated.

Unless citizens know the rules of the game and participate in the game, simply caring will never be enough. Since I have been on the inside, I have had my eyes opened to the power of an informed and active public. Whether it is for or against vigorous health and environmental protection, the squeaky wheel gets the grease. Strong leadership and commitment at the cabinet level of state government is critical and an essential ingredient if staff level personnel are to avoid constant frustration in their attempts to carry out their responsibilities. But we can not let state government take the wheel and drive us to places we may not want to go, or we are just as much to blame for our final destination.

The state and federal governments have the capability and, I think, the responsibility to translate the myriad of environmental laws and programs into an environmental education and public involvement effort which will allow citizens to see the choices, the alternatives, open to them. But the rules of the game must be made clear.

If, then, we choose to leave all choices to government officials, we will have failed to carry out our responsibilities as citizens in this democracy, but we will also have made a conscious choice to do so.

CHAPTER 9

Energy Policy

Energy is a relatively new policy concern addressed by state governments. While traditional concerns such as highways and education have developed regular bureaucratic processes and departments, energy policymaking is still in a very early stage of development.

State efforts in the energy field resulted from 1973-74 energy shortages. With few federal alternatives and even less federal leadership, states often had to react quickly to avert energy shortage disasters within their boundaries. For some states the "energy crisis" was not a complete surprise. Oregon and Oklahoma had energy conservation programs implemented before the shortages hit. Other states were studying the energy crisis through governors' task forces and legislative study commissions; North Carolina was among these. From this early start, North Carolina has developed a number of innovative and unusual energy policies.

North Carolina's initial response to the energy crisis was both immediate and novel. Instead of placing control over energy policy in the Department of Natural and Economic Resources, energy policy was directed from the Department of Military and Veteran Affairs. By placing the potentially volatile decisions concerning allocation of scarce fuel resources in the area of civil defense, it was hoped that a more equitable and rational system might develop. In addition to the allocation function, the Energy Division of the Department of Military and Veteran Affairs was responsible for the operational, research and planning functions of energy management.

In 1977, the General Assembly transferred direction of the state's energy policy from the Department of Military and Veteran Affairs* to the Department of Commerce. The Energy Division of the Department of Commerce is now the central point from which state energy management is conducted. It provides services for all stages of state energy policy from research, planning and implementation, to coordination of state efforts with national goals. Specifically, the Energy Division's responsibilities include:

> the allocation of scarce energy resources when authorized by State and Federal provisions; coordination of State energy conservation measures; recommendation of policies relating to energy matters; coordination with Federal, Regional, and neighboring state authorities on energy matters of mutual benefit; and assuming duties and responsibilities in the general energy field as assigned by the Governor.

*The Department of Military and Veteran Affairs is now a Division within the Department of Administration.

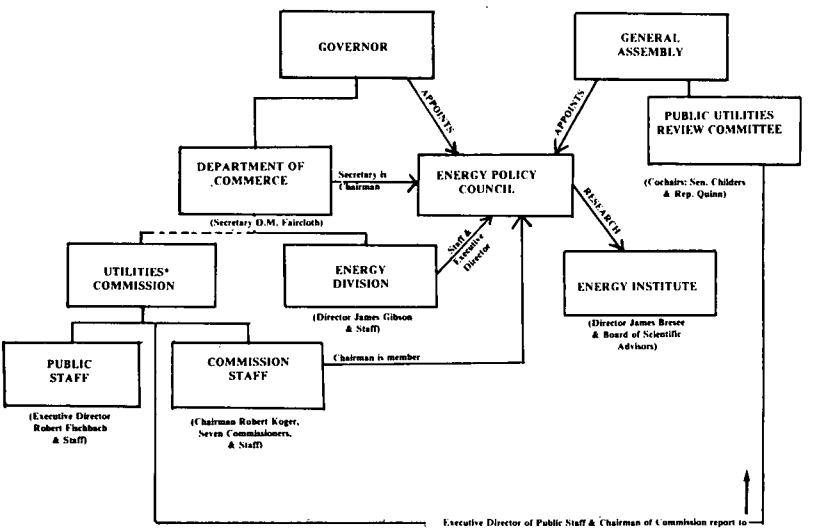
Who Makes N.C.'s Energy Policy

Joyce Anderson and Bill Finger

Ten years ago, most North Carolinians never thought twice about their electric or gas bills. Few people questioned the charge or wondered who set the rates. But the times have changed. Since the first major oil embargo in 1973, energy has become a household word. Energy officials in North Carolina have become important public officials. The Utility Commission is viewed as one of the most critical regulatory bodies in the state. The setting of energy policy is now a continuing governmental concern and the passage of energy legislation has become a perennial issue in the General Assembly.

The background, competence, and initiative of the officials who determine energy policy in North Carolina seems more important today than ever before. Yet the average citizen knows very little about "who's who" in energy. Moreover, because energy is such a new arena for governmental attention, policy questions are in constant flux. Officials, often appointed for political reasons, have to achieve an instant sophistication in an

NORTH CAROLINA ENERGY AGENCIES AND COMMISSIONS



area that has grown extremely complicated—and critical. Finally, the matter of "turf" and who works for whom has been a sticky issue under the Hunt administration's reorganization, in energy agencies as well as others. The evolution of the various energy departments has sometimes been a painful process.

The sketches that follow provide brief descriptions of the various energy agencies that now dot the landscape of state government. But this is only an introduction, an effort to focus more attention on the way energy policy is made and on the people who make it in North Carolina. Increased public awareness of the actions of these officials is vitally important, not only because of escalating energy costs but also because close scrutiny is critical during a time when policy and agency interaction is changing so rapidly.

ENERGY POLICY COUNCIL

In 1975, the North Carolina Energy Policy Act established the Energy Policy Council to make recommendations to the governor and the General Assembly. The Energy Division was designed to serve as the Council's staff. The Council has the job of establishing a state energy policy and emergency planning procedures. It is an umbrella organ composed of representatives of state agencies, the General Assembly, the private sector, and the public.

There are five *ex officio* members of the Energy Policy Council: the secretaries of the Departments of Commerce, Agriculture, Administration, Natural Resources and Community Development, and the Chairman of the North Carolina Utilities Commission. In addition, the speaker of the House of Representatives appoints two representatives to serve on the Council, and the lieutenant governor appoints two senators. The governor appoints all other positions.

N.C. ENERGY DIVISION

The North Carolina General Assembly created the Energy Division in 1974 as a part of the old Department of Military and Veteran Affairs. For several years, it occupied an old house on Lane Street. The Energy Division was then placed under the Department of Commerce and in 1977 moved to its current offices in the basement of the new Dobbs Building. The Energy Division is slowly spreading through the bowels of the building, occupying

more space each year, in much the same way that energy issues have begun to occupy more and more of the attention and time of state government officials.

In 1976, the Division had an eleven member staff working in three major areas: allocations and plans, conservation, and research and development. Today that staff has more than doubled, adding an energy information section, a technical section, an accountant, a staff attorney, an energy conservation volunteer coordinator, and an assistant to the director.

The Energy Division serves as the staff for the Energy Policy Council. The individual sections also have other functions. The conservation section administers the state energy conservation plan and the energy extension service. The technical section advances alternatives such as cogeneration, wood, and solar and administers the state's conservation program for schools, hospitals, and public buildings. The allocations and energy planning section administers the set-aside of petroleum products for emergency needs and the state's energy emergency plan developed with the Energy Policy Council. The information section serves as a clearinghouse for projects, programs, meetings, and other energy activities in the state; it also publishes a monthly newsletter, *Energy Issues*, and mans an energy hotline.

NORTH CAROLINA ENERGY INSTITUTE

In 1978, the Energy Policy Council established, through an executive order of the Governor, the North Carolina Energy Institute. The General Assembly passed a $600,000 annual budget, 85% of which the Energy Institute distributes to outside consultants for developing energy resources unique to the state. The Research Triangle Institute, for example, has investigated hydroelectricity sources while others have worked to develop solar, peat, and wood projects. Dr. James Bresee, formerly with the U.S. Department of Energy, heads the four-person administrative staff. Dr. Bresee has testified before the Utilities Commission that it might be appropriate for the Energy Institute to merge with the proposed Alternative Energy Corporation.

NORTH CAROLINA UTILITIES COMMISSION

Since the state's first utilities regulatory body, the Railroad Commission, was created in 1891, everything from street

railways to canals to telephone companies to motor carriers has been regulated. In 1941, the present Utilities Commission was established with three full-time members serving six-year terms. In 1977, the General Assembly, at Governor Hunt's urging, reorganized the Commission, creating an independent Public Staff within the entire Commission. This reorganization divided the resources between the Commission Staff and the Public Staff. The 1979-80 budgets for the Commission Staff ($2.1 million, 81 positions) and the Public Staff ($2.2 million, 88 positions) are among the largest in the country for such agencies. Only Ohio has a larger budget for its public staff and many states do not even have such a body. Moreover, *Electric Week* recently reported that "North Carolina Leads DOE Grant Parade With Awards Totaling $1,045,859 for a variety of rate-reform projects." California followed North Carolina with $952,500.

The Utilities Commission acts as an arm of the legislature but plays both an administrative and judicial role in regulating the rates and services of about 1,000 utility and common carrier companies in the state. These include electric, telephone, natural gas, water, and sewer utilities, radio, common carriers, and rail and motor carriers of passengers and/or freight. The Commission follows court procedures since its decisions can be appealed into the courts. But unlike trials, commission hearings have often been used as a public forum for policy debates.

The Public Staff is mandated to represent the consuming public before the Commission on matters concerning rates and regulations. The Public Staff has also taken over much of the work once performed by the Commission, such as forecasting the state's future energy demands.

The Governor appoints the seven Utilities Commissioners (8-year terms) and the Executive Director of the Public Staff (6-year term).

NUCLEAR WASTE CONTROL

Growing amounts of nuclear waste, and a limited number of depositories, are presenting North Carolina with the prospect of handling more of its waste than in the past. A state task force has been considering a nuclear waste depository in as rural a section of the state as can be found. "Ten miles from nowhere" is the location suggested by one staff member in the Department of Human Resources.

But the state officials are rapidly finding that a spot 10 miles

from nowhere does not exist. When Ralph Ely, a scientist with Research Triangle Institute, suggested the upper Dan River Valley in the northwest as one possible site, boards of county commissioners in the area responded by passing local ordinances which, in one county's language, make it illegal to "process, store, bury, receive or acquire radioactive waste...." When state authorities looked at the possibility of storing waste temporarily in an old warehouse at the small Granville County town of Butner, inspectors from the state property insurance division found the building unsafe. And when a waste processing plant was suggested for the city of Burlington, the city council said no.

A deputy attorney general, William F. Briley, has since told the task force chairman who is also the Governor's science advisor, Dr. Quentin Lindsey, that he thinks the local ordinances should not affect state licensing for a nuclear waste facility. But the situation still seems charged with chances for state-local conflict. If the state goes ahead and licenses waste handling in one of the counties or towns which has objected, a long legal argument could ensue.

Straightening all this out is the job of the task force and the state's Radiation Protection Section, the ultimate arbiter on questions of radiological health in North Carolina. But the division director, Dayne H. Brown, has said his office does not have the money to do a proper job.

WHICH FUELS DOES N.C. USE?

Presenting a concise, statistical view of North Carolina energy uses is difficult if not impossible. Unlike many census indices (population, wage, place of residence, etc.), energy sources and uses have not been measured extensively over the years, and hence, collection systems are not well developed. (The exceptions are heavily regulated sectors such as electricity and gasoline.) The federal Department of Energy has recently introduced the Federal Energy Data System (FEDS) and the North Carolina Energy Division and Utilities Commission Public Staff are undertaking more sophisticated data analysis every year. But much of the primary data remains with the energy industry itself: oil companies, utilities, and even individual oil jobbers.

Complicating the difficulties in collecting information are several factors unique to energy. For example, the FEDS system is geared to traditional fuels, but does not contain data for sources such as solar, wood, and wind. Marketing systems for wood

(buying from a local woodcutter) and measuring techniques for solar (discounting the cost of solar collectors on "free" energy) add difficulties to data collecting which have not been overcome. As the North Carolina Energy Division puts it: "The result is that while the data given... for traditional fuels may be relatively good, as alternative fuels make more of a contribution, the divergence between FEDS data and a more comprehensive estimate of energy consumption will grow larger."

Another problem unique to energy data is measuring "gross" energy as opposed to "net" energy. That is, does one measure the total amount of fuel that goes into the economy or only the energy actually delivered to the consumer. The major difference comes in fuel losses inherent in generating electricity. Of the coal delivered to a power plant, for example, only about one-third of the coal's energy is available to the end-user. The other two-thirds of power is lost either as waste heat at the power plant or in transmission and distribution.

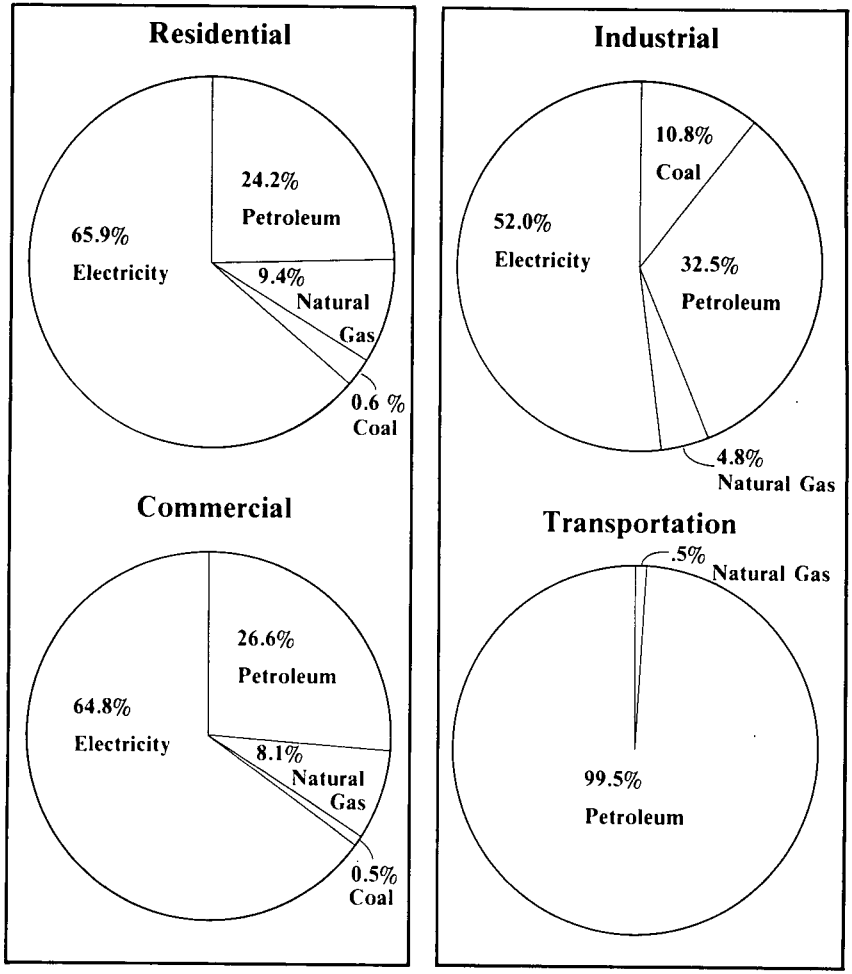
Given these various limitations, the charts below present as concise a view of the state's energy uses as possible.

"The Type of Energy Used in Each Sector" shows the relative dependence on different fuel sources for end uses of power. In the residential sector then—from lighting to space heating to cooking—consumers depend upon electricity for 65.9% of their needs, petroleum for 24.2%, natural gas for 9.4%, and coal for .6%. We used "gross" electricity for our calculations, (not "net"), feeling that the total amount of fuel necessary for producing electricity is the proper amount to measure proportionately with other fuels.

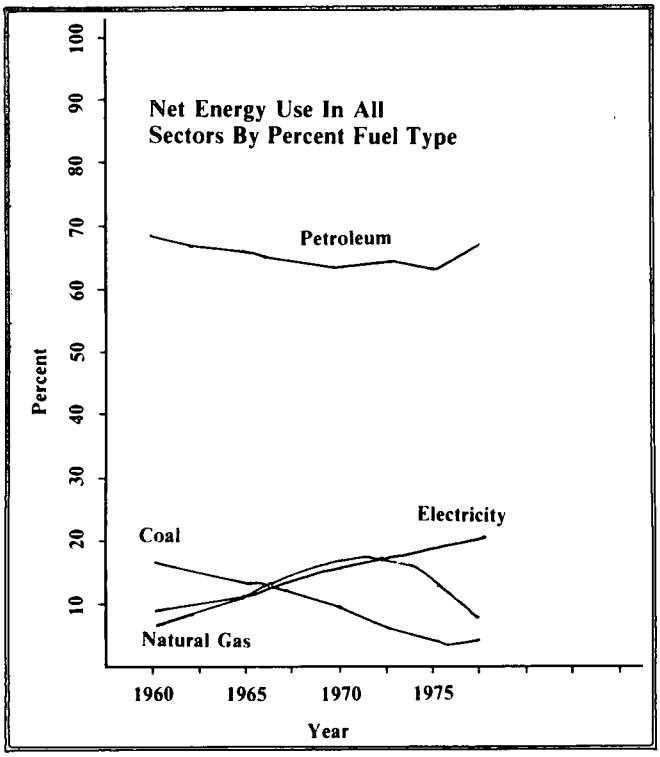
The bar graph, "Fuel Sources for Generating North Carolina's Electricity," highlights the change in fuel-source mix that the electric utilities made from 1970 to 1978, including an increase in nuclear power from 0% to 37%. "Use of Electricity in North Carolina" breaks down aggregate electricity-use by sector.

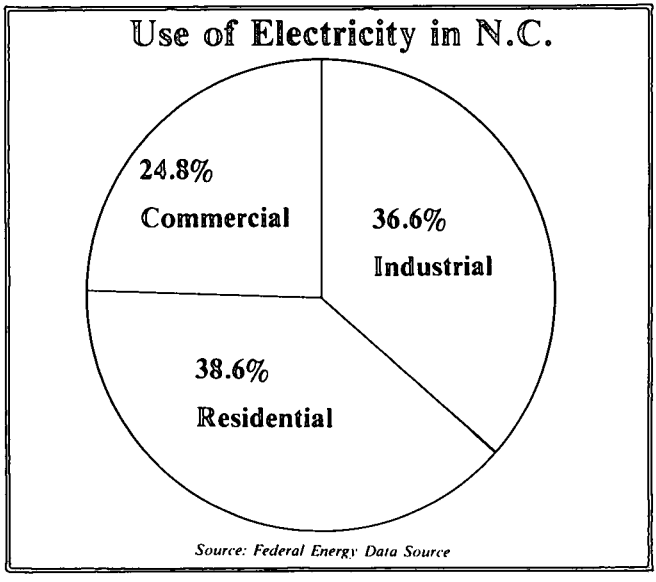
Finally, "Net Energy Use in All Sectors by Percent Fuel Type" shows the relative dependence on various fuels from 1960 to 1977. Because of the FEDS reporting system, we used "net" electricity here. While the net figure somewhat skews the graph ("gross" would give electricity significantly higher figures), the percentage for petroleum would still be very large.

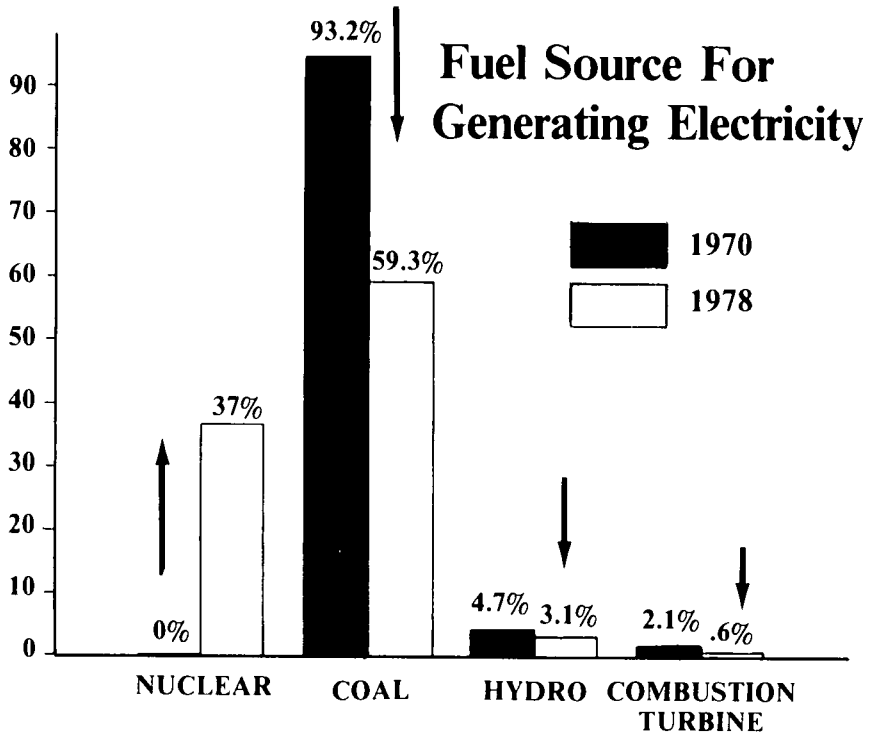
Type Of Energy Used In Each Sector



Source: Bill Finger


Net Energy Use In All
Sectors By Percent Fuel Type
Petroleum
Electricity
Coal
Natural Gas
Percent
10
20
30
40
50
60
70
80
90
100
1960
1965
1970
1975
Year


Use of Electricity in N.C.
24.8%
Commercial
36.6%
Industrial
38.6%
Residential
Source: Federal Energy Data Source


Fuel Source For
Generating Electricity
1970
1978
93.2%
59.3%
37%
0%
4.7%
3.1%
2.1%
.6%
90
80
70
60
50
40
30
20
10
0
NUCLEAR
COAL
HYDRO
COMBUSTION
TURBINE

CWIP: Shifting the Investment Risk to Utilities' Consumers

John L. Neufeld

One of the last acts of the state legislature in 1977 was the passage of Senate Bill 276, the Utilities Commission Reform Bill. One of the changes mandated by that bill will allow utilities to include the costs of "Construction Work in Progress" (CWIP) in their rate bases. Thus, ratepayers will be paying for a portion of the costs of utility plants while they are being built and before they receive a product from the plants. Whether they like it or not, the ratepayers will become investors in the utility companies. Prior to passage, there was relatively little discussion among legislators or among the general public about the impact which CWIP will have on the state's utilities and ratepayers. By delaying the effective date of the new law until July of this year [1979], the legislature gave itself the chance to review and modify the decision made two years ago. The discussion which was absent two years ago ought to take place now.

Although there was little discussion at the time, the change to CWIP is a move favored by the state's utilities and by Hugh Wells, the director of the Public Staff of the Utilities Commission. Despite this appearance of broad support, CWIP is a proposal which deserves controversy. CWIP might be useful in instances where public utilities face major financing crises as a result, in part, of inept management and incompetent regulation. This situation does not exist now in North Carolina and there is no evidence that a financing crisis lies in the foreseeable future. At present, the adoption of CWIP would allow utilities to collect money from ratepayers which would not be used to offset current costs of providing service. It relieves stock and bondholders of part of the risk they face by shifting that risk to the customers of the utility. In addition, CWIP distorts the incentives faced by private utilities and might lend to wasteful over-construction. A more active Utilities Commission will be necessary to counteract these influences.

Unfortunately, as is the case in many utilities matters, it is very unlikely that more than a handful of North Carolinians will have a reasonably complete understanding of the issues involved. This is a pity because the decision which is ultimately

made will have an impact on virtually all North Carolinians.

CONSTRUCTION COSTS AND INTEREST

The basic change CWIP makes in the way utilities* operate is that it changes the timing by which a major portion of the cost of building new power plants is reflected in utility rates. The present system is designed to prevent the construction of new power plants from having any impact on rates until the power plants are completed and put into service. Under CWIP, a major portion of the cost of constructing new power plants can be recovered immediately without waiting for the plants to be completed and put into service.

In order to understand how CWIP works, it is necessary to have a rudimentary understanding of utility cost accounting. A utility is entitled to receive from its customers an allowable gross revenue which consists of the *cost of service* plus a *fair return* on its *rate base.* The rate base is equal to the value of all of the utility's invested capital (power plants, office buildings, power lines, etc.) Before an item can be added to the rate base, its inclusion must be permitted by the Utilities Commission. The *fair return* is then equal to the value of the rate base multiplied by a *fair rate of return* which is determined by the Commission. In a sense, these terms are misleading. The fair return which a utility receives in its operating income is conceptually as much a part of the cost of doing business as is the cost of service component of operating income. The primary distinction is that the component of the utility's cost which is offset by the fair return is much more difficult to value objectively than is the component represented by the cost of service.

The electric power industry is very capital intensive; a large proportion of a power company's costs consists of generating plants, transformers, distribution networks, etc. In order for a utility to construct these facilities, it must raise sufficient money to pay for their construction. If it raises the money by issuing bonds, it will have to pay interest on the bonds. If it raises the money by issuing stock, then it must make an implied promise to pay those stockholders dividends. In the absence of interest and dividend payments, a utility would be unable to raise the money it needs to construct essential capital equipment. Since the interest

*Although CWIP would apply to all regulated utilities, this discussion will focus on the electric power industry.

and dividends are required for the utility to function, they should properly be regarded as a cost of doing business. The chief problem in objectively valuing this cost is that it is hard to determine exactly what rate of dividends the utility must pay its stockholders. Nevertheless, this is part of what the Utilities Commission must do in its hearing process. The fair rate of return is set by the Commission to best approximate the overall return the company must pay its stock and bondholders. Since the stock and bondholders provided the funds for these items which are included in the rate base, the fair return should allow the utility to compensate them for just that provision of funds.

The cost of constructing a new power plant will affect utility rates in two ways. When the power plant is added to the rate base, the power company's fair return will increase, thus increasing its allowable operating income. Once the power plant is brought into service, the company can depreciate it over a certain time period. Each year the depreciation has the effect of reducing the plant's value in the rate base, but the amount of depreciation taken each year is included in the cost of service and therefore increases the company's allowable gross revenue.

The time period required to construct a power plant is quite long, particularly if the power plant is designed to produce electricity from nuclear energy. Such a plant may require as much as 10 to 12 years for construction. During the entire construction period, the utility will have to continually raise capital in order to pay for the ongoing construction. The obligation to provide a return to the suppliers of the funds exists during the period of construction as much as it does once the plant is in service. If the funds have been raised through the sale of bonds, the utility will have a legal obligation to pay the bondholders interest during the period of construction. Although stockholders need not be paid during the time period of construction, a return for the use of funds during construction will eventually have to be made to them. As was discussed above, an interest-like return on the value of a utility's capital should be viewed as a normal cost of doing business. In the same way, the interest cost for funds used to finance the construction of a power plant, incurred before the plant is completed, should be viewed as a normal part of the cost of constructing a power plant. This cost must be recovered by the utility. CWIP permits the utility to recover income to offset this cost as it is being incurred. In the absence of CWIP the income to offset this cost is not received by the utility until after the plant comes into service. This delay is achieved through an accounting

device known as Allowance for Funds Used During Construction (AFUDC).

AFUDC

Under a system employing AFUDC, the Utilities Commission determines a rate of interest designed to reflect the cost to the utility of borrowing money to finance a construction project. This rate is conceptually similar to the rate of return the utility is allowed to receive on its rate base, although the two rates are determined separately. The AFUDC rate is usually slightly lower than the allowable rate of return.

Once a utility spends money for construction, it will begin incurring an interest cost for this money. Under the accounting procedures used by regulated utilities, the utility calculates an Allowance for Funds Used During Construction by adding all of the costs incurred by the project for an additional year. The utility is then permitted to add this Allowance to the costs incurred in constructing the plant. Thus, when the plant is brought into service, its contribution to the rate base will include an Allowance for each year in which the plant was under construction as well as the direct amount spent on construction. As the plant is depreciated, both construction costs and AFUDC will be recovered from the utility's customers.

Because of the accounting practices employed in regulated utilities, AFUDC appears in the utility's income statement as income for the year in which it is claimed. This practice has been criticized by some, since AFUDC does not provide cash to the utility when it is claimed. It will, in fact, not provide cash until the plant is brought into service. The AFUDC does represent an increase in the value of an asset owned by the utility, the plant under construction. Consequently, it does represent income in the strict economic sense. It is as if the utility received the income in cash and immediately invested that income in the plant under construction.

Securities analysts who judge the attractiveness of a utility as a potential investment are liable to look very carefully at a company which has a substantial portion of its income in the form of AFUDC rather than cash receipts. Such a company may have to pay a higher rate to attract additional investment funds than would an otherwise identical utility which has only a small portion of its income in the form of AFUDC. From the standpoint of potential investors, this higher rate is appropriate. AFUDC

represents income which may be realized in the future if the plant is indeed brought into service and if the utilities commission permits a rate increase at that time. If investors or securities analysts believe that the utility is overconstructing, they may question whether the plant will ever be brought into service, or at least whether its completion may be delayed. Such a possibility is particularly troublesome these days, when the rate of growth in demand for electricity has declined sharply from that of previous decades. Projections made today on what the demand for electricity will be in 20 years are far more likely to be in error than were similar projections made 20 years ago. Potential investors will require a higher return in compensation for this increased risk. It should be noted that this problem is particularly likely to be experienced by utilities whose plans call for the construction of nuclear-powered generating plants rather than fossil fuel-powered plants. Nuclear plants tend to be more expensive and tend to take much longer to complete. Consequently, they generate more AFUDC than similar sized fossil fuel plants. Utilities constructing nuclear plants thus pose a greater risk to investors than do otherwise identical utilities constructing fossil fuel plants.

The possibility that a plant's completion may be delayed or cancelled is not the only risk faced by potential investors. There is also the risk that utility rates may not rise fast enough to adequately recover the funds invested in the new plant. This possibility is particularly likely in periods of rapid inflation. The regulatory procedures used by North Carolina and other states are more likely to provide a company with insufficient revenues during periods of high inflation than during periods of low inflation. There are several reasons for this discrepancy. Periods of high inflation are often characterized by rising interest rates. A utilities commission which uses historical data to determine the utility's cost of funds may set a rate of return too low to meet the company's future needs. Rate cases in North Carolina are based on past test years. Essentially, the commission grants rates which would have been sufficient revenue had they been in effect during the test year. Even if the rates would have been sufficient for the test year, inflation may make them insufficient to meet a utility's needs in the future. This possibility also increases the risk faced by potential investors and may increase the return the utility must pay many investors in order to attract additional funds.

In extreme circumstances, the risk potential investors see in a

utility whose income is largely AFUDC may make them reluctant to purchase the stocks or bonds of the utility, regardless of the return. Such a situation might result in a financial crisis for the utility and could result in construction delays. Although AFUDC could be a contributing factor in such a financial crisis, it is very unlikely that extreme mismanagement and unreasonable regulatory behavior would not also be present. In any event, the risk to investors which is represented by AFUDC is eliminated under CWIP.

CWIP

If a utility is allowed to use CWIP (Construction Work in Progress), it can add the costs incurred in constructing a power plant to its rate base before the plant is completed and in service. Once the construction costs are in the rate base, they permit an increase in the firm's allowable return. In essence, CWIP permits the utility to enjoy an immediate return on its invested capital. This return can be used by the utility to pay those investors who provided funds for the construction project. To investors, providing funds to a firm which uses CWIP is less risky than providing funds to an otherwise identical firm which does not use CWIP. This lessened risk is owing to the fact that under CWIP the utility receives an immediate return on its construction investment. No longer must the firm incur the risks of waiting until its plant is in service before receiving a return. Essentially, those risks are transferred to the utility's customers, who must pay a return to those funds even if they prove useless—that is, even if the plant they finance turns out to be unneeded.

CWIP has some advantages for ratepayers. If the utility adds its construction costs to its rate base under CWIP, there would usually be no AFUDC. Consequently, when the plant comes into service, its value in the rate base will consist only of construction costs without AFUDC. The elimination of the AFUDC component of construction costs will significantly reduce the total rate base value of the plant. This means that once the plant is in service, its impact on rates will be less if the utility used CWIP than if it used AFUDC. Before the plant is in service, however, there will be no impact on rates if AFUDC is used, while there will be an impact on rates if CWIP is used. Compared to AFUDC, CWIP causes ratepayers to pay more while plants are under construction but less after the plants are in service. A reasonable question to ask at this point is under which system,

AFUDC or CWIP, is the total cost to ratepayers less? Unfortunately, several issues complicate a complete answer to this question.

CWIP vs. AFUDC

If one simply tallies the amount paid by ratepayers for a single project under CWIP and for the identical project under AFUDC, the total spent over the period of the plant's construction and over its useful life will be less under CWIP than under AFUDC. This difference results from the "compounding" of AFUDC, which is calculated on the basis of construction costs plus AFUDC already credited the project. Under AFUDC, customers essentially pay "interest on interest" and it is this which is the primary source of the difference between the total paid under CWIP and under AFUDC. Such a comparison of CWIP and AFUDC would be misleading, however. Under CWIP, customers must begin paying for new plants sooner than they would under AFUDC. In the absence of CWIP, one could imagine customers taking the money they would have paid under CWIP and investing it in some interest-bearing asset (such as a savings account) until construction on the plant was complete. Once the plant is complete, the money in the savings account could be used to pay electric bills. Because of the interest received by the savings account, the money available to pay for electric bills would be greater than the sum of all of the deposits made into the account. The point is that money paid earlier, as under CWIP, is more valuable than money paid later, as under AFUDC, because one can always receive interest on money on which payment can be deferred.

In order to determine whether ratepayers pay more in total under CWIP than under AFUDC, one must know what interest rate ratepayers face and how it compares to the rate the power company faces. If the AFUDC rate and the utility's allowable rate of return-rate and the interest rate on ratepayers' investments are all equal, then the costs under CWIP and AFUDC are identical. If ratepayers receive a lower rate, the costs are lower under AFUDC. Unfortunately, it is not easy to determine the rate which ratepayers face, since each individual may face different rates. If an individual is a net saver, and if his highest return comes from a passbook savings account, the rate he faces is liable to be low. On the other hand, some of a utility's customers may be debtors. For them, the relevant interest rate is the rate which they must pay.

Conceptually, we can imagine such customers increasing their borrowings to finance higher utility bills under CWIP. If they must pay 30 percent interest on their loans, they may not be impressed by the fact that they save the 9 percent extra they would have had to pay under AFUDC. Comparison of the costs paid under CWIP and AFUDC are meaningless unless an interest adjustment is made to compensate for the different time periods in which each system requires payment to be made. Ignoring this point is equivalent to assuming ratepayers face a 9 percent interest rate, an absurd position.

Another complicating factor in the comparison of CWIP and AFUDC arises from the risk which is an integral aspect of utility plant construction. Any project which incurs costs now to provide benefits in the future faces some risk that those future benefits will not materialize. No accounting rule is going to change this basic economic fact. Generally the assumption of risk is a function undertaken by investors in a free market economy. CWIP insulates investors from part of that risk by forcing ratepayers to provide a return to those investors regardless of whether or not the plant's future benefits ever materialize. Under AFUDC, this risk is assumed by those investors who, through their actions, have shown themselves to be most willing to assume the risk. Under CWIP the risks are forced upon ratepayers who might not have been willing to accept them voluntarily. Thus, even if ratepayers face an interest rate identical to that faced by the power company, they are better off if their electric bills are figured with AFUDC rather than CWIP. The Utilities Commission has the responsibility to minimize the risk investors face by insuring that rates do not fall too low to provide a utility with sufficient revenue, regardless of whether or not CWIP is used.

The third factor complicating a comparison of the costs borne by ratepayers under CWIP and AFUDC arises from the fact that ratepayers represent a heterogeneous mobile group. Under CWIP many ratepayers will be paying for a power plant whose benefits they would not enjoy even if the plant were to be finished on time. Older ratepayers may not survive the construction period, and younger ones may move out of the utility's service area. In essence, the risk to a ratepayer who, under CWIP, must pay for benefits in the future, is greater than the same risk would be to an investor under AFUDC. Although CWIP causes ratepayers to assume some of the costs otherwise assumed by investors, it may distribute those benefits to others who have not paid the full cost of the service they enjoy because they moved into a utility's

service area only after plant construction was complete. For this reason, if it were possible to allow each ratepayer to choose whether his rates alone would be calculated under CWIP or AFUDC, it seems highly unlikely that a ratepayer with a good understanding of the issues involved would ever choose CWIP. The risk that any individual ratepayer might not derive full benefit from his payments under CWIP would be too great. One might argue that CWIP should be regarded as a redistribution scheme in which those who have lived in an area for a long time subsidize newcomers and the young. It is hard to imagine a social goal which would be furthered by such redistribution.

CWIP AND THE REGULATORY PROCESS

CWIP will increase the burden borne by the Utilities Commission of ensuring an economical electric power system. It is conceivable that an unusually good Commission might, in some ways, turn CWIP to the advantage of ratepayers. This will require that the Commission become much more involved in the type of details concerning plant design and construction which have generally been the concern of utility management.

Under AFUDC, utilities face a powerful incentive to avoid construction of a plant which might not be needed. Once a plant is under construction, there is also an incentive to complete construction as rapidly as possible so that the company can begin earning a return on its investment. Although CWIP would not eliminate the risk to a utility of overconstruction, it would reduce this risk. It virtually eliminates the present incentive a utility faces to construct plants as rapidly as possible, and therefore to not begin construction prematurely. These are potentially important factors and have impact on virtually all activities associated with long-run utility planning, including load forecasts, choice of fuel for future plants, and all construction timing decisions. A vigilant Commission will be essential to ensure that long-range planning made by the state's utilities does not expose ratepayers to unnecessary risk. Traditionally, the Utilities Commission has been reluctant to overrule utility management in these types of decisions unless there has been overwhelming evidence against the utility. With CWIP, commissions are going to have to become involved with long-range forecasting, risk evaluation, the overseeing of construction plans, and the evaluation of construction schedules.

It is not inconceivable that an unusually adept Commission

might be better at long-range planning than the private utilities it regulates. CWIP is not a prerequisite, however, to commissions taking a more active stance, although it increases the necessity of such a posture. An argument could be advanced that a competent utility management, combined with a capable commission, could reduce the risk associated with long-range planning below that which has been evaluated by potential investors. Such a line of argument would maintain that investors, in such a situation, would receive a higher return than was really necessary for the risk they were assuming. By shifting this risk to ratepayers, the argument would continue, the savings to the ratepayers exceeds the cost of any potential risk.

It is my personal view that it is impossible to eliminate the risk associated with a decision which depends on a prediction of future human behavior. Power plant construction timing involves just such decisions, because it depends on forecasts of future demands for electricity. The time period of a power plant's construction exceed the term of most utility commissioners, and the quality of commissions is subject to wide fluctuation. For these reasons the accountability associated with long-run decisions would best remain primarily with utility companies which, as much as possible, will have to bear the full consequences of their decisions.

Food or Warmth?
In 1980, North Carolinians Should Not Have To Choose

Patric Mullen

Last May [1979], President Carter wrote the 50 governors urging them to prevent "precipitous termination of heating or utility service which could result in critical health and safety problems... during the winter months." The President's call for help grew out of a fear of disaster. The Department of Energy estimated that an average low-income household would spend $1000 to $1200 on heat and light in 1979, almost twice as much as the year before and five times the 1972 cost. Federal energy chief Charles Duncan admitted that many Americans would have to choose between food and warmth.

In North Carolina, at least 1.4 million people are faced with this choice. About one out of four North Carolinians lives at the edge of poverty. Of these, 192,000 receive Aid to Families with Dependent Children (AFDC), a maximum cash payment of $2,520 for a family of four; 150,000 ward off poverty as best they can with meager Supplemental Security Income (SSI) benefits; 120,000 elderly live below the pale of decent standards. Thousands more who work for a minimum wage are also considered "poor" by the state Department of Human Resources.

The effects of this crisis, however, would not be measured in numbers or categories but in human terms. Last winter [1978-79], for example, Blanche Lyons of Raleigh had to send her 3-year old son to live with friends. "I had been out of work for two months," Ms. Lyons explains, "I couldn't pay my $115 bill. I called down to the (CP&L) office and asked, 'Could I pay part of the money?' I was told that I would have to make full payment. I know the hardship of having my lights turned off."

Tens of thousands had their electricity or gas shut off involuntarily last winter. During the year ending August, 1979, according to Carolina Power and Light (CP&L) testimony before the N.C. Utilities Commission, CP&L "disconnected for non-payment purposes only an average of 3,815 customers per month" 19,237 during the winter months (November-March). Duke Power Company, Virginia Electric Power Company (Vepco), and CP&L together, according to their spokesmen, shut

off some 7,600 North Carolinians for nonpayment only *every month*. Still more customers had their gas disconnected involuntarily. These figures include persons who simply refused to pay their bill for some reason. But also hidden within these statistics are people like Blanche Lyons who couldn't pay.

In recent years the Community Services Administration (CSA) has provided the State of North Carolina approximately $1 million to respond to residential utility emergencies. This money is rarely available in a timely fashion, and experience has demonstrated that even $1 million is insufficient to respond to all utility crises. Certain counties, at the discretion of the county commissioners, have voted to supplement the CSA monies with local emergency relief funds; churches and private welfare agencies offer sporadic help for individual cases. None of these efforts, however, has addressed a change in the way utilities do business.

By early October, 1979, no action had been taken on the message the President had delivered five months earlier. The Department of Human Resources, the State Office of Economic Opportunity, and the state Energy Office had only briefed one another on the several federal assistance programs then before Congress. The utility companies had not proposed any plan to avoid massive cutoffs. And the Public Staff of the N.C. Utilities Commission had not set forth specific steps designed to lessen the likelihood of shutoffs for nonpayment.

The initiative for the consideration of a change in public policy was taken by clients and attorneys of Legal Services of North Carolina (LSNC). LSNC is charged by the national Legal Services Corporation with providing legal representation for North Carolinians who cannot afford private attorneys. LSNC is a confederation of 17 field programs serving clients throughout the state. Since all of LSNC's clients are poor, they have a high incidence of utility terminations. LSNC attorneys were spending an inordinate amount of time negotiating with the utilities on a case-by-case basis to prevent terminations or to get utilities reconnected. Instead of dealing with the utilities in this piecemeal manner, LSNC attorneys devised a strategy for restructuring the procedures for residential utility termination.

The National Energy Act of 1978 made this debate at the public policy level possible. A section of the Act, the Public Utility Regulatory Policies Act (PURPA), required that each state authority conduct a hearing to consider adoption of certain standards. The heart of the PURPA proposal is:

> service... will not be terminated during any period when termination would be especially dangerous to health as determined by the State regulatory authority, and such customer has established, (a) his inability to pay by normal billing procedures, and (b) his ability to pay later in installments.

In November 1978, one of three public witnesses at a Utility Commission hearing attempted to interject the PURPA standards question, but the Utilities Commission did not then deal with PURPA. On July 20, 1979, however, the Commission ordered a public hearing specifically to consider termination procedures under the PURPA standards. The Public Staff planned to argue for adopting the PURPA standards but was limiting its recommendations to the very general language of the federal legislation. LSNC determined that the Public Staff's position would make little difference in the actual number of their clients terminated.

At that point, LSNC attorneys requested permission to intervene in the Commission hearing on behalf of 109 low-income clients. The Commission agreed, making the clients intervenors in the upcoming hearing and permitting LSNC to present witnesses, submit evidence, make motions and examine the utility companies' witnesses.

Based on discussions with their clients and medical experts, LSNC had concluded that any termination of service during the winter months (November 1 through March 31) would be dangerous to health. This determination became the basis for a three-pronged emergency rule proposed to the Utilities Commission: 1) order a moratorium on terminations for people who cannot pay for service during the winter months; 2) provide for referrals by utilities to public and private financial aid; and 3) institute an installment agreement where no more than 10 percent of net monthly income could be charged to pay off the winter bill.

On October 9, 1979, the three parties to the PURPA hearing—the Public Staff, the utility companies and LSNC—arrived at the Dobbs Building in Raleigh. All brought witnesses which they hoped would convince the Utilities Commission of their position.

Dr. Raymond Wheeler opened LSNC's case. A Charlotte physician widely known as an expert on the health and living conditions of poor people in the South, Wheeler immediately placed the hearing in the human arena rather than allowing the proceedings to focus on technical and legal arguments.

"Already in North Carolina we have thousands of poor

people who are physically weak because of inadequate diets," said Wheeler. "In order to pay their utility bills these people will have to further reduce the quality and quantity of the food they eat. In turn, this will lead to sickness and absenteeism at work and school. Unfortunately, the only alternative for many is not to pay their utility bills and thus face the possibility of freezing to death in their own homes."

Two LSNC clients testified to the special utility problems elderly people face, confirming Dr. Wheeler's findings.

"My husband is 79 and I'm 76," Cora Harris of Raleigh told the Commission. "I get a VA check for $75 and my $57 Social Security and a little check (from SSI) for $28. I have bad arthritis and high blood pressure. He has arthritis. In the winter, we have to be kept very warm. When we get cold, we ache a lot."

Daisey Brown, another client over 70, explained why the elderly are particularly vulnerable. "If I don't keep warm, I gets stiffer." Then Ms. Brown looked at the commissioners in the eye. "I don't think there should be any shut off in cold weather because I know how I suffer."

The gas bill alone in the Harris and Brown homes will average $50 a month this winter. Without adequate heat, the elderly are susceptible to complications in existing medical problems as well as exposure to hypothermia, a condition where the body temperature drops to 95 degrees or less. W. Moulton Avery, Director of the Carolina Wilderness Institute, explained to the Commission that 25,000 Americans die every year from hypothermia.

Kay Reibold, who has administered Wake County Opportunity's energy emergency assistance for the past several years, followed Ms. Brown to the witness table.

"Last year, we responded to 469 utility crises in Wake County," Ms. Reibold said. "I personally know of 50 elderly persons or mothers with young children who did not have heat in their homes last winter.

"We had $25,000 available to us last winter for emergencies," Ms. Reibold continued. "There was no way we could respond to all of them. Without new energy assistance from Congress, hundreds of Wake County residents will be forced to rely on the uncertain contributions from churches and the county."

Following LSNC's testimony, lawyers from the utility companies presented their cases. Duke, CP&L and the gas companies all felt that the existing Commission rules and internal company policies protected customers from unwarrant-

ed service termination. They argued that the needs of the sick, the elderly and the handicapped were already considered. None felt a compelling need to adopt the PURPA standards, arguing that they were not consistent with North Carolina law and would be too expensive.

Presentation on specific procedures, however, varied from company to company. Some advised customers about assistance programs, for example, while others did not. Only two witnesses testified that their companies take severe weather conditions into account before disconnection. William F. Fritsch of Vepco described his company's rule on nondisconnection if the temperature falls below 35 degrees. He did not comment, however, on the question of hardship following disconnection, i.e., from 40 degrees one day to 20 degrees the next. In written comments, Duke Power's Lewis W. Deal said the inclement weather was "considered" in terminations, but he did not explain how.

Collectively, the utilities portrayed themselves as responsible, humane corporate citizens. One utility, in a prepared statement, lashed out at the LSNC proposal as an unconstitutional assault on corporate revenues designed to transfer the state's utilities into welfare agencies. While all were not so strident, all made the case that good corporate citizens had a responsibility to their stockholders and to all their rate payers on an equal basis, rather than a special obligation to those unable to pay.

The PURPA regulations had only required the Utility Commission to hold the hearings. But after listening to the day's testimony, the Commission was clearly moving expeditiously toward some decision. LSNC requested 10 days to file legal arguments in support of its proposed emergency rule. The Commission gave the utilities a 10-day response period.

Just three weeks later, on November 14, 1979, the Utilities Commission issued a 23-page decision unique in the Southeast for its breadth and compassion. "The Commission certainly believes that the regulated utilities have historically endeavored to work with their customers," the findings read. "Nevertheless, a careful consideration of the entire record in the case leads the Commission to conclude that it should expeditiously proceed to revise its present Rule R12-10 concerning disconnection of residential electric and natural gas service."

The Commission had responded to the plight of Blanche Lyons and Cora Harris and Daisey Brown. It had considered the needs of the poor and had made special allowances for the elderly

and handicapped. (See Summary of Utility Commission Ruling.) Apparently persuaded by human as well as legal arguments, the Commission had gone beyond the mandates PURPA placed upon it.

The Utilities Commission order places North Carolina in the forefront nationally as far as implementing the full intent of PURPA. It offers significant protection for many North Carolinians whose household utilities are provided by the major gas and electric companies in the state. Even so, the large number who heat with wood, fuel oil, and coal and who receive utility services from electric cooperatives or municipally-owned companies are not protected by this order. Fortunately, President Carter recently signed a $1.35 billion energy aid package which will provide North Carolina with $34.4 million to help pay the utility and heating bills of those people in the state who cannot pay.

As a result of federal assistance and the actions of the Utilities Commission, no one in North Carolina had to freeze or suffer from intense cold in their homes this winter [1979-80]. No one should have to choose between heat and food.

SUMMARY OF UTILITY COMMISSION RULING

1. Service cannot be terminated between November 1 and March 31 for households with an elderly (65 or over) or handicapped person without express approval of the Commission if the customer can establish all of the following:
   (a) That a member of the customer's household is either certifiably handicapped or elderly (65 years of age or older), or both.
   (b) That the customer is unable to pay for such service in full or in accordance with the subrule's provision for installment agreement.
   (c) That the household is certified by the local social service office which administers the Energy Crisis Assistance Program or other similar programs as being eligible (whether funds are then available or not) to receive assistance under such programs.
2. All residential customers must be personally contacted prior to termination.
3. All residential customers must be given notice of an opportunity to negotiate a reasonable installment agreement

designed to bring their account into balance within six months of the agreement.

4. All residential customers must be sent notices on how to obtain assistance in paying utility bills and how to appeal disputes to the Public Staff.
5. Both informal and formal appeal procedures must be established. During the appeal process, service must be continued.

Allocation... Of What?
How the State "Set-Aside" Doesn't Work

Brian M. Flattery

The overthrow of the Shah in Iran has triggered many emotional responses in the United States—not the least of which has been a vision of chaotic disruption of our oil supply system. Very small perturbations in the oil supply system have ripple effects which rapidly travel across the Atlantic and throughout the United States. In a real sense, we are a member state in a very large, global supply system. A five percent shortage in Iran quickly manifests itself as a five percent shortage in North Carolina. One method of sugar coating this painful pill, some believe, is a government-regulated allocation system.

The major allocation tool delegated to individual states by the Congress is known as the state "set-aside." Each oil company must "set-aside" five percent of its motor gasoline and four percent of its middle distillate supplies (No. 2 heating fuel, kerosene, and diesel oil) for distribution by the states in time of shortage. The well-meaning intention of Congress was to provide some flexibility to the states to deal with "end users in hardship," to move products around to alleviate hardships to the consumer. But does the state set-aside serve the purpose for which Congress intended it to be used?

In 1973, the Arab oil embargo forced this nation to face the energy issue head-on for the first time. At that time, the U.S. was importing from 13 to 16 percent of the product used in this country from what is now referred to as the "Organization of Petroleum Exporting Countries" (OPEC). By importing that much oil, the U.S. was rendered indefensible against a boycott and, for a five week period, there were very long lines and rapid rises in prices. In December, 1978, with the arrival of the Ayatollah Khomeini, another five percent shortage and its resulting disorder occurred.

In 1974, the Nixon administration created a Federal Energy Office with a staff of eight people. Congress began considering conservation legislation and in 1974 established the set-aside plan. Today, the federal Department of Energy (DOE) has 20,000 employees and an $11 billion budget. Thousands of these people are involved in allocating, distributing, and regulating the price of crude oil product. Regulations controlling state administration

of the set-aside system come from this office. But the rules are constantly changing, from product to product and from month to month, creating extreme difficulties for the state energy offices and complicating the entire fuel supply systems themselves.

The word "allocation" implies an apportionment of resources and, in the case of "fuel allocation," the distribution of a scarce commodity. But in reality the state set-aside does not create any new oil. It simply spreads existing supplies around, taking control of some of the product away from the oil companies and putting it into government hands. The state Energy Office does exercise allocation authority over a portion of North Carolina's gasoline and oil supply, but the supply remains the same. The level of shortage created at the state, national, and international level does not change.

When the state set-aside was created, many government officials and oil company representatives had different ideas about the way it might operate. The Department of Energy saw the set-aside as a "loaves and fishes" effort to create something from nothing by organizing thousands of people to help distribute and price the product. Miraculously, more product would be created. Presumably, the end user in hardship would be relieved from the long gas lines and high prices.

The oil companies, on the other hand, viewed the set-aside as "the oppressive government" confiscating the rightful and just property of the "noble oil industry" which was merely seeking to provide a service of selling a needed product to willing buyers. The seven major oil companies, known as the "Seven Sisters," are trying sincerely to provide the energy to move our society from place to place and produce the world's largest gross national product. But, suddenly onto the scene would come the Department of Energy regulating their prices, restricting the transportation of crude oil, and restricting the discretion afforded the drillers, the refiners, the marketers, and the distributors of the product.

The set-aside system, in fact, makes fuel allocation in times of shortage more like a game of musical chairs. The shortage is moved around from sector to sector, and when the music stops some economic sector comes up shorter than others. The allocation of the product, theoretically, should ease the hardship felt by all consumers but in the case of the state set-aside, it merely eases the hardship felt by consumers in one sector while intensifying the shortage in another. Due to variances in the rules, some economic sectors such as agriculture or transporta-

tion are more protected than others. Some service stations also qualify for special allocations based on their growth. Most often, however, the squeaky hinge gets the oil. This game of musical chairs is not always fair. The most vocal and influential groups are sometimes given special exceptions.

By definition, the set-aside is designed for use only in times of trouble. In a shortage, the states energy offices control the last supplies available. The federal guidelines provide that these supplies should go to only "end users in hardship," and the states must determine the names and addresses of these end users. This system is difficult at best and ludicrous at worst. It does not take into account the obstacles in naming the end users. It does not take into consideration the hardships of the middleman. It does not anticipate the spinoff effects from one sector on another. And it does not prevent the set-aside supply from being used simply as part of the available market.

A home heating fuel jobber can, with great difficulty, provide the state Energy Office the names and addresses of his customers who would not get any fuel next month were it not for the state set-aside. Knowing these names, the Energy Office can allocate for spot shortages in home heating fuels. In theory, were Craven County to experience a shortage and Forsyth County to experience excess, oil products could be redirected to Craven County. In minor shortages this is possible and occurs from day to day. But in major shortages of fuel oil, it is impossible.

In the case of motor gasoline, the requirement to identify and name the end users in hardship is patently absurd. How can a service station owner provide such names?

The set-aside regulations create other hardships for the middlemen, particularly service station owners. Each month, the U.S. Department of Energy assigns customers (service stations or jobbers) to oil companies, even in shortage situations. Gasoline and oil are distributed according to each customer's monthly allocation fraction, the product available to the customer divided by the product assigned by the Department of Energy. This fraction is the ratio between a real number (the amount of oil or gas available) and an imaginary amount (the oil or gas the Department of Energy *feels* that a supplier should be able to provide to an end user).

As more gasoline stations open each year, an established supplier's allocation fraction tends to decrease. New customer assignments are being made to the major oil companies every month, so that the established firms must sacrifice a portion of

their previous shares. As the product available to them decreases, so does their allocation fraction. A new gasoline station selling 100,000 to 200,000 gallons of gas a month causes an older station's fraction to shrink. When a middleman receives 30 percent less product this year than he did last year and costs are increasing with inflation, his profits must fall. While the assignment and allocation fraction system are intended to minimize hardship on the end user, they often create new difficulties for the middlemen.

The set-aside system operates in a short-sighted manner, failing to consider the interrelationship between various user segments. In the gasoline and diesel shortages of last summer, for example, the Department of Energy was continually changing its regulations. At one juncture, DOE gave agriculture end users highest priority "in order to keep food on the table." But it didn't work out that way.

DOE allocated agriculture users 100 percent of their presumed needs, which was considerably *more than 100 percent* of their previous year's supplies. By concentrating so much of a limited supply in one sector, DOE had to split the remaining product among all other end users. The trucking sector, for example, received only 60 to 65 percent of its *previous year's* supply. Angered, the truckers staged a strike which resulted in, among other things, food products rotting in the field. North Carolina farmers ended up losing money, as did farmers in other states. And a trucking boycott helped cause food shortages and price increases. While DOE had designed policies to keep the food chain functioning, in the long run the regulations hurt the farmers, the truckers, and the real end user—the consumer.

Finally, the state Energy Office becomes a shopping stop for a crafty jobber. Oil people are in the business of buying a truckload here and a truckload there. They are skilled practitioners in the art of horse trading and frequently apply for set-aside thinking that they might save a few pennies on a gallon (preferably tens of thousands of gallons). This is not a criticism. It is merely prudent business practice to shop price, and the federal government has forced the states to set up a sizable shop. Neither federal nor state government puts a dollar at risk, but they control a five percent share of the market. Most private businesses would covet that large a share.

The federal allocation system can *at best* work as well as a free market system. If all participants in the allocation system at both federal and state levels work honestly, quickly, and in an

informed manner, they can only approach the efficiency of allocation by price. The business community, if in control, would allocate to the highest bidder. But is that any worse than the government-regulated system? The set-aside procedures are too cumbersome and too unrealistic to respond to the various forces at work in the free market. If one group, because of its political influence, is able to receive a priority at the expense of another group, sooner or later this dislocation will hurt the consumers.

The personnel involved in allocation at both the federal and state levels and the personnel involved in the United States Department of Energy's Office of Hearings and Appeals are essentially standby. Like lifeguards, they are necessary in times of trouble but stand and wait during normal times. With approximately 15,000 service stations and hundreds of oil jobbers in North Carolina, the workload is staggering. Most states cannot afford to keep 15 or 20 trained people waiting for an oil shortage. Consequently, untrained people are suddenly thrown into a breach. During a shortage, every energy office turns into a madhouse with backlogs impossible to overcome.

Much of the work done in the state and federal energy offices is akin to the assignment given to ex P.F.C. Wintergreen in Joseph Heller's *Catch 22*. Wintergreen was assigned to dig a hole six feet by six feet by six feet and then refill that hole and keep digging more holes. He works very hard, the taxpayers pay for it, and the ground is *at best* only as well off as before Wintergreen picked up a shovel. Congress needs to muster out the allocation system and with it all the Private Wintergreens.

Alternative Energy Corporation . . . "A Fragile Idea" Whose Time Has Come?

Lavon Page and Bill Finger

On October 8, 1979, the North Carolina Utilities Commission unexpectedly launched a crucial experiment by handing down a rate ruling that surprised both the power companies and their consumer adversaries. The Commission allowed Duke Power Company a $28.3 million a year rate increase but also ordered the company to allocate $1 million of it for "research, development, and commercialization of alternative energy supply sources." The order went on to suggest a nonprofit North Carolina Alternative Energy Corporation as the best vehicle for "coordination between the electric utilities who produce and distribute electricity from centralized sources and their customers who may desire to add supplemental energy sources at their decentralized locations.

The ruling not only surprised; it also confused. Who would control the finances and program of the Alternative Energy Corporation and what structure would it take? Both utility representatives and consumer advocates had trouble reading between the lines of the Commission's order. The $1 million appeared to be only the beginning; similar amounts could be attached to future rate increases for Duke Power and other electric utilities. Might the Corporation tap other financial resources? Could the Corporation sell bonds, for example? Could it become a lending institution for home energy improvements? Could it own and operate demonstration projects? The funds from the Commission's order would flow through Duke Power, but they would come from the ratepayers, not the stockholders. Did that suggest that the public would control the Corporation or that the companies would control it?

WHY ALTERNATIVES

The 1970s have been hard on North Carolina's electric utilities. Duke Power Company has scrapped half of its plans for new plants for the rest of this century, and in July, 1979, told the Utilities Commission that it could continue construction on its Cherokee plant only by issuing new stock below book value.

Carolina Power & Light (CP&L) has been facing rapid cost escalation at its Shearon Harris nuclear plant and has cancelled further nuclear units. Virginia Electric and Power Company (Vepco) has discovered geological faults near the site of its nuclear generating plants, has encountered long shutdowns at its Surry units, and has had its operating license for the North Anna II unit frozen in the wake of the near-meltdown at Three Mile Island. Vepco, moreover, is still suffering from its decision to convert from coal to oil a decade ago.

A consensus of opinion is developing—among company spokesmen and environmentalists, government regulators and private investors—that future expansion of generating capacity through large nuclear and coal plants will be very limited. Independent agencies from the U.S. House of Representatives Committee on Governmental Operations to the President's Council on Environmental Quality to the Harvard Business School group that published *Energy Futures* have all reached this conclusion. Both coal and nuclear, the two primary sources of today's electricity, cost more now than anybody predicted a decade ago. Health and safety factors are more serious now than ever previously anticipated. According to Edison Electric Institute, an association of electric utilities, the cost of a 1000 megawatt nuclear plant will increase from $165 million in 1970 to $1861 million in 1987, a jump of over 1000 percent. The stakes have changed, both for the companies in raising that kind of capital and for the Utility Commission in responding to rate increase requests.

Charged with regulating the state's long-range electric needs, the Utilities Commission has in recent years complained that central power stations offer little flexibility in anticipating changes in electricity demand. Following a company's decision to build a plant, construction can take 10 to 12 years, and a 10-year commitment means unpredictable expenses. "Cost of construction for Duke generating units 10 years ago averaged around $150/Kw (kilowatt)," the Commission said in its surprise ruling, "while plants now being designed for the 1990's are estimated to exceed $1,500/Kw."

To meet these extraordinary circumstances, the Utilities Commission called for a far-reaching innovation. "The use of alternative energy sources should, if properly utilized," the Commission explained in a memo following its October [1979] proposal, "reduce the growth in peak demand and lessen the need for new and costly conventional, centralized electric generating

plants."

But a crucial question remained to be answered: would the Alternative Energy Corporation be able to achieve this goal?

LEGACIES AND OBSTACLES

Many of the now so-called "alternative" energy sources were once quite "conventional." At the turn of the century, the textile industry rooted itself at the head of every river fork, wherever the velocity of the flow could be harnessed to speed the shuttles and unleash the looms. While millhands were forming the backbone of the state's industrial economy, farmers were maintaining the agricultural traditions, curing their tobacco and warming their homes with sun and with wood. Farmers, factory-owners, and families managed their own energy needs and did not have access to central generating systems.

As central heating and lighting systems—including rural electric cooperatives—modernized industry, agriculture, and communities, small scale power units became, by and large, obsolete. Large-scale, centralized facilities were generating and distributing electricity for whole areas of the state at cheaper rates. Utility companies carved out the turf, finally gaining monopoly control over specified areas and coming under state regulation.

In recent years, public officials, farmers, environmentalists, industrialists, and others have attempted to revive older "alternatives" and initiate new ones. But three primary obstacles have made such a return to decentralized systems difficult: 1) the tendency of the electric utilities to guard their monopoly on production and distribution; 2) severe regulatory and institutional barriers; and 3) underfunding for research in new technologies such as large-scale solar.

Like other businesses, utilities tend to consolidate and guard their market. In the case of electricity, this means discouraging small scale generating systems from operating. Duke Power, for example, charges the Blue Ridge Electric Membership Co-op (BREMCO), one of its wholesale customers, a fixed minimum amount for Duke's electricity based on BREMCO's yearly peak demand. In the 1960s, BREMCO could depend entirely on its own hydroproduced power for some time periods but it still had to purchase a minimum Duke requirement. Losing money generating its own power, BREMCO shut down its dam.

Charles Tolley, manager of the French Broad Electric

Membership Corporation northwest of Asheville, describes a more recent case of utilities guarding their monopoly. "One of the big problems with (buying power from) Carolina Power & Light," Tolley explains, "is that a big industrial customer can buy cheaper retail from CP&L than we (the French Broad Membership Corporation) can offer the power wholesale." Under such rate structures, electric membership corporations (EMC's) are having more and more difficulty performing their original mission, conceived during the New Deal, to deliver inexpensive power to rural areas. EMC's in North Carolina are turning towards the monopoly mindset themselves. They are now purchasing portions of new nuclear plants, becoming part owners of major utilities' capital facilities.

Monumental legal and institutional hurdles have also deterred the expansion of alternative sources. Severe regulatory controls, for example, have limited widescale utilization of cogeneration, a process where electricity is generated as a by-product of industrial processes requiring heat. As with hydro power, the technology for cogeneration has existed for more than 50 years. The U.S. Committee on Governmental Operations has concluded that cogeneration can produce electricity cheaper than can new coal or nuclear plants. Yet, only four percent of the nation's electricity comes from cogeneration.

To utilize cogenerated electricity profitably, a company needs to be able to sell the excess power to a utility for distribution. The Federal Energy Regulatory Commission licenses such sales and determines the wholesale rate for the purchase. But there is disagreement about what constitutes a fair rate. The Committee on Governmental Operations argues that the price utilities pay for cogenerated power should be determined by the cost of producing the same amount of electricity with new plants. But some regulatory officials contend that cogeneration's cost-effectiveness must be compared to the cost of electricity from existing plants. Moreover, if a cogenerator needs back-up power (as in the BREMCO example), the state Utilities Commission establishes the level of payment to the utility company, another regulatory overlap.

If this confusion were not enough, the additional research necessary for alternatives such as solar has depended on uncertain federal funding. At the state level, the N.C. Energy Institute has made some progress on researching alternatives especially suitable here, such as peat in the east and hydro in the mountains, but the Institute itself cannot implement large scale

alternative systems.

JOCKEYING FOR CONTROL

The Utilities Commission issued its order to Duke on Tuesday, October 9, 1979. On Thursday, October 11, the Governor announced that he was "designating Jim Gibson, Director of our Energy Division, to work with the Commission and the utilities, co-ops and ElectriCities to develop this corporation." While the Commission emphasized public involvement from the outset, the Governor's initial press release made no mention of the public.

Later in October, 1979, Robert Fischbach, the new director of the Public Staff of the Utilities Commission (and a former member of the Commission), planned an informal conference to discuss the proposed Corporation. Fischbach invited 11 power company representatives, four from co-ops and ElectriCities, five state government officials, two persons involved in solar technologies and two public interest group representatives to meet on November 5.

At the November meeting of the Energy Policy Council, the state's umbrella organ whose members are appointed by the governor, Utilities Commission Chairman Robert Koger discussed the Corporation, elaborating on the formal language in the Commission's ruling. "It (the Corporation) is a fragile idea," Koger said. "Almost anybody can shoot it down." Koger explained that the Commission had proposed a "concept," hoping that plant construction could be reduced. He said that he didn't think Duke was doing enough and that he "would prefer a broad-based board, maybe eight public representatives and eight company, with advisory boards below it." Koger made it clear that he was speaking personally and that the Commission had not yet formulated a position on the Corporation's structure.

The Commission had ordered Duke Power and the other electric utilities to submit their proposals on the structure and operation of the Corporation by December 15, 1979, and had called for a public hearing on January 2, 1980. Power companies and environmental groups cranked their conceptual resources into high gear. Planning meetings and private discussions ensued. All parties were aware that the die would soon be cast.

At the meeting with Fischbach in November, a Duke spokesman began the informal negotiations in a gentlemanly fashion. "We ought not to support research," he warned, "that may or may not pay off a decade from now." The environmenta-

lists nodded in agreement, also anxious to concentrate on more immediate changes. "We want to support projects," the Duke official continued, "that will lessen the need for new generating facilities within the next several years."

But at the next informal meeting, convened by the Utilities Commission on November 27, the Duke spokesman addressed the heart of the matter. He proposed a Board of Directors dominated by company representatives. Non-utility voices could speak only through an advisory council vested with no real power. The Commission proposed a Board of 25 members; nine from regulated utilities, four from co-ops and ElectriCities, and 12 other public appointees and representatives of various state agencies. The public appointees would include three to four from universities, one from the Research Triangle Institute and three to four chosen by the Governor. There was no provision requiring these persons to represent positions independent of the utilities. The Commission also said that other structures might be more valid.

In recent years, the environmental groups in the state have gradually gained a level of sophistication and activity that has resulted in widespread credibility. At the November [1979] meeting, the North Carolina Coalition of Renewable Energy Resources (NCCRER), the Conservation Council of North Carolina (CCNC), the League of Women Voters, the Kudzu Alliance, the Mountain Convergency, and other groups called for a board with strong public representation. "The utilities are already engaged in research to promote their interests," said George Reeves, a manufacturer of solar equipment. "The Corporation will need the expertise of the utilities, but its interests will be fundamentally different."

On January 2, 1980, Governor Hunt opened the hearing before the Commission, repeating his support for the Corporation, this time emphasizing public control. A wide range of public witnesses followed, virtually all of them testifying to the importance of a board with strong public representation. The Conservation Council presented the strongest public-oriented plan, proposing that the Corporation's Board of Directors be composed strictly of public representatives, "a majority of whom should have special knowledge of and demonstrated advocacy for conservation and alternative energy sources," and that no employee or major stockholder in a utility company be allowed to sit on the Board.

The next day, the electric suppliers, led by Duke Power

spokesman Donald Denton and CP&L vice-president Thomas Elleman, testified. They proposed an 11-person board with six members from electric suppliers, two state officials, and three public members appointed by the Utilities Commission chairman. Duke Power's proposed Corporation By-Laws require a two-thirds vote for funding any project. In Raleigh, *The News and Observer* headlined their news account of the hearings from this aspect of Duke's proposal. "Duke plan gives utilities power to veto funding." (See accompanying excerpts from Duke's testimony.)

The Commission has now heard all positions on the proposed Corporation. Like a court, it will hand down a decision during the spring of this year [1980]. After the Commission has determined the Corporation's structure, public support must be strong enough, as the Commission's Public Staff put it at the hearings, "for the Corporation to work."

CAN IT WORK?

While no precise models for the Alternative Energy Corporation exist, utility companies and the public are involved in joint ventures elsewhere. In Oregon, for example, Pacific Power and Light (PP&L) is installing insulation for free in people's homes. PP&L retains a lien on the insulation and recoups its investment if the house is sold. Michigan utilities are extending interest-free loans to consumers for the purchase of energy conservation devices like insulation and furnace modifications. The utilities also provide useful information including lists of qualified contractors to do the work. In Rhode Island, nine electric and gas utilities have joined with local contractors to fund Rhode Islanders Saving Energy (RISE). This nonprofit energy agency has obtained state and federal funding and promotes conservation audits. Reportedly, 5900 customers used RISE's services during a recent six-month period. Despite these successes, however, the accident at Three Mile Island and steep rate increases have caused public trust of utilities to remain low.

For the Alternative Energy Corporation to have significant impact over the coming decades, cooperation far beyond these examples will be necessary. Will the public support the Corporation idea? And will the companies share any of their power? If so, what should the Alternative Energy Corporation become?

Is it to be an arm of the utilities, legitimized by the benign goal of developing alternatives and saving ratepayers money? Will it duplicate research being conducted on a much more substantive scale at the federal level? Will it create a false hope, an arena that will diffuse environmentalists' energy from the primary battles before the Utilities Commission? Such possibilities are very real.

Perhaps as viable, though, are more creative options. The Corporation could help eliminate regulatory barriers for technologies that already exist, like cogeneration. It could support decentralized solar, wind, and hydro projects. It could facilitate the commercialization of resources unique to the state—wood, peat, hydro. All of these would reduce the need for future generating plants.

The utilities have the means to raise huge amounts of capital. The Utilities Commission regulates them so as to allow a substantial return on their investment. If the Alternative Energy Corporation can lead the utilities' own investment capital into the alternative field, the amounts invested might become truly significant, considerably more than the few million dollars initially projected to establish the Corporation. Several million dollars is, after all only a drop in the bucket compared to Duke or CP&L's construction budget.

But putting the electric companies in control of conservation and alternatives would be a flagrant case of putting the fox in charge of the hen house. The National Energy Conservation Policy Act (NECPA), which requires each state to have a residential conservation program, reflects the hen house view by prohibiting utilities from certain financing mechanisms. Michigan had to obtain an exemption from the Act even for the interest-free loan program.

In California the Campaign for Economic Democracy supports utility involvement in low-interest loans but is trying hard to keep utilities out of the solar energy market. Solar energy proponents have long felt that the pessimism of the utilities about solar reflects a simple fear of losing control. The Oregon insulation program, for example, if permitted to include solar devices, would wipe out the small-scale entrepreneurs who have brought solar technology to its present sophistication. Such hen house considerations led Congress to include prohibitions against utility company financing of solar projects in the NECPA.

Twenty years ago the utilities moved into nuclear power

generation with reservations, not because they were cautious about waste or accidents but because such a large industry shifts major policy directions slowly. Utilities were not advocating nuclear power. They simply didn't want to risk being left out in the cold when nuclear power became "too cheap to meter," as its proponents then predicted. With a similar caution, the companies might now move towards solar.

Guaranteeing the independence of the Alternative Energy Corporation can best prevent such problems. The crux lies then, with the board of directors and future funding. Since the Commission initiated the Corporation concept, it's reasonable to assume future Commission decisions will influence the funding and direction of the Corporation. Since the public pays the Commission-mandated rates and has a basic stake in alternative development, it's safe to hope that informed citizens will take the Corporation seriously. And since the companies must support the Corporation because of their public image, it's wise to watch for hard-nosed business maneuvers.

If the control issue is resolved, a middle course for the Corporation is possible. It can help absorb the risks inherent in new ventures. It can pursue solutions to legal and regulatory obstacles. It can encourage small and medium size businesses to participate in demonstration projects, conservation programs, and research on local alternatives. But the eventual involvement of the utilities themselves in even the smallest scale projects, such as solar water heaters for homes, is a distinct possibility. To prevent augmenting monopoly power and citizen dependence, the Corporation must function as a publicly-controlled organization, not as an adjunct of the utilities.

DUKE POWER COMPANY TESTIMONY

Duke Power Company has been actively pursuing the concepts of conservation, load management and alternative energy supply sources under its overall load management program for several years. We feel that the establishment of an organization to further these goals and objectives and to coordinate the activities of the various interests has great potential and we actively support the Commission's proposal. Accordingly, upon receipt of the Commission's Order Docket No. E-7, Sub 262, we began formulating a concept to accommodate the

Commission's proposal. After developing this concept in-house, we had meetings with both the regulated and nonregulated electric suppliers. In general, we received favorable response from these entities.

On November 27, 1979, the Commission held a prehearing conference at which I set forth Duke's original concept. At the prehearing conference, I stated that Duke's original concept was to form a nonprofit corporation to be named The North Carolina Electric Energy Management Corporation (NCEEMC). The corporation's existence was to be perpetual and the purpose of the corporation was to investigate alternate energy sources and to conduct programs, projects and individual experiments in the areas of alternative energy sources, conservation, efficient energy usage and load management. The control of the corporation was to be vested in a Board of Directors and one director was to be appointed by each of the following entities: Duke Power Company, Carolina Power & Light Company, Nantahala Power & Light Company, Virginia Electric and Power Company, ElectriCities and The North Carolina Electric Membership Corporation. In addition, the Director, Energy Division of the North Carolina Department of Commerce (hereafter Director of the Energy Division) and the Executive Director of the Public Staff, NCUC, would be directors. Thus, the Board would consist of eight directors, six of which would represent the electric supplier contributing entities and two of which would represent noncontributing entities. As suggested by the Commission in its Order in Docket No. E-7, Sub 262, we proposed an Advisory Council to consist of ten members. The Chairman would be the Director of the Energy Division, with nine additional members—three appointed by the Chairman of the North Carolina Utilities Commission, three appointed by the Director of the Energy Division and three appointed by the NCEEMC Board of Directors. Under the Advisory Council would be several Standing Technical Committees and Technical Subcommittees. The purpose of the Advisory Council would be to encourage the development of the research programs, to evaluate, review and develop conceptually individual projects, programs and demonstrations and to accept from the general public recommendations in those areas. The Advisory Council would be responsible for establishing the general direction of research, development and commercialization of alternative energy sources to be carried out by the corporation. At the prehearing conference, I also briefly indicated how we perceived that the

work flow of the corporation would be carried out. I further indicated that the responsibility of the Board of Directors would be to select from worthwhile projects submitted to the Advisory Council those that were most cost effective and would ultimately be of the greatest benefit to electric consumers who had put up the funds.

As a result of the prehearing conference and statements made by members of the Commission and others at that time, we have modified our concept to expand the number of directors to provide broader representation. Originally, we proposed eight directors representing the entities I previously mentioned. We have increased the number of directors from 8 to 11 by providing that three additional outside directors will be appointed by the Chairman of the North Carolina Utilities Commission. It is our opinion that, as Chairman of the state regulatory agency having jurisdiction over the rates and service of electric utilities, he is generally knowledgeable about matters and things related to the purposes for which the corporation was formed and participates in generic hearings and investigations relating to loan management and alternate energy sources in the context of need for future electric generating capacity. We, therefore, considered it logical for him to appoint three additional outside directors.

We believe that the proposed Articles of Incorporation and By-Laws generally accommodate the concerns expressed at the prehearing conference on November 27, 1979. Duke supports the concepts of a North Carolina Electric Energy Management Corporation and is prepared to follow through based on the proposed Articles of Incorporation (Exhibit 1) and By-Laws (Exhibit 2) to join with those other entities that are willing to further the purposes for which the NCEEMC is being formed.

Alternative Energies For Future Needs...

Gary Gumz

"Renewable resources are those which, when coupled with proper management, are of inexhaustible supply."

As late as 1900, North Carolina was basically "energy independent." Families fueled their homes with wood and sun while factories powered their looms by harnessing the flow of water. Communities relied on whatever resources were available in their backyards for heat and fuel.

But with the steam turbine and automobile came progress. Water wheels disappeared as service stations were built. Large-scale centralized units began producing and distributing electricity far cheaper than could small, individually-owned systems. Home furnaces and air conditioning arrived, adding comforts and conveniences never experienced before. This 75 years of progress led to an unprecedented energy dependence. Today, North Carolina imports 99 percent of its conventional fuel sources from out of state.

Since the first oil embargo of 1973, the dangers of such fuel dependence have become graphic. No longer can we depend on cheap oil or coal. The long range future of nuclear power remains more clouded than ever. Rising energy costs and a recognition of the limits of conventional energy supplies have stimulated a cry for conservation—carpooling, weather-stripping, and lower thermostats. "The energy crisis" has become a catch-phrase for our time.

State officials, homeowners, and utility executives would all like to reduce the 99 percent import dependence. Renewable resources available in North Carolina offer the primary hope for more energy independence. Existing energy systems can be remodeled (retrofitted) to utilize indigenous resources. Technologies available from earlier eras (like hydroelectricity) can be "rediscovered" as applicable for today. And new energy systems can be developed and implemented.

WHAT'S BEING DONE

In other states which face many of the same problems, large-

scale efforts are showing that such dependence can be reduced. In California, for example, San Diego County requires by ordinance that all newly constructed homes have solar water heating units. A homeowner, the county has determined, will pay less to install and operate a solar system than to use a typical gas-fueled water heater. The city of Davis, California, has enacted strict building codes requiring passive solar features and insulation as well as extensive tree plantings in new developments, which greatly reduce air-conditioning demands.

Closer to home, the Tennessee Valley Authority (TVA) has launched several pilot projects to utilize solar power. In Memphis, 1,000 homeowners have low interest, long-term loans for the purchase, installation, and maintenance of solar hot water heating systems. To finance the system, participants will pay $13-$17 per month for ten years as part of their electric bill. Customers currently pay $16-$17 per month for water heating. TVA expects the program to assist small businesses to invest in solar equipment and to reduce peak load demand. TVA has also launched the "Nashville 10,000" program to solarize the hot water heating systems of 10,000 existing homes.

North Carolina is beginning to make some advances in large-scale planning for lowering fuel needs. Wilson, N.C., for example, is exploring planning policies that will encourage conservation and utilization of renewables. The 1979 General Assembly approved two tax credits to advance the use of alternatives. One encourages the use of industrial waste heat for generating electricity (a process called cogeneration). The second facilitates the conversion of industrial boilers to burn wood and/or waste wood fuel. The N.C. House of Representatives extended the existing solar tax credit, and the bill now awaits Senate action. Unfortunately, the legislature defeated an extension of the credit for home insulation.

In October, 1979, the North Carolina Coalition for Renewable Energy Resources (NCCRER) and the North Carolina Land Trustees of America sponsored a statewide conference, "Renewable Energy on the Rise." The U.S. Department of Energy funded a series of such efforts across the nation through the Center for Renewable Energy Resources in Washington, D.C. to promote a wider understanding of the potentials of renewable energy sources. Conference participants such as James Gibson, director of the state Energy Division, Robert Gruber, general counsel for the state Utilities Commission, and Dr. Louis Centofonti, southern regional representative, U.S. Department of

Energy, indicated the desirability to conserve and to move towards a greater dependence on renewables. The conference sponsors compiled a catalogue called the *North Carolina Notebook of Renewable Energy Projects*, which currently is the most comprehensive publication on renewable energy resources and appropriate technology in North Carolina.

SOLAR TOBACCO BARNS

Since 1973, researchers have been working to take the sun from the tobacco field into the curing barn. Thirty-six thousand commercial curing barns exist in North Carolina. If all of them were adapted to solar, 140 million gallons of fuel would be saved each year.

For the last four years, the North Carolina State University Department of Biological and Agricultural Engineering has been operating demonstration solar curing barns. "The barn is designed as a multi-use structure," explains Research Assistant Paul Oppenheim. "We use solar as a first priority energy source for curing and for seedlings and vegetables in the winter." The project has produced excellent germination rates and much lower mortality for tobacco seedlings. "The barn definitely works," says Oppenheim, "and it can save a farmer money." Through four years of field tests, N.C. State's demonstration units saved 40-51 percent in fuel costs compared to conventional curing systems.

Traditionally, eastern North Carolina farmers cured their tobacco with wood-burning systems. In the 1960s, farmers converted, by and large, to oil or propane-powered curing systems in tightly-enclosed aluminum structures known as bulk curing barns. The solar tobacco barn is a hybrid of this conventional barn and a large greenhouse.

A solar barn costs $11-$15,000 to build compared to $11,000 for a conventional bulk barn. Converting an existing barn to solar (retrofitting) costs approximately $3,000. The outer walls are made of corrugated clear fiberglass that trap the sun's rays. A series of ducts and fans distribute the heat. During the day, surplus heat passes through a gravel layer beneath the floor. The gravel and small air spaces retain the heat for use during the night. Solar heat is sufficient for the first four to five days of the seven-day curing cycle. A booster of some sort is necessary for the 165 degrees necessary on the last day.

Joe Fowler, an engineer, inventor and farmer from

Reidsville, N.C., is attempting commercialization of solar assisted tobacco barns. A $55,000 Department of Energy grant allowed Fowler to monitor solar barns, new and converted, during the 1978 curing season. On farms from Florida to Virginia, Fowler recorded an average fuel savings of 50 percent.

The solar assisted curing system is a proven method to reduce dependence on fuel sources outside the state. Because of the capital investment necessary, federal and state incentives are needed to encourage commercialization of solar curing. In the meantime, local farmers can at least paint their aluminum barns black, as the N.C. State program has. Retaining the solar heat through black paint begins the conversion process for curing the state's number one cash crop.

ATTACHED SOLAR GREENHOUSES

Five years ago, an average homeowner identified the direction in which his house faced for geographical reasons—"we face south, towards town." Today, though, a homeowner talks about his "southern exposure." An energy-conscious era has changed the way we look at the compass.

If a home has good southern exposure—nothing shielding it from the sun on the south side—capturing and retaining solar heat can save up to 35 percent in heating costs. This can be done without expensive mechanical collectors, heat transfer fluids, or sophisticated electrical equipment—by passive systems. New homes are now being designed with large windows on southern exposures to bring in the winter sun and with carefully angled roof overhangs for summer shade. For existing homes—and for new designs—building a greenhouse on the south side of a house can achieve the same results.

The sun provides all the heat and light in a solar greenhouse. The greenhouse collects heat and stores it, which can be used to warm a portion of the adjoining house. An effective solar greenhouse must receive uninterrupted sunlight throughout a winter day. Foundation insulation, caulking, and double glazing (double glass walls) can best reduce heat loss to the outside. The heat storage system—water, rocks, or bricks—must be adequate. Finally, summertime ventilation, usually a roof vent, must be included in design. Almost as a bonus, the greenhouse serves as a horticulture system for growing vegetables and flowers and for drying fruit and herbs throughout the year.

Mark Burham, a planner with Triangle J Council of

Governments, built an 8′ x 12′ greenhouse from recycled materials. One-gallon, water-filled plastic milk jugs—240 of them—store the heat. The heat buildup during the day keeps the temperature well above freezing at night. Through two winters, Burham has added heat to his house and at the same time raised spinach, lettuce, onions, and geraniums. He has now decided to make the greenhouse permanent by replacing the plastic siding with fiberglass.

In rural Rutherford County, David Cameron converted the porch of an 80-year old farmhouse to a heat-producing greenhouse. The 16′ x 25′ greenhouse cost $1000, even when Cameron used primarily recycled materials. "But the house definitely gains heat," says Cameron, "and the greenhouse does not drop below freezing at night." Two-liter plastic soda bottles filled with water—950 of them—store the heat.

Passive systems can save energy without large capital investments. Without assistance, however, initial costs can be prohibitive. The financial institutions, however, have not made low-interest loans available for solar greenhouses. Rural electric cooperatives, originally formed to be responsive to rural communities' needs, could also help the large-scale implementation of attached solar greenhouses with low-interest loans.

HYDROELECTRICITY... IT'S FLOWING AGAIN

In 1978, Consolidated Knitting Mills outside Charlotte saved $50,000 in fuel costs with their 450-kilowatt, hydroelectric turbine. But waterpower was nothing new to Consolidated. The company has been harnessing the energy from falling water for the last 50 years. In an age of conglomerates, the savings from hydropower has enabled this small concern to stay in business.

Over 3,000 dams exist in North Carolina. Many of them date from the turn of the century when flour and textile mills depended on water for power. But hardly any of these are currently being used for hydroelectric power. The advent of the steam engine, cheap fossil fuels, and large-scale hydroelectric facilities made small-scale hydro systems obsolete. It was easier to depend upon a centralized power source than to maintain a decentralized source for a single community or mill.

As Consolidated Knitting continues to demonstrate, these dams retain the potential for producing cheap power. Faced with higher fuel costs, more dam owners are now considering tapping this source. But returning to what was once the state's premier

power source is not so easy.

"The major barrier to the development of small hydroelectric plants," says the Research Triangle Institute's (RTI) John Warren, "has been the initial financing."

The U.S. Department of Energy (DOE) is currently providing dam owners with low-risk, low-interest loans to determine whether their dams have potential for power production. Funds are also available to help defray costs of preparing an application for a license from the Federal Energy Regulatory Commission.

With funds from the North Carolina Energy Institute, RTI is assisting small dam owners take advantage of this opportunity. RTI first identified 300 sites out of the 3,000 existing dams for further analysis. Detailed studies determined 20-30 locations that have the greatest potential for receiving DOE funding. The dams must have an estimated capacity of less than 15 megawatts, those that have never been used for hydropower production or those previously used but now idle. RTI is working with those who plan to apply for a DOE loan to help them minimize institutional and regulatory delays. North Carolina is the only state that has initiated such a comprehensive program to encourage development of small-scale hydro plants.

The Appalachian Regional Commission (ARC) has also made funds available for developing hydroelectric power. The town of Highlands has recently received a $300,000 ARC grant to help rehabilitate a dam which produced hydroelectricity until the mid-1960s. The French Broad Electric Membership Corporation received a $100,000 grant for detailed engineering analysis of its existing dam.

"Small-scale units may be producing 100-500 megawatts by the year 2000," estimates John Warren. Hydropower might well be the cheapest and most environmentally sound source of energy in North Carolina for small industries, rural cooperatives, and small towns.

ALCOHOL... MODERN DAY MOONSHINE

Last August [1979], George King, manager of King Brothers Farm Center in Ayden, N.C., called a gasohol meeting. "Gasohol" was a new word to most Pitt County farmers, but 160 people showed up—farmers and business leaders, federal, state and local officials—to hear King explain how gasohol can save farmers money.

The oldtimers there didn't need any tips on distillation

technologies. Two generations before, prohibition had provided incentive enough for developing backyard methods. And no Pitt County farmer needed to be told that fuel costs for his tractor would be increasing. But farmers did want to know if they could run their tractors on moonshine.

King announced his plans for forming a corporation to distill and market alcohol fuel. Together with Pitt County Community College, King hopes to make the area a model for the state and nation for saving money on gasoline. The community college recently received a $10,000 grant from the U.S. Department of Energy to build an alcohol still and to conduct courses in the production of alcohol fuels. King is developing a farm-size pilot project.

More than 200 other North Carolinians have joined George King in applying for a permit from the Federal Bureau of Alcohol, Tobacco and Firearms to distill alcohol fuel for experimental use. No other southeastern state has half that many applications.

Escalating gas prices have revived an old idea—alcohol fuel. Henry Ford proposed the use of alcohol fuels in his early automobiles. Germany depended on alcohol fuels in the 1930s. Brazil intends to convert 75 percent of its motor fuel to alcohol by 2000.

Two kinds of alcohol can be used as a substitute and/or extender for gasoline: ethanol and methanol. Fermentation of sugars from grains and starch crops, followed by a distillation process, has traditionally produced ethanol. Anything that was or is plant material, however, can be used to create ethanol. Most methanol is produced from natural gas or oil by converting syngas under high pressure and temperature. It is possible, however, to use coal, wood, farm residues or municipal solid wastes.

Gasohol is a mixture of 10 percent alcohol (methanol or ethanol) and 90 percent gasoline. Gasohol use results in lower emissions of air pollutants and increased engine efficiency. Methanol blends can be economically competitive with current gasoline prices.

With only minor adjustments, engines can run on pure alcohol. General Motors and Volkswagen have found that pure alcohol corrodes some fuel systems however. Fuel system corrosion and establishing separate storage and dispensing facilities at service stations make the widespread use of alcohol only a long range option for the average motorist.

Farm vehicles and private fleets of vehicles, however, could

convert to pure alcohol fuels immediately. In a study presented to the state Energy Division, "The Potential of Alcohol Derived from Waste Biomass in North Carolina," Phil Lusk estimates that four grains in the state (corn, wheat, sorghym, barley) could yield 330 million gallons of ethanol per year. Converting 60 percent of these crops into ethanol could replace, Lusk has found, all gasoline and diesel fuels now consumed in the agricultural sector.

The Pitt Community College project hopes to produce about 40 gallons of alcohol a day from 200 gallons of corn mash. And the distilling process does not extract the minerals and proteins from the grain. The left over grain, then, can be used as livestock feed.

Ironically, what was once this state's premier local industry—moonshining—might serve to move North Carolina more rapidly down the road towards developing alternative fuels.

CHAPTER 10

Education

The number one item of state government expenditure is education. Providing public education, while influenced by the national government, is primarily a concern of state government and local agencies operating under their direction. Both the bulk of the financial support and substantive decisions concerning education policy are made by the states.

Education became a primary state government concern in the late nineteenth century. Prior to that time education, if publicly provided, was not centralized in any particular fashion. Today states administer complete "systems" of public education for all their citizens and at several levels—primary, secondary, technical, and university. States set standards for local systems and provide technical services, advice and information for teachers and local officials. States also manage the process of teacher certification, curriculum evaluations, school construction and expansion. Most states conduct policy through an autonomous Department of Public Education and all have a chief school officer, variably called the commissioner or superintendent, who may be either appointed or elected.

In North Carolina a "uniform system of free public education" is mandated by Article IX of the state Constitution. The state administers the system through the Department of Public Education which is headed by the State Board of Education. The State Board decides rules and regulations for the public school system and its membership includes the lieutenant governor, state treasurer and eleven gubernatorial appointees who are subject to confirmation by the General Assembly. The chief administrative officer for the Department of Public Education is the state superintendent of public instruction who is a member of the Council of State and elected by popular vote every four years.

Within the Department of Public Education are three primary administrative units—the Department of Community Colleges, the Controller's Office, and the Department of Public Instruction. Each of these units is charged with directing a major facet of education administration.

In addition to the administration of general public instruction, the state Constitution charges the General Assembly with maintenance of "a public system of higher education, comprising the University of North Carolina and such institutions... as the General Assembly may deem wise." Administration of the University flows from the General Assembly through the University Board of Governors. The Board

of Governors consists of 32 members elected by the General Assembly and it directs the statewide, 16-member University of North Carolina system. University-wide administration and execution of Board policy is the responsibility of the president of the university system.

North Carolina's educational politics are similar to educational politics in other states. The N.C. Association of Educators (NCAE) is an important interest group that influences both education policymaking and general state politics. Associated interest groups enter the educational policymaking process when their particular concerns are involved.

Issues such as financial allocations, racial equity and the composition of educational curricula are all contemporary concerns of the educational process in North Carolina. The following selections analyze these contemporary concerns and their effects on the quality of public education in North Carolina.

Health Education
Incomplete Commitment

Susan M. Presti

Health education has been a part of most public school curricula in North Carolina and other states for over 25 years. Until recently, the subject was considered by many educators to be only an adjunct of physical education or biology. But the extraordinary rise of health care costs over the past several years has led to a new emphasis from many medical and health professionals on health education. It is now often viewed as a vital weapon in the battle against many pressing health problems.

The cost of health care in the United States is staggeringly high.[1] National health expenditures rose from $12 billion in 1950 to $139.5 billion in 1976—an elevenfold increase that far outpaced the rate of inflation over the same time period. In 1977, 8.8 percent of the country's gross national product (GNP)—the largest chunk ever—was accounted for by health expenditures. North Carolina has in no way been sheltered from this national trend: health expenditures jumped 254 percent in the ten-year period from 1966 to 1975, rising from $994 million to $2.5 billion. Current projections forecast health costs totaling $4.6 billion for the state in 1982.

These figures are ominous, and the trend they document shows no signs of abating. "Health costs are expected to rise sharply in the foreseeable future," the 1979 *North Carolina State Health Plan* cautioned. Along with personal expenditures, the government's expenditures on health care also continue to increase. As a result, the detrimental effects of increased health costs afflict not only individuals but society as a whole: "the rising expenditure is infringing upon the achievement of other public objectives.... The consequences of increased health costs are indeed felt by all major segments of society in the form of reduced profits, lower wages, higher taxes, reduced levels of insurance coverage and (for the uninsured and the inadequately insured individual) low access and poor quality health services, or high personal expenses."[2]

Many of the nation's most prevalent and expensive health problems are largely preventable: heart disease, diabetes,

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hypertension, venereal disease, certain cancers, and other maladies. Style of living is intimately related to physical well-being. Many Americans are unaware of potentially health-sustaining practices; others are knowledgeable but simply unwilling to sacrifice their accustomed life-style for more healthy—but often more restricting—habits. Health educators feel that by informing people about the consequences of their practices, the onset of many preventable diseases may be averted. "The American citizen is both the major force in driving up the cost of medical care and the major block to improvement of health care," says the School Health and Health Education Committee of the North Carolina chapter of the American Academy of Pediatrics. Providing better health education—in the schools and in the community at large—is seen as an important step towards helping the American citizen improve his health and health practices.

The argument in support of improving health education, especially for school children, is logical. Nothing is more essential to a person than his own body; nothing, it would seem apparent, is more important to a person than learning how to preserve his physical and mental well-being. Children need to learn about their bodies, their minds, and the environment in which they live, just as they need to learn to read, to write, and to add and subtract. "I don't know anything in the whole school picture that's more important than health education—it's just fundamental," says Emma Carr Bivens, former director of the Office of Health Education in the Department of Human Resources.

The importance of teaching children about practices that can improve their health and consequently enrich their lives is steadily becoming more evident. Medical knowledge has expanded so rapidly in the past generation that many parents of school-age children are simply unaware of some important new findings. Even such seemingly rudimentary practices as brushing one's teeth correctly and eating a balanced diet are not always widely employed, often because of lack of familiarity with recent medical advances. By teaching children about their bodies and about how to care for them, health education can pursue several goals: 1) children can improve their own health practices and become more receptive to health improvement innovations in the future, thus enhancing not only their own lives but those of their children as well, and 2) children can share newly acquired knowledge with their parents, perhaps improving the lives of

their parents. Consequently, a strong health education program can influence not just one generation but three.

Health educators, increasingly echoed by other health officials and policymakers, have championed the viewpoint that a public informed about and motivated to protect its health can prove to be a major factor in restraining health care cost increases. The subject of health and health education has become a familiar policy issue. The federal government has encouraged modification of existing health programs. The 1970 White House Conference on Children urged that a major commitment be made to a "systematic health and safety education plan extending from childhood through adulthood, replacing our present fragmented approach." Federal concern also resulted in passage of the 1974 National Health Planning and Resources Development Act and the 1976 National Consumer Health Information and Health Promotion Act. These statutes encouraged the use of health education and of other innovative strategies to promote an improved environment for all persons.

As a result of federal and local concerns, efforts to renovate health education programs were undertaken. The nation's schools were seen as logical partners in this effort. By 1976, 27 states had school curricula which included various aspects of health education.

THE NORTH CAROLINA SCENE

North Carolinians who turned their attention to the quality of health education in their state's schools during this time found a program in disarray. In the early 1950s, North Carolina had had both a state school health committee and a comprehensive school health curriculum guide. The curriculum guide was not revised after the 1950s and the state school health committee was short-lived. Health education continued to be taught in most schools in the state, but quality varied from school to school and even from teacher to teacher. "Inconsistency and fragmentation describe health education in North Carolina's schools," concluded a 1973 survey conducted by the Auxiliary of the North Carolina Medical Society.

The movement to renovate North Carolina's disjointed program of health education grew throughout the 1970s. The Governor's Advocacy Council on Children and Youth was established in 1971 to promote the health and well-being of North Carolina's children. The Council often suggested that addressing

health problems within a school setting might help mitigate such problems. The Children's 100, a child advocacy group, helped direct attention to the fact that health could act as a major constraint upon a child's capacity to learn. Nutritional problems such as iron deficiencies could severely retard a child's ability to perform well in school. As the evidence linking health problems to performance problems in school and as the general public's concern with the subject of staying healthy mounted, the movement to renovate North Carolina's school health education program gained momentum.

In 1977, the Division of Health Safety and Physical Education in the State Department of Public Instruction (DPI) formulated a ten-year plan aimed at developing a comprehensive, statewide program of health education. The plan called for the employment of a health education coordinator within each of the state's 145 school districts by the end of the ten-year period. (Fifteen coordinators were to be hired every year except for the final one in which only ten new coordinators would be needed). The plan also called for the establishment of a paid state health education consultant's position within DPI and for a three-year allotment of $80,000 to be used in developing a comprehensive school health education guide for grades kindergarten through 12 (K-12).

Before it could be implemented, the plan required funding. DPI programs are funded each biennium by the General Assembly. In order to obtain or continue support, every program within the Department must submit a budget request to the State Board of Education. The Board of Education reviews such requests from the Department, culls out those it feels should be funded, places them in priority order, and sends them in the form of an "expansion budget" to the Advisory Budget Commission. The Commission reviews the Board's expansion budget and decides which programs to include in the budget that the Commission and the governor recommend to the General Assembly. The Commission generally cuts many of the Board's proposed programs.

The Board of Education may submit its own supplemental budget request directly to the legislature in order to seek funding for programs the Advisory Budget Commission cuts. In addition, programs may also be funded through special appropriations bills introduced by any legislator. Special appropriations are funded from the "pork barrel," state monies that remain after the main appropriations bills for operations and for capital improve-

ments have been passed.*

HOUSE BILL 540

In 1977, House Bill 540, "An Act to Establish a State-wide School Health Education Program Over a Ten-Year Period," was introduced by Representative T. Clyde Auman. The bill, which incorporated the essence of DPI's ten-year health education plan, was not ratified by the legislature until 1978. House Bill 540 was supported by the North Carolina Medical Society and its Auxiliary, the Governor's Advocacy Council on Children and Youth, the North Carolina Dental Association, the North Carolina League of Women Voters, and by other groups and individuals. It appropriated monies for the hiring of health education coordinators, called for the eventual employment of a health education coordinator in each county, funded an additional school health education consultant's position in DPI, called for the development of a curriculum in health education for kindergarten through the ninth grades (K-9), and paid the expenses of a statewide health education advisory council.** According to the legislation, "the development and administration of this program shall be the responsibility of each local educational administrative unit in the State, a local school health education coordinator for each county, the State Department of Public Instruction, and a State School Health Education Advisory Committee."

The Division of Health Safety and Physical Education plan had postulated an allocation of $389,053 for the first year of implementation. This sum was to be broken down to provide $354,570 for local health education coordinators, $29,483 for a state health education consultant, $2,500 for a health education curriculum, and $2,500 for the expenses of a health education advisory committee. However, the General Assembly appropriated only $210,000 for the essentially identical program mandated by House Bill 540. The $210,000 came in the form of a special

*For a thorough explanation of the budgetary process, see Mercer Doty, *The Advisory Budget Commission—Not as Simple as ABC*, published by the North Carolina Center for Public Policy Research, Inc. (Especially pertinent to the discussion above are pp. 20-30.)

**A State Health Education Advisory Committee was established by House Bill 540 to "provide citizen input into the operations of the program; report annually to the State Board of Education on progress in accomplishing the provisions and intent of this legislation; provide advice to the department with regard to its duties under the act; and encourage development of higher education programs which would benefit health education in the public schools."

appropriation. Of this amount, $193,130 was designated for the employment of eight health education coordinators, $14,370 for a school health education consultant to join the staff of DPI on a permanent basis, and $1,250 for the expenses of the Advisory Committee.

This funding package was strong on personnel and weak on program. Most of the money was allocated for coordinators and very little for the development of a curriculum guide. Without a comprehensive curriculum guide detailing statewide objectives for every grade level and suggesting teaching strategies for meeting those objectives, there could be no comprehensive, statewide health education program. While eight health education coordinators were placed in North Carolina schools as a result of House Bill 540, they had no official program to draw upon. With only $1,250 to devote to curriculum development, little could be done to alleviate this situation.

The amount funded for House Bill 540 fed the concern of some proponents of expanded health education that state officials and legislators were not wholeheartedly committed to the goal of developing a full-fledged health education program. After passing legislation which called for the development and implementation of such a program within ten years, the General Assembly seemed reluctant to appropriate the funds necessary to attain this goal. It was unclear how DPI would go about developing a comprehensive program without the funds to write a curriculum guide.

This ambivalence on the part of state officials and legislators carried over to the 1979 General Assembly. In the expansion budget request sent to the Advisory Budget Commission for the 1979-1981 biennium, the State Board of Education asked for $208,208 for health education for 1979-1980 and that amount continued plus an additional $416,416 for 1980-1981. The Board ranked the health education request 23rd on a priority list of 32. Expansion of the health education program was not included in the budget recommended by the Advisory Budget Commission.

As a result of the Commission's decision, Rep. Auman introduced House Bill 974 to the legislature. Auman's bill called for appropriating the full amount requested by the State Board of Education for health education in its expansion budget. Health education was also included in the supplemental budget submitted by the Board to the legislature. This time the Board ranked it 28th on a list of 36 items. Health education was not funded in the legislature's main appropriations bill. However,

House Bill 974 was ratified. It received an appropriation of $200,000 for each year of the biennium—significantly less than the sums requested by the Board of Education.

With the $200,000 appropriated for 1979, an additional eight coordinators were hired, bringing to 16 their total number. Demand for more coordinators is high. In the first year of funding under House Bill 540, DPI received requests from 69 school units for coordinators; during the program's second year, there were 81 requests. Without significant increases in appropriations from the General Assembly, however, it will be impossible to hire coordinators at a faster rate.

More important than the lack of coordinators is the lack of the program which the coordinators are ostensibly to implement. The General Assembly has not allocated sufficient funds to allow for the development of key elements in this program. The Division of Health Safety and Physical Education has been operating, in effect, under an amorphous blend of its ten-year plan and the General Assembly's funding allotment. There is no official, comprehensive statewide program of health education in North Carolina at this time.

By the end of the 1979 appropriations process, it seemed that not only was the General Assembly only partially committed to the program it had mandated a year earlier but that the State Board of Education was equally hesitant. Many people involved in the program felt that the low priority accorded health education by the Board doomed its opportunity for full funding. They believed that its low priority foreclosed the subject's chances of being included in the Advisory Budget Commission's recommended budget and consequently forced health education to battle with numerous other projects for pork barrel funding.

However, according to Jerome Melton, Deputy Superintendent of Public Instruction, it is the fact that an item makes it onto the priority list in the first place that is important. Dr. Melton says that DPI fights equally for funding for all items on the priority list. But historically those items listed by the Board of Education as top priorities fare better in the appropriations process than do less highly ranked items. In the 1979-1981 expansion budget, for example, the top ten ranked items received 51 percent of the allocations requested for them; items 11-20 received 22 percent; items 21-30, 18 percent.

BUDGETARY POLITICS

In North Carolina, the budget recommended by the governor and the Advisory Budget Commission in large part shapes the appropriations decisions of the General Assembly. For a new program—or for an old program seeking funding increases—to win the approval of the Advisory Budget Commission requires a good deal of lobbying on the part of a department head, the governor, or members of the Advisory Budget Commission.

> With the enthusiastic support of the department head and the acquiescence of the governor, the project may successfully "ride the coattails" of the rest of the governor's budget... If the governor is a strong supporter of the project it is virtually assured of getting to the legislature in the recommended budget, and stands a good chance of staying in the final appropriations bill.[3]

Governor James B. Hunt, Jr., who has championed the twin causes of children and education throughout his administration, has supported the health education program with less vigor than he has devoted to many other programs. As for the educational establishment, the 1977 *Course of Study for Elementary and Secondary Schools* adopted by the State Board of Education declared that "comprehensive health education in schools commands a high position among our educational priorities because effective programs have the potential of enhancing the quality of life, raising the level of health for the student's lifetime, and favorably influencing the learning process." The Board's ranking of health education as 23rd and 28th on its priority list does not appear to corroborate this expressed sentiment. And, according to the Legislative Research Committee on Health Education's report to the 1979 General Assembly, "Health education has been one of the most poorly taught subjects within the various schools." The report concluded that "the Department of Public Instruction has not been aggressive over the years in pursuing health education" and suggested "that the Department should harness the considerable interest in health education and get on with making this subject area second to none."

Expansion of the health education program has yet to appear in the Advisory Budget Commission's recommended budget, leading to the conclusion that any lobbying efforts before the Commission in its behalf have been unsuccessful. The program has been forced to rely on funding from special appropriations bills sponsored by Rep. Auman. There has been little money to develop a specific program that the health education coordinators could implement.

DPI is faced with the task of securing funds for all its many programs. In order to accomplish this, the Department must utilize a variety of methods, including relying upon special appropriations bills. The rankings of the State Board of Education, the enthusiasm of the governor, and the enthusiasm of the Department of Public Instruction's leadership all influence the appropriations process. Many people familiar with the health education effort concur in the Legislative Research Committee's judgment that DPI has been remiss in its support of the subject. They believe that funding chances will not be significantly improved unless and until DPI becomes a more active advocate of health education. An assessment of whether or not DPI deserves vilification for its health education policies (or lack thereof) must begin with an examination of the current status of health education in North Carolina.

THE CURRENT SITUATION

Although there is as yet no program to match the ambitions of House Bill 540, the administration of health education in North Carolina does adhere to some stated guidelines. At the state level, Norman Leafe directs DPI's Division of Health Safety and Physical Education. Health education consultants within the Division work to develop and implement health education policies for the state, while the 16 health education coordinators hired so far supervise school health education at the local level. Among other things, these coordinators conduct in-service training sessions for teachers and develop a local health education curriculum for each school district served. They work in conjunction with their local health education advisory council, which is composed of community members. Each district with a coordinator is required to establish such a council.

This organizational structure is sound, but it reveals little about the actual status of health education in North Carolina's schools. According to a survey conducted by the North Carolina Center for Public Policy Research in 1979:

1) 89 percent of the school units employed no teachers certified in health education;
2) 87 percent of the school units did not employ a person whose sole responsibility was the coordination of health education, and 33 percent of these school units had not designated *anyone* to coordinate health education;

3) 83 percent had no local health education advisory council;
4) 66 percent had no specific, written objectives for health education at each grade level;
5) 56 percent did not have an adequate number of curriculum guides, pamphlets, audio-visual aids and other resource materials;
6) 39 percent had no planned, sequential health education program; the programs of many others were based on broadly drawn objectives and not on specific curricula;
7) 26 percent had provided no in-service training in health education for their teachers;
8) 19 percent did not have an adequate number of health textbooks; and,
9) 6 percent received no assistance from community agencies and organizations.

The survey and research prompted by its results have revealed weaknesses in North Carolina's health education:

health education in areas without coordinators is likely to continue to be inconsistent and fragmented;

health education may still be perceived as the sibling of physical education and not as being important in its own right;

there is no statewide, comprehensive curriculum guide for the subject; and

there is no evaluation program to determine health education's effectiveness.

One of the great strengths of the health education policy already formulated for this state is that it provides enough flexibility for local voices to be heard and for local priorities to be addressed. The local advisory councils provide direct community participation, which is of importance in resolving differences of opinion about the handling of controversial subjects such as family life (sex education) and values clarification.

The development of a comprehensive curriculum guide appeared to receive the monetary impetus it needed in the spring of 1979. The Kate B. Reynolds Health Care Trust of Winston-Salem made a $50,000 grant to DPI in response to a proposal

drafted by the Division of Health Safety and Physical Education. The proposal requested money to facilitate the development of the comprehensive program called for by House Bill 540 and of the comprehensive curriculum guide needed as part of this program.

For more than a year, however, DPI was unable to make use of these funds. Shortly after the grant was made, the Department was informed that it would have to submit a revised proposal before the money could be used. Confusion over this restriction was widespread both inside and outside the Department. After more than a year of sporadic efforts on the revision, DPI submitted a revised proposal detailing a two year project to develop a health education "blueprint" for the state. The trustees of the Reynolds Health Care Trust approved funding for the first year of the plan. Funding for the project's second year will be dependent on the trustees' review of the first-year's efforts.

The future substance of health education in North Carolina will be largely dependent on the blueprint developed over the next two years. Until this program is developed and implemented, major improvements in the quality of health education within the state's schools are unlikely to occur.

Based on the analysis of health education programs and needs which follows, this report recommends that, in developing the health education blueprint, DPI preserve the strengths of the current policy—its organizational structure and accountability and its flexibility—while addressing directly the areas of weakness. It is further recommended that DPI and the State Health Education Advisory Committee appoint a committee to study the feasibility of employing more certified health instructors in the state's schools. Finally, it is recommended that a second committee be appointed by the Department of Public Instruction and the State Health Education Advisory Committee to develop guidelines to strengthen the role of the local health education advisory councils.

Footnotes

1. The following statistics are taken from the *1979 North Carolina State Health Plan*, p. 338. (Under P.L. 93-641, the National Health Planning and Resources Development Act of 1974, each state is directed to assess its health needs and priorities. The *1979 North Carolina State Health Plan*, developed by the North Carolina Health Coordinating Council, is the state's first such effort.)

2. Ibid., pp. 338-9.

3. Mercer Doty, *The Advisory Budget Commission—Not As Simple as ABC*, The North Carolina Center for Public Policy Research, Inc., 1980, p. 31.

International Education in North Carolina

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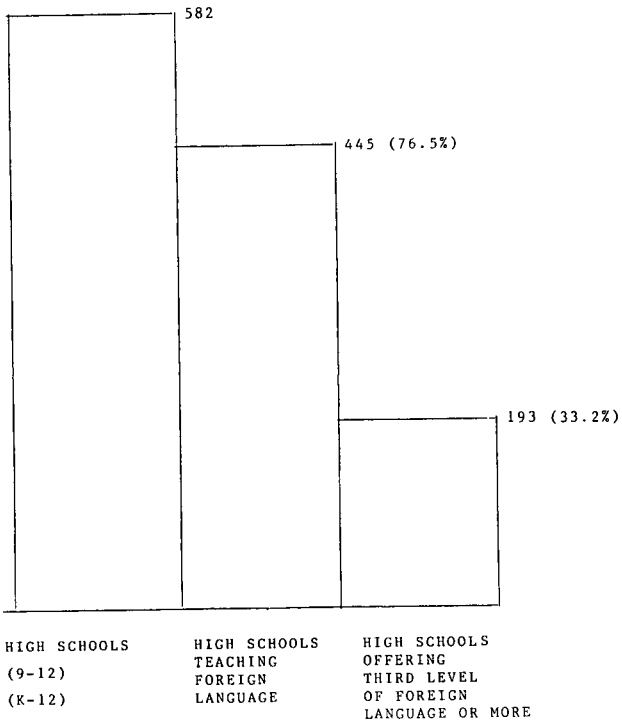
A conference in March, 1980 on "Foreign Languages and Area Studies: Options for North Carolina" examined the condition of international education in North Carolina and looked at possible options for the state. The conference found numerous areas of weaknesses in North Carolina's international education.

FOREIGN LANGUAGE TEACHING IN NORTH CAROLINA HIGH SCHOOLS -1979



"Charts by James E. Woolford"

Excerpted from *Foreign Languages and Area Studies: Options for North Carolina*, published by the North Carolina Center for Public Policy Research, 1980.

FOREIGN LANGUAGES

Foreign Languages in North Carolina Schools. North Carolina's schools offer a limited selection of foreign languages—essentially Latin, German, Spanish, and French. Chinese, the language spoken by 25 percent of the world's population, is not taught. Russian is taught in only one public school system in the state.

Even if they should wish to, few students can study four years of a foreign language. Of the 582 high schools in the state, 76 percent (or 445) offer foreign languages but only 33 percent (or 193) offer a language at the third level or beyond. Neurological studies indicate that the most favorable time for a child to start learning a language is before his tenth birthday. In this state not a single public elementary school has a foreign language program.

Enrollment. Enrollment was repeatedly cited during the Conference as a major problem for the foreign language community. The percentage of North Carolina high school students enrolled in foreign language courses has remained fairly constant at about 22 percent throughout the 1970s (see chart).

The chart shows a precipitous increase in enrollment for the years 1973-1975, followed by a decline to the fairly constant enrollment figure of about 82,000. From 1973-1975, the State Department of Public Instruction (DPI), working in conjunction with the schools and universities in North Carolina, undertook a concerted effort to promote foreign languages. Language fairs, festivals, and contests were sponsored across the state, with the resulting enrollment increases documented in the chart. Due to budgetary constraints after 1975, the effort faltered.

Nonetheless, North Carolina's figure of 22 percent enrollment in foreign languages is above the national average. The problem in this state is not so much getting the student to enroll initially in the class as it is maintaining enrollment over the course of several years of language study. Over the past four years, there has been a 35-50 percent decline in student enrollment from the first year of a foreign language to the second, a 65-80 percent drop from the second to the third year, and a 65-90 percent drop from the third to the fourth year.

Why the Decline in Enrollment? How is the rapid attrition in enrollment to be explained? Part of the explanation is to be found in a common student belief that the subject has no relevance for them. Foreign language skills are not seen as the keys to successful careers. Students are often unaware of possible

FOREIGN LANGUAGE STUDENT ENROLLMENT

	1970-1971	1971-72	1972-73	1973-74
FRENCH	44,426 (51.4)	43,586 (48.5) (- 1.9)	37,794 (46.2) (-13.3)	44,403 (43.0) (+17.5)
SPANISH	35,496 (41.1)	30,960 (34.4) (-12.8)	38,132 (46.6) (+23.2)	48,644 (47.1) (+27.6)
GERMAN	1,122 (1.3)	1,455 (1.6) (+29.7)	1,610 (2.0) (+10.7)	1,859 (1.8) (+15.5)
LATIN	5,304 (6.1)	4,874 (5.4) (- 8.1)	4,355 (5.3) (-10.6)	8,264 (8.0) (+89.8)
TOTAL	86,348 (99.9)*	89,875 (99.9) (+ 4.1)	81,891 (100.1) (- 8.9)	103,170 (99.9) (+26.0)

	1974-1975	1975-76	1976-77	1977-78	1978-79
FRENCH	39,734 (37.3) (-10.5)	35,375 (40.7) (-11.0)	33,408 (40.5) (- 5.5)	33,168 (41.0) (- 0.7)	32,595 (40.1) (- 1.7)
SPANISH	51,157 (48.0) (+ 5.2)	44,002 (50.7) (-14.0)	41,986 (51.0) (- 4.6)	41,582 (51.4) (- 1.0)	40,639 (50.0) (- 2.3)
GERMAN	5,613 (5.3) (+201.9)	2,351 (2.7) (-58.1)	2,452 (3.0) (+ 4.3)	2,285 (2.8) (- 6.8)	2,708 (3.3) (+18.5)
LATIN	9,857 (9.2) (+19.3)	3,916 (4.5) (-60.3)	4,156 (5.0) (+6.1)	3,326 (4.1) (-20.0)	4,724 (5.8) (+42.0)
OTHER	155 (0.1)	1,183 (1.4) (+663.2)	323 (0.4) (-72.7)	498 (0.6) (+54.2)	611 (0.8) (+22.7)
TOTAL	106,516 (99.9) (+ 3.2)	86,827 (100) (-18.5)	82,325 (99.9) (- 5.2)	80,859 (99.9) (-1.8)	81,277 (100) (+ 0.5)

NATIONAL TREND: Enrollment Decline — 30% DROP 1968-1974
Still dropping

NORTH CAROLINA: Relative Maintenance of Enrollment:
except 1973-1975.

KEY TO TABLE: NUMBER OF STUDENTS ENROLLED (PERCENTAGE OF TOTAL)
(% YEAR-TO-YEAR CHANGE IN ENROLLMENT)

* total percent not equal to 100 due to rounding error

government employment opportunities available to foreign language specialists and are also unaware of the potential future needs of the business community for Americans fluent in other languages. Little has been done in the high schools to make these career possibilities better known.

Another factor that helps explain the rapid attrition in foreign language enrollment is the weak background in English that many students bring to their courses. This increases the difficulty of mastering a foreign language. Interestingly, the study of another language may improve English proficiency, and students seem to recognize this. In recent years, for example,

there has been a resurgence in Latin enrollment. Students explain this by saying they are trying to improve their performance on the verbal section of the Scholastic Aptitude Tests; they have become aware of the utility of familiarity with Latin stems and roots in this regard.

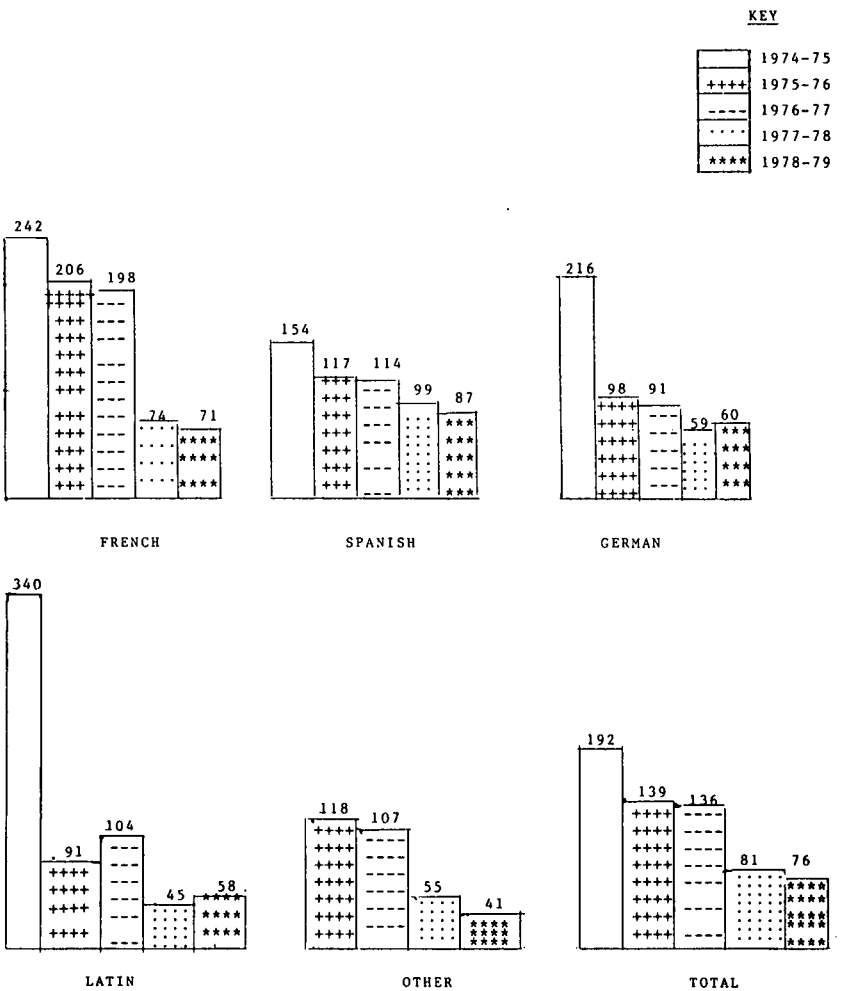
Foreign language instruction is an additional factor contributing to the decline in enrollment. In the annual surveys of foreign language students conducted by DPI, over 95 percent of the students consistently indicate that the desire to learn to communicate in the language was their primary reason for enrolling in the course. Over 88 percent indicate their secondary reason to be a desire to learn about the people whose language is being studied. Curriculum guides developed by foreign language teachers in North Carolina explicitly note these motivational realities, yet many foreign language courses are still being taught predominantly by a grammar-translation approach.

This is true at both the high school and the college levels, and is understandable. Teachers tend to rely heavily on textbooks in their classroom work and textbooks almost uniformly emphasize grammar and translation rather than conversation. The situation tends to perpetuate itself: teachers are more comfortable dealing with familiar than unfamiliar materials and, since most of them were educated in accordance with the grammar-translation approach, it is the approach they prefer to use. The result is that language teachers are often strongest in what students want least (grammar), and are weakest in what students want most (conversation). Despite increasingly favorable student-teacher ratios, the foreign language classroom situation is not conducive to maintaining enrollment. As one of the panelists noted, "Grammar ain't everything!"

Foreign language testing also appears to be an effective way to thwart student enthusiasm. Tests are often poorly constructed, increasing the likelihood of poor performance and of student exasperation with the subject.

Although this discussion has dealt primarily with the concerns of high schools, enrollment in foreign languages is also a problem at the college level. Here, the problem is more one of initial enrollment than of attrition. Between 1960 and 1977, enrollment in modern foreign languages declined 53 percent nationally. At the University of North Carolina-Chapel Hill, where students are required to take either a mathematics or a foreign language sequence to graduate, only about 25 percent choose the language option.

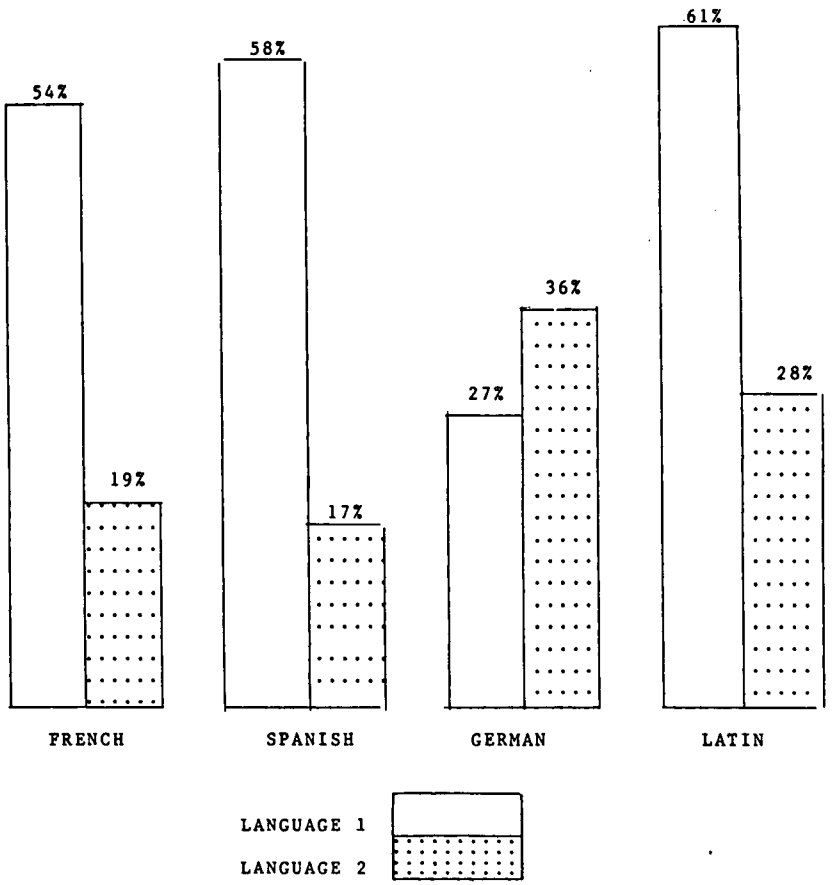
NUMBER OF STUDENTS PER LANGUAGE TEACHER 1974-1979



Low Retention of Knowledge. The retention of foreign language knowledge from high school to college is low. At the University of North Carolina-Chapel Hill in 1979, almost 75 percent of the 3000 students taking foreign language placement examinations were unable to validate two years of high school foreign language study and had to begin language study anew*.

1979 COLLEGE PLACEMENT OF HIGH SCHOOL STUDENTS--

MINIMUM OF TWO YEARS LANGUAGE STUDY



*Two years of high school foreign language study are required for admission to UNC-CH. Upon enrollment, each student must validate this on a standardized test. "Validation" consists of placing into at least the third semester of college language study (Language 3).

Why this low rate of validation? The reasons are complex, but inadequacy of high school instruction certainly plays a role. Because of low salaries, it is difficult to attract, and keep, effective language teachers. Teachers are also troubled by the relative lack of funds for the purchase of supplementary classroom materials. One high school teacher at the conference indicated that he had about $150 a year to spend on materials; he thought this amount was fairly typical. As a consequence, the foreign language classroom is less interesting than it might be and students respond by dropping the subject.

An additional element contributing to the low rate of validation is the timing of foreign language study. As high schools increasingly emphasize mathematics and science skills, students are advised to get their foreign languages "out of the way." Students often take language courses as early as possible and may never encounter a foreign language after the tenth grade. Two years may thus elapse before they are asked to validate such study in college, a gap that allows all but the most rudimentary knowledge to seep away.

AREA STUDIES

Education for an interdependent world must of necessity embrace an international perspective. Matters such as trade, inflation, communications, energy, mineral resources, the environment, terrorism, and the problems of the Middle East cannot be studied from the perspective of a single nation, not even one as large and powerful as the United States. Other areas must also be studied. But the current situation in the schools will not be changed until the educational community and the public become convinced that education should be infused with a broader, international perspective.

The subject matter of area studies encompasses aspects of geography, history, social studies, and other disciplines. As a consequence, it is difficult to amass accurate data on the subject. Courses on area studies go by different names in different schools. Points of weakness are, however, readily identifiable.

To a considerable extent, deficiencies in area studies parallel those of foreign languages. There is inadequate funding, concern with student enrollment, a difficulty in addressing topics most likely to be of interest to students, and a question about the adequacy of teaching. Rather than repeat what has already been said in regard to foreign languages, this Report will note some of

the special problems endemic to area studies in North Carolina.

Despite the increasing involvement of North Carolina in international affairs and the increased prominence of international concerns for the nation as a whole, there remains a hesitation on the part of students to enroll in available area studies courses. Part of the explanation for this may lie in the fact that the educational system, from the earliest grades, tends to be based upon a parochial world view. The area studies that exist in North Carolina schools are heavily oriented toward Western nations and cultures. A truly international perspective is missing. A recent mandate of the General Assembly is an encouraging step toward rectifying this situation. The mandate requires African and Asian studies in the high schools; this broadens the scope of areas available for study by North Carolinians.

During the 1960s and early 1970s North Carolina's institutions of higher learning were fortunate in having access to the funds needed to develop a number of area studies centers. Because of funding cutbacks, some of those centers grew defunct and others presently operate at a low level of vitality. Area studies should be expanded at the college level and should be made more globally representative. In recent months both Duke University and North Carolina State University have been able to move in the direction of establishing centers for Japanese studies—a very encouraging development.

Persistent Cleavages

As the Conference progressed, participants noted that the discussion frequently revolved around one or another of three types of cleavage:

—that between foreign language teachers and their area studies counterparts;

—that between colleges and universities, on the one hand, and elementary and secondary schools on the other;

—and finally, that between the educational and the business communities.

Many of the remedies proposed to the problems of international education hinged on discovering ways to bridge these gaps.

FOREIGN LANGUAGES V. AREA STUDIES

To a surprising extent, foreign languages and area studies represent separate worlds. The overall objectives of the two are the same—the international education of young people—but methods, training, and characteristic preoccupations are different. In these circumstances it is easy for the two groups to distance themselves from one another and to drift into a competitive relationship.

Competition between foreign languages and area studies is counterproductive. Neither group will be as educationally effective when competing as when cooperating. Furthermore, while competing with each other, neither group is likely to have its needs addressed. This holds both at the state and national levels. Dr. Sven Groennings, in his keynote address to the Conference, warned that "On Capitol Hill we have learned that when constituents are divided, you ignore them."

HIGHER EDUCATION V. THE SCHOOLS

In North Carolina the school system and the universities represent distinct educational entities administered by separate bureaucracies. In such circumstances, competition between the two is almost inevitable in the absence of a strong and continuing determination to overcome that tendency. Indeed, for years, competition for federal funds was virtually mandated by law. Under the National Defense Education Act, Section 603, the first $15 million appropriated for intercultural programs was granted to higher education. Once that threshold was passed, "...you've got open warfare across all levels of education for every additional dollar," Dr. Groennings explained. "We could find no other place in all of federal education legislation where levels of education are pitted against one another the way they have been in the international area." If the Stafford-Javits Bill becomes law, Section 603 will be placed under the Elementary and Secondary Education Act, eliminating this mandated conflict.

Even if the Stafford-Javits Bill becomes public law, the educational community will still have to exert an effort to surmount past conflicts. More can be done for international education in North Carolina if the schools and the universities set aside their differences and work together toward advancing their common goals.

THE EDUCATIONAL COMMUNITY AND THE BUSINESS COMMUNITY

The educational and business communities in this state have traditionally acted as completely separate entities. Yet, in an era in which international business is expanding at an astonishing rate, each group has much to gain through interaction. Each has something to contribute to the other. Businessmen can avail themselves of the language and area expertise of educators, while the latter can draw on business experience and financial resources to develop new programs. At present, however, despite shared interests the two do not know how to join forces, how to build bridges. They continue to exist in almost wholly separate worlds.

Part B of the Stafford-Javits Bill (the "crux" of the legislation, according to Senator Javits) would institute a program whereby federal matching funds will be granted—up to a maximum sum of $7.5 million—to programs established and partially funded as joint business-education ventures. It is hoped that such incentives will increase education-business interaction and cooperation. Much remains to be accomplished however, both in the nation and in North Carolina.

Options For North Carolina

The Conference's workshops considered possible remedies to the problems of international education. The major themes of the workshop sessions are reported below.

TRAVEL ABROAD—TEACHERS

Participants in the Conference appeared to feel that travel abroad was the single most effective way of encouraging greater interest in international education on the part of both teachers and students.

For language teachers, it would provide an opportunity to improve their language skills and learn more about the society's culture. Refresher experiences of this kind would improve the confidence and competence of the teacher. The freshness that a

teacher would bring to the classroom after travel abroad would be of benefit to students and to other faculty members as well.

There would be similar advantages for area studies teachers. Travel provides them with an opportunity to observe first-hand some of the conditions discussed in the classroom. The benefits of foreign travel appear to have a multiplier effect: those who travel abroad instill in others a desire to travel.

The greatest constraint on such travel for teachers appears to be cost. In order to defray the costs to teachers of travel abroad, alternate funding sources must be cultivated. Such funds could be channelled into a program to "reward" teachers for excellence in international instruction. Individuals who are good teachers and who show promise of growth might be awarded summer fellowships for study abroad. Receipt of such a fellowship would be a mark of recognition and would benefit both the individual and the school system. If ten such fellowships were available each year, the program would have an appreciable effect within a short period of time. The annual cost of such a program would not be great, and contributions to it might come from business concerns, foundations, civic organizations, and from DPI.

Another way to increase the foreign exposure of teachers is through one-to-one faculty exchanges. This appears to be most feasible at the college level and individual institutions should be encouraged to do more in pursuing this option. Exchanges allow faculty members to have a foreign experience and also enable North Carolina students to work with foreign scholars—the benefits once again are multiplied.

For teachers with skills in areas of interest to business (languages, marketing, research, etc.) it might be possible to arrange leaves-of-absence during which they could have internship or employment experience with foreign firms or with foreign offices of U.S. multinational corporations. A joint arrangement of this kind would help to bridge the gap between the educational and business communities and might also dovetail with Part B of the Stafford-Javits Bill.

TRAVEL ABROAD—STUDENTS

As noted earlier in this Report, students taking language courses primarily do so because they want to gain communicative skills in a foreign language. Foreign travel, and the opportunity it provides to use the language one is studying in practical situations, has a powerful reinforcing effect and encourages

students to continue language study. The same holds true for area studies. Students commonly find travel abroad invigorating and return to international studies with renewed interest and insight.

Conference participants noted that the most valuable form of foreign experience for students generally comes from home-living or from working arrangements. Established programs like the Experiment in International Living and Crossroads to Africa programs were pointed to as excellent resources in this regard. High school-to-high school exchanges also offer valuable overseas opportunities for students.

For some students and their families the cost of travel abroad is not a severe constraint. Such students need only opportunities, information, and encouragement. For other students, North Carolina ought to explore the possibility of initiating its own travel programs, seeking funding for them from the private sector. The return on such an investment would be high for the participating students, for the contributing parties, and for the state itself.

SUMMER STUDY OPPORTUNITIES

Teachers. Teachers need opportunities to utilize and refine their skills. It has already been noted that often a foreign language teacher does not feel completely comfortable in the language or know enough about the culture of the people whose language is being taught. Often, too, social studies teachers do not know enough of the areas of the world about which they teach.

A program of total immersion, at a retreat in North Carolina, would be most useful to them. Might not the state organize summer workshops so that teachers might have an intensive experience in the language and culture of another society? For teachers, the experience would be stimulating and useful and would constitute one of the rewards that might encourage talented teachers to remain in the profession.

Students. Next to travelling abroad, the best way for students to use their skills is also by thorough immersion in a specially prepared environment. There are summer camps for music, journalism, and soccer; why not for foreign languages and area studies? Several such camps could be organized, each simulating a particular culture. Or, one such camp could be established and could change its cultural focus each year. Students could have an experience similar to living abroad without leaving North Carolina.

Consideration might also be given to the establishment of a Governor's School for International Studies. Such a school would offer interested and talented students an opportunity to develop their skills in a favorable environment. Sponsorship of such a school would be a fitting act for a governor deeply interested in international affairs.

FOREIGN VISITORS

American travel abroad must be encouraged and so too should foreign travel in North Carolina and foreign attendance in North Carolina schools. During their stay, visitors can be a valuable resource. Upon their return home, they can advance the image of North Carolina abroad. The United States International Communication Agency operates a foreign visitor program. If North Carolina organizations were interested in receiving more foreign visitors and were able to arrange programs for them, the flow of interesting visitors could certainly be increased.

At present, many communities make little use of the human resources available for international education. There are often foreign businessmen and retired foreign service officers in the community as well as faculty members with extensive international experience at nearby universities. Teachers can do more to draw such individuals into the classroom. Their presence will help acquaint students with other cultures and will also illustrate to students different international career opportunities.

The North Carolina China Council, the Society for International Development (SID), and a number of other organizations can be turned to for help in identifying individuals with specialized international training and skills. The North Carolina Council on International Education is planning to undertake a statewide inventory of organizations, programs, and individuals involved in international education. Teachers should utilize these resources.

ENCOURAGEMENT OF INTERNATIONAL EDUCATION

In the early 1970s, DPI worked in conjunction with the schools and universities in promoting foreign language study. As a result, there was a remarkable jump in attendance. A similar working alliance might be forged for the 1980s.

Such an alliance could lead to the initiation of foreign language and area studies programs in the elementary grades

and could extend those sequences through four years of high school. All levels might be able to cooperate in the development of a richer selection of curricular materials. At the colleges, students in the departments of education (the teachers of tomorrow) might be exposed to perspectives of a broader, more global nature.

The Conference discussed a more formal step: reinstitution of the requirement for a two-year language sequence to graduate from any high school. Attention was also given to the need for exploring the range of possibilities that new technologies hold for international education. For example, may it soon become possible, via satellite link-up, for students in a North Carolina classroom to converse in Spanish with students in Mexico or Argentina? Officials of the North Carolina Public Telecommunications Agency are apparently intrigued by the idea of exploring such options. If such linkages could be provided economically, they could greatly enrich classroom and summer immersion experiences for both teachers and students.

FUNDING

There was general agreement at the Conference that, for some time, there is not likely to be substantial federal funding for any programs in international education that North Carolinians might wish to inaugurate. Funding for modest projects might nevertheless be available from the Department of Education, the Departments of Defense, Commerce, and Agriculture, USICA, and the Agency for International Development (AID). The federal funding situation should be closely monitored so that the state will be abreast of all possibilities. In the meantime, North Carolinians should initiate needed organizations and programs. These efforts will be obvious candidates for federal support when funds become available.

Meanwhile, if North Carolina is to improve international education, it will have to concentrate on making better use of existing funds and on seeking new sources of support within the state. Interested individuals must therefore direct their attention more persistently toward the business community, toward foundations, and toward the General Assembly.

The need to fashion cooperative programs with the business community was one of the recurrent themes of the Conference. In some instances, businesses might make payments in return for services rendered. In other cases, they might simply make tax-

deductible contributions to international education programs. Such corporate contributions would be a form of participation in the life of the state and would help meet long-term business needs for trained and informed personnel.

The HEW-UNC Dispute
Its Roots Are Here at Home

Ned Cline

The way some politicians tell it, the only bad guy in the current desegregation battle between the University of North Carolina and the federal government is Joe Califano, head of the U.S. Department of Health, Education, and Welfare (HEW). But that's not the way it is.

The court suit, in something of a roundabout way, has its origins in North Carolina, not in Washington or in the bowels of HEW bureaucracy. The battle actually began many years ago in the maneuvering of the North Carolina General Assembly where deals have always been cut as much on political expediency as on educational soundness. Racism may have also been a factor, but it was subtle and secondary.

If politicians in the General Assembly had done as much through the years for the traditionally black schools as they did for their white counterparts, chances are the case would never have gone to court. Until recent years, it had always been customary for each of the university campuses, through its own trustees or other persons of influence, to go directly to the lawmakers for money or other services. The schools with the most effective lobbyists ended up with the most help. But black schools had little clout, and those campuses often came up with the crumbs from the legislative budget pie.

Geography as well as skin color and political muscle played a part. Usually it was the east and west against the Piedmont or, depending on particular needs, some other political alignment.

That's how the many branches of the state's university system got their names. One wanted to be called a university, then another. If one couldn't succeed alone, two or more would team up to get what they wanted. During the 1960s things became so bad that even then Gov. Robert Scott, himself known to wheel and deal at times, decided that enough was enough and something had to be done. He proposed dismantling the then consolidated university and creating a central administrative unit to stop, as he put it, the political end runs to the General Assembly from every part of the state.

But that was no easy task, Scott quickly found. Nobody had

taken on the politically powerful university group and won in a long time. Political groups formed at various corners of the state and, it appeared for a time that opponents of Scott's plan would win the legislative battle over the university's structure. But Scott had some political "green stamps" (patronage appointments) of his own and he resorted to some extraordinary steps.

One lawmaker was named a Superior Court judge after he voted Scott's way. A state Senator was forced by a few of the Governor's friends to rise from bed, drunk, to cast a critical vote. Scott said at the time it was all essential to get politics out of higher education. But the current dispute with HEW shows it wasn't entirely successful in that regard.

The restructuring established a single Board of Governors to sort out educational priorities and present a single budget request to the legislature. But it clearly has not removed the system from politics as Scott had said he wanted to do. Among the stiffest political battles in the General Assembly today is the contest to be picked for membership on the UNC governing board. That contest, in fact, is the only balloting which is still done in secret in the House and Senate. Not only that, but ballots are destroyed as soon as they're counted. One man who was running for a seat on the board this year [1979] said lawmakers had promised him more than enough votes to win, but they reneged once they marked their ballots. "That's the one thing they'll still lie to you and you can't prove who lied," the losing candidate said.

The governing board is also a reflection of the political power base of the state: white male, above average income and influence, and representing, with few exceptions, the big business, anti-union approach to doing things.

If it were not for continuing political influence in higher education decisions, some people believe, there probably wouldn't be a battle with HEW at all.

One factor in the dispute is HEW's contention that not enough has been done to improve the five traditionally black campuses within the system—North Carolina Central University in Durham, North Carolina Agricultural and Technical State University in Greensboro, Winston-Salem State University, Fayetteville State University, and Elizabeth City State University. Federal officials, under court order to seek more integration of the university system, point to the shortcomings at the black campuses as evidence the state is maintaining a segregated system in violation of federal civil rights law. They also contend physical improvements and stronger academic programs at

those campuses would lure more white students to enroll there.

University officials and state lawmakers contend—correctly—that since the university system was restructured in 1972, more has been done for the black campuses than ever before in such a short time. But it's not so much what hasn't been done at black campuses under the new structure as what has been done at white campuses. That's where politics has played a major role.

Three major decisions by the Board of Governors in the last five years, all deeply rooted in politics, have soaked up almost $100 million in state money—almost all of it going to predominantly white campuses. The Board has approved a medical school at predominantly white East Carolina University in Greenville and already provided $51 million for it. That was done despite widespread opinions among educators and physicians that the school wasn't needed.

The board has approved a veterinary school at predominantly white North Carolina State University in Raleigh and already has asked for $9.2 million for buildings and programs. The board has helped distribute some $40 million in state aid to North Carolina students attending private colleges in the state—money that otherwise could have been used to improve the black campuses.

"We inherited some very difficult political problems," university system President William Friday said recently. "I hope all the old (political) debts are now paid off. Given the circumstances, I think we've been able to have some enormous successes. The medical school was never anything but a political decision. The vet school had a political base when we got it."

Lawmakers and university officials agree both decisions were ordained by the General Assembly, primarily because of political commitments among legislators. Friday agreed that if either the medical school or the vet school hadn't been approved, or had been approved for a traditionally black campus, there wouldn't be as much of a problem with HEW.

"If I understand their (HEW) representatives, approval by the state of a professional program of any kind at a black campus would have had a substantial impact at settling the matter," Friday said. "We're trying to meet the needs with a master's in engineering, landscape architecture and computer science at A&T University in Greensboro."

The university also is willing to start an animal science research facility at N.C. A&T to coordinate with the vet school at

N.C. State. But so far, N.C. A&T is scheduled to receive $40,000 for that, compared to $460,000 for programs and another $9.2 million for capital improvements at N.C. State.

Gov. James B. Hunt Jr. calls the Board of Governors' political decisions "headline grabbers" that have overshadowed admirable restraint of the board in resisting other political pressures. Friday agrees.

Among the more important decisions of the board cited by Friday and Hunt that might have gone the other way under the old system are:

• Stopping development of proposed law school programs at UNC-Charlotte, Appalachian State University and East Carolina.

o Overhauling teacher training courses by cutting at least 75 that were unproductive, unneeded or of low quality, arranging an agreement with the State Board of Education to monitor teacher training needs, and upgrading faculties that direct such programs.

o Holding back on the proliferation of nursing programs to make sure those in operation are needed and improved before others are started, and setting up strict guidelines to upgrade academic standards.

Dr. Donald Stedman, Friday's staff assistant, said it would have been unlikely any of those moves could have been made without the existence of the Board of Governors. Another staff assistant, Jay Jenkins, said what the Board of Governors had "kept from happening is almost as important as what it has allowed to happen."

Hunt said, "By and large the new system has been the best educational way and the right decisions have been made." Hunt wouldn't deny politics played a major role in the medical school and vet school decisions, but he insisted they were beneficial.

Some others aren't so kind in their descriptions of those two programs. Referring to the current court actions involving HEW, one university official, who didn't want his name used, said: "The price paid for the med and vet school locations will cost the state millions in money and time just in defending the actions. They've had a major detrimental impact on faculty and students at other schools as well as creating problems with HEW."

Dr. Leo Jenkins, retired chancellor at East Carolina who is generally considered one of the all-time champions of political maneuvering during his tenure (the East Carolina medical school is a monument to his political effectiveness), said it was never

practical for anybody to believe politics could be removed from the system. "That sounded good and was a good gimmick at the time," Jenkins said, "but I don't think anybody ever believed it."

"I never thought it'd be possible to get politics out of the university system," George Watts Hill of Chapel Hill said. "Much of what the board has done has been political, but much of it has also been in spite of what the board wanted. The legislature didn't give us any choice." Hill cited the medical and vet school decisions as well as state aid to private schools as examples of the political decisions forced on the board by the General Assembly. Regional political coalitions and anti-Chapel Hill sentiment among boosters of other state campuses were mostly responsible for the medical and vet school decisions, Hill said. And he said lawmakers' political ties to private colleges and private college officials' political clout led to state aid for those institutions over the objections of the Board of Governors.

'That Freakish Thing'
A memo dooms the labor center

Jerry Adams

On Thursday evening, September 7, 1978, the votes of nine members of the University of North Carolina's Board of Governors killed a proposal to establish a Center for Labor Education and Research on the campus of North Carolina Central University in Durham. The vote, taken in the board's planning committee, was a symbolic *coup de grace*, although it was not the last shot to be fired in a much larger conflict between pro-union and anti-union forces in North Carolina.

The proposal to establish the Labor Center was debated as an educational issue. But the debate took place against the backdrop of deep, lingering attitudes. "It's no longer socially acceptable to be anti-black in North Carolina," said one observer who was privy to the committee's deliberations. "That's frowned upon. But it's still all right to be anti-union."

Anti-union feelings are to be expected in a state that is the nation's least unionized (less than seven percent of the work force) and yet is among the South's most industrialized. But the strength of the feelings revealed during the debate over the Labor Center surprised some observers.

Dr. E. Walton Jones, the UNC vice president who worked with the committee and NCCU on the Labor Center proposal, was impressed with the intensity of committee members' feelings about organized labor and their concern for labor's capacity to be "disruptive" and overwhelm the school's administration. "They were worried," Jones recalls, "about the university maintaining its objectivity in running the program." As for their general feeling about unions, Jones adds, "It runs very deep. I know I had not recognized the intensity of it until working on this project."

Neither Jones nor other members of UNC President William C. Friday's staff familiar with the Labor Center issue were willing to talk in detail about the committee's deliberations. The committee members themselves tend to recount the process leading to the rejection of the proposal in highly personal ways. Some of them, understandably, can no longer remember the details of the discussions.

Thus, the resolution of an issue of importance to North

Carolina citizens and a decision that is theoretically the product of informed debate remains shrouded from public scrutiny. Minutes of the committee meetings are laconic. They reveal almost nothing.

Board of Governors committee meetings (except those parts that deal with personnel matters) are open to the public and the press. However, John P. Kennedy, Jr., secretary to the board, points out that the only reporter likely to attend a committee meeting is one from the *Daily Tar Heel*, the campus newspaper at the University of North Carolina at Chapel Hill. With regard to the Labor Center, Kennedy adds, "They *(Daily Tar Heel* reporters) don't care much about that sort of thing." Press coverage of the committee's deliberations, therefore, was sparing, to say the least.

Interviews with participants in and first-hand observers of the Labor Center discussions in the committee made clear that committee members knew they were dealing with a sensitive issue in the political, industrial, and educational life of North Carolina. But it was a document that fell into committee members' hands by chance—a document that President Friday describes as "that freakish thing"—that offered committee members what they considered conclusive evidence that the establishment of a Labor Center had far more significance than the establishment of just one more university program.

The story of the Labor Center begins shortly after the gubernatorial campaign of James B. Hunt, Jr., which had, as a Democratic prerogative, labor support. After Hunt's election, Wilbur Hobby, state AFL-CIO president, and his research director, Christopher Scott, sent the governor-elect a memorandum. It was dated December 23, 1976, 16 days before the inauguration. "North Carolina workers need to have technical assistance available to them much as farmers and businessmen make use of the agricultural extension and industrial extension services," the memo began. Such assistance could best be provided through a Labor Center like those in other states, the memo continued, one that could be established for $250,000 in "this tough budget year."

The memo concluded: "It is clear that such a center must have a separate faculty and staff from those who provide similar instruction to business and industry. This is one area where it is virtually impossible to remain academically 'objective' in either content or style."

On February 16, 1977, a month into the new administration, which would appoint Scott to a $27,000 job, a second memo from

Hobby and Scott to Hunt announced that "plans for the creation of a Center for Labor Education and Research appear to be taking shape." The memo outlined how the center should be organized.

That spring, at a monthly meeting of the 16 chancellors with President Friday, Dr. Albert N. Whiting heard Friday mention the idea of a Labor Center. It immediately struck Whiting as made to order for his campus at North Carolina Central, a natural fit with the school's continuing education program. Whiting remembers thinking that the Labor Center would give his institution "a different thrust than the other institutions have." That latter consideration, he thought, would be important to the U.S. Department of Health, Education and Welfare, which has been arguing since early 1970 that the historically black campuses in North Carolina should be considered for innovative, integrated programs. Whiting's campus was selected to develop a proposal, and he assigned Dr. Waltz Maynor, director of continuing education, to work with Jones of the consolidated university staff. Whiting says the help of Hobby and other labor leaders went into the proposal, which took the form of a suggested charter. It was presented to the planning committee October 13, 1977.

John R. Jordan, a Raleigh lawyer and lobbyist, then committee vice chairman, recalls that he and George Watts Hill, chairman of the board of Central Carolina Bank, extensively rewrote the suggested charter. "It was a much different animal when it came out of committee," he says. An examination of the two drafts makes clear that one change was critical. Deleted was a provision that "at least six of the advisory board members be directly associated with organized labor." The second draft provided for the chancellor of NCCU to appoint all 11 members without mention of representation for labor or any other interest.

The original draft of the suggested charter was the first indication for some committee members that the center was being designed to be, in committee member Harley F. Shuford Jr.'s phrase, "the pet of organized labor." Shuford, president of a furniture company, became the most outspoken opponent of the center, according to observers. Daniel C. Gunter Jr., president of a textile firm, then a committee member, also objected to the charter and to efforts to redraft it at the meeting. He made a motion to re-refer the suggested charter to the staff.

But the charter, as redrafted, was approved on a motion by Dr. E.B. Turner, a dentist, and the center proposal was recommended to the full board. The minutes reveal nothing about the

discussion or the vote.

Two weeks after the meeting, Maynor wrote to Hobby expressing confidence that approval was imminent, telling him of staff being hired, and thanking him for his "efforts" on behalf of the center.

But on November 11, at the full board's next meeting a month later, Dr. Hugh Daniel Jr., an ophthalmologist, then chairman of the planning committee, asked the board to ignore his committee's stamp of approval and resubmit the proposal for further consideration.

John R. Jordan, who shortly thereafter took over as chairman of the committee, remembers that in the month between the two meetings "questions began to arise." Asking the questions, he says, were "many chambers of commerce and merchants bureaus and that sort of thing." But Jordan and others on the committee insist that it was a calm, reasoned consideration of facts, not pressure from the business community, that was beginning to run the tide against the Labor Center proposal. Shuford and fellow committee members F.P. Bodenheimer, president of a mortgage-banking firm, and Mrs. Hugh Morton talk of the committee's beginning to consider alternatives they viewed as more suitable than the establishment of a Labor Center.

Bodenheimer and Shuford cite the alternative of broadening the course offerings at Chapel Hill and North Carolina State University as well as other state campuses. Shuford makes the argument that a business school's curriculum ought not to be so narrowly designed that it is just for management-bound students. (Hobby responds to that argument by citing the case of a management seminar for which the School of Business Administration at Chapel Hill provided site and faculty to instruct business people, according to the sponsor's invitation, "in opposition to this compulsory, one-sided, unfair, pro-union legislation" then before Congress. The bill that was the subject of the seminar, whose provisions were designed basically to speed up procedures involved in union-local elections, was defeated in 1978.) Several committee members argue that the community college system would be a more appropriate vehicle for Labor Center-type courses.

Committee members say the consideration of alternatives to establishing a Labor Center was beginning to shape opinion on the committee. The panel was also considering the question of whether certain federal funds should be used in planning the

center.

But when the planning committee next met, on February 4, 1978, the proposal to establish the Labor Center seemed to be moving ahead smoothly. President Friday reported that federal funding would cover the first year of operations and that "a three-phase scheme for the planning, trial and evaluation of the Center is now contemplated." Friday said he wanted Whiting to undertake a feasibility study.

Committee member William A. Dees Jr., a lawyer, made the motion that Whiting be authorized to go ahead with a study "to determine whether a need exists" for the Center. To be "feasible," then, was not to be "capable of being accomplished" but rather "suitable." Both are acceptable meanings for "feasible," and the committee was choosing the latter.

At the committee's next meeting, on February 10, Shuford showed members a copy of a document that was to make all other considerations moot.

Shuford had a copy of yet another Hobby memorandum. This one had been meant only for the eyes of his executive committee and the presidents of international unions with members in North Carolina. Hobby estimates the intended circulation at about 50 people.

The lengthy memo, written early in 1977, outlined AFL-CIO activities, extolled the virtues of the new Governor, and presented an "eight-year plan." The new administration, the memo asserted, would represent "a turning point in how government relates to unions.

"North Carolina is the labor movement's greatest potential," it said. "CLEAR [The Center for Labor Education and Research] will have the mission of statewide extension to Central Bodies and local unions... The North Carolina AFL-CIO expects, in effect, to hire the director and staff and design the Center's programs."

Accompanying the copy of that memo was a copy of the December 23, 1976 memo to Hunt from Hobby and Scott, the one written shortly before the new Governor's inauguration.

Shuford's document "really cooked it," says one observer. Although politically experienced committee members had always assumed the existence of a Hunt-Hobby connection behind the Labor Center proposal, they had not talked about it. When Shuford produced the Hobby memoranda, according to another observer, the committee members "got pretty excited." Persons who attended the meeting say Friday did not know what,

suddenly, was happening. He later described the document Shuford had as "that freakish thing."

The committee reacted immediately. Committee member Reginald McCoy, president of a real estate company, moved that the charter approval and the authorization for a study be rescinded. After a bit of parlimentary confusion, the charter approval was rescinded but, on a 6-5 vote, the committee agreed to allow the study.

But committee members insisted on taking a hand in designing the opinion survey that would be the heart of the study. Whiting says he was "somewhat disturbed" by committee members' insistence on shaping research otherwise designed by university experts in the Triangle area. But when he mildly objected, he says, he was told by a committee member: "There are no experts beyond us."

Bodenheimer's suggestions for the conduct of the survey later ran to three single-spaced pages, and he expressed an opinion that was by then widespread on the committee—that the Center was going to do much more harm than good. The N.C. Citizens Association, which represents managers from more than 1,300 companies in the state and maintains a 10,000-name mailing list that is updated monthly, spread the alarm to its membership and on August 30, 1978, sent a letter to the Board of Governors saying it had made "an objective analysis" and reached the conclusion the Center was a bad idea.

Whatever observers and participants may say after the fact, it is clear that the divulging of the Hobby memoranda turned the tide, confirming fears about union activities in connection with the Labor Center and crystallizing objections to the Center.

How did the copy of the Hobby memorandum get out of the hands of the persons for whom it was intended? Someone connected with labor left a copy behind when checking out of Raleigh's Royal Villa Motel. It was picked up by someone who took it to Stephen J. O'Brien, formerly manager of the General Electric plant on U.S. 70 across from the Research Triangle Park. He showed it to B.D. Combs, the plant personnel manager. He showed it to George Shelton, executive vice president of Capital Associated Industries, Inc. a management consulting firm in Raleigh. Capital Associated is one of five similar organizations in North Carolina, which, according to committee chairman Jordan, "keep an eye on union activity."

Shelton and Frank Krieger, president of Capital Associated, say their company stays in touch with client companies, but they

prefer not to say how many client companies there are. "Our premise," Shelton says, "is that if you're doing the managerial things you should be doing, there's no need for a union." As for the memo Combs brought to him, Shelton says, "There might have been some limited distribution. We might have discussed it with some groups."

Shuford says he got his copy of the memo from a member of the Board of Governors who is not on the planning committee.

There has been no explanation of how the December 23, 1976 memo to Hunt came to be included with the later memo to union people. Hobby says it could not have come from his files. Hunt says through a spokesman that he had no idea how the memo might have gotten out, but notes that it was received during the gubernatorial transition period when "things were in kind of a mess."

On September 7, 1978, the results of the need study—a survey of 48 respondents, including 27 business leaders—were presented to the committee. Eighty-one percent of the respondents indicated a great or moderate need for the Center. Whiting was confident of approval. Friday asked for a year's trial of the idea.

The committee, with two members absent and only George Watts Hill in favor, rejected the Center 9-1.

Hunt was asked in December whether there is any future for the idea of establishing a Labor Center. "I haven't heard of any possibility of reviving the idea," the Governor replied.

CONSTITUTION
OF THE
STATE OF NORTH CAROLINA

(As of July 1, 1980)

Issued
By
THAD EURE
Secretary of State
Raleigh

CONSTITUTION

of the

STATE OF NORTH CAROLINA

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

Declaration of Rights

That the great, general and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

Section 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

Sec. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

Sec. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

Sec. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States,

and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

Sec. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

Sec. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

Sec. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

Sec. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

Sec. 10. *Free elections.* All elections shall be free.

Sec. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

Sec. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

Sec. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the desires of their own consciences, and no human authority shall, in any case whatever control or interfere with the rights of conscience.

Sec. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

Sec. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Sec. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

Sec. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

Sec. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by

due course of law; and right and justice shall be administered without favor, denial, or delay.

Sec. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

Sec. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

Sec. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

Sec. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Sec. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

Sec. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

Sec. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

Sec. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

Sec. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and

comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting statutes against that practice.

Sec. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Sec. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

Sec. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

Sec. 35. *Recurrence to fundamental principals.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

Legislative

Section 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

Sec. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being de-

termined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No country shall be divided in the formation of a representative district;

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Sec. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State and shall have resided in the district for which he is chosen for one year immediately preceding his election.

Sec. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

Sec. 9. *Term of office.* The term of office of Senators and Representatives shall commence at the time of their election.

Sec. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

Sec. 11. *Sessions.*

(1) *Regular Sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

Sec. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Sec. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

Sec. 14. *Other officers of the Senate.*

(1) *President Pro Tempore - succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore - temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other officers.* The Senate shall elect its other officers.

Sec. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

Sec. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

Sec. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

Sec. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

Sec. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:".

Sec. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

Sec. 23. *Revenue bills.* No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

(a) Relating to health, sanitation, and the abatement of nuisances;

(b) Changing the names of cities, towns, and townships;

(c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;

(d) Relating to ferries or bridges;

(e) Relating to non-navigable streams;

(f) Relating to cemeteries;

(g) Relating to the pay of jurors;

(h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;

(i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;

(j) Regulating labor, trade, mining, or manufacturing;

(k) Extending the time for the levy or collection of taxes or otherwise re-

lieving any collector of taxes from the due performance of his official duties or his sureties from liability;

(l) Giving effect to informal wills and deeds;

(m) Granting a divorce or securing alimony in any individual case;

(n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by the partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

Executive

Section 1. *Executive power.* The executive power of the State shall be vested in the Governor.

Sec. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to either of these two offices shall be eligible for election to more than two consecutive terms of the same office.

Sec. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from

the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

Sec. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

Sec. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period,

will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

Sec. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

Sec. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent

of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose officers are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

Sec. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

Sec. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

Sec. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina". All grants are commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina", and signed by the Governor.

Sec. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

Judicial

Section. 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

Sec. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

Sec. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

Sec. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall

be held in the City of Raleigh unless otherwise provided by the General Assembly.

Sec. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than *en banc.* Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

Sec. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

Sec. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except for trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

Sec. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, for nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District

Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

Sec. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

Sec. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforce or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority

to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

Sec. 14. *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Sec. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

Sec. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until theirsuccessors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Cour may be elected by the qualified voters of the State or by th voters of their respective districts, as the General Assembly may prescribe.

Sec. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge ofthe General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judical office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

Sec. 18. *District Attorney and Prosecutorial Districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of solicitorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

Sec. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vancancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

Sec. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

Sec. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

ARTICLE V

Finance

Section 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

Sec. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding $300, any personal property. The General Assembly may exempt from taxation not exceeding $1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent and there shall be allowed the following minimum exemptions, to be deducted from the amount of annual incomes: to the income-producing spouse of a married couple living together, or to a widow or widower having minor child or children, natural or adopted, not less than $2,000; to all other persons not less than $1,000; and there may be allowed other deductions, not including living expenses, so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any

county, city or town and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

Sec. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections, or to repel invasions;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

(a) to fund or refund a valid existing debt;

(b) to supply an unforeseen deficiency in the revenue;

(c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;

(d) to suppress riots or insurrections;

(e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;

(f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Sec. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorized to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by

law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

Sec. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

Sec. 8. *Health care facilities.* Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations."

Sec. 9. *Capital projects for industry.* Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by any payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project."

Sec. 10. *Joint ownership of generation and transmission facilities.* In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power

and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy forresale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or obligations of any co-owner, nor shall any money or property of any unit of muynicipal government be credit or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

ARTICLE VI

Suffrage and Eligibility to Office

Sec. 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

Sec. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

Sec. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

Sec. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

Sec. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

Sec. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

Sec. 7. *Oath.* Before entering upon the duties of an officer, a person elected or appointed to the office shall take and subscribe the following oath:

"I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as ....., so help me God."

Sec. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

Sec. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

Sec. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

Local Government

Section 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

Corporations

Section 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

Sec. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

Education

Section 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members

of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public instructions of higher education.

Sec. 9. *Benefits of public instructions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

Homesteads and Exemptions

Section 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than $500, to be selected by the resident, is exempt from sale under execution or other final process of any court, issued for the collection of any debt.

Sec. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than $1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of widow.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

Sec. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

Sec. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. *Insurance.* A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

Punishments, Corrections, and Charities

Section 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

Sec. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, buglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

Sec. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

Military Forces

Section 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces

to execute the law, suppress riots and insurrections, and repeal invasion.

ARTICLE XIII

Conventions; Constitutional Amendment and Revision

Section 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

Sec. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

Sec. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

Sec. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

Miscellaneous

Section 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

Sec. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

Sec. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local or private act.

Sec. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto."

Sec. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the 'State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the

members of each house of the General Assmbly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

Selected Resources

Government Data Sources

Census of Population: 1970, General Social and Economic Characteristics, Final Report PC(1)-635 North Carolina, U.S. Bureau of the Census. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. This one-volume book contains all North Carolina data. The latest edition, containing 1970 census data, was published in April, 1972. Many categories have been updated by periodic Census reports or by state government departments. Consult the State Data Center for specific inquiries and check the *North Carolina Statistical Abstract.* Official 1980 census data will not be available until 1981.

North Carolina County Labor Profiles. Labor Resources Section, Business Assistance Division, N.C. Department of Commerce, 430 N. Salisbury St., Raleigh, N.C. 27611. Summary county-by-county data.

North Carolina Labor Force Estimates, by County, Area, and State. Bureau of Employment Security Research, Employment Security Commission of North Carolina, Box 25903, Raleigh, N.C. 27611. December, 1979. Yearly data, 1970-1978. Labor force breakdown by job category.

North Carolina State Government Statistical Abstract. Research and Planning Services, Division of State Budget and Management, 4th Edition, 1979. $5.00 plus tax from Librarian, Division of State Budget and Management, 116 West Jones St., Raleigh, N.C. 27611. Call Mary Lou Stewart for any questions regarding the *Abstract* at 919/733-7061. This is the best single document on North Carolina data.

The State Library. A federal depository with complete state publications. Local access to these documents is available through the State Data Center and its regional affiliates, the public libraries at Asheville, Charlotte, Durham, Fayetteville, Greensboro, Greenville, Jacksonville, Raleigh, Wilmington, and Winston-Salem. For more information, call Nathaniel Boykin, the State Documents Librarian, 109 East Jones St., Raleigh, N.C. 27611, at 919/733-3343.

Statistical Abstract of the United States. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Published yearly, this book contains useful summary data for the country and state rankings in most categories.

Statistical Journal. Reports and Program Analysis Section, Social Services Division, N.C. Department of Human Resources, 325 North Salisbury St., Raleigh, N.C. This *Journal* is published quarterly and contains human services data in each issue.

History, Political Science and Reference

Ashby, Warren, *Frank Porter Graham: A Southern Liberal,* Winston-Salem: John Blair, 1979. The life and times of one of UNC's most famous presidents.

Bagwell, William, *School Desegregation in the Carolinas: Two Case Studies,* Columbia, South Carolina: University of South Carolina Press, 1972. Examines Greenville, N.C.

Barone, Michael, Grant Ujifusa and Douglas Matthews, *The Almanac of American Politics,* New York: E.P. Dutton, 1980. An excellent resource. State-by-state overviews with detailed description of each person in Congress and individual congressional districts.

Bass, Jack and Walter DeVries, *The Transformation of Southern Politics: Social Change and Political Consequence Since 1945,* New York: Basic Books, 1976.

An excellent overview of Southern politics, utilizing anecdotes from 360-person interview collection. The transcripts of most interviews are deposited in the Southern Historical Collection at UNC. Thorough voting pattern data and state-by-state analysis.

Beyle, Thad and Merle Black, *Politics and Policy in North Carolina,* New York: MSS Information Corporation, 1975. Anthology by academic and journalistic writers.

Billings, Dwight B., *Planters and the Making of a New South: Class, Politics, and Development in North Carolina,* 1865-1900, Chapel Hill: University of North Carolina Press, 1979.

Black, Earl, *Southern Governors and Civil Rights,* Cambridge, Masachusetts: Harvard University Press, 1976. Analyze the effect of the *Brown v. Board of Education* decision on the character of Southern gubernatorial politics.

Burgess, Margaret Elaine, *Negro Political Leadership in a Southern City,* Chapel Hill: University of North Carolina Press, 1962. Durham's black political leaders.

Cash, W.J., *Mind of the South,* New York: Vintage, 1941. Classic work using historical context to explain Southern psychology.

Center for Urban Affairs, *Paths Toward Freedom: Biographical History of Blacks and Indians by Blacks and Indians,* Raleigh: North Carolina State University, 1976.

Chafe, William H., *Civilities and Civil Rights: Greensboro, North Carolina and the Black Struggle for Equality,* New York: Oxford University Press, 1980. Draws extensively on oral history.

Clancy, Paul R., *Just a Common Lawyer: A Biography of Senator Sam Ervin,* Bloomington, Indiana: Indiana University Press, 1974.

Clay, James W., Douglas Orr and Alfred Stuart, *North Carolina Atlas: Portrait of a Changing Southern State,* Chapel Hill: University of North Carolina Press, 1975. Good overview information ranging from climate to population to industrial development.

Coates, Albert, *By Her Own Bootstraps: A Saga of Women in North Carolina,* Chapel Hill: Author, 1975.

Coates, Albert, *Citizens in Action: Women's Clubs, Civic Clubs, Community Chests, Flying Buttresses to Governmental Units,* Chapel Hill: Author, 1976. A lifelong student of North Carolina government institutions, Coates founded the Institute of Government.

Cooper, John Milton, *Walter Hines Page: The Southerner as American 1855-1918,* Chapel Hill: University of North Carolina Press, 1977. Biography of North Carolina novelist.

Dabney, Dick, *A Good Man: The Life of Sam T. Ervin,* Boston: Houghton Mifflin, 1976. A novelist, Dabney examines Ervin's life with both affection and criticism.

Dabney, Virginius, *Liberalism in the South,* Chapel Hill: University of North Carolina Press, 1932. An important account of progressivism in the South.

Daniels, Josephus, *Tar Heel Editor,* Chapel Hill: University of North Carolina Press, 1939. A North Carolina editor looks at his career.

Durden, Robert F., *The Dukes of Durham,* Durham: Duke University Press, 1975. The story of a famous North Carolina family.

Dykeman, Wilma and James Stokely, *Seeds of Southern Change: The Life of Will Alexander,* Chicago: University of Chicago Press, 1962. During the New Deal, Alexander worked to improve race relations, particularly as director of the Commission on Interracial Cooperation, the forerunner of the Southern

Regional Council.

Earle, John R., Dean D. Knudsen and Donald W. Shriver, *Spindles and Spires: A Re-Study of Religion and Social Change in Gastonia,* Atlanta: John Knox Press, 1976. An update of the Liston Pope book, *Millhands and Preachers.*

Ehle, John, *The Free Men,* New York: Harper & Row, 1965. Description of civil rights movement in Chapel Hill in 1964.

Fleer, Jack D., *North Carolina Politics: Introduction,* Chapel Hill: University of North Carolina Press, 1968.

Hodges, Luther, *Businessman in the Statehouse: Six Years as Governor of North Carolina,* Chapel Hill: University of North Carolina Press, 1962.

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Key, V.O., Jr., *Southern Politics,* New York: Vintage, 1949. State-by-state examination of the region. The model for Bass and DeVries.

Kousser, J. Morgan, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910,* New Haven, Connecticut: Yale University Press, 1974.

Lefler, Hugh Talmage, and A.R. Newsome, *The History of a Southern State, North Carolina,* Chapel Hill: University of North Carolina Press, 1973. The standard school text on the state, it emphasizes the colonial period, the 19th century and early 1900s. Contemporary information is lacking. Good reference for dates, officials, and standard historical facts.

LeGette, Blythe, *William Henry Belk,* Chapel Hill: University of North Carolina Press, 1930. Biography of founder of the Belk department stores.

Leifermann, Henry P., *Crystal Lee: A Woman of Inheritance,* New York: McMillan Press, 1975. Lee's story of the union campaign in Roanoke Rapids, seen through the life of Crystal Lee Jordan.

Matthews, Donald R. and James W. Prothro, *Negroes and the New Southern Politics,* New York: Harcourt, Brace and World, 1966. A standard academic reference point for viewing changes in Southern politics resulting from black participation.

McGill, Ralph, *The South and the Southerner,* Boston: Little Brown, 1964. The former editor of the *Atlanta Constitution* examines how race relations affected the character of whites and blacks.

Morrison, Joseph L., *Josephus Daniels: The Small-d Democrat,* Chapel Hill: University of North Carolina Press, 1966. Thorough biography and valuable reference book on North Carolina politics.

Morrison, Joseph L., *O. Max Gardner: A Power in North Carolina and New Deal Washington,* Chapel Hill: University of North Carolina Press, 1971. A biography of the North Carolinian governor during the early 1930s.

Myerson, Michael, *Nothing Could Be Finer,* New York: International, 1978. Radical perspective of the state, focusing primarily on the Ben Chavis story.

Myrdal, Gunnar, *An American Dilemma,* New York: Harper & Row, 1962, Twentieth Anniversary edition. Insightful inquiry into the social structure of the pre-Brown decision South.

Noppen, J. Van, *Western North Carolina since the Civil War,* Boone, North Carolina: Appalachian Consortium Press, 1973.

North Carolina Center for Public Policy Research, Post Office Box 430, Raleigh, N.C. 27602. The Center, now three years old, publishes a series of policy studies and a quarterly magazine, *N.C. Insight.*

North Carolina, Box 2508, Raleigh, North Carolina, 27602, monthly publication of

the North Carolina Citizens Association. Best source for business perspective.

North Carolina Manual, Secretary of State's Office, Raleigh, 1979. A biennial publication for the members of the General Assembly. Contains description of all state officeholders, county-by-county election results, listing of all county officials, board appointments and other standard data.

North Carolina Review of Business and Economics, published quarterly by Center for Applied Research School of Business and Economics, University of North Carolina at Greensboro, Greensboro, North Carolina, 27412. Academic analysis of financial issues in the state.

O'Brien, Michael, *The Idea of the American South,* Baltimore: Johns Hopkins University Press, 1979. A critical review of Southern intellectuals from 1930 to 1950.

Odum, Howard W., *Southern Regions of the United States,* Chapel Hill: University of North Carolina Press, 1936.

Odum, Howard W., *The Way of the South,* New York: MacMillan, 1947. Pioneering attempt to study the character and social structure of the South as a separate discipline.

Payton, Boyd E., *Scapegoat: Prejudice, Politics, Prison,* Philadelphia: Whitmore Publishing Company, 1970. Former regional director of Textile Workers Union of America who served a prison term connected with the 1959 strike at the Harriet Henderson Cotton Mills in Henderson documents the strike from union viewpoint and describes his years in prison.

Peirce, Neal R., *The Border South States: People, Politics, and Power in the Five Border South States,* New York: W.W. Norton, 1975. Part of his series on the states, Peirce examines North Carolina with a critical eye but in the traditional categories: coastal, Piedmont, and mountains. He includes a section on unions, the first state profile to do so.

Pope, Liston, *Millhands and Preachers,* New Haven, Connecticut: Yale University Press, 1942. Landmark study of relationship between Southern religion and textile mill villages. Emphasis on Gastonia.

Popular Government, published quarterly by Institute of Government, University of North Carolina, Chapel Hill, North Carolina, 27514. Articles examine changes needed in state policies, usually from a technical viewpoint.

Powell, William S., editor, *Dictionary of North Carolina Biography,* Vol. A-C, Chapel Hill: University of North Carolina Press, 1979. The first available "who's who" of North Carolina men and women.

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Roberts, Nancy and Bruce, *The Governor,* Charlotte: McNally and Loftin, 1977. An inside look at the day-to-day workings of the North Carolina governor's office.

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Seeman, Ernest, *American Gold,* New York: Dial Press, 1978. A 1930s fictional portrayal of the "Dukes of Durham."

Sosna, Morton, *In Search of the Silent South: Southern Liberals and the Race Issue,* New York: Columbia University Press, 1977. A history of post-bellum Southern liberals' perception of the role of blacks in society.

The South Magazine, Trend Publications, Inc., P.O. Box 2350, Tampa, Florida, 33601, monthly. Covers business news for a popular audience.

Southern Exposure, P.O. Box 531, Durham, North Carolina, 27702. Quarterly of the Institute for Southern Studies, it emphasizes political and cultural themes in

separate issues: prisons, labor, women, land, utilities, etc. Thorough bibliographies and listings of recent books on the South.

Southern Growth Policies Board, Box 12293, Research Triangle Park, North Carolina, 27707. Their reports emphasize economic development. Useful reports include: *Southern Urban Trends 1960-1977,* 1978; *The Economics of Southern Growth,* 1977; and *Guiding Growth in the South,* 1978.

Southern Regional Council, 75 Marietta St., N.W., Atlanta, Georgia, 30303. The Council published extensive studies in the sixties and early seventies, particularly their Southern Government Monitoring Project. Write for listing of current and still available publications.

Stem, Thad, *The Tar Heel Press,* Southport, North Carolina: North Carolina Press Association, 1973.

Stick, David, *The Outer Banks of North Carolina, 1584-1958,* Chapel Hill: University of North Carolina Press, 1958. Stick has written a number of books about the coastal area.

Stokes, Durwood T., *Company Shops, North Carolina: The Town Built By a Railroad,* Winston-Salem: John Blair, 1979.

Tindall, George B., *The Emergence of the New South, 1913-1945,* L.S.U. Press, 1967. Invaluable resource on the period. Extensive bibliographical essay.

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Vance, Rupert, *The Urban South,* Chapel Hill: University of North Carolina Press, 1954. Early regionalist writing about the emerging urban South.

Vandiver, Frank E., *The Idea of the South: Pursuit of a Central Theme,* Chicago: University of Chicago Press, 1964. Anthology of Southern writers discuss how the region influences its residents.

Weare, Walter B., *Black Business in the South: A Social History of the North Carolina Mutual Life Insurance Company,* Urbana: University of Illinois Press, 1976.

Weaver, Richard M., *The Southern Traditions at Bay: A History of Postbellum Thought,* New Rochelle, New York: Arlington House, 1968. Largely ignored, a penetrating examination of Southern history and the Southern mind.

Wolcott, Reed, *Rose Hill,* New York: Putnam, 1976. A profile of the social and political life of an eastern North Carolina community.

Wolff, Miles, *Lunch at the Five and Ten: The Greensboro Sit-Ins, A Contemporary History,* New York: Stein and Day, 1970.

Woodward, C. Vann, *The Burden of Southern History,* New York: New American Library, 1968. A collection of essays (including "The Irony of Southern History") which have shaped much of the modern thinking about the region.

Woodward, C. Vann, *Origins of the New South, 1877-1913,* Baton Rouge: Louisiana State University Press, 1951. Part of the L.S.U. series on the region, a thorough overview by the premier Southern historian.

Woodward, C. Vann, *The Strange Career of Jim Crow,* New York: Oxford University Press, 1966. A discussion of postbellum segregation.

A Statistical Profile:

County	Population (1978)	Percentage Change (1960-1978)	Percentage Non-white (1977)	Per Capita Income (1977)	Physicians per 1000 (1978)	Lawyers per 1000 (1978)	Percentage Failing Competency Tests (1978-79)	Manufacturing Firms	Firms Unionized	Average Hourly Production Earnings (1978)
Alamance	98,000	+14%	18%	$5872	.9	1.2	10%	235	8	$4.10
Alexander	22,600	+45%	7%	$5458	.4	.3	7.5%	83	0	$3.65
Alleghany	8,800	+14%	3%	$4547	.6	.8	6.5%	18	0	$2.75
Anson	23,500	-6%	45%	$4828	.4	.7	28.5%	66	0	$3.90
Ashe	20,800	+5%	2%	$4585	.5	.5	11%	70	1	$3.35
Avery	13,800	+15%	1%	$3646	1.4	.9	14%	14	1	$3.10
Beaufort	40,000	+11%	35%	$5268	.8	1.1	20.5%	64	2	$3.65
Bertie	21,200	-13%	52%	$4386	.3	.7	22%	44	1	$3.45
Bladen	29,200	+1%	38%	$4051	.4	.6	21.5%	75	0	$3.55
Brunswick	32,700	+61%	26%	$4259	.5	1.1	22%	37	5	$6.95
Buncombe	154,400	+19%	9%	$6189	1.9	1.7	8%	209	15	$4.45
Burke	63,800	+21%	8%	$5983	1.3	.8	9.5%	139	1	$4.10
Cabarrus	79,700	+17%	16%	$6161	.7	.9	9%	100	0	$3.80
Caldwell	60,900	+23%	6%	$6024	.5	.7	9.5%	137	0	$4.25
Camden	5,700	+2%	35%	$4850	.4	0	15.5%	6	0	$2.90
Carteret	37,000	+35%	12%	$5030	1.0	1.3	12.5%	47	0	$3.85
Caswell	19,600	-2%	46%	$4505	.1	.6	21%	14	0	$3.80
Catawba	100,900	+38%	8%	$6575	1.1	1.2	6.8%	491	4	$4.10
Chatham	31,000	+16%	30%	$6082	.5	.9	8%	84	3	$3.80
Cherokee	17,700	+9%	3%	$3873	.7	.7	6%	31	1	$3.30
Chowan	12,300	+5%	38%	$5108	.8	1.0	15%	22	1	$3.90
Clay	6,000	+9%	3%	$4215	.7	.8	14.5%	5	0	$2.90
Cleveland	78,300	+19%	21%	$5764	.9	.6	13%	143	0	$4.50
Columbus	51,600	+5%	33%	$4349	.4	.9	20%	99	6	$4.70
Craven	67,500	+15%	28%	$4806	.9	1.1	16%	77	3	$4.40
Cumberland	233,200	+57%	29%	$5281	.8	.9	10%	136	3	$4.70
Currituck	10,600	+61%	16%	$4721	.2	.3	8%	7	0	$2.90
Dare	10,600	+80%	6%	$5387	.6	3.2	1.5%	12	0	$2.90
Davidson	102,800	+29%	10%	$6107	.5	.7	8%	273	6	$4.05
Davie	22,400	+34%	9%	$5532	.5	.7	7%	52	0	$4.15
Duplin	40,100	-.5%	32%	$4801	.5	.8	15.5%	75	0	$3.45
Durham	145,600	+30%	37%	$7028	4.9	2.4	9%	124	18	$5.45
Edgecombe	55,500	+2%	49%	$5816	.5	1.8	17%	65	1	$4.10
Forsyth	229,400	+21%	24%	$7712	2.5	2.4	13%	218	24	$5.80
Franklin	28,100	-2%	40%	$4585	.3	.9	13%	66	2	$3.25
Gaston	156,000	+22%	12%	$5889	.6	.9	11.5%	357	4	$4.30
Gates	8,300	-11%	51%	$5577	.1	.1	18%	12	0	$3.70
Graham	7,000	+9%	6%	$4389	.7	.9	10.5%	11	0	$2.90
Granville	32,900	-6%	41%	$5057	1.6	.6	13%	51	3	$3.90
Greene	14,900	-11%	46%	$5808	.2	.5	15.5%	16	0	$3.20
Guilford	305,400	+24%	25%	$7427	1.4	2.4	11%	707	31	$4.90
Halifax	55,500	-6%	51%	$4421	.5	.8	20%	79	7	$4.40
Harnett	55,700	+16%	21%	$4638	.4	1.0	11.5%	48	1	$3.95
Haywood	44,600	+12%	2%	$5599	1.0	1.0	9.5%	35	8	$6.30
Henderson	51,600	+43%	4%	$6272	1.3	1.0	5%	87	2	$4.95
Hertford	25,000	+10%	48%	$4850	.8	1.0	17%	50	5	$3.80
Hoke	18,800	+15%	55%	$3848	.4	.8	16%	14	0	$3.85
Hyde	5,500	-5%	35%	$3901	.2	.5	21.5%	8	0	$2.90
Iredell	79,300	+27%	18%	$5536	.8	.8	7%	178	5	$3.90
Jackson	25,400	+43%	10%	$4511	1.1	.9	5.5%	25	0	$2.90

SOURCES:

(1), (2), (3), (4) **North Carolina State Government Statistical Abstract** *Census data and North Carolina Dept. of Administration, Division of State Budget and Management.*

(5) University of North Carolina at Chapel Hill, Health Research Service Center.

County-By-County

County	Population (1978)	Percentage Change (1960-1978)	Percentage Non-white (1977)	Per Capita Income (1977)	Physicians per 1000 (1978)	Lawyers per 1000 (1978)	Percentage Failing Competency Tests (1978-79)	Manufacturing Firms	Firms Unionized	Average Hourly Production Earnings (1978)
Johnston	66,700	+6%	22%	$5275	.5	1.0	8.5%	108	3	$3.75
Jones	9,800	-11%	41%	$4268	.4	1.1	16.5%	8	0	$2.90
Lee	35,100	+18%	22%	$5978	1.0	1.1	10%	86	1	$3.85
Lenoir	58,700	+6%	41%	$5618	1.2	1.0	9.7%	87	4	$4.95
Lincoln	38,900	+35%	9%	$5640	.6	.7	11.5%	84	2	$3.95
McDowell	34,100	+28%	5%	$5478	.5	.7	11.5%	58	1	$4.00
Macon	19,200	+29%	2%	$4672	.9	1.2	9%	32	1	$3.00
Madison	17,200	0%	1%	$3943	.6	.4	7%	15	0	$3.25
Martin	25,400	-6%	44%	$5180	.5	1.0	15.5%	41	2	$5.75
Mecklenburg	384,700	+41%	26%	$7739	1.5	2.5	14%	693	57	$4.80
Mitchell	14,100	+1%	4%	$4811	.7	1.1	10.5%	23	0	$3.40
Montgomery	19,900	+8%	25%	$5692	.5	.4	15%	94	0	$3.55
Moore	44,700	+22%	23%	$6181	1.4	1.6	9.5%	87	0	$3.85
Nash	67,400	+10%	33%	$5636	1.0	1.4	16.5%	106	10	$3.90
New Hanover	97,700	+36%	25%	$6074	1.7	1.7	9%	97	18	$5.45
Northampton	23,400	-13%	60%	$4194	.3	.9	20.5%	36	4	$3.35
Onslow	117,600	+36%	18%	$4925	.6	.5	9.5%	49	2	$3.55
Orange	69,600	+62%	17%	$5908	8.2	3.4	13%	53	2	$4.00
Pamlico	10,000	+1%	31%	$4588	.4	.2	11.5%	14	0	$2.90
Pasquotank	28,800	+13%	35%	$5106	1.4	1.5	17%	30	4	$3.70
Pender	22,200	+20%	41%	$4113	.2	.7	18%	22	1	$3.25
Perquimans	8,800	-4%	42%	$4529	.2	1.1	14.5%	17	0	$2.90
Person	27,100	+3%	31%	$5151	.4	1.3	10%	37	2	$4.45
Pitt	81,600	+17%	34%	$5428	1.7	1.4	14.3%	91	3	$4.35
Polk	12,400	+9%	13%	$6556	1.5	1.1	7.6%	27	0	$3.55
Randolph	84,700	+38%	7%	$6168	.4	.5	5%	310	1	$3.90
Richmond	42,800	+9%	28%	$5306	.4	.8	13%	69	2	$4.05
Robeson	93,900	+5%	60%	$4355	.7	.8	22%	131	0	$3.55
Rockingham	76,600	+10%	20%	$5902	.6	1.0	14%	93	11	$4.30
Rowan	93,500	+13%	17%	$5819	1.0	.8	8.7%	148	9	$4.25
Rutherford	51,600	+14%	11%	$5404	.6	.7	13%	82	0	$4.10
Sampson	49,100	+2%	36%	$4611	.6	.8	12.6%	78	1	$3.50
Scotland	31,000	+23%	39%	$5279	.8	.5	20.5%	42	0	$4.40
Stanly	45,200	+11%	10%	$5936	.6	.8	9%	90	3	$3.95
Stokes	30,000	+35%	8%	$4977	.3	.5	10.5%	24	1	$3.60
Surry	56,000	+16%	4%	$5693	.6	1.2	10%	110	3	$3.45
Swain	10,200	+21%	28%	$4368	.7	1.0	10.5%	13	1	$3.10
Transylvania	22,000	+34%	6%	$5392	.9	1.0	6%	18	2	$6.35
Tyrrell	4,000	-11%	40%	$4358	.3	.3	22.5%	8	4	$2.90
Union	65,300	+46%	18%	$5836	.4	.8	10.6%	129	5	$3.90
Vance	34,300	+7%	40%	$5501	.7	1.2	15.5%	54	5	$3.95
Wake	278,500	+65%	23%	$6993	1.3	3.5	8.5%	317	17	$4.95
Warren	17,100	-13%	67%	$3757	.3	.6	21.5%	45	2	$3.30
Washington	15,100	+12%	40%	$4946	.5	.9	20%	20	2	$3.55
Watauga	28,700	+64%	1%	$4547	1.2	1.2	7%	36	3	$3.50
Wayne	93,000	+13%	36%	$5556	.9	1.0	15%	96	4	$3.85
Wilkes	55,700	+23%	5%	$5637	.4	1.0	9%	104	1	$3.65
Wilson	60,800	+5%	36%	$5997	1.1	1.2	14.5%	80	10	$4.50
Yadkin	27,000	+18%	4%	$5848	.2	.6	10%	35	2	$3.95
Yancey	14,600	+4%	3%	$3799	.7	.6	13%	21	0	$3.45

(6) North Carolina Legal Directory 1978-79.

(7) North Carolina Dept. of Public Instruction (English and math failure rates are averaged.)

*(8), (9), (10) North Carolina Dept. of Commerce, Business Assistance Division (***North Carolina County Labor Profiles***).*

$4.95