

# 60. Planning and Commercial Interests



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**T**HE activities of State and local governments that are associated with planning and commercial interests involve primarily the control of land use and the various ways in which the governments concerned promote business, participate in business, and regulate business. The activities of each State and local government in these fields are the measure of its intervention in the economy of the area over which it has jurisdiction.

## GOVERNMENT PLANNING

### *The nature of planning*

Planning may be defined as the conscious process of seeking for, and reaching, a decision as to what are the most effective means for coping with a given situation. Governments and their officials are not alone in planning. For instance, private individuals may regulate land use. An individual may plan to raise a garden, buy the vacant lot next to his home, then plant a garden there instead of erecting a house on it; he has regulated the use of that lot. Families plan vacations; manufacturers plan production quotas; labor-union leaders plan negotiations for higher wages; gangsters plan bank robberies. Virtually every private individual and organization not only plans, but *must* plan.

Governments do not necessarily plan in terms of the "general good" (even

sometimes when their officials may think they are doing so). Rather, government planning almost invariably reflects the wishes of the interest group, or combination of interest groups, that controls the government. Furthermore, the majority of the persons in this interest group, or these interest groups, are private citizens. Because control of the government in a large country today usually reposes in a combination of interests, the plans of the government will ordinarily represent a compromise among the goals of the several interests. The important facts to recognize are that the decision by a government to adopt a given plan is rarely motivated by the desire to please or help *everyone*, and that this decision has been strongly influenced by some group or groups most of whose members are *not* government officials.

### ***The agencies of government planning***

Government planning is carried on by a host of agencies at the national, State, and local levels. Furthermore, at all levels of government there are several types of planning agency. First, there are general budget offices such as the national Bureau of the Budget and the budget boards and commissions in many States. A budget office is concerned with planning all sorts of government activities. True, this budget planning is conducted in terms of finances; nonetheless, it is one of the principal determinants as to what the activities of the government shall be. Second, there are budget bureaus or divisions in many government administrative departments; these departmental budget agencies influence both the behavior of their departments and the final decisions of the central budget office. Third, there are advisory or counseling bureaus attached to many departments, to provide administrative chiefs with technical planning facilities. Finally, there are the more or less independent and unified planning agencies proper, which, without especial regard for monetary questions, draft programs for many sorts of government undertakings.

What is particularly noteworthy is that there is a great deal of competition among these planning agencies, both among agencies at different levels of government and among agencies of different types at the same level of government. As an illustration, the States and the federal government disputed for many years the authority to regulate the extraction of oil from wells off the seacoast; Congress in 1954 resolved the issue by turning this power over to the States. The conclusion of any dispute of this sort is founded not simply on law but also on many kinds of political pressure that the interests concerned can bring upon significant government bodies.

Unified and more or less independent planning agencies exist only in State and local governments; the planning functions of the national government are dispersed among many agencies. In 1955 there were planning, or development, agencies in forty-six States. A survey made in 1953 disclosed that then there were planning boards or commissions in several hundred counties. Of the 174 "urban" counties each containing more than 100,000 persons, eighty-nine, or 51.2%, were the seats of planning bodies. With respect to

cities, of the 835 each with a population exceeding 10,000 that responded to a survey in 1954, 716 replied that there was a planning agency in their government. This survey also showed that large cities are more likely than small ones to have a planning group.

Planning agencies may take any one of three primary forms. One is that of a single director; another, of a commission or board; and the third, of a board or commission united with a director. As between a commission alone and a director alone, most students of public administration favor the director, if only because a single official can much more readily reach decisions than a multi-member board or commission can. On the other hand, the commission form allows for deliberation, and provides the different and sometimes clashing interests of the area with representation on the planning body. The combined form, with the board to deliberate and the director to execute, in many respects appears a satisfactory compromise. In cities where there is a planning director, he may be chosen by either the planning commission, the city manager, the mayor, or the council. In cities without a full-time director, some other official may hold this post on a part-time basis; he may be the city manager, the city engineer, the chairman of the planning commission, the mayor, or the building inspector.

Planning agencies have various degrees of power. Sometimes their power is solely consultative; that is, they may do no more than draft plans and programs, then submit them to the legislative body where perhaps they may be allowed to defend them at public hearings. On the other hand, the power of a planning agency may extend to an actual share in policy-making; for instance, some municipal planning commissions have the authority to veto enactments of the city council that are related to planning. There are many informal arrangements that modify the actual power of a planning commission. One of the most important is the support it has from the predominant interests of the community. Another may be the personnel of the commission itself; for instance, if there is no full-time director, and if the mayor serves as a part-time planning director, because of his other powers he may have much more power as planning director than a full-time director has. Yet, simply because of his many other tasks, he may be able to afford little time for planning.

### ***The conduct of government planning***

The conduct of government planning refers to the fundamental steps through which the planning agency achieves its decisions as to what activities the government should undertake or emphasize. These decisions in an organized and durable form are called the *master plan*. Briefly, to commence its work the planning agency must analyze the present situation. If it is planning for a city it must acquire exhaustive data on such matters as the number of people in the area; their type of residence; their economic and social status and structure; the street pattern of the city; the water, electricity, sewerage, and public transit facilities; the park and recreation services; the distribution of industrial, commercial, and residential areas; the physical characteristics of the region; and the tax base.

Next, the agency must determine its objectives. It must learn, perhaps best of all through public hearings, what the various interests of the city want. Having discovered which features of the city the different groups want changed, which features they want unchanged, what should be the degree of change, and which changes should take precedence, the agency may arrive at a conclusion as to what its objectives are. This conclusion, naturally, will be affected by the influence that some segments of the population may be able to bring upon the agency, by the predispositions of the agency members themselves, and by the influence that some agency members may have over others.

A third step consists of analysis of the data unearthed by the research of the agency, and synthesis of this data with the objectives determined by the agency. It must, for example, compare the number of parking spaces in the downtown section with the average number of persons who drive to work downtown every day; it must then set these figures beside the demands of local merchants that the city government create more parking space for shoppers; it must also take into consideration the amount of land in the downtown area available for municipal parking lots, and the public transit facilities. It may then reach a decision as to whether the government should arrange for municipal parking lots and, if so, how many and how large.

The last step is the drafting of the master plan on a single map with accompanying explanatory material. Since the master plan is intended to project the development of the community for years to come, it will probably gain wider public acceptance if it is exposed to public hearings before it is transmitted to the city council for final adoption. The master plan is essentially a statement of how the land in the community is to be used during the years to come. A master plan has been typified as comprehensive, long-range, and general. Because future growth and needs cannot invariably be predicted, the master plan probably should be flexible as well.

## LAND USE REGULATION

The regulation of land use has one broad meaning for State governments and another broad meaning for local governments. So far as State governments are concerned, land-use regulation has to do chiefly with the conservation of natural resources; so far as local governments are concerned, it has to do primarily with the zoning of certain areas for especial purposes. However, at certain points State and local goals and regulations overlap.

### **Zoning**

Zoning is largely an undertaking of city and of county governments. It comprises an enactment of the local legislative body that divides the area into sections or "zones," declares the use to which the land in the zone shall be put, and prescribes the major dimensions of the buildings in the zone: their height and the portion of the lot they may occupy. There are three chief forms of land use in cities: residential, commercial, and industrial.

The zoning ordinance may, and often does, establish subsections in each of these three forms; as an illustration, some residential areas are apt to be set aside for single dwellings and others for multiple dwellings or apartments. In recent years county governments, too, have been enacting zoning ordinances.

Presumably one of the most important functions of a zoning ordinance is to prevent the building of a factory in a residential neighborhood, since it would lessen the desirability of the neighborhood as a residence and therefore lower property values. However, zoning of unsettled areas so as to reserve some of them for industry is also important. For example, areas close to railroads are especially attractive to manufacturers because of the shipping facilities. When such zoning is not specially provided, residential subdivisions may spring up in these areas; an official of the Western Pacific Railroad, which links Salt Lake City with Oakland and San Jose, reported in 1954 that his corporation had spent over \$6,000,000 after World War II buying land to keep it from residential use. Where zoning ordinances have not been in command, housing subdivisions have encroached on land necessary for airports, notably in California; the result has been that airport authorities have been unable to extend runways to handle faster and larger aircraft. Another purpose of zoning laws is to keep buildings back from street curbs, so that city or county authorities may widen streets and roads to accommodate more traffic. Failure to have such regulations may compel the city to spend vast sums for condemning these structures. Zoning ordinances also set forth where schools and public buildings shall be erected, and where parks and other recreational areas shall be situated.

Today most large cities and many small ones have a zoning code. Several hundred county boards, too, have enacted zoning regulations; for instance, California law requires all California county boards to do so. Sixty-seven of the 174 urban counties have zoning ordinances. The fact is that most interests in any given locality find a code profitable, in that it stabilizes the value of their property, and may even raise it; disputes are not nearly so often as to whether or not there shall be a code as they are over what shall be the contents of the code.

### ***State land-use activities***

State governments carry out many activities in conjunction with regulating land use. It should be noted that many of these activities involve both the national government and local governments as well. A number of them have already been touched on at other points in this text. For example, national, State, and local governments cooperate in urban redevelopment and public housing projects. The task of the State government may be no more than to enact a law permitting a local government to accept and use national funds. Another cooperative project is soil conservation, in which the State government may do no more than pass legislation enabling local groups to establish soil conservation districts. On the other hand, there are certain activities which, although they parallel undertakings of the federal government, are exclusively in the province of the State governments.

*Forests:* Today there are several million acres of wooded lands in State forests. Moreover, there are county and municipal forests as well. State and local forests together cover twenty-six million acres, more than half of which are in four States: Minnesota, Michigan, Wisconsin, and Pennsylvania. The functions of the State government are much like those of the national government relative to national forests; that is, the State may lease some of the area to lumber companies, supervising the removal of the trees. State governments distribute seedling trees to private forest owners, and plant trees in State forests. Perhaps the most extensive activity of States with regard to forests is in the matter of fire prevention. Local governments manage their forests in much the same way; indeed, there are instances of municipal forests that are so well managed that they bring a considerable annual sum to the municipal treasury, enabling the city government to keep its taxes low.

*Minerals:* Like the national government, State governments display great concern for the mineral wealth beneath their soil. They regulate the amount of mineral resources that may be extracted; the government of Oklahoma, for instance, limits the amount of oil that may be brought from the ground, and restricts the digging of oil wells. State governments also conduct research to discover new sources of minerals. Finally, some States impose a "severance" tax, which is a tax on the removal of minerals; the government of Texas obtains more revenue from its severance tax than from any other tax.

*Fish and Game:* State governments protect the wildlife within their jurisdiction. They limit the number of fish that may be caught and the number of wild animals and birds that may be shot or trapped; they confine hunting and fishing to certain seasons. Too, they maintain hatcheries for the propagation of fish, and try to keep their lakes and streams well stocked. Also, they license hunters and fishermen, generally imposing a higher tax on non-residents than on residents.

*Recreational Areas:* State governments establish parks for the recreation of their citizens and their visitors. In 1954 there were more than 1,950 State parks and similar recreation areas, covering a total area greater than five million acres. Some States have many small parks along the highways, equipped with picnic tables and running water whose purity is tested and guaranteed by the State government. State governments also seek out scenic points, as in mountainous areas, where they provide parking areas. Finally, State governments set up markers at historic spots, sometimes including a brief account of the episode that makes the spot remarkable.

## PROMOTION OF BUSINESS

### *Encouragement of immigration of industries*

In recent years many States have turned increased attention to encouraging the immigration of industries. For example, many State governments buy advertising space in periodicals so that they may extol their low taxes, low costs, generous incorporation laws, abundant and skilled labor, and

GOVERNOR ORVAL E. FAUBUS *of the State of Arkansas*

*cordially invites your use of the new*

ARKANSAS INDUSTRIAL DEVELOPMENT COMMISSION

WINTHROP ROCKEFELLER, CHAIRMAN

*and takes great pleasure in announcing*

WILLIAM P. ROCK, EXECUTIVE DIRECTOR *and*

WILLIAM R. EWALD JR., CHIEF OF DEVELOPMENT

*State Capitol, Little Rock*

*January, 1956*

Figure 140. A State Advertisement Inviting New Industry.

other features that may appeal to manufacturers. (See, for example, Figure 140.) Interstate competition for industrial development may have considerable effect upon the tax structure of a State; States may vie with one another to make their taxing systems attractive to industrialists. Furthermore, local industrialists may contrive, through pressure on State legislators, to obtain laws that discriminate against out-of-State products.

States also provide financial aid for manufacturers seeking to erect new plants within their borders; the governments of some States allow cities to issue revenue bonds for assistance to private industry. The government of Maine has established an organization that has served as a model for all other New England States: The Development Credit Corporation. This is a body chartered by the State government and endowed with enough State funds to organize itself; it is expected to secure most of its money from private sources such as banks and insurance companies, but enjoy the prestige of the State. These funds the Corporation may lend to private companies planning to enter Maine. Local governments, too, compete for new industries; moreover, private companies, especially railroads and electric power generating and distributing concerns, invite the building of new factories. In the main, however, both local governments and private companies must rely upon State governments to create the atmosphere that industry will find most healthful.

### **Public works**

Public works embrace a number of construction activities of governments. They are the capital investments of government. All, of course, are associated with planning; they also promote business. Because some of these undertakings, notably schools, hospitals, and correctional institutions, are related to other functions of government, they are discussed in the pertinent chapters.

*Streets and Highways:* The building of streets and highways is one of the most important functions of government in the United States. There are in the United States today about 3,400,000 miles of urban and rural highways (see Table 55). About 300,000 miles are city streets; over 3,000,000 miles are rural highways. Hard-surfaced roads amount to 1,800,000; the remainder are not hard-surfaced. State governments control over 600,000 miles; local governments administer the rest. The ratio of State to local highways varies greatly from one State to another. There are no roads under local control in either Delaware or North Carolina, and scarcely any in Virginia or West Virginia. By contrast, in Iowa, Kansas, Michigan, and the Dakotas, fewer than ten per cent of the roads are under State control. There are actually fewer than 100,000 miles of federal roads in the United States; the States with the greatest mileages are California and Oregon, in each of which the federal roads amount to more than ten per cent of all roads.

One of the most notable trends in connection with highway administration in late years has been the transfer of their control to larger and larger units of government. It is true that in many areas the counties and townships are still the primary agencies for highway construction and maintenance. However, many of these local units simply do not have the financial resources needed for modern highways. The number of automobiles and trucks has become so large, and the cost of building roads so high, that State governments have been compelled to at least help local governments with financial grants, if not to assume the entire burden. Automobile owners' groups, and truckers' associations, have become mighty pressure groups

that can make their influence felt in State capitals. Furthermore, they are extending their influence over Congress, so that today the national government aids both States and localities in constructing streets and highways. Associations have succeeded in having State legislatures earmark the revenue from automobile registrations and operators' licenses for highway purposes.

*Municipal Parking Lots:* One innovation with respect to automobiles is the municipal parking lot. Several circumstances have united to bring the

TABLE 55. STATE AND LOCAL ROADS AND STREETS  
(SEGREGATED ACCORDING TO FEDERAL-AID SYSTEMS  
AND NON-FEDERAL-AID MILEAGE)<sup>1</sup>

State or Local Road System	Federal-Aid Primary Highway System		Federal-Aid Secondary Highway System	Not on Federal-Aid Systems	Total
	Rural	Urban			
State primary highway system:					
Rural	197,766	1,882	147,406	32,009	379,063
Municipal, 5,000 pop. and over	—	12,049	1,643	4,137	17,829
Municipal under 5,000	9,638	753	5,089	1,473	16,953
State secondary highway system:					
Rural	433	43	45,976	42,930	89,382
Municipal, 5,000 pop. and over	—	27	244	818	1,089
Municipal under 5,000	16	99	940	1,917	2,972
Local roads under State control:					
Rural	38	—	39,852	88,750	128,640
Municipal, 5,000 pop. and over	—	26	96	296	418
Municipal under 5,000	4	3	506	1,097	1,610
County roads	1,172	92	237,350	1,487,910	1,726,524
Town and township roads	244	35	4,951	612,083	617,313
City streets	25	1,534	3,411	306,367	311,337
Roads not overlapping State, County, or other local systems:					
State park, forest, and reservation roads	12	179	16	8,196	8,403
National park, forest, and reservation roads	204	1	104	91,354	91,663
Toll and other roads	352	48	—	904	1,304
Municipal parks	—	—	—	61	61
Total existing mileage	209,904 <sup>2</sup>	16,771 <sup>2</sup>	487,584 <sup>2</sup>	2,680,302	3,394,561

<sup>1</sup> U.S. Department of Commerce, Bureau of Public Roads, *Highway Statistics, 1954 (1955)*, page 116.

<sup>2</sup> These totals do not include mileage of approved new routes not yet constructed, as follows: Federal-aid primary highway system, rural 4,216 miles; urban 1,813 miles; and Federal-aid secondary system 2,940 miles.

pressure that has resulted in these lots. The most obvious circumstance is the growing practice of people to drive into the downtown area rather than use public transit, a practice adopted both by people who work in this section and by those who shop there. Another circumstance is the demand of merchants who fear lest people refuse to shop downtown if they believe they may be unable to park their cars, and will instead patronize suburban shopping districts. Yet another circumstance is the desire of municipal authorities to keep the downtown section economically vigorous, so that its property can be assessed at a high rate and provide a sturdy tax base for the city government. Under these conditions, hundreds of cities today have established municipal parking lots. Out of 1,137 cities of more than 10,000 people reporting in a 1955 survey, 675 have such lots. Yet it appears that these lots do not supply a final solution for the traffic problems of large cities; indeed, they may add to them since they encourage more people to drive into the city.

*Airports:* Both State and local governments are quite active in building and managing airport facilities. These undertakings have been stimulated in late years by grants-in-aid from the federal government. The fact is that with the rise in air travel, cities today compete as vigorously for airline service as they did a century ago for railroads. One of the most persuasive arguments is, of course, a well-equipped airport with long, paved runways that can accommodate the largest aircraft. As can be seen from Table 56 on page 926, in 1955 there were 525 cities with over 5,000 population, 21.1% of all cities of this size, that reported owning and operating airports. Many counties, too, own airports. State governments also pay some attention to air traffic: there are aeronautics commissions in forty-three States. These commissions provide some air navigation facilities, although most work of this sort is carried on by the Civil Aeronautics Administration of the federal government. State commissions do mark routes and cities for aircraft.

*Harbors:* A number of American city governments own and operate harbor facilities; in 1955, sixty-six cities of more than 5,000 population, or 2.7% of all such cities, reported such enterprises. In spite of the competition of automobiles and airplanes, to say nothing of railroads, water transportation for freight remains extremely important, since it is still the cheapest means for conveying large amounts of goods in bulk, such as grain or iron ore, over long distances where speed is of little concern. It may be noted that the percentage of cities owning harbor facilities is much smaller than that operating airports; of course, only a small minority of American cities are located on navigable waterways, whereas all are open to the air. Interest in municipally owned harbor facilities is especially keen in the Great Lakes area today, because of the increased trade that the opening of the St. Lawrence Seaway is expected to bring.

#### ***Participation in business: public utilities***

Public utilities may be owned by either a government or a private organization. All public utilities are closely connected with one or more governments; however, in the case of privately owned utilities, this connection

TABLE 56. OWNERSHIP AND OPERATION OF UTILITIES IN CITIES OF OVER 5,000 POPULATION<sup>1</sup>

Type of Utility	All Cities over 5,000						5,000- 10,000	
	Number	Per Cent of Reporting Cities	Over 500,000	253,000-500,000	109,000-250,000	50,000-100,000	25,900-50,000	10,000-25,000
Auditorium	413	16.6	8	17	25	33	47	137
Bus or trolley bus	33	1.3	3	1	1	4	8	12
Electricity generating and distributing	280	11.2	2	3	6	12	30	87
Electricity distributing only	224	9.0	0	1	3	3	16	68
Gas manufacturing and distributing	41	1.6	2	3	3	2	6	17
Gas distributing only	85	3.4	0	1	1	2	6	23
Incinerator	430	17.3	14	10	38	48	77	131
Port facilities	66	2.7	10	8	12	5	15	7
Street railway	6	0.2	3	1	0	0	1	1
Sewage treatment plant	1261	50.7	12	16	36	55	141	417
Water supply and distributing	1678	67.4	16	20	55	99	184	533
Water distributing only	159	6.4	0	0	3	9	22	50
Airport	525	21.1	12	15	46	51	74	151
Cities with none of above	319	12.8	1	0	2	6	28	111
Cities not reporting	70	2.8	0	0	0	0	3	25

<sup>1</sup> 1956 *Municipal Yearbook*, p. 64. For number of cities in each population group, see Table 46.

takes the form of regulation and supervision. This section is concerned only with governmentally owned utilities, which are a type of government participation in business.

In general, State governments do not own public utilities. They do, however, create a large number of special districts that own and operate utilities. Also, few counties own utilities; of the 174 urban counties cited above, in 1954 one reported owning gas manufacturing and distributing facilities; seven, harbor facilities, one jointly with a city; twenty-five, sewerage systems; eighteen, sewage treatment plants; nine, water supply and distribution systems; and six, water distribution services. Eighty-one reported owning no major utilities. It is at the municipal level that one finds the greatest number of governmentally owned utilities; Table 56 shows how many cities own different types of utilities, and divides the cities into population groups. From this table it can be seen that cities are most likely to own and operate the sewage treatment plant and the water supply and distribution system.

Public transportation in cities is one of the most troublesome aspects of the utilities problem. Public transportation systems almost without exception either lose money or else earn very little, whether owned by a government or not; there are few cities like Cleveland, whose publicly owned Transit System is both debt-free and unsubsidized. Solving the issue of whether or not to subsidize a transit system requires solving the issue as to who benefits from the system—the whole community, or the riders alone. If one decides that only the riders benefit from the system, one might then hold that all transit revenue should come from operating income. If, on the other hand, one maintains that the entire community is the beneficiary, one might argue in behalf of a nominal fare coupled with a generous subsidy. What conclusion will be reached is apt to depend, however, not on the acceptance of one or the other theory as "true" but upon the ability of the property-owners' organizations to veto any proposed subsidy—for the subsidy would have to come out of the property tax they pay.

## BUSINESS REGULATION

### *Licensing of trades and professions*

All State governments, and some local governments, license the members of certain trades and professions; thanks to this authority, State and local officials may determine who shall be allowed to practice these trades and professions. Which trades and professions are licensed varies from State to State and locality to locality. The following persons must be licensed in all States: accountants, architects, attorneys, chiropodists, dentists, dental hygienists, embalmers, engineers, nurses, optometrists, osteopaths, pharmacists, physicians, teachers in public elementary and secondary schools, and veterinarians. Table 57 lists the members of some other trades and professions that must be licensed in some, but not all, States.

The licensing of a trade or profession is frequently administered by a board established for that field alone, independent of the Governor, to carry out the general policies of the legislature by decrees and rulings. In about

TABLE 57. EXTENT OF STATE LICENSING  
OF SELECTED TRADES AND PROFESSIONS

Trade or Profession	Number of States
Barbers	46
Beauticians	45
Chiropractors	44
Contractors	19
Funeral directors	40
Insurance brokers	26
Midwives	15
Miners and inspectors	13
Practical nurses	37
Physical therapists	15
Plumbers	17
Real estate brokers	40
Surveyors	33

Source: *Book of the States, 1954-1955*, p. 414.

one-third of the States, however, a single board has been created to regulate a number of vocations. Any given State has no obligation to admit a person licensed in another State to practice in its jurisdiction. A number of States, however, have drawn up reciprocity agreements so that, for example, a realtor licensed in State A may go into business in State B, and a realtor licensed in State B may go into business in State A.

### ***Chartering of corporations***

State governments have broad powers over corporations in general. Foremost among these powers is the actual creation of corporations; that is, apart from the relatively few corporations that are organized under federal law, corporations receive charters from State governments. These charters, as noted in a previous chapter, establish the corporation as a legal personality that is empowered to negotiate contracts, own property, borrow money, and sue and be sued. State law generally sets forth such matters as the minimum number of stockholders a corporation may have, the minimum amount of stock it may issue, and similar features. Corporation charters ordinarily are issued under general State laws, which are administered by an industrial commission or comparable body.

Each State has the authority to charter corporations; however, because corporation laws in some States such as Delaware are very generous, many corporations are chartered there even though they may do no business east of the Mississippi River. Yet the fact that a corporation has been chartered in one State does not automatically authorize it to go into business in each of the other States; in fact, every State has a considerable body of law regulating "foreign" corporations, that is, corporations that have been chartered in another State.

### ***Controls over banks and other financial institutions***

State and local governments pay exceptional attention to the operations of banks and of other financial institutions, notably insurance companies and

small loan companies. Banks are chartered corporations like many other types of businesses. However, not all banks are supervised by State governments. There are first of all several thousands of national banks, that is, banks that received their charters from Congress; these banks are subject to the control of the federal government. Moreover, there are several thousand State banks, or banks that have received their charters from State governments, that are members of the Federal Reserve System and the Federal Deposit Insurance Corporation; these banks are in part regulated by the national government. Furthermore, the banks in these two classes make up by far the largest institutions in the country. Yet there are thousands of small State banks that are subject chiefly to the authority of the State governments. Each State government includes an administrative office to supervise banking; there is a department of banking in more than half the States, and in a few others there is a department of banking and commerce.

Perhaps the most important function of the State in this administrative area is to examine banks; that is, usually one bank examiner or more each year calls on every bank under State control, to inspect its accounts. State governments are especially concerned with the type of loans that banks make, what percentage of their deposits and reserves they lend, and what forms their investments take; these are cardinal factors in determining whether or not a bank can satisfy a sudden demand by its depositors that their savings be returned to them. State officials generally are empowered to close a bank whose operations are so unsatisfactory that they threaten the bank with insolvency.

State governments also, at least on paper, regulate insurance companies very strictly. They are particularly concerned with how insurance companies distribute their money in investments, so that persons who have bought insurance will be safeguarded. State governments also must approve the premium rates that insurance concerns charge. Too, State governments regulate lending by insurance companies to their clients, including the interest rates that they charge. Finally, when State governments grant insurance firms their charters of incorporation they carefully examine the structure of the proposed company. These undertakings by State governments indicate why insurance companies endeavor to install a powerful lobby in the State capital.

State governments also supervise the interest rates that are collected by small loan companies and by pawnbrokers. The attention of the State authorities has been stimulated by the fact that often the patrons of such enterprises are not very well informed about the operation of interest rates and may sometimes be cajoled or coerced into paying extremely high amounts. One may recall the character in William Faulkner's novel *The Hamlet* who would lend sharecroppers five dollars on condition that they pay him ten cents a week interest, and who was highly regarded in some circles because he might go on for as long as two years without saying anything to the debtor about the five dollars provided he received his interest payments. It should be noted that local police officials often keep a watchful eye on pawnbrokers' establishments, since individuals in possession of

stolen goods frequently dispose of them, or seek to dispose of them, in pawnshops.

### **Public utility regulation**

State and local governments share in the regulation of privately owned public utilities. A public utility, it has been noted before, is a business with peculiar traits: it supplies some service essential to the community, and is apt to be a monopoly. Besides, a utility may be a semi-public institution, in that it may have the power of eminent domain. Owing to the facts that a utility carries out functions that are necessary for the community, and that it rarely meets competition, utility officials have exceptional opportunities for providing bad service and for charging high rates. Of course, if a utility is owned by some unit of government, supposedly it will be operated for purposes other than profit, and will strive to furnish good services to the public; otherwise the voters may hold government officials responsible for the shortcomings of the utility. By contrast, if a utility is owned by a private group, it can be effectively regulated only by a government agency.

State and local regulation of privately owned utilities, therefore, is concerned chiefly with guaranteeing adequate service and with fixing, or at least controlling, rates. The quality of service is a technical question that does not need discussion here. It suffices to say that changes in service are commonly initiated by the utility, which then submits them to the appropriate government agency for its approval; the reaction of the agency will depend somewhat upon the weight of the pressure that the utility involved can bring upon the agency. Sometimes, it is true, the agency, impelled by a third group, may direct the utility to make some changes in its services; subsequently the utility and the other group, usually comprised of discontented patrons, must vie with one another to determine which has the greater influence over the agency.

It would be well to comment briefly on some details relative to the fixing of rates, so as to demonstrate the complexity of utility regulation. Today it is assumed that any utility is entitled to a fair return on the value of its property; six per cent has been widely accepted as a "fair return." The chief problem arises in deciding what is the value of the property. Some persons hold that the value should be based on the original cost of the utility assets, with adjustments for depreciation of the property and for additional investments. However, because prices have been generally rising ever since about the year 1900, utility owners oppose this method of valuation. Another means for setting the value is on the "reproduction costs," or what it would cost to replace the present assets of the utility; owing to the general rise in prices, consumers tend to reject this method, although the courts have often used it.

A third method, growing in popularity today, is a modified form of the original cost method that determines the value according to the "prudent investment" theory. Following this notion, those who are evaluating the property must estimate what a prudent investor would have paid for the assets originally, what he would have paid for any later additions, and what

are "reasonable" deductions for depreciation. Supporters argue that this method is preferable both because only a "prudent" investment is entitled to a "fair return" and because "true" value can be most easily computed by this method in a time when the value of money is changing rapidly. It is clear that the decision as to which method, or combination of methods, will be used is apt to be subject to pressure from interests on all sides.

Utility regulation today is carried out chiefly by State officials. In forty-six States there is a public utility commission, set up by the legislature and vested by it with broad powers. In general these commissions have from three to seven members. In twenty-nine States the commissioners are named by the Governor; in fifteen, they are elected by the people; and in two, they are chosen by the legislature. In Oregon there is a single Commissioner, and in Rhode Island there is a single Administrator; each is selected by the Governor. State commissions not only examine the quality and the cost of the services but also supervise utility financing and the merger of utility companies. Cities in some instances still give utilities their franchises, which set forth the powers of the utilities and the nature of the services they are to provide. City governments play one more role in the management of utilities: they may also send spokesmen to urge State commissioners to lower utility rates.

### ***Fair trade laws***

A fair trade law is an act of a State legislature permitting manufacturers to set minimum retail prices in the given State for any of their products that carry trade marks or brand names. Hence a fair trade law is an exception to federal anti-trust legislation. Such State laws were authorized by the Miller-Tydings Act, which was a rider to the District of Columbia Appropriation Act of 1937. When the federal Supreme Court later ruled this law unconstitutional, Congress in 1952 reacted by passing the McGuire Act, which satisfied the objections of the Court. In most States the law provides that a manufacturer need negotiate a price-fixing agreement in regard to a particular commodity with only one retailer in order to compel all other retailers to adopt the same price.

By 1956 the future of fair trade laws had become doubtful. Many important manufacturers were expressing discontent with the laws; the Westinghouse Electric Corporation had ceased price-fixing on its smaller appliances, and the W. A. Sheaffer Pen Company had discarded it on all its products. Yet some of the competitors of these firms persisted in their agreements with retailers. Further weakening the general principle of these laws, during 1955 the high courts of Arkansas, Georgia, Florida, Michigan, and Nebraska all declared these laws unconstitutional in their States. In Massachusetts the court ruled that it would not enforce the law in a case brought by one manufacturer against a retailer because, the court said, the manufacturer had not sufficiently enforced its contracts with retailers. Too, by 1956 there had emerged considerable pressure on Congress to repeal the Miller-Tydings and McGuire Acts. Yet a number of State courts have ruled in favor of these laws in pertinent cases before them. The only safe conclusion is that

these laws will stand or fall depending upon whether the groups favoring them, or the groups opposing them, are the more successful in influencing the governments and the officials concerned.

## QUESTIONS AND PROBLEMS

1. What issues plague the setting of rates for public utility services?
2. What must a municipal master plan take into account?
3. What kinds of utilities are owned and operated in the class to which your home city belongs? How common is such ownership? (If your home community has fewer than 5,000 people, use the 5,000 population category.)
4. Why is the national government very active in chartering banking corporations but not other business corporations?
5. What special planning agencies are found in the national, State, and local governments of the United States?
6. What are the primary concerns of the States in the fields of the development and conservation of resources?
7. Define "fair trade laws." Do they promote monopoly?
8. What means can you suggest for insuring that planning of a county takes favorably into account the interests of a maximum number of the population?
9. What trades and professions are most commonly licensed by the States? How is the licensing typically administered?
10. How would you divide planning and zoning authority between the county and city governments of a county with a total population of 200,000 and three separate cities with 40,000 each within it? What would your goals be?