The Commission on Public-Local And Private Legislation

Report to the 1949 General Assembly of North Carolina

POPULAR GOVERNMENT

Feb. - Mar. 1949

Report of the Commission on Public-Local and Private Legislation Authorized by the 1947 General Assembly

Letter of Transmittal to the Governor

Recommendations of the Commission

The Problem of Private, Local and Special Legislation and City and County Home Rule in North Carolina

Thirty Years of Private, Local and Special Legislation in North Carolina, 1917-1947

State Constitutional Provisions Relating to Private, Local and Special Legislation and City and County Home Rule

Report of the Commission on Public-Local and Private Legislation Authorized by the 1947 General Assembly

TABLE OF CONTENTS

POPULAR GOVERNMENT is published monthly by the Institute of Government, the University of North Carolina, Chapel Hill. Editor: Albert Coates; Associate Editors: W. M. Cochrane, George H. Esser, Jr., Donald B. Hayman, Henry W. Lewis, J. A. McMahon, D...

The Report of the Commission on Public Local and Private Legislation

Letter of Transmittal

Raleigh, North Carolina
February 28, 1949

The Honorable W. Kerr Scott
Governor of North Carolina
Raleigh, North Carolina

Dear Sir:

The Commission on Public-Local and Private Legislation respectfully submits to you its report which is attached to this letter, and requests that you forward the report, together with a copy of this letter, to the 1949 General Assembly.

The Commission was created by Resolution No. 24 of the 1947 General Assembly. Of the seven members of the Commission, two—Professor Bryan Bolich, of the school of law of Duke University, and Professor Albert Coates, of the school of law of the University of North Carolina and director of the Institute of Government, at Chapel Hill—were appointed by Governor R. Gregg Cherry; two—Senators John C. Kesler and Alton A. Lennon—were appointed from the membership of the 1947 Senate by the Honorable L. Y. Ballentine, President of the Senate; and three—Messrs. Arch T. Allen, Robert F. Moseley, and Fred S. Royster—were appointed from the membership of the 1947 House of Representatives by the Honorable Thomas J. Pearsall, Speaker of the House.

By the terms of the resolution creating it, the Commission was directed, "To make a thorough and complete study of the whole problem of public-local and private legislation," and to submit to the Governor, for submission to the 1949 General Assembly, such recommendations as it might deem proper.

The Commission held its first meeting on October 10, 1947, and organized by electing Mr. Robert F. Moseley chairman, Mr. John C. Kesler vice chairman, and Mr. Clifton Beckwith, of the Attorney General's staff, secretary.

At that meeting Mr. Albert Coates offered the facilities and services of the Institute of Government for the purpose of doing the necessary preliminary work for the Commission. The Commission accepted his offer and designated Mr. Coates as director of research for the Commission. Pursuant to that arrangement all of the preliminary work which constitutes a part of this report has been done by Mr. Coates and the staff of the Institute of Government, the collection and classification of the data having been done by the staff of the Institute under the direction of Mr. Coates, and the analysis of the data and of the problems involved having been made by Mr. Coates himself.

Because these other members of the Commission had no part in this preliminary work, they feel that it is not inappropriate to say that the report itself indicates the tremendous amount of work that has been done and the patience, skill, and legal learning which went into the preparation of the material submitted to the Commission for consideration in arriving at its conclusions and in formulating its recommendations.

The other members of the Commission desire to acknowledge their indebtedness to Mr. Coates and the staff of the Institute of Government and to express their appreciation of the valuable services rendered by them in making available not only for this Commission but for all others now or hereafter interested in this problem a complete and detailed study of the background of the problem.

The work of the Commission itself has been that of studying the material furnished by Mr. Coates and the Institute of Government and in formulating recommendations for at least a partial solution of the problems involved.

The Commission did not deem it advisable to suggest the exact form of the kind of amendments to the Constitution which it recommends. The individual members of the Commission will be glad, however, if called upon, to render such assistance as they can in preparing such amendments. And the Commission expresses the hope that amendments of the kind recommended by the Commission may be acted upon by the 1949 General Assembly so that they may be considered by the voters of the State at the general election in 1950.

It was not practicable, because of the limitation of time and for other reasons, for the Commission to prepare the bills necessary to carry out its recommendations for legislation. That will be a task of considerable magnitude which should be undertaken by another commission, as suggested in this Commission's recommendation No. 6.

In no other state is the problem of public-local and private legislation more acute than it is in North Carolina. The Commission does not think that what it has recommended will afford a complete solution of that problem. It does hope, however, that this report will make some contribution to the solution of the problem and that as the result thereof counties, cities, and towns will be given substantially more power and responsibility with respect to their own local problems and that the General Assembly, being relieved of the burden of most of such public-local and private legislation, will be free to devote its time and energy to the solution of problems of state-wide importance.

Respectfully submitted,
ROBERT F. MOSELEY, *Chairman*

Recommendations of the Commission

The Commission makes the following general recommendations:

FIRST. That, subject to constitutional limitations, counties, cities, and towns, by means of general laws supported by express constitutional authority, be given adequate power to legislate for themselves with respect to all such matters as in the opinion of the General Assembly require or properly permit of local rather than state-wide legislative treatment.

SECOND. That such additional general laws be enacted as may be necessary, in the opinion of the General Assembly, to provide adequate statutory coverage for those classes of matters which are frequently dealt with in special laws as herein defined but which involve matters of state-wide policy.

THIRD. That the General Assembly be prohibited by the Constitution from enacting special laws as herein defined dealing with any of those matters with respect to which counties, cities, or towns are given adequate statutory power to legislate for themselves, or which are covered by general laws.

In order that these ends may be accomplished the Commission makes the following more specific recommendations (such repetition as is involved being necessary for the sake of completeness):

1. That an amendment to the Constitution be adopted which will give solid and indisputable authority for the legislative enactments suggested in recommendations Nos. 2 to 7.

2. That the General Assembly amend Sections 160-353 to 363 of the General Statutes—the present so-called Home Rule Act for cities and towns—so as to indicate clearly the classes of matters with respect to which the voters of cities and towns may deal in amending their charters or in adopting new charters.

3. That the General Assembly enact legislation, somewhat similar to the Home Rule Act for cities and towns, which will give the voters of counties authority to make changes in the framework and powers of county governments within such limits as the General Assembly may deem proper to fix.

4. That the General Assembly broaden the powers of governing bodies of cities and towns so that they will have authority to legislate for their respective cities and towns with regard to municipal matters which require or properly permit of local rather than state-wide legislative treatment, and that such classes of matters be enumerated in detail in the enabling legislation.

5. That the General Assembly broaden the powers of boards of county commissioners so that they will have authority to legislate for their respective counties with regard to county matters that require or properly permit of local rather than state-wide legislative treatment, and that such classes of matters be enumerated in detail in the enabling legislation.

6. That the 1949 General Assembly create a commission to continue this study of public-local and private legislation and to prepare for submission to a subsequent session or sessions of the General Assembly such acts as may be necessary to put into effect the legislative policies herein recommended; that the membership of the commission consist principally of persons who are engaged in county and municipal government; that the commission be authorized to employ such legal and clerical assistance as may be required to make the necessary studies and to prepare the bills; and that adequate provision be made for paying the expenses of the commission.

7. That, in providing the legislation recommended by this Commission, there be adopted the principle of division of counties, cities, and towns into a reasonable number of classes according to population or other suitable basis for such classification, in those cases where classification is necessary or advisable, in order that the different classes may be treated according to their respective needs.

8. That an amendment to the Constitution be adopted which will:

(a) Classify laws as follows:
  (1) General laws, and
  (2) Special laws, which include:
    a. Local laws, and
    b. Private laws.

(b) Define these classes of laws substantially as follows:

  (1) A general law is a law which is state-wide in its scope. (The definition should be so drawn as to make it clear that classification is permissible and that a law is general if it applies to any class as a whole although it does not apply to all of the classes.)

  (2) A special law is any law which is not general (i.e., which is not state-wide in scope), and it may be either a local law or a private law.

  (3) A local law is a law which applies to any political subdivision or subdivisions of the state less than the whole, or less than all of those in the class in those cases where a classification has been made. (If the political subdivisions have been classified with respect to the subject matter of the law, it is local only if it applies to less than all of those in the class.)

  (4) A private law is a law which applies to one or more persons, firms, corporations, or other individual units, except political subdivisions of the state, which constitute less than all of those within the class to which the subject matter of the law relates.

9. That an amendment to the Constitution be adopted which will prohibit the enactment by the General Assembly of any special laws as herein defined with respect to any of those matters which counties, cities or towns may determine for themselves pursuant to authority granted them by the General Assembly, or which are covered by general laws.

The Problem of Private, Local, and Special Legislation And City and County Home Rule in North Carolina

Prepared for the Commission on Public-Local and Private Legislation
by Albert Coates, Director of the Institute of Government

I

INTRODUCTION

The General Assembly of North Carolina has been worried with the problem of private, local and special legislation from its first session in 1665 to its present session in 1949. Efforts to solve this problem resulted in constitutional limitations in 1835, 1868 and 1917. The problem survived these efforts and the 1947 General Assembly authorized appointment of a commission to restudy the problem and report its findings. This commission called upon the Institute of Government to find the facts on which it might base recommendations to the 1949 General Assembly. Pursuant to this call the Institute of Government studied

(1) the volume of "private, local and special acts" as contrasted with the "general laws" passed by the General Assembly of North Carolina from 1789 to 1947,

(2) the constitutional limitations placed on private, local and special acts in 1835, 1868, and 1917, together with the general laws effectuating them,

(3) the court decisions construing these constitutional limitations and general laws,

(4) the practical effects of these constitutional limitations, general laws, and court decisions on the total volume of private, local, and special acts,

(5) the constitutional provisions dealing with corresponding problems in other states,

(6) possible methods of dealing with these problems in North Carolina, including city and county home rule.

The results of these studies are outlined in the following analysis.

II

CONSTITUTIONAL LIMITATIONS ON "PRIVATE LAWS" IN 1835

Seventy-four per cent of all laws enacted by the General Assembly of North Carolina from 1789 to 1835 were private, local, or special acts and twenty-six per cent were general laws. These private, local, and special acts involved the following types and percentages: acts of incorporation, 35%; acts concerning town and city governmental structure, 8%; acts concerning roads, 7%; acts concerning courts, 6%; acts concerning elections, 5%; acts concerning streams, rivers and canals, 4%; acts concerning the militia, 4%; acts establishing towns and counties and changing their boundaries, 3%; acts concerning juries and jurors, 3%; acts concerning the poor and poorhouses, 3%; acts concerning tax collections, 2%; acts concerning slaves and other labor, 2%; acts concerning fish and fishing, 2%; acts concerning bridges and ferries, 2%; acts securing to wives their separate estates, 2%; acts concerning county records, 1%. The remaining 11% were miscellaneous acts on a variety of unrelated topics. The following table tells the story by years:

Table 1

Year	*Public Laws*	*Private Laws*	*Total*	*Percentage of Private Laws*
1788	29	22	51	43%
1789	39	31	70	44%
1790	25	35	60	57%
1791	25	50	75	66.6%
1792	24	48	72	60%
1793	30	38	68	56%
1794	34	62	96	64%
1795	21	54	75	72%
1796	29	69	98	71%
1797	25	56	81	69%
1798	36	80	116	69%
1799	35	80	115	69%
1800	20	70	90	77%
1801	35	104	139	75%
1802	24	93	117	79%
1803	24	95	119	80%
1804	30	97	127	76%
1805	20	98	118	82%
1806	13	80	93	86%
1807	22	89	111	80%
1808	26	97	123	79%
1809	24	127	151	84%
1810	20	121	141	85%
1811	23	113	136	83%
1812	25	106	131	81%
1813	19	94	113	80%
1814	17	72	89	80%
1815	14	60	74	81%
1816	39	103	142	72%
1818	30	118	148	79%
1819	7	38	45	80%
1820	39	74	113	66%
1821	45	83	128	65%
1822	46	53	99	53%
1823	52	114	166	67%
1824	29	107	136	78%
1825	25	134	159	84%
1826	36	122	158	76%
1827	48	118	166	71%
1828	48	130	178	73%
1829	44	131	175	74%
1830	34	114	148	77%
1831	49	119	168	70%
1832	10	160	170	94%
1833	24	164	188	82%
1834	28	142	170	84%
1835	23	125	148	83%
	1364	4290	5654	Av. 74%

The first limitations on "private laws" in the Constitution of North Carolina appeared in 1835 in the following provisions:

1. "The General Assembly shall have power to pass general laws relating to divorce and alimony,

but shall not have power to grant divorce or secure alimony in any individual case." Article II, Section 10.

2. "The General Assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any persons not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime; but shall have the power to pass general laws regulating same." Article II, Section 11.

3. "The General Assembly shall not pass any private laws, unless it shall be made to appear that thirty days' notice of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law." Article II, Section 12.

Private Laws Granting Divorces

Before 1835. The General Assembly passed at least sixty-eight private laws granting individual divorces from 1789 to 1835. These laws are illustrated in the following stereotyped form:

> ". . . *Whereas* Samuel Easton has presented to this Assembly a petition praying to be divorced from his wife Zilphia, and hath shewn such proofs and reasons for the same, as reconcile with justice and policy . . . . be it enacted . . . that from and after the passing of this act, the said Samuel Easton and Zilphia shall be fully and absolutely divorced from the bonds of matrimony, in the same manner to all intents and purposes as if the said Samuel and Zilphia had never been married, and they are hereby divorced accordingly." Laws of 1804, chapter CXII.

None of these acts passed by the General Assembly from 1789 to 1835 related to the granting of alimony to either party. Each act was either silent on this point or stipulated that neither party should have a claim on the other, and that they should thereafter be considered as having never been married.

The volume of these private laws went up and down through the years—climbing from four in 1833, to six in 1834, to fifteen in 1835.

After 1835. This volume stopped abruptly with the passage of the constitutional prohibitions in 1835; and thereafter divorces were granted by the courts under Laws of 1834, chapter CXV, providing:

> ". . . That from and after the passage of this act the courts of equity in this state . . . may have concurrent jurisdiction with the superior courts of law in granting divorces either from bed and board or the bonds of matrimony, according to the rules . . . which now govern the courts of law in allowing divorces. . . ."

The legislative practice of granting individual divorces was thus completely ended by the constitutional prohibition of private acts and the substitution of general laws.

Private Laws Altering the Names of Persons

Before 1835. The General Assembly passed at least one hundred four private laws granting name changes to particular persons from 1789 to 1835. Most of these laws applied to more than one person, and some to as many as twenty-five persons. They are illustrated in the following stereotyped forms:

> "An act to alter the names of the following persons. . . ." or ". . . the names of the following persons are hereby changed. . . ."

The sorts of names changed included the following: Gavin Hogg, Thomas Petit, Charlotte Fell, and Martha Screws.

The volume of these private laws went up and down through the years—climbing from two in 1789, to ten in 1834. The average from 1823 to 1835 was five per session.

After 1835. This volume stopped abruptly with the constitutional prohibition of 1835. Thereafter names were changed under the Laws of 1836, chapter XV, providing:

> ". . . That whenever any person shall be desirous to change his or her name, it shall be lawful for him or her to file a petition in any superior court praying that the same may be done and thereupon the court at the same term of filing the petition may decree for the petitioner according to his prayer; and the person whose name is thus changed, may sue and be sued in his or her new name."

The legislative practice of changing individual names was thus completely ended by the constitutional prohibition of private acts and the substitution of general laws.

Private Laws Legitimating Persons

Before 1835. The General Assembly passed at least fifty-one private laws legitimating particular persons from 1789 to 1835. These laws are illustrated by the following stereotyped form:

> ". . . That the persons described above in this act shall forever hereafter be legitimated and made capable to possess, inherit, and enjoy, by descent or otherwise, any estate, real or personal, to all intents and purposes as if they had been born in lawful wedlock."

The volume went up and down through the years—climbing from none in one legislative session to eleven in another. Some of these legitimating laws included as many as twenty-five persons.

After 1835. This volume stopped abruptly with the constitutional prohibition of 1835. Thereafter legitimations were granted under laws which had been passed in 1839, chapter XIX, providing:

> ". . . That . . . it shall be lawful for the putative father of any illegitimate child . . . to apply by petition . . . to the Superior Court or Court of Pleas and Quarter Sessions . . . praying that the said child . . . be declared legitimate. . . ."

This was supplemented in 1839 by the Laws of 1839, chapter IV, providing:

> ". . . That the putative father of any illegitimate child . . . may apply by petition . . . either at the county or superior court . . . praying such child be declared legitimate. . . ."

The legislative practice of legitimating particular persons was thus completely ended by the constitutional prohibition of private acts and the substitution of general laws.

Private Laws Restoring Citizenship to Persons Convicted of Infamous Crimes

Before 1835. The General Assembly passed at least eighty-two private laws restoring citizenship rights to particular persons from 1789 to 1835. The volume went up and down through the years—climbing from none in one legislative session to four in another. These private laws are illustrated in the following stereotyped form:

> ". . . An Act to pardon John Smith and to restore him to credit, granting to him the full rights and privileges of citizenship which were taken away when he was convicted for the crime of larceny. . . ."

After 1835. This volume stopped abruptly with the constitutional prohibition of 1835. Thereafter citizenship restorations were granted under the Laws of 1840, chapter XXXVI, providing:

> "That any person either now or hereafter convicted of any infamous crime, whereby the rights of citizenship are forfeited, may be restored to the same under the following rules and regulations: First, he shall file his petition in the Superior Court of Law, setting forth his conviction and the punishment inflicted, and shall state therein his place or places of residence, and his occupation since his conviction, and his opinion of the meritorious causes which, in his opinion, entitle him to be restored to his forfeited rights."

The legislative practice of restoring citizenship to individual persons convicted of infamous crimes was thus completely ended by the constitutional prohibition of private acts and the substitution of general laws.

Private Laws Without Thirty Days' Notice Required by Law

Authors of the foregoing constitutional limitations on the enactment of private laws must have realized that their four specific prohibitions were merely drops in the bucket of private laws—seven per cent to be exact—when they gave a lick and a promise to the other ninety-three per cent with the requirement that "The General Assembly shall not pass any private laws, unless it shall be made to appear that thirty days' notice of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law." Article II, Section 12.

Before 1835, there was no requirement of public notice of intention to introduce any private law, and in the wake of legislative sessions many a person awoke to find himself bound by a law introduced without his knowledge and passed without his hearing—sometimes referred to as "sneak" laws. The 1835 constitutional requirement of public notice before the passage of any private law, was followed by a legislative act found in the Laws of 1835, chapter XV, requiring notice to be given in the following manner:

> ". . . That any person or persons who may desire to procure the passage of any private act of the General Assembly, shall cause his, her or their intention to make such application to be published by advertisement to be posted up at the court house door and three other public places in the county in which such applicants or any of them may reside, at least thirty days before the meeting of the general assembly; and when such private bill shall be presented upon the request of any member a copy of the notice with due proof of its having been so published shall be introduced before the same shall be allowed to be read a second time."

This requirement was more honored in the breach than in the observance. It was invoked in the case of *Brodnax v. Groom*, 64 N. C. 244 (1870). A law had been passed authorizing the levy and collection of a special tax for building and repairing bridges in a particular county and taxpayers sought to enjoin the tax levy on the ground that the authorizing act was passed without the "thirty days' notice required by law." The Court denied the injunction, saying:

> "We do not think it necessary to enter into the question, whether this is a *public-local* act or a mere *private* act, in regard to which thirty days' notice of the application must be given, for, taking it to be a mere private act, we are of [the] opinion that the ratification certified by the Lieutenant-Governor and the Speaker of the House of Representatives makes it a 'matter of record,' which cannot be impeached before the courts in a collateral way . . . . There can be no doubt that acts of the Legislature, like judgments of courts, are matters of record, and the idea that the 'verity of the record' can be averred against in a collateral proceeding is opposed to all of the authorities."

Eight years later it was invoked again in the case of *Gatlin v. Tarboro*, 78 N. C. 119 (1878), when the taxpayers sought to enjoin the levy of a privilege tax, authorized by a law applying to a particular town, the parties to the case expressly alleging and admitting that notice had not been given. The Court denied the injunction, saying:

> "If it appeared from the act itself, or affirmatively appeared by the journals of the Legislature, which would have been competent evidence, that the notice of intended application for the act, which the Constitution requires, had not been given, we would probably hold the act void. We have not consulted the journals. That was evidence to be offered in the court below. Probably they are silent as to the fact whether it appeared that the required notice had been given or not. In that case we think the presumption would be that the Legislature had obeyed the Constitution, and that it appeared to it that the notice had been given. . . . We cannot accept the agreement of the parties that no notice was in fact given as proof that it did not appear to the Legislature that the required notice had been given. In such a case the best and only proof is by the record. . . . If any weight were allowed to admissions of this sort, the law might change as each case was presented."

Fifty-six years later it was invoked again in *Matthews v. The Town of Blowing Rock*, 207 N. C. 450, 177 S. E. 429 (1934), where the Court again denied a similar injunction sought on similar grounds, saying:

> "While this section of the state Constitution may be binding upon the conscience of the General Assembly, and was doubtless intended to be observed by that body, this court will not undertake to go

behind the ratification of an act to review the action of a coordinate department of the state government, but will conclusively presume, from the ratification, that the notice here required has been given."

The teeth of this thirty days' notice requirement were thus judicially pulled, and the legislative practice of passing private laws without public notice "as provided by law," has continued without let or hindrance from 1835 to this day. If the thirty days' notice requirement helped restrain the volume of private laws in the beginning, judicial removal of this restraint helped to restore it in the end.

III
CONSTITUTIONAL LIMITATIONS ON "SPECIAL ACTS" IN 1868

Special Acts Creating Private Corporations

At least fifty-nine per cent of the laws passed by the General Assembly from 1835 to 1868 were private, local or special acts and forty-one percent were general laws, as indicated in the following table:

Table 2

Year	*Public Laws*	*Private Laws*	*Total*	*Percentage of Private Laws*
1836	51	31	82	37%
1838	25	76	101	75%
1840	42	79	121	65%
1842	55	96	151	63%
1844	55	98	153	64%
1846	58	156	214	72%
1848	102	147	249	59%
1852	173	49	222	22%
1854	56	266	322	82%
1856	37	118	155	75%
1858	68	235	303	77%
1860	51	200	251	80%
1862	73	58	131	44%
1862	20 (cs)	10	30	50%
1863	38 (as)	26	64	40%
1864	24 (as)	37	61	60%
1864	36 (rs)	37	73	50%
1865	33 (as)	23	56	41%
1865	10 (cs)	10	20	50%
1866	64 (ss)	77	141	54%
1866	135 (rs)	135	270	50%
1868	62 (ss)	39	101	38%
	1200	1768	2968	Av. 59%

Against this background a limitation on "special acts" in North Carolina appeared in the Constitution of 1868, in the following amendment, Article VIII, Section 1:

> "Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the object of the corporations cannot be attained under general laws. All general laws and special acts passed, pursuant to this section, may be altered from time to time or repealed."

Before 1868. In the period from 1789 to 1835, thirty-five per cent of the total volume of private laws and special acts passed by the General Assembly related to incorporations. From 1835 to 1868, sixty-two per cent of the total volume of private laws and special acts passed by the General Assembly related to incorporations. Of these acts passed from 1789 to 1868, one hundred eighty-one incorporated or related to the corporate structure of railroads, the volume of acts ranging from two to eighteen in single legislative sessions; one hundred eighty-eight related to plank road and turnpike companies, the volume ranging from one to six per session; one hundred thirteen related to militia companies, ranging from one to eleven; thirty-one related to bridges, ranging from one to four; one hundred thirty-four related to mining companies, ranging from one to twenty-six; eighty-four related to navigation companies; thirty-five to canal companies; the remainder dealt with the incorporation of such institutions as private academies, lodges, seminaries, libraries, and the like.

Prior to 1848, the acts dealing with private companies were very brief—merely recitals of the creation of corporations and nothing more. After 1848 they became longer, more detailed and involved, and included all regulations to be imposed upon the corporation, the company's corporate and financial structure, and other stipulations relating to the corporation created.

After 1868. Pursuant to the constitutional provision the 1868 General Assembly provided for the incorporation of various types of businesses by general laws:

> ". . . That at any time after the ratification of this act any three or more persons, who may desire to form a company for the purpose of carrying on any manufacturing, mining, mechanical or chemical business," etc. ". . . may make, sign and acknowledge before the clerk of the Superior Court in the County in which the sole or principal office of said company is to be located, a certificate in writing, which shall be filed in the office . . . aforesaid, and a duplicate copy . . . signed by the parties signing the original, sent to the office of the secretary of state, to be filed with records in his office; Provided, That no Banking or Insurance Company shall be chartered under this act."

But this 1868 constitutional provision was largely nullified by the loopholes allowing private incorporations by special act whenever "in the judgment of the Legislature the object of the corporation could not be attained under general laws." For, "in the judgment of the Legislature," from 1868 to 1917, twenty-six hundred (2600) special acts were necessary to achieve objects which could not be attained under general laws, ranging as high as two hundred forty-six in single legislative sessions.

The loopholes in the 1868 limitation upon the erection of private and semi-private corporations by special act were plugged by the following rewriting of the 1868 provision which became effective January 10, 1917:

> "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 and organization of all corporations, and for amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general laws and special acts may be altered from time to time or repealed; and the General Assembly may at

any time by special act repeal the charter of any corporation."

This 1917 provision succeeded where the 1868 provision failed. Private incorporations by special act stopped abruptly; except, of course, for charitable, educational, penal, and reformatory corporations expressly excepted from the prohibition. From 1917 to the present time, private corporations have been created under what is now General Statutes of North Carolina (1943), chapter 55:

> "Three or more persons who desire to engage in any lawful business, or to form any company, society, or association, not unlawful, except railroads other than street railways, or banking and insurance, or building and loan associations, may be incorporated in the following manner only (except corporations created for charitable, educational, or reformatory purposes that are to be and remain under the patronage and control of the state): such persons shall, by a certificate of incorporation, under their hands and seals, set forth. . . ."

The legislative practice of creating private corporations by special act was thus completely ended by the constitutional prohibition of special acts and the substitution of general laws.

IV
CONSTITUTIONAL PROHIBITIONS OF "LOCAL, PRIVATE, AND SPECIAL ACTS" IN 1917

At least forty-nine percent of the laws passed by the General Assembly from 1868 to 1917 were private, local or special acts, and fifty-one per cent were general laws, as indicated in the following table:

Table 3

Year	*Public Laws*	*Private Laws*	*Total*	*Percentage of Private Laws*
1870-71	283	119	402	27%
1871-72	214	126	340	37%
1872-73	194	85	279	30%
1873-74	185	136	321	42%
1876-77	293	114	407	27%
1879	334	120	454	27%
1881	374	111	485	23%
1883	419	161	580	28%
1885	414	140	554	25%
1887	425	180	605	29%
1889	561	270	831	32%
1891	592	363	955	37%
1893	528	387	915	42%
1895	466	353	819	43%
1897	558	216	774	28%
1899	733	375	1108	34%
1900	18	2	20	10%
1901	773	436	1209	36%
1903	818	412	1230	33%
1905	845	419	1264	33%
1907	1019	516	1535	34%
1908	144	61	205	30%
1909	925	394	1319	30%
1911*	215	1245	1460	85%
1913	203	1322	1525	87%
1913 (s.s.)	81	416	497	84%
1915	287	1209	1496	81%
	11901	9688	21589	49%

* New method of denominating acts instituted by Legislature.

Against this background the General Assembly of 1915 proposed three amendments to the Constitution which were ratified in 1916 and became effective January 10, 1917. Article VIII, Section 1, was amended, as indicated in the preceding section, so as to stop the 1868 loophole for private incorporations by special act where "in the judgment of the Legislature" the objective could not be achieved by general laws. Article II, Section 29, added prohibitions of "local, private or special acts" in fourteen designated fields. Article VIII, Section 4, required the General Assembly to provide "by general laws" for the organization and financing of cities, towns, and incorporated villages.

The purpose of these 1917 amendments requiring general laws and prohibiting "local, private or special acts," was plainly apparent to the people supporting them. To illustrate: In a statement issued November 5, 1916, O. Max Gardner, Democratic candidate for Lieutenant Governor, called for their ratification in these words:

> "The Legislature is the mainspring of governmental machinery and upon its efficiency depends the progress and development of the State.
>
> "This body, charged as it is with this important function, and realizing as must all thoughtful men, that under its present handicap, it is not rendering the high services to which the people are entitled, has asked on two occasions, and in no uncertain tones, that it be relieved of the duty of giving time and attention to the consideration of local and private bills, so that it may devote its energies and thought to matters of State-wide interest and concern.
>
> "At an expense of some fifty thousand dollars it has submitted to the people, with its almost unanimous endorsement, three amendments to the Constitution, which are designed and intended to free the Legislature from the consideration of bills which have heretofore constituted 88 per cent of the volume of laws enacted.
>
> "These amendments, briefly summarized, are as follows:
>
> 1. 'To prohibit certain specified local and private legislation.'
> 2. 'To prohibit special legislative charters to cities and towns.'
> 3. 'To prohibit legislative charters for private corporations.'
>
> "In place of the local laws now enacted for these purposes, general laws of State-wide application are provided for, which will guarantee all the rights of the people and give to them local self-government in county and municipal affairs. All private corporations will be placed on an equal basis. . . .
>
> "These progressive measures are intended to serve two general purposes: (1) To relieve the General Assembly of the necessity of passing thousands of laws in which only a small territory or a few persons are interested, and enable its members to devote their time and talents to the enactment of laws of State-wide application; (2) to provide by general laws for local self-

government of counties and municipal home rule in cities and towns.

"Regardless of party affiliation, leading men of the State and most of the newspapers have endorsed these measures, and I earnestly hope that they will be adopted by a large majority at Tuesday's election. Their adoption will not only enlarge the usefulness and efficiency of the General Assembly, but will provide the way for the development of local initiative and a much greater share in home government and administration than can be obtained under the present Constitution."

On the following day the *News and Observer* called for their ratification for the following reasons:

"Any person who has given heed to the sessions of the North Carolina General Assembly will agree that there is entirely too much time occupied with attention to measures which are purely local in their character. We have seen sessions when a hundred and seventy men have been forced to give many hours of time, hours that counted into days, to disposing of some matter which could well have been disposed of in the county or city or town in which the matter originated. And we have seen local quarrels and bickerings grow into matters of State importance, when they were not worth it.

"The members of the House and Senate are not at fault in the matter, for the law of the State which directs is such that they had to give the matters presented to them their time and attention. In this way the State was the loser. This has been shown in the fact that matters of vital interest to the State have been thrust into the background until the very last days of the session and then given scant consideration, because of the lack of time, and the very physical and mental let-down of the legislators.

"The remedy for such deplorable conditions is in the hands of the voters of North Carolina. If they want affairs in the General Assembly to go on as they have done in the years past they have only to vote against the three amendments which would cure our present defects in the methods of legislation. They should be cured as a matter of providing for better service to the State on the part of the men who make the laws. And we believe that with the adoption of the amendments we will have better prepared legislation for the State.

"The three measures which would go towards the accomplishment of this are: To restrict local, private and special legislation; to prevent special charters to corporations by the General Assembly; to prevent special charters to towns, cities and incorporated villages. The people of the State will be standing in their own light if they fail to vote for these three amendments. Their adoption would mark a great step forward in the conduct of the General Assembly."

A
Article II, Section 29

This amendment provided:

"The General Assembly shall not pass any local, private, or special act or resolution:

1. relating to the establishment of courts inferior to the Superior Court;
2. relating to the appointment of Justices of the Peace;
3. relating to health, sanitation, and the abatement of nuisances;
4. changing the names of cities, towns, and townships;
5. authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets or alleys;
6. relating to ferries and bridges;
7. relating to non-navigable streams;
8. relating to cemeteries;
9. relating to pay of jurors;
10. erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
11. remitting fines, penalties and forfeitures, or moneys legally paid into the public treasury;
12. regulating labor, trade, mining or manufacturing;
13. extending the time for the collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
14. giving effect to informal wills and deeds;

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. Any local, private, or special act or resolution passed in violation of the provisions of this section shall be void. The General Assembly shall have the power to pass general laws regulating the matters set out in this section."

What Is a "Local, Private or Special" Act in Article II, Section 29?

Pursuant to this constitutional requirement the General Assembly in 1917 and succeeding sessions provided for performance of these functions by general laws, and the Supreme Court of North Carolina was called upon to answer the question: What is a "local, private, or special act," within the meaning of Article II, Section 29? Justice Brown patterned its scope and meaning in *Mills v. Commissioners of Iredell County*, 175 N. C. 215, 95 S. E. 481 (1918):

"It is well understood that our General Assembly, at session after session, was called on by direct legislation to authorize a particular highway or street or to establish a bridge or ferry at some specified place. Such questions being not infrequently at the instance of rival parties or opposing interests, were urged and debated with great earnestness by their respective advocates and renewed and protracted to such an extent that they were of serious detriment to the public interests and, at times, prevented full and proper consideration of vital public measures. The Legislature in these cases was in fact called on to usurp, or rather to exercise functions which were more usually and properly performed by the local authorities. . . ."

Pursuant to this line of reasoning the court has held that Article II, Section 29, prohibits an act providing for a specific bridge, *Day v. Commissioners of Yadkin County and Commissioners of Surry County*, 191 N. C. 780, 133 S. E. 164 (1926); or specific roads or streets, *Glenn v. The Board of Education of Mitchell County and the Town of Spruce Pine*, 210 N. C. 525, 187 S. E. 781 (1936); or specific school districts, *Board of Trustees of the Fairmont Graded School District v. Mutual Loan and Trust Company*, 181 N. C. 306, 107 S. E. 130 (1921); or specific hospitals, *Armstrong v. Commissioners of Gaston County*, 185 N. C. 405, 117 S. E. 388 (1923); or specific sanitary districts, *Board of Druid Hills Sanitary District v. Prudden & Co.*, 195 N. C. 722, 143 S. E. 530 (1928); or specific boards of health, *Sams v. Commissioners of Madison County*, 217 N. C. 284, 7 S. E. (2d) 540 (1940); or the method of selecting specific health officers, *Board of Health of Nash County v. Board of Commissioners of Nash County*, 220 N. C. 140, 16 S. E. (2d) 677 (1941); or specific recorders' courts, *State v. Williams*, 209 N. C. 57, 182 S. E. 711 (1935). These acts, said the courts, are "local, private, or special acts" within the meaning of Article II, Section 29.

By the same reasoning the court has held that Article II, Section 29, does not prohibit a system of bridges, *Mills v. Commissioners of Iredell County*, 175 N. C. 215, 95 S. E. 181 (1918); or a system of streets or highways, *Matthews v. Blowing Rock*, 207 N. C. 450, 177 S. E. 429 (1934), *Commissioners of Surry County v. Wachovia Bank and Trust Co.*, 178 N. C. 170, 100 S. E. 421 (1919), *Road Commissioners of Ashe County v. Bank of Ashe*, 181 N. C. 347, 107 S. E. 245 (1921), *Deese v. Lumberton*, 211 N. C. 31, 188 S. E. 857 (1936), *Huneycutt v. Road Commissioners of Stanly County*, 182 N. C. 319, 109 S. E. 4 (1921); or a system of school districts, *Coble v. Commissioners of Guilford County*, 184 N. C. 342, 114 S. E. 487 (1922), *Moore v. Board of Education of Iredell County*, 218 N. C. 1, 9 S. E. (2d) 606 (1940)—even though the system is confined to the limits of a single county. These laws, said the courts, are "general laws" within the meaning of Article II, Section 29. On this reasoning a system of recorders' courts within a single county would be upheld as a "general law"; but doubt is cast on this by court decision: *In re Harris*, 183 N. C. 633, 112 S. E. 425 (1922).

Effect of Article II, Section 29

Before 1917. The fourteen types of local, private, and special acts prohibited by Article II, Section 29, included around twenty-five hundred acts or twenty-four per cent of the total volume of "local, private and special acts" passed from 1868 to 1917. Of this number and percentage, eight hundred seventy-three, or eight per cent, authorized the laying out of roads, streets and alleys; four hundred forty-nine, or four per cent, were concerned with erecting new townships, changing township lines or erecting and altering school districts; three hundred fifty-seven, or three per cent, related to non-navigable streams; two hundred twenty-five, or two per cent, related to appointment of justices of the peace; one hundred forty-three, or one and three-tenths per cent, concerned ferries and bridges; one hundred thirteen, or one per cent, related to the pay of jurors; and the remaining eight prohibited types, each accounting for less than one per cent, made up the rest.

After 1917. Records from 1917 through 1947 show the number and percentage of "local, private and special acts" in the fourteen prohibited fields have been cut down, but have not been cut out. During the thirty-year period from 1917 to 1947 the General Assembly has passed several hundred "local, private, and special acts" in apparent violation of Article II, Section 29. It has passed around one hundred thirty-five acts "authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets or alleys"; ninety acts "relating to the pay of jurors"; eighty-eight acts "extending the time for the collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability"; seventy-nine acts "relating to cemeteries"; fifty-six acts "remitting fines, penalties and forfeitures, or moneys legally paid into the public treasury"; forty acts "relating to ferries and bridges"; thirty-eight acts establishing particular courts inferior to the Superior Court; twenty-four acts "erecting new townships, or changing township lines, or establishing or changing the lines of school districts"; twenty-three acts "giving effect to informal wills and deeds"; twenty-two acts appointing particular Justices of the Peace — including omnibus bills appointing a multiplicity of these Justices in the same act; twelve acts "changing the names of cities, towns, and townships"; eleven acts "relating to non-navigable streams."

The foregoing prohibitions carry clear and concrete meanings to which judicial tests may be applied with reasonable assuredness. But there is a considerable margin of vagueness in the prohibition of local, private, or special acts "relating to health, sanitation and the abatement of nuisances." If it covers the eighteen acts establishing particular sanitary sewer districts, the twenty-one acts to establish, maintain or construct particular hospitals, the sixteen acts to establish, maintain or consolidate boards of health or health departments, the twenty-six acts involving local health regulations, such as the dumping of garbage or the building of sanitary privies,—then eighty-two acts may be added to the list of violations; and if the creation and administration of drainage districts comes within forbidden fields, forty-one acts may be added to the eighty-two.

There is a considerable margin of vagueness in the prohibition of local, private, or special acts "regulating labor, trade, mining or manufacturing." Does it cover the one hundred twenty-six acts regulating Sunday business hours or the Sunday sale of particular commodities? the fifty-two acts regulating carnivals and exhibitions? the thirty-six acts regulating the sale of fire works? the thirty-two acts regulating commercial fishing? the thirty-two acts regulating pool rooms, dance halls and other places of amusement? the twenty-one acts regulating the marketing of produce? the fourteen acts regulating dairies and the sale of dairy products? the fourteen acts regulating peddlers and street vendors? the ten acts regulating trading in real estate? the nine acts regulating mining and lumbering? the six acts regulating the sale of cotton? the five acts regulating trading in junk and scrap metal? the four acts regulating trading in horses and mules? the three acts regulating filling stations and garages? the sixty-four acts covering a variety of subjects, such as regulating of used car sales? plumbers and electricians? barbers? bondsmen? If it covers these acts, then four hundred twenty-eight acts may be added to the list of violations.

There is a margin of vagueness in the prohibition of "local, private, or special acts . . . relating to cemeteries." Does it cover the thirty-two acts dealing with the removal of bodies and reinterment in other graveyards? the twenty-nine acts providing for the creation of particular cemetery

commissions to supervise maintenance and care of particular cemeteries? the two acts authorizing condemnation of land for cemeteries? the two acts directing construction of a road to a particular cemetery? the nine acts incorporating designated cemeteries? the two acts authorizing a special tax levy for particular cemeteries? the act forbidding pasturing hogs in cemeteries in Tyrrell County? the act regulating burials and restricting places of burial in Wilson County? If it covers these acts, then seventy-eight more may be added to the list of violations.

At least five per cent, and at most nine per cent of the total volume of local, private or special acts from 1917 to 1947 have been passed in apparent violation of Article II, Section 29.

B.
Article VIII, Section 4

General Laws for Cities, Towns and Incorporated Villages

It may be fairly said that the limitations in Sections 10 and 11 of Article II were ratified in 1835 to cut down four specific types of private laws: granting divorces, altering personal names, legitimating persons, restoring citizenship; that Section 12 requiring thirty days notice of all other private laws was ratified in the same year for a similar purpose plus the invitation to closer scrutiny; that Section 1 of Article VIII was ratified in 1868 and rewritten in 1917 to add the creation of private corporations by special act to the foregoing list of prohibitions; and that Section 29 of Article II added fourteen additional topics to the list, bringing the total to nineteen forbidden fields. But Section 4 of Article VIII was freighted with a broader purpose.

For a hundred and fifty years after the incorporation of the first town in North Carolina, towns were created, extended, or abolished by special acts of the General Assembly; and powers and duties were given and taken away in the same fashion. If every one of them was not a law unto itself, at least it had a set of laws unto itself. The first general laws prescribing procedures and granting powers for all towns alike were passed in 1854. The 1868 Constitution followed up this process by providing in Article VIII, Section 4:

> "It shall be the duty of the legislature to provide for the organization of cities, towns and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessments and contracting debts by such municipal corporations."

This provision may have carried a hint for the extension of the general laws beginning in 1854. It did not carry a hint for the extension of general laws to the exclusion of special acts, as evidenced by Article VIII, Section 1, prohibiting the creation of corporations by special acts "except for municipal purposes."

The General Assembly of 1915 proposed an amendment to the Constitution, inserting the words, "by general laws," after the word, "provide," in the first line of the 1868 provision, making it read:

> "It shall be the duty of the legislature to provide by general laws for the organization of cities, towns and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessments and contracting debts by such municipal corporations."

This amendment was ratified by the people in 1916, and went into effect on January 10, 1917.

The 1917 General Assembly took the requirement of general laws in Article VIII, Section 4, at face value and provided a comprehensive system of general laws for "cities, towns and incorporated villages"—with grants of power listed under the following headings in Laws of 1917, Chapter 136: "Creation of Towns; Incorporation, Regulation of Public Utility and Quasi-Public Utility Corporations; Condemnation for Public Use; Powers of Cities; Taxes; Sewerage; Fires and Fire Department; Care Fund for Cemeteries; Streets; Water and Lights; Market House; General Provisions; Accounting Systems; Words and Phrases Defined; To Simplify the Revision and Adoption of City Charters; Plan A—Government by Mayor and City Council Elected at Large, Plan B—Government by Mayor and Council Elected by Districts and at Large, Plan C—Commission Form of Government; the Initiative and Referendum; Nomination of Candidates; Recall of Officials by the People; Salaries; Plan D—Mayor, City Council and City Manager; Amendments to Charter—'Home Rule' or 'Local Self Government,' Elections."

For fear it might have omitted something from these specific grants the General Assembly added a further catch-all provision: In the Laws of 1917, Section 1 of chapter 136:

> *"The General Assembly of North Carolina do enact:*
>
> "SECTION 1. That nothing in this act shall operate to repeal any local or special act of the General Assembly of North Carolina relating to cities, towns, and incorporated villages, but all such acts shall continue in full force and effect and in concurrence herewith, unless hereafter repealed or amended in manner provided for in this act.
>
> "The provisions of this act shall not be construed to repeal chapter seventy-three, Revisal of one thousand nine hundred and five, entitled 'Towns,' or amendments to said act, except in case they are inconsistent with this act.
>
> "The provisions of this act shall not affect any act heretofore done, liability incurred, or right accrued or vested, or affect any suit or prosecution now pending or to be instituted to enforce any right or penalty or punish any offense.
>
> "Subject to the foregoing provisions hereof, all laws or parts of laws in conflict with this act are hereby to the extent of such conflict repealed."

It prescribed the methods and procedures of finance under the following chapter headings in the Municipal Finance Act, Laws of 1917, Chapter 138: Preliminary: Budget and Appropriations; Temporary Loans; Permanent Financing; Miscellaneous;—spelling out these financing procedures in minute detail to the length of seventeen pages of fine print.

This finance act provided "all bonds of a municipality shall be sold by the governing body at not less than par." The background of this provision was pointed out by Justice Brown of the Supreme Court of North Carolina in the following words:

> "It was this very policy that restored the credit of North Carolina after the Civil War. Article V, sec. 4, of the Constitution provided that 'until the bonds of the State shall be at par the General Assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit,' etc. It is well known that at that time the obligations of the State were hawked about and sold for what they would bring. What money the State borrowed, it had to pay a high rate of interest for. Instead of yielding to existing conditions, the people of the State resolutely forbade the sale of bonds at any price less than par. The consequence was that in a few years the State was able to dispose of its bonds without sacrifice."

Is Requirement of General Laws a Prohibition of Special Acts?

Under the provisions of this act, the City of Goldsboro in 1920 advertised the sale of bonds for public improvements and, due to the business recession following World War I, received no bids. Thereafter, in the special session of 1920, the City of Goldsboro obtained from the General Assembly "an act relating to the finance of cities, towns, townships or school districts of Wayne County," authorizing them to sell their bonds "at such place and at such interest basis, either above or below 6% per annum, as the official board or body may determine to be the best obtainable." Under the provisions of this Act the City of Goldsboro sold its bonds for less than par. A taxpayers' suit was brought to restrain the issue of these bonds, on the ground that the authorizing act violated Article VIII, Section 4, of the Constitution, requiring the General Assembly to provide for these matters by "general laws," and not by special acts. *Kornegay v. Goldsboro,* 180 N. C. 441, 105 S. E. 187 (1920).

A battle royal split the court. Chief Justice Clark argued that the requirement of "general laws" was mandatory to the exclusion of "local, private and special acts": "It provides that it shall be the duty of the Legislature to do those things by general laws which is a restriction to that method,"—else these added words added no new meaning and were put in for no purpose. (2) The preamble to the Municipal Finance Act of 1917 assumed this as a foregone conclusion:

> ". . . the people of North Carolina, at an election held in November, nineteen hundred and sixteen, adopted amendments to the State Constitution which prohibit the enactment of special legislation amending the charters of municipal and other corporations, and made it the duty of the Legislature to provide by general laws for the organization of cities, towns," etc.

(3) He might have added that the very ballot on which the 1917 amendment was submitted to the people specifically stated that the requirement of general laws was intended as a prohibition of special acts—"to prevent special charters to towns, cities and incorporated villages." (4) He might have added that sponsors urged the people to vote for it on that assumption: "It will relieve the General Assembly of the necessity of passing thousands of laws in which only a small territory or a few persons are interested." (5) He might have added that the rank and file of legislators were so sure of it that in the opening days of January, 1917, they flooded the General Assembly with "local, private or special" bills to be enacted before the deadline of January 10, when the Constitutional requirement of "general laws" would go into effect,—as illustrated in the following story in the *News and Observer*, January 4, 1917:

> "Forty minutes after Speaker Murphy called the House of Representatives to order at 4 o'clock yesterday afternoon 147 bills had found their way into the legislative hopper. . . .
>
> "For speed the two House sessions yesterday were record breakers. . . . As soon as the Speaker stated that the introduction of bills was in order more than a score of anxious members jumped to their feet and yelled for recognition. Some had arms literally filled with bills which they wanted put through before the bigger things begin to claim attention; few had less than three, many had more than half a dozen.
>
> "Pages scampered about as so many ants, shoving upon Reading Clerk Dellinger the great mass of matter so important to individuals. The bills were numbered, the titles read and hurriedly handed to clerks. In a few minutes their desks were swamped and it was known that the session was breaking all records for speed. Clerks were swamped, newspaper men were unable to keep pace with the rapid-moving machinery of the government. Not until well toward midnight were the men in the principal clerk's office able to get the bills ready for committees to which they were assigned."

And still another story on January 10—the deadline date:

> "The House yesterday was concerned mostly with clearing away the more than 500 local bills introduced in the two branches of the assembly. The members began early in the morning, recessing well after noon to meet again at 3. At 8 they met again for a final fight to get all minor legislation out of the way before chimes about town sounded the hour of midnight in accompaniment to the swan song of all local measures which had not found their way through the houses within the time set by lately enacted constitutional amendments."

But Justice Allen carried the majority of the court with him in the opposing view—that the requirement of general laws was not mandatory but directory, and did not prevent "special acts" in addition to "general laws" for "cities, towns and incorporated villages." And Justice Brown, concurring in Chief Justice Clark's dissent, wrote a swan song to the high hopes that went down with the majority opinion:

> "With perfect deference for the opinion of the majority of my brethren, I feel that the decision of the Court is extremely unfortunate, and at one blow strikes down one of the most valuable amendments ever made to our Constitution. The decision is destructive to the efforts of the General Assembly to maintain the credit of the cities and towns of the State by forbidding the sale of their securities below par. The general municipal act, enacted strictly in pursuance of the Constitution,

presents a wise and elaborate scheme for the government of cities and towns. It is intended to be uniform, and to govern all alike. . . . .

"If our municipal act was upheld by this Court, and the plainly expressed will of the people obeyed, as it should be, the credit of our cities and towns would be undoubtedly maintained, and their securities not be placed at the mercy of a lot of bond sharks. . . . .

"The fate of this wise and valuable amendment of 1916 to the Constitution reminds me of the epitaph on the tombstone of a small child:

'If I am so soon done for,
What was I begun for?' "

Kornegay v. Goldsboro in Retrospect

But this Court's decision struck down only a part of Article VIII, Section 4. It was still "The duty of the General Assembly to provide by general laws" for the organization and operation of "cities, towns, and incorporated villages." The "general laws" pursuant to this provision of the Constitution, passed by the General Assembly of 1917, still stood valid on the books, ready for the use of all the cities and towns that cared to use them; but they did not have to use them if they did not want to use them. They could still ask for "special acts" from the General Assembly,—and get them.

The records show they asked for them and got them. To illustrate: The 1917 General Assembly provided general laws for the organization of cities and towns and set up a municipal Board of Control to give effect to these provisions without resort to the General Assembly. It provided for cities and towns coming into being under these provisions with a comprehensive set of charter powers, without resort to the General Assembly.

For thirty years these provisions have been more honored in the breach than the observance, as cities and towns have ignored and by-passed general laws in favor of organizations, reorganizations, and charter amendments by special act,—perhaps on the theory that direct impregnation by the General Assembly is more potent, thrilling, or convenient than artificial insemination through the medium of an administrative board, and is sooner over and done with. At any rate they are merely suiting the word to the action as they paraphrase a line in a still popular song: "Thank God, we get our cities in the same old-fashioned way."

To illustrate: *From 1917 to 1947:* ninety-nine "local, private, or special acts" incorporated municipalities or completely revised their charters by repealing the old charter and issuing a new one; one hundred twenty-three amended the charters of existing municipalities in numerous unrelated aspects without substituting a completely new charter therefor; three hundred forty-five changed the limits of particular towns; of these three hundred forty-five, two hundred twenty-five extended limits of particular towns; twenty-four contracted limits of particular towns; ninety redefined limits of particular towns; six consolidated and merged particular towns.

From 1917 to 1947: two hundred sixty-five "local, private, or special acts" changed the governmental structure of particular cities and towns; of these one hundred sixteen created, abolished or changed minor administrative agencies of particular cities and towns; eighty-six changed the term, manner of election, etc., of the governing body of particular cities and towns; thirty-three changed the form of the governing authority of particular cities and towns; and thirty made miscellaneous changes in particular cities and towns.

From 1917 to 1947: three hundred ninety "local, private, or special acts" extended or curtailed the power of particular city governments in a variety of subjects; ninety-two concerned particular city and town officials; forty-nine concerned the appointment and duties of weighers and standard-keepers; eleven concerned chiefs of police; eleven concerned surveyors.

From 1917 to 1947: one hundred two "local, private, or special acts" concerned the salaries of particular officials in particular cities and towns; seventeen concerned the salary of aldermen of particular cities and towns; seventeen concerned the salary of treasurers of particular cities and towns; twelve concerned the salary of judges of city courts; eleven concerned the salary of mayors of particular cities and towns; the remaining forty-five acts concerned the salaries of miscellaneous officers.

From 1917 to 1947: thirty-seven "local, private, or special acts" concerned fees of officials of particular cities and towns; twelve concerned fees of cotton weighers of particular cities and towns; four concerned fees of court officials of particular cities and towns; six concerned fees of miscellaneous officials of cities and towns.

From 1917 to 1947: one hundred seventy-nine "local, private, or special acts" concerned the acquisition, disposition and control of public property of particular cities and towns; ninety-one acts concerned taxes and taxation of particular cities and towns; eighty-six concerned streets and sidewalks of particular cities and towns; eighty-one concerned the retirement and pension systems of particular cities and towns; forty concerned liquor laws in particular cities and towns; at least twelve concerned beer and wine in particular cities and towns.

All these acts together add up to more than twenty-five hundred "local, private, or special acts" applicable exclusively to particular cities and towns, or about one-fifth of all "local, private, or special acts" passed by the General Assembly in the period from 1917 to 1947.

Most of these enactments might have been avoided if the dissenting opinion in *Kornegay v. Goldsboro*, supra, had prevailed, and the constitutional requirement of general laws construed to be a prohibition of "local, private, or special acts." And, likewise, it is only fair to add that most, if not all, of them might have been avoided if cities and towns had voluntarily followed the procedures outlined under general laws to the exclusion of requests for special acts. If Justice Brown was correct in saying that "This decision of the Court . . . at one blow strikes down one of the most valuable amendments ever made to our Constitution," a touch of irony is added with the fact that the first blow was struck by the hand of one of the cities and towns it was designed to serve. If he was correct in saying that "this decision is destructive of the efforts of the General Assembly . . . to present a wise and elaborate scheme for the government of cities and towns . . . intended to be uniform and govern all alike," a further touch of irony appears with the fact that one of the cities and towns which had long complained of legislative intermeddling with the internal organization, structure, and function-

ing of particular cities and towns, insisted on legislative intermeddling in its particular problem and thus struck the first blow at the constitutional requirement of "general laws" offering the greatest freedom from legislative interference cities and towns had ever contemplated to that time.

THE PROBLEM OF PRIVATE, LOCAL AND SPECIAL LEGISLATION IN 1947

Facts and Figures

The problem of private, local and special legislation has not been solved in toto by the constitutional devices invoked in 1835, 1868 and 1917. The records show that from 1917 to 1947 68 per cent of the laws passed by the General Assembly were "local, private or special acts" and 32 per cent were general laws: 15 per cent of these "local, private or special acts" related to finance; 11.2 per cent to salaries; 9.9 per cent to taxation; 5.2 per cent to validations; 4.9 per cent to roads and bridges; 4.4 per cent to fish and game; 4 per cent to city government structure; 4 per cent to officials; 3.8 per cent to schools; 3.7 per cent to courts inferior to the superior courts; 3.3 per cent to public property; 3.3 per cent to trade regulations; 3 per cent to fees; 3 per cent to elections; 2.8 per cent to city limits and extensions; 2 per cent to criminal law and procedure; 2 per cent to county government structure; 1.7 per cent to claims; 1.5 per cent to animals; 1.3 to juries; 1.3 to liquor; the remaining 8.8 per cent come under the topics retirement and pensions, health and sanitation, superior courts, streets and sidewalks, beer and wine, cemeteries, public records, agriculture, veterans, and miscellaneous, each of which accounts for 1 per cent or less of the total.

Year	*Public Laws*	*Private Laws*	*Total*	*Percentage of Private Laws*
1917	215	923	1215	76%
1919	339	789	1128	70%
1920 (s.s.)	98	330	428	77%
1921	237	835	1072	78%
1921 (e.s.)	109	400	509	79%
1923	263	883	1146	77%
1924 (s.s.)	125	290	415	70%
1925	320	854	1174	73%
1927	270	935	1205	78%
1929	346	724	1070	68%
1931	457	688	1145	60%
1933	570	836	1406	59%
1935	495	851	1346	63%
1937 (incl.'36)	459	706	1165	61%
1939 (incl.'38)	412	654	1066	61%
1941	382	494	876	56%
1943	315	472	787	60%
1945	416	687	1103	62%
1947	382	716	1098	65%
	6287	13067	19354	68%

These statistical summaries are supported by the following comments of legislators, county officials and city officials given in response to the following inquiry addressed to them in the summer of 1948: "What has been your county's [city's] experience with private, local and special legislation, and what limitations, if any, would you put on the power of the General Assembly to pass this type of law affecting counties [cities] in North Carolina?"

Comments of State Legislators

(1) "About half of the time of a legislator is spent with local problems that should be controlled by state-wide statutes. Salaries of county and city employees should be set by the governing body of that particular unit. The present system results practically in a one man rule."

(2) "It is my experience that this type of legislation takes up entirely too much of the important time the Legislature should give to statewide legislation and which are the big problems that should concern the Legislature. I can see no good points in such a situation continuing."

(3) "One of the powers that the counties of North Carolina should have that they do not have is the appointment of their officials to handle their affairs and business. . . ."

(4) "The problem of private, local and special legislation has always been one of the worst headaches of the General Assembly. Something should be done, at least to get this local legislation introduced at the first part of the session, so that the assembly will have more time toward the end of the session for the consideration of matters of statewide interest. . . . .

"Salaries and fees take up a lot of time. If this authority were delegated to the local governments, a great deal of local legislation could be disposed of."

(5) "It is universally recognized that entirely too much of the Legislature's time is taken up with purely local legislation. A great deal of it contravenes Section 29, Article II, of our State Constitution. I think we should strictly observe prohibitions in the Constitution and should, in addition, enlarge somewhat the powers of the municipal and county governing boards to the end that they can handle many of the matters that now require special legislation. As a practical proposition, in the vast majority of instances the Legislature will pass almost any bill requested by the governing board of the county or municipality involved."

(6) "In my opinion, it is rather obvious to anyone who has been associated with the work of the General Assembly of North Carolina that private, local and special legislation is an unnecessary burden on the individual legislator and our General Assembly as a body. Certainly it places too much responsibility on one man who, as a member of a majority party, has almost dictatorial powers over policies and administration of his county.

"The individual legislator is away from the scene of his county and is out of touch with the feelings of his constituents on matters of local importance. It is my opinion that seventy per cent of a legislator's time is expended in solving local problems."

(7) "The problem is one involving a great expense on the part of the State in that it takes much time, clerical and otherwise, to handle this mass of private legislation. Again, much time is required by the various committee members, and some—even a greater part of the committee members, watch these laws closely. Much responsibility is removed from the various local government units and cast upon the Legislature when the matters involved are strictly local, peculiar to that community and the situation known and appreciated only by the residents of that county or town, the full significance and import being entirely lost by the members of the Legislature. In fact, I am somewhat convinced that it is a method of evading responsibility and clearly a matter of 'passing the buck.' It is absurd that a body of responsible men should sit in a committee and consider that the office space in [a certain] county needs rearranging, . . . and other matters equally petty. Somewhere, it seems to me, the people of that County could handle such matters and thus become, for a time at least, interested in local affairs. A great majority of the matters presented by local legislation should be handled by the County Commissioners of the various units. . . ."

(8) "In my experience, much of the private, local and special laws dealt with matters which really should have been the subject of city or town ordinances or should have been acted upon by some county board of commissioners or the directors of some corporation, in a few instances.

"The Legislators individually and through committees and in the two Houses as a whole were called upon to

spend much time preparing, producing, considering and passing upon matters which had and could have no Statewide importance. Just as a rough estimate, I would guess that perhaps one-third of the Legislators' time (and perhaps more of it) had to be devoted to such matters, and of course that deprived them of time which might otherwise have been spent on considering, and studying, Statewide problems.

"Of course, I may be all wrong about it, but I cannot see why the Legislature should fix the salary of people who really are employees of cities or of counties, and yet many bills are introduced and passed to do just that. This means that one or two men in the Legislature representing the particular locality actually fix the salaries or terms of office or whatever it may be that is the subject of such legislation. Certainly, the local Governmental bodies should be in better position to deal with such matters and are more directly responsible to the citizens in the particular community affected."

(9) "There has been a tendency on the part of many representatives, for political purposes, to introduce entirely *too much unnecessary* legislation. Very little of my time was spent on local legislation—I mean personal time and study. Much committee time was consumed. Much of it should be eliminated by giving local governments more authority, but as you used to say in your Criminal Law course, the serious question is—Where will the line be drawn? I don't think all local legislation should be taken away from the Legislature. For example, I have in mind local legislation which, if left at home, could set a bad precedent, could be inconsistent with an established state policy and could set bad examples for other counties. Many of our state departments have jurisdiction over local matters. Much of this is unnecessary, but some of it is essential. Otherwise local government officials may go off half-cocked. I don't believe I have said the above just as I'd like to, but maybe you can gather what I mean. I simply mean that any matters disposed of at home should be *truly and purely* local, both in their nature and in their *application and result.*

"Again I say, purely local bills take up too much time of legislative committees, but there should be some procedure whereby mistakes 'below' can be corrected 'above' such as in going from an inferior to a higher court; and municipal and county governments should be held responsible and accountable for their own internal affairs. We are constantly put 'on the spot,' so to speak, because of purely local legislation. For example, every ABC county now has a different method of distributing its ABC funds, particularly among the municipalities. Why should I be called upon to introduce a bill telling the county commissioners how much they must give to municipalities? They should make that decision themselves. A 'little' amendment to the general law could very easily return that responsibility to the proper officials. The Veterinarian, for example, wants me to raise his fees for vaccination of dogs. That to me is a commissioner responsibility. My town wants to extend its corporate limits. Why shouldn't the local board, or at least the people by a vote, decide this issue?"

(10) "I will say very frankly that my experience in the 1947 Session of the General Assembly led me to the conclusion that with the hundreds of local bills out of the way, the Session could easily be cut in half . . . . My observations were that entirely too much time had to be taken up with such questions as those above, duties of county employees, salaries of Mayors and other town employees, local school boards, jail fees, compensation of jurors, witnesses and county commissioners, tax sales and foreclosures, use of funds, tax penalties and discounts, regulation of fees of justices of the peace, Court terms, and many other local matters which may be properly handled by local authorities under statewide Acts. The most glaring example of the waste of time was, perhaps, one introduced from [a particular] County directing the county commissioners to so rearrange offices in the Court House as to give additional space to the Clerk of the Superior Court. It is my frank opinion that at least half the time of the members is given to local bills under the present laws, and it is my further opinion that many of these things should be taken care of and could be taken care of very easily by general Acts. I firmly believe that many, many of these bills could and should be matters over which county and municipal authorities should be allowed to exercise their own judgment. For instance, I think the county commissioners should be allowed to set salaries for all county employees under proper Acts, without the necessity of a special law for each county, and of course, the same applies to all other governmental sub-divisions."

(11) "Local legislation during the 1947 session took about half of my time, probably more. Included in this was an act to raise pay of elections officials in [a particular] County; an act to raise salaries of certain county officials, subject to actual salary to be set by County Board of Commissioners; three separate acts to extend city limits of certain towns within the county and in one instance to abolish a town with the area to be absorbed by another; act to allow [a particular city] to establish ABC stores. Incidentally, each of the acts that provided for a vote such as in extending limits or the ABC question, when submitted to a vote of the people concerned, failed to carry.

"Complete solution is impossible but steps can be taken to lessen the amount of local legislation. For instance, in the 1947 session, several local bills were introduced to raise pay of jurors in a particular county. The Attorney General's office advised that each was contrary to general statutes that fixed the pay of jurors but this was not the individual representative's concern as his was a local matter. What the courts decided later was another question. Then near the close of the session, a statewide act was passed that did provide an increase or a change in the general statutes. The same problem can be mentioned in the numerous beer and wine bills introduced and the resulting legislation."

(12) "I can say to you that I would hope a system could be devised whereby local legislation would not take so much time of the Members. I have in mind, for example, a very controversial bill I introduced in the last legislature involving extension of the city limits. The appropriate committee was forced to sit through a very heated hearing on the matter, which was of little concern to the others and on which they could not possibly pass intelligent judgment. On the other hand, to allow these matters to be decided by the sole representative of a county might invite serious abuse. Frankly, I don't know the answer."

(13) "As to local legislation all must agree that it takes too much time and a large part of it is unnecessary legislation. Likely a check of the many many local acts against the State Constitution prohibiting local acts would show most of them worthless. Frankly, I feel that the constitution should have come much further and prohibited many other classes of local acts. I believe that if the matter was properly handled when some member conceived the idea he must have some local act that act should be made State wide or provision made whereby any other county, town or township could automatically come in under the act. That is, almost every act could be made state wide and option [given] any governing body to adopt it. A special committee might be provided to see that each and every such local act introduced be so arranged as to meet any particular condition and also every other like condition that may arise—and do away with all other acts or bills offered for like purpose. Hope you can do something along this line as I have always thought we wasted too much time on non-essentials in the matter of local legislation."

(14) "I do not know what local acts should be assigned to the County Commissioners, but it is my final conviction that the County Commissioners should be constituted a local law-making body just like the City Councils or Aldermen of incorporated towns. Whenever it is decided how far they can go in passing county ordinances they should be required to publish an advance notice of public hearing on these matters and when an ordinance or act is passed they should be required to publish the provisions of said ordinance or act thirty days before it becomes effective.

"If this local legislation could be taken from the hands of the General Assembly it would give to members more time to study statewide problems. As a matter of fact, local legislation that is now enacted in Raleigh is done by the representatives from the counties involved. Whereas, if this legislation is returned to the County Commissioners it would be more convenient for public hearing and the County Commissioners, usually being a board of

three or five more men, would sit in judgment and pass the ordinances and acts.

"This is a long State, and when local legislation is under consideration in Raleigh it requires the time of delegates to appear there for public hearings, when they should be allowed to go before their local board.

"I am extremely interested in seeing the Legislature spared of the time and trouble of handling local legislation, as is the case now, and feel sure that if this type of legislation is carried back to the people involved, the General Assembly will have more time to give consideration to statewide problems and be able to finish its work in the sixty day period."

(15) "I feel that there should be some adjustment made concerning the passage of private, local, and special legislation so that more authority is vested in the local governing boards. I found during the one term that I served in the legislature that local matters coming from my county took more time than did the statewide bills that were presented before the General Assembly. I further found that many of the local bills that were presented were of such nature that it was impossible for a member of the General Assembly to make proper investigation of the bills presented during the short time that legislature was in session. This was particularly so because of the fact that there were many bills of statewide interest that demanded attention and many of the local bills had to be considered and passed without the proper investigation and study.

"I based my opening premise that the local boards should be given more authority in the passage of such bills on the theory that they are more in touch with the needs of the people of their county than a member of the General Assembly could be and should be better equipped to handle the necessary private and local legislation that the county needs."

(16) "I concede frankly that this type of legislation is not only a menace but is a headache at every session of the Legislature. I have given considerable thought to this matter and have seen the time when I thought it really ought to be constitutionally prohibited.

"The vast differences between needs and conditions over and in different parts of the State seem to make it almost impossible to confine legislation to Statewide enactments.

"It is true that local legislation takes up a lot of time and requires a great amount of work. At the same time, I doubt if it extends the length of the term of a session of the Legislature, because my experience has been that in most instances, it takes the same time to get through with Statewide matters whether we have local troubles or not.

"Unquestionably, many members of the Legislature would have much more time to give to Statewide propositions were they not bothered with local matters. I certainly think some curb on this kind of legislation should be made.

"I am frankly of the opinion that this thing called courtesy, meaning that the representative of any county should be permitted to have any enactment affecting that county alone passed at his will, has gone too far. Under our present system, it is hardly necessary to send a local bill to committee. I think if the committee on Counties, Cities and Towns was properly managed and would use its own judgment instead of applying the courtesy principle, over half of this kind of legislation would never pass. . . . Certainly, we ought to have some department of government or some committee to submit this kind of legislation to that would give it certain consideration and not give it the stamp of approval simply because the representative or senator from that county wanted it.

"I know our town or city authorities have the right to pass certain ordinances with the force and effect of law. I have been and I still am, unalterably opposed to making a legislating body out of county commissioners. I still am of the opinion that if we must have private, local and special legislation, it should come through the Legislature and not through the boards of county commissioners."

(17) "Replying to your letter of recent date regarding the subject of PRIVATE, LOCAL AND SPECIAL legislation, I wish to say that there is a very considerable amount of time taken by the legislators in the consideration of local problems, frequently very minor in their scope so far as the whole State is concerned. . . .

"I have observed that a lot of local fights over matters definitely in the province of their own authority to settle at home have been brought to the Legislature because it sort of shifts the responsibility of making the decision to an outside and neutral and perhaps more able body. I think this has both its desirable and undesirable features.

"Frequently there are local matters up for decision which involve much of partisan politics and the legislature is used to ajudicate the outcome.

"I think there are many matters that would come under the above mentioned classification that should be settled by the legislature. The question is, where to draw the line."

(18) "Replying to your letter of August 5th, it appears to me that too much time of the Legislature is consumed by private, local and special legislation. Approximately one-half of the bills introduced during the last Session were of this type.

"The existence of so many bills of this type on the calendar causes Legislators to get in the habit of letting bills go by without reading them or knowing their contents. Unless a local bill is objectionable in principle or a departure from precedent, it is apt to be passed merely upon recommendation of the local Representative without any consideration being given to its merit. The spectators in the lobby who watch the passage of such bills get the impression that Legislators do not know what is going on, do not listen, and do not care, and [this] decreases their respect for legislative bodies. As a matter of fact it is impossible for the Legislators to study the merits of such bills as a body and have any time left for Statewide measures.

"These local bills quite often are highly controversial in the Legislator's home county and he is placed in a position where he will be forced to make numerous enemies at home irrespective of what he does in the matter. The placing of responsibility for local legislation on one or two individuals is in my opinion often un-Democratic.

"In as far as possble the local matters should be solved by citizens of the local community or local municipality. I think that the bill passed by the last Legislature empowering cities to extend their own limits by a vote of the citizens affected is an important step in the right direction. It enables the city to extend its limits without waiting for the Legislative Session to convene and it places the responsibility on the city and on the citizens most vitally affected, which is where it should be."

(19) "I think you and most everyone will agree that a large part of the time of the General Assembly is taken up with local and special legislation—a large part of which could and should be handled by the local governing bodies of the counties and other local governing units. I have long been an advocate of giving our county commissioners and city councils more authority to handle and govern their local units.

"It has long been the custom of the General Assembly to extend courtesy to the representative and senator by passing most any legislation they introduced provided there is not too much opposition registered from back home. This gives the one representative more authority than the entire Board of Commissioners composed of three, five, or more members who are charged with the responsibility of financing and governing their local unit. I cannot see any reason for not giving the commissioners more authority to handle local matters.

"With the continued increase in statewide problems and legislation, it is extremely important that the legislature have the time to give careful consideration and study to state legislation which they cannot do under present conditions."

(20) "Many times local acts are sponsored by a small segment of the population which makes it very difficult to know the will of the people in regard to such proposed measure.

"Those who bring proposed local acts to their representative in the General Assembly do not always know how much support such measure may have, or if they know, do not apprise their representative of the support. This may cause a law to be enacted which is contrary to the will of the majority of people.

"I have seen several local acts introduced where politics were uppermost and the good of the people appeared to have been ignored.

"There are occasions when local acts serve a real purpose for a community. Therefore, I could not subscribe to the elimination of all private local legislation.

"I believe that private, local and special legislation takes more than 50% of the time of our General Assembly. This necessarily means that the greater part of the time of some of the most level-headed members of our General Assembly is taken up with the handling of local legislation and we do not have the benefit of their thought and study of Statewide problems.

"Since I would not subscribe to the elimination of private, local and special legislation, I hardly know what to propose to enable the reduction of same. If something could be done to set a deadline for the introduction of such legislation, it might help. In other words, if all private, local and special legislation could be out of the way after the first thirty days of the General Assembly: for the study and passage of Statewide measures, it should mean a much better result in the handling of our Statewide problems."

(21) "I have always made it a point in local legislation to endeavor to clear it with the Board of County Commissioners. We have only disagreed one time. I introduced the piece of legislation anyway and now they think I did the right thing. However, the danger of local legislation is that a representative can be elected and then utterly disregard the best interest of his county. That is done too frequently. Too many representatives are elected by a special group for a special purpose. More authority to County Commissioners could prohibit some of that.

"It is difficult to say how much time is taken up by local legislation. In my first session right much time was used up. In my second term very little. However, that was my individual case. In the aggregate, much of the time of the legislature is consumed daily in passing local bills on an average, from a fourth to a third I would say.

"I realize the difficulty of doing anything about it. However, I believe that all matters pertaining to county affairs only should be left up to the County Commissioners. Matters wherein State and County interests are both involved should be a General Assembly problem. It is firmly believed by me that if more local authority were given to our County Commissioners and they knew they would be held responsible for the authority given, I believe we would get county government of a higher type."

Comments of County Officials

(1) "It was the opinion of the entire Board that more authority should be given to the Counties than is given. It is the opinion of the Board that a local board of county commissioners know more about the affairs of their respective counties than the members of the State Legislature. In other words any law passed by a representative from any County in most cases is a one man opinion and a large part of the time it is something that he or a close friend wants done in his particular county."

(2) "We feel that certainly most of the laws passed during the General Assembly should be of a statewide nature. However, it does seem necessary to have enacted from time to time local bills affecting county government. In this case our Board feels that it should know about and have insight into every local act before it has been enacted into law. There are bills introduced very frequently in the General Assembly of a statewide nature which, if passed, would tend to work a hardship on local government. Since the counties are getting daily bulletins from the Institute of Government showing the activities of the General Assembly, it does give us some time to put up a fight against such legislation through the efforts of our legislative committee."

(3) "In reply, I wish to say that in answer to question No. 1, that this county's experience with private, local and special legislation has been good and we know of no curb that should be put upon legislators in reply to this question at this time."

(4) "It has been the experience of the Commissioners that, for the most part, local and special legislation has been for small minorities and not for the best interests of all concerned. The Commissioners are of the opinion that the Legislature should diagnose very carefully all local or private bills before passing them."

(5) "I feel that counties in the state should operate under Statewide statutes that would cover the situations, and that the governing body should have some discretion thereunder. I think if we operated under Statewide statutes with the governing body having some discretion that we would come nearer to having 'home rule for counties.'

"I expect the counties have enough power now, if these were not curbed one way or the other by special legislation. The governing body is close to the people and I feel that it should have some discretion in passing upon matters affecting local situations."

(6) "An examination of the index to the 1947 Session Laws reveals that the last General Assembly enacted 140 public, local, private and special Acts dealing with taxes and taxation for sixty-one counties of the one hundred, and several cities and towns of the State. Several of these Acts authorized improvements, the cost of which were 'not necessary expenses' of the County Government, and an election was provided for to meet Constitutional requirements, but many of the Acts authorized levies for some of the following purposes: To increase the salary of school bus drivers; to pay the salaries of certain County officials (not constitutional officers). Of the one hundred and forty Acts, the following number were enacted for the following purposes:

- 11 authorizing counties to revalue and reassess property for ad valorem taxes.
- 23 authorizing counties to appoint, prescribe the duties and to fix the compensation of tax supervisor, tax collectors and auditors.
- 22 authorizing the adjustment, collection, cancellation of delinquent taxes and the remission of penalties or delinquent taxes.
- 7 validating taxes, extension of time in which to institute foreclosure suits and indexing of foreclosure judgments.
- 9 relating to penalties and discounts, adjustments, remission, cancellation, etc.
- 2 designation of tax scrolls.

"County Commissioners being empowered and directed by law to levy taxes and to appropriate the necessary funds for governmental purposes of a county should be given the authority to determine when and in what manner property for ad valorem taxation should be revalued and reassessed and for the same reasons the full authority as to adjustment, collection, etc. of taxes levied and assessed by counties.

"It would appear that much of this legislation would have been unnecessary had the counties and municipalities been given full authority to handle these matters by the enactment of General Laws. It would seem that inasmuch as County Commissioners are charged with the duty of appointing the necessary officials of a county (except constitutional officers), and in a large matter responsible for the type of services performed, that full authority should be given these officials in the appointment and the amount of compensation to be paid all employees of a county except as provided in the Constitution.

"Consideration should be given to the proposition of delegating to counties the power to adopt ordinances and regulations with some limitations relating to the public safety of the people similar somewhat to the broad powers now vested in County Boards of Health in the promotion and protection of the health of the people.

"It would seem that counties should have the power to adopt ordinances and regulations with reference to many matters affecting the welfare and safety of the people, some of which are as follows: Regulations of pool rooms, dance halls, race tracks, and other places of amusement, and in order to promote efficiency and economy in County Government should consolidate upon due notice given to the people many of its departments with those of a City Government, upon permission of City authorities."

(7) "In reply to your letter of August 11th in which you ask questions of our opinion and experience regarding local legislation, I would like to say that I think very little local legislation should ever be passed. The time of rapid transportation and quick communication between all communities within the State makes it very bad when you have a bunch of local laws that apply only to the individual community.

"I think that any law that is worth while should be a Statewide law, and that the board of commissioners should have some power and not too much, to pass reasonable ordinances that might be needed to effect some peculiar situation that might arise in the county—somewhat in the nature of the power that city councilmen have in the various cities."

(8) "The type of private, local and special legislation that has been passed as applied to this county and its citizens, generally speaking, would hardly be tolerated by the most ignorant and uncivilized nations on earth. Our big shot, headlong and so-called Liberal Legislators went to Raleigh the past legislature and decided that the whole world was theirs. They ignored the County Commissioners, the office holders and most of all the PEOPLE and this was their waterloo. . . . Very strongly I contend that before the County's legislative boys pass a law affecting the office of an elective official that it should be submitted to the people and let the people know what is intended when they elect the legislators; or the elected official, in writing, should concur with the new law. If an appointive office, the County Board of Commissioners should endorse the proposed change and table it for 15 days after notifying the people of the proposed change to give the people a chance to appear and be heard. As now stands THREE fool legislators from a county can wreck the county government by spite or hasty and ill conceived legislation. At the same time they can wreck the office holders who are elected in good faith by the people."

(9) "In reply to your letter of recent date, it has been my experience that the representative, while frequently cooperating with the local government, has on many occasions passed legislation it considered harmful and which destroyed the effect of their pledges to the voters in their campaigns. There has been some rather crude legislation for special benefit to individuals, the details of which I prefer not to go into. Frequently, when this legislation has been passed and the reaction sets in, it is desired to have it changed, but in the meantime the legislature has adjourned and the harm has been done.

"I think local legislation should certainly be restricted to the type of legislation requested and desired by the local governing body and should require their endorsement. The constitutional limitation passed several years ago has been so construed by the court, that most any kind of local legislation could be passed, which in my opinion is strictly against the will of the people. These bills become lost in the maze of special acts, which are most frequently not in the General Statutes and it is practically impossible for anyone not familiar with the history to properly advise a county on its rights, duties and liabilities. Certainly these acts, if enforced, should be required to be in the General Statutes."

(10) "Our County has had some unpleasant experience with Private, Local and Special Legislation put through the General Assembly by certain members of the General Assembly from this County. As to what limitations should be put on the power of the General Assembly in this particular, it is difficult to speak intelligently. I have thought that to require the approval of the Board of County Commissioners might be a wise limitation; but this could lead to political controversy and do harm in some instances."

(11) "This County's experience with private, local and special legislation is that most of it is done as a political spanking for the defeated, or as a political game for the winner. The General Assembly should spend its entire time on problems affecting the general welfare of the state, rather than to take up the biggest part of its time on local legislation. . . .

"In conclusion, the County Commissioners of [this county] feel that the General Assembly has enough problems to solve without spending most of its time on local and special legislation; for instance, the problems of the insane, the weak minded, the tuberculous and the alcoholic; the Legislature has not for over thirty years begun to make adequate provisions to take care of these unfortunates. Counties have to keep these people in jail or locked up in other places. This is a state problem. Why does not the Legislature solve this, rather than waste its time on petty local legislation? We believe that if the General Assembly will attack and solve its own statewide problems, and leave to the counties problems of interest to our local citizens only, that much progress can be made in North Carolina."

Comments of City Officials

(1) "In reply to your first question I would say that [this City's] experience with private, local, and special legislation has not been at all satisfactory. For some unknown reason our representatives in Raleigh have not seen fit to seriously consider all of the bills that we have proposed. . . ."

(2) "It is my opinion that [this City] has obtained private, local and special legislation desired in practically all instances and that any complaint anyone could have with respect to the non-passage of requested legislation is negligible. . . ."

(3) "Our experience with private, local and special legislation has been good. We have never asked for anything that was not purely local, and we think that there should be some limitation on the legislature so that generally all towns will have practically the same rules for procedure. . . ."

(4) "I do not know that my particular city has suffered as a result of private, local and special legislation. As a matter of fact, I think all cities have been forced to seek special legislation in many instances to enable them to serve their particular locality and in other instances to exempt them from burdensome statutes passed by the General Assembly affecting all localities. . . ."

(5) "It is my opinion that the time of the General Assembly could be better spent in legislation affecting the state as a whole rather than taking a large part of its time for private, local, and special legislation. The General Assembly as a body has no way of knowing the needs of [this City] or other cities. I suppose, in order to limit the power of the General Assembly to pass laws affecting cities and towns in North Carolina, it would be necessary to amend the Constitution, taking away such powers from the General Assembly and giving it to the local communities. . . ."

(6) "[This City's] experience with private, local and special legislation has been somewhat limited. Fortunately, we have had the type of legislators in the General Assembly that have followed our wishes in the majority of the cases. The only exception being a request by the citizens submitted and supported by a signed petition to allow the City to submit a vote for ABC stores here. However, from the writer's experience this type of legislation could and does affect cities and towns to a marked degree. Laws could and sometimes are passed that are not to the best interest of the municipality. . . ."

(7) "[This City has] had very little private, local and special legislation and I can see very little reason for changing our constitution with regard to the passage of private acts and local statutes. This whole thing was threshed out many years ago and it was thought at the time that the amendment to the constitution would take care of the whole thing and I doubt very seriously if any legislation or constitutional change will benefit the local units. . . ."

(8) "I do not think that the legislators should limit the actions of municipalities too much. The people of a city elect their own council to carry on the business of the municipality, and they should have enough faith and trust

in them to let them do it without interference with State laws. For instance, what does a legislator from Henderson County in the western part of the state know about what the tax rate should be in Raleigh or Wake County? I believe that the legislature should not put limits on tax rates because in doing so many county representatives are putting strings on the various municipalities throughout the State of North Carolina. . . ."

VI
WHERE DO WE GO FROM HERE?

The fact that the problem of private, local and special legislation is still unsolved does not mean it is not solvable. In fact, the records show it has been solved—in spots. The General Assembly is no longer bothered with the passage of "private laws": (1) granting individual divorces, (2) altering the names of particular persons, (3) legitimating particular persons, (4) restoring citizenship to persons convicted of infamous crimes, nor (5) with the passage of "special acts" creating private corporations. Look at the multiplying activity in these fields, where regulation is delegated by the General Assembly to judicial and administrative agencies under guiding standards prescribed in general laws, and realize the present legislative freedom from a load of private and local matters that would be unbearable today. Look at the volume of "local, private and special acts" passed from 1917 to 1947 in the fourteen fields prohibited in 1917 by Article II, Section 29, compare it with the multiplying activity in these fields today, and realize the volume has been cut down to a trickle where it might have risen to a flood. Look at the multiplying numbers and percentages of "local, private, or special acts" relating to particular cities, towns, and incorporated villages and realize that the growing tide which has risen to a flood might have been avoided in the main if the purpose of Article VIII, Section 4 had been effectuated by the courts. And thus, against this background comes the question: Where do we go from here—and why?

A
The Thirty Days' Notice Provision

The General Assembly might recommend the restoration of the teeth lost by judicial pulling from the 1835 requirement of thirty days' notice of all "private laws" before their passage and guaranteeing a hearing to all individuals and localities concerned, and extend its scope to include local and special acts. Eight other states carry such provisions in their constitutions. New Jersey requires public notice of the intention to apply for a private, special or local law, stating the general object of the law, but the time and manner of giving the notice is left to the discretion of the legislature. Pennsylvania and Texas go slightly further by requiring that at least thirty days' public notice be given in the specific area to be affected and that some evidence of compliance be exhibited to the legislative body. Louisiana requires that notice be given in the manner provided by law for the advertisement of judicial sales and that all local or special laws contain recitals of compliance with the notice provision; Missouri joins Louisiana in the latter step. Alabama, Florida and Georgia specify the number of times the notice must be published and the place of publication and require complete proof of compliance with the notice provision; and Florida goes so far as to require that proof by affidavit be exhibited to each house of the legislature. It has even been suggested that states might go further and require local approval of all local laws affecting local units of government after these laws are passed but before they take effect—a system reversing the present practice which gives the General Assembly a veto power over the local units, and instead giving the local units a veto power over the General Assembly. If any considerable portion of the individuals and localities given notice requested a hearing, the wheels of legislation might be clogged instead of speeded, the General Assembly might find itself out of the frying pan and into the fire, so far as saving legislative time is the objective. If local approval were required of every local law before it goes into effect, a multiplicity of local elections would be called for—uness approval were left to the local governing board. Perhaps these very cumbersome methods might discourage the introduction of a lot of local legislation.

B
Acts Violating Article II, Section 29

Many of these acts have been introduced by legislators unaware of the specific prohibitions. Many more have been introduced by legislators aware of these prohibitions, with a doubt about their application to the act in hand, and with the purpose of giving a constituent the benefit of the doubt. There is, for instance, a vagueness of phrasing in particular prohibitions, such as: "relating to health, sanitation and the abatement of nuisances," or "regulating trade, mining or manufacturing"; and these phrases may be broadened to cover next to everything or narrowed to cover next to nothing. Many more have been introduced by legislators with no doubt about the violation. There is, for instance, no vagueness in: the "*establishment* of courts inferior to the superior court"; the "*appointment* of Justices of the Peace"; the "*pay* of jurors"; and bills like this may be thrown into the legislative hopper in the effort to satisfy a persistent and annoying constituent, pressing for a "little bill"—as precious to him as a little baby. Waiving doubts in such cases may be one way of saving a legislator's time—and, some legislators have said, his legislative status. One legislator serving in a recent session writes:

> "Any member of the General Assembly is aware of the political significance attached to local legislation and the resulting effect it may have on election day. The matter of extension of city limits is of much greater concern to the citizen affected than any statewide act of great importance to the state as a whole. On election day, he will think of you in terms of city limits and not of greater aid to education or the establishment of a medical school at the University."

This local pressure has on occasion been strong enough to move individual legislators to request committee approval of a bill in obvious violation of the constitution, and an equally obvious fellow feeling has sometimes made committees wondrous kind. This volume might be cut by closer legislative scrutiny of all these acts, in committee hearings and in discussions on the floor. In some states the General Assembly itself sets up legislative committees charged with this specific responsibility.

Apart from the foregoing considerations—if "private laws" granting divorces, altering the names of particular persons, legitimating persons not born in wedlock, and restoring citizenship to persons convicted of infamous crimes, were cut out completely by the 1835 prohibitions,—if the "special acts" chartering private corporations were cut out completely by the 1868 and 1917 prohibition,—why did the other 1917 prohibitions fail to cut out "local, private, or special acts" in the fourteen designated fields? A partial answer may be found in the fact that the general laws

pursuant to the 1835 prohibitions provided a convenient and effective method of satisfying prospective applicants by diverting them from the legislature to the courts; and that the 1868 and 1917 prohibition of private charters by special acts provided a convenient and effective method of satisfying prospective incorporators by diverting them from the legislature to an administrative board. This procedure is still effective. One hundred and one "local, private, or special acts" were passed in 1917, "authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets or alleys"; one hundred nine in 1921; sixteen in 1931; two in 1933; one in 1935; an average of less than one a session thereafter. This cutting down of local, private, and special acts to the cutting out point may be largely explained by the fact that in 1921 the state took over construction of county seat to county seat highways, and in 1931 took over all county roads and converted the local pressures for special acts into requests for administrative action by the State Highway Commission. Flat prohibitions, without more, have usually proved less effective. An ounce of prevention here is worth a pound of cure.

C

Acts Beyond the Reach of Article II, Section 29

But eliminating the five to nine per cent of the acts with the slightest possibility of violating Article II, Section 29, what of the remaining ninety-one to ninety-six per cent? If the General Assembly chooses to follow the mathematical line, it might prohibit "local, private, or special acts" in fields with greatest percentages; local taxation and finance, with 25 per cent of the total volume over the past thirty years; salaries and fees, with 14 per cent; validations, with 5 per cent; and so on down the list of fields elaborated in a later section of this report. This mathematical line might be the wise and strategical line to follow in some cases—as in claims against the State and other units: From 1917 to 1947, fifty-three acts provided for reimbursement to claimants for damages to personal property; forty-eight for personal injuries; twenty-two relieved officials from liability in particular instances; twenty provided for sums to be paid to relatives of persons killed; nineteen for refunds, usually on gasoline tax; nineteen authorized salary payments; fourteen set out the procedure for filing claims; seven authorized payment for services rendered; five provided for payments for damages to real property; three for reimbursement to officials of costs of litigation; nine miscellaneous acts bring the total to two hundred nineteen. It might not be the wise and strategical line to follow in other cases—as in validations: From 1917 to 1947, there were six hundred eighty-one "local, private, or special acts" validating proceedings of a multiplicity of officials and governing boards: two hundred ninety of these acts related to bond issues; one hundred and one, to tax sales and foreclosures; fifty-three, to acts of justices of the peace; fifty-two, to elections; forty-seven, to acts of county officials; forty-three, to tax levy and assessment; twenty-three, to instruments and probates; twenty-one, to sales and conveyances; seventeen, to acts of notaries; thirteen, to finance; twelve, to public records; six, to tax adjustments; three, to judgments. These figures and types are elaborated in a later section of this report and throw added light on the complications of the problem.

Broadening the Definition of "Local, Private or Special Acts" in Article II, Section 29

The volume might be further cut by broadening and clarifying the definition of "local, private, or special" in Article II, Section 29. From the beginning, as already indicated, the Court construed these words to apply to an act erecting a single bridge, street, highway, school district, sanitary district, or court; but not to a system of bridges, streets, highways, schools, or sanitary districts—even though that system is confined to a single county. A diverging approach to the problem appears in the case of *In Re Harris*, 183 N. C. 633, 112 S. E. 425 (1922), where the court, in holding a statute providing a uniform system of recorders' courts in fifty-six of the one hundred counties of the state to be a general law and not a special act, approved a New York decision which said:

> "'A local act is one operating only within a limited territory or specified locality. It could not be said, with propriety, that a territory comprising nearly the whole state was merely a place or locality. An act operating upon persons or property in a single city or county, or in two or three counties, would be local. But how far must its operation be extended before it ceases to be local? To determine this no definite rule can be laid down, but each case must be determined upon its own circumstances.'"

"We are of the opinion," said Justice Hoke, commenting on this quotation, "and so hold, that on the case we have before us (a recorder's court act exempting forty-four counties), where the Legislature, in the plain endeavor to comply with the constitutional limitation, has passed an act establishing a general statute for the establishment of these courts, applicable to more than one-half the counties in the State, the principle of the New York decision affords a better and wiser rule of interpretation, and must be allowed as controlling on the validity of the present law."

This notion was carried forward in cases involving licenses to real estate brokers in *State v. Warren*, 211 N. C. 75, 189 S. E. 108 (1937) and *State v. Dixon*, 215 N. C. 161, 1 S. E. (2d) 521 (1939):

> "Tested by the rule of the Harris case, it is apparent that the present act applies to only a 'limited territory' (the area occupied by one-third of the counties) and to only 'specified localities' (the geographical limits being limited to that encompassed by the boundaries of only thirty-six counties). . . . That test, there applied, pronounced a law which exempted forty-four out of one hundred counties to be a valid, 'general' law; that same test, here applied, pronounces a law which exempted sixty-four out of one hundred counties to be invalid as not constituting a 'general' law."

"If the exceptions of seventy-four counties destroys the act," queried a dissenting Justice, "would twenty-five, would ten, would one?" If a numerical majority of the counties included or excepted is the determining factor, what would the Court say to a statute including fifty of the one hundred counties? Would it go into questions of size of counties? population? wealth?

The *Harris* case may be explained on a different principle to avoid this dilemma. Grant that a statute applying uniformly to all governmental units within the state would be a general law—these units may be classified by counties, townships, cities and towns, special districts; and statutes applying to all units in each class would be general laws. In the recorder's court case the Court said that the statute included the fifty-six counties needing recording courts and excluded forty-four counties already

having recorder's courts, that this classification of counties for recorder's court purposes was a reasonable classification, and a statute applying to all counties within a reasonable classification was a general and not a special act. The real estate brokers' cases may be explained on the same theory without regard to the territorial principle invoked. And so may the fair trade act case, *Lilly v. Saunders*, 216 N. C. 163, 4 S. E. (2d) 528 (1939).

Another possibly diverging approach appeared in the real estate brokers' cases of *State v. Warren*, supra (page 19), and *State v. Dixon*, supra (page 19). Irrespective of the territorial extent of the act, does it conflict with a statewide policy laid down by the General Assembly? In *State v. Dixon*, the Court outlines this position:

> *"The distinction is not merely one between general law and local law; the question is whether discrimination will be permitted* among members of a trade or profession when all the members have previously been granted State-wide licenses to practice that trade or profession."

A kindred note was struck in *Board of Health of Nash County v. Commission of Nash City*, 200 N. C. 140, 16 S. E. (2d) 177 (1941):

> "We have become increasingly conscious of the fact that many of the problems which heretofore we have considered purely local are so related to the welfare of the whole state as to demand uniform and coordinated action under general laws. We believe the section of the Constitution which the plaintiffs have evoked was not intended merely as a device to free the legislature from the enormous amount of petty detail that had theretofore occupied every session, but that it was also framed upon the principle that we have just stated, and therefore it should be so construed as to minimize the provision it had made looking to this result."

It has been noted that the constitutional provision in 1835 prohibited the passage of "private" laws and required the substitution of "general" laws in four specific types of cases, without defining the terms, "private" or "general." The added prohibition of "any private law" without thirty days' notice, likewise carries no definition of the term. The 1868 amendment prohibited the creation of private corporations by "special" act and required the substitution of "general" laws, without defining the terms "special" or "general." The 1917 amendments prohibited "local, private, or special" acts on fourteen separate topics, and authorized the General Assembly to pass "general" laws on these topics, without defining the terms, "local," "private," "special," or "general." It also required the General Assembly to provide by "general laws" for the organization and operation of cities, towns, and incorporated villages without defining "general" laws. A 1920 amendment to Article V, Section 6 specifically provided that the "special approval" of the General Assembly, needed for counties to exceed the fifteen cent tax limitation, may be given by "general law or special act." Here are different uses of the same words in different provisions of the same constitution for different purposes.

One way of clarifying these confusions might be by definition in the constitution. The extent to which a broadening definition might cut down the total volume of "local, private, or special acts" under Article II, Section 29 is problematical in view of the manner in which most of this legislation originates. In many cases a legislator introduces a bill in terms applicable to the whole state, and one legislator after another sends up an amendment exempting his county, until a few scattered counties, forming no particular pattern, remain within the bill, or only the county of the introducer. In other cases a legislator introduces a bill in terms applying to his own county, and one legislator after another adds his county to the list, until most or all counties are included. In other cases, a multiplicity of separate bills achieving the same objectives are introduced separately, and sometimes consolidated and sometimes not. These processes may go on throughout a single day, throughout a full session, or throughout a period of years in slow motion sequence. These processes of attrition or accretion may come within the closing prohibition of Article II, Section 29:

> ". . . 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. Any local, private or special act or resolution passed in violation of the provisions of this section shall be void. . . ."

Further confusion results from differing statutory and administrative uses of similar terms. To illustrate: In the Laws of 1872-73, the General Assembly provided that the Secretary of the State should determine which laws were "public" and which were "private" and print them in separate volumes, but did not provide any rules or definitions of these terms. In Chapter 473, Public Laws of 1909, the General Assembly provided that "public-local" laws should be printed separately. In *Hartsfield v. New Bern*, 186 N. C. 136, 119 S. E. 15 (1923) the Court said that:

> "Whether a statute is private or public depends upon its purport and not upon the judgment of the person who directs the compilation in which it shall be published."

In Chapter 48 of the Session Laws of 1943, this section was repealed to permit "public," "public-local," and "private" laws to be printed indiscriminately. In addition to this statutory and administrative distinction, as a matter of convenience the Codification Division of the Department of Justice prints acts appearing on their face to be general and permanent in nature and applying to ten or more counties in the General Statutes. There is no absolute necessity for giving the same terms the same meaning in differing constitutional, statutory, and administrative contexts; but at least the distinctions should be clarified.

E
Prohibiting Private, Local or Special Acts Under Article VIII, Section 4

The requirement that the General Assembly "provide by general laws" for the organization and operation of "cities, towns and incorporated villages" was good as far as it went, said Justice Allen in *Kornegay v. Goldsboro*, supra; but it did not go so far as to prohibit the passage of private, local or special acts. If the General Assembly should decide to add this specific prohibition to Article VIII, Section 4, it would be giving cities and towns today what they thought they had in 1917.

If the General Assembly should decide to recommend this amendment, freeing itself from "local, private, or special

acts" relating to cities and towns, and bringing the cities and towns the same degree of freedom from legislative interference they thought they had in 1917, it might be well to define the terms "general law" as distinguished from "local, private, or special acts," as used in Article VIII, Section 4. The act before the court in *Kornegay v. Goldsboro*, supra, applied to "the finance of cities, towns, townships, or school districts of Wayne County." In the course of his opinion Justice Allen threw out the dictum that: "an act applicable to all the municipal corporations of Wayne County, including cities, towns, townships and school districts," is a general law and not a special act. This remark accords with previous decisions of the Supreme Court of North Carolina, limiting "local, private, or special acts" in Article II, Section 29, to legislation directed "to a specific spot"—as a particular road, bridge, hospital, or school district. It was carried forward in 1940 by the Court in construing that part of Article II, Section 29, prohibiting "local, private, or special acts" relating to school districts: "The law applying to a whole county in which numerous districts might be created cannot be classified as private or special." Would the Court construe these words in Article VIII, Section 4, as it has construed them in Article II, Section 29,—saying with Justice Allen, that "an act applicable to all the municipal corporations of (one) county, including cities, towns, townships and school districts," is a general law and not a local, private, or special act within the meaning of Article VIII, Section 4?

If the purpose of Article II, Section 29 is accepted as stated by Justice Brown—to prevent legislation authorizing "a particular highway or street or to establish a bridge or ferry at some specified place"—the decisions of the Court effectuate this purpose. But a similar construction would not effectuate the purpose of the "general laws" passed by the General Assembly in 1917 pursuant to Article VIII, Section 4, if they are "intended to be uniform, and to govern all alike," as contended by Justice Brown and Chief Justice Clark. For if the purpose of the "general law" forbidding the sale of municipal bonds below par was to "maintain the credit of cities and towns of the state" in the face of frameups by bonds buyers to bid below par and thus suppress the market, then every exception *pro tanto* defeats this purpose—whether the exception is one municipality, or all municipalities within a single county, or in any combination of counties less than all. A definition of terms in any proposed amendment to the Constitution would avoid this risk, and make assurance doubly sure.

F

Extending Article VIII, Section 4, to Include Counties

It is pointed out in the preceding section that for a hundred fifty years cities and towns were created, extended, contracted and abolished by special acts of the General Assembly, and powers and duties were given to them and taken from them in the same fashion—with supplemental general laws coming to their aid in comprehensive fashion in 1854 and 1917. But the history of counties tells a different story. While they were created, extended, contracted, or abolished by special acts of the General Assembly, their powers and duties in the main were given and taken away by general laws—supplemented by special acts. From the beginning they were subdivisions of territory through which the state worked out policies relating to county seats, public lands, militia for the common defense, law enforcement, roads and bridges, schools, public welfare, and the general administration of government through the county courts. These policies carried a common denominator of uniformity in all counties, with occasional variations to meet differing situations; and it was natural for the General Assembly to provide for the performance of these functions by "general laws," with perhaps enough exceptions creeping in to prove the rule. When these policies required the subdivision of the counties into special districts for militia, road, and school purposes, and the like, the General Assembly usually prescribed the common pattern by "general laws." Special acts were often used to create special districts such as drainage districts for particular swamps, which were the exception rather than the rule. This policy was followed in the Laws of 1868, Ch. 20, giving powers to county commissioners throughout the state by "general laws," and continues today when the statewide purpose is best served by uniform policy. It was followed in the Constitution of 1868 prescribing the division of counties into townships and giving uniform powers to township trustees, and in Article II, Section 29 of the constitution in 1917 requiring general laws, and prohibiting local, private and special acts, on selected matters involving counties, townships and special districts. The volume and variety of special acts increased as individual counties took on the supplemental character and personality of self-governing units ministering to local needs in addition to executing statewide policies, diverging from the common standard and the beaten path to start on new actvities or on new ways of doing old activities.

From time to time these general laws have been invoked to restrain local variations from statewide norms in the name of statewide policy. Legislative and judicial answers to these efforts through the years have usually favored use of general laws as starting points rather than as stopping points—as indicated in the following statement of Justice Seawell in *Fletcher v. Commissioners of Buncombe County*, 218 N. C. 1, 9 S. E. (2d) 606 (1940):

> "It has been suggested here that because the School Machinery Act of 1933 has provided a uniform method by general law for redistricting the counties of the State a policy has been produced which will not tolerate amendment or exception. . . . It has been said that the policy of the State is epitomized in the expression, 'An equal educational opportunity for every boy and girl in the State.' Equality in educational opportunity must not be achieved by a leveling down process. We find no public policy in this State which can be invoked to nullify the statute and suppress initiative in educational advancement in communities which have greater resources or more faith, and are willing to translate them into tangible educational facilities. The law intended they should have this power. We see no reason to depart from the ordinary rules of statutory construction in an attempt to invest the public school laws with a legalistically satisfying but devitalizing symmetry which would destroy it."

Thus, the policy and the habit of local, special, and private legislation continues on county, as well as city, levels.

From 1917 to 1947: one hundred eighty-seven "local, private, or special acts" created or changed the boundaries of county subdivisions: eighty-two created new school districts, forty-one created new drainage districts, twenty-four created new road districts, eighteen created new sewer districts, four created special tax districts, eighteen created

or changed townships, and fifteen changed the boundaries of particular counties.

From 1917 to 1947: one hundred eighty-four "local, private or special acts" changed governmental structure of particular counties: one hundred and six changed the manner of election, terms, etc., of the county commissioners of a particular county; thirty-five changed the number of county commissioners of a particular county; twenty-four established or abolished minor administrative boards in particular counties; ten consolidated the city and county agencies in particular counties; nine authorized administration of county affairs by a county manager in particular counties.

From 1917 to 1947: two hundred fifty-seven "local, private, or special acts" extended or curtailed the power of particular county governments with respect to a wide variety of subjects. Three hundred fifty-seven "local, private, or special acts" concerned county officials—powers, duties, terms, etc., including: the sheriff, eighty-seven; clerk of court, eighty-three; and register of deeds, fifty-four. Twenty-five acts concerned township officials: constables, eighteen; and district commissioners, seven.

From 1917 to 1947: one thousand three hundred eighty-one "local, private, or special acts" concerned the salaries of particular officials in particular counties: five hundred ten of these were concerned with the salaries of several officials in particular counties; two hundred twenty-four with the salaries of particular sheriffs and their deputies in particular counties; one hundred seventy-one with the salaries of county commissioners in particular counties; one hundred eleven with the salaries of particular clerks of court and their assistants and deputies in particular counties; sixty-nine with the salaries of registers of deeds in particular counties; thirty-three with the salaries of superintendents of public instruction and the boards of education in particular counties; one hundred eighty with the salaries of a wide variety of minor officials of particular counties; forty-two "local, private, or special acts" were concerned with salaries of particular officials of particular townships; eighteen with the salaries of road commissioners of particular townships; fourteen with the salaries of constables and rural police of particular townships; nine with salaries of miscellaneous officials of particular townships.

From 1917 to 1947: three hundred eighty "local, private, or special acts" were concerned with fees to be charged by particular officials in particular counties: one hundred four with fees of clerks of court in particular counties, ninety-nine with fees of sheriffs of particular counties, forty-nine with fees of registers of deeds of particular counties, nineteen with fees of court officials of particular counties, thirty-seven with fees of miscellaneous officials of particular counties, seventy-two with fees of justices of the peace for particular townships.

From 1917 to 1947: one thousand seven "local, private, or special acts" concerned taxes and taxation in particular counties; six hundred thirty-seven concerned roads and bridges in particular counties; six hundred eight concerned fish and game in particular counties; three hundred twenty-nine concerned schools in particular counties; one hundred seventy-eight concerned animals in particular counties; one hundred sixty-five concerned acquisition, disposition, and control of public property in particular counties; one hundred thirteen concerned superior court jurisdiction, procedure and personnel in particular counties; one hundred twenty-four concerned claims against particular counties; ninety-six concerned liquor in particular counties; seventy-five concerned public records in particular counties; fifty-one concerned beer and wine in particular counties; nineteen concerned retirement and pensions in particular counties.

These acts total around six thousand "local, private, or special acts" applicable exclusively to particular counties. This figure represents almost half of all "local, private, or special acts" passed from 1917 to 1947.

The acts applicable to particular cities, towns and counties together add up to between two-thirds and three-fourths of all the "local, private, or special acts" passed from 1917 to 1947—excluding topics in which tabulations have not differentiated between cities and counties. Finance, with 1964 acts, validations, with 681, criminal law and procedure, with 267, and other related topics add up to around nine-tenths of the total.

Many, if not most, of these enactments might have been avoided if Article VIII, Section 4, as adopted in 1868 and amended in 1917, had been extended to counties and their subdivisions, and if the requirement of "general laws" had been construed as a prohibition of "local, private, or special acts." Many, if not most, of them may be avoided in the future by following a similar procedure now. Other factors need to be considered in deciding on the wisdom of this course.

G

Relative Advantages of General Laws and Special Acts

One reason cities and towns have promiscuously bypassed the general laws provided by the General Assembly, in favor of special acts, may be found in the fact that cities and towns often strain for individual variations not permitted under general laws; another reason is the sometimes cumbersome procedure provided in the general laws. This is illustrated by contrasting procedures for extending city limits under "general laws" and "special acts." For two hundred forty years—from 1705 to 1947—city limits were extended by "special acts," tailored to fit the trading points between those within and those without the limits in particular places. In some of these hundreds of special acts the General Assembly extended city limits by legislative fiat; in others, it authorized a vote—sometimes by the people in the annexing city only, sometimes by the people in the adjoining territory only, sometimes by the two voting together, and sometimes by the two voting separately; with a variety of differing conditions in the different acts, tailored to fit the different situations. The 1947 general law providing for city limit extensions prescribed a standard procedure for all cities and towns to follow to the exclusion of all other methods. Many cities and towns are proceeding under this general law and thus saving the General Assembly from a multiplicity of special acts. But there is nothing to prevent any city or town from by-passing this general law, and asking for a legislative short-cut by way of special act, if it wants a particular twist to its extension not authorized by general law; and some are already following this procedure. Their actions put the questions: "Why should we buy a 'general law'—out of stock—when we can buy a 'special act'—tailor made? And even if the general law in stock fits us to a 'T,' why should we follow a circuitous procedure to get it for ourselves with main strength and awkwardness when the General Assembly can give it to us for the asking—by sleight of hand?"

This is the fertile field of special acts—tailored to fit specific needs of specific cities and counties in every peculiarity of form and circumstance. If the "special act" is followed to its extremities, the General Assembly sits in judgment on the advisability: (1) of making it unlawful in a particular county, town or precinct to pasture hogs in graveyards, drive over a fire hose, hunt with unplugged shotguns, erect privies or hog pens within fifty feet of cold water creeks; (2) of allocating office space in a courthouse, permitting drugstore and soda fountains to use glasses instead of paper drinking cups, approving a vote on four strand barbed wire as a lawful fence in Tapoco Precinct, allowing catfish to be taken by nets and trot lines, giving manure from animals on rented land to the landlord instead of the tenant. This is flexibility gone to pieces.

General laws are stocked to fit the average needs of average localities—the common denominator of all sorts and sizes. The "general law," followed to its extremities, arrives at the legislative counterpart of the mythical bed of Procrustes on which trespassers were laid—stretched to the fitting point if they were too short, lopped to the fitting point if they were too long, and turned loose if the accidents of nature sized them to the fitting point. This is rigidity carried to the strait jacket. This strait jacket notion of a general law was expressed in a letter to the *News and Observer* on October 10, 1916:

> "The Amendment entitled 'To Prevent Special Charters to Towns, Cities and Incorporated Villages,' is dangerous for the reason that the same conditions do not obtain in the various municipalities. The State of North Carolina has three distinct and natural divisions, the Eastern, the Western, and the Piedmont, neither of which has similar interests. A general law under the first amendment could not be framed to meet the exigencies of each of these sections. It is equally true that the interest of practically every county in the State is dissimilar, making it necessary that some special legislation be enacted affecting the various localities."

This notion was answered by a correspondent in the columns of the *News and Observer* on November 2, 1916:

> "This is the first time that I have seen a suggestion by any one that each and every town or city would be governed by the same charter regardless of size, location or local conditions. Nothing could be further from the fact.
>
> "If this amendment is adopted, a law will be enacted applying to the whole State which will provide a method by which charters may be obtained. By this general law the maximum rate of taxation, the right to issue bonds, the amount of such issue, the subjects of taxation, and other vital matters will be fixed definitely and uniformly for all cities and towns. Under this general law charters will be framed by committees for each town and voted on before being presented for ratification. . . ."

And this correspondent's prophecy was borne out by the general laws of 1917, using the familiar legislative device of classifying forms of city government into four types—Plans A, B, C, D—and offering the choice of types to every city and town, on the theory that these permissible variations might give sufficient satisfaction to all substantial city needs.

Laws applying to all units within each class may be upheld by the courts as "general laws" so long as the distinctions in form reflect differences in substance, as outlined by the Court in *State v. Fowler*, 193 N. C. 290, 136 S. E. 709 (1927):

> ". . . classification must be natural, not arbitrary; it 'must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed. . .' ";

and in *State v. Call*, 121 N. C. 643, 28 S. E. 517 (1897) the Court said:

> "The statute bearing alike upon all individuals of each class is not a discrimination forbidden by the State Constitution nor by the Fourteenth Amendment."

Classification may be carried to the point of undermining the purpose of general laws—as in a statute creating a class of all "counties now or hereafter having twenty-four organized townships and a population of not less than 23,500 and not more than 24,000, and a land area of not less than 795 and not more than 805 square miles; or as in a statute creating a class of all cities in counties with a population between 14,588 and 14,800." Here are distinctions in form without differences in substance. One state created eleven classes of cities with eight of those classes having only one city to the class. To avoid this dissipation of the substance of general laws one state constitution has limited the classification of cities and counties to four classes. Reasonable classification based on substantial differences in population may still result in one unit to a class as in Ch. 780 of the Session Laws of the 1943 General Assembly authorizing all cities in the state with a population over 75,000 to establish a hospital authority, and Ch. 121 requiring terms of the Superior Court to be held in each city, not a county seat, having as many as 35,000 people.

Likewise, giving to cities and towns in toto, or to all cities and towns within each classification, local option to accept or not accept a particular general law, or to choose from two or more types of general laws, carries the principle of classification to a point of flexibility approaching the individualizing qualities of the special act without many of its attendant evils, and does not convert the general law into a special act upon acceptance by a particular locality. In *Manly v. Raleigh*, 57 N. C. 370 (1859), the Court settled this question:

> "Is that act void because of the provision that it shall be of no effect unless accepted by the mayor and commissioners within one month after the ratification thereof? It is insisted by the plaintiffs that by the true meaning and spirit of the Constitution the Legislature is required to pass all statutes upon its own responsibility and its own judgment as to the expediency; that it has no power to delegate its authority, or make a statute depend upon the opinion or wishes of any man, or set of men . . . .
>
> "It is not denied that a valid statute may be passed to take effect upon the happening of an uncertain future event, upon which the Legislature, in effect, declares the expediency of the law depends, and when it is provided that a law shall not take effect unless a majority of the people vote for it, or it is accepted by a corporation, the provision is, in

effect, a declaration that in the opinion of the Legislature the law is not expedient unless it be so voted for or accepted."

It is thus apparent that the "special act" gives a maximum of freedom to the individual city or town to get laws tailored to its needs. But every city and town drawing its own bill—homemade—and taking it to its local legislator for introduction in the General Assembly, runs the risk of this legislator's acceptance, modification, or rejection, with infinitesimal chances of over-riding his objections in the legislative forum. Thus the "special act" which offers the maximum freedom of action to the individual unit in the beginning, offers the maximum freedom for legislative interference in the end. A considerable degree of freedom from legislative interference may be found in the anonymity of the "general law" guaranteeing to every individual unit the safety to be found in numbers, in the fact that neither special privileges nor punitive treatment will be meted out to any one city or town in a class unless they are meted out to all within that class. City and county officials must figure whether it is more to their advantage to fritter away the time of legislators on a multiplicity of matters affecting cities and counties in particular, or free them to concentrate on the problems of cities and counties in general. And this advantage must be weighed against the imperative necessity of procuring a greater proportion of the legislators' time and attention for matters affecting the state as a whole.

H

Evils Flowing from Private, Local and Special Acts

Legislative time. One obvious purpose of the constitutional limitations on "local," "private" and "special" acts in 1835, 1868 and 1917, has been the saving of legislative time for the consideration of statewide problems. In 1869 the General Assembly passed a public resolution, saying: "Whereas much time is consumed by suspending the rules in order to consider bills of private nature; therefore be it resolved, that Saturday shall be set aside for the consideration of all bills of a private nature." Local bills authorizing "a particular highway or street or bridge or ferry at some specified place," said Justice Brown in *Mills v. Commissioners of Iredell County,* 175 N.C. 215 (1918), were introduced at session after session of the General Assembly, and "were urged and debated with great earnestness by the respective advocates and renewed and protracted to such an extent that they were too serious a detriment to the public interest and, at times, prevented full and proper consideration of vital public measures." This statement was echoed by Justice Allen in *Kornegay v. Goldsboro,* supra: "The sessions of the General Assembly are practically limited to sixty days, and so much of its time was consumed in dealings with private and local bills that the legislation of state-wide importance could not receive proper and deliberate attention. The General Assembly of 1915 undertook to remedy this evil by submitting several amendments to the Constitution." Individual legislators serving in recent sessions of the General Assembly have undercored this time-taking aspect of "local, private and special acts"—serious enough for the General Assembly as a whole, and devastating in time and worry to individual legislators—both in Raleigh and on weekends at home.

Legislative attention. But the problem of "local, private and special" legislation cuts deeper and ranges wider than the problem of saving legislative time. It is a curious truism that the more time given to local bills by legislators the less attention given to them by the legislature. "As is well known," said Chief Justice Clark in *Kornegay v. Goldsboro,* supra, "special acts of local application receive no attention," giving the "opportunity for special legislation procured by a single member of the Legislature, for the benefit of special local interests of individuals" and not for the community as a whole. "To prevent this very evil, as well as to save the waste of time of the General Assembly in such legislation, . . ." the people adopted the requirement of "general laws as to which every member of the General Assembly would be fixed with responsibility." Certainly the Saturday morning session, set aside for the introduction of local bills by legislative resolution in 1869, with most members gone and no call for a quorum by intuitional agreement, lends itself to the abuse of those who want to abuse it, and in short readings the hand is often quicker than the eye—or ear. One member serving in recent years writes: "Living in Raleigh and being present at every Saturday session of the General Assembly, I was frequently one of the two or three who voted to adopt and pass much of the local legislation. Under the customs prevailing, in the absence of objection from the local representative, the legislation was passed as a matter of form. This should not be!"

In the handling of local bills, "legislative courtesy" turns from a social amenity into a functional necessity. What is more natural than legislators, knowing nothing about conditions in a distant county, city or town, following the lead of one who knows about them—particularly when that one is a fellow legislator chosen by the people of that locality to represent them,—more particularly when the pressure of time prevents them from even reading many state-wide bills,—even more particularly when there is no time even where there is an inclination to investigate them. And yet this altogether natural and understandable procedure leads to serious criticism by legislators, as well as city and county officials, who feel that the one hundred seventy-man legislature thereby abdicates in favor of a "one-man legislature," speaking with all the power of the whole, albeit without benefit of the experience and the judgment of the whole. Thus legislative courtesy in saving legislative time creates legislative evils—situations where "crowds can wink and no offense be known, since in the other's guilt each finds his own."

Legislative prerogatives. The problem cuts deeper and ranges wider than the foregoing considerations of time and attention, and involves the prerogatives of legislators and legislatures, built up in a continuity of legislative sessions from 1665 to 1949, toughened with the legislative traditions of two hundred and eighty-four years, and tempered by the oft-existing balance of power between contending groups within a single county, city or town—as delicate, as subtle, as intricate, as precarious, and as significant to those involved as any balance of power between different sections of the state and nation. For two hundred and eighty-four years legislators in North Carolina have exercised the power to introduce private, local and special acts as well as general laws. They have run for office on platforms calling for private, local or special acts, benefiting individuals and groups within their units as well as the people of their units as a whole, and many happy returns on successive election days may turn on the agility with which they walk these platform planks. For two hundred and eighty-four years individuals, groups, and local units have reminded legislators that they have this localizing power and have insisted that their legislators exercise it whether they wanted to or not.

Perhaps the combination of these interacting pressures may help explain the fact: that the four topics on which "private laws" were prohibited in 1835 added up to no more than 7 per cent of the total volume of private laws, while the remaining 93 per cent was left to permissive scrutiny under the thirty-day notice requirement, and little if any legislative protest is recorded over the judicial dentistry practiced on this requirement; that the one topic on which "special acts" were prohibited in 1868 added up to 62 per cent of the total volume of special acts passed between 1835 and 1868, and that individual legislators utilized the words "in the judgment of the legislature" as a loophole to nullify the purpose of the prohibition until the loophole words went out of the prohibition fifty years thereafter; that the fourteen added topics on which "local, private and special acts" were prohibited in 1917 added up to no more than 24 per cent of the total volume of "local, private and special acts" for the fifty years preceding, with the remaining 76 per cent untouched; that little if any legislative protest has been made throughout the years as sympathetic courts have followed the lead of *Mills v. Commissioners of Iredell*, supra, in the narrowest interpretation which would give any meaning to these words, and that legislative acquiescence in this judicial process turned to legislative affirmation as the General Assembly turned a joyful somersault in support of a prospective court decision in *Kornegay v. Goldsboro*, supra, by repealing the preamble to the Municipal Finance Act of 1917 reciting that "the people of North Carolina, in November, 1916, adopted amendments to the constitution which prohibited the enactment of special legislation amending the charters of municipal corporations. . . ."—as if to perish the evidence that it had ever had the thought!

Legislative power. The problem cuts deeper and ranges wider than the prerogatives of legislators and the interests of constituents, and reaches through the shifts (1) from one extreme of private, local and special acts, (2) to the other extreme of general laws, (3) back to middle ground through the device of classification. (4) with further flexibility achieved within each class through resort to local option, until (5) "home rule" gives to city councilmen and county commissioners beyond the peradventure of a constitutional doubt the legislative power to pass for themselves without let or hindrance of their legislators, all or part of the private, local and special acts their legislators now pass for or over them.

VII
IS "HOME RULE" THE ANSWER TO THE PROBLEM?

A
What Is "Home Rule"?

In the course of this study the Institute of Government put two related questions to legislators and city and county officials: What do the words "home rule" mean to you and what are your reasons for and against it? What are the powers cities and counties haven't got, want, and ought to have?

Comments of Legislators

In answer to the question on "home rule" the members of the General Assembly wrote:

(1) "The words 'home rule for counties' mean, in my opinion, that the counties should have the right to operate their regular business, and appoint their officials without being restricted from any source outside of the county."

(2) "While I recognize that a great deal has been said about 'local home rule' and taking the burden off the Legislature as to local legislation, I doubt the wisdom of any policy which would change the present arrangement as to these matters. The term 'home rule' is very elastic and could be stretched to include most any feature of County Government including an almost unlimited taxation power, the sole limitation being the State Constitution."

(3) "The words 'home rule for counties,' in a general way would mean to me to give to the counties powers somewhat similar to the powers which are held by municipal corporations. The necessity of a lot of local bills could be done away with if County Commissioners had the authority to fix compensation of County officers and employees. However, I know of a lot of County officers who would rather have the legislature fix their pay. Without a rather careful study of the whole County set-up I don't believe my suggestions will be of much use to you."

(4) "As the Board of Commissioners of the County is the elective body closest to the people of the county, it is my idea that the Board of Commissioners should be given authority to handle most of the local matters of the county. As an evidence of my belief in this policy, I call your attention to the fact that at the 1947 Session of the Legislature the two Representatives from [a particular county] and I sponsored and passed a very short Bill, authorizing the Board of County Commissioners to fix and control all salaries paid by the county to all elective or appointive County Officials and employees and to determine and control the number of Deputy Sheriffs, Policemen or Special Officers employed by any Department of the County and paid wholly out of the county funds. If such a bill could be passed for the whole State and the Legislators would be willing to let it stand that way, it would help in giving the Legislators additional time in which to consider statewide matters. However, I have no idea that the Legislators would be willing to pass such legislation and not tamper with it. I remember when this local Bill was passed two years ago that some Senators made the remark that they would not approve it for their counties.

"It is also my idea that the Commissioners of municipalities should have the authority to control many of the things which are controlled by local Acts of the Legislature. It was and will be largely my policy in passing legislation applying to a municipality to do what the majority of the Commissioners recommend and I think it would be preferable for these Commissioners to have the power to do their own legislating, rather than have to call on the State Legislature. Again, I doubt if the majority of the Legislators would be willing to do this."

Comments of County Officials

In answer to the question on "home rule" county officials wrote:

(1) "In answering question No. 2, I have never given the matter of 'home rule for counties' any thought. I doubt if all the counties are ready for home rule. There might be a few counties in North Carolina that would take sufficient interest in local self-government to make the plan work."

(2) "'Home rule for counties' can mean different things just as at the present time, the term 'States Rights' is being interpreted in various ways to fit the views of particular groups."

(3) "The words 'Home Rule for Counties' to me do not mean too much and I am of the school of thought that believes so-called Home Rule anywhere is on the losing end as relates to cities, counties, states and nations. In this complex day of endless roads, airplanes, and commerce every person and every section of the country and world is closely related. The welfare of one is the welfare of all. Our financial and economic problems are tied into our taxation problems and they are, surely, directly state and indirectly Nationwide.. As for this County, I believe, what is good for the State in its entirety is good for this County. There are special cases but the exceptions are in the minority. Our law enforcement must of necessity be statewide and we know it as such today. Our taxation problems are becoming more so all the time and will sooner than we expect be statewide. A statewide levy of all taxes should

lessen the administrative expenses and give us a better balanced income for a majority of the counties."

(4) "I think that home rule for counties means what the title implies and we of this county are wholeheartedly for home rule. My reasons for thinking the home rules are better are that the local people are more familiar with what the requirements are and are more sympathetic with any laws promulgated if they know they have a hand in such legislation. Second, where you have home rules any inequalities between sections or between groups of people can be more easily remedied by home rule practice than where there is none."

(5) "I do not understand the phrase 'home rule for counties,' unless it refers to the inability of the representative to pass acts regardless of the wishes of the governing body. It might properly also be understood as permitting the counties to levy such privilege taxes as they saw fit, and in the case of towns would mean that they alone would have the privilege tax concession within their limits, with certain general restrictions placed thereon by the legislature applicable to all cities and towns. If this is the understanding, then I am for it."

(6) "The words 'home rule for counties' mean to me a broader field of power given county commissioners, in settling matters that concern their county only. I think it should mean an ordinance regulating county matters in much the same manner as city ordinances are operated. It often happens that much valuable time is consumed in the general assembly on purely local matters that ought to be spent on statewide legislation. This would eliminate all local matters effecting the general assembly, thereby giving the counties power to settle their own problems, and create a better local government."

(7) "The words 'home rule for counties' do not mean very much at the present time. My interpretation of the words 'home rule for counties' should mean all powers except those reserved by the Constitution of the United States, and the Constitution of North Carolina; however, there should be some limitations, especially on expenditure of public funds such as approval by the local government commission or some such agency. This would guarantee that counties could not go on wild spending sprees as they did in 1925-30. I am in favor of home rule for the reason given above. I do not think the General Assembly should have too much power or control over agencies which are financed entirely by local funds."

(8) " 'Home rule for Counties' means bringing the power back to the County officials to decide or rule on the problems effecting the local people where not covered by State law. The Commissioners are in favor of this type of home rule as much as possible. They do realize, however, that there are cases where it is necessary for the State to cooperate in local matters because other counties may have similar situations."

(9) " 'Home rule for Counties' can, of course, mean much or little, by that I mean the Counties of the State could, when authorized by Legislative authority, do a great many things of importance to the people which the Counties now can not do because of certain limitations and restrictions in the law of the State. Reasonable grant of power to the Counties would not, in my opinion, be detrimental to the people's interest, but blanket authority to the Counties would, in my judgment, be a disservice to the people."

In answer to the question on the powers counties haven't got, want, and ought to have, county officials wrote:

(1) "That the merit system be done away with and that the County Commissioners be given more authority in designating roads, etc. in the county."

(2) "In answer to question No. 3 the counties of North Carolina should be able to regulate the salaries of all employees of the local boards including the Welfare Department and the Health Department, who are now operating under what is called the merit system council."

(3) "Power to set and control all salaries paid out of the in North Carolina should have that they do not now have."

(4) "Power to set and control all salaries paid out of the county general fund, either appointed or elective offices. More power given county commissioners to say where new roads will be constructed in their county. Power to govern and regulate any matter affecting their own county government not in conflict with the constitution."

(5) "I have your letter of the 12th., in regard to the proposed enactment of legislation looking to the conferring of law-making powers upon the various Boards of County Commissioners.

"It is my thought that such powers would only impose unpleasant problems upon these bodies. We have in the Statutes of our State laws which cover any problems which are calculated to arise. Moreover, we have our Sheriff's office ready to enforce such laws."

(6) "Personally, I don't think of any powers that the counties of North Carolina ought to have that they do not now have. I think the people of the counties should have more direct control of their schools than they now have. There should be some system whereby the superintendent of schools and the local school committees have to answer directly to the patrons of the schools. As the system now stands the people have practically no redress in school matters. Nothing the people say can force direct action and it is left in the hands of Officials who are not elected by the voters. All school officials care about it controlling the local legislative members, for the legislature elects the County school board. The Board then appoints the superintendent who in turn picks all the local school committeemen. This is some political machine and is contrary to our free and democratic way of doing things."

(7) "Counties and towns, as I understand it, desire to have the power to pass such privilege tax rules and regulations not in conflict with General Statutes, as in their opinion are best suited to the needs of their community. Counties and towns should be consulted in the location of roads and highways within the municipality. The statute relating to payment of fines, forfeitures, et cetera, into the school fund should be annulled and these funds placed in the general fund, as this is definitely taking away from their general fund much needed revenue, and is no longer needed as an inducement to spur better education."

(8) "In answer to your third question, it seems to me that the state government has usurped most of the powers that county governments used to have and should retain at the present time. For instance, about 1932 the General Assembly of North Carolina took over from this county roads, bridges and road machinery valued at over $8,000,000 without paying the county one cent. The county was helpless and could not protect its interest, though we have since that time and still continue to pay the bonded indebtedness on these roads, bridges and machinery. In all fairness, the state should have taken over the debt as well as the assets. If this had been done in all counties, a fair road program could have been dealt out in North Carolina. As it turned out, the Highway Commission would tell this county, 'We cannot build roads in your county, for you already have roads.' Consequently, our neighboring counties obtained better and more modern roads without any indebtedness, and we were penalized by not obtaining modern roads, yet we are paying off this $8,000,000 bonded indebtedness.

"I think that the governing bodies of the various counties should have more power in determining the location of roads, and in determining where improvements in roads should be made. After all, the local governing authorities are elected by the people every two years and they reside within the counties, and know much more about the county problems than does a centralized power in Raleigh. This would put road problems almost directly in the hands of the voters in our own counties.

"Another problem is this one, where counties participate in Federal funds and state funds, such as the Old Age Assistance Program, Aid to Dependent Children and Public Health, the counties are penalized by having very little authority in the operation of these programs. We pay a great deal of money to finance these programs, but are told by authorities from Raleigh how we are to run these programs. We are even told when and how much to raise salaries of State Merit System employees. Yet, if some of these employees are inefficient, we do not have the authority to fire or hire."

(9) The Commissioners are not jealous of the powers that they do not have and are not seeking authority just for the sake of authority. They do sincerely believe, however, that there are certain powers that should be given back to the Commissioners. For instance, at the present time, the Commissioners have little or no authority in deciding who shall administer the Welfare and Health Departments. Yet they are held responsible for appropriating and collecting money to run them to a large degree. The Commissioners are not opposed to cooperation from other sources, such as, State and Federal authorities, but they do feel that they should have more 'say so' in the matter. The Commissioners are not satisfied with the Merit System in its entirety. They believe, in many instances, they should have more leeway in determining the salaries, for example, of the different workers. Too many times, they have seen cases where some employee in the Welfare or Health Department goes up to Chapel Hill and spends a few weeks, then comes back to the County and the Commissioners are demanded to increase that employee's salary in the middle of a year; yet this was not included in the budget in the beginning. This makes for confusion."

(10) "I do not know, although I may not be fully aware of the scope of the study made by the commission pertaining to this question, of any additional powers that the Counties of North Carolina haven't got that they want and ought to have. My opinion of this question is limited to the experiences which we have had in this county. This experience leads me to the conclusion that the Counties have ample authority to work out its own affairs in a serviceable, efficient and constructive way."

Comments of City Officials

In answer to the question on "home rule" city officials wrote:

(1) "I do not know what 'home rule for cities' means."

(2) "'Home rule' does not mean a lot to me for the reason that I have never gone into it very fully, but I think that the powers granted to cities should be uniform."

(3) "The words 'home rule for cities' mean that cities have a broader power as to legislation for themselves than is now granted by acts passed by the General Assemblies."

(4) "The words 'home rule for cities' insofar as I am concerned are like Mohammed's coffin—suspended between heaven and earth. To my mind the chief reason for it is that it would eliminate a considerable amount of work for the General Assembly. The chief reason I would suggest against it is that if it is effective and would give to municipalities the unlimited power to spend money from sources other than ad valorem taxes for any public purpose, the demand and pressure would be enormous and without additional sources of revenue, in my opinion, could not be met and the members of the governing boards would be constantly harassed and embarrassed."

(5) "I have no specific definition for 'home rule for cities' save to suggest that the State Statutes be so framed as to permit the cities to pass such local legislation as is needed to serve the locality. The approach at present is entirely negative. When we find a need of some special service in our city, we immediately begin to look for State Statutes specifically authorizing us to supply the need. The reverse should be true. We should be able to supply the local needs and meet local situations without looking for specific enabling statutes, but rather look for statutes which might prohibit."

(6) "I am afraid that the words 'home rule for cities' have very little meaning to me. The nature of the wording would seem to indicate that cities are given more power than they at present have. Matters that affect an individual city, in my opinion, should be left entirely with the people of the city. However in cases where cities collectively might through bad judgment pass such laws as might be detrimental to the state as a whole, they should be controlled to a certain extent by state laws. I have in mind bond issues and financial matters. At one time, as you know, cities were not limited by state laws in their ability to place a debt on themselves. Consequently many cities in their enthusiasm for improvements involved themselves so heavily in debt that it reacted unfavorably."

(7) "I do not have a very definite idea as to what the words 'home rule for cities' mean. I think a good many people want to see the local government commission modified so that the counties and municipalities can issue bonds and make debts more freely. If this is what 'home rule for cities' means, then I am opposed to it. As I wrote you some time ago, I lived through the depression period and saw practically all the counties and municipalities of North Carolina default in their interest payments and bond payments. I think anything that would bring about that situation again would be very detrimental to the State of North Carolina and its local units."

(8) "I do not know how to accurately define all that should be included in 'home rule for cities.' With respect to this and at least some other powers which cities should have, I would include the following: A city should have the right to fix the salary of its Mayor, its elected officials, taking into account the time, responsibility and duties which elected officials perform. Cities should have more control respecting the establishment and operation of pension funds for its general employees, as well as its Policemen and Firemen, including more latitude in the amounts to be deducted from their salaries and wages, and more authority respecting the management of such pension funds, as well as the right to determine the amount of contributions the city itself should make in the sound administration of pension funds. Cities should have more authority in the establishment and operation of Civil Service Commissions, Civil Service Rules, and the establishment of uniform rights to be granted under Civil Service Administration.

"It is generally said that candidates for the legislature obtained support in considerable numbers because of biennial advocacy of changes in Civil Service Laws, the granting or the taking away of powers of the Civil Service Commission, the constant amending and changing of pension funds and the rights of persons thereunder. This tends to make vested rights a political football, and also tends to take away from municipal bodies the powers they should have, and thus substantially cripples their authority and ability to manage and operate the municipality in accordance with what ought to be the vested right and discretion by reason of being chosen and elected by the people. The net result is that in these mentioned fields there is too much and almost constant legislative interference."

(9) "To me, home rule for cities means that the city council should have the right to make regulations regarding the operation of its community. I do not see why it is any business of the legislature to set forth the amount of privilege licenses that should be charged by a municipality. Home rule means just what it says—that the people of a community should have the right, as the people of the old New England Town Meetings had the right, to get together on matters that directly affected them and their well-being without calling upon people from communities 300 miles away to tell them what should be done. I agree that there probably should be standard speed limits in every city in order that travellers might know what to expect. Beyond that, there are very few things that I think the legislature should regulate in the municipalities. I believe the day is coming when we are going to get some real home rule in our communities."

In answer to the question on powers cities haven't got, want, and ought to have, city officials wrote:

(1) "Any powers that cities and towns in North Carolina haven't got, want and ought to have may be obtained at the next session of the General Assembly in most instances if they really ought to have them. In the meantime, many supposed musts are eliminated."

(2) "Cities should have more power with reference to license taxes. Without a doubt the present system is a mess from one end to the other. I think the cities should have more authority in this with maximum limits placed. One of the inequities is found in the taxicab license—the State collects a big fee and the cities are not allowed to charge but $16.00. The city streets provided the roads for the taxis, and not the state highways, generally. Some boards, with too much power, could very easily wreck a good town."

(3) "Cities and towns at present are limited by state statutes in levying privilege licenses. Many times the full responsibility of enforcing laws for carrying on certain businesses is placed entirely upon City Law Enforcing Agencies, and yet the state receives, in some cases, eight times the revenue allowed cities in privilege license. In my opinion, this is one of the laws that should be amended or rewritten, there may be others."

(4) "The municipalities in North Carolina should have powers to levy in a broader field taxes such as amusements and pay roll and the State should withdraw wholly or drastically from the schedule B tax field and leave this field to the municipalities. They should have power to control the planning of the area adjoining the city limits by a distance of from one to five miles. Sooner or later this area will be a part of the city and if properly zoned and planned could not only be an asset to the old part of the city but also to the new area added. They should have the power broader than now existing for extending corporate limits. It is the writer's opinion that if the General Assembly would invest more power in cities that they would be free and have more time to legislate for the state as a whole instead of consuming a majority of their time on purely local matters which should and could be handled by the cities themselves. The past General Assembly have no doubt felt by their actions that municipal government has not come of age and I am sure that this is not the case as municipal government has come of age and should be treated as such."

(5) "The most important subject for cities is the need for legislative enlargement to them in the field of privilege license and franchise taxation. Since 1921, when the state removed ad valorem taxes, it has been a constant policy of the legislature to appropriate these last mentioned fields of taxation for the benefit of the state. The legislature has at each session further curtailed the income of cities and taken away from cities power of taxation and/or reduced to nominal amounts the charges in this field of taxation which can be made by cities. This is vital to cities. The net result is that for approximately 20 years or more, cities have had to constantly increase ad valorem taxes because of legislative curtailment in the field of license and privilege taxes, and unless some relief is obtained soon, the burden of taxes is going to become so excessive that the people will be forced to demand legislative relief. There is little excuse now for the state to appropriate the field of all personal taxation and build up an immense surplus and refuse to share the fair portion of such monies with cities.

"To illustrate, cities cannot charge a tax based on a percentage of business done, nor a tax upon theatre admissions. There are many other fields of taxation which could be available to cities if we did not have the present legislative policies."

(6) "You ask what the powers are that the cities and towns in North Carolina have not got. Well, frankly, they do not have too many powers now. County legislators from rural areas make the laws governing municipalities. As stated above, we are regulated in the amounts we can charge for privilege licenses, we are regulated in the method of our purchasing, we are regulated in the amount of money we can spend to carry on construction work contracts and other things. Maybe we would get reckless in some communities and not follow the best policy, but I think that is up to the citizens of each community to determine without interference from others. There are one million things that could be said about home rule, and of course, we probably will not get complete home rule to begin with in Carolina, in towns and cities, but the sooner we can make a start the better it will be."

(7) "Every city should have the right to regulate its own governmental affairs and to make the proper assessment or charges for services that must be given to the people. I am a firm believer in taxing or assessing only in matters where services are rendered to the individual. I am enclosing herewith a review of Schedule 'B' License Tax showing the comparison of levies by the state and by the cities. I have underscored in red some of the most outstanding examples of this schedule which I wish to comment upon as follows. Any municipality in North Carolina is called upon to render effective service in the way of fire protection, police protection, garbage collection, street lighting, street cleaning, and many other services to the businesses listed under these various items; while the State of North Carolina does not in any sense furnish any services. Yet, the State schedule of taxes is double that of the municipality. To me, the word 'home rule' means, in this particular instance, that the State of North Carolina would cancel all of its levies under Schedule 'B' and give to the municipalities the right to set up a schedule in keeping with the services it renders. An outstanding example in our city is under Section number 142. Within our city limits, the State of North Carolina collects $6,000.00 from Schedule 'B' taxes on particular businesses while the city can only collect $600.00, but we are called upon to furnish all the services they receive. Another statewide example is under Section 126, 126½, and 127, where the State of North Carolina collects a full schedule of taxes against hotels, tourist homes, and restaurants and limits the cities to one-half of the schedule.

"I have opened here a question that will bring about much discussion, so I will drop it with this thought in mind—that the cities of North Carolina cannot have 'home rule' so long as the State of North Carolina imposes a tax under the Schedule 'B.' If 'home rule' in North Carolina is to mean anything, it must first be recognized and respected by the State government."

(8) "I might say, however, that the cities in my acquaintance are dreadfully in need of additional Revenue and I resent the State's interference in the 'Schedule B' source of Revenue. I believe that it is only fair for that source to be retained by the cities and towns in which the business is operated. I object to the State Revenue Act fixing the amount of License that we can charge even to objectionable businesses. As an example, our cities and towns are only allowed to collect $15.00 for Beer joints. Of course, we collect for whatever other business they operate in conjunction with selling of Beer. I believe the State reserves for itself the right to charge approximately double that amount."

(9) "A City should have a right to levy reasonable license taxes against professionals, such as: doctors, lawyers, accountants and other professionals who now pay a nominal statewide tax, but cities, under the present laws, are not permitted to charge any tax against such professions."

(10) "I think that as a whole our local governing boards (city councils) are as well qualified to handle the local affairs as is the State Legislature. I think that as a rule the men serving on city councils are exceptionally high caliber individuals and I believe the reason for this is that while an industrialist or a business owner would not have time to devote to State or national public offices he will take time to serve his local community and also he is often more willing to do so because such a position is frequently considered non-political.

"Members of the city council are closer to the local problem and more directly affected by it than the members of the State Legislature and, therefore, may be expected to act more intelligently on the matter.

"I believe that it is more democratic to have these local matters handled by the local governing body rather than the State Legislature because the local governing boards are more responsive to the will and wishes of their constituents. In other words, it does not seem truly representative for a legislator from one particular town or another (whom our citizen has no voice in placing or removing from the State Legislature) to be acting on legislation which concerns only our city."

Comments of Outside Authorities

It is apparent that "home rule" means different things to different people in North Carolina. It also means different things in the different states where it has been adopted.

One of the pioneering authorities in this field of learning has defined the term in the following words:

> "Broadly construed the term 'municipal home rule' has reference to any power of self-government that may be conferred upon a city, whether the grant of such power be referable to statute or

constitution. In American usage, however, the term has become associated with those powers that are vested in cities by constitutional provisions, and more especially provisions that extend to cities the authority to frame and adopt their own charters. . . ." .

In its study of state-local relations the Council of State Governments gives the following summary of provisions in these "home rule" states:

> "In five of the eighteen states with constitutional home rule, the system operates with indifferent—or no—success. In (1) Pennsylvania the constitutional provision has never been implemented by the necessary enabling legislation, and Pennsylvania municipalities actually operate under a rigid classification system. In (2) Utah no cities have made use of the home rule amendments. In (3) West Virginia, only one city reports adoption of a home-rule charter; present state-wide property tax limits, coupled with the powers granted home rule cities to levy numerous local taxes, render the home rule provisions almost inoperative. In (4) Maryland home rule extends to only one city (Baltimore), which has adopted its own charter, and to the twenty-three counties, none of which has made use of the privilege. As for the city of Baltimore, the sphere of home rule is so narrow, the convention of local legislation so well established, and the decisions of the courts so limiting that home rule is a legal shadow without functional substance. In (5) Missouri, under the old constitution, home rule was granted only to Kansas City and St. Louis; here, too, the grant of power has been largely vitiated by joint operations of the legislature and the courts. . . . The new Missouri constitution, adopted on February 27, 1945, authorized (Article VI) home rule for counties of more than 85,000 and cities of more than 10,000. . . .
>
> "In the remaining thirteen states, home rule operates somewhat more satisfactorily. That comparatively few municipalities have adopted charters in Nebraska, Arizona, Washington, and Colorado is apparently the result of a relative satisfaction with existing charters, rather than the result of deficiencies in the home rule acts, themselves. Washington makes home rule available only to cities of over 20,000 population, but the state legislature has increasingly broadened the authority of localities by general statute. No Wisconsin city has adopted a complete charter, but cities have frequently invoked the separate home rule charter-amending process. This partial charter-making power, plus an exceedingly liberal system of general laws, gives Wisconsin municipalities a scope of discretion equalled in few (if any) other states. Numerous localities in the other states, ranging from more than thirty in Ohio to more than a hundred in Oregon, have taken advantage of home rule charter-making provisions. . . ."

Home rule for counties runs into different problems, involving: (1) the historic position of counties as administrative agencies of the state, (2) their rapidly accruing position as agencies to provide local services, (3) constitutional barriers to unified administration, (4) elected officials independent of county governing boards. In its report on state-local relations, the Council of State Governments says:

> "Under a home rule plan, counties would be allowed to experiment with structural mechanisms and freed to some degree in meeting the increasing number of municipal problems that are coming within their jurisdiction. Even the most enthusiastic advocates of home rule, however, admit that it must be even more limited for counties than for cities. Thus, the *Model State Constitution* of the National Municipal League provides a series of elaborate safeguards for cities exercising home rule. While making county home rule also available, the model constitution provides that home rule powers shall be directly subject to legislative definition. The State of New York, which has perhaps seen the highest development of county home rule, similarly vests the state legislature with greater authority in county, than city, affairs. . . .
>
> "Thirteen states now authorize county home rule or optional forms of county government: California, Georgia, Louisiana, Maryland, Missouri, Montana, New York, North Carolina, North Dakota, Ohio, Oregon, Texas, and Virginia. Wisconsin gives home rule to the county boards in regard to internal administrative matters, but full home rule or optional forms of county governments are not authorized. The enabling legislation thus provided has suffered from disuse. In 1939, New York was cited 'as the outstanding example of the success of county home rule.' But the same article contained the information that 'no county in the state has adopted a charter under any of the three laws passed [up to that time] to implement the county home rule amendment.' . . . Though New York's several county home rule laws now provide almost an endless number of options, only three counties have yet taken action. Throughout the country, generally, counties have been slow to respond to the necessity of reorganization. By March, 1946, only nine counties had adopted the manager form of government. . . . A wide variety of other forms has been utilized to replace the traditional county structures, Nassau and Westchester counties in New York, for example, having systems that approximate the strong mayor form of city government. In California, nine counties operate under home rule charters, only two of which follow the conventional manager plan.
>
> "Generally speaking, the reconstruction of county government to give it greater centralized leadership has achieved significant successes in those places in which it has been tried. . . .
>
> "The successful, if limited, experience of counties under newer organizational schemes (some of which have been accompanied by an increase in county discretion) has been matched by successes following a high degree of state centralization. This tendency, generally, has progressed much further for counties than for cities. Where the trends have progressed furthest, as in North Carolina, state administrative supervision has proved efficient and economical. . . ."

B

"Home Rule" for Cities in North Carolina

Pursuant to the requirement of general laws in Article VIII, Section 4, in 1917 the General Assembly enacted G. S. 160-353 and printed it under the heading: "Home Rule and Local Self Government." This heading was more than a clerical insertion by statutory compilers. Distinguished sponsors of this constitutional requirement had urged its adoption for the reason that it would provide "municipal home rule in cities and towns" and members of the General Assembly wrote those words into the statute. Certainly they intended "home rule" to go as far as "general laws" would carry it. Few, if any, cities and towns have followed this pathway to local autonomy, and not one has tested this delegation of legislative power in the courts. If the home rule notion embodied in G. S. 160-353 should be carried further and put into the constitution, how much further should it go?

(1) It might be carried to the point of turning cities into independent islands, putting them beyond the power of the General Assembly to help or harm. The thirteen colonies along the Atlantic seaboard carried it to this point in 1776, declared their independence of Great Britain and

tried to declare their independence of each other, until bare necessities of existence and survival forced them to "form a more perfect union." The wildest advocate has never carried the notion of city home rule to this extreme in any state. The Colorado constitution went farthest in this direction by providing that a home rule city's charter shall "be the organic law and extend to all its local and municipal affairs," and "supersede within the territorial limits . . . . any law of the state in conflict therewith"; and, to make assurance doubly sure it added that "it is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions the full right of self government in both local and municipal matters. . . . ." But the Colorado courts quickly held Colorado cities, within Colorado territory, governed by the Colorado constitution, subject to general laws passed by the General Assembly on "state affairs."

(2) It might be carried to the point of giving cities control over "local affairs,"—leaving the General Assembly control of "state affairs." This would leave open the question where "local affairs" leave off and "state affairs" begin, shift the power of decision from the legislature to the courts, invite litigation to the point of confusion and uncertainty in view of the conflicting meanings given to these terms by the courts of other states. In its report on state-local relations, the Council of State Governments says:

> "The home rule constitutional provisions variously define the scope of home rule. The original Missouri provision set forth that a city of a given size might frame a charter 'for its own government.' This language was copied by a number of other states including Washington, Minnesota, Oklahoma, Arizona, Nebraska, and Utah. In California, localities are given the right to make and enforce all laws with respect to 'municipal affairs'; Colorado used the term, 'all local and municipal affairs'; Wisconsin, 'local affairs and government'; Ohio, 'local concerns'; and New York, 'property, affairs or government'. . . . .
>
> "It will be noted that every one of these terms is general and vague. The terms 'local' or 'municipal' affairs have no well-understand generally accepted technical meaning. It is an astonishing fact that though the home rule movement is seventy years old, no definition of what may properly be called 'municipal affairs' has been evolved.
>
> "Some practical definitions of home rule power have been made. In both California and Colorado, for example, constitutional amendments have conferred specific powers on localities after such powers had been declared by the courts outside the scope of the original general grant of power. The unnecessary delays involved in such a process are obvious. The constitutions of Oklahoma, Michigan, Ohio, Utah, and New York also contain some degree of specification. Furthermore, the enabling acts of such states as Minnesota and Texas establish what amounts to a legislative definition of 'municipal affairs'. . . .
>
> ". . . there is a wide no man's land between affairs of 'municipal' and of 'general' concern, and the judiciary has the largest task in assigning functions to one of the two categories.
>
> "All this has led to continuous litigation and to great uncertainties for home rule cities. It has also delivered to the judiciary the final word on the operation of home rule. Under the current scheme of things, the term 'constitutional home rule' is a misnomer. In most states, a more accurate designation would be 'judicial home rule.'
>
> "Yet the powers that a home rule municipality should exercise are a matter of political policy, not law. Legal training gives one few qualifications for distributing functions between states and localities. No practice is more ill-suited to that task than the judicial process of abiding by precedent. Any system of allocating powers between states and localities should aim at reducing litigation to a minimum. But home rule, as practiced today, puts the largest burden of defining 'home rule' in the hands of the judiciary. This makes for neither good government nor good law."

(3) It might be carried to the point of giving control of "local affairs" to cities and "state affairs" to the General Assembly, leaving to the General Assembly the power to define and redefine these terms, by general laws within the limits of the constitution, to the exclusion of special acts, as often as changing social conditions or changing legislative policies call for redefinition in the interest of all concerned. In it report on state-local relations, the Council of State Government points out:

> "It is not frequently understood that general laws may be an important source of municipal discretion in home rule states. The outstanding example is the situation in Wisconsin, whose cities probably enjoy greater freedom than the cities of any other state. Wisconsin has a home rule constitution provision; but the scope of discretion possessed by Wisconsin cities results not from this provision but primarily from an exceedingly liberal system of general statutes. This is true, to some degree, in a number of home rule states. The very existence of home rule constitutional provisions may tend to promote a liberal legislative attitude with respect to general laws, but this cannot be demonstrated. In any case, the Wisconsin system of home rule fortifies one previously made point: that general laws can be an important source of municipal freedom. At the same time, localities even in Wisconsin make free use of their home rule charter amending powers. And this illustrates one practical advantage of constitutional home rule over even the most generous legislative charter systems: namely, the advantage of flexibility that home rule gives to localities in meeting their day-to-day problems. . . .
>
> "A legislative disinclination to define any sphere of municipal discretion in Pennsylvania and a legislative penchant to control every aspect of local government in West Virginia account for the failure of home rule in those two states. But it is overhasty to conclude that home rule can be successful only through making constitutional provisions completely self-executing and only through completely removing the legislature from exercising authority in certain (or all) aspects of municipal affairs.
>
> "The constitutions of Minnesota, Michigan, and Texas, for example, grant home rule powers directly subject to legislative definition. The Minnesota constitution authorizes the legislature to 'prescribe by law the several limits under which . . . [home rule] charters shall be framed'; the Texas constitution provides for the erection of home rule charters 'subject to such limitations as may be prescribed by the legisature . . . .'
>
> "In these states, home rule is obviously measured only in terms of legislative enabling statutes, and local discretion can be exercised to the extent it is permitted—or not prohibited—by general laws. Despite legislative dominance, home rule has operated creditably in Texas, Michigan, and Minnesota.
>
> "Even where the legislature is not given a direct constitutional mandate to set the limits of local home rule, it may exercise such a function. This is accomplished as the result of constitutional clauses providing that activities of home rule localities shall be 'consistent with and subject to general laws of the state.' In the state of Washington, for example, localities are free to regulate their own local affairs (and 'local affairs' are narrowly defined by the courts) until the state legislature occupies the field by general law. Nor is there any sphere of function, no matter how local in

character, immune from general laws. By this process, as McBain has said, home rule becomes 'more largely a matter of legislative grace than a constitutional right.'

"A basically similar situation exists in both Oregon and Missouri. The difference between the rudimentary development of home rule in Missouri (under the old constitution) and the well-ordered system in Oregon results from the attitude of the courts, the custom of the legislatures, and the watchfulness and political strength of home rule municipalities. These differences do not result from the constitutional provisions themselves."

(4) It might be carried to the point of defining "local affairs" and "state affairs" in the constitutional provisions,—freezing the meaning of these words, in a fixed and static form beyond the power of the legislature or the courts to change with changing conditions, and leaving all modification dependent on the slow, uncertain, and cumbersome processes of constitutional thawing. Roads and schools might be looked on as "local affairs" in one generation and as "state affairs" in another. Speed regulations might be looked on as "local affairs" in the horse and buggy days, and even in the early auto days when the extreme limitations of rutty, bumpy and muddy roads imposed limitations on the moving power of horses as well as on the horse power of internal combustion engines; but hard surface roads removing these external limitations and mechanic skills constantly accelerating the moving power of automobiles are turning local speed regulations into matters of state concern. And similar processes are going on in other governmental functions.

(5) It might be carried to the point of designating in the constitution those affairs most clearly "local" and those affairs most clearly "state-wide" in significance, and leave undesignated affairs in the intervening territory open for legislative or judicial definition as circumstances put them to the test. This would split the difference between the evils of constitutional and legislative or judicial defining power, bringing some of the virtues and some of the vices of both. In its report on state-local relations the Council of State Governments argues on this point:

". . . It is difficult, as this report has emphasized, to separate state from local functions. A complete specific enumeration of powers to be exercised by home rule cities is therefore impossible. Nevertheless, it seems both possible and highly desirable that some specified powers be given to localities in addition to the general grant of authority over local affairs. Rather than leaving the entire field of home rule powers to the definition of the courts, there seems no valid reason why an enumeration of powers cannot be conferred upon cities in every home rule state. In the process of this enumeration, those powers which have been the cause of the greatest litigation in the past could be carefully considered. As a matter of public policy, they can be granted or denied to home rule localities. . . .

"Specification of home rule powers is not without danger. If accomplished in the constitution, the danger is that the enumeration may be inadequate to meet future needs, yet inflexible and difficult to alter. If enumeration is left to legislatures, the danger is that municipal freedom may be completely usurped by an unfriendly law-making body. The case against constitutional elaboration is a strong one: no system of government can be better than the men who operate it, and the legislature, in any case, will have much to say with respect to a given municipality's powers. Nevertheless, some constitutional enumeration is advantageous, especially if care is exercised to include therein only those matters which are likely to remain within the realm of purely local affairs. It is to be emphasized that this specification should be in addition to a *general* grant of authority, coupled with the proviso that the enumeration should not be interpreted to limit this grant. . . .

"This, of course, will leave an undefined sphere of 'local affairs,' subject to judicial construction and to a constitutional provision with respect to legislative powers. The latter may take two forms that are consistent with the philosophy of home rule: the legislature may be completely barred from the undefined sphere of municipal affairs, as in Colorado; or it may be permitted to control that sphere by general law, as in Wisconsin and New York. In the former case, the courts are again called upon to play a dominant role and 'local affairs' are apt to be squeezed dry through the judicial wringer. Thus, it seems desirable to endow the legislature with power to enact general laws in the undefined sphere of local affairs. This power to use general laws can, with advantage, even be extended to the sphere of the enumerated local powers as in Wisconsin and New York. Under these circumstances, the enumeration can be made more complete since it will not be completely inflexiable."

"Home Rule" for Counties in N. C.

Why was Article VIII, Section 4, limited to "cities, towns and incorporated villages," in its 1868 origin, and in its 1917 amendment? Was is not also the duty of the General Assembly to "provide for the organization" of counties, "and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessments and contracting debts"?

The immediate answer to this question may be found in the fact that the Constitution of 1868 had made provision for counties in other sections. It had provided a taxing system for the state and followed the provision with the requirement that "the taxes levied by the commissioners of the several counties for county purposes shall be levied in like manner with the state taxes," and that the counties could not exceed the double of the state tax except for a special purpose and with the special approval of the General Assembly.

One reason for this differentiating treatment of cities and counties may be found in their differing relationships to the state. The charter from the Crown in 1663, the Concessions of the Lords Proprietors in 1665, and the Fundamental Constitution in 1669, assumed that "the whole Province shall be divided into counties." "The sovereign chooses to make the division of the state into counties," said the Supreme Court of North Carolina in *Mills v. Williams*, 33 N. C. (1850), "for the better government and management of the whole in the same way that a farmer divides his plantation off into fields and makes cross fences where he chooses. The sovereign has the same right to change the limits of counties, and to make them smaller or larger by putting two into one, or one into two, as the farmer has to change his fields . . . " "The leading and principal purpose in establishing counties," said the Court in *White v. Commissioners of Chowan*, 90 N. C. 437 (1884), "is to effectuate the political organization and civil administration of the state, in respect to its general purposes and policy which require local direction, supervision and control, such as matters of local finance, education, provisions for the poor, the establishment and maintenance of highways and bridges, and in large measure, the administration of public justice. It is through them, mainly that the powers of government reach and operate directly upon the people, and the people direct and control the government. . . ."

Likewise in establishing County Subdivisions, the Court

said in the case of *Smith v. School Trustees*, 141 N. C. 143, 53 S. E. 524 (1906): "In the exercise of this power [to subdivide the territory of the state] the legislature can . . . create . . . school districts, road districts, and the like subdivision, and invest them and agencies in them, with powers corporate or otherwise in their nature, to effectuate the purposes of the government, whether these be general or local or both . . ."

The charter in 1663, the concessions in 1665, and the constitutions of 1669 also assumed that cities and towns would grow up—as trading centers. The first town in North Carolina was incorporated on the banks of the Pamlico River in 1705—"in not the unpleasantest part of the Country—nay in all probability it will be the center of a trade." A market house was among the first public buildings provided for in early charters and the trading purpose was further attested by town locations—on the coast at the mouths of rivers, at the headwaters of rivers, at crossroads, and at county seats; by the laws of 1715 allowing the towns of Bath and Newbern to send representatives to the General Assembly to look out for commercial interests—a privilege extended later to as many as five towns; by arguments in the Constitutional Convention of 1835 which took the representation away—one of their spokemen saying: "Towns had interests . . . distinct from the Counties in which they were located . . . often adversary interests . . . interests of which the agricultural portions of the county knew nothing."

In the beginning, said the Court in *Mayo v. Commissioners*, 122 N. C. 5-25, 29 S. E. 343 (1898):

> ". . . cities and towns are not incorporated for the primary purposes of government, the protection of person and property, since that could be done by the justices of the peace and constables, as in the county districts, without the expensive machinery of municipal government, but municipalities are in fact not so much for government purposes as for business needs, such as paving, lights, security against fire, water, sewerage, and the like, which are the necessities of a dense population, and which can be furnished more cheaply and effectively by the representatives of the municipality chosen to administer its common interests, than by subjecting each citizen to the unrestricted demands of organizations of private capital."

But governmental functions have been added to proprietary functions throughout the years.

This power of the General Assembly to create, extend, contract or abolish cities and towns has been continuously recognized by the courts, as in *Manly v. Raleigh*, 57 N. C. 370 (1857), where the Court said:

> "Ours would be a strange sort of government if the Legislature could not make a new county without the consent of the people there residing being first had and obtained, or if when, in the opinion of the Legislature, the population of a particular locality has become so dense that it cannot be well governed by the ordinary county regulations, and requires the special 'rules and by-laws' of an incorporated town to secure its good order and management, such locality cannot be incorporated into a town or annexed to one already incorporated without the consent of the inhabitants. . . ."

Likewise in subdividing the powers of cities and towns, in *Wells v. Housing Authority*, 213 N. C. 744-748, 197 S. E. 693 (1938), the Court said: "The same necessity that prompted the subdivision of political authority, in the creation of cities and towns, to the end that government should be brought closer to the people in congested areas, and thus be able to deal more directly with problems of health, safety, police protection, and public convenience, progressively demands that government should be further refined and subdivided, within the limits of its general powers and purposes, to deal with new conditions, constantly appearing in sharper outline, where community initiative has failed and authority alone can prevail."

Counties covered the state and included all the people. Towns covered particular spots—few and far between,—as late as 1800 all of them together included 13,623 people out of a total county population of 478,103; in 1870, 69,-352 out of 1,071,861; in 1900, 322,920 out of 1,893,810. The comparative insignificance of cities and towns in population and in territory coupled with differences in originating purposes, for a long time left them as side issues in the framework of the state—incidental to the machinery of government on a statewide scale and not essential to it. Popular election of town officials seldom went beyond the mayor and council members, leaving them fairly free to hire and fire employees of their choosing and give central direction to their efforts and activities. Not a single town official is mentioned in the Constitution—perhaps a blessing in disguise.

The first elected county officials were the parish vestry—in 1741—charged with the care and support of the poor, followed by the sheriffs in 1829. Members of the county governing boards were appointed by the Governor—usually on the recommendation of local members of the General Assembly, and they in turn appointed local officials, giving a locally centralized, if state directed, administration of county affairs. These elective officers were created and controlled by the General Assembly. In 1868 the General Assembly lost a measure of control through Constitutional requirements of specific officers including county commissioners, treasurer, and register of deeds; township clerks and trustees; sheriffs, coroners and constables. To the extent that these offices were fixed, functions allocated, and framework stratified, the General Assembly was charged with constitutional responsibility for county administration beyond the reach of legislative power.

A constitutional amendment in 1875 restored a measure of legislative control by providing: "The General Assembly shall have full power by statute to modify, change or abrogate any and all of the provisions of this Article [VII] and substitute others in their place, except sections seven, nine and thirteen." But this left the offices of sheriff, clerk of court, coroner, and constable beyond the reach of the General Assembly and together with tax, finance, debt and other limitations shackle the organizing and reorganizing power it had freely exercised for two hundred years over the machinery and functions of county governmental units and officials.

Throughout the two hundred eighty-four years since the first county was organized in 1665 and the two hundred forty-four years since the first town was organized in 1705 functions and purposes of both have undergone some changes. Towns and cities have taken on many governmental functions formerly shared by counties only—roads, schools and law enforcement are examples; and growing densities of population are forcing on counties many service functions formerly shared by towns and cities only—fire protection, water and sanitary facilities, plumbing codes, building regulations, rural zoning and the like. But many of the foregoing differences in function and in structure still persist and though the song of variance may in part have ended, its melody lingers on to haunt the deliberation of legislative committees undertaking to suggest differing home rule proposals for counties, cities and towns.

GENERAL SUMMARY

It is apparent from the foregoing analysis that the General Assembly of North Carolina has been worried with the problem of private, local and special legislation from its first session in 1665 to its present session in 1949. It is also apparent that the General Assembly has initiated two main policies in dealing with this problem—both of them existing in the Constitution today.

The first of these policies began with the 1835 prohibitions of "private laws" granting divorces, altering names, legitimating persons, and restoring citizenship. It continued with the 1868 prohibition of "special acts" creating private corporations, and the 1917 prohibitions of "local, private, or special acts" in fourteen designated fields. It was to have been aided and abetted by the 1835 requirement of thirty days' notice of the introduction of any private law—which died aborning. This policy may be extended by adding to the list of nineteen prohibitions other fields productive of this sort of legislation until all presently existing fields are covered, thereafter adding new fields as they develop through the years, and broadening the definition of "local, private or special acts" as presently interpreted by the Courts.

The faint beginning of the second of these policies appeared in the 1868 recognition of a legislative duty to provide in systematic fashion for the organization and operation of cities and towns, and continued with the 1917 requirement that this duty be performed by general laws. It was largely nullified by a Court decision permitting the performance of this duty by special acts in addition to general laws and the city and town practice of by-passing the avenue of general laws for the avenue of special acts in achieving their objectives. This policy may be extended by adding the specific prohibition of special acts to the requirement of general laws, extending the provision of the Constitution thus amended to include counties as well as cities and towns, and broadening the definition of "general laws" as presently interpreted by the courts. This requirement of general laws and prohibitions of special acts may be extended further into a policy of city and county home rule—within or beyond the control of the General Assembly.

These policies are overlapping in the use of similar techniques—requiring general laws and prohibiting private, local, and special acts. The second goes beyond the first, insofar as it leads to home rule for subdivisions of the state and insofar as home rule calls for a distribution of legislative power to these subdivisions beyond the reaches of the General Assembly. The first involves the ways and means of exercising legislative power which may be given and taken away at the discretion of the General Assembly. The second may involve a grant of powers beyond recall by legislative act—depending on the wording of the grant. It goes to the root of relationships between the state and local units and between differing types of local units: counties, subdivisions of counties, cities and towns, and other agencies, and raises questions: (1) of city-county territorial separation, with cities and counties exercising the sum total of local governmental powers within their separated territorial limits, (2) of city-county consolidation with one local governmental unit superseding the overlapping units now existing and absorbing all their powers, (3) of the merger of particular city and county functions, leaving separate city and county governmental structures undisturbed, (4) of the balance of power within and between the cities, the counties and the state of North Carolina.

Thirty Years of Private, Local and Special Legislation In North Carolina: 1917-1947

—●—

Acknowledgments

This analysis of Private, Local, and Special Legislation in North Carolina from 1917 to 1947, together with the following section bringing together the state constitutional provisions relating to private, local and special legislation and city and county home rule, furnishes underpinning for the foregoing article, and the writer acknowledges with appreciation the assistance of his colleagues and former students: Clifford Pace, A. W. Meyland, Jr., Joe Moore, Robert Stockton, Tom Wilson, Henry Colton, who did the bulk of this work.

TABLE OF CONTENTS

AGRICULTURE

	'17	'19	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Agricultural tenancies	3	3	3	1	1	1		1			1	2		3	5	1		25
Regulation of sale of agricultural products									3	2								5
Liens on peanuts								1	1	1								3
Form of crop liens	1						1					1			1			4
Boards of Agriculture—creation, etc.	1						1					1	2					5
Farm Demonstration Program										1				2				3
Miscellaneous	2							2				1		1		1		7
TOTAL	7	3	3	1	1	1	2	4	4	4	1	5	2	6	6	2		52

A total of 52 Public-Local and Private acts concerning agriculture have been enacted since 1917, constituting 0.4% of the total special legislation passed. These acts have been broken down into the following categories:

(1) *Regulation of agricultural tenancies and tenant contracts: 25.* These acts fix the terms of tenancies, provide penalties for breach of the tenancy contract by either party, and prohibit interference with tenancy contracts by third parties. Examples of this type of act are Ch. 194, Public-Local Laws of 1941; Ch. 600, Public-Local Laws of 1937.

(2) *Regulation of sales and purchases of corn, unginned cotton and other agricultural products: 5.* Purchase of cotton in the seed was prohibited, Ch. 226, Public-Local Laws of 1931; and the purchase of corn without making a permanent record thereof was declared to be a misdemeanor, Ch. 436, Public-Local Laws of 1931.

(3) *Granting a lien on peanuts to the owner of the peanut-picking machine used for harvesting the crop: 3.* An example of this type of act is Ch. 72, Public-Local Laws of 1929.

(4) *Regulation and standardization of the form of crop liens: 4.* Ch. 628, Public-Local Laws of 1937 offers a good example of this type of act.

(5) *Creation and abolition of Boards of Agriculture: 5.* Under this heading are those acts authorizing county commissioners to create a Board of Agriculture, to change its personnel, structure, or functions, or to abolish it; Ch. 409, Public-Local Laws of 1937 is representative of this category.

(6) *Appropriation for Farm Demonstration and other agricultural promotion work: 3.* Authorizations and appropriations for the furtherance of agricultural education and study make up this group. A good example is Ch. 135, Public-Local Laws of 1933.

(7) *Miscellaneous: 7.* Included in this category are such acts as Ch. 124, Public-Local Laws of 1929, making the transportation of tobacco without written permission of the owner or landlord a misdemeanor, and Ch. 60, Public-Local Laws of 1917, providing that where land is rented and animals are kept thereon the manure belongs to the landlord and not the tenant.

Those acts regulating tenancies and farm tenant contracts and those regulating sale and purchase of farm commodities may involve a Constitutional question. Are they a regulation of labor or trade so as to fall within the prohibition of Article II, section 29?

ANIMALS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Stock Laws	6	11	5	15	1		2	7	1	3	2	3				1	6		63
Damage by dogs—compensation				1		1	3	9			2					4	7	2	29
Depredation by fowl, etc.	1	2			1		1	1	1	4						1		1	13
Regulation of age of veal calves	7	6			2			5		1	1								22
Hog vaccine & vaccination										2	2	6	6	2		3			21
Importation of hogs & cattle							2		2	1				1					6
Livestock commissions							1		1				2	1					5
Bulls—authority to buy	2				1														3
Rabies inoculations	1								1	1	2			2	1		2		10
Dogs—restrictions on loose dogs	1	3					2												6
Miscellaneous	4	6		2	1			1		1	1				2	1			19
TOTAL	22	28	5	18	6	1	11	23	6	13	10	9	8	6	3	10	15	3	197

A total of 197 Public-Local and Private acts relating to animals were passed, comprising 1.5% of the special legislation enacted since 1917. These acts have been broken down as follows:

(1) *Stock Laws: 63.* This topic includes those acts prohibiting stock running at large: Ch. 375, Session Laws of 1945; those acts providing for a local election as to whether to require fencing of stock, Ch. 570, Public-Local Laws of 1921; and those acts dealing with stock fences and related matters, as for example, Ch. 370, Public-Local Laws of 1935 authorizing an election as to whether four-strand barbed wire shall constitute the lawful fence for Tapoco Precinct, Graham County.

(2) *Compensation for damage done by dogs: 29.* Typical of the acts in this category is Ch. 496, Session Laws of 1945, exempting Cleveland County from G. S. 67-13 which prescribes payment by the county for damage done by dogs.

(3) *Depredation by fowl running at large: 13.* Representative of the acts in this category are those prohibiting fowl from running at large on the lands of another without permission, Ch. 242, Public-Local Laws of 1931; and those making the owner of domestic fowl allowed to run at large both civilly and criminally liable for the damage done, Ch. 84, Public-Local Laws of 1929.

(4) *Regulations on the slaughter of calves for veal: 22.* Examples of this type of legislation are Ch. 472, Public-Local Laws of 1927, making it a misdemeanor to sell, ship or kill certain heifer veal calves; and Ch. 191, Public-Local Laws of 1919 making it unlawful to buy or sell veal calves under 12 months old, except Jersey bull calves. Query: Is this within the purview of Article II, section 29, as regulating trade?

(5) *Hog vaccination: 21.* Acts in this group deal with the sale, use and administration of vaccine for hog cholera. Examples are Ch. 123, Public-Local Laws of 1933, authorizing county commissioners to employ some qualified person to administer the vaccine to hogs in the county; and Ch. 358, Session Laws of 1943, authorizing the institution of a program for vaccination of hogs in Pasquotank County to prevent cholera.

(6) *Importation of hogs and cattle: 6.* Closely allied with the acts in the foregoing section are these preventing the importation into a particular county of hogs and cattle not properly vaccinated. Typical of these acts is Ch. 295, Public-Local Laws of 1939.

(7) *Creation of Livestock Commission: 5.* Acts authorizing the creation of a Livestock Commission and the purchase of pure-bred stock by it comprise this category, a good example being Ch. 124, Public-Local Laws of 1937.

(8) *Authorization to purchase bull: 3.* These acts are authorizations to the county commissioners to purchase a registered bull for use of all the county or for a particular township. Example, Ch. 451, Public-Local Laws of 1917.

(9) *Rabies inoculations: 10.* This category embraces acts authorizing particular county commissioners to furnish free rabies vaccine and to make regulations concerning rabies inoculations, such as Ch. 556, Session Laws of 1945; and Ch. 331, Public-Local Laws of 1933; and such other acts relating to rabies inoculations as Ch. 392, Public-Local Laws of 1939 which authorizes the county commissioners of Brunswick County to appoint a rabies inspector. Query: Do these acts relate to health so as to come within the constitutional prohibition of Article II, section 29?

(10) *Regulations against loose or unmuzzled dogs: 6.* The acts in this group prohibit owners from allowing their dogs to run loose, as Ch. 107, Public-Local Laws of 1919; or prohibit owners from allowing their dogs to run at large during the summer months unless muzzled, as Ch. 526, Public-Local Laws of 1925. It would seem that there is as much relation to health present in these acts as in those of the foregoing section and the Constitutionality of them might also be in question.

(11) *Miscellaneous: 19.* This category covers those acts relating to animals which do not fall into any of the other groups. Typical of these acts is Ch. 524, Session Laws of 1943, authorizing Raleigh to appoint a Special Humane Officer to enforce laws against cruelty to animals; and Ch. 55, Public-Local Laws of 1921, declaring all dogs in Scotland County to be property and any person stealing them to be guilty of a misdemeanor.

Included in this group are 2 acts which may be suspect as to their Constitutionality: Ch. 54, Public-Local Laws of

1917 prohibits the feeding of hogs on public highways of Tyrrell County or within 20 yards thereof unless behind a fence five yards from the road; Ch. 64, Public-Local Laws of 1919 makes it a misdemeanor to bring stock into Rowan County unless they have been tested for tuberculosis. Do these acts "relate to health, sanitation and the abatement of nuisances" so as to come within the prohibition of Article II, section 29?

BEER AND WINE

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Authorizing aldermen to prohibit or regulate														1			2				3
Prohibiting manufacture or sale within certain distances of churches or schools	9	2												6		2	3	1	3	7	33
Prohibiting retail sale of cider	1																				1
Regulating issuance of licenses by towns and counties														1			1		10		12
Regulating or prohibiting sales in counties	1													3					12	2	18
Regulating or prohibiting sales in towns														2			2		8		12
Regulating Sunday sales														1			1		3	2	7
TOTAL	11	2												14		2	9	1	36	11	86

There were 86 acts passed from 1917 through 1947 relating to beer and wine, constituting 0.7% of the total of special legislation enacted in the period. During the prohibition years of 1921 through 1933 there were none passed in this field. In the other years the number of acts passed ranged from 2 in 1943 to 36 in 1945, with the yearly average of about 10. These acts all related to the regulation or prohibition of the manufacture or sale of beer and wine. For clarity and an insight into the content of these laws, they have been broken down into the following categories:

(1) *The greatest number of these acts prohibited the sale of beer and wine within a specified distance (ranging from 200 yards to four miles) of churches, schools, or public parks.* A total of 33 acts were passed on this topic, typical of which is Ch. 1022, Session Laws of 1945, which makes it unlawful to sell wine within a one-mile radius of New London High School in Stanly County.

(2) *Eighteen laws were passed regulating or prohibiting the sale of wine in named counties or authorizing the governing bodies to so regulate or prohibit.* Typical of this class is Ch. 933, Session Laws of 1945, which authorizes Haywood County and municipalities therein to regulate or prohibit sale of wine within said county or towns.

(3) *Twelve laws were passed similar to (2) above, except enacted to apply to specified towns only,* giving them the authority to regulate or prohibit the sale of wine and/or beer.

(4) *Twelve laws were enacted regulating the issuance of beer and wine licenses or permits by towns or counties.* Exemplifying this class of legislation is Ch. 332, Public-Local Laws of 1941, which authorizes the board of aldermen of the town of Sanford to impose further restrictions than those provided by state law on the issuance of licenses for the sale of wine.

(5) *Seven laws were passed prohibiting the sale of beer and wine on Sunday in certain towns and counties.* In 1945 and 1947 this type of act was enacted by amending G. S. 18-77 to make the general law apply to specified towns or counties. See Ch. 937, Session Laws of 1945, which amended G. S. 18-77 so as to make it applicable to the City of Greensboro.

(6) *Three acts were passed authorizing aldermen to prohibit or regulate sale of beer and wine.*

(7) *One act was passed prohibiting retail sale of cider.*

CEMETERIES

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Removal of bodies	8	6	1	2	3	1	1	1	1	2	1		1	3			1		32
Condemning land for	2																		2
Maintenance, & creation of Cemetery Commission	1		2	2	2			2	2	2	5	2	2	1	2	3		1	29
Construction of public way to cemeteries				1								1							2
Prohibiting the pasturing of hogs in cemeteries					1														1
Establishment of or incorporation of										1		1	1	2		1	2	1	9
Dissolution of												1							1
Tax for operation & maintenance																2			2
Regulation of burials to promote public health																		1	1
TOTAL	11	6	3	5	6	1	1	3	3	5	6	5	4	6	2	6	3	3	79

Seventy-nine acts relating to cemeteries were passed during the years 1917 through 1947. These represented 0.6% of the special legislation enacted in this period. In number they ranged from 1 in the year 1925 to 11 in 1917. The mass of these laws dealt with the removal of bodies from specified graveyards and the maintenance and control of cemeteries.

(1) *Removal of bodies.* Thirty-two acts were passed authorizing the removal of bodies from the place in which interred and re-burial in some other graveyard. Some of the acts stated no reason for the removal; others listed as motivation the proposed sale of cemetery property, extension of street through cemetery and the discontinuance of cemetery in which buried. For an example of this classification, see Ch. 441, Public-Local Laws of 1919.

(2) *Creation of Cemetery Commissions and/or the maintenance and improvement of cemeteries.* Twenty-nine related to the maintenance, improvement and beautification of cemeteries. Some of these acts created commissions with the duty of maintenance and care of designated cemeteries. Others authorize the beautifi-

cation, improvement and protection by towns or cities directing the expenditure of funds therefor.

(3) *Two acts in 1917 gave the power of condemnation of land for cemeteries to a town and to two counties.*

(4) *Two laws authorized and directed the construction of public ways to designated cemeteries.*

(5) *Nine acts authorized the establishment or incorporation of designated cemeteries.*

(6) *Two acts authorized a special tax levy for the maintenance and improvement of cemeteries.*

(7) *One act made it unlawful to pasture hogs in the graveyards of Tyrrell County; one authorized the dissolution of designated cemetery; one provided for the regulation of burials in Wilson township, restricting places of burial, in order to promote public health.*

Do these acts relate to cemeteries so as to come within the prohibition of Article II, section 29?

CITY GOVERNMENT STRUCTURE

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Charters—granting & revoking	8	10		6	5		19	7	4	5	5	6	2	4	2	5	5	6	99
Miscellaneous amendments to charters	14	3	2	10	11	1	4	13	7	12	5	8	8	9	2	3	6	5	123
Changes in form of governing body	1			1	1	2		2	2	1	2	3	2	2	1	1	1	11	33
Changes in number of governing body				1				2	1	4	1	5				1	2	1	18
Powers & duties of governing body				6					1				3	1	3			9	23
Mayor & Commissioners—terms, elections, etc.	2			4	1		4	3	4	2	6	3	7	8	3	10	3	26	86
Miscellaneous boards, comms. & agencies	1	1		4	3	4	3	8	10	12	3	13	12	7	11	4	9	11	116
Miscellaneous				1	2		3		1	6	2	2	1	1		3	8		30
TOTAL	26	14	2	33	23	7	33	35	30	42	24	40	35	32	22	27	34	69	528

A total of 528 of the Private and Public-Local acts passed from 1917 to 1947 concerned municipal governments and have accordingly been classified under this topic. These 528 acts, amounting to 4% of all special legislation enacted in the period, have been categorized as follows:

(1) *Granting and revoking of municipal charters: 99.* This category embraces all those acts incorporating a municipality, such as Ch. 206, Private Laws of 1925, which incorporates the town of Graingers, Lenoir County; those acts repealing the charter and dissolving the particular municipal corporation concerned, such as Ch. 157, Session Laws of 1943 which dissolves the Municipal Corporation of Mooresboro; and those acts completely revising the existing charter of a particular municipality, as for example, Ch. 175, Session Laws of 1945, completely revising and consolidating the charter of Leaksville.

(2) *Miscellaneous amendments to charters: 123.* This group is composed of all those acts which amend municipal charters in numerous, unrelated aspects. Where an amending act has changed the charter in a particular respect, that act has been classified under the appropriate heading; but where the amendment has numerous purposes, it has been placed in this category. Typical of the acts in this group is Ch. 365, Public-Local Laws of 1939 which amends the charter of Laurinburg in regard to filing fees of candidates for municipal offices, changes the municipal treasurer from an elective to an appointive office, and extends the corporate limits of the town.

(3) *Changes in the form of the governing body: 33.* This topic includes those acts which change the form of the governing body of a particular municipality. Representative of these acts is Ch. 345, Public-Local Laws of 1937 which changes the municipal government of Burnsville from aldermen to the commission form, and Ch. 188, Private Laws of 1931 which provides for consolidation of the office of Mayor with that of City Manager of Elizabeth City.

(4) *Changes in number of governing body: 18.* These acts, such as Ch. 133, Private Laws of 1935, which changed the Board of Aldermen of Marshville from five to three members, increase or decrease the personnel comprising the governing body of the particular municipality.

(5) *Powers and duties of governing authority: 23.* Composing this group are those acts which change the power or enlarge or contract the duties of the executive and governing body of the town. Good examples of this type of act are Ch. 115, Public-Local Laws of 1939, empowering the Winston-Salem Board of Commissioners to establish zoning ordinances and Ch. 281, Public-Local Laws of 1937 which authorizes the Mayor of Mount Holly to perform the duties of Town Attorney if licensed to practice law.

(6) *Election, appointment and terms of the governing officials: 86.* Acts which concern the manner and time of electing the mayor, councilmen or commissioners or which provide for their appointment or term of office have been put in this category. Examples of these acts are Ch. 429, Session Laws of 1945 and Ch. 334, Public-Local Laws of 1939.

(7) *Creation, abolition, or changes in subordinate boards and commissions: 116.* The acts in this group either establish, dissolve, or vary the powers and duties of the minor administrative boards and commissions of municipal government. An act such as Ch. 1098, Session Laws of 1945, creating the Red Springs Airport Commission and prescribing its powers and duties is typical.

(8) *Miscellaneous: 30.* This group is composed of all acts concerning city government structure which did not fall within the foregoing categories. Twelve of the acts in this group were concerned with changing the names of particular towns, as for example, Ch. 168, Private Laws of 1933 which changed the name of a town from "Arthur" to "Bell-Arthur" and Ch. 692, Session Laws of 1943 which changed name from "Town of Morganton" to "City of Morganton."

Do these acts violate the prohibition of Article II, section 29 prohibiting changing the names of cities, towns and townships?

CITY LIMITS AND EXTENSIONS

Three hundred and sixty-nine Public-Local and Private acts were passed during the period 1917 to 1947 relating to municipal limits and extensions. These acts comprised 2.8% of the special legislation passed in the period. They are divided as follows:

(1) *Extension of city limits: 225.* Examples of this type of legislation are Ch. 485, Session Laws of 1945, and Ch. 346, Public-Local Laws of 1939.

(2) *Contraction of city limits: 24.* This category includes such acts as Ch. 64, Private Laws of 1935 which excluded certain territory from the city limits of Asheville, and Ch. 64, Private Laws of 1931 which reduced the corporate limits of Brevard to an area within a radius of three-fourths of a mile of the courthouse.

(3) *Defining and re-defining city limits: 90.* Acts such as Ch. 413, Public-Local Laws of 1939 which contracted in part and extended in part the city limits of Wilson, and Ch. 80, Private Laws of 1935 which sets out the boundaries of the town of Andrews by metes and bounds, made up this group.

(4) *Consolidation and merger of city limits: 6.* This topic

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Extension of city limits	16	13	5	18	5	1	19	11	14	6	6	9	5	17	15	7	23	35	225
Contraction of city limits	1	3		1	1				1	5	2	6				1	2	1	24
Re-defining city limits				18	2	3	13	17	3	3		4	6	6	3	2	3	7	90
Consolidations—city limits	2									1							2	1	6
Extension of city utilities					1			4	5	2		5	3	1	1		1	1	24
TOTAL	19	16	5	37	9	4	32	32	23	17	8	24	14	24	19	10	31	45	367

covers those acts incorporating one municipality into the limits of another, as for example, Ch. 1044, Session Laws of 1945, which provided that the corporate limits of the town of Monroe should be extended to include the corporate limits of Benton Heights.

(5) *Extension of city utilities: 24.* The acts grouped under this heading authorize the extension of city utilities, such as water, light and sewerage systems, beyond the corporate limits of the municipality. Ch. 358, Public-Local Laws of 1939, authorizing the extension of the municipal sewer system beyond the town limits of Chapel Hill, is typical.

It may be noted that Ch. 725, Session Laws of 1947, which prescribed a general procedure for extension of corporate limits, is designed to make unnecessary most of these special acts.

CLAIMS

STATE	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Death of employees, et al.														7		1			1		9
Exemption from liability																			1		1
Expenses of litigation																					
Personal injuries, employees, et al.														6		5		7	11		29
Personal property, damage														1		2		1	40		44
Procedure for filing and Statute of Limitations																1					1
Real property, damage														2		2			2		6
Refund, reimbursement																					
Salaries														1							2
Services rendered	1							3													3
Miscellaneous																					
TOTAL STATE	1							3						17		11		8	55		95

COUNTY	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Death of employees, et al.	1							1						1		1	3	4			11
Exemption from liability	1						6	5	2	1	1	1		3				2			22
Expenses of litigation								1										1			2
Personal injuries, employees, et al.	1	1	2	1			1	1	1	1		2		1			2	4	1		19
Personal property, damage							2										1	6			9
Procedure for filing and Statute of Limitations						1	2	1	1		2	3				2	2				14
Real property, damage			1		1	1						1									4
Refund, reimbursement	1					1			2	2	3	4									13
Salaries		4	1		1			1		6	2	1					2		1		19
Services rendered				1			2	1										1			5
Miscellaneous					1			2	1					1		1					6
TOTAL COUNTY	4	5	4	2	3	3	13	13	7	10	8	12		6		4	10	18	2		124
TOTAL STATE & COUNTY	5	5	4	2	3	3	13	16	7	10	8	12		23		15	10	26	57		219

Two hundred nineteen Private or Public-Local Laws pertaining to "claims" against the State or Counties were enacted from 1917 through 1947. These acts, being in the main compensation for personal injury and death, damages to real and personal property, and for salaries and services rendered amounted to 1.7% of the special legislation passed in the period covered. Numerically the greater portion of the claims was against Counties, as opposed to claims against the State, the count being 124 against the Counties, and 95 against the State.

These acts have been broken down into eleven sub-topics, with the idea in mind of illustrating the grounds on which the claim was predicated, i.e., personal injury, death, etc. There are also included a number of acts which set out the method of filing claims, procedure to be followed, and the statute of limitations limiting the bringing of actions.

(1) *Death of employees et al: 20.* By far the greater number of these acts provided for the payment of stipulated sums to relatives of children killed in school bus accidents. Some few of the acts provide for lump sum payments to relatives of police officers killed while acting in the line of duty. A representative act under this topic would be Ch. 42, Private Laws of 1937, "directing payment to father of sum for death of daughter, in school bus accident."

(2) *Exemption from liability: 22.* Most of these acts relieve officials from liability for deposits lost in banks that failed. Other exemptions include author-

ization to County Board of Education to operate school trucks, and relieve board from any personal liability for injury to persons or property caused through operation of trucks. A representative act would be Ch. 357, Public-Local Laws of 1933, "relieving Sheriff and surety from liability on account of loss of funds in closed bank."

Is this within constitutional prohibition: "Relieving any collector of taxes from due performance of his duties or his sureties from liability"?

(3) *Expenses of litigation: 3.* These are acts providing for reimbursement of police officers, etc., for expenses incurred in defending themselves against indictment brought against them, where they were faithfully performing their duties. A representative act is Ch. 239, Public-Local Laws of 1943, "reimbursing sheriff for damages he was forced to pay in civil suit."

(4) *Personal injuries, employees, et al: 48.* Most of these acts authorize "payment to claimant of sum as compensation for injuries received in school bus collisions." Other acts provide for reimbursement to police officers for injuries sustained while in performance of their duties. A representative act is Ch. 635, Public-Local Laws of 1945, authorizing "school commission to reimburse claimant for injuries received in school bus accident."

(5) *Personal property, damage: 53.* The greater number of these acts provide for reimbursement to claimant for damages to property caused by school bus collision. Other acts provide for reimbursement to owner for damage to property caused by negligence of State Highway Commission or other branches of state government. A representative act is Ch. 709, Public-Local Laws of 1945, "State Board of Education authorized to investigate and reimburse claimant for damages to car by collision with school bus."

(6) *Procedure for filing claim, and Statute of Limitations: 14.* Most of these acts set out the method of filing claims and provide a time limitation as to bringing of action. A representative act is Ch. 8, Private Laws of 1924, providing "in actions against town, the statute of limitations shall not begin to run until 10 days after demand made to board of aldermen in writing. . . ."

(7) *Real Property, damage: 5.* The majority of these acts provide for reimbursement to owner of realty damaged by State & County employees. A representative act is Ch. 73, Public-Local Laws of 1920, "authorizing Board of Education to reimburse church for loss of church buildings being used at time of fire as public school."

(8) *Refund, reimbursement: 19.* Most of these acts authorize refund to claimant of money paid on gasoline tax, the gas being used in stationary engine. A representative act is Ch. 1012, Public-Local Laws of 1945, "Commissioner of Revenue authorized to refund claimant for tax paid on gasoline."

Is this within constitutional prohibition against "refunding money legally paid into Public Treasury"?

(9) *Salaries: 19.* The majority of these acts authorizing the issuance of vouchers, etc., to pay teachers back salaries. A representative act is Ch. 409, Public-Local Laws of 1931, authorizing "issuance of certificates of indebtedness to school teachers for salary due."

(10) *Services rendered: 7.* Most of these acts provide for reimbursement for services rendered and labor performed. A representative act is Ch. 748, Public-Local Laws of 1943, "authorizing town to settle an account for work and services performed for town."

(11) *Miscellaneous: 9.* Included herein are such acts as one providing that inasmuch as the person entitled to money from receiver of insolvent bank and his whereabouts are unknown, then money may be paid to Clerk of Superior Court and receiver discharged, and an act authorizing State Treasurer to pay pension warrant, so that the Clerk of Superior Court, who had allowed son of deceased to have the warrant, might be relieved from liability.

COUNTY GOVERNMENT STRUCTURE

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'38	'39	'41	'43	'45	'47	Total
Commissioners—terms election, etc.	4	1	1	6	4	2	7	9	5	4	8	8	6		11	5	12	3	10	106
Commissioners—number	3	3		7	2	2		3		4	4	2			3				1	35
County Manager—authorization	1								4				1		2				1	9
Consolidation of city-county offices									1	2	3		1			2		1		10
County or rural police force	4	1	5		4					7					2	2			1	26
Minor boards & commissions						2	1	4	1		1	4		1	3	5	1		1	24
Townships & dists., creation, changes	1						1	3		4	2	1			1	2	1		2	18
County boundaries	1			7			3			2	2									15
Miscellaneous				1	1	1				4	2						1	3	1	14
TOTAL	14	5	6	21	11	7	12	19	11	27	22	15	8	1	22	16	15	7	17	257

A total of 257 Public-Local and Private acts dealing with county government structure were enacted from 1917 through 1947. These acts, comprising 2% of the special legislation enacted, have been divided into the following categories:

(1) *County Commissioners—terms, election, etc.: 106.* The acts placed in this category are those which prescribe the term of county commissioners or make changes therein or which fix the term and prescribe the manner of election of the commissioners. Examples of this type of legislation are Ch. 604, Public-Local Laws of 1939, which extended the term of the Commissioners of Craven County to four years; and Ch. 531, Public-Local Laws of 1933, which divided Randolph County into districts for the election of County Commissioners.

(2) *County Commissioners—changes in number: 35.* These acts are those such as Ch. 127, Public-Local Laws of 1929 and Ch. 32, Public-Local Laws of 1917, which either increase the number of commissioners or reduce it.

(3) *Authorizations of County Manager: 9.* Acts similar to Ch. 127, Public-Local Laws of 1929, which directed the Commissioners of Robeson to employ a County Manager and specified his duties, comprise this group.

(4) *Consolidation of city and county functions and agencies: 10.* This category covers those acts which combine agencies and functions of both city and county into one administrative unit under the control of both governments. Ch. 262, Public-Local Laws of 1941, which created a City-County Radio and Identification Bureau for Asheville and Buncombe County is representative of such acts.

(5) *Establishment and maintenance of a county or rural police force: 26.* Acts such as Ch. 223, Public-Local Laws of 1939 which authorized the creation of a rural police force for Burke County, and Ch. 55, Public-Local Laws of 1920, authorizing a county highway patrol force for Nash County, make up this group.

(6) *Establishment or abolition of minor administrative boards and commissions: 24.* These acts cover such things as the establishment of a Civil Service Commission, as Ch. 75, Public-Local Laws of 1935; creation of a Recreation Commission and appointment of members, as Ch. 595, Public-Local Laws of 1939; or

the granting of additional powers to such a body as a Port Commission, as Ch. 412, Public-Local Laws of 1941.

(7) *Creation or change of townships or districts: 18.* Included in this category are such acts as Ch. 120, Public-Local Laws of 1933, consolidating two townships in Swain County into one new one; Ch. 316, Public-Local Laws of 1939, moving a particular township from one district to another; Ch. 93, Public-Local Laws of 1927, establishing and defining township lines; and Ch. 294, Public-Local Laws of 1941, establishing a county Fire Protection District. Of the 18 acts in this group, 7 either consolidate townships to form new ones or create new townships by changing the boundaries of existing ones. Do these acts come within the prohibition of Article II, section 29?

(8) *County boundaries: 15.* The acts grouped under this heading either changed the boundary in a particular respect or established the true boundary. Ch. 247, Public-Local Laws of 1931 is a good illustration. In that act the true boundary between Lenoir, Duplin and Wayne Counties was established and confirmed.

(9) *Miscellaneous: 14.* These acts are those pertaining to county government structure which did not fall within any of the foregoing categories. Ch. 1082, Session Laws of 1945, authorizing the closing of all county offices in Warren County on Tuesday, Wednesday, or Thursday afternoon, is illustrative.

COURTS INFERIOR TO THE SUPERIOR COURT

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
ESTABLISHMENT OF																					
Establishing	4			3			1	1	1	2	1	1						1			13
Authorizing establishment							3	2			3	2		1		2				2	15
Authorizing establishment of traffic bureau																				8	8
JUSTICES OF THE PEACE																					22
Appointment of	4		1	2							2	15					1	1	1		5
Elections of																			1		1
Limiting number of																					
JURISDICTION																					
Altering; contracting; extending	9	5		9	3		11	1	9	7	5	9		8		9	9	6	4	7	111
PROCEDURE																					
Jury trials				1					2		3	3		3		6	1		7	6	32
Fees and costs	1				1	1	4			2	6			6			1		1	6	29
Terms					1		3		2		5			2				6	1	1	15
Appeals	1							1			4								1		12
Calendar	1																				1
General	5		1	2		1	2	4	3	3	8	6		4		6	1		7	2	55
ABOLISHMENT OF																					
Abolishing	9	5	1					4		2		1		1		1				1	25
Authorizing abolishment							1	1	1	3	3										9
PERSONNEL	2	2	2	8	1		4	8	2	4	12	9		2		13	8	9	6	6	98
MISCELLANEOUS			1	13	1			2	1	1	2	2		1			1				25
TOTAL	36	12	6	38	7	2	29	24	21	24	54	48		28		37	22	23	28	39	478

From 1917 to 1947 inclusive, the General Assembly passed 478 local, private, and special acts relating to courts inferior to the Superior Courts, ranging in number from none in 1936 (extra session) to fifty-four in the 1933 regular session. These acts which accounted for 3.7% of the special legislation passed in this period include those relating to county courts, recorder's courts, municipal courts, mayor's courts, Justices of the Peace, and traffic bureaus (a 1947 innovation). These 478 acts have been grouped into the following categories in order to facilitate analysis:

(1) *Establishing inferior courts: 38 acts were placed in this group which relates in one form or another to the establishment of courts inferior to the Superior Court.* Eight acts directly established inferior courts without reference to local procedure, option, or approval, as Ch. 285, Public-Local Laws of 1931; five acts amended a city's charter so as to grant power to the mayor to constitute himself a court with certain specified jurisdiction and powers; one act (1929) re-established a court which had previously been abolished; one act (1943) re-designated an existing court by changing its name; in 1947, two acts were passed which amended a general statute, as Ch. 343, Public-Local Laws of 1929, in order to allow the establishment of an inferior court; in 1947 eight acts granted the city commissioners or aldermen authority to establish a traffic bureau for handling certain minor traffic violations; thirteen acts were passed which directly authorized the local officials to establish an inferior court, Ch. 608, Public-Local Laws of 1925. Do these acts come within the prohibition of Article II, section 29 of the North Carolina Constitution?

(2) *Appointment of Justices of the Peace: 20 acts were found which directly appointed a particular Justice of the Peace for a certain county,* as Ch. 515, Public-Local Laws of 1935. Two other acts appointed numerous Justices of the Peace for several counties. Do these acts come within the prohibition of Article II, section 29?

(3) *Jurisdiction: Out of 111 acts pertaining to jurisdiction of inferior courts the following types were found:*

Extending the jurisdiction of a court to an area not previously included, as Ch. 661 of Public-Local Laws of 1917; extending the jurisdiction of a court to include different or other types of litigation, as conferring jurisdiction in certain civil cases upon a presently constituted criminal court, Ch. 511, Public-Local Laws of 1921; as Ch. 97, Private Laws of 1933, giving mayor's court concurrent jurisdiction with the Superior Court for offenses committed within the city limits; contracting the jurisdiction of a court, e.g., reducing the area over which it is to have jurisdiction, as Ch. 705, Public-Local Laws of 1917, and excluding certain types of litigation from the court's power.

(4) *Procedure in inferior courts: 144 acts were passed which can be said to affect the procedure to be followed in inferior courts.* The following types were noted:

Jury trials, as acts providing that a jury trial shall be provided if requested by a party, e.g., Ch. 197, Public-Local Laws of 1937, or providing that the same shall be transferred to the Superior Court upon request for a jury trial, as Ch. 897, Session Laws of 1945; costs, as when certain costs are set to be charged to the losing party in a case and prescribed for the disposition of the fund, Ch. 572, Public-Local Laws of 1925; terms, as where acts pertain to setting dates, separating civil from criminal terms, etc., Ch. 139, Public-Local Laws of 1925; as Ch. 480, Public-Local Laws of 1933, providing that appeals from a

Justice of the Peace may be taken either to the County Recorder's Court or to the Superior Court, at the appellant's election; one act provides for a calendar for the criminal courts of Forsyth; general, as acts relating to issuance and service of process, warrants, ect., and to the rules of practice to be followed, Ch. 699, Public-Local Laws of 1929—some being very detailed and covering all phases of judicial administration, e.g., Ch. 142, Public-Local Laws of 1927, relating to duties, records, and standards for Justices of the Peace of Buncombe County.

(5) *Abolishing an inferior court: Some 25 acts directly abolish a previously constituted court* and provide for the transfer of dockets to another judicial agency, Ch. 515, Public-Local Laws of 1927; others amend a city charter to divest the mayor of judicial authority; nine others provide a procedure (such as petition and election) to be followed to abolish the court in question, e.g., Ch. 453, Public-Local Laws of 1927.

(6) *Court Personnel: 98 acts can be said to pertain to this broad topic exclusive of those acts which are classified under "Salaries."* The 98 here included relate to a variety of personnel matters such as: prescribing the method of appointment or election of a judge, solicitor, stenographer, etc., Ch. 77, Public-Local Laws of 1933; authorizing the appointment of a court official such as assistant clerk, Ch. 486, Public-Local Laws of 1931; defining or enlarging the duties of court personnel, as Ch. 456, Public-Local Laws of 1941, which directs the prosecutor of the Recorder's Court to assist the Superior Court solicitor; establishing the office of Public Defender, Ch. 636, Public-Local Laws of 1917; setting the term of office for one or more of the court officials, e.g., Ch. 631, Public-Local Laws of 1937. For additional legislation pertaining to personnel see also the topic "Salaries."

(7) *Miscellaneous: 25.*

SUPERIOR COURTS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
JURISDICTION							4		1			1					2		1		9
PROCEDURE																					
Terms					1		7							1		1		10	11	19	50
Costs						1	4	1		1	2	4		1					1	1	16
Calendar						1	2	2		1	1	6		1			2	1			17
General								1		2	8									1	12
PERSONNEL									1			2		1				2		2	8
MISCELLANEOUS		1																			1
TOTAL		1			1	2	17	4	2	4	11	13		4		1	4	13	13	23	113

In Public-Local and Private Laws volumes 1917 to 1941 there are 64 acts relating solely to the Superior Courts. The Session Laws volumes of 1943, 1945, and 1947 yield an additional 49 acts considered by the researchers to be of the same general nature, making a total of 113, or 0.9% of the special legislation enacted.

In addition to these 113 acts there are 364 acts in the Public Law volumes of 1917-1941 of the same nature. Most of those related to only one county and were concerned with setting the terms of the court. No valid reason could be determined which would explain the legislative designation of some as "Public-Local Laws" and others as "Public Laws," but to avoid confusion these 364 acts have not been included in the analysis.

The 113 acts ranging from none in 1917 to 23 in 1947 found in the Public-Local or Session Laws were placed in the following analytical categories:

(1) *Jurisdiction: 9.* These acts related to jurisdiction, ranging from an act conferring civil jurisdiction on a criminal term, Ch. 519, Public-Local Laws of 1925, to an act giving the Superior Court concurrent jurisdiction with a Recorder's Court, Ch. 164, Session Laws of 1945.

(2) *Procedure: 95 acts were placed in this category.* Fifty pertained to adjusting the terms of the court, setting dates, etc. (It is estimated that there are about 325 additional acts in the Public Law volumes each pertaining to one county); sixteen pertained to costs of court, ranging from adding to costs a sum to be used for a Peace Officers' Protective Association in Pitt County, Ch. 67, Public-Local Laws of 1935, to requiring the Clerk of Court to maintain a complete record of costs, Ch. 220, Public-Local Laws of 1935; seventeen acts pertained to the preparation and distribution of calendars, as Ch. 313, Public-Local Laws of 1933; twelve were considered as pertaining to the general procedure to be followed, as Ch. 439, Public-Local Laws of 1931, which gave an additional reason for granting a continuance.

(3) *Personnel: 8 acts related to various personnel matters,* as Ch. 218, Public-Local Laws of 1935, which authorized the appointment of an assistant solicitor.

(4) *Miscellaneous: 1.*

CRIMINAL LAW AND PROCEDURE

(See also: Trade Regulations; Fish & Game; Animals; Health and Sanitation; Liquor; Courts Inferior; Courts Superior)

Two hundred sixty-seven laws of a Public-Local or Private nature enacted between 1917 and 1947 were classified as Criminal Law and Procedure. These represent 2% of the special legislation enacted in the period covered. A substantial number of other laws enacted during the same period also prescribed criminal penalties for their violation. Nevertheless, for various reasons, the other laws have been treated under different categories (see headnote above). The most notable types treated elsewhere are "Sunday Laws" and trade regulations. These are classified under "Trade Regulations" so that the constitutionality of this type of legislation may be open to unobstructed scrutiny.

With a few exceptions where a constitutional question may be involved, the legislation classified as "Criminal Law and Procedure" is open to criticism only for being unnecessary in some cases. For example, the General Statutes of North Carolina, G. S. 14-334, prescribe a $50 fine or 30 days punishment for public drunkenness or disorderliness. Although the general law has not been amended since its enactment in 1921, 40 local variations have been appended. Some of these variations serve the legitimate purpose of increasing the punishment for the first or subsequent convictions as seems suited to local needs. Others merely reiterate that disorderly conduct in public, on highways, or near designated churches is a misdemeanor.

Thirty-one local laws relating to motor vehicles were enacted between 1917 and 1947. All but 4 of these local laws relating to speed limits, mufflers, lights, drunken driving, etc., were enacted between 1917 and 1925. An avalanche of such local legislation in the late twenties and thirties was apparently avoided by the passage of the first Motor Vehicle Act in 1927, Ch. 122, Public Laws of 1927.

The territorial jurisdiction of peace officers has been varied (generally increased) by 44 local laws. A typical

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
DISORDERLY CONDUCT																					
General drunkenness, profanity & disorderly conduct:	8	5	1	2				3	3	5	3	1		1			1	1	4	2	40
On highways	4		1		2	1						1							1	3	13
Near churches	2	1		3				5													11
MOTOR VEHICLES																					
General		1		2		1	4												1	1	10
Drivers' licenses		1	1		2																4
Drunken driving							3		2												5
Mufflers				3	1																4
Speed limits	2			1	2																5
VAGRANCY			1				1														2
CHANGE of JURISDICTION of PEACE OFFICERS																					
Beyond city limits	1		2				1		2		2	4		5		2		2	2	8	31
Across township boundaries			1									1		1					2	1	6
Across county lines					1							2					1			1	5
General																1					2
PROCEDURE																					
General					1			1	1	1											4
Process officers				1		1		2				2					1	1	2	1	11
FIREWORKS (See *Trade Regulations* for acts regulating sales)								3			1	1				1	1				7
FIREARMS																					
Concealed Weapons		1																			1
NON-NAVIGABLE STREAMS		2		5			1		2												11
DAMAGING PROPERTY																					
Public		3						2													5
Private									2											4	6
PRISONERS	2		4		1		9	6	10	1	2					2					37
GAMBLING		1		2			1	5												1	10
NUISANCES								1									1				3
Juke boxes																	1				1
Loud speakers																1	4				5
MISCELLANEOUS																					
Bad checks								1													1
Driving over fire hose																		1			1
Parents' failure to send children to school																1					1
Resisting arrest														1		1					2
Rewards																	1	1			2
Short weights								1													1
Prize fights							1	1		1											3
Others				1						2	3	1		1		3	1		1	4	17
TOTAL	19	15	12	20	10	3	21	32	22	11	12	12		9		12	12	6	13	26	267

law is Ch. 545, Session Laws of 1947, which extends the authority of Siler City policemen to one mile beyond the corporate limits. Another specimen is Ch. 167, Private Laws of 1935, which authorizes the peace officers from Avery, Burke, and McDowell Counties to make arrests within two miles of the common corner at Linville Falls.

The most common type of local legislation dealing with criminal procedure regulates the issuance of criminal process. For example, Statesville policemen of the rank of sergeant assigned to be desk officer are empowered to issue warrants and other criminal process, Ch. 213, Session Laws of 1945.

Aside from 37 laws prescribing local regulations for prisoners and prison labor, e.g., establishing a prison farm in Mecklenburg, Ch. 640, Public-Local Laws of 1927; empowering Avery County to work or to hire out prisoners, Ch. 458, Public-Local Laws of 1929; or authorizing Cleveland County to hire out its surplus prisoners to other counties, Ch. 176, Public-Local Laws of 1929, the remaining local laws dealt with a multitude of subjects. By Ch. 447, Session Laws of 1943, driving over a fire hose was made a misdemeanor in Harnett County. Parental failure to send children to school was made a misdemeanor in Buncombe County by Ch. 450, Public-Local Laws of 1939. Prize fights were legalized in Carteret County by Ch. 157, Public-Local Laws of 1931, and the statewide prohibition against prize fights was specially relaxed in favor of the American Legion in Robeson County, Ch. 270, Public-Local Laws of 1925, and in Vance County, Ch. 497, Public-Local Laws of 1927. Other acts created local modifications on the law of resisting arrests, Ch. 609, Public-Local Laws of 1937; bad checks, Ch. 636, Public-Local Laws of 1927; concealed weapons, Ch. 317, Public-Local Laws of 1919; and destroying public property, Ch. 432, Public-Local Laws of 1927.

Eleven acts prohibit the throwing of various objects in streams, e.g., Ch. 449, Public-Local Laws of 1931 (timber or branches in Avery, Watauga, and Hertford streams), Ch. 240, Public-Local Laws of 1919 (brush or carcasses of animals in the French Broad River in Transylvania County). Do these acts come within the prohibition of Article II, section 29 of the North Carolina Constitution as "relating to non-navigable streams?"

The Court has not construed the constitutional provision against local, private or special acts "relating to the abatement of nuisances," Ch. 447, Public-Local Laws of 1933 candidly declared punch boards in Pasquotank County to be "public nuisances" and provided for their abatement; Ch. 492, Public-Local Laws of 1927 authorized the commissioners of four counties to close filling stations where disorderly conduct and drinking were found; in 1941 the General Assembly enacted four acts which might be construed as "relating to abatement of nuisances," e.g., Chapters 42, 131, 265, 279 of Public-Local Laws of 1941, regulating the use of loud speakers in certain counties, towns, and townships.

ELECTIONS AND ELECTION PROCEDURE

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Australian Ballot	2	1	1	2	3	1	4	5			1	1									21
Boards of Elections & officials								1						1		1		1		4	8
City elections	1	10	1	8	6	1	6	11	13	20	25	18		1		15	11	13	16	10	186
County elections	8	3		4			1	2	3	17	5	1		3		1	5	3	8		64
Primary elections	21	2	1	3		2	1	4	2	2	6	5				2	3	1	4	5	64
Registration		1	1	1			2		1	1	1	4		3		1	3	1		3	23
School districts		4					1		1	1	1	1					1	2	1		13
Miscellaneous	2	1					1	5				2						1		1	13
TOTAL	34	22	4	18	9	4	16	28	20	41	39	32		8		20	23	22	29	23	392

Three hundred and ninety-two Public-Local and Private acts enacted between 1917 and 1947 pertained principally to local elections and local election procedure. These 392 acts were 3% of the total of special laws passed in this period. Many other acts authorizing local elections for various *special* purposes have not been placed in this classification. Thus laws authorizing elections to pass on general bond issues were classified in "Finance," road bond issues under "Roads," school bond issues under "Schools" and so on. If a statute merely incidentally mentioned when an official would be elected, the statute was classified in "City Government Structure," "County Government Structure," "Schools," "Roads," or "Officials." In general the laws classified in "Elections and Election Procedure" set forth the election machinery in detail.

(1) *City elections: 186.* The local laws set out the procedure for city elections in varying degrees of details. For example, Ch. 65, Public-Local Laws of 1939 outlined the whole procedure for Warrenton elections. Many of the acts, like Ch. 95, Private Laws of 1931, divided towns into a number of wards and required that one alderman or commissioner be elected from each. Other acts set forth isolated details of municipal elections, such as authorizing certain persons to vote regardless of time of residence, Ch. 1020, Session Laws of 1945.

(2) *County elections: 64.* These acts were very similar to those pertaining to *City Elections.*

(3) *Australian Ballot: 21.* By Ch. 606, Public-Local Laws of 1917, the Australian ballot was adopted for Buncombe, Henderson and Madison Counties. Most of the remaining 20 acts in this category are like Ch. 566, Public-Local Laws of 1927 which amended Ch. 606, Public-Local Laws of 1917 to insure the secret ballot for Burke County.

(4) *Boards of elections: 8.* These acts created boards of elections and specified their powers and duties, Ch. 435, Session Laws of 1943. Ch. 82, Session Laws of 1947 is an example of the laws appointing the individual members of boards of elections.

(5) *Primary elections: 64.* Acts in this category generally prescribed that primary elections should be held for municipal office, Ch. 157, Private Laws of 1933. A number of acts like Ch. 135, Public-Local Laws of 1939 either rejected or adopted the General Primary Law.

*(6) *Registration: 23.* The acts in this category directed new registrations, Ch. 79, Public-Local Laws of 1941.

(7) *School districts: 13.* The local laws in this category prescribed who might vote, Ch. 72, Session Laws of 1943; the time of registration, Ch. 36, Session Laws of 1945, and the general procedure for electing trustees and other officials of school districts, Ch. 169, Private Laws of 1935.

(8) *Miscellaneous: 13.* Among the local laws not otherwise broken down are five acts either exempting certain counties from the general absentee ballot law, Ch. 401, Public-Local Laws of 1927; or regulating absentee voting, Ch. 213, Private Laws of 1935.

FEES

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Clerks of Court	2	6	1	9	5	2	11	4	2	8	9	6		7		8	2	4	10	8	104
Court officials	4	2		2	1				1	1				1		1	1		2	3	19
Coroners		1						4										1		3	9
Cotton Weighers		4	4					1		2									1		12
Jails		1		1						1				1			1	2	3	2	12
Justices of the Peace	1	6	4	16	2		1	2		3	3	8		3		6	1		7	9	72
Registers of Deeds		3	2	5			6	7	3	2				1		2	3	2	4	9	49
Sheriffs & constables	2	3	4	14	7	1	7	13	6	14	4			5		4	1	4	4	6	99
Witnesses	1			1	1				1	1	1					1	2			1	10
Miscellaneous			1		1	1		1		1						1					6
TOTAL	10	26	16	48	17	4	25	32	13	33	17	14		18		23	11	13	31	41	392

(See also: Salaries)

Three hundred ninety-two Private or Public-Local acts concerning fees were enacted from 1917 to 1947, 3% of all special laws passed in this period. These have been broken down into ten categories as follows:

(1) *Clerk of court: 104.* This category is the largest of the group and covers legislation relative to fees to be charged by the clerks of the Superior Court, as Ch. 160, Public-Local Laws of 1924, providing "schedule of fees to be collected by Clerk of Superior Court."

(2) *Court officials: 19.* This category relates to fees of solicitors of recorder's courts, attorney fees in tax foreclosure suits, and fees due court stenographers in the Superior Court, as Ch. 122, Public-Local Laws of 1919 and Ch. 399, Session Laws of 1945.

(3) *Coroners: 9.* Acts fixing and adjusting fees to be charged by coroner for holding inquests, as Ch. 518, Session Laws of 1943.

(4) *Cotton weigher: 12.* Fixing fees to be charged by public cotton weigher for weighing cotton, as Ch. 160, Public-Local Laws of 1927, "fixing fees for weighing cotton."

(5) *Jails: 12.* Acts fixing jail fees, and fixing maintenance allowances for U. S. prisoners kept in county jails, as Ch. 165, Public-Local Laws of 1943, "setting maximum jail fees at ten cents to be paid to Sheriff from general fund."

(6) *Justices of the peace: 72.* Acts fixing the fees to be charged by justices of the peace in criminal and civil actions. Most of these acts are amendments to prior

acts and amendments to the General Statutes relative to fees of justices of the peace.

(7) *Registers of deeds: 49.* Acts fixing the fees of Register of Deeds, probate fees, recording fees, indexing fees, and fees for other services rendered by this office.

(8) *Sheriffs and constables: 99.* This is the largest category under the heading of fees. Acts fixing the fees of Sheriffs and Constables, for service of process, recapture of escaped convicts, fees and commissions for collection of taxes, and in general fixing fees for different services performed by the two offices, as Ch. 44, Public-Local Laws of 1920, "fixing sheriff's and constables' fees for county."

(9) *Witnesses: 10.* Acts fixing witness fees, regulating the trafficking in witness tickets, and providing county not taxable with witness fees of salaried officers of county acting as State's witnesses, as Ch. 384, Public-Local Laws of 1923, "an act increasing witness fees in Superior Court of county."

(10) *Miscellaneous: 6.* Included in this group of acts are acts fixing fees of County Surveyor, fixing fees of trustee selling property under Deed of Trust, and filing fees of candidates for municipal offices, as Ch. 91, Private Laws of 1931, "fixing filing fees for candidates for municipal office," and Ch. 180, Public-Local Laws of 1920, "fixing fee of County Surveyor, while surveying under the direction of the court."

LOCAL FINANCE

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Roads	41	60	18	57	35	8	23	15	6												263
Schools	23	18	40	38	15	4	20	10	10	1		4		5		5	1		4	14	212
Water, Sewers, Electric Power	13	8	1	9	8	1	7	3	5	2		1						1			59
Sidewalks and Streets	7	4		11	1		4	4	1					1							33
Public Buildings																					
Courthouses, city halls, jails	1	7	6	7	5		1	2	2	1	1	1		2			3			2	41
County homes, hospitals	1	5	2	7	7	5	5	4	2			1		2		1	2	1		1	46
Others			2		1	1		1	3							1	4	1	3	5	22
Funding and Refunding Prior Indebtedness	11	8	6	30	9	6	22	41	27		6	17		12		2	1		1		199
Restrictions on Local Borrowing Power		2			4	2		3		3	1			1			1		1	5	23
Requiring Elections Before Bond Issues				3	5	3	8	26	12			4			1	1	2	2			67
Notes Anticipating Taxes			1	1			1	17	1		4										25
Purchasing Railroad Stock	6	1	1	4	1	1	1														15
Relating to Bonds & Borrowing in General	1	2	7	24	4	4	4	6	15	1	2	1		4	1	2	1	1	2	1	83
TOTAL BONDS	104	115	84	191	95	35	96	132	84	8	14	29		27	2	12	15	6	11	28	1088

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Allocation of Funds	5	9	3	16	5	1	6	2	18	13	5	4		3		6	7	13	11	24	151
Appropriations	17	6		5	9	2	17	1	1	5	5	11		7		9	7	7	2	9	120
Assumption of Debts of one Municipality by Another							2	5		1	10	3				1		1		1	24
Audits & Financial Reports	12	4	4	7	8	1	10	10	4	2	3	3		1			5	3	2	3	82
Auditor, Accountant, Treasurer (Creation, duties)	22	12		15	12	3	11	15	7	9	5	9		5		4	3	8	3	5	148
Auditor, Accountant, Treasurer (Abolition of Office)	15	4		4	8	2			9	5	2	3				2	1	3	1		59
Budgets					1			6	1	4										1	13
Depositaries for Public Funds	2	3			2			10	1	8	6	2		2		1	1		2		40
Distribution of Profit from ABC Stores														24		5	3	4	2	16	54
Settlement with Debtor					1		1	1		31	6	2				1		4			47
Authority to Accept Municipal Obligations for Taxes											38	27		7		2					74
Sinking Funds (Establishment & Regulation)	3	1		2	1		6	4	1	2	7	3		2			1	1		1	35
Miscellaneous	2	1		1		1	1	1		6	5	2		1	1	1	1	1	3	1	29
TOTAL GENERAL	78	40	7	50	47	10	54	55	42	86	92	69		52	1	32	29	45	26	61	876
TOTAL BONDS & GENERAL	182	155	91	241	142	45	150	187	126	94	106	98		79	3	44	44	51	37	89	1964

(See also: Taxation)

From 1917 to 1947 the General Assembly has enacted 1964 Public-Local and Private Acts pertaining to matters of local finance. These 1964 acts represent 15% of all special laws passed in this period.

(1) *Bonds:* 1088 local bond issues authorized by the General Assembly from 1917 through 1947 amounted to 1088 Public-Local and Private Laws. The great bulk of this legislation, 936 acts, was enacted between 1917 and 1929, inclusive.

Some of the local laws authorizing bond issues expressly required them to be issued in accordance with either the Municipal Finance Act or the County Finance Act. By sampling it was found that in 1929 nine of 84 acts, in 1935 five of 29 acts, and in 1947 eight of 28 acts required the bond issues to be in accordance with one or the other of the above Finance Acts.

Ninety acts either imposed or removed restrictions on bond issues and local borrowing power. The restrictions were of two types, (1) limiting the amount of public indebtedness, and (2) requiring elections before all future bond issues. For example, a limit of the maximum indebtedness of Haywood County for roads and bridges was fixed by Ch. 225, Public-Local Laws of 1923; Ashe County municipalities were prohibited from incurring additional bonded indebted-

ness by Ch. 73, Public-Local Laws of 1933. However, when such barriers can be established by the General Assembly, the General Assembly can tear them down. Thus, Ch. 406, Public-Local Laws of 1937 removed the previous limitation on Ashe County municipalities. Similarly, about twenty local acts have whittled away at the local debt limitations set by the Municipal Finance Act. The most usual method was to declare that certain types of bonds are not to be included in computing gross indebtedness, Ch. 703, Session Laws of 1945.

Likewise, restrictions on local borrowing in the form of requiring elections have resembled the old game of "put and take." Ch. 208, Public-Local Laws of 1925 required elections before bond issues in Montgomery County; this restriction was removed by Ch. 260, Session Laws of 1943. In Robeson County, Ch. 508, Public-Local Laws of 1927 put on the election requirement; Ch. 68, Public-Local Laws of 1941 took it off.

In addition to the various constitutional provisions requiring elections before certain bond issues and the above-mentioned legislative requirements of elections before all future bond issues in a designated locality, a substantial number of the local laws authorizing bond issues required an election. Three hundred and sixteen of the 1088 acts or about 30% required an election. However, a disproportionate number of the elections were prerequisite to school bond issues, whereas bond issues for various and sundry purposes of less significance were authorized without mention of an election.

The majority of the acts expressly specified that special taxes be levied to pay for the bond issue thereby authorized. In 1921, 80% of the acts contained this specification; in 1929, 80%; in 1935, 64%; and in 1947, 60%. A much smaller number of the acts expressly required that sinking funds be set up. In 1921, 25% of the acts contained the requirement of the sinking fund, but in 1929 only one required a sinking fund; four in 1935; and in 1947 no act required a sinking fund.

Aside from the 1088 local acts classified under bond issues, 318 local acts very similar in nature were classified under "Validations." Although these latter acts in essence authorized bond issues with or without mention of elections or the Finance Acts, they were kept separate from the other bond issue legislation because they primarily validated or corrected some error in procedure of bond issues previously made. To have combined the two types of acts would have distorted the true number of bond issues authorized by local acts.

(2) *Acts pertaining to local finance in general: 876.* Acts pertaining to finance in general encompassed a wide variety of subjects, from authorizing unique local appropriations, e.g., Ch. 42, Public-Local Laws of 1935, to setting the fees to be charged by one municipality for collecting the taxes for another, Ch. 852, Session Laws of 1947.

(3) *Allocation of funds: 151.* By these acts authority was granted for transferring various sums of money from one accounting fund to another, Ch. 36, Public-Local Laws of 1935, or else certain sources of revenue were directed to be placed in a designated fund, Public-Local Laws of 1933, Ch. 261.

(4) *Appropriations: 120.* Special local appropriations authorized by local acts are many and varied. The following acts are illustrative. Ch. 672, Public-Local Laws of 1917 authorized Harnett County to pay Confederate veterans' railroad fares to conventions. A substantial number of acts authorized appropriations to Chambers of Commerce, e.g., Ch. 451, Public-Local Laws of 1935; Ch. 211, Public-Local Laws of 1939. Others approved appropriations to charitable institutions, Ch. 522, Public-Local Laws of 1925; Ch. 8, Public-Local Laws of 1937; and recently several acts empowered municipalities to appropriate funds for airports, e.g., Ch. 326, Public-Local Laws of 1941.

(5) *Assumption of debts of another municipality: 24.* Acts within this category either order counties and townships to assume the indebtedness of special districts therein, Ch. 521, Public-Local Laws of 1925, Ch. 193, Public-Local Laws of 1933, or authorize the assumption of such indebtedness upon a favorable vote of the people, Ch. 479, Public-Local Laws of 1935; Ch. 449, Public-Local Laws of 1939.

(6) *Audits and other financial reports: 82.* Acts in this category range from those simply requiring the county commissioners to publish itemized lists of disbursements, Ch. 3, Public-Local Laws of 1929, to those requiring an audit by a certified public accountant, Ch. 39, Public-Local Laws of 1941. Other acts relieved certain counties from statewide requirements for audits and financial reports, e.g., Ch. 459, Public-Local Laws of 1925.

(7) *Auditor, accountant, treasurer (established): 148.* This category includes all acts establishing or regulating the office of the fiscal agent of the county. Included herein were acts like Ch. 245, Session Laws of 1943, appointing a county accountant and prescribing his powers and duties. There have also been included acts which abolish the office of treasurer and transfer his duties to the county auditor or accountant or vice versa, e.g., Ch. 255, Public-Local Laws of 1931.

(8) *Auditor, accountant, treasurer (abolished): 59.* When the office of auditor or treasurer or accountant was abolished without transferring the duties to another fiscal office, Ch. 26, Public-Local Laws of 1923, but rather providing for the appointment of a depositary, Ch. 421, Session Laws of 1945, it was included in this category.

(9) For other acts pertaining to local finance, see chart.

FISH AND GAME

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Fishing regulations	4	3		16	8	6	6	2	3	2	10	5	6		2				73
Hunting regulations	59	38	12	56	44	25	36	34	19	22	28	18	10	4	5	5	6	10	431
Enforcement measures	3	4		7			23	10	5	5	11	3			2				73
TOTAL	66	45	12	79	52	31	65	46	27	29	49	26	16	4	9	5	6	10	*577

* Thirty-three acts dealing with net fishing, seining, etc. have been dealt with under the heading "Trade Regulations."

During the period covered by this survey, 1917 through 1947, a total of 610 Private and Public-Local acts concerning fish and game were passed by the Legislature. Thirty-three of these acts, regulating seining and other types of *commercial* fishing, were considered by the researchers to be more appropriately considered under the topic "Trade Regulations" and they have accordingly been dealt with in the treatment of that topic. The remaining 577 acts concerning fish and game representing 4.4% of all special legislation passed during the period were broken down as follows:

(1) *Fishing regulations: 73.* These acts prevent fishing on certain days in a particular county, as for example, Ch. 454, Public-Local Laws of 1921, preventing fishing on Sunday in Burke and McDowell Counties; restrict fishing in particular streams for a prescribed period, as for example, Ch. 36, Public-Local Laws of 1925, prescribing a closed season for two years in certain streams in Avery County; and regulate the number and kind of fish which may be taken, such as Ch. 450, Public-Local Laws of 1931 which allowed the taking of catfish in Graham County either by nets or trot lines.

(2) *Hunting Regulations: 431.* Approximately fifty per cent of these acts concern the season for hunting foxes and quail; see for example, Ch. 633, Session

Laws of 1945 and Ch. 501, Public-Local Laws of 1935. The remaining fifty per cent of this category are acts such as Ch. 246, Public-Local Laws of 1929, regulating the hunting of migratory waterfowl in Dare County; Ch. 456, Public-Local Laws of 1937, prohibiting hunting in Brunswick County with an unplugged automatic shotgun; and Ch. 414, Public-Local Laws of 1941 which prohibited setting steel traps for certain game in Stokes County. Although the number of acts in this category was large, an extended breakdown was felt to have no particular value and it was therefore not made.

(3) *Enforcement measures: 73.* Included in this group are all of those acts looking to the enforcement of the fishing and hunting regulations grouped in (1) and (2) above. Typical of these acts is Ch. 559, Public-Local Laws of 1925, providing for a Game Commission for Guilford County and creating the office of County Game Warden.

HEALTH AND SANITATION

	'17	'19	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Drainage districts		2	6		1	5		10		5		4		3		3	1	41
Sanitary, water, sewer districts							9	4							2	1	2	18
Hospitals		2				3	3				4		2			4	4	22
Boards of Health, Departments		2	2			2	1				7					2		16
Sanitation regulations	2	1	6			1	1			4	3		2	2	1			23
Miscellaneous								1			2							3
TOTAL	2	7	14		1	11	15	15		9	16	4	4	5	3	10	7	123

A total of 123 Public-Local and Private acts "relating to health, sanitation and the abatement of nuisances," have been enacted since 1917, constituting 1% of the total special legislation passed. These acts have been broken down as follows:

(1) *Drainage districts: 41.* This category covers the establishment of drainage districts, as for example, Ch. 592, Public-Local Laws of 1927; the enlargement or change of size of a drainage district, Ch. 173; Public-Local Laws of 1933; and the various personnel and administrative matters relevant to drainage districts, Ch. 590, Public-Local Laws of 1933, Ch. 465, Public-Local Laws of 1929.

(2) *Sanitary, sewer districts: 18.* The acts grouped under this heading deal with the creation and establishment of sanitary, water and sewerage districts, such as Ch. 177, Public-Local Laws of 1929; changes in the powers of district boards, as for example, Ch. 20, Session Laws of 1945; and other matters involving the operation and administration of the particular units, Ch. 169, Session Laws of 1943.

(3) *Hospitals: 22.* Included in this category are those acts authorizing the construction or establishment of a hospital, Ch. 118, Public-Local Laws of 1927, Ch. 516, Public-Local Laws of 1939; providing for the maintenance of a hospital, Ch. 76, Public-Local Laws of 1935; and permitting payments by municipalities to private hospitals for the care of indigent patients, Ch. 345, Public-Local Laws of 1927.

(4) *Boards of Health and Health Departments: 16.* These acts cover the establishment, maintenance, consolidation, etc., of Boards of Health and Health Departments, as for example Ch. 86, Session Laws of 1945, authorizing consolidation of Winston-Salem and Forsyth health departments; and Ch. 190, Public-Local Laws of 1935, creating the Leaksville Township Board of Health, Rockingham County, and prescribing its members and their powers and duties.

(5) *Health and sanitation regulations: 23.* This group covers a wide variety of acts aimed at the preservation of public health and sanitation standards. Typical of the acts classified under this topic are Ch. 315, Public-Local Laws of 1925, making it unlawful to throw garbage, waste or refuse near the public roads of Durham County; Ch. 334, Public-Local Laws of 1921, promoting sanitation in milk production in Buncombe County; Ch. 393, Public-Local Laws of 1941, requiring landowners in Federal Malaria Control projects in Rowan County to keep the banks and channels of streams and creeks cleared; Ch. 327, Public-Local Laws of 1919, making it unlawful to erect a privy or hog pen within 50 feet of Cold Water Creek in Burke County; and Ch. 518, Public-Local Laws of 1933, allowing drug stores and soda fountains in Robeson County to use glasses instead of paper drinking cups.

(6) *Miscellaneous: 3.* This category covers those acts concerning health and sanitation which would not properly be classified under any of the foregoing topics.

Do any or all of these acts relate to health, sanitation and the abatement of nuisances, so as to come within the prohibition of Article II, section 29?

JURIES

	'17	'19	'20	'21	'23	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
PAY OF JURORS																		
Setting pay directly	2	1	1	5	1	5	5	4	2	8	6	2	3	4	4	12	21	86
Authorizing local government to set	1															1		2
Putting under G. S. as to pay					1		1											2
JURY COMMISSIONS																		
Creating							1	1	3		4	1	3					13
Adjusting duties & powers										2								2
Miscellaneous																		
PETIT JURY																		
Method of drawing	5	1				2			2	4			2	2			3	21
GRAND JURY																		
Terms		1		5			5		2	3	6			4		2	1	29
Method of drawing	1					4				1	1		5		5	2	2	21
TOTAL	9	3	1	10	2	11	12	5	9	18	17	3	13	10	9	17	27	176

There were 176 Private and Public-Local acts concerning juries and jurors passed in the period 1917 to 1947 inclusive. These acts constituted 1.3% of the total of special acts passed in this period.

(1) *Pay of jurors:* From among the 176 acts pertaining generally to "Juries," 90 related unmistakably to the pay of jurors and come within the prohibition of Article II, section 29. These 90 acts have been classified as follows: (a) Those which directly set the pay of jurors for a particular county. Out of 86 acts in this category 21 were enacted in 1947 (the greatest number for any year); thus, this issue is far from dead. (b) Two authorized the local government to adjust the pay of jurors in a particular county, subject to a set maximum and minimum, as Ch. 233, Session Laws of 1945. (c) Two acts placed a particular county under a general statute (N. C. General Statutes [1943] § 9-5) and thus the pay became set by general law, Ch. 291, Public-Local Laws of 1927.

(2) *Petit jury:* 21 acts during the period 1917-1947 prescribe certain methods of drawing petit jurors, or excepted certain occupations from being required to serve (e.g., firemen) by Ch. 80, Public-Local Laws of 1933, or amended the general qualification for jury service.

(3) *Grand jury:* 50 acts were concerned with setting the terms for grand jury service or prescribed the procedure for drawing the members thereof.

(4) *Jury commission:* 13 acts created a jury commission, each for one particular county, and prescribed the duties, powers and qualifications for the various members. Two acts made minor amendments to the function of these commissions.

LIQUOR

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Fees & bonuses to officers		7	1	12	2	1	8	12	11	11	9	5		2			3	4	2	4	94
Prohibition in counties	8	2		1	1						4			6		2	2				26
Prohibition near churches	11	1	2									3		4							21
A.B.C. referendums, etc.														3		2	1	2	1	6	15
Miscellaneous	1	1		4	1			4		1	1			3			1	1			18
TOTAL	20	11	3	17	4	1	8	16	11	12	14	8		18		4	7	7	3	10	174

From 1917 to 1947, inclusive, there were 174 Public-Local and Private acts passed concerning liquor. These 174 acts comprised 1.3% of the total of special laws enacted during the period. They have been classified into the following categories:

(1) *Fees and bonuses to law enforcement officers: 94.* The statutes of this category follow a single pattern providing rewards for sheriffs and other officers for seizing vehicles transporting illegal whiskey, Ch. 210, Public-Local Laws of 1927, or stills making illegal whiskey, Ch. 358, Public-Local Laws of 1927.

(2) *Local prohibition in counties and cities: 26.* For example, Ch. 2, Public-Local Laws of 1919 made it a felony to make or sell liquor in Burke County, and the sale or possession of liquor within two miles of Little Switzerland was prohibited by Chapter 539, Public-Local Laws of 1937.

(3) *Local prohibition near churches: 21.* In addition to the local county and city prohibition laws, twenty-one acts were similar to Ch. 198, Public-Local Laws of 1937, which prohibited the sale of liquor within 300 yards of Pisgah Baptist Church or to Ch. 157, Private Laws of 1935, establishing prohibition areas around all schools and churches in Clay county.

(4) *Alcoholic beverage control: 15.* In spite of the general laws on the subject of ABC stores, fifteen laws have been enacted to effect local variations. Ch. 438, Public-Local Laws of 1937 specified the division of the cost of the liquor election between Person County and the town of Roxboro; by Ch. 1043, Session Laws of 1945 a liquor election (before the GI's got home) was prohibited. Ch. 589, Public-Local Laws of 1937 authorized an ABC store for Waynesville regardless of how Haywood county as a whole voted.

(5) *Miscellaneous: 18.* Most of the miscellaneous local acts were aimed at the enforcement of the prohibition laws. Special prohibition officers were appointed by Ch. 145, Public-Local Laws of 1933. The Public-Local Laws of 1921 furnish three other examples. Chapter 103 provided for the destruction of illicit stills in McDowell county; chapter 211 made it a felony for bootleggers to carry deadly weapons; and chapter 214 gave the peace officers of Lee and Chatham counties power to arrest in either county.

OFFICIALS

Five hundred and twenty-nine Public-Local and Private acts were enacted between 1917 and 1947 relating to Public Officials. This number constitutes 4% of the total. The topic has been broken down into 24 categories by officials, as follows:

(1) *Attorneys: 9.* These acts provide for the election or appointment of city and county attorneys, or for the appointment by County Commissioners of an attorney to assist in the prosecution of criminal dockets of Superior Court, in instances where such appointment is deemed necessary. Examples, Ch. 256, Public-Local Laws of 1923, providing "for election by people of county attorney," and Ch. 414, Public-Local Laws of 1935, authorizing "commissioners to appoint attorney to assist in the prosecution of criminal docket in the Superior Court of county."

(2) *Chiefs of Police: 11.* Provide for election of chief of police, either by people or by town board, and fix the salary and qualifications of the office. Example, Ch. 95, Private Laws of 1921, "allowing voters of town to elect Chief of Police."

(3) *Clerks of Court: 83.* The majority of these acts authorize the clerk to hire deputy clerks, and fix the salary to be paid such deputies. In addition some few acts pertain to the payment to the clerk of sums not exceeding $300 owing intestates. Examples: Ch. 65, Public-Local Laws of 1921, and Ch. 98, Public-Local Laws of 1931.

(4) *Commissioners: 56.* The acts in this category for the greater part relate to the County Commissioners, their terms of office and duties. Some of the acts provide for the payment of bond premiums on bonds of County officials by the Commissioners either in whole or in part. Other Commissioners referred to in this group are Town Commissioners, Drainage, or Jury Commissioners, but for the greater part the Commissioners referred to and covered by these acts are County Commissioners. Examples, Ch. 53, Public-Local Laws of 1931; Ch. 178, Private Laws of 1935; and Ch. 235, Public-Local Laws of 1937.

(5) *Constables: 18.* These acts provide for the appointment or election of Constables and Town Marshals in certain named townships and towns, fixing salaries, fees, and requiring bonds. Examples, Ch. 36, Private Laws of 1921; and Ch. 112, Private Laws of 1929.

(6) *Cotton or peanut weighers: 40.* Acts in this sub-topic authorized the appointment of cotton or peanut weigher for towns and counties, prescribe duties, and require bond. It would seem that these acts are unnecessary in light of the fact that G. S. 160-53 gives municipalities power to appoint weigher, fix his

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Attorneys		2		1	1	1			1			1		2							9
Chiefs of Police			1	1		1	1	1			2	1					1	1	1		11
Clerks of Court	3	1		3	3		1	4	1	7	2	10		3		7	2	16	14	6	83
Commissioners	1		1			3	4	3	4	1	8	7		5		7	4	6	1	1	56
Constables	1			2	1	1	1	2	1	2	3			1		1	2				18
Cotton or Peanut Weighers	6	3		5		2	3	4	2	2	8	2				2		1			40
Court Stenographers	2							1			2										5
Farm Agents											2	2									4
Identification Experts												2		3			1				6
Jailers												1		4		1	1	1	1		9
Justices of the Peace																			2		2
Meter Adjusters	1	1		1							2										5
Public Administrators																1			1		2
Purchasing Agents						1		1	1					1							4
Registers of Deeds	2	1	1	3	2			2	1	1	5	2		8		19	3	4			54
Rural Policemen	2			13	2	8	6	9	3	2	2	4		2		1	1	2	2	2	61
Sheriffs	4	4		2	2	1	3	10	9	7	4	4		9		7	7	8	5	1	87
Standard Keepers	2	2	1		2			2													9
Surveyors	1														7	1		1	1		11
Public Welfare Officials			1	1	1	1	1	1	1		1	1				1					10
Tax Collectors		1							1	2	1			1			1				7
Town Clerks											1					1	1		2	1	6
Treasurers						1				2	1					2					6
Miscellaneous	2			1				1	1					2		1			1	15	24
TOTAL	27	15	5	33	14	20	20	41	26	26	44	37		41	7	52	24	40	31	26	529

fees, and direct by whom he shall be paid. Example, Ch. 27, Private Laws of 1919.

(7) *Court stenographers: 5.* Acts authorize the County Commissioners to appoint court stenographers for Superior Court of County, and prescribe duties and compensation. Example, Ch. 498, Public-Local Laws of 1919.

(8) *Farm agents: 4.* Acts abolish the office of farm demonstrator, or authorize the Board of County Commissioners to employ a farm agent, when, and only when, all past due installments on county bonds shall have been paid. Examples, Ch. 455, Public-Local Laws of 1933; and Ch. 92, Public-Local Laws of 1933.

(9) *Identification experts: 6.* These create a Bureau of Identification for county, and provide for appointment of identification experts by County Commissioners. Example, Ch. 170, Public-Local Laws of 1935.

(10) *Jailers: 9.* Acts create the office of jail keeper, fix term of office, duties and compensation. Example, Ch. 244, Public-Local Laws of 1941.

(11) *Justices of the Peace: 2.* Two acts, both of which provide that Justices of the Peace of named counties shall furnish surety bonds conditioned on faithful performance of the duties of their office and accounting for funds collected. Example, Ch. 394, Session Laws of 1945.

(12) *Meter adjusters: 4.* Acts create office of meter adjuster, setting out functions of office, term of office, compensation and tests to be performed by adjuster. Example, Ch. 426, Public-Local Laws of 1919.

(13) *Public administrators: 2.* Acts relate to duties of office, and provide for payment of bond premiums on official bonds from county general fund. Example, Ch. 58, Session Laws of 1945.

(14) *Purchasing agents: 4.* Acts authorize Board of County Commissioners and Highway Commission to employ joint purchasing agent, powers, duties, and compensation of agent set out. Example, Ch. 204, Public-Local Laws of 1924.

(15) *Registers of Deeds: 54.* Most of these acts authorize necessary assistance to Register of Deeds, such as clerks and deputies, and a few of the acts impose additional duties, e.g., of the county accountant or auditor, on Register of Deeds, and authorize employment of Register of Deeds as clerk to County Commissioners. Examples: Ch. 108, Public-Local Laws of 1931 and Ch. 518, Public-Local Laws of 1927.

(16) *Rural policemen: 61.* Acts authorize Board of County Commissioners to appoint rural policemen for county, with the usual limitation being that no more than one can be appointed from any one township. Some of the acts impose the limitation that patrolmen may serve criminal process, but shall not have authority to execute civil process. Example, Ch. 50, Public-Local Laws of 1935.

(17) *Sheriffs: 87.* This is the largest of the categories, and the majority of the acts provide for appointment of deputies and clerical assistance by the sheriff. A few of the acts provide for the payment by the county of the premiums due on the sheriff's official bond. Examples: Ch. 87, Public-Local Laws of 1925 and Ch. 584, Public-Local Laws of 1919.

(18) *Standard keepers: 9.* Acts relate to the appointment of standard keepers, or inspectors, or sealers of weights and measures. All of these acts were passed prior to the enactment of G. S. 81-5, which act authorizes the appointment of standard keepers by towns, so that at the time they were passed there was no General Statute covering the appointment, hence the special legislation.

(19) *Surveyors: 11.* These acts pertain to the terms of office of City and County Surveyor, and provide for their election by the people. Example, Ch. 43, Public-Local Laws of 1939.

(20) *Public welfare: 10.* Acts provide that duties of the Superintendent of Public Welfare shall be performed by other officials in addition to their regular duties, or in some instances creating the separate office of Superintendent of Public Welfare. One of the acts seems particularly unnecessary: Ch. 85, Public-Local Laws of 1921, which act abolishes the office of Superintendent of Public Welfare and provides for re-establishment of same. Example, Ch. 474, Public-Local Laws of 1925.

(21) *Tax collectors: 7.* Acts abolishing the office of tax collector, giving duties to sheriff; and acts creating the office, fixing terms of office and salary. Examples, Ch. 325, Public-Local Laws of 1937 and Ch. 94, Public-Local Laws of 1919.

(22) *Town clerks: 6.* Acts relate to selection of town clerk, providing for election by town commissioners, fixing salary, powers and duties. Example, Ch. 29, Public-Local Laws of 1941.

(23) *Treasurers: 24.* Acts pertain to City and County Treasurers, providing for the furnishing of bonds, appointment, and compensation. Example, Ch. 459, Public-Local Laws of 1931.

(24) *Miscellaneous: 24.* Included among these acts, are acts providing for appointment of census taker, hospital trustees, plumbing inspectors, and assistant coroners for county. Examples, Ch. 348, Public-Local Laws of 1937; Ch. 58, Public-Local Laws of 1937.

PUBLIC PROPERTY

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Miscellaneous authority to buy, sell, lease public property	3	3	2	9		3	1	2	3	4	6	11			8	13	8	3	13	20	112
Courthouse, city hall, square	2	3		5	4		2	4	1	2	1	4				1	1	1		1	32
Jails, reformatories, detention homes	7	2		1			1	3		3	1					2			1		21
School property	1	2	2	5	2	1	3	1	1	3	1	4		2		10	1	4	1	3	47
Parks & recreational facilities	1			2	1		2	1	1	1	1	4		1		3	3	3	1		25
Public utilities	2	2	2	3	1	1	2	4	6	1	4									1	29
County homes		5	1	7	3	1	3	2	1	3			1	1		1					29
Inter-governmental transfers				1								4		1	1		2		3	4	16
Airports								1								1	3	5	7	1	18
Gymnasiums & auditoriums			1		3				1		1	1					2		1	3	13
Libraries	1			2	2		2		1	1	1	1		4		1	1	1	2	1	21
Wharves	1			1												1				1	4
Miscellaneous	1	4		5	6		2	7	1	1	1			4		2		7	7	8	60
TOTAL	19	21	8	42	22	6	18	25	16	19	17	32	1	13	9	35	21	24	37	42	427

Four hundred and twenty-six Public-Local and Private acts were enacted between 1917 and 1947 relating to Public Property, these constituting 3.3% of the total of special laws passed in this period.

(1) *Miscellaneous acquisitions and disposals: 112.* One hundred twelve acts the acquisition or disposal authorizing, or regulating the acquisition or disposal of public property by deed, lease, or gift at public or private sales. The following examples will illustrate the nature of the acts in this sub-division: (a) The most common type is one authorizing a local governmental unit to convey designated land, Ch. 69, Private Laws of 1919. Ch. 816, Session Laws of 1945 authorized the town of Clinton to sell an abandoned fire station lot; and the city of Tryon was authorized to relinquish title to an unopened street by Ch. 106, Session Laws of 1945. Ch. 800, Session Laws of 1947 authorized the city of Roanoke Rapids to exchange real estate with Veterans of Foreign Wars; and the city of Brevard was empowered to donate a lot to the American Legion by Ch. 14, Session Laws of 1945. (b) Some statutes authorized the sale of public property by private sale in the discretion of the governing body, Ch. 157, Private Laws of 1921. A number of acts authorized private sales of land acquired by tax foreclosure sales, Ch. 398, Public-Local Laws of 1939; Ch. 163, Public-Local Laws of 1939. (c) Transylvania County was authorized to acquire the bank building of the defunct Brevard Banking Co. in partial settlement for the county's deposits at the time the bank closed, Ch. 272, Public-Local Laws of 1933. (d) By Ch. 178, Session Laws of 1947 the cities and towns of Surry County were empowered to lease free public parking lots with the proceeds from parking meters.

(2) *Courthouses and city halls: 32.* (a) For example: Ch. 567, Public-Local Laws of 1921, authorized McDowell County to sell the present courthouse, to purchase a new site and erect a new courthouse. The commissioners of Charlotte were authorized to sell the city hall by Ch. 64, Private Laws of 1923. The erection of a city hall in Lexington without a vote of the people was prohibited. Ch. 58, Private Laws of 1931. Lenoir County and the city of Kinston were authorized to build a joint City Hall-County Courthouse by Ch. 530, Public-Local Laws of 1935. (b) The use of space in government buildings was often regulated. Ch. 160, Public-Local Laws of 1923 concerned using the Caswell courthouse for public meetings. Buncombe County was expressly authorized to rent unused office space in the courthouse by Ch. 395, Public-Local Laws of 1929. The same authority was denied the commissioners of Currituck, Ch. 19, Session Laws of 1943.

(3) *Jails, reformatories, detention homes: 21.* (a) A typical statute is Ch. 579, Public-Local Laws of 1919 which authorizes the sale of the old jail provided a new one is erected. (b) Other statutes dealt with the construction of detention homes for juveniles, Ch. 477, Session Laws of 1945; prison stockades, Ch. 380, Public-Local Laws of 1931; and institutions for women prisoners, Ch. 544, Public-Local Laws of 1933.

(4) *School property: 47.* (See also the classifications "Schools" and "Finance.") (a) The principal types of laws in this category are those authorizing condemnation of land for school purposes, e.g., Ch. 130, Private Laws of 1925; those authorizing the erection of a designated school, Ch. 136, Private Laws of 1919; and those authorizing the conveyance of school property no longer needed, Ch. 239, Session Laws of 1947. (b) One act in 1921 and 4 in 1939 authorized the construction of teachers' quarters, Ch. 36, Public-Local Laws of 1939. (c) Ch. 36, Public-Local Laws of 1939 authorized a school district to exchange certain property with a private citizen.

(5) *Parks, recreational facilities: 25.* (a) Most of the laws related to the powers and authority of park commissions. Ch. 51, Private Laws of 1927 authorized the Charlotte Park Commission to lease or sell property under its supervision. The city of Kinston was granted power to condemn land for park purposes within three miles of its city limits. (b) Some acts authorized the acquisition of land for specific purposes such as a golf course, Ch. 16, Private Laws of 1933; or a swimming pool, Ch. 376, Public-Local Laws of 1939.

(6) *Public utilities: 29.* This section includes statutes pertaining to waterworks, sewerage systems, power and light facilities, and street railroads. (a) The statutes deal with "construction of municipal plants and grant power of eminent domain," Ch. 65, Private Laws of 1919, or they provide for municipalities' purchasing electric power wholesale for resale, Ch. 52, Private Laws of 1924. (b) In recent years much legislation has dealt with disposing of public utility property owned by municipalities. Ch. 34, Public-Local Laws of 1929 authorized Rutherfordton to sell its water and light plants, whereas Concord was forbidden to sell its water and light plants without a vote of the people, Ch. 109, Private Laws of 1929.

(7) *County homes: 29.* The statutes in this category are divided into three simple types: (a) authorizing the construction and maintenance of county homes for the aged and infirm, Ch. 78, Public-Local Laws of 1921; (b) authorizing the county commissioners to sell the old county home farm and acquire a new one, Ch. 519, Public-Local Laws of 1923; (c) authorizing the sale of part of the county house farm, Ch. 156, Public-Local Laws of 1939.

(8) *Inter-governmental transfers: 16.* Ch. 544, Session Laws of 1947, typifies the acts in this category by authorizing the Kinston Graded School District to convey certain lands to the city of Kinston upon specified conditions. There are several acts authorizing conveyances of land to the United States Government for post offices, Ch. 1, Private Laws of 1935; for an airport, Ch. 4, Public-Local Laws of 1938; for veterans hospitals, Ch. 322, Session Laws of 1945.

(9) *Airports: 18.* Statutes in this category authorize local units to acquire and operate airports, Ch. 451, Session Laws of 1945. They may specify what funds may be used for this purpose, e.g., Ch. 424, Session Laws of 1945. A number of local laws provided for a joint construction and operation of airports by a county and city, Ch. 1068, Session Laws of 1945; or by two or more cities, Ch. 360, Session Laws of 1945.

(10) *Gymnasiums and auditoriums: 13.* As examples, Ch. 70, Public-Local Laws of 1941 authorizes the city of Burlington to build an armory; Buncombe was authorized to use school buildings for public gatherings by Ch. 115, Public-Local Laws of 1923. Greensboro was authorized to lease its municipal theater, Ch. 7, Private Laws of 1920; and Roxboro was authorized to convey its community house to a Board of Trustees by Ch. 72, Private Laws of 1935.

(11) *Libraries: 21.* The only notable legislation in this category aside from the usual statutes authorizing a public library, e.g., Ch. 252, Public-Local Laws of 1923, or authorizing the conveyance of public property to Library Associations, Ch. 54, Private Laws of 1923, are 9 local laws establishing county law libraries. These laws are exemplified by Ch. 86, Public-Local Laws of 1939 which established a law library in Rutherford County and provides for its maintenance by court costs.

(12) *Wharves: 4.*

(13) *Miscellaneous: 60.* Among the laws not otherwise categorized is Ch. 192, Public-Local Laws of 1919, which authorizes Caldwell County to subscribe to railroad stock. A law in 1921 divests a Public Company of certain lands and reinvests title to the same in city of Asheville, Ch. 197, Private Laws of 1921. Others provided for selling timber on a city's watershed, Ch. 12, Private Laws of 1937. Some laws authorized or prohibited the furnishing of automobiles for certain local officials, Ch. 779, Session Laws of 1947.

PUBLIC RECORDS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Maps & plats				2	5	1	3	3	8	3		2		2		2		1	5		37
Revising system of filing							2	2				2					1		1		8
Designating official records for purposes of evidence		1						1			1	1				1					5
Chattel mortgages & conditional sales					2	1			1	1											5
Miscellaneous	2			2	1		2			2		2		1		3	1	1	2	1	20
TOTAL	2	1		4	8	2	7	6	9	6	1	7		3		6	2	2	8	1	75

Seventy-five Public-Local and Private acts enacted between 1917 and 1947 pertained to public records, these being 0.6% of all special laws created in this period. Of this number, 37 or approximately one-half were on the subject of recording maps and plats. Illustrative of the laws in this category are Ch. 424, Public-Local Laws of 1925, which directed the commissioners of McDowell County to adopt a uniform system for recording maps and plats and Ch. 294, Public-Local Laws of 1935, specifying uniform paper and size of maps to be registered in Rowan County. Also, there were some local laws requiring maps of sub-divisions to be filed, Ch. 171, Public-Local Laws of 1929. By Ch. 570, Public-Local Laws of 1935 the fees for the register of deeds were set out.

Eight Public-Local and Private acts related to revising system of filing public records. Ch. 60, Public-Local laws of 1941 is an example of a statute providing for modernization of public records.

Five statutes designated specific records to be authentic for purposes of evidence. A map drafted by one C. J. Josenhans was adopted as official and prima facie evidence of all locations in Whiteville, Ch. 161, Private Laws of 1929.

Among the other local laws relating to Public Records, some provided standard forms for conditional sales, Ch. 177, Public-Local Laws of 1923, and for deeds of trust, Ch. 186, Public-Local Laws of 1921. Others authorized corrections in certain records, Ch. 203, Public-Local Laws of 1939, or required the Clerk of the Superior Court to bring specified records up to date, Ch. 340, Public-Local Laws of 1935.

RETIREMENT AND PENSIONS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Establishment of retirement & pension funds	1	2		2			1	2	6	4	2	1	2	6	1	2	4	4	40
Administration of funds	1	1		4	2		1		1	2	1	4	3	2	8	10	17	3	60
Pensions to individuals	4			3		2	1	1	1	1			1	2	3		1	3	23
Miscellaneous															1		3		4
TOTAL	6	3		9	2	2	3	3	8	7	3	5	6	10	13	12	25	10	127

A total of 127 Public-Local and Private acts were enacted dealing with retirement and pensions. These constituted 1% of all special laws enacted in the period from 1917 through 1947. These acts have been subdivided into the following categories:

(1) *Creation and establishment of retirement systems: 40.* The acts in this category authorize the creation of a retirement system for particular employees and specify its establishment. To illustrate, Ch. 708, Session Laws of 1943 provides for the creation and establishment of a retirement system for the municipal employees of Wilmington; likewise, Ch. 2431, Public-Local Laws of 1939 authorizes a pension fund for the Fire Department of Asheville.

(2) *Regulations covering administration of retirement systems: 60.* This category encompasses those acts which appoint administrative personnel, prescribe the maintenance and handling of the retirement fund, and otherwise control the functioning of the system. Ch. 183, Session Laws of 1945, and Ch. 307, Public-Local Laws of 1941 are representative of the acts in this group.

(3) *Retirement and pensions for individuals, 23.* Acts in this group provide for the retirement of or pensions for a certain named individual, as for example, Ch. 13, Private Laws of 1941, placing the widow of a State employee on a monthly pension; and Ch. 7, Private Laws of 1939 which provides for retirement of a certain school teacher.

(4) *Miscellaneous: 4.* These are miscellaneous acts not fitting into any of the above categories.

ROADS AND BRIDGES

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Bridges	9	6	1	10	4		2	3	2	1											38
Construction of roads	1	1	1	7	7		1	1	3							1					23
Convict labor	4	2		1	2	3			1												13
Damage to property	5	5	1	1	2		1	3								1					19
Districts, road	4	5	2	6	2		2	1	2												24
Ferries					1	1															2
Free road labor	12	11	5	5	2	3	9	2	8	3											60
Highway Commissions, trustees	49	61	6	48	24	11	33	32	22	10				1							297
Repair & maintenance of roads	11	7	9	27	14	4	5	9	7	1							1		1		96
Supervisors, Superintendents	3	7	3	2	2	1	4	5	1	1											29
Toll roads		1	2																		3
Traffic regulations	3	4		2	3	1	1	6			2	1								1	24
Miscellaneous						3	1	3	2												9
TOTAL	101	110	30	109	63	27	59	65	48	16	2	1		1		2	1		1	1	637

A total of 637 Public-Local and Private acts were passed dealing with roads and bridges. These constituted 4.9% of the total. The constitutionality of many of these acts is questionable, because of a possible violation of sections (5) and (6) of Article II of the Constitution, prohibiting local, private, or special acts relating to "laying out, opening, altering, maintaining or discontinuing highways" or relating to "ferries or bridges." These acts have been broken down into thirteen categories as follows:

(1) *Bridges: 38.* These acts for the most part are questionable as being violative of Article II, section 29 of the Constitution, prohibiting local acts, relating, "to ferries or bridges." Example, Ch. 127, Public-Local Laws of 1917, "authorizing the commissioners of Jackson County to erect a bridge across the Tuckaseigee River."

(2) *Construction of roads: 23.* Example, Ch. 611, Public-Local Laws of 1919, "authorizing construction of certain roads in certain named counties."

(3) *Convict labor: 13.* The acts pertain to the use of, or hiring out of convict labor to private contractors, for work on public roads. Example, Ch. 486, Public-Local Laws of 1921, "authorizing the employment of convict labor on public roads of county."

(4) *Damage, property: 19.* Acts providing for the payment of compensation to land-owners for damage done to property during work of road maintenance or repair, with benefits from building of road to be deducted from damages caused by same. Example, Ch. 11, Public-Local Laws of 1920.

(5) *Districts, road: 24.* Creating special road districts and setting out the boundaries of the districts and usually providing for appointment of trustees for such district. Example, Ch. 355, Public-Local Laws of 1919, providing for "roads of county to be divided into districts and trustees appointed."

(6) *Ferries: 2.* Example, Ch. 284, Public-Local Laws of 1923, "regulating the establishment of free ferries across the Cape Fear river by county commissioners."

(7) *Free road labor: 60.* These acts pertain to "free road labor" to be furnished by citizens between certain ages and provide for payment of sum of money in lieu of such labor. Example, Ch. 91, Public-Local Laws of 1923. Some of the acts abolish free labor on roads, repealing prior acts which required such work. Example, Ch. 235, Public-Local Laws of 1931.

(8) *Highway commissions, trustees: 297.* This category contains by far the largest number of acts under the topic "Roads and Bridges." These acts relate to the creation of highway commissions, setting out their powers and duties, and providing that commissioners shall appoint trustees for each township, and the trustees in turn shall appoint road supervisors for each district. Example, Ch. 36, Public-Local Laws of 1925.

(9) *Repair and maintenance, roads: 96.* Examples, Ch. 280, Public-Local Laws of 1919, where two townships are authorized to work roads in a certain way and to use certain machinery in maintenance.

(10) *Supervisors, superintendents: 29.* Acts providing for road supervisors and enumerating the duties of supervisors and overseers in the maintenance of roads. Example, Ch. 146, Public-Local Laws of 1931 where "road supervisor appointed for county, salary fixed, term of office stipulated, expenses allowed, and duties defined."

(11) *Toll: 3.* Acts relating to turnpike toll roads, authorizing such roads to be built and providing for location of toll gates. Example, Ch. 74, Public-Local Laws of 1919, providing "that a Turnpike Company is authorized to build toll road, toll rates specified, and method for acquisition of land set out."

(12) *Traffic Regulations: 24.* These acts authorize county commissioners to make regulations with respect to the use of roads and highways, with respect to weight and character of vehicles traveling over county roads, and with respect to other roads which are not under the supervision of the State Highway and Public Works Commission. Some of the acts require vehicles carrying passengers for hire to carry liability insurance, and the acts in general regulate use of roads. Example, Ch. 252, Public-Local Laws of 1933.

(13) *Miscellaneous: 9.* These acts include those authorizing counties to take over certain highways and relieving townships from the burden of building and maintaining same; acts designating certain roads as "county roads"; and acts declaring that any road used by the United States mail carrier is a public road. Examples, Ch. 241, Public-Local Laws of 1925; Ch. 19, Public-Local Laws of 1924; and Ch. 46, Public-Local Laws of 1924.

SALARIES

(See also: Fees)

One thousand four hundred and sixty-two Public-Local and Private acts were passed, 1917 through 1947, dealing with salaries and other compensation of a wide variety of county and municipal officials. These comprised 11.2% of all special laws passed in this period. An attempt has been made to distinguish the topic "Salaries and Other Compensation" from those laws categorized under the heading of "Fees." Those acts which seemingly were aimed primarily at the reimbursing of officials for their services rendered were placed under the heading "Salaries"; whereas those setting out a schedule of fees (though at the same time providing the rate of compensation of the official involved) or otherwise setting the amount to be charged to the third party for services rendered were placed under the heading of "Fees." This distinction was very close in some cases, with the consequence that there is overlapping between the two classifications.

In the final breakdown of this topic, the laws were classified under the officials whose salary or compensation was provided for. However, it would be well to point out another important distinction in this field. The great majority of the laws passed directly fixed the compensation at a set figure; however, between 100 and 200 of the acts authorized and allowed discretion on the part of the local govern-

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'37	'39	'41	'43	'45	'47	Total
Road Commissioners & Superintendents	6	1	3		2	2	1	2	1										18
Treasurers	3	5	2	4	2		4	4	1	2		2	1			1	3	1	35
Auditors	2	1		3				2			2		3	1	1				15
Surveyors	2	3		2				3								2	1		13
County Commissioners	6	25	10	16	8	4	12	3	7	5	4	8	8	6	7	10	26	6	171
Jailers	3	2	1	1	1							1		1		1		2	13
Sheriffs & Deputies	10	7	2	16	8	8	25	6	17	19	9	26	13	13	9	10	15	11	224
Recorders	2	1	3	3				1			2	2	1	1		2		1	19
Clerks of Court & deputies	5	9	5	8	4	4	6	7	7	2	6	4	7	7	6	10	7	7	111
Registers of Deeds	2	2	3	8	3	1	4	4	6	1	2	5	8	3	4	7	3	3	69
Tax Collectors & Boards of Review*	1	1		1	2		6	3	1	1	4*	2	3	3	3	1	3	1	36
Cotton Weighers	1	2	1				2				1	1	1			1			10
Coroners	1										1	1	1	3	1	1		1	10
Boards of Education		1	1	2		1	1	1					1	2			9	3	22
Superintendents of Public Instruction	1	1	1	1	1	1	4					1							11
Mayors		1		1					1	1	2		2			1	1	1	11
Financial Agents		1																	1
Rural Police		1	2			1		1				1		1					7
Pension Boards		1				1													2
Constables			1		1				1			2	1			1			7
Judges of City Courts			1			2			1	3				1	1	1	2		12
Trial Justices				1															1
Court Reporters				1								1					1	1	4
City Managers				1															1
Stenographers				1	3			1			2					1	1		9
Solicitors				1			2	2	2	3				2	1		1	3	17
Meter Adjusters					1														1
County Attorneys							1				1			2		1			5
Aldermen							1				1		2	3	3	2	4	1	17
Welfare & Health Officers								1	1				1	1	3	2	2		11
County Accountants									1		2		1		1	2	3		10
Police & Chiefs									1						1				2
Water & Light Commissioners									1			1	2					1	5
Farm Demonstration Agents										1									1
Boards of Elections																3	3	2	8
Courthouse Janitors																1			1
County Managers																	1		1
Rationing Boards																	1		1
School Bus Drivers																	1	1	2
Teachers																	2		2
Acts setting salaries of several offices	21	40	17	48	26	3	36	19	21	26	25	32	20	15	17	26	52	66	510
General regulation & authority to change or grant salaries	6	3	2							5	17	2	1						36
TOTAL	72	108	55	119	62	28	105	60	70	69	81	92	77	65	58	87	142	112	*1462

* Also five acts included the pay of jurors in with that of other officials.

ing body in fixing the set salary. A more definite breakdown along this line is impossible due to the fact that many of the acts amended prior acts without reference to the prior act.

Approximately one-third of these "discretionary" acts granted the local governing body, usually the county commissioners, complete discretion in setting salaries of certain officials. Others granted this power to the board of aldermen, and some authorized the board of education to set school officials' salaries. One act was found in which the county commissioners were empowered to set their own salary. An example of this type of legislation is Ch. 445, Public-Local Laws of 1931, which declares that salaries in the sheriff's office in Johnston County are to be fixed by the board of commissioners.

More numerous were those acts setting maximum and minimum limits within which the commissioners were authorized to fix the salaries of designated officials at their discretion. For example, one act sets the sheriff's salary of Caswell County at not less than $150 nor more than $175 with the amount to be fixed by the county commissioners; also the limits of the county accountant were set at $115 and $150. Other acts allowed the board of commissioners to increase or decrease county salaries by a definite percentage. For example, Ch. 678, Session Laws of 1945 authorized the board of commissioners of Henderson County to increase the salaries of all elective or appointive officers, not exceeding 25%.

A detailed treatment of each official involved was believed to have little utility; for the number of acts concerning the salary of a particular official, reference should be made to the appended table.

SCHOOLS

Five hundred and three Public-Local and Private acts concerning schools were enacted during the period from 1917 to 1947, inclusive. These constituted 3.8% of the total of special laws passed in this period.

(1) *Boards of Education, trustees, powers and duties: 304.* The vast majority of the Public-Local and Private Laws classified under "Schools" either appointed members of county boards of education, Ch. 44, Public-Local Laws of 1935; Ch. 208, Private Laws of 1929; or trustees of school districts, Ch. 125, Private Laws of 1935, Ch. 132, Private Laws of 1931; or otherwise provided for their appointment, Ch. 99, Private Laws of 1935; Ch. 470, Public-Local Laws of 1931. A substantial number of the acts increased or reduced the number of school trustees, Ch. 488, Public-Local Laws of 1929; Ch. 468, Public-Local Laws of 1931; provided for the filling of vacancies, Ch. 71, Session Laws of 1943; and fixed their terms of office, Ch. 441, Public-Local Laws of 1939. The remaining laws dealt with the detailed powers and duties of school boards. The Currituck County Board of Education was required to meet the first Monday in each month, Ch. 223, Session Laws of 1945. By Ch. 58, Private Laws of 1929, the Rocky Mount School Board was empowered to build athletic fields, and Ch. 208, Session Laws of 1943 authorized Tyrrell County to

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Boards of Education, trustees, powers & duties	27	19	4	21	18	13	20	17	25	20	11	13		17		10	18	13	15	23	304
Affecting school districts	14	9	4	18	1	1	7	8	5	3		1		3		7				1	82
Particular schools	5	1	2	1	8		7		2	1	2						1	1	1		32
Teachers				1						1	2	1									5
Compulsory attendance	4	2			2		1			1										1	11
Number of grades	4				1			1											1		7
Length of term				1			1	3										1	1	1	8
Free Books	1	1		1		2	3	1				1									10
Segregation			1	2	1			1	1							1	1				8
Miscellaneous	2	3		8	3		1		2		1	1		3		3			4	5	36
TOTAL	57	35	11	53	34	16	40	31	35	26	16	17		23		21	20	15	22	31	503

employ a wartime superintendent whose qualifications fell below the peacetime educational requirements. After the war several laws were enacted granting school boards power to construct buildings other than by contract, Ch. 828, Session Laws of 1947.

(2) *Affecting school districts: 82.* The laws within this category fall into three groups. One group establishes or alters school districts by metes and bounds, e.g., Ch. 131, Private Laws of 1919; Ch. 489, Public-Local Laws of 1937. Another group does not actually establish or alter school districts but rather provides the machinery by which the local authorities may accomplish the same end. Ch. 76, Public-Local Laws of 1939; Ch. 279, Public-Local Laws of 1937. The last group of laws establishes "Administrative Units," Ch. 681, Session Laws of 1947.

(3) *Particular schools: 32.* Acts in this category incorporated specific schools, Ch. 96, Private Laws of 1925; appointed trustees and set out their powers and duties, Ch. 68, Private Laws of 1920. Other acts changed the names of specific schools, Ch. 86, Private Laws of 1921; increased the amount of property the institution might hold, Ch. 11, Private Laws of 1925; and granted additional powers, Ch. 27, Private Laws of 1933.

(4) *Teachers: 5.* These acts mainly dealt with the election of teachers.

(5) *Compulsory attendance: 11.* These acts required school attendance for a specified time in particular districts.

(6) *Number of grades: 7.* The older acts specified the number of grades of instruction required in specified counties, Ch. 579, Public-Local Laws of 1917. Only two such acts have been passed since 1923; these authorized the establishment of junior colleges, Ch. 1060, Session Laws of 1945; Ch. 420, Public-Local Laws of 1927.

(7) *Length of terms: 8.* These acts either extended the school terms, Ch. 336, Public-Local Laws of 1927; or repealed former extensions, Ch. 777, Session Laws of 1943.

(8) *Free books: 10.* Exemplary of acts herein are Ch. 541, Public-Local Laws of 1935, authorizing the issue of free textbooks in Catawba County and an act of 1927 which repeals the authorization of free books in Avery County.

(9) *Segregation: 8.* These acts provided for the segregation of Negroes, Ch. 87, Public-Local Laws of 1939; Indians, Ch. 422, Public-Local Laws of 1941; and even "Portuguese," Ch. 602, Public-Local Laws of 1923.

(10) *Miscellaneous: 36.* Miscellaneous acts dealt with inspecting school buses, Ch. 26, Session Laws of 1945; fixing the minimum age for school bus drivers, Ch. 645, Session Laws of 1947; authorizing cooperation between school districts, Ch. 79, Private Laws of 1919, and joint schools, Ch. 676, Session Laws of 1945. Others authorized elections on the question of special taxes for school construction, Ch. 544, Public-Local Laws of 1939, and supplementing school funds, Ch. 208, Public-Local Laws of 1937.

STREETS AND SIDEWALKS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'38	'39	'41	'43	'45	'47	Total
Authorizing street improvements	6		3	6	4		7	6	5	1			1				1	1	41
Authorizing sidewalks		3	1	1	1	1										1			8
Closing streets			1		2			1					1		2		1		8
Sale or release of streets																	3		3
Encroachments on streets		2							1										3
Dedications					2														2
Condemnation				3	1			1											5
Payment	4	3								1									8
Miscellaneous		1					2					1	2	1			1		8
TOTAL	10	9	5	10	10	1	9	8	6	2		1	4	1	2	1	6	1	86

Eighty-six Public-Local and Private acts were passed during the period 1917 to 1947, inclusive, dealing with streets and sidewalks. This number represents 0.7% of all special laws created in this period. These acts are classified in the following categories:

(1) *Improvement of streets: 41.* Acts in this category deal with authorization and procedure for street paving, widening, straightening and the like. Such acts as Ch. 61, Private Laws of 1921, Extra Session, giving Rockingham power to make local street improvements, and Ch. 45, Private Laws of 1925, authorizing the aldermen of Monroe to improve streets, are typical. Seven of these acts specified a particular street or portion of a particular street which was to be improved.

(2) *Authorization of sidewalks: 8.* Acts such as Ch. 121, Private Laws of 1921, authorizing the construction of sidewalks by the town of Bakersville, make up this group.

(3) *Closing streets: 8.* Making up this category are those acts such as Ch. 48, Private Laws of 1927, and Ch. 212, Session Laws of 1945, which authorize the closing of a particular street or portion thereof.

(4) *Sale or release of street: 3.* Ch. 393, Session Laws of 1945, which authorized the city of Greensboro to release its interest in certain street property, is illustrative of this group.

(5) *Encroachments on streets: 3.* Authorizations for structures and other encroachments upon the street comprise this category. An example of such acts is

Ch. 158, Private Laws of 1919.

(6) *Dedications: 2.* These acts are regulations on the time limit for acceptance of streets dedicated to the public; see, for example, Ch. 267, Private Laws of 1923.

(7) *Condemnation: 5.* Authorizations and regulations for acquiring land for street improvements by condemnation make up this group. For a typical act, see Ch. 235, Private Laws of 1921.

(8) *Payment for improvements: 8.* Acts in this group regulate the manner and means of payment for street and sidewalk improvements. Such an act as Ch. 215, Public-Local Laws of 1917, directing the commissioners of Union County to pay two-fifths of the cost of paving the street around the courthouse in Monroe, is representative of the acts of this group.

(9) *Miscellaneous: 8.* Those not falling within the scope of any of the foregoing acts have been placed in this group. It includes such acts as Ch. 112, Private Laws of 1925 which authorizes the towns in Pender County to require free labor on streets by the male citizens of the town, and Ch. 418, Public-Local Laws of 1939, authorizing the town of Angier to employ a street supervisor.

TAXATION

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
ASSESSMENTS																					
Tax listing	1				1					5		5					3			5	20
Authorizing special tax	26	40	7	43	15		16	13	16	6	17	21		7		7	15	9	19	19	299
Authorizing elections on special tax	4	10	2		4		6	1			1					3		5	4		40
Changing general tax rates	9	18	4	13	4	4	5	7	5		12	4		11		9	6	6	6	6	129
License taxes	4						1	3													8
Dog taxes	12		1			1															14
Exempting eleemosynary institutions	1								5	6	12	12		6		3	5	1	3	1	55
Authorizing street assessments			1				2	2													5
Creating tax districts				3			1														4
Miscellaneous exemptions	3										2					2		1			8
COLLECTION																					
Authorizing installment paying					1					12	10	4									27
Authorizing discounts & penal.	8	6	3	6	2	2	3	9	10	2	3	4		6		3		4	5	5	81
Authorizing adjust. & cancel.				1				1	3			10		12		17	11	9	7	12	86
Extending time for paying		2							5	3	27	2				1	1	1	1		43
Remitting penalties							1				10	11		10		6	6		1	4	49
Refunding taxes erroneously paid		1		1			1	1		2		1									7
Authorizing revaluation: land							4				5									9	18
Relieving collector for failure	1			1	2							5		1		1			1		12
Authorizing collection of back taxes	17		2	3		2	3		3	6	10			3							49
FORECLOSURE																					
General foreclosure regulations	3				2			6	4	3	3	7		8		2	1		5		43
Extending time for									4		12	27		23		5					71
Redemption provisions											3										3
Barring foreclosure																				3	3
PERSONNEL	3	2	1	7	5	1	5	13	10	19		27		27		23	17	12	10	10	192
USE OF PROCEEDS				7					4					3		1	4				19
MISCELLANEOUS				5			2		8	3		7									25
TOTAL	92	79	21	83	36	10	50	56	73	67	127	147		114		81	65	52	62	74	1289

This topic appears to be the favorite subject for special legislation in North Carolina, for in the period 1917 to 1947 there were 1289 acts passed which pertained to the subject of Taxation. They represent a little less than 10% of all special acts passed during that period.

There are several constitutional prohibitions with which we must be concerned in analyzing these 1289 acts. Some have been clearly and directly violated—others may have been transgressed by indirection. The applicable prohibitions are as follows: (a) remitting fines, penalties, and forfeitures; (b) refunding money legally paid into the public treasury; (c) extending the time for the assessment or collection of taxes or otherwise relieving any collector of taxes from the due performance of his duties or his surety from liability; (d) establishing or changing the lines of school districts; (e) relating to health, etc.

Levy and Assessment of Taxes:

By far the largest category is that in which the acts authorize the levying of special taxes. Two hundred ninety-nine acts were so classified. A typical act is Ch. 554, Public-Local Laws of 1935 which authorized Guilford County to levy a special tax of 12 cents to support the Welfare Department. This category can be said to be tinged with an unconstitutional pallor only in that frequently a special tax is authorized for health purposes (as Ch. 461, Public-Local Laws of 1935 authorizing assessments for drainage districts, and Ch. 395, Public-Local Laws of 1933 authorizing a tax for a hospital). See also "Bond Issues" since a special tax was authorized in each instance bonds were to be issued.

Related closely to the above are the 40 acts which authorize the counties to conduct an election to secure the approval of the people before levying a certain tax, as Ch. 345, Session Laws of 1945 which authorized an election on the subject of a special recreational tax.

From another aspect some of these special taxes may be unconstitutional in that taxes are authorized for purposes other than necessary expenses, as for instance, Ch. 99, Private Laws of 1933 which authorized a special tax for park purposes. Generally, however, the legislature referred such taxes to the people for approval.

Of the 4 acts creating tax districts one act (Ch. 487, Public-Local Laws of 1925) authorized the creation of a school tax district. This may be within the constitutional prohibition of "establishing . . . school districts."

Fourteen acts authorized the levying of dog taxes.

Eight acts imposed county license taxes on certain activities. Six of these were vehicle license taxes. One (Ch. 175, Private Laws of 1927) allowed a city to tax trades, businesses, shows and professions within one mile of the city limits. Another (Ch. 693, Public-Local Laws of 1927) authorized a tax upon mule and horse dealers. Some of these may be within the prohibition against regulating trades, depending upon what constitutes "trades" and at what point taxation becomes "regulation." For further information on this question, see the topic "Trade Regulation."

Fifty-five statutes were enacted cloaking churches, hospitals, American Legions, Womens' Clubs, etc., with taxation or assessment immunity. These can be said to "ex-

tend the time for payment of taxes," and even stronger, can be said to remit penalties, since many of these institutions had been assessed penalties prior to the granting of the exemption (See Ch. 182, Session Laws of 1943) and thus necessarily these penalties were remitted.

Eight acts granted other similar exemptions—as to the U. S. Government (Ch. 7, Session Laws of 1943), to farm lands (Ch. 142, Public-Local Laws of 1917), and to utilities (Ch. 696, Public-Local Laws of 1917).

Twenty acts prescribed rules for the maintenance and preparation of tax lists. Five acts authorized street assessments.

Collection of Taxes:

In almost every legislative session acts were passed (81 in all) setting the amounts of penalties, interest and discounts on tax levies in order to facilitate their prompt collection.

Forty-nine acts authorized a certain tax collector to collect delinquent taxes for past years. These were evidently designed to enable a sheriff or tax collector (or his estate, if he was not living) to cancel his personal liability for uncollected taxes on which he had not obtained a judgment (Ch. 29, Public-Local Laws of 1937). These may be condemned as indirectly "relieving any collector of taxes from the due performance of his duties" in that he should have accomplished this duty when in office.

The following categories are all of questionable constitutionality:

(1) *Authorizing payment of taxes in installments: 27.* These can be said to "extend time for payment. . . ." Ch. 152, Public-Local Laws of 1933.

(2) *Authorizing the county to adjust or cancel delinquent taxes: 86.* Ch. 474, Session Laws of 1945. These acts violate the spirit of the constitutional prohibitions since indirectly the time for payment is extended, the collector is relieved from some performance, and the penalties which have accrued are remitted.

(3) *Authorizing the commission to revalue land for the purposes of lowering taxes: 18.* These have the same effect, namely, to extend the time for payment of taxes (See Ch. 132, Public-Local Laws of 1925) and are of questionable validity.

(4) *Relieving the collector directly: 12.* Typical is Ch. 339, Public-Local Laws of 1937 which directed the Commissioners of Wayne County to defer making the quadrennial assessments. Ch. 470, Public-Local Laws of 1935 gave the sheriff an extension of time to make settlement for certain taxes he had collected.

(5) *Remitting penalties: 49.* Exemplary is Ch. 624, Public-Local Laws of 1937 which authorized the commissioners of Mitchell County to cancel penalties and interests on certain taxes.

(6) *Directing the refunding of money which had been paid into the public treasury: 7.*

Tax Foreclosure:

Forty-three acts pertained to miscellaneous changes in the tax foreclosure procedure, as Ch. 76, Session Laws of 1945 which stipulated that the minimum amount to raise a bid shall be $10.00 in Nash County.

Three acts provided certain provisions for redemption of lands.

Three acts in 1947 prescribed a time limitation on foreclosure.

Nineteen acts related to use of proceeds from the tax levied.

For related matters of personnel see "Salaries."

Seventy-one acts granted extension of time for the institution of tax foreclosure procedure and may be questioned on constitutional grounds for relieving the collector of the one performance of his duties as well as extending the time for payment of taxes. See, for example, Ch. 16, Public-Local Laws of 1937.

Personnel:

One hundred ninety-two acts were concerned with the creation of tax boards and commissions, appointment of tax collectors, assessors and supervisors, and with various phases of their respective duties. No startling revelation was noted—however, the institution of commissions and the appointment of tax officials would seem to be an appropriate subject for local government action.

The history of one act pertaining to personnel is interesting. On March 28, 1939, Ch. 400, Public-Local Laws of 1939 was enacted creating the offices of Tax Collector and Accountant for Yancey County, appointing the officials, detailing their duties and setting their compensation. On April 1, 1939, Ch. 507, Public-Local Laws of 1939 was passed amending Ch. 400. On April 4, 1939, Ch. 608, Public-Local Laws of 1939 was promulgated repealing the two previous enactments. Evidently some one was displeased.

For related matters of personnel see "Salaries."

TRADE REGULATIONS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Bankruptcy & fire sales										2				1							3
Barbers												1				1					2
Bondsmen									1			1		1				2	3	3	11
Carnivals, etc	2	2	1	4	7	3	4	5	3		5	3		3		2			1	7	52
Commercial Fishing	3	2		2	3		2	1	1		4	3		2		2	2			5	32
Cotton	1	1			1		1		1					1							6
Dairies					1						4	5		2			1		1		14
Filling Stations							1				1			1							3
Fireworks				3	3		3	3	1		4	6		6		2	1	2	2		36
Horse & Mule Dealers			1			1	2														4
Junk Yards	1											1		2			1				5
Markets (buying & selling produce)			1	1			1		2	1	3	3		2		3	1	1	1	1	21
Mining and lumbering	1		2		1		5														9
Peddlers	1				1		3				6	1				1	1				14
Plumbers & electricians									2	1				2							5
Pool rooms & dance halls				5	1		1	2	3	2	6	1		4		2	1	1	1	2	32
Real estate							1	2	1		3	2		1							10
Sunday laws	4	7	5	12	3	8	11	5	8	11	7	8		7		17	4	2		7	126
Taxis				1	1		1									3	2	1	1		10
Tobacco						1													2		3
Used Car Dealers				1								1									2
Weights & measures		2				1				1											4
Miscellaneous	1	3		3		1	1	2				4		2			1	1	1	4	24
TOTAL	14	17	10	32	22	14	37	20	24	18	43	40		37		33	15	10	13	29	428

A total of 428 Public-Local and Private laws enacted in the period 1917 through 1947 are apparently concerned with regulation of trade. These acts comprise 3.3% of all special legislation passed in the period, although Article II, section 29 of the North Carolina Constitution prohibits the General Assembly from passing any "local, private, or special act or resolution . . . regulating labor, trade, mining, or manufacturing."

One-hundred and twenty-six so-called "Sunday Laws" were classified under "Trade Regulations." These acts may be broadly subdivided into those laws which regulate merchandising near designated churches, Ch. 551, Session Laws of 1943; those regulating business hours in cities on Sunday, Ch. 603, Public-Local Laws of 1939; those regulating business hours in the whole county on Sunday, Ch. 317, Public-Local Laws of 1931; and those empowering the county commissioners to prescribe business hours on Sunday, Ch. 59, Public-Local Laws of 1931. Cities are empowered by G. S. 160-200 (6) to enact ordinances "in the interest of public morals." For this reason only a few Sunday Laws were applicable to cities and these were in all probability superfluous. The vast majority of the Sunday Laws prescribed Sunday business hours for one county. County commissioners, unlike the legislative bodies of the cities, lack legislative power under G. S. 153-9 to enact Sunday regulations.

In providing for local regulation of pool halls, dance halls and other recreational establishments the General Assembly has enacted 32 Public-Local or Private laws since 1917. Most of these laws apply to regulation beyond city limits in the counties. Just as in the case of "Sunday Laws," the absence of a provision in G. S. 153-9 granting all county commissioners power to regulate certain activities in the interest of a local county's health, safety, moral and public welfare causes piecemeal legislation in Raleigh.

Regulation of carnivals, palmistry, and other traveling shows has given rise to 52 Public-Local and Private laws. Ostensibly G. S. 153-10 gives the county commissioners power to regulate in this field. However, G. S. 153-10 is very narrow. First, it applies to only twenty-six counties and second, it applies only to shows holding "weekstands." The following are illustrative of the type of regulations: Ch. 100, Public-Local Laws of 1921 prohibited carnivals in McDowell County outright; and palmistry, fortune-telling, or clairvoyance was declared a misdemeanor in Columbus County, Ch. 146, Session Laws of 1947. By Ch. 75, Public-Local Laws of 1920, the commissioners of Alamance were empowered to license or refuse to license carnivals as the public welfare required. On the other hand, Ch. 81, Public-Local Laws of 1929 not only withheld power to license carnivals but also declared such licensing by the county commissioners to be a misdemeanor. To show the minuteness of the regulation by the General Assembly, see Ch. 130, Session Laws of 1945, by which carnivals in Caldwell County were restricted to one-day stands. Another type of legislation is that which extends cities' power beyond the city limits for the purpose of licensing carnivals, Ch. 90, Public-Local Laws of 1935. Finally, there are statutes like Ch. 895, Session Laws of 1947, which prohibits carnivals 20 days before or after the Franklin County Fair.

The local and private laws regulating business hours on Sunday, carnivals, pool halls, etc., may be open to constitutional attack on a ground other than "trade regulation."

Cities have the power under G. S. 160-200 (17) to regulate the sale of fireworks. However, from 1921 to 1947 (when the state-wide prohibition of fireworks, Ch. 210, Session Laws of 1947 was enacted) 36 local laws were enacted pertaining to the sale of fireworks in the counties.

Other fruitful sources of legislation were 32 acts regulating commercial fishing, 21 acts relating to markets, buying and selling of produce, 14 dealing with licensing and regulating of peddlers and 14 acts pertaining to dairies.

Bankruptcy or fire sales were regulated by 3 acts. Six acts pertained to cotton. Taxis were regulated by 10 local acts and 2 acts regulated used car dealers. Junk yards were either regulated or prohibited within designated areas by 5 acts.

The mining and lumbering industries were regulated by 9 acts such as Ch. 229, Public-Local Laws of 1919 which required employees in manufacturing, mining, and lumber plants of Avery County to be paid semi-monthly; and Ch. 471, Public-Local Laws of 1923 which prohibits sawmills on creeks in Anson County.

Eleven local acts were passed to regulate professional bondsmen. For the remaining classifications, see chart.

VALIDATIONS

	'17	'19	'20	'21	'23	'24	'25	'27	'29	'31	'33	'35	'36	'37	'38	'39	'41	'43	'45	'47	Total
Acts of county officials	3	3		3	1	2	2	5	2	3	1	3		5		5	2	3	2	2	47
Acts of Justices of the Peace				3			1	4	4	10	10	4		5		3	5		2	2	53
Acts of Notaries Public				2			4			2	5			1		1				2	17
Bond & Note issues	10	5	2	64	23	26	24	38	25	6	2	9		12	2	16	16	6	2	2	250
Elections			3	18	7	3		4		2	7	1				2	5				52
Finance				2	1				1	1	1	1		3				1	2		13
Instruments & probates	2				1	2		5	5	2	2	1		3							23
Judgments		1							1			1									3
Public records					1							1					1	2	5	2	12
Sales & conveyances	1		2	2	1	1				1		2		1		2	2	1	2	3	21
Taxation, adjustment & settlement												4				1			1		6
Taxation, assessment & levy	1	4	2	1	1	2	2	6	2	4	3	3		2		5	1	2	1	1	43
Taxation, sale & foreclosure										2	15	37		17		16	4	4	4	2	101
TOTALS	17	13	9	95	36	36	33	62	40	33	46	67		49	2	51	36	19	21	16	681

A total of 681 Public-Local and Private laws were passed in the period 1917-1947 concerning validations. These were 5.2.% of the total of all special legislation.

The topic has been broken down into eleven categories with the idea in mind of illustrating the different instances where the Legislature has seen fit or deemed it necessary to pass validation acts.

(1) *Acts of county officials: 47.* The greater number of these acts consist of validation of certain actions of the board of county commissioners, where the commissioners were acting beyond their authority, or had pursued an illegal course of action through mistake or inadvertence. Example, Ch. 607, Session Laws of 1945, where board of commissioners "through mistake increase the salaries of judge and solicitor above limit prescribed by statute." This category also includes validation of acts of clerks of court, deputy clerks, register of deeds, and deputies. Example, Ch. 136, Public-Local Laws of 1925, "validating acts of deputy clerk of Superior Court."

(2) *Acts of Justices of the Peace: 53.* These acts validate the official acts of Justices of the Peace done after the expiration of their term of office, before qualification, or where they acted in an unauthorized manner. Example, Ch. 551, Public-Local Laws of 1921, "validating official acts of three named Justices of the Peace done after the expiration of their terms." Example, Ch. 107, Public-Local Laws of 1929.

(3) *Acts of notaries public: 17.* These acts validate the official acts of notaries, where notary failed to qualify or term of office has expired. Example, Ch. 490, Public-Local Laws of 1925, "validating notarial acts, of certain notaries." Some of these acts may come within the prohibition of Article II, section 29, "giving effect to informal wills and deeds." Example, Ch. 13, Private Laws of 1921, "validating act of Notary in taking acknowledgment and private examinations of grantors in deeds of trust."

(4) *Bonds & notes, issues: 290.* This category embraces by far the largest number of acts of any sub-topic under "Validations." Most of the acts validate bond issues and notes. An example of these acts is Ch. 130, Private Laws of 1931, validating "certain bonds and notes of named town."

(5) *Elections: 52.* These acts concern mainly the validation of bond elections. See as an example Ch. 19, Public-Local Laws of 1920, "road bond election validated." Some of these acts validate election of town officials:" Example, Ch. 222, Private Laws of 1931, "town elections validated."

(6) *Finance: 13.* Most of these acts validate the allocation and use of surplus funds. Example, Ch. 165, Public-Local Laws of 1923, "validating action of Board of Commissioners in transfer of bridge bonds proceeds to build county jail."

(7) *Instruments & probates: 23.* These acts validate deeds, probates, mortgages, and other instruments defective among other reasons for lack of notarial seals, privy examination not conforming with law, or where certificates of registration were not signed by register of deeds. Example, Ch. 85, Public-Local Laws of 1924, "validating privy examination or acknowledgements where such acknowledgement was taken by telephone."

(8) *Judgments: 3.* Acts validating judgments for delinquent taxes in foreclosure suits. Example, Ch. 453, Public-Local Laws of 1935, "validating judgments for delinquent taxes."

(9) *Public records: 12.* Acts in this sub-topic validate recordation of maps, etc., in the office of the register of deeds, make official and validate index systems of counties as to real estate conveyances; and validate marriages where certificates are irregular. Example, Ch. 370, Public-Local Laws of 1943, "new index system embracing real estate conveyances validated."

(10) *Sales & conveyances: 21.* These acts for the greater part validate sales and conveyances by towns or counties, where proper authorities convey or sell realty belonging to the town or county. Example, Ch. 210, Private Laws of 1921, "validating real estate conveyances made by town."

(11) *Taxation, adjustment and settlement: 6.* Most of these acts validate adjustments and settlements of taxes made by Board of Commissioners. Example, Ch. 37, Public-Local Laws of 1939, "tax adjustments, validated."

(12) *Taxation, assessment and levy: 43.* Acts validating levy of special taxes and assessments. The greatest number of these acts are acts validating street and sidewalk assessments. Example, Ch. 4, Private Laws of 1933, "assessments for streets and sidewalks, validated."

(13) *Taxation, sale and foreclosure: 101.* Most of these acts validate sales of property for taxes and validate tax lists for certain years. Example, Ch. 263, Public-Local Laws of 1933, "tax and mortgage foreclosures in county" validated.

VETERANS

	1919	1927	1945	Total
Creating veterans' service offices in counties			15	15
Recording discharges			1	1
Compiling county histories of activities			1	1
Aid to widows of Confederate veterans		1		1
Paying Confederate veterans' expenses to reunion	1	1		2
Authorizing fund to welcome returning veterans	1			1
Total	2	2	17	21

Twenty-one Public-Local and Private acts were passed in the period from 1917 through 1947 dealing with veterans' affairs. These acts constituted 0.2% of the total of special legislation enacted in the period.

Three of this group pertained to Confederate veterans or their widows, but the major topic was the creation of county Veterans Service Officers. Fifteen of these acts were passed, all in 1945, and were applicable to 16 counties. These 15 acts provided for the appointment of a service officer by the county commissioners, set his pay, and defined his duties and the purpose to be fulfilled. See Ch. 957, Session Laws of 1945.

One act, Ch. 877, Session Laws of 1945, provided for the free recordation of veterans' discharge papers.

One act, Ch. 342, Session Laws of 1945, authorized the county to compile and publish a history of the activities of the county's veterans.

Two acts, e.g., Ch. 186, Public-Local Laws of 1919, authorized the county to pay transportation costs of any Confederate veterans who attend a certain reunion.

One act, Ch. 199, Public-Local Laws of 1927, authorized financial aid to Confederate soldiers or their widows and provided for a special tax.

One act, Ch. 1, Public-Local Laws of 1919, authorized Asheville and Buncombe County each to expend $2500 for the entertainment and welcome of home-coming veterans.

MISCELLANEOUS

Three hundred fifty-nine Public-Local and Private acts did not come within the scope of any particular category and have accordingly been classified under this topic. A large number of the acts dealt with private institutions—churches, schools, fraternal orders, etc.,—amending their charters, changing names, etc. Also included in this group are 11 which deal with obstructing the flow or pollution of various named creeks and streams. To illustrate, Ch. 374, Public-Local Laws of 1925 required the owners of land abutting on Maiden and Allen Creeks in Catawba County to keep the creeks free of fallen timber, rocks and debris which would impede the flow of the streams.

Constitutional Provisions Relating to Local and Special Legislation and Home Rule

I. COMPLETE PROHIBITION OF LOCAL AND SPECIAL LEGISLATION

The following states have adopted constitutional provisions completely prohibiting special and local legislation:

ARKANSAS

Amendment No. 14. The General Assembly shall not pass any local or special act. This amendment shall not prohibit the repeal of local or special acts.

OHIO

Art. 2, sec. 26. All laws shall have uniform operation throughout the state.

II. PROHIBITION OF LOCAL AND SPECIAL LEGISLATION RELATING TO SPECIFIC SUBJECTS

Some states, like North Carolina, have adopted provisions prohibiting local and special legislation on certain specific subjects or relating to certain specific circumstances. Those states and their provisions follow.

ALABAMA

Sec. 104. The legislature shall not pass a special, private, or local law in any of the following cases:

(1) Granting a divorce;
(2) Relieving any minor of the disabilities of nonage;
(3) Changing the name of any corporation, association, or individual;
(4) Providing for the adoption or legitimizing of any child;
(5) Incorporating a city, town or village;
(6) Granting a charter to any corporation, association, or individual;
(7) Establishing rules of descent or distribution;
(8) Regulating the time within which a civil or criminal action may be begun;
(9) Exempting any individual, private corporation, or association from the operation of any general law;
(10) Providing for the sale of the property of any individual or estate;
(11) Changing or locating a county seat;
(12) Providing for a change of venue in any case;
(13) Regulating the rate of interest;
(14) Fixing the punishment of crime;
(15) Regulating either the assessment or collection of taxes, except in connection with the readjustment, renewal, or extension of existing municipal indebtedness created prior to the ratification of the constitution of eighteen hundred and seventy-five;
(16) Giving effect to an invalid will, deed, or other instrument;
(17) Authorizing any county, city, town, village, district, or other political subdivision of a county, to issue bonds or other securities unless the issuance of said bonds or other securities shall have been authorized before the enactment of such local or special law, by a vote of the duly qualified electors of such county, township, city, town, village, district, or other political subdivision of a county, at an election held for such purpose, in the manner that may be prescribed by law; provided, the legislature may, without such election, pass special laws to refund bonds issued before the date of the ratification of this constitution;
(18) Amending, confirming, or extending the charter of any private or municipal corporation, or remitting the forfeiture thereof; provided, this shall not prohibit the legislature from altering or rearranging the boundaries of the city, town, or village;
(19) Creating, extending, or impairing any lien;
(20) Chartering or licensing any ferry, road, or bridge;
(21) Increasing the jurisdiction and fees of justices of the peace or the fees of constables;
(22) Establishing separate school districts;
(23) Establishing separate stock districts;
(24) Creating, increasing, or decreasing fees, percentages, or allowances of public officers;
(25) Exempting property from taxation or from levy or sale;
(26) Exempting any person from jury, road, or other civil duty;
(27) Donating any lands owned by or under control of the state to any person or corporation;
(28) Remitting fines, penalties, or forfeitures;
(29) Providing for the conduct of elections or designating places of voting, or changing the boundaries of wards, precincts, or districts, except in the event of the organization of new counties, or the changing of the lines of old counties;
(30) Restoring the right to vote to persons convicted of infamous crimes, or crimes involving moral turpitude;
(31) Declaring who shall be liners between precincts or between counties:

The legislature shall pass general laws for the cases enumerated in this section, provided that nothing in this section or article shall affect the right of the legislature to enact local laws regulating or prohibiting the liquor traffic; but no such local law shall be enacted unless notice shall have been given as required in section 106 of this constitution.

ARIZONA

Art. 4, Part 2, Sec. 19. No local or special laws shall be enacted in any of the following cases, that is to say:

1. Granting divorces.
2. Locating or changing county seats.
3. Changing rules of evidence.
4. Changing the law of descent or succession.
5. Regulating the practice of courts of justice.
6. Limitation of civil actions or giving effect to informal or invalid deeds.
7. Punishment of crimes and misdemeanors.
8. Laying out, opening, altering, or vacating roads, plats, streets, alleys, and public squares.
9. Assessment and collection of taxes.
10. Regulating the rate of interest on money.
11. The conduct of elections.
12. Affecting the estates of deceased persons or of minors.
13. Granting to any corporation, association, or individual, any special or exclusive privileges, immunities, or franchises.
14. Remitting fines, penalties, and forfeitures.
15. Changing names of persons or places.
16. Regulating the jurisdiction and duties of justices of the peace.
17. Incorporation of cities, towns, or villages, or amending their charters.
18. Relinquishing any indebtedness, liability, or obligation to this state.
19. Summoning and empanelling of juries.

CALIFORNIA

Art. 4, Sec. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

First—Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.

Second—For the punishment of crimes and misdemeanors.

Third—Regulating the practice of Courts of justice.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the State.

Eighth—Summoning and impaneling grand and petit juries, and providing for their compensation.

Ninth—Regulating county and township business, or the election of county and township officers.

Tenth—For the assessment or collection of taxes.

Eleventh—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

Twelfth—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Thirteenth—Extending the time for the collection of taxes.

Fourteenth—Giving effect to invalid deeds, wills, or other insruments.

Fifteenth—Refunding money paid into the State treasury.

Sixteenth—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

Seventeenth—Declaring any person of age, or authorizing any minor to sell, lease, or incumber his or her property.

Eighteenth—Legalizing, except as against the State, the unauthorized or invalid act of any officer.

Nineteenth—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

Twentieth—Exempting property from taxation.

Twenty-first—Changing county seats.

Twenty-second—Restoring to citizenship persons convicted of infamous crimes.

Twenty-third—Regulating the rate of interest on money.

Twenty-fourth—Authorizing the creation, extension, or impairing of liens.

Twenty-fifth—Chartering or licensing ferries, bridges, or roads.

Twenty-sixth—Remitting fines, penalties, or forfeitures.

Twenty-seventh—Providing for the management of common schools.

Twenty-eighth—Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts.

Twenty-ninth—Affecting the fees or salary of any officer.

Thirtieth—Changing the law of descent or succession.

Thirty-first—Authorizing the adoption or legitimation of children.

Thirty-second—For limitation of civil or criminal actions.

COLORADO

Art. V, Sec. 25. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say; for granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys and public grounds; locating or changing county seats; regulating county or township affairs; duties of justices of the peace, police magistrates and constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; chartering or licensing ferries or toll bridges; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentage or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

DELAWARE

Sec. 19, Art. II. The General Assembly shall not pass any local or special law relating to fences; the straying of live stock; ditches; the creation or changing the boundaries of school districts; or the laying out, opening, alteration, maintenance or vacation, in whole or in part of any road, highway, street, lane or alley; provided, however, that the General Assembly may by a vote of two-thirds of all the members elected to each House pass laws relating to the laying out, opening, alteration or maintenance of any road or highway which forms a continuous road or highway extending through at least a portion of the three counties of the State.

Sec. 23, Art. II. Every statute shall be a public law unless otherwise declared in the statute itself.

Sec. 1, Art. IX. No corporation shall hereafter be created, amended, renewed or revived by special act, but only by or under general law, nor shall any existing corporate charter be amended, renewed or revived by special act, but only by or under general law; but the foregoing provisions shall not apply to municipal corporations, banks or corporations for charitable, penal, reformatory, or educational purposes, sustained in whole or in part by the State. The General Assembly shall, by general law, provide for the revocation or forfeiture of the charters of all corporations for the abuse, misuse, or non-user of their corporate powers, privileges, or franchises. Any proceeding for such revocation or forfeiture, shall be taken by the Attorney General, as may be provided by law. No general incorporation law, nor any special act of incorporation, shall be enacted without the concurrence of two-thirds of all the members elected to each House of the General Assembly.

FLORIDA

Art. 3, sec. 20. The Legislature shall not pass special or local laws in any of the following enumerated cases; that is to say, regulating the jurisdiction and duties of any class of officers, except municipal officers, or for the punishment of crime or misdemeanor; regulating the practice of courts of justice, except municipal courts; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads; summoning and empanelling grand and petit juries, and providing for their compensation; for assessment, and collection of taxes for State and county purposes; for opening and conducting elections for State and county officers, and for designating the places of voting; for the sale of real estate belonging to minors, estates of descendents, and of persons laboring under legal disabilities; regulating the fees of officers of the State and county; giving effect to informal or invalid deeds or wills; legitimizing children; providing for the adoption of children; relieving minors from legal disabilities; and for the establishment of ferries.

GEORGIA

Art. 3, sec. 7, para. 17. The General Assembly shall have no power to grant corporate powers and privileges to private companies, to make or change election precincts, nor to establish bridges or ferries, nor to change names of legitimate children; but it shall prescribe by law the manner in which such powers shall be exercised by the courts; it may confer this authority to grant corporate powers and privileges to private companies to the judges of the superior courts of this State in vacation. All corporate powers and privileges to banking, trust, insurance, railroad, canal, navigation, express and telegraph companies shall be issued and granted by the Secretary of State in such manner as shall be prescribed by law; and if in any event the Secretary of State shall be disqualified to act in any case, then in that event the legislature shall provide by general laws by what person such charter shall be granted.

IDAHO

Art. 3, sec. 19—The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and constables.

For the punishment of crimes and misdemeanors.

Regulating the practice of the courts of justice.

Providing for a change of venue in civil or criminal actions.

Granting divorces.

Changing the names of persons or places.

Authorizing the laying out, opening, altering, maintaining, working on, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, or any public grounds not owned by the state.

Summoning and impaneling grand and trial juries, and providing for their compensation.

Regulating county and township business, or the election of county and township officers.

For the assessment and collection of taxes.

Providing for and conducting elections, or designating the place of voting.

Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Extending the time for collection of taxes.

Giving effect to invalid deeds, leases or other instruments.

Refunding money paid into the state treasury.

Releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any person or corporation in this state, or any municipal corporation therein.

Declaring any person of age, or authorizing any minor to sell, lease or incumber his or her property.

Legalizing as against the state the unauthorized or invalid act of any officer.

Exempting property from taxation.

Changing county seats, unless the law authorizing the change shall require that two-thirds of the legal votes cast at a general or special election shall designate the place to which the county seat shall be changed; provided, that the power to pass a special law shall cease as long as the legislature shall provide for such change by general law; provided further, that no special law shall be passed for any one county oftener than once in six years.

Restoring to citizenship persons convicted of infamous crimes.

Regulating the interest on money.

Authorizing the creation, extension or impairing of liens.

Chartering or licensing ferries, bridges or roads.
Remitting fines, penalties or forfeitures.
Providing for the management of common schools.
Creating offices or prescribing the powers and duties of officers in counties, cities, townships, election districts, or school districts, except as in this constitution otherwise provided.
Changing the law of descent or succession.
Authorizing the adoption or legitimization of children.
For limitation of civil or criminal actions.
Creating any corporation.
Creating, increasing or decreasing fees, percentages, or allowances of public officers during the term for which said officers are elected or appointed.

Art. 11, sec. 2. No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations as are or may be, under the control of the state; but the legislature shall provide by general law for the organization of corporations hereafter to be created: provided, that any such general law shall be subject to future repeal or alteration by the legislature.

Art. 12, sec. 1. General laws for cities and towns.—The legislature shall provide by general laws for the incorporation, organization and classification of the cities and towns, in proportion to the population, which laws may be altered, amended, or repealed by the general laws. Cities and towns heretofore incorporated, may become organized under such general laws, whenever a majority of the electors at a general election, shall so determine, under such provisions therefor as may be made by the legislature.

ILLINOIS

Art. IV, sec. 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for—
Granting divorces;
Changing the names of persons or places;
Laying out, opening, altering and working roads or highways;
Vacating roads, town plats, streets, alleys and public grounds;
Locating or changing county seats;
Regulating county and township affairs;
Regulating the practice in courts of justice;
Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables;
Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;
Summoning and impaneling grand or petit juries;
Providing for the management of common schools;
Regulating the rate of interest on money;
Providing for changes of venue in civil and criminal cases;
Incorporating cities, towns or villages, or changing or amending the charter of any town, city or village;
The opening and conducting of any election, or designating the place of voting;
The sale or mortgage of real estate belonging to minors or others under disability;
The protection of game or fish;
Chartering or licensing ferries or toll bridges;
Remitting fines, penalties or forfeitures;
Creating, increasing, or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed;
Changing the law of descent;
Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose;
Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

Art. XI, sec. 1. No corporation shall be created by special laws, or its charter extended, changed, or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the State, but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

INDIANA

Art. 4, sec. 22. The General Assembly shall not pass local or special laws, in any of the following enumerated cases, that is to say:
(1) Regulating the jurisdiction and duties of Justices of the Peace and of Constables;
(2) For the punishment of crimes and misdemeanors;
(3) Regulating the practice in courts of justice;
(4) Providing for changing the venue in civil and criminal csaes;
(5) Granting divorces;
(6) Changing the names of persons;
(7) For laying out, opening and working on highways, and for the election or appointment of supervisors;
(8) Vacating roads, town plats, streets, alleys and public squares;
(9) Summoning and empaneling grand and petit juries, and providing for their compensation;
(10) Regulating county and township business;
(11) Regulating the election of county and township officers and their compensation;
(12) For the assessment and collection of taxes for State, county, township, or road purposes;
(13) Providing for supporting common schools, and for the preservation of school funds;
(14) In relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required;
(15) In relation to interest on money;
(16) Providing for opening and conducting elections of State, county or township officers, and designating the places of voting;
(17) Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

IOWA

Art. III, sec. 30. The General Assembly shall not pass local or special laws in the following cases:
For the assessment and collection of taxes for State, County, or road purposes;
For laying out, opening, and working roads or highways;
For changing the names of persons;
For the incorporation of cities and towns;
For vacating roads, town plats, streets, alleys, or public squares;
For locating or changing county seats.

Art. VIII, sec. 1. No corporation shall be created by special laws; but the General Assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

KANSAS

Art. 12, sec. 1. The legislature shall pass no special act conferring corporate powers.

KENTUCKY

Sec. 59. The General Assembly shall not pass local or special acts concerning any of the following subjects, or for any of the following purposes, namely:
First: To regulate the jurisdiction or the practice or the circuits of the courts of justice, or the rights, powers, duties or compensation of the officers thereof; but the practice in circuit courts in continuous session may, by a general law, be made different from the practice of circuit courts held in terms.
Second: To regulate the summoning, impaneling or compensation of grand or petit jurors.
Third: To provide for changes of venue in civil or criminal causes.
Fourth: To regulate the punishment of crimes and misdemeanors, or to remit fines, penalties or forfeitures.
Fifth: To regulate the limitation of civil or criminal causes.
Sixth: To affect the estate of cestuis que trust, decedents, infants, or other persons under disabilities, or to authorize any such persons to sell, lease, encumber or dispose of their property.
Seventh: To declare any person of age or to relieve an infant or feme covert of disability, or to enable him to do acts allowed only to adults not under disabilities.
Eighth: To change the law of descent, distribution or succession.
Ninth: To authorize the adoption or legitimation of children.
Tenth: To grant divorces.
Eleventh: To change the names of persons.
Twelfth: To give effect to invalid deeds, wills or other instruments.
Thirteenth: To legalize, except as against the Commonwealth, the unauthorized or invalid act of any officer or public agent of the Commonwealth, or of any city, county, or municipality thereof.
Fourteenth: To refund money legally paid into the State treasury.

Fifteenth: To authorize or to regulate the levy, the assessment or the collection of taxes, or to give any indulgence or discharge to any assessor or collector of taxes, or to his sureties.

Sixteenth: To authorize the opening, altering, maintaining, or vacating of roads, highways, streets, alleys, town plats, cemeteries, graveyards, or public grounds not owned by the Commonwealth.

Seventeenth: To grant a charter to any corporation, or to amend the charter of any existing corporation; to license companies or persons to own or operate ferries, bridges, roads or turnpikes; to declare streams navigable, or to authorize the construction of booms or dams therein, or to remove obstructions therefrom; to affect toll gates or to regulate tolls; to regulate fencing or the running at large of stock.

Eighteenth: To create, increase or decrease fees, percentages or allowances to public officers, or to extend the time for the collection thereof, or to authorize officers to appoint deputies.

Nineteenth: To give any person or corporation the right to lay a railroad track or tramway, or to amend existing charters for such purposes.

Twentieth: To provide for conducting elections, or for designating the places of voting, or changing the boundaries of wards, precincts or districts, except when new counties may be created.

Twenty-first: To regulate the rate of interest.

Twenty-second: To authorize the creation, extension, enforcement, impairment or release of liens.

Twenty-third: To provide for the protection of game and fish.

Twenty-fourth: To regulate labor, trade, mining or manufacture.

Twenty-fifth: To provide for the management of common schools.

Twenty-sixth: To locate or change a county seat.

Twenty-seventh: To provide a means of taking the sense of the people of any city, town, district, precinct or county, whether they wish to authorize, regulate or prohibit therein the sale of vinous, spiritous or malt liquors, or alter the liquor laws.

Twenty-eighth: Restoring to citizenship persons convicted of infamous crimes.

LOUISIANA

Art. IV, sec. 4. The Legislature shall not pass ony local or special law on the following specified subjects:

For the holding and conducting of elections, or fixing or changing the place of voting.

Changing the names of persons.

Changing the venue in civil or criminal cases.

Authorizing the laying out, opening, closing, altering or maintaining roads, highways, streets or alleys, or relating to ferries and bridges, or incorporating bridge or ferry companies, except for the erection of bridges crossing streams which form boundaries between this and any other state.

Authorizing the adoption or legitimation of children or the emancipation of minors.

Granting divorces.

Changing the law of descent or succession.

Affecting the estates of minors or persons under disabilities.

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury.

Authorizing the constructing of street passenger railroads in any incorporated town or city.

Regulating labor, trade, manufacturing or agriculture.

Creating corporations, or amending, renewing, extending or explaining the charters thereof; provided, this shall not apply to municipal corporations having a population of not less than twenty-five hundred inhabitants, or to the organization of levee districts and parishes, river improvement districts, harbor improvement districts, and navigation districts.

Granting to any corporation, association, or individual any special or exclusive right, privilege or immunity.

Extending the time for the assessment or collection of taxes, or for the relief of any assessor or collector of taxes from the performance of his official duties, or of his sureties from liability; nor shall any such law or ordinance be passed by any political corporation of this state.

Regulating the practice or jurisdiction of any court, or changing the rules of evidence in any judicial proceeding or inquiry before courts, or providing or changing methods for the collection of debts or the enforcement of judgments, or prescribing the effects of judicial sales.

Exempting property from taxation.

Fixing the rate of interest.

Concerning any civil or criminal actions.

Giving effect to informal or invalid wills or deeds, or to any illegal disposition of property.

Regulating the management of public schools, the building or repairing of schoolhouses and the raising of money for such purposes, except as otherwise provided in this Constitution.

Legalizing the unauthorized or invalid acts of any officer, servant, or agent of the State, or of any parish or municipality thereof.

MAINE

Art. IV, Part 3, sec. 13. "The Legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation."

Sec. 14. "Corporations shall be formed under general laws, and shall not be created by special acts of the Legislature, except for municipal purposes. . . ."

MARYLAND

Art. 3, sec. 33. The General Assembly shall not pass local or special laws in any of the following enumerated cases, viz: For extending the time for the collection of taxes, granting divorces, changing the name of any person, providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees, giving effect to informal or invalid deeds or wills, refunding money paid into the State Treasury, or releasing persons from their debts or obligations to the State, unless recommended by the Governor or officers of the Treasury Department. And the General Assembly shall pass no special law for any case for which provision has been made by an existing general law. The General Assembly, at its first session after the adoption of this Constitution, shall pass general laws providing for the cases enumerated in this section which are not already adequately provided for, and for all other cases where a General Law can be made applicable.

MINNESOTA

Art. 4, sec. 28. Divorces shall not be granted by the legislature.

Art. 4, sec. 33. In all cases when a general law can be made applicable, no special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law regulating the affairs of, or incorporating, erecting or changing the lines of, any county, city, village, township, ward or school district, or creating the offices, or prescribing the powers and duties of the officers of, or fixing or relating to the compensation, salary or fees of the same, or the mode of election or appointment thereto, authorizing the laying out, opening, altering, vacating or maintaining roads, highways, streets or alleys; remitting fines, penalties or forfeitures; regulating the powers, duties and practice of justices of the peace, magistrates and constables; changing the names of persons, places, lakes or rivers; for opening and conducting of elections, or fixing or changing the places of voting; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights upon minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; locating or changing county seats; regulating the management of public schools, the building or repairing of schoolhouses and the raising of money for such purposes; exempting property from taxation or regulating the rate of interest on money; creating corporations, or amending, renewing, extending or explaining the charters thereof; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever, or authorizing public taxation for a private purpose. Provided, however, that the inhibition of local or special laws in this section shall not be construed to prevent the passage of general laws on any of the subjects enumerated.

The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same.

MISSISSIPPI

Sec. 87. No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are or can be provided for by general law, or where the relief sought can be given by any court of this state; nor shall the operation of any general law be suspended by the legislature for the benefit of any individual or private corporation or association, and in all cases where a general law can be made applicable, and would be advantageous, no special law shall be enacted.

Sec. 88. The legislature shall pass general laws, under which local and private interests shall be provided for and protected, and under which cities and towns may be chartered and their charters amended, and under which corporations may be created, organized, and their acts of incorporation altered; and all such laws shall be subject to repeal or amendment.

Sec. 89. There shall be appointed in each house of the legislature a standing committee on local and private legislation; the house committee to consist of seven representatives, and the senate committee of five senators. No local or private bill shall be passed by either house until it shall have been referred to said committee thereof, and shall have been reported back with a recommendation in writing that it do pass, stating affirmatively the reasons therefor, and why the end to be accomplished should not be reached by a general law, or by a proceeding in court; or if the recommendation of the committee be that the bill do not pass, then it shall not pass the house to which it is so reported unless it be voted for by a majority of all the members elected thereto. If a bill is passed in conformity to the requirements hereof, other than such as are prohibited in the next section, the courts shall not, because of its local, special, or private nature, refuse to enforce it.

Sec. 90. The legislature shall not pass local, private, or special laws in any of the following enumerated cases, but such matters shall be provided for only by general law, viz.:

(a) Granting divorces;

(b) Changing the names of persons, places, or corporations;

(c) Providing for changes of venue in civil and criminal cases;

(d) Regulating the rate of interest on money;

(e) Concerning the settlement or administration of any estate, or the sale or mortgage of any property, of an infant, or of a person of unsound mind, or of any deceased person;

(f) The removal of the disability of infancy;

(g) Granting to any person, corporation, or association the right to have any ferry, bridge, road, or fish-trap;

(h) Exemption of property from taxation or from levy or sale;

(i) Providing for the adoption or legitimation of children;

(j) Changing the law of descent and distribution;

(k) Exempting any person from jury, road, or other civil duty (and no person shall be exempted therefrom by force of any local or private law);

(l) Laying out, opening, altering and working roads and highways;

(m) Vacating any road or highway, town plat, street, alley, or public grounds;

(n) Selecting, drawing, summoning, or empaneling grand or petit juries;

(o) Creating, increasing, or decreasing the fees, salary, or emoluments of any public officer;

(p) Providing for the management or support of any private or common school, incorporating the same, or granting such school any privileges;

(q) Relating to stock laws, water-courses, and fences;

(r) Conferring the power to exercise the right of eminent domain, or granting to any person, corporation, or association the right to lay down railroad tracks or street-car tracks in any other manner than that prescribed by general law;

(s) Regulating the practice in courts of justice;

(t) Providing for the creation of districts for the election of justices of the peace and constables; and

(u) Granting any lands under control of the state to any person or corporation.

MISSOURI

Art. III, Sec. 40. The general assembly shall not pass any local or special law:

(1) authorizing the creation, extension or impairment of liens;

(2) granting divorces;

(3) changing the venue in civil or criminal cases;

(4) regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

(5) summoning or empaneling grand or petit juries;

(6) for limitation of civil actions;

(7) remitting fines, penalties and forfeitures or refunding money legally paid into the treasury;

(8) extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their duties, or their securities from liability;

(9) changing the law of descent or succession;

(10) giving effect to informal or invalid wills or deeds;

(11) affecting the estates of minors or persons under disability;

(12) authorizing the adoption or legitimation of children;

(13) declaring any named person of age;

(14) changing the names of persons or places;

(15) vacating town plats, roads, streets or alleys;

(16) relating to cemeteries, graveyards or public grounds not of the state;

(17) authorizing the laying out, opening, altering or maintaining roads, highways, streets, or alleys;

(18) for opening and conducting elections, or fixing or changing the place of voting;

(19) locating or changing county seats;

(20) creating new townships or changing the boundaries of townships or school districts;

(21) creating offices, prescribing the powers and duties of officers in, or regulating the affairs of counties, cities, townships, election or school districts;

(22) incorporating cities, towns, or villages or changing their charters;

(23) regulating the fees or extending the powers of aldermen, magistrates or constables;

(24) regulating the management of public schools, the building or repairing of schoolhouses, and the raising of money for such purposes;

(25) legalizing the unauthorized or invalid acts of any officer or agent of the state or of any county or municipality;

(26) fixing the rate of interest;

(27) regulating labor, trade, mining or manufacturing;

(28) granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track;

(29) relating to ferries or bridges, except for the erection of bridges crossing streams which form the boundary between this and any other state.

MONTANA

Art. V, sec. 26. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions, or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever; for the punishment of crime; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury; relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices, or prescribing the powers or duties of officers in counties, cities, township or school districts; or authorizing the adoption or legitimation of children.

NEBRASKA

Art. III, sec. 18. The Legislature shall not pass local or special laws in any of the following cases, that is to say:

For granting divorces.

Changing the names of persons or places.

Laying out, opening, altering and working roads or highways.

Vacating roads, town plats, streets, alleys, and public grounds.

Locating or changing county seats.

Regulating County and Township offices.

Regulating the practice of Courts of Justice.

Regulating the jurisdiction and duties of Justices of the Peace, Police Magistrates and Constables.

Providing for changes of venue in civil and criminal cases.

Incorporating Cities, Towns and Villages, or changing or amending the Charter of any Town, City, or Village.

Providing for the election of officers in Townships, incorporated Towns or Cities.

Summoning or empaneling Grand or Petit Juries.

Providing for the bonding of cities, towns, precincts, school districts, or other municipalities.

Providing for the management of Public Schools.

Regulating the interest on money.

The opening and conducting of any election, or designating the place of voting.

The sale or mortgage of real estate belonging to minors, or others under disability.

The protection of game or fish.

Chartering or licensing ferries, or toll bridges, remitting fines, penalties or forfeitures, creating, increasing and decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such purposes.

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever.

NEVADA

Sec. 71. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: Regulating the jurisdiction and duties of justices of the peace and of constables, and fixing their compensation; for the punishment of crimes and misdemeanors; regulating the practice of courts of justice; providing for changing the venue in civil and criminal cases; granting divorces; changing the names of persons; vacating roads, town-plots, streets, alleys and public squares; summoning and empaneling grand and petit juries and providing for their compensation; regulating county and township business; regulating the election of county and township officers; for the assessment and collection of taxes for state, county and township purposes; providing for opening and conducting elections of state, county or township officers, and designating the places of voting; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities; giving effect to invalid deeds, wills or other instruments; refunding money paid into the state treasury, or into the treasury of any county; releasing the indebtedness, liability or obligation of any corporation, association, or person to the state, or to any county, town or city of this state; but nothing in this section shall be construed to deny or restrict the power of the legislature to establish and regulate the compensation and fees of county officers, to authorize and empower the boards of county commissioners of the various counties of the state to establish and regulate the compensation and fees of township officers in their respective counties, to establish and regulate the rates of freight, passage, toll and charges of railroads, toll-roads, ditch, flume and tunnel companies incorporated under the laws of this state or doing business therein.

NEW JERSEY

Art. IV, sec. 7, subsec. 1. No divorce shall be granted by the Legislature.

Art. IV, sec. 7, subsec. 9. The Legislature shall not pass any private, special or local laws:

(1) Authorizing the sale of any lands belonging in whole or in part to a minor or minors or other persons who may at the time be under any legal disability to act for themselves.

(2) Changing the law of descent.

(3) Providing for change of venue in civil or criminal causes.

(4) Selecting, drawing, summoning or empaneling grand or petit jurors.

(5) Creating, increasing or decreasing the emoluments, term or tenure rights of any public officers or employees.

(6) Relating to taxation or exemption therefrom.

(7) Providing for the management and control of free public schools.

(8) Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

(9) Granting to any corporation, association or individual the right to lay down railroad tracks.

(10) Laying out, opening, altering, constructing, maintaining and repairing roads or highways.

(11) Vacating any road, town plot, street, alley or public grounds.

(12) Appointing local officers or commissions to regulate municipal affairs.

(13) Regulating the internal affairs of municipalities formed for local government and counties, except as otherwise in this Constitution provided.

Art. IV, sec. 7, subsec. 10. Upon petition by the governing body of any municipal corporation formed for local government, or of any county, and by vote of two-thirds of all the members of each house, the Legislature may pass private, special or local laws regulating the internal affairs of the municipality or county. The petition shall be authorized in a manner to be prescribed by general law and shall specify the general nature of the law sought to be passed. Such law shall become operative only if it is adopted by ordinance of the governing body of the municipality or county or by vote of the legally qualified voters thereof. The Legislature shall prescribe in such law or by general law the method of adopting such law, and the manner in which the ordinance of adoption may be enacted or the vote taken, as the case may be.

Art. IV, sec. 7, subsec. 11. The provisions of this Constitution and of any law concerning municipal corporations formed for local government, or concerning counties, shall be liberally construed in their favor. The powers of counties and such municipal corporations shall include not only those granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by this Constitution or by law.

NEW MEXICO

Art. 4, sec. 24. The Legislature shall not pass local or special laws in any of the following cases: Regulating county, precinct or district affairs; the jurisdiction and duties of justices of the peace, police magistrates and constables; the practice in courts of justice; the rate of interest on money; the punishment for crimes and misdemeanors; the assessment or collection of taxes or extending the time of collection thereof; the summoning and impaneling of jurors; the management of public schools; the sale or mortgaging of real estate of minors or others under disability; the change of venue in civil or criminal cases. Nor in the following cases: Granting divorces; laying out, opening, altering or working roads or highways, except as to state roads extending into more than one county, and military roads; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats, or changing county lines, except in creating new counties, incorporating cities, towns or villages, or changing or amending the charter of any city, town or village; the opening or conducting of any election or designating the place of voting; declaring any person of age; chartering or licensing ferries, toll bridges, toll roads, banks, insurance companies, or loan and trust companies; remitting fines, penalties, forfeitures or taxes; or refunding money paid into the state treasury, or relinquishing, extending or extinguishing, in whole or in part, any indebtedness or liability of any person or corporation, to the state or any municipality therein; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the laws of descent; granting to any corporation, association or individual the right to lay down railroad tracks or any special or exclusive privilege, immunity or franchise, or amending existing charters for such purpose; changing the rules of evidence in any trial or inquiry; the limitation of actions; giving effect to any informal or invalid deed, will or other instrument; exempting property from taxation; restoring to citizenship any person convicted of an infamous crime; the adoption or legitimizing of children; changing the name of persons or places; and the creation, extension or impairment of liens. In every other case where a general law can be made applicable, no special law shall be enacted.

NORTH DAKOTA

Sec. 69. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. For laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.

8. Providing for change of venue in civil or criminal cases.
9. Declaring any person of age.
10. For limitation of civil actions, or *giving effect* to informal or invalid deeds.
11. Summoning or impaneling grand or petit juries.
12. Providing for the management of common schools.
13. Regulating the rate of interest on money.
14. The opening or conducting of any election or designating the place of voting.
15. The sale or mortgage of real estate belonging to minors or others under disability.
16. Chartering or licensing ferries, toll bridges or toll roads.
17. Remitting fines, penalties or forfeitures.
18. Creating, increasing or decreasing fees, percentage or allowances of public officers.
19. Changing the law of descent.
20. Granting to any corporation, association or individual the right to lay down railroad tracks or any special or exclusive privilege, immunity or franchise whatever.
21. For the punishment of crimes.
22. Changing the names of persons or places.
23. For the assessment or collection of taxes.
24. Affecting estates of deceased persons, minors or others under legal disabilities.
25. Extending the time for the collection of taxes.
26. Refunding money into the state treasury.
27. Relinquishing or extinguishing in whole or in part the indebtedness, *liability* or obligation of any corporation or person to this state, or to any municipal corporation therein.
28. Legalizing, except as against the state, the unauthorized or invalid act of an officer.
29. Exempting property from taxation.
30. Restoring to citizenship persons convicted of infamous crimes.
31. Authorizing the creation, extension or impairing of liens.
32. Creating offices, or prescribing the powers or duties of officers in counties, cities, township, election or school districts, or authorizing the adoption or legitimation of children.

OKLAHOMA

Art. V, sec. 46. Local and special laws on certain subjects prohibited.—The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law authorizing:

The creation, extension, or impairing of *liens*;

Regulating the affairs of counties, cities, towns, wards, or school districts;

Changing the names of persons or places;

Authorizing the laying out, opening, altering, or maintaining of roads, highways, streets, or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other state;

Vacating roads, town plats, streets, or alleys;

Relating to cemeteries, graveyards, or public grounds not owned by the State;

Authorizing the adoption or legitimation of children;

Locating or changing county seats;

Incorporating cities, towns, or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Granting divorces;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of, or changing the rules of evidence in judicial proceedings or inquiry before the courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing the methods for the collection of debts, or the enforcement of judgments or prescribing the effect of judicial sales of real estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, or constables;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors, or persons under disability;

Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or impaneling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements;

Providing for change of venue in civil and criminal cases.

OREGON

Art. IV, sec. 23. The legislative assembly shall not pass special or local laws in any of the following enumerated cases, that is to say:

1. Regulating the jurisdiction and duties of justices of the peace, and of constables;
2. For the punishment of crimes and misdemeanors;
3. Regulating the practice in courts of justice;
4. Providing for changing the venue in civil and criminal cases;
5. *Granting* divorces;
6. Changing the names of persons;
7. For laying, opening and working on highways, and for the election or appointment of supervisors;
8. Vacating roads, town plats, streets, alleys, and public squares;
9. Summoning and impaneling grand and petit jurors;
10. For the assessment and collection of taxes for state, county, township or road purposes;
11. Providing for supporting common schools, and for the preservation of school funds;
12. In relation to interest on money;
13. Providing for opening and conducting the elections of state, county and township officers, and designating the places of voting;
14. Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees.

PENNSYLVANIA

Art. III, sec. 7. The General Assembly shall not pass any local or special law:

Authorizing the creation, extension or impairing of liens;

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts;

Changing the names of persons or places;

Changing the venue in civil or criminal cases;

Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town plats, streets, or alleys;

Relating to cemeteries, graveyards, or public grounds not of the State;

Authorizing the adoption or *legitimation of children*;

Locating or changing county-seats, erecting new counties or changing county lines;

Incorporating cities, towns, or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the place of voting;

Granting divorces;

Erecting new townships or boroughs, changing township lines, borough limits or school districts;

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of, or changing the rules of evidence, in any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts or the enforcing of judgments, or prescribing the effect of *judicial sales of real* estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment;

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining or manufacturing;

Creating corporations, or amending, renewing or extending the charters thereof;

Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track.

Art. III, sec. 34. The Legislature shall have power to classify counties, cities, boroughs, school districts, and townships, according to population, and all laws passed relating to each class, and all laws passed relating to and regulating procedure and proceedings, in court with reference to, any class, shall be deemed general legislation within the meaning of this Constitution; but counties shall not be divided into more than eight classes, cities into not more than seven classes, school districts into not more than five classes, and boroughs into not more than three classes.

RHODE ISLAND

Art. IV, sec. 14. The assent of two-thirds of the members elected to each house of the general assembly shall be required to every bill appropriating the public money or property for local or private purposes.

SOUTH CAROLINA

Art. 8, sec. 1. Organization and classification of municipal corporations. The General Assembly shall provide by general laws for the organization and classification of municipal corporations. The powers of each class shall be defined so that no such corporation shall have any powers or be subject to any restrictions other than all corporations of the same class. Cities and towns now existing under special charters may reorganize under the general laws of the State, and when so recognized their special charters shall cease and determine.

SOUTH DAKOTA

Art. 3, Sec. 23. The legislature is prohibited from enacting any special or private laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir at law of another.
3. Locating or changing county seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public ground.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the state.
8. Remitting fines, penalties and forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the legislature may repeal any existing special law relating to the foregoing subdivisions.

TENNESSEE

Art. 11, sec. 4. The Legislature shall have no power to grant divorces.

Art. 11, sec. 6. The Legislature shall have no power to change the names of persons, or to pass acts adopting or legitimatizing persons, but shall, by general laws, confer this power on the Courts.

Art. 11, sec. 8. The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals, inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities, or exemptions, other than such as may be, by the same law, extended to any member of the community who may be able to bring himself within the provisions of such law. No corporation shall be created, or its powers increased or diminished by special laws, but the General Assembly shall provide by general laws, for the organization of all corporations hereafter created, which laws may, at any time, be altered or repealed; and no such alteration or repeal shall interfere with, or divest, rights which have become vested.

TEXAS

Art. 3, sec. 56: The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

The creation, extension or impairing of liens;

Regulating the affairs of counties, cities, towns, wards or school districts;

Changing the names of persons or places;

Changing the venue in civil or criminal cases;

Authorizing the laying out, opening, altering or maintaining of roads, highways, streets or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the creation of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town plats, streets or alleys;

Relating to cemeteries, graveyards or public grounds not of the State;

Authorizing the adoption or legitimation of children;

Locating or changing county seats;

Incorporating cities, towns or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Granting divorces;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability;

Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trades, mining and manufacturing;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or empaneling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements.

UTAH

Art. 6, sec. 26. The Legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorce.
2. Changing the names of persons or places, or constituting one person the heir-at-law of another.
3. Locating or changing county seats.
4. Regulating the jurisdiction and duties of Justices of the Peace.
5. Punishing crimes and misdemeanors.
6. Regulating the practice of courts of justice.
7. Providing for a change of venue in civil or criminal actions.
8. Assessing or collecting taxes.
9. Regulating the interest on money.
10. Changing the law of descent or succession.
11. Regulating county and township affairs.
12. Incorporating cities, towns or villages; changing or amending the charter of any city, town or village; laying out, opening, vacating or altering town plats, highways, streets, wards, alleys or public grounds.
13. Providing for sale or mortgage of real estate belonging to minors or others under disability.
14. Authorizing persons to keep ferries across streams within the state.
15. Remitting fines, penalties or forfeitures.
16. Granting to an individual, association or corporation any privilege, immunity or franchise.

17. Providing for the management of common schools.
18. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

The Legislature may repeal any existing special law relating to the foregoing subdivisions.

In all cases where a general law can be applicable, no special law shall be enacted.

Nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county & township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads, ditch, flume and tunnel companies, incorporated under the laws of the State or doing business therein.

VERMONT

Sec. 65. No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are to be and remain under the patronage or control of the State; but the General Assembly shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time or repealed.

VIRGINIA

Sec. 51. Standing committee on special, private and local legislation. There shall be a joint committee of the general assembly, consisting of seven members appointed by the house of delegates, and 5 members appointed by the senate, which shall be a standing committee on special, private and local legislation. Before reference to a committee, as provided by section 50, any special, private or local bills introduced in either house shall be referred to and considered by such joint committee and returned to the house in which it originated, with a statement in writing whether the object of the bill can be accomplished under general law or by court proceedings; whereupon, the bill, with the accompanying statement, shall take the course provided by sec. 50. The joint committee may be discharged from the consideration of a bill by the house in which it originated, in the manner provided in sec. 50, for the discharge of other committees.

Sec. 63. The authority of the general assembly shall extend to all subjects of legislation, not herein forbidden or restricted; and a specific grant of authority in this Constitution upon a subject shall not work a restriction of its authority upon the same or any other subject. The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the general assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear.

The general assembly shall confer on the courts power to grant divorces, change the names of persons and direct the sale of estates belonging to infants and other persons under legal disabilities, and shall not, by special legislation, grant relief in these or other cases of which the courts or other tribunals may have jurisdiction.

The general assembly may regulate the exercise by courts of the right to punish for contempt.

The general assembly shall not enact any local, special or private law in the following cases:

1. For the punishment of crime.
2. Providing a change of venue in civil or criminal cases.
3. Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before the courts or other tribunals, or providing or changing the methods of collecting debts or enforcing judgments or prescribing the effect of judicial sales of real estate.
4. Changing or locating county seats.
5. For the assessment and collection of taxes, except as to animals which the general assembly may deem dangerous to the farming interests.
6. Extending the time for the assessment or collection of taxes.
7. Exempting property from taxation.
8. Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association to the State or to any political subdivision thereof.
9. Refunding money lawfully paid into the treasury of the State or the treasury of any political subdivision thereof.
10. Granting from the treasury of the State, or granting, or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent or contractor.
11. For conducting elections or designating the places of voting.
12. Regulating labor, trade, mining or manufacturing, or the rate of interest on money.
13. Granting any pension.
14. Creating, increasing or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.
15. Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.
16. Affecting or regulating fencing or the boundaries of land, or the running at large of stock.
17. Creating private corporations, or amending, removing, or extending the charters thereof.
18. Granting to any private corporation, association, or individual any special or exclusive right, privilege or immunity.
19. Naming or changing the name of any private corporation or association.
20. Remitting the forfeiture of the charter of any private corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution, and the laws passed in the pursuance thereof.

WASHINGTON

Art. II, sec. 28. The legislature is prohibited from enacting any private or special laws in the following cases:

1. For changing the names of persons, or constituting one person the heir at law of another.
2. For laying out, opening, or altering highways, except in cases of state roads extending into more than one county, and military roads to aid in the construction of which lands shall have been or may be granted by congress.
3. For authorizing persons to keep ferries wholly within this state.
4. For authorizing the sale or mortgage of real or personal property of minors, or others under disability.
5. For assessment or collection of taxes or for extending time for collection thereof.
6. For granting corporate powers or privileges.
7. For authorizing the appointment of any part of the school fund.
8. For incorporating any town or village, or to amend the charter thereof.
9. From giving effect to invalid deeds, wills, or other instruments.
10. Releasing or extinguishing, in whole or in part, the indebtedness, liability, or other obligation of any person or corporation to this state, or to any municipal corporation therein.
11. Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.
12. Legalizing, except against the state, the unauthorized or invalid act of any officer.
13. Regulating the rate of interest on money.
14. Remitting fines, penalties, or forfeitures.
15. Providing for the management of common schools.
16. Authorizing the adoption of children.
17. For limitation of civil or criminal action.
18. Changing county lines, locating or changing county seats: Provided, this shall not be construed to apply to the creation of new counties.

WEST VIRGINIA

Art. VI, Sec. 39. The Legislature shall not pass local or special laws in any of the following enumerated cases; that is to say, for

Granting divorces;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating, or changing county seats;

Regulating or changing county or district affairs;

Providing for the sale of church property, or property held for charitable uses;

Regulating the practice in courts of justice;

Incorporating cities, towns or villages, or amending the charter of any city, town or village, containing a population of less than two thousand;

Summoning or impaneling grand or petit juries;

The opening or conducting of any election, or designating the place of voting;

The sale and mortgage of real estate belonging to minors, or others under disability;

Chartering, licensing, or establishing ferries or toll bridges;
Remitting fines, penalties or forfeitures;
Changing the law of descent;
Regulating the rate of interest;
Authorizing deeds to be made for and sold for taxes;
Releasing taxes;
Releasing title to forfeited lands.

WISCONSIN

Art. IV, sec. 31. The Legislature is prohibited from enacting any special or private laws in the following cases:

1st. For changing the name of persons or constituting one person the heir at law of another.

2nd. For laying out, opening or altering highways, except in cases of state roads, extending into more than one county, and military roads to aid in the construction of which lands may be granted by congress.

3rd. For authorizing persons to keep ferries across streams at points wholly within this state.

4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability.

5th. For locating or changing any county seat.

6th. For assessment or collection of taxes or for extending the time for the collection thereof.

7th. For granting corporate powers or privileges, except to cities.

8th. For authorizing the apportionment of any part of the school fund.

9th. For incorporating any city, town or village, or to amend the charter thereof.

WYOMING

Art. 3, sec. 27. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; incorporation of cities, towns or villages; or changing or amending the charters of any cities, towns or villages; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions; giving effect to any informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual, the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever, or amending existing charters for such purpose; for punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury, relinquishing or extinguishing, in whole or in part, the indebtedness, liabilities, or obligation of any corporation or person to this state or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices or prescribing the powers or duties of officers in counties, cities, townships or school districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable no special law shall be enacted.

Art. 13, sec. 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four (4), and the powers of each class shall be defined by general laws, so that no such corporation shall have any powers or be subject to any restrictions other than all corporations of the same class. Cities and towns now existing under special charters or the general laws of the territory may abandon such charter and reorganize under the general laws of the state.

III. REQUIREMENTS PROHIBITING SPECIAL OR LOCAL LAWS WHERE GENERAL LAW CAN BE MADE APPLICABLE OR COURTS CAN PROVIDE REMEDY

In addition to prohibiting special or local laws in certain enumerated cases, some states prohibit any special or local law where a general law exists or can be made applicable or where the courts can provide the remedy sought.

ALABAMA

Sec. 105. No special, private, or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any court of this state; and the courts, and not the legislature, shall judge as to whether the matter of said law is provided for by a general law, and as to whether the relief sought can be given by any court; nor shall the legislature indirectly enact any such special, private, or local law by the partial repeal of a general law.

ARIZONA

Art. 4, Part 2, sec. 19. "No local or special laws shall be enacted in any of the following cases, that is to say:

20. When a general law can be made applicable."

CALIFORNIA

Art. IV, sec. 25. "The Legislature shall not pass local or special laws in any of the following enumerated cases:

Thirty-third—In all other cases where a general law can be made applicable."

COLORADO

Art. V, sec. 25. . . . In all other cases, where a general law can be made applicable, no special law shall be made applicable.

INDIANA

Art. 4, sec. 23. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

ILLINOIS

Art. IV, sec. 22. The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for

In all other cases where a general law can be made applicable, no special law shall be enacted.

IOWA

Art. III, sec. 30. In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

KANSAS

Art. 2, sec. 17. All laws of a general nature shall have uniform operation throughout the state; and in all cases where a general law can be made applicable no special law shall be enacted; and whether or not a law enacted is repugnant to this provision of the constitution shall be construed and determined by the courts of the state.

KENTUCKY

Sec. 50. Twenty-ninth: In all other cases where a general law can be made applicable, no special law shall be enacted.

MICHIGAN

Art. V, sec. 30. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act, excepting acts repealing local or special acts in effect January one, nineteen hundred nine, and receiving a two-thirds vote of the legislature shall take effect until approved by a majority of the electors voting thereon in the district to be affected.

MINNESOTA

Art. 4, sec. 34. The legislature shall provide general laws for the transaction of any business that may be prohibited by section one (1) of this amendment, and all such laws shall be uniform in their operation throughout the State.

MISSISSIPPI

Art. IV, sec. 87. No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are or can be provided for by general law, or where the relief sought can be given by any court of this state; nor shall the operation of any general law be suspended by the legislature for the benefit of any individual or private corporation or association, and in all cases where a general law can be made applicable, and would be advantageous, no special law shall be enacted.

Art. IV, sec. 88. The legislature shall pass general laws, under which local and private interests shall be provided for and protected, and under which cities and towns may be chartered and their charters amended, and under which corporations may be created, organized, and their acts of incorporation altered; and all such laws shall be subject to repeal or amendment.

MONTANA

Art. V, sec. 26. In all other cases where a general law can be made applicable, no special laws shall be enacted.

NEBRASKA

Art. III, sec. 18. In all other cases where a general law can be made applicable, no special law shall be enacted.

NEVADA

Sec. 72. In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the state.

NORTH DAKOTA

Sec. 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the legislative assembly indirectly enact such special or local law by the partial repeal of a general law, but laws repealing local or special acts may be passed.

PENNSYLVANIA

Art. 3, sec. 7. Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.

SOUTH DAKOTA

Art. III, sec. 23. In all other cases where a general law can be applicable no special law shall be enacted.

TEXAS

Art. III, sec. 56. And in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing special laws for the preservation of the game and fish of this State in certain localities.

VIRGINIA

Sec. 64. The General Assembly shall enact general laws in cases mentioned in the preceding section, and wherever general laws will apply; amendment or partial repeal of general law shall not enact special; restrictions as to laws—In all cases enumerated in the last section, and in every other case which, in its judgment, may be provided for by general laws, the general assembly shall enact general laws. Any general law shall be subject to amendment or repeal, but the amendment or partial repeal thereof shall not operate directly or indirectly to enact, and shall not have the effect of the enactment of, a special, private or local law.

No general or special law shall surrender or suspend the right and power of the state, or any political subdivision thereof, to tax corporations and corporate property, except as authorized by article 13. No private corporation, association, or individual shall be specially exempted from the operation of any general law, nor shall its operation be suspended for the benefit of any private corporation, association or individual.

WEST VIRGINIA

Art. VI, sec. 39. The Legislature shall provide, by general laws, for the foregoing and all other cases for which provision can be so made; and in no case shall a special act be passed, where a general law would be proper, and can be made applicable to the case, nor in any other case in which the courts have jurisdiction, and are competent to give the relief asked for.

WISCONSIN

Art. IV, sec. 32. The legislature shall provide general laws for the transaction of any business that may be prohibited by section thirty-one of this article, and all such laws shall be uniform in their operation throughout the State.

IV. ADDITIONAL SAFEGUARDS AND RESTRICTIONS

Some states, in addition to prohibiting local and special laws on enumerated subjects, seek to prohibit the accomplishment of such purposes by indirection. The various provisions adopted for this purpose follow.

ALABAMA

Sec. 110. A general law within the meaning of this article is a law which applies to the whole state; a local law is a law which applies to any political subdivision or subdivisions of the state less than the whole; a special or private law within the meaning of this article is one which applies to an individual, association, or corporation.

Sec. 111. No bill introduced as a general law in either house of the legislature shall be so amended on its passage as to become a special, private or local law.

KENTUCKY

Sec. 60. General law not to be made special or local by amendment; no special powers or privileges; law not to take effect on approval of other authority than General Assembly; exceptions. The General Assembly shall not indirectly enact any special or local act by the repeal in part of a general act, or by exempting from the operation of a general act any city, town, district or county; but laws repealing local or special acts may be enacted. No law shall be enacted granting powers or privileges in any case where the granting of such powers or privileges shall have been provided for by a general law, nor where the courts have jurisdiction to grant the same or to give the relief asked for. No law, except such as relates to the sale, loan or gift of vinous, spiritous or malt liquors, bridges, turnpikes or other public roads, public

buildings or improvements, fencing, running at large of stock, matters pertaining to common schools, paupers, and the regulation by counties, cities, towns or other municipalities of their local affairs, shall be enacted to take effect upon the approval of any other authority than the General Assembly, unless otherwise expressly provided in this constitution.

LOUISIANA

Art. IV, sec. 5. "The Legislature shall not indirectly enact special or local laws by the partial repeal of a general law; but laws repealing local or special laws may be passed."

MISSOURI

Art. III, sec. 41. The general assembly shall not indirectly enact a special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

NEW JERSEY

Art. IV, sec. 7, subsec. 7. No general law shall embrace any provision of a private, special or local character.

PENNSYLVANIA

Art. 3, sec. 7. Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

V. PROVISIONS REQUIRING THAT NOTICE OF INTENTION TO APPLY FOR LOCAL LAW BE FILED

Many states, attempting to prohibit and eliminate the "sneak bill" and to further circumscribe local legislation, have adopted "notice" provisions.

ALABAMA

"Sec. 106. No special, private, or local law shall be passed on any subject not enumerated in section 104 of this constitution, except in reference to fixing the time of holding courts, unless notice of the intention to apply therefor shall have been published, without cost to the state, in the county or counties where the matter or thing to be affected may be situated, which notice shall state the substance of the proposed law and be published at least once a week for four consecutive weeks in some newspaper published in such county or counties, or if there is no newspaper published therein, then by posting the said notice for four consecutive weeks at five different places in the county or counties prior to the introduction of the bill; and proof by affidavit that said notice has been given shall be exhibited to each house of the legislature, and said proof spread upon the journal. The courts shall pronounce void every special, private, or local law which the journals do not affirmatively show was passed in accordance with the provisions of this section."

"Sec. 107. The legislature shall not, by a special, private, or local law, repeal or modify any special, private, or local law except upon notice being given and shown as provided in the last preceding section."

FLORIDA

Article III, Section 21. *"When laws must be general; local laws permitted; notice of proposed local law; publication.*—In all cases enumerated in the preceding Section, all laws shall be general and of uniform operation throughout the State, but in all cases not enumerated or excepted in that Section, the Legislature may pass special or local laws, except as now or hereafter otherwise provided in the Constitution; Provided that no local or special bill shall be passed, nor shall any local or special law establishing or abolishing municipalities, or providing for their government, jurisdiction and powers, or altering or amending the same, be passed, unless notice of intention to apply therefor shall have been published in the manner provided by law where the matter or thing to be affected may be situated, which notice shall be published in the manner provided by law at least thirty days prior to introduction into the Legislature of any such bill. The evidence that such notice has been published shall be established in the Legislature before such bill shall be passed, and such evidence shall be filed or preserved with the bill in the office of the Secretary of State in such manner as the Legislature shall provide, and the fact that such notice was established in the Legislature shall in every case be recited upon the Journals of the Senate and of the House of Representatives; Provided, however, no publication of any such law shall be required hereunder when such law contains a provision to the effect that the same shall not become operative or effective until ratified or approved at a referendum election to be called and held in the territory affected in accordance with a provision therefor contained in such bill, or provided by general law.

GEORGIA

Art. 3, sec. 7, Paragraph XV. Notice of intention to ask local legislation necessary. No local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the newspaper in which the Sheriff's advertisements for the locality affected are published, once a week for three weeks during a period of sixty days immediately preceding its introduction into the General Assembly. No local or special bill shall become law unless there is attached to and made a part of said bill a copy of said notice certified by the publisher, or accompanied by an affidavit of the author, to the effect that said notice has been published as provided by law. . . .

LOUISIANA

Art. IV, sec. 6. No local or special law shall be passed on any subject not enumerated in Section 4 of this article, unless notice of the intention to apply therefor shall have been published, without cost to the State, in the locality where the matter or things to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill, and in the same manner provided by law for the advertisement of judicial sales. The evidence of such notice having been published shall be exhibited in the Legislature before such act shall be passed, and every such act shall contain a recital that such notice has been given.

MISSOURI

Art. III, sec. 42. No local or special law shall be passed unless a notice, setting forth the intention to apply therefor and the substance of the contemplated law, shall have been published in the locality where the matter or thing to be affected is situated at least thirty days prior to the introduction of the bill into the general assembly and in the manner provided by law. Proof of publication shall be filed with the General Assembly before the act shall be passed and the notice shall be recited in the act.

NEW JERSEY

Sec. VII, subsec. 8. No private, special or local law shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. Such notice shall be given at such time and in such manner and shall be so evidenced and the evidence thereof shall be so preserved as may be provided by law.

PENNSYLVANIA

Art. III, sec. 8. No local or special bill shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the General Assembly of such bill and in the manner to be provided by law; the evidence of such notice having been published, shall be exhibited in the General Assembly, before such act shall be passed.

TEXAS

Article III, sec. 57. No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated,

which notice shall state the substance of the contemplated law and shall be published at least 30 days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the Legislature, before such act shall be passed.

VI. HOME RULE PROVISIONS

ARIZONA

Art. 13, Sec. 2. Any city containing, now or hereafter, a population of more than three thousand, five hundred may frame a charter for its own government consistent with, and subject to, the constitution and the laws of the state, in the following manner: A board of freeholders composed of fourteen qualified electors of said city may be elected at large by the qualified voters thereof, at a general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city. Such proposed charter shall be signed in duplicate by the members of such board, or a majority of them, and filed, one copy of said proposed charter with the chief executive officer of such city and the other with the county recorder of the county in which said city shall be situated. Such proposed charter shall then be published in one or more newspapers published, and of general circulation, within said city for at least twenty-one days if in a daily paper, or in three consecutive issues if a weekly paper, and the first publication shall be made within twenty days after the completion of the proposed charter. Within thirty days, and not earlier than twenty days, after such publication, said proposed charter shall be submitted to the vote of the qualified electors of said city at a general or special election. If a majority of such qualified electors voting thereon shall ratify such proposed charter, it shall thereupon be submitted to the governor for his approval, and the governor shall approve if it shall not be in conflict with this constitution or with the laws of the state. Upon such approval said charter shall become the organic law of such city and supercede any charter then existing (and all amendments thereto), and all ordinances inconsistent with said new charter. A copy of such charter, certified by the chief executive officer, and authenticated by the seal, of such city, together with a statement similarly certified and authenticated setting forth the submission of such charter to the electors and to ratification by them, shall, after the approval of such charter by the governor, be made in duplicate and filed, one copy in the office of the secretary of state and the other in the archives of the city after being recorded in the office of said county recorder. Thereafter all courts shall take judicial notice of said charter.

The charter so ratified may be amended by amendments proposed and submitted by the legislative authority of the city to the qualified electors thereof (or by petition as hereinafter provided), at a general or special election, and ratified by a majority of the qualified electors voting thereon and approved by the governor as herein provided for the approval of the charter.

Sec. 3. An election of such board of freeholders may be called at any time by the legislative authority of any such city. Such election shall be called by the chief executive officer of any such city within ten days after and shall have been filed with him a petition demanding such election, signed by a number of qualified electors residing within such city equal to twenty-five per centum of the total number of votes cast at the next preceding general municipal election. Such election shall be held not later than thirty days after the call therefor. At such election a vote shall be taken upon the question whether further proceedings towards adopting a charter shall be had in pursuance to the call, and unless a majority of the qualified electors voting thereon shall vote to proceed further, no further proceedings shall be had, and all proceedings up to the time of said election shall be of no effect.

CALIFORNIA

Art. XI, sec. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature shall, by general laws, provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed; and the Legislature may, by general laws, provide for the performance by county officers of certain of the municipal functions of cities and towns so incorporated, whenever a majority of the electors of any such city or town voting at a general or special election shall so determine. Cities and towns heretofore organized or incorporated, may become organized under the general laws passed for that purpose, whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith. Cities and towns hereafter organized under charters framed and adopted by authority of this Constitution are hereby empowered, and cities and towns heretofore organized by authority of this Constitution may amend their charters in the manner authorized by this Constitution so as to become likewise empowered hereunder, to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters, and in respect to other matters they shall be subject to and controlled by general laws. Cities and towns heretofore or hereafter organized by authority of this Constitution may, by charter provision or amendment, provide for the performance by county officers of certain of their municipal functions, whenever the discharge of such municipal functions by county officers is authorized by general laws or by the provisions of a county charter framed and adopted by authority of this Constitution.

Art. XI, sec. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government.

Art. XI, sec. 7½. Any county may frame a charter for its own government consistent with and subject to the Constitution (or, having framed such a charter, may frame a new one,) and relating to matters authorized by provisions of the Constitution, by causing a Board of fifteen freeholders, who have been for at least five years qualified electors thereof, to be elected by the qualified electors of said county, at a general or special election.

Art. XI, sec. 8. (a) Any city or city and county containing a population of more than three thousand five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of California, may frame a charter for its own government, consistent with and subject to this Constitution; and any city or city and county having adopted a charter may adopt a new one. Any such charter may be framed by a board of fifteen freeholders chosen by the electors of such city or city and county, at any general or special election, but no person shall be eligible as a candidate for such board unless he shall have been, for the five years next preceding, an elector of said city or city and county.

It shall be competent in any charter framed under the authority of this section (sec. 8) to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws.

COLORADO

Art. XX, Sec. 6. The people of each city or town of this state, having a population of two thousand inhabitants as determined by the last preceding census taken under the authority of the United States, the state of Colorado or said city or town, are hereby vested with, and they shall always have, power to make, amend, add to or replace the charter of said city or town, which shall be its organic law and extend to all its local and municipal matters.

Such charter and the ordinances made pursuant thereto in such matters shall supercede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith.

Proposals for charter conventions shall be submitted by the city council or board of trustees, or other body in which the legislative powers of the city or town shall then be vested, at special elections, or at general, state or municipal elections, upon petition filed by qualified electors, all in reasonable conformity with section 5 of this article, and all proceedings thereon or thereafter shall be in reasonable conformity with sections 4 and 5 of this article.

From and after the certifying to and filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this article, such city or town, and the citizens thereof, shall have the powers set out in sections 1, 4, and 5 of this article, and all other powers necessary, requisite or proper for the government and administration of its local and municipal matters, including power to legislate upon, provide, regulate, conduct and control:

a. The creation and terms of municipal officers, agencies and employments; the definition, regulation and alteration of the powers, duties qualifications and terms or tenure of all municipal officers, agents and employes;

b. The creation of police courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of police magistrates therefor;

c. The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof;

d. All matters pertaining to municipal elections in such city or town, and to electoral votes therein on measures submitted under the charter or ordinances thereof, including the calling or notice and the date of such election or vote, the registration of voters, nominations, nomination and election systems, judges and clerks of election, the form of ballots, balloting, challenging, canvassing, certifying the result, securing the purity of elections, guarding against abuses of the elective franchise, and tending to make such elections or electoral votes non-partisan in character;

e. The issuance, refunding the liquidation of all kinds of municipal obligations, including bonds and other obligations of park, water and local improvement districts;

f. The consolidation and management of park or water districts in such cities or towns within the jurisdiction thereof; but no such consolidation shall be effective until approved by a vote of a majority, in each district to be consolidated, of the qualified electors voting therein upon the question;

g. The assessment of property in such city or town for municipal taxation and the levy and collection of taxes thereon for municipal purposes and special assessments for local improvements; such assessments, levy and collection of taxes and special assessment to be made by municipal officials or by the county or state officials as may be provided by the charter;

h. The imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of the charter, or of any ordinance adopted in pursuance of the charter.

It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions the full right of self-government in both local and municipal matters and the enumeration herein of certain powers shall not be construed to deny such cities and towns, and to the people thereof, any right or power essential or proper to the full extent of such right.

The statutes of the state of Colorado, so far as applicable, shall continue to apply to such cities and towns, except in so far as superceded by the charter of such cities and towns or by ordinances passed pursuant to such charters.

All provisions of the charters of the city and county of Denver and the cities of Pueblo, Colorado Springs and Grand Junction, as heretofore certified to and filed with the secretary of state, and of the charter of any other city heretofore approved by a majority of those voting thereon and certified to and filed with the secretary of state, which provisions are not in conflict with this article, and all elections and electoral votes heretofore had under and pursuant thereto, are hereby ratified, affirmed and validated as of their date.

Any act in violation of the provisions of such charter or of any ordinance thereunder shall be criminal and punishable as such when so provided by any statute now or hereafter in force.

The provisions of this section 6 shall apply to the city and county of Denver.

This article shall be in all respects self-executing.

GEORGIA

Art. XV, sec. 1. Uniform systems of county and municipal government. The General Assembly shall provide for uniform systems of county and municipal government, and provide for optional plans of both, and shall provide for systems of initiative, referendum and recall in some of the plans for both county and municipal governments. The General Assembly shall provide a method by which a county or municipality may select one of the optional uniform systems or plans or reject any or all proposed systems or plans.

IDAHO

Art. 12, sec. 2. Local police regulations authorized.—Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws.

ILLINOIS

Art. X, sec. 5. The General Assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine, and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners, may be dispensed with, and the affairs of said county may be transacted in such manner as the General Assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization, shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

Art. X, sec. 6. At the first election of County Judges under this Constitution, there shall be elected in each of the counties in this State, not under township organization, three officers, who shall be styled "The Board of County Commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

Art. X, sec. 7. The county affairs of Cook county shall be managed by a Board of Commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

Art. X, sec. 8. In each county there shall be elected the following County Officers at the general election to be held on the Tuesday after the first Monday in November A. D. 1882, a County Judge, County Clerk, Sheriff and Treasurer, and at the election to be held on the Tuesday after the first Monday in November A. D. 1884, a Coroner and Clerk of the Circuit Court (who may be *ex-officio* recorder of deeds, except in Counties having 60,000 and more inhabitants, in which Counties a Recorder of deeds shall be elected at the general election in 1884) each of said officers shall enter upon the duties of his office, respectively on the first Monday of December, after his election, and they shall hold their respective offices for the term of four years, and until their successors are elected and qualified. *Provided* that no person having once been elected to the office of Sheriff or Treasurer shall be eligible to said office for four years after the expiration of the term for which he shall have been elected.

Art. X, sec. 9. The clerks of all the courts of record, the Treasurer, Sheriff, Coroner and Recorder of Deeds of Cook county, shall receive as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a Judge of the Circuit Court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the Circuit court, to be entered of record, and their compensation shall be determined by the County Board.

Art. X, sec. 10. The County Board, except as provided in section nine of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk hire, stationery, fuel and other expenses, and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected; they shall not allow either of them more per annum than fifteen hundred dollars, in counties not exceeding twenty thousand inhabitants; two thousand dollars in counties containing twenty thousand and not exceeding thirty thousand inhabitants; twenty-five hundred dollars in counties containing thirty thousand and not exceeding fifty thousand inhabitants; three thousand dollars in counties containing fifty thousand and [and] not exceeding seventy thousand inhabitants; thirty-five hundred dollars in counties containing seventy thousand and not exceeding one hundred thousand inhabitants; and four thousand dollars in counties containing over one hundred thousand and not exceeding two hundred and fifty thousand inhabitants; and not more than one thousand dollars additional compensation for each additional one hundred thousand inhabitants: *Provided*, that the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

Art. X, sec. 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this Constitution, and such officers shall receive only such fees as are provided by general law.

Art. X, sec. 12. All laws fixing the fees of State, County and Township officers shall terminate with the terms, respectively, of those who may be in office at the meeting of the first General Assembly after the

adoption of this constitution; and the General Assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the General Assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class.

This article shall not be construed as depriving the General Assembly of the power to reduce the fees of existing officers.

Art. X, sec. 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

MARYLAND

Art. 11A, sec. 1. [Sets up machinery by which City of Baltimore and any county can call and conduct an election to adopt charter.]

Art. 11A, sec. 2. The General Assembly at its first session after the adoption of this amendment shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, shall not be enlarged or extended by any charter formed under the provisions of this Article but such powers may be extended, modified, amended or repealed by the General Assembly.

Art. 11A, sec. 3. Every charter so formed shall provide for an elective legislative body in which shall be vested the law-making power of said City or County . . .

Art. 11A, sec. 4. From and after the adoption of a charter under the provisions of this Article by the City of Baltimore or any County of this State, no public local law shall be enacted by the General Assembly for said City or County on any subject covered by express powers granted as above provided. Any law so drawn as to apply to two or more of the geographical subdivisions of this State shall not be deemed a Local Law, within the meaning of this Act. The term "geographical sub-division" herein used shall be taken to mean the City of Baltimore or any of the Counties of this State.

Art. 11A, sec. 5. [Procedure for amending charters.]

MASSACHUSETTS

Art. II. The General Court shall have full power & authority to erect and constitute municipal or city governments, in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges & immunities, not repugnant to the constitution as the General Court shall deem necessary or expedient for the regulation & government thereof & to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present & voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And Provided also, that all by-laws made by such municipal or city government shall be subject, at all times, to be annulled by the General Court.

MINNESOTA

Art. 4, sec. 36. Any city or village in this State may frame a charter for its own government as a city consistent with and subject to the laws of this State, as follows: The legislature shall provide, under such restrictions as it deems proper, for a board of fifteen freeholders, who shall be and for the past five years shall have been qualified voters . . . which board shall return . . . draft of said charter. . . . Such draft shall be submitted to voters of such city or village . . .

Before any city shall incorporate under this act the legislature shall prescribe by law the general limits within which such charter shall be framed. . . .

(Procedure for amending provided.)

The legislature may provide general laws relating to affairs of cities, the application of which may be limited to cities of over fifty thousand inhabitants, or to cities of fifty and not less than twenty thousand inhabitants, or to cities of twenty and not less han ten thousand inhabitants, or to cities of ten thousand inhabitants or less, which shall apply equally to all such cities of either class, and which shall be paramount while in force to the provisions relating to the same matter included in the local charter herein provided for. But no local charter, provision or ordinance passed thereunder shall supersede any general law of the State defining or punishing crimes or misdemeanors.

MISSOURI

Art. VI, sec. 8. Classification of Counties—Uniform Laws.—Provision shall be made by general laws for the organization and classification of counties except as provided in this Constitution. The number of classes shall not exceed four, and the organization and powers of each class shall be defined by general laws so that all counties within the same class shall possess the same powers and be subject to the same restrictions. A law applicable to any county shall apply to all counties in the class to which such county belongs.

Art. VI, sec. 9. Alternative forms of county government for the counties of any particular class and the method of adoption thereof may be provided by law.

Art. VI, sec. 10. The terms of city or county offices shall not exceed four years.

Art. VI, sec. 11. Except in counties which frame, adopt and amend a charter for their own government, the compensation of all county officers shall be prescribed by law uniform in operation in each class of counties. Every such officer shall file a sworn statement in detail, of fees collected and salaries paid to his necessary deputies or assistants, as provided by law.

Art. VI, sec. 12. All public officers in the City of St. Louis and all state and county officers in counties having 100,000 or more inhabitants, excepting public administrators and notaries public, shall be compensated for their services by salaries only.

Art. VI, sec. 13. All state and county officers, except constables and justices of the peace, charged with the investigation, arrest, prosecution, custody, care, feeding, commitment, or transportation of persons accused of or convicted of a criminal offense shall be compensated for their official services only by salaries, and any fees and charges collected by any such officers in such cases shall be paid into the general revenue fund entitled to receive the same, as provided by law. Any fees earned by any such officers in civil matters may be retained by them as provided by law.

Art. VI, sec. 14. By a vote of a majority of the qualified electors voting thereon in each county affected, any contiguous counties, not exceeding ten, may join in performing any common function or service, including the purchase, construction and maintenance of hospitals, alms houses, road machinery and any other county property, and by separate vote may join in the common employment of any county officer or employee common to each of the counties. The county courts shall administer the delegated powers and allocate the costs among the counties. Any county may withdraw from such joint participation by a vote of a majority of its qualified electors voting thereon.

Art. VI, sec. 15. The general assembly shall provide by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the powers of each class shall be defined by general laws so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The general assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

Art. VI, sec. 16. Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities or political subdivisions, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law.

Art. VI, sec. 17. Consolidation and Separation as between Municipalities and Other Political Subdivisions.—The government of any city, town or village not in a county framing, adopting and amending a charter for its own government, may be consolidated or separated, in whole or in part, with or from that of the county or other political subdivision in which such city, town or village is situated, as provided by law.

Art. VI, sec. 18(a). Any county having more than 85,000 inhabitants, according to the census of the United States, may frame and adopt and amend a charter for its own government as provided in this article, and upon such adoption shall be a body corporate and politic.

Art. VI, sec. 18(b). The charter shall provide for its amendment, for the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the

exercise of all powers and duties of counties and county officers prescribed by the Constitution and laws of the state.

Art. VI, sec. 18(c). The charter may provide for the vesting and exercise of legislative power pertaining to public health, police and traffic, building construction, and planning and zoning, in the part of the county outside incorporated cities; and it may provide, or authorize its governing body to provide, the terms upon which the county shall perform any of the services and functions of any municipality, or political subdivision in the county, except school districts, when accepted by vote of a majority of the qualified electors voting thereon in the municipality or subdivision, which acceptance may be revoked by like vote.

Art. VI, sec. 18(d). The county shall only impose such taxes as it is authorized to impose by the Constitution or by law.

Art. VI, sec. 18(e). Laws shall be enacted providing for free and open elections in such counties, and laws may be enacted providing the number and salaries of the judicial officers therein as provided by this Constitution and by law, but no law shall provide for any other office or employee of the county or fix the salary of any of its officers or employees.

Art. VI, sec. 18(f). Whenever a petition for a commission, signed by qualified electors of the county numbering twenty percent of the total vote for governor in the county at the last preceding general election, is filed with the county court or other governing body, the officer or body canvassing election returns shall forthwith finally determine the sufficiency thereof and certify the result to the governing body, which shall give immediate written notice of the petition to the circuit and probate judges of the county.

Art. VI, sec. 18(g). Within sixty days thereafter said judges shall appoint a commission to frame the charter, consisting of fourteen freeholders who shall serve without pay and be equally divided between the two political parties casting the greater number of votes for governor at the last preceding general election.

Art. VI, sec. 18(h). The charter framed by the commission shall take effect on the day fixed therein and shall supersede any existing charter or government, if approved by vote of a majority of the qualified electors of the county voting thereon at a special election held on a day fixed by the commission and not less than thirty days after the completion of the charter nor more than one year from the day of the selection of the commission. The commission may submit for separate vote any parts of the charter, or any alternative sections or articles, and the alternative sections or articles receiving the larger affirmative vote shall prevail if a charter is adopted.

Art. VI, sec. 18(i). The body canvassing election returns shall publish notice of the election at least once a week for at least three weeks in at least two newspapers of general circulation in the county, the last publication to be not more than three nor less than two weeks next preceding the election.

Art. VI, sec. 18(j). Duplicate certificates shall be made, setting forth the charter adopted and its ratification, signed by the officer or members of the body canvassing election returns; one of such certified copies shall be deposited in the office of the secretary of state and the other, after being recorded in the records of the county, shall be deposited among the archives of the county and all courts shall take judicial notice thereof. This section shall also apply to any amendment to the charter.

Art. VI, sec. 18(k). All amendments to such charter approved by the voters shall become a part of the charter at the time and under the conditions fixed in the amendment.

Art. VI, sec. 18(l). No charter shall be submitted to the electors within the two years next following the election at which a charter was defeated.

Art. VI, sec. 19. Any city having more than 10,000 inhabitants may frame and adopt a charter for its own government, consistent with and subject to the Constitution and laws of the state, in the following manner. The legislative body of the city may, by ordinance, submit to the voters the question: "Shall a commission be chosen to frame a charter?" If the ordinance takes effect more than sixty days before the next election, the question shall be submitted at such election and if not, then at the next general election thereafter, except as herein otherwise provided. The question shall also be submitted on a petition signed by ten per cent of the qualified electors of the city, filed with the body or official in charge of the city elections. If the petition prays for a special election and is signed by twenty per cent of the qualified electors, a special election shall be held not less than sixty nor more than ninety days after the filing of the petition. The number of electors required to sign any petition shall be based upon the total number of electors voting at the last preceding general city election. The election body or official shall forthwith finally determine the sufficiency of the petition. The question, and the names or the groups of names of the electors of the city who are candidates for the commission, shall be printed on the same ballot without party designation. Candidates for the commission shall be nominated by petition signed by not less than two per cent of the qualified electors voting at the next preceding city election, and filed with the election body or official at least thirty days prior to the election; provided that the signatures of one thousand electors shall be sufficient to nominate a candidate. If a majority of the electors voting on the question vote in the affirmative, the thirteen candidates receiving the highest number of votes shall constitute the commission. On the death, resignation or inability of any member to serve, the remaining members of the commission shall select the successor. All necessary expenses of the commission shall be paid by the city. The charter so framed shall be submitted to the electors of the city at an election held at the time fixed by the commission, but not less than thirty days subsequent to the completion of the charter nor more than one year from the date of the election of the commission. The commission may submit for separate vote any parts of the charter, or any alternative sections or articles, and the alternative sections or articles receiving the larger affirmative vote shall prevail if a charter is adopted. If the charter be approved by the voters it shall become the charter of such city at the time fixed therein and shall supersede any existing charter and amendments thereof. Duplicate certificates shall be made, setting forth the charter adopted and its ratification, signed by the chief magistrate of the city, and authenticated by its corporate seal. One of such certified copies shall be deposited in the office of the secretary of state and the other, after being recorded in the records of the city, shall be deposited among the archives of the city and all courts shall take judicial notice thereof. The notice of the election shall be published at least once a week on the same day of the week for at least three weeks in some daily or weekly newspaper of general circulation in the city or county, admitted to the post office as second class matter, regularly and consecutively published for at least three years, and having a list of bona fide subscribers who have voluntarily paid or agreed to pay a stated price for a subscription for a definite period of time, the last publication to be within two weeks of the election.

Art. VI, sec. 20. Amendments of any city charter adopted under the foregoing provisions may be submitted to the electors by a commission as provided for a complete charter. Amendments may also be proposed by the legislative body of the city or by petition of not less than ten per cent of the registered qualified electors of the city, filed with the body or official having charge of the city elections, setting forth the proposed amendment. The legislative body shall at once provide, by ordinance, that any amendment so proposed shall be submitted to the electors at the next election held in the city not less than sixty days after its passage, or at a special election held as provided for a charter. Any amendment approved by a majority of the qualified electors voting thereon, shall become a part of the charter at the time and under the conditions fixed in the amendment; and sections or articles may be submitted separately or in the alternative and determined as provided for a complete charter.

Art. VI, sec. 21. Laws may be enacted, and any city or county operating under a constitutional charter may enact ordinances, providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard or insanitary areas, and for recreational and other facilities incidental or appurtenant thereto, and for taking or permitting the taking, by eminent domain, of property for such purposes, and when so taken the fee simple title to the property shall vest in the owner, who may sell or otherwise dispose of the property subject to such restrictions as may be deemed in the public interest.

Art. VI, sec. 22. No law shall be enacted creating or fixing the powers, duties or compensation of any municipal office or employment, for any city framing or adopting its own charter under this or any previous Constitution, and all such offices or employments heretofore created shall cease at the end of the terms of any present incumbents.

MONTANA

Art. XVI, sec. 7. The legislative assembly may, by general or special law, provide any plan, kind, manner or form of municipal government for counties, or counties and cities and towns, or cities and towns, and whenever deemed necessary or advisable, may abolish city or town government and unite, consolidate or merge cities and towns and county under one municipal government, and any limitations in this constitution notwithstanding, may designate the name, fix and prescribe the number, designation, terms, qualifications, method of appointment, election or removal of the officers thereof, define their duties and fix penalties for the violation thereof, and fix and define boundaries of the territory so governed, and may provide for the discontinuance of such form of government when deemed advisable; Provided, however, that no

form of government permitted in this section shall be adopted or discontinued until after it is submitted to the qualified electors in the territory affected and by them approved.

NEBRASKA

Art. XI, sec. 2. Any city having a population of more than five thousand (5,000) inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a convention of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of said city at any general or special election, whose duty it shall be within four months after such election, to prepare and propose a charter for such city, which charter, when completed, with a prefatory synopsis, shall be signed by the officers and members of the convention, or a majority thereof, and delivered to the clerk of said city, who shall publish the same in full, with his official certification, in the official paper of said city, if there be one, and if there be no official paper, then in at least one newspaper published and in general circulation in said city, three times, and a week apart, and within not less than thirty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified voters, voting thereon, shall ratify the same, it shall at the end of sixty days thereafter, become the charter of said city, and supersede any existing charter and all amendments thereof. A duplicate certificate shall be made, setting forth the chapter proposed and its ratification (together with the vote for and against) and duly certified by the city clerk, and authenticated by the corporate seal of said city and one copy thereof shall be filed with the Secretary of State and the other deposited among the archives of the city, and shall thereupon become and be the charter of said city, and all amendments of such charter, shall be authenticated in the same manner, and filed with the Secretary of State and deposited in the archives of the city.

Sec. 3. But if said charter be rejected, then within six months thereafter, the mayor and council or governing authorities of said city may call a special election at which fifteen members of a new charter convention shall be elected to be called and held as above in such city, and they shall proceed as above to frame a charter which shall in like manner and to the like end be published and submitted to a vote of said voters for their approval or rejection. If again rejected, the procedure herein designated may be repeated until a charter is finally approved by a majority of those voting thereon, and certified (together with the vote for and against) to the secretary of state as aforesaid, and a copy thereof deposited in the archives of the city, whereupon it shall become the charter of said city. Members of each of said charter conventions shall be elected at large, and they shall complete their labors within sixty days after their respective election. The charter shall make proper provision for continuing, amending or repealing the ordinances of the city.

Sec. 4. Such charter so ratified and adopted may be amended, or a charter convention called, by a proposal therefor made by the law-making body of such city or by the qualified electors in number not less than five per cent of the next preceding gubernatorial vote in such city, by petition filed with the council or governing authorities. The council or governing authorities shall submit the same to a vote of the qualified electors at the next general or special election not held within thirty days after such petition is filed. In submitting any such charter or charter amendments, any alternative article or section may be presented for the choice of the voters and may be voted on separately without prejudice to others. Whenever the question of a charter convention is carried by a majority of those voting thereon, a charter convention shall be called through a special election ordinance, and the same shall be constituted and held and the proposed charter submitted to a vote of the qualified electors, approved or rejected, as provided in Section 2 hereof. The City Clerk of said city shall publish with his official certification, for three times, a week apart in the official paper of said city, if there be one, and if there be no official paper, then in it least one newspaper, published and in general circulation in said city, the full text of any charter amendment to be voted on at any general or special election.

No charter or charter amendment adopted under the provisions of this amendment shall be amended or repealed except by electoral vote. And no such charter or charter amendments shall diminish the tax rate for state purposes fixed by act of the Legislature, or interfere in any wise with the collection of state taxes.

Sec. 5. The charter of any city having a population of more than one hundred thousand inhabitants may be adopted as the home rule charter of such city by a majority vote of the qualified electors of such city voting upon the question, and when so adopted may thereafter be changed or amended as provided by Sec. 4 of this article, subject to the Constitution and laws of the state.

NEVADA

Art. VIII, Sec. 138, subsec. 8. The legislature shall provide for the organization of cities and towns by general laws and shall restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, except for procuring supplies of water; provided, however, that the legislature may, by general laws, in the manner and to the extent therein provided, permit and authorize the electors of any city or town to frame, adopt and amend a charter for its own government, or to amend any existing charter of such city or town.

NEW YORK

Art. IX, Sec. 1, (a) There shall be in each county, except in a county wholly included in a city, a board of supervisors, or other elective governing body, to be composed of such members and elected in such manner and for such period as is or may be provided by law.

(b) The legislature shall provide by law for the organization and government of counties. No law which shall be special or local in its terms or in its effect, or which shall relate specially to one county only, shall be enacted by the legislature unless (a) upon the request of the board of supervisors or other elective governing body of each county to be affected, or, in any county having an alternative form of government providing for an elective county executive officer, upon the request of the board of supervisors or other elective governing body with the concurrence of such executive officer of each county to be affected; provided that if said executive officer disapproves or fails to sign a request for such proposed law within ten days of its approval by the governing body, such body may reconsider said proposed law and if passed by such governing body by at least two-thirds of all of the members thereof, the request by the executive officer shall not be required; or (b) upon a certificate of necessity by the governor to the legislature reciting the facts of such necessity existing in the county to be affected and the concurrence of two-thirds of the members elected to each house of the legislature.

(c) The legislature may authorize boards of supervisors or other elective governing bodies of two or more counties to provide by agreement for the discharge within the territorial limits of such counties or parts thereof of one or more governmental functions.

Sec. 2 (a) The legislature shall provide by law alternative forms of government for counties except counties wholly included in a city and for the submission of one or more such forms of government to the electors residing in such counties. No such form of government shall become operative in any such county unless and until adopted at a general election held in such county by receiving a majority of the total votes cast thereon in the county, and if any such form of government provides for the transfer of any function of local government to or from the cities, the towns or the villages of the county, or any class thereof, it shall not take effect with respect to such transfer unless the transfer or the form of government containing it, shall also receive a majority of all the votes cast thereon in such cities, towns, villages, or class thereof, as the case may be.

(b) Any such form of government shall set forth the structure of the county government and the manner in which it is to function. Any such form of government may provide for the appointment of any county officers or their selection by any method of nomination and election, or the abolition of their offices, and may also provide for the exercise by the board of supervisors or other elective governing body of powers of local legislation and administration and the transfer of any or all of the functions and duties of the county and the cities, towns, villages, districts and other units of government contained in such county to each other or to the state, and for the abolition of offices, departments, agencies or units of government when all of their functions are so transferred without regard to the provisions of this article or any other provisions of this constitution inconsistent herewith.

(c) Except as provided in subdivision (b) of section 1 hereof nothing herein contained shall be deemed to impair or restrict the existing power of the legislature to enact laws relating to the government of a county or the cities, towns, villages, districts or other units of government therein contained until the adoption of a form of government by such county pursuant to subdivision (a) of this section.

(d) After the adoption of a form of government by a county pursuant to subdivision (a) of this section, no law enacted pursuant to subdivision (b) of section 1 hereof which abolishes or creates an elective office or changes the voting or veto power of or the method of removing an elective officer, changes the term of office or reduces the salary of an elective officer during his term of office, abolishes, transfers or curtails any power of an elective officer, or changes the form or composition of the elective body of such county, shall become effective until at least sixty days after its final enactment. If within such sixty days electors of the county in number equal to at least five per centum

of the total number of votes cast in the county for governor at the last gubernatorial election shall file a petition with the county clerk or corresponding officer of the county protesting against such law, it shall become effective only if approved by the electors of such county at the next ensuing general election held at least sixty days thereafter, in the manner provided in subdivision (a) of this section for the adoption of a form of government.

(e) If under a form of government adopted by a county pursuant to subdivision (a) of this section the board of supervisors be abolished, the powers and duties of the board of supervisors, as prescribed by the constitution or by statute, if not provided for by such form of government shall devolve upon the elective governing body in such county.

(f) In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the council or other legislative body of the city.

Sec. 3. Existing laws applicable to the government of counties and the cities, towns, villages, districts and other units of government therein contained shall continue in force until repealed, amended, modified or superseded by law or by a form of government and, except as provided in subdivision (b) of section 2 hereof, nothing contained in this section shall be construed to impair the provisions of sections 9, 11, 12, 13, 14 and 15 of this article.

Sec. 4. The legislature shall, by general laws, confer upon the boards of supervisors, or other governing elective bodies, of the several counties of the state such further powers of local legislation and administration as the legislature may, from time to time, deem expedient. In counties which now have, or may hereafter have, county auditors or other fiscal officers, authorized to audit bills, accounts, charges, claims or demands against the county, the legislature may confer such powers upon such auditors, or fiscal officers, as the legislature may from time to time, deem expedient.

Sec. 9. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, in such manner as shall secure to such cities and villages the powers granted to cities and villages by this constitution, and subject to the provisions of this constitution to restrict the power of taxation, assessment, borrowing money, contracting debts, and loaning the credit of such municipal corporations, so as to prevent abuses in taxation and assessments and in contracting debt by such municipal corporations; and the legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the state or by any county, city, town, village or other civil division of the state, or by any contractor or subcontractor performing work, labor or services for the state, or for any county, city, town, village or other civil division thereof.

Sec. 11. The legislature shall act in relation to the property, affairs or government of any city only by general laws which shall in terms and in effect apply alike to all cities, except upon the request of the mayor of the city affected concurred in by the local legislative body or upon the request of two-thirds of the elected members of the local legislative body declaring that a necessity exists and reciting the facts establishing such necessity and the concurrent action of two-thirds of the members of each house of the legislature. The legislature may by general laws confer on cities such powers of local legislation and administration in addition to the powers vested in cities by this article as it may, from time to time, deem expedient and may withdraw such powers. The provisions of this article shall not be deemed to restrict the power of the legislature to enact laws relating to matters other than the propetry, affairs or government of cities.

Sec. 12. Every city shall have power to adopt and amend local laws not inconsistent with the constitution and laws of the state relating to its property, affairs or government. Every city shall also have the power to adopt and amend local laws not inconsistent with this constitution and laws of the state, and whether or not such local laws relate to its property, affairs or government, in respect to the following subjects: the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of all its officers and employees except of members of the governing elective body of the county in which such city is wholly contained, the membership and constitution of its local legislative body, the transaction of its business, the incurring of its obligations, the presentation, ascertainment and discharge of claims against it, the acquisition, care, management and use of its streets and property, the ownership and operation of its transit facilities, the collection and administration of local taxes authorized by the legislature, the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or subcontractor performing work, labor or services for it, the government and regulation of the conduct of its inhabitants and the protection of their property, safety and health.

Every city may repeal, supersede or modify any law which was enacted upon and which required, pursuant to the constitution, a message from the governor declaring that an emergency existed and the concurrent action of two-thirds of the members of each house of the legislature, insofar as such law relates to the property, affairs or government of such city, except that no city may, unless hereafter authorized by the legislature, (a) reduce any salary or compensation, working conditions or hours of employment or change any if such salary, compensation, working conditions or hours of employment shall have been heretofore approved upon referendum pursuant to law, except upon approval of such reduction or change by a majority of the electors of such city voting thereon, or (b) repeal or supersede any law enacted by the legislature relating to any pension or retirement system or to the making and review of assessments or to the judicial review of dismissals from the civil service.

The provisions of this article shall not be deemed to restrict or diminish the existing powers of any city.

Art. 16. The legislature, on or before July first, nineteen hundred forty shall confer by general law upon all villages having a population of five thousand or more as determined by the federal census power to adopt and amend local laws not inconsistent with the constitution and laws of the state relating to the property, affairs or government of such villages but subject to such limitations as the legislature may, by general law, from time to time impose. Thereafter, the legislature shall act in relation to the property, affairs or government of such villages only by general law which shall in terms and in effect apply alike to all such villages except upon the request of the chief executive officer of the village affected, concurred in by the local legislative body or upon a message from the governor, in either case declaring that a necessity exists and reciting the facts establishing such necessity, and the concurrent action of two-thirds of the members of each house of the legislature. The legislature shall not authorize a village to pass local laws repealing or modifying any act of the legislature relating to the civil service status of employees of the village. The legislature by general law may confer on such villages such additional powers of local legislation and administration as it may, from time to time, deem expedient and may withdraw such powers. The provisions of this section shall not be deemed to restrict the power of the legislature to enact laws relating to matters other than the property, affairs or government of such villages.

OHIO

Art. XVIII, sec. 1. Municipal corporations are hereby classified into cities and villages. All such corporations having a population of five thousand or over shall be cities; all others shall be villages. The method of transition from one class to the other shall be regulated by law.

Sec. 2. General laws shall be passed to provide for the incorporation and government of cities and villages; and additional laws may also be

passed for the government of municipalities adopting the same; but no such additional law shall become operative in any municipality until it shall have been submitted to the electors thereof, and affirmed by a majority of those voting thereon, under regulations to be established by law.

Sec. 3. Municipalities shall have authority to exercise all powers of self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.

Sec. 4. Any municipality may acquire, construct, own, lease and operate within or without its corporate limits, any public utility the product or service of which is or is to be supplied to the municipality or its inhabitants, and may contract with others for any such product or service. The acquisition of any such public utility may be by condemnation or otherwise, and a municipality may acquire thereby the use of, or full title to, the property and franchise of any company or person supplying to the municipality or its inhabitants the service or produce of any such utility.

Sec. 5. Any municipality proceeding to acquire, construct, own, lease or operate a public utility, or to contract with any person or company therefor, shall act by ordinance and no such ordinance shall take effect until after thirty days from its passage. If within said thirty days a petition signed by ten per centum of the electors of the municipality shall be filed with the executive authority thereof demanding a referendum on such ordinance it shall not take effect until submitted to the electors and approved by a majority of those voting thereon. The submission of any such question shall be governed by all the provisions of section 8 of this article as to the submission of the question of choosing a charter commission.

Sec. 6. Any municipality, owning or operating a public utility for the purpose of supplying the service or product thereof to the municipality or its inhabitants, may also sell and deliver to others any transportation service of such utility and the surplus produce of any other utility in an amount not exceeding in either case fifty per centum of the total service or product supplied by such utility within the municipality.

Sec. 7. Any municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of section 3 of this article, exercise thereunder all powers of local self-government.

Sec. 8. The legislative authority of any city or village may by a two-thirds vote of its members, and upon petition of ten per centum of the electors shall forthwith provide by ordinance for the submission to the electors, of the question, "Shall a commission be chosen to frame a charter." The ordinance providing for the submission of such question shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the question at a special election to be called and held within the time aforesaid. The ballot containing such question shall bear no party designation, and provision shall be made thereon for the election from the municipality at large of fifteen electors who shall constitute a commission to frame a charter; provided that a majority of the electors voting on such question shall have voted in the affirmative. Any charter so framed shall be submitted to the electors of the municipality at an election to be held at a time fixed by the charter commission and within one year from the date of its election, provision for which shall be made by the legislative authority of the municipality insofar as not prescribed by general law. Not less than thirty days prior to such election the clerk of the municipality shall mail a copy of the proposed charter to each elector whose name appears upon the poll or registration books of the last regular or general election held therein. If such proposed charter is approved by a majority of the electors voting thereon it shall become the charter of such municipality at the time fixed therein.

Sec. 9. Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority. The submission of proposed amendments to the electors shall be governed by the requirements of section 8 as to the submission of the question of choosing a charter commission; and copies of proposed amendments shall be mailed to the electors as hereinbefore provided for copies of a proposed charter. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the charter of the municipality. A copy of said charter or any amendment thereto shall be certified to the secretary of state, within thirty days after adoption by a referendum vote.

Sec. 10. A municipality appropriating or otherwise acquiring property for public use may in furtherance of such public use appropriate or acquire an excess over that actually to be occupied by the improvement, and may sell such excess with such restrictions as shall be appropriate to preserve the improvement made. Bonds may be issued to supply the funds in whole or in part to pay for the excess property so appropriated or otherwise acquired, but said bonds shall be a lien only against the property so acquired for the improvement and excess, and they shall not be a liability of the municipality nor be included in any limitation of the bonded indebtedness of such municipality prescribed by law.

Sec. 11. Any municipality appropriating private property for a public improvement may provide money therefor in part by assessments upon benefited property not in excess of the special benefit conferred upon such property by the improvements. Such assessments, however, upon all the abutting, adjacent, and other property in the district benefited, shall in no case be levied for more than fifty per centum of the cost of such appropriation.

Sec. 12. Any municipality which acquires, constructs or extends any public utility and desires to raise money for such purposes may issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law; provided that such mortgage bonds issued beyond the general limit of bonded indebtedness prescribed by law shall not impose any liability upon such municipality but shall be secured only upon the property and revenues of such public utility, including a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure.

Sec. 13. Laws may be passed to limit the power of municipalities to levy taxes and incur debts for local purposes, and may require reports from municipalities as to their financial condition and transactions, in such form as may be provided by law, and may provide for the examination of the vouchers, books and accounts of all municipal authorities, of public undertakings conducted by such authorities.

Sec. 14. All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election.

OKLAHOMA

Art. V, sec. 5. The powers of the initiative and referendum reserved to the people by this Constitution for the State at large, are hereby further reserved to the legal voters of every county and district therein, as to all local legislation, or action, in the administration of county and district government in and for their respective counties and districts. The manner of exercising said powers shall be prescribed by general laws, except that Boards of County Commissioners may provide for the

time of exercising the initiative and referendum powers as to local legislation in their respective counties and districts . . . .

Art. 18, sec. 1. Municipal corporations shall not be created by special laws, but the Legislature, by general laws shall provide for the incorporation and organization of cities and towns and the classification of same in proportion to population, subject to the provisions of this article.

Sec. 2. Every municipal corporation now existing within this State shall continue with all of its present rights and powers until otherwise provided by law, and shall always have the additional rights and powers conferred by this Constitution.

Sec. 3. Any city containing a population of more than two thousand inhabitants may frame a charter for its own government . . . . [machinery for electing freeholders to draft charter and submit the charter to voters for adoption]. Upon such approval [by the Governor] it shall become the organic law of such city and supersede any existing charter and all amendments thereof and all ordinances inconsistent with it . . . .

Sec. 4 (a). The powers of the initiative and referendum, reserved by this constitution to the people of the State and the respective counties and districts therein, are hereby reserved to the people of every municipal corporation now existing or which shall hereafter be created within this State. with reference to all legislative authority which it may exercise and amendments to charters of its own government in accordance with the provisions of this Constitution.

[Subsequent sections provide the machinery for exercising the initiative and referendum.]

OREGON

Art. IV, sec. 1-a. The referendum may be demanded by the people against one or more items, section, or parts of any act of the legislative assembly in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of that act from becoming operative. The initiative and referendum powers reserved to the people by this constitution are hereby further reserved to the legal voters of every municipality and district, as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than 10 per cent of the legal voters may be required to order the referendum nor more than 15 per cent to propose any measure, by the initiative, in any city or town.

Art. XI, Sec. 2. Corporations may be formed under general laws, but shall not be created by the legislative assembly by special laws. The legislative assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the constitution and criminal laws of the state of Oregon, and the exclusive power to license, regulate, control, or to suppress or prohibit, the sale of intoxicating liquors therein is vested in such municipality; but such municipality shall within its limits be subject to the provisions of the local option law of the state of Oregon.

Sec. 2-a. The legislative assembly, or the people by their initiative, may enact a general law providing a method whereby an incorporated city or town or municipal corporation may surrender its charter and be merged into an adjoining city or town, providing a majority of the electors of each of the incorporated cities or towns or municipal corporations affected authorize the surrender or merger, as the case may be.

PENNSYLVANIA

Art. IV, Sec. 1. Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general or municipal election in favor of the same. Cities, or cities of any particular class, may be given the right and power to frame and adopt their own charters and to exercise the powers and authority of local self-government, subject, however, to such restrictions, limitations, and regulations, as may be imposed by the Legislature. Laws also may be enacted affecting the organization and government of cities and boroughs, which shall become effective in any city or borough only when submitted to the electors thereof, and approved by a majority of those voting thereon.

TEXAS

Art. II, sec. 5. Cities having more than five thousand (5,000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charter subject to such limitations as may be prescribed by the legislature, and providing that no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State; said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half percent of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two percent thereon; and provided further, that no city charter shall be altered, amended or repealed oftener than every 2 years.

UTAH

Art. XI, Sec. 5. Corporations for municipal purposes shall not be created by special laws. The legislature by general laws shall provide for the incorporation, organization and classification of cities and towns in proportion to population, which laws may be altered, amended or repealed.

Any incorporated city or town may frame and adopt a charter for its own government in the following manner:

The legislative authority of the city may, by two thirds vote of its members, and upon petition of qualified electors to the number of fifteen per cent of all votes cast at the next preceding election for the office of the mayor, shall forthwith provide by ordinance for the submission to the electors of the question: "Shall a commission be chosen to frame a charter?" The ordinance shall require that the question be submitted to the electors at the next regular municipal election. The ballot containing such question shall also contain the names of candidates for members of the proposed commission, but without party designation. Such candidates shall be nominated in the same manner as required by law for nomination of city officers. If a majority of the electors voting on the question of choosing a commission shall vote in the affirmative, then the fifteen candidates receiving a majority of votes cast at such election, shall constitute the charter commission, and shall proceed to frame a charter.

Any charter so framed shall be submitted to the qualified electors of the city at an election to be held at a time to be determined by the charter commission, which shall not be less than sixty days subsequent to its completion and distribution among the electors and not more than one year from such date. Alternative provisions may also be submitted to be voted upon separately. The commission shall make provisions for the distribution of copies of the proposed charter and of any alternative provisions to the qualified electors of the city, not less than sixty days before the election at which it is voted upon. Such proposed charter and such alternative provisions as are approved by a majority of the electors voting thereon, shall become an organic law of such city at such time as may be fixed therein, and shall supercede any existing charter or laws affecting the organization and government of such city which are not in conflict therewith. Within thirty days after its approval a copy of such charter as adopted, certified by the mayor and city recorder and authenticated by the seal of such city, shall be made in duplicate and deposited, one in the office of the secretary of State and

the other in the office of the city recorder, and thereafter all courts shall take judicial notice of such charter.

Amendments to such charter may be framed and submitted by a charter commission in the same manner as provided for making of charter, or may be proposed by the legislative authority of the city upon a two-thirds vote thereof, or by petition of qualified electors to a number equal to fifteen per cent of the total votes cast for mayor on the next preceding election, and any such amendment may be submitted at the next regular municipal election, and having been approved by the majority of the electors voting thereon, shall become part of the charter at the time fixed in such amendment and shall be certified and filed as provided in case of charter.

Each city forming its charter under this section shall have, and is hereby granted, the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law, and no enumeration of powers in this constitution or any law shall be deemed to limit or restrict the general grant of authority hereby conferred; but this grant of authority shall not include the power to regulate public utilities, not municipally owned, if any such regulation of public utilities is provided for by general law, nor be deemed to limit or restrict the power of the legislature in matters relating to State affairs, to enact general laws applicable alike to all cities of the State.

The power to be conferred upon the cities by this section shall include the following:

(a) To levy, assess and collect taxes and borrow money, within the limits as prescribed by general law, and to levy and collect special assessments for benefits conferred.

(b) To furnish all local public services, to purchase, hire, construct, own, maintain or operate, or lease, public utilities local in extent and use; to acquire by condemnation, or otherwise, within or without the corporate limits, property necessary for any purposes, subject to restrictions embodied by general law for the protection of other commodities; and to grant local public utility franchises and within its powers to regulate the exercise thereof.

(c) To make local public improvements and to acquire by condemnation, or otherwise, property within its corporate limits necessary for such improvements; and also to acquire an excess over that needed for any such improvement and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the city, or of the revenues thereof, or both, including, in the case of public utility, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

VIRGINIA

Sec. 65. Powers of local and special legislation may be conferred by general assembly, by general law on supervisors and councils—The general assembly may, by general laws, confer upon the boards of supervisors of counties, and the councils of cities and towns, such powers of local and special legislation as it may, from time to time, deem expedient, not inconsistent with the limitations contained in this constitution.

Sec. 117. (a) General laws for the organization and government of cities and towns shall be enacted by the general assembly, and no special act shall be passed in relation there to, except in the manner provided in article four of this Constitution, and then only by a recorded vote of two thirds of the members elected to each house. But each of the cities and towns of the State having at the time of the adoption of this Constitution a municipal charter may retain the same, except so far as it shall be repealed or amended by the general assembly; provided that every such charter is hereby amended to conform to all the provisions, restrictions, limitations and powers set forth in this article, or otherwise provided in this Constitution.

(b) The general assembly may, by general law or by special act (passed in the manner provided in article four of this Constitution) provide for the organization and government of cities and towns without regard to, not affected by any of the provisions of this article, except those of sections one hundred and twenty-four, one hundred and twenty-five (except so far as the provisions of section one hundred and twenty-five recognized the office of mayor and the power of veto), one hundred and twenty-six and one hundred and twenty-seven of this article, and except those mentioned in subsection (d) of this section. The term "council," as used in any of said sections, shall include the body exercising legislative authority for the city or town, and all ordinances enacted and resolutions adopted by such body shall have the same force and effect for all purposes, as if enacted or adopted in accordance with the provisions of section one hundred and twenty-three of this article. But such organization and government shall apply only to such cities or towns as may thereafter adopt the same by a majority vote of those qualified voters of any such city or town voting in any election to be held for the purpose, as may be provided by law.

(c) The general assembly, at the request of any city or town, made in manner provided by law, may grant to it any special form of organization and government authorized by subsection (b) of this section, and subject to all the provisions of that subsection, except that it shall not be necessary for such city or town thereafter to adopt the same.

(d) Any laws or charters enacted pursuant to the provisions of this section shall be subject to the provisions of this Constitution relating expressly to judges and clerks of courts, attorneys for the Commonwealth, commissioners of revenue, city treasurers and city servants.

(e) Any form of organization and government authorized by any provisions of this section which may have been adopted heretofore by any city or town pursuant to any act of the general assembly enacted before such provisions became effective, and which is now in operation, is hereby declared legal and valid *ab initio*, and shall have the same force and effect as if it had been authorized by this Constitution at the time of its adoption.

WASHINGTON

Art. XI, sec. 4. County Government and Township Organization. The legislature shall establish a system of county government, which shall be uniform throughout the state except as hereinafter provided, and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein, shall be managed and transacted in the manner prescribed by such general law.

Any county may frame a "Home Rule" charter for its own government subject to the constitution and laws of this state, and for such purpose the legislative authority of such county may cause an election to be had, at which election there shall be chosen by the qualified voters of said county not less than fifteen (15) nor more than twenty-five (25) free-holders thereof, as determined by the legislative authority, who shall have been residents of said county for a period of at least five (5) years preceding their election and who are themselves qualified electors, whose duty it shall be to convene within thirty (30) days after their election and prepare and propose a charter for such county. Such proposed charter shall be submitted to the qualified electors of said county, and if a majority of such qualified electors voting thereon shall ratify the same, it shall become the charter of said county and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, or any existing form of county government, and all special laws inconsistent with such charter. Said proposed charter shall be published in two (2) legal newspapers published in said county, at least once a week for four (4) consecutive weeks prior to the day of submitting the same to the electors for their approval as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election and shall be given for at least ten (10) days before the day of election in all election districts of said county. Said elections may be general or special elections and except as herein provided, shall be governed by the law regulating and controlling general or special elections in said county. Such charter may be amended by proposals therefor submitted by the legislative authority of said county to the electors thereof at any general election after notice of such submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter or amendment thereto, any alternate article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to others.

Any home rule charter proposed as herein provided, may provide for such county officers as may be deemed necessary to carry out and perform all county functions as provided by charter or by general law, and for their compensation, but shall not affect the election of the prosecuting attorney, the county superintendent of schools, the judges of the superior court, and the justices of the peace, or the jurisdiction of the courts.

Should the charter proposed receive the affirmative vote of the majority of the electors voting thereon, the legislative authority of the county shall immediately call such special election as may be provided for therein, if any, and the county government shall be established in accordance with the terms of said charter not more than six (6) months after the election at which the charter was adopted.

The terms of all elective officers except the prosecuting attorney, the county superintednent of schools, the judges of the suuerior court, and the justices of the peace, who are in office at the time of the adoption of a Home Rule Charter shall terminate as provided in the charter. All appointive officers in office at the time the charter goes into effect, whose positions are not abolished thereby, shall continue until their successors shall have qualified.

After the adoption of such charter, such county shall continue to have all the rights, powers, privileges and benefits then possessed or thereafter conferred by general law. All the powers, authority and duties granted to and imposed on county officers by general law, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court and the justices of the peace, shall be vested in the legislative authority of the county unless expressly vested in specific officers by the charter. The legislative authority may by resolution delegate any of its executive or administrative powers, authority or duties not expressly vested in specific officers by the charter, to any county officer or offices or county employee or employees.

Notwithstanding the foregoing provision for the calling of an election by the legislative authority of such county for the election of freeholders to frame a county charter, registered voters equal in number to ten (10) per centum of the voters of any such county voting at the last preceding general election, may at any time propose by petition the calling of an election of freeholders. The petition shall be filed with the county auditor of the county at least three (3) months before any general election and the proposal that a board of freeholders be elected for the purpose of framing a county charter shall be submitted to the vote of the people at the said general election, and at the same election a board of freeholders of not less than fifteen (15) or more than twenty-five (25), as fixed in the petition calling for the election, shall be chosen to draft the new charter. The procedure for the nomination of qualified electors as candidates for said board of freeholders shall be prescribed by the legislative authority of the county, and the procedure for the framing of the charter and the submission of the charter as framed shall be the same as in the case of a board of freeholders chosen at an election initiated by the legislative authority of the county.

In calling for any election of freeholders as provided in this section, the legislative authority of the council shall apportion the number of freeholders to be elected in accordance with either the legislative districts or the county commissioner districts, if any, within said county, the number of said freeholders to be elected from each of said districts to be in proportion to the population of said districts as nearly as may be.

The provisions of sections 5, 6, 7, and the first sentence of section 8 of this Article as amended shall not apply to counties in which the government has been established by charter adopted under the provision hereof. The authority conferred on the board of county commissioners by Section 15 of Article II as amended, shall be exercised by the legislative authority of the county.

WISCONSIN

Art. XI, sec. 3. Cities and villages organized pursuant to state law are hereby empowered, to determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of state-wide concern as shall with uniformity affect every city or every village. The method of such determination shall be prescribed by the legislature. No county, city, town, village, school district, or other municipal corporation shall be allowed to become indebted in any manner or for any purpose to any amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. Any county, city, town, village, school district, or other municipal corporation incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same; except that when such indebtedness is incurred in the acquisition of lands by cities, or by counties having a population of one hundred fifty thousand or over, for public, municipal purposes, or for the permanent improvement thereof, the city or county incurring the same shall, before or at the time of so doing, provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal thereof within a period not exceeding fifty years from the time of contracting the same. Providing, that an indebtedness created for the purpose of purchasing, acquiring, leasing, constructing, extending, adding to, improving, conducting, controlling, operating or managing a public utility of a town, village or city, and secured solely by the property or income of such public utility, and whereby no municipal liability is created, shall not be considered an indebtedness of such town, village or city, and shall not be included in arriving at such five per centum debt limitation.