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Public Corporations

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PUBLIC CORPORATIONS

I. City Fluoridation Ordinance

Hall v. Bates[1] was a case of novel impression in South Carolina. The supreme court upheld the city of Columbia's right to fluoridate its water supply as a reasonable exercise of police power. In the lower court the plaintiff, a resident of the city, offered evidence to support his contention that fluoridation, far from being beneficial to anyone, would be harmful to him and to many others. The court found the overwhelming weight of the evidence to show that fluoridation "is of tremendous benefit in the prevention of caries and that such is not harmful to anyone."[2]

In considering the plaintiff's constitutional objections that he had been deprived of liberty without due process of law, the court stated that every decision in the United States was contrary to this contention.[3] A lone dissent stated that "to be valid as a legislative exercise of police power the legislation must be clearly demanded."[4] The majority cited authority holding that a municipality's police power is much broader when applied to protect the health of its inhabitants.[5]

II. Constitutional Debt Limitations

In *Boatwright v. McElmurray*[6] the supreme court held that the school district of Aiken County had been consolidated with two other attendance areas to form the Monetta-Ridge Spring Attendance Area. In so holding it determined the debt limitation issue.

Under the South Carolina Constitution a school district is prohibited from incurring a bonded debt that exceeds eight percent of the assessed value of the taxable property within the district.[7] In 1951 a constitutional amendment allowed the school district of Aiken County a twenty-five percent limitation. In

1. 247 S.C. 511, 148 S.E.2d 345 (1966).

2. *Id.* at 515, 148 S.E.2d at 347.

3. The court quoted from Schuringa v. City of Chicago, 30 Ill. 2d 504, 198 N.E.2d 326 (1964), and then listed a host of other decisions.

4. The dissenting justice quoted from McCoy v. Town of York, 193 S.C. 390, 8 S.E.2d 905 (1940), and Gasque, Inc. v. Nates, 191 S.C. 271, 2 S.E.2d 36 (1939).

5. Ward v. Town of Darlington, 183 S.C. 263, 190 S.E. 826 (1937).

6. 247 S.C. 199, 146 S.E.2d 716 (1966).

7. S.C. Const. art. 10, § 5.

1953 the legislature formed the Monetta area from the school district of Aiken County and two districts having an eight per cent debt limitation.

Since *Walker v. Bennet*[8] it has been considered that upon consolidation of several school districts the constitutional debt limitations of the former districts are destroyed because the districts can no longer be considered separate entities. In holding the Aiken County district to be a part of the Monetta consolidation, the court, following *Walker*, imposed the eight percent limitation on the entire area.

In reaching its decision the court held an act nugatory which attempted to construe the 1953 Monetta statute. The nugatory act had assumed that the Aiken County district was not consolidated. The court stated that a school district once consolidated could be returned to its prior status only by legislative enactment, not by legislative construction.

In *Mungo v. Shedd*[9] the school district in question was in both Lexington and Richland counties. By constitutional amendment Lexington was allowed a twenty percent and Richland a fifteen percent debt limitation. The court allowed the district a fifteen percent limitation and found the general eight percent limitation not applicable. The court felt that to apply the eight percent limitation would frustrate the intention of those who proposed and adopted the constitutional amendments.

III. Bond Election

In *Moffett v. Trawler*[10] the supreme court has extended the established rule that the General Assembly may pass a law to become effective on the happening of certain contingencies. The court upheld the lower court decision that a portion of an existing act should take effect upon the passage of a constitutional amendment.

The South Carolina Constitution provides that before authorizing a bond election for a municipality the General Assembly must prescribe that a majority of its freeholders petition for the election.[11] The defendants held the bond election but ignored

8. 125 S.C. 389, 118 S.E. 779 (1923).
9. 247 S.C. 195, 146 S.E.2d 617 (1966).
10. 247 S.C. 298, 147 S.E.2d 255 (1966).
11. S.C. Const. art. 2, § 13.

the petition requirement. They relied on a 1965 constitutional amendment stating that the General Assembly need not prescribe such a petition as a condition precedent to holding the election. The plaintiffs argued that the amendment was not self-executing and required subsequent legislation. Instead of relying on the strong presumption in South Carolina that constitutional provisions are self-executing,[12] the court used the 1962 Municipal Bonds Act to execute the 1965 amendment.

IV. SUB-DISTRICTS

South Carolina State Highway Dep't v. Parker Water & Sewer Sub-Dist.[13] was a case of first impression in South Carolina. The court invoked the common law rule that a political sub-division must pay the cost of relocating its facilities when highway improvement necessitates such relocation.[14] The sub-district—a body politic and corporate—in 1935 had constructed water and sewer lines within the existing right-of-way of a county road. In 1963 the road became a part of the state highway system. Subsequent improvements by the state necessitated relocation of the right-of-way and, hence, of the lines. The court said that though this was not a state highway at the time the lines were installed, it was a public road existing for the benefit of the public. The utility was charged with the knowledge that some day it might be required to relocate the facilities.

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12. Brice v. McDow, 116 S.C. 324, 108 S.E. 84 (1921).
13. 247 S.C. 137, 146 S.E.2d 160 (1966).
14. See generally 25 AM. JUR. *Highways* § 182 (1940).