

• Drought and
Property Rights, Page 4

Football at UNCC? Page 12

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• Proposed Charter
Fines, Page 8

Historic Preservation, Page 16

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Counties Use Public Funds to Push Tax Hikes

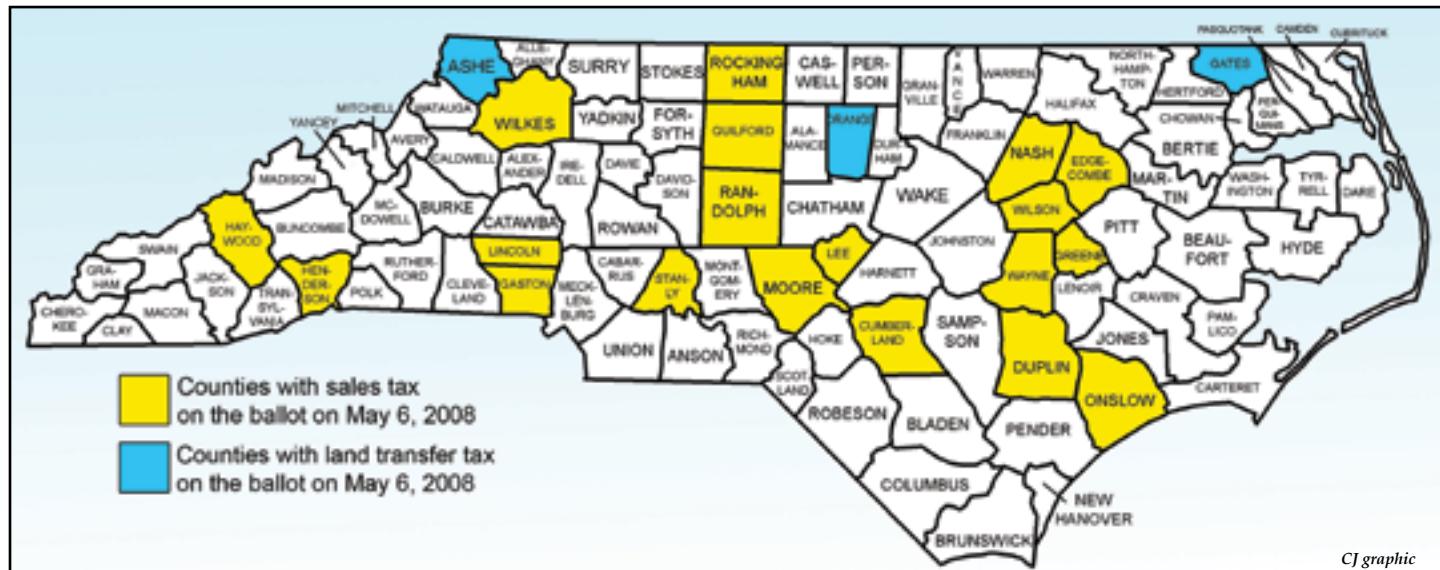
County commissioner
actions raise questions
of illegal advocacy

By DAVID N. BASS

Associate Editor

RALEIGH Educating without advocating is a fine line that county commissioners are required to walk as a number of local tax options go before North Carolina voters this May. But some observers say local government officials are violating state law by using public dollars to wage media campaigns to persuade voters to support the tax increases.

"They are spending tax dollars so that they can get more tax dollars," said Tim Kent, executive vice president of the N.C. Association of Realtors, an organization opposed to a land transfer tax that four counties will vote on this year.



Conducting such actions by county commissioners is raising the question of how far is too far when it comes to elected officials dipping into the public purse to educate voters about a ballot referendum. County governments are free to spend public money to educate residents about potential tax increases, but they are prohibited from

using such funds to actively lobby for passage of the new taxes.

Individual elected officials are obligated to strike a similar balance. County commissioners may support a ballot referendum but they may not use public funds or resources to do so.

The current quandary stems from

a budgetary provision approved by the General Assembly last summer that gradually transfers the Medicaid funding burden from the state's 100 counties to the state government. In exchange,

Continued as "Counties," Page 2

League of Municipalities Called N.C.'s 'Shadow Government'

By CJ STAFF

RALEIGH Advocates for annexation reform in North Carolina are raising concerns about the role the N.C. League of Municipalities is playing in the state's annexation debate.

League Executive Director Ellis Hankins defended the state's annexation law during a presentation Feb. 13 to the N.C. House Select Committee on Municipal Annexation. "His comments were among the most arrogant of any I have ever heard and clearly show his

"The [1959 annexation] Commission got many things right, but 50 years have passed and the demographics of North Carolina are far different today."

Douglas Aitken
Fair Annexation Coalition

total lack of respect for elected officials and the rights of ordinary citizens of the state," Pfafftown resident Jack Fisher wrote in a letter to the committee co-

chairs.

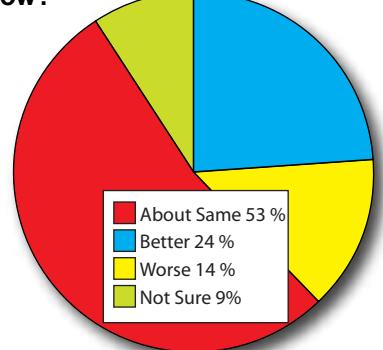
"[Hankins] clearly put the North Carolina Legislative body on notice of what he (and his organization) would

accept and what it would not accept," said Fisher, who attended the committee meeting. "This is another clear indication that North Carolina does, indeed, have a 'Shadow Government' in the form of a private lobby group who [has], it would seem, far greater power than officials elected by the citizens of the state."

The League of Municipalities is a "nonpartisan association of more than 540 cities, towns, and villages in North

Continued as "League," Page 3

What do you think your family's financial outlook will be a year from now?



Civitas Institute Poll, Feb. 2008

Contents

North Carolina	3
Interview	7
Education	8
Higher Education	12
Local Government	16
Books & the Arts	20
Opinion	24
Parting Shot	28

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North Carolina Counties Push Tax Votes With Public Money

Continued from Page 1

counties are required to surrender revenues from a number of sources to the state.

The budget also allows counties to impose one of two new taxes — a quarter-cent local sales tax or a 0.4 percent local land transfer tax.

Before levying either tax, however, counties are required to give voters the final say through a ballot question. Counties can place both the sales and land transfer tax on the same ballot, but if voters approve both, county commissioners can implement only one of the two.

One-fourth of North Carolina's counties already considered one or both of the local tax options in 2007, with overwhelming results against the increases, especially the land transfer tax. A total of 27 counties voted on the new taxes — 11 counties on the land transfer tax, 11 counties on the sales tax, and five counties on both.

All 11 counties with only the land transfer tax on the ballot voted against it by a 75 percent majority. The results were mixed for the sales tax — five out of 11 counties approved the increase. Voters appeared particularly incensed when both taxes appeared on the ballot. Five counties that voted on both the land transfer and sales tax rejected them by solid majorities.

The general failure of the referenda in 2007 did little to curb interest among counties in putting the tax increases before voters again this year.

Twenty-two counties have placed either the sales tax or land transfer tax on the ballot for the primary May 6. Three counties have opted to put one of the taxes on the general election ballot Nov. 4.

Six of the counties — Columbus, Cumberland, Gates, Greene, Henderson, and Moore — tried to pass one of the tax increases in 2007, but voters shot them down. Even if voters reject the taxes, counties are free to continue placing them on the ballot in subsequent elections.

Education or advocacy?

Although local governments can't spend taxpayer dollars on advocacy, some homeowner and property rights organizations say that's exactly what is happening. In addition to questionable activity by elected officials in individual counties, critics say the N.C. Association of County Commissioners stepped over the line by conducting at least two seminars that taught county commissioners how to sell the new taxes to voters.

The most recent event, conducted Jan. 24 and entitled "Strategies for a Successful Referendum," featured representatives from four counties where voters approved the local-option sales tax in November. During the session, county officials shared tips on how to success-

"Counties have employed various advertising techniques: direct mail, television and newspaper advertising, radio, recorded telephone calls, yard signs, billboards, and public information events."

Kathy Hartkopf
Legislative Liaison
FreedomWorks

fully campaign for the tax increases.

Among other tactics, county commissioners and other elected officials helped create citizen-action groups to advocate for the taxes and conducted surveys to determine what message would best reach voters. One county "developed a one-page brochure about the need for the additional sales tax revenue and distributed it to citizens in the months leading up to the election," according to an article published on the NCACC website.

Another article, "Get Ready for Round 2," describes a seminar Sept. 19 that gave elected officials from 45 counties advice on how to persuade voters the initiatives on the ballot in November were a good idea. "[B]ecause most citizens aren't too keen on new taxes, counties face a big challenge in educating them on why the options are so essential to their counties' futures," the article says.

The article quotes Kim Gazella, a former communications coordinator for Friends of Wake County and advocate of a \$970 million school bond passed by voters in 2006. She suggested some ways counties could get "educational materials" to citizens.

One way is to "piggy back" on documents already being sent out by including material in citizen newsletters; property tax and utility bills; and paychecks and stubs for employees, Gazella said.

She also described the fine line between educating citizens and telling them how to vote, saying counties have a "stewardship responsibility" to educate people about anything connected with the initiatives short of saying "vote yes."

"That's really the line you don't want to be crossing when you're doing a public education campaign," Gazella said.

But some observers are concerned that county commissioners have already crossed that line. Kathy Hartkopf,

legislative liaison for the government watchdog group North Carolina FreedomWorks, said supporters of the taxes are waging "serious and costly advertising campaigns."

"Counties have employed various advertising techniques: direct mail, television and newspaper advertising, radio, recorded telephone calls, yard signs, billboards, and public information events," she said.

During the months leading up to the November election, a number of county officials were very vocal in advocating for the land transfer tax, Kent said.

Pender County was one of those, he said. According to minutes from a meeting of the Pender County Board of Commissioners on Oct. 15, at least one commissioner presented a \$100 check to the leader of a local political action group formed to back passage of the land transfer tax.

The minutes also say that other commissioners contributed \$100 out-of-pocket to help fund the group, although it's unclear whether they did so during or before the meeting.

Pender County's land transfer tax referendum failed by a 75 percent majority.

Selling the tax

Counties can't stipulate on the ballot where revenue from new taxes would go, but local governments and citizen-action groups formed to support the tax increases often claim new monies would fund projects such as public parks and school construction.

In Pitt County, for example, an advocacy group, Citizens for Education Construction, said proceeds from the sales tax "will be dedicated to addressing construction needs at both Pitt Community College and [in] the Pitt County Public School System."

Despite such assurances, county commissioners are not required to use new revenue for school-related funding, but they can devote the funds to any legal purpose.

At least one county has used the threat of raising local property taxes as a bargaining chip for persuading residents to vote for the land transfer tax. Richard Blackburn, chairman of the Ashe County Board of Commissioners, said board members would be forced to raise property taxes on all county residents unless voters approve a land transfer tax on the ballot in May, according to *The Mountain Times*.

Other counties have financed public opinion polls to gauge the willingness of voters to accept the new taxes. Prior to the election last year, Chatham County spent \$6,000 on a poll, which found 47 percent of respondents opposed to the land transfer tax, according to the *Ch-*

Continued as "Counties," Page 5

League of Municipalities Called N.C.'s 'Shadow Government'

Continued from Page 1

Carolina," according to the group's Web site. Its mission is to "enhance the quality of life in municipalities through excellent municipal governance." Services include research, publications, conferences and training, contract services, and cost-saving programs.

Taxpayers fund the league, since it operates with funds assessed to member municipalities.

It's an arrangement that bothers annexation reform supporters such as Fisher. "The NCLM is funded by taxpayer dollars without the permission or knowledge of the citizens themselves," Fisher wrote to legislators Feb. 25. "Taxpayer money, in my opinion, is used to 'buy loyalty' from elected officials for the good and benefit of the NCLM and their projects, goals, and objectives."

The League of Municipalities' role in the annexation debate has drawn the attention of the Fair Annexation Coalition, a group pushing for significant changes to the annexation law adopted in 1959 for North Carolina. The coalition has posted on its home page (www.fairannexation.com) both an 18-page response to Hankins' legislative presentation Feb. 13 and a 15-page document billed as a rebuttal of the league's pro-annexation arguments.

Coalition members point to concerns about the league's size. Only Connecticut, New Hampshire, Maine, and Minnesota have larger League of Municipalities staffs, according to the Fair Annexation Coalition. The coalition pegs the N.C. league's staff level at 94, compared to a national average of 35 staffers per state. The N.C. league has more staff members than neighbors Tennessee (42), South Carolina (35), and Virginia (four) combined, according to the coalition. No state with a larger population than North Carolina has a

larger staff for its League of Municipalities, according to the coalition.

Coalition member Douglas Aitken of Pinehurst is also a member of the House annexation committee. Aitken compiled the coalition's response to Hankins' pro-annexation arguments. The document takes on more than a dozen statements Hankins made to the annexation committee in February.

"The 1959 [annexation] commission got it right and got it well-balanced," Hankins told lawmakers in his presentation.

"The Commission got many things right, but 50 years have passed and the demographics of North Carolina are far different today," Aitken said. "However, somewhere between the submission of the Municipal Government Study Supplemental Report in 1958 and the passage of the current law, something changed. The Commission members obviously struggled for a recommendation which would provide a growth-management tool for the municipalities while still protecting the rights of the annexed citizens."

People rewriting annexation laws nearly 50 years ago "envisioned the heavy involvement" of counties in the annexation process, Aitken said. "Where is this county involvement in the annexation process today?" he asked. "Perhaps more counties should do as Rowan County has done recently to protect its rights, as it has retained legal counsel to fight a potential Salisbury

annexation."

Hankins made another argument in favor of the existing law. "When areas around a municipality are developed to urban densities and need urban services, it is fair and reasonable for them to become part of that municipality."

Aitken disagreed. "Mr. Hankins makes an assumption here, in that those who have been annexed in the past, or who are currently the target of an annexation, 'need urban services,'" he said. "Annexations in North Carolina are occurring where the targeted areas have every urban service needed or mentioned in the law (water, sewer, roads, police, fire, and waste management). In fact, the Village of Pinehurst attorney argued before the Moore County Superior Court that the Village does not have to actually provide any service; all it has to do is to 'offer' it. The fact that the service is not needed or wanted, or that there will actually be a reduction in quality of service, seems not to matter."

"In addition, Mr. Hankins does not define the term 'around,'" Aitken said. "In Goldsboro, the latest area proposed for annexation is five miles from the city center. It was three miles from the city boundary until a voluntary annexation of about 364 acres of farmland. Those in the targeted area would maintain that they are not 'around' that municipality."

North Carolina's law favors a smaller number of larger government units over a "proliferation of wall-to-wall small towns and special-purpose tax jurisdictions," Hankins told lawmakers. "This allows better coordinated decision making, economies of scale, and more cost-effective delivery of services, resulting in lower property taxes overall and also lower water and sewer rates. They do it the other way in places like Florida and New Jersey, and our way is better."

"There has been much research done which shows that numerous, smaller jurisdictions actually improve services to their citizens due to increased competition," Aitken said.

The Corporation for Enterprise Development publishes a report card for every state, Aitken said. "Since Mr. Hankins mentioned Florida and New Jersey, it might prove useful to compare those states to North Carolina," he said. "There are three major graded areas: performance, which measures how well the economy is performing for its citizens; business vitality, which measures the robustness of businesses in the state; and development capacity, which measures how current resources are used with an

eye for the future."

New Jersey earned a B grade in each category, according to Aitken's quotation of the CFED report. Florida earned C grades. North Carolina earned a B in "business vitality," a C in "development capacity," and a D in "performance" for an overall grade of C.

"In regards to the 'lower' property tax Mr. Hankins mentions, in 1970, North Carolina was ranked 37th in percent of personal income paid for state and local taxes," Aitken said. "In 2005, North Carolina was ranked 19th. Since property taxes are part of this equation, I guess our lower property taxes kept us out of the top ten."

"So, if the CFED is correct, perhaps the 'North Carolina way' espoused by Mr. Hankins is not really better," Aitken said.

Hankins also addressed the concern expressed by some annexation reformers that North Carolina should allow people targeted for annexation to have a vote on the issue. "Why not let people vote, as some of you have advocated?" he asked lawmakers. "We don't vote on everything in North Carolina."

That statement bothered Aitken. "The League of Municipalities apparently favors votes for citizens when it is in line with what they desire," Aiken said. "In pushing for the General Assembly to pass the Transfer Tax bill last session, Mr. Hankins wrote an opinion piece in the July 14, 2007, *Raleigh News and Observer* entitled, 'Let's Have a Vote on the Transfer Tax.'"

Hankins and Aitken also expressed competing interpretations of a June 2007 public hearing. "After the June public hearing, every one of our cities and towns that were alleged to have violated some requirements of the annexation statutes, sent letters, written responses, to show clearly that the city had complied with every requirement in the statutes," Hankins told lawmakers Feb. 13.

"I just don't see how this statement could be correct," Aitken said. "Those of us at that June 2007 public hearing heard all kinds of horror stories from the citizens of this state regarding their annexation experience. If Mr. Hankins is correct, he makes the case for annexation reform better than any private citizen ever could, for if these cities have complied as he says, and these injustices continue, then the law is in serious need of serious reform."

Some lawmakers have signaled that they are ready to reform existing law. Rep. Bruce Goforth, D-Buncombe, told colleagues he is interested in giving people targeted for annexation a voice in the process.

"The concern is you get annexed and two years later you get to vote on the city council or the mayor," Goforth said. Goforth's committee will present recommendations to the full N.C. House, which returns to work in May.



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N.C. Drought Relief Efforts Affecting Private Property Rights

Gov. Easley's plan requires registration and monthly reporting

By KAREN McMAHAN

Contributing Editor

Gov. Mike Easley's recently released legislative plan for drought relief—which includes new water conservation, efficiency mandates, and expanded enforcement authority—has stirred concerns that the initiative might violate private property rights.

Under Easley's proposal, large private water users in business, industry, and agriculture would have to register with the state and report monthly their water usage. The plan, released March 11, also calls for the state to identify "all other large water users" and would grant the secretary of the Department of Environment and Natural Resources the authority to "require additional reporting as necessary during periods of drought."

Opponents contend the governor is using the drought to expand governmental powers and exercise greater control over the lives of N.C. citizens.

Chad Adams, director of the Center for Local Innovation, said the registration and monitoring of private water sources has the "look and feel of Cuba and can turn neighbor against neighbor."

"State officials are making decisions without having a good understanding of water issues," Adams said.

Purpose of monitoring

At the end of February, aides from the governor's office met with lawmakers, including members of the state Senate's Agriculture, Environment, and Natural Resources Committee, to discuss drought relief. According to Rep. Bill Faison, D-Orange, one of the governor's aides, Franklin Freeman, said the proposal "could include the monitoring of private well-water users by metering and fining."

Sen. Joe Sam Queen, D-Haywood, a member of the committee, said he understood from the discussion that "only private wells of large water users in business, agriculture, and industry, might be monitored, not family wells." In fact, Queen said, "I do not know a single legislator of either party who is interested in monitoring the family well."

Queen said he agrees that there needs to be an "inventory of water users" so the state can develop a "balanced and fair plan into the future."

Both lawmakers were asked whether such a law could violate private



Water levels in Durham's Lake Michie during the height of the drought last fall (left) compared to mid-March, after spring rains. Despite rising water levels in area reservoirs, many political leaders are continuing to sound the drought alarm. (CJ photos by Jon Ham)

property rights. "I would weigh those issues carefully," Queen said, "and I agree that we need to look at everybody's interests, not just special interests."

Faison said monitoring private wells is a "bad idea. I would not only not support it but would oppose it should it become part of the governor's proposal. I see no point to it. Water comes out of your well and goes back to the same site, not like surface water that comes from the watershed and is used, distributed, and discharged elsewhere."

Jerad Bales, director of the N.C. Water Center in Raleigh, the local office of the U.S. Geological Survey, said there are two issues at work if the state is considering regulating private water users. First,

the state needs to know what the groundwater level is. Second, the state needs to know the rate at which private well users are withdrawing the water to determine whether it can be sufficiently recharged.

Bales cited data from last year showing the state's Coastal Plain had more water being pumped out than was being recharged. "Most municipal systems don't draw their water from groundwater like private well owners do," Bales said.

The USGS already has a network of wells scattered around the state to monitor groundwater levels in addition to surface monitoring systems. Many of these monitoring sites provide real-time data on groundwater levels. The wells range in depth from 30 to 460 feet below the land surface and penetrate different soil types, including bedrock.

When asked why the state would need to monitor private well owners, Bales acknowledged that the best way to determine true water levels was by means of unpumped wells, not pumped wells, but he said that "North Carolina

has a thin groundwater network, unlike other states."

After being pointed to specific site-monitoring data, Bales confirmed that groundwater levels have risen in some areas of the state even during the drought.

Critics wonder whether the real purpose of monitoring might be to generate additional revenues and expand "smart growth" initiatives. To

that, Queen said, "I can't predict the future."

Faison, on the other hand, speculated the cost to implement such a measure might outweigh any expected revenues. "Who would pay for the cost of the meter? Would it be the state or the individual hom-

eowner? If 40 percent of North Carolinians have private wells, that means an expenditure of \$20 to \$60 million, depending on the cost of the meter," he said. "I can't imagine any legislator would want private citizens to bear that cost. Then there's the cost of collecting the self-reports of consumption. Who would audit?"

"The governor can propose," Faison said, "but the legislators are the ones who make the bills. There's no bill to talk about yet."

Confounding data

The N.C. Drought Management Advisory Council provides drought assessment, hydrological, and other climate data to state officials. Despite decades of climate research, scientists disagree over findings.

Opponents are concerned that state officials are relying on confounding and even conflicting data to formulate policies and laws that further infringe on private property rights.

The U.S. Geological Survey, the

U.S. National Weather Service, and the National Oceanic and Atmospheric Administration, who are members of the advisory council, advance global warming theories and the need for regulation. Yet, materials from the USGS and NOAA websites contradict many of these theories, calling into question public policies based on such data.

An article on the USGS Web site attributes changes in water availability and variability to normal processes in the global water cycle that occur "in the blink of an eye and over millions of years." The water cycle, a complex combination of precipitation, runoff, infiltration, replenishment, and discharge, continues over time and space, continually shifting the amount of available freshwater.

As for harmful human activities that might contribute to the frequency of drought, flood, and storms, Thomas Huntington, a USGS researcher, examined 100 years of data on the global water cycle. In a press release March 16, 2006, Huntington discussed his finding that, even though the global water cycle has intensified over the past century, "the potential effects of the intensification" were not observed, meaning there had been no "increase in the frequency or intensity of tropical storms over the past century."

Similarly, a USGS study of the Great Lakes in 2007 reconstructed water-level history and compared that to recorded data starting in the 1840s. The study reported large periodic fluctuations in water availability and lake levels, from extremely low to very high, had occurred throughout the millennia.

The report also found that both flooding and drought are necessary to maintain balance in the ecosystem. Aerial photographs highlighted the effects of government-imposed regulation on lake levels, including vegetation loss and shifting of plant communities from one area to another. The magnitude of both natural and human-induced effects was studied, and the researchers reported "natural factors are dominant — particularly over the long term." CJ

North Carolina

Bakst: N.C. Needs a 'Coast Law' for Wind Turbines

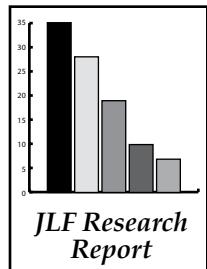
By CJ STAFF

North Carolina needs a "Coast Law" to protect residents from wind turbines that ruin local landscapes, harm wildlife, and pose potential health risks, all while providing an unreliable source of electricity. That's the key conclusion of a new John Locke Foundation Spotlight report.

"The legislature should make a new Coast Law a top priority," said report author Daren Bakst, JLF legal and regulatory policy analyst. "That type of law would prohibit construction

of industrial wind turbines in coastal areas. Local communities should not be burdened with fighting proposed wind power plants that will harm their communities."

Existing state law prevents industrial wind turbine construction in the state's mountains, Bakst said. "Since the mountains and the coast are the only sections of North Carolina under threat from possible wind turbine construction, existing state law and a new Coast Law could work together to help protect North Carolinians from an alternative electricity source that does much more



"The National Academy of Sciences has reported that wind power would not significantly reduce emissions of nitrogen oxide or sulfur dioxide."

Daren Bakst
JLF legal and regulatory policy analyst

harm than good."

Bakst's report answers basic questions about wind power, starting with the definition of "wind turbine." "People who've never seen these turbines might not realize that we're talking about massive industrial machines that can be as tall as 500 feet, or about the height of 50-story skyscrapers," he said. "They should not be confused with cute little Dutch windmills—there is nothing cute about wind turbines."

A proposed wind power plant has generated headlines in Carteret County in recent weeks, and North Carolina could see more proposals for wind power because of legislation the General Assembly approved last year, Bakst said. "Senate Bill 3 sets minimum renewable energy requirements for utility companies," he explained. "One of those potential renewable sources is

wind power. Unfortunately, lawmakers who endorsed wind power ignored some major drawbacks."

Wind power is unreliable, Bakst said. "Like the wind itself, wind power is intermittent," he said. "The wind must be strong enough, but not too strong, to generate power. Often wind provides power when it's not needed. No one could rely on wind to provide 'baseload electricity generation,' which is the regular and consistent electricity needed to meet constant demand. It's also an electricity source that cannot be called upon to meet excess demand. That means any community using wind power must also rely on more reliable conventional sources, such as coal, nuclear, and gas."

People who think wind power helps the environment should think again, Bakst said. "The National Acad-

emy of Sciences has reported that wind power would not significantly reduce emissions of nitrogen oxide or sulfur dioxide," he said. "Its impact on carbon dioxide emissions would be minuscule. Plus wind power would have a negligible impact on the goal of energy independence."

While the benefits of wind power are hard to find, the high costs are much easier to see, Bakst said. "Consider the sheer size of wind power plants," he said. "They take up to 88 times more land than coal plants. A plant generating 1,000 megawatts of electricity would require acreage the size of Raleigh, Fayetteville, and Wilmington combined. Placed in the mountains, it would require 300 miles of ridgeline."

Wind turbines kill birds and bats, and they cause potential health hazards for people as well, Bakst said. "The noise effects of wind power plants are potentially so severe to people that both the French National Academy of Medicine and the United Kingdom Noise Association recommended against building wind turbines within a mile of residences, at least until further research has been conducted."

Some advocates tout wind power as a means of creating a "diverse mix" of electricity resources, Bakst said.

"They never ask the question: What's the benefit?" he said. CJ

Counties Advocating Tax Vote Passage With Public Money

Continued from Page 2

tham Journal. The referendum ended up failing, with 69 percent opposed and 31 percent in favor.

In a similar move, the Orange County Board of Commissioners voted Feb. 5 to pay the firm Hertzdog Research, LLC, \$10,000 to conduct a telephone survey on voters' attitudes toward both tax increases.

Publicly funded poll

The publicly funded poll found that 46 percent of respondents would vote "yes" on the sales tax compared with 28 percent against. The numbers were reversed for the land transfer tax, with only 31 percent supportive and 50 percent opposed.

In addition to surveying opinions about the taxes, the poll queried voters on their demographic data — such as age, race, and gender—and asked them to name their primary source of news and information.

Following the release of the survey, a Hillsborough resident filed a petition with the Orange County Board of Elections asking the board to investigate "apparent violations of election laws by Orange County" in connection with the poll.

"An examination of the poll and its questions reveals that it is calculated to be used as a tool for advocacy by the Orange County Board of Commissioners for the passage of the land transfer tax."

Text from citizen's complaint filed with the Orange County Board of Elections

"An examination of the poll and its questions reveals that it is calculated to be used as a tool for advocacy by the Orange County Board of Commissioners for the passage of the land transfer tax," the complaint said.

Despite the survey's finding that most voters oppose the land transfer tax, Orange County commissioners still chose that option during a Feb. 19 meeting. The referendum will appear on the ballot May 6.

Orange County has faced further criticism for hiring a consultant to handle a media campaign to purportedly educate voters about the tax. Commissioners unanimously voted March 19 to pay Ballen Media up to \$100,000 in taxpayer funds to handle an advertising drive

leading up to election day.

"I am contacted daily by voters in Orange who are very upset that \$110,000 (\$10,000 for the poll, \$100,000 for advertising) of their tax dollars are being used to convince them to further tax themselves," Hartkopf said.

Impact on homeowners

Kent is concerned about the impact a land transfer tax would have on homeowners. "This is clearly an issue of private property rights and housing affordability," he said.

"We think it's unfair to make people pay a tax for the 'right' to sell their property," he said. "That's the first part. The second part is that adding a tax at the time of sale strips people of

their equity, drives up cost of housing in North Carolina, and narrows the list of people who can qualify for the dream of American home ownership."

In a slumping real estate market, the land transfer tax would further erode homeowner's equity when they do manage to find a buyer. Hartkopf said residents who sold a \$200,000 home would pay \$800 for the land transfer tax alone.

Amy Newton is one homeowner in Orange County who would be penalized if voters approve the tax this May. Her husband received a job in Texas and moved there last October. In November, they put their house up for sale.

"Because the market is down, it's not showing much, and if we have to wait until May, we'll have to pay this land transfer tax in addition," Newton said.

The tax would hit the Newtons hard since Amy is becoming a stay-at-home mom. They had planned to use the equity from the house to help meet additional expenses.

"We'll end up losing about \$1,200," she said. "Any amount is not good, but it especially hurts, since I'll be quitting my job to stay home with my 22-month old." CJ

NC Delegation Watch**N.C. scores low in power**

A recent power rankings survey published on Congress.org puts North Carolina's congressional delegation at the back of the pack in position and influence.

The ratings, conducted by Knowlegis, has North Carolina 44th. In the Southeast, only South Carolina and Florida scored worse. Nevada and West Virginia were two of the most powerful states.

Among the 13 House lawmakers from North Carolina, Rep. Mel Watt, D-12th, placed first, followed by Reps. David Price, D-4th; Brad Miller, D-13th; and G. K. Butterfield, D-1st. Reps. Virginia Foxx, R-5th; Robin Hayes, R-8th; and Howard Coble, R-6th; placed last.

In the Senate, Sen. Elizabeth Dole, R-N.C., ranked 93rd out of 100, down from her No. 46 ranking just two years ago. Sen. Richard Burr, R-N.C., was 69th. Burr, though in the bottom third of senators, was included on the list of Knowlegis' "Biggest Gainers" for 2008, moving from a 10.03 score in 2007 (86th) to an 18.94 rating this year.

The survey judged lawmakers' ability to exert influence through legislation, position, and earmarks, among other factors. Democratic legislators generally scored the highest.

Foxx swears off earmarks

A conservative group that targets wasteful government spending is applauding U.S. Rep. Virginia Foxx of North Carolina for being partly responsible for ending federal funding for a teapot museum in the small mountain town of Sparta, N.C.

In a press release Feb. 28, the Club for Growth praised Foxx, R-5th, for accepting a self-imposed moratorium on earmarks. Foxx pledged abstinence from earmarks shortly after President Bush's final State of the Union address Jan. 28.

"The president has proposed cutting the number of earmarks in half," Foxx said. "I think we can and must do better than that. That's why at the end of last year I decided to request no new earmarks."

"Earmarks represent spending that is often air-dropped into legislation in the dead of night," she said. "Until the system is fixed, I call on all of my colleagues to put a moratorium on earmark spending."

According to a Club for Growth list last updated mid-March, 34 members of the House pledged to avoid earmarks, including Reps. Patrick McHenry, R-N.C., and Walter Jones, R-N.C. Sen. Richard Burr, R-N.C., has joined seven other senators in taking the no-earmark pledge. *CJ*

Some fear erosion of property rights**N.C. Congressmen Diverge on Wetlands Bill**

By DAVID N. BASS

Associate Editor

RALEIGH

Conservation activists are pushing legislation in Congress to expand the power and reach of the Clean Water Act in the name of protecting wetlands, but some members of North Carolina's congressional delegation say the bill would further erode the rights of landowners to make decisions about their property.

Rep. Jim Oberstar, D-Minn., introduced the bill, the Clean Water Restoration Act, in May. The legislation would replace the term "navigable waters of the United States" with "waters of the United States" in the Clean Water Act of 1972.

The change would give the federal government regulatory power over a wider range of waters, including mudflats, sandflats, sloughs, prairie potholes, wet meadows, and playa lakes. The bill would also allow the government to restrict human activities affecting these protected waters.

Supporters say the bill is necessary to restore the original meaning of the Clean Water Act, which they argue was damaged by two U.S. Supreme Court rulings that limited the ability of the Environmental Protection Agency and U.S. Army Corps of Engineers to restrict some types of land use.

"This bill is designed to restore the authority of the Clean Water Act so it has the same effect it had prior to the Supreme Court's rulings," Oberstar said in a written statement. "This legislation will not create onerous new rules or regulations."

Sweeping regulations

But some N.C. members of Congress say the legislation goes beyond the intent of the Clean Water Act and imposes sweeping regulations on landowners.

"I am concerned that this bill would infringe upon the rights of property owners across the nation, especially farmers," said Rep. Robin Hayes, R-8th, a member of the House subcommittee on water resources and environment, where the measure is assigned.

"In addition, it opens the door for competing interpretations of the Clean Water Act, which will end up in court, and over time will lead to narrower and narrower parameters for farming operations," Hayes said. "The net effect of that could be further compromising farmers' ability to farm and their private property rights."

Expanding the scope of the Clean Water Act could have a significant effect on North Carolina and other regions of the country with large amounts of wetlands, according to Don Parmeter, executive director of the American

Property Coalition.

"This is a bill that I can't imagine anyone representing a rural area would support," Parmeter said. "It gives the federal government the hammer. Private property owners would be told what they can and cannot do."

Parmeter is also concerned about the stiff criminal penalties the Clean Water Act levies for noncompliance. Negligent violators face as much as one year in prison and \$25,000 in fines per day of violation, while knowing violators face a maximum three-year prison term and \$50,000 per-day fine. The strictest penalties are for violators who put others at risk of death or serious injury — up to \$250,000 in fines and 15 years in prison.

Even though the bill would expand the scope of the Clean Water Act, the penalties for violation would not change, causing some people to question whether such a structure is equitable, Parmeter said.

"Something is out of kilter when federal prosecutors recommend years of prison time and millions of dollars in fines for citizens who exercise common sense use of their own land," he said.

Lawmakers differ

Lawmakers from North Carolina, however, differ on whether the bill is needed and what kind of impact it would have on the state. Four congressmen — Reps. G. K. Butterfield, D-1st; Brad Miller, D-13th; David Price, D-4th; and Mel Watt, D-12th — have signed on as cosponsors of the measure.

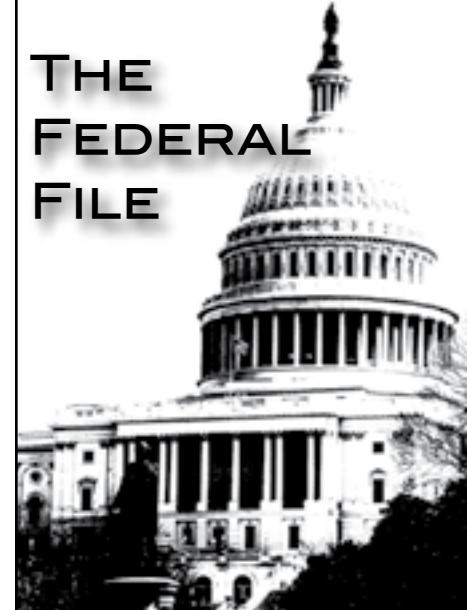
"The original intent of the [Clean Water Act] was to protect the water that Americans use daily for agriculture, drinking, and recreation," Butterfield said. "The current language fails to sufficiently keep industrial and commercial users from polluting waterways, putting an invaluable resource in danger."

Similarly, Miller thinks government agencies are having a hard time determining which waters are protected under the Act. "This bill clarifies jurisdiction and protects smaller streams at the top of watersheds to protect our water supplies," he said.

Price takes issue with the Supreme Court rulings in 2001 and 2006 that sided with property owners in a dispute over the enforcement of the Clean Water Act.

He said the decisions have led to "considerable confusion about the circumstances under which the Clean Water Act applies to isolated wetlands."

"In my view, we must protect wetlands, including non-navigable wetlands, because they are critical components of the ecosystem," Price said. "They help filter pollution, minimize flooding, and provide critical habitat for wildlife."



"I am concerned that this bill would infringe upon the rights of property owners across the nation, especially farmers."

Rep. Robin Hayes, R-NC

Other lawmakers see the issue differently. Rep. Virginia Foxx, R-5th, said the bill would not reaffirm the original intent of the Clean Water Act and would instead expand the act's meaning to the point of breaching private property rights.

"By inserting the term 'waters of the United States' for 'navigable waters,' it injects a measure of ambiguity into the law," Foxx said. "Ultimately, I think it will cause more uncertainty, rather than clarifying the issue."

Hayes is also concerned the measure would take away the ability of local governments to make land-use decisions and federalize the process with new layers of bureaucracy.

Butterfield and Price, however, say the bill would protect wetlands without encroaching on landowners' rights. "This bill maintains individual property rights [and] only limits actions that adversely impact a neighbor's water," said Butterfield. Price said it's possible to protect both the environment and property rights.

"I believe we can do this in a balanced way that addresses the legitimate rights of property owners," Price said. "However, we must always recognize that actions by private citizens can have ecological repercussions that affect the broader population."

The House Subcommittee on Water Resources and Environment conducted two hearings on the bill in July, and another is scheduled for this month. *CJ*

Gutzman: To Understand the Constitution, Read the Constitution

By CJ STAFF

RALEIGH

Kevin Gutzman, associate professor of American history at Western Connecticut State University, recently addressed a John Locke Foundation Headliner luncheon in Raleigh.

He also discussed his book, *The Politically Incorrect Guide to the Constitution*, with Mitch Kokai for Carolina Journal Radio. (Go to <http://www.carolinajournal.com/cjradio/> to find a station near you or to learn about the weekly CJ Radio podcast.)

Kokai: You in this book point out a lot of things that people probably don't know about the Constitution. What do you think is the top misconception about the Constitution? What it does? What it doesn't do?

Gutzman: Well, I think the first thing that people need to understand about the federal Constitution is that it's not the basic law of the United States.

The state constitutions came first. The states created the federal government, and ultimately the functioning of the federal government — of the federal Constitution — is entirely dependent on the existence of the states.

Kokai: Some say that, well, it was actually the people in the states, not the states themselves, that put together this Constitution. You don't buy that argument.

Gutzman: Well, actually the idea that there was one American people that created the Constitution was a partisan position of what was called the Federalist Party in the 1790s, the first decade of the operation of the federal government under this Constitution, and in the 1810s, in particular, this was written into Supreme Court opinion as what we call "constitutional law" by partisan Federalist judges.

The interesting thing about that is that by the time the Supreme Court wrote this partisan position into what's called "constitutional law," or the body of judicial decisions implementing the Constitution, their party had proven so unpopular that it basically had ceased to exist.

So when the people were adopting the Constitution they had been given the explanation of it that I just gave, that states came first, that they were primary, that very few powers were being given to the federal government and the rest were being reserved to the states.

And then through the 1790s they heard this argument [that] one American people comes first. They totally rejected that position, but due to the quirk of the way that federal judges are chosen and the fact that they have life tenure, this



"The states created the federal government, and ultimately the functioning of the federal government — of the federal Constitution — is entirely dependent on the existence of the states."

Kevin Gutzman
Professor of American History
Western Connecticut State

totally defeated position could be written into constitutional law by Federalist judges anyway, so what we've really been living under is a position concerning the way the federal government was going to be structured that was rejected repeatedly by the people in the first place. They never accepted that idea, and yet federal judges have been foisting it off on us ever since the 1810s.

Kokai: That's probably one of the more interesting pieces of this book. Many of us know *The Federalist Papers* as a very valuable document in American history, and your position in this book is that *The Federalist Papers*: a. didn't have much of an impact on the debate; and, b. were not necessarily the ideas of all of the people who voted to put this Constitution in place.

Gutzman: That's exactly right. The first of those points I think is the more important one. *The Federalist Papers* had basically no impact, extremely little impact, on the dispute about whether the Constitution should be ratified — that is, on the argument over whether people wanted to live under it, wanted formally to adopt it.

And you can see this by noting that by the time the last of *The Federalist Papers* were published, the 10 states had already ratified the Constitution, so it could not possibly have affected — the end of that series could not possibly have affected the outcome in those 10 states.

Besides that, however, even the earlier numbers in the series were basically not distributed outside New York, where they were originally published, and even when it came to a dispute within New York, New York ultimately was going to ratify the Constitution by a vote of 30 to 27, ... not because the delegates to the New York ratification convention decided they wanted to live under this Constitution, but because by then, since 10 states had already ratified, New York's choice was between being a foreign country or living under

this Constitution they didn't like, and they very narrowly — again, 30 to 27 — decided they would rather live under this Constitution they didn't like than become a foreign country.

The Federalists had essentially no influence on the outcome, even in New York.

Kokai: Let's turn to another piece of this book that's interesting. You've already mentioned a couple times now what's known as "constitutional law," and you take great pains in this book to say what is known as "constitutional law" doesn't really have a lot to do with the Constitution.

Gutzman: No. In fact, I've told people on numerous occasions that if their choice was between taking a constitutional law class at a college or law school on one hand, and just reading the Constitution and not studying constitutional law on the other hand, they would be more apt to understand the Constitution simply by reading it.

The reason for that is that quote-unquote "constitutional law" is simply the body of judicial opinions supposedly implementing the Constitution, and in many ways, in many ways — including the most basic ways — this is entirely contrary to the explanation of the Constitution that people were given when they were agreeing to live under it, when they were ratifying it in the late 18th century.

Constitutional law has essentially jettisoned the three basic principles of the Constitution, the first of which, the most important of which, was federalism, this idea that the states come first, [that] most ideas will be decided locally through elections for state legislatures.

The second of these three underlying principles of the federal system was supposed to be republicanism, that is, an idea that basically all significant decisions would be made by elected legislators. And the third of these ideas was limited government.

Well, of course nowadays we expect that when you have a really significant social problem, or even if you can't decide who should get Florida's electors in the 2000 presidential election, ultimately these decisions will be made by unelected and unaccountable federal judges.

This is entirely unlike the system that people were promised if they agreed to live under this Constitution, but as I said, if you just read constitutional law, that is, if you just read these judicial decisions, you would have no idea that this regime, this system we live under, was so entirely antithetical to the one people were sold in the first place, and if you think about the reasons why there was an American Revolution, even people who have only a passing knowledge of the American Revolution know that the first principle of the revolutionaries was no taxation without representation.

Well, what that represented was their insistence that they wanted their lawmaking to be done by elected legislators in the colonies and not by a king and the House of Lords, some distant and unaccountable authority in Britain, and yet what we've ended up with over time is a situation very much like the one that people in North Carolina had when they decided to make the revolution, that is, significant decisions ultimately are going to be imposed on them by unelected and unaccountable federal judges in many areas of life.

And generally the judges do this not on the basis of their real understanding, which is, well, we're just smarter than average people voting for state legislators, but through some concocted theory that the outcome they desire is related to the federal Constitution. It almost never is.

Kokai: The book obviously educates people about what the Constitution is and what it was really designed to do. What do you hope happens now that people are learning more if they read the book and think, "We ought to do something about this"? What do you hope happens?

Gutzman: Well, I'm a mere historian. I'm not a political scientist or politician, but I do think that the only way to reclaim the kind of system we were supposed to live under where we make most of our governmental decisions locally by voting — the only way to reclaim that kind of a system is to make people aware that this was supposed to be the system we were going to live under.

So my small contribution to American civil life is, I hope, to show some people that that's true, that these significant questions — gay marriage, flag burning, abortion, who wins the presidential election in 2000 — these things were all supposed to be decided on the local level by elections, not ultimately by federal judges.

State School Briefs**Cafeterias losing money**

Bolivia/Brunswick County Schools' child nutrition service has entered a lean season, the *Wilmington Star* reports.

With a spike in milk, bread, and grocery prices and a lack of students buying food at school cafeterias, the service—a self-sustaining business within the school system—is losing about \$1,124 a day, according to its director, Tina Ward. Its estimated losses between July 1 and Jan. 31 are about \$108,000, Ward said.

Its expenses, pegged at nearly \$2.9 million, were more than \$200,000 higher than the same period last year, when there was a profit rather than a deficit, according to a document distributed at the school board's multi-committee meeting March 18.

But Ward said this was not the worst deficit the department has faced and it's not unusual to have a deficit at this time of year.

Wake boards argue money

Year-round schools were the latest battleground for Wake County commissioners and school board members March 19 as they continued their struggle over money and power, *The News & Observer* of Raleigh reports.

At a joint meeting to help plan for the next school bond issue, commissioners criticized how school leaders are making students attend year-round schools. School board members shot back that they can't change their year-round plans unless commissioners agree to provide more money for school construction.

"We are happy to not open all new schools as year-round," said Lori Millberg, chairwoman of the school board's finance committee. "Just tell us where the money is coming from."

It's not the only money issue facing both boards. School leaders are anticipating resistance as they weigh whether to ask commissioners for \$35 million more to run schools for the fiscal year that starts July 1.

On March 19, the school board asked administrators to outline what programs they would cut if schools got significantly less than the increase in county money requested in Superintendent Del Burns' proposed budget and what they could offer if they matched the higher level of monetary support given the Charlotte-Mecklenburg school system by the Mecklenburg County government. CJ

Proposed Fines Have Charters Worried

By JIM STEGALL
Contributing Editor

RALEIGH

Charter school administrators increasingly suspect that the very state office that was originally set up to assist them has unfairly targeted them.

Acting on a recommendation from the Office of Charter Schools, the State Board of Education is set to impose fines on charter schools that fail to hire the proper ratios of fully certified teachers. While no charter school administrator has complained about having to meet the ratios—only one of the state's 98 charter schools is known to be out of compliance—many administrators think the new policy is unnecessary and poorly thought out.

They also fear the policy could drive smaller charters out of business.

Recently, some administrators have begun to think the Department of Public Instruction and its Office of Charter Schools is behaving more like an adversary than an advocate.

The immediate cause for concern is a proposal to dock the equivalent of one month of a principal's salary for every month a school has a lower ratio of certified-to-noncertified teachers than the law allows. For elementary and middle grades, the ratio is 75 percent. For high schools the ratio is 50 percent.

Increased penalties

The penalties get worse each month the school is out of compliance. If a school hasn't hired enough certified teachers by the second month, it must forfeit not only the amount of the principal's monthly pay, but that of the highest-paid teacher as well. The penalty increases each month by the amount that the next-highest-paid teacher makes, until the school either comes into compliance or goes broke. Schools that still haven't met the ratios by February of each school year could have their charters revoked.

Speaking before the State Board's meeting March 5, Office of Charter Schools Director Jack Moyer stressed that the new policy treats charter schools the same way regular school districts are treated. School districts lose the amount they pay their superintendents if they hire too many noncertified teachers. However, there is no provision equivalent to revocation of charter for a school district, and because of the difference in size and the precarious financial state of charters relative to district schools, the loss of even one employee's salary could spell doom for a charter.

In his presentation to the board, Moyer admitted that since charter school teachers are not on the state payroll system, it would be difficult to track their certification status on a month-to-month basis. He stressed that his office

"Our experience with the licensure section is rarely positive, and their information is often incorrect."

Anonymous Charter School Administrator

and charter schools have plenty of time to work out the details of how they are going to get around that problem.

"I think we're going to be working on it for quite a while, and October first [the earliest that the policy could go into effect] is a long time away," he said.

Charter school administrators doubt it will be that easy. Many complain that DPI's licensure section, the office that has final authority over teacher certification, is slow to help charter schools and often gives out erroneous information.

"Our experience with the licensure section is rarely positive, and their information is often incorrect," said one charter school administrator who asked not to be identified for this story.

This administrator also said smaller, newer charter schools would be especially disadvantaged by the new policy because they don't have trained and experienced office personnel who know how to deal effectively with the licensure section to resolve problems.

Possible fatal errors

With the proposed penalties in place, an error by the licensure section could be fatal to a small charter school, especially if it takes several months to confirm that a teacher has met certification requirements. Worse, there are no provisions in the policy for refunding money to a charter school in the event that the licensure section makes a mistake.

Even under the best of circumstances, getting timely, accurate information from the licensure section is difficult. Ken Templeton, headmaster of the highly successful Union Academy charter school in Monroe, has more than 10 years' experience dealing with licensure in North Carolina, and more than 80 percent of his teachers are certified.

He cites other problems with the policy: "Those of us most familiar with certification criteria know well that certification requirements change quite

regularly and create challenges to well-qualified teachers in all public schools almost annually."

Officials in regular public schools support this view. By an odd coincidence, a group of regular public school superintendents was in Raleigh the week after the State Board meeting to speak before a joint legislative oversight committee about problems in public school governance structure, and all eight of them cited significant problems with teacher licensure. One specifically mentioned the difficulties occasioned by untimely changes in certification requirements. Another said the current system was "an embarrassment."

Most complained that the office is too understaffed to provide timely help. Reeves McGlohon, superintendent of Gaston County Schools, told the committee, "If we're going to have a state system of certification, we need to have the resources to do it right."

The new policy is only one in a recent string of events that has many charter school advocates convinced that the education establishment is trying to shut them down.

From their debut in 1996, charter schools enjoyed a mutually respectful relationship with DPI and the Office of Charter Schools. That all began to change last year when the State Board abolished the Charter School Advisory Board, which had served as a resource, and occasionally as an advocate, for charter schools at the state level. That move was taken without input from charter schools.

In the last session of the General Assembly, bill H236 was filed. The bill would mandate the closure of charter schools that did not meet expected growth for five consecutive years. The bill was not voted on before the close of the session, but a special Blue-Ribbon Commission on Charter Schools later that year made a recommendation that was essentially identical to the bill.

Change of attitude

Charter school administrators say they sense a change in attitude in DPI toward their schools. One veteran charter school administrator, who spoke on condition of anonymity, said that the abolition of the advisory board was "sold to charter schools as an intermediate step" but that the real effect has been that "charter schools don't have a voice anymore, and they need one because they are so different."

He said that charter administrators no longer trust DPI and that communication between DPI and charter schools is poor. CJ



Economic Realities Surround Guilford Discipline Measures

By SAM A. HIEB
Contributing Editor

GREENSBORO

What's the cost of discipline in Guilford County schools? Right now, no one's sure, although one thing is for certain: It isn't cheap.

The Guilford County Board of Education recently heard preliminary cost estimates for recommendations released by its school climate task force. School system Chief Financial Officer Sharon Ozment presented the financial implications of the "bigger ticket items" from those recommendations. Ozment told the board she had not completed a full analysis of newer funding options, so it wasn't clear whether school officials should use existing funding or request more funding. She reminded the board that the previous year's budget had \$4.3 million to deal with school climate and reduction of suspensions that did receive funding from the county.

"As we began to go through the negotiation process on the budget, it became clear that this was not something that was going to be funded. There were many of these same things that were in the task force report that were included in that \$4.3 million," Ozment said.

One "big ticket" recommendation Ozment discussed was the placement of a full-time social worker in every school. Guilford County social workers draw an average salary of \$64,000, so hiring one, with benefits, for each school would cost \$5.2 million.

Another task force recommendation, reducing class sizes to 17 or below in traditional schools, was greeted with nervous laughter from some board members.

"Hold your seats," Ozment cautioned the board. "You would be adding 897 teachers to do that."

Adding the teachers, at a cost of \$41 million, wasn't the only problem with reducing class size. Board member Nancy Routh asked whether the school system had the proper number of classrooms to do so.

Ozment said that she had not done the calculations, but that she and her staff had begun talking about the "fact that we wouldn't have the facilities to house those students."

Another major request from high school principals was the addition of two non-law enforcement security positions at each school to increase safety. Those

positions, "behavioral modification technicians," would cost \$579,179 to \$1.9 million, depending on salaries and number of positions.

Another recommendation that drew a fair amount of discussion was the implementation of "positive behavior support" throughout the school system at a cost of \$3.3 million. According to the OSEP Technical Assistance Center on Positive Behavioral Interventions and Supports, positive behavior support is defined as the "application of a behaviorally-based systems approach to enhance the capacity of schools, families, and communities to design effective environments that improve the link between research-validated practices and the environments in which teaching and learning occurs."

Positive behavior support "coaches" would be assigned to every four schools that agree to "buy in" to the concept. Eighty percent of school staff must vote to adopt positive behavior support principles in order to implement them, program coordinator Beth Woody said.

Staffing was also a problem, Woody said, because even if positive behavior support were funded immediately, it would be difficult to find the staff to implement it districtwide.

The task force was formed in response to a school year in which there were a number of fights at schools throughout the district, most recently two incidents at Grimsley High School.

One student was badly injured in an assault in September, and a brawl in December led to 21 students facing criminal charges.

Board member Amos Quick said it was long past time the system addressed discipline issues.

"We knew there would be a dollar amount corresponding with the work they did," Quick said. "At some point, someone's going to have to take seriously the fact that there're some real needs in this district that we're not addressing from budget year to budget year."

Whichever policies the board adopts, they will be without Superintendent Terry Grier at the helm, who was presiding over one of his last school board meetings before leaving to take the head position with the San Diego school district. Ozment and chief of staff Eric Beccots will serve as co-interim superintendents until a replacement is found.

CJ

Commentary

Schools' Bulging Bureaucracy

Frustrated parents and concerned citizens often ask me to quantify the size of the bureaucracy within the state's largest public school systems: Charlotte-Mecklenburg, Wake, Guilford, Cumberland, and Winston-Salem/Forsyth. After all, N.C. public schools employ about 184,000 administrators, teachers, and support personnel for the state's 1.4 million students, a startling ratio of one public school employee for every eight students.

In addition, the amount of taxpayer dollars dedicated to public school personnel is substantial and continues to increase. Salaries and benefits for public school personnel make up more than 80 percent of state, federal, and local expenditures — well over \$9 billion — on public education. With so much money dedicated to personnel, a bureaucratic glut is virtually guaranteed.

The Department of Public Instruction, which funds the vast majority of public school personnel, uses allotment formulas to allocate funds to school districts for administrators, teachers, and support personnel. The formulas are designed to maintain consistent student-teacher and student-administrator ratios for all school systems in the state. Nevertheless, school districts hire additional personnel at their own discretion, significantly increasing the number of teaching, administrative, and support positions.

Often, the hiring of additional staff has little to do with need. According to Parkinson's Law, as senior administrators hire subordinate administrators, the administrative operation produces work for itself in the form of added bureaucracy. Thus, the number of school district officials has nothing to do with improving the education of students and has everything to do with the maintaining the school district bureaucracy.

For example, under the category of "officials, administrators, and managers," the Charlotte-Mecklenburg Schools employed 88 supervisory staff last year, compared to only 16 employed by the Wake County School System and seven employed by the Cumberland County Schools. Guilford County Schools had 56 top-tier administrators, while Winston-Salem/Forsyth

Schools had 27. As it compares to student enrollment, Guilford was the most top-heavy system, employing one administrator for every 1,244 students. Charlotte-Mecklenburg and Winston-Salem/Forsyth were not far behind.

On the other hand, school systems that do not have a glut of administrators or managers in the central office may, in turn, inflate the number of school-based administrators and staff. For example, Cumberland, which had few top-tier administrators, had one of the lowest student-principal ratios of the five largest school systems, 248:1. Charlotte-Mecklenburg and Winston-Salem/Forsyth also had comparatively low student-principal ratios as well, 247:1 and 276:1, respectively. Wake and Guilford counties had somewhat higher student-principal ratios, employing one principal or assistant principal per 315 students.

These school systems also had a significant number of guidance counselors. Wake and Charlotte-Mecklenburg each employed about 300 guidance counselors. Guilford had a staff of 200 guidance counselors, which is one guidance counselor for every 350 students. Cumberland and Winston-Salem/Forsyth had comparable student-counselor ratios. To their credit, Wake and Charlotte-Mecklenburg had the highest student-counselor ratios among the five largest school systems in the state.

Other extraneous personnel positions deserve mention. Last year, Charlotte-Mecklenburg had 182 full-time consultants-supervisors and 549 "other" professionals, most of any school system in North Carolina. The Wake County Public School System had an astounding 945 clerical and secretarial staff on its payroll, by far the most in the state.

Few school systems will voluntarily reduce their bureaucratic organization. For this reason, the best way to rein in school districts is to attach funding to the student, not the school district. In this way, schools would receive funds necessary to educate each child and nothing more. CJ



Terry
Stoops

Terry Stoops is education policy analyst for the John Locke Foundation.

School Reform Notes**Magnets attract applications**

New programs are being credited for the Winston-Salem/Forsyth County school system receiving 1,640 applications this year for magnet schools, with two of the three new programs drawing more than 200 applications.

"You create the buzz of the new schools, and you're really excited about those," said Kim Morrison, the system's program manager for magnet programs. "I think it helps everybody."

Two schools had to hold lotteries because they received more applications than they had openings, the *Winston-Salem Journal* reported.

Downtown Elementary School, which focuses on using community resources in instruction, received about 427 applications. Moore Elementary School, which uses the theory of multiple intelligences, received 112 applications for kindergarten and another 65 for first through fifth grades.

The schools conducted lottery drawings Feb. 7 to select students for the available openings.

Downtown Elementary School has about 45 available openings for pre-school programs and kindergarten. Moore has about 65 openings for kindergarten next year. Thirteen of those will go to the siblings of the students who are already enrolled at Moore.

School without girls

Ten-year-old twins Nathaniel and Perry Cheremka sprawl across the media center floor at Leicester Elementary, taking turns reading about magic, dragons, Friday the 13th, and good-luck charms, the *Asheville Citizen-Times* reports.

There are no girls around.

The Cheremka boys' experience follows a growing teaching strategy among western North Carolina educators aimed at promoting reading and improving performance among boys by individualizing programs and classes based on gender. It's based on the belief that boys and girls learn differently, particularly when it comes to reading and writing.

"Boys' literacy skills develop a little more slowly when they first start school and before school, but they are expected to do the same things at the same times as girls," said Kathy Stevens, executive director of the Gurian Institute and co-author of "The Minds of Boys." "They are not developmentally ready to do the things we are asking them to do."

CJ

Wants greater parental voice**Group Seeks At-Large School Board Voting**

By DAVID N. BASS

Associate Editor

A new group of parents, joining the fray over public school reassignment in Wake County, is asking members of the General Assembly to support legislation that would make Board of Education members elected on a countywide basis.

The Wake County School Board is divided into nine districts, with no at-large seats. But if Cary resident Joe Ciulla gets his way, that soon will change.

Ciulla recently launched the non-partisan group TakeOurSchoolsBack.org, joining a growing number of parents who have mobilized in opposition to inconvenient reassessments and bus-scheduling changes. Ciulla is using the Web site and an online petition to fight for an overhaul of the electoral process for the school board.

"We have one chance to educate our children, and that's a core value of being a parent," said Ciulla, a father of two students who have faced multiple reassessments over the last decade. "I struggle mightily with a school board that absolutely controls the fate of my children as they move through the school system."

The new group backs legislation introduced last session in both chambers of the legislature that would convert all schoolboard seats from district-based to at-large elections. The measures would also switch the election day for school board from odd- to even-numbered years.

That would give parents a greater voice in electing the leaders who determine the course of education in the county, said Rep. Nelson Dollar, R-Wake, sponsor of the House version of the bill.

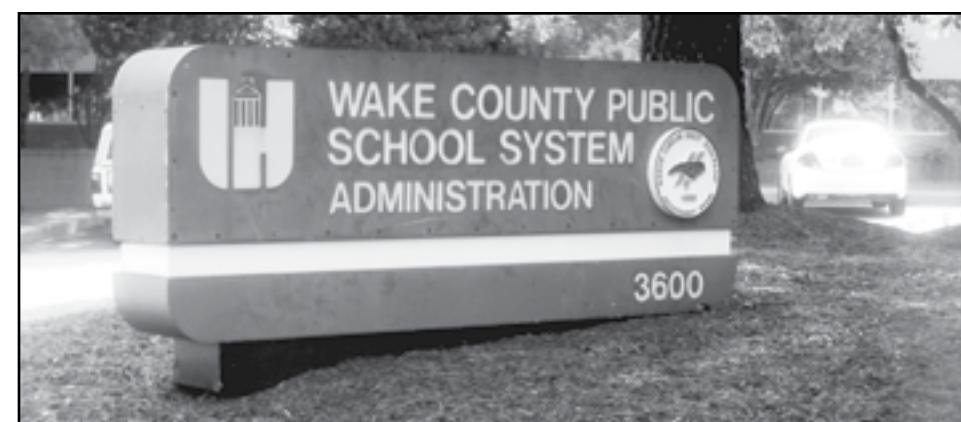
"Parents want stability for their children, stability for their families," Dollar said. "They want to have some reasonable notion of where their children are going to school, and not be under the sword of Damocles every year having to move and disrupt their children's education process, having to learn new schools and make new friends."

The legislation was buried in committee and never came up for a vote, but Dollar pledged to reintroduce the bill again, possibly in the upcoming short session.

That could prove problematic, he said, since traditionally local bills are not put forward in the short session without the agreement of the full Wake County delegation.

Not everyone sees a need to revamp the electoral process, and some are concerned that such a change would violate voting rights.

"My personal perspective as a board member is that I believe being



Some parents and voters want the Wake County School board's nine districts to be changed so that all members must appeal to all the county's voters. (CJ file photo)

elected by districts is very important for the greater representation of all the citizens in Wake County," said Patti Head, a school board member representing the northwestern part of the county.

"I am open to looking at some of the possibilities of re-examining whether we would do a 7-to-2 district-based versus at-large split, or something similar, as long as it was tied to taxing authority," she said.

Head served two years as chairwoman of the board before the current chairwoman, Rosa Gill, took over in 2007.

Another school board member, Eleanor Goettee, representing western Wake County, doesn't object to reviewing the issue, even though she supports the current structure.

"I would say I do not support all at-large seats for the board for this particular reason: I think it's important that somebody on the board be an advocate for a particular part of the system," Goettee said. "Since the system is so large, there could be a disproportionate vote from a certain part of the county."

At-large elections would also raise costs since candidates would have to campaign countywide, opening up "a whole new realm of special-interest groups and having to raise new bucks," she said.

The school board is not unanimous in its opposition. On March 4, Ron Margiotta, a member representing southwestern Wake, proposed a motion to include in the school board's 2008 legislative agenda a request to shift all school board elections to at-large. The motion failed by a vote of 6-1, with Margiotta casting the lone vote in favor.

"It's only logical," Margiotta said of the change to countywide elections. "We're a big monster school district. I would much prefer to see the entire school district broken up into smaller districts, but that would take an act of God, so we'll have to accept this."

Margiotta also supports the idea of changing school board elections to even-numbered years, which would put contests on the same ballot as higher-profile races.

"The more people we can get to turn out, the more representative the school board will be," he said.

The drive for at-large elections is chiefly driven by frustration among parents over their children suffering long bus rides, forced reassessments, and mandatory conversions to year-round calendars. The flames of protest were further stoked when the school board in early February approved a new batch of reassessments for the coming school year.

Hundreds of parents turned out for three public hearings in January to protest the reassignment schedule. Parents have joined forces to create advocacy groups such as Wake CARES, which filed a lawsuit against the school district last year.

Even though members of Wake County's legislative delegation differ on the proposed shift to at-large elections, elected officials in towns surrounding Raleigh—such as Garner, Holly Springs, Apex, Cary, and Wake Forest—have expressed support for the idea.

Still, some are concerned that at-large races and a revision of the elections schedule could have negative implications, such as violating the Voting Rights Act of 1965.

Ciulla called the argument that countywide elections would dilute minority votes a smokescreen. "The people I discuss this issue with don't have an opinion from a named attorney saying that this conclusively violates the Voting Rights Act," he said. "People will say they are concerned it will violate the act, but they won't come out and say it does."

Ciulla plans to press on with his petition, which had about 200 signatures as of early March, and lobbying state lawmakers on the importance of at-large elections.

"Many folks for years have protested against the board, but the fundamental answer is to fix the electoral process," he said. "I want to reach out, generate signatures, and in the end convince our Wake delegation in the General Assembly that the majority of parents want this for our children." CJ

Mountain Summer Camp Focuses on Western Values

Gatherings also to discuss spread of multiculturalism

By DAVID N. BASS
Associate Editor

Nestled along the Blue Ridge Parkway in the N.C. mountains, Lake Logan might seem an unlikely place to sponsor an academic discussion on the history of Western civilization.

But that's exactly what Raleigh lawyer Ward Purrington has in mind for this rural mountain setting just outside Asheville.

The Appalachian Institution is a weeklong retreat, which Purrington calls a summer camp for adults. While the camp, conducted at Lake Logan, offers typical mountain activities, such as hiking and boating, it also educates attendees about where the West came from and where it's going.

Purrington, who was a member of the General Assembly in the early 1970s and in the cabinet of former Gov.



"With freedom comes responsibility, and if you don't exercise responsibility, then you eventually lose freedom."

Ward Purrington
Appalachian Institute founder

James Martin a decade later, created the nonprofit institution to help adults learn about the foundations of the free world.

The Raleigh native has a keen interest in the goal, he said, because in today's culture the West's history is neglected in favor of diversity and multiculturalism.

"We in the West should at least have an understanding of our civilization, and then we can decide for ourselves whether it is a better way to have gone than the other civilizations," Purrington said.

In addition to the threat of mul-

ticulturalism, Purrington is concerned about the increasing emphasis on moral license rather than freedom in the West. "As freedom has grown, it has in many cases become license," he said. "With freedom comes responsibility, and if you don't exercise responsibility, then you eventually lose freedom."

The retreat's sessions this year will feature two scholars — Dr. Thomas F.X. Noble, who will discuss the history and lessons of the West, Aug. 10-15; and Dr. Alan Charles Kors, who will lecture on the Enlightenment, Aug. 24-29.

Classes will be conducted in the mornings, and a variety of activities, including courses in language, art history, and jewelry design, will be available in the afternoons, Purrington said.

Alternatively, participants can play sports such as touch football or softball, or go swimming, boating, or fishing on the lake. Classical and bluegrass concerts, stage performances, and square dancing will be offered at night.

"Unlike children's camp, you are not required to participate in anything, but it's all there, it's all offered, and there is a lot to do if you want to do it," Purrington said.

The retreat offers an assortment of rustic, yet comfortable, cabins for lodging, Purrington said. Also included will be three meals and a commons room for relaxing with friends.

This summer's session will be the first for the institution, which was chartered in February 2007. Lake Logan is owned by the Episcopal Church and rented out to groups, but Purrington said he hopes to one day purchase land and designate it specifically for the retreat.

He also hopes to expand the number of topics covered in the lectures and discuss subjects such as the ethics of embryonic stem-cell research and the conflict between the Muslim faith and Christianity.

"My goal is to have scholastic presentations as opposed to political presentations," he said. "My eventual goal, if I can generate enough support, is to have two lecturers and to present both sides of an issue, and to have real debate over a period of days between a liberal approach and a conservative approach. People would really have the opportunity to evaluate the positions and the rationale."

On the topics scheduled for this year's session of the institution, Purrington hopes to give older adults, who might not have had a chance to learn much about the history of Western civilization, the opportunity to debate and discuss it.

"What I think a great number of people don't understand is the shoulders we stand on, so to speak," Purrington said. "They don't understand the heritage that we have in our civilization. They don't understand where things came from."

To learn more, visit www.appalachianinstitution.org. CJ

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Locke, Jefferson and the Justices:
Foundations and Failures of the U.S. Government

By George M. Stephens
Preface by Newt Gingrich

"This book is about American politics and law; it is also about the roots of the Contract with America. A logical place to find the intent of the Founders is in Locke, [and] Stephens makes a contribution to highlighting this."

Newt Gingrich
Former Speaker
U.S. House
of Representatives

Algora Publishing, New York (www.algora.com)

On Campus**Death unites UNC**

The death of UNC-Chapel Hill's student body president united the campus in grief. In the weeks following her murder, students, faculty, and staff remembered Eve Carson and her many contributions to the Carolina community.

Eve Carson was shot to death March 5, in a neighborhood not far from campus. She was buried March 9 in her hometown of Athens, Ga.

Carson came to UNC in the fall of 2004 as the recipient of a prestigious Morehead Scholarship. She was a pre-medicine student majoring in both political science and biology and was a member of the Phi Beta Kappa honor society. As a North Carolina Fellow, she was part of a four-year leadership development program for undergraduates.

Silence pervaded the usually noisy quad in the center of campus when more than 5,000 people gathered March 6 for a speech by Chancellor James Moeser about Carson's death.

"Eve Carson personified the Carolina spirit. She did perhaps more profoundly than anyone I've known in my whole time here," Moeser told the mourning students, faculty, and staff.

At a candlelight vigil that night in the Pit, the university community watched a slideshow of Carson's experiences at UNC. She was involved in many student groups, from student government to Nourish International.

She participated in a study abroad in Cuba and spent her summers working and volunteering in Ecuador, Egypt, and Ghana as part of the Morehead Summer Enrichment program.

The vigil, which featured a few short speeches and three a capella groups, lasted less than 30 minutes, but students stayed for more than an hour.

Several students at the event said that they did not know Carson personally but that they were touched by the tragedy of her death.

The university also conducted a memorial service for Carson at 4 p.m. March 11 in the Dean E. Smith Center. Classes were canceled during the event. The university has established the Eve Marie Carson Memorial Fund to "celebrate and remember Eve Carson's love for the University and its students," according to an e-mail from the Division of Student Affairs. CJ

Analysis**Football at UNCC? First, Get a Second Opinion**

By GEORGE C. LEEF

Contributing Editor

RALEIGH Over its 61-year history, the University of North Carolina at Charlotte has never had an intercollegiate football team, but now there is a strong push to create one. If UNCC goes ahead with this idea, it's going to face a lot of costs and a lot of problems.

Collegiate football is an expensive undertaking even in one of the lower divisions of the National Collegiate Athletic Association. Playing in the top is very expensive.

Last year, UNCC's chancellor appointed a committee to study the feasibility of a football program. The committee turned to the Lee Institute, a Charlotte-based nonprofit consulting firm, to crunch the numbers. Its report calculated that having a football team in NCAA Division I-AA, a step below the top level, would cost \$6.7 million per year in 2012, with that figure rising to \$8.8 million by 2016 when UNCC would enter Division I-A. Additionally, UNCC would have to spend more than \$3 million per year on women's sports because of federal "gender equity" regulations.

Adding football would double the university's athletic spending. The study advocates covering the cost by increasing student fees by \$300. Fees are already quite high at UNCC, having increased from \$1,160 per student in 2003-04 to \$1,630 per student today — a 40 percent increase.

Those costs raise the question, "Why make students who have little or no interest in intercollegiate football pay for it?"

According to the feasibility study, football increases school spirit and pride and "captures the competitive spirit of America." Perhaps so, but are such intangibles worth the increase in mandatory fees of \$300?

The study also defends the proposal by claiming, "football would help increase the public perception that UNC Charlotte is a great institution." But participating in top-level football is neither necessary nor sufficient for that public perception. The University of Chicago hasn't had intercollegiate football in 60 years, but it is regarded as a great institution. Conversely, there are football powers such as Florida State whose reputations probably suffer precisely because of their persistent gridiron success.

Another problem is recruiting good players. Murray Sperber, former professor at Indiana University and au-

thor of the revealing book *Beer and Circus*, had this to say about a football team at the school. "Charlotte, in a basketball region, would have trouble getting blue chippers. Since Duke, Chapel Hill, and NC State all lose in football, how will Charlotte do it from the bottom of a rather thin food chain? How will it get players from football-rich states like Georgia and Florida? It will hire a coach who will go into those states and recruit guys who can play but are so marginal socially and academically that the ACC and Big East won't touch them. How will the resulting scandals help Charlotte?"

Having a poor or even mediocre football team is apt to lead to empty stands and negative publicity. If, however, a coach has a free hand to recruit top prospects, success is still not assured but scandals become more likely.

The allure of big-time football has been too much for some schools to resist. The State University of New York at Buffalo, now the University of Buffalo, or UB, used to play in the low-key NCAA Division III. No prestige, but little cost. Then, in 1990, the administration, egged on by the athletic department, decided to move up.

UB spent eight seasons in Division I-AA, and then reached Division I-A in 1999, obtaining membership in the Mid-American Conference. After six losing seasons, in 2005 the university commissioned a report from nationally recognized sports consultant Gene Corrigan on what it needed to do to be-

come successful. Endorsing Corrigan's report, the school's new president, John Simpson, said, "Building a high-quality, highly competitive athletics program is integral to our success and progress as a leading university community."

One of the recommendations was to hire a new director of athletics, and UB promptly undertook such a search. Corrigan also said that the athletics program needed more financial resources. With state support tightening, that meant scraping up more private donations for sports and raising student fees.

Buffalo has had a little more success in the Mid-American Conference over the last couple of seasons, but it's hard to see that student life is any better than at nonfootball schools. It's also hard to see how being an also-ran in a low-luster conference does much for the school's visibility and reputation.

Another school whose experience is worth looking at is Boston University. BU had been in the Atlantic 10 Conference (UNCC's basketball conference), but decided to drop football after the 1997 season. Football had cost the university nearly \$3 million per year. Somehow, BU remains a "leading university community" despite the absence of intercollegiate football.

Before UNCC goes ahead with the football plan, the least the administration should do is to get a second opinion from an independent economist or consulting firm that would question not only the financial numbers, but also the assumptions about the intangible benefits of having a football team. CJ



UNCC '49ers athletic logo

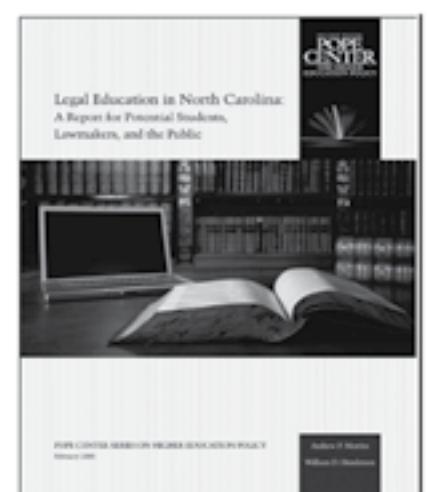
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Scholars Say N.C. Restrictions Hold Back New Law Schools

By CJ STAFF

Two law professors contend that legal education in North Carolina could be more accessible and affordable, but that state restrictions are holding back the formation of new law schools. Their new paper for the John W. Pope Center for Higher Education Policy supports this claim by pointing out that the state has fewer private-sector lawyers per capita than any other state (758/1) and its law schools are, on average, more selective than law schools in other states.

"Legal Education in North Carolina: A Report for Potential Students, Lawmakers, and the Public," by Andrew P. Morrise and William D. Henderson, urges the state to announce its own criteria for accrediting law schools and to permit graduates of such schools to take the bar exam. Currently, only graduates of American Bar Association-accredited law schools can take the exam, which determines whether an individual can practice law in the state.

The paper also discusses the state's law schools in detail, presenting information about outcomes such as student debt load, bar passage rate, and initial salaries upon graduation. Morrise and Henderson are law professors at the University of Illinois and Indiana University, and this study of North Carolina is part of a large research program on how to measure the effectiveness of legal education.

North Carolina has seven law schools, two public and five private. The two new law schools, Charlotte Law School and Elon University Law School (both private) do not yet have student outcome data. But the paper has extensive comparisons of the other schools. For example:

- Forty-six percent of UNC-Chapel Hill law school graduates leave the state for their first job.
- The average starting salary for a Duke law graduate is \$110,000; for Chapel Hill law graduates, \$100,000.
- N.C. Central law graduates have a debt of \$17,215; Wake Forest graduates, \$75,418.
- The student-faculty ratio is lower at Wake Forest than at Duke.

Morrise and Henderson advise students not to follow blindly the U.S.

News and World Report rankings of law schools, which are heavily based on the selectivity of a law school and its reputation (which tends to be self-reinforcing, as high rankings boost schools' reputations).

Morrise and Henderson encourage students to examine cost, debt, and salary data (some of which are available from *U. S. News'* annual report on graduate schools). "[O]ver-reliance on rankings can cause students to incur unnecessary expenses or reduce the potential range of future employment options," they warn.

Morrise and Henderson point out that in the *U.S. News* rankings Duke is consistently rated as one of the top 10 law schools in the nation, while UNC-Chapel Hill and Wake Forest are in the top 45, thus known as "Tier 1" schools. North Carolina Central and Campbell are considered Tier 4

schools. But depending on one's goals and circumstances, any school might serve a student well.

North Carolina Central costs only \$4,291 for in-state students, and the average debt load per student was \$17,215 in 2005, which the authors call "manageable."

In contrast, the debt load for a student attending Campbell was more than \$90,000 in 2005, largely because of its higher tuition.

Noting that most law schools in North Carolina are relatively expensive, Morrise and Henderson urge that the state remove barriers that make it costly to start and operate a law school. The chief barrier is the requirement that only graduates of ABA-approved schools may take the state bar exam.

Yet, they point out, "ABA accreditation standards focus on costly investments that are not linked to a quality legal education." These include "expensive library requirements when most legal research is conducted through electronic databases" and emphasis on full-time faculty, even though part-time faculty might be practitioners who can impart valuable knowledge.

California has pioneered in lifting such barriers. The state itself accredits law schools, and graduates of non-ABA-accredited law schools can take the bar exam.

The paper is available on the Pope Center Web site, www.popecenter.org, or may be obtained by calling 919-532-3600.

CJ

Commentary

Competition Improves Education

The nonprofit organization that I head frequently criticizes North Carolina's colleges and universities. But higher education problems are small when compared to the failings of elementary and secondary education.

With all its faults, the U.S. system of higher education is still the envy of the world. Foreign students flock to our universities.

In contrast, our K-12 system is famous for poor performance. While some public K-12 schools teach effectively, many others offer little value, as evidenced by high dropout rates, poor test scores, and the growing demand for remedial instruction in universities and community colleges.

U.S. elementary and high school students consistently score below their peers in international skill tests, particularly in science and math. In the 2006 Program for International Student Assessment, for example, the U.S. ranked 17th in science and 24th in math out of 30 countries.

Why the contrast between the two sectors of education? There is one big difference: competition. The higher education system has it, and K-12, for the most part, does not.

Any economist will tell you that competition spurs improvement. Competition in education means that providers of goods and services (schools) try to attract customers (students) by making their wares more attractive than others'.

Some faculty members at universities cringe at calling students "customers," as if it belittles their teaching. College administrators, however, accept the fact. They compete for students. They must offer something of value to students at a cost that students can afford. When schools stop doing that, they approach bankruptcy, as Antioch College and the New College of California recently did.

That is not the case with K-12 education.

First of all, attendance is compulsory. Second, the government can mandate which schools children attend. Families may try to exercise some choice by moving to neighborhoods with good schools, but their school district can assign their children to another location. This is an emotionally charged is-

sue in Wake County right now.

"Magnet" schools offer some choice, but, as the Raleigh *News and Observer* has pointed out, "It's a lottery, more or less."

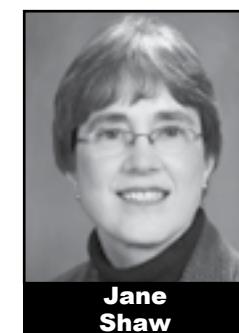
A long-term effort to offer real choice resulted in the creation of charter schools (public schools that operate with some independence). But North Carolina's state legislature has severely limited their number. Franklin Academy, a charter school in Wake Forest, had 1,860 applications for its 93 openings next fall. Politics is keeping the supply of charter schools from rising to meet demand.

Private elementary and secondary schools do have to compete – in a market distorted against them by "free" public schools. Essentially, tax-paying families must pay twice if they send their children to private schools. As a result, only about 11 percent of all K-12 students are taught in private schools. That figure does not include the 1 million-plus homeschoolers in the country.

In contrast, American higher education is all about choice. The sheer number of institutions — 2500 four-year schools and a total of more than 4,000 postsecondary schools — has no peer in any other country. These institutions fill a diverse array of niches, from traditional religion-based education to curricula emphasizing liberal activism, from majors in gender studies to genetics.

These schools seek out students because (unlike K-12 students) they pay tuition. Even though taxpayers subsidize tuition at public universities, tuition is a critical funding source at schools both public and private. Students with federal financial aid carry it with them and use it like a voucher. (In K-12, additional students simply mean additional burdens on the community's tax base.)

In sum, colleges and universities have the ingredient that could transform K-12 education: competition. Competition would do a world of good for North Carolina's children.



Jane Shaw

Jane S. Shaw is executive vice president of the John W. Pope Center for Higher Education Policy.

Bats in the Belltower**The University of No Candor**

As of this writing, the men's basketball team of the University of North Carolina at Chapel Hill is ranked No. 1 in the country. Such a high ranking is not that unusual for teams of many sports (outside of football, of course) from UNC-Chapel Hill.

Fans of the university expect No. 1 rankings, almost as if they are birthrights, and fans of nearby universities remark from partisan perspectives that the further a UNC-CH team is from its "birthright," the more ostracized it is by its own fans.

In March, however, a new No. 1 ranking was achieved by UNC — the UNC System, in this case. It turns out it is not that unusual, either, but it certainly isn't our birthright.

On March 8, Corey G. Johnson of *The Fayetteville Observer* reported that UNC is second to none in secrecy in selecting public university leaders.

"North Carolina is the only state in the nation that selects the top leaders of all its public universities in secret," Johnson wrote. "In 49 other states, the names of the finalists for university president or chancellor positions are made public, a *Fayetteville Observer* study shows. Six states release the names of all applicants."

The *Observer* survey involved 118 university systems or individual schools. It found some states with "no single governing policy" and others with universities that did have closed processes, "but at least one school or university system in every state, except North Carolina, selects leaders in public."

This revelation shreds a cherished UNC fiction. UNC officials had made it seem that secrecy in chancellor selection was de rigueur. As UNC President Molly C. Broad put it before the Associated Press in 1999 during the last search for a new leader of UNC-CH, "These people are putting their careers on the line for you. It doesn't take much to get them spooked."

The process used by N.C. State in 2004 to select Chancellor

James Oblinger was so secretive that search committee members boasted of having signed confidentiality agreements.

Neighboring states seem to find an open process valuable. Johnson quotes George Mason University, of Virginia, spokesman Dan Walsh on that university's requirement for president finalists to give a public presentation. "We release the names because it is a way of keeping people engaged in what, for us, is our most important decision," Walsh told him. "We believe the search should be an open process because of the role we play in our community and the fact that our president, by definition, is a significant figure in the region and state."

In 2004, the University of Tennessee chose system President John D. Peterson using a highly visible, open search that involved a large panel of alumni, faculty, students, trustees, and staff sorting through applicants' resumes and also included broadcasting over the Internet the interviews with the six

finalists. Peterson told *The Chronicle of Higher Education*, "The more open the process was, the better, as far as I was concerned."

Nevertheless, on March 19, 2008, ironically a day before Gov. Mike Easley's declared Sunshine Day for openness in state government, the Greensboro *News & Record* reported that the identities of applicants for UNC-Greensboro's chancellor position were secret. "The secrecy is typical of candidate searches for schools within the UNC system," the paper reported as if stifling a yawn.

When UNC teams achieve No. 1, fans storm courts and celebrate in city streets. When UNC achieved No. 1 in secrecy, did they storm the secret meeting places and celebrate behind closed doors? As usual, we'll never know. CJ

Jon Sanders is a policy analyst and research editor of the John Locke Foundation.



**Jon
Sanders**

"It doesn't take much to get them spooked."

**Former UNC President
Molly Broad justifying
secrecy in chancellor
searches**

Proposed UNC System Changes Could Affect Student Choices

By JAY SCHALIN

Contributing Editor

RALEIGH

The UNC system is likely to undergo major structural shifts triggered by recommendations of the UNC Tomorrow Commission, a body created to guide the university's future. Two concepts discussed at the board's meeting in March would affect where many N.C. students attend classes.

One proposed change would give the system's general administration a greater role in deciding whether individual universities may start new programs. Priority will shift from the needs of the individual schools to the broader needs of the state. This reflects the UNC Tomorrow recommendations that policy should be set "in light of state and regional needs from a 'system perspective'" so that programs "complement each other, maximize resources, and avoid unnecessary duplication."

UNC President Erskine Bowles said the proposal would mean a "huge policy shift."

Currently, new bachelor's and master's degree programs are initiated by individual schools, which submit their proposals to the university system. The general administration conducts an investigation, focusing on student demand, the potential for jobs in the degree area, and whether the necessary resources exist, and decides whether to permit the program.

In the future, if the change is enacted, the administration's role will be "proactive." It will establish the need for new programs as well as review existing programs to determine their "productivity, quality, and effectiveness." Economic development and employment concerns will enter into the process, as well as student demand. This will be accomplished by periodic "assessment of regional and statewide needs," according to the presentation. Alan Mabe, vice president for academic planning, said he expects undergraduate programs to be reviewed every two years.

After a need is identified, the system would see whether the need can be filled by expanding existing programs. Collaborative efforts with existing programs at other schools will also be explored.

Mabe offered an example of collaboration: the Doctor of Pharmacy Partnership Program between UNC-Chapel Hill and Elizabeth City State University,

which enrolls 10 to 15 pharmacy students annually. The students receive their degrees from UNC-Chapel Hill but attend classes at Elizabeth City, in an area with considerable unmet demand for pharmacists. "If they do their clinical work there, they are likely to stay in the area after graduation," Mabe said after the meeting.

The administration will also look for programs throughout the state that suffer chronic underenrollment and either eliminate them or replace them with online programs.

The second proposition recommends creating "branch campuses" of UNC schools at community colleges. Branch campuses would enable far more N.C. students to earn bachelor's degrees near their homes, rather than being forced to commute long distances or move near one of the 16 main campuses for the final two years of their education. A partnership between the university and the community colleges would enable North Carolina to develop a branch system at a low cost, said Harold Martin, the administration's vice president for academic affairs.

Martin said students would attend the community colleges for the students' first two years. Upon receiving their associate's degree they would be required to apply to the state university attached to the branch campus. Once accepted, they could take classes from university professors at the community college to complete their degrees.

This type of "two plus two" arrangement already exists at some UNC schools. Coastal Carolina Community College in Onslow County and UNC-Wilmington have a partnership offering two-plus-two teacher training for elementary education majors.

The state is also exploring a "store-front model" to bring higher education to underserved communities. For example, in January, the first class began at the N.C. Center for Engineering Technologies in Hickory.

As branch campus enrollments increase, the UNC system will eventually have to decide whether to build new schools or continue at the community college location, Martin said.

Both of these proposals will remain under discussion before the board votes to take further action. CJ



Jay Schalin is a senior writer of the John W. Pope Center for Higher Education Policy in Raleigh.

Opinion

Addressing the Ideological Elephant in the Classroom

By JAY SCHALIN
Contributing Editor

The state university system recently invested considerable time and money in the UNC Tomorrow Commission to see how North Carolina's public colleges can "best meet the needs of the state and its people over the next 20 years." The commission placed particular emphasis on how to provide for the future prosperity of North Carolina.

Its members traveled the state and spoke to hundreds of people from all walks of life. Yet one of the most important questions was not asked: Is what we are teaching our students in the classroom going to produce a prosperous and free North Carolina?

At UNC-Chapel Hill, the answer is too often a resounding "No." In fact, sometimes students are encouraged to adopt philosophies that are guaranteed to suppress prosperity and freedom.

During the fall semester, I explored in depth two courses at UNC-CH that would better be termed collectivist indoctrination than education. Both professors adhere to a belief system of radical anticapitalism and use their positions to guide students to share their ideology.

One such teacher, Jason Moore, is a recently hired lecturer in the geography department who has not yet completed his doctoral dissertation. Moore has been a contributor to the Marxist journal *Monthly Review*, and the reading list for his course "Geographical Issues in the Developing World" last May was dominated by *Monthly Review* contributors and other well-known radicals.

Judith Blau, on the other hand, is a full professor in the sociology department. She has taught at Chapel Hill since

1988, and she chairs her department's Social and Economic Justice program as well. Last semester, at her urging, her students produced a mock U.S. Constitution heavily laced with statements such as "resources should be distributed according to need" and "working for collective rights will create a more harmonious society." It was precisely the document she wanted them to produce, for she praised their efforts effusively:

"[I]f the determination of the students in these two classes were realized, the United States would be a good citizen in the world of nations, and would live up to international human rights standards."

Professors like Moore and Blau

are not rarities in the UNC system. A cursory sampling of course syllabi available on the Internet suggests that some humanities and social sciences departments might even be dominated by those with collectivist inclinations.

This manner of thinking, whether it is called socialism, collectivism, or communism, is neither innocent nor productive. Teaching such beliefs will not keep our state prosperous, but will instead encourage those who have adopted them to hamper private industry through excessive regulations and taxation. Innovation does not thrive in such

an unrewarding environment, no matter how much money you throw at research and higher education.

It wasn't that long ago when most people understood that there was a real threat to freedom

posed by the collectivist philosophy. The tendency for countries ruled by collective regimes to condemn many of their citizens to forced labor camps was well documented in books like Alexander Solzhenitsyn's *The Gulag Archipelago*, an exposé of the former Soviet Union's treatment of political prisoners, and films like "The Killing Fields," which chronicled how half of Cambodia's population was either killed or driven into exile through a brutal

system of "permanent revolution."

Today, many people seem to feel that any danger from collectivist ideologies ended when the Berlin Wall was dismantled in 1989. Yet Russia is returning to the more authoritarian ways of the old Soviet Union. The educational systems in the supposedly benevolent welfare-state countries of France and Germany now teach elementary and high school students "that economic principles such as capitalism, free markets, and entrepreneurship are savage, unhealthy, and immoral," as *Newsweek* writer Stephan Theil wrote in his recent

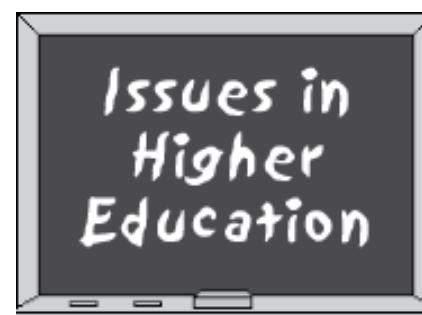
article "Europe's Philosophy of Failure" in *Foreign Policy*. When children indoctrinated to such beliefs from an early age reach their majority, they are likely to produce a society where the factors that determine prosperity, such as innovation and the accumulation of capital, will be eyed with suspicion or punished.

In the United States, these ideas have long found refuge in our universities, and their adherents are thriving. Of what value is an education, when the best we can hope for is that the students sitting in their classrooms will ignore their lessons?

What is taught at Chapel Hill has an enormous impact on the state — this is where many of the state's future leaders are traditionally educated. Gov. Mike Easley, Speaker of the House Joseph Hackney, and UNC President Erskine Bowles all received their undergraduate degrees at Chapel Hill, while Easley's predecessor, Jim Hunt, graduated from the law school. The UNC system in general is also the primary source for the state's primary and secondary teachers, who also have a great influence on the young. If collectivists bent on conversion are teaching at Chapel Hill, the state's future will likely reflect their beliefs.

Any steps taken by the UNC system will prove fruitless in the long run if the spread of a philosophy that destroys prosperity and freedom is continually ignored. Sooner or later, the issue must be dealt with, or we might have a "Tomorrow" that only a leadership driven by the type of collectivist rhetoric taught in the schools of France and Germany can produce. CJ

Jay Schalin is a senior writer with the John W. Pope Center for Higher Education Policy.



If collectivists bent on conversion are teaching at Chapel Hill, the state's future will likely reflect their beliefs.

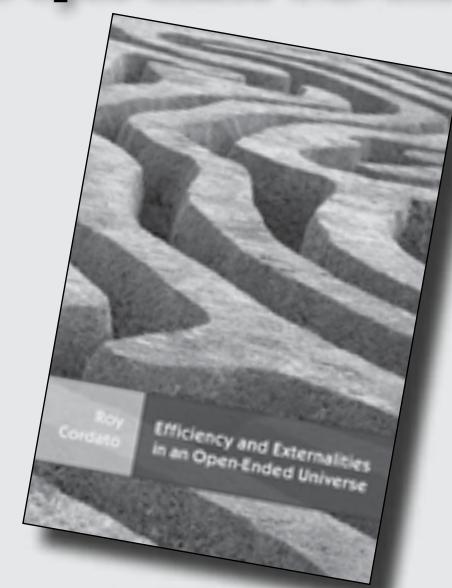
BOOKS AUTHORED BY JLF STAFFERS



By Roy Cordato
Vice President for Research
John Locke Foundation

"Cordato's book is a solid performance, demonstrating impressive mastery of both the Austrian and neoclassical literature."

Israel Kirzner
Cato Journal



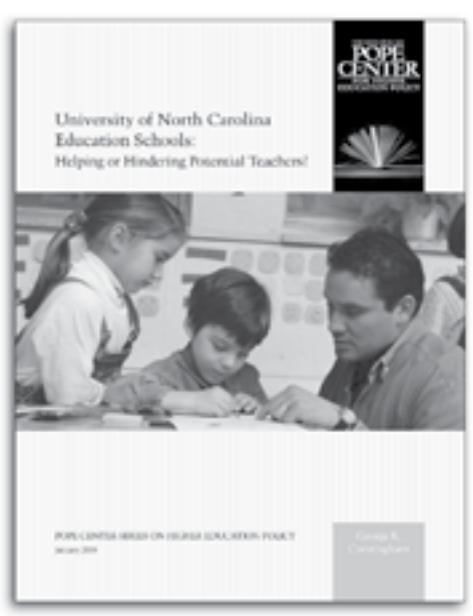
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Teacher Education Fails the Test at UNC Schools

as reported in
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Town and County

Meck construction review

As of March 1, all new houses in Mecklenburg County were required to present building plans for approval by county building inspectors before construction could begin. The same requirement also applied to home expansions and renovations that extended foundations.

In 1999 Mecklenburg County began requiring reviews of building plans for larger houses, those of more than 2,500 square feet or with a foundation exceeding 2,000 square feet. The idea was to spot potential problems before construction. More than 30 percent of new homes had failed code inspections.

Expanding review to all new homes was inspired by the likelihood that a national insurance audit would increase rates in the county unless officials acted. The impact is likely to be felt most by remodelers, some of whom do not prepare blueprints.

Mecklenburg County has hired four staffers to review plans, hopefully, within five days.

Durham public access TV

The city and county of Durham have agreed to pay Time Warner Cable \$120,000 to air public access programs through the end of the year. The cable system had previously carried the programs for free.

In 2006, the state took over franchising cable systems from local governments. The state's agreement with Time Warner Cable does not offer some of the same perks communities previously enjoyed. In Durham's case, that includes a requirement that local residents can learn how to operate cameras and edit tape. Public access shows will now have to be produced independently of the cable system.

Time Warner and city and county officials disagreed on how many local government channels Durham is entitled to under the law, what channel the city should be assigned, and whether public access channels should count against the government's allotment.

Particularly at issue is Durham's cable Channel 8, which carries both government and public access programs. It is accessible via basic cable. Among the public access programming carried are church services. Several ministers objected to proposals. *CJ*

Rules, Fines Accompany Historic Preservation

By HAL YOUNG

Contributing Editor

SMITHFIELD

Smithfield is not as famous as Halifax or Edenton, but it's seen its share of history.

John Smith established a ferry over the Neuse River in 1759. The General Assembly met in Smithfield before Raleigh was founded, once when a smallpox outbreak chased the lawmakers out of New Bern. Gen. William T. Sherman announced Gen. Robert E. Lee's surrender to federal troops in Smithfield. Town promoters are sure to remind visitors that Ava Gardner grew up here — the town's post office is named for the actress.

But Clint Parrish doesn't know why his rental property, built in 1954, was specifically attached to a historic district downtown. In fact, he wasn't even aware the district existed when he bought the small brick house from a friend a few years ago.

The Smithfield Historic Preservation Commission advises property owners and local government on how to protect the town's visual character. In 2006, at the town council's request, the commission developed a set of voluntary design guidelines for property owners in historic districts. While it operates as a consulting body, changes are under way that will insert the commission into the permitting process for homeowners in much of downtown — and what counts as "historic" may come as a surprise.

Smithfield proper has only four buildings listed on the National Register of Historic Places, but there are hundreds more inside three historic districts, including the storefronts downtown and dozens of blocks of adjoining residential neighborhoods.

Every building isn't an architectural gem, of course. The North Smithfield Historic District, for instance, covers a large part of downtown between U.S. 301 and the river, and boasts everything from Georgian homes along the waterfront to parking lots, commercial buildings, and tiny houses shoehorned into narrow lots.

That's to be expected, according to Mark Helmer, the town planner for Smithfield. "About 95 percent of the properties contribute to the overall look and feel, and the historical context and integrity, of the neighborhood," Helmer said, and there are some, like the cinder-block shotgun houses on Caswell Street, that don't.

However, being listed on the National Register "is really just an honorary title," Helmer said. The key to preservation is adding locally designated overlays to the zoning map, a move that will give the commission authority to review homeowners' plans against the 49-page design guideline. Property owners will need a Certificate of Appropriateness from the commission before they change the appearance of structures, and they



The commercial district along South Third Street is part of the Downtown Smithfield Historic District listed on the National Register of Historic Places. (Photo by Hal Young)

could face fines of \$200 per day if they violate historic district regulations.

Helmer said the commission has been working toward that goal "the past couple of years," and it will mark a change in the role of the commission. "We'll be like the Board of Adjustment," he said, but he didn't foresee many conflicts ahead. "This board is here to help and serve, and to allow some public input," he said, and expects that "it will be an asset" to the town over time.

Residents in other places have found that historic preservation efforts protect visual aspects of their neighborhoods, but preservation can be a burden to homeowners. Helmer said that the prospect of new regulations caused "some initial shock" at the first neighborhood meeting, but that by the second meeting, "there was more realization that much of the process, like building permits and inspections, is already in place. This is just another layer."

In some places, it seems, neighbors use the process against each other.

Hendersonville is a town similar in size to Smithfield, with six historic districts. Luann Welter, administrative assistant for Hendersonville's planning department, said Hendersonville's historic preservation movement was largely advanced by property owners themselves.

For example, downtown merchants asked for a preservation district when one owner proposed a 110-foot structure in the midst of one- and two-story commercial blocks.

"They were coming to us and asking, 'Can they do that?'" Welter said. "We had to tell them, 'yes, legally they could.'"

A similar thing happened in the 1920s-era Hyman Heights neighborhood, which was on the National Register but not a locally defined district, until one property owner moved a doublewide trailer onto his lot.

"They got on board real quick" after that, Welter said. When the commission suggested the same could happen elsewhere, the Druid Hills neighborhood completed the application for national and local designation the same year.

While Welter said most residents "seem to buy into the process," she acknowledges that the commission has frustrated some property owners. Residents call the commission to check up on neighbors' work, she said. Homeowners who start exterior work without prior approval might be issued a stop-work order or fined by zoning authorities.

The approval process seems nuanced as well. A merchant who is stripping an extensive metal façade from his storefront received almost automatic approval because it was returning the building to an earlier appearance. Homeowners who wanted to paint their brick houses were both approved and disapproved, depending on whether natural brick was more common in their neighborhood. Removing vinyl siding might be OK, but tree pruning could require review by the full commission, she said.

Like Helmer, Welter stressed that the commission simply wants to help, not to control. Recently, one residential district on the National Register opposed local designation, and that's OK, she said. "We're letting owners take the lead."

That does depend on homeowners' awareness of the situation. Sue Hicks is the previous owner of Parrish's home. She said the historic commission had invited them to occasional functions, but she, too, was unsure why the commission singled out the house her parents built during the Eisenhower administration.

Helmer pointed out that the boundaries of the districts are drawn to capture certain ages or design features. The mix of eras in the National Register's description of Brooklyn includes houses built in the 1950s, such as Parrish's.

"We don't just focus on the grand homes," he said. "Architecturally they may be modest, but they might still be worthy of preservation." For example, there are prewar bungalows just outside the proposed districts that might be added, he said.

"It may take 50 or 60 years to recognize that what they did in the 20th century is helpful," Helmer said. *CJ*

Wilmington Garage-Apartment Rules Called Unconstitutional

By MICHAEL LOWREY

Associate Editor

The state's second highest court March 4 upheld a property owner's challenge to \$5,000 in fines imposed by Wilmington. In its ruling, the N.C. Court of Appeals agreed with a lower court that the city's requirement that an owner occupy a garage apartment was unconstitutional.

On July 21, 2004 Broadus Hill applied for a building permit for a garage apartment on property he owned on McMillan Avenue in Wilmington. A year later, after the unit was complete, Hill was notified by the city that the property was in violation of Wilmington's Land Development Code. Section 18-285(g) of the code required that the owner of a garage apartment must live in either the main residence or the garage apartment.

On Aug. 23, 2005 the city began fining Hill \$200 a day for the violation. Two weeks later, the city's planning commission rejected Hill's request that the code requirement mandating owner occupancy be dropped. Finally, on Sept. 27, 2005 Hill informed the city that he was moving into the property, thus establishing owner occupancy. Still, the city sought to fine him \$5,400 for 27 days of violation.

After Hill refused to pay, the city obtained a judgment against him for \$5,000 in small claims court. Hill challenged this, and at trial District Judge Rebecca Blackmore found the city's ownership restriction to be unconstitutional. The city brought the case before the state's second highest court.

Before the Court of Appeals, Wilmington cited cases from two other states in support of its position that it could regulate ownership of garage apartments. In *Anderson v. Provo City Corp.*, the Utah Supreme Court held in 2005: "We reject the proposition that placing an owner occupancy condition on a supplementary accessory dwelling use constitutes an impermissible regulation of 'ownership.'"

A New York court reached the same conclusion in the 1988 case, *Kasper v. Town of Brookhaven*.

The Court of Appeals, however, was not swayed by these decisions.

"As these cases do not constitute binding authority and their reasoning is at odds with *Graham Court Associates*, we disagree with plaintiff's reliance upon them," Judge Barbara Jackson wrote for

the appeals court.

The Court of Appeals found a different case to be of great significance. *Graham Court Associates v. Town of Chapel Hill* is a 1981 case decided by the N.C. Court of Appeals that the appeals court found to be on point and a controlling interpretation of North Carolina law. In *Graham Court Associates*, a Chapel

Hill apartment complex owner applied for a special use permit to convert an apartment building into condominiums. In either case, the building qualified as a multi-family residential use, which was allowed in the zoning

district in which the building was situated. Chapel Hill refused to issue the permit, and the landowner sued.

The Court of Appeals found for the apartment building owner: "If a use is permitted, as here, it is beyond the power of the municipality to regulate the manner of ownership of the legal estate."

It also cited with approval a 1962 case called *Beers v. Board of Adjustment of Wayne Township*, in which a New Jersey appellate court held that municipal "[d]efendants do not even suggest, nor do we believe they properly could, that owner-occupation of a dwelling is a different use of the property in a zoning sense from tenant-occupation, the actual occupancy of the residence in either case being by a single family."

Applying *Graham Court Associates* to the facts in Wilmington's appeal, the Court of Appeals noted that Hill's property was in a zoning district in which garage apartments are permitted as an accessory use, incidental and subordinate to the principal use as a single-family residence.

Based upon this, it rejected Wilmington's argument that the city could regulate who owned the garage apartment.

"Plaintiff only is entitled to regulate the use of defendant's single-family residence with the accessory use of a garage apartment, not the ownership," Jackson wrote.

N.C. Court of Appeals decisions are binding interpretations of state law unless over-ruled by the N.C. Supreme Court. Wilmington can ask the Supreme Court to review the appeals court's ruling, but because the decision by the three-judge panel was unanimous, the high court is not required to hear the case.

The case is *City of Wilmington v. Hill*, (07-11). CJ



Commentary

Poor Planning and Water Woes

Unless something dramatic happens, water will dominate much of the political and public discussion in North Carolina this year. Access to it, control of it, who gets it, how much they get, and how much it will cost will be the political football of the coming season. But with a few tropical storms or hurricanes, much of that discussion will disappear faster than North Carolina's former budget surpluses.

According to the North Carolina Drought Management Council, a bit less than half the state is in an "exceptional drought," another 35 percent of the state is in an "extreme drought," and the remaining 15 percent is in a "severe drought."

The nuances between these classifications are not worth the time it would take to write. (You know how bureaucracy loves long definitions.) Clearly, North Carolina has some water issues. And the reactions are somewhat predictable. Many cities are starting to enact water restrictions. In Raleigh, the council voted, 8-0, to restrict water usage. Such a policy will severely limit new construction, car washes, and landscaping. It might well put many companies out of business.

Ironically, even as such restrictions put folks out of business, these same communities give incentive money away to create jobs.

But are the right questions being asked at this point in time by local governments? Are the assignments of blame appropriate? How should we deal with this "shortage"?

Unfortunately, many local governments are blaming the users rather than looking at their utter failure to plan over the past 30 years. If oil companies were unable to provide enough petroleum products to keep the economy running because of poor planning, demands to haul oil executives before Congress would echo throughout the country. But during a water shortage, we simply look at the lack of rain and overusage as the problem, rather than addressing the massive shortage of reservoirs throughout the state.

Lake James, in Burke County, has been devastated because of overuse. The same holds true for countless lakes and water supplies across the state. Why haven't we

been building capacity?

Farmers over the past 80 years or so have built thousands of ponds to help keep their farms irrigated in tough times. That planning allowed farms to flourish even in drought conditions. As you fly over the state, you can see the evidence of that planning from east to west and from border to border. But the lack of reservoir building in this state borders on the criminal.

In the past 10 years, Cary was allowed to move more than 12 million gallons a day from the Cape Fear water basin to the Neuse. Rather than build more capacity, Cary simply got legislative approval to move a water supply. Now folks up river from Cabarrus are looking at drastic water basin transfers or worse.

There is no doubt the environmental movement has done a remarkable job of slowing preparation for growth. Protecting habitat and acquiring vast tracts of publicly owned land took the place of truly preparing for the growth that North Carolina inevitably was to have. The victims here are the customers of water systems and probably those on wells who will likely be shut down and forced into a government-run water system in the coming years.

One of the most effective ways to reduce use of a given resource, in this case water, is to change the cost. Raleigh's answer was essentially to put neighbors in a position of reporting on neighbors violating the water usage rules. A better option would have been to address the cost of water. Raising costs lowers usage, or at least makes people more aware.

In the end, much of what is happening in response to the drought is a knee-jerk reaction to years of poor planning. If we do have tropical systems that dump millions of gallons of precious water, we'll soon be discussing flood relief. The real answer is dealing with the demands by preparing for them and adequately pricing the system based on use and supply. CJ



Chad Adams

Chad Adams is vice president for development for the John Locke Foundation, director of the Center for Local Innovation, and former vice chairman of the Lee County Board of Commissioners.

Local Innovation Bulletin Board

Audubon vs. Wind Turbines

AssettlementagreementinJanuary 2007 that was intended to reduce the number of bird deaths caused by wind turbines at Altamont Pass, Calif., is failing, says H. Sterling Burnett, senior fellow at the National Center for Policy Analysis.

The toll has been devastating at Altamont Pass. In the lawsuit, environmentalists cited a California Energy Commission report in 2004 estimating that

1,766 to 4,721 birds were killed by wind turbines each year, equaling 47,682 to 127,467 birds over the 27-year life of the wind farm. The Audubon Society, a party to the lawsuit settled last year, noted that among the birds deaths are 456 to 1,129 raptors, including 75 to 116 golden eagles, killed each year.

Environmental groups are calling for additional restrictions on wind power generation.

The bird death issue is complicated by the fact that commercially viable wind farms must be situated in areas where the wind blows frequently and steadily, Burnett says. The sites tend also to be major flyways for raptors and migratory birds.

Die Hard cuts street crime

A lot has been written over the years on the link between violent culture and violent crime. Most of this has focused on the possibility that playing violent games or watching violent movies makes people more aggressive, a finding backed by some laboratory studies but not others.

Now researchers have found the opposite is true — at least in the short term. It seems that when violent movies are released, violent people go to see them, meaning they're not on the streets drinking, fighting, and generally running amok.

Researchers with the National Bureau of Economic Research looked at the relationship between blockbuster movies and assaults on the days the movies are released. They found that violent crime decreased on days when larger numbers of people went to see violent movies, compared to days with less-violent movies showing.

If the audience for violent movies went up by one million people, violent crime dropped by about 1.2

percent.

"This finding is explained by the self-selection of violent individuals into violent movie attendance, leading to a substitution away from more volatile activities," say Gordon Dahl and Stefano DellaVigna, authors of the study.

"In particular, movie attendance appears to reduce alcohol consumption.... Overall, our estimates suggest that in the short run, violent movies deter almost 1,000 assaults on an average weekend."

Philadelphia's rising costs

Philadelphia's soaring pension and health-care costs are outpacing revenue, which could threaten the city's ability to meet its other responsibilities, the *Philadelphia Business Journal* reports.

According to a study by the Pew Charitable Trusts and the Economy League of Greater Philadelphia, city pension and health-care costs are projected to rise by more than \$1 billion by 2012. Such an increase would claim 28 percent of the city's budget, up from 16 percent (\$403 million) in 1998.

The city's health insurance expenses alone rose 80 percent from fiscal 2002 to fiscal 2007, and another increase this fiscal year will bring costs to \$374 million, or 10 percent of the city's budget.

Philadelphia's per-employee health-care costs — \$13,030 per employee this year — were higher than all but one of the nine comparable cities examined by the study. The average private sector health-care cost in the mid-Atlantic region is \$4,292, while state and local governments paid \$9,082 on average.

Bringing Philadelphia's health-care costs in line with what area state and local governments usually pay for health-care coverage would save \$113 million a year.

The pension outlook is just as troubling. Philadelphia's pension obligation costs are projected to climb from \$252 million in 1998 to \$613 million in 2012. To make matters worse, the city's pension obligations are only 52 percent funded, one of the lowest levels in the country, and far short of the 80 percent considered healthy by most experts.

From Cherokee to Currituck**Water Affecting Annexations**

By MICHAEL LOWREY

Associate Editor

RALEIGH

Fayetteville's mayor and a Cumberland County commissioner have proposed that the city and county establish an urban growth boundary based upon water service. The proposal, if implemented, would radically alter how the local governments handle both land use and annexation, *The Fayetteville Observer* reports.

Fayetteville explicitly links the extension of sewer service and annexation. For a development to get sewer service, the developer must ask for annexation or agree not to fight annexation. Because of the city's policy, much of the growth in Cumberland County continues to be outside the city's boundaries and dependant upon septic tanks.

Fayetteville Mayor Tony Chavonne and County Commissioner John Henley want to alter the status quo, by linking Fayetteville water and sewer service not to automatic annexation but rather to zoning restrictions.

Under the proposal, areas where Fayetteville plans to have sewer lines within the next five years would be required to be annexed in exchange for service. Parts of the county beyond the areas, however, obtain water and sewer service without being automatically annexed. They would, however, be zoned like an urban area and growth would be encouraged. Areas that don't connect to the city's sewer lines would be regarded as rural, with a minimum half-acre lot size.

Homebuilders oppose the plan, claiming it's a prelude to a large annexation. Others see the proposal as an attempt by the city to regulate growth throughout the county.

"If we come up with any plan to help direct how growth is planned, anything is going to be perceived as controlling because it's the wild, wild west right now," Chavonne said. "Developers may say, 'I don't have as much flexibility as I used to.' And maybe they don't. But I'm not sure that's all bad."

Raleigh carwash regulations

Raleigh has been under stricter water usage restrictions, or Stage 2 rules, since February. Among the businesses affected by the tighter restrictions are carwashes, which must be certified to remain in operation. *The News & Observer* of Raleigh reports that the usage restriction required for certification isn't

much of a barrier, and that virtually all car washes meet the standard with minimal effort.

Under the standards adopted by the city, to be certified, an automated carwash must use 55 gallons or less of water for a basic wash. Higher water usage is permissible for premium washes. To be certified, a self-service carwash must install nozzles that limit water usage to three gallons a minute. Recycling water or using reclaimed water is not necessary for certification.

"They're almost all under 55 gallons," said Ed

Buchan, the city's water conservation specialist who handles certifications. "Most anybody who's got their wits about them can get certified."

Raleigh is the only city in the state to require certification under drought restrictions. The regulation is based upon a similar program in San Antonio, Texas. The 55-gallon figure comes from an industry recommendation. The national average that automated carwashes can use is 90 to 120 gallons per car.

By comparison, the goal for personal water consumption is 35 gallons per person per day. Washing ones car at home has been banned in Raleigh since last summer. Some Raleigh residents have complained that the restriction unfairly favors business and commercial users over private individuals.

"It almost makes me think the carwash business is in somebody's pocket on the City Council," Raleigh resident John Hamilton said.

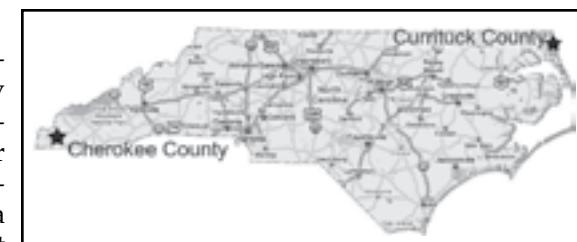
Greensboro water billing

Greensboro will begin sending bills to water customers monthly, instead of quarterly, the *News & Record* of Greensboro reports.

The first customers were switched to monthly billing in late March. The transition should be complete by the end of the year.

There has been a long delay between when people use water and when they are charged for it under the quarterly billing cycle. "It will give people much quicker feedback," Allan Williams, director of the city's water resources department, said of the new billing cycle.

The move is tied to the installation of new water meters. All 100,000 service locations are having meters installed that can be read remotely by a specially equipped car as it drives by. Buying and installing the new meters is projected to cost \$12 million.



Local Government

Transit Commission Wants to Go 'Bold' With Recommendations

No opposition heard to extensive rail transit at panel's last meeting

By DAVID N. BASS

Associate Editor

RALEIGH Members of a special transit advisory commission used their final scheduled meeting recently to stress the urgency of approving a bold set of transportation recommendations for the Triangle that includes an expansive rail-transit system.

"The fact of the matter is, we've got to put something forward that is so compelling that the government leaders will buy in and take it to the voters, and they'll accept it, and say we've got to do this," said Bill Cavanaugh, cochairman of the Special Transit Advisory Commission and moderator of the five-hour meeting in Research Triangle Park on Feb. 29.

The most vocal members encouraged the group not to shy away from including far-reaching recommendations in a final consensus report to be submitted to the area's two metropolitan planning organizations in late March.

"Don't water it down," said Cal Horton, a former Chapel Hill town manager. "We need to take the political heat for this. If we don't, then the MPOs will be less inclined to do so."

Dan Coleman, a member of the Livable Streets Partnership, used the phrase "the fierce urgency of now" to encourage his fellow commission members to be bold in recommending a roadmap for transit needs.

"I don't want us to dismiss the role that our report has to play in the



marketing of this issue," Coleman said. "With gas going where it is, and with the press following what we're doing, I think that if we don't set the course when this report comes out, we will have lost a golden opportunity."

The commission, which began meeting in May, is made up of 29 Triangle residents, many from environmental, business, and civic organizations. As part of a broader Regional Transit Vision Plan spearheaded by the metropolitan planning organizations, the commission is responsible for taking a "fresh look" at transit and suggesting investments for the future.

The commission has put forward a

"Don't water it down. We need to take the political heat for this."

Cal Horton
Former Town Manager
Chapel Hill

number of recommendations, including enhanced bus services and a 56-mile rail-transit line between Raleigh, Durham, Cary, and Chapel Hill.

Members have suggested funding sources such as a half-cent

sales tax increase, a doubling of the current vehicle registration fee, and tax increment financing to handle the project's estimated \$2 billion price tag. In addition, the commission hopes to capture state and federal funding to supplement local revenue sources.

The recommendations are double the size of an \$810 million transit project backed by the Triangle Transit Authority that fell through in 2006 after the federal

government refused to offer funds.

Despite the TTA failure, none of the commission members raised objections during the Feb. 29 meeting to the more-extensive plan put forth in the commission's recommendations. Instead, much of the debate centered on how best commission members could sell the plan to government leaders and the public at large.

"We're all going to be ambassadors for convincing people that the sales tax increase is a good thing," said Mike Shiflett, a member of the Durham Inter-Neighborhood Council. "Transit benefits everyone: students, the poor, developers, and non-transit users."

"We're not trying to force people to have a different lifestyle — we're simply providing an opportunity for them to choose that different lifestyle," said Holly Reid, president of the board of directors for the Eno River Association, an environmental advocacy group.

George Cianciolo, a commission cochairman and pathology professor at Duke University Medical Center, told CJ that there has been no open public opposition to the transit recommendations.

"Everybody who's come up to talk to me has been very positive," he said. "We do have a couple members on the commission who prefer that we stay with the bus system and forget about rail. That will be in the report as the minority position."

When asked whether there has been much resistance to the plan, Smedes York, another commission cochair and former Raleigh mayor, said there "has been discussion, no doubt about that." He also noted that all of the meetings have been open to the public.

"The media has reported about it, and now you're reporting about it," York said.

CJ

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Jacksonville	WJNC	AM 1240	Sundays	7:00 PM
Newport/New Bern	WTKF	FM 107.3	Sundays	7:00 PM
Salisbury	WSTP	AM 1490	Saturdays	11:00 AM
Siler City	WNCA	AM 1570	Sundays	6:00 AM
Southern Pines	WEEB	AM 990	Wednesdays	8:00 AM
Whiteville	WTXY	AM 1540	Tuesdays	10:00 AM
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Climatologist Roy Spencer dispels such hype in his new book, *Climate Confusion: How Global Warming Hysteria Leads to Bad Science, Pandering Politicians and Misguided Policies That Hurt the Poor*.

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• No American living in 1800 would have predicted that Thomas Jefferson's views on church and state would eclipse those of George Washington. Yet today's Supreme Court guards no doctrine more fiercely than Jefferson's "wall of separation" between church and state.

In *Under God: George Washington and the Question of Church and State*, Tara Ross and Joseph C. Smith, Jr., contend that Washington's claim to constitutional authority is far more impressive than that of the brilliant but eccentric Jefferson. Though careful not to favor particular sects, Washington believed that a democracy must not merely accommodate religion but encourage it. Learn more at www.spencepublishing.com.

• The political movement that controls much of the Republican Party is one of Americans who simply wish to be left alone by the government. So argues Grover Norquist in *Leave Us Alone: Getting the Government's Hands Off Our Money, Our Guns, Our Lives*.

This coalition is not asking the government for others' money. Rather, its members want to be free to own a gun, homeschool their children, pray, invest their money, and control their own destiny. They are the Leave Us Alone coalition. In his book, Norquist shows the continuing conflict between this political force and the tax-and-spend Left. Find out more at www.harpercollins.com. CJ

Book review**Bulldozed Crucial for Property Rights Advocates**

- Carla T. Main: *Bulldozed*; Encounter Books; 2007; 276 pp., \$27.95

By GEORGE C. LEEF

Contributing Editor

RALEIGH

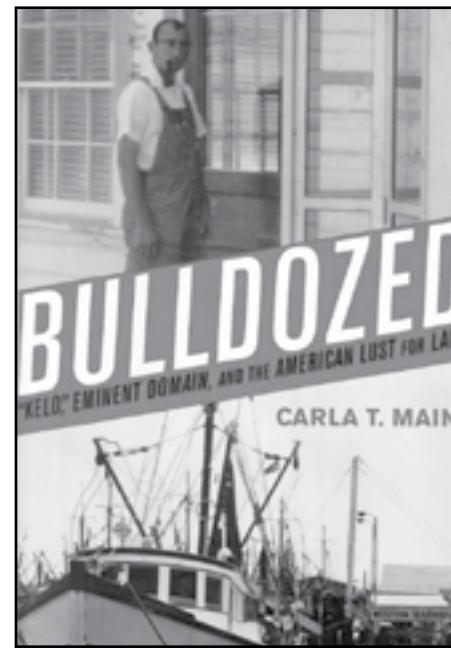
In 2005, eminent domain became a hot national issue with all the attention focused on it because of the Supreme Court's decision in *Kelo v. New London*. While property-rights scholars and libertarian activists had long known about the nasty, authoritarian business of taking private property away from people through eminent domain and transferring it to others who were expected to make "better" use of it, *Kelo*'s holding that it was permissible under the Constitution for governments to seize property for "economic development" purposes outraged great numbers of Americans.

The palpable unfairness of tossing poor homeowners out just so a business can put up a new mall, hotel, or office complex that will increase the city's tax collections brought together a broad coalition of Americans who wanted to see the law reformed.

The anti-*Kelo* movement won a few victories in state legislatures, but lost others and some of the steam seems to have gone out of it. With the publication of Carla Main's *Bulldozed*, however, the reform movement should get a jolt of new energy. It is an incendiary book that centers on a protracted and highly revealing eminent-domain battle in Freeport, Texas, where a family's efforts to save their small business from condemnation was of Alamo proportions—but with the defenders holding out. What makes *Bulldozed* so compelling is the wealth of detail Main presents on the slimy, despicable tactics used by city officials in an effort to get their way. Thus, the book isn't only a lesson about eminent domain, but also a lesson on the ugly truth about local government "democracy."

Freeport is a grimy industrial town on the Old Brazos River, a few miles inland from the Gulf of Mexico. The dominant feature of the landscape is a Dow Chemical plant that employs most of the local labor force. It is a poor city with an annual budget of only \$13 million. Freeport's Web site tries to depict the city as an alluring tourist spot, but in fact there is very little to attract vacationers, and much to repel them.

City officials were not content to govern over such a mundane place. Suffering from a bad case of glitz-envy, they concocted a plan to boost the economy with a marina. It would be a privately owned enterprise, to be built by a wealthy scion of a Houston oil family, mostly with funds from the city's meager budget. This was a classic "heads-I-win-tails-you-lose" deal from his perspective. As if that weren't bad



After more than three years of litigation—which cost the Gore family more than \$450,000—it appears that the city has been defeated. But as Yogi Berra said, "It ain't over till it's over." With eminent domain, it's never really over.

enough, the plans called for land along the river owned by the Western Seafood Company. Western Seafood had been founded in 1950 by the Gore family and it was truly one of those "up by the bootstraps" stories. The business, which bought from and sold to the shrimp trawlers that fish the Gulf, was one of the largest employers and taxpayers in Freeport. City officials, however, were enamored of the idea of the marina as a catalyst for other investments such as hotels and restaurants that would turn their town into a "destination." They were eager to shove the Gores out so they could have their marvelous marina.

Throughout the book, Main gives readers insights into the petty tyranny of Freeport's government, tyranny greatly exacerbated by the lust for privately owned land. The first insight concerns the notice officially given to the Gores that the city had designs on their property. There wasn't any. On Sept. 8, 2003, a fax was sent to the offices of Western Seafood. Without any cover sheet or other explanation, the document that came through had been issued by the Army Corps of Engineers. It said "Public Notice" at the top, without any indica-

tion that it had particular relevance to Western Seafood. Fortunately, Wright Gore read through it anyway. The document was a lot of legalese, but he figured out that it meant that a marina was planned for their section of the river, cutting off access to the fishing trawlers that were their livelihood. When he got to the end, he was stunned to read that public comments were due by Sep. 12.

If Gore hadn't read through the anonymous fax, he would not have been able to respond in time and would thereby have lost the possibility of objecting to the taking of his property. This was just the first of several instances where the city ran roughshod over the idea of due process of law.

The Gores got their lawyer, who had to quickly master the intricacies of eminent-domain procedure, into action immediately. Working frantically, he was able to stave off confiscation of the Western Seafood property and turned what the city had hoped would be a quick knockout into a bloody 15-round fight. After more than three years of litigation—which cost the Gore family more than \$450,000—it appears that the city has been defeated. But as Yogi Berra said, "It ain't over till it's over." With eminent domain, it's never really over.

A crucial point about Freeport that Main stresses is that its unfriendly attitude toward business had much to do with its poor condition. Paper work and bureaucratic obstruction made it such a headache to set up and run a business that most people had just given up trying. Downtown was mostly a wasteland of empty storefronts. A woman who wanted to open a muffin shop threw in the towel after hearing about all the city's requirements. Property owners were nickel-and-dimed to death with a stream of fees. But instead of changing their ways and waiting for entrepreneurs to discover Freeport, city officials set their sights on economic revitalization through a grand, visionary central-planning scheme. In Freeport, as in so many other places, politicians prefer coercion to freedom as the means of achieving their objectives. They would rather throw the dice on one big idea than set the right conditions to attract many small investments—exactly what Public Choice theory would predict.

The city had come up with a comprehensive redevelopment plan that hardly anyone knew about. It wasn't publicized, and if you wanted a copy, you had to make a request under the Texas Open Records Law. Not only would a marina wipe out Western Seafood, but the entire East End section of town, an area of small homes owned by poor working families, was declared to be "severely blighted."

Much of *Bulldozed* is a blow-by-

Continued as "Bulldozed," Page 22

The Learning Curve

Murphrey Led Effort to Get Support for 'Internal Improvements'

Some things never change. The particulars might do so, yet the essence remains. Modern-day political ideas in North Carolina, for example, are rooted in our state's past. One example is public-funded roads.

One prefatory note: The antebellum debate for public financing of public roads and canals, called internal improvements, has been misunderstood. Opponents of nationally funded internal improvements have been unfairly criticized as eccentric

agrarians or backwoods provincials who wished to go back to a medieval, self-sufficient economy and therefore retarded progress in the Old North State. Proponents of state-funded internal improvements have been considered benevolent and selfless politicians, concerned only about helping the public.

In the early 1800s, Archibald De Bow Murphrey, planter, lawyer, state senator, and Superior Court judge, stressed the need for state-planned

transportation improvements. Some have called him a "prophet" and a "visionary," and he is the namesake of Murphy County (unfortunately his name was misspelled). Murphrey remarked that North Carolina was one of the poorest states and for that reason, many moved elsewhere to find opportunity. The lack of roads and canals, it was argued, contributed greatly to this emigration, so the General Assembly in 1817 created a Board of Internal Improvement, with Murphrey as chairman.

As chairman, Murphrey hoped to open up the state's major rivers for more navigation and to make a profit while doing so. He invested in navigation companies and bought land along the Cape Fear, Haw, Deep, and Yadkin rivers. Fortune was not kind to Murphrey, however. His internal improvement idea rang hollow in many North Carolinians' ears. Murphrey's stock suddenly fell, and he spent time in debtor's prison. But his idea did not die, for in the late 1830s William Graham and John Motley Morehead supported public-funded plank roads and railroads. (Note that Murphrey's plan called for state-funded roads, not nationally funded ones.)

On the other hand, Nathaniel Macon, asking reasonable and

discerning questions, opposed the public funding of roads because he feared possible political corruption and regarded the national funding of transportation improvement as unconstitutional. In 1814, Macon said, "[The] importance of inland navigation is not at this time questioned by anyone; But by what ways and means the navigation is to be improved, and the roads to be made, is not a question so easily answered. . . ." He was well aware that many wanted the building of roads for individual interest. It is no surprise that in the 1830s and 1840s, many turnpikes and railroads passed through the hometowns of sponsors of transportation bills, whose land increased in value with the improvement.

Macon also opposed federal subsidies. He argued, writes historian Alan D. Watson, that such expenditures "added to the federal debt and taxes." They also kept tariff rates high. Therefore, Macon and his acolyte, Thomas H. Hall, a congressman from Edgecombe County, kept the national subsidies in their state at almost nil: Out of almost \$4.2 million in national internal improvement expenses, an 1828 report disclosed that North Carolina had received only \$1,000. Some remarked, however, that as long

as the national government doled out money for transportation improvements, North Carolina should accept some subsidies and ensure that some of North Carolinians' contribution to the coffers of the U.S. government was returned to improve their state.

The debate raged between the Democratic Party and Whig Party until the Civil War: The typical, antebellum Democrat voted against internal improvement funding, while the Whig favored it. In 1849, when debating whether to provide public funds for plank roads, Democrats articulated Macon's ideas: "The great question now in North Carolina must be whether or not we are to approve a wild and profligate scheme of Internal Improvements, adopted by an abominable system of log-rolling and deception — the result of which is to impose taxation to the amount of five times what we now pay."

A question that should remind us today that, in government planning, genuine humanitarians are as scarce as hen's teeth and nothing is free.

CJ

Troy Kickler is director of the North Carolina History project (www.northcarolinahistory.org)

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Short Takes on Culture

'Semi-Pro' An Airball

• "Semi-Pro"
New Line Cinema
Directed by Kent Alterman

To judge by the previews, "Semi-Pro" looked as if Hollywood had finally made a basketball movie that could hold up on its own. There have been so many ones that I have flat out refused to see, such as "Like Mike," "Juwanna Man," "Air Bud," and "Coach Carter" to name a few. So when Will Ferrell decided to take on basketball, my hopes soared, only to be put back down for a rocky landing.

The movie follows Jackie Moon (Ferrell), a one-hit-wonder who uses his money to buy an ABA team, the Michigan Tropics, and proceeds to act as the owner, coach, promoter, and top player. The NBA tells all team owners that they are absorbing the top four teams from the ABA and leaving the rest to fend for themselves. It's Jackie Moon's hope that he can pull his team together to make the cut.

Most of the scenes follow traditional Ferrell style but fall short of anything worth the amount spent at the ticket office. Classic random occurrences, little to no plot development, and slapstick humor all follow the former "Saturday Night Live" star's brand of movie making.

With hopes of another "Talladega Nights," I was left with a sour taste in my mouth and \$20 less in my pocket. If you really enjoy Ferrell, I would wait for the DVD release, rent it, and judge for yourself.

— JOEL GUERRERO

• "Take My Blanket and Go"
Joe Purdy
Self-Published CD

It probably says something about the state of media these days that I discovered a very talented folk singer by watching a car commercial on TV.

If you haven't heard the unforgettable "Can't Get It Right Today" (from the "You Can Tell Georgia" album) on the current KIA commercial, you may know it from "Grey's Anatomy," where it was used as the backdrop of Izzy's dealing with the loss of Denny.

The writer and singer of that song is Joe Purdy, an Arkansas folk singer. "Take My Blanket and Go" is his eighth album, all self-published and available at the iTunes store or at his Web site (www.joepurdy.com).

Purdy has a ramblin' troubadour vibe with his cloth cap and

full beard. He looks like he should be hopping a freight with Woody and Cisco rather than playing at the Hotel Cafe in L.A. He can be haunting with just a guitar, as on "Canyon Joe" (on the album of the same name), or late-Dylanesque with full band, organ, and harmonica as on "San Jose" on the "Take My Blanket" album.

The Hotel Cafe brought him a cult following, but TV has made him famous. Three of his songs have been featured on "Grey's Anatomy" episodes, and "Wash Away," from his "Julie Blue" album, has become the unofficial theme song of the ABC show "Lost."

— JON HAM

• "Helvetica"
Swiss Dots
Produced by Gary Hustwit

"Helvetica" is an independent documentary about typography and the most popular font in graphic art. Directed by Gary Hustwit, this film proves to be one of the most intriguing documentaries about the world's most used typeface.

If you are unfamiliar, Helvetica is a simple sans serif font. A sans serif font is a font without details or decorations on the ends of each letter. The clean edges are not only aesthetically pleasing, but are easier to read than most serif fonts.

The film explains the emergence of Helvetica through interviews with leading graphic and type designers. In the late 1950s there was a need for a rational typeface that could be applied to contemporary information, such as magazines and corporate logos. This new font had to be neutral; the meaning had to be in the word and not in the typeface itself.

A Swiss graphic designer, Max Miedinger, supposedly created the font. Originally the font was titled Neue Haas Grotesk but was later changed to Helvetica, which is the Latin word for Switzerland.

As I watched the film, I was amazed at how passionate these people are about fonts. Font isn't just a representation of words, it is art. As shots of corporate logos, advertisements, and signs flashed across the screen, I really started to see how this font has artistic value. Suddenly, a shot of Times Square is full of advertisements using Helvetica to represent a brand or a city bus becomes a rolling display of Helvetica art. Thanks to this film, I'll never look at fonts the same again.

— JANA DUNKLEY CJ

Book review

Bulldozed a Property-Rights Saga

Continued from Page 20

blow account, including quite a few low blows, of the legal warfare, but along the way Main, a lawyer herself, gives the reader a primer on eminent domain law in general. She goes back to two cases Daniel Webster argued (and, unfortunately, lost) before the Supreme Court in the 1840s, cases that began the process of undermining property rights. A century later, in *Berman v. Parker*, the Supreme Court would declare that the courts should defer to the ideas of local officials as to the "best use" for land. In 2005, *Kelo* was a brave fight against bad precedents that fell just short.

As to the marina plan, Main argues convincingly that it was a lame-brained scheme.

Why would wealthy boat owners want to think about docking along a dirty old river dotted with industrial plants and rusting derelicts? Like so many other ideas that politicians dream up to "invest" other people's money, the Freeport marina looked like a big flop that would leave the overburdened taxpayers struggling with increased debt. Propaganda by the city to persuade residents that the private party was taking the risk was the height of deception.

The Gores thought that one way of heading off the seizure of their business would be to arouse public opinion, so Wright set up a primitive Web site telling all he had found out about the redevelopment plan. For that temerity, he was promptly sued by the rich Houstonian, but Wright refused to back down. When other opponents began questioning whether the city was going to condemn houses, officials heatedly denied that even one would be taken, although the "blight" designation is invariably used to justify a taking.

Efforts at distributing information door-to-door were checked by enforcement of an obscure ordinance. But when city officials wanted to get their own ideas out, they absconded with the run of a local advertising paper and stuffed their flyers into each paper before distributing them. In short, the political establishment played some very dirty pool.

"Well, it's too bad that people are sometimes forced out through eminent domain," some readers may be thinking, "but at least they're fully compensated, aren't they?" Actually, that is seldom the case.

When governments take property, they usually find "experts" to low-ball the appraisal and never offer to pay for incidental expenses such as moving.

While the Freeport case didn't get to the compensation stage, Main's discussion of other cases, especially the infamous Poletown case in Detroit, makes it clear that when governments use eminent domain, the results are hardly different from robbery. It's enough to make you laugh at the claim of these politicians that they "represent" the people they're victimizing.

An unexpected, favorable ruling by a state court judge threw a monkey wrench into the city's plans. At enormous expense, the Gores have apparently been able to keep what is theirs.

The great lesson of *Bulldozed* is that politicians shouldn't be trusted with the power to remake cities according to their own visions.

It's appalling that in a town where many of the poor residents just wanted better protection against flooding, the politicians were interested only in squandering the taxpayers' money on a hallucination that Freeport could be transformed into a glittering tourist mecca. "Economic development" takings distract politicians from doing the best they can to govern the city they've got and induce them to dream up grandiose ideas about the city they'd like to rule.

While Main does not challenge the moral basis of eminent domain itself, but only attacks the manifest unfairness of its use for "economic development," a close reading of the book should get people wondering why even the traditional use of eminent domain, to seize private property for "public use," is justified.

Suppose that instead of a marina that would supposedly invigorate the economy of Freeport, city officials had decided that they needed the Western Seafood land for a public school? Or maybe a public park on the river. How would that change anything? The owners would still be subjected to coercion and the loss of their property so that a few other people—"the public" always means a small subset of the population—could have something they want at little or no expense. If taking the Western Seafood property for a marina would be wrong, taking it for other purposes would be no better.

Bulldozed is a very illuminating book, crucial reading for Americans who are concerned about the erosion of their property rights.

George Leef (georgeleef@aol.com) is book review editor of *The Freeman* and vice president for research of the Pope Center for Higher Education Policy.

David's Hammer: The Case for an Activist Judiciary

• Clint Bolick: *David's Hammer*; Cato Institute; 2007; 177 pp; \$11.95

By GEORGE C. LEEF
Contributing Editor

RALEIGH In recent years, "judicial activism" has been assailed from both ends of the political spectrum. Conservatives complain about liberal activism when courts strike down laws they favor, and liberals complain about conservative activism when judges interfere with any of their schemes for controlling society. With so many attacks on judicial activism, you'd think it was at about the same level as child molestation. Can anything be said in its defense?

Emphatically, "yes," answers Clint Bolick in *David's Hammer*. Bolick, a veteran constitutional lawyer, contends that there is good judicial activism and bad judicial activism. The book is his attempt to sort out the two and explain why the good variety is important to a free society. He's right on target in saying, "With the explosive growth of government at every level and the concomitant erosion of liberty, what we really have to fear from the courts is not too much judicial activism, but too little."

Bolick argues that the Constitution meant for courts to assume an "activist" stance in order to protect the people's liberties against incursions by the other branches of government. Both the liberal and conservative critiques of judicial activism, unfortunately, amount to nothing more than unprincipled sniping at the courts for interfering with statutes and regulations they like. As an antidote to unprincipled activism—and its equally bad twin, inactivism—Bolick advocates five general rules for judges:

- Carefully review all contested

actions by federal, state, and local governments that implicate individual liberty.

- Evaluate laws with a presumption that liberty should be preserved.

- The Constitution enumerates the proper sphere of governmental power, so if there is no legal basis for an exercise of power, it is void.

- Read the Constitution so as to give meaning to every word.

- Courts should never exercise legislative or executive powers.

Most of the book is devoted to cases Bolick has litigated that illustrate his philosophy about judicial activism. He begins with an excellent example, the case Juanita Swedenburg. She grew grapes and made wine in Virginia and wished to be able to sell her products to customers around the country.

The trouble was that many states had laws prohibiting interstate shipments of wine. Vintners such as Swedenburg couldn't sell in New York unless they established a "physical presence" in the state, but doing that would be far too costly for small sellers. But why

should they have to? Why should state borders and anticompetitive laws get in the way of commerce?

Bolick fought the case tooth and nail, battling an array of interest groups that wanted to see the law upheld. He won in district court, but lost on appeal in the Second Circuit. The Supreme Court would resolve the matter.

Fortunately, the court took an activist approach. In a 5-4 decision, it struck down state laws against out-of-state wine shipments, observing that they "deprive citizens of their right to have access to the markets of

other states on equal terms." This was laudable activism.

Another chapter covers the heated issue of eminent domain and gives an inside look at a case that went against liberty, the infamous *Kelo* case. *Kelo* involved the City of New London's effort to seize the home of Suzette Kelo and transfer her property to Pfizer Corporation for a planned office complex. Here is where Bolick's point about the need for judges to carefully read the Constitution is especially important. The

Fifth Amendment states that government may use eminent domain to take property for public use. Unfortunately, the court has decided to read that as meaning public benefit, so all politicians need to do is to say that the proposed use of the land will in some way benefit "the public." Mostly that means "pay higher taxes."

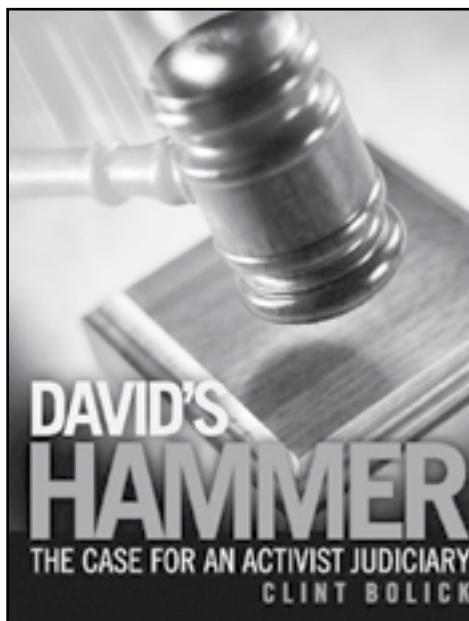
Kelo turned out badly, with the court choosing to defer to the whims of local authorities. It was judicial inactivism.

Another area where Bolick has been busy is fighting the array of laws that stifle people's freedom to enter into businesses and trades. He tells us, for instance, about Leroy Jones, who wanted to start a new taxi company in Denver.

Jones mainly wanted to serve a minority section where residents often found it hard to get a cab from any of the three existing taxi companies in Denver. Why couldn't Jones just go ahead? Answer: It's illegal to provide taxi service without having a "certificate of public convenience and necessity" from the Public Utilities Commission. The PUC wouldn't issue the certificate unless Jones could somehow prove that the existing companies were unable to serve the area.

Bolick fought for Jones in court, but lost. More judicial inactivism. Freedom remains squashed.

This book should make you angry. The American Colonists rebelled against much less, but our petty tyrannies elicit only yawns from many judges. CJ



**Kelo turned out badly,
with the court choosing
to defer to the whims of
local authorities. It was
judicial inactivism.**

George Leef (georgeleef@aol.com) is book review editor of *The Freeman* and vice president for research of the Pope Center for Higher Education Policy.

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Selling the Dream Why Advertising is Good Business



By John Hood
President of the
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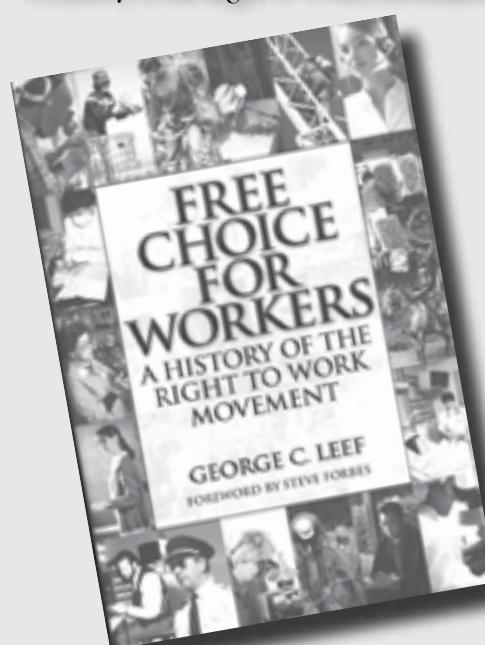
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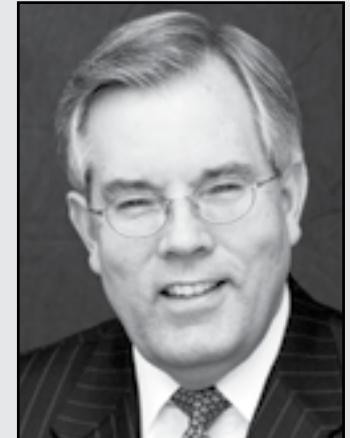


Free Choice for Workers:

A History of the Right to Work Movement



(Call Jameson Books, 1-800-426-1357, to order)



By George C. Leef
Vice President for Research at the
John William Pope Center for Higher
Education Policy

"He writes like a buccaneer... recording episodes of bravery, treachery, commitment and vacillation."

Robert Huberty
Capital Research Center

Commentary

Water World

The whole aim of practical politics is to keep the populace alarmed (and hence clamorous to be led to safety) by menacing it with an endless series of hobgoblins, all of them imaginary."

— H.L. Mencken

Is the glass half-full, or is it half-empty? Ask an overly ambitious politician, and the answer usually will be "half-empty." Ask environmental activists, who wag the dog in today's political power circles, and again, the answer will always be "half-empty," or in many cases, "hopelessly empty."

Such is the impetus behind N.C. Gov. Mike Easley's quest to become the state's water czar. More than happy to play politics with the state's drought, Easley wants to seize the opportunity of a lifetime — to supercharge the governor's office with the godlike power to control the most basic of necessities.

Easley's grand scheme, announced March 11, would usurp local-government power and grant the governor's office sweeping authority to monitor and control all sources of water, including private wells and ponds, in the state. Some of the language, such as that calling for conservation-based pricing and for regular testing of pipes to detect leaks, in the governor's plan seems reasonable.

On the other hand, the overall ramifications of Easley's plan would be Orwellian. The governor proposes using high-tech gadgetry to spy on citizens. North Carolinians already are feeling the effects of noncompliance. Citizens can receive hefty fines, and jail time in some cases.

The governor says he must be given the power of Big Brother because, "We can not (sic) let up on our conservation efforts and that is why today I am announcing a public awareness effort to encourage citizens to save as much water as possible now, make water conservation a way of life in North Carolina and make our state drought proof."

"Public awareness effort," "encourage citizens," and "make" water conservation "a way of life" are indicative of Easley's double-

speak throughout his two-page announcement.

More is involved than the pretense Easley espoused in asking the General Assembly to give him that authority. For years it has been the dream of radical environmentalists — and the politicians they influence — to control infrastructure. If this unholy alliance is allowed to control water — and electricity, transportation, and public access to land, as the extremists are trying to do under other programs — it can manipulate citizens like puppets.

Easley is merely aping Agenda 21, the U.N.'s 1992 blueprint for global transformation in the 21st century.

The U.S. Senate, recognizing the danger to civil rights and the very sovereignty of the United States, rejected the U.N. treaty. But the Clinton administration, which embraced Agenda 21 and the Biodiversity Treaty, enacted the U.N. manifesto anyway through the various federal administrative agencies. Americans, in every state, are suffering the consequences today.

The "sustainable development" agenda, pushed by planning departments, is already sweeping across North Carolina. Citizens in targeted areas can detect its presence by the appearance of buzzwords — such as "visioning," "partners," "stakeholders," and "consensus building" — in the sycophantic media.

Achieving public and political consensus, a key component of the environmentalist agenda, requires painting scary scenarios of a dying planet that frighten children, anger youth, and persuade adults to submit to unthinkable regulations. Outspoken opponents are eviscerated in public "hearings" by "facilitators" trained in a cynical modification of the Delphi Technique.

North Carolina's legislators — and foremost, their constituents — should think through the ruse before they anoint Easley, like Al Gore, as another emperor of the environment. CJ

Richard Wagner is editor of Carolina Journal.



**Richard
Wagner**

Editorial**N.C.'s Vanishing Air Routes**

March 31 marked the end of an era for Kinston. That's the day Allegiant Air operated its last flight from the city — and quite likely the last scheduled airline service from Kinston, period. Adding insult to Kinston's injury, Allegiant essentially transferred its twice-weekly service to Orlando Sanford International Airport to Wilmington from Kinston. These developments are a sign of broader changes in air transportation in North Carolina and across the country.

To smaller communities, scheduled air service is regarded as a key to economic development. It's also a matter of civic pride, a sign that a community is significant in its own right and interconnected to the rest of the country and world.

A decade ago, 14 N.C. communities had scheduled airline service. Today it's only nine. A decade ago, regional airlines commonly flew to smaller communities, such as Kinston, Hickory, and Rocky Mount. The bar to having service was relatively low, with boarding about 10,000 people a year enough to support flights. While that sounds like a big number, it translates to three 19-seat turboprop flights a day half-full.

Those days are now long gone. Small turboprop airliners are no longer economically viable and are rapidly disappearing from the American sky.

Of the more than 550 flights a day from US Airways' Charlotte hub, only three now are on 19-seaters, and those are used on federally subsidized Essential Air Service routes for which most N.C. communities do not qualify.

Cities that can't support planes that big have been cut from the system over the past few years: Kinston, Rocky Mount, Winston-Salem, Moore County, and Hickory. Thin point-to-point routes such as Raleigh-Asheville and Raleigh-Norfolk have disappeared, too.

Part of the problem is that smaller aircraft, whether turboprop or regional jet, have higher per seat-mile costs than the larger aircraft commonly flown out of Charlotte or Raleigh. To make up for that, airlines must charge higher fares to serve smaller cities. Unsurprisingly, many travelers from smaller communities shun their local airports and drive to bigger cities to take advantage of the lower fares and wider range of flights offered.

Greenville's airport manager estimated last year that 75 percent of local travelers drive to Raleigh-Durham International Airport rather than use the five flights a day to Charlotte from his city.

Perhaps part of the problem lay, it was argued, with where such community flights had previously gone, to US Airway's Charlotte hub. The air carrier has been in bankruptcy twice and offers a limited service to more-exotic destinations, such as Europe. Delta Air Lines, in contrast, offers a far wider range of destinations, both domestically and internationally, via its massive Atlanta hub operation. In 2006, Delta started flights to three destinations in North Carolina that US Airways had dropped: Moore County, Hickory, and Kinston, on 40-seat regional jets.

It turned out that hub choice wasn't the problem after all. None of these services lasted into 2008. Allegiant Air then offered twice-a-week flights to Orlando's second airport, but Kinston couldn't support that service, either, and the airline shifted to the larger Wilmington market.

If a city in North Carolina can't support flights to hubs in Charlotte and Atlanta or to Orlando, it's doubtful it can support flights anywhere. As much as the good citizens of places like Kinston and Pinehurst might wish otherwise, that is market reality in 2008. CJ

Environmental Cost-Benefit

Huge tax increases don't justify the meager green payback

A new study from the Environmental Protection Agency about the economic impact of global-warming legislation is making headlines and drawing praise from the sponsors of the bill in question — Sens. Joe Lieberman and John Warner — as well as from climate-change alarmists. Why? Because the study doesn't forecast economic devastation if a cap-and-trade system for carbon dioxide is put in place.

Good. If they're willing to accept this EPA study as valid, it will serve to undercut many of their talking points. It is, in many ways, a sort of "best-case" scenario for carbon-dioxide regulations, and it remains not a particularly good case.

First of all, because alarmists embrace this study, they can no longer deny the obvious. Enacting such a bill will significantly raise the price of electricity and the cost of driving automobiles — which will remain, everyone grants, the primary means of personal transportation for many years to come. The study estimated a 44 percent jump in electric bills by 2030 and a 53-cent-per-gallon rise in gas prices at the pump. Overall, households would lose about \$4,400 worth of buying power by 2050.

A lower-carbon lunch isn't free, in

other words.

To weigh against this cost is the purported benefit of reducing greenhouse-gas emissions by half of what they would otherwise be by mid-century. This sounds significant until one remembers that, according to the available models, such a reduction would have little real effect on average global temperatures. That non-free, lower-carbon lunch offers little in the way of environmental nutrition.

Another point to consider is that in order to make even these projections add up, EPA had to assume a huge increase in nuclear-power generation. This is a good idea, but environmentalists prefer to emphasize solar, wind, geothermal, biomass, and conservation as the ways to replace baseload power from coal-fired plants.

For conservation to play a bigger role in the model would require electricity and gas prices to be far higher than they are now, in order to motivate consumers. Most activists don't like to say that, but it's the reality.

To justify such a government-imposed reduction in household income — call it a tax increase, for short — would require clear evidence of a significant benefit. It's not there. CJ

Volume Can't Help a Deficit

Education won't be improved with longer days, school years

If you're losing 30 cents on the dollar, you can't make up the difference in volume.

North Carolina's public schools are (in)famously losing about 30 percent of their students before graduation day. Unfortunately, the debate on this issue can't yet move to solutions because of two facts that the political class has yet to accept.

First, the problem is far worse than it appears. Because a large chunk of students who do graduate from our government high schools can't pass the state's relatively easy state tests, that means that far fewer than 70 percent of North Carolina students are truly educated at the high-school level.

The second fact the political class doesn't understand is that their preferred policy responses — raising average teacher pay, reducing class sizes, and extending public education by hours, days, or years — are unlikely to make any significant difference in improving graduation rates.

The best-available data don't offer much hope. Average pay doesn't correlate with teacher effectiveness, while class-size reductions are an expensive way to produce only a modest academic gain among only some groups of young students.

As for extending public educa-

tion's reach, by lengthening the school day and year or creating universal preschool programs, the evidence is if anything even more overwhelmingly against the efficacy of such reforms.

Take preschool programs. While there are some studies suggesting that desperately poor children benefit from carefully targeted pre-K programs, universal preschool is an expensive waste of time.

Even for the targeted efforts, the benefits often fade out by the time a child reaches the second or third grade. Politicians are fond of preschool programs, likening them to inoculations against the ravages of poverty and neglect, but the truth is that they frequently devolve into expensive day-care services.

But what about all the countries that outperform the United States in international tests? Sure, some of them have higher teacher pay, smaller class sizes, longer school years, and government-run day care. But most high-performing countries don't. There are few consistent patterns of correlation between inputs and outputs.

Our current education system is broken, on multiple levels. Solving the problem will not involve simply making kids spend more time in a broken system. You can't make up a chronic deficit with volume. CJ

Commentary

N.C. Leaders Have 'Quicken Pox'

I don't know precisely when the infection started, but it's been evident for years that North Carolina's political class suffers from a disease one might call the Quicken Pox.

In constitutional government such as ours, where power is separated into competing institutions, the intended result is not to make change easy or rapid but instead to make it challenging and deliberate. The Founders of our state and nation believed that we were more likely to suffer from the ravages of herky-jerky legislation and bureaucratic busybodies than we were to benefit from bold, persistent experimentation.

Of late, though, impatient North Carolina political and governmental actors have gotten themselves into trouble by running up against the constraints of law, finding them irritating, and ignoring or circumventing them. For example, when Jim Black wanted to be N.C. House speaker again, but discovered that his party had lost the elections, he chose to bribe an impressionable lawmaker to switch parties so he could retain power. When Black and other legislative leaders wanted to enact a state-run lottery but discovered that it wouldn't pass either chamber if they followed the rules — such as the one requiring separate votes on separate days for bills raising revenue for the state — they chose to break those rules.

Another form of the Quicken Pox has regulators and judges enact new law, though they aren't empowered to do so by the state constitution, because they truly believe the law to be so necessary or beneficial that it can't wait for legislative approval. The pattern is commonplace now in environmental regulation, where unelected regulators oversee large swaths of the private economy as if they were commissioners just arrived from the Kremlin, and in criminal justice, where new "rights" have been created, old rights destroyed, and a state medical board recently tried to halt executions in the state, contrary to the majority sentiment of North Carolinians and their duly elected representatives.

Which brings me, of course, to the topic of interior design.

As one can readily judge by a quick visit to my tacky office or my child-infested home, a talent for interior design is not part of

my birthright. This is the first and likely last time I'll have anything to say on the subject. As it is, the matter at hand is not whether a certain mauve curtain clashes with a certain aquamarine chaise lounge, but instead whether the advice an interior designer might offer should be subject to the state's sales tax.

Over the years, several different panels of prominent North Carolinians have convened to study the issue of tax reform. A common recommendation has been for the state to expand the scope of its sales tax to include services sold at retail. The reform could be revenue-neutral, at least in the short run, by cutting the tax rate to

offset the projected revenue gain from expanding the tax base to include medical, legal, financial, and personal services. So it need not necessarily raise the hackles of fiscal conservatives.

Whatever you think of the merits of expanding the sales tax to cover services, it must be admitted that the idea is a political nonstarter in Raleigh. The professions whose bills would include the new tax are among the most powerful lobbies in the state. Faced with the prospect of advocating a tax change that would both aggravate key elites and alarm the masses, the governor and General Assembly have shied away.

So, apparently, officials at the N.C. Department of Revenue have taken it upon themselves to expand the sales tax via bureaucratic dictate. As the *Triangle Business Journal* recently reported, they have audited some 20 interior-design firms across the state and sent overdue notices for between \$8,000 and \$200,000 in uncollected taxes that, they allege, should have been charged for consultation. Interior designers already, properly, charge their customers sales tax for any furnishings they might supply as part of their service. But the Revenue Department claims that designers should have been charging a service tax, as well.

The state's claim is not decorous, to say the least. But I suppose that the officials in question believe it should be the law, if only that pesky legislative process weren't in the way.

Pity them. They, too, suffer from the Quicken Pox. CJ



John Hood

John Hood is president of the John Locke Foundation.

Editorial Briefs

Unintended consequences

With a government that is regularly begged for relief—from mortgage woes, health-care costs, and tax burdens—and with every presidential hopeful making daily promises to address these woes, it might be worth encouraging the winning candidate to think twice before rushing off to do good, say Stephen J. Dubner and Steven D. Levitt, authors of the book *Freakonomics* in the *New York Times Magazine*. That is because many promises, or in this case, laws, can have unintended consequences.

When the Americans with Disabilities Act was enacted in 1992, it led to a sharp drop in the employment of disabled workers. Employers, concerned that they wouldn't be able to discipline or fire disabled workers who happened to be incompetent, apparently avoided hiring them in the first place.

The Endangered Species Act is another example. Economists Dean Lueck and Jeffrey Michael wanted to determine the law's effect on the red-cockaded woodpecker, a protected bird that nests in old-growth pine trees in the South. By examining timber harvest activity of privately owned forest plots, Lueck and Michael found that when a landowner in North Carolina thought that his property was turning into the sort of habitat that might attract a nesting pair of woodpeckers, he rushed in to cut down the trees.

Safe seats, crazy partisans?

When Mass. Gov. Elbridge Gerry signed off on a particularly distorted legislative district in 1812, bequeathing the gerrymander to American politics, did he lay the groundwork for today's partisan rancor? That's the question political science professors Nolan McCarty, Keith T. Poole, and Howard Rosenthal set out to answer. Ever-more-sophisticated gerrymandering techniques protect the jobs of incumbent politicians, the usual theory goes, allowing them to ignore moderates and indulge the whims of their most bloodthirsty constituents.

A seat on Capitol Hill is one of the safest jobs around. In 2002 and 2004, 99 percent of competing incumbents in the House held on to their jobs. Even the Democratic surge in the last election didn't prevent 89 percent of House Republicans from keeping their seats.

Yet the professors argue that gerrymandering bears little responsibility for the collapse of bipartisanship. Their analysis of recent congressional voting records shows that polarization has increased nearly as much in the gerrymander-proof Senate as in the House.

One of the best explanations for a Congress where most politicians vote a straight party line is simply that political parties are now better aligned with the views of their constituents than they were 50 years ago. Republicans, for instance, have won the loyalty of conservative Southerners who used to vote Democratic, and Democrats increasingly represent northeastern moderates who used to support the GOP.

The effect of gerrymandering on this kind of "sorting" was about zero, the authors found. Overall, they conclude that gerrymandering accounts for, at most, 10 percent to 15 percent of the upswing in polarization since the 1970s. CJ

**Waste Is a Relative Term, Not Always Bad**

Waste today is on the cutting block. Businesses and consumers alike are being told to reduce waste, and for several reasons. One is the slowdown in the economy. With income and job prospects dimmer, at least in the near future, companies are trying to tighten their belts and eliminate "unnecessary" spending so profit margins can be maintained. Household budgets are feeling the same pressure, so many are cutting back on luxury and nonessential expenditures.

We're also being told to eliminate wasteful use of energy to reduce our dependence on foreign oil and to moderate adverse impacts on the environment. Turning off lights when rooms aren't being used, unplugging TVs and computers at night, and using more fuel-efficient cars and mass transit are all recommended as smart decisions for today's green world.

In North Carolina we have the ongoing drought, so conserving water has become a new theme. Public officials want leaky water pipes fixed, low-flow faucets installed, and drought-resistant plants put in our yards and landscapes.

So wasteful spending, wasteful energy use, and wasteful water use are now public enemies. But this raises a larger question. If wasting resources is bad now, shouldn't it have been bad earlier? Shouldn't businesses and households always be on the lookout for wasteful spending? Shouldn't we always look for ways to cut back on energy and water usage?

Well, let's see. First, think about this situation. In 1999 Hurricane Floyd hit eastern North Carolina. Reservoirs and rivers overflowed and many communities were flooded. Did we worry about water conservation then? Of course not, our problem then was we had too much water. Leaky pipes and automatic sprinklers were actually good things because they helped reduce the oversupply of water.

Think about energy conservation in the 1960s. Few people worried about miles per gallon and home insulation. Why? Gasoline and electricity prices were low. It didn't pay to install insulation or to buy a car

that got more miles per gallon.

This is just the point. Waste is a relative term, and avoiding waste doesn't always pay dividends. When the cost of reducing waste is more than the derived benefits, engaging in wasteful behavior can actually be the smart choice. So, if in 1968 it would have cost me \$2,000 to add insulation to my home, but if by doing so I saved only \$50 a year, adding that insulation wouldn't have been wise.

In a booming economy, most business managers will find reaching new clients and establishing new accounts to be a more profitable use of their time, rather than monitoring the staff's use of supplies and equipment.

What then motivates the company CEO, city water utilities, and you and me to turn away from ignoring waste to making the reduction of waste a No. 1 priority? The answer is simple—it's when the resource being "wasted" becomes more valuable, thereby increasing the benefits from using less of it.

So, as electricity rates have climbed, adding insulation now pays off. As water has become scarcer, each gallon saved is more valuable. As new clients have vanished during the slow economy, managers have turned their attention to lowering their company's operating budget.

This means our focus on eliminating waste can be a passing fancy. If rains restore our reservoirs, water will become more plentiful and we'll use more of it. Or, if oil prices plunge to \$50 a barrel, SUVs will make a comeback.

Still, the best indicator of when we should attack waste is price. The benefits of reducing waste increase when the price of the resource increases. So, higher gas prices are a signal to drivers to focus more on miles per gallon and trip efficiency. This is also why higher water prices are the best path to water conservation. CJ



Michael Walden

Dr. Mike Walden is a William Neal Reynolds distinguished professor at North Carolina State University.

Opinion

It Seems Like They Just Left, But, THEY'RE BAAACK!

Oh, no. They're back! It seems like they just left, after increasing the state budget by 9.5 percent to a record high of \$20.9 billion, cutting funding to roads, outlawing landfills, increasing the cost of electricity by more than \$500 million, and ignoring the dismal state of the education system. But yes, the General Assembly will return to Raleigh on May 13 for the 2008 short session.

The primary purpose of the short session is to make adjustments to the biennial budget. Budget writers assumed revenues would grow by 4.6 percent for fiscal 2008-09 when they wrote the two-year budget during the long session. Much of what they will do depends on how much money is available. There is a \$271 million balance, but in a \$21.2 billion budget, that won't go far.

Teachers and state employees have been promised a pay increase that will cost \$500 million. The state health plan will need at least \$123 million more. An additional \$231 million has been pledged to fund Medicaid entitlement programs. Assumptions for these promises could prove too low, meaning even larger funding requests.

The budget for 2008-09 will increase by more than \$1 billion. That is a lot of money, averaging about \$2,300 per North Carolinian. It could certainly be argued that the money needs to be spent



Becki
Gray

better. It also could be argued that not every problem should be solved by throwing money at it.

Mental health is a black mark in our state. The state has failed patients, families, health-care providers, and taxpayers in general. *The News And Observer* of Raleigh recently reported that more than \$400 million has been wasted and that the entire agency has been mismanaged on every level. There have been changes in the agency's management, and expected action by the General Assembly, hopefully, will lead to reform of mental health services.

Deteriorating roads, unsafe bridges, and congested highways did not happen overnight. There is no cheap or easy fix. With limited revenue available, it's going to be difficult to begin any large construction or maintenance projects. Legislators, however, can address the equity formula of how transportation dollars are distributed across the state to maximize every dollar that is available. They also should restructure the Transportation Board and take politics out of transportation decisions. They might ask for \$35 million in gap funding to keep the toll roads projects moving forward. If there is any extra revenue, a phase-out of the annual \$172 million Highway Trust Fund transfer would be a wise use of that money.

North Carolina's embarrassingly high dropout rate of high school students was, for all practical purposes,

The General Assembly returns to Raleigh on May 13 for the 2008 short session to make budget adjustments.

ignored last year with \$7 million designated for grants to explore the problem. Terry Stoops showed in a JLFSpotlight that most of the grants went to school systems that did not experience the highest dropout

rates and that many of the programs were unproven. Life coaches and step-dance classes are not the answer. Vocational high schools that offer students options to acquire real job skills, if they choose to pursue an alternative to college, should be considered. School choice should be considered. Lifting the cap on charter schools would be a good start and offering parents tax credits so they can use those tax dollars for whatever school, public or private, is best for their child.

Property rights are protected by the constitution, but they are endangered in North Carolina. Legislation calling for a constitutional amendment to ensure that the government could not take personal property from one party and give it to another passed in the House. The Senate will consider the measure during the short session. Many municipalities — which collect taxes but fail to provide services — are using a unique law in North Carolina to annex property against owners' will. Several bills last session called for a referendum vote of owners before a city could annex their property. Those bills were never heard. However, a House Select Committee has been hearing concerns about annexa-

tion and will make recommendations for changes in the law before the short session gets under way. Both of these issues deserve action.

Expect additional recommendations from various committees that have been studying matters during the interim. The Global Climate Change Commission is expected to move forward on 56 proposals that will greatly increase the costs of energy and offer little benefit to the environment or consumer. Concerns about the drought might trigger legislation regulating water resources and inter-basin transfers of water. Legislators might even consider approving bills that would enable the restriction and monitoring of the use of wells, garbage disposals, showerheads, toilets, and other private water uses.

The Randy Parton Theatre fiasco has highlighted the loopholes and unintended consequences in Tax Increment Financing. The laws governing TIFs should be tightened and rewritten to ensure public funds and funding are not misused again.

The state will continue to bribe large companies with tax credits and incentives through expanded corporate giveaway programs. NC Green Business, One North Carolina, One North Carolina Small Business, Industrial Development, and Furniture Market funds are just a few. There are so many pots of money used for incentives that it is virtually impossible to maintain an accurate count of the giveaways. Efforts to make this process transparent must be addressed. CJ

Becki Gray is vice president for outreach of the John Locke Foundation.

Readers React to CJ Stories on Transit and Water Rules**To the editor,**

I enjoyed your article on the Triangle's mass transit plan very much. I was involved in trying to repeal the sales tax used to fund light rail here in Charlotte (to no avail) and it was an eye-opening experience.

Just as your article revealed, there's never a meeting (that gets press coverage at least) to discuss the truths about any light rail plan (rail doesn't improve road congestion, doesn't improve air quality, doesn't save money over roads), the press always goes to groups like you reported on that spew untruth after untruth.

As you might know, the powers that be in Charlotte put up \$500,000 and hired a Las Vegas ad agency to spew those untruths on billboards all

Letters to the Editor

over Charlotte ... sayings like "against congestion, vote against repeal" ... but don't let the truth get in the way of good ad campaign.

I continue to be amazed at terms like "federal funding" and "federal grant." We should be more truthful and restate that process to be "redirecting tax money from other citizens around the country to build our pet project here."

Thanks for all you do to shine a light on the boondoggle that is light rail.

Mike Love
Charlotte

To the editor,

I enjoyed your opinion article, "Easley's Water World," and agree 100 percent.

As a student of the works from economists Milton Friedman and Thomas Sowell, I would take your

comments one step further and propose deregulation of all public utilities and pseudo-monopolies such as providers of water, gas, garbage disposal, sewer and electricity. The history of airlines and telecommunication should provide sufficient precedents to at least consider allowing free markets to provide for all of our needs, including drinking water.

When we lived in Minneapolis from 1984-1991, garbage disposal was not a service provided by the community, but by a number of private companies. Alone in our small cul-de-sac of 12 homes, three different services were chosen by my neighbors. Competition kept prices low and quality high. These providers all used a single common means to transport their service, i.e., roads.

In the case of water, we all use publicly funded pipes, but should this dictate that only one source of water be pumped into these?

Should not residents have the right to install a large tank in their yards for

drinking and/or wastewater? Should they not be permitted to install rainwater collection and purification systems to provide for some or all of their needs? Should not a company such as GE, a major provider of water desalination plants, be able to construct such facilities on our coasts, using a free and unlimited supply of ocean water, then deliver this to paying customers?

Should not individual neighborhoods consisting of several hundred homes be allowed to provide their residents with separate water and sewage treatment?

While there are probably many complications to such concepts, I remain convinced that there is little that cannot be done more efficiently by free markets in contrast to government services or government-controlled monopolies. I know that you and your colleagues at the John Locke Foundation probably share my views.

Kent Misegades
Cary, N.C.

N.C. Film Industry Vying for Gov. Eliot Spitzer Movie (a CJ parody)

By P. T. BURNEM
Entertainment Editor

The new dean of film-making at the N.C. School of the Arts in Winston-Salem, Jordan Kerner, wants the General Assembly to pump \$900 million this year into North Carolina's film industry.

"We can't wait. Several new screenplays are in the works and other states will be aggressively pursuing the decision makers. As far as I am concerned, movie-making is the most important industry in the country," he said.

Just a few years after creating a film commission in 1980, state officials began boasting that North Carolina was No. 3 in film production. The leading states were California and New York. Envious of North Carolina's success, other states began offering incentives to entice filmmakers to their states.

Even though there is no agreed-upon methodology to measure the size of a state's film industry, Kerner said North Carolina now ranks about 10th.

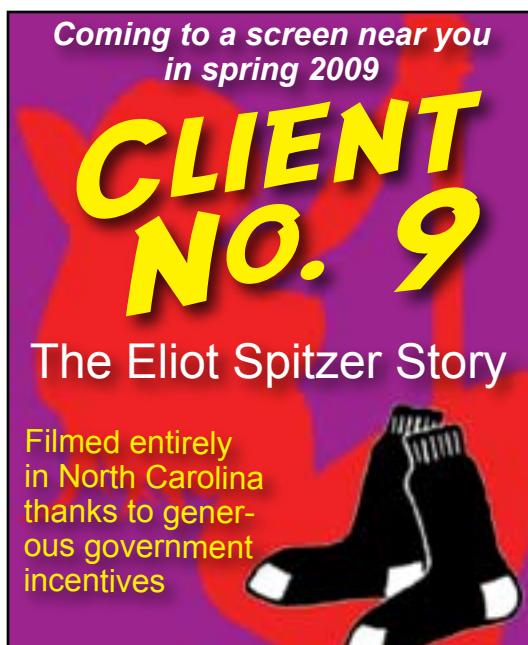
Kerner has been lobbying state leaders and has prepared a list of incentives that he wants passed during the legislature's short session, which will begin in May. He said that he has had several private sessions with Gov. Mike Easley

and State Senate boss Marc Basnight and that he thinks they support his plan.

House Speaker Joe Hackney, however, is another story. "Hackney does not seem to understand how important I am and how important my industry is. Easley and Basnight have assured me they can deal with him. I am counting on them to deliver," he said.

Kerner said that if state lawmakers don't step up to the plate, he likely will return to his role as a Hollywood film producer.

NC Policy Watch Director Chris Fitzsimon said the attention to the film industry is ridiculous. "We have so many needs in this state. Subsidizing overpaid producers and actors is not a proper function of state government," he said.



Fitzsimon said he thinks the state's top priorities should be funding for the mental health crisis and public education.

In response to Fitzsimon's comments, Kerner said Fitzsimon is just a "typical out-of-touch liberal who does not understand the importance of the film industry."

Kerner's legislative package includes the following:

- Zero taxes of any kind for any movie production taking place in North Carolina
- Zero taxes of any kind for any actor buying a home in the state
- Construction of 17 regional movie studios

- Funding for "film czars" in the state's poorest 93 counties
- Free scriptwriting assistance from state public information officers

Spitzer project

Kerner said one of the most sought-after projects is "Client No. 9," the upcoming movie about the rise and fall of former N.Y. Gov. Eliot Spitzer. He said many people would expect it to be filmed in New York, but added the movie business is about illusions. "They filmed the Civil War movie 'Cold Mountain' in Romania even though the events supposedly took place in North Carolina. We can go up to New York and get some landmark shots and film the rest in Cary at that new fancy Umstead Hotel."

He said that for the Spitzer movie, Easley has promised his staff would provide "a reality check on the finer points of running a state."

Easley's press office did not return calls seeking confirmation of his pledge of support for the Spitzer movie, but a new anonymous source within the governor's office said Easley was "torn between embarrassment for Spitzer and intense curiosity about how Spitzer messed up and got caught." CJ

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