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one that arises must be decided upon its individual facts and circumstances. Aside from the basic requirements of belief in a Supreme Being and in avoidance of war, which are necessary to support the claim, the individual's sincerity and personal conduct must be considered and a fair result reached. If the record discloses no abuse of these basic principles the court will approve the draft board's action. The conscientious objector must establish the bona fides of his claim, but the decided cases indicate that the courts have been quite liberal toward claimants in this respect.

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MUNICIPAL ASSISTANCE TO AN IMPROVEMENT DISTRICT

In 1953, the Wyoming legislature passed a statute which in essence allows a municipality to establish a revolving fund from cigarette and gasoline taxes, for the purpose of guaranteeing bonds issued by a local improvement district.[1] The constitutionality of the statute was questioned in *Banner v. Laramie*[2] on a number of grounds including the Constitutional debt limitation, the prohibition of giving aid to a corporation, and the fact that only a portion of the city's inhabitants are directly benefited. The court held that this statute did not violate the due process clause, and was not a debt under the debt-limitation and it was not aid to the type corporation which the Constitution prohibits. The purpose of this paper is to discuss the various plans by which a municipality can give assistance to an improvement district which has met the approval of the courts, and hurdles that must be overcome, before such assistance will be held valid.

Before a municipality can appropriate funds, there must be a public purpose for which these funds will be used. Many tests have been considered in defining a public purpose. Perhaps the test laid down by the Illinois court is most representative. It said, "Whether a tax or an appropriation is for a public or private purpose is to be determined by the course and usage of government, the object for which taxes and appropriations have been customarily and by long course of legislation levied and made, and what objects have been considered necessary to the support and for the proper use of the government, and whatever lawfully pertains to this purpose and is sanctioned by time and the acquiescence of the people may be said to be for a public purpose'."[3]

The term "public purpose" usually is given a liberal interpretation, and it is not necessary, in order for a use to be regarded as public, that it should be for the benefit of every citizen in the community. It may be for residents of a restricted area, but use and benefit must be common and not for particular persons, interests or estates.[4]

1. Wyo. Comp. Stat. § 29-2067 (1945).
2. Banner v. City of Laramie, 74 Wyo. 429, 289 P.2d 922 (1955).
3. Hagler v. Small, 307 Ill. 460, 138 N.E. 849, 854 (1923).
4. Briggs v. City of Raleigh, 195 N.C. 223, 141 S.E. 597 (1928).

The following are examples of projects which the courts have found to be public purposes: buildings for or additions to a light and power plant,[5] land for a state fair,[6] wharves and docks on the Missouri river,[7] ship canals,[8] recreational facilities,[9] golf courses,[10] sea walls,[11] airports and aviation fields,[12] poor relief for unemployed,[13] money and land donated to a housing authority to rid a slum area,[14] and many more where the city as a whole will be benefited.

The legislature can determine what is a municipal purpose and can give a municipality authority to issue bonds and will be generally upheld by courts unless clearly wrong.[15] The legislature cannot, however, authorize a municipality to issue bonds for something that is strictly private, such as a city hotel, even though it may bring more business to the city.[16]

A street improvement district has been held not to be a private enterprise, or a business corporation or association, but rather it is the municipality acting through an agency of its own creation.[17] From this it would seem that a local improvement district, validly formed, would qualify as a public purpose for which a municipality can expend money.

Courts will oftentimes go beyond the public purpose doctrine, and base their holding on a benefit theory. Such was the case of *Comfort v. City of Tacoma*,[18] which said that a municipality guaranteeing bonds issued by a district would benefit the entire city because it would result in an increased price for the bonds and thereby eventually reduce the cost of all improvements. In cases of sewer or sanitary districts, slum clearance projects, and water districts lying partly outside the city, many courts say that there is a benefit to all the city, and therefore it is within the power of the municipality to give financial assistance, to such districts.

In a Utah case,[19] the court said that all the taxpayers did not have to be benefited for such an expenditure by a municipality to be legal. It said that the city could make this improvement without forming a district at all. Therefore, if the city has the power to pay for this project from taxes paid upon all the property in the city, it has the power to guarantee the payment of an obligation. It was not incumbent upon the city to impose the burden exclusively on the abutting owners, although it could.

5. Jensen v. Town of Afton, 59 Wyo. 500, 143 P.2d 190 (1943).
6. Note 4 supra.
7. State v. Kansas City, 140 Kan. 471, 37 P.2d 18 (1934).
8. State v. City of Port St. Joe, 131 Fla. 854, 180 So. 28 (1938).
9. Zinnen v. City of Fort Lauderdale, 159 Fla. 498, 32 So.2d 162 (1947).
10. West v. Lake Placid, 97 Fla. 127, 120 So. 361 (1929).
11. Sick v. Bay St. Louis, 113 Miss. 175, 74 So. 272 (1917).
12. Dysart v. St. Louis, 321 Mo. 514, 11 S.W.2d 1045 (1928).
13. Jennings v. St. Louis, 332 Mo. 173, 58 S.W.2d 979 (1933).
14. McNulty v. Owens, 188 S.C. 377, 199 S.E. 425 (1938).
15. Ashmore v. Greater Greenville Sewer District, 211 S.C. 77, 44 S.E.2d 88 (1947).
16. Nash v. Town of Tarboro, 227 N.C. 283, 42 S.E.2d 209 (1947).
17. City of Paris v. Street Improvement District No. 2 of Paris, 206 Ark. 926, 175 S.W.2d 199 (1943).
18. Comfort v. City of Tacoma, 142 Wash. 249, 252 Pac. 929 (1927).
19. Wicks v. Salt Lake City, 60 Utah 246, 208 Pac. 538 (1922).

One other problem must be considered besides benefit and public policy, before a municipality can give financial assistance. This is the debt limitation imposed on cities by the Wyoming Constitution.[20] Since most municipalities have reached their debt limitation or are approaching it, they must look to some method of financing which would not be classified as a debt of the municipality. This will be discussed later in relation to the various plans used.

There are several ways by which a local improvement may be financed. As the Wyoming Supreme Court said,[21] subject to statutory provision and legislative limitations, a municipal corporation may make a public improvement and pay for it out of its general fund. These improvements may also be paid from the general levy of taxes, or by means of special assessments made against the abutting property owners, or a part of the cost may be paid by the municipality and the remainder by the abutting owners. An attempt shall be made to take each method separately and discuss a few of the problems connected with each plan.

One of the ways is to issue general obligation bonds of the municipality, the proceeds of these bonds to be used for the improvement. The trouble with this method is that the bond issue must be voted by the people of the community. Frequently such a bond proposal is voted down because it only directly benefits those people in the area in which the improvement is being made. It also becomes a debt of the municipality and therefore the bonds must added in with the other debts to determine whether the debt limitation imposed by the Constitution has been exceeded.

Another method is to issue bonds of the improvement district. In this way, the bondholders must look solely to special assessments on the property of the district to collect their money at maturity. These bonds are not a debt of the municipality, and therefore are not subject to the debt limitation. The weakness in this plan is that the purchasers of the bonds may be hesitant to pay the full amount of the bonds, because of the lack of security.

To offset this lack of security another variation has been used, particularly in Montana,[22] whereby the bonds of the improvement district are issued and a special fund is set up out of the general funds of the municipality. From this fund, the district can borrow funds, and the city would have a lien on the property in the district, as long as the loan was outstanding. This plan is not a debt under the debt limitation provision. With this special fund, the bond holders have something else to look to for additional security, and thus will generally pay more for the bonds when issued.

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20. Wyo. Const., art. 16, § 5.
21. Note 2 supra.
22. Hansen v. Havre, 112 Mont. 207, 114 P.2d 1053 (1941).

The special fund doctrine, which by statute is slightly different in Wyoming, has been approved by our Supreme Court in *Banner v. The City of Laramie.*[23] In this case the city of Larmie set up a revolving fund, authorized by statute, into which certain gas and cigarette taxes were deposited to guarantee payment of bonds issued by a local improvement district. The court held that it was not a violation of due process, that since this was a contingent fund it was not a debt of the municipality, and that the fund was set up for a public purpose.

The last major plan by which a municipality can give assistance to a local improvement district, and a device which has caused a great deal of litigation, is one by which the city appropriates money out of current revenue as a gift or donation to the district. They may also assess part of the improvement from the abutting owners and donate the balance. The donation or gift being payable out of current revenue, the voters of the municipality do not have to give their consent and thus the complaining taxpayers outside the district cannot prevent the city from making these gifts, unless, of course, it is not for a public purpose or the city council has abused its discretion.

The constitutional provision stating that no municipality shall give its credit or make donations to or in aid of any corporation,[24] has been the principal point of litigation. These constitutional provisions were designed to prevent municipalities from giving aid to private corporations, such as railroads, by giving them money to induce them to go through their towns or to give money to private manufacturers as an incentive to locate in their particular city. They were not designed to prevent a city from giving aid to an agency of their own creation.[25]

In conclusion, of the four plans used, the plan whereby the district issues their own bonds, and the municipality sets up a revolving fund guaranteeing payment of the bonds, seems to be the best. The improvement district will derive a higher price for its bonds, because they will be secured by this fund. Neither the fund nor the bonds issued by the district, are debts within the debt-limitation imposed by the constitution. Also this plan has met the approval of our Supreme Court; thus there is no question of legality.

If other jurisdictions require a benefit to all, this can be proved by showing that when other areas issue bonds, they too will secure a higher price, therefore they will be benefited. All need not be benefited before the court will stamp its approval. If it is for a public purpose a municipal-

23. Note 2 supra.

24. Wyoming Constitution, Article 16, § 6. DONATIONS PROHIBITED—Neither the state nor any county, city, township, town, school, district, or any other political sub-division, shall loan or give its credit or make donations to or in aid of any individual association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation.

25. Bank of Commerce v. Huddleston, 172 Ark. 199, 291 S.W. 422 (1927).

ity can give assistance regardless of whether there is a direct benefit to all the inhabitants of the city or not. Once it has been established that an expenditure is for a public purpose, then it is only subject to legislative discretion and its reasonable exercise.

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TRUTHFUL LIBEL AND RIGHT OF PRIVACY IN WYOMING

When a plaintiff has been exposed to ridicule and contempt because of a defendant spitefully publishing a true defamatory statement about the plaintiff, the courts have generally tried to give him relief. In a libel action the answer would undoubtedly raise the defense of jusification with an allegation that the defamatory publication or statement was true. Under the common law, evidence of the truth of a defamatory statement was excluded in a prosecution for a criminal libel.[1] The maxim "the greater the truth, the greater the libel" is usually attributed to Lord Mansfield.[2] There is much disagreement about whether the maxim ever applied to civil actions, however, under the common law the truth was probably a complete defense to a civil action for libel.[3]

Regardless of what the rule was under the common law, the truth is now a complete defense to a civil action for libel in the great majority of the states.[4] A few states have put limitations on the rule by a constitutional or statutory provision or by court rule. Wyoming's Constitution provides that in a civil trial for libel, the truth, when published with good intent and for justifiable ends, shall be a sufficient defense.[5] Three states require the truth with good motives[6] and four states require in addition to good motives that the publication be for justifiable ends for a defense to a civil action for libel.[7] One state requires that there be a freedom from actual

1. Ray, Truth: A Defense to Libel, 16 Minn. L. Rev. 43, 44 (1931).
8. "Dost not know that old Mansfield,
Who writes like the Bible,
Says the more 'tis a truth, sir,
The more 'tis a libel?"
—Burns, "The Reproof."
3. Johns v. Gittings, Cro.Eliz. 239 (1590); Prosser states that "The criminal law rule seems never to have been applied in civil actions." Prosser, Torts p. 630 (1955); Holdsworth, Defamation in the Sixteenth and Seventeenth Centuries, 41 L.Q. Rev. 13, 28 (1925).
4. Prosser, Torts, p. 630 (1955); Harnett and Thornton, The Truth Hurts: A Critique of a Defense to Defamation, 35 Va. L. Rev. 425, 429 (1949).
5. Wyo. Const., Art. 1, § 20. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right; and in all trials for libel, both civil and criminal, the truth, when published with good intent and (for) justifiable ends, shall be a sufficient defense, the jury having the right to determine the facts and the law, under direction of the court.
6. Florida: Decl. of Rights, § 13; Briggs v. Brown, 55 Fla. 417, 46 So. 325 (1905); Rhode Island: Const., Art. 1, § 20; Maine: Maine Rev. Stat., § 113-47 (1954); Stanley v. Prince, 118 Me. 360, 108 Atl. 328 (1919).
7. Illinois: Const., Art. 2, § 4; Oregon v. Rockford Star Printing Co., 288 Ill. 405, 123 N.E. 587 (1919); Nebraska: Const., Art. 1, § 5; Wertz v. Sprecher, 82 Neb. 834, 118 N.W. 1071 (1908); West Virginia: Const., Art. 3, § 8; Barger v. Hood, 87 W.Va. 78, 104 S.E. 280 (1920); Wyoming: Const., Art. 1, § 20.