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cation to the legal profession of the country. The number of applications far exceeded 4,000. For an army of a million only about 150 lawyers are needed.

For each general or special court martial the authority appointing the court shall appoint a judge advocate and for each general court martial one or more assistant judge advocates when necessary.¹⁴

The judge advocate prosecutes in the name of the United States and under the direction of the court prepares the record of the proceedings.¹⁵

He does more than the district attorney in the civil law. He is not only the prosecuting officer, but he may also assist the accused and he is the legal advisor of the court.¹⁶

14. A. W. 11.

15. A. W. 17.

16. M. C. M. 94; 195 Winthrop 262-303.

FINANCING MUNICIPAL EXPENDITURES

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This article does not attempt to go exhaustively into the subject of municipal finance or treat it otherwise than in its practical application. It is limited to a discussion of a few questions which are of vital importance and common to all municipalities. There is no uniform legislation among the various states pertaining to municipalities the same as, for instance, in the laws of sales, negotiable instruments and other kindred subjects; even the constitutional provisions of states differ as to the law of municipalities. However, it will be necessary in the course of the article to refer to legislative restrictions on municipalities and for this purpose the constitution and laws of Wisconsin will be used for illustration. The laws governing the financing of Wisconsin municipalities are considered, by investors in municipal securities, as being on a par with the laws of any of our states.

The questions of municipal finance center around what expenditures shall be made and how money shall be secured to meet such expenditures.

The expenditures of a municipality are determined by its legislative body. The methods of determining expenditures differ

in the various municipalities. The legislative body of some municipalities appropriates money from time to time as it is needed; but the expenditures of some of the larger municipalities are determined by a budget adopted annually.

A budget¹ may be defined as the work and service program of the municipality. It should state in detail the work or service to be performed by each department and organization unit and the limit of funds which can be expended for each activity. It should also state the purposes for which bonds are proposed to be issued and the amount of bonds for each purpose. Without a budget the orderly conduct of the business of a large municipality would be impossible. The legislative body could not apportion the funds among the various activities in just proportion to the importance and necessity thereof, nor would it be possible so easily to control the expenditures therefor. A budget should be sufficiently elastic to avoid hampering the proper operation of the various departments, yet at the same time it must be sufficiently rigid and detailed to insure carrying out the program adopted by the legislative body. Some of the smaller municipalities would be greatly benefitted if they were to adopt a budget system of appropriation.²

Municipal expenditures may be divided into two classes: expenditures for current expenses and expenditures for extraordinary expenses.

CURRENT EXPENSES.

The current expenses of a municipality are the cost of operating the various departments, the cost of keeping in repair the plants, buildings, streets, sewers and other public property, the cost of the operating equipment and the interest and principal on bonds. Another item of expense not commonly classed as current expense but which should be so classed is the cost of annually recurring improvements without regard to the degree of permanency thereof.

In villages and very small cities almost all improvements are made at long intervals and therefore are not a current expense; but as cities grow larger, the building of sewers becomes an an-

1. Section 709-23, subsections a-b-c and d of the Wisconsin Statutes, provide a budget of expenditures to be made for counties; Sections 925q-160 to 162 provide a budget of expenditures to be made for cities of the first class.

2. Section 925q-165 of the Wisconsin Statutes establishes the method by which other cities may adopt the provisions of Sections 925q-160 to 162.

nual improvement, in still larger cities it becomes necessary to annually erect school buildings as well as build sewers, and when a city grows beyond a certain size other improvements recur annually. It may not be for the same purposes each year, but if, for example, \$1,000,000 is needed annually for improvements; in one year for parks, library and bridges; the next year for schools, sewers and fire-houses, and each succeeding year for some other or repeated improvements, the \$1,000,000 thus needed is an annually recurring expenditure and therefore current expense.

One of the principal powers conferred upon municipal corporations is the power to raise money for the purpose of conducting the public business.

Money is raised (1) by the levy of a general tax upon real estate and tangible personal property. (2) Wisconsin municipalities receive a specified per cent. of the State Income Tax (counties 20%; towns, cities or villages 70% of the amount collected therein). (3) The state of Wisconsin also pays to municipalities a proportion of certain taxes other than Income Tax, collected by the state. (4) Some municipalities conduct public service enterprises, such as furnishing water, light and power. There is a difference of opinion as to whether such enterprises should sell service at cost or at a reasonable profit on the investment therein; whether such enterprises are to be conducted in the interest of the consumers or the proprietors. A discussion of the various arguments in support of either contention is out of place in this article. The proposition is mentioned, however, because the constantly expanding field of municipal activities will require increased amounts of money to finance the same and in order to avoid much higher tax rates in the future, new sources of income must be found. (5) Municipalities also collect special taxes which have been assessed as benefits upon abutting property for various improvements such as paving, sewers, water mains, house-drains and water connections, boulevarding streets and for opening and widening streets and alleys, also for the vacation of streets and alleys. Contracts for street improvements, sewers, water mains, house-drains and water connections and for boulevarding streets are usually let by the municipality, and the abutting property pays that portion of the cost thereof, equal to the amount such property has been declared to be benefited because of such improvements. The balance of the cost is paid out of the tax levied generally upon all the property, real and personal, subject to taxation. There is a question as to

whether the assessing of benefits upon the abutting property is justified for any improvements whatsoever, except for house-drains and water connections. House-drains and water connections are direct benefits to the property itself, all the other improvements are for general use or because of a public easement. (6) Under the police power, fees are collected for the regulation of the sale of liquor, meat and milk; the conduct of amusement shows; the use of public conveyances; the occupation of the surface and the excavation of streets; the erection of buildings; the tapping of water mains and sewers. Charges are also made for the repairing and replacing of sidewalks; sprinkling, flushing and oiling streets; removing snow and ice from sidewalks; removing noxious weeds; removing trees, and for other similar purposes. Such fees and charges, however, must not be in excess of a reasonable amount to cover the cost of regulation or work.

Municipalities have no other income out of which to pay the cost of public business. The funds thus provided are used for the payment of current expenses. The funds derived from assessments of benefits and by means of the exercise of police powers, properly speaking operate as an abatement of current expenses. The cost of all municipal activities, whether financed in the first instance out of current funds or borrowed money must eventually be paid out of income. Of the sources of income, taxes levied upon real estate and personal property constitute the only income, the amount of which can be fixed by the municipality. The tax levied upon real estate and personal property must therefore provide the funds needed for current expenses after the funds derived from the other sources have first been deducted from the total sum of the contemplated expenditures. In other words, a municipality must rely upon the funds derived from the tax levied upon real estate and personal property to stabilize its income. Without it there would be no assurance of sufficiency of funds. This fact should be kept in mind when the different theories of taxation are under consideration.

Wisconsin municipalities have power to borrow money for current expenditures on notes or other negotiable paper, but such paper can only be issued in anticipation of the collection of the current tax levy.

EXTRAORDINARY EXPENSES.

The extraordinary expenses are those incurred because of some catastrophe or for permanent improvements which are

made but once or only at long intervals. If some catastrophe should happen, like a tornado, earthquake or the wiping out of a large portion of a municipality by fire or if it became necessary to build a city or town hall, a sewerage disposal plant, or to acquire or construct a water works, or in a smaller municipality to construct a main sewer or erect a bridge or to build a school-house, the expense entailed would be an extraordinary expense and would abnormally increase the tax rate if paid for out of taxes levied in the year when such expense occurs. An abnormal increase in the tax rate always places a hardship upon the average taxpayer, because his income is not large enough or elastic enough to meet it without great difficulty. For this reason it is desirable to spread the collection of taxes for extraordinary expenses over a period of years.

One of the methods devised for so spreading the taxes over a period of years is borrowing money by the sale of bonds. The payment of the bonds or the accumulation of a fund to pay the same being spread over a period of years, spreads the taxes to be collected therefor over a period of years and thus provides the means by which abnormal increases in the tax rate of any one year can be avoided. Taxes are least burdensome if the tax rate is nearly uniform each year. Only because of undue fluctuations in the tax rate and the consequent hardship upon the average taxpayer is a municipality justified in spreading the payment for extraordinary expenditures over a period of years.

This principle has not been generally recognized. Instead of issuing bonds only as a means of stabilizing the tax rate during periods when expenditures for improvements classed as extraordinary expenditures were necessary, bonds have been issued by some municipalities for any purpose which could be even remotely classed as improvements. Surprising as it appears to be, typewriters, adding machines, fire-hose, pavements and other such apparatus and improvements have been purchased by some cities out of the proceeds of bonds, although they were worn out long before the bonds were paid. Fortunately most cities have realized the folly of such practice and it is gradually being abandoned. Few, however, recognize the evil of issuing bonds for annually recurring improvements. In fact, it is the commonly accepted theory that bonds should be issued for all improvements, the life of which exceeds the period of the loan. This theory is based on the hypothesis that the future generation should pay its share of the permanent improvements which it inherits. If this

theory were sound the present generation should be relieved at least to a reasonable extent by the shifting of part of the burden on to the future and there should also be a gain for the future generation, sufficient to compensate it for the burden shifted upon it. The mistake in the commonly accepted theory is due to failure to recognize that extraordinary expenditures and expenditures for annually recurring improvements must be differently financed. This can be easily apprehended by viewing the effect on the tax rate of issuing bonds for annually recurring improvements over a period of twenty years or more. For this purpose there is presented herewith a list of taxes to be collected annually for a period of twenty years for bond issues each year of \$100,000 due serially in twenty years, with interest at the rate of 4½%.

	TAXES	PER CENT. OF SUM REQUIRED	SUM REQUIRED
1st year	\$ 9,500.00, being	9.5 per cent.	of \$100,000.00
2nd	" 18,775.00	" 18.775	" " " 100,000.00
3rd	" 27,825.00	" 27.825	" " " 100,000.00
4th	" 36,650.00	" 36.65	" " " 100,000.00
5th	" 45,250.00	" 45.25	" " " 100,000.00
6th	" 53,625.00	" 53.625	" " " 100,000.00
7th	" 61,775.00	" 61.775	" " " 100,000.00
8th	" 69,700.00	" 69.7	" " " 100,000.00
9th	" 77,400.00	" 77.4	" " " 100,000.00
10th	" 84,875.00	" 84.875	" " " 100,000.00
11th	" 92,125.00	" 92.125	" " " 100,000.00
12th	" 99,150.00	" 99.150	" " " 100,000.00
13th	" 105,950.00	" 105.95	" " " 100,000.00
14th	" 112,525.00	" 112.525	" " " 100,000.00
15th	" 118,875.00	" 118.875	" " " 100,000.00
16th	" 125,000.00	" 125.	" " " 100,000.00
17th	" 130,900.00	" 130.9	" " " 100,000.00
18th	" 136,575.00	" 136.575	" " " 100,000.00
19th	" 142,025.00	" 142.025	" " " 100,000.00
20th	" 147,250.00	" 147.25	" " " 100,000.00

The list shows that the tax to be collected the first year would be \$9,500.00. Of this amount \$5,000.00 is for the payment due on principal and \$4,500.00 for interest. In the second year the amount is considerably increased because it is then necessary to collect a tax for two outstanding bond issues, \$5,000.00 each for principal and \$4,275.00 for interest on the bonds issued the first year and \$4,500.00 for interest on the bonds issued the second year. The reason why the interest on the first bond issue has been reduced is because the principal thereof has

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been reduced by the \$5,000.00 raised for that purpose. In this way, by the addition each year of a new issue to the then outstanding bonds, the taxes to be collected each year increase in amount until after the twentieth year. The bonds being twenty-year serial bonds, after the twentieth year, one issue becomes fully paid each year, but as a new issue is added each year, the amount of tax to be collected will remain the same.

As shown by the list the taxes to be collected in the first year for each \$100,000.00 bonds issued would be \$9,500.00, which is $9\frac{1}{2}\%$ of \$100,000.00, the sum required, and the taxes to be collected in the second year, \$18,775.00, which is $18\frac{77}{100}\%$ of \$100,000.00. So each year the taxes become a greater per cent. of the sum required. In the twelfth year the per cent. has already reached $99\frac{15}{100}\%$ of \$100,000.00. Thereafter the amount of taxes to be collected each year for interest and principal on such bonds exceeds the sum required. In the thirteenth year the excess amounts to \$5,950.00; in the fourteenth year to \$12,525.00; in the fifteenth to \$18,875.00; in the sixteenth to \$25,000.00; in the seventeenth to \$30,900.00; in the eighteenth to \$36,575.00; in the nineteenth to \$42,025.00, and in the twentieth year and thereafter to \$47,250.00. As most of our municipalities have been issuing bonds for annually recurring improvements for a period extending beyond twenty years, it is actually costing the taxpayers thereof each year approximately \$147,250.00 for each \$100,000.00 required for such improvements. But this is not all, even if the theory were abandoned after the twentieth year, it would still be necessary to collect in taxes within the nineteen years following, in order to pay the interest and principal falling due on the then outstanding bonds, a sum totaling about \$1,249,250.00. This is the amount shifted on to the future.

The list shows that only until the twelfth year following the adoption of this theory is the tax for interest and principal on bonds less than the sum required. Thereafter the taxpayer is paying in taxes each year, for interest and principal on bonds, a larger amount than the sum required for annually recurring improvements. Twelve years is a very short time in the life of a municipality and any scheme of finance which will thereafter prove so expensive to the taxpayers cannot be justified.

By trying to shift on to the future a part of the cost of annually recurring improvements (current expenses), the actual result is that the present generation is paying, in most of our larger municipalities, every year about $47\frac{1}{4}\%$ over and above

what the cost of such improvements would be if the same were properly financed and has in addition thereto, shifted a burden of over half of the necessary cost thereof on to our children, the future generation. And what does the future generation get for its share of the burden? In this age of progress most improvements become out of date in a short period of time or are worn out and therefore the benefits to the future, in most instances, are at best negligible. The practical application of this theory places a hardship upon both the present and the future without adequate compensation to either.

Although the issuance of bonds was designed to lighten the burden of the taxpayer as heretofore stated, it has commonly been so abused that as a matter of fact it has made the burden heavier. Rightly used it is a means of preventing undue fluctuations of the tax rate, but wrongly used it has been the principal means of creating an abnormal increase in the tax rate. These facts should be taken into account by municipalities before deciding on the method of financing future improvements.

If it is decided to issue bonds for certain purposes, a question arises as to whether it is desirable to issue serial or sinking fund bonds. The difference between the two is in the time when the principal falls due. Taking a bond issue of \$100,000.00 as an example: If twenty-year serial bonds, the sum of \$5,000.00 or one-twentieth of the principal would become due and payable within one year from date thereof and a similar sum each year for twenty years. If twenty-year sinking fund bonds, no payment on principal would become due until twenty years from date thereof, when all of the principal, \$100,000.00 would be payable. For twenty-year serial bonds, the tax each year for principal would be one-twentieth of the total of the bonds issued or \$5,000.00. This money would be used to meet the bonds falling due and would reduce the debt each year and also the interest for the following year.

If for sinking fund bonds, the tax for principal for the first year would be likewise, \$5,000.00. This money would be placed into a sinking fund and invested and the tax for the following year would be \$5,000.00, less the interest received on the investment. The \$5,000.00, the sum of the tax and interest on the sinking fund, would again be placed into the sinking fund and again invested, and this process would have to be continued each year so that at the end of the twentieth year when the sinking fund investments are turned into money there would be available

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in the sinking fund, a sum sufficient to pay the \$100,000.00 then due for the principal of the bonds. No payments being made on the principal of the sinking fund bonds, the tax for interest each year is not reduced.

If the sinking fund could be invested without loss of time and expense, each year, at the same rate of interest paid for the bonds and the investments could be turned into cash when the bonds are due, without loss of time or expense, then the cost to the taxpayer of sinking fund bonds would be precisely the same as the cost of serial bonds. This is hardly possible. Experience has shown that due to idle time and the expense and speculation in the investment of the sinking fund, sinking fund bonds prove more costly to the taxpayer in the long run than serial bonds, though the rate of interest may be the same. But more important still is the fact that sinking fund bonds open the way to manipulation of the tax levy for political purposes by the omission to collect the tax each year for the sinking fund. Such manipulation finally compels the municipality to levy an abnormal tax within a short period in order to pay the bonds when due or to raise the money by another bond issue. For these reasons serial bonds are gradually gaining in favor over sinking fund bonds as the least costly and safest kind of bonds to issue.

Another method of spreading the payment of certain improvements over a period of years is the purchase of land on land contracts³ or the acquirement of public utilities and the payment therefor by means of mortgage certificates.⁴ Under existing laws these instruments cannot be made liabilities of a Wisconsin municipality; only the property purchased or the property and income thereof is security for the payment thereof. However, when land or public utilities are purchased from the proceeds of bonds, the bonds become a liability of the municipality the same as bonds issued for any other purpose.

3. Section 3, Article XI, of the Wisconsin Constitution prohibits the incurring of indebtedness of municipalities for any purpose whatsoever unless before or at the time of doing so a tax shall have been or shall be provided to pay the interest on such debt as it falls due and the principal thereof within twenty years from the time of contracting the same. Therefore, a resolution of the legislative body merely directing the proper officers to execute a land contract does not create a liability of the municipality.

4. Section 927-17 of the Wisconsin Statutes places a limitation upon the liability of Mortgage Certificates issued by a municipality for the acquirement of a public utility.

THE PROBLEM.

The problem of municipal finance is to furnish the greatest service with least hardship to the taxpayer. A hardship is placed on the taxpayer when taxes are unreasonably high or the tax rate fluctuates too greatly. To avoid both it is necessary that a municipality adopt annually a budget of expenditures. Only in this way can it be certain of accomplishing the most necessary things and at the same time live within its means. Work must not be allowed to accumulate or the result will be an abnormal increase in the taxes at a future period. Bonds should be provided only if there is some extraordinary expense. It must be remembered that improvements financed out of the proceeds of bonds always cost more because of the interest. Even extraordinary improvements can sometimes be done in part each year and in that way be paid out of current funds. Municipalities which have been wrongly financed, and have for years issued bonds for annually recurring improvements, cannot, without great hardship on the taxpayer, suddenly adopt a policy of paying such expenditures out of current funds. But they can, with the aid of a carefully worked out financial plan covering a period of years, gradually attain this end without hardship to the taxpayer.

THE POWERS OF A MAYOR

The mayors of most American cities are much in the same position as municipal corporations. Both lack authority to do many things worth while; are frequently prevented by charter restrictions from carrying out functions efficiently, and are seldom given the leeway of officials of private corporations so necessary to make good. This is the natural sequence of the decadent *Laissez Faire* theory of political science. City government was from this viewpoint regarded by many as a necessary evil. The theory being that every increase in local governmental authority meant a corresponding decrease in private rights. This was reflected in the action of legislatures which granted the broadest possible scope of action in the charters of private corporations, while just the reverse policy was pursued in giving authority in charters of municipal corporations.

The rapid growth of the cities, however, the increase of their problems, and the burdening of legislatures with bills to meet necessary changes, has caused a growth of sentiment in the