

# Opinions

## 'Public purpose' funding key



**Watching**  
By Paul T. O'Connor

RALEIGH -- When Gov. Jim Martin launched his crusade against the 1985 General Assembly's pork barrel bill, he said he wouldn't release any state funds until he had determined whether the money would be spent for a "public purpose."

But if Martin thought history, the courts or anyone else would provide him with a clear cut definition of the constitutional provision of "public purpose," he was wrong. It is one legal phrase which goes undefined, by purpose.

Article II of the state Constitution says tax money can be spent "for public purposes only." Over the years, the courts have ruled, repeatedly, on what constitutes public purpose and on what, therefore, tax money can be spent. But the courts have refused to put down a hard and fast rule. In fact, the North Carolina Supreme Court has said it will not do so. "The concept (of public purpose) expands with the population, economy, scientific knowledge and changing conditions," the court has written.

In preparing a legal brief to a Senate committee studying the appropriations process, legislative at-

torney Sabra Faires wrote, "What was once considered a public purpose may no longer be one and, likewise, what was previously not a public purpose may become one."

In a sense, the history of the public purpose debate is pretty much the history of domestic public policy in the United States. What costs does the government assume and which should be left for private concerns?

Remember that in the early days of the Republic, roads were not always considered a public responsibility. They often were built by private companies and tolls were charged. Canals were generally private, as were railroads. That's all changed and those functions are considered part of the governmental infrastructure.

Faires said that in the early 20th century North Carolina courts had ruled that tax money could not be spent for a public hospital because

it did not meet a public purpose. Tax funds could be spent for water and sewers, but only in restricted fashion, the courts said, because water and sewer lines were not a "necessary" public function.

Since 1928, the courts have failed to find a public purpose in appropriations only four times. In three cases, where tax exempt bonds were to be issued for private air pollution devices, for a private hospital and for industrial facilities, the court's decisions were ultimately overturned by constitutional amendments. A fourth case said the Town of Tarboro could not construct a hotel. It has not been overturned but remember that there are state-owned hotels at UNC-Chapel Hill and Appalachian State.

The doctrine of public purpose often turns on the beneficiary of an expenditure. Some are clearly private: Student loans, for example. But, in these cases, the courts say there is a larger public benefit in having educated citizens.

Another question is whether the appropriation takes the government into activity which is improper for it.



## Washington's death hastened by early medical practices

A questionable practice happened in the passing of George Washington on December 14, 1799.

George Washington, only recently retired from serving two terms as president, rode over his rolling farm in Virginia through snow and bitter cold on December 12. He suffered an acute attack of laryngitis, and perhaps flu. His doctors almost surely helped along his death for they bled him several times -- the custom at the time. Thus weakened, Washington passed away on the 14th.

A good indication of the esteem



Cliff Blue

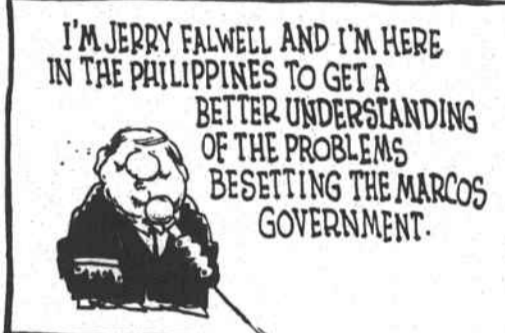
### People and Issues

in which Washington was held abroad can be seen in the response of London and Paris to the famous general's death. The commander of the British fleet ordered the flags of every British warship to be flown at half mast.

DECEMBER 7 ... We know today, 44 years after the surprise Japanese aerial attack on Pearl Harbor, more about the dilemma then confronting Japan.

The United States, Britain and Holland had applied such economic pressure Japan had either to fight or to end its expansion. The Japanese, a proud people, chose to fight.

That doesn't make the sneak attack on Pearl Harbor, without a declaration of war, any less dastardly. But then Japan was taking on the two greatest naval powers in history, plus the Dutch.



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