

Ernest Graham and the Hialeah Charter Fight of 1937

By PETER D. KLINGMAN

New Dealers in Florida during the 1930's were few and uneasily identified. Most Florida politicians were reluctant to become associated with President Roosevelt's big-government politics, with the notable exceptions of Florida Governor David Scholtz and United States Senator Claude Pepper. Nonetheless, in the 1937 state legislature there were Democrats committed to certain reforms. Their principal targets were the abusive practices of racing and gambling interests in Florida and the proliferation of political machines in local cities created to advance these special groups. To counter these unwelcomed trends, the 1937 state legislature passed several important reform measures, including the repeal of the slot machine law passed in a previous session, municipal reform bills, and the abolition of Florida's poll tax.

Much of this reform legislation resulted from the efforts of Ernest Graham, Dade County state senator. Not only did Senator Graham play a key role in abolishing the poll tax, a benefit to all depression-poor Floridians, but he also challenged a political machine in his own district, a fight that led to the Hialeah charter bill of 1937.

The poll tax controversy and Graham's participation in the measure's repeal counters one of the more traditional notions in southern political history. The poll tax was a failure as a measure to disfranchise Negroes; as a measure designed to re-enfranchise blacks, its abolition had little effect. Graham's activity confirmed the conclusion of V.O. Key in reference to the impact of the poll tax. Key had observed in his landmark study of southern politics that the tax produced a greater hardship for whites than for blacks, that more whites had been disfranchised as a result of the tax.¹ Nor was race a factor in the debate over repeal of poll taxes in Florida; it was not even injected artificially.²

The poll tax concerned Florida machine politics. Graham had campaigned for the state senate in 1936 in Dade County on a platform advocating repeal. As a dairy farmer in South Florida, he utilized his milk salesmen as his campaign organization. While selling milk on their regular routes throughout Dade County, they drummed support for their candidate. Even Graham as a businessman was forced to note that it seemed his salesmen "did more campaigning than selling."³

Graham and his organization of milk salesmen discovered that many local white residents could not vote because of the poll tax. Among those who were able to vote, moreover, a large number had their poll taxes paid for them by others. Graham identified certain gamblers in Dade County as his chief opposition: "They control between 4,000 and 5,000 votes. Most of this vote I think opposed me as I openly panned some of the leaders. It is possible for a block of this kind to control an election, especially when there are three or more candidates running."⁴ Graham won a close primary fight from Henry Filer, a Dade County businessman whom he labeled a tool for gamblers, and he began his battle with Hialeah's city government.

The "machine" Graham opposed was the city council of Hialeah, which the senator felt to be in close alliance with two criminals, C.K. "Red" Slayton and Frank Hyde. Slayton and Hyde ran gambling casinos, bookmaking, and prostitution operations from Hialeah, and in 1931 they had been convicted of kidnapping and murder. The body of a man, Joseph Durrance, had been found in the Miami Canal to the west of Hialeah, and Slayton and Hyde were convicted of his murder. Durrance had been employed by them and his death was in retaliation for his "skimming" bookmaking receipts. Slayton and Hyde were sentenced to twenty years in the state penitentiary at Raiford; however, on appeal to the state supreme court, their convictions were overturned. The highest court in Florida ruled that the Dade County jury impaneled to hear the murder case had been improperly drawn. Thereafter, Slayton and Hyde continued illegal but highly profitable operations in South Florida. By the end of prohibition in 1933, Slayton and Hyde were bringing in an estimated \$30,000,000 annually from gambling, bookmaking, and prostitution.⁵

Slayton and Hyde appeared in court again late in 1936, in connection with the theft of slot machines. The Florida legislature the year before had made the use of slot machines legal. On October 12, 1936 the two gangsters were arrested for the assault of two Negro men whom Slayton claimed had stolen two slot machines from one of his nightclubs. The incident took place two blocks from the Hialeah police station. Slayton was freed in a mistrial while Hyde pled guilty and paid a fine of \$50.00 and court costs on November 13. In a second trial, Slayton was also found guilty, and his fine was \$200.⁶ Graham, however, had developed a personal as well as a civic opposition to Hyde and Slayton. During his primary campaign, they had beaten up a crippled boy, Les Lewis, a friend and a campaign worker for Graham. As the senator noted: "That kind of raised my ire, and I began to dig into their activities."⁷

Graham found a nexus between Hyde and Slayton and the Hialeah

city council, especially the mayor, L. O'Quinn, the council president, J.K. Stripling, and two council members, Charles Barr and Carl Ault. His efforts to repeal the poll tax and the Hialeah charter bill reflected his intent to defeat them. With Senator John Beacham of West Palm Beach and Representative Robert Hodges from Orange County, Graham as a freshman senator became a principal architect of the anti-poll tax bill which was passed in the 1937 legislative session.⁸

There had been previous attempts to achieve poll tax repeal before 1937 and although there was widespread support for it, the bulk of the legislators would have preferred to ignore the issue. When debate and persuasion failed to stir agreement for repeal of the tax, Graham and Beacham were forced into parliamentary maneuverings. It was customary in every session of the state legislature for each member to present one "pet bill" for immediate consideration. The intent of the practice was to enable non-controversial measures to reach the floor by side-stepping committee deliberation. Graham and Beacham used their pet bill privileges to force a vote on the poll tax. Fearing public disapprobation if it were defeated, first the senate and then the house, under Hodges' direction, voted overwhelmingly for repeal.⁹

The poll tax was the opening skirmish. On May 25, 1937, Graham introduced a bill to reform Hialeah's city charter. His bill would have turned the city council out of office and appointed in its place a five-man commission to serve uninterruptedly until 1940. In introducing the bill, the senator pointed out that under the city council's administration, Hialeah's financial resources had been ruined. He complained that the city's bonded debt had grown irresponsibly large and that there was "too much politics and undue influence" in the police department. As a result, there was not only a "breakdown of law enforcement," but also "much dissatisfaction and unsatisfactory results from the present form of government in Hialeah."¹⁰

The charter reform measure Graham sent to the senate was the result of intricate political dealing. Although any connection with the bill later was repudiated, Graham contended that the origin of the charter act came from Hialeah's major development company, Curtiss Properties. One of the bill's earliest supporters was W.J. McLeod, vice-president of the First State Bank of Miami Springs and also an official with Curtiss. According to Graham, it was McLeod's promise that the city council would resign if a new reform charter was enacted that led the senator to draw up the bill. McLeod partly shared in the naming of the new commissioners, along with Graham and a citizens' group from Hialeah opposed to the council.¹¹ The new commissioners named in the proposed act were: B.L. Smith, a former marine officer; W.S. Berling, Pan-Ameri-

can Airways chief mechanic; Floyd Edleman, local grocer; Paul Simpson, contractor; and Rufus Nutting, a Hialeah carpenter.¹²

The charter bill contained two controversial measures, each of special concern to Hialeah residents. Because of the city council's wide support among registered voters, Graham needed to maintain as much influence as possible among other interests. One of the most obvious local pressure groups was the Hialeah racing interest. There had been since 1931, when Florida legalized saddle racing, a conflict between the city council and the race track. Prior to the 1931 act, the track had paid to the city a ten-cent head tax; when Florida legalized racing at large, the track refused further payment. The city council charged that the track still had an obligation to pay the head tax, and that the total amounted to \$300,000 in back taxes by 1937. Graham's original bill would have allowed the track to be relieved of any head tax, but he was forced reluctantly to accept a proviso in his charter that would have enabled the city to collect an occupational license tax from the Hialeah track.¹³

Because his bill would have reduced the back taxes considerably, the old city council found it a convenient issue on which to attack both Graham and the charter itself. The same evening that Graham introduced the bill, May 25, 1937, the Hialeah city council met in special session. The council charged that the Dade senator was only a front-man for the racing group. His charter bill, the council claimed, had no connection with municipal reform in Hialeah. Instead it was designed by Graham and Dan Mahoney, general manager of the *Miami Daily News*, to prevent the city from collecting tax monies from the track.¹⁴

The other politically explosive section of the charter act prohibited city elections, recall of officials, and referendum voting until 1940. Graham claimed he wanted only to isolate the new commissioners from politics until they had time to straighten out the city government. Here Graham faced opposition not only from the old council but also from his fellow Dade County legislators who were reluctant to deny such basic rights to Hialeah's citizens. To preserve unity among the Dade legislative delegation, Graham conceded the right of recall of officials in the bill, but he managed to prohibit elections and referendums for the trial period.¹⁵

Even before the measure reached the senate floor, Graham and the city council clashed. In April the council and the chief of police in Hialeah, John Porth, met in Tallahassee with the Dade delegation to discuss the proposed bill. The meeting degenerated into a shouting match. Carl Ault declared that Graham was not only representing the special interests of the track in the issue of the head tax, but its future profits as well. The racing group was expected to expand into the new Jai Alai fronton in the county.¹⁶ The senator countered by charging that Charles Barr

was racketeering the plumbing trade in the city and was a front-man for Slayton and Hyde. Graham also charged Barr with assaulting another of the senator's friends. To these statements, Barr publicly labeled Graham as "a liar," "a punk," and "an egotistical ass."¹⁷

One June 1 the state legislature approved the Hialeah charter bill as Graham presented it. The most controversial portion was intact; there would be no referendum votes, not even on the charter itself, for a three year period. The entire Dade County delegation issued a joint statement in praise of the charter reform. The message noted that conditions in Hialeah's city government had reached a point requiring "firm, if not drastic action" by the state. The city was analogized to an insolvent corporation headed by a board of directors quarreling over policy and unwilling to take action.¹⁸

The old city council elected to fight against the bill. They chose to attack the charter's weakest section, the lack of a referendum provision. Barr warned that "civil war" would be the result of no such right in the charter. Graham, on the other hand, considered it the most critical section and had compromised to keep it out. He had accepted a recall provision and had also replaced Nutting with H.A. Vivian, Hialeah's tax assessor, to satisfy Curtiss Properties.¹⁹ When the bill passed, McLeod stated his opinion that the lack of a referendum would give the city "a three year breathing space."²⁰

The council continued to hold meetings against the bill. Charles Barr maintained that Senator Graham had "misled" the people as to the true intent of the charter act. To offset Barr's claims, the senator was advised to sponsor a bill in the next session requiring the Hialeah track to pay the back tax; in that manner Graham's ties to the track interests could rise above suspicion.²¹ A group in Hialeah friendly to the old city council formed a citizens protective league to lobby against the bill and for its repeal. Its major targets in a letter-writing effort were the non-Dade County legislators who had supported the charter bill.²² The potential injustices of the no-referendum provision was not lost on the old council. Even J.R. Stripling, council president, noted: "We may have dirty politics in Hialeah,...but it's not fair and it's not honest to change our form of government without a referendum."²³

The bill became a serious issue among Hialeah residents. During the weeks prior to its final passage, Graham was kept informed as to the measure of opposition it aroused. Supporters sent word that fights between Graham and anti-Graham people were common and that things might grow worse: "There are several there who are dirty enough to resort to anything, including a burn-out."²⁴

The city council filed suit against Graham's bill as soon as it passed

the legislature. However, the state supreme court ruled tentatively in favor of the bill's constitutionality on July 25, positing only the statement that nothing in the Florida constitution prohibited such bills from being passed: "Under the plenary power given the legislature by the Constitution to deal with municipalities in the state, we find no invalidity of the act complained of."²⁵

The ruling did not touch upon the proposed charter's content, and the court agreed that further study, if requested by the council, would be undertaken by the court. The city attorney, Mitchell Price, was granted an additional fifteen days in which to file a motion for further analysis. Vernon Hawthorne, attorney for the proposed new commission, on the other hand, objected strenuously to further delay, arguing that such time was injurious to the rights of Hialeah's citizens to have a municipal government. While court action proceeded, Hawthorne argued, the people "are practically without government."²⁶

The old city council continued to function, however, while the charter case was in court. Their activities were severely hampered by the fact that the city's finances were impounded until the case was decided and, as a result, they were unavailable for use. On July 28, 1937, the council met and passed a new budget for the next fiscal year. They also heard the city's employees — policemen, firemen, and other officials — complain about their lack of pay since June 1.²⁷

While the court case was pending, the old city council continued to function under the rules of the old charter. They opened the registration lists for September city elections in July and closed them again in August. The results of the election showed Hialeah's growing impatience with the court delay; the old council was returned, except for Mayor O'Quinn who had not run for re-election.²⁸ It appeared that the city council had used the delay to good advantage. George Holt, a member of the legislative delegation from Dade County, warned the court that not only could Hialeah not function without funds, but there were political implications resulting from the absence of a clear decision in the matter. In a letter to the clerk of the supreme court, Holt noted: "a certain element in the City are arousing the people and are using the delay in the decision of the case as an excuse and basis for advancing their own political future....Public meetings continue to be the rule with the people becoming more and more excited."²⁹

On October 27, 1937 the court reached a verdict in the case. By a vote of five to one, it reversed its earlier ruling and declared Graham's bill unconstitutional. Judge Roy Chapman, Governor Fred Cone's appointee, was the lone dissenter. The majority opinion was written by Judge Rivers Buford. His review pointed out that while the title of the

charter act promised to “amend” the existing city charter, in fact it had proposed to establish a whole new municipal government in Hialeah: “It abolishes the form of government enjoyed and sets up a new and different form of government. It strikes down local self-government and sets up a government to be administered for a period of three years by five persons named in the act. There was nothing in the title which indicated that was the purpose of the act.”³⁰ The court’s ruling thus validated the September election results in Hialeah, and the charter fight was over.

Ernest Graham challenged Buford’s role and motivation in rejecting the charter bill. During the latter’s re-election campaign against former state senator D. Stuart Gillis, Graham accused Buford of having accepted bribes and of becoming improperly influenced.³⁰ Graham supported Gillis in 1938 on a platform which called for judicial reform in Florida, but Buford won a convincing victory. While the charter defeat did not end Graham’s political career (he ran for governor in 1944), it did reveal the parameters to even legitimate reform in Florida during Roosevelt’s era. As local consolidation debates indicate, Conservative Floridians around the state today resist outside tampering with local government institutions. The Hialeah charter dispute in 1937 illustrates that such attitudes are of long duration.

FOOTNOTES

*Dr. Klingman is an instructor in social science at Daytona Beach Community College.

1 V.O. Key, *Southern Politics in State and Nation* (New York, 1949), p. 579,605,618.

2 Frederic Ogden, *The Poll Tax in the South* (University, Ala., 1958), pp. 182-185; Charles D. Farris, “The Re-Enfranchisement of Negroes in Florida,” *Journal of Negro History*, XXXIX (October 1954), pp. 259-283.

3 Ernest R. Graham to Robert W. Bentley, December 18, 1936, Ernest Graham Papers, Miscellaneous Correspondence, 1936-1938. P.K. Yonge Library of Florida History, University of Florida, Gainesville, Florida.

4 *Ibid.*

5 Graham to J.V.N. Dorr: November 10, 1937, Graham Papers, Misc. Corres.: Graham to Katherine Lewis, November 5, 1937, *ibid.* *Miami Herald*, April 22, 1937.

6 *Miami Herald*, April 22, 1937.

7 Graham to Dorr, November 10, 1937, Graham Papers, Misc. Corres.

8 According to Spessard L. Holland, author of the national amendment to abolish poll taxes, Graham “was the real leader,” although Holland was in that session. See Charles Stafford, “Sen. Spessard L. Holland: Statesman and Southerner,” *The Floridian*, October 11, 1970, pp. 15-20; Ogden, *The Poll Tax in the South*, pp. 182-185.

9 *Journal of the House of Representatives* (1937), pp. 35, 398, 1409. Actually, the legislature did not abolish the poll tax *per se*, but only the schedule of payments for it. Some controversy resulted from this distinction. See Tallahassee *Daily Democrat*, May 26, 1937; also James B. Hodges to L.A. Grayson, February 10, 1938, James B. Hodges Papers, mss. box 138, P.K. Yonge Library of Florida History.

10 *Miami Herald*, May 26, 1937.

11 *Miami Daily News*, May 25, 1937; “Just to keep the record straight,” Ernest Graham Papers, Hialeah File.

12 *Miami Daily News*, May 25, 1937; *Miami Herald*, May 26, 1937.

13 Graham to H. Sayre Wheeler, May 16, 1937, Graham Papers, Hialeah File.

14 *Miami Herald*, May 26, 1937.

15 Graham to John T. Christiansen, May 21, 1937; also memo undated and unaddressed, Graham Papers, Hialeah File.

- 16 *Miami Herald*, April 22, 1937.
- 17 *Ibid.*
- 18 *Miami Tribune*, June 2, 1937
- 19 "Just to keep the record straight;" also, Graham to Christiansen, June 1, 1937, Graham Papers, Hialeah, File.
- 20 *Miami Tribune*, June 2, 1937
- 21 G.C. Sparks to Graham, May 27, 1937, Graham Papers, Hialeah File.
- 22 Letter from the citizens protective league, Graham Papers, Misc. File.
- 23 *Miami Herald*, May 26, 1937.
- 24 Thomas L. Arthur to Graham, May 23, 1937, Graham Papers, Misc. Corres., 1936-1938.
- 25 *Miami Herald*, July 27, 1937.
- 26 *Ibid.*
- 27 *Ibid.*, July 29, 1937.
- 28 *Ibid.*, October 28, 1937.
- 29 George Holt to G.T. Whitfield, July 20, 1937, Graham Papers, Misc. Corres., 1936-1938.
- 30 *Miami Herald*, October 28, 1937.
- 31 Graham to D. Stuart Gillis, March 2, 1938; Graham to Dorr, November 10, 1937; Rivers Buford to Graham, Graham Papers, Misc. Corres., 1936-1938.