

1960

Municipal Corporations: Final Examination (May 27, 1960)

William & Mary Law School

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I. State X passed a law giving municipalities having certain population requirements the power to own and acquire special assessment certificates issued in connection with street improvements and to pledge and impound said certificates as a basis for the issuance of special improvement bonds. The bonds would not be considered in determining the debt for debt limitation purposes. The bonds had to be registered with the State Comptroller and approved by the Attorney General. The law likewise provided that cities in the state having a population of not less than 150,000 and not more than 165,000 according to the U. S. Census of 1960 might proceed under the Act without reference to any other applicable law or charter provision. The State Constitution prohibited the passage of any local or special law regulating the affairs of cities, towns, etc.

Big Town sought the approval of the Attorney General for a bond issue under the Act. The Attorney General refused.

What remedy is available to the city, what defense would the Attorney General make, and how would the court hold?

II. Plaintiff's intestate, Stool Pigeon, supplied information to the City Police leading to the arrest of a dangerous fugitive from justice. Stool Pigeon's part in the capture was unduly publicised. Several days later he received phone calls threatening his life. He immediately notified the City Police and requested police protection. The City authorities assured him that the threats were not serious, that he was in no danger and failed to provide him with a body guard. Three weeks later Stool Pigeon was shot down and killed in front of City Hall. Plaintiff as next of kin has filed suit against the City for wrongful death and is prepared to prove that the criminal was a member of a band of dangerous criminals, all of whom were violent, and who were capable of making and carrying out threats similar to those made to Stool Pigeon and that the City had knowledge of this and also that the City took an active part in publicising Stool Pigeon's part in the criminal's apprehension. Assume that the court must decide this case as an original proposition and that the State by statute has removed the bar of governmental immunity.

- A. What is the theory of the Plaintiff's case?
- B. Does the City owe a duty in these circumstances to provide special police protection? Why? Was Stool Pigeon under a duty to give information to the municipal authorities?
- C. What answer would the City file to the complaint in this case? What is the argument against recovery?
- D. Suppose that there was a State law which imposed liability on municipal corporations for damages arising from personal injury or death of persons injured or killed while aiding policemen at their direction in making arrests. How could the City use this law as an argument against recovery? What would be the answer to this argument?
- E. What are the four tests commonly used to determine municipal tort liability? In what two circumstances is the municipality always liable in tort, regardless of the test used?

III. The City Council of Poorville needs money. They are limited by the State Constitution to a debt limit of \$1,000,000.00. They have issued municipal warrants for \$200,000.00, however, a property tax has been levied to pay these off. They have likewise adopted an ordinance calling for a special election to be held in the near future to vote on a proposed bond issue of \$200,000. The ballot for the proposed issue states:

"Shall the City of Poorville issue \$200,000 in bonds, the same not to run longer than 20 years and to bear interest at 5% to be issued to mature in installments of equal amounts each year for the purpose of constructing an electric light distributing system, power plant, building and other appurtenances thereto, for the purpose of supplying said city and its inhabitants with electric current for lighting and other purposes."

The light plant will really cost \$350,000. The City has statutory authority to issue the bonds but only after submitting the proposed issue to the voters for approval.

The Council with proper authority has issued \$400,000 of special improvement bonds to finance the construction of city streets and a municipal park. These bonds are to be paid by special assessment against the property owners benefitted.

There are tort judgments amounting to \$150,000.00 now outstanding and a tort claim of \$75,000 is now pending against the city.

III.(continued)

A large tract of property valued at \$100,000 has just been acquired for municipal purposes. The purchase price will be paid off in installments of \$10,000 a year for the next ten years. The City is paying a private water company to supply water for its inhabitants for the next thirty years. The total contract price for this service is \$90,000 payable in annual installments of \$3,000 each.

The Council is very conscious of its debt limitation and consults you as an attorney for advice regarding each of the above transactions. They want to know how each transaction will affect the debt limitation. What would you advise? Would the proposed bond issue, if passed, cause the city to exceed its debt limitation?

IV. Jerry Tightwad brought a bill to enjoin the City of Norfolk from enforcing an ordinance adopted by it increasing the water rates to be paid by consumers outside the city limits.

A. Will the court review the reasonableness of the rate charged? What is the scope of review?

B. To what extent may a municipality dispose of its water to non residents?

C. Will the injunction issue?

D. Suppose that the city water line broke and Jerry Tightwad's land was flooded. Would he have a cause of action against the city?

V. High Pressure was charged with violating the hawkers and peddlers ordinance of the city of Williamsburg. He was convicted and ordered to pay a \$100.00 fine and costs. He appealed to the Circuit Court and was found not guilty on the grounds that the ordinance was unconstitutional. There is a state statute which permits the state to appeal from a judgment for the defendant in criminal prosecutions. May the city appeal the judgment in favor of High Pressure to the State Supreme Court? Why or why not?

VI. On June 1, 1958, a special election was held pursuant to the initiative and referendum statutes of the state by which the city council was authorized to issue bonds for financing the construction of a municipal electric plant and system. In 1959 the city council by ordinance made several changes in the ordinance approved by the voters. The bonds were made payable over a twenty year period instead of fifteen years as originally set up. They were to be dated as of the first day of the month of issue rather than June 1, 1958. The first series was made to mature three years after the date of issue rather than in one year as approved by the voters. Irritated brings an action of mandamus to compel the city officials to submit the changes made in the ordinance of 1959 to a referendum vote by the citizens. The state law reads as follows:

"Subject to the provisions of this chapter, legal voters of any city or town . . . may initiate any desired legislation and cause the same to be submitted to the law making body or to a vote of the people of such city or town for approval or rejection or may require any law or ordinance passed by the law making body of such city or town to be submitted to the voters thereof before such law or ordinance shall take effect."

A. What decision and why?

B. What test is used to determine whether an act is legislative or administrative?

C. What is the distinction between "initiative" and "referendum"?

VII. A. Parking meter ordinances have been subjected basically to two lines of attack. What are they?

B. While the allowable area of municipal use of parking meters has not been established with exactness, certain restrictions are generally recognized. What are they?

C. What effect would revenues of \$1,145,305.81 from parking meters over a six year period have when expenses for the same period were only \$221,810.73? Would your answer be any different if the surplus were spent or earmarked for general traffic control?

D. When the exercise of delegated power in setting up parking meters has been challenged as improper three major issues have been discussed. What are they?

VIII. The City of Williamsburg owns land in James City County in a district zoned for agricultural purposes. The City Council approved the establishment of a jail and proposed to use the land in the county for this purpose.

The following provisions were in force at the time. § 15-855, Va. Code: "For the purpose of promoting the health, safety, moral and welfare of the community, the board of supervisors of any county may regulate by ordinance and restrict the location and use of buildings, structures and land for trade industry, residence or other purposes."

Section. 15-2, Va. Code: "The provisions of this title shall in no wise repeal, amend, impair or affect any other power, right or privilege conferred on cities and towns by charter or any other provisions of the general law."

Section 2.04, Williamsburg Charter: "The city may provide for the regulation and use of parks, playgrounds and other public property, whether located within or without the city."

Section 2.05, Williamsburg Charter: "The city may establish, maintain and operate within or without the city, a jail for the confinement of prisoners ordered or sentenced to be confined therein."

May the city legally build its jail on the land in the county?