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Municipal Corporations: Final Examination (May 19, 1970)

William & Mary Law School

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FINAL EXAMINATION
MUNICIPAL CORPORATIONS

May 19, 1970

QUESTION 1:

Alene Faye Haney, ³Age 7, met her death by drowning in the Woodland Park swimming pool in Lexington, Ky. The administratrix of her estate filed suit against the City of Lexington and alleged that the child's death was caused by negligent operation of the pool by the City. It is admitted that the City of Lexington operated the pool. The City Attorney knows that the life guard employed by the City at the time the child drowned was absent from his post and in the pool locker room smoking pot.

As City Attorney for Lexington, on what grounds would you defend this action and for what reasons?

QUESTION 2:

The Constitution of the State of Colorado provided:

"The legislature shall not delegate to any special commission, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever."

Plaintiff was a municipal corporation in Colorado owning and operating an electric light and power plant. The defendant was a customer of the municipal electric light and power plant.

Town council of the plaintiff municipal corporation had established a schedule of rates for electric service. Subsequently the State Board of Public Utilities established a higher rate for electric service supplied by municipalities in the State, and the plaintiff billed the defendant at these higher rates. Defendant refused to pay, at this higher rate, tendering payment at the lower rate.

The plaintiff municipal corporation brought suit against the defendant to recover for its electric services at the higher rate prescribed by the State Board of Public Utilities.

What questions are presented; how should they be decided and for what reasons?

QUESTION 3:

Under a state statute in North Dakota municipalities had the right to use county jails for the confinement of their prisoners with the consent of the county commissioners.

The stipulated facts were as follows:

For six years immediately preceding commencement of this action, the defendant municipal corporation has confined prisoners sentenced in the city police magistrate's court to the county jail and the city has never paid anything for the care and maintenance of such prisoners; that there was no agreement between the parties as to such care and maintenance; that the county commissioners had never in council assembled passed any resolution or ordinance consenting to the use of the county jail by the city; and that the county now has demanded payment for such care and maintenance for the six year period immediately preceding the commencement of this action, which payment has not been made by the city.

What questions are presented in this suit; how should they be decided and for what reasons?

QUESTION 4:

The state legislature passed a statute giving municipal corporations in the state "the power to purchase property and to construct or reconstruct buildings or other structures to be used by manufacturing companies agreeing to locate therein and to issue municipal^{al} bonds for such purpose up to \$100,000."

The council of a municipality located in a depressed area of the state passed a resolution directing the holding of a special

election for the purpose of obtaining authority to issue municipal bonds in the amount of \$100,000 and devote the proceeds to acquiring a site and contributing to the cost of constructing a building to be leased to a privately owned manufacturing company that would offer jobs to 200 employees.

A resident tax payer and voter in the municipality filed a bill in equity to enjoin the holding of the special election to approve the bond issue for this purpose.

What questions are presented; how should they be decided and for what reasons?

QUESTION 5:

An ordinance of the City of Chester, Pa., provided:

"No persons shall operate a sound truck or loud speaker on the streets or public places of the City of Chester without first obtaining a permit therefor from the council of the City of Chester. Such permit shall be for a period of one day only. Every application for a permit shall be accompanied by permit fee of \$1.00."

Several years after the enactment of this ordinance a very heated and close political race developed for membership on the City Council. The incumbent members of the City Council were all of the Republican party. The Democrat slate of candidates for the Council had been waging a very effective campaign and political polls showed them to be winning.

Ten days before election day the Council amended the ordinance by increasing the sound truck permit fee from \$1.00 to \$50.00 per day. The Democrat slate of candidates, charging this action of the Council was solely for the purpose of thwarting their political campaign proceeded to operate sound trucks on the streets and in public places in the city of Chester without obtaining permits. The Democrat slate was committed to jail under the City ordinance which provided for the violation of this ordinance a fine of \$200 and

in default of payment of fine and costs, required imprisonment for a minimum period of 30 days and a maximum period of 90 days.

The Democrat slate of candidates brought petition for writ of habeas corpus. What questions are presented; how should they be decided and for what reasons?

QUESTION 6:

An ordinance of the City of Chicago, Illinois, authorized the mayor to issue and to revoke licenses to theatres.

Another ordinance of the City of Chicago prohibited the production, staging and display of obscene, lewd and purient motion pictures, plays, or other forms of public entertainment.

The Swedish motion picture "I am Curious (Yellow)" and the off-Broadway play "Hair" opened in Chicago on the same day. Mayor Daley attended the afternoon matinee of the motion picture "I Am Curious (Yellow)" and attended the evening performance of the play, "Hair". The following day Mayor Daley issued an order finding both productions to be in violation of the City ordinance mentioned above, and summarily revoking the licenses of the two theatres. The management of the two theatres involved brought suit for an injunction restraining the Mayor from carrying the revocation of the licenses into effect.

What questions are presented and how should they be decided; and for what reasons?

QUESTION 7:

Pursuant to the requirements of a municipal subdivision ordinance a land developer filed with the city planning commission a proposed subdivision map for approval. After hearings and consideration, the planning commission imposed the following conditions to the approval of the subdivision map:

1. That a ten foot strip abutting Sepulveda Boulevard be dedicated for widening of that highway.
2. An additional ten foot strip along the rear of the lots be restricted to the planting of trees and shrubbery for the purpose of preventing direct ingress and egress between the lots and Sepulveda Boulevard.

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3. That the extension of 77th Street be dedicated to a width of 80 instead of 60 ft.
4. That the area which would be covered by an extension of 70th Street and south to the point of the triangle be dedicated for street use for the purpose of eliminating it as a traffic hazard.

The land developer challenged the validity of these conditions as being unconstitutional exercise of the power of eminent domain and as depriving him of his property without due process of law. The City Council sustained the planning commissions action, whereupon the land developer instituted an injunction proceeding against the City Council seeking to compel the respondent City Council to approve the proposed subdivision map without these four conditions being imposed.

What questions are presented; how should they be decided and for what reasons?

QUESTION 8:

In 1856 the founder of a town in Minnesota recorded a plat of the area to be covered by the town and in the plat dedicated "the streets and the public square for public use."

The town was laid out and developed and for 100 years the public square shown on the plat was developed and used as public park being surrounded by elegant town houses. In 1957 the town council of this municipal corporation passed an ordinance converting the public square into a high school athletic field and play ground.

The owners of the residential properties surrounding the public square filed suit to enjoin the town authorities from converting the public square to these uses.

What questions are presented; how should they be decided and for what reasons?

QUESTION 9:

The town of West Point, Va., passed an ordinance providing that the discharge of dense smoke and foul odors into the air and the discharge of chemicals and waste matter into the river, which formed the boundary of the town, to be a public nuisance and prohibited the same.

The Chesapeake Corporation which operated a large paper mill in West Point, Va., which mill discharged dense smoke and foul odors into the air and discharged chemicals and acids into the river, filed suit to enjoin the enforcement of this ordinance on the ground that it would result in the taking of its property without due process of law because it would necessitate its spending approximately ten million dollars to install the necessary devices in its mill to eliminate the discharge of dense smoke and foul odors into the air and the chemicals and acids discharged in the waters of the river.

What questions are presented; how should they be decided and for what reasons?

QUESTION 10:

Innocent purchasers for value of the warrants of the City of Rock River, Wyoming, presented the warrants for payment. Payment was refused on the part of the City. The purchasers then brought this action against the City to recover on the warrants.

The City interposed the following defenses with its answer.

1. The warrants were unlawfully issued by the City.
2. The original payee of the warrants secured them by fraudulent means.
3. The City never received any consideration for the warrants.

What questions are presented by this suit; how should they be decided and for what reasons?