



ILLINOIS STATE BAR ASSOCIATION

# LOCAL GOVERNMENT LAW

*The newsletter of the Illinois State Bar Association's Section on Local Government Law*

## Some laws of 100 years ago mirror today's laws

By Richard G. Flood

**A**t the onset of the new millennium it is interesting to reflect on the changes in local government law during the last millennium. Recently, we ran across a copy of the Illinois Revised statutes for 1899 and specifically, Chapter 24, Cities, Villages and Towns. In 1899 the Open Meetings Act stated only "It shall sit with open doors." Today, the Open Meetings Act has grown to four pages of eight point type.

### Terms limited to two years

In 1899, mayors, aldermen and trustees served only two-year terms. Today terms are four years unless reduced by referendum. In 1899 when a village was newly incorporated there would be an election of six trustees and "the trustees shall choose one of their own number president." Now, as we know, the president is elected by the voters.

Elections were run differently in 1899. In fact, it wasn't until 1980 that election procedures dramatically changed. City elections were held on the third Tuesday of April. The mayor, clerk, attorney and treasurer were all elected, although the treasurer could not be elected to two terms in succession. City councils designated the polling places and appointed election judges and clerks. Polls were open from 8 a.m. to 7 p.m. Today, elections are handled by the county clerk with municipal clerks acting as local election officials. Few cities continue to elect their treasurer and the office of city attorney is filled by appointment.

### Powers included quality control of bread

City councils and boards of trustees in

1899 had 96 powers enumerated in section 62, Article V. Many of the powers and duties are now handled by other units of government or are addressed in separate statutes within the Illinois Compiled Statutes. No longer do councilmen and trustees have to "regulate the sale of bread or prescribe the weight and quality of the bread in the loaf, prevent and punish forestalling, and regrating or regulate the sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions." Other 1899 powers of local government included the ability to:

- Call out the militia to aid in suppressing riots and other disorderly conduct or to aid in carrying into effect any law or ordinance. In 1899, the mayor could, within the city limits, exercise the powers conferred upon sheriffs to suppress disorder and keep the peace.
- "...provide for the taking of the city or village census; but no city or village census shall be taken by authority of the council or trustees oftener than once in three years." (Today corporate authorities may provide for the taking of a municipal census, "not oftener than once each year provided such census is conducted by the Federal Government." 65 ILCS 5/1-7-1.)
- "To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses." Over time this statute has been modified to give the corporate authorities the authority to "prevent and regulate all amusements

and activities having a tendency to annoy or endanger persons or property on the sidewalks, streets and other municipal property." (5/11-80-9)

- "To require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property in the use of such railroads."

### Newspaper publication required for some ordinances

All ordinances of cities and villages imposing any fine (\$200 maximum), penalty, imprisonment (maximum six months) or forfeiture, or making any appropriation had to be published at least once in a newspaper published within the city or village within one month of passage. If a newspaper was not published within the municipality copies of the ordinance had to be posted in three public places. Several years ago the statute was changed to allow such ordinances to be published in pamphlet form. Like 100 years ago, such ordinances do not take effect until 10 days "after it is so published."

### Street labor required of males

"Jurisdiction Over Waters--Street Labor" (section 71) authorized municipal officials to pass an ordinance that would "require every able-bodied male inhabitant, above the age of 21 years and under the age of 50 years, (excepting paupers, idiots, lunatics, and such others as are exempt by law,) to labor on the streets and alleys of such city or village, not more than three days in each year, but such ordinance shall provide for commutation of such labor at not more than one dollar and

fifty cents per day.”

Compensation paid to aldermen and trustees was based on population: if less than 350,000 inhabitants it could not exceed \$3 for each meeting actually attended.

**Bridges, ferries**

As county and local officials up and down the rivers of the state required additional river crossings, cities and villages in 1899 had authority to build, acquire by purchase, lease or gift, and to maintain ferries and bridges, not only within the corporate limits but within five miles of the corporate limits, also, to construct, improve and maintain roads within five miles of the corporate limits connecting “with such bridges or ferries on either side thereof.” It is also interesting to note that “whoever shall ride or drive faster than a walk, over any bridge in this State, owned or controlled, either the whole or a part thereof, by any city, village or town of this State, shall, for each offense be fined in a sum not exceeding ten dollars nor less than one dollar, provided, that a notice shall be posted on such bridge, warning against riding, or driving, on such bridge faster than a walk, such fine to be recovered, with costs, before any justice of the peace or police magistrate....”

**Great Chicago fire**

Section 5/8-3-8 of today’s Municipal Code, which authorizes the mayor or president to rebate taxes for property that is destroyed by fire finds its genesis in the great Chicago fire.

When ordinance violations required commitment “to the county jail or the calaboose, city prison, work-house, house of correction, or other place provided ... for the incarceration of such offenders until such fine, penalty, and cost shall be fully paid. .... The city council or board of trustees of any such cities or

villages shall have power to provide by ordinance that every person so committed shall be required to work at such labor as his or her strength will permit, within and without such prison, work-house, house of correction or other place provided for the incarceration of such offenders, not to exceed ten hours each working day; and for such work the person so employed, or worked, shall be allowed, exclusive of his or her board, the sum of fifty cents for each days work on account of such fine and costs.”

**Fines, licenses funded pension fund**

Retired police relied on a multitude of varying taxes to fund their pension funds in 1899 for municipalities having a population over 50,000. Police pension funds were funded in 1899 by:

- Two per centum of all moneys received from licenses for the keeping of saloons or dram shops.
- Three fourths of all moneys received for taxes or from licenses upon dogs.
- All moneys received from fines imposed upon members of the police force of said city, village, or town, for violation of the rules and regulations of the police department.
- All proceeds of sales of unclaimed stolen property.
- One fourth of all moneys received from licenses granted to pawnbrokers, second-hand dealers and junk stores.
- All moneys received as fees and from fines for carrying concealed weapons.
- One half of all costs collected in money for violation of city ordinances.
- All rewards given or paid to members of

such police force, except such as shall be excepted by the chief officer of police.

- One per centum per month, which shall be paid by, or deducted from the salary of each and every member of the police force of such city, village or town: Provided, no such member shall be compelled to pay more than two dollars per month from his salary.

**Prisoners kept from public view**

Patrol wagons carrying prisoners to police stations, jails, etc., had to be equipped with “suitable covers or canopies so that the prisoners conveyed therein shall not be exposed to public view.” A violation of this law carried a minimum fine of \$10.

A restoration tax could be levied in the event a cyclone or tornado destroyed or seriously impaired the city hall, jail or police station, fire department house or houses, or public library, in order to rebuild or restore such buildings. The tax could not exceed 10 years or five mills on the dollar. Today, with voter approval, a Public Building Restoration Fund Tax not exceeding .08333% of the equalized assessed value can be levied for 10 successive years for the repair or rebuilding of municipal buildings destroyed or seriously impaired by storm or fire (5/11-70-1 et seq.).

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What can be concluded from this comparison? Perhaps the only thing worth realizing is that laws have become more complicated than necessary. It will be interesting to see how laws are developed over the next century. Will the Open Meetings Act grow to eight pages or will the age of computers eliminate the need for more laws relating to procedural issues? ■

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