

society or individuals for such purpose or either of them, and such commissioners may levy a tax upon all the taxable property of the county sufficient to meet the provisions of this section."

This act was passed March 8, 1889 (86 O. L. 69) and was originally section 3702a of Bates' Revised Statutes. It was intended to apply to counties containing "cities of the second grade of the first class." Section 1, Article XVIII of the amended constitution of 1912 provides as follows:

"Section 1. Municipal corporations are hereby classified into cities and villages. All such corporations having a population of five thousand or over shall be cities; all others shall be villages. The method of transition from one class to the other shall be regulated by law."

Inasmuch as there are now no cities of the second grade of the first class in Ohio, it is believed that section 14571 G. C. is inoperative.

Respectfully,

JOHN G. PRICE,

Attorney-General.

938.

MUNICIPAL CORPORATION—DIRECTOR OF PUBLIC SERVICE—MAY PUBLISH NOTICES TO WATER CONSUMERS RELATIVE TO TIME FOR PAYMENT OF WATER BILLS.

The director of public service may legally publish notices to water consumers relative to the proper time and payment of water bills, and that payment for such publication may lawfully be made as an expense of conducting and managing the municipal waterworks.

COLUMBUS, OHIO, January 15, 1920.

The Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of your request for the opinion of this department as follows:

"Is a notice to consumers relative to the proper time and payment of water bills in place of notification by mail a legal publication chargeable to public funds?"

Sections 3955 to 3981 are pertinent to your inquiry. General statutory power of council of a municipality to acquire, own and operate municipal waterworks, is given in section 3955. Since 1912, by the adoption of section 4, article XVIII, such power is granted by the constitution to municipalities. The management, conduct and control of the municipal waterworks is placed by section 3956 in the director of public service. By section 3957 he is empowered to make and enforce such by-laws and regulations "as he deems necessary for the safe, economical and efficient management and protection of the waterworks."

Section 3958 empowers the director to assess and collect water rents "for the purpose of paying the expenses of conducting and managing the waterworks."

Section 3959 provides:

"After paying the expenses of conducting and managing the waterworks, any surplus therefrom may be applied to the repairs, enlargement or extension of the works or of the reservoirs, the payment of the interest of any loans made for their construction or for the creation of a sinking fund for the liquidation of the debt."

The remaining part of this section provides that the

"amount authorized to be levied and assessed for waterworks purposes shall be applied by the council to the creation of the sinking fund for the payment of the indebtedness incurred for the construction and extension of waterworks and *for no other purpose whatever.*"

Of course the cost of such legal publication is not payable from the funds so levied and collected and so far as your inquiry may relate to these funds, it may be answered here in the negative.

The first part of this section indicates a different rule as to the use and the disposition of the net surplus from the waterworks. While this sentence does not specifically relate to your question, its direct descriptions of such surplus, viz., that existing "after paying the expenses of conducting and managing the waterworks" impliedly authorize the payment of the expenses of conducting and managing such waterworks.

Section 3960, providing that the income from such waterworks shall be kept as a separate fund, places such fund "when appropriated by council * * * subject to the order of the director of public service."

Section 3961, authorizing the director to make certain contracts, is as follows:

"Subject to the provisions of this title, the director of public service may make contracts for the building of machinery, waterworks buildings, reservoirs and the enlargement and repair thereof, the manufacture and laying down of pipe, the furnishing and supplying with connections all necessary fire hydrants for fire department purposes, keeping them in repair, and for all other purposes necessary to the full and efficient management and construction of waterworks."

No provision of title 12 of which this section is a part, and to which it refers, is found to contain any prohibition against the publication of a notice to water consumers. On the contrary, in the sections preceding section 3960, it is quite clear that the management and conduct of the waterworks is very largely entrusted to the director of public service.

Sections 4229, 6251 and others, requiring certain notices to be published in a certain manner, are not pertinent, but, it may be pointed out, are mandatory and of such a character that the rule of "the expression of the one excludes the other" has no application to the question of the authority to publish notices necessary to the efficient management of a public enterprise.

It may be pointed out that no specific authority exists for the payment of postage in mailing municipal water or electric light accounts, but such authority is implied *ex necessitate* from the expressed authority to one operating and managing the utility.

It is believed, in view of the clear implication arising from these sections, that the director of public service may legally publish notices to water consumers rela-

tive to the proper time and payment of water bills, and that payment for such publication may lawfully be made as an expense of conducting and managing the municipal waterworks.

Respectfully,

JOHN G. PRICE,

Attorney-General.

939.

COUNTY BOARD OF EDUCATION—TRANSFER OF TERRITORY—FROM ONE SCHOOL DISTRICT TO ANOTHER IN SAME COUNTY—TITLE VESTS IN BOARD OF EDUCATION TO WHICH TERRITORY TRANSFERRED—SALE OF SUCH PROPERTY, HOW CONDUCTED—SEE SECTION 4756 G. C.—TRANSFER OF TERRITORY UNDER SECTION 4692 G. C. REQUIRES NO WARRANTY DEED—TITLE AUTOMATICALLY PASSES UPON COMPLETION OF TRANSFER.

1. *Where the county board of education transfers territory from one school district to another school district in the same county school district, under the provisions of section 4692 G. C., title to school property situated in such transferred territory vests in the board of education to which such territory is transferred, upon the completion of such transfer.*

2. *Where a board of education receives title to school property located in territory which has been transferred by the county board of education under the provisions of section 4692 G. C., such property may thereafter be sold by the board of education of the school district to which such territory was transferred, but such real or personal property to be sold must be offered in the manner provided in section 4756 G. C.*

3. *Where a county board of education transfers territory from one school district to another school district in the county school district, under the provisions of section 4692 G. C., warranty deeds to real estate used for school purposes and belonging to the board of education from which such territory was transferred, need not be given to the board of education accepting such territory or school property, as title to real estate automatically passes upon the completion of the transfer.*

COLUMBUS, OHIO, January 15, 1920.

HON. FLOYD E. STINE, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR:—Acknowledgment is made of your request for an opinion of this department on the following statement of facts:

"Some time ago, a rural school district known as C. C. school district went into the L. village school district by petition.

The C. C. school district owned two (2) parcels of land which according to section 4692 of the General Code of Ohio, became vested in the board of education of the L. village school district. The L. village school district afterwards offered this land for sale at public sale, and the same was purchased for about eight hundred dollars (\$800.00).

Will you kindly advise me whether or not the L. village school board had a right to sell the same or if the price for which it sold would in any manner affect the sale thereof.

Under the section of the statute authorizing the transferring of one school district to an adjoining district, should deeds to the real estate be