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### Local Government in the United States

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# LOCAL GOVERNMENT IN THE UNITED STATES.

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To present completely local government as it exists in the United States would require a volume. Every one of the thirty-eight states has a code of its own with some peculiar features, and the changes which from time to time have been made in some states, are numerous and important, and would require presentation, if the existing system were to be fully explained. It would be possible to group the states into classes, composed of those whose systems are similar, but the classification could not be exact and might mislead. What we shall say, therefore, will be aimed at an explanation of certain general features, which are to be met with in all the states, and of some of the most important peculiarities.

It is to be said in the first place, that the sovereign authority within every state is in the state itself, and that all inferior public authorities are of state creation. The general rule is, that the state may create inferior public agencies at discretion, and may alter and abolish them at will. *Barnes v. District of Columbia*, 91 U. S. Rep., 540; *Laramie Co. v. Albany Co.*, 92 U. S. Rep., 307; *St. Louis v. Allen*, 13 Mo., 400; *People v. Draper*, 15 N. Y., 532; *Philadelphia v. Fox*, 64 Penn. St., 169; *Martin v. Dix*, 52 Miss., 53; *Goff v. Frederick*, 44 Md., 67. It is believed, however, that every one of the American constitutions has been adopted with either an express or an implied understanding, that local self-government in some form was to be continued, and that it would not be competent for any state legislature wholly to abolish local institutions and substitute no others in their stead. *People v. Hurlbut*, 24 Mich., 44; *People v. Lynch*, 51 Cal., 15.

There are two ways in which the people of a state may provide for their local institutions: 1. by their constitution; 2. by laws enacted by their representatives in the state legislature. Generally it will be found that the two are combined; the constitution marking out the general features of local government, and leaving all else to the legislature. This is the desirable method, as it ensures steadiness and uniformity, by making the main features subject to change only by the deliberate action of the people themselves, at the same time that it leaves minor matters, in respect to which there might be frequent occasion for modification and change, entirely at the control of the legislative power. There has however of late been a growing tendency in all constitutional revisions to particularize more and more, and this is quite as observable in respect to matters of local government as to any others. But as the most important provisions have been in the nature of restrictions to prevent abuse of local powers, probably no harm will result from any of them.

The feature common to the local government of all the states is that of county government. The counties are created at the will of the legislature,

by setting apart certain territory, the inhabitants of which are authorized to choose certain officers, and exercise certain powers of a public nature. The authority thus conferred is corporate authority, and the county is *quasi* a corporation, and may sue and be sued as such, though it is sometimes provided that suits by or against it shall be in the name of its corporate board, or of some designated corporate officer. The county officers commonly are a sheriff, a treasurer, a county clerk, one or more coroners, and a public prosecutor or state's attorney. In some states, there are also a recorder of deeds, a surveyor and a superintendent of schools. The titles of these officers perhaps sufficiently indicate their duties. Besides these the county has a governing board of some sort, with jurisdiction in respect to accounts against it, and to its taxation and all financial matters. There is great diversity in the composition of this board, and in the methods of its selection. In some states, it is a board of commissioners or supervisors selected directly or indirectly by the people of the county at large, in some it is a board of supervisors composed of the supervisors chosen in the respective towns or districts, in some it is a county court, made up in part or wholly of magistrates chosen in towns or districts, and in Louisiana it is a police jury, composed of members chosen by the people at large. The diversity in the powers of these boards is also very great. In some states they have large powers of local legislation in respect to highways, bridges, ferries, navigable waters, fences, the running at large of cattle, and the destruction of noxious weeds, and final authority in respect to claims against their respective counties. They also review the local assessments, determine the tax levy, and have general supervision of all county affairs, buildings, and offices. They thus constitute the most important agency in state legislation under the legislature itself, and, in respect to many of their powers, are altogether independent, so long as they do not exceed them. In other states the powers of the county board are much less important. It should be stated that in Louisiana the districts of territory having county government are designated parishes.

In a very large proportion of the states, but not in all, the counties are subdivided into districts, which are designated either as towns or townships. In the New England states the people of these towns constitute a democracy, which annually in town meeting chooses selectmen to manage its affairs, makes by-laws and gives general direction in respect to town business. In New York and the Western states generally, the democratic feature is not so prominent, but the town meeting is very important, and possesses considerable powers. Wherever township government exists, there is a town board composed of officers chosen by the people, and constituting the financial board. In the Western states the following officers are generally provided for: a supervisor, a clerk, a treasurer, several justices of the peace, an overseer of the poor, one or more commissioners of highways, one or more constables, and one or more school inspectors. Where the supervisor is not made assessor, an officer by that name is chosen; perhaps more than one. In some states there is a township superintendent of schools. This statement sufficiently indicates the importance of the town government.

In Virginia the subdivisions of the county for local purposes are called ma-

gisterial districts, each of which chooses three justices, a supervisor, a constable, and an overseer of the poor for a term of two years. These districts do not differ essentially from townships, elsewhere, except in name.

Where township government exists, the townships are generally subdivided into school districts and road districts. Each of these districts is a little municipality with corporate powers for school or road purposes, and with authority to choose its own officers and to control its own affairs, subject to the general laws of the state. Where township government does not exist, the counties may be divided into similar road districts, and into school districts also if a public school system has been established for the state.

Besides the municipal corporations already mentioned, and which are created by the legislature without any grant of special charter, there are others created for densely populated districts, which are designated cities, boroughs or villages. Until recently these have been created by special charter, and the powers conferred have had some regard to the size and importance of the town. Almost universally, they have exceeded the powers which it is customary to confer upon townships, and they are given authority to abate nuisances, establish market rules, and regulate public conveyances and places, and over many other subjects with which a rural population has no occasion to concern itself. The largest and most important of these towns have generally been chartered under the designation of city; the smaller under that of borough, or town perhaps, but more commonly under that of village. In this, however, it cannot be said that there has been any uniformity of action; for while there are some very large villages, there are some very small chartered cities. The difference between city and village, is nevertheless not wholly in name, for a village, where carved out of a township, will generally be left subject to town government, except as the village charter shall provide, and will thus constitute a corporation within a corporation: *Campbell v. Fair Haven*, 54 Vt., 336; *Jones v. Kolb*, 56 Wis., 263; when a city thus carved out, would be set off from the township altogether, and made wholly independent. Recently a strong disinclination to the granting of special municipal charters has grown up, and in several state constitutions, it is now provided that municipal bodies shall only be created by general law.

The highest type of local self government in the United States, is to be found in the city. As cities have been created at different periods, and by so great a number of states, it could not be expected that the plan of incorporation would be uniform, or that the diversity should not be, as indeed we find it, very great. Still there are some leading features present in city government everywhere. The American cities have severally a body of electors composed of all the adult male citizens, by whom the executive officer, usually called the mayor, and the local legislature, usually called the common council, are chosen. The common council is sometimes, but not always, composed of two houses, and for the purposes of their election, the city is subdivided into wards. If the city is not also a county by itself, the wards, or the city at large, will be given representation in the county board, by whatever name it may be called. The common council is generally given large powers of local government,

though sometimes the powers of one house are restricted to financial questions. The inferior municipal officers will be chosen, as the charter may provide, either by popular vote, or by the common council, or by the mayor with the concurrence of the common council or one of its branches. Cities have no inherent taxing powers, but they are given large powers of taxation for city purposes, and also the power to contract debts for like purposes. In these powers have been found to lurk the chief evils of city government: they are not only abused corruptly, but also, from over-confidence in future city growth and prosperity, they have led in some cases to enormous city debts and to practical bankruptcy. Protection against such calamities can only be made secure by the legislature imposing exact restrictions of the powers granted. This is now commonly done.

The cities are made responsible for the preservation of order within their limits, and are given very extensive police powers for that purpose. The preservation of public order is really, however, a state duty, and when authority over it is conferred upon a municipality, the municipality is made a state agency in respect to that duty, and may be compelled by the state to perform it, and to levy all necessary taxes, and provide all necessary officers for the purpose. If there is a state system of public instruction, the city is also given some part in that, and may be required to perform it. But, in respect to matters which concern its own people exclusively, such as providing parks, water or gas works, city buildings, etc., the city is entitled to be governed by the judgment of its own people and its own authorities, except that, as already said, the state may impose restrictions to prevent abuse of power. It is a general rule that cities, and indeed all municipal corporations, are entitled to the same protection in their property, that private citizens can claim, and even the state cannot deprive them of it. *Terrett v. Taylor*, 9 Cranch, 43; *Mills v. Charleton*, 29 Wis., 400; *People v. Common Council*, 51 Ill., 58; *Park Commissioners v. Common Council*, 28 Mich., 228. But where the property was acquired for public purposes, the state undoubtedly has a certain undefined right to direct as to its control and disposition, and if a municipal corporation is dissolved, the state as trustee will dispose of its property, keeping in view in doing so the purposes, for which, and the people for whose benefit, it was acquired.

Congress has no authority to create municipal corporations within the states, but it may create them in the District of Columbia and in the territories. But in the territories it is customary to leave this authority with the local legislature.

In none of the American states is there a body corresponding to the Local Government Board in Great Britain, and in none, perhaps, is the supervision of the municipalities as complete as would be desirable. Indeed, the general rule is that if a city, county, town or village, performs such state duties as may be imposed by law upon it, the state does not concern itself further, but leaves local evils to be remedied by the people themselves. If a municipal corporation exceeds its powers, its acts are void; if its officers exceed theirs, they may be held to personal accountability in the courts. Threatened abuses, such as a misapplication of funds, may be restrained by injunction on

the application of any person whose pecuniary interests would be injuriously affected thereby.

The general doctrine of the courts is that grants of municipal powers are to be strictly construed. *Nashville v. Ray*, 19 Wall., 468; *Bennett v. Birmingham*, 31 Penn. St., 15; *Johnston v. Louisville*, 11 Bush, 527; *Burritt v. New Haven*, 42 Conn., 174; *Jeffries v. Lawrence*, 42 Iowa, 498; *Clark v. School District*, 3 R. I., 199; *Williams v. Davidson*, 43 Tex., 1; *Vance v. Little Rock*, 30 Ark., 485; *Pullen v. Raleigh*, 68 N. C., 451.

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