

Commentaries on the Law of Municipal Corporations
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§ 98. The Right of Local Self-Government; Decisions Denying Right

Independently of any constitutional guarantee an inherent right of local self-government which is beyond legislative control has been asserted to defeat legislation depriving or tending to deprive the [municipal] corporation of the control of some part of its affairs. The occasion for the assertion of the right has usually been the enactment of a statute depriving a city or other public corporation of the power to appoint an officer or board exercising local functions, and conferring the power of appointment on the executive, or mandatory legislation for a local improvement, for the incurring of debt, the issue of bonds, or the payment of a claim, or a statutory enactment prescribing the terms and conditions of contracts by the municipality. Such legislation has frequently caused the courts to consider the abstract question whether a municipality has any inherent right of local self-government which is beyond legislative interference, and much has been said in support of or against the existence of the right, which should be construed as having reference only to the question before the court on the facts of the particular case, although couched in language so sweeping as to give it general application. It must now be conceded that the great weight of authority denies *in toto* the existence, in the absence of special constitutional provisions, of *any inherent right of local self-government which is beyond legislative control*.

The Supreme Court of the United States has declaredⁱ that a municipal corporation in the exercise of all its [p.155] duties, including those most strictly local or internal, is but a department of the State. The legislature may give it all the powers such a being is capable of receiving, making it a miniature State within its locality; or it may strip it of every power, leaving it a corporation in name only; and it may create and recreate these changes as often as it chooses, or it may exercise directly within the locality any or all the powers usually committed to a municipality. So viewed, its acts cannot be regarded as sometimes [p.156] those of an agency of the State and at others those of a municipality; but, its character and nature remaining at all times the same, it is great or small according as the legislature shall extend or contract the sphere of its action. Hence, the manner in which this legislative authority is given effect for purposes of local government is immaterial.

The people are the recognized source of all authority, State and municipal; and to this authority it must come at last, whether immediately or by a circuitous process.

It is not necessary to a municipal government that the officers should be elected by the people. Local self-government is undoubtedly desirable where there are not forcible reasons against its exercise. But it is not required by any inexorable principle.

ⁱ Barnes v. District of Columbia, 91 U.S. 540...