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COMMENT

HOME RULE IN WASHINGTON—AT THE WHIM OF THE LEGISLATURE

ROBERT F. BRACHTENBACH

Ample introduction to the topic and philosophy of this comment is provided by the following quotation: “. . . What I cannot understand is why the people of any city should not be permitted to govern themselves and experiment as they choose with plans or projects consistent with our form of government, when such action will not affect other cities or towns but only themselves.”¹

One of the most elementary rules of municipal corporations is that the power and control of the legislature over the local unit is complete and supreme, except as restricted by the federal or state constitution. Washington has embraced this concept as fully as any other jurisdiction. In one case we find the court quoting with approval this language from Cooley's *Constitutional Limitations*: “. . . [The legislature] still has authority to amend their charters, enlarge or diminish their powers, extend or limit their boundaries, consolidate two or more into one, overrule their legislative action when it is deemed unwise, impolitic, or unjust, and even abolish them altogether in the legislative discretion, and substitute those which are different.”²

The rather obvious import of such language is that the municipal corporation is at the complete mercy of the legislature unless it is given protection by the federal or state constitution.

What safeguards exist under the United States Constitution? The answer is clear and concise—none! “A municipality is merely a department of the state, and the state may withhold, grant, or withdraw powers and privileges as it sees fit. However great or small its sphere of action, it remains the creature of the state, exercising and holding powers and privileges subject to the sovereign will.”³ Mr. Justice Cardozo has said that a municipal corporation has “no privileges or immunities under the federal constitution which it may invoke in

¹ So spoke William F Devin, then Mayor of Seattle, on June 10, 1949, in an address to the Annual Meeting of the Association of Washington Cities [quoted at page 329, *MUNICIPALITIES AND THE LAW IN ACTION* (1950 ed.)].

² *Wheeler School District No. 152 v. Hawley*, 18 Wn.2d 37, 137 P.2d 1010 (1943).

³ *City of Trenton v. State of New Jersey*, 262 U.S. 182 (1923).

opposition to the will of its creator."⁴ However, contract rights of third persons against the municipality are protected.

Before examining our Washington Constitution on this question, it is appropriate to mention a theory which is sometimes urged as a limitation apart from any express constitutional guaranty. It is the doctrine of an inherent right to local self-government, a theory which has met with only a very small measure of success. The proposition appears erroneous in face of the concept that the power of a state and its people resides in the legislature except as limited by the constitution. If the particular power in question has not in fact been denied, how can there be any power in a body other than the legislature? The theory is of no moment in Washington.⁵

Turning then to the Washington Constitution, have the cities of this state been granted the right to control their local affairs with freedom from legislative interference? Article XI, section 10, is the center of our attention in answering this question. It reads (in part): "Any city containing a population of twenty thousand inhabitants, or more, shall be permitted to frame a charter for its own government, consistent with and subject to the constitution and laws of this state. . . ."

This provision was adopted by the framers of the constitution at the convention of 1889. Apparently it engendered no great controversy, though its course through the convention was somewhat hazardous. It was altered from the form in which it came out of committee. First came a successful motion to reduce from twenty-five thousand to five thousand the minimum population requirement for a city to adopt a charter. Then a motion to strike the entire section dealing with power to make and amend a charter carried by a vote of forty-two to twenty-nine. Finally, the section was reinserted with a population requirement of twenty thousand.⁶

⁴ *Williams v. Mayor and City Council of Baltimore*, 289 U.S. 36 (1933). The court in two cases appears to recognize the doctrine, but there is an express holding that Washington follows the majority position.

⁵ In *Pumas v. Town of Cosmopolis*, 128 Wash. 697, 223 Pac. 1052 (1924), the court referred to an "implied inherent power of cities to protect their citizens from those practices that threaten to destroy general welfare." It is submitted that this language is materially weakened as the very power in question was granted by statute. *Ex rel State Tax Comm. v. Redd*, 166 Wash. 132, 6 P.2d 619 (1932), contains language leaning toward recognition of an inherent right, but the real meaning of the case is that the legislature cannot take away that which is granted by the constitution. *Ex rel Clausen v. Burr*, 65 Wash. 524, 118 Pac. 639 (1911), destroys any inference raised by these cases.

⁶ SMITH, AN ANALYTICAL INDEX OF THE JOURNAL OF THE WASHINGTON STATE CONSTITUTIONAL CONVENTION 1889, 108-110. Thesis submitted for degree of Master

The success of this provision as a grant of home rule powers must be gauged, in the main, by its interpretation by the Supreme Court of Washington. This combination of words in the constitution obtains meaning only when we look at the decisions to see how the clause has operated in a particular instance. The cases are legion, and from an early case in 1891 to the present, the rule has been clear and oft stated: a general statute enacted by the legislature supersedes or modifies provisions of a city charter to the extent that they are in conflict.⁷

Two cases, selected at random, may illustrate the operative effect of the judicial attitude toward home rule. An early case, *Benton v. Seattle Electric Co.*,⁸ presented a conflict between a city ordinance provision that the granting of street railway franchises must be submitted to a vote of the people and a statute which vested the power of granting such franchises in the legislative body of the city. The court held the ordinance requirement void as conflicting with the statute. A recent case, *Mosebar v. Moore*,⁹ indicates that the same attitude still prevails. That controversy involved this factual pattern: RCW 35.21.200 provides in part ". . . residence of an employee outside the limits of such city or town shall not be grounds for discharge of any regularly appointed civil service employee otherwise qualified." Article 2, section 4, of the charter of the city of Yakima provides: "Persons hereafter employed by the city shall be residents of the city except those whose duties require them to live outside of the city." Held: a city fireman, who was a civil servant otherwise qualified, could not be discharged for having moved his residence beyond the corporate limits of Yakima.

It is essential to note that neither of the above decisions, nor indeed, any decision in Washington, attempts to analyze the particular power or function in question to ascertain whether it concerned and affected only a local matter or whether it was properly of state-wide concern. This approach is a wide deviation from the usual pattern in other jurisdictions; normally the initial inquiry is whether it is a matter of local or state concern, the answer thereto determining whether the charter provision stands or falls as against the statute. Thus, in Wash-

of Arts, University of Washington, 1947. As indicated on page 7 of this thesis, the full debates of the convention were taken in shorthand notes, but were never transcribed so that a full account is not available.

⁷ *In re Cloherty*, 2 Wash. 137, 27 Pac. 1064 (1891). *Mosebar v. Moore*, 41 Wn.2d 216, 248 P.2d 385 (1952).

⁸ 50 Wash. 156, 96 Pac. 1033 (1908).

⁹ *Supra* note 7.

ington, the legislature may enact measures on matters purely local in nature, and completely override municipal action.

It is submitted that McBain was entirely realistic and accurate when he wrote that ". . . in practice as well as in law home rule in Washington has been and is more largely a matter of legislative grace than of constitutional right. . . . The distinction between state and local affairs has not been read into the constitution by the courts, and therefore *no sphere of immunity from the control of state laws has been created for the city even in respect to matters which are sometimes regarded as of strictly local concern.*"¹⁰ [Emphasis added.] In short, every city charter in Washington has, in effect, an appendage that the provisions thereof are subject to alteration, amendment, or destruction at the whim of the legislature.

At this juncture the reader has likely asked why this concern with home rule? Is it a meaningful expression or only an appealing phrase? It is submitted that home rule has a real meaning and value and is of vital concern to the cities of America and their inhabitants.¹¹ Its broad purpose may be stated thus: ". . . to bring the agencies by which power is to be exercised as near as possible to the subjects upon which the power is to operate."¹²

More precisely, home rule is aimed at these objectives: (1) to prevent unwarranted legislative interference in municipal affairs; (2) as a corollary thereto, to permit and develop true local government and give some freedom of choice in erecting the framework of the local unit;¹³ and (3) to give cities adequate powers to meet the changing needs of their citizens.¹⁴ The latter point cannot be over-emphasized as being of vital concern to those cities that have experienced an influx of population, either by annexation or migration, within the past decade or more.

¹⁰ MCBAIN, *THE LAW AND THE PRACTICE OF MUNICIPAL HOME RULE*, 455-456 (1916).

¹¹ It has been termed the number one municipal problem. *MUNICIPALITIES AND THE LAW IN ACTION*, 329 (1950 ed.).

¹² *Proposed Constitutional Amendments—Granting Home Rule to Cities, Conference of the Mayors of the Cities of the State of New York—Committee*. *LEGAL PAMPHLETS*, Vol. 15 (not dated).

¹³ "Government by remote control is seldom satisfactory government. And when the government agency is a legislature in which the cities have but minority representation, its evils grow like the green bay tree. Legislative interference with cities tends to turn state legislatures into spasmodic city councils." MOTT, *HOME RULE FOR AMERICA'S CITIES*, 11 (1949).

¹⁴ "If cities are to be able to meet the needs of their citizens promptly, it is essential that they be given the authority to determine those needs for themselves." MOTT, *op. cit. supra*, note 13, at 12.

Those who assert that the home rule problem is academic, and that actual and potential legislative interference is small or non-existent are indeed naive. For example, it would appear that the method of appointment of members of a library board, or the method by which a city council voted at its meetings, or the fixing of salaries of municipal employees would all fall within an area where the city can dictate its own policy and procedure, yet these very subjects have been held to be beyond municipal control when the legislature so decides.¹⁵

In each session the Washington legislature has shown an inclination to legislate in the area of purely local affairs of the municipalities, but not to the degree evidenced in some jurisdictions.¹⁶ Even if the legislature refrained from such meddling, the city is in need of more protection for legislative forbearance, subject to the political currents of the day, is indeed a weak foundation upon which our cities are to build their governmental structures.

The gateway to the needed change and improvement is an amendment to the constitution. The actual drafting of such an amendment demands the work of experts and is beyond the scope of this article. However, general suggestions seem appropriate.

It is submitted that no one state has perfected a home rule grant that Washington should adopt *in toto*, but obvious utility lies in the experience of other jurisdictions. Short-comings of particular language will be revealed along with a delineation of the "trouble" areas.

A warning has been sounded to those who would frame a home rule grant: "Throughout the history of constitutional home rule there runs a thread of consistency—the phenomenon of continued efforts by cities to obtain constitutional protection against legislative abuse, crowned by apparent success in obtaining constitutional guarantee, and presently set at naught by judicial interpretation of imprecise constitutional language."¹⁷ Unfortunately the cases bear out this warning.

Constitutional grants of home rule are of three types: (1) the permissive category merely authorizes the legislature to pass statutes

¹⁵ *Mansfield v. O'Brien*, 271 Mass. 515, 171 N.E. 487 (1930); *Adams v. City of Omaha*, 101 Neb. 690, 164 N.W. 714 (1917); *Ex rel West v. Grable*, 72 Fla. 61, 22 So. 460 (1916). These examples are not extreme.

¹⁶ In North Carolina a total of 528 legislative acts, during the period of 1917-1947, directly concerned the structure of municipal governments. In that same period 369 acts related to municipal limits and extensions. These acts comprised 2.8% of the special legislation passed in that period. *Popular Government*, INSTITUTE OF GOVERNMENT, UNIV. OF N. CAR., Feb.-March, 30-31 (1949).

¹⁷ Richland, *Constitutional City Home Rule in New York*, 54 COL. L. R. 311, at 315 (1954).

permitting cities to govern themselves. Obviously this is of little value for what the legislature may give it may take away. (2) Another type grants power to the cities to adopt charters but requires enactment of enabling legislation by the legislature. (3) A self-executing grant enables cities to adopt charters without the necessity of enabling legislation. The last type, of course, is most effective and desirable.

The wording of the grant of power varies from state to state, *e.g.*, "may frame and adopt a charter" or "to enact and amend their municipal charter," but the essential inquiry is what powers are actually granted. Obviously "the heart of any home rule provision is the power which it grants to the cities. Without a broad grant of authority to the municipality, home rule is a delusion."¹⁸

How can this best be accomplished? Should the grant be a broad general grant (*e.g.*, "to govern all local affairs") or should it specify with some detail the particular powers the cities are to receive (*e.g.*, "to control traffic, to regulate zoning, etc.")? At least one writer feels that the broad general grant is preferable and that a listing of powers is totally impractical.¹⁹

It is suggested that neither approach, standing alone, is satisfactory. The general grant may well meet the fate of such narrow construction as to nearly nullify it. Such result is quite probable unless the judicial approach has undergone a change not evidenced in the decisions. Similarly, the specification of powers without an accompanying general grant will be limited by its very statement; the court would almost certainly refuse to expand the grant of specific powers beyond those named. Detailed enumeration alone in the constitution leads to an undesirable rigidity; flexibility is needed to meet tomorrow's needs.

The most effective solution seems to lie in a combination of the two alternatives. In this manner cities are assured of autonomy in those areas most predominately local in nature, being specifically granted power in those areas, yet flexibility to meet changing demands is provided by the general grant. Of course, it must be specified that the enumeration of powers is not a limitation upon the general grant.

The language of the general grant of power varies also. One clause reads "... in respect to municipal affairs . . .";²⁰ another, "... authority to exercise all powers of local self-government . . .";²¹ and still another,

¹⁸ MOTT, *op. cit. supra*, note 13, at 18.

¹⁹ MOTT, *supra* note 13.

²⁰ CALIF. CONST., ART. XI, §§6-8.

²¹ OHIO CONST., ART. XVIII, § 3.

“. . . all its local and municipal affairs. . . .”²² The argument is made that if the grant is of power over “municipal affairs,” it is broader than one over “local affairs.” The latter arguably implies that no powers in which the state has any interest is included, but “municipal” may include anything pertaining to the city although the state also has some interest. The distinction has not been of much weight, but the argument exists so the broader term should be used. Regardless how broad the wording of the general grant may be, it must be recognized that its true boundaries will be laid out by judicial interpretation.

The real difficulty arises when one attempts to define or enumerate the areas in which the cities are to enjoy freedom. Unfortunately the determination whether a particular matter is of state-wide concern, or only of local significance cannot be made the subject of a precise formula. The best that can be done is to tabulate those areas which appear to be of local concern only and recommend that control over them be specifically granted to the cities.

The control of streets, traffic and parking is an ever present problem to both local and state bodies. The interest of the municipality in regulating speed on its streets, determining location of parking meters, establishing streets, and regulating other uses of its streets is apparent. On the other hand, the state desires uniformity in speed and traffic-control measures on state highways, whether within corporate boundaries or not. The potential conflict should be resolved by granting the city control over all streets within its boundaries, except as such may be a part of the state highway system, in which case state regulations should control.²³ The decisions are in conflict on this point. Some jurisdictions refer to the powers of cities over streets as exclusive and unlimited.²⁴ Others impose a duty to maintain the streets, yet hold that the legislature of the state has plenary power over the streets of a city.²⁵

At this point it seems proper to anticipate potential criticism, to wit: that since the cities of Washington already enjoy at least some of the powers herein discussed, why are we concerned? This attack is dispelled by pointing out that the real issue is not whether they presently enjoy a particular power, but rather whether they are assured of the

²² COLO. CONST., ART. XX, § 6.

²³ 28 ORE. L. REV. 395, at 397 (1949).

²⁴ *Foster's Inc. v. Boise City*, 63 Ida. 201, 118 P.2d 721 (1941).

²⁵ *Chamberlain v. Board of Commissioners of City of Mobile*, 243 Ala. 662, 11 So.2d 724 (1943).

continuation of such power without interference. As indicated above, there is no such assurance in Washington.

Relations between a city and its employees should be solely of local concern.²⁶ For example, how can the residents of Spokane or Seattle have any valid concern with the working hours, pension-plan or residential requirements of the city water-department employee or city fireman of Yakima or Tacoma? Unfortunately, the legislature has apparently been of the opinion that there is an overriding state concern sufficient to demolish a local charter provision.²⁷ City officials are unreasonably and unnecessarily hampered in formulating and executing policies when faced with the constant threat that certain employee groups may exert pressure upon the legislature to enact a statute governing the relations between the city and these employees and thus override the local policy. Most damaging is the legislative grant of additional monetary benefits to city employees (*e.g.*, pension plans) without authorizing a new or expanded source of revenue to meet the increased burden.

The protection of public health and safety is largely of state-wide concern. Germs and epidemics recognize no corporate limits and the machinery to combat such elements must be state-wide.²⁸

Likewise, the protection of public morals lies within the ambit of state control in many cases. However, there is an area of overlapping interests. For instance, liquor regulation is properly a state function, but does this completely preclude the city from such matters as regulating closing hours of taverns?²⁹ A similar problem has arisen with the censorship of movies.³⁰ These subjects are by no means the sole ones in this conflict area.

It is apparent that many of these functions are in fact interwoven, making delineation difficult; *e.g.*, the exercise of the police power, sometimes held to be an area of state supremacy,³¹ is necessarily involved

²⁶ "There are few matters so intimately and exclusively of municipal concern as the mode of selecting persons for municipal employment." MCGOLDRICK, *THE LAW AND PRACTICE OF MUNICIPAL HOME RULE*, 76 (1933). See also, 9 OHIO ST. L. J. 1, at 38 (1948), containing an excellent discussion by a leading authority.

²⁷ *Mosebar v. Moore*, *supra* note 7.

²⁸ *City of Buyrus v. Dept. of Health of Ohio*, 120 Ohio St. 426, 166 N.E. 370 (1929).

²⁹ *Neil House Hotel Co., v. City of Columbus*, 144 Ohio St. 248, 58 N.E.2d 665 (1944), holds an ordinance invalid which restricted sales beyond an hour earlier than the one set by statute.

³⁰ 62 WEEK L. BUL. 225 (1917).

³¹ *State ex rel Arey v. Sherrill*, 142 Ohio St. 574, 53 N.E.2d 501 (1944). Same holding as to the fire department, *State ex rel Strain v. Houston*, 138 Ohio St. 203, 34 N.E.2d 219 (1941).

in the control of parking, a local function. The Washington Constitution grants the right to exercise the police power to cities, except as there is conflict with general laws.³²

The planning and zoning operations of the municipality are matters of local concern and should be solely vested in the municipality. It has been so held.³³ The character of the use of a particular area of real estate is essentially of interest only to those adjacent to it. Similarly, the specifications of a city building code should be determined by the particular city in which it operates.

In considering any of these functions, there is little or no basis for the potential contention that municipal officers or employees will be less competent or thorough in making policy determinations or in regulating a certain function. In fact, defects and abuses will be brought to light more quickly and corrected. It is quite probable that citizen X, dissatisfied with a certain element of city government, will call upon the councilman in charge thereof, but would not raise his voice if the policy or control originated in the state capitol.

The establishment and regulation of courts is strictly of state concern. Washington early held that a charter city had no power to create municipal or police courts.³⁴ The desirability of uniformity overcomes the lesser benefit of vesting some control in the cities as to establishment and regulation.

The right and procedure of exercising eminent domain should be controlled by the state.³⁵ This is not to say that the city should not enjoy such a right, but rather that it should not be the one to lay out the rules for exercise of the power.³⁶

To what extent shall the cities enjoy freedom in the field of local finance? It has been said that "in theory there is no more appropriate field for complete home rule than the domain of local finances."³⁷ If the municipality is to meet the demands for present and increased services, it must have an adequate source of revenue. "A municipality

³² ART. XI, § 11 "Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws." See *Sandona v. City of Cle Elum*, 37 Wn.2d 831, 226 P.2d 889 (1951). For a peculiar interpretation of this provision, see *Brown v. Cle Elum*, 145 Wash. 588, 261 Pac. 112 (1927).

³³ *Carnabuci v. City of Norwalk*, 70 Ohio App. 429, 46 N.E.2d 773 (1942).

³⁴ *In re Cloherty*, 2 Wash. 137, 27 Pac. 1064 (1891).

³⁵ *Nagle v. City of Grand Island*, 144 Neb. 67, 12 N.W.2d 540 (1943).

³⁶ *City of Tacoma v. State*, 4 Wash. 64, 29 Pac. 847 (1892).

³⁷ *McGOLDRICK*, *supra* note 26, at 340. The author states further: "In theory also, there is no fitter topic for uniform legislation than municipal finance, but in practice general legislation is a delusion and a snare."

without the power of taxation would be a body without life, incapable of acting and serving no useful purpose,"³⁸ said the United States Supreme Court.

There is much conflict in this area, there being no general consensus nation-wide. While a municipal corporation has no inherent power of taxation,³⁹ some courts have held that a home rule charter may be the basis of authority for taxation.⁴⁰ California has taken a liberal stand, holding that the power of a home rule city to impose taxes for revenue purposes is strictly a municipal affair.⁴¹

Regardless what power of taxation be vested in the cities,⁴² it is most common that they be subject to tax and debt limitations, Washington being in accord.⁴³

In the area of special assessments, when faced with the question whether the power to control such a function is lodged solely in the municipality, Washington has held a state law supreme.⁴⁴ Our neighbor, Oregon, has viewed the power to levy a special assessment as one "concededly municipal in character and intramural in scope. . . ."⁴⁵ Likewise, Oklahoma considers such assessments as a municipal affair and charter provisions relating thereto supersede conflicting statutes.⁴⁶

The above discussion should illustrate that the area of finance presents a complex problem when drafting a home rule grant. The cities need expanded sources of revenue, yet the state obviously has a valid interest in the financial condition of its component parts. Fordham has summarized the heart of the problem: "There can be much genuine

³⁸ *United States v. City of New Orleans*, 98 U.S. 225 (1879).

³⁹ *McGoldrick*, *supra* note 26, at 340.

⁴⁰ *Park v. City of Duluth*, 134 Minn. 296, 159 N.W. 627 (1916).

⁴¹ *Ainsworth v. Bryant*, 34 Cal.2d 465, 211 P.2d 564 (1949); *West Coast Advertising Co. v. City and County of San Francisco*, 14 Cal.2d 516, 95 P.2d 138 (1939). See also, *City of Portland v. Welch*, 154 Ore. 286, 59 P.2d 228 (1936), wherein the court saw the problem in this manner: "If a city has not violated any constitutional or statutory limitation of indebtedness or taxation, of what concern is it to the people of the state at large whether it levies a tax to pay its city officials, repair fire hose, build a swimming pool, buy stamps, or improve a public park? Are these not matters of purely local concern? If such items of expenditure can be eliminated or reduced, in accordance with the judgment of members of a nonelective commission, then the right of local self-government under the Home Rule Amendments of the Constitution has become a hollow mockery." Cf. the situation in Ohio, *Haefner v. City of Youngstown*, 147 Ohio St. 58, 68 N.E.2d 64 (1946).

⁴² WASH. CONST., ART. 7, § 9, "For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes. . . ."

⁴³ ART. 8, § 6 and AMENDMENT 17.

⁴⁴ *Van Der Creek v. Spokane*, 78 Wash. 94, 138 Pac. 560 (1914).

⁴⁵ *Wilson v. City of Medford*, 107 Ore. 624, 215 Pac. 184 (1923).

⁴⁶ *Berry v. McCormick*, 91 Okla. 211, 217 Pac. 392 (1923).

local discretion without the courts embracing the notion that both local borrowing power and procedure are strictly local business."⁴⁷

Although there is a division of authority, it is the general holding that a city cannot make its own determination of the method of annexing territory, but must proceed under general law.⁴⁸

Another facet of the home rule clause deserving consideration relates to the population requirement which a city must meet before it is entitled to frame its charter. The minimum in Washington is presently twenty thousand inhabitants. This is somewhat greater than the requirement in many states.⁴⁹ It is suggested that consideration be given to lowering the minimum in Washington, possibly to ten thousand, but it seems unwise to extend it to cities below ten thousand in population. Such municipalities are provided with a relatively workable scheme of government by statute. Especially in the smaller cities, the officials are often low-salaried and part-time only, hence such cities lack the expert guidance of full-time officials needed in an autonomous home rule city.

The present method of charter making and amendment in Washington is generally satisfactory.⁵⁰ In essence it provides that fifteen elected freeholders prepare the charter which is then submitted to the voters. If a majority voting thereon ratify it, it becomes the charter of said city. It may be amended by proposals submitted by the legislative authority of the city to the electors. In contrast, California requires that the charter be submitted to the state legislature; that body having a veto power only, it can approve or reject but not modify.

The preceding pages indicate in a small measure the range and extent of the problems and considerations which must be dealt with in drafting and interpreting a home rule clause. The discussion is by no means exhaustive.

In conclusion, it is submitted that this discussion demonstrates the inadequacy of Washington's present constitutional home rule provision. The writer earnestly urges the adoption of a constitutional amendment which will enable cities to function without state legislative interference in those areas which are strictly local or municipal in character.

⁴⁷ FORDHAM, LOCAL GOVERNMENT LAW, 102 (1949).

⁴⁸ State *ex rel* Snell v. Warner, 4 Wash. 773, 31 Pac. 25 (1892). McGOLDRICK, *supra*, note 26, at 328-329, but see City of Fort Worth v. State *ex rel* Ridglea Village, 186 S.W.2d 323 (1945).

⁴⁹ *E.g.*, ARIZ. CONST., ART. XIII, § 2, 3,500; COLO. CONST., ART. XX, § 6, 2,000; OKLA. CONST., ART. XVIII, § 3 (a), 2,000.

⁵⁰ ART. XI, § 10.