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## MAY A CORPORATION PRACTICE LAW?

The vital question in *In re Co-Operative Law Co.*, 92 N. E. (N. Y.), 15, is whether a corporation could be lawfully organized to practice law. In 1901 the Co-Operative Law Co. was organized for the purpose of practicing law, and attempted to incorporate under the Consol. Laws, Ch. 4, Sect. 2, which provides, that, "Three or more persons may become a stock corporation for any lawful business purposes." In holding that the practice of law is not a lawful business within that statute, the New York Supreme Court said, in part, as follows: "The practice of law is not a business open to all, but is a personal right limited to a few persons of good moral character, with special qualifications ascertained and certified after a long course of study, both general and professional, and a thorough examination by a State board appointed for that purpose. The right to practice law is in the nature of a franchise from the State conferred only for merit. It cannot be assigned or inherited, but must be earned by hard study and good conduct. It is attested by a certificate of the Supreme Court and is protected by registration. No one can practice law unless he has taken an oath of office and has become an officer

of the court, subject to its discipline, liable to punishment for contempt in violating his duties as such, and to suspension and removal. It is not a lawful business except to members of the bar who have complied with all the conditions required by statute and the rules of the courts. As these conditions cannot be fulfilled by a corporation, it follows that the practice of law is not a lawful business for a corporation to engage in. As it cannot practice law directly, it cannot indirectly by employing competent lawyers to practice for it, as that would be an evasion which the law will not tolerate. *Quando aliquid prohibetur ex directo, prohibetur et per obliquium.* Co. Lit., 223.

Owing to the system of practice in vogue in England, the English courts have never been, and will probably never be, confronted with this question. It has, in fact, never before been adjudicated by a court of last resort in the United States.

The right to practice law is not an absolute one, but is subject to legislative control as to powers, duties, privileges, etc., *Ex parte Yale,* 24 Cal., 241; it is not a natural or constitutional right, but is a statutory privilege. *Cohen v. Wright,* 22 Cal., 297. Attorneys and counsellors at law are officers of the court, admitted as such by its order, upon evidence of their possessing sufficient legal learning and fair private character. *Ex parte Garland,* 4 Wall. (U. S.), 333.

As to incorporation, the general rule is that a corporation can be organized under general laws only when it is for a purpose which is authorized by the statutes and which is not contrary to the law. *Marshall on Corporations,* Sect. 21, p. 76. It was held in *Vinegar Co. v. Foehrenbach,* 148 N. Y., 58, that if, as expressed on the face of the instrument of incorporation, the purpose for which a corporation is formed is not unlawful, it will be presumed that it was formed for a purpose for which corporations might lawfully be formed.

A medical college was not permitted to incorporate under the law entitled, "An act for the incorporation of benevolent, charitable, scientific, and missionary societies," because, it was held, a medical college could be incorporated only by a special act. *People v. Gunn,* 96 N. Y., 317.

The defendant, in *Hannon v. Siegel-Cooper Co.*, 167 N. Y., 244, was a corporation conducting a department store in New York City and represented and advertised itself as carrying on the practice of dentistry in one of its departments. *Held,* that it was beyond the corporate powers of the defendant in assuming to carry on such business. Nor can a corporation advertise as practicing medicine, because a corporation cannot comply with the statutory requirements of all persons practicing, or advertising to practice, medicine. But this does not affect the rights of incorporated hospitals and dispensaries, because they are incorporated under special acts. *People v. Woodbury Institute,* 192 N. Y., 454.

Incorporation will not be granted under general laws for a purpose which is regarded by the courts as being against public policy. Thus, it was held, that a certificate of incorporation will not be approved of a corporation appointing the annual meetings for the transaction of secular business to be held on Sunday, since the holding of such meetings on Sunday is contrary to public policy. *Hakehiloth,* 42 N. Y. Supp., 985. Nor will a charter be granted to an association that is organized for the purpose of paying, out of a general fund to be raised by subscription and assessment, a premium to members when they become married. *In re Helping Hand Marriage Assn.,* 15 Phila., 644.

Purity of the bar is at the basis of our great Institution of Justice, and anything that lowers the ideals of its individual members, strikes at the very foundation of that institution and therefore is against public policy. If a corporation were admitted to the bar, how could it be suspended or removed for the violation of its duty as such member? It might commit offenses with impunity that would be sufficient to sustain disbarment proceedings against an individual, and yet not amount to such an abuse of corporate powers as would move the State to an action of *quo warranto.* To aid in the administration of justice is the highest function of a member of the bar, and a full and complete discharge of that duty should be the earnest endeavor of each and every such member. The opinion of the New York Court, *In re Co-Operative Law Co., supra,* commends itself to every reader of the law for the position it takes in maintaining the dignity and self-respect of the legal profession.

EASEMENTS—RIGHT OF WAY OVER RAILROAD PROPERTY ACQUIRED BY PRESCRIPTION.

A discussion of this question is suggested by a case decided by the Supreme Court of South Carolina, *Blume v. Southern R. R. Co.*, 67 S. C., 546. In this case the plaintiff in the court below recovered judgment against the railroad for obstructing an alleged street in the town of Bamberg, by building there a depot and platform, thereby blocking the way to and from the plaintiff's premises. The alleged street was a part of defendant's right of way. Plaintiff attempted to show title by prescription in the town to that portion of defendant's right of way in question by showing an adverse use thereof by the public as a street for more than twenty years. The court refused to recognize this right, and held that, since prescription rests on the presumption of a grant, which the railroad company had no power to make, for other purposes than those for which it acquired the land, no prescriptive easement of right of way could be acquired against the railroad.

Upon this question there is diversity of opinion in the State courts, some holding that a right of way may be acquired over a railroad property by prescription while others deny that such a right exists.

The California courts deny that this right exists, basing their reasoning on the ground that railroads are a species of public highway, *Moran v. Ross*, 79 Cal., 159, and that individuals, although they may intrude upon or obstruct the public thoroughfare, cannot acquire title by prescription to such land. *San Francisco v. Bradbury*, 92 Cal., 414.

A conveyance to a railroad of a right of way is a dedication to the public use. *Venable v. Wabash R. R. Co.*, 112 Mo., 103. Jones on "Easements," Sect. 281, p. 232, lays down the rule that the prescriptive right to a passage way along the track of a railroad cannot be acquired by the public or by individuals while the railroad is constantly using a single track over such right of way.

The view in opposition to that as expressed in the principal case, has received the sanction of the courts of many jurisdictions, a few of which are the Supreme Court of Illinois, in *Illinois Central*

*R. R. Co. v. Wakefield*, 173 Ill., 564: the Supreme Court of Michigan in the case of *Matthews v. Lake Shore and M. S. R. R. Co.*, 110 Mich., 170; and the Supreme Court of Indiana in *The Pittsburgh, Cincinnati, Chicago and St. Louis R. R. Co. v. Stickly*, 155 Ind., 312. In the Indiana case the court said that "adverse possession of land acquiesced in by a railroad company for the statutory period prevents a recovery of such land. A railroad is not a public highway in the sense that it belongs to the people. The statute enables the railroad to take land in fee and forbids interference with the company's exclusive use, but this right must be asserted. If one occupies adversely for twenty years, land owned by a railroad company, the statute of limitations should raise a presumption of a grant. The State confers the right of eminent domain to enable a railroad to perform efficiently its duties as common carrier, but it is not evident why the State should be concerned in preventing investors in railroad stock from sustaining loss through the negligence of their agents."

A review of the decisions of the State courts shows that the weight of authority is contrary to that of the principal case, and the better opinion seems to be that when a railroad, by its negligence, has permitted the use of its land by the public under such conditions and circumstances as would give the public a right thereto, under the doctrine of adverse possession, if such land were owned by an individual, such right should not be denied merely because the land used belonged to a railroad company.

### THE ABOLITION OF THE DEFENSE OF INSANITY IN CRIMINAL CASES IS UNCONSTITUTIONAL.

The frequency with which the plea of insanity has been interposed in criminal cases within recent years, and the gross miscarriage of justice resulting from it in many instances, have caused agitation in some quarters for the abolition of the defense altogether. The Special Committee of the New York Bar Association on the Commitment and Discharge of the Criminal Insane, made, at the meeting of the Bar Association on January 18, 1910, among others, the following recommendations: "Your Committee, therefore, recommend this question for earnest consideration. Has not the time come in the development of our system of penology to relegate to the realm of the obsolete, the assumption that an

insane man cannot commit crime? In other words, ought we not to abolish the defense of insanity, and leave as the one issue to the petit jury, did the accused do the forbidden deed? If he did not, he is innocent; if he did, he is guilty, and with the state of his mind at that time the jury has nothing to do. We may have to revise our definitions of crime when intent is an ingredient, so as to bring the insane man as well as the sane within their grasp. It is not necessary now to go into that phase of the question. The point we make here is, that however legally right under existing legal concepts, it is really wrong, sociologically wrong, to find a man not guilty on the ground of insanity."

The question then is, have the legislatures of the States, under their constitutions, the power to enact laws taking away from one accused of crime the defense of insanity?

It seems that the exact question has never arisen until recently, in the case of *State v. Strasburg,* 110 Pac. (Wash.), 1020. The court in this case held, that a statute of the State of Washington, providing that insanity is no defense to a charge of crime, contravenes Article I of the constitution of that State, which provides that no person shall be deprived of life, liberty, or property without due process of law.

It was a firmly established rule of the common law that a person could not be legally punished for a crime committed by him while he was insane, and his insanity was a complete defense, and not a mitigating circumstance. *Sage v. State,* 91 Ind., 141; *Commonwealth v. Wireback,* 190 Pa. St., 138. This common law doctrine of incapacity of insane persons to commit crime is firmly fixed in our jurisprudence, and, at the time of the adoption of our State constitutions, was in full force and effect. *Commonwealth v. Rogers,* 7 Metc. (Mass.), 500.

Most of the State constitutions, if not all, contain the following provisions: "No person shall be deprived of life, liberty, or property, without due process of law," and "The right of trial by jury shall remain inviolate."

The right of trial by jury means that the right of trial by jury, as it existed in that particular commonwealth at the time when its constitution was accepted, should be continued unimpaired and

inviolate. *Whallon v. Bancroft,* 4 Minn., 109; *Taliaferro v. Lee,* 97 Ala., 92. It is evident that the accused had the right at the time of the adoption of the State constitutions, to have the question of his sanity passed upon by the jury the same as any other question of fact relating to his responsibility for the crime. The legislature cannot entirely destroy, by a process of limitation, the substance of the right of trial by jury, as this constitutional provision means more than the mere form of trial by jury, every substantive fact relating to the guilt or innocence of the accused being included within it. *Cummings v. State of Missouri,* 71 U. S., 277. "Due process of law requires that a party shall be properly brought into court, and that he shall have an opportunity when there to prove any fact which, according to the constitution and the usage of the common law, would be a protection to him or his property." *Witherbee v. Supervisors,* 70 N. Y., 228, 234; *King v. Hopkins,* 57 N. H., 334, 352.

The cases show that the legislature has the power in some cases to eliminate the element of intent. *State v. Constantine,* 43 Wash., 102; but in those cases the man was a free moral agent, and had it in his power to refrain from doing the act. No case can be found where the constitutionality of a law has been upheld which imputes intent to commit crime to an insane person. "There can be no crime without a criminal intent." 4 Blackstone, 20.

It seems from the cases cited, that the question of sanity is a substantive fact, and was such at the time of the adoption of our State constitutions, going to make up the guilt or innocence of the accused, and thus falls within the purview of the above mentioned constitutional provisions; and a State statute, that attempts to abolish insanity as a defense, is in contravention thereof and void.

### SYSTEM FOR REPORTING COMMERCIAL CREDITS BY FOREIGN CORPORATIONS HELD NOT TO BE INTERSTATE COMMERCE.

A nice distinction has been drawn by the Kentucky Court of Appeals in the recent case of *The United States Fidelity and Guaranty Co. v. Commonwealth,* 129 S. W. (Ky.), 314, showing to what extent a foreign corporation may go in furnishing intelligence or information through the medium of agents, and yet not be included within the pale of the interstate commerce clause

of the United States Constitution, which vests the regulation of such commerce in Congress. The appellant company, a Maryland corporation, operated a scheme for reporting "credits" in Kentucky through its attorneys. The business was irregular and the attorneys, as found by the court, had no direct connection with the sale of goods.

The doctrine, as laid down by Chief Justice Marshall in the case of *Gibbons v. Ogden,* 9 Wheaton (U. S.), 1, that the mere transmission of intelligence or information from one State to another is interestate commerce, has been universally approved in a multitude of decisions in this country, the latest of which, perhaps, is that of the *International Text Book Co. v. Pigg,* 217 U. S., 91.

In the latter case, the Text Book Company carried on what is known as a "correspondence school." In the conduct of its business it prepared text books, instruction papers, and other educational literature. This literature was transported from Pennsylvania, in which State the company was located, to Kansas, where the student in this particular case resided. The question litigated was whether the furnishing of such intelligence was interstate commerce. *Justice* Harlan, in holding in the affirmative, said, "If intercourse between persons of different States by means of telegraphic information is commerce . . . . we cannot doubt that intercourse or communication between persons in different States by means of correspondence through the mails is commerce among the States within the meaning of the Constitution, especially where, as here, such intercourse and communication really relate to matters of regular continuous business and to the making of contracts and the transportation of books, papers, etc., appertaining to such business." This doctrine was quoted with approval in the principal case and was, perhaps, a determining factor in the court's decision.

In the principal case the guaranty company, organized under the laws of Maryland, was engaged in reporting credits in Kentucky. It employed Kentucky attorneys, who received consideration for their services, to furnish Kentucky merchants, business customers of the appellant, with reports concerning the financial standing of contemplated customers. These customers were residents of Kentucky. The attorneys also agreed to collect bills for these Ken-

tucky merchants. The business of the company was somewhat irregular and none of the information gained by the agents of the guaranty company passed without the borders of the State. But the fact that the attorneys were the duly appointed agents of the foreign corporation led to the conclusion that, as a matter of legal inference, the intelligence passed to the home office of the guaranty company in Maryland, and then back to the Kentucky merchants, even though, as a matter of fact, there is not the slightest scintilla of evidence of such proceedings. Hence, it is readily seen, that the case as made out so ingeniously by the appellant's attorneys, calls for the exercise of some judicial wisdom.

Justice Carroll, in holding that the business of the appellant company was not interstate commerce and thus subjecting them to the State tax, said, "It will thus be seen that these attorneys had no direct relation to or with anything that was the subject of commerce. They did not sell or offer to sell any goods; they did not deliver or offer to deliver any; they did not handle or in any way have the possession of any goods; they did not bring the buyer and seller together, or have anything whatever to do with the transportation of articles or goods, and we are unable to perceive how it can be said, under the broadest construction of the commerce clause, that the reports furnished by these attorneys were instrumentalities in facilitating or carrying on interstate commerce."

That an indirect connection of the business alleged to be interstate commerce with that which is the subject of commerce is not sufficient, but that a direct connection between the two must be established, is another doctrine that has been distinctly affirmed in this country, as manifested by the cases of the *United States v. Swift et al.*, 122 Fed., 529, and *Anderson v. United States*, 171 U. S., 604.

In the latter case, the question was raised as to whether or not the appellants were guilty of forming a combination in restraint of interstate commerce. *Justice* Peckham, in rendering the decision of the court, said: "Where the subject matter of the agreement does not directly relate to and act upon and embrace interstate commerce, and where the undisputed facts clearly show that the purpose of the agreement was not to regulate, obstruct, or restrain that commerce, . . . . such an agreement will be upheld

as not within the statute . . . . where the effect of its formation and enforcement upon interstate trade or commerce is in any event but indirect and incidental and not its purpose or object."

Regularity in the business sought to be adjudged interstate commerce is another essential element which must be present in the conduct of the intercourse before the court will so act. This is but the result of natural reasoning and has always been adhered to by the courts in rendering their decisions.

In rendering judgment in the case of *International Text Book Co. v. Pigg, supra, Justice* Harlan, as quoted above, laid particular stress on the regularity and continuity of the appellant's business, and *Justice* Carroll, in the principal case, has strongly adhered to a like principle. Concerning this phase of the question, he said: "But we can hardly believe that, merely because a person in one State occasionally writes a letter to a person in another State, that may result in bringing about a contract between the parties, or the exchange of commodities, he can be said to be engaged in interstate commerce. . . . "

In conclusion, it may be said that the Kentucky Court considers three elements, at least, necessary to concur before such commerce can be adjudicated interstate, so as to bring the regulation thereof under the control of Congress. They are: First, the commerce must come from without the State; second, it must have a direct connection with the sale of goods; and, third, the commerce must be regular.

## THE RIGHT OF A RESCUER TO RECOVER DAMAGES FOR PERSONAL INJURIES WHEN THE RESCUED HAS BEEN PUT IN DANGER THROUGH DEFENDANT'S NEGLIGENCE.

There is a widespread belief in the doctrine that, if A, seeing B placed in imminent danger by reason of C's negligence, goes to B's rescue and is injured thereby, C is liable to A in damages. It is often found necessary, however, to qualify in several fundamental and essential aspects, the sweeping effect of the rule as commonly stated.

In reviewing the cases, and in the examination of standard text writers, nowhere can be found the rule stated in the simple manner initially laid down, for among cases in point, opinions have been formed largely to decide limited phases of the doctrine and dicta on the general rule are often loosely expressed to aid the individual decisions.

In the carefully considered, and apparently the correctly decided, case of *Bracey et al. v. Northwestern Improvement Co.*, 109 Pac., 706, Chief Justice Brantly expresses the general rule to be that: "One who, observing the peril of another, *voluntarily* exposes himself to the same danger to save his life, may recover for any injury sustained in effecting the rescue, against the person by whose negligence the peril was brought about, *provided* the exposure is not made under such circumstances as to constitute rashness in the judgment of prudent persons."

In this case the plaintiff was non-suited for a fatal variance between the complaint and the proof offered, but the general doctrine stated by the learned Chief Justice upon the right of recovery in such cases was undisputed.

At the basis of the doctrine in question lies the accepted statement that "The law has so high a regard for human life that it will not impute negligence in an effort to preserve it." *Maryland Steel Co. v. McIney*, 88 Md., 482.

In *De Mahey v. R. R. Company*, 45 La. Ann., 1324, the court, taking into consideration the presumption against contributory negligence, ruled that, "A mother going to the aid of her child, which had fallen between two cars by reason of the defendant's negligence and who was herself injured, could not recover, as her negligence in allowing the child to wander to an improper part of the train was the proximate cause of the injury."

The general rule is inapplicable when the rescued person is placed in the dangerous situation by reason of the prior negligence of the person attempting the rescue. *R. R. Co. v. Leach*, 91 Ga., 419.

The question as to whether or not the plaintiff's conduct amounts to contributory negligence is always a question of fact

for the jury, which must consider the case in the light of evidence as to all circumstances surrounding the attempted rescue. *Wharton's Law of Negligence,* Par. 314.

One attempting to rescue another from imminent danger, thereby imperilling his own life, is not, as a matter of law, guilty of contributory negligence. *Saylor v. Parsons,* 122 Ia., 679.

The doctrine that one springing to the rescue of another placed in imminent peril by the defendant's negligence, is himself guilty of contributory negligence, is supported neither by principle nor authority. *Penn. Co. v. Langendorf,* 48 Ohio St., 316.

In considering plaintiff's conduct, the peculiar circumstances of the situation in which he is placed are natural and affecting elements. The length of time within which he must come to a decision, the usual alarm and excitement attendant upon such occasions, with the inevitable liability to mistakes; the best course to pursue, are all factors which cannot but influence the ordinary man toward a hasty and perhaps imprudent course of action. Any mistake at such a point is excusable in the light of his laudable desire to save human life, and it is the probable conduct of a reasonable man under such circumstances which furnishes the criterion for proper conduct. *Eckert v. Long Island R. R. Co.,* 43 N. Y., 402.

It is conceded that plaintiff's knowledge of the danger to be encountered is not an element to be weighed against him, and if his attempted rescue be made in good faith, in the belief that he could save the imperiled life, his cognizance of the probability of injury to himself is not to be considered as proving contributory negligence on his part. *Idem.*

Assuming that the plaintiff be found not guilty of contributory negligence, it is at the same time necessary that he prove negligence on the part of the defendant, toward the person rescued, or the person making the rescue after the attempt has begun, to permit of recovery. *Donahue v. Wabash and St. Louis Pacific R. R. Co.,* 83 Mo., 500. It must also be shown that there exists a causal relation between this proven evidence and the injury complained of. *Monson v. La France Copper Co.,* 39 Mont., 50. Finally, unless such evidence be proved and the causal relation shown, the

plaintiff fails to make out his case, although the evidence shows negligence on the part of the defendant in other respects. *Forsell v. P. and M. Co.*, 38 Mont., 409.

There seems to have arisen no case which, considered in light of the above discussion, is not to be governed by the following summary:

The law has so high a regard for human life that it will not impute negligence to an effort to preserve it and one who, attempting to rescue another from imminent peril, is not guilty of contributory negligence, although he thereby puts in danger his own life, whether he is aware of the danger or not, when such an attempt is made in good faith, in the belief that he could save the life of the person in peril and avoid injury himself, unless the attempt be made under circumstances amounting to rashness in the judgment of a man of ordinary prudence. Error in judgment at such a time will not defeat recovery.

## THE CLASSIFICATION OF CITIES BASED ON THEIR POPULATION AS A PRIVATE, LOCAL, OR SPECIAL LAW UNDER THE CONSTITUTIONAL PROHIBITION.

In the case of *Wilson v. McKelvey*, 77 Atl. (N. J.), 94, the question arose as to the constitutionality of an Act of the Legislature creating a Board of Public Works in cities "now or hereafter" with a population of not less than 100,000 nor more than 200,000 inhabitants. The subject of special legislation is by no means novel, yet it is of peculiar interest because there is no unanimity of opinion among the states as to what essentials or elements determine this question. A great diversity of judgments, many conflicting, has been the result of trying to establish a definite rule as to what is special or local legislation.

It is not necessary in order to constitute a statute a public act that it should be equally applicable to all parts of the State. It is sufficient if it extends to all persons doing or omitting to do an act within the territorial limits described by the statute. *Holt v. Birmingham*, 111 Ala., 369. The distinction between general and special laws depends upon all attendant circumstances having regard to the effect rather than the form of the statute. *State v. Sayre*, 142 Ala., 641.

An act could not apply to cities having a certain population according to the last census. This is a classification not according to population, but a classification according to population at a particular time. *Canfield v. Davies,* 61 N. J. Law., 26. This principle is further illustrated in *McCombe v. State,* 17 Fla., 238, where it was held that a statute dividing the towns into three classes and allowing the third class to have certain privileges the others might not have is void as it contravenes the constitutional prohibition of special legislation. However, the fact that the Act regulated cities of a certain population and there happened to be only one city of the prescribed population would not make the law a special one. *Parker, Washington Co. v. Kansas City,* 73 Kans., 722. A legislative Act may be substantial but not illusive. That is, there must be some direct relation between the classification made in the Act and the purposes for which the city was classified. An enactment could not classify cities by population according to the improvements done upon the town. For this reason a classification which embraced only two counties was held illusive, hence unconstitutional and void in *Marsh v. Hawley,* 111 Cal., 368.

At common law the Legislature had plenary authority over municipal and other governmental subdivisions. During the existence of the municipality it is subject directly to legislative control. The Legislature which is the creator of this local government may alter or dissolve it, supervise and direct its conduct in virtually all its public matters. The Legislature thus acts as a general guardian of person and property of municipal corporations and the only limitation upon its powers is to be found in the State or the federal constitution. Now, legislation for local government may deal with its political machinery or it may affect the inhabitants indirectly when the governmental machinery of the town is the subject of legislation. In these cases, the characteristic of population ordinarily so fully connotes all the essential considerations that the general subject is usually a question of legislative judgment. But where legislation affects the citizen or taxpayer in other respects, classification by mere population may be either illusive or substantial and thus becomes a question of judicial control. *Foley v. Hoboken,* 61 N. J. Law., 478. That cities may be divided into classes constituted upon the basis of population is a principle well established in *McLaughlin v. Newark,* 57 N. J. Law., 298.

The point in question may be amply sustained by the federal decision in *Mason v. State of Missouri,* 179 U. S., 328, where an Act required a registration of cities of 300,000 inhabitants and requiring election commissioners in cities and within counties to be paid by the city, thus separating cities not within counties from other cities was held not to be a special law. Also, it was held in *Fulows v. Walker,* 39 Fed., 651, that the statute was valid, though it affected only one city.

In *Alexander v. City of Duluth,* 77 Minn., 445, it was held that a distinctive class might be created, based upon existing conditions when the purpose of the law was only temporary. But certainly an Act classifying a city or classifying its government based upon some arbitrary ground which has no foundation in difference of situation or circumstances of municipalities placed in different classes, even for temporary purposes, could hardly be sustained by a competent court. There must be some reasonable relation between the situation of the municipal corporation classified and the purposes and objects to be attained. There must be something in the nature of things which in some reasonable degree accounts for the division so made. Thus, cities could not be classified by population for purposes of regulating the consent of the property owner to local improvements to be paid for by special assessment, for such an act would be an arbitrary placing of the large cities in one class and the small cities in another class. Neither could an Act be valid creating a board of three election commissioners in cities having over 100,000 to be appointed by the Governor and providing that one of the commissioners be of the opposite party to the Governor, for such an Act is arbitrary and strictly local. *Hadley v. Washburn,* 167 Mo., 680.

From the preponderance of cases cited it seems amply clear that the Act creating a board of public works in cities of a certain population is valid. That any statute which deals only with the mechanism of the local subdivision by which its governmental affairs are to be regulated is valid. And that any Act distributing these local subdivisions into classes constituted on the ratio of their population is a substantial regulation which does not contravene constitutional limitations or the machinery of local government.