The New York City Council--Its Authorization, Operations and Limitations

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message previously quoted, while asserting the morality of the proper activities of labor unions, was directed at monopolistic tendencies on the part of particular labor organizations. It would seem that practices presently engaged in by certain American labor unions come within this classification. The right-to-work type of statute merits consideration as a step toward the elimination of abuses which are engendered by union-security agreements. In addition, it represents a wholesome return to state control over labor relations, albeit this power is embodied in a retractable grant from Congress. As to the latter point, it is imperative that federal and state legislators should begin to envision the feasibility of a constitutional amendment which will insure that state legislation in the field of labor relations cannot be nullified by Congress. In the meanwhile, it is to be hoped that the New York State Legislature will take under advisement the question of whether or not a right-to-work law is desirable for the protection of non-union workers in this state.

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THE NEW YORK CITY COUNCIL—ITS AUTHORIZATION, OPERATIONS AND LIMITATIONS

Introduction

Although the legal profession has admirably served the public on the national and state levels of government, the recent Survey

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60 See p. 263 supra.
61 Thus, the Motion Picture Machine Operators frequently admit only sons or close relatives of members; the Brewers exclude new members unless jobs are available; and the Locomotive Firemen and the Boilermakers discriminate against negroes. See Summers, Union Powers and Workers' Rights, 49 Mich. L. Rev. 805, 821 (1951). Some unions have the power to expel members for reasons not connected with union activity. See Summers, Disciplinary Powers of Unions, 3 Ind. & L. Rel. Rev. 483, 492-493 (1950). In industries where union-security contracts predominate, expulsion may bar a worker from his trade. See Summers, Disciplinary Procedures of Unions, 4 Ind. & L. Rel. Rev. 15, 28 (1950).
62 See, e.g., Lawrence, N.Y. Herald Tribune, Feb. 4, 1955, p. 15, col. 1, wherein the author relates the recent action of a union leader in Pennsylvania who threatened 2,900 members with unemployment unless they registered to vote in a public election. If Pennsylvania had a right-to-work law, no such incident could have occurred.
of the Legal Profession has indicated that lawyers are remiss in their duty to participate in municipal affairs. It would seem that if lawyers are to be more active in this field, knowledge of our municipal government is a prerequisite. Accordingly, the subject of this note, the legislature of New York City, the City Council, and its authorization, structure, legislative machinery, powers and accomplishments, is of particular importance.

A city, or municipal corporation, has been defined as "... a public institution, a political organ, designed to promote the common interests of the inhabitants in their organized capacity as a local government." Professor Dillon has described a city as "... the incorporation, by the authority of the government, of the inhabitants of a particular place or district, and authorizing them in their corporate capacity to exercise subordinate specified powers of legislation and regulation with respect to their local and internal concerns." In short, the feature of a municipal corporation which distinguishes it from other corporate forms is its power to govern. In this connection, it is appropriate to emphasize that a city is not itself considered to be sovereign, but rather, it exists only by a specific grant from the sovereign. Like other corporations, however, a city's authority, powers and limitations are found in the charter granted by the state and in the state's constitution and statutes.

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3 Seasongood criticizes "[l]aw school deans, faculties and their committees on curriculum..." for not treating municipal law as a proper subject for instruction. Id. at 215. As indicative of the importance of this field he points out that in 1940 "... one case out of seven argued in the New York Court of Appeals and in the Appellate Division of the First Department was a city case." Id. at 215 n.12. It has been stated that there are more than 550 lawyers employed in the Department of Law of the Corporation Counsel of New York City and that there are numerous opportunities in the field for law school graduates. Id. at 215.
5 1 Dillon, Municipal Corporations § 32(20) (5th ed. 1911).
Constitutional and Statutory Considerations

Adopted in 1923, Article IX of the New York State Constitution contains the provisions applicable to local legislation in New York. Section 9 of that article provides that the state legislature has the duty to organize cities in such a way as to enable them to exercise the powers which have been granted to them. Section 11 bars the legislature from passing special or local legislation which relates in terms and in effect to the "property, affairs or government" of any city. The state may intrude into that sphere only by the passage of general laws. However, if the mayor and the local legislative body of any city declare that a need exists, the state legislature may, by a two-thirds vote of both houses, enact the requested special legislation.

The area within which cities are permitted to legislate is defined by Section 12, which along with Section 11 is the constitutional basis of home rule. Under the former section, cities possess the "... power to adopt and amend local laws not inconsistent with the constitution and laws of the state relating to [their] ... property, affairs or government." In addition, cities may adopt and amend laws relating to certain enumerated subjects not within their "property, affairs or government." A law may be without the "property, affairs or government" of a city if it relates to: (1) the officers and employees of the city; (2) the local legislative body; (3) the business, obligations or claims of a city; (4) the streets and property of a city; (5) the collection and administration of local taxes authorized by the state legislature; (6) the wages, hours, and welfare of persons employed by contractors doing business with the city; (7) the government and regulation of the conduct of its inhabitants; (8) the protection of its inhabitants' property, safety and health.

The City Home Rule Law, enacted in 1924, implements the constitutional provisions outlined above and provides the machinery for city government. Under this statute, the City Council may adopt and amend local laws in relation to the "property, affairs or government" of the city. As in the Constitution, there is a list of the areas in which the city may legislate, whether or not such legislation relates to the "property, affairs or government" of the city. If the local law is not within the scope of that phrase, however, or if it is not otherwise authorized, the Council cannot override an enactment by

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8 N.Y. CONST. Art. IX, § 9.
9 Id. § 11.
10 Ibid. It is also provided that the local legislative body alone, by a two-thirds vote, may request the state to enact special legislation. Ibid.
11 Id. § 12.
12 A law may be without the "property, affairs or government" of a city if it relates to: (1) the officers and employees of the city; (2) the local legislative body; (3) the business, obligations or claims of a city; (4) the streets and property of a city; (5) the collection and administration of local taxes authorized by the state legislature; (6) the wages, hours, and welfare of persons employed by contractors doing business with the city; (7) the government and regulation of the conduct of its inhabitants; (8) the protection of its inhabitants' property, safety and health. Ibid.
14 N.Y. CITY HOME RULE LAW § 11(1)(b).
Moreover, the Council is authorized to delegate to city officials the power of carrying any local law into effect, and it may provide for the enforcement of local laws by legal or equitable proceedings. To enforce these laws, the Council may in addition make their violation punishable as misdemeanors. Mandatory procedural requirements for the passage of a local law are enumerated in the City Home Rule Law. In addition, requirements are prescribed for the veto of a local law by the Mayor and the overriding of such veto by the local legislative body; for a mandatory referendum when certain types of local laws are passed; for a referendum on petition of a certain number of qualified electors; for the procedure involved in amending a city's charter; and, for adoption of a new charter by the local legislative body. It is also explicitly provided that the Home Rule Law is to be construed liberally.

**New York City Council**

Pursuant to the New York City Charter Revision Commission Act of 1934, a commission was authorized to "... make a study and analysis of the existing governmental structure of the city of New York... [and was] directed to draft a proposed new charter, adapted to the requirements of such city and designed to provide for the people of such city a more efficient and economical form of government." The findings of the commission indicated that the Board of Aldermen, established under the Greater New York City Charter of 1897, had come to be widely criticized as a large, unwieldy body whose functions were confused between those that were legislative and those that were administrative. It was to cure these defects that the Council was established.

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15 *Id.* § 11(2).
16 *Id.* § 11(3) (a), (b).
17 *Id.* § 11(3) (b).
18 *Id.* § 13.
19 *Id.* § 14.
21 *Id.* § 15.
22 *Id.* §§ 16, 17.
23 *Id.* § 19-a.
24 *Id.* § 20.
25 *Id.* § 31.
27 *Id.* § 3.
29 See TANZER, *op. cit.* supra note 28, at 487. In addition, the Charter was designed, *inter alia*, to enlarge the home rule powers of the city. *Id.* at 516-517.
Pursuant to the approval expressed by the city's electorate on November 3, 1936, a new Charter went into effect on January 1, 1938. A smaller, more efficient body of twenty-five councilmen, each elected from one of the city's senatorial districts, replaced the sixty-five aldermen who had represented much smaller areas. Under this Charter the President of the Council is elected from the city at large for a four-year term. He presides over the meetings of the Council and takes part in general discussions of bills, but he does not have the right to vote except in cases of a tie. In addition to his duties in the Council, the President also sits on the Board of Estimate, the administrative body of the city. Furthermore, when the Mayor is absent because of sickness, suspension from office by the Governor, or for any other reason, the President of the Council acts in his stead. In organizing their legislative machinery at the beginning of each session, the councilmen elect one of their number to serve as a Vice-Chairman, who performs the duties of the President when the latter is absent; but if the Vice-Chairman is called upon to act in this capacity, his right to vote upon matters before the Council is retained. Rules of procedure are also adopted and standing committees organized at the start of each session.

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30 The result of the referendum on acceptance of the Charter was 952,519 in favor of the Charter and 603,072 against it. For a further breakdown of the vote by counties and assembly districts, see TANZER, op. cit. supra note 28, at 9-11.

31 Section 22 of the New York City Charter, approved by the electorate in a referendum on November 4, 1947, replaced the method of electing councilmen by proportional representation. The proportional representation method provided for borough-wide elections, each borough electing one councilman for every 75,000 votes cast. This method was adopted, originally, by a vote of 923,186 to 555,217, at the same time that the Charter was accepted. For a breakdown of the vote, see TANZER, op. cit. supra note 28, at 12-14. See Note, 11 St. John's L. Rev. 87 (1936).

32 N.Y. CITY CHARTER §§ 23 and 3. Originally, it was provided that the councilmen were to be elected for two-year terms but this was extended to four years by amendment. See N.Y. CITY CHARTER § 24, as amended, Local Laws of New York City, 1945, No. 32.

33 N.Y. CITY CHARTER § 29.


35 N.Y. CITY CHARTER § 8. The Governor may also remove the President of the Council. Id. § 23(b).

36 Id. § 10.

37 Id. § 29.

38 See MANUAL OF THE COUNCIL (1954). If a matter arises for which the Council has not provided any procedure, Reed's Rules govern. Id. at 11.

39 All committees are appointed by the standing committee on Rules, Privileges and Elections. There are twelve standing committees: Buildings; City Affairs; Civil Employees and Veterans; Codification; Finance; General Welfare; Health and Education; Housing; Labor and Industry; Parks and Thoroughfares; Rules, Privileges and Elections; and State Legislation. Id. at 8.
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Sole power to enact local laws belongs to the Council.\(^{40}\) In legislating, the procedure of the Council is not unlike that of Congress. Every proposed local law which is introduced must be sponsored by a councilman.\(^{41}\) In instances where the bill is recommended by the Mayor, it is generally sponsored by the councilman who is the senior leader of the same political party. After its introduction, the bill is sent to one of the standing committees. If the bill is outside the area within which any of the committees operate, the standing Committee on Rules, Privileges and Elections has the power to establish a special committee to investigate the proposition.\(^{42}\) After holding hearings and investigating the bill, the Committee may meet in an executive session at which time the members discuss and vote upon the proposition. If the proposed law is reported out of the committee favorably, it may be debated and approved by the Council at a regular meeting of the entire body. A majority vote of all the councilmen is required to pass local laws.\(^ {43}\) After passage, the proposed local law is presented to the Mayor for his approval.\(^ {44}\) Within ten days after receiving the bill, the Mayor must give five days notice for a public hearing which is required to be held before he may sign the bill.\(^ {45}\) Thereafter, the Mayor may sign and return it to the clerk of the Council—it is from that time deemed to be adopted.\(^ {46}\) The bill may

\(^{40}\) N.Y. CITY CHARTER § 21.

\(^{41}\) See MANUAL OF THE COUNCIL 6 (1954).

\(^{42}\) Id. at 8. In investigating the bill it is important to note that the Council has the power of subpoena. N.Y. CITY CHARTER § 43. It can also direct the New York City Department of Investigation to conduct an inquiry. Id. § 803. It has been held that since a city is not composed of co-ordinate independent branches of government, the Mayor is subject to the Council's power of subpoena. Matter of LaGuardia v. Smith, 288 N.Y. 1, 41 N.E.2d 153 (1942). Even though the state legislature has set up a complete system for administering the Civil Service, the Council has power to investigate its operations with the end of removing the Commissioner for misfeasance. This is so because the health, safety and welfare of civil service employees is properly within the "property, affairs or government" of the city. See Matter of Smith v. Kern, 175 Misc. 937, 26 N.Y.S.2d 560 (Sup. Ct.), aff'd mem., 260 App. Div. 1003, 24 N.Y.S.2d 992 (1st Dep't 1940), aff'd mem., 285 N.Y. 632, 33 N.E.2d 556 (1941). The Council has power to investigate even though the executive department of the city is conducting an inquiry; moreover, the Council may subpoena the other investigators. See Matter of Herlands v. Surpless, 258 App. Div. 275, 16 N.Y.S.2d 454 (1st Dep't 1939), aff'd mem., 282 N.Y. 647, 26 N.E.2d 800 (1940); cf. Matter of Radio Station WNYC (Novik), 169 Misc. 502, 304, 7 N.Y.S.2d 397, 299 (Sup. Ct.), aff'd mem., 255 App. Div. 344, 7 N.Y.S.2d 998 (1st Dep't 1939), aff'd mem., 280 N.Y. 629, 20 N.E.2d 1008 (1939). However, it has been held that Section 352 of the Civil Practice Act prevented the Council from compelling privileged testimony from the medical director of a city hospital which was being investigated. Matter of New York City Council v. Goldwater, 284 N.Y. 296, 31 N.E.2d 31 (1940).

\(^{43}\) N.Y. CITY CHARTER § 34.

\(^{44}\) Id. § 38(a).

\(^{45}\) Id. § 38(b).

\(^{46}\) Id. § 38(c).
also become law if the Mayor does not take any action within thirty days after he has held the hearing.\textsuperscript{47} However, if the Mayor disapproves of the bill he may return it to the clerk of the Council along with his objections.\textsuperscript{48} Within thirty days after receiving the Mayor's veto, the Council by a two-thirds vote may re-enact the bill and it is then considered adopted.\textsuperscript{49}

In addition, certain local laws must also be approved by the Board of Estimate.\textsuperscript{50} The Board must approve a bill before it is sent to the Mayor if it has for its objective the amendment or repeal of any provision of the Charter or if it envisions "... transferring or changing the powers and duties of, or conferring powers or duties upon, or prescribing the qualifications, number, mode of selection or removal, terms of office or compensation of officers or employees of the city or of any agency, or reducing or repealing taxes, fees or charges receivable by the city or interest or penalties thereon. ..." \textsuperscript{51} If the proposed law is designed to make any substantial changes, enumerated in the Charter, which relate to the structure of the city government, it must be approved by a referendum.\textsuperscript{52}

It would seem from a reading of the constitutional, statutory and charter provisions that New York City is equipped for effective lawmaking. However, during the seventeen years of its existence, the Council, although a great expense to the taxpayers, has failed to assume its proper position as the legislature of the nation's largest city. Local legislation has cost $7,298,476.27 during this time.\textsuperscript{53} For this amount of money the city has received in return 1,837 local laws. Of this total, 540 enactments dealt with changing the names of streets, parks, and playgrounds. Four hundred and forty-two of the statutes related to the Department of Housing and Buildings—most of them affecting the Building Code. Transference, assignment, or disposal

\textsuperscript{47} Ibid.
\textsuperscript{48} Ibid.
\textsuperscript{49} Ibid.
\textsuperscript{50} Id. § 39.
\textsuperscript{51} Ibid.
\textsuperscript{52} Id. § 40.
\textsuperscript{53} The following figures, from the various city budgets, indicate the total allocations for the Council, the President of the Council and the City Clerk (who is under the control of the Council pursuant to Section 31 of the City Charter): 1938 ($467,690); 1939, Jan. 1 to June 30 ($233,845); 1939-1940 ($336,106); 1940-1941 ($322,914.82); 1941-1942 ($343,044.83); 1942-1943 ($342,012.82); 1943-1944 ($314,854); 1944-1945 ($294,834.80); 1945-1946 ($317,465); 1946-1947 ($346,455); 1947-1948 ($393,185); 1948-1949 ($414,190); 1949-1950 ($450,515); 1950-1951 ($518,310); 1951-1952 ($537,253); 1952-1953 ($534,697); 1953-1954 ($564,761); 1954-1955 ($566,343). Councilmen are paid seven thousand dollars a year, and the President of the Council's yearly salary is twenty-five thousand dollars. N.Y. CITY CHARTER § 25, as amended, Local Laws of New York City, 1949, No. 107.
of city real property was the concern of 256 laws, and 117 dealt with taxation. Thus, at least 1,355 local laws out of the total of 1,837 have involved matters of minor importance. The cause of this failure does not lie with the established legislative machinery. Rather, the New York courts have so extended the area within which the state may legislate, while at the same time limiting the scope of the city's power, that it has become impossible for the Council to enact more than insignificant legislation.

Judicial Restrictions

The first case to arise under the Home Rule Amendment to the Constitution and the City Home Rule Law was Browne v. City of New York. In that case, involving the acquisition and operation of a municipal bus system, the New York Court of Appeals held that, under the facts presented, New York City could not legally enter into the business of a common carrier. The court, however, reaffirmed an earlier view that transportation is a legitimate interest of a municipality. Refusing to go further than was necessary for the decision,

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54 By the use of the phrase "minor importance" it is not intended to minimize the value of some of the legislation which has been passed by the Council. For example, there seems to be no doubt as to the necessity of the laws which pertain to the Building Code. However, the technical nature of these enactments, which relate to processes and materials of construction, makes it obvious that they are not the work of councilmen, but rather, of experts employed by the Department of Housing and Buildings. Why it is necessary to have the legislature "rubber stamp" what could just as easily (and probably more inexpensively) be promulgated by an administrative board, is difficult to comprehend. Again, enactments relating to taxation are considered of minor importance only because, as the state-city relationship now stands, the city can tax only within the areas, and to the extent, that the state permits. The Court of Appeals has said that, "[t]he power of taxation, being a State function, the delegation of any part of that power to a subdivision of the State must be made in express terms." County Securities, Inc. v. Seacord, 278 N.Y. 34, 37, 15 N.E.2d 179, 180 (1938). See, e.g., New York Steam Corp. v. City of New York, 268 N.Y. 137, 197 N.E. 172 (1935). The state could enact the same laws as it does now, and empower a local tax collector to accept the returns and turn over the funds which have been appropriated by the Board of Estimate to the various departments of the city. Also, after the main body of a tax law has been passed, the acts relating to it are either re-enactments or minor amendments. Thus the tax laws are considered to be of minor importance. The laws which concern themselves with "changing names" are patently trivial. Again, the local laws which relate to the transference of city-owned realty from one department of the city government to another, although necessary, obviously do not call for the existence of elaborate legislative machinery. See Appendix.


the court did not delineate the respective areas of state and local control. Thus it was effectively emphasized that the right of a city to legislate for itself was within "... a field of operation, narrower than some of the friends of the principle of home rule would favor... ."

In 1927, however, the proponents of home rule were encouraged when an act of the legislature was stricken down by the Court of Appeals as being "special" in that it affected the "property, affairs or government" of New York City. The disputed enactment was drawn so as only to provide relief for a specific plaintiff who had been defeated the previous year in an action against the city. Although the act was "general" in its terms, which would have been sufficient to sustain its constitutionality under the provisions of the Constitution of 1894, it was "special" in effect, and thus invalid under the test laid down by the 1923 Amendment. The court said that:

... the principle of division, considered merely for the purpose of a working approximation, may be stated to be this: If the class in its formation is so unnatural and wayward that only by the rarest coincidence can the range of its extension include more than one locality, and at best but two or three, the act so hedged and circumscribed is local in effect. If the same limits are apparent upon the face of the act, unaided by extrinsic evidence, or are so notorious or obvious as to be the subject of judicial notice, it is also local in its terms.

Nevertheless, this decision did not alter the court's attitude, as expressed in the Browne case, concerning the limited sphere in which a city may legislate. Consequently, an act of the legislature changing the boundary lines of the city as they had been established in the Greater New York City Charter of 1897, was upheld in a suit by the city to enjoin its enforcement. In this case, City of New York v. Village of Lawrence, the court reasoned that the powers of the legislature were limited by the Amendment of 1923 only by the phrase "property, affairs or government," and that outside of that area its powers were not affected. Finding that there was "... no case where the words 'relating to the property, affairs or government of cities' ... [had] been held to include legislation which does not deal directly with the internal affairs of a city or the functions of its

57 Browne v. City of New York, 241 N.Y. 96, 125, 149 N.E. 211, 220 (1925).
58 Laws of N.Y. 1925, c. 602.
59 Matter of Mayor of New York (Elm Street), 246 N.Y. 72, 158 N.E. 24 (1927).
62 Laws of N.Y. 1928, c. 802.
63 250 N.Y. 429, 165 N.E. 836 (1929).
64 Id. at 440, 165 N.E. at 839.
officers, and which affects the welfare of the general public as well as the residents of a city or cities, the court stated that if the city had attempted to change its boundaries, such action would be without the sphere in which it was empowered to legislate. Thus, if the power did not belong to the city, the court concluded it must of necessity reside in the state.

The judicial attitude that a municipality is subservient to state power again manifested itself in the leading case of *Adler v. Deegan.* In that case it was contended that the Multiple Dwelling Law was unconstitutional on the ground that it was special legislation not passed by two-thirds of the legislature pursuant to an emergency message by the Governor. Judge Crane, writing for the majority, conceded that a colloquial interpretation of "property, affairs or government" would render the law unconstitutional. However, after reviewing past decisions, he concluded that the phrase had become words of art comparable to "carelessness, negligence, fraud or theft" and as such had acquired a limited legal meaning. He indicated that since it is within the police power of the state to provide for the health of the people of the state, and that since housing conditions of the city affect the health of the state as a whole, the Multiple Dwelling Law was constitutional. In a concurring opinion, Judge Pound expressed the thought that this statute was not special since the state may make a reasonable classification based upon population in order to provide for the "life, health and safety" of the inhabitants of the city. Chief Judge Cardozo, in concurring, said that his reason for sustaining the statute went beyond the area of public health. Rather, Cardozo rested his opinion on the argument that slum areas destroyed the moral and physical attributes of the people of the state, and that it was within the province of the state to alleviate such conditions. Attempting to define the respective areas of state and local legislative powers, he stated that subjects "... not affecting the welfare of the inhabitants of the city *qua* inhabitants thereof ..." are not properly within the city's regulatory power.

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65 *Id.* at 443, 165 N.E. at 840.
66 251 N.Y. 467, 167 N.E. 705 (1929).
67 Laws of N.Y. 1929, c. 713.
68 This was the procedure for enacting special legislation prior to 1938. See 11 *New York State Constitutional Convention Committee, Problems Relating to Home Rule and Local Government* 22 (1938).
69 "When the people put these words in ... the Constitution, they put them there with a Court of Appeals' definition, not that of Webster's Dictionary." *Adler v. Deegan*, 251 N.Y. 467, 473, 167 N.E. 705, 707 (1929).
70 *Id.* at 483, 167 N.E. at 710.
71 *Id.* at 494, 167 N.E. at 711.
72 *Id.* at 489, 167 N.E. at 713.
Another case which tended to centralize authority in the legislature was *Robertson v. Zimmermann.*

There, the statute in question provided for the transfer of control of the sewerage system from the City of Buffalo to the Buffalo Sewer Authority, an administrative board to be set up by the Mayor of that city. Since Buffalo, because of its debt limitation, could not comply with an order of the State Commissioner of Health to protect the natural waters around the city from pollution, an act was passed by the state legislature creating the Authority. In a taxpayer’s action, which was brought to restrain the Mayor from appointing members to the Authority, the issue presented was whether the enactment related to the “property, affairs or government” of the city, in which case it would be unconstitutional. It was also contended that the statute was special legislation not passed pursuant to the constitutional provisions therefor. Employing the rationale of *Adler v. Deegan,* the court stated that “[a]n act designed to remedy conditions affecting the public generally, though imposing restrictions or obligations upon a particular municipality as a means of affecting the larger purpose can hardly be said to be local in its effect.”

Thus, the state-created Authority was recognized as a means by which the legislature could interfere in areas within which only cities are constitutionally authorized to act.

**Conclusion**

As a result of these cases, the city’s power to legislate has been severely restricted. In addition, the constitutional protection given to cities against state interference with matters of local concern has been considerably weakened. Since city enactments of any impor-

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74 4 Laws of N.Y. 1935, c. 349.
75 *Robertson v. Zimmermann,* supra note 73 at 59, 196 N.E. at 742.
76 More recently, the City of New York was forced to allow the New York City Transit Authority to take over the operation of the city’s transportation system. The pressure was applied by conditioning authorization of a needed tax law upon acceptance of the Authority. See Laws of N.Y. 1953, cc. 200-208. See *Salzman v. Impellitteri,* 305 N.Y. 414, 421, 113 N.E.2d 543, 544 (1953) (dissenting opinion) (The court held in this case that since the statutes were only permissive in an area of state interest, they were constitutional. The city’s right to enter into contracts with the Authority was thus sustained.). On this problem see generally, 11 *New York State Constitutional Convention Committee, Problems Relating to Home Rule and Local Government* 60 (1938); Nehemiks, *The Public Authority: Some Legal and Practical Aspects,* 47 *Yale L.J.* 14, 19 et seq. (1937); Legis., *Some Observations on the New York City Transit Authority,* 28 St. John’s L. Rev. 174, 179 (1953). An extensive list of the Authorities which have been established in New York State can be found in Gaynor v. Marohn, 268 N.Y. 417, 424, 198 N.E. 13, 15-16 (1935).
77 See, e.g., *F.T.B. Realty Corp. v. Goodman,* 300 N.Y. 140, 89 N.E.2d 865 (1949); Good Humor Corp. v. City of New York, 290 N.Y. 312, 49 N.E.2d 153 (1943).
tance will probably be stricken down by the courts, the Council generally relies upon the state legislature to pass statutes which the city needs. Understandable then, is the paucity of legislation which issues from the Council's chambers.

New York City's budget of 1.7 billion dollars is second only to the Federal Government's and exceeds those of many countries belonging to the United Nations, which it houses. With about 8,115,000 residents, it is the nation's most populated city. As such its problems are unique. The notion that state representatives from Schoharie or Chenango Counties or other rural upstate areas can understand the problems of the city, or legislate effectively to solve them is unrealistic. To correct this unjustifiable situation a reevaluation of the constitutional provisions for home rule is imperative. In 1957, the electorate of New York State will, by referendum, decide whether a constitutional convention should be called the following year to correct shortcomings in the present Constitution. The phrase "property, affairs or government" must be replaced. Nothing but a substitution which will give the Council greater power to legislate in a wider field will accomplish the desired goal of city home rule.

78 See Schwartz, A Study of the New York City Council 57-58 (Manuscript on file with the New York City Municipal Reference Library, 1941).


80 See 1955 World Almanac 238 (1953 estimate).


82 N.Y. Const. Art. XIX, § 2.
# APPENDIX

Number and Types of Laws Passed by the New York City Council 1938 - 1954

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