Municipalities: How far Home Rule Amendments effective

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is sufficient showing of a mailing thereof, where the chute is under the control of the Postoffice Department.\(^8\)

Upon due proof being made of the execution of a letter and of its stamping, addressing, and mailing, a prima facie presumption of its receipt by the addressee arises. Being prima facie only, the presumption is rebuttable by proof to the contrary,\(^9\) and the effect of rebutting evidence is to make the question of receipt a subject for determination by the jury.\(^10\)

In line with the principal case it has been held that the presumption arising from proof of mailing a communication is not overcome by evidence that it was not found among addressee's effects after his decease.\(^11\)

In general, it may be said that there is a division of authority in the courts as to what constitutes sufficient proof of mailing by means of proof of office custom, with the weight favoring those courts which hold that mere proof of execution of a letter plus proof of a general office custom is insufficient as a matter of fact to raise the presumption of due delivery into the hands of the addressee. It would seem that this doctrine places undue hardship upon those who have to resort to this method of proof, and it will be an ever increasing hardship in view of the enlarged scale upon which business is being conducted.

L. A. P.

Municipalities: How far Home Rule Amendments effective.—
Since the passage of the so-called Home Rule Amendment to the state constitution there has been much speculation both as to the extent of the changes that would result in municipal government and as to the limitations that might be placed thereon by the courts. The decision recently handed down by the Supreme Court in the controversy between the common council of the city of Milwaukee and the school board of Milwaukee, *State ex rel. Harbach v. Mayer and Members of the Common Council of the City of Milwaukee*, (Wis.) 206 N.W. 206, limits considerably the powers which the municipality was deemed to have been extended to it by the amendment.

The legislative act creating section 66:001 of the statutes provides in subsection four, (4):

Any city or village may elect in the manner prescribed in this section that the whole or any part of any laws relating to the local affairs or government of such city or village other than such enactments of the legislature of state-wide concern as shall with uniformity affect every city or every village shall not apply to such city or such village, and thereupon such laws or parts thereof shall cease to be in effect in such city or village.


\(^10\)Case and note last cited.

At the time of the passage of this act, under the provisions of Chapter 65, of the Statutes, the school board of the city of Milwaukee was authorized to submit to the common council of the city an estimate of the moneys required for the ensuing fiscal year. It was the duty of the common council to include such amount in the tax budget. Subsection (7) of Section 65.08 gave the common council power to levy annually a tax based on the taxable property of the city, an amount for: "A school repair fund for keeping in repair school buildings, fixtures, grounds, and fences; the purchase of furniture; the making of betterments to school property; and the purchase of necessary additions to school sites, not exceeding eight tenths of a mill."

Subsequent to the passage of the Home Rule Amendment, the legislature amended this act, raising the eight-tenths mill rate allowed in the former act to a rate of one mill. The Milwaukee School Board using this latter rate as their basis of computation, submitted to the Milwaukee Common Council their estimate to be included in the tax budget. This the council refused to do, claiming that among its recently acquired powers was that of control over the city schools and that having elected to come under the provisions of Section 66.001, it was not bound by the later legislative act raising the rate of tax allowed, from eight tenths of a mill to one mill. The school board thereupon secured an alternative writ of mandamus from the Supreme Court seeking to compel the common council to include in its tax budget for 1926 the sum demanded for school repairs, and so forth. The city moved to quash this writ and it was upon this motion that the recent decision was given.

The court upheld the school board saying that the legislature had never placed the schools of a city under the management of the common council. In all city charters, whether general or special, the schools have been placed under the control and management of a body known as the Board of Education. In view of this holding, questions immediately arise as to the control the common councils of municipalities have over many other independent boards such as city service commissions, park boards and fire and police commission boards, since many of these were created by state statute. The boards also are authorized to submit estimates of their requirements to the common council to be included in the tax budget. It is only a matter of conjecture then, what the Supreme Court's ruling will be when cases of this nature come before it. The case just decided has the distinction that it involves the matter of education which is fundamentally a state function, subject to the control of the legislature, and never given over to the control of the municipality.

R. F. R.

Sales: A practical manner of handling "time payments."—The practice of buying various commodities on the "time payment plan," though not a new idea, has seen its greatest development during the past decade. The system may be considered as the natural outgrowth of two influences working toward the same end,—the manufacturer seeking to create a greater market for his products, and the great so-called middle class of people straining themselves for the greater enjoyment, convenience and comfort which had been limited heretofore to