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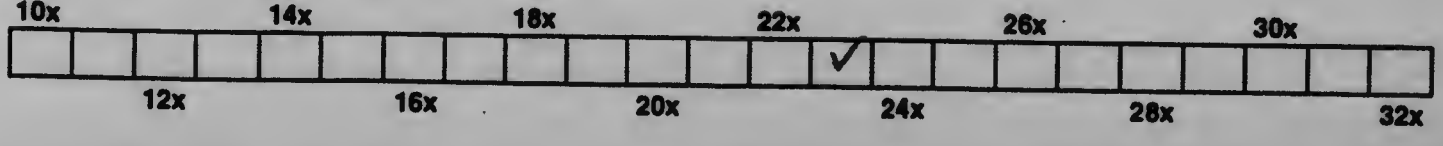

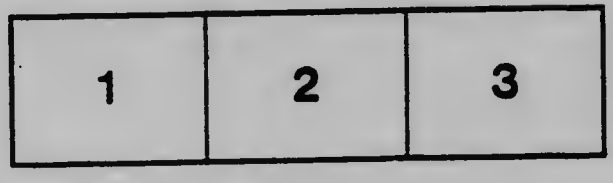

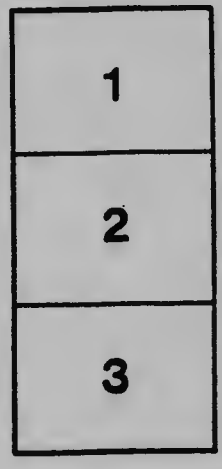

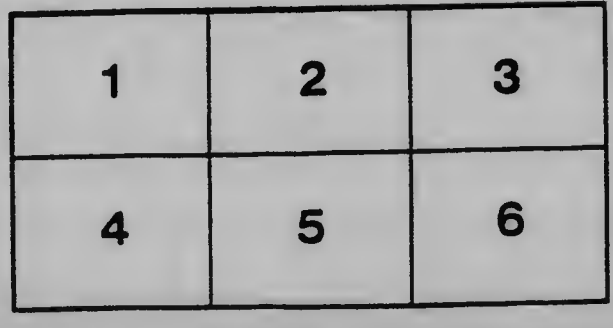

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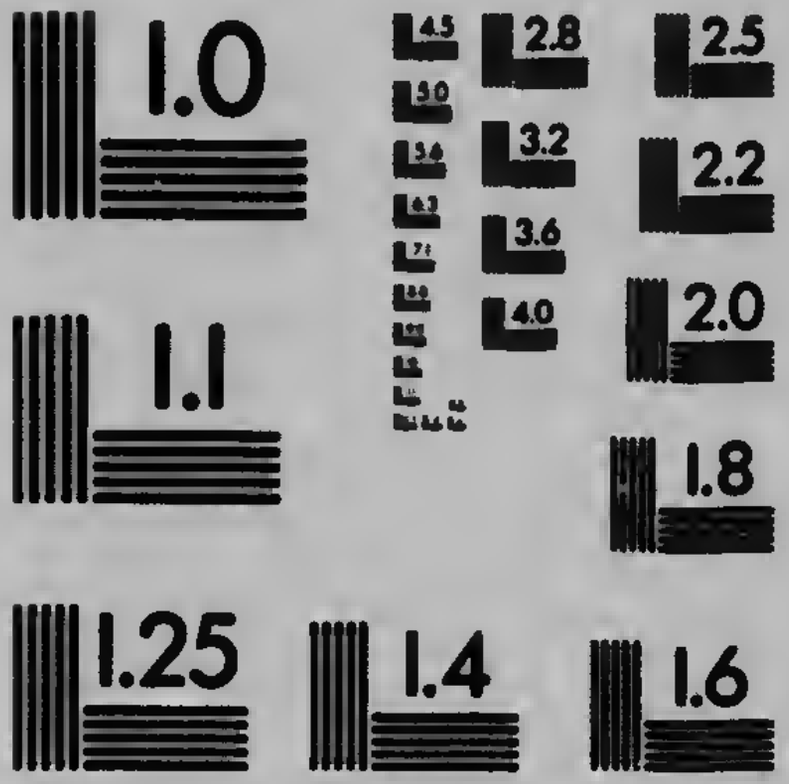

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THE GOVERNMENT OF AMERICAN CITIES

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THE GOVERNMENT OF AMERICAN CITIES

BY

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To

My Mother

"Municipal institutions constitute the strength of free nations. A nation may establish a system of free government, but without municipal institutions it cannot have the spirit of liberty."

— Alexis de Tocqueville, *Democracy in America*, i, 76.

PREFACE

THE aim of this volume is to describe, in a summary way, the machinery of city government in the United States. In its various chapters an endeavor has been made to outline the growth of American cities, to explain the present-day powers and duties of the city as a municipal corporation, to describe the different organs of municipal government, and to make clear the relations which these bear to one another. The book deals with government rather than with administration, with the framework rather than with the functioning mechanism of the municipal organization. This is not because the latter is in any sense regarded as the less important of the two; but merely because it is proposed to deal fully with that phase of the subject in a later volume.

Even as respects governmental organization, moreover, no attempt has been made to cover every point in full detail. I have tried to do no more than to provide, both for the college student of municipal government and for the general reader, an introduction to the study of a very large and important subject. Those who desire more definite or more extensive information than the text contains will find some suggestions at the end of each chapter.

In an age when men appear far too ready to proceed with a diagnosis and to prescribe remedies without much preliminary study of the anatomy and the physiology of city government, too much stress upon the importance of the latter branches of the subject can scarcely be laid. At any rate we have heard so much in recent years concerning what the government of American cities ought to be that an

apology is hardly necessary for the emphasis which this volume places upon what their government really is.

Dealing as they do with institutions that are continually in process of change, these chapters must inevitably contain some mis-statements of fact and many errors of opinion. I hope that they are no more numerous than the complexities of the subject render pardonable. In any event I am deeply grateful for the generous assistance that has been given me from various sources in securing the data necessary for the writing of the book. To Professors Merriam, Fairlie, Hatton, and Hormell I am under obligations for their kindness in reading portions of the proof and for many useful suggestions. Dr. Adna F. Weber of New York and Mr. Charles Warren of Boston were also kind enough to give me the benefit of their counsel on several difficult points. To the Hon. John A. Sullivan, Chairman of the Boston Finance Commission I am glad to express my gratitude for keeping me clear of many pitfalls and for the privilege of drawing so freely upon his comprehensive store of sure information on all matters relating to the practical workings of American government. Miss A. F. Rowe and Miss Alice Holden of Cambridge have given loyal assistance in the preparation of the manuscript for the press.

WILLIAM BENNETT MUNRO.

October 1, 1912.

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ERRATA

On p. 58 (footnote) for *new constitution* read *amended constitution.*

On p. 163 (footnote) for *Myer's* read *Myers'.*

GOVERNMENT OF AMERICAN CITIES

CHAPTER I

AMERICAN MUNICIPAL DEVELOPMENT

THE mastery of any field of political science involves some knowledge of institutional history. Only by knowing, at least in a general way, what has gone before can one grasp the motives that have guided a people to its contemporary political machinery, whether national or local; and only thereby can one reach a proper understanding of what future development the political features of a country are likely to have. American municipal institutions, of one form or another, have now put behind them two and a quarter centuries of history. This history covers a great variety of experiments in local government; there is scarcely a feature of popular administration that has not at some time been tried in one or more of our cities or towns. The countries of Europe have not made great changes in their machinery of municipal government during the past half-century; in this field America has been the world's chief laboratory for political experimentation. Though costly, the experiments have been instructive, and have in the end led to notable improvements in the administration of municipal affairs. By a study of the steps through which the present framework of American city

government has been evolved one may come to understand the chief features which characterize it at the present day.

Boroughs of the colonial era.

The beginnings of the American municipal system are to be found in the incorporation of the colonial boroughs during the latter half of the seventeenth century. In this New York was the pioneer, receiving its first city charter from Governor Dongan in 1686.[1] Albany followed a few months later in the same year, its first charter being substantially the same as that granted to New York. Both charters continued in force until the Revolution. Other rising colonial towns received similar recognition in due course, — Philadelphia in 1691,[2] Annapolis in 1696,[3] Norfolk in 1736,[4] Richmond in 1742,[5] and Trenton, the last of the colonial list, in 1746.[6] A dozen others of less importance scattered through the Middle and Southern colonies also obtained their charters during this interval. There were no active chartered boroughs in the New England colonies, for there the system of town government seemed to be sufficient and satisfactory.[7] In Massachusetts no city

[1] A burgher government, after the model of that maintained in the free cities of Holland, had been established by Governor Stuyvesant in 1653; but in 1665 the town passed into English hands and the government was changed to that of an English municipal corporation, though no formal charter was issued. Dongan granted a formal document in 1686 at the request of the mayor and aldermen of the town. This charter, which in its printed form covers only fourteen pages, is still preserved in the archives of the comptroller in New York City. A copy may be found in the *Colonial Laws of New York* (5 vols., New York, 1897), I. 181. Some doubts having arisen as to the validity of this charter, it was reissued under the royal seal in 1730. This confirmation, which made no very important changes, is commonly known as the Montgomery charter. It may be found *ibid.*, II. 575.

[2] The Philadelphia charter of 1691 was replaced by a new one, granted by Penn in 1701, which remained in operation till 1776.

[3] David Ridgely, *Annals of Annapolis* (Baltimore, 1841), 89.

[4] *Virginia Statutes at Large* (ed. W. W. Hening, 13 vols., New York, etc., 1819–1823), IV. 541.

[5] *Ibid.*, XI. 45. [6] New Jersey Historical Society, *Proceedings*, IX. 152.

[7] Sir Fernando Gorges gave borough charters to Agamenticus and Kittery, two Maine hamlets, in 1641 and 1647 respectively; but no

charter was granted prior to the Boston charter of 1822, and this change was made only because the community had become too populous to be any longer governed as a town, and not because new corporate powers were needed;[1] for the New England town had, without any specific grant, substantially all the powers and privileges that a borough charter could confer.[2] The town required no charter to give it powers, and desired none to set limitations upon local freedom.

Charters before the Revolution.

From first to last the governors of the thirteen colonies gave charters to twenty boroughs, or cities, as some places were called from the outset.[3] Fifteen of these were places of considerable importance. It will be noticed that the charters were given by the governors and not by the colonial legislatures, a local adaptation of the practice existing in England, where the incorporation of boroughs was always made by royal grant rather than by act of Parliament. The governor apparently acted upon the request of the

municipal governments appear to have been organized under these grants. These charters may be found in Ebenezer Hazard's *Historical Collections* (2 vols., Philadelphia, 1792–1794), I. 470, 480.

[1] The population of Boston in 1822 had passed the 40,000 mark, and the qualified voters numbered about 7000. "When a town-meeting was held on any exciting subject in Faneuil Hall, those only who obtained places near the moderator could even hear the discussion. A few busy or interested individuals easily obtained the management of the most important affairs, in an assembly in which the greater number could have neither voice nor hearing. When the subject was not generally exciting, town-meetings were usually composed of the selectmen, the town officers, and thirty or forty inhabitants." — JOSIAH QUINCY, *Municipal History of Boston* (Boston, 1852), 28.

[2] The powers which the New England towns possessed without any formal act of incorporation are best set forth in the case of Hill *v.* Boston, 122 *Mass.* 344. See also J. F. Dillon, *The Law of Municipal Corporations* (5th ed., 5 vols., Boston, 1911).

[3] The list, with dates of grant and details, may be found in J. A. Fairlie's *Essays in Municipal Administration* (New York, 1908), ch. iv.; also in an essay on "Municipal Corporations, 1701–1901," by H. W. Rogers, in *Two Centuries' Growth of American Law* (Yale Bicentennial Publications, New York, 1901), 203–260.

burgesses, or inhabitants, and the charters were sometimes submitted to the latter for their acceptance before being put into operation. In the drafting of these charters no single model was followed. In general, however, all the boroughs were provided with a frame of government which approximated that of the English municipal corporation in the days before the epoch of reform. In each case provision was made for a governing body, to which were given the corporate powers of the community. This governing body, usually styled "the Mayor, Aldermen, and Commonalty" of the borough, consisted of a single council made up of a mayor, a small number of aldermen, and a larger number of councilmen, all sitting together. Except in the three close corporations, Annapolis, Norfolk, and Philadelphia, the councilmen were chosen at regular intervals by popular vote, and so were the aldermen, as a rule; but the mayor was commonly named by the governor of the colony. There were, in addition, some other borough officers, such as the recorder and the treasurer. None of these had to perform burdensome administrative tasks; for the boroughs were small, and provided for their inhabitants no public services of account. Boston was, from its foundation in 1630 until after the middle of the eighteenth century, the most populous community in the New World. Philadelphia then took the lead, and retained it till after the Revolution.[1] On the eve of the Revolutionary War there were only five cities and towns with populations exceeding 8000, and the combined strength of these was less than 100,000.[2] When it is remembered that these five places contained less than three per cent of the total population of the thirteen colonies,

[1] In 1700 the population of Boston was 6700, of Philadelphia 4400, of New York about 4500. In 1760 the figures stood, Philadelphia 18,756, Boston 15,631, and New York about 14,000. See Bureau of the Census, *A Century of Population Growth, 1790–1900* (Washington, 1909), 11–12.

[2] Philadelphia, New York, Boston, Charleston, and Newport.

the large part which their citizens took in the military and political events of the war period becomes the more remarkable. Even at this time the urban population was doing more than its proportionate share in moulding the course of national development.

Effects of the Revolution.

The successful outcome of the Revolution and the adoption of the new state constitutions served to bring about great changes in both the form and the spirit of municipal government. Municipal charters were henceforth granted, not by the governor alone, but by the state legislature. In other words, the city charter became a statute, which might be amended or repealed like any other statute. This involved a radical change in the relation existing between the municipality and the state. Under the régime of royal charters the municipalities enjoyed almost entire freedom from legislative interference; under the new dispensation they were completely under the domination of the state legislature. With the aftermath of the Revolution, accordingly, one finds the way thrown open for that virtual extinction of municipal home rule which characterized the situation in American cities during the latter half of the nineteenth century.[1]

Charters after the Revolution.

Some of the boroughs that had received charters before 1775 abandoned them after the Revolution and received new grants from the legislatures of their respective states. These new municipal constitutions differed considerably from the old ones. The old idea of the borough as a "close corporation" was discarded, for instance, the new order resting upon the idea that admission to citizenship should be made easy and that the officials of borough government should be elected. The charter of Philadelphia issued in 1789 affords a good example of the change which was taking

[1] See below, pp. 71–72.

place in the spirit of municipal government.[1] By its provisions the government of the city was vested in the hands of the mayor, aldermen, and common councillors, sitting together in one body. Fifteen aldermen were to be elected for a seven-year term by the owners of freehold property, and thirty common-councilmen were to be chosen for a three-year term by the "freemen." These together made up the city council. The mayor was to be chosen by the aldermen from among their own number, his post to be no more than that of a presiding officer. Such officials as might from time to time be found necessary were to be chosen by the council.

The decade in which this charter was granted has been very properly termed the critical period of American history. In municipal development it was a time of special crisis, an epoch of transition from the old English to the new American type of urban government. The disappearance of political privilege and the making of local government essentially representative are the outstanding features of the Philadelphia document. In the frame of government which it provided only slight departures from the English model were made. Other city charters of the period were of the same general type, diverging more in spirit than in form from those of the colonial era. They paved the way, however, for the charters which came at the threshold of the new century, and which embodied the more important ideas concerning governmental organization that had been recognized in the national and state constitutions.

Influence of the federal analogy.

In these constitutions two or three salient features stand out prominently. Chief among them, of course, is the

[1] The charter of 1789 is printed in *Laws of the Commonwealth of Pennsylvania* (ed. A. J. Dallas, 2 vols., Philadelphia, 1793–1797). A summary of its provisions is given by E. P. Allison and Boies Penrose, *History of Philadelphia* (Philadelphia, 1887), 60–62.

principle of divided powers, or of checks and balances, — in other words, the doctrine that executive and legislative authority should be vested in separate and independent hands. Other features that may be regarded as corollaries to this fundamental axiom were the use of the executive veto, the establishment of double-chambered legislatures, and the intrusting of some executive functions to the upper of these two chambers. Since these new and native principles of political organization were sanctioned in the organic laws of state and nation, it was only natural that they should make their way into the organic laws of the cities. The dominating factor in the development of municipal framework during the first quarter of the nineteenth century was, accordingly, the influence of the federal analogy. The charters represented the attempt, on the part of those who framed them, to impose upon the cities a miniature of that plan which on a broader scale had won the confidence of the electorate. Excellent examples of this procedure may be found in the Baltimore charter of 1796[1] and the Detroit charter of 1806. In Baltimore provision was made for the election of the mayor by an electoral college, and for a two-chambered city council, one branch exactly representing the eight wards of the city by giving them two aldermen each, the other representing the citizens at large. Although in the distribution of powers the national model was not exactly followed, the influence of this analogy upon the general make-up of city government is clearly apparent. American municipal development had taken a course of its own, cutting somewhat adrift from earlier English influences.

Its effect upon municipal government.

It long since became apparent to thoughtful men that this radical swerve was unwise in its day and unfortunate in its consequences. No one will deny, of course, that the framers of the national constitution had defensible ground

[1] *Laws of Maryland*, 1796, ch. 68.

for the recognition which they gave, in their great work, to the principle of divorcing administrative from legislative functions, and for their action in establishing a bicameral legislature. Nor are the framers of the state constitutions to be criticised for having followed along the same lines. Although a century of experience has led many to the belief that, as a working principle of government, the much-vaunted doctrine of separation of powers is a delusion and a snare, yet in the days when it first gained recognition in American state and national administration there were many convincing arguments of a practical sort that could be put forward in its behalf. In the field of municipal government, however, the doctrine of divided powers never had a single sound prop to rest upon. Its chief professed virtue, that of providing a bulwark against executive or legislative usurpations to the detriment of civil liberty, can have relevance only in dealings with an ultimate political power. Those who design the structure of subordinate governments need not make the liberty of the subject their first care; that is the responsibility of those who mould the frame of higher authority in state and nation. If these have done their work rightly, the subordination of municipal to state government deprives the former of all the elements of permanent danger. But that was not the viewpoint of those who framed American city charters in the quarter-century following the establishment of the federal constitution. The principle of administrative and legislative autonomy became a fetich; it gained ready recognition everywhere, and determined the main channel of later municipal development. The autonomous mayoralty, the bicameral council, the executive veto, and the practice of aldermanic confirmation, — all of them native institutions, and all attributable to the influence of national theories upon local government, — made their appearance

before the period closed. The first charter of Boston, adopted in 1822, with its provision for a mayor directly elected by the voters, shows quite clearly another positive drift of the age.[1]

Growth of cities after the Revolution.

During this period (1790–1825) the cities of the United States had made notable progress in number, in population, and in the scope of their municipal activities. In a new country, as an authoritative writer on the distribution of population has pointed out, the rapid growth of cities is both natural and necessary; for no efficient industrial organization of a new settlement is possible unless there are industrial centres to carry on the work of assembling and distributing goods.[2] In 1790 there were but five communities in the country with populations exceeding 8000, — namely, New York, Philadelphia, Boston, Baltimore, and Charleston. These together contained slightly more than 130,000 inhabitants, or less than three and one-half per cent of the nation's population. In 1820 the number of cities with 8000 people or more had nearly trebled; there were now thirteen, containing together nearly half a million inhabitants. New York, the largest of them, had passed the 100,000 mark, and was expending an annual budget amounting to about a dollar per capita. Boston on its admission to cityhood in 1822 contained over 40,000 inhabitants, a number which rendered the continuance of the town-meeting a physical impossibility.

The beginnings of municipal services.

Growth in population brought serious beginnings in municipal services. In 1825 New York had the rudiments of a police system, the city being divided into three dis-

[1] *Laws of Massachusetts*, 1822, ch. 110. As pointed out by Professor J. H. Beale some years ago (*Proceedings* of the National Municipal League, for 1903), many features of Boston's first city government were adapted from town institutions.

[2] A. F. Weber, *The Growth of Cities in the Nineteenth Century* (New York, 1899), 20.

tricts, to each of which constables were assigned for duty; it was not till 1837, however, that a regular system of day patrols was instituted. A water-supply service, established by Aaron Burr and his associates under their famous charter, was also in operation, and served the city, though not very satisfactorily, till the Croton supply became available in 1842. In most of the larger towns public sewers began to be erected to supersede the drains owned by individuals; public lighting of the streets, at first by oil lamps but later by gas, became common; and some attention was being paid to the cleaning of streets.[1] Raised footways or sidewalks, usually of cobble-stones but sometimes of boards, were built in the main thoroughfares of the larger municipalities. Fire protection was undertaken by volunteer companies; the system of public education was formulating itself slowly; and in some places land was being set aside for recreation grounds. All in all, a good beginning in the provision of the chief municipal services was made during the first quarter of the nineteenth century.

The ante-bellum period.

The third period in American municipal development, extending from about 1825 to the close of the Civil War, witnessed the elaboration of those administrative principles which had gained recognition in the preceding era. The new charter of New York, enacted in 1830, showed the direction in which the tide was running.[2] It divided the city council into two chambers, and explicitly stated that this action was taken in order that the principles upon which the national government was based might be recognized. By this charter the mayor was invested with the

[1] A system of public sewers was established in Boston in 1823; public lighting of the streets had been carried on long prior to this date, but lighting by gas was not introduced till 1834. See Nathan Matthews, *The City Government of Boston* (Boston, 1895), 59, 97.

[2] J. A. Fairlie, *Municipal Administration*, 83.

right to veto any order or resolution of the council, his veto to be overridden only by a two-thirds vote of both chambers. Up to this time the public services of the city had, so far as they went, been managed by the council through its committees. The unsatisfactory character of this method was evidently becoming apparent, however; for the new charter provided that these services should thenceforth be intrusted to administrative officials appointed for the purpose by the council. Notwithstanding this provision, the council committees continued for some years to exercise a large influence in administering the city departments. Wherever charter revisions took place in other cities during the forties and fifties, the same drift is observable. At various points one encounters the beginnings of a movement which aimed to make the mayoralty a semi-independent organ of city government, chosen directly by the people and exercising on a reduced scale the sort of powers given to the executive heads of state and national governments.[1]

Popular election of mayors.

Another interesting development of this period was the widening of the municipal suffrage. Prior to 1830 many of the states imposed a property, or tax-paying, qualification for the right to vote, whether in state or in local elections;[2] but during the presidency of Andrew Jackson a movement for the abolition of these requirements obtained impetus in the general atmosphere of the new democracy, and before the middle of the century universal suffrage had, so far as the white population was concerned, become the

Widening of the suffrage.

[1] See, for examples, the Boston charter amendments of 1854 (*Laws of Massachusetts*, 1854, ch. 448), which gave the mayor the veto power; and the Philadelphia charter of 1854, commonly called the Consolidation Act (February 2, 1854), which considerably increased the independent authority of the mayor. For a discussion of this latter change, see Allison and Penrose, *History of Philadelphia*, ch. iv.

[2] The list may be found in Alexis de Tocqueville's *Democracy in America* (ed. D. C. Gilman, 2 vols., New York, 1898), II. Appendix.

accepted policy in virtually all the states. The observant Tocqueville, writing in the early thirties, foresaw this outcome. "Where a nation," he wrote, "begins to modify the elective qualification, it may easily be foreseen that, sooner or later, the qualification will be entirely abolished. . . . Concession follows concession, and no stop can be made short of universal suffrage." Since the suffrage qualifications were, as a rule, alike in state and city, the extensions in one affected the situation in the other. Manhood suffrage came upon the cities, however, at a rather trying time, for close upon its adoption followed the large European immigrations to America. The foreigners, of whom the cities received the larger share, were admitted to voting rights as soon as they were naturalized, and the facility with which they often lent themselves to exploitation by unscrupulous politicians unquestionably had an influence in breaking down some of the sound traditions which the cities had conserved till that time.

The spoils system.

It was at this stage in municipal development, moreover, that the spoils system gained its firm anchorage not only in the national and state administrations, but in the system of selecting city officials as well. In the larger cities appointments to administrative posts rested, for the most part, within the power of the city council; and, since the members of this body were usually chosen from wards, in contests conducted along party lines, they readily fell into the habit of treating such appointments as political patronage. Moreover, since the idea of rotation in office as a maxim of democracy made its way from national and state politics into city affairs, even office-holders of the dominant political party had to give place when their terms expired. All incentive to the development of skill and efficiency in the conduct of municipal administration was thereby removed.

Separation of administration from legislation.

Another important feature in the evolution of municipal institutions during the ante-bellum era was the rise of the independent administrative department. The New York charter of 1830, as has been seen, provided that the council should elect administrative officers to take charge of various city services; but the fact that these officials were appointed by the council kept the latter body in real control of their work and prevented any marked improvement. In 1849, however, a new charter changed the situation by prescribing that thereafter the officers in charge of city departments should be chosen by popular vote.[1] This gave them independence of the municipal legislature, and was an important step in the direction of divorcing the administrative arm of city government from the legislative. New York, moreover, was not alone as an exponent of this policy; Chicago and Cleveland furnish like examples. In the latter city a board of improvements was established, consisting of the mayor, the city engineer, and three elective commissioners; and to this new commission was given the supervision of all public works.[2] In Philadelphia, likewise, the new charter of 1854 made the office of city treasurer elective; and in establishing the new post of city comptroller it made that elective also.[3]

Appointive officials.

But while some advantages came from the experiment of giving the administrative departments a position of independence, it was soon apparent that efficient heads for those branches of the city service could not be secured by popular election. In various cities, therefore, the selection of these officials was taken from the voters and given to the mayor, with the restriction that his appointments

[1] *Laws of New York*, 1849, ch. 147.

[2] Municipal Organization Act, May 3, 1852, § 41. See also Charles Snavely, *History of the City Government of Cleveland* (Baltimore, 1902), 41.

[3] Allison and Penrose, *History of Philadelphia*, 172–175.

should be subject to confirmation by the upper chamber of the city council. New York made this change in 1857;[1] Chicago and Baltimore followed within a few years. The idea of making the mayor responsible for the appointment of a municipal cabinet comprising the heads of the various departments soon gained popularity, partly because it seemed in consonance with the general plan of American government as exemplified in the larger areas of state and nation, and partly because the people of the cities were beginning to look upon the mayor as the pivotal figure in local administration. Indeed, the decline of popular confidence in city councils and the increasing confidence in the chief magistrate form the outstanding features of this period.

Stricter state supervision.

A tendency to tighten the reins of state control over city administration is another development of the same era, particularly of the later years of it. The inefficiency, wastefulness, and even dishonesty with which the various municipal services had been administered by council committees and by officials elected by popular vote became texts for frequent protests on the floors of state legislatures. Particularly did the almost universal maladministration of municipal police departments, and the consequent failure of the cities to enforce the laws of the state, furnish a standing temptation to legislative intervention. This intervention came in several states during the late fifties. In 1857 the legislature of New York established a state-appointed police board for New York, Brooklyn, and adjacent municipalities, thereby displacing local control of the department.[2] The legislature of Maryland saddled a state police

[1] *Laws of New York*, 1857, ch. 446.

[2] "Dissatisfaction with the inefficiency of urban police and a desire to gain partisan advantage were the principal motives." — L. F. Fuld, *Police Administration* (New York, 1910), 26.

board upon Baltimore in 1860, state control of municipal police was established in St. Louis in 1861, and about the same time the legislature of Illinois put the police of Chicago in a similar strait-jacket. When the war broke upon the land in 1861, the policy of taking municipal police control into state hands was making rapid headway; but in due course the movement overreached itself and brought a reaction. The war disorganized local administration to some extent, but not to the degree that might have been expected. Occasional disorders connected with the forced drafting of recruits put added strain upon the police department in some cities; but otherwise the public services, in regions outside the theatre of conflict, were carried on about as usual. Foreign immigration almost ceased, of course, and during the war years the cities moved forward in population much more slowly than before the struggle began. The close of hostilities marked the beginning of a new era in almost every department of economic and industrial life.

Municipal demoralisation after the war.

In tracing the history of American municipal development one may say that the fourth important epoch extended through the years of national reconstruction down to about the year 1890. This era began inauspiciously, for the administration of the larger cities of the land appeared at the time incurably bad. The action of the state authorities in withdrawing powers from local hands seemed to have made things worse rather than better. New York, where the arm of the state had been most active, was properly pilloried as the most corruptly administered city in America, and one of the most corrupt in the world, its government being firmly in the clutches of the notorious Tweed Ring, a troop of plundering banditti who used their civic authority to turn public funds into private fortunes. There is no page in the annals of American municipal history more

sordid than this.[1] Nor was the situation in many other cities at this time much better. While the war lasted its effect was chastening, and local public opinion was strong enough to keep the municipal authorities from gross extravagance; but with the end of the conflict came an extraordinary economic revival, — industry and commerce expanded, the tide of immigration returned, and the cities, as was entirely natural, felt the first effects of the new prosperity. The tone of local opinion became one of pronounced optimism, an atmosphere in which opportunities for the abuse of public trusts are usually abundant. Taxes rose, debts increased, and much of the money that came into the municipal treasuries was shamelessly squandered. A comprehensive investigation of conditions in American cities during the later sixties would probably have disclosed a state of affairs no better, and much more difficult to remedy, than those laid bare in the boroughs of England by the royal commission of 1833.

The turn of the tide.

By 1870 the dangers of the situation had become so clear that a popular uprising in the interest of municipal reform could not be prevented by all the efforts of the powerful and well-organized groups of professional politicians who controlled affairs in the larger cities. In New York the Tweed Ring was overthrown, and immediately thereafter the city received a new charter which contained many provisions designed to afford greater safeguards against the misuse of municipal funds.[2] Other cities, such as Pittsburgh, Chicago, and

[1] An excellent brief account of the organization and operations of the Tweed Ring may be found in James Bryce's *American Commonwealth* (2 vols., New York, 1910), II. 384–396.

[2] One of these was the provision establishing a Board of Estimate and Apportionment, made up of the mayor, the comptroller, the president of the board of aldermen, and the chief officer of the department of taxes and assessments. To this body was given the task of preparing the annual budget, a function which had up to 1873 been exercised by a committee of the city council. The change was designed to put an end to

St. Louis, undertook important administrative reforms during the next few years. In general the changes were all in the direction of concentrating upon the mayor a large part of the responsibility for selecting those administrative officers who controlled the large spending departments. In some instances the mayor was authorized to suspend or remove undutiful heads of departments, and in nearly every case his veto power was put upon a firm statutory basis.

Curbing the spoils system.

Many of the worst abuses in city government were the legitimate progeny of the spoils system. As has already been seen, the iniquitous doctrine that public office and public patronage were the fair rewards of partisan valor obtained its foothold in the national service during the presidency of Andrew Jackson. Malignant ills of this type seem to spread very rapidly in the body politic, and it was not long before the Jacksonian dogma had obtained acceptance in the fields of state and municipal administration. The period following the war found the spoils system triumphant in all the larger cities. Independent spirits like Charles Sumner had begun a campaign against it in the national service,[1] but in the cities scarcely a voice was yet heard in denunciation. The New York charter of 1873, however, dealt the system of official patronage an indirect but important blow when it prohibited the removal of policemen and firemen except for good cause. In fact, the beginnings of civil-service reform in the cities are to be found in attempts to prevent improper removals rather than in endeavors to secure proper appointments. The merit system of appointment was making headway in the national administration during the period, but it was not till after 1890

the carnival of extravagance which had been made possible, and even been encouraged, by the log-rolling practices of the years preceding.

[1] Charles Sumner, *Works* (16 vols., Boston, 1874–1883), VIII. 452–457.

that it gained any considerable recognition in the charters of cities.[1]

Growth of cities after the war.

During the quarter-century following the war American cities made an unprecedented advance in population, in the share which they assumed in national life, and in the importance of the public services undertaken by them. In 1860 the number of American municipalities having populations exceeding 8000 had increased to 141; in 1870 it was 226; in 1890 it was 448. In 1865 these cities contained less than twenty per cent of the entire national population; in 1890 the urban element had risen to thirty per cent. In the intervening quarter-century the city dwellers had trebled in total numerical strength; nearly 20,000,000 Americans in 1890 lived in cities and towns. Particularly marked, moreover, was the growth of the larger cities in this era. In 1890 there were six cities of the United States with populations exceeding half a million each, fifteen had above 200,000, and twenty-five over 100,000. For much of this growth the steady stream of immigration, the development of railway and marine transportation, and the general expansion of industry were responsible. Cities had grown, not only through their own internal increase of population and through the large alien element which came to them, but also by drawing on the rural districts and the small towns.

Inefficiency of municipal services.

With this rapid growth the various municipal functions tried to keep pace, but frequently without success. Following the example of New York, all the cities of any considerable size had established professional police systems, and

[1] The early history of the fight against the spoils system is given by C. R. Fish, *The Civil Service and the Patronage* (New York, 1905), especially ch. x. For the theories upon which the spoils system rested, see H. J. Ford, *The Rise and Growth of American Politics* (New York, 1898), ch. xiii.

had for the most part put them in charge of boards or of single commissioners. Some of the states that had assumed direct control of local police in their larger cities gave up this control, — New York, for example, in 1870, and Michigan in 1891. Other states followed a contrary policy, — as Massachusetts, which established a state police commission for Boston in 1885, and Ohio, which took over the police administration of Cincinnati in the year following. In the matter of fire protection, the general establishment of professional brigades and the enormous improvement in appliances were features of the period. Water and sewerage systems were extended and greatly improved; comprehensive schemes of street lighting were adopted in even the smaller cities; modern pavements came into general use; municipal transit facilities were bettered, particularly with the introduction of the trolley system; and vastly more attention was given to public elementary education, to the creation of parks and places of public recreation, and to the provision of municipal hospitals.

Increase in municipal borrowing.

All this expansion was inevitably accompanied by a rapid increase in annual municipal expenditures and by an even more marked increase in city debts. The latter mounted everywhere, often to such dangerous proportions that in several states attempts were made to hold municipal indebtedness within bounds by the application of statutory debt limits, and by other hampers upon the freedom to borrow on the city's credit. Much of that heavy burden which to-day puts some larger cities in rather straitened circumstances by reason of the vast amounts that must annually go to pay interest on bonded debt, is directly traceable to the lavish and often ill-advised exercise of municipal borrowing powers which characterized the policy of the city authorities during the seventies and eighties. Loans for public works and services were contracted under arrange-

ments that inadequately provided for repayment, or that spread repayment over long periods. The lifetime of bonds often proved more extended than the duration of the works or services for which the borrowed funds had been expended. Not a little of the trouble arose from slovenly financial methods, from the wholly ineffective system of municipal accounting, and from the indefensible policy, which most cities pursued, of paying for present-day needs by obligating a future generation.

An era of general improvement.

With all its persisting problems and its apparent inability to find solution for most of them, the American municipal system underwent noticeable improvement during the quarter-century preceding 1890. Some of the more flagrant abuses were greatly diminished, some of the lesser ills disappeared. From time to time during the period there were spasms of civic virtue. Public indignation in this or that large city would arise, shake off its wonted apathy, and turn a remiss administration out of office; then it would usually allow itself to be lulled into false security while the old régime gradually worked itself back into full operation. Reform movements labored under heavy handicaps, for the public temper would hardly be ready to brook any root-and-branch demolition of existing municipal institutions. Proposals for improvement had, accordingly, to reckon with a rigid popular loyalty to the principle of division of powers in city government, and such of them as secured adoption were invariably inadequate to the desired ends. The cause of municipal reform suffered greatly in the public estimation through its frequent championship of halfway measures, which were put through with great expenditure of energy but which accomplished very little after their acceptance. To gain support for their proposals, reformers had to promise more civic improvement than their measures could ever achieve; and this constant dis-

crepancy between prediction and performance brought a natural loss in public prestige.[1]

The last two decades.

The latest period in the growth of the American municipal system, extending from about 1890 to the present time, has been in many ways the most important and the most interesting of all. It began with somewhat indistinct gleams of an awakening civic conscience. During the nineties, however, the old municipal framework suffered little impairment; for the assaults of reform were directed against particular features of it rather than against its general principles of construction.[2] The spoils system, for example, became a favorite target, and with excellent results. Soon after civil-service reform had proved its profitableness in national administration, the agitation for its extension to state and municipal appointments brought tangible results in New York and Massachusetts, the former state enacting its first civil-service law in 1883, and the latter in 1884. After an interval of about a decade three other states, Illinois, Wisconsin, and Indiana, followed in 1895. Louisiana gave the merit system a limited recognition in 1896, Connecticut in 1897; and one by one most of the other states have been added to the list, until at the present time about two-thirds of them have civil-service reform laws of one sort or another.[3] In many cases the cities have

[1] See below, pp. 377–383.

[2] In 1899, for example, the National Municipal League undertook to frame a model organic law for American cities of medium size; and this draft, which was given to the public under the title of *A Municipal Program*, did not venture to depart in any essential way from the orthodox type of American city government. It pronounced in favor of a one-chambered council, and suggested many useful improvements in municipal machinery; but its framers evinced no readiness to throw overboard the old principle of separation of powers. Hence the *Municipal Program* retained provision for an independent mayor, and proposed that this officer should have the usual power of veto.

[3] C. R. Fish, *The Civil Service and the Patronage*, ch. xi.; also the annual report of the National Civil Service Reform League for 1910.

secured legislation putting certain of their officials and employees under civil-service rules even before the policy has gained acceptance in the state administration. There are now very few municipalities of any considerable size in which civil-service reform has not gained some footing. It would be difficult to overestimate the beneficent political reaction which the introduction of the merit system, even upon a narrow scale, has exercised in American cities. Not all municipal abuses can be related to the vice of political patronage; but a great many of them are very closely connected with it, and it is certain that where patronage has been eliminated, or even restricted, some of the worst evils have disappeared.

Other improvements in municipal methods during the nineties deserve mention. One was a return to the early practice of holding state and city elections upon different dates, a procedure which made possible the divorce of local from state issues. This method was not followed by all the larger cities, however; for it always has to brave the opposition of party organizations, and its adoption necessarily involves considerable extra expense. The abolition of the two-chambered council, the reduction in size of the municipal legislature, the substitution of election at large for election by wards, the abolition of aldermanic checks upon the mayor's appointing power, — all these features gained favor in some cities prior to 1900.

The civic renaissance.

But the real renaissance in American city government has come during the last ten or twelve years, and may be said to have begun with the Galveston experiment of 1901, although somewhat connected with the general movement for the concentration of power in the mayor. The genesis of government by commission and its remarkable growth in popularity throughout the United States are matters that

will be discussed in a later chapter.[1] It ought to be emphasized at this point, however, that the advocates of the commission plan were the first group of municipal reformers to bring forth a proposal to abolish the traditional separation of legislative and administrative powers, and consequently the first to urge a complete reorganization, on a simplified basis, of the whole municipal framework. The plan has spread rapidly; its acceptance by one or more cities in more than two-thirds of the states constitutes the most striking phenomenon of the latest decade in American municipal development. With the adoption of commission charters, moreover, most cities have used the opportunity to make other organic changes. The introduction of provisions for direct legislation and the recall has, for example, been a feature of charter revisions almost everywhere.[2] The open, direct, non-partisan primary as a means of putting candidates in nomination for municipal offices has also found its way into many of the newer charters. As yet, Boston alone has preferred the system of nomination by petition. Some other cities have obviated the necessity for any serious nominating formality by adopting the plan of preferential voting. But all these various changes in nomination methods have had the same motive behind them,—namely, to break down the power of the party leaders, and to give a fair opportunity to those candidates for municipal office who might come forward without the pledged support of any political organization. The abolition of party designations on the municipal ballot, the simplification and shortening of the ballot itself by a reduction in the number of elective officers, the provision of new securities for fairness at elections,—all these reforms have made unparalleled headway during the last ten years.

Improvements in internal administration have gone hand

[1] Below, ch. xii.

[2] See below, ch. xiii.

Administrative reforms.

in hand with these organic changes. Better methods of municipal accounting and auditing, a closer scrutiny of all payments out of the municipal treasury, the elimination of such vicious features as padded payrolls, non-competitive contracts, and patronage purchases, the proper safeguarding of the city's interests in all dealings with public-service corporations, — these are a few examples of the progress toward greater efficiency and economy made by many of the cities of the United States within recent years.

Improvements in municipal services.

Noteworthy improvements in both the scope and the efficiency of various municipal services have been made in the last two decades. In 1890 there was little or no public interest in city planning, or, indeed, in any of these later-day movements which have for their aim the æsthetic improvement of cities. Municipal works were undertaken with little regard to what had gone before, and with less regard to what was likely to come after. All this has changed, or is changing. So, too, there has been a great advance along the lines of municipal sanitation and care for the public health; arrangements for the protection of life and property have been better organized; and lighting and transportation systems have made more progress in efficiency during the last twenty years than they did in the preceding fifty.[1] Finally, the civic conscience has been brought from apathy to activity, and the whole tone and temper of municipal life has been raised thereby. Public opinion in American cities is healthier to-day than it has been for three-quarters of a century; it will not tolerate doings which it freely condoned a generation ago. In the late eighties and early nineties it was in many large cities practically impossible to secure a fair election. Impersonation, repeating, intimidation, and kindred offences against the

[1] For further details, see Charles Zueblin, *American Municipal Progress* (New York, 1903), and *Decade of Civic Development* (Chicago, 1905).

election laws were committed with impunity, in some cases with the aid or the connivance of the police officials of the municipality. All that has passed away, or nearly so. Organized crookedness in politics, as in business, has become unprofitable.

The organs of reform.

Much of the credit for this improved tone in city affairs is due to the host of local organizations whose officers and members have labored unceasingly to leaven the whole electoral lump. The cause of municipal reform, like all reform causes, has produced its due quota of misguided zealots who would fain reap where they have not sown, and who, accordingly, have aimed to hurry the cities into righteousness without that preliminary education of the electorate which is the only safe foundation upon which to build. Yet, on the whole, the great majority of civic organizations, as a subsequent chapter is designed to show, have done their work patiently and to good ultimate end. During the last decade, moreover, there has been more team play among the organizations, and a greater readiness to coördinate their various activities so that energy may not be wasted.

City growth in the last twenty years.

In point of city growth the last twenty years constitute the most remarkable period in American history. In 1890 the urban population of the United States formed 36.1 per cent of the whole; in 1900 it had risen to 40.5 per cent, and in 1910 it rose to 46.3 per cent, a total increase of 10 per cent in two decades. That is a greater gain than has marked any previous period of equal length. In 1890 there were 15 cities with populations exceeding 200,000; in 1910 there were 28. In 1890 there were 28 cities with more than 100,000, and 56 with over 50,000; in 1910 these numbers had risen to 50 and 98 respectively. Even more striking is the rate at which some individual cities have been expanding. During the decade 1900–1910 more than twenty American cities showed increases of population ranging from 100 per

cent to nearly 250 per cent or more. The growth of Birmingham, Alabama, for example, gave that city the phenomenal record of 245 per cent; but the fact that Los Angeles gained 211 per cent, Seattle 194 per cent, Spokane 183 per cent, Dallas 116 per cent, and Schenectady 129 per cent shows that the phenomenon was not peculiar to any section of the country.

Prospects for the future.

All this seems to prove that the great urbanizing forces which made the nineteenth century the classic era of city expansion are still at work with undiminished vigor. The continued development of production on a large scale, the centripetal influence of artificial power, the greater facilities which the large city gives to industry in the matter of transportation, the better opportunities that it offers for the profitable utilization of by-products, the elasticity of the labor market in urban centres, the advantages derivable from a considerable market close at hand, — all this has tended to concentrate the great industrial assets of the United States in the cities, and particularly in the larger cities. Time was when industries went where the water-power happened to be placed by nature; but nowadays great industries are rarely, if ever, ready to sacrifice for the sake of this single feature the other great advantages afforded by an urban location. It is the combination of cheap fuel for motive power, cheap labor, and cheap transportation which now determines the location and governs the growth of great cities. The development of water-borne commerce has also had its great share — greater than most people realize — in the making of large American cities. The fact that, of the thirty cities which the census of 1910 reported as having populations exceeding 150,000, all but four are located upon navigable water is not a mere coincidence; it is a tangible proof (which may be corroborated by a glance at the maps of other countries) of the

intimate relation that exists between the statistics of maritime commerce and the census figures of city growth.[1]

The forces still at work.

These primary causes of urban expansion have made their way into the twentieth century with unabated vigor. They show no signs of weakening. Despite predictions that the "law of diminishing returns in agriculture," the "centrifugal influence of electric power in industry," and "the abolition of discriminations in transportation rates by state and federal commerce commissions" would all operate to stem the drift to the large centres, there is no sign that any or all of these factors have had any effective counteracting influence. So also the secondary causes of urban growth — the social, political, educational, and other advantages of city life — have increased rather than diminished in strength. The cumulative influences that go to constitute the magnetism of the modern city were never more pronounced than they are to-day. Their seemingly irresistible strength warrants the expectation that, before many years have passed, the urban population of the United States will have gained numerical mastery.

References

There is no general history of municipal development in the United States, although one is much to be desired. Several useful monographs in the Johns Hopkins University Studies in Historical and Political Science, however, deal with the development of municipal institutions in various sections of the country. Among these may be mentioned Dr. Albert Shaw's *Local Government in Illinois* (1883); E. R. L. Gould's *Local Government in Pennsylvania* (1883), and W. P. Holcomb's *Pennsylvania Boroughs* (1886); E. W. Bemis's *Local Government in the South and Southwest* (1893); and D. E. Spencer's *Local Government in Wisconsin* (1890). Professor Edward Channing's *Town and County Government in the English Colonies of North America* is an exceedingly serviceable study of local institutions during the colonial period.

[1] For an interesting discussion concerning the various causes of urban concentration and the probabilities of a continued rural exodus, see A. F. Weber, *The Growth of Cities in the Nineteenth Century* (New York, 1899), ch. iii.

Much has also been written on the municipal history of each of the larger cities. Among the most useful books in this field are the following: J. G. Wilson, *Memorial History of the City of New York* (4 vols., New York. 1892–1893); Theodore Roosevelt, *New York* (New York, 1891); A. T. Andreas, *History of Chicago* (3 vols., Chicago, 1885); S. E. Sparling, *Municipal History and Present Organization of the City of Chicago* (Madison, 1898); H. S. Grosser, *Chicago: a Review of its Governmental History* (Chicago, 1906); E. P. Allison and Boies Penrose, *History of Philadelphia* (Baltimore, 1887); J. T. Scharf, *History of St. Louis* (2 vols., Philadelphia, 1883); Josiah Quincy, *Municipal History of Boston* (Boston, 1852); H. H. Sprague, *The City Government of Boston, its Rise and Development* (Boston, 1890); Nathan Matthews, *City Government of Boston* (Boston, 1895); St. George L. Sioussat, *Baltimore* (Baltimore, 1900); J. H. Hollander, *Financial History of Baltimore* (Baltimore, 1899); Bernard Moses, *The Establishment of City Government in San Francisco* (Baltimore, 1889); Charles Snavely, *History of the City Government of Cleveland* (Baltimore, 1902); W. W. Howe, *The City Government of New Orleans* (Baltimore, 1889).

The best short outline of municipal growth in America is contained in the chapter on "Municipal Development in the United States," in Professor John A. Fairlie's *Municipal Administration* (New York, 1901). In the same author's *Essays in Municipal Administration* (New York, 1908) there is also an excellent study of "Municipal Corporations in the Colonies." Mention may also be made of the essay on "Municipal Corporations, 1701–1901," by Professor H. W. Rogers, in the Yale Bicentennial volume entitled *Two Centuries' Growth of American Law* (New York, 1901).

CHAPTER II

THE SOCIAL STRUCTURE OF THE CITY

The city as a social fact

THE modern city is roughly definable as a body of population massed in a small area. But it is something more than that; it is a body of population of other than ordinary social texture, presenting measurable characteristics that differentiate it from the general mass of a country's inhabitants. In other words, if we take as one unit the 100,000 individuals who may constitute the population of a present-day American city, and compare this with another unit made up of 100,000 individuals drawn at random from the length and breadth of the land, from city and country alike, the two units will show differences, more or less marked, at all points at which their respective social characteristics can be statistically compared. In such matters as the numerical proportion of the sexes, the distribution of population according to age, the variety and nature of occupation, the birth, marriage, and death rates, the average earning power of individuals, the proportion of the propertied to the non-propertied class, the relative prevalence of illiteracy, pauperism, and crime, a comparison of the two units will reveal differences which, in their totality, warrant the conclusion that the modern city has a sociological anatomy of its own.

Distribution by sex.

In the United States, as in all other new countries, the males outnumber the females in the national population as a whole; but in the cities this relation is reversed, the excess of females being there pronounced.[1] This reversal

[1] According to the twelfth census, there were 1,638,321 more males than females in the national population, — that is, about two more in every

of the ratio in the urban sections of the country is readily explained by the fact that the normal proportion of the sexes in different areas is dependent upon the prevailing occupations of the people.[1] In agricultural and mining districts males predominate strongly; in industrial centres the reverse is true. The city is such a centre; and upon the nature of its industries depends, of course, the strength of the female excess. In the factory cities of New England, such as Lowell, Manchester, Holyoke, and New Bedford, which are strongholds of the textile industry, the predominance of females ranges from three to four per hundred of population.[2] Of itself, this difference in the ratio of the sexes between the national population and that part of it which is urban may be regarded as a matter of no considerable importance; but with the steady influx of women into new industrial fields the difference may, and probably will, become still more marked as time goes on.[3]

Distribution by age.

A national population, not affected in its growth by immigration or emigration, and regarded from the viewpoint of its distribution by age, is commonly plotted on the census charts in the form of an irregular pyramid. At the base are the infants, at the apex the aged. The base is

one hundred persons; but in New York City the females constituted 50.38 per cent of the population, in Philadelphia 50.96 per cent, in Boston 50.98 per cent, in Detroit 51.26 per cent, in Cincinnati 51.78 per cent, in New Orleans 52.26 per cent, and in Atlanta 53.61 per cent. See Bureau of the Census, *Bulletin*, No. 14, "The Proportion of the Sexes in the United States" (Washington, 1904). Figures based on the thirteenth census (1910) are not yet available.

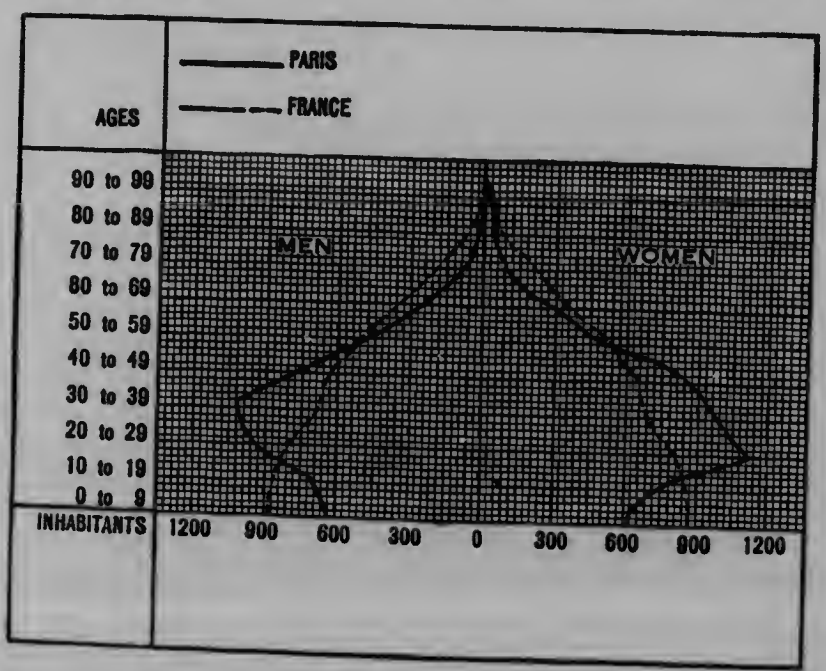
[1] *Ibid.* For a more elaborate discussion, see Jean Guillou's *L'émigration des campagnes vers les villes* (Paris, 1905), 143–295.

[2] Some interesting statistics on this point are given in F. J. Goodnow's *Municipal Government* (New York, 1909), 28–31.

[3] Of the thirty-six American cities which in 1890 had populations exceeding 50,000, twenty-four had an excess of females; but in 1900 the females outnumbered the males in twenty-seven of these same thirty-six cities. The three cities which changed columns during the decade were Buffalo, Los Angeles, and Toledo.

broad, and the more rapid the increase of population the broader this base becomes. The sides of the pyramid converge sharply for a short distance above the base, because the mortality of infant years is heavy; the convergence which portrays the more moderate mortality rates of youth and middle life is more gradual; and finally the lines close rapidly in the years above threescore and ten. Such a population is normally strongest in persons of immature age, and weakens in each succeeding decennial age period; but in the United States the foreign influx introduces a new element, with the result that the national population, taken as a whole, shows its chief strength in the early middle-age periods.[1] In tables of urban residents this

[1] The subjoined chart, reproduced from Paul Meuriot's *Des agglomerations urbaines dans l'Europe contemporaine* (Paris, 1897), shows the distribution by age, per 10,000 persons, of the populations of France and Paris respectively: —



feature is even more pronounced. The city population is replenished in the periods of youth and early middle age not only by immigration from abroad, but by the influx from the rural districts. The age pyramid bulges, therefore, at the points represented by these periods in life. In other words, the city acquires, mainly at the expense of the rural areas, an undue strength in persons of productive age, a fact which forms one of the chief contributory causes of its great economic capacity per head of population.

The rural influx.

American cities, particularly the larger ones, have possessed this magnetism in marked degree. They have drawn far more than their share of young aliens, and at the same time have laid heavy toll upon the country districts of the land.[1] The call of the city is heard most plainly by the able-bodied young man or woman; infants and persons of advanced years do not ordinarily come to the populous community save as dependents upon individuals of the productive age. The drain which the city makes upon the rural areas cannot, then, be measured merely by counting heads. Those who seek the city's opportunities, its fellowship, its comforts, and its human interest are the best blood of the land, the vigorous, the ambitious, and the firm-willed of both sexes; it is the crippled, the dull, and the shiftless who commonly remain behind.[2] Urban popula-

[1] During the decade 1890–1900 about 75 per cent of the aliens who came to the United States were between the ages of 15 and 40 years. As will be pointed out a little later, most of these went to the cities. In regard to the age distribution of those who came to the cities from the rural districts we have no statistical data, but there is no good reason to suppose that they were not of about the same ages. A full discussion of the matter may be found in the census *Bulletin*, No. 13, "A Discussion of Age Statistics" (Washington, 1904). The census of 1900 showed that of the whole national population 43 per cent were between the ages of 15 and 45, but that of the population of the cities of over 25,000 about 54 per cent were between those ages.

[2] C. M. Robinson, *The Call of the City* (New York, 1908).

tion ought, therefore, as it does, to make a superior showing in wealth and income per head. It ought to display qualities of initiative; and its achievements per individual should in general be greater than those of rural areas, for it contains more persons of achieving age.

Distribution by race and nationality.

The United States is commonly regarded as the land *par excellence* of alien accumulation, and in truth the resort to these shores during the last four decades has presented a phenomenon unparalleled in human history. Yet the census of 1900 showed that of the whole national population less than 14 per cent was foreign-born. To the country as a whole, therefore, the alien influx has not presented any unsolvable problem of social assimilation; but if one regards only the cities, and particularly the larger cities, one finds the situation to be very different. In the cities of over 25,000 the foreign-born constituted, in 1900, about 26 per cent of the population; in those of over 100,000 the ratio was about 35 per cent, and in some of the largest cities it ran above 50 per cent. The figures for 1910 are certain to put these urban percentages even higher.

Reasons for strength of foreign-born element in cities.

The reasons for the strength of the foreign-born element in the larger cities are easy enough to find. It is not, as might be superficially supposed, that large cities are usually ports of entry for European immigrants, and that the immigrant settles down at his first point of arrival; for this would not explain the presence of great alien elements in cities like Chicago, Cincinnati, and St. Louis. The real reasons are numerous, and they are chiefly economic. Immigrants of some nationalities do go, and go in large numbers, to the rural districts; whole agricultural regions of the West, for example, are peopled by Scandinavians. The greater part of the alien influx has, however, during the last few decades at any rate, come from the countries

of Eastern, Middle, and Southern Europe. These races, Slavs, Poles, Lithuanians, Italians, Greeks, and Armenians, go very largely to the urban centres, mainly because they come here with neither the capital nor the skill necessary to enable them to do anything else. Although many of them come from the agricultural regions of their own lands, few bring any knowledge of farming that would be of much service to them here. It takes a little knowledge to be even an agricultural laborer; and for an immigrant to become a farmer in America on his own account requires some capital as well as some knowledge, whereas to obtain a place as a sewer-digger or as a rough laborer in one of the various urban establishments requires neither. Most immigrants come to America to find work; and they go, accordingly, where the work which they can do is to be found. So long as industry concentrates itself in the large cities, and so long as great industries present a steady demand for cheap, unskilled labor, both of men and of women, the large cities will naturally get most of those aliens who come without either skill or sustenance. About the only great industry employing large quantities of unskilled labor and situated outside the larger cities is that of mining. This industry does draw great numbers of newly arrived aliens into its vortex. It is chiefly for this reason that Pennsylvania usually ranks next to New York in the statistics of immigrant destinations.

Relation of the alien influx to municipal problems.

Social as well as economic motives of course have their influence. Aliens who speak only their own language like to be among their own people in a strange land; moreover, their passage to America is very often paid for by friends or relatives already here. When a colony of any nationality is once started, therefore, the social motive comes quickly into play. All these things have, however, been so fully elaborated by writers upon the ethnic fac-

tors in city government that they need no further discussion here.[1]

The problem of governing the state and the nation remains primarily a problem of governing native Americans; but the task of administering the affairs of the larger cities has, as the figures prove, become that of making political and administrative provision for units of a population of which a very large portion has come to America without sound and well-fixed political traditions. This is not to say that the alien element is wholly or even mainly responsible for the fact that the government of great cities is America's "one conspicuous failure." No American city has had its affairs more consistently mismanaged, or has been able to develop fewer wholesome municipal traditions, than Philadelphia; yet the foreign-born element in the population of Philadelphia is much weaker than it is in any of the other cities of the largest class. Nevertheless, the fact that the alien-born bulk large in nearly all American cities of any considerable size does complicate the problems of municipal government. It can hardly be true, for example, that the influence of heredity can affect the business aptitudes, the tastes, and even the ideals of races, and yet be without bearing upon their political propensities. A considerable proportion of those who have come to America during the last half-century are men who did not possess

[1] The best succinct discussion, based, however, on the census figures of 1890, is in A. F. Weber's *Growth of Cities in the Nineteenth Century*, 304–310. For more extended considerations, see P. F. Hall's *Immigration* (New York, 1906), especially chs. iv. and vii.; R. Mayo-Smith, *Emigration and Immigration* (New York, 1904); the report of the Senate Committee on Immigration, 57 Cong., 2 sess., No. 62 (1902); and the annual reports of the Commissioner-General of Immigration. A *List of Books on Immigration* was issued by the Library of Congress in 1904. See also W. S. Bennet on "The Effect of Immigration on Politics," and Grace Abbot on "The Immigrant and Municipal Politics," in *Proceedings* of the National Municipal League, 1909, pp. 142–156.

voting rights in their own lands, and whose fathers before them did not have such rights. As the discreet and sober use of the ballot is something not to be learned in a day or even in a generation, it is not a matter for surprise, then, if alien-born voters have often proved easy prey to the sophistry and cajolery of claptrap politicians. To a successful exploitation of the foreign-born voters many of the worst factors in urban politics have been indebted for advancement.

The political exploitation of the alien.

The new citizen has neither political traditions nor prejudices. His eye is on the present rather than on the past. Being unable to go to sure sources of information concerning his new political duties, he must take such misguiding authorities as come to him. These are, too often, the hired henchman of his own race, the newspaper of his own language (which is frequently kept in existence by patronage from the party in power), or the native-born political roundsmen who cultivate his confidence for their own ends. All these make it appear to him that his own immediate advantage can be best served by following the counsel which they give; and, being led to believe that individual interest is the only motive which actuates American-born voters, he is quite liable to let himself be thus exploited. We have the testimony of seasoned campaigners that the alien-born voter is inclined to think for himself if he gets the opportunity; but too often he does not secure even that small amount of fair information which is necessary to furnish food for thought. As a rule, practically all that he gets concerning the facts of the municipal situation comes to him in such form that it leads to one conclusion only. It is not that the foreign-born voter is indiscriminating, or that he always prefers to vote for one of his own race or religion. Experience has proved that he cannot always be stampeded by appeals to class prejudice, or

delivered blindly to the support of some political faction. Given a fair chance, he is, according to authoritative testimony, a voter of at least normal independence. If he has too often proved to be the tool of the exploiter, it is largely because a system of partisan nominations and a beclouded ballot have given the latter a redoubtable position. Loyalty to some social idea or custom which aliens have brought with them from their own lands, moreover, sometimes outweighs their aversion to boss-domination. Time and again, in cities like New York and Chicago it has been found impossible to to get various bodies of foreign-born citizens to range themselves on the side of honest and decent city government, owing to inter-racial jealousies and a fear that a change of administration would mean interference with their Sunday recreations or other social customs.

In any case, the presence of the large alien element in urban areas gives the cities of the United States a prime interest in the terms of the naturalization law, in the rigid enforcement of this statute, in all regulations pertaining to the selection of immigrants, and, indeed, in every matter relating to the immigration policy of the nation. The enormous assimilating power of the American people has often been commented upon by students of sociology; but it is not by the American people as a whole that this process is performed. Most of the task falls upon the larger cities of the country, and it would therefore be surprising if municipal institutions did not in some degree feel the strain.

The dynamics of urban population.

A unit of population constituting a large city, when contrasted with a unit of equal size drawn from rural districts, shows marked differences in its birth, marriage, and death rates.[1] In the matter of births it seems to be generally

[1] Accurate statistics relating to vital progress (that is, to the birth, marriage, and death rates) are not available for the whole United States, but only for what is officially termed the "registration area." This

1. Birth-rates.

true that the number per thousand of population is almost always greater in urban than in rural communities. Indeed, it has been laid down as a working rule that the birth-rate varies directly with density of population and inversely with sparseness. A superficial explanation of the situation in America may be found in the fact that aliens, among whom the birth-rate is high, are numerous in urban populations; but that would not explain why the birth-rate is larger among the native-born in cities than among the same element in rural districts. The real explanation of this disparity, as of many other social phenomena, is probably economic. Since the national birth-rate is to a considerable extent dependent upon general economic conditions, rising in times of prosperity and falling in times of depression, it is more than likely that the higher birth-rate of the urban community connects itself with the city's superiority over the rural district in point of wage-earning power per capita.[1]

2. Marriage-rates.

The urban marriage-rate per 10,000 of population is also considerably higher than the rural. This is accounted for in part by the fact that the city is proportionately stronger in persons of marriageable age, in part by the greater accuracy with which marriage records and statistics are kept there, and in part by the fact that many marriages which ought to [illegible] to rural statistics are credited to the city in which the ceremony happens to have been performed. The economic [illegible] of greater income-earning power per individual also has its influence.

area, which covers most of the Eastern and Middle, some of the Western, and parts of a few Southern states, comprises slightly over one-half of the total population of the Union.

[1] But this is a matter upon which demographical authorities widely disagree. An interesting discussion of the matter by C. A. Verrijn-Stuart may be found in the *Bulletin de l'institut internationale de statistique*, xiii (1903), 357-368.

3. Death-rates.

The city, as is well known, has a death-rate per thousand very much above that of the country, a social phenomenon which seems to have held true in all periods and in all countries. It was the decimating urban death-rate of the Middle Ages and the early modern centuries that kept the cities from making substantial headway in growth of population. In London the ordinary death-rate of the seventeenth century is estimated to have been about fifty persons per thousand of population each year; and it was not till about 1800 that the annual death-rate went below the annual birth-rate, thereby permitting the city to achieve some growth through natural increase. In this respect London was not unique among European cities; on the contrary, her showing was probably better than that of the other great centres. Nor was the situation very different in America. In 1700 the death-rate of Boston was thirty-four per thousand; in 1900 it had dropped to less than nineteen. The enormous advances made by the science of medicine, including improvements in sanitation, and progress in personal hygiene, in arrangements for preventing the spread of infectious diseases, and in preventive medical science generally, — all this has cut down the urban death-rate in every large American city during the last three decades.[1]

[1] The decline in the average death-rates of some large American cities may be seen in the following table of deaths per thousand of population, which has been compiled from the reports of the United States Census Bureau: —

City	1881 to 1885	1886 to 1890	1891 to 1895	1896 to 1900	1901 to 1905
New York	27.5	25.8	24.6	20.3	18.9
Chicago	21.5	19.5	20.6	15.2	14.2
Philadelphia	22.3	20.6	21.1	19.2	18.1
Boston	24.9	23.5	23.6	20.9	18.8

Causes of the high urban death-rate.

But, with it all, the city death-rate continues at every stage of human life to be higher than that of the rural district. Especially is this true, as one might expect, among children under five years of age. In larger cities the infant mortality is from twice to three times that of rural areas having an equal number of children; in the case of children under one year of age the discrepancy is very much greater. Many circumstances combine to bring about this situation. The poverty, the cramped quarters, and the general lack of even elementary necessities with which the population of congested urban districts has to contend account for much of it. It is the tenement wards of the large city that make the figures of infant mortality what they are. The employment of married women, particularly of the poorer classes, in wearing industrial occupations is also a factor of importance, as is shown by the heavy infant mortality of those cities in which textile industries prevail.[1] In any event, much of the heavy loss of population in its earlier years is admittedly preventable; its continuance is due largely to public failure to realize the seriousness of the situation and to official apathy in the attempts made to remedy it.[2] It has been demonstrated, for example, that the annual infant mortality in large cities can be greatly reduced by strict inspection and control of the milk supply, yet this is a matter which in many communities has received but half-hearted attention from the municipal authorities.

The death-rate as a barometer of administrative efficiency.

Of all conservation measures none can be more worthy than those which have for their end the conservation of human life. It is in the infant mortality of the cities, large

[1] See the interesting table printed in F. J. Goodnow's *Municipal Government* (New York, 1909), 30–31.

[2] National Conservation Commission, *Bulletin of the Committee of One Hundred on National Health; being a Report on National Vitality, its Waste and Conservation*, prepared by Professor Irving Fisher, July, 1909.

and small, that the greatest saving can be made; for in some respects the infant death-rate is a barometer of the efficiency of a city's administration in matters of health and sanitation. Concentration of population engenders a heavy drain upon the vitality of a race, and only by lavish outlays of skill, energy, and money can this drain be held in check. The water-supply system, the sewerage arrangements, the parks and recreation grounds, the schools, the transit facilities in so far as they operate to relieve density, the public-health department, the street-cleaning service, the inspection of food, — nearly every branch of city administration reflects its efficiency or its inefficiency upon the figures of infant mortality. Much as all these services have been improved, — and the improvement has shown itself in the lower mortality rates of the past few decades, — the city still loses, by its high death-rate, most of what it gains through an excess of births. Apart from the infant mortality, the difference between the urban and the rural districts in the matter of death-rates is not great. Among adults a large proportion of the city's excess can be traced to the nerve-racking strain of city life and the larger accidental death-rate of the urban community. Most of the hazardous and extra-hazardous occupations of industry and commerce are urban employments, and many serious diseases which are at least semi-accidental, so far as the usual methods of contracting them go, are peculiarly the diseases of city dwellers.

The city's contribution to the national population.

Surveying the field of vital progress as a whole, one sees clearly that the rural districts may make a greater net contribution to the growth of national population than do the cities. Where this is so, the urbanization of a country ought, in the absence of immigration, to mean a slower rate of national growth. Possibly the increasing slowness of England's decennial growth in population may be in

part explained by the steady drift of the English population into urban centres.

Physical virility.

A good deal used to be said and written about the debilitating effect of urban life upon individual physique. Nothing seemed easier to establish than *à priori* conclusions as to the superior physical development of the rural population. It was, indeed, so far taken for granted that the rural militiaman was physically superior to the townsman, that one of the stock arguments for the encouragement of English agriculture by corn laws and other protective legislation was the necessity of preserving that yeomanry of England which was alleged to furnish the military sinew of the kingdom. There are, of course, a great many reasons why the per capita physical attainment of the country ought, if it could be measured, to be greater than that of the town. That minute division of labor in urban industries which even in Adam Smith's day required a man to spend his lifetime in making the nineteenth part of a pin, nowadays gives him an even more specialized task in production. Most urban occupations develop only a very small part of the worker's physical powers, whereas the rural employments encourage bodily versatility and all-round physical development.

The older notion.

What the facts disclose.

When one attempts to adduce accurate statistical evidence of this rural prowess in point of physical development, however, one does not find the expected proofs so readily forthcoming. Statistical data to prove or to disprove the claim are not to be had in America, for there is in this country no arrangement for recording the physical measurements of typical sections of the population. Prisoners in jails, athletes in training, applicants for places on city police forces, newly enlisted men in the army or navy, are all measured and the results are put on paper; but these classes, even taken together, form so small a part of the

national population that generalization from their measurements would be unfair and inconclusive. We must go to those countries of continental Europe, such as France, Germany, and Italy, where universal military service is compulsory, and where, in consequence, practically the whole adult male population is subjected, section by section, to physical examinations of exactly the same scope and nature. Now, the evidence that comes from all these countries — and it is based upon the measurements of many millions of men drawn from all sections during the last quarter-century — gives no conclusive support to the notion that city life is physically debilitating. On the contrary, the percentage of those who are rejected each year for failure to meet the minimum requirements in height, weight, chest measurement, and so forth, is in many cases higher among recruits from the rural areas than among those drafted from the population of the large cities. It may be, of course, that many of those who enter the army from the cities were born in the country; but that factor alone would scarcely account for the urban superiority which the army statistics often show. It ought to be added, also, that this evidence which disputes popular notions concerning the superiority of rural life as a developer of physical strength and stamina receives corroboration in the expressed opinions of nearly every one who has given the matter careful observation. Military leaders have frequently, in the great wars of the nineteenth century, commented upon the superior powers of physical endurance displayed by urban regiments. If the urbanization of a people means physical degeneracy, the evidence now obtainable gives no conclusive proof of it.[1] Health, strength, and vigor evidently depend less

[1] Much has been written on both sides of this question, chiefly by Professor Brentano of Munich and other German economists. A summary of the data may be found in Weber's *Growth of Cities*, pp. 382–397.

on place of residence and occupation than upon cleanliness, variety of diet, and prompt attention to minor bodily ills.

Relative intellectual attainment.

The balance-sheet of a people's intellectual attainment is something that cannot very well be cast in figures. Having no gauge of popular erudition, one can make only a general comparison of urban with rural populations as regards the percentage of illiterates found in each. The census of 1900 showed that, whereas 17.4 per cent of the total white population of the United States over ten years of age was classed as illiterate, the proportion in cities of over 25,000 was only 4.4. per cent, and this despite the presence of the large alien element in them.[1] This greater freedom of the urban centres from illiteracy is due in part to their superior day-school facilities and to their better enforcement of the laws relating to compulsory education; but to a greater degree it is perhaps attributable to the supplementary agencies of crude education in which the city abounds, — the night school, the neighborhood house, and, by no means least, the daily newspaper. In the city, moreover, the pressure put upon the illiterate is very great; even the least remunerative employments open to youths require that the employee shall be able to read and write.

Is the intellectual superiority of the city assumed or real?

It may be urged that although the city may thus make a better showing at the lowest rung of the intellectual ladder, it does not necessarily follow that the general average of intelligence or of mental achievement in it is any greater than in the country. We have been assured, at any rate, that the city-dweller's assumed superiority in knowledge is only superficial, that "scattered and unrelated fragments

There is also an excellent study of the whole matter, based on data gathered during the Boer War, in the British Blue Book of 1904 on "Physical Deterioration."

[1] Bureau of the Census, *Bulletin*, No. 26, "Illiteracy in the United States" (Washington, 1905).

of half-baked information form a stock of 'knowledge' with which the townsman's glib tongue enables him to present a showy intellectual shop-front."[1] Most of the best and strongest intellectual work done in the cities is performed, it is said, by rural-bred men. There are, however, no conclusive ways of determining the extent to which the professed superiority of the townsman in point of education is unwarranted; consequently the world continues to take him at his own value. If it be true that education is largely a matter of opportunity, there is every reason why the citizens of urban communities should make the better showing.

Standards of morals.

Many sermons have been preached upon the inferiority of urban moral standards; but, like the allegations concerning the enfeebled physical development of the city-born, these indictments rest for the most part upon little more than biassed and uncomprehensive observation.[2] There are no trustworthy indices of public morals; for the standards of different races are never fairly comparable, nor are those of different sections of the same people. As presumptive evidence bearing on the morality of a community the statistics of the criminal courts may be brought forward; and in the light of such tests the city makes a rather poor showing. In the United States the cities are commonly debited with two or three times their due share of the nation's convicted criminals. There are, however, some things to be noted in extenuation of this discreditable urban achievement. The cities, especially the larger ones, are, as every one knows, the habitat of malefactors whom they have not tutored into crime. The country youth of vicious disposition is pretty sure to drift where his propensities can find

[1] J. A. Hobson, *The Evolution of Modern Capitalism* (New York, 1904), 339.

[2] For an example, see Josiah Strong, *The Twentieth Century City* (New York, 1898).

scope; but the city which must bear the brunt of his later criminal record is not the author of his waywardness. It is not because the moral plane is lower in the urban centres that the criminal classes gravitate there; it is only because density of population affords greater opportunity for gaining the emoluments of crime, and at the same time better chances of escaping detection. Crimes against the person — assaults and the like — are not relatively more numerous in the city than in the rural area; but the city is more prolific in crimes against property, such as burglary, larceny, and embezzlement, for the obvious reason that the temptations to these offences are stronger where things of high value are thrust continuously before the eyes of the covetous. In the city, moreover, the vicissitudes of employment are many. Men are at work to-day and out of work to-morrow; hence there is always an idle element, and this element is, from its lack of honest earnings, under pressure to transgress the laws. The saloon, the opium-dive, the brothel, and those pawnbrokers who seek their profits from the fruits of thievery, are each entitled to a fair share in the responsibility for the city's criminal record; yet they are all excrescences upon normal urban life rather than essential features of it.[1] Their elimination is, however, scarcely within the range of to-morrow's possibilities; hence, while cities remain what they are, the urban crime rate is likely to continue high.

Urban growth and the increase of crime.

The expanding crime ratio of the United States, taken as a whole during the last two or three decades has given rise to serious misgivings in the minds of many students of social statistics; but this development, it may be suggested, is possibly no more than a corollary to the steady shifting of

[1] Those who are interested in this topic will find a readable essay on "Great Cities, and their Influence for Good and Evil" in Charles Kingsley's *Miscellanies* (2 vols., London, 1860), II. 318–345.

the population. The crime ratio of the larger cities is much greater than that of the rural areas; and, since the cities grow much more rapidly than these districts do, it would be strange if the number of crimes did not increase with greater relative rapidity than the population of the Union as a whole. The progress of urban concentration is doubtless responsible for much of the national growth in criminality; not, however, because the growth of cities tends to lower the entire moral tone of a people, but because the urban centres provide greater scope for that element which, whether in city or in country, is governed in its activities by its opportunities.

Ownership of property.

The cities of the United States, being stronger in persons of productive age than are the rural areas, ought to have a greater income-earning power per head of population. It is certain, at any rate, that the per capita wealth of the cities far exceeds that of the rural communities. Of the total wealth of the United States, as estimated in 1900, the urban population possessed about three-fourths, or more than double its proportionate share. These reckonings, however, include personal as well as real property. If one takes only real property as the basis of calculation, and estimates the relative number of those who own property and those who do not, one gets a very different showing; for the percentage of those who own real property is much larger in the rural districts. It is true that the real significance of the proportion of "farm families owning their homes," as given in the census returns (nearly sixty-five per cent, by the enumeration of 1900), is somewhat impaired by the fact that much of this "ownership" is in form rather than in reality; for heavily mortgaged farm-homes are no rarity in the agricultural states of this country. But, with all due allowance for this fact, the real-propertied element in the rural population of the United States is much larger

than that in the urban. It seems, indeed, to be a law of urban concentration that the more congested the population the lower becomes the ratio of home-owning families. In Baltimore this ratio was 27.9 per cent, in Chicago 25.1 per cent, in Boston 18.9 per cent, in New York 12.1 per cent, and in the crowded boroughs of Manhattan and the Bronx only 5.9 per cent.

Property and conservatism.

This marked difference in the ratio of home-owners to total population, as between city and rural areas, is one of great social and political importance. That indefinable inspiration to thrift which John Stuart Mill called the "magic of property," and which he credited with the faculty of turning sand into gold, is more general and more effective in country than in town. It is well known that widespread ownership of property makes for conservatism and soberness in popular thought, whereas the propertyless element is liable to be radical in its political, social, and economic views. The history of nations affords plenty of evidence that urban centres are impatient of the slow course which social and political institutions commonly take in working out their own evolution, and hence that their growth is sure to promote radicalism in all departments of thought. It has done so in the United States during the last twenty or thirty years. Urban concentration means, accordingly, that the landless man rises to supremacy in the voting-lists, that the property-owning element dwindles in relative importance, and that through this wide difference an antagonism of interest between the two classes is likely to be aroused. The rural district, in its broad diffusion of ownerships, possesses a strong incentive to sober habits of thought; the large city does not have this advantage.

Other points of comparison.

There are many other viewpoints from which the urban and rural populations of the United States might be subjected to fair comparison, but enough have been used to show that

marked differences exist in the social textures of the two. Compared from any single point of view, these differences are perhaps not of very much consequence; the mere fact that the American city is stronger in its percentage of females or weaker in its ratio of illiterates scarcely suffices to give urban populations any distinctive social coloring. Taken together, however, the variations show a difference in make-up both great and important. It is to be remembered, moreover, that some of the most marked discrepancies, quite visible to the naked eye, are not statistically computable. Differences between urban and rural populations in their versatility of interests, in their breadth of intellectual horizon, in their average qualities of initiative, perseverance, and constancy, in their capacity to develop and to follow safe ideals, — these are things which cannot be set forth in columns of numerals. In the public imagination the city looms large as a place where sordid and material motives fill the minds and govern the acts of men, a place of excessive individualism, where neighborhood feeling is almost absent, and where, through the incessant shifting of the people, neighborhood traditions can ever become firmly rooted. Its population is restive, impulsive, intolerant of delay (yet docile enough in its continued submission to public abuses), laying too little stress upon the family as the ultimate social unit and too much upon artificial organizations that are more social in aim than in ultimate accomplishment. If all these traits could be weighed in the balance and their intensity determined, the real extent of the modern city's influence upon national life, and of its departure from the rural unit in texture and problems, could be more accurately measured.

It is in the great cities of the land that the forces of national life come face to face. There it is that the highest culture stares down the street at unalle

The extremes of personal wealth and poverty are also there. If one desires the best in men of science, of art, of industry, one will find them in the large city; if one wants the worst types of illiteracy, depravity, and indolence, one will find them there too. It is from this heterogeneity that the population of the city derives its individualism; it is this that accounts for the *sang-froid* with which one half of it regards the way in which the other half lives. As a fair consequence of this oil-and-water amalgam of its population, the city will undoubtedly continue to present both the highest achievements in political virtue and the basest spectacles of political vice. Across its warp of sacking, as Mr. Bryce puts it, are woven threads of silver and gold.

The crucible of citizenship.

Into this great melting-pot of American municipal life the baser elements of indifference, ignorance, and greed, together with the finer elements of intelligence, public spirit, and self-sacrifice, must be poured, and out of the mass will come the composite of American citizenship. The modern metropolis, whether in America or elsewhere, is neither an Athens nor a Gomorrah; it is both rolled into one. In the rural community, which has the features of neither one nor the other, the problem of maintaining a reasonable standard of ideals and achievements is easier than in the city, where these things must be determined by the might of the stronger among its modern Hellenes and Philistines.[1] That the city's influence upon the political, social, and economic ideals of the whole people ought by every effort to be thrown into the proper channel is of the

[1] "The city is the spectroscope of society; it analyzes and sifts the population, separating and classifying the diverse elements. The entire progress of civilization is a process of differentiation, and the city is the greatest differentiator. The mediocrity of the country is transformed by the city into the highest talent or the lowest. Genius is often born in the country, but it is brought to light and developed by the city."—A. F. Weber, *The Growth of Cities in the Nineteenth Century* (New York, 1899), 442.

most vital importance; for the urban population is in effect more influential than its numerical strength implies. As the element which supplies the leaders of thought, and which through its press has an incalculable influence upon the moulding of public opinion, it must be credited with far more than forty-five per cent of the responsibility for the successes or the failures of American political life. The problems of the city are not, therefore, the problems of its own citizens alone. The proper solution of them is of vital moment to all who value American ideals; for the ideals of a nation are determined by the most influential among various elements of its population, and, being so determined, they are in constant process of change. The course of alteration is unheralded by any blast of trumpets, and it often evades even the notice of trained observers. Transformations in the political or the social psychology of a people proceed insidiously. Hence it is that a general betterment of popular ideals may descend on a land, like as an angel, unawares, or a deterioration may come even as a thief in the night.

True civic patriotism.

As the city, then, with all that it expresses and implies, must be the controlling factor in the national life of the future, there is no service more truly patriotic than that of helping to make it a better place for men to live in. True patriotism, as has been well said, requires "not only that a man shall be ready to make the supreme sacrifice for his country's salvation, but that he shall stand ever-ready to devote his time and talents to the less conspicuous but equally momentous duty of maintaining public order, protecting private property, and preserving the lives of his fellows against the dangers which lurk in foul tenements, in unclean food, and in that whole field of civic administration whose mismanagement leaves a trail of misery through the habitations of the poor." To make the city, as Henry Drummond has

reminded us, is what we are here for. "He who makes the city makes the world. For though men may make cities, it is after all the cities which make men. Whether our national life is great or mean, whether our social virtues are mature or stunted, whether our sons are vicious or moral, whether religion is possible or impossible, depends upon the city. To the reformer, the philanthropist, the economist, the politician, this vision of the city is the great classic of social literature."

References

Reliable data regarding the social structure of the American city may be had most conveniently from the various *Bulletins* which the United States Bureau of the Census issues during the years following each decennial enumeration. These bulletins, which take up such topics as the distribution of population by sex, age, and nativity, the statistics of illiteracy, the progress of population as disclosed by the birth and death rates, the ownership of property, and many other matters, usually include some interesting discussions of the figures which they contain. Two excellent monographs dealing with the sociological anatomy of the modern city are Paul Meuriot's *Des agglomerations urbaines dans l'Europe contemporaine* (Paris, 1897), and A. F. Weber's *Growth of Cities in the Nineteenth Century* (New York, 1899), especially ch. v. On the general questions of ethnic structure, no work approaches in value Emile Levasseur's *La population française* (3 vols., Paris, 1889–1892).

Books dealing with the social texture of American city population are H. B. Woolston's *Study of the Population of Manhattanville* (New York, 1909); F. A. Bushee's *Ethnic Factors in the Population of Boston* (New York, 1903); and E. E. Pratt's *Industrial Causes of the Congestion of Population in New York City* (New York, 1911). The last-named volume contains a useful bibliography. Mention should also be made of T. J. Jones's *Sociology of a New York City Block* (New York, 1904), which is a painstaking study of real value. There are a great many useful tables in the volumes relating to the Pittsburgh Survey, issued under the auspices of the Russell Sage Foundation. Indeed, the supply of first-hand material now available for the study of urban sociology is so extensive that any attempt to enumerate all of it would constitute a formidable task.

CHAPTER III

THE CITY AND THE STATE

Supremacy of the state.

THE American city is a municipal corporation created by the state under its reserved rights of internal sovereignty; it derives all its powers from state laws, and it is subordinate in all its activities to the state's authority. It is one of the agents which the state uses for the more convenient administration of local government. To this end, the city is intrusted with only such powers as the legislature may think wise to confer, and even in such grants it acquires no vested right. Municipal authority may be enlarged, abridged, or entirely withdrawn by the legislature at pleasure. In other words, the state authorities have the right to govern the city just as they govern any other area within their jurisdiction. This is a fundamental principle of American law, so well recognized that it is not nowadays open to question.[1]

Constitutional limitations.

But upon this supremacy of the state legislature in all matters of municipal government there are two important kinds of limitation: (1) those restrictions which are imposed upon all legislative freedom by the constitution of the United States, and (2) those special limitations which are contained in the constitutions of the various states themselves. The federal constitution, for example, withholds from all legislative bodies, state and national, the power to take private property for public use without just compensation. What a state itself cannot do, it cannot empower any subordinate

[1] Meriwether *v.* Garrett, 102 *U. S.* 472, printed in J. H. Beale's *Selection of Cases on Municipal Corporations* (Cambridge, 1911), 54.

authority to do; hence, legislative freedom in the matter of granting powers to municipal corporations is subjected to some very important checks. More important and far more numerous are the limitations imposed upon the legislatures of states by their own constitutions. In the earlier state constitutions these restrictions were few; in some there were none at all with reference to municipal government. By the middle of the nineteenth century, however, the disposition to insert checks upon legislative interference with local administration had become so marked that whenever state constitutions were revised some such provisions were almost invariably inserted. During the last fifty or sixty years this tendency has grown even stronger, until it has nowadays come to be taken for granted that, whenever a state adopts a new constitution or revises an old one, it will almost certainly use the opportunity to insert various restrictive clauses relating to legislative freedom in matters of local government.

Their nature.

Constitutional limitations upon the freedom of the legislature to deal with city affairs are of great variety. Many of them relate to the form of city charters or to the methods of framing them. In some states the legislature is forbidden to charter cities by special act; in others it is required to grant all charters in this way. Some state constitutions prohibit changes in city charters unless they are made with the consent of the citizens; others guarantee to the voters of cities the right to frame their own charters and to enact them into force by referenda free from legislative interference, — in other words, to adopt so-termed "home-rule" charters. A common form of limitation prevents legislatures from giving cities undue borrowing powers, or from empowering municipalities to grant perpetual franchises to public-service corporations or to loan their credit to private enterprises.

Prohibition of special charters.

Clauses forbidding the legislature to charter cities by special law, or to enact special legislation for individual cities, have found their way into the constitutions of nearly a score of states; yet both these prohibitions have proved to be capable of evasion. The Ohio constitution of 1851, for example, provided that the state legislature should pass no special acts conferring corporate power, but should arrange for the organization of cities by general laws, and should give to all laws of a general nature uniform operation throughout the state.[1] In keeping with these wholesome doctrines, the legislature in 1852 enacted a general municipal code dividing the nine cities of the state into two classes and applying somewhat different provisions to these classes. It was not long, however, before special legislation appeared under the guise of further classification of cities: when it was desired to pass an act affecting only a single city the legislation was worded so as to have a purely local application.[2] In course of time, accordingly, the two classes of cities came to be subdivided into various grades according to their population, until there were eleven grades in all, eight of them containing only one city each.[3] With these cities fixed in a stated cate-

The Ohio example.

[1] Art. xii. §§ 1, 6; art. ii. § 26.

[2] An act intended for Cincinnati, passed in 1868, contained the following provision: "The city council of any city of the first class having a population of 150,000 inhabitants, wherein a public avenue of not less than one hundred feet in width is now projected to be known as Gilbert Avenue, is hereby authorized to issue bonds of the said city in any sum not exceeding $150,000." Other examples may be found in *Constitutional Home Rule for Ohio Cities*, a report issued by the Municipal Home Rule Committee of the Municipal Association of Cleveland, 1912.

[3] The gradations were as follows: —

CLASS I

Grade 1, over 200,000 (Cincinnati).
Grade 2, from 90,000 to 200,000 (Cleveland).
Grade 3, from 31,500 to 90,000 (Toledo).
Grade 4, to be created (none).

gory, the legislature was able to handle them quite as if there were no constitutional restrictions at all. For fifty years, from 1851 to 1902, the courts of Ohio upheld this procedure, declining, so long as legislation was general in form, to hold it unconstitutional even though it was special in fact. In 1902, however, the supreme court of Ohio reversed its course,[1] took a clear ground against special legislation, and thereby forced the legislature to enact a new municipal code, with provisions that apply uniformly to all Ohio cities having populations exceeding 5000.[2]

Evils of a rigid code.

But if the Ohio situation prior to 1902 affords an excellent illustration of the way in which constitutional restrictions relating to uniformity in municipal legislation may be evaded, the situation since that date shows with equal clearness the absurdity of such restrictions when strictly enforced. The new Ohio code applies its provisions uniformly to seventy-two cities with populations ranging from about 5000 to over a half-million. This means that all the cities, whatever their varying problems and needs, must conform themselves to a rigid framework of government which makes no allowance for differences in local conditions. Constitutional limitations that require such inelasticity cannot but overreach themselves. Must a small

CLASS II

Grade 1, from 30,500 to 31,500 (Columbus).
Grade 2, from 20,000 to 30,500 (Dayton).
Grade 3, from 10,000 to 20,000 (Youngstown).
Grade 3a, from 28,000 to 33,000 (Springfield).
Grade 3b, from 16,000 to 28,000 (Hamilton).
Grade 4, from 5000 to 10,000 (four cities).
Grade 4a, from 8330 to 9050 (Ashtabula).

[1] State *v.* Jones, 66 *Ohio*, 453.

[2] An excellent summary of this code, with a narrative of the events leading to its adoption, is given in J. A. Fairlie's *Essays in Municipal Administration* (New York, 1908), ch. v. The code itself is edited, with good introduction and notes, by Wade H. Ellis (Cincinnati, 1909).

inland city be burdened with all the cumbrous machinery of a great commercial metropolis, as the only means of relief from legislative meddling with the affairs of single municipalities? Or must the metropolis manage to get along with the administrative machinery of a country town? It takes no extended argument to prove that municipal problems become more difficult as cities grow in size, that questions relating to police and fire protection, to the control of public utilities, the supplying of water, the provision of modern methods of sanitation and of public recreation facilities, and to the whole host of minor metropolitan services, all contribute to make the necessary administrative machinery of a large city somewhat elaborate. Certain broad lines of organization can profitably be followed in all cities, great or small; but the details of the governing mechanism ought to be adjusted to the problems with which it will have to cope.

Some examples.

As a result of the rigid application of the Ohio code of 1902 to all cities in the state, some of the larger municipalities have been heavily handicapped in their efforts to deal with local problems. The city of Cleveland, for example, has found itself unable to prevent the disfigurement of its own streets by signs and billboards, to provide public lectures in its schools, to establish rules relating to the isolation of persons afflicted by tuberculosis, and to do many other things which its council has sought to accomplish by ordinances since 1902, — and all because no general powers covering such matters had been conferred upon all the cities of the state by the municipal code. Apart altogether from the merits or the defects of these proposed regulations, it may very well be urged that a system which prevents a city from providing for its own citizens any service not also provided by all its neighbors is supported neither by common sense nor by considerations of civic progress. Something

may be said in favor of statutes that apply uniformly to all cities of about the same size, but it does not follow that two cities with equal populations will have the same problems to face. The texture as well as the size of the population must be taken into account. Such sweeping reductions of all cities to the same plane as that made by the Ohio code is therefore quite at variance with both reason and experience.[1]

Constitutional classification of cities.

Recognizing the undesirability of too strict a rule, and at the same time realizing how a legislature will abuse its powers if left free to classify cities as it thinks fit, some other states have endeavored to steer a midway course by incorporating in the constitution itself the classification of municipalities that seems to be warranted by the existing circumstances. Such constitutions divide cities into three or four groups, usually on a basis of the population, and require that statutes passed by the legislature covering matters of municipal government shall apply to all the cities within at least one of these groups. This is in many ways an improvement upon the crude plan of prohibiting all special legislation, and at the same time it has many advantages over the practice of permitting the legislature to exercise an unfettered hand in the way of special law-making. The chief objection is that such classifications are artificial, taking little account of real differences between cities of approximately the same size, and as a rule making no provision for the passage of a city from one class to another.

The New York plan.

A somewhat unusual and original method of dealing with the matter was some years ago put into operation in New York State. Although the policy of classifying cities

[1] The Ohio Constitutional Convention of 1912 incorporated in its draft of a new constitution for that state a series of municipal home-rule provisions giving municipalities power either to frame their own charters or to adopt by local referendum any general or special charter law which the state legislature may pass. The new constitution has been adopted by the voters of the state and will go into effect on January 1, 1913.

according to their size, and of requiring uniformity of legislative action with respect to all municipalities within each class, is there regarded as a good plan for ordinary use, yet it is recognized that there may be good reasons for permitting departures from it, and that such departures, in the form of special legislation for individual cities, ought to be allowed under proper safeguards. The best safeguard, as it appeared to those who framed the New York constitution, is the necessity of consulting the authorities of the city affected by the special statute. Hence the constitution groups the cities of the state into three classes, and permits the legislature to pass any law applying to all the cities in any one of the three classes without consulting the authorities of such cities.[1] Legislation applying to a single city may also be enacted, but in such cases the city concerned must be consulted. When any measure applying to a single city (or to less than the whole number of cities in a class) has passed both branches of the legislature, it must be sent to the mayor of that city, who must return it within fifteen days with a declaration that it is or is not acceptable to the city authorities. If it is acceptable, it goes forward to the governor for his consideration, as in the case of other bills; if it is not acceptable, it must be passed again by the legislature before it can be sent to him for approval. In actual practice, however, the New York plan has not proved very effective in safeguarding the cities from special legislation. A somewhat different plan was provided in an amendment made to the constitution of Illinois eight years ago (1904). This provision placed a check upon the right of the state legislature to pass special acts for the government of Chicago, by prescribing that no such special act should go into operation until after its adoption by the voters of Chicago at a referendum election.

[1] Art. xii. § 2.

Under this arrangement it has been found that while Chicago does not always get what its people want in the way of legislation they can at any rate repel attempts to force obnoxious measures upon them. All this was very well shown in 1907 when the city failed in its efforts to get a new charter satisfactory to its own people but at the same time kept the legislature from imposing upon the city charter provisions which the voters did not want. It is significant that the new constitution of Michigan includes provisions for local referenda on special legislation relating to any city of that state.

The sphere of state control.

Yet, in spite of all these constitutional limitations, the state legislatures have a broad sphere of action in relation to municipal affairs, and they have used their powers unsparingly. In the larger cities, legislative interference with the organization and functions of municipal administration has been so unremitting as frequently to constitute an obstacle to the development of any sound local traditions. In many cases, however, the arm of the legislature has been put forth in local affairs to good purpose and with excellent reason; for uncontrolled local administration is liable to become slovenly and even corrupt. When, for example, the police administration of a large city has come to be hopelessly honeycombed with the by-products of local politics, so that the laws of the state stand disregarded, it is idle to urge that legislative interposition in the interest of law and order must be forever forestalled by some dogma of political *laissez-faire*. Legislatures have interfered in such cases, and they ought to do so whenever the situation warrants. So, also, in their efforts to deliver cities from the bondage of spoilsmen through the application of civil-service laws, and in establishing safeguards against the improvidence of municipal authorities, the legislatures have acted quite defensibly, even if sometimes

in a partisan spirit as well as in violation of local sentiment concerning the natural rights of autonomous municipalities.

Motives of special legislation.

But not all legislative interference in the affairs of cities has been prompted by any such proper motives; much of it, on the contrary, has been actuated by an ill-concealed desire to serve purely partisan or personal ends. To help the dominant political party, or to gain the favor of public-service corporations, state legislatures have times without number betrayed the best interests of the larger cities and set the will of the citizens at naught. Not a session passes but the legislatures of Massachusetts, New York, and Pennsylvania deliver their grist of special enactments for the benefit of Boston, New York City, and Philadelphia. It would be nonsense to assert that their prolific output of special legislation is needed or desired by these cities, or that it would ever be forthcoming if the cities themselves had power to order it otherwise. From 1885 to 1908 the Massachusetts legislature passed no fewer than four hundred special laws relating to Boston, with the result that a volume containing the revised state statutes affecting a single city filled more than six hundred closely-printed pages.[1] Many of these special acts, if not most of them, embodied ill-considered, unnecessary, and primarily partisan legislative action. Yet the legislature of Massachusetts does its work carefully, and professes to have as much respect for the rights of the municipality as have the legislatures of most other states of the Union.

The home-rule charter system.

Of the various methods of protecting cities against over-meddlesome legislatures the most effective is that known as the "home-rule charter" system. This plan appears to have had its origin in the Missouri constitution of 1875, which gave cities of over 100,000 population the right to

[1] *Statutes relating to the City of Boston* (ed. T. M. Babson, Boston, 1908).

frame and enact their own charters.[1] By the provisions of the constitution the voters of the city might elect a charter board of thirteen members, — in other words, a miniature constitutional convention, — which was empowered either to frame a new city charter or to revise an old one, its work when finished to be submitted to the qualified voters at a regular election. During the first quarter-century following its adoption this system gained little headway outside the state in which it originated; in 1900 it had spread to three other states only.[2] Within the next ten years, however, five more states incorporated in their constitutions the principle of the Missouri plan, and most of them made it applicable to smaller as well as to larger cities.[3]

How home-rule charters are made.

Among these nine "home-rule charter" states there are considerable differences in the process and the machinery of charter-making. In some of them the initial step in the adoption or the revision of a municipal frame of government may be taken on petition of a prescribed number of voters;[4] in others the city council must make the first move; and in one state, Minnesota, the initiative must be taken by the district court.[5] In all cases (except in Minnesota) the actual work of drafting a home-rule charter is intrusted to a commission commonly called a board of freeholders, made up of from thirteen to twenty-one members chosen by popular vote, usually at large, but in some cases

[1] Art. ix. §§ 16–17.

[2] Constitution of California, 1879, art. xi. §§ 6–8; constitution of Washington, 1889, art. xi. § 10; constitution of Minnesota, art. iv. § 36 (adopted in 1898). For the general history of the movement during this period, see M. R. Maltbie's paper on "City-made Charters," in *Yale Review*, XIII. 380–407 (February, 1905).

[3] Colorado in 1902, Oregon in 1906, Oklahoma in 1907, Michigan in 1908, and Arizona in 1910.

[4] The percentage varies from 5 per cent in Colorado to 25 per cent in Washington.

[5] Constitution of Minnesota, art. iv. § 36.

by wards; and in all cases the document, when finished, is submitted by referendum to the qualified voters of the city. If more votes are cast for it than against it, the charter usually goes into effect; but in some states more than this is required. In Minnesota the charter commission is appointed by the district court and an affirmative popular vote of at least four-sevenths is demanded; in Michigan the freeholders' charter goes first to the governor and if he disapproves it a two-thirds vote at the local referendum is necessary to put it into force; in California the charter does not become effective until the legislature has also approved it;[1] and in Oklahoma it has to be submitted to the governor of the state, who is, however, required by the constitution to sign it unless it appears to be in conflict with the general statutes of the state. Amendments to a home-rule charter may usually be initiated and ratified in the same way.[2]

Objections to the system.

The chief objection urged against the system of home-rule charters is that it gives the voters of individual municipalities unwarranted freedom in determining things which may be of paramount interest to themselves, but which are also of great concern to the state as a whole. In other words, it is urged that there can be no clear line of demarcation between functions and responsibilities which are strictly municipal and those which appertain to the state. Since, for example, state and municipal elections are often held on the same day, with the same ballots, the same officers in charge of the polls, and the same securities for fairness, it may well be questioned whether the state may safely permit each municipality to be a law unto itself

[1] The legislature must, however, approve or reject the charter as a whole; it can make no amendments.

[2] Details of the methods in vogue in the various states may be found in *Comparative Legislation Bulletin*, No. 18 (on "Municipal Home Rule Charters"), issued by the Wisconsin Library Commission, Legislative Reference Department, Madison, 1908.

in matters relating to elections. So also with reference to police administration. The city's policemen are appointed by the municipal authorities, and are paid by them; but the chief function of the police is, after all, the enforcement of state laws, and in most states the courts have upheld the doctrine that they are state officers. Ought, then, the principle of local autonomy to be unrestricted in matters relating to the appointment, organization, discipline, and functions of municipal police? So, again, if one considers such matters as the organization of municipal courts and the administration of local justice, the system of compulsory elementary education, the assessment of taxes, and the exercise of borrowing powers, one finds that the line of cleavage between matters of municipal and state jurisdiction is not so easily drawn as some advocates of the home-rule charter system seem to imagine. A recognition of this fact has forced the courts in home-rule charter states to decide that municipal charter provisions cannot supersede the general state laws relating to police administration, election machinery, the administration of justice, the school system or in any matter which is of more than purely local concern; and the upshot of this ruling is to throw upon the courts rather than upon the legislature the determination of the question as to how far municipal autonomy may be infringed in the general interest.[1]

Limitations upon the system:

At best, there must be some important limitations upon the freedom of cities to deal in their own way with what seem to be their own local affairs. Just what these limitations ought to be and how far they should extend is something upon which few men will agree; but in general the following propositions will not be subject to very serious dispute. In the first place, the exercise by cities of the

[1] See the list of cases cited in Eugene McQuillin's *Law of Municipal Corporations* (6 vols., Chicago, 1911–1912), I. 309.

power of taxation ought to be closely guarded in the general laws. Taxation is essentially a sovereign function; it gives to authorities a weapon which may very readily be misused; hence uncontrolled liberty to impose taxes might enable the cities to put grave difficulties in the way of general state administration. The power to tax is the power to destroy; it is therefore not a function which the state should delegate without reservation to any subordinate authority. (a) taxation;

So, too, with regard to the police power, which in its broader sense is always committed by the constitution to the state legislature. Since the preservation of the public health, safety, and morals ought to be the first care of the state, the police power should never be surrendered to any subsidiary corporate authority. Again, when the same voting-lists are used in state and local elections, or when pollings are held on the same day and in the same places, it seems best that the hand of the state should be unrestrained by local regulations. Many considerations make it desirable, too, that the qualifications for voting, the methods of compiling the lists, the machinery of the poll, the securities against unfair practices, and the provisions affecting recounts should be uniform throughout the state. They cannot be uniform if each city is allowed to make its own rules in such matters. Or take the field of municipal expenditures and indebtedness. Here again there is much to be said for statutory regulations which require city councils to make their appropriations in a business-like manner, which provide proper safeguards against payment of public monies without due warrant, which require municipal treasurers to make their annual reports in a uniform way, and which authorize some state official to see that these rules are honored in the observance. (b) police; (c) election regulations;

Likewise, the right to borrow money without interference

(*d*) borrowing;

is not a power that can safely be granted to cities. It is plausible to urge that taxpayers should be permitted to do as they will with their own financial credit; but the right of a city to borrow its way into bankruptcy does not appear to be self-evident. Whether restrictions upon municipal borrowing should take the form of a general statutory debt limit, as in New York and Massachusetts, or whether each proposal to borrow should be dealt with on its individual merits by a state authority, is an open question, with the lessons of history pointing mainly toward the latter method;

(*e*) education and philanthropy.

but that there should be reasonable state restriction or supervision of some kind is scarcely to be gainsaid. Finally, education and charity can hardly be accounted purely local functions. Uniformity of organization and method in both these fields of civic effort, though by no means imperative, seems to be desirable; otherwise there is liable to be an overlapping of undertakings, attended by wastefulness and the penalizing of one municipality for the sins of another.

Additional restrictions in metropolitan areas.

When several cities are contiguous, or even in the same general sphere of communication, there are additional grounds for state interference with local freedom. Freedom here means independence of action, which is another way of saying that public services will be so uncoördinated as to be detrimental to the best interests of the whole district. Take the Boston metropolitan district as an example. Within fifteen miles of Beacon Hill there are no fewer than thirty-nine cities and towns, each with its own municipal organization. To allow all these municipalities entire freedom of action in the matter of making arrangements with public-utility corporations would be to inaugurate a régime of franchise chaos. No public-service corporation could give much satisfaction were it required to deal with thirty-nine separate authorities. A somewhat analagous situation exists in and around Chicago where the Illinois

Traction Company operates the street railways and the electric lighting plants throughout a wide area comprising many cities. In such cases, therefore, the state legislature may, in the absence of any general metropolitan authority, very properly reserve to itself the final decision in matters affecting public-service franchises. Limitations on municipal autonomy may, indeed, go further in such instances. When there is a common interest, as there may be in a scheme of district water-supply, sewerage, parks, or general planning, there should be common control; and, if the municipalities concerned are not willing to be federated into a single unit, state supervision of all projects affecting several cities seems to be about the only practicable avenue of progress. The principle of permitting cities to do things in their own way, as the home-rule charter plan proposes, must therefore be subject to important limitations.

Advantages of the home-rule charter system.

On the other hand, there are some sound and cogent reasons for the extension of the plan. One of these lies in the increasing difficulty with which legislatures find time to consider adequately requests that come forward at each session either for new charters or for amendments to existing ones. In Massachusetts, at the legislative session of 1911, petitions for new charters came from ten cities, some of which sent not merely one fully-framed proposal ready for enactment into law, but two or three of them. A dozen other cities asked for one or more charter amendments. Of proposals to amend the charter of Boston the legislature found itself confronted with at least a score;[1] and it is within bounds to say that at this single session there were presented to it at least one hundred measures, each of which would, if adopted, have been, in effect at least, an amendment to

[1] At the legislative session of 1912 no fewer than 68 bills were sent to the legislature by the mayor of Boston alone. Of this number less than a dozen were enacted into law.

Inadequacy of consideration given to charters by legislatures.

the charter of some city of the commonwealth.[1] To allege that these measures received, or could receive, much more than a hasty survey from a body of nearly three hundred legislators would be to attribute to the law-makers of Massachusetts the power to achieve a physical impossibility. Moreover, according to the report of a commission appointed a few years ago by the governor of West Virginia to examine this situation, the host of charter matters which come before the legislature at every session not only fail to obtain adequate study and discussion for themselves, but they seriously impede the consideration and passage of important legislation affecting the people of the state as a whole. Testimony to the seriousness of this impediment can be adduced from the legislative journals of almost every state where the special-charter system prevails; and the situation does not seem to be much better in states where legislation for cities is by general law, since scores of general amendments come forward at every session. Upon a conservative estimate, fully one-third of the entire time of the Ohio legislature has been occupied in recent years with local measures proposed in general form. As cities continue to increase in number, extent, and importance, this burden upon the time and patience of legislatures will increase rather than relax. If it is not yet intolerable, it is likely to become so.

Inherent defects of legislative charter-making.

Not only does the system of home-rule charters promise that most of the legislation affecting cities shall have due discussion and consideration without impeding the progress of more general measures, but it gives some assurance that this legislation will be dealt with upon their merits by men who are in position to know most about these merits and

[1] The legislative Committee on Cities considered 85 bills; and 75 others went to the Committee on Metropolitan Affairs, not to mention dozens of measures relating directly to city administration which went to standing committees on Street Railways, Water-supply, Taxation, Public Lighting, Liquor Laws, Public Health, Election Laws, and Education.

who are most immediately concerned with them. Under the conditions that now prevail in most states this is not the case. Measures affecting the framework or the functions of city administration are too often rejected or approved on grounds entirely foreign to their merits; the controlling factor is more likely to be the attitude of this or that political faction or the interest of this or that public-service corporation. Furthermore, senators and representatives from rural districts influence and often control the action of the legislature in matters of metropolitan policy, when they have neither the requisite local knowledge nor the interest to make their influence salutary. Thus it has come to pass that New York City must make its supplication for charter amendments to honorable gentlemen from Chenango and Chemung, while the metropolitan problems of Boston must look for their solution to statesmen from Chicopee and Cape Cod. Accordingly, legislation affecting large cities, being handled by men who are qualified neither by temperament nor by training to deal with it upon its merits, must usually depend for its acceptance or its rejection upon those political or corporate influences which can determine the attitude of the "up-state representative,"—in other words, upon the relative skill in the arts of legislative manipulation mustered by its friends and its opponents. The case for municipal home-rule therefore finds its strongest argument in the conditions which exist wherever this principle of local government is disregarded. The statute-books abound with instances of enactments imposed upon cities despite their reasonable protests and contrary to their best interests, legislation which, if it had been submitted to the citizens, would never have received the indorsement of a tithe of the voters. The state gives, and the state takes away; but seldom do the citizens regard its handiwork as a blessing.

General charter laws and home-rule charters.

To the special-charter system, with its heavy burden upon the time and the temper of legislatures and its premium on lobbying and log-rolling, there are but two alternatives. One of these is the enactment of a general charter law for all the cities of the state, or of a series of general charter laws each applying to cities of a certain class. This system, however, though it may mitigate some of the evils connected with special legislation, does not, as we have seen, eliminate them altogether. The results in Ohio and in other states which have had experience with the general-charter system are not such as to warrant any enthusiastic advocacy of the plan. The other alternative is the adoption of the principle of local autonomy, subject to such reservations as the state may properly make in the interest of its own administrative efficiency. In operation this principle has demonstrated its popularity; it has proved a tolerably effective safeguard against pernicious legislative interference in matters of purely local import, and it has not been abused by those cities which have enjoyed great freedom of action under it.

Educative influence of the home-rule system.

Something may also be said for the home-rule charter system as an agency of political education. In a city that has been permitted to frame its own charter, the electorate is likely to take a keener interest in all matters affecting the organic laws of the municipality than in one in which the people are merely allowed to pass upon what the legislature presents to them. One way to excite popular interest in any subject is to create popular responsibility. In states like California and Missouri, the campaign that precedes the election of a freeholders' convention to draft a charter, the public hearings, the convention discussions, and the large attention which the press is sure to give to mooted questions, all combine to arouse interest in the fundamental questions of local-government organization.

Its influence in divorcing state and municipal politics.

It has also been argued, and with some color of plausibility, that the home-rule charter system does its share in helping to divorce state and municipal politics. There can be no doubt that the policy of permitting the state legislature to make, unmake, and amend city charters at its own pleasure and caprice has contributed to the confusion of state and local issues. So long as the charter of a city remains wholly within the range of legislative jurisdiction, it is obviously not easy to keep state and municipal issues apart, or to regard the city as having a right to a sphere of independence in politics. Only by giving the city such independence, it is asserted, can state politicians be compelled to keep their activities outside the city's gates. Although the home-rule charter system does not give complete autonomy to the municipality, it at least elevates it into a position in which its charter provisions can no longer be made the plaything of state political rivalries. Taking all these things into account, therefore, the home-rule charter system has much to commend it, despite its serious limitations and its incidental defects. Its extension to other states may be looked for within the next few years.

The practice of state interference.

Save in so far as it has been put in leash by the provisions of the federal or the state constitution, the power of the legislature over the city is supreme. The American city has no inherent authority; its charter is a grant of enumerated powers; it is the creature of the state. Naturally, then, since constitutional limitations have in most states been relatively few, interference has been unremitting. This interposition in municipal administration has taken the form either of legislative or of administrative control, usually the former. State laws stipulate in no uncertain terms what cities must or must not do. They frequently set limits to the taxing powers of city authorities; and they fix bounds beyond which cities may not incur indebtedness,

naming these boundaries, as a rule, in terms of a percentage of the city's assessed valuation. State laws determine the scope of the city's licensing power, fix the license fees, and regulate the hours during which liquor may be sold. They determine the period for which the city may grant franchises in its own streets, they make mandatory the provision of various municipal services, and they determine the duties and responsibilities of many municipal officers. "To indicate all the forms which legislative control has taken in the United States would be to enumerate practically every detail of city government from the general structure of the city organization to the salaries of firemen or the right of the city to alter the grade or the width of a street."[1] The American city has, in fact, ceased to be what it once was, an organization for the satisfaction of local needs, and has become a cog in the machinery whereby the state carries out its functions of government. This subordination of the city's autonomy to what is conceived to be the interest of the whole state has furnished an almost limitless opportunity for legislative control. State legislatures have acquired the habit, which has in some cases developed into a vice, of enacting into laws all manner of limitations upon municipal independence, and this wholly upon their own inspiration and initiative, not only without the advice and consent of the municipalities concerned, but often in direct contravention of their interests and wishes.

Ineffectiveness of legislative control over city affairs.

Legislative control of city affairs is above all things amateurish, the work of men who have no special skill or aptitude in what they undertake to do, and who often have scant knowledge of the conditions under which their enactments are to be applied. Most of it has, in consequence, been worthless or worse. Its ineffectiveness is a commonplace among municipal officers, and nowhere more so

[1] A. R. Hatton, *Digest of City Charters* (Chicago, 1906), 32.

than in those states which have been most persistent in their disregard of the claims of cities to deal with their own affairs in their own way. Massachusetts, for example, has rigid laws circumscribing the powers of cities to tax and to borrow: no city of the state may levy above the prescribed tax limit, or issue bonds beyond the allotted debt limit. These limitations, left to be self-enforcing, have, however, been evaded by all manner of subterfuges; hardly a city in the commonwealth has conformed to them either in letter or in spirit. Money is borrowed in anticipation of taxes; and in many cases these loans are not met when the taxes come in, but are renewed, frequently for year after year, by the issuance of new notes extending or taking up their predecessors. An investigating accountant recently found $200,000 of such notes in one city, and $160,000 in another. "Similar infractions of the spirit and even the letter of the law," he reported, "are common in the cities and towns of this Commonwealth."[1] The tax rate is held down under cover of debt issues; and the limitations upon bonded indebtedness are evaded either by the maintenance of floating obligations renewed year after year, or by the using up of monies supposed to be held in sinking funds. In one Massachusetts city the sinking-fund deficiency was recently found to exceed $600,000.

Administrative control; its advantages.

If legislative control cannot be made effective when it undertakes to compel the observance of a few simple rules in the field of municipal finance, how much less potent is its influence likely to be when it seeks to regulate the minutiæ of departmental administration, to deal with the details of municipal police, sanitation, or poor relief. Foreign lands, such as England, France, and Germany, having long since recognized the futility of expecting satisfactory

[1] H. N. Chase, *A Report to His Excellency the Governor . . . concerning . . . Municipal Debts and Revenue* (Boston, 1911), 7.

results through this channel of local supervision, put their trust in a system of administrative control. In England the Local Government Board and the Board of Trade are examples of administrative organs through which the central government holds the local authorities in check. In France the prefect is the ever-watchful administrative agent of the national government. In America, on the contrary, this method of guarding the interest of the state in city affairs has been used to a relatively slight extent; it is only within comparatively recent years, indeed, that it has been used at all. Its development, so far as it has proceeded, has been inspired by a growing belief in the weakness and uncertainty of control by statute, particularly in such matters as excise administration and the conduct of elections.

Development of administrative control in the United States.

Several states have taken over into the hands of their own administrative officials the enforcement of the state liquor laws, their action being prompted by a feeling that the city authorities cannot be depended upon to perform this function satisfactorily. In some states election commissioners are appointed to see that the general laws governing election procedure are carried out. In New York and Illinois a state civil-service commission supervises the work of the civil-service boards maintained by the cities, and holds them to a strict conformance with the law. In Massachusetts a state civil-service board administers the law directly, without the use of local commissions as intermediaries. In New York, Wisconsin, and other states, public-utilities commissions adjust the relations between the cities and the public-service corporations. By state boards of health and boards of education many states have increased the strictness of their administrative control over the corresponding municipal activities. In at least a few states the statistical and accounting departments of state government have enforced progress in the direction of uniform municipal book-keeping; and

their success has given rise to a movement for the establishment of state finance boards that will secure the observance of the laws relating to municipal assessment, taxation, expenditure, and borrowing.[1]

Special rules of control over certain cities.

In addition to extending administrative control to all their cities without distinction, some states have developed the practice of applying this form of supervision to particular departments of individual cities, or groups of cities, such as the police department or the sanitary department. Massachusetts, Missouri and Maryland have put under the direct administrative control of the state the police departments of Boston, St. Louis, and Baltimore, on the theory that the whole state is too much interested in the police administration of the metropolis to permit it to be left in local hands. Massachusetts has, furthermore, given to state commissions the administration of the main sewerage, water, and park systems of a metropolitan district which includes Boston and more than a score of encircling cities and towns, on the theory that in the absence of any general district authority no comprehensive policy in these important services can be worked out by the free action of many independent municipal units. Wherever a problem of public service transcends in scope the boundaries of several municipalities, the natural tendency is to call for state interposition. When these various examples are considered in their totality, it is seen that the amount of administrative control already developed by American states is larger, perhaps, than is usually supposed. On the other hand, that it is as yet crude and meagre when

[1] The course of this development has been dealt with in detail by the writers of various monographs in the Columbia University Studies in History, Economics, and Public Law: R. H. Whitten, *Public Administration in Massachusetts, the Relation of Central to Local Activity;* J. A. Fairlie, *The Centralization of Administration in New York State;* C. M. L. Sites, *Centralized Administration of the Liquor Laws in American Commonwealths;* S. P. Orth, *The Centralization of Administration in Ohio;* and W. A. Rawles, *Centralizing Tendencies in the Administration of Indiana.*

compared with the well-ordered administrative arrangements by which the various European countries provide central supervision of local government, is just as evident.[1] That it should be much less comprehensive than the systems of France and Germany is no cause for wonder; but that the United States should have fallen so far behind England in matters of local supervision through administrative agencies is not so readily explained. It is to be remembered, however, that this development has taken place in England within the last forty years. During the next forty a similar advance may be made in America. If it does, it will be a desirable advance; for administrative control is in every way preferable to that factious interference with local autonomy which we call legislative supervision. It is supervision by experts, and hence is based upon knowledge, not upon caprice; it is consistent in policy; it does not give unnecessary affront to local self-respect; and it is effective in doing what it sets out to do. The substitution of administrative for legislative supervision — that is to say, of supervision by responsible boards of trained men rather than by the desultory action of legislatures — would be an influential factor in improving the relations of the city to the state, and would thereby have a beneficial reaction upon the affairs of the city itself. A sharp distinction ought to be made, however, between state administrative *supervision* and direct state *control* of municipal activities. The latter, especially when the city is forced to pay the bills, is never popular and cannot be looked upon as affording a permanent solution of local problems.

The future relation of city and state.

The city charter, whatever the procedure under which it is secured, is the constitution of the municipality. As such, it ought to be prepared with great care as to arrange-

Drafting a city charter.

[1] These arrangements are set forth in F. J. Goodnow's *Comparative Administrative Law* (2 vols., New York, 1903), I. chs. v–vii.

ment, matter, and phraseology. So far as arrangement is concerned, the drafting of city charters has in general left much to be desired. There has been no accepted model to follow; every charter commission or legislative committee has stumbled along upon a plan of its own, so that the method of arranging matter in a city charter has rarely contributed to either clearness or symmetry. An arrangement into chapters and sections such as will put provisions of the same sort together and keep provisions relating to different branches of the city government separate from one another, which will give chapter and section headings that are really designatory and yet mutually exclusive, which will set provisions in their logical order, — an arrangement that will secure these ends would satisfy any reasonable requirement.[1]

General arrangement of provisions.

The substance of the provisions will of course depend upon the convictions, opinions, and prejudices of those who frame the charter. Their work of drafting ought to be preceded by a thorough and careful study, not only of provisions in the charters of other cities, but of actual conditions in the particular municipality with which they have to deal. There is no set of charter provisions that will fit readily the needs of all cities, or even of cities that superficially appear to be alike in their requirements. All this ought to be commonplace, but in practice it is almost everywhere disregarded. Charters are drafted to elabo-

Need of preliminary study.

[1] The following chapter headings may be suggested as indicating a suitable scheme of general arrangement: —

1. General Provisions.
2. Nominations and Elections.
3. The City Council.
4. The Mayor.
5. Administrative Departments.
6. Income and Appropriations.
7. Loans, and Appropriations therefrom.
8. The Powers and Duties of Officers.
9. Accounts and the Conduct of Business.
10. Direct Legislation.
11. Franchises.
12. Miscellaneous.

rate this or that set of principles, and frequently by men who have had no experience in municipal affairs whatever. More often than not, the framers fail to equip themselves for effective work by any study of the city's actual problems. It would be far better for our cities if every charter-drafting body would follow the example of the Boston Finance Commission, and devote a year to a relentless probe of every branch of city government before beginning its constructive work. As a rule, too much time and energy are spent in framing the political provisions of a charter, the sections relating to the methods of nomination, the machinery of election, the organization of the council, and the general powers of the mayor. Not enough attention is bestowed upon the administrative and the business provisions, those which deal with the methods of making appropriations, with the safeguards against extravagance, the restriction of the city's borrowing powers, the system of municipal accounting, the organization of the administrative departments, the methods of selecting subordinate officers, the distribution of official duties, and the relations of the municipality to public-service corporations. These are the most difficult provisions to frame properly; the proper consideration of them requires a thorough grasp of local conditions, and upon the amount of careful attention which they receive the successful working of the charter will very largely depend.

The phraseology of charters.

As to phraseology, the everyday rules that ought to find observance in the framing of ordinary statutes need to be scrupulously observed in the drafting of corporate charters. The meaning of a provision is too often hidden in a mass of legal verbiage which seems to have for its aim the violation of every rule of English composition. This is because charter-makers usually copy, so far as possible, the phraseology of something already upon the statute-

book, which has, in turn, borrowed the language of something that went before. An avoidance of all technical terms, the use of short sentences, and the policy of saying no more than is necessary to render a provision intelligible would make city charters less forbidding in length and more intelligible to ordinary citizens.

References

A great deal of useful information concerning the relation of the city to the state has been brought together in A. R. Hatton's *Digest of City Charters* (Chicago, 1906), especially pp. 1–48; in J. F. Dillon's *Law of Municipal Corporations* (5 vols., Boston, 1911), I. 140–472; and in Eugene McQuillin's *Law of Municipal Corporations* (6 vols., Chicago, 1911–1912), I. chs. iv., ix. Interesting general discussions may be found in H. E. Deming's *Government of American Cities* (New York, 1909), especially chs. iii., ix., xii.; in F. J. Goodnow's *Municipal Home Rule* (New York, 1903), chs. iv.–v., and in his *Municipal Government* (New York, 1909), ch. viii.

The relative merits of the general and special charter systems are discussed in the National Municipal League's *Municipal Program* (New York, 1900), especially pp. 36–58, 129–173; in the introduction to *The Municipal Code of Ohio* (ed. W. H. Ellis, Cincinnati, 1909); in F. J. Goodnow's *Municipal Problems* (New York, 1904), ch. iv.; and in J. A. Fairlie's *Essays in Municipal Administration* (New York, 1908), chs. v.–vi. For information concerning the development and details of the home-rule charter system, see J. F. Dillon's *Law of Municipal Corporations*, I. 110–118; M. R. Maltbie's "City-made Charters," in *Yale Review*, xiii. 380–407 (February, 1905); Amasa M. Eaton's article on "The Right to Local Self-government," in *Harvard Law Review*, xiii. 441–454 (February, 1900); a paper on "The Progress of Home Rule in Cities," by Ellis P. Oberholzer, and one on "The Home Rule Law for Michigan Cities," by G. A. Miller, in *Proceedings* of the National Municipal League for 1904 and 1909 respectively; and the bulletin on "Home Rule Charters," issued by the Wisconsin Library Commission, Legislative Reference Department. A forcible and informing presentation of the arguments in favor of the system is contained in the booklet on "Constitutional Home Rule for Ohio Cities," prepared under the direction of Professor A. R. Hatton for the Municipal Association of Cleveland.

On the art of drafting a city charter very little of any service has been written. Types of charters recently adopted in various American cities (most of them following the commission plan) are printed in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911).

CHAPTER IV

MUNICIPAL POWERS AND RESPONSIBILITIES

The city charter a grant of powers.

It has been pointed out in the preceding chapter that the city, being a municipal corporation, is the creature of the state. Like all other corporations, it owes its existence to a statute, and it has no powers save those which may be conveyed to it thereby. A city charter is accordingly a grant of authority, a delegation of powers. The exact situation has been tersely stated by the leading American authority on the law of municipal corporations. "It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers and no others. First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation, — not simply convenient, but indispensable." [1]

This principle, as has been pointed out in a well-known decision, "is fairly derived from the nature of corporations. In aggregate corporations, as a general rule, the act and will of a majority is deemed in law the act and will of the whole, and therefore is to be carried into effect as the act of the corporate body. The consequence is that a minority must be bound, not only without but against their consent. Such obligation may extend to every onerous duty, to pay money to an unlimited amount, to perform services,

[1] J. F. Dillon, *The Law of Municipal Corporations* (5 vols. Boston, 1911), I. 448–449. On the general subject of municipal powers, see also Eugene McQuillin, *The Law of Municipal Corporations* (6 vols., Chicago, 1911–1912), I. ch. x.

to surrender lands, and the like. It is obvious, therefore, that, if this liability were to extend to unspecified and indefinite objects, the citizen, by being a member of the corporation, might be deprived of his most valuable personal rights and liberties. The security against this danger is in a steady adherence to the principle stated, that corporations can only exercise their powers over their respective members for the accomplishment of limited and well-defined objects."[1]

Construction of charters.

Now, it is a general rule of legal interpretation, in keeping with the principles just enunciated, that the charters granted to corporations shall be construed strictly. In other words, the onus of proving the possession of powers by implication is upon the corporation. In general, however, this rule of interpretation has not been rigorously applied to the ordinary clauses of charters incorporating cities, — to those, for example, relating to the organization of municipal government and the functions of the regular municipal departments. In regard to the construction of such clauses the courts have been lenient; but in the interpretation of grants of powers which are "out of the usual range, or which may result in public burdens, or which, in their exercise, touch the right to liberty or property, or, as it may be compendiously expressed, any common law right of the citizen,"[2] — in all such matters the rigor that is applied to the charters of private corporations is applied to city charters as well. One of the powers thus out of the ordinary range is that authorizing a city to engage in any sort of public-utility enterprise not directly connected with the police power of the municipality.

[1] Spaulding *v.* Lowell, 23 *Pickering* (Mass.), 71. This decision may be conveniently found in J. H. Beale's *Selection of Cases on Municipal Corporations* (Cambridge, 1911), 240.

[2] J. F. Dillon, *Law of Municipal Corporations*, I. 452–453.

Rules of interpretation.

When a power has been expressly granted to a city by statute and the mode of exercising this power has not been stated in express terms, a liberal amount of discretion is allowed in the choice of methods. The express grant of a power carries with it the implication of authority to provide the machinery for carrying such power into operation; and as to the best means of doing this the regular municipal officials are allowed full discretion, provided this discretion be used in a reasonable way. Thus, when permission to erect and maintain a market-house has been given to a city, the courts will not, within the bounds of reason, interfere with the city authorities in determining the location or the size or the design of the building.[1] Or when permission "to open streets and make public improvements thereon" is given, the methods of opening and improving are left to the discretion of the appropriate city authorities, unless they have been prescribed by statute.

Scope of powers usually granted.

The powers commonly granted to a municipal corporation, whether in express words or by implication, are not easy to classify, for they cover a considerable range. In most cities, however, they may be grouped under six main heads, — namely, the general legislative power of a subordinate corporate body, the police power, the power to tax and to borrow, the power to appropriate and spend money, the power to enter into contracts, and the power to acquire, manage, and dispose of property. Every American city has all of these general powers in greater or less degree, but rarely are they alike in any two cities. In none is the range of power under any head unlimited; and the limitations vary not only in different states, but even in different cities of the same state. What the exact scope and limits of a given city's powers are under each of these heads is something ordinarily known to no one but the

[1] Spaulding *v.* Lowell, 23 *Pickering* (Mass.), 71, 80.

city's legal adviser, and not always even to him. An accurate knowledge of the subject can be had only through a study of the constitutional provisions relating to cities, of the general statutes covering municipal affairs, of the city charter and the amendments to it, of the special laws relating to the city, and of the judicial decisions bearing upon them. To master all this is not an easy task.[1]

Mandatory and permissive powers.

In the second place, the statutory powers of a city may be either mandatory or permissive. In other words, a city may be invested either with powers which it must exercise or with those which it may exercise if it chooses to do so. Whether the power falls into one class or the other depends upon the intention of the legislature that granted it; and this intention is usually made clear by the language of the enactment. If the statute provides that a city "shall" or "must" do something, the power thus conferred is mandatory, and it is not within the discretion of the city authorities to refrain from exercising it; but if a statute provides that a city "may" do something, or that "it shall be lawful" for a city to do something, then the power conferred is, as a rule, permissive, and the municipal authorities may or may not exercise it. They may not always use their discretion, however; for powers granted in permissive language may be mandatory in effect. The courts have in some instances held that a power conferred in permissive phraseology must be exercised if there is a clear public benefit to be derived from it.[2]

[1] A group of decisions on the general powers of municipal corporations may be found in J. H. Beale's *Selection of Cases on Municipal Corporations*, 240–473.

[2] "It is the settled doctrine in New York, for example, that where a public or municipal corporation or body is invested with *power to do an act which the public interests require to be done*, and the means for its complete performance are placed at its disposal, not only the execution, but the proper execution of the power, may be insisted on as a duty, though the statute conferring it be only permissive in its terms."—Mayor of

Powers may not be delegated.

But whether derived from express language or by implication, and whether mandatory or permissive in effect, no powers which are conferred, either by charter or by other statute, upon the governing authorities of a city, to be exercised as they may deem best, may be delegated to any subordinate official or body. Powers committed to the mayor, to be used at his discretion, cannot be delegated by him to a board or a commissioner; powers given to the city council cannot be transferred by it to the mayor or to a committee. All this, however, does not apply to purely ministerial functions, or, in other words, to the carrying out of administrative details. The supreme court of the United States has held that the performance of such work by agents does not constitute an unlawful delegation of powers by a city council.[1] An ordinance empowering the city engineer to make a selection between two kinds of paving material, or to determine the grade of a sewer, would furnish an example of delegated ministerial functions. The line between discretionary and ministerial offices is not very sharply drawn; but the disposition of the courts seems to have been, on the whole, to decide against delegation in all very doubtful cases. Any concession to a subordinate board of officials which seems capable of embarrassing the regular governing organs of a city in their exercise of governmental powers, or of restraining them from a full performance of their public functions, is usually deemed an unlawful delegation.[2]

The rule in Hitchcock v. Galveston.

Municipal ordinances.

The usual medium through which the governing authori-

New York *v.* Farze, 3 *Hill*, 612; cited by J. F. Dillon, *Law of Municipal Corporations*, I. 466. See also the discussion of mandatory and discretionary powers in Eugene McQuillin's *Law of Municipal Corporations*, I. 836–838.

[1] Hitchcock *v.* Galveston, 96 *U. S.* 341.

[2] See the list of cases given in Eugene McQuillin's *Law of Municipal Corporations*, I. 842.

ties of the city (*i.e.*, the mayor and city council, or, in cities that have adopted the system of government by commission, the commission) put the powers of the municipal corporation into activity is the ordinance. Within the scope of this term are included all "local laws of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality."[1] Powers given to a city by its charter or by other statutes are usually coupled with a provision that the city council or other legislative organ of city government shall have authority to carry these powers into operation by appropriate ordinances. It is by ordinances that most cities have organized their various administrative departments. One ordinance deals with the police department, another with streets and street traffic, another with fire protection, another with building regulations, and so on. Each prescribes in detail not only the way in which the department shall be organized, its personnel, and the relation of the various officers, but, even to minute particulars, the manner in which its work must be carried on. In some cases the charter or other statutes give to certain administrative bodies, such as the board of health or the tenement-house commission, or even to a single official, the power to make rules and regulations within their respective fields of jurisdiction. These are termed "regulations," not ordinances; but in general they have all the force of ordinances, and they are subject to the same general restrictions.[2]

[1] Eugene McQuillin, *The Law of Municipal Ordinances* (Chicago, 1904), 2. Judge Dillon (*Law of Municipal Corporations*, II. 892) defines the term "ordinances" as including all "acts or regulations in the nature of local laws passed by the proper assembly or governing body of the corporation."

[2] Both *ordinances* and *regulations*, as above defined, are sharply distinguished from *resolutions* or *orders*. Ordinances and regulations almost

Limitations upon the ordinance power.

In the exercise of their powers by ordinance (or by regulations) the governing bodies of the city are subject to several important limitations. Some of these are of a general nature, merely representing the application to municipal law-making of those principles which apply to state legislation. An ordinance must not, for example, be inconsistent with the provisions of the charter or the statute under which it is passed. When a state statute and a municipal ordinance are in conflict, the latter is of course invalid. To be valid, likewise, a municipal ordinance must be passed with due respect to the prescribed formalities. An ordinance is more than a mere resolution of the council; when there are standing requirements that it must be introduced in a certain way, be submitted to three readings, and be approved by the mayor before going into effect, these formalities must be observed. But in addition to these general rules there are some of a more special character.

1. General limitations.

2. Ordinances must be reasonable.

In the first place, an ordinance must be reasonable or it will be voided by the courts; but it is presumed to be reasonable until the contrary is shown. Unreasonableness can be demonstrated either by an examination of the ordinance itself or by an investigation of a specific situation to which it would apply. There are, of course, no general rules for determining what is reasonable and what is not; each case must be decided on its own merits. Ordinances have, however, been so often attacked in the courts on this ground

invariably prescribe permanent rules of conduct or government; resolutions or orders provide temporary rules only. A resolution may ordinarily be passed by the council alone, whereas an ordinance usually requires the approval of the mayor, or of the chief executive authority. The legislative powers of the corporation must, as a rule, be exercised by ordinance; its day-to-day ministerial functions may often be carried out by resolutions. See the cases bearing on these points in McQuillin, *Law of Municipal Ordinances*, 4; and Dillon, *Law of Municipal Corporations*, II. 893–896.

that there is now at hand a considerable body of precedents to guide the legal authorities of a city in advising a city council whether or not any proposed measure would be upheld.[1] As a rule, the courts have given the ordinance the benefit of any serious doubt; the burden of proof is put upon him who asserts unreasonableness. It may not infrequently happen that an ordinance is reasonable as applied to one situation and unreasonable as applied to another. In such cases it may be enforced in one case and prove to be unenforceable in the other. An ordinance is *prima facie* unreasonable, and therefore void, if it is oppressive in character; it must not be inconsistent with a reasonable degree of personal liberty.[2] Thus, a Baltimore ordinance which forbade any person to use a steam-engine within the city limits except on permission of the mayor was held to be oppressive and void because it sought to put within the discretion of a single officer a practically absolute power over the use of steam in the city.[3] It should be borne in mind, however, that if an ordinance is passed under a special statutory grant of power, and in accordance with the terms and tenor of such grant, the reasonableness of the ordinance cannot usually be attacked. Moreover, it is for the judge, not for the jury, to decide whether an ordinance is reasonable or not.

3. Ordinances must not make unwarranted discriminations.

In the second place, ordinances must not make special or unwarranted discriminations. When they grant privi-

[1] An excellent illustration of the distinction between an unreasonable and a reasonable ordinance may be found in Northern Liberties *v.* Northern Liberties Gas Co. (12 *Pa.* 318), a Pennsylvania case decided in 1859. An ordinance forbidding the gas company to open a paved street *at any time* for the purpose of laying gas-pipes from its trunk main to houses abutting the street was held to be unreasonable; one prohibiting it from thus opening a paved street *from December to March* in each year was declared to be reasonable. See McQuillin, *Law of Municipal Ordinances*, 188, 300.

[2] *Cf.* J. F. Dillon, *Law of Municipal Corporations*, II. 929.

[3] Baltimore *v.* Radecke, 49 *Md.* 217.

leges, they must make these privileges open to all upon the same terms and conditions; when they impose restrictions, they must make them applicable to all persons in the same circumstances or the same class. An ordinance must not single out an individual and compel him to do something under penalty of fine; it must not discriminate in favor of residents as against non-residents,[1] or in favor of some residents as against others engaged in the same business.[2] On the other hand, an ordinance is not to be regarded as discriminatory because, although its provisions are couched in general terms, its force happens from the nature of things to fall upon one individual or concern. It is within the power of the city council to make classifications (provided they be reasonable ones), and to restrict the application of an ordinance to any one class. The general rule, which applies alike to statutes and to ordinances, was firmly stated many years ago in a notable supreme-court decision.[3]

4. Ordinances must not unreasonably restrain trade.

Finally, an ordinance must not have the effect of unwarrantedly interfering with or restraining trade. If it does, it will be held void. This is not to imply, however, that ordinances may not subject trade to reasonable regulations. It has, for example, been decided in a well-known

[1] "The specific regulation of one kind of business, which may be necessary for the protection of the public, can never be a just ground of complaint because like restrictions are not imposed upon other business of a different kind. The discriminations which are open to objection are those where persons engaged in the same business are subject to different restrictions, or are held to different privileges under the same conditions." — Soon Hing *v.* Crowley, 113 *U. S.* 703, in Macy's *Cases*, 214.

[2] Ex parte Frank, 52 *Cal.* 606.

[3] "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of justice is still within the prohibition of the Constitution."— Yick Wo *v.* Hopkins, 118 *U. S.* 356, printed in J. B. Thayer's *Cases on Constitutional Law* (2 vols., Cambridge, 1895), I. 774.

case that ordinances requiring coal to be weighed at the city scales are entirely allowable.[1] Those, on the contrary, which restrain competition for public works have generally been held void.[2] Every regulation of trade is, of course, a restraint upon it in some direction; but if the measure seems designed to secure a public good, and if it imposes no more restraint than is necessary to achieve this end, the ordinance will be sustained. Not that it is enough merely to avow a public purpose; ordinances bearing in their preambles specious professions of solicitude for the public welfare have often been disallowed. It must be demonstrated that regulation in the public interest is plainly desirable. On this paramount consideration for the public health, safety, and general welfare is based the system of requiring licenses to be taken out by all persons engaged in certain trades or occupations, a requirement which forms part of the machinery employed by the city in the exercise of its "police power," and which does not within reasonable limits operate against the citizen's right to an unrestrained pursuit of this trade or calling. As a monopoly, on the other hand, is a restraint of trade, a municipal corporation cannot by ordinance grant to any company an exclusive right to use its streets unless it has obtained from the legislature express permission to do so.[3] Exclusive franchises, given without express statutory authority, have usually been regarded as not warranted by any considerations of public welfare. Furthermore, no franchise will be construed to be exclusive by implication; it must say in unmistakable terms that it is so.[4]

[1] Davis *v.* Anita, 73 *Iowa*, 325.
[2] Atlanta *v.* Stein, 111 *Ga.* 789.
[3] Long *v.* Duluth, 49 *Minn.* 280.
[4] On the whole question of municipal powers in the matter of exclusive-franchise grants, see O. L. Pond, *Municipal Control of Public Utilities* (New York, 1906), ch. viii.

Effect of these restrictions.

It will be seen from the foregoing discussion that not only are the powers of the city limited to fields expressly or impliedly plotted out for it by legislative enactment, but that even within these limits the municipal corporation must put its authority into operation under strict limitations. Such powers as it has obtained by general grant it must use in a reasonable way, without discrimination and without unwarranted interference in the common right to freedom of trade. The logical result of all this circumscription is that cities are constant suppliants at the bar of the legislature. If there be any doubt as to the scope of their powers, or as to the manner in which their authority may be exercised, the easiest course, as a rule, is to seek such specific statutory action as will make everything clear. It is in considerable degree to this situation that the plethora of special legislation commented upon in the preceding chapter owes its existence. The European practice of permitting a city to do its work under broad grants of power, of assuming that it may do whatever it is not forbidden to do, and of giving it wide freedom to choose its own manner of doing it, has done much to save the municipal systems of France and Prussia from the maelstrom of special legislation. It is, moreover, one of the ironies of political history that the necessity of constant mendicancy for doles of power should exist in a land where there is a historic pride in free local institutions.

Responsibilities of municipal corporations.

In all well-ordered governments power goes hand in hand with responsibility. In the nation and the state this responsibility is popular rather than legal; in other words, the government is responsible to the people at the polls, not to individuals who may desire to hale it before the courts of law. A national or a state government is legally irresponsible, save in so far as it may of its own free will submit itself to the jurisdiction of courts. This it may do,

and often does, by special statutes permitting suits to be brought against it. A city, on the contrary, is in no such favored position. Not only is the municipal government responsible to the voters, but the corporation may be cited before the ordinary courts of justice, whether with or without the consent of its governing authorities, and may there be made the defendant in suits at law. The city is liable to be sued on actions of contract, or for the torts of its agents, or in causes arising out of its possession of municipal property. Its liability is not, however, equally complete in all three classes of actions.

Contracts.

In the matter of contracts the city is subject to substantially the same rules as are applied to individuals or to private corporations.[1] A suit that can be successfully prosecuted against an individual can in the same essential facts be prosecuted against a municipality. In an action for breach of contract the city can urge only the same pleas and defences that are open to the individual defendant; it has no immunities by reason of being a public corporation. It matters not whether the contract has been entered into for a governmental or for a commercial purpose; the degree of liability for breach is the same.[2]

Torts.

In the matter of liability for the torts, or civil wrongs, committed by its agents or employees, on the other hand, the status of the city is not so simple. A municipal corporation, so far as the acts of its officials are concerned, stands in a dual position. On the one hand, it is part of the machinery created and used by the state for carrying out the sovereign functions of the latter. For the improper

[1] The reason for this is well stated in F. J. Goodnow's *Municipal Home Rule* (New York, 1906), 106.

[2] The municipal corporation may, of course, like any other corporate body, set up the defence that the contract was entered into outside the scope of its chartered powers, or that it was not made by its proper officers or agents.

exercise of these functions the state itself has no legal liability, nor can any attach to those who carry out these functions under its authority. The city, therefore, so far as it is an agency of state government performing governmental functions, cannot be held responsible for the torts of its officials or employees. But the city is also a corporation, engaged very often in commercial or semi-commercial enterprises. It is a purveyor of water, gas, or electricity. As such it is not performing strictly governmental functions, and hence must assume the same liabilities as a private corporation engaged in the same undertakings.[1]

Liability for the use of the municipal ordinance power.

In keeping with these general principles, it may be asserted that a city is not liable to civil prosecution either for the non-exercise of the powers of subordinate legislation given to it by statute or for the manner in which it exercises them. It is not liable for its neglect to provide ordinances, or for its failure to enforce them when provided. Such liability may be expressly established by statute, but it will not be implied. If an individual is injured through the failure of the city council to provide or to enforce an ordinance regulating the storage of explosives, he can recover no damages from the city treasury.[2] Nor does the failure of the municipal corporation to exercise its statutory power to abate a nuisance give a person who is injured by the existence of such nuisance an enforceable claim against the city,

[1] "There are two kinds of duties which are imposed upon municipal corporations: one is that kind which arises from the grant of a special power in the exercise of which the municipality is as a legal individual; the other is of that kind which arises, or is implied, from the use of political rights under the general law, under the exercise of which it is as a sovereign. The former power is private and is used for private purposes; the latter is public and is used for public purposes." — Lloyd *v.* the Mayor, 5 *N. Y.* 374. See also J. H. Beale, *Selection of Cases on Municipal Corporations*, 594.

[2] McDade *v.* Chester, 117 *Pa.* 414, in Beale's *Selection of Cases on Municipal Corporations*, 583.

even though he has duly notified the officials of the nuisance and requested them to use their statutory powers in securing its abatement.[1] Most cities have ordinances regulating the construction of buildings in the interest of protection against collapse or conflagration; but if such an ordinance be not enforced, and if injury to the persons or property of private individuals be caused thereby, no action for damages can be successfully prosecuted against the municipality.[2] The United States supreme court has gone even farther, by laying down the principle that, even if a city misinterprets the scope of its statutory powers and undertakes to do in a governmental capacity what it has no authority to do, it cannot be successfully sued in an action of tort.[3] The power to enact and to enforce ordinances is a governmental power, discretionary in its nature; and for negligence or mistake in connection with it the city has no legal liability.

Responsibility for the acts of municipal agents engaged in governmental functions.

A municipal corporation must of necessity carry out its functions, whether governmental or commercial, whether public or private, by means of officials, agents, and employees; and by a general principle of law it becomes responsible for what some of them do. Certain classes of city officials and employees are engaged in purely governmental or public work, others are just as clearly employed in commercial or private undertakings conducted by the city. For the acts of the former class the city is not liable, but it is held accountable for torts committed by the latter in the discharge of their duties. A good example of the class engaged in the performance of strictly public or governmental functions is furnished by the fire department. In the absence of express statutory provisions creating liability, the municipality is not subject to claims for damages

[1] Davis *v.* Montgomery, 51 *Ala.* 139; Kiley *v.* Kansas, 87 *Mo.* 103.
[2] Forsyth *v.* Atlanta, 45 *Ga.* 152.
[3] Fowle *v.* Alexandria, 3 *Peters*, 398.

caused by the negligence or the inefficiency of this body.[1] Other officials and employees who are regarded as exercising public functions of this class are those connected with the parks department,[2] with the city's hospital and health service,[3] or with the municipal administration of poor relief.[4] The doctrine which exempts the city from legal responsibility for negligence or inefficiency on the part of such officials often results in loss to private individuals, who are thus deprived of all effective redress, since to sue the official personally is not usually a profitable proceeding. On the other hand, the system is defensible upon grounds of practical policy; for, since the city performs such functions as the protection of property from fire, the maintenance of parks, the establishment of hospitals, and the care of the poor without hope or possibility of profit, it cannot reasonably be expected to penalize itself for every lapse from efficiency. To require the municipal corporation to insure citizens against mishaps in such departments would be to require a guarantee of official infallibility backed by the resources of the municipal treasury. Under a system of popular government the maintenance of such a doctrine would prove rather costly to the taxpayer.

For the torts of police officers.

The status of the police department is somewhat different from that of the departments just mentioned. Police officers are unquestionably engaged in the performance of a governmental or public function, and hence for their sins of omission or commission the city would not be liable. But the exemption of the municipal corporation from liability for the torts

[1] Hafford *v.* New Bedford, 16 *Gray* (Mass.), 297; Taintor *v.* Worcester, 123 *Mass.* 311. See also Wheeler *v.* Cincinnati, 19 *Ohio*, 19, and Hayes *v.* Oshkosh, 33 *Wis.* 314, in Beale's *Cases on Municipal Corporations*, 618-620.

[2] Louisville Park Commissioners *v.* Prinz, 127 *Ky.* 460.

[3] Gilboy *v.* Detroit, 115 *Mich.* 121, in Beale's *Cases on Municipal Corporations*, 582; also Maximilian *v.* the Mayor, 62 *N. Y.* 160.

[4] Curran *v.* Boston, 151 *Mass.* 505.

of its police officers is more commonly based upon the plea that they are not municipal but state agents. They are, as a rule, appointed by city authorities, are paid from the city treasury, and are instructed in the performance of their duties by municipal regulations. But all this does not make them municipal officers; it merely represents what the state has found to be a convenient method of securing performance of a recognized function of state government, — that of preserving the public peace and order. Even in enforcing municipal ordinances the police act as agents of the state. The authority to make these ordinances "is delegated to the city by the sovereign power, and the exercise of the authority gives to such enactments the same force and effect as if they had been passed directly by the legislature. They are public laws of a limited and local operation designed to secure good order and to provide for the welfare and comfort of the inhabitants. In their enforcement, therefore, police officers act in their public capacity and not as agents or servants of the city."[1] Upon similar grounds, the city is not liable for negligence in the performance of functions, not strictly police in nature, which are nevertheless sometimes intrusted to police officers, — as, for example, the granting of permits, the listing of voters, and so on.

For the torts of agents engaged in non-governmental functions.

All of the foregoing functions are clearly governmental, or public. Some others are quite as clearly commercial, or private. When, for example, a city owns and operates a system of water-supply from which it derives revenue or profit, it becomes liable for damages resulting from the negligence or the incapacity of its employees connected with the working of the system. Its liability is the same, both in nature and degree, as that of a water company;[2] and the

[1] Buttrick *v.* Lowell, 1 *Allen* (Mass.), 172, in Beale's *Cases on Municipal Corporations*, 580.

[2] Murphy *v.* Lowell, 124 *Mass.* 564.

same rule would apply to it as owner of a gas plant or an electric-lighting plant.[1] Municipal ownership of docks and wharves, where tolls are charged, subject the city to the same legal liabilities that pertain to a private owner.[2] It has also been held that a municipal corporation is responsible for damages caused by the faulty management of public cemeteries, markets, and wash-houses.[3] All these departments of municipal enterprise are within the range of private or commercial functions. When a city enters into competition with private corporations, it should of course assume responsibilities similar to those attaching to the latter. When it displaces a private enterprise in favor of municipal ownership, it ought not thereby to impair the redress hitherto available for negligent or inefficient operation. The damages in which the city may be mulcted for the torts of its employees in these branches of municipal activity may properly be made a part of the cost of operation to be covered by charges levied for the service. Municipal liability for the exercise of private or commercial functions seems thus to be an entirely defensible doctrine.

What are public functions?

Thus far the distinction between public and private functions has not been difficult to draw; but there is a considerable field of civic activity which does not readily and at first sight fall into either of these classes. As regards the construction and care of streets, for example, the provision of sewers, the removal of ashes and garbage, and so on, the principles governing municipal liability are not so easily described. In most states of the Union the courts have held that municipal corporations are liable for negligence in the performance of their duty to keep the city

[1] Kibele *v.* Philadelphia, 105 *Pa.* 41; Greenville *v.* Pitts, 102 *Texas*, 1.
[2] Allegheny *v.* Campbell, 107 *Pa.* 530.
[3] On the detailed application of this rule, see D. A. Jones, *The Negligence of Municipal Corporations* (New York, 1892), 71.

streets in proper condition; but for a similar default towns and counties have been held to be not liable.[1] On the face of things, there would seem to be no good reason for this distinction, and the courts have not been very successful in providing one. It is sometimes urged that the streets of cities are local thoroughfares, whereas the streets of towns and villages are state highways, — that the former are means of communication, the latter means of intercommunication; but that is true in a general way only, and scarcely in sufficient degree to warrant the broad distinction made by the decisions. However this may be, the care of the city's streets is in most states regarded as a local duty; and, when a tort arises from the negligence or the incapacity of an official intrusted with this function, the doctrine of *respondeat superior* applies, and the city may be sued for damages.[2] In regard to the sewerage system, the general principle, so far as the decisions may be said to establish a general principle, is that the city authorities, in planning a system of sewers, are performing a public and discretionary function, and hence are not liable for injuries arising from faulty planning, as, for example, from the construction of sewers too small to serve their purpose properly. The task of keeping the sewers free from obstruction, however, and otherwise in proper repair is a ministerial function, for negligence in the performance of which the city is liable.[3] Much diversity of

[1] F. J. Goodnow, *Municipal Home Rule*, 144–146. See also Russell *v.* The Men of Devon (1788), in Beale's *Cases on Municipal Corporations*, 530; Mower *v.* The Inhabitants of Leicester, 9 *Mass.* 237, *ibid.*, 601; and Detroit *v.* Blackeby, 21 *Mich.* 84, *ibid.*, 603. The argument of Judge Gray on this question, in Hill *v.* Boston (122 *Mass.* 344, 369), is also very interesting.

[2] The whole question of the liability of the city in the matter of damages to property caused by changing the grade of streets is too technical to be discussed here. It is dealt with at length in J. F. Dillon's *Law of Municipal Corporations*, IV. 2920 ff.

[3] Barton *v.* Syracuse, 36 *N. Y.* 54, in Beale's *Cases on Municipal Corporations*, 611; O'Donnell *v.* Syracuse, 184 *N. Y.* 1, *ibid.*, 611–612; also

opinion is disclosed by the decisions bearing upon the liability of a municipal corporation for the torts of its officials and employees engaged in cleaning the streets and in removing refuse and garbage. In some cases the courts have regarded these functions as governmental, and so have denied the city's liability; in other cases they have ruled that the city, in performing this sort of work, acts in a private or commercial capacity, and must therefore assume the same liabilities as an ordinary corporation or individual.[1]

Responsibilities of the city with reference to its property.

The legal responsibility of the city extends not only to torts committed by its officials when engaged in performing a private or commercial function for the municipality, but also to any claims that may arise from defects in city property which is not exclusively devoted to governmental uses. When the city owns and uses buildings solely for public purposes, as the city hall, the schoolhouses, the police and fire stations, it is ordinarily not liable for damages caused by negligence in the construction or repair of them.[2] If, however, the municipal authorities permit such a building to be used for other than public purposes, as for private entertainments, the city must assume liability for any injuries ensuing.[3] This is a branch of law upon which the array of judicial decisions is at present very perplexing. The general drift seems to be in the direction of extending civic liability, even in the case of property devoted wholly to public use. Indeed, the manifest desire

the various decisions printed in S. D. Thompson's *Cases on Municipal Negligence*, especially II. 625 *ff.*

[1] See the cases cited in J. F. Dillon's *Law of Municipal Corporations*, IV. 2900.

[2] There have, however, been a good many exceptions to this general rule. See F. J. Goodnow's chapter on "The Liability of Municipal Corporations for their Management of Property," in his *Municipal Home Rule.*

[3] Eastman *v.* Meredith, 36 *N. H.* 296, in Beale's *Cases on Municipal Corporations*, 571; Oliver *v.* Worcester, 102 *Mass.* 489.

of the courts to give every possible security to the rights of individuals has impelled them in recent years to the policy of putting municipal corporations upon the same plane of legal responsibility as private individuals, so far as property is concerned.

Rights and liabilities of the city in relation to public-service corporations.

A rather special field of municipal powers and duties is connected with the relations of the city to public-service companies. This is a subject too extensive and too complex to be dealt with in any general treatise on municipal government; for not only does it include the scope and the limitations of municipal franchise-granting power, but it involves such important questions as the authority of the city to regulate the rates charged and the quality of the service rendered. On these points even the general principles of law, as enunciated in judicial decisions, are not easily formulated; but two rules may be laid down with some degree of assurance. In the first place, the courts have been rather reluctant to abandon the old notion that public advantage can be best secured by the competition of two or more enfranchised public-service corporations operating within the same locality. Students of applied economics have long since become convinced that no permanent, effective competition in a natural monopoly, such as a water, gas, electric, telephone, or transportation service, can be carried on in the same area of patronage.[1] But even in recent years the courts have held that benefits will accrue to the public from competition in the operation of public utilities, and hence, in the absence of express statutory authority, have denied the power of the municipality to grant exclusive

[1] "There are some general principles which we wish to present as practically the unanimous sentiment of our committee. First, we wish to emphasize the fact that the public utilities studied are so constituted that it is impossible for them to be regulated by competition." — NATIONAL CIVIC FEDERATION, *Report on Municipal and Private Operation of Public Utilities* (3 vols., New York, 1907), Pt. I. vol. i. 23.

franchises. They have likewise refused to imply exclusiveness wherever any other reasonable construction of a franchise is possible, and this even when the municipality has admitted powers derived from express statutory grant.[1] On the other hand, they have not ventured to trust competition as the sole means of regulating public services. They have readily admitted the authority of the legislature (within the bounds prescribed by the federal and state constitutions) to make reasonable regulations as to rates charged and quality of service provided; but they have denied to the municipal corporation any such right of regulation, save when it has been expressly delegated to the city by the legislature or when the power to regulate has been reserved in the franchise itself.[2]

Conclusions. Surveying the powers and liabilities of the American city as a whole, and comparing them with those attaching to the cities of Europe, one need have little hesitation in pronouncing them both too narrow. In the first half of the nineteenth century broad grants of power to municipalities were very common but this practice was in due course abandoned and in more recent years legal restrictions have greatly hampered the cities of the United States in the performance of their logical functions of local administration. Legislatures and courts have been at one in their reluctance to allow the municipal corporation that free scope which it enjoys abroad. This attitude of mistrust has had a depressing effect upon city government, and has undoubtedly contributed to the half-heartedness with which municipal authorities too often undertake the performance of their duties. Moreover, the policy of so carefully guarding the municipal corporation from civil liability for the improper

[1] See O. L. Pond, *Municipal Control of Public Utilities*, ch. viii. ("The Power to grant Exclusive Franchises").

[2] *Ibid.*, ch. ix.

performance of its public or governmental functions has not improbably contributed to the popular palliation of negligence and inefficiency. In the cities of France and Germany, where an aggrieved individual may bring suit in the administrative courts, and mulct the municipal treasury for the negligence or the incapacity of any city officer, no matter what his sphere of employment, the premium thus put upon care and efficiency has been a salutary factor in securing high standards in local administration. A wider range, both of power and of liability, seems to be not the least among the needs of the American city to-day.

References

The most exhaustive treatise on the rights and duties of municipal authorities is J. F. Dillon's *Law of Municipal Corporations* (5th ed., 5 vols., Boston, 1911), a comprehensive, thorough, and accurate work, and a worthy exemplar of American legal scholarship. An equally invaluable commentary is Eugene McQuillin's *Law of Municipal Corporations* (6 vols., Chicago, 1911–1912), of which only the earlier volumes have yet come from the press. The latter contain many historical discussions. In the preparation of the foregoing outline both these works have been of great service. Many of the leading cases referred to in these treatises are included in J. H. Beale's *Selection of Cases on Municipal Corporations* (Cambridge, 1911), and in John E. Macy's *Selection of Cases on Municipal or Public Corporations*, Boston, 1911.

Special works which will be found valuable in their respective fields are Eugene McQuillin's *Law of Municipal Ordinances* (Chicago, 1904), and D. A. Jones's *Negligence of Municipal Corporations* (New York, 1892). In Professor F. J. Goodnow's *Municipal Home Rule* (New York, 1903) there are some lucid discussions of municipal powers and liabilities; and attention may also be called to the chapter on "The Legal Position of the Modern City" in his *Municipal Government* (New York, 1909). There is a chapter on "The Legal Powers of the Municipality" in L. S. Rowe's *Problems of City Government* (New York, 1908); and O. L. Pond's *Municipal Control of Public Utilities* (New York, 1906) is a brief but useful study of the attitude of American courts toward an increase in the sphere of municipal activity. Some data on the same topic may be found in D. F. Wilcox's *Municipal Franchises* (2 vols., New York, 1910); and there is an illuminating chapter on "Freedom of Incorporation" in Simeon E. Baldwin's *Modern Political Institutions* (Boston, 1898).

CHAPTER V

THE MUNICIPAL ELECTORATE

Importance of the electorate.

FIRST in point of importance among the active organs of American city government is the electorate itself, or, in other words, the body of municipal voters. The composition of this body is of greater importance in America than it is in European countries, because here the electorate participates more frequently and more directly in actual government than it does there. The American municipal voter is called to the polls practically every year, whereas the French voter casts his ballot at a municipal election only once in four years, and most of the voters in Prussian cities but once in six years. Moreover, the American municipal elector, when he goes to the polls, has a larger task to perform. He is not, like the voter in an English, French, or German city, asked to select merely one name from a list of two or three candidates. On the contrary, he is usually called upon to scan a ballot containing scores of names, and to register thereon his choices for a half-dozen or more municipal offices.

Frequent tasks imposed upon the American municipal voter.

Not only is the American municipal electorate required to elect the officers of city government, but wherever the system of primary elections has been adopted it is also expected to nominate the candidates as well. The voters of the city have thus a double responsibility, that of choosing the candidates and of making final selections from the candidates chosen. In the cities of no other country is this dual function imposed upon the electorate. In France and Germany the system of *ballotage* often works out to

something like a primary and a final election; but in these countries the preliminary election becomes final whenever any one candidate gets a clear majority of the polled votes.[1]

The ballot's new burdens.

Finally, the demands upon the American municipal electorate are heavier than those of European cities because the voters are here, with much greater frequency than abroad, called upon to participate directly in the administration of city affairs by deciding questions submitted to them on the ballot. The increased facilities, developed in so many American cities during the last decade, for the use of the initiative, the referendum, and the recall have greatly augmented the voter's responsibility, and have in consequence made the composition of the electorate a matter of more vital importance than it used to be. It is true that municipal voters in England are sometimes asked to pass upon questions submitted to them by referenda; but no English city has any provision for the mandatory initiative or the recall, nor, except in Switzerland, have the cities of continental Europe any system of direct legislation. Their voters take no direct part in civic law-making or administration, but exert only an indirect control through their elected councillors.

Popular attitude toward manhood suffrage.

It is because of this more frequent and more extensive participation, direct and indirect, of the American voter in the government of his city that the problem of safeguarding the electorate, both as to its composition and as regards the normal influences which exert themselves upon it, is of greater importance in the United States than it is abroad. Yet the subject has not received in America the attention which its importance warrants. In all the countries of Europe questions relating to the suffrage have probably had more careful consideration than has been given

[1] See the discussion of this feature in Munro's *Government of European Cities* (New York, 1909), 25–35, 140–145.

to them on this side of the Atlantic. Taking manhood suffrage as an unalterable feature of the political system, reforming movements in America have been disposed to concentrate their chief attention upon the instruments with which the electorate performs its work rather than upon the make-up of the voters' lists. The public temper has not been at all tolerant of proposals to put any important limitations upon the policy of manhood suffrage. The suggestion of a property qualification for voting would not get a serious hearing in any American city. Nor, indeed, would such a suggestion seem to merit any consideration, in view of the fact that even a nominal property-holding qualification would probably disfranchise a majority of the present manhood-suffrage voters. In a previous chapter attention has been drawn to the small percentage of home-owning heads of families in cities like Boston and New York; and from these figures some idea can be gathered as to the havoc which the imposition of any form of real-property test would work upon the present composition of the electorate.[1] It ought to be pointed out, moreover, that such a test for voting does not now exist in any of the chief European cities. What appears at first glance to be a property qualification is merely a requirement that citizens, in order to be voters, shall either occupy tax-paying property or pay a certain minimum in annual taxes into the public treasury.

History of the suffrage in America.

In the earlier stages of American political development, it is true, property qualifications for voting were practically universal. In none of the colonies was manhood suffrage the rule. Nor was it established as an immediate result of the Revolution. The Declaration of Independence asserted the inalienable natural right of all men to a voice in the conduct of their governmental affairs; but not even

[1] See above, pp. 47–48.

after they had achieved their autonomy did the states hasten to make provision for a government which would depend for its continuance upon the consent of all the governed. With the adoption of the federal constitution, however, a reaction against property tests began, and the movement received some impetus from the plausible dogmatism of the French Revolution, which had its echoes in America. Then, in the first three or four decades of the nineteenth century came the fiercer competition of political parties and the inevitable reaching out for new voters.[1] One by one the states abolished both property and tax requirements, which had, however, even before they were given up, remained in many cases unenforced. The crest of the abolition wave came during the period 1820–1845.[2] In this interval New York, Massachusetts, Connecticut, New Jersey, Tennessee, and Delaware threw property qualifications overboard; and when new territories were formed their assemblies were usually left to fix the standing qualifications for voting. As they almost invariably adopted the policy of manhood suffrage from the outset, and as no change took place when the territories were admitted to statehood, the widening of the suffrage thus went hand in hand with the expansion of membership in the Union. By 1850 it had established itself as the dominant practice.

Present qualifications for voting in American cities.

It is approximately correct to say that in an American city every adult male citizen is entitled to vote at municipal elections. It is not strictly true, however; for there are many departures from the rule, by reason of the fact that the laws relating to qualifications for voting are made by the several states, which, subject to certain limitations

[1] A good account of this movement is given in Professor F. W. Blackmar's article on "The History of Suffrage in Legislation in the United States," in the *Chatauquan*, XXII. 28–34 (October, 1895).

[2] See above, pp. 11–12.

imposed by the federal constitution, are free to establish such requirements as they choose. As they have, for the most part, made rules that do not differ widely, variations in the texture of the electorate, even though they are more numerous than is commonly realized, are not of great importance. In all but three of the states qualifications for voting are the same at the regular state and city elections,[1] a feature that distinguishes the American from the English and German electoral systems. In some states, as in Massachusetts, there are special laws by which the suffrage on school matters is wider than on ordinary state and municipal issues. In other states the right to vote at special elections called to decide certain questions, such as the authorizing of municipal loans, is restricted to property taxpayers. In general, however, all those who are qualified to vote at state elections have the same right at the municipal pollings, and the same voters' lists are almost always used at the two elections.

1. Age.

Without exception, all the states have adopted the old English rule fixing twenty-one years as the age of political majority. As the enrolment of voters takes place some time before the annual elections, however, it is usually provided that a person otherwise qualified may have his name put upon the voters' list before reaching his twenty-first birthday if the election comes shortly after that date.

2. Citizenship.

In the minds of most people voting rights are inseparably associated with citizenship. In practice the two do usually go together, but this association is not at all necessary. There are thousands of American voters who are not citi-

[1] The exceptions are Rhode Island (see p. 114, below), Kansas, where female suffrage exists in municipal but not in state elections; and New York, where women are not permitted to vote at state elections, but are, if they own property and are otherwise qualified, allowed to have a voice in town and village elections upon questions involving local taxation.

zens, and there are many more thousands of American citizens who are not voters. This is because the laws governing citizenship are made by one authority, and those relating to suffrage qualifications by forty-eight other authorities. Citizenship is a matter of federal jursidiction: Congress alone decides who are American citizens and who are not. Congress likewise establishes the rules under which aliens may become citizens, and provides the machinery for admitting to citizenship. Voting rights, on the other hand, come within the sphere of state jurisdiction. Each state determines who shall vote, not only at its own state and municipal elections, but at presidential and congressional elections as well. In this matter each state has entire discretion, subject, of course, to the well-known general restrictions contained in the constitution of the United States.[1] These limitations do not preclude a state from giving the franchise to non-citizens; and nine states allow non-citizens to vote. Alabama, Arkansas, Kansas, Indiana, Missouri, Nebraska, Oregon, South Dakota, and Texas require only that an alien shall, in due form and at a fixed date preceding the election, have declared his intention to become a citizen.[2]

The acquisition of citizenship by naturalization.

Under the provisions of the existing federal laws relating to citizenship by naturalization, the formal "declaration of intention" may be made by any alien who is "a white person, or of African nativity or of African descent," before any federal court or any court of record having jurisdiction over the place in which he lives. Such declaration may not be filed, however, until the alien has reached the age of eighteen years. The declaration must contain in-

[1] Art. xiv. § 2, and art. xv.

[2] Two other states, Michigan and Wisconsin, allow voting rights to those aliens, otherwise qualified, who before November 8, 1894, and December 1, 1908 respectively, declared their intention to become citizens.

formation as to the applicant's name, age, parentage, occupation, country of origin, and time and place of arrival in the United States; and it must further announce his intention to become a citizen, and thereby to divest himself of all allegiance to any foreign sovereign.[1] A copy of this declaration, under the seal of the court, is given to the alien, and must be presented by him when he applies for final naturalization.

Procedure in naturalisation.

Not less than two years after an alien has filed his declaration of intention, and after not less than five years' continuous residence in the United States, he may file a petition for letters of full citizenship in any one of the various courts designated by law as having authority over naturalization matters, provided that he has lived within the jurisdiction of this court at least one year immediately preceding the filing of his petition. The petition must be signed by the applicant himself, and must give full answers to a set of prescribed questions. If the alien has arrived in the United States since June 29, 1906, his petition must be accompanied by a document from the United States immigration authorities certifying the time and place of his arrival. In addition, he must, when he files his application, bring forward the sworn statements of two witnesses (both of whom must be citizens of the United States) in personal testimony to his five years' continuous residence and his moral character, and in substantiation of the other claims made in his petition. After this paper has been left with the clerk of the court it must lie on file for at least ninety days, during which notice of its filing is posted. In this interval, also, an investigation of the petitioner's claims is undertaken by one of the federal

[1] Citizenship may be acquired, without formal declaration of intention, by aliens who have served a certain term in the United States army or navy and have been honorably discharged.

agents maintained for the purpose. All these formalities having been attended to, the court sets a date for a hearing upon the petition. This hearing, which must be public, cannot take place within thirty days preceding a regular election. Both witnesses must attend the hearing with the applicant, and must answer such questions as may be put to them by the presiding judge, who may also demand from the applicant assurance that he is not affiliated with any organization teaching disbelief in organized government, and that he is attached to the principles embodied in the constitution of the United States. If the court is satisfied upon these various points, the clerk will issue letters of citizenship, or final papers, as they are more commonly called; and this issuance is made a matter of permanent court record.

Naturalization frauds in cities.

These strict rules concerning naturalization procedure are the outcome of an attempt to put an end to various abuses that existed under previous naturalization arrangements. Prior to 1906, when the process of naturalization was simpler and easier, fraudulent admission to citizenship was all too common. Sometimes an alien got himself enrolled upon the voters' list by means of forged papers; and, since there were so many courts with authority to grant these papers, the detection of forgeries was not easy. More often crowds of aliens were admitted to citizenship during the days preceding an election, when no careful investigation of their statements was possible. Paid witnesses were sometimes provided by party managers to take oath as to matters which they knew nothing about. Not uncommonly the same witnesses appeared for a dozen or more aliens. In fact, the naturalization of foreigners became one of the regular undertakings of the ward organization: the applicant's petition was made out for him, his witnesses were supplied, and in many cases he was

merely a participant in procedure which he did not understand. The handling of fifty or sixty naturalizations per hour was not a rare achievement in New York courts before the stricter rules went into force. Under such pressure during the days preceding the registration of voters all careful scrutiny of petitions was out of the question; and the voters' lists of the larger cities were regularly padded with the names of persons who had not fulfilled the stated qualifications for admission to citizenship. Since 1906 these abuses have been almost wholly eliminated. The requirement that the applicant shall produce an immigration certificate, that his petition shall lie on file for ninety days, and that there shall be no court hearing on naturalization matters within thirty days of a regular election has reduced fraudulent practices to a minimum.

The chief incentive to fraudulent naturalization.

Although naturalization abuses were chiefly the result of overzeal on the part of political agents, they were nevertheless inspired to some extent by those rules which in many cities forbid the employment of unnaturalized aliens in the city's working force. The city is everywhere a large employer of unskilled labor in its streets, sewer, water, and public-works departments. The daily pay is good, and the newcomer chafes under the regulations which prevent him from getting a place on the municipal pay-roll. He wants to become a citizen as soon as he can, not in order that he may get the franchise for its own sake, but that he may be eligible for employment in public undertakings. He finds, moreover, that local politicians develop a much greater interest in the welfare of those among his compatriots who have become naturalized and have acquired the right to vote. Very naturally he comes to regard citizenship as something which has economic as well as political utility. The pressure put upon him becomes correspondingly great, and the temptation to apply for citizenship before he has

fulfilled all the requirements has too often proved irresistible, especially when the way to fraud has been smoothed by assurances from some ward politician.[1]

3. Residence.

In addition to citizenship, a certain minimum of local residence is invariably required. The term varies in length from state to state, the requirement providing for a certain period of residence within the state and a shorter one within the city. In Massachusetts the law demands a year's domicil in the state and six months in the city; in Pennsylvania, a year in the state and two months in the city; in Michigan, six months in the state, with no definite term of residence in the city.[2] It should be understood, however, that the requirement refers to legal residence, which is not the same thing as actual habitation. Ordinarily the two are the same; but it is quite possible for a man to live in one state or community and still have his legal residence in another. It is commonly remarked that a man's legal residence is where he says it is, provided, of course, that he does not claim legal residence in more than one jurisdiction at the same time. What constitutes residence for purposes of fulfilling the suffrage requirements is a matter for the laws and the judicial decisions of each state to decide; but in the main the *animus manendi* — in other words, the individual's own intent to be domiciled in a particular jurisdiction — is the determining factor.

The meaning of "legal" residence.

The question is badly complicated, however, by the

[1] "I was long ago taken to watch the process of citizen-making in New York. Droves of squalid men, who looked as if they had just emerged from an emigrant ship, and had perhaps done so only a few weeks before, for the law prescribing a certain term of residence is frequently violated, were brought up to a magistrate by the ward agent of the party which had captured them, declared their allegiance to the United States, and were forthwith placed on the roll." — JAMES BRYCE, *American Commonwealth* (2 vols., New York, 1910), II. 103.

[2] The exact requirements in the various states, revised annually, may be found in the *Statesman's Year Book*, or in the *World Almanac*.

Legal residence and taxation.

common American practice of permitting a man's legal residence to determine where he shall be assessed for personal property, income, and poll-taxes. In fact, the choice of a legal residence — for in many cases it has become a matter of individual discretion — is very often determined by a person's desire to be assessed in one state or municipality rather than another, a desire not always wholly unconnected with the severity or leniency of the local assessors. In the last resort, the question of a man's legal residence is a matter for judicial decision, and must be determined from the facts in each particular case; but as a matter of everyday practice the sworn statement of the individual is usually taken as conclusive both by tax-assessors and by registrars of voters.[1] Some of the evils to which this divorce of legal from physical domicil has given rise are mentioned later; in this place it is enough merely to lay stress upon the point that the fiction rather than the fact of residence is what law and practice often exact.

4. Educational qualifications.

In nearly one-third of all the states some sort of educational test for voting is established by law. Connecticut, which requires that every one enrolled as a voter shall be able to read the state constitution or statutes in the English language, is the only state which allows no exemptions whatever. California, Delaware, Maine, Massachusetts, Washington, and Wyoming require that voters shall be able either to read or to write or to do both; but all grant exemptions of one sort or another. These exemptions, which apply mainly to persons physically incapacitated or of advanced age, are not designed to permit racial or

[1] The general principles followed by the courts in determining whether or not a person has "established a legal residence" are discussed in Williams *v.* Whiting (11 *Mass.* 424), which has become a leading case upon the point. For a comprehensive consideration of the law and practice, see G. W. McCrary's *Treatise on the American Law of Elections* (4th ed., Chicago, 1897), ch. iv.

other discriminations, but merely to keep the strict application of the tests from resulting in hardship. Several Southern states, on the other hand, while prescribing educational tests, grant exemptions to whole classes of voters, for the express purpose of excluding colored citizens from the franchise privileges guaranteed to them by the fifteenth amendment to the federal constitution.[1] Inasmuch as the percentage of illiterates among negroes is very large, the requirement that voters shall be able to read or write is one which, when strictly administered, shuts out a large proportion of them. But there are also many illiterate white citizens who would be excluded by the test; and for their benefit Alabama, Louisiana, Mississippi, North and South Carolina, and Virginia have provided means whereby the requirement can be easily circumvented by the white element of the population. Various devices are employed to this end. In one case the provision is that the voter must either read the constitution or "give a reasonable interpretation thereof," the question whether the interpretation is reasonable or not resting with the white officials in charge of the registration.[2] In another state the so-termed "grandfather clause" relieves from the necessity of passing the educational test all those who enjoyed voting rights before 1867 and all descendants of such voters, which is a way of giving complete exemption to all native-born white citizens.[3] Still another of the Southern states exempts all owners of property who have paid the taxes assessed for the year preceding enrolment. As the percentage of property-owning negroes is small in all the Southern cities, and the proportion of those who pay their taxes on time even smaller, it follows that

Administration of educational tests in the South.

[1] G. T. Stephenson's *Race Distinctions in American Law* (New York, 1910) contains a full discussion of this matter.

[2] Constitution of Mississippi, 1890, art. xii. § 244.

[3] Constitution of Louisiana, 1898, art. cxcvii. §§ 3–5.

not many illiterates get their names upon the rolls by the use of this exemption.[1] It requires little argument, accordingly, to prove that the educational tests imposed by various states in the South are designed, not so much to purge the voters' lists of illiterates as to permit racial discriminations to be made without violating the letter of the federal constitution. That they have done this effectively is proved by the estimate, based upon careful study, that in some of the Southern states not more than one adult male negro out of every hundred votes, even at presidential elections.[2]

5. Ownership of property.

No state of the Union now requires either the ownership or the occupancy of property as a condition of enrolment for state elections; and only one state, Rhode Island, makes any such requirement for voting at municipal elections. In Rhode Island the right to vote for city councillors, or on matters of municipal finance, is restricted to those who own property to the assessed value of $134, or who pay a rental amounting to at least seven dollars per year. In actual operation this restriction does not exclude many who would be enrolled under a system of manhood suffrage. Indeed, it may be doubted whether the requirement, however wise it may have been when established in 1842, serves any useful purpose nowadays.

6. Payment of taxes.

Some other states — Pennsylvania and Tennessee, for example — require that voters shall have paid their poll or state taxes before being enrolled. Others, like Massachusetts, require only that no names be put on the list save those of persons who have been assessed for poll-taxes.

[1] Constitution of South Carolina, 1895, art. ii. § 4. For a further discussion of these matters, see J. B. Phillips, *Educational Qualifications of Voters* (University of Colorado Studies, III. No. 3); and, for a defence of the policy pursued by the Southern states, see F. G. Gaffey's article on "Suffrage Limitations at the South," in *Political Science Quarterly*, XX. 1–15 (March, 1905).

[2] J. C. Rose, "Negro Suffrage," in *American Political Science Review*, I. 20 (November, 1906).

When the rule that poll-taxes must be paid is rigidly enforced, the payment of them for delinquents virtually becomes a charge upon the campaign funds of the political parties. The number of voters who will leave their poll-taxes unpaid in the expectation that party agents will provide the money on the eve of the election is larger in every community than popular professions of civic patriotism would lead one to suppose. To provide that a voter must be assessed for poll-taxes is quite different from providing that he must have paid them. The former requirement shuts out nobody; the latter, were it not for the readiness of party leaders to pay delinquent taxes, would exclude a considerable proportion of the present electors. In Boston not more than fifty per cent of those assessed for poll-taxes ever pay them. Indeed, if we leave out of account those whose poll-taxes are put on their property-tax bills, and who therefore cannot evade payment, we find that in Boston not more than ten per cent of assessed polls are ever collected. The experience of other cities is doubtless the same. Of all species of tax-dodging this is the most prevalent and the least defensible.

In every state there are certain disqualifications from voting; but within every category of the ineligible are included persons convicted of treason or other felonies, and those who are insane or under guardianship. In a few states the exclusion extends to all persons in receipt of public poor-relief, and to United States soldiers and sailors. New York has provided by special statute that the disqualification shall not extend to convicts in the House of Refuge or the State Reformatory. A few states also provide for the disfranchisement of persons who have been convicted of bribery at elections. Even when rigidly enforced, these various disqualifications do not exclude many who would otherwise be entitled to vote.

The methods of compiling and revising the voters' lists

Methods of compiling and revising voters' lists.

are not radically different in the various American cities. When the right to vote is wholly divorced from tax-paying, it becomes impossible to use anything akin to the English and German methods of compiling the voters' lists from the tax-rolls. Manhood suffrage necessitates some system of special registration of voters. In Massachusetts a voter's name is put upon the rolls by the assessors, without any initiative on his part. During the first week of April in each year the municipal assessors proceed to make up their lists of taxable property. On these lists they enter the names not only of all persons who have real or personal property subject to taxation, but also the names of those who are liable to the payment of poll-taxes. The names in this latter category are supposed to be obtained by house-to-house work on the part of the assessors or their assistants. When the assessors turn in their rolls, the voters' lists are compiled from them.

Defects of the existing system.

As a system of enrolling voters this procedure has proved far from satisfactory. Since the assessors are usually men who have been appointed to their posts for political reasons, they naturally show more zeal than fairness in their work, sometimes, it is to be feared, taking pains to put on the list the names of their fellow-partisans and to leave off those of their political opponents. The work is done so carelessly that the lists are usually prolific in errors and much revision of them becomes necessary. Because of these shortcomings the task of enrolling voters has in Boston been taken from the assessors and given to the police. During the first week in April members of the police force visit every house in the city and obtain the names of all qualified voters; and the lists which these officers turn in are made the basis of the electoral rolls.

The work of registrars.

No matter how well this preliminary work of enrolment of voters may be done by the assessors or the police or any

other set of officers, a good deal of revision is necessary. Some voters will be overlooked; others will be put on the lists who ought not to be there. In every Massachusetts city, therefore, there is a revising body, or board of registrars, who have this task of revision in charge. Such a board is made up of three or more members appointed by the mayor, subject to the usual rules governing the confirmation of the mayor's appointments. For many years it has been required by law that both political parties shall be represented on it, the principle of bi-partisanship receiving wider recognition in the composition of this board than in that of any other municipal body, for the reason that the duties of registrars are regarded as unavoidably political in nature. Registrars are usually appointed for terms of three years, and one or more of them retire annually. In most cases they are paid, by annual salary in the larger cities and by a per diem allowance in the smaller.

The machinery of registration

In most of the states other than Massachusetts a different plan is pursued. The lists are not compiled from the assessors' rolls but are made up entirely by the registrars. These registrars, who are appointed in different ways (in New York by the mayor, in Philadelphia by the governor, and in Chicago by the county judge), hold sessions a short time before each election. The applicant for enrolment appearing before the board, is put under oath, and is then questioned concerning his age, his citizenship, and his length of residence in the state and the city; if there is an educational test for voting, he is also subjected to this; if he is under the law which requires voters to have been assessed for poll-taxes, he must present evidence of such assessment. All these statements are recorded by the registrars, who then either give or refuse to the applicant a place on the voters' list as a majority of them may decide. In New York the registrars enter upon their books a description

of the voter's personal appearance, in order that he may be identified in case another man should attempt to vote in his name. If the board were to scrutinize carefully the statements of every applicant for enrolment, and were to verify the alleged residence of each one by sending an officer on a personal visit to the address given, the results obtained would of course be more satisfactory. As there is neither time nor appropriation for all this, however, the lists invariably contain names which ought not to be upon them; and instances of "colonization"—that is, of the enrolment of voters from fictitious residences—are not at all rare, although they are not so common as they were a decade ago.

Suggested improvements.

There seems still to be much room for improvement in the machinery usually provided for the enrolment of voters in American cities. In some states the list is made up anew each year, and it becomes necessary for every voter to appear annually before the board of registrars. This is something of a burden, and often results in the disfranchisement of many who forget to have their enrolment renewed. In a few states, as in Massachusetts and Pennsylvania, the practice is to keep a voter's name upon the list so long as he remains assessed for poll or other taxes, thus obviating the necessity of his making a new registration each year. This plan seems, on the whole, to be the more satisfactory of the two, although in all large cities, owing to frequent shifts in the residences of voters, a great many changes in the lists become necessary from year to year. If boards of registration, moreover, were supplied with such clerical assistance as would enable them to take the same care which banks, trust companies, and other private organizations exercise in safeguarding themselves against imposture, the voting-lists could be purged of perennial frauds. When lists are padded with fraudulent names, it is not usually because

the registrars have been privy to political malpractice or have connived at the trickery of ward politicians; it is almost always because they have too much work to do properly. So many voters have to be enrolled in a few days that only the most perfunctory scrutiny of applicants is within the bounds of physical possibility.

In some states matters are made worse by the practice of permitting those whose names are not on the voters' lists to "swear in" their votes on election day, in other words to make oath at the poll that they are duly qualified voters. Such persons are allowed to vote forthwith although there is obviously no way of verifying the sworn statements which they have made.

The extension of educational tests.

Whether the prevailing tone of present-day municipal politics might not be further improved by the imposition of more rigid qualifications for voting is a fair, if a difficult, question. The requirement that voters shall be able to read and write can scarcely be called illogical or unjust in states which maintain at the public expense systems of universal and compulsory education. The census of 1900 showed that there were in the United States nearly two and a half million illiterate men of voting age, or about eleven per cent of the total adult male population. A considerable proportion of this illiterate element is concentrated in the negro population of the Southern states; but even in Northern cities the percentage of those who cannot read and write is too large to be disregarded. In the state of New York, for example, in cities of over 25,000 population, about six per cent of the adult male population was designated as illiterate; in the cities of New Hampshire the figure was above ten per cent.[1] The ratio of illiteracy is large in the

[1] C. W. Dabney, "The Illiteracy of the Voting Population in the United States," in *Annual Report of the United States Commissioner of Education*, 1902, pp. 789–818.

cities because of the foreign elements massed there. Now, it is a commonplace of practical politics that the voter who is unable to read his ballot becomes an easy prey to political manipulators. His only alternatives are, as a rule, either to vote a straight ticket or to spoil his ballot. It may well be asked, then, whether a policy of political prudence should permit one vote in every ten to be cast by persons who have only such alternatives. Men can contribute to the success of free government only by using the ballot with intelligence and reasonable independence; and this they can hardly do if the ordinary avenues of information, including the newspapers, are closed to them. Mr. Tweed, in the heyday of his domination, declared that he paid no heed to what the newspapers said about him, as most of his followers "couldn't read English." Nor is he the only political boss who has owed his power, in part at least, to the fact that the illiterate element in the electorate forms an unmeltable mass in the crucible of public opinion.

The desirability of excluding illiterates.

Apart from the direct effect upon municipal politics, the requirement that men should be able to read and write before securing the franchise would promote the cause of elementary education in the humbler walks of city life. Grown persons who remain illiterate furnish more than their due proportion of public charges; they contribute far more than their quota to the pauper and criminal classes of the community. As a measure of social amelioration, therefore, every agency that can be used to diminish the illiterate element in the population of the large city has a good deal to commend it. The assimilation of the foreigner would, moreover, doubtless be accelerated by such requirement; for education is a potent agent of social fusion, even though it be carried to only an elementary stage. Taking all these considerations into account, therefore, there is reason to believe that the policy of permitting enrolment to

those only who can read and write might profitably be extended to the states that have not yet adopted it.

The enforcement of the tax requirements.

Laws requiring that no one shall vote unless he has paid his taxes for the year are also sound in motive, although somewhat difficult of strict enforcement. Men who do not fulfil their duties to the community ought not to have the corresponding rights. Yet a system which uses the suffrage as a means of collecting taxes — that is, as a means of doing what the city's collecting department ought to do, but does not — tends to put an unfair burden upon the electoral machinery. The city ought to collect its poll-taxes in the same way in which it enforces its other monetary claims against citizens. The courts are open to it for this purpose. Why they are seldom resorted to is not so much because their procedure is too slow or too cumbrous or too expensive. It is simply because the municipal authorities who attempt to collect poll-taxes by legal compulsion create too much antagonism among voters who are in arrears, and thereby impair their own chances of reëlection or political advancement. Hence it is that large cities either write large sums off their books each year, or try to put the odium of collecting poll-taxes upon some self-executory statute. Since it costs a great deal to provide ballots, voting-places, polling-officers, and all the paraphernalia of an election, it seems absurd that thousands of voters should be permitted to evade payment of an individual charge which does little more than defray this outlay.

Greater flexibility in the interpretation of legal-residence requirements.

Improvements might also be made in the relation that exists between a man's voting rights and his place of residence. In England the municipal electorate is built upon the idea that occupancy as well as residence gives a man the right to a voice in local affairs; when a citizen owns or occupies an office or a store or a warehouse, he becomes, as it were, a civic stockholder, even though he may, within

certain limits, actually reside outside the municipality. The English city accordingly retains upon its list of voters that large quota of men whose business interests are within the municipal limits, but who may actually reside in some suburban towns near by. American cities, on the other hand, have gone on the principle that a citizen's real interest can only be in that municipality in which, actually or constructively, he makes his home. Thus, the man who owns a factory in Boston and occupies a rented apartment in Brookline is presumed by the law to have his real interest where common sense asserts that it is not. Every large American city therefore loses from its electorate an element which it would be most desirable to retain,—namely, those who spend their day-hours within the municipal limits and have their chief economic interests there, but who happen to live in residential districts outside. To keep this element on the city lists it would not be necessary to give any man more than a single vote. The practice in vogue in the cities of the French republic, which allows a voter to choose whether he shall be enrolled from his place of business or from his residence (but not from both), would be practicable in America. Adequate safeguards would of course be necessary to prevent duplication of enrolment and other evils; but difficulties in that direction would hardly prove insuperable, and the advantages to the cause of better city government would surely be important. In America too much emphasis is put upon "legal residence" as a factor in the suffrage laws, and this undue emphasis serves to deprive the voters' ...ts of what ought, in large cities, to be their most depend... ...le element.

The extension of suffrage rights to women.

In various parts of the United States a belief is apparently growing that the plane of the municipal electorate can be greatly raised by the extension of voting rights to women. Whether or not this proposal offers more in the way of im-

provement than do the others mentioned in these pages, it is at any rate exciting much more public interest and discussion.[1] Although the American idea of a democratic electorate does not necessarily include women, nevertheless the extension of the suffrage to them is one of the things which, in course of time, is liable to follow in the wake of pronounced democratic tendencies. When people believe that the proper remedy for the ills of democracy is more democracy, the suffrage is more likely to be widened than to be narrowed. In seven states of the Union the right to vote at municipal elections has already been granted to women, and in some of them women's suffrage has been in existence long enough to have passed the experimental stage. As to the influence which female participation in municipal politics has had upon city administration in these states there is some difference of opinion; it has at any rate not proved radical in its results either for good or for ill. So far as American political experience goes, it has been found that women rise to their public responsibilities no better, and perhaps no worse, than men do. Political opinion in states which have adopted the wider suffrage seems to be moulded by the same factors and influenced by the same considerations as is public sentiment in communities which hold fast to the policy of manhood suffrage.

Relation of the electorate to reform.

Much effort in the cause of improved municipal administration has been rendered ineffective through its failure to strike at the fundamentals of misgovernment. As a stream will rise no higher than its source, so will a representative government do no more than reflect the ideals of the electorate which chooses it and maintains it in office. An elector-

[1] Most of the arguments for and against this extension of the suffrage may be conveniently found in the little volume entitled *Selected Articles on Woman Suffrage*, in the Debaters' Handbook Series (Minneapolis, 1911).

ate made up even in part of persons fraudulently naturalized, or enrolled by fraudulent means, or voting from fictitious places of residence, or illiterate, or whose civic conscience is so numb as to tolerate evasion of just due ; — an electorate made up even in part of such elements needs attention from the reorganizers of municipal machinery before much thoroughgoing improvement can be hoped for in the work of popular representatives.

References

General questions relating to the suffrage (apart from the special question of negro suffrage) have had very little attention from American writers. Interesting discussions of the right to vote, in its wider aspects, may be found in W. E. H. Lecky's *Democracy and Liberty* (2 vols., London, 1899), I. 2–38, 70–100, and Sir Henry S. Maine's *Popular Government* (London, 1885), chs. i.–ii. There is a somewhat rambling discourse on the relation of universal suffrage to popular government in Tocqueville's *Democracy in America* (ed. D. C. Gilman, 2 vols., New York, 1898), I. ch. xiii. The best short outline of the development from strict to liberal suffrage requirements in the United States is F. W. Blackmar's article on "The History of Suffrage," in the *Chatauquan*, XXII. 28–34 (October, 1895). The relation of the suffrage system to present-day municipal problems is dealt with somewhat briefly by Professor F. J. Goodnow, *Municipal Problems* (New York, 1904), ch. vii., and by D. F. Wilcox, *American City* (New York, 1904), chs. i., ix. A well-written article by G. H. Haynes on "Educational Qualifications" may be found in the *Political Science Quarterly*, XIII. 495–531; and attention may also be called to the paper on "Educational Qualifications of Voters" by J. B. Phillips, in *University of Colorado Studies*, III. 55–62. Arguments for and against restrictions upon universal suffrage were given at length many years ago in the report of a commission appointed by the governor of New York "to devise a plan for the government of cities"; and in the chapter entitled "The Voting Many versus the Taxpaying Few," in A. P. Wilder's *Municipal Problems* (New Haven, 1891). Other sources of information are by C. W. Eliot, *American Contributions to Civilization* (New York, 1897), ch. i.; H. C. Adams, *Public Debts* (New York, 1898), 359–366; J. S. Mill, *Representative Government* (London, 1894), ch. viii.; and D. C. McMillan, *The Elective Franchise in the United States* (New York, 1898), *passim*. Further references, chiefly to magazine articles on the subject, may be found in R. C. Ringwalt's *Briefs on Public Questions* (New York, 1911), ch. iv., and in W. D. B. Brookings and R. C. Ringwalt's *Briefs for Debate* (New York, 1911), ch. v.

CHAPTER VI

MUNICIPAL NOMINATIONS AND ELECTIONS

The electorate in action.

THE influence of the electorate, or whole body of the voters, is exerted upon the administration of the city in two ways, directly and indirectly. It is exerted directly by the use of the initiative, referendum, and recall; it is exerted indirectly in the nomination and election of city officials. Both directly and indirectly this electoral influence has become more active in recent years, but this is more particularly true of the direct control which the voters exercise over the conduct of the city's business. The increase in the direct control of municipal matters by the whole body of the voters has, indeed, been an outstanding feature in American political development during the last decade. Its significance is dealt with in a later chapter.[1]

Direct and indirect popular control of city government.

In general, however, the government of the average American city continues to exemplify a type of representative rather than of direct democracy; in other words, popular control of local affairs is maintained through the nomination and election of those to whom the immediate management of administration is intrusted. It is not so long, of course, since the whole body of voters took no direct part in making municipal nominations; this function used to be performed by a very small section of the electorate, which claimed to represent the entire body but rarely did so in fact. Nowadays, however, the voters take upon themselves both the nominating and the electing of officers, and

[1] Below, ch. xiii.

this development from the old caucus to the open primary affords one of the best illustrations of that general popularizing of electoral machinery which has been taking place during recent years.

History of nominating methods.

In the earlier stages of American municipal development the laws provided no nominating machinery. Candidates for office were brought forward by a few friends, or they came forward of their own initiative. Sometimes an informal meeting of a few representative citizens was permitted to decide what names should be put before the voters. So long as the cities remained small in population and with few elective officers, and so long as restrictions upon the suffrage kept the voting element still smaller, these informal methods of nomination, in which the mass of the electorate had no share, seem to have been readily tolerated; and they continued in existence through the first three decades of the nineteenth century.[1] The change from informal to formal methods of nominating candidates for municipal offices was one of the many shifts in the whole American electoral system which came in the wake of the Jacksonian propaganda. Largely through the onslaught made upon it by Andrew Jackson, the congressional caucus as a means of nominating candidates for the presidency was definitely superseded in 1840 by the national party convention, made up of delegates from the various states. So also, but rather earlier, the legislative caucus as a means of nominating candidates for state offices gave way to the state party convention; and, as part of the same movement, the local party convention, made up of delegates chosen by a caucus of voters in each ward, was established as the

Rise of the convention.

[1] For a full discussion of this topic, see G. D. Luetscher, *Early Political Machinery in the United States* (Philadelphia, 1903), and M. Ostrogorski, on "The Rise and Fall of the Nominating Caucus," in *American Historical Review*, V. 253–283 (January, 1900).

ordinary method of nominating candidates for municipal offices.[1]

Abuses of the convention system.

The new system began its career in municipal history under serious handicaps. Its adoption came at a time when cities, owing to the rising tide of immigration, were beginning to grow rapidly. This growth gave impetus to the creation of new public services, such as street pavements, public buildings, water and sewerage systems. The new services enlarged the patronage of the city authorities, both by necessitating the creation of new administrative offices and by increasing the annual expenditure for public work and materials. The spoils increased proportionally; until, in an age when partisan victors were regarded as fairly entitled to the emoluments of office and the profits of patronage, the incentives to party victory were very great. Large prizes often hinged upon the issue of attempts to capture the nominating convention, with the result that almost every imaginable form of trickery and fraud was resorted to by political leaders. The rules governing ward caucuses and party conventions as to the manner of calling them together, the times and places of meeting, and the general procedure were not prescribed by law, but were made and unmade by the caucuses and conventions themselves. There were therefore no real securities for fair play; and that faction of the party which could, by any manner of fraud or violence, once get control of a caucus or a convention was almost certain to put through its slate of candidates. Caucuses were often called upon inadequate notice, in rooms too small to hold any but those who were warned to come early; the meetings were not uncommonly packed with political thugs from outside the ward; the ballot-box was frequently stuffed, or, when the end was not

[1] M. Ostrogorski, *Democracy and the Party System* (New York, 1910), chs. ii.–iv.

achieved by some such method, the count of ballots was falsified. Any one of a hundred ingenious devices was employed to serve the ends of an unscrupulous faction.[1] Yet the political alignment in many cities was such that the faction which captured the caucuses, and through them the nominating convention, thereby put upon the ballot candidates who were practically certain to be elected. It gradually dawned upon the public mind, therefore, that under such a system representative government was a travesty, that the voters of the city were allowed to do no more at the polls than choose between two sets of professional politicians, each tagged with a party label that had been gained, in many cases, by resort to violence or subterfuge. With an adequate realization of this state of things there began a popular movement for the regulation of party nominations by law.

The regulation of conventions by law.

The first attempt to furnish legal securities for fair play in political caucuses and conventions was made by the legislature of California in 1866; but the statute then passed, though comprehensive in its safeguarding provisions, was optional in its application; that is, it was to apply only to such political party or parties as might accept its provisions.[2] In the same year the legislature of New York passed a statute of similar type, less comprehensive in its provisions but mandatory in application.[3] This measure, despite its inadequacy to secure all the ends desired, marked a new departure in American municipal policy; for it was virtually an

[1] C. E. Merriam, *Primary Elections* (Chicago, 1909), 7. See also F. W. Dallinger, *Nominations for Elective Office* (New York, 1897), especially chs. v.–vi.

[2] "An Act to Protect the Elections of Voluntary Associations and to Punish Frauds therein:" *Laws of California*, 1866, ch. 359.

[3] "An Act to Protect Primary Meetings, Caucuses, and Conventions of Political Parties:" *Laws of New York*, 1866, ch. 783. Similar acts were passed by Ohio and Pennsylvania in 1871, and by Missouri in 1875. In 1874 California extended the scope of its optional statute.

acceptance of the principle that political parties as organizations for nominating candidates should be formally recognized by law, and that their methods of performing this public function should be laid down for them by statutory provisions. Other states gradually gave their adhesion to this policy, and in so doing usually extended the scope of their laws, until in course of time many of the safeguards applicable to regular elections were applied to party nominations. Not, however, till more than thirty years after New York first committed itself to the principle of statutory regulation had two-thirds of all the states enacted primary laws.[1]

The party primary.

The general purport of such laws, so far as they apply to cities, is to require that nominations shall be made by the voters of the respective political parties at a regular primary election upon official ballots, and under official supervision. The party primary, as established by these laws, may be either "closed" or "open." The former type of primary is the more common, and its chief characteristic is that only regular members of the party can take part in it. Although theoretically superior to the old caucus and convention systems, in that it aims to secure a fair opportunity for the expression of a party's opinions, the closed primary in the municipal system has some serious defects. In the first place, it is based upon the assumption that all municipal voters have some definite party allegiance. This does not necessarily mean that the voter must actually bear allegiance to one or other of the state parties, but in practice it commonly works out that way. It may almost be said, indeed, that the spread of the closed primary has helped to give state-party-ism in municipal affairs an extended lease of life. This is

[1] For an extended account of this development, see C. E. Merriam, *Primary Elections*, chs. ii.–vi.

because the voter, either at the time of registration or at the primary, is in most states required to disclose the party to which he belongs; for, as a matter of practice, separate lists of voters are usually made, and the parties commonly hold their primaries on different dates. Even in Massachusetts, where joint primaries are held and a single voters' list used, the voter must nevertheless declare the party to which he belongs, and in accordance with his statement receives the ballot of his own party.[1] This necessity of declaring affiliations has been one of the chief objections raised against the closed primary. Sometimes the method whereby a voter shall declare his party allegiance, and the rules governing the acceptance of his declaration, are left to the party authorities; but more commonly the means by which his party affiliation shall be established are prescribed by state laws. Some states require a declaration of his past allegiance, others of his present preference, and a few prescribe that he shall say which party he intends to support at the next election. The rules relating to the way in which such declarations are recorded, the degree of secrecy to be

[1] At the hearings held in Boston a couple of years ago by a joint committee of the New York legislature, nearly all those who testified were of the opinion that the Massachusetts system of holding joint party primaries had, after a trial of nine years, proved a failure, so far as providing a satisfactory method of nominating municipal officers was concerned. It was urged by those who appeared before the committee that both the character and the caliber of candidates had deteriorated since the introduction of the system, that their expenses for nomination had greatly increased (in a threefold measure, according to one who had been a candidate under both the convention and the primary system), that contests for nominations had become campaigns of personalities rather than of principles, that party responsibility had declined, and that the members of the minority party took very little interest in the primaries. A digest of this testimony is given in *Report of the Joint Committee of the Senate and Assembly of the State of New York appointed to investigate the Primary and Election Laws of this and other States* (Albany, 1901), 5–29. In corroboration, see also *Reports* of the Boston Finance Commission (7 vols., Boston, 1908–1912), II. 22–24.

maintained by officials who receive them, and various other matters differ greatly from state to state.[1]

The other type of party primary is that used, for example, in Wisconsin and commonly called the "open" primary. Candidates for nomination at the open primary bear the designations of their respective parties; but no disclosure of party affiliations is exacted from voters. The same ballot serves for all. Hence the voter may record his choice for the candidates of either party and his action will remain known to no one but himself. The open primary.

Both forms of primary election described in the foregoing paragraphs are party primaries. They rest on the idea that, whether asked to disclose their partisan allegiance or not, the voters should be given their choice between candidates whose names bear party designations on the ballot. On the principle, however, that party designations ought to have no place on the municipal ballot at any election, whether preliminary or final, some cities have established the nonpartisan primary. This system, as a method of nominating candidates for municipal offices, was first tried in Iowa, where the legislature applied it to such cities as might accept the commission form of government.[2] It was adopted at once by Des Moines, and went into operation there in 1907. Since that date it has gained acceptance in many of the cities governed by commissions, and in at least two states permission has been granted for its adoption by cities that desire to retain their old frames of government.[3] Under this type of primary, municipal officers

[1] A summary of such regulations may be found in *Comparative Legislation Bulletin*, No. 13, issued by the Legislative Reference Department of the Wisconsin Free Library Commission in 191.

[2] *Laws of Iowa*, 1907, ch. 48. The more important provisions of this statute are printed in C. L. Jones's *Readings on Parties and Elections* (New York, 1912), 67–70.

[3] *Laws of Wisconsin*, 1907, ch. 670; *Laws of Minnesota*, 1909, ch. 170.

are selected by what is virtually a double election. When the time for a municipal election draws near, notice is given that any one who desires to be a candidate may have his name entered upon the primary ballot by presenting a petition signed by a small number of qualified voters, usually twenty-five. All such names are put upon the ballot without any party designation whatever, the order being determined alphabetically, or by the course in which the petitions were filed, or by lot. As all voters at the primary use the same ballot, there is no disclosure of partisan preferences. The two candidates who make the highest showing for an office are thereupon named upon the general ballot to be used at the regular election. In this way the nonpartisan primary becomes a sort of qualifying heat which eliminates the weaker contestants from participation in the final race. As such it has undoubted merits. It insures the election of municipal officials by a majority, rather than by a mere plurality, of the polled votes, and thus accomplishes at American city elections what is obtained by the use of the system of supplementary elections in Germany, the chief difference being that in Germany a candidate who polls a clear majority at the first election is declared thereby to have been finally chosen, and there is no need for a second polling.[1] The nonpartisan primary must also to some extent encourage independent candidacy; it helps to oust state politics from city affairs; it insures a short ballot for the final election; and it puts the whole responsibility for satisfactory nominations upon the voters themselves.

Objections to the primary system.

On the other hand, the nonpartisan primary has in actual operation disclosed some objectionable features. The total vote cast at a primary, though probably larger on the whole

[1] In San Francisco and a few other American cities the laws provide that a clear majority at the primary secures the actual election of any candidate.

than that which was commonly polled in the election of delegates to a nominating convention, is usually much smaller than that polled at a regular election. Unless there be important local issues represented by rival candidates, the primary is not likely to draw out the voters in great numbers; and when a large part of the available vote is not forthcoming, it is usually found that the stay-at-homes include most of those whose participation at the nomination of candidates is much needed in the interest of good city government.

Its costliness.

Again, the nonpartisan primary is costly to all concerned, and particularly to the candidates. The candidate who hopes for success must, in the absence of party backing, make himself known to the mass of the voters; and this he can do, as a rule, only by means of an advertising campaign which involves considerable outlay either on his own part or on that of his friends. The advantage, under the nonpartisan primary system, lies with the candidate who can prosecute the most effective publicity campaign. This fact has become so far recognized of late that some states and cities are undertaking to give equal publicity to the claims of all the aspirants by sending to every voter a pamphlet, printed and mailed at public expense. Such an arrangement might have a tendency to multiply candidates, since there are undoubtedly not a few men in every community who would grasp the opportunity to have their public virtues set forth broadcast without any cost to themselves. Precautions against this contingency could, it may be suggested, be taken by a provision that a small sum toward the cost of the pamphlet shall be assessed upon each candidate, but under the present constitutions of many states this would be impracticable in view of provisions which prescribe freedom of candidacy for public office.

Whether the nonpartisan primary secures the nomination

The type of candidacy which it promotes.

of better candidates than either the convention or the partisan primary is not yet established. So far as can be judged from the experience of a few years, it gives great advantages to the smooth man who is willing to spend money in making himself known, or to the aspirant who keeps himself much in the public eye, regardless of the way in which he gets himself there. Public prominence is by no means synonymous with past service; a man may have acquired the one without having given the other. Many voters who go to the nonpartisan primary are confronted with a sheet of names wholly unknown to them. Having no party designations to guide them, they are apt to be influenced by some inconsequential things, such as the race or the religion of a candidate as indicated by his name, or the place which a name occupies on the ballot paper. In some cities a candidate is permitted to put on the ballot, after his name, a short statement of his claims to the support of voters. If he has had some experience in municipal office, and mentions this fact on the ballot, he furnishes some information that may be of service to voters; but the set of alliterative adjectives with which most candidates adorn their names on the primary ballot is of little or no help to any one. It has been well said that the primary offers a greater opportunity than the convention for the defeat of a conspicuously unfit aspirant, and that one who is known to the community as unusually well-qualified for any position is more likely to secure a nomination from the voters than from a convention. The usual aspirant for a municipal nomination, however, is in neither of these categories; and in the matter of sorting out the best among a list of average candidates neither system seems to have done much better than the other.

Relative merits of the primary and the convention.

At its best the convention was capable of high-grade work. Now and then a small minority of the delegates could by showing sufficient vigor compel the majority to accept, in

the interests of harmony, a candidate of better stamp than would otherwise have been chosen. Under this system there was always an opportunity for compromise, and a vigorous minority could at least make its influence felt in the outcome. Under the primary system, whether partisan or nonpartisan, the door of compromise is pretty nearly closed. The majority, whatever be its ideals, must have its whole way. This would not be so bad, however, were it not that the majority opinion, as expressed at the primary, is often no more than a public ratification of some decision already reached in caucus conclave by a few leaders. This is because the direct primary, whether open, closed or nonpartisan, has not done away with the making of slates by those who, through some means or other, can exert influence upon certain elements among the voters. It has merely pressed back the process of slate-making from a point preceding the election to a point preceding the primary. In many cases the primary has become little more than a preliminary contest between those candidates who have organized support and those who have not; and the result, too often, is just what it would be under any other system of nomination. The chief difference is that it permits the leaders who have really determined the outcome to avoid all responsibility for it. Under the convention system the boss could dictate nominations with reasonable certainty, but he had to take the responsibility for the slate which he presented; under the primary arrangements he may be less certain to have his way, but when he does get it he can rarely be made to bear any responsibility whatever.

Its effect upon the party organization.

The primary, furthermore, proves an excellent weapon of discipline among the rank and file of a party. The removal of party designations from the ballot does not in practice eliminate the obligation to stanch partisan allegiance.

The word is passed out by the leaders, and it is pretty generally obeyed. The aspirant who questions the judgment of his party superiors may take his chances at the primary, and in some cases may succeed, but the chances are, in the long run and under ordinary circumstances, heavily against him. Under the old system the leaders, to make things run smoothly, usually found it desirable to conciliate rather than to discipline the recalcitrant who showed that he had some followers. Now all they need to do is to tell the man who thinks he has a following that entitles him to recognition by the party leaders to put his name on the primary ballot and let his strength with the voters disclose itself. For his defeat there he can muster up no reasonable grudge. The primary has thus become, in some measure, a useful means of healing breaches in the party organization, and of enabling the machine to come forward to the elections without a trace of friction.[1]

The primary is not a final solution of the question.

In view of these various drawbacks, it is very unlikely that the primary, in any of the types now used, will prove a satisfactory and final solution of those problems which connect themselves with municipal nomination methods; for it is based upon the assumption that the voters will act wisely without leadership, rather than upon the principle that they will follow wise leadership. This is just the trouble with too many latter-day political reforms: they endeavor to supplant vicious leadership by no leadership at all. If they assumed the inevitableness of leadership and strove to make it responsible, the results would undoubtedly be better.

Nomination by petition.

It was a feeling that the whole primary system was faulty in some of the directions above indicated which led to the adoption, in the amended Boston charter, of the system of

[1] This has been the experience in Massachusetts; in several other states, however, this feature has not as yet disclosed itself.

nomination by petition. Since 1909 it has been possible for any Boston voter to appear upon the municipal ballot as a candidate for election to the office of mayor, or to the city council or the school committee, by filing with the election board, at least twenty-five days prior to the election, nomination papers bearing at least 5000 valid signatures. Signatures are valid for this purpose only if made by registered voters who have signed no more papers than there are places to be filled. Each paper bears the name and residence of the candidate, but no party designation; it contains also the names of five or more other persons who, in case the candidate should later withdraw, would have power to name a substitute. The papers are examined by the election commissioners, who check each name by the voters' lists.[1]

Its actual workings.

In actual operation thus far, the system of nomination by large petitions has shown itself to be possessed of great merits and of equally obvious defects. Without doubt it has weakened the influence of party organizations in controlling nominations; for, though candidates can secure signatures much more easily when they have an organization behind them, it is nevertheless quite possible to obtain them by the efforts of a few individuals without this support. To that extent, therefore, the system has weakened party discipline, since the elimination of the candidates who have no political faction behind them does not take place until the election. Again, unlike the primary, the system of nomination by petition gives every element in the community a chance to put forward its own candidate; it does not restrict the race to the two strongest candidates. On the other hand, it has not put an end to the preliminary caucus; in fact, the real selection of candidates is usually made by rival organizations, through their committees, some weeks before the time for filing nominations arrives. To get the

[1] *Acts and Resolves of Massachusetts*, 1909, ch. 486, § 53.

required signatures for these candidates, moreover, does not by any means prove to be so easy a task as was anticipated. The system has also brought in its train a good deal of chicanery, forging of names, and other illicit practices. On the whole, however, it serves the cause of independence in municipal politics better than any of the nominating systems which preceded it, for it encourages the putting forward of candidates who, despite their personal merits, would have little chance of nomination at the hands of either a convention or a primary.

The need of simplifying nomination procedure.

The establishment, in American cities, of a system of nominations that will give every citizen a fair chance to offer himself as a candidate for public office and yet not bring an avalanche of names upon the ballot is something yet to be achieved. One is moved to ask, however, why this should be so serious a problem in America when it is such in no other country. In England it needs the names of only ten qualified voters to put a candidate before the municipal electorate; in France and Germany any voter may become a candidate for municipal office upon his own personal announcement. Even in the cities of Canada, where social and political conditions are not very different from those of American municipalities, any two voters may officially nominate a candidate. In all these countries the road to a place on the ballot is easy enough; yet the number of municipal candidates is everywhere smaller than in the United States. What one may have for the asking one is not apt to desire for its own sake. Mere candidacy for municipal office is regarded as an honor nowhere but in the United States, and it is so regarded here only because nominations have been made so difficult. When it is nearly as hard to get one's name on the ballot as it is to win an election, and sometimes even harder, nominations are liable to be too much sought for their own sake. If the American

city were to put upon its ballot the name of any voter who asked to appear there, it would find, judging from the experience of every other country, that, far from being deluged with aspirants, it would in the long run have fewer names on the ballot than under a system demanding 5000 signatures. Nomination reform ought to move in the direction of simplification; its aim ought to be to make it as easy for a voter to have his name printed on the ballot as it now is for him to write it there when he goes to the polls. Were this done, many of the present nomination problems might eventually pass out of existence.

Municipal elections.

Municipal elections in the United States have presented various difficulties; there have been times, in most of the large cities, when it has seemed well-nigh impossible to secure a full and fair expression of popular opinion at the polls.[1] Most of these difficulties have, however, been met and so far overcome that elections are nowadays conducted about as fairly and as efficiently in the United States as in any other country. There are, nevertheless, four matters connected with election methods and machinery upon which there is still no uniformity of practice or opinion. These relate to the proper date for a municipal election, the selection of polling-places, the form and contents of the ballot, and the prohibition of election practices that are unduly expensive, unfair, or corrupt.

The date of a municipal election.

As to the proper date of a municipal election, the chief question is whether it should be held upon the same day as the state election or not. In favor of holding both elections upon the same day may be urged the saving in expense. Elections are costly, more so than the average citizen imagines. The registration of voters, the printing of ballots,

[1] For an account of the methods that have been used to win elections in New York and Philadelphia, see C. L. Jones, *Readings on Parties and Elections* (New York, 1912), 282–296.

the rental of polling-rooms, the payment of polling-officers, and similar items of expenditure combine to put upon the city a cost which amounts to about a dollar for every ballot cast at a municipal election. To this must be added the legitimate and necessary expenses of a campaign which, though not paid for out of the municipal treasury, yet fall upon the community in which the election takes place. When state and municipal elections are held upon the same day, there is thus a large saving both in official and in campaign expenses. Moreover, this policy insures the polling of a larger percentage of the registered vote. Voters seem to come to the polls in numbers proportioned to the importance of the election. The maximum vote appears when the national, state, and municipal elections all come together. When the city election is isolated from the others, popular interest in it seems ordinarily to flag unless some unusual stimulus is applied to it; and a small polled vote at a city election is unfortunate, not only because it gives no fair reflection of public opinion, but because the friends of well-ordered administration usually form more than their due proportion of the absentees.

Objections to the practice of holding state and municipal elections on the same day.

On the other hand, the practice of holding state and municipal elections on the same day has been influential in bringing state politics into city affairs. Identity of election dates usually means that the state and municipal parties conduct a mutual campaign, which is another way of saying that the interests of each party organization in the city will be sacrificed, whenever necessary, to the interests of the same party organization in the state. As will be suggested in a later chapter, partyism is not in itself an objectionable feature of a municipal campaign. The objection is only to the identification of state and municipal partyism, or, in other words, to the trailing into the municipal arena of party programmes and partyisms which have no local

relevance. So long as the voters of a city divide according to their state-party affiliations, there is little or no opportunity for division upon local issues. Municipal partyism can be developed only when local issues are made to serve as the basis of political cleavage. The holding of state and municipal elections on different days is one of the features, though only one, which make the rise of local parties possible. Most cities, actuated by a desire to divorce local from state politics, have kept their municipal elections upon a date apart; Boston, Chicago, and San Francisco are examples. On the other hand, Baltimore, and a few other cities elect their municipal officers on the regular state-election day.

Polling-places.

In the selection of places for municipal polling a few matters are worth bearing in mind. Polling-places should be located where they will best serve the convenience of voters; they should be at points easy to find without detailed directions; and, wherever practicable, public buildings should be used for the purpose. A schoolroom forms an ideal polling-place, if it be available. In some European cities schools are always so used; but in America, where elections are almost invariably held on a Tuesday, schoolrooms are on that day in use for their regular purpose. When it becomes necessary to rent polling-places, it is usual to avoid certain buildings, such as those in which intoxicating liquors are sold; in many cities, indeed, the law forbids the holding of a poll in or adjacent to such premises. Buildings that are used for sectarian purposes, or that are associated in the popular mind with any partisan propaganda, are also commonly avoided. Some cities have found it profitable to provide themselves with portable booths which can be set up in a public square or other convenient place for use on election day.

The ballot.

Of greater importance, however, than the time or the

place of polling is the form of ballot used. That it should be such as will enable a voter to record his opinion secretly is a feature recognized in all American cities. In the earlier periods of American municipal history voters were required to provide their own ballots; but candidates and their organizations soon adopted the practice of preparing printed slips which voters might use if they wished. As the number of elective officers increased, these ballots grew in size, until it came to pass that the voter never prepared his own ballot paper, but merely used the printed sheet, or slate, of candidates handed out by party agents. If he wished to depart from this list, he erased one or more names and wrote in others, a procedure known as "scratching" a ballot. This was the ballot system which remained in vogue throughout the cities of the United States until about twenty-five years ago.

Objections to the old ballot.

The system was, however, open to many serious objections. It was the custom of party organizations to provide ballot papers which, from their color or form, could be recognized even when folded, so that secrecy of voting was practically destroyed. Furthermore, a heavy premium was put upon voting a straight party ticket; the voter who wished to depart from the regular slate could do so only with some trouble to himself. All this facilitated trickery of various sorts; for, with an unlimited number of ballot papers in circulation about the polling-booth, the ordinary securities against ballot-switching, the stuffing of ballot-boxes, and kindred frauds were impaired. The system also gave a great advantage to the regular, or organization, candidates, and served to discourage independent candidacy.

Introduction of the Australian ballot.

It was because of this that a movement began, in the later eighties, for the adoption of the so-termed Australian ballot. As a matter of fact, there was nothing exclusively Australian about the new ballot, although it originated

there, it was merely the ballot used in England since 1872, and in all the self-governing English colonies. The distinguishing characteristic of this ballot lies, not in its size or shape or arrangement, but merely in the fact that it is printed officially at the public expense, whereas under the older system ballots were printed either by or on behalf of the candidates at their own cost. The "Australian" ballots, being official, bear the names of all the candidates, whether put forward by organizations or otherwise; they are printed under close official supervision in limited numbers, are supplied to each polling-booth for the use of voters, and must be accounted for when the voting is over. Their use ensures absolute secrecy, and affords some security against fraudulent practices.[1]

Ballot abuses.

But this basis soon developed in America a form utterly unlike its prototype in Australia.[2] Since there were many municipal officers to be elected, and since the various parties continued to put whole slates of candidates in nomination, it became customary to arrange in columns, according to their party affiliations, the names of all the candidates on the ballot. Then came the habit of putting at the head of each column a party symbol, and below this a circle in which, by making a single cross, a voter could record his vote for the score or more of candidates whose names were printed in the column underneath. The original Australian ballot had none of these things. The party column, the emblem, and the circle are all features that have been engrafted upon it in America by the influence of party organ-

[1] P. L. Allen, "Ballot Laws and their Workings," in *Political Science Quarterly*, XXI. 38 (March, 1906). On the movement for the introduction of the Australian ballot in America, see J. H. Wigmore, *The Australian Ballot System* (Boston, 1889).

[2] The great variety of regulations adopted by the various states in regard to the form of the ballot may be seen in the summary of "Ballot Laws in the United States," by Arthur Ludington, in *American Political Science Review*, III. 252–261 (May, 1909).

izations which desired to hold their grip upon the voters and to place deterrents in the way of political independence.

The long ballot.

As a result of this development, the ballot, though made secret, was not made intelligible. The premium upon straight voting still remained. The party designation of candidates represented a direct appeal to the partisan allegiance of voters. The number of names upon the ballot, as used in large cities, rendered it impossible for the average voter to make intelligent selections; and the arrangement of the names was such as to penalize him with extra trouble, as well as with the risk of spoiling his ballot, if he displayed any political independence. To vote a straight party ticket was made easy, — a single cross accomplished that; but it sometimes required the marking of fifty or more crosses to vote a split ticket. Thus it was that, despite the changed character of the ballot, party organizations continued to hold most of the advantages which they had acquired under the former system.

Removal of party designations.

The next step in the direction of ballot reform came with a movement for the abolition of the party column and the grouping of all candidates under the particular offices to which they aspired. Massachusetts, in 1888, had adopted a ballot of this type, which bore no party emblem and forced the voter to mark separately his choice for each office. This was an improvement; but a partisan designation still followed each name on the ballot, and the great mass of voters continued to accept this as their sole guide. The Massachusetts ballot performed a good service, however, in paving the way for the dropping of partisan designations altogether, and the amended Boston charter of 1909 marked the first application of the new principle to the elections of a large American city.[1]

[1] Municipal ballots without party designations were, however, already in use by some smaller cities that had adopted the commission form of government.

Since then the ballot without party designations has found favor in many cities of the United States; in other words, the Australian ballot in its original uncomplicated form is now for the first time obtaining a fair trial in this country.

The ballot's burden.

But the mere removal of party designations from the municipal ballot is not likely to be of much avail in promoting independent and intelligent voting unless other changes go along with it. If the voter is expected to use discrimination in marking his ballot, the ballot itself must be shortened to a point at which a fair scrutiny of the claims of each candidate is not beyond his patience. A ballot which bears twenty names or more is too long for practical scrutiny; the average voter will pay attention to the candidates for a few of the most conspicuous offices only.[1] The others he will vote for, either according to the party label which they bear, or according to some other rule which does not require any careful study of candidates on his own part. To say this is in no way to reflect either upon the intelligence or upon the civic spirit of the ordinary voter. It means only that there is something wrong with an electoral system which requires from every man a service that not one in ten thousand is willing to give. It is idle to urge that all municipal offices might be capably filled by election if the voters would perform their duty. If it be made the duty of the voter to constitute himself a committee of investigation at every election, he will not perform that duty, nor will any amount of political sermonizing induce him to do it. This being the case, it becomes the part of wisdom not to put any such burden upon him. To this end, the number of

[1] Ballots containing three or four hundred names have not been at all uncommon at state and national elections. The record for unwieldiness appears to be held by a ballot used in the thirty-second assembly district of New York State a few years ago. It contained the names of 835 candidates.

elective offices should be reduced to a minimum; the outstanding offices, those which from their nature carry large powers and attract wide attention, must of course be filled by popular action, but there the task of the voter ought to cease. It is well enough for politicians to dilate upon the "educative value of a system under which all officers of government are elected," or upon the "antagonism between executive appointments and popular sovereignty"; but the downright folly of requiring voters to go through the pretence of doing what they cannot and will not do is too patent to be permanently tolerated. The blanket ballot has been the political jobber's device for imposing upon the voter a hollow mockery of popular sovereignty which has served to shield from his eyes the real existence of a political oligarchy. Popular sovereignty demands that the voter shall do more than go through the form of selecting his representatives. To have any educative value whatever the electoral system must make it practicable for him to do more than execute a perfunctory service at the polls. "No plan of government is a democracy unless on actual trial it proves to be one. The fact that those who planned it intended it to be a democracy and could argue that it would be one if the people only would do thus and so, proves nothing."[1] If it is not a democracy in fact, it ought not to bear the name.

The short ballot.

It is not enough, moreover, to have the ballot small and the names upon it few. No matter how scant the number of names, the voters will not rouse themselves to any intelligent part in the election if none but unimportant offices are to be filled. The ballot should bear, therefore, the names of those only who are candidates for such municipal offices

[1] R. S. Childs, *Short Ballot Principles* (Boston, 1911), 19. This little book may be commended to readers as a trenchant and colorful statement of the case for ballot reform.

as bulk large in the public imagination, — the posts of mayor, comptroller, and members of the city council, if the latter body be not too large. It is also highly desirable that a place upon the ballot be within the reach of candidates who have no party organizations behind them. This can be achieved to some extent by the elimination of all party designations from the ballot, but more effectively by the establishment of a system under which voters will indicate, not merely their first choice for an office, but their second and perhaps their third choice as well.

The preferential ballot.

The aim of the ballot ought to be, in a word, to extract from the voter, not merely a part of his judgment in regard to the list of names set before him, but the whole of it. A ballot that asks the voter to designate only his first choice solicits a partial judgment only. Voters ought, therefore, whenever possible, to be asked for an expression of their opinions concerning two or more of the candidates on the ballot, which means that some variety of the so-termed "preferential" ballot may well be employed when the number of elective offices is small enough to permit its use. The preferential ballot is in form and arrangement simpler than the ballot commonly used in American municipal elections. The names of candidates are printed upon it in a column, in an order determined either alphabetically or by lot; but, instead of the single column in which the voter ordinarily marks a cross to designate his selection, there are three vertical columns, in which he is asked to record his first, second, and other choices respectively. He indicates his first choice just as he would in using the ordinary Australian ballot; in the second column he puts a cross opposite the name of the candidate whom he wishes to mark as his second choice; and in the third column he indicates all the candidates (apart from the two already designated) to whom he is not definitely opposed, — in other words, all those whom he

would deem worthy of his support were his first and second favorites out of the running. The names of those candidates whom he would not care to support under any circumstances he leaves unmarked.

Method of counting.

When preferential ballots, marked in this way, are counted up and some candidate is shown to have a clear majority of first choices, that candidate is declared elected. In that event the outcome of the balloting under the preferential system would differ in no way from that in which the ordinary ballot is employed. If no candidate secures a clear majority of first choices, the second choices marked for each candidate are added to their first choices; and the one who scores highest in this addition wins, provided he proves to have a clear majority of all the first and second choices taken together. If no candidate has this, the preferences indicated in the third column are added to the totals already recorded for each candidate; and the highest wins, whether he has a majority or not.

Advantages claimed for the preferential system.

Various advantages are claimed for this system, which substantially in the form outlined by the preceding paragraph has been in operation in Grand Junction, Colorado, and in Spokane, Washington, during the last two or three years. It dispenses with all complicated nomination machinery, obviating the necessity of conventions or primaries as agencies for weeding out all but a few leading candidates. It permits practically any voter to have his name put on the ballot, for even a considerable list of names does not impede the working of the system. It moreover encourages independent candidatures, since it affords an opportunity of election to the man who has no strong personal following but is regarded with moderate favor by the voters in general. It serves to prevent what is a very frequent outcome of three-cornered campaigns under the ordinary balloting system, — the election of any candidate who is clearly the

selection of a minority.[1] There are, of course, some objections to the system, chief of which is the possibility that many voters would find it so hard to understand that spoiled ballots would be numerous; but the preferential ballot seems to have given satisfaction in the two cities in which it has been on trial, and it ought to have an opportunity to demonstrate its serviceability on a wider scale. Anything which offers a promise of getting rid of the cumbrous American nomination machinery is indeed to be welcomed.[2]

Order of names.

When the ordinary ballot bears no party designations, it is likely, unless it be very short, to give a marked advantage to those candidates whose names appear near the top of the list. To provide that names shall appear in alphabetical order is to put a handicap upon those candidates whose names begin with letters well down in the alphabet; to put names on the ballot according to the order in which the nomination papers are filed is to encourage an unseemly scramble when the hour for filing arrives. Hence the sequence of names is in many places decided by lot, a device which merely transfers the advantage to the candidates who happen to draw the lucky numbers, but which, by giving an equal chance to all, is somewhat better than the other plans. Some cities believe that they have found a satisfactory solution in an arrangement whereby the names on the ballot are revolved alphabetically, — that is to say,

[1] At a recent municipal election in Massachusetts the candidate chosen to the office of mayor received only about 1800 out of nearly 7200 votes cast; the remaining 5400 were divided almost equally among four other candidates.

[2] For further discussions of the preferential-ballot system, see the article by R. M. Hull on "Preferential Voting and How it Works," in *National Municipal Review*, I. 386–400 (July, 1912); the summary given by Robert Tyson in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911); and the brief account printed in E. S. Bradford's *Commission Government in American Cities* (New York, 1911), 100–103; 258–261.

an arrangement under which, if there are five candidates, for example, each of them will have his name at the top of one-fifth of all the ballots. Just how much advantage comes from occupying the first place on the ballot depends upon a variety of circumstances, including the make-up of the ballot itself; but practical politicians esteem the place to be highly important.[1]

Securities against corrupt practices at elections.

A final consideration affecting municipal elections lies in the degree of security afforded against corrupt and unfair practices. From the beginnings of American municipal history, all offences that are by nature culpable, such as personation, intimidation, bribery, tampering with ballots, and falsifying returns, have been punishable under the rules of common law. It is only within the last quarter-century, however, that many practices which do not involve moral turpitude, but which nevertheless contribute to make an election undignified, unfair, or unduly expensive, have been forbidden by statute. These statutes, modelled in general upon the English "Corrupt and Illegal Practices Prevention Act" of 1883 and the amending act of 1895 (46–57 Victoria, c. 51, and 58–59 Victoria, c. 40) have been applied to city elections in many states of the Union.[2] Their provisions vary considerably from state to state, but in the main they not only provide severe penalties for bribery, illegal voting, and intimidation, but contain clauses limiting the sources from which campaign contributions

[1] Some idea of the value which politicians attach to possession of the first place on the ballot may be gained from the action of a candidate for election to the board of aldermen in a Massachusetts city, who recently secured from the probate court authority to change his name so that it would begin with the first letter of the alphabet.

[2] A digest of these laws is printed in *Comparative Legislation Bulletin*, No. 23 ("Corrupt Practices at Elections"), issued by the Wisconsin Free Library Commission in 1911. See also the *Report of the Commission on Laws relating to . . . Corrupt Practices at Elections made to the General Assembly of Connecticut* (Bridgeport, 1907).

may be received, designating the purposes for which such funds may be spent, and requiring publicity in both cases. Not infrequently they forbid the taking of contributions from corporations. As to purposes for which funds may be spent, the laws sometimes set forth a list of things which may not be paid for, as, for example, conveyances, hired canvassers, and the treating of voters; in other cases they name in detail the objects for which money may legitimately be used, as printing, rent of halls, travelling, etc., and forbid it to be spent for any other purpose. Special restrictions are sometimes imposed upon advertising; in several states, for instance, all campaign advertisements must be signed by the voter who causes their publication. Some states require the appointment of party treasurers, through whom all contributions and expenditures must be made; and the practice of insisting upon the filing of a statement showing all the receipts and expenditures connected with an election has developed rapidly in recent years. In many cases, to be sure, statutes have proved defective or have been too easily evaded; but they have nevertheless done much to improve the tone and temper of elections, both state and municipal. Even if dishonest and unfair practices at American city elections are not yet wholly things of the past, the situation is vastly better to-day than it was two decades ago.

References

The most profitable selected list of materials relating to nominating methods is that given in the appendix of C. E. Merriam's *Primary Elections* (2d ed., Chicago, 1909). This volume also contains an admirable résumé of the whole subject. Special mention should also be made of G. D. Luetscher's *Early Political Machinery in the United States* (Philadelphia, 1903); F. W. Dallinger's *Nominations for Elective Office in the United States* (New York, 1897); and E. C. Meyer's *Nominating Systems* (Madison, 1902). References to laws that have been passed since these books were written may be found in the quarterly summaries of current legislation printed in the *American Political Science Review*. The *Report*

of the Joint Committee of the Senate and Assembly of the State of New York (Albany, 1910) contains a great deal of interesting evidence in regard to the working of nominating systems in various states, although the findings of the committee bear obvious marks of unfairness. A group of interesting articles on direct primaries appeared in the annual *Proceedings* of the American Political Science Association for 1910; and attention should be called to Professor Ford's thoughtful essay on the direct primary in the *North American Review* for July, 1909. See also the volume entitled *Selected Articles on Direct Primaries*, ed. C. E. Fanning, in the Debaters' Handbook Series (Minneapolis, 1911).

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CHAPTER VII

MUNICIPAL PARTIES AND POLITICS

Political parties.

HAVING considered, in the two preceding chapters, the way in which the electorate is constituted and the channels through which it puts forth its power, one encounters the task of discussing an important branch of municipal science that is not by any means so well understood, — namely, the system whereby groups of voters seek to make themselves the exponents of the whole electoral will. These group organizations, or political parties, serve not only to afford rallying-grounds for voters who share the same general opinions, but also to provide centripetal forces in the moulding of public policy. All sound and stable representative government is party government. Were it not, indeed, for the focussing influence of partisan organization, whether in nation, state, or city, it would be impossible to formulate clear policies, or to develop real responsibility, or to establish sound traditions of government.

Why they exist.

The division of citizens into rival parties is a natural outcome of the simple fact that in matters pertaining to the body politic they do not all think alike, or yet all think differently. If they did either of these things, political parties could not exist. Whatever his opinions on public questions, a man will always get some of his fellows to agree with him; and the more meritorious his opinions, the larger, presumably, will be the company in which he finds himself. Political parties are merely groups of partisans, of men who think alike, or profess to think alike, upon questions of the day. They are the sects of statecraft. It is through them that indi-

vidual opinions are combined into a political consensus. In this alone lies their explanation and their justification.

Identification of political parties in the various realms of government.

Since parties are built upon variety and unity of political opinion, they should be, and usually profess to be, related to issues of public policy. And since such questions are not the same in the three realms of government, national, state, and municipal, the logical outcome of partisan philosophy would be the evolution of three sets of political parties, each adjusting itself to the issues of its particular realm. Such is not the actual situation, however. The voters of the United States have ranged themselves into two or three great groups which retain their cohesion in all spheres of government, irrespective of the fact that the problems in one sphere have no relation to those in another. In the American city, therefore, the voters are cleft into groups, not by any local point of difference, but by a line of cleavage drawn down from the politics of state and nation. It is this identification of party lines in state and city that has demoralized municipal politics almost everywhere by preventing the voters from getting face to face with issues that concern their own immediate neighborhood.

Effects of this identification.

The municipal party organization, accordingly, can rarely be studied in isolation; it is usually no more than one of the wheels in the greater partisan machine which operates in state politics. This subordination of city to state in the machinery of party organization is, so far as its effects go, a flagrant violation of the doctrine of municipal home rule; and its results have been more pernicious to city administration than many of those legislative infringements upon civic autonomy against which municipal politicians cry out so lustily. Indeed, it is a curious fact that those city politicians who are most uncompromising in their opposition to legislative interference in city affairs are the very ones who often submit most tamely to the domination of municipal politics

by a state-party machine. Yet it cannot be denied that one form of outside domination has as little justification as the other. The intimacy which so often exists between the party organizations in state and city means almost inevitably that adherents of the party in the city are exploited for the advantage of the party in the state; or, if the spoils which become available through the control of city government be greater (as is the case in cities like New York, Chicago, and Philadelphia), the situation will be reversed and the interests of the party in the state will be sacrificed. Wherever the spoils of victory promise to be in greater abundance, there the energies of the two machines will be concentrated.

Its relation to municipal home rule.

As a means of remedying this evil three plans have been tried. Some cities have sought to get rid of all party organization in municipal politics. To this end they have abolished the political convention and the party primary, substituting either the nonpartisan primary or nomination by petition. They have likewise removed all designations from the election ballot, and have tried to destroy the chief props of partisan rivalry by putting municipal offices under civil-service rules and by taking contract awards out of the realm of political influence. All this has served to weaken, if it has not destroyed, the hold of organizations upon the electorate. But it may well be asked whether attempts to abolish all electoral organization in municipal politics do not result from a failure to realize the true function of parties and the real service which properly-based political associations can render to the community. To formulate and to set before the whole electorate opinions that are held in common by a portion of it, to impress the merit of these opinions by concerted effort upon the whole body of voters, to afford a means whereby responsibility for a policy shall be borne in common by all who advocate

Methods of divorcing state and local parties.

1. Abolition of municipal parties.

it, — these appear to be the true functions of a political party, and they are services needed in the city quite as much as elsewhere. So long, therefore, as there are opinions to be formulated, ends to be achieved in concert, and responsibilities to be effectively shouldered, we are not likely to get rid of the best agencies yet devised for accomplishing these results.[1] To suggest that the American municipal voter can best perform his civic duties without coöperation and guidance is to disregard the plain fact that his need for both these things was never so pressing as it is to-day, by reason of the complex nature of the task which he is asked to perform at the polls in passing upon measures as well as upon men.

2. Creation of strictly municipal parties.

Taking it for granted that the forces which make for organized electoral action are not likely to grow weaker, and that parties of some sort will therefore probably keep coming into action no matter what formal changes may be made in municipal machinery, other cities have undertaken to encourage the development of strictly municipal parties which relate their propaganda solely to local questions and have at most only an incidental connection with the party organizations of state or nation. This is a policy which seems on its face to be not only logical but easily carried to success. Few men will quarrel with you when you urge that there is no reasonable connection between local and state issues, and that to drag the latter into the arena of municipal politics serves no useful purpose in either field of government. Nor will you provoke dissent by asserting that, because a political party enunciates in its platform sound canons of policy concerning the tariff or the currency, it thereby acquires no right to control the appointment of police commissioners or the award of municipal contracts.

[1] M. R. Maltbie, "Municipal Political Parties," in *Proceedings* of the National Municipal League, 1900, pp. 226–238.

The wisest disposition of purely municipal questions can come only from a consideration of the factors directly involved, and matters of national politics are not involved even remotely. On all these things most men are agreed; yet agreement in the premises has not served to bring about very much in the way of results. There have been strictly municipal parties in American cities from time to time. In a later chapter something is said concerning their achievements and failures, but more, unfortunately, about the latter than the former.[1] Such parties have been sporadic in appearance, and rarely have survived a second municipal campaign. Coming into the field of municipal politics with much ado and clatter, they have usually gathered to themselves all the elements of local discontent, and not uncommonly have acquired thereby sufficient momentum to seat their candidates in office. But the unity of malcontents is precarious. Since the new party can hold its diverse elements only by satisfying all, it is sure to find the ensuing factional discord fatal to the success of its candidates at the next election. A new party, whatever the principle upon which it is based, carries a further handicap: its platform or programme must, if it is to gain the public ear and attention, contain some striking features not to be found in the platforms of the existing parties. But most things that are feasible and at the same time popular have already been gathered into these programmes by the shrewd men who formulated them. Accordingly, the new party is certain to start out with a list of aims which, if popular, are not practicable, or if practicable are not popular. Being made up chiefly of men who have strong views as to what is right and wrong, it is apt to have a rigid and uncompromising platform which too often repels by its vigor and intensity of expression, thereby offsetting what it gains by

The handicaps of a local party.

[1] See below, ch. xiv.

its appeal to the local patriotism of voters. Each charter member of a new municipal party is more likely than not to be wedded to some specific reform which has become a hobby with him, and which he will ride into the party platform if he can. The new programme thus becomes too often an odd mosaic of individual fads, many of which are sure to prove utterly irreconcilable in actual operation.

New parties are short-lived.

These two features — the inharmonious nature of the elements that ordinarily constitute the nucleus of a new municipal party, and the almost inevitable shortcomings of the programme which it formulates — do not, of course, prevent the frequent appearance of such parties, nor do they always prevent the party's initial success at the polls. They do, however, preclude sustained success, and they explain in large measure why the mortality rate among municipal parties is so high. To speak after the manner of actuaries, the normal expectation of life among such parties, as based upon a wealth of experience during the last quarter-century, is not more than a half-dozen years at most, — an inevitable result, so long as these organizations acquire at birth the germs of their own speedy dissolution. Although such imperfections may not on their face seem to be ineradicable, yet in attempts to remove them no country has achieved any permanent success. Throughout Europe, notwithstanding a current American idea to the contrary, national and municipal party lines are almost everywhere identified. Nowhere in France or Germany have the national parties been definitively ousted from city politics. In England there are nominal instances of strictly municipal parties, but very little study is sufficient to show that they are not such in reality. The most notable example is afforded by London, where two ostensibly local parties known as Progressives and Reformers have divided the allegiance of the voters by presenting to them two party programmes

European analogies.

built upon local issues. But every Londoner knows that the Progressive party is made up mainly of Liberals and that most of the Reformers are Conservatives. There is of course no exact coincidence of national and local party lines, but there is a fair approximation to that situation.[1] The characteristic feature of London politics is not the existence of strictly municipal parties, but rather the prominence given in local elections to local issues, and the readiness of the voter, whatever his party affiliations, to be guided by a candidate's qualifications and record rather than by his professions and promises.

Difficulties encountered in New York.

Apart from the various obstacles that stand in the way of regular municipal parties as steady factors in city affairs, the entire divorce of state and local party organizations is for another reason difficult to bring about. This reason lies in the frequent similarity, and even identity, of state and municipal issues. Were the American city master of its own destinies, this identity would not often arise; but under the present system of unremitting legislative interference in municipal matters, problems of a purely local scope are too often settled, not at the city hall, but at the state capitol. This means that even when a municipal party gets control of the city government it does not always get a mastery of the city's policy; to secure the latter it must often enter state politics and try to make its influence felt in the legislature. Some years ago the Citizens' Union of New York encountered this situation. After gaining control of the city government, it found itself balked in its

[1] "In London these divisions tend to run close to the national party lines; for although a Liberal is not always a Progressive, or a Conservative always a Moderate [Reformer], and a member of one national party may actually stand for the council on the opposite side, still the two lines coincide on the whole very nearly, and the party organizations lend their aid to no small extent in the contest." — A. L. Lowell, *Government of England*, II. 151. See also Munro's *Government of European Cities*, 346–347.

The Citizens' Union.

efforts to carry out its programme by an unsympathetic state legislature at Albany. It was, accordingly, forced to choose between remaining an ineffective municipal party and becoming a factor in state politics. To pursue the former course was to court certain defeat at the next election; to follow the latter policy was to give up the chief principle upon which the Citizens' Union was founded. The experience of other cities has in many cases been similar. City and state functions cannot be sharply differentiated; neither can city and state issues, so long as the city is the creature of the state. From the nature of the situation a certain connection between state and municipal party organizations is likely to continue, whether we approve of it or not. If independent municipal parties could be established and maintained in successful existence, some city would probably have given us a good example before now. American municipal experience has been prolific of such parties, but none have lived long enough to prove that the natural obstacles are surmountable.

3. Incorporation of municipal issues in the programmes of state parties.

The third plan for diminishing the evils which commonly result from the identification of state and municipal parties takes the form of an attempt to induce the chief political parties to adopt special platforms, or parts of platforms, dealing with local issues. Such endeavors are logical enough. If the state organization feels that it cannot afford to keep clear of municipal politics, it ought in fairness, we are told, to give city affairs their proper share of attention in the party programme. And this it has of late been somewhat inclined to do. The announcement of a party's policy on important local matters like public-service franchises, municipal home rule, civil-service reform, license regulations, and so forth, is coming to be a prominent feature of state platforms; and it is likely to become even more prominent as time goes on and as urban problems grow to be of

greater interest to the whole people. It has been suggested that the friends of better city government should spend their energies, not in a futile attempt to abolish all political parties, or in efforts to drive a wedge into the hierarchy of party organization, but in an earnest endeavor to gain for municipal issues a proper recognition in state platforms.[1] Such a plan, it is urged, has all the advantages of an independent municipal-party system, with none of its great difficulties. This does not mean, of course, that independent organizations should not be encouraged for what they can accomplish. To win one election and lose the next may be a modest achievement, but it is better than losing both. The Citizens' Union of New York got but a short lease of power, but for even that the city has some cause to be thankful. The independent municipal party can at least put the regular parties on their mettle, and force them to a realization of what the community wants done. After all, insurgency is more prolific of results than independence. The insurgents within the party ranks can usually accomplish more than the bolters who leave the ranks to conduct a guerilla warfare of their own.

The existing situation.

Taking the cities of the United States as they are, one finds municipal politics to be featured neither by an absence of all parties nor by the prominence of strictly local party organizations. Almost everywhere the regular party lines are drawn, if not always ostensibly, at any rate in fact. It becomes of importance, therefore, to understand how the parties organize themselves for work in city elections, what their methods are, and to what extent they earn their right to be called "political machines." It ought to be mentioned, in passing, that American party organization, which from the viewpoint of efficiency is perhaps the best in the world,

[1] M. R. Maltbie, "Municipal Political Parties," in *Proceedings* of the National Municipal League, 1900, p. 235.

reaches its acme in the large city. There the machine actually approaches perfection both in the clever adjustment of all its parts and in the smoothness with which it proceeds to the production of results. The physiology of American party politics can be best studied by an examination of its most highly developed organism, the political machine of a large city.

Typical party organizations.

The framework of party organization is not everywhere alike. The party in each city has its own mechanism, which, however, differs little from place to place, especially in general methods. In New York, for example, the unit of party organization is the assembly district, that is to say, the area which sends a representative to the lower branch of the state legislature. In the boroughs of Manhattan and the Bronx there are thirty-five of these districts. In each district the Democratic voters choose delegates to a general committee, which, since there is one delegate for every twenty-five voters, has about 7000 members.[1] Being too large to do any executive work properly, it vests its real functions in an executive committee of thirty-five members,—each usually the leader of an assembly district,—with certain ex-officio members. This body actually controls the policy of the party. It is at once the regular Democratic machine and the political organ of Tammany Hall. The latter institution, so long a factor in New York politics and now dominant on the Democratic side of them, has a history of over a century. Originally a social and charitable society, it soon developed political interests, and, making headway against less effective party groups, in time obtained its present primacy in Democratic circles.[2]

The Tammany democracy.

[1] This general committee maintains five standing committees, on organization, finance, correspondence, naturalization of alien voters, and printing, respectively. The members of the general committee from each district also form a district committee.

[2] Further information concerning the history and organization of

Its workings.

It has been observed that the executive committee of Tammany is made up of the thirty-five district leaders. Each leader, besides sharing in the work of the committee, directs the political work in his own district and is the head of the district organization. For the more effective handling of campaign tasks the election district or voting precinct is used as a unit of local organization. It is one of the duties of the district leader to appoint a captain for every polling-precinct in the district, and there are well over 1000 such precincts in the two boroughs. Each captain has a small corps of workers, and is held strictly accountable for getting the voters registered and for seeing that the vote comes out on election day. Such is the framework of official organization. Potentially the supreme control of the party's interests rests with the general committee of nearly 7000 delegates chosen by the voters. In practice thirty-five assembly district leaders, supported by the host of general committeemen in each district and the hundreds of precinct captains and workers, assume the real direction of the election campaigns.

The regular clubs.

Supplementary to this organization, and a very important influence in promoting its strength, are the scores of ostensibly social bodies which form centres of party propaganda in every district of the city. These associations commonly rank as clubs, and each has its own distinctive name. Each has its regular rendezvous, usually a small hall or suite of two or three rooms in a central location. Sometimes there is also a room for billiards and other games, and in some cases the club holds a license to serve liquors to its own members. In these quarters the members gather frequently in a close personal intimacy, and attend

Tammany Hall may be found in Dorman B. Eaton's *Government of Municipalities* (New York, 1899), chs. iv.–vi., and in Gustavus Myer's *History of Tammany Hall* (New York, 1901).

to the interests of the party in the immediate neighborhood in which the club is located. A spirit of partisan loyalty is thus fostered through the channels of everyday friendship. When necessary, these clubs are financed from above; for the leaders of the party well understand their value in an election campaign.

The sporadic clubs.

Along with these more or less permanent associations are the sporadic political clubs that come into being a month or so before the election and disappear as soon as the contest is over. These likewise are social in outer guise, but purely political in motive. They are composed of groups of younger voters who are for the most part already personal friends or acquaintances, but who find in the approaching election an opportunity to enjoy, for the time being, a place of rendezvous with occasional distributions of liquors and cigars at no cost to themselves. A small hall is procured, and is fitted up with chairs and table; smoke-talks by minor fry among the party leaders are announced; stray voters are corralled and brought into nominal membership; and the necessary neighborhood enthusiasm for the party slate is manufactured by an occasional parade with a band and red fire. To some extent these fly-by-night clubs may render political service equivalent in value to the funds which they draw from the party treasury; but on the whole they are not regarded as very profitable adjuncts to the party organization. In many cases they are little more than agencies for extracting, either from candidates or from the organization, enough money to keep in good humor a lot of political rounders whose votes would be had anyway. New York is not unique in the possession of these groups; they abound in all large cities at election time.

The Philadelphia system.

In Philadelphia the system of party organization is not widely different from that in New York. Here, however, the unit of organization is not the legislative district, but the ward.

There are forty-two wards in Philadelphia, but each ward has several polling-precincts or election districts, amounting to nearly 1100 in all. On the first Tuesday of April in each year a caucus, or primary, of the Republican voters in each precinct is called, and this elects a president, secretary, and treasurer, together with two registration officials. This body of five has charge of the local interests of the party in the matter of registering voters. Each of the forty-two wards has a Republican ward committee made up of two delegates from each precinct, who are chosen by the party voters of the precinct at a regular primary election. The size of the ward committee depends, of course, on the number of precincts in the ward, which ranges from ten to fifty; the chairman of the committee is the ward leader. The supervising organ of this whole system is the central city committee of eighty-four members, composed of two from each ward, who are selected by the ward committees. This central body has practically final jurisdiction in all matters affecting partisan regularity. The system constitutes a real hierarchy, therefore; for the central committee has jurisdiction over the ward committees, and the latter in turn have a like authority over the precinct organizations. As the ultimate source of all authority rests in the Republican voters at the primary, the fiction, if not the actuality, of popular organization is thus scrupulously preserved.

The Boston system.

In Boston the party organization also takes the ward as the unit. Once a year each of the twenty-six wards of the city elects its respective ward committees, the enrolled members of each party receiving ballots upon which are printed the names of candidates for election to the party committee. Each ward committee, which contains one member for every 200 party voters, elects its chairman, and each is represented upon a city committee made up of a delegate (usually the chairman) from each of the various ward com-

mittees. The city committee, in turn, chooses its chairman and secretary, both of whom give nearly their whole time to the party service during the period of an election campaign. In both parties, however, the efficiency and discipline of the organization has been greatly weakened by the charter amendments of 1909, which substituted nomination by petition for nomination by party primaries in the case of all elective city officials, took party designations off the ballots, greatly reduced the number of elective posts, and laid many effective restrictions upon the distribution of municipal patronage.

Variety and unity in party organization.

Going through the whole list of larger American cities, one would find that party organizations, so far as their relation to municipal politics is concerned, display almost everywhere the same characteristics.[1] Each organization takes the form of a pyramid, with the rank and file of partisan voters forming the base. These delegate their powers to a large group of ward committeemen, and these in turn depute their authority to a smaller group of men who form an executive committee. This latter committee is ostensibly a responsible body, but in reality it is not so. It assumes the plenary powers of a body which is directing the tactics of a battle: during the heat of an election campaign there is no time to question whether the party leaders are exceeding the letter of their powers. Too much actual democracy in party organization does not make for machine-like precision; accordingly, much that has the externals of popular rule is in effect pure autocracy. If the party voters would come out to the caucuses and primaries in full strength, the situation might be different; but for the most part, and under normal conditions, these gatherings are more freely patronized by hide-bound partisans than by

[1] See Jesse Macy, *Party Organization and Machinery* (New York, 1904), especially ch. xvi.

voters of independent tendencies. The substitution of the primary for the caucus has not changed the caliber or the methods of ward or city committees; it has merely given to the old order that added prestige which legal recognition of its status implies.

Work of party organizations.

The work which the party organizations lay out to do, and in large measure actually perform, is extensive and exacting. It does not, as in Europe, all fall within the few weeks which precede an election; it is spread over the whole year. In the first place, there is the task of getting aliens naturalized, so that their names may ultimately appear on the voters' lists. A precinct committee which does its work well will keep careful record of every one who comes into its neighborhood, and will proffer its help freely to those who seek to qualify as voters. It will make sure that all who are likely to vote right are duly registered; and on polling-day it will see that checkers, watchers, conveyances, and other accessories are provided. The work of the ward committee is of somewhat broader scope. Its functions include the supervision of ward headquarters, its chairman is the disburser of all that can be had from the city in the way of patronage.[1] Furthermore, an efficient ward organization manages to keep its solicitude for the voters constantly before their eyes. When there is a public building, playground, or anything of the sort to be located somewhere, the ward chairman will urge the claims of his own locality; when there are appointments to be made, he will press for a share on behalf of candidates from his own ward; if there are any favors, official or unofficial, to be distrib-

[1] The disbursing of patronage, in general, is handled about as follows: The ward leader (or chairman) keeps for himself and his personal friends all that he dares. A part of what is left goes to members of the ward committee. The rest is distributed outside this immediate circle wherever it seems likely to promote the ward leader's strength or allay opposition to him.

uted, the ward chairman will see that they go where they will do the most good. During the election campaign the committee provides for minor rallies within the ward, and attends to many local details turned over to it by the central city committee.

The city committee.

The city committee, on its part, is the general board of strategy. But its actual functions in this regard are usually arrogated by a small clique of leaders and personal friends of the chief party candidate, not all of whom may be members of the committee. This small group, with the assistance of the whole committee, directs the general party policy, selecting so far as it can the issues that are to be emphasized and usually handling the literature of the campaign; it provides the press service, supplying the newspapers with facilities and copy; it arranges for the speakers at the various rallies; and it superintends the collection and distribution of the campaign funds. Above all, it has direct supervision of the central headquarters, an office that becomes the pivotal point in the party's activities. A great deal, therefore, depends upon the men who make up this group, and particularly upon the man who is at the head of it. The routine of a municipal campaign is much the same everywhere; but the effectiveness of this routine work hinges upon the popularity of the issues selected for emphasis, and upon the energy that can be inspired from headquarters.

The American premium on party activity.

More can be accomplished in American cities by persistent political industry than in any other cities of the world. In England, although organization and vigorous effort on the eve of an election count for much, the fact remains that public sentiment reacts against the candidate who seems to make politics his profession. Too much work in his behalf is apt to alienate voters. In America there seems to be no such danger. The more enthusiasm and effort that a

candidate and his friends put into a campaign the better the voters seem to like it; hence it is thought well to begin early, to press the party's claims upon the attention of the voters without a moment's let-up, and to demonstrate how much energy is in reserve by a whirlwind finish on the eve of the election. To do all this requires the full time of many persons while a campaign is in progress; and when elections come annually such persons never have much opportunity for anything but political work. That is why the professional politician finds a place in American municipal life. To desire the end is usually to tolerate the means. So long as public opinion relishes the expenditure of so much time and energy during the months preceding a municipal election, and so long as annual elections continue to be the rule, it is not to be expected that politics will cease to be a recognized vocation.

Party finances.

For the proper performance of all this work the party organization needs a good deal of money. An important office, therefore, is that of treasurer of the city committee. This post is usually given to some man who has financial standing in the community, and who, because of his business connections or for other reasons, is able to get easily into touch with the elements that are likely to be the most generous contributors to the party exchequer. From the treasurer's office circulars soliciting contributions are sent out to all those who have helped in previous campaigns, and to such others as seem likely to prove responsive. This appeal is followed up by personal solicitations either on the part of the treasurer himself or by the committeemen who assist him, the scope of the canvass depending upon the urgency of the need. Funds come in from various sources. The candidate himself is expected to contribute substantially; in fact, the amount of his subscription is sometimes fixed by a general understanding when his nomination is

The sources of campaign contributions.

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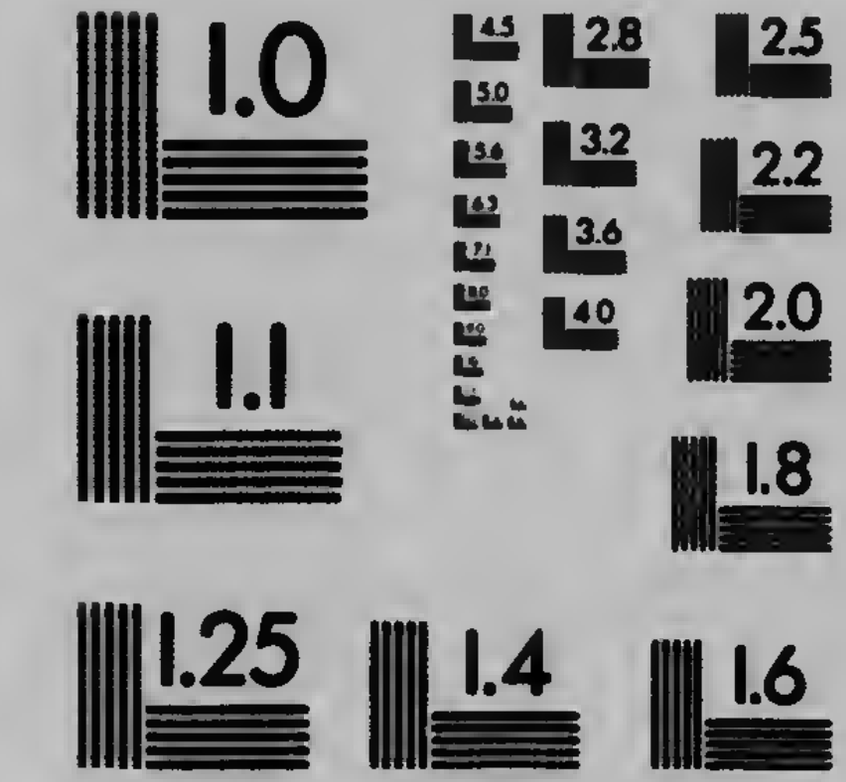

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arranged for. Members of the party who are already in municipal office, or who hold paid administrative posts, are also expected to respond generously; and they usually do so. The current notion among politicians is that the man in office should prove his gratitude to those who put him there by contributing liberally from his public salary to the party income. Then there are the public-service corporations, which, even when prohibited by law or confronted by legal requirements in regard to the publication of campaign contributions, almost always donate freely, and usually without favor, to the funds of both parties whenever the strength of the two parties is sufficiently well-balanced to render the issue of an election at all in doubt. Since they desire privileges from the city government, they feel that they cannot afford to antagonize both parties by refusing to contribute at all; nor are they willing to take the chance of having supported the losing side, as might be the case if they contributed to the funds of one party only. But when there is a great difference in strength between the two parties, the stronger gets the whole contribution and the weaker obtains nothing at all. Since in any case all such disbursements come ultimately from the public, however, and not from the corporate stockholders, the policy of forbidding all such contributions has been growing in favor during recent years, although as yet these prohibitions have not proved proof against evasion. Other persons likely to be approached by the party treasurer are municipal contractors, aspirants to appointive offices, holders of licenses, — all of those, indeed, who have occasion to deal with the city government in any capacity. All such are apt to feel that by contributing they will strengthen their own positions. Finally, there are always many subscribers actuated by unselfish motives, who, desiring only the success of that party in whose programme they be-

lieve, contribute as to a public cause. The motives of men are not often easy to fathom, and when they can be discovered they are rarely found to be simple. A variety of factors usually combine to make one individual contribute and another refrain. But no one can scan the published lists of contributors without being impressed with a feeling that the sinews of party conflict are furnished, in the main, by those who are fairly close to the organization rather than by those who are not even indirectly connected with it. Much of the money that comes in is given quite voluntarily; more of it, perhaps, flows in under varying degrees of pressure, open or implied; but some of it is not infrequently the fruit of pure blackmail, levied upon office-holders and others who dare not refuse the party's demands.

Where the money goes.

Most of the money which the party treasurer can bring together is needed for purely legitimate routine expenses, such as the rental of city and ward headquarters and of halls for rallies, the cost of advertising, printing, bill-posting, and postage, the wages of clerks and stenographers, payments for checkers, watchers, and other workers on polling-day, the hire of conveyances to bring voters to the polls, and little appropriations for bands, transparencies, and the other accessories of party display. In any large city these items combine to foot up a considerable sum. Some of the party's income may be and probably is spent for sinister purposes, but not directly from headquarters. It is customary, a few days before the election, to give to each ward or district leader a certain sum to be used by him and his committee within their own jurisdiction. Much of this goes to employ men who are listed in the subsequent return of expenditures as "messengers," but who in reality are voters to whom small sums (usually five dollars each) are paid for work in the party's interest on the day of the election. The only service these "messengers" perform is

that of voting right themselves and perhaps influencing a few friends in the same direction. The practice has the externals of legitimacy, but much of the money spent in this way is sheer bribery. To put the whole matter in another way, one might say that, while comparatively little of the party's income now goes for purposes that are clearly illegitimate, a considerable part of it, though disbursed for things which are ostensibly within the law (such as rentals, advertising, services, etc.), is invariably spent in ways that constitute a virtual purchase of votes. It is to keep such payments within proper bounds that the stringent laws relating to election expenditures, mentioned in the preceding chapter, have been pressed to enactment.

The distribution of patronage.

But it is not through the possession of ample funds that ward and district organizations and leaders get their strength; for the funds at their command are not ample. Contrary to the popular impression, the ward leader has throughout the greater part of the year very little money on which to keep his organization alive. He has other resources, however, which serve his ends as well or even better. Chief among these is his wide range of patronage, official and unofficial. In the days before civil-service reform laws began to protect the city's pay-roll from his talons, the ward boss rewarded party service and loyalty by gaining positions in the various municipal departments for the more valiant of his supporters. By the development of the merit system, however, this field of official exploitation has been steadily reduced, until in many cities it no longer affords the ward organizations their livelihood. Recourse has accordingly been had to unofficial patronage; that is, to the securing of jobs or favors for party henchmen from public-service corporations, municipal contractors, firms that sell supplies to the city, — from all, indeed, who have anything to gain from the ward leader's support or anything to lose by his opposition. Street-

railway companies, gas and electric companies, contractors for street pavements, and so on, all bear on their pay-rolls men whose services to them are largely political; and the same thing is sometimes done by banks and other financial institutions that carry the city's accounts or do the business of those public-service corporations which serve the city.[1] Ward leaders have asked that these men be employed, and in the long run it is cheaper to comply with such requests — so long as a leader does not ask too much — than to fight him in the city council or the legislature, in each of which he is likely to have one or more minions. The real source of the ward leader's strength lies in his ability to do substantial favors for his adherents, as well as in the number of reputedly honest citizens on whom he may depend to carry out his wishes.

The vice of unofficial patronage.

Unofficial patronage thus runs a vicious circle. The ward organization thrives on the supineness of those corporations and individuals who seek public favors; the latter, in turn, get or hope to get what they are after by purchasing political support in this way. By using money the corporations get men, and by using men they get money. Hence it has come to pass that taking municipal offices and contracts out of politics has not appreciably increased the politician's difficulty in maintaining an effective organization. For it is not alone the office-holder and the contractor who seek to benefit by the favor of the community. The host of public utilities, so long as they find it profitable to supply the ward leaders with a substitute for those official spoils which the laws have removed from their grasp, can hardly be otherwise than important factors in keeping

[1] The extent to which these things are done, and the very fact of their existence on a considerable scale, are hard to prove; but a careful and thorough examination of the facts will convince any one who can gain access to the inner circles of party management that these statements are substantially true in every large city of the United States.

the machine supplied with motive power. There is scarcely a large city in the United States which has not, within very recent years, felt the demoralizing influence of political hirelings who owe their power to the pelf and patronage furnished at their behest by public-service corporations and other seekers of privilege.[1] The system is one which creates no such popular protest as did the old practice of nourishing the party organization by the distribution of city offices and contracts among the party stalwarts. For that very reason it is more insidious in its operation and more dangerous in its influence. Under the old spoils system political debts were contracted and discharged in full view of the electorate. The new circle of demoralization runs its round without disclosing itself, save by a slight flash here and there, to any but those immediately concerned.

The boss; his methods and resources.

Much of the blame for wastefulness and chicanery in the conduct of the city's business has been laid upon the party boss and upon the machine of which he operates the throttle; and most of it has doubtless been entirely deserved. But the denunciators of municipal bossism usually overlook the real source of trouble, which is not the iniquitous ideals and methods of the boss himself, but that supine element in the community which, while professing abhorrence for him, yet furnishes most of his resources. The ward boss has rarely any very attractive personal traits. Usually of low birth, little education, dubious habits, and more or less slovenly appearance, he is a fair target; and the weapons of regeneration have more often been directed at him than at the conditions which

[1] "The privilege-seeker has pervaded our political life. For his own profit he has wilfully befouled the sources of political power. Politics, which should offer a career inspiring to the noblest thoughts and calling for the most patriotic efforts of which man is capable, he has, so far as he could, transformed into a series of sordid transactions between those who buy and those who sell governmental action."—H. E. Deming, *Government of American Cities* (New York, 1909), 194.

clothe such an individual with power.[1] It seems usually to be forgotten that the evolution of the boss follows the law of natural selection, which in this case secures the survival of the man who is most resourceful in using to full advantage the conditions that he finds about him. To gain even a ward leadership and to hold this post requires industry, perseverance, and no end of shrewd tactfulness. A successful ward boss must be a worker, capable by his example of inspiring others to similar industry. He must not be content with doing the work that comes to him; he must look for things to do. As his work consists mainly in doing favors for voters, he must inspire requests as well as grant them. Therefore he encourages voters to come to him for help when they are out of work or in any other sort of trouble. When a voter is arrested, the ward or district leader will lend his services to secure bail or to provide counsel, or will arrange to have the offender's fine paid for him. Then there are the day-to-day favors which the local boss stands ready to do for all who come to him, provided they are voters or can influence voters. These services cannot be even recapitulated here, for their name is legion. To one he lends money to stall a landlord whose patience is exhausted; to the family of another he sends fuel or provisions in time of need. "He buys medicine for the sick and helps to bury the dead. He dispenses an ample hospitality in the saloons; as soon as he comes in, friends known and unknown gather about him, and he treats everybody. He is the only one who does not drink, for he is on duty."[2] Tested by his acts, the boss is

[1] Two notable exceptions, both of them discriminating discussions of the real sources from which the boss derives his power, are the article on "The American Boss" by the late Justice Francis Cabot Lowell in the *Atlantic Monthly*, LXXXVI. 289 (September, 1900), and the chapter on "The Boss" in Professor F. J. Goodnow's *Politics and Administration* (New York, 1900).

[2] M. Ostrogorski, *Democracy and the Party System* (New York, 1910), 237–238.

chief among neighborhood philanthropists; judged by the motives that prompt his acts, he is a serpent spreading the slime of political debauchery over whole sections of the community. With the submerged tenth (it would be more accurately termed the submerged half) of a great city's population, however, it is the acts and not the motives of men that weigh.

His power to annoy.

But it is not alone as a purveyor of favors and petty preferment that the ward leader holds his sway. He is also a dispenser of equally petty penalties and annoyances among those who fail to truckle to his will. The way in which he holds the whip-hand over the keepers of saloons and other places of public resort is too well known to need more than passing mention. But his power does not stop there. If a word from the boss will get one man employment, a word will also, very often, procure another employee's dismissal. At a sign from him the small shopkeeper, the pedler, the pawnbroker, the hackman, can be worried daily by the police or by the health and sanitary officials of the city on baseless or imaginary pretexts,—tactics in which, as the history of almost every large city shows, the machine is unrelenting and vindictive. In the higher walks of industry and trade the same policy is pursued through somewhat different channels. There the assessors or the building inspectors or some others among the city's hierarchy of officials are egged on against the unfriendly. The merchant first learns that he has offended a political leader when his assessment for personal property is raised to the legal maximum, or when he is ordered to provide additional fire appliances in accordance with the provisions of some half-forgotten law, or when the drivers of carriages and delivery wagons before his door are annoyed by the police in their enforcement of the city ordinances. The manufacturer, again, is liable to reap the whirlwind of his recalcitrancy in petty persecutions for the

technical violation of laws relating to the employment of minors, or to overtime labor, or the like. The public-service corporation finds itself penalized by "strike" ordinances, or measures that are framed to give the company trouble and worry. So expensive is the task of fighting a hostile and vindictive political machine that there arises a strong temptation to make a truce with it. But in the long run, a policy of yielding to such pressure is bound to prove more expensive still. If the business community could be brought to realize that peace with political buccaneers at their own price is not only bad politics but bad business, this whole system of virtual blackmail would soon pass out of existence.

Bossism and patronage.

Wherever one may turn, therefore, the hand of the political boss is in evidence. It is unceasingly put forth to help some and to hinder others, acting always on the principle, however, that he who is not for the machine is against it. But whether to help or to hurt, its source of potency is always the same, — namely, the patronage which it can either provide or withhold. This patronage, the ramifications of which can hardly ever be traced to their end, is at once the source of a ward leader's power and the weapon with which he crushes opposition. Power and patronage prove hard to break. Each keeps the other intact. The removal of official patronage in the form of appointments, contracts, and so forth from the arena of politics has been an achievement of much value; but it must always be remembered that the most lucrative spoils are not official. They come ultimately from the pockets of the public, it is true, but not as spoils of partisan conflict. They are the privileges which citizens and corporations may rightly claim from the city, but for which they must pay toll to politicians if they desire to avoid endless trouble in obtaining them. With this triad of city politics, parties, and patron-

age so closely linked together, reform has found some difficulty in choosing its point of most effective attack. That the most vulnerable spot, however, lies not so much in the machinery of municipal government or in the organization of parties as in the existing system of patronage, there can, from recent experience, be very little doubt. The simplification of municipal machinery by the reduction of elective officers and the centralizing of responsibility has accomplished much, and may do still more, in the way of curbing the politician's power for harm; and there are capabilities of like service in the establishment of independent municipal parties, even though they be short-lived, and the pushing of municipal questions to prominence in the programmes of state parties. But most encouraging of all present-day municipal phenomena is the steadily rising tide of public opinion that has set against the system of business blackmail which now provides the professional politician with his sinews of war. The public-service corporations, which have been thus exploited in largest measure, are already feeling the force of popular antagonism in laws that penalize even to a vindictive degree their slightest participation in politics. Big business is the first to be called to account for its sins only because it has been the chief offender; little business will doubtless have its turn in due course. The elimination of politics from the official business of the city is only one step in the direction of civic regeneration; the ousting of politics from private business is a task of even greater importance.

References

The best general work on the history, organization, and activities of parties in the United States is M. Ostrogorski's *Democracy and the Organization of Political Parties* (2 vols., New York, 1902). These volumes contain a comprehensive, accurate, and interesting survey of the entire subject. An abridged edition, in a single volume, was issued recently under the title *Democracy and the Party System in the United States* (New York,

1910). Other useful and readable works are Jesse Macy's *Party Organization and Machinery* (New York, 1912), and J. A. Woodburn's *Political Parties and Party Problems* (New York, 1906). Excellent short discussions are in H. J. Ford's *Rise and Growth of American Politics* (New York, 1898), especially chs. vii., xxiii.–xxv., and F. J. Goodnow's *Politics and Administration* (New York, 1900), especially chs. iii., viii.–ix.

On the detailed organization of the party forces in individual cities very little has been printed, except in the handbooks issued by the organizations for the use of their own officers and members, — as, for example, the *Rules and Regulations of the Democratic-Republican Organization of the County of New York* (New York, 1908). It need scarcely be said, however, that the actual facts of organization do not hew closely to the rules laid down in such manuals. The evolution of the New York municipal democracy may be studied in Gustavus Myers's *History of Tammany Hall* (New York, 1901); and some idea of the situation in the metropolis during the halcyon days of the machine's supremacy may be gleaned from W. M. Ivins's *Machine Politics* (New York, 1887) and Theodore Roosevelt's *Essays on Practical Politics* (New York, 1888). Machine methods in other cities are described, without any undue leniency, in such works as John Wanamaker's *Speeches on Quayism and Boss Domination in Philadelphia Politics* (Philadelphia, 1898), John Jay Chapman's *Causes and Consequences* (New York, 1898), F. C. Howe's *The City, the Hope of Democracy* (New York, 1905), and Lincoln Steffens's *Struggle for Self-government* (New York, 1906), as well as in numerous articles printed in the annual *Proceedings* of such organizations as the National Municipal League and the National Civil Service Reform Association. The *Reports* of the Boston Finance Commission (7 vols., Boston, 1908–1912) contain many examples illustrating the results of machine domination in city government.

The devious ways of the municipal politician cannot, however, be mastered by any study of printed materials. His motives, methods, resources, and his facility in achieving results can be fully understood only by one who is ready to gain such knowledge by the personal sacrifice involved in taking a place on the firing line in one or more municipal campaigns.

CHAPTER VIII

THE CITY COUNCIL

History of the city council.

THERE was a time in American municipal history when the council was the chief, and in fact the only, governing organ of the city. It has long since ceased to be the sole organ of civic administration, and in some places it is no longer the dominant one; but it retains everywhere some of its old-time importance, and in some places it has still to be reckoned with in every municipal undertaking.

The importance of the council as an organ of ocal government during the earlier stages of American municipal development arose from the fact that the first English cities of the New World adopted the system of urban administration then existing in the motherland. Although in England the gradual narrowing of the circle of freemen had deprived city government of its earlier democratic character, the theory of popular local control was at least maintained, and a council elected by the burghers of the city managed all important municipal affairs. At the time of its transplantation to the American colonies, the English municipal system was a democracy in principle, but a sheer oligarchy in fact;[1] and this character was retained by the American colonial borough, at least so far as its frame of government went.

The council in the colonial boroughs.

Each of the colonial boroughs accordingly had its council; and this body was, as in England, made up of aldermen and councilmen sitting together. The number of aldermen was small, usually six or eight. In most of the boroughs

[1] For further information on this point, see Munro's *Government of European Cities* (New York, 1909), 209–221.

they were elected; but in a few they were chosen by the "corporation," that is to say, by the mayor, aldermen, and councillors. There were from six to twenty-four councillors, chosen either by the freeholders or by the corporation. As already said, the aldermen and councillors did not form two separate bodies, but met always together; and there was little difference between them, save that the aldermen often had some special functions to perform, chiefly of a judicial nature. The mayor of the colonial borough was a member of the council and its presiding officer, but he had no veto power over its acts, and, as a rule, no right to appoint any of the borough officials. The council as a whole, made up as it was of mayor, aldermen, and councillors, framed the local ordinances, voted and spent the borough appropriations, and attended to such administrative tasks as there were; but administration, as it is now understood, was not then of much importance, for the colonial borough provided very little for its citizens in the way of public services. Rather curiously, the chief tasks imposed upon members of the council were neither administrative nor legislative, but judicial. The mayor and aldermen, together with the recorder, formed the borough court, which held its weekly or fortnightly sessions for the trial of criminal and civil cases.

Its organization and powers.

After the Revolution great changes took place in both the organization and the functions of municipal councils. The practice of dividing the aldermen into two bodies with distinct powers was adopted by some cities, and soon spread to others, till before long the bicameral council became a general feature of the American municipal system. Soon the "corporation" as a self-perpetuating body was everywhere abolished, both aldermen and councillors being now elected by direct popular vote. The mayor was not yet elected, and in most cities he still ranked merely as the

The city council after the Revolution.

presiding officer of the council and not as a separate administrative official; but in course of time, as the principle of division of powers gained recognition in municipal organization, his independence was established. With this step came the mayor's veto power over the council's acts.[1]

Its position during the first half of the nineteenth century.

During the first half of the nineteenth century, however, the council retained its dominating position in municipal affairs. The members of both its branches were elected by popular vote, which came generally to mean manhood suffrage; and it had all the prestige attaching, in a vigorous democracy, to an authority so selected. As administrative functions developed, they were intrusted by the council to its own committees; and as the work expanded the committees multiplied. The police, fire protection, schools, streets, and similar services went into the immediate charge of council committees. Although the council retained formal charge of the whole field of municipal administration, these various committees naturally developed, in time, a great degree of independence; for the councils had grown so large that it was practically impossible for the whole body to give detailed supervision to the work which developed with urban growth. By the middle of the nineteenth century, therefore, the city council had reached a place in the American municipal system quite as dominating as that occupied by the borough council in the English system at the present time. The mayor, it is true, had acquired much independent authority; but in most American cities the council not only constituted the municipal legislature, but also, through its numerous committees, directed the purely administrative functions of the city. The period 1840–1850 may, accordingly, be said to have marked the heyday of conciliar supremacy in the frame of American city government.

Its dominating position before 1850.

[1] See above, pp. 10–11.

Then came a reaction. The rapid growth of cities due to the heavy immigration of the later forties put a new strain upon the machinery of city government; moreover, the councils seem to have everywhere declined in the caliber of their membership.[1] Between the two causes the system of administration by council committees soon encountered trouble. The committees now had far more work to do, and they were not so competent to do it as they had been; hence it was done poorly and the citizens complained. As important departments of city administration became demoralized through the inefficiency or the partisanship of the committees that had them in charge, appeals were made to the state authorities for intervention. The states responded, but their responses took different forms. In some cases the state legislature amended the city charter by taking the administration of various municipal departments away from the council committees and giving it to newly established administrative officials or to boards chosen by popular vote.[2] In other cities the administrative functions of the mayor were expanded at the expense of the council;[3] and in still others some departments were removed from municipal control altogether, and vested in the hands of authorities appointed by the state.[4]

The city council since 1850.

State interference.

This movement for reducing the administrative authority

[1] This decline has commonly been attributed to the influence of the alien influx combined with the system of manhood suffrage; but, as Professor Goodnow has pointed out (*City Government in the United States*, 140–141), the decline in caliber had begun before the tide of immigration reached anything like its real strength.

[2] An independent water board was established in Chicago by state law in 1851; during the year following several administrative boards and officers were provided for in Cleveland; and in 1857 Detroit began the creation of independent boards.

[3] This was the case in Boston, Chicago, Philadelphia, and Baltimore during the years 1854–1857.

[4] In 1857 the legislature established a state park commission and a state police board for New York, Brooklyn, and the territory adjoining.

Impairment of the council's administrative powers.

of the municipal council gained headway in all the larger cities, until, before long, its progress resulted in confining the council's sphere of influence to local legislation. As the council's powers dwindled, its membership declined in quality; and as it grew less dependable in personnel more checks were put upon it. In the thirty or forty years following 1850 the council was in many cities transformed from the dominant factor in the municipal system to a body whose chief tasks were to make local by-laws and pass the annual appropriations. Its other powers had gone to the mayor, or to various executive officials and boards, or, in a few cases, to state-appointed commissions. A comparison of the Boston charters of 1854 and 1885 affords a good illustration of the way in which the balance of power had during the intervening three decades been shifted from the council to the executive organs of city government.[1]

Differences between English and American municipal development during the period.

It is somewhat noteworthy that during the same period nothing of the kind took place in the cities of any other country. In England the city council lost none of its powers during the second half of the nineteenth century, but managed rather to increase the authority which it already possessed. The same is true of corresponding bodies in the cities of continental Europe. In none has there been a clear separation between legislative and administrative powers, and in none has the executive encroached upon the legislature. The English city still administers its various public services through standing committees of the municipal council, just as it did three-quarters of a century ago; and, although central supervision of local affairs has meantime greatly increased its rigor, the English municipal council has to-day more work to do, and more authority to do it, than at any previous time. In American cities, on the other hand, dissatisfaction with the conduct of municipal

[1] *Acts and Resolves of Massachusetts*, 1854, ch. 448, and 1885, ch. 266.

affairs has wreaked its vengeance on the council, until, as a result of persistent shearing, its powers are in general scarcely a tithe of what they were half a century ago.

Present organization of city councils.

To describe the present-day organization and powers of the council in American cities is not easy, for the reason that these features are alike in hardly any two of them. Each of the forty-eight states has its own laws relating to these matters, and in most of them different arrangements have been established by special charters for different cities. Thus it has come to pass that even in the elements of organization there is no uniformity. Some cities have a council of two branches; others have a single chamber. It has been estimated that in the United States as a whole only about one-third of all the cities of over 25,000 population have the two-chamber system; and in the cities that have populations below this figure the proportion is probably even smaller. Of the ten largest cities in the country, New York, Chicago, Boston, Cleveland, and San Francisco have a single-chamber council; while an equal number, Philadelphia, St. Louis, Baltimore, Pittsburg, and Buffalo, retain the bicameral system.[1]

Merits claimed for the double-chamber system.

The two-chamber system is defended upon various grounds. It is urged, for example, that as a check upon hasty and ill-considered action the double chamber is as appropriate in city as in state government; but it may well be doubted whether, when both branches of the council are elected by popular vote, the bicameral system performs any real service in this direction. In practice the same political party is likely to dominate both branches of the council, and when this happens the same machine leaders are almost certain to dictate the action of both bodies. Under such circumstances one branch is no check upon the other. On the other hand, when different political organizations con-

[1] A. R. Hatton, *Digest of City Charters* (Chicago, 1906), 74.

trol the two branches, they are liable to check each other so effectually that only an understanding between the two party machines can avail to release a permanent deadlock. Such understandings, it is needless to say, are usually the fruit of anteroom compromises in which the interests of the city are sacrificed for the benefit of the party organizations concerned.

Adaptability of the bicameral system to the city's official needs.

Again, it is frequently asserted that, owing to the varied character of the tasks which a city council has to perform, two branches of different structure and size are necessary. Some things of a semi-executive nature which come before the council with great frequency (such as the granting of locations in the city streets) can, it is urged, best be handled in a body of ten or a dozen members; whereas other matters, such as the voting of appropriations, ought properly to come before a much more numerous branch, the members of which represent every section of the city and every interest of the citizens. In reply to this contention, however, it has been pointed out that the first class of matters ought not to come before the city legislature at all, or before any branch of it; that, being quasi-executive in nature, they belong to some purely administrative board; and that in any case their proper handling scarcely demands a permanent division of the city council into two bodies. Another persistent notion is that, since a single chamber is more susceptible to sinister influence, to domination by some powerful corporate interest, the double-chamber system constitutes a useful public safeguard. This idea, which is no doubt deeply rooted in the public mind, overlooks two very important matters of everyday fact. One is the commonplace of political science, that the only public safeguard in such things is the personal integrity of the councilmen. If the individual members of the council be deficient in this, it matters very little whether their number be large or small, or whether they be grouped into one or two branches. On

Single chambers too easily controlled.

the other hand, if men of adequate moral fibre be put into public office, it matters about as little whether they be few or many, and whether they sit together or do their work in different rooms.

The bicameral council as an agent of delay.

The other phase of the question which this argument in favor of the bicameral council overlooks is the fact that quite as many opportunities for evil arise from a council's versatility in impeding business as from its power to rush things through with unseemly haste. If a single chamber can by malign pressure be too easily stampeded into a vote which is not in the interest of the citizens, it is just as true that a double chamber affords to every blackmailing political influence an undue advantage in blocking the path of measures which are in the city's interest. The history of American city councils furnishes quite as many examples of malfeasance in one direction as in the other.[1]

The double-chamber system produces friction.

It may be urged, furthermore, that the bicameral system engenders profitless delay and needless friction; that it precludes the city from pursuing the prompt and business-like methods of private organizations; that it is out of harmony with the arrangements which exist in the best-governed cities of other countries; that the majority of American cities, which do not have the system, get along quite as well as the minority, which do have it; and that no city which has in recent years abolished the double chamber shows any desire to restore it. In general the bicameral system has been losing ground, and the strong probability is that it will continue to do so.

Nomenclature of councils.

When there is a two-chambered council, one branch is usually called the Board of Aldermen, the other the Common

[1] For other arguments, pro and con, see a paper by the Hon. Samuel B. Capen on "One or Two Legislative Chambers," and one by John A. Butler on "A Single or a Double Council," in *Proceedings* of the National Municipal League for 1896.

Council. Sometimes, however, another name is given to the upper branch; in Philadelphia, for example, it is called the Select Council, and in St. Louis the House of Delegates. In size there is great variation among city councils. At the head of the list is Philadelphia, with forty-one members in one branch of its council and one hundred and forty-nine in the other. New York and Chicago have single chambers, comprising seventy-nine and seventy members respectively. San Francisco, however, has a council of eighteen members, called supervisors; and the Boston council contains nine members only. When a council has two branches, the members of the upper branch are usually elected for either a two-year or a four-year term; members of the lower branch are in most cases chosen for one or two years, the latter term being the more common, except in the cities of New England, where the practice of electing councilmen annually is still maintained.[1] When terms are short, reëlections are common; but in any event councilmen seldom serve more than six or eight years. In this respect the traditions of American cities differ very widely from those of English municipalities, where service of ten or even twenty years at the council-board is not at all unusual.

Terms of councilmen.

Qualifications of councilmen.

As a rule, any qualified voter may become a candidate for election to either branch of a city council, but in some cities an additional residence requirement is imposed.[2] In a few places it is stipulated that aldermen and councilmen shall be at least twenty-five years of age;[3] and in at least one city,

[1] A chapter in J. A. Fairlie's *Essays in Municipal Administration* (New York, 1908), entitled "American Municipal Councils," contains much carefully-compiled information concerning council organization in various cities throughout the United States.

[2] In Philadelphia four years, in San Francisco five years.

[3] In Philadelphia and New Orleans, for example. In St. Louis the age limit is thirty.

Detroit, there is an elementary educational qualification which is not exacted from voters, namely, that of being able "to read and write the English language intelligibly." Many city charters also contain the stipulation that a member of the council shall not hold any other public office, that he shall not be pecuniarily interested in any contract to which the city is a party, and that no one who has ever been convicted of any violation of a public trust shall be elected to the board. In no city is a special property qualification exacted, nor is any previous experience in public office required or even expected. The municipal council represents the lowest rung in the ladder of American public life. It is where many men begin what they hope will prove a political career; but not many of them manage to get much higher. This is because the municipal council, especially in the larger cities, does not attract men of real ability or business capacity, a fact which has been so often commented upon that it has ceased to excite any surprise. It does not get even fair material. Very rarely is it true nowadays that any considerable percentage of the councillors are owners of property; indeed, it would probably be found, in most large cities, that at least three-fourths of them contribute nothing to the city treasury but an annual poll-tax. In Boston, just before the common council of seventy-five members was abolished, it was said that the total sum which they paid in taxes did not equal the annual cost of a single city laborer. Only a few of them owned any property at all; the rest were assessed for poll-taxes, and even these small sums could in some cases be collected only by deducting them from the monthly stipends of the councilmen. In many American cities about the only practical requirements for election to the council are that the candidate shall have given proof of loyalty to his political party; that he shall have no substantial business cares, for he must devote

General caliber of municipal councilmen.

a large part of his time, not to the actual duties of his office, but to his own rôle in the continuous vaudeville of ward politics; that he be glib of tongue, an active canvasser for votes, not vindictive, not ungrateful, and not overscrupulous.

Pay of councilmen.

Most cities pay their aldermen and councillors. The aldermen of New York receive $2000 per year; councilmen in Boston and Chicago get $1500; in smaller cities the remuneration is $1000 or less. Of the largest cities, Philadelphia and Pittsburg are the only ones that give their municipal legislators no remuneration; but many smaller cities pursue this policy. The caliber of councilmen seems, however, to be in no way related to the salaries paid. When a substantial remuneration is given, places at the council-board are often sought by men whose ability would not command such return in any private employment. On the other hand, when cities pay only a nominal stipend, or nothing at all, men who have other interests to engage their attention are deterred from the sacrifice which service in the council demands of them. Hence most of the candidates for election come from the ranks of those who have nothing to sacrifice and who hope to secure in a roundabout way some recoupment for any time they may give the city.[1] It is coming to be felt that cities would find it profitable to reduce their councils materially in size, and proportionately increase the salaries paid to councilmen.

Methods of election.

There are three systems of selecting members of municipal councils, — election by wards or other districts, election at large, and election by a combination of both these methods. The first method is most commonly followed in the choice of a single-chambered council, and it is also

[1] This question is further discussed in a paper by J. N. Pryor, entitled, "Should Municipal Legislators receive a Salary?" in *Proceedings* of the National Municipal League for 1896.

almost invariably used in the selection of members for the larger branch of a bicameral council. Under the ward system each district of the city chooses one, two, or three councillors. Chicago, for example, elects two from each of its thirty-five wards; Philadelphia chooses the one hundred and forty-nine members of its common council from its forty-one wards, each ward having representation in proportion to its population. Boston and San Francisco are about the only large cities that elect all their councilmen (numbering nine and eighteen, respectively) on a general city ticket; but many cities that have two chambers elect the members of the smaller branch in this way.

Relative merits of the ward and general-ticket systems.

Much has been said and written concerning the relative merits of the ward and general-ticket systems of choosing municipal councillors, and it is often alleged that the ward system has been responsible in no small degree for the mediocrity of the men usually selected. Petty districts choose petty men, — so the saying runs. The ward councillor represents his own ward, and that alone. He forgets that the city is more than the sum of its wards, and that the public opinion of the city may be different from the totality of neighborhood clamors. Ward divisions are at best ephemeral; unlike the French *arrondissement*, the American ward has rarely any traditions and as a unit of area exacts no spontaneous loyalty from the people who live in it. What passes for ward loyalty is, more commonly than not, local prejudice fostered by politicians to serve their own personal ends. Moreover, the concentration of single ethnic elements in particular sections of the city makes it practically certain that, under the ward system, some members of the council will owe their election to nothing but their proficiency in appealing to racial or religious or social narrowness. The ward system likewise affords a standing incentive to that most vicious of all American contributions

to the science of practical politics, the gerrymander; it makes possible the control of a majority in the council by a minority of the city's voters; and, unless redistricting is resorted to frequently, it fosters gross inequalities in representation. The term "ward" has accordingly come into disrepute in the terminology of American government, a somewhat curious fact, by the way, since in England, where councillors are and always have been chosen from wards, no such odium has been developed. Its presence here is doubtless explained by the fact that in America ward representation, ward politics, and ward organization have come to be associated in the public mind with bossism, trickery, and almost everything else that is politically demoralizing. A feeling so deeply lodged can scarcely be without some substantial foundation.

The ward plan and representation.

One thing, however, the ward system has in its favor: it does secure what many voters seem to regard as the only real representation of their special interests in the city government, and it does insure a certain amount of geographical and political variety in the make-up of the municipal council. It is the failure of the general-ticket system to afford adequate guarantees on these points that has hindered its more extensive adoption. Under a system of election at large it is entirely possible for all the councillors to come from one section of the city, or at any rate from a few of the many sections; and it is not only possible, but probable, that if the municipal ballot bears party designations, as it usually does, they will all come from one political party. When nominations are made by political conventions, it can usually be arranged to give the various geographical sections of the city due recognition on the slate of candidates; but when nominations are made by direct primaries or by petition this cannot very easily be done. In such cases some sections are liable to be left without representation among

the candidates whose names go on the ballot; and since, when a political party stands loyally by its whole slate of candidates, it will elect them all, the minority party is wholly unrepresented in the council. In Boston, some years ago, when the thirteen members of the board of aldermen were elected at large, one political party regularly managed to capture the whole quota, until the legislature intervened and required by statute that voters should mark their ballots for not more than seven candidates, although thirteen were to be chosen.[1] Thenceforth the majority party in the city was assured of seven aldermen, while the minority party secured the remaining six; but the board was always so closely balanced politically that deadlocks were frequent, and the city's business was greatly obstructed in consequence.

Arguments in favor of the ward system have little real basis.

These objections to the system of electing councillors at large merely beg the question as to whether either geographical or political representation is a thing to be desired. Are not different sections of the city, however diverse they may be in their racial or social or economic features, entirely at one in their common interest concerning the city as a whole? Can any policy which is to the advantage of the whole body of citizens be of permanent disadvantage to citizens of any one race or creed or neighborhood? The plea for ward representation rests upon the affirmative of this proposition. As for the service which the ward system is reputed to render in assuring due representation to a minority political party, many persons are disposed to deny that it is a service at all, since it rests upon the premise that the regular political parties have a necessary place in municipal affairs and hence should be officially recognized and their interests duly

[1] Somewhat similar arrangements for securing minority representation have at various times been tried in other cities, notably in New York and Chicago. In no case have they proved satisfactory.

regarded in the composition of the city government. Such doctrines are supported neither by reason nor by experience, and they are quite out of harmony with the present-day drift of public sentiment. Those American cities which have reorganized their administrative arrangements during the last ten years have, without exception, striven to lessen the recognition given to political parties. Important steps to this end have been the reduction of the council in size and the removal of party designations from the municipal ballot. With the adoption of these features the chief reasons for the ward system of election disappear.

Nominations of candidates for election to the council.

Candidates for election to the council are nominated in a variety of ways. In a few cities the ward or city caucus still remains; in some the party convention chooses candidates for election at large. Many cities have replaced both caucus and convention by the party primary, each party holding its own primary and choosing its own official candidates. In Massachusetts (except in Boston and those cities that have adopted the commission form of government) the joint party primary is used, both parties choosing their candidates on the same day and at the same ballot-boxes. During recent years some cities, particularly those which have adopted the commission type of government, have used the non-partisan primary, at which candidates are selected without regard to their party affiliations. Boston nominates its nine councilmen by petitions bearing each the signatures of at least 5000 qualified voters; and the few cities that elect councilmen by a system of preferential voting have no elaborate nominating machinery at all. The merits and defects of these various plans of nomination have been discussed in a previous chapter.[1]

Election machinery.

Elections for the city council are everywhere conducted by secret ballot, and in almost all cases the so-termed

[1] Above, ch. vi.

Australian ballot is used. In many cities the ballot continues to bear a party designation after the name of each candidate for election to the council, and thus puts a premium upon party regularity among the voters. A plurality of votes is sufficient to elect a councillor; hence, as there are usually more than two candidates for the same vacancy, it very frequently happens that a councilman is chosen by a minority of the voters. Elections may be voided on the usual grounds; but in most cities the council is the sole judge of the qualifications of its members, and decides, among other things, whether or not a councilman was properly elected. Being a partisan body, it is more apt to render its decision upon partisan grounds than upon the real facts of the case. After election the councillors qualify by taking a prescribed oath of office.

The organisation and procedure of city councils.

In organization and procedure municipal councils are much alike throughout the United States.[1] Regular meetings take place at the city hall, weekly in the larger cities, fortnightly or monthly in the smaller. Special meetings may be held when a certain number of members ask for them. In a few cities, notably in Chicago and Providence, the mayor presides at all council meetings; but as a rule the council, or each branch of it, selects its own president. This is done at the first meeting after an election, and a clear majority of votes is usually necessary; hence the selection of a presiding officer is not infrequently delayed for weeks or even months, through the inability of a majority of the members to agree upon a choice. Where party discipline is good, however, the selection is virtually made at a preliminary caucus by the members of the majority party in the council. The presidents of the board of aldermen and the common council are usually chosen for a single year. The council,

[1] There is a good discussion of this matter in Eugene McQuillin's *Law of Municipal Corporations*, II. ch. xiii.

furthermore, determines its own rules of procedure. At its opening meeting it ordinarily readopts the regulations of the preceding year, with such incidental changes as may be deemed desirable. Each branch of a city council has its own code of rules; but these rarely differ much, and methods are more or less uniform in different cities. The rules are usually capable of suspension either by unanimous consent or by a two-thirds vote; and such suspensions are more frequent, perhaps, than they ought to be.

Council committees.

Most of the routine work which a city council has to do is performed through standing committees. When there are two branches of the council, there are joint committees made up of members from each branch; but, if either branch has special functions apart from the other, that branch will also have some separate committees of its own. In a large city the council will have from a dozen to thirty or forty regular committees, each made up of from three to nine members. The city council of Boston, before its reorganization in 1909, had no fewer than forty-two joint standing committees, fully half of which had only nominal functions to perform. Some council committees are very influential bodies, with many questions of real importance to consider. Perhaps the best example is the finance committee, or the committee on appropriations; but the standing committees on streets, police, health, water supply, and fire protection also have a great many important matters to deal with every year. The committees on publicity, statistics, sinking funds, or contingencies have, for the most part, only perfunctory duties and often hold no meetings at all.

How committees are chosen.

Very naturally, the councillors all want places on the major committees, and more particularly chairmanships of them; consequently, much pressure is brought to bear from all sides upon the appointing authority. In a few cities this authority

is a committee chosen at the beginning of each year to frame slates of standing committees; but in most places all committees are appointed by the president of the council. When there are two branches, the chairman of each names a quota from his own chamber to serve upon the joint committees. This system of course gives the presiding officer a great deal of patronage, and too often is a means of enabling him to pay the price of his election; for not infrequently candidates for election to the presidency of city councils get much of their strength by promising committee chairmanships or places on important committees to those councilmen who are ready to support their candidacy. The committee slates, accordingly, are more often framed with a view to the fulfilment of ante-election pledges than with a purpose to secure upon committees men who are best qualified to deal with the special matters that will come before them. This being the case, it is not surprising that, as a rule, the reports and recommendations of the council's standing committees carry no considerable weight with the council as a whole.

English and American council committees compared.

Herein the English and American systems of committee administration differ greatly. In the council of an English city the recommendation of a standing committee on any matter within its particular field of jurisdiction is practically decisive. That is because the English city council chooses its own committees, putting upon them the aldermen and councillors who seem best qualified by training and experience to deal with the matters in hand, and endeavoring to keep the same men on the same committees as long as they remain members of the council.[1] The recommendations of committees so constituted deserve and receive weight, because they embody the conclusions of men who, though laymen, have become experts in their special fields of ad-

[1] See the data on this point given in Munro's *Government of European Cities* (New York, 1909), 284–285.

ministration. Members of American council committees, on the other hand, chosen as they are not by the council but by the presiding officer, have seldom any special proficiency at the outset, and they are not usually allowed to serve long enough to acquire it by experience.[1] Realizing this, the councillors as a whole are disposed to regard the judgment of a committee as no better than their own individual opinions upon the matter in quest on; hence they set aside committee recommendations without much compunction. This condition of things has tended to deprive committeemen of an adequate sense of final responsibility, to put a premium upon haphazardness in committee work, and in general to discredit the committee system. Yet large councils must do much of their work through committees; they are by their very size precluded from handling directly the host of matters which come before them and must be studied with care. Accordingly, the propaganda for smaller city councils derives some of its support from the feeling that, since the committee system cannot be made to serve the cause of efficient administration, the only feasible alternative is to remove the necessity for its existence.

Powers of the city council.

The powers of the American city council defy any attempt at concise summary. In no two cities are they exactly alike, and even in the same city they change from time to time as the result of special statutory enactment. In most municipalities, however, except those which have adopted commission government, the powers of the council represent a residuum; they are no more than the remnants of a once comprehensive jurisdiction which has been

[1] Newly elected councilmen are at first put upon unimportant committees. After reëlection they expect assignment to committees of greater importance; a councilman who serves three or four terms expects a "promotion" in each term. This means that, unless he has proved a failure in committee work, he is not left for more than a single term on one committee.

steadily dwindling during the last forty or fifty years. Such powers as still remain may be conveniently classified under the two heads of legislative and administrative authority; but, as the former group is much the more important, it should for purposes of study be subdivided into various subsidiary divisions.

1. Legislative powers;

The legislative powers of city councils extend, first of all, to such matters relating to the general structure of municipal government as are not provided for in the city charter or the general statutes. It may be laid down as a common rule of law that, when any power seems to appertain to a municipal corporation and the city charter is silent as to the manner in which such power shall be exercised, the city council may determine the matter.[1] This it usually does by ordinance; but it may, under certain limitations, proceed by mere resolution As a rule, the city charter and the statutes cover all the essentials of municipal organization. They determine the structure of government, the terms of officers, their compensations, and their duties; but if they fail to make detailed provisions on such points the city council may do so.

(a) general;

(b) ordinances under the police power;

In the second place the legislative powers of the city council usually include the right to make ordinances in exercise of the municipality's police power.[2] Within this rather broad field is comprised suitable local legislation for the protection of life and property, as well as for the preservation of the public health and morals. Ordinances relating to traffic in the streets; the establishment of fire limits and the regulation of fire hazards; building laws; sanitary and health regulations; ordinances providing for the inspection

[1] Cascaden *v.* Waterloo, 106 *Iowa*, 673.

[2] A full discussion of this topic may be found in the chapter on "Ordinances exercising the Police Power" in J. F. Dillon's *Law of Municipal Corporations* (5 vols., Boston, 1911), I. ch. xvi.

of goods offered for sale, or for standardizing weights and measures; restrictions upon the storage of dangerous materials; bill-board regulations; rules governing theatres and other places of amusement: all these afford examples of the exercise, by legislation, of the local police power. Authority to make some of these regulations is now and then intrusted to some special administrative board. Traffic in the streets, for example, may be put within the jurisdiction of the street commissioners or of the police authorities; the making of sanitary regulations is often turned over to the municipal board of health. But when such disposition has not been made by the city charter or by other statutory enactment, the power to regulate all these matters by ordinance belongs to the city council, subject, of course, to the general restrictions governing the validity of municipal ordinances.[1] In the larger cities the tendency has on the whole been to take more and more of this authority away from the council and to vest it in the hands of the administrative authorities. State laws, moreover, are steadily trenching upon the field, in some cases leaving very little to be handled by any city authority.

(c) financial;

The city council's legislative powers, again, include various matters connected with municipal finance. In most cities the council determines the annual tax-rate, but it does not decide what property may be levied upon, this matter being almost always fixed by state law. The council often, but not always, grants exemptions and abatements in taxation matters. It also makes the annual appropriations. Sometimes these appropriations are put together into a budget and laid before the council by one of its own committees; more often the list is prepared by the mayor, and in a few cities, including New York, by a board of estimate and apportionment. But, however the appropriations may originate,

[1] *Cf.* above, pp. 86–89.

they can become effective only with the assent of the council. The charters of a few cities, notably those of New York and Boston, provide that the council may in no case increase items in the budget, and shall not even have a free hand in decreasing appropriations laid before it. In New York, for example, changes in the budget even by way of decrease may be made against the will of the mayor only by a three-fourths vote of the council; in Boston the council may in no case increase the estimates, and, save with the mayor's approval, may reduce them only by a two-thirds vote. In most other cities the council may augment or diminish the appropriations, subject, of course, to a veto of such action by the mayor.[1] The city council, again, continues to be an important factor in the exercise of the city's borrowing powers. All loan orders, whether authorizing temporary or bonded indebtedness, must as a rule have its assent. The council, it is true, is not the only authority possessing power to borrow on the credit of the city. Not infrequently the legislature gives this right to water boards, park boards, or other administrative bodies. In general, however borrowing projects must go before the council for consideration.

(*d*) franchises;

Within the council's legislative jurisdiction, likewise, falls the determination of many general matters relating to the provision of public utilities.[2] In most American cities the municipal council has authority, usually under very strin-

[1] For a discussion of many interesting matters pertaining to the methods of making municipal appropriations, which cannot be considered here, the reader is referred to the chapter on "Principles of Budget Making" in F. A. Cleveland's *Municipal Administration and Accounting* (New York, 1909), and to the publications on this subject issued from time to time during the last five years by the New York Bureau of Municipal Research.

[2] This branch of the council's powers is dealt with at length in O. L. Pond's *Municipal Control of Public Utilities* (New York, 1908), especially chs. viii.–x.

gent limitations prescribed by the state constitution or by statute, to grant such franchises to public-service corporations as the convenience of the citizens may require, and to determine the duration and detailed provisions of such franchises. On the whole, no municipal power has been more grossly abused than this. It is as a franchise authority that the city council has achieved its acme of inefficiency and incompetence. Accordingly, in keeping with the usual policy of depriving subordinate authorities of any power which they show a disposition to abuse, many states have put stringent limitations on the franchise prerogative of the city councils. Sometimes by constitutional or statutory enactments they forbid them to grant franchises for a longer period than twenty or thirty years, or they make all votes of councils relative to franchises subject to popular referendum. Sometimes, again, they arrogate to themselves a part at least of the franchise-granting power, and exercise it directly. The rôle of the city council in this field has become steadily less important. On the other hand, when the city itself owns and operates any public service, such as a water or a lighting plant, the council usually possesses the right to regulate by ordinance the terms and incidents of such service. In most cases the service is in the immediate administrative jurisdiction of a special board or commissioner, and the council merely determines broad matters of general management. The question as to whether the administration of municipal services by authorities independent of the council is a policy which makes for efficiency need not be discussed at this point. It will be approached from a somewhat different angle in a later chapter.[1]

(e) miscellaneous.

Finally, there is a considerable group of miscellaneous matters to which the ordinance power of the city council

[1] Below, ch. x.

extends.[1] These do not lend themselves very readily to classification, but they embrace such things as the fixing of locations for city buildings, the acceptance or rejection of permissive powers granted to the city by statute, the passing of resolutions that indicate to the legislature the city's attitude on matters of pending legislation, and so on.

The council's legislative activity.

Despite its narrowed authority, the average city council deals, therefore, with a goodly variety of matters, and it is not surprising that its annual output of municipal ordinances, orders, and resolutions is very large. The revised ordinances of Chicago make up two solid volumes of over a thousand pages each, and other large cities make a nearly equal showing. Each year a good-sized document is required to promulgate new ordinances and amendments to old ones. No limit is fixed either by law or by public opinion to the number of ordinances that a city council may enact on matters within its purview; the only requisites are that the measures shall all be enacted in due form, and shall not be unreasonable or oppressive in character, but general in their application and consistent with the policy of the state as expressed in its statute-books. Since, however, these limitations have by judicial decisions been applied in different states with varying degrees of strictness, it is only by a careful study not only of the laws but of the precedents that one can tell whether a council has or has not the authority to deal with any given matter. Only a trained lawyer can give an accurate answer to such a question, and even he cannot always be sure of his ground. Hence it is that a council rarely acts upon any new legislative project without first ascertaining the scope of its rights from the city's law department. As for the ordinary citizen, he is presumed to

[1] The exact powers of the council in any city can be ascertained only by a special study of the municipality in question. Some useful information, however, with references to authoritative sources, may be found in A. R. Hatton's *Digest of City Charters* (Chicago, 1906), 107–228.

know both the laws and the ordinances of the community in which he lives, a legal fiction that does not lose any of its absurdity by reason of the fact that it is necessary as a working principle of judicial administration. The whole mass of municipal law is set before the public with only a pretence of classification; ordinances are passed, amended, and repealed with bewildering frequency; and the entire body of city ordinances is no sooner codified than the oncoming flood of amending enactments sweeps away much of its value as a trustworthy guide. Narrowing the city council's legislative juridiction has certainly not reduced its legislative output.

2. Administrative powers.

Then there are the administrative powers of city councils. As a matter of political theory, city councils ought to have no administrative powers; but as a matter of fact they do perform such functions, and in many cities this part of their work is of much importance. In some cities, both large and small, the council still retains the right to make appointments to certain municipal offices;[1] in those in which the mayor makes the appointment, the council (or, where there are two chambers, the upper branch of it) must confirm such appointment before it becomes effective. The merits and faults of this system are discussed elsewhere;[2] but wherever it exists it is a substantial power. In a few cases contracts can be awarded only with the council's consent. Most city councils, furthermore, have the right to require stated reports from the various administrative departments, and they may investigate any of these departments when they choose to do so. These powers are not intended to give the council any right to interfere in the direct administration of city departments, but not infrequently they have been made to serve this purpose. As the report of the

[1] The city clerk, for example, is usually chosen by the council.
[2] Below, ch. ix.

Boston Finance Commission disclosed, a large part of the time of a city council may be spent in discussing questions relating to contracts, to the hiring of labor, or to the mayor's appointments, with none of which has it any legal right to interfere.[1] What the council cannot bring about as a body, moreover, individual councilmen usually manage to secure. Many of them spend their time in besieging the mayor and the heads of departments to appoint their friends to places on the city pay-roll, to give out minor contracts to political supporters, or to order supplies from favored stores. If heads of departments, trying to perform the duties laid upon them by law, refuse such appeals, their official lives are made miserable by scurrilous attacks at council meetings, where men can utter slanders under the cloak of privilege, or can prefer trumped-up charges as the basis of demands for council investigation into the affairs of departments. In this extra-legal and wholly indefensible fashion city councils have in matters of pure administration often exerted powers which the city charter never intended to bestow. The reason for all this is not far to seek. Patronage is administrative, not legislative. Councils that confine themselves strictly to legislative functions not only find comparatively little that excites the real interest of their members, but have small opportunity to give councilmen anything that will serve to increase their own political strength. The power to influence the patronage that usually goes with administrative authority is what the councilmen in most cities seem to want; and they reach out after it even when charter provisions attempt to put it far beyond their grasp.

The place of the council in contemporary city government.

The principle of separation of powers, as applied to local government, has come to mean that the city executive shall have most of the real authority, and that, under the name of legislative jurisdiction, the council may have

[1] Boston Finance Commission, *Reports*, II. 197 (1909).

whatever is left. The whole trend has been in the direction of reducing the council to a body which makes minor ordinances, passes the appropriations with no power to increase them in amount, authorizes borrowing when necessary, and does little more. The only marked reaction against this tendency is to be found in those cities which, by adopting the commission form of government, have cast overboard the traditional principle of division of powers. Save in so far as the city council may profit by the abandonment of this principle, there are no signs that it will, in its orthodox form, ever regain its former position of prestige and influence.

References

On the historical development of the municipal council in America there is considerable material in the general references mentioned on p. 28, above, particularly in J. A. Fairlie's chapter on "Municipal Development in the United States," in his *Municipal Administration* (New York, 1901). The organization, procedure, and powers of city councils can be accurately studied only in the charters and ordinances and official handbooks of the various municipalities; but a useful summary of such matters may be found in A. R. Hatton's *Digest of City Charters* (Chicago, 1906). J. A. Fairlie's *Essays in Municipal Administration* (New York, 1908) contains an excellent chapter on "American Municipal Councils"; and there are informing general discussions of the subject in Professor F. J. Goodnow's *Municipal Government* (New York, 1909), ch. x., and *Municipal Problems* (New York, 1904), ch. ix., in D. F. Wilcox's *American City* (New York, 1904), ch. ix., and in E. D. Durand's articles on "Council Government versus Mayor Government" in *Political Science Quarterly*, XV. 426, 675 (Sept., Dec., 1900). Several papers dealing with various phases of the council's organization and powers have appeared from time to time in the *Proceedings* of the National Municipal League. Among these may be mentioned "The Reform of our Municipal Councils," by Henry W. Williams (1896); "The Legislature in City and State," by Horace E. Deming 1897); "Should Municipal Legislators receive a Salary?" by James W. Pryor (1896); "A Single or a Double Council?" by John A. Butler (1896); "Shall we have One or Two Legislative Chambers?" by the Hon. Samuel B. Capen (1896); and "The Necessity of Distinguishing Legislation from Administration," by F. J. Goodnow (1898). The *Municipal Program*, issued by the National Municipal League (New York, 1900), contains some interesting recommendations in regard to the organization and powers of the council.

CHAPTER IX

THE MAYOR

As an independent organ of local government the mayoralty is a distinctively American development. It does not have any exact counterpart in the cities of Great Britain or continental Europe, for there the chief magistrate of the city is chosen by the municipal legislature and serves as its presiding officer.[1] The development of the office of mayor to independence, and in the natural course of events to power, has been the outstanding feature of the nineteenth century in the evolution of American municipal institutions, and is one of the most striking results of the emphasis laid upon the doctrine of divided powers.

The American mayoralty a unique office.

In the boroughs of the colonial period there was, as has been pointed out in previous chapters, no attempt to separate administrative from legislative functions in local government.[2] The sole organ of borough administration was the council; and of this body the mayor was simply the presiding officer, as he is in English boroughs at the present day.[3] Sometimes the mayor was appointed by the governor of the colony in which the borough was located; in other boroughs he was chosen by the councillors from among their own number; and in a few instances he was elected by popular vote, although this method was never in any borough a regu-

Its development.

1. In the colonial era.

[1] In the cities of Great Britain and France the mayor presides in the single-chambered council; in the cities of the German Empire the burgomaster presides in the upper branch of the bicameral council.

[2] See above, ch. i., especially pp. 14–8.

[3] In some of the Southern boroughs the term "intendant" was used to designate the chief municipal officer.

lar practice.[1] The mayor of the colonial borough held office for a single year only, and he served without pay.[2] But the distinguishing feature of his office was that it gave him no special powers. He was, to be sure, the presiding officer at meetings of the council, and, as a rule, he had a vote like the other members; but he had no veto power, no exclusive right of proposing expenditures, and no authority to nominate or appoint borough officers. In a few colonial towns, notably in New York and Albany, he was intrusted with certain minor functions, such as the licensing of taverns, the supervision of the market, the determination of petty suits at law, and the holding of coroners' inquests;[3] but the pre-Revolutionary American mayor could not in any sense be regarded as an independent administrative officer like his descendant of the present day.

2. After the Revolution.

The Revolution and the adoption of the national constitution brought in a new theory of administration, which soon wrought a change in the position and powers of the mayor. Ample evidence of this change appears in the Baltimore charter of 1796, which provided that the mayor should be chosen, for a two-year term, by a miniature electoral college, the members of which were to be elected by the voters of the city, two from each of the eight wards. Only property-owners were eligible to the office, and the mayor was to receive an annual salary.[4] In all this the influence of the so-termed federal analogy appears very plainly. Even more distinctly, however, it is shown in the extent and nature

The Baltimore charter of 1796.

[1] In New York he was appointed by the governor; in Philadelphia he was chosen by the council from among the aldermen; only in the smaller boroughs was he ever elected, and even there not very often.

[2] In practice re-appointments were very common.

[3] For a more detailed statement of powers vested in the colonial mayor, see J. A. Fairlie's *Essays in Municipal Administration* (New York, 1908), 68–69.

[4] *Laws of Maryland*, 1796, ch. 68.

of the powers which the charter intrusted to the mayor. In the first place, the mayoral veto here makes what is presumably its first appearance in a city charter; for one of the provisions permitted the mayor to veto any ordinance or resolution of the Baltimore council, with the limitation, however, that the veto might be overridden by a three-fourths vote. In the second place, the mayor was invested with certain powers of appointment; but his discretionary authority in this direction was, for the time being, closely restricted by the requirement that he must make all his appointments from lists submitted to him by the aldermen. Finally, by the terms of this charter the mayor was charged with the enforcement of all the city ordinances; he might call for financial statements from the officers of the city treasury at any time, and he was authorized to make recommendations to the city council.

Influence of the federal analogy.

It is at this early point, the closing years of the eighteenth century, that we find the principle of division of powers making its way down from the national and state constitutions into the charters of cities and gaining in the latter a firm anchorage. The mayor is no longer a chief colleague among the councilmen, with no special rights except that of presiding at the council meetings. He begins to take rank as an independent organ of local government, with powers that were somewhat restricted, it is true, but of such a nature that they were sure to increase in scope and importance. During the earlier years of the nineteenth century several other cities either obtained revisions of their old charters or secured new ones, and in practically all of these documents some of the more important features of the Baltimore charter were embodied. The idea of choosing the mayor by a system of indirect election seems to have had little popularity, however; instead, most cities preferred and adopted the plan of electing their mayors by direct popular vote. Boston

was among the earliest to follow this course, which was enjoined in her first charter, in 1822. Other cities followed, Philadelphia in 1826, New York in 1834.

3. During the earlier part of the nineteenth century.

In extension of its powers the office of mayor can hardly be said to have made much headway during the first quarter of the nineteenth century. The Boston charter of 1822 gave the mayor somewhat broader appointing prerogatives than those contained in the Baltimore charter of 1796, for in Boston the mayor might appoint whom he chose, subject, however, to confirmation by the aldermen; but, on the other hand, it gave him no veto power. Indeed, such extension of mayoral powers as occurred during this quarter-century was due not so much to new authority granted by charters as to the personal aggressiveness of some of the men who held the office. An interesting example is afforded by the character of the second mayor of Boston, Josiah Quincy, who showed during his term how expansive were even the restricted charter powers when applied by one who cared to exercise them fully.[1]

4. During the mid-century period.

During the years prior to the middle of the century the balance of power, as between mayor and council, was fairly well maintained. The mayor was an influential, but not a dominant, factor in city affairs; for, even where he had gained the veto and appointing powers, the council still held a firm hand over the various municipal departments, supervising them directly through its committees and retaining full control over city finance. As time went on, however, the balance was slowly but surely shifted over to the executive: the council

[1] "The second mayor (Quincy) determined to use all the powers that ingenuity could spell out of the city charter to the end of concentrating responsibility and control. The means adopted by him to secure this result was to make himself chairman of all the important committees of the board of aldermen, and thus personally to become familiar with all the details of the executive business of the city, and responsible for the management of them." — NATHAN MATTHEWS, *City Government of Boston* (Boston, 1895), 166.

lost ground. The reason why it lost ground has already been discussed.[1] Where it lost, the mayor eventually gained. Functions taken from the council were often given to newly-established boards, which, although at the outset elected directly by the people and still in some cases so chosen, were in time usually transferred to the category of officers over which the mayor's appointing powers extended.[2] In other cases, functions taken from the council were given to state-appointed boards. In 1860, for example, the Maryland legislature transferred the police administration of Baltimore to a state board, and a year later the legislature of Illinois did the same thing for Chicago. In 1865 the legislature of New York took from the council of the metropolis its control of fire protection, public health, and licensing, and put all these powers into the hands of state boards. But there soon came a reaction against this state interference in the affairs of city departments, and in some cases the legislature restored local control. Let it be noted, however, that it restored control over these departments not to the council, but to local boards, the members of which were thenceforth, as a rule, to be appointed by the mayor. In several cities, accordingly, a substantial increase in the mayor's powers came about through a term of state interference. The state took powers from the council, exercised these powers for a time through its own appointive officials, and then handed them back to the appointees of the mayor.

[1] Above, ch. viii.

[2] The reason for this, as elsewhere explained, may be found in the fact that popular election, as a method of selecting members of administrative boards, proved a complete disappointment. As managers of city departments the council committees were inefficient and wasteful; and the boards elected by popular vote in the larger cities were not appreciably better, for they were too often composed of men whose qualifications were simply and purely political, and who brought to the supervision of their departments no administrative skill or capability whatever.

5. During the last fifty years.

Other extensions of the mayor's powers were made as the second half of the century progressed. The practice of requiring that his appointments should be confirmed by the aldermen came to be looked upon with disfavor in some cities, and in 1882 Brooklyn made bold to abolish it. New York soon followed this lead; other cities of the state came into line a little later; and in time various cities in other parts of the country adopted the plan of giving the mayor a rather free hand in appointments. Even yet, however, the old practice still holds firm in the great majority of American cities; but, as charters are revised, the drift is unmistakably away from it. In the field of municipal finance the mayor has also made substantial gains during the last few decades. It was at one time the prevailing right of the council to prepare the annual budget, but this right has now in many cities passed to the mayor. So, too, have the power to approve the award of contracts, and various other functions formerly within the purview of the municipal legislature. Along with all this has gone a tendency to extend the term for which the mayor is elected, to make his stipend larger, and to afford him increased facilities for the full exercise of his broad authority.

Development not uniform throughout the United States.

Now, while this development of the office of mayor to a dominating position in American municipal administration can be clearly followed in a general way when one views the country as a whole, it has not proceeded so far in some cities as in others. In places like New York and Boston the powers of the mayor have dwarfed into insignificance the authority of the municipal councils; but of cities like Chicago and Philadelphia this is not at all true, for the councils of these cities still maintain a tenacious grip upon their considerable share in local administration. It is impossible, therefore, in describing the place and powers of the mayor in American cities, to say anything broadly or without large

reservation. Any assertion as to the functions of the mayor in one English city would hold true of English mayors in general, and any outline of the authority possessed by the burgomaster of Cologne or Charlottenburg might be applied without any important modification to any other Prussian city. But of the larger cities of the United States it may almost be said that whatever functions are intrusted to the mayor in one city are in another city quite likely to be lodged in the hands of some one else. There is, in fact, hardly a single statement concerning the jurisdiction of the mayor in this country that would hold true of anything like all the cities, and very few statements that would apply to even a majority of them. Nevertheless, the essential features of the office can at least be set forth in general terms, though any such description must necessarily wind its way through a difficult maze of local variations.

Method of election.

The mayor is in practically all American cities elected by direct popular vote. Candidates for this office are nominated by the same procedure that is established in the various cities for the nomination of the other elective officers; the election is everywhere by secret ballot; and a plurality of votes, except in one or two cities that have adopted the system of preferential voting, is sufficient to elect.

Term.

The term of office varies from one to five years. Many cities in New England continue the annual term, a relic of town-government days; but most cities of medium size throughout the land, and probably a majority of the entire number of whatever size, have a two-year mayoral term. A very few have adopted three years; and a dozen or more, chiefly cities of the largest population, have lengthened the mayor's term to four years. Among the latter are New York, Philadelphia, Chicago, St. Louis, Boston, and Baltimore, the six largest cities of the country; but in Boston, as elsewhere explained, the mayor may be recalled from office

at the end of two years.[1] Jersey City alone has adopted the five-year term.

Tendency toward longer terms.

The tendency to give mayors longer terms in office has been very marked during the last ten or fifteen years. Many cities have lengthened the period from one to two years; and those which now leave their mayors in office for four years have, for the most part, changed to this policy during the last decade. In the larger cities the impression that a two-year term is unprofitably short has been and still is gaining ground. As a rule, the mayor is eligible to reëlection when his term has expired; but in some cases the city charter precludes this reëlection, as, for example, in Philadelphia. On the whole, reëlections are common; and in many cities that have the two-year term there is a well-grounded tradition that the mayor has the right of way to renomination as the candidate of his own political party if he so desires, a feeling which also operates in his favor at the polling.

Reasons in favor of longer terms.

In large cities, where, as charters nowadays arrange things, the duties and powers of the mayor are complicated and responsible, the two-year term is too short to be satisfactory either to the official or to the voters. When the two-year term exists, a mayor commonly spends the first year of his tenure in feeling his way to acquaintance with the functions of his office, and the second year in starting his campaign for reëlection. Consequently the voters are asked to give him a second term, not because he has made a good record, but because he has not had a fair opportunity to make a record of any sort. The longer term of four years, on the contrary, affords him ample time to make and set before the voters a record upon which they may pass a fair judgment.

[1] In some other cities, notably in New York State, the mayor may be removed by the governor of the state, but only after a public hearing at which cause for removal has been shown.

It is, moreover, none too long for this purpose, in view of the fact that in American, as distinguished from European, cities the mayor more often than not brings no local administrative experience into the office with him. He must, therefore, avoid mistakes by going slowly, learning as he goes. If it be urged that the four-year term may mean a heavy penalty for the city which makes an unwise selection, it may now be replied that the recall procedure, as described in another chapter, affords a practicable method of relief. The availability of this safeguard has, indeed, prompted several cities to lengthen official terms.

Qualifications.

To be eligible for election to the mayoralty of an American city one must in all cases be a qualified voter. Some city charters impose no additional qualification. But in San Francisco, Philadelphia, Baltimore, and New Orleans five years' residence in the city is exacted, and no one can be mayor of Denver unless he has been five years a citizen of the United States. Several cities have a minimum age limit, which varies from twenty-five years in Baltimore and Philadelphia to thirty years in New Orleans. Very few cities still retain a property qualification; but in Baltimore a property assessment of two thousand dollars is a requisite to eligibility, and in Houston, Texas, no one may hold the office of mayor unless he has been for two years the owner of real estate within the city limits.[1] No city requires that the mayor shall have professional qualifications such as are commonly exacted from occupants of the corresponding office in Germany; and nowhere is it necessary that he should have had any prior administrative experience.

The type of official usually chosen.

As a matter of practice, the men who are elected to the office in the smaller cities are usually drawn from those who have already served the city in some other official ca-

[1] For the qualifications demanded in other cities, see A. R. Hatton, *Digest of City Charters* (Chicago, 1906), 246–248.

pacity. In the larger cities this custom does not seem to be by any means so common. Not that men who have had no prior political experience are there very often chosen as mayors; only in very exceptional cases, indeed, has a man been advanced directly from private life to the chief office in a large city. But the experience that most of those elected have had is not municipal experience. Frequently they are men who have aspired to the office after having had some share in state or national politics, — men, for example, who have been in the state legislature or in Congress. At times, as in the case of Mayor Gaynor of New York City, they have served as judges in the regular courts. At other times they have gained their proficiency in electioneering, not as candidates for any office, but as active figures in the regular party organizations of the city or the state. For all this there are, of course, some good reasons. In a large city, like New York or Philadelphia, the only commanding municipal post is that of mayor. The tenure of subordinate city offices, including membership in the city council, does not give the occupant any secure place in the political limelight. Men who serve in such posts do not easily command the public eye or ear. They can achieve this prominence better from other pedestals, — from offices in the nation or the state, or even in the party organizations. Furthermore, one who serves in any subordinate municipal office has a record; and, whether it be good or bad, the possession of a municipal record is usually synonymous with the fact that a man has made a good many political and personal enemies in his own bailiwick. Such a person has, therefore, to some extent impaired his own availability as a candidate for the office of mayor as compared with that of one who has had no municipal service and no local record. It may be suggested that service in other fields, state or national, also burdens the candidate with a record. That is true enough; but the

Previous municipal experience not necessary.

record is not so familiar to municipal voters, and in the making it has probably not antagonized many interests among them. Accordingly, in the opinion of those well fitted to judge, the man who aspires to be mayor of a large city had better not seek to qualify himself by service in a subordinate municipal post. All this seems to be unfortunate, for it means that the average mayor must acquire most of his knowledge in local administrative matters after he has been inaugurated; but it is a situation that too often coincides with the facts, and, so long as it exists, it forms a good reason for lengthening the mayoral term to four years.

The mayoralty as a training-field for statesmen.

In some cases, but not very many, the mayoralty has proved a stepping-stone to higher posts in the public service. The most noteworthy instance is, of course, that of Grover Cleveland, who as mayor of Buffalo gained much of the reputation for vigor and independence that helped to make him governor of New York and, later, president of the United States. Theodore Roosevelt, who likewise attained the presidency by way of the governorship, sought the mayoralty of New York City at an early stage of his political career, but was unsuccessful. These, however, are exceptional instances. How often has a man passed from the mayoralty of New York, Chicago, Philadelphia, or Boston to the governorship of the state in which his city is located? That ought to be the order of events; but the qualities which make one a good candidate for municipal office are not, as a rule, the sort which carry a man much farther upward. Moreover, the mayor who can serve a full term without antagonizing either his party machine or the independent element among the voters, and can thereby retain his full strength as a candidate for higher office, is one rarely met with in our generation.

Salaries of American mayors.

In all American cities except the very smallest, and usually even in these, the office of mayor carries an annual salary.

This may be fixed in amount by a provision of the charter; or it may be, and perhaps more commonly is, left to the discretion of the council, with the restriction that it is not to be increased or diminished during the term of a present incumbent. The amount of the mayor's salary varies roughly with the size of the city: New York pays $15,000, Philadelphia $12,000, Chicago and Boston $10,000 per year.[1] In smaller cities the stipend ranges from the latter sum down to $1000, or even less. Compared with the remuneration of the corresponding office in the cities of other countries, these salaries give no sign of municipal niggardliness. In the cities of England and France the mayor receives no salary, but only an allowance for actual expenses. In Germany the burgomasters are paid, and are thought to be well paid, as current German salaries go; but, city for city, they are dealt with less generously than their American colleagues. Still, it is a fact, vouched for by most of those who have been directly concerned, that, even though his stated remuneration may be fair enough, the American mayor takes his office and holds it at a financial sacrifice. When his term comes to an end, he usually finds himself poorer in all but reputation, and sometimes even in that. All this, however, is not because the stipends are too small, but because the demands upon his private purse are too heavy. Once elected, he finds that the campaign from beginning to end has cost him a good deal, — if not the whole of at least one year's salary, he is accounted fortunate. In some cities the law requires that candidates shall publish an accurate return of their campaign expenses; and these records give ample evidence not only that those who can afford to spend money

Salaries do not usually cover outlay.

[1] In some cases the stipend is in excess of that which the governor of the state receives. Thus, the mayor of New York City gets $5000 per annum more than the governor of New York, and the mayor of Chicago $4000 more than the governor of Illinois.

are expected to do it, but also that they often rise valiantly to this expectation. The published returns of a recent Boston election showed that the two leading candidates expended between them, from their own pockets and for legitimate expenses, sums amounting to about $150,000, or nearly two dollars for every vote polled. And this, it may be noted, did not include contributions from supporters of their respective candidacies.

Demands upon the mayor's purse.

Nor does the demand upon the mayor's pocket abate with the closing of the polls. He is the subject of daily appeals from every conceivable source. Unless he spends readily, he soon acquires a reputation for close-fistedness and is rated as not being a good fellow, all of which is liable to militate against his chances of renomination and reëlection. The mayor is supposed to entertain the city's guests when they come, and although the city budget usually provides a fund for the purpose, this does not always cover the outlay. It is not that the amount of each individual disbursement is important, but the cases come so frequently that the total at the end of the year is likely to surprise any one who has not encountered the practice at close range. Furthermore, it frequently happens that the mayor is the leader of his local party organization. As such he is expected to keep the machine running smoothly. In times which are now largely gone by he did this by a shrewd use of his power to fill city offices and to award non-competitive contracts; but the increased strictness of charter provisions relating to the mayor's exercise of these prerogatives has seriously impaired his ability to serve the party organization in these directions. Accordingly, he is nowadays often forced to lubricate the party machinery at his own expense rather than at the cost of the city. When everything is taken into account, the mayor's salary, even if it is fixed well up in the thousands, can rarely be deemed anything more than a

reimbursement for expenditures that are expected of him during his election and after it.

How mayors recoup themselves.

Whatever may be the theory of the office, the actual fact is that, in the great majority of cases, the mayors give their own time to American cities without direct personal gain. This is not meant to imply that mayors are, as a rule, men of any uncommon altruism. On the contrary, they are, like most other men, quite ready to forego direct pecuniary advantage from their tenure of office so long as recoupment comes to them, as it often does, in a roundabout way. If a mayor, for instance, is connected with any form of private business, he necessarily trails this with him into the public gaze. He becomes, as it were, an effective press agent in his own interests. Sometimes, indeed, he serves the credit side of his private ledger in ways which, to say the least, show a misty sense of official dignity. A mayor who, while in office, continues his proprietorship of a weekly newspaper which draws its chief patronage, both in circulation and in advertising, from public-service corporations, municipal contractors, and seekers for political preferment, affords a good example of at least one way in which office-holding can be made to yield an indirect profit. The actual situation is thus unfortunate. The right sort of mayor must hold his post almost always at a financial sacrifice; the wrong sort can very easily make it yield a profit which is none the less lucrative because it comes in an indirect and unofficial way.

General increase of the mayoralty in influence.

The remarkable increase in the powers of the American mayor during the last half-century has already been pointed out. Before the Civil War the mayor was the weaker of the two chief organs of municipal government; since that era he has almost everywhere risen to local mastery. In fact, the process of strengthening the mayoralty in relation to the other arms of city government has had the proportions

of a general movement, and few cities have failed to feel its influence. Whether this development has been altogether salutary or only partly so is a matter upon which the doctors disagree. At any rate, the facts to-day seem to warrant the assertion that in nearly all the larger American cities the mayor is the chief figure in matters of municipal administration, and that in many cities his direct influence, even in the field of what is commonly termed municipal legislation, is not to be disregarded. These powers, of course, vary in extent and importance from city to city. Some of them are exercised in nearly every city, others are prerogatives of the office in only a few. Speaking broadly, however, one may group the powers of the mayor under four heads: namely, the power to recommend legislation, the veto power, powers connected with appointments, and powers connected with appropriations.

Present-day powers of the mayor.

It has been the theory of municipal organization in America that the mayor ought to have no share in legislation, that is to say, in the enactment of city ordinances; but with this theory the actual conditions have for a long time failed to coincide. It is true that in a few cities, notably in Chicago, the mayor is the council's presiding officer; but this is a practice quite out of accord with the general rule, for in by far the larger number of American cities the council chooses its own presiding officer, and the mayor does not take any part in its sessions, or even attend them. This does not mean, however, that the mayor has no influence in shaping the council's actions. On the contrary, notwithstanding the doctrine of separation of power, he has commonly more real influence in municipal legislation than any councillor, or even than several councillors. This direct influence on local legislation arises from his exercise of two prerogatives, one positive and the other negative, one known as the right to suggest ordinances by message, the other

1. The power to recommend legislation.

Channels through which this power is exercised.

known as the veto power. The practice of addressing the council by message or communication has in effect become a right to initiate measures in that body; for a message from the mayor is invariably referred to the appropriate council committee for report, and this report puts the matter squarely before the council for action. Moreover, among the members of the council the mayor always has one or more political friends who are known to be in such close touch with him as to be in a sense his unofficial representatives. These councillors usually see that matters recommended in the mayor's communications get such support as they can command; hence, when the political affiliations of the mayor are identical with those of a majority of the councilmen, it not infrequently happens that a recommendation from the mayor's office is tantamount to council action. It is to be remembered moreover, that, since the mayor is often the recognized leader of his party organization in the city, his messages are understood to be the orders of the political machine and are hence not to be disregarded by those councillors who desire reputation for party regularity.

The mayor's messages.

The mayor's right to address the council by message or communication is unrestricted. Ordinarily there is a long enunciation of suggestions in his inaugural address. Then from time to time follow shorter missives dealing with special matters, and not infrequently accompanied in each case by the draft of an ordinance prepared by the city's law officers at the mayor's request. This the council is asked to enact as it stands. Just how far the councillors heed these executive suggestions depends upon the caliber and personal influence of the mayor, upon the make-up of the council, and upon the political relations between the two authorities. When the mayor and the council represent different political parties, executive recommendations may count for very

little; indeed, the very fact that the mayor favors a project is in such cases likely to be regarded by the majority of the councillors as the best reason for thwarting it.

2. The veto power.

The negative influence of the mayor upon local legislation arising from his possession of the veto power can from its nature be indicated with greater definiteness. Most city charters make provision that any ordinance, resolution, or other measure must, after it has passed the council (or the two branches of the council, when such exist), be sent to the mayor. If the mayor approves it, he signs it; whereupon the measure goes into force. If he does not approve the proposal, he may return it unsigned to the council within a prescribed time (usually five, seven, or ten days), and in returning it he states his reasons for withholding his signature. When there are two chambers, he sends it to the one in which the measure originated. After considering the mayor's reasons, the council takes a vote upon the question of sustaining his veto. If a prescribed majority of the councillors vote against sustaining it, the measure then goes into effect without the mayor's assent. When there are two branches of the council, the prescribed majority must be obtained in each. As a rule, the mayor's veto may be overridden by a two-thirds vote of one or both councils, as the case may be; but in some cities the requirement is even more rigid. In Baltimore, for example, it is three-fourths, and in San Francisco it is seven-ninths; a few cities, notably Philadelphia, fix the ratio at three-fifths. If the required majority cannot be had, the mayor's action remains decisive and the council's project can advance no farther.

The machinery of the veto.

No pocket veto in municipal government.

In accordance with the practice in vogue in the national and state governments, it is usually provided that, if the mayor neither signs nor returns an ordinance, resolution,

or other measure within a certain period after it has been sent up to him by the council, the measure goes into force without his signature. But there is in the municipal system no feature like what is commonly known in national and state governments as the "pocket veto,"—namely, the provision that a measure becomes ineffective, owing to lack of executive assent if the legislature closes its sessions before the expiry of the prescribed period in which this assent may be given or withheld.

General merits of the executive veto.

It will readily be seen that in general lines the executive veto is alike in all three areas of American government, national, state, and municipal. It is a qualified, as distinguished from an absolute, veto power. As such it is a distinctively American contribution to the science of government. In no other country does the qualified veto exist. It is indigenous here, and to all appearances it is likely to remain an exclusively American political practice; for, although during the last century and a quarter many things have been borrowed from America and woven into the political fabrics of other countries, the qualified veto is not one of them. Whatever may be the American estimate as to the worth of this institution, the makers of political systems abroad do not seem to have been impressed with its value. Even in the United States opinions differ as to the usefulness of the arrangement, but not primarily as regards its service in the national and state governments. The difference of opinion rather takes the form of a serious question whether the veto has, or ever had, any proper place in the domain of local government. The institution, it is often urged, found favor with the framers of the national and state constitutions because they desired to give the executive a powerful weapon wherewith to defend its own field of authority. Having in mind the aphorism of Alexander Hamilton, that legislatures are wont to become tyrannical,

Genesis of the veto.

they feared that, without some such weapon as that embodied in the veto power, the appropriate balance between the executive and legislative arms of the government might be disturbed; and to men who believed implicitly in the teachings of Montesquieu, which came by way of Blackstone, such dislocation spelled the subversion of popular liberties. Now, in their effort to bolster the national and state executives against anticipated onslaughts in future years, the fathers of American government may have acted wisely and well. At any rate, these executives have retained all their authority unshorn, and on the whole they have not brandished their weapon with undue frequency or with vindictiveness. But in the field of local government no like excuse for the executive veto has ever existed. Even granting that the careful apportionment of authority between executive and legislative organs was ever here a desideratum, as it probably was not, there could have been no reason to fear that a dislocation of the balance would be fraught with danger or would lead to permanent misgovernment. For above the city and its affairs stood the all-powerful arm of the state, with authority to intervene at any moment in the interests of readjustment. Indeed, if any local organ ever had need of a weapon like the veto power wherewith to defend its own sphere of authority, it is certainly not the mayoralty. It is, in fact this branch of city administration which, through its steady growth in strength, has made sorry work of the original balance of powers.

Defects of the veto system in municipal government.

As a matter of fact, the mayor's veto power has not, on the whole, contributed very greatly to the efficiency of the American municipal system. It has, no doubt, served the cause of economy and sound administration in a great many instances, but it has quite as often been an effective instrument of the political bully. Mayors have used it in cases without number to bulldoze and browbeat councils into sub-

mission. By vetoes and threats of vetoes councilmen have time and again been forced to choose between the executive assassination of their own measures and a policy of subserviency to the mayor in other matters. Boards of aldermen have been compelled to confirm appointments made by the mayor under the threat that measures in which aldermen and their constituents were interested would be decapitated. The power has, in a word, been used as a mayoral asset that might be traded for legislative compliance. It has become an instrument of political jugglery. Its existence has allowed councils to evade responsibility for an ordinance or an appropriation by putting the burden upon the shoulders of the mayor, and has allowed the mayor to reciprocate by tossing it back to the council all this political play serving no other end than to befuddle the taxpayer. Not least among the merits of the commission plan of city government is the fact that it relegates the mayoral veto power to the political scrap-heap.

3. The appointing power.

A third power of the mayor, and in many cities his most important one, is that of making appointments to the higher places on the city's pay-roll. In most American cities, large and small, a few officers, notably those connected with the financial department of the municipality, are still elected directly by the people; in some, a few officers are still chosen by the council. Here and there a municipal officer is appointed by the state, and in a few rare instances by the higher state courts. Most appointments to higher municipal posts are, however, not made in any of these ways, but come within the appointing power of the mayor. Not that he has an entirely free hand in making such appointments; ordinarily he nominates, but before becoming effective his nominations must be confirmed by the board of aldermen or by the council. The genesis of this arrangement is of course clear: it is but another example of the influence which the federal

analogy has exerted upon the structure and functions of local government. When it came to be realized that the work of appointing men to municipal office was an executive function, this prerogative was, logically enough, intrusted to the mayor as chief executive officer of the city; but, inasmuch as the confirmation of executive appointments in the national administration was given to the upper house of the national legislature, it seemed fitting that in those cities which had a bicameral system the confirming power should be allotted to the smaller of the two council bodies, commonly called the board of aldermen. Twenty-five or thirty years ago this was the almost invariable practice in American cities, large and small; and it is still in vogue in most of the medium-sized and smaller cities. Within the last decade, however, the practice of requiring conciliar confirmation of mayor's appointments has been losing ground very rapidly.

The confirmation of appointments.

It used to be thought that the system of having the mayor's appointments confirmed by the board of aldermen (or, in those cities which have a single chamber, by the council) had much in its favor. The policy seemed to be in keeping with the scheme of American government in state and nation; it was thought to afford a salutary check upon possible abuses of the mayor's descretionary powers; and it was commonly justified on the ground that "it placed no handicap upon a good mayor and set obstacles in the way of a bad one." People nowadays, however, have come to be much more sceptical concerning these alleged merits. It has been found that, more often than not, the system of aldermanic confirmation has afforded a most convenient arrangement for evading responsibility. Mayors have not hesitated to wash their hands of all accountability for appointing professional politicians to municipal office, by the plausible and frequently accurate assertion that the aldermen

Reputed merits of the system of aldermanic confirmation.

Its abuses by the aldermen.

would not confirm any others than party spoilsmen. More than once the system has enabled the aldermen to give the mayor the unpalatable alternative either of rewarding henchmen by places on the city's pay-roll, or of having posts left vacant over periods so long as to impede the administration of the city's affairs. In those cities where aldermen are elected by wards, and where, in consequence, petty prejudices come into full play, the system has achieved its worst. It has frequently become an effective instrument of political blackmail, forcing the mayor to countenance extravagant appropriations, pilfering contracts, or high-handed ordinances on pain of having his appointments rejected. As the experience of the past quarter-century abundantly shows, the practice of aldermanic confirmation has proved to be no effective barrier against the appointment of incompetents to municipal office; its chief service has been in providing a means of bewildering voters when they try to hold any one accountable for official incompetency or misdemeanor.

Its abuse by the mayor.

It would be unfair, however, to convey the idea that only the confirming authorities have been remiss. Mayors, under the system of aldermanic confirmation, have too frequently been ready to play politics. They have been known to send forward names of well-qualified men who, as they had already ascertained, were sure to fail of confirmation, — a ruse intended to mislead the more exacting element in the community, and thereby to afford a plausible excuse for the nomination of some political or personal favorite a few days later. If aldermen have used their prerogative of confirmation to force the mayors' hands, the mayors have been just about as ready to trundle their own political interests by foisting upon the aldermen responsibility for anything that is likely to evoke antagonism from some faction of the voters. In fact, this provision of the old municipal system has probably been responsible for more

scurvy deals between the executive and legislative branches of American city governments than any other feature.

The system of aldermanic concurrence in removals.

And what has been said of aldermanic confirmation in appointments applies equally to the practice of requiring aldermanic concurrence in removals from office. Mayors are commonly charged with the duty of supervising the work of the various city departments. The efficiency of these departments of course depends largely upon the capacity of the officer immediately in charge; but if the mayor is not allowed to exercise a free hand in removing the head of a municipal department in whose capacity he has no confidence, it is difficult to see how he can be held accountable for departmental shortcomings. In those cities where the mayor cannot without concurrence remove a single patrolman, even for gross misconduct or misdemeanor, it requires no intuitive political sagacity to understand how police discipline becomes demoralized, or why patrolmen often put more faith in the influence of an alderman than in their own records for good conduct and efficiency. In all recent charters the confirmation and concurrence clauses have disappeared. They may well be relegated to a place among the discards of political science; for not only have they rendered the cause of efficient municipal administration no permanent service of any importance, but they have often been actually pernicious in operation.

Mayoral appointments without confirmation.

Cities that have adopted the commission type of government vest the power of appointment in the commission as a whole, not in the mayor; but those which have revised their charters without adopting the commission plan leave it still with the chief executive. In some of these places he exercises the right to appoint all heads of municipal departments and all members of city boards or commissions without the sanction of the municipal council or of any other body. New York affords the best example

of this system. By her charter of 1898, as amended in 1901, the power and responsibility were concentrated in the mayor, who was thereby invested with a discretionary authority more extensive than that possessed by the chief executive officer of any other city whether in America or elsewhere. In Boston, by the charter changes of 1909, the duty of passing upon the mayor's appointments was taken from the board of aldermen and given to the state civil-service commission. In general the new charter provisions commit to the mayor the right to nominate all heads of departments and all members of city commissions, whether paid or unpaid, the only important exceptions being a few officials and commissioners who are either chosen by the council or appointed by the governor of the state, and the school committee, which is directly elected by the voters of the city. It is provided that, when the mayor makes any such nomination to office, he shall file a certificate with the city clerk, who shall transmit a copy to the civil-service commission, which is a state board made up of three members, each appointed by the governor for a three-year term. In making the nomination the mayor is required to certify that the person nominated is "a recognized expert in the work which will devolve upon him," or "a person specially fitted by education, training, or experience to perform the duties" of the office. Upon receipt of the nomination the civil-service commission proceeds to make a careful inquiry into the qualifications of the nominee. If a majority of the members of the commission decide that the person named by the mayor is possessed of the designated qualifications, this decision is communicated to the city clerk and the appointment goes into effect.[1] If the commission is not satisfied, it merely remains silent; and, by the provisions of the charter, on the expiry of thirty days the

The Boston plan.

[1] *Acts and Resolves of Massachusetts*, 1909, ch. 486.

mayor's designation lapses. He may then submit another name.

Rational basis of the Boston system.

The Boston plan rests upon the conviction that aldermanic confirmation as a check upon the mayor is an open farce, if nothing worse; that the average mayor cannot be safely trusted to appoint competent heads of departments if he has sole responsibility in the matter; and that the system of competitive civil-service examinations does not procure, for department headships, men of adequate administrative capacity or political vision. It gives the mayor entire freedom of appointment so long as he keeps within the ranks of those who have some qualification for the work which they are expected to perform; but it provides a means whereby his freedom of action may be promptly curtailed whenever he steps outside these bounds and attempts to pay political debts from the city's salary account. During the first twelve months after the new Boston charter went into operation the mayor sent to the civil-service commission the names of seventy-one persons, all of whom were certified as "recognized experts," or as persons qualified "by education, training, or experience" for the work which they were designated to do. The commission found that even under the broadest interpretation of the terms only fifty could be confirmed as meeting the charter requirements.[1] Of the others, many were recognized experts in nothing but politics. In one case the mayor sent forward, for appointment to the office of fire commissioner, the name of a man whose qualifications "by education, training, or experience" rested mainly on the fact that a quarter of a century ago he had served as a member of a volunteer bucket brigade. In other cases

Its actual workings.

[1] Of the seventy-one nominations, forty were to paid positions and thirty-one to unpaid. Of the twenty-one nominations which the commission declined to approve, fifteen were to paid and six to unpaid positions.

he relapsed to the evils of the old system of aldermanic confirmation by presenting, in an apparent endeavor to make political capital, the names of men who, as he must have known, could not under any circumstances be certified as competent.

Its satisfactory results.

In Massachusetts, where officers appointed by the state authorities can usually be relied upon to display the necessary integrity and independence, the Boston plan has its advantages. That it has secured for the city a better set of department heads than could be hoped for under the old régime is beyond serious question.[1] That it is thoroughly unpopular with machine politicians is equally certain and by no means surprising. But it may well be doubted whether the system would insure any marked improvement in the cities of those states which cannot be relied upon to provide civil-service commissions with the necessary aloofness from political chicanery. A plan that serves Boston well might very conceivably prove a failure in Chicago or Philadelphia.

4. The power to initiate appropriations.

A fourth administrative function which is frequently, though not in the majority of American cities, intrusted to the mayor is that of supervising the preparation of the municipal budget. There was a time when this task was performed by the city council through one of its committees commonly called the finance committee. That is the plan still followed in English cities, but it has never worked very well in America. Here members of the council manœuvred for positions on the finance committee in order to wedge into the budget the appropriations in which they were person-

[1] "Attempts on the part of the mayor to circumvent or override these [civil-service] amendments have been repeated and persistent, but they have been generally unsuccessful, and this feature of the charter has not merely been justified but has shown itself an indispensable bulwark against unfit appointments." — Boston Finance Commission, *Reports*, VI. 16 (1911).

ally interested. The size of the various items in the list thus reduced itself to a question of comparative efficiency in log-rolling on the part of councillors, and the city treasury bore the brunt of it all. Thus it came about that the initiative in regard to the budget was often taken away from the council altogether. In New York the work of preparing the budget, and thereby determining the annual tax-rate, is now vested in a body known as the Board of Estimate and Apportionment, composed of the mayor, the comptroller, the president of the board of aldermen, and the five borough presidents. After the budget has been finally adopted by this board it goes to the aldermen; but the latter can make no changes in it except by way of reduction, and even in this respect their action is subject to veto by the mayor, whose decision can in such cases be overridden only by a three-fourths vote.

The New York system.

In Boston the budget is drafted by the mayor alone. No proposal to spend the city's money can be considered by the council unless it emanates from the mayor. The council may reduce or omit any item, but it may not make any insertions or increases. Under this system the undivided responsibility for all municipal expenditures falls upon the mayor. Unfortunately, however, this does not make him directly accountable to the electorate for increases in the annual tax-rate of the city; for this rate depends not only upon the amount of expenditures directly under the mayor's control, but also upon the amounts levied by various commissions which are appointed by the state to perform certain semi-municipal functions in and about the city, and are authorized to assess on Boston either the whole cost or a large proportion of it. It is easy enough to propound the doctrine that complete and undivided responsibility for the amount of the annual tax-rate should be centred in the mayor; but so long as important obligations are continually saddled upon the city by some outside superior author-

The Boston plan.

ity this centralization of responsibility is not so easy to secure.

5. Miscellaneous and minor powers.

In addition to the foregoing powers, — those relating to legislation, to the veto, to appointments, and to finances, — the American mayor has powers and duties of a rather miscellaneous sort. In most cities he is intrusted with a general supervision over the various municipal departments; but this in itself gives him no authority of consequence. If the mayor has power to appoint and remove the departmental heads, from the very nature of things he needs no specific grant of supervisory authority over what they do; and if he has not the power to appoint and remove, a formal supervisory jurisdiction is of little use to him. By provision of the city charter, the mayor is often authorized to receive reports from the administrative departments at stated intervals or when he calls for them. In some cities he has the right to inspect the accounts of city officers, or to conduct investigations into the working of any branch of the administration. In a few cities he may, when necessary, call out the militia to aid the local police; and in a number of places he may pardon offenders who have been convicted in the municipal courts, and may remit fines imposed there. Besides all this, the mayor is the official representative of the city in all dealings with other municipalities or with the state. In person or through some one delegated by him he represents the city at legislative hearings and other official conferences at which the city's attitude is presented. Considerable demands are also made upon both his purse and his patience, if he undertakes to do a tithe of what is expected of him as the representative of the municipality at numberless semi-official and private gatherings or functions. The mayor of an American city, whether large or small, need never be idle.

That the powers and duties which ordinarily attach to the

office of mayor have greatly increased during the last forty or fifty years has already been mentioned. In national government the adjustment of executive and legislative powers, as originally established, has never been seriously disturbed. The national executive may have increased its powers somewhat during the last one hundred and twenty years, but not to any notable degree. So, also, with the balance of power in state government: governors to-day take about the same rôle in state administration that they took a century since. But in the realm of municipal government the shifting of power has been very marked indeed. From his original place as a dependent and subordinate of the municipal legislature, the mayor has risen steadily to a plane on which he is at least coördinate with the council, and very often superior to it, in scope of power and influence. This means, of course, that the powers of the municipal legislature have been correspondingly impaired.

The steady growth of mayoral powers.

Whether this development has served on the whole to increase the efficiency of municipal administration, or whether, as some claim, it represents a half-century of groping along the wrong path, is a question too involved and perhaps too controversial to have much discussion in a general survey. It is safe to say, however, that the policy of taking power from the other organs of city government and loading it upon the mayor has not served to secure a degree of efficiency or economy that is at all satisfactory to the people who pay the bills. The mayors of American cities like New York or Boston have more statutory power than the burgomaster of Berlin or the Parisian prefects. Hence, if the former cities represent failures in the American scheme of popular government, it is not through any lack of power on the part of the city executive.

Has this development been advantageous?

References

On the development of executive jurisdiction in American cities the general references indicated at the close of Chapter I contain a good deal of information. Particular mention should, however, be made of J. A. Fairlie's chapter on "Municipal Development in the United States," in his *Municipal Administration* (New York, 1901). Many details relating to the term, salary, position, and powers of the mayor in various larger cities, both in America and Europe, are given in A. R. Hatton's *Digest of City Charters* (Chicago, 1906), especially pp. 246–272; but changes have been very numerous throughout the country since the publication of this volume. Useful general discussions may be found in F. J. Goodnow's *Municipal Government* (New York, 1909), ch. xi.; D. F. Wilcox's *American City* (New York, 1904), ch. x.; D. B. Eaton's *Government of Municipalities* (New York, 1899), ch. xiv.; and in the *Municipal Program* (New York, 1900), 74–87. Short articles of more than ordinary interest are E. A. Greenlaw's "Office of Mayor in the United States," in *Municipal Affairs*, III. 33–60, and E. D. Durand's "Council Government versus Mayor Government," in *Political Science Quarterly*, XV. 426–451, 675–709. The *Reports* of the Boston Finance Commission (7 vols., Boston, 1908–1912), especially vol. II., pp. 211–230, contain facts and figures relating to the actual administration of a mayor's office under a partisan régime.

CHAPTER X

THE ADMINISTRATIVE DEPARTMENTS

The independent administrative department.

THE administrative department as a self-standing factor in city government, independent of the municipal council, not chosen by the latter, and not made up of members from it, is also an exclusively American institution. Like many other features in the American system of urban government, it is a by-product of that undue stress which was, during the nineteenth century, laid on the principle of division of powers in local, as in state and national affairs. It has been shown in a previous chapter that, during the colonial era and for an interval after the Revolution, legislative and administrative functions were not divorced in the cities of this country. The city council had charge of both; and throughout the first four or five decades of the nineteenth century the various tasks of local administration as they confronted the cities, were given over to standing committees of the council. That was the plan pursued in England, whence the cities of the United States first derived their frame of government, and it remains unaltered in English municipalities to the present day.[1]

Merits of the system of administration by council committees.

A system of administering the various branches of a city's business (such as police, fire protection, public works, schools, and so on) through the direct agency of standing council committees has on general principles much to commend it. In the first place, there is not enough purely legislative work to keep a council employed. In the United States the activ-

[1] The way in which this plan of department administration by council committees works in the cities of Great Britain is explained in Munro's *Government of European Cities* (New York, 1909), 282–294.

ity of the state legislatures is so great and constant that very little in the way of law-making, or anything closely akin to it, is left for subordinate authorities. For the larger American cities, at any rate, the real law-making authority is the state legislature. The few ordinances left for the city to pass engage the attention of the average municipal council hardly a tithe of its time. Hence it is that, when councils are by the terms of the city charter reduced to the plane of ordinance-making bodies, they sink to positions of little importance in the general scheme of municipal government and fail to attract to their membership men of any ambition or capacity.

1. Makes service in the council more attractive.

A city council, moreover, does not usually accept this ouster from administrative influence with good grace. Its members are commonly elected from the various wards of the city; indeed, the only representative which a certain ward or district may have in the whole city government is not infrequently a member of the city council. When the ward wants something from an administrative department, it looks to its own representative to secure it. Through sheer pressure brought upon them by the neighborhoods from which they come, therefore, and despite charter provisions to the contrary, the councillors are forced into attempts to exert an influence and control over matters of administration. Diversities of local interests are relative to administration rather than to legislation. It is not that any part of the city fears that it will fail to receive its due share of attention in the ordinances; it is rather that each ward or district jealously desires its full portion of what is to be spent for public works, or police, or fire protection, or parks, playgrounds, and so on. If the various parts of the city are represented in only one branch of the city government, this body is expected to transmit local demands to those branches in which localities as such are not represented. Hence it has almost

2. Preserves harmony of legislation and administration.

always happened that a city council which has been deprived by law of all direct share in administrative work will nevertheless strive to exert a control in roundabout ways, some of which have already been described.[1] In any case, friction between legislative and administrative organs is almost certain to be the outcome; and when there is a clash between an elective body, such as the council, and an appointive authority, such as the headship of an administrative department must be if it is to be efficient, popular sympathy is altogether likely to be with the former, despite any charter provision which relegates the elective body to a place outside the realm of administration. The principle was well stated by Lord Durham in his famous report upon the government of colonies, but it holds with equal soundness in all spheres of representative government. It is idle to expect, he declared, that a body of elected representatives will suffer itself to be relegated by any theory of government to a position of administrative impotence, while men who do not owe their places to popular election control all the direct avenues through which the people's money is spent.[2]

3. Embodies a sound principle of government.

Now, as a matter of principle, the logical carrying out of the policy which some reformers would have all American cities pursue,—that is to say, the complete elimination of the council from all part in administrative affairs (this includes the appointment of officials and the actual spending of all moneys), and the intrusting of these affairs to heads of departments not elected by the people but chosen by some sort of competitive civil-service test,—the logical outcome of this policy would be the establishment of a natural antagonism between the elective and non-elective branches of government, an arrangement which, as Lord Durham pointed out, cannot permanently endure in any representative system.

The administrative organisation must recognise the supremacy of popular representatives.

[1] Above, pp. 204–205.

[2] *Report on the Affairs of British North America* (London, 1839).

The idea that one organ of city government, popularly elected and intended to be a mirror of public opinion, will content itself with a mere share in the making of local ordinances while the real business of the city is carried on by heads of departments who neither directly nor indirectly owe their appointment to popular choice, — such an idea is a delusion that experience ought long since to have shattered.

Steps by which the independent administrative department has been developed.

But when administrative duties were first taken away from the council they were not given to boards or officials selected in this way. The change was not dictated by a conviction that administration should be put in charge of experts chosen by open competition. It was due rather to the feeling that the various branches of the city's business could be managed better by boards or officials directly elected than by committees of the council which were liable to be chosen by log-rolling methods. Accordingly, independent administrative officials and boards were for a time elected by popular vote. It was soon found, however, that the system of popular election did not serve the cause of efficiency. The next step, therefore, was to transfer the responsibility of selection from the voters to the mayor, a change, it was argued, that did not remove administration from popular control, inasmuch as the mayor who appointed and might at any time dismiss these boards and officials was himself an elected officer, responsible to the voters. But even this transfer did not secure the efficient direction of city departments; for in most cases the mayor, using his appointive power as an agency of political patronage, put them in charge of men whose only qualification was consistent party service. By these steps the quest for some arrangement that will insure a certain degree of administrative competence in the heads of city departments has proceeded to the scheme of selecting them under civil-service supervision.

The most promising plan of this sort yet put into operation

is that adopted in Boston by the charter amendments of 1909. By the terms of this legislation heads of departments and members of boards in charge of departments are appointed by the mayor; but these appointments do not go into effect until approved by the civil-service commission, which is, as has already been stated, a board of three members appointed by the governor of Massachusetts. The initiative in appointments rests wholly with the mayor. He may select whom he will, provided the civil-service commission assents; and it is required by law to do so if it finds that the mayor's nominee is qualified for the post by training or by experience. There is no competitive test of any sort; it is not necessary that the mayor's nominee be the best man available, but only that he offer reasonable promise of competency. During the last few years this system has worked well, though it has proved more successful in protecting the city against political appointments than in securing experts as heads of departments. It seems to guarantee that the men put in charge of departments shall be at least tolerably competent, but in the hands of a mayor who is not in sympathy with the system it does not assure the city much more than that. On the other hand, it preserves the forms of responsible appointment; for the actual selection of administrative heads is made by the mayor, who is, in turn, elected by the people. This is a matter of more than formal importance in determining the relations of these men, when installed in office, both with the mayor and with the city council. The mayor cannot disclaim responsibility for their success or failure, since by sending their names to the civil-service commission for confirmation he must expressly vouch for their competence.

The selection of department heads.

The Boston plan.

Its chief merit.

Many other cities of the United States have put most of their officials into some sort of contact with civil-service machinery, but as yet Boston is the only one to do this in

Its basic principle.

case of the actual heads of city departments.[1] And it cannot be made too clear that the Boston system is not competitive. Those who devised the plan were thoroughly in sympathy with the policy of filling all subordinate posts in the municipal service by competitive merit tests, but they were not ready to adopt this method of selecting department heads, who have the power to determine policies. This distinction between officials whose tasks involve discretion in the determination of departmental policy and those whose duties are of a non-discretionary character seems to be sound in principle. Experts are needed, and very sorely needed, in the administrative services of American cities, and the best practicable means of securing them is by open competition; but it does not follow that the place for the expert is at the head of the department. The city's expert in the matter of fire protection ought to be the fire chief and not the fire commissioner. Professional expertness is imperative in the medical health officer, but not in members of the health board. It is essential to the efficiency of the city's educational system that the superintendent of schools shall be skilled in school management; but no such qualification

The place of the expert in city administration.

[1] Kansas City, by its freeholders' charter of 1909, provides for the classification of "all positions now existing or hereafter created of whatever function, designation or compensation in each and every branch of the civil service of the city, except such positions as are in the exempt service or in the labor class." Provision is made that all such classified posts shall be filled by competitive merit tests, devised and administered by a civil-service board made up of three members appointed by the mayor. This arrangement seems, on its face, to embody a great extension of civil-service methods in municipal administration; but, on turning to the "exempt service," one finds enumerated within this category not only the members of the water, park, and health boards, but such officials as the fire chief, the city auditor, the city clerk, the city assessor, the city counsellor, and in some cases their deputies as well. The Kansas City plan, despite the frequency with which it is cited as an example of thoroughgoing civil-service reform, does not go so far in that direction as the arrangements made by the Boston charter amendments. See Charter of Kansas City, 1909, art. xv.

ought to be exacted from members of the school board, even in cities where these members are appointed by the mayor.

Should heads of departments be chosen by competitive tests?

To the policy of selecting the heads of departments by competitive tests several weighty objections have been raised. In the first place, as President Lowell has pointed out, "the broad intelligence and sound judgment required" from those who manage administrative departments "can hardly be measured by any examination paper designed to test immediate fitness for special duties."[1] The competitive test, however comprehensive and concrete it may be, must inevitably relate itself to the work which a candidate will be called upon to perform and the responsibilities which he will be expected to bear. Since the work of a department head is specialized, the test must be somewhat special in its nature. But special tests cannct determine general capacity, and the theory that the most satisfactory head for a department is one who displays the most accurate knowledge of its routine functions will not square with everyday facts. There are so many points at which a department head must come into touch with the voters, with the city council, and with other administrative officials that such qualities as tact, prudence, firmness, knowledge of human nature, ability to work with colleagues, a personality that will inspire loyalty on the part of subordinates and confidence on the part of superiors, these and many other personal traits are quite as essential to success as is expertness in the technical work which the head of a city department has to do.

The qualities needed by an efficient department head.

The qualities of mind and character needed in the executive head of a city department have been well outlined by one

[1] In his article on "Permanent Officials in Municipal Government," printed in *Proceedings* of the National Municipal League, 1908, especially p. 217.

who, in a professional capacity, has been in close contact with city affairs in a large way. The department head should have, first of all, "integrity and executive capacity. He should be a man capable of managing business enterprises upon business principles and by business methods. He must, therefore, be a man of sound judgment and strong character, equable and diplomatic in temperament, and a good judge of men and of human nature. He must have the ability to decide rightly and the firmness to stand by his decisions when made. He should have had experience in public affairs and business enterprises. Technical education or training is not essential, though very desirable. . . . To assume that a man is fitted for executive work solely because he possesses technical knowledge or experience is to make a grave mistake; to assume that he is not a capable executive because of his technical training is to make a still graver mistake."[1] Work that is professional in its nature, whether in private or in public business, cannot be done satisfactorily unless trained men are employed to do it. Much of the work in every city department is professional in character, and must therefore be done by men of skill if it is to be done well. But there is also much that needs to be done with a responsiveness to public opinion which is not guaranteed by the mere possession of expertness on the part of those who do it. Hence it happens that the responsible head of a department must have that general administrative capacity which is necessary to make his branch of the city's business run in popular, as well as in efficient, grooves; otherwise, he is not likely to remain in office very long.

The need of sound traditions.

In the adoption of a method of selecting department heads there is one consideration which ought never to be overlooked. This is the question whether the plan chosen is likely to prove a final or only a temporary solution of a difficult prob-

[1] Samuel Whinery, *Municipal Public Works* (New York, 1903), 20–21.

lem. Whatever the immediate merits of any system of appointments may be, it does not promise a definitive means of putting the right man in the right place unless it paves the way to a development of sound traditions. The experience of European cities is more illuminating upon this point than upon any other. The men at the head of the various branches of administration in these municipalities are of unquestioned capacity, not because statutory checks have been put upon the freedom of the appointing authorities, but because public opinion would not brook the selection of any other type. In America public opinion has not reached the stage at which it can exert any such influence; but this is not to say that sound traditions in the matter of municipal appointments cannot be developed on this side of the Atlantic as well as on the other. Even in England they are almost wholly the product of the last seventy-five years; and in a new country, where traditions develop rapidly when they have fair opportunity, the time required ought not to be so long. One of the merits of the Boston plan of securing department heads, accordingly, is that it attempts to set a sound tradition in process of growth. It aims to force the appointing authority into rational habits.

The practice in various cities.

Election by popular vote, appointment by the city council, appointment by the mayor with the concurrence of the council (or the upper branch of it), appointment by the mayor alone, and appointment by the mayor with the confirmation of a civil-service commission, — these are the various methods by which heads of municipal departments are ordinarily chosen. Election by the voters is still a common practice; there are few large cities which do not choose some of their chief administrative officials in this way.[1] It is used mainly,

[1] In New York the comptroller is elected; in Philadelphia the comptroller, the city treasurer, and the recorder of taxes; in Chicago the city clerk and the city treasurer; in St. Louis about a dozen department heads; in Baltimore the comptroller and the surveyor; and so on.

but by no means altogether, as a means of selecting financial officers, such as the city comptroller, the treasurer, or the auditor. In general, however, it is the least satisfactory way of choosing administrative officials, and during recent years it has lost ground in the larger municipalities. Appointment by the council is still the method employed in many Southern cities, and to some extent it is used in cities throughout other sections of the Union.[1] In cities under commission government the commissioners are themselves the heads of the chief administrative departments. Appointment by the mayor with the concurrence of the city council (or of the upper branch of it, when there are two branches) remains, on the whole, the most common method of selecting department heads. Despite the organic and incidental shortcomings of the system of aldermanic confirmation, the merits and defects of which have already been discussed,[2] the arrangement still has a strong anchorage in the American scheme of local government. A few cities, notably New York and San Francisco, have given the appointing power to the mayor alone, requiring no concurrence or confirmation of his appointments, — a plan, all things considered, better than most of those which preceded it. Boston is as yet the only American city to put the appointment of department heads in control of the mayor, subject to confirmation not by the city council or any branch of it, but by a state civil-service commission.

Selection by the state authorities.

There are two other methods of securing department heads, both of them involving action by authorities outside the city. One of these is appointment by the governor or by some other state authority. In three of the six largest cities of the United States (Boston, St. Louis, and Baltimore) the

[1] In New York and Boston, for example, where the council appoints the city clerk.

[2] Above, pp. 227–229.

head of the police department is named by the state. In Boston this headship is vested in a single commissioner appointed by the governor of Massachusetts;[1] in St. Louis the police department is in charge of a board made up of four commissioners appointed by the governor of Missouri, with the mayor as a member *ex officio*.[2] In Baltimore the three members of the board of police commissioners are elected by the two houses of the Maryland legislature sitting in joint session.[3] Other examples of state appointment to the headships of municipal departments can be found in some cities, but they are now rare and are becoming steadily more so.[4] This is a form of state interference in municipal affairs which is strongly resented by voters in the cities concerned. Although it has in some cases given the municipality a better type of official than would have been secured by its own efforts, the principle involved in this method of appointment is not palatable to the citizens, and an official so named is therefore forced to do his work under a serious handicap.

Appointment by the courts.

In a few instances appointments to policy-controlling municipal posts are made by the regular state courts. In Philadelphia the board of school controllers consists of forty-two members, named by the judges of the court of common pleas for the city and county of Philadelphia. This board makes the annual school budget and elects the superintendent of schools. In Chicago the South Park Commissioners are named by the judges of the circuit court of Cook county. In Boston the trustees of the Franklin Fund are appointed by the judges of the supreme court of

[1] *Acts and Resolves of Massachusetts*, 1906, ch. 291, § 7.
[2] *Laws of Missouri*, 1899, pp. 50 ff.
[3] Charter of Baltimore, § 740.
[4] For example, the West Park Commissioners and the Lincoln Park Board in Chicago, and the Licensing Board and the Finance Commission in Boston.

the commonwealth. Similar instances are to be found in other cities. The ostensible justification offered for this plan is that in some cases it provides the only sure method of removing a department from the influence of partisan politics. When no one else — the voters of the city, the city council, the mayor, the governor, or the state legislature — can be trusted to make strictly non-political appointments, the courts seem to be the only other public authority to which recourse can be had. But the policy embodies very dubious wisdom at best, and if pursued on any comprehensive scale would inevitably draw the judiciary into the orbit of partisan politics. It would subject the judges to political pressure, and in the long run would both lower the personnel of the courts and impair the efficiency with which they perform their regular tasks of adjudication. Whatever benefits might accrue to the city departments whose heads could be appointed in this way would, in the end, be more than offset by the unwholesome reaction which the assumption of such duties would force upon the courts themselves.[1]

The removal of department heads.

Closely related to the system of appointing heads of administrative departments is the method of removing them from office. When such officials are elected by popular vote, there is usually no way of removing them (unless for grave misconduct) until their terms are expired, except in those cities which have made the recall arrangement applicable to them.[2] If the city council appoints, it can also usually suspend or remove. When the appointment lies with the mayor subject to confirmation by the council or by some branch of it, the concurrence of this body is commonly required to remove a department head from his post; but when the mayor alone appoints, he has usually the power of

[1] For a further discussion, see D. B. Eaton, *The Government of Municipalities* (New York, 1899), ch. xvii.

[2] See below, pp. 350–355.

removal, either with or without a public hearing. In Boston, where the mayor can appoint heads of city departments only with the assent of the state civil-service commission, the concurrence of this body is not necessary to removal. In a few cases provision has been made for the displacement of higher city officials by a process of local impeachment.[1] Most cities have made formal rules that aim to prevent the removal of high officials without just cause; these often take the form of requirements that definite charges must be made in writing before the removal can take place. Few of these regulations have been of much avail, however; for the charges may be couched in terms too general to permit an effective defence, and there is usually no provision for an impartial determination of the question as to whether or not the complaints are well grounded.[2]

The only effective security against wrongful removals.

Much effort has been expended by the framers of city charters to provide securities against unfair and improper removals from higher administrative posts. If it were more difficult to displace men who are already at the head of civic departments, the pressure for purely partisan appointments would not be so great. If there were no removals except for just cause, there would be no official spoils; and if there were no spoils, there could be no spoils system. Almost every improper appointment, it will be found, has come upon the heels of an unjust removal. Some securities for permanence in office on the part of department heads are, accordingly, much to be desired; but, like most other effective safeguards against the abuse of power, they are very difficult to establish. Laws that forbid removals either are of little avail or are liable to overreach themselves. They avail little when a hostile city council holds

[1] For an illustration, see the provision in the charter of Denver, Colorado, § 163.

[2] See also below, pp. 286–287.

the purse-strings and can deny the appropriation for an official's salary. They overreach themselves when they operate to keep in office a man who no longer can work in some degree of harmony with the elected representatives of the voters. For the general direction of administrative affairs the mayor is deemed responsible to the citizens. To be properly accountable he must be in control. If he has no right to remove chiefs of departments, he can all too readily disclaim responsibility for what they do. If these officers are not elected, and are not held accountable to the appointing authority, they are devoid of direct responsibility; and power without responsibility is none the less intolerable because those who wield it may have been originally chosen on their merits. This principle was recognized in the New York charter amendments of 1901 and in the Boston amendments of 1909, both of which gave the mayor full power to remove heads of departments without the concurrence of any other authority, either state or municipal. That is the procedure followed in the cities of Great Britain, where the council, which is the appointing authority, may remove a city official at any time and for any cause. The only security against the abuse of this discretion in English cities is a public opinion which requires councillors to work in harmony with the administrative chiefs and militates against the reëlection of those who fail to do so. A similar security is the only thing which can ever permanently avail in the cities of the United States. Public opinion, if developed in the right direction, can accomplish what laws have thus far failed to do; and one way to develop public opinion is to throw the responsibility upon it.

The distribution of municipal functions among departments.

American cities differ considerably in the number of administrative departments which they maintain. In New York there are fifteen regular city departments (not including the five borough administrations), besides almost a score

of boards and officials that do not come within the supervision of these regular departments.[1] In Chicago there are twelve chief departments, most of them organized under ordinances of the city council. Philadelphia has only eleven departments, all of them provided for in the city charter;[2] St. Louis has sixteen, and Boston has more than thirty.[3] Smaller cities usually find eight or ten departments ample, and those which have adopted the commission type of government are able to manage affairs with only five.[4] In the ordinary municipality of medium size there are, perhaps, a half-dozen distinct branches of administration requiring separate management. These are, for instance, the municipal law department, the department of finance (which may include assessments, taxes, the treasurer's office, and audit), the department of public safety (including police, fire protection, licensing, and building inspection), the department of public works (including the construction and maintenance of public buildings, streets, sewers, parks, playgrounds, and so forth), the department of public health (including sanitation, hospitals, inspection of foodstuffs, control of markets, weights and measures, and similar matters), and the depart-

[1] The regular departments are: (1) finance, (2) taxes and assessments, (3) law, (4) education, (5) police, (6) fire protection, (7) street cleaning, (8) water supply, gas, and electricity, (9) parks, (10) bridges, (11) docks and ferries, (12) health, (13) tenement house, (14) public charities, (15) correction.

[2] These are: (1) education, (2) taxes, (3) city treasurer, (4) controller, (5) law, (6) sinking-fund commission, (7) public safety, (8) public works, (9) public health and charities, (10) supplies, (11) wharves, docks, and ferries.

[3] The reason for the large number of departments in Boston is to be found in the fact that for many years prior to 1909 heads of departments were about the only higher administrative officers exempt from civil-service regulations. To provide for political spoilsmen, therefore, new departments were frequently created by ordinance.

[4] For the scheme of administrative organization in commission cities, see E. S. Bradford, *Commission Government in American Cities* (New York, 1911), ch. xvii.

ment of education, in charge of the municipal school and public-library systems.

Reduction of departments desirable.

There seems to be no very good reason why, save in very large cities, the whole administration should not be apportioned in these six departments, each of which, again, might be organized into two or more divisions or bureaus. Apart from those municipalities which have simplified their administrative machinery by the introduction of commission government, there is scarcely a city in the country that does not possess a departmental organization too complicated for its needs.[1] Not only does this result in a failure to get a dollar's worth of service for a dollar's expenditure, but it prevents the heads of departments from forming, as they might profitably do, a sort of mayor's cabinet that might meet frequently and by the frank discussion of current projects serve to put more team play into the work of making the city's revenue match its expenses. Five or six department heads can do this; fifteen or twenty cannot. That service which cabinet meetings render to the national administration is rarely obtained in city affairs.

Boards *versus* commissioners.

Next to the general distribution of municipal work among departments, comes the question whether the city departments ought to be put in charge of boards of single commissioners. There was a time when the board plan was more in favor, but in recent years the pendulum of popularity has swung to the one-man system of departmental supervision.

[1] To determine just what scheme of administrative organization promises the greatest efficiency in any large city requires a large amount of investigation and a careful consideration of the many interests involved. A very good example of the way in which the problem ought to be approached is afforded by the report issued in 1909 by the Memphis Bureau of Municipal Research: *Memphis; a Critical Study of its Municipal Government, with Constructive Suggestions for Betterment in Organization and Administrative Methods.* See also the various articles on "Efficiency in City Government" in the *Annals of the American Academy of Social and Political Science* for May, 1912.

Board administration has, however, some important advantages. In the first place, there are certain departments which, from the very character of the work that comes within their jurisdiction, are well suited to the board system. The school department, quite obviously, is one of these. So is the department of public libraries; and so, likewise, although perhaps to a less pronounced degree, are the departments of poor relief, hospitals, and public recreation. These are branches of the city's business in which deliberation and care are essential to success, in which different temperaments and different points of view may contribute to prudent action. On the other hand, the city's law department, its police and fire-protection services, and some other like branches of municipal administration, are quite as clearly unsuited to competent direction by more than a single head. In the same city there is, accordingly, room for both systems, each to be employed where the conditions demand.

Advantages of the board system.

1. It is well adapted to the needs of some departments.

Again, the board plan can be used to facilitate continuity of departmental policy wherever this seems to be a requisite of satisfactory administration. A single commissioner, when his term expires, takes his policy out of office with him; for his successor, particularly if he be chosen by a new administration, is apt to depart from the beaten path if only to advertise his own initiative. Hence, departments in charge of single heads often fail to develop comprehensive policies. They cannot map out plans over fair periods of time, for things done during one term are likely to be undone in the next. With a board of three or five members in charge, on the contrary, a system of partial renewal at stated times can be employed to prevent any loss of continuity. Changes of policy will then come gradually, and not be dependent upon the judgment or the caprice of a single individual, obviously a very important consideration in departments like education and public improvements. It will be

2. It can be used to secure continuity of administrative policy.

found that in the interest of prudence, no less than in that of sequence in policy, practically all large state and national undertakings are intrusted to boards rather than to single officials.

3. It can be used to afford representation of diverse interests.

Furthermore, an administrative board may be so constituted as to afford representation to any interest, whether geographical, social, or political, which may seem to be entitled thereto. It may well be questioned whether there are many city departments in which the representation of several interests can be otherwise than harmful; but there are a few, at least, in which a denial of representation is sure to provoke much popular opposition. In the administration of the city's schools, for example, the board system can be employed to allay the misgivings of those who would be forever alleging religious and social discrimination, were a single commissioner, whatever his creed or class, in complete control of the staff and curriculum. In the department which determines the location of public improvements, again, the different geographical divisions of the city are insistent in their demand for representation lest their special needs be overlooked. Then there are some departments that have tasks of a semi-political nature to perform, in regard to which both political parties want to be heard. Such departments are those which have in charge the listing or registration of voters, or the conduct of primaries and elections. To put a single commissioner in full control of such matters is to intrust the decision of partisan questions to one whose political affiliations or antecedents inevitably come forward in the public mind as the real motive of his acts. Not that bi-partisan boards have been conspicuously successful in American cities; they have, on the contrary, too frequently been the centres of political friction and chicane. But there is a flavor of unfairness in intrusting functions that cannot be wholly withdrawn from

the gridiron of politics to any single umpire whose affiliations are or have been with one of the contestants. Hence the bi-partisan board, even with its almost inevitable wrangles, becomes a necessary concession to popular notions of fair play.

4. It often has considerations of economy in its favor.

Again, the board system can frequently be supported on the score of economy. In municipalities of any considerable size the work of administering a city department is usually enough to take the most of any one man's time. If it be intrusted wholly to one man, either he must be one whose private wealth enables him to serve the city without monetary recompense or he must receive a salary. As it scarcely seems desirable that none but men of wealth should be eligible to department headships, the single-commissioner system involves the practice of paying substantial stipends. In smaller cities these salaries, if paid in every department and if fixed at figures sufficient to draw competent experts into the municipal service, would involve a considerable drain upon the city treasury. Moreover, as Professor Goodnow has pointed out, it would probably mean the filling of higher municipal offices by 'men who make politics their profession, obtaining their livelihood from the emolument of the various offices they fill, one after the other."[1] This is exactly what has resulted, in many smaller cities of the United States, from the replacing of boards by single department heads. Encouragement has been given, not to the professional administrator, but to the professional salary-seeker.

5. It has a certain educative value.

The board system, furthermore, offers some advantages in the way of bringing the ordinary citizen into contact with civic affairs and thereby of increasing his civic education. Resting upon the idea that the amateur has a place in the city's administrative service, it permits men drawn from the business and professional life of the community to

[1] *City Government in the United States* (New York, 1904), 103.

take their share of public service without too much personal sacrifice. What may require the entire time of one man need take only the leisure of five. There are always some city departments in which the work is of such a nature that it can be divided easily and even to advantage. The various members of a board can be put in immediate charge of the things for which their private vocations have best fitted them or in which they happen to take most interest. This, indeed, is the practice pursued by most boards; hence the idea that the board system tends to diffuse responsibility is not often sustained by actual experience. On questions of general policy administrative boards usually act as a whole, but on the host of detailed matters that come before them their action is more often determined by the advice of that particular member who is most familiar with the special point at issue. It is with this in mind that a mayor very often so constitutes a board as to secure the representation of different talents upon it.

The board system proves efficient only when expert officials are employed.

The board plan can be made to operate satisfactorily, however, only when the subordinate officials of the department are chosen by some well-administered merit system. The latter is necessary not only to assure in the personnel of the department that professional skill and knowledge which members of the board cannot be called upon to supply, but also to protect the latter against the pressure of patronage-seekers. When this safeguard is provided, the unpaid board can render an important service by keeping administrative policy in touch with popular sentiment, by steering the city's administrative methods from the ruts into which professionalism is likely to run, and by standing as a buffer between the political machine and the men who are on the department pay-roll. The branch of American city administration which has in general been managed most efficiently, and has at the same time been most constantly

in tune with public opinion, is the school department. It is in this field of administration, perhaps, that we have the least to learn from the cities of Europe. Yet this department has been almost everywhere intrusted to an unpaid board. Under direct control of the board, however, is an expert in educational administration usually called the superintendent of schools, who supplies such special knowledge as the board may need, and whose advice on technical questions carries due weight with his lay superiors.

Departments in which the single-commissioner system is to be preferred.

It does not follow, of course, that a similar system would be best for the department of police or fire protection, where promptness of decision, firmness in the maintenance of discipline, and capacity for vigorous action are the qualities most to be sought for in departmental direction. In these and some other departments the superior efficiency of the single-commissioner system can be so easily recognized as to warrant the city in foregoing any incidental advantages which the board form might provide. The latter still has its place, however; and the ruthless way in which some cities have displaced it seems to indicate that its possibilities have not always been sufficiently emphasized. Professor Goodnow has suggested that the drift of American social and business organization is unfavorable to the board idea, since all big business enterprises are nowadays whirled on a one-man pivot. It is the bank president, not its directors, who in reality dominates the institution. Directors who really direct have almost become figments of popular imagination. Centralization of authority makes for efficiency; and when, as in business, the principle of organization is not necessarily democratic, efficiency is likely to be the controlling aim. In public affairs, however, this is a policy which cannot wisely be followed without some deviation.

The terms of office given to department heads, whether they be single commissioners or members of a board, ought

The terms of department heads.

to be longer than those usually provided. The prejudice against extended terms is deeply rooted in the United States; it harks back to the days when public offices were everywhere regarded as prizes which lucky individuals ought not to hold too long. The idea that city offices ought to go round, ought to be passed along the line at intervals to those who had borne the burden and heat of political battle, is one of the hallucinations that were too long suffered to pass muster as sound principles of democracy. When the office of departmental chief is regarded as a difficult and none too remunerative occupation which only capable men can occupy, and then only at some private sacrifice, there will be less pressure in favor of shortening official terms. How long a commissioner in charge of a city department should be appointed to serve depends somewhat upon the nature of the tasks which he has to perform. If the department be one which plans its work over a number of years, the head should at least be retained for such space of time as may be necessary to bring his own plans to fruition. If he is to be judged by results, he should have time enough to make the results his own. A term long enough to plan and produce returns, yet not so long as to inspire a disregard of popular sentiment, is what the head of a city department ought to have. This may well be six years; it ought rarely, if ever, to be less than three. Where tenure of administrative office is concerned, it is better in case of doubt to err on the side of liberality. Indefinite terms are not regarded as satisfactory either by the voters in general or by the officials themselves. Too often they encourage persistent interference to secure the removal of an officer.

Reappointments are desirable.

More to be desired, however, than long terms is the tradition of reappointment. That such tradition can be developed is shown by the experience of some American cities in which certain heads of departments have through suc-

cessive reappointments held their positions for ten, fifteen, or even twenty years. Much has been said by American writers on municipal government concerning the long periods over which the chief officers of English city departments have been suffered to remain unmolested; but a detailed examination of actual conditions in the cities of the two countries would probably disclose that the difference in this respect is not so great as is commonly imagined. It must be remembered, moreover, that the facility with which a city official can, for his own advancement, pass from municipal to private employment is much less marked in England than it is in this country. When the head of a city department in the United States gives up his post after a few years of service, it does not always mean that he has been denied reappointment. Very often it is because he has discovered a more lucrative opening in some other field. A successful organizer and administrator in the city's service soon catches the eye of some private corporation which is willing to pay him more than the city is ready to offer.

The salaries of department heads.

The remedy for this would, of course, be to pay higher salaries to successful heads of departments. But the scale of municipal salaries is not fixed on a basis of what the best service is worth; it is rather a question of what public opinion is ready to tolerate. To the president and directors of a public-service corporation ten thousand dollars per annum is very little to pay for the services of a man who can do large things easily; to the eyes of the average voter it looks like a small fortune. For what the American city wants, and ought to have, in the way of efficient legal, engineering, financial, sanitary, and educational skill, it will have to pay more than it is paying at present. It must buy its administrative skill in the open market at current prices for a stated quality. It must pay even higher sums than private employers of skill, for the expert who hires with the city must

prepare to serve a fickle master. Compared with English, French, or German municipalities, the American city may seem to be paying its chief officials quite enough; but that is not the viewpoint from which comparisons should be made. The chief officials of foreign cities take much of their real remuneration in the honor that attaches to their posts, in the security of tenure which they enjoy, and in the liberal pension provisions that are made for them on retirement. American cities give none of these things. The only profitable comparison is that which may be made between the salaries paid for skill and service of the same quality in municipal and in private business. From this point of view, the city's scale is too low in the higher branches of its service and too high in the lower grades. On the whole, much has been done in recent years to improve this situation; but the city's handicap is not yet by any means overcome.[1]

Gains in efficiency to be had by a proper coördination of departments.

While much of the responsibility for efficiency or inefficiency in the conduct of the city's business will always depend upon the spirit and capacity of the men who are at the heads of the various departments, not a little also hinges upon the way in which the work is distributed to the several administrative authorities, and upon the care with which departments are themselves internally organized. A distribution of functions which leaves gaps, or which causes overlapping, or which from its lack of definiteness gives frequent basis for friction, is all too common in large cities and proves a fertile source of wastefulness. Take the whole field of municipal public works, for example. Reason and experience both dictate that this entire branch of city administration should be centralized in a single department; yet very rarely is that policy followed. Street improvements

[1] For a discussion in regard to pensions to city officials, see below, pp. 290–292.

are put in charge of one authority, sewer construction is in the hands of another, and the extension of the water-supply system is intrusted to a third. Each of the three then proceeds to its own work without reference to the plans of the others, with the result that all too frequently there is overlapping of effort, or friction, delay, and unnecessary outlays of both time and money. That most American cities have more departments than they really need is a sufficient obstacle to efficiency, but even worse than the multiplication of these divisions is the failure of cities to make them work in coöperation.

Gains to be had by centralisation of administrative responsibility.

Another prolific cause of waste both in labor and in materials is the faulty internal organization of individual departments. In all successful business establishments two or three fundamental rules of organization are observed as a matter of course; yet by municipal corporations which perform tasks of almost identically the same general character these rules are often disregarded altogether. One of them is the commonplace principle that the lines of responsibility for every separate branch of a business should converge in some one individual or group of individuals. In other words, no subordinate officer should be allowed to hold a place of isolation so far as his responsibility is concerned. In large industrial enterprises the buying, manufacturing, and selling branches of the business are committed to separate departments, each with its own head. These departments may be subdivided again, but the hierarchy of accountability is always rigidly preserved. In the management of the city's business, however, this principle rarely gains anything like full recognition.[1] The heads of

[1] The report on "Business Methods of New York City's Police Department," issued by the New York Bureau of Municipal Research in 1910, affords abundant illustration of the way in which the ordinary rules of everyday business are sometimes disregarded in the conduct of a municipal department.

some departments are chosen by the mayor and are responsible to him alone; the heads of others are chosen by the city council and are responsible to it; and the heads of still others are elected by the voters and are responsible to them. The inevitable result is inter-departmental jealousy and often open antagonism. The street department puts down a new pavement, only to find that the water or sewerage authorities have planned to relay their mains in that particular thoroughfare. Friction between departments is in some cities a matter of almost daily occurrence. Police and licensing authorities failing to work in unison, the city's sanitary department clashing with the board of health, the fire department at issue with the department of buildings inspection, — these are incidents that have become so common as hardly to cause comment outside of the administrative circles immediately concerned. All this is fatal to the development of economical administrative methods, for with divided responsibility much duplication of work is unavoidable. The existing situation is all the more exasperating from the fact that it continues for no other reason than because political and personal influences are permitted to stand in the way of desirable consolidations and readjustments of departmental functions.

The need of greater attention to the business provisions of city charters.

In modern city charters too little attention has been given to the way in which the actual work of the municipality shall be done. The task of organizing the various departments, and of determining the branches into which these departments shall be divided, has usually been left to the discretion of the city council. This body, unfortunately, has very rarely shown itself capable of handling such matters without regard to political considerations; and the result has been the development of administrative machinery which no private business could long maintain without ceasing to pay dividends. The bestowal of more care upon what may

be termed the business provisions of city charters would probably find ample repayment in the results thereby secured.

References

Concerning the general organization and functions of administrative departments in American cities very little trustworthy material has as yet been brought together. The facts can be assembled only by a careful examination of city charters, ordinances, and departmental regulations. The best single source of information is A. R. Hatton's *Digest of City Charters* (Chicago, 1906), especially pp. 272–351; but administrative changes have been numerous since the publication of this useful volume. Various reports issued during the last few years by bureaus of municipal research and similar institutions have dealt with the problems of departmental reorganization in individual cities. Quite the best among these is the report entitled *A Preliminary Survey of certain Departments of the Government of the City of St. Louis, with Constructive Suggestions for Changes in Organization and Method*, prepared by the New York Bureau of Municipal Research and printed under authority of the St. Louis city council in 1910. Another suggestive study, compiled by the same bureau and entitled *The Organization, Duties, and the Administrative and Accounting Procedure of the Department of the President of the Borough of Manhattan of the City of New York* (June, 1910), contains several excellent charts illustrating the principles upon which municipal departments ought to be organized. Many constructive suggestions for bettering the city's business methods may be found in the report on the administrative organization of Memphis, made by the Bureau of Municipal Research in that city in October, 1909. Mention may also be made of the special number of the *Annals of the American Academy of Social and Political Science* on "Efficiency in City Government (May, 1912). Reports of the same general nature have been issued by the Bureau of Municipal Research in Philadelphia, by the Chicago Bureau of Public Efficiency, and by corresponding institutions in several other cities. The *Reports* of the Boston Finance Commission (7 vols., Boston, 1908–1912) also contain much material relating to problems of local administrative organization.

A general survey of administrative organization and methods, which retains considerable value despite the fact that it was written more than a decade ago, is the chapter on "Administrative Officials" in J. A. Fairlie's *Municipal Administration* (New York, 1901); and there is a good chapter on "Public Works Administration" in the same author's *Essays in Municipal Administration* (New York, 1908). Some general information may also be found in F. J. Goodnow's *Municipal Government* (New York, 1909), especially chs. xi.–xvi., and in his *Municipal Problems* (New York, 1904); in M. N. Baker's *Municipal Engineering and Sanitation* (New York, 1902), chs. xxxiv.–xxxv.; Samuel Whinery's *Municipal Public Works* (New York,

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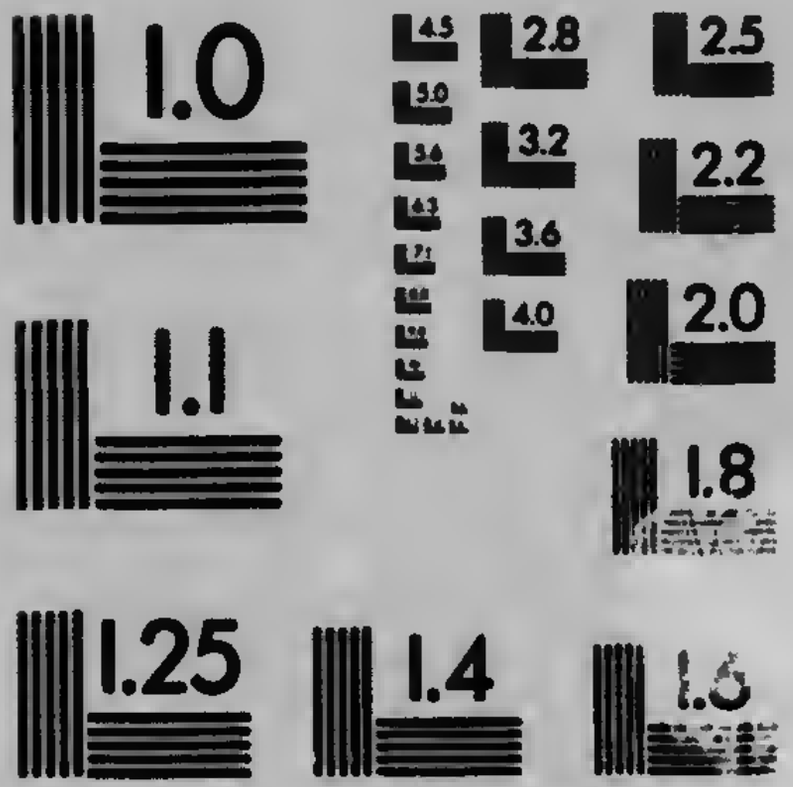

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1903), chs. ii.–viii.; and D. F. Wilcox's *Government of Great American Cities* (New York, 1910), chs. iii.–vii. The rules of law relating to administrative organization and functions are set forth in J. F. Dillon's *Law of Municipal Corporations* (5 vols., Boston, 1911), especially vol. I. §§ 98–421; and in Eugene McQuillin's *Law of Municipal Corporations* (6 vols., Chicago, 1911–1912), II. 962 ff.

Some interesting judicial decisions in the same field are printed in J. H. Beale's *Selection of Cases on the Law of Municipal Corporations* (Cambridge, 1911), especially pp. 203–239.

CHAPTER XI

MUNICIPAL OFFICIALS AND EMPLOYEES

The city's labor problem.

THE proper handling of its labor force, skilled and unskilled, is one of the most perplexing problems of routine administration in American cities. How should the great body of municipal officials and employees, from the deputy head of a department at a large annual stipend to the common sewer-digger at two dollars a day, be chosen from the range of expert and crude labor available? How may the maintenance of discipline among them be best assured? By what channels should suspensions and dismissals of the incompetent be procured, and what adequate safeguards against wrongful and partisan removals ought a city charter to provide? What practical protection may a city obtain through the laws and ordinances against the padding of pay-rolls, the maintenance of sinecure posts, the pernicious political activity of employees, and the other kindred sources of waste and corruption? How should officials and employees who have grown old in the city's service be taken care of? These are some of the questions that every city must answer satisfactorily before it can be said to have achieved any approach to finality in the solution of its administrative problems.

Number of employees in large cities.

The modern city is a very large employer of labor, and with the steady extension of public services it is coming to play a more and more important part in this capacity. If one adds together the rank and file of the police and fire departments, the teachers and other officers of the public schools, the officials and employees of the street, water,

sewerage, parks, and various other departments, one finds that the total number included within the category of those who are either directly or indirectly dependent upon wages from the municipal treasury is larger than most persons imagine. In New York the number is about 65,000, or nearly eight per cent of the registered voting population; in Boston it is nearly 15,000, or about twelve per cent of the number of names on the voting-list. When it is further borne in mind that municipal employees are proverbially active in politics and rarely fail to vote, it will appear that their actual political strength, numerically considered, may not unfairly be estimated at from one-sixth to one-eighth of the whole electorate. Add to this for good measure, moreover, the fact that they always have relatives and friends whose votes they greatly influence. This massed political strength, direct and indirect, gives the army of officials and employees what virtually constitutes the balance of power in most of the larger cities.

Labor and politics.

Now, the task of getting efficient service from several thousand employees is one of considerable responsibility and difficulty in even the best-organized private enterprise, and makes heavy demands upon the skill of those who have the hiring and management of labor in ultimate charge. How much greater, then, must be the inherent difficulty in a public business in which the employees are also shareholders, and so constitute a large factor in selecting those who determine the conditions of their employment! It is, indeed, from the simple fact that municipal employees are voters and friends of voters that most of the city's most serious labor troubles arise. As voters, the employees are in a position to reward with political support those elective officers of city government who bend readily to their demands as employers. As voters, likewise, they have power to penalize with their political opposition those who stand firm against

demands for higher pay, fewer hours of labor, frequent holidays, and lenient rules of discipline. As a political faction they have interests that are, more often than otherwise, diametrically opposed to the best interests of the taxpayers as a whole. Yet there can be no serious thought of disfranchising municipal employees because as a class they seek first at the polls what appears to be their own personal welfare. Were the policy of denying the franchise to all who are prone to use it selfishly on occasion to be inaugurated, there would soon be very few names on the voting-lists of some cities. In their attitude toward general questions of municipal policy, the men on the city's pay-roll are no more apt to be warped by personal avarice than are many other elements in the community. The chief difference is that the interests of the latter, not being matters of public record, are less plainly disclosed.

How the existing situation can be improved.

It has now come to be well recognized, however, that many of the troubles which arise from the ability of municipal employees to put political pressure upon the elective organs of the city can be greatly lessened by improvements in the framework and the administrative mechanism of city government. The simplification of governing apparatus by the substitution of a small one-chambered council for the bicameral system now in vogue in many cities, the lengthening of the mayor's term and the increase in the scope of his appointing power, improved methods of nomination, the short ballot without party designations, — these are some of the organic changes that serve to diminish the sinister pressure which can be put upon the elected representatives of the people. Businesslike organization of the various administrative departments, efficient methods of selecting department heads, the subdivision of work within departments so that each official shall have his own definite work and be directly responsible for it, the policy of appoint-

ing all officials (other than department heads) by well-ordered competitive tests, due protection against wrongful removals, standing rules of discipline impartially applied to all, a system of superannuation or retiring allowances for aged officials and employees, — these are [illegible] of the purely administrative changes that would operate to the same end. Some of these organic changes have been suggested in previous chapters; but, to secure the best results, most cities must make a good many intra-departmental improvements as well.

The theory and practice of departmental organization.

Given a proper distribution of the city's business among the departments as already outlined,[1] there must still be provided such an internal organization in each department as will insure cordial coöperation among its various divisions and among officials in the same division. It is of course true that in most cities the organization of each administrative department is already based ostensibly upon the principle of making all responsibility converge in the department head. The deputy head of a division or bureau is directly under the orders of those above him, and he in turn gives orders to those within his control. From the head of the department to the minor employees there almost always appears, at least on paper, a hierarchy of responsibility. In practice, however, this chain of responsibility is often badly broken. Subordinates who have political or personal influence do not hesitate to put their reliance upon the support of men above their own immediate chiefs; hence it not infrequently happens that a department contains many men who are subordinates only in name. The head of the department knows that these can practically set him at naught by going over his head to the mayor or the council, if occasion demands. By the reinstatement of officials who have been discharged for good reason, the transfer of

[1] Above, pp. 250-252.

subordinates from strict to lenient superiors, the granting of requests for increased remuneration without consultation with department heads, — these are but a few of the ways in which officials who ostensibly have final authority in such matters find themselves overruled from above. Political exigencies and a desire to retain their positions have impelled many department heads to accept this situation and to tolerate its continuance year after year, although the veriest tyro in the municipal service knows how utterly demoralizing it is to the maintenance of discipline in the ranks.

The political pressure of employees.

Carrying the process a step farther, one finds the same independence of immediate authority among the minor employees. Not as individuals can these ordinary employees venture successfully to defy the orders of their official superiors, but as groups they can, and frequently do. Rarely is the issue between official and employees raised in such a way as to touch only one or two of the latter. Almost invariably employees are affected as a class, or they think they are. In such cases, despite the theory that the department head is responsible for the settlement of mooted questions within his own field, an appeal can almost always be taken to the mayor or to the city council. The councilmen, approaching the matter in the light of the effect which a decision is likely to have on their own political fortunes, are naturally disposed to grant demands made by bodies of employees, even when such action involves a direct rebuff to the officials immediately concerned. Differences between employer and employees necessarily arise in public, as in private, management; but concessions to the wage-earner are much more easily wrested in the public service. City employees are well aware of the political influence which they can exert, and they rarely fail to make it do full duty. To render it the more effective, the employees of various municipal departments in the larger cities have organized them-

selves into associations which are to all intents and purposes labor unions, although they do not bear the name and are not usually affiliated with the regular labor federations. Often they take the guise of benefit associations, or even of social clubs maintaining benefit funds and club-rooms. The money needed to carry on these organizations is in part secured by the levy of assessments upon members, but generally, in larger part, by the holding of a policemen's ball, or a firemen's tournament, or some similar money-making affair in social guise. Such functions are made the occasion of a general levy upon the public through the sale of tickets by policemen, firemen, and others to persons whom they are supposed to serve and protect. The whole practice is a trivial, but none the less reprehensible, form of petty blackmail. Fraternal or social in outward appearance, these organizations are for the most part nothing but machines for putting political pressure where it will avail most in the interest of members. Thus does the public, as usual, pay its way both coming and going. The taxpayers of cities yield the contributions which in their turn give the employees of the city added strength in pressing their frequent demands for new concessions at the public expense.

Inferior quality of municipal

But while the absence of businesslike adjustment among departments, and the presence of friction, insubordination, and political pressure within individual departments themselves, have all militated against efficiency in the municipal service, a much greater obstacle to satisfactory results is to be found in the quality of the labor, skilled and unskilled, which usually gains a place on the city's pay-roll. In the absence of strict rules relating to the selection of officials and employees by competitive tests, appointments to all places in the administrative service of the city are almost certain to be regarded as the legitimate patronage of the party in power. Save in the case of purely technical posi-

tions, little heed is paid to the personal qualifications of individual applicants for vacant positions. The practice of advertising for applications, so common in the cities of Europe, is almost unknown in America. As soon as a municipal job becomes vacant, a host of aspirants, each backed by his friends, come forward to press their claims upon the mayor or the council or the head of the department, — not claims based upon special fitness or administrative experience, however, for most of the applicants possess none of these, but claims to reward for party service and professions of future political value to the administration. Thus the administrative service of most cities becomes clogged with men who have failed to make any headway in private vocations, and who certainly can do no better in the lax disciplinary environment of public office-holding. Men of the most mediocre attainments in engineering, law, accounting, and other professions, almost everywhere succeed in putting themselves into municipal posts of large responsibility for which the highest grades of professional skill would be none too good. Times without number the taxpayers of American cities have been mulcted heavily through the failure of administrative officials to display even ordinary skill and intelligence in the handling of important matters intrusted to them.

The city's dependence upon subordinates.

In large cities the head of a department cannot give close personal supervision to everything within his jurisdiction. That would be a physical impossibility. For the decision of many questions he must depend upon the judgment of his subordinates, each of whom is supposed to have special skill and knowledge in his own branch of work. Thus, the legal advice which is tendered to the mayor and council in the name and on the formal responsibility of the corporation counsel or the city solicitor is in most cases based upon an examination of statutes, ordinances, or precedents made by the

assistant solicitor or by others in his office. It is upon the diligence and intelligence of these latter, accordingly, that the legality or illegality of whatever action the city may take on many matters will largely depend. So in the department of public works. Specifications and contracts must usually have the approval of the department head; but the actual work of drafting them is intrusted to some subordinate, commonly an engineer, who submits his drafts to the law department for its approval. After they are put into preliminary shape, these documents seem rarely to obtain more than a perfunctory scrutiny from any higher authority; so that the interests of the city have in reality been intrusted entirely to subordinates. Other departments of the city's service furnish similar examples. Professional skill and expertness are thus even more imperative for the men who do the preliminary work, than for department heads who carry the technical responsibility. Yet these are the branches of the city's service where professional expertness is least often found.

Municipal and private labor efficiency contrasted.

Rank for rank, the municipal departments compare unfavorably with private business organizations in the quality of the work performed by their respective staffs. For the same salary the city almost invariably procures skill of an inferior grade and diligence of inferior degree. That is why, in its dealings with private corporations and even with individuals, the municipality has usually found itself saddled with the short end of the bargain. It is outmatched in skill, intelligence, tact, and loyalty. To offset this handicap, for which the city has only itself to blame, municipal officers frequently resort to unfairness in dealing with private concerns. They are very apt to ignore the principle that parties to an agreement are to be deemed equal and are entitled to equal consideration. The city, in its agreements with public-service corporations or contractors, often

endeavors at all points to secure terms that put the latter completely at the mercy of its own officials, a precaution which is thought to be prudent in that it permits errors to be set right later without any mulcting of the municipality for the incapacity of its own agents. City engineers, for example, have acquired the habit of stipulating that they shall then ... decide all points of dispute arising between the municipality and contractors.[1] The result is that all those who deal with the city take into account the fact that they must perform their agreements according to interpretations put upon them by officials whose positions preclude impartiality. Accordingly, they either lay plans to control the officials to whom the right of deciding disputes has been allotted by the terms of city contracts, or, when such officers cannot be influenced in their favor, they include in their estimates of cost an allowance for adverse decisions. In either case the city pays heavily. The whole thing runs in a curious circle. Officials in the city departments who are appointed to pay partisan debts or to secure political advantage are rarely endowed with the intelligence, skill, industry, and experience necessary to perform properly the tasks intrusted to them. Realizing this, they manage to shift the responsibility for inevitable mishaps upon the shoulders of contractors, public-service corporations, or others who have dealings with the municipality. As these can shift it no farther, they take it aboard and charge the city with the cost of carrying what ought to have been borne by its own officials.

[1] "This is usually done under the pretext, on the part of the municipality, that its interest must be protected in every practicable way from the possibility of mistake or loss in dealing with the contractor. Contracts for public works often thus notoriously one-sided and attempt to place the contractor entirely in the power of the municipality. Take up almost any such contract and every page bristles with clauses intended to secure to the municipality rights that are denied the contractor." — SAMUEL WHINERY, *Municipal Public Works* (New York, 1903), 73.

The cost of incompetence.

Now, the entire cost of this official incompetency which is so cleverly shielded from the public wrath by a persistent evasion of responsibility, is something that can be neither accurately estimated nor adequately described. One of the best municipal accountants in the United States has endeavored to figure up, in a general way, the proportion of New York's municipal income that is annually wasted through official incapacity and inattention to duty. He estimates that in the pay-roll alone $12,000,000 is about the price paid annually by the metropolis for collusion, inefficiency, and idleness in the various municipal departments.[1] Nor does this represent even the greater part of the entire waste. The city of New York spends each year about $15,000,000 for supplies and materials; but, though it buys in very large quantities, it has received, as a rule, neither wholesale rates nor cash discounts. In considerable measure this is due to a lack of proper purchasing methods, but in larger degree it results from the total failure of the city to secure the type of servant who will guard the financial interests of his master as his own.

Most of the evils arise from inferior methods of selection.

Unquestionably, the root of this trouble lies in the manner of selecting most of those who are taken into the service of the various municipal departments, and the remedy can accordingly be found in a radical alteration of these methods. The appointment of subordinate officials, whether by the mayor or by the council or by the heads of departments at their entire discretion, results almost invariably, and indeed, one may say, almost inevitably, in the purely partisan selection of men who have no tangible qualifications for the work which they are expected to do. The experience of American cities on this point has been far too extensive to leave any doubt in the matter; no other maxim of municipal

[1] F. A. Cleveland, *Municipal Administration and Accounting* (New York, 1909), 28–29.

science can draw more evidence to its support. Since, then, entire discretion in the matter of selecting officials has almost always been abused when given to these authorities, there seems to be no satisfactory alternative other than to take the discretion away. To do so is not in any way to impair the full responsibility either of the elective branches of the city government or of the department heads. Subordinate officials are not policy-determining factors. Their work lies within the plans mapped out for them by others. Skill and diligence in carrying out their instructions are the chief qualities demanded of them. The broader administrative qualifications so desirable in heads of departments are not essential in the case of their subordinates. Hence it is that practically all municipal administrative posts other than headships of departments may very properly, and, as experience proves, may with excellent results, be filled by men who have been selected through the agency of some competitive test.

The remedy.

This system of appointment by competitive test is in its broader application commonly known as the civil-service examination. First tried in the national administration, which derived it from England, this method of selecting administrative officials has made its way into several of the states, and finally into a number of cities.[1] At present it is the method of choosing a considerable proportion of the officials in all the cities of New York, Ohio, and Massachusetts, and in certain cities of Pennsylvania; it has also been adopted for the selection of officials in the police and fire departments of various municipalities in Wisconsin and Illinois. In a good many others, chiefly those which have

The merit system of appointment to municipal posts.

[1] On the history of the system before its appearance in America, see D. B. Eaton, *Civil Service in Great Britain* (New York, 1880). The history of the system in the United States is traced by C. R. Fish, *Civil Service and the Patronage* (New York, 1905).

adopted the commission plan of government, it has been applied to subordinate posts in all or most of the municipal departments; and the same is true of cities like Seattle, San Francisco, New Haven, Los Angeles, Kansas City, Memphis, and Detroit, which have in recent years adopted charters of other types.[1] During the last decade the extension of the competitive system has been rapid, and there is every reason to expect, from the present trend of public opinion, that its spread in the next few years will be at an even greater pace.[2]

The aims of a civil-service system.

Stated briefly, the purposes of a well-ordered civil-service system are both preventive and positive. In the first place, it is a system which aims to prevent those who have authority to appoint municipal officials from using this authority to pay political debts. It aims to remove from the category of partisan spoils the administrative offices of the city. In the second place, it seeks to provide an agency whereby properly qualified officials can be secured for these posts whenever they are wanted. This it does by establishing and conducting, periodically, open competitions designed to test the qualifications of all who apply. These competitions, besides being open, under certain reasonable limitations, to all who wish to enter, are advertised beforehand and are conducted publicly with all necessary safeguards for honesty and fairness. The tests, whether mental, physical, or both, are adapted to the duties of the office which is to be filled. The system rests, in a word, upon three propositions, — namely, that every administrative office demands certain qualifications, that the office should go to him who is best fitted to fill it, and that the fairest way to discover such individual

[1] The complete list may be found each year in the *Proceedings* of the National Civil Service Reform League.

[2] On the constitutionality of civil-service laws, see J. F. Dillon, *Law of Municipal Corporations*, I. § 397.

is to establish an open competition. The chief function of those who have the civil-service system in charge is, accordingly, to arrange the details of the competition and to see that it is conducted fairly.

Methods of constituting civil-service commissions.

It becomes of great importance, therefore, that the authorities in charge of the system shall be free from the influence of political pressure in the interest of candidates for office. Three methods of appointing such authorities are in vogue. In some cities, as, for example, in Philadelphia and in Chicago, the administration of the system is in charge of a civil-service commission appointed by the mayor.[1] This is a plan which, though it exists in many cities, has little or no justification either in principle or in practice. In principle it is anomalous that a mayor should have the appointment and removal of those whose chief function is to keep patronage from his own grasp. In practice it has been found that a civil-service commission appointed by the mayor is little more than a tractable instrument for dignifying political patronage with the stamp of reform. With the right sort of mayor in office such a commission will be allowed to perform its functions fairly and well; with the wrong sort of mayor it can rarely keep itself intact except by a supine obedience to the orders that come from the city hall. In other words, it is least effective when it is most needed.

1. The Philadelphia plan.

A second method, pursued in the forty-eight cities of New York State, is to have the civil-service commission in each municipality appointed by the mayor, but to provide that

2. The New York plan.

[1] The Philadelphia commission consists of three members appointed by the mayor for a term of five years, not more than two of them to be from the same political party (*Laws of Pennsylvania*, 1906, pp. 83–84). In Chicago there are three commissioners appointed by the mayor for a three-year term, one retiring annually (*Revised Statutes of Illinois*, ch. 24). In New Orleans the civil-service commission is made up of the mayor, the comptroller, and the city treasurer *ex officio*, together with two members appointed by the mayor (*Laws of Louisiana*, 1900, p. 140).

these municipal boards shall do their work subject to the supervision of a state civil-service commission appointed by the governor. This latter body has authority to remove, when necessary, any members of municipal civil-service commissions who prove remiss in the performance of their duties, and to appoint the successors of those who may be so removed. The New York plan aims to combine local administration of the civil-service system with such central supervision as is necessary to prevent abuses; and as a general principle of popular government this policy is sound enough. More emphasis, however, has been laid upon the local than upon the central features of the system, with the result that state supervision has not been sufficiently comprehensive or strict to prevent a lax administration of the civil-service rules in the interest of those who have purely political ends to serve. Undue leniency toward evasions of the law by local commissions has greatly impaired the safeguards which the system potentially offers in every city of the state.

3. The Massachusetts plan.

The third plan is that which has been in operation since 1884 in the cities of Massachusetts. The thirty-three cities of this state have no municipal civil-service commissions, but come directly under the jurisdiction of a state board made up of three members appointed by the governor. This central commission prescribes the tests, conducts them, and certifies the results to the cities. When any municipal post within the classified service is to be filled by appointment, the state commission is asked by the city authorities to send down the names of those who have stood highest at the tests. If there are none who have already qualified, a competition is announced and candidates are called for. It will, of course, be urged that this system is an infringement upon the principle of municipal home rule, and it doubtless is so if by municipal autonomy one implies a denial of the state's right to secure the impartial enforcement of its own laws. But whatever

affront it may give to the shibboleths of politicians, the Massachusetts system does possess, in actual operation, the substantial merit of being effective. It removes the administration of the civil-service system from the influence of local politics, for neither directly nor indirectly can the appointing officers of cities bring sinister pressure to bear on the state commission.[1] It is economical, in that it prevents that duplication of local and central effort which characterizes the administration of the system in New York. As might be expected, the professional politicians of Massachusetts proclaim perennially that the whole system is "undemocratic"; and they are perhaps consistent in raising this cry, for their definition of democracy asserts that all men are equal, and any form of fair competition is sure to prove that some men are inferior.

Its merits.

Where, as in Massachusetts, the merit system has been put to fair trial, with its administration intrusted to men who have both the will and the power to perform their functions without fear or favor, there is no serious question as to its substantial achievements. To obtain tangible proofs of this, one need only compare the personnel and work of those municipal departments which are under civil-service regulations with those which are not. The results of such comparisons, wherever they have been made, are so decisively in favor of the former method as to leave no doubt that the merit system is one of the most dependable of all the agencies that help the city to get a day's work for a day's pay. Comparison between the efficiency of the same department before and after being put under merit-system rules leads to

Results of the merit system.

[1] It is, of course, not at all certain that this would, in other jurisdictions be the result of intrusting the administration of the merit system to state-appointed authorities. The outcome in Massachusetts is largely due to local causes, particularly to the fact that the governors of the commonwealth have maintained good traditions in the matter of state appointments.

exactly the same conclusion. Such comparisons are, to be sure, not always easy to make, for the reason that the introduction of civil-service regulations is often accompanied by a change in the general structure of city government, or by a reorganization of administrative departments. In either of these events it becomes nearly impossible to tell how much improvement is due to one or other of the various changes made. But the instances in which the merit system has been put into operation without other organic changes are sufficiently numerous to warrant the conviction that, even of itself, the plan can be made the agency of marked improvement.[1]

Objections urged against civil-service reform.

Various objections have been urged against the extension of the civil-service system to all city officials and employees other than heads of departments. Some of these objections rest upon misunderstandings as to the way in which the system is administered; others arise from the occasional failure of civil-service authorities to apply their rules with either judgment or tact; and others, again, are objections of more or less validity, which apply not only to civil-service tests, but to all methods of selection based upon open competition.

1. Tests alleged to be unsuitable.

In the first place, the system of civil-service appointments to posts in the municipal service seems to be inseparably associated in the public mind with the idea of written examinations designed to test solely the intellectual qualities of candidates, and conducted in academic fashion. For the propagation of this popular notion civil-service examiners have to a considerable extent been responsible. In the earlier days of civil-service reform, and indeed even yet in many jurisdictions, the tests applied have been too narrow. They have laid too much stress upon examinations in elementary

[1] For example, see the summary of results in Kansas City, in *American Political Science Review*, VI. 91 (February, 1912).

composition, arithmetic, and history, and too little upon those that relate directly to the work which the official will have to perform. Those of us who have much to do with academic examinations, in the way both of selecting questions and of reading answers, are all too well aware of the fact that such tests afford at best a very inadequate and undependable means whereby to gauge the real quality of a young man's mind or even to measure the extent of his information. Civil-service authorities at the outset, put too much faith in conclusions deduced from formal written tests upon matters which are supposed to be part of an elementary education. By so doing they brought upon the whole system much criticism that might easily have been avoided.

The objection does not hold valid when the system is wisely administered.

But civil-service tests are not now wholly of this nature, and not even largely so when the system is prudently administered.[1] Physical examinations, tests designed to uncover a candidate's knowledge of the specific duties which he will be called upon to perform, questions framed to display his soundness of judgment and powers of initiative, requirements that candidates shall present testimonials from former employers, — all these things form essential features of competitions that are wisely managed. When the office to be filled is technical or specialized in its duties (as the post of draughtsman, analyst, milk inspector, ambulance surgeon, or bookkeeper), the planning and application of appropriate tests present no very difficult problems. But when the duties attaching to the office are of a non-technical or general nature, for which an applicant cannot ordinarily equip himself by any form of professional training, the perplexities become much greater; and it is, unfortunately, into

Difficulties involved in testing general qualifications.

[1] Some excellent specimens of the right type of civil-service examination questions may be found in the *Civil Service Text Book* (1910–1911), issued by the city of Chicago. As stated in the preface, one of the reasons for publishing this book was "to dispel the mistaken idea that examinations consist of academic tests."

this latter category that most subordinate municipal positions happen to fall. Take, for example, the post of patrolman. Its duties cannot be learned through any of the ordinary channels of instruction or apprenticeship, and the qualities that insure the satisfactory performance of these duties are much easier to define than to discover. Personal courage, integrity, tactfulness, and a level head as well as intelligence seem to be the essential qualities of an efficient police officer; they are obviously more important than proficiency in penmanship, geography, or arithmetic. A rigid physical examination is a great help to the examiners, for it is almost a truism that bodily vigor goes with a clean mind and good morals. Yet it can hardly be urged that any series of formal tests will disclose with certainty the particular candidates who possess these important qualities in the highest degree. In spite of all this, however, the civil-service authorities of some cities have been remarkably successful in adapting the tests to the ends in view.[1] When the qualifications desired of an appointee can be clearly ascertained and sufficient study can be given to the planning of the tests, the examination can be made to serve, not perhaps as an unfailing means of choosing the best qualified among a list of candidates, but as a tolerably safe method of selection.[2] Even at its worst it is superior in this respect to the spoils system at its best.

[1] This is frequently done by calling to the assistance of the regular examining authorities outside experts, who help to plan the competition, select the tests, and pass judgment on the results. This procedure has been frequently used, during recent years, in New York, Chicago, Boston, Kansas City, and elsewhere.

[2] For the selection of ordinary unskilled labor no formal tests are commonly used. The usual plan is to provide a waiting-list, upon which are enrolled the names of all those who are seeking places in the city's labor force. Men are certified from this list in order of their application, preference being usually given to veterans of the Civil War and to those who have families depending upon them for support. It would seem as if a

No method of appointment will ever prove to be an automatic winnower of the chaff from the wheat among aspirants to posts in municipal departments. Guiding hands there must be, and when these are controlled by the spirit and ideals of a martinet no system can make very rapid headway to a hold upon the public confidence. The principles of civil-service reform, thoroughly sound in themselves, have sometimes been put into operation under the guidance of men whose narrowness of vision precluded the adoption of other than rule-of-thumb tests, poorly devised, ill-adapted to the occasion, and calculated to impair public faith in the merit system as a whole. Since these shortcomings are incidental, however, not inherent, they may usually be remedied by the exercise of a little patience. Year by year the methods of examination have improved; more stress has been laid upon the previous training and experience of candidates; the past records of all applicants are nowadays carefully investigated; indeed the whole system is being vastly better administered to-day than it was a decade or two ago.

2. Tests ought not to be applied to officials in certain financial departments.

In the second place, it is frequently urged that the system of civil-service appointment should not be applied to officials in certain city departments who hold what may be termed positions of financial trust and for whose integrity the head of the department is laid under personal bonds. Within this class come the employees in the office of the city collector or the city treasurer. Being personally responsible for the honesty of these officials, the head of the department should have a free hand, it is claimed, in selecting them. This, however,

physical examination of at least moderate stringency might be generally applied in the case of applicants for positions as ordinary laborers, especially since much of the city's difficulty in getting work done at fair cost results from the fact that too many laborers are physically unable to do the hard work required of them. Such tests have been used for some years in Massachussetts with good results.

is a doctrine difficult to sustain on any rational ground. All heads of departments are, in a sense, personally responsible for the negligence or the dishonesty of their employees. Some of them may suffer in reputation rather than in purse when inefficiency or dishonesty is disclosed; but that difference scarcely warrants the application of an exceptional method of appointment for positions of financial trust. Besides, there is nothing to prevent a city, if it so desires, from putting the subordinate officials of a collecting or a treasury department under individual bonds. It would cost something to do that, but in the end it would be far more economical than to tolerate political interference in these departments. Moreover, the exemption of one or two departments from civil-service rules almost invariably makes these offices the dumping-ground for inefficients who, for personal or political reasons, must be provided with places on the city's pay-roll. Exempted departments are usually the most overmanned, the most expensive, and the least satisfactory in the whole municipal service.

3. Inflexible nature of the system.

Other objections commonly encountered are to the effect that civil-service commissions are prone to be so overzealous in hewing to the letter and disregarding the spirit of the laws which they administer that in some instances they virtually dictate the allocation of duties within a department, by insisting that persons certified for appointment to definite posts shall perform the duties of those posts only and not even incidentally have anything to do with the work of any others; that the system encourages a bureaucratic attitude on the part of subordinate officials toward the public; and that those appointed under its rules frequently display a lack of amenability to departmental discipline. All of these objections are to some slight degree justified by the facts, but in large part they are without any real foundation whatever. In answer to them it may reasonably be urged that

civil-service authorities are appointed to administer the law as they find it and not to exercise pretorian powers; that they must be ever on their guard against attempts to circumvent the civil-service regulations by readjustments within departments; and that such lack of amenability to discipline as may come from security of tenure is not a tithe of what results from the possession and use of political influence by public employees, where civil service rules are not in force.

The merit system of promotion.

The merit system aims not only to provide securities for the appointment of fit and proper persons to municipal office, but also to secure the enforcement of rational rules regarding promotions and due safeguards against improper removals. Civil-service control of promotions usually takes the form of a requirement that efficiency records shall be kept in each city department. These records are intended to show the degree of competence or incompetence with which each official does his work, and also to register whatever demerits may stand against him. When a promotion is to be made, the efficiency records of all the eligible candidates are examined, due weight being given to seniority and sometimes to the personal judgment of the department head; and to this information is added whatever can be obtained from the holding of an appropriate competitive test. The candidate who makes the best average showing both on the records and at the examination is recommended for promotion.[1] A civil-service commission usually finds difficulty in carrying out this system in its entirety; but it is a sound and scientific plan, supported both by common-sense and by experience. Its steady extension seems inevitable.

[1] One of the very best examples of the way in which this plan may be applied with absolute fairness to all concerned was afforded in the selection of the present fire chief of New York City. See the issues of *Good Government* for July–August, 1911.

Securities against wrongful dismissals.

Civil-service regulations that will afford to competent officials a real security against wrongful dismissal, and at the same time not preclude the removal of obvious misfits, are the most perplexing of all to frame. Officers who prove incompetent in the actual performance of their duties, or incapable of working in harmony with others, or unamenable to reasonable discipline, secure places in the public employ by way of civil-service competitions as by any other scheme of selection, although of course not so frequently; and it is scarcely arguable that such officials, whatever qualifications they may have displayed at the time of their appointment, have any vested immunity from dismissal. But all that the civil-service authorities of most cities can now require, and all that they do require, is that reasonable cause for discharge be shown. The time may come when public opinion will everywhere insist that this reasonable cause be demonstrated to the satisfaction of the civil-service commission (as is now required in Chicago), or of some other authority qualified to judge impartially between an official and his superior; but that time is not yet. At present the civil-service boards are usually constrained by the limitations of law to let the head of the department or the mayor decide whether there is good cause for the dismissal of a subordinate official who has won his place in a fair and open competition. Not infrequently it has been provided that the removal of such an officer shall take place only after the specific reasons for his dismissal have been communicated to him in writing, and in some cases only after he has had a public hearing before the removing authority.

The requirement of a public hearing.

These safeguards against unfair dismissals are far from being iron-clad, and they form not a moiety of what the logic of a properly constituted merit system demands. Yet they are, on the whole, somewhat more effective in actual operation than they seem to be. The requirement, for example, that an

official appointed under civil-service rules shall have a public hearing before his removal goes into effect affords greater security than appears at first glance. Mayors and heads of departments do not like public hearings upon questions of administrative discipline. The official whose removal is sought usually appears at the hearing with an array of friends, and with the assistance of counsel who carry the war into the enemy's country by filing countercharges against some one higher up. There is likely to be a general airing of departmental grievances, more or less exaggerated, which the newspapers parade before the public eye. In the end the removal of the recalcitrant is almost certain to be confirmed, — that is a foregone conclusion from the outset; but the man yields his office only after a contest which, however unequal, at least serves to bring his own side of the case to public attention. Those who sit in the seat of judgment at the city hall are prepared to go through this unpleasantness when it becomes necessary; but they do not want it very often. Removal hearings, when they come frequently, give too much ammunition to the foes of an administration, and are liable to impair public confidence in the mayor's ability to keep things going without undue friction. They do not, of course, afford the degree of security which competent officials ought to have as a matter of right; but in practice they do furnish safeguards of considerable value.

The by-products of civil-service reform.

Not the least among the virtues of the merit system are what may be termed its by-products. The provision that officials selected under it shall serve probationary terms before being permanently appointed is an invariable attribute of the system; but it fits in well with the other features, and some cities have found it useful. The practice of announcing publicly the names of applicants for official positions, and of requesting all those who have information concerning their merits or faults to come forward with it,

is another appropriate means of insuring good results. In Boston, for example, the names of all those who, after a rigid physical and mental examination, are certified for appointment to the police force of the city are posted in every precinct station, with a general request that all patrolmen or officers who have anything to say either for or against the proposed appointees will forward their information to the police commissioner. If there is anything faulty in a man's record, this procedure is very likely to bring it to the front. When a patrolman goes into the ranks of the Boston force, he does so with what is virtually a certificate of clean personal record from every police officer in the city; and that in itself has contributed to the upbuilding of a wholesome professional spirit throughout the personnel of the department. Civil-service competitions, moreover, have encouraged officials and employees to spend their spare hours in study rather than in electioneering; they have helped to dignify municipal employment; and they have eliminated a great deal of double-dealing from the ranks of those who serve the city for a livelihood.

Elimination of political assessments.

Another incidental but much-to-be-praised achievement of civil-service reform has been the partial, and in some instances the total, abolition of that vicious practice, so common in the heyday of the spoils system, of levying political assessments upon municipal office-holders. There was a time in New York City when even the scrubwomen who earned their dollar a day by hard labor in the city hall yielded their toll to the party's war-chest as the price of continued employment. That day has gone by. Where civil-service regulations are rigidly enforced, the municipal officials who contribute to the campaign funds of either party do so, in most cases, of their own accord and not as a matter of compulsion. The system likewise discourages the active personal participation of city employees in poli-

ties; for when an official's advancement is not secured by party service his interest in the game of politics does not seem to carry him very far. The civil-service system has also put a damper upon the activities of those whose sole interest in elections arises from a desire to gain a place among the friends of an administration. In this direction the system has rendered very acceptable service; for campaigning done by those whose only inspiration is the hope of direct personal remuneration rarely helps even the party in whose cause the work is done.

The stoppage of minor leaks.

The merit system may also, through the machinery which it provides, be used to secure the city treasury against various leaks that take the guise of payments for overtime, or wages to employees who are absent from their posts, or sums paid to men who are alleged to have been taken into the city's service for a few days at a time to meet emergencies. These are but a very few examples of the many ways in which municipal authorities who desire to give employees more remuneration than the letter of the law allows frequently manage to gain their ends. To require that the weekly pay-sheets of the municipality shall go before the civil-service commission and be certified by that body before any payments are made, is a wise provision, as both New York and Boston have found. If generally applied it would unquestionably result in the saving of large sums now squandered through the numerous channels indicated.

The city's reputation as an employer.

In the general quality of the officials that it manages to draw into its regular service the average American city has not set a very high standard. This has been due in large measure to the use of inferior methods in selecting those whom it employs, and to the insecure tenure which it has usually afforded them. In part, however, it has resulted from the city's failure to gain a reputation as a fair employer of labor.

Capable service it has usually underpaid and too frequently allowed to go otherwise unrecognized. The competent foreman, draughtsman, bookkeeper, or mechanic is not likely, if he has much ambition, to stay in the city's employ very long. When he gets an opportunity to better himself in private employment, he takes it. Consequently, the municipal staff is made up to a large degree of men who are in point of fact overpaid, that is, who get from the city more than their abilities and industry would command elsewhere. To enter the service of an American city is not, therefore, as it is in Europe, to begin an administrative career which leads to something worth while. It is rather to enter a blind alley which leads nowhere. The city halls of the country are filled with men well past middle age who serve as clerks with a weekly wage of twenty or thirty dollars, and are rarely worth it. For the quality of the service which it procures for the city, the municipal pay-roll leans rather to the side of generosity; but the paradox remains that the average city pays too little to secure the type of service that it ought to have.

The care of aged employees.

And there is still the problem of providing for officials and employees when they have grown old in the city's service. Most foreign cities, and particularly the cities of the German Empire, have solved this problem by establishing a municipal pension system. In America only a very few cities have pension arrangements of any sort; and even these systems apply to none but such officials as police officers, firemen, and schoolteachers. When, therefore, an official or employee passes the point of further usefulness to the city, only two courses are open. One is to dismiss him from the service and let him fare through old age as best he can; the other is to retain him upon the municipal pay-roll to the exclusion of some younger and more competent man. As between these alternatives the city is apt to choose the latter.

Public opinion views with a great deal of leniency the practice of carrying on the list of supernumerary clerks, or on the rolls of the street-cleaning department, or as janitors or messengers or in some other like capacity, officials and employees who by reason of long service have reached the stage where they no longer give full return for the wages paid to them. Nevertheless, the practice is both directly and indirectly very expensive. Not only does it saddle the city with a heavy pension-roll disguised as a salary and wage list, but it spreads a demoralizing influence through the whole municipal service. One need only watch the operations of a street or a sewer gang, for example, to be convinced that the pace at which city laborers do their work is usually determined by the oldest and least competent among them; and the same principle holds to some extent throughout the city departments. The practice of carrying superannuated officials and employees in the active service slows up the whole labor machine, and thereby conduces to the costliness of everything that the municipality undertakes to do. A pension system applying to officials and employees in every branch of the city's service would, therefore, amply justify itself on the score of simple economy, provided it were properly safeguarded against abuse. To safeguard a pension system, however, is not by any means easy, unless the system is made to work hand in hand with some scheme of appointment that will prevent the old and the inefficient from getting on the city's labor force at the outset. To the average voter, moreover, the idea of providing pensions for men who have had steady municipal employment for twenty or thirty years savors of unfairness to men in private employments who get no such generosity. When pension schemes have been submitted at the polls, they have as a rule been decisively rejected. It is a curious feature of electoral psychology that the same public opinion which allows the city's pay-roll

to be made a medium of philanthropy, and thereby tolerates a practice which is unbusinesslike, expensive, and unfair, should balk so readily at proposals to give civil pensions under their proper name.[1]

References

There is an extensive literature relating to the problem of securing capable administrative officials for American cities, most of it listed under the general head of civil-service reform. The best general work on the genesis and rise of the spoils system, its paramountcy, and its steady displacement in favor of the merit plan of appointment is C. R. Fish's *Civil Service and the Patronage* (New York, 1905). Besides covering the general field in a comprehensive way, this book contains a well-selected list of references to other sources of information. The annual reports of the civil-service commission of New York and Massachusetts regularly contain very informing discussions of the problems which come to these boards for solution each year; and the annual publications issued by the municipal civil-service boards in Philadelphia, Chicago, Kansas City, and other important centres very often deal with matters of great interest. Special publications issued by the civil-service authorities from time to time, such as handbooks for the guidance of candidates, often throw light on the actual workings of the merit system. In this connection special mention should be made of the *Civil Service Text Book* (1910–1911), issued by the civil-service commission of Chicago.

A monthly periodical known as *Good Government*, published in New York as the official organ of the National Civil Service Reform League, is the best and most inclusive chronicle of what is taking place day by day in the matter of improved appointing methods. The annual *Proceedings* of the same organization also include reviews of each year's progress made by the merit system. The charter provisions relating to civil service are summarized, so far as the larger cities are concerned, in A. R. Hatton's *Digest of City Charters* (Chicago, 1906); and so far as these provisions have been inserted in charters of later date they are available in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911). A good deal of useful material relating to the employment of labor by cities, particularly in their water and lighting departments, is included in the National Civic Federation's *Report on Municipal and Private Ownership of Public*

[1] In 1910 the legislature of Massachusetts enacted a measure authorizing the thirty-three cities of the commonwealth to establish pension systems for their employees. Provision was made that, to be effective in any city, the measure should be first accepted by the city council and then adopted by the people at the polls. In only one city as yet has the act been accepted by the council, and in this case the voters rejected it by an overwhelming majority.

Utilities (3 vols., New York, 1907), especially in the chapter entitled "Labor and Politics" by John R. Commons. The *Reports* of the Boston Finance Commission (7 vols., Boston, 1908–1912) also contain numerous statements of fact and opinion bearing on the vice of patronage in municipal departments and on the methods of eliminating it. For general discussions, see F. A. Cleveland, *Municipal Administration and Accounting* (New York, 1909), chs. ii.–iii.; Samuel Whinery, *Municipal Public Works* (New York, 1903), chs. ii. and viii.; J. A. Fairlie, *Essays in Municipal Administration* (New York, 1908), ch. iii.; F. J. Goodnow, *Municipal Government* (New York, 1909), ch. xi.; and D. B. Eaton, *Government of Municipalities* (New York, 1899), chs. vii.–viii.

The rules of law relating to the rights and responsibilities of municipal officials may be found in J. F. Dillon's *Law of Municipal Corporations* (5 vols., Boston, 1911), I. §§ 392 ff. Attention may also be called to article iv. of the outline of suitable charter provisions relating to administrative officers that is printed in the National Municipal League's *Municipal Program* (New York, 1900), 204–215; and to the "Draft of a Civil Service Law for Cities," by E. H. Goodwin, in *Proceedings* of the League for 1910, pp. 577–580.

On the general question of the proper internal organization of a city department, data can be obtained from the publications of the various bureaus of municipal research mentioned in the list of references appended to Chapter X above.

CHAPTER XII

CITY GOVERNMENT BY A COMMISSION

The principle of divided powers in city government.

In the preceding chapters an outline has been given of what may be termed the orthodox type of city government in the United States, a system which rests upon the principle that legislative and administrative functions should be vested in separate and substantially independent hands. Down to the beginning of the twentieth century no city (with the exception of the national capital) had permanently departed from that principle. Powers were from time to time shifted about among the several organs of local government in the hope that better results might thereby be obtained; but in all cases the cities stood firmly upon the doctrine that to concentrate legislative and administrative powers in the same hands would be detrimental and dangerous to the best interests of the citizens.

The commission plan abandons this principle.

City government by a commission embodies, first of all, a radical disregard of this time-honored theory. It starts with the idea that the principle of division of powers has no place in business administration, and hence, since the work of city authorities is business, not government, that the doctrine should not be recognized in the conduct of local affairs. Disregarding old notions concerning the usefulness of checks and balances in governmental organization, it puts all legislative and administrative authority into the hands of the same group of men. To state it more exactly, the commission plan abolishes the city's legislative organs, and, on the ground that there is very little legislating to be done in municipalities anyway, intrusts that little to the

administrative commission. Now, while this general principle of governmental organization is out of consonance with traditional theories of American government, it is no more than an application to cities of a system which in several states of the Union has long been in operation as respects the government of counties. The county commission, exercising both legislative and administrative powers, long since established itself in various parts of the country.

Beginnings in Galveston.

In its application to city government the commission plan, as is well known, first appeared in Galveston, Texas, a little more than a decade ago. Prior to 1901 Galveston was one of the worst-governed urban communities in the whole country. Under the old system of jurisdiction by a mayor, various elective officials, and a board of aldermen, its municipal history managed to afford illustrations of almost every vice in local government. The city debt was allowed to mount steadily, and borrowing to pay current expenses was not uncommon. City departments were managed wastefully; spoilsmen were put into places of honor and profit in the city's service. The accounts were kept in such a way that few could understand what the financial situation was at any time. The tax-rate was high, and the citizens got poor service in return for generous expenditures. The outcome was that a considerable element among the voters had become discouraged with the whole situation and had ceased to manifest any interest in what went on at the city hall.

Affairs were in this condition when, in September, 1900, a tidal wave swept in from the Gulf, destroyed about one-third of the city, demoralized its economic organization, and put the municipal authorities face to face with the problem of reconstruction. Before the disaster the city's financial condition was rather dubious; now its bonds dropped in value, and it was apparent that funds for the work of putting the city on its feet could not be borrowed except at exorbitant

rates.[1] It happened that much of the real estate in Galveston was held by a comparatively small number of citizens. Some of these, accordingly, went to the state legislature and virtually asked that the city be put into receivership. They requested that the old city government be swept away root and branch, and that for some years, at any rate, all the powers formerly vested in the mayor, aldermen, and subsidiary organs of city government be given to a commission of five business men. This drastic action they urged as a means of saving the city from involvement in grave financial difficulties, if not from actual bankruptcy.[2] Acceding to their request, the legislature passed an act empowering the governor to appoint three of the five commissioners and providing that the other two be elected. A year or two after they had taken office, however, a constitutional difficulty arose. In a matter which came before the courts it was held that the appointment of city officers by the state authorities was contrary to a provision in the Texan constitution;[3] whereupon the legislature amended its act by providing that all five members of the Galveston commission should be chosen by popular vote.[4] The same three commissioners who had been holding office under the governor's appointment were elected by the voters.

[1] "City script sold at fifty cents on the dollar; and in addition to a floating debt of $200,000, previously outstanding, the municipality defaulted in the payment of the interest upon its bonds, which fell to sixty." — E. S. Bradford, *Commission Government in American Cities* (New York, 1911), 4.

[2] The Galveston business men who promoted the movement had before them the federal Act which established the present government of the District of Columbia, also the Tennessee law which in 1878 created the taxing district of Memphis and placed it in charge of a commission until the city had recovered from the yellow fever epidemic of that year. See the article on "Commission Government in the South," by W. E. Scroggs, in *Annals of the American Academy of Political and Social Science*, November, 1911.

[3] Ex parte Lewis, 45 *Texas Criminal Reports*, 1.

[4] The change was made on March 30, 1903.

The Galveston plan.

As thus amended in 1903, the Galveston charter provides for the popular election, every two years, of five commissioners, one of them to be entitled the mayor-president and all to be chosen at large. The mayor-president is the presiding chairman at all meetings of the commission, but otherwise he has no special powers. The commission, by majority vote, enacts all ordinances and passes all appropriations, the mayor-president having no veto but voting like his fellow-commissioners. It further supervises the enforcement of its own ordinances and regulates the expenditure of its own appropriations. Likewise it handles all questions relating to franchises and locations in the city streets, and all awards of contracts for public works. In a word, it exercises all the powers formerly vested in the mayor, board of aldermen, and other officials, acting either singly or by concurrence. The commissioners, by majority vote, apportion among themselves the headships of the four administrative departments into which the business of the city is grouped, — namely, the departments of finance and revenue, water and sewerage, police and fire protection, and streets and public property. The mayor-president is not assigned to the head of any one department, but is supposed to exercise a coördinating supervision over them all. Each of the commissioners is thus directly responsible for the routine direction of one important branch of the city's business. Appointments to the higher posts in each department are not made by the commissioner who is in direct charge, but by vote of the whole commission. Minor appointments are, however, left to the commissioner in whose department they may happen to fall.[1]

[1] *Charter of the City of Galveston as passed by the 28th Legislature of the State of Texas and approved by the Governor, March 30, 1903* (Galveston, 1907). A further discussion of these charter provisions may be found in the author's paper on "The Galveston Plan of City Government," printed in *Proceedings* of the National Municipal League, 1907, pp. 142–155, and reprinted in C. R. Woodruff's *City Government by Commission* (New York, 1911), ch. iv.

Extension of the plan to other Texan cities.

It should be remembered that the Galveston plan was not at first intended to be a permanent system of government for the city. Its prime object was to enable Galveston to tide over a difficult emergency just as Memphis had done many years before. Prepared somewhat hastily, with very little experience to serve as a guide, it vested in the hands of a small body of men more extensive final powers than most cities would care to give away; but the lapse of a few years proved that the new system was a godsend to the stricken community. The people's civic spirit was aroused, the business of the city recovered rapidly, and in a remarkably short time the place was again on its feet, financially and otherwise. Then developed the conviction that commission government was a good form to maintain permanently. The other cities of Texas, noting conditions under the new régime in Galveston, came forward and asked the legislature for similar charters; and in the course of a few years commission charters had been given to all the important cities of the state, including Houston, Dallas, El Paso, Austin, and Fort Worth.

Its spread northward.

This development naturally attracted attention in other states, and the reform organizations of various Northern cities began to discuss the possibility of applying the scheme to the solution of their own municipal problems. The first municipality outside of Texas to accept the plan was Des Moines, the capital city of Iowa. In 1907 the Iowa legislature passed an act permitting any city of the state having a population of more than 25,000 to adopt a commission type of government; and forthwith the citizens of Des Moines, by whom the act had originally been brought forward and urged, took advantage of the new provision.[1]

[1] *Laws of Iowa*, 1907, p. 48 (approved March 29, 1907, and adopted at a special election in Des Moines on June 20, following). The Amendments to the original Act may be found in *Laws of Iowa*, 1909, pp. 53–63, and in

The Des Moines plan of government by commission is simply a new edition of the Galveston plan, similar in outline but embodying some novel features. In brief, it provides for a commission consisting of a mayor and four councillors, all elected at large for a two-year term by the voters of the city. To this body is intrusted all the powers hitherto vested in the mayor, city council, board of public works, park commissioners, boards of police and fire commissioners, board of waterworks trustees, board of library trustees, solicitor, assessor, treasurer, auditor, city engineer, and all other administrative boards or officers. Under the Des Moines plan the business of the city is grouped into five departments, namely, public affairs, accounts and finances, public safety, streets and public improvements, and parks and public property. By the terms of the charter the commissioner who is elected mayor of the city becomes head of the department of public affairs; each of the other commissioners is put at the head of one of the other departments by majority vote of the commission, or council, as the body is called in Iowa. All officers and employees of the various departments are appointed by the council, which also has authority to choose a board of three civil-service commissioners to administer, under its direction, the state laws relating to civil service. Most of the city officers come within the scope of these laws.

The Des Moines plan.

Thus far the system diverges but very slightly from the Galveston plan. The chief difference lies in the fact that the Des Moines scheme incorporates what are commonly termed the newer agencies of democracy, namely, the initiative, referendum, protest, and recall, and makes provision

Differences between the Galveston and Des Moines plans.

ibid., 1911, pp. 37–40. The full text of the law is printed in E. S. Bradford's *Commission Government in American Cities* (New York, 1911), 312–338; also in C. R. Woodruff's *City Government by Commission* (New York, 1911), 319–354.

for nominations by a general non-partisan primary. The initiative is the right of twenty-five per cent of the qualified voters of the city to present to the council by petition any proper ordinance or resolution, and to require, if such ordinance or resolution be not passed by the council, that it be submitted without alteration to the voters by referendum. If at such referendum it receives a majority of votes, it becomes effective. The protest affords a means of delaying the operation of ordinances enacted by the council until the voters can have an opportunity to express themselves. By this expedient no ordinance passed by the council (except an emergent measure) can go into effect until ten days after its passage. Meanwhile, if a petition protesting against such ordinance, signed by twenty-five per cent of the voters of the city, is presented to the council, it is incumbent on that body to reconsider the matter. If the ordinance is not entirely repealed, it must then be submitted to the voters for their acceptance or rejection. The vote takes place at a regular election, if there is one within six months; otherwise at a special election held for the purpose. If indorsed at the polls, the ordinance becomes effective at once; if rejected by the voters, it remains inoperative. It is further provided in the Des Moines charter that no public-utility franchise of any sort shall be valid until confirmed by the electorate. The recall provision permits the voters to remove from office any member of the council at any time after three months' tenure in office. Petitions for recall or removal must be signed by at least twenty per cent of the voters, and the question of recalling a councilman is put before them at a special election. All nominations in Des Moines are made at a non-partisan primary, and the ballots used at the subsequent elections bear no party designations.

Results in Des Moines.

The new régime in Des Moines seemed to begin inauspiciously. Those citizens who had been behind the new

charter movement put forward their slate of candidates, consisting of business and professional men of standing who had not been prominent in the partisan politics of the city under the old dispensation. A vigorous campaign for the election of this group was undertaken, but when the ballots were counted it was found that the opponents had proved stronger at the polls. The first council under the new charter was, accordingly, made up of men who had been more or less closely affiliated with the old order of things, and some of whom were thought to be more proficient as politicians than as administrative experts. It was therefore assumed in many quarters that the new machine had slipped a cog, with the result that the city was likely to have an administration of the old type under a new name. But the error of this assumption soon became apparent; for the experience of a few years has proved that the caliber and qualifications of the men in office are not more important than the system under which they are expected to carry on their work. There is little question that the administration of affairs in Des Moines has been very much more efficient since the commission took charge in April, 1908, than it was during the years preceding that date.[1]

Recent spread of the system.

Since its adoption in Des Moines the spread of the revised commission system has been rapid. During the next four years a great many cities, scattered about in more than twenty different states, abolished the old system and established the new one. Some of these are cities with populations exceeding 50,000, but in general the commission

[1] A somewhat over-enthusiastic account of what the system has achieved in Des Moines is given in J. J. Hamilton's *Dethronement of the City Boss* (New York, 1910; later edition, under the title of *City Government by Commission*, 1911). A more conservative summary of results may be found in B. F. Shambaugh's *Commission Government in Iowa: the Des Moines Plan*, printed by the State Historical Society of Iowa (Iowa City, 1912).

plan seems to appeal more strongly to the smaller urban centres. A list of the cities that have adopted the system, or some variation of it, would contain at present the names of more than two hundred municipalities.[1] Perhaps half as many more have projects of charter revision in hand, and in all of these the commission scheme of government is receiving due consideration. It is worthy of remark, however, that only one city with a population exceeding 2000,00 has as yet adopted the system, and that it has been put to trial in only seven cities with populations exceeding 100,000. More than half the total number of municipalities which have commission government are places with less than 5000 people. Thus far it seems to have served chiefly as a scheme of town government. But almost everywhere the voters have taken kindly to it, and wherever the question of adopting the system has been put before the people at the polls they have, with very few exceptions, accepted it. As yet there have been no backsliders: no city has gone back to the old plan after trying the new.

Variation in details.

Considerable variation in details will be found among commission charters, but most of the points of difference are of slight importance. The term for which commissioners are elected varies from a single year to six years, but two-year and four-year terms are the most common.[2] Members of the commission are usually paid, the annual stipends ranging from a few hundred to several thousand dollars per annum. In nearly all commission cities the distribution of administrative work among the members is made after the commission has met and organized for business, but in

[1] The list, as it stood on January 1, 1912, may be found in the *Engineering News* for April 4, 1912, pp. 638–639. Many of the more important commission charters are printed in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911).

[2] In Gloucester, Massachusetts, the term is one year; in Guthrie, Oklahoma, it is six years.

a few cities the commissioners are elected directly to stated departments; that is to say, one commissioner is elected director of public safety, another director of finance, and so on.[1] Something may be said in favor of each method; but on the whole the plan of electing five commissioners without any reference to the special administrative work which each will have to do is almost sure to be the better one. This is because the commission is not intended to be a set of administrative experts; no body directly elected ever can be such. The commission is rather a small board of amateurs who will secure expert officials and take advice from them. If this fundamental principle be disregarded, if elective commissioners attempt to conduct their departments either without expert advice or in disregard of it, the new plan of municipal government will hardly take us very far in the direction of more efficient or more economical administration. When the voters are asked to elect men directly to the headships of designated departments, they are almost sure to look more or less for special qualifications on the part of candidates who come forward. It is taken for granted that the director or supervisor of finance, for example, ought to be some one who before his election has had a connection with financial affairs. Hence it is that, under this system of choosing department heads, the candidate with special qualifications of an inferior sort is likely to be preferred to the broad-gauge candidate whose claims are of a more general nature but vastly better in quality. It is difficult to resist the impression, therefore, that commissioners elected to designated duties will usually be men of rather mediocre capacity who happen to possess something that looks to the voters like peculiar fitness, but is not so in reality. Under no plan of local government

It is a tion of amateur and expert service.

[1] This is the practice in Lynn, Massachusetts, and in Grand Junction, Colorado.

ought a second-rate engineer to be preferred to a first-rate lawyer or physician or banker or mechanic as supervisor of streets; yet he undoubtedly would have some advantage over the latter in any electoral contest where special qualifications happen to be thrust into the foreground. To look for specialized skill in the individual commissioners is to impair one of the strong features of the whole commission plan, which is the combination of strictly amateur with strictly expert administration, each operating in its proper sphere.

Merits of the commission form of city government.

In its actual working the new system has shown itself possessed of many advantages. Of these the most striking one, of course, arises from the fact that the plan puts an end to that intolerable scattering of powers, duties, and responsibilities which the old type of city government promoted to the point of absurdity. By enabling public attention to focus itself upon a narrow and well-defined area, it allows the scrutiny which voters apply to the conduct of their representatives to be real, and not, as heretofore, merely perfunctory. The system does not guarantee that a city's administration shall be always free from good ground for criticism, — no system can do that; but it does guarantee that, when the administration is faulty, there shall be definite shoulders upon which to lay the blame. Under the commission plan the responsibility cannot be bandied back and forth in shuttlecock fashion from mayor to council and from the council to some administrative board or officer. Issues cannot be clouded by shifty deals among several authorities. In thus eliminating a chaos of checks and balances, another name for which is friction, confusion, and irresponsibility, the new framework removes from the government of American cities a feature which, to say the least, has in practice been unprofitable from first to last.

1. Concentrates responsibility.

Sponsors of commission government assured us, even be-

fore the plan had had a fair trial, that they proposed a scheme of organization which would give cities a business administration. They pointed out that the management of a city's affairs is not government, but business. The so-termed city government, they urged, is not primarily a maker of laws and ordinances. It is a body which combines in one the work of a construction company, of a purveyor of water, sewerage facilities, and fire protection, of an accounting and auditing corporation, of the people's agent in dealings with public corporations, and so forth. Its day-by-day functions can scarcely, by any stretch of the imagination, be termed political or governmental. Go through the records of a city-council meeting and catalogue the items that can be classed as legislation, or that can in any way be said to determine broad questions of administrative policy. The list will be very short indeed. By far the greater part of a council's proceedings have to do with matters of routine administration which differ slightly, if at all, from the ordinary operations of any large business concern. Now, no business organization could reasonably hope to keep itself out of the hands of a receiver if it had to do its work with any such clumsy and complicated machinery as that which most American cities have had imposed upon them. What would be thought of a business corporation that intrusted the conduct of its affairs to a twin board of directors (one board representing the stockholders at large and the other representing them by districts), and gave to an independently chosen general manager some sort of veto power over them, besides subjecting his appointments to their concurrence? How long, for example, would a railroad endure this sort of management without a cut in its dividend rate and a demoralization of its service? It is, of course, quite true that a city is something more than a profit-seeking business enterprise. The affairs of the mu-

2. Makes business methods possible in city administration.

nicipality cannot be conducted in defiance of public opinion, or even in disregard of it; whereas business management may or may not bend to popular pressure, as it may deem expedient, — and expediency is here another word for profitableness. We have the testimony of Bismarck that public opinion is the worst foe to expertness in diplomacy; and in the same sense it may be termed the chief obstacle against which expertness in any branch of public administration has to contend. Any system of government that from its very nature must yield to every passing gust of popular sentiment carries a serious handicap. To measure it in terms of economy or efficiency with private business management is therefore unfair, unless large allowances be made. It should never be forgotten that a city must give its people the sort of administration they want, and that this is not always synonymous with what is best or cheapest. All this is not to deny, however, that there is much room for the application of so-called business principles in city administration, or that measures which simplify administrative machinery always promote greater efficiency.[1]

3. Reduces administrative friction and delay.

The system of city government by commission, it is contended, enables a city to conduct its business promptly and without undue friction. There may be wisdom in a multitude of counsellors, but the history of those municipalities which maintain large deliberative bodies seems to warrant

[1] It is to be feared that many commission-governed cities have allowed themselves to be deluded into the idea that the mere establishment of the new system is a guarantee of thorough improvement in the methods of conducting public business. Many commission charters seem to take it for granted that any able-bodied citizen can be transformed into a municipal expert by popular vote, and that the mere act of putting the whole conduct of the city's business into the hands of five men who bear appropriate titles will secure a complete change from slovenly to efficient methods. At any rate, commission charters are too commonly deficient in the matter of making definite provisions for the employment of genuine skill in the various departments under the supervision of the elective commissioners.

the impression that this collective wisdom is not of very high grade. Unwieldy councils have been put upon American cities under the delusion that democracy somehow associates itself with unwieldiness. There is a notion in the public mind, and it is as deep-seated as it is illusive, that a body cannot be representative unless it is large to the pitch of uselessness for any effective action. Even deliberative bodies, however, reach a point of diminishing returns, and American municipal experience seems to show that this point is not fixed very high. Prior to the adoption of the charter amendments of 1909 the city council of Boston contained eighty-eight members; the board of aldermen had thirteen members elected at large, and the common council seventy-five, elected three from each of the twenty-five wards of the city. If mere numbers give any assurance of sagacity or care for the public well-being, this body should have afforded that doctrine some exemplification. But in point of fact the council gave "no serious consideration to its duties"; it was "dominated by spoilsmen"; its efforts were "often directed to the pecuniary benefit of its members"; and the councillors were, for the most part, men who were "not truly representative citizens and would not be elected if their constituents knew the facts and could vote for any one else." From the viewpoint of facility in expediting business, an interesting commentary upon the way in which the city council was organized is afforded by the fact that it maintained forty-two standing committees, not half of which met even once a year. Its work on the annual appropriations consisted of little more than a series of studied attempts to raise the estimates to the maximum figures permitted by law, especially in those departments which had the largest patronage. Its alleged "deliberations" were mainly desultory talk upon matters that did not come within its

jurisdiction, such as the conduct of departmental heads, the letting of contracts, and the hiring of city laborers. For the salaries of aldermen and councillors, office expenses, wages of clerks, stenographers, and messengers, and for other charges, the city of Boston paid out nearly $100,000 per annum, a large part of which was sheer waste.[1]

The shortcomings of large councils.

What has been said of the old council in Boston may be said without much reservation of all large bicameral city councils. They are ill adapted to the work which they are expected to do. To say that they display greater regard for the interests of the people, or more conservative judgment in the handling of questions of policy, than do small councils of five, seven, or nine men is to talk arrant nonsense. The history of large councils is in general little more than a record of political manœuvring and factional intriguery, with a mastery of nothing but the art of wasting time and money. A council of some half-dozen men offers at least the possibility of despatch in the handling of city affairs; for its small size removes an incentive to fruitless debate, and affords little opportunity for resort to those subterfuges in procedure which serve mainly to create needless friction and delay.

4. Improves the quality of municipal officers.

But the chief merit urged in behalf of the commission plan is not that it concentrates responsibility and permits the application of business methods to the conduct of a city's affairs, important as these things are. In the last analysis, municipal administration is as much a question of men as of measures. Tocqueville once said that in his time the men of Massachusetts could prosper under any sort of constitution; and even to-day the cities of England manage to secure efficient and economical administration under a system that seems on its face excellently adapted to promote inharmony and extravagance. Efficiency in city administration may be assisted by one form of local government

[1] Boston Finance Commission, *Reports*, II. 196 ff. (1909).

or retarded by another, but in the long run it is not less a question of personnel than of political framework. Much depends, accordingly, upon the answer to the query whether the commission form of government does or does not offer any assurance, or even a reasonable prospect, that it will tend to install better men in the city's posts of power and responsibility. This is, after all, the crucial question; and the advocates of the system answer it unequivocally. The plan will, they feel certain, serve to secure better men. Indeed, it can hardly help doing do, they assure us; for it is almost a commonplace of political experience that the caliber of men in public office is closely related to the amount of power and authority which they exercise. When power is scattered among many officers of government, no more of it is likely to fall to the share of each one than might quite safely be intrusted to a man of mediocre ability; and when authority can safely be given over to men of this type it almost certainly will be. Men of little experience and less capacity have found it easy to get themselves elected to membership in large city councils, for the reason that their presence there could, even at the worst, do little harm, owing to the numerous statutory checks put upon the council's power. When membership in a city council means the exercise of no more than one seventy-fifth part of less than one-third of a city government's jurisdiction, it is not surprising that the post of councillor appeals only to men whose standing in the community is negligible. If, on the other hand, all municipal authority can be massed in the hands of five men, each of these individuals has an opportunity to become a real power in the community, which is the only motive that will draw capable men to the council-board. Finally, as the sponsors of the commission plan remind us, large councils mean, as a rule, the election of councillors by wards or by petty districts, a method that has proved itself

a tolerably certain way of securing inferior men; whereas a small council can be chosen at large, on ballots that have no partisan designations, and, if so desired, by some system of preferential voting.

Has improvement in the caliber of city officers been secured?

Now, the line of argument outlined in the preceding paragraph sounds reasonable, and it may be that in the two hundred or more cities which have adopted commission government a marked improvement in the quality of elective office-holders has on the whole been secured. Either to prove or to disprove this proposition by trying to find out what changes have taken place in all these cities would be a difficult undertaking; but an examination of ten important municipalities now governed under the new plan discloses the fact that, out of the fifty commissioners at present in office, no fewer than thirty-five were public officials in these places before the commission system was introduced. This showing seems to carry the implication that the plan is not revolutionary in regard to the type of official brought into service. It would, perhaps, be more in accord with the actual facts to say that the introduction of the simplified form of municipal organization proves its usefulness not so much in drafting a better class of men into public office as in permitting the same men to achieve better results. It is, at any rate, the testimony of those who have served under both the old plan and the new that the latter gives greater opportunity and greater incentive; and it is the experience of those cities which have been under commission arrangements for several years that, whatever may have been the effect upon the personnel of the administration, the change has had a salutary influence upon the whole tone of municipal affairs. The evidence on this point is too extensive, and comes from too many authoritative sources, to be questioned.[1]

[1] See references at the end of this chapter.

Objections to the commission plan.

On the other hand, the commission type of city government meets with some objections in all parts of the country. According to its opponents, it is based upon a wrong principle and proposes a dangerous policy; and it is accordingly branded as oligarchical, undemocratic, and un-American. Under such designations, however, it merely shares company with almost every other practical scheme for the improvement of municipal administration that has come before the public during the last quarter-century. To urge that because a governing body is small it must inevitably prove to be bureaucratic in its methods and unresponsive in its attitude, is merely to afford a typical illustration of politicians' logic. Whether a public official or a body of officials will become oligarchical in temper depends not upon mere numbers, but upon the directness of the control which the voters are able to exercise over those whom they put into office. And effectiveness of control hinges largely upon such matters as the concentration of responsibility for official acts, an adequate degree of publicity, and the elimination of such features as party designations, which serve to confuse the issues presented to the voters at the polls. In fact, it might almost be laid down as an axiom deducible from American municipal experience that the smaller an elective body the more thorough its accountability to the electorate. If one brushes away the shallow sophistry of those who urge the retention of a large city council as a means of insuring responsibility to popular sentiment, and regards only the outstanding facts in a half-century of American municipal history, one sees pretty readily that the supporters of the old order are urging a high premium on mediocrity in public office, a continuance of the vice of sectionalism in city administration, and an arrangement under which responsibility directs itself to a few political bosses rather than to the whole municipal electorate.

1. General objections.

2. It offers no security for a representative city government.

Commission government, we are often told, is inadequately representative: five men, chosen at large, cannot represent the varied interests, political, geographical, racial, and economic, in any large municipality. If it be true that in the conduct of his local affairs a voter cannot be adequately represented except by one of his own neighborhood, race, religion, politics, and business interests, then this criticism is entirely reasonable. But is this not the *reductio ad absurdum* of the representative principle? Would not a recognition of this doctrine absolutely preclude all chance of securing a municipal administration loyal to the best interests of the city as a whole, and reduce every issue to a *mêlée* of sectional and personal prejudices? It has been frequently proved that a single official, like the president of the nation or the governor of a state or the mayor of a city, may more truly represent popular opinion than does a whole congress or state legislature or municipal council. Popular sentiment is not difficult to ascertain when a public officer takes the trouble to ascertain it. Five men can do it quite as well as fifty, and they are much more likely to try. A large council means ward representation, and ward representation means that councilmen with narrowed horizons must determine large questions of municipal policy. It does not mean, in practice, that all the interests of the electorate will be represented; on the contrary, it more often means that some of the most important interests will have little or no chance of representation at all. As a matter of plain fact, a large council, with members chosen from wards, means that the citizens who are not personally interested in ward politics are quite likely to be represented in slim fashion, if at all, whereas alert politicians with selfish interests to serve are sure to be grossly over-represented. Large councils can with reasonable certainty be depended upon to give adequate representation to one interest and to

that only, — the machine of the dominant political party. That they secure fair representation for a variety of non-political interests is a fiction that has no existence outside of the wardroom.

3. It provides an administration dangerously susceptible to sinister control.

"It is almost a maxim that the smaller the body the easier can it be reached and influenced." Thus runs the gist of an argument commonly advanced by the opponents of the commission plan. In other words, it is easier for large public-service corporations, or for the liquor interests, or for the mere seekers after loaves and fishes in city administration, to corrupt or coerce five councillors than fifty; hence, there is safety in numbers. The trouble with this argument is, however, that it rests upon a false presumption. It assumes that sinister influences exert themselves directly upon the councilmen one by one, and hence that, where a large council exists, the forces of corruption or coercion must deal with a large body of men. That this is not the case, however, every one who has had anything to do with municipal politics knows very well. Large councils are, for the most part, made up of men who owe their nomination and election to political leaders to whom they are under permanent obligations and from whom they take their orders. A few bosses, sometimes a single boss, can control a majority of the council and can deliver the necessary votes to any proposition when the proper incentive appears. Corporations or contractors who wish to get what they are not entitled to have do not approach the council through its members one by one; they know the ways of the machine too well for that. They deal with the middleman, — that is to say, with the political leader who controls the votes of councilmen. Accordingly, they have to do with perhaps five men, not with fifty, and, what is more, with five men who have power without responsibility, who were not invested with authority by the voters and are consequently not accountable to them for

the abuse of it. Under commission government, on the contrary, a favor-seeking private interest has to deal not with a few middlemen who have the votes of others to deliver, but with five men who are free to act as they think best and who act with the eyes of the voters upon them. A small council or commission means concentration of power, but it also means centralization of responsibility. A large council means an equal concentration of power, but of power that too often is not so much in the hands of the councilmen as in those of a few outside political bosses who are in a position to dictate what the council shall or shall not do, — men who have the power without the responsibility. Centralization of power there will be in any case, and must be if business is to be conducted with promptness and efficiency. No matter what the frame of city government may be, the dominating influences are pretty sure to gravitate into the hands of a few men.

Merits of this objection.

The issue as between a large and a small council hangs, in the main, on the simple question whether these few men shall be chosen directly by the voters at large and be directly responsible to them, or whether they shall be political manipulators without any direct responsibility. Philadelphia has a municipal legislature which comprises, in both its branches, 190 members; yet there is no city in the United States in which corporate interests, working through a small group of political henchmen, have so completely and so consistently dominated the city council's attitude upon questions of municipal policy. It is not in the size of its municipal council that a city may reasonably hope to find assurance against malfeasance in the management of its affairs, against the bartering away of valuable privileges for inadequate returns, against the subordination of the public welfare to private avarice. Its safety lies rather in the size of the men who compose the council. There is more

security in five men of adequate caliber, working in the full glare of publicity and directly accountable to the people of the whole city, than in ten times as many men of the type usually found in the ranks of large municipal councils.

4. It violates a sound principle of government by concentrating the appropriating and the spending powers in the same hands.

Objections have been urged against commission government on the ground that it puts into the hands of a single small body of men the power both to appropriate and to spend public money. Such an arrangement, it is said, and said truly, violates an established principle of American government which demands that in the interest of economy and honesty these two powers should be lodged in separate hands. In keeping with this dogma, Congress appropriates money for the general expenses of national government, but the executive disburses the funds so appropriated. The state legislatures make appropriations, but the state executives apply the funds as directed. Even in the government of the New England town it is the local legislature or town-meeting, and not the board of selectmen, which makes the annual appropriations; and in the usual type of city administration the council grants the funds and the executive officials make the actual outlay.

Is this a real objection?

From this traditional division of powers the commission system proposes a radical departure. It commits to a single small board the power of fixing the annual tax-rate, of appropriating the revenues to the different departments, and of supervising the detailed expenditure of the funds so apportioned. Novel as this plan is, it is not necessarily either dangerous or objectionable on that account. Many novel features have come into American governmental methods within comparatively recent years, — the Australian ballot, for example, civil-service regulations, direct primaries, the initiative, referendum, and recall, public-utilities commissions, etc.; and all have had to meet the cry that they involved departure from the time-honored way of doing things in this

country. Moreover, the fusion of appropriating and spending powers in the organization of city government is not unprecedented. This very principle is at the foundation of the English municipal system; and, as the world knows, it has proved in operation neither a source of corruption nor an incentive to extravagance. Furthermore, those American cities which have had the commission form of government for several years find nothing objectionable in this blending of the two powers; on the contrary, their experience with it seems to indicate that it possesses some important advantages over the old plan of separation. It appears to inspire greater care in making the appropriations, and to promote greater success in keeping within them when made. Under its influence commission budgets are, so far as recent experience goes, framed with a fairer regard for the interests of the whole city than council budgets have usually been, and commissions have unquestionably not proved to be less capable in handling expenditures than were the uncoördinated executive boards and officials that formerly had charge of such work. The indictment of commission government on this score is not supported by experience. It is a sentimental objection, worth no more than such objections usually are. Ward politicians can, of course, always be counted upon to sob over this "departure from time-honored American traditions" and "disregard of the wisdom of the Fathers," till one unacquainted with their ways might almost be moved to regard the Declaration of Independence as a document framed for the self-evident purpose of assuring to professional politicians, mainly of alien extraction, an inalienable right to inflict a long train of abuses upon the taxpayers of American cities. One may add, finally, that even if danger should arise from this feature of the commission form of government, yet the cities which adopt the system usually provide a

means of recalling commissioners, if need be, as an additional safeguard against the abuse of power. In this way, as Montesquieu suggested, power is made a check to power.

A much more substantial objection to the commission plan arises from the fact that it practically abolishes the office of mayor, that it does not provide an apex for the pyramid of local administration. Now, the mayoralty is a post that has established a fair tradition in America, and there is a rational function for it to perform. It stands in the public imagination as the one municipal office in which all administrative responsibility can be centralized. To lodge all such power and responsibility in the hands of five men is better than to put it in the hands of fifty; but to place most of it in the hands of one man, duly surrounded by the necessary safeguards, is better still. Nearly all the arguments that can be advanced in favor of the five-headed executive can be urged with greater cogency for the policy of concentrating all final powers of an administrative character in the mayor alone. The small council or commission without a mayor is apt to act like a machine without a balance-wheel. If it is desirable to follow the oft-quoted example of private business organizations, let it be borne in mind that, although all large and successful business corporations are in theory managed by boards of directors, the actual power and responsibility rest almost invariably in the hands of their chief.[1]

5. It does not go to its logical conclusion in concentrating responsibility.

As is too frequently the practice of whose who stand sponsors for reform, the advocates of commission government have in all probability promised more than their plan can permanently achieve. It is true that the new adminis-

General conclusions.

[1] An interesting experiment somewhat along this line, in the way of intrusting full charge of the city's administration to a general manager, has been undertaken during the last two years by Staunton, Virginia. This experiment is described in E. S. Bradford's *Commission Government in American Cities* (New York, 1911), ch. xii.

trations have set about redeeming their promises in encouraging fashion; but a new broom sweeps clean, and in most of the cities which have adopted the commission arrangements the need of general municipal housecleaning was such as to show at once the effect of even a slight use of the cleansing apparatus. To hope that this or any other system will prove a self-executing instrument of civic righteousness is, however, to avow an optimism which betokens little knowledge of man as a political animal. On the other hand, even though the great simplification of municipal machinery which the commission system of city government carries with it may not quite eliminate inefficiency, it will at least disclose the shoulders upon which the onus of incompetence should lie. It will not extirpate the vice of partisanship from municipal elections, or put the independent candidate for public office upon an equal footing with the man who has an organized interest behind him. Under this system, as under any other plan of democratic government, the advantage will rest with the candidate who brings to bear upon the issue at the polls an aggressive organization and a fatted wallet. But it will at least afford independence and purely personal qualifications a fighting chance, which is more than they have had under the old municipal system. The commission plan, moreover, links itself easily with a dozen features that promise improvement in various branches of municipal administration, such as nomination by non-partisan primaries or by petition, the short ballot without party designations, the abolition of ward representation, preferential voting, the merit system of appointment and promotion, the extirpation of patronage, publicity in all official business, uniform city accounting, and the concentration of responsibility for injudicious expenditures of public money. It at least promises a frame of city government which the average voter can understand; and a government that is to be re-

sponsible to the people must first of all be intelligible to them. However the commission propaganda may develop in future years, it has at least rendered a real service in directing public attention to the most urgent need of the American municipal system, —the simplification of a machine which is far too complex for the work that it has to do. As a protest against the old municipal régime it has been effective; as a policy it has, despite incidental shortcomings, fulfilled much of what its sponsors have claimed for it.

References

The output of pamphlet and periodical literature relating to the government of cities by elective commissions has been very large during the last five or six years. By far the greater part of it, however, is of little or no service to serious students of municipal problems; for it represents no more than the expressions of partisan opinion, based in the main either on inadequate data or on no data at all. For what it is worth, this material may be found listed in the bibliographies appended to the books mentioned in the next paragraph.

Three useful monographs on the general subject of commission government, two volumes of selected readings bearing on the history and workings of the system, and one collection of commission charters have, however, appeared from the press within the last two years. E. S. Bradford's *Commission Government in American Cities* (New York, 1911) is a careful analysis of the plan and of what it has accomplished. Dr. F. H. Macgregor's *City Government by Commission* (Madison, 1911) is a less elaborate, but a well-executed, study; and J. J. Hamilton's *Dethronement of the City Boss* (New York, 1910, and issued in 1911 under the title of *Government by Commission*) contains a statement of what the author believes to be the administrative miracles wrought by the commission system in Des Moines. A volume of *Selected Articles on the Commission Plan of Municipal Government* (ed. E. C. Robbins, Minneapolis, 1909), and another entitled *City Government by Commission* (ed. C. R. Woodruff, New York, 1911), contain discussions on several phases of the subject reprinted from the proceedings of various civic societies, from magazines, and from the columns of newspapers. In the *Annals of the American Academy of Political and Social Science* for November, 1911, there are several excellent papers on the workings of commission government in different parts of the Union. Professor C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911) includes all the more important commission charters thus far adopted.

Official figures in regard to what the commission form of government has actually accomplished are both scanty and of little service. The regular reports issued by cities since the installation of the new administrative machinery are on the whole excellent, and some of them are models of their kind; but the reorganization of departments, and the greatly altered methods of municipal bookkeeping which have come into being with the new framework of government, make it very difficult to determine just what any city has gained in its passage from the old régime to the new.

CHAPTER XIII

DIRECT LEGISLATION AND THE RECALL

A RADICAL departure from the principle of separation of powers in local government, as outlined in the preceding chapter, is not the only noteworthy feature of political development in American cities during the last decade. Closely connected with it has been a movement which aims to provide the cities with machinery whereby local legislation can be carried to enactment directly by the voters, without the interposition of any representative body. This machinery of direct legislation consists of the initiative and the mandatory referendum.

Direct legislation in cities.

By the initiative is meant the right of a definite percentage of the voters in any municipality to propose charter amendments or ordinances, and to require that these shall be submitted to the people at either a regular or a special election. If such a proposal obtains at the polling a majority of the votes actually recorded upon it, it becomes effective. By the mandatory referendum (or the protest, as it is sometimes called) is meant the right of a stated proportion of the voters to demand that any ordinance passed by the city council shall be withheld from going into force until the opinion of the voters can be expressed upon it at a regular or a special election.[1] It is, accordingly, a species of popular

Definitions.

[1] The referendum sometimes takes a more stringent form, *i.e.* one under which measures (chiefly charter amendments) must in all cases be submitted to the voters, whether petitioned for or not. For a full discussion of definitions and of variations in the use of these terms, see E. P. Oberholtzer's *Referendum, Initiative, and Recall in America* (new ed., New York, 1911), especially chs. ix., xiv.–xv.

veto. If a majority of the vote polled upon such an ordinance is in the negative, the ordinance does not go into effect.

Reasons for the development of direct-legislation methods.

The rapidity with which these so-termed newer agencies of democracy have been taken into use by cities throughout the United States is one of the most significant political phenomena of this generation; for, however opinions may differ as to the merits and defects of direct legislation or as to its compatibility with representative government, it is at all events not to be denied that the initiative and referendum have already gained a remarkable grip upon the public confidence throughout large sections of the country. For this growth in popular favor a twofold reason may be assigned. In the first place, it is an omen of a declining faith in the integrity and good judgment of elective lawmakers.[1] The quality of the men who make the ordinances in American cities, including ordinances which carry appropriations and grant public privileges, has steadily declined during the last half-century. Some of the reasons for this deterioration have already been discussed in a general way, but the fundamental causes are too complex to permit any statement of them in concise form. At any rate, the symptoms of decline are too obvious to require any testimony in regard to their existence; the public has become only too well aware of the fact that the men who secure election to the councils of American cities cannot nowadays be trusted to exercise final authority in matters of local legislation. Instead, however, of adopting measures calculated to remedy this trouble at its exact location by improving the caliber of councilmen, a hundred or more cities have had resort to the more drastic step of taking away from these officials their final ordinance powers. In other words, they

Decline in the caliber of representatives.

[1] For a discussion of this feature, see the instructive chapter on "The Decline of Legislatures" in E. L. Godkin's *Unforeseen Tendencies of Democracy* (Boston, 1898).

are trying to secure proper administration of a trust, not by changing the trustees, but by reducing the powers which the trustees may exercise.

The use of the referendum clause in ordinary statutes.

In the second place, the representatives of the people have themselves fostered the popularity of the referendum by training the voters in its use. Both the state legislature and the city council have had to do their work of legislation under serious handicaps. Apart from their deficient personnel, they have had to contend with a system of organization and procedure which almost absolutely precludes satisfactory results in the enactment of laws and ordinances. To be a smooth-working and effective ordinance-making body, a city council must have both leadership and clearly defined powers; but in most cases it has neither. Consequently, there is opportunity for obstruction, intriguery, and all manner of log-rolling tactics; irrelevant issues are liable to be dragged into matters under consideration; and councilmen often find that the only way to avoid antagonizing some important section of the electorate is to turn the whole matter over to the voters for their decision. In both state and city the referendum has thus become an expedient for the evasion of responsibility by those legislators whose first care is for their own political futures. At first a very exceptional procedure, the practice of passing bills and ordinances with a referendum clause attached has become a sort of line of least resistance in the solution of difficult legislative problems.[1] The voters have been taught to believe that they alone can settle such matters satisfactorily; and, having had this function intrusted to them as a matter of policy, they have come to demand it as a right.

Origin of the initiative and referendum.

Despite a prevalent impression to the contrary, direct

[1] A good survey of the optional referendum may be found in E. P. Oberholtzer's *Referendum, Initiative, and Recall in America* (New York, 1911), ch. viii.

legislation is not new either in principle or in practice. The initiative and referendum are new names for very old institutions; for, so far as there was legislation at all in early democracies, it was direct legislation. As agencies of law-making, both features have existed in Switzerland for a long time; and even in America they are, as applied to constitutional matters, among the oldest of indigenous institutions. As early as 1777 the first constitution of the state of Georgia gave the people the exclusive right to propose constitutional amendments; and other eighteenth-century frames of government, including those of Massachusetts, Pennsylvania, and New Hampshire, established a sort of potential initiative by reserving to the people the right to give instructions to their representatives. Massachusetts used the referendum in the adoption of her first constitution in 1779, and before long the practice of ratifying constitutions and constitutional amendments in this way became almost universal throughout the country. But even yet its use is not everywhere mandatory as regards constitutional changes, for three states of the Union have altered their constitutions without popular approval within the last two decades.[1]

Their early use in the adoption of American state constitutions.

Extension to ordinary legislation.

The use of the referendum as part of the machinery of ordinary, as distinguished from organic, law-making also began at a comparatively early date in American history. In 1825 the legislature of Maryland submitted to the voters of that state a law providing for the establishment of free primary schools, and made the measure operative as soon as the electors should have pronounced their approval of it. Other states followed the example, till in the course of

[1] South Carolina in 1895, Delaware in 1897, and Virginia in 1902. The best account of the development of the constitutional referendum is that given in W. F. Dodd's *Revision and Amendment of State Constitutions* (Baltimore, 1910).

time it became the practice to insert in state constitutions a provision requiring legislatures to submit to the people all matters that came within certain categories, as, for instance, changes in the location of the state capital, alterations in the suffrage requirements, measures pledging the credit of the state, and modifications in the system of taxation. Such classes of matters upon which the will of the electorate must be ascertained before new laws affecting them can go into force have steadily increased, until in some states they embrace a wide range of important subjects.[1]

Applies to cities.

From the states the referendum passed to use in the cities. Local antagonism to the practice of legislative interference with city affairs led to the insertion in state constitutions of various provisions forbidding changes in city charters without the approval of the voters in the municipalities concerned; and even when such provisions were not put into the constitutions, it nevertheless became customary for legislatures to submit city charters to popular vote before enacting them into law. In due course the list of matters to which this policy applied was extended to include not only charters, but also many other matters of general municipal policy. When state laws provided changes in municipal boundaries, or changed the legal status of a municipality, or authorized the issue of bonds on the credit of the city, or gave some public-service corporation a franchise, it came to be the practice of the legislature to attach to such measure a clause providing for its reference to the municipal voters before it should become operative. The adoption of the local-option policy in regard to the sale of intoxicants also carried with it a large extension of the custom of submitting questions of local importance to the voters of the municipalities

[1] The entire list may be found in F. J. Stimson's *Federal and State Constitutions of the United States* (Boston, 1908), especially pp. 279–283, 341–359.

for their decision.[1] It has come to pass, accordingly, that in many states the municipal voters look upon their privilege of deciding such matters as a sort of inalienable right; and in some jurisdictions it is actually a right, guaranteed to them by provisions in the state constitution.

Early uses of the initiative.

The use of the initiative in the process of ordinary legislation did not come until the referendum had gained a firm footing. Although recognized as a method of changing constitutions, it was rarely used in this domain. In the making of ordinary laws, however, a field in which it never had overt recognition until recent years, it was employed somewhat more commonly; for the initiative sometimes afforded the only agency through which a certain type of laws could be secured. When, for example, a state constitution prohibited the legislature from enacting special laws for individual cities, there seemed to be only two ways of providing municipalities with charters. One was to enact a general law applying to all cities of whatever size, a system open to grave practical objections. The other was to provide by general statute that each city might, under proper safeguards, propose and adopt its own charter. This plan, commonly known as the home-rule charter system, brought the initiative into real activity; for it proceeded on the principle that a certain number of registered voters should by means of a petition take the first official step toward the enactment of a city's organic law.[2] The adoption of the home-rule charter system by Missouri in 1875 may, therefore, be said to have brought the initiative directly to the front as an agency of ordinary local legislation. The first establishment of the institution on a state-wide basis, however, came in South

[1] See the chapter on "The Referendum on Local Option Liquor Laws" in E. P. Oberholtzer's *Referendum, Initiative, and Recall in America* (New York, 1911).

[2] See above, pp. 61–72.

Dakota during 1898; and since that time it has gained recognition in ten other states of the Union.[1]

Relation to other municipal reforms.

Hand in hand with the spread of direct-legislation provisions in these various states has gone the acceptance of similar arrangements in a large number of American cities, where the movement has gained impetus from the propaganda for the simplification of municipal machinery. The spread of commission government, for example, has given the initiative and referendum much of their vogue so far as the field of local administration is concerned.[2] To be more exact, one should perhaps say that each movement has helped the other. A system of city government by a small commission appeared, when it was first proposed, to possess large possibilities of danger through concentration of final powers in a very few hands; and it probably would not have secured approval in so many cities if no departure had been made from the original Galveston type. But the sponsors of the commission plan put forward the initiative, referendum, and recall as instruments whereby the policy of lodging great powers in a small board could be safeguarded against possibility of abuse. The Des Moines scheme of commission government, which has been followed by most of the cities, is simply the Galveston plan plus the initiative, referendum, and recall, together with provision for non-partisan methods of nomination. The commission plan thus gave direct legislation a good deal of momentum in the realm of city government; for of the two hundred or more cities which have adopted it the majority have accepted direct-legislation provisions as well.

Charter provisions concerning the initiative and referen-

[1] Utah, 1900; Oregon, 1902; Montana, 1906; Oklahoma, 1907; Maine, 1908; Missouri, 1909; Arkansas and Colorado, 1910; Arizona and California, 1911. The exact provisions may be found in C. A. Beard and B. E. Shultz's *Documents on the State-wide Initiative, Referendum, and Recall* (New York, 1912).

[2] See above, ch. xii.

The machinery of direct legislation in cities.

dum differ from city to city as to details, but their general purport is everywhere much the same. They give the voters of a city the right, by means of a petition bearing a stated quota of signatures, to propose any ordinance or other local measure which comes within the charter jurisdiction of the municipality. The number of signatures varies from ten to twenty-five per cent of the total electorate, but in some cities the requirement is expressed in fixed terms and not as a percentage.[1] These petitions are filed with some designated municipal officer, usually the city clerk, who examines the signatures and certifies that the number is or is not adequate. Thereupon the proposal set forth in the petition is submitted to the voters of the city either at the next regular election or at a special one called for the purpose. The general practice is to submit such measures at the regular election, if there is to be one before long; but if no regular polling is scheduled for several months from the date at which a petition is presented, a special election is usually provided for. To become operative, the measure must usually receive a majority of the votes polled upon the question, not a majority of the votes cast in general. This is because, at regular elections, the number of votes cast for candidates is usually much larger than the number recorded upon any question submitted to the electorate; hence, to require a majority of the general polled vote would be to put the affirmative of any specific proposal at a serious disadvantage.

Initiative elections.

The protest.

So, too, with provisions in city charters relative to the protest, or referendum.[2] It is usually arranged that no

[1] In Memphis, Tennessee, the petition must be signed by 500 voters. A table showing the percentage requirements in fifty cities is printed in E. S. Bradford's *Commission Government in American Cities* (New York, 1911), 223–233.

[2] The exact provisions, as they appear in the charters of a large number of cities, are given in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911).

ordinance or resolution of the city council (or commission) shall go into effect for a certain period after its enactment. Meanwhile a designated percentage of the voters may petition to have the measure submitted at the polls; and, if the petition is found to comply with the requirements, it is brought forward at either a regular or a special election. The number of petitioners necessary in the case of routine ordinances ranges from ten to twenty-five per cent of the whole electorate; but for ordinances that grant franchise privileges or authorize the issue of bonds a different requirement is frequently provided. Sometimes a smaller percentage of signatures is stipulated; or a charter may even require that such ordinances shall go before the voters without the filing of any petition, — in other words, that a referendum on such matters shall be compulsory. In any case, if the voters pronounce by a majority against an ordinance, it does not go into effect.

Actual use of the initiative and referendum.

Both the initiative and the referendum have been freely employed during the last half-dozen years by several of those cities in which charter provisions have made their use possible. Portland, Oregon, began in 1909 by referring thirty-five questions to its voters; Denver, Colorado, followed in 1910 with twenty-one; and during the last two years a dozen other cities have joined the list, each submitting from two to twenty projects at the annual election. Subjects of every sort are brought forward, from important charter amendments to matters so trivial that they seem hardly worthy of regulation by special ordinance.[1] Sometimes the question is so simple and so plainly worded that it calls for no special knowledge on the part of the voters. In other cases it deals with so complicated a problem and is worded so

[1] In Pontiac, Michigan, for example, the voters were last year asked to decide whether bicycle riding should be permitted upon the city's sidewalks.

trickily that it presents a very difficult task to the voter who has not an intimate acquaintance with the exact facts of the situation. It is extremely hard to judge from a mere reading of such ballots just how important are the matters printed upon them. Many of the questions certainly do not appear on their face to deal with any broad questions of municipal policy; but, interpreted in the light of local conditions they may be of much greater account than they seem to be.[1]

Data still insufficient for generalisation.

Notwithstanding the freedom with which the initiative and referendum have been called into action by many cities during the last few years it is not yet safe to make very broad predictions from the data at hand.[2] The tendencies shown by voters at a time when a system is new to them are not always the ones which become permanently established. Discussions concerning the merits and effects of direct legislation are still largely empirical, and must continue to be so for some time to come, at least until the system has been in operation long enough to create some definite traditions. With an insufficient body of data to work upon, it is only natural that current ideas as to the future of direct legislation and its reaction upon the representative system should differ widely; in fact, there is probably no

[1] A careful study of the questions submitted at the Portland election of June, 1911, is embodied in Professor G. H. Haynes's article on "People Rule in Municipal Affairs" in *Political Science Quarterly*, XXVI. 432–444 (September, 1911).

[2] A list of over 100 questions submitted to the voters of twenty American cities during the last three years shows that a large proportion of the measures proposed by the initiative deal with changes in the general structure of municipal government or with franchises. Other questions in the list concern such matters as the widening of a street, the rebuilding of a bridge, the use of direct primaries, the adoption of a new system of assessing real estate, the publication of the city's financial reports, the placing of the city collector under bonds, the relaxation of a rule forbidding city officials to take municipal contracts, the increase of an appropriation for street-paving, the building of a city hall, and the fixing of work hours for city employees.

of present-day political discussion in regard to which differences of opinion are more marked, even though characterized by entire sincerity on both sides.[1] One reason for this is that the direct-legislation propaganda embodies not only a policy but a protest. It is in this latter capacity, indeed, that it makes its strongest appeal in certain quarters; for it begins with the assertion that the present machinery of legislation is inadequate and cannot be made satisfactory other than by a root-and-branch reform.[2] This is a proposition which at once challenges dissent; for there are many who believe that ordinance-making by city councils and law-making by legislatures have not by any means deteriorated to a point that calls for the application of drastic remedies.

The conditions which direct legislation seeks to remedy.

That widespread dissatisfaction with the ordinary methods of legislation exists in every part of the United States is scarcely a matter for serious doubt. In the larger cities more especially the inefficiency of municipal councils in dealing with the simple problems of legislation which come before them is so generally acknowledged as to make men marvel that it should have been tolerated so long. The only reason why it was tolerated for so many years is because public opinion permitted itself to be dominated by a faith in formulas, and hence accepted such features as the separation of legislative from administrative functions, the bicameral council, the ward system, the party designation on municipal ballots, and many other demoralizing arrangements as inevitable incidents of any system of city government. During the last ten years, however, popular

[1] *Cf.*, for instance, E. P. Oberholtzer's *Initiative, Referendum, and Recall in America* (New York, 1911), and D. F. Wilcox's *Government by All the People* (New York, 1912).

[2] See, for example, the address of Governor Woodrow Wilson on "The Issues of Reform," printed in the volume entitled *Initiative, Referendum, and Recall* (edited by W. A. Dunning), ch. iii.

interest in municipal affairs has been growing more active and more discriminating. It is coming to be intolerant of old formulas and impatient of slow-working reforms. The public temper has reached the point of insisting that the means shall be adjusted to the end, and it seems to care little whether these means are orthodox or not. For the most part it finds the old machinery inadequate for the effective expression of the new consensus, and the result is an impatient demand for channels through which popular sovereignty may fully and directly assert itself. When a considerable element among the voters assumes this attitude, it is idle to argue that for the flaws of representative democracy the people are themselves in the last resort to blame. As a syllogism of political science that is true enough; but as a matter of fact it is no more true than is the maxim of practical politics that the voters will never blame themselves for a failure to get what they desire.

Popular discontent with the old machinery.

Public interest in what is going on at the city hall having become much more active in every American municipality during the last few years, the shortcomings of the old municipal system have been more apparent, and the electorate has in many cases awakened to the fact that it has been tolerating a mere travesty of popular government. Conditions which have been shown to exist in dozens of municipalities afford abundant evidence that the people have not been actually in control of their local representatives, and have not been getting from them the service that representatives are supposed to supply. The absolute domination of many city councils by organized interests, whether political or economic, has been established beyond the slightest reasonable doubt. It would, indeed, be a matter for some surprise if the situation had turned out otherwise. Under a system which for so long a period permitted councilmen to be nominated in party caucuses and elected by wards on ballots de-

signed at every turn to mislead the voters, there was no good reason for expecting any better type of councilman than the sort which most cities obtained. And since these councilmen and other elective officers of city government were set to do their work under a procedure which rendered all real localization of responsibility impossible and precluded all opportunity for the development of effective leadership, the actual democracy of city government very naturally became, in perhaps the majority of American cities, little more than a pleasant fiction. The real work of framing ordinances came to be performed at the party headquarters, or at clandestine conferences between a few political leaders and the representatives of public-service corporations, rather than by the council as a whole.[1]

The milder remedies proposed.

The specific remedies for this situation were long ago pointed out by students of municipal government, but only within the last ten or twelve years have their reiterated protests been able to make much impression upon the public mind. For many years even the plea for the abolition of party designations upon the municipal ballot came as a voice crying in the wilderness. It is, in fact, only since about 1900 that whole-hearted attempts have been made to clear the representative system of the various clogs which have impeded its proper working; and it is only within the last half-dozen years that representative democracy has had a fair and free trial in any large city of the United States. The reduction of municipal councils in size, the use of non-partisan nomination methods, the introduction of the short ballot without party designations, the simplification of council procedure, — all these features are essential to popular control of municipal legislatures; yet cities that possess charters embodying all of them are still in the minority.

[1] Many specific instances illustrating this situation are given in F. C. Howe's *The City, the Hope of Democracy* (New York, 1905), ch. vi.

Where these features have gained recognition, the results have been sufficient to warrant the hope that most of the unresponsiveness to public opinion which has characterized municipal government in this country can be eradicated without recourse to direct legislation. But piecemeal reform takes time and requires patience, more of both, perhaps, than the voters of many cities seem in their present temper ready to supply. In the last analysis, the movement for installing the initiative and referendum as normal agencies of local legislation is an evidence of growing public impatience with all measures of municipal reform which come in homœopathic doses. In this respect public opinion seems to have moved forward more rapidly during the last ten years than it did during the preceding fifty.

Arguments for direct legislation.

The first argument in favor of direct legislation rests, accordingly, upon the allegation that existing methods of framing municipal policy secure unsatisfactory results; that representatives do not and cannot under present arrangements represent the wishes of those who go through the form of electing them; and that this situation is not likely to be fundamentally altered save by piercing the vitals of the old system. To make representative democracy fulfil its professed functions, it is urged, the electorate should use the weapons which direct democracy supplies. But the sponsors of the initiative and referendum do not rest their whole case, or even a large part of it, upon this line of argument. They go much farther, by claiming for their proposals many positive merits which do not connect themselves with the faults of a purely representative system. They lay stress, for instance, upon the educative value of direct-legislation machinery. By means of initiative petitions, they tell us, a spirit of legislative enterprise is promoted among the voters; men are encouraged to formulate projects of their own, and to discuss the projects of others

1. Representative government cannot be made efficient without it.

2. Educative value of it.

as soon as they are broached. Proposals emanating from any quarter are sure to get their due share of public attention, and a fair hearing as well. If the city's interests often suffer from the apathy of all but the professional politicians, if the great body of municipal voters display little interest in the making of ordinances or the granting of franchises or the incurring of indebtedness, this state of things has been brought about, we are told, by the feeling of utter helplessness which the workings of the old system have ingrained in the public mind.

Awakes public interest in local measures.

To some extent, at least, this line of reasoning leads to a proposition that can adduce much evidence in its behalf. Without doubt the enlightened element in the citizenship of many municipalities is to-day denuded of all interest in city administration through sheer discouragement. Public-spirited men have so often endeavored to make their reasonable projects materialize into action, they have so often been able to demonstrate that popular sentiment is with them, and yet have so regularly failed to make any substantial headway against well-intrenched politicians, that many of them the country over have withdrawn in disgust from all participation in the affairs of their own communities, thereby abandoning the field to those who are of all elements in the electorate the least prolific of progressive ideas. It may be suggested that those who thus quit the arena are deficient in civic patriotism; but, even if that charge be true, it does not offer any solution of the problem. One can hardly expect to turn the indifference of any electoral element into active interest by taunting it with a lack of fighting spirit when it declines to wage political warfare upon grossly unequal terms. Men as a rule put forth ideas, and come out actively in support of them, only when there is a chance that these ideas may some day be carried to fruition. Such chance, it is claimed, the machinery of

direct legislation guarantees. Political thought and discussion can be stimulated among all classes by the assurance that any public project, whatever its nature, can be sentenced to oblivion only by the direct verdict of the people. The way to get the voter interested in measures, we are told, is to ask for his opinion upon measures, not for his opinion upon men. The way to stimulate him to active participation in the framing of municipal policy is to submit all important proposals to him in person, and not to some one who merely holds his proxy. The way to educate him in political science is to give him tasks which cannot be performed properly without knowledge. The educative value of the ordinary ballot, where the suffrage has been granted to all, has been so fully demonstrated both in America and elsewhere that it is nowadays rarely questioned. To enhance this value by making the ballot a more comprehensive political catechism is what the friends of direct legislation are now trying to do. At all events, they urge, the initiative and referendum are agencies through which the voter can be made to realize that he is a sovereign in fact as well as in name, that his responsibility is ultimate and cannot be shifted, and that there are no concealed obstacles to the progress of any proposal which he may wish to put forth as his own.[1]

How publicity is secured.

In harmony with the stress laid upon the educative value of direct democracy, some of the states and cities which have adopted the initiative and referendum provide for the printing and distribution of information in regard to the various questions submitted to the voter upon his ballot. This information is issued in pamphlet form, and precautions are taken to insure the publication of arguments both for and

[1] For a full discussion of this feature, see the paper on "Direct Legislation" by Professor L. J. Johnson, printed in the volume of selected articles entitled *The Initiative, Referendum, and Recall* (ed. W. B. Munro, New York, 1912), ch. vi.

against the projected measure, equal space being allowed to advocates and opponents. A copy of the pamphlet, which thus becomes a symposium of views, is mailed to every enrolled voter, in the expectation that he will give it study and thereby put himself in a position to render an intelligent verdict at the polls. In addition to these official pamphlets and supplementary to them, various city organizations, such as good government associations or voters' leagues, put forth literature on their own behalf with a view to giving the voter additional guidance.[1] Through these various channels much information concerning the measures to be submitted at the polls is literally forced upon the voters. It is of course not improbable that, notwithstanding all this pamphleteering, a great many of them will remain uninformed through sheer inertia; yet it will hardly be denied that the majority of those who constitute the electorate are likely to know more about mooted questions of public policy if they are provided with all this controversial literature than if they had no such facilities at all. There ought to be no doubt in the minds of those who have watched the workings of direct legislation in Western cities during the last few years that this system does foster public interest in even the details of legislative projects; and such public interest cannot be without some educative value. But whether this interest will wane as the system loses its novelty, and whether it, after all, achieves its real end by equipping the voters with information which they can and do use profitably, are questions that cannot be fairly answered at this stage of experience with the new machinery.

It is sometimes urged that the use of direct methods of

3. It increases popular respect for the law.

[1] A good example of this type of political literature — a circular issued by the Taxpayers' League of Portland, Oregon, for the city election of June, 1909 — is reprinted in the *Proceedings* of the National Municipal League for 1909, pp. 320–325.

legislation would increase popular respect for the law. One reason why people often manifest a deficient regard for rules of conduct prescribed either by statute or by ordinance may be found in the fact that many of such regulations do not have the force of public opinion behind them, but have been framed in the interest of some influential class among the electorate. When this is the case, it is very difficult to enforce such rules properly. The close and necessary relation between law and public opinion in all well-ordered communities is something not to be gainsaid; it is, therefore, indispensable that popular sympathy should be clearly in line with the spirit of an enactment if the efficient administration of it is to be insured. Measures put upon the statute-book by means of the initiative and referendum would, of course, bear on their face the stamp of specific public indorsement, and from this very fact, it is contended, might be more willingly observed by the people. Respect for the law has also suffered somewhat by reason of the fact that so many measures enacted in the ordinary way bear ample testimony to the bad faith of those who were ostensibly responsible for their passage. The prevalence of the so-termed "jokers," or cunning verbal contrivances for defeating the professed purpose of a law, has created a general impression that legislators are too much given to the chicanery of taking away with the left hand what they have just given with the right. Measures proposed by initiative petition may sometimes be crude, it is admitted; but they may at least be trusted for their frankness and good faith. On this point it is interesting to compare the laws that have been adopted during the last few years under the new system with corresponding measures earlier enacted by the legislature. Those who take the trouble to make this comparison will readily discover that, for clearness of phraseology, conciseness, and general conformance to the accepted rules of legal drafting,

4. It does not result in ill-drawn statutes.

the products of direct legislation are almost uniformly superior to those obtained through the ordinary channels of representative law-making.[1] It has been too frequently taken for granted that proposals which originate with the voters will be put into shape for the ballot by amateurs in the art of legal phrasing. It would probably be more in keeping with the fact, however, to say that this is just what happens in the case of most measures which originate in representative bodies. The councilman or the council committee that undertakes to frame an ordinance will with reasonable certainty make a botch of the task. Prudent councilmen seek the expert aid of the city's law department in such matters; and those who are interested in securing the popular adoption of measures initiated by petition take similar precautions. The chief difference seems to be that the legal skill employed in the latter case is superior to that commonly found in a city solicitor's office.

Arguments against direct legislation.

Among the objections urged against the system of direct legislation in municipal government three or four come forward most frequently. One is the assertion that the system is antagonistic to the basic principles of representative government,[2] that the regular use of it would deprive the councilmen of all due sense of responsibility, and the result would soon manifest itself in a further deterioration of the council's ordinary work; that it would, furthermore, eliminate the mayoral veto, and in taking away this power would free the mayor from all responsibility in the most important matters

[1] That "the atrocious grammar and painful obscurities to be found in the texts . . . are, with few exceptions, [in] legislative, not initiative, measures," is the conclusion of those who have gone carefully through a great deal of this material. See C. A. Beard and B. E. Shultz, *Documents on the State-wide Initiative, Referendum, and Recall* (New York, 1912), p. vi.

[2] See the article on "Representative as against Direct Government" by Congressman Samuel W. McCall, in *Atlantic Monthly*, October, 1911; and the reply by Senator Jonathan Bourne, Jr., *ibid.*, January, 1912.

1. It impairs the caliber of representatives.

brought before the city government. Poorer councilmen and poorer mayors, it is predicted, would be the inevitable outcome. Now, this is an objection which cannot be lightly set aside; for, if there is any maxim that American political experience seems to establish, it is the doctrine which closely relates the quality of elective officials to the degree of final power committed to them. For a half-century or more the decline in the personnel of municipal councils has gone step by step with the reduction of the local powers intrusted to these bodies. When the selection of incompetent officials does not bring substantial penalties upon the people in the shape of heavier tax-rates, or of increased indebtedness, or in some other visible form, men of such stamp are very likely to find their way into office; for municipal councils cannot be shorn of their powers without the result showing itself in a slackened popular interest at council elections and a consequent increase in the ease with which men of small caliber can secure places at the council-board. That, at any rate, has been the history of the American city council during the last fifty years; and the chief reason why this body to-day attracts to its membership so few men of any capacity or public experience or business standing is because it has in many cities ceased to be a coördinate branch of the municipal government.[1] Deprived of its more important administrative functions and restricted to sundry tasks of minor legislation, the average city council no longer attracts the type of man that it drew into its membership a generation or two ago.

Importance of this question.

Now, the policy of direct legislation proposes that all the organs of contemporary city government shall have their final authority diminished still more; and if this further depletion of powers possessed by local authorities would not conduce to a further decline in the personnel of city gov-

[1] See above, pp. 189–190.

ernment, then five or six decades of political experience have been without their lessons. It is well enough to say that the initiative and referendum concern themselves with measures and have nothing to do with men, but in local government measures and men cannot be so easily swept into separate orbits. The kind of man that the voters will elect must depend somewhat upon the measures which he is expected to consider in his official capacity. All public measures are human products and reflect the quality of those who give them official adoption. How far direct legislation would react upon the powers and the personnel of elective officials becomes, accordingly, a question of very great importance unless one is prepared to eliminate the representative system altogether.

The answer to this argument.

But, it is contended, the direct merits of the new system in the way of positive legislation would in any event be found to outweigh this objection. What representative democracy might lose, direct democracy would gain; for the real test of efficient legislation in a democracy is its popularity. It matters little how patiently or how honestly a statute or an ordinance may be framed by elected representatives of the people; it is not a good measure unless it embodies what the greater number of the people desire. Judged from that point of view, there have been a great many unsatisfactory ordinances in American cities. Who would urge, for example, that ordinances granting franchises in the city streets have in any large measure reflected the wishes of the community? This indifference to public sentiment, it is alleged, results not only from the fact that city councils are deficient in men of representative character, but from the additional fact that the councilmen have in many instances failed to apprehend the real functions of a representative. They have not sought diligently to ascertain the sentiment of the voters, and they have not always responded to it when they

saw its drift well enough. The only ordinances that can be trusted to mirror public opinion with entire fidelity are, accordingly, those which the people themselves frame and enact directly. These, we are told, will constitute representative legislation in the true sense. In other words, the choice is asserted to be between representative legislation secured directly and unrepresentative legislation obtained by the old indirect channels.

Where the answer fails.

The flaw in arguments of this type can usually be found in the ill-grounded assumption that the popular will is identical with whatever the ballot-box may disclose under any circumstances, a delusion which is at least as old as the age of Rousseau. The decision of a majority of a minority among the voters (which is what a referendum very often secures) is not an expression of the general will. To allege that it would be a true expression if substantially all the voters would go to the polls, study the questions put before them, and render a judicious verdict, does not in any way alter the fact. As well might one reply to criticisms upon the representative system by alleging that the agencies which it provides would invariably insure a genuine expression of popular desires in the way of legislation if the voters would only select the best men of the community, and if these men would only remain unswervingly faithful to the trust imposed in them. Representative and direct legislation merely use different machinery for securing the same professed ends. In neither case is the machinery able, in actual practice, to show much approach to perfection. Under either system the results obtained depend so largely upon the political habits and traditions of the electorate that to leave these things out of account is to neglect the key to the whole problem.

It has frequently been asserted that the presumable eagerness of persons to put their names upon anything that is

in the nature of a petition will make it easy for hobby-riders to obtain, at public expense and inconvenience, consideration for all sorts of profitless measures; and it is true that some Western cities have not been at all careful in the use of the initiative during the first few years following its establishment. As every element in a community has its own axe to grind, the quest for signatures naturally gets all the momentum of a selfish propaganda. If the proposal has to do with the immediate interests of any organized faction, such as a labor union, a public-service corporation, a political machine, or a racial or religious element, the machinery for setting an initiative petition in motion is readily at hand. If, however, it touches the pockets or the prejudices of none of these, but merely relates to the general good of the everyday citizen who has no particular organization to champion his cause, the task of promoting direct legislation is liable to prove a difficult one involving considerable expense. Whether a system which thus puts a premium upon projects that interest an organized portion of the electorate and a discount upon the advancement of those which affect closely only the unaffiliated citizen can ultimately lead to better things in local legislation, is a question well worth raising.[1]

2. It is an effective means of promoting class legislation.

If the privilege of initiating measures by popular petition is used freely, it means either that special elections must

3. It puts a heavy task upon the voter.

[1] An interesting commentary on this point is afforded by the actual workings of the Boston system of nominating municipal candidates by petitions bearing 5000 names. Such petitions, when circulated among city employees, or at the meetings of labor unions, or among those who are in the employ of public-service corporations, soon gather their necessary quota. Likewise, organizations that are ready to pay five or ten cents per signature can secure men to make canvass for names. But when a candidate has neither an organization nor funds to help him, he finds the requirement of 5000 signatures (which is less than five per cent of the registered electorate) a task of greater difficulty than most men would suppose it to be.

be held at frequent intervals or that the regular annual ballot must bear a formidable list of queries. In the first case the vote is liable to be so small that a majority of it will not be a true index of popular convictions. This feature has been characteristic of special elections everywhere. On the other hand, if many questions are submitted to the voters at the regular elections, the task thereby imposed upon them is likely to prove too intricate and burdensome to be carefully performed. On the eve of an election the average voter gives just about so much time and thought to political matters. If he has thirty questions to attend to, he is apt to give no more of his consideration to the lot than he would give to three. More than likely, too, he will adopt the practice of turning for guidance to those organizations with which he is affiliated, whether these be political machines, labor unions, or business bodies. This, at any rate, is what voters have already shown themselves ready to do in cities that have put numerous questions on the ballot. In such circumstances the real voting is done not by the voters, but by the political committees, the taxpayers' leagues, the labor locals, and the other associations which instruct their respective members how to vote. These bodies issue circulars containing categorical directions which the voters are expected to take with them to the polls. In one case the politicians provided each of their followers with a sheet of limp cardboard cut the exact size of the ballot, with holes punched in it at appropriate places. The voter, by laying this card over his ballot and marking a cross in each hole, thereby recorded himself just as the politicians desired, and that without even reading his ballot-paper. This is no doubt an extreme instance; but it proves, at any rate, that voters do not need to study the questions submitted to them unless they desire to do so. Indeed, the experience of American cities as regards the docility of large elements among the

Voters will not personally inform themselves concerning questions.

voters scarcely justifies the hope that electoral independence will ever be secured by means of a system which does not virtually compel it. Much has been said as to the way in which the old ballot, by its plethora of candidates, discouraged independent voting; and the short ballot has been aggressively, and rather successfully, put before us as a means of making representative democracy efficient by the removal of this handicap.[1] But will it avail much if, in taking off the names of thirty or forty candidates, we replace them by an equal number of set questions? A ballot which asks for more information than the average voter is able to supply intelligently and of his own resources is unwieldy. Moreover, it makes little difference whether the information concerns candidates or matters of policy; the ballot is not a satisfactory one if it encourages the voter to accept directions as to how he shall mark it.

Relation of direct legislation to the "short ballot."

It has been pointed out, furthermore, that a referendum is no more than a call for the yeas and nays, and that a categorical answer to any general question is rarely a true one. The new system assumes that all voters are ready to record themselves definitely for or against a project in exactly the form in which it appears on their ballots. This is far from being the case, however. Few men hold unqualified opinions on great questions of public policy, and those who do are apt to be the ones least given to serious thought upon such matters. When a majority of the electorate rejects a proposal at the polls, this does not necessarily mean that a majority is opposed to such proposal in its general outlines. More than likely it means that the majority contains many who find objections to the details of the project. With a little compromise the measure might have secured

4. The referendum at best secures only a partial expression of popular opinion.

[1] See, for example, C. A. Beard on "The Ballot's Burden" in *Political Science Quarterly*, December, 1909; and R. S. Childs, *Short Ballot Principles* (Boston, 1911).

a verdict in its favor. Now, this opportunity for compromise, for discrimination between essentials and details, and for the elaboration of measures which seem to serve the greatest good of the greatest number, is just what representative machinery provides and the mechanism of direct legislation fails to supply. We are often told that the orthodox ballot is deficient in that it asks the voter to pass upon candidates in a narrow way, — that it asks him to designate his first choice for an office, and no more. The preferential ballot is, therefore, urged into use because it records all shades of opinion among the voters, because it gives them an opportunity to say something more than yes or no to the claims of candidates. But is a simple cross in the affirmative or the negative column any less open to this criticism when set opposite a question than when marked against the name of a candidate? Electoral opinions vary as much in regard to measures as they do in regard to candidates. The objection made to the categorical ballot, that the technical result of the poll may be far from indicating the actual attitude of the voters, seems to apply with equal force no matter what the purport of the ballot may be.

5. Voters are often actuated by emotion, prejudice, or caprice.

A study of the results of municipal referenda in America shows that prejudice and caprice often take the place of judgment in determining the action of voters at the polls. It is well known to politicians who have kept closely in touch with such matters that the affirmative side of any question submitted to the voters has a distinct advantage over the negative. Hence there has sometimes been a good deal of jockeying between the supporters and the opponents of a question as to the form of phrasing it.[1] Just why

[1] An interesting illustration of this feature was afforded in a well-known New England city at the election of 1911. The voters were asked on their ballots whether they were in favor of the erection of a city hospital. By a

the voters should display this rather curious illustration of electoral caprice it is not altogether easy to explain, but those who best know voters and their ways readily testify to its invariable existence. The affirmative seems, in fact, to have a bonus similar to that enjoyed by the candidate whose name appears at the top of the ballot. Nor is this the only capricious tendency which experience with the municipal referendum discloses. It is well known, for instance, that voters carry with them into the polling-booth a substantial antipathy to public-service corporations and capitalistic interests in general. The average voter is apt to register his voice against anything that looks like a concession to this quarter. A cry against special privilege in any of its forms is one of the easiest to raise, and when raised it usually has considerable effect. It may be, of course, that this anti-corporation prejudice among the voters is the fruit of corporate misdoings, that corporate interests by their reckless disregard of public opinion have brought it upon themselves. But even if this be true, it does not alter the fact that prejudice exists, nor does it change the principle that government by prejudice is not safe government. It must be remembered that, where large property interests are concerned, measures which seem to be legislative in form are often adjudicative in effect. Without the tempering hand of the state upon it, the free use of direct legislation in cities might well tend to render property rights insecure.

Some examples.

majority of about 800 they replied in the affirmative. It was originally arranged that they should also be asked whether they would authorize the borrowing of funds for the purpose "outside the debt limit." The opponents of the project, however, managed to have the wording of the second question changed so as to read "within the debt limit." As the city's borrowing capacity within the debt limit was already about exhausted, the affirmative of the proposition thus stated an obvious impossibility. By this device the voters were almost led to retract in their answer to the second question the decision which they had passed upon the first.

What municipal experience teaches in the matter of referenda.

The two fields in which American cities have had most experience with the referendum are the regulation of the liquor trade and the borrowing of money. The application of the local-option policy to the sale of intoxicants usually means that the voters of the town or city must each year decide directly at the polls the question whether licenses shall or shall not be granted in the municipality. This question is so comparatively simple that, barring radical changes in the composition of the electorate, the answer of the voters to it ought not to be different from year to year if the votes recorded upon it really represented the matured convictions of those who cast them. But the gyrations of local policy in this field have been so marked that they are commonly spoken of as "waves" of prohibition or anti-prohibition sentiment. If any branch of local policy has been the plaything of passing gusts in the public temper, it is that which relates to the regulation of the liquor traffic. In the matter of municipal borrowing, in the second place, a large experience in city affairs has proved the unreliability of the referendum as a means of securing prudent action. The partiality of the voters for measures that propose to pay for public improvements by loans rather than out of current taxes has been demonstrated time and again the country over.[1] It is only natural that men should desire to have present conveniences paid for by future generations; hence, when

[1] "At a recent election on the question of borrowing a large sum of money in Philadelphia, to be applied to improvements in different parts of the city, purely local and selfish considerations made themselves felt. Those parts of the city which were to be directly benefited by the loan returned large majorities for it, while in other sections it was viewed with curious indifference. Not a few electors, upon being asked how they had voted on the proposition, explained in all seriousness that they had cast their ballots in favor of the bill because they believed it would put more money in circulation and give the poor a chance to obtain some of it." — E. P. Oberholtzer, *The Referendum, Initiative, and Recall in America* (New York, 1911), 282.

the voters are asked whether they will themselves pay the cost of a public improvement or let their grandchildren do it, their answer is in most cases not difficult to forecast. It used to be thought that, since municipal councils are apt to be prodigal of the city's credit, the necessity of submitting all loan proposals to the people for their ratification would prove a useful safeguard against unnecessary borrowing. As a matter of fact, however, this requirement has afforded no security of any account; if anything, it has rather favored undue borrowing by making no one responsible for it.

Nor do the foregoing examples exhaust the list of matters in regard to which voters have shown themselves prone to be actuated by passing waves of opinion, or by purely selfish motives not in the ultimate interest of the community, or by simple prejudice or sheer apathy. Every one knows, for example, the lenient attitude which the electorate takes toward those who hold places on the city's pay-roll. For securing higher pay, fewer hours of labor, and more favorable terms of service the referendum has proved itself a very useful agency. The public feels ill-inclined to stand out against the demands which come from its own employees. That is why policemen, firemen, and others who press their demands upon the city council are usually willing that the matter should be submitted to the voters. In many cases, too, the councilmen are no less willing; for by shifting their own responsibility upon the people in this way they are able to escape the odium which is certain to come from one quarter if the demands are granted and from another if they are refused.

The cogency of various arguments for and against direct legislation.

When one comes to balance the various merits and faults of the initiative and referendum as summed up in the foregoing pages, one finds that much depends upon the individual's point of view. Men hold widely divergent opinions,

for example, concerning the extent to which representative machinery in local government has fallen short of what can reasonably be required of it; yet every man's attitude toward direct legislation will depend, to a large degree, upon the opinions which he has formed on this question. Much also depends upon individual temperament. Those who have great confidence in what the masses of the voters can do, even without leadership and under difficult circumstances, will not be awed by practical objections to direct-legislation methods; but it is an interesting fact that those who have had most to do with political affairs are not, as a rule, sharers in this feeling of great confidence. Since psychology is an inductive science, its application to people in the mass can only be understood by a careful and prolonged observation of the electorate when it acts as an individual answering yes or no to its political catechism at the polls. On this point the next decade is likely to teach us a great deal.

The recall.

Linked in contemporary discussion with the initiative and the referendum is the administrative weapon known as the recall. This may be defined as an agency through which an official may be removed from his post before the end of his term. Although long in existence in some of the Swiss cantons, the institution is novel in America, having first made its appearance in the Populist platforms of two or three decades ago under the somewhat forbidding name of "the imperative mandate." It first gained official recognition on this side of the Atlantic in the Los Angeles charter of 1903; and it has since made its way into the constitutions of two or three states, into the general laws of several more, and into the charters of more than one hundred cities, most of them municipalities that have adopted the commission form of city government.

Its origin.

In practically all the cities that have established the re-

call procedure the provisions relating to it are about the same.[1] Ordinarily it applies to elective officers only, but in some cities it extends its scope to appointive officials as well. The movement to recall an officer is always begun by the preparation of a petition which sets forth charges against him. This document, when it has been signed by the required quota of qualified voters, is presented to some designated municipal officer, usually the city clerk. The quota necessary is from fifteen to twenty-five per cent of the total number of votes polled at the last election; in a few cities it is even higher. The signatures having been verified and counted and all other requirements found to have been fully complied with, a recall election is ordered. It is ordinarily provided that the name of the official whose removal is sought shall appear on the ballot unless he requests the contrary. Other candidates for the office may be put in nomination by the usual methods. So far as polling-places, ballots, and general arrangements are concerned, the recall election is conducted like any regular polling. Unless the official who has been holding the office gets the highest number of votes among the several candidates, he is recalled; that is, he vacates his post forthwith, and the balance of his term is filled out by the candidate who does receive the highest vote. To prevent an abuse of the recall procedure, it is often provided that no removal petition may be filed until an officer has been at least six months in his post, and

Machinery of the recall.

[1] The chief exception to the general rule is Boston, which by the charter amendments of 1909 established a modified recall system in connection with the mayoralty (see above, pp. 213–214). The question of recalling the mayor appeared on the ballots in November, 1911; but the majority needed to effect the mayor's removal (more than one-half of the total registered vote) was not forthcoming. As the total registered vote in Boston is about 110,000, it would have taken 55,000 affirmative votes to recall the mayor. The actual result stood: affirmative 37,262, negative 32,501.

that thereafter a petition may not be set in motion more than once in any year.[1]

Arguments in its favor.

The chief argument put forth in favor of the recall is its reputed efficacy as a means of retaining popular control over men installed in public office. Its existence is a standing reminder to the office-holder that he is the servant and not the master of the people. It compels every public officer to view each of his own acts in the light of the effect which it will have upon the voters at large. The recall provision is based upon the idea that the relation between the voters and the office-holder is that of principal and agent, and may logically be terminated at any time by either party. An unbroken responsiveness of all officers to that public opinion which is supposed to govern their acts (but too often does not) is what the sponsors of the recall claim for it.[2]

1. It keeps officials responsive to popular sentiment.

Now, it is hardly to be doubted that an official who is subject to the recall at any time is likely to be more deferential to the wishes of the electorate than one who can count upon serving out his full term, no matter how unpopular his service may be. The deference of the office-seeker to public sentiment is proverbial; the change which often comes over the successful candidate after he gets firmly seated in his office is also a commonplace of American political life. It is the aim of the recall provision to prevent this change in attitude, to keep the official in that frame of mind which he professed as a candidate. No doubt the recall can accomplish this, if anything can; but that is not the only point at issue. The main question is whether responsiveness to public

[1] The detailed provisions, as applied in various cities may be found in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911). A summary of the laws and of the judicial decisions is given in *Comparative Legislation Bulletin*, No. 12, issued by the Wisconsin Free Library Commission. This summary is, however, complete until December, 1907, only.

[2] A statement of the arguments in favor of the recall may be found in D. F. Wilcox's *Government by All the People* (New York, 1912), ch. xxiv-xxvi.

opinion secured in this way is not gained at the cost of the officer's efficiency in the discharge of his duties. When an official has almost no other function than that of representing his constituents (and that seems to be the only rational office of councilmen elected from wards), the recall makes a strong case in its own favor. But there are many city officers upon whom is laid not only the duty of reflecting in their acts the will of those who choose them, but a great deal more than that. In all its administrative departments the city needs skill and judgment no less than it needs a responsive attitude; it is, indeed, upon the former qualities that the emphasis ought to be laid. As a matter of fact, however, the possibility of recalling an administrative officer at any time lays the emphasis elsewhere: it puts popularity before efficiency. It may, of course, be contended that there is really no difference between the two, that an official who shows skill and judgment in the performance of his duties is always responding to the wishes of a majority among the voters. Were this a true statement of the situation as it actually exists in most American cities to-day, the arguments in favor of the recall would be well-nigh unanswerable. But it requires very little contact with municipal politics to convince one that the interests of the city as they may appear to a competent official are very far from being always the same thing as the wishes, whims, or emotions of the voters. The chief weakness of the recall in relation to administrative officers is that it puts the emphasis at the wrong point. It is an entire negation of the principle which led to the filling of administrative posts by appointment rather than by election.

2. It permits longer official terms.

An advantage frequently claimed for the recall is that it permits the lengthening of official terms without exposing a city to the danger of establishing an administrative bureaucracy. The practice of giving short terms to executive

officers has been one of the weak spots in American municipal government. It points to one of the chief reasons for the failure to develop sound traditions in local administration. It has proved a barrier to the use of experts in the city's service, and finds its only rational justification in the assumed necessity of holding to direct popular account all those who occupy public posts. If, therefore, this accountability can by means of the recall be reconciled with long terms of office, the expedient will have much to commend it. But the degree of service which the recall provision can render in this direction will depend partly upon the ease with which it can be invoked to remove an officer, and partly upon the motives which, as a rule, actuate the voters at recall elections. If proposals for removal can be put under way very easily, and if partisan motives determine the decision of the electorate, the outcome will be the ousting of officers with little regard to the way in which they have performed their administrative duties. If, on the other hand, the electorate develops the conviction that men should not be recalled except for clear inefficiency or dereliction, the recall may provide a safeguard without impairing official security of tenure. One of the notable defects of the short official term is its tendency to make public officers spend too much of their time and thought upon politics. It has forced them to do everything with an eye to their own reappointment or reëlection. With the possibility of a recall election always on the horizon, would this situation be improved by any formal extension of official terms? The answer to this question depends wholly upon the policy which the voters develop in relation to the recall; and until more facts are available this is not a matter upon which one can safely venture any prediction.[1]

How far this advantage can be realised.

[1] As yet the recall has been used in less than a dozen instances. In Los Angeles it has been called into operation twice since its establishment in

Arguments against the recall.

Popular election as a method of getting capable men into administrative positions has not found its efforts crowned with success either in America or elsewhere. Least of all has it proved satisfactory in cities. Yet most of the objections that may be urged against this system as a means of securing qualified officers may be urged against it as a means of removing those who are not competent, unless it be assumed that voters are governed by different motives in the respective matters of selection and removal. When one remembers, moreover, that the question of recalling an officer is not put before the electorate as a simple proposition to be determined upon its merits, but is almost always linked up with the query as to whether the voters would favor some other aspirant for the office, one sees little reason to hope that electoral tendencies at recall elections will differ greatly

1903, in one case to remove a member of the city council for having voted to award a contract for city printing in a way that was displeasing to the majority of the voters in the ward which he represented, in the other case to secure the removal of the mayor. The mayor, however, tendered his resignation before the recall election could be brought about. San Bernardino, California, removed two councilmen in 1907. In Dallas, Texas, the members of the school board were recalled in 1909; in Seattle, Washington, the mayor was recalled in 1911, and his removal was followed in the same year by an abortive attempt to recall his successor. The mayor and two commissioners were recalled in Tacoma in 1911; and an attempt to remove the mayor and the whole council of Huron, South Dakota, failed at the polls in the same year. In several other municipalities as, for example, in Des Moines, Iowa, the use of the recall has been threatened as a means of securing the enactment of various local measures. For data on these matters, see the chapters on "The Recall in Los Angeles" and "The Recall in Seattle," printed in the volume of selected articles entitled *The Initiative, Referendum, and Recall* (ed. W. B. Munro, New York, 1912); H. S. Gilbertson's paper on "Conservative Aspects of the Recall," in *National Municipal Review*, I. 204–211 (April, 1912); and the article by J. D. Barnett on "The Operation of the Recall in Oregon," in *American Political Science Review*, VI. 41–53 (February, 1912). There is a chapter on the recall in E. P. Oberholtzer's *Referendum, Initiative, and Recall in America* (New York, 1911), and several chapters are devoted to it in D. F. Wilcox's *Government by All the People* (New York, 1912).

from those commonly displayed at ordinary pollings. This is another matter in which everything hinges upon the sort of traditions developed. A somewhat rapid development is now in process; and upon the ultimate product will depend, in large measure, the usefulness which the recall can display as an addition to the machinery of American city government.

References

A comprehensive bibliography, including not only books but pamphlets and magazine articles, was issued by the Library of Congress in 1911 under the title *Select List of References on the Initiative, Referendum, and Recall.* In the same year the Legislative Reference Department of the Ohio State Library published a useful pamphlet called *Initiative and Referendum* (ed. C. B. Galbreath, Columbus, 1911), containing the texts of constitutional provisions relating to direct legislation, together with a well-assorted list of printed material bearing upon different phases of the subject. Two of the *Comparative Legislation Bulletins* issued by the Wisconsin Free Library Commission (Nos. 12 and 21) contain digests of the laws and judicial decisions, with brief lists of references.

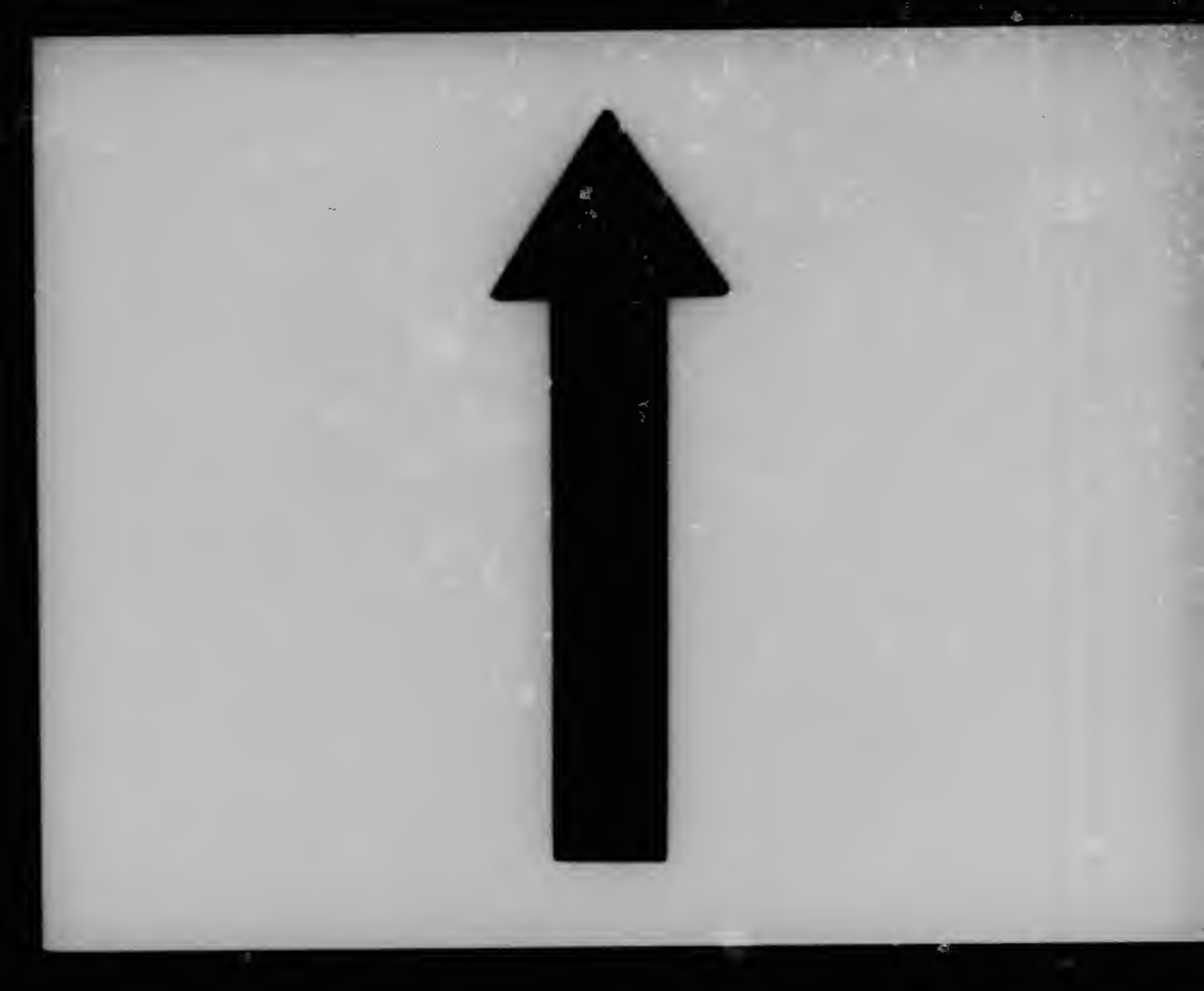
Material illustrating the way in which provision for direct legislation is made in the constitutions and statutes may be found in C. A. Beard and B. E. Shultz's *Documents on the State-wide Initiative, Referendum, and Recall* (New York, 1911). The same feature in its relation to municipal government may be studied in C. A. Beard's *Digest of Short Ballot Charters* (New York, 1911). Many interesting and useful documents are also included in Senator R. L. Owen's *Code of the People's Rule* (61 Cong., 2 sess., Senate Doc. No. 603).

Two volumes of selected readings upon direct legislation and the recall are *The Initiative, Referendum, and Recall* (ed. W. B. Munro, New York, 1912) and *Articles on the Initiative and Referendum* (ed. E. M. Phelps, Minneapolis, 1909). These publications bring together practically all the arguments for and against direct democracy that have been presented from any quarter during the last few years.

Among books dealing with the subject in a historical and critical way the best is E. P. Oberholtzer's *Referendum, Initiative, and Recall in America* (New York, 1911). A much less useful work, which nevertheless contains some interesting historical discussions, is C. S. Lobingier's *People's Law* (New York, 1909). The arguments for direct legislation and the recall are vigorously set forth in D. F. Wilcox's *Government by All the People* (New York, 1912). From one point or another the question is approached in many other works, such as W. E. H. Lecky's *Democracy and Liberty* (2 vols., London, 1896), especially I. 287 ff., Gamaliel Bradford's *Lesson of Popular Government* (2 vols., New York, 1899), especially II. 189–201;

F. A. Cleveland's *Growth of Democracy in the United States* (New York, 1898), 177–241; E. L. Godkin's *Unforeseen Tendencies of Democracy* (Boston, 1898), 96–144; A. L. Lowell's *Governments and Parties in Continental Europe* (2 vols., Boston, 1896), II. 238–300; John Stuart Mill's *Representative Government* (New York, 1905), chs. iii.–vii.; and W. F. Dodd's *Revision and Amendment of State Constitutions* (Baltimore, 1910).

Trustworthy statistics relating to the votes at referenda in different states and cities are not very accessible. No inclusive compilation of these figures has as yet been undertaken, and the material that has been put into print is badly scattered. For the present, at least, information in this field must be drawn either from the public documents of a dozen states and several times as many cities, or in fragmentary form from such publications as the *American Year Book*, the *World Almanac*, and the periodical known as *Equity Series*, issued at Philadelphia in the interest of the direct-legislation movement.



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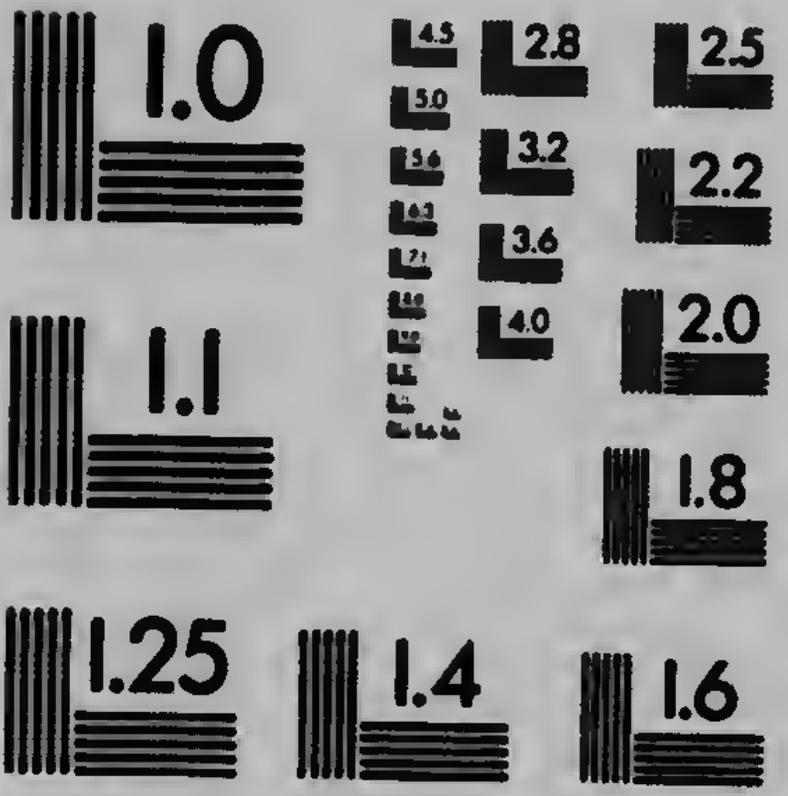

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CHAPTER XIV

MUNICIPAL REFORM AND REFORMERS

The definition of reform.

MUNICIPAL reform is the term commonly used to designate any kind of organized agitation which has for its aim the improvement of existing conditions in some branch of local administration. It is, accordingly, a hydra-headed thing, and ought not to be approached as if it were a single factor in public life with a fixed purpose and a uniform method of attaining its end. Municipal reform is one of the most comprehensive phrases in the vocabulary of political science, comprising as it does a legion of separate agitations which start from sources widely apart, which profess different purposes, and which employ very dissimilar means of carrying their aims to fruition. Movements for the simplification of municipal machinery by a reduction of the number of elective officials in city government, for direct nomination methods, for improvements in the ballot, for the introduction of the initiative, referendum, and recall, for the displacing of patronage by the use of the merit system, for greater uniformity in accounting, for the replanning of streets, for the extension of playground facilities, for improved housing conditions, and for a host of other alterations in the existing system of city government or administration, are grouped together under the generic name of municipal reform. It matters not that some of these movements are irreconcilable with one another in purpose; that there is, for example, a necessary antagonism between the short-ballot agitation, which seeks to ease the ballot of its present burdens, and the propaganda for direct legislation, which

would, if successful, make the ballot more cumbersome than ever; or between the sponsors of commission government, who desire to have men elected directly to the headships of municipal departments by popular vote, and the more aggressive wing of civil-service reformers who insist that these officials should be selected by competitive tests. However poorly they may harmonize with one another, all projects of civic betterment, from whatever source they may come and whatever their merits, are thrust by popular usage into the same broad category. They are stamped with the generic label of reform, and those who urge them are called reformers.

Reform and progress.

From this point of view all citizens ought properly to be included within the ranks of municipal reformers, for it would be difficult to find any one ready to declare his unqualified satisfaction with civic conditions as they are. Men differ widely, of course, in regard to the exact location of municipal ills and as to the cause of them; and even more widely, perhaps, they disagree as to the remedies that ought to be applied. But the man who would assert that the United States has reached finality in municipal organization, that there is now no room for betterment in any branch of it, would be either insincere in his expression of opinion or blind to the facts about him. In the last analysis, therefore, every citizen who is not absolutely devoid of political vision must, in greater or less degree, be a partisan of reform; or, to put it in a more palatable form, he must be a friend of progress wherever opportunities for progress appear. It is quite in consonance with the tendency to anomaly in American political life, however, that those who proclaim from the housetops their progressive temperament, and declare that as the old order changeth it must give place to the new, are the very ones who most resent the title of reformers.

For all this there is a good reason. Reform and reformers

Reform and reformers as the public views them.

are words that have gathered a dubious significance in the public imagination. A municipal-reform movement has come to be regarded as something which men of good intention launch from time to time into the arena of local politics with little study of its practical merits, and attempt to drive through without much attention to established methods of procedure. The reformer, in consequence, is commonly thought of as an empirical individual who gives his allegiance to visionary schemes, who promises much and performs little, and whose ways are those of a busybody. Notions of this sort do not attach to men or to movements without some cause, and for their existence the typical municipal reformer of the last few decades has been in large degree responsible. General impressions concerning any public activity are apt to be derived from the outstanding personalities connected with it; and the men who have been most often in the vanguard of reform movements have not always been of a sort to gain much hold upon the public confidence. The reason why this has been so will be noticed a little later on.[1]

The general types of reform organizations.

Municipal reform organizations have been of various sorts. Some of them have been general in scope; that is to say, they have aimed to include many cities within their sphere of influence. A few have been national in their range of activities, trying to secure improvement in municipal conditions all along the line. Organized agitation of this sort, broad in its field of effort, may or may not be very definite in the things which it seeks to accomplish. A few national reform organizations have set no exact bounds to their work, and do not, therefore, concentrate their efforts upon any specific betterment in municipal administration. Of this type the National Municipal League and the American Civic Association afford good examples. The membership of

I. National and state organizations.

1. With general programmes of reform.

[1] See below, pp. 382-383.

these associations is recruited from cities in all parts of the country; each maintains national headquarters from which a campaign of education is carried on in various directions; and each professes adherence to a general programme of civic improvement. Neither of them gives its entire allegiance to any single project of reform, but each endeavors to lend a hand to every local movement which looks promising. Such organizations render their chief service as channels of information; they provide at their annual conventions forums for the discussion of all matters which affect American cities as a whole; and to the information thereby brought together they give a wide currency through their printed proceedings or other publications.[1] They have been called clearing-houses for the exchange of municipal ideas, and they have, to some extent at any rate, fulfilled the functions implied in this designation.

Narrower in the range of their membership, but similar in general purposes and methods, are various state organizations, such as the Municipal Government Association of New York State, the Ohio Municipal Association, or the Massachusetts Civic League, which are sometimes affiliated with the national bodies and thereby secure a certain coordination of work. The membership of all these bodies, whether national or state, is made up mainly of laymen; it includes relatively few men who are or have been in municipal office. Small annual dues are collected from members, the revenue gathered in this way going to pay the salary of a permanent secretary and to defray the cost of the reform literature distributed. The office of the secretary is the focal point in the association's enterprises,

[1] The literature of the National Municipal League, for example, includes an annual volume of *Proceedings*, occasional volumes on special topics issued in the National Municipal Series, a quarterly publication known as the *National Municipal Review*, besides leaflets and clipping sheets put forth at frequent intervals.

and in some of the state organizations the duties of this official extend to such matters as the drafting of bills in the interest of municipal reform and the promoting of these measures before the legislature.

2. With special programmes.

Another type of national reform organization, though as broad geographically, professes more definite aims. Such are the National Civil Service Reform League, the Short Ballot Organization, and the City Planning Conference, which bend their entire energies to the extension of the merit system of appointment to public office, the reform of the old-style ballot, and the betterment of urban physical conditions respectively. These bodies also maintain national headquarters, but they accomplish a good deal of their work of active propaganda through state and municipal organizations developed under their auspices. Being more specific in their programmes of effort, they are able to obtain results which are more direct and more tangible, if perhaps no more important in the long run, than the achievements of associations that spread their interest over wider fields. They are aggressive and persevering in their campaigns of education, and have not been daunted by obstacles that at times appeared insuperable. On the whole, their actual success, as indicated by the laws that have gone upon the statute-books through their efforts, constitutes much more than a profitable return for the time, patience, and money expended. This is in part due to the fact that such organizations, unlike those which give their backing to extensive and inchoate programmes, are able to mass all their resources upon what for the moment seems to be a vulnerable point. Wherever, for example, a new city charter is being framed, the efforts of the Civil Service Reform League or of the Short Ballot Organization are deflected to that point and remain centred there until the issues raised are determined for or against them. As each experience in this direction improves the generalship

of the next attempt, a marked proficiency in the arts of the political evangelist is in course of time acquired.

3. Official and professional organizations.

There is still another class of organizations which, though . . . s not commonly adopt the terminology of reform, is none the less an active agency of municipal betterment. Within this class are included the various associations of municipal corporations or city officials, such as the League of American Municipalities, the various state leagues of municipalities, associations of city engineers or health officials or police chiefs, and so on.[1] Such organizations are professional in character; their chief object is not the promotion of any single reform or set of reforms, but only the interchange of ideas for the mutual benefit of members. At their meetings, which are held annually or oftener, papers upon matters of professional interest are read and general discussions, frequently on questions of technical administration, take place. The service rendered by bodies of this sort in broadening the horizon of city officials is of great value, but there is still room for much progress along this line. Similar associations of city officials have attained to great usefulness and influence abroad, particularly in England, where they have had a considerable share in developing traditions of official permanence in the administrative service of the boroughs.

II. Local organizations.

All three classes of organizations named in the foregoing pages, — namely, those which work for the improvement of municipal conditions in general, those which give their attention to improvement in one specific direction, and those which afford opportunities for the officials of one municipality to learn what other cities are doing, — all these

[1] Some typical organizations of this type are the American Public Health Association, the American Association of Park Superintendents, the American Waterworks Association, the International Association of Chiefs of Police, the Indiana Sanitary and Water Supply Association, the Pacific Coast Association of Fire Chiefs, the Massachusetts Police Association, and scores of others.

are inter-civic bodies whose activities are broader than the bounds of any single municipality. They are national or state or sectional associations. Another type of reform organization, however, of which there are more numerous examples, is the local reform society which carries on its work within the limits of a single city. If one includes within the category of municipal reform organizations all those bodies which are engaged in some field of political or social amelioration, the number would prove astonishingly large in any of our great cities. In the metropolitan district of Boston a census of such organizations, taken two years ago, showed that there were 1658 of them in all. This number included societies engaged in every field of reform, whether political, social, educational, or æsthetic, and ranging in size and importance from the Chamber of Commerce with 5000 members to neighborhood improvement leagues with membership lists which sometimes did not include more than a dozen names.[1] In their professed purposes these associations cover the whole arena of civic effort; yet in fundamental motive they are so nearly akin that most of their aims could readily be formulated into a single reform programme. An enumeration made on a less comprehensive scale in St Louis last year resulted in the publication of a directory of organizations which covers over forty pages, without including societies that are purely political, social, or charitable in their activities.[2] It is hard to say just where the line should be drawn between bodies which ought to be reckoned as agents of municipal betterment and those which ought not; but even under the strictest interpretation the category of the former is unquestionably large in all great American cities.

[1] *Handbook of Boston–1915*, 21.

[2] *Directory of Civic and Business Associations of Saint Louis*, issued by the Civic League of St. Louis, May, 1911.

Taking these local reform organizations as a whole, they may be grouped according to their purposes and methods into five classes. In the first place, there is the reform association which assumes the rôle of a political party. An example of this type was afforded for many years by the Citizens' Union of New York. This body, organized in 1897 with a large and influential membership, developed all the machinery of a regular political party, put its own candidates in the field, conducted a campaign for their election, and provided its own campaign funds. It drew its adherents from both the regular political parties, and at the outset was opposed by both party organizations. At the New York municipal election of 1897 it undertook to elect its own slate of candidates without the aid of either one; and, although it failed to secure this result, it did succeed in drawing over 150,000 votes to its nominee for the mayoralty. The experience demonstrated what has since been shown in some other cities,—that the task of electing municipal officers in the face of opposition from both the regular political parties is one of great difficulty, unless there are outstanding issues upon which the ranks of the regular parties can be badly broken. For an independent organization to provide the machinery and the funds necessary for such a campaign is in itself a big undertaking; but to gain a majority of the votes at the polls is more difficult still unless the circumstances are very exceptional.

1. Local political parties.

The Citizens' Union of New York in 1897.

More favored with tangible results are those reform organizations which, instead of selecting and attempting to secure the election of their own candidates independently, work hand in hand with one of the regular political parties, usually with the minority. This was the policy pursued by the Citizens' Union in the New York campaign of 1901, when, by joining hands with the Republican party in a fusion arrangement, it achieved the election of a joint

2. Fusion organizations.

slate. A similar plan has been followed, although not so openly, by the Citizens' Municipal League of Boston and by like organizations in other cities. From the nature of things, success is more easily obtained by fusion or coöperation than by independent effort. Coöperation with one of the regular parties secures the services of an organization already in existence, and guarantees the candidates a large number of votes from straight party adherents. All that the reform element has to do is to split off from the dominant party enough votes to turn the scale, obviously a much easier task than building up an organization from the ground and mustering support enough to outvote both the established parties. It requires less money for campaign expenses and less individual effort.

The difficulties of fusion.

But when fusion, whether avowed or not, manages to succeed, its success is rarely productive of great improvement in either the personnel or the work of municipal administration. When a reform organization acts in unison with one of the regular parties, it must perforce yield much of its freedom in the selection of candidates; it must give its support to those who are acceptable to its ally. A fusion ticket is, accordingly, one of mottled quality, bearing the names of some whose personal claims do not entitle them to a place upon it, but who are taken on as the price of partisan support for the entire slate. Moreover, since the regular party organization which takes a large part in the electoral battle demands its share in the spoils of victory, a fusion administration, when installed in power, is not likely to be much less partisan than one which goes into office with a plain party designation. That, at any rate, seems thus far to have been the usual character of such administrations. Even the so-termed "non-partisan" movements that have been launched in many American cities represent in most cases the rather thinly veiled attempt of a minority party to gain a

grip upon affairs at the city hall by professing to be what it is not. Such movements occasionally succeed for a time; but the cloven hoof soon discloses itself, and the voters decline to be further misled by the hollow professions of merely titular non-partisanship. The reform organization which allies itself with any regular party machine sells its own birthright for the pottage of transitory success; for the principles of all municipal reform worthy of the name run counter to those upon which regular party organizations are usually built. When reform, therefore, yokes itself with a political machine (which in municipal politics means almost always the state organization), it sacrifices its claim to the allegiance of all those who believe that municipal campaigns should turn upon local issues. Government by a political machine disguised in the garb of reform, non-partisanship, fusion, or independence has been imposed upon us too frequently; but its day has now about come to an end. There are situations, to be sure, in which the cause of municipal betterment can be furthered by the aid of an established political organization; but as a matter of experience they do not occur very often. In the long run it is better for the cause of reform to avoid entangling alliances. To say that it cannot make headway without combining its forces with bodies whose ideals are at variance with its own is to confess that reform, as reform, cannot succeed at all.

3. Non-partisan organizations.

There is, however, one line of action whereby those who are earnest in their desire for an improvement in the character of municipal office-holders can exert a very substantial influence at the elections; and this is the policy adopted by the third type of municipal reform organization. The best example of this class, and the one most commonly used as an illustration, is the Municipal Voters' League of Chicago.[1]

[1] A full account of the history, aims, and achievements of this organization may be found in a pamphlet issued by it in 1910.

The Municipal Voters' League of Chicago.

This association was established in 1896 by a committee of one hundred citizens made up of one Republican and one Democrat from each of the thirty-four wards then in the city, and thirty-two members chosen from the city at large without reference to political affiliations. The League came into existence at a time when the Chicago city council had become so hopelessly inefficient in its management of the city's business that well-founded rumors of corruption were everywhere in the air. Several thousand voters were enrolled as members of the new organization, and its work was at once begun. For sixteen years the Municipal Voters' League has steadily held itself aloof from the regular political parties; it has never put forward candidates either in its own behalf or in avowed alliance with any other political body. Its sole work has been to investigate the records of candidates nominated by the regular party organizations, and to publish the results of these investigations. Proceeding upon the principle that those who come forward as candidates for elective office ought to be willing to have the widest publicity given to their records, it obtains all the information concerning their capabilities and experience that is likely to prove useful in guiding voters, and this information, together with its own conclusions based thereon, it presents in printed form to every voter in the city. It advises the election of some and the defeat of others; but obviously it does not assume to guarantee the future capacity or integrity of those whom it recommends to the voters, for it has nothing to do with selecting the candidates. In a few cases, when such action has seemed necessary to secure at least one fit candidate in some ward, the Municipal Voters' League has coöperated with citizens of the neighborhood in persuading some suitable aspirant to take the field.

Its machinery.

The machinery of the organization is simple. Its entire membership, which numbers over 3000 voters, is never called

together; the work is directed by an executive committee of nine members elected for a three-year term, three of whom retire annually. This committee has the sole authority to commit the organization for or against any candidate or measure. Each year the League, through its executive committee, adopts a brief platform relating to current municipal issues. This is presented to every candidate for his signature, and information as to whether he gives or refuses adherence to it is printed in the pamphlet sent to the voters. An examination of the platforms adopted during the last few years reveals the fact that, while most of the principles enunciated in them are of a general and rather non-contentious nature, some of them apply specifically to definite issues pending before the public.[1] Candidates who give adherence to the platform do so by pledging that they will work and vote both in committee and on the floor of the council to carry out all the principles which it sets forth.

Its success.

The work of the Municipal Voters' League has been so successful as to attract attention throughout the country.

[1] Here are a few items from the platform of 1911: —

"Sec. 6. The health and welfare of the people depend in a large measure upon hygienic and sanitary conditions, and every alderman should strive to have these constantly improved and maintained in the best possible state. The public health should in no instance be sacrificed to special interests.

"Sec. 7. The city in all its departments should have a thorough and businesslike system of accounting and auditing. Through periodic examinations, the employment of experts, and the technical study of functions, administration, and requirements of the various branches of municipal government, improved business methods should be introduced into all of them; so that not only may economies be effected, but the most approved and skilled service rendered to the people.

"Sec. 8. An alderman should uphold the strict enforcement of the civil service law and the application of the merit system to municipal employment.

"Sec. 10. No grant should be made for any public utility without expressly reserving to the city the opportunity for municipal purchase, at or before the expiration of such grant, upon fair terms and reasonable notice. . . ."

In 1896, when it began its operations, it branded as corrupt or unfit fifty-eight out of sixty-eight aldermen, some of whom were eliminated at the very next municipal election; and by 1901 it had secured for Chicago a city council of which a majority of the members bore the stamp of its approval. During the last ten years this control has been maintained; at no time have the regular party organizations been able, save in a few wards, to elect men whom the League has designated as unfit. Since 1900 about eighty-five per cent of the candidates receiving its indorsement have been elected, and after fifteen years of active existence it remains an exceedingly influential force in the politics of the city. In view of the fact that the Chicago city council is a more important arm of local government than are corresponding bodies in most other large American cities, and that it has had, during the last half-dozen years, several difficult municipal questions (such as traction franchises) to deal with, the service rendered by the League has been of incalculable value. It is, indeed, due largely to its efforts that the municipal council of Chicago is, for its size, one of the best in the United States both in the average caliber of the men chosen to it and in its methods of work.

Similar organizations in other cities.

Several other large cities have reform organizations somewhat similar in structure and in general activities, but none have been so uniformly effective. The Good Government Association of Boston has come to be a very influential factor in the politics of that city since the municipal council was reorganized in 1909. Of the nine councilmen now in office all but one were elected with its indorsement, in most cases after a clear-cut contest against candidates put forward by a regular party organization. The Municipal Association of Cleveland, the Civic League of St. Louis, and similar bodies in various other cities also do good service. In addition to their work of investigating and reporting upon candidates,

these organizations in some cases keep close watch throughout the year upon everything that goes on at the city hall, and publish the results of their observations for the information of voters.

The task of such organizations.

Organizations that confine their efforts to the fields above outlined are able to do very effective work without any great expenditure of money. The services of a permanent secretary are required, there is some expense for literature, and at election time an outlay is necessary in order to secure accurate information concerning the records of candidates. But there are no campaign expenses in the ordinary sense; for such associations do not regularly undertake to secure, through the ordinary channels, the election of those candidates to whom they give their indorsement. The ever-present danger is, however, that such an organization in a city may be captured by active partisans. The reform association that gives its stamp to ill-qualified candidates because of their party affiliations, or for the same reason denies indorsement to others, very quickly loses its hold upon public confidence; and, since all men are partisan to a greater extent than they commonly realize, it is no easy matter to maintain a course of strict impartiality. When the indorsement of a reform organization once becomes a recognized political asset, machine leaders spare no pains to capture this label for their own candidates; and the ways in which they seek to do this are sometimes very ingenious. Not a few such organizations have failed to withstand the pressure brought to bear on them in the interest of regular party candidates by men who are reputedly above such tactics, but who have attained to influence in the counsels of the reform cause by liberal contributions to its funds.

4. Non-political organizations.

A fourth class of reform organizations includes that legion of associations, clubs, leagues, federations, and so on which are chiefly civic in aim, but which do not participate actively

in municipal politics by nominating or indorsing or campaigning for candidates. These are commonly called citizens' leagues, taxpayers' associations, improvement societies, or reform clubs. Their activities are varied. Most of them hold meetings from time to time and hear addresses upon matters of current municipal interest; some issue pamphlets occasionally, and a few have regular bulletins. Nearly all of them come forward at times with proposals for the consideration of either the local or the state authorities, and delegations from them are constantly pressing some project of municipal betterment before legislative committees or some municipal authority. Each association of this type is apt to have its own specialty. One is most concerned with civil-service reform, another with playgrounds and places of recreation, a third with the abatement of bill-board nuisances, a fourth with the problem of laying adequate restrictions upon public-service companies, a fifth with the reform of municipal accounting, and so on. The methods pursued are adapted to the ends in view, and they differ just as widely. All such organizations, of course, need money for their work, and they usually obtain it either from membership dues or from general subscriptions. The total amount gathered in this way by the host of betterment organizations that exist in every great city must be enormous each year; yet the tangible results that come from its expenditure are astonishingly meagre. One reason for this situation is that much of the money is spent in ways that are wholly or partly ineffective. Salaries and clerical expenses devour most of the income which the average reform organization is able to secure. A secretary is usually employed, and the salary of this official, together with clerk hire and office rent, may easily absorb two-thirds or more of the year's revenue. Many reform organizations regularly present the curious spectacle of a secretary who spends most of his time gathering

The work of these bodies

funds for the association and then uses most of these funds to pay for the time he has spent in gathering them. Some of these bodies seem to take it for granted that their mere existence constitutes a public service; at any rate, the complacent lethargy which their paid officials frequently display would not be tolerated in any regular municipal employees, slothful as many of the latter may be. All our larger cities fairly abound in organizations which bear impressive names and whose officials from time to time put themselves forward as the spokesmen of important elements in the community, when, as a matter of plain truth, some of them do not possess a corporal's guard of members and perform no public service worthy of the name.

Their lack of coöperation.

Municipal waste through the masterly inactivity of public officials and through the failure of different departments to work in harmony has become proverbial. Yet it may be debated whether public authority has displayed these shortcomings in a degree relatively greater than that shown by civic-welfare organizations as a whole. The overlapping of effort among these latter is so notorious as to warrant the suggestion that the professed friends of municipal reform should begin by setting their own house in order. Every large city has within its bounds hundreds of betterment organizations at work in the same general field of effort without the slightest reference to one another. Actual coöperation among them is almost unknown; at best it exists only as a principle to which they have, at some time or other, given a perfunctory adherence.[1] In Boston at the present

[1] The movement known as "Boston-1915" had as its principal aim "to bring about the active coöperation of all organizations which are trying to do something for the improvement of living conditions in Greater Boston"; but its leaders soon found their task too great. In St. Louis at the present time a similar attempt is being made, on a much less comprehensive scale, to secure coöperation among about thirty of the more important civic associations.

moment there are no fewer than six distinct organizations investigating the housing conditions of the city with a view to framing remedial measures. No one of these investigations is at all likely to prove comprehensive, thorough, or reliable, for the reason that the resources of none of the individual societies suffice to make it so. Each will cover the field in part, and each will doubtless reach its own conclusions. Yet the energy and funds which are being devoted to this task would, if concentrated under a single directing authority, be ample to have the whole research made in businesslike fashion. Thus it is that the organizations which so readily berate city departments for unbusinesslike methods are themselves often open to the very same criticism in greater degree. A clearing-house of reform activities, — that is to say, a recognized centre at which each association can find out what others are doing and through which wasteful duplication of effort can be avoided, — is one of the chief municipal needs of the present day.

5. Miscellaneous organizations.

Finally, there are organizations which, though avowedly commercial, industrial, professional, or social in purpose, regularly lend their support to movements for municipal reform. The chambers of commerce, boards of trade, and merchants' associations, the labor unions, the medical societies and associations of architects, the city clubs which have been established in the large municipalities, all afford examples of this type. Many of these bodies, especially the commercial organizations, maintain regular committees on municipal matters, which follow closely all that is going on at the city hall or the state capitol.[1] Their point of view is of course primarily businesslike or professional, but incidentally they are useful agencies for calling public attention to pending

[1] For examples, see the annual reports of the Boston Chamber of Commerce, the Cleveland Chamber of Commerce, and the New Orleans Board of Trade.

proposals and promoting discussion among the various interests affected. By passing resolutions and transmitting them to the mayor or the city council, they manage to secure a representation of their views. The labor unions in particular have adopted the policy of putting upon record their opinions concerning municipal matters, and their resolutions embodying such expressions of opinion carry considerable weight with elective officials. Some of these miscellaneous bodies, particularly the chambers of commerce and the professional organizations, have conducted thorough investigations into various branches of local administration and have put the results into publications which are of permanent value. Although the attention which all such associations give to strictly municipal matters is rather incidental, it is nevertheless of great service, for business and professional bodies are influential in moulding public opinion. When several of these organizations range themselves behind any public project, they give it momentum; but the trouble is that they are seldom found ranged together.

The city clubs.

An interesting development of the last two decades has been the rise of the city club. New York led the way in 1892 by establishing an organization which endeavors to combine the usual facilities of a social club with those pertaining to a centre of civic activity. This club provides a forum for the discussion of municipal questions, maintains several active committees, examines and makes known the records of candidates for public office, follows up complaints made by citizens against officials, furnishes briefs to members of the legislature advising them of its attitude on all measures relating to New York City, and issues a monthly bulletin which gives due publicity to its work. Clubs modelled along similar lines have since been established in Chicago, Philadelphia, St. Louis, Boston, Milwaukee, Indianapolis, Los Angeles,

and other cities. The greatest service rendered by these societies consists in providing a rallying-point for all those who are interested in municipal progress, no matter what particular form their interest may assume. When maintained upon a popular basis, they serve to bring into direct personal contact men who represent every element in the citizenship of the community. By thus broadening the realm of mutual acquaintanceship and encouraging the interchange of ideas, they have become highly useful institutions of civic education.

Bureaus of municipal research.

In enumerating the organized forces of civic improvement one should make particular mention of the various bureaus of research now in operation in a dozen or more of the larger cities of the United States. These institutions, organized more or less closely upon the model of the parent bureau in New York City, are a development of the last decade in American municipal government. Sometimes, as in New York and Philadelphia, they are supported by private contributions and are under the control of citizen trustees or directors. In other cities, as in Baltimore, Boston, and Milwaukee, they are maintained by public funds and are under official direction. In either case the bureau is an institution for the thorough study of actual conditions in its own city; it possesses a staff of investigators who probe their way into every branch of the municipal service and emerge with data upon which they base recommendations for improvement. The New York bureau, which is the oldest among them, has completed six years of work covering a wide range and carried on at a very large annual expense. It has published a formidable amount of literature.[1]

[1] A complete account of its work may be found in the publication entitled *Six Years of Municipal Research for New York City*, issued in January, 1912. See also the chapter on "An Agency of Citizen Inquiry" in F. A. Cleveland's *Municipal Administration and Accounting* (New York, 1909).

Principles upon which these bureaus work.

These bureaus take it upon themselves to act as public advisers in matters that are, for the most part, too complicated and too technical for the public to understand and form opinions upon without assistance. Their very existence, in fact, rests upon the idea that the greater part of the city's business is technical, and hence that the city's treasury commonly suffers more from leakages due to inefficient methods than from official dishonesty. They assume, quite properly, that before these leakages can be stopped their exact location must be disclosed, and believe that this is a task involving patient study by trained men. After the sources of waste have been plainly indicated to the voters by convincing evidence, public opinion, they declare, may be trusted to exert all the pressure that is needed to effect a reform. In a word, the bureau of municipal research aims to provide an effective centre of trustworthy information and to bring this information to the ears of every citizen by a persistent and usually a somewhat original publicity campaign.

Why has not reform made greater headway?

Taking all these organizations together, national and local, political, semi-political, and non-political, the battalions of civic betterment make up an impressive array. Why have they not accomplished more? Why does city government remain, in spite of their efforts, the one conspicuous failure of the American democracy? These are questions easier to propound than to answer, though some of the superficial reasons for the habitual failure of reform to achieve tangible results are not far to seek.

Its lack of attention to fundamentals.

In the first place, until very recent years most organized reform movements approached things from a wrong angle. They complacently accepted the stupefying formulas of local government which they found in full sway, being always at great pains to forestall any possible public misgivings by professing their allegiance to the principle of divided powers and other such orthodox canons of political science. They

assured the citizens that the existing machinery of city government was not seriously defective, but that the trouble lay wholly with the men who were in control of it. In their eyes, therefore, the obvious remedy was to oust from office those whose incompetence or lack of integrity had befouled the administration, and to put capable, honest, high-principled men in their room.[1] Not the reconstruction but the purification of municipal politics was long the goal of reform. But campaigns of civic betterment starting from this assumption and aiming at this result inevitably found themselves confronted with great difficulties. For one thing, men in office were not easy to dislodge; so long as patronage was abundant, elective office-holders held their opponents under a serious handicap. For another thing, the "honest, public-spirited, capable, and well-trained men" whom it was deemed so imperative to put into power almost always proved to be of the type which looks upon all public service as a private sacrifice. They were hard to draw into the arena of municipal politics, and rarely proved to be good campaigners when they got there. The very existence of this situation should have been ample proof to the leaders of reform that they were proceeding on a faulty diagnosis. There are times, no doubt, when, from no fault of the scheme of administration, circumstances may for the moment be such as to deter capable men from willingly entering the service of the city. But when such a situation becomes normal, when year in and year out the efficient service of society means personal sacrifice even to men of proved public spirit, the trouble cannot lie anywhere else than in the conditions under which the service has to be performed. The cause of reform was long

[1] In 1894 the Honorable Carl Schurz, one of the most valiant of municipal reformers, declared that there was "not a municipal government in this country, on whatever pattern organized," which would "not work well when administered by honest, public-spirited, capable, and well-trained men" (National Municipal League, *Proceedings*, 1894, p. 123).

misguided, therefore, by the notion that municipal ills were personal matters, whereas in point of fact they lay far beyond the mere personnel of city government. They were organic, and their ravages continued despite year-to-year changes in the occupancy of official posts.

Reform to be successful must be organic.

Efforts inspired by the belief that individuals and not institutions were at fault naturally led to sterility in results. At times the reform organizations managed, in spite of handicaps, to put their nominees in municipal office; then they would rest upon their weapons to await the promised millennium. But the anticipated results were rarely forthcoming. The mechanic, however capable and honest, found that he could not do effective work with the tools that were at hand. The political shackles imposed upon the reform official in the performance of his functions, the maze of legal restrictions that he encountered at every turn, the small modicum of real power intrusted to him, all combined to thwart his efforts at constructive work. In a whole term of office, therefore, he was usually able to accomplish no more than some penny-saving improvements which were far from redeeming the preëlection promises so freely made by reform campaigners.[1]

Organic reform during the last decade.

In due time, however, the need of organic reform obtained recognition, and movements for the simplification of municipal machinery began. New York made a start, during the

[1] "In almost every American city the people, at one time or another, have grown weary beyond endurance of partisan misrule and extravagance, and have given expression to their indignation through some form of citizens' movement, and good men of clean records have been given control of city affairs. What has been the result? The new officers have invariably found a system of government so honeycombed with the greed and selfishness of partisan politics and their actions so hampered by state legislation that no permanent good could be done. The people were impatient for results, and when not forthcoming, their enthusiasm waned, the tidal wave of reform receded, the politicians quietly planned the next campaign, and the unworthy and incompetent resumed control of the great public estate." — T. C. DEVLIN, *Municipal Reform in the United States* (New York, 1896), 13.

last decade of the nineteenth century, with its agitation for thoroughgoing charter changes; and other cities, like St. Louis, San Francisco, and Boston, followed. In smaller cities the striking success of the commission-government propaganda was not long in showing the extent to which public opinion had become intolerant of remedies that did not go to the very vitals of the existing municipal system. All this proves that reform has entered a new phase, and one which gives promise of far more in the way of achievement. Not only the leaders of opinion but the rank and file of municipal electorates have been brought to realize that reform is not merely a question of putting capable and honest men in office, but more particularly one of making offices attractive to capable and honest men. People are coming to see that they can make public office attractive only by attaching to it an opportunity for real, unrestricted, constructive service to the community, and that they can do this only by renouncing, first of all, that slavish allegiance to the principle of checks and balances in local government, as well as to other political formulas, which for the last half-century has done nothing but misguide. The magnetism of official power is so great that few men in any community can resist its attraction; but it must be real power and not merely the form of it. If the pattern of city government becomes such as to afford to every elective officer that opportunity which goes with power, most of the difficulties that beset the paths of reform organizations in earlier years will disappear. Reform has gained in effectiveness as it has become impersonal, organic, and reconstructive. Unlike the guerilla warfare of earlier days, the charter reform campaigns of the last decade have been well worth the efforts expended in them.

To secure even temporary improvements in city administration is good, but to make them permanent is better.

Reform which aspires to finality must not content itself, therefore, with a mere reorganization of the political framework of municipalities. To suppose that a good charter and a staff of capable officials are the only things essential to an efficient and thrifty municipal administration is to overlook the fact that most of the city's difficult problems are questions of business and not of government. Even the best city charter provides for but a small part of the machinery necessary to solve these problems correctly; the rest of the apparatus, which includes the whole interior mechanism of administration, must be sought within the range of general powers conferred by the charter. It is just here, as has already been noticed, that the shortcomings of municipal administration have been most numerous and most costly. When a private corporation proves successful in the conduct of affairs, the reason is usually to be found not in the nature of the powers conferred upon it by charter, or even in the capacity or honesty of the men who sit upon its directorate, but rather in the efficiency of its internal organization, in the skill with which it has adjusted the various parts of the business machine, and the ability which it has shown in getting the right subordinate in the right place. If the city desires administrative success, it must seek it in the same way. Reformers must realize, therefore, that a final solution of the chief municipal problem of the American city, that of getting full value for the city's expenditures, depends even more upon the intelligent organization of business details than upon the mere enunciation of sound political principles in city charters. Too little attention has been given, and is still given, to the functioning mechanism of city government, to those things which in private business engage the care and skill of the efficiency engineer; but this will not be the case much longer. The bureaus of research that have come into exist-

Reform of the city's administrative machinery.

ence during recent years are pointing the way to thoroughgoing, permanent reform in this direction.

The older type of municipal "reformer."

All that has been written in the last half-dozen pages may be compressed into the assertion that municipal reform has been slow in achieving substantial results because it took a surprisingly long time to get itself into motion along the right track. But other factors have frequently helped to keep reform movements from tangible and permanent achievement. In earlier days, when reform had little more in view than the ousting of politicians from municipal office, the typical reformer was either a disgruntled politician who sought to elbow his way into public office on a platform of cant, or a henheaded theorist whose temperament contained very few grains of practical political sense. In campaigns directed against persons the chief weapon of the reformer was personal invective. Absolutely sure that a successful crusade against corrupt or incompetent aldermen would result in setting everything right, the reformer took in his hand the sword of vituperation and sallied forth to his quixotic conflict. Loud in his professions of non-partisanship, he was in many cases a bigoted partisan of his own class or creed or theory. Not less vehement in his protestations of public spiritedness and denials of self-interest, he was just as often spurred forward by motives that appeared unselfish to no mind but his own. Even at the present time the cause of municipal reform numbers among its chief supporters in every large city many men of this type. That they do not themselves realize the incongruity of the situation is something that passes understanding. Yet the fact remains that a municipal reform league or a taxpayers' association will choose as its president the paid counsel of a public-service corporation, and still expect the average voter to swallow assurances that the organization has no connection with the seekers of special privilege. The way in which

the outstanding figure in any political undertaking will strike the public imagination is something which party strategists never neglect to take into account. In the councils of reform, on the contrary, this consideration, despite its important bearing upon the chances of success, often receives no attention whatever.

Inherent difficulties of reform organizations.

Municipal reform has, moreover, suffered from the lack of team play among its friends. Reformers, as a recent writer has well said, are primarily protestants, and it is the nature of protestants to be insubordinate.[1] It is temperamental inability to tolerate the existing situation that makes a man a reformer; and it is the same trait that makes him, as a rule, intolerant of all ideas except his own. Reformers can always agree upon basic principles; these are commonly framed in such platitudinous form that even the most arrant political pirate would not refuse openly his assent to them. But, as occasion arises for elaborating these principles into working rules of administration, it forthwith becomes apparent that each reformer has his own interpretation of them, and that all who disagree with him are lacking in either intelligence or integrity or in both. Across the history of nearly every municipal reform movement of the last twenty years may be found written the tedious chronicle of bickerings due to personal jealousy, class bigotry, and the failure of reformers to realize that vindictiveness has no place in the programme of a political agitation which seeks to be successful.

The outlook.

From the experiences of the past reform organizations can draw abundant counsel for future action. To secure achievements of permanent value they must seek far more than mere change in the personnel of city government. They must simplify the political framework where necessary,

[1] Herbert Croly, *The Promise of the American Life* (New York, 1909), 146.

and make it afford those opportunities for constructive effort which are the only enduring attractions of public service. They must adjust the administrative machinery of the city to the work which it is called upon to do, a mission which in any large city is a reform task of herculean proportions and of corresponding value when performed. If laborers in the cause of civic improvement desire to see in concrete form the results of their exertions, they must also adjust their methods to the conditions of political warfare in a democracy; which means specifically that they must recognize the utter weakness of a house divided against itself, the impotence of purist professions that do not square with the facts, and the unerring certainty with which extravagant pledges return to work injury upon those who promise, in the way of public improvement, more than they can ever fulfil.

Municipal development during the last ten or twelve years seems to show that the lessons of preceding decades have not been altogether unheeded. Though stumbling badly at times, municipal reform has persevered, until by sheer persistence it has conquered many of the obstacles in its path. Similar patience and perseverance it will have to exercise for a long time to come; but the outlook has never been more encouraging than it is to-day.

References

The literature of municipal reform is already large, and it is steadily growing. The annual *Proceedings* of the National Municipal League (18 vols., 1894–1912) form the most comprehensive single source of information on the history and methods of reform during the last two decades. Much interesting material relating to the progress of reform movements during the nineties may be found in the files of the periodical known as *Municipal Affairs*, which appeared during the years 1897–1902. In following the history of civil-service reform one finds of great value the monthly issues of *Good Government* (published in New York) and the annual reports of the National Civil Service Reform League and of the civil-service commissions in various states. The bulletins issued from time to time by the American Civic Association, and the publications of state municipal

associations or of state leagues of municipalities, sometimes deal carefully with special phases of municipal reform and are of permanent value. In many of the larger cities there are municipal-reform periodicals which appear monthly or oftener, such as *City Affairs* in Boston, the *Citizens' Bulletin* in Cincinnati, the *Municipal League News* in Seattle, the *Civic Bulletin* in St. Louis, the *Civic Bulletin* in Pittsburgh, Pa., and the *Municipal Bulletin* in Cleveland. Likewise the regular bulletins of the city clubs in Philadelphia, Boston, Chicago, and elsewhere furnish to some extent a chronicle of municipal happenings in these cities. Most useful of all, because most thorough in preparation, are the publications of such institutions as the New York Bureau of Municipal Research, the Milwaukee Bureau of Economy and Efficiency, the Legislative Reference Department of the Wisconsin Free Library Commission, the Boston Finance Commission, the Philadelphia Bureau of Municipal Research, and the Chicago Bureau of Public Efficiency.

The chief general periodicals devoting their attention to municipal affairs in the United States are the *National Municipal Review*, which is issued quarterly, the *American City* published monthly, the *Municipal Journal and Engineer* which appears weekly. A list of other periodical publications relating to American city government may be found in the *National Municipal Review*, I. 406–410 (July, 1912).

Books relating to special fields of municipal reform, such as commission government, direct legislation, the short ballot, the replanning of cities, and so forth, are numerous, and nearly all the general works on municipal government contain some discussion of reform movements. Most of these have been mentioned in preceding pages. Two small monographs, T. C. Devlin's *Municipal Reform in the United States* (New York, 1896) and W. H. Tolman's *Municipal Reform Movements in the United States* (New York, 1895), are more definite in scope, but are not of any considerable value at the present time.

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