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MUNICIPAL INSTITUTIONS  
IN THE PROVINCE OF QUEBEC

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## MUNICIPAL INSTITUTIONS IN THE PROVINCE OF QUEBEC.

A survey of the municipal institutions of Quebec as a chapter in the government of the province leads us back but a few decades, certainly not to the period of *la domination française*. A decentralized administration would have been wholly incompatible with the autocratic sway of a Colbert or a Richelieu; to-day Quebec's local institutions are essentially democratic, resting upon the basis of popular representation and election. Unused to participate in their local affairs under the French régime the inhabitants were not prepared to undertake their own local government until well into last century, approximately 1840. Modern municipal government in Quebec thus dates back only a little over sixty years. But municipal history is to be considered also from the standpoint of practical administration. And, while in administrative machinery modern communities are much alike, old customs and methods are tenacious of life. In the present case it need not surprise us if many interesting features of the *ancien régime* are still discernible, well worth the attention of the student of local administration, not only from a comparative point of view, but also for an adequate understanding of the institutions existing to-day.

In considering the history of New France one is impressed by the vastness of the territory. In the midst of a country so immense it has occasioned surprise that the early pioneers selected sites so perfect for future cities and towns as those of Quebec and Montreal, Three Rivers, Tadoussac and Sorel. Champlain, we are told, founded Quebec (1608) and Maison-neuve Ville Marie or Montreal (1642), and their prescience not less than their heroism has been the frequent subject of eulogium. The truth is that these intrepid *fondateurs* merely adopted the choice of sites previously made by the Indian tribes. Quebec, for instance, was founded upon the site of Stadacona, Montreal upon that of Hochelaga; and although we are told in the narratives of the time that no trace of the old Indian settlements remained, the very statement implies knowledge of the fact of their previous existence. Besides this,

the confluence of the St. Lawrence with its tributaries the Saguenay, the St. Maurice, and the Richelieu suggested appropriate sites for Tadoussac, Three Rivers, and Sorel; and the Lachine rapids, which made Ville Marie the head of ocean navigation, formed a natural resting-place and barter-ground. At all these and similar sites Indian settlements more or less permanent had doubtless existed from time immemorial. The utility of the great river St. Lawrence as a means of communication led for many years to the location of dwellings almost exclusively along the shore; the story of the inland settlements belongs to a later time and relates chiefly to the immigration of the Loyalists from the United States after the Revolutionary war. Talon the intendant (1665-1672)<sup>1</sup> indeed established inland villages, Bourg Royal, Bourg La Reine and Bourg Talon near Quebec, but they did not prosper; the settlers preferred a frontage on the river. Accordingly we have the characteristically deep and narrow farms which are so marked a feature of the Laurentian settlements in French Canada.<sup>2</sup> The efforts of Talon were more successful in persuading the officers of the famous Carignan-Salières regiment<sup>3</sup> upon its disbandment after a successful Indian campaign to accept generous grants of land on the river Richelieu, as also on the St. Lawrence between Three Rivers and Montreal. The towns and villages that have since grown on the shores of the Richelieu—Sorel, Saint Ours,

<sup>1</sup>The Intendant in New France was a kind of business manager for the King, a combined Minister of Finance, Justice and Police, the most important man in the colony, next to the governor, upon whom, to tell the truth, he was a spy, or at least a check. The governor, with his big titles, was military commander and representative of the King.

<sup>2</sup>Parkman, in *The Old Régime* (p. 234), mentions that the line of dwellings along the shore was called a *côte*: "a use of the word," he says, "peculiar to Canada, where it still prevails." But I cannot find that the word *côte* has ever been applied to river settlements in the province. The word is very common in the vicinity of Montreal even to this day. Côte St. Paul, Côte des Neige, Côte St. Antoine (now Westmount), Côte St. Louis and Petite Côte are well known suburbs. The characteristic feature of these côtes is not their proximity to or alignment along the river front; on the contrary they are all at some considerable distance from the river. Their characteristic feature seems to be their situation on some prominent slope or undulation of land affording a natural drainage and good soil. Near Quebec where côtes also abound the same restricted use of the word to the slopes of Cape Diamond as to the slopes of Mount Royal near Montreal, is to be observed.

<sup>3</sup>This was the first body of regular troops in Canada. It had gained renown in the Turkish wars and was brought to this country by De Tracy.

Chambly and others; and those on the St. Lawrence—Verchères, Varennes, Contrecoeur, etc., bear the names of old soldiers of France who combined the arts of war and peace in cultivating the soil and protecting their settlements from Indian ravages.<sup>1</sup> The truth compels us to add, however, that these landed proprietors were for the most part much averse to staining their martial hands with labour, and their impecuniosity led to bush-ranging and the illegal pursuits of the *coureurs des bois*.

As regards the land, two distinct kinds of tenure can be traced in the province of Quebec: the feudal tenure of the old *régime* established by Richelieu in 1627 as an aid to settlement and to local administration; and tenure by free and common socage of later times. The lands held under feudal, or more properly seigneurial tenure, comprised almost all the lands on the borders of the St. Lawrence, Richelieu, Yamaska and Chaudière rivers.<sup>2</sup> The seigneur received his holding from the King of France, and sub-granted land to the cultivator or *consitaire* on condition of annual payments in money or produce. Other obligations were also attached such as bringing his corn to the seigneur's mill to be ground, his bread to be baked in the seigneur's oven and giving the seigneur a tithe of the fish caught in the rivers and streams. The seigneurial system was abolished by statute in 1854 and a system of commutations established.<sup>3</sup>

Municipal institutions imply a more or less stationary population and fixed settlement. The available statistics show that under the old *régime* the population long remained scant, while the settlements were scattered along the shores of the St. Lawrence and Richelieu rivers. A census of 1667 gives to Quebec only 448 souls; though Côte de Beaupré, Beauport, the Island

<sup>1</sup> *Edits et Ordonnances*, ii, 32.

<sup>2</sup> Bouchette, *British North America*, i, 182.

<sup>3</sup> It is not widely known that the seigneurial system was not abolished in the State of New York until 1846. See Mr. Godkin's article in *Handbook of Home Rule*. On the seigneurial system in Canada see Parkman's *Old Régime*, especially ch. xv., and article by Sulte and Desjardins in *Canada, an Ency. of the Country*, vol. iii., pp. 119 and 124.

of Orleans, and other settlements included under the administration of Quebec gave 2,000 more. On the south shore was a small settlement, Côte de Lauzon, with a population of 113. Three Rivers and its dependencies numbered 666, and Montreal 766. Fifty years later the total population was less than 25,000. At the cession (1763) it was only 80,000.

The absolutism and centralization of the French administration was everywhere apparently well-nigh complete. The intendant took charge of general as well as local matters. He was "to order everything as he shall see just and proper." His ordinances were usually read to the people at the doors of churches or sometimes by the curé from his pulpit. All kinds of local ordinances have been preserved, from those relating to chimney-sweeping to directions as to the stock the *gensitaires* shall breed.

In his *Frontenac and New France* Parkman details the efforts of that energetic governor Frontenac to establish popular municipal government in the city of Quebec by calling the inhabitants together to elect a mayor and aldermen. The credit of this attempt seems rather due, however, to one of Frontenac's predecessors, the Chevalier de Mezy, who occupied the gubernatorial chair for a few months in the year 1663. Colbert's famous rebuke to Frontenac, which Parkman quotes,<sup>1</sup> was occasioned by the latter's attempt to organize the inhabitants into the three orders of the clergy, the nobility and the people, not by any attempt at municipal organization. But the Arrêt of the Sovereign Council ordered the

<sup>1</sup>It ran as follows: "The assembling and division that you have made of all the inhabitants of the country into three orders or estates with the object of administering to them the oath of allegiance might have some effect for the moment; but it is well to consider that you should always observe in the administration of public affairs those forms which are followed here, and that our kings have deemed it inexpedient for a long time past to assemble the States-General of their kingdom, with the view perhaps of destroying the ancient system. Under these circumstances you should very rarely, and in fact it would be better if you should never give this form to the people of the country. It will be advisable, even after a while, when the colony is more vigorous than at present, to suppress by degrees the syndic who presents petitions in the name of the inhabitants, as it seems better that everyone should speak for himself, and no one for all."—Parkman, p. 20. See also Doutré et Lareau, *Histoire du Droit Canadien*, pp. 169, 170; Chauveau, *Notice sur la publication des Régistres du Conseil souverain*, etc., p. 34.

calling of a general meeting of the inhabitants of Quebec to proceed in the presence of the Council to elect a mayor and two aldermen who should have charge of the public affairs of the city, the meeting to be held on the 30th of September, 1663. The Arrêt bears the signatures of Mezy, Bishop Laval, and Caudais Dupont, councillor. The meeting was duly held on the 7th of October, and Jean Baptiste de Gardeur, écuyer, Sieur de Repentigny, was elected mayor, and Jean Madry and Claude Charron aldermen. They were duly received and acknowledged by the Council, and on the 10th of October took oath for the faithful performance of their duties. The minutes of the 7th and 10th of October also bear the signatures of Mezy and Laval, and of Rouer de Villeray, councillor. Frontenac did not become governor until 1672, nine years afterward, so that in giving Frontenac this credit Parkman has obviously fallen into error.

*Parishes the Unit of Organization.*

It was not until 1722 that the settlement of the colony as a whole seemed to warrant any attempt to divide it into parishes; in the preceding year the intendant Michel Begon, with the assistance of the governor and bishop, had drawn up a schedule of parishes which was sanctioned and adopted by the Council of State in France on the 3rd of March. This edict divided the colony into what was called the government of Quebec, with forty-one parishes, the government of Three Rivers, with thirteen parishes, the government of Montreal, with twenty-eight parishes. These parishes, however, were primarily for ecclesiastical purposes. Many of them had been for some time in existence, but now received their first recognition by civil authority.<sup>1</sup> Their beginning may be traced to the *habitations* or settlements of the colonists of those communities of which the seigneur was the social head, administering justice among his  *censitaires*, receiving their fealty and homage, mutation-fines, and *rentes*, and representing them before the Government. The parishes received

<sup>1</sup> Edits et Ordonnances, I. p. 443.



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no other recognition by civil authority until 1831, when a commission was appointed by the legislative assembly to establish their limits for civil purposes. The Consolidated Statutes of Lower Canada embody still later legislation,<sup>1</sup> the ecclesiastical forming in most instances the actual boundaries of the civil parish.

*The Intendant.*

The intendant, as the head of the civil administration throughout the colony, a kind of combined Minister of Finance, Justice and Police, comprised in his own person all that is now entrusted to mayor, aldermen and common council. His ordinances related to a great variety of things. They forbade the inhabitants to place traps on their lands, or gallop their horses and carriages on leaving church; ordered them to erect fences and not allow pigs to wander through the streets; fixed the order of precedence in church to be that laid down by the Sovereign Council, and authorized missionaries to receive and execute wills. They included police regulations regarding streets and buildings, weights and measures, the value of coins, the observance of Sunday, the preservation of timber, seigneurial rights, the settlement of boundaries, etc. The intendant presided at meetings of merchants and traders for the election of a syndic (a kind of popular delegate to the Government); issued instructions for road construction or repair; required the habitants to exhibit their titles upon occasion and determine the limits of private lands; forbade those who dwelt on farms to visit the cities or towns without special permission, and punished all violations of his ordinances. De Tocqueville says that the Canadian intendant had much greater power than the French intendant. As to the power of the latter we have the testimony of the great financier, Law, that all France was really governed by its thirty intendants. "You have neither Parliament, nor estates, nor governors," he declared to the Marquis d'Argenson, "nothing but thirty Masters of

<sup>1</sup> 9 Geo. IV., cap. 73, preamble.

Requests, on whom, as far as the provinces are concerned, welfare or misery, plenty or want, entirely depend.''

*Syndics d'habitation.*

There were in France a familiar class of officials called *syndics d'habitation* who represented popular rights before the administrative tribunals. In rural Quebec the seigneur made this office superfluous. But there are records of meetings of the inhabitants of Quebec, Montreal and Three Rivers, at different intervals, for the election of syndics. Such democratic aspirations, however, found no favour in the eyes of authority, as we have seen in Colbert's message to Frontenac. The office of syndic thus fell gradually into disuse, and by 1661 practically ceased to exist. In 1663, for example, a mayor and two aldermen were elected in Quebec by a meeting of the citizens called by the Sovereign Council.<sup>1</sup> But they resigned in consequence of official pressure, and suggested that because of the small population a syndic would be better; official disagreements, however, prevented the election of the official. The few vain attempts to preserve the office are chronicled by Messrs. Doutre and Lareau, in their *Histoire du Droit Canadien*, where the learned authors remark, in closing their narrative: "Thus was strangled the only popular constitution that was ever given to the colony under the old régime. It suffered the fate of every popular movement which at that epoch succumbed to the system of centralization adopted by the mother country. Implacable war was waged against every principle of liberty."<sup>2</sup>

*The Grand Voyer.*

The *Grand Voyer* or road surveyor, though not a judicial appointment, was an official of considerable administrative importance. He supervised the roads and bridges, the line of streets, dangerous buildings and like matter. The office was created before French royal government was established, that is, before 1663, and existed down to 1840. In 1706 the

<sup>1</sup> The Sovereign Council was established in April 1663, and this was one of its first decisions.

<sup>2</sup> Vol. 1, p. 222.

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Sovereign Council collected and promulgated a number of police regulations of which the eighth refers to the office of the *grand voyer*. It runs as follows:

"VIII. The Sieur de Bécancourt, *grand voyer*, is hereby required to visit all the seigneuries where main roads have not yet been established ; to establish such in concert with the proprietors of the seigneuries, or in their absence with the captains of the militia, unless there be a judge present, and to decide, in accordance with the opinion of six of the oldest and most important residents of the place, where the roads shall henceforward run ; and such roads shall be at least twenty-four feet wide. The council commands the inhabitants of each such place, each for himself, to make the said roads serviceable and to give days of labour (*journées de corvée*) for this purpose wherever necessary ; to make bridges over brooks ; to fill in ditches where there are any, in accordance with the direction of the *grand voyer*, conjointly with the seigneur, judge, officers of militia, and the said six inhabitants. We enjoin the said officers of militia to oversee the construction of the said roads and bridges, and to command the inhabitants to that end ; also to make report to this council, in the month of October following as to the condition of said roads ; and in case of any dispute the council reserves to itself the right of inquiry, but forbids all persons to block up the said roads with fences or barriers under any pretence whatever, under pain of a fine of twenty livres, to be devoted to the *fabrique* of the parish of the seigneurie, which fine the churchwarden shall be bound to exact under pain of being himself personally liable therefor."

Under the French régime the *grand voyer* was subject to the control of the intendant. When he failed to get the inhabitants to open up or keep the roads in repair he reported to the intendant, whose orders were promptly obeyed. But after the cession his duties were prescribed by the justices of the peace assembled in quarter sessions. The justices also, later on, were municipal administrators as well as judges. The duties of the *grand voyer* were then restricted to mere supervision, and the legislature imposed what was called "statute labour" upon the inhabitants, which will be referred to presently. The successor of the *grand voyer* is found to-day in the road inspector (*inspecteur de voirie*), whose functions are prescribed by the municipal code, and in the city surveyors of the incorporated towns and cities.

*Corvée or Statute Labour.*

The *corvée* was the system whereby the seigneur or other landholder was entitled to a certain amount of manual labour from his tenants or *censitaires*, usually for the repairs of roads and bridges. It was introduced into Canada from France, and was provided for in all deeds of concession. De Tocque-

ville says that the plan of keeping roads in repair in France by *corvées* was first commenced towards the close of Louis XIV's reign; and the strange notion that the cost of keeping the roads in repair ought to be borne by the poorest persons in the community and those who travel the least took such root in the minds of those who were gainers by it that they soon came to believe that no other system was feasible. In Canada the *censitaire* owed *corvées* to his seigneur, and the intendant enforced the obligation by his ordinances. Ordinarily, the seigneur was not obliged to furnish tools or food. In 1716, Michel Begon, Intendant, issued an order forbidding the insertion of the clause relating to *corvées* in future deeds of cession.<sup>1</sup> The system, however, had taken deep root, and remained till after the conquest. In 1796<sup>2</sup> Parliament by special statute sanctioned the system, permitting, however, a commutation of the duty of *corvées* by a money payment. This statute, which gave it the English name of statute labour, at first caused great dissatisfaction, and was the occasion of serious riots in Quebec and Montreal.<sup>3</sup>

When the *grand voyer* failed to get the habitants to clear or keep a road in repair, he reported to the intendant, whose mandate, with its alternative penalties, was usually effective.<sup>4</sup> After 1796 as "road inspector" he was under the direction of the local councils.

*Early Municipal Government under British Rule, 1760-1774.*

Before considering the special features of the parliamentary legislation of subsequent years, let us glance at the general character of municipal administration during the early years of British rule. For three years after the capitulation, until peace was restored, Canada was under military government. General Amherst, as Commander-in-Chief of the British forces with headquarters at New York, divided Canada into

<sup>1</sup> Edits et Ord., ii, 444.

<sup>2</sup> 36 Geo. III, c. 9.

<sup>3</sup> Report Can. Archives, 1891, xl, which points out that these riots were probably the fruit of political agitation of foreigners.

<sup>4</sup> Edits et Ord., ii, 288, 341, 383. The road connecting Quebec and Montreal was opened in 1733.

three military districts, with Quebec, Three Rivers and Montreal as their *chefs-lieux*. General James Murray, Col. Ralph Burton and General Thomas Gage were placed in charge of the respective districts. In 1763, after the signing of the treaty of Paris, Canada under the name of Quebec, with indefinite boundaries to the west, was established as one of the four British provinces in America, and General Murray was made the first Governor-General.<sup>2</sup>

General Murray's commission as Captain-General and Governor-in-Chief bears date November 21, 1763. There was at least no striking difference between the form of this and the French administration. The English governor merely replaced the French intendant. There was a vast difference, however, between the devotion to the public service which marked the career of General Murray and the shameless thieving that disgraced Bigot, the last of the intendants. It should be noted, too, that General Murray governed with the advice and assistance of a council composed of eight prominent citizens; and the ordinances passed were described as the ordinances of the Governor and Council.

The Governor received royal instructions to lay out townships and set apart blocks of land for the support of clergymen and schoolmasters. His ordinances relate to all kinds of municipal matters down to the weight and price of bread. For instance, in October, 1764, the Governor and Council decided that the six-penny white loaf should weigh four pounds, and the brown loaf six pounds, as long as flour should sell for fourteen shillings per cwt. The clerks of the two cities were instructed to inspect markets and bakeries once in three months at least, and to stamp and brand all weights and measures. Every loaf had to be stamped with the baker's initials, and the clerks had authority to stop waggons on the streets for inspection.<sup>3</sup> Certain writers have taken satis-

<sup>1</sup> Houston's *Constitutional Documents of Canada*, p. 74.

<sup>2</sup> The members of the first council were : Chief Justice Gregory, Paulus Æmilius Irving, Hector Théophile Cramate, Adam Mabane, Walter Murray, Samuel Holland, Thomas Dunn and François Meunier.

<sup>3</sup> Smith's *Hist. of Canada*, p. 5. Doutre and Lareau, *Hist. du Droit Canadien*, p. 94.

faction in characterizing the administration of Murray and his council as *Le Régime Militaire*, and dwelling upon all the rigorous implications associated with military rule. As a matter of fact, nothing could have exceeded the mildness and considerateness of General Murray's administration.

On March 27th, 1766, an ordinance was passed for repairing and mending the highways and bridges in the province, "which," said the ordinance, "for want of due and timely repairs and amendments are become impassable." In 1768, to provide against conflagrations, the Council ordered that in Montreal and Quebec and Three Rivers chimneys be cleaned once in four weeks during the winter, from the 1st of October to the 1st of May. Every householder was required to be provided with two buckets for water, made either of leather or sealskin, or of canvas painted without and pitched within, and holding at least two gallons each. Every housekeeper was required to keep a hatchet in his house to assist in pulling down houses for the purpose of preventing the spreading of fire, and two firepoles of specified length and shape, to knock off the roofs of burning or endangered houses. Every housekeeper was also required to keep on the roof of his house as many ladders as he had chimneys, so placed that easy access might be had to sweep the chimneys, or carry water up to them in case of fire. Hay or straw in a house, ashes on a wooden floor or in a wooden bucket, were forbidden under penalty. The erection of wooden houses was thereafter forbidden, and restrictions were placed upon the use of shingles, and upon the manner of placing stovepipes from room to room. Overseers were appointed and the justices were empowered to enforce penalties.<sup>1</sup>

*Municipal Government under the Quebec Act, 1774-1791.*

The Quebec Act of 1774, passed on the eve of the American Revolution, declared it "at present inexpedient to call an Assembly." About the same time the province was further

<sup>1</sup> Ordinances printed in 1767 by Brown and Gilmore, Quebec, very rare. A copy exists in the archives of the court-house, Montreal.

agitated by the American incursion which ended with Montgomery's vain attempt against Quebec (December, 1775). The power thus in charge of municipal affairs was the Legislative Council, a nominated body of not less than 17 and not more than 23 members, appointed under the Act. This council, which was first presided over by Sir Guy Carleton, afterwards Lord Dorchester, whose name is preserved in the stately Dorchester Street of Montreal, continued for nearly thirty years. It was given power with the consent of the governor to make ordinances for the good government of the province. As regards taxation, however, only such taxes could be levied which were for purely local purposes. Any ordinance might be disallowed by the King within six months. The council sat with closed doors in the castle of St. Louis on the citadel rock of Quebec, deliberating, as the records show, with a good deal of practical wisdom.

For some time after its appointment, however, municipal affairs received but scant attention owing to the excitement caused by the Quebec Act;<sup>1</sup> and in purely local affairs, the business of the parish was still controlled by the curé, the seigneur and the captain of militia or constable, practically as in the days of French government. In fact the Imperial Government was on the whole careful to continue the old institutions and regulations to which the people were accustomed. Thus, while in 1764 the people of a parish were allowed to elect six officials to act as road inspectors and constables (*baillis* and *sous-baillis*), in 1777 the old office of *grand voyer* was re-established.<sup>2</sup>

Amongst the municipal ordinances enacted we find regulations for markets, which recall older English legislation against forestalling. Butchers and hucksters were forbidden to make their purchases before ten in the forenoon in summer, or noon in winter. Provisions and provender and livestock brought by boat could not be disposed of until an hour's notice had

<sup>1</sup> This Act (1774) made French civil and English criminal law the law of Canada, and this led ultimately to the separation of the provinces of Upper and Lower Canada (1791), Upper Canada being placed under English civil law.

<sup>2</sup> Doutre et Lareau, *op. cit.* II' 100.

been given to the inhabitants by the bell-man, so that all might have equal opportunity to buy.<sup>1</sup>

*Municipal Government under the Constitutional Act, 1791-1837.*

With the increase in numbers of the English-speaking population it was found necessary to divide Canada into two parts, one under English, the other under French civil law. Accordingly, in 1791, the Constitutional Act was passed dividing Canada into Upper and Lower and giving each province a Parliament and a legislative council. These legislative bodies continued the paternal oversight of local affairs which the appointed councils had previously exercised. Every municipal statute or ordinance defined and explained the duties of the magistrates in relation to it. It is this situation that makes clear Lord Durham's statement that the inhabitants of Lower Canada "were unhappily initiated into self-government at the wrong end, and those who were not trusted with the management of a parish were enabled by their votes to influence the destinies of a state."

In 1792 (May 7), the province was for the first time divided into counties, but for legislative purposes merely. The counties were 21 in number. Very few of the county names (mostly English) then assigned were allowed to remain when the legislature in 1829 increased the number of counties from 17 to 40. In 1851 the number was again raised by 35, making in all, as to-day, 67 county municipalities.<sup>2</sup> For purely judicial purposes, there were four districts, Quebec, Three Rivers, Montreal and St. Francis (See 7 Vic. c. 16, s. 3). The parishes, we have seen, were the old subdivisions of the seigneuries established in the days of the French régime. The townships then laid out date from a few years after the conquest, and were intended to aid survey and settlement. Such were the more important divisions of the province at this date.

In May, 1796, the first provincial Parliament passed a very elaborate and important statute for making, repairing,

<sup>1</sup> 17 Geo. III. cap. 4.

<sup>2</sup> Rev. Stat. Que., Art. 61, 73, 75.



and altering highways and bridges in Lower Canada. In the cities of Quebec and Montreal the local magistrates were directed to divide their respective cities into six districts, and to appoint a surveyor, overseers, and assessors. Personal service or "statute labour" was imposed under penalties, public policy being as far as possible to avoid direct taxation. It was this statute that was the occasion, as has been stated already, of serious riots in both cities. This was the era of government by magistrates or courts of quarter sessions. Lack of popular control over local administration, e. g., the laying of roads and disputes with the central executive, led finally in 1837 to a brief rebellion which must be regarded as the turning point in the history of responsible government in Canada. It led quickly to the addition of local autonomy.

*Municipal Government under the Special Council, 1837-1841.*

During the administration of the Special Council in Lower Canada, consequent upon the suspension of the constitution during the rebellion, an ordinance was passed in 1840<sup>1</sup> "to provide for the better internal government of this province by the establishment of local and municipal institutions therein." It divided the province into 22 districts, each of which was constituted a body corporate with special but limited powers. Here begins the municipal government of Quebec based upon the elective and representative principle. The Governor was still clearly for a time well-nigh supreme through his power to appoint and instruct the warden, dissolve under special circumstances the district council, etc. The Governor in Council also determined the number of councillors and instructed the various officers. In 1840, furthermore, Montreal and Quebec received their second charter, the first having been suspended in 1836 after four years' trial.<sup>2</sup> Since that time they, in common with the leading towns and

<sup>1</sup> 4 Vic., cap. 4.

<sup>2</sup> Special charters had been granted by the legislature in the year 1832 to Quebec and Montreal for the term of four years. At the expiration of that time, owing doubtless to the troubled condition of political affairs the charters were not renewed. In 1840, however, new charters were granted.

cities of the province, look directly to the legislature for any increase or modification of their corporate powers.

The ordinance of 1840 enacted that each district should have a warden and councillors. The warden was appointed by the Governor, and the councillors elected by the inhabitant householders. A parish or township with a population of less than 3,000 elected one councillor, or if it had a population of 3,000 or more it elected two councillors, subject, however, to the Governor's proclamation in such matters. Municipal service as a councillor was compulsory under pain of a fine. One-third of the council retired annually, no councillor receiving any fee.

The district councils were empowered to make by-laws for roads and bridges, to establish schools, levy assessments, impose penalties for refusal to take municipal office, etc. They were also authorized to exercise the powers and duties of the *grand voyer*, whose chief office was thus virtually abolished, under provision for indemnification. No by-law for any public work was valid without a previous estimate and report as to expenditure, and all by-laws were subject to disallowance by the Governor. The councils held quarterly meetings and special meetings called by authority of the Governor. The Governor fixed the place of meeting and appointed the district clerks and treasurers. He could also dissolve a council at pleasure; but in such an event the warden had power to cause a new election to be held. Two auditors were to be appointed annually, one being named by the warden, the other by the council.

By a special clause this ordinance was not to be construed as applying to the cities of Quebec and Montreal. It was complementary to one which was passed at the same time by the Special Council, "to prescribe and regulate the election and appointment of certain officers, in the several parishes and townships of this province, and to make provisions for the local interests of the inhabitants of these divisions of the province." The officials here mentioned were three assessors, one collector, one or more persons to be surveyors of high-

ways and bridges, two or more fence-viewers and inspectors of drains, and one or more persons to be pound-keepers, but certain of the offices might all be filled by one person. The control which the first of these ordinances so conspicuously reserved in the hands of the Governor was doubtless due to the troubled condition of the country, doubts being entertained as to the wisdom of entrusting larger local liberty to district councils.

The grant of local powers, instead of being received with any degree of enthusiasm, met with decided opposition. Various causes contributed to this. The time was notoriously one of political agitation. The Act of Union which was about to reunite Lower and Upper Canada was repugnant to a considerable portion of the inhabitants of the province. The reservation by the Council of the right to name the warden and other officials gave rise to suspicions that the object desired was to influence the result of popular elections. Finally, the fear of an increase in taxation as a result of the operation of the new law occasioned much alarm. A party called *Les Éteignoirs*, or "the extinguishers," sprang up whose *mot d'ordre* was to render the Act inoperative by the simple process of electing councillors on the understanding that they would do nothing to put it in operation. Their efforts were successful, and the Act of 1840 became a dead letter.

*Municipal Government under The Act of Union (1841-1867).  
District Municipalities.*

Accordingly in 1845, the Act of 1840 was repealed by an Act of which Mr. Morin was the father.<sup>1</sup> In place of the special districts of the Act of 1840 this statute constituted every township and parish a municipal corporation represented by an elected council of seven, whose head, styled the mayor, was also elective. Two councillors retired each year. A very considerable measure of authority was entrusted to the councils in 24 classes of subjects detailed in the statute. Provision was also made for the incorporation of villages or towns. Any

<sup>1</sup> Vic. cap. 40.

three landowners of a village containing sixty houses or upwards within a space of sixty *arpents* might requisition the senior justice to call a meeting to consider the advisability of petitioning the parish council to fix limits and boundaries for the village or town. If the decision was affirmative, the boundaries were fixed and the election of councillors and incorporation followed, the councillors electing the mayor.

*County Municipalities.*

Two years later<sup>1</sup> Mr. Badgley (afterwards Mr. Justice Badgley) introduced successfully an Act whereby the parish and township municipalities were abolished and county municipalities substituted. The municipal council was to consist of two councillors elected for two years by each parish and township division of the county, one-half retiring annually. In event of any parish or township refusing to elect its councillors, the Governor was empowered to appoint them. Any town or village comprising at least forty houses within an area of not more than thirty *arpents* might be incorporated as a village or town and elect a council of seven. The usual assessors, collectors and overseers were appointed under this statute, and the office of deputy *grand voyer* was created. The powers of the council, which before related chiefly to matters of public order, were not materially altered, but additional powers were given which included the right to impose fines for contravention of by-laws; to compel circus companies, showmen and liquor dealers to take out licences; and to contract for the maintenance of summer and winter roads.

In 1850<sup>2</sup> municipal councils were permitted to amend their assessment tolls, when in their opinion the valuation already made was inadequate; they might also levy a rate of one half-penny in the pound upon the assessed value of ratable property for general purposes. By the same Act any township containing 300 souls was allowed to elect councillors, and to be considered a township or parish for all municipal purposes. Muni-

<sup>1</sup> 10 and 11 Vic. cap. 7.

<sup>2</sup> 13 and 14 Vic. cap. 34.

cipal powers were also extended to provide for the sale of lands upon which taxes were due, for the construction and maintenance of roads, bridges, fences, for the imposing of penalties, etc.

In 1853<sup>1</sup> an Act was passed to empower the several counties of Two Mountains, Terrebonne, Rouville, and Missisiquoi to take stock in any railway companies for the construction of railways passing through them, and to issue bonds to raise funds for the payment. During the same session another Act (cap. 213) was passed extending these provisions to the councils of all county, town and village municipalities in Lower Canada, and allowing the municipalities to invest in the capital stock of railway companies. A provision in this Act exempting by-laws for railway enterprises and investments from being submitted to the people was repealed in 1854.

By an Act of the same year<sup>2</sup> a consolidated Municipal Loan Fund for Lower Canada, similar to the one authorized in 1851 for Upper Canada, was established. This novel and dangerous fund was limited to £1,500,000 for each province, and was managed by the Receiver-General under direction of the Governor in Council. Any incorporated city, town or village might raise money on the credit of this fund for gas or water-works, drainage or roads, to an amount not exceeding 20 per cent. on the aggregate assessed valuation of the property affected by any by-laws that might be passed in the municipality. The entire public debt contracted under the provisions for this fund speedily reached the sum of \$9,500,000, and as most of the borrowing municipalities were utterly unable to pay the interest the greater portion of it had to be met from the public exchequer, and Parliament was subsequently obliged to pass measures for their relief. Most of the works constructed were, however, of great benefit to the community, and aided in no small degree to develop its resources.<sup>3</sup>

In 1855 a most important and elaborate Act—the Lower Canada Municipal and Roads Act,<sup>4</sup> was passed. It reformed

<sup>1</sup> 16 Vic. cap. 138.

<sup>2</sup> 18 Vic. cap. 13.

<sup>3</sup> McMullen, *Hist. of Canada*, p. 519.

<sup>4</sup> 18 Vic. cap. 100.

the municipal system of the province and established therein county, parish and township, town and village municipalities, all of which were represented by elective councils. The statute was amended and classified in 1856<sup>1</sup>. In 1858<sup>2</sup> appeals from the decision of councils were provided for in certain cases. These Acts may be considered as the basis of the present municipal system.

*Town Corporations General Clauses Act.*

In 1876<sup>3</sup> the Town Corporations General Clauses Act was passed. It is reproduced in the Revised Statutes of Quebec under the title of Municipal Matters (Articles 4178 to 4640). Its provisions apply to every town corporation or municipality established by Act of the legislature, unless expressly modified by a special charter. At present the cities of Quebec, Montreal, Sherbrooke, Three Rivers, St. Hyacinthe and forty-two towns are incorporated by special statutes or charters which from time to time, on petition, the legislature amends. This Act gave a municipal council jurisdiction beyond the municipal limits where special power is conferred. Loans could only be made under a by-law of the council, afterwards approved by a majority of the property holders and a majority of the realty assessment. The council was given full control over specified subjects. The municipal lists and valuation rolls were made yearly; and special powers were given to commute taxes in favour of local industries and also to appropriate land for municipal purposes.

*The Cities and Towns Act of 1903.*

A fresh Act, called the Cities and Towns Act, 1903, specified in greater detail the powers and duties of cities and towns not governed under special statutes, and constitutes within its limits a species of general municipal Act. It is the latest and most complete delimitation of municipal functions, replacing the Town Corporations General Clauses Act. The Lieutenant-

<sup>1</sup> 19 and 20 Vic. cap. 101.

<sup>2</sup> 22 Vic. cap. 101.

<sup>3</sup> 40 Vic. cap. 29.

Governor in Council may, by letters patent, erect any territory forming a village municipality into a town municipality, if it contains at least 2,000 people; and may erect any village or town municipality into a city municipality if it has a population of 6,000, the number of the population being determined by a special census. The council applying for the erection of its territory into a city or town municipality must give public notice of its intention in the *Quebec Official Gazette*, and furnish certain particulars as to population, the proposed name and limits of the city, the number of its wards and councillors, the proposed time of voting, etc. (secs. 14-16).

Notwithstanding the excellent General Clauses Acts, with their provisions for the growth of villages and towns, and easy change of status from village to town and from town to city as population and area warrant, the very general tendency on the part of villages and towns is to apply to the legislature for special charters of incorporation; while the legislature, provided the application is made with a fair degree of unanimity, never withholds its consent, and presumably as unflinchingly collects the incidental fees. The special Acts of incorporation that have been granted, notwithstanding the facilities offered by the municipal code and the General Clauses Acts referred to, are very numerous. But it is fair to assume that the "Cities and Towns Act of 1903" is likely to arrest the stream of applications.

#### *The Municipal Code.*

The province of Quebec also possesses a special municipal code, which was introduced into the legislature by the Honourable G. Ouimet, as Attorney-General, in 1870. It applies to all the territory of the province other than the cities and towns incorporated in virtue of the General Clauses Act, the Cities and Towns Act, or by special statute. This territory is divided into county municipalities, which are in most cases identical with the counties as electoral divisions for the provincial assembly.<sup>2</sup> Each county may include country (rural), village and town municipalities. A country municipality may consist again of a

<sup>1</sup>The Municipal Code applies to municipalities created by the general division of the whole province into such.

parish or of a township or of a part of either, or of parts of more townships than one. The inhabitants and ratepayers of every county and every country village and town municipality form a corporation or body politic, having perpetual succession and a general grant of all powers necessary to accomplish the duties imposed upon it. As regards population, a country municipality must have three hundred inhabitants and a village at least forty inhabitants within sixty *arpents*.

Under the municipal code the county council is composed of the mayors in office in all the municipalities in the county. In the council these mayors bear the title of county councillor. The head of the council is the warden (in French *présfet*) who is chosen from among the county councillors in March of each year. The ordinary or general sessions of the council are held quarterly. Each council has seven members who are elected each year on the second Monday in January. Nominations may be either verbal or written, and the voting is open. If a municipality fails or neglects to elect the required number of councillors, the Lieutenant-Governor may appoint them. Councillors hold office for three years, two retire annually in each of two years and three in the third year.

The second part of the municipal code treats of the powers of councils, the powers being much the same as in Ontario. One exceptional clause allows an appeal to be made from the passing of a by-law to the county council, except as regards by-laws relating to the prohibition of the liquor trade and money by-laws. All real estate is taxable except government, religious and educational holdings, and (to a limited extent) those of railway companies. The valuation roll is made in the months of June and July biennially, is revised by the council, and is open for inspection during a specified period. The municipal code deals with the all-important subject of roads, specifying those persons liable to render services on roads in the absence of a *procès-verbal* or by-law, defining winter roads—the line of which is marked by means of *balizes* of spruce or cedar, etc. An interesting provision is to the effect that when two or more counties are jointly interested in any public work their



county councils may each appoint annually three persons to a board of county delegates, the warden being *ex-officio* one of the three. Such works as roads and bridges come most frequently under their care and help to bring about a measure of municipal co-operation.

*Public Health.*

By the municipal code power is given to the local council to establish boards of health and to adopt sanitary precautions against contagious diseases; also to provide for a pure water supply.<sup>1</sup> But the chief responsibility is imposed by statute upon a board of health, consisting of seven persons, four of whom must be qualified physicians in practice for at least five years. The members of the board are appointed for a period not exceeding three years. The president receives an annual indemnity of \$400; the secretary an annual salary of \$2,400. The duties of the board consist in preparing and studying vital and medical statistics, in making sanitary investigations, either directly or through municipal councils, in establishing, supervising, and advising local boards of health, and in distributing practical information throughout the province upon matters of health and disease. The board has power to make, amend and repeal by-laws for the promotion of public health, and the prevention of disease, and when the local by-law is contrary to that of the provincial board the latter prevails. By a recent statute<sup>2</sup> the law respecting public health has been amended and consolidated, and among the important subjects included in the new law are provisions relating to drinking-water (no aqueduct or intake for which can be established without the approval of the board), and the inspection of food and drink, regulations respecting contagious diseases, the enactment of by-laws for the maintenance of health in industrial establishments, vaccination, vital statistics, and prosecution for infractions of the law.

The appointees to the board of health are men of repute and activity, but it is clear from the reports included in the

<sup>1</sup> Mun. Code, arts. 607 et seq.

<sup>2</sup> 1 Edw. VII. ch. 19.

sessional papers printed by the legislature that a stricter enforcement of the law which requires local municipalities to report to the central authorities is necessary for complete efficiency. For example, the recorder of statistics remarks in one place : "So many municipalities have neglected to send in a report of births and deaths that we hesitate to place before our readers a comparative table of marriage rates of other countries and of the province of Quebec. We do so, however, to awaken, if possible, the apathy of those who are the immediate cause of the defect in our statistics."

*Education.*

The system of separate schools for Roman Catholics and Protestants prevails in the province. In any school municipality any number of ratepayers professing a religious belief different from that of the majority may form a separate corporation for school purposes under the administration of trustees. Educational affairs are under the supervision of a Council of Public Instruction, consisting of members appointed by the provincial Government. The council is divided into two committees, one composed of Roman Catholic, the other of Protestant members. Each of these committees appoints its chairman and secretary, and makes regulations for the organization, administration and discipline of its section of the public schools, including the division of the province into districts for inspection, the regulating of normal schools, text books, boards of examiners, and like matters. The nominal head of the department of public instruction is the Superintendent of Education, who is *ex officio* a member of the council, and whose duty it is to distribute according to law the legislative grants for educational institutions. He is also the statistician and intermediary between educational bodies and the legislature. For educational purposes the province is divided into school municipalities under the control of school commissioners; and these municipalities are again subdivided into school districts, no one of which must exceed five miles in length and breadth. The Education Act (62 Vic. cap. 28) provides machinery for the annual election of commissioners or trustees,

the collection of taxes, appointment of school inspectors, examination of teachers, the application of the public school fund, the establishment of normal schools and pensions for teachers.

From the report of the Superintendent of Public Instruction dated 12th February, 1903, it appears that there are 6,078 schools in the province, with an attendance of 333,431<sup>1</sup>. Of these, 5298 are elementary schools, 568 model schools, and 166 academies. There are four universities; eight schools of art and design; five normal schools with six schools annexed to them; four schools for the deaf, dumb, and blind; and nineteen Catholic classical colleges. The same source places the aggregate governmental contributions to schools at \$236,867, of which public schools received \$160,393, superior education \$55,646, and the poor municipalities \$20,827.<sup>2</sup> In the larger towns and cities educational facilities are fairly ample, although the rapid increase of population in Montreal is sorely taxing the accommodation provided; but the condition of the rural schools leaves much to be desired. Some conception of these may be derived from the fact that the average salary of teachers in Roman Catholic elementary schools is \$110, and in Protestant elementary schools \$151.<sup>3</sup>

#### *Justice.*

The Cities and Towns Act, 1903, provides for the organization of courts of record styled Recorder's Courts,<sup>4</sup> the judges of which are appointed by the Lieutenant-Governor in Council upon nomination by the town council. The recorder must be an advocate of at least five years' standing, and his salary, rarely exceeding \$500, is paid by the council. In Montreal, however, there are two recorders, appointed by the Lieutenant-Governor in Council, and removable only upon joint address of the two Houses of the legislature. Their emoluments *per annum* are \$4,000 each, with additional fees as license and expropriation commissioners. They have all the powers of

<sup>1</sup> Sess. Pap., Rept. of Supt. of Pub. Inst., p. xiii.

<sup>2</sup> *Ibid.* p. 180.

<sup>3</sup> *Ibid.* p. xii.

<sup>4</sup> Such courts have long existed in the larger towns, but this Act removes the necessity for special application to the legislature for their organization in future.

judges of the sessions of the peace, in addition to special jurisdiction for the trial of suits under the city's by-laws, appeals from assessments, revision of voter's lists for civic elections, and concurrent jurisdiction with the circuit court in suits between lessors and lessees. The Lieutenant-Governor in Council also appoints stipendiary magistrates, called judges of the sessions of the peace, for the cities of Quebec and Montreal, and district magistrates, with the powers of two justices of the peace, for petty criminal jurisdiction in the various judicial districts of the province as required by public exigencies. The nomination of justices of the peace is largely complimentary.

*Municipal Statistics.*

The compilation of municipal statistics either by the municipalities or by the provincial Government is as yet very inadequate. The few available data are found in the provincial sessional documents, in the Dominion census returns and in the treasurers' reports of the several municipalities. The sessional documents for 1902 disclose for each local municipality the number of residents, taxpayers, and acres of land appraised; the estimated value of taxable and non-taxable real estate; the gross receipts, payments, assets and liabilities. The aggregates under these respective heads are as follows:

Number of Residents.....	1,136,540
Number of tax payers.....	249,780
Number of acres appraised.....	19,032,725
Estimated value of taxable real estate.....	\$280,687,222
Estimated value of non-taxable real estate....	37,019,816
Receipts.....	4,157,441
Payments.....	3,849,407
Assets.....	8,915,234
Liabilities.....	12,224,472

The last Dominion census (1901) enumerates 140 villages, 42 towns and 10 cities, the cities varying in population from 7,057 for Sorel to 267,730 for Montreal. Quebec has a population of 68,840. Of the other eight cities other than Montreal and Quebec the average population is 11,500. But there are a

number of "towns" with larger populations than some of the "cities," for example, Valleyfield with over 11,000, and St. Louis de Mile End with almost 11,000, and Westmount with nearly 9,000.

*Conclusions.*

On the whole a study of the municipal institutions of the province of Quebec discloses the fact that they are a product of British rule. The Canadians of French descent, forming in 1901 eighty per cent. of the total population, have shown since the period of 1837-40 a constantly growing interest in local administration, and have realized in that field a satisfactory measure of success. Possessing large powers of initiative, the bigger towns, such as St. Hyacinthe, Valleyfield, Three Rivers, Sorel, and not a few of the smaller ones, have begun to adopt those modern appliances for light, sanitation, and public utility which distinguish progressive communities. As to borrowing powers, the legislature still retains full authority. Rightly exercised, this must prove a safeguard against possible extravagance. Montreal, with its annual expenditure of nearly four millions of dollars, is the only city of its class in the province, and in its occasional struggles with corporate interests has frequently illustrated the serious problems incidental to the utilization of public franchises. In this respect the history of Montreal cannot but be an important object lesson on the dangers to which the smaller towns and villages will be exposed in the course of their development. It is to be hoped that in their relations with the legislature the evils of "log-rolling," elsewhere so notorious and baneful, may be escaped.

