Verfassung und Verwaltungsorganisation der Städte

Siebenter Band: England – Frankreich – Nordamerika

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Schriften

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Verfassung und Verwaltungsorganisation der Städte.

Siebenter Band.

England. — Frankreich. — Nordamerika.

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Siebenter Band.
England. — Frankreich. — Nordamerika.

Mit Beiträgen von
F. W. Hirst, H. Berthélemy, Frank J. Goodnow,
Delos F. Wilcox.

Im Auftrag des Vereins für Socialpolitik
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Professeur à l'Université de Paris.

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The Position and Powers of Cities in the United States.

From Frank J. Goodnow.

The Government of Great American Cities.

By Delos F. Wilcox Ph.-D.

Detroit, Michigan U. S. A. *51

Berichtigungen.

Corrections to be made in the forms of Prof. Goodnow's article on "The Position and Powers of Cities in the United States".

Page 4, line 16; should read "population of about one hundred thousand", not "population of about fifty thousand inhabitants".

Page 5, line 22; the 3rd word should be "associations", not "assotiations".

Page 8, line 30; the 7th word should be "to", not "tho".

Page 9, line 17; the fifth word should be "forty-six", not "forty-five".

Page 10, line 7; after the word "discharging" the word "functions" should be inserted.

Page 10, line 32; the 3rd word should be "result", not "rsult".

Page 12, line 13; the last word should be "legislature", not "ligislature".

Page 13, line 1 of Chapter 2; the 5th word should be „that", not "their".

Page 14, line at end of 1st paragraph; the second word should be "latter's", not "latters".

Page 16, line 6; the word "and" should be omitted after the word "Washington".

Page 16, line 28—29; the word "constitutional" should be divided "constitution-al", not "constitutio-nal".

Page 18, line 1; the 1st word should be "interest", not "niterest".

Page 18, line 3; the 1st word should be "to", not "in".

Page 18, line 29—30; the word "Republicans" should be divided "Repub-licans", not "Repu-blicans".

Page 19, line 11; the 1st word should be "to", not "io".

Page 19, line 15; the figure at the end of the line should be "1", not "3".

Page 19, line 16; the figure at the end of the line should be "2", not "4".

Page 20, line 2; the 4th word from the end should be "statute", not "state".

Page 21, line 6 from the bottom; after the word "making", insert the word "two".

Page 23, line 19; the 1st word should be "proper", not "droper".

Page 24, line 8; the 1st 3 words should read "not been adopted", instead of "been adopted not".

Page 25, line 7 and 8; the word divided between these lines should be "certainty", not "certanity".

Page 26, line 18; after the word "regarded", should be the word "as", not "a".

Page 26, line 22; the 1st 3 words of the new sentence should read "Therefore, and again", not "Therefore and again,".

Page 30, line 18; the 1st word should be "what", not "whit".

Page 30, line 23; the last word should be "with", not "whith".

Page 32, line 6; the 1st word should be "if", not "it".

Page 33, line 5; a comma should be inserted after "not", so that the last 4 words will read "do not, it must".

Page 35, line 6; the word in the middle of the line should be "monthly", not "montly".

Page 36, last line; strike out the word "on", after the word "catch".

Page 38, line 14; after the word "right", insert the word "to", so that it will read "right to sell".

Page 39, line 2 from bottom; the 1st word should be "is", not "are".

Page 43, line 18; the word after "who" should be "would", not "whould".

Page 45, line 17; the last words of the sentence should be "naturally varies a good deal", not "varies naturally a good deal".

Page 45, line 20; insert the word "the" before the word "rural".

Corrections to be made in the forms of Mr. Wilcox's article on "The Government of Great American Cities".

On the title page; "Detroit, Michigan U. S. A." should be changed to "New York City".

Page 57, line 23; instead of "per cent", the word should be "percentage".

Page 59, line 4; the 1st word should be "centrally", not "enterally".

Page 63, last line of paragraph 13; the 10th word should be "years", not "yeares".

Page 68, line 2 from bottom; the 2nd word should be "speaking", not "speeking".

Page 69; the dash (—) at the end of the 2nd line should be taken away and placed at the end of the 1st line, after the word "cities".

Page 78, line 6; the 4th and 5th words should be "doubtful whether", not "doubtful wheter".

Page 84, line 15; following the words "water mains" should be "a special tax", not "opecial tax".

Page 85, line 4 from the bottom; the last words should be "buildings, grounds", not "buildings grounds".

Page 87, line 17; the last word should be "laborer,", not "laborer.".

Page 89, line 16; instead of the words "the latest report", put "this report".

Page 91, line 8; the 4th and 5th words should be "that steps", not "thats teps".

Page 100, line 1 of second paragraph; the 6th and 7th words should be "legislative control", not "legisl ativecontrol".

Page 101, line 7; after the word "state" insert the word "of".

Page 101, line 11; the last 4 words should be "tunnel, gas and electric", not "tunnel gas and electric".

Page 101, line 3 from bottom; insert "and" before the words "has authority".

Page 104, line 19; instead of "three larger boroughs", put "three more populous boroughs".

Page 105, line 1; at the end of the line should be "in the less populous", not "in the small".

Page 107, line 11 and 12; the word "unanimous" should be divided "unan-imous", not "un-animous".

Page 107, line 12 and 13; strike out the words "the granting of a franchise".

Page 111, line 4 of last paragraph; the words should read "for navigation and the commerce", not "for the navigation and commerce".

Page 112, line 13; strike out the 1st word, "as".

Page 122, line 2; the 3rd word should be "conformation", not "confirmation".

Page 121, line 4 of 2nd paragraph; after the word "control", insert the word "of".

Page 126, line 7; the line should begin "including the speed of the boats", not "including the of the speed boats".

Page 126, line 28; the 3rd word from the end should be "apart", not "appart".

Page 127, line 22; the 6th word should be "taxpayer's", not "taxpayers".

Page 129, line 21—22; the word "elementary" should be divided "element-ary", not "elemen-tary".

Page 130, line 29; the 4th word should be "separate", not "seperate".

Page 130, line 30; the 4th word should be "Mayor", not "Mayer".

Page 133, line 8; the 3rd word should be "Department", not "Commission".

Page 134, line 7; the line should begin "ployees' work", not "ployees, work".

Page 135, headline; the words should be "Great American Cities", not "Grea Americant Cities".

Page 135, line 2 from bottom; in place of the words "street franchise utilities", put "street railway, gas and electric franchises',.

Page 136, line 11; the line should begin "taxation — churches", not "taxation, churches".

Page 136, line 22; the last words of the line should be "shrunk to a little more", not "shrunk into a little more".

Page 138, line 3 from the end of middle paragraph; the last words should be "are wells", not "all wells".

Page 140, line 17; the next to the last word should be "of", not "oft".

Page 142, Chicago, line 5; the 2nd word should be "general", not "gensersl".

Page 144, line 17; the 4th word should be "throughout", not "troughout".

Page 144, line 20; at the end of the line should be "$ 1.00", not "1,00".

Page 146, the headline should be "Delos F. Wilcox", not „Delos J. Wilcox".

Page 146, line 20; the 4th and 5th words should be "however, although", not "however although".

Page 154, line 2; the 5th word should be "authorize", not "authorized".

Page 154, line 26; the 7th and 8th words should be "parks, which", not "parks which".

Page 154, line 30; the 3rd word should be "were", not "ware".

Page 155, line 12; the 3rd word should be "to", not "for".

Page 158, the headline should be "Delos F. Wilcox", not "Delos J. Wilcox".

Page 158, line 18; the 1st word should be "them", not "hem".

Page 158, line 32; the 5th word should be "to", not "te".

Page 163, line 4 from the bottom; words should be "subject to the approval", not „subject, to the approval".

Page 164, line 29; the 8th word should be "reduced", not "rcduced".

Page 166, line 4 from bottom; the 3rd word from the end should be "employed", not "emyloyed".

Page 169, line 19; the 6th word should be "estimated", not "extimated".

Page 170, line 1; the 8th word should be "under", not "udner".

Page 170, line 4 from bottom; the last word should be "ineffectual", not "inneffectual".

Page 174, line 5 from bottom; the 10th word should be "based", not "pased".

Page 178, line 9 from bottom; the sentence should begin "A citizens'", not "A citizens".

Page 181, line 8 from bottom; the line should end "removed,", not "removed".

Page 183, line 11; the 8th word should be "rights", not "rigths".

Page 183, line 13, it should be "$ 1.00", not "$ 1,00".

Page 183, line 14; the next to the last word should be "thereafter", not "there after".

Page 183, line 9 from bottom; words should be "pearls before", not "pearls be fore".

Page 188, line 25; the figures should be "$ 30,000,000", not "$ 30,0000,000".

Page 189, line 5; the 1st word should be "successful", not "succesful".

Page 196, line 24; the 9th word should be "forms", not "foums".

Page 197, line 9 from bottom; the 8th word should be "reform", not "referm".

Page 200, line 15 from bottom; the 4th word should be "real", not "raal".

Page 202, line 10; the 7th word should be "of", not "for".

Page 203, line 11 from bottom; the 1st word should be "Two" not "The". And the 5th word should be "together", not "altogether".

Page 204, line 6 from bottom; the line should end "Sheriff,", not "Sheriff".

Page 206, line 13; the 3rd word should be "public", not "puhlic".

Page 206, line 25; the 11th word should be "Citizens'", not "Citizens".

Page 207, line 10; the 4th word should be "committee", not "committed".

Page 206, line 28; the 3rd word should be "Christian", not "christian".

Page 214, line 15; the 8th word should be "maintenance", not "maintainance".

Page 216, line 3 from bottom; the last word should be "all", not "al".

Page 219, line 2 from bottom; the 5th word should be "nevertheless", not "nevevertheless".

Page 220, line 17; the figures should be "$ 0.55", not "$ 55".

Page 230, line 11 from bottom; the 3rd word should be "development", not "developement".

Page 232, line 15; the 1st word should be "schools", not "schoools".

Page 232, line 23; the 2nd word should be "Quincy", not "Luincy".

Page 233, line 12; the 1st word should be "Consumptives'", not "Consumptives,".

Page 233, line 3 from bottom; the 1st word should be "Sanitary", not "Sanitery".

Page 234, line 3; the 1st word should be "Soldiers'", not "Soldiers,".

Page 236, line 1; the 4th word should be "convenience", not "convinience".

Page 236, line 7; the last word should be "a", not "an".

Page 236, line 12 from bottom; the 1st word should be "paying", not payming".

Page 236, line 11 from bottom; the 3rd word should be "subway", not "subways".

Page 236, line 10 from bottom; the 2nd word should be "maintenance", not "maintence".

Page 243, line 4 (Baltimore); the 2nd word should be "square", not "equare".

Page 244, line 5; the last word should be "uselessly", not "uselessy".

Page 244, line 12; strike out the last word, "people".

Page 247, line 9; the 1st word should be "neighboring", not "neighbouring".

Page 248, line 11 from bottom; the 2nd word should be "departments", not "departmeuts".

Page 249, line 9; the 4th word should be "of", not "for".

Page 254, line 2—3; the word "established" should be divided "estab-lished", not "esta-blished".

Pages 254, line 6; the 7th word should be "Manufacturers'", not "Manufacturers,".

Page 256, line 10 from bottom; the 8th word should be "aside", not "asside".

Page 259, line 7; the 8th word should be "be" not "de".

Page 259, line 9 from the bottom; strike out the 6th word, "has", after "Johnson".

Page 267, line 2 of paragraph on "City's Finances"; the figures should be "$ 27,785,903", not "27,785,903".

Page 274, line 2 from bottom; 7th word should be "California", not "Colifornia".

Page 277, line 13 from bottom; the 7th word should be "measure", not "amendment".

Page 279, line 3; the 8th word should be "contain", not "contsin".

Page 282, last word of 1st paragraph; should be "inevitable", not "inevitible".

Page 283, line 5; the 5th word should be "administrator", not "administratur".

Page 283, line 13; the 2nd word should be "Public", not "Pnblic".

Page 283, line 14; the 4th word should be "public", not "puplic".

Page 285, (New Orleans) line 10; the 2nd word should be "valleys", not "vallays".

Page 287, line 6; the 8th word should be "brought", not "hrought".

Page 287, line 8; the 9th word should be "speaking", not "speeking".

Pages 287, line 9 from bottom; figures should be "1893", not "1896".

Page 288, line 5; the 6th word should be "city", not "City".

Uncorrected pages 289—299.

Page 290, line 24; the 1st word should be "committee", not "cemmittee".

Page 291, line 1; the 2nd word should be "remaining", not "remaning", the 11th word should be "and", not "end".

Page 291, line 18; the 10th word should be "sewage", not "sewerage".

Page 291, line 9 from bottom; the 9th word should be "Board", not "Bord".

Page 292, line 11 from bottom; should begin "nine-tenths per cent, or $ 2.90", not "mine-tenths per cent, or $ 2,90.

Page 293, line 4; the 3rd word from the end should be "unpaid", not "un-paid".

Page 293, line 9; the 4th word should be "financial", not "financials".

Page 294, line 2; should begin "in the", not "insthe".

Page 294, line 10 from bottom; the last word should be "though", not "tough".

Page 294, line 8 from bottom; the 3rd word should be "up-to-date", not "upto-date".

Page 194, line 2 from bottom; the last word should be "States", not "Stated".

Municipalities in England.

From

F. W. Hirst.

Introduction on English local government generally.

The history of local administration in England previous to the great Reform Bill of 1835 is tortuous and in some respects obscure, though through all its deviations and incongruities threads of continuity may be traced from Anglo Saxon if not from Roman times. The idea of local self-governing communities urban or rural was never wholly lost, being preserved in towns by charters and guilds, in the country districts by the parochial institutions fostered by the Roman Church. Under the centralising rule of the Norman Kings local institutions and local jurisdictions were enfeebled by the appointment of royal officers and judges, and the establishment of Justices of the Peace in the 14th century by Edward the Third placed the administration of the laws and the ultimate control of all rural life in the hands of landed proprietors who, though local residents, were nominated by the King. From a social point of view the institution of Justices of the Peace is perhaps the most important event in the history of the English nation. The towns however were considered as distinct communities more or less free according to circumstances from the jurisdiction of the County Justices, and in the fifteenth century nearly all the towns of England were held to possess (by grant or by implication) charters of incorporation conferring various customary privileges and rights of self government. From this time until the termination of the Stuart dynasty by the Revolution of 1688 the history of English local government so far as it can be disentangled from the particular circumstances of particular localities is part of the great struggle between parliament and the King, or between the law and the Crown. Already in the 14th century parliament had begun to receive petitions from boroughs and shires against administrative and judicial

grievances, and these petitions gradually took the modern form of public and private (or local) bills which become public and private (or local) Acts after they have passed both Houses of Parliament and received the King's assent. This activity of the House of Commons, though it certainly developed a new form of central control over local administration, was also highly favourable to local autonomy. But under the strong rule of the Tudors the progress of parliamentary authority was checked. The House of Commons lost much of its independent bearing, and allowed the sovereign to develop a new administrative power which soon threatened to sap the independence of the judges, to upset the rule of law, and to put an end to parliamentary control over public taxes, expenditure and administration. The privy council was reorganised, administrative orders and regulations unauthorised by statute were issued to justices of the peace. A judical committee called the Star Chamber was formed for the purpose of hearing cases of administrative law, and it seemed quite possible that the whole stream of English life and government might be turned into a continental channel. Fortunately (as we think) the Stuart Kings were unsuccessful in their attempts to carry on the Tudor system. Though the defeat of Charles in the Civil War was not quite final, the expulsion of James put an end (for a time) to the struggle between King and Parliament, established the control of the House of Commons over public expenditure, and fortified the rule of law by the impregnable rampart of an absolutely independent judiciary. The curious thing is that for nearly a century and a half no reforms were introduced into the system of local government. So far as legislation was concerned the edifice of local government in England continued to rest until 1834 upon two statutes — the Act of Edward the Third providing for Justices of the Peace & the Act of Elizabeth providing for a poor rate. The first conferred an almost absolute dictatorship of rural life upon the landlord class, who were at once administrators & judges. The second supplied the machinery for defraying the expenses of the poor laws by means of a poor rate. The Act of Elizabeth still remains on the Statute books, and is the basis of the English law of rates, by means of which most of the revenue required in town and country for local purposes is raised to this day. The necessity for a landed qualification for the office of a County Justice was only repealed last year, and the administration of rural government was only withdrawn

from Quarter Sessions in 1888. It will be interesting to see whether the new attack (by land taxers) upon the principles of a rating system established in the reign of Elizabeth will prove successful. If so it will probably take the form of a proposal to rate land and houses separately and to throw the land rate upon the owner of the land while the house rate continues to be paid by the occupier of the house.

No doubt the long era of legislative indifference to the needs of localities lasting from 1688 to 1834 is to be explained by the continued predominance of the territorial oligarchy in parliament, and this again was mainly due to the permanent results of the Tudor and Stuart policy, deliberately adopted, of perpetuating and extending the system of rotten boroughs. Political and municipal corruption went hand in hand. It was the policy of the Crown to put „a select body" as it was called in control of a town with the double object of stifling local autonomy and of restricting the franchise to the so called „freemen", who alone was allowed to vote. It was impossible for an unreformed parliament to reform local government. Consequently with the enormous growth of manufactures and trade from 1750 onwards new towns and suburbs grew up whose only government was the antiquated rule of the lords of the manor or the primitive organisation of parish vestries.

At last in 1832 the Reform Bill was carried, and the Government of England passed into the hands of the middle classes under the fairly capable and sympathetic leadership of a Whig Aristocracy. The first tasks of the new parliament were the reform of the poor laws and the reform of municipal corporations. The first was successfully carried in 1834, the second in 1835. The Poor Law Amendment of 1834 and the Municipal Corporations Act of 1835 have stood the test of time and criticism, and though the former has already received substantial modifications and may require to be completely recast in the near future no one doubts that it represented a great advance of statemanship. It was the first large and successful application to the most difficult of social problems of a system combining a popular elected local body with a central authority composed of permanent officials controlled by parliament. The reform of Municipal Corporations has proved satisfactory in all its main features and the Municipal Code of 1882 only differs in comparatively trifling details from the original measure. Since 1834—5

the volume of local government law has swollen enormously. For the next forty years parliament was largely occupied with sanitary reform, with the improvement of highways and with half-hearted attempts to give London a decent administration. At first the ad hoc principle adopted for the poor law was freely applied to other branches of local government. Highway Boards and Health Boards and School Boards were established. But in course of time the inconvenience of multiplying local authorities was made obvious. The complexity of areas became intolerable. And eventually the rural and urban sanitary authorities, to whom the sanitation of non-municipal areas was entrusted by the great Public Health Act of 1875, were transformed into urban and rural district councils by what is popularly known as the Parish Councils Act of 1894. Six years previously the administrative duties exercised by the County Justices had been transferred to popularly elected County Councils and eight years later the functions of School Boards were handed over to County Councils and Urban Authorities. By the two Acts of 1888 and 1894 a great simplification was effected both in local areas and local authorities. The Local Government map of England now takes account of parishes, rural and urban districts, counties, municipal boroughs, and poor law unions. And with the exception of poor law unions, which were formed without reference to other jurisdictions, these areas no longer overlap.

Thanks to the legislation of 1894 the poor law guardians of rural unions are identical with the district councillors, and doubtless when the next revision of the poor laws is undertaken the administration of poor relief in towns will be transferred to the municipal authority, unless indeed this most ancient of local burdens should be recognised as a purely national obligation.

But a bird's view of the English system of local government would be incomplete if the central authorities were left out of the picture. We have noticed how in Tudor and Stuart times a serious attempt was made by the Crown to establish a central control and direction of local affairs free from parliament and the courts of law. Administrative orders were issued from time to time by the Privy Council to Justices of the Peace, and the Star Chamber was elected as a court of administrative law. But this system was broken down by the Civil War, and when Cromwell's military dic-

tatorship came to an end all attempts to guide and systematise local government were abandoned. Apart from the appointment of Justices of the Peace, the only form of central control which existed in the eighteenth century was Private Bill Legislation. An enormous number of private or local Acts were passed authorising the enclosure of public lands or schemes of drainage and other public works, and setting up a bewildering series of Commissioners appointed or elected in every imaginable way. At the beginning of the nineteenth century administrative chaos and confusion reigned alike in town and country. The poor laws had broken down, the police forces were generally incompetent and inadequate, the old boroughs were mismanaged by corrupt corporations, and the newly grown towns had no coherence at all, the functions of local administration being parcelled out among Parish vestries, paving boards, lighting boards drainage commissioners and so on. The only uniformity that existed was of a negative or potential kind depending upon the known right of every citizen to question the acts of any public body or magistrate before an independent court of law. The collapse of this system (or rather chaos) was caused by the double stress of the French War and of the industrial revolution. The one broke down the administration of the poor laws by the overwhelming mass of pauperism which it produced, and the other caused such a growth of urban populations in places where no suitable apparatus of government existed that large and sweeping reforms became inevitable.

These reforms began with Sir Robert Peel's Metropolitan Police Act of 1829, by which a new London police force was constituted and placed under the Home Secretary, so that the Home Office became an important organ of Local Government. The control of the police of the Metropolis is however a quite exceptional matter, being regarded as a national rather than a local concern; otherwise it would never have been handed over to the direct management of a Government department even though that department is under a Minister responsible to Parliament. The exceptional character of the case is proved by the fact that no attempt was made to extend the principle. Outside London the police forces are managed and controlled by borough and county councils, and *are only inspected by the Home Office whose certificate of efficiency* has been made necessary to the earning of a Treasury Grant. Three

years after the London Police Act came the great Reform Bill. For more than thirty years Bentham and his disciples had been theorising on the improvements of law and government. And now at last their theories became projects and began to ripen into legislation. The Benthamic scheme of local government consisted of local „ad hoc" bodies elected on a democratic suffrage, their size and area being determined solely by administrative convenience without reference to historical considerations. Over them all there would be a central department to guide inspect and inform. These ideas were largely adopted by Parliament in the Poor Law Amendment Act of 1834. Under this statute Poor Law Unions were formed, and an „ad hoc" Board, called Poor Law Guardians, was elected to administer the poor laws in each Union. A central Board of Poor Law Commissioners with large powers of control over the local guardians was also established. At the same time a system of auditing poor law accounts was introduced, and the auditors after being at first local officers were subsequently transferred to the central authority.

Fourteen years later, by the Public Health Act of 1848, the beginning was made of a sanitary code, and a General Board of Health after the pattern of the Poor Law Board was created for a provisional term of five years. The powers of the central body in this case were less than those of the poor law commissioners. At first there was no financial check; for the Audit was left in the hands of the local authority, but this was remedied by the Acts of 1875, except as regards the Sanitary accounts of municipal boroughs.

A considerable supervirsory control was exercised by the Board of Health through its inspectors, and its efforts were remarkably successful considering what small powers of compulsion it possessed. Much opposition was however aroused by the advocates of complete local authority and a bill inspired by Chadwicke for extending a similar control to London was defeated.

The Board of Health was dissolved in 1858, and by the Local Government Act of that year its powers of superintendence and control were distributed between the Home Office and a subordinate branch of the Privy Council.

As the sphere of local government and the intensity of local activity steadily increased the need for a single central authority to

collect and distribute information as well as to superintentend and control the local bodies became more and more evident. In Mill's famous essays on Liberty (1859) and Representative Government (1861) which for a long time served as the philosophic basis of English Reformers it is laid down that there should be „a central superintendence, forming a branch of the general government" It would have a right to know all that is done locally and its special duty should be that of making the knowledge acquired in one place available for others. Mill argued that a central Department has or ought to have many advantages over a local body. It ought to have a more enlightened head and more intelligent officers; but then, as he also points out, the local body is likely to know its own business better and to be keener in administration. He might have added that local authorities except the very large ones are free from the paralysis of routine and red tape. The stereotyped answers of Government officials — the consequences of habit or convenience — indicate the characteristic evils of bureaucratic government. Mill's conclusion may be given in his own words: — „the authority which is most conversant with principles should be *supreme over principles while that which is most competent in* details should have details left to it. The principal business of the central authority should be to give instructions, of the local authority to apply them. Power may be localised, but knowledge to be most useful must be centralised".

There is no doubt that Mill's balanced and persuasive reasoning went far to justify and confirm that mixture of local antonomy with central superintendence which had been growing up in a piece-meal and haphazard fashion from 1834 onwards. If the Poor Law and Public Health Boards were the offspring of Bentham the Local Government Board was the child of Mill, and the same may be said of the Boards of Education and Agriculture. The Board of Agriculture exists mainly for the purposing of collecting and diffusing intelligence about the art and science of Agriculture. It is also a Board of Health for domestic animals. The Board of Education, it has been justly remarked, had some powers (e. g. that of dissolving a recalcitrant School Board and of appointing another in its place) which could only be justified on Mill's principles by treating education as in the main a national rather than a local concern [1].

[1] See sections 6, 63, 66 of the Education Act of 1870.

A short survey of the functions and construction of the Local Government Board will complete this prelimary sketch and assist our subsequent study of Municipal Government in England. The Local Government Board was created in 1871 to take over two great departments of administration — the superintendence of the poor law and sanitary authorities. It is a Board in name only; for although the President (always a Minister and member of the Cabinet) is supposed to be assisted by certain colleagues also member of the Government (the Lord President of the Council, the Lord Privy Seal, the Home Secretary and the Chancellor of the Exchequer) the Board as a matter of fact never sits. The President is supreme and his decisions are the decisions of the Board. He is answerable to the Cabinet and the House of Commons. He is assisted by the Parliamentary Secretary, a subordinate minister, who also sits in Parliament and assists his chief in answering questions and in conducting through parliament bills relating to local government. The Local Government Board is a large department including about 350 clerks and a large number of inspectors and district auditors, who live in the districts committed to their charge. At the head of the permanent executive are the Secretary, five assistant secretaries and a legal adviser. Among the inspectors are Poor Law Inspectors, medical inspectors and engineering inspectors. The task of the District Auditors (about fifty in all) is to audit the accounts of all the local authorities in England other than the municipal Councils, which retain their original antonomy except as regards their new functions in the sphere of local education. Professor Redlich has pointed out that relation which exists between the Local Government Board and the local authorities in England is quite different from that between the central and local organisations on the continent. The Local Government Board seldom speaks in imperatives. It has little power of initiative or direction[1]. The Board collects statistics of local government work and publishes them for the benefit and information of the public as well as for its own use. As Auditor of local accounts it can check illegal expenditure. Through its Inspectors it can exercise considerable influence over special branches

[1] Perhaps the strongest example of its powers is section 299 of the Public Health Act 1875, a provision for dealing with a defaulting sanitary authority.

of local administration. It has also a power of regulation by order exercisable under particular Statutes and within the limits prescribed by those Statutes. Thus the Poor Law Orders of the Local Government Board fill an enormous volume and are practically equivalent to so much supplementary legislation. If however an Order can be shown to be ultra vires it will be anulled by the Courts of Law.

Besides the Board's power of issuing Orders and Regulations its confirmation or sanction is required for bye laws under the Public Health Acts and also in many cases for local loans. Under the Provisional Order system it relieves parliamentary committees of a good deal of work in connection with Private Bill Legislation, and under certain Acts of Parliament such as the Local Government Act of 1894, which created Parish and District Councils the Local Government Board's has supervised and directed the readjustment and simplification of areas. But „the general power of issuing administrative commands and compelling obedience, which belongs to the superior officials of a continental bureau, is quite unknown in England. The Local Government Board has no right even to compel a local authority to carry out the law or to refrain from breaking it, and what power the Board has is usually to be exercised through the medium of the Courts, e. g. by issuing a writ of mandamus, or obtaining an injunction in the High Court. It can only venture to use administrative force in exceptional cases defined by statute, and under forms duly authorised by law. Iuspection, taken in the widest sense, so as to include inquiry as well as supervision and control, is the ordinary function of the Local Government Board; and it is under the form of inspection that the administrative interference of the central authority in the province of local government usually manifests itself". [1]

The General Inspectors of the Board report annually on the Poor Law and sanitary administration; they have power to attend meetings of the Boards of Guardians and district councils and they hold local enquiries, especially in cases where the sanitary condition of a locality is unsatisfactory.

Besides its quasi legislative powers the Local Government Board also enjoys in certain well defined cases a quasi judicial authority. Thus local poor law authorities may submit questions

[1] Redlich and Hirst's Local Government in England, (1903) vol. II, p. 247.

arising between them as to the settlement, removal and chargeability of paupers to the Local Government Board, and in that case the Board's order „shall be in all Courts final and conclusive".[1] Again a local authority whose expenses are surcharged or disallowed by a district auditor may appeal „on the merits" to the Local Government Board[2] which in such case may (and usually does) temper justice with mercy. Aggrieved ratepayers may also appeal to the Board against the allowance by its inspector of items which they think should have been disallowed. In a considerable number of cases arising under the public health acts this quasi judicial action of the Local Government Board may be invoked. The Board acts rather as an arbitrator than as a judge. Its decision is more practical than legal and its final „order" is rather in the nature of an award than of a judgment.

From the above it will be seen that the Local Government Board has less do with borough councils than with other local authorities, its superintendence over municipal concerns being confined to the sphere of public health.

Municipal Government in England.

Next to Boards of Guardians, which are concerned with the administration of the Poor Laws and whose reformed constitution dates from the year 1834, the Councils of municipal Boroughs are the oldest of the reformed local authorities. Their constitution dating from 1835 bears marks of a period when the legislature had not yet accustomed itself to the thought of an absolutely unmixed local democracy. Nevertheless it is worthy of remark that, while the aldermanic system certainly tends to prevent the rapid reflection by the council of the prevailing local moods, the Municipal Council has more freedom and independence than any other authority. While the accounts of every other local authority[3] are subjected to the independent scrutiny of a government auditor the English municipality is exempt from this wholesome restraint, its expenditure as local education authority under a recent Act being the only exception.

[1] Poor Law Amendment Act 1851 section 12.
[2] See Poor Law Amendment Act 1848. section 4.
[3] Except the Corporation of the City of London.

Municipal Councils may also in pursuance of an old common law right confirmed by the Municipal Corporations Act of 1835 „make such bye laws as to them seem meet for the good rule and government of the borough", and these bye laws (unlike public health bye laws) are not subject to confirmation by the Local Government Board, but are valid unless that are disallowed by the Privy Council (in this case the Home Secretary) within forty days after a copy sealed with the corporate seal has been sent to a Secretary of State. The principal check upon this quasi-legislative power lies in the Courts of Law which may at any time refuse to enforce bye laws on the ground that they are unreasonable illegal or ultra vires. Probably the reason why the first reformed parliament was so generous in the trust it reposed in Municipal Corporations was its confidence in the law. It knew that the whole sphere of municipal administration lay under precisely the same legal control as the acts of individuals. Any person aggrieved by a municipal corporation or any other local authority had then and has now his remedy before the ordinary courts of law. There is no droit administratif in England, and the want of it has had a most wholesome effect upon the proceedings of the local authorities, their officials and servants. Moreover the magistrates and judges seem to take a peculiar pleasure in castigating the excesses and indiscretions of local authorities. Before the year 1835 no general legislation existed relating to the form and constitution of an English municipality. By the Municipal Corporations Act of that year every considerable municipal borough with the one great exception of the City of London was brought into conformity with one general constitution and regulated by one general code[1]. „At a single blow all the old charters and grants were annulled, in so far at least as they conflicted with the new municipal code. A long series of amending and supplementing enactments followed, and these again were consolidated and superseded by the Act of 1882, a true codex municipalis. Since that time some small amendments have been made; but the Act of 1882 remains

[1] The Commissioners appointed in 1833 made enquiries in 285 places but found that in 35 of these the municipal functions supposed to exist were unworthy of serious consideration. Of the 246 corporations which really possessed municipal powers only 178 were scheduled and placed under the Municipal Corporations Act of 1835. The remaining 68 were left alone — 67 because they were too small, London because it was too powerful.

the principal source of the general municipal law which binds English municipalities and distinguishes them in some respects from other forms of local organisation [1]!

In the following brief description of the constitution of English municipalities we are therefore mainly concerned in summarising and explaining the provisions of the Municipal Corporations Act of 1882. When we proceed to inquire into their field of activity (Wirkungskreise) we have to turn to the Public Health Acts and many other statutes, including in the case of particular boroughs a large mass of private bill legislation and provisional orders.

A municipal borough is the territory of a municipal corporation. Its boundaries are of ancient origin, based rather upon history than convenience save where they have been fixed or altered in modern times by charter, by private bill legislation or by a provisional order of the Local Government Board. The locus classicus for the delimitation and extension of urban areas is still the Report of the Municipal Boundary Commissioners issued in 1837, where the governing considerations that should apply to this difficult problem are admirably laid down [2].

Such being a municipal borough what is a Municipal Corporation? The answer is to be found in the definition contained in section 7 of the Act of 1882; „A municipal corporation is the body corporate constituted by the incorporation of the inhabitants of a borough." The official name or style of the body corporate is declared in the next section as „the Mayor Aldermen and Burgesses of the borough of —". A burgess is a resident of the borough or city who has been duly enrolled as a burgess. He is a member of the public corporation into which the community has been transformed by the grant of a charter. Practically all ratepayers (i. e. all occupiers of rateable property within the borough) are burgesses. But they must

[1] Redlich and Hirst loc. cit. vol. 1 p. 220 For the preceding state of things see vol. 1 p. 111 sqq; of Merewether and Stephens History of Boroughs (1833) and the Report (1835) of the Royal Commission which was appointed in 1833 to inquire into the Municipal Corporations of England and Wales.

[2] A special chapter on Municipal Extension including later legislation and procedure with regard to the alteration of boundaries of English local authorities will be found in Redlich and Hirst Vol. I pp. 228—244, where the principles governing the subject are examined.

reside (i. e. sleep) not more than seven miles from the municipal boundary. Single women may vote at municipal elections on the same terms as men. But married women are disqualified. The municipal council (often but incorrectly referred to as „the Corporation") consists of a Mayor Aldermen and Councillors. No woman, clergyman, or minister, and no person who contracts with the council may be a municipal councillor. Otherwise all burgesses are eligible for election as municipal councillors. In fact the qualification for councillor is in one way less stringent than the qualification for burgess; for a councillor need not keep to the seven mile radius. It is enough if he resides within 15 miles of the borough boundary.

The Council is the sole representative and organ of the burgesses. In the wordsof the Municipal Corporations Act of 1882 section 10 „the municipal corporations of a borough shall be capable of acting by the council of the borough, and the council shall exercise all powers vested in the corporation by this Act or otherwise." The number of members of a municipal council vary more or less in accordance with the size of the borough. The only general rule regulating the size of a couuncil consists in a provision that the number of aldermen must be one third of the number of Councillors. In the case of the larger boroughs that are divided into wards it is further provided that the number of councillors assigned to each ward shall be a number divisible by three. In fixing that number regard must be had „as well to the number of persons rated in the ward as to the aggregate rating of the ward"[1]. This is almost the only concession made by modern English legislation to the view that in the sphere of local government a greater voting power should attack to large ratepayers than to small ones. Even this is indirect and only applies to boroughs that are divided into wards.

The elections of Councillors are held by ballot on November 1st in each year. Candidates are nominated on a form supplied by the Town Clerk. A councillor's term of office is for three years, and one third of the whole number retire every year. The smallest existing town councils consist of 3 aldermen and 9 councillors, while the largest (Liverpool) has 30 Aldermen and 90 councillors.

Aldermen are „fit persons elected by the council" (not by the Councillors) and their number, as we have already seen, must be

[1] M.C.A. 1882 section 30.

one third the number of the Councillors. The qualification for an alderman is the same as the qualification for a councillor, and any councillor may be elected alderman, but if he be so elected and accept the office of alderman he vacates the office of councillor and there is a bye-election. An Alderman enjoys two advantages. He avoids the trouble and expense of a contested election, and his term of office is six years — twice that of a councillor. The institution of an aldermanic bench has been much criticised in England as a serious and unwarrantable limitation upon the principle of democratic self government; but on the whole its advantages are held to more than compensate for its disadvantages. In the first place it favours continuity of policy by providing a greater continuity of personnel. In the second place it often enables a council to secure the services of a man of ability and experience who may like the aldermanic dignity but would not care to face a contested election. But as a matter of fact in most boroughs aldermen are generally chosen from councillors or ex-councillors, the office of councillor being regarded as a sort of apprenticeship to the aldermanic dignity. Sometimes indeed there are complaints that the aldermen are apt to be worn out veterans, whose days of usefulness are over. At other times snobbery plays its part, and an outsider is elected an alderman or Mayor solely because he has a title or social distinction. But on the whole, as I have said, with one exception, which will presently appear, the institution of alderman — a sort of indirect second chamber sitting with the directly elected chamber — has given satisfaction. There is no serious movement for its abolition. On the contrary the institution was adopted by the legislature half a century later when the county councils were established in 1888. But in so doing one serious blot upon the municipal plan was removed. To explain this we must first set forth the mode of electing Aldermen in boroughs.

The ordinary day for electing councillors being November 1st the Mayor and Aldermen are elected eight days later, i. e. ordinarily at a meeting of the council on November 9th. After electing the Mayor the Council proceeds to elect new aldermen. The aldermen do not retire simultaneously every sixth year. It is provided that one half of the whole number shall go out of office every third year, another device to favour continuity of policy and personnel. But this principle is carried to an absurd extreme in a further provision

that although the outgoing aldermen may not vote the half who remain in office may. Each councillor and each non-retiring alderman has as many votes as there are aldermanic seats to be filled. „The result is that when parties are pretty evenly divided the party in possession, with the help of its surviving aldermen, can often obtain a fresh lease of power, although the elections have placed it in a minority as regards elected councillors [1]." In short a policy which is condemned by the burgesses may be continued in defiance of their expressed wishes. In the interesting evidence which he gave before the Royal Commission on the Amalgamation of London Mr. Harcourt Clare then Town Clerk of Liverpool gave the following local illustration: —

„Suppose that in Liverpool, where we have 16 wards, there happened to be 27 Councillors elected representing one party, and 21 representing the other party. If the 21 have, to start with, 8 Aldermen to add on to their number it makes them 29. Consequently when it comes to electing the 8 Aldermen in the place of the 8 retiring the 29 can just re-elect 8 of their own political party, and so get a working majority in the Council of a different complexion to the majority returned by the ratepayers [2]."

It is generally agreed that aldermen ought not to vote for aldermen, and this view has been given effect to in the County Council Act of 1888 so far as County aldermen are concerned. This is the change I referred to in saying that the Aldermanic system had been borrowed with an important modification by the legislature in setting up County Councils.

The whole business of municipal elections is conducted by the Council and paid for out of the Common Fund. The burgesses elect the councillors, and the councillors with the non-retiring aldermen elect the Mayor and the new aldermen. All these elections are absolutely free and independent. Neither the Crown nor the Ministry nor the Local Government Board has power to interfere with the elections, and since the passing of the Act of 1835 no attempt at interference is recorded. If a disqualified person is elected his election can be set aside by an appeal to the Courts of law. The old common law writs of certiorari, mandamus and

[1] Redlich and Hirst, vol. 1 p. 256.

[2] See Minutes of Evidence taken before the Royal Commission on the amalgamation of the City and County of London (c. 7493—1) p. 318. The Town Clerk of Nottingham agreed with Mr. Clare; see p. 296 of the same volume and see later on heeds.

quo warranto can still be employed against a Corporation or its officials. But these and other legal remedies against local authorities are equally open to the Minister and the private citizen. The only advantage of the central government over the individual citizen in this respect is that, whereas an action by the latter against a local authority must be instituted within 6 months of the Act complained of, no time limit is set to proceedings instituted by a Government Department.

Except as regards their mode of election and the length of their terms of office there is no difference between councillors and aldermen. Their rights and legal powers are equal and identical. They sit together on councils and committees. The only duty which falls upon an alderman and not upon a councillor is at municipal elections in towns divided into wards, where the returning officer for a ward must be an alderman assigned for that purpose by the Council. An illustration of the complete equality of aldermen and Councillors may be found in the fact that either an alderman or a councillor may be appointed by the Mayor to act as Deputy Mayor in his absence. A Deputy Mayor however is not an ex-officio magistrate, and he may not take the chair at a meeting of the Council unless appointed by the meeting.

The English Mayor cannot be compared in power or importance with the German Burgomaster or with the Mayor of an American town. He is an ex officio justice of the peace, and takes precedence as chairman on the borough bench, though not over a stipendiary magistrate. He also takes precedence at all social and public functions within the borough during his year of office. He has to do a good deal of entertaining, and in large towns he not infrequently receives a salary under section 15 (4) of the Municipal Corporations Act 1882 whereby „he may receive such remuneration as the council think reasonable." As Chairman of the Council and ex officio member of all the committees the Mayor might wield considerable influence over municipal policy and administration. But his time is so much occupied with official routine, social functions, and magisterial duties that he seldom occupies the important and almost dictatorial position which Mr. Chamberlain assumed during his Mayoralty at Birmingham. As a general rule in large towns the Mayor takes little part in the administrative work of the Council. At Nottingham for example, in the words of the Town clerk

Sir Samuel Johnson, „the Mayor is ex officio a member of every committee and now and then he attends a committee; if he thinks the matter of any importance, and he would like to be there, he attends; but he is occupied so much with the ab extra duties of his office, with the amenities of the office — *every morning at ten* o'clock for a couple of hours receiving and hearing what people have to say and so forth. They come to him to talk about everything especially for subscriptions, and that sort of thing, and the Mayor of the town seems to be a sort of repository for everybody's grievances."

His evenings, it is added, are almost occupied in presiding over non-political gatherings. In Scotland it is the custom for the Mayor (whatever his political complexion) to be asked to take the chair at important political meetings; but this is rarely the case in England.

The Town Clerk.

From the members of the Council who are unpaid (save for the occasional salary voted to the Mayor) it is natural to proceed to its paid officers and servants, — the executive staff which is appointed by the Council and carries out the policy laid down by the Council and its committees. Only three statutory officees are named in the municipal code whom a municipal council is bound by law to appoint. These are the Town Clerk, the Treasurer and the Chief Constable. The Town Clerk is a most important institution, and it is necessary to realise his position in order to understand the organisation and working of an English municipality. Section 17 of the Municipal Code runs as follows: —

1. The council shall from time to time appoint a fit person, not a member of the council, to be town clerk of the borough [1].

2. The Town Clerk shall hold office during the pleasure of the Council [2].

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[1] The appointment should always be ratified under the corporate seal. So many important duties have at times to be performed by the town clerk on behalf of the corporation that this precaution is necessary.

[2] A resolution of the council rescinding the appointment is sufficient. Reg. v. Thomas 8 A. and E. 183.

3. He shall have the charge and custody of, and be responsible for, the charters, deeds, records, and documents of the borough, and they shall be kept as the council direct.

4. A vacancy in the office shall be filled within twenty one days, after its occurence.

5. In case of the illness or absence of the town clerk, the council may appoint a deputy town clerk, to hold office during their pleasure.

6. All things required or authorised by law to be done by or to the town clerk may be done by or to the deputy town clerk [1].

Before Municipal Government was reformed by the Act of 1835 the Town Clerkship was in many boroughs a freehold office tenable for life with considerable fees and perquisites attached. The Municipal Reform Bill made the appointment of a town clerk optional, but the Tories strongly opposed this, and to satisfy them an amendment making it obligatory was accepted by the Whig Ministry. In the statutory provisions above quoted (which follow the original Act) the Town Clerk is evidently regarded mainly as a legal adviser and keeper of documents; but in actual practice he is invariably regarded as chief of the staff, and in nearly all large boroughs his duties on appointment are defined in writing, because the greater part of the work he is expected to do is neither stated nor defined by Act of Parliament. In many towns the duties of the Town Clerk are set forth in Standing Orders. The actual influence of a Town Clerk over the administration and police of the Corporation depends first upon his own ability, act, initiative and secondly, upon the vigour and determination of the municipal council. He has no legal or constitutional authority of any kind. He usually attends all metings of the Council as well as of important committees, but merely to inform and if called upon to advise. He cannot of course vote either in the Council or on a committee; and though he is usually allowed ‚the right of audience' he seldom exercises it unless called upon. It is natural and proper as well as to his interest that he

[1] The effect of sections 58 and 65 of the Act of 1835 is preserved in this clause. In nearly all large boroughs the duties of the town clerk are defined in writing, because work is thrown upon him other than that defined by statute. Subject to the provisions of this Act the ordinary law of master and servant would apply to all officers appointed by a town council.

should not identify himself with any political party. His opinions should be independent, and when they are overruled it is his duty to help to carry out loyally and to the best of his ability whatever policy is resolved upon by the council.

In large towns he has a deputy clerk and several assistant clerks who relieve him of the work of attending committees except when a meeting is of special importance. In these cases, though he tries to watch over the whole administration and keeps in touch with the Chairmen of Committees, he often has to give up much of his time to the personal superintendence of the legal work. This falls into two parts — legislation and litigation. Large boroughs frequently ask for special powers to do things for which they have no authority under General Acts. To obtain these powers they have to proceed either by Private Bill Legislation or by Provisional Order. The promotion of private bills or provisional orders is costly and responsible work, and it devolves upon the Town Clerk, acting with and under the authority of the Parliamentary Committee of the Town Council. Similarly the Town Clerk has to direct on behalf of the corporation all criminal and civil proceedings in which it may be involved. The briefs for counsel are prepared in his office and under his supervision. Although there is no statutory qualification it is obvious that a town clerk should have had a good legal training, and in fact he is generally a solicitor by profession, though sometimes also a barrister. In small towns the Town Clerk is often allowed to supplement his salary by private practice as a solicitor. His term of office as we have seen is during the pleasure of the Council, but so long as he is honest and fairly competent he may usually regard his appointment as for life.

We may conclude with a description of the Town Clerk of a great city drawn by the Town Clerk of Liverpool in his evidence before the Royal Commission of 1894 on the Amalgamation of the City and County of London: — „It is an extremely good thing for the Corporation's service to have one man at the head of everything who should have a sort of general supervision and control of the whole of the business of the Corporation. The result is that when the head of one department, say the engineer, comes with some scheme in connection with engineering and confers with you, you may be able to point out to him that in some way or other he is affecting another matter which is in another department, which did

not occur to him probably at the time, and so on. And then there is the question of the general policy of doing this, that, and the other, and when it shall be done, and the Town Clerk practically in that way forms a sort of nucleus, to which all the other officials come, whenever they want any advice or assistance. Then, in addition to that, the chairmen of committees confer with me on matters of any importance before the committees meet, and we discuss the subjects together, and decide how the thing should be done, and what ought to be done. Then the result of it is, that when matters come before the committee, the chairmen and officials are usually of one mind as to what is the right course to pursue with regard to any particular matter; and in that way you get I think, a very good administration, because you do not have the chairman coming in unexpectedly on a matter of which he knows little or nothing, and taking a different view to that of the offiicials who are advising the committee." [1]

The Committee System.

The remarks by Mr. Clare upon the relation of the Town Clerk to the Committees bring me in natural order to speak of the Committee system which is the key to Municipal Administration in England. Starting with an account of the Committee system we shall be able to unfold the whole internal organisation and working of municipal government in England. The system has grown up quite naturally with the growth of municipal work and with the steady increase of powers and duties imposed upon municipal Corporations by Parliament. Under the Municipal Corporations Act of 1835 a town council was only obliged to appoint one committee, namely the Watch Committee for the purpose of establishing and maintaining a police force within the borough. In many places — so little was the committee system required or understood — the town council appointed the whole of its members to the Watch Committee; but this was made impossible by the Municipal Corporations Act of 1882 wich provides by section 190: „the council shall from time to time appoint for such time as they think fit a sufficient number not

[1] Other leading officers are the Treasurer and Chief constable (both appointed under the Municipal Corporations Act) the Surveyor, the Accountant and the Medical Officer of Health.

exceeding one third of their own body, who with the mayor shall be the Watch Committee." Until 1902 the Watch Committee remained the only statutory committee, i. e. the only committee which a borough council was compelled by law to appoint. And in 1888 small borough councils were relieved of this duty; for by the County Councils Act of that year in the case of boroughs of less than 10 000 inhabitants the powers of the Watch Committee were transferred to the County Council. But in the year 1902 School Boards were abolished and the local control of public elementary education in municipal boroughs of more than 10 000 inhabitants was transferred to the town council and to a new „Education Committee". The constitution of this education committee under section 17 of the Education Act 1902 is somewhat novel because it gives (though rather in appearance than reality) a slight control to a central authority, the Board of Education. The Education Committee is to be appointed in accordance with a scheme made by the Council and approved by the Board of Education. But the Act provides that at least a majority of the Committee must be members of the Council.

So much for the Statutory Committees. All the other committees are appointed by the council with unrestricted authority as to their purpose or number under section 22 (2) of the Municipal Corporations Act of 1882, which runs as follows: —

„The council may from time to time appoint out of their own number such and so many Committees, either of a general or special nature, and consisting of such number of persons as they think fit, for any purposes which in the opinion of the Council, would be better regulated and managed by means of such committees; but the acts of every such Committee shall be submitted to the Council for their approval."

The above provision that the acts of a Committee must be approved by the Council is only an appplication to municipal Government of the legal maxim delegatus non potest delegare. Nevertheless, as the acts of a committee need only be confirmed by the Council, a council is abole to devolve all the ordinary work of administration on committees while reserving to itself a final voice aud control. In large towns the Committees frequently appoint sub-committees, whose work again is subject to the review and control of the Committee[1]. It may be observed that small councils

[1] The law of the subject is illustrated in the case of Cook. v. Ward L.C.P.D. 255. The decision in this case was appealed against but was upheld in the superior court.

frequently resolve themselves into a committee, which is called a committee of the whole council. At first sight it may appear absurd that a committee and a council composed of exactly the same members should exist side by side. But as Sir Samuel Johnson, the Town Clerk of Nottingham has observed, this is not so, because an opposition in committee (whether successful or unsuccessful) can be repeated when the proposal under discussion comes before the council. „Say for example", writes this practical lawyer and experienced administrator „that a council of 12 constitute themselves a committee. When sitting in committee a subject is discussed and divided upon. The minority in the interval between the holding of the committee meeting and the meeting of the Council (however long or short) may obtain information and learn facts which, if known in committee, might have influenced some on the opposite side to vote with them. The opposition might then be renewed when sitting as a council, and even if they are not armed with fresh facts or arguments minorities are not prevented from standing on their strict rights and renewing the opposition in council." The work of a committee falls naturally under two heads. First there is the ordinary day to day work of administration, — instructions to the officers and servants of the council in the particular branch of administration with which the committee deals to do so and so. This day to day work is recorded in the minutes and these are usually passed and approved almost as a matter of course at the monthly meetings of the council. Secondly there are proposals involving it may be some new departure or large fresh expenditure. These are discussed at the Committee meetings and a scheme prepared, which in due course comes before the Council for approval or rejection. But it is well understood that a committee must not begin to carry any such plan or new proposal into execution until it has received permission from the Council to do so.

Municipal committees may be divided into at least five classes. First come the two statutory committees for police and education already referred to. Secondly, there is the committee of the whole council — the latter being a device frequently adopted by very small municipal councils. In such cases it is hardly worth while to split up the body for committee work; but on the other hand, it is convenient to carry on the day to day work of administration in committee, partly beacuse it is well understood that the press can be excluded

from a committee meeting though not from a meeting of the council, partly to ensure sufficient debate and deliberation.

The third class of Committees are called Special committees, and are appointed as their name implies to investigate and report upon some special subject. They are usually temporary, and are dissolved when they have made their report. Thus if a town counil contemplated the introduction of electric lighting into the town as a municipal undertaking its first step would probably be to appoint a special committee to consider the question and report on its feasibility and cost. Some Town Councils appoint members to serve on Joint Committees usually established any special Acts of Parliament. In various parts of the country, especially in thickly populated districts like South Lancashire and the West Riding of Yorkshire, it has become desirable for the sake of economy and efficiency to compel boroughs to cooperate for certain purposes of government such as the treatment of lunatics, drainage, or the prevention of pollution in rivers. For these purposes Asylums Boards, Drainage Boards and River Boards have been constituted. Thus under the West Riding of Yorkshire Rivers Act 1894 a joint Standing Committee or Board was established to prevent the pollution of streams and rivers in the West Riding. This Board is a joint committee composed of representatives of the West Riding County Council and of five County Boroughs[1], Leeds Bradford Sheffield Halifax and Huddersfield.

We have reserved for the fifth place in the list the most important class of committees, namely the Standing Committees, which all Town Councils except in very small places appoint each year at their opening sitting in November. A thorough understanding of these committees and of their working affords a view of the administration of a modern English municipality. We may say that practically every borough of more than 50 000 inhabitants will have a Building Committee to control building operations in the town, a Sanitary Committee, a Sewerage Committee, a Highways Committee, a Waterworks Committee, a Gas and Lighting Committee, a Parliamentary Committee, and last but not least a Finance Committee.

[1] Any town of more than 50 000 inhabitants may be constituted a county borough by order of the Local Government Board see the Local Government Act. 1888. Sec. 52.

It has also been found convenient in most towns to have what is called a General Purposes Committee. This committee often undertakes the work of a „Selection Committee“ at the beginning of the year and prepares a plan, subject to the approval of the Council, for constituting all the Standing committees and for distributing the Aldermen and Councillors among them. It also (with the help of the Town Clerk) arranges business for the monthly meeting of the Council, discusses new schemes and projects, and generally undertakes work that does not naturally belong to any of the other standing committees [1].

The number of standing committees and sub-committees depends more upon the intensity of administration than upon the size of a town. A small town may have a greater proportion of citizens with requisite leisure, means and public spirit than a large town. In that case there may be more „municipal trading“ than in the large town, more of the natural local monopolies such as water, gas, tramways, electricity may have been municipalised; and it will consequently follow that the Committees of the smaller town Council will be proportionately more numerous and active. Thus it was noted a few years ago that Liverpool with a much larger population had fewer standing committees than Leeds, while Leeds again, with a much larger population, had fewer standing Committees than Nottingham. The Committee system of a town council is regulated by „Standing Orders“ and „Regulations“ which are usually published every year often in a „year Book“ for the convenience of members. The year book contains a list of the officers, of the Aldermen and Councillors and of the members of the different committees and sub-committees with other useful information.

Bye Laws and Standing Orders.

It is important to observe how complete is the autonomy of a municipal Council in regard to the self regulation of its own affairs and those of the municipality. This right of legislation or quasi legislation has two distinct parts or branches. A municipal Council may in the first place, as we have just mentioned, make Standing Orders for the regulation of its own business and administration.

[1] See Redlich and Hirst, vol. 1, p. 309.

Or in the second place it may make bye laws for the administration of municipal affairs within the borough. Both powers are invariably used. The difference between a Standing Order and a Bye Law is that where as the former only affects members of the borough council and its employees the latter affects all burgesses alike. The power to make bye laws has already been touched upon. It is given by the following Section (23) of the Municipal Corporations Act 1882:

„The council may, from time to time, make such bye laws as to them seem meet for the good rule and government of the borough, and for prevention and suppression of nuisances not already punishable in a summary manner by virtue of any Act in force throughout the borough, and may thereby appoint such fines not exceeding in any case £ 5, as they deem necessary for the prevention and suppression of offences against the same."

Similar bye laws may be made by the Council in its capacity of urban sanitary authority under the Public Health Act of 1875; but these sanitary bye laws must be submitted to the Local Government Board and confirmed by that authority before they come into operation. The power to make bye laws is an old common law right of English corporations, and there were plenty of judicial decisions bearing upon the subject before the Municipal Corporations Act of 1835 made the power statutory. The City of London exercises the same power as a borough governed by the Municipal Corporations Act, but as the City of London remains unreformed, having never been brought under the Act its bye laws are operative in virtue of the Common Law. Perhaps the most curious and striking feature in our law of local government is that a bye-law passed by a municipal council and duly confirmed by the Local Government Board (our central administrative authority) is nevertheless entirely subject to the Courts of Law. According to the English theory of Government the approval of the Local Government Broad, (which after all only means the approval of an official who may be experienced in administration and yet devoid of any proper legal training) is merely a preliminary safeguard. When a person is brought up before a magistrate for breaking a bye law the magistrate may refuse to convict not merely on the ground that the offence was not committed but on the ground that the bye law is a bad one; and it may be bad in three ways — either because it conflicts with a law, or because it is ultra vires, or because it is unreasonable.

The writer knows of one very large and important Municipal

borough whose bye laws, after being duly sanctioned and confirmed, have frequently been invalidated on one of these grounds by the Stipendiary Magistrate. So logically severe, rigid, and complete is the subordination of the administrative to the judicial authority in England. Both the local self government and the central control are compelled to kneel down in humble subjection to our majestic rule of law[1].

The other half of the legislative capacity of a town council consists in the right it possesses to regulate its procedure and administration. This right is of course an inherent right possessed by all corporate bodies, and is exercised subject to the limitation that the regulations made are not illegal or unreasonable and that they are not ultra vires, i. e. do not exceed the scope of its authority. A distinction may be drawn between the rules of business and procedure affecting members of the Council and committees and the rules affecting the permanent officials and servants of the Council. Every large municipality has what may be called a municipal civil service code of its own including frequently a more or less comprehensive scheme of Old Age Pensions. Touching the meetings and procedure of the Council and its committees the Municipal Code simply provides[2] that the Rules in the Second Shedule shall be observed. In this Second Schedule we find that a town council is bound to hold four quarterly meetings in every year for the transaction of general business.

The quarterly meetings are to be held „at noon on each ninth of November" and at such dates and hours during the remainder of the year „as the council at the quarterly meeting in November decide, or afterwards from time to time by standing order determine". Then after a number of regulations made with the object of securing that all members of the council shall receive adequate notice (signed by the Mayor) of the date of meetings of the council as well as a summons containing the business to be transacted signed by the Town Clerk with further provisions as regards voting and ‚minutes' the Schedule concludes: — „subject to the foregoing provisions of

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[1] For the English theory and habit of mind touching the general relation between the law and the administration cp The chapter entitled the „Rule of law" in A. V. Dicey's The law of the Constitution.

[2] Municipal Corporations Act 1882, section 22 (1).

this schedule, the council may from time to time make standing orders for the regulation of their proceedigs and business, and vary or revoke the same [1]."

So far as I know all town councils have adopted standing orders regulating the procedure and business of the council. Where the town and the council are small, and the business to be transacted takes up no great amount of time, the rules regulating procedure are neither numerous nor severe. But in larger places where the work of the municipality is a heavy tax upon busy men the organisation is elaborate and every possible arrangement to made to economise time.

The Course of Business.

In the following description it will be most useful to sketch the management of business in boroughs where the committee system is in full operation, so that the relation between committees and council may be disclosed. This is really the hinge upon which the English system of municipal government turns. To change the metaphor our committees bridge the chasm between democracy bureaucracy.

On examining the standing orders we generally find a provision that the councils shall meet every month. The agenda for each meeting is prepared beforehand, signed by the Town Clerk and forwarded to every member of the Council three clear days before the meeting is held. In many large towns it has been found useful to prepare epitomes of the proceedings of each committee, which are printed and supplied to all the members of the council shortly before the monthly meeting. These epitomes enable every councillor to keep abreast of all that is being done even by committees on which he does not sit, and help to make the council's control over its committees a real and intelligent instead of a merely formal supervision. The efficacy of municipal government from the stand point of representative democracy depends upon the smooth and successful working of the committees in subordination to the unifying and plenary authority of the council. Thus at a monthly meeting after the minutes of the previous meeting have been read and passed,

[1] This schedule, it may be remarked, consisting of thirteen rules, preserves the substance of section 69 of the Municipal Corporations Act 1835.

and after questions have been put and answered and announcements made, the reports of the committees are read and disposed of in order, debates being raised and votes taken on items which arouse controversy. In order to save time only particular acts of the committee are noticed; its ordinary work is often passed by a general resolution that „the council approves of the proceedings of the [highways] committee with the exception of the matters referred to in the notice". Then the specially selected items are taken one by one and passed or rejected. But although those parts of the Agenda which are not specially referred to may be „taken as read" any member of the council may of course object and insist on their being actually read aloud and may call for explanation if any item in his opinion calls for discussion. This is specially provided for in a standing order of the Manchester City Council. The same order, to carry out the spirit of the law, requires committee to draw attention in their minutes to any important decision or to any novel departure or to any transaction likely to involve serious expenditure; and this they should do by detaching the item from their general proceedings and giving it special prominence in their agenda for the monthly meeting of the Council[1].

The Council Meetings are always open to the public and are usually reported at considerable length in the local press. This atmosphere of publicity is certainly one of the most important of all the checks upon municipal corruption or extravagance, though its value of course depends upon the existence in the locality of an honourable and independent newspaper. It is not customary for committee meetings to be held in public; and many complaints were accordingly made after the passing of the Education Acts of 1902 and 1903 that the abolition of School Boards and the substitution of Education Committees had the lamentable result of curtailing the public discussion and therefore the public interest in educational problems. As a result of this criticism the meetings of the Education

[1] See Standing Order 10 of the Manchester City Council, referred to in Redlich and Hirst's **Local Government in England** vol. 1 pp. 320—1. How far the time-saving device of a monthly epitome is carried in Liverpool and Birmingham will be found explained by the town clerks of those cities in the minutes of Evidence given before the Royal Commission on the Amalgamation of London 1894. 10, 194 sqq and 10, 255, sqq.

Committee of the London County Council were thrown open to the press and public.

The Control of Municipal Finance.

In addition to the system above described by which all the work of the Committees has to be reviewed and ratified month by month at meetings of the council, the council possesses another means of control over its committees in the annual arrangement of its finances. The budget begins in the Standing Committees, each of which prepares an estimate of its probable requirements early in the year. The financial year ends on the 31st of March, the municipal authorities following the example of the Chancellor of the Exchequer and the National accounts. When a Standing Committee has completed its estimates for the coming year, using the previous year's expenditure as a basis, it forwards them either to the Finance Committee or to the Council itself. The former course seems preferable. A strong Finance Committee is one of the surest safeguards against extravagance. It may play under favourable circumstances, as an instrument of economy in municipal finance, a part comparable to that of the treasury in overhauling and lowering the estimates of the great spending departments of the National Government. But the Finance Committee (unfortunately in my judgment) has no statutory sanction or authority. Its existence and usefulness depend its own initiative and the standing orders of the Council. In a good many large towns however the finance committee does exercise a sort of Treasury control over the Estimates. It receives them, collates them and discovers what will be the rates in the borough during the ensuing year if the estimates are accepted. Here no doubt a slack finance committee might consider its duties to be at an end, and the estimates might be forwarded to the Council with a colourless report stating their effect on the rates. But as a rule the Finance Committee is (rightly) expected to state its opinions and to offer criticisms in its report to the council. At Huddersfield, there is a double check before the estimates reach the council; for it is provided by a standing order that „on every occasion prior to the levying of a borough rate the estimates of the contemplated expenditure after being prepared and approved by the Finance Committee of the council shall be submitted for consideration to a

meeting of the General Purposes Committee before being presented to the Council[1]." The meeting of a Council at which the annual budget is decided adopts as a rule in places where business is carefully organised the following procedure. First, the Estimates of each committee are submitted in turn, they are justified by the chairman in each case if he is required to do so, and passed by the Council. Then the Chairman of the Finance Committee proposes a series of resolutions authorising each committee to spend the sums that have been approved. Finally to provide for the expenditure he moves that the borough rate for the ensuing year be so much — say five shillings in the pound[2]. When this last resolution has been passed the municipal budget for the year may be called complete, though it sometimes happens that supplementary estimates have to be submitted later on.

The Sphere of Municipal Government.

After setting forth the origin, constitution, organisation and procedure of municipal councils it remains to describe their powers and duties and the means by which the revenue necessary to carry out the functions assigned to them by the legislature is raised. As Professor Josef Redlich has well pointed out a continental jurist who looks in our municipal code for some general definition of an English Municipal Council's sphere (Wirkungskreis) of activity will look in vain. This omission is capable of historical explanation. In 1835 Parliament was more concerned in providing towns with a popular authority them in providing work for it to do. Once a satisfactory authority was set up, work it was felt, could easily be assigned to it either by general legislation or by local Act. Thus the Municipal Corporations Act speaks of „all powers vested in the corporation by this Act or otherwise", yet the only general authority given is that of making bye laws „for the good rule and government of the borough" — a strictly subordinate power subject as we have

[1] Huddersfield. Standing Order 32. It is not quite easy to see what advantage can be derived from this double check. The division of responsibility is more likely, to injure than to promote economy.

[2] This would mean roughly that the occupier of a house or business premises in the town would pay in rates a sum equal to about a quarter of his rent.

shown to the Courts of Law and the doctrine uf ultra vires. In the municipal code itself the functions assigned to the council are comparatively few, and they are obligatory — the management of the police, the maintenance of order, the administration of municipal revenues and property, the making and collection of a borough rate. But from the very start the variety, or absence of uniformity, in which the English mind delights and the English law revels, was secured by a proviso that all functions other than judicial[1] previously possessed by the old corporations under local and general acts of parliament should continue. Thus elasticity, or want of uniformity, has been steadily growing year by year[2] under private acts or provisional orders. But we shall confine our attention to the general acts, which after all comprise the main spere of municipal government and constitute the whole sphere of activity for many of the smaller corporations.

The most striking omission from the Act of 1835 is perhaps the absence of any provision to enable a town council to undertake such elementary duties as drainage or the lighting and paving of the streets. At that time these services were only beginning to be regarded as necessities and were indifferently performed in the well to do parts of large towns by Drainage Commissioners or Lighting and Paving Boards elected in accordance with a Private Act by the inhabitants of the district, the voting powers being usually in proportion to the rateability of the contributors, To transfer these powers to the reformed corporation a private act was necessary until 1857, when an act was passed to enable the powers of such trustees and commissioners to be taken over by agreement. The town council is now of course the sole authority for roads and sewers; but lighting and other remunerative services such as water are still frequently performed by private companies, which are authorised by private act to levy rates for these purposes on the inhabitants by scale proportioned to the consumption. Of the municipal corporations in England and Wales rather less then 200 provide municipal water, and about the same number provide municipal

[1] The judicial functions vested in many of the old corporations were transferred to the borough magistrates, a perfectly distinct body though presided over by the Mayor.

[2] The case of Leeds will serve to illustrate the importance of private bill legislation.

light. In the remaining cases (mostly small towns) these services are supplied by private companies [1]. Tramways is another branch of enterprise in which municipalisation has made rapid progress of late years.

The great additions made to the duties and powers of municipal corporations since 1835 come under the general categories of communications and public health and education. It was natural that the town council, commencing as the police authority, should become also the street authority. The history of highway law in England is long and intricate. A considerable part of it is still dependent upon the common law of the land, and the principal statute dealing with the subject is the Highways act of 1835, modified by a number of amending statutes. The nuisance danger and damage caused by the rapid developement of motor traffic have so far been almost unchecked by the legislature and the courts; and it is evident that more legislation on the subject is imminent. For the present purpose however it must suffice to state that parliament began by creating special highway authorities on the a d h o c principle but gradually abolished them, transferring their functions as regards main roads to county councils and county boroughs by the Local Government Act of 1888, and as regards other roads and footpaths in rural districts to parish councils and rural district councils by the Local Government Act of 1894. Roads and streets in towns are placed under the complete control of the urban sanitary authority by the great Public Health Act of 1875, which codified and improved the preexisting legislation. The urban sanitary authority in municipal boroughs is the town council, and in urban districts it is the urban district council created by the Local Government Act of 1894 [2].

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[1] Details as to municipalisation will be found in the Municipal Year Book a useful compilation published annuall I and edited by Mr. R. Donald. Much historical imformation will be found in Clifford's valuable history of Private Bill Legislation.

[2] For highway history reference may be made to Gneist's Self Government chap. XII, Clifford's Private Bill Legislation vol. 11. chap. VII, and Wright and Hobhouse's Local Government and Taxation in England and Wales. The Life of Telfad by Samuel Smiles (London 1867) contains a pleasant popular account with a history of roads and travelling in great Britain.

To understand these developements however from a municipal point of view it will be necessary to trace very briefly the progress of what is called Public Health legislation in English towns. After the amendment of the poor laws and the passing of the Municipal Corporations Act in 1834 and 1835, English reformers began to turn their attention to the dreadful sanitary conditions and the high death rates which prevailed in all the crowded centres of population. In 1838 the Poor Law Commission memoralised the Home Secretary on the subject, pointing out that much disease poverty and degradation could be prevented by the enactment of a general sanitary code for towns. An inquiry followed and a valuable report was issued in 1842. In 1845 and 1847 abortive attempts were made at legislation, and in 1847 the first[1] Public Health Act was passed, the object being to improve the sanitary condition of populous places in England and Wales, and for that purpose to place „as far as practicable" the sewerage, drainage cleansing and paving thereof under one and the same local management and control. The Act established local boards of health and a central authority called the General Board of Health to supervise and stimulate their activity. Though the Act was not compulsory in all cases the new central Board was enabled to compel towns and districts which most needed it to accept the new institution. The Local Board of Health was elected by a class system, the richest class of ratepayers having no less than six votes; but the provisions of the Act and the powers of a local board might be adopted by town councils. The result was interesting and important in many ways but especially from a constitutional point of view; for those municipal boroughs which adopted the Act found themselves as sanitary authorities placed under the superintendence and inspection of a central authority. In 1871 the Local Government Board was established, and the central authority of public health having undergone various transitions was at length made a department of the Local Government Board, which now unites all the functions of the old Poor Law and Public Health Boards and is now in fact as well as in name the principal, though not the sole, central authority for local government. The most important measure in the development of sanitary legislation after 1848 was the Nuisance Removal Act of 1855, which enabled local

[1] If we except the Nuisance Removal Act of 1846.

boards and town councils to appoint Medical Officers of Health in addition to the Inspectors of Nuisances who already existed. Then came the Royal Sanitary Commission of 1868—1871 whose report exposed the imperfections of the system that had grown up. The admirable report of this commission recommended the codification of the sanitary laws and the concentration of authorities, and resulted in the legislation of 1871 to 1875. From that date a comprehensive and increasingly intelligible system of local government has prevailed in England. The Public Health Act of 1875 is a real code of public health. It divides local authorities into urban and sanitary authorities, the former having more powers and duties than the latter. The rural sanitary authority is the Board of Guardians reconstituted for this purpose in 1894 as the Rural District Council. The Urban Sanitary Authority is in municipal boroughs the Town Council and in Urban Districts the Urban District Council. As far as the public health law is concerned the duties and powers of a town and urban district council are identical, and an identical supervision is exercised over both by the Local Government Board except in one important respect. The accounts of an Urban District Council are audited by the inspector of the Local Government Board, those of a municipality are not — an anomaly which will probably be remedied in the course of time, as there is a growing feeling in favour of establishing an independent financial check upon all local authorities.

The Public Health Act of 1875 is an enormous enactment of several hundred sections, some of which only apply to rural sanitary authorities. The greater part however is applicable to town councils, and a brief analysis will be the best means of tracing out what constitutes the main province of modern municipal government. Let us begin with the purely sanitary provisions[1].

First the town council has to provide for the proper sewerage and drainage of the town. The legal difference between a drain and a sewer is this: — A drain is a pipe draining one building, and the local authority has to see that the individual responsible keeps this in proper condition and repair at his own risk. A sewer is a pipe which drains more then one building, so that two drains meeting make a sewer. The town council has to make and maintain sewers out of its own funds, i. e. at the expense of the general body

[1] See Public Health Act 1875 Part III sect. 13—143.

of ratepayers. Powers are given to the town council for the disposal of sewerage and the construction of works for that purpose, for the provision by factory owners of proper sanitary accomodation for their work people, for the removal of house refuse, for scavenging and cleansing the streets, for the abatement of smells and nuisances, for cleansing houses certified by the medical officer of health to be filthy and for the removal of offensive accumulations on notice given by the Inspector of nuisances — in both cases at the expense of the owner or occupier of the offending premises. „Nuisances" are carefully described and classified in the Act, and remedies are provided for their summary abatement, by service of notice on the person responsible, who on failure to execute the necessary works can be compelled to do so by application to the local magistrates. Powers are given to the town council to prohibit cellar dwellings and to regulate lodging houses, to prohibit or regulate noxious and offensive trades and to inspect meat and food exposed for sale. The Medical Officer of Health and the Inspectors of Nuisances may confiscate bad food and prosecute the vendor of such before a magistrate. To prevent the spread of infectious diseases the Town Council is bound to cause infectious premises to be cleansed and it may destroy infected articles, provide conveyance for infected persons and establish hospitals. It is also bound, in case the town is in an area threatened by any serious epidemic, to carry out preventive regulations made by the Local Government Board for that area. The Council may also provide mortuaries and places for post mortem examination.

A number of sections are included in the Act with regard to water supply[1], and others enable the Town Council to take proceedings to prevent the pollution of streams and rivers. By this Act moreover the municipal council is made the highway and building authority for the whole town, the term „public health" being this stretched to cover a much wider range of functions than would naturally be understood.

As highway authority the ownership of all the public streets and roads and bridges of the town is vested in the town council together with their repair and maintenance. New streets are laid out, new bridges constructed under its direction. It has also to see that the streets are properly lighted. The council is the building

[1] Public Health Act 1875 sections 51—70.

authority as well as the highway authority and in both capacities it has to prescribe bye laws and regulations for laying out new streets, for the construction of new buildings etc. etc. In order to assist local authorities the Local Government Baard has issued „model bye laws" which usually form the basis of building regulations both in town and country. Builders complain that these bye laws are too severe, especially in the rural districts, and that they unnecessarily enhance the cost of building and consequently raise rents. As street authoritiy the town council supervises traffic and regulates public vehicles such as omnibuses, cabs, and tramcars.

Since the passing of the public Health Act in 1875 the sphere of municipal activity has been considerably extended by parliament, in some cases by the imposition of duties and liabilities, in other cases by the conferring of powers which a council may adopt or not as it pleases. Indeed in almost every branch of work a town council has the minimum which it is compelled, and the maximum which it is permitted, by law to perform. All its functions are statutory. By Act it must do a minimum, by Act it may do a maximum. If it does more or less it offends against the law.

Among many recent enlargements of the field of municipal activity may be mentioned the additional duties which a town council has been called upon to perform under the Sale of Food and Drugs Acts. These involve the appointment of a public analyst and the provision of laboratories with a view to prevent the adulteration of food and the sale of adulterated food in the town. Again there are the Contagious Diseases (animals) Acts, which compel local authorities to undertake the inspection of dairies etc. under regulations drawn up by the Board of Agriculture. In the permissive sphere of things that may be done there has been a still larger accession to the functions of town councils in common with other local authorities. By the Public Health Act and other supplementary legislation town councils may instal electric light, may construct and manage tramways, light railways, baths, washhouses, cemeteries, public libraries, museums, and gymnasiums; they may lay out parks and gardens; they may establish lodging houses and provide workmen's dwellings. And if the General Acts whether Permissive or Adoptive are insufficient, and a municipality desires further powers it may apply to Parliament for a local or private act or to some government department such as the Local Government Board or Board of Trade

for a Provisional Order. The power to promote a private act is given, and the conditions under which the power may be exercised are prescribed by the Borough Funds Act of 1872, an account of which will be found in Clifford's History of Private Bill Legislation [1].

Thus the sphere of municipal activity is presented by two kinds of acts — Public General Statutes, which may be compulsory, permissive or adoptive, and Private Local Statutes including Provisional Orders. I have tried to indicate in a general way the character of this activity and the maximum and minimum height which it may attain.

Municipal Finance.

We have now described the functions of municipal authorities, but we have still to inquire whence comes the revenue necessary to carry out these functions. Apart from any powers conferred upon it as a public authority by Act of Parliament a municipal corporation is capable as a corporation and „persona ficta" at common law of acquiring and holding property in perpetuity. But this right was very early cut down by a statute of Richard II, which included „mayors, bailiffs and commons of cities, boroughs, and other towns which have a perpetual commonalty" in the Statute De Religiosis with the result that a municipal corporation was from that time forward put on a par with a religious corporation and was made incapable of acquiring land or real property except by license in mortmain from the crown. This legal disability was recognised in the Municipal Corporations Act and has most seriously crippled town councils in dealing with growing suburbs. By section 105 of the Municipal Corporations Act 1882 a municipal corporation is disabled from purchasing and holding more than five acres of land either inside or outside the borough except by license from the Crown or by Act of Parliament. By section 107 however this grievous incapacity is modified, so that a corporation may acquire land on terms and conditions approved by the Local Government

[1] Vol. II p. 545 sqq. A later account will be found in Redlich and Hirst's Local Government in England vol. 1 p. 363 sqq. and vol. II 337 sqq. For the history of Provisional Orders up to 1886 see Clifford vol. II pp. 676—716.

Board; but the restrictive theory is still adopted by the Courts that land must only be acquired for the purposes of carrying out powers conferred by Parliament — for reservoirs for example or sewage farms or hospitals, but not for the purpose of developing the town and opening up new suburbs. These disabilities illustrate the proposition advanced by Professor Maitland a few months before his death that our land laws are at least a hundred years behind those of Germany[1]. After this preliminary caution regarding the limitations set upon the acquisition of real property the outlines of the law of municipal finance can be easily explained. They are contained in parts V. VI, and VII of the municipal code (sections 105—153) supplemented by the Public Health Acts of 1875 and 1890 and by the Local Government Acts of 1888 and 1894.

Let us take first the expenditure and secondly the Revenue.

The expenditure of a town council consists of payments to all salaried officers appointed by the council, payments made in accordance with an Act of Parliament or with the order of a court of law, and payments necessary to carry out the provisions of the municipal code.

All payments, with certain specified exceptions[2], are to be made out of the Borough Fund by an order of the Borough Council signed by three members of the council and countersigned by the town clerk. Only then is the Treasurer justified in making the payment. Payments good in form may be bad in substance. An order duly made out and signed may be contested by any ratepayer on the ground that it is not authorised by Act of Parliament. To test the legality of such an order the ratepayer may apply for a writ of certiorari to remove it to the King's Bench, where on motion and hearing the court may disallow or confirm the order with or without costs according to its judgment and discretion. Under the municipal code the financial officers of the corporation are the Borough Treasurer and the Auditors. In many towns the Treasurer is the local banker, but the system of payment by cheque tends to make his position insiginficant. A more important officer, not provided

[1] For a historical and legal survey of the Statutes in Mortmain see Grant's Law of Corporations (1850) pp. 129—153. Some of our old towns possess large and valuable estates.

[2] See Municipal Corporations Act 1882 sec. 141 (1) and fifth Schedule Part II rule 11.

for in the municipal code but invariably appointed in large towns, is the borough accountant, who manages the book keeping and accounts and should be specially attached to the finance committee. The same person may be appointed Treasurer and Accountant. It is the statutory duty of the Treasurer to make up the borough accounts half yearly to such dates (usually September 29 and March 25) as the Council, with the approval of the Local Government Board, shall determine. A month after this date the Treasurer must submit the accounts with the necessary papers and vouchers to the three Borough Auditors, two of whom are elected by the ratepayers while one is a member of the council appointed by the Mayor.

The Municipal Audit, it must be confessed, is often an unsatisfactory affair. There is no statutory qualification for the auditors, who may be, and often are, mere amateurs. In some large towns a professional auditor is appointed with a good fee under the Standing Orders, and his report is published along with the Treasurer's, statement. In others the services of the District Auditors of the Local Government Board have been obtained by local Act; but this is rare; for the intrusions of the Local Government Board are regarded with great jealousy, and it is is affirmed that in many cases the Auditor of the Local Government Board, having been appointed rather by way of patronage than for efficiency by the President, is incompetent as well as independent. It has been remarked that the educational expenditure of all town councils is audited by the Local Government Board [1].

It is the duty of the borough Treasurer after the second half-year's audit to print a full abstract of the accounts, and an annual return of the receipts and expenditure for the financial year ending March 31st must be forwarded by the Town Clerk to the Local Government Board in accordance with a form prescribed by the

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[1] See Education Act 1902 sect. 18 (3) „Separate accounts shall be kept by the council of a borough of their receipts and expenditure under this Act and those accounts shall be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of those accounts and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit."

Board. It is the duty of the Board in its turn to prepare an abstract of these returns and lay them annually before parliament. The municipal year books published by the larger boroughs usually contain the municipal balance sheet for the previous year with a classified table of revenue and expenditure.

The Revenue of a Municipal Council may conveniently be divided under four heads according as it comes from property, profits, rates or loans. The municipal Corporations Act constitutes what is called „the Borough Fund", which consists primarily of „the rents and profits of all corporate land, and the interest, dividends and annual proceeds of all money, dues, chattels, and valuable securities belonging or payable to a municipal corporation, or to any member or officer thereof in his corporate capacity and every fine or penalty for any offence against this Act[1].

The Borough Fund is applied to and charged with a number of payments specified in the Fifth Schedule of the Municipal Corporations Act including" all expenses charged on the borough fund by any Act of Parliament or otherswise by law" and „all other expenses, not by this Act otherwise provided for necessarily incurred in carrying this Act into effect"[2]. If the Borough Fund is more than sufficient for the purposes to which it is applicable by law the surplus is to be applied under the direction of the town council for the public benefit of the inhabitants and for improvements in the borough. If the surplus arises from the rents and profits of the property of the municipal corporation and not from a borough rate, the municipal corporation in its capacity of sanitary authority for the borough may apply the surplus in payment of any expenses incurred by them as sanitary authority on sewers, streets, or other improvements, under the Public Health Acts[3].

It is of course extremely rare for a Municipal Corporation to be in the happy position of being able to meet its expenses by rents and profits. As a general rule the bulk of the revenue is raised by that kind of direct taxation which we call rates.

A rate is a tax levied locally on the inhabitants of a local government area by the local authority for that area. It is levied upon

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[1] Municipal Corporations Act 1882 sec. 139.
[2] See M.C.A. 1882 Fifth Schedule, part II, rules 11, 12.
[3] Municipal Corporations Act 1882 sec. 143.

the occupier of rateable property, not in proportion to his wealth or income but in proportion to the rateable value at which the property would let to a hypothetical tenant subject to certain statutory deductions. The three principal rates are the poor rate levied by the Board of Guardians in every poor law union to meet the expenses of pauperism in the union, the district rate levied by all sanitary authorities to meet expenses under the Public Health Acts and allied statutes, and finally the borough rate levied by town councils in the following circumstances. If the Borough Fund above described prove insufficient „the council shall from time to time estimate as correctly as may be, what amount, in addition to the borough fund will be sufficient" to meet the deficit, and „in order to raise that amount the council shall, subject to the provisions of this Act, from time to time order a rate, called a borough rate, to be made in the borough."

As a general rule the Borough Rate is based upon the Poor Rate, but if the borough authorities are not satisfied with the poor rate assessment they may make a separate and independent valuation of their own for the purposes of the borough rate [1].

The Borough Rate goes into the Borough Fund and is only applicable to expenses under the Municipal code. For its usually larger expenditure under the Public Health Acts for Sanitary purposes, streets etc. the town council has to rely upon the General District Rate supplemented by Government Grants in Aid. The General District Rate is also based upon the valuation for poor law purposes, but differs from the Borough Rate because agricultural land, railways and canals are only assessed at one fourth of their annual value, the reason being that these properties are held to derive much less benefit than houses, mills etc. from the expenditure for public health purposes. Although the valuation for all rates within boroughs is now almost always the same, there are many differences as to the mode of collection. The overseers acting under the Boards of Guardians collect the poor rate, and they frequently collect the other rates and pay them over to the town council. But the parochial system of rate collecting has not been found efficient; and the town council, having discretion under the Public Health Acts so to do, has begun (especially in large towns) to

[1] For the borough rate see M.C.A. 1882 sec. 144.

collect its own rates for itself. To unify the collection of all rates within the borough is very desirable, but can only be completely achieved where the poor law union is identical with the borough, and unfortunately as a rule the poor law unions are not coterminous with the borough boundary. The necessary amalgamation has been effected in some cases by Private Act[1], and considerable economies have resulted. Reformers look forward to the passing of a general act for the purpose of constituting all county boroughs, i. e. all borough of more than 50 000 inhabitants, poor law unions. At the same time all the powers duties and liabilities of the Poor law Guardians and Overseers of the Poor should be transferred to the town council. The town council would then be the local authority for all purposes within the borough, and from this simplification nothing but good would follow, provided that women, who are eligible for the office of poor law guardian, were also made eligible for the office of town councillor[2].

In addition to the Borough, General and District rates there are many towns in which special rates are levied under local or adoptive acts. Some of these rates, like water and gas rates, may be levied by companies and are really rents, or payments for the water or gas supplied, the payments being measured by taps or meters.

Government contributions to the Relief of Rates.

Lastly Municipal Councils like other local authorities receive aids from the national exchequer. These are really contributions from the taxes to the rates and as every ratepayer is a taxpayer the process is that of taking money from one pocket and putting it into the other. The system, which has grown up gradually in response to the complaints of ratepayers at the growing burdens to which they are subjected, is generally defended on the ground that many services performed by local authorities are more or less national. Main roads and education are obvious examples. A better justification is that grants in aid may be used as an engine for securing efficiency and enabling the Central authorities by means of

[1] E. G. by the county borough of St. Helens in Lancashire.

[2] Since this was written women have been made eligible for all local authorities by an Act ob Parliament.

inspectors to bring up such local services as police, education and sanitation to a higher standard than they would otherwise attain.

In the case of municipalities the amount of contribution depends upon whether they are or are not county boroughs. If they are, they obtain along with the County Councils special revenues from licence duties, estate duties and the beer and spirit surtax. If they are not, the inhabitants of the town get these reliefs as county ratepayers through the County Council. Other grants however such as the grants for police and elementary education are received by all boroughs except the very small ones. And every town council as urban sanitary authority under the Public Health Acts may receive a grant of half the salaries of its medical officer of health and inspector of nuisances. *The whole system of Grants in Aid* is recognised to be in urgent need of change and simplification; and the present Chancellor of the Exchequer Mr. Asguith has intimated that he hopes to introduce a comprehensive reform ere long. It so he will probably follow out the Suggestions made some years ago upon this subject in the Report of the Royal Commission on Local Taxation.

London.

From

F. W. Hirst.

Preface.

The present clerk to the London County Council, G. L. Gomme, a scholar and antiquarian as well as administrator, declares, in his new book on old London[1] that „the study of English local institutions can only be properly undertaken by first understanding the history of London".

If this startling proposition be true — and a whole book might be written in its defence — how much more true is it that London local institutions can only be properly understood in the light of London's history. Certainly without that light one may grope in vain for any clue to the anomalies and incoherences by which even after the Reforms of 1888 and 1899 the Government of London is still beset. Our main object in this monograph, which is to describe the present government of London and particularly the organisation of the London County Council, will be best attained if we approach it through the avenue of history.

Part I. Historical.

I. Roman London.

Through all the strange turns and vicissitudes of a long and varied history, through all the gigantic developements of its later expansion, London has preserved a strong continuity of character. It is perhaps the only great capital that has never been imbued with a military spirit or possessed by a military organisation. It is also the only capital which can boast that for eight centuries it has been untouched by foreign armies. Its story is political and social and commercial. I say commercial rather than industrial, because

[1] The Governance of London. T. Fisher Unwin London 1907.

(doubtless on account of its geographical situation) it has always been more a place of trade and exchange than of manufactures. A large number of its richest and most influential citizens have always been of foreign extraction, and for this among other reasons it used to receive from the foreign Kings of England whom it helped to select and to finance differential and even preferential treatment as compared with other towns of England. In point of population it has always been the least English of English towns. There is probably no city in the world, unless perhaps it be Constantinople, whose existing institutions and government would be less intelligible were they described as they are instead of being traced from their dim beginnings and distant origins.

London was doubtless a celtic town before Caesar invaded Britain. The Romans preserved the native name, but our first knowledge of it in historical literature comes from Tacitus who, in the 33rd chapter of the 14th Book of the Annals, mentions that London was not like Colchester and St. Albans a Roman ‚colony' — probably therefore it was not a military station — but that it was „a great place for traders and markets" [1]. A modern Tacitus with a similar allowance of words could hardly describe the London of today more happilly. For a long time it appears probable that the Romans did not even surround Londinium with a wall, and this may have contributed to the rapidity of its early growth, untroubled by arms or alarms, in the peaceful security of Roman protection. Its commercial importance may be gauged by the simple fact that about half the great Roman roads radiated from London. The old walls, which existed down to the 18th century, and of which considerable fragments still remain, correspond with the present City boundary. Some hold that they were not actually built during the Roman occupation but were erected by the Romanised Britons to secure themselves against the Saxon invader. However the better opinion seems to be that the walls, as we know them [2], were built in the

[1] Londinium cognomento quidem coloniæ non insigne, sed copia negotiatorum et commeatum maxime celebre.

[2] An earlier and smaller circumvallation was ascribed by tradition to to Constantine the Great, who is said to have walled in the town to please his mother Helena herself a native of Britain. For traces of this earlier and inner City see Gomme's Governance of London Chap. 11. Billingsgate is probably the site of one of the gates of this acropolis. The sacred London stone was at its centre or at its western gate.

last century of the Roman occupation, ie between 309 and 409. There is always a danger that the popularity of antiquarian research may lead us to exaggerate the importance of early history. But it is to be remembered that the Roman occupation of Britain commencing in 43 and ending in 409 A. D. covers a longer period than that which divides the reign of Edward VI from the reign of Edward VII. Whether therefore it was merely a village or the capital of a celtic king[1] when the Romans found it, London clearly had ample time to develope into a considerable town before it was exposed to the inroads of the Saxon barbarians. The line of the Roman wall, the mark for 1500 years of municipal independence and continuity, deserves a brief description. It ran straight from the Tower to Aldgate where it bent round to Bishopsgate. On the east it was bordered by the Minories and Houndsditch. From Bishopsgate it ran eastward to St. Giles Churchyard, then southward to Falcon Square, then in a westerly direction by Aldersgate under Christ's Hospital towards Giltspur Street, southward to Ludgate and thence to the Thames. In all probability a wall also ran along the bank of the river, for such a wall existed in the 12th century as we know from Fitz Stephen, and Sir Christopher Wren also noticed it[2].

Judging merely by the space (about one square mile) enclosed in the walls and by its ‚territorium' London was larger than any other British town in Roman times, and towards the end of the occupation the Imperial Treasury for all Britain seems to have been transferred from York to London. Our authority for this is the Notitia, a description of Britain compiled towards the end of the 4th century, when there resided in London two Roman officials, one an accountant general styled „the Rational of the sums of all Britain" and the other a Treasurer, styled „the Provost of the Treasures of Augusta[3] in Britain". For fifty years after the departure of the Romans London governed itself, and there was probably little or no change in its municipal institutions. The withdrawal

[1] A slight argument in favour of a large celtic London is that Lud [gate] and Dow[gate] are both names of British origin, see Archaeologia vol. XL p. 59.

[2] See Wren's Parentalia p. 265.

[3] In the reign of Valentinian London was dignified by the additional name of Augusta.

however of the Roman fleet, which had guarded the Channel, must have caused a serious loss of commerce, against which however the Citizens might set their relief from annual contributions to Rome.

II. Saxon London.

In 457 A. D. Hengist defeated the Britons at Crayford, the eastern boundary of the London territorium, and the survivors fleeing to London found refuge within its walls. Canterbury was Hengist's capital, and the conquest of London seems to have been reserved for the East Saxons, who about 520 A. D. combined Essex, Middlesex and Hertfordshire into a Kingdom with London as their metropolis[1]. At any rate in 604 A. D. Bede describes London as the East Saxon Metropolis and a great emporium. This could hardly have been its condition, unless it had been spared the utter destruction that overtook most of the Roman cities in Britain. Otherwise we should have to suppose that the Saxons having slain the inhabitants or sold them into slavery made a settlement in the town and adapted themselvs immediately in this one case to commercial life; and it would be still more difficult to account for the survivals of Roman Law and customs which we shall have occasion to note. Ethelbert King of Kent built the first Saxon church of St. Paul at the beginning of the seventh century on the site of the Roman temple of Diana, and relics of the Diana cult lingered into the Middle Ages. From this time we know London again in the words of Bede as „a mart town of many nations which repaired thither by sea and land"[2]. No doubt the town suffered like all old towns from fires, and it is not to be supposed that with the exception of the walls, streets, and gates Saxon London can have borne much resemblance to the Roman city with its houses, markets, theatres, baths and public buildings of brick and stone; indeed we are told by Bede that no architecture in brick or stone was attempted by the Saxons until the year 680[3].

London survived the wars of the Heptarchy; and when Egbert became Overlord of all England in 827, he made London his resi-

[1] So Bede; but possibly this only meant „ecclesiastical metropolis", the seat of the bishop not of the King.

[2] See Bede Book II. Chap. 3.

[3] See Bede book II and Stow's Survey (1754) vol. II, p. 9.

dence. Then began the Danish invasion of England. But the town was so populous and its walls so strong that it beat off the Danes over and over again. In 851 however the Danes plundered London and held it for a time, and a Danish army wintered there in 872. Alfred the Great at length got the upper hand of the invaders and in 886 rebuilt the walls of London and restored the City. When Canute obtained the Kingdom in 1016 London paid a tribute of £ 10500, one seventh of the whole amount paid by England. This is not very different from the proportion London would now pay on the basis of population. The Danes had a permanent settlement or Wick outside the walls of London, commemorated by the Church of St. Clement Danes in the middle of the Strand, and by Wych Street. Later on, as intercourse with Normandy increased, Normans began also to settle in London[1], and thus Saxon-Roman London, so dear to Freeman as „the stronghold of English freedom" began to assume a foreign complexion, owing to the growing number of the foreign traders who brought foreign wares into London and exported English wool and other products to the continent. This influence proved decisive in the developement of London institutions. Within the City walls the ancient Roman division into ‚regiones' seems to have lingered, and the Roman idea of a municipium was probably never quite lost. Above all the merchant law and customs, undoubtedly of Roman origin, were cherished by the citizens and confirmed by successive kings. Alfred the Great, who issued his code of law (Dombok) in 890 A. D. made special arrangements for London. His division of the City probably followed the Roman ‚regiones'. These divisions elected their own magistrates; but the whole government was presided over by an Alderman, afterwards called Reeve, and then Mayor. To this office Alfred appointed Aethelred, Alderman of Mercia[2]. A copy of Alfred's Dombok was apparently preserved in the City Archives and used by Andrew Horne in compiling his well known treatise called the Mirror of Justices. Horne, a fishmonger of London and Chamberlain (Town Clerk) in the reign of

[1] Probably from 886 A. D. onwards: see Gomme's Governance of London p. 190—1.

[2] Saxon Chronicle A. D. 886. The chief Saxon or Teutonic institution which London received was the Folk-moot, which used to meet as late as the 13th century at St. Paul's Cross. It was a popular assembly which claimed the right of confirming or rejecting the Sheriff's appointment.

Edward II was well acquainted with the Anglo-Saxon language and terms of law. What we have to note is with what tenacity London clung to its autonomous customs and independent ways when Romanised England fell to the Tribal System of the Saxons and again when Saxon England yielded to the feudal system of the Normans. The charters and privileges granted to the City of London by the Norman Kings were largely exemptions from the feudal system and permission to continueto enjoy the laws of Alfred, Athelstan and Edward the Confessor. From the reign of Athelstan (925—940 A. D.) date the famous dooms or laws of the City of London which afford a glimpse of London Government a thousand years ago. It was a combination of civil, ecclesiastical, and commercial authority. „This is the agreement (compact)" — so begins one of Athelstan's laws, „which the Bishops and Reeves belonging to the city of London have resolved upon and sworn to observe" [1], and the doom proceeds to recite numerous resolutions for mutual defence against robbery and violence entered into by „the free gilds" of London. Under Anglo Saxon law a guild (from gildan to pay) was a fraternity, association or company towards which every member made a contribution. The sums subscribed were put into a common stock which was used partly to protect members of the guild and partly to compensate them for losses. In Norman times these common law guilds and free associations were only suffered to continue in other boroughs under royal licence. But the London guilds continued under cover of charters, and blended with the system of London government, so that the city Hall was called the Guildhall, though primarily the meeting place not of the London guilds but of the Lord Mayor and Commonalty of the City. It has been left for Mr. Gomme to show that the Laws of Athelstan point not only to the existence of guilds but also to the autonomy of the Londoners and to a conflict between London Law and Saxon Law. Under Anglo Saxon and Danish kings London was treated as a self governing community, apart from the rest of the Kingdom, with a constitution resembling in some respects that of the Roman Municipium to which it succeeded. The magistrates were appointed as a rule by the citizens but sometimes

[1] Wilkin's Leges Anglo-Saxonicae. 965 and Gomme's Governance of London pp. 121—132 which contains a literal translation and some ingenious comments.

by the King; and the Bishop, who had great authority, was appointed by the Archbishop of Canterbury. But London was not a corporation. The device of „gildating" or incorporating a whole town was of much later date. The free population of London governed itself loosely in guilds and communities. The symbols of unity were the walls, and the magistracy, and the bishops. The population and wealth of the city were probably less than in Roman times, but still its power and resources must have been considerable; for the Saxon Chronicle frequently states that a King succeeded to the throne „with the sanction of the citizens of London". Under Edward the Confessor Anglo-Saxon law was again revised and consolidated, and under William of Normandy many of the liberties lost in the rest of England were preserved in London after the Conquest including the ancient privilege of Londoners not to be called on to Fight outside their territory[1]. The Roman church and the Roman merchant law prevented London from being wholly Saxonised Danised, or Normanised. And if we wish to visualise these conservative influences we may see them in St. Paul's church and in the Leadenhall Market, the former standing where once stood the Temple of Diana and the latter occupying the site of the Roman Forum.

III. Norman London and the London charters.

There was a Norman as well as a Saxon party in London when William invaded England to assert his claims to the throne. The Bishop of London himself was a Norman; and William in order to secure the allegiance of the citizens commenced his reign by granting them a charter which was never revoked. Brief as it is this charter or writ is a comprehensive grant of all existing liberties and privileges. In the words of Norton he found the Londoners holding their land, houses and goods in their own right, entitled to dispose of them at discretion, or to transmit them by will: — „Governed by their own magistrates and amenable only to their own courts, they were privileged in having justice dispensed to them not according to the will of any superior but according to the general law of the land, modified by their own peculiar customs". In short the Burgesses of London possessed all the legal rights and privileges which

[1] See a Charle of Edward II in Nortons History of London p. 442.

in Anglo-Saxon times distinguished men of the first rank, who held land in their own right and were entitled to the appellation of freemen in a country largely populated by serfs [1].

This first famous charter may be literally translated from the original Anglo-Saxon as follows: —

„William the King greets William the Bishop and Godfrey the Portreve, and all the Burghers within London, French and English, friendly. And I make known to you that I will, that ye be law-worthy, as ye were in the days of King Edward. And I will, that each child be his father's heir after his father's days. And I will not suffer that any man command you any wrong. God keep you."

The Portgerefa or Portreeve [2], to whom with the Bishop this charter is directed, was the civil and judicial chief of London just as the Shire-gerefa or sheriff was the civil and judicial chief of a county. The value of the charter consisted of course in the King's relinquishment of his right to reduce the French and English residents of the city to dependents of the Crown. By leaving them freemen or rather free tenants, as Norton remarks, „this charter forms the appropiate and stable basis of all the subsequent franchises and privileges of the citizens whether political, corporate or private".

The grant of this charter may be ascribed partly to the wealth and importance of London and to the difficulty ot obtaining an unconditional surrender, partly to the strong Norman element which was ready to welcome William under the lead of the Norman Bishop Stigand. But the Conqueror did not trust solely to the gratitude of the burgesses; he at once began building the Tower of London so that the citizens might see, and if necessary feel, his power. Along with the Tower many churches, monasteries and other stone buildings began to be erected in the massive Norman style. William Rufus walled in the Tower, rebuilt London Bridge, and erected Westminster Hall. The charter granted to the citizens by Henry the First is a long and important document of great historical interest. It recognises in the most explicit manner the special laws, courts, and customs of the City of London, and provides that the

[1] See Norton's City of London p. 59.

[2] Anglo Saxon Gerefa, English Reeve, German Graf. The Etymological relationship of English Sheriff to German Grafschaft is curious.

Londoners shall have their rights of hunting „as their ancestors had" in Chiltern, Middlesex and Surrey. In its commerce with other towns London is to be toll free, and if tolls are imposed on London merchandise by another town London may retaliate by imposing tolls on the goods from that town. On the death of Henry I London supported Stephen, who courted the citizens and granted them, as Henry I had done, the right to choose their own sheriff; but only in return for a payment of a hundred silver marks. Stephen's death in 1154 ends the Norman period.

IV. Plantagenet London 1154—1485 A. D.

From 1154 to 1485 England was ruled by the Plantagenets. The first of the line, Henry II, granted the citizens of London a new charter resembling that of Henry I but with a few restrictions and reservations, the most important being that the right of electing their sheriff was withdrawn. It was in this reign that Fitzstephen, a monk of Canterbury, wrote in Latin his famous and laudatory description of London. He tells of its wealth, its commerce and markets, its sports, its schools and its churches numbering in city and suburbs 139. He likens its government to that of Rome. The sheriffs (vicecomites) tally with the Roman Consuls, the Aldermen with the Roman senators. Then there are magistrates, markets, courts, comitia and regiones. Certainly this precious tract, fortunately preserved in Stow's London, bears out the view that some institutions of London Government dated from Roman times. The second charter of King John restored the election of the sheriff to the Citizens. His fourth charter expelled from the city the guild of weavers, whose monopoly probably injured the community. King John's fifth charter to London, in the 16th year of his reign (1215 A. D.), grants and confirms to the barons of the City of London „that they may choose to themselves every year a mayor, who to us may be faithful discreet and fit for government of the City, so that he may be presented to us on being chosen, or in our absence to our justiciar; and it shall be lawful to them at the end of the year to remove him and substitute another if they will, or to retain the same, provided he be presented to us or our justiciar in our absence." In the City Records this grant is summarised, with the important addition that the Mayor of London is to be chosen by „the barons" from among themselves. This charter however

is not the origin of the mayoralty. It confirms a custom. The first Mayor is believed to have been Henry Fitzalwyne who was elected in 1189 and held office till 1212. His name is the first entry in the Chronicles of the Mayors and Sheriffs of London. The fourth charter of John (1202) also refers to the Mayor, but according to Mr. Round the earliest contemporary reference to a Mayor of London is 1193 A. D. About the same time (A. D. 1191), in the absence of Richard the First, John with the Archbishop of Rouen and the King's justiciars granted the Londoners their commune[1]. The „Commune" is doubtless correctly interpreted by Mr. Gomme as the right of common self government by the townsmen. It was the reassertion of an old claim, the restoration of an old right, and may be read in the light of the ancient saying: — „Come what may the Londoners shall have no king but their mayor"[2].

The frequency of fires had led the Court of Aldermen in the first year of Richard's reign to pass an ordinance, or by-law, that in future houses should not be built of wood or thatched, but should have an outer wall of stone raised sixteen feet from the ground. Twelve aldermen were chosen at a full hustings to form a sort of building committee to see that the ordinance was carried out and to settle disputes as to inclosures, party walls etc. Later on however the ordinance fell into desuetude, and it was only in the reign of James the First that brick really superseded wood as the common building material. Another interesting feature of Richard's reign is the recognition in his second charter to London of a prescriptive right of the citizens to free navigation of the Thames. The right is implied in a clause directing that all fishing weirs which obstructed its navigation should be removed. The Thames jurisdiction or „conservancy" was long disputed, first by the Constable of the Tower and later by the Lord High Admiral on behalf of the Crown against the City authorities, until in the reign of James the First the City's conservancy was recognised and defined by charter as extending from Staines to Yenleet and as including the river Medway.

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[1] Concesserunt civibus Londoniarium habere communem suam. So the contemporary chroniclers.

[2] Indirectly the London community did actually give England a sovereign; for Geoffrey Boleyn, Lord Mayor of London in 1457, was great great-grandfather of Queen Elizabeth. The title Mayor had an almost royal significance owing to Charlemagne famed descent from a Parisian mayor of the palace.

In the quarrel between John and his barons London sided against the King. The army of the barons entered the City in 1215 and repaired Aldgate which was then in a ruined condition. A special clause of the Magna Charta confirmed London in its ancient liberties, immunities, and free customs. The long and troubled reign of Henry the Third yielded no less than nine charters to London, a number that suggests, if it did not provoke, Hume's sarcasm on this reign that „laws seemed to lose their validity unless often renewed".

The supreme organ of City Government at this time was the folkmote, a meeting of the whole body of citizens at St. Paul's Cross summoned by a bellman. The old city books refer to it as an ‚immensa communitas civium'. The King treats with the folkmote as representing the citizens at large. They were by now possessed of a common seal, one of the marks of a corporate capacity; for without a seal a community could not dispose of property or institute legal proceedings [1].

The sixth of Henry's Charters granted in the 31 st year of his reign is the first charter that mentions the Mayor and Commonalty of London and recognises their corporate Acts under the Common seal. His ninth charter throws light upon the law merchant. The pleas concerning merchandise, it says, were wont to be decided by law merchant in the boroughs and fairs by four or five of the citizens there present. In London the citizens chose wardens to adjudicate in these disputes and it was usual also to appoint a special alderman (one no doubt who was conversant with foreign languages and usages) to administer the law merchant to the German members of the Steelyard [2].

The most important social change that came over London in the 13 th century was the establishment of many orders of Friars — Black, White and Grey. It is said that two thirds of the whole area of Plantagenet London was at length appropriated by friaries, monasteries, convents and hospitals. In 1285 the first water conduit was constructed to carry water in leaden pipes from the Tyburn [3]

[1] Trace of civic property is at the end of Edward the Third's reign when the Commonalty complained that the Mayor and aldermen had been using the City Seal to make grants of City land without authority from the Commonalty.

[2] See Calthorpe's Usages pp. 12, 13., Liber Albus fol. 40, Norton's History of London p. 248.

[3] Burn means stream.

to Cheapside. In 1290 Charing Cross was erected in memory of Queen Eleanor, and in the same year the Jews were expelled from Old Jewry, to return again under Cromwell. The great reforms of English law and administration in the reign of Edward the First had only an indirect bearing upon London; But the first London Charter of Edward the Second is of high constitutional interest. The citizens had prepared a series of proposals for the improvement of London government; and these articles were submitted to the King, who was pleased, after making certain alterations, to ratify 20 articles which should thereafter be perpetually observed. The mere fact that, after the administrative and legal reforms of Edward the First, the Crown was now sufficiently influential and sufficiently respected in London for the citizens so far to forego their legislative autonomy as to submit their projects of municipal reform to the King for his confirmation is in the opinion of Mr. Gomme highly significant. It marks a change in the relation between London and the State. Henceforth the autonomy of the City of London tends to be sub-legislative rather than legislative. The supremacy of the king and parliament is scowly established. The rights of Londoners are regarded more and more as privileges to be withdrawn or modified from time by the state, and gradually the differences that marked off the laws customs and institutions of London from those of the rest of England dwindled, and became less significant though they have remained perceptible if not substantial down to the present day. The City constitution as contained in these articles of Edward the Second's first charter is of historic interest and may be briefly summarised: —

The Mayor and Sheriffs are elected by the citizens as provided in previous charters. The Mayor is to remain only one year in office, and is to hold no other civic office. He is not to encroach on the Sheriff's courts. The Sheriffs are to have two clerks and two sergeants. The Aldermen are to serve one year only. The tallages are to be assessed by wards-men deputed for that service in the several wards and may not be increased by the Mayor and Commonalty. The sums so raised are to be delivered to four of the Commonalty to account for the disposal of the money. Freemen of the City must pay ‚scot and lot' and bear all civic burdens. Those who are members of a trade or mystery may be admitted to

the freedom of the city at the hustings court; those who are not members may only be admitted with the full assent of the Commonalty assembled. Those who enjoy the liberty of the city but live outside it must pay scot and lot in respect of the trade they carry on within the city. The Common Seal of the city is placed under custody of two aldermen and two commoners to be chosen by the community. Weights and scales are to be in the custody of honest men skilled in weighing and chosen by the community. Non-freemen may not retail wines or other wares within the city or its suburbs. All brokers are to be chosen by the merchants of the trades concerned. Non-citizens within the City and suburbs must pay civic burdens, except merchants of Gascony and other foreign parts. The property of Aldermen is to be taxed by the men of their wards like that of other citizens. Bridge Keepers are not to be aldermen, but are to be chosen by the Commonalty. The Chamberlain[1], the Common Clerk[2], and the Common Sergeant are also to be popularly elected. The Mayor, Recorder, Chamberlain, and Common Clerk, are to be content with their just and ancient fees.

The King further granted that the Mayor Aldermen and Commonalty might by common consent, for the common necessities and profit of the City, assess tallages upon their own goods, and rents, and upon the mysteries and levy the same; and that the money so levied should remain in the hands of certain commoners to be laid out for the common benefit of the City.

Here we get an early glimpse of the beginning of municipal rates — the characteristic system of local taxation in England, which eventually took shape in a general statute for poor law purposes in the reign of Elizabeth.

This charter carries the developement of the City's written constitution to a point at which it will be convenient to pause before reviewing rapidly the further changes it has undergone.

The Aldermen mentioned in this charter were presidents of the ‚Wards', and the ‚wards' were the divisions previously called Aldermanries or guilds[3]. The Aldermen went on being elected annually

[1] The City Treasurer.

[2] The town clerk.

[3] The territorial guild should be distinguished from the commercial guild, though the administrative and mercantile institutions of London were clearly connected.

until Edward the Third in the 28th year of his reign passed an ordinance in council making them irremoveable without cause, which ordinance was confirmed by a parliamentary statute in the reign of Richard the Second. The Aldermen of the City of London have from that time been, and still are, elected for life. They are now elected by the ratepayers in each ward. This was of course a great encroachment on the democratic character of the government of the City of London. Another clause of this charter confirming the privileges of exclusive retail trading in the City and suburbs to freemen indicates how the connection of commercial privileges with civic rights inevitably tends to the establishment of an oligarchy. But the City of London maintained its democratic character far more successfully than other English boroughs, where „select bodies" had gained almost exclusive control long before the Reform of 1835. It should be observed that the old city franchise was based on occupation and the payment of local rates (scot and lot) but that it was not necessary for a voter to sleep within the walls. The election of the Mayor and Sheriffs and of the Chamberlain or City Treasurer, another important officer, by the Commonalty did not survive the growing power of the City Companies. „Nor is it surprising" as Norton writes, „that the same mercantile influence which established the trading qualification of the freemen, should also be powerful enough to remodify their elective franchises, so far as regarded the chief civic dignitaries".

But it is also not surprising that the inconvenience of government by general meeting, which tended to become mob rule, should have led to further constitutional changes. The first attempt at a remedy was made in the reign of Edward the Third after the City's power to amend its own constitution by ordinance had been solemnly recognised and confirmed by a charter of 1341[1]. In 1346 the Assembly of Citizens at large (folk-mote) passed an ordinance that

[1] This charter, granted June 3rd 1341 (the 15th year of Edward III) witnesses to the ancient right of altering its own constitution which belongs even now to the City of London and to no other authority in England; for even the House of Commons cannot alter its constitution without the assent of the King and the House of Lords. The charter declares that „where customs previously in use proved hard and defective or anything newly arising in the City needed amendment, the Mayor and Aldermen with the assent of the Commonalty might apply and order a fit remedy as often as

each ward at the annual ward mote should choose according to its size, 8, 6, or 4 members to deliberate on the common interests of the City. The electorates however were not clearly defined, and 29 years later a special meeting of leading citizens was called, and an ordinance passed, complaining of the discretionary power assumed by Mayor and Aldermen of summoning from the delegates of the wardmote only those whom they liked as Common Councillors to deliberate on City matters. This special meeting ordered that in future the Common Councillors should be nominated by the trading companies instead of by the wards and that all persons so nominated should be summoned to take part in the Common Council and in the election of officers. The Citizens at large however did not relish exclusion and persisted in taking part in City affairs. At last in the 7th year of Richard the Second an immensa communitas of citizens specially convened made an ordinance that the election of Common Councillors should be restored to the wards, four to be elected by each. This was the last meeting of London's citizens in a legislative and corporate capacity. The „immense community" was henceforth represented by the Common Council. The Community however continued to meet in an electoral capacity for 84 years longer until the 7th year of Edward the Fourth's reign, when it was enacted that the Common Council instead of the mass meeting of citizens should elect the Mayor and Sheriffs. But eight years later the City Companies contrived to associate themselves with the election, and finally it was established by an Act of the Common Council in the 15th year of Edward the Fourth that the masters and wardens should associate with themselves the honest men of their mysteries and come „in their last liveries" to the elections of the Mayor and Sheriffs; and that none but themselves and the members of the Common Council should be present.

We cannot leave Plantagenet London without referring to the fall of the order of Knights Templar in 1313 and the subsequent lease of their property (the Inner and Middle Temple) to the Students of the Common Law to whom it still belongs, and who

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seemed expedient; so that such ordinance should be profitable to the king and citizens and to all others liege subjects resorting to the city, and also consonant to reason and good faith": see Liber Albus, and Norton p. 470.

still govern it as a precinct through their Benches. Towards the end of the 14th century Geoffrey Chaucer the first great English poet was employed as clerk of various public works in London, his father being a city vintner. Westminster Hall was rebuilt by Richard II in 1397, and the Guildhall was built in 1411. This has been the seat of the Common Council ever since, and its name testifies to the association of the City Guilds and Companies with the Government of London. The most thrilling military events of the period for London were the rising of Wat Tyler in 1381 and the unsuccessful attack of Thomas Nevill in 1741. The rule of the Plantagenets was ended by the battle of Bosworth in 1485.

Tudor and Stuart London 1485—1688.

In the reign of Henry the Seventh a Venetian visitor to London was struck by its wealth and especially by the vast quantity of the gold and silver plate displayed by the goldsmiths, which far surpassed anything he had seen in the great Italian Cities.

There was no improvement however in sanitation. Fevers and plagues constantly broke out, nor was any respite afforded until the great fire destroyed the central breeding grounds of so many abominable and loathsome diseases. It has been said that, as Norman London was distinguished by the foundation of the monasteries and Plantagenet London by the foundation of the friaries, so the most important event for Londoners in Tudor times was the suppression of all religious houses and the confiscation of their vast wealth and possessions. Most of the London Friars and Monks were evicted in 1538. Some of the foundations were converted into hospitals and schools, others were sold to the City Companies. But a great many lands and buildings must have been thrown into the market, and the outgrowth of the city must have been considerably postponed. The earliest maps of London date from the middle of the 16th century and show that the only urban part of London outside the City walls was on the West for half a mile beyond Ludgate and Newgate. St. Giles was actually in the fields. Moorfields, Spitalfields, Leicester Square and Convent Garden were still real fields or gardens. Clerkenwell and Islington were villages. Holborn and Bloomsbury were rural health resorts. Piccadilly was a country road and was called

„the waye to Redinge“ [1]. Henry the Eighth had good sport, as a proclamation against poaching shows, with partridges, pheasants and herons „from his palace at Westminster to St. Giles in the Fields and thence to Islington, Hampstead and Hornsey Park“. In Elizabeth's time the growth of London began to alarm the Government, and in 1580 the building of new houses or tenements within three miles of the City was prohibited by proclamation; but the prohibition was not observed. In 1566 Sir Thomas Gresham founded the Bourse, called the Royal Exchange from 1571; and in 1568 water began to be drawn from the Thames by a conduit to the lower parts of the city. Fourteen years later Peter Moris, a Dutch engineer, obtained a five hundred years lease of two arches of London Bridge and erected „forciers“ to convey Thames water to the east end of the City. In 1701 his descendants sold the lease for £ 30 000 which lasted still 1822 when it was doelt bought up by the Southwark Company. Other water enterprises on the northern side were commenced in the reign of James the First. Reservoirs at Clerkenwell, supplied by the New River, were constructed by Hugh Middleton, King James the First contributing part of the capital on condition of sharing in the profits. By 1720, according to Strype, water pipes ran below every street in London, and almost every house with a rent of more than £ 15 or £ 20 per annum had a separate service, the smaller houses having pumps near them. But drainage was neglected, and the accession of James was accompanied by one of the worst visitations of the plague, over 30 000 people being carried off. The Elizabethan prohibitions against building new houses were renewed by James and Charles the First, and some offenders were punished by the Star Chamber. In 1631 the population of the City and Liberties was returned as 130 000. The royal distrust of Londoners was justified in the Civil Wars, when the victory of parliament was assured by the steady and almost unanimous support of the capital. The Jews were allowed to return to England by Cromwell in 1650, and Aldgate became their quarter in London. Twenty five year later the revocation of the Edict of Nantes brought many French Protestants who established the silk manufactures in Spitalfields.

[1] Reading. The topography of London and the smallness of its suburbs is illustrated by the story of Sir Thomas Wyat's rebellion.

Before the great Fire of 1666 the housing of Londoners was incredibly bad. The floors were commonly of clay strewn with rushes, says Erasmus; under the rushes lay an undisturbed collection of grease, bones and filth. Light and air were excluded by the crowded fashion of building. Yet at the beginning of the seventeenth century many well to do citizens had pleasant gardens within the City walls. The largest garden area was just behind Lothbury; but there were also gardens in Watling Street, as contemporary plays show. The only good street before the Fire was the old Roman way from Aldersgate to Ludgate. which was very broad and commodious at Cheapside. Otherwise the City was a labyrinth of narrow alleys and paths. Wheel carriages could not be much used, and most of the carrying was done by porters as in Constantinople today. Coaches were introduced in the reign of Elizabeth, but the surface was so bad that they were of little service within the city walls except for display. It is a curious fact however that an Act of the Common Council in 1661 restricting vehicles plying for hire within the City to the number of 420 was still in force in 1829 [1].

It will be convenient to trace the rise and developement of the modern police system of London in a separate chapter, and we shall now conclude this section with a brief review of the later charters, which are mostly unimportant. The London citizens and aldermen had some sharp contests with the despotism of Henry VIII. His frequent grants of monopolies to foreigners provoked a furious riot in 1517, and in 1525 the City successfully withstood a „benevolence" for the French War. The London Charters of this reign were merely recitals. The Court of Conscience, or Requests, for small claims was established by an Act of Common Council in the ninth year of Henry's reign. By a charter of Edward the Sixth the inhabitants of Southwark were placed under the jurisdiction and correction of the Mayor and City officers of London. Thereupon the Court of Aldermen increased their number by one and made Southwark a Ward with the name of Bridge Ward Without. The Common Council then ordained that this new alderman should be elected. But their ordinance was repelled in the next reign and the election of the Southwark Alderman was given to the Court of Aldermen. There are no

[1] Norton's London p. 109.

Elizabethan charters; but those of James the First are of interest. One, as we have seen, confirms the City's Conservancy of the Thames from Staines to Yenleet or Yendall. It also confirms the once lucrative franchise called ‚metage', with the office of ‚measurer' of all goods brought to the Port of London. In a second charter the City Jurisdiction municipal and magisterial is enlarged to include Dukes Place, Great and Little St. Bartholemews, Blackfriars, Whitefriars, and Cold Harbour. In a third the practice of weighing and selling coals is regulated.

The first charter of Charles the First, dated in the 14th year of his reign, is a great Inspeximus Charter, which recites all charters granted to London from the time of the Conqueror, and quotes them nearly all verbatim. All these charters are confirmed and all free customs restored. The charter grants that the Mayor, Recorder and Aldermen who „have passed the Chair"[1], and the three senior aldermen who have not passed the chair shall be justices of the peace. The charter grants or confirms certain lands or waste grounds as the property of the commonalty[2], including West Smithfield and the fairs and markets there held with ‚pickage', ‚stallage' and all profits. By this charter „no market shall be henceforth granted to be kept within seven miles in compass of the City." The Offices of garbling, gauging, and weighing are regulated and the office of „outroper", or auctioneer broker, is created. Citizens are permitted to erect hanging signs outside their houses -- a nuisance and danger which was not checked until the middle of the 18th century. In the 16th year of his reign Charles the First granted a second charter which „in consideration of a sum of £ 4200 confirm amplifies and establishes the privileges of ‚package', ‚scavage' and ‚bailage' of foreign merchandise delivered or unladen within the city or suburbs. It should be explained that the City tolls were as old as the customs, and that when „the petty customs" were abolished by a statute of George the Third[3] the duties and tolls

[1] I. e. who have been Mayor.

[2] But saving to the King all streets alleys and other waste places within the City. This was doubtless an encroachment; for the land within the city was held by the citizens themselves, and could not be said to belong to the King.

[3] 24 Geo III c. 16. The petty customs were special customs paid by aliens.

paid to the City of London were excepted. The above offices were connected with the oversight of the various port dues, tolls and customs; and the officers were supposed to detect and prevent such fraudulent practices as false packing, false mixture or false ownership by a citizen. In the same way „stallage" and „package" were concerned with the dues for stalls in the City markets. All these offices says Norton, a learned investigator in the legal antiquities of the City of London, „would seem to have rested rather on the principle of placing every employment or avocation of a common or public character under the regulation or supervision of the local government". The supervision of common carriers, porters, fishermen, watermen etc. by the City authorities rested on immemorial usage unconfirmed by charter or Act of Parliament. In 1663 Charles the Second granted the citizens ä grand Inspeximus charter (usually called the Inspeximus Charter) which is usually referred to as the text of all the City Charters.

By the Civil Wars the City like the rest of the country had suffered heavily, and in the great fire of 1666 a vast amount of its property was consumed. The embarrassment of the corporation was increased by Charles the Second who, to provide for the Dutch War, seized the funds desposited at interest in the Exchequer by merchants, bankers and goldsmiths — an act of barefaced robbery which ruined many wealthy citizens. The Protestant feelings of the City were also incensed by the King's Papist leanings, and the breach between King and City widened until at length in 1683 a quo warranto was directed against the City Corporation on the pretext that it had acted illegally in reference to market tolls and also in a petition to the king, the real ground being that the City persistently elected sheriffs opposed to the Court faction[1]. The servile judges in the Court of Kings Bench gave judgment against the City and declared the Charters of the City forfeited. The King thereupon removed the obnoxious aldermen and appointed a new Lord Mayor and Recorder and new Sheriffs to act during pleasure. James the Second pursued the same policy, but in 1688 when he heard of the landing of the Prince of Orange he sent for the Mayor and Aldermen of the City and announced that he would restore their charter and

[1] The story of the nomination of Sir Dudley North is told in the Life of Lord Keeper North: see also for an account of the struggle between the Court and the City. Norton's London pp. 301—7.

privileges, and Judge Jeffries was sent to the Guildhall to deliver the Charter to the Court of Aldermen. As soon however as James left London the Court of Aldermen and the Court of Common Council declared for the Prince of Orange. The importance of the civic independence of London was immediately recognised by the Parliament of the Restoration. A statute was passed declaring that the judgment obtained on the quo warranto in Charles the Second's reign and all the proceedings of the Crown on that occasion were illegal and arbitrary. The judgment was reversed, annulled and made void; and the Statute went on to enact that the Mayor Commonalty and Citizens should for ever remain a body corporate and politic, and should not be excluded or ousted therefrom upon any pretence whatsoever[1]. This was the last great historical event in the constitutional history of the City. After the Revolution some controversies arose as to the mode and procedure of elections both at the Ward Motes and in the Common Hall, together with disputes between the Court of Aldermen and the Court of Common Council as to their respective rigths. In 1725 a Bill was introduced in the House of Commons to settle the questions at issue, which after some protests was passed and eventually amended by an Act of George the Second[2]. The Tale of London charters is completed by one in the reign of William and Mary, and two granted by George the Second, which constituted all Aldermen Justices of the Peace within the City. The history and meaning of the London charters have been so admirably presented by the learned Mr. Gomme that I cannot refrain from quoting a few sentences from his conclusion: —

„The Corporation of London has no governing charter or Act of Parliament which really defines what its constitution is, and by which the election, powers and functions of the governing bodies and principal offices are regulated. It has a great body of charters, 120 in number, extending over a period of 670 years from William the Conqueror to George the Second; but there is no authoritive exposition of the multifarious customs, rights and privileges claimed by the corporation of London."

The Existing City of London and its Corporation.

Having shown whence the City of London came and how its constitution took shape we may now briefly describe this unique area

[1] 2 Will. and Mary, c. 8.
[2] 19 George II, c. 8.

of local government as it exists to-day after having so long and so successfully defied all the efforts of reformers.

Area population and wards.

For municipal purposes the City of London is about one square mile. The population that sleeps there is about 37 000 having steadily dwindled for more than a century. The resident day population is estimated at 300 000 having as steadily risen. There is an electorate of 30 000 divided into 25 wards (Cripplegate Within and Without counting as one) and 112 parishes. The municipal City of London is partly „within" and partly „without" the walls, London „without the walls" having been included for purposes of defence. The wards are very unequal in size those outside the walls being the largest. A consideration of the map of London, say the experts, will show that all „the liberties" outside the walls are on ground where the walls were exposed to attack. Thus the ward of Farringdon Without extends to Temple Bar which is the high and rising ground opposite Ludgate. So also Cripplegate Without and Aldersgate Without and Bishops Gate Without. On the moor side and the river side there were so such liberties. Temple Bar and the other „Bars" were the entrances to the ancient unwalled liberties and the gates of course were the entrances to the walled city. Since the reign of Richard II, when an Act of Parliament separated Farringdon Without from Warrington Within[1], the names and (with a few exceptions) the boundaries of the wards have remained unchanged. As to changes of boundary Whitefriars and Blackfriars were respectively attached to Farringdon Without and Farringdon Within by Act of the Common Council dated March 11, 1736 and Feb. 28th, 1806; and the Post Office Act[2] annexed St. Martin's-le-Grand to the Aldersgate Ward. The Inns of Court and Chancery are regarded as parts of the City and a within the liberties of the City though they do not pay the City burdens and are not under the municipal government of the City Corporation. It is a curious fact illustrating the reluctance of the City to extend its privileges that, although Southwark was several times granted in Plantaganet and Tudor times to the City Corporation, it was never

[1] 17 Richard II, c. 13.
[2] 55 George III, c. xcl. S. 71.

effectually incorporated within the City. After the charter of Edward VI giving the City power to annex Southwark, the Common Council enacted that Southwark should be constituted a new ward called „Bridge Without". For a short time as we have seen Common Councellors and Aldermen were elected, but the practice fell into disuse, and the Corporation of London only recognised persons who lived at Bridge Foot on the Southwark side as members of the Ward of Bridge Without. Consequently when the houses at Bridge Foot were pulled down there remained no constituancy. Under various acts and by-laws of the City the Senior Alderman who has „passed the Chair" may remove to the Ward of Bridge Without. If he declines, the next in seniority has the option, and if all who have been Mayor decline, the Common Council may appoint any freeman. No Common Councilmen are now elected for the Ward, which indeed can only be said to exist by a fiction. Southwark is now one of the London Boroughs with a Borough Council and Mayor under the London Government Act of 1899, but the City Corporation is still Lord of the Manor of Southwark[1].

Constitution of City Corporation.

The City Corporation is a Corporation by prescription. In the valuable memorandum contributed by Mr. John Kemp and printed in the Appendix to the Report of the Royal Commission of 1894 on the Amalgamation of London we read that the Corporation „has no governing charter or Act of Parliament which really defines what its constitution is and by which the election, powers and functions of the governing bodies and principal officers are regulated". Hence the historical method which we have adopted is the only one by which its present status can be appreciated. A very long and patient inquiry would be requisite in order to ascertain with anything like detailed accuracy how far the various charters, parliamentary statutes and Acts of the Common Council itself are still in force and how many of the ancient laws and customs of the City of London still hold good[2].

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[1] For the external and internal boundaries of the City see Appendix X (1) pp. 359—361 of the Appendix to the Report of the Royal Commission of 1894 on the Amalgamation of London.

[2] The Customs of the City of London would require separate treatment.

The City Corporation is styled „the Mayor Commonalty and Citizens of the City of London." The Common Council consists of the Lord Mayor, 26 Aldermen and 206 Common Councillors. It is a curious mixture of extreme democracy, extreme plutocracy and extreme oligarchy. It is in one sense the most powerful local authority in England in that it has the power (confirmed by Charter A. D. 1341) of altering and amending its own constitution.

The democracy of the Common Council consists in this that all the Common Councellors are subject to annual election by the ratepayers and that most of the principal officers are appointed or re-appointed annually.

On the other hand the Lord Mayor, one of the principal ornamental functionaries of the realm, who receives £ 10000 for his year of office, who has special relations to the King and the Ministry, who is one of the chief entertainers of distinguished foreigners, who presides over the Court of Common Council, the Court of Aldermen, the Court of Hustings and the Court of Common Hall, is nominated by the Liverymen in Common Hall from among the Aldermen who have served the office of Sheriff. The Commission of 1854 reported strongly against this mode of election, and recommended that the Lord Mayor should be elected by the Common Council from all persons qualified to be Common Councillors. This reform if adopted would snap a link between the Municipality and the City Guilds.

There are twelve great Livery Companies and 67 minor Companies. To be a Liveryman and so to be an elector with the right to vote for the two sheriffs and certain officials and to nominate the Mayor a man must be:

1. A freeman of the City of London.
2. A freeman and Liveryman of a City Company.
3. Must have resided within 25 miles of the City for six months before being placed on the Register.

Freedom of the City may be acquired by servitude [1], patrimony [2], by gift of the City or by purchase.

The qualification of an Alderman is that he must be a freeman of the City. A Common Councellor must be a freeman and a rate-

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The best known perhaps is the rule that every shop in the City is „market overt" for the goods sold there.

[1] Apprenticeship.

[2] Birth.

payer of the City. The Court of Aldermen stamps the City Government with an oligarchic character, as the Court of Common Hall marks its connection with the rich Guilds of Merchants. There are 26 Aldermen, one for each ward, Cripplegate Within and Without counting as one. Each Alderman is elected for life by the Ward Electors except the Alderman of Bridge Without, the ward that only exists in fiction. The Alderman anciently had great authority as ruler and governor of his ward. Now his principal duties are to summon and preside at the Ward Mote and direct prosecutions against nuisances. He is a justice of the Peace and a member of the Common Council.

The Court of Aldermen, called in full „the court of Mayor and Aldermen in the Inner Chamber", to distinguish it from the Outer Chamber or Lord Mayor's Court[1], has lost most of its administrative powers which it exercised as the Court of Quarter Sessions until they were transferred in 1888 partly to the London County Council but mainly to the Common Council. The Court of Aldermen however still licenses public houses in the City and has some other functions. It has the power, concurrent with that of the Common Council of ordering payments out of the City Cash.

The Common Council which exercises by itself and through its Committees most of the prescriptive and statutory powers of the City Corporation is styled in full „the Court of the Lord Mayor, Aldermen and Commoners of the City of London in Common Council assembled".

To make a quorum there must be present the Lord Mayor or his deputy, at least two Aldermen, and enough common Councillors to make up the number of members present to forty. Besides these the Recorder, Chamberlain, Common Serjeant, Town Clerk, Judge of the City of London Court and Clerk of the Court are expected to attend. The Sheriffs are also allowed to sit; but only the Lord Mayor, Aldermen and Councillors have the right to vote.

[1] This is one of the five special City Tribunals the others being the old Court of Hustings and the Court of the borough of Southwark (both practically obsolete), the City of London Court formerly known as the Sheriff's Court, the City Chamberlain's Court for disputes between Masters and Apprentices, and the London Chamber of Arbitration established in 1892 which is managed by a Committee of 12 appointed by the Corporation and London Chamber of Commerce.

Those who attend but cannot vote may speak if they are called upon.

Unlike other bye-laws the bye-laws of the City of London may if they are held to represent the usages and customs of the City run counter to the law of the land; because a custom is the law of the locality and is a local exception to the common law. On this ground as well as on account of the Charter of Edward III our Supreme Courts treat the Acts and Bye-laws of the City Corporation with more favour and respect than the bye-laws and orders of other municipal bodies. The Common Council has unlimited and almost unchecked control over the funds of the Corporation. No bills of more than £ 100 may be paid without its consent. All accounts are presented to it. It only can apply the common seal, and so it alone can dispose of the real property of the Corporation. It elects the Town Clerk, the Clerk of the Peace, the Coroner, Remembrancer and most of the officers. It is sanitary authority for the port as well as for the City subject to certain powers of the London County Council.

Elections in the Court are by shew of hands, a poll being only taken if demanded. Officers must be freemen; but no member of the Court can be an officer while he is a member. Most of the officers have to be re-elected every year, but the re-election is almost a matter of course.

The work of the Common Council may be inferred from an enumeration of its principal functions: —

City Police.

This force is independent of the Home Office and is entirely paid for by the City, one fourth coming from the Corporate revenue and three fourths from a City rate. The force is under a Police Committee of the Common Council.

City Estates.

The City Corporation possesses a number of valuable estates some of which like the Bridge Home Estate (for the maintenance of bridges) are held in trust for special purposes. The Common Council controls and maintains the London, Blackfriars, Southwark and Tower Bridges. The financial management of the City Estates

has often been the subject of unfavourable comment and the want of an independent audit lends colour to charges that may or may not be unfounded.

Markets.

The City Corporation is Market Authority for London, its powers being exercised by the Common Council. There are three Committees, one for the Central Markets, one for the Cattle Markets and one for the Billingsgate and Leadenhall Markets. The Markets administration has been and still is severely criticised.

Public Health.

This department is divided between three Committees — the Streets Committee, the Sanitary Committee and the Improvements and Finance Committee. These Committees have succeeded to the City Commission of Sewers (1848—1897). They administer the Public Health Acts and (unlike the other Metropolitan Borough Councils) are not subject to the bye-laws and regulations of the London County Council. A special Committee is also appointed to carry out the duties of the Corporation as Sanitary Authority for the Port of London from Teddington Lock to about 3 miles beyond the Nore. The Conservancy of the Thames passed from the City in 1857, but the City Corporation appoints six representatives on the Conservancy Board.

Parks and Pleasure Grounds.

Many fine parks and open spaces such as Burnham Beeches and Epping Forest have been bought by the City Corporation for the benefit of London and are maintained out of the City's cash. There is an Epping Forest Committee and a West Ham Park Committee.

Education Museums etc.

The Common Council maintains the City of London School and many other institutions, such as the Guildhall School of Music, the Guildhall Library and Museum and an Art Gallery. Committees are appointed for these purposes.

The Corporation has numerous powers and duties in connection with Charitable Institutions, and it manages the City of London

Asylum. Other important Committees are the County Purposes and the General Purposes Committee. The former appoints inspectors of weights and measures.

The Standing Orders of the Court of Common Council under which these Committees are appointed provides that „no Committee appointed by the Court shall be allowed to draw for any money on account of their expenses in any one year beyond the sums following“ [1], which range from £ 400 in the case of the City Lands Committee to £ 50 in the case of the Gresham Committee. It is to be feared that this system of uncontrolled allowances must be productive of much unnecessary expenditure. The Common Council appoints its Committees annually „at the first Calendar Court afrer St. Thomas Day: and the Lord Mayor for the time being is requested to call such Court as early as possible after Plow Monday“ [2]. There is indeed a rich antiquarian flavour about these Standing Orders which a foreign reader cannot hope fully to appreciate. Most of the Committees consist of 6 Aldermen and 29 Commoners, and any seven members constitute a quorum. There does not appear to be any provision by which the work of the Committees is necessarily subjected to the review and confirmation of the Common Council, and even the financial control of the Council is of an irregular and haphazard description [3]. The Corporation of the City of London is the only local authority in England which can spend money freely on purposes not authorised by statute.

Most of the principal officers, as before stated, are appointed by the Court of Common Council, as for example the Town Clerk, the Clerk of the Peace, the Comptroller of the Chamber and the Bridge Home Estates, the Coroner, the City Solicitor, the City Remembrancer, the Secondary and High Bailiff of Southwark, the

[1] Standing Order 91.

[2] Standing Order 41.

[3] The following provision taken from Standing Order 91 may serve as a specimen. „On any public Entertainment being resolved to be given by the Corporation a sum of money shall be fixed by the Court as the allowance for the expenses of the Committee appointed to carry out such entertainment; any decorations supplied to the Committee shall be paid for out of the said allowance, or, if there be no allowance voted, out of the sum voted for the entertainment, and shall consist of a ribbon, button or other decoration to be selected by the Committee, the entire cost thereof not to exceed five guineas for the whole supply.“

registrar of the Mayors Court and various ancient and ornamental personages such as the Sword Bearer, the Common Cryer, the Sergeant at Mace etc. Then there are appointed by the same Authority the City Surveyor, the City Engineer, the Medical Officers, the Commissioner of the City Police, a number of Clerks and Superintendents of City Markets, Clerks and Bailiffs in the City of London Court, the Sanitary Inspectors of the Port of London and various School Masters.

The Court of Aldermen appoints the Recorder and the Steward of Southwark, the Clerk to the Lord Mayor and the Clerk to the Sitting Justices. The Livery appoints the City Chamberlain who is not only the Treasurer and Banker of the Corporation but keeps the Freeman's roll and has jurisdiction over apprentices. The Livery also appoints the Bridge Masters and the Auditors of the City and Bridge Accounts, so that it may be said to share with the Common Council the control of the City's finances. Other officers are appointed by various Committees.

This completes our survey of the Government of the City of London, the only existing survial of the old unreformed Municipal Corporations, a highly interesting antiquity and extremely valuable as a living incorporation of the history of London but by no means an example of a satisfactory and efficient local authority.

The London Police.

We may trace the local police of London from the peace guilds of Anglo-Saxon times to the London statute of Edward I (1285 A. D.) which supplemented the Saxon principle of every man a policeman with the duty of Hue and Cry, by the recognition of a special police force with the duty of „Watch and Ward". The establishment of Justices by Edward the Third, which revolutionised the system of justice and police in the counties, hardly affected the police powers of the Mayor and Corporation of London. In the 14th and 15th centuries the duties of the police were extended to include the regulation of trade and morals. In the latter half of the Tudor period Londoners were forbidden to trade on Sunday, to burn-coal, or to use vehicles of more than a certain width. Ordinances were made against objectionable advertising. Thus barbers who practised phlebotomy were forbidden to advertise their skill by displaying a

basin of blood before their shops. Lepers and prostitutes were placed under surveillance, and officers were appointed to isolate persons suffering from the plague.

The „Liber Albus" or white book of the City of London, which was compiled at the beginning of the 14th century by John Carpenter, Common Clerk of the Corporation and Richard Whittington, its famous Mayor, gives much information as to the system then in vogue for the detection prevention and punishment of crime. Thus the City Constables of that time were required to take the following oath: —

„You shall swear that you shall keep the peace of our Lord the King well and lawfully according to your power, and shall arrest all those who shall make any contest, riot, debate, or affray, in breaking of the said peace and shall bring them into the house or compter of one of the sheriffs. And if you shall be withstood by strength of such misdoers, you shall raise upon them a cry, and shall follow them from street to street and from ward to ward until they are arrested. And also you shall search at all times when you shall be required by Scavenger or Bedel for the Common nuisances of the ward, until they are arrested; and also if there be anything done within your bailiwick contrary to the Ordinance of the City. And the faults you shall find, you shall present them unto the Mayor and to the officers of the said City. And if you should be withstood by any person or persons that you cannot duly do your office, you shall certify unto the Mayor and Council of the said City the name and names of such person or persons who trouble you. And this you shall not fail to do. So God help you and the Saints."

The freemen of the City were also sworn to assist the Constables in their respective wards. As an example of the punishments inflicted we may take the following from the Liber Albus: —

„If any default be found in the bread of a baker in the City, the first time let him be drawn upon a hurdle from the Guildhall to his own house through the great street where there be most people assembled, and through the great streets which are most dirty, with the faulty loaf hanging from his neck; if a second time he shall be found committing the same offence let him be drawn from the Guildhall through the great street of Cheepe[1] in the manner aforesaid to the pillory, and let him be put upon the pillory and remain there at least one hour in the day; and the third that such default shall be found, he shall be drawn, and the oven shall be pulled down, and the baker made to forswear the trade in the City for ever."

Similar punishments ware inflicted on the dairyman who watered his milk, the vintner who sold sour wine etc.[2].

[1] Cheapside, which curiously enough was much wider before than after the great Fire.

[2] In 1318 A. D. a Statute 12 Edward II. C. 6 was passed forbidding

„The Statute of the Pillory and Tumbrel“ [1] which remained in force from its enactment in 1266 until 1710 was „the chief legislative authority upon which police action directed against dishonest purveyors rested“ and had „a long career of practical usefulness“[2]. Imprisonment was not frequent. The Newgate gaol indeed dated from the 12th century, but at first it was mainly used as a place of confinement for debtors, Jews, or political suspects. It is not till the fifteenth century, says the author above quoted[3], that we find a graduated scale of punishment by fine or imprisonment. At that time the punishment for drawing a sword in the City of London was half a mark or fifteen days, while the punishment for wounding a man with a sword was twenty shillings or forty days. The police system of the City of London was not materially altered by the Tudor sovereigns, who were chiefly concerned to establish peace and order in the counties and especially in Wales and on the Scottish border. Much of modern legislation on licencing, vagrancy, pauperism and riots has its origin in Tudor times. The March of the City Watch was a famous spectacle, and we are told how on St. Peter's Eve 1510 Henry VIII. took his queen and courtiers to see it in Cheapside. From 1528 to 1548 the March was suspended owing to the prevalence of the sweating sickness, but was then revived in the mayorality of Sir John Gresham. Partly owing to the fear of spreading infectious disease, partly to the strength of puritanical sentiment Shakespeare and his fellow playwrights and dramatists received little encouragement from the City authorities, and the London theatres of Elizabeth's reign were not built within the City jurisdiction, though Queen Elizabeth's Lords of Council wrote to the Lord Mayor in 1582 asking him „to allow of certain companies of players in London.“ In Elizabeth's time London was beginning to extend a little, especially from Ludgate along Fleet Street and the Strand to the Village of Charing Cross, and from Newgate to Holborn. But the suburbs, as these outgrowths began to be called, bore a bad name for crime and disorder. To improve the state of Westminster Elizabeth in 1559 gave the Dean and Chapter a charter

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public officers in cities and boroughs to sell wine or victuals during their terms of office.

[1] Judicium Pilloriae 51 Henry III. Stat. 6 A. D. 1266.

[2] So Melville Lee in his History of Police in England London 1901.

[3] Melville Lee, loc. cit. p. 78.

with police authority; but the results were so unsatisfactory that in 1584 a private Act was passed dividing Westminster into 12 wards presided over by 12 burgesses nominated by the Dean or by his delegate the High Steward. The burgesses were empowered to commit peace-breakers to prison giving notice thereof within 24 hours to a Middlesex Justice of the Peace, and they were also authorised to put down nuisances and to punish offenders in accordance with the laws and customs of London. Had it not been for the fear of making the City Corporation too powerful its jurisdiction would probably have been considerably extended at this time[1]: but little was done except to lament over the state of outer London. „How happy were cities" wrote a moralist of James the First's time „if they had no suburbs".

In 1655 London was one of the twelve districts into which Cromwell divided England for police purposes. The system only lasted two years, and its exasperating efficiency contributed to the licentious disorders of the Restoration. Anarchy and sanitary neglect brought a most frightful visitation of the Plague in 1665 closely followed by the fire of 1666. Even when the City had been rebuilt London streets after nightfall were delivered over to rowdies and thieves. The force of a thousand Bellmen created by the Common Council and called „Charlies" after the Merry Monarch, just as Sir Robert Peel's constables were denominated „Bobbies", was far too feeble and inefficient to provide security. Some good however was done by an Act of 1672[2] for the lighting of the streets in the winter months by candles; and in 1686 further improvements were made by private associations for exhibiting a light before every tenth door from dusk to midnight. But the principle that a good lamp is a good policeman obtained the tardiest recognition. Even under Queen Anne London was left in complete darkness from midnight until sunrise. In this reign gangs of ruffians called „mohocks" ranged the streets of London and terrorised all classes. There were quarters into which the watchmen and constables dare not go down even

[1] Something was done in the Second Charter of James I which brought Dukes Place, Great and Little Bartholemews, Blackfriars, Whitefriars and Cold Harbour within the City Jurisdiction; the Mayor Recorder and all aldermen who had been Mayors being made justices of the peace over these new districts.

[2] 13 and 14 Charles II, c. 2.

during the day time. Footpads infested almost every thoroughfare, burglars abounded, and every high road from London was frequented by highwaymen. The well informed and observant Smollett declared in his History of England[1] that thieves and robbers had become "more desperate and savage than they had ever appeared since mankind was civilised". In 1692 a statute of William and Mary offered rewards for the taking of highwaymen and free pardon to accomplices assisting in their discovery. The provisions of this Act, extended to London in the reign of George the First[2], produced a new type of criminal, the thief-spies, among whom Jonathan Wild immortalised by Henry Fielding was preeminent. He organised a trade in stolen property, bought ware-houses and ships, established an authority over robbers throughout the Kingdom and punished those who refused obedience by betraying them to the hangman. Many innocent persons suffered death under the spy and reward system which lasted more than a century.

Although there was more uniformity in police than in other departments of local government there was even here a bewildering and paralysing diversity. In some of the Metropolitan parishes outside the City the police were practically controlled by the justices; in others by a select vestry; in others security depended upon the old system of watch and ward. The select Aristocratic Vestry of St. George's Hannover square[3] established in 1727 a police force of 32 watchmen and 4 beadles, and laid a watch rate to defray the cost. Some of the inhabitants refused to pay this rate, and set up a rival force of sixteen persons called "the inhabitant watch", a sort of protest against the new fangled notion of employing paid policemen. But personal service as constables and watchmen was becoming obsolete. We are told that Londoners on whom the service of Parish Constable was cast were already, at the beginning of the 18th century, in the habit of transferring all their duties to paid deputies "loose and mercenary fellows", notorious for their incompetence[4]. Yet personal service was still supposed to be in force, and liability

[1] A. D. 1757.

[2] By George I. chap. 25, section 8.

[3] See Webb's English Local Govt, Parish and County, (1906) where this parish is regarded as the best governed in the metropolitan area from 1700—1832.

[4] Webb, loc. cit. p. 69 quoting the London Spy for January 1700.

to watch and ward extended to all the inhabitants of London who were not rated and assessed under the Statute of Winchester[1].

In 1736 an Act was passed to enable the Common Council of the City of London to raise money for police purposes to appoint more policemen and to improve the night watch. But very little good seems to have been done. In 1745, when the Young Pretender invaded England, the London trained bands who had resisted his great grandfather Charles I. were again called out; and for five months the London police were superseded by the City Militia, with the immediate result that robberies in London were much diminished. Probably the contrast between the efficiency of the militia and the incompetence of the police helped to bring about the first scientific reform of the police system. It was originated by Henry Fielding the novelist and his blind half brother Sir John Fielding. Henry Fielding's Charge to the Grand Jury (1749) and his Enquiry into the Cause of the Late Increase of Robbers are full of wise suggestions for a more scientific and humane system of preventing and punishing crime. Henry Fielding was succeeded as Stipendiary Magistrate at Bow Street by Sir John Fielding, who wrote in 1755 A Plan for Preventing Robberies within 20 Miles of London, and organised the Bow Street Foot Patrol, supplemented later by horse patrols on the main roads leading into the country. These patrols were well paid and rendered good service, while the employment of regularly paid detectives "did more to render the streets of London safe than the whole body of watchmen, beadles, and constables to the number of about 2000 had previously been able to effect"[2]. In the autumn and winter of 1769 there was such an outbreak of burglaries in London and Westminster that the House of Commons appointed a Select Committee. They heard evidence from Sir John Fielding and from Rainsforth the High Constable of Westminster. The evidence and the Report throw a lurid light upon the state of the magistracy, the management of the liquor traffic etc., and show how closely the incompetence of the police was connected with the conflicting chaos of petty local authorities. The Committee recommended that the pay and numbers of the

[1] Melville Lee's History of Police in England p. 151.

[2] Melville Lee. loc. cit. pp. 155—158. Unfortunately Parliament was far behind the Reformers. A local Act passed in 1755 (29 Geo. II. c. 25) was only a new edition ef the old Westminster Statute of 1584.

watchmen be increased, that the custom of granting wine and spirit licences to all who applied for them should be abandoned and that the "roundhouses" or police stations should not be used for the sale of intoxicants.

These and other proposals indicate the depths of folly and depravity into which public administration had sunk. In 1773 some improvements were introduced in a local police act for the City of Westminster and parts adjacent[1]. But the Act contained no radical reformation of the abuses it sought to mitigate, and in 1780 the Gordon Riots demonstrated in a sensational way the decrepitude of the London police. It has been pointed out that in all probability, had the police shown firmness and efficiency in the early stages of the commotion, there would have been no serious rioting. As it was London remained in the hands of the mob for 6 days; in all parts shops were looted and houses burnt[2]. Even the Newgate gaol and the prisons of Fleet and King's Bench were burst open. London, in fact, was within an ace of being destroyed when the troops were called in and order at length restored after 450 people had been killed or wounded. Strange to say even this terrible riot produced no immediate remedy. It was not until 1792 that the Middlesex Justices Act extended the Bow Street principle of paid or Stipendiary magistrates to other parts of the Metropolis. This measure did much to suppress the abuses of the "trading justices". Captain Melville Lee writes: —

"Seven public offices were established in different parts of the Metropolis at convenient distances from each another; twenty one justices were appointed, and forty two constables were sworn in — an insignificant force indeed to contend against the great criminal array of London, but of great historical interest as a developement of the Bow Street System, the two together forming the first regularly organised and paid force ever established in England"[3]

In spite of the Middlesex Act Bow Street maintained its superiority. In 1805 its mounted police were strengthened, so that patrols could be provided for all the roads within 20 miles of London. By this means at an annual cost of £ 8000 the highwaymen on Hounslow Heath and other favorite haunts round London were rapidly

[1] 14 Geo. III c. 90.
[2] Including those of Lord Mansfield and Sir John Fielding.
[3] Loc. cit pp. 172—173.

suppressed. The footpatrol continued to cover the inner area of the Metropolis (about 4 square miles); but in the London slums crime was irrepressible. It throve on filth, drunkenness and pauperism, and the awful conditions, pictured in warm but faithful colours by Dickens, lasted into the middle of the 19th century when they were gradually removed by tardy reforms of public health and local government.

It may be well here to summarise the different police forces existing in London at the beginning of the nineteenth century. They were

1. Parish constables elected annually by the parish or township and serving either gratuitously or by substitutes whom they paid to relieve them of an onerous and disagreeable office. In 1804 there were 2044 parish constables and watchmen in the metropolis, of whom 765 were in the City.
2. The paid officers and patrols of Bow Street.
3. The paid police constables under the Seven Public Offices established by the Middlesex Justices Act.
4. A paid Water Police under the Thames Office, established by an Act of 1798.

The City of London was still the best policed part of the Metropolis, the parochial constables there being better paid and superintended, thanks to the control of the Lord Mayor and Aldermen. Westminster still suffered from ecclesiastical jurisdiction. In 1801 the Middlesex Justices Act was amended. The Seven Public Officers were increased to ten and the pay both of the police magistrates and the police constables was raised. There was no cooperation but much jealousy and bad feeling between them and the parish constables and watchmen.

The vice, crime and degradation of the Metropolis in the early years of the nineteenth century would be incredible if they were not proved by an overwhelming mass of evidence. The absence of a code of Sanitary Law, the overwhelming increase of pauperism caused by the Napoleonic War, with its enormous weight of burdensome taxes, the artificial scarcity created by the Corn Laws, the flagrant and open violations of morality, the senseless cruelty and brutality of the penal laws, the miseries of overcrowded and unregulated slums, the depraving spectacles of public pillories, hangings, and cruel sports, all contributed to render more glaring the defects

of a chaotic and inadequate police. At length the ideal of Sir Samuel Romilly [1] (supported by Mackintosh and the Benthamites)" a vigilant and enlightened police, and punishments proportioned to the offender's guilt", began to make headway. Between 1816 and 1830 many improvements were made in the penal laws, and in 1829 the reform of the Metropolitan Police was undertaken by Sir Robert Peel as Home Secretary. The way was paved by the Parliamentary Commission of 1828. In the following year Peel introduced and carried his "Act for improving the Police in and near the Metropolis".

Peel's Act created a Metropolitan Police District leaving the City with its independent police force under the City Corporation. The new Metropolitan Police District was defined as Westminster and such parishes in Middlesex, Surrey and Kent as were enumerated in the Schedule to the Act. Police administration was severed from judicial functions, though its two first heads (called Commissioners since 1839) were both Justices of the Peace. A Central Office called Scotland Yard was established in Westminster as a department of the Home Office, and in less than twelve months the parochial police organisations were superseded over almost the whole of London and its suburbs. The District was divided into seventeen (now 21) ‚divisions' each with a superintendent, and there were also subdivisions with inspectors sections with sergeants and beats with a constable in charge.

In June 1830 the Metropolitan Police consisted of 17 Superintendents, 68 Inspectors, 323 sergeants and 2906 constables [2]. The organisation was good, the men were carefully chosen and trained, and, when the first suspicions were allayed that the force might be used to suppress popular meetings and as an instrument against political reform, the new police won such reputation that provincial towns applied for men who had been trained in the London police force in order that they might organise their own local police

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[1] Romilly was preceded as a criminal reformer by Beccaria, by the two Fieldings, by John Howard and by Dr. Colquhoun whose valuable treatise on the Police of the Metropolis (1796) entitles him to be called the Architect if Peel was the builder of the Metropolitan police reform.

[2] At the beginning of 1907 the force consisted of 32 Superintendents 556 Inspectors 2325 Sergeants and 14866 constables, of whom 60 per cent are required for night duty.

on similar lines and obtain a similarly high standard of conduct and efficiency. In 1836 the Bow Street Horse Patrol was placed under Scotland Yard; a little later the constables attached to the various Police Offices and the River Police were also absorbed. The only independent establishment left was that of the City of London, which Peel had wished to include but he refrained because, as he wrote to a private friend at the time, he dared not meddle with it. Now, for the first time greater London was far better policed than the City itself. The Lord Mayor and Aldermen, seeing this new danger to the autonomy of the City, put their house in order and reorganised their City force on the pattern of the Metropolitan police without a grant from the Treasury. Thus, while London and Ireland are the only parts of the United Kingdom where the police are not under local control, the old City is the only part of the Metropolis where the principle of local self government is applied to police. The Metropolitan Police District covers nearly 700 square miles, and includes all places within 15 miles of Charing Cross with the exception of the Old City. This area which has a rateable value of nearly 51 millions and is almost six times as large as the administrative County of London is still under Commissioners appointed by the Home Office. The cost of the force is nearly two millions, of which more than half is defrayed by a fivepenny rate. The endurance of Peel's work through so many democratic changes and reforms is a striking testimony to the solidity of its foundations and to the statemanship of its author.

Public Health in London[1].

Commissions of sewers were issued to the City authorities from very early times, one of the first on record being a commission directed on the complaint of Henry de Lacy, Earl of Lincoln, to the Mayor and Sheriffs of London in the thirty fifth year of Edward I., requiring them to scour and clear the River Fleet[2]. A general Act for the issuing of such Commissions in England was passed in 1531[3]. An Act of Charles the Second's reign passed in

[1] Cp. for this Subject appendix.
[2] See Law of Sewers, Woolrych, 2nd Ed. p. 2.
[3] 23 Henry VIII. c. 5.

1667[1] for rebuilding the City of London after the Great Fire, vested certain duties of sewerage "in the Mayor Aldermen and Commonalty in Common Council assembled", and empowered that body to appoint persons under the Common Seal of the Corporation to design and set out sewers, drains, and vaults within the city and liberties. By further amending Acts in 1670, 1708, 1766, 1771 and 1793 the powers of these City Commissioners were increased. In 1817 a valuable paving Act commonly called Michael Angelo Taylor's Act consolidated the provisions relating to streets of many private acts passed for different parishes of London and gave the Commissioners powers to affect street improvements. The Act applied not only to the City but to all London within the weekly bills of mortality, and may be regarded as the beginning of modern London legislation. It is still in force; but the other Acts[2] for the sewerage of the City of London and of adjoining districts, together with provisions for paving, lighting and cleansing, and for preventing and removing obstructions and annoyances were repealed by the important Act of 1848 (11 and 12 Vict. c. 163) which established a central commission of sewers for the Metropolis, the City Commission being preserved but subordinated to the central body. The Act of 1848 was amended and extended three years later by 14 and 15 Vict. c. 91. Under these statutes the City Commissioners of Sewers continued to act until they were abolished by the City of London Sewers Act 1897, which transferred their powers to the Common Council of the City of London[3]. By the Act of 1848 the Mayor, Aldermen, and Commons were empowered from time to time to appoint as Commissioners under their common seal such persons as they thought fit for carrying the Act into execution. Thus, while the sole power of making, repairing and altering sewers, drains and vaults, and of paving, lighting, cleansing and improving the streets within the City was vested in the Mayor and Commonalty and Citizens of London, the executive authority from 1848 to 1897 consisted of Commissioners nominated and appointed by the Mayor, Aldermen and Commons, in Common Council assembled under the common seal. But the significant feature of the Act in the historical

[1] 19 Car. 2, c. 3.

[2] E. g. 11, Geo. 3, c. 29, 33, Geo. 3, c. 75 and 4 Geo. 4, c. CXIV.

[3] In accordance with a recommendation of the Royal Commission of 1894 on the Amalgamation of London.

development of London was that it gave the central body, the Metropolitan Commissioners of Sewers, power to require the City Commissioners to carry out works of sewerage within the City of London. It was the first encroachment upon the city Corporation by greater London. The Act came into operation on the 1st January, 1849, a year which witnessed a terrible outbreak of cholera in London. The plague was repeated in 1854 and helped to hasten the passing of the first great reform of local government in London — the Metropolis Management Act of 1855. By that Act the main sewers in the City of London, as well as in the rest of the Metropolitan area, were vested in the Metropolitan Board of Works, of which the London County Council is the successor.

The City Streets.

Various powers for the regulation of streets and the prevention of nuisances had been conferred on the City Corporation by the City Police Act of 1839. The Commissioners of sewers spent £ 4,254000 between 1842 and 1894 in widening and improving the Streets of the City, most of the work being done under Michael Angelo Taylor's Act. The Corporation also, from an early period, made ordinances and bye laws for the regulation of buildings, and legislative provision on the same subject was embodied in the Act passed by Parliament in the reign of Charles the Second and in subsequent statutes. The Metropolitan Building Act of 1885 (18 and 19 Vict. C. 122) amended and consolidated the law but left certain provisions of former statutes unrepealed[1].

The City and the Thames.

Important functions of administrative control over the river Thames and property by the river side were (as we have seen) in former times exercised by the Corporation of the City of London. The Lord Mayor was, by an ancient grant from the Crown, Conservator of the Thames within the port of London, and the Corporation claimed to be entitled to exercise rights of ownership over the bed and soil of the river.

[1] The London Building Act of 1894 has consolidated the law for the Metropolis, in which the City is included subject to certain privileges and exemptions: e. g. bye laws made by the London County Council for the Metropolis have no force in the City.

The Metropolitan Commissioners of sewers, acting under 11 and 12 Vict. c. 112, considered that the Act empowered them to execute works on the bed and foreshore of the Thames without obtaining the permission of the Thames Navigation Committee, the body charged with the exercise of the chief powers of the Corporation relating to the conservancy of the river, and when they required such works they did not apply for leave, but merely gave notice to the Committee of their intention to commence them. The Committee, however, claimed the right of giving or withholding permission, and required that the works should be executed under the supervision of the water bailiff, one of their officers: and there is little doubt, says Woolrych, that the Committee's permission was necessary before any such works could be executed. At present the previous approval of the Thames Conservators is clearly requisite before any works on the bed or foreshore, which may affect the navigation, can be carried out.

The claim of the City Corporation was also contested by the Crown, and a suit in Chancery was instituted by the Attorney-General against the Corporation for the purpose of determining the rights of that body and of the Crown in relation to the bed and soil of the river and its tidal shores. The suit was closed by agreements made in 1856 and 1857, when a grant of the estate and interest of the Crown was made to the Corporation, in consideration of their paying annually to the Commissioners of Woods and Forests one-third of the monies, rents, and proceeds which they might receive in respect of sales, leases, grants, or licences for docks, piers etc. in or upon the bed of the river, or of encroachments, embankments or inclosures on or near to it, and of their applying the residue to the improvement of the navigation. That portion of the bed of the river situate in front of lands, etc., belonging to the Crown or to any government department, was excepted from the grant. The Thames Conservancy Act of 1857 (1) vested in "Conservators" all the estate of the Corporation and of the Crown in the bed and soil of the river except the portion referred to above reserved to the Crown, and transferred to the Conservators all powers previously vested in the Crown or Corporation in relation to the Conservancy of the river.

The City Corporation which is still the Port Sanitary Authority, is represented on the Board of the Thames Conservancy, along with

the London County Council, the Admiralty, the Board of Trade and the other County Councils adjacent to the Thames from its source to its estuary.

The Reform of Metropolitan Government.

The necessity for a reform of the City Corporation had been dwelt upon by the Commission for the reform of municipal Corporations which reported in 1834. But such was the prestige and influence of the City, and so thorny the problem of London administration that the Whig Government of the day thought it prudent to exclude London from their scheme of municipal reform, so that the Capital did not benefit by the Municipal Corporations Act of 1835. In 1837, however, the same Commissioners made a special report on London and Southwark in which they made an elaborate examination of the historical and legal status of the City Corporation and of the City Companies and concluded that the whole of London ought to be incorporated as one municipality under the Municipal Corporations Act. At that time the City contained "less than a ninth of the population of what might be considered in a general way the Town of London". The necessity for a common local authority for all London was, however, not lost sight of and in 1848, as we have seen, a certain sanitary superintendence was vested in the Commissioners of Sewers. The Commissioners appointed in 1853 to inquire into the state of the City Corporation discussed the question whether London Government could be reformed by extending the boundaries of the City. This plan, however, was rejected, and it was suggested that the whole metropolis should be divided into 8 municipal areas of which the City should form one, the seven others corresponding with the seven Parliamentary boroughs, and that a joint Board for the administration of the common affairs of the Metropolis should be formed by delegates appointed by the City of London and the other municipal areas. The Report of the Commission gave a direction to the movement for reform, and though its recommendations were only partially adopted their influence can be traced in the Metropolis Management Act of 1855. This great Act, with all its defects and shortcomings, introduced a certain coherence into the administrative chaos of London. The area to be dealt with was practically coextensive with that covered by the Bills of Mortality comprising the 97 parishes within the City walls,

the seventeen without the walls, 24 out parishes in Middlesex and Surrey and ten parishes in Westminster [1]. In this area almost every imaginable form of local government and misgovernment existed. The drainage and sewerage were mostly controlled by seven Commissions of sewers. The paving was largely performed by bodies of commissioners and trustees. Lighting was looked after mainly by parochial authorities or by companies. The turnpike roads were often managed by Commissioners or turnpike trusts. Other roads were under the jurisdiction of Directors of the Poor. Then there were the Gas and Water Companies and the owners of building estates who administered districts in various ways under local Acts obtained for the purpose. To take a single example the parish of St. Pancras was for purposes of paving, cleansing, dusting and lighting, administered by 17 distinct and independent bodies of commissioners, of which four were elected by ratepayers, while the remainder were either self-elected or appointed by proprietors of estates. In the same parish there were in force 35 local Acts, most of which had been passed in the 19th century. In the whole metropolitan area there were many hundreds of these Acts, and the number of local authorities with distinct but frequently overlapping districts was computed at fully three hundred by Sir Benjamin Hall, who, as President of the Board of Health, introduced the Metropolis Management Act of 1855.

The chief provisions of this Act must now be briefly related. The area chosen for the operation of the Act was the metropolis of the Registrar General. The 23 large parishes outside the City were to be separately administered by vestries, the vestrymen being elected by the ratepaying parishioners. The smaller parishes and places were grouped into districts, and the districts were placed under the management of District Boards, which were elected by vestries. The vestries and district boards thus became the principal local authorities outside the City. They had to maintain and construct local sewers, to enforce sanitary conditions in houses, to abate nuisances and to regulate streets. They received all the powers and duties of surveyors of highways, and most of the local Commissioners and trustees were swept away. The vestries and District Boards were authorised to levy a sewers rate, a general

[1] See Pulling's Laws of London p. 264.

rate and in some parts a lighting rate. A common authority with jurisdiction for certain common purposes over the whole metropolis, including the City, was also established and entitled the Metropolitan Board of Works. This Board (as well as the Vestries and District Boards) was incorporated. Its members were elected by the City Corporation, the Vestries, and the District Boards. The Metropolitan Board of Works was given large powers for the maintenance and improvement of main sewers and streets and for the construction of public works. It was authorised to make bye-laws to regulate the administration of the Vestries and District Boards, though not for the City, and its authority was strengthened by subsequent legislation. The Thames embankment, as well as several new thoroughfares, subways and bridges, was constructed under its auspices. Parks, open spaces and commons were improved, extended or preserved. And the Metropolitan Fire Brigade was established.

But the Metropolis Management Act, valuable so far as it went, did not go far enough to give general satisfaction. It left the constitution of the City Corporation untouched. The Vestries and District Boards remained largely in the hands of the old vestrymen. The local elections failed to excite much interest, and local administration for the most part remained corrupt and inefficient. The indirect method of electing both the District Boards and the Metropolitan Board of Works was clearly out of harmony with the rising spirit of modern democracy. Between 1856 and 1860 two Bills were introduced by Sir George Grey, and two by Sir George Cornwall Lewis, to reform the City Corporation. But the attempts of these distinguished statesmen failed, and a wider scheme introduced into the House of Commons by John Stuart Mill in 1867 was no more successful. Mill would have established eleven boroughs including the City, all under the Municipal Corporations Act, with the Metropolitan Board of Works as central authority. Similar projects failed in 1869 and 1870. Meanwhile Select Committees of the House of Commons had sat and reported on the Local Government and Taxation of the Metropolis in 1861, 1866 and 1867. The report of 1861 gave a valuable description of the existing conditions, and recommended that the Metropolitan Board of Works should be directly elected by the ratepayers. The Committee of 1867 went further and recommended that the Metropolis should be constituted a County and that the powers of the Board of Works should be

enlarged and that it should be called "the Municipal Council of London". In 1875 Lord Elcho produced a Bill to make all London into one great municipal Corporation by extending the authority of the city corporation and making it a representative body for the whole of London. A somewhat similar measure was put forward by Mr. J. F. B. Firth in 1880, under which London would have been governed by a council consisting of a Lord Mayor, forty aldermen and two hundred councillors. "The last of these abortive efforts at, reform, and one of the boldest and most thorough going" [1] was Sir William Harcourt's Bill of 1884. This again would have extended the reformed City Corporation over the whole metropolitan area. The Council would have consisted of 240 directly elected councillors, presided over by a Lord Mayor. There would have been no aldermen. Elections were to be held every three years. The local administration was to be left to the Vestries and District Boards, but the central Council was to be empowered to make a scheme for the rearrangement of districts. The Bill was dropped owing to the opposition of the City Corporation and of the vestries.

At last, all these direct attacks having failed, the government of London was changed by a measure not intended for that purpose. The Board of Works was blown away by a side wind, and a popular local authority was put in its place. Under the influence of Mr. Chamberlain the Unionist Government of 1888 introduced a Bill for applying to County Government the democratic principles which had been introduced into boroughs by the Act of 1835. The rule of the justices of the peace in the counties had been on the whole efficient and economical but hardly sympathetic, and the main purpose of the new County Councils Act was to transfer all the administrative functions of the County Justices to a popularly elected authority called the County Council. It was intended to leave London alone; but when the Bill came to be drafted it was found practically impossible to exclude London, which had overflowed into so many counties, from a reform of county administration. Eventually therefore it was decided to make a county of London and special sections were inserted to apply the Act to the Metropolis. The Area governed by the Metropolitan Board of Works (118 square miles in all) was converted into the Administrative County of London;

[1] See A. Basset Hopkins, Boroughs of the Metropolis p. 12 London 1900, which contains a convenient summary of London reforms and reform projects.

which includes the City of London, though the autonomy of the City Corporation was but slightly impaired. For administrative purposes the City of London was treated as nearly as possible as if it were a quarter sessions borough of more than 10 000 inhabitants lying within the administrative county of London. But this simple theory only provides a broad and general comparison. In some respects the City has less, in other respects more powers than a quarter sessions borough. For the constitution of the London County Council the areas of the Vestries and District Boards were abandoned, and the 58 parliamentary divisions were substituted. Each of these was given two members, while the City returned four, making 118 in all. The Metropolitan Board of Works was abolished and all its powers were handed over to the London County Council with a large number of others, some of which were transferred from the Justices while others were new functions assigned to County Councils by the new Act. Thus in addition to the authority exercised by the old Board of Works the London County Council has acquired by this and later Acts a large number of other powers. It is now the authority for elementary and technical education; it has to deal with the housing problem; it tests weights and measures, appoints gas inspectors, coroners and district surveyors, and exercises a general control and superintendence over the public health of the metropolis; for its duties include the appointment of medical officers and shop inspectors, the regulation and inspection of dairies, factories and workshops, the control of offensive trades, the prevention of rivers pollution, food adulteration etc. It is the local authority for the metropolis under the Electric Lighting Acts. Finally, to omit many of its statutory functions, the London County Council makes bye laws not only for the general good government of the Metropolis outside the City but specifically for local sewers and drains, for tramway traffic, for streets and buildings, for nuisances, for overhead wires, for lodging houses, and for parks and open spaces. Just as in certain branches of administration the London County Council has to observe the orders and regulations of a government department (made under Act of Parliament) so the local vestries and District Boards, now superseded by the Borough Councils created by the London Government Act of 1899, have to conduct their administration in accordance with the bye laws of the London County Council.

After the Local Government Act of 1888, which established, as we have seen, the London County Council along with the rest of the County Councils, came the Local Government Act of 1894 — usually known as the Parish Councils Act, because it created a popular authority called the Parish Council or Parish meeting in every rural parish of England and Wales. But this statute also created urban and rural district councils and gave a popular constitution to the Boards of Guardians in the Metropolis as well as in other parts of the country. Some of its democratic provisions were also applied to the London Vestries and Districts Boards. Meantime the coexistence of a Progressive London County Council and of a Liberal Government had reinspired the movement for the reform of the City of London, and in 1893 a Royal Commission was appointed to consider how an amalgamation of the county and City of London might be effected. The President of the Commission was Mr. Leonard Courtney (now Lord Courtney), and his colleagues were Sir Thomas (afterwards Lord) Farrer, Mr. R. D. Holt then Mayor of Liverpool, and Mr. E. O. Smith the Town Clerk of Birmingham — all men of great ability and experience in public administration. At first Mr. Crawford, the solicitor to the Corporation of the City of London also sat on the Commission; but he withdrew when it appeared that the terms of the Commission did not allow the City authorities to offer evidence against amalgamation. The volume of evidence attached to the report of the Commission, which appeared in August 1894, is of a very interesting character and throws much light upon the methods of administration practised by the largest English Municipalities — especially by Liverpool, Birmingham, and Nottingham. It is also of course along with the volume of appendices, an important source of information for the history of administration in the Metropolis and especially in the City of London. The Report itself is brief but pointed. „The Commissioners after a historical survey state that their task is the amalgamation of three areas, the first the city of London, the second the County of London outside the City, and thirdly the administrative county of London including the City. Both the County Council and the City Corporation had powers over the whole, and still have.

"A consideration of the evidence we have received, confirms the opinion suggested by the course of previous inquiries and of legislation, or, in other words, by the historical developement of the Metropolis, that the govern-

ment of London must be entrusted to one body, exercising certain functions throughout all the areas covered by the name, and to a number of local bodies exercising certain other functions within the local areas which collectively make up London, the central body and the local bodies deriving their authority as representative bodies by direct election, and the functions assigned to each being determined so as to secure complete independence and responsibility to every member of the system"[1].

After explaining and justifing this general proposition the report proceeds to consider the following questions: —

1. What should be the constitution and functions of the central body?
2. How should the powers, duties, and property of the existing Corporation be dealt with?
3. What should be the functions and constitution of the local authority of the City and of other local authorities in London?
4. In what relation should it (and they) stand to the central body?

After receiving many wrtten memoranda from the Local Government Board, the London County Council and other authorities and hearing much oral evidence the Commissioners eventually answered the first question by recommending a direct election of councillors; a triennial election of the whole body; one alderman to every six councillors, serving for six years; the representation of the City to be double what it is on the London County Council under the Local Government Act, 1888; one electorate for both the central and local bodies, namely, the register to be the register of parochial electors under the Local Government Act, 1894; the whole to be called the "City of London" to be a County in itself; and the governing body to be styled "The Mayor and Commonalty and Citizens of London". The Lord Mayor should be Chairman of the Council, and exercise all the rights, dignities, and privileges of the present Lord Mayor whether by charter, custom, or law.

As to functions the new Corporation should deal with matters common to the whole of London, while everything should be left to the local authorities that could be discharged by them with efficiency. The powers exercised by the London County Council in the metropolis and in the City, should, before being transferred to the new

[1] Report on the Amalgamation of the City and County of London (c. 7493) 1894. It consists of 31 pages.

central body, be re-considered in detail, "with the view of seeing how far any of these functions can be exercised by the local authorities without loss of efficiency".

A number of powers exercised by the Common Council in the City are specified as powers which should be transferred to the new Corporation. The market powers and revenues belonging to the City as well as its duties as Port Sanitary authority would also be transferred to the new corporation.

In answer to the second question arrangements are suggested for the transfer of property and debts, including the various City estates, and also the Guildhall, Mansion House and certain schools.

The Sheriffs of London should be appointed by the new council; the old City should cease to be a county of itself, and the jurisdiction of the County of London Quarter Sessions and justices should extend into the area of the old City. Obsolete courts, such as the Court of Hastings and the Borough Court of Southwark should be abolished, and the City of London Court should be transferred to the new Corporation. The Mayor's Court should be extended over the metropolitan area, and come under the new council. Freedom by purchase, etc. should be abolished, and the Liveries should be regulated by a Government department.

The Commissioners recommended the fusion of the City force with the metropolitan police and they also suggested a series of financial adjustments.

The local authority in the area of the old City would have the following functions: —

a) Sanitary administration generally, including control of new buildings, unhealthy dwellings, and local sewers.
b) Maintenance of streets and traffic régulation.
c) Assessment and registration.
d) Maintenance of mortuaries and small open spaces and some other small powers.

On the other hand, certain powers exercised in the City by the Commissioners of Sewers and elsewhere in London by the County Council would, subject to modifications of detail, pass to the new Corporation. Among these would be powers as regards dangerous structures, unhealthy areas, working-class lodging houses, the licensing of offensive trades and weights and measures regulations.

The administration of the adoptive Acts should be conferred

on the local authority, and also the management of many charities and trusts.

In answer to the third question the Commissioners recommended that the local authority in the old City should consist of a mayor and council, the latter numbering seventy-two members. The councillors should be elected in thirds every year, each councilllor having a three year's term of office. The representatives of each district on the central body should be ex officio members of the local authority of that district. In reply to the fourth question, as to what should be the relations of the local authority of the old City and of the other local authorities to the new Corporation, the Commissioners answered that the central council should have power to frame by-laws under which the local bodies should work, and should have power to act in default of the latter, especially in sanitary matters. Uniformity of rating and of assessment should be secured if possible by the representation of the central authority on the local assessment committees.

The Metropolitan Boroughs.

The general election of 1895 transferred the Government from the Liberal to the Unionist party, and the Report on the Amalgamation of London was not followed immediately by legislation. The opinions of Mr. Chamberlain, who held that no municipality should be much larger than Birmingham, were against increasing the powers of the London County Council, and a movement for enlarging and glorifying the vestries began to gather strength. There was general agreement that much might be done to simplify and economise the working of the smaller London authorities. At length in 1899 a Bill was introduced into Parliament which became the London Government Act of 1899. By this measure the internal Government of the administrative county of London has been recast. In place of the 29 administrative vestries, the 12 district boards, and the Woolwich Local Board of Health, 28 metropolitan boroughs were formed with fairly compact areas and scientific boundaries. At the same time 44 non-administrative vestries, 12 burial boards, 18 public library commissioners, 10 baths and washhouse commissioners 56 bodies of overseers, about twenty Trustees of the Poor and two Boards of Market Trustees were abolished, their functions being transferred to

the new borough councils or to other authorities. Thus many small, inefficient and unattractive bodies were removed and the new borough councils, though they cannot pretend to represent really local and independent communities, certainly offer a large scope for the service of public spirited persons. Of the new boroughs the largest in population is Lambeth, with 301 000 at the Census of 1901; the largest in area are Wandsworth with 14 1/2 square miles and Woolwich with 13 square miles, while by far the richest is Westminster, whose rateable value of over £ 6,000 000 exceeds that of the City of London. The constitution of the London Borough Councils is less on the model of the Municipal Corporations Act than of the Local Government Act of 1888. Eeach Council consists of a Mayor, Aldermen and Councillors. The number of Aldermen must be one sixth of the number of Councillors and the total number of Aldermen and Councillors may not exceed seventy. The Act provided that the Councillors shall retire annually in thirds, but that if the Councils obtained an order to that effect from the Local Government Board, the whole might retire triennially The system of triennial retirement was adopted on the almost unanimous request of the Boroughs. So far there have been three elections — in 1900, 1903 and 1906.

The boroughs were divided into wards, account being taken of population and rateable value by the Boundary Commissioners. The main functions and powers of these new Metropolitan Borough Councils are derived from the Metropolis Management Acts and the London Public Health Acts, which they administer as successors to the Vestries and District Boards. Some powers, as to removing street nuisances and enforcing regulations against offensive trades, have been transferred from the County Council to the Borough Councils, and it is provided that further transferences either to or from the Borough Councils may be made by Provisional Order of the Local Government Board on application from the County Council and the majority of the Borough Councils.

A good many powers are possessed concurrently by the London County Council and the Borough Councils, so that conflicts of administrative jurisdictions may, and indeed frequently do, occur. Bills promoted in Parliament by the London County Council are often opposed by the Borough Councils, and the Borough Councils often use their powers as street aauthorities to obstruct the action of the London County Council as Tramway Authority.

Perhaps the most valuable and interesting features of the London Government Act are its financial provisions, which happily illustrate an increasing tendency to simplify and unify the machinery of local taxation, as well as to secure a proper presentation and audit of accounts. The Council of each Borough is Overseer of every parish in the Borough. In the fairly numerous cases in which the poor law union is now coterminous with the Metropolitan borough the Assessment Committee is appointed by the Borough Council instead of by the Board of Guardians. All the expenses of the Borough Councils are paid out of one Rate called the General Rate, and all the rates collected within the borough are, as far as practicable, levied in one demand note, which is in a form approved by the Local Government Board. Every Borough Council is bound to appoint a Finance Committee to regulate and control the finances, and no order or payment may be made by a London borough council except in pursuance of a resolution of the Council passed on the recommendation of the Finance Committee; nor may any liability exceeding £ 50 be incurred except by resolution of th Council on an estimate of the Finance Committeee. The Expenditure in the year ended March 31 st 1906 was £ 403,000 of which £ 402,000 was provided by a general rate of eight shillings and four pence in the pound.

The accounts of the Borough Councils, as of the London County Council, are audited by the Local Government Board's Auditors. The financial year ends on March 31 st.

As an example of the work and organisation of a London Borough Council we may take Battersea where Mr. John Burns, the present President of the Local Government Board, has his home.

The Battersea Council has an area of about 3 1/2 square miles and a population of about 181,000. There are 9 wards, 9 Aldermen [1] and 54 Councillors. The Council has taken advantage of the Libraries Act to establish a Central Free Library with two branches containing over 400,000 books. Under the Baths and Washhouses Acts it has three separate establishments, the swimming baths being used in winter for gymnasiums, public meetings and entertainments. There is also a Social Institute with a museum, recreation rooms, etc.

[1] Five of the Aldermen retire in 1909; four in 1912, five in 1915 and so on.

The borough is well off for Parks and Open Spaces, and the death rate is very low, only 13.3 per 1000 as compared with the London death rate of 14.7. The Council owns a mortuary, a Coroner's Court and a milk depot. It has a Works Department and an Electric Lighting Depot. It has adopted the Housing of the Working Classes Acts and has executed a housing scheme in the borough. Its principal officers are a Town Clerk with an Assistant, an Accountant, a Borough Surveyor, Solicitor, Medical, Officer of Health, Public Analyst, Electrical Engineer, a Chief Sanitary Inspector with nine men and one lady as assistants, a Food and Drugs Inspector and, finally, eight Rate Collecting Clerks.

The Battersea Borough Council meets twice a month and there are the following thirteen committees: —

Finance, Education, Works, Housing, Highways and Dusting, Baths and Washhoues, Lighting, Valuation, Cemetery and Open Spaces, Management of Employés Sick and Accident Society, Library, Health-Law and Parliamentary.

Tha members on each committee varied from 9 to 12. The Mayor is ex officio member of every Committee. The Education Committee only met 6 times, while the Lighting Committee met 40 times during the year.

The London County Council.

The London County Council was constituted as we have seen by the Local Government Act of 1888. It consists of 137 members. Of these 118 are Councillors elected on a democratic franchise, four by the City and two by each of the 57 Parliamentary Divisions of the Administrative county of London. The area of the Administrative county of London is 118 square miles, whence it happens, by a curious coincidence, that each square mile is represented on an average by one councillor. Its population at the census of 1901 was 4,536 541. The population of the City and some of the central divisions is declining while that of the outer parts is rapidly augmenting. The total expenditure of the Council in the year ending March 31st 1906 amounted with 919 on the sum of £ 9,241 000, of which about £ 6,000 000 was contributed by the rates[1].

The 118 councillors are elected for a period of three years by

[1] See appendix for details.

by the ratepayers and parliamentary voters, the franchise being an extension to counties of the burgess qualification enacted for boroughs by section 9 of the Municipal Corporations Act 1882, with some minor modifications which need not be specified[1]. No one may vote who is not registered as a county elector.

The nineteen aldermen are elected by the Councillors for a term of six years. At the end of each triennial period either nine or ten aldermen retire, as the case may be. A chairman is elected every year by the Councillors and Aldermen. The ordinary day for the retirement of London County Councillors is March 8th in every third year. On that day their places are taken by the newly elected councillors, who then come into office. The ordinary day for the election of Councillors is March 8th or any day between March Ist and March 8th which the County Council may fix.

The ordinary day for the election of aldermen is March, 16th or any other day within ten days of March 8th which the Council may fix. In every third year when Councillors and Aldermen are elected it is provided that the election of chairman shall precede, and be on the same day as the election of the aldermen. In years when there is no election of councillors and aldermen the election of Chairman may be on any day in March, April, or May, which the Council may fix: and this is facilitated by a further provision that, though the term of office of the chairman is for one year, he shall continue in office until his successor has accepted office and has made and subscribed the necessary declaration[2].

Other statutory provisions governing the organisation of the London County Council are as follows. By section 75 of the Local Government Act of 1888 (usually called the County Councils Act, because it created County Councils) a quorum of the Council is one fourth of the whole number, i. e. 35. Assuming there is a quorum the decision of the majority prevails[3].

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[1] See County Electors Act 1888 sect. 2 (1) and Redlich and Hirst's Local Government in England vol. II p. 10 sqq. on the constitution of county councils. An unmarried wamon may be a county elector but not a county Councillor.

[2] The above provisions as to dates of election etc. will be found in the County Councils (Elections) Acts 1891 and 1900 and in some applied sections of the Municipal Corporations Act 1882 sections 15 (3) 60 (1) 61 (2).

[3] Except in cases where it is otherwise provided by statute, see Schedule to London County Council (general powers) act 1893. One of these exceptional

But in case of equality of votes the chairman has a second or casting vote[1]. By section 41 (6) of the Local Government Act 1888 the County Councillors elected for the City shall not act or vote in respect of any question arising before the County Council as regards matters involving expenditure on account of which the parishes in the city are not for the time liable to be assessed equally with the rest of the administrative county to county contributions. „But by the London Council (general Powers) Act of 1890 section 23 this prohibition is not to apply to the act of presiding at a meeting of the council.

In order to prevent surprises and so that business may not be transacted without warning, provisions have been inserted in Acts of Parliament relating specially to London. Thus by the shedule of the London County Council (General Powers) Act 1893 „no business shall be transacted at a meeting other than that specified in the summons relating thereto, cxcept any matter of urgency brought up in accordance with any standing order made by the Council". And the same Schedule provides that "Forty hours at least before any meeting of the council a summons specifying the business proposed to be transacted thereat and signed by the Clerk of the Council shall be left or delivered by post at the usual place of abode of every member of the council".

Such are the main statutory provisions governing the proceedings of the London County Council, some being shared by it with other county councils under general Acts of parliament, while others have been applied to it by a special or local act. We may now turn to the Standing Orders in order to see how the greatest local self governing body in the world regulates its business. The Standing Orders of the London County Council are revised from time to time, and the last edition, which will be used in the following account,

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cases occurs in connection with by-laws. No by-law for the good rule and government of the County of London may be made by the Council under the Municipal Corporations Act 1882 unless at least two thirds of the whole number of the Councillors are present. Again no resolution with regard to the purchase of a tramway undertaking will be good unless two thirds of the members of the council are present and vote at the meeting, and unless a majority of those present and voting concur in the resolution.

See Tramways Act 1870 sections 43 and 44.

[1] London County Council (General Powers) Act 1893, Schedule.

was published in April 1907 and makes a small volume of 186 pages [1]. It forms the most elaborate code of procedure possessed by any local authority in England and may be regarded in many respects as a model.

1. Meetings of the Council. The London County Council meets at 2.30 pm. every Tuesday unless otherwise ordered, but may adjourn if it think fit for any period. Its meetings, which are held in the old Board Room of the Metropolitan Board of Works at Spring Gardens, are open to the press and to the public. Every member present signs his name in the attendance book. Meetings stand adjourned at 7 pm. unless an absolute majority of the council determine to continue the sitting. Unopposed business must in any case be taken before the Council adjourns.

At every ordinary meeting of the Council the order of business is as follows:

1. Minutes of previous meeting
2. petitions
3. opening of tenders
4. report as to documents sealed
5. reports of committees
6. notices of motion.

The chairman however may in his discretion bring forward any business at any stage, and he may also with the consent of a majority of the whole council or of threefourths of those present, bring forward urgent matters which have arrived too late to be specified in the summons [2]. The minutes of the last meeting are taken as read, provided a copy has been supplied to every member 24 hours previously. Except as to their accuracy no motion or discussion is allowed on the minutes. By Standing Order 18 „the statements of the Finance and other committees are to be recorded as addenda to the minutes of the Council and to be signed as part of the proceedings of the council".

After the minutes have been confirmed members of the council

[1] London County Council. Standing Orders of the Council and References to Committees. Revised to March 26th 1907. P. S. King and Co. London price 1/2.

[2] See Standing Oorder 14. But this is not to apply to reports of the Finance Committee or to the price at which Consolidated Stock is to be issued. See also Standing order 15.

may present petitions but without speech or comment. Deputations wishing to be received by the council should first send in a memorial to be laid before the committee concerned. The committee may see the deputation and report. The council may then, if it wishes, receive the deputation. "A deputation shall not exceed ten in number and only one member thereof shall be at liberty to address the council except in reply to questions from members of the council and the matter shall not be further considered by the council until the deputation shall have withdrawn".

The third item in the list of ordinary business concerns, as we have seen, "the opening of tenders", upon which Standing Orders 23 and 183 provide as follows: —

"All tenders where the estimated expenditure exceeds £ 500 shall be opened in the council by the chairman, and, after being initialled by him (or by the vice chairman or the deputy chairman) stand referred, without being read out, to the committee concerned."

"All tenders received in respect of the sale and letting of the Council's property are to be opened by the council previously to their being referred to the Improvements committee. The names only of the tenderers are to be made public.

Other important provisions relating to tenders are the following: —

"Whenever a committee resolve to recommend the Council to accept a tender which is not the lowest, that committee shall communicate to the General Purposes Committee the reasons for passing over the lowest tender or tenders. Such comunications shall be made in sufficient time to enable the General Purposes Committee to consider the matter before the date on which the Council will have before it the report containing the recommendation in questiou.

The solicitor shall at once, and without waiting for the meeting of the committee to wnich the tenders are referred, make such inquiries (if any) as he may consider necessary as to the competence of the lowest tenderer, and, if the information obtained does not appear satisfactory, then into the competence of the next lowest, and so on until a satisfactory result shall have been obtained, reporting the result to the committee as early as possible. Where the estimated expenditure is below £ 500, tenders may be opened by a committee. Such tenders shall be reported to the council but the committee shall, as soon as the tenders are opened, instruct the solicitor to make such inquiries as the committee may consider necessary" [1].

After the tenders, if any, have been opened, the number of documents sealed since the previous meeting is reported with a

[1] Standing Orders 231—233.

reference to the page of the seal register on which the particulars of such documents are to be found. The next business is the reception of the reports of committees; and here the standing orders show how the London County Council keeps a unifying control over its vast organisation. Apart from matters of urgency, of which the chairman is judge, all reports and recommendations of committees must be printed and posted to every member of the council at least 48 hours before the council's meeting at wich they are to be considered[1]. The Council may not vote on a proposal involving an expenditure of more than £ 5000 until seven days after it has been laid before the council, and until a report on its financial bearings has been made by the Finance Committee[2].

The Reports of Comittees are taken in the following order:

1. Report of Finance Committee — a statutory committee which the Council must appoint under the Local Government Act of 1888.
2. Report of General Purposes Committee.
3. Reports deferred from previous meetings.
4. Report of Education Committee — a statutory Comittee under the Education (London) Act 1903.
5. Reports of other standing committees in alphabetical order.
6. Reports of special committees.

When the report of a committee is under consideration any member may put relevant questions to the chairman of the committee or (in the absence of the chairman) to that member of the committee who brings up the report. The chairman or reporter of a committee moves "that the report be received" and the chairman of the Council puts the recommendation seriatim. If the council agrees with a recommendation, the recommendation becomes a resolution of the council. It is not "in order" to move an amendment which would have the effect of increasing expenditure.

After the reports of Committees are disposed of an opportunity for motions arises. Notices of motions must be in writing signed by the member giving the notice. Only notices handed to the clerk of the council before one o'clock on the day preceding the usual day for issuing the summons will appear in the summons for the

[1] Standing Order 25.
[2] Standing Order 27.

council meeting. „Every notice of motion shall be relevant to some question affecting the administration or condition of London[1].“ Before the notice is put on the agenda paper it must be submitted to the chairman to decide whether it is in order. No member may have more than two notices on the business paper at the same time.

Debates in the council are carefully regulated in the Standing Orders. Members rise to speak, and address the chair. Hats are not worn during the sitting of the council — a deviation from House of Commons custom. Speeches must be directed strictly to the motion under discussion, or to an explanation or point of order. No member may speak more than once on a motion or amendment. When the chairman rises the speaker must sit down and general silence is enjoined. A time limit has been adopted: for by a standing order passed in 1889, the first year of the Council's existence, "no speech shall exceed fifteen minutes in length without the consent of the council“[2].

Further "the chairman may call the attention of the Council to continued irrelevance, tedious repetition, unbecoming language, or any breach of order on the part of a member; and may direct such member, if speaking, to discontinue his speech, or, in the event of persistent disregard of the authority of the chair, to retire for the remainder of the sitting.

The chairman's ruling on a point of order is of course final and not open to discussion.

When a motion is under debate only six other motions may be received as in order, namely: —

1. To amend the motion. An amendment must be relevant, and in writing. It must be read before being moved. It must be seconded before being discussed. When a amendment has been moved and seconded no second amendment can be moved until the first has been disposed of. If an amendment is carried the motion as amended takes the place of the original motion.

2. That the consideration of the question be postponed for a period or sine die. This may be moved by any member at the conclusion of any speech. It must be formally

[1] Standing order 39.
[2] Standing Order 48.

seconded. The mover may only speak for five minutes. The mover of the question in debate may speak five minutes in reply, after which the proposal for postponement must be put without further debate.

3. That the council do now adjourn. This again may be moved and answered in five minutes speeches; and if it is carried the question under debate becomes a dropped motion. Two motions for adjournment may not be moved within one half hour unless the chairman thinks that the circumstances have altered materially.

4. That the debate be adjourned. This again may be moved and answered in five minutes speeches. If a motion for adjourning the debate is carried the discussion will be resumed at the next council meeting, and the council will thereupon proceed to the next business on the paper. A second motion that the debate be adjourned shall not be made within half an hour.

5. That the question be now put. Any member may move this without argument after any speech, and if the motion is seconded the chairman may put it forthwith. If this motion is carried the question under debate is at once put to the vote.

6. That the Council do proceed to the next business. Lastly any member may move the above without debate and if seconded it shall fortwith be put to the vote. If the motion is carried the question under discussion is considered as dropped. A second motion "that the council do proceed to the next business" may not be made within half an hour[1].

Voting.

At ordinary meetings of the council the mode of voting is by members rising in their places or by a show of hands, unless ten members rising in their places demand a division, or the chairman thinks a division desirable. In case of a division the following is the procedure: —

"The chairman nominates two tellers for the "ayes" and two tellers for the "noes".

The clerk rings the division bell and turns a two-minute sand glass kept on the table for the purpose. At the expiration of two

[1] For the above six motions see Standing Orders 55—81.

minutes, and before the division is taken, the doors are closed, and thereupon no member may enter or leave the council chamber except for the purpose of recording his vote, until the conclusion of the division.

Previously to the tellers taking the division, the question before the council is put again by the chairman, and every member then present (with the exception of the chairman who may vote or not as he likes) must record his vote either for or against the question.

The "ayes" go through the lobby on the chairman's right, and the "noes" go through the lobby on the chairman's left, the votes being taken at the respective doors of exit. After all the votes have been taken, members re-enter the chamber by the two doors facing the chair.

No member may vote in a division unless he was present when the question was put the second time.

When the members have resumed their places, the chairman announces the result of the division.

The London County Council's Committees and their Procedure.

The general law on this subject is laid down in the Local Government Act of 1888 by which the London County Council in common with all other county councils was constituted. Like a borough council a county council may appoint out of its own body a committee for any of its purposes and may delegate to such a committee, with or without regulations and conditions, any of its powers and duties except the power of making a rate or of borrowing money. There is one important difference between a County and Borough Council in this matter of committee administration; for, whereas all the acts and proceedings of a municipal committee must be reported to the municipal council for approval, a county council may by standing order direct that any acts or proceedings of a committee (though they must be reported) need not be reported to it for approval, the object of this proviso being to relieve the county council of an unnecessary mass of details.

The Council may prescribe for each committee its procedure and quorum, and in so far as the Council does not do so the Committee may arrange these matters for itself. The London

County Council has divided its committee regulations into two parts: —

1. Standing Orders relating to Committees [1].
2. References to Committees [2].

It will be convenient to give a succinct account of the whole system.

At the statutory meeting held in March of each year the Council, after electing its chairman, aldermen (if any), vice chairman and deputy chairman proceeds immediately to appoint the committees and to settle the terms of reference to be made to them. Every standing committee so appointed holds office until the first meeting of its successor except on the triennial occasion of a new election of the Council.

The Council's "References to Committees" are the written authority under which each committee acts, and contain a statement of the powers and duties delegated to the committee and of the mode in which those powers and duties shall be exercised. Any proposal made to withdraw or modify a reference is first referred to the general Purposes Committee, whose duty it is to advise the Council on such questions as the partition of its functions and the respective provinces of committees.

The Chairman, Vice Chairman, and Deputy Chairman of the Council are ex-officio members of every committee and sub-committee, and for the year following their years of office they are made ex-officio members of those committees on which they were serving before they were elected to those offices. Vacancies arising in committees are notified at the next Council meeting and are filled up by the council; but the existence of a vacancy does not invalidate the acts of a committee. Every committee must give a report of its work to the Council at least once a month, the report being divided into numbered paragraphs. The report is presented to the Council and its adoption move by the chairman or vice chairman of the committee, or in their absence by some member of the committee who was found present when the report was drawn up. It is the duty of the committee to carry out any recommendation made by it to the Council which the Council has agreed to.

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[1] Standing Orders 114—205.

[2] PP. 114—186 of the London County Council's Standing Orders and References to Committees. 1907.

Each Committee fixes its own day and hour of meeting by arrangement with the Establishment Committee, and if they cannot agree the matter is to be submitted to and decided by the General Purposes Committee. But no committee may transact business during a sitting of the Council except by special permission of the Council. The ordinary place of meeting is in the Council's offices but a committee may meet elsewhere if it thinks fit. Every committee is summoned to meet by the Clerk of the Council who sends the agenda paper to each member so that he receives it by post at least 24 hours before the hour of meeting. Except in cases of urgency, of which the chairman of the committee is judge no business outside the agenda paper may be transacted.

A special meeting of a committee may be summoned at any time on the written request of four members or by the chairman on his own responsibility. Every committee must meet at least once a month except in vacations. If a committee fail to do so the Clerk is to report the matter to the General Purposes Committee, which shall thereupon make some report and recommendation to the Council. Every member attending a committee has to sign his name in the attendance book. Any member of the Council may attend any committee except during the consideration of any matter in which he is, by himself or by his partner, pecuniarily interested. Any member of the Council may not only attend any committee, but he may speak if any matter especially concerning the district he represents is under discussion. The quorum of a committee shall not be less than one-fifth of the number of its members, exclusive of ex-officio members[1]. As soon as possible after the standing committees have been constituted and their references settled it is the duty of the chairman of the council to call a meeting of each committee. The first business of the committee is to elect its chairman and until that is done the Chairman of the Council presides.

The chairman of a committee presides at every meeting of the committee at which he is present. He is ex-officio a member of every sub-committee appointed by the committee of which he is chairman. He signs the minutes when they have been passed by the committee, and it is his duty, if present at the meeting of the

[1] Standing Order 140.

Council, to bring up the report of his committee, and to move its adoption.

Each committee may elect a Vice-Chairman to preside at the committee in the absence of the chairman. The Vice-Chairman has, when presiding, the same powers and rights of voting as those possessed by the chairman, and is ex-officio member of every sub-committee appointed by the committee. In the absence of the chairman he will bring up the report of the committee of the Council.

In the absence of the chairman and of the vice-chairman (if any) a member of the committee chosen by a majority of the members present at the commencement of business presides over the committee with the same powers and rights of voting as those possessed by the chairman.

No member of the Council may be chairman of more than one standing committee, other than the General Purposes Committee.

Every matter brought before a committee is decided by the vote of a majority of those present. The voting is by show of hands. Any two members present may require the names of those voting on either side to be entered in the minutes. The Chairman may vote and if the voting is equal may give a second or casting vote.

Every committee must make minutes of its proceedings and the minute book must be open for the inspection of any member of the Council during office hours. The first business of a committee meeting is to read the minutes of the last meeting. If they are accurate they are then signed by the chairman. If the minutes have been printed and circulated, or if the chairman has examined them and vouches for their accuracy they may be taken as read. No motion or discussion is allowable in the minutes except on the score of accuracy. As to Sub-Committees,

"Any committee of the Council may appoint one or more sub-committees for any purpose within their reference which in their opinion can be more usefully carried out by a sub-committee. A sub-committee may be appointed for such time and subject to such limitations and conditions as to report and otherwise as the committee appointing them think fit. Every sub-committee, unless previously discontinued, shall cease at the same time as the committee appointing them"[1].

Such is the general organisation of the Committee System that has been adopted by the London County Council. We shall now

[1] See Standing Order 153.

take the committees seriatim dealing first with the more important ones, and exhibiting their powers and duties from the terms of reference.

1. The Finance Committee, which the Council is obliged by law to appoint, consists of not less than 12 or more than 15 members. Its main function is to regulate and control the finance of the county of London, and at each ordinary meeting of the council to make such report as shall enable the Council to carry out the financial provisions of the Local Government Act, 1888. The Finance Committee prepares and submits to the Council annual estimates of receipts and expenses, revising such estimates (if required) at the expiration of six months, pursuant to section 74 of the Local Government Act 1888; and it determines, subject to the approval of the Council, the amount of the precepts to be issued to the Councils of Metropolitan Boroughs, the guardians of the poor or other authorities charged with the collection or levy of the county rate.

It superintends the keeping of the accounts of the Council, and has general charge of the comptroller's department.

It reports to the Council upon all matters relating to the Consolidated Loans Fund, the sinking fund, the payment of interest on debt, the raising of money by issue of consolidated stock or otherwise, and the temporary investment of surplus balances. It considers applications for loans from other authorities and, where authorised by the Council, makes the arrangements.

It prepares and presents to the Council periodically summarised and classified statements of the receipts and expenditure on (1) rate accounts, (2) capital and other accounts.

It makes from time to time financial regulations for the guidance of the various committees empowered to incur liability or to expend money. It superintends the collection of rents of the Council's property. It provides for an annual stock-taking and audit of store accounts. It manages and administers the Superannuation and Provident Fund, and the London County Council Insurance Fund. It also supervises loans and other operations under the Small Dwellings Acquisition Act 1899.

In order to facilitate the prompt utilisation of balances in the County Fund that are not immediately required for expenditure the powers possessed by the London County Council under the London County Council (Money) Act 1905 to lend out money temporarily are

delegated to the Finance Committee; but the aggregate amount outstanding at any one time must not exceed £ 2,000,000.

The terms of reference provide that "there shall be a Working Account with a separate banking account to meet payments to be made by the Finance Committee; and the Finance Committee, shall prepare and submit to the Council at each ordinary meeting an estimate of the sum required to meet payments out of the accounts, and shall recommend the Council to make an order for the payment of the amount of such estimate out of the county fund." Cheques for the amounts of such orders are drawn upon the County Fund and placed to the credit of the Working Account.

The Working Account is placed under the control and management of the Finance Committee, which is also authorised to order and make duly certified payments from the Working Account for a number of specific purposes.

All cheques drawn on the Working Account in pursuance of an order of the Finance Committee must be signed by a member of the Committee and countersigned by the Comptroller or deputy Comptroller. A separate banking account called the Tramways Account is kept in connection with the Council tramways and is also under the control of the Finance Committee. There are also separate arrangements for education accounts and for a small dwellings Acquisition Account. Minute provisions have also been framed with regard to expenditure on capital account out of loans, and it is the duty of the Finance Committee to keep itself and the council informed as to the expenditure of all the committees both for ordinary and for capital purposes, i. e. both as regards expenditure out of revenue and expenditure out of borrowed money.

This duty of watching the expenditure of the other committees gives the Finance Committee a central control over the estimates, as appears from the procedure by which the estimates are drawn up and revised: — Every committee, on or before 1st February in every year, sends to the comptroller an estimate, under various heads, of the total moneys required for the expenditure of committee, on "maintenance account", the form of the estimates being prescribed by the Finance Committee. If any committee on or before 1st August in any year find it necessary to revise their estimate for the financial year, they send the comptroller a revised estimate on or before the 1st August. The comptroller in the month

of February in every year, brings up to the Finance Committee the estimates forwarded to him from the various committees, and thereupon the Finance Committee prepares and submits to the Council in March or April an estimate of the receipts and expenses of the Council for the next financial year, including an estimate of the charges in respect of money borrowed, and also an estimate of the amounts which will require to be raised in the first six months and in the second six months of the financial year by means of contributions and of the county rate necessary to raise such amounts. The annual estimates must be sent out to all the members of the Council ten days at least before the meeting at which they are to be considered by the Council. If at the end of the first six months it is necessary,either by reason of revised estimates being sent up by any of the committees, or otherwise, to increase or modify the general estimate for the second six months, the Finance Committee shall prepare and send up to the Council a revised estimate for such six months.

2. The Education Committee is also a statutory committee being, constituted in accordance with the Education (London) Act 1903, which provided for the dissolution of the London School Board (an ad hoc authority) and for the more or less complete municipalisation of all public elementary education within the Metropolis. The Education Committee consists of 43 members including a) the chairman, vice chairman and deputy chairman, b) 35 members of the Council and c) five women selected by the Council. The members of the Committee retire annually. The Education Committee reports to the Council from time to time and its printed minutes are sent to all members of the Council; but it is practically the local authority for all educational purposes except as regards large questions of policy and matters involving new principles of administration, which the committee must report to the Council for its decision. This being so it is not surprising that many complaints were made because the public and the press were excluded from the meetings of the Education Committee. At first the Council refused to give way but in March 1907 a resolution was passed which appears in the terms of reference to the Education Committee to the following effect: —

"The meetings of the Committee shall be open to the press and public, provided that the Committee may exclude the press and the public if and

when the committee resolve that it is desirable in the interests of the service that any subjects should be discussed in private."

Education, it should be added, being a national as well as a local concern is closely supervised by a central department, the Board of Education, which is presided over by a Minister responsible to Parliament. The Board of Education is therefore in constant correspondence with local education authorities, for whose guidance it makes many orders and regulations. It is significant of the semi-independent position of the London County Council's Education Committee that "matters of ordinary current administration arising between the Council and the Board of Education „may by the terms of Reference „be dealt with by the Committee".

3. The General Purposes Committee consists of an elected representative of each of the standing committees with ten members appointed by the Council. It is the duty of this important Committee to report whenever necessary upon the conduct of the committees and departments, as well as upon all questions relating to the appointments, salary and duties of the principal officers, and to suggest improvements of the Standing Orders and of the References to the various committees. It may report upon any new proposal or project, or upon any matter not referred to any other committee. It recommends members of the Council for appointment by the Council on the Metropolitan Water Board, the Thames Conservancy Board, the Lee Conservancy Board, and other joint authorities on which representatives of the London County Council sit

The Local Government, Records and Museums Committee is a committee with a cumbrous title but interesting duties. It consists of not less than ten or more than twelve members. It superintends the annual issue of a Statistical Abstract for London and also of a serial volume of London Statistics with the aid of the Clerk and Statistical Officer. It has to consider and report on charities and endowments, upon historic buildings sites, and upon London antiquities generally. It has charge of the library, historical records, antiquities and works of act belonging to the Council as well as of museums and historical buildings or places purchased by or presented to the Council. The naming or renaming of streets and the numbering of houses in London are delegated to this committee.

Finally the following 18 subjects are remitted to the committee

for consideration and report, and the committee is required to make such recommendations upon them to the Council as it may think fit: —

1. The systems of local Government in London.

2. The systems of local taxation in London and matters connected with Imperial and local taxation which affect London.

3. The incidence of taxation by private companies and others undertaking public services in the county.

4. The incidence of indirect taxation levied by local and other authorities and persons in the county.

5. Alterations or readjustments of the boundaries of the administrative county, of parliamentary and county electoral divisions, and of the number of county councillors and electoral divisions in the county.

6. Alterations or definitions of boundaries of parishes, the division of union of parishes, and the transfer of parts of parishes to other parishes.

7. The power of the Council of placing under the control of one metropolitan borough council streets and roads partly in one metropolitan borough and partly in another.

8. The division of parliamentary boroughs and electoral divisions and of county electoral divisions into polling districts for the purposes of parliamentary and county council elections respectively.

9. Powers relating to boards of guardians and poor-law areas and other matters in regard to which powers have been conferre upon the Council by the Local Government Act 1894.

10. Proposals for roads to be declared main roads under the provisions of the Local Government Act 1888.

11. Questions relating to assessment of property for rating specially with a view to uniformity of treatment.

12. All questions relating to the assessment of the Council's property.

13. All questions relating to the making of by laws under the Municipal Corporations Act 1882, and the Local Government Act 1888, for the good rule and government of the county.

14. Questions relating to elections of county councillors guardians of the poor and metropolitan borough councillors.

15. The powers and duties of the Council under the Registration Acts with respect to the registers of voters and all questions connected therewith.

16. The powers of the Council with respect to the registration of the rules of scientific and loan Societies, etc., under the provisions of sect. 3 (XV) of the Local Government Act 1888.

17. Any questions not specifically referred to any other committee, arising between the Council and local public and other authorities, or which appear to relate to London government generally.

18. The London Government Act 1899, is referred to the Committee with power to deal with such matters arising thereon as they may deem expedient.

When the Council has decided to take action on any of the above subjects the Committee has to give effect to the Council's decision; and for this purpose it is empowered to correspond, negotiate and take legal proceedings on behalf of the Council and to incur such expenditure as may be necessary in spite of the Standing Order (188) that no committee shall incur any liability exceeding £ 50 without the express sanction of the Council, or statutory authority or specially delegated powers of expenditure.

4. The Works Committee, consisting of 8 members, had borne the brunt of many fierce attacks directed against he Progressive Majority which controlled the London County Council from the first meeting of that body in 1889 to the spring of 1907. It is particularly unpopular with London contractors, who consider that a public body ought not to do work on its own account or to employ labour directly. The instruction contained in the Reference to this committee is regarded with positive horror by all opponents of municipal trading. It runs as follows: —

"The committee shall unless in any case otherwise ordered, carry into execution all works which the Council resolves to execute without the intervention of a contractor; and shall have authority to enter into any contract on behalf of the Council and to incur any expenditure necessary for the carrying on of any such work within the limit of expenditure authorised by the Council therefore".

And again

"The Committee shall, subject to the provisions of the standing order in regard to votes for stores, have authority to expend money for the equipment and maintenance of all workshops and yards used by the Works department, and the provision of plant, machinery, horses and materials or other things for stock, and to enter into contracts therefor on behalf of the Council."

The Works Committee is also authorised to execute any work referred to it by a committee of the Council, provided that the cost of work is under £ 50. The Committee has under it all the more important officials of the Works department, but the employment and control of all officials on weekly wages and of the foremen and workmen devolves on the Manager of Works. The reference to the committee also prescribes a number of provisions which have to be observed as to the keeping of accounts, audit, estimates, half yearly statements etc. It is the duty of the Manager of Works to keep the Committee informed as to purchase of materials, stores, plant,

timber, machinery, horses and other things required by him for the execution of any work, or for stock.

5. The Theatre and Music Halls Committee consists of twelve members, and exercises quasi-judicial functions with regard to licensing transferred to the London County Council from the justices of the Peace in Quarter Sessions. This committee "is instructed to consider and report upon all questions arising out of or connected with the 11th, 12th and 13th sections of the Metropolis Management and Building Acts Amendment Act, 1878, relating to theatres, music halls and other places of public entertainment, and the 45th section of the Metropolitan Board of Works (various Powers) Act, 1882, relating to the improvement of the means of exit from such buildings".

The Committee investigates all applications for licences for music, dancing, theatres, and race courses, and makes regulations, subject to the approval of the Council. It is also empowered to inquire into the conduct and management of licenced premises and reports thereon to the Council from time to time.

The Committee is likewise empowered to appoint inspectors for theatres, music halls, and other places of entertainment, and to make regulations in regard to their duties and pay, reporting quarterly to the Council.

It informs the Lord Chamberlain of all certificates granted by the Council to theatres within his jurisdiction. The annual session of the Council as the licencing authority for the purpose of granting licences in respect of music, dancing, and theatres is held in the month of November and the meetings of the Theatres and Music-halls Committee sitting as the Licencing Committee to investigate applications for such licences is held on previous dates previous to such session fixed by the Council.

The meeting of the Committee at which applications for licences are heard are open to the public, and applicants may appear either personally or by counsel. The committee however deliberates and considers its report to the Council in private.

The Asylums Committee numbers 30 to 35 members and has the management and control of all the London County Asylums. It may exercise the powers conferred by the Lunacy Act 1890. It has to provide sufficient accomodation for pauper lunatics. It is required to appoint a sub-committee for each asylum and is em-

powered to delegate to each subcommittee such powers and duties as it thinks fit.

The Establishment Committee consists of ten members. It looks after the staff and the central offices and their accomodation, arranges rooms for committee meetings and for the various officers and officials of the Council.

The Fire Brigade Committee of from ten to twelve members controls, maintains and manages the London Fire Brigade, and all plant, land and buildings appertaining to the service.

The Highways Committee, consisting of from 12 to 15 members, is the Committee which supervises London Traffic. It has to look after main roads, subways, and county bridges. It is required to make reports and recommendations to the Council on tramways, river steamboats, railway and canal traffic, electric lighting and the regulation of cabs and buses.

The Improvements Committee, also consisting of from 12 to 15 members, is principally concerned with street improvement and the provision of new means of transit including bridges and ferries. It has to look after the Council's property and protect it against trespass or encroachment. It has also to make arrangements for selling or leasing surplus lands and buildings belonging to the Council. The removal of obstructions, the widening of streets and similar improvements are usually made by arrangement with the Borough Councils the Council contributing to the cost. The late Royal Commission on London Traffic has recently reported in favour of the establishment of a small and well-paid Traffic Board which would supervise traffic, street improvements and the laying out of new roads aud suburbs over a very much wider area than the administrative county of London.

The Main Drainage Committee of from ten to twelve members carries out all the works connected with the main drainage and sewerage of London and controls all the property and machinery connected therewith.

The Rivers Committee consists of the six representatives of the Council on the Thames Conservancy Board, the two representatives of the Council on the Lee Conservancy, and seven other members added by the Council, making 15 members in all. Its business is to deal with questions relating to the Thames and the Lee, the Dock Companies and the prevention of floods.

The Public Health Committee with from ten to twelve members exercises the powers of the Council under the Public Health (London) Act 1891, the Common Lodging Houses Acts and many other special London Acts dealing with tuberculosis, slaughter-houses etc. This committee has the general duty of supervising the health of London and of watching the Sanitary administration of the borough councils and the medical officers of health.

The Midwives Act Committee consists of the Public Health Committee with the addition of not more than three nomiated women members. It acts for the Council under the Midwives Act 1902.

The Parks and Open Spaces Committee is a very busy and important body consisting of from 20 to 25 members. It manages the numerous parks, public gardens, and open spaces belonging to the London County Council or under its jurisdiction. It directs a large staff of keepers and gardeners. It also reports on such widely different subjects as band music, and the protection of wild birds, and makes recommendations as to the provision of new recreation grounds and the preservation of private squares and enclosures,

The Public Control Committee of from ten to twelve members exercises the powers of the Council under various Acts relating to weights and measure, the testing of gasmeters, the regulation of shops etc. It also reports on motor cars and locomotives, telephones, markets, water supply, smoke nuisances, and the protection of infant life. It has the duty of managing and maintaining homes for inebriates.

The Stores Committee of from 8 to 10 members controls all the store depots of the council and their staffs, and carries out the regulations of the council as to store accounts and tenders. The Committee is required to employ competent experts to assist it in its purchases.

The Officers (Education) Superannuation Committee is an adjunct to the Education Committee, but reports direct to the Council. Its constitution is somewhat complicated.

The Housing of the Working Classes Committee consists of from 12 to 15 members. It reports to the Council on Housing questions and prepares schemes for the approval of the Council under the Housing of the Working Classes Acts, and when

such schemes have been adopted and confirmed by parliament this committee carries them into execution. It also exercises the powers for the clearance of unhealthy areas conferred on the London County Council by the Public Health (London) Act 1891. There are elaborate regulations governing the action of the committee, including reports by the Finance Committee on the financial aspects of housing schemes, which are apt to prove serious burdens on the rates.

The Building Act Committee, consisting of 12 to 18 members, executes numerous and important powers and duties of the Council under the London Building Act as to the construction of buildings, temporary buildings, dangerous buildings, sky signs, obstructions, and rights of owners. It enforces the Councils by-laws on these subjects and is empowered to take legal proceedings in the minor tribunals. But it may not prosecute an appeal to the High Court without the special sanction of the Council. The District Surveyors act under this committee. But the terms of reference contain many careful regulations by which the action of the committee must be guided.

The Appeal Committee is a special statutory Committee of seven members with a quorum of three. Its function is quasi-judicial to hear and decide appeals made to the Council under the Metropolis Management Act 1855 section 212, and other Acts of Parliament.

The Parliamentary Committee consists of 14 members with the addition of not more than 8 members of parliament who are members of the Council. Its duties are to consider and report on all Bills and Provisional Orders affecting London and, if necessary, to prepare petitions for or against them employing counsel, agents and witnesses. It has also to prepare and promote such Bills as the Council may decide to introduce into parliament. A great deal of money is spent by this committee in promoting or opposing private bills and provisional orders. This completes our survey of the Committees of the London County Council and their work. How vast that work is and how brief our survey may be judged from the fact that "the terms of reference" by which the operations of these committees are prescribed and regulated cover more than seventy pages of printed matter.

The chief officers on the staff of the London County Council are the Clerk of the Council, who corresponds to the Town Clerk

in a borough, the Comptroller, the Chief Engineer, the Superintending architect, the Valuer, Assistant Valuer, Solicitor, Chemist, Medical Officer of Health, Statistical Officer, the Manager of Tramways, the Manager of Housing and the Chief Officers of the Public Control Department and of the Parks. The Education Committee, as representing the London School Board, has many highly paid officials of its own such as Educational Adviser, Medical Officer, Executive Officer and Architect. Besides these heads of departments there are seven classes of assistants whose pay ranges from £ 80 for the lowest, rising in the case of principal assistants to £ 500 a year.

London County Council Finances.

Total Receipts and Expenditure on Accounts affecting the County Rate 1905/6.

Receipts.

1.	Cash Balance at beginning of year.	£	877,824
2.	Receipts in aid of expenditure		
	a) Exchequer Contribution	£	532,234
	b) Government Education Grants	£	1,390,547
	c) Interest on loans advanced, on cash balances etc.	£	596,064
	d) Interest and repayment transfers from tramway and other revenue accounts . .	£	328,069
	e) Interest etc. transfers from works accounts	£	7,480
	f) Rents	£	129,381
	g) Sundry contributions fees, fines, etc. . .	£	270,001
	h) Transfer of surplus on parks boating . .	£	2,500
	i) Grant from Local Taxation Account under the Agriculture Rates Act 1896 . . .	£	2,633
3.	County Contributions required to be raised		
	a) For General County Purposes other than Education equal to a rate of 14 d . . .	£	2,429,426
	b) For Education equal to a rate of 18 d .	£	3,123,548
	c) For special County purposes — equal to a rate of 3 d	£	456,752
Total rate including education 2/11		£	10,145,459

Expenditure.

1.	Debt.		
	Redemption	£	1,191,245
	Dividends on Stock (less tax)	£	1,901,825
	Interest on sundry liabilities	£	138,390
	Income tax (including arrears)	£	53,226
	Management of stock etc.	£	61,910
2.	Grants.		
	To Guardians for indoor paupers	£	330,064
	To Guardians and others out of the Exchequer contribution	£	279,814
	Registration of electors	£	13,195
	Main roads (arrears)	£	289
3.	Pensions (including Superannuation and Provident Fund and prison and asylum pensions)	£	61,215
4.	Establishment Charges (other than those charges to particular services)	£	224,849
5.	Judicial Expenses	£	46,023
6.	Services.		
	Main Drainage	£	256,488
	Fire Brigade	£	227,333
	Parks and Open Spaces	£	132,132
	Bridges, Tunnel and Ferry	£	41,833
	Embankments	£	11,935
	Pauper Lunatics	£	102,575
	Coroners	£	30,261
	Weights and Measures	£	14,119
	Miscellaneous	£	116,790
	Education — Higher	£	655,062
	Education Elementary	£	4,000,400
		£	4,655,462
Less, Debt charges included under Head 1, above		£	745,229
		£	3,910,233

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Second Report of the Commissioners appointed to inquire into the Municipal Corporations in England and Wales; London and Southwark. London 1837.

Report on the Sanitary Condition of the City of London for the year 1848/9 by John Simon Medical Officer of Health.

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The City of Leeds.

From

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Its Municipal History and Modern Organisation.

Whether Leeds, the great commercial centre of the West Riding, was so much as a village when the Romans, after hard fighting, managed to subject the warlike tribes of Yorkshire and Lancashire to their sway may be doubted [1]. Its origin may probably be traced to the fact that it was the point at which a Roman road from Tadcaster to Slack (near Huddersfield) crossed the River Aire, the "trajectus" or ford being a little east of the old bridge. To guard the crossing the Romans fortified a camp on the hill between Charles Street and High Street and doubtless made a big clearing in the forest. The venerable Bede calls it "Loidis", and there is some dispute as to whether this name is Celtic or Saxon. If the former it may have been Caer Lloyd yn y Leod, "the City of Lloyd in the wood"; if the latter it may be connected with the Saxon Loid (Leute) or it might be merely the genitive case of Loidi, its first possessor, as the learned Dr. Whitaker inclined to believe [2].

It was doubtless a place of significance in the tribal Celtic kingdom which was formed in those parts on the withdrawal of the Romans; for the Northumbrian Kings made Osmondthorpe (a hamlet within the municipal boundary) their residence, or villa regia as Bede calls it. About that time a wooden church was erected on the side of St. Peters, and probably a wooden bridge was also built here before the Norman Conquest; for the two streets Kirk-gate

[1] Some have regarded Leeds as one of the 28 Roman Cities in Britain which Nennius of Bangor enumerates as having been British towns before the Roman Conquest.

[2] See Thoresby's Ducatus Leodiensis (2nd edit) p. IX and Whitaker's Loidis and Elmete p. 5. So a Londoner speaks of going to Lloyd's meaning to Lloyd's subscription rooms.

and Brig-gate seem to take us back to Saxon or Danish[1] England. William the Conqueror gave Leeds as part of the barony of Pontefract to Ilbert de Laci, a powerful adventurer, whose family afterwards founded Kirkstall Abbey. Most of the townships of the later municipality are surveyed in the Doomsday Book, when Leeds seems to have been a farming village of not more than 300 inhabitants, while the whole of the townships of the parish could not have contained a thousand inhabitants. (Several entries testify to the Norman devastation.) The Doomsday entry for Leeds is worth recording: — "in Ledes ten carucates of land and six oxgangs to be taxed. Land to six ploughs. Seven thanes held it in the time of King Edward, for seven manors. Twenty seven villanes, and four sokemen, and four bordars, have now there Fourteen ploughs. There is a priest and a church, and a mill of four shillings, and ten acres of meadow. It has been valued at six pounds, now seven pounds"[2]. Ilbert de Laci seems to have granted Leeds and Holbeck to the family of Paganel; for in 1089 Ralph Paganel gave the advowson of the Church to the Priory of the Holy Trinity at York, and in 1208 Maurice Paganel granted a charter to the burgesses of Leeds. This charter "confirmed to my burgesses of Leeds and their heirs liberty and burgage and their tofts[3] and with each toft half an acre of arable land to hold of me and my heirs in fee and by inheritance freely, peaceably, and honourably, to pay to me and my heirs for each such toft and half acre sixteen pence at Pentecost and Saint Martin". It also granted to the burgesses of Leeds the same freedom and law enjoyed by the burgesses of Pontefract under Roger de Laci. In this charter a "praetor" is mentioned who collected rents and tolls for Maurice Paganel the Lord of the Manor. By this time Leeds was a small town with shops, and merchandise passing in and out. The principal trades seen to have been corn, wool, hides and tallow[4]. Leland the famous antiquary, writing about A. D. 1538, calls Leeds (which he spells "Ledis") "a praty market, having one paroche chirche, reasonably well buildid, and as large as

[1] The Danes seem to have had a camp on Giant's Hill in Armley.

[2] A carucate = from 100 to 120 acres. An oxgang = about 13 acres, i. e. as much land as could be ploughed in a day with one ox. Sokemen = yeomen. Bordars = small farmers. Villanes = serfs.

[3] A toft = a homestead.

[4] Vgl. Whitaker's Loidis and Elmete p. 11.

Bradeford, but not so quik as it". It is not certain whether the quasi municipal privileges granted by Maurice Paganel lasted through the numerous changes in the lordship of the Manor down to 1626. But probably they did not; for the municipal charter of that year does not refer to the charter of Maurice Paganel. Some time before the reign of Henry IV. the manor passed into the vast estates of the duchy of Lancaster, which merged in the crown on the accession of Henry the Fourth[1]. Leeds was implicated in the Pilgrimage of Grace, the northern rebellion against Henry the Eighth's anti-monastic policy. In Edward the Sixth's reign the Leeds Grammar School was founded. At the time of the Spanish Armada Leeds, Hull, Halifax and Wakefield together contributed a ship to the English fleet. In 1615 the town and parish of Leeds had become large and populous, as towns went in those days; for, according to a statement made that year by some leading inhabitants in a Bill of Complaint, the Leeds Parish Church had 5000 communicants, of whom three or four thousand regularly resorted to the Church on Sunday. In 1619 a Commission appointed by the Crown held an inquisition into the administration of public charities at Leeds, and reformed various abuses. At that time the local administration was in the hands of a Bailiff assisted by a Court-Leet. The Bailiff may have been the lineal descendent of Maurice Paganel's "praetor". He was found by the Commission to have converted to his own use the whole weekly revenue of about 8 shillings derived from a "toll dish" on corn, one third of which should have gone to poor relief and one third to the repair of roads. In this reign the manorial rights over Leeds, which had passed to the Crown, as we have seen, through the Duchy of Lancaster on the foundation of the Lancastrian dynasty by Henry IV, were sold to private inhabitants.

In the second year of Charles the First's reign Leeds became a corporate borough, a charter of incorporation being granted on the petition of some leading citizens, in spite of protests made by many hundreds of the inhabitants who "desired a stay of the corporation lately promised by some of the ablest men in Leeds for their own ends in the name of the whole town, without the consent of

[1] In consequence of this the inhabitants of Leeds long claimed privileges of exemption from market and fair tolls througout the Duchy of Lancaster.

the greater number". The charter, dated July 13th 1626, recites that "our town of Leeds in our County of York is an ancient and populous town" and its inhabitants have had and skilfully exercised the art or mystery of making and working woollen cloths, commonly called in English "northern dozens", to their perpetual praise and great increase of the revenue of the crown of England for customs.

It is further recited that Leeds cloth has won such fame and estimation that it is sold and exported before other cloths of the country, but that now divers clothiers of the town and parish have begun to make inferior and deceptive cloth and to dye the same with log wood to the damage and discredit of honest traders of the town. Therefore the clothiers and inhabitants have petitioned the crown "that we would vouchsafe by our letters patent, to make, constitute, and create, for the more honourable and better rule and government and improvement of the town and parish aforesaid, the said inhabitants into a body corporate and politic and also the town aforesaid, into a borough, with a grant of certain liberties, privileges immunities and franchises".

In consideration of this the royal charter ordained and appointed that the whole town and parish of Leeds should thenceforth for ever be and remain a free borough, to be called and known by the name of "the Borough of Leedes in the County of York"; and that "all and singular the inhabitants of the aforesaid town and parish of Leedes, and their successors, from henceforth for ever may and shall be a body corporate and politic, in matter, fact, and name, by the name of the Alderman and Burgesses of the Borough of Leedes in the County of York". By that name they should have perpetual succession and should be persons able and in law capable to have, purchase receive, and possess lands, tenements, liberties, privileges, jurisdictions, franchises, and hereditaments to them and their successors in fee and perpetuity as well as goods and chattels; also to give, grant demise, and assign lands, tenements, and hereditaments, goods and chattels and so do and execute all other acts and things by the name aforesaid; and by the same name they should be capable of pleading and being impleaded in all suits, plaints, pleas, causes, and demands, real and personal, temporal and spiritual. Also the aldermen and burgesses of the borough and their successors were granted a common seal to serve for the transaction of all their business. The constitution provided by the charter was as

follows: — First one of the burgesses should be named "the aldermen of the borough". Secondly there were to be nine principal burgesses and twenty assistant burgesses who were together to be called the common council of the borough. This common council of 29 persons was to assist and aid the alderman, and was granted „full power and authority to enact, constitute ordain, make, and establish from time to time such reasonable laws, statutes, and ordinances which to tham shall seem to be good, wholesome, useful, honest, and necessary according to their sound discretion, as well as for the fit, good, true, and perfect working, making and dyeing of cloths from time to time, to be made within the borough aforesaid, as for the good rule and government of the burgesses, artificers and inhabitants of the borough aforesaid for the time being, and for declaring in what manner and order the aforesaid alderman, principal burgesses, and assistants, and artificers, inhabitants and residents of the borough aforesaid shall behave, carry, and conduct themselves in their offices, functions, and businesses within the borough aforesaid, and the limits thereof, and otherwise for the further good and public utility and rule of that borough and victualling of the same borough". The alderman and common council were also empowered to impose reasonable penalties and punishments upon all offenders against these statutes and ordinances; provided that such ordinances, imprisonments, fines and penalties "be not repugnant or contrary to the laws, statutes, customs, or rights of our realm of England". The charter then nominated Sir John Savile to be the first alderman of Leeds until the next feast of St. Michael the Archangel; it also nominated nine gentlemen and tradesman to be the principal burgesses and twenty more to be the assistant burgesses, all to remain in office for life unless they were removed for bad government, or misconduct, or for any other reasonable cause. The alderman and burgesses were to assemble every year on the day and feast of St. Michael, or if it fell on Sunday on the day after, in the Common Hall or any other convenient place within the borough, to elect one of the nine principal burgesses to be alderman for the year. The Common Council had power at their good pleasure to remove the alderman from office at any time and to elect another in his place, and in the same way the Common Council had power to deprive any of their number of office, and in case of removal or death they were empowered to elect and nominate some other inhabitant of

the borough lo fill the vacancy. If an inhabitant of the borough refused to accept office the Council was empowered to impose a reasonable fine, and, if he refused to pay, to commit him to goal until the fine was paid. The charter also ordered the alderman and burgesses to have within their borough "a discreet man and learned in the laws of England" to be the recorder and another "discreet person learned in the laws" to be the Deputy Recorder. The first Recorder is named in the charter. In future the Recorder would be elected by the Alderman and Common Council. The Alderman, Recorder, and principal Burgesses were to be Justices of the Peace in the borough of Leeds, and were to administer the statutes concerning labourers and artificers, weights and measures within the borough. The Alderman and Burgesses were also empowered to elect from year to year from among the burgesses or inhabitants of Leeds a Coroner and a Clerk of the Market, and one or more constables, a Serjeant at Mace and other necessary officers, and to remove them and to choose others from time to time. The charter further granted to the Alderman and Burgesses "that they and their successors shall have the inspection, correction, and punishment of the Assize of Bread, Wine, Ale, and of all kinds of victuals sold within the borough"; and whereas in the town of Leeds "there hath heretofore been held and kept one market from the time whereof the memory of man is not to the contrary", and the inhabitants of the town from long experience had found that Tuesday would be a more convenient day, "we, of our more abundant special grace, and of our certain knowledge and mere motion, have granted that the aforesaid alderman and burgesses may have, hold and keep one market in every week throughout the year, for ever, on tuesday to be holden and kept together with a court of pie-powder, there to be holden during the time of the said market and with all liberties, and free customs, tolls, stallage, piccage, fines, amercements, and all other profits, commodities, advantages and emoluments whatsoever to such market and court of pie-powder belonging, arising, happening contingent or in any way belonging". Lastly the guilds and fraternities of the workers, clothmakers, and other workers within the borough where placed under the authority and jurisdiction of the alderman and common council and were forbidden to make any bye-laws binding on the burgesses and inhabitants without license first obtained from the alderman and common council. The first Municipal

Constitution of Leeds, a very lengthy document in the Latin original sufficiently explains itself; but it may be proper to observe that the nomenclature is somewhat remarkable and unusual. I do not know and have seen no reason given why the chief magistrate and head of the Council should have been called the alderman or why the council should have been divided into principal and assistant burgesses. It will be seen that the constitution is a very liberal one in its grant of powers to the council, wich seems to have received a fairly complete local authority over a very large area. But it is not surprising that many of the inhabitants should have protested against a constitution which entirely debarred them from any share in the choice of the council, which regulated their revenues and controlled their affairs. It is indeed difficult to conceive how the English people, having obtained so large a measure of national self-government, should have allowed their ancient local self-government to be stolen by the Crown under the pretence of graciously extending "our royal favour and munificence to the inhabitants". Later on in the same year (December 1626) letters patent were issued decreeing that all the liberties of the Duchy of Lancaster should be enjoyed by the inhabitants of Leeds.

In 1639 an Act of Parliament was passed discharging the inhabitants of Leeds from the custom of having their corn, grain and malt ground at certain mills, a custom which had been granted by James I as a monopoly to some Surrey gentlemen called Ferrers; and no less than £ 13,000 was paid to them by way of compensation. In 1638 the Alderman of Leeds received a writ demanding £ 721 by way of ship-money from an officer of the King at York, with a letter saying that the town was "kindly used" in having to pay so small a sum towards so great a charge. At the beginning of the Civil War Leeds was held for the King, but was captured after a sharp fight in 1643 by a Parliamentary force under Fairfax. In the following year 1325 inhabitants, about one fifth of the whole population, were carried of by the plague. In 1651 the three divisions of Leeds, namely Leeds Town, Leeds Kirkgate and Leeds Mainriding could not agree as to the proportions they should contribute to a monthly assessment imposed for the use of the Parliamentary army. The dispute was referred to four arbitrators who awarded that one half should be paid by the inhabitants of Leeds Town and that the other half should be paid by the other two divisions in accordance

with the custom established previously. After the Civil Wars were over the borough of Leeds received for the first time Parliamentary representation, and one Adam Baynes of Knostrop, an officer in the parliamentary army was elected Member for Leeds. Under the Commonwealth a committee of the House of Commons was appointed to consider the reform of corporations and the alteration of their charters, and it would seem that the Leeds charter fell into abeyance. The records of the Corporation during the period are lost, but there is one very interesting and curious circumstance to be recorded. Owing to the scarcity of money and the difficulties caused by the Civil War, Leeds merchants and tradesmen began the practice of issuing token coins, mostly penny and half-penny pieces. They were of brass or copper of various shapes and sizes; but the majority were very light, often not weighing more than one twelfth of the proper pennies and half-pennies of the time. The token money was prohibited by royal proclamation in 1672, but the custom of local coinage by individual tradesmen continued through the eighteenth centuary into the nineteenth [1].

In 1660 the English monarchy was restored in the person of Charles II, and Parliament immediately passed an Act "for the well governing and regulating of Corporations". Under this Act Commissioners were appointed with power to remove, restore, or continue in office such persons as they deemed proper. In 1661 a second charter of incorporation was granted to Leeds on the petition of the merchants, clothworkers and others. The petition recited that the previous charter was now of no force and void in law and that the "body corporate and politic in form aforesaid constituted" was now "dissolved and annihilated". Meanwhile the town and parish had become more populous than in times past, and it was complained that the abuses and deceits in the manufacture of woollen cloths were daily increasing more and more. According by the town and parish of Leeds were again constituted the borough of Leeds, and all the lands, tenements, water courses etc. lying within thc town and parish were placed within the limits and jurisdiction of the borough. In reincorporating the borough and appointing its constitution the previous nomenclature was abandonned in favour of the more usual titles, the inhabitants and their successors being made one body corporate and politic by the name of "the Mayor,

[1] See James Wardell's Municipal History of Leeds 1846. Appendix XX.

Aldermen and Burgesses of the Borough of Leeds in the County of York". The numbers of the Common Council were enlarged so as to consist of the Mayor, twelve Aldermen and twenty four Assistants of the Borough. The Mayor, Aldermen and Assistants are all nominated in the charter with tenures similar to those of the Aldermen and Assistants in the first charter. In addition to the recorder, provision was also made for a common clerk to be appointed by the Crown but removable by the Mayor, Aldermen and Burgesses for any reasonable cause. In one important respect this second charter is more liberal than the first, since it provides that, when the Common Council thinks it necessary to make any new laws or ordinances to regulate the making, dyeing or sale of wollen cloth within the borough, they should cause to be summoned forty of the more honest and sufficient clothworkers and craftsmen to meet on a certain day and place „which assembly shall be called the common assembly of the borough aforesaid, and then and there may be proposed to the said common assembly, such laws, statutes and ordinances, as the said mayor and common council of the borough aforesaid amongst themselves shall think fit and just to be established, and they shall ask advice thereupon of the said common assembly, or of those which shall be then present, and such laws, statutes, and ordinances, so offered and proposed to the common assembly aforesaid, and which shall be approved by the greater part of them there present, shall become laws and ordinances, and thereafter shall be of good force and effect, and be inviolably observed by all clothworkers, artificers, and merchants, within the liberties of the borough aforesaid, under the pains and penalties in the same laws or ordinances contained". From the time of this charter the records of the Corporation have been well preserved, and it may be interesting to note that the first business transacted at the first Court of the Mayor, aldermen and burgesses held in virtue of this charter, January 4th 1662, was an order to constables and churchwardens for the better observance of the Sabbath. Indeed the Leeds Council frequently concerned itself with the regulation of religion within the borough, which included the maintenance of the Established Churches and the discouraging of other religious bodies.

In the following month an assessment was laid upon the inhabitants for the repair of the Parish Church and for the erection

of a Font. In March the first bye-law was passed imposing fines of 5 shillings on any alderman and half a crown 2 s. 6 d. on any "Common Councillman or assistant" who interrupted any speaker at meetings of the Court of Common Council. At the same meeting the Corporation expressed its satisfaction with the skill of one Thomas Gorst in his performance of the art, trade, or mystery of a cook, and ordered that he should henceforth on all public occasions dress the several dishes appointed for any such solemnity. In November of the same year the corporation authorised the clothworkers, mercers, grocers, salters, drapers, millwrights, carpenters, joiners and ten other leading trades in the borough to be incorporated as guilds or fraternities for the better prevention of fraud and abuses. In 1663 a very unpopular subsidy called hearth money was granted to Charles the Second amounting to 2 shilling on every hearth in houses paying rates to the Church or the poor. About 2845 hearths were returned as liable in the borough. This tax and the unpopularity of the reestablished religion led to a local conspiracy called the Farnley Wood Plot, the object of the conspirators being "to re-establish a gospel ministry and magistracy; to restore the Long parliament; to relieve themselves from the excise and all subsidies, and to reform all orders and degrees of men, especially the lawyers and clergy"[1]. The leader and twenty of his associates were seized and executed. A few items in the next few years will show how various were the functions of the Corporation. In 1669 it purchased land to widen one of the highways. In 1670 it enlarged the pew in the parish church which was set apart for the wives of the aldermen (called the aldresses pew). In 1674 it ordered (to prevent forestalling) that no corn should be sold in the market until the ringing of market bell at 10 am. In 1675 it agreed to defend any inbabitant who might be prosecuted for non-payment of toll at Wakefield. In 1676 it made a deed of composition for tithes with the Earl of Cork, who then "farmed" the Rectory of Leeds. In 1679 the Corporation agreed to pay the Mayor to undertake the business of making the River Aire navigable. In the following year the whole of the Council signed an attestation that they and all the officers had duly taken the oaths of allegience and supremacy and also the sacrament

[1] See Parson's History of Leeds vol. 1, p. 59.

of the Lord's Supper according to the usage of the Church of England. This was in reply to a pressing inquiry by the Privy Council. In 1681 the Court helped to raise money to ransom the son of one of the aldermen who had been taken prisoner by the Turks, carried to Algiers, and there sold for seven hundred dollars. In the same year a deputation was sent to Windsor to present an obsequious address to the King.

Soon after this, proceedings began to be taken against the municipal corporations and in 1684 the Mayor went to London to "waite upon his Majesty to surrender the charter of this Town and Borough". On the 24th of September 1684 a new charter was given to Leeds in which the autonomy of the Corporation was encroached upon and the powers of the Crown increased. The first Court under the new charter was held on the 6th of February 1685, and is interesting because it provides an early instance of a municipal Committee. A Bill of charges incurred in obtaining the charter was presented, and a committee of nine members of the corporation was appointed to audit the bill and to report thereon to a future Court. They met on the 16th and resolved that the best way to defray the charge would be a six months assessment based on the poor law assessment leviable on all in the parish. Four days later the Court met, adopted the report of the Committee and ordered the assessment to be made.

On the accession of William and Mary in 1689 the third charter of 1684 was set aside and the second charter of 1661 was restored, and is still theoretically in force except where it is inconsistent with the provisions of the Municipal Corporations Act of 1835. With this restoration of their best charter the rule of the old Church oligarchy in Leeds was permanently established, and for nearly a century and a half the municipal constitution in Leeds remained unchanged. The history of the town from that time was one of slow but almost uninterrupted material progress, among the incidents of which may be mentioned the commencement of waterworks to supply the town from the River Aire in 1694, the construction of the Leeds and Liverpool Canal between 1770 and 1816 (towards which the Corporation contributed £ 5000), and of the railways from Leeds to Manchester and Leeds to Selby, both of which were opened in 1840. Among the distinguished natives and residents in

the town during the period were Smeaton, the famous engineer who built the Eddystone Lighthouse, Ralph Thoresby the antiquary and historian of Leeds, Dr. Priestley at whose suggestion the Leeds Subscription Library was founded in 1678, Edward Baines, father and son, who made the Leeds Mercury the leading provincial news paper during the last half of the eighteenth and the first half of the nineteenth centuries, and William Hirst who introduced great improvements into the manufacture of woollen cloth and helped to give Leeds the pre-eminence in this great industry. A Cloth Hall for the sale of mixed and coloured cloths was built in 1758, and in 1755 a White Cloth Hall was built, the Corporation contributing £ 100. The Halls were opened for business every Tuesday and Saturday morning, and it is stated that in 1840, during the hour and a quarter in which they were open, business, to the amount of £ 20 000 was regularly transacted. The ancient Moot Hall of the borough in the centre of Briggate, in front of which stood the Pillory and Stocks, was rebuilt in 1710 and demolished in 1825. In 1720 a new code of bye-laws was framed for the Company of Clothworkers at a special Court; and, according to a provision of the constitution already noticed, forty sufficient and honest clothiers of the borough were summoned to assist. In 1745, when the Young Pretender marched south as far as Derby, Leeds was occupied by Marshall Wade. A century earlier Charles I had been a captive in Leeds at the Red Hall.

In 1755 a private Act of Parliament (28 George II. Chap. 41) was passed for lighting the streets and lanes and regulating the pavements in the town of Leeds. The Act recites in its preamble that Leeds "is a place of great trade and large extent, consisting of many streets, narrow lanes and allies, and that many tradesmen and manufacturers have to pass along the streets by night and day, and that the improvements provided for in the Act are required to prevent robberies and disorders as well as for the benefit and convenience of strangers resorting to the town's markets." This Act, from which dates the commencement of a new system of Ad Hoc government in Leeds, authorises the inhabitants to meet yearly in the vestry of the Parish Church and to appoint fourteen of their number to act as commissioners along with the Mayor, Recorder and Justices of the Peace for carrying the

Act into execution and defraying the necessary expenses[1]. In 1758 the Corporation prosecuted William Denison for refusing to accept office as Mayor, and Lord Mansfield, who tried the case, expressed his surprise at the refusal of so high an honour declaring that "he had so great a value for royal charters, that he would not make a breach in any of them". In 1790 another Act was passed for improving the lighting of the town's streets, for preventing nuisances and for better supplying the town and neighbourhood with water. This Act was also placed under Commissioners, the Corporation being excluded and the Commissioners were empowered to use a common seal, to appoint officers and to lay a rate. In 1798 the Corporation unanimously agreed to contribute £ 500 to the defence of the country against threatened invasion. In 1802 £ 265 was spent by the Corporation in honour of a local volunteer corps, and, £ 61 on colours to be presented to the volunteers. In 1809 another local Act was passed to improve the water supply, lighting and drainage of the town, and the borough Justices were added as additional Commissioners to carry this and the preceding Acts into execution. In 1815 an Act was passed to build a prison and to establish a night watch in Leeds, the Act empowered the Justices of the Peace to lay a watch rate and to appoint a jailor and chief constable. In 1823 all the standing orders and bye-laws of the Corporation, dispersed through the Court books, were collected, confirmed, and reentered so as to form a complete code[2]. In 1824 another Act amending the previous Acts for lighting, cleansing and improving the town was passed giving the Commissioners extended powers for the improvement and widening of streets and markets and for the removal of dangerous obstructions and the abatement of nuisances. By this time municipal corporation had pratically ceased to be in any sense the local sanitary authority. In 1832 the town which had been without representatives in Parliament since the time of Cromwell

[1] This Act only dealt with the inner town "within the bars" and this probably explains why the common council was not entrusted with its execution.

[2] The code with some amendments made in 1831 is reprinted in App. 21 of Wardell's Municipal History of Leeds. It is chiefly concerned with rules as to the Mayor, Aldermen and their assistants. It also provides for the annual appointment of a Treasurer who has the sole charge of the Corporate revenue and Expenditure, though all his orders for Expenditure have to be sanctioned by the Common Council.

was assigned two members under the Reform Act. In 1834 one of the Royal Commissioners for the reform of Municipal Corporations visited Leeds, and the town clerk on the occassion of the local enquiry read a resolution passed by the Court of Common Council protesting the illegality of the Commission but stating that, as the Commission had been issued under royal authority, the Corporation would pay it all proper respect, and would answer the questions of the Commissioner. The report of the Commission pointed out that the Leeds Corporation was obviously a close constitution "all the vacancies in each branch of it being filled by the select body" so that it had "absolute and uncontrolled self-election". The Report added: — "The great respectability of the present members of the Corporation and their impartial conduct as Justices were universally acknow ledged; but the restricted system and want of a more popular method of election were loudly complained of, and it was said that it would be satisfactory to a great majority of the Town that there should be such more open courts as the Legislature in its wisdom should think best[1]. The upshot was of course that Leeds was included in the list of municipalities which were brought under the operation of the Municipal Corporations Act 1835. The effect upon the political complexion of the Council was instantaneous and long-lasting. Since the Restoration in 1660 the close Corporation of Leeds, under the system of original nomination by the Crown and subsequent co-option with the aid of religious tests, had been persistently Tory. The Act of 1835 gave all the ratepayers of the town an equal vote in the elelection of councillors with the result that a Whig or Liberal Council was elected at the first popular elections held in pursuance of the Act. A Liberal majority held power on the Council for sixty years until November 1895 when the Conservatives at last came into power. Conservative rule lasted from 1895 to 1904 with the aid of the Aldermanic system. This system had acted unfairly to both parties; and in 1904, when the Liberals and Labourmen were victorious at the polls, an arrangement was come to between the parties that Aldermen should henceforth be elected by the different parties on the Council in proportion to their strength. In consequence of this arrangement, which has not been in any way

[1] Evidence of the declining importance of the Municipal body may be drawn from the fact that the Report states the average revenue to be only £ 200 and the avcrage expenditure of the Corporation only £ 160. There was no debt.

legalised either by a statute, law, or order and is therefore a good instance of a new constitutional custom in local government, there are now eight Liberals, seven Conservatives and one Labourman on the Aldermanic bench. The Labour party will get one or two more Aldermen next time. Two years before this arrangement as to Aldermen, namely in 1902, the Liberals and Conservatives agreed that in future the Lord Mayor should no longer be chosen from the predominant party, but should be taken in alternate years from Liberals and Conservatives. This is another extra-legal custom which has been adopted with the happiest results, as it obviates much wrangling and bad feeling. In both these matters I believe that Leeds has led the way and its example has already been followed by a good many other boroughs. To carry out the Act of 1835 the Borough was divided into 12 wards, with 16 aldermen and 28 Councillors. In 1881 it was divided into 16 wards, the number of aldermen and Councillors remaining the same as before. In 1889 through the operation of the Local Government Act of 1888 Leeds became a County Borough. In 1893 the title of City was conferred upon Leeds by Royal Charter, and in 1897 by letters patent the chief Magistrate was dignified with the style of Lord Mayor.

Reference has already been made to the series of local or private Acts passed in the reigns of the Georges for the improvement of the town of Leeds. They were followed and practically superseded by the Leeds Improvement Act of 1842 and various amending Acts. As these Acts were numerous (thirteen were passed between 1848 and 1901) and many of their provisions contradictory, being in some cases inconsistent with one another and in other cases inconsistent with the Public Health Code and other Public Acts a Bill was promoted and successfully carried through Parliament by the Leeds Corporation in 1905 for the purpose of consolidating and amending "certain of the local Acts in force within the City of Leeds". This Act called "the Leeds (Consolidation) Act 1905" repeals 14 Local Acts of a general character extending over the period 1842 to 1901, and as imilar number of Provisional Orders passed between 1881 and 1903. It also repeals six Leed Gas Acts (1853—1870), eight Leeds Tramway Acts and Orders (1872—1903), and one or two other Acts and Orders relating to Burial Grounds and Electric Supply. This Consolidation Act consists of 29 parts

and 383 sections together with fifteen schedules, and may serve students as a good example of what can be done in the much needed work of simplifying and amending the disorderly accumulation of local acts in many of our large towns. The Preamble to the Leeds Act may be quoted by way of illustration: —

„Whereas there are in force in the City of Leeds numerous Local Acts which relate to the improvement and local government of the City, including the supply of gas water and electricity the construction and working of tramways and other matters:

And whereas many of the provisions of those Acts have been superseded by subsequent legislation and ought to be repealed, and it would be of local and public advantage if such of their provisions as it is deemed expedient to retain were consolidated with certain amendments and additions in one Act:

And whereas it is expedient at the same time to extend in various respects the powers of the Corporation relating to matters comprised in those enactments and to other matters of health and local government:

And whereas it is expedient that the other powers contained in this Act should be conferred on the Corporation:

And whereas the purposes aforesaid cannot be effected without the authority of Parliament:

And whereas an absolute majority of the whole number of the Council at a meeting held on the first day of January one thousand nine hundred and four, after ten clear days notice by public advertissement of such meeting and of the purpose thereof in the Yorkshire Post, a local newspaper published and circulating in the City; such notice being in addition to the ordinary notices required for summoning such meeting, resolved that the expense in relation to promoting the Bill for this Act should be charged on the City fund and City rate:

And whereas such resolution was published twice in the said Yorkshire Post and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the Council at a further special meeting held in pursuance of a similar notice on the second day of March one thousand nine hundred and four being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas in relation to the promotion of the Bill for the Act the requirements contained in the First Schedule of the Borough Funds Act 1903 have been observed:

May it Therefore Please Your Majesty

That it may be enacted, and Be it Enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same, as follows: —

Then follows the statute consisting, as I have said of 383 sections.

The Present Borough and its Organisation.

The present borough of Leeds containing 21,572 acres, is divided into sixteen wards, with three councillors for each ward, and there are therefore sixteen Aldermen. For the transaction of administrative work the Council divides itself into 21 committees, most of which consist of about nine councillors and three aldermen. They are: —

1. The Watch Committee, with one General Purposes Sub-committee.

2. The Finance Committee, with a sub-committee for printing and stationery.

3. The Parliamentary Committee.

4. The Property Committee, with a sub-committee for Baths.

5. The Parks Committee, with four sub-committees, one for Roundhay Park, two for Recreation Grounds in different parts of the town, and a fourth for Cemeteries.

6. The Library Committee. This consists of nine councillors, three aldermen, and nine co-opted persons who are not members of the Council. There are four sub-committees, one for Audit, one for Book-Purchasing, one for General Purposes, and a fourth for the Art Gallery.

7. The Waterworks Committee, with a sub-committee for Audit.

8. The Highways Committee, with a sub-committee for Management.

9. The Tramways Committee, with sub-committees for Audit, Works, and Traffic.

10. The Improvements Committee, with sub-committees for Audit and General Purposes.

11. The Plans Committee, with two visiting sub-committees.

12. The Sewage Committee, with sub-committees for Audit and Sewage Disposal, and also for a special district which requires separate management.

13. The Electricity Committee, with a sub-committee for Audit.

14. The Street Lighting Committee.

15. The Markets Committee, with sub-committees for Audit, Cattle Diseases, and Cattle Market.

16. The Sanitary Committee, with four sub-committees: a) Health and Audit, b) Cleansing, c) Hospitals, and d) Plans.

17. The Unhealthy Areas Committee, with a sub-committee for Audit.

18. The Gas Committee, with five sub-committees.

19. The Education Committee. This important committee consists of sixteen councillors and five aldermen and two co-opted women members It is subivided into six sub-committees: a) for Elementary Education, b) for Higher Education, c) for Industrial and Special Schools, d) for School Attendance, e) for Education Finance, and f) for Staffing.

20. The Distress Committee. This committee has been formed to deal with unemployment, a subject which has recently come within the sphere of municipal administration. The committee consists of fourteen councillors, four aldermen, and fourteen representatives of the Guardians of the four different Poor Law Unions, which are wholly or partially within the borough, and nine other members, namely two co-opted women, the Vicar of Leeds, the President of the Free Church Council, the Chairman of the Chamber of Commerce, two representatives of the Trades Council, and a representative of the Salvation Army.

Members of the Municipal Council also sit on the West Riding Rivers Board, on the Council of the Leeds University, on the governing body of the Leeds Grammar School and other public or quasi-public authorities. The Council meets at 2.0 p. m. on the first Wednesday in each month and most of the committees also meet once a month. A view of the executive staff may be obtained by surveying the offices and departments under which the permanent officials and employees of the Corporation are classed. They are as follows: —

1. The Town Clerk's Office where may be found the Town Clerk, who is officially described as Town Clerk and Solicitor to the Corporation, the Deputy Town Clerk, the Municipal and Committee Clerk, three assistant solicitors, and the Lord Mayor's Secretary.

2. The City Treasurer's Office, where sit the City Treasurer, the assistant Treasurer, the Chief Cashier, and the Water Rates Surveyor. Until two years ago the City Treasurer, as in many other large towns, was a purely ornamental office and the real work was done by the Chief Accountant; but now the office of Chief Accoun-

tant has been merged in that of the City Treasurer, who has thus become the principal financial official in fact as well as in name.

3. The Education office, with a general Secretary, an assistant Secretary, and a Secretary for Higher Education.

4. The Police Office, in the Town Hall, the headquarters of the Chief Constable and his deputy, with a number of clerks superintendents and inspectors. The old ornamental officer called the Serjeant-at-Mace is also in this department.

5. City Engineer's Office. Here dwell the City Engineer, his deputy, assistant, and chief clerk.

6. The Waterworks Engineer's Office.

7. The Sewage Engineer's Office.

8. The Building Surveyor's Office.

9. The Gas Office. This is controlled by a General Manager, who has under him three separate managers of the three chief gas works.

10. The Electric Lighting Department. The principal officers here are the Manager, the Chief Clerk and two Superintendents.

11. The Sanitary Department. The head official here is the Medical Officer of Health, with his assistant, who is also the Chief Inspector of Nuisances. There is also an analyst, a veterinary assistant, a superintendent of street cleaning, an inspector of food and dairies and an inspector of smoke nuisances.

12. The City hospitals. The chief persons here are the Medical Superintendent, the assistant Medical Officer and the Matron.

13. The highways Office, with the Highway Surveyor and Chief Clerk.

14. The Tramways Office, with a General Manager, electrical engineer, accountant, and traffic superintendent.

15. The Public Library, with a number of branches, containing altogether upwards of 260 000 volumes.

The City Coroner, the Clerk of the Peace, the Prosecuting Solicitor, the Superintends of Baths, Parks and Markets, the Chief Inspector of Weights and Measures, and the Curator of the Art Gallery also have separate offices or at least separate telephone numbers.

Besides these local officers, who are all servants of the Council, there are two independent legal officers appointed by the Crown namely the Recorder and the Stipendary Magistrate.

The limits of this essay preclude any elaborate survey of Leeds statistics; but a few figures must be given. The population rose from 53,162 in 1801 to 172,258 in 1851. In 1871 it was 259,212, in 1891 367,505 and in 1901 428,968. The City is still growing rapidly for the estimate for June 1906 was 463,495. In 1906 there were 73,216 persons on the Parliamentary Register and 84,807 on the burgess roll. The rateable value of the town has risen from £ 420,411 in 1851 to £ 1,741,373 in 1901. In 1851 a rate of one penny in the pound produced £ 1,751—14—3. In 1901 the same rate produced £ 7,255—14—5. In 1906 the rateable value was £ 2,081,945 and a penny rate produced £ 8,674—15—5. In spite however of an increase in rateable value out of all proportion to the growth of population the burden of rates has greatly increased, owing of course to the enormous extension of municipal functions and municipal services. In 1904/5 the total rate was 6 s. 7 1/2 d.; in 1906/7 it was 7 s. 5 d. in the pound, being made up as follows: — for education 1 s. 6 1/2 d., highway 8 d., consolidated rate 1 s. 6 1/2 d. The following was the income of the City of Leeds "on revenue account" for the year ended 31st March 1906: —

Electric Lighting	£ 98,296
Gas	£ 398,602
Markets	£ 29,229
Tramways	£ 320,886
Waterworks	£ 163,775
Rates	£ 672,111
Local Taxation Account .	£ 49,272
Other sources	£ 247,340
	£ 1,979,511

On March 31st 1906 the total debt of the Corporation was £ 12,792,328—19—0 equal to £ 27—12—0 per head on an estimated population of 463,495. The interest on outstanding loans varied from 2 1/2 to 5 per cent, the average rate being 3.495 per cent. A large part of the debt is reproductive capital, as will be seen from the following statement with which this sketch may conclude: —

Apportionment of Loan Debt.

Electric Lighting	£	888,994	5 s. 7 d.
Gas	£	1,439,160	8 s. 4 d.
Tramways	£	1,226,084	19 s. 10 d.

Water	£	2,558,419	8 s.	11 d.
Markets	£	405,396	2 s.	2 d.
City Fund — General Account	£	447,966	11 s.	0 d.
Consolidated Fund — General Account	£	4,762,190	15 s.	1 d.
Highways Rate	£	92,219	9 s.	7 d.
Education	£	946,483	18 s.	6 d.
Loans (Balance unallocated)	£	25,413	0 s.	0 d.
	£	12,792,328	19 s.	0 d.

Les institutions municipales de la France.

Leur évolution au cours du XIX^e Siècle.

Par

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Introduction.

Considérations générales sur la „Décentralisation" en France.

Une étude sur l'évolution du droit municipal en France peut être considérée comme un chapitre, le plus important peut-être, de l'histoire des libertés publiques.

La France du XXe siècle est parfaitement unifiée. Cette unification, commencée par nos anciens rois dans leur lutte contre la féodalité politique, affirmée comme la règle supérieure de l'État par les assemblées révolutionnaires, réalisée enfin par la législation napoléonienne, n'a pu se faire qu'au détriment du particularisme local. Son facteur le plus puissant a été la centralisation administrative, forme à peine déguisée du despotisme.

La France moderne a rejeté le gouvernement personnel. Pour être plus certaine de n'avoir plus à subir la tyrannie d'un despote, elle a renoncé à la forme monarchique; elle a adopté une constitution républicaine avec le système représentatif et le régime parlementaire.

Il n'est pas démontré que le résultat de l'effort ait été conforme aux espérances de ceux qui l'ont tenté. Il est aussi malaisé pour une nation de s'évader de ses traditions, que pour un homme de modifier son caractère. Nos institutions républicaines, loyalement acceptées par la très grande majorité des Français, ne sont en beaucoup de points que la continuation, quelquefois que la parodie des anciennes institutions monarchiques.

Nous avons proclamé le dogme de la souveraineté nationale, ce qui équivaut à la négation de toute souveraineté[1]. Dans la réalité des choses, nous avons substitué au souverain royal un souverain

[1] Cf. **Joseph de Maistre, De la souveraineté, (dans les œuvres inédites); — Benjamin Constant, Cours de politique constitutionnelle, T. I, P. 9.**

collectif pratiquement irresponsable et brutalement absolu: le Parlement.

Le rôle d'un Parlement doit être de constater ce que réclame la nation, nullement d'imposer à la nation la volonté de ses élus.

Sans doute, il devrait y avoir une identité approximative entre la volonté des élus et les désirs des électeurs. Les gens à courte vue s'imaginent seuls qu'il en est ainsi. Ils se trompent, et cela tient à l'organisation pratiquement déplorable, théoriquement presque impossible, du suffrage universel.

Sur trente neuf millions de Français, c'est à peine s'il y a dix millions d'électeurs. Sur dix millions d'électeurs, c'est à peine s'il y a cinq millions de votants. Les députés sont désignés par la majorité relative des suffrages exprimés; ce qui fait moins de deux millions de voix.

Combien, parmi ces suffrages déterminants, peuvent être considérés comme l'expression d'une volonté réfléchie? Combien sont dictés par la servilité, par l'ambition, par la peur, par la docilité aux ordres d'un chef ou aux désirs de l'administration? Combien peuvent être vraiment pris au sérieux comme expression de la souveraineté du peuple?

Théoriquement, la France est une démocratie; pratiquement, c'est une oligarchie servie par une bureaucratie. Le progrès réalisé serait insensible pour la liberté si, peu a peu, par une réaction sans doute insuffisante mais bienfaisante néanmoins, une large part des affaires publiques n'avait été soustraite à la législation générale et au gouvernement central pour être confiée aux administrations provinciales et locales.

Les premières, à vrai dire, ont en France assez peu de vitalité parce que leur cadre est artificiel.

La Révolution française n'a pas été seulement réformatrice; elle a été anti-traditionnaliste. Il semblait aux hommes de 1789 que rien ne fût bon dans l'ancien ordre de choses. Pour être plus certains d'abolir jusqu'au souvenir d'usages détestés, ils n'ont pas reculé devant cette tâche ingrate et quelque peu ridicule: la modification de la géographie nationale C'est ainsi que l'abolition de l'antique province française fut l'un des premiers actes de l'Assemblée Constituante.

Le département, construit artificiellement des débris de la pro-

vince, manque de cohésion naturelle; il n'a été pendant fort longtemps qu'une abstraction administrative.

Les départements français ont plus d'un siècle d'existence. Quatre générations déjà s'y sont succédé. Cependant les petits-fils, comme les arrière-grands-pères, se sentent plus rapprochés les uns des autres par leur attachement au vieux cadre provincial que par la communauté d'origine départementale. Deux hommes se sentent un peu de la même famille quand ils sont tous deux bretons, ou normands, ou provençaux, ou gascons: nullement s'ils sont tous deux de Loir-et Cher, de Vaucluse, ou de Tarn-et-Garonne.

La décentralisation régionale serait infiniment avantageuse à la liberté politique. Elle n'a cependant qu'une place insignifiante dans nos institutions. Sans trop d'injustice on peut n'y voir qu'un trompe-l'œil. Nos assemblées régionales (conseils généraux) n'ont guère comme tâche importante que l'aménagement et l'entretien des voies publiques les plus nombreuses, et la surveillance (plutôt que la direction) de quelques services d'assistance.

Beaucoup plus vivante est la commune. Le lien communal est naturel puisqu'il a pour origine le fait matériel du voisinage et non l'ordre arbitraire du législateur. La commune a d'antiques racines historiques. Elle aurait pu, comme en Angleterre, être presque tout; Napoléon voulait qu'elle ne fût presque rien; légalement, pacifiquement, par la seule force des circonstances, elle s'est imposée; elle est redevenue quelque chose. Noyée, pour ainsi dire, par les lois de l'an VIII, dans la centralisation universelle, l'administration communale est remontée à la surface; elle a repris le souffle, puis la vie, puis la force.

C'est à la manifestation de cette vitalité, à la résurrection et à l'évolution du régime municipal en France au cours du siècle, que cette étude est consacrée.

Nous nous proposons d'y constater l'usage qu'ont fait les villes françaises des pouvoirs qu'on leur a rendus, d'y mesurer la place, encore trop restreinte à notre gré, que tiennent dans l'ensemble de l'administration, les institutions municipales.

Notre dessein ne va pas au-delà. Nous ne saurions notamment entreprendre de présenter aux lecteurs, comme cela peut se faire pour les villes de Grande-Bretagne et d'Allemagne une étude com-

parative du développement des services municipaux dans les différentes villes françaises.

Non, certes, que toutes nos villes aient profité de la même manière et avec le même esprit des libertés municipales restaurées. Il ne serait peut-être pas sans intérêt de rapprocher et de comparer l'activité municipale de Marseille, de Bordeaux, de Lyon, de Reims, de Lille. L'importance d'une telle comparaison est pourtant singulièrement amoindrie par ce fait que les différences de résultats ne proviennent ici ni de la différence des régimes, ni de la différence des méthodes.

En France comme à l'étranger nous pouvons évidemment discuter sur le régime municipal qui convient le mieux à la vie locale et à la prospérité des communes. Cette discussion toutefois demeurerait purement théorique et ne saurait être enrichie de constatations expérimentales. Pour toutes les communes de France, en effet, grandes ou petites, vieilles ou nouvelles, riches ou pauvres, manufacturières ou agricoles, nous avons la même loi avec les mêmes pratiques administratives.

Notions historiques. Traits essentiels de l'ancien régime municipal.

Il en était différemment autrefois. Deux traits essentiels caractérisent, jusqu'à la Révolution, le droit municipal de la France. L'un est l'extrême variété dans l'organisation administrative des villes et dans l'usage des libertés qu'elles ont pu conserver. L'autre est l'inégalité entre les villes et les campagnes.

A aucune époque de l'ancienne France monarchique, il n'y existe un droit municipal commun. Le mouvement populaire qui éclate, vers la fin du XI e siècle dans toutes les parties de l'Europe et particulièrement en France, tend bien vers un but commun, qui est de mettre un terme aux exactions ou aux exigences excessives des seigneurs féodaux. Ce n'est pas, cependant, une grande révolution d'ensemble; c'est un ensemble de petites révolutions isolées. Chacune d'elles a ses causes spéciales, sa physionomie propre, sa conclusion particulière.

Certes, les historiens des communes ont pu grouper en catégories les formes administratives ainsi constituées, et chaque genre s'y pourrait encore décomposer en espèces. Au nord, les „communes jurées", avec le maximum de franchises, ressemblent à des petites

républiques democratiques plus ou moins indépendantes. Au sud, les „villes de Consulat", imitées des cités libres d'Italie, ont, à l'instar de ces dernières, une organisation aristocratique. Au centre, et un peu partout, les „villes de Prévoté" ont obtenu seulement la régularité plus ou moins fermement garantie dans l'exercice de l'administration ou de la justice.

Plusieurs villes libres, sans doute, peuvent se trouver régies par des administrations identiques. M. Luchaire, dans l'étude si consciencieuse qu'il a faite des anciennes communes françaises, a consacré un chapitre à la „filiation des chartes communales". Il en fut de ces chartes, au moyen âge, comme il en est des contrats de mariage à l'époque contemporaine. Le principe est l'absolue liberté des conventions; la pratique tend à l'identité relative des formules. Telle charte, particulièrement heureuse et susceptible d'adaptation à des situations très diverses fut prise pour modèle et adaptée en maint et maint lieu. Les chartes de Lorris-en-Gâtinais, ou de Beaumont en Argonne, les Établissements de Rouen, les Chartes de St. Quentin ou de Soissons sont devenues des chartes types. Ceci pourtant n'infirme en rien la règle énoncée: toute charte se suffit à elle-même. Chaque ville libre à sa règle, sa „loi municipale"; il n'y a pas de loi municipale commune à tout le royaume de France.

Les villes seules, d'ailleurs, acquièrent ainsi le privilège de s'administrer elles-mêmes. Les agglomérations urbaines ont pu trouver dans l'association de leurs membres la force suffisante pour conquérir une indépendance plus ou moins complète. On pouvait s'y passer de l'administration féodale, et les services problématiques rendus par les seigneurs n'y compensaient pas les charges imposées.

Les agglomérations rurales au contraire n'eurent ni les mêmes raisons ni les mêmes moyens de secouer le joug. La plupart des paysans étaient de condition servile. Tous leurs efforts tendaient à défendre contre „la mainmorte", les terres dont l'exploitation leur était laissée ou confiée. Devenir les maîtres effectifs ou les usufruitiers perpétuels du sol, c'était là pour eux l'objectif essentiel, et qui rejetait au second plan l'ambition de s'administrer à leur guise. La constitution des „communautés taisibles", — quand elle ne fut pas entravée par les gens des seigneurs, donna une satisfaction suffisante aux ambitions des campagnards.

A partir du XIV^{e} siècle d'ailleurs, les libertés municipales décroissent insensiblement et d'une manière continue. Les bourgeois

des villes se sont montrés presque en tous lieux de détestables administrateurs. — Presque jamais et presque nulle part ils ne sont parvenus à défendre leurs prérogatives et leurs franchises contre l'activité sans cesse grandissante des gens du roi.

A la veille de la Révolution, les faits caractéristiques que nous avons signalés subsistent encore; les différences pourtant sont sensiblement atténuées parce que les franchises urbaines, tout en gardant l'apparence de privilèges, sont à peu près réduites à néant.

Ajoutons au surplus qu'on parut s'accommoder de cette centralisation progressivement réalisée; le désir de reconquérir des libertés municipales plus larges ne tient qu'une place insignifiante dans les préoccupations des révolutionnaires et dans les aspirations populaires qui précipiteront la chute de l'ancien régime.

Le régime municipal après la Révolution française.

L'Assemblée constituante fut plus pressée de réaliser l'égalité sociale que d'instaurer, sur une base solide, la liberté politique. Le maximum de liberté nécessaire ne semblait- il pas obtenu par le seul fait que le gouvernement, dans l'avenir, devait passer effectivement du monarque à la représentation nationale?

Il importait, au contraire, de mettre un terme au régime d'inégalités et de privilèges qui par ses injustices choquait l'opinion publique.

Les restes de franchises communales étaient des privilèges: il fallait donc ou les supprimer ou les généraliser: on prit ce dernier parti en décidant par les lois des 14.—22. Décembre 1789 qu'il y aurait une municipalité dans chaque ville, bourg, paroisse ou communauté de campagne. Mesure inconsidérée et irréfléchie, puisqu'on créait d'un seul coup 44000 communes. Il y en a de nos jours 36000; ce chiffre est encore beaucoup trop élevé puisqu'un grand nombre de communes ont moins de 50 habitants[1]. La constituante rompait ainsi avec le premier principe

[1] Il y a présentement en France 36222 communes très différentes par leur étendue et leur population. La plus grande est la commune d'Arles qui a 103000 hectares. La plus petite est Castelmoron (Gironde), qui a 4 hectares; l'étendue moyenne des communes françaises est de 1463 hectares.

indiqué: les communes cessaient d'être des lieux privilégiés, le droit municipal s'étendait également à tout le monde.

On rompait de même avec l'autre idée — celle de l'inégalité entre la ville et les champs. C'est un régime uniforme qu'on établit pour toutes les municipalités, si difficile et si singulier qu'il paraisse de soumettre aux mêmes règles une ville comme Lyon ou Bordeaux, et une bourgade de quelques douzaines d'habitants [1].

La seule différence que la Constituante fasse entre les communes consiste dans le nombre des membres du Corps municipal. Ce corps municipal, qui varie entre trois et vingt-un membres, est électif; s'il dépasse trois membres, il se divise en conseil et bureau, — conseil pour délibérer, bureau pour agir [2].

Les corps municipaux sont investis de deux sortes de fonctions, les unes propres au pouvoir municipal, les autres „propres à l'administration générale de l'État et déléguées par lui aux municipalités".

Les fonctions propres au pouvoir municipal sont la gestion des biens patrimoniaux, le règlement et l'acquittement des dépenses locales, la direction et l'exécution des travaux publics communaux, l'administration des établissements qui appartiennent à la commune et sont destinés à l'usage des citoyens dont elle est composée. Les corps municipaux doivent „faire jouir les habitants des avantages d'une bonne police, notamment de la propreté, de la salubrité, de

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La commune la plus peuplée est Paris (2 763 393 habitants); quelques communes n'ont pas plus de 20 habitants.

Les grandes communes sont rares. Il n'y a en France que cinq villes qui aient plus de 200 000 habitants: Paris, Lyon, Marseille, Bordeaux et Lille. — Il n'y a que 15 comm unesqui aient plus de 100 000 habitants, savoir en outre des précédentes: Toulouse, St. Etienne, Nantes, Le Havre, Roubaix, Rouen, Reims, Nice, Nancy et Toulon. Il n'y a que 34 communes qui aient plus de 50 000 habitants. Plus de 17 000 communes ont moins de 500 habitants.

[1] Seule, la ville de Paris, à raison de son immense population, doit être gouvernée par un régime particulier qui sera donné par l'Assemblée nationale sur les mêmes bases et d'après les mêmes principes que le règlement général de toutes les municipalités du royaume (Loi du 14 Déc. 1789, art. 25).

[2] Au-dessus du corps municipal, et seulement pour certaines affaires importantes, est le Conseil général de la commune; il se compose des membres du corps municipal augmentés d'un nombre double de notables élus comme eux.

la sûreté dans les rues, lieux et édifices publics" (Loi du 14 Déc 1789, art. 50).

Les fonctions propres à l'administration générale qui „peuvent être déléguées aux corps municipaux pour les exercer sous l'autorité des assemblées administratives" sont la répartition des contributions et leur perception, la direction des travaux publics d'intérêt général dans le ressort de la municipalité, la régie des établissements publics d'utilité générale, tous les actes nécessaires à la conservation des propriétés publiques, etc. Aucune de ces dernières attributions n'est restée entre les mains des municipalités; les autres, au contraire, s'y sont fixées sous le contrôle plus ou moins étroit de l'autorité centrale.

L'un des inconvénients du régime municipal établi par la Constituante était de conférer la vie municipale à des agglomérations sans importance. On réagit contre cette tendance en l'an III en organisant des municipalités cantonales, dans lesquelles vont se fondre les administrations municipales des trop petites communes.

Seules les villes de 5000 habitants au moins garderont une administration particulière; dans les villes moins peuplées, il y aura seulement un agent municipal et un adjoint; la réunion de ces agents au canton formera la municipalité cantonale; il y a de plus un président de l'administration municipale choisi dans tout le canton.

En même temps qu'on groupe en une seule les administrations municipales des petites villes, on morcelle l'administration des villes importantes. Les communes dont la population excède 100 000 habitants auront trois municipalités au moins.

Cette tentative d'organisation cantonale fut d'ailleurs éphémère comme la précédente. Elle est tout de même intéressante aujourd'hui parce qu'on essaye d'y réaliser dès cette époque ce que réclamaient en 1848 et ce que réclament encore les partisans de la suppression de l'arrondissement. La même constitution qui donnait au canton cette importance municipale supprimait en effet le district rendu par là plus inutile encore.

Le régime municipal est à nouveau réformé en l'an VIII. La Constitution du 22 frimaire an VIII rétablit le district sous le nom d'arrondissement communal. Il n'y est plus question d'abord ni du canton, ni de la commune. C'est dans la grande loi ad-

ministrative du 28 pluviôse que nous retrouvons une organisation municipale complète où sont posées les bases de ce qui, par des changements successifs dans le cours du XIXe siècle, est devenu le cadre définitif des libertés communales.

Dans les villes, bourgs ou autres lieux pour lesquels la loi de l'an III avait maintenu un agent municipal, il y aura désormais un maire, un ou plusieurs adjoints, suivant l'importance de la population, et un Conseil municipal.

Les maires et les adjoints seront chargés de la police; ils rempliront tout à la fois les rôles actifs qu'avaient les agents municipaux et les municipalités de canton. Le Conseil municipal entendra et pourra débattre le compte des recettes et des dépenses municipales qui sera rendu par le maire au sous-préfet, lequel l'arrêtera définitivement; il réglera l'usage des biens communaux, ainsi que les travaux d'entretien des propriétés communales; il délibérera sur les besoins particuliers et locaux de la municipalité, sur les emprunts, sur les impôts, sur les procès de la commune.

Le programme tracé par la loi de pluviôse an VIII (art. 15) aux Conseils municipaux qu'elle institue est fort raisonnable, bien que trop restreint. Il ne laisse aux assemblées communales aucune fonction où soient engagées des questions d'intérêt général. Il distingue nettement l'action et la délibération. C'est un double progrès sur le régime introduit par la Constituante. Mais par un autre côté, on peut reconnaître que la loi de l'an VIII ne laisse aux communes, même pour ces matières si étroitement mesurées, qu'une apparence de liberté. Aucun des rouages chargés d'administrer la commune n'est électif; les conseillers municipaux eux-mêmes tiennent leur nomination du pouvoir central ou de ses représentants. Le Premier Consul nomme les maires et adjoints des grandes villes; les préfets nomment les conseillers municipaux, maires et adjoints des villes de moins de 5000 habitants.

Les principes modernes du droit municipal.

Nous retrouvons dans le régime municipal actuel les éléments institués en l'an VIII. La décentralisation s'est faite par étapes, et de deux manières. D'une part les organes de l'administration communale sont devenus peu à peu, et de plus en plus, les représentants élus de tous les citoyens; d'autre-part, les limites de la compé-

tence de ces organes ont été sans cesse reculées, aussi bien quant aux actes qu'ils peuvent accomplir que quant à l'autorité dont ils disposent pour l'accomplissement de ces actes.

Nous montrerons ce développement progressif de la compétence et des pouvoirs des Conseils municipaux et des municipalités lorsque nous exposerons les fonctions que la loi actuelle leur attribue. Signalons dès à présent les phases par lesquelles ils sont passés pour arriver graduellement au recrutement par le système électif.

Pour les Conseils municipaux, le progrès s'est réalisé en deux fois. La première réforme est accomplie par la monarchie de Juillet. La Charte contenait la promesse „d'institutions municipales fondées sur le système électif". La promesse est remplie par la loi du 31 mars 1831. Les conseillers municipaux seront élus suivant le mode électoral alors en vigueur, c'est-à-dire au suffrage censitaire.

L'autre réforme est l'application au recrutement des Conseils municipaux du suffrage universel institué pour toutes les élections par le gouvernement républicain de 1848 (Décrets du 5 mars et du 3 Juillet 1848).

Pour les municipalités (administration active) le progrès a été plus lent. Il y a eu des soubresauts curieux. Trois systèmes ou groupes de systèmes ont été alternativement appliqués avant qu'on arrivât à l'élection; c'est d'abord le système de l'an VIII laissant au gouvernement le choix des fonctionnaires municipaux sans limiter ce choix par aucune restriction. — C'est en deuxième lieu la nomination par le pouvoir exécutif avec obligation de choisir maire et adjoints parmi les conseillers municipaux. — C'est enfin la combinaison de l'un de ces systèmes avec le système électif, ce dernier s'appliquant aux villes les moins importantes.

Nous n'indiquerons pas l'application chronologique de ces systèmes; il faudrait citer les lois de 1831, de 1848, de 1852, de 1870, de 1871, de 1874, de 1876, qui ont précédé la loi actuelle; il suffit de savoir que le premier de ces trois systèmes correspond au régime impérial[1], que le second est celui de la monarchie de Juillet[2], que les différentes variétés du troisième ont été appliquées

[1] Loi constitutionnelle du 14 Janvier 1852, art. 57; — loi du 5. Mai 1855, art. 2. On est revenu à ce système de 1874 à 1876 par la loi du 20 Janvier 1874.

[2] Loi du 20 mars 1831, art. 3.

entre 1871 et 1882[1] époque où, sauf l'exception faite pour la ville de Paris, l'élection des municipalités a été définitivement consacrée.

Le régime actuellement en vigueur a son expression dans la loi municipale du 5 Avril 1884, également applicable à toutes les communes de France, villes, villages, bourgs ou hameaux.

Le régime exceptionnel de la Ville de Paris.

Une seule ville cependant échappe à ce droit commun. C'est Paris.

La justification de cette exception est facile. A des situations particulières, il convient d'appliquer des règles particulières. Telle mesure qui, dans une petite commune, apparait comme d'intérêt exclusivement local, intéresse toute la France lorsqu'elle est prise pour la ville de Paris. Cela tient d'abord à ce que Paris est la capitale; cela tient en outre à l'importance considérable de l'agglomération parisienne. La ville de Paris, à elle seule, contient le seizième de la population totale de la France. Le département de la Seine, malgré son étendue très faible, a plus d'habitants que n'importe quel département de France. Le Nord, qui est de beaucoup le département le plus peuplé, n'a que 1 700 000 habitants. La Seine-Inférieure, qui vient après, n'a pas plus de 800 000 habitants, moins du tiers de Paris.

Des mesures administratives qui s'appliquent à tant d'administrés ont nécessairement plus d'importance que les décisions à prendre pour les Hautes-Alpes, par exemple, ou pour la Lozère, qui n'ont pas 150 000 habitants.

On peut faire la même constatation matérielle de l'importance des mesures à prendre en comparant non plus les populations administrées, mais les budgets qu'exigent leurs services. Le budget de la ville de Paris, qui varie entre 350 et 400 millions, est plus gros que le budget de bien des États. La dette de la ville de Paris se monte à plus de deux milliards de francs; l'octroi de Paris rapporte à lui seul plus de 110 millions, c'est-à-dire à peu près autant que tous les autres octrois de France réunis.

[1] Une application du même système a été mise en vigueur en 1848 (Loi du 3 Juillet 1848, art. 10). Depuis 1870, v. loi du 14 Avril 1871, et loi du 12 Août 1876.

On comprend alors que des précautions plus minutieuses soient prises par le législateur, pour que ces énormes intérêts soient sagement gérés, d'abord, et puis pour que cette administration, forcément imposante et par le nombre des affaires à traiter et par le nombre des agents à conduire, n'empiète pas sur l'administration nationale.

Une raison d'ordre différent n'exige pas moins impérieusement qu'un régime spécial soit appliqué à la ville de Paris. C'est le danger politique qui résulterait de la constitution, à côté des pouvoirs publics, de pouvoirs locaux trop puissants.

Ce danger a été mis en évidence par l'expérience historique; le bon sens à lui seul en donne l'explication.

L'expérience a montré la commune de Paris à la tête de toutes les révolutions, les faisant parfois, en profitant toujours pour essayer d'imposer à la nation des pratiques et des idées que la très grande majorité des Français repoussent. Des philosophes ont écrit sur la psychologie des foules; ils ont montré qu'elles ne pensent ni ne sentent comme les individus. On a vu des foules agir avec cruauté, avec férocité, tout en n'étant composées que d'hommes de caractère doux. C'est, dit-on, le résultat de l'excitation produite par le groupement et par le rapprochement des hommes qu'un même sentiment guide ou émeut. Or Paris agit et pense comme une foule. Donner à cette foule des chefs, reconnaître à ces chefs des droits, leur accorder des pouvoirs opposables au pouvoir central, c'est préparer la guerre civile, c'est donner des organes à la rébellion, c'est constituer le gouvernement révolutionnaire en expectative à côté du gouvernement régulier.

Aucune révolution n'a été faite par la France entière. C'est Paris qui agit, c'est le gouvernement de Paris qui impose sa volonté et qui, le lendemain, demande à la France de ratifier ses actes.

Le premier acte des émeutiers, quand il y a émeute, c'est de se porter à l'Hôtel-de-Ville, le centre naturel de tout gouvernement révolutionnaire. Il semble logique de dire que permettre à Paris de se donner un maire, c'est autoriser la désignation préalable du chef de la révolution prochaine. Voilà les raisons qui, sous tous les régimes, ont fait mettre en minorité les partisans de l'autonomie parisienne.

Nous négligerons dans cette étude ce qui touche au droit

municipal parisien [1]. C'est à l'application du droit commun dans les villes françaises que sont exclusivement consacrés les développements ci-après.

Nous exposerons en trois chapitres ce qui concerne:

a) Le personnel de l'administration communale et des services municipaux.

b) Les fonctions municipales et l'exécution des dits services.

c) Les pouvoirs des autorités municipales, et l'exercice de la „tutelle administrative" à laquelle ils sont soumis.

La conclusion de ce mémoire contiendra un aperçu sommaire sur l'avenir de la décentralisation, sur les limites qui lui sont imposées par le respect nécessaire de l'unité nationale, sur le développement possible et probable du socialisme municipal.

Chapitre I.

Le Personnel Municipal.

L'une des régles ordinairement appliquées dans toutes les parties de l'Administration française consiste dans l'intervention nécessaire, pour toute action administrative, de corps délibérants, chargés de décider des mesures à prendre, et d'agents d'exécution.

Dans l'administration communale, les uns et les autres émanent aujourd'hui de l'élection. On verra plus loin comment les inconvénients possibles de ce système sont atténués par la collaboration obligatoire, pour certains services municipaux, d'agents nommés par l'autorité supérieure, avec les agents désignés par les corps électifs.

L'administration délibérante. — Application du régime électif.

Toute commune est administrée par un Conseil Municipal.

Les conseils municipaux se composent de dix à trente-six membres [2].

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[1] Le droit municipal parisien a été l'objet d'une étude sérieuse de M. M. Bloch et de Pontich. Administration de la ville de Paris et du département de la Seine. —

Cf. Lavallée, d. Revue générale d'administration, 1900, t. III, pp 385 et suiv. — Berthélemy, traité de droit administratif, 4e édition p. 212 et suiv.

[2] Deux exceptions seulement sont faites à cette règle. Il y a à Paris

Ces Conseillers sont élus au Suffrage universel et au scrutin de liste.

a) Au suffrage universel. —

Est électeur tout Français majeur de vingt-un ans, non interdit, non frappé d'incapacité par suite de condamnation [1].

Pour être admis à voter, il faut être inscrit sur les listes électorales. Les listes électorales sont un catalogue alphabétique des électeurs d'une commune; ce sont aujourd'hui les mêmes listes qui servent pour toutes les catégories d'élections politiques ou administratives.

Pour être inscrit sur une liste électorale, il faut avoir avec la commune une attache légale; ce peut être le domicile réel dans la commune avant le 31 mars, époque où la revision de la liste est close; ou bien le domicile légal pour les fonctionnaires obligés à la résidence; ou bien une résidence de six mois avant le 31 mars; ou bien enfin une inscription au rôle de l'une des contributions directes.

Les listes sont revisées tous les ans, du 1er Janvier au 31 mars; cette revision est effectuée par une commission administrative composée du maire ou d'un adjoint, d'un délégué du préfet et d'un délégué du Conseil municipal. Cette commission procède aux inscriptions et radiations d'office. Elle inscrit les nouveaux électeurs qui le réclament, après constatation du bien fondé de leur demande.

Les opérations de la commission peuvent soulever des réclamations de la part des électeurs ou du préfet. Ces réclamations doivent être faites dans les vingt jours à compter de la publication des listes de changements, lesquelles doivent être affichées le 15 janvier. Le jugement de ces réclamations appartient à une commission municipale en premier ressort, au juge de paix en appel, avec possibilité de pourvoi devant la Cour de cassation. Ce pourvoi est jugé d'urgence et sans frais.

b) Au scrutin de liste. —

Cela signifie que chaque électeur inscrit sur son bulletin autant de noms qu'il y a de conseillers à élire.

C'est la règle contraire qui est appliquée à la ville de Paris.

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80 Conseillers municipaux; il y en a 54 à Lyon. La ville de Lyon a sur certains points un régime spécial très peu différent d'ailleurs du régime commun.

[1] Les faillis et les officiers ministériels destitués sont également privés de leurs droits électoraux.

Les vingt arrondissements de Paris sont divisés chacun en quatre quartiers et chaque quartier nomme un conseiller municipal.

Ce système du scrutin uninominal présente un sérieux inconvénient. Chaque élu, en fait, se sent dépendant des électeurs de son quartier — Bien qu'en théorie il soit chargé pour sa part de contribuer à l'administration, à l'amélioration, à l'entretien de toute la cité, il se sent disposé, sinon obligé à penser avant tout à l'amélioration et à l'entretien du quartier qu'il représente. L'intérêt général est sacrifié à des coalitions de petits intérêts particuliers.

C'est ce qu'on a voulu éviter en imposant, dans la loi de 1884, l'autre méthode, la méthode du scrutin de liste.

Dans quelques cas particuliers, le scrutin de liste peut aussi donner naissance à des abus. Il en est ainsi notamment dans les communes rurales qui se composent de plusieurs agglomérations distinctes. Il est à craindre en effet que le hameau le plus peuplé ne désigne à lui seul tous les membres du conseil et ne s'assure ainsi l'utilisation pour son profit exclusif de toutes les ressources communales. Le législateur y a pourvu. Il est permis dans cette hypothèse de diviser la commune en sections — Chaque section sera représentée à l'assemblée municipale par un nombre de conseillers proportionnel au nombre d'électeurs.

Ce sectionnement doit être demandé soit par le conseil municipal, soit par le Préfet, soit par des électeurs de la commune, soit même par un membre du conseil général du département. Il exige une délibération du conseil Municipal intéressé. Il est ordonné par arrêté du Préfet, après délibération du conseil général.

Le même système peut être réclamé par toutes les villes qui ont une population agglomérée de plus de 10 000 habitants.

Le principe du scrutin de liste y est respecté par le fait qu'aucune section ne doit avoir moins de quatre conseillers ou de deux conseillers à élire (quatre s'il s'agit d'une ville de plus de 10 000 habitants, — deux s'il s'agit d'une commune rurale composée de plusieurs agglomérations).

Les conditions d'éligibilité à l'assemblée municipale sont minutieusement énoncées dans la loi du 5 avril 1884. —

Voici, sur ce point, le résumé des textes:

Pour être élu conseiller municipal; il suffit en principe d'être électeur, n'importe où —, d'avoir vingt cinq ans —, d'avoir une attache légale avec la commune.

Il n'est pas nécessaire d'être électeur dans la commune; il suffit en somme d'avoir l'aptitude à y être inscrit sur les listes électorales.

Un citoyen habitant à Paris, propriétaire à Versailles peut être électeur soit à Paris, soit à Versailles. Il doit choisir; car il commettrait un délit s'il votait à la fois dans les deux communes. La loi indique un certain nombre de cas d'inéligibilité et de cas d'incompatibilité.

Sont inéligibles: a) les assistés; b) les domestiques; c) les interdits; d) certains fonctionnaires (préfets, sous-préfets, secrétaires généraux, conseillers de préfecture, commissaires, magistrats, instituteurs publics, ingénieurs des ponts et chaussées, etc. . . . dans le ressort où ils exercent leurs fonctions); e) les individus privés du droit électoral, notammeut ceux qui ont été condamnés pour refus d'accomplir une fonction légale.

Il y a incompatibilité entre le mandat de conseiller municipal et certaines fonctions publiques énumérées par le texte; il y a également incompatibilité entre deux mandats de conseillers municipaux. En principe les ascendants et descendants, les frères et les alliés d'égal degré ne peuvent pas faire partie du même conseil municipal.

Tous les quatre ans, le premier dimanche de mai, les conseils municipaux sont intégralement renouvelés.

Le renouvellement intégral peut encore avoir lieu en cas de dissolution ou d'annulation totale. Le mandat des nouveaux élus expire alors quand aurait expiré le mandat du conseil dissous.

Les vacances par démission ou par décès ne donnent pas lieu à des élections partielles. Il y a cependant exception à cette règle dans trois cas: 1° quand il y a lieu d'élire le maire ou un adjoint au maire. — 2° quand le conseil a perdu le quart de ses membres; — 3° quand une section a perdu la moitié de ses représentants.

Les élections se font de la manière suivante: L'assemblée des électeurs est convoquée par arrêté du préfet. La date de la convocation est fixée par la loi pour le renouvellement intégral normal. En cas de dissolution du conseil ou d'annulation des élections ou si les élections nouvelles sont nécessitées par suite de vacances de plus du quart des conseillers, elles se font deux mois à partir de la dernière vacance.

Il doit y avoir quinze jours entre la publication de l'arrêté de convocation et le jour du scrutin. C'est la période électorale pendant laquelle se font, sous un régime particulier, les réunions électorales, et, avec immunité d'impôt, l'affichage des professions de foi des candidats. Le scrutin doit avoir lieu un dimanche.

Les bureaux de vote sont présidés par le maire, les adjoints, ou des membres du conseil municipal, ou par des citoyens délégués spécialement par le maire.

Les deux plus âgés et les deux plus jeunes des électeurs présents à l'ouverture de la séance doivent remplir les fonctions d'assesseurs.

En pratique, les deux premiers électeurs qui viennent voter sont requis pour constituer le bureau avec le président désigné. Ils restent en fonctions jusqu'à ce qu'ils soient remplacés par des électeurs de bonne volonté.

Chaque électeur vient avec sa carte électorale; on mentionne, sur une liste spéciale des électeurs, remise par l'administration au bureau du scrutin, chaque réception de vote. C'est le moyen d'éviter les doubles votes et de constater la sincérité des élections.

Le dépouillement est fait par les électeurs présents à la clôture du bureau, sous la surveillance du président.

Toutes ces règles sur les élections municipales sont sanctionnées par des recours organisés soit au profit des particuliers, soit au profit de l'autorité, — en l'espèce, du Préfet.

Le recours du préfet ne peut porter que sur l'inobservation des règles prescrites, non sur des faits de corruption, pression, manœuvres, fraudes, etc.

Tout électeur et tout citoyen éligible dans la commune peuvent formuler des réclamations contre les opérations électorales. Ces réclamations doivent être consignées au procès-verbal de l'assemblée électorale ou bien être déposées par écrit à la mairie ou à la préfecture, dans un délai de cinq jours. La réclamation est notifiée aux conseillers dont l'élection est contestée; ils ont cinq jours pour déposer leur défense au secrétariat de la mairie ou de la préfecture.

Le Conseil de préfecture statue, sauf recours au Conseil d'État.

La procédure devant le Conseil d'État est soumise à des règles exceptionnelles. Le pourvoi est jugé d'urgence, sans frais, sans avocat. Il est suspensif d'exécution, contrairement à la règle ordi-

naire; le conseiller dont l'élection est attaquée et a été déclarée nulle par le Conseil de préfecture reste provisoirement en fonctions jusqu'à l'arrêt à intervenir.

Observations sur le caractère politique des assemblées délibérantes.

Nous avons résumé ci-dessus les règles appliquées à toutes les communes de France en vertu de la loi du 5 Avril 1884 pour le recrutement des assemblées municipales.

Ces indications doivent être complétées par quelques considérations tirées de la pratique.

Le rôle des assemblées municipales est presque exclusivement administratif. On verra par la suite qu'à une exception près (la désignation de délégués pour le choix des sénateurs), les conseils municipaux n'ont à gérer que des intérêts matériels.

On peut regretter, dès lors, que pour l'adoption d'ailleurs inévitable du mode électif, et par application faite, en matière municipale, du suffrage universel, on ait transformé les conseils de toute agglomération ayant quelque importance en véritables assemblées politiques [1].

Ce n'est pas en raison de leur aptitude, mais à la faveur des opinions politiques qu'ils affichent, que les conseillers municipaux sont choisis.

La grande majorité des électeurs des villes est constituée par la population ouvrière. Dirigés par des comités de politiciens qui ont en vue bien moins les intérêts de la cité que la satisfaction d'ambitions personnelles, les ouvriers sont facilement dupes des intrigants ou des agitateurs sans scrupules. Les grandes villes françaises sont pour la plupart administrées par des assemblées composées en majorité de gens au dessous de la tâche qu'ils assument, et parfois même d'une moralité douteuse.

Le caractère politique malheureusement général et très accentué des élections municipales françaises a quelques conséquences fort regrettables.

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[1] Cet inconvénient s'est accru lorsqu'on a établi en 1884 la publicité des séances des conseils municipaux. On travaille mal lorsqu'on travaille „pour la galerie". La loi de 1884 a eu grand tort de donner une galerie au travail des conseillers municipaux.

C'est d'abord l'exclusion de toute représentation spéciale des intérêts matériels, même dans les délibérations qui peuvent mettre ces intérêts en péril.

C'est ainsi que les impôts ou les emprunts des communes sont fréquemment votés par les représentants exclusifs des gens que leur pauvreté soustrait aux charges publiques et qui ne sauraient être indirectement atteints par les dettes communales[1].

Il y a là, incontestablement, un grave écueil à la décentralisation. Le maintien d'une tutelle administrative étroite apparaît comme la seule garantie possible des minorités riches contre les majorités naturellement portées à les exploiter[2].

Une autre conséquence fâcheuse du caractère politique des assemblées municipales consiste dans leur instabilité.

L'absence d'esprit de suite dans la gestion des intérêts matériels d'une grande ville est ordinairement funeste à ses finances. Les administrations qui se succèdent à la tête des affaires veulent justifier la préférence que les électeurs leur ont accordée par des réformes ou par des entreprises qui n'ont le plus souvent d'autre objet que de satisfaire l'intérêt des plus habiles ou de faire taire les réclamations des plus exigeants.

C'est ainsi que les dettes des communes se sont considérablement accrues dans les trente dernières années du XIX e siècle. De sérieux progrès, certes, ont été réalisés consécutivement à ces dépenses. Il paraît certain cependant qu'il n'y a pas une juste proportion entre les avantages obtenus et les dépenses engagées. Les municipalités prodigues et maladroites ont été plus nombreuses qu'il n'eût convenu sans que leur prodigalité ou leur maladresse

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[1] Il y a à Paris 600000 électeurs: il n'y a que 196000 cotes mobilières produisant environ 25 millions de francs. — La „cote mobilière" est actuellement le principal impôt sur le revenu global (Einkommensteuer) Or les 4/5 de la somme, soit 20 millions, sont à la charge de 40000 contribuables seulement. Il n'y a ainsi que 40000 personnes payant sérieusement l'impôt; ceux dont les votes l'établissent sont principalement les représentants des 560000 électeurs qui n'en supportent qu'une part insignifiante.

[2] C'est une atténuation bien insuffisante et bien peu pratique à l'absence de représentation des intérêts dans le conseil communal que le droit conféré, par l'art. 123 de la loi municipale, à tout contribuable, d'exercer à ses risques les actions de la commune que les autorités municipales négligeraient d'exercer eux-mêmes.

serve de leçon politique aux masses ignorantes dont elles ont été l'émanation.

On verra par la suite quel tempérament aux tendances politiques des assemblées municipales se trouve apporté par le fait de la constitution, pour un certain nombre de services communaux, d'établissements publics relativement indépendants et en partie neutralisés: tels sont les bureaux d'assistance ou de bienfaisance, les commissions hospitalières, les caisses des écoles; telles étaient, aussi, avant la loi sur la séparation des Églises et de l'État, les conseils de fabrique, chargés de l'administration temporelle des paroisses.

Les municipalités (administration active).

L'administration active de la commune appartient au maire. — Le maire a pour auxiliaires et au besoin pour suppléants un ou plusieurs adjoints, selon l'importance des communes. Maire et adjoints constituent „la municipalité".

Les fonctions des maires et des adjoints, comme celles des conseillers municipaux, doivent être gratuites. La loi permet seulement d'allouer aux administrateurs municipaux des „indemnités" pour frais de représentation. La plupart des grandes villes de France en ont profitè pour attribuer de véritables traitements à leurs maires [1].

Le mode de nomination des municipalités a toujours été considéré comme un problème de solution difficile. Cela tient à ce que le maire représentant de la commune, est en même temps, dans la commune, le représentant du pouvoir central. C'est à ce dernier titre qu'il est chargé, sous l'autorité de l'administration supérieure, de la publication et de l'exécution des lois et des réglements, de l'exécution des mesures de sûreté générale, des fonctions d'officier de police judiciaire, des fonctions d'officier de l'État civil etc. . . .

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[1] A Paris, les Conseillers municipaux eux-mêmes sont parvenus à s'allouer un traitement de 6000 francs qui s'ajoute au traitement de 3000 francs qu'ils touchent en leur qualité de conseillers généraux du département de la Seine. Le Conseil d'État est plusieurs fois intervenu pour proclamer l'illégalité de ces pratiques. Le Gouvernement n'a pas cru devoir en tenir compte.

V. sur la question l'article de Mr. Boucard, Revue de science et de législation financières 1904, T. I. p. 106.

Sans doute, ces divers rôles, qui placent les maires sous les ordres des préfets ou des procureurs, sont moins importants, au moins dans les villes, que les attributions qu'ils exercent au titre proprement municipal. Néanmoins les gouvernements autoritaires ont toujours préféré le système qui consiste à confier à un maire de leur choix les affaires communales, à celui qui consiste à remettre à un maire élu le soin de représenter l'autorité nationale. En pratique, il est incontestable qu'un maire choisi dans les partis extrêmes de l'opposition représente mal le gouvernement avec lequel ses amis sont en guerre ouverte. L'inconvénient est toutefois atténué par le droit, reconnu au préfet, de se substituer au maire, après l'avoir mis en demeure de s'acquitter correctement de ses fonctions, s'il n'obtempère pas aux injonctions qui lui sont adressées.

Nous avons indiqué précédemment les solutions successives qui ont été données à la question du recrutement des municipalités. C'est en 1882 que le système de l'élection a été généralisé. On l'a maintenu en 1884. Les maires et les adjoints sont aujourd'hui partout élus par le conseil municipal, sauf à Paris [1].

Ce mode de recrutement est évidemment un sérieux progrès au point de vue de la liberté. Il a malheureusement pour conséquence d'accentuer le caractère politique de l'administration municipale. La plupart des villes ont pour administrateurs actifs des hommes qui se sont signalés à l'attention publique par leurs opinions plus que par leur valeur. Telle de nos grandes villes a eu pendant quelque temps pour maire un facteur des postes. Un de nos grands ports de mer, depuis plusieurs années, est administré par quelques ouvriers dont l'unique préoccupation paraît être de favoriser les éléments de trouble et de développer l'esprit de révolte dans la classe des travailleurs.

[1] Paris n'a pas de mairie centrale. Le préfet de la Seine pour l'Administration, le préfet de police pour les services de police, y remplissent les fonctions dévolues ailleurs à la municipailté. La ville de Paris est divisée en 20 arrondissements. Dans chaque arrondissement, il y a une mairie. Les maires d'arrondissement sont nommés et non pas élus. Ils ne peuvent pas être choisis parmi les membres du conseil municipal de Paris. Ils exercent, sous les ordres du préfet, les fonctions conférées aux maires comme agents du pouvoir central. Ils sont officiers de l'état civil; ils prêtent leur concours à l'application des lois militaires et fiscales; ils président les bureaux de bienfaisance, les commissions d'hygiène, les commissions scolaires etc. . . .

N'est-ce pas une dérision que de compter sur une pareille organisation pour faire la police et procurer le maintien de l'ordre!

C'est au Maire en effet, comme chef de l'assemblée communale, que le soin de la police administrative est confié. Pour procurer l'ordre, le maire a pour auxiliaires, dans les villes, les commissaires de police; dans les campagnes, les gardes champêtres.

Ces derniers, ainsi que les agents d'ordre inférieur (brigadiers ou simples agents de police), nommés par le maire, doivent être agréés et commissionnés par le sous-préfet.

Les commissaires de police sont nommés et peuvent être révoqués par le chef de l'État seulement. Ils sont en effet aux ordres des Préfets chargés de la police générale, plus que les auxiliaires des maires pour la police municipale. —

Il doit y avoir un commissaire de police dans toute ville de 5000 á 10 000 habitants. — Pour les villes de plus de 10 000 habitants, il y a un commissaire de plus par chaque excédent de 10 000 habitants.

Il peut y avoir des commissaires dans les villes de moins de 5000 habitants, mais la dépense n'en est pas obligatoire pour les communes. Dans les villes où il y a plusieurs commissaires, des commissaires centraux ont été institués; ils ont autorité sur leurs collègues [1].

Les auxiliaires rétribués des services municipaux.

La préparation des actes administratifs, la tenue des registres et des écritures sont confiées, dans les mairies, à des agents subalternes dont les maires ont le choix.

Dans les communes rurales, la fonction de secrétaire de mairie est ordinairement attribuée à l'instituteur public, moyennant une faible rémunération supplémentaire.

Dans les villes, variant avec leur importance, les bureaux de la mairie et les services techniques aux ordres du maire comprennent un personnel quelquefois très nombreux et très varié: ingénieurs, architectes, directeurs ou gardiens des marchés ou des abattoirs, conservateurs des musées ou des bibliothèques publiques, inspecteurs

[1] Les services de police à Paris sont exclusivement sous les ordres du Préfet de Police; à Lyon, ils sont sous les ordres du préfet du Rhône.

ou agents des différents services de voirie ou de police municipale etc. . . .

Les impôts communaux exigent quelquefois l'organisation d'un service spécial, notamment lorsque les communes ont recours à des taxes d'octroi —[1], Les agents de ce service ne sont pas laissés au choix exclusif du maire. Notamment, les préposés en chefs ou directeurs d'octrois municipaux sont nommés par les préfets sur la présentation du maire, avec l'agrément du directeur des Contributions indirectes. Les recettes municipales sont encaissées, dans la plupart des communes, par les agents du Trésor, c'est-à-dire les percepteurs. Cependant, les villes dont les revenus annuels ordinaires dépassent 60 000 francs peuvent avoir un Receveur municipal nommé par arrêté du préfet ou par décret du chef de l'État, selon l'importance de ces revenus.

Les établissements publics municipaux.

On n'aurait qu'une idée très imparfaite du personnel qui collabore à l'administration des communes françaises si l'on oubliait d'y comprendre les administrateurs nombreux des établissements publics communaux, et de mentionner l'usage très normalement fait, pour certains services techniques, du système de la concession ou de la ferme.

Nous avons signalé l'application de ce double régime à certains services comme apportant un utile tempérament au caractère politique des administrations municipales.

Nous donnons le nom d'établissements publics à ceux des services qui ont été doués d'un certaine autonomie et qui ont reçu la personnalité morale, le droit d'acquérir, de posséder, de dépenser librement leurs ressources sous le contrôle plus ou moins étroit des autorités administratives.

Les établissements publics communaux sont principalement des services d'assistance ou de prévoyance sociale. Ce sont les bureaux de bienfaisance, chargés de la distribution de secours aux indigents; les bureaux d'assistance, chargés de procurer des soins à

[1] Les impôts d'Octroi existent encore dans plus de 1500 communes, bien que ce genre de taxe soit vu avec grande défaveur. On a facilité par une loi récente (1897) le dégrèvement des taxes d'octroi sur les boissons hygiéniques.

domicile aux malades pauvres; les hospices et hôpitaux, les caisses d'épargne communales, monts de piété (établissements de prêts sur gages); il faut y ajouter les caisses des écoles, constituées depuis la loi du 28 mars 1882 en vue d'encourager, par des distributions de secours, la fréquentation des écoles publiques.

Avant la loi sur la séparation des Églises et de l'État, les fabriques paroissiales, pour l'administration temporelle des églises, pouvaient être considérées aussi comme des établissements publics communaux.

Les différents services dont nous rappelons ici l'existence sont gérés par des commissions administratives différemment constituées. Il n'y a pas de règle commune.

Les commissions administratives des établissements publics d'assistance sont choisies en partie par le préfet, en partie par les conseils municipaux. Elles sont présidées par le maire.

Les „caisses des écoles" ont leurs statuts rédigés par les conseils municipaux; leur administration est constituée par les suffrages de leurs membres, souscripteurs volontaires, semblables aux participants des associations de bienfaisance.

Dans une assez large mesure on doit reconnaître que ces différents services échappent à l'influence politique directe des conseils municipaux, — sinon toujours, au moins le plus souvent.

Les services publics concédés.

Il en est de même des services publics concédés. Les services de transports en commun, les distributions d'eau, l'éclairage par le gaz ou l'électricité ne sont exploités en France que très exceptionnellement par le système de la régie.

On pensa même fort longtemps que l'exploitation en régie des industries municipales était contraire à nos lois, et le Conseil d'État se refusait alors, dans la mesure où son intervention se trouvait nécessaire, à faciliter de telles combinaisons. Rarement d'ailleurs, elles étaient recherchées par les administrations municipales. C'est, au cours du XIX^{e} siècle, par la méthode des concessions de travaux publics, qu'ont été créés tous les services d'adduction d'eau potable ou d'éclairage par le gaz. Les concessions comportaient, pour les compagnies qui firent les frais des travaux d'installation,

le monopole de l'occupation du sous-sol des voies publiques pendant une période généralement assez longue.

On ne protesta guère contre cette méthode dans les premières années de son application. Les populations desservies aux prix fixés par les cahiers des charges, lesquels avaient été établis en rapport avec le coût probable des installations et des fournitures à faire, ne se plaignirent pas de payer trop chèrement les avantages qui leur étaient procurés.

Peu à peu cependant les conditions d'exploitation de ces industries firent de larges progrès. Les actionnaires des compagnies concessionnaires virent se développer leurs bénéfices. Les prix de revient des fournitures faites s'abaissèrent sans que les administrations exploitantes fussent corrélativement obligées de partager avec les consommateurs les profits procurés par cette baisse. La fixité des cahiers des charges stipulés pour de longues périodes apparut alors comme une erreur, sinon comme une duperie. Ainsi se développa dans les conseils municipaux, organes trop serviles et souvent peu réfléchis des animosités populaires, une rancune générale contre les compagnies gazières, contre les concessionnaires des services d'eaux ou de tramways, et avec cette rancune le désir de substituer, quand on le pourrait, la régie à la concession.

Contre le système de la régie, on invoqua cependant l'inaptitude des conseils municipaux à gérer des affaires industrielles. Les conseils municipaux devaient-ils être considérés comme des assemblées administratives omnipotentes sous réserve des limitations apportées à leur compétence? Ou devait-on ne les tenir pour compétentes qu'au regard des matières strictement énumérées dans les lois?

„Le conseil municipal, dit l'art. 61 de la loi 5 Avril 1884, règle par ses délibérations les affaires de la commune". N'est-ce pas affirmer la première solution? La distribution de l'eau, de l'électricité, du gaz, l'organisation des transports publics, ce sont bien là „les affaires de la commune". — Pas plus, répliquent les adversaires du socialisme municipal, que l'institution de boulangeries, de pharmacies, ou de buanderies publiques. Il faut entendre l'expression „affaires municipales" dans son sens traditionnel et restreint. Le législateur de 1884 a désigné par là les intérêts collectifs qui ne peuvent recevoir satisfaction que par une action collective: telle, l'administration de la voirie ou l'organisation de la police.

Il s'est fait entre ces deux opinions une transaction acceptable.

Le système de la régie municipale est admis pour les services dont l'organisation ne se conçoit que sous forme de monopole. Il est repoussé toutes les fois qu'il s'agit d'instituer sous forme administrative des industries ou des commerces soumis au régime de la concurrence.

Peu de communes, néanmoins, ont en fait recours à la régie, même lorsqu'il s'agit d'exploiter des services déjà installés par des compagnies arrivées au terme de leur concession. La ville de Lyon n'a pas eu sujet de se repentir d'avoir conservé l'administration directe du service des eaux lorsque la concession de la Compagnie lyonnaise pour la distribution de l'eau a pris fin. Les conditions favorables de cette expérience n'ont cependant pas déterminé le conseil municipal de Lyon à instituer récemment, dans des conditions analogues, la régie du gaz ou de l'éclairage électrique.

La régie du gaz, votée par le conseil municipal de Paris, n'a pas eu l'approbation des pouvoirs publics. Nul, dans le Conseil, n'a proposé sérieusement l'organisation en régie administrative de la distribution d'électricité.

On peut considérer ainsi qu'en France, les services publics d'ordre industriel échappent très généralement à l'administration directe par les fonctionnaires municipaux. Ils sont soumis seulement à leur contrôle et réglés par les cahiers des charges dont la rédaction est leur œuvre.

Les Chambres de commerce.

Signalons un dernier trait de la législation administrative française grâce auquel un certain nombre de services d'intérêt collectif échappent à l'action des municipalités et évitent ainsi, dans une large mesure, l'influence des passions politiques. C'est le développement de plus en plus large des attributions des chambres de commerce.

Les chambres de commerce sont des corps électifs chargés de représenter officiellement auprès des pouvoirs publics, les intérêts commerciaux et industriels de leur circonscription.

Leur origine est ancienne. La première chambre de commerce a été instituée à Marseille en 1650, par délibération de la maison commune. En 1700, une déclaration royale en crée une à Dunkerque. Puis un acte du 30 Août 1701 autorise la formation de

corps semblables dans les diverses villes du royaume; Lyon, Rouen, Toulouse, Montpellier, Bordeaux, La Rochelle, Lille, Bayonne profitent de cette liberté.

Ces chambres de commerce de l'ancien régime ressemblent bien aux chambres actuelles. Leur fonction essentielle est de recevoir les observations des négociants de leur ressort, d'en délibérer, et de transmettre les documents, avec avis, au conseil général du commerce, à Paris.

Chargées de renseigner plutôt que d'administrer, les chambres de commerce de l'ancienne France ont rendu des services incontestables. Mais le régime commercial d'autrefois était tellement différent du régime de liberté consacré par la Révolution qu'on n'est pas surpris de constater la suppression de ces rouages en 1791. Ils sont officiellement reconstitués en l'an XI, avec les mêmes attributions. Leur composition est élective, mais le corps électoral qui choisit leurs membres est d'abord très restreint: il se compose de cinquante à soixante commerçants notables réunis par le préfet ou par le maire suivant que la ville est un chef-lieu ou une simple commune.

En 1832, les chambres de commerce voient leurs fonctions s'élargir. C'est depuis cette époque qu'elles sont chargées de l'administration des bourses, des magasins généraux, des entrepôts, docks, des bureaux de conditionnement pour les marchandises textiles etc. . . .

C'est par cette seconde catégorie d'attributions qu'elles se trouvent avantageusement substituées, pour l'organisation ou l'entretien d'un grand nombre de services d'intérêt collectif, aux administrations municipales.

Leur recrutement d'ailleurs n'est pas resté ce qu'il était au début du XIXe Siècle. Au lieu d'être choisis par un corps électoral constitué au gré des préfets et des maires, les membres des chambres de commerce sont élus par l'assemblée des notables commerçants. La liste des notables commerçants est elle-même formée par une commission composée du Président et d'un juge au Tribunal de commerce, du président du Conseil des prudhommes (tous fonctionnaires électifs), du maire de la commune, et de trois conseillers généraux. Ajoutons cependant que le parlement discute en ce moment (Nov. 1907) un projet de loi qui modifie le mode de recrutement des chambres de commerce. Elles seront vraisemblablement élues, dans l'avenir, au suffrage universel des commerçants.

Depuis 1898, il y a obligatoirement une chambre de commerce au moins dans chaque département. Elles sont créées par décret pris en Conseil d'État, sur la proposition du ministre du commerce, avec l'avis du conseil général et des autres chambres de commerce du même département, s'il y en a.

Les chambres de commerce sont des „établissements publics", c'est-à-dire des services doués de personnalité civile.

Leurs principales ressources sont constituées par une taxe additionnelle aux patentes et par les recettes ou péages provenant de l'exploitation des services qu'elles créent ou qu'elles administrent.

Bien que les chambres de commerce étendent leur action sur tout un ressort, c'est principalement des intérêts du commerce local des places importantes qu'elles se préoccupent. Si elles n'existaient pas, c'est aux corps municipaux de ces places qu'on s'adresserait pour la constitution des services qui relèvent d'elles. C'est pour cette raison que leur utile et puissante collaboration ne saurait être omise dans une énumération complète des services d'intérêt communal.

Chapitre II.

Les Fonctions Municipales.

Historique de la loi, de l'an VIII au régime actuel.

C'est la loi du 28 pluviôse de l'an VIII (1800) qui établit une administration municipale dans chaque commune.

Cette administration se composera d'un corps délibérant, le conseil, et d'agents d'exécution, la municipalité. Conseils et municipalités sont alors choisis par les agents du pouvoir central; leur autorité est nulle, leur attributions sont insignifiantes.

Les maires rempliront les fonctions de police; les conseils auront à délibérer sur la gestion des biens communaux, qu'il s'agisse de biens laissés à l'usage direct des habitants, de biens exploités pour la caisse communale, ou de biens affectés à l'installation des services publics.

Il est dit encore que le conseil municipal „délibérera sur les besoins particuliers et locaux de la municipalité, sur les emprunts, sur les taxes ou contributions en centimes additionnels qui pourront être nécessaires pour subvenir à ces

besoins; sur les procès qu'il conviendra d'intenter ou de soutenir pour l'exercice et la conservation des droits des communes.

Qu'on ne déduise pas de ces expressions assez larges que la faculté est laissée aux assemblées communales de se créer librement des ressources pour constituer à leur gré des services publics. Les „octrois municipaux", constitués conformément à la loi du 24 février 1900, sont organisés et gérés par les services des agents du gouvernement. Les conseils municipaux proposent; le gouvernement dispose. Ce sont également les agents du pouvoir central qui, dans la mesure autorisée par le ministre, percevront alors et emploieront les contributions directes supplémentaires (centimes additionnels) que les conseils auront dû ou pu voter.

Jusqu'à la monarchie de Juillet, c'est seulement par des mesures de détail que sont élargies les attributions des corps et des agents municipaux. Le principe de centralisation où l'on croit apercevoir un élément de puissance pour le régime politique garde toute sa force.

On supporte d'ailleurs assez aisément ce système administratif. Epuisée par les efforts de la Révolution et par les guerres de l'Empire, la France a moins besoin de liberté que de repos. Aussi les historiens de la Révolution de 1830 peuvent-ils, à juste titre ne faire qu'une place très-restreinte, dans les causes du mouvement libéral qui amena la chute de la branche aînée des Bourbons, aux tendances vers une plus large décentralisation. Cela n'est-il pas suffisamment prouvé par ce fait que dans les dernières années du règne de Charles X, on vit l'opposition du parlement se réunir à la majorité pour repousser un projet de loi proposant d'appliquer au choix des officiers municipaux le principe électif?

On mit néanmoins au nombre des réformes offertes par le nouveau gouvernement la promesse de lois de décentralisation: la charte de 1830 contient l'engagement de pourvoir, dans le plus court délai possible, à l'établissement d'institutions municipales fondées sur un système électif.

Une première loi fut rapidement votée. Nous y avons fait allusion plus haut: c'est la loi organique du 28 mars 1831. Elle établissait des corps municipaux recrutés par l'élection au suffrage censitaire.

A ces corps, toutefois, il fallait conférer de larges attributions et concéder des pouvoirs de décision qui ne fussent pas de simples apparences. Ce fut l'œuvre de la grande loi municipale du

18 juillet 1837, loi pleine de sagesse où sont conciliés avec une grande prudence et un grand souci des libertés locales, les intérêts des communes et ce que l'on considère alors comme les droits et les intérêts de l'État.

La loi municipale du 5 Avril 1884, qui régit actuellement l'organisation communale de la France, à l'exception de la Ville de Paris, n'est en définitive qu'une retouche habilement faite de la loi de 1837. C'est moins en augmentant les fonctions des corps municipaux qu'en démocratisant le recrutement de ces derniers, ainsi que des municipalités, que le législateur a procédé pour mettre nos institutions communales en harmonie avec notre régime politique.

C'est en passant en revue les différentes attributions reconnues par la loi de 1884 aux municipalités et aux conseils délibérants que nous constaterons les progrès accomplis à cet égard dans le cours du XIX e siècle.

Nous diviserons ces attributions en trois catégories répondant aux nécessités de la pratique et à la conception qu'a eue le législateur dans la répartition des pouvoirs municipaux.

La première catégorie constitue les pouvoirs essentiels et exclusifs de l'administration active: c'est l'exercice de la police municipale.

La deuxième catégorie d'attributions met au contraire le corps délibérant au premier plan: ce sont les attributions administratives. Pour leur accomplissement, le maire n'est que l'exécuteur des décisions du conseil.

Il en est de même en ce qui touche les attributions financières de l'administration communale. Nous les signalons à part parce qu'elles sont moins un but qu'un moyen de pourvoir aux services d'intérêt local

Le régime actuel. — Attributions de police.

Le décret du 14 décembre 1789 définit déjà la police municipale, comme le feront plus tard et la loi de 1837 et la loi de 1884.

C'est l'ensemble des mesures destinées à assurer le bon ordre, la sûreté et la salubrité publiques.

Elle comprend notamment, dit la loi:

1. „Tout ce qui intéresse la sureté et la commodité du passage dans les rues, nettoiement, éclairage, enlèvement des encombrements, démolition et réparation des édifices menaçant ruine, interdiction

de rien exposer aux fenêtres qui puisse nuire par sa chute, ou celle de rien jeter qui puisse endommager les passants ou causer des exhalaisons nuisibles;

2. Le soin de réprimer les atteintes à la tranquillité publique, telles que les rixes et disputes accompagnées d'ameutement dans les rues, le tumulte excité dans les lieux d'assemblée publique, les attroupements, les bruits et rassemblements nocturnes qui troublent le repos des habitants, et tous actes de nature à compromettre la tranquillité publique;

3. Le maintien du bon ordre dans les endroits où il se fait de grands rassemblements d'hommes, tels que les foires, marchés, réjouissances et cérémonies publiques, spectacles, jeux, cafés, églises et autres lieux publics;

4. Le mode de transport des personnes décédées, les inhumations et exhumations, le maintien du bon ordre et de la décence dans les cimetières, sans qu'il soit permis d'établir des distinctions ou des prescriptions particulières à raison des croyances ou du culte du défunt ou des circonstances qui ont accompagné sa mort;

5. L'inspection sur la fidélité du débit des denrées qui se vendent au poids et à la mesure, et sur la salubrité des comestibles exposés en vente;

6. Le soin de prévenir, par des précautions convenables, et celui de faire cesser, par la distribution des secours nécessaires, les accidents et les fléaux calamiteux, tels que les incendies, les inondations, les maladies épidémiques ou contagieuses, les épizooties, en provoquant, s'il y a lieu, l'intervention de l'administration supérieure;

7. Le soin de prendre provisoirement les mesures nécessaires contre les aliénés dont l'état pourrait compromettre la morale publique, la sécurité des personnes ou la conservation des propriétés;

8. Le soin d'obvier ou de remédier aux événements fâcheux qui pourraient être occasionnés par la divagation des animaux malfaisants ou féroces."

Un commentaire de ces dispositions serait un véritable code de la police municipale.

Ces détails ont peu d'intérêt pour la comparaison qu'on s'est proposé d'établir entre le développement des services municipaux des divers pays. Nous nous bornons à indiquer les usages que les maires ont faits de plus en plus largement des pouvoirs qui leur

sont ainsi conférés. C'est en effet, par l'extension des services de police que la vie municipale s'est principalement accrue. C'est un exercice de plus en plus actif des pouvoirs qu'ont à cet égard les maires, qui a donné trop souvent aux populations des villes l'habitude d'attendre de l'intervention administrative l'amélioration des conditions matérielles de l'existence.

Indiquons tout d'abord sous quelles formes diverses se manifeste l'action du maire en matière de police.

C'est d'abord la forme réglementaire.

Les réglements sont des dispositions générales et impératives. Les arrêtés réglementaires des maires sont obligatoires, comme les lois; mais ils ne peuvent contenir que des mesures de détails conformes à ces lois.

Sous cette réserve, ils sont sanctionnés dans le Code pénal (art. 471) par les peines de simple police; (amende de un à cinq francs; — en cas de récidive, emprisonnement de un à trois jours). Ces peines sont prononcées par le Tribunal de Simple police, c'est-à-dire par le juge de paix qui siège au chef-lieu de chaque canton.

Il appartient au juge de police, sollicité de condamner un contrevenant, d'apprécier la légalité du réglement municipal. Il ne fallait pas qu'il fût nécessaire, pour se dérober à l'application d'un réglement peut-être tyrannique ou ridicule, en tout cas illégal, d'obtenir préalablement du Conseil d'État l'annulation du dit réglement. C'est la raison qui a fait inscrire dans le texte même où est instituée la sanction, le pouvoir pour le juge d'apprécier la légalité de l'acte sanctionné.

Les réglements de police des maires sont communiqués au sous-préfet de l'arrondissement (art. 25 de la loi municipale). Le préfet peut les annuler ou en suspendre l'exécution. Ils ne sont exécutoires qu'un mois après que cette communication a été officiellement constatée par un récépissé. En cas d'urgence, cependant, le préfet peut autoriser l'exécution immédiate.

Le pouvoir de police des maires peut s'exercer aussi par mesures individuelles, c'est-à-dire par des ordres notifiés à tel ou tel administré et lui enjoignant de faire ou de ne pas faire tel ou tel acte. En principe, ces ordres sont immédiatement exécutoires; provision est due aux ordres de l'administration. Mais des recours divers sont à la disposition des administrés pour en arrêter l'efficacité:

recours au préfet dans tous les cas, et recours en annulation devant le Conseil d'État pour excès de pouvoir, incompétence, violation des formes et d'une manière générale, violation des lois ou des réglements.

La jurisprudence admet d'ailleurs que la commune est responsable des dommages causés par ses agents alors même que ces derniers agissent par voie d'autorité et se trouvent, en occasionnant les dommages dont il s'agit, dans l'exercice de leurs fonctions.

Mesures relatives à la sécurité publique.

Le rôle du maire en ce qui touche la sécurité publique est singulièrement facilité par le concours, en ses mains, des fonctions de police judiciaire (police répressive), et des fonctions de police administrative (police préventive).

Le maire, à ce double titre, doit surveiller ou faire surveiller les réunions publiques. La loi du 30 Juin 1881 avait établi déjà la liberté de réunion, mais en subordonnant les réunions librement tenues à la formalité de la déclaration préalable. Cette formalité est devenue inutile par l'effet de la loi du 28 Mars 1907. Néanmoins c'est au maire, ou à ses agents, qu'il appartient de prononcer la dissolution des réunions au cours desquelles se produisent des collisions ou voies de fait.

Il appartient à l'autorité municipale de prendre des mesures pour éviter ou dissiper les attroupements. Un vestige du droit de l'époque révolutionnaire survit à cet égard dans l'art. 106 de la loi municipale. Ce texte rend les communes responsables civilement des dégâts et dommages résultant des crimes et délits commis à force ouverte ou par violence sur leur territoire par des attroupements ou rassemblements armés ou non armés. Les dommages-intérêts dont la commune est responsable dans ces conditions sont répartis entre tous les habitants domiciliés dans la dite commune[1].

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[1] Cette disposition a son origine dans la Loi du 10 Vendémiaire an IV. C'est une survivance de l'idée que les communes sont des associations d'habitants assumant, en retour des franchises accordées, la responsabilité du maintien de l'ordre. Cette responsabilité de la commune disparaît si l'autorité municipale a pris toutes les précautions qu'elle était à même de prendre. Elle n'existe pas à Paris et à Lyon où les pouvoirs de police appartiennent non à des maires élus, mais à des fonctionnaires du Gouvernement.

C'est en vertu du pouvoir qu'il a d'assurer la sécurité de la tranquillité publique que le maire peut, par des arrêtés de police, interdire les exercices bruyants ou dangereux, prohiber la chasse au fusil sur les voies publiques, défendre les feux d'artifices, les mascarades, les processions etc. . . .

La surveillance et la réglementation des foires, des marchés, des bourses de commerce, des débits de boissons, les dispositions relatives aux commerces ambulants, les mesures de sécurité dans les spectacles et cérémonies diverses rentrent au même titre dans les attributions de police des maires, qu'il s'agisse d'appliquer en ces occasions des textes spéciaux (ex: législation sur les cabarets, sur les bureaux de placement, sur les jeux, ou sur l'exercice public des cultes), soit qu'il s'agisse d'édicter et de faire observer des prescriptions particulières dont la légalité est naturellement laissée à l'appréciation des tribunaux [1].

Mesures relatives à la commodité de la voirie.

L'entretien de la voirie urbaine, le percement de nouvelles voies, l'exécution des travaux publics qu'exige leur aménagement rentrent dans les mesures d'administration, non dans les mesures de police.

Il en est différemment de tout ce qui concerne la commodité de la circulation et les dispositions à prendre pour faciliter l'usage et éviter l'abus du domaine public.

Dans les villes, le balayage des rues est ordinairement érigé en service public. A défaut de service organisé, le maire peut imposer aux habitants l'obligation d'effectuer ou de faire effectuer le balayage des voies en bordure des maisons.

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[1] C'est en pareil cas à l'autorité judiciaire, notamment à la cour de cassation qu'il appartient de fixer la jurisprudence sur les pouvoirs de police des maires. Sans doute, le Conseil d'État peut être saisi de questions semblables. En règle générale la haute juridiction administrative est compétente pour connaître de la légalité de tous les actes d'autorité de l'Administration (Cf. Berthélemy, Traité de droit administratif, 4e. ed. pag. 873 et suiv). — Cependant c'est le plus souvent à la suite du pourvoi contre la décision d'un tribunal de simple police que la question de légalité d'un arrêté de police se pose. Le pourvoi en annulation se porte en ce cas devant la cour de cassation, chambre criminelle.

Le maire est chargé de réglementer la circulation des voitures. Ses pouvoirs à cet égard sont très étendus. C'est dans ces pouvoirs que les maires des grandes villes ont puisé le droit admis par la jurisprudence, — quoique juridiquement fort contestable — d'organiser en monopole des services de voitures publiques. Seuls, les omnibus d'une compagnie déterminée sont autorisés à stationner sur les voies urbaines. Cette autorisation soumise à une forte redevance devient naturellement pour la commune une source d'importants revenus.

Ce qui nous parait juridiquement contestable pour le monopole des omnibus qui font des voies publiques un usage normal est au contraire certainement régulier pour les tramways, puisque ces derniers supposent l'aménagement des rues par l'installation de rails, trolleys, etc. Cet aménagement, considéré comme travail public, est concédé aux entrepreneurs de transports pour une durée déterminée; à l'expiration des traités, l'utilisation des installations devenues propriété des villes, est maintenue ou attribuée aux transporteurs moyennant un loyer.

En vue d'assurer la sûreté du passage sur les voies publiques, la loi arme les maires du pouvoir d'exiger la réparation ou la démolition immédiate des édifices menaçant ruine. Si le propriétaire tardait à obtempérer aux injonctions à lui notifiées, le conseil de préfecture, dans un délai déterminé, autoriserait l'administration à exécuter les travaux aux frais du propriétaire récalcitrant.

Mesures relatives à l'hygiène publique.

Pendant fort longtemps l'hygiène des localités n'a fait l'objet d'aucune réglementation générale. Un grand nombre de textes spéciaux, à la vérité, contenaient des prescriptions relatives à des objets particuliers: tels les lois et décrets sur la police sanitaire internationale, le décret sur les industries dangereuses et incommodes, la loi sur les logements insalubres, les textes sur l'hygiène des ateliers ou des écoles etc. . . .

Les maires, en vertu de leurs pouvoirs de police, pouvaient librement combler les lacunes de cette législation. Il existait, en fait, des „bureaux d'hygiène“ dans la plupart des grandes villes.

La loi du 15 février 1902, relative à la santé publique est

venue prescrire que toute commune soit pourvue d'un réglement sanitaire.

Dans la forme, ces réglements dérogent aux principes habituels du droit administratif français en ce qu'ils doivent être édictés non par le maire seul, mais après délibération du conseil municipal.

Les pouvoirs du maire, au surplus, n'y sont en rien accrus et la seule différence entre le droit nouveau et le droit antérieur à 1902, c'est que les maires sont aujourd'hui astreints à faire, avec le concours du conseil municipal, ce qu'auparavant ils avaient le pouvoir, mais non l'obligation, de faire seuls.

En vertu de cette même loi de 1902, les maires ont le devoir de provoquer les mesures nécessaires pour remédier à l'insalubrité des logements. Des commissions sanitaires sont à cet effet instituées obligatoirement dans tous les arrondissements [1]. Par une procédure assez simple, les logements insalubres peuvent être mis en interdit si les propriétaires ne consentent à y faire les travaux dont la nécessité est reconnue.

Les maires ont la charge de veiller à la salubrité des subsistances, en même temps qu'à la fidélité du débit des denrées qui se vendent au poids et à la mesure. Dans les grandes villes, des services spéciaux d'inspection des marchés sont institués pour rechercher et livrer aux tribunaux les délits de falsification des comestibles.

On tient pour légaux les arrêtés municipaux prohibant ou réglementant le commerce des champignons, ou soumettant à un contrôle préalable les commerces de viandes, légumes, poissons etc. . . .

Des abattoirs publics sont ordinairement installés dans les villes, ce qui entraine la suppression des tueries particulières, porcheries, triperies etc. . . . dans le périmètre fixé par l'arrêté préfectoral en autorisant l'ouverture [2].

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[1] Il n'y a pas coïncidence nécessaire, cependant, entre l'arrondissement et la „circonscription sanitaire". En fait, on a heureusement évité la complication qui eût résulté d'une subdivision différente en matière sanitaire et en matière administrative.

[2] Le commerce de la viande, en vertu d'une loi de 1791, peut encore être soumis en France au régime de la taxe par mesure de police municipale. Ces dispositions ont été prises au XVIIIe siècle; le parlement s'est refusé, néanmoins à en prononcer l'abrogation. Toutefois en raison de l'inutilité

C'est également au nombre des attributions de police des maires qu'il faut mentionner la police des cimetières et des inhumations.

Les mesures prises en cette matière ont pour objet d'éviter que des meurtres soient soustraits à la justice, de préserver les vivants contre les dangers qu'entraîne la conservation des cadavres; de permettre l'observation des pratiques pieuses que les religions ou les mœurs ont mises en usage à l'égard des morts. Aucune inhumation, aucuns transport, autopsie, moulage, embaumement, incinération ne peuvent avoir lieu sans l'autorisation du maire.

Sauf exception, les inhumations doivent être faites dans les cimetières, et l'autorité municipale a le droit d'assigner la partie du cimetière où elles seront faites; mais il est interdit aujourd'hui d'établir dans les cimetières aucune distinction ou prescription particulière à raison du culte du défunt ou des circonstances qui ont accompagné sa mort [1].

Attributions Administratives.

Administration du domaine privé.

La plus ancienne parmi les attributions des conseils municipaux consiste dans la gestion du domaine communal.

Les communes sont propriétaires des hôtels de ville, des écoles et collèges, des halles et marchés, des musées, des bibliothèques, de la plupart des églises, de quelques théâtres, des abattoirs, en un mot de tous les édifices achetés ou construits à leurs frais pour être affectés à des services publics d'intérêt municipal.

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de pareilles mesures et des dangers considérables qu'elles présentent, des instructions ministérielles recommandent aux municipalités de n'en pas faire usage.

La même observation peut-être faite au sujet de la taxe du pain permise par la même loi et dont la possibilité a été maintenue en 1884 dans les mêmes conditions.

[1] Pendant un siècle environ (de 1806 à 1904) le monopole des pompes funèbres a appartenu aux fabriques et consistoires. Il a été attribué aux communes par la loi du 28 Décembre 1904, sauf pour les fournitures destinées à la décoration des édifices religieux. — Les tarifs des pompes funèbres sont votés par les conseils municipaux et approuvés par le préfet ou par décret quand il s'agit d'une ville, ayant plus de trois millions de revenus.

Souvent, elles sont propriétaires de casernes qu'elles offrent de construire pour avoir l'avantage de loger les troupes.

En outre de ces biens affectés aux services publics, elles possèdent des immeubles nombreux qu'elles exploitent pour en tirer des revenus; pratique médiocre, mais fréquente[1].

Les communes possèdent aussi des bois ordinairement soumis au régime forestier[2].

Enfin, elles possèdent une troisième catégorie de biens qui leur sont particuliers; pâturages, landes, marais, tourbières ou forêts, laissés à l'usage individuel des habitants; c'est ce qu'on appelle couramment des communaux.

Cette dernière catégorie, — vestige de l'antique collectivisme agraire — présente seule au point de vue de la comparaison des institutions municipales quelques singularités digne d'être relevées.

Les „communaux".

Les „communaux" appartenaient en partie aux communautés rurales avant la révolution[3].

Beaucoup étaient la propriété des seigneurs et ont été attribués aux collectivités rurales par la loi des 7—14 Août 1792.

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[1] Nous considérons, en France, que l'administration est inhabile à exploiter des biens comme propriétaire. Dès que l'État acquiert des propriétés, ces domaines, sauf exception, sont immédiatement destinés à la vente. L'administration française des domaines peut être justement appelée „une gérance provisoire de biens à vendre. Par tradition, au contraire, on considère que les communes peuvent sans inconvénient remplir ce rôle de propriétaire. Loin de les inciter à mettre en vente les immeubles qui leur sont légués et qu'elles n'utilisent pas pour l'installation des services publics, le législateur ne permet l'aliénation de ces propriétés qu'en cas de nécessité. Cf. Berthélemy, Droit administratif, 4e. édition p. 530.

[2] Le „régime forestier" est l'ensemble des lois et dispositions administratives edictées ou adoptées pour assurer la conservation et l'exploitation des forêts domaniales. Les forêts de France ont une étendue de huit millions d'hectares. L'État en possède un million, les communes deux millions. Le reste est aux mains des particuliers.

[3] Les communautés rurales dont il est ici question n'ont pas toutes été transformées en communes. Aussi est-il admis que les biens à l'usage de tous peuvent n'appartenir qu'à une „section de commune". On nomme ainsi tout groupe d'habitants possédant des droits de propriété ou d'usage distincts. Cf. sur les sections de communes: Berthélemy, Droit Administratif, 4e. edition, p. 547.

Il faut mentionner avec ceux-ci les terres vaines et vagues, garrigues, gastes, landes, bruyères, dont le sol n'avait jamais été mis en culture et qui sous l'ancien régime étaient présumées terres seigneuriales. La présomption a été renversée par la loi du 10 juin 1793. Systématiquement hostile à toute pratique collectiviste et à toute propriété corporative, la législation révolutionnaire ordonna d'abord le partage immédiat des communaux, à l'exception des forêts. Ce partage devait se faire par tête d'habitant domicilié, sans distinction d'âge ou de sexe, et pour éviter que la spéculation ne vînt accaparer les lots et reconstituer de grands domaines là où on se flattait de multiplier la petite propriété, on prohiba la vente et la saisie pour dix années.

Les partages qui s'effectuèrent donnèrent lieu à des difficultés sans nombre. Une loi du 21 prairal an IV suspendit ces opérations sans rétablir l'inaliénabilité des communaux. Une autre loi du 9 ventôse an XII valida les partages effectués et dont acte avait été dressé; elle leva le sursis apporté par la loi de prairial an IV, „en ce qui concerne les actions que les tiers pourraient avoir acquises sur les biens“ (art. 7), et comme aucune loi n'a changé ce qui avait été décidé par les textes que nous venons de citer, on en doit conclure que les communaux sont aliénables, mais que les partages en restent interdits.

Quelques auteurs cependant raisonnent différemment, considèrent que la loi de l'an XII a abrogé la loi de prairial an IV, et en déduisent que le partage est toujours possible. Mais la pratique s'est fixée autrement. Un avis du Conseil d'État du 21 février 1838 a déclaré qu'aux termes des lois en vigueur, il ne peut plus y avoir lieu au partage des biens communaux.

A différentes reprises, on a demandé aux Chambres de revenir aux dispositions de la Révolution, c'est-à-dire de faire procéder au partage des communaux. Les Chambres s'y sont refusées. On a donné deux raisons à ce refus, une bonne et une mauvaise: la bonne raison, c'est l'intérêt qu'il y a à retenir les paysans dans les campagnes; la mauvaise raison, c'est la protection de la classe rurale contre la misère.

Si la jouissance en commun, si improductive, si contraire aux règles élémentaires de l'économie politique, est employée comme un moyen d'assistance, on peut faire observer qu'elle est un mauvais moyen. Il serait plus profitable à tous que la productivité des terrains vagues

fût assurée, fût-ce à l'avantage de quelques-uns. Le collectivisme agraire ne peut créer que l'égalité dans la pauvreté.

Il faut dire aussi que le partage des communaux entre les habitants n'est pas le bon moyen de mettre un terme à ce mauvais système des jouissances communales. Les seuls bons moyens qui puissent être employés consistent dans la mise en ferme de ces biens ou dans leur aliénation au profit de la caisse communale, non pas l'aliénation au masse, qui serait désastreuse, mais l'aliénation par parcelles, au fur et à mesure qu'elle pourrait se faire dans des conditions favorables.

L'étendue des communaux, dans toute la France, est de 4 620 000 hectares. Sous le régime de la jouissance collective, ces terres n'ont qu'une assez faible valeur, 100 francs par hectare, en moyenne.

La jouissance en appartient à tout individu légalement domicilié dans la commune, quelle que soit d'ailleurs sa nationalité.

C'est au conseil municipal qu'il appartient de régler le mode de jouissance sauf quand il s'agit d'affouage, c'est-à-dire de droit de jouissance dans les forêts.

Pour les pâturages, marais, tourbières, le conseil a le choix entre la jouissance directe en commun, l'allotissement ou le partage des fruits.

Quand il y a jouissance en commun, les habitants ont la perception directe des fruits dans la mesure indiquée par les délibérations. Chacun a droit, par exemple, à faire paître un certain nombre de têtes de bétail à telle heure.

Il y a allotissement quand des lots de jouissance temporaire sont attribués aux habitants (arva per annos mutant et superest ager).

Il y a enfin partage de fruits quand la municipalité fait exploiter le fonds par des agents rétribués qui répartissent les bénéfices en argent ou les productions en nature.

Le partage de jouissance peut se faire par tête ou par feu.

Le conseil municipal, en retour, peut imposer une taxe aux parties prenantes. Le recouvrement de ces taxes est effectué comme le recouvrement des impôts directs.

Entretien et affectation des bâtiments communaux.

Les délibérations sur les mesures à prendre pour l'administration et l'entretien des bâtiments communaux, ainsi que des rues, places,

quais, jardins publics constituent l'une des plus importantes fonctions des Assemblées municipales.

Aménagement et entretien des voies publiques.

En ce qui concerne la voirie, l'établissement d'un plan d'alignement a été imposé à toutes les villes dès 1807; cette mesure a été étendue à toute les communes en 1827. Le plan d'alignement indique la direction, la largeur et même la pente des rues. Il a pour effet d'incorporer immédiatement au domaine public les terrains non clos et non bâtis compris dans les limites de la voie, sauf indemnité au propriétaire dépossédé. S'il existe des constructions, elles sont frappées de la servitude de reculement, laquelle oblige à ne pas réparer. Faute de travaux confortatifs, les constructions tombent et l'incorporation du sol à la voie se fait comme pour les terrains nus.

L'entretien matériel des voies publiques se fait tantôt en régie, tantôt en entreprise. La régie a été préférée dans quelques grandes villes, ou la réfection et la réparation des chaussées et des trottoirs peuvent constituer un service courant constamment occupé [1].

C'est partout à des entrepreneurs qu'est attribué par la voie de l'adjudication l'enlèvement des immondices et des ordures ménagères.

Services publics communaux.

Les assemblées municipales délibèrent sur l'organisation et le fonctionnement des services publics communaux.

Ces services varient en nombre et naturellement en importance selon l'étendue et la population des communes, et dans une certaine mesure selon le gré de leurs représentants. C'est en cette matière que se sont manifestés, en fait aussi bien qu'en droit, dans le cours du XIXe siècle les changements les plus considérables.

[1] La ville de Paris, notamment, exploite en régie jusqu'à la production de certains des matériaux nécessaires à l'entretien de ses voies publiques. Le pavage en bois, depuis 1886, est préparé par l'usine municipale du Quai de Javel. — Le pavage en grès depuis 1855 est fait en grande partie avec les produits des carrières municipales du Bois des Maréchaux. (Cf. Léon Martin, Encyclopédie municipale de la Ville de Paris 1904).

On ne saurait dire qu'ils sont tous des progrès puisque certains d'entre eux ont consisté à amoindrir la liberté des communes sous prétexte d'assurer plus efficacement l'exécution des services.

Dans l'ensemble cependant, les avantages que tirent aujourd'hui les administrés de l'organisation communale sont très supérieurs à ce qu'ils étaient il y a une cinquantaine d'années.

A un certain égard une curieuse transformation s'est opérée dans la nature des services communaux. Ceux que l'on plaçait jadis au premier rang, et qui partout devaient être l'objet de la préoccupation des assemblées communales ont presque disparu en tant que services communaux. C'étaient ce qu'on peut appeler les services d'ordre intellectuel, l'école et le culte.

Or l'instruction publique est devenue partout un service relevant de l'État, même dans l'ordre de l'enseignement primaire. Le culte, peu à peu, a perdu les droits que l'ancienne législation lui donnait au regard de la commune.

Ce n'est que par des liens matériels très ténus que l'église et l'école se trouvent encore occuper une place dans les attributions des conseils municipaux.

Enseignement public.

Au début du XIX e siècle, une loi du 12 floréal an X décide que des écoles primaires seront établies par les communes. Les instituteurs seront nommés par les maires. Pour émoluments, ils auront un logement fourni par la commune et la rétribution scolaire payée par les parents au tarif délibéré par le conseil municipal. On fait la part de l'indigence en décidant l'exonération d' 1/5 des enfants instruits dans les écoles.

Le premier Empire conserva ces dispositions fort raisonnables. On prescrit seulement en 1808 que l'Université devra prendre des dispositions pour que l'instruction primaire ne soit distribuée que par des maîtres suffisamment éclairés. Le même texte qui créait ainsi un lien entre les écoles communales et l'Université[1] déclara que les Frères des écoles chrétiennes (congrégation catholique)

[1] Rappelons que „l'Université impériale" créée par la loi du 10 Mai 1806, était l'ensemble des services d'instruction publique de France. La décentralisation très faible d'ailleurs qui a donné naissance aux Universités régionales (groupement des services régionaux d'enseignement supérieur) ne remonte qu'à quelques années (1896).

seraient brevetés et encouragés par de grand-maître de l'Université, lequel ferait surveiller leurs écoles.

Les écoles des Frères se développèrent comme écoles communales en même temps que les écoles laïques constituées par les Conseils municipaux, sans qu'il y eût d'ailleurs aucune obligation à cet égard, soit pour les communes, d'ouvrir une école, soit, pour les parents, d'envoyer leurs enfants dans les écoles ouvertes.

L'obligation de constituer des écoles communales laïques ou congréganistes n'est imposée que sous le roi Louis-Philippe (1833), en même temps que la liberté de créer des écoles privées est proclamée.

A partir de 1833, toute commune doit avoir au moins une école primaire élémentaire; les chefs-lieux de départements et les villes de plus de 6000 habitants doivent avoir une école primaire supérieure. La commune fournit à l'instituteur le logement et un traitement modique auquel s'ajoute la rétribution scolaire.

Les maîtres d'école, cependant, ne sont plus librement choisis par l'administration municipale. Des comités spéciaux sont institués dans chaque arrondissement pour l'inspection et la surveillance des écoles primaires. Ce sont ces comités qui nomment les maîtres d'école sur la présentation des conseils municipaux.

A partir de 1850, le choix des maîtres d'école appartient exclusivement aux préfets.

Des tentatives furent faites sous le second Empire pour faciliter l'adoption par les communes du principe de la gratuité de l'enseignement primaire. Elles échouèrent très généralement. C'est le régime politique actuel qui du même coup proclame la gratuité, la laïcité et l'obligation de l'enseignement primaire.

Pour réaliser plus entièrement le programme, on rétrécit de plus en plus le rôle des autorités communales dans le fonctionnement de l'enseignement primaire. Voici présentement à quelles attributions il se trouve réduit:

Toute commune doit être pourvue d'une école primaire pour chaque sexe[1]. Le choix et l'emplacement de l'école appartient au conseil municipal, sauf le droit du préfet de le faire en cas où l'assemblée commmunale s'y refuse ou présente un emplacement inacceptable.

[1] Les communes de moins de 500 habitants peuvent, cependant, n'avoir qu'une école mixte.

Les frais du personnel sont partagés, dans des conditions dont nous ne donnons pas ici le détail, entre l'État et les communes.

Les communes ont seules la charge pécuniaire de l'entretien comme de la fourniture des installations, frais de chauffage, frais de garde, et aussi logement du personnel.

Cependant, un grand nombre de conseils municipaux soucieux de perfectionner dans la commune qu'ils représentent l'organisation de l'enseignement primaire ne s'en tiennent pas aux obligations qui leur sont légalement imposées. Ou bien ils multiplient le nombre des écoles, ou bien ils font les sacrifices nécessaires pour que l'enseignement y soit plus développé, ou bien ils créent des services annexes de l'école, destinés à en encourager la fréquentation[1]: études surveillées, cantines scolaires, colonies de vacances, etc.[2].

En aucun cas aujourd'hui, l'administration municipale n'intervient soit pour le choix des instituteurs, soit pour la surveillance de l'enseignement.

L'intervention des communes pour l'installation matérielle des écoles n'est obligatoire qu'en matière d'enseignement primaire.

Mais les administrations municipales peuvent ne pas se désintéresser des deux autres catégories d'enseignement.

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[1] Cela peut paraître singulier puisque l'enseignement, depuis 1882 est obligatoire. Toutefois, il n'est pas obligatoire de fréquenter l'école publique. Or pendant longtemps, à côté de l'école communale laïque, bénéficiant de la liberté de l'enseignement privé, ont subsisté les écoles congréganistes. Ces dernières ont adopté le principe de la gratuité pour soutenir la concurrence. Les conseils municipaux hostiles à l'enseignement catholique se sont alors evertués à rendre matériellement plus avantageuse la fréquentation de l'école laïque. Ils ont recouru, à cette fin, soit à l'organisation des services supplémentaires dont il est question au texte, soit aux subventions distribuées aux Caisses des écoles, et transformées par celles ci en allocations ou secours aux éléves des écoles publiques.

[2] Études surveillées, c'est-à-dire maintien des enfants à l'école, où ils font leurs devoirs entre les classes, sous la surveillance des instituteurs. — Cantines Scolaires, c'est-à-dire distribution aux enfants soit de repas complets et gratuits, soit de plats chauds auxquels les écoliers ajoutent les mets froids qu'ils apportent avec eux. — Colonies de Vacances, c'est-à-dire institutions de campagne où les enfants sont gardés en internat pendant les vacances. — Dans les grandes villes, on fournit gratuitement aux enfants des écoles les livres, papier, cahiers, plumes, etc. . . . Les Caisses des écoles emploient leurs ressources en distributions de vêtements. Non seulement l'école est gratuite; elle peut devenir lucrative.

Les Lycées fondés et exploités par l'État et dont le fonctionnement incombe au budget national ne sont institués qu'avec le concours des communes pour l'installation matérielle. Ce sont les communes qui en tout cas pourvoient à l'entretien des bâtiments.

Plus étroits sont les liens des communes avec les „Colléges", qui fonctionnent aux risques du budget municipal.

Toute commune désireuse d'avoir un collége doit son seulement fournir le local approprié à cet usage et en assurer l'entretien; elle doit en outre garantir pour cinq ans au moins le traitement fixe du „Principal" et des professeurs, en cas d'insuffisance des revenus propres de l'établissement et de la rétribution des élèves.

Les colléges aussi bien que les lycées sont administrés par un personnel au choix duquel l'administration municipale est entièrement étrangère, et le fonctionnement du service d'enseignement s'y fait sous la seule direction, sous le seul contrôle de l'administration universitaire.

Quelques grandes villes enfin ont, dans des conditions analogues, constitué avec le concours de l'État et sous la direction de l'administration centrale, des écoles spéciales d'enseignement supérieur. Cela s'est fait principalement pour l'enseignement de la médecine et de la pharmacie.

En matière d'enseignement public, il ne s'agit plus jamais, c'est le point essentiel à retenir, de services dont l'organisation et le fonctionnement sont laissés à l'initiative des corps municipaux.

Le seul rôle des corps municipaux est de déclarer qu'ils consentent à faire les frais de services dont le fonctionnement sera dirigé par un personnel qui n'est ni sous leur dépendance ni sous leur contrôle, et selon des réglements à la confection desquels ils n'ont en rien contribué.

Rapports des communes et des églises.

Les rapports des administrations communales et des cultes seraient absolument nuls, depuis la loi de séparation des églises et de l'État, si les communes n'étaient propriétaires de la plus part des églises de France.

Par une disposition peu libérale, en effet, il est interdit aux communes, comme aux départements de subventionner les Associations cultuelles (art. 19 de la loi du 9 Décembre 1905) et d'une

manière générale, de participer de leurs deniers à l'entretien d'aucun ministre d'aucun culte.

On a seulement voulu maintenir à la disposition des différents cultes les temples qui leur étaient précédemment affectés.

Ces édifices, construits jadis avec des fonds de provenance très diverse, — mais fréquemment avec des deniers publics — avaient été à l'époque de la Révolution française attribués aux communes, (à l'exception toutefois des cathédrales déclarées propriétés nationales).

Le Concordat de 1801 restitua les églises à leur destination, mais sans modifier leur condition juridique. Les communes durent les remettre à la disposition des évêques, ainsi que les presbytères non aliénés.

Sous le régime du Concordat, la commune garde à sa charge l'entretien matériel de l'église et le logement des prêtres. Les „fabriques", instituées en 1809, pourvoient aux frais du culte.

Peu à peu, les communes ont été affranchies au détriment des fabriques des dépenses qu'elles avaient à supporter, ou du moins n'en ont gardé la charge qu'à titre subsidiaire et au cas d'insuffisance des ressources des fabriques.

La loi relative à la séparation des Églises et de l'Etat supprime toute charge pour les communes.

Cette loi avait permis, — et tout laissait supposer que les Catholiques useraient de cette faculté, — de constituer des Associations Cultuelles pour l'administration temporelle du culte. Ces associations devaient remplacer les fabriques, établissements publics supprimés; les fabriques, maintenues pendant une année à cette fin spéciale, recevaient de la loi le pouvoir de transmettre tous leurs biens aux associations cultuelles.

Ces mêmes associations, à titre transitoire, devaient, pendant un délai déterminé, garder pour le logement des prêtres la disposition des presbytères communaux. Elles devaient enfin recevoir l'usage gratuit des églises, à charge d'en assurer l'entretien.

Les évêques français réunis en assemblée solennelle, tout en protestant contre la dénonciation du Concordat, proposèrent, à une très grosse majorité, l'essai loyal du régime nouveau. Ce régime en effet, bien que fondé sur une rupture incorrecte des relations avec le Pape, accordait à l'Église catholique française une indépendance vainement réclamée depuis quinze siècles; il lui laissait la disposition

actuelle de capitaux considérables, et lui offrait, dans la mesure où la stabilité des lois permet de la réclamer, la paisible disposition des édifices consacrés.

Il arriva malheureusement que le Souverain Pontife, inspiré par des politiciens dont l'unique préoccupation fut en cela beaucoup moins le bien de l'Église que le désir d'embarrasser le gouvernement, prohiba l'observation de la loi et la formation d'associations cultuelles.

C'était évidemment le droit du Saint-Père. Les catholiques n'eurent qu'à s'incliner. Il ne se forma pas d'associations cultuelles. La seule conséquence visible de cette résistance inconsidérée fut — non pas la chute ou l'affaiblissement des ministres anticléricaux — mais la confiscation des biens des fabriques (près de 700 millions), ainsi que la reprise immédiate par les communes des presbytères qui leur appartenaient. Ces deux opérations furent accueillies avec une entière indifférence par l'opinion publique, convaincue que la responsabilité des mesures prises incombait exclusivement à l'Eglise elle-même.

Si la loi du 9 décembre 1905 avait été intégralement observée, on aurait été plus loin; et c'est bien ce qu'espéraient ceux qui conseillèrent le Saint-Père, escomptant la légitime indignation des Français en cas de fermeture des églises.

Le Gouvernement, qui n'avait jamais envisagé comme possible une telle éventualité, trouva le parlement tout prêt à modifier les conséquences rigoureuses de la loi de 1905.

Il fut entendu que les églises, qui ne pouvaient pas, en raison de la prohibition du Pape, être mises à la disposition des associations cultuelles, puisqu'il ne se constituait pas de telles associations seraient laissées à la disposition des prêtres catholiques.

Ceux-ci, moyennant une simple déclaration, en ont la jouissance garantie à charge d'en assumer l'entretien; même sans déclaration et sans charges, mais alors sans droits exclusifs, ils en gardent le libre usage (Cf. loi du 2 janvier 1907)[1].

Il y a là une situation intenable, inacceptable pour l'Église puisque essentiellement précaire, et puisqu'elle met les édifices religieux à la merci des entreprises de prêtres schismatiques, ou

[1] Systématiquement et pour rendre l'apaisement plus difficile, le Pape a prohibé même les simples déclarations que la dernière loi considère comme suffisantes pour consolider la situation des prêtrès dans les édifices cultuels.

d'énergumènes anticatholiques. Le gouvernement, cependant, ne s'est pas aliéné, par cette politique, la masse assez ignorante des indifférents, puisque la liberté des cultes reste entière et puisqu'il dépend encore de l'Église catholique d'occuper dans les églises une situation légale, stable et inébranlable.

Les difficultés que ces événements ont pu soulever pour l'administration sont insignifiantes si on les compare aux pertes colossales et irréparables dont souffre l'Église catholique française, à la diminution fatale d'influence que ces ruines doivent entraîner pour elle, enfin à l'insécurité croissante qui se manifeste sur tous les points du territoire pour la continuation normale de l'exercice du culte [1].

Il reste exact que, par l'effet de la loi de séparation, les rapports des communes et de l'église ne consistent plus que dans l'obligation de laisser à la disposition des prêtres les édifices cultuels, propriétés communales. Les communes sont d'ailleurs libres d'entretenir à leurs frais les églises dont elles n'ont pas l'usage, ou de les laisser périr faute de réparations.

Services communaux d'assistance.

L'organisation communale de l'assistance publique a été généralisée par la loi de 1893 sur l'assistance médicale gratuite.

Les communes ont toujours eu la faculté d'instituer des bureaux de bienfaisance pour secourir les indigents, et de construire des hôpitaux pour soigner les malades pauvres.

[1] C'est ainsi que les maires des communes où la majorité des électeurs est hostile à l'église ne se sentent retenus par aucune obligation même légale envers leur concitoyens catholiques. En plusieurs communes, les maires ont disposé des cloches des églises catholiques pour annoncer les enterrements civils. Cet usage des cloches est absolument illégal. Les évêques ont protesté. Quelle qualité ces derniers ont-ils cependant pour réclamer ici l'observation de la loi puisque ni eux, ni leurs curés n'ont, comme ils le pouvaient, revendiqué l'usage exclusif de l'église? Leur seule arme a été de mettre l'église en interdit, privant ainsi les fidèles des secours du culte, pour punir les infidèles d'avoir mesusé de l'édifice religieux! Croit-on qu'effectuée dans ces conditions la fermeture locale de quelques églises soulèvera les protestations des Français? Les anticlèricaux ont vraiment une tâche trop facile à prouver que les prêtres ne sauraient légitimement se plaindre d'un état de choses qu'il dépendait de leur chef souverain d'éviter ou d'empêcher.

L'Administration des bureaux de bienfaisance a été réglée par une loi de l'époque révolutionnaire (7 frimaire an V). La loi la plus importante sur le régime des hôpitaux remonte à 1851.

La réforme de 1893 a seulement eu pour objet: 1. d'organiser l'assistance médicale à domicile, 2. d'exiger que toute commune fût rattachée à un hôpital, 3. d'imposer dans toute commune l'administration des secours qui n'était jusque là que facultative.

Nous avons dit en traitant du personnel des administrations municipales par quel procédé juridique on avait fait échapper à l'influence politique, dominante dans nos conseils municipaux, les services chargés de la distribution des secours.

Bureaux de bienfaisance, bureaux d'assistance, hospices et hôpitaux sont administrés par des commissions spéciales [1] où l'élément électif choisi par le conseil municipal n'est pas en majorité.

Les services communaux d'assistance ont, en outre des ressources importantes qui leur proviennent des dons et legs et des subventions communales, une source de revenus très abondante dans le droit des pauvres. C'est une taxe qui, plusieurs fois modifiée dans le cours du XIX e siècle, comprend présentement 1/10 du prix des places dans tous les théâtres ou établissements similaires, 1/4 du prix d'entrée des bals et fêtes diverses, 1/20 du prix des places des concerts non périodiques.

Les bureaux de bienfaisance ont enfin 1/5 des produits des concessions dans les cimetières.

Il n'appartient pas aux administrations municipales de règler l'organisation et le fonctionnement des services communaux d'assistance. Les lois et les réglements généraux y ont pourvu dans les moindres détails. C'est une des matières au sujet desquelles nous avons pu assister au recul de la décentralisation. Tout en applaudissant aux généreuses intentions du législateur moderne, on peut regretter qu'il

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[1] Rappelons ici le sens exact de ces expressions: Les bureaux de bienfaisance sont les services de distribution de secours aux indigents. — Les bureaux d'assistance ont pour fonction les soins aux malades pauvres à domicile. — Les hospices différent des hôpitaux en ce qu'ils sont exclusivement destinés à recueillir des vieillards et des incurables. — Les asiles de fous sont des établissements départementaux. Les communes ont seulement à participer à leurs dépenses pour leurs aliénés dans la mesure fixée par les conseils généraux. Les services d'assistance aux enfants relèvent également des administrations départementales.

n'ait trouvé d'autre procédé pour généraliser la pratique de l'assistance publique que de la soumettre à des règles impératives partout identiques.

Les villes de quelque importance n'avaient pas attendu la réforme de 1893 pour pratiquer à leur guise l'assistance médicale gratuite, même à domicile, et pour multiplier les dispensaires à côté des hôpitaux. Elles n'avaient pas attendu la loi récente de 1905 pour organiser les secours aux vieillards.

Les dispositions générales prises en cet ordre d'idées pour tout le territoire de la république, inutiles sur bien des points, sont fâcheuses en d'autres en ce qu'elles se substituent à des pratiques déjà vieilles, auxquelles les populations s'étaient habituées, et qui trop souvent ne peuvent que difficilement se concilier avec le nouvel ordre de choses adopté.

De même que les administrations municipales usent fréquemment, dans les villes, du pouvoir qu'elles ont d'améliorer les services d'enseignement, elles organisent souvent des établissements de bienfaisance qui ne rentrent pas dans les prévisions des lois générales.

La plupart des grandes villes entretiennent ainsi des crèches ou des garderies d'enfants, des asiles de nuit, des bureaux de placement gratuit pour les ouvriers sans travail, des fourneaux économiques et même des distributions gratuites de pain aux indigents.

Les Monts-de-piété (établissements de prêt sur gages) ne sont pas à proprement parler des établissements communaux; les assemblées municipales ont seulement à intervenir par un avis dans leur constitution, et c'est le Maire qui, de droit, préside leur conseil d'administration. On les assimile aux établissements de bienfaisance et ils ont comme ceux-ci la personnalité morale.

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L'administration du domaine, l'entretien de la voirie, l'installation matérielle des services scolaires, la participation pécuniaire ou active à l'organisation obligatoire ou facultative de services d'assistance, telles sont en la plupart des communes les fonctions presque exclusives des corps municipaux.

Dans les centres de quelque importance l'administration municipale s'applique à procurer aux habitants des services nombreux d'un tout autre ordre destinés à accroître la sécurité ou les facilités de l'existence.

Services de défense contre l'incendie.

Bornons-nous à mentionner, pour mémoire, les services organisés pour la défense contre l'incendie. L'institution de compagnies de sapeurs-pompiers ne dépend pas en effet de l'administration municipale. Les corps de sapeurs-pompiers relèvent du Ministère de l'Intérieur et sont organisés par des arrêtés préfectoraux. Leur effectif communal est fixé d'après la population et d'après l'importance du matériel de secours en service dans la commune.

Halles marchés. — Abattoirs.

C'est l'administration municipale, au contraire, qui décide seule de l'établissement des halles et marchés publics, ainsi que de la construction et de l'aménagement des abattoirs.

L'établissement des foires (ouvertes à toutes espèces de marchandises), et des marchés aux bestiaux (animaux de labour et de boucherie) ne peut se faire dans une commune qu'après avis de tous les conseils municipaux du canton ou du voisinage, à une distance de 20 kilomètres. C'est le conseil général qui statue.

Les conseils municipaux, au contraire, sans l'autorisation du préfet ou du conseil général, peuvent décider la construction d'une halle ou l'établissement d'un marché simple (vente des denrées alimentaires).

Les cases des halles sont louées à des prix établis par le conseil municipal.

Les places sur les marchés qui sont établis sur les boulevards, avenues ou places publiques sont occupées moyennant le paiement d'une taxe modique (droit de place) dont le tarif exige l'approbation préfectorale.

Les abattoirs publics (l. du 8 Janvier 1907) ne peuvent être construits qu'en vertu d'une décision du conseil municipal avec l'approbation préfectorale et après l'accomplissement de formalités nombreuses; on les considère en effet comme des établissements insalubres.

Dès qu'il existe dans une commune un abattoir public, les tueries particulières y sont prohibées.

Les frais de construction, d'entretien et d'administration des abattoirs sont couverts par des taxes d'abatage dont le

maximum est fixé par la loi. On ne veut pas que les communes — dussent elles y perdre — puissent percevoir sur les viandes de boucherie des impôts non justifiés par le service rendu.

Services industriels-Eau-Éclairage-Transports.

C'est de même conformément aux délibérations des conseils municipaux que sont institués les services publics pour la fourniture de l'eau, pour l'éclairage par le gaz ou l'électricité, pour les transports en commun.

Les services d'eau, d'éclairage, ou de transports sur rails nécessitent un certain aménagement de la voie publique. Bien qu'ils apparaissent comme de véritables exploitations industrielles, ils sont soustraits au régime de la concurrence.

On exige, de ceux qui exécutent à leurs frais les travaux publics d'installation et d'entretien de ces services, des redevances élevées soit en argent, soit en nature; on stipule d'eux qu'ils fourniront gratuitement ou à bas prix l'eau, le gaz ou la force pour la voirie et les services publics; on leur impose l'obligation de n'exiger des consommateurs que des prix limités à un maximum déterminé. On leur promet en retour de n'autoriser au profit de nulle autre entreprise l'utilisation des voies publiques pour l'exploitation de services analogues. Ainsi sont constitués des monopoles de fait dont il a été précédemment question. (Cf. supra p. 177).

Nous avons vu, dans leur exploitation par des concessionnaires ou par des fermiers après expiration des concessions, un des moyens de soustraire à l'influence politique d'importants services municipaux [1].

Le fait que les communes, par l'organisation des services dont il vient d'être question, se livrent, directement ou par leurs concessionnaires, à des exploitations commerciales ou industrielles, a provoqué chez quelques assemblées municipales l'ambition de constituer de même, en la forme de services administratifs, quelques uns des commerces ou quelques unes des industries les plus nécessaires à la population ouvrière.

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[1] L'organisation de grands services industriels n'est pas toujours strictement communale. L'organisation administrative a dû être assouplie pour s'adapter aux formes modernes de l'industrie. C'est ainsi qu'en 1890 on a

Ces entreprises ont été considérées comme attentatoires à la liberté du commerce et de l'industrie. La concurrence, en effet, ne saurait être loyale entre les industries municipales dont le capital est fourni par les caisses publiques, et les industries libres. Il rentre évidemment dans les attributions des conseils municipaux de traiter avec des entreprises générales pour la fourniture d'eau, l'éclairage ou les transports, puisque l'utilisation des voies publiques est ici nécessaire. Mais on ne saurait prétendre que ces corps administratifs sont de même fondés à instituer et à diriger des établissements qui ne font aucun usage de la chose publique.

L'administration ne consiste pas à procurer à tous ou au plus grand nombre la satisfaction de tous leurs besoins, mais seulement à mettre à la disposition des administrés ceux des avantages qui ne sauraient être obtenus que par une action collective.

La jurisprudence s'est établie en ce sens qu'il ne rentre pas dans les attributions des corps municipaux de fonder des pharmacies, boulangeries, lavoirs communaux, non plus que des établissements de bains ou des entreprises de vidanges [1].

On tient au contraire pour correcte et conforme à la loi l'exploitation de théâtres municipaux. Tels sont la plupart des théâtres de nos villes de province.

Administration financière.

Le budget communal est préparé chaque année par le maire. Il est discuté et voté par le conseil municipal. Il est réglé et arrêté par le préfet ou par décret suivant que le budget ordinaire de chacune des trois dernières années a été inférieur ou égal à trois millions de francs.

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ajouté à la loi municipale un titre autorisant la formation de Syndicats de communes. Les syndicats de ce genre qui se sont constitués ont eu pour but de traiter avec des concessionnaires communs pour les services d'éclairage, de transport ou d'adduction d'eau. — Quelquefois aussi des communes se sont syndiquées pour la construction à frais communs d'établissements d'assistance.

[1] La jurisprudence n'admet pas davantage que les conseils municipaux puissent intervenir dans les conditions normales de la concurrence en subventionnant tel ou tel établissement commercial ou industriel, par exemple une boulangerie coopérative. — Ceci ne fait pas obstacle, naturellement, à ce que des subventions puissent être accordées à des associations sans but

Un très grand nombre d'entre les dépenses communales sont obligatoires. Nous entendons par là que, faute par le conseil municipal de voter les crédits nécessaires pour l'acquit de ces dépenses, elles seraient néanmoins inscrites au budget par les soins de l'autorité supérieure.

Par contre, les dépenses facultatives peuvent être rejetées ou réduites, dès que le conseil municipal est obligé de faire appel aux ressources extraordinaires ou dès qu'il a omis une dépense obligatoire.

Naturellement, l'autorité supérieure ne peut introduire de nouvelles dépenses dans le budget communal que si elles ont le caractère de dépenses obligatoires.

Les communes ont pour ressources les revenus de leurs biens patrimoniaux, les redevances et taxes spéciales auxquelles donnent lieu les services municipaux, les impôts enfin qu'elles sont autorisées à percevoir.

Les principaux impôts communaux sont les centimes additionnels aux contributions directes et les octrois.

Centimes additionnels.

Les centimes additionnels sont de deux sortes. Les uns n'ont aucune affectation spéciale, les autres sont institués en vue de dépenses déterminées.

Le maximum, et parfois le chiffre des uns et des autres, est fixé soit par la loi, soit par décision des conseils généraux. L'ensemble du produit des centimes additionnels communaux s'élève, pour toute la France à environ 230 millions de francs, — soit 25 pour $^0/_0$ du total général des quatre Contributions directes [1].

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lucratif, et d'intérêt général, orphéons, crèches, écoles libres, etc.... Il est permis aussi d'allouer des traitements à des médecins, pharmaciens, ou sages-femmes pour les déterminer à s'installer dans une commune où personne n'exerce ces professions rendues peu lucratives par le trop petit nombre d'habitants.

[1] Rappelons que les Contributions directes sur lesquelles portent les centimes additionnels sont les impôts généraux sur le revenu (Impôt personnel mobilier et impôt sur les portes et fenêtres), ainsi que les impôts sur les revenus fonciers et commerciaux, (Impôt foncier, impôt des patentes). — Le nombre des centimes additionnels communaux a été très sensiblement augmenté dans le cours du XIXe siècle. Non seulement cet accroissement

Octrois.

Les impôts d'Octroi ont une origine très ancienne. Leur nom vient de ce fait que les rois de France octroyaient jadis aux villes dont les revenus étaient insuffisants pour la satisfaction des besoins publics la faculté de s'entourer d'un cordon de douanes locales. Des lettres patentes octroient des permissions de ce genre aux villes de Lyon en 1295, d'Amiens en 1350, de Carcassonne en 1351, de Paris en 1377, etc. . . .

En 1791, toutes les taxes municipales d'Octroi furent supprimées: elles étaient extrêmement impopulaires.
Avant la fin du siècle, cependant (1792) on en permettait le rétablissement sous le nom d'octrois de bienfaisance. Il s'agissait, apparemment, de pourvoir aux dépenses de l'assistance publique.

Le mode de gestion et de perception des octrois rétablis, mal réglementé, ouvrit la porte à de graves abus. On y remédia en les faisant surveiller d'abord, puis gérer par la Régie des droits réunis (devenue depuis lors Régie des Contributions Indirectes).

Les communes retrouvèrent un peu plus de liberté sous la Restauration (ord. de 1814 et loi de 1816). Elles eurent le choix entre le système de l'exploitation directe, celui de la mise en ferme, celui de la gestion par la Régie des Contributions. Le gouvernement, cependant, est toujours resté investi d'un droit de contrôle sur l'établissement des octrois et sur la fixation de leurs tarifs. Les corps municipaux n'ont ni le droit de déterminer à leur gré les objets soumis à l'impôt, ni la faculté de choisir la quotité de la taxe. Ils doivent s'en tenir à la taxation des objets mentionnés au tarif type, et demeurer dans les limites qui y sont prévues et qui varient avec la population des communes.

C'est sur les objets de consommation, — excluant toutefois les denrées de première nécessité; — que les taxes d'octroi peuvent être établies: comestibles, combustibles, matériaux, fourrages, boissons.

Par leur variété même, les Octrois se trouvent gêner un très

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a logiquement suivi le développement des services municipaux, mais il est arrivé à mainte reprise qu'établissant un service nouveau à l'organisation ou au fonctionnement duquel les assemblées municipales ne prennent aucune part, le législateur a cependant fait payer à la commune les frais de ce service.

grand nombre de commerces, et c'est la véritable raison qui les a rendus impopulaires. Les gens intéressés à leur suppression leur ont reproché des vices qu'ils n'ont qu'à un faible degré, notamment celui d'accroître lourdement le prix de la vie pour les classes pauvres. — Il n'en est rien, à la vérité, puisque les seuls objets assez fortement taxés sont ceux dont la consommation n'est pas indispensable.

C'est pour des raisons d'ordre différent que les Octrois sont condamnables. D'une part, les frais de perception qu'ils exigent sont hors de proportion avec leur rendement. D'autre part ils apportent une entrave fâcheuse aux échanges, ils sont une gêne constante pour l'industrie et le commerce.

La campagne très active menée en faveur de la suppression des octrois depuis une vingtaine d'années n'a pas été totalement dépourvue d'effet. La principale difficulté à laquelle se sont heurtés les partisans de leur suppression consiste dans l'impossibilité de demander à un accroissement des taxes directes les sommes énormes que les octrois produisent, principalement au profit des grandes villes.

La loi du 29 décembre 1897 a réduit l'importance des octrois en préparant la suppression progressive de celles de ces taxes qui portent sur les boissons hygiéniques (vins, cidres, bières). Ces denrées occupaient en effet une large place dans les recettes perçues à l'entrée des villes. La limitation obligatoire des impôts qu'on en peut exiger a diminué d'environ 80 millions les recettes d'octroi.

L'ensemble des octrois produit aujourd'hui, pour 1500 communes où ces taxes existent, environ 280 millions.

La ville de Paris, à elle seule, perçoit 120 millions de droits d'octroi.

Profitant des facilités offertes en 1897 pour l'établissement de nouvelles taxes portant principalement sur les propriétés ou sur les loyers, une vingtaine de villes ont depuis lors supprimé la totalité des droits d'octroi, à l'exception des droits sur l'alcool. Les deux principales, seules importantes, sont Lyon et Dijon.

Dans l'une et l'autre de ces villes, l'expérience a donné quelques mécomptes. On a constaté que le prix des denrées détaxées ne diminuait pas en conséquence de la détaxe. La répercussion des nouveaux impôts établis a paru écrasante et a soulevé des protestations

d'autant plus légitimes que les taxes de remplacement ont été plus inégales et plus arbitraires.

La suppression générale des octrois est cependant une réforme assez désirable pour qu'on ne puisse regretter de voir le problème simplifié par l'effort, même un peu maladroit, des corps municipaux de quelques grandes villes.

Il est à craindre malheureusement que l'abolition de l'octroi de Paris ne soit, à raison de son rendement colossal, pour longtemps encore irréalisable.

Ressources extraordinaires. — Emprunts.

La plupart de nos grandes villes n'ont pu subvenir avec leurs seules ressources ordinaires aux améliorations coûteuses réclamées par les exigences croissantes de la vie moderne. Elles ont dû recourir au crédit.

Rarement, elles ont pratiqué la forme des emprunts publics, qui ne sont d'ailleurs possibles que pour de très fortes sommes, c'est-à-dire par de très grandes villes. Seule, la ville de Paris a pu largement recourir au procédé d'émissions d'obligations amortissables par tirage au sort. La dette de Paris s'élève à près de deux milliards et demi.

La plupart des emprunts des communes, soumis à des règles sévères quant aux conditions d'autorisation, sont faits à des banques dont la principale est le Crédit foncier de France [1].

Le Crédit foncier trouve dans les règles de la tutelle administrative, dans l'affectation contractuelle au service de l'emprunt de telle ou telle ressource fiscale, et dans la faculté d'inscription d'office, par l'autorité supérieure, des crédits nécessaires pour l'acquit des dettes exigibles des communes, des garanties de premier ordre. Le bénéfice qu'il réalise en demandant aux emprunteurs un taux

[1] Les conditions juridiques dans lesquelles les communes peuvent emprunter ont été sans cesse s'élargissant. Une loi récente, du 7 Avril 1902, vient de simplifier ces conditions. Elles varient avec la population de la commune qui emprunte, avec l'importance de l'emprunt et avec la durée de l'amortissement prévu. Les conseils municipaux ne sont entièrement libres que lorsqu'il s'agit d'emprunter des sommes dont l'intérêt et le remboursement par amortissement en 30 années n'exigent aucun impôt excédant le maximum des centimes additionnels extraordinaires fixé chaque année par les Conseils généraux.

plus élevé que celui qu'il est lui-même obligé d'offrir aux preneurs de ses obligations n'est même pas, le plus souvent, une charge supplémentaire pour les communes. Celles-ci ont par elles-mêmes assez peu de crédit. Leur solvabilité est inconnue du public qui n'a pas le moyen de la contrôler. De plus, leurs besoins d'argent peuvent se présenter à un moment où un emprunt serait médiocrement accueilli. Les banques, au contraire, et particulièrement le Crédit foncier de France, choisissent le moment propice pour se procurer des fonds d'emprunt; elles ont à leur disposition tous les moyens pour vérifier la solvabilité de l'emprunteur.

Enfin, grâce à ce système, les communes peuvent pratiquer un mode d'emprunt extrêmement favorable et difficile à employer avec le système de l'emprunt direct: c'est l'emprunt amortissable. En ajoutant à l'intérêt une somme minime, l'emprunteur rembourse en trente, quarante ou cinquante ans sans avoir jamais à rendre une grosse somme à titre de capital.

Pour certaines dépenses particulièrement utiles à l'intérêt public, par exemple pour la construction d'écoles, ou pour les chemins vicinaux, l'État a constitué à plusieurs reprises des caisses spéciales destinées à faire des avances aux communes. C'est un système qui n'est plus vu avec faveur.

Chapitre III.

Des pouvoirs municipaux et de la tutelle administrative.

Nous avons présenté sommairement l'évolution qu'ont suivie les attributions des corps municipaux depuis l'an VIII jusqu'au régime actuel. Nous avons montré comment, aux assemblées recrutées au suffrage universel, et aux magistrats électifs on avait fini par assigner une large tâche. Il nous reste à exposer les pouvoirs qui sont conférés aux représentants des communes pour s'acquitter des fonctions précédemment définies.

Définition de la „tutelle administrative".

Ces pouvoirs sont limités par la tutelle administrative. Nous appelons ainsi les droits de contrôle que le législateur a réservés à l'autorité centrale sur les autorités locales.

La tutelle administrative a pour but d'éviter les empiétements des pouvoirs locaux sur les attributions du gouvernement; à ce titre, le nom de contrôle lui conviendrait seul, et non le nom de tutelle qui contient une idée de protection.

La tutelle administrative a pour but aussi de garantir les administrés contre les abus possibles des autorités locales. C'est un des graves travers des administrations communales d'être souvent tracassières et tyranniques à l'égard des minorités." Les pouvoirs locaux, dit justement Dupont-White, sont faits comme une vengeance." Le Gouvernement s'interpose par la tutelle administrative entre l'administrateur et l'administré.

La tutelle administrative va donc comprendre toutes les mesures par lesquelles, soit à l'égard des personnes, soit à l'égard des actes, par des nominations, suspensions, révocations, ou par des annulations, ajournements, réformations, les autorités supérieures, — celles de la région ou celle de l'État —, s'immisceront dans les affaires de la commune et limiteront ainsi les pouvoirs des administrateurs municipaux.

Les recours juridictionnels, distincts de la tutelle administrative.

Ces limitations au surplus ne sont pas les seules que comporte l'autorité communale. Il ne faut pas les confondre avec celles qui dérivent directement des lois, et permettent aux administrés de recourir, contre tous abus administratifs, à la protection des diverses juridictions.

Les autorités municipales en effet sont tenues avant tout au respect des lois. — Nous avons dit précédemment quelles sanctions étaient assurées par le Code pénal aux arrêtés de police des maires, et comment l'application de ces sanctions par les tribunaux de simple police impliquait le pouvoir, pour ces derniers, de contrôler la légalité des actes qu'ils ont à sanctionner.

L'exception d'illégalité n'est pas le seul moyen dont les administrés disposent contre les actes illégaux ou irréguliers des autorités communales. Le recours en annulation devant le Conseil d'État leur est applicable en effet, comme à tous actes de puissance publique émanés de toute autorité administrative.

De plus, les actes administratifs d'autorité pris en violation d'un droit pourraient être déférés au Conseil d'État, non seulement aux

fins d'annulation, mais aux fins de réformation (par exemple, un arrêté d'alignement irrégulier).

Il est admis enfin que les communes sont responsables pécuniairement de tous actes dommageables illégalement accomplis par leurs fonctionnaires.

C'est en dehors de ce cercle que nous plaçons les limitations de l'action communale par l'exercice de la tutelle administrative, en faisant observer toutefois que l'absence d'intervention de l'autorité supérieure quand cette intervention est requise, peut constituer une cause spéciale d'annulation.

La tutelle administrative jusqu'à la loi de 1884.

La tutelle administrative sur les autorités communales s'exerce sans restriction depuis l'an VIII jusqu'aux lois municipales de la monarchie de Juillet. Nous avons dit que pendant cette période, les membres mêmes des conseils municipaux sont nommés et non pas élus. Ils peuvent être révoqués ou suspendus par le pouvoir qui les désigne. Les maires et adjoints ne seront partout électifs que beaucoup plus tard, en 1882. Ces conseils et les magistrats ainsi choisis n'ont que des attributions insignifiantes et que des pouvoirs apparents. Ils ne décident rien par eux-mêmes. Ils proposent; ils donnent des avis ou des renseignements, ils émettent des vœux. C'est tout.

La législation de 1837, en ce qui concerne les actes des assemblées municipales, — électives depuis 1833 — se montre un peu plus libérale. Désormais, des pouvoirs de décision sont conférés aux conseils municipaux. „Les Conseils, dit la loi, règlent par leurs délibérations les objets ci après . . .“ Suit une énumération de quatre catégories de matières. On donne dès cette époque le nom de délibérations réglementaires à celles qui sont prises dans ces conditions.

Elles ont, par elles-mêmes, force exécutoire, sans approbation de l'autorité supérieure, si dans un délai de trente jours elles n'ont pas été annulées par le préfet.

Viennent ensuite, dans une liste comprenant dix numéros, les matières sur lesquelles les conseils seront appelés à prendre des délibérations sous réserve d'autorisation. Celles-ci constituent le

droit commun, ainsi qu'il appert du paragraphe final de l'art. 19. Même valeur exécutoire, — ou plutôt, même absence de force exécutoire — appartient aux décisions prises par les conseils municipaux sur tous les autres objets sur lesquels les lois et réglements les appelleront à délibérer.

Les avis, réclamations et vœux des conseils n'ont naturellement qu'une valeur énonciative, même quand il s'agit d'avis que la loi oblige à demander.

Un nouveau progrès est acquis en 1867. On angmente le nombre des délibérations réglementaires, c'est-à-dire exécutoires sauf annulation dans le délai de trente jours. On décide en outre que celles des délibérations qui sont soumises à l'autorisation formelle pourront s'exécuter sans avoir reçu cette approbation s'il y a accord entre le maire et le conseil.

On se souvient qu'à cette époque les maires sont encore nommés par les représentants du Gouvernement. L'adhésion du Maire à l'acte du conseil a dès lors toute la valeur d'une mesure de tutelle administrative.

L'exercice de la tutelle administrative dans le droit actuel.

Les principes admis en 1884, — sauf pour l'administration parisienne, — laissent une autorité beaucoup plus large à l'administration municipale.

Distinguons les mesures qui peuvent s'exercer à l'égard des administrateurs, à l'égard des corps administratifs, ou à l'égard des actes ou décisions des uns ou des autres.

Mesures à l'égard des personnes.

1. A l'égard des administrateurs:

Les membres des municipalités, (maires et adjoints) peuvent être suspendus ou révoqués par l'autorité supérieure.

Un arrêté du préfet peut suspendre un maire pour un mois au plus; le ministre peut porter cette suspension à trois mois; la révocation ne peut être prononcée que par décret. Elle emporte de plein droit inéligibilité aux fonctions municipales pendant une année.

Les arrêtés qui suspendent un maire ou un adjoint n'ont pas besoin d'être motivés; s'ils étaient motivés, les motifs énoncés ne

pourraient être discutés par la voie contentieuse. Ce sont des actes qui échappent, quant au fond, à tout recours devant le Conseil d'État; ils sont entièrement discrétionnaires. Il en est de même des décrets de révocation. Ils ne sauraient être attaqués que pour incompétence ou violation des formes.

Les mesures de tutelle administrative à l'égard des administrateurs comprennent encore l'intervention des autorités supérieures, soit pour la nomination, soit pour les mesures disciplinaires, soit pour révocation d'agents placés sous les ordres ou au service de l'administration municipale, soit pour le choix ou la suspension des administrateurs des établissements publics qui se rattachent à la commune. Il en a été suffisamment question lorsque nous avons exposé la composition du personnel municipal.

Mesures à l'égard des corps.

2. A l'égard des corps municipaux:

La loi du 5 avril 1884 donne à l'autorité centrale des pouvoirs de suspension ou de dissolution.

En 1855, il avait été admis que les conseils municipaux pourraient être suspendus par les préfets; ils ne pouvaient être dissous que par décret impérial.

La loi de 1884 n'admet la suspension par arrêté préfectoral qu'en cas d'urgence et à charge d'en rendre immédiatement compte au Ministre de l'Intérieur.

L'arrêté de suspension doit être motivé. Le décret de dissolution, astreint à la même condition, ne peut être pris qu'en conseil des Ministres; il doit être inséré au journal officiel.

En cas de dissolution d'un conseil municipal, une délégation spéciale dont les membres sont désignés par décret en remplit provisoirement les fonctions. Cette délégation, composée de trois ou de sept membres suivant que la population est inférieure ou supérieur à 35 000 habitants, n'a que des pouvoirs très limités. Elle ne peut accomplir que des actes d'administration conservatoire; en aucun cas il ne lui est permis d'engager les finances de la commune au delà des ressources disponibles de l'exercice courant. „Elle ne peut ni préparer le budget communal, ni recevoir les comptes, ni modifier le personnel ou le régime de l'enseignement public."

Les précautions prises en 1884 contre les délégations ainsi

nommées ont eu pour but d'éviter les abus dont le second Empire fut coutumier. Ces abus consistaient à substituer aux conseils dissous à raison de leurs opinions hostiles au Gouvernement des commissions nommées et jouissant des mêmes pouvoirs. C'est ainsi que la plupart des grandes villes, y compris Paris, furent administrées sous le règne de Napoléon III.

Les pouvoirs de la délégation chargée aujourd'hui de remplir l'intérim du conseil dissous (et aussi des conseils démissionnaires) ne peuvent durer plus de deux mois. Dans ce délai il doit être procédé à de nouvelles élections municipales (art. 45).

Nous n'indiquons pas ici les conditions dans lesquelles est prononcée la dissolution des commissions administratives des établissements publics, bureaux de bienfaisance ou d'assistance, commissions hospitalières etc. . . . Il suffit d'en signaler la possibilité.

Mesures à l'égard des actes.

3. C'est à des titres et à des degrés très variés que l'administration supérieure intervient par mesure de tutelle administrative dans la gestion des affaires communales.

Même depuis 1884, aucun acte d'aucun administrateur ou d'aucun corps municipal n'échappe au contrôle du Gouvernement ou de ses représentants.

Pour ceux d'entre ces actes qui ont l'efficacité la plus grande, le contrôle n'aboutit qu'au pouvoir de provoquer l'annulation d'actes illégaux. — Pour d'autres actes, les autorités diverses ont un pouvoir de suspension ou d'annulation pour simple inopportunité. — Pour d'autres encore, leur autorisation formelle est exigée. — Pour d'autres enfin, leur intervention se manifeste par substitution d'action ou, par inscription ou même par réglementation d'office.

Indiquons dans leurs traits essentiels quelles sont à cet égard les dispositions du droit en vigueur.

En ce qui touche les actes des maires, il faut distinguer ceux qu'ils accomplissent sous l'autorité de l'administration supérieure de ceux qu'ils accomplissent seulement sous sa surveillance. Ce n'est que dans le second cas qu'il peut être question de tutelle administrative.

Les actes accomplis sous l'autorité de l'administration sont: 1. la publication et l'exécution des lois et réglements; 2. l'exécution des

mesures de sûreté générale; 3. un certain nombre de fonctions spéciales, (tenue des registres de l'état civil, attributions en matière de recrutement, de contributions, d'enseignement), etc. . . .

Pour toutes ces fonctions, le maire est le subordonné du préfet. En s'en acquittant il n'agit pas comme représentant de la commune, mais comme agent de l'administration nationale.

Les actes que le maire accomplit soit en vertu de ses pouvoirs de police, soit en exécution des décisions du conseil municipal n'ont ordinairement besoin d'aucune approbation formelle de l'autorité supérieure. On a vu cependant qu'aucun réglement municipal ne peut s'appliquer sans avoir été communiqué au préfet, qui a le pouvoir de l'annuler même sans cause déterminée (art. 95).

Dans l'hypothèse de refus d'action ou de négligence à agir, les préfets sont armés, à l'égard des maires, d'une autorité complémentaire.

En principe, les autorités décentralisées ont le pouvoir de s'abstenir de tout acte d'administration. Si cependant cette règle était exactement observée, on ne pourrait sans danger d'anarchie ou de désordre décentraliser certains services qui cependant se prêtent merveilleusement à ce genre de mesures. Il ne suffit pas alors de donner au pouvoir central le droit de révoquer les maires négligents ou récalcitrants à accomplir correctement leurs fonctions. Il faut assurer aux administrés que, quoi qu'il advienne, les services sur lesquels ils peuvent légitimement compter leur seront rendus.

C'est l'explication de plusieurs articles intéressants de la loi municipale et de quelques lois postérieures qui, sur ce point, les complètent.

Le préfet peut substituer son action à celle du maire dans deux hypothèses différentes: 1. C'est d'abord lorsque le maire, après une mise en demeure, refuse de faire un des actes qui lui sont spécialement prescrits. 2. C'est quand il s'agit d'assurer l'ordre par l'exercice des droits de police.

L'art. 85 de la loi municipale, qui vise la première hypothèse, s'applique seulement à des actes déterminés, refus de délivrer un arrêté d'alignement, refus de présider un bureau électoral, refus de donner une autorisation de voirie pour l'établissement d'un service d'intérêt général, refus de faire le réglement sanitaire exigé par la

loi de 1902 sur la santé publique, refus d'ordonnancer le paiement d'une dette exigible, etc. Dans ces divers cas et dans les hypothèses semblables, le préfet agit ou fait agir par un délégué spécial librement choisi; — sans préjudice, naturellement, des sanctions plus sévères que l'attitude du maire peut lui faire encourir.

S'il s'agit de police, ce n'est plus seulement pour l'accomplissement d'un acte que le préfet substitue son action à celle du maire, c'est pour une fonction tout entière.

La disposition qui édicte cette règle est une innovation de la loi de 1884. Quelques uns y ont cru voir l'indice d'une conception nouvelle des pouvoirs de police conférés aux maires. Ces pouvoirs seraient, depuis 1884, un attribut du maire envisagé comme agent de l'État, et non plus une prérogative du chef de la municipalité.

Il y a là une idée fausse. Tout le monde aujourd'hui en convient. Il est certain que les fonctions de police, restent, comme par le passé, des fonctions propres au pouvoir municipal, exercées, à ce titre, non sous l'autorité, mais seulement sous la surveillance des l'adminitration supérieure.

On a bien proposé de dire le contraire lorsqu'on a rédigé la loi municipale de 1884; mais le Sénat s'y est refusé très justement, et, par mesure de transaction, sans trancher dans la loi la question d'ordre théorique à laquelle nous faisons allusion, on a pris, contre les maires désormais électifs la précaution énoncée en l'art. 99 [1].

En ce qui touche les actes de l'assemblée municipale, la tutelle administrative ne s'exerce pas exclusivement par l'organe des préfets.

Les délibérations réglementaires sont, en principe, exécutoires par elles-mêmes, mais non pas inattaquables; elles sont affranchies de la nécessité d'approbation, mais non du contrôle de l'autorité. Pour que ce contrôle soit facilement exercé, la loi prescrit qu'une expédition de chaque délibération sera adressée dans la huitaine par le maire au sous-préfet, lequel constatera la réception sur un registre et en délivrera récépissé. Ce récépissé fixe le point de départ d'un délai d'un mois, passé lequel la délibération deviendra exécutoire. Jusque là ou jusqu'à ce que le préfet déclare qu'il ne s'oppose pas à l'exécution, ce qu'il peut faire au bout de quinze

[1] Cf. Berthélemy, Droit Administratif, 4e. éd., p. 205.

jours s'il n'y a pas eu de réclamations, l'exécution de la délibération est suspendue (art. 62 et 68, dernier paragraphe).

Les motifs pour lesquels l'annulation des délibérations réglementaires peut être prononcée ou réclamée sont de deux sortes:

Il y a „nullité de plein droit" s'il y a eu violation de la loi ou d'un réglement, si le Conseil est sorti de ses attributions, si ses séances ont été irrégulières (art. 63). Nullité de plein droit, cela signifie que la nullité doit être prononcée dès que l'existence de sa cause est reconnue.

Il y a „annulation possible" si un conseiller a pris part à une délibération bien qu'il fût intéressé dans la question à résoudre. Annulation possible, cela veut dire que l'annulation ne sera pas nécessairement prononcée; il ne serait pas raisonnable d'annuler une délibération sous prétexte qu'un intéressé y a participé s'il était démontré que cette participation n'a eu aucune influence sur le vote. L'administration garde un pouvoir d'appréciation.

La nullité et l'annulation sont l'une et l'autre prononcées par le préfet en conseil de préfecture; la nullité peut être prononcée, opposée ou proposée à toute époque[1]. L'annulation ne peut être prononcée d'office que dans le mois qui suit la communication faite à la sous-préfecture; elle ne peut être demandée que dans la quinzaine qui suit l'affichage et doit, dans ce cas, être prononcée dans le mois qui suit la demande (art. 66)[2].

Les recours ouverts aux intéressés par les art. 63 et 64 sont d'ordre administratif. Contre la décision du préfet qui refuserait

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[1] Il n'était plus possible, aux termes de la loi de 1837, d'attaquer une délibération réglementaire un mois après sa communication à la sous-préfecture. Sur ce point, en donnant aux conseils de plus larges pouvoirs, on à jugé a propos de donner aux particuliers des moyens de défense plus efficaces.

[2] On a longtemps jugé que la nullité ne pouvait être demandée ou invoquée que par une personne ayant un intérêt direct ou personnel; on n'admettait pas qu'un simple contribuable eût à cette fin un intérêt suffisant. L'annulation, au contraire, pouvait être demandée par tout contribuable; la loi le dit expressément. Dans un arrêt dont la portée est considérable, cette disparité entre les causes de nullité et d'annulation a été récemment condamnée. Il est aujourd'hui reconnu que tout contribuable est suffisamment intéressé pour pouvoir provoquer la nullité des délibérations prises en violation de la loi. — V. C. d'Ét., 29 mars 1901 Casanova, S. 1901, 373.

satisfaction aux requérants, le recours devant le Conseil d'État est possible.

Les délibérations soumises à approbation sont exceptionnelles aujourd'hui.

Les principales affaires pour lesquelles la tutelle administrative est ainsi plus étroite rentrent dans l'une des catégories suivantes:

a) Délibérations modifiant d'une manière grave, dans sa composition ou dans son affectation, le patrimoine communal (Ex.: longs baux, ventes, transactions, changement d'affectation de bâtiments employés pour des services publics, etc.).

b) Délibérations relatives à l'aménagement de la voirie (Ex.: classement des voies publiques, confection des plans d'alignement, création ou suppression des promenades, places, rues, etc.).

c) Délibérations sur les affaires financières (Ex.: budget, crédits supplémentaires, votes de centimes additionnels, création d'octrois, emprunts etc.). C'est pour les affaires de ce genre que l'intervention du chef de l'État ou du pouvoir législatif, suivant le cas, est requise.

d) Établissement ou suppression de foires et marchés.

e) Actions en justice.

L'autorité dont l'approbation est requise est le préfet seul ou en conseil de préfecture, ou le conseil général, ou la commission départementale, ou le chef de l'État, ou le pouvoir législatif.

En règle générale, l'approbation doit émaner du préfet qui dispose, pour l'accorder, d'un pouvoir discrétionnaire; la loi exige seulement qu'il notifie au maire sa décision dans le mois à dater de la réception de la délibération. Si le préfet n'a pas approuvé dans le mois, il est présumé avoir rejeté; les intéressés peuvent se pourvoir de ce rejet devant le ministre de l'intérieur.

Le ministre, à son tour, a un pouvoir discrétionnaire pour maintenir ou casser le refus du préfet. Mais ni le ministre, ni le préfet ne peuvent modifier la décision qui leur est soumise; ils ne représentent pas les intérêts communaux. Ils peuvent seulement expliquer à titre officieux les modifications auxquelles ils subordonnent leur approbation. Le conseil municipal verra s'il consent à les accepter.

Les avis des conseils municipaux, n'ont, ainsi que le terme même l'indique, aucune force exécutoire.

Les conseils néanmoins ne sont pas libres d'en émettre sur quelque matière que ce soit. Les vœux politiques leur sont défendus. Défense assez vaine d'ailleurs. Elle a pour sanction l'annulation des vœux émis au mépris de la loi. Or, dit assez justement M. d'Avenel, comme le propre d'un vœu est simplement d'être émis, et que sa seule émission lui confère toute la dose d'existence morale dont il est susceptible, l'annulation dont il est postérieurement l'objet, bien loin de le détruire, lui procure au contraire une publicité nouvelle.

Nous retrouvons, à l'égard des conseils, la substitution d'action sous la forme de l'inscription d'office, au budget, des dépenses obligatoires.

Si un conseil municipal n'allouait pas les fonds exigés pour une dépense obligatoire, ou n'allouait qu'une somme insuffisante, l'allocation serait inscrite au budget par décret du Président de la République pour les communes dont le revenu est de trois millions et au dessus, et par arrêté du préfet en Conseil de préfecture pour celles dont le revenu est inférieur.

L'autorité supérieure ne peut cependant user de cette faculté qu'après avoir appelé l'assemblée communale à prendre une délibération spéciale à ce sujet. Le Conseil est avisé qu'il s'agit d'une dépense obligatoire [1].

S'il arrivait qu'un conseil municipal, par mesure d'opposition ou d'obstruction systématique, refusât de voter l'ensemble du budget, il y serait pourvu comme pour une dépense isolée. Un budget serait établi d'office par l'autorité supérieure, après mise en demeure du conseil municipal.

Corrélativement à l'inscription d'office, et pour assurer les ressources nécessaires, il peut y avoir lieu de recourir à l'imposition d'office. Cette imposition serait établie par décret si la contribution n'excédait pas le maximum fixé annuellement par la loi de finances. Au cas contraire, une loi spéciale devrait être votée. Ce sont des hypothèses, au surplus, qui ne se présentent jamais.

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[1] Dans un cas particulier il y a — quant aux formes — dérogation à ces règles, c'est lorsqu'il s'agit des dépenses de police dans les villes de plus de 40000 habitants. Quel que soit le chiffre des revenus de la ville, l'inscription d'office pour les dépenses de police des villes importantes ne peut se faire que par un décret en Conseil d'État. Il n'y a d'ailleurs aucun motif sérieux à cette particularité.

Règles spéciales à la Ville de Paris.

Les règles de la tutelle administrative ci-dessus énoncées ne sont pas applicables à l'administration parisienne.

La ville de Paris est restée soumise à l'ancienne législation municipale. Le conseil municipal de Paris, en vertu de la loi de 1837, peut prendre sur quelques rares matières des délibérations dites réglementaires, c'est à dire exemptées de la nécessité d'autorisation, mais annulables cependant soit d'office, pour violation de la loi, soit sur la réclamation des intéressés, discrétionnairement et pour cause d'inopportunité.

En vertu de la loi du 24 Juillet 1867, le conseil peut prendre des délibérations semblables sur un assez grand nombre de points, pourvu qu'il soit d'accord avec le préfet de la Seine, à qui sont dévolues les attributions administratives de maire de Paris.

Le droit commun, applicable à presque toutes les délibérations du Conseil, c'est l'incapacité de prendre une décision ferme, c'est la nécessité, pour toute décision prise, d'une approbation formelle du pouvoir central, préfet, ministre, chef de l'État, ou législateur.

Une loi est nécessaire pour toute imposition extraordinaire et pour tout emprunt effectué par la ville de Paris.

Conclusion.

Nous avons, en trois chapitres séparés, exposé ce que sont devenus en France, au cours du XIXe siècle, le recrutement, les attributions et les pouvoirs des administrateurs municipaux.

La législation actuelle, dont nous avons présenté les traits essentiels, s'applique depuis près d'un quart de siècle. Il est permis d'en faire une critique réfléchie et fondée sur l'expérience.

On peut se demander si elle correspond exactement aux besoins et aux mœurs du peuple francais; si elle constitue un régime acceptable et compatible avec les conditions de la vie moderne; si l'on en doit désirer et si l'on en peut prévoir, dans un avenir plus ou moins éloigné, la transformation plus ou moins profonde.

Les tendances vers une décentralisation plus large (c'est à dire vers plus de liberté) trouveront-elles leur satisfaction dans une réformation des lois sur l'administration des communes? — Les aspirations socialistes chercheront-elles un dérivatif au moins pro-

visoire dans la municipalisation plus développée des services communaux? C'est en définitive à la solution de ces deux questions que paraît se ramener présentement le problème municipal.

Les aspirations vers une décentralisation plus large sont très fortes et très justifiées; ce ne sont pas malheureusement des aspirations populaires, mais seulement des desiderata d'une élite. De plus, ce n'est pas en faveur de la commune qu'on réclame des franchises plus grandes et des pouvoirs plus forts; c'est en faveur de la région.

Il existe en France un parti régionaliste; on ne saurait y rencontrer un parti communaliste. Cette constatation est en harmonie complète avec ce qui a été dit au début de cet exposé concernant la situation administrative des départements et des communes.

La commune française a peu à peu retrouvé les franchises dont elle peut actuellement tirer parti. L'administration communale, libre depuis 1837, a reçu en somme, en 1884, les pouvoirs qu'elle peut légitimement revendiquer pour s'acquitter des attributions qui lui sont confiées et qui lui conviennent.

Nous pouvons regretter que, soucieux d'imposer à toute la France certaines méthodes, certaines pratiques ou certaines précautions, soit en matière d'assistance, soit en matière d'hygiène, soit en matière d'enseignement, le législateur ait pris soin de régler lui-même des points qui, sans inconvénient, auraient pu être laissés dans le domaine de la réglementation communale. Pourtant, et c'est en ceci que les protestations des régionalistes sont légitimes, en agissant comme il l'a fait, c'est bien moins sur le domaine propre des pouvoirs locaux que sur celui des administrations régionales que le législateur a empiété.

Nous voulons plus de décentralisation. Cela s'impose, et ce sera sans aucun doute le résultat des révolutions futures — sinon prochaines. L'unité nationale ne saurait en souffrir, si cette décentralisation se fait sur des matières qu'il est parfaitement indifférent de réglementer uniformément pour toute la France. La diversité d'aspirations cependant existe bien moins de commune à commune que de région à région.

On craint au contraire assez généralement les excès possibles d'une décentralisation communale trop accentuée.

Pendant quelques années il y a eu à Paris un parti très ardent en faveur de l'autonomie communale. Ses déclamations

frappaient dans le vide; on s'en est vite aperçu, et sur les programmes des candidats aux élections municipales, la revendication de l'autonomie communale ne tient plus qu'une place insignifiante.

Les Lyonnais, de même, — pour qui existe à certains égards un régime d'exception, puisque la police municipale est, à Lyon, l'attribut non du maire, mais du préfet du Rhône, — ont cessé de mettre au nombre de leurs réclamations ou de leurs promesses électorales la restitution des franchises qui leur manquent.

On sent l'utilité, le caractère éminemment protecteur, en même temps que l'exercice en est suffisamment discret, de la tutelle administrative.

Nous avons protesté contre le mot; les administrés se reposent sur ce contrôle comme sur une véritable tutelle, c'est à dire comme sur une garantie contre des entraînements dangereux d'assemblées où l'on trouve trop souvent plus de passion que d'expérience.

Partisan déterminé d'une décentralisation très large, nous n'attendons à cet égard aucun progrès d'une modification du régime municipal.

Les limites du libéralisme eut été dépassées en ce qui touche le recrutement des représentants et des agents municipaux, puisque c'est partout le régime électif au suffrage universel qui prévaut.

Nous les croyons atteintes en ce qui touche les attributions municipales.

Récemment, une commission extraparlementaire a été chargée de rechercher sur quels points il était possible d'élargir les attributions des corps décentralisés. Elle n'a proposé que des simplifications insignifiantes. Quelques lois ont été faites qui sont venues supprimer d'inutiles exigences pour quelques actes de la vie communale, pour l'acceptation des dons et legs, ou pour les procès ou pour le vote de certains impôts. Réformes de détail, poussière de réformes, pourrions-nous dire. Les idées fondamentales subsistent et doivent subsister. Très rares sont les matières où l'on peut aspirer à donner à nos conseils municipaux ou à nos maires de nouvelles fonctions.

Ne pourrait-on pas au moins leur conférer des pouvoirs plus efficaces? L'intervention des préfets dans les affaires communales n'est-elle pas une entrave aux initiatives particularistes?

La substitution d'action, soit en matière de police, soit en matière de budget (par le système de l'inscription d'office et par

la multiplication fâcheuse des dépenses obligatoires) n'est-elle pas une tache regrettable au régime de franchise institué par la loi du 6 avril 1884?

L'expérience nous montre qu'il n'en est rien. Les administrés trouvent dans l'exercice du contrôle préfectoral un secours dont l'état de nos mœurs publiques ne permet pas qu'on les prive. Ici encore, des modifications de détail peuvent se réclamer, non des modifications de principe.

L'autre problème, celui qui touche au développement du socialisme municipal, paraît à première vue entièrement lié au précédent.

La multiplication des services municipaux d'ordre industriel ayant pour conséquence d'accroître le patrimoine communal, l'activité administrative des corps municipaux doit être d'autant plus libre que la tâche assumée est plus lourde; le développement en nombre et en importance des monopoles communaux semble assez improbable, si l'on considère comme peu désirable ou peu vraisemblable le développement corrélatif des libertés municipales.

Si pourtant on y regarde de près, on aperçoit vite que la relation entre les progrès de la décentralisation et l'extension du socialisme municipal est plus apparente que réelle.

On le constate dans les faits, puisque, tandis que la décentralisation ne progresse en rien, on voit que sous une forme ou sous une autre les autorités municipales étendent chaque jour leur rôle économique; les communes qui municipalisent les services publics, (c'est-à-dire transforment en régies des services concédés) sont chaque année plus nombreuses, les fonctions dont elles se chargent deviennent plus importantes et plus variées; l'on a pu dire très justement que „le socialisme municipal fait partie intégrante de l'évolution contemporaine, comme la concentration industrielle, les trusts, les syndicats professionnels, et la législation ouvrière[1]". Cette croissance évidente du socialisme municipal, alors qu'il y a depuis vingt-cinq ans un arrêt complet dans le développement de la décentralisation, n'est-il pas l'indice de l'indépendance au moins relative des deux notions?

Il n'est pas malaisé au surplus de dégager quelques-unes des causes déterminantes de ce que l'on considère (et de ce que quelques-uns redoutent) comme un accroissement du socialisme municipal. Peut-être arrivera-t-on à affaiblir ainsi l'impression qu'on peut concevoir de l'intensité de ce mouvement.

[1] Cf. Bourguin, les Systèmes socialistes.

Parmi ces causes, il en est une à laquelle nous avons fait plus haut allusion; pour être purement occasionnelle, elle ne laisse pas d'avoir une importance qu'on aurait tort de méconnaître. La plupart des inventions scientifiques dont l'application a nécessité la création de grands monopoles industriels, (utilisation générale du gaz d'éclairage, emploi de l'électricité pour les usages domestiques ou industriels, adduction et distribution d'eau potable, transports sur rails etc. . .) ont fait leur apparition dans la seconde moitié du siècle dernier. Les concessions d'utilisation de la voirie accordées aux metteurs en œuvre de ces grandes industries ont toutes comporté deux conditions qui contiennent en germe la plus grosse part du socialisme municipal moderne. C'est d'abord l'obligation de constituer, sur un modèle convenu, aux frais d'actionnaires et subsidairement par le moyen d'emprunts amortissables, cet outillage colossal, — outillage matériel et outillage administratif — qui est aujourd'hui un élément essentiel de la vie publique, grands services, grandes usines, vastes travaux employant pour leur seul entretien d'innombrables ouvriers, et nécessitant pour leur exploitation d'énormes roulements de capitaux.

Tout cet outillage industriel devait être, au bout d'un terme prescrit, propriété publique; c'est la seconde condition. Or le terme est arrivé, ou arrive chaque jour dans quelque commune pour quelque installation industrielle.

C'est l'expiration de ce terme qui pose un peu partout le problème économique d'où peut sortir, comme solution logique, l'extension du socialisme municipal.

Les adversaires les plus déterminés des exploitations administratives oseraient-ils prétendre qu'en toute occasion la régie des services qui n'ont plus pour fonction que l'exploitation des propriétés industrielles des communes est nécessairement inférieure à la mise en ferme? Car c'est bien ainsi que la question se pose; c'est entre ces deux procédés que le choix est offert, la r é g i e ou la f e r m e.

Les cinquante dernières années constituent une ère essentiellement provisoire, temporaire, transitoire, la période des c o n c e s s i o n s. L'idée fondamentale des concessions était de faire appel à l'initiative privée, aux méthodes proprement industrielles, pour la constitution des grands services. Mais voici qu'ils sont constitués, qu'ils sont mis en marche; il n'y a plus rien à imaginer, il n'y a qu'à suivre la voie tracée, qu'à appliquer des procédés qui ont fait

leurs preuves à l'exploitation de mécanismes qui n'ont plus de secrets pour personne.

Placera-t-on les services consacrés à assurer cette exploitation sous la dépendance des chefs élus de l'administration municipale? — Les mettra-t-on moyennant un forfait établi d'après leur rendement probable sons la direction d'un fermier chargé d'en assurer le fonctionnement et autorisé à en extraire le bénéfice? L'exploitation dominée par le désir de satisfaire le public ne doit-elle pas l'emporter sur l'exploitation dominée par l'ambition de procurer des revenus à quelques exploitants?

Jadis, les services publics étaient partout affermés. La ferme générale des impôts a-t-elle laissé des regrets? Les finances étaient-elles jadis plus prospères et le rendement des impôts etait-il plus sûr? Les contribuables étaient-ils plus doucement traités?

La France offre des exemples plus récents et guère plus encourageants de ce que donne le système des fermes.

Pendant fort longtemps, un grand nombre d'octrois ont été perçus par ce moyen. Il n'en reste guère aujourd'hui, et tout le monde convient à cet égard de l'incontestable supériorité du système de la régie.

Pendant quelques années, l'exploitation de l'impôt sur les allumettes a été concédé à une compagnie fermière; l'impôt est infiniment moins impopulaire depuis qu'on l'exploite en régie.

Il est vraisemblable que la régie des services publics communaux sera, dans les années qui vont suivre, malgré la répugnance du Conseil d'État à se prêter à ces combinaisons [1], assez fréquemment substituée à l'exploitation temporaire des concessionnaires, et par préférence à la mise en ferme des services. Les ouvriers, qui sont le nombre et qui peu à peu font de plus en plus la loi dans les conseils des grandes villes, croiront trouver dans cette méthode une défense plus sûre de leurs intérêts particuliers, dussent-ils y subir des conditions plus onéreuses comme contribuables. Les autorités municipales d'autre part s'y prêteront volontiers par l'espoir de trouver, dans les régies nouvelles et dans les emplois dont elles disposent, une source

[1] Le Conseil d'État, dans toutes les occasions où il a eu à se prononcer a délaré qu'il ne rentrait pas dans les attributions des communes de gérer des entreprises industrielles, et par conséquent d'administrer en régie les services publics qui constituent des exploitations de cette nature. V. sur ce point la Thèse de M. P. Mercier, „Les exploitations municipales commerciales et industrielles en France", p. 6.

d'influence, et une occasion de distribuer des sinécures ou des fonctions lucratives.

Nous ne croyons pas cependant à une extension très large des régies municipales. Il arrivera souvent que pour écarter les soucis de l'exploitation directe, on concédera l'amélioration des anciens services comme on a jadis concédé leur constitution ; c'est en définitive un moyen détourné de pratiquer la ferme. La Ville de Paris vient d'en donner l'exemple pour le régime de l'électricité.

Souvent aussi les villes, et presque partout les campagnes auront la crainte salutaire de l'impéritie, de la négligence de leurs représentants électifs pour assurer le fonctionnement des gros services industriels. La ferme l'emportera.

Quant aux industries non encore monopolisées et dont rien ne justifie présentement l'absorption par les communes, nous estimons qu'elles n'ont rien à redouter des tendances actuelles. Le commerce libre s'est jusqu'à présent défendu victorieusement contre toutes velléités de concurrences municipales. Quelques manifestations isolées de conseils municipaux à tendances révolutionnaires n'ont eu ni succès sur place, ni écho dans le pays.

Ce que l'on considère trop fréquemment comme l'avenir du socialisme municipal en France ne saurait nous effrayer, puisque c'est l'aboutissant normal de combinaisons conçues dans un esprit essentiellement libéral et individualiste.

Nous n'assistons pas à cet égard, comme quelques uns le pensent, à une révolution dans l'esprit public, mais seulement au terme logique d'une transformation administrative imposée par une transformation industrielle.

Le régime municipal ne se met pas en marche vers un but inconnu, sur une route périlleuse : il aboutit, par une route dont on a préparé le terme, à un état de choses qui peut surprendre la masse indifférente et inattentive, mais qu'ont dû prévoir et qu'ont attendu tous ceux qui ont la connaissance ou l'expérience des choses administratives.

Nous ne croyons pas, en résumé, que le régime municipal dont nous avons exposé les traits essentiels soit sérieusement menacé dans ses principes. Il est réformable dans ses détails, mais sa réformation ne saurait être influencée ni par les aspirations vers de nouvelles franchises, ni par les tendances vers la socialisation de services actuellement soumis aux formes de l'industrie libre.

The Position and Powers of Cities in the United States.

From

Frank J. Goodnow.

Chapter I.

The Position of the City in the United States.

The city, in the United States as elsewhere may be treated either from the sociological or from the political or legal point of view.

From the sociological point of view the city in the United States, resembles in many respects the European city. In the United States, as in Europe, the recent development of urban communities has been very striking. In the year 1800 only three and eight tenths per cent of the entire population of the United States lived in cities of ten thousand and over; in 1900 thirty two and nine-tenths per cent of that population were to be found in cities of eight thousand and over. In the year 1800 there was not one city in the United States of one hundred thousand inhabitants; in the year 1900, eighteen and seven tenths per cent of the entire population of the country resided in cities of one hundred thousand and over.

Furthermore, in the United States, as in Europe, the city is, as compared with the rural districts, a densely populated area; in the urban population, as compared with the rural population, property is unequally distributed; and in the urban districts, as compared with the rural portions of the country, family life is difficult. Finally, in the United States, as in Europe, the characteristics of the city population are those which are found in an almost exclusively commercial and industrial state of society.

The natural result of these conditions is the presence in the urban communities of the United States, as well as of Europe, of a population which is probably less likely to possess capacity for self government than is developed in rural conditions. For the conditions obtaining in rural communities offer an opportunity for a wider and more varied daily experience than is possible for city dwellers.

But while in many respects the urban conditions of the United States and Europe are quite similar, at the same time the city in the United States differs in a number of other respects from the European city. Thus, the city population of the United States is, on account of the great alien immigration into the country as a whole and into the larger cities in particular, probably far less homogeneous than is the population of the ordinary European city. The last census of the United States shows (Abstract of the Twelfth Census, page 103) that in the cities of the United States of 25,000 inhabitants and over, twenty per cent of the population is foreign born. As shown by the same census the percentage of the foreign born in the entire population of the country is only thirteen and six tenths per cent (Ibid, p. 42). In some of the eastern cities, further, the foreign born population is enormous. For example, in the City of Fall River, Massachusetts, which has a population of about fifty thousand inhabitants, the percentage of the foreign born is thirty seven. Thus, as compared with the rural population of the country, the city population is more heterogeneous.

As compared with the rural districts the contrast presented by the economic conditions of the population of the American cities is probably just as striking. The fact that land, which of course is the main element of wealth in the rural districts, is on the whole far more equally distributed in the United States than in other countries makes this constrast of the urban and rural populations most notable. Sixty-four and four tenths per cent of the families in the rural population, and thirty-six and threetenths per cent of the families in the urban population of the United States own their own homes. In the largest cities in the United States the percentage of persons owning their homes is very small. Thus, in the City of New York only twelve and onetenth per cent of the families resident in the city own their homes. In the boroughs of Manhattan and the Bronx, the most densely populated portions of the City of New York only five and ninetenths per cent own their homes[1].

It will be noticed from the table given as to the home owning

[1] The percentages of the families resident in the cities which own their homes in some of the other cities in the United States are as follows:

Baltimore	27.9	Chicago	25.1
Boston	18.9	Cincinnati	20.9
Buffalo	32.9	Cleveland	37.4

families in American cities that, notwithstanding the great contrasts presented by city and rural life in this respect, a number of the larger American cities have a large percentage of home-owning families. It is doubtless the case that such percentages could hardly be found in European cities of a similar character.

For a long time people were accustomed to confine their attention almost entirely to the evil conditions of political life in cities, which were in large part due to the character of the city population, and to adopt a despondent attitude as to the future of cities. The evil conditions, usually found in cities, are, unfortunately present in most American cities, and perhaps in some instances increased in their intensity on account of the great heterogeneity of the urban population, to which allusion has already been made. But of late years hopelessness as to the final outcome has, in large measûre, given place to effort. Great improvement in the sanitary conditions, which at one time were some of the greatest obstacles to municipal progress, has been brought about. A similar improvement may be noticed in the intellectual and moral conditions of cities. Serious attempts are being made to bring about an improvement in these conditions. Much effort has been directed and large sums of money have been spent both by city governments and by voluntary assotiations of individuals in order to offer to the urban population greater opportunities for intellectual development and physical and mental recreation. If these efforts are successful it may well be that city populations will in time show greater capacity for self-government than they have shown in the past.

But it is not the social aspect of city life which has the greatest interest for us. It is the political or legal position of the city to which our attention is to be directed, for it is almost entirely as a result of their position in the political system that urban communities are able to be of service to their inhabitants.

The position which cities occupy in the political system of the United States cannot be understood without reference at any rate to the position of cities in the English political system of the seven-

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Detroit	39.1	Philadelphia	22.1
Indianapolis	33.7	Pittsburg	27.2
Milwaukee	35.9	San Francisco	24.1
Minneapolis	28.7	St. Louis	22.8
New Orleans	22.2		

teenth and eighteenth centuries. For the original American city was modeled on the English city of that period. The English system of city government of the seventeenth and eighteenth centuries was based on several rather well defined principles. In the first place, cities, or boroughs, as they were commonly called, were incorporated as the result of a grant from the Crown of its own special charter to each urban community. There was, therefore, no uniform system of city government in England except in so far as all the special charters were governed by certain generally applied principles.

In the second place, what was incorporated by the English charter was not the urban district nor the people living therein, but only the municipal officers and a small body of freemen or voters.

In the third place, largely as a result of the character of the incorporation, the form of government of most English cities was distinctly oligarchical in character. The council, which was the governing body of the corporation, was either a self-perpetuating body or consisted of members elected by a small body of municipal citizens.

In the fourth place, the sphere of action of the English municipal corporation of the eighteenth century was a very narrow one. The corporation had control of its property and finances, and had the power to pass local ordinances mainly of a police character. Certain of its officers were also entrusted by royal commission with important duties relative to the administration of civil and criminal justice and the preservation of the peace. In all other matters of government the participation of the city corporation and of the distinctly corporate officers of the city was very slight. The poor-law administration, which at that time was one of the most important branches of administration, was for example attended to, not by the corporation or its officers, but by the parishes which were formed in almost complete disregard of city lines. In these parishes public charity as well as various other matters were attended to by distinctly parish officers.

This was the system of government upon which the original American system of city government was modeled. The first important municipal charter that was issued in the United States was the charter granted to the City of New York in 1686. By this charter the officers of the city government were incorporated after the

English fashion under the name of The Mayor, Aldermen and Commonalty of the City of New York, — a name, by the way which was used up to the time of the formation of the present city of Greater New York in 1897.

Like the English city of the eighteenth century, the original American city had a comparatively narrow sphere of action. This consisted of the power to pass ordinances of a police character for the good government of the city, and of the power and duty to care for such city property as existed. The exercise of these powers, whatever may have been their theoretical extent, was very much limited by the fact that the financial resources of the cities were very small. In accordance with the English theory the incorporation of the city did not vest in it any powers of taxation. The city was regarded as more in the nature of a private than of a public or governmental corporation, and therefore was not permitted, unless expressly authorized, to levy any taxes whatever upon its inhabitants. But the insufficiency of the city revenues brought it about quite early in the history of the country, that cities were specially authorized to levy taxes for the support of local government. Limitations were, however, imposed upon the taxing powers which they might exercise. The cities were confined to levying taxes for specific, enumerated purposes, or, where the grant was for the general purposes of local government, limitations were placed on the kind and amount of taxes which they might impose.

The early American cities were, because of the limited extent of their powers, not very effective organizations of government. They could not in the nature of things perform many of the duties which it is now expected that the city will perform. Thus, no attention was devoted to the education of the juvenile portion of the city population. In those days education was commonly regarded as a matter to be attended to by private individuals. Rarely, except in New England, was provision made by the government for these purposes. Thus again, little if anything was done towards providing the inhabitants of the city with a supply of water. This was due in part of course to the fact that the cities were very small and little need of a public water supply was felt. It was also, however, due in part to the lack of power of the city in the premises.

The position of the American city of the colonial period may be said to have been that of an organization for attending to what

were then regarded as the local needs of the district over which the corporation had jurisdiction. The conception of local needs, was, however, different from what it is a present. It was thought proper then that judicial powers should be delegated to city officers. At the present time such powers are often regarded as appertaining to state rather than local government. The powers of the municipal corporation of the eighteenth century were, however, in a general way narrower than they are now, in as much as many, if not most, of the matters which receive attention by the cities of the present day, not only did not receive attention at that time, but were not regarded as within the jurisdiction of the municipal corporations.

It is thus the case that there has been a great change in the position of the American city, when looked at from the point of view of the functions which it discharges. As will be pointed out, the present sphere of municipal activity is a broad one, certainly as compared with what it originally was. At the same time little change has been made in the general theory of the law by which the position of cities in the American political system is fixed. As a result of the political development of the seventeenth and eigtheenth centuries, as is well known, cities were generally throughout Europe made subordinate to the authority of the state in which they were situated. This subordination was not perhaps so marked in England as elsewhere in Europe, because of the decentralized character of the English administrative system. At the same time the cities ultimately were subjected to a more nearly complete subordination to the state in England than elsewhere, because of the theoretical supremacy of the English Parliament. This supremacy had the practical result that more matters were looked after by the central legislative authority in England than in any other European country. Public officers and authorities owed allegiance tho the laws of Parliament rather than to any administrative superior. Cities were public authorities and as such were subject to the control of Parliament.

The American state legislature became heir to practically all the powers of the English Parliament at the time the English colonies in North America attained their independence. The American state legislature has, of course, lost some of the powers which it then possessed, as a result of the formation of the national government; but it remains in legal theory the only authority in the political

system of the United States whose powers are presumed and not enumerated. It therefore has, in the absence of some specific restriction of its powers, contained in either the national or state constitutions, the same power over cities which was possessed by the English Parliament.

The present position of the American city cannot be understood, however, from a consideration merely of the constitutional powers of the American state legislature. As a public authority the American city takes its place in the American administrative system. A general idea of this system is therefore necessary to an understanding of the city's position. As the city, however, has practically no relations with the national government it is not necessary for our purpose that we make any study of the national administrative system. We may confine our attention to that of the states.

The administrative system of the American union is, notwithtstanding the existence of forty-five states, one of remarkable uniformity if we confine our attention to the fundamental principles upon which it is based. As has been intimated, the system is based on the proposition that the state legislature is, in the absence of some constitutional provision, the depositary of governmental power.

In the second place, the state administrative system is based upon the principle that the powers, which by the constitution are conferred upon the state executive, are political rather than administrative in character. The position of the governor is from a political point of view one of great importance. From the administrative point of view, however it is one of relative unimportance. From the point of view of local administration his position is almost negligible. The position of the governor in the general administrative system of the state is unimportant because most branches of the state administration are by the constitution entrusted to officers neither appointed nor removable by the governor, nor subject to his direct control. The position of the governor from the point of view of local administration is of little or no importance because the governor has practically no control over local officers. Local officers are also in a somewhat similarly independent position over against the other state officers at the head of the various branches of state administration; for no state officer has any large power of appointment or removal or supervision over them.

The system of administration which assigns to local officers such administrative independence, is spoken of as a sytem of local self-government, but may more properly be called a decentralized administrative system. This system is much more decentralized than at first sight it appears, because of the fact that local officers are accorded a position of administrative independence notwithstanding the fact that they are discharging of government which have more than a local significance, — functions of government whose exercise is in many cases of great interest to the state as a whole.

The American system of administration may be called decentralized, however, only when it is regarded from an administrative point of view. From the legislative point of view it is, as was the English system upon which it was modeled, a highly centralized one. In the absence of constitutional provision to the contrary, the American legislature retains, as we have seen, the right of governing the various local corporations. Further, as a matter of practical legislative policy the legislature does not grant large powers of local government to these local corporations. Many matters, however local in character, are regulated by the state legislature. This body thus regulates in great detail the organization of the local corporations. The American system of government is, therefore, both from the legal point of view and from that of practical legislative policy one of legislative centralization and administrative decentralization.

In this system the city takes its place along with the other local corporations. These corporations exist as a result of legislative tolerance, or have come into being as a result of positive legislative action. The state legislature may at any time deprive them of their corporate life, may arrange their organization to suit its own caprice, and may endow them with such powers and impose upon them such limitations as seem proper to the legislative intelligence. The rsult of this theory as to the position of the city is that it is the creature of the state legislature. The legislature has an absolute legal right to regulate municipal affairs as it sees fit.

Furthermore, to whatever cause it may be due, the American city of the present day is in almost all cases an authority of enumerated powers; that is, it has, in the absence of some peculiar constitutional provision, only those powers which are granted to it

by the state legislature. No better or more authoritative statement of the powers possessed by the municipal corporations in the United States can be found than that given by Judge Dillon in his great work on municipal corporations and approved by many of the later decisions of the courts themselves[1]. He says: „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. Any fair reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied. Of every municipal corporation the charter or statute by which it is created is its organic act. Neither the corporation nor its officers can do any act, or make any contract, or incur any liability not authorized thereby, or by some legislative act applicable thereto. All acts beyond the scope of the powers granted are void.' Judge Dillon adds that while the rule 'of strict construction of corporate powers is not so directly applicable to the ordinary clauses in charters or incorporating acts of municipalities as it is to the charters of private corporations . . . it is equally applicable to grants of powers to municipal and public bodies which are out of the usual range or which may result in public burdens or which in their exercise touch the right of liberty or property or, as it may be compendiously expressed, any common law right of the citizen or inbabitant.'[2]

It may be added that the legislatures of the states have not granted wide powers to cities, but have generally enumerated in greater or less detail the powers which cities may exercise. Thus when the City of New York wished to build a rapid-transit railway it had no power to do so, and had to apply to the state legislature for the necessary authority. Thus again, when it wished to establish a municipal electric-lighting plant in 1902, it did not possess the necessary power. When it applied to the legislature for power in this instance its application was denied.

Finally, the principle with regard to the taxing powers of

[1] Dillon, Law of Municipal Corporations, 4 th. ed., p. 145.
[2] Ibid, p. 148.

American cities, to which allusion has already been made is still applicable. That is, no city has the right to impose any tax whose imposition has not been clearly authorized by the state legislature. The application of this principle has the result of limiting not only the taxing but as well the borrowing powers of the American city For the courts have adopted the rule that taxing power is exercised on the occasion of the exercise of the borrowing power, since the debts, incurred as a result of the borrowing power, must in the long run be paid at a result of the exercise of the taxing power. The borrowing power of cities in the United States is also limited as a result of limitations imposed upon it in the state constitutions. The dependence of the city upon the legislature for its financial powers results in still further subjecting it to the control of the state ligislature, for whatever may be the theoretical nature of the city's powers their exercise under modern conditions is conditioned by the extent of its financial powers, and the practical policy of most American state legislatures in the matter of granting financial powers to cities is about the same as it is in the case of the granting of the important powers of government. That is, it is not its practice to grant large financial powers any more than to grant large governmental powers.

For all these reasons the city in the United States is, in the absence of constitutional provision, completely at the mercy of the state legislature so far as concerns both its governmental powers and its financial resources. From a purely legal point of view it is of course true that in this respect it does not differ from the European city; but when regard is had not merely for the constitutional power of the legislature but as well for political practice, we see that the position of the American city differs considerably from that of the continental European city. From a legal point of view the American city is an authority of enumerated powers; the European city is more in the nature of an authority of general powers. The American city can do only those things which the legislature of the state says specifically it may do; the European city, however, subject to the control of the excutive side of the government, may do anything which the legislature of the state has not expressly or impliedly forbidden it to do.

At first blush this difference in the position of the American city from that of the European city may not seem to be of great

importance. A more careful study of the matter will, however, show that this difference is crucial. For the American state legislature has been irresistibly tempted so to make use of its well recognized powers over cities as to deprive them of most of the functions of local government. This result has come about in the following way: No legislature is far-seing enough to be able to determine what powers a particular city should exercise. No legislature, even under the régime of special city charters, can give a particular city powers which will be permanently satisfactory so long as these powers are enumerated in detail. The necessity of changing and extending municipal powers has involved an immense amount of special legislation. The legislature, accustomed to regulate by special act municipal affairs on the proposition of the various cities, has got into the habit of passing much special legislation relative to cities of its own motion; — not only without the consent of the municipal people but often against their will. In those states where such legislative interference has been most marked, the people in the cities have very largely lost interest in the city government and, whenever they desire to have some concrete municipal policy adopted, their point of attack is the state legislature rather than any local and municipal organ [1].

Chapter II.

Recent Changes in the Relation of the City in the United States to the State Government.

It has been said their the general system of American administration is characterized by the fact that it is centralized from the legislative point of view and decentralized from the administrative point of view. The legislative centralization has resulted, as has been already said, in the practical loss by many cities in the country of most important powers of local government and their exercise by the state legislature.

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[1] For a good description of the conditions in the state of New York resulting from the continual exercise of these powers of special legislation by the legislature of the state, see the Senate Committee's Report, 1890, on the 'Government of the Cities of the State of New York', vol. 5, p. 13.

The lack of administrative centralization of the American system of administration and the local independence of administrative officers have, furthermore, resulted in many instances in either an inefficient administration by the local corporations of matters which affect the welfare of the state as a whole, or have brought about what is equivalent to a local nullification of the will of the state, as expressed by the legislature, in regard to matters as to which the legislature and the locality differ. For example, the state of New York at quite an early period attempted to organize a system of local boards of health in the various communities of the state. Laws to that effect were passed by the legislature, but the local corporations in many instances neglected absolutely to organize the boards for which provision was made. Again, the legislatures of many states of the American Union, being convinced of the evils of intemperance prohibited the sale of intoxicating liquor within the limits of the state. The enforcement of such prohibition laws, as they were called, was entrusted in the cities to the municipal police authorities. The prevailing sentiment in the cities being opposed to the enforcement of the laws, the city police authorities neglected to enforce them, and the state administrative authorities having no power over the city authorities, were unable to overcome the latters inaction.

Of late years, however, attempts have been made to change the law, so as, on the one hand to grant to cities greater local powers than they at one time possessed, and on the other hand to give to the administrative authorities of the state government greater supervision over the actions of city officers in their enforcement of laws affecting the interests of the state, as a whole.

In the first place the people of the states have inserted into their constitutions provisions prohibiting the legislatures from passing special acts with regard to municipal matters. In accordance with a general principle of American constitutional law the courts may, in any case coming before them, declare null and void, as contrary to the constitution, any act of the legislature which in their opinion violates a constitutional provision.

In the exercise of this power the courts have held, in the first place, that they may go back of an act which is general in its form and determine whether, notwithstanding its general form, it is actually special in its application. But, while they have clearly

recognized their right to take this action, they have been extremely conservative in declaring acts, which the legislature has passed, to be unconstitutional. They have thus, as a general thing, regarded it as within the power of the legislature, notwithstanding the presence of this constitutional provision, to classify cities in the acts which it has passed with regard to them. The courts have considered that classification, provided it is reasonable, is perfectly proper notwithstanding the fact that at the time the classification is made not more than one city is contained within a class. They have furthermore held that a classification based upon population is a reasonable classification, provided it operates in the future as well as in the present.

The natural result of the attitude which the courts have assumed towards these constitutional provisions is that even since their adoption the legislature has the right to pass an act which, though apparently general in form, is actually special in its application. It cannot, therefore, be said that constitutional provisions prohibiting special action have had as important an effect in preventing special legislation with regard to cities as they were expected by their framers to have.

In a number of instances also there have been inserted into the constitutions provisions which have absolutely forbidden the legislature to do certain specific things which affect the government of cities. For example, a number of the constitutions, *as interpreted by the courts, forbid absolutely the appointment by* the state government of city officers. Thus again, a number of the constitutions absolutely forbid the legislature of the states to grant street franchises without the consent of the municipal authorities having control of the streets concerned[1].

The most radical step, however, which has been taken by any of the state constitutions is that which was taken by the state of Missouri in its constitution of 1875. This constitution as amended provides that, within certain general lines which are stated in the constitution, cities of a certain size shall have the right to frame their own charters, and that the charters so framed may not be

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[1] For an enumeration of the states whose constitutions contain these or similar provisions, see Goodnow, 'Municipal Home Rule', page 60.

[2] City of St. Louis v. Westere Union Telegraph Co., 149 U. S. 465.

amended in any way by the legislature of the state. As the Supreme Court of the United States has said, the purpose of such a constitutional provision is to constitute the city in the state as an imperium in imperio[2]. The example set by the state of Missouri has been followed in a more or less modified form by the states of California, Minnesota, Washington, and Colorado and Oregon.

But, just as in the case of the constitutional provisions prohibiting special legislation with regard to city affairs, the courts in their interpretation of these constitutional provisions have done much to limit their effect as a means of securing to the cities the privilege of local government. They have thus held that the right granted by this provision to the various cities is a right which may be exercised merely with regard to those affairs which are considered to be purely local and municipal in character. According to the better rule police officers are regarded as state rather than as local officers, and may therefore, notwithstanding the existence of these constitutional provisions, be appointed by the state government and regulated by the state legislature. The same rule has been laid down as to school officers, election officers, and officers having to do with the licensing of the retail sale of liquor.

But whatever may have been the effect of the attitude which the courts have assumed with regard to these various constitutional provisions limiting the power of the legislature over the cities, we can hardly blame the courts for the attitude which they have taken. For so long as the only control possessed by the state government over local corporations is to be found in the power of the legislature to interfere in their affairs, the destruction of that control, by the recognition on the part of the courts that these constitutional provisions have a wide and extensive effect would have placed local corporations in a position of independence incompatible with the existence of the state.

The adoption of these various constitutional provisions, to which reference has been made, has naturally had the effect of modifying to a considerable degree the character of the original American administrative system as outlined in the previous chapter. It has had the effect, for example, of introducing a considerable amount of legislative decentralization by securing to the local corporations, particularly the cities, the right of determining for themselves questions of local policy, which under the original system of legis-

lative centralization could be and often were determined by the state legislature.

But the American system of administration has been modified not only in that the powers of the legislature have been curtailed and the legislative centralization, to which reference has been made, has thereby been considerably diminished. Our system of government has also been centralized from the administrative point of view. This administrative centralization has been brought about because of the inefficient administration by the local corporations of matters of vital concern to the state as a whole. Thus, it is very commonly the case in the states of the American Union for a supervision of an administrative character to be exercised by state officers over educational, sanitary, charitable, and correctional administration by local corporations, and particularly by the cities. Further, in quite a large number of instances the attempt has been made by the state to take into its hands the administration of the preservation of the peace by providing for the appointment by the state government of police officers in cities. This the state governments have been able to do in many instances notwithstanding the provisions of the state constitutions assuring to cities the right to select their own officers, because of the view which the courts have taken that police officers are state rather than city officers.

In the case of this movement towards administrative centralization, the rule has been that what has been accomplished has been accomplished as a result of legislative action rather than of constitutional provision. The evils resulting from the system of administrative decentralization have not been, as in the case of those resulting from legislative interferance with municipal action, so marked as to occasion an interposition of the people through their sovereign power of constitution making. We cannot, therefore be so certain that the movement towards administrative centralization, which is still quite marked, is as permanent in character as is that towards legislative decentralization.

Chapter III.

The Political Party and the City.

From a very early time in the history of the American city the state and national political parties seem to have taken a very lively

niterest in city affairs. Dr. Durand, in his work on „The Finances of New York City", gives[1] a most interesting example of the extent in which in early times political parties interested themselves in city government. He says: „Party feeling was unusually strong during and after the War of 1812. One of the many flaming campaign circulars used in the purely local election has these words: —

„‚Republicans! Do you wish again to see this city in the hands of the tories — to be governed by traitors and cowards? Awake! . . . To the polls, then, every man of you — devote the whole of this last day to the preservation of your rights — to the salvation of your **country.**"'"

The influence of the political parties on city elections, of which the quotation set forth above is an example, became more and more marked as the country grew older. But the parties were not content with endeavoring on election day to get control of the city government. Controlling as they did the legislatures of the states, which, as has been pointed out had complete control over the organization and powers of the cities, the political parties did not scruple to use their powers in the legislature so to mould the city government as to make it subservient to their party interests an purposes. Dr. Fairlie cites an example of such behavior in the history of the state of Illinois and the city of Chicago. He says[2]:

„In 1861 the Republicans controlled the state government and the new board of police appointed by the governor was, in consequence, composed of Republicans. In 1863 the Democrats gained control of the state and passed an act reducing the term of police commissioners from six to three years by which action the board became evenly divided between the two parties while the Demorats hoped ultimately to gain complete control. But in 1865 the Republicans were again in power in the state, city, and county, and new acts were passed restoring the six year term to the police commissioners, providing that new commissioners should be elected by the voters of Cook County[3] — which was less likely to become democratic than the city — and placing the fire department under the control of the board of police."

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[1] Page 40.

[2] „A municipal Program", page 22.

[3] The county in the state of Illinois in which the city of Chicago is situated.

The influence which the political parties have exercised over the affairs of American cities has been, to a degree at any rate, inevitable. American government is based on a system of checks and balances and independent governmental authorities. The system has afforded continual opportunities for conflict between these authorities, but it has provided no means of settling such conflicts. *Means, however, had to be provided for settling these conflicts and* these means have been found outside of the formal system of government. Originally politics could „be managed by conference and agreement among gentlemen and the conduct of politics had to defer io their class opinions. But the spread of democratic influences was rapid. The growth of city population developed an electorate which soon dispossessed itself of habits of deference to social superiors so that it had to be wrought upon by other influences. There were none so available as those connected with the use of patronage[3], and this use had to conform with the changing conditions of politics[4]." No field of patronage was more promising than that offered by the cities with their great number of offices, their numerous public undertakings, and their fat contracts. It was natural, therefore, that parties in the interest of party strength should strive by all means within their power to get control of city government.

The political party has, however, sought to get control of the cities also because, under the decentralized system of administration existing in the United States, it must in many cases have control of the cities in order to secure the application of the principles which it represents. Owing to this decentralized system of government, to which reference has so often been made, the state government has in the past had no effective control over the city even where the city was discharging functions of vital interest to the state. An effective means of control not being present in the governmental system, one had to be found outside of that system. The attempt was made to find it in the political party. Political parties, formed for the purpose of carrying through some program, are of necessity bound to interest themselves in municipal politics since the cities have almost free hand in enforcing state statutes. A party formed for the purpose of prohibiting the sale of of liquor,

[1] i. e. the exercise of the power of appointment to public office.

[2] Ford, The Rise and Growth of American Politics, page 71.

for example, has under the American system of government not performed its duty merely by placing upon the state book a law prohibiting the sale of liquor. It must, in order to secure the end for which it was formed, endeavor to obtain control of the authorities provided for the enforcement of the law, and these authorities are, in the urban communities, the city governments. The state parties, therefore, in busying themselves with city politics have been in many instances merely attempting to discharge functions which were theirs by right.

Finally, to quote Mr. Ford again[1], „the interdependence of political interests is such that local transactions cannot be separated from state or national concerns. If the party is hurt anywhere it feels it everywhere. Means of adjustment between local and general political interests have thus been secured which have gradually effected a hierarchy of political control with respective rights and privileges that are tenaciously insisted upon."

But it cannot be denied that the control of political parties over city governments in the United States, has been unnecessarily encouraged by the long continued and unlimited exercise of the control of the state legislature over cities. For the legislature has always been and must of necessity ever continue to be the body in the government which is most liable to be dominated by the political party.

It is surprising in view of the extent of party control over cities that the evils attending its exercise were for so long a time unperceived. It is only within a comparatively recent time that the urban populations of the United States have really become aware of the fact that their interests were being sacrificed by the state and national parties to the interests of the state and nation. One of the first public documents to call attention to these evils is the report which was drawn up by the commissioners appointed in 1876 in the state of New York to devise a plan for the government of the cities of that state. Here it is said, „it is then through the agency of the great political parties . . . that all municipal officers are and for a long time have been selected. It can scarcely be a matter of wonder then that the present condition of municipal affairs should present an aspect so desperate."

[1] Page 301.

It is of course true that a quarter of a century before the time this report was written an attempt was made in the constitutional provisions, to which reference was made in the last chapter, to limit the power of the legislatures over city affairs. Whether this was done with a consciousness that the evils of legislative interference with cities were due to the influence of political parties in those legislatures, it is of course difficult to say. But, whatever may have been the motives of those who secured the adoption of these constitutional provisions, it cannot be denied that the effect of these provisions has been to reduce the control of the political parties over city government.

But prior to 1876, it may be said that no serious attempt was made to limit the powers which the parties exercised directly over city government through the election of city officers. By the original city charters, provision was usually made for spring elections of city officers, — the election of state and national officers taking place in the autumn. In the larger cities, however, spring elections had later been in many instances abandoned and city officers were often elected at the same time as the officers of the state and national governments. It is said that the change from spring to autumn city elections was made because, as it was alleged, so few voters came to the polls on the occasion of the spring elections that the control of city affairs fell into the hands of what are known in the United States as „professional politicians". The change to spring from autumn elections did not however have the result of diminishing the influence of this class in the community.

The New York commission of 1876, to which allusion has been made, suggested in its report that state and city elections be separated. Nothing, however, was done about the matter in New York until 1894, when, by the constitution adopted in that year, it was provided that city elections should take place in the odd years, leaving the even years for the state and national elections. This plan was believed to have the advantage of securing a separation of elections without making elections necessary in any one year. It has been quite successful in its operation. Since its adoption it has been possible, as it never was before, for a man to leave his state party and give his vote at the city elections for the political organization which he believes most likely to regard city interests from the city point of view. In Massachusetts, the attempt has

been made in some of the cities, such as Boston, to separate the city elections from the state and national elections by providing that the city election shall take place one month after the state election. While this method does not seem to have been followed by the same success as has followed the adoption of the New York method, at the same time it has had a tendency to separate city issues from state and national issues.

Political parties in the United States have until comparatively recent times been regarded as purely voluntary associations, which had no standing at law and over which the courts could exercise no appreciable control. The result has been that the operations of the parties necessary for the nomination of candidates have been accompanied by both violence and fraud, and that it has been in many instances impossible for the members of the parties, even where a majority of them have been opposed to those in control of the party, to wrest that control from those in possession of the highest party offices. The parties themselves have felt that such a condition of affairs is a bad one, and have in some instances attempted to provide regulations which should secure the control of the party to the majority of its members. As a general thing, however, these regulations have not been effective because of the unwillingness of the courts to enforce them.

The attempt has therefore been made within the past twenty-five or thirty years to take away from the parties their purely voluntary character, to accord to them a legal standing within the general governmental system, and to recognize them as subject to governmental regulation and control. This change in the position of the parties has been brought about in two ways. In the first place, it is due to the adoption of what is known as the Australian ballot. Prior to about 1890 the ballots by means of which the voters cast their votes at elections were provided by the political parties. All that the state did in the matter was, in order to secure a secret vote, to provide by law that the ballots should be of uniform size, color, and shape, and should contain nothing on the outside by means of which they might be identified. It was found, however, that even the rather detailed provisions of law which were adopted did not secure the result desired, that is, a secret ballot. About 1890, therefore, it was provided in a number of the states of the American Union that the ballots should thereafter be printed by the

state and delivered to the voter, at the time of the election, by state officers.

The orignal English Ballot Act of 1872, which was the model on which most of the American ballot acts were based, made no provision whatever for the recognition of the political party. Outside of one or two states most of the American ballot laws, however, provide for a ballot on which the names of the candidates are arranged in a party column under a party designation of some sort. The fact that such recognition was given to the political party by the law made it necessary that some means should be supplied for determining in case of a contest which candidate represented the party. The courts of the various states have adopted different views as to their powers in this matter, some holding that where a conflict of this sort arises the ballot officers are to place the names of contesting candidates on the ballots as candidates of the party which they claim to represent, thus letting the people at the polls decide the matter. Other courts have either, as a result of special provision of statute or of their own ideas of what was droper, held that they will themselves attempt to determine which of the two contesting candidates is the regular nominee of the party which they both claim to represent. Other courts still, hold that they will attempt to make such a determination only in the absence of a determination upon the question by the highest party authorities; but that, in the event of such a determination by the highest party authorities, they will uphold such determination in rendering their decisions in ballot cases.

The second way in which the recognition of parties as parts of the American governmental system has been brought about is through the passage of statutes by the state legislatures regulating the operations necessary to the nomination of candidates. The methods which have been adopted to secure the desired result are of two kinds. In the first place, the attempt has been made to provide for what is known as a direct nomination by the members of the party. The practical effect of such a method has been to provide another election which decides not who shall hold the public offices, but who shall be voted for as the regular candidates of the political parties on the occasion of the second election at which it will be determined who shall hold such offices. This has been the method which has recently been adopted in the state of Minnesota.

The other method, which is not so radical in character, has consisted in the passage of statutes which, while permitting the parties to continue to nominate in accordance with their former methods, regulate these methods in the interest of fairness and subject the actions of the parties to the control of the courts. This has been the method adopted in the states of Massachusetts and New York.

While these various methods of regulating the parties have been adopted not in the particular interest of cities, they have had a great and probably will have a greater effect upon the control which the party has over city elections, inasmuch as they make it easier for the rank and file of the party to exercise a control over the party nominations. Further, as they often determine what shall be the conditions of party membership which entitles one to vote at the party election they often make it possible for the individual party voter to act independently of his state or national party in purely municipal elections.

Finally, the attempt has been very commonly made to secure an absolute division of city from state and national politics by the formation of a city party which busies itself only with city affairs. One of the most notable instances of such an attempt is to be found in the city of New York, where for the last six or eight years there has been in existence an organization known as the Citizens Union. This organization has nothing to do with state and national offices, but confines itself exclusively to city offices or to those state offices which have an important influence on city interests.

As a general thing, however, the organizations which have been formed within recent years for the betterment of city government have not attempted to secure a complete separation of city from state and national politics, but have contented themselves with undertaking to obtain from the local organizations of the regular state parties a recognition of the local interests of the city in their nominations for city offices[1]. A remarkable example of such a method of proceeding is to be found in the Chicago Municipal Voters' League[2].

[1] See Tolman, Municipal Reform Movements, where the principles and methods of a large number of organizations are described.

[2] A good description of the methods and purposes of this body will be found in an article entitled, „The Municipal Situation in Chicago", by Frank H. Scott, published in the Detroit Conference for Good City Government, page 140.

While it is true that city dwellers in the United States have become conscious of the harmful influence of state and national parties on city government and have attempted in various ways to diminish that influence, it cannot be said that as yet they have worked out anywhere a plan which is absolutely successful in securing the desired end. We are now in the United States, it may be said, in a period of experimentation, and cannot with any certanity indicate what will be the ultimate solution of the problems involved in the relation of political parties to cities.

Chapter IV.

The Organization of the City in the United States.

Attention has already been called to the fact that the position accorded to the city in the British Colonies of North America was very largely influenced by the position which was accorded to the cities of England by the law of the seventeenth and eighteenth centuries. The organization of the cities in these colonies was subject to the same influences. The principal authority for the transaction of city business in the English city of the eighteenth century was a council composed as a rule of the mayor, recorder, and aldermen. This council was formed either as a result of co-optation or by an election in which only a narrow body of voters participated. Where co-optation was adopted, whenever a vacancy occured in the membership of the council it was filled by a vote of the remaining members.

In the cities of the British Colonies in North America, as in the cities of England, the chief authority in the city government was a council. In New York the membership of this council was due to an election by a narrow body of voters. In Philadelphia the members of the council were chosen by co-optation.

The first change to be made in this form of government was due, it is believed, to an attempt to organize the city government upon what was believed in those days to be the only proper political principle. One of the characteristics of the American system of government was the adoption of the French principle of the separation of powers. The adoption of this principle necessitated an executive authority which was largely if not entirely independent of

the legislature. At first the influence of this principle did not make itself felt in the municipal organization, but in the first quarter of the nineteenth century, partly, it is believed, because of dissatisfaction with the council plan of government, and partly, because of the belief that no system of government not based on the principle of the separation of powers was theoretically a proper one, it was decided to accord to the mayor, formerly only a member and the presiding officer of the council, a position of independence resembling somewhat the position that was accorded in the national government to the president, and in the state government to the governor.

It was, therefore, decided in a number of American cities about the year 1820 to provide for the election of the mayor by the people of the city. This principle was first applied in the city of Boston. At the present time there are very few instances in the United States of mayors who do not owe their position to a popular election.

The mere election of the mayor by the people was not, however, regarded a according to him a sufficiently independent position. For after this principle was adopted the detailed administration of city government was very largely in the hands of committees of the council, one of which was provided for each of the important branches of city administration. Therefore and again, in imitation of the administrative organization adopted in the national government, it was decided to form in the city government, executive departments whose heads, like the mayor, should be independent in tenure of the city council. The first step in this direction may be said to have been taken by the New York charter of 1849.

At about the same time the political thought of the United States like the political thought of Europe was subject to the influences of a liberal movement. The form which this movement took in the United States was the demand that most of the important offices in the government should be filled by popular election. On account of the difficulty of amending the constitution of the United States this method of filling offices was practically impossible of adoption in the national government. In the states, however, where the constitutions were amended with comparative ease, most of the important offices both state and local became elective.

The result of the application of the elective principle to the subordinate city officers was the formation of what came ultimately

to be absolutely independent municipal authorities, each executing laws passed by the legislature, which entered into considerable detail with regard to purely municipal affairs.

The experience of the cities whose organization was based upon these principles was so unfortunate that changes were in many cases almost immediately made in the law. Thus, in the city of New York as early as 1853 amendments were made to the charter which resulted in giving to the mayor, subject to the approval of the council, the appointment of the heads of most of the city executive departments whose establishment has already been noted.

City government, however, continued still to be unsatisfactory. This unsatisfactory charaater was peculiarly marked in the case of the police administration. The conflicts between the various political parties for the control of the national and state governments, whose bitterness was increased by the importance of the great questions of slavery and secession, not at that time solved, resulted in the introduction of a somewhat new principle in the organization of city government in the United States. This principle consisted in the assumption by the state governments of the right to appoint the heads of some of the important municipal executive departments. The first step that was made in this direction was made by the state of New York in 1857. Provision was made by statute for the appointment by the governor of the state, of a police commission for a district of which the city of New York formed the most important part. Some thirty years prior to this action, the British Parliament had adopted a similar measure for the new police force of London which was then established. The legislature of New York subsequently provided similar state commissions for a number of the most important branches of municipal administration, and its action with regard to the police was copied in a number of the states. In these states the movement towards the centralization ot the police administration was accelerated by the temperance movement which was so characteristic of those days. The temperance movement accelerated the tendency towards centralization because of the difficulty of enforcing the temperance laws through the local police, which was experienced in almost all of the states that endeavored by legislation to combat the evils of intemperance.

The result was that about the middle of the nineteenth century the normal type of government in the most important cities of the

United States was one in which most of the municipal powers were exercised by authorities — generally boards — in large degree independent of the control of any municipal authority. For where the charter of the city vested the power of appointing members of these boards in the mayor, it did not as a usual thing give him any arbitrary power of removal. Further, inasmuch as one of the reasons for extablishing this board system, as it came to be called, was the desire to secure a reasonably permanent administration of city affairs, it was commonly provided that the terms of the members of the boards, which as a usual thing were longer than the mayor's term, should not all expire at the same time. The power of appointment which the mayor had under such conditions was practically only the power tö fill the vacancies in the offices of the city which occurred during his term of office.

The board system of municipal government continued without any very great change until 1880. Complaints with regard to city government became frequent, and it was felt by many that the organization provided for by the board system afforded too many opportunities for conflict between the various city authorities, and an attempt was then made to provide a more concentrated system of administration.

The attempt to secure such a concentrated system resulted in a great increase of the power of the mayor. The first important charter to be framed upon this principle was the charter of Brooklyn granted in the year 1882. This gave to the mayor the power of appointing all the heads of the departments within twenty days after he entered upon his term of office, and provided also for the abandonment of the system of boards, which were to be replaced by single commisioners. Since that time the plan of appointment by the mayor of important city officers has been adopted in a number of the larger cities of the country; and by some of the charters a further power of absolute removal of almost all city officers has been conferred upon the mayor. As a result of these changes it may be said that the latest phase of city government in the United States is what may be called the mayor system of city government. This system finds perhaps its clearest expression in the charter given to the city of New York in the year 1901.

The changes in the original system of city government in the United States, which have been outlined, have not, however, been

adopted to the same degree thoughout the country. Indeed, it may be said that there is no prevailing type of municipal organization. On the contrary one can distinguish at the present time three somewhat distinct types of city organization.

In the first place, we find the council type. This resembles most nearly the original municipal organization in which almost all powers were centred in the council — the mayor in such a system, although elected by the people, being little more than the presiding officer of the council. The council type of city government is found very commonly in the smaller cities, and from a geographical point of view is more common perhaps in the West and South than in other parts of the country.

The second type is the board type. The characteristic of this type of government is the parceling out of the various powers of city government among a series of authorities which are independent, not only of any common city authority but also of each other. Although the tendency at the present time is away from this type of government, it has nevertheless been made in large measure the basis of one of the latest general municipal corporation acts which have been adopted, namely, the municipal code of Ohio.

In the third place, we have the mayor type of municipal government. This endeavors to concentrate authority in city affairs in a mayor who is elected by the people of the city. This form of city government is found most commonly in the larger cities of the Eastern States.

It is, however, rather uncommon to find a city which has all the characteristics of one of these types of city government and none of the characteristics of the other two. Thus, for example, the city of New York, which is for the most part an example of the mayor type of city government. has a number of important city officers — for instance, the controller, the chief financial officer — who, like the mayor, are elected by the people of the city. Thus, again, in a number of cities important city, particularly police, officers are appointed by the state government.

Finally, there is apparent a tendency, especially noticeable in the larger cities of the country, towards the development of a board which usually consists of the mayor and the more important city officers and which has important financial and legislative functions,

thus taking to itself those powers which have ordinarily been assigned to the council.

Before closing what is said as to municipal organization it should be noticed that the tendency of all legislation with regard to cities has been in the direction of greater and greater detail. Thus, special charters and general municipal corporation acts regulate much more than formerly the detailed organization of the city government. This matter, under the original charters, was left in the hands of the city authorities to work out. The result of this legislation has been a great diminution of one of the most important powers of municipal authorities, namely, the power to determine their own organization within the limits laid down in the law. The main exception to this tendency is to be found in those states like Missouri, which have accorded to the cities by the state constitution the power to formulate their own charters. The greater detail in the legislation with regard to cities is also seen in the power which the legislature not infrequently exercises in the regulation of matters of a somewhit local character. Thus, for example, the state legislature has frequently passed detailed laws relative to sanitation and buildings instead of leaving these matters to the city legislative authority to regulate.

The result of this tendency towards detailed legislation as to cities has been to diminish the city's capacity for local action whith regard to matters which vitally affect the welfare of the communities over which they are supposed to have jurisdiction. The city of New York has been possibly as great a sufferer in this respect as any of the important cities. Until comparatively recent times there has been no provision in the constitution of the state which has limited the power of the legislature to pass special legislation with regard to city affairs. The people of New York have, however, become so accustomed to having their affairs regulated at the state capital that it seems perfectly normal and proper that the determination of important municipal undertakings should be made by the state rather than by the city government. Thus, for example, the policy of municipalizing the water-front of the city was determined upon by the state legislature and the pursuit of this policy was for a long time carried on under the direction of the state legislature. Thus again, the rapid transit underground railroad, which

has just been completed, was built by a state commission whose original members were appointed by the state government.

At the same time it must be said that even in the case of the city of New York public opinion of very recent years has somewhat changed, and the tendency as exhibited in both the charters of 1897 and 1901 has been more and more to relegate to the city the power of determining what it shall do in the furtherance of its own ideas concerning its welfare.

Chapter V.

The Functions of Cities in the United States.

From what has been said with regard to the position and powers of cities, and the organization with which they have been provided in order that they may discharge the powers which have been granted to them, the impression will undoubtedly have been made, that it is difficult in the United States for cities of their own motion to enter upon a very wide field of municipal activity. This impression is probably a correct one. For many questions of policy which in other systems of government would be determined by local municipal action, must in the United States be determined by the organs of the state rather than by those of the city government. Furthermore, the rather unconcentrated municipal organization which has grown up in many instances in the United States oftentimes makes it difficult for municipal authorities to determine upon a line of action which they are permitted by the existing law to take.

To these difficulties in the way of municipal action is to be added a a third, to which reference has not as yet been made. During the last thirty years there has been evident a tendency to accord to the people of cities a direct participation in the work of city government, through the determination by popular vote as to the expediency of particular municipal action. Sometimes this right is given to the people by specific constitutional provision. Thus, for example, the state constitutions often provide that no debt shall be incurred, or incurred except for specific purposes by cities, unless the proposition to incur it has been submitted to the people of the city and received their approval at a popular election. In other cases, the direct participation of the people in the work of municipal government is

a result of the submission to them by the state legislature of specific propositions. Thus, for example, the building of the underground railroad in the city of New York was not undertaken until the matter had been — in accordance with a specific law on the subject — submitted to a popular vote. Inasmuch as this referendum, it we may so call it, is most commonly provided for the assumption of debts by the city, and inasmuch as the discharge of many important municipal functions is dependent upon the exercise of the borrowing power, the grant of such powers of referendum to the people of the city adds seriously to the difficulties, to which allusion has been made, that are in the way of the enlargement of the sphere of municipal activity.

Nevertheless, it is the case, in spite of all these difficulties, that the sphere of activity of American municipalities is a broad one. As Mr. Zueblin has said[1]: „If we consider the experience of the chief cities of to-day, we can choose from their successful municipal undertakings examples which would enable us to construct a composite city, and, while unsatisfactory as an ultimate goal, it would furnish a convenient working ideal for the contemporary city. If we were even to exclude the richer municipal experience of European cities, we could still construct a high ideal by observing the chief accomplishments of American cities."

This wide sphere of activity into which the cities of the United States are permitted to enter is due, as one would suppose, as much to the action of the legislatures of the various states as to the action of distinctly municipal authorities. For example, from practically 1873 until 1897 the local policy of the city of New York was determined almost entirely by the legislature of the state of New York. Notwithstanding this denial to the city of important rights of local self-government, during that period great progress was made in the extension of the field of municipal activity. Provision was made for the municipalizing of the water-front of the city which, prior to 1870, had practically been in the control of private persons. A new sytem of intra-urban transportation was developed, based upon the elevated railroads and electric surface cars, and reaching its culmination in the underground railroad, to which reference has been made. The pavements of the city were vastly improved —

[1] American Municipal Progress, page 14.

cobble stones and stone pavements generally giving place to asphalt. The park and school systems were enlarged and a new and much more effective system of cleaning the streets was introduced. The examples of the extension of municipal functions and inprovements in municipal conditions, which have been adduced, do not it must be added, by any means exhaust the list of municipal achievements which might be presented.

The functions of American cities, embraced within the sphere of activity open to them, may be classified somewhat as follows: In the first place are to be mentioned the distinctly governmental or sovereign functions. These are sometimes spoken of as police functions and embrace the preservation of the peace and the care of the public health and safety. According to the law of the United States these functions when discharged by the cities are discharged by them as a result, not of any inherent right on their part to discharge them, but because the necessary powers have been granted to the cities by the state. The state government is, therefore, even under the recent constitutional limitations upon state power, at liberty to resume the exercise of these powers itself, and thereby deprive the city of the right to take any action in these directions. As a general thing, however, the care of the preservation of the peace is left by the law of the United States in practically the uncontrolled management of the cities. There are of course instances where this matter has been taken by the state government into its own hands. Most notable instances of such action are to be found in Boston and St. Louis, where the legislature of the state has provided for a state appointed police authority. A state, in which the state appointment of the police authorities in the cities is the rule, is Indiana.

Whatever may be the rule with regard to the appointment of municipal police authorities, the organization and the powers of the various police forces are in practically all instances about the same. The organization of city police forces in the United States, as in most other countries, is modeled on the system introduced into London by Sir Robert Peel in 1829.

„In very small cities the only division of labor is that between the heads of the force and the small body of privates or patrolmen; but when the force is somewhat larger, it is usually organized after the model of a military company. In the first rank above the patrolmen are certain officers, called in America roundsmen or

sergeants, who make periodic tours of the city to make sure that the patrolmen are at their posts. Above these is a lieutenant or sergeant, stationed at headquarters, over whom is the captain or chief. For the larger cities this organization becomes a unit in a more complex system. The city is divided into a number of police districts, or precincts, each of which has a station and a detachment of men organized in a way similar to that just described, while above the various precinct captains is the chief of police for the entire city. In the great cities the precincts are organized in groups, each group having at its head an officer intermediate between the chief and the captains [1]."

The duties of the police in the United States are primarily to preserve order, and to arrest persons who are accused of some criminal act. The police officers further „regulate street traffic, so as to prevent blockades and permit foot passengers to cross the streets in safety; they keep in order, and within proper limits, the crowds which gather at fires and processions, and on other occasions; they perform a sort of ambulance work in cases of street accidents, illness and drunkenness; they pick up and restore lost and runaway children; and they attempt to keep disorderly women from soliciting on the streets [2]."

Different from the police forces of continental Europe, the American police forces exercise practically no house to house supervision over the inhabitants of the city and over those temporarily sojourning therein; though of recent years the attempt has been made by the police to exercise a certain supervision over the criminal classes. Inasmuch, however, as the care of the police forces so largely rests on the municipalities, the state governments exercising no powers with regard to them, there is no official attempt made to centralize the information with regard to the criminals thoughout the country. A bureau of identification of criminals, maintained by voluntary contributions from the principal cities, is however now in existence in Washington.

Sometimes the licensing of occupations, which are regarded as dangerous to the public safety or the welfare of the community, is given to the police authority, although in other cases the licensing

[1] Fairlie, Municipal Administration, page 136.
[2] Ibid, page 145.

authorities are separate therefrom. In all cases, however, the police forces have to enforce the laws which have been passed in the interest of the public safety or public morality. „Usually the police do not attempt to enforce the law rigidly, but establish extra-legal restrictions; and in some western cities in the United States there is a well-defined system of montly fines, which, in practice, operates as a licensing system. In particular cases it is freely charged that the police are corrupt and, for a due consideration, allow an almost unrestrained violation of the law[1]." What is said here is said particularly with regard to the law prohibiting traffic on Sunday, but it is probably applicable to most of the laws passed in the interest of morality whose enforcement is entrusted to the police.

Closely connected with the subject of the preservation of public order are the minor judicial functions which are discharged within the limits of the city. In the United States, different from some Eurepean countries, the police judges are not a part of the police force but form an official body absolutely separate therefrom. As a general thing, notwithstanding the general transfer of judical functions from the city to the state, these police judicial officers may be regarded as municipal officers. They are sometimes elected by the people of the city. They are sometimes appointed by some municipal authority, usually the mayor or the council; while in rare instances — particularly throughout the New England States — they are appointed by some state authority, either the state legislature or the state governor. There can be little doubt that state apointment has been more successful in bringing about a responsible and efficient administration of police justice than popular election. There can also be little doubt that popular election has in some instances produced minor judicial officers of such character and attainments as to constitute a reproach to the cities in which they were to be found.

Besides the preservation of the peace, the police power includes the power to protect the public safety and public health. The most important functions which are discharged by the cities in the United States in the interest of the public safety are those which are undertaken in order to provide against the breaking out of fires and to secure their extinguishment. As a general thing, there is formed for the discharge of these functions either a separate department

[1] Ibid, p. 147.

known as the fire department, or a bureau in the office of the officer, called the director of public safety, who has charge both of the police force and the fire department. Generally, where the fire department is separated from the police forces, it is in charge of an authority appointed in some way by the people of the city. It is very rarely the case that the state government attempts to appoint the head of the fire department. This, however, sometimes is the case where the fire department is united with the police department.

The following quotation from Dr. Fairlie's work on Municipal Administration gives a good idea of the conditions of the fire departments in the cities of the United States:

„The greatest development of municipal fire brigades is found in the United States. In organization, in apparatus, in efficiency, and also in expense, the American fire departments are far beyond those of any other country. The widest variations in organization and equipment necessarily exist. For cities with less than 8000 population volunteer companies are almost universal. In cities with a population between 8000 and 30 000, the prevalent system is a small body of men employed constantly, with a large number of call-men[1]; but there are still cities of this size with volunteer companies only, and there are also a number (84) whose entire force are regular fulltime men. In cities with over 30 000 population, volunteer companies are only occasionaly (in 10 cases out of 129) found to be an important element. In the states west of the Alleghenies, most cities with more than 30 000 inhabitants have the entire fire brigade composed of regular firemen; but in the eastern cities, having a population less than 100 000, call-men as a general rule form an important part of the forces. Only 7 of 129 cities with over 30 000 population have no steam fire-engines; and in all these cities the water-works are operated on the Holly system, whereby the pumps of the water-works furnish sufficient pressure for the use of firemen[2]."

While the fire department, in addition to its duties of extinguishing fires, often has a general supervision of all buildings from the point of view of their liability to catch on fire and a particular supervision

[1] That is men who though engaged in other occupations will respond to an alarm of fire.

[2] Page 154.

over certain buildings, like theatres, where fires are particularly dangerous, the general building police is often vested in a separate department or bureau known as the building department. The head of this department, as a general thing, is appointed by some other municipal authority and has charge of the enforcement of the numerous regulations passed in the interest of public safety, by either the state legislature or by the legislative department of the particular city. It is ordinarily provided in the building regulations that no buildings shall be constructed whose plans have not been submitted to and approved by the building department.

Finally, the cities of the United States discharge very commonly extensive functions in the interest of the public health. The care of the public health, like the care of the preservation of the peace, is, according to the theory of the American law, a function of the state government whose exercise is, however, commonly delegated to locally selected municipal authorities. These authorities are often, on this account, subjected in the more progressive states to the control of a state board of health. Their duties sometimes include the adoption of regulations which are intended to protect the public health, although in many instances such regulations are passed by the legislative department of the city government. But whether they have a legislative power or not, they are to enforce the sanitary laws of the state and the local health ordinances by whatever authority they may be passed. Under the American law, the municipal health authorities have very wide powers. In the case of the existence of a nuisance — and a nuisance is a condition of things which the courts have held to be prejudicial to the public health or a condition of things which exists in violation of the law of the state or of a local ordinance — they have the right summarily to abate it, that is, they have the right, without going to any court or other authority, to remove the conditions which constitute the nuisance, the expense of their action often being paid by those maintaining the nuisance. Furthermore, they have the right in the case of contagious disease to quarantine and isolate those infected with such disease, and in some instances the courts have recognized that they may remove a person infected with such disease, whose presence is regarded as dangerous to the community, to a contagious diseases hospital. While compulsory vaccination has not commonly been adopted throughout the United States, and while it has been held by the

courts that unless the state law provides directly for such vaccination, it may not be insisted upon by health officers; at the same time in many instances by the exercise of their powers of moral persuasion they are successful in securing the vaccination of large numbers of people. In the case of the city of New York, the board of health has included in its functions the manufacture of vaccine virus and antitoxins, which it places upon the market for sale. It may be added in this connection that these products have such a reputation, that many people prefer to make use of them to making use of the products manufactured by private individuals. Finally, the officers of the city health departments have very large powers in the inspection of food products. In almost all the larger cities, their power to inspect milk is held to include the power to refuse the right sell milk within the city limits to milk dealers, who have not permitted the department to inspect their herds of cattle even though these animals are to be found outside of the city.

The second class of functions discharged by American cities may be included within the general term of the disposal of waste. Many of the functions whose discharge is involved in the disposal of waste have a close connection with the preservation of the public health. Therefore in the smaller cities, whose administration has, on account of their size, not attained a great complexity, some of these functions are often regarded as among the functions of the health department. But in the case of the larger cities these matters are frequently put into the hands of separate departments of the city government. The functions connected with the disposal of waste may be grouped under the heads of sewerage, street cleaning and garbage disposal.

The extent of the functions discharged by any city with regard to sewerage must of necessity depend largely upon the geographical situation of the city. Thus, in the city of New York, we find the sewerage problem a comparatively simple one, because the city is situated upon either the shore of the ocean or the banks of tidal rivers. All that the city needs to do under these conditions is to construct conduits by means of which sewage is conveyed to the rivers where it is swept out into the ocean by the outgoing tide. The rise and fall of the tide about the city of New York make the problem of cleansing the sewers also a simple one. For the tide rises sufficiently to flush a large portion of the sewer system. In

the case of inland cities, however, such for example as Chicago, the sewerage problem has been one difficult of solution. Quite recently it has been solved in Chicago by the building of an enormous drainage canal which is kept clean by the inrush of the waters of Lake Michigan. The sewage collected in the city of Chicago is carried out through this canal finally into the Mississippi River, where it is believed it does no harm because of the ample opportunities afforded en route for its oxidization. In other cases, however, it becomes necessary for cities to provide more complicated means of sewage disposal. There are a few cities in the United States, for example, which have sewage farms.

While in the matter of sewerage it is rarely the case that any reliance is placed upon private initiative in the United States, when we come to the consideration of the methods of disposing of other kinds of city waste, we find it quite frequently the case that the city acts not by means of direct administration, but by means of the exercise of its contractual powers. Thus, particularly in the case of the smaller cities of the country, the streets are swept by some private corporation or individual with whom a contract for sweeping is made. What is true of street sweeping is also true of the collection of garbage. In the larger cities, however, a special executive department of the city government is often provided for the sweeping of the streets and the collection of garbage and ashes. Probably the most highly developed department of this kind is to be found in the city of New York, where there is a street sweeping force organized somewhat after the manner of the police force. Under the administration of Colonel Waring — to whose ability and energy the high degree of perfection to be found in the department is largely due — and that of the succeeding incumbents, serious attempts have been made to make the disposal of the waste a source of profit to the city. This policy has been carried out by insisting upon separating ashes and street sweepings from garbage. After such separation the garbage is taken to a rendering plant in the outskirts of the city and is there changed into salable products. From the ashes and street sweepings the department has, under the direction of its head been able to reclaim and fill up over sixty acres of land on the water-front of the city, which are estimated to be worth at least $ 10 000 per acre. From the combustible matter collected the attempt has quite recently been

made to generate electrical power which is used to light certain of the public buildings. Further development along this line may be expected.

The third class of functions discharged by the cities of the United States may be grouped under the head of transportation and communication. The functions of this character, which the cities discharge, consist in the establishment and maintenance of streets, and in either the maintenance or the regulation of undertakings for the direct transportation of passengers and goods from one part of the city to another.

The legal conception of a city street is a modification of the conception of a highway. A highway, according to the law, consists of a right vested in the public of passing over land the ownership of which is in the owners of the property abutting upon that land over which the right of passage has been secured. The city street, while consisting of the same right of passage vested in the public, also embraces what are known as urban servitudes. These urban servitudes consist of the right to place street railway tracks upon the street and water, gas, and other conduits below the surface of the street. But while the city street thus differs from the rural highway in the extent of the uses to which it may be put, the city street, like the rural highway, is regarded as in the ownership of the people of the state rather than in the people of the city. The whole power of regulating city streets, therefore, is, in the absence of some provision in the state constitution vesting the cities with the power, in the hands of the state legislature.

This legal conception of the city street has had far-reaching consequences upon the functions discharged by the cities relative to the subject of urban transportation. For, because of it, it has been impossible for the cities in this country to regulate urban transportation unless the state legislature has seen fit to delegate to them the necessary powers. The result, was, in the early history of the country, that private corporations were able to use the influence which they could exercise over the state legislatures to have granted to them in perpetuity the right to lay tracks upon the surface of the streets, and gas, water, and other conduits under the surface of the streets, and, in some instances, without giving any compensation whatever to the cities. Furthermore, owing to their inability in the absence of legislative provision to make any

disposition of the streets as well as to the limited character of their powers, to which allusion has been made, the cities were absolutely unable to make urban transportation a matter of direct municipal administration.

The only exception to this statement which may be made is to be found in the etablishment and maintenance of the streets themselves. Streets have been, as a rule constructed and maintained by the regular municipal authorities. In their management of city streets, as well as in their management of public works generally, the cities in the United States have, as a rule, discharged their functions through the making of contracts with private individuals and corporations. It is very seldom the case in the United States that, apart from the current repairs of public buildings and public works, the cities have adopted a policy of direct administration. Most of the public works and buildings have been constructed by contractors, to whom contracts have been let by the city authorities, in accordance with pretty rigid and detailed provisions of law regarding the publication of specifications and the award of the contracts made to the lowest bidders.

In the case of what are known in the United States as street franchises the cities have, in most cases, pursued a similar policy. That is, where they have been permitted by the legislature to act, they have granted to private corporations the right to make use of either the surface or the sub-surface of the streets for the laying of tracks or other conduits necessary to the exercise of the powers granted. Within the last thirty years the tendency, certainly in the case of street railways, has been to recognize a certain right of property in the streets as belonging to the cities. The result has been the adoption of constitutional provisions which have prevented the state legislatures from granting a right to lay tracks upon the streets without obtaining the consent of the city having care of such streets. It has also usually been held by the courts that, in granting this consent, the city has the right to impose conditions, and that among these conditions may be the obligation imposed upon the company, obtaining the franchise, to pay over to the city a certain percentage of its receipts. Therefore at the present time cities are, in many instances, obtaining considerable revenue from the corporations to which the right of making use of the streets

has thus been granted, although it is rare for them to operate all these undertakings directly.

The only marked exception to the statement which has been made, as to the policy of the cities towards this matter of street franchises, is to be found in the case of water franchises. In 1896 in the United States, 1690 out of a total of 3196 water works were owned and operated by municipal corporations. The proportion of public water works has further been almost steadily increasing. Thus, of the 3196 water works in the United States, 205 which were once in private hands have been taken over by the local corporations, while only 20 which were once in the hands of the local corporations have been given over to private companies[1].

There are at the present time a number of instances of municipal electric light works. In 1898 out of a total of 3046 electric light works, 468 were municipal and 2578 were private. But municipal gas works are almost unknown[2].

Finally, it is to be noticed that whatever has been the policy in the past, there is a marked tendency at the present time towards the extension of the policy of municipal activity in these directions. The most notable instance of the prevailing public opinion at the present time is to be seen in the recent vote of the city of Chicago to municipalize the street railways. This incident in the history of Chicago is not only remarkable as indicating the trend of public opinion in the United States but is also a good instance of the difficulties which the cities of the country meet in their attempts to extend the sphere of municipal activity. Notwithstanding the enormous vote in Chicago in favor of the municipalization of street railways, the city seems to be far from the desired end. This is in large part due to the meagreness of the city's financial resources. Like most cities in the United States, the capacity of the city of Chicago to incur indebtedness is limited by the constitution of the state. The limit in the case of cities in the state of Illinois is five per cent of the assessed value of property for the purpose of taxation. The tax upon which such assessment is based is a tax upon the principal invested in the property and not upon its income.

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[1] Bemis, Municipal Monopolies, pages 24—26.

[2] Fairlie, Municipal Administration, p. 286, citing Report of Commissioner of Labor 1899.

But, owing to conditions which are perhaps peculiar to Chicago, this principal as assessed is little if any more than twenty-five per cent of the actual value of the property. The result is that the legal ability of the city of Chicago to borrow money is seriously limited, and that unless some change can be made in the city's power to incur debt, or some new method of municipal finance be adopted, it will be difficult, if not impossible, for the city of Chicago ever to enter upon an extensive policy of municipalization.

Another instance of the tendency towards municipal ownership of urban transportation facilities is to be found in the underground railway recently opened in the city of New York. As a result of special legislation passed by the legislature of the state of New York, the city was authorized to enter into a contract which in some respects is rather remarkable in the United States. By the terms of this contract the city was to build and pay for the underground railway by the issue of bonds. It was, however, provided in the act that the city should offer the franchise of operating the railway to the person or persons who whould contract to build it for the smallest sum and who, in addition to building the road, would contract to pay over to the city a rental amounting to five per cent per annum of the amount which the city should spend in the building of the road. The grantee of the franchise was to have the privilege of operating the railroad during a period of fifty years. The purpose of the legislature in providing such an arrangement was to secure to the city at the expiration of the franchise period the completed railroad, the expense of which, both principal and interest, should have been paid out of the rentals paid to the city during the fifty year period by the corporation obtaining the franchise.

The fourth class of functions discharged by cities in the United States may be grouped under the head of the improvement of the physical and intellectual conditions of the city population. The particular branches of administration, which are established for the purpose of discharging these functions, are the charities administration, the school administration, and its various branches.

In the early history of American cities the charities administration does not seem to have assumed any importance. In imitation of the English system, the administration of charities was left very largely to the ecclesiastical organizations. But, with the complete

separation of Church and State which has been characteristic of American life, it became necessary for the state government to take up the matter in either its central or its local organization. As a general thing, the matter was not taken up seriously by the state in its central organization, but was left either to the county or the town. Where the method of county management of the poor has been adopted, the cities have little if anything to do in the matter unless the city has grown so large as to have assumed the functions of a county. Where, on the other hand, the town is made the important unit of local administration and is given among other things the charge of the poor, the city, as the heir of the town in which it grew up, has very generally the charge of the poor. This is very commonly the case in the cities throughout the northeastern states of the United States.

Whatever may be the determination in this respect, the cities have, in addition to the care of the poor, often developed, sometimes in close connection with the charities department, a hospital system which has charge of cases of temporary sickness. Where the city has no such hospital system, it often grants pecuniary aid to private hospitals which care for the sick and poor. In connection with both the private and the public hospitals there is often an ambulance service which is made use of in case of accidents. In some instances as, for example, in the city of New York, the general policy of the city, as fixed perhaps by the general policy of the state, has been to deny charitable relief to all able-bodied paupers, and to confine its acts of charity to those who are permanently disabled, either from sickness or from old age, and who have a poor-law settlement in the city. It is often the case that those poor persons who have no local settlement are suported by the state or county which also has charge of certain specific classes of poor persons such as the insane poor. Where the city confines its charitable relief to the sick and disabled poor, the able-bodied poor are treated as among the criminal or semi-criminal classes, and are attended to by the organization provided for the administration of correction. As a general thing the administration of correction in the United States is not a city affair. It is, generally speaking under the control of the city only where the city has assumed the discharge of administrative functions which normally belong to the county. And in these cases the correctional activity of the city only extends to minor offences —

the more serious offences having been taken by the state into its own administration.

Where the cities are discharging functions of a charitable or correctional character, they are frequently, contrary to the general principles of administrative decentralization which are so commonly applied in the United States, subject to an administrative control exercised by some state board, usually called the state board of charities. The central administrative control exercised over these branches of municipal activity is particularly marked in the state of New York.

Another important function of city administration which requires treatment here is to be found in the schools. Whatever may be the extent of municipal activity in other directions, it is universally the case that the school administration is from almost all points of view one of the most important branches of work which the city in the United States is called upon to perform. The extent of educational work which cities do varies naturally a good deal. Very generally throughout the western states there is a public educational system, based upon the primary schools which are to be found in both the urban and rural districts, and finding its apex in a state university maintained by state funds and controlled by the state government. Where this is the case, the burden of educating the youth of the state in all but the superior branches is imposed by law upon the city or assumed by it as the result of its own initiative. In these instances, the education given by the cities consists of what is known as primary, grammar school, and high school education, and is so arranged that those who pass through the high school are supposedly prepared to enter the state university. In other states, particularly throughout the south, the cities do not in all cases pretend to give to the youth such education as will enable them without further preparation to enter the college or university, but confine their educational efforts to the maintenance of primary and grammar schools. Finally, there are a few instances of the maintenance by cities of institutions of superior instruction. Thus, for example the city of New York maintains a college for young men and what is known as a normal college for young women.

In addition to maintaining schools, many cities of the United States maintain public circulating libraries and in some instances museums. This is particularly the case in the City of New York,

where there are a large public library, museums of art and natural history, a botanical garden, and a zoological park, maintained in large part from city funds. New York is, however, a marked exception to the conditions usually existing in the urban communities of the country.

The state governments generally throughout the United States have regarded the education of the youth as a function which of right belongs to the central government of the state, and which, therefore, if delegated to cities and other local corporations, should remain subject to state control. The result is that a control of an administrative character similar to that exercised over municipal charitable and correctional authorities is exercised by a state superintendent of common schools or a state board of education over municipal school authorities. Indeed, the control which the state exercises over this branch of municipal administration is much more extensive and highly developed than that exercised by it over any other branch of city activity.

Before closing what is said with regard to the functions of United States cities, mention should be made of the policy which they have adopted with regard to public parks and playgrounds, cemeteries, docks, and markets.

As a general thing the American city of any size has a park, or parks, under its administration. Thus, all but two of the cities having over 100 000 inhabitants have a reasonably complete park system; while most of the cities of over 40 000 inhabitants either have parks or have shown their indication of an intention to establish parks by acquiring land for the purpose. The first city in the United States to take up the establishment and maintenance, as a part of its municipal functions, of a system of parks was the city of New York, which about the middle of the nineteenth century made provision for the park known as Central Park. Since that time the city of New York has acquired large park areas aggregating in all about 7000 acres. With the exception of such parks as Central Park in the borough of Manhattan and Prospect Park in the borough of Brooklyn and the smaller parks and play grounds in the more densely populated portions of the city, the parks in the city of New York are to be found in the outskirts of the municipal district. New York is not only the city which has the most exten-

sive park system, but it is also the city which has devoted the most attention to the establishment of small parks or playgrounds in the most thickly populated districts. In close connection with this latter class of parks are what are known as recreation-piers, which the city has been able to establish upon the water-front which it owns.

As a general thing the parks in the cities in the United States are under the jurisdiction of a distinct municipal executive department, the head of which is appointed by the mayor of the city or elected by the people thereof. In some instances, however, as, for example, in Chicago, the parks are under the control of a state rather than a municipal authority. Finally, in many of the American cities there are parks maintained in some instances by street car lines which serve the purpose for which public parks are established.

The activity of the cities of the United States in the matter of docks is not a large one. The city of New York is almost the only city which has an extensive system of municipal docks under the control of a municipal authority. In a number of cities, however, the matter of dock and harbor facilities is regarded as a function of state rather than city government, and the public docks which have been provided are under the control of a state board. Such is the case in San Francisco and Boston.

Few cities of the United States have important functions to discharge with regard to markets or cemeteries. The latter are, as a rule, under the control of private corporations with which the city enters into arrangements for the burial of the poor. The market system of American cities is also an unimportant one. There are, however, a few of the cities which have either public market places or market buildings. The most important market buildings are those belonging to the city of New York, which receives a gross revenue from its markets of about $ 450 000 per annum. It is said that no city in the United States has a municipal abattoir.

Other functions of municipal government, such as insurance, loan offices, and public baths — most of which are often within the jurisdiction of European cities — receive no attention whatever from the cities of the United States. The only important exception to this statement that is to be made is in the case of public baths. A few cities in the United States — notable among which is the city of New York — have provided such institutions.

It is remarkable in view of the narrow legal powers of the cities in the United States, that the actual sphere of municipal activity of many of the cities is as broad as it is. Indeed, it may be said that in the case of the City of New York, for example, the centralization of power in the state legislature, to which attention has been called, does not seem to have been a very serious hindrance to the extension of the field of municipal activity. New York has probably been as subject to the control of the state legislature as any other city in the United States, and yet it would be difficult to point to any city in the United States whose field of activity is as broad as is that of New York.

The experience of the city of New York, however remarkable it may appear at first sight, is, however, a perfectly natural one, and may well be taken as an augury of the position which most cities in the United States will occupy in the future.

The general position of cities in the United States is probably due to the laisser faire policy, which has been so characteristic of American governmental policy. This policy was adopted as a result of the unfortunate experiences through which many of the states of the United States passed in the early part of the nineteenth century. The improvement of the various means of communication through the construction of canals and railways brought about at first a great extension of the field of governmental activity. But for one reason or another the states were almost universally unsuccessful in their attempts to manage these undertakings, and the people of the United States became convinced that industrial and commercial undertakings were not a proper field for the government to cultivate. The result was in many instances the adoption of constitutional provisions which prevented the state governments from entering upon such undertakings, and the adoption of the policy which was expressed in these provisions had the effect of limiting not merely state but as well municipal activity.

Of recent years, however, with the development of more complex social conditions, it has been seen that in particular instances of which the City of New York is a marked example, a proper recognition of the public welfare makes absolutely necessary the exercise of greater municipal powers. The result has been that, while the general theory of government may not have been changed, at the

same time the theory has been abandoned in those peculiar conditions where it was seen to be inapplicable. It may be expected, therefore, as American social conditions generally become more complex, as they are rapidly becoming, that greater and greater inroads upon the general theory will be made and that the sphere of municipal activity will be correspondingly widened.

The Government of Great American Cities.

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I. Introductory Statement.

A study of municipal government in the large cities of the United States is of unusual importance for the reason that here for the first time in the history of the world the principles of political democracy, based upon universal manhood suffrage, have been applied on a large scale to the solution of the intricate problems of city administration in the midst of rapidly changing social and industrial conditions.

At the time of the last federal census, taken in 1900, there were 3 cities in the United States with more than 1,000,000 inhabitants each; 3 other cities with upwards of 500,000 each; 5 others with more than 300,000 each and 27 others with more than 100,000 each. The aggregate population of these 38 large cities was 14,208,347, or 18.7 per cent of the total population of the country. During the past seven years, in a period of unexampled prosperity and industrial expansion, the growth of the great cities of the United States has gone on at a rapid rate, although the exact amount of increase during the present decade will not be revealed until the next federal census is taken in 1910.

As an illustration of the tremendous growth of great cities in America, New York, which in 1900 had a population of 3,437,202, thirty years earlier, in 1870, had a population of less than 1,000,000 within its corporate limits. Chicago, with a population of approximately 1,700,000 in 1900, was a city of only 300,000 inhabitants thirty years earlier and of only 30,000 inhabitants twenty years before that. The growth of Philadelphia, which had a population of about 1,300,000 in 1900, has not been quite so phenomenal. In 1870 its population was 674,000, while in 1850 it had only 121,000 inhabitants within its corporate limits. The rates of increase among the other large cities have shown similar variations. While in 1890

there were 38 cities, all told, having a population of more than 100,000, in 1870 there were only 14 cities in this class and in 1850 only 6.

The following table will show the growth of the 10 cities selected for discussion in this monograph. The figures for New York and Washington for 1800, 1820, 1840, 1860 and 1880 refer as nearly as could be ascertained to the territory included within the present city limits.

Population of ten American Cities at different periods.

	1800	1820	1840	1860	1880	1900
New York	63 787	130 881	348 943	1 092 791	1 911 698	3 437 202
Chicago	—	—	4 853	109 260	503 185	1 698 575
Philadelphia	69 403	112 772	220 423	565 529	847 170	1 293 697
St. Louis	—	4 598	16 469	160 773	350 518	575 238
Boston	24 937	43 298	93 383	177 840	362 839	560 892
Baltimore	26 114	62 738	102 313	212 418	332 313	508 957
Cleveland	—	—	6 071	43 417	160 146	381 768
San Francisco	—	—	—	56 802	233 959	342 787
New Orleans	—	27 176	102 193	168 675	216 090	287 104
Washington	8 144	23 333	43 712	75 080	177 624	278 718

In any discussion of the problems of municipal government in the United States it is necessary to bear in mind the general scheme of government which has been adopted in this country. In the first place the federal government is a government of enumerated and delegated powers described in the federal constitution. The federal government has no authority over cities as such except in the single case of the City of Washington, which is for administrative purposes co-terminous with the federal District of Columbia. The United States is composed of 46 separate commonwealths to which are reserved under the federal constitution all sovereign powers not delegated to the federal government or expressly prohibited to the states. Accordingly, just as is the case in the German Empire, municipal law and municipal administration are taken care of by each commonwealth in its own way. There is a certain degree of uniformity, however, owing to the fact that every commonwealth has a written constitution and a republican form of government. The general rule in American law is to regard the municipal corporation as the creature of the state legislature. "In the absence of a constitutional restriction," says Prof. Frank J. Goodnow, one of the most eminent American authorities on administrative law,

"the legislature of the state may do as it will with cities within its jurisdiction. The charters of the cities are at the present time regarded as mere statutes, which, in the absence of a constitutional limitation of the powers of the legislature, are subject to amendment by that body at any time."

"The position ef the city in American jurisprudence," says Dr. Milo Roy Maltbie, another eminent student of American administration, "is theoretically one of complete dependence upon the will of the state legislature, except so far as municipal rights may be guaranteed either by the constitution of the state or by that of the United States. Barring express prohibition in one of these instruments the legislature may extend or contract the boundaries of the city at will; may restrict or expand its functions; may create or annihilate."

And still another eminent authority, Mr. John F. Dillon, in his monumental treatise, the "Law of Municipal Corporations," says: "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. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied. Of every municipal corporation the charter or statute by which it is created is its organic act. Neither the corporation nor its officers can do any act, or make any contract, or incur any liability, not authorized thereby, or by some legislative act applicable thereto. All acts beyond the scope of all powers granted are void. Much less can any power be exercised, or any act done, which is forbidden by charter or statute."

Constitutional Limitations.

There being no provisions in the federal constitution directly relating to city government, the only substantial limitations to the theory enunciated by the authorities just quoted must be found in the several commonwealth constitutions. Of the 38 American cities having a population of more than 100,000 each, one is the City of Washington coming under the direct control of the federal congress.

The remaining 37 fall under the jurisdictions of 19 separate commonwealths. In only a few instances do the commonwealth constitutions contain specific provisions relating to the government of individual cities. During the last fifty years, however, there has been a growing tendency in the framing of new commonwealth constitutions and in the amendment and revision of old ones, to give municipal government a constitutional status and in this way restrict the theretofore unlimited power of the state legislatures over the cities. These constitutional provisions have taken many forms.

The most radical are found in only half a dozen states, where the right is guaranteed, either to all cities or to all cities of more than a certain population, to frame their own charters and describe their own corporate powers subject to varying limitations.

Among the important provisions relating to municipal government found in one or more of the state constitutions are the following:

1. Forbidding the legislature to incorporate or organize cities except by general laws or to amend the charters of cities by special laws. Provisions of this general nature are found in the constitutions of about one-half of the commonwealths.

2. Forbidding the legislature to incorporate cities without the consent of the majority of the people.

3. Limiting the power of the legislature to classify cities for the purpose of general legislation. In some of the commonwealths where the legislature is forbidden by the constitution to provide for city government except by general laws, this restriction has been evaded by a system of minute classification so that each of the important cities would be placed in a population-class by itself. The result has been that much legislation governing cities, though general in form, has been special and particular in effect. In those commonwealths where an effort has been made to make this evasion impossible, the number of classes into which cities may be divided ranges from 3 to 6.

4. Forbidding the legislature to lay out, alter or vacate streets and alleys by special law.

5. Forbidding the legislature to impose taxes upon cities for local purposes, or to tax the corporate property of cities for state purposes, or to release any person from his obligations to a city, or to lend to the city the credit of the state, or to assume, on behalf of the state, any municipal debt, or to permit cities to lend

their credit or grant public money in aid of individual enterprises, or to permit cities to become stock holders in private corporations.

6. Limiting the power of the legislature over cities by requiring that in all cases certain officers or a certain general framework of city government mentioned in the constitution itself shall be provided in all general or special municipal charters.

7. Providing that certain municipal offices must be filled by popular election, or limiting the terms of office to be established by the state legislature for municipal officers, or forbidding the legislature to increase or diminish the salaries or compensation of municipal officers during the terms for which they were elected or appointed.

8. Limiting the amount of debt which municipal corporations may incur, or requiring that no municipal debt shall be created except when authorized by vote of the people, or limiting the rate of taxation which may be levied by municipal authorities. These general financial limitations upon cities, when they are made a part of the constitution of a commonwealth, indirectly limit the power of the legislature either to grant or to restrict the financial powers of municipal corporations otherwise than as provided in the constitution. So far as the creation of debt is concerned, the most common form of limitation restricts the amount of debt that may be incurred to a certain per cent of the assessed valuation of taxable property within the city. It should be noted that the general rule in American cities is to levy a tax against all property, including land, buildings and chattels. This is called the "general property tax". This may be regarded as the fundamental source from which municipal revenue in the United States is derived. Most American cities, however, supplement the general property tax with revenues from liquor licenses, franchise taxes and various other sources. In all cases, however, where the debt-creating power of the municipality is limited, the assessed valuation of property for purposes of taxation is made the basis of the debt limit. The limitation, where it exists, ranges from 1—1/2 per cent to 10 per cent. It often happens, however, owing to abuses in the American system of assessment for taxing purposes, that property in one city may be assessed at its full market value, while in another city the assessed valuation may represent only 2/3, 1/2 or even 20 percent of the market value. In practical operation, therefore, a 2 per cent debt limit upon a

full valuation of property would be the same as a 10 per cent debt limit on a valuation of property at one-fifth of its real value.

A great many other specific restrictions affecting municipal government are found in one or more of the 46 commonwealth constitutions. Those cited above, however, are the provisions found in the largest number of states. Specific provisions of importance will be discussed in connection with the government of each of the cities treated in this monograph.

In spite of the constitutional provisions already referred to, numerous in the aggregate, the fact remains that in American commonwealths generally, the state legislature maintains an almost unlimited control over municipal law. In the United States the theory of local self-government is very strongly established. This theory, however, does not, ordinarily, extend to the enactment of local legislation by the people of the localities, but mainly to the administration of the laws, both state and local, by officials locally elected or appointed. In other words the American theory of local self-government is not that of local lawmaking, but rather that of local self-administration.

Control Exercised by State authorities.

In recent years the utter inefficiency of legislative control has made necessary the gradual increase of central administrative control in many of the American commonwealths. The American city is not only a local institution for the expression of the will of the people with reference to local needs; it is also an agent of the state for the enforcement of general laws and the performance of many state functions within the locality. In American administrative law the police function and the protection of health are considered to be state functions, though in most cases they are performed by local authorities locally appointed or elected. In a number of cases, however, the central governments of the commonwealths have been authorized to appoint local officials for the performance of these functions, and to a certain extent the local department of charities and the local department of education have been brought under the limited supervision of the central administration. The principle of central administrative control is steadily gaining ground. In Massachusetts and New York it has been extended to cover the administra-

tion of the civil service rules for the examination and appointment of minor city officials and employes. In New York it has also been extended to include the direct administration of the excise law by enterally appointed authorities. In both Massachusetts and New York State-appointed commissions have been established to exercise an immediate control over local public utilities. So while this principle of central administrative control is by no means generally accepted in American theory and practice, the very necessities of efficiency in administration are compelling its gradual adoption in the more progressive commonwealths.

In considering American municipal government, especially in its relation to the central authorities of the state, it is necessary for us to keep in mind the original subdivisions of a commonwealth for the purposes of administration. The city as a specially congested center of wealth and population has very greatly increased in relative importance in the American scheme of government during the past one hundred years. Originally each commonwealth was divided into counties and these were divided into towns, townships or parishes for the purposes of strictly local self-government. The counties were primarily local divisions for the administration of general state laws and the performance of general state functions. The towns or townships were primarily neighborhood units for the expression of the will of the people in regard to strictly local matters, although to a certain extent the administration of the laws and functions of the state was parcelled out even to these small subdivisions. The growth of the city has in a measure confounded this simple scheme of division and subdivison. The city in its growth is no respecter of the more or less arbitrary lines of division which separate towns and counties. The result has been either that the city government has been developed alongside and independent of the county and township government in the same territory or else that the latter has been completely absorbed in the former. In some cases where local divisions have maintained their identity through several decades of urban growth the confusion of authorities has been appalling and has resulted in inefficient, extravagant and conflicting administration. This tendency has been most markedly illustrated in the history of Chicago, where the old towns persisted as independent forms of government until the city had nearly two millions of population. In most American cities, even the greatest, county government

continues to exist side by side with the city government and independent of it. In a few instances, however, notably Philadelphia, St. Louis, San Francisco and Denver, the boundaries of the city and county have been made coterminous, and the functions of the county government have been absorbed by officials of the municipal corporation. In such cases the relation of the city to the state administration necessarily becomes more intimate than where city and county continue as separate governmental organizations, as the county functions are in most cases regarded as state rather than local functions.

The importance of municipal government in the United States is perhaps more clearly appreciated when we realize the enormous sums of money which are raised by municipal taxation and spent by cities for public purposes. The cities of the United States having over one hundred thousand population receive from their citizens and the various property interests within their jurisdiction nearly five hundred million dollars every year. The total debt of these cities for municipal purposes is almost twice that amount, that is to say, is approximately one billion dollars. There are many commonwealths in which the receipts and expenditures of a single city for local purposes are greater than the total receipts and expenditures of the state for its central government. When we realize that these great cities contain approximately one-fifth of the total population of the country, spending in the aggregate more than half as much as the national government and having a debt about equal to the national funded debt, operating among different jurisdictions, but everywhere controlled by an electorate based upon universal manhood suffrage and bringing into civic co-operation men from the four corners of the earth of all races and religions, it is apparent that we are considering phenomena of stupendous importance and thrilling interest. Almost every American city is a world-city, with the processes of race assimilation going on under democratic conditions.

In spite of the various jurisdictions under which American cities perform their functions, there are certain general characteristics which are common to nearly all of them. Practically everywhere, as we have already stated, the electorate is based on universal manhood suffrage. The Mayor, who is the chief administrative officer of the city, the City Council, composed of one or two

chambers, which is the legislative body of the city (subject to the state legislature), and usually a considerable number of administrative officials other than the Mayor are elected by popular vote for terms ranging from one to five years. Almost everywhere the city government is limited in its functions by detailed granted powers contained in its charter or the general incorporation act under which it operates. Beyond this point, however, we find unlimited variations and differences. Indeed, this is so much the case that it is hardly worth while to attempt to discuss further the general forms of American municipal administration, except from the standpoint of theory.

National Municipal League Program.

About ten years ago the National Municipal League, an organization composed for the most part of private citizens of the various cities of the United States who were interested in municipal reform and anxious to find some way by which American cities could be purged of their corruption, extravagance and inefficiency, appointed a committee of eminent men to work out, if possible, a general scheme of municipal law which would be available for cities in all the various commonwealths of the United States. This committee made a report which, after full consideration, was adopted and published as the "Municipal Program" of the National Municipal League. While this scheme of government has not been adopted in its entirety in any commonwealth or city in the United States, the "Program" has nevertheless had a profound influence in the framing of state constitutions and municipal legislation since it was published. It is perhaps important here in the foreword of this monograph to give a brief outline of this uniform plan of government proposed by a body of the most intelligent and public-spirited citizens of the United States.

Conforming to the necessities of American jurisprudence, the program consists of two parts, — a series of constitutional provisions for incorporation in the fundamental law of each commonwealth, and a general municipal corporations act for adoption by the various state legislatures as a part of the statutory law. Naturally the municipal corporations act must conform to the general principles laid down in the proposed constitutional provisions, but carries out their purposes more in detail.

I shall discuss first the proposed constitutional provisions. They include the following principles considered by the National Municipal League to be fundamental:

Proposed Constitutional Provisions.

1. That a complete registry of all voters should be made upon their personal application and that this registration should be completed at least ten days before each election.

2. That absolute secrecy in voting should be maintained.

3. That the election of city officials should occur at a different time from the election of officials of the commonwealth and national governments.

4. That nominations of candidates for city offices should be by petition at least thirty days before the day of the election.

5. That the names of all candidates for the same office should be printed upon the official ballot in alphabetical order under the title of the office and every voter be compelled to vote for each office separately and not be allowed by a single mark to vote a party ticket.

6. That the commonwealth legislature should never be permitted to pass a private or local bill giving to any private corporation or individual any exclusive privilege or franchise.

7. That no franchises for the use of the streets should be granted for a longer period than twenty-one years and that public property, wharves, docks, streets, parks, bridges, water front and all other public places, should be inalienable except by four-fifths vote of the City Council approved by the Mayor.

8. That cities should have the right to provide in every street franchise that at its expiration the property of the grantee in the streets and public places shall become the property of the city either with or without further compensation, but that in no case shall the city pay for any valuation derived from the franchise itself.

9. That every street franchise shall make adequate provision to secure efficiency of public service at reasonable rates and the maintenance of the property in good condition throughout the term of the franchise.

10. That every franchise holder shall keep accurate accounts

and make quarterly reports to the financial department of the city, its books of account being subject to examination at all times by such department.

11. That no city shall be permitted to give any money or property or loan its credit to any private individual or corporation, except that it may provide for the support of the poor.

12. That the indebtedness of cities shall be limited to a certain fixed percentage of the assessed valuation of real estate subject to taxation, the particular rate per cent to be determined by the various commonwealths. This limitation of indebtedness is not to apply to bonds issued in anticipation of the collection of yearly taxes nor to bonds authorized by a two-thirds vote of the City Council, approved by the Mayor and approved by a majority vote of the citizens, issued for the purpose of establishing any public utility from which the city will derive a revenue, provided that such utility shall, after five years from its establishment, be in all respects self-sustaining, including the maintenance of a sinking fund sufficient to pay off the bonds at maturity.

13. That all cities shall make provision for raising money by taxation or from the receipts of revenue-producing undertakings to pay off its bonds within a certain number of yeares after their issue.

14. That the amount of money to be raised by taxation upon real and personal property for city purposes, in addition to what may be needed to take care of the city's indebtedness, shall not exceed a certain fixed percentage of the assessed value of real estate subject to taxation.

15. That the Council of any city, with the approval of the people, may establish a method of direct legislation providing for the popular initiative on municipal matters and that such a system must be established if petitioned for by two per cent of the qualified voters and approved by majority vote at a popular election.

16. That the City Council and the people may establish in like manner a system of majority or proportional representation as to elections to city offices.

17. That all cities within a commonwealth shall make financial reports to the state fiscal officer according to forms and methods prescribed by him and that such officer shall have power to examine into the financial affairs of any city and shall make a public report

of such examination and shall publish as a state document the financial reports of the various cities of the state.

18. That cities may establish minor courts with exclusive civil and criminal jurisdiction in the first instance for the enforcement of city ordinances.

19. That all judicial officers of the city shall be appointed by the Mayor, and be subject to removal by him in the same manner as subordinate administrative officers of the city.

20. That every city shall have a Council and a Mayor elected by the people.

21. That the Mayor shall be the chief executive officer of the city and have power to appoint and remove at pleasure all heads of departments in the administrative service, except the head of the finance department, and that the Mayor may appoint and remove other officers and employes in the administrative service of the city subject to the condition that appointments and promotions in the subordinate service shall be made solely according to fitness, to be ascertained as far as practicable by open competitive examinations.

22. That all persons in the administrative service of the city, except the Mayor, shall hold their offices for an indefinite term.

23. That every city shall, within its corporate limits, have the same powers of taxation as are possessed by the state and may license and regulate trades and occupations and may perform and render all public services and shall be vested with all powers of government subject to the limitations contained in the constitution and laws of the state.

24. That no special laws shall be passed by the legislature affecting any city and applying to less than all the cities of the state unless approved by an affirmative vote of two-thirds of all the members of the legislature and unless further approved by the city council or again repassed by a two-thirds affirmative vote of the legislature, which, in this case, must include at least three-fourths of all the members of the legislature from districts outside of the city or cities affected.

25. That the legislature of the state shall pass a general municipal corporations act applicable to all cities which shall, by popular vote, determine to adopt it.

26. That any city having a population of twenty-five thousand

or more may frame and adopt its own charter subject to the constitution and laws of the state, and may amend it from time to time.

Proposed General Municipal Corporations Law.

The form of a general municipal corporations act to carry out in detail the principles laid down in the foregoing constitutional provisions and to supplement them with the necessary provisions of statutory law, approved by the National Municipal League, contains the following important provisions:

1. That all cities hereafter established shall be organized under this general municipal corporations act and that any city or incorporated town or village of a certain number of inhabitants already incorporated may reorganize under this general act by vote of the people.

2. That any city may annex additional territory contiguous to its limits when the city council shall approve the proposition by a certain vote and a majority of the qualified electors of the district to be annexed also approve of it at a regular election.

3. That every city shall have power to enact and enforce all ordinances necessary to protect health, life and property, to prevent and abate muisances and to preserve the good government, order and security of the city and its inhabitants.

4. That the city shall have power to establish streets, parks and public places and regulate their use and the height and style of construction of buildings adjacent to them, construct and maintain water work and sewers and do everything that appears needful for the disposal of sewage, garbage and other refuse.

5. That the city shall have power to establish and operate or lease, and regulate wharves, docks, ferries, markets and abattoirs.

6. That the city shall have power to establish and maintain work houses, houses of correction and other prisons, hospitals and charitable institutions.

7. That the city shall have power to maintain schools, museums and libraries.

8. That the city shall have power to buy or build and may operate on its own account, or may regulate or prohibit the construction and operation of railroads or other means of transportation and methods for the production or transmission of heat, electricity,

light or other power in any of their forms by pipes, wires or other means.

9. That the city shall enter into no contract for services or materials for a longer period than five years and that all contracts except for services shall be made upon specifications.

10. That the city shall enter into no contract until an appropriation has been made for it and no contract shall be made for a larger amount than the amount appropriated.

11. That the city shall have power to make local improvements by special assessment or by special taxation of property adjudged to have received special benefit or by general taxation, but in case any improvement is to be paid for by special assessment or special taxation it shall not be undertaken without the consent of a majority in interest and number of the owners of the property to be taxed or assessed, unless the ordinance providing for the improvement shall be passed by a three-fourths affirmative vote of all the members of the city council and be approved by the mayor after a public hearing.

12. That within its corporate limits the city shall be the local agent of the state government for the enforcement of the state laws to the exclusion of all other public officers except as the contrary may be provided by general law applying to all the cities of the state.

13. That every city shall, in the exercise of these powers, be subject to the supervision of such state administrative boards and officers as may be established for the purpose by general law applicable to all cities of the state.

14. That the mayor shall be elected for a term of two years and that in case of a vacancy in his office it shall be filled by the president of the Council until the next election.

15. That the mayor may be removed from office by the Governor of the state for misconduct, inability or failure properly to perform his duties after being given an opportunity to be heard in his defense.

16. That the mayor and the heads of the administrative departments of the city shall have the right to be present at the meetings of the City Council and take part in the proceedings, but not to vote, and that it shall be their duty to answer any questions relative to the affairs of the city asked by any member of the Council.

17. That the mayor shall have authority to veto any ordinance or resolution appropriating money, subject to repassage by the Council over his objections within a certain time and by a certain vote.

18. That the mayor shall submit to the Council at a certain time each year the annual budget of current expenses, any item of which may be reduced or omitted by the Council, but the Council shall not have authority to increase any item in the budget.

19. That the salary of the mayor shall be fixed by the city council before his election.

20. That three civil service commissioners shall be appointed by the mayor to prescribe and enforce regulations for appointments and promotions in the administrative service of the city and for the examination of applicants for municipal employment.

21. That the civil service commissioners shall keep in their office a complete roster of all persons other than ordinary laborers in the public service of the city and that no officer of the city shall issue or sign any warrant for the payment of salary or compensation to any person whose name has not been certified by the civil service commissioners as appearing on the roster.

22. That no officer or employe in the administrative service of the city shall be removed or have his salary reduced on account of religious or political beliefs, or for any cause without first having received a written statement setting forth in detail the reasons for the removal.

23. That the city council shall have full power and authority, except as otherwise provided, to exercise, subject to the mayor's veto, all powers conferred upon the city.

24. That the city council shall consist of not less than nine nor more than fifty members who shall serve without pay and be elected for a term of six years, one-third to be chosen every second year.

25. That no member of the Council shall hold any other public office or any employment the compensation for which is paid out of public funds or have any direct or indirect interest in any city contract or be in the employ of any person holding a city contract or having a franchise granted by the city.

28. That the city council shall elect its own president and shall hold its meetings with open doors and that all sessions of its committees shall be open to the public.

27. That before any franchise is granted the franchise ordinance in its specific and final form shall be published at least twice in each of two newspapers named by the mayor, having a general circulation in the city, such publication to take place at least a certain number of days before the final vote of the council upon the ordinance.

28. That the council may establish any office necessary or expedient for the conduct of the city's business, but all such offices shall be filled by appointment by the mayor.

29. That the council shall elect a city controller, who shall have general supervision over all the fiscal affairs of the city.

30. That the city controller shall keep a separate record for each holder of a public franchise rendering a service to be paid for wholly or in part by users of such service, which record shall show the cost of equipment, maintenance and operation, the amount of stock issued, the amount of money paid in, the number and par value of the shares, the amount and character of indebtedness, the rate of taxes, the dividends declared, the character and amount of all fixed charges, the allowance, if any, for interest, for wear and tear or depreciation, all amounts and sources of income, the amount collected from the city and the character of the service rendered therefor and the amount collected annually from other users of the service; and these records shall be open to public examination.

31. That a certain fixed number of citizens who are householders may maintain in the proper court injunction proceedings to stop the execution of any illegal or fraudulent contract on behalf of the city or the payment of any illegal or fraudulent bills or any salary to any person not lawfully appointed or employed in the city service or such persons may bring action to recover from any public official the amount of any such fraudulent or illegal payment.

Much more detailed provisions than those indicated above are included in the municipal corporations act, especially in regard to the administration of the merit system, so-called, of civil service rules, but the outline which I have given will be sufficient to inform the reader as to the general principles of city government formulated into the only comprehensive and consistent plan of municipal reform thus far worked out in the United States.

Generally speeking, the work of the National Municipal League has thus far been more influential in the legislation of certain of

the newer states and smaller cities than it has in the great cities except New York — which form the primary subject of discussion in — this monograph. This is due to the fact that in most of the larger cities forms of government had become comparatively rigid and not subject to radical changes before the National Municipal League had worked out or published its program of reform. Nevertheless, the work of the League has had a tremendous influence even in the great cities, and in the revision of nearly every city charter or commonwealth constitution during the last eight years its "Program" has been carefully studied and its recommendations considered. In the practical work of law-making in America unfortunately it often happens that considerations of party or factional politics, or the interests of the political machine, have more weight than the recommendations of sober-minded and intelligent citizenship.

Curiously enough, although the national government has no direct control over municipal institutions outside of the City of Washington, a very considerable influence is being exerted in the direction of uniformity of municipal accounts through the Federal Census Bureau. About ten years ago the United States Congress passed an act authorizing the Bureau of Labor, then in charge of Hon. Carroll D. Wright, to collect and publish statistics of all cities having more than thirty thousand population. The Bureau set about its work patiently and although it had no authority to compel city officials to keep their accounts in a uniform way or even to render the agents of the Federal Government the courtesy of assistance in reducing the data of city finances to a uniform basis, nevertheless the work was carried on successfully.

More recently, with the establishment of a permanent Federal Census Bureau, the collection of municipal statistics has been taken over by this Bureau. The recommendations of the National Municipal League for uniform schedules of municipal accounting have been adopted by the Census Bureau and gradually, through the combined influence of the League and the Bureau, a measure of uniformity in municipal accounts is beginning to be seen, and it is not too much to hope that in the near future most of the larger cities of the country will be keeping their accounts in such a way that accurate and detailed comparisons of the cost and efficiency of municipal institutions in the various commonwealths of the United States will be easily possible.

Great Cities Chosen for Description.

For the detailed description in this monograph we have selected ten great cities as follows:

1. Washington — the national capital, unique among American cities, as it is directly under the control of the Federal Congress and has no electorate. Of all national capitals, Washington, the capital city of the greatest republic in the world, may be said to be the most autocratically governed.

2. New York in the state of New York, is the metropolis of America, the second city in the world in population, comprising a federated group of municipalities surrounding New York harbor, representing the greatest experiment ever made in city government under democratic conditions.

3. Chicago, in the state of Illinois, is the most wonderful city in the world from the standpoint of rapid growth and tremendous commercial development, a city of two million inhabitants which, sixty-five years ago, was a mere village of five thousand population.

4. Philadelphia, in the state of Pennsylvania, is the most American of the great cities of this country, negligent of municipal progress, municipal honesty and municpal liberty, "corrupt but contented", as a leading writer on municipal affairs has described it.

5. Boston, in the state of Massachusetts, is a city of six hundred thousand population, with three-quarters of a million more in its immediate environs representing the highest culture of America and growing out of the sturdiest of American institutions, the self-governing New England town.

6. St. Louis, in the state of Missouri, is a German-American city, the first of the great cities to have the right to frame and adopt its own charter, standing midway between the North and the South, a purely commercial city beset by all the dangers which characterize a city without distinctly civic ideals.

7. Baltimore, in the state of Maryland, is an old commercial city with conservative southern ideals.

8. Cleveland, in the state of Ohio, is a new commercial city with progressive northern ideals.

9. San Francisco, in the state of California, is the metropolis of the Pacific Coast, with a unique combination of riches and radicalism, civic pride and municipal corruption.

10. New Orleans, in the state of Louisiana, is the quaint old French city of the south.

Certain Smaller American Cities which are Conducting important Municipal Experiments.

Before beginning the detailed description of the government of these ten great American cities it may be well to note that some of the most interesting and progressive tendencies in American municipal development are better represented by a number of much smaller cities, such as Newport, in the State of Rhode Island, with a population of about twenty-five thousand; Grand Rapids, in the state of Michigan, with a population of about one hundred thousand; Galveston, in the state of Texas, with a population of about thirty-five thousand; Des Moines, in the state of Iowa, with a population of about seventy thousand, and Los Angeles, in the state of California, with a population of about one hundred and seventy-five thousand. It is to be noted that thus far the greatest interest in municipal affairs in the United States has centered in the forms of municipal government. America is all the time changing its city charters and experimenting with new schemes of municipal organization, endeavoring in some way to invent governmental machinery that will work smoothly and satisfactorily. Each one of the five cities last mentioned is now conducting a governmental experiment which has attracted general attention in the United States.

The little city of Newport, which, by the way, is the most fashionable resort in America for the ultra rich, has attracted attention to itself within the last two years by a complete reorganization of its scheme of government. Under its new plan the administrative authority of the city is conferred upon a Mayor and five aldermen, all elected by the people. In an effort to get back as near as possible to the old New England town meeting idea, where all the citizens assembled once a year and adopted ordinances and took all the necessary measures for the government of their local affairs, Newport has established a very large council consisting of one hundred and ninety-five nembers, of which thirty-nine are elected by the people in each of the five wards into which the city is divided. In America the almost universal practice heretofore has been to have candidates for municipal offices nominated by the

regular national political parties and their names placed upon the official ballot under the party emblems. In Newport, however, party nominations have beens superseded by petitions and the party name and party emblem are kept off from the ballot entirely. Any citizen of Newport has a right to attend the meetings of the Council and participate in its discussions, although, of course, without the right to vote. In the case of particular appropriations of ten thousand dollars or more made by the Council, the citizens of the city on petition of a certain number may demand a Referendum, and in that case the action of the council is subject to review by a vote of the general electorate. The Newport experiment has not yet been tried a sufficient length of time to afford opportunity for clear judgment as to its probable success.

The city of Grand Rapids secured a new charter from the legislature of Michigan in 1905. In this charter, at the instance of a progressive element among its citizens, were included certain provisions for the Initiative and Referendum. One of these provisions is that any franchise, or ordinance, or contract involving the expenditure of more than a certain amount of money, after being adopted by the city council must be submitted to popular vote on petition of twelve per cent of the electorate filed within thirty days after the action of the council is taken. Under this provision a city ordinance supplementing and making more effective the state law against Sunday amusements, particularly theatrical exhibitions, was passed by the city council and vetoed by the people by a close vote after a very exciting campaign.

Another clause in the Grand Rapids charter provides that the electors by petition of twelve per cent of their number may propose any charter amendment which, if approved by vote of the people at the next regular election, will be presented to the State legislature at its next session with the official request of the city that it be adopted as a part of the city charter. Under this clause, charter amendments were initiated and approved by the people by large majorities, giving the electors of the city the right to propose city ordinances by petition and take an advisory vote upon them and the right to call a special election at any time to vote upon the question of removing from office any public official of the city whose official acts had proven unsatisfactory to his constituents. Another charter amendment provided for the entire elimination of

political parties from the nomination and election of municipal officials. It has long been recognized by students of municipal government in America that one of the most prolific sources of municipal corruption, extravagance and inefficiency is the intrusion of national party politics into municipal elections and appointments. The people of Grand Rapids planned to do away with this trouble by establishing a system of non-partisan nominations and elections in the following manner: All candidates for any city office would be required to file a petition signed by a certain number of voters not later than a fixed date preceding any municipal election. Two elections would then be held; the first one would be a primary election, at which the names of all candidates for any particular office would be printed upon the ballot in alphabetical order; the two candidates for each office who received the largest number of votes at the preliminary or primary election would be placed upon the official ballot for the final election and the voters would choose between them. At neither election would the use of party names or party designations upon the official ballot be permitted. All of these charter amendments were approved by the people by very large majorities and were submitted to the recent session of the Michigan legislature. The legislature refused to pass any of them. The party leaders in the legislature thought that the non-partisan amendment would open the way for the disintegration of the controlling political party of the state. They refused to extend the principle of the popular initiative to ordinances or to give the people of Grand Rapids the right to "recall" or turn out of office their city officials, apparently for the reason that these measures would be likely to operate to the disadvantage of the politicians, who desire to keep power as far as possible in their own hands.

The city of Galveston, which is situated upon the Gulf of Mexico, was visited in 1900 by a terrible storm in which several thousand people lost their lives and the city was nearly destroyed. In the presence of this calamity it became necessary to abandon the careless and extravagant system of municipal administration which had long been in vogue. A new plan, widely advertised as the "Galveston plan," was adopted. The government of the city was placed in the hands of a mayor and four commissioners who, together, form a council for the passing of necessary ordinances

and who, individually, have charge of the several administrative departments of the city. In the first instance the commissioners were appointed by the governor of the state of Texas, but afterwards the law was changed so that they are now elected by the people. It is claimed on behalf of the Galveston plan, which, by the way, has been adopted in one or two other Texas cities, that the concentration of power and responsibility in the hands of a small group of men elected by the people of the whole city has proven to be a much more effective and satisfactory system than the ordinary American plan by which the administrative authority is conferred upon the mayor and other officials elected or appointed, while the legislative authority is conferred upon a city council of one or two branches, the members of which are chosen for the most part by the people of the separate wards. The great objection raised to the Galveston plan is that it is somewhat undemocratic: — it gives the people no power or responsibility in municipal administration except on election day, when they vote for the five commissioners.

The city of Des Moines, which is the capital of the rich agricultural state of Iowa, has just last summer, June, 1907, adopted a new plan of city government which follows the Galveston plan to a certain extent, but supplements it with thoroughly democratic provisions. The enabling act of the Iowa legislature, in accordance with which the people of Des Moines were permitted to adopt this plan of government, provides that the plan shall be tried for six years, after which, if the city desires to return to its old form of government, it may do so. The new form includes a mayor and four councilmen elected every two years by the people at large. Nominations and elections are carried on strictly in accordance with the non-partisan plan already described in connection with the city of Grand Rapids. The administrative and legislative powers of the city are conferred upon the mayor and council after the manner of the Galveston plan, but the law requires that all street franchises must be submitted to vote of the people, and further provides that the people may, by petition, initiate ordinances or call for a Referendum upon ordinances passed by the mayor and council. The people are also given the right to "recall" or oust from office, at a special election, the mayor or any member of the council. The plan also provides for the establishment of the "merit system," so-called, by which all appointments in the administrative service of

the city must be made on account of fitness as determined by competitive public examinations.

The city of Los Angeles, which is one of the most rapidly growing towns in the United States, and whose inhabitants believe that it is destined to become one of the great population centers of the country, under the constitution of California adopted nearly thirty years ago, enjoys the right to frame its own charter, subject to approval or rejection without amendment by the State legislature. Los Angeles took advantage of this right nearly twenty years ago, but it was not until about four years ago (1903) that, through charter amendments, the city put into operation the Initiative, the Referendum and the Recall. Los Angeles was the first city in the United States to enjoy the right of recall, and, so far as I am informed, has been the only city to exercise this right. On petition of twenty-five per cent of the electors in one of the wards of Los Angeles, the ward's representative in the city council was compelled to go before the people at a special election during his term of office for a vote of confidence. This councilman had been a leader in the movement to give the city printing to the highest bidder. The result of the special election was that the sitting councilman was removed from office by a large majority and a new man elected to his place. Since that time the cost of printing the official proceedings of the city has been reduced to less than one-third of what it was. The Recall has not been used a second time in Los Angeles, but its adoption as a method of popular control over public officials has been very widely agitated in the United States since Los Angeles made use of it, and has been incorporated into the charters of several other Western cities.

As already intimated, it is easier to secure the adoption of new experiments in the smaller and younger cities than it is in the larger and older cities, whose governmental habits have become crystallized. For this reason I have deemed it necessary to give a brief notice of these widely advertised municipal experiments preliminary to the detailed account of the government of the ten great cities chosen for this review.

II. Washington.

Washington, the capital city of the United States, was made to order. After the Revolutionary War, in which the English Colonies in America secured their independence, they realized the necessity of establishing a strong central government to protect their common interests and promote their common purposes. This led to the adoption of the Federal Constitution. The members of the Constitutional Convention were convinced that for the purpose of establishing a strong national government it would be necessary to set apart a district to be under the exclusive jurisdiction of the Federal authorities, where the national capitol should be built, the national Congress meet and the national administration be centered. To this end the following provision was inserted in the Eighth Section of the First Article of the Constitution of the United States enumerating the powers of Congress:

"To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States".

The commonwealths of Maryland and Virginia in 1788 and 1789 offered to cede to the United States the requisite territory for the federal district. This district was finally located on the Potomac River, partly in the State of Maryland and partly in the State of Virginia. That part of the district ceded by the State of Virginia was later turned back to the jurisdiction of that state by the United States government. What now comprises the "District of Columbia" or, in common speech, the "City of Washington," lies on the north bank of the Potomac River and comprises 69.25 square miles of territory of which 60 square miles are land.

George Washington, the first President of the United States, appointed three Commissioners in 1791 to make a preliminary survey

of the federal district. After the limits of the district had been fixed, Major Pierre Chas. L'Enfant was employed by the federal government to design a plan for the proposed federal City of Washington. His plan was approved by President Washington in August, 1791. L'Enfant's employment was terminated early in 1792 and he was succeeded by Andrew Ellicott, who was directed to "finish the laying of the plan on the ground". This original plan of the city, including broad diagonal avenues, which has made the City of Washington one of the most beautiful and convenient capitals of the world has been substantially followed throughout the history of the city, and in 1888 Congress passed a law directing that future subdivisions of land in the District of Columbia outside of the limits of the city proper should conform to this general plan. The Federal government was finally established at the new City of Washington in the year 1800. At that time the city proper had a population of only 3,210, while the total population within the present limits of the District of Columbia was 8,144.

Under the arrangement by which the Federal government entered into the control of the district, that portion of the city devoted to streets and reservations became the property of the United States in fee simple. The total number of acres in the city proper as originally laid out was 6,110, of which 3,606, or more than half, constituted the portion reserved for avenues, streets and alleys. In addition 982 acres, comprising 10,138 building lots, were given to the United States by the original owners and 541 acres more were purchased by the Federal government for public buildings and uses. The devotion of so large a proportion of the total area of the original city to streets, avenues and alleys resulted from the liberal provisions in the original plan for wide public thoroughfares. The streets and avenues of Washington, with very few exceptions, range from 80 to 160 feet in width. The principal streets of the city are designated by the letters of the alphabet and the principal avenues by the names of various commonwealths of the United States. A part of the city's plan is a system of alleys in the centers of the squares. These alleys, having been diverted to a certain extent from their original purpose and having become the thoroughfares of a large population of the poorer classes, constitute one of the most serious problems of the city in the present day.

Strange as it may seem, the inhabitants of the City of Wash-

ington, which is the capital of the greatest democratic republic in the world, have absolutely no authoritative voice in the conduct of their local affairs, nor even in the choice of the national government which rules over them. An American city of 300 000 population without an elector in it is surely an unlooked-for phenomenon. It may even be doubtfoul wheter the State of Maryland would ever have consented to cede to the United States territory for a Federal district if it had been supposed that the citizens of this district would be without political rights. At the time when the adoption of the Federal Constitution was being considered in the various states, some of the brilliant gentlemen who had a part in framing that instrument published a series of papers urging upon the people of the State of New York the importance of ratifying the Constitution. One of the authors of this series of discussions, collectively known as "the Federalist," was Mr. James Madison, who preserved the most copious notes extant of debates of the Constitutional Convention and who, at a later time, was President of the United States for two terms. In one of the papers in "the Federalist", Mr. Madison discussed the necessity of setting aside a district to be under the exclusive jurisdiction of the national government in the following words:

"The indispensable necessity of complete authority at the seat of government carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted and its proceedings be interrupted with impunity, but a dependence of the members of the General Government on the State comprehending the seat of the government for protection in the exercise of their duty might bring on the national councils an imputation of awe or influence equally dishonorable to the Government and dissatisfactory to the other members of the confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the government would be both too great a public pledge to be left in the hands of a single State and would create so many obstacles to a removal of the Government as still further to abridge its necessary independence. The extent of this Federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use

with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession: as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes derived from their own suffrages will of course be allowed them; and as the authority of the legislature of the state, and of the inhabitants of the ceded part of it, to concur in the cession will be derived from the whole people of the state in their adoption of the Constitution, every imaginable objection seems to be obviated."

The Federal Government formally took possession of the District of Columbia in the year 1800. The people of the district participated in the Presidential election in November of that year, but shortly thereafter the courts decided that the district was under the exclusive jurisdiction of Congress and its residents could no longer participate in Presidential elections as citizens of Maryland.

The first officials of the City of Washington were the three Commissioners appointed by President Washington in 1791. This Board of Commissioners, which laid out and established the city, was abolished in 1802 and the inhabitants were incorporated into a city by act of Congress. Under its first charter the city was governed by a mayor appointed by the President of the United States and a city council elected by the people. The first mayor, appointed in June, 1802, was re-appointed each year until 1812. In that year a new act of Congress devolved upon the city council the duty of electing the mayor annually. This method was followed for the next eight years. In 1820, however, Congress passed a new law under which the mayor of the city was elected by the people for a term of two years. This plan lasted for over half a century, until 1871. In that year the charter of the City of Washington was revoked and the inhabitants of the whole Federal district were organized into one municipal government named the District of Columbia.

The control of the District of Columbia under the law of 1871 was vested in a Governor, a Board of Public Works, composed of the Governor and four other persons, a Secretary, a Board of Health and a legislative assembly consisting of an upper house of eleven

members and a lower house of twenty-two members. The members of the lower house were elected by the people of the district; the members of the upper house and all the administrative officials mentioned were appointed by the President of the United States with the consent of the Senate. The people of the district were further authorized to elect a delegate to the National House of Representatives with powers similar to the delegates from territories not admitted into the Union. The term of office of the executive officials appointed by the President was fixed at 4 years. The members of the upper chamber of the legislative assembly were appointed for two years. The members of the lower chamber were elected annually.

This form of government was of short duration, lasting only three years. By act of June 30, 1874, a new plan was adopted. By this plan the whole executive municipal authority of the district was temporarily vested in three Commissioners appointed by the President of the United States and confirmed by the United States Senate. Four years later, on July 1, 1878, the present form of government was established by law of Congress.

The United States Congress acts as the local legislature for the District of Columbia, popularly known as the City of Washington. There is no other legislative body for the city. The executive and administrative functions of the city government are vested in a Board of three Commissioners appointed by the President of the United States with the consent of the Senate. Two of these Commissioners are appointed from civil life for terms of three years. In practice one is selected from each of the two leading political parties of the country, though there is no law requiring it. The third Commissioner is detailed by the President from the Engineer Corps of the United States Army. Each of the Commissioners receives a salary of $ 5,000 per annum, and each of the two Commissioners appointed from civil life is required to give a bond to the United States in the sum of $ 50,000. The Board of Commissioners annully chooses one of its number president and any two of the Commissioners sitting as a Board constitute a quorum for the transaction of business. For convenience in administration the Commissioners have arranged their duties in three groups, and have assigned to each one of their number one of these groups of duties. The recommendations of any Commissioner in regard to

the affairs under his immediate supervision are acted upon by the Board as a whole. The Commissioners have power to abolish any office in the municipal administration; to reduce the number of employees; to appoint most of the city officials and to remove them at pleasure. The appointing power of the Commissioners does not, however, extend to the judges of the various courts of the district, who are appointed directly by the President of the United States. Another exception to the power of the Commissioners was recently made in the establishment of a Board of Education of nine persons to be appointed by the Supreme Court of the District. There are one or two other exceptions to the appointing power of the commissioners to be noticed later on.

While Congress is the legislative body of the district, it has conferred upon the Board of Commissioners from time to time authority to adopt certain ordinances and administrative regulations, especially with reference to building construction, plumbing and the protection of property, life and health. That is to say, upon the Board of Commissioners has been conferred a very limited ordinance power, such as is usually exercised in American cities by the city council. Once each year the Commissioners are required to present to the Secretary of the Treasury of the United States an estimate of the expenses of the city for the next fiscal year. This estimate is revised by the Secretary of the Treasury and such part of it as he approves is transmitted to Congress for final action.

One might suppose that a national government which denies to the citizens of the capital city any voice in the conduct of their own affairs would also furnish the funds for carrying on the municipal government. Such is true to a limited extent in the case of Washington. Of the total amount of the annual estimates approved by Congress one half is paid out of the Treasury of the United States and the other half is levied and assessed upon the taxable property and privileges in the city other than the property of the United States. During the fiscal year ending June 30, 1906, the total net expenditures of the city were approximately $ 12,300,000. The income of the city was derived approximately from the following sources:

Taxes on real and personal property.	$ 4,276,000
Receipts from licenses, rents, fees, fines, etc. .	$ 811,000
Receipts from sales of water	$ 405,000

Receipts for various special and trust funds . .	$ 454,000
Receipts from special assessments for improvements	$ 154,000
Subsidies from the United States government .	$ 5,622,000
Loans advanced by the United States government	$ 646,000

In the act of Congress of 1878 establishing the present form of government in the City of Washington, it was provided that there should be no increase in the total indebtedness of the city as it existed at that time. The city's debt as it stood on June 30, 1906, amounted to $ 15,268,959, composed of the following items:

Funded debt incurred prior to July 1, 1878, under previous forms of municipal government . .	$ 11,587,700
Unfunded debt due the United States Government on temporary loans	$ 2,931,259
Unfunded debt due the Treasurer of the United States in trust for the Baltimore and Ohio Railroad Co. on account of railroad terminal improvements	$ 750,000

That portion of the municipal revenues paid by the people of the city is raised in the usual manner of American cities. Much the larger part of this revenue is derived from a direct general property tax. For the purpose of securing an asssessment upon which this tax may be levied, the Commissioners of the District of Columbia appoint an Assessor and a Board of five Assistant Assessors. These officers are not, however, removable by the Commissioners except for ineffiiciency, neglect of duty or malfeasance in office. The Assessor receives a salary of $ 3,500 per annum and each of the Assistant Assessors receives $ 3,000. Three of the Assistant Assessors are detailed by the Chief Assessor to value real estate and buildings and to act as an excise board. The two other Assistant Assessors are detailed to appraise personal property. The total assessed valuation of property for purposes of taxation in the city of Washington for the year ending June 30, 1906, amounted to $ 268,131,287, composed of the following items:

Real estate, including land and buildings . .	$ 239,461,985
Personal property	$ 18,806,096
Gross earnings of building associations taxed at 2 per cent	$ 731,914

Gross earnings of electric light and telephone companies and savings banks, taxed at 4 per cent	$	1,581,004
Gross earnings of gas light companies, taxed at 5 per cent	$	1,673,975
Gross earnings of National banks and all other incorporated banks and trust companies, taxed at 6 per cent	$	2,279,954
Gross receipts of street railway companies, taxed at 4 per cent	$	3,596,719

In assessing the value of real estate, the Assessors estimate separately the value of the land itself and of the buildings and improvements thereon. This policy has been adopted in a few American cities, largely as a result of the single tax propaganda of the followers of Henry George, who believe that all taxes should be levied upon land values. The very latest assessment of real estate in the City of Washington shows a total of $ 247,306,000, of which $ 136,774,000, or 55 per cent, represents land value, while $ 110,532,000 represents the value of improvements.

Under the laws of Congress, real estate is assessed every three years at not less than two-thirds of its true value. Personal property is supposed to be assessed at a fair cost value over and above the exemptions. The rate of taxation upon both real estate and personal property is limited to one and one half per cent.

In addition to the receipts from the property tax, the City of Washington receives considerable amounts from specific taxes upon certain classes of corporations as indicated above. Furthermore the liquor traffic is made to contribute large sums to the support of the government. The receipts from liquor licenses for the year ending June 30, 1906, amounted to $ 465,000. Receipts from insurance licenses and miscellaneous licenses amounted to $ 181,000 more. Market rents amounted to $ 17,000, miscellaneous rents amounted to $ 13,000, court fines amounted to nearly $ 20,000, fees collected by various officers for services performed, permits, etc., amounted to over $ 79,000 and the revenues from the municipal water works aggregated more than $ 371,000 in addition to $ 34,000 received in the way of special taxes for laying water mains.

All moneys collected for the city are deposited with the Treasurer of the United States.

The usual method of paying for street improvements in American cities is by the levy of special assessments for the whole or part of the cost upon adjoining property supposed to be benefitted by the improvements. In the city of Washington this system does not extend to the cost of grading or paving streets. It is used, however, in the improvement and repair of alleys, the construction and repair of sidewalks and the construction of sewers. In all of these cases one half the cost of the improvement is levied upon abutting property pro rata according to frontage. When minor streets and alleys are opened, widened or extended, damages to abutting property are awarded and benefits assessed. Special assessments are levied against adjoining property for the amount of benefits received. For the laying of water mains opecial tax of $ 1.25 per linear foot of frontage is levied against all land abutting upon the streets in which the mains are laid. The total cost of service connections with water mains and sewers is also assessed against the lots for which the connections are made. Special assessments are also made for the cost of certain work done by the authorities which the property owners have neglected to do. This includes the removing of dangerous buildings, the enclosing of dangerous wells or other excavations, the removal of weeds on unoccupied land, the draining of lots, the cleaning of offensive cesspools, the erection of fire escapes, the removal of sand, ice and dirt from the sidewalks, etc. Where streets are paved adjacent to street railway tracks the cost of that portion of the work lying between the exterior rails of the tracks and for a distance of two feet on either side is charged to the street railway company. The company also has to bear the cost of keeping this part of the pavement in repair.

The public shools of the city of Washington are under the control of a Board of Education consisting of nine residents of the city, appointed for three-year terms. Three members are appointed each year. All members of this board serve without compensation. The board has complete jurisdiction over all administrative matters connected with the public schools except that its expenditures are made and accounted for under the direction of the Board of Commissioners of the District of Columbia. The board appoints the Superintendent of Schools and two assistant superintendents, and employs and

removes all teachers, officers and other employees. The average number of pupils enrolled in the public schools during the year ending June 30, 1906, was 51,992. Washington has a large colored population, as shown by the fact that 16,791 colored pupils were enrolled in the schools. This amounts to about 32 per cent of the total. Separate schools are provided for white and colored children, and one assistant superintendent is assigned to each race. Twelve medical inspectors of public schools, four of whom must be of the colored race, are appointed by the Commissioners after competitive examination. The Superintendent of Schools receives a salary of $ 5,000 a year and each of the assistant superintendents a salary of $ 3,000. The total number of teachers employed in 1906 was 1,536, of whom 498 were colored. The public school system of the city comprises kindergartens, primary and grammar schools, manual training schools, high schools and normal schools. It is significant that in the first four grades of the primary schools, out of a total attendance of 28,227 pupils, 10,466 or 37 per cent were colored, while in the four next higher grades, in the grammar schools, out of a total attendance of 17,139, only 4,415 or less than 26 per cent were colored. In the high schools the colored pupils number only about 17 per cent of the total. In the manual training schools, however, the number of colored pupils is nearly equal to the number of white pupils and in the normal schools more than one-third of the attendants are colored.

The entire expense of the public school system for the year was $ 1,767,663. Of this amount $ 190,800 was for new buildings and grounds. The principal items in the remaining cost were as follows:

For teachers and supervisors	$ 1,074,755
For janitors and care of buildings and grounds	$ 85,971
For kindergarten instruction and material .	$ 54,659
For administrative officials	$ 18,568
For fuel	$ 74,667
For free text books and supplies for the first eight grades	$ 52,096
For repairs and renewals of buildings grounds and apparatus	$ 101,933

In several American cities the public schools furnish the pupils with text books and supplies free. This system has been in vogue

in Washington for about fifteen years. The average cost per pupil in the eight primary and grammar school grades for the year 1906 was 56 cents.

The average number of pupils enrolled in the public schools of Washington has increased from 21,600 in 1880 to 43,985 in 1906. The total enrollment of pupils has increased from 26,439 in 1880 to 51,992 in 1906. During this period of twenty-seven years approximately $ 368,000 has been expended for rent on account of insufficient accommodations in the school buildings owned by the city. During the same period a total of approximately $ 4,560,000 has been expended for the purchase of sites and the erection of public school buildings. The city now has altogether 141 public school buildings which have been erected at a total cost of $ 4,294,000. The sites for these buildings are valued at $ 1,704,000. The oldest of these buildings was erected in 1853, but more than two-thirds of the total number have been constructed within the last twenty-five years.

The Police Department of the city is under the immediate supervision of a Superintendent appointed by the Commissioners of the District of Columbia. All members of the police force are also appointed and promoted by the Commissioners. Policemen are required to be able to read, write and speak the English language and must be citizens of the United States and residents of Washington for at least two years preceding their appointment. At the time of receiving their appointment they must be between the ages of 22 and 36 years, of good health and reputation and must pass an examination in the elementary branches of education and relative to their knowledge of the principal localities of the city. No applicant is accepted who is under five feet eight inches in height or who has ever been convicted of crime. No officer can be removed from the police force except on written charges and after an opportunity for defense, but a man once removed is ineligible to re-appointment to any office in the department. On June 30, 1906, the police force consisted of 694 members, of whom 635 were privates. Of this number, however, only 423 were actually available for patrol duty, the remainder of the officers being on special duty, absent on leave or sick. The Superintendent reported that during the day time 100 officers were available for patrolling the city and during the night a maximum of 200 at any one time. The Superintendent reported

that the force should be increased by the addition of at least 45 men. During the year 32,940 arrests were made. The colored population contributed slightly more than half of the offenders. For serious crimes the total number of arrests was 1,146. Intoxication, disorderly conduct and vagrancy contributed 15,043 arrests. There were sixteen arrests for murder, 65 for robbery, 200 for house breaking, 124 for grand larceny, 109 for obtaining money or goods by false pretenses, 20 for seduction, 22 for rape or attempted rape, etc.

The total expense for salaries of officers and privates in the Police Department for the year 1906 was $ 768,260. Contingent and other expenses brought the total expense of the department up to $ 827,710.

The Fire Department of the city is under the immediate control of a Chief Engineer appointed by the Commissioners of the District of Columbia. The total number of men on the force in the year 1906 was 328 with salaries ranging from $ 480 for one laborer. $ 720 for each of twenty-seven watchmen and $ 900 for privates up to $ 2,500 for the Chief Engineer, making a total expense for salaries of $ 329,719. Contingent and other expenses, including new apparatus and new buildings, increased the total expense of the Fire Department to $ 488,127 for the year.

The Health administration of the city is under the supervision of a Health Officer appointed by the Commissioners, who under the statute is required to be a physician. His duties include the medical inspection of public schools, the enforcement of the laws for the prevention of the sale of injurious articles of food, the care of contagious diseases, the impounding of vicious and unlicensed dogs, the abatement of nuisances injurious to health, the enforcement of the anti-smoke law, the keeping of vital statistics, etc. The total expenses of the Health Department during the year 1906 amounted to $ 86,185, considerably more than half of which was for salaries of employees. The Health Officer receives $ 3,500 per annum. The Commissioners report that the health Department is suffering from a constant addition to its duties without a corresponding increase in its staff of officers, but that nevertheless efficient service in the protection of health, especially by the improvement of sanitation, has been rendered. The mortality rate for the city of Washington for the year 1905 is reported as 19.20 per

thousand of population. It is significant, however, that the rate among white people was only 15.16, while the rate among the colored population was 28.81. There has been no marked change in death rates during the last ten years. The excessive death rate among the colored population has sometimes been attributed to the fact that for the most part the negroes live on alleys in "the slums". The Health Officer, in his report, disposes of this proposition by showing that among both the whites and the colored people the death rate in the alley population is somewat lower than it is among those who live on streets. The diseases in which the mortality of the two races shows the greatest difference are those affecting the lungs and the digestive apparatus and those incident to childbirth and infancy. The Health Officer sums up his conclusions in the following paragraph:

"The high death rate among colored people in this District is, in my judgment, due to bad housing (incident to a certain extent to defective location and construction of houses, but probably to an even greater extent to bad housekeeping), to bad clothing, to bad feeding, and to the absence of needed medical advice and treatment at the proper time. And all of these are due to poverty and ignorance. Whether an equally large aggregation of persons of Caucasian extraction whose average and extremes of poverty and ignorance were like those of the colored people living in this district would or would not show an equal death rate it is impossible to tell. There are, so far as I am informed, no available figures bearing on this point. But it must be borne in mind that defects of housing and of clothing, which bear so heavily on the colored race, are incident to civilization, and that while the white race has possibly become inured to such conditions by reason of the long years during which it has been subjected to them, the colored race has had no such immunizing experience. It is, from an ethnological standpoint, in the position of a race just entering into what is termed civilized life, and it is a matter of common belief that under such conditions death levies a heavy tribute for the advance of the race."

The Commissioners call attention to the fact that during the past thirty years the colored death rate has fallen from 40.78 to 28.81 per 1000 while the death rate among the whites has fallen only from 19.54 to 15.16. As a remedy for high death rates they endorse the Health Officer's recommendations of sanitary reforms, the establishment of public baths and day nurseries, the extension of public playgrounds and especially the encouragement of efforts for the education of the individual

"in the art of good living; in the art of keeping the home, however poor it may be, clean and of making the best use of such facilities as it

affords for lighting, heating and ventilating; in the art of keeping the person and the clothing clean and of rightly preparing and using foods; and in the art of recognizing at an early stage evidence of diseases, of appreciating their significance, and of instituting proper measures for their mitigation and cure, calling on the physician for advice and assistance when necessary."

One of the most serious problems affecting the health of cities everywhere is the water supply. The city of Washington, which takes its water supply from the Potomac River, has recently installed a filtration plant with the expectation of thereby decreasing the death rate from typhoid fever. The first filter was put into operation in August, 1905, and the last report of the Health Officer at hand covers the calendar year 1905. Consequently the result of the installation of the filters upon typhoid fever can hardly be ascertained, although there was no apparent diminution of the disease at the time of the latest report. During the four years 1902 to 1905 inclusive there were 591 deaths from this disease, or an average of 148 per annum. The Health Officer reported that upon the failure of the purification of the public water supply to show any effect upon the prevalence of this disease his department "found itself without even a theory as to the cause of typhoid fever in this jurisdiction". On his recommendation the Commissioners invited the co-operation of the United States Public Health and Marine Hospital Service to investigate and report upon the causes of typhoid fever in Washington and the proper remedies to be adopted. This report is not yet available.

One of the most serious problems which American cities are called upon to confront is the smoke nuisance arising for the most part from the use of bituminous coal in manufacturing plants, steam locomotives, office buildings, hotels, etc. Washington has an anti-smoke law which is enforced by the Health Department. The Smoke Inspector reports that a decided improvement in smoke conditions has been attained, chiefly through the increased care exercised by firemen in the proper handling of their plants and through the installation of larger boilers, the use of smoke-preventing appliances and the changing of fuel. He states that in a majority of cases the smoke nuisance has been found to be the result of carelessness in stoking and tending the fires. In most of the other cases it is due, he says, to insufficient boiler capacity which necessitates the forcing of the fires. The Health Officer states that numerous

establishments in the city, including all but one of the Federal buildings, are continually demonstrating that the anti-smoke law can be complied with. The number of violations reported in 1906 was 565 and the total amount of fines collected was $ 3,275. The Commissioners of the District of Columbia call attention to the fact that the steam railroads operating within the city cause a large part of the smoke nuisance, and recommend that the law be extended so as to forbid the emission of smoke from railroad locomotives. This could be accomplished by the substitution of electric motors for steam engines, and the Commissioners say that the beauty of the capital city, the comfort of the public and the interests of the railroads themselves alike require the use of smokeless motors within the city.

A general survey of the work of the Health Department leads to the conclusion that it is greatly hampered for lack of funds with which to enlarge its staff of inspectors. It has no bacteriological laboratory and very inadequate facilities for the inspection of dairies.

The Engineer Commissioner detailed from the United States Army has general charge of all engineering work under the city government, including street improvements, sewers, sidewalks, bridges, conduits, water works, parks and the control of the street railways. It should be noted, however, that the water works and the parks of Washington are in the main under the direct control of the War Department of the United States government. Only the distribution system of the water works is directly under the control of the Commissioners and, so far as parks are concerned, excepting one large park, the park squares and the triangular parks formed by the intersection of streets and avenues, all the rest are under the control of the same officer of the War Department who has charge of the Federal buildings. One large park, consisting of about 1600 acres, is under the joint control of the Commissioners and the Chief of Engineers of the United States Army. The Commissioners, however, have full control of the parking and trees along the sidewalks. There are about 85,000 of these sidewalk trees. During the fiscal year 1906, over 3,200 new trees were set out and about 1,300 old trees were removed. The total expense of caring for the trees during the year was $ 26,500. The Commissioners in their report to Congress urge that the park system

of the city, except the grounds around the Federal buildings, be transferred to their control. They say that under the present system the estimates for the maintenance of the parks are made by the Army Officer in control who has no immediate knowledge of the general revenues and financial needs of the city. The Commissioners further recommend that the system of small parks now existing in the old city limits be extended throughout the District of Columbia and thats teps be taken for the establishment of a general park system such as is being undertaken by other great American cities.

American cities have been very slow in establishing public toilet rooms or convenience stations for the use of the people. Until within a few years there had been no public stations except in the parks and occasionally in the basement of a public building. Recently, however, public convenience stations at points where they can be in constant use by large numbers of people have been established in a number of cities. Washington has constructed two of these.

There are no public baths in Washington except a public bathing beach and floating baths for summer use. The Commissioners are of the opinion that the city should construct regular bath houses after the manner of other modern municipalities.

The sewerage of the city is disposed of by means of trunk sewers carrying the waste to a point below the city where it is discharged into the Potomac River. The present system has been planned for a population of 500,000 people. On June 30, 1906, there were 485 miles of sewers in the city, and the total cost of the system up to that date had been $ 14,800,000. No effort is made in Washington by means of sewage farms or special processes to render the sewage profitable or harmless. It is thought that if the wastes are discharged into the Potomac River at a point where the flow of the water will carry them down stream nothing further is necessary.

Street cleaning in the city of Washington is done partly by contract and partly by employes of the Commissioners. The machine cleaning and flushing is done under contract at about 17 cents per thousand square yards. In 1906 an aggregate of nearly 500 million square yards of paved streets was cleaned by hand and the cost of this work was upwards of $ 88,000. The Commissioners have

been especially troubled by the amount of waste paper thrown upon the streets. In spite of the fact that there is a police regulation against the littering of streets in this way, the record shows that from April 23, to June 30, 1906, a total of 10,458 bags of waste paper was collected and removed from the streets.

The collection and disposal of garbage, dead animals and other refuse are taken care of by contract under regulations prescribed by the authorities. Garbage must be disposed of by the reduction process and no garbage or other vegetable or animal matter may be dumped into the Potomac River, fed to animals or dumped upon the land. At the present time the garbage is taken twenty-five miles down the river to a reduction plant where it is made into fertilizing material and by-products. The city pays $ 78,400 a year for the collection and disposal of garbage. Collections are made every day from markets, hotels and such places, every day except Sunday from residences within the fire limits and twice or three times a week elsewhere. Approximately 40,000 tons of garbage is collected every year. Ashes and miscellaneous refuse are also collected under contract.

Altogether there are in the District of Columbia about 278 miles of paved streets, distributed among the various classes of pavement as follows:

Asphalt and coal tar	138	miles
Asphalt block	26	„
Vitrified brick	1	„
Granite	26	„
Cobble stone	8	„
Macadam	79	„

Altogether about $ 475,000 was spent during the fiscal year 1906 in the paving, repairing and repaving of city streets and the construction and repair of suburban roads. Sheet asphalt pavements cost $ 1.46 per square yard and asphalt block pavements $ 1.64 per square yard. The Commissioners call attention to the fact that the old granite pavements which are still remaining on a number of streets are so noisy as to be a source of complaint from both residents and business men. The merchants claim that trade will leave streets with granite block pavements to go to streets paved with asphalt or other smooth material. On account of the high prices asked for sheet asphalt pavement by the private contractors the

Commissioners suggest that it may be necessary for the city to establish a municipal asphalt plant, although they feel disinclined to embark upon this enterprise unless it proves necessary.

In practically all American cities grade crossings, where steam railroads cross the streets, have been a source of great danger, inconvenience and loss of life. Under authority of Congress the city of Washington has undertaken, in conjunction with the railroad companies, the separation of grades at the most important points in the city. This work, having only recently been begun, is not yet sufficiently advanced for a detailed report.

The charities of the city are under the control of a board of five members appointed by the President of the United States, who serve without compensation. It is the duty of this board to investigate and supervise all institutions or associations of a charitable, eleemosynary, correctional or reformatory character which are supported in whole or in part by appropriations from Congress. The Commissioners of the District of Columbia may at any time instruct the Board of Charities to make an investigation into any of these institutions within the city. The financial estimates of the board are transmitted to Congress by the Commissioners and the accounts and expenditures of the board are under the supervision of the Commissioners.

There is also a board known as the Board of Children's Guardians, composed of nine members appointed by the Judges of the Police Court and the Judge of the Criminal Court of the District of Columbia. It is required that at least three of the members shall be women. The general function of this board is to look after delinquent children and children who have no suitable homes and no adequate means of earning a living, as well as children of vicious parents.

The courts of the city consist of a Court of Appeals made up of one Justice and two associate Justices; a Supreme Court consisting of one Chief Justice and five Associate Justices; a Police Court consisting of two Judges, and a Juvenile Court with one Judge, six Justices of the Peace, all of whom are appointed by the President of the United States. Inasmuch as the city of Washington, — or the District of Columbia, — is not subject to the jurisdiction of any commonwealth, the judicial system just outlined is much

more elaborate than would be necessary for purely local matters in a city subordinate to state jurisdiction.

The city of Washington owns and operates only one public utility, that is, the water works. The water supply is obtained from the Potomac River and is brought to the city by an an aqueduct seventeen miles long. This aqueduct and the elaborate slow sand filtration plant just completed are under the direct control of the Chief of Engineers of the United States Army. The distribution system, as already mentioned, is under the immediate control of the Engineering Department of the city. The Commissioners recommend that the aqueduct and the filtration plant be transferred to their jurisdiction. This would simplify the administration of the water works and tend to economy and efficiency. The United States Engineer in charge joins with the Commissioners in making this recommendation. The city has over 400 miles of water mains ranging from 75 inches down to 1—1/4 inches in diameter. The total cost of water mains to June 30, 1906, was approximately two million dollars. The city also maintains 85 wells from which a certain amount of water is obtained. The average daily consumption of water in the city in 1906 was more than 68 million gallons. An effort is being made to reduce this consumption by the installation of water meters. The total number of water meters in use on June 30, 1906, was 2,401, but plans were under way for installing 4,000 more during the next fiscal year. The official in charge reported that leaks and waste were found during the year upon 18,549 premises, or approximately one-fifth of all the houses served by the water works. The importance of reducing the consumption of water by stopping waste is shown by the fact that with the present per capita daily consumption of over 200 gallons the Commissioners are confronted with the necessity of calling upon Congress to furnish an additional water supply by the construction of another conduit from the surce of supply to the city. The total revenue of the water department for 1906 amounted to $ 405,786, showing an increase of $ 127,000 in ten years. The Federal government has recently expended an enormous sum in establishing a slow sand filtration plant to purify the Potomac River water supply. As already stated, early returns from the Health Department do not show that filtration has lessened the typhoid fever rate.

The other public utilities of the city, including gas, electric

lighting, telephones and street railways are all owned by private companies under franchises granted directly by the United States Congress. The outstanding capitalization of these various companies amounted in 1903 to about 45 million dollars. There are two street railway systems, operating together about 145 miles (single track) of street railway. All of this is equipped with electricity and somewhat more than half is run on the underground trolley system.

The price of gas to the government and to private consumers for other than street lighting purposes is $ 1.00 per thousand cubic feet with a penalty of ten per cent added if the bills are not paid within ten days after being rendered.

Street lighting costs the city, for gas $ 20 per light per annum, and for electricity $ 85 per light per annum.

The usual safeguards are required in the letting of contracts. In the case of any street work the total cost of which is estimated to exceed $ 1,000, notice must be published in one newspaper calling for proposals and if the cost is to exceed $ 5,000 then notice must also be published in a newspaper in New York, Philadelphia and Baltimore. The Commissioners are required to accept the lowest responsible bid unless they reject all proposals. They are forbidden to divide a contract for the purpose of reducing the sum of money to be paid to less than $ 1,000. All construction and repair contracts require the unanimous approval of the Commissioners. The supplies for all departments of the city government are purchased through a property clerk and a superintendent. The latter buys the supplies for the Engineering Department and the former for all other branches of the government. Supplies are purchased under contract with the lowest bidders after public advertisement, except in emergency cases.

Thirty-five or forty years ago, before Congress took away the right of the people of Washington to self-government, there was an era of colossal improvements accompanied by rank municipal corruption under a "political "boss". The corruption of that period has now been forgotten and the city is proud of the improvements. Under the rule of the Commissioners, the government of the city of Washington appears to be honest and fairly efficient.

III. New York.

The city of New York is the second in the world in point of population and the first in the magnitude of its municipal expenditures. Its history has been one of rapid growth and almost unexampled industrial and commercial development. In 1800 the population in the territory now comprised within the city limits of New York was about 64,000. One hundred years later it was 3,437,000.

New York was first settled by the Dutch in the Seventeenth Century and was called at that time New Amsterdam. After the English took possession the name was changed to New York. Its first city charter under English law was granted by Governor Nicolls one June 12, 1665. This quaint charter superseded "the form of government late in practice within his Majesty's town of New York, under the name and title of Schout, Burgomasters and Schepens, which are not known or customary in any of his Majesty's dominions". It was then declared that the inhabitants of Manhattan Island "are and shall be forever accounted, nominated and established as one body politic and corporate under the government of a Mayor, aldermen and sheriff". The Mayor, five aldermen and the sheriff were named for the period of one year in the Nicolls charter. They were given "full power and authority to rule and govern as well all inhabitants of this corporation as any strangers according to the general laws of this government and such peculiar laws as are or shall be thought convenient or necessary for the good and welfare of this, his Majesty's corporation: as also to appoint such under officers as they shall judge necessary for the ordinary execution of justice".

The mayor had a vote in the council and no action could be taken unless he or his deputy was present. Governor Nicolls then proceded to "strictly charge and command all persons to obey and

execute from time to time all such warrants, orders and constitutions as shall be made by the said Mayor and Aldermen, as they will answer the contrary at their utmost peril".

A new charter known as the "Dongan Charter" was granted to New York in 1686. This instrument went more into detail in prescribing the duties of the government. In 1708 a third charter known as the "Cornbury Charter" was granted, which, like the original "Nicolls Charter," was a very brief instrument. As the city became more populous the need of a more explicit body of law came to be recognized and led to the adoption of the "Montgomerie Charter" of 1730. The city lived under this charter until after the state of New York, in company with the other American colonies, achieved its independence and became a member of the American Union. The first complete charter from the State of New York was granted to the city in 1813. In 1830 and again in 1873 revised charters were granted. In 1882 a complete revision of the New York city charter, known as the "Consolidation Act," was passed and remained in force until the charter of Greater New York came into force at the beginning of 1898. This last charter, with some amendments, is still the governing law of New York City. The adoption of the Greater New York Charter was an event of great importance in the history of American municipal government. It went along with the consolidation of New York City, Brooklyn and other neighbouring towns into the present metropolis of the Western Hemisphere, with a land area of 209,218 acres, or more than 327 square miles, under one municipal government. If the territory, excluding water, embraced within the municipality of New York were made a perfect square the length of each of the four sides would be eighteen miles.

Constitutional Limitations in New York State.

Before proceeding to a detailed examination of the present charter and administration of New York City, it will be necessary to point out those provisions of the Constitution of the State of New York which operate to limit the power of the State legislature over the city government. As already stated, in American theory the municipal corporation is the creature of the State legislature and is wholly subject to its power, except as limitations upon this power may have been placed in the Constitution of the common-

wealth in which the city is situated. The commonwealth Constitution is a much more stable body of law than the statutes enacted by the legislature. The provisions of the Constitution relating to municipal government are therefore to be considered as comparatively permanent factors in the development of municipal institutions.

Under the constitution of the State of New York the legislature is prohibited from appointing by special laws local officers or commissioners to regulate municipal affairs.

The Constitution divides the cities of the state into three classes and defines "special city laws" as laws relating to fewer than all of the cities in any one class. Cities of the first class are those having a population of 175,000 or more, and at the present time are three in number, — New York, Buffalo and Rochester. If the legislature desires to pass a special city law, — and any law referring to New York City alone would under the Constitutional definition be such a law, — it is required to send to the mayor of the city or cities concerned a copy of the proposed act. After receiving the measure, the mayor holds a public hearing and within fifteen days returns the measure to the legislature with his certificate stating whether or not he accepts it on behalf of the city. If he accepts it, the measure is then sent to the Governor of the State for his approval or veto. If on the other hand, the Mayor refuses to accept any such measure, it can not become a law unless passed a second time by the legislature, and signed by the Governor the same as other state laws, or passed over his veto by a two-thirds vote. This provision guarantees that the people of a city shall be apprised by the State legislature of any proposed local legislation affecting them, and through their chief executive shall have an opportunity to make known their approval or disapproval of such measure. It does not secure "home rule", however, for in any case the legislature has authority to override the wishes of the city, and in practice it has done so on several important occasions. The act consolidating old New York, Brooklyn and other towns into Greater New York was passed in spite of the disapproval of the mayors of New York and Brooklyn. The Greater New York charter itself was passed without the acceptance of the mayor of old New York. The Public Utilities Commission bill, a most important piece of legislation calculated to bring all the franchise-holding companies of New York City under the control of a Board of Commissioners

appointed by the Governor, was passed in 1907 in spite of the disapproval of the mayor of Greater New York.

Another provision of the New York State Constitution gives the legislature the power to authorize but not to require payments by cities for the support of charitable and reformatory institutions which are under private control.

Still another provision requires that city officials must be elected by the voters of the city or appointed by such authorities of the city as may be designated by the legislature. This clause effectually prevents the appointment of strictly local officials in New York City by the State legislature, the Governor or any other central state authority.

The Constitution also provides that municipal elections shall not be held at the same time as national and state elections.

Another clause in the Constitution forbids the legislature to grant any extra compensation to a public officer or agent after the service has been rendered or the contract entered into or to authorize a municipal corporation to do so.

The indebtedness of cities in the State of New York is limited by the Constitution to 10 per cent of the assessed valuation of taxable property within the city limits, but debt incurred for procuring a public water supply is not included within the ten per cent limitation. It is required, however, that in the case of water bonds the city shall make provision at the time the bonds are issued for taxes sufficient to pay the annual interest and pay off the principal within twenty years.

The New York Constitution also limits the general tax rate which may be levied by cities of over one hundred thousand population to 2 per cent in addition to the taxes required to provide for the interest and principal of the city's debt.

Cities in New York State are also prohibited from lending their credit to any private company or corporation or becoming stockholders in any such company or corporation.

The Constitution also provides that "appointments and promotions in the civil service of the state and of all the civil divisions thereof including cities and villages, shall be made according to merit and fitness, to be ascertained, so far as practicable, by examinations which, so far as practicable, shall be competitive". An exception is made, however, in the case of honorably discharged soldiers and sailors of the United States, who are entitled to preference in

appointment and promotion without regard to their standing on any eligible list. The legislature is required to pass laws for the enforcement of these provisions. As a matter of fact, although New York City has a local civil service commission, there is a state commission which has an effective control over the local commission. The rules made by the city commission take effect only when approved by the state commission and the latter may, by unanimous vote, rescind any rule of the city commission which does not carry out the provisions of the civil service law of the state. The state commission may also, with the approval of the Governor, remove any member of a municipal commission after charges have been preferred and a hearing given. In case of a vacancy on a city commission arising in this way or by the resignation of a commissioner pending investigation, the state commission has authority to appoint a new man to the place, and in case the mayor of any city fails to appoint a local commission the state commission itself appoints one, and if the city commission fails to make rules for putting the civil service laws into operation the state commission itself establishes the rules.

Legislative Control over New York City.

The extent to which state legisl ativecontrol has been exercised over New York City is shown principally by the detail into which the city charter, enacted by the state legislature, goes. The present charter of Greater New York is a document of nearly 350,000 words and goes into great detail in outlining the organization of the city government, fixing salaries, etc. In addition to the legislative control exercised in the passage of so detailed a charter, however, there are other ways in which it is exercised indirectly through laws affecting the city. For example, a State Board of Charities has been created which exercises supervision over the activities of the city authorities in the administration of charities. It is the duty of this State Board to inspect and investigate, call attention to abuses, give advice and assistance and approve plans for almshouses. This board also makes rules for the treatment and reception of inmates of private institutions who are supported in part by public aid.

The state has also taken over the administration of the excise liquor law and this duty is performed through a state commissioner who has the collection of liquor moneys in Greater New York

and has a corps of special agents independent of the local authorities.

The state has also established a Board of Examiners for school teachers. This board has complete control over the examinations in all parts of the state.

By all odds the most important piece of legislation in recent years by means of which the State New York has attempted to exercise control over the local affairs of New York City is the new Public Service Commission law passed early in 1907 at the instance of Governor Chas. E. Hughes. New York City is the home of great franchise monopolies. The street railway, tunnel gas and electric light companies of this city are capitalized, by a computation recently made at an aggregate of more than $ 1,000,000,000. The City of New York has about half of the population and three fourths of the wealth of the state. Consequently the local transportation facilities of the metropolis and the supply of gas and electricity are considered matters of state interest. The new Public Service Commission law provides for a commission of five members for Greater New York appointed by the Governor of the state for a term of five years. The appointments are so arranged that one Commissioner will go out of office on Feb. 1, 1909, and one Commissioner annually thereafter. Each member of the Commission receives a salary of $ 15,000, and the Commission is given practically unlimited authority to employ experts and appoint subordinates for carrying on its work. The Commission has "general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations" within the city and is required to keep itself "informed as to their general condition, their capitalization, their franchises and the manner in which their lines owned, leased, controlled or operated are managed." The Commission has authority to examine all the records and books of these public service corporations or to require sworn copies of such books, contracts, records, etc., to be filed with it. The Commission prescribes the form of annual reports to be made by the public service corporations. It investigates the causes of accidents, receives complaints from citizens in regard to improper service rendered or unreasonable charges made, has authority to regulate "the rates, fares or charges" demanded or collected by any common carrier for the transportation of persons, freight or property. The Commission may also deter-

mine what the just, reasonable, safe, adequate and proper regulations, practices, equipment, appliances and service of common carriers shall be, — and its orders have the force of law. The Commission may establish a uniform system of accounts to be used by all the common carriers subject to its supervision. No franchise holder is permitted to transfer his privileges or enter into any contract affecting them without the approval of the Commission. Furthermore, no public utility corporation in the same line of business, unless authorized by the Commission, and no other corporation under any conditions, may be permitted to purchase or hold more than 10 per cent of the total capital stock issued by any public utility company. Public utility corporations are also forbidden to issue stocks, bonds or notes running for more than one year except under authority from the Commission, but the Commission has no power to authorize the capitalization of any franchise right in excess of the amount which may have been paid to the public authorities as a consideration for the grant of such franchise right. The law also forbids the increase of the capital stock of public utility corporations by consolidation. The Commission also has authority to require the city, if it should embark upon the manufacture of gas or electricity, to make an annual report in detail, and the city is not permitted to build, maintain or operate any gas or electric light plant for other than municipal purposes, except with permission granted by the Commission.

It is altogether too early to see what effect the control of New York City's public utility corporations by a state-appointed commission will have upon the government of the city itself. It is clear, however, that the problems which the Commission is attempting to solve are among the most tremendous of modern times and constitute, in an important sense, the crux of municipal democracy.

The Charter of Greater New York.

As explained by Wm. C. De Witt, chairman of the committee that framed the Greater New York charter and also member of the Commission appointed a few years later to propose amendments, the philosophy of the charter has a deep significance. "In designing a governmental system for a city of three million people," said Mr. De Witt in a public lecture ten years ago, "the Constitution of the

United States naturally occupied a conspicuous place among the models to be consulted. The rare combination of powers grouped in one republic, the exquisite welding of states sovereign over their domestic affairs and in turn made up of towns, villages, cities and counties, each enjoying an adequate measure of home rule into an indissoluble union under a supreme federal authority, have rendered the Constitution of our country the most perfect fabric of civil society the world has yet seen . . . Any governmental system to be agreeable to the genius of our institutions should yield to each distinctive community an appropriate measure of home rule in any common association however large, whether imperial or republican. This organic principle by which large states are made up of small states, wheels within a wheel, sustaining and not conflicting; a galaxy, not a solid; each orb moving in its sphere, yet all revolving around a central sun — is quite as appropriate to the organization of great cities and is just as indispensable to proper distribution of their municipal powers as it is to states . . . It was not made applicable to any city by the master builders of our republic because there was no great city in the country when the Constitution was formed."

Mr. De Witt then pointed out that London and Paris are both divided into districts, or local subdivisions, for purposes of local self government, while at the same time a strong central municipal administration is maintained to preserve the unity of the government.

Following, then, the principles of the United States Constitution and the example of London and Paris, the Greater New York Charter divides the city into five boroughs, divisions already made by nature and history. The central and most populous borough, consisting of the Island of Manhattan, was named "Manhattan". All the rest of the old city of New York, constituting that part of the present city lying north of the Harlem River on the mainland, was called "The Bronx". The old City of Brooklyn was transformed into the Borough of "Brooklyn". The rest of the territory of Long Island included within the limits of Greater New York was named the Borough of "Queens," and Staten Island, which stands at the entrance of New York Harbor, was called the Borough of "Richmond".

"The need and the propriety of these divisions for administrative work will not be gainsaid by any enlightened man," says Mr. De Witt. "We have in Mr. Joseph Chamberlain the highest authority

for the statement that a population of one half million is practically the largest number that can be governed administratively from one center with the individual attention and constant assiduity that have contributed so much to the usefulness and popularity of corporation work. It needs only common knowledge and perception to understand that all the administrative business of Greater New York could not be transacted from one city hall with any regard for the convenience of the people or for the expedition of public business." Mr. De Witt states that at one time even before the boundaries of New York were enlarged to their present dimensions the horses engaged in street cleaning were stabled so far away from some parts of the city that at times it took them half a day to go to and come from the place where they were needed for the work in hand.

In each borough there is elected, by popular vote, a borough president who is supposed to be on the lookout for the interests of his borough at all times.

The Borough President holds his office for four years. In each of the three larger boroughs his salary is $ 7500, and in the other boroughs $ 5000 a year. The Borough President has authority to appoint and at pleasure remove a Commissioner of Public Works for his borough who shall represent the Borough President in all matters relating to streets, sewers, public buildings and supplies, and take the place of the Borough President in case of the latter's absence or illness. The Borough President also has authority to appoint a Secretary and such other assistants as he may deem necessary if he can induce the general authorities of the city to make the necessary financial provision in the annual budget. Within his Borough, the President has control of grading, paving and repairing streets and highways, of laying surface railroad tracks in streets, including the form of rail to be used, the character of the foundation and the method of construction, of the construction and maintenance of bridges and tunnels, of all matters relating to sewers and drainage, of the construction and maintenance of all public buildings, except school houses, almshouses, penitentiaries and fire and police station houses (which are otherwise provided for), of the location, erection and maintenance of public baths and public comfort stations and of other matters of similar nature. He is authorized to prepare all contracts relating to public work in his Borough,

subject to the approval of the city's legal adviser. In the small Boroughs of Queens and Richmond, the President has certain additional powers, including the control of street cleaning and the removal of ashes, garbage and rubbish. The charter declares that in the power to construct and maintain sewers is included authority to construct aud maintain sewage disposal works.

Further to encourage the spirit of local independence and civic interest within the limits of the Greater City, twenty-five local improvement districts, each with an historic name, are established by the charter. In each of these districts there is a Board of Local Improvements consisting of the President of the Borough in which the district is situated and the various members of the Board of Aldermen living within the district. These Boards have power to begin proceedings for the construction of tunnels and bridges, for the acquisition of land for parks, streets, sewers, bridges and bridge approaches, for the opening, paving and repairing of streets and the construction of sewers, for the paving of sidewalks and for the setting of street lamps and the providing of signs designating the names of streets, — provided that any of these improvements are to be paid for in whole or in part by special assessments upon property benefitted.

The local Board may also hear complaints in regard to nuisances in the streets or against disorderly houses, drinking saloons violating the law, disorderly assemblies or other matters concerning the peace, comfort, order and good government of any neighborhood within the district, or concerning the condition of the poor within the district. The Board has authority to pass resolutions on these subjects not inconsistent with the powers of the central city authorities. These resolutions, however, must be submitted to the Mayor, and if he declares them general in character they are deemed invalid. The Local Boards for the districts situated within any particular borough hold their meetings at the Borough building, which serves the purpose of a local city hall.

The City Council.

We now come to a general description of the organization of the central government of New York City. As Mr. De Witt says, the general scheme follows that of the United States Constitution. Executive or administrative powers are separated from legislative

and judicial powers and separate departments of government are organized for the exercise of these several powers. Under former charters the City Council had been reduced to a body of slight importance. The character of the aldermen elected in New York during most of the Nineteenth Century was such as to reduce public confidence in the Council to the lowest ebb. The result was that the State Legislature itself gradually assumed the functions of the City Council, or delegated them piece-meal to other local authorities. The framers of the Greater New York charter were imbued with the idea that the City Council should assume its ancient place as the central authority of the city government and that it should be vested with the right to exercise all of the powers of the municipal corporation except where other specific provisions were made in the law. The well-established practice of the present day, however, was too strong to yield, and consequently the New York City Council, or "Board of Aldermen," as it is called, falls far short of the dignity and importance which we should expect of the Council of so great a city. The Board of Aldermen consists of 79 members. Of these, 73 are elected by the people once in two years by single districts. The six other members are the five Borough Presidents and the President of the Board of Aldermen, who is elected for a period of four years by the people of the whole city. The salary of the President of the Board is $ 5000 a year and the salary of each of the aldermen elected by districts is $ 2000 a year. Heads of administrative departments of the city government are entitled to sit in the Board of Aldermen and are required to do so whenever asked by the Board. They are also required to answer any questions regarding the affairs of their departments asked by any member of the Board, provided that 48 hours' written notice has been given them. These administrative officers have the right to participate in the discussions of the Board of Aldermen, but do not have the right to vote.

The Board of Aldermen has authority to appoint the City Clerk, who holds his office for a term of six years. He has charge of all the papers and documents of the city, except those that are specifically committed by law to the keeping of other departments. The Clerk keeps a record of the proceedings of the Board of Aldermen and a public record of the city ordinances. He also keeps a "street franchise book" in which is transcribed every grant,

franchise, contract or resolution in the nature of a franchise affecting any of the streets or public places belonging to the city, as these franchises may be granted from time to time. The Clerk is required immediately after each meeting of the Board of Aldermen to prepare a brief abstract, omitting technical and formal details, of all resolutions and ordinances introduced and passed by the Board of Aldermen; of all recommendations of its committees and of all its financial proceedings, including full copies of messages from the Mayor and reports of the city departments. This abstract is published in the "City Record," a daily paper published by the city for official purposes. The Board of Aldermen is not permitted, except by unanimous consent of its members, to adopt any ordinance or resolution involving the alienation of the city's property, the granting of a franchise, the making of any specific improvement, the appropriation of money or the taxing or assessing of property until at least five days after the clerk's abstract of its provisions has been published in the City Record. The Mayor is not authorized to approve any such ordinance or resolution until at least three days after the ordinance or resolution has been passed and published in the City Record. The City Clerk receives a salary of $ 7000 a year.

No member of the Board of Aldermen is eligible to any other office under the city government and no member, while in office, may be a contractor with the city or an employe of the city in any capacity.

The Board of Aldermen is required to meet at least once each month, except in August and September, and the Mayor may at any time call a special meeting of the Board. Indeed he is required to call such a meeting if asked to do so by written petition of fifteen members. Three days notice, however, is required before any special meeting can be held.

The passage of any ordinance or resolution requires the affirmative vote of a majority of all the members of the Board, and the Board is not permitted to expend money for any celebration or entertainment except by a four-fifths vote of all its members. Furthermore the Board is not permitted to make any additional allowance beyond the legal claim existing under a contract with the city except by unanimous vote. Ordinances and resolutions passed by the Board are presented to the Mayor for approval. He has

fifteen days in which to pass upon them. If the Mayor does not approve of the Council's action he may refuse to sign it and state his objections to it in writing. If he takes this course the Board of Aldermen may, after ten days and within fifteen days, reconsider the matter and pass it over his veto by a two-thirds vote of all its members. In case, however, that the ordinance or resolution involves the expenditure of money or the creation of a debt, a three-fourths vote is required to pass it over the Mayor's veto. Whenever an ordinance or resolution embraces more than one distinct subject the Mayor may veto specific items without keeping the rest of the measure from going into effect.

The Board of Aldermen is given specific authority to make, amend and repeal "all ordinances, rules and police, health, park, fire and building regulations not contrary to the laws of the State or the United States as it may deem necessary to carry into effect the powers conferred upon the City of New York" by its charter or any other state law or grant, and such other ordinances as the aldermen may deem necessary for the good government, order and protection of persons and property and for the preservation of the public health, peace and prosperity of the city and its inhabitants. This grant is made, however, subject to specific grants of power conferred by the charter upon the Borough Presidents and various city departments including the Board of Education and the Board of Estimate and Apportionment. The charter goes on to say that "no enumeration of powers in this act shall be held to limit the legislative authority of the Board of Aldermen except as in this act specifically provided, and the Board of Aldermen in addition to all enumerated powers may exercise all of the powers vested in the City of New York by this act or otherwise" and may pass such ordinances and bylaws applying throughout the whole of the city or applying only to specified portions of it as the board may deem meet "for the good rule and government of the city". The Aldermen are also authorized to provide for the enforcement of the city ordinances by fines, penalties, forfeitures and imprisonment. The Aldermen are given further specific authority to construct or acquire, by purchase or condemnation additional water works to supply the city and its inhabitants with water. They are also specifically authorized to provide for the acquisition or construction of markets, parks and park ways, playgrounds and drive ways, bridges, tunnels

under stream and public buildings, including school houses and public comfort stations and for any of these purposes they may issue city bonds if the project is approved by the Board of Estimate and Apportionment. The Aldermen may also authorize the issue of bonns for any other purpose connected with the exercise of the city's powers, on condition, however, that such additional indebtedness shall be first approved by unanimous vote of the Board of Estimate and Apportionment.

In case any proposition for the issue of bonds has been approved by the Board of Estimate, the Board of Aldermen must consider the matter at a time not later than one week afterwards. The Aldermen must act upon bond issues within six weeks after they have been approved by resolution or vote of the Board of Estimate. Where a majority of all the members vote against any such proposition it is deemed rejected, but unless a majority of all the members vote against it within the six weeks time prescribed the bond issue approved by the Board of Estimate is considered to have passed the Board of Aldermen by the requisite vote.

The Board of Aldermen is given specific authority to regulate the use of the streets by ordinances applying either to the whole city or to specified sections of the city, but the Board may not pass any special ordinance regulating the use of streets except for the establishment of fountains, public comfort stations, public baths and similar structures maintained by public authorities. The Board of Aldermen is also given specific authority to provide for licensing and regulating the business of dirt carts, hackmen, expressmen and other special classes using the streets; of boot blacks, pawn brokers junk dealers, keepers of intelligence offices, peddlers, dealers in second hand articles, etc.; of menageries and circuses and of bone-boiling, fat-rendering and other noxious lines of business. The Board is authorized to regulate rates of fare for cabs, automobiles and other vehicles which pay a license fee to the city. Upon this Board is imposed the duty of seeing in a general way that the laws and ordinances of the city are faithfully executed and the Board is authorized to appoint from time to time a special committee of inquiry into the execution of the laws and the performance of public duty by any department or employee of the city government.

Any member of the Board of Aldermen, who knowingly and

wilfully disregards any provision of law applicable to the Aldermen or who votes for any contract in violation of law or any unauthorized appropriation or "for any illegal or injurious disposition of corporate property rights or franchises", is guilty of a misdemeanor and becomes individually liable to the city, on the suit of any citizen and taxpayer, for the amount lost through his official action.

The Granting of Franchises.

The Greater New York Charter has a chapter devoted to franchises and grants of land under water. Inasmuch as the provisions of the charter on this subject are in the nature of the case a limitation upon the legislative power of the City, it is perhaps appropriate to review them here before going on to describe the organization of the other departments of the city government. The charter declares that the rights of the city in its water front, ferries, wharf property, land under water, streets, parks and all other public places are inalienable. The charter forbids the grant of any franchise in the streets for a longer period than twenty-five years except that this limitation does not apply to grants for rapid transit subways or for steam railroad tunnels. The city may, however, provide in any franchise for the renewal of the grant on a fair revaluation for a further period of not exceeding twenty-five years. In the case of rapid transit subways and steam railroad tunnels original franchise grants are limited to a period of fifty years with the option of a renewal upon revaluation for twenty-five years more. Franchise rights may be granted by the Board of Estimate and Apportionment, the constitution of which will be described later. A franchise is subject to the mayor's veto. The charter specifically states that any franchise granted by the city shall, at its expiration, terminate and the rights of the grantee in the streets, waters and public places of the city shall then cease without compensation. Any franchise grant may also provide that upon its termination the plant of the franchise holders with its appurtenances shall become the property of the city either without compensation, or upon the payment of a fair valuation excluding any value derived from the franchise. If the city comes into possession of any public utility plant by reversion or purchase it is made optional with the city to operate the property on its own account or to lease it for a term not exceeding twenty years. It is

required that every franchise shall make adequate provision to secure efficiency of public service at reasonable rates and the maintenance of the property in good condition throughout the full term of the grant.

Before any franchise or right to use any street, park, bridge dock or public ground or water belonging to the city is made by the Board of Estimate and Apportionment the proposed specific grant embodied in the form of a contract with all of the terms and conditions, including the provision as to rates, fares and charges, must be entered in the minutes of the Board and be published at least twenty days in the City Record and at least twice in two daily newspapers in the city at the expense of the person or corporation to which the franchise or rights are to be given. Before approving any such contract the Board of Estimate and Apportionment must set a date for a public hearing, notice of which must be published for at least ten days in advance. The Board is required to make inquiry as to the money value of the proposed franchise or right and as to whether the compensation offered by the proposed grantee is adequate, and publish the results of such inquiry for at least ten days in the City Record and twice in two daily newspapers. No such contract may be entered into, however, except upon a three-fourths vote of the members of the Board recorded in the minutes, and at least 30 days must intervene between the introduction of the measure and its final passage. The Mayor, although a voting member of the Board of Estimate and Apportionment, has an absolute veto upon any franchise contract passed by the Board.

The city is given control of the entire water front, subject to the rights of private property owners, and has power to establish, acquire and maintain all ferries, public wharves, docks, approaches etc., necessary for the navigation and commerce, both foreign and domestic, of the city. The rights of the State of New York in the public streams, bays and waters of all description within the city or adjoining it and the title, rights and interest of the people of the state in land under water, within the boundary lines projected of any street intersecting the shore line, as far out as the city may desire to construct docks or piers, are granted to the city in fee simple. None of these rights are subject to sale, but are to be held by the city in perpetuity.

The Executive Departments.

The executive power of the city is vested in the Mayor, the Presidents of the five Boroughs and the officers of the several city departments. The Mayor stands at the head of the whole city administration. He is elected by the people for a four-year term and receives a salary of $ 15,000 a year. The Mayor or the President of any Borough may be removed from office by the Governor of the State for cause after charges have been filed and a hearing granted. The Mayor may himself remove from office any public officer in the city holding office by appointment from him, except members of the Board of Education, Judicial Officers and trustees of certain educational and charitable institutions. The charter states that no public officer shall hold his office for a specific term except as as otherwise expressly provided in the law. The following administrative departments are established by the charter:

1. Department of Finance.
2. Law Department.
3. Police Department.
4. Department of Water Supply, Gas and Electricity.
5. Department of Street Cleaning.
6. Department of Bridges.
7. Department of Parks.
8. Department of Public Charities.
9. Department of Correction.
10. Fire Department.
11. Department of Docks and Ferries.
12. Department of Taxes and Assessments.
13. Department of Education.
14. Department of Health.
15. Tenement House Department.

Each head of department and each President of a Borough is given control of the purchase of fuel, furniture, utensils, books and other articles for the public offices within his department.

The Mayor's Duties.

It is the duty of the Mayor to make an annual statement to the Board of Aldermen of the finances, government and improvements of the city; to recommend such measures as he deems expedient;

to keep himself informed of the doings of the several city departments and to be vigilant and active in causing the ordinances of the city and the laws of the State of New York to be executed and enforced. The Mayor is required to appoint and may remove at pleasure two Commissioners of Accounts, one of whom must be a certified public accountant. It is the duty of these commissioners once every three months to examine the books of the City Comptroller and the City Chamberlain and report to the Mayor a detailed statement of the financial condition of the city. These Commissioners are also required to make such special examinations of the accounts and methods of the departments of the city and of the four counties included within the city limits as the Mayor shall direct. The Mayor is required to appoint a Civil Service Commission of three members, no more than two of whom shall be members of the same political party, who shall act as the local authority for enforcing the State Civil Service law. All appointments, promotions and changes of status of persons in the public service of the city must be made in accordance with this law. The officers of the city whose duty it is to sign or countersign warrants are forbidden to draw up or issue any warrant against the city treasury for the payment of the salary of any person whose appointment or retention in office has not been in accordance with the civil service rules. Subject to these limitations, the Mayor has practically unlimited power of appointment and removal in the administrative service of the city.

Department of Finance.

At the head of the Department of Finance is an officer elected by the people of the whole city once in four years called the City Comptroller. This officer has power to inspect and revise all financial accounts of all departments of the city. He has authority to prescribe the forms of keeping these accounts. All payments by the city, except as otherwise specifically provided in the law, must be made through a disbursing officer of the Finance Department by means of warrants drawn on the City Treasury by the Comptroller and countersigned by the Mayor. Whenever any claim against the city is presented to the Comptroller he may require the person presenting it to be sworn and to answer any questions in regard to its validity. The authority given the Comptroller to settle and adjust

all claims against the city does not authorize him to dispute the amount of any salary established under authority of law, nor to question the performance of his duties by any public official, except when necessary to prevent fraud. The Comptroller receives a salary of $ 15,000 a year. He appoints and may remove at pleasure two Deputy Comptrollers and an Assistant Deputy Comptroller. The Comptroller, by written authority, may grant to one or both Deputies for a period not extending beyond three months all of the power and authority possessed by himself. The Assistant Deputy Comptroller may by authorized by the Comptroller to sign warrants upon the City Treasury.

There are six bureaus in the Department of Finance:

One is a bureau for the collection of revenue from rents and interest on bonds and mortgages, or from the use or sale of property belonging to the city. This bureau also has the management of the city markets.

The second bureau is for the collection of taxes.

The third bureau is for the collection of special assessments, and delinquent taxes, assessments and water rents.

The fourth bureau has charge of the auditing of accounts.

The fifth bureau is for the reception and safekeeping of public money. This bureau is the City Treasury and is in charge of an officer called the City Chamberlain who is appointed by the Mayor.

The sixth bureau has charge of municipal investigations and statistics. The head of the bureau is called the Supervising Statistician and Examiner. As many expert accountants may be employed in this bureau as the Comptroller may deem necessary. The reports of the Bureau are published in the City Record.

The Comptroller is authorized to recommend to the Board of Estimate and Apportionment the retirement from active service of any officer, clerk or employé of the Department of Finance who has been in the employ of the City of New York or any of the municipalities included within it for a period of thirty-five years or more and who has become physically or mentally incompetent. Any person so retired from active service receives a pension equal to one-half the average salary or compensation he received during the last three years preceding his retirement, provided that in no case may the pension be more than $ 1500 a year.

There is also in the Finance Department a Board of Commissioners of the Sinking Fund, composed of the Mayor, the Comptroller, the Chamberlain, the President of the Board of Aldermen and the Chairman of the Finance Committee of the Board of Aldermen. It is the duty of the Sinking Fund Commissioners to take care of the property and investments accumulated for the purpose of paying off the city debt. Their duties include the leasing of public property the revenues for which go to the Sinking Fund, and the sale or transfer of property no longer needed for the purpose to which it was originally devoted. The Sinking Funds of New York are numerous and the regulations governing them complex. There is a general Sinking Fund for the retirement of debt incurred after Jan. 1, 1898, when the old city was enlarged into Greater New York. There are Sinking Funds for the old City of New York, the City of Brooklyn and the other municipalities which are now merged in the greater city. There is also a water Sinking Fund to take care of the debt incurred for a water supply for Greater New York. Separate water sinking funds for the constituent municipalities of the greater city are also continued. The greater city has also inherited from old New York a sinking fund for the payment of interest upon the debt. Many years ago when the New York City Sinking Funds were first established certain specific revenues were pledged to them as a guaranty of the bonds issued by the city. It is these sinking fund mortgages on various sources of revenue that have made necessary the present complex arrangement.

Among the sources of revenue specifically pledged to the various sinking funds are market rents, dock rents, water rents, real estate rentals, ferry rentals, street railway license fees and receipts from the sale of real estate.

Board of Estimate and Apportionment.

In the Charter of Greater New York the Board of Estimate and Apportionment is considered as a part of the Department of Finance. This Board is far more powerful than the Board of Aldermen and is indeed for practical purposes the central and commanding authority in the city government. It is an invention of New York City in which the city has taken considerable pride and which has been copied more or less exactly by a number of other

large cities in the United States. The Board is composed of elective officials who are entitled to membership in it by reason of their holding certain offices. These officials are the Mayor, the City Comptroller, the President of the Board of Aldermen and the five Borough Presidents. This makes a total of eight members, but they do not all have equal power in the Board. The Mayor, the Comptroller and the President of the Board of Aldermen are allowed three votes each. The Presidents of the Boroughs of Manhattan and Brooklyn are allowed two votes each and the Presidents of the three other Boroughs are allowed one vote each. This makes a total of sixteen votes and every act of the Board, except as otherwise specifically provided by law, must be by resolution approved by at least nine votes. No action can be taken unless members entitled to cast at least nine votes are present, including at least two of the members authorized to cast three votes each. Any resolution requires twelve votes to be adopted at the same meeting at which it was originally presented. It is the duty of the Board of Estimate and Apportionment to meet in the month of October each year and prepare a budget of expenses for conducting the public business of the city and of the four counties included within its limits for the ensuing year. This budget must be prepared in detail on the basis of departmental estimates furnished by the heads of the various departments, bureaus and commissions. Before determining the final estimates the Board is required to give public hearings in regard to them at which taxpayers of the city have the right to be present and state their views. After final action has been taken upon the estimates by the Board of Estimate and Apportionment the budget is transmitted to the Board of Aldermen and simultaneously published in the City Record. The Board of Aldermen immediately meets in special session and continues from day to day for a period not exceeding twenty days to consider the estimates. If the Aldermen take no action upon the budget the estimates submitted by the Board of Estimate and Apportionment go into effect. The Board of Aldermen may, however, reduce the amounts fixed by the Board of Estimate, except such items as are mandatory under the law, but the Aldermen have no authority to increase any item or to insert any new one. The action of the Aldermen in reducing any item of the estimates is subject to the Mayor's veto which cannot be overridden except by three-fourths vote of the Aldermen. Not later

than December 25th in each year the budget as finally adopted must be certified by the Mayor, the Comptroller and the City Clerk, and thereupon the various sums included in it become appropriations for the several purposes named in the estimates.

The Board of Estimate and Apportionment is, of course, required to make provision in the annual budget for the payment of interest on the city debt and for retiring the city's bonds when they fall due, insofar as the accumulations in the sinking funds are inadequate for that purpose. Besides the necessary provision for the city's debt the Board of Estimate and Apportionment is required to include in the annual estimates provision for a considerable number of purposes specified in the charter. These include appropriations for armory buildings, museums of art and natural history, relief of the blind, the expenses of the registration of voters and the holding of elections, the compensation due to the judges of the courts, the salaries and expenses of the county officers of the four counties included in the City of New York and the payments authorized to be made to various private charitable institutions for the care of the poor and the unfortunate. The Board of Estimate and Apportionment is specifically given exclusive power to grant franchises or make contracts providing for the occupation or use of the streets or other public grounds or waters within the city, but no franchise granted by this Board can go into effect without the separate approval of the Mayor. The right to grant franchises was originally vested in the Board of Aldermen, but in 1905 the city charter was amended so as to transfer this power to the Board of Estimate and Apportionment.

The Board of Estimate and Apportionment as originally constituted under the charter of the old City of New York was under the control of the Mayor and his appointees. At the present time, however, as already shown, this Board is constituted exclusively of elected officials and the Mayor has only three votes out of a total of sixteen, with the additional power of absolute veto in the case of franchise grants.

Law Department.

At the head of the Law Department is the Corporation Counsel appointed by the mayor. His salary is $ 15,000 a year and he has charge of all the law business of the city and its departments and

Boards, except as otherwise specifically provided in the law. He is authorized to appoint and remove at pleasure as many assistants as may be needed and to establish bureaus in his department. The charter, however, specifically requires the establishment of three bureaus. One is a Bureau of Street Openings, which has charge of all legal proceedings connected with the opening, widening or alteration of streets and parks and all proceedings involving awards for damages or assessments for benefits in matters of public improvement. Another division of the department is called the Bureau for the Recovery of Penalties and has charge of the recovery of fines imposed for the violation of any law or city ordinance. Still another bureau of this department is established for the Collection of the Arrears of Personal Taxes.

Police Department.

At the head of the Police Department is a Police Commissioner appointed by the Mayor and holding his office for a term of five years unless sooner removed by the Mayor or the Governor of the State. His salary is $ 7,500 a year. He has authority to appoint and remove at pleasure three Deputy Commissioners to whom he may delegate his own authority, except the power of making appointments and transfers. The tendency of the State Legislature to fix numerous details of the city government is well illustrated by the charter provisions relating to the police force. An amendment passed in 1901 specified the number of men of which the force should consist, subject to increase from year to year by the Board of Aldermen on recommendation of the Mayor and the Police Commissioner. The charter provides what the qualifications of police officers shall be, how they shall be promoted, how their salaries shall be paid and what their salaries shall be. Indeed so far as these salaries are concerned there is no local authority of the City of New York which is given any power to change them. Provision is made for a Pension Fund for members of the police force who have become disabled or rendered unfit for police duty by reason of age, and for their widows and orphans.

A great deal might be written about the history and organization of the Police Department of New York City. This department has been the "bone of contention" among the political parties and reform

movements of New York for more than half a century. At the time of the great American Civil War, more than forty years ago, the unwillingness of the city police to maintain order and suppress riots in New York City, incited by persons who sympathized with the South, led to the establishment of a Metropolitan Police Department under the direct control of commissioners appointed by the Governor. This was considered a reform measure at the time, but the resentment of the city against the violation of the principle of home rule resulted in the law being changed and the control of the Police Department being again vested in locally appointed officials. The Police Department of New York City has often been the subject of charges and investigation. There is no doubt that during a large part of its history the department has been in alliance with certain classes of criminals. The opportunities for "graft" through blackmail have at times been used to the limit by the New York police. Indeed conditions in New York under the political administration of "Tammany Hall" have often made the city government and especially the Police Department a highly organized school of crime. It is believed that present conditions in this department are much better than they were a few years ago, but it is impossible to say whether or not this alleged improvement indicates the breaking up of the old alliance with vice and crime upon which New York Police Captains formerly throve and grew immensely rich.

Department of Water Supply, Gas and Electricity.

At the head of the Department of Water Supply, Gas and Electricity is a Commissioner whose salary is $ 7,500 a year. He is appointed by the mayor. He has charge of the City Water Works and of making contracts with private companies for supplying the city with gas and electric light. He also has charge of the inspection of gas and electricity and of the use and transmission of gas, electricity, pneumatic power and steam for all purposes in the public streets and of the construction of conduits, subways, etc., for such transmission. Subject to the approval of the Board of Estimate and Apportionment he has power to select sources of water supply for the city anywhere in the state of New York. The city has authority to obtain possession of any real estate and water rights required for this purpose by condemnation proceedings. The city also has authority to build

aqueducts and conduits required for bringing the water supply from its source and may take necessary measures to prevent the pollution of the sources of supply. The city may not, however, take away the sources of supply in actual use by any other city or village. The Commissioner at the head of this department also has supervisory control over private companies which may engage in the supply of water to the inhabitants of the city. He is authorized to examine their sources of supply, to see whether they are wholesome and whether the supply is adequate, and to establish reasonable rules and regulations in regard to the supply for the convenience of the public. He may also regulate the rates charged for water, but may not reduce them below what is just and reasonable. In case of dispute over this last point the matter is determined on its merits by the Courts. Water rates charged by the city water works are fixed by the Board of Aldermen on the recommendation of the Commissioner. The commissioner is empowered to cause water meters, the pattern and price of which have been approved by the Board of Aldermen, to be placed on all premises where water is used for business consumption. If authorized by the Board of Aldermen he may also place meters in private dwellings. The expense of purchasing and installing meters must be collected from the premises where the meters are installed. The Commissioner of Water Supply, Gas and Electricity is further authorized to inspect electric lights furnished to the city, electric meters and electric wiring and to test the illuminating gas manufactured or sold to any consumer within the city limits. The Commissioner is required to submit from time to time for the consideration of the Board of Aldermen, ordinances for the regulation of electric wires, appliances and current.

No officer, agent or employé of this department of the city government is permitted, under the law, to be in any way directly or indirectly financially interested in the manufacture or sale of gas, electricity or steam or of gas, electricity or steam meters or of any article or commodity used by gas or electric companies. No employé of the department is permitted to give written opinions to a manufacturer or salesman of any such article or commodity.

Department of Street Cleaning.

At the head of the Department of Street Cleaning is a Commissioner whose salary is $ 7,500 a year. He is apppointed by the

mayor. He has charge of sweeping and cleaning the streets in the Boroughs of Manhattan, the Bronx and Brooklyn and of the removal of ashes, street sweepings, garbage and other like refuse and rubbish and of the removal of snow and ice from the streets. It is his duty also to frame regulations controlling the use of the sidewalks and gutters for the disposition of refuse. These regulations are subject to the approval of the Board of Aldermen. The organization and size of the street cleaning force and the maximum salaries to be paid are fixed in the charter, although as in the case of the Police Department provision is made for the increase of the number of men employed by the Commissioner with the approval of the Board of Aldermen and the Board of Estimate and Apportionment. The Commissioner has power to enter into contracts with responsible parties covering periods of not more than five years for the final disposition of all or part of the garbage and refuse collected by his department. Any such contract, however, is subject to approval by the Board of Estimate and Apportionment. In the less populous Boroughs of Queens and Richmond street cleaning is one of the functions of the Borough Presidents.

Department of Bridges.

At the head of the Department of Bridges is a Commissioner with a salary of $ 7,500 a year. He is appointed by the mayor. He has control of the New York and Brooklyn Bridge and the Williamsburg Bridge. He also has control the construction and maintenance of other bridges which extend across the waters of a navigable stream or have a terminus in two or more Boroughs of the city, as well as of smaller bridges not included in the public parks or under the control of the Borough Presidents.

Department of Parks.

At the head of the Department of Parks is a Board of three Commissioners appointed by the mayor, each drawing a salary of $ 5,000 a year. For purposes of park administration the city is divided into three parts. One Commissioner has charge of parks in the Boroughs of Manhattan and Richmond, a second of parks in the Borough of the Bronx and a third of parks in the Boroughs of Brooklyn and Queens. With the approval of the Board of Estimate and Apportionment the Park Commissioners are authorized

to employ a landscape architect to supervise all plans and work respecting the confirmation, development or ornamentation of the parks, squares or public places of the city. It is the duty of each member of the commission within his own jurisdiction to maintain the beauty and utility of the parks and to take all necessary measures for their improvement, both for ornamental purposes and for beneficial uses of the people. The Commissioners acting together have authority to make general rules and regulations subject to the ordinances of the Board of Aldermen and also to appoint a secretary and such other officers as may be needed in the central office of the department. Each Commissioner has authority to appoint the requisite subordinates for the administration of the parks in his separate jurisdiction.

There is included in the Department of Parks a Municipal Art Commission, which is composed of the Mayor, the President of the Metropolitan Museum of Art, the President of the New York Public Library, the President of the Brooklyn Institute of Arts and Sciences, one painter, one sculptor, one architect and three others who are not members of any profession in the fine arts. The six last mentioned are appointed by the Mayor from a list proposed by the Fine Arts Federation of New York. No work of art can become the property of the city by purchase, gift or otherwise unless it has been approved by this Commission. The Commission also has the right to pass upon the locations selected for municipal works of art. The term "work of art" includes paintings, mural decorations, stained glass, statues, bas reliefs, monuments, fountains, arches and other structures of a permanent character intended for ornament or commemoration. When requested by the Mayor or the Board of Aldermen the Art Commission may also take action in respect to the designs of municipal buildings, bridges, gates, lamps or other structures to be erected upon land belonging to the city.

Department of Public Charities.

At the head of the Department of Public Charities is a Commissioner whose salary is $ 7,500 a year. He is appointed by the Mayor. He has jurisdiction over all hospitals, asylums and almshouses belonging to the city which are devoted to the care of the feeble-minded, the sick, the infirm and the destitute, except the insane

asylums (which are now leased by the city to the State of New York) and certain city hospitals that are under the control of a Board of seven trustees. The Commissioner is, however, a member of this Board. No payments can be made by the city to any private charitable or reformatory institution for the care of children except upon the certificate of the Commissioner. The charter requires that the poor must be supported by their near relatives where the latter are able to do so. These unfortunates must be cared for and supported in a manner approved by the Commissioner.

The Board of Trustees for the city hospitals is appointed by the Mayor. For the assistance of the Mayor in selecting these trustees lists of suitable persons are submitted by the following organizations: The United Hebrew Charities, The Society of St. Vincent De Paul and the Association for Improving the Condition of the Poor.

Department of Correction.

At the head of the Department of Correction is a Commissioner whose salary is $ 7,500 a year. He is appointed by the Mayor. He has jurisdiction over the city institutions for the care and custody of criminals and other offenders. He is required to classify the offenders under his care so that the youthful and less hardened criminals may not be rendered more depraved by association with older and more hardened offenders. He has authority to maintain schools for the instruction and training of prisoners and may maintain a separate penal institution for youthful offenders. He is required to employ all prisoners whose health permits in quarrying or cutting stone, in cultivating land, in manufacturing useful articles, in building seawalls or in any public work carried on by a department of the city government.

Fire Department.

The Fire Department is under the control of a single Commissioner appointed by the Mayor at a salary of $ 7,500 a year. He is authorized to appoint two Deputies to whom he may delegate all of his powers except the appointment, promotion or dismissal of members of the uniformed force. The Fire Commissioner is authorized to organize his department into bureaus. Three bureaus are specified in the charter. One of these has charge of preventing and extinguishing

fires and protecting property from water used at fires. Another bureau executes the laws relating to the storage, sale and use of combustible materials. The third bureau is charged with the investigation of the origin and cost of fires. The Fire Commissioner has authority to appoint the heads of bureaus, their assistants and all of the officers of the Fire Department, but assignment to duty in the uniformed force must be made by the Commissioner on the recommendation of the Chief of the fire force. If any recommendation made by the Chief is rejected he is required, within three days, to submit another name or names to the Comissioner and to continue to do so until the assignment or promotion is made. Promotions must be made on the basis of seniority, meritorious service and superior capacity as shown by competitive examinations. Members of the uniformed force of the Fire Department, if nominated for any elective political office, must decline the nomination within ten days after receiving notice of it or be deemed to have resigned from the Department. No person can become or remain a member of the Fire Department who is not a citizen of the United States or who has ever been convicted of felony. Firemen must be able to read and write understandingly the English language. At the time of appointment a fireman may not be under twenty-one or more than thirty years of age. No member of the Department is authorized to withdraw or resign without the permission of the Fire Commissioner on penalty of forfeiting the salary due him. The Fire Commissioner has authority to punish a fireman by reprimand, forfeiture of pay or dismissal from the force, but no member of the uniformed force can be removed except on written charges and a public examination conducted by the Commissioner or his Deputy. Causes for removal are conviction of any legal offense, neglect of duty, violation of rules, neglect or disobedience of orders, incapacity, absence without leave, conduct injurious to the public peace or welfare, immoral conduct or conduct unbecoming an officer of the department. Members of the uniformed force are forbidden to contribute money to any political fund or to become members of any political club or of any association intended to affect legislation for or on behalf of the Fire Department or any of its members. The grades and salaries of the members of the Department are fixed in the charter. The salary of the Chief of the force is $ 6,000 a year and from this salaries range down to $ 800 a year for members of the fourth grade of the uniformed force.

A Firemen's Relief Fund is provided, out of which pensions are paid to disabled members of the Department or their widows, orphans or dependent parents. There is also provided a Life Insurance Fund made up from monthly assessments upon the salaries of the members of the Department. Out of this fund the sum of $ 1,000 is paid to the widow or legal representative upon the death of any member of the force who has contributed to the fund.

Department of Docks and Ferries.

The Department of Docks and Ferries is under the control of a Commissioner of Docks whose salary is $ 6,000 a year. He is appointed by the Mayor. All the wharf property belonging to the city is subject to the exclusive control of this department, except that the Sinking Fund Commissioners of the city have a certain supervisory control over the Dock Commissioner. The reason for this is that the income of the Dock Department forms a part of the Sinking Fund. The Dock Commissioner has control of the repair, building, maintaining, leasing etc., of the wharves, and of all the cleaning, dredging and deepening necessary in their vicinity. Subject to the approval of the Sinking Fund Commissioners he may establish new ferries on the waters within or bounding the City of New York. The Commissioner, subject again to the approval of the Sinking Fund Commissioners, has authority to acquire either by purchase or by condemnation proceedings, any and all wharf property within the city limits not already owned by the municipal corporation. Whenever any of the public wharves, piers, docks, etc., constructed under the provisions of the charter are opened to public use the Dock Commissioner is authorized to regulate the charges for wharfage, cranage and dockage of all vessels using them and may alter these charges from time to time. The Commissioner is also authorized to appropriate any particular wharves to the sole use of special kinds of commerce. The Commissioner is authorized to lease any of the city's wharf property for a term not exceeding ten years and may agree to the renewal of the lease at advanced rents for terms of ten years, but not exceeding fifty years in all. Unless, however, these leases are sold at public auction duly advertised, their terms are subject to approval by the Sinking Fund Commissioners. The Dock Commissioner is also authorized to lease the franchise of any of the public ferries for

the highest marketable rental either at public auction or in accordance with sealed bids, but not for a longer term than twenty five years nor for a renewal for a longer term than ten years. Ferry leases, however, must be approved in all cases by the Sinking Fund Commissioners. Ferry franchise leases, like street railway franchise ordinances, may provide for the character of the service to be rendered, including the of the speed boats, frequency of trips, rates of fare, etc. In case the Commissioner of Docks and the Sinking Fund Commissioners are unanimous in the opinion that ferries may be leased to better advantage by private agreement than by public sale at auction, these officials are authorized, by unanimous vote, to deviate from the regular procedure just described.

An interesting exception to the general authority given to the Commissioner of Docks is found in the clauses of the charter forbidding him to increase the wharfage rates on boats navigating the canals of the State of New York beyond the rates in force in the year 1871 and also forbidding him to change or interfere with those portions of the water front which have been exclusively set apart for the use of these canal boats. The Dock Commissioner is required, upon the requisition of the President of any Borough of the city to furnish, free of charge, near designated points, accessible, convenient and safe berths for mooring free floating baths. The Commissioner is also required to set apart for the Department of Street Cleaning, the Board of Health and other city departments suitable wharves necessary for their use. Provision is also made for recreation piers. Such piers have two stories. The first story is occupied by dealers in country produce and other merchandise brought to the city for sale; the upper story is set appart for free public use for resort and recreation. The city charter goes into great detail in prescribing the use of the docks and piers and even goes to the extent of establishing maximum rates of wharfage for the various classes of vessels.

Department of Taxes and Assessments.

The Department of Taxes and Assessments is in charge of a Board of seven Commissioners, appointed by the mayor, of whom no more than five may be of the same political party on state and national issues. The President of the Board receives a salary of $ 8,000 a year and each of the other Commissioners a salary of

$ 7,000 a year. The Board is authorized to appoint not more than forty Deputy Tax Commissioners who do the actual work of assessing property for taxation under the direction of the Board. They are required to prepare a detailed statement every year showing that they have personally examined every house, building, lot, pier or other assessable property within their respective districts. They are required to estimate the value for sale, under ordinary circumstances, of each parcel of real estate both with and without the improvements on it.

The assessment of personal property in New York City and in most other American municipalities is a good deal of a farce. "No one can have a moment's doubt", says Dr. E. Dana Durand in writing on the Finances of New York City, "that in this, the very center of capital in America, the personal property held far exceeds in value the real estate, yet it is assessed at but a little over one-fifth as much. . . . It is not because the Assessors utterly ignore personalty that it thus escapes taxation. They regularly place on the rolls at the outset nearly double the number of names and from six to ten times the amount of property ultimately retained. There is no provision in the state for listing personal property by the owner and in fact no attempt is usually made to secure any sort of an inventory of the taxpayers property. A considerable part of the process of assessing personalty is indeed mere haphazard. The Deputy Assessor selects names from the city directory, using his judgment — from his experience and from what he has passed through in regard to the affidavits of those who correct or swear off — in placing the sum opposite each individual name. An enormous proportion of the assessments so made are sworn off." This is nothing new in the history of New York City. Fifteen years ago one of the Tax Commissioners remarked: "We only catch the widows and orphans". Their property can be ascertained from the records of the Surrogate's Court. Dr. Durand cites an instance of a very wealthy New York man who paid taxes on $ 500,000 personal property during his life time. It was found at his death, however, that he owned taxable property amounting to $ 40,000,000. When the Assessors were about to place this man's heirs upon the tax rolls for this full amount, the heirs threatened to convert the property into non-taxable securities. As a result a compromise was reached and the city was glad to place the estate on the rolls for $ 8,000,000,

or one-fifth of its actual ascertained value. Dr. Durand wrote ten years ago. Since then the assessed value of personalty has decreased relatively until now it is less than one-tenth as great as the real estate assessment.

For the purpose of making assessments for benefits in the case of local improvements, there is a board of three assessors appointed by the Mayor. Their assessments are subject to revision by another board consisting of the city Comptroller, the Corporation Counsel and the President of the Department of Taxes and Assessments. The Assessors are not permitted to levy a special assessment on any house or lot or improved or unimproved lands amounting to more than one-half of the fair value of the property. Special assessments may not be levied to pay the cost of repaving streets which have once been paved at the expense of adjoining property owners unless the repaving is petitioned for by a majority of such owners.

All taxes, special assessments and water rents, together with the interest and charges thereon, are liens upon the real estate against which they are levied. If they are not paid, the city may sell the land to collect the charges.

Department of Education.

The Public Schools of New York City are under the control of the Department of Education, at the head of which is a Board consisting of forty-six members appointed by the Mayor for terms of five years. The members of this Board must be selected from the several Boroughs of the city in proportions fixed by the charter. The Board of Education elects its own President annually and also appoints annually a standing committee of fifteen members to constitute an Executive Committee for the care, government and management of the public school system subject to the control of the full Board. Each of the five Boroughs must be represented on this committee. The President of the Board is, by virtue of his office, Chairman of the Executive Committee. The Board has authority to appoint a Secretary, a Superintendent of School buildings, a Superintendent of School Supplies, a City Superintendent of Schools, and a Superintendent of Lectures. All of these officers, except the Secretary, are appointed for terms of six years, but may be removed for cause at any time by a three-fourths vote of all the members of

the Board of Education. In addition to the City Superintendent of Schools, there are eight Associate City Superintendents and twenty-six District Superintendents appointed by the Board of Education. The District Superintendents, however, are nominated in the first instance by the Board of Superintendents, consisting of the City Superintendent and his eight Associates. The Board of Education is authorized every five years to divide the city into forty-six local School Board Districts corresponding to the number of members on the Board of Education. The districts must be compact in form and as nearly equal as possible in school attendance. In each one of these districts there is a local School Board consisting of seven members, five of whom are appointed by the President of the Borough. The two other members are a member of the City Board of Education designated by the President of that Board and the District Superintendent assigned to duty in the particular district by the City Superintendent. These local School Boards, subject to the by-laws of the Board of Education, are required to visit and inspect the schools in their respective districts and call the attention of the Board of Education to any matter requiring official action. They are also required to report to the Board of Education whenever any additional accommodation is needed for kindergarten or elementary school purposes within their respective districts together with a recommendation of available sites and plans for the erection of necessary buildings. They are also required to report any failure on the part of the Superintendent of Supplies, the Superintendent of School Buildings, the City Superintendent of Schools or any of their assistants or employes in the performance of their duties. These local Boards also have authority, subject to approval of the Board of Superintendents and in accordance with the by-laws of the Board of Education, to excuse absences of teachers within their respective districts. They are also required to try and determine matters relating to discipline and corporal punishment arising from the complaint of pupils or parents against teachers. Furthermore it is their duty to try charges against teachers made by a principal, a District Superintendent or any parent for gross misconduct, insubordination, neglect of duty or inefficiency. They are also required to present to the Board of Education charges against janitors who are guilty of dereliction of duty. They are required to see to the enforcement of the sanitary laws and by-laws relating to the schools.

They have authority, subject to the approval of the Board of Superintendents, to transfer teachers from school to school within their respective districts. They may adopt by-laws, not in conflict with the by-laws of the Board of Education, regulating the exercise of their powers.

All members of the Board of Education and of the local School Boards serve without pay.

Principals and teachers are appointed by the Board of Education on the nomination of the Board of Superintendents. Wherever practicable, teachers are appointed to serve in the Boroughs where they reside. Teachers may be promoted or transfered from one school to another anywhere within the city, but they must not be transferred from one Borough to another without their consent.

Salaries are fixed by the by-laws of the Board, but the charter requires that there shall be a uniform schedule of salaries for the supervising and teaching staff throughout the whole city. This schedule must provide for a yearly increase of such an amount that within a given period of years teachers shall receive not less than a fixed minimum prescribed in the charter. A Teachers' Retirement Fund is provided from which pensions are paid to teachers after their retirement from active service. The Board of Education is authorized to place any teacher or supervisor upon the retired list after he or she has attained the age of 65 years and has been at least thirty years in the public service.

In the Department of Education, in addition to the primary, grammar and high schools, there are two colleges. One is known as the College of the City of New York and the other as the Normal College of the City of New-York. The former is under the control of a seperate Board of Trustees consisting of nine members appointed by the Mayer. The members of the Board of Education are, ex-officiis, trustees of the Normal College, in which teachers are trained for the public school system.

Department of Health.

At the head of the Department of Health is a Board consisting of the Commissioner of Health, who is the executive officer of the department, the Police Commissioner and the Health Officer of the

Port of New-York, who is an officer appointed by the Governor of the State. The Health Commissioner is appointed by the Mayor and receives a salary of $ 7,500 a year.

It is the duty of the Board of Health to enforce the laws of New York, so far as they apply to New York City, for the preservation of human life and the care, promotion and protection of health, including laws relative to cleanliness, to the use or sale of poisonous, unwholesome or adulterated drugs, medicines or food and to the necessary sanitary supervision of the water supply of New York City. The Board is required to co-operate with the state officers whenever epidemics of contagious diseases are threatened and is empowered to maintain on an island in the waters of New York City, set apart for that purpose, all the necessary buildings and hospitals required for the care of persons sick with contagious diseases. The sanitary code of New York is ordained by the Board of Health and may, from time to time, be amended by it. The Board has authority to provide for the enforcement of the sanitary code by fines, penalties and imprisonment. The work of the Department is divided between two bureaus. At the head of one is a Sanitary Superintendent who must have been a practicing physician for at least ten years preceding his appointment. At the head of the other bureau is a Registrar of Records whose duty it is to record births, marriages, deaths and coroners' inquisitions. The duty of the Sanitary Superintendent and his assistants is to execute the orders of the Health Department, act as Sanitary Inspectors and see that the sanitary laws are enforced. The police Department and its officers are required to co-operate with the Health Department and upon requisition of the Board of Health the Police Commissioner details fifty suitable officers from the police force who form the Sanitary Squad and report to the Board of Health. The Health Department has exclusive authority relative to the removal of night soil, dead animals, tainted meats and other refuse matter of like nature. The Board of Health has authority to quarantine houses infected with any contagious, infectious or pestilential disease and to proclaim a quarantine against any city or place outside of New York so far as travel and intercourse between New York and such place is concerned. The Board is also authorized to collect pure vaccine lymph or virus, produce diphtheria antitoxin and other antitoxins, and supply vaccinators and offer every facility for

general and gratuitous vaccination and disinfection and for the use of antitoxins. The department is authorized to sell, at reasonable rates, its surplus supply of vaccine lymph and diphtheria and other antitoxins. The city charter imposes upon every practicing physician the duty of reporting to the Health Department all cases of pestilential, contagious or infectious diseases within twenty-four hours after they come to his knowledge, and also the deaths from such diseases. The jurisdiction of the Department also extends to the supervision of lodging houses, which must be inspected at least twice a year to see that they conform with the requirements of the sanitary laws.

Tenement House Department.

At the head of the Tenement House Department is a Commissioner appointed by the Mayer at a salary of $ 7,500 a year. The Tenement House Department was established on January 1, 1902, as a separate branch of the city government. The central part of New York City is said to be more densely populated than any other spot in the world and the vast majority of all the inhabitants of New York live in tenement houses. An effort to regulate the construction and care of tenement houses has been more or less systematically made for thirty years in New York City, but the tremendous crowding of population, coupled with the inefficiency and corruption of the Health and Building Departments, finally made the establishment of a separate department to have supervision over tenement houses alone imperative. In the first Annual Report of the new department on July 1, 1903, Mr. Robert W. De Forest, Tenement House Commissioner, said: "Tenement conditions in many instances have been found to be so bad as to be indescribable in print; vile privies and privy sinks; foul cellars full of rubbish, in many cases garbage and decomposing fecal matter; dilapidated and dangerous stairs; plumbing pipes containing large holes emitting sewer gas throughout the houses; rooms so dark that one cannot see the people in them; cellars occupied as sleeping places; dangerous bakeries without proper protection in case of fire; pigs, goats, horses and other animals kept in cellars; dangerous old fire traps without fire escapes; disease-breeding rags and junk stored in tenement houses; halls kept dark at night, endangering the lives

and safety of the occupants; buildings without adequate water supply — the list might be added to almost indefinitely. The cleansing of the Augean stables was a small task compared to the cleansing of New York's 82,000 tenement houses, occupied by nearly three millions of people, representing every nationality and every degree in the social scale."

One of the crying evils which led to the establishment of the Tenement House Commission was the prevalence of prostitution among the tenements. A more or less vigorous attempt to enforce the laws for the suppression of prostitution ten or fifteen years ago under a reform administration had resulted to a considerable extent in driving the immoral women into the tenements, where they plied their trade in the midst of the working population of the city. A condition resulted which finally shocked New York into a great reform movement. A new tenement house law was passed in 1901. Under this law the Tenement House Department proceeded at once to eradicate the evil of prostitution from the tenements. The law provided that a penalty of $ 1000 should be levied against the owner of any tenement who did not, within five days after receiving notice from the Department, eject from his tenement any immoral woman who was plying her trade there. The law also provided that any prostitute maintaining her headquarters in a tenement house should be deemed a vagrant and be imprisoned for six months in the work house without any alternative of a fine. Using these two weapons, the department was successful in a comparatively short period in driving the prostitutes out of the tenements.

Another evil which the new department had to meet was the corruption which had become habitual in New York in connection with the enforcement of the building laws. So notorious was this corruption that the new department instead of taking over the experienced employees of the Department of Health and the Department of Buildings, whose duty it had been to enforce the regulations for which the Tenement House Department now was to be responsible, chose rather to organize and discipline an entirely new force of men for this work. "The opportunities for corrupt practices in a department of the size of the Tenement House Department", said the Commissioner, "where there are nearly four hundred employees engaged in administering a law so detailed as the Tenement House Law, where the inspectors come in close contact with both the

tenement house dweller, the tenement house owner, agent and housekeeper, are so great that in perfecting its scheme of organization the department has constantly had in mind the dangers in this direction, and has sought by every means in its power to guard against such opportunities, and to adopt methods of organization that would lend themselves to the checking at all times of the employees, work, so as to stamp out any tendency toward corruption that might exist".

The city charter authorizes the Tenement House Commissioner to organize his department into bureaus and requires that there shall be at least three such bureaus; one to supervise new buildings; another to look after inspection and a third to keep the records. No tenement house can be constructed or altered until the plans for light and ventilation have been approved by the department, and after its construction or alteration it cannot be occupied until the department has issued a certificate to the effect that it conforms in all respects to the provisions of the Tenement House Law. Old tenement houses which are found to be infected with contagious diseases or to be unfit for human habitation or dangerous to life or health for want of repair or on account of defects in drainage, plumbing, ventilation or construction, or on account of the existence of any dangerous nuisance on the premises may be vacated by order of the Tenement House Commissioner. In such cases these buildings may not be occupied again until the cause of danger has been removed.

The general building laws are enforced by the Bureaus of Buildings which are established in each Borough of the city under the general supervision of the Borough Presidents. Before the passage of the Greater New York Charter there was in the old city a Department of Buildings coordinate with the other principal departments of the city government. When Greater New York was established, however, the desire to maintain local autonomy as far as possible in the several subdivisions of the city led to the disintegration of this department. It should be noted, furthermore, that in practically all of the administrative departments of the Greater City separate offices and divisions of administration are maintained in the different Boroughs. Mr. De Witt was not without justification in comparing the Greater New York Charter with the Constitution

of the United States on account of its elaborate provision for a strong central government combined with a considerable degree of local autonomy and decentralization of administration.

The Courts.

An elaborate system of local courts is provided for in the charter. There is a "City Court", consisting of seven justices elected by the people for ten year terms. There are twenty-eight District Municipal Courts in each of which is a Justice also elected by the people for a period of ten years. The City Magistrates' Courts, which were established for purposes of administration of criminal justice, are comprised of twenty-five Magistrates appointed by the Mayor for terms of ten years. There is also a "Court of Special Sessions" having jurisdiction in the first instance of charges of misdemeanors committed within the city. This court consists of twelve Justices appointed by the Mayor for terms of ten years. The law provides that the Justices of the Special Sessions shall maintain a separate Children's court to hear and dispose of juvenile cases. Other courts have higher civil and criminal jurisdiction and are maintained as a part of the regular judicial machinery of the State of New York.

Wealth and Financal Transactions of New York City.

The wealth of New York City is almost beyond belief and its financial transactions are stupendous. The following figures give an outline of the facts.

Total value of land, buildings and street franchises (including public property, except streets)	$ 7,397,000,000
Value of land alone, not including public property and other property exempt from taxation and not including street franchises	$ 3,558,000,000
Value of privately owned franchises and fixtures in the streets	$ 467,000,000
Total par value of stocks and bonds of private companies operating street franchise utilities (approximately)	$ 950,000,000

Value of property owned by the United States government and the State of New York within the city limits	$	62,494,920
Value of land, buildings and structures within the city limits owned by the municipal corporation and used for public purposes (not including streets)	$	814,833,000
Total funded debt of the city Jan. 1, 1907 .	$	665,697,000
Annual current expenses of the city government	$	132,000,000
Value of private institutions exempt from taxation, churches, asylums, schools, hospitals, cemeteries, etc.	$	297,018,683

The assessed valuation of personal property for purposes of taxation is $ 554,889,871. This figure is ridiculously small and serves to illustrate the absurdity of the "general property" tax system as it works out in a great city. Indeed, the Department of Taxes and Assessments on January 14, 1907, had 89,897 names on the personal property roll with property accredited to them amounting to $ 3,120,408,553. When the annual process of correcting and "swearing off" personal taxes had been completed, only 42,069 names remained on the roll and the vast estimate of more than three billions of dollars of personal estate had shrunk into a little more than one-half billion.

The finances of New York are so complicated that it is almost impossible to unravel them. The various sinking funds on Dec. 31, 1906, held cash, stocks and bonds to the amount of $ 191,044,000, which left the net funded debt $ 474,653,000. This shows an increase of $ 92,965,000 in three years. These figures do not include temporary loans from which the city gets "ready money" to pay current expenses pending the collection of taxes and other revenues. The City's finances are conducted on the plan of collecting the taxes at the end of the year, after the money has been spent. Consequently, the city every year has to borrow the money to pay its expenses, and then repays the loan at the close of the year, or as soon thereafter as possible.

It would be interesting to know exactly what the city's gross funded debt of $ 665,697,000 represents, but only a partial analysis is possible from the Comptroller's report. About $ 125,000,000 of

the debt is made up of bonds issued for refunding old debt and for general municipal purposes not designated.

Of approximately $ 540,000,000 debt the purposes of which are given in the Comptroller's report, the following is an approximate summary:

For street improvements and sewers	$	108,000,000
For water works	$	78,000,000
For docks and water front property	$	65,000,000
For bridges and viadacts	$	59,000,000
For rapid transit subway	$	47,000,000
For parks, parkways and playgrounds	$	56,000,000
For public schools	$	71,000,000
For buildings, plant and equipment of police, fire, health and street cleaning departments	$	9,000,000
For Public Libraries, museums, memorials, baths and comfort stations	$	15,000,000
For courthouses, hospitals, jails, general muuicipal buildings, etc.	$	23,000,000
For public markets	$	4,000,000
For miscellaneous purposes	$	5,000,000

Perhaps a better idea of the uses to which New York City has put its borrowed funds may be had from the following list of corporate assets reported by the Department of Taxes and Assessments in 1907:

Public parks and places, including public buildings not used exclusively by any one city department	$	429,724,155
Board of Education Property	$	78,577,250
Docks, Piers and Land under water	$	58,200,650
Bridges	$	47,375,200
Aqueduct Property, Water Works	$	32,262,770
Sewerage System	$	42,666,700
Rapid Transit Subway	$	46,704,000
Department of Correction	$	16,876,000
Department of Public Charities	$	15,598,750
Department of Health	$	774,000
Department of Street Cleaning	$	1,319,300

Fire Department	$	6,837,525
Police Department	$	5,076,200
Armories	$	10,588,300
Public Libraries	$	15,004,200
Bath houses	$	1,040,000
Recreation Piers	$	365,000
Markets	$	3,675,000
Fire and Police Electric System	$	1,755,000
Corporation Yards	$	413,200
Total	$	814,833,200

It is noticeable that streets and street improvements are not included in the foregoing list. It is apparent also that the item of $ 32,262,700 for aqueduct property represents only a small part of the total value of the municipal water works. The United States Census Bureau reported that up to 1905 New York City's water works had cost $ 139,000,000 and that the present value of the works was about $ 75,0000,000. The principal source of the city's supply is in the mountains of New York state. Water was first brought to the city from Croton River, thirty-three miles north of the present city limits, by aqueduct about 70 years ago. This supply is of excellent quality and is brought to the city by gravity, but is insufficient for the entire city. Other sources of supply all wells and streams on Long Island. The annual receipts of the city from water rents are more than $ 10,000,000.

The current expenses of the city government in 1906 amounted to approximately $ 132,000,000. The principal sources from which the money to meet these enormous expenses was derived were the following:

General Property Tax	$	83,700,000
Special Taxes on Banks and mortgages	$	3,740,000
Special assessments for local improvements	$	5,705,000
State Subsidy for schools	$	1,350,000
Interest on Deposits and back taxes	$	1,900,000
Liquor Tax	$	6,100,000
Miscellaneous Licenses	$	420,000
Fees, charges and permits	$	1,875,000
Fines and Forfeitures	$	500,000

Sales of old material, manufactured articles and real estate	$	1,050,000
Street Franchises	$	455,000
Bridge Tolls	$	385,000
Rapid Transit Subway Rental	$	2,255,000
House and Ground Rents	$	155,000
Public Market Fees and Rents	$	295,000
Ferry Tolls and Rents	$	965,000
Dock and Slip Rents	$	3,400,000
Water Rents	$	10,345,000
Temporary Loans	$	8,000,000

The appropriations for current expenses during the year 1906 for the principal departments of the city government were as follows:

Mayor's Office	$	66,300
Board of Aldermen and City Clerk	$	160,152
Borough Presidents	$	6,673,283
For Expenses of Elections	$	1,121,540
Department of Finance	$	1,074,552
Law Department	$	635,000
Department of Bridges	$	485,608
Department of Water Supply, Gas and Electricity	$	4,940,938
Department of Parks	$	2,387,355
Department of Public Charities (including hospitals)	$	2,697,221
Department of Correction	$	905,687
Department of Health	$	1,344,397
Tenement House Department	$	618,433
Police Department	$	13,035,703
Fire Department	$	6,602,955
Department of Street Cleaning	$	5,971,530
Department of Taxes and Assessments	$	409,000
Department of Education (including colleges)	$	23,938,006
For Public Libraries	$	772,441
Civil Service Commission	$	125,000
For Publication of "City Record"	$	732,306
For City Courts	$	1,101,850
For Contributions to Private Charitable Institutions	$	3,456,056

For expenses of Government of four counties included in the City of New York . . . . $ 5,151,360

I have not ascertained the exact number of officers and employees of the New York City Government, but the Federal Census report for 1903 gives the figures for several departments. At that time the school teachers numbered 13,449; the police officers, 7,854; the regulars in the fire department, 3,359; the street cleaners and sprinklers, 2,865; persons employed to remove ashes, garbage and other refuse, 1,356; sanitary and food inspectors, 84. The Tenement House Department, first established on January 1, 1902, had within 18 months organized a force of nearly 400 employees. The total number of employees in all departments of the city at the close of 1907 was approximately 40,000.

In many respects New York's municipal administration is more progressive and efficient than that of most other American cities. It is startlingly extravagant, however, and historically corrupt. Yet, after all, this may not appear strange when the character oft the city's population is considered. The mixture of races is so great and their assimilation so imperfect that unified political action can be obtained apparently only by a ruthless organization like "Tammany Hall" held together by the cohesive power of "graft", which is the only political idea understood and appreciated by all nationalities alike. In 1900, when the last census was taken, only about one-fourth of the population of New York was of American parentage. The tremendous influx of immigration into the United States through the port of New York since that date has doubtless kept this proportion from becoming any greater. The total population of the city in 1900 was 3,437,000, of which 2,644,000 were foreign born or had one or both parents of foreign birth. The principal foreign nationalities, counting each person having only one parent born in the specified country as one-half an individual, were represented as follows: Germans, 733,000; Irish, 667,000; Russians, 246,000; Italians, 218,000; English and English Canadians, 176,000; Austrians, 112,000; Scandinavians, 71,000; Poles, 54,000; Hungarians, 52,000; Scotch and Welsh, 48,000; French, 29,000; Bohemians, 28,000; Swiss, 14,000.

While these nationalities may in their own countries have sufficient capacity for self-government, it is hardly to be expected

that when thrown together as they are in New York City, speaking different languages and accustomed to different political traditions and methods, they will be able immediately to merge into a unified efficient democracy. While New York City has been extravagant and corrupt we can not deny that its government has in many ways been progressive. Perhaps it is a matter of wonder that under the conditions existing in this second city of the world American democratic methods have not failed more lamentably than they have.

IV. Chicago.

Chicago is one of the half dozen largest citics in the world. Yet it has no "ancient history." In August, 1833, a mass meeting of the citizens of Chicago was called for the purpose of determining whether or not the people should be incorporated as a town under the genersl laws of the commonwealth af Illinois. At this meeting there were thirteen voters, of whom twelve favored incorporation. A few days later an election was held for the purpose of choosing a board trustees. At this election twenty-eight voters appeared. The organization of the town was completed on August 12, 1833, when the Board of Trustees elected a President, a Town Clerk and a Town Treasurer. The population of the town at that time was estimated at 200 souls. The period of rapid growth of the future metropolis began immediately. By 1835 the population had increased to nearly 3300 and in July, 1837, when the first city census was taken, the population was 4170.

The municipal organization effected in 1833 was very simple. The government was vested in a board of five trustees elected annually by the freeholders of the town. The Board of Trustees had authority to pass ordinances (not in conflict with the constitution and laws of the state) for numerous local purposes. They were authorized to restrain and prohibit gambling and disorderly conduct, license shows, establish and regulate markets, dig wells for the public water supply, construct and repair streets and alleys and, when necessary, organize a fire department. They had authority to levy special assessments to pay for street improvements and to levy a general property tax for public purposes, not exceeding the rate of 50 cents on one hundred dollars of valuation.

Chicago is situated on the south western shore of Lake Michigan

and is separated into three natural divisions by the Chicago River and its two branches. As early as 1835 these three divisions were recognized by law and made the basis of financial administration. An act was passed requiring that all taxes should be expended in the districts in wich they were collected.

In November, 1836, the town trustees invited the citizens of the three districts to select delegates to meet with the trustees to consult upon the expediency of applying to the Legislature of the State of Illinois for a city charter and to prepare a suitable draft to accompany the application. The delegates were chosen, the meeting was held early in 1837 and the proposed city charter was passed by the Legislature, going into effect on March 4, 1837, the date of the birth of the City of Chicago.

The First City Charter — 1837.

This first city charter gave Chicago an area of 10 square miles and provided a simple form of municipal government, consisting of a Common Council of ten members, a Mayor and certain other administrative officers. At first the Mayor and Aldermen were elected annually, but a few years later the law was changed so that the Aldermen were divided into two classes, half being elected each year. The city election was held in the Spring at a different time from the state and national elections. This policy is still followed in Chicago. The Mayor was the presiding officer of the Council, but had no veto power over its proceedings. He did not, at this period, appoint the Council committees or the subordinate administrative officers of the city. Practically all the municipal power was centered in the Council itself.

In 1837, when the city was first organized, the total valuation of real estate within its limits was $ 236,842. Two years later, in 1839, Chicago's first great fire destroyed $ 65,000 worth of property. Eighteen years after that in 1857, another great fire occured which destroyed property to the value of $ 500,000. Again in 1871, when the city's population had increased to 335,000 and the assessed valuation of real estate to $ 237,000,000, one of the greatest fires of history occurred, destroying approximately $ 192,000,000 worth of property. From each of these disasters Chicago rose with redou-

bled energy and continued its marvellous growth in population and wealth almost without interruption.

Away back in 1836 the Chicago Hydraulic Company was organized with a capital stock of $ 250,000. Four years later active work on the water works system began and in 1842 the pumps were in operation. The water supply was taken from Lake Michigan. In 1851 the water works were taken over by the municipality and have since developed into a great utility with a total construction cost of $ 39,000,000, a present appraised valuation of $ 36,500,000, an annual income of $ 4,400,000 and a bonded debt of only $ 3,570,000.

A gas company was organized in 1849 with the right to construct gas works, manufacture gas and lay distributing pipes in any of the streets of the city. Furthermore, the company was given the exclusive privilege of supplying the city and its inhabitants with gas for a period of ten years. The Gas Works have remained a private enterprise troughout Chicago's history. Not until 1905 did the city secure from the Legislature the specific authority to fix the rates and charges for gas furnished by any company within the city limits. At that time gas was being furnished at $ 1,00 per thousand cubic feet. This rate was forthwith reduced by ordinance of the Common Council to 85 cents.

In 1849 the people of Cook County, in which Chicago is situated, adopted what is known as the "Township System" of organization. This system provided for a series of administrative officers to be elected in each township every year. The result of the action taken in 1849, so far as Chicago is concerned, has been far reaching and disastrous. The township organization, including an unnecessary duplication of offices and conflicting administrative machinery, has been maintained till the present time, although the worst feature of the township system was abolished in 1898 when a county board was etablished for the assessment of property for taxation. Still later, through an amendment of the Constitution of the State of Illinois, the way was opened for the consolidation of the various local governmental bodies within the limits of Chicago and now after nearly sixty years of confusion and disorganization due to the adoption of the township system in 1849, Chicago may soon be in a position to administer its municipal affairs with a reasonable degree of unity.

The Second City Charter — 1851.

The city charter of 1837 with its many amendments was superseded in 1851 by a new organic law. The list of officials to be elected by the people was considerably extended and included a Mayor, City Marshal, Treasurer, Collector, Surveyor, Attorney and a Chief Engineer and two Assistant Engineers for the Fire Department. In addition to these, two aldermen and a Police Constable were elected from each ward and a Street Commissioner was elected from each of the three divisions of the city. The new charter, however, gave the Mayor increased power. He was given the appointment of the eight standing committees of the Common Council and authority to veto ordinances and resolutions of the Council, which, however, might be repassed over his veto by majority vote. The salary of the Mayor was fixed at $ 1,200. The Mayor was authorized to remove certain city officials with the consent of two-thirds of the Council. In 1857 the Mayor's power was still further increased by the transfer to him of the appointment of the important administrative officers of the city, subject to the approval of the Council. At the same time the law was changed so that it required a two-thirds vote of the Council to overcome the Mayor's veto. His salary was increased to $ 3,500 a year.

The site of Chicago is low-lying and flat. The problems of drainage and the preservation of health have, from the beginning, been difficult. In the early days of the city the death rate was high. In 1849 when the city had a population of about 23,000 an epidemic of cholera broke out. In that year there were 678 deaths from this disease and again in 1850 there were 420 deaths from cholera. In 1854 the deaths from this disease numbered 1,424. The total death rate in this year was 64 per thousand of population. As a result of these dreadful conditions, a Sewerage Commission was finally established which undertook the drainage of the city. The first sewers were laid in 1856. In 1865 the city authorities were authorized to cleanse the Chicago River and its branches and it was found that by the construction of a drainage canal the current of the River could be turned into the streams that flow into the Mississippi River and thence into the Gulf of Mexico. In this way the sewage of the city could be disposed of without contaminating the water supply, which was taken from Lake Michigan. This plan,

first suggested in 1865, was not put into immediate operation. Indeed active work in carrying it out was not begun till 1889 when a sanitary district was organized for the purpose, under an enabling act passed by the Legislature of Illinois in 1887. The canal was not finally completed until 1900, at a cost of more than $ 16,000,000. The system of intercepting sewers required for collecting the city's sewage for discharge into the drainage canal is not even yet complete.

The street railway system of Chicago had its beginning with an ordinance passed by the Council on March 4, 1856. After that date franchises were granted by the city from time to time. In addition to grants made by the city, the State Legislature took upon itself to give street railway companies certain rights in the streets of Chicago. The extreme confusion resulting from conflicting and uncertain franchise grants and the startling overcapitalisation of the private companies engaged in the street railway business of Chicago, with the resulting high fares and inefficient service, have been the cause of a tremendous development of sentiment in favor of municipal ownership and operation of street railways. This sentiment, however although it has expressed itself several times at the polls definitely and by large majorities has thus far been unable to overcome the legal and financial obstacles interposed by the Constitution and laws of the State of Illinois, which have not been favorable to the extension of municipal undertakings of such magnitude. The result is that the street railway system of Chicago is still in the hands of private companies.

One of the interesting developments in the history of Chicago under the charter of 1851 was the career of John Wentworth, elected Mayor in 1857 and again in 1860. The significance of Mr. Wentworth's administrations was his strict enforcement of the laws. When he first went into office, he said: "No man is qualified to attend to the business of the city who could not earn the amount of his salary in some of the other avocations of life. I shall labor to bring into the service of the city a new order of men; men who can get a living without office; men who will labor for reform and economy; men who will not be afraid to do their duty lest it make them unpopular." One of the notable acts of his first administration was a raid upon street and sidewalk obstructions on the night of June 18, 1857. An ordinance prohibiting the obstruction of side-

walks by signs, awnings, merchandise, etc., had long been on the statute books unenforced. After warning the citizens without effect, the Mayor gathered a force of policemen with drays and wagons and took down all the signs and sidewalk obstructions on the principal streets and had them deposited in a pile in one of the public places of the city. The owners who came to recover them were fined for violating the ordinance obstructing the streets. On another occasion the Mayor with the help of the Police force took possession of a place on the Lake Shore beach which had been occupied by a large number of shanties without legal right, where the lawless and criminal classes held forth in drunken revels and vicious orgies. The Mayor razed these shanties to the ground, burning many of them.

In 1860 Mr. Wentworth was elected Mayor a second time. In his inaugural message he explained the reasons why he had become a candidate for a second term. "There are many laws and ordinances appertaining to our municipal government", said he, "the propriety of which may be questioned, but the oath of office which I have just taken requires me to take care that all of them be duly enforced, respected and observed. It is no part of the duty of executive officers to inquire into the justice or expediency of any law. It is enough for them to know that thus saith the law. Besides, the best way to bring about the repeal of an obnoxious law is to enforce it, and every law which ought not to be or cannot be enforced should at once be repealed. . . . The Mayor's office is not the place for any man who desires important political preferment of any kind, lest the desire to make friends and the fear to make enemies prove an incentive to him to deviate from the peremptory requirements of the law. The Mayor is but the right arm of the law and there should be nothing of human ambition to paralyze the power of that arm." He then referred to the fact that he had five times been elected a member of the National Congress and that during his long residence in Chicago he had never had any desire to hold the office of Mayor until after he considered his "political" career closed. "Having finished my political career", said he, "and thus being in a position in which I could afford to act intelligently and set at defiance the spirit of lawlessness which was overrunning the city, I consented to take the office of Mayor. Remembering my oath of office I at once set myself at work to enforce all laws and ordinances of the city. This gave greath offense to the class of

voters who professed to entertain peculiar notions respecting what they called necessary evils in large cities, of which evils they themselves were not only conspicuous patrons, but often large beneficiaries. They censured me for executing laws which they dared not petition to have repealed and which should now be repealed if they cannot or ought not to be enforced. But nevertheless I continued to enforce the laws. Portions of our city confiscated to vice and crime were made orderly and respectable and are now inhabitated by some of our most law-abiding citizens. Gambling houses, brothels and other abodes of lawlessness were broken up and their inmates brought to justice or compelled to leave the city. Many of these offenders thus disturbed by an honest execution of long-existing laws were persons of wealth, talents and position. . . . Feeling the effects of such an adminstration, this class of men have been making it their business to see that there never should be another such Mayor in any city in the Union and so have tried by every means in their power to make my former administration odious, both at home and abroad. Not only has a portion of the press of our own, but that of almost every city in the Union been at work so to mold public opinion that no Mayor in any city would ever again endeavor to enforce the laws against this class of offenders. Under this state of things I deemed it a great moral necessity to appeal to the people again."

Mayor Wentworth's ideals of law enforcement have not been followed by his successors in the Mayor's office of Chicago. It should be noted that practically everywhere in the United States the law requires saloons to be closed on Sunday and prohibits the maintenance of gambling houses and houses of prostitution. The question of the Sunday-closing of saloons reached a crisis in Chicago in 1873. In that year it was made the issue of the mayoralty election and the candidates of the Law and Order party, which favored Sunday closing, were defeated by large majorities. The law was not changed, however, and a crusade for Sunday-closing is undertaken from time to time by citizens interested in temperance reform. A special investigating committee of the Common Council appointed in 1903 for the purpose of examining into the conduct of the city administration and the enforcement of the law reported against the advisability of strict enforcement. The prevalence of crime in Chicago had led to a renewed discussion of the laws regulating the sale of liquor,

gambling and the practice of vice. The committee deprecated the tendency to confuse the movement for lessening crime with the anti-saloon movement. "Chicago is a cosmopolitan city", said they. "It has within its boundaries large communities of different nationalities whose habits and customs are at variance with those of the citizens of New England ancestry. Efforts to use the machinery of law to force a change of habit and custom of these people of diverse nationalities must eventually invite resentment and endanger the overthrow of movements looking to the suppression of crime and the betterment of governmental conditions." With reference to the social evil, the committee recommended that the Superintendent of Police recognize certain districts outside of strictly residence quarters in which houses of prostitution maintained in a quiet and unobtrusive manner should not be subject to disturbance by the police. They recommended further, however, that the police should be given imperative orders to suppress solicitation by women on the streets or in any public place and that every saloonkeeper who allowed prostitutes to solicit on his premises should have his license revoked. The committee also recommended that all open gambling could and should be suppressed.

The Third City Charter — 1863.

The city charter of 1851 with its many amendments was superseded in 1863 by a new charter under which the term of office of the Mayor was extended to two years. But his power and influence were considerably diminished from time to time by the establishment of partially independent administrative departments, until in 1872 when Mr. Joseph Medill was nominated for Mayor, he refused to accept the office except on the condition that the charter of the city should be amended so as to bring the various independent administrative departments under the control of the Mayor and Council. As a result a law was passed by the Illinois Legislature, the substance of which was afterwards incorporated in the general laws governing cities and villages, by which the appointment of all officers and members of boards not elected by the people or appointed by the Governor of the state was entrusted to the Mayor subject to the approval of a majority of the council. The Mayor was also authorized to investigate the records and books of all city officers

at any time and was empowered to remove any of his appointees whenever in his opinion, the interests of the city demanded it. He was required, however, to file with the Council his reasons in writing for making any such removal.

The great fire of 1871 left the city in a deplorable condition Nearly 200,000 people were left without homes or without means of earning a livelihood. The city treasury was low and a multitude of claims were pressing for payment. The city had already reached the limit of its bonded indebtedness. The State of Illinois, however, came to the rescue and paid back to the city nearly $ 3,000,000 which the city had contributed to the construction of the Illionis and Michigan Canal. With this help, by strict economy and the use of heroic measures, the city tided over its period of disaster and entered upon a new career of prosperity. The population had increased from 4,850 in 1840 to 30,000 in 1850; to 109,000 in 1860 and to 299,000 in 1870. By 1880 the number of Chicago's inhabitants had swollen to 503,000; by 1890 to 1,100 000; by 1900 to 1,698 000. The population in 1908 is undoubtedly considerably in excess of 2.000 000 souls.

Chicago Under Cities and Villages Act of 1872.

The year 1870 was a significant one in the history of Chicago. In this year the people of the state of Illinois adopted a new Constitution, including a clause prohibiting the Legislature from incorporating cities by special law. As a result of this provision the Legislature in 1872 passed a general Municipal Corporations Act which would apply to all cities and villages thereafter incorporated and to any city already existing whenever the people by majority vote determined to adopt it. In 1875 the people of Chicago voted to accept the general municipal corporations act and from that time until 1904 no special legislation affecting the city was permissible under the Constitution. The Legislature sometimes adopted a subterfuge however and passed acts applying to all cities having a population of more than one hundred thousand. As Chicago is the only city in the State of Illinois which exceeds this limit, such legislative measures, while general in form, have been special in effect. Nevertheless Chicago has been much less governed in detail by the State Legislature than almost any other great American city,

and the Illinois Cities and Villages Act is often cited as approaching nearer than any other American statute to the general municipal laws of European countries under which the cities enjoy a large measure of home rule in regard to the details of their government. In 1904, however, a constitutional amendment was adopted permitting the Legislature to pass special acts with reference to Chicago, subject to the approval of the city as expressed by vote of the electors.

In the later history of Chicago one of the most notable figures is that of Carter H. Harrison, Sr., five times elected Mayor. When he assumed the office for the first time in 1879 — eight years after the great fire — his inaugural address delivered to the Common Council was characteristic of the tremendous energy and cosmopolitan spirit of the city whose chief magistrate he was. "A city sprung into existence within your own memory", said he, "but already the third in America in population, and in commercial importance ranking among the ten leading cities of the world, will have its growth and progress more or less advanced or retarded by your action. Its citizens have within the past eight years struggled under difficulties sufficient to paralyse any other people.

"These difficulties with them have only called forth unexampled energies. They know not how to despair. To manage the affairs of such a community is worthy of a proud ambition and should beget in its representatives a sense of deep, earnest responsibility. . . .

"On me, gentlemen, devolve the duty and responsibility of carrying out your will and of enforcing the laws. I have but one policy to declare; that is to protect the lives, the property and the health of the city at all times and in every emergency and to do it in an honest and economical manner. I recognize but one science in finance; that is to collect the revenues and live within them. Debts can be wiped out in but one way, by paying them; surplus can be acquired only by saving; saving can be made only by honest expenditures for wise aud legitimate purposes and by preventing all leakage . . .

"Ours is a cosmopolitan people, aggregated from many nationalities, within a little more than one generation of men. Each of the several elements has its own ideas of social and religious life, its own civilization. They have one bond of union, devotion to republican institutions and energy in pursuit of fortune. Each should study to accommodate itself as much as possible to the social life

and prejudices of each of the others, and of the whole. For anyone to attempt to make a Procrustean bed to which the others should be forced to fit would be both ungenerous and unwise. Time alone can make them all homogeneous.

"A good sanitary condition is indispensable to the prosperity of the city, but sweet scents may not be its necessary concomitant; nor is the converse necessarily true. Too many are alarmed at an unpleasant but innocuous odor, and inhale with pleasure a sweet perfume laden with disease. I shall endeavor to foster healthfulness, yet not destroy our great commercial interests."

Mr. Harrison continued to be Mayor of Chicago for eight years. In 1893, the year of the World's Columbian Exposition, when Chicago needed her most eminent citizen to welcome the visitors from all nations, Mr. Harrison was again elected Mayor. He was assassinated, however, before the close of his term.

In 1883 the Legislature of Illinois passed a law fixing the annual license fee of liquor saloons at $ 500. The receipts from saloon licenses in Chicago in 1882 had amounted to $ 195,000; by 1885 they had increased to $ 1,721,000 and by 1905 to $ 3,884,000. In 1906 the annual license fee for saloons was increased to $ 1,000. The city had been startled by the prevalence of crime. The police force was inadequate and the sources of revenue for increasing the number of policemen limited. There had been issued during the preceding year about 8000 saloon licenses. It was thought that the increased fee would somewhat diminish this number, but as a matter of fact the number did not diminish and in 1906 the revenue from saloon licenses amounted to $ 8,500,000.

The city limits of Chicago had been gradually extended from time to time until 1889, when the immense area of 126 square miles was added to the jurisdiction of the city, making a total of 170 square miles. The area has been slightly increased since that time so that the jurisdiction of Chicago now extends over 180 square miles of land.

In 1887 the City Council authorized the construction of an electric lighting plant. From small beginnings in that year the plant has grown until it is now the largest municipal electric lighting plant in the world, valued at more than $ 3,000,000. The entire cost has been paid out of current taxes. There are now nearly 7000

two thousand candle power arc lights in operation for street lighting, and the city has recently obtained the right to do commercial lighting.

The municipal history of Chicago during recent years has been marked by important movements and great civic endeavor. The City Council, which a dozen years ago was one of the most corrupt governing bodies in the United States, has been redeemed by ceaseless effort on the part of citizens' committees until now it is one of the best municipal legislative bodies in the United States. While Chicago's government is by no means exemplary from the standpoint of either efficiency or honesty the civic spirit of Chicago is more marked than that of almost any other great city in the United States. Considering the tremendous problems which Chicago has been compelled to face, coupled with the mixture of its population elements, the achievements of the city have been remarkable.

Before proceeding to an account of the present form and activities of the city government it will be necessary to outline briefly the existing limitations imposed upon municipal activity in Chicago by provisions of the Constitution of Illinois and the laws passed by the State Legislature.

Provisions of the Constitution and Laws of Illinois affecting Chicago.

As already stated, the Constitution of Illinois adopted in 1870 prohibited the Legislature from incorporating or organizing cities except by general laws. By a constitutional amendment in 1904, however, the Legislature was authorized to pass "all laws which it may deem requisite to effectually provide a complete system of local municipal government in and for the City of Chicago," subject to the provision that no such law could take effect without the consent of the people of the city expressed by majority vote at a regular or special election.

Another important restriction contained in the Constitution of Illinois is the provision limiting the indebtedness of cities to 5 per cent of the assessed valuation of property subject to taxation. Owing to the peculiar conditions of assessment which have kept assessed valuations far below the true value of property, this 5 per cent limitation has proven a great hardship for the City of Chicago.

A constitutional amendment was adopted in 1904, however, under which the Legislature may authorized the city to incur debt to the amount of 5 per cent of the full valuation of property. No indebtedness, however, except for refunding debts already outstanding may be created without the consent of the people expressed by majority vote at an election, and provision must be made in the case of all municipal indebtedness for an annual tax sufficient to pay the interest and provide a fund for the retirement of the principial within twenty years after the debt is incurred.

The State Legislature is prohibited by the Constitution of Illinois from imposing taxes upon cities for municipal purposes. It is also prohibited from extending the terms of municipal officers beyond the period for which they were elected or appointed and from increasing or diminishing their salaries during their terms of office and from granting extra compensation to a municipal officer for services after they have been performed or to a publice contractor after his contract has been entered into.

The Constitution of Illinois also provides that no person who is in default as a collector or custodian of public money or property for any municipality shall be eligible to hold municipal office.

As already pointed out the Legislature of Illinois has not exercised control over the city government of Chicago in the way that this control has been exercised in New York. Neither has the Legislature conferred upon the Governor or other administrative officers of the state such control to any considerable extent. There is an exception, however, in the case of parks which are administered in Chicago by three separate boards, two of which are appointed by the Governor of the state and the other by the Judges of the Circuit Court of Cook County. The two Park Boards appointed by the Governor ware established in 1869.

In 1905, after the Illinois Legislature had failed to pass a new charter for Chicago, the City Council, by resolution, established a charter convention to be made up as follows:

1. Fifteen members of the City Council to be selected by the Council Committee on State Legislation.
2. Fifteen members of the State Legislature residing in Cook County to be selected by the presiding officers of the Senate and House of Representatives acting jointly.
3. Fifteen citizens of Chicago appointed by the Mayor.

4. Fifteen citizens of Chicago appointed by the Governor of the State.
5. Two representatives from each of seven local government bodies to be selected by the presiding officers of these bodies.

While the work of this charter convention was purely advisory, the City Council recognized in its make-up the interest claimed by the government of Illinois in Chicago affairs. As a matter of fact the new charter approved by this convention was submitted to the Legislature in 1907, amended in certain important particulars and passed, only to be rejected by the people.

In addition for the general municipal corporations law under which the city has been operating for more than thirty years, the Illinois Legislature has passed several important municipal measures which became operative in Chicago upon their acceptance by the people of that city. One of these was the civil service law passed in 1895. Another was the law for the creatien of sanitary districts passed in 1899. Still another was the law providing for the municipal ownership of street railways passed in 1903. All three of these measures were accepted by the people of Chicago and went into effect practically the same as if they had been local acts.

Under the street railway law cities are authorized to operate street railways in case the proposition to do so has been approved by a three-fifths vote of the electorate. Cities may also own and lease street railways, but if the lease is to run for a longer period than five years the ordinance conveying the lease is subject to the optional referendum. That is to say, the ordinance does not go into effect until sixty days after its passage by the Council, and if within that time, 10 per cent of the people petition to have it submitted to popular vote, it will not go into effect unless so submitted and approved by a majority of the electors. Cities in Illinois are also authorized under general law to construct or enlarge water works and levy a tax for these purposes, but only on condition that the proposition has been submitted to the electors and approved by a three-fourths vote.

Another important general law of Illinois is know as the "Public Policy Law". It provides that in cities and other local subdivisions the registered voters, by petition of 25 per cent of their number, may require the submission to the people of questions of public

policy not to exceed three in number at any one election. The vote on these questions has no binding force, but simply shows the trend of public sentiment.

Present Organization of Chicago City Government.

The city government of Chicago is organized very differently from that of New York City. In Chicago more than in any other great American city the Council is in practice as well as in theory the central governing body. The Council is made up of 70 aldermen elected two from each of the 35 wards. In each ward one alderman is elected at the spring election every year. The general act for the government of cities and villages in the State of Illinois, which serves as a charter for the City of Chicago, is a comparatively brief law. Most of the departments of the city government have been organized by ordinance passed by the City Council. In the state laws governing Chicago there are no provisions fixing the number and salaries of policemen, firemen, street cleaners, etc., as is the case in the charter of New York city. Indeed even the Mayor's salary of Chicago has been left to be fixed by city ordinance.

Each alderman receives a salary of $ 1,500 a year, but the Council is authorized to pay the Chairman of the Finance Committee an additional sum not exceeding $ 3,500 per year. Aldermen are not permitted to hold any other public office under the city government and they are not permitted to be interested directly or indirectly iu any contract to which the city is a party. Persons convicted of malfeasance in office, bribery or other corrupt practices are disqualified from membership in the Council. The Mayor is the presiding officer of the Council, but has no vote except in case of tie. The Council appoints its own committees, but the Mayor or any three aldermen may call special meetings of the Council. All ordinances are subject to the Mayor's veto, but may be repassed over his veto by a two-thirds vote. When the Mayor vetoes an ordinance he is authorized to submit a substitute which may be considered and passed at once by the Council unless two members demand that it be referred to a committee. If such a demand is made the Mayor's substitute ordinance cannot be considered at once except by two-thirds vote of the aldermen.

The Council has general power to pass ordinances and make

regulations necessary to carry into effect the powers enjoyed by the city and may attach penalties not exceeding $ 200 fine and six months imprisonment for their violation.

The Council has authority to regulate the relations between the officers and employees of the city, and by a two-thirds vote may provide for the election by the people or the appointment by the Mayor, subject to the Council's approval, of such city officials as may be deemed necessary and expedient. The Council may also, by a two-thirds vote at the end of any fiscal year, discontinue any office created by it. The Council has authority to regulate and prescribe the powers and duties of the city officials.

The Council also has authority to establish and regulate a fire department, regulate the keeping and storage of combustible and explosive materials, regulate the construction of buildings and the licensing of elevators, provide for the inspection of steam boilers, regulate the speed of vehicles and the use of the streets, adopt necessary regulations to promote health and suppress disease, define and abate nuisances, regulate the sale of meat and other food stuffs, license and regulate auctioneers, junk dealers, hackmen, peddlers, etc., license, regulate and prohibit the sale of intoxicating liquors, suppress gambling houses, lotteries and houses of prostitution and prohibit the sale of obscene or immoral publications or pictures. The Council is expressly prohibited, however, from licensing houses of prostitution, and Boards of Health are prohibited from interfering in the management of such houses or providing in any manner for the medical inspection of prostitutes.

In Chicago there is no Board of Estimate and Apportionment and all the financial powers of the city are vested in the Council, except that on certain matters the approval of the electors is required. The Council is required to pass the annual appropriation bill within the first quarter of each fiscal year and no further appropriations may be made during that year unless they are submitted to a vote of the people and approved by them. In case of improvements made necessary by accident happening after the annual appropriations are made, the Council may by two-thirds vote order the necessary work to be done. Contracts cannot be entered into, or be approved by the Council or any of its committees unless an appropriation has been previously made for the expense. Not later than the third Tuesday in September of each year the Council is

required to levy the annual taxes upon all property subject to taxation within the city. The total amount of taxes levied in any one year for city purposes, not including amounts levied for the payment of the bonded debt or interest thereon, is limited to 2 per cent of the assessed valuation of property for purposes of taxation. Inasmuch as the assessed valuation is fixed by law at one-fifth of the real valuation, Chicago is limited to a tax of two-fifths of one per cent on the real value of property subject to taxation. It should be borne in mind, however, that this limitation applies to city taxes only and does not include state taxes, county taxes, school taxes, park taxes, library taxes or drainage district taxes. The limit upon the aggregate of these taxes, with certain exceptions, is 5 per cent. Including these exceptions the total tax rate is about 6.5 per cent on the one-fifth valuations or $ 1.30 on $ 100 of "full" valuations, or approximately $ 1 on $ 100 of actual market values.

The Council is authorized to make local improvements and cause hem to be paid for by special assessments or by special taxation on adjoining property or by general taxation, but in case the improvement is to be paid for by special assessment or special taxation it must originate with the board of local improvements provided for that purpose.

The Council has full power to lay out, construct, improve and maintain streets, alleys and sidewalks and may vacate any street or alley by a three-fourths vote. The Council is given specific authority to plant trees along the streets, to provide for lighting and cleaning the streets, and to regulate the opening of the streets for the laying of gas pipes, water mains, sewers, tunnels, etc. The Council has power to regulate the use of space over the streets and may for proper compensation permit the use of space more than twelve feet above the street level.

The Council has power te construct and maintain bridges, viaducts, tunnels and ferries. The Council may not grant the use of the streets for any street railway track for a longer period than twenty years and in any case the grant must be conditioned upon the consent of the owners of one half the frontage on the street. In case the street is more than one mile in length the consent of the majority of frontage for each mile is required. When the consents have once been granted, however, and the street railway

constructed, the Council may grant new rights in the street without a renewal of the consents. The Council has authority, subject to the vote of the people, to construct or acquire street railways and to operate or lease them. When the people have voted to operate street railways, the Council is authorized to fix the rates and charges but such rates must always be high enough to pay the cost of maintenance and operation of the street railway system, pay interest on the debt incurred for street railway purposes and provide for the accumulation of a sinking fund sufficient to meet the outstanding bonds at maturity. No bonds may be issued for a longer period than 20 years.

The Council has authority to prescribe the maximum rates and charges for gas and electricity for power, heating or lighting furnished by any private company, but such rates must be reasonable and may not be fixed for a period exceeding five years. The right of the Council to permit the use of the streets for gas pipes and electric wires and conduits is subject to the same limitation in regard to the consent of the property owners as in the case of street railway grants. The city has authority to operate an electric plant both for public lighting and for commercial purposes.

No telegraph or telephone company has the right to use the streets of Chicago without the consent of the City Council.

The city has authority to maintain water works and go outside its limits, if necessary, to acquire the property required therefor. The jurisdiction of the city to prevent the pollution of any source of water supply may be exercised as far beyond the corporate limits as the water works extend. The Council may grant to private companies the right to construct water works and distribute water at fixed rates, but no such grant may extend beyond a period of thirty years.

The Council has the right to construct and maintain sewers, drains and cesspools.

The Council has authority to establish markets and may deepen and improve water courses, construct and maintain canals and slips for accommodating commerce and build and maintain wharves and levees and make regulations regarding the use of harbors.

The Council has authority to provide for the erection of all public buildings necessary for the use of the city.

The city has the right to acquire municipal parks, play-

grounds, public beaches and bathing places, but the control of the principal parks is almost wholly in the hands of the separate park commissions rather than the City Council.

The Council has no authority over the schools of the city except that its consent is required to the appointment of members of the Board of Education by the Mayor and its consent is also required to all plans for the purchase of school sites and the erection of school buildings and the borrowing of money on the city's credit for school purposes.

The Council has authority to establish and regulate work houses, houses of correction, hospitals and medical dispensaries.

Charities are under the control of the county and consequently the City Council has no authority over them.

Besides the aldermen the city officials elected by the people of Chicago are the Mayor, who is chosen for a term of four years, the City Clerk and the City Treasurer, each chosen for a term of two years, and the Chief Justice of the Municipal Courts chosen for a term of six years.

The Mayor receives at present a salary of $ 18,000 a year which is fixed by ordinance of the City Council. In case of vacancy, if more than one year is left before the expiration of the Mayor's term, the vacancy is filled by the people at a special election; otherwise the Council elects one of its number to fill the vacancy. The Mayor presides over the Council and in case of tie has a casting vote. His veto power over ordinances and resolutions of the Council extends to particular items in appropriation bills. His veto is not absolute, however, but as already stated, may be overcome by a two-thirds vote of the Council. Annually, and as much oftener as he sees fit, the Mayor gives the Council information as to city affairs and recommends such measures as he may deem expedient. The Mayor is required to execute the laws and perform such duties as the Council may prescribe by ordinance. He has power at any time to examine and inspect the books and records of any city official. To the Mayor has been given, by ordinance, the appointment of all the heads of the administrative departments of the city except the two or three who are elected by the people. These appointments, however, are made subject to approval by the Council. The Mayor has authority, upon a formal charge, to remove any city official appointed by him, but he is required to report his reasons

for the removal to the City Council within ten days. In case he fails to make this report or in case the Council by two-thirds vote of all its members disapproves of the removal the official whom the Mayor sought to remove is restored to office, but is required to give new bonds and take a new oath, the same as when first appointed.

The administration of the affairs of the city of Chicago is distributed among the following departments, most of which have been established by ordinance of the Council:

1. City Clerk's Department.
2. City Treasurer's Department.
3. Department of Finance, at whose head is the City Comptroller.
4. City Collector's Department.
5. Department of Law, at whose head is the Corporation Counsel.
6. Department of Public Works, at whose head is a Commissioner.
7. Department of Local Improvements at whose head is a Board of five members.
8. Department of Track Elevation, at whose head is a Superintendent.
9. Department of Electricity, at whose head is the City Electrician.
10. Department of Health, at whose head is Commissioner.
11. City Physician's Department.
12. Department of Police, at whose head is a General Superintendent.
13. Department of Fire, at whose head is the Fire Marshal.
14. Department of Inspection, at whose head is the Chief Boiler Inspector.
15. Department of Buildings, at whose head is a Commissioner.
16. Oil Inspector's Department.
17. Gas Inspector's Department.
18. City Sealer's Department.
19. Department of Supplies, at whose head is a Business Agent.
20. Civil Service Department, at whose head is a Commission of three members.
21. Department of Education, at whose head is a Board consisting of twenty-one members.

22. Department of Public Library, at whose head is a Board of nine members.

The City Clerk acts as Clerk of the Council and keeps the city records. It is part of his duty to countersign warrants upon the City Treasury. He receives a salary of $ 5,000 a year.

The City Treasurer has charge of all moneys belonging to the city. He is elected by the people, but is not eligible to reelection at the end of his term. He has authority to appoint his subordinates and is required to give bond fixed by the City Council for not less than the estimated amount of taxes and special assessments to be collected for the current year. He is forbidden to use the money of the city either directly or indirectly for his benefit or for the benefit of any other person. He is required to report the condition of the Treasury once each month to the City Council and must file with the City Clerk, annually, a report of all his transactions for the preceding year. The annual salary of the City Treasurer is $ 12,000.

The Comptroller is the most important financial officer of the city. He is required to submit to the Council every year a detailed estimate of the expenses of the year, which forms the basis of the annual budget. He has general supervision over all the officials of the city charged with the collection or disbursement of city revenues. He also has supervision over all contracts, bonds and claims of the city. He audits and adjusts accounts in which the city is concerned. He receives monthly statements from the city's collecting and disbursing officers and has authority to prescribe the books and forms to be used by them. The Comptroller appoints his own subordinates. He receives a salary of $ 10,000 a year.

It is the duty of the City Collector to collect license fees, fees for inspection or permits, compensation for franchises and other miscellaneous money payments due the city. Taxes are collected by the town and county authorities. The City Collector is required to turn over his collections to the City Treasurer every week. He receives a salary of $ 6,000 and gives a bond for $ 250,000.

The Corporation Counsel is appointed by the Mayor for an indefinite term and has power to appoint his own assistants. He has charge of the legal affairs of the city except prosecutions for the violation of ordinances, which are in the hands of a Prosecuting Attorney

also appointed by the Mayor. The Corporation Counsel's salary is $ 10,000 a year.

The Commissioner of Public Works has charge of the streets, bridges, wharves and public grounds of the city, of markets and public buildings, of Chicago River and the Harbor of the city and of the city's sewers and water works. There are several bureaus in the Department of Public Works. At the head of one is the City Engineer who has charge of the construction and maintenance of the water works and intercepting sewers. The Bureau of Water has charge of the collection of water rates. The Bureau of Sewers has charge of the general sewer system of the city. The Bureau of Bridges, Harbor and Architecture has charge of bridges and viaducts and the architectural plans for public buildings. The Bureau of Streets has charge of the maintenance and repair of pavements, the cleaning of streets, the removal of garbage, etc. The Bureau of Compensation has recently been established for the enforcement of the ordinance governing the use of space under the sidewalks for which heretofore the city has received small compensation. It is expected that through the activity of this bureau the annual receipts for rentals of sub-sidewalk space will amount to $ 250,000 a year. This Bureau also has charge of collecting fees for miscellaneous privileges in the streets. The Bureau of Maps and Plats prepares assesssment plats and other maps and plats required by the various departments of the city government. The Bureau of Information and Complaints furnishes miscellaneous information to citizens inquiring about different matters relative to the city and county government. There is also in the Department of Public Works a Chief Accountant who keeps the books and makes financial reports for the various bureaus. The salary of the Commissioner of Public Works is $ 10,000.

The Board of Local Improvements has been established in accordance with state law. It consists of the Superintendent of Special Assessments and four other members. This Board has power, either on petition of property owners or on its own motion, to order local improvements, subject, to the approval of the City Council. In case the improvements are to be paid for in whole or in part by special assessments this Board has exclusive authority to originate them. Each member of the Board of Local Improve-

ments and the Secretary of the Board receives an annual salary of $ 4,000.

The Department of Track Elevation has charge of the abolition of grade crossings. The work of separating the grades where steam railroads cross the streets of Chicago was first begun in 1892. The city made an arrangement with the railroads by which the latter have undertaken the entire expense of separating the grades. Up to Dec. 31, 1906, 495 subways had been constructed and 628 miles of railroad tracks elevated at a total cost of $ 41,000,000. Work still remained to be done under ordinances in force at that time, the probable cost of which was estimated at $ 14,000,000. The Superintendent of Track Elevation receives a salary of $ 5,000.

The City Electrician has charge of municipal lighting, including the public electric lighting plant, and the inspection of electrical wires and equipment inside and outside of buildings, overhead and underground, and the control of the Fire and Police signal and telephone systems. He has a permanent force of 414 officers and employees under him. His salary is $ 5,000 a year.

The Commissioner of Health has general supervision over the sanitary condition of the city. This includes the inspection of food stuffs, the medical inspection of schools, the collection of vital statistics, the maintenance of hospitals and public baths, etc. During the year 1906 the Department of Health discovered, condemned and destroyed 10,940,000 pounds of unwholesome and decayed food stuffs and collected fines aggregating more than $ 10,000 for violations of the pure milk ordinance. The Department inspected a total of 11,613 cases of contagious diseases. The activity of the Health Department, coupled with the improvement of the drainage system and water supply of the city, has reduced the death rate in Chicago to very low limits. The annual rate has been below 16 per thousand population since 1896. The Commissioner of Health receives a salary of $ 6,000 a year.

The City Physician is appointed by the Mayor and receives a salary of $ 3,000 a year.

The General Superintendent of Police has full control of the officers of the Police Department and their work. He appoints all officers and members of the department and has power of removal over them. The total number of officers and employes in the department at the close of 1906 was 4,077 and the total number of persons

arrested during the year 1906 was 78,790. Owing to the increase of crime in Chicago, 1,010 new patrolmen were added to the force during the year and a great improvement was made in the suppression of crime-breeding resorts and public gambling. The General Superintendent of Police receives a salary of $ 6,000 a year.

The Fire Marshal has the appointment and removal of the members of the Fire Department and has complete authority to organize, govern and regulate the department. The total number of employes of the department at the close of 1906 was 1,615. The loss of property by fire during the year 1906 was estimated at approximately $ 4,150,000. The Fire Marshal receives a salary of $ 6,000 a year.

The Chief Boiler Inspector receives a salary of $ 3,600 a year. His department has charge of the inspection of steam plants, and the issuance of permits for the installation of new boilers. He also has charge of the enforcement of the law against the smoke nuisance.

The Commissioner of Buildings receives a salary of $ 5,000 a year. He is required to be an experienced architect, Civil Engineer, or builder or a competent building mechanic of ten years standing at the time of his appointment. His department has charge of the inspection of building plans and conducts prosecutions for violation of the building ordinances. The inspection of elevators, fire escapes and insanitary buildings is a part of the work of his department.

The Oil Inspector is paid by fees.

The Gas Inspector receives a salary of $ 3,000 a year.

The City Sealer also receives a salary of $ 3,000 a year.

The purchase of supplies for all departments of the city, except those supplies which are bought under contract, is in the hands of the Business Agent who receives a salary of $ 4,000 a year. Supplies to the value of about $ 800,000 go through the hands of this official annually.

As already mentioned, all the subordinate officials ef the city government are appointed, promoted and removed under the Civil Service law. This law is administered by three Commissioners appointed by the Mayor, one retiring each year. Each of these Commissioners, as well as the Chief Examiner appointed by them, receives an annual salary of $ 3,000. The Civil Service Commission classifies the offices and employments under the several departments

of the city government and holds competitive examinations for candidates who desire to enter the civil service of the city. Officials elected by the people or appointed by the Mayor subject to confirmation by the Council, election officers, members of the Board of Education, the Superintendent and teachers of the schools, heads of the various municipal departments, members of the law department and the Mayor's private Secretary are exempted from the provisions of the civil service law. That is to say, the electing or appointing authorities have full discretion in choosing these officials without reference to any examination to determine merit and fitness. Those officers and employes who are in the classified service and therefore subject to the civil service law cannot be removed or dicharged except upon written charges snbject to the approval of the Civil Service Commission. During the year 1906 the Commission held 179 examinations at which 10,544 applicants were examined. Of this number only 5,232, or somewhat less than 50 per cent, passed and were placed on the eligible list for appointment. During the same period 86 municipal employes, 25 police officers and 4 firemen were dismissed from the service.

The public schools of Chicago are under the control of the Board of Education, which is composed of 21 members appointed by the Mayor. This Board constitutes a separate corporation and is in most respects independent of the city council. The Board of Education has power to equip schools, hire buildings, employ teachers, fix salaries and prescribe text books and courses of study. With the approval of the Council it may purchase building sites, erect school buildings and issue bonds therefor on the credit of the city. The Board certifies to the Council the amount of money needed for the school budget each year and the Council has to levy a tax to meet this requirement. This tax is larger than the tax levied by the Council for general city purposes. The School Board appoints a Superintendent of Schools and a number of Assistant Superintendents annually. The total enrollment of pupils in the school year ending in June, 1907, was 286,767 and the average daily attendance in all the public schools of the city during that school year was 223,411. The total number of teachers emyloyed in June, 1906, was 5,867. The system at that time included one normal school, 17 high schools and 245 primary and grammar schools, in addition to schools for the deaf, for the blind, for crippled children,

practice schools and the kindergarten department. The School Board also maintains evening schools and pays particular attention to manual training, sewing, cooking and physical culture. The annual cost of maintaining the department of education is about $ 10,500,000. The school buildings of the city have practically all been constructed out of receipts from current taxes. The value of these buildings is estimated at upwards of $ 25,000,000 and the outstanding debt chargeable against them is less than $ 1,000,000. Members of the Board of Education serve without compensation.

Chicago's public library is under the control of a Board of nine directors appointed by the Mayor, three of them retiring each year. This board, like the Board of Education, is a separate corporation and is for most purposes independent of the City Council. Bonds may not be issued, however, for the purpose of library sites or the erection of library buildings without the approval of the Council. At the end of the year 1906 there were 328,000 volumes in the Public Library, besides 221,000 in the Newberry Library and 197,000 in the John Crerar Library. The latter two are under private control. The Public Library also maintains branches in different parts of the city. Members of the Library Commission serve without compensation.

In addition to the departments of the city government already mentioned there is a Bureau of Statistics, at the head of which is a city statistician.

As already stated the principal parks of Chicago are under the control of separate park boards not closely related to the city corporation. In the southern part of the city is a Park Board consisting of five persons appointed by the Judges of the Circuit Court of Cook County. This Board has undertaken enterprises of great magnitude and significance. The great park problem of American cities has been the problem of getting parks established where they will be accessible to the masses of the people. The South Park Board of Chicago has spent within the last three or four years approximately $ 6,500,000 in securing land and erecting neighborhood club houses for about a dozen parks with an area of from 5 to 60 acres each. The neighborhood club houses form recreation centers. There are playgrounds and athletic fields, outdoor gymnasium apparatus, wading pools and sand piles for children and large swimming

pools with bath house facilities and bathing suits. In the winter the playgrounds are flooded for skating purposes and toboggan slides are erected. Each club house has separate gymnasia for the sexes, an assembly hall for neighborhood meetings or social gatherings not of a political or religious nature, a branch library and reading room, small club rooms for the free use of neighborhood societies and a municipal restaurant where simple articles of food can be obtained at low prices. The magnificent work done by the South Park Board of Chicago in establishing these neighborhood recreation centers, it is believed, marks the high water mark of municipal progress thus far attained anywhere in the world in handling the problem of recreation for dense populations in great cities.

The western part of the city is organized into a park district under a board of seven members appointed by the Governor of Illinois. The northern part of the city is under a similar board of five members. The park boards on the west and north sides of the city have not made anything like the same progress in the solution of their problems as that made in South Chicago.

In addition to these three park boards, there is a Small Parks Commission established by city ordinance consisting of nine aldermen and six other citizens appointed by the Council. It has control of the city's bathing beaches and the small parks and municipal playgrounds established by the corporation of the City of Chicago.

The total park area under the control of the park boards and the small parks commission was 3180 acres in 1906.

Chicago also has an Art Commission consisting of the Mayor, the President of the Art Institute, the Presidents of the three Park Boards and three others appointed by the Mayor, one a painter, one a sculptor and one an architect.

Chicago's Great Municipal Problems.

The City of Chicago is beset with great problems arising out of the nature of its site, the character of its population and the relation of the local government to the State of Illinois. The population of the city is as cosmopolitan as that of New York and the proportion of native Americans is about the same.

The city has the problems of drainage and sanitation well in

hand as the result of the enormous expenditures for sewers and the drainage canal already mentioned.

The problem of crime and vice, which has been a very difficult one in Chicago, is not so well in hand. The recent increase of the police force will undoubtedly tend to provide better protection against crimes of violence and the policy pursued by the South Park Board in establishing neigborhood recreation centers if vigorously followed throughout the city will no doubt in time be more effective in eradicating vice and crime than any repressive measures could possibly be. Chicago has been very thoroughly under the control of the liquor interests which, in a more or less open alliance with gambling and the social evil, have in large measure controlled the politics of the city, at least so far as to prevent any serious persistent interference with the conduct of any of these lines of business. The increase of the annual liquor license fee from $ 500 to $ 1,000 in 1906 was only accomplished after a strenuous campaign and under the compulsion of the most patent need of a larger police force for which funds could not be secured in any other way. One investigator has extimated that the people of Chicago spend at least $ 135,000,000 a year for intoxicating liquors (including beer), gambling and prostitution. This would be equivalent to an expenditure of about $ 200 for every adult male in the city.

Among the principal sources of municipal corruption and inefficiency in Chicago during the past have been the public service corporations, especially the street railway corporations. It is only within the past ten or fiften years that American public sentiment has become fully aroused to the necessity of strict municipal control over street franchises. In the earlier days American cities, eager for rapid development and increase in population, were willing to give away valuable franchise rights on almost any terms. When the value of such privileges first became evident to the authorities of the various cities, the aldermen in many cases instead of demanding compensation on behalf of the city subjected the companies to blackmail for their own private benefit. The City Council of Chicago, as already stated in this discussion, became at one time one of the most corrupt governmental bodies in America. It was ten or twelve years ago that the citizens of Chicago, alarmed at

the rottenness of the Council and groaning udner the burden of extravagant franchise grants, began a determined effort to get control of their own representatives and force the public utility companies to submit to reasonable regulations in the interests of the citizens at large. Through the juggling of "high financiers" the various street railway companies of Chicago were over-capitalized to an enormous extent and their affairs interwoven until they fell into inextricable confusion. The first important investigation made in America into the capitalization and financial operations of a great street railway system was made in 1901 by the Civic Federation of Chicago into the affairs of the Chicago traction companies. At that time it was found that the market value of the stocks and bonds of these companies amounted to upwards of $ 120,000,000, and the par value of these securixties was nearly $ 118,000,000. The total original cost of the physical property of these companies up to July 1, 1901, was found to be slightly less than $ 45,000,000 and the estimated market value of this property at that time, exclusive of franchise rights, was less than $ 35,000,000. It was shown, therefore, that the market value of the outstanding stocks and bonds of these companies was between three and four times as great as the market value of the physical property. On the basis of these estimates the franchise rights, although some of them were nearly expiring and others were subject to legal doubt, had in 1901 a market value of about $ 85,000,000.

The service given by the Chicago street railways has for many years been notoriously bad. The city has been in a continuous fight with the companies, first to determine the legal status of the franchises and second to compel good service at reasonable rates or in lieu of that to secure municipal ownership and operation of the whole traction system. Indeed, the street railway issue has been the most important question in all Chicago elections for many years. In 1903 the city finally secured from the State Legislature the passage of a general law enabling the cities of Illinois to undertake municipal ownership and operation of street railways, but this grant of power was carefully hedged about with legal and financial limitations aud has since been rendered practically inneffectual, pending further changes in the Constitution or laws of the state. The trend of public sentiment in Chicago upon the municipal ownership of street railways during the past few years is shown in

an extremely interesting way by the vote on the various questions submitted to the electors.

Under the Public Policy act of Illinois, to which reference has already been made, the question, "Are you in favor of municipal ownership of street railways?" was submitted to the people in April 1902. The vote was 142,826 yes and 27,998 no.

Two years later upon the question of adopting the municipal ownership enabling act in Chicago the vote was 153,223 yes and 30,279 no.

At the same election two other questions were submitted under the Public Policy law which, with the votes cast for and against them, were as follows:

1. "Shall the city, upon the adoption of the Mueller Law (the municipal ownership enabling act) proceed without delay to acquire ownership of the street railways under the powers conferred by the Mueller Law?" The vote was 129,957 yes and 50,807 no.

2. "Shall the City Council, instead of granting any franchises, proceed at once under the city's police powers and other existing laws to license street railway companies until municipal ownership can be secured, and compel them to give satisfactory service?" The vote was 120,863 yes and 48,200 no.

In the following year, 1905, the mayoralty campaign was waged on a clear-cut issue. Hon. Edward F. Dunne, candidate of the Democratic party, was elected Mayor by a majority of nearly 25,000 votes, pledged to bring about immediate municipal ownership of the street railway system.

At the same election the industrious users of the Public Policy law, upon petition, secured the submission of three questions relative to the street railway franchise issue to popular vote. One of these was: "Shall the City Council pass any ordinance granting a franchise to any street railway company?" The people replied to this question, 59,013 yes and 152,135 no.

It would naturally be supposed that the Mayor of a great city elected to office on the clear issue of municipal ownership, backed up by an overwhelming expression of public opinion favorable to this policy, would be able to carry it through to success. However, Mayor Dunne found himself in the midst of enormous difficulties. The limitation of the city's financial powers, the conflicting and disputed vested rights of the street railway companies and the ad-

ministrative innefficiency of the city government resulting from long continued political abuses all combined to thwart the Mayor's plan. Moreover the majority of the City Council was unfriendly to immediate municipal ownership. Under these circumstances, at the close of the first year of Mayor Dunne's administration another test of public opinion was made through the submission of certain questions to the people. By a peculiar shift in the attitude of the contending factions in the Council an ordinance had finally been passed under the street railway municipal ownership enabling law providing for the issuance by the city of $ 75,000,000 of street railway certificates which would not be chargeable against the credit of the city as a whole, but only against the street railway property if taken over by the city. The matter of adopting or rejecting this ordinance was one of the questions submitted to the people. The vote was 110,225 yes and 106,859 no.

Another question submitted was, "Shall the City of Chicago proceed to operate street railways?" The vote was 121,916 yes and 110,323 no.

Under the terms of the street railway municipal ownership enabling law it required a three-fifths vote of the people to authorize any city to operate street railways, while a majority vote was all that was required for the acquisition of street railway properties to be leased to private companies for operation. The result, therefore, of this referendum was the approval of the policy of municipal ownership by a slight majority and the failure to approve of the policy of municipal operation by the three-fifths majority required under the law.

During the second year of Mayor Dunne's administration a plan was finally worked out by which the franchises of the companies would be extended for a period of twenty years subject to purchase at any time upon six months' notice by the city. These ordinances were supposed to have been framed in accordance with the policy of Mayor Dunne as modified by the necessities of the situation, but when they had finally been whipped into shape where the companies were willing to accept them the Mayor turned against them and opposed their adoption by the Council and afterwards by the people. The result was that Mayor Dunne was defeated for reelection in the spring of 1907 and these franchise ordinances where approved by a large majority. Briefly, the theory of the ordinances is this:

The city and the companies agreed that the value of the street railway properties, including unexpired franchise rights, was fifty millions of dollars on Jan. 1, 1907.

The companies agreed to proceed to reconstruct and reequip the whole system so as to give the city up-to-date efficient street railway service in the briefest possible period of time.

The work of reconstruction is to be done under the control of a Board of Supervising Engineers, one of whom is named in the ordinances, one of whom is appointed by the city and one by the companies. An exact account of the cost of reconstruction is to be kept and certified to by this Board of Engineers.

The city reserves the right, upon six months' notice, at any time to take over the property of the street railway companies upon paying the $ 50,000,000 agreed upon as their present value, plus the authorized expenditures on reconstruction.

While the property continues to be operated by the private companies a certain proportion of the receipts must be set aside every year for repairs, renewals and depreciation. The companies are allowed 5 per cent annually upon the total amount of capital invested as determined by the price at which the city could buy the property under the contracts. After these charges and the ordinary charges for maintenance and operation have been met, the net profits are divided between the city and the companies in the proportion of 55 per cent to the city and 45 per cent to the companies.

The rate of fare prescribed in the ordinances is 5 cents with practically universal transfers.

These ordinances, which contain many other features of interest and importance, no doubt represent the high water mark of street railway franchise agreements entered into by American cities. Since their adoption, however, the Supreme Court of Illinois has held that the street railway certificates which the city might issue for the purchase of the property under the street railway municipal ownership enabling act would be counted as a part of the regular municipal debt subject to the limitation contained in the State Constitution that this debt may not exceed 5 per cent of the assessed valuation of taxable property within the city. This decision makes the purchase of the street railway system impossible under present conditions. Even if the city's debt limit were raised so as to permit the

borrowing of the $ 50,000,000 now required for municipal purchase or the $ 90,000,000 (as estimated) that will be required when the street railway system has been reconstructed, the municipal ownership policy would still have to overcome serious obstacles. For the issuance of general city bonds to purchase the street railway system the law requires a two-thirds vote of the people, while street railway certificates chargeable only against the street railway property, which may be issued if approved by a majority vote, would, of course, be more difficult to float in the money market than city bonds. Accordingly the chances are that municipal ownership of street railways in Chicago will be deferred for many years to come in spite of the repeated expressions of the people in favor of that policy.

Another great problem which has long beset the city of Chicago is the problem of how to secure sufficient revenues for the ordinary purposes of municipal government and how to coordinate the local governmental authorities so as to insure an efficient and economical administration. Lying wholly or almost wholly within the corporate limits of the City of Chicago there are eight important taxing bodies — the City, the Board of Education, the Public Library, three Park Boards, the Sanitary District and the County. This does not count two or three unimportant suburban Park Boards and five townships, all of which lie partly within the city limits. From 1875 to 1898 the assessments of property for purposes of taxation were made by township assessors for all tax levies — municipal, county and state. The result of these conditions was that each assessor strove to keep the assessment of property within his own township as low as possible in order that his constituents might be relieved as far as possible of the burden of taxation. As a consequence of this intense competition among township assessors the assessment of property in Chicago became ridiculously low. Investigations made about 1895 brought out the fact that the average assessment of real estate was not more than 10 per cent of its real value. Inasmuch as the debt limitation of the city and also the limitations upon the tax rates of the various local governing bodies were pased upon the assessed valuation of property, it can readily be seen that the sources of revenue were being dried up and the authority to incur debt was being practically nullified. In 1871, when the assessment for city purposes was made by City Assessors, the total valuation

of property was $ 289,700,000. Twenty-four years later, when the population of the city had more than quadrupled, the assessment of property by the township assessors was only $ 243,500,000. Conditions had become so bad that the slow-moving political authorities were finally compelled to get an act of the Legislature creating a Board of County Assessors. Assessments had been so low, however, both in Chicago and throughout the State of Illinois that it was deemed impracticable to raise them to the full valuation of property. Accordingly the new law prescribed that for purposes of taxation property should be valued at 20 per cent of its real value. Even at this rate Chicago obtained some relief. The assessed valuation was increased to $ 426,260,000 in 1906. This is on the basis of 20 per cent of the real value as estimated by the Board of Assessors. It is generally considered, however, that this estimate of real value is not more than 70 or 80 per cent of what it should be. It appears, therefore, that the assessed valuation of the city by which the tax rate is fixed and the limit of indebtedness determined is even now only about 15 per cent of the actual value of property in the city.

A recent amendment to the Constitution of Illinois, to which reference has already been made, authorizes the Legislature to provide a complete and unified system of local government for the territory embraced within the corporate limits of Chicago, subject, however, to the acceptance of the people by vote at the polls. This amendment also provides that when two or more of the local taxing bodies are consolidated, the Legislature may provide that the limit of bonded indebtedness shall be 5 per cent of the full valuation of property rather than 5 per cent of the one-fifth valuation now used as a basis for taxation. The Legislature in 1907 passed an act to effect a consolidation of most of the taxing bodies of Chicago and to provide a new charter for the city. This act was, however, rejected, by the people of Chicago by a vote of 121,523 "No" to 59,555 "Yes" at a special election held in, September, 1907. The people felt that the politicans in the Legislature had incorporated some bad features in the proposed charter which would more than offset the promised benefits. Accordingly Chicago will continue for the present under its handicap of numerous independent taxing bodies and narrow limitation of debt-incurring authority.

At the close of 1906 the total debt of the city corporation was $ 25,555,000, including $ 4,293,000 issued for the payment of

a bonus to the World's Columbian Exposition management in 1893 and nearly $ 5,000,000 issued a few years ago for the purpose of liquidating judgments which had been obtained against the city on account of its inability to meet its current obligations. We have, therefore, the curious spectacle of a city of over 2,000,000 population, having a water works system that has cost nearly $ 40,000,000; school buildings that have cost over $ 25,000,000 and a sewer system that has cost more than $ 25,000,000, with an indebtedness of only a little over six millions against these three items while nearly as much debt has been incurred to make up deficits in current expenditures. If, however, we include in the total debt of Chicago, the debt that has been incurred by the Park Boards, the Sanitary District and Cook County, the total debt upon which the people living within the limits of Chicago have to pay interest is about $ 58,000,000. With half the population of New York City, Chicago has less than one eleventh of its gross indebtedness and about one-fifteenth of its assessed valuation of property for purposes of taxation.

Including all the taxing bodies within the limits of Chicago, the total revenue for ordinary purposes in 1904 was figured out to be something over 38 millions of dollars. Only $ 21,470,000 of this revenue was derived from direct property taxes. The remainder was derived approximately from the following sources:

Saloon licenses	$ 3,760,000
Other licenses, fees and forfeitures	$ 750,000
Water rents, interest on bank deposits, etc.	$ 4,470,000
Rentals of public property, mostly land	$ 600,000
Educational subsidies from the state	$ 300,000
Public service privileges	$ 510,000
Fees for official services and other departmental receipts	$ 2,015,000
Special assessments	$ 4,300,000

The ordinary expenditures of the city and other taxing bodies combined for the same year, amounting to a little over $ 30,000,000, were distributed among the general purposes of government approximately as follows:

General administration	$ 2,350,000
Public health and safety	$ 7,160,000
Charities and corrections	$ 1,600,000

Streets and sewers	$ 2,785,000
Public education	$ 8,600,000
Public recreation	$ 665.000
Interest on public debt . . .	$ 1,560,000
Loans repaid	$ 3,315,000
Operation of water works and other municipal industries . .	$ 2,070,000

The extraordinary expenditures of these various bodies amounted to a little more than $ 12,000,000, the bulk of which went for streets, sewers, parks, school buildings and the extension of the Water Works system.

While Chicago has many difficult problems to solve, courage, independence and civic interest are in a marked degree characteristic of its citizens and the prospect of working out an efficient and thoroughly democratic municipal government by means of universal manhood suffrage in a cosmopolitan metropolis is more encouraging here than in New York City.

V. Philadelphia.

"Corrupt, but contented" was the verdict rendered against Philadelphia by a brilliant American writer in a series of widely read articles published three or four years ago upon political conditions in American cities. Philadelphia is the "City of Brotherly Love," and probably has more pride of religion and respectability to the "square inch" than any other great American city. Philadelphia is one of the greatest manufacturing cities in the world. It is a "city of homes." It is the "most American" of the great cities of America. It was founded by the Quakers, a religious sect whose members refuse to go to war and are the apostles of peace and charity. One American writer has suggested that the matter with Philadelphia and the State of Pennsylvania, of which Philadelphia is the metropolis, is their Quaker origin. This writer thinks that the fighting blood necessary to carry on the battles of good citizenship against corruption is, to a considerable extent, lacking in Philadelphia on account of its peaceful Quaker traditions. However this may be and however contented the citizens of Philadelphia may have been a few years ago with corruption in their government, a movement was inaugurated in 1904 which led to one of the most remarkable political revolutions in the history of municipal politics anywhere. A citizens "Committee of Seventy" was formed in that year for the purpose of securing the election of city officials without regard to national party politics; for the protection of the rights of the electorate by the enforcement of the election laws and the enactment of new laws providing for the personal registration of voters and a simpler form of official ballot; for the encouragement of faithful public officials in the performance of their duties, and for the dissemination of reliable information regarding city affairs and candidates. At the citizens' meeting at which this committee

was organized a brief but stirring adress was delivered by Mr. John B. Roberts. His analysis of the political situation in Philadelphia was so penetrating that I shall quote his remarks at some length.

"The first requisite of succesful action for improving the government of Philadelphia", said Mr. Roberts, "is a clear understanding of the source of our trouble. Some believe it to be the ignorant population, which votes without a just understanding of the duties of citizenship. Others think it to be the indifference of intelligent citizens, who fail to vote on election day. Still others say that the cause of our bad government is the wickedness of political bosses, who accept bribes, organize gangs of repeaters, and place corruptible puppets in election booths, the executive offices, City Councils, the State Legislature and on the Bench.

"Intelligent students of the question know that the first cause is unimportant, and need attract very little attention from this organization.

"The coming to the polls of all citizens who now neglect the opportunity to vote would probably not overthrow the majority of the Republican machine in this city. The number of fraudulent names on the Assessors' lists of voters is estimated at from 50,000 to 80,000.

"The third source, mentioned as the cause of Philadelphia's ills, is the success of its political rulers in collecting bribes, carrying elections, and controlling the occupants of legislative, executive and judicial positions. At first glance, it would seem that this is indeed the true cause of the city's undoing. The public knows that bribes are accepted by the political captains who rule over us. It knows that elections are carried by stuffed ballot-boxes, bogus voters coming from policemen's houses, repeaters traveling from one voting booth to another, and the subservience of judges. It sees that the members of Councils and of the legislature, the Mayor, the City Treasurer, the Collector of Taxes, the Recorder, the Register of wills, the District Attorney, the Judges and other officers are nominated and elected by these same active political leaders. What more is needed, it may say to prove that the corrupt and expensive government of this town is due to the men who control affairs in City Hall?

"Let me tell you, who expect to improve civic conditions by antagonizing and overthrowing the power of these leaders, that you have not begun to realize the real source of our political degradation.

Those whom you call bosses and leaders are themselves the subjects of a higher influence, which controls them as they control the scrub-women, the speak-easies, and the bawdy houses. . . .

"Every thoughtful and observant man knows that it is the transportation and other corporations that rule this municipality. It is the bribe-giver, and not the bribe-taker that you should pursue. . . .

"The first step for this meeting, or its representatives, to take is to publish the names of the directors and officers of the companies, which are known to bribe influential politicians, councilmen and legislators, with stocks, rebates, money, or passes. The second step is to call upon these eminent citizens of Philadelphia (for they are eminent in business, finance, science and religion) and tell them personally that they are the cause of their city's corrupt government, high taxes and large death rate from typhoid fever. The third step is to prove to them by interviewing, social pressure and business ostracism that all honest citizens despise their dishonorable and cowardly conduct; dishonorable, because they permit their executive agents to despoil the city; cowardly, because they shirk personal responsibility by hiding behind these agents and claim ignorance of wrong-doing.

"I do not blame city officials for corrupt acts so much as do some; because I realize the pressure that the machine can bring to make them violate their oaths of office. Obedience to the organization or non-support of wives and children are the alternatives in many instances. I feel that the blame for our shameful civic condition is due less to the boss, who sells franchises and special privileges, than to the Boards of Directors, who buy them. Bribery can not exist until a bribe-giver is found. Let this meeting seek out, exhibit, prosecute, and put in jail the bribe-givers; and it will not be long before we shall have representative councilmen and honest political leaders.

"The attempt to cure the evil of corrupt bosses and dishonest councilmen against the wishes of those corporations will be futile. It is like trying to stamp out the social evil by arresting a few pitiable street-walkers and private strumpets. The remedy for the latter is to attack and put to rout the lecherous men, who debauch women; the remedy for the former is to train our guns on the dishonest citizens of eminent respectability, who debauch officials.

The fathers and mothers of the country could quickly diminish the social evil by denying men of immoral reputation entrance to their homes and association with their children. The citizens of Philadelphia can quickly diminish the political corruption of the day by similar treatment of the corporation managers of whatever wealth and influence, who tamper with the morality of political leaders and city officials."

Spurred to action by such words as these, the Committee of Seventy prepared for the next city election which was only a few weeks away. Deeming the minority or Democratic party in Philadelphia as corrupt as the majority party, the Committee of Seventy determined to organize a new party entirely independent of partisan differences on national issues. The new party was called the "City Party". At the election in February, 1905, fifteen City Magistrates were to be chosen. Under the laws of Pennsylvania no elector was permitted to vote for more than ten. Consequently with only two parties in the field the custom had arisen for the majority party to nominate only ten candidates and the minority party to nominate only five. With the advent of the City Party, however, a contest arose for the five minority magistrates. The dominant Republican party was anxious to kill at the beginning the independent movement. Accordingly, through its organization, it made an alliance with the Democratic party and issued instructions to the election officers to turn 50,000 votes to the five Democratic candidates for City Magistrates. These instructions were carried out and the Democratic candidates won by large majorities over the City Party candidates. The Committee of Seventy then undertook an investigation and prosecution of the ballot frauds. It found that large numbers of fictitious names were carried on the lists of voters. The law did not require the personal registration of the electors and this gave the corrupt party leaders an opportunity to pad the registration books. "Lists of names of persons who where dead, removed non-voters or merely fictitious were handed to the registration officers from cheap lodging houses, saloons, gambling joints, disorderly houses and other places of ill repute. There were from 60,000 to 80,000 of such names upon the lists in December, 1904," says Mr. T. R. White in his address on "The Revolution in Philadelphia", before the National Municipal League.

While the election frauds made possible by these false lists of

voters were belng prosecuted by the Committe of Seventy during the year 1905, the corrupt politicians who dominated the city councils and the state legislature brought forward two measures which aroused the sleeping people of Philadelphia. One was a city charter amendment, which was rushed through the state legislature near the close of the session, taking away from the Mayor of Philadelphia the right to appoint the heads of the two most important departments of the city government, and conferring that power upon the city councils. It was thought by the politicians that it would be much easier for the reform element to elect a Mayor than it would be for this element to get a majority of the members in the municipal legislative bodies. The other measure which was even more influential in arousing the people of Philadelphia was a proposition to give the United Gas Improvement Co. a new lease of the Gas Works on terms that were infamous.

The Gas Works.

The Philadelphia Gas plant was first established in 1835 and was taken over by the city in 1841. From that time until 1897 it was under municipal management. The notorious corruption of Philadelphia's city government and the machinations of powerful private interests finally succeeded in nearly wrecking the gas works. As a result the city authorities were induced in 1897 to lease the works for a period of thirty years to the United Gas Improvement Co. Under the terms of the lease the city would have the option in 1907 to take back the plant upon paying to the Company the amount it had invested in improvements. If the city's option should not be exercised in 1907, the lease would continue to run until 1927. During the life of the lease the company was required to pay to the city all that part of its receipts from the sale of gas in excess of the following prices:

Prior to Jan. 1, 1908	90 cents	per thousand cu. ft.
Jan. 1, 1908 to Jan. 1, 1913	85 cents	per thousand cu. ft.
Jan. 1, 1913 to Jan. 1, 1918	80 cents	per thousand cu. ft.
Jan. 1, 1918 to Jan. 1, 1928	75 cents	per thousand cu. ft.

The price to consumers was to be $ 1.00 per thousand cubic feet during the life of the lease unless reduced by city ordinance, but the city was prohibited from reducing the price below the minimum

scale just given. It will thus be seen that under the terms of the lease it was optional with the city to take its benefits either in the form of a percentage of receipts on dollar gas or in the form of reduced rates to consumers. The company also agreed, under the lease, to furnish the city, without charge, gas for illuminating public buildings and for street lamps. In case the lease remained in effect for the full period of 30 years the company was required to spend $ 15,000,000 on improvements and turn back the plant with the improvements to the city free of charge on Dezember 31, 1927. The project which the politicians brought forward in 1905 was for the city to surrender its rigths under the old lease and grant the company a new lease to run until 1980 under which the price of gas was to remain fixed at $ 1,00 per thousand cubic feet until 1928 and at 90 cents per thousand cubic feet there after through the whole period of the grant. In return for this new lease the city was to receive a lump sum of $ 25,000,000 in cash. The Philadelphia rogues were going on the theory that "a bird in the hand is worth two in the bush." They thought that $ 25,000,000 placed in the City Treasury at once to be expended upon public works given out to favorite contractors offered a much happier prospect than several times that amount accruing to the city from year to year through a reasonable percentage of the profits of the gas works, or accruing to the citizens through a steady reduction in the price of gas.

The exposure of the proposed "gas steal" was the immediate cause of what is known as the "Philadelphia Revolution". Mass meetings were held all over the city to denounce the proposition and an attempt was made to convince the Finance Committees of Councils of its iniquity. At a public hearing before this committee the Council Chamber was thronged with interested citizens. "Speeches were made on behalf of the people and by counsel representing the Mayor, but it was like casting pearls be fore swine," says Mr. White. "Some of the Councilmen endeavored to argue with the speakers and in so doing disclosed that they were utterly ignorant of the facts and figures set forth in the report of their sub-Finance Committee, although they were themselves members of this sub-committee and had signed its report. The sound of the speakers' voices was scarcely still before the report of the sub-Finance committee recommending a favorable report of the original proposition was approved without a dissenting vote." On the same day the councils

finally passed the ordinance. The only hope for the people of Philadelphia was in the Mayor's power of veto. The Mayor announced at once that he would do everything possible to defeat the infamous proposition and the people set about the task of frightening or compelling at least two-fifths of the Councilmen of each chamber to sustain the Mayor's veto. Mr. John Weaver had been elected Mayor in 1903 as the regular Republican candidate. He had, however, given some evidences of personal honesty and independence of the corrupt political organization in control of City Councils. A few days after the passage of the new gas ordinance by the Councils Mayor Weaver summarily removed from office the Director of Public Safety and the Director of Public Works — two machine politicians who through their control of the patronage of the city government had been enabled to give help and comfort to their politician friends. The Mayor appointed high class gentlemen of reform tendencies to succeed them and in this way removed the patronage prop which had been used to bolster up the corrupt organization in the City Councils. The Mayor was enabled to do this because the charter amendment to which I have already referred transferring the power of appointment of these two officials to the City Councils was not to take effect until 1907. Public excitement knew no bounds. The Mayor's vigorous action had thrilled the entire city with enthusiasm and Philadelphia breathed again the air of freedom from boss rule. The pressure of public opinion was so great that councilmen were forced one by one to come out in support of the Mayor. Finally, to make their defeat easy for the members of the gang, the United Gas Improvement Co. was induced to withdraw its proposition and say that it would not accept the new lease any way.

The city's receipts from the Gas Company under the terms of the lease were for the year, 1906, something over $ 700,000. On this basis with no increase in consumption at all the city's receipts for the years 1906 to 1927, inclusive, with the price of gas remaining at $ 1,00 per thousand cubic feet, would amount to nearly $ 23,000,000 in cash in addition to the free gas furnished for public lighting. It can readily be seen that taking into consideration the inevitable increase in consumption, the returns to the city under the present lease running to Dec. 31, 1927, will, if the price of gas is left at $ 1,00 per thousand cubic feet be far in excess of the $ 25,000,000 offered for the new lease to run until 1980. It is little wonder

that the citizens of Philadelphia were aroused to fury by the proposed transaction.

As a result of the events just described Mayor Weaver withdrew his political support from the Republican party which had elected him to office and gave it to the new City Party. During the summer of 1905 the investigation of election frauds was continued and Mayor Weaver undertook a general cleansing of the Philadelphia city government. Revelations of enormous profits made by favored political contractors in the construction of the city's filter plant were made and several men were arrested on criminal charges. Another election took place in the fall of 1905. It is described as the first honest election that had occurred in many years. During the summer the Committee of Seventy in co-operation with the police department had purged the voters lists of 50,000 or 60,000 fraudulent names. The result was a great victory for the candidates of the City Party. "This campaign was notable for the deep feeling that was aroused in every class of citizens," says Mr. White. "It was like a wave of religious fervor. 'Everybody high and low felt the call of duty and actively enlisted in the cause of reform. It is necessary for non-property owners to pay a voluntary poll tax in order to render themselves eligible to vote. This poll tax must be paid thirty days before the election. Usually persons who appear at the office to pay such taxes are very few and far between. This time long lines were waiting every morning when the doors of the office opened and the rush continued all day long. Many thousands of citizens who had not voted for years besieged the office of the Committee of Seventy to learn how they could render themselves eligible. It was indeed a revolution and the spirit of war times was in the air. Great was the rejoicing when the forces of evil were overthrown." Unfortunately this was not the election at which a new Mayor and members of the City Councils were to be chosen. Consequently the wave of reform did not on this occasion reach the heart of the city government.

The results of this election were far-reaching, however. The corrupt politicians controlling the legislature of Pennsylvania were forced to repeal the charter amendment which I have already described and to enact a number of important measures for the protection of citizens. One of the laws passed was a personal registration act described as "more complete and more searching in its

identification of the voter than the law of any other state." Another was an act governing the nomination of candidates for office, prescribing that the candidates of all parties shall be selected by direct vote of the members of the parties under a uniform system of primaries. Another act established a civil service commission for the City of Philadelphia to divorce the city's 10,000 office holders from the political power which they have hitherto exercised. Still another act required candidates to publish their election expenses and prohibited corporations from contributing to campaign funds. These laws mark a great step in advance in Philadelphia and Pennsylvania. The tremendous uprising of public sentiment which brought about their enactment was sufficient to control an unimportant city election held in February, 1906. By the time, however, for the election of a new Mayor in February, 1907, the corrupt politicians had gathered their forces again and were victorious at the polls. The city sank back once more into the control of the political pirates and the public service corporations.

Street Railway Franchises.

One evidence of Philadelphia's backsliding was seen in the failure of the city to take advantage of its option in 1907 to terminate the gas lease. A still more important evidence of this lamentable fact was shown, however, in the street railway contract entered into by the new city administration on July 1, 1907. The story of Philadelphia's traction deals is almost beyond belief. Away back in 1857 when franchises for the construction of street railways in Philadelphia were first granted, a section was inserted in the city ordinances requiring the directors of any street railway company to file with the city solicitor "a detailed statement under the seal of the company, and certified under oath or affirmation by the President and Secretary, of the entire cost of the road" and the city reserved the right at any time to purchase the property "by paying the original cost of said road or roads and cars at a fair valuation." This provision, though not utilized by the city, remained as a safeguard to the public interests until 1907. In the meantine, however, the streets of Philadelphia had been exploited by many street railway companies. In 1901 occured one of the incidents that seem characteristic of Philadelphia. The political pirates in control of the city administration and the State Legislature secured

the passage of certaine measures by the Legislature providing for the incorporation of street railway companies with new and peculiar powers. These measures were passed at the dictation of the political bosses without any public hearing and with very little debate. The politicians immediately took advantage of the new laws to incorporate several street railway companies and apply to the Philadelphia Councils for franchises. Thirteen long and intricate franchise ordinances were passed in three days, granting without compensation valuable rights in the public streets to the "political" corporations organized to take advantage of the recent legislation. Mr. John Wanamaker, a wealthy merchant of Philadelphia and formerly Post Master General of the United States, sent the Mayor of the city an offer in writing to pay the city $ 2,500,000 for the franchise rights conveyed by these ordinances. He deposited $ 250,000 with a trust company as a guaranty of his good faith. The letter conveying the proposition was handed to the Mayor by Mr. Wanamaker's private secretary. The Mayor flung the letter aside without examining it and hastened back to his office which he did not leave until he had signed the ordinances. Incredible things happen in Philadelphia. The sworn guardians of the city's rights give away to their friends franchises for which a responsible citizen offers to pay $ 2,500,000 and these same public officials hold their offices in peace and safety till the end of their terms.

Out of this street railway franchise deal of 1901 grew the Phliadelphia Rapid Transit Co. which obtained control of practically all the street railway properties and franchises of the city, built up a mountain of fictitious capital and on July 1, 1907, received from a friendly administration a blanket contract from the City of Philadelphia covering a period of fifty years and carrying with it the repeal of the publicity and purchase clause of the ordinances of 1857. This new contract recites that upwards of fifty different street railway companies have at different times received franchises from the city to occupy various streets and that the Philadelphia Rapid Transit Co. has come into possession of the franchises, leases and property of practically all these companies and also controls the franchises for the construction of elevated railroads and subways within the city limits. Under the contract the company agrees to call in the unpaid portion of its $ 30,000,000 capital stock, the money to be expended on improvements and extensions. No future

increases of capital stock or funded debt can be made without the consent of the city. If at any time the city desires to have new lines of surface, elevated or underground street railways constructed the company must be given an opportunity to construct and operate them. If it fails to do so within a certain period or rejects the city's proposition the city may open the new lines to competition. The Mayor, by virtue of his office, and two citizens of Philadelphia to be chosen by the City Councils for terms of four years, shall sit as representatives of the city on the Board of Directors of the company and shall exercise the same authority in the control of the affairs of the company as directors elected by the Company's stock holders. If the company at any time pays upon its capital stock a larger dividend than 6 %, cumulative from January 1, 1907, it must at the same time pay into the City Treasury an amount of money equal to the amount paid in dividends over and above the 6 %. The city confirms to the company and all its subsidiary companies all of the franchises and rights heretofore granted and surrenders any powers which it formerly possessed to repeal or resume any of these rights. The five cent rate of fare now in force is to continue until changed by consent of both the city and the company.

The city releases the company from its old obligation to pave the streets occupied by it and in lieu thereof is to receive a fixed payment, gradually increasing from $ 500,000 a year for the first ten-year period to $ 700,000 a year during the fifth ten-year period, amounting in the aggregate to $ 30,0000,000 in fifty years. These payments, it is claimed, are much less than the cost of maintaining the pavements, from the burden of which the company is relieved. The company is required to establish a sinking fund into which, beginning with July, 1912, fixed monthly payments shall be paid aggregating $ 10,200,000 during the life of the contract. The city reserves the right to buy the property, leaseholds and franchises of the company, "subject to all indebtedness now existing or hereafter lawfully created", upon July 1, 1857, or on July 1st of any year thereafter, by giving the company six months' notice and paying over $ 30,000,000 (representing the par value of the company's capital stock) plus the par value of any additional amount of capital stock issued hereafter with the city's consent. The contract is to continue in force even after the expiration of the fifty year period until the city purchases the company's property under

this option. Since this contract was signed the Philadelphia Rapid Transit Co. has become financially embarrassed and the fact has been revealed to the public that it is loaded down with obligations, to which Philadelphia will fall a voluntary heir, which makes the succesful operation of its properties almost impossible.

The supreme disgust of an intelligent Pennsylvania citizen at the system of organized robbery which has so long prevailed in the City of Philadelphia and the State of Pennsylvania is well expressed by Mr. Owen Wister, a noted American writer, in an article published in the October, 1907, number of Everybody's Magazine. The principal purpose of Mr. Wister's article was to describe the scandalous looting of the State Treasury in connection with the recent construction of the new Pennsylvania Capitol Building at Harrisburg. Inasmuch, however, as it is the same political machine that controls Philadelphia and the State of Pennsylvania, Mr. Wister's conclusions are worthy of notice in a discusion of the government of the city. "How, it will naturally be asked, and why, has any community of self-respecting people tolerated such a state of things for forty years?" asks Mr. Wister. "The briefest answer is, the people of Pennsylvania are not self-respecting. In the place of self-respect they substitute an impregnable complacency. Yet this explanation is inadequate. Mere complacency would hardly sit down and be robbed for forty years, getting leaky reservoirs and putty mahogany for its money; and we find upon analysis that with complacency must be joined also stupidity and cowardice. . . .

"The government of Pennsylvania has been since the Civil war a monopoly, an enormous trust almost without competition — like the Standard Oil, but greatly inferior, because Standard Oil gives good oil, while the Pennsylvania machine gives bad government. It shields and fosters child labor; we have seen how it steals; it has given Philadelphia sewage to drink, smoke to breathe, extravagant gas, a vile street car system and a police well nigh contemptible. . . . Lethargically prosperous, Pennsylvania is all belly and no members, and its ideals do not rise higher than the belly. Of the traditional Philadelphian this is as true as of the rustic, only it is more shameful. Well-to-do, at ease, with no wish but to be left undisturbed, the Philadelphian shrinks from revolt. When wrongs so outrageous as the gas lease are thrust at him, he may rouse for a while, but it is grudgingly in his heart of hearts; and when the party of reform

makes mistakes, he jumps at these to cover his retreat into the ranks of acquiescence.

"After electing a reform party in November, 1905, he immediately began to notice all that the party failed to reform and to ignore all that it accomplished. He jeered at every piece of mismanagement of the City Party; it made him happy; it was another pretext for him to return to the party that had been managing the Treasury for forty years. One year of independence was too much for him. Long before its close he was tired and frightened of it. The next November, 1906, be began to run back. The following February he ran the whole way. . . . Black is the retrospect, the outlook somewhat brightens. . . . Harrisburg has shaken off the den of thieves. Pittsburg is trying to. Piladelphia may bring up the rear. Its spark of liberty is not quite trampled out. It may some day cease to be the dirtiest smear on the map of the United States."

Mr. Wister ascribes the political condition of Pennsylvania to two special causes. One is its great coal and iron industries which, fostered by a protective tariff, have built up a system of powerful private corporations which exercise an unwholesome influence upon the political affairs of the state. The second cause, according to Mr. Wister's analysis, is the character of the people who first settled Pennsylvania. The Quakers who founded Philadelphia, in addition to their good qualities, have a certain timidity which acquiesces in things as they are. The Pennsylvania Dutch, descended from the Hessian soldiers who were brought over by the British government to fight the American colonists during the War for Independence, also form an important element in the population of Pennsylvania. They are a thrifty people, but manifest a servile acquiescence under corrupt government. "No Dutch county has ever turned its boss out", says Mr. Wister.

The Water Works.

This description of political conditions in Pennsylvania and Philadelphia would naturally lead us to expect to find well-nigh intolerable conditions in the various public services undertaken by the city. The Philadelphia Water Works were first established in 1799, and the water supply has been, since that time, continuously under the management of the city government. The water is taken from

the Delaware and Schuylkill Rivers. These sources of supply have been so thoroughly polluted that the typhoid fever death rate in Philadelphia has been a public scandal. In 1903 there were 993 deaths from this disease in that city or about 73 per 100,000 of population. The city finally was constrained to take action and during the past five or six years has been spending enormous sums of money in the construction of a slow sand filter plant. The total amount of money appropriated for this purpose up to the close of 1906 was $ 23,700,000. Mayor Weaver's investigation into the filter contracts during the year of the "Piladelphia Revolution" showed that extravagance and favoritism had characterized the expenditure of this money. In the year 1906 the Philadelphia Water Works pumped an average of nearly 320,000,000 gallons of water per day, making the per capita daily consumption about 218 gallons. With this enormous consumption, it can readily be seen that an immense filter plant is required. Whether the plant, when finally completed, will furnish the citizens of Philadelphia with pure water remains to be seen.

Public Health and Charities.

The effects of the long reign of corruption in Philadelphia are seen in other departments of the city government. The Director of Public Health and Charities, in his report to Mayor Weaver covering the work of his Department for the year 1906, shows that in many directions the city has been extremely negligent of the poor and the unfortunate. For example inadequate provision is made for the care of feeble-minded children. "Practically all the mentally defective sooner or later become charges of the municipality," says the report "and in the meantime, during the more plastic period of youth, the city fails to take official cognizance of their existence and leaves them helpless charges with parents and remoter kindred or even strangers, none of whom is prepared by training or means to improve the deplorable mental condition of the dependent child. Among the medium or higher grades of feeble-minded girls no moral training is given even when possible; no adequate safeguards taken, so that coincident with maturity the child — for she is as yet not more — is morally degraded and becomes the helpless mother whose offspring is probably of lower mentality than

the parent. One mentally defective of this type has been admitted to the Philadelphia hospital for five confinements; four of the offspring were clearly sub-normal and three became immediate public charges. Others of the women become prostitutes, contract venereal diseases, infect boys, often mere children and in other ways endanger society. Medical men do not regard sufferers of this type as suitable individuals for commitment as insane and until they become criminals no adequate provision for their custodial care or training is made. I believe the Commonwealth should assume the responsibility and make the necessary provisions for their care; if the State will not, then the city must; it is a crime to allow the present deplorable conditions to persist." Taking up the treatment of dependent children who are mentally normal, the Director says that conditions are somewhat better, but still far from what they ought to be. The Bureau of Charities is provided with but one officer to look after the needs of 568 children committed to its care.

The Director also calls attention to the city's negligence in the matter of care for those suffering with tuberculosis. He says that during 1906 there were 3,627 deaths in Philadelphia from this disease or 13% of all the deaths of the year. He says that while the city very properly provides an institution for the care of scarlet fever and diphtheria patients, which together were the cause of only 548 deaths during the year, and while it is spending millions of dollars for the filtration of the water supply for the prevention of about 1000 deaths and 10,000 cases of typhoid fever annually, comparatively little is being done to alleviate the tuberculosis situation. He calls attention to his recommendation of the previous year that funds be furnished the department to provide for the education of the public along certain preventive lines, for the cleansing and disinfection of houses in which deaths from tuberculosis have occurred, for the establishment of dispensaries for the treatment of the poor, for the employment of district nurses for the education of patients that cannot be removed from their homes, for hospital treatment in advanced cases and for the sanitary supervision of industries the improper operation of which increases the number of tubercular cases.

Taking up the matter of milk inspection, the Director shows that his department is handicapped by having no authority to maintain sanitary supervision over the dairies beyond the city limits which

supply the Philadelphia market. He also calls attention to the fact that his department is in grievous need of a modern biological laboratory properly equipped for the purpose of making und supplying antitoxin under safe conditions. Referring to conditions at the Philadelphia General Hospital, which accommodated during the year a daily average of 1,267 patients, he says that Philadelphia is doing less than any other great American city for its own hospital. The appropriation for maintenance and operation should be more than twice the amount of money that has heretofore been available. Among the pressing needs of the hospital is the doubling of its nursing staff. "The quarters offered for living rooms for these employees are deplorably unsuitable", says he. "During the year just closed 238 attendants were engaged and 212 of these left after varying periods ranging from one hour to a few months. Under existing conditions, with the small salary appropriated, they will not stay. . . . Attendants work from 12 to 15 hours each day, are housed in quarters with the insane, fed in the dining room with the insane, spend their days with the insane, are isolated from the companionship of normal minds and must, therefore, expect and properly should receive a far more generous remuneration than the city at present is giving."

"It must always be with sincere regret", concludes the Director, "that one repeats year after year urgent recommendations that remain unfulfilled. It is not probable that the cries of the needy fall on heedless ears or sink into soulless hearts. Here in Philadelphia was first inaugurated anything like a proper humane treatment of the insane, and within the call of that venerable institution the city's charges now lie huddled as in the mad houses of days that were. An official document is no place for sentiment, but the thoughtful must wonder why, in this great Christian community in which dozens of splendid private charities thrive to do noble work, hospitals owned and operated by the city, ministering to the suffering of our fellowmen, can awaken no sense of pride, no irresistible determination on the part of our citizens to make them the splendidly, fully equipped institutions that they ought to be." The remarks just quoted are not those of a magazine contributor writing for effect. They are not those of a political orator in the heat of a partisan campaign. They are the words officially spoken by the head of one of the great departments of the city

government of Philadelphia under the temporary influence of the recent reform movement which shook the city to its foundations.

The Public Schools.

Let us consider another official report. The free public school system is the pride of the American nation. In his annual report to the Philadelphia Board of Education, under date of February 12, 1907, the city Superintendent of Public Schools having in charge the education of 170,000 American children, called attention to the deplorable condition in which the public schools had fallen on account of insufficient appropriations for new buildings and the repair and proper equipment of old buildings. He submitted a complete list of improvements needed. "The most urgent and important matter to which the Board of Public Education and the people of Philadelphia should address themselves", said he, "is the immediate provision for an adequate physical equipment for the schools of the city. Your Superintendent and his associates and assistants have spent, during the past three months, a large percentage of their time in conjunction with the Superintendent of Buildings to ascertain the present needs in new buildings and repairs to old buildings in order to bring our school property up to a reasonable basis of efficiency. . . . We have deliberately excluded from the report every expenditure which is not at this time a necessity. . . . We have not looked ahead to interpret the needs of five years hence or even three years hence in the normal growth of the city, although it would be a matter of economy to do this and to purchase now, in the rapidly developing sections of the city, available sites for school houses. This would provide for our needs in advance of the time when such property will greatly appreciate in value and its purchase involve complications which mean delay. Nor have we included in the report any provision for the normal annual increase in the school population which also would necessarily be indicated if the report were to be considered an exhaustive statement of the needs of the schools of Philadelphia.

"We have also excluded from the report, solely because there is no money available to provide it, a list of desks of a modern type for the children of the schools. It is a fact that the children are sitting on broken benches, that they are sitting on boards in

the aisles between benches, that they are sitting on boxes, that they are sitting on window sills and that in some cases they are actually sitting on the floor in the schools of Philadelphia. All of these conditions I have personally and with great distress to myself been obliged in the last four months to witness.

"We are prepared within a fortnight at any time to lay before you a list of schools which have furniture that any fair minded individual would pronounce unfit for the use of children. Speaking well within the facts it is safe to say that there are at least 25,000 such desks in the schools of Philadelphia. . . .

"There is but one of two alternatives before the people of Philadelphia; either they shall be content to continue this deplorable condition of inadequacy in our school plant or they shall at once organize an effective demand for a loan of at least five millions of dollars to be devoted exclusively to the uses of the public schools of the City of Philadelphia. . . .

"On the first of January, 1907, there were 160 pupils in double classes, that is to say, two classes crowded into one room with two teachers at work simultaneously and to the great detriment of these children. Nine thousand six hundred and seventeen pupils were on half time and 5,746 were in rented buildings, most of which rented buildings are entirely unsuitable for school purposes.

"Next to the preservation of physical health the obligation is upon us to care for the intellectual life of the city; and no money economically expended in that direction can be unwisely expended and no loan which the people of Philadelphia could incur at this time would bring a more important and permanent benefit to the city than a loan for the purposes herein indicated."

The ruinous results of municipal neglect are seen also in the policy Philadelphia has followed with reference to its port. Dr. Ward W. Pierson, of the University of Pennsylvania, commenting upon this fact in the March, 1907, issue of the Annals of the American Academy of Political and Social Science said: "There are to-day twenty city wharves — and there are only a few more owned by the city — at which there are but nine feet of water at low tide. So shallow in fact is the water along side of these piers that the city fire boats could not get close enough to the shore to do efficient service in case of conflagration. Theoretically, every pier in the city is open for public use; actually, along the entire water front

there is but one covered pier at which a steamship of any considerable draft with a miscellaneous cargo can unload. The other piers are private or are leased to private parties. . . . Some of the wharves are used as dumps and ash heaps; some as railroad yards; others are rotten and decayed and sinking below the surface of the water. There is not a single wharf public or private, which will accommodate a vessel drawing over twenty-six feet of water and three-quarters of them will not accommodate vessels of half that depth. At every point the interests of the city have been sacrificed to private or corporate interests."

These conditions prevail in spite of the fact that Philadelphia has an available water frontage of about eight miles on a broad, straight river, 102 miles inland from the sea. Philadelphia lies close to the center of one of the great farming districts of America, and is the terminus of a great railroad, which has 7000 miles of track. The city is also the terminus of the principal railroad tapping the anthracite coal fields. It is directly connected with the principal oil fields and the iron and steel manufacturing districts of the United States. In spite of these advantages of location the harbor of Philadelphia has been almost utterly neglected. No important changes have been made in the laws governing this port since 1803 when Philadelphia was a small city and the country tributary to it was very little developed.

One would naturally suppose that the laws and foums of administration which have brought such poor results in the matter of city government would hardly be worthy of description. Nevertheless in pursuance of the practice and plan of this monograph we must now turn to a brief examination of these laws and this system of administration.

Constitutional Status of the City.

Under the Constitution of Pennsylvania the Legislature is forbidden to incorporate or organize cities except by general laws or to amend the charters of cities by special laws. One might suppose that such a prohibition would protect the City of Philadelphia from the special interference of the State Legislature. This is not the case, however. The Legislature of Pennsylvania has evaded the limitation imposed upon it by the State Constitution by classifying cities

according to population and so arranging that Philadelphia shall be the only city in the first class. By this device legislation applying in terms to all cities of the first class applies in fact to Philadelphia alone.

Another provision of the Constitution prohibits the state from giving or loaning its credit to any municipal corporation. Municipal corporations themselves are prohibited from lending their credit or granting public money to any private individual, association or corporation and the Legislature may not authorize them to become stock holders in private corporations. The Legislature is also prohibited from delegating power to any special commission or private corporation to levy taxes for municipalities or to extend the term of any municipal officer beyond the period for which he was elected or appointed. The Legislature is also prohibited from increasing or diminishing the salary of any officer during the term for which he was elected or appointed, and from granting extra compensation to any contractor after he has entered into his contract. Under still another provision of the Constitution the State Legislature has no power to authorize the construction of a street railway in any city without the consent of the city authorities. The indebtedness of cities is limited by the Constitution to 7 per cent of the assessed valuation of taxable property, but may be increased to 10 per cent under authority from the Legislature. No increase of indebtedness beyond 2 per cent may be incurred, however, except with the assent of the people, at an election. Provision must be made for the payment of municipal debt within 30 years after the time when it is incurred.

The Philadelphia Charter.

Philadelphia, in spite of its bad government, has been operating for the past 20 years under a "reform" charter, by which the administrative and legislative functions of the city are carefully separated and responsibility for the administration concentrated in the Mayor.

The legislative authority of the city is vested in a city council of two branches. The upper chamber, known as the Select Council, consists of 46 members, one elected from each of the 46 wards into which the city is divided. The Common Council consists of 79 members, distributed among the various wards in the ratio of

one councilman to every 4000 qualified voters. Members of the Select Council serve for three years, one-third of them being chosen every year. Members of the Common Council serve for two years, one-half of them being chosen every year. Members of Councils receive no salary. In view of what I have already said about the corruption of the city government of Philadelphia the following oath of office to which every member of Councils must subscribe when he enters upon the duties of his office seems ironical: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this commonwealth and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this commonwealth or procured it to be done by others in my behalf; that I will not knowingly receive directly or indirectly any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by the law."

No member of the State Legislature and no one holding any office or employment under the state at the time of his election is eligible to a seat in either branch of councils. Members of Councils are not eligible, during the term for which they were elected to any office or employment in the gift of Councils. Members of Councils are forbidden to become surety for any city official.

Each branch of Councils meets twice each month. Each branch elects a presiding officer and keeps a journal of its proceedings. No ordinance can be passed except by majority vote of all the members elected to each branch of Councils. The Mayor has the right of veto, but an ordinance may be passed over his veto by a vote of three-fifths of all the members of each branch of Councils.

The powers of the Philadelphia Councils are described in many legislative acts beginning with the charter of 1701. None of the more recent city charters repeals the provisions of the charters that went before. The reform charter of 1885 took considerable power away from Councils and vested it in the Mayor and the Executive departments. In fact one of the main purposes of this measure was to effect complete separation of the administrative and legis-

lative functions. This act establishes certain administrative departments and forbids Councils to create any others. A section of the charter of 1789 gives Councils full power and authority to make such laws, ordinances and regulations not repugnant to the laws and constitution of the state "as shall be necessary or convenient for the government and welfare of the said city." Councils have authority to make the annual appropriations and to fix the tax rate and levy the taxes. The tax rate must be fixed not later than Oct. 1st. of each year. Councils have authority to fix the salaries of all officers. They have authority to grant franchises and there are no general provisions of law limiting this power. It should be observed that as compared with most American cities the legislative power of the Philadelphia Councils is very great.

The Mayor of Philadelphia is elected by the people every four years and receives a salary of $ 12,000. At the time of his election he must be at least 25 years of age and must have been a citizen and resident of the state at least five years. He is not eligible to a succeeding term of office. Under the city charter he appoints the heads of the principal city departments, subject to confirmation by the Select Council. He also has authority to remove any head of department appointed by him on giving his reasons in writing to the Select Council. He has authority to veto any item in an appropriation bill. He may at any time appoint three competent persons to examine the accounts of any department, officer or employee of the city without notice. In case of a vacancy in the office of Mayor the President of the Select Council exercises the Mayor's authority temporarily until a new election can be held. The Mayor is required to call together the heads of departments for consultation and to advise upon the affairs of the city at least once a month. All heads of departments are required to make annual reports of the proceedings of their departments to him. As chief executive of the city it is the Mayor's duty to see that the city ordinances and the laws of the state are properly executed, and in case of riot he has authority to take command of the police force, call out the militia and appoint as many special patrolmen as he deems necessary for the sake of preserving order.

The following executive departments are provided for by the reform charter and the amendments thereto:

1. Department of Public Safety.
2. Department of Public Works.
3. Department of Health and Charities.
4. Department of Supplies.
5. Department of Receiver of Taxes.
6. Department of City Treasurer.
7. Department of City Controller.
8. Department of Law.
9. Sinking Fund Commission.
10. Civil Service Commission.
11. Department of Education.

The Directors of the first four departments and the members of the Civil Service Commission are appointed by the Mayor.

The Director of Public Safety receives a salary of $ 10,000 a year. His department is divided into 7 bureaus as follows: Police, fire, electrical, city property, building inspection, boiler inspection and correction. The heads of these bureaus, except the Bureau of Boiler Inspection, are appointed by the Director, subject to confirmation by the Select Council. The police force of the city in 1907 consisted of 2,954 men. The fire department included 895 men. The electrical bureau, having charge of the inspection of electric lighting and electric wiring was managed by a force of 62 men. The bureau of correction has charge of the city prison. The bureau of city property has charge of the City Hall, the city wharves, the city raal estate, the trees of the city, the public markets, the public toilet rooms and bath houses and various other public buildings and city squares. The Bureau of Building Inspection is in charge of a force of 51 men. The building laws of Philadelphia, which are administered by this bureau, are not found in the ordinances of the City Council, but are a part of the statutes of the State of Pennsylvania.

The Director of the Department of Public Works also receives a salary of $ 10,000 a year. Under this department are eight bureaus as follows; Highways, lighting, street cleaning, surveys, city ice boats, gas, water and filtration. The heads of these bureaus are appointed by the Director of Public Works subject to confirmation by the Select Council. The Bureau of Highways has charge of the construction and repair of streets, bridges and sewers. The Bureau of Lighting has charge of the gas and gasoline lamps and

electric lights used for street lighting purposes. In 1907 there were 11,614 electric arc lights, 22,033 gas lamps and 14,438 gasoline lamps in use for public lighting. The Bureau of Street Cleaning has charge of cleaning and sprinkling streets, the removal of snow, removing ashes, the removal and disposal of garbage and the removal of dead animals. During the year 1906 nearly 1,500,000 loads of dirt, ashes and garbage were removed by this bureau and 21,189 dead animals were disposed of.

The Bureau of Surveys has at its head a Chief Engineer who receives a salary of $ 8,000. It has charge of the construction of sewers and bridges, the preparation of plans for the abolition of grade crossings and other similar duties.

The Bureau of City Ice Boats is charged with the duty of keeping the Delaware River free of ice so as to keep the harbor open during the winter season.

The Bureau of Gas, since the lease of the city's gas plant to a private company, has lost much of its importance. Its principal duty now is to inspect gas meters and make tests of the quality of gas supplied.

The Bureau of Water has charge of the Philadelphia Water Works. During the year 1906, the receipts from the sale of water were a little more than $ 3,600,000.

The Bureau of Filtration has charge of the construction and operation of the great filtration plant now nearly completed to which reference has already been made.

The Director of the Department of Public Health and Charities receives a salary of $ 10,000 a year. This official has the care, management and supervision of the public health, charities and alms houses of the city. The Bureau of Health, among other things, provides for the medical inspection of the public schools and the provision of school nurses. The Medical Inspectors in 1906 found 8,755 cases of acute illness requiring exclusion from the schools and 31,544 cases of children needing medical attention.

The Department of Supplies was first established in 1903. The director of this department receives a salary of $ 10,000 a year and has control of the purchase of all articles and personal property required in the business of the city. Other departments of the city government get their supplies by requisition from this department. The amount expended by this department during the year 1906 was upwards of $ 2,000,000.

The Receiver of Taxes is elected by the people and holds his office for a period of three years. He collects all taxes, license fees, water rents, market rents and all other moneys due the city. He turns his collections over every day to the City Controller. The Receiver of Taxes draws a salary of $ 10,000 a year and no person is eligible to the office who has not been a citizen and resident of Philadelphia for at least seven years.

The City Treasurer is elected by the people for a term of three years, receives a salary of $ 10,000 a year and must have the same qualifications as are required for the Receiver of Taxes. The City Treasurer keeps the funds of the city, deposits them in banks designated by Councils and pays them out on warrants countersigned by the City Controller.

The City Controller is also elected by the people for a term of three years. He receives an annual salary of $ 8,000. It is his duty to prescribe the forms of reports and accounts to be rendered by each department of the city government; to audit these accounts; to see that no appropriation is overdrawn or any money spent for a different purpose from that for which it was appropriated, and to examine and pass upon all claims against the city.

The head of the Department of Law is the City Solicitor who is legal adviser and attorney for the city and all its departments. He prepares and approves public contracts, city bonds, etc. He is elected by the people for a period of three years and receives a salary of $ 10,000 a year.

The Sinking Fund Commission consists of the Mayor, the City Controller and one person elected by the Councils. This Commission has charge of the fund set aside for the redemption of the city's debt. This fund, on January 1, 1907, amounted to $ 6,865,000, most of which was in the form of city bonds held by the Commission.

The Public School System of Philadelphia is under the direct supervision and control of a Board of Public Education consisting of 21 members appointed by the Judges of the County Court of the County of Philadelphia. No person may be appointed to this Board who is under 30 years of age. It is the duty of the Board to determine questions of general policy with reference to the public school system; to appoint executive officers and define their duties; to direct the expenditures of public moneys for school purposes and

to appoint the teachers in the public schools. In each ward of the city a sectional School Board consisting of 12 members is chosen by the people on a system of minority representation. It is the duty of the sectional school boards to visit and inspect the schools and call the attention of the Board of Education or its officials to any matter requiring action. The sectional school boards are also required by law to render an annual report to the Board of Education in regard to the condition of the schools in their respective wards with especial reference to the number, equipment and efficiency of schools and school buildings.

The executive work of the Board of Public Education is entrusted to three expert agents appointed by the Board and subject to removal at pleasure. These agents are the Superintendent of Schools, who has charge of the educational department, the Superintendent of Buildings and the Superintendent of Supplies. Provision is made for the appointment of teachers from eligible lists containing the names of those who have received teachers' certificates and arranged as nearly as possible in the order of their standing at the examination.

Fairmount Park, which is the city's principal pleasure ground, containing a total area of 3,341 acres, is in charge of a Commission consisting of ten citizens together with the Mayor, the Presidents of City Councils and the chiefs of the Bureaus of Water, Surveys and City Property. The ten citizen members are appointed for terms of five years by the Judges of the County Court. The nucleus of Fairmount Park was acquired by the city in 1812 and consisted of a tract of five acres devoted to Water Works and park purposes. The other parks, comprising altogether an area of 92 acres, are under the control of the Fairmount Park Commission. About 50 public squares and parks, ranging in area from one-eighth of an acre to 300 acres are under the control of the Bureau of City Property in the Department of Public Safety.

The Philadelphia Free Public Library, consisting of a main library and 17 branch libraries which together contain 310,000 volumes, is under the control of a Board of Trustees consisting of the Mayor, the Presidents of City Councils, one citizen elected annually by each branch of City Councils and 18 other citizens. Vacancies among the 18 are filled alternately by the Library Board

itself and by appointments by the Mayor subject to the approval of the Select Council.

The Civil Service Commission established by a law passed in 1906 consists of three members appointed by the Mayor for terms of five years. Not more than two of the Commissioners may be adherents of the same political party. The President of the Commission receives a salary of $ 5,000 a year and each of the other Commissioners a salary of $ 3,000. The Civil Service of the city is divided into the unclassified service and the classified service. Under the former all elective officers and all heads of departments are included. The classified service includes practically all other persons in the service of the city arranged in four classes:

First, the exempt class, including secretaries and confidential clerks, who may be appointed without examination.

Second, the non-competitive class, including those positions which the Commission thinks it impracticable to include in the competitive class.

Third, the labor class, which includes ordinary unskilled laborers appointed from lists of applicants.

Fourth, the competitive class, which includes all the positions not falling in any of the other classes. Competitive examinations of applicants are held and lists made up according to the results of these examinations. Whenever a vacancy occurs in a position in the competitive class the appointing officer receives from the Civil Service Commission the names of four persons who are at the head of the eligible list, one of whom must be chosen and appointed on probation. Unless he is discharged at the end of three months this person's appointment becomes permanent. No person in the classified service can be removed except for cause, with written charges by the removing officer and an opportunity for defense on the part of the person about to be removed.

As already mentioned the City and County of Philadelphia are coterminous and form one municipal corporation. There are the usual county officers, including a Recorder of Deeds, a Sheriff a Coroner, a District Attorney and the usual number of Judges of the Civil and Criminal Courts.

Elections are under the control of a Board of three Commissioners elected by the people, not more than two of whom may belong to the same political party. The election laws provide that no person

can vote in Philadelphia unless he has lived in Pennsylvania at least one year and in the election precinct where he desires to vote at least two months. No citizen over 22 years of age can vote unless he has paid a state and county tax within two years. All voters must be registered. There are 1156 election districts in the city. Elections for county, state and national officials are held in November, while city and ward elections are held in February. No person can be an election officer who has, within two months preceding the election, held any office, appointment or employment under the United States, the state or any municipal department. Exception, however, is made in favor of Justices of the Peace, Councilmen, Notaries Public and persons in the military service of the state.

The assessment of property for purposes of taxation is vested in a "Department of Revision of Taxes", consisting of three members appointed by the County Court. Each member draws a salary of $ 6,000 a year. The total valuation of real estate subject to city taxes for the year 1907 was $ 1, 248,894,400. Personal property subject to city taxation amounted to only $ 1,793,886. The tax rate is different on different kinds of property. On "city" property, consisting of the bulk of the real estate in the fully improved parts of the city, the rate is $ 1.50 on $ 100 of valuation. On "suburban" property the rate is $ 1.00 and on "farm" property the rate is 75 ₵. On personal property, which is for the most part not assessed for taxation, the rate is 40 ₵, of which one-fourth goes to the State of Pennsylvania. The total revenues of the city from all sources for the year 1906 amounted to $ 32,426,000. The principal sources of revenue were the following:

Property tax	$ 18,684,000
Poll tax	$ 61,000
Revenues from water works .	$ 3,979,000
Gas lease	$ 718,000
Interest on city deposits . .	$ 357,000
State subsidy for schools . .	$ 834,000
License fees, penalties, etc. .	$ 3,600,000
Temporary loan	$ 1,200,000

The city's expenditures for the same year amounted to $ 33,506,000 of which $ 3,614,000 was devoted to the Sinking Fund and the payment of interest on the public debt. The total funded debt of the city on Dec. 31, 1906, amounted to $ 66,622,720, of which

$ 6,811,500 was held by the Sinking Fund, leaving a net indebtedness of approximately $ 60,000,000. The assets of the city reported by the United States Census Bureau for the year 1905 include the following:

Water Works	$ 34,500,000
Electric Light Works . . .	$ 3,000,000
Other Municipal Industries .	$ 3,000,000
City Hall	$ 27,600,000
Police and fire department buildings and equipment.	$ 9,400,000
Asylums, hospitals and prisons	$ 5,500,000
Public schools and libraries .	$ 14,300,000
Parks and puhlic gardens . .	$ 30,850,000

It is perhaps worth while to make particular mention of the Philadelphia City Hall, the asset of which the city is most proud. This building has been under construction since January, 1871, and its total cost has exceeded $ 24,000,000. It covers an area of 4 1/2 acres and rises to an extreme height of 548 feet. The face of the City Hall clock is 361 feet above the pavement. The diameter of the clock face is 26 feet. The City Hall contains 634 rooms. The construction of this building from 1870 until 1901 was under the control of a Public Buildings Commission created by act of the Pennsylvania Legislature in 1870.

It is perhaps fitting to close this account of the government of Philadelphia by a brief sketch of the work of the "Citizens Permanent Relief Committee." True to its character as a "City of Brotherly Love", Philadelphia cares more for its reputation for philanthropy and christian charity than it does for a good name for civic justice and political honesty. The City of Philadelphia established a few years ago a committee of sixteen citizens, with the Mayor as Chairman, for the purpose of lending aid to stricken communities, not only in other parts of Pennsylvania, but also in other states of the Union and in other countries of the world. Beginning in June, 1903, the committee sent $ 1,000 to the relief of a small town in Oregon, 3,000 miles away, which had been partially destroyed by flood. At about the same time this committee sent $ 7,000 to to cities in the State of Kansas which had suffered from floods. In December, 1903. the little town of Butler in the State of Pennsylvania was suffering frem a typhoid fever epidemic with 10 per cent

of its entire population sick with the disease. The Philadelphia Permanent Relief Committee organized a corps of nurses and dispatched them to Butler to remain until the epidemic had disappeared. In 1906 the committee sent 10,000 francs to aid the sufferers from the eruption of Mt. Vesuvius in Italy and at the same time sent $ 5,000 to the Red Cross Society to help famine stricken districts in Japan. About this time occured the terrible earthquake and fire which partially destroyed San Francisco. The committee raised and sent to the relief of San Francisco $ 400,000. In November 1906 the committed contributed $ 5,000 to the relief of sufferers in Valparaiso, Chili, after the great earthquake there and $ 5,000 more for the relief of the people of Kingston in the Island of Jamaica which had been devastated by another great earthquake. At the close of the year 1906 the committee was busily engaged collecting funds for famine sufferers in China and Russia. The funds dispensed by this committee are not taken from the City Treasury, but are raised by special subscription among the citizens of Philadelphia.

Thus we see the curious spectacle of a great city proud of its religion and philanthropy, which has not sufficient pride to furnish adequate school facilities for its children or adequate hospital facilities for its sick and which seems content to rest under the opprobrium of being the worst political plague-spot on the map of the United States.

VI. Saint Louis.

"I do solemnly swear before the Almighty God that in associating myself and in becoming a member of this Combine, I will vote and act with the Combine whenever and wherever I may be so ordered to do;

"And I further solemnly swear that I will not at any place or time reveal the fact that there is a Combine, and that I will not communicate to any person or persons anything that may take place at any meeting of the Combine;

"And I do solemnly agree that, in case I should reveal the fact that any person in this Combine has received money, I hereby permit and authorize other members of this Combine to take the forfeit of my life in such manner as they may deem proper, and that my throat may be cut, my tongue torn out, and my body cast into the Mississippi River.

"And all of this I do solemnly swear, so help me God."

This was the formal oath taken a few years ago by a large number of members of the city council of St. Louis who, by banding together in secret, were enabled to control the action of that body and enrich themselves by selling public franchises and contracts. Speaking of the conditions in the year 1900, one writer has said:

"A regular tariff was formulated at the city hall, a tariff that specified the price for which bribed votes could be secured, so much for permission to lay a switch, another sum for building a wharf, still another for locating a public market in a particular neighborhood, and so forth, on and upwards, to a fortune for the men who would seek control of a great public utility, such as the water works.

"Yes, in that dark year the barter of nearly everything the city had was open for consideration with the spoilsmen; and a cer-

tain number, with even more advanced ideas, discussed the advisibility of turning over the city fire department to the highest briber and permitting him to levy toll upon merchants and insurance companies. Others planned to sell the court house and still others agreed to let an advertising firm paint notices of its wares on the court house walls."

Lest my readers should think that the corruption of American cities is peculiar to the Anglo-Americans, I hasten to say that St. Louis is a German-American city. As far back as 1850 when the population of St. Louis was only 77,860, less than half of its people were native Americans and 22,340 or 28.7 % of the total, were natives of Germany. Half a century later in 1900, when the total population of St. Louis had increased to 575,238, this number included 58,781 natives of Germany. The number of those whose parents were both born in Germany was 154,735, and in addition there were 62,700 who had one parent born in Germany. Indeed the German element has always been so strong in St. Louis that in 1875 when the constitution of the state of Missouri, of which St. Louis is the largest city, was revised, a clause was inserted requiring that whenever a new city charter should be adopted, its provisions must be published in three daily papers of largest circulation in the city, one of which should be a newspaper printed in the German language. But the part that German-Americans played in the corruption of St. Louis is plainly told by the list of boodlers indicted for bribery when the members of the "Combine" were exposed and prosecuted. Kratz, Stock, Schnettler, Schumacher, Gutke, Decker, Lehmann, Bersch, Hartmann, Busche, Schweickardt and Meysenburg are boodlers' names that betray a German origin. And Mr. Ziegenhein was mayor of the city during the gala days of corruption.

This period of public piracy was followed by a great moral awakening in St. Louis politics. The young man, Mr. Jos. W. Folk, who was elected public prosecutor in 1900, proved to be a great reform leader. He hunted the boodlers down, prosecuted them relentlessly and succeeded in sending many of them to prison. He found before long, however, that he could accomplish little of lasting importance for St. Louis without carrying the warfare against corruption into the political life of the state of Missouri. Our American cities are so dependent upon the state legislatures that so long as

the latter are corrupt it is well-nigh impossible to root out corruption in the former. So Mr. Folk became a candidate for Governor of Missouri. His campaign slogan was: "Graft is treason," and by his appeals to the people he awakened their moral sense and quickened the political conscience not only of the citizens of Missouri but of the citizens of the whole United States. The extent to which the people of St. Louis were aroused is well shown by the words of an appeal to the citizens of Missouri issued prior to this election by the clergymen of the city. In this address I find the following remarkable statements:

"It is not an exaggeration to say that there is no suffrage in St. Louis. The citizen is either frightened from the polls or goes to them with the certainty that his vote will not count against the purpose of the terror-reign to keep itself in power and to use its power for the robbery of the city's wealth. While $ 1,800,000 go each year to brass-button and be-weapon the strut of the policemen whose business on election days is to keep riot instead of peace, . . . the city's institutions of charity resemble hotels more than homes. Cramped and makeshift hospitals, insane asylums that are themselves half insane for want of proper room and service, alms houses that mingle the poor with the mad, as if to make the poor mad and the mad madder with neglect — attest the extent of the robbery that rewards the chartered boodler and thug.

"Of course so bitter a curse could not have come on our city, without some doep inveterate guilt of its own. For twenty years and more it had been careless of its franchises. They had been bought and sold in regular market. The market was at first secret but grew open with the courage of custom, until little or no pains were taken to conceal its traffic. The buyers were citizens of wealth, presidents and directors of corporations — whose prominence lent respectibility to the corruption in which they engaged; and the corruption became more and more respectable with the greater prominence its additions of ill-got wealth gave to the corporation presidents and directors who abetted it."

Mr. Folk was elected governor and he has become one of America's national heroes. Out of the terrible corruption of St. Louis, which was broken up only six years ago, a brighter era has dawned in American municipal politics and, while corruption has not ceased in

the great cities of America, the struggle for honest and efficient municipal government has been immensely stimulated.

St. Louis was founded in 1763 by a band of French traders, but was not incorporated as a city until 1822. It is situated almost in the centre of the United States at the heart of the Mississippi Valley and is surrounded by fertile and populous commonwealths. It is already the fourth city in the United States in population and undoubtedly has a great future before it.

Constitutional Provisions Affecting Cities in Missouri.

St. Louis occupies an unusual position among the great cities of America, for the reason that it was the first of these cities to attain what Americans call "Municipal Home Rule". Over thirty years ago, in 1875, the constitutional convention of the state of Missouri so far yielded to the demand of the representatives from the city of St. Louis as to insert in the new constitution of the state a section authorizing the people of any city of more than 100,000 population to frame and adopt their own city charter subject to certain limitations. Under this constitutional provision a municipal charter might be framed by a board of thirteen freeholders elected for the purpose by the qualified voters of the city. The charter so framed could not go into effect until it had been submitted to the qualified voters and had been approved by four-sevenths of those voting at the election. If so approved, the charter would go into effect after being certified to the Secretary of State of Missouri and to the recorder of deeds for the county in which the city was situated. Any such charter might be amended by propositions submitted by the legislative authority of the city and accepted by a three-fifths vote of the qualified voters of the city voting at the election. But any charter framed and adopted by the people of the city was always to be in harmony with, and subject to the constitution and laws of the state of Missouri. The constitution further required that any such charter should provide for a mayor, or chief magistrate, and a city council of two chambers, at least one of which should be elected by the people of the whole city, not voting by wards.

The city of St. Louis took advantage of these constitutional privileges immediately. A board of free-holders was elected to

prepare a draft of a new charter, which was submitted to the people on August 22, 1876, and ratified by them and went into effect on October 22 of that year. Since that time constitutional amendments have been adopted by the people of Missouri giving still further powers to the city of St. Louis. Since the year 1901 the city has had the right to adopt charter amendments by a three-fifths vote of the electors voting on the question. Under the old provision of the constitution any charter amendment had to receive the approval of three-fifths of all the voters who voted at the election. Every citizen who went to the polls to vote for public officials and through ignorance, indifference or neglect, failed to vote either for or against a charter amendment was counted in the negative. Also under the new provision the city council of St. Louis is authorized to call an election to choose a new board of free-holders to prepare another charter, — subject to ratification by a majority vote of the electors voting at the election. In any such new charter the city is not required to maintain the bicameral system in the city council. It is provided, however, that the legislature of the state of Missouri shall have the same power over St. Louis that it has over the other cities and counties of the state. This power is considerably limited by other provisions of the state constitution which forbid the legislature to incorporate or organize cities or amend their charters by special laws. But the Missouri legislature has to a considerable extent evaded this limitation by the classification of cities according to population, thus putting all cities of a certain size into a class by themselves. The legislature has also encroached upon the sphere ef "Municipal Home Rule", by taking away from the city its jurisdiction over elections, the police and the granting of liquor licenses. These functions, by a strict interpretation of American law, are regarded as functions of the state, and so, while they are usually left under the immediate control of the municipal governments, it is not deemed to be an illegal encroachment upon the right of local self-government when those functions are placed by law under the control of the central administration of the commonwealth.

The constitution of Missouri, however, imposes a number of other important limitations upon the action of the legislature in relation to cities. The most important of these limitations are as follows:

The legislature is prohibited from imposing taxes upon cities for local purposes.

The legislature is prohibited from taxing the property of municipal corporations.

The legislature is forbidden to release or extinguish the debt which any person or corporation may owe to a municipal corporation.

The legislature may not loan the credit of the state to any municipal corporation.

The legislature may not authorize any municipal corporation to lend its credit or grant public money to any private person or corporation, or to become a stockholder in any private company or corporation.

The legislature may not create any office with a term exceeding four years and may not extend the term of any municipal officer beyond the period for which he was elected or appointed, nor increase any officer's salary during his term, nor grant him any extra compensation for his services after they have been rendered.

Other provisions of the Missouri constitution limit the rate of indebtness for all cities within the state to five per cent. of the assessed value of taxable property, and even debt to this amount cannot be incurred without the consent of two-thirds of the voters at an election held for the purpose. Moreover, at the time when any debt is incurred, provision must be made to raise money by taxation sufficient to pay the interest from year to year and retire the principal within a period of twenty years. An exception was made, however, in the case of St. Louis by a constitutional amendment adopted in 1900 which authorized the people of that city to issue bonds to the amount of $ 5,000,000, without reference to the debt limit, to provide for an appropriation for the benefit of the Louisiana Purchase Exposition which was held in St. Louis in 1903.

The state constitution also provides that no person may at the same time hold a state office and a municipal office or two municipal offices.

Organization and Powers of the City Government.

The legislative power of the city is vested in the Municipal Assembly consisting of a Council of thirteen members elected for a period of four years on a general ticket, and a House of Delegates of twenty-eight members elected one from each ward of the city for

a term of two years. The members of the Council must be at least thirty years of age. Any person who is interested in any contract with the city or who has been convicted of malfeasance, bribery or other crimes is ineligible to membership in either branch of the Municipal Assembly.

The Municipal Assembly of St. Louis has authority to levy taxes; to establish and maintain streets; to take private property for public purposes by condemnation proceedings; to operate water works; to erect and maintain public buildings, including houses of correction, alms houses and insane asylums; to maintain markets; to improve the harbor and regulate ferries; to license, tax and regulate various professions and businesses; to grant, regulate and repeal street railway franchises; to pass such laws and ordinances not in conflict with the city charter or the laws and constitution of the state as it may deem expedient for the maintainance of "the peace, good government, health and welfare of the city, its trade, commerce and manufactures, and to enforce the same by fines and penalties not exceeding $ 500, and by forfeitures not exceeding $ 1000." Under the general laws of the state, St. Louis in common with other Missouri cities is empowered to erect and operate gas and water power plants, water works and electric light plants.

The Municipal Assembly is required to hold one session annually beginning on the third Tuesday of April. Each member receives an annnual salary of $ 300, but may also be paid his actual expenses incurred in the public service.

The Assembly has power by ordinance passed by a two-thirds vote to create new offices not mentioned in the city charter, and may by a three-fourths vote transfer and distribute the powers and duties of any office provided for in the charter.

The mayor is the chief magistrate of the city. He must be at least thirty years of age. He is elected by the people for a term of four years. His salary is fixed by the Municipal Assembly, but must not be more than $ 5000 a year. In case the mayor becomes disabled from performing the duties of his office he is succeeded by the president of the council.

The approval of the mayor is required for all ordinances passed by the Municipal Assembly. If he disapproves of any measure passed by this body, he is required to return it within ten days to the branch of the Assembly in which it originated with his objections.

The measure may be passed over the mayor's vote by a two-thirds vote of all the members of each branch. In case of appropriation bills, the mayor has authority to veto separate items subject to repassage over his vote, the same as in the case of general ordinances.

The mayor St. Louis has general supervision over all the administrative departments of the city. He may appoint at any time competent persons to examine into the affairs of any department. The heads of all departments are required to furnish annually an itemized account of all the money received and paid out by their departments. The mayor is president of the Board of Health and as such has special duties involving the protection of the city from nuisances and epidemics.

The mayor's authority as head of the municipal administration is somewhat limited by the fact that many of the city officials are elected directly by the people. The list of elective officials includes the comptroller, the auditor, the treasurer, the register, the collector, the president of the board of assessors and the president of the board of public improvements. Officials appointed by the mayor include the city counselor, the district assessors, the superintendent of the work house, the superintendent of the House of Refuge, the superintendent of fire and police telegraph, the commissioner of supplies, the assessor of water rates, five Commissioners on Charitible Institutions and five members of the Board of Public Improvements. All of these officials are appointed for a term of four years so that whenever a new mayor is elected he has the privilege of appointing men of his own choice to conduct the various departments of the city government. The mayor has the right to suspend elective officers for cause subject to approval of his action by a majority of all the members of the council. He may also remove from office for sufficient cause any official appointed by him, but if he takes such a course he is not permitted to appoint another person to fill the vacancy. This function devolves upon the council. Officials appointed by the mayor may also be removed by the Council, but in that case the mayor has the right to appoint persons to fill the vacancies without having appointments confirmed by the Council. In the case of first appointments to office, the mayor's choice requires confirmation by a majority of the members of the Council. If the Council refuses to confirm an appointment

made by the mayor, he is required within ten days to nominate another person for the office. If he fails to do this, the Council is required to elect some person to fill the office. Elected officials, including the mayor, may be removed from office by a two-thirds vote of the members of the Council, after being given a chance to be heard in their own defense.

The city comptroller is the chief fiscal officer of the city. He has general supervision over the collection and disbursement of all public moneys and has charge of the assets and property of the city. He is specially charged with the preservation of the credit and faith of the city in relation to its public debt. He is given access to the books and records of all departments under the city government and is required to see that the city accounts "are kept in a plain, methodical manner." He may sit in either branch of the Municipal Assembly with the right to debate on any question affecting his department, but without the right to vote.

In most American cities the comptroller performs the functions of an auditor of claims, but in St. Louis there is an independent official known as the auditor who is general accountant for the city and whose duty it is to "examine, adjust and audit all unsettled accounts, claims and items against the city for the payment of which any money may be drawn from the city treasury." He is required to furnish a bond to the city of not less than $ 100,000, with at least three sureties. The auditor is responsible for the acts of his employees.

The city treasurer, as the name of his office implies, is the custodian of the city's cash. All moneys belonging to the city, collected by any of its officers, must be deposited regularly once a day in the city treasury, unless other provisions are made by law or ordinance. The treasurer is required to give a bond of not less than $ 500,000 with at least five sureties. It is the duty of the mayor, comptroller and treasurer every year to select as the city's depository a bank which will give the highest rate of interest for the current deposit of the city's funds.

The register has the custody of the public records and has general supervision of the public printing. It is the duty of the collector to collect the taxes, license fees, wharfage dues and al other claims which the city has against any person. The collector is required to furnish a bond in the amount of $ 200,000 with five sureties.

Upon the commissioner of supplies is imposed the duty of purchasing all articles needed by the city in its several departments. The Municipal Assembly is required to provide by ordinance for the purchase of such articles as far as practicable by means of competitive bids called for at stated periods.

The Board of Public Improvements, consisting of the president, who is elected by the people, and five commissioners appointed by the mayor, has general charge of streets, sewers, water works, parks and the harbors and wharves of the city. Each of the appointed commissioners has charge of a separate department. The president of the Board of Public Improvements has general supervision over the other commissioners. One of the duties of this board is to recommend to the Municipal Assembly ordinances for the opening of new streets and boulevards, and also ordinances for grading, paving, or otherwise improving existing streets. New subdivisions of land into blocks or lots require the approval of this board.

The cost of new public improvements under the control of this board is distributed as follows: the regrading of streets and sidewalks, the lighting of boulevards and streets, and the repair of streets are paid for out of the general revenue of the city. The grading, improving, maintaining, repairing, cleaning, and sprinkling of all boulevards; the grading and preparing of the roadway for the superstructure, the placing of the foundation and the paving of the roadway of all alleys, the construction and paving or repaving of all sidewalks and the construction and paving of streets, including crosswalks and intersections, are paid for by a special tax, one-fourth of which is levied against the abutting property in proportion to frontage, and three-fourths of which is levied upon all property included in the district supposed to be benefitted by the improvement. In the latter case the tax is levied in proportion to the area.

The cost of the repairs of alleys and sidewalks is charged entirely upon the adjoining property.

The assessment of property for taxation is made by the board of assessors. The president of this board is elected by the people. The other members, one from each assessment district into which the city is divided, are appointed by the mayor with the approval of the Council. The president of the board must be at least thirty years old and must have been a resident of the city for at least

seven years before he takes office. The district assessors must have been residents of the city for at least five years.

The only important public utility owned by the city of St. Louis is the water works, which are under the direct control of the water commissioner who is one of the members of the Board of Public Improvements. The rates charged for water may be regulated by the Municipal Assembly, but the water rates must be fixed at prices that will produce sufficient revenue at least to meet the running expenses of the works and pay interest on the city's bonds issued on account of them. The people of St. Louis seem to be thoroughly alarmed by the dangers to which the city was subjected during the period of corruption of which I have already spoken. In order to prevent any set of boodlers who might get control of the city government in the future from disposing of the water works as the corruptionists a few years ago were planning to do, the people adopted a charter amendment in 1901 which declares that "the water works shall never be sold, leased or otherwise disposed of."

The city has the right to establish and operate gas works but thus far has not exercised this privilege.

The power given to the Municipal Assembly by the city charter in relation to the control of street railways is very extensive. The Municipal Assembly may by ordinance "determine all questions arising with reference to street railways, in the corporate limits of the city, whether such questions may involve the construstion of such street railroads, granting the right of way, or regulating and controlling them after completion." Street railway franchises may be sold to the highest bidder, or a per capita tax on the passengers carried, or an annual tax on the gross receipts, or a tax on each car may be imposed. The Municipal Assembly is given authority to regulate the time and manner of running cars, and the rates of fare and the selling of tickets and transfers between different street railway companies. It should be noted, however, that in St. Louis, as in other great cities, traction companies which started out to compete, have consolidated into a single company in order to bring about monopoly conditions, which are most favorable to the management of the street railway business.

The police department of St. Louis is under the control of a board of commissioners, which consists of the mayor and four citizens, appointed by the governor of the state. The governor also appoints

an excise commissioner who has authority to issue and revoke liquor licenses. This condition gives the state administration a very extensive control over the city.

The Finances of the City.

The total bonded debt of St. Louis on April 10, 1905, was $ 22,439,278, and the amount of the sinking fund on that date was $ 1,056,455, leaving a net bonded debt of $ 21,382,823. Of the outstanding bonds 75 % were renewal bonds issued from time to time to get money with which to pay old bonds when they fell due. Nearly all of the remaining 25 % of the bonds represented debt incurred to pay a bonus to the Louisiana Purchase Exposition and to pay a judgment against the city in favor of the St. Louis Gas Light Co. secured in 1885. Practically nothing of the city's debt represented first investment in public improvements. In June, 1906, a series of new bond issues were authorized by the required two-thirds vote of the electors, as follows:

For a Municipal Bridge over the Mississippi River	$ 3,500,000
For other bridges and viaducts	$ 1,000,000
For Municipal Hospitals	$ 800,000
For an InsaneAsylum	$ 1,000,000
For fire department building	$ 230,000
For police, health and court buildings	$ 2,000,000
For public Sewers	$ 1,500,000
For Public Parks and Boulevards	$ 1,170,000
	$ 11,200,000.

The debt limit is fixed by the state constitution at 5 % of the assessed valuation of taxable property in the city. This valuation for the year 1906 was $ 497,000,000. Property is not assessed, however, at its full cash value, but at from 2/5 to 2/3 of its cash value. Certain bonds for special purposes are not included in the debt limit, but even if they were, the city's debt-incurring power might be greatly expanded, in case of need, by the assessment of property at its full value.

With the city's debt representing bonuses and the refunding of old obligations, one would scarcely expect to find municipal assets of any great value. Nevevertheless the city comptroller on April 10, 1905, reported the estimated value of the city's public buildings,

parks, water works and real estate to be $ 39,464,000, made up as follows:

Public buildings, Institutions and Markets	$ 6,789,000
Parks	$ 10,705,000
Fire and Police Departments	$ 1,632,000
Water Works — Plant	$ 9,007,000
Water Works — Distributing System	$ 10,000,000
Miscellaneous	$ 1,331,000

This schedule of assets does not include public school buildings and sites, valued at about $ 10,000,000, or streets and sewers, which are considered as being a valuable, but not a salable public asset.

The total rate of taxation in St. Louis for the year ending April 10, 1905, was $ 2.19 on each $ 100 of assessed valuation, made up as follows:

For State purposes	$ 0.17
For Public Schools	$ 55
For City Purposes	$ 1.47

The total amount of direct property taxes collected during the the year was $ 9,864,000. To this amount should be added, however $ 2,100,000 license fees (including $ 1,265,000 paid by dramshops), $ 280,000 from franchise grants, $ 206,000 interest on current deposits in the banks, $ 1,997,000 of water rates, $ 80,000 of harbor and wharf rates and $1,160,000 derived from other sources not including loans.

The expenditures on account of the principal departments of the government during the year were approximately as follows:

Public Schools	$ 2,500,000
Police	$ 1,950,000
Fire Department	$ 980,000
Public Lighting	$ 625,000
Streets	$ 1,700,000
Public Charities and corrections	$ 900,000
Water Works	$ 1,520,000
Public health, including disposal of garbage	$ 575,000

St. Louis is one of the few large American cities in which the city and county governments have been consolidated. The city

assumed all county functions as long ago as 1876 when the "Home Rule" Charter went into effect.

One of the most promising facts about the present municipal life of St. Louis is the activity of the Civic League. This organization is a body of public-spirited private citizens who are devoting their energies to the improvement of St. Louis. In 1907 this body published what is called "A City Plan for St. Louis," embodying certain important recommendations for the city's future policy, including the following:

1. The grouping of the city's public buildings around a civic centre.

2. The establishment of minor civic centres in different parts of the city, where public baths, schools, branch libraries, police stations, fire engine houses, etc., would be grouped around small parks or playgrounds.

3. The improvement of the city's street plan.

4. The construction of an inner and an outer system of parks and boulevards.

5. The establishment of a municipal art commission to supervise the designs of public buildings and all works of art erected in the city.

Time alone can tell whether the people of St. Louis will have the good sense to carry out these plans and, after three-quarters of a century of municipal negligence, change their civic habits and make St. Louis the beautiful and well-governed city it ought to be.

VII. Boston.

The city of Boston is in several respects peculiar among the great cities of America. In the first place, it is the metropolis of New England, that section of the country which is the home of self-government, and which has had a greater influence upon the political institutions and habits of the American people than any other section. In the second place, Boston is the center of a metropolitan community greater than itself. In the year 1905 there were 595,380 people within the corporate limits of Boston, while there were 1,226,858 people living within a radius of ten miles from the Boston State House as a center. There are six cities and eight towns immediately contiguous to Boston, and six other cities and nine other towns within the ten-mile radius. The result is that Boston, as the business center of a great population, is immensely wealthy and the expenses of the city government are very great. Boston has a larger debt per capita than any other large American city. Its wealth and its taxes are also higher per capita than elsewhere. In the third place, Boston is the capital of the state of Massachusetts and the presence of the state legislature in annual sessions, coupled with the absence of any constitutional limitations restricting the power and authority of the legislature over cities in Massachusetts, has subjected Boston to a greater degree of central control by the legislature and the state administration than is found in any other large city in the United States. Thus we see that the city which sprang up in the cradle of municipal liberty is coming to experience a greater degree of servitude than many cities which had less auspicious beginnings.

If St. Louis is distinctly a German-American city, Boston is an Irish-American city. According to the Federal Census of 1900, there were 207,028 people in Boston of native American parentage

and 156,650 of Irish parentage, while those of German parentage numbered only 21,618. As long ago as 1846 when the population of Boston was about 120,000, there were 24,000 Irish in the city. The great immigration of Irish into the United States started in the decade between 1840 and 1850 and was caused by the potato famine in Ireland. "The Irish who settled in Boston during the middle of the nineteenth century," says one author, "were in a more hopeless condition before emigrating, than any of the other nationalities. The use of the potato in Ireland as the staple article of food had reduced the standard of living to its extreme limit". This same author states that in 1845 practically one-half of the 8,000,000 people living in Ireland, were dependent on the potato for subsistence. He shows that at this period on the average forty-three per cent of the rural population and thirty-six per cent of the urban population of Ireland lived in mud cabins, having only one room to a family. It can be readily seen, therefore, that a failure in the potato crop, which resulted in the actual starvation of nearly 1,000,000 of the people of Ireland within a period of five years, and the emigration of a still larger number, brought to the New World a class of people representing the extreme of poverty and wretchedness.

Boston, the most cultured and most highly intellectual center of the United States, received more than its share of this influx. The Irish and their descendants are in almost complete control of the city government of Boston, and it is quite possible that this fact has had an important effect in bringing about the unusual degree of state control exercised in the case of Boston by the legislature and administration of Massachusetts.

In 1875 there were 595,482 people living in the Metropolitan District, of whom more than fifty-seven per cent lived within the city of Boston proper. Thirty years later the population of Boston itself was 595,380 which was only forty-eight per cent of the total number living in the Metropolitan District. In large measure the wealthy and cultured elements of the population have gone to the suburbs, and maintain their own municipal governments, separate from that of the great city in which they transact their business. This fact also has tended to bring the city government more fully under the control of the foreign elements, and has no doubt in many cases given effective support to the state legislature in its policy of centralization.

The constitution of Massachusetts is old. It was framed before the time when Massachusetts had become an urban state. There are no provisions of any importance in it restricting the power of the legislature over cities. We may, therefore, proceed to discuss, briefly, the extent to which the legislature has taken advantage of its power to bring the government of Boston into the hands of the state authorities. A mere enumeration of the municipal functions now being performed by state commissions will show that this control is very extensive. A state commission has supervisory control of the street railways, not only of Boston but of all the cities of Massachusetts, and another state commission has similar control over the gas and electric light companies. A state civil service commission makes the rules and enforces the law requiring that appointments to subordinate positions in the administration of the various cities shall be in accordance with merit ascertained by competitive examinations. The sewerage and water supply of the Metropolitan District is under the control of still another state commission. A metropolitan park commission to develop a system of parks and boulevards for Boston and the neighboring cities has been appointed by the state. Another commission has been appointed by the state to control the issuing of liquor licenses in Boston and the police department of the city is under a commissioner appointed by the governor. Massachusetts is generally regarded as the most enlightened state in the Union and there is no doubt that central control has, in the case of Boston, been conducive to efficiency. It may be that in the long run more is lost through the curtailment of local responsibility for good government than is gained through the more intelligent administration of affairs by state authorities. It certainly cannot be claimed that state control has reduced the cost of government in Boston.

As early as 1869 a state railroad commission was established to supervise railroads and street railways throughout Massachusetts. From 1853 to 1874 every street railway was incorporated by special act of the legislature, but the board of aldermen of the city of Boston had the right to refuse the use of the streets to any particular company. There was up to that time no way in which a company could be organized to apply for a franchise, except by direct act of the legislature. In 1874 a general law was passed providing for the incorporation of street railway companies after the

persons organizing them had received franchises from the local authorities. It was still left open, however, for a new company to apply directly to the legislature for a charter, if it chose to do so.

The Massachusetts railroad commission has been given practically complete control over the capitalization of street railway companies. The commission's consent is required for any increase of the capital stock of a company or for the issue of bonds. The law requires, however, that the commission shall not authorize the issue of bonds unless it finds the value of the tangible property for railroad purposes, not including the value of the franchise, to be at least equal to the amount of the company's capital stock and debt. The commission has authority to require any company to improve its service whenever that seems to be necessary. Massachusetts has adopted an unusual rule in the granting of franchises. Rights to occupy the streets are not given to public service corporations for a definite term of years, but are given subject to revocation at any time. The results of this policy and of the rigid control exercized by the state railroad commission have been remarkable in relation to the capitalization of public utility companies. Ten years ago a special committee was appointed by the governor of Massachusetts to make a report on the relation between cities and towns and street railway companies. This committee reported in 1898 that the capitalization of street railways in Massachusetts, including both stocks and bonds, was only $ 46,600 per mile of track, while in the state of New York it was $ 177,800 per mile; in the state of Pennsylvania, $ 128,200 per mile, and in the United States as a whole $ 94,100 per mile.

The street railway system of Boston is operated by the Boston Elevated Railway Company. This company owns sixteen miles of elevated track and ten miles of surface track. It holds under lease or contract, however, 428 miles more of surface track. It operates not only in Boston, but in eleven other cities and towns in the metropolitan district. Its total capital stock issued up to Sept. 30, 1906, was $ 13,300,000, and its funded debt, $ 7,500,000. During the year ending September 30, 1906, it carried over 262,000,000 paying passengers. Its gross earnings from operation were $ 13,500,000. After subtracting operating expenses amounting to $ 9,307,000, interest on debt amounting to $ 954,000, taxes amounting to $ 1,034,000, rental of leased railways amounting to $ 1,237,000 and rental of

subways owned by the city of Boston amounting to $ 251,000, the company had a surplus of $ 852,000 and was able to declare a dividend of six per cent on its capital stock.

The Boston and Northern Railway Company operates about 534 miles of single track. This company is engaged for the most part in interurban business. It operates in no less than fifty-one cities and towns, of which two are in the neighboring state of New Hampshire. This company has a total of $ 10,743,000 capital stock and $ 10,558,000 of bonded debt. Its gross earnings from operation during the year ending September 30, 1906, were only $ 4,412,000. Yet it was enabled to pay its operating expenses, interest on debt, taxes, rentals, etc., and still declare a five per cent dividend on its capital stock.

The Massachusets Gas and Electric Light Commission was established in 1885. This commission prescribes the forms of keeping accounts for gas and electric light plants whether they are operated by private companies or by municipalities. It also has power to prevent the city from granting competing gas or electric light franchises. The policy of the commission has been to encourage monopoly rather than competition in the lighting business. In deciding one of the cases brought before it, the commission's attitude was clearly set forth in the following language: "the history of corporations doing an electric light and similar business in competition in various parts of the country affords strong ground for believing that a new company, if allowed to engage in business, would not long remain by itself, as competition for a period would probably be followed, as elsewhere, by consolidation or absorption." The commission goes so far as to require cities to purchase existing plants before undertaking municipal ownership. It has also been the policy of the commission to encourage the consolidation of rival companies in the smaller places. As in the case of railways, gas and electric light companies may issue no new stocks or bonds without the approval of the state commission. The commission, after investigation, may cause the price of gas or electric light to be reduced or the quality to be improved in any city or town where the local authorities or as many as twenty patrons of the company have entered complaint.

The Boston Consolidated Gas Company has a capital stock of $ 15,125,000, and other liabilities, consisting mostly of premiums on

new stock, of $ 10,118,000. This company furnishes both gas and electric light, and during the year ending June 30, 1906, made a profit of $ 1,136,000 on its gas business and $ 130,000 on its electric light business. It paid dividends at the rate of eight per cent. There is another company, the Block Plant Electric Light Company, which furnishes electricity on a small scale in Boston.

The population of Boston is a little more than one-seventh of the population of the city of New York; the area is a little less than one-eighth; the assessed valuation of property is a little more than one-fifth; the debt (including Boston's share of the metropolitan district debt) is about one-fifth; while the liabilities of the street railway, gas and electric light companies of Boston are only about one-twentieth of the liabilities of the New York companies engaged in performing similar services. This discrepancy is undoubtedly due to the efficient control exercised by the commissions of Massachusetts over the capitalization of public service corporations, which is in marked contrast with the absence of such control, until very recently, in New York.

In 1884 a civil service commission was established by the state of Massachusetts to administer a law "to improve the civil service of the commonwealth and of the cities thereof." This commission consists of three members appointed by the governor. In New York civil service commissions are appointed by the municipal authorities of the various cities in the state. In Massachusetts the state commission merely appoints for each city a special board of examiners. The work of these special boards is under the complete supervision of the state board.

In 1885 the legislature passed a law providing for a board of Boston police commissioners to be appointed by the governor. The law required that the members of this commission should be residents of the city and should be appointed from the two principal political parties. It was provided that the city should pay all necessary expenses incurred by the police board in performing its duties. The mayor of the city was given authority, however, to assume control of the police in case of riot. The police board was also given control of the granting of liquor licenses. This system continued until 1906 when by a new act of the state legislature, the police board was succeeded in its control of police affairs by a single police commissioner appointed by the governor. A separate licensing

board consisting of three members appointed by the governor was also established.

In the report of the police commissioner for the year ending December 31, 1906, it is stated that the police force of the city consisted of 1,258 officers, and 100 other employees. During the year 49,906 arrests were made. Of the total number arrested, 18,001 were non-residents of Boston. The tables showing the nativities of the persons arrested reveal the cosmopolitan character of the city of Boston. There were 10,876 natives of Ireland among them, 1601 natives of Russia, 1461 natives of Italy, 1323 natives of England, 3872 natives of the British Provinces, 361 natives of Germany, 536 Chinese, 330 Greeks, 718 Swedes, 118 Poles, 72 Turks etc. The total expenditures for the year amounted to $ 1,940,000, of which $ 1,510,000 was for the salary of police officers.

Under the state law the number of licenses that may be issued in the city of Boston for liquor saloons is limited to one for each 500 of the population, the total number of saloons not to exceed 1000. The total amount received for liquor licenses during the year was $ 1,480,749. The regular license fee for an ordinary saloon is $ 1,100 in Boston.

In 1881 the state legislature authorized the appointment of a metropolitan drainage commission which reported in favor of the establishment of a drainage district to include Boston and about a score of other cities and towns. It was not till eight years later, however, in 1889 that a board of metropolitan sewerage commissioners was finally established to carry out plans for a sewerage system for the valleys of the Charles and Mystic Rivers. A few years later this commission was authorized to provide a sewerage system for the Neponset River valley also. In 1895, on the recommendation of the state Board of Health, a board of metropolitan water commissioners was also established by the legislature. It was required that at least one of the three members of this commission should be a resident of the city of Boston and at least one a resident of the metropolitan district outside of Boston. These boards continued to carry on their functions independently until 1901, when they were combined into the metropolitan water and sewerage board, which consists of three members appointed by the governor.

The metropolitan water district comprises nineteen municipalities having a population of approximately 960,000. The total amount

expended in constructing the water works system from the beginning of operations in 1895 till December 31, 1906, was over $ 40,000,000. This amount includes, however, the purchase of water supply works previously owned and operated by several cities included in the metropolitan district. For the metropolitan water supply, 16,492 acres of land, or more than 25 square miles, have been acquired. The storage reservoirs maintained by the commissioners have a total capacity of more than eighty billion gallons. The total amount of water supplied during the year to the various cities and towns dependent upon the metropolitan water works was over forty-three billion gallons or an average of nearly 119 million gallons per day or 130 gallons per day for each inhabitant of the district. It should be noted that the commissioners of the metropolitan district do not sell water to individuals, but only to cities and towns, which in turn have their own local distributing systems and supply individual customers. The operating expenses of the metropolitan water works for the year 1906 amounted to about $ 420,000 and the expense for interest on bonds and for payments to the sinking fund amounted to $ 1,857,000 more. These expenses were met by assessments upon the various cities and towns supplied with water. Boston was called upon to contribute $ 1,822,556. The additional expense to the city for maintaining a distributing system, including the payment of interest on bonds, was $ 802,534, making a total expense of $ 2,625,000 for the water supply of Boston. The receipts of the city from water rates amounted to $ 2,550,000. The city appropriated $ 120,000 from taxes toward the maintenance of the water works. It is only fair to state that this payment was an offset for large quantities of water supplied free to the various city departments for public purposes.

The metropolitan sewerage works are divided into two systems. One provides for the district north of the Charles River which includes an area of 90.5 square miles, with an estimated population of 488,000 people. The other provides for a district which lies for the most part south of the Charles River and which has an area of 100.87 square miles and has an estimated population of 312,000 people. The north metropolitan system comprises 58.5 miles of main sewers which are connected with 594 miles of local sewers. Sewage to the amount of 58,000,000 gallons per day is pumped into Boston Harbor from the north metropolitan district. The south metropolitan

system comprises 38 miles of main sewers connected with 468 miles of local sewers. The discharge of sewage from this district into Boston Harbor amounted to 33,600,000 gallons a day in 1906. The cost of the sewerage systems of the two districts combined, to January 1, 1907, amounted to over $ 13,800,000. Bonds have been issued to meet this expenditure. The rate of interest paid is from three to three and a half per cent. A total of $ 570,000 premiums has been received on the sale of these bonds. The maintenance charges of the metropolitan sewer systems amounted in 1906 to $ 750,000. This expense was met, as in the case of the metropolitan water works, by assessments upon the various cities and towns included in the metropolitan district, but the share paid by Boston, namely, $ 226,000, was a much smaller proportion of the total than the city's payment in the case of water works expenses. The expenditures for the city's local sewerage system amounted to $ 1,384,000 additional during the year.

There is still another function performed by a metropolitan board in Boston and the neighboring cities. A special commission was appointed by the state in 1892 to consider the advisibility of developing a metropolitan park system. As a result of its recommendations a permanent metropolitan park commission was established consisting of five members appointed by the governor, and including under its jurisdiction thirteen cities and twenty-six towns. This commission on January 1, 1907, had charge of a park system that included 10,082 acres of parks and parkways. Of this total area about three-fourths is woodland. The commission controls over ten miles of seashore frontage, forty-seven miles of river frontage, and twenty-seven miles of parkways. The total expenditure for the purchase and developement of this magnificent park system has been over $ 13,500,000. The maintenance expenditures of the park system during the year 1906 amounted to upwards of $ 490,000. The city of Boston also maintains a park department which has control of parks and playgrounds within the city limits. These public grounds comprise a total area of nearly 2,400 acres. This local park system has cost the city for land and improvements a total of $ 18,500,000, and the annual expense for maintenance is about $ 250,000. The system includes between forty and fifty different parks, triangles and playgrounds, ranging in area from about one-eight of an acre up to 527 acres.

Organization of the City Government.

Boston is one of the oldest towns in Massachusetts. During its early history, like all New England towns, it was governed by a town meeting of the citizens which assembled once a year to elect numerous petty officials, pass ordinances and give directions as to the conduct of public affairs during the ensuing twelve months. It is easy to see that this system of government would become unwieldy with the increase of population. By 1820 the population of Boston had come to be upwards of 43,000 souls and the horde of petty officials elected by the town meeting to carry on the public affairs of the community had reached the number of 112, in addition to the officers appointed by the Selectmen, and four officials chosen by each ward of the town. The Selectmen in a New England town are the standing committee of citizens upon whom falls the general direction of affairs between town meetings.

Several attempts had been made before 1822 to bring about the incorporation of Boston as a city. Four different plans had been devised and submitted to a popular vote only to be rejected. In Massachusetts the towns are older than the state and consequently do not derive their original powers from the state legislature. In the early days, accordingly, movements toward the incorporation of the town of Boston as a city sprang from the locality itself and did not originate in the legislature. The first city charter was drafted by a committee appointed by the town and was approved by vote of the people before it was passed by the legislature. The act of incorporation was again submitted to a popular vote and ratified by the people of the city. This old charter has never been repealed, but has been amended and revised at different times and the powers and duties of the city government have been changed by almost numberless special acts of the legislature. In 1897, when the city of Boston celebrated the 75 th anniversary of its incorporation, Mayor Josiah Quincy stated that from 1822 to 1897 the state legislature had passed 532 special acts affecting the city of Boston or the municipalities which had been brought into its corporate boundaries. These laws related to the following subjects:

Streets and sidewalks	79
Bridges	43
Water supply and distribution	42

Courts and other judicial matters	40
Construction and safety of buildings	37
Organization of the city government or some of its departments	34
Special acts of incorporation or acts affecting the rights of private corporations	34
Parks and playgrounds	32
Sewers and drainage	31
Penal and charitable institutions	25
Elections and election machinery	22
Constables and Police	20
Protection from fire, and fire department	20
Boston Harbor	19
Annexation of territory or changes in boundary lines	18
Schoools and the school committee	13
Public health	12
Public library	11

In many instances laws passed by the legislature affecting the city of Boston have been conditional upon their being ratified by the people of the city. In later years, however, some important changes have been made in the constitution of the government without the consent of the city.

Mayor Luincy stated in 1897 that the executive authority conferred upon the mayor of the city was distributed among thirty-three different executive departments, of which twenty-two had been created by state laws and only eleven by city ordinances. Nineteen of these departments were under the control of single individuals, most of whom were paid fixed salaries ranging from $ 3,000 to $ 7,500 per annum. Three departments were under salaried commissions and one department was under a dual head. The remaining ten departments were under the control of unpaid boards. In 1907 there were, all told, fifty-five executive and administrative departments, including not only those departments whose heads are appointed by the mayor, but all others. The names of these departments, with a description of their heads, are as follows:

Art department, a commission of five members
Assessing department, a board of nine assessors
Auditing department, an auditor

Bath department, a board of seven trustees
Board of appeal, consisting of three members
Boston Transit Commission, five members
Bridge department, one superintendent
Building department, one commissioner
Cambridge bridge commission, three members
Cemetery department, a board of five trustees
Children's Institutions department, a board of seven trustees
City clerk department, a city clerk
City messenger department, a city messenger
Clerk of committees department, a clerk of committees
Consumptives, hospital department, a board of seven trustees
Collection department, a collector
Court house commission, three members
Election department, a board of four members
Engineering department, a city engineer
Fire department, a fire commissioner
Health department, a board of three members
Hospital department, a board of five trustees
Insane Hospital department, a board of seven trustees
Institutions registration department, a registrar
Law department, a corporation counsel
Lamp department, a superintendent
Library department, a board of five trustees
Licensing board, three members
Market department, a superintendent
Music department, a board of five commissioners
Overseeing of the poor department, twelve overseers
Park department, a board of three commissioners
Pauper institutions department, a board of seven trustees
Penal Institutions department, a commissioner
Police department, a commissioner
Printing department, a superintendent
Public buildings department, a superintendent
Public grounds department, a superintendent
Registry department, a city registrar
Sanitery department, a superintendent
School committee, five members
School house commission, three members

Sewer department, a superintendent
Sinking funds department, a board of six members
Soldiers, relief department, a commissioner
Statistics department, a board of six commissioners
Street laying-out department, a board of three commissioners
Street department, a superintendent
Street cleaning and watering department, a superintendent
Supply department, a superintendent
Treasury department, a treasurer
Vessels and ballast department, a general weigher
Water department, a commissioner
Weights and measures department, a sealer
Wire department, a commissioner.

All this multitude of officials act almost independently of each other except that most of them are responsible to the mayor. It will be unnecessary to examine in detail the functions and activities of most of these departments. I shall content myself with a brief sketch of the activities of a few of them, bearing in mind that reference has already been made to those departments whose functions are brought under the control of the central authorities of the state.

Boston is noted for the excellence of its public schools. Its school system comprises one normal school, two Latin schools, nine high schools, a Mechanic Arts high school, sixty-four grammar schools, seven hundred and nineteen primary classes, seven special classes, one hundred and seven kindergartens, one School for the Deaf, five evening high schools, thirteen evening elementary schools, forty schools of Cookery and one special school. On September 1, 1906, there were 104,018 children between the ages of five and fifteen years living in Boston. The average number of pupils attending public schools, including special classes and evening schools, during the preceding year was 104,394. The number attending private schools on September 1, 1906 was 16,026. The total number of teachers employed in the public schools was 2,735.

The administrative control of the Boston public school system has experienced many changes. From 1685 to 1789, the schools were controlled by the town meeting through the Selectmen who, at least during the latter part of this period, were nine in number. From 1789 to 1822 the school committee consisted of the Selectmen

and, in addition, one person from each ward of the town, making 21 in all. From 1822 to 1835 the school committee consisted of the mayor, the aldermen and one person from each ward, 25 in all. From 1835 to 1854 the mayor, the president of the council and two members from each ward, making 26 in all, constituted the committee. From *1818 to 1854 there was also a separate Primary School Committee*, ranging in the number of its members from 36 to 196. From 1854 to 1875 the school committee consisted of the mayor, the president of the common council and six members from each ward, making a total number which ranged from 74 to 116. From 1875 to 1888, the mayor and twenty-four members elected by the city at large; and from 1885 to 1906 the twenty-four members elected at large, without the mayor, constituted the committee. In 1906, in accordance with a general tendency in the United States to bring the city school departments under the control of smaller boards, the Boston school committee was reorganized. It now consists of five members elected at large by the people of the city.

The total expenditures for the maintenance and operation of the Boston schools during the year 1906 amounted to $ 3,450,000.

The Boston public library is one of the largest and best libraries in the United States. The library system of the city comprises the central library, ten branch libraries, sixteen delivery stations and, as places for the deposit or delivery of books, forty fire engine-houses, twenty-nine institutions and one hundred and four public and parochial schools. On January 31, 1906, the central library contained 687,456 volumes. The total circulation of books for home use during the preceding year was 1,508,492. The library system of Boston is made to supplement and assist the public schools of the city. The cost of maintaining the library during the year 1905 was $ 321,000.

One of the most interesting departments of the Boston city government is the bath commission. Boston has done more than any other American city for the comfort and pleasure of its people. It maintains seven all-the-year-round baths, and five beach baths, two swimming pools and seven floating bath houses for summer bathing. In connection with some of the baths, gymnasia are maintained. The total attendance at Boston's public baths and bathing beaches during the year 1905 was more than 2,625,000. Of this number, 645,000 visited the all-the-year-round baths. The city

also maintains ten convinience stations. The total expenditures for the public baths, urinals and gymnasia for the year ending January 31, 1906, amounted to $ 180,000.

The Boston Transit Commission was organized in 1894 to take charge of the construction of municipal subways for street railways. Under its supervision a subway, built at a cost of $ 4,367,500 was leased to the West End Street Railway Company until 1917, at an minimum annual rental of $ 211,732. This company has transfered the lease to the Boston Elevated Railway Company. The Boston Transit Commission has contructed a second subway known as the East Boston Tunnel, at a cost of $ 3,195,000, and has leased it to the Boston Elevated Railway Company for an annual payment equal to three-eights of one per cent of the gross earnings of the company's entire system. On the basis of the company's present earnings this percentage amounts to about $ 50,000 a year. The operating company also collects for the use of the city a toll of one cent for every passenger riding through the tunnel. This lease runs until 1922. A third subway, known as the Washington Street Tunnel, had cost $ 4,915,000 up to June 30, 1907. This subway also had been leased to the Boston Elevated Railway Company. The rental is fixed at four and a half per cent per annum on the original cost. The term of the lease is twenty-five years from the commencement of operation through the tunnel.

The only two underground street railways in the United States are the subways of New York and Boston, both of which are owned by the city and leased to private companies for equipment and operation. The terms of the first Boston lease are of considerable interest. Besides payming rental, the operating company was required to lay tracks through the subways and equip it with the necessary apparatus for the maintence and operation of railways. The tracks and equipment are to remain the property of the company so long as it occupies the subway. At the end of the period of occupation, however, the tracks and equipment will become the property of the city, upon the payment of a fair valuation to be determined by agreement or arbitration.

One of the most interesting features of the Boston city government is the department of statistics. This department was established in 1897 and remains to the present time the best equipped bureau of municipal statistics in the United States. In fact most American

cities maintain no such bureau at all. The only city having a statistical bureau that could in any way be compared with the statistical bureau of Boston is Chicago. The Boston bureau issues a monthly bulletin of statistics and, in addition, numerous special publications dealing for the most part with the finances of the city. In the monthly bulletin is published regularly information under the following heads: Meteorological observations; deaths and causes of death; burial permits; interments in city cemeteries; cremation; statistics of pauper institutions, charitable homes, house of correction, insane asylum and city hospitals; immigration statistics; fires, fire department and insurance; public health, including cattle inspection, milk inspection and sanitary inspection; library statistics; employment certificates issued by the school committee; arrests and other work of the police force; statistics of public schools; receipts of coal; statistics of public baths; national bank statistics; shipping, and imports and exports at the port of Boston; receipts of fish; statistics relating to the supply of flour; and admissions to the museum of fine arts. In addition to the regular statistics, this bulletin usually contains two or three special statistical reports on matters of particular interest.

The mayor of Boston is elected by the people for a term of two years. His salary is fixed by the city council, but may not be less than $ 5000 a year. At the present time it is $ 10,000 a year. The mayor has the veto power over ordinances passed by the city council subject to repassage by a two-thirds vote of each branch. He also has power to veto particular items in appropriation and tax ordinances. Although the administration of public affairs in Boston is split up into many departments as already described, the mayor has a large measure of authority over most of the city officials. The city clerk and the city messenger are chosen by the council. The street commissioners are elected by the people. The police commissioner, the licensing board and the commissions for the metropolitan district are appointed by the governor. Practically all other city officials are appointed by the mayor, subject to confirmation by the upper house of the city council. The mayor may also remove any official whom he appoints, but he is required to assign his reasons in writing in case of any particular removal. The employees of the various departments are appointed by the heads of the departments and may be removed by them for cause assigned, subject to

the provisions of the Massachusetts civil service law. The mayor is required to call the heads of the city departments together once a month or oftener for general consultation upon the affairs of the city. He may call upon any city official for information regarding the affairs of his particular department. All officers and commissions who have authority to spend public money are required to furnish the mayor with an estimate every year of the probable expenses of their departments during the succeeding fiscal year. From these estimates the mayor prepares an annual budget and submits it to the city council with his recommendations. During most of the corporate history of the city of Boston the mayor was elected annually. In 1895, however, a charter amendment was passed by the state legislature without ratification by the people of Boston, extending the mayor's term to two years.

The Legislative Department of the City Government.

The city council of Boston is composed of two chambers. The upper house, which is called the Board of Aldermen, consists of thirteen members, elected at large by the citizens of Boston. The lower house, which is called the Common Council, consists of seventy-five members, three being elected from each of the twenty-five wards into which the city is divided. The only qualifications required for members of the city council are that they must have lived in Massachusetts for at least one year and in the city of Boston for at least six months; that they must be citizens twenty-one years of age and must have paid a city or county tax within the two years preceding their election. Members of both branches of the city council are elected every year. An alderman receives a salary of $ 1500 and a councilman a salary of $ 300 per annum.

On account of the constant attention paid by the state legislature to the local affairs of Boston, a comparatively narrow field of legislation is left for the city council. The powers of Massachusetts city councils include the powers exercised by towns, except where these may have been limited or taken away by special legislation. The city council of Boston has the right to establish new offices and provide for the appointment and election of persons to fill them, subject to the provisions of the laws governing the city. The council of course has the authority, which is invariably conferred upon

cities, to pass local ordinances and regulations to preserve the peace, health and morals of the city and to regulate the use of the streets. All cities in Massachusetts are empowered to construct or purchase and operate within their corporate limits gas and electric light and power plants, but no such plant may be acquired by the city until the project has been passed by a two-thirds vote of each branch of the city council taken in each of two consecutive years and afterwards has been approved by the voters at an election. Bonds issued for acquiring gas or electric light plants may not exceed in amount two and one-half per cent of the valuation of property assessed for taxation in the city. Bonds must be payable within thirty years, may not bear over five per cent interest and must not be sold at less than par. The right to grant franchises in the streets for street railway, gas or electric light companies is vested in the mayor and the board of aldermen. The council is in Boston, as in most cities, the tax-levying authority. The rate of taxation for city purposes, not including the money to be raised on account of the city debt, is limited, however, to $ 1.05 for every $ 100 of the average assessed valuation of taxable property for the three years immediately preceding.

Finances of the City.

As I have already stated, the assessed valuation of property for purposes of taxation, the cost of the city government and the municipal debt are greater in proportion to the city's population in Boston than in any other large American city. In the valuation of property in Massachusetts cities, land values are assessed separate from the value of buildings. The total valuation of property of all kinds in the city of Boston on May 1, 1906, was $ 1,646,265,799, made up as follws:

Value of land	$ 635,449,200
Value of buildings	$ 409,443,500
Value of real estate, undistributed	$ 4,900
Value of personal estate	$ 235,490,100
Value of corporation stocks and bank shares	$ 75,960,587
Value of property exempt from taxation	$ 289,917,512

The large amount of exempt property was made up of the following items:

Real estate belonging to the United States . .	$ 24,298,400
Real estate belonging to the state of Massachusetts	$ 14,514,200
Real estate and personal property of the city of Boston	$ 160,652,597
Real estate of churches	$ 23,401,600
Real estate and personal property of charitable, scientific and literary institutions	$ 67,050,715

The total rate of taxation for state, county and city purposes was $ 1.32 upon every $ 100 of assessed valuation of taxable property. This amounted to about $ 20,500,000. In addition to the property tax, there is imposed in Massachusetts a poll tax amounting to $ 2 for every male resident above the age of twenty years. The total number of polls listed for the year under consideration was 183,464. The amount collected from the poll tax was, however, only $ 96,750, or less than twenty-seven per cent of the total amount of poll taxes assessed.

The city of Boston is nearly coterminous with the county of Suffolk and the affairs of the county are administered for the most part by the city authorities. The total debt of the city and county on January 31, 1907, was $ 101,449,606 distributed as follws:

General city debt . . .	$ 81,471,400
County debt	$ 3,414,000
Water works debt . . .	$ 4,573,500
Rapid transit debt . . .	$ 11,990,700

Boston's sinking fund, with the addition of certain other credits, amounted at the same time to $ 32,628,247, leaving a net funded debt of $ 68,821,359. These figures do not include the debt of the metropolitan districts for parks, sewers and water works. The metropolitan water loans amounted to a little over $ 40,000,000. Of this amount approximately four-fifths should be charged against the city of Boston. The metropolitan sewerage loans amounted to $ 14,000,000, of which about three-tenths should be charged to the city of Boston. The metropolitan park loan also amounted to about $ 14,000,000, of which about two-thirds should be charged to the city of Boston. If Boston's share of the metropolitan water, sewerage and park loans be added to the total city and county debt it will be seen that the total amount of debt chargeable to the 600,000 people of Boston is approximately $ 147,000,000, or $ 245 per capita. The assessed valuation of property subject to taxation, as

already given, amounted to about $ 2,260 per capita. The amount levied in property taxes for city and county purposes was about $ 32 per capita. This last figure does not represent the total cost of the city government, as about $ 5,000,000 or over $ 8 per capita, was received from other sources than taxes. The city received from liquor licenses alone $ 1,078,000. The total cost of the city and county government for the year 1906 was, therefore, approximately $ 40 per capita.

Inasmuch as Boston is more heavily indebted than any other American city, although it owns and operates no public utilities except the water works, my readers may be interested in an analysis of the purposes for which this enormous debt was incurred. I have therefore prepared the following statement of the distribution of Boston's $ 147,000,000 gross indebtness, including in this amount the share of the debt of the metropolitan districts of which I have already spoken:

For Metropolitan Water Works	$ 32,600,000
For Local Water Works	$ 4,573,500
For Metropolitan Parks (including $ 544,400 borrowed to pay assessments)	$ 9,664,400
For Local Parks and Playgrounds	$ 16,442,111
For Metropolitan Sewers	$ 4,200,000
For Local Sewers	$ 14,276,130
For County Court House	$ 3,414,000
For Rapid Transit Subways	$ 11,990,700
For School Buildings and Sites	$ 12,477,525
For Street Improvements	$ 24,306,691
For Bridges	$ 3,996,417
For Bath-houses, Gymnasia, etc.	$ 451,300
For Ferries	$ 506,000
For Public Buildings other than school houses	$ 6,765,632
For Miscellaneous Purposes	$ 1,705,200
	$ 147,369,606

The estimated value of the assets of Boston on January 31, 1907, was as follows:

Sinking Funds	$ 31,668,239
Salable Lands	$ 1,646,900
School Houses and Apparatus	$ 17,527,000
Public Library, including Equipment	$ 5,564,600

Other Public Buildings, including Contents	$ 23,949,500
Public Squares and Playgrounds	$ 2,034,600
Subways and Subway Locations	$ 13,645,500
Water Works	$ 15,500,000
Fire apparatus and Fire Alarm System	$ 710,000
Trust Funds	$ 3,389,599
Miscellaneous Items	$ 3,089,760
	$ 118,725,698

In this list several items of the city's property are not included. No estimate is made of the value of the streets and sewers. Parks having an estimated value in 1905 of $ 60,000,000 are also omitted from this list, as well as cemeteries having an estimated value of $ 6,300,000.

While Boston's debt is heavy and its taxes high, the city's financial credit remains good. Its bonds bearing from three and a half to four percent interest and running for periods ranging from five to forty years, always command a premium. There is a general impression in America that the citizens of Boston are heavily taxed, but that on the whole they get more for their money than the citizens of other great American cities. Whatever waste there may be in the government of Boston is believed to be the result of the multiplication of petty offices, and not the result of stealing on a large scale.

VIII. Baltimore.

Within less than forty years, four of the ten largest cities in America have experienced great conflagrations. In 1871 the great Chicago fire destroyed 18,000 buildings, covering an area of nearly five aquare miles, and entailed an estimate loss of $ 165,000,000. In the following year, 1872, Boston had a great fire, which destroyed 748 buildings, covering an area of about sixty acres, and entailed a loss of $ 70,000,000. Thirty-two years later, in 1904, a fire broke out in the city of Baltimore which spread over seventy blocks and destroyed 2,500 buildings. The loss from this fire was estimated at $ 50,000,000. The last of the great fires came in 1906 to the city San Francisco, immediately following an earthquake that had broken the water mains and rendered the city fire department helpless. The destruction of property in the San Francisco fire was enormous, being estimated at more than double the loss sustained in the Chicago fire of 1871.

A great fire in a modern city, especially in an American city with its lofty buildings, is an event that puts to the severest test the character and resources of the community. Sometimes these tremendous destructions, as in the case of Baltimore, prove to be blessings in disguise. Old cities that have grown rapidly and become congested at their centers with narrow streets and inadequate buildings, can hardly be made over and adapted to the needs of the present time unless the ground is cleared by some great calamity. The city of New York has not had any great fire since 1845. The population has become so congested that in some parts of the city people are crowded together at the rate of 1200 per acre. Thousands of tenement houses unfit for human habitation have been constructed, and it is with extreme difficulty and at great expense that the city authorities from year to year carry on a slow fight

for tenement house reform. When houses have once been built in places where people want to live it is inevitable that they will be occupied, no matter how unsuitable they may be. It is doubtful whether anything short of a great conflagration that would sweep away these old tenement houses and comsume the factories uselessy erected at the heart of the city, will ever enable New York to adopt new plans and methods for the housing of its people, and stop the constant deterioration in the physical and moral characters of its citizens now the result of overcrowding.

Baltimore is one of the old cities of the United States. Its population has grown much less rapidly than that of many other American cities. Baltimore already had a population of 80,000 people before there was even a village on the present site of Chicago, but the latter is now approximately four times as populous as the former. One hundred years ago Baltimore was one-third as populous as New York City; now its population is less than one-seventh as great. Nevertheless, at the last Federal Census, in 1900, Baltimore had reached a population of 508,967 souls, of whom nearly 80,000 were negroes.

Baltimore is a conservative city. It is classed as a Southern city, although it is situated in the State of Maryland, not far from the city of Washington, and half way between the North and the South on the Atlantic Coast. At the time of the great American Civil War, nearly fifty years ago, the state of Maryland was one of the slave states that did not secede from the Union. Nevertheless, Baltimore was a hot-bed of sympathy for the Southern Confederacy, and in the streets of this city the volunteer troops of the North, as they passed through to Washington, were subjected to insult and violence at the hands of a local mob.

Maryland, like many other American commonwealths, has placed certain provisions in its constitution that limit the power of the legislature over cities. The legislature of Maryland has no authority to increase or diminish the salary of any public official during the term for which he was elected or appointed. If the Mayor of Baltimore is convicted in court of wilful neglect of duty or misbehavior in office, the governor of Maryland, under the state constitution, may remove him. Public debts may not be incurred by the city of Baltimore, except when authorized by an act of the legislature and by a majority of the local voters, except in the case of temporary

or emergency loans. Cities in Maryland are forbidden to lend their credit to any private company or association. Since 1867, the state constitution has contained a number of sections prescribing the general framework of the Baltimore city government, but these provisions are subject to alteration by the legislature.

In the case of Baltimore, there is one noteworthy instance of state administrative control. The police department of the city is controlled by a board of three commissioners, appointed by the governor of the state. The commissioners must be citizens of Baltimore, and they serve for a term of six years, one retiring every second year. The expenses of the police department must be paid by the city.

Organization of the City Government.

The legislative power of the city of Baltimore is vested in a city council composed of two branches. The smaller branch has nine members, one of whom, the president, is elected at large; the other members are elected from four districts, two from each district. Members of this branch are elected for a term of four years. The other branch of the council consists of twenty-four members elected by single districts for a term of two years. The salary of a councilman in either branch is $ 1000 a year, but the president of the upper branch, who is a sort of Vice-Mayor, receives $ 3,000 a year. To be eligible to membership in the more numerous branch, a citizen must be the owner of property worth at least $ 300 as assessed for taxation. In the less numerous branch the property requirement is an assessment of $ 500 upon which taxes have been paid for at least two years prior to the owner's election to the council.

The city council meets every year in May and may be in session not longer than 120 days in the course of a year, but its sittings may be arranged so as to be continuous or so as to be held at regular intervals throughout the year, and furthermore the Mayor has the right to convene the council in extra session. The specific powers of the council are recited at great length in the city charter. The council may establish a fire district, and may pass all measures and regulations necessary to lessen the danger of conflagration and maintain a fire department. The council may also adopt building regulations and may enact measures to preserve the health of the

city and prevent the introduction of contagious diseases into the city or within three miles of the city limits on land or water. It may regulate the construction and management of tenement houses and lodging houses and may compel the "consumption of smoke". It may provide for the inspection of milk and other food products and for the inspection of bakeries. It may fix the standard of weights and measures to be used in the city.

The city budget is prepared every year in October by the Board of Estimates, which consists of the Mayor, the President of the upper branch of the city council, the President of the Board of Public Improvements, the City Comptroller and the City Solicitor. After the budget has been prepared by this board, a special meeting of the council is held to consider it. If both branches of the council by a majority vote of all their members decide to reduce any of the amounts placed in the budget by the Board of Estimates, except items fixed by law and items inserted for the payment of state taxes and for the payment of interest and principal of the city debt, the reductions may be made, but the council has no authority to increase the amount of the budget as fixed by the Board of Estimates or to insert any new items in it. After the appropriation ordinances have been passed and signed by the Mayor, the council has no authority, by subsequent ordinances, to make any further appropriations during the ensuing fiscal year for the purposes embraced in the original ordinances.

The council has authority to license and regulate all kinds of businesses, trades and professions. There is no specific limitation upon the amount or rate of taxes which the city may levy upon property. It is authorized, however, to exempt from taxation for municipal purposes all tools, implements and machinery employed in manufacturing, but any such exemption must be uniform to all persons engaged in the same branch of manufacture.

The council has general control over the use of the highways. It may regulate the use of the public streets for railway or other tracks, for gas or other pipes and for telegraph, telephone, electric light or other wires and it may provide that electric wires shall be placed under ground. The council has authority to provide a series of conduits under the streets for electrical conductors. These conduits have been built by the city, but a private company might have been authorized to construct them. The council may permit steam

railroads to construct tracks along any street with the consent of the owners of the major part of the abutting property, but any such permit may be revoked whenever the public interests require it, upon payment by the city to the railroad of the actual cost of the tracks to be removed. Baltimore, like many other of the older American cities, has in its environs a number of old turnpike roads and bridges now or formerly owned by private companies. The city council is authorized to join with the county commissioners of any neighbouring county to purchase these roads and bridges and make them free public highways.

The title of the city to its water front, wharves, land under water, streets, parks, etc., is declared to be inalienable. The mayor and council may grant franchises for the use of such public property for limited periods, but must retain the right reasonably to regulate in the public interest the exercise of any such franchises. No franchise may be granted for a longer period than twenty-five years, but provision may be made for a renewal of the grant for another period of twenty-five years upon a fair revaluation of the franchise. The council may provide in granting a franchise that at the end of the grant the plant and property of the grantee situated in, above or under the streets shall revert to the city, either without compensation or by purchase at a fair valuation. If any such property reverts to the city without payment, the city may operate it on its own account, or may renew the franchise to the former holder for a period of not more than twenty-five years, or may sell the franchise and the property to the highest bidder. If on the other hand any such plant is purchased by the city, the purchase price must not include anything for the franchise itself. The city in this case may operate the plant on its own account for five years and at the end of that time may determine whether it will continue to operate the plant, or will lease it with a franchise to use the streets for a limited period, or will sell the plant to the highest bidder at public sale.

The council has authority to establish sewers and drains, to build bridges and improve streets, to establish and maintain parks, to erect and maintain markets, schools, hospitals, houses of correction etc., to improve the harbor, to build wharves and quays, and to collect tolls for their use, to maintain water works and to provide a municpal lighting plant for both public and commercial lighting.

The Mayor of Baltimore is elected by the people for a term of four years. He must be at least twenty-five years of age and must have had a residence of at least five years in the city. He must have paid taxes for two years before his election on property assessed at $ 2,000 or more. He has the power of veto over measures adopted by the council, including specific items in appropriation ordinances, but measures may be repassed over his veto by a three-fourths vote of all the members of each branch of the council. The Mayor of Baltimore has great powers. He appoints practically all the heads of departments and bureaus, all special commissioners and all municipal officers not embraced in any department. But his appointments are subject to confirmation by a majority vote of the upper branch of the city council. If the upper branch of the council fails for three regular sittings to take action in regard to any of the Mayor's nominations, the appointments stand, without specific confirmation. During the first six months of their terms of office, officials appointed by the mayor may be removed by him at pleasure. After the expiration of six months, however, he has no power of removal over them except for legal cause and after charges have been preferred and a trial held. In all cases where the head of a department is a board or commission, the mayor is required in his appointments, to give representation to the two leading political parties of the city. The mayor of Baltimore has general supervision over all administrative officials of the city. He is required to call the heads of departments together at least once a year for a conference on municipal matters and every head of a department must individually report to him once a month.

The city charter of Baltimore makes provision for eight principal executive departmeuts, as follows:

Department of Finance
Department of Law
Department of Public Safety
Department of Public Improvements
Department of Parks and Squares
Department of Education
Department of Charities and Corrections
Department of Review and Assessment.

The Department of Finance is subdivided into six divisions. The head of this department is the Board of Finance composed of

the Comptroller, the City Register, the President of the Board of Estimates, the President of the Commissioners of Finance, the City Collector and the Collector of Water Rents and Licenses. This board is organized for consultation and advice, but has no direct authority over the work of any one of the six divisions.

The Comptroller is the president of the Board of Finance and has active charge of the first division. He is elected for a term of four years by popular vote and must have the same qualifications as are required for the mayor. He has authority to appoint subordinate officials in his division, but all such appointments are subject to the written approval of the mayor. The comptroller has general control over the financial matters of the city.

The City Register is at the head of the second division of the finance department. He is the treasurer of the city and receives his appointment from the city council in joint convention. His term is four years and his salary $ 3,300 per annum. He may be removed at the pleasure of the city council sitting in joint convention.

The Board of Estimates is at the head of the third division of the Department of Finance. This board, as already stated, consists of the Mayor and four other city officials. The Comptroller and the President of the upper house of the city council are elective officers. The City Solicitor and the President of the Board of Public Improvements are appointed by the Mayor. Accordingly, the Mayor and his appointees constitute a majority of the Board of Estimates. In preparing the budget for the year the board is required to make three lists: first, the "departmental estimates", which include the estimated expenses of carrying on the ordinary public business of the city for the ensuing year: second, the "estimates for new improvements;" third, the "estimates for annual appropriations", including all amounts which under previous laws, ordinances or contracts are required to be appropriated every year for certain specific purposes. The Board of Estimates has authority to increase or decrease the salaries of municipal officials. Any proposed franchise grant for the use of any street or public property, after being embodied in the form of an ordinance with specified terms and conditions, must be submitted to the Board of Estimates before its adoption by the city council. It is the duty of this board to make inquiry as to the money value of the proposed

franchise grant, and the board is authorized to increase the compensation provided for by the ordinance and to change the terms and conditions of the franchise.

At the head of the fourth division of the Department of Finance is a board of Commissioners of Finance consisting of the Mayor, the Comptroller, the City Register, and two other persons appointed by the Mayor. It is the duty of this board to select the depository bank for the city's funds. This board also has charge of the city's sinking funds.

The head of the fifth division of the Department of Finance is the City Collector, whose duty it is to collect all taxes and assessments on real estate levied by the city.

At the head of the sixth division of the Department of Finance is the Collector of Water Rents and Licenses, whose duty it is to collect for the city all license fees, water rates and miscellaneous charges other than ordinary taxes.

At the head of the Department of Law is the City Solicitor who must have been a practising lawyer in Baltimore for not less than ten years. He receives a salary of $4,500 a year. He is the legal adviser of the city corporation and its several departments, commissions and boards.

At the head of the Department of Public Safety is a board consisting of the President of the Board of Fire Commissioners, the Commissioner of Health, the Inspector of Buildings, the Commissioner of Street Cleaning and the President of the Board of Police Commissioners. Like the Board of Finance, this board is organized for consultation only, and has no direct authority over the various divisions of the department.

The first division is the Fire Department, over which a board of three fire commissioners appointed by the Mayor has supervision.

The second division of the Department of Public Safety has charge of the health of the city. The Commissioner of Health is appointed by the Mayor and receives a salary of $ 3,500 a year. He must have been a physician of at least five years' experience and active practice at the time of his appointment.

The third division of the Department of Public Safety is under the Inspector of Buildings who must be an architect or builder of ten years' experience in the active practice of his profession. It is his duty to see that the building regulations adopted by the city

council are carried out. He is required to inspect all theatres, halls, churches, school-houses and assembly rooms and all manufactories employing more than twenty-five persons. The inspector has authority to notify the owner of any such building to install proper means of exit, if they do not already exist. Any person having due notice who refuses to comply with the order of the Inspector of Buildings is subjected to a fine of $ 100, and $ 25 a day after the fine is imposed so long as he refuses or neglects to make the necessary improvements in his building.

The fourth division of the Department of Public Safety has charge of cleaning streets and sewers. At the head of this department is the Commissioner of Street Cleaning, who is appointed by the Mayor and draws a salary of $ 2,500 a year.

The Board of Police Commissioners does not constitute a part of the city Department of Public Safety for the reason that its members are appointed by the governor of Maryland with the consent of the upper house of the Maryland legislature.

At the head of the Department of Public Improvements is a board consisting of the City Engineer, the President of the Water Board, the President of the Harbor Board and the Inspector of Buildings. This board, like the boards in charge of the Departments of Finance and Public Safety, is for consultation rather than for supervisory control.

The City Engineer who has control of the first division of this department, is appointed by the Mayor for a term of four years. He has immediate control of the streets, in regard both to construction and to improvement. He also constructs the city Sewers. His salary is $ 4,500 a year. Whenever any street is to be paved or repaved the City Engineer is required to publish a notice of the proposed improvement in two daily newspapers at least once a week for four successive weeks, warning all persons and corporations to proceed at once, before the paving work is done, to complete any work which they may have to do in the streets that would in any way necessitate breaking into the pavement. After the paving has been done no person or corporation may dig into it except in case of special emergency that could not reasonably have been foreseen.

The second division of this department has charge of the water works. At its head is a board of five persons appointed by the Mayor. One of the members of this board is called the Water En-

gineer. He must be a civil engineer who at the time of his appointment has been in the active practice of his profession for at least five years. He receives a salary of $ 4,000 a year. The other members of the board serve without pay.

At the head of the third division of this department is the Harbor Board, consisting of five persons appointed by the Mayor. One of these persons is called the Harbor Engineer, and must have the same qualifications as those required for the Water Engineer.

At the head of the fourth division of this department is the Inspector of Buildings. He is the same officer who presides over the third division of the Department of Public Safety. His duties in the Department of Public Improvements include the superintendence of the construction and repair of buildings built by the city.

At the head of the Department of Public Parks and Squares is a board of five park commissioners appointed by the Mayor, one of them retiring every year. This board has control of all public parks, squares, boulevards leading to parks, springs and monuments belonging to the city.

At the head of the Department of Education is a board of nine school commissioners also appointed by the Mayor. Their terms of office are six years, three of them retiring every second year. This board appoints the superintendent of public instruction and his assistants. Teachers are also appointed by the board, but only upon nomination by the superintendent. The charter provides that all candidates for the position of teacher in the Baltimore school system shall take competitive examinations, and appointments must be made from those who are best qualified as shown by such examinations.

At the head of the Department of Charities and Corrections is a board of five members including the Mayor, but this board has no supervisory authority over the work of the divisions of the department. The first division is under the control of a board of nine Supervisors of City Charities appointed by the Mayor for terms of six years. It is the duty of these supervisors to determine as to what sick, insane or other destitute persons are proper charges on the city and to give such persons the care they need so far as the appropriations will permit.

At the head of the second division of the department is a board of nine Visitors of the Jail who have control of the City

Jail and all other reformatory and penal institutions belonging to the city.

At the head of the Department of Review and Assessment is a board consisting of the President of the Appeal Tax Court, the president of the Commissioners for Opening Streets, and the Mayor. The Appeal Tax Court is the first division of this department and has at its head three judges appointed by the Mayor. It is the duty of this court to hear appeals from property owners in regard to their assessments for taxation. This court is required to make a general revision of the assessed valuations of taxable property in the city at least once in five years.

The second division of this department is under the control of a board of three Commissioners for Opening Streets. This board is charged with the duty of opening, extending or closing any street whenever directed to do so by city ordinance.

In addition to the principal departments already described, there are a number of municipal officers not included in any department. One of these is the City Librarian whose duty it is to keep all books and official documents and archives of the city corporation.

There is also a Municipal Art Commission consisting of the Mayor and seven other members. The Maryland Art Society, Johns Hopkins University, Peabody Institute, the Maryland Institute for the Promotion of Mechanic Arts, the Architectural Club of Baltimore, the Board of Park Commissioners and the Charcoal Club, each nominates one member of the Art Commission. No statue, ornamental fountain, arch, monument or memorial of any kind may be erected in Baltimore and none of those already erected may be changed unless the design and site or the proposed change has been approved by a majority vote of the Art Commission. Either the Mayor or the city council may call upon the commission also to give advice in regard to the design of any public building, bridge or other structure.

Another unclassified official is the Superintendent of Lamps and Lighting who has general charge of lighting the city. He is appointed by the Mayor.

A Public Printer is elected for a term of two years by the city council in joint convention. It is his duty to do whatever printing may be required of him by the city council.

One extremely interesting department of the Baltimore city government is the Department of Legislative Reference first established in 1906. At the head of this department is a board consisting of the Mayor, the City Solicitor, the President of Johns Hopkins University, the President of the Municipal Art Society and the President of the Merchants and Manufacturers, Association of Baltimore City. The active work is done, however, by a statistician employed by the board. It is the function of this officer to investigate and report upon the laws of Baltimore and Maryland and other cities and states with reference to any subject upon which information may be desired by the Mayor, any committee of the city council or the head of any city department. The statistician is also to get together all possible information in regard to the practical operation of municipal laws and to make investigations in relation to proposed legislation by the legislature of Maryland or the city council of Baltimore. This official is also required to prepare or help in the preparation of any bill or ordinance when asked to do so by any member of the city council. A salary of at least $ 2,000 must be provided for this expert. Baltimore is the only city in the United States, so far as I know, that has established such a department as this. The state of Wisconsin, however, has established a similar department at Madison, the capital city of the state, for the benefit of the state legislature. The state of New York also provides for a somewhat similar work in connection with the state library at Albany.

After the great fire in 1904 the legislature of Maryland passed a special act providing for the appointment of a Burnt District Commission for Baltimore, to consist of the Mayor and four other citizens appointed by him. In appointing the citizen members of the commission, the Mayor was not permitted, however, to select any city official. The citizen members of this commission were given salaries of $ 3,500 a year each. The special duties imposed on the commission were to lay out, open, widen, straighten or close any street in the burnt district, to establish and fix the building line and the widths of the sidewalks there, to open public squares and market spaces and to lay out additions and extensions to the public wharves and docks. Any plan made by the commission was to be submitted for approval to a joint meeting of the Board of Estimates and the Board of Public Improvements. If approved at

this meeting, any such plan was then to be submitted to the city council for final approval. Provision was made for awarding damages and assessing benefits in connection with the improvements to be made in the burnt district.

There is a provision in the city charter requiring that all municipal officials except females must be registered electors of the city.

The Finances of the City.

During the year 1906 the city's receipts from all sources amounted to $ 13,547,000 and its expenditures amounted to $ 14,847,000. Of the total receipts $ 6,825,000 came from taxes on real and personal property. Among the other principal sources of revenue were water rents, $ 937,000; street railway gross receipts tax, $ 402,000; sale of bonds, $ 1,196,500; liquor licenses $ 454,000; other licenses $ 101,000; rental of telephone conduits and subways $ 103,000.

Its principal items of expenditure were as follows:

For city departments, $ 7,893,000.

Expenditures resulting from the great fire, $ 1,854,000.

For state departments, including the police board, courts, supervisors of elections and liquor license commission, $ 1,404,000.

For interest on city debt, $ 1,638,000.

Payments to the sinking fund, $ 663,000.

The total assessed valuation of property subject to taxation was $ 595,792,000. Of this amount, however, only $ 359,000,000 was taxed a the full rate. The residue consisted of securities taxed at the rate of three-tenths of one per cent, suburban property taxed at the rate of six-tenths of one per cent, and savings banks deposits taxed at the rate of eighteen and three quarters cents on every $ 100.

The total funded debt of the city on December 31, 1906, was $ 44,464,000. The sinking funds, however, held assets, consisting for the most part of city bonds, to the amount of $ 16,873,000, leaving a net funded debt of $ 27,591,000. In addition to this, however, bonds had been authorized but not issued, aggregating $ 16,136,000. The assets of the city, exclusive of cash and sinking funds, had an estimated value of a little over $ 33,000,000, as follows:

Water works	$ 12,833,000
Electrical subways	$ 1,379,000
Public Wharves	$ 3,451,000
City Hall, Court House, etc.	$ 6,253,000
School houses and lots	$ 4,350,000
Fire enginehouses and lots, and police stations	$ 1,173,000
Parks and Squares	$ 2,817,000
Market houses	$ 1,165,000

The total area of parks and squares owned by the city was 1,395 acres. The city also had three public bath houses. One of the most interesting items of the city's assets is the electrical subways, which have been constructed at a cost of nearly $ 1,400,000. These subways provide nearly 6,000,000 feet of ducts which are used by electric light, telegraph, telephone and signal companies. The rentals received by the city for the use of these ducts during the year 1906 amounted to more than $ 103,000.

Baltimore has not yet constructed a comprehensive system of sewers, but a special loan of $ 10,000,000 was authorized for this purpose in 1905.

Prior to 1902 the city owned an interest in the Western Maryland Railroad Company. On June 27 of that year the city sold its railroad holdings for $ 8,751,000 cash, in addition to sinking funds which amounted to $ 285,000 more. The city has bonds outstanding issued on account of this railroad investment, to the amount of $ 4,263,000. As these city bonds will not be due until 1927, the city was required to invest a sufficient portion of the money received from the sale of its railroad stock to provide a fund to pay the interest upon this debt and retire the principal when it falls due. After this amount had been set asside, there remained a balance, including interest accumulations, of $ 4,830,000 available for other purposes. Of this amount, nearly $ 3,800,000 has been expended for improvements in the burnt district. About $ 4,000,000 additional has been secured for this purpose by the issuance of city bonds running for a period of fifty years.

When Baltimore granted its first railway franchises the city followed a policy almost unique at that time in the annals of American cities. A clause was inserted in the franchises requiring the payment of twenty per cent of the gross receipts of the street

railways into the city treasury. This payment, however, was later reduced to nine per cent. The revenues which the city derives from this source are devoted to the maintenance of the city's parks.

Prior to 1898 the city government of Baltimore was usually controlled by a corrupt political machine. Election frauds were extremely common and an honest ballot was practically unknown. In 1898, however, the city was aroused from its civic lethargy and secured from the legislature a new charter, the provisions of which I have already described. During the past ten years Baltimore has occupied an advanced position among American cities so far as the honesty and efficiency of its governement are concerned.

IX. Cleveland.

Mr. Tom L. Johnson, Mayor of the city of Cleveland, is the most famous municipal magistrate in the United States. He is a man of great wealth and was for many years an organizer, manager and owner of street railway properties in various cities of the country. Some years ago he became acquainted with the late Henry George, author of the well-known book, "Progress and Poverty." Mr. Johnson became convinced that the private ownership of land or any other natural monopoly is contrary to the general interests of the people. He became satisfied that special privileges, such as had enabled him to become immensely wealthy, are sapping the foundations of free government in America and fostering the various social and economic evils against which there has been such a great outcry in recent years. He became a strong advocate of municipal ownership of all public utilities. In the granting of franchises to private corporations for the use of the streets he saw the fetters being forged that keep cities from maintaining their freedom and pursuing enlightened public polices.

Mr. Johnson was not slow to become an active propagandist for his ideas. He saw his home city, Cleveland, almost helpless in the grip of a traction monopoly which had entrenched itself in the laws of the state of Ohio in such a way as to be rendered almost unassailable. He announced himself as a candidate for Mayor and chose as his campaign issue a demand for lower street car fares. The five-cent fare is almost universal on street railways in the United States. Mr. Johnson contended that the street railway companies, if properly managed and not over-capitalized, could give good service for three-cent fares. He was elected Mayor in 1901 and has since been three times re-elected on this issue.

Cleveland is the metropolis of the state of Ohio, but under the laws of that state, the city has no right to undertake municipal

ownership of street railways. The political party in power in the state has hitherto been unfriendly to municipal ownership and has been unwilling to give the cities of the state the right to determine for themselves what policy they will pursue in regard to public utilities. Mr. Johnson found that in the absence of "Municipal Home Rule" the street railway company of Cleveland, which had a monopoly of the business, could not easily de dislodged from the streets of the city although its franchises were beginning to expire. Not being able to establish municipal ownership, and having no adequate means of direct control over the service and rates of the company, Mayor Johnson attempted to secure lower fares for the people and recover to the city the control of its streets by means of a competing railroad system. As a practical street railway man, he has assured the people that three-cent fares will be profitable and has used all his official and personal influence to bring them about. Mayor Johnson has organized a holding company, whose directors are public-spirited men devoted to the idea of public ownership, and who are willing, without profit to themselves other than a reasonable compensation for their active work, to take over the street railway system and operate it in the interest of the public until such time as the city may have secured the right to operate the system in its own name. Under Mayor Johnson's leadership new franchises were granted on the basis of three-cent fares with universal transfers, complete publicity of accounts, the right of the city to purchase the property at an appraised valuation and the right of the city council to revoke the franchises at any time. For seven years Mayor Johnson was trying to get this new system of street railways into operation in Cleveland in order to demonstrate the feasibility of lower fares and to induce the old company to surrender its hold upon the streets. But in spite of the fact that Mr. Johnson has had the loyal support of the people and the city council of Cleveland, his progress was extremely slow and difficult. The new three-cent lines began to operate in a small way in 1906.

The Ohio law requires that before a street railway franchise can be granted the grantee must have secured the consents of the owners of the major part of the frontage on both sides of the street on which the tracks are to be laid. This provision has been the cause of many strenuous contests in Cleveland. The old company,

holding an immensely profitable monopoly, was determined that no new company should get a footing in the city. As a result, the property-owners have often been paid large sums of money, amounting to two, three or four dollars per foot of frontage to withhold their consents for the granting of a franchise to the new company. During the seven years' war between the city under Mayor Johnson's leadership, and the street railway monopoly, over fifty injunctions, temporary or permanent, have been issued by various courts, either state or federal, to stop the activities of the Mayor and the low fare street railway company in establishing the new system.

In the fall of 1907 the Republican party, which ordinarily has a large majority of the popular vote in the city of Cleveland, put forward a man of national reputation, excellent character and great abilities as a candidate for Mayor against Mr. Johnson. After a most bitter campaign during which the Mayor's administration was charged with extravagance and inefficiency, Mr. Johnson was re-elected by a large majority of the popular vote. Furthermore, a large majority of the city council and all the important administrative officials of the city government chosen at the election were friends and supporters of the Mayor.

After prolonged negotiations a settlement of the controversy was finally brought about in April 1908 by the lease of all the old company's franchises and property to the holding company, which will operate the street railway system as trustee for the city, with right to purchase the property on behalf of the city whenever the laws of Ohio shall permit. Three-cent fares have been put into operation.

Mayor Johnson has been called "the best Mayor of the best-governed city in the United States". His claim to this title does not rest by any means solely upon his long-continued fight for low street car fares. Moved, as he is, by a clear-cut and fundamental social philosophy, and bringing to his official duties extraordinary business experience and talents, Mr. Johnson has inaugurated many administrative reforms in the city of Cleveland.

One of his first official acts was to select Prof. Edward W. Bemis, a non-resident expert in municipal government, to take charge of the Cleveland water works. Immediately a new and vigorous policy was adopted for the installation of meters on all services. It should be noted that in the majority of great American cities, water is

supplied in extremely liberal quantities, and without measure except in the case of manufacturing plants, business houses, hotels, etc., which necessarily consume unusual amounts. It is only here and there that the justice and economy of the universal meter system has been practically recognized in connection with municipal water works. Under Mayor Johnson's expert, meters have been installed upon more than eighty per cent of all services, so that at the end of 1906 there were nearly 60,000 in use. The result of this policy has been that with a rapidly increasing population, the total amount of water pumped at the city pumping station was less in 1906 than it had been six years earlier. In an article published in November, 1907, Prof. Bemis stated that 10,000 more meters had just been bought by his department and would be installed within the ensuing twelve months.

The Cleveland water supply is taken from Lake Erie through a tunnel nine feet in diameter and five miles long. The city's pumping station has a capacity of 110,000,000 gallons per day. Water is supplied to all metered comsumers, whether they use much or little, at the same rates, namely, 5 1/3 cents per 1000 gallons, or 40 cents per 1000 cubic feet. But a minimum charge of $ 2.50 or $ 5.00 per year is made.

The city of Cleveland began to supply water in 1856. The growth of the department since 1870 is shown by the following table taken from Prof. Bemis' article to which I have referred:

Year	Connections in use	Meters in use	Gallons pumped	Net receipts from sale of water
1870	3,893	—	1,126 millions	$ 70,411
1880	10,013	402	3,726 „	$ 202,378
1890	30,938	1,794	10,142 „	$ 502,954
1900	53,473	2,810	24,487 „	$ 765,512
1906	67,519	56,168	21,553 „	$ 848,747

Prof. Bemis says that operating expenses, and expenditures for ordinary repairs increased only twelve per cent from 1900 to 1906, as compared with an increase of sixty-two per cent in the period of six years preceding 1900. "This excellent showing", he says, "was not entirely due to metering. The introduction of a business method of administration modeled after the English municipalities, and the completion of some new pumps, contributed to the result.

The head of the department, thanks to the hearty co-operation of Mayor Johnson, has been allowed to make all appointments and removals without interference from anyone, and in ignorance of the politics of all employees."

Other important reforms inaugurated by Mayor Johnson have to do with the use of the public parks, the care of the poor and the treatment of vagrants and the vicious and criminal classes. According to Mr. Johnson's theory, vice and crime are usually symptoms of a social disease the victims of which deserve help more than punishment. He believes that the function of the city is to be useful to all of the people. As Mayor he has ordered all the signs to "Keep off the grass" to be taken out of the parks and has had a capacious shelter station built in the public square for the benefit of those who are waiting for the street cars or who desire to sit down and rest while at the heart of the city. The Mayor adopted the plan of letting off easy the unfortunate fellows who were brought into the police court for petty offences. Often, out of his own pocket, he would give a man five or ten dollars with which to get a new start. Mayor Johnson appointed his own pastor, a man of broad sympathies and radical ideals of justice, to be Director of Public Charities and Corrections. Under this clergyman's admnistration the city has launched upon great plans for reforming the vicious and the unfortunate classes. An immense farm of about 2,000 acres, ten miles from the heart of the city, has been purchased and here a number of the city's institutions have already been erected or soon will be. It is the theory of Mayor Johnson and his lieutenant that the poor, who in their misfortune have been compelled to fall back upon the city for relief, may be provided with more comfort out in the country than could be had at an infirmary in the midst of the city. These public officials also believe that the inmates of the House of Correction are more likely to be reformed and returned to society as useful citizens if placed out in the country to work at farming and gardening than they would be if shut up in a jail in town and required to "pound stone". On this great city farm, there is also a modern well-equipped tuberculosis sanatorium situated on a bluff where the open air treatment can be given with the greatest promise of success.

At another point, twenty-three miles from the city, a farm of 285 acres has been purchased to provide a home for truant and

wayward boys. In his report for the year 1906 the Director of Charities and Corrections said that at the Boys' Home there was at that time "a village" of eight cottages with accomodations for 120 boys. "The gymnasium is being furnished", he continued. "When construction is completed, a manual training department will be started. The method of dealing with these unfortunate boys, most of whom are the victims of adverse conditions, is to give them a fair chance for healthful living. The simple principle underlying our homes is that normal conditions develop normal boys. It is realizing for them their common birthright in the earth and sky. It is surprising how soon they respond to the new surroundings and opportunities which the return to nature gives. The fields, pastures, trees, brooks, and gardens under the open sky form a good tonic for a wayward lad. The boys are possessed of great fondness for the animals. The horses, cattle, sheep, donkeys, dogs — all are their friends. We are simply trying to develop wholesome, fun-loving, hearty boys, who, we trust, will grow up to do a manly work for the world instead of being criminals and a burden to society."

The city of Cleveland now has a population well on towards 500,000. At the last Federal census, in 1900, the population was 381,768, having increased more than 120,000 in the preceding period of ten years.

The city was first laid out on paper by a surveying party from Connecticut in 1796. In 1814 enough people had settled there to warrant the incorporation of a village. By 1836 the village had grown into a city.

In those early days Cleveland, like other American cities, was governed for the most part under special charters and special laws enacted by the state legislature. In 1851, however, the state of Ohio, in framing a new constitution, inserted a clause forbidding the legislature to confer corporate powers by special act and requiring it to provide for the organization of cities by general law. Under these provisions a peculiar practice grew up. As I have already stated in the introductory part of this monograph, it is the habit of American legislative bodies to enumerate in detail the powers of municipal corporations and it is the theory of American law that a city or village has no corporate powers except those which are specifically enumerated or clearly implied in its charter. So the legislature of Ohio found it difficult to pass a general law, going

into minute details, that would be adapted to the needs and tastes of all the cities and villages of the state. The legislature adopted the expedient of classifying cities according to population. The courts, in passing upon legislation of this kind, began by upholding the principle of classification. The legislature, however, took advantage of this opportunity, and in the course of time evolved a method that made the constitutional restrictions appear ridiculous. By describing within very narrow limits the population of particular cities, the legislature was enabled to pass laws and enact charters which applied to these cities alone. In most of the American commonwealths there is one large city which overshadows all the rest. In Ohio it is different. Cleveland and Cincinnati, at opposite ends of the state, have for a great many years been close rivals in population, wealth and political influence. Besides these two great cities, now having a population of several hundred thousand each. there are three other cities in the state having between 100,000 and 200,000 population, besides a great many smaller towns. Coupled with the American tendency to experiment with forms of municipal government, these conditions have made it even more difficult than it otherwise would have been for the Ohio legislature to pass general laws for the incorporation of all the cities of the state.

In 1891, Cleveland secured the passage of an act, general in form but local in application, under which the city made an important experiment in municipal administration. The Cleveland charter of 1891 became famous throughout the United States as embodying the socalled "Federal Plan". The principles of the Federal government were applied to the organization of the city. The executive and legislative powers were strictly separated. The Mayor, elected by the people, was given power to appoint the heads of the various departments, which under the scheme adopted numbered six. These heads of departments formed the Mayor's cabinet. The Mayor was given the usual veto power over ordinances passed by the council, subject to repassage in spite of his objections by a two-thirds vote. The council, like the United States Senate, was given power to confirm or reject appointments of members of the executive cabinet nominated by the Mayor.

The administrative service of the city government was divided into six departments. The Department of Public works had charge of public buildings, the construction of sewers, etc. The Department

of Police had charge of the police force of the city, the inspection of food and all matters relating to the public health. The Department of Fire had charge of the fire service, the inspection of buildings, boilers, elevators, etc., the licensing of stationary engineers and the abatement of the smoke nuisance. The Department of Accounts had charge of the bookkeeping and auditing of the city. The Department of Law had charge of the city's legal business including the approval of bonds, contracts, etc. The Department of Charities and Corrections had charge of the Work House, the cemeteries, the Infirmary and all other charitable or penal institutions established by the city. The directors of these six departments, together with the Mayor, constituted a Board of Control, which was required to meet twice every week, keep a record of its proceedings and prepare contracts and other matters for the approval of the council.

The school system of Cleveland was organized on the same general principle. A director of schools was elected by the people. There was also a school council whose functions were legislative, not executive. The school director had authority to appoint the superintendent of schools, who in turn was made responsible for the educational side of the school system. The business side of the schools was administered by the school director.

After this "Federal Plan" had been in operation in Cleveland for eleven years, a strange thing happened. The Supreme Court of the state finally concluded that legislation general in form, but local in application was contrary to the provisions of the state constitution of which I have already spoken. Accordingly, the court reversed its decisions of former years and at one stroke declared all the charters of Ohio cities illegal and void. A special session of the legislature had to be called in order to enact a general municipal code that would be uniform for all the cities. When the provisions of the proposed new code were under discussion, there were two conflicting theories of municipal government that occupied the attention of the legislature. The people of Cleveland, and students of municipal government generally, favored the adoption of the "Federal Plan" as it had been worked out in the Cleveland charter. On the other hand, the politicians in control of the government of Cincinnati were desirous that the Cincinnati form of government should be adopted for all the cities in Ohio. In the end,

Cincinnati was victorious and the legislature foisted upon Cleveland along with the other cities of the state a scheme of government which is almost universally condemned by students of public administration.

Under the new municipal code of Ohio, the administrative authority of the city is distributed and responsibility is dissipated as widely as possible. The mayor remains little more than a "conservator of the peace". He has authority to appoint the members of the Board of Public Safety, which has charge of the police and fire departments, but only in case he can induce a two-thirds majority of the city council to confirm his nominations. If the council fails to approve the mayor's appointments by the requisite majority within thirty days after the time set in the law, the matter is taken out of the mayor's hands entirely and the governor of the state is authorized to make the appointments. This provision was inserted for political purposes and was aimed particularly at Mayor Johnson, and Mayor Jones of Toledo. The legislature, being controlled by the political opponents of these two mayors, is believed to have expected that there would be at least one-third of the members of the councils in these two cities who would hold out against the mayors' nominations for members of the boards of public safety. If this expectation were to be fulfilled the control of the police forces would be transferred to the opposing political party through appointments made by the governor. The Mayor's power was also curtailed by the establishment of a Board of Public Service consisting of three commissioners elected by the people. To this board was given practically the whole administration of the public works of the city, including water works, lighting plants, parks, baths, sewerage systems, streets, bridges, public buildings, hospitals, penal institutions, etc.

Under this code the Cleveland city council consists of thirty-two members, six of whom are elected at large and twenty-six by wards.

A new general school law has also been adopted in Ohio. Under its provisions, the public school system of Cleveland is now under the control of a Board of Education of seven members elected by the people.

The experience of Mayor Johnson in using the new scheme of government, which had been carefully designed to deprive him of his power and thwart his policies, as mayor of the city of Cleveland,

shows that, after all, mere forms do not in themselves make either good or bad government. By the strength of his personality and through his influence with the people of Cleveland, Mr. Johnson has been enabled to keep the city administration thoroughly unified. This has been done by the election to these various independent executive positions of men who are closely identified with the Mayor's policy and desirous of working in harmony with him.

The City's Finances.

On December 31, 1906, the total debt of the city of Cleveland amounted to 27,785,903, which was nearly three times as much as the amount of the debt ten years earlier. The total valuation of property as assessed for taxation was $ 228,000,000. This amount was much less than double the assessement of ten years before. The total tax rate in 1906 was $ 3.19 on each $ 100 of valuation as compared with $ 2.92 in 1896. It should be noted that the tax rate is high, but that the assessements of property are much below the cash values. As reported to the Census Bureau of the Federal government in 1905, property was assessed in Cleveland at sixty per cent of its full value.

Mayor Johnson's administration has been expensive, especially in the increase of the public debt. He argues, however, that the debt has been incurred for necessary improvements and represents the city's prosperity rather than its poverty. The purposes for which the city's debt was incurred, with the amounts credited to each, are as follows:

Water works	$ 4,441,000
Sewers	$ 7,119,000
Street Improvements	$ 2,680,403
River and Harbor	$ 1,250,000
Public Bath Houses and Sanitary Purposes	$ 195,000
Parks	$ 4,254,000
Market House, Police Station and other public buildings	$ 2,102,000
Elimination of Grade Grossings	$ 1,250,000
Bridges	$ 2,455,000
Cemetery	$ 175,000
City Farm School	$ 95,000
Electric Light Plant	$ 30,000

Garbage collection and reduction	$ 255,000
Miscellaneous	$ 1,484,500

This does not include the debt of the Cleveland School District which in 1905 amounted to $ 2,376,000, and was charged against assets in the form of school buildings and sites valued at $ 6,282,594.

The fixed assets of the city on December 31, 1906, were estimated as follows:

Remunerative		
Water Works		$ 11,010,990
Electric Light Plant		$ 100,021
Markets		$ 434,391
Work Houses		$ 386,393
City Scales		$ 710
Garbage Disposal Plant		$ 183,723
		$ 12,116,228
Unremunerative, but salable		
Parks (1645 acres)		$ 21,311,693
Infirmary and Hospitals		$ 989,038
City Hall		$ 2,970,173
Police Department Property		$ 478,250
Fire Department Property		$ 1,060,751
Alarm Signal System		$ 138,100
City Farm School		$ 103,500
Public Baths		$ 104,794
		$ 27,156,299
Unsalable		
Bridges and Crossings		$ 4,787,416
Paving		$ 9,779,685
Sidewalks		$ 2,385,421
Sewers		$ 12,241,936
Cemeteries		$ 369,356
Docks		$ 501,966
Street Lighting building and equipment		$ 163,964
Land under Cuyahoga River		$ 201,160
Miscellaneous		$ 96,622
		$ 30,527,526
Grand total		$ 69,800,053

The eyes of the whole United States are fixed upon Cleveland. Mayor Tom L. Johnson is regarded everywhere as the strongest and most radical leader of the movement for lower street car fares, municipal ownership of public utilities, and the land value tax as the sole method of raising public revenues. If Mr. Johnson succeeds in carrying out his therories in Cleveland, this great progressive American city will be as "a city set upon a hill" to its sister communities in the United States.

X. San Francisco.

San Francisco is a city of remarkable contrasts.

"Few cities in the world", says Mr. James Bryce, the famous English author and statesman, "can vie with her either in the beauty or in the natural advantage of her situation; indeed there are only two places in Europe — Constantinople and Gibraltar — that combine an equally perfect landscape with what may be called an equally imperial position. Before you there is the magnificent bay, with its far-stretching arms and rocky isles, and beyond it the faint line of the Sierra Nevada, cutting the clear air like mother-of-pearl; behind there is the roll of the ocean, to the left, the majestic gateway between mountains through which ships bear in commerce from the farthest shores of the Pacific; to the right, valleys rich with corn and wine, sweeping away to the southern horizon. The city itself is full of bold hills, rising steeply from the deep water. The air is keen, and bright, like the air of Greece, and the waters not less blue."

It was twenty years ago that Mr. Bryce wrote the words I have just quoted. At that time San Francisco was a city of about 275,000 inhabitants, the metropolis of the Pacific Coast. During eighteen years of the twenty since that time, San Francisco grew in population, wealth and power. But at dawn on the morning of April 13, 1906, the city was overtaken by a calamity almost unparalleled in the history of the world. Shaken to its foundations by an earthquake and rendered helpless, the city was destroyed by fire. Market Street is the principal thoroughfare of San Francisco. "I walked down Market Street late in the afternoon of the second day", said an eye-witness in his description of this dreadful calamity. "It was as if I walked through a dead city, not a city recently dead, but one overcome by some cataclysm ages past, and dug out

of its lava. Fragments of wall rose on all sides, columns twisted but solid in their warp, as if petrified in the midst of their writhing from the fiery ordeal. Across them a yellow smoke passed slowly. Above all, a heavy brooding silence lay, and really there was nothing else, contortion of stone, smoke of destruction, and a great silence — that was all."

San Francisco was the richest city in proportion to population in the United States. The assessed valuation of property in the city in 1905 was $ 524,000,000, and the basis of assessement as reported to the Federal Census Bureau was fifty per cent of true value on real estate and twenty per cent of true value on personal property. Taking into account only the value of real estate, it was estimated that taxable property in San Francisco was worth $ 800,000,000, as against $ 600,000,000 for St. Louis, although the latter city had a population nearly twice as great as that of the former. The value of property destroyed by the earthquake and fire on April 18, 19 and 20, 1906, has been estimated at $ 350,000,000, an amount exceeded by the total assessed valuation of taxable property in eight American cities only. Indeed, the amount paid by insurance companies to the property owners of San Francisco on account of their losses in the great fire, has already reached the gigantic sum of $ 190,000,000. On September 1, 1907, the official valuation of all property in the city subject to taxation was $ 430,000,000, only $ 94,000,000 less than before the fire.

I have said that San Francisco is a city of remarkable contrasts. During 1907, the bubonic plague got a foothold in the city and there seemed to be imminent danger of this dread disease becoming epidemic and reaping a harvest of death and terror that would overcome even the hardy spirit of a people who were undismayed by the horrors of fire. But the city at last awoke to the fact emphasized by all the sanitary experts of the Federal Government that even the plague could be stamped out by the general cleaning up of the town. They learned that the plague is a disease of rats and would be exterminated if the rats were exterminated. And so in March, 1908, the great Merchants' Association of San Francisco, in its monthly bulletin, describes the progress of the fight against the plague as follows:

"1. Nearly 300,000 rats have been destroyed.

"2. Over fifty large public meetings have been held and over 10,000 people addressed.

"3. More than thirty sub-committees of the Citizens' Health Committee have been formed, to reach and organize all classes of the people, through their various lines of employment or their social and business organizations.

"4. Over 300,000 pieces of rat poison have been set out weekly.

"5. Sixty-eight hundred cage traps and 11,000 snap traps have been put in operation.

"6. Four hundred and fifty-eight inspectors and rat catchers have been appointed and over 10,000 premises are being inspected weekly.

"7. Butchertown has been aroused and is killing rats in droves.

"8. A bounty of ten cents a head has been put on all rats delivered to any of the ten district health stations . . .

"9. Over half a million pieces of literature were distributed in the campaign of education inside of ten days.

"10. Vigorous prosecutions of people that keep unsanitary premises and leaky garbage cans have been instituted."

In this same article I find this statement: "San Franciscans are by nature extremists. They like to behave in superlatives. They have either the best government or the worst government. They have the worst streets or the best, the cleanest pavements or the dirtiest . . . The public is apt to neglect public affairs until they become intolerable and then neglect everything else until the clean-up and clean-out are complete."

San Francisco is an old Spanish city. The town was founded by the Spaniards in 1776, the year in which the thirteen English colonies on the Atlantic Coast of America declared their independence of the mother country. Later San Francisco was within the jurisdiction of the republic of Mexico, but finally at the time of the Mexican War became a part of the United States. The first American alcalde, as the Spanish mayor was called, went into office in 1846. In 1848 an election was held at which 158 votes were cast. In 1851 the first real city charter was granted. The municipal history of San Francisco has been full of contrasts. The discovery of gold in California in 1848, with the resultant influx of adventurers from all the states of the Union, gave to San Francisco a passion for

wealth and an impatience for the conventional restraints of order, law and morality that has been accentuated to a marked degree by the peculiar climate and the location of the city. San Franciscans boast that no day in the year is cold enough in their climate to hinder the free activity of the brain and muscle of men, and that no day in the year is warm enough to enervate them. San Francisco is at the gateway of the Pacific, where the tide of Teutonic civilization moving westward reaches the margin of the great ocean on the other side of which lies the hitherto sluggish Orient, with its twenty-five centuries of sleep. San Francisco is a City of the World. It is as gay and proud and wicked as Paris.

During the year following the fire, the city administration elected by the votes of the workingmen and claiming to represent them, reached a climax of corruption that is almost beyond belief. For many years San Francisco was handicapped by a jumble of laws, that passed for a charter. After nearly twenty years of effort and four unsuccessful attempts, the better elements of the citizenship finally succeeded in 1898 in getting a new charter drafted and approved by the people. This charter was hailed by students of municipal government in the United States as by far the most progressive charter hitherto adopted by any great American city. But in spite of this improvement in its governing laws, San Francisco was soon fully given over into the hands of thieves, who gradually built up a system of extortion and bribery that became so strongly entrenched as not to be dislodged even by the earthquake and fire. The people of the United States poured millions of dollars into the lap of San Francisco in the day of her calamity. With hardly a halt, the thieves whom the city had chosen to rule over her continued their depredations upon the public treasury and did not scruple even to betray the generous confidence of the people of the nation. Then came a swift reaction. One of the city's wealthiest and most public spirited citizens said: "I see that they are getting ready to rob the dead. They are getting ready to take everything in sight." Thereupon he contributed $ 100,000 as a fund with which to convict the criminals who ruled over San Francisco. With the co-operation of the district attorney, two men were employed, an eminent lawyer who had already become famous as a prosecutor of public thieves in the Western States and an equally famous government detective. Within a few months the Mayor and the

"Boss" were in jail, and all the city council had confessed to the crime of bribery. When the mayor's office becomes vacant in San Francisco, the vacancy is filled by the city council. When the Mayor is temporarily disabled for the performance of his official duties, the city council selects a president pro tempore who becomes acting mayor. In 1907, after the Mayor had been thrown into jail and before his office had been declared vacant, it was thought that in order to get an honest man for acting mayor, it would be necessary to force one of the corrupt city councilmen to resign in order to make room for some citizen worthy to be advanced temporarily to the position of chief magistrate. For some weeks San Francisco was practically without a mayor, but at the end of that time the office was declared vacant. At this crisis, the prosecuting officers compelled the city council to elect as mayor Dr. Edward R. Taylor, one of the early friends and followers of Henry George. At the regular election in November, 1907, Dr. Taylor was elected by the people to serve a full term as mayor of the city. And so it happens that San Francisco as well as Cleveland, has exalted to its chief magistracy a representative of that school of thought which believes the crimes of politics and the corruption of social life to be due to a fundmentally mistaken policy in relation to the ownership of land and other natural monopolies. With Mayor Taylor was re-elected the district attorney who had prosecuted and driven from power the political criminals who only two years before had carried the municipal election by an overwhelming majority. San Franciscans also elected in November, 1907, an honest city council, and it is probably true that the city in a few months transformed its government from one of the most corrupt to one of the most patriotic and enlightened in the United States.

One thing is certain, the people of San Francisco are alone responsible for the kind of government they have. In the state of California cities have long had a greater degree of municipal freedom than was guaranteed to any other American cities until within the last five or six years. In 1879 the "Home Rule" idea was engrafted upon the new constitution of California in a form that was in some respects more radical than the constitutional provision in Missouri, from which California seems to have taken its idea. From time to time, as the California legislature has tended to encroach upon the field of local self-government and to render the home rule

provisions of the constitution of 1879 less effective, the people have adopted amendments making the guaranty of local self-government nearly iron clad. True, municipal charters and charter amendements have to be submitted to the state legislature for approval or rejection, but if they ever were rejected the legislature would have no authority to adopt any measures to take their place except by general laws.

As the constitution of California now stands, any city having a population of 3,500 or more may frame a charter for its own government. If this is to be done, a board of fifteen freeholders who have been for at least five years qualified voters of the city must be elected at a general or special election to prepare the proposed charter. The board of freeholders is given ninety days within which to draft the charter, and within thirty days after the draft has been completed, it must be submitted to the electors of the city for their approval or disapproval. If approved by a majority of those voting on the question, the charter is then submitted to the state legislature at its next session to be approved or rejected as a whole, without the power of alteration or amendment. If approved by the legislature, the charter will then be the organic law of the city and will supersede any existing charter and all other laws relating to municipal affairs, inconsistent with it. Any charter adopted in this manner may be amended at intervals of not less than two years by proposals originating with the city council and approved by a three-fifths vote of the electors and ratified by the legislature in the same way as the charter itself. Alternative articles may be submitted for the choice of the voters.

In their practical working these provisions insure almost complete municipal home rule. No city took advantage of the right to frame and adopt its own city charter, until the constitution of 1879 had been in force about ten years. Since that time, however, eighteen or twenty California cities have framed their own charters, and many of these cities have adopted numerous charter amendments. In not a single instance has the state legislature failed to ratify the charter or charter amendment proposed by a city.

San Francisco was slow to take advantage of its right under the constitution. On four different occasions home rule charters were drafted by boards of freeholders, but upon being submitted to the people, were rejected by them. For a great many years San

Francisco lived under a confused mass of laws called "the consolidation act". Whenever an effort was made to secure a new and better charter, all of the politicians and office-holders, who profited by the existing confusion and multiplication of offices, cast their influence against the new charter and succeeded in defeating it. In 1898, however, a new freeholders' charter was adopted which was approved by the legislature in the following year and went into effect on January 18, 1900.

In drafting their charter the people of San Francisco were bound by a certain number of limitations contained in the state constitution. One of these was the provision that no city of California could incur a public debt without the assent of two-thirds of the citizens voting upon the question at a special election. The consitution also provided that whenever a municipal debt was incurred, provision must be made for the payment of interest on the debt and the retirement of the debt itself in not more than forty years. Since the great calamity in 1906 this provision of the state constitution has been amended so as to permit the issuance of municipal bonds to run for a period of seventy-five years instead of forty. Another provision of the state constitution declares it to be a felony for a city officer to make a profit on the city money that may be in his possession. Still another section provides that cities which do not own water works and lighting plants may not grant franchises to private companies for carrying on these services without reserving to the municipal authorities the right to regulate rates.

The freeholders' charter which has been in force, subject to various amendments, for the past eight years confers the legislative power of the city upon a city council, which is called the Board of Supervisors. This body consists of eighteen citizens elected by the city at large for a term of two years. Each supervisor must have been a qualified voter of the city for at least five years next preceding the time of his election. The salary attaching to the office is $ 1200 a year. Every ex-Mayor, so long as he remains a citizen of the city, has the right to a seat in the Board of Supervisors and has the right to take part in its debates, but is not entitled to a vote in that body or to any compensation for his services. The Board of Supervisors is required to meet every Monday. The Mayor is the presiding officer. All legislative acts passed by

the board are subject to the Mayor's veto, but may be repassed in spite of his objections by the affirmative vote of fourteen of the eighteen Supervisors. The mayor has the right to veto specific items in appropriation bills. No ordinance or resolution granting a franchise or involving the lease of public property or the appropriation of public money to an amount greater than $ 200 or levying any tax, or imposing any new duty or penalty, may be passed by the Board of Supervisors until it has been published for at least five consecutive days in the official newspaper of the city. In case an ordinance is amended, it must be published in its final form for the five days required.

Furthermore, after any street railway franchise has been passed by the supervisors and approved by the mayor, an opportunity is given for a period of thirty days for the filing of petitions requesting the submission of the measure to popular vote. If electors to the number of fifteen per cent of the whole number of votes cast at the last preceding election sign these petitions, the proposed ordinance can not go into effect until it has been submitted to the people and has been approved by them. Ordinances which involve the granting of a franchise for the supply of light or water, or the lease or sale of any public utility belonging to the city or the purchase of land of more than $ 50,000 in value, must in general be submitted to the electors whether petitioned for or not. The charter goes still further and provides that when citizens to the number of fifteen per cent of the votes cast at the last preceding election, petition for any ordinance or charter amendment, the Board of Supervisors must submit the proposed amendment to the people.

The Board of Supervisors has large powers. It has authority to regulate and control "for any purpose" the use of the streets and the public places of the city. It may grant franchises to street railways. It may regulate and control the location and quality of appliances used in furnishing water, heat, light, power and telephone and telegraph service, and may fix by ordinance once a year the rates of compensation to be collected by public service corporations for the use of water, heat, light or power. It may fix the hours of labor or service required of city employees and also may fix their compensation, but the charter itself provides that eight hours shall be the maximum day and two dollars the minimum daily wage. The charter also authorizes the Board of Supervisors to

regulate street railways and to compel the owners of different lines using the same street for a distance not exceeding ten blocks, to use the same tracks.

The Board of Supervisors is required to appoint from its own membership a Finance Committee of three, whose duty it is to investigate the transactions and accounts of all city officers who have to do with the receipt or expenditure of public money. The committee has power to administer oaths, examine witnesses and issue subpoenas. This committee must at least once every six months examine the official bonds of all public officials and make a report in regard to them to the mayor. This committee is required to examine the books of accounts of all companies who are required to pay a portion of their gross receipts into the city treasury, and also to examine the books of all water and light companies in order to get information to be used as a basis for fixing rates.

The Board of Supervisors has no authority to grant any exclusive franchise or privilege for laying pipes, wires, or conduits. The board may grant street railway franchises for a term of not more than twenty-five years. If any application for such a franchise is made to the board, it determines by resolution whether or not the franchise shall be granted. If a grant is to be made, then the application and the resolution authorizing the grant must be advertised in the city's official paper for ten consecutive days. The advertisements must be completed at least twenty days before any further action with reference to the application is taken by the Board of Supervisors. The advertisement must state the character of the franchise, the route proposed to be traversed and the term of years for which the franchise is to be granted, and must call for sealed bids. All bidders are required to make their offers in the form of promised payment to the city of a stated percentage of their gross receipts arising from the use of the franchise obtained. The franchise must be awarded to the highest bidder, except that in no case may it be awarded to a bidder who does not offer to pay at least three per cent of the gross receipts during the first five years of the grant, four per cent during the next ten years and five per cent during the last ten years. Any such franchise requires the affirmative votes of three-fourths of all the supervisors, and if the mayor vetoes it, the board can pass it over

his veto only by a five-sixths vote. It is then subject to the referendum on petition of fifteen per cent of the voters.

Any franchise granted in this manner must contsin as one of its conditions a provision that the whole railway shall be continously operated and that at the expiration of the franchise the roadbed and track and all the stationary fixtures in the streets shall become the property of the city. Any failure on the part of the company to comply with the terms of the franchise is to work an immediate forfeiture of it and of the roadbed or track constructed in connection with it. In granting a street railway franchise the Board of Supervisors may impose other lawful conditions and must expressly provide that the franchise will not be renewed or regranted and that the supervisors shall have power at all times to regulate the rates of fare. If at the expiration of the street railway franchise, it is deemed inexpedient for the city to operate the tracks and fixtures which have reverted to it, this property may be leased to a person or a company on the same terms and in the same manner as are provided with reference to the original grant.

Article XII of the charter, which has to do with the acquisition of public utilities, says: "It is hereby declared to be the purpose and intention of the people of the City and County that its public utilities shall be gradually acquired and ultimitely owned by the City and County." When the charter was adopted, in 1898, the city's enthusiasm for municipal ownership was so strong that provision was made requiring the city engineer at least once every two years to make plans and estimates of the actual cost of original construction by the city, of water works, gas works, electric light works, steam, water or electric power works, telephone lines, street railroads and such other public utilities as the Board of Supervisors or the people by petition might designate. This clause has recently been changed to relieve the city engineer of an enormous amount of useless labor. He is now required to prepare these estimates only on special occasions. As a matter of fact, although San Francisco has the most radical municipal ownership charter in the United States, the city does not own any public franchise utility, not even the water works. The Board of Freeholders which framed the San Francisco charter was compelled, under the state constitution, to require a two-thirds vote of the electors whenever the city was to incur debt for the acquisition of a public utility. The charter

provides that if a public utility is to be paid for out of the annual revenues of the city, a majority vote of the electors will be sufficient.

The total bonded indebtedness of the city, including debt incurred on account of public utilities, is limited to fifteen per cent of the assessed valuation of property subject to taxation. As late as 1903, when San Francisco had attained a population of more than 300,000 people, its debt was only $ 250,000. Although the combined wealth of its citizens was immense, the city, through lack of efficient government and adequate public spirit, had long neglected expenditures necessary in any great city that aspires to be decently progressive. But in 1903 the people authorized a bond issue of more than $ 17,000,000 for various improvements, including a new sewer system, new school houses, playgrounds, street improvements, a new hospital, a new jail, a new public library and parks. Only a small proportion of these bonds had been sold when the earthquake and fire compelled a change of plans. The city's debt is now about $ 4,000,000. In a recent report to the Board of Supervisors, the Committee on Public Utilities estimated that under the fifteen per cent limit, the city has authority to incur an additional debt of $ 60,000,000, not counting on the natural increase in the valuation of property from year to year. The committee says that whatever indebtedness may be inccurred for immediate necessities, a sufficient amount must be reserved for the acquisition of public water works. Its outline of the city's immediate needs calls for the borrowing of $ 18,200,000, for the following purposes:

For an Auxiliary Water System for Fire Protection	$ 5,200,000
For a Sewer System	$ 4,000,000
For School Buildings and Lands	$ 5,000,000
For a Hospital Building and Lands	$ 2,000,000
For Hall of Justice.	$ 1,000,000
For garbage disposal plant	$ 1,000,000

These loans represent a reduction of nearly $ 14,000,000 in the committee's first estimate. The required bond issues were approved by a popular vote at a special election held May 12, 1908. They seem to represent the irreducible minimum of San Francisco's present needs.

As already indicated, the water supply of San Francisco is in the hands ot a private company. This company has been in existence for more than forty years and its plant, according to its own estimate, was valued in 1906 at more than $ 30,000,000. The supply of water is one of the most difficult problems that San Francisco has to face. The city is built on a peninsula with salt water on three sides and the cost of bringing water from the mountains is very great. The company has frankly given up the problem of the future water supply for the metropolis of the Pacific Coast, as being too difficult for it to solve, and at a recent meeting with a committee of the Board of Supervisors the president of the company announced his belief in the necessity of municipal ownership. This conclusion seems to have become general in San Francisco, and it is to be expected that within a few years, unless some new calamity befalls the city, the water works will be purchased and plans made for their enlargement. The daily per capita consumption of water in 1900 was seventy-two gallons, which for an American city is remarkably low. Water rates in San Francisco are unusually high, in spite of the fact that the constitution of the state and the charter of the city reserve the right to the municipal legislature to regulate the rates. In 1899 the city paid the private company $ 241,000 for water for public purposes and the citizens of the city paid $ 1,547,000 for the water supply for their personal uses. This made a total cost of nearly $ 1,800,000 as compared with less than $ 900,000 collected by the municipal water works of the city of Cleveland during the year 1906, although the population of Cleveland was considerably larger than that of San Francisco.

While adopting a charter which declared for the municipal ownership of all public utilities, the people of San Francisco attempted to safeguard the city against the supposed dangers of such a policy. The chief objection to municipal ownership in the United States is the claim that American cities are so corrupt and so controlled by scheming politicians that the extension of the sphere of municipal activity would only lead to a still greater riot of extravagance and political corruption. The friends of municipal ownership urge that this danger could be overcome by the adoption of civil service reform, or the "merit system" as it is called, in the appointment of subordinate officials in the municipal service. The San Francisco Board of Freeholders put an article in the city charter requiring

the mayor to appoint three persons "known to him to be devoted to the principles of civil service reform", to constitute a Civil Service Commission. The charter required that appointments should be made so that not more than one commissioner at a time would belong to the same political party. It was made the duty of this commission to classify all the places of employment in the various offices and departments of the city government and to hold competitive examinations for the selection of suitable persons for the appointment to such offices. The municipal history of San Francisco during the last eight years has been to a considerable extent the history of efforts made by the Merchants' Association to enforce the provisions of the civil service article against the desire of the corrupt politicians who, during most of that period, have been in power. The civil service law providing for the merit system has the disadvantage of being to a large extent unnecessary when its friends are in power and to a still greater extent ineffective when the men in power are constantly striving to evade it. It is safe to say that civil service reform has not yet transformed the city administration in San Francisco so as to render it particularly well-prepared for the enlarged functions of government which appear to be inevitible.

The chief executive power in San Francisco is lodged in the Mayor, who is chosen by the people once in two years and receives a salary of $ 6,000 per annum. It is his duty to "vigilantly observe the official conduct of all public officers and the manner in which they execute their duties and fulfil their obligations". As already stated, he is the presiding officer of the Board of Supervisors. He has authority from time to time to recommend to the various departments of the city such measures as he may deem beneficial to the public interest. It is his duty to see that the laws of California and the ordinances of San Francisco are enforced within the city limits. He has the veto power in an unusually effective form over the action of the Board of Supervisors, as already described. He may also, in his discretion, postpone official action on any franchise passed by the supervisors until it has been submitted to the people and ratified or rejected by them at the next election. He has authority to appoint all officers of the city whose election or appointment is not otherwise provided for by law.

The officials elected by the people in addition to the Mayor

and the Board of Supervisors, are the auditor, who is the head of the Finance Department; the treasurer; the assessor; the tax collector; the coroner; the recorder, whose duty it is to keep the books, records, and papers of the city; the city attorney; the district attorney; the public administratur; the county clerk, and the sheriff. It is to be noted that San Francisco is a city and a county combined. One of the difficulties that has hindered the complete success of the civil service article of the city charter is the fact that the county officers have been declared by the courts to be exempt from its control on account of certain provisions in the California constitution relating to their powers and duties. The principal appointive officials of the city are the Board of Pnblic Works, consisting of three commissioners who have control of streets, puplic buildings, sewers, garbage collection and any public utilities which may be acquired by the city; a Board of Education consisting of four school directors who receive a salary of $ 3,000 each and have in their charge the public school system of the city, including authority to appoint a superintendent of schools; a Board of Police Commissioners of four members who have charge of the police department and have authority to grant liquor licenses; a Board of Fire Commissioners of four members who have charge of the fire department; a Board of Health of seven members, who have charge of hospitals and alms houses and the sanitary administration of the city; a Board of Election Commissioners consisting of five members who superintend the registration of voters and the holding of elections; and a Board of Park Commissioners of five members who have control of parks and public squares and authority to pass upon any works of art about to be purchased or received by the city.

At the election in November, 1907, the people of San Francisco approved, by an overwhelming majority, a charter amendment embodying the "Recall". Under this amendment any elected official may be removed by popular vote before the expiration of his term of office. When petitions signed by at least thirty per cent of the electors, asking for his removal, are filed and verified, the Board of Supervisors must call a special election, at which the incumbent of the office in question and any other candidates may stand for the suffrages of the people. Unless the incumbent receives the highest vote, he is deemed to be removed from office, and the

successful candidate takes his place for the remainder of the unexpired term.

San Francisco is making wonderful progress in rebuilding after the most disastrous fire of modern times. Up to September 30, 1907, in a period of less than eighteen months following the fire, about $ 100,000,000 had been put into new buildings. The fire destroyed 22,000 buildings, and 7,700 buildings were erected in the eighteen months thereafter, in addition to alterations made in nearly 3,000 other buildings. The bank clearings in San Francisco for the week ending October 17, 1907, amounted to $ 47,376,000, or more than the combined bank clearings of Los Angeles, Seattle, Portland, Spokane and Tacoma, the five other principal American ports on the Pacific Coast. The total disbursements of the city government for the year ending June 30, 1907, amounted to more than $ 8,000,000.

Undaunted by the danger of earthquake, unbaffled by the difficulty of securing an adequate water supply, the people of San Francisco are making their city rise from its ashes to be more splendid than ever. They say it is to emerge from its long period of municipal corruption into a new era of civic patriotism and efficiency. The people of the United States and of the world may well pray that the hopes of San Francisco shall be attained, and that the city sitting at the gateway through which Anglo-Saxon civilization goes forth to meet the civilization of the Far East and to rouse the sleeping millions of Asia from their intellectual lethargy, shall be worthy of its strategic position — a city as great and free as it is rich and beautiful.

XI. New Orleans.

New Orleans is an old French city. It was selected in 1722 as the seat of government for the province of Louisiana. It passed under the dominion of Spain in 1769, but was ceded back to France in 1800. In 1803 Napoleon sold Louisiana to the United States and New Orleans became an American town. It received an American city charter two years later, in 1805. New Orleans is situated on the banks of the Mississippi River, near its mouth, and is the principal commercial center of the Southern states. Down the Mississippi comes the inland commerce of one of the largest and richest vallays of the world. In recent years, great railroad systems have been acquiring terminal facilities at New Orleans and numerous lines of ocean steamships have made the city their terminal. For the year ending August 31, 1906, sea-going vessels to the number of 1505, of a gross capacity of 3,856,000 tons arrived in this port, besides about 4,000 steamboats and miscellaneous vessels engaged in river traffic. The harbor of New Orleans includes both banks of the Mississippi River for a distance of about fifteen miles. The river is from one-half to three-quarters of a mile in width and its depth within ten feet of the banks ranges from forty to one hundred feet. The river empties into the Gulf of Mexico by several mouths and carries in its current an immense amount of sand and silt which are deposited as it enters the Gulf. For this reason, the United States Government spends large sums of money from time to time in keeping the harbor in condition and in improving the river's channel.

The port of New Orleans is under the control of a Board of Port Commissioners appointed by the governor of Louisiana. Most of the wharves of the port are owned by the state. The Port Commissioners establish wharf rates and prescribe rules for loading

and unloading vessels. The revenues from the puplic wharves and sheds amounted to $ 278,000 in the year ending August 31, 1906. All the revenues are used for the improvement of the port facilities. The Board of Port Commissioners has been authorized to borrow $ 2,000,000 for building wharves and sheds and making other port improvements. Up to the beginning of 1907 only $ 750,000 of this amount had been borrowed and expended.

The site of New Orleans is low and flat. In fact it is several feet lower than the level of the Mississippi River. The river is kept within its banks by broad levees. This peculiar situation has rendered the problem of a water supply and a sewerage and drainage system particularly difficult in the case of New Orleans. The water works were first established at New Orleans about seventy-five years ago as a private monopoly. After about thirty years the city bought out the plant and operated it for a period of ten years. The disasters that befell the city during the civil War and the period immediately following were so great, however, that in 1877 it was finally constrained to transfer the water works to a private corporation again. The water company was given a fifty year monopoly dating from 1877, but the company was so unfair, extortionate and inefficient that its charter was forfeited some years ago. The company went into bankruptcy and the water works have since been operated by a receiver. The city has undertaken to construct an entirely new plant which will include 453 miles of water pipe and will be of sufficient capacity to supply one hundred gallons of filtered water per day per capita of population. It is estimated that the cost of this system will be over $ 6,700,000. Water will be taken, as it has been in the past, from the Mississippi River but will be filtered so as to make it clear and pure.

In connection with the building of the new water works, the city is establishing a double system of drainage and sewerage. The sewage of the city will be collected and then pumped into the Mississippi River below the city. Surface drainage will be conducted by gravity to a lake that is situated at some distance behind the city. For the carrying out of these great plans of water supply, sewerage and drainage, a bond issue to the amount of $ 12,000,000 has been authorized.

The political history of New Orleans has been to a large extent a story of misfortune and mismanagement. After the close of the

great Civil War and the enfranchisement of the negroes, there was a period when the government of the Southern states was in the hands of a group of adventurers. This was called "the period of reconstruction" because it was at this time that the Southern states which had seceded from the Union and had been defeated and paralyzed by the war were gradually brought back into the sisterhood of the states and their local government re-established. "The evil times of reconstruction", says one writer speeking of New Orleans, "left her not only stripped of wealth but also burdened with a crushing debt".

It is a noteworthy fact that from 1870 to 1882, New Orleans experimented with what is now called the "commission system" of government. Local authority was vested in the mayor and seven administrators. Together these eight officials formed a city council and exercised the legislative powers of the municipality. Each of the seven administrators was also at the head of a seperate executive department. Substantially this same system is now being tried in Galveston and other comparatively small cities of the United States, and the plan is being widely advocated as worthy of imitation by cities generally. The New Orleans experiment of thirty years ago seems to have been entirely over-looked. Indeed the results of it, under the peculiar conditions that obtained in the city at the time, could not be conclusive. It is said that the "Administration System", as it was then called, was repealed through the efforts of the politicians. However that may be, the government of the city continued in bad hands. In 1885 a reform administration was elected which was followed four years later by the election of a group of public officials who brought utter disgrace upon the city. The city council became so corrupt that all of its members were indicted and some of them sent to the penetentiary. When the next municipal election occured in 1896 the reformers carried the day. During the next four years, under the reform administration the great plan for building a city water works and an adequate sewerage system was started. Under this administration also the city secured a new charter that was regarded as being much in advance of the charter which preceded it.

Under this charter the Mayor, the City Treasurer, the City Comptroller and the Councilmen are elected by the people for a term of four years. The Councilmen must be citizens of the United States,

residents of their respective districts and must have lived in New Orleans for a period of five years preceding their election. They must be at least twenty-five years of age and must never have been convicted of any crime. A Councilman gets $ 20 for attendance at each regular meeting of the City council, if he has attended all the special meetings during the month. The council is composed of twenty-one members, seventeen of whom are elected by representative districts and four by larger municipal districts. The council elects its own president and clerk. The president of the council, in addition to his vote as a member of that body, is entitled to the casting vote in case of a tie. The council may expel a councilman by a two-thirds vote of all its members after due notice and opportunity of being heard have been given.

The city council of New Orleans has the usual ordinance-making power in relation to the peace, good order, cleanliness and health of the city. It has one power frequently exercised by the police authorities in American cities, but seldom specifically granted to a city by its charter. I refer to the regulation of prostitution by confining it to a certain district. This idea is recognised in the provision of the charter granting to the council authority to exclude houses of prostitution "from certain limits". The city council of New Orleans also has unusual authority in organizing the administrative departments of the city and has power to fix the compensation of all city officers.

The executive power of the city is vested in the Mayor, the Comptroller, the Treasurer, the Commissioner of Public Works, the Commissioner of Police and Public Buildings and the City Engineer. All of these officials must be at least thirty years of age and must have been residents of the city for at least five years before their election or appointment. The Commissioner of Public Works, the Commissioner of Police and Public Buildings and the City Engineer are appointed by the mayor. These officials and also the Mayor, the Treasurer, and the Comptroller have the right to seats on the floor of the council, and may take part in the discussion of matters relating to their several departments. The Mayor is required to call the executive officers and heads of departments together for consultation upon the affairs of the city at least once a month. His salary is $ 6,000 a year. He has the power of veto over ordinances and resolutions of the council subject to repassage, in spite of his

objections, by a two-thirds vote of that body. If the Mayor does not sign an ordinance or resolution and does not return it to the council with his objections, the measure has no more effect than if he had vetoed it. The Mayor also has authority to veto specific items in appropriation and salary ordinances.

The Comptroller is in charge of the fiscal affairs of the city. He has authority to prescribe methods of bookkeeping for all the departments. He is required to examine and audit all claims against the city. No public money can be paid out except on a warrant signed by him.

The City Treasurer is responsible for collecting and keeping the public moneys. He must deposit the city funds daily in the bank or banks selected by the council as the city depository or depositories.

The Commissioner of Public Works is appointed by the Mayor with the consent of the council, but may be removed by the mayor at pleasure, the only condition being that the Mayor must have served him with written reasons and these must be given to the council and spread on its minutes. The Commissioner of Public Works has general charge of everything relating to water works, railroads, levees, weights and measures, manufactories, streets, sidewalks, pavements, wharves and bridges. He is required to give a bond in the sum of $ 25,000.

The Commissioner of Police and Public Buildings is appointed and may be removed in the same way as the Commissioner of Public Works. His salary is $ 3,500 a year. This official has charge of Houses of Refuge and Correction, pounds and cemeteries and has the general superintendence of school houses, markets, slaughter houses, prisons, police stations and jails, the work house, asylums, hospitals and all public buildings except the City Hall. Under him is the Superintendent of Fire Alarm and Telegraph.

The Police and Fire Departments of the city are under the control of boards of commissioners established by special acts of the legislature of Louisiana.

The City Engineer is appointed and may be removed in the same manner as the Commissioner of Public Works. His salary is $ 4,000 a year. It is his duty to furnish plans and estimates in relation to the construction of all public works at the request of the council.

The City Attorney is appointed and may be removed in the same manner as the other officials of whom I have just spoken. He acts as the legal adviser of the city and examines and approves all public contracts before they are executed. His salary is $ 6,000 a year. He is forbidden to engage in private practice of the law during his term of office, which is for six years unless he is sooner removed.

An official peculiar to New Orleans is the City Notary, whose duty it is to prepare all contracts, agreements and other official papers in which the city has an interest, and to attend to the execution of such contracts.

With the consent of the council, the Mayor appoints a board of three Civil Service Commissioners who hold their offices for twelve years unless sooner removed, one retiring every four years. These Commissioners must be at least thirty years of age, and citizens of the United States and of the state of Louisiana and residents of the city for five years before their appointment. They are paid $ 3,000 a year each, and are required to be "men of good repute and education." No one can be appointed to this board who has held municipal office or been a candidate for it within four years prior to the time of his appointment. No Civil Service Commissioner is permitted to become a candidate for state, national, parish or municipal office or to be a delegate to any municipal committee or convention, and no Civil Service Commissioner is eligible to any office under the government of the city within four years after he has ceased to be commissioner. Any commissioner may be removed by the mayor for gross misconduct, habitual intoxication, favoritism in office or certain other offenses. It is the duty of this commission to classify municipal offices and provide rules for examinations, appointments and removals. The Commission is not permitted, in any of its examinations, to ask questions relating to the political or religious beliefs or affiliations of candidates. Employees of the city in the classified service, having been appointed under civil service rules, cannot be removed arbitrarily from office.

The principal public officials of the city, including the Mayor, may be removed from office for sufficient cause by the city council through the process of impeachment. There is a standing committee known as the "Committee of Public Order". In case of the impeachment of any public official, this committee has charge of the prosecution.

The remaning members of the council sit as a court and determine the case. It requires a five-sixths vote of the aldermen sitting in judgment to remove an official under this proceeding.

Any ordinance or resolution granting a franchise, after being passed in the usual manner provided for other ordinances, must be published in the official journal of the city for a period of two weeks and then transmitted to the Mayor. It then becomes the duty of the Mayor to call together for public consultation, the Comptroller, the Treasurer, the Commissioner of Public Works, the Commissioner of Police and Public Buildings and the City Engineer. These officials or any four of them may approve, amend or reject the franchise, but any amendments proposed must be submitted to the council for ratification. The franchise is then submitted to the Mayor for approval. If he vetoes it, it requires a two-thirds vote of all the members of the council with the concurrence of four of the officials just enumerated to give it effect in spite of the mayor's objections. It is unlwaful for the city to grant or renew any public lighting franchise or any franchise for the disposal of sewerage or garbage, or any franchise for the operation of any street or belt railroad or "any large and valuable franchise similarly affecting the public health or comfort", except after three months' publication of the terms and the specifications of the franchise. Street railway and belt railroad franchises must be disposed of to the parties offering to pay the highest per centage of gross annual receipts into the city treasury.

The city council is required by law to establish a Board of Health of five members to be elected by the council and to serve during the term of the council.

The public schools of New Orleans are under the control of a School Board of twenty members, of whom eight are appointed by the governor with the approval of the State Board of Education and twelve are elected by the city council. The Mayor, the Treasurer and the Comptroller are members of the School Board without the right to vote.

Under the constitution of Louisiana, the limit of municipal indebtedness allowed in any city is ten per cent of the assessed valuation of taxable property, and no new debt may be incurred without the approval of the taxpayers by a majority vote both in number and in the amount of taxes paid. Whenever any debt is

incurred provision must be made for sufficient taxes to pay the interest and retire the principal within a period of forty years. In relation to matters of public debt, women taxpayers have the same right to vote as men. The constitution also limits the municipal tax rate to one per cent of the assessed valuation, except for the support of schools and for public improvements belonging to the city.

New Orleans inherited a heavy debt from the riot of extravagance and misgovernment during the period following the great Civil War. In 1882 the city's debt was already over $ 20,000,000. At the close of 1904 it was $ 24,000,000, but less than one-third of the $ 12,000,000 voted for water works, sewers and drainage had been issued at that time. Practically all the rest of the city debt represented the funding of old obligations. "The grand total", says one New Orleans writer, "represents an assumption at par and accrued interest of all that terrible burden of debt, tainted with every kind of fraud and dishonesty, left as a legacy from the reconstruction period. Thus for generations the people of New Orleans will be toiling to pay for the few short years of that saturnalia of crime that, after the armies had left the field, afforded to the vultures and camp-followers the opportunity to drain the lifeblood from a stricken people". The courts of Louisiana have held that the one per cent limit on the tax rate prescribed by the state constitution does not apply to taxes needed to pay interest on the city's old debts. Accordingly, in addition to this one per cent for ordinary municipal purposes, the actual tax rate includes another one per cent for these debts, two-tenths of one per cent for the sewerage, water and drainage bonds, one-tenth of one per cent for levees and six-tenths of one per cent for state purposes. This makes the total tax rate two and nine-tenths per cent, or $ 2.90 on each $ 100 of assessed valuation. The total assessed valuation of taxable property in New Orleans in 1905 was a little over $ 170,000,000, and it was estimated that property was assessed at seventy-five per cent of its real value. One of the peculiar features of the New Orleans debt is the lottery scheme used in connection with certain bonds issued in 1875. They are called Premium Bonds. They were issued at par value, $ 20 each, and were payable fifty years from date. The bonds drew five per cent interest per annum, but the interest was not to be paid until the principal was paid. The matter was so arranged that $ 200,000 of these bonds, with accrued interest, are redeemed each

year and a number of money prizes, running from $ 20 up to $ 5,000, are distributed by lot among the bond holders who are paid off. On December 31, 1904, there were outstanding premium bonds to the amount of $ 4,002,940, and the un-paid interest on these bonds up to that date amounted to $ 5,895,997.

Lousiana was for many years the home of the infamous "Louisiana Lottery", which was only destroyed by its exclusion from the United States mails. It is a curious fact that New Orleans engrafted upon its financial system this gamblers' scheme for floating municipal bonds.

While New York and Boston have taken the lead among American cities in the municipal construction and ownership of subways for rapid transit, New Orleans has recently constructed a belt railroad system to encircle the city. This belt railroad is owned by the city and is being controlled and operated by the city government. Its function is to connect all the railroads in New Orleans and provide a quick and safe method of transferring freight cars to the wharves and from one railroad system to another.

XII. General Remarks and Comparative Financial Tables.

Of the ten American cities whose government I have described, in the preceding pages, seven, namely, New York, Chicago, Philadelphia, St. Louis, Boston, Baltimore and Cleveland, were in the order named the largest cities in the United States at the time of the last Federal Census. But in selecting San Francisco, New Orleans and Washington for description I have passed over five other cities which have a greater population than some of those which I have described. The city of Buffalo in the state of New York had a population of 388,000 in 1905. Pittsburg, in the state of Pennsylvania, the greatest centre of the iron industry in the world, has recently annexed the neighboring city of Allegheny to form a Greater Pittsburg, whose population is now more than 500,000. Cincinnati, in the state of Ohio, Detroit, in the state of Michigan, and Milwaukee, in the state of Wisconsin, have from 325,000 to 375,000 population each. I have omitted the description of these cities for lack of space, choosing New Orleans, Washington and San Francisco in order to include in this monograph as many types of great American cities as possible.

As I write, I am in the city of New York, which is more than twice as far away from San Francisco as Constantinople is from Berlin. New Orleans is nearly 2,000 miles from San Francisco and more than 1,000 miles from New York and about 800 miles south of Chicago. Treating of cities so far apart as these, even though they are in my own country, I have been unable to give as intimate, graphic and up-to-date a description of their municipal conditions and actual governmental operations as would be possible in describing one's own city. In order, therefore, to give my readers a certain amount of comparative data arranged on a uniform plan, I have prepared five tables of figures taken from the last available report of the "Statistics of Cities", published by the Bureau of the Census of the Department of Commerce and Labor of the United Stated Government. These tables are self-explanatory.

Table I.

Ten American Cities. — General Statistics, 1905.

	Area in square miles	Population (Estimated, except New York and Boston)	Total net expenditures for maintenance and operation	Total net expenditures for construction and investment	[1]Total net Indebtedness	Value of Salable Municipal Property, not including streets, sewers, etc.	Value of Real Property subject to Municipal Taxation
New York	327	4,000,403	$ 103,794,155	$ 60,699,022	$ 475,670,321	$ 752,034,538	$ 5,222,000,000
Chicago	191	1,990,750	26,295,598	15,405,154	66,355,106	139,769,989	1,970,000,000
Philadelphia	130	1,417,062	25,828,719	6,706,355	63,490,228	203,641,550	1,237,000,000
St. Louis	61	636,973	12,944,892	4,999,297	20,480,194	58,998,121	585,000,000
Boston	43	595,380	21,166,675	7,946,310	367,479,003	152,992,670	1,021,000,000
Baltimore	30	546,217	7,856,440	5,049,825	26,805,989	41,559,022	260,000,000
Cleveland	41	437,114	6,914,773	4,328,053	24,210,387	47,342,765	271,000,000
San Francisco	46	365,000	6,618,098	2,359,639	5,436,195	31,293,550	802,000,000
New Orleans	196	309,639	3,697,825	2,184,739	20,032,854	15,460,000	149,000,000
Washington	60	302,883	6,847,458	4,894,781	14,519,110	35,931,722	359,000,000

[1] Gross Funted Debt, less accumulations in Sinking Funds.
[2] Valuations as assessed, corrected by estimated percentage of assessed valuation to full cash value.
[3] Not including debt of Metropolitan Districts for Water Works, Sewerage and Parks.

Table II.

Ten American Cities — Expenditures for General Maintenance and Operation, Classified — 1905.

	General Administration	Public Safety	Public Health and Sanitation	Public Highways	Public Charities and Corrections	Public Schools, Libraries and Museums.	Public Recreation (Parks, Baths, etc.)	Net Interest on Public Debt	Miscellaneous
New York	$ 9,435,662	$ 23,120,061	$ 8,953,120	$ 6,757,480	$ 7,114,663	$ 22,613,911	$ 2,420,377	$ 16,571,241	$ 2,342,813
Chicago	2,003,231	6,425,568	1,999,400	1,157,398	[1] 346,136	7,593,302	1,555,452	2,639,296	608,319
Philadelphia . . .	2,519,082	5,243,831	2,036,444	2,662,056	1,448,291	5,213,215	951,179	2,015,874	703
St. Louis	1,163,883	2,768,574	1,298,230	1,358,479	774,351	2,169,164	207,642	809,924	40,093
Boston	2,274,854	3,544,716	1,857,989	2,028,769	1,768,705	3,983,141	727,546	23,887,510	104,711
Baltimore	777,629	1,765,638	621,088	701,279	517,318	1,608,386	215,443	1,097,694	22,828
Cleveland	325,815	1,309,389	486,153	794,207	284,838	2,045,413	210,124	925,398	80,228
San Francisco . .	878,966	2,242,918	349,650	479,168	477,204	1,550,917	396,575	153,584	133,396
New Orleans . . .	368,048	793,085	428,920	380,606	100,298	626,413	42,997	880,725	63,877
Washington . . .	463,082	1,585,219	504,087	798,113	839,304	1,607,471	331,024	478,083	39,208

[1] Not including poor relief, which is in charge of the County of Cook.
[2] Not including assessments upon Boston to pay interest upon Metropolitan District debts and certain state debts.

Table III.

Ten American Cities — Expenditures for Municipal Investments and for Maintenance and Operation of Public Utilities — 1905.

	Management of sinking and Trust Funds	Water Works	Electric Lighting Plants	Markets and Public Scales	Docks, Wharves and Landings	Cemeteries and Crematories	Industries in Penal and other Institutions	All other Industries
New York	$ 3,385	$ 3,097,747	—	$ 20,121	$ 945,074	—	$ 74,193	$ 244,464
Chicago	12,265	1,709,450	$ 324,397	3,436	—	—	3,189	3,958
Philadelphia	484,099	1,970,728	—	5,546	13,397	—	—	17,660
St. Louis	3,261	924,060	—	15,984	51,783	$ 83,750	35,170	15,600
Boston	4,026	[1]806,775	—	17,309	—	—	54,419	87,457
Baltimore	—	435,818	—	24,874	88,900	38,239	—	4,395
Cleveland	5,722	381,630	—	23,130	—	—	24,820	—
San Francisco	600	—	—	—	—	—	—	—
*New Orleans	461	—	—	12,986	—	600	—	338
**Washington	2,500	219,924	—	5,607	—	—	—	—

[1] Not including assessments upon Boston for Maintenance of Metropolitan District Water Works.

Table IV.

Ten American Cities — Outlays on Capital Account, 1905, and Increase of Debt During the year.

	For General Administration	For Protection of Life and Property	For Public Health and Sanitation	For Public Highways	For Public Charities and Corrections	For Public Schools, Libraries and Museums	For Public Recreation (Parks, Baths, etc.)	For Municipal Industries	Net Increase of Debt During year
New York . .	$ 1,086,373	$ 2,756,571	$ 2,930,449	$ 16,200,571	$ 1,309,652	$ 14,245,722	$ 5,507,217	$ 18,274,985	$ 37,123,876
Chicago . . .	14,519	360,348	2,917,261	5,151,720	49,962	2,095,651	2,159,993	2,678,657	3,290,064
Philadelphia .	2,500	125,701	982,904	2,861,360	4,780	1,174,651	193,636	1,366,048	[1] 1,414,677
St. Louis . .	13,434	98,845	647,831	2,013,945	170,052	1,348,158	44,398	668,594	[1] 1,392,130
Boston . . .	—	7,330	1,555,062	2,603,058	23,240	1,075,755	69,730	2,625,043	4,311,414
Baltimore . .	2,514	107,528	77,110	1,046,458	17,000	333,049	168,813	3,309,889	3,130,538
Cleveland . .	284,594	33,476	1,017,728	1,351,778	72,222	501,820	306,311	772,520	2,741,296
San Francisco	77,865	55,888	159,249	763,812	16,807	660,663	574,118	49,525	[1] 176,305
New Orleans .	11,810	24,925	1,472,883	393,129	—	47,072	19,391	215,529	1,055,790
Washington .	419,398	97,088	1,233,584	1,684,170	188,514	218,801	—	1,059,716	146,793

[1] Net decrease of debt during year.

Table V.

Ten American Cities — Total Net Receipts, and Receipts from Various Specified Sources — 1905.

	Net Total Receipts — excluding temporary Loans, Transfers, etc.	From Taxes	From Licenses and Permits	From Street Franchises and Privileges	From Gifts and Subventions	From Interest on Municipal Investments	From Operation of Municipal Industries	From Fines and Forfeits.	From Special Assessments and Fees for Special Services	From Loans Increasing the City Debt.
New York . .	$ 162,574,069	$ 91,434,252	$ 6,904,008	$ 885,701	$ 1,858,382	$ 235,010	$ 15,308,177	$ 649,123	$ 8,783,435	$ 37,123,876
Chicago	40,454,080	21,278,718	4,742,440	416,980	512,440	886,422	4,258,246	198,101	5,037,489	3,290,064
Phila elphia. .	32,003,606	18,266,005	2,247,799	118,323	2,996,118	2,116,778	4,621,354	56,563	1,737,710	—
St. Louis . . .	17,780,788	10,339,759	1,615,398	295,226	314,255	294,324	1,870,292	152,837	2,899,905	—
Boston	31,150,498	19,939,169	1,181,519	78,165	500,906	287,115	3,089,435	88,835	1,702,950	4,311,414
Baltimore . . .	13,195,414	6,951,012	547,201	432,978	529,639	246,885	1,097,350	9,830	279,445	3,130,538
Cleveland . . .	11,603,513	5,331,138	584,174	90,565	330,108	302,425	976,796	9,247	1,304,340	2,741,296
San Francisco .	7,670,059	5,422,213	507,418	62,250	842,270	2,942	56,403	17,503	881,471	—
New Orleans .	6,025,618	3,891,208	453,266	3,309	149,190	13,439	215,913	44,531	199,083	1,055,790
Washington . .	11,770,049	4,339,010	623,207	1,650	5,634,631	2,129	408,348	97,927	542,584	146,793