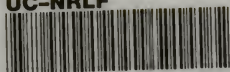


J S

34.5

F7

UC-NRLF



⌘B 22 765



YC 09314

LIBRARY  
OF THE  
UNIVERSITY OF CALIFORNIA.

GIFT OF

*Class*

111

# *Powers of Municipalities—A Discussion*

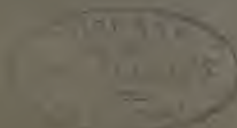
---

---

By

*Allen Ripley Foote*

*Of the Report on Municipal Program of the Special Committee  
of the National Municipal League*



261  
F688

Press of C. E. Hollenbeck, Monument Place  
Indianapolis

# LAW OF INCORPORATED COMPANIES OPERATING UNDER MUNICIPAL FRANCHISES

IS INVALUABLE:

1. To members of Council granting or regulating the franchise rights of these companies.
2. To members of the State Legislature enacting laws affecting these companies.
3. To City Solicitors or legal advisers of the municipal authorities or Boards granting or controlling franchise rights.
4. To those interested in municipal control and regulation of these public service companies.
5. To those who would like to know the law relating to these companies.
6. To attorneys for Water, Gas, Electric Light, Electric Power, Telephone or Street Railway Companies, etc.
7. To those interested in these companies as directors, officers, brokers or investors.

In Three Octavo Volumes of over 3,000 pages,  
\$10.00 net, delivered.

(1,000 COPIES SOLD AT \$15.00.)

THE OFFICIAL LIBRARY OF EVERY MAYOR AND PUBLIC SERVICE  
CORPORATION MANAGER SHOULD CONTAIN THIS BOOK.

**THE ROBERT CLARKE COMPANY, Publishers**

CINCINNATI, OHIO.

# POWERS OF MUNICIPALITIES—A DISCUSSION

BY

ALLEN RIPLEY FOOTE<sup>1</sup>

Of the Report on Municipal Program of the  
Special Committee of the

NATIONAL MUNICIPAL LEAGUE

Made at its Sixth Conference, Held at Indianapolis

November 30, December 1 and 2, 1898



COMMERCIAL CLUB, INDIANAPOLIS

DECEMBER 8, 1898

---

<sup>1</sup> POST-OFFICE ADDRESS, TAKOMA PARK, D. C.

JS 345  
.F7

## CONTENTS.

---

Improvement of Municipal Government.....	3
Organic Laws.....	5
Special Legislation.....	6
Freedom of Political Opinion.....	7
Powers of the Municipality—Taxation .....	7
Powers of the Municipality—City Accounts.....	9
Approval Assured.....	11
City Accounting.....	12
Powers of Municipality—Limit of City Indebtedness.....	13
Certificates of Indebtedness.....	13
Revenue Bonds .....	15
A Satisfactory Check for the Proposed Grant of Power .....	26
This Check is Entirely Practical .....	27
Costs of Ownership and Operation .....	29
General Fixed Charges .....	30
Bonds Excluded from Debt Statements Should Not be Paid by Taxation..	33
Legislative Conditions for Municipal and Private Corporations Should be Identical.....	36
Public Policy Should Protect Existing Investments.....	38
Voluntary v. Compulsory Investment .....	40
A Solution of Present Problems Demanded.....	42
A Call for Organization and Work .....	45

## APPENDIX.

---

No. 1. Municipal Ownership of Industries.....	46
No. 2. State Control of Municipal, Political and Industrial Corporations.	48
No. 3. Cost of Service to Users and Tax-payers.....	55
No. 4. Uniformity in Municipal Finance.....	61
No. 5. Resolutions of the League of American Municipalities.....	63
No. 6. A State Municipal Board.....	65
No. 7. Introduction to Official Messages to Board of Cook County (Illinois) Commissioners.....	67
No. 8. Constitutional Amendment.....	70



## IMPROVEMENT OF MUNICIPAL GOVERNMENT.

---

The work done by the Committee of Ten of the National Municipal League and its "Report on Municipal Program" entitles the Committee and the League to warm praise and thanks from every student of municipal subjects and sincere worker for the improvement of American civilization.

*The progressive development of civilization is dependent upon the morality and prosperity of the municipal homes of the people.* From these centers of thought and concentrated energy issue the intellectual and economic forces that form and direct the public opinion and policy of the nation and of the world. No truths are clearer than those to the careful student of the influence of legislative and administrative government upon the welfare of the people. Civilized government is an expression of the morality and intelligence of a people ruled by the freely declared will of a majority. It can not be as good as those enjoying the highest development of morality and intelligence wish, but it is a great deal better than those suffering from an imperfectly developed moral and intellectual life are prepared to voluntarily obey. The problem of improving government must be solved by rightly teaching correct underlying principles and inducing a majority to demand their practical application in legislation and administration. Correct education must precede correct legislation. The justice of judgments rendered according to law can not be more just than the law. An honest people can not do right if they are misinformed. The justice of the laws they demand and enact is not determined by honest intentions, but by honest intelligence. A

majority sufficiently intelligent to correctly determine public legislative policy will be sufficiently intelligent to correctly determine public administrative policy. [Every flaw in legislation and administration is the direct result of an exercise of power by those who are suffering from a defective moral and intellectual development. The cause of unintentional injustice is misinformation. The cure for unintentional injustice is correct information.] A just government will be the realization of the ideal of all who wish and work for good government. More than justice awards no person has a right to demand. Less than justice requires no person should be compelled to take. [The first lesson to be learned is that *justice is established, not by demanding, but by doing justice.* Just individual conduct is the only immovable foundation for the justice of the state. The fundamental underlying principles that must be applied in all moral and economic legislation and administration, whether it be for a municipality, a state, or a nation, if government is to be just, do not differ in any way from the moral and economic principles that must govern individual conduct, if individual action is to be just. They are the principles of universal natural laws applicable throughout the entire sphere of human activity and overrule every legislative and administrative act, from lowest to highest. Intelligently recognized and complied with their application to social and industrial affairs must produce happiness if happiness is an attainable condition for human life. Unknown, partially recognized, imperfectly complied with, or deliberately disregarded, they produce discontent and suffering with relentless certainty.] Every evil of which complaint is made has been caused by actions guided by the uninformed, the misinformed or the dishonest, instead of a knowledge of correct principle. [These evils are punishments inflicted for ignorant or malicious failures to obey the requirements of universal, natural, moral and economic laws. The remedy for evils caused by disobedience is obedience. Obedience can result only from honest purpose, intelligently executed. Upon this foundation all improvement in municipal government must rest.]



## ORGANIC LAWS.

Written constitutions express the best understanding of fundamental principles that imperfect moral and intellectual development will permit to become legally authoritative by concrete application in organic law. They show on what principles the ruling majority were in agreement at the time of their adoption. They establish standards by which the correctness of all legislative acts may be determined. They limit the power of the legislature. They safeguard the rights of the individual against the tyranny of the many. They derive authority from the consent of the ruling majority. They are the voice of the people and pronounce mandates that the legislative, administrative and judicial branches of government must obey. They are the supreme law of a municipality, a state, or the nation.

Natural moral and economic laws are the organic laws of the universe. If the principles of natural laws were universally understood and correctly applied, there would be no difference in the enacted organic laws of the nations. Differences between enacted organic laws are determined by the differences in understanding and applying the principles of natural laws.

The organic laws of all subordinate governments must be consistent with the principles of the organic laws of the government from which they derive their being, and they must be administered according to such laws, or they can not be authoritative, they can not bind the conscience nor command the loyal obedience of the people. [The organic laws of a sovereign power overrule the laws of the government that are subordinate to it. The sovereign of the universe overrules the nations. The congress overrules the states. Legislatures overrule municipalities. National, state and municipal governments overrule the individual, but their rights of sovereignty are derived, not from the consent of the governed, but from the sovereign of the universe. When their laws are not consistent with the principles of natural laws, they can not bind the conscience, nor command the loyal obedience of the people, or of any individual.]

In the domain of enacted laws, the organic laws of a nation occupy the position of universal sovereign within its jurisdiction. In like manner the organic laws of a state are endowed with sovereign authority within state limits, and the organic laws of a city are sovereign within the municipality. The extent to which the principles of universal natural laws are infused throughout the domain of enacted laws determines the character of the government. Imperfect infusion results in bad government. Perfect infusion results in good government. Principles are the spirit of the law. They give life, authority, to all laws. In exact relation to the extent to which men admit the Spirit of God into their hearts, incarnate it, and give it expression in their conduct, are they good or bad, and government by them is good or bad.

#### SPECIAL LEGISLATION.<sup>1</sup>

Justice requires that the law shall not discriminate against the few in favor of the many, or in favor of the few against the many. An underlying principle in the organic law of every state should be: *The legislature shall not enact any law affecting municipal governments not made applicable to all cities, or to all the inhabitants of cities.* The only effectual safeguard against special legislation is to provide that there shall be none. - All necessity for special legislation, real or imaginary, results from imperfections in the state's grant of power authorizing the inhabitants of cities to formulate and enact their own organic municipal laws. The remedy for such a defect is in perfecting the grant of power, not in special legislation. The principles that should be applied in the organic law of every municipal government do not change with the number of inhabitants to be governed, therefore, there should be no difference in the grant of power to frame their own charter, given to the smallest or the largest municipal unit. All such governments are the agents of the state for the administration of the principles incorporated in the constitution of the state, and laws enacted by the legislature in accord therewith.

<sup>1</sup> See Proposed Constitutional Amendment, Art. II and Art. III, Sec. 7.

## FREEDOM OF POLITICAL OPINION.

Any impairment of the right to freedom of political opinion must result in an impairment of personal liberty. Justice requires that merit—not political opinion or work—shall be the standard by which the fitness of any employee of the state, or of any government subordinate to the state, shall be determined. That person alone is free who holds his position by right of his record of duty performed. When the tenure of public employment and promotions in public service are determined absolutely by fitness for, or record of, duty performed, the principal cause of *incompetent and corrupt municipal governments will be removed*, and the liberty and dignity of honest labor will be effectively asserted. The right of an employee to hold his position by virtue of merit is as sacred as the right of an owner to hold property by virtue of legal authority.<sup>2</sup> Without opportunity labor can not be performed. Power to perform labor is an employee's property. An act depriving an employee of the opportunity to labor, without a just reason, is equivalent to taking property without just compensation. This the organic law should forbid. When properly forbidden, all public employees of the state, and of every subordinate governmental unit within the state, will enjoy freedom of political opinion. Public employees will cease to be slaves shackled by the necessities of poverty.

POWERS OF THE MUNICIPALITY. TAXATION.<sup>1</sup>

When the state grants to the inhabitants of municipalities the right to frame their own organic laws, within the limits of consistency with its constitution and general laws, it must be made certain that all individual rights are clearly defined and properly safeguarded by provisions in the organic laws of the state. The progress of civilization is dependent upon a proper safeguarding of rights to property against the unnecessary and unintelligent exercise of the arbitrary power of taxation. If

<sup>1</sup> See Proposed Constitutional Amendment, Art. III, Sec. 7.

<sup>2</sup> See Proposed Constitutional Amendment, Art. III, Sec. 6.

there are any moral and economic principles more completely settled than others, they are :

(a) That all persons shall enjoy freedom of thought, freedom of speech, and freedom of action, with a due regard for the similar rights of others.

(b) That all persons shall have the right to own the surplus products they may save from the results of their labor and investments.

(c) That property shall not be taken for the benefit of public or private users without just compensation.

These principles limit the power of taxation by the state. Any grant of this power to subordinate governments must be subject to these limitations. A state has no moral right,—it should have no legal right,—to grant the power of taxation, or of eminent domain, to a subordinate government without providing for an administrative supervision of the accounting designed to show the results of its use.

*Prof. Goodnow says:* “If there is anything which is settled in our constitutional law, it is that the taxing and the spending powers, through whose exercise governmental policy is largely determined, are legislative in character.”

If there is anything which is clearly taught by experience, it is that those who exercise “taxing and spending powers” must be guided by correct accounts and reports or the governmental policy determined by their action will be misdirected by misinformation.

*Mr. Deming says:* “An alert and intelligent public opinion is a surer safeguard of popular liberties than any written constitution.”

Public opinion can not be intelligent if the people are not taught the truth. Every misstatement, whether ignorantly or maliciously made, is a disease germ that will, to the full extent of its power, deprive the mind of its ability to be intelligent.

A state in granting the right to exercise the arbitrary power of taxation should require every subordinate government to show with unquestionable clearness that the purposes for which

it exercises its "taxing and spending powers" are just and necessary, and that the objects sought can not be gained with equal economic advantage by the employment of other means. It should also provide that no municipality shall sell a public service for less than the true and entire cost of production, and define beyond the ability of evasion *how cost of production shall be determined*. These checks upon the power of taxation are so clearly demanded by the requirements of justice for the protection of taxpayers, there should be no division of opinion regarding them.

#### POWERS OF THE MUNICIPALITY: CITY ACCOUNTING.<sup>1</sup>

The determination of public policy is the highest function of public opinion. A fundamental requirement for the creation of an intelligent public opinion is a properly devised system of uniform municipal accounting prescribed and audited by the state. Such a system will furnish a permanent basis for all correct reforms of public policy. For this reason I place it before the consideration of "City Indebtedness" and "Municipal Franchises." Questions involved in these subjects can be correctly settled only by the aid of the records of experience furnished by a uniform system of municipal accounting.

My first suggestions on this subject are given in an open letter "*To the Members of the American Economic Association,*" under date of January 2, 1891, transmitting a paper written for presentation to the association at its annual meeting held in Washington, D. C., December 26-30, 1890. From this paper I take the extract found in the Appendix under the heading of: "Municipal Ownership of Industries."

(See Appendix No. 1.)

#### *State Control of Municipal, Political and Industrial Corporations.*

Under this title, in Chapter XIII of my discussion of the Economic Principles Involved in "The Law of Incorporated Companies Operating Under Municipal Franchises," written

<sup>1</sup> See proposed Constitutional Amendment, Art. III, Sec. 4.

in 1892, I discussed the subject further as shown in the Appendix.

(See Appendix No. 2.)

*Cost of Service to Users and Taxpayers.*

I resumed the discussion of this subject in a paper under the above title (read before the National Conference of Mayors and Councilmen, at Columbus, Ohio, September 29–30, and October 1, 1897), designed to explain an investigation of water, gas and electric lighting works recently undertaken by the United States Department of Labor. Extracts from that paper will be found in the Appendix.

(See Appendix No. 3.)

*Uniformity in Municipal Finance.*

An article under this title, by Prof. C. W. Tooke, Assistant Professor of the Public Law and Administration, University of Illinois, appeared in "Municipal Affairs," New York, for June, 1898, from which the extract in the Appendix is taken.

(See Appendix No. 4.)

*Resolution of the League of American Municipalities.*

The League of American Municipalities at its second convention, Detroit, Michigan, August 1–4, 1898, had the subject "Uniform Municipal Accounting" under consideration and adopted a preamble and resolutions, as reported in an editorial in the *Detroit Journal* for August 8, 1898, under the title of "League of Municipalities." These resolutions are published in the Appendix.

(See Appendix No. 5.)

*A State Municipal Board.*

Under this title an article by Prof. J. W. Jenks, Professor of Political Science, Cornell University, appeared in "Municipal Affairs," New York, for September, 1898, the trend of which is shown in extracts published in the Appendix.

(See Appendix No. 6.)

*Introduction to Official Messages to Board of Cook County  
(Illinois) Commissioners.*

Until listening to the several papers and recommendations constituting "the report on municipal program by the special committee of the National Municipal League," the most recent utterance on this subject, of which I have knowledge, is found in the introduction to the "Official Messages to the Board of Cook County (Illinois) Commissioners, 1894-1898," with an introduction by D. D. Healy, covering the period from 1886 to 1894. This introduction is dated, "Chicago, September 15, 1898." As Mr. Healy was comptroller of Cook county from 1886 to 1894, and has been president of the Board of Cook County Commissioners from 1894 to 1898, inclusive, what he has to say on the subject of uniform accounting and its bearing on existing local conditions has peculiar significance and value. Extracts from his introductory chapter will be found in the Appendix.

(See Appendix No. 7.).

*Approval Assured.*

The evidence here given is a guarantee of intelligent approval of the position taken by the committee on this vitally important subject. The value and purpose of a uniform system of municipal accounting requires no better exposition than is given by *Dr. Albert Shaw*, when he says:

"Your committee concurs with hearty unanimity in the opinion that in the exercise of functions under a broad and generous grant of power every municipality should be held to the very strictest obligation in its accounting, and that the accounts of all the municipalities in the state should be kept upon a prescribed and uniform plan, and should be submitted to a state officer, where they should be compiled upon a well-devised scheme, and when thus tabulated and placed in due comparison with one another that they should be printed and made easily accessible to all citizens. There is no check more salutary than the check of publicity. If our towns are dis-

posed to go into the business of municipal gas works, for example, they should be held, like the English towns, to strict reporting, so that it may be readily seen which town manages its works best and which is doing worst. The results of public administration should also be brought into the most unsparring contrast with the results of private administration. With good accounting, upon a clear and understandable system, with uniformity throughout the state, and, so far as possible, with a tendency towards interstate uniformity, with periodic reports and prompt and regular intermunicipal tables, a very stimulating and valuable check is at once placed upon unwise, dishonest or slovenly municipal administrations, and an opportunity is readily afforded for each municipality to benefit by the experience of all."

The necessity for such a system is graphically and convincingly set forth in the *committee's summary* of Art. III, Sec. 4, of its proposed constitutional amendment, which is as follows:

*"City Accounting.*

"The provisions in Article III, Section 4, constitute a first step towards greater uniformity in municipal bookkeeping, a reform which the committee regards as of the very greatest importance. At the present time the systems of keeping city accounts are so various and complicated, municipal bookkeeping is in such a chaotic state, that it is almost impossible for any one, not an expert, to inform himself as to the financial condition of his own, or any other city. It is impossible to ascertain whether any of the city's municipal works are yielding a profit or whether the sum reported as profits should, in reality, be charged to depreciation or to interest and sinking fund. The provision formulated by the committee requires financial reports to be made to some fiscal officer of the state in accordance with the forms and methods prescribed by him. Such reports will be public records, and will furnish the basis for an intelligent judgment as to the financial condition of our cities. The forms prescribed by the state auditor, or such officer as may be designated, will certainly react upon the



method of city accounting, introducing a highly desirable clearness and simplicity.''

These signs of the time seem to indicate that a wide spread and successful movement is at hand to secure a system of municipal accounting that will not only be uniform for the municipalities within a state, but uniform in many states. No more helpful and far reaching reform can be undertaken by any well-wishers for improved municipal governments.

#### POWERS OF THE MUNICIPALITY: LIMIT OF CITY INDEBTEDNESS.<sup>1</sup>

A legal limit to city indebtedness is a check placed on the right to exercise the power of taxation. Experience has demonstrated the urgent necessity of providing such a check for the protection of the taxpayer's right to own property in every grant from the state of the right to exercise the power of taxation to any subordinate government. A correct public policy demands that the principle that a limit shall be placed in the organic law on the legal right of the state, and of every government subordinate to the state, to incur indebtedness, can not be intelligently questioned. The point at which this limit should be fixed may, however, be left to the determination of a majority of all registered voters within the jurisdiction of the government for which the question is to be decided. If, in determining the limits of debt-contracting power, no distinction whatever could be made between the several classes of debts, all debts for whatever purpose incurred being included in the debt statement, there would be little room for a difference of opinion on this subject. The committee, however, has proposed the incorporation into the organic law of a new rule and principle to govern the determination of the limits of debt-contracting power which demands the closest scrutiny and most careful consideration.

#### *Certificates of Indebtedness.*

The rule proposed by the committee is intended to exclude from all debt statements made to determine the city's power to

<sup>1</sup>See proposed Constitutional Amendment, Art. III, Sec. 2.

incur additional indebtedness, "certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, unless the same shall not be paid within two years from date of issue."<sup>1</sup>

This rule is intended to create a margin of safety to prevent any sudden or unnecessary embarrassment in the management of a city's finances, or to provide for an unseen emergency requiring an unusual use of the city's credit. While no objection may be urged to such a rule, it would be well to guard its application somewhat by providing that *no certificates of indebtedness shall be issued under this authority without a statement of the necessity for such an issue first being made and certified to by the comptroller of the city, endorsed "approved" by an affirmative vote of two-thirds of the members of council, approved by the mayor.*

It will be noticed that the bonds authorized by this rule are designated "certificates of indebtedness or revenue bonds," and that a limit to the date of their maturity is implied by the qualification "unless the same be not paid within two years from the date of issue." In view of the fact that provisions for another class of bonds in the next preceding paragraph, have direct reference to revenues *other than those derived from taxation*, while the provision now under consideration has reference to *income exclusively derived from taxation*, it appears that the intention of the committee would be more clearly stated if the designation of this class of securities should be confined to the term "*certificates of indebtedness.*"

Certificates of indebtedness are really municipal notes,—short time paper,—issued on pledge of income to be anticipated. This is the reason why the rule excluding them from debt-statements made to determine the city's power to incur additional indebtedness is proposed and can be justified. The statement of this reason also shows why certificates of indebtedness *not paid at maturity* should be included in debt-statements made to determine the city's power to incur additional indebtedness. Such certificates will not remain unpaid after maturity

<sup>1</sup> See proposed Constitutional Amendment, Art. III, Sec. 2.

unless there has been a failure to collect the income from taxation in anticipation of which they were issued. In such an event the amount required to complete the payment of overdue certificates of indebtedness must be made *an additional charge* on taxpayers to be provided for in subsequent tax assessments. As the limit of indebtedness is designed to prevent unduly burdensome tax assessments, every item of debt that must be provided for by tax assessment should be included in debt statements made to determine whether or not the city's debt has reached the limit designated by law. Such a statement can not be correctly made unless the city's accounts are correctly kept. It will not be correctly made unless rules and principles to govern it are clearly stated in the organic laws of the state and of all governments subordinate to the state.

If the views and suggestions here expressed and made are approved, the proposal of the committee will read, *when amended*, as follows:

*Certificates of indebtedness may be issued, in anticipation of income from the collection of taxes levied, to be paid at a time designated on their face, within two years from the date of issue. All outstanding certificates of indebtedness not due shall be excluded, and all overdue shall be included in every statement of indebtedness made to determine the city's power to incur additional indebtedness. Certificates of indebtedness shall not be issued unless a certified statement showing the necessity for their issue is made and certified by the comptroller of the city, indorsed "approved" by an affirmative vote of two-thirds of the members of council and approved by the mayor. All certificates of indebtedness shall be provided for and payable from the taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes.*

#### *Revenue Bonds.*

*The principle proposed by the committee is intended to exclude, from all debt statements made to determine the city's power to incur additional indebtedness, "bonds authorized by*

the affirmative vote of two-thirds of the members of council approved by the mayor and approved by the affirmative vote of the majority of the voters of the city voting upon the question of their issuance at the next ensuing election of city officers for the supply of water or for other specific undertaking from which the city will derive a revenue.’<sup>1</sup>

The wisdom of this principle must be determined in the light of the intention of the committee, stated as follows:

“Within its corporate limits, every city within the state shall have the same powers of taxation as are possessed by the state. It may license, tax and regulate all trades, occupations and businesses, and shall be vested with power to acquire, hold, manage and control property, perform and render all public services, and with all powers of government, etc.’<sup>2</sup>

“The city may, if it deems proper, acquire or construct, and may also operate on its own account, and may regulate or prohibit the construction or operation of railroads or other means of transit or transportation and methods for the production or transmission of heat, light, electricity or other power, in any of their forms, by pipes, wires or other means.’<sup>3</sup>

*In its summary*, explaining these provisions, the committee says :

“As regards the powers of the municipality, it is evident that the constitutional provisions proposed by the committee give to the municipality the widest possible discretion in determining the sphere of its activity. In fact, one of the main ends which the committee has had in view has been to assure to every city a large measure of freedom in the determination of local policy. In making this recommendation the committee is conscious of having departed from the accepted principles of the law of public corporations. The courts have always required a specific grant from the legislature to justify an exercise of local authority. In giving to the municipality all powers not inconsistent with the general laws of the state, the

<sup>1</sup> See proposed Constitutional Amendment, Art. III, Sec. 2.

<sup>2</sup> See proposed Constitutional Amendment, Art. III, Sec. 7.

<sup>3</sup> See proposed Municipal Corporations Act, Art. II, Sec. 10, last paragraph.

committee has endeavored to reverse the policy of the past and to create the presumption in favor of the broadest exercise of municipal powers.”<sup>1</sup>

The intention of the committee can not be clearly understood without a careful study of the reasons given for it in its collective summary and the statements of its selected spokesmen. Continuing, the committee says:

“The history of municipal government clearly shows that the constant appeals to the state legislature for additional powers has been one of the most unfortunate influences in our public life. It has created the impression that the real seat of city government is in the state legislature, rather than in the city authorities, and has developed the unfortunate habit of constant interference by the former body in local affairs.”<sup>2</sup>

*Mr. Horace E. Deming* says, in his statement of “The Municipal Problem in the United States”:

“We are now prepared for the statement of two of the principal causes of the failure thus far in the United States to secure efficient, economical, progressive municipal government, viz:

“The municipality is not granted sufficient power to determine for itself all matters of local public policy, and to settle for itself the details of its scheme of internal local administration.

“The municipality as a subordinate administrative agent of the state is placed partly or wholly under the supervision and control, not of any state administrative department, but of the state legislature.

\* \* \* \* \*

“One of the fundamental rules—the exceptions to it are indeed rare—of sound state legislation is that it should be confined to the enactment of laws applicable alike to every part of the state’s territory.

\* \* \* \* \*

“According to the American theory the authoritative con-

<sup>1</sup> See Powers of the Municipality, Art. III, Sec. 7, Summary of Committee.

<sup>2</sup> See Powers of the Municipality, Art. III, Sec. 7, Summary of Committee.

trol of the city's affairs is not in its citizens, but in the legislature. The city controls its own affairs only by sufferance of the legislature. The real seat of authority is not in the city, but the state legislature. The legal validity of an act by the city, e. g., issuing its bonds, contracting for water-works, for a sewer or a pavement, regulating the use of its streets, is not determined by the will or expressed desires of its citizens, but by the will of the legislature as set forth in some statute. The city is not merely the creature of the legislative will, it is the helpless victim of legislative caprice.

\* \* \* \* \*

“Familiar as are these facts and elementary as are these legal propositions that have been stated, their tremendous consequences in American municipal history can not be exaggerated. They constitute one of the fundamental reasons for the mismanagement of our cities, for the corruption of our legislatures and for the lack of municipal patriotism. Whether performing purely local governmental functions or acting as the governmental agent of the state, the city in the United States is the creature of statute.

\* \* \* \* \*

“The primary function of a city, the fundamental reason for its existence is to satisfy the local needs of the community within its corporate limits. Let the municipal corporation, therefore, be clothed with ample governmental power to satisfy these needs. Let the legislature grant these powers once for all. Application to the legislature for additional governmental powers will then be unnecessary. If the city is granted these powers its citizens must be granted also the authority, subject only to limitations applicable to all cities in the state, to devise their own methods and adopt their own agencies for the exercise of these powers. The legislature will then have neither occasion nor excuse for interfering with the substance or detail of the local administrative methods.

\* \* \* \* \*

“The leaven is working, and public opinion rightly directed will yet compel, not only the legislative grant of these powers,

but the requisite liberty freely to exercise them. This means the right of the citizens of a municipality subject to limitations applicable to all citizens to frame their own scheme of local government, to carry their local public policy into practical effect by their own self-elected methods of administration, subject, to the extent that the local policy occupies the same field as the general state policy, to state administrative supervision.”

*Dr. Albert Shaw says, in his discussion of “The City in the United States—The Proper Scope of its Activities”:*

“When, however, it comes to the question what these more or less uniformly organized municipal corporations shall do from month to month and year to year—what service they shall render to the men, women and children who are the constituents or elements of the municipal corporation—it is the opinion of your committee—as we believe it is the mature opinion, founded upon experience, of municipal administrators throughout the world—that nobody can decide as well as the individual municipality how far it will carry its activities and in what variety of ways in detail it shall make itself serviceable to its citizens.

\* \* \* \* \*

“My time will not, of course, permit me to turn aside from the main trend of my argument to discuss the advisability of certain checks and limitations upon the exercise of this municipal freedom—such checks, for example, as the administrative control of a central board, or the supervisory authority of a state auditing officer, or other methods that may be found by experience to be useful. We are not for a moment advocating any extreme innovations, nor are we repudiating any prudential checks of a general nature that may be found in experience to work usefully. We are simply contending for the main proposition that the city may well be left to work out its own destinies upon the basis of a very broad liberty as respects the scope of its functions.

\* \* \* \* \*

“It is not that your committee advocates the municipal con-

struction, much less the municipal operation, of a transit line. It does not at this moment devolve upon us either to advocate or to condemn any particular innovation or extension of municipal functions. What we contend for is that in all these matters, affecting in vital ways the very life of the community, such as the water supply, the lighting supply, the cleansing service, methods of transit and others more or less analogous, the municipal corporation ought to be in as good a position under the law as any private corporation to engage directly in the business of supply. We are entirely ready to admit the desirability of general laws to guard against certain possible crudities or abuses of such functions, and certainly would not any of us object to a well-organized administrative oversight on the part of the state, both of the financial and of the engineering or technical aspects of every kind of business enterprise that any municipality might be prepared to enter upon.

\* \* \* \* \*

“Your committee, while not working out the details, is of the general opinion that while a percentage limitation upon the debt-incurring power of the municipal corporation may be a convenient sort of a check in a general way, such form of limitation is sometimes extremely embarrassing and not justifiable by the facts. It would seem, therefore, that there ought to be excepted from the indebtedness permissible under such a percentage limitation the liabilities incurred for the construction or purchase of water supplies, lighting plants, or transit lines, where in the very fact of the monopoly character of such business it is wholly obvious that the rates can always be made both to pay operating expenses and also to meet interest and sinking-fund charges. In a broad way, therefore, it would be our judgment that for the sake of the progress of our municipal life there should be recognized in municipal finance a clear distinction between indebtedness which is, after all, no burden whatever upon the taxpaying power of the community, because altogether protected by the productive character of lucrative municipal assets.



“The bonds for such improvements as these new docks do not burden the taxpayers to the extent of a single penny, because the steamship companies will not only pay the interest and provide the sinking fund, but also something in addition as clear revenue.

\* \* \* \* \*

“Where such enterprises are inspected and approved by duly qualified state authorities as being safely in the class of municipal assets to be designated as self-sustaining or productive, it would seem wise that they should be placed in a different category so that the municipality might have the same freedom as private corporations to enter upon these supply services, while not embarrassing itself in the necessary work of supplying schools, cleaning the streets and maintaining a high standard of sanitary administration.

\* \* \* \* \*

“These articles (Article III, proposed Constitutional Amendment, and Article II, proposed Municipal Corporations Act) on the powers of cities intend, in the frankest way, to confer a very broad and general liberty upon the municipal corporation to do things, local and municipal in their nature, which do not interfere with the general work of the state government, nor with the rights and immunities of commodities or individuals. The power of the city to acquire property is made exceedingly broad, and the exercise of the right of eminent domain is conferred upon the city in a manner which your committee believes that the manifold work of the modern municipality really justifies and requires. For various purposes it is frequently desirable that the municipality should own land outside of its own limits—such, for example, as the protection of the sources of its water supply, the maintenance of sewage disposal farms, the establishment of public cemeteries, the creation of outlying parks and pleasure grounds and so on. Your committee is of the opinion that for public purposes the municipal corporation may be safely intrusted with the power to exercise the right of eminent domain outside as well as inside the corporate limits. In the making of a pub-

lic park we should think it reasonable to allow the municipal corporation at its discretion to condemn more land than it needed in order by the subsequent sale of environing portions to defray in part the cost of the park. And we are further of the opinion that the municipality should have the power at its discretion to pay for at least some part of the cost of a park, or other comparable public improvement, by a graduated system of special assessments levied upon benefited property."

*Mr. Charles Richardson says*, in his discussion of the subject of "Municipal Franchises":

"There is much force in the argument that so long as such voter can directly affect the character and conduct of his local government, his interest in it will be in proportion to the number, importance and directness of the different ways in which that government serves and affects him. So far as he may come to regard it as his business agent he will want to guard and improve it. So far as it becomes the servile instrument of private corporations in which he has no voice or share, he will cease to respect or care for it. If we are anxious for the citizens to elect officials who will purify their local government and place its employees upon the permanent non-partisan basis of the merit system, it seems reasonable to urge that we should advocate measures which will rather increase than curtail the functions of that government as the only form of organization which can represent all the owners of public property, and in which every voter can feel that he is an active member, entitled to a voice in the management and a share in the profits and benefits.

"And it should be remembered that a large majority of the voters have no private property directly subject to assessment, and are therefore much more likely to take an interest in the management of their public property and public services than they are in any questions of municipal income or rates of taxation. If we want the people to develop higher civic ideals we must enlarge the scope and importance of their city government. If we want them to appreciate the advantages of intelligence and fidelity in their public servants, we must give

those servants such duties and responsibilities that incompetence and dishonesty can neither be concealed nor endured."

These explanations and statements make the intentions and the reasons of the committee very clear.

This division of the subject is not the place in which to discuss the public policy of the purposes of the committee, but rather the means by which they are to be obtained. The proposal is to remove all legal restrictions on the debt limit for debts incurred for the "*supply of water or for other specific undertaking from which the city will derive a revenue,*" by excluding all such debts from debt statements made to determine the city's power to incur additional indebtedness. Authority to do this, incorporated in the organic law, will deprive the legislature of the power to restrict the issue of bonds by any city, so long as they are authorized as provided. This provision, and it is intended to be so, destroys an important check upon the issue of bonds by any city for the purpose indicated. The only check substituted for the restriction of a fixed debt limit including all debts is the provision that such bonds must be "*authorized by the affirmative vote of two-thirds of the members of council, approved by the mayor and approved by the affirmative vote of the majority of the voters of the city voting upon the question of their issuance at the next ensuing election of city officers.*" Is this provision a satisfactory protection to the right to own property? It is clear from its explanations that the committee expect revenue-producing undertakings for which bonds may be issued to be "self-sustaining or productive," and that they shall not "burden taxpayers to the extent of a single penny," but the terms of this proposed constitutional amendment do not so declare. It leaves taxpayers in the position of endorsers. If the income is sufficient to cover all costs and provide for the payment of the bonds at maturity, it is well, but if a deficiency results taxpayers must make it good. This fact is clearly shown by the following clause in the proposed amendment:

"Provision shall be made at the time of their issue for raising a sum of money by taxation or otherwise sufficient to pay

the interest upon all city bonds as it falls due, and to pay and discharge the principal thereof within twenty years from the date of their issue."<sup>1</sup>

This provision determines that the annual charge for interest, and the requirement for a sinking fund "to pay and discharge the principal within twenty years," shall be raised by taxation if not "otherwise" provided. This fixes the liability of taxpayers and leaves them dependent for protection upon the method provided for authorizing the issue of bonds and the *expectation* that the debt will not "burden taxpayers to the extent of a single penny." What is the value of this protection?

*Mr. Charles Richardson says:* "And it should be remembered that a large majority of the voters have no private property directly subject to assessment, and are therefore much more likely to take an interest in the management of their public property and public services than they are in any questions of municipal income or rates of taxation."

Here is a clear statement that it is proposed to make the right to own private property in cities dependent upon the action of voters who "have no private property directly subject to assessment," and who are "much more likely to take an interest in the management of *their* public property and public services than they are in any questions of municipal income or rates of taxation." Is the taxpayer's confidence in the honesty and intelligence of voters who own no private property sufficient to make him entirely satisfied with this security?

A majority of the voters *voting* elect the members of council and the mayor, therefore, they can elect those who will favor the authorization of bonds, and a majority of the voters *voting* have power to approve the authorization for issuing bonds *in the name of the city*. If it is true that "a large majority of the voters have no private property directly subject to assessment," it is possible, under the terms of this proposed constitutional amendment, for voters owning no property to place a mortgage

<sup>1</sup> See proposed Constitutional Amendment, Art. III, Sec. 2, second paragraph following clause 2.

upon all the property in a city, and this practically without limit as to amount, "*for the supply of water or for other specific undertaking from which the city will derive a revenue.*" They can do this although every property-owner in the city should vote against the proposal. Non-owners are declared to be in the majority. The will of the majority determines public policy. This majority have the power to amend the organic law of the state, as proposed. This grant of power, not otherwise restricted, once incorporated in the constitution will establish industrial socialism, and open a way in which *all property may be confiscated and socialized through the power of taxation.*

Voters can acquire *public property* in only two ways. *Property must be taken from private owners by taxation or by payments made for public services* and socialized by transfer to the public. Is it safe to depend upon voters who "have no private property directly subject to assessment" to pay for gas works, street car lines, etc., through the prices they pay for the services rendered to them, when they can reduce prices below cost of production and compel taxpayers to make good the deficit? Voters are being taught continuously that municipal ownership and operation means lower prices for all public services. Prices for service rendered by an undertaking entered upon under unchecked stress of such representations are sure to be made low. If the income derived from public service undertakings is sufficient for the payment of all costs of ownership and operation and a proper provision for a sinking fund, it is well, but if it is not, *the user can not be assessed to make good the deficit*, that is the special privilege of taxpayers. No others can be assessed. Every dollar so taken from private property-owners is confiscated and socialized or distributed to other private persons in payment for material and labor supplied for the municipal undertaking. Taxpayers receive no compensation for the tax they pay that is not enjoyed equally by all users who pay no tax on property. Therefore all property taken from taxpayers to make good deficiencies in income resulting from the ownership and operation of public service industries, is taken without compensation. Is this what the committee

intend? Evidently not! How can it be prevented under the terms of the proposed grant of power?

*A Satisfactory Check for the Proposed Grant of Power.*

The proposed grant of power should be limited by the requirement that *no product of, or service rendered by, an undertaking owned and operated by a municipality shall be sold at less than cost.* Such a requirement is absolutely indispensable for the protection of the right to own property in cities if the proposed grant of power is given. It is entirely in accord with the intentions and purposes of the committee. It will make certain the conditions the committee assumes in justification of its recommendation that the proposed grant of power be given.

*Dr. Albert Shaw well says:*

“In a broad way, therefore, it would be our judgment that for the sake of the progress of our municipal life there should be recognized in municipal finance a clear distinction between indebtedness incurred in non-productive public improvements and the indebtedness which is, after all, *no burden whatever upon the taxpaying power of the community, because altogether protected by the productive character of lucrative municipal assets.*”

To this proposition I give unqualified approval. Being in agreement on the fundamental principle that must be applied in separating indebtedness that must be included in debt statements made for the purpose of determining a city's power to incur additional debts, it only remains to make it certain that debts *intended* to be “no burden whatever upon the taxpaying power of the community” shall not become a burden, and, if they do, *that they shall not be excluded from debt statements.* It is self-evident that a debt which is not a burden on taxpayers must be protected by the productive power of the undertaking. It is equally evident that all margin of difference between income and expenditures, if income is less than expenditures, must be paid by taxpayers and to that extent the debt will be a burden “upon the taxpaying power of the community.” To

prevent this from occurring charges for services rendered must contain a sufficient margin above cost to insure taxpayers against unfavorable fluctuations in estimated income or expenditures. Prices must include the entire and true cost plus a safe margin for profit or as an insurance against loss. This requirement must be included in the proposed grant of power if it is to operate as the committee intends.

*This Check is Entirely Practicable.*

All public service undertakings are natural monopolies. Being monopolies, prices for services rendered by them can be determined with reference solely to the requirements of the service. In the cases under consideration these requirements are that prices shall be so calculated that they will produce sufficient income fully to pay *all* costs of ownership and operation, plus a safe margin to insure taxpayers against unfavorable fluctuation in estimated income or expenditures, and to provide a sufficient contribution to a sinking fund "to pay and discharge the principal" of the debt incurred on account of the undertaking at its maturity. Competition is not permitted with public undertakings, therefore users have no choice but to pay the prices charged or to decline to use the service. This makes it certain if the costs of producing services under municipal ownership and operation are sufficiently low to induce the required use that the undertakings can be paid for out of the earnings without being any "burden whatever upon the taxpaying power of the community." This is the ideal of the committee. It is a condition that must be made certain for the protection of taxpayers, in the proposed grant of power. That this can be done is clearly demonstrated by the spokesman of the committee selected to discuss this subject.

*Dr. Albert Shaw says:* "It would seem, therefore, that there ought to be *excepted* from the indebtedness permissible under such a percentage limitation the liabilities incurred for the construction or purchase of water supplies, lighting plants, or transit lines, *where in the very fact of the monopoly character of such business it is wholly obvious that the rates can always be*

*made both to pay operating expenses and also to meet interest and sinking-fund charges.*

But one thing more is needed. *Make it certain that rates shall be so made.* It must be remembered that a majority of the voters to be vested with power to determine public policy in favor of socializing public service industries by making them municipally owned and operated monopolies; to be vested with power to issue bonds in the name of the city to cover the cost of the construction or purchase of such undertakings, can not be divested of the power to determine the rates a city administration shall collect in payment for services rendered unless the check is placed in the grant of power. *Rates for service is a more important question of public policy than ownership and operation.* If rates are just, it is a matter of indifference to users who owns and operates. The demand for public ownership and operation is a protest against a real or an imagined injustice imposed upon users by public service corporations. A just rate is one that will produce sufficient income for the purposes set forth. The proposed grant of power, unqualified, intrusts users with power to determine the rates they shall pay for the services rendered to them. It is affirmed on the part of the committee that, in its judgment, human nature, the human nature of the users in interest, has become sufficiently civilized to be safely intrusted with this power; that the use made of this power will be just and right. If this be true, it is none the less necessary that statements of costs of ownership and operation shall be required and shall be true exhibits. Taxpayers require protection from the errors of ignorance as well as from the grasping greed of private users who "have no private property directly subject to assessment, and are therefore much more likely to take an interest in the management of *their* public property and public services than they are in any questions of *municipal income or rates of taxation.*" Honest men will be just if they know the truth. Others have no right to be considered. The organic law must not only declare the principle that rates must be sufficient to cover all costs of ownership and operation, plus a margin for factors of



error and the requirements for a sinking fund; *it must define what shall be included in statement of costs made to determine rates.*

*Costs of Ownership and Operation.*

Having developed the subject to this point it is now possible to show the supreme importance of a uniform system of municipal accounting to be prescribed and audited by the state. Those who prescribe the accounting system must prescribe what items shall be included in all statements of costs. This duty must not be left to the incompetent nor the dishonest. Upon the correctness of its performance depends the correctness of the information that will make possible and guide "*an alert and intelligent public opinion, which is a surer safeguard of popular liberties than any written constitution.*" It is more than this. *It is the only safeguard of popular liberties.* In a government by the people public opinion makes and unmakes written constitutions. The proposal under consideration is that public opinion shall be so educated that it will unmake existing constitutions and dictate new ones in which there shall be incorporated the provisions suggested by this National Municipal League. That my contribution to this end may carry the full force of matured thought, I may be permitted to show that the position I now hold was taken eight years ago, and that in the light of all the discussions to which the question has since been subjected, I know of no reason for changing it. In 1889-90, I was employed to draft the schedules to be used for the investigation of the electrical industries by the eleventh United States census. In those schedules, as adopted and used, the following items are included in fixed charges as a part of the costs of ownership and operation.

The schedules for public service corporations and for municipally owned and operated undertakings are identical in this particular.

*“General Fixed Charges.*

“Insurance, total amount of annual premium.....	\$——
“Interest, per cent. on total investment, annual am’t....	\$——
“Taxes, rate per cent., annual am’t. ....	\$——
“Patent license and royalties, annual am’t. ....	\$——
“Franchise licenses and royalties, annual am’t.....	\$——
“Depreciation on buildings, rate per cent., annual am’t.	\$——

In the subdivisions of “Steam Plant—Station Expenses:” “Electric Plant—Station Expenses:” “Expenses of Distribution:” and “Water-Power Plant Expenses,” provision was made for *depreciation* on the investment in machinery and equipment so that, as a result, depreciation on total investment was provided for.

These schedules were available for those interested in the discussion of this subject when I invited the American Economic Association at its annual meeting held in Washington, D. C., December 26–30, 1890, “to appoint a committee to designate the divisions of accounts, and the items to be included in each, that should be kept by corporations performing quasi-public services,” and to provide “that said divisions be so made that the effect of each essential economic factor will be shown, to the end that correct statistics may be obtained through a uniform method of accounting, as a basis for intelligent, economic discussion and legislation.”

Having made this request I then affirmed my position on this question as follows:

“We must first agree on what items constitute cost, then must see to it that these items are honestly included in all statements of cost. This done, we are in a position to take intelligent action, and may then award the contract to the municipality or to private enterprise, whichever, in the light of facts so obtained, may appear to be to the best economic advantage of the greater number of people, those who toil and are poor.”

In my discussion of the economic principles involved in “The Law of Incorporated Companies Operating Under

Municipal Franchises,"<sup>1</sup> written in 1892, I say (page 94) "The state should stipulate that 'fixed charges' shall include all taxes paid to the municipality or state, if such there be; cost of insurance against risk of loss by fire and injuries to employes and others; a necessary per cent. on income to cover depreciation of property in use and contingencies; a necessary per cent. on income to provide a fund to defray the expenses of experimenting with and testing the merits of improved methods, machinery or materials, with the view of rendering the plant, its lines and connections, more efficient and safe in operation, and the service more economical and at lower cost for the users; and interest upon the full amount of the approved investment at the same rate per annum as the municipality pays on its indebtedness."

In the schedules adopted by the United States Department of Labor (1897) for its investigation of water, gas and electric lighting works, privately or municipally owned and operated, the following designations are found:

"Fixed charges:

- "a. Interest on total investment at rate paid on bonds..\$——
- "b. Annual amount paid for licenses or royalties.....\$——
- "c. Taxes paid for the year as shown by inquiry 123,  
    general schedule.....\$——
- "d. Annual depreciation on cost of works.....\$——

I submit this evidence to this National Municipal League with the request that its committee shall either approve my position on this question of costs of ownership and operation, or clearly state its own position so that the public it is our mutual desire to correctly educate may intelligently judge which is in the right, if there is any difference,—I think there is none,—between us.

I submit this evidence to the taxpayers of this country who must rightly understand this subject if they are to take intelligent action to prevent the confiscation of their property through the adoption of an unsound public policy by reason of misinformation.

<sup>1</sup> Published by Robert Clarke Company, Cincinnati, Ohio.

I submit this evidence to the users of public services throughout the country that they may confirm my opinion that when their action is guided by a correct knowledge of the facts it will be just and right.

I firmly believe, when the fundamental importance of this subject is rightly understood, that the entire membership of this National Municipal League, every taxpayer and every user of public services in this country will approve, without reserve, the affirmation adopted by the League of American Municipalities, at its annual meeting held in Detroit, Mich., August 1-4, 1898, which is as follows:

“A uniform system of accounting applicable to every municipality in a state, formulated and audited by the state, designed to show the entire and true costs of all public utilities owned and operated by municipalities, is the most effective check on unwise expenditures, and the most reliable guide to correct municipal policy that can be devised.”

All that has been here said on the subject of correct uniform accounting confirms in the strongest manner the conclusions of the committee in its summary when, referring to the provisions of Article III, Section 4, of the proposed constitutional amendments, it says:

“They constitute a first step towards greater uniformity in municipal bookkeeping, a reform which the committee regards as of *the very highest importance*. At the present time the systems of keeping city accounts are so various and complicated, municipal bookkeeping is in such a chaotic state, that it is almost impossible for any one, not an expert, to inform himself as to the financial conditions of his own, or any other city. It is impossible to ascertain whether any of the city's municipal works are yielding a profit or whether the sum reported as profit should, in reality, be charged to depreciation or to interest and sinking fund.”

Having stated my views, I suggest that Clause (2) of Article III, Section 2, of the proposed constitutional amendment be so amended that it will read as follows:

(2) Or bonds authorized by the affirmative vote of two-

thirds of the members of council approved by the mayor and approved by the affirmative vote of the majority of the voters of the city voting upon the question of their issuance at the next ensuing election of city officers for the supply of water or for other specific undertakings from which the city derives a net revenue, but whenever an undertaking fails to produce a net revenue, all bonds or other obligations issued or incurred for its account shall be included in every statement of the public debt made to determine the city's power to incur additional indebtedness. No city shall sell the products of, or services rendered by such undertakings at a price or prices that will not produce sufficient revenue fully to pay all costs of ownership and operation plus a sufficient amount effectually to provide against unfavorable fluctuations in estimated income and expenditures and an annual contribution to a sinking fund required to fully pay all bonds issued on account of the undertaking at maturity. In determining the cost of service in the case of any undertaking from which a revenue is derived, interest on the investment at the rate paid by the city on its bonded debt; the cost of insurance against losses by fire, accidents, and injuries to persons; the amount of taxes relinquished by reason of municipal ownership; and a percentage on investment to be determined by the state comptroller to cover depreciation, shall be included in fixed charges as items of cost, in addition to all other costs of ownership, operation and administration.

*Bonds Excluded from Debt Statements Should not be Paid by Taxation.*

The last paragraph of Clause 2 of Section 2 of Article III of the proposed constitutional amendment is as follows:

“Provision shall be made at the time of their issue for raising a sum of money *by taxation or otherwise* sufficient to pay the interest upon all city bonds as it falls due, and to pay and discharge the principal thereof within twenty years from the date of their issue.”

The purpose of a debt limit is to protect the right to own

property from the rapacity of taxing and spending legislative powers.

*Mr. Horace E. Deming says:* "From the beginning of our government the legislative branch has been the great usurper of power and the most dangerous to popular liberty."

The distinctive characteristic of a civilized government is the protection it gives to personal liberty and the right to own private property. When it is realized that all private property is held subject to the sovereign power of taxation and of eminent domain, it will be seen that a supreme necessity exists for a clearly defined and declared public policy fixing a limit upon the exercise of these powers by the ruling majority of municipal councils or state legislatures. This necessity has been dealt with in many states by fixing the debt limit of subordinate governments at a specified per cent. upon the assessed value of the property subject to taxation within their respective jurisdictions. The proposed constitutional amendment has been devised to extend this debt limit by providing that certain classes of indebtedness shall be excluded from debt statements made to determine a city's power to incur additional indebtedness. The reason given for such a measure is that the bonds to be excluded represent investments in productive undertakings and are not a burden upon taxpayers. The debt limit having been devised to protect taxpayers, a debt that is not a burden on taxpayers may properly be excluded from a statement of debt made for their protection.

If municipal undertakings are to be initiated and carried on, upon the assumption that they are not to be a burden upon taxpayers, it will be the part of wisdom to provide in the conditions under which bonds are issued to secure the capital to be invested that *they shall not be a mortgage upon taxpayers' property*. The proposed constitutional amendment declares that "at the time of their issue" provision shall be made to pay the interest and principal of *all* city bonds. These bonds may be of two classes. (a) Those issued for non-industrial purposes, the entire costs of which is a direct burden on taxpayers. (b) Those issued for industrial purposes, the costs

of which are to be paid by users of the service. The first class are to be included, and the second class excluded from debt statements. There is a defect in the proposal, however, in that it fails to give any security whatever that bonds of the second class shall not become a burden on taxpayers. An undertaking may be entered upon in the most unquestioned good faith, that income from services sold will pay all costs and provide for the payment of the principal, but human calculations are not infallible. Expectations in these respects may or may not be realized. If they are not realized, where is the provision in this proposal to prevent the payment of interest and principal from becoming a burden on taxpayers?

If those who advocate this proposal wish to carry it out in good faith they should provide that bonds issued for industrial undertaking shall only be secured by a mortgage on the franchise, property and income of the undertaking, and shall not be provided for by taxation. The mortgage should give the bondholder the right to foreclose, in case of failure to pay. This will effectually prevent such bonds from ever becoming a burden on taxpayers. It gives a municipality "*the same freedom as private corporations to enter upon these supply services,*" and makes it certain that it will not thereby "embarrass itself in the necessary work of supplying schools, cleaning the streets and maintaining a high standard of sanitary administration." If I rightly understand it, such a provision will give practical effect to the principle advocated by and the expressed intention of the committee.

To complete Clause (2), Section 2, of Article III, proposed constitutional amendment, the following provision should be added :

*All bonds to be excluded from debt statements shall be secured only by mortgage upon the franchises, property and incomes of the undertakings in behalf of which they are issued, and the holders of such bonds shall have the same rights of foreclosure as are enjoyed by the holders of bonds issued by private corporations.*

LEGISLATIVE CONDITIONS FOR MUNICIPAL AND PRIVATE  
CORPORATIONS SHOULD BE IDENTICAL.

If a correct public policy is to be created regarding the most effective method of securing the best public services at the lowest practical price to users, it must be based on a correct knowledge of all comparable facts. That facts may be comparable all conditions pertaining to franchises and accounting that can be determined by legislation should be made identical for both classes of corporations, municipal and private. That the same system of accounting may be justly required from each they must enjoy the same protection in franchise conditions. It is not just to make a comparison between a municipal corporation financed as a perpetual monopoly and a private corporation financed as a short-termed competitive undertaking.

I yield leadership to no one in my advocacy of the fundamental importance of correct public accounting by municipal and private corporations, but it should always be remembered that the principle of public accounting is not compatible with the principle of competition. One or the other must be eliminated. If it is correct public policy to rely upon competition as a means of securing "reasonable rates," it is unsound public policy to require competitors to expose their accounts as public accounting, if required, would compel them to do. Such an exposure would destroy competition. When public policy eliminates all idea of competition from public service supply, and depends upon the operation of purely economic causes to secure the best services at the lowest practicable price to users, it will be in a position to demand correct public accounting by public service corporations.

The fundamental error in enacted legislation is found in un-intelligent efforts to apply the principles of competition to the management of natural monopolies. Instead of recognizing the monopoly character of their business and constituting them in fact, as they are in nature, public service corporations, private corporations have been formed and their business has been recognized and dealt with as a private enterprise sub-



jected to all the uncertainties of competition, unintelligent legislative control, handicapped by incomplete short-termed franchises. The accounts of such corporations are private accounts. Unless public policy grants the franchise protection enjoyed by municipal corporations to public service corporations, it can not apply to the accounts of these corporations the same requirements that should be made for municipal corporations. When franchise conditions for the two classes of corporations are made identical, the system of accounting required from each may be identical. When new grants are made upon this basis, both classes of corporations should report to the state comptroller so that, in the discharge of his duties, he can compare both classes of accounts, item with item, and make a comparative statement for the information of the public that will clearly demonstrate the relative economic efficiency of the two systems. To do this fairly, with favors to none, with justice for all, will be to render a public service of high importance of which there is urgent need.

When such conditions are established, there should be no legislative obstacles to prevent any municipality from assuming the ownership and operation of any public service industry, or to dispose of them to public service corporations, which ever way public policy, correctly informed by the records of experience written by impartial authority showing the entire truth, shall decide is for the best interests of the people locally interested.

Until public policy decrees that the taxing and spending powers of subordinate governments shall be checked by a uniform system of accounting prescribed and audited by the state; that in the case of all public undertaking for the supply of services to be paid for by users the accounts shall be designed to show the entire costs of ownership and operation, definitely specifying the items to be included in cost and providing that no public service shall be sold for less than cost, there can be no correct basis for intelligently determining broad and vital questions pertaining to franchise grants.

Until there is a clearly defined public policy on these questions determined with special reference to fixing the limit of municipal indebtedness, a discussion of the provisions to be contained in franchise grants can not be profitably undertaken.

If municipal ownership and operation of public service industries is good public policy no more franchises should be granted to private corporations. There are a sufficient number of examples of municipally owned and operated industries to settle this question beyond the possibility of an intelligent doubt. The vital requirement of existing conditions is the grant of legislative conditions to public service corporations, identical with those granted to municipal corporations in order to institute competition between the two systems on equal comparable terms, and the development of authoritative statistics which can only be supplied by a uniform system of accounting as proposed. How can the assumption be maintained that economic gains have been secured by the people in any locality through the public ownership and operation of the industries when the present system of keeping city accounts as described by the committee is:

“Various and complicated in such a chaotic state, that it is almost impossible for any one not an expert to inform himself as to the financial condition of his own or any other city. It is impossible to ascertain whether any of the city’s municipal works are yielding a profit or whether the sum reported as profit should, in reality, be charged to depreciation or to interest and sinking fund.”

#### PUBLIC POLICY SHOULD PROTECT EXISTING INVESTMENTS.

It is strange that a committee which recognizes the monopoly character of public service industries, and is well acquainted with the public policy of foreign countries regarding them should be silent on the vital question of adequate protection for existing investments. In European countries and some states in this country, a municipality is required to buy the

existing plant and equipment in use for the supply of the service it seeks to monopolize.

This requirement is not only in accord with the principles of justice that should govern all dealings with existing investments, it is also in accord with the requirements of the monopoly character of the business. While this requirement gives direct protection to existing investments, it is fundamental to the protection to the right to own private property. If the assault on the right to own private property now being made in many forms is permitted to succeed in one particular, strength will be gained from that success to make the attack at some other point more determined.

The reliance for success of municipal ownership of public service industries is upon the "monopoly character of the business," yet, when the committee formulates its provisions for franchise grants to public service corporations there is no stipulation that such grants shall be exclusive. If it is not intended to permit competition why is there a failure to make the grant exclusive?

There is not a city in the country in which there does not exist a plant and equipment for the supply of every public service under consideration.

There is not a city in the country where a permanent gain can be made for users and tax-payers by the grant of a franchise permitting competition with an existing plant and equipment. When public opinion is correctly instructed public policy will forbid the granting of another competing franchise.

All students of this subject agree that public service industries are natural monopolies. Every attempt to apply the principles of competition to them tends to prevent the operation of purely economic causes which alone have the power to secure for the people the best services at the lowest practicable prices. To permit the duplication of plants and equipments, in any event, for the purpose of the same service, is an economic crime.

The duplication of the plant and equipment of a private corporation by a municipality is not only an economic crime, it is the murder of its offspring by the government that gave

them birth on the protection of which they must rely for existence.

VOLUNTARY *v.* COMPULSORY INVESTMENTS.

There is one marked difference between the two systems of supply by municipal and private corporations. The capital of private corporations is secured by voluntary investment, that of the municipal corporation by taxation. In the first case the hope of securing a legitimate profit induces the investment. In the second case the right to own property is attacked by the taxing and spending powers for the purpose of eliminating corporate profit *for the benefit of users*. Not for the benefit of taxpayers whose property is mortgaged to secure the capital required. This is the taking of private property for the benefit of others without just compensation. Are the people of this country ready to see this done? When legislative conditions for the two systems of supply are made identical, it will be determined that "reasonable rates" to be charged by municipalities must be measured by their cost of ownership and operation, and that "reasonable rates" to be charged by private corporations must be measured by their costs of ownership and operation *plus a reasonable profit*. When the difference in effectiveness is considered, between political and private management, it is probable that the element of municipal waste will exceed the element of corporate profit. If this be true it demonstrates that no saving whatever can be secure for users through municipal ownership, in comparison with a properly regulated industrial monopoly.

*Dr. Albert Shaw, speaking for the committee, says:*

"What we contend for is that all these matters affecting in vital ways the very life of the community, such as the water supply, the lighting supply, the cleaning service, methods of transit, and others more or less analogous, *the municipal corporation ought to be in as good a position under the law as any private corporation to engage directly in the business of supply.*"

\* \* \* \* \*

"When such enterprises are inspected and approved by duly qualified state authorities as being safely in the class of mu-

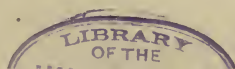
nicipal assets to be designated as self-sustaining or productive, it would seem wise that they should be placed in a different category, so that the municipality might have *the same freedom* as private corporations to enter upon these supply services."

The contention of the committee is that municipal corporations shall be as free to engage directly in the business of supply as private corporations, and it provides that this freedom shall be secured by mortgaging taxpayers' property to secure the capital required. If this power is granted to municipal corporations unchecked, as is proposed, it will be a body blow to the right to own property in cities. There will be no way in which to limit the amount of bonds for the ultimate payment of which taxpayers' property would be liable. It is understood that public service undertakings are *expected* to be "self-sustaining or productive," but if they are not who but taxpayers can be called upon to pay the debts incurred in their behalf?

My contention is that the principle of voluntary investment shall be preserved and utilized to the utmost limit of practical application by granting private corporations legislative conditions identical with those proposed for municipal corporations, and by providing that municipal corporations shall secure capital for the ownership and operation of public-service industries only by mortgaging the franchise, the property, and the income of the undertaking. This provision substitutes, for taxpayers' property, as security, the need and the ability of the user to buy the service. It substitutes bondholders for shareholders, and preserves the principle of voluntary investment. Bondholders are voluntary investors. That the security offered is considered sufficient by the committee is clearly shown by Dr. Shaw's statement:

"In the very fact of the monopoly character of such business it is wholly obvious that the rates can always be made both to pay operating expenses and also to meet interest and sinking fund charges."

If this security is not good enough for bondholders why



should taxpayers be compelled to stand back of it and have their property held as additional security for the payment of the debt? Property may pass from the ownership of one to another, but its location can not be changed. All taxable property located within a municipality is mortgaged for the payment of municipal debts. In its final analysis the proposal of the committee is to secure capital necessary for the construction and operation of public service plants and equipments by taxation, instead of by voluntary investment, in order to substitute political for private management.

Taxpayers who desire to safeguard their right to own property must insist that undertakings for the benefit of users shall secure capital on pledge of the security users can give, not by mortgaging property they do not own.

#### A SOLUTION OF PRESENT PROBLEMS DEMANDED.

In the great cities of Milwaukee, Chicago, Cleveland, Indianapolis and San Francisco, and in a multitude of cities and towns scattered throughout the land there are present problems of vital local importance requiring solution to determine just relations between the people, their municipal governments and public service corporations. In failing to furnish a correct solution for these questions the committee has not been the equal of its opportunity.

That these questions can be solved, by the application of correct economic principles, to the satisfaction of those who have investments in public service corporations and the permanent advantage of users and taxpayers, can not be doubted.

That they can be so settled without the use of a dollar for the corrupt purchase of a vote at the polls, in a municipal council, or in a state legislature, I firmly believe. That they can be so settled in the absence of a correct public policy resulting from the correct education of the people is impossible. The people desire justice no more ardently than they desire to be just. To discern just principles and to do justice is the

highest function of mind. A mind miseducated by misinformation is incapable of justice.

The property quality of things of value rests on the consent of society. The moral teachers of the world for unnumbered centuries have been teaching honesty as a principle. It is the chief glory of economic science to teach honesty as a practice. Upon the character of the people developed by the teaching and practice of honesty civilization is based. An honest man will not take by force of law the property of another and convert it to his own use and benefit without giving just compensation therefor. An honest man will not use the property or the services of another without paying a just price for such use. Upon these plain business propositions the public policy of this nation has been founded since the day of its birth. Shall we now decide "to reverse the policy of the past and to create the presumption in favor of the broadest exercise of municipal powers" for the sole purpose of substituting compulsory investments for voluntary investments and political administration for private corporate management of public service industries, with no greater inducement in view than to benefit users by enslaving capital in a vain effort to save for them the narrow margin of a just corporate profit? Is this the way to broaden the sphere of liberty and confirm the domain of freedom? That man who would use the power of government to compel public service corporations to work without a just profit would again legalize the slavery of labor. While there may be those whose grasping private greed will permit them to enjoy a service sold to them under compulsion of law for less than its cost, in which case it must be clear to any mind that shareholder, bondholder or taxpayer must pay the difference between price and cost, I believe they are the exception and not the rule among American citizens. That man only is free who pays value received for all he accepts from others. That man only is independent who holds his opportunity to labor by authority of his own merit. The interests of labor and capital are one and indivisible. Apply

“the economic law of labor and property”<sup>1</sup> to the solution of public service problems, and all difficulties in the way of their just and permanent settlement will disappear as morning mist before the rising sun.

“No general question of governmental policy occupies at this time so prominent a place in the thoughts of the people as that of properly controlling, without unnecessarily checking, the growth of corporate power.”<sup>2</sup>

“That state which first succeeds in intelligently changing its system, or want of system, of organizing and controlling municipal, political and industrial corporations, by adopting a system in conformity with the outlines herein given, will soonest establish the conditions that will induce the greatest degree of prosperity and well-being for its municipalities and their inhabitants. So conditioned and so controlled, municipal industrial monopolies will become the friends and servants of the people, and will render the best services of which they are capable at the lowest obtainable cost to users.”<sup>3</sup>

\* \* \* \* \*

“Economic action must be guided by an intelligent recognition of and compliance with the ethical law of justice. This will eliminate all risk of loss induced by action guided by ignorance and dishonesty. The best security that can be given to those who possess the largest resources, to induce and enable them to co-operate on equitable terms with those who possess the smallest resources, is the unquestioned recognition of and compliance with the principle that life and property are sacred. Opinions may differ on questions of policy, but principles must be preserved inviolate.

“The acquisitions of life are character and property.”

<sup>1</sup>See “The Law of Incorporated Companies Operating Under Municipal Franchises.” Chapter IV, “The Economic Laws of Labor and Property.”

<sup>2</sup>Preface to “The Law of Incorporated Companies Operating Under Municipal Franchises.”

<sup>3</sup>See “The Law of Incorporated Companies Operating Under Municipal Franchises.” Page 111.



“Thou shalt not kill.” }  
 “Thou shalt not steal.” } “Thou shalt be just.”<sup>1</sup>

A CALL FOR ORGANIZATION AND WORKS.

“No better conclusion of this discussion of the committee’s report can be written than that furnished by *Mr. Horace E. Deming*, when he says :

“To accomplish these results in their completeness and to guarantee their permanence a constitutional amendment is very much desired. In every state the friends of efficient, economical, progressive municipal government should organize and continue a vigorous and unwearying campaign until a constitutional amendment embodying these fundamental principles shall have been adopted. But without any constitutional amendment many important results can be effected, and the efforts to accomplish them will not only aid the ultimate adoption of the amendment, but will help to create an alert and intelligent public opinion, which is a surer safeguard of popular liberties than any written constitution.”

Being in full accord with this statement and thoroughly impressed that danger lurks in a miseducated public opinion, I urge all existing organizations, and where there is no organization available for the purpose, I ask the people to join in organizing, in every municipality, *Public Policy Leagues* for the purpose of educating public opinion to the adoption of a correct public policy for the government of state and municipal action.

<sup>1</sup>See “The Law of Incorporated Companies Operating Under Municipal Franchises,” pages 111, 112.

## APPENDIX No. 1.

### MUNICIPAL OWNERSHIP OF INDUSTRIES. (1891.)<sup>1</sup>

If the economic advantages obtained by the community through the price paid for the service is to decide the policy of municipal ownership of industries, then those who advocate private ownership must accept the issue on this basis, and be ready to show that they can and will perform the same service, for the same price that the community pays for it, under municipal ownership and administration.

A condition precedent to the settlement of this question is an agreement on what constitutes cost of service under municipal ownership. It was to establish this agreement that I offered the resolutions Saturday evening last, after Prof. Henry C. Adams had read his admirable paper on "Statistics as Means of Correcting Corporate Abuses." Please notice carefully the wording of those resolutions. They are:

"*Resolved, first,* That a committee be appointed to designate the divisions of accounts, and the items to be included in each, that should be kept by corporations performing quasi-public services.

"*Resolved, second,* That said divisions be so made that the effect of each essential economic factor will be shown, to the end that correct statistics may be obtained through a uniform method of accounting, as a basis for intelligent economic discussion and legislation."

We must first agree on what items constitute cost, then we must see to it that these items are honestly included in all statements of cost. This done, we are in a position to take intelligent action, and may then award the contract to the municipi-

<sup>1</sup> Extracts from a paper addressed to the members of the American Economic Association, January 2, 1891.

pality or to private enterprise, whichever, in the light of facts so obtained, may appear to be to the best economic advantage of the greater number of people, those who toil and are poor.

Assuming that no economist will take issue with me regarding this fundamental basis for an agreement, I will advance one step further and claim, until such a basis is agreed upon and the accounts are made in accordance with its requirements, there shall be a suspension of judgment and action. By adhering to this policy all parties will not only avoid the liability to get in positions from which they will have to recede when the statements of cost are correctly made, but large invested interests will cease to suffer from attacks that would not be made if those who utter them were better informed.

I urge this claim upon you for another reason. I, like all not to the manner born, have a lofty ideal of nobility. I feel it to be a personal belittlement to be obliged to lower it. According to my ideal, the noblest men are they who worthily fill the station of teacher. What wonder is it then, that I should feel hurt when I see some that occupy such stations, giving currency to statements that tend to lessen the respect for, and therefore the influence of, those who utter them. When professors of economy give currency to statements of the cost of production which practical men, in the light of the accounts they are daily keeping, know are not true, they must not wonder if they find themselves and the educational institutions with which they are connected, held in small estimation. The profession can not afford this any better than business interests can afford to suffer from the attacks of the uninformed. Here again, I think, we have a point of agreement. Let us join hands upon it and take as our guide to action—whose cause truth will not serve, is lost. That truth may be established, no statement of a demonstrable fact should be made without an analysis of the conditions to show that the conclusion reached is correct.

Having in part explained my views and position to you, I feel it right to tell you I look upon statistics as being as po-

tent a means of correcting the abuse of corporations, as far as correcting abuse by corporations. To sustain myself in opposing the principle of governmental ownership of industries, in whatever form it may take, I invoke the same power as do those who favor that principle.

Take the accounts of all the industrial plants owned by municipalities, and write them up completely from the date of their initiative until now, and you will find that the communities that have entered upon those experiments have not gained an economic advantage. Private enterprise stands ready to-day to take over every one of these plants and perform the service at the same price such accounts will show it is costing the community where it is rendered, provided the municipality will grant the same economic advantages assumed by itself, which are:

*An untaxed investment, an untaxed, exclusive and perpetual franchise.*

## APPENDIX No. 2.

### STATE CONTROL OF MUNICIPAL, POLITICAL AND INDUSTRIAL CORPORATIONS. (1892.)<sup>1</sup>

1. The state is the creator and therefore the sovereign of municipal, political and industrial corporations. It creates such corporations in order to serve, to the best advantage, the public welfare. It is the duty of the state fully to advise its inhabitants regarding all particulars pertaining to their interests that such trusts are incorporated to serve.

The controlling power must be superior to the interests to be controlled. The fundamental powers of a state are limited to safeguarding political and industrial equity between its citizens, or the groups of citizens that are created legal persons by its authority. This safeguarding necessarily requires judicial and impartial relations to the subject of control. Such relations can be maintained only where the controlling power

<sup>1</sup>The Law of Incorporated Companies Operating Under Municipal Franchises. Chapter XIII.

has no interest in the subject of control, either as a beneficiary, an owner or user of its services. Municipalities have no powers except such as are specifically granted to them by legislatures. Legislatures have complete sovereign power, limited only by the express limitations of their respective state constitutions. They may revoke municipal charters or modify their powers.

Power to control measures the duty to control. Power to create a trust implies the power and duty to require an accounting fully showing how the trust is administered. A failure to require such an accounting is a breach of trust on the part of the state. A failure to render the required accounting is a breach of trust on the part of the trustees of municipal, political or industrial corporations.

2. An accounting, fully to show that a trust is properly administered, is a fundamental requirement for the satisfaction of the grantor and the beneficiaries, and the protection of the trustees. Such an accounting is indispensable as a basis for an appreciative understanding and mutual good faith. The state must possess a knowledge of the facts, if it is to control properly. Acquiring a knowledge of facts is not a legislative function, it is judicial.

An adequate knowledge of the facts can not be acquired by occasional inquiries by committees of councils or legislatures. That facts may be established, it is necessary that uniform systems of accounting be adopted, that reports be required on fixed dates, covering similar subjects, for the same periods in the same form. The system must be well devised, continuous, and obligatory as a condition of incorporation.

To guarantee impartiality of administration, the adopted system of accounting and reports should be established as a judicial branch of government, where it will be least influenced by political or commercial considerations. Those intrusted with the executive work of the system of accounting and reports should be selected for their fitness only. They should not be engaged in business, nor own an interest in any reporting corporation. They should be given long terms of

service and a salary equal to that of the best paid to state officials. Under such conditions, real ability can be secured for the service of the state, and exceptional fitness can be acquired by experience.

Men are specially educated for service in the army and navy, because experience has taught that special training is necessary for public defense. Is it not strange that people have not learned that intelligent control is necessary to secure the best economic results from all undertakings under the management of municipal, political and industrial corporations? It is no disparagement of municipal councilmen and officials, to say that they do not know and can never know as much about the details of an industry as those who devote their entire time and study to its development and management, and whose income and fortune depend upon its success. It is no disparagement of them to say that they do not know and can never know as much about the details of an industry as can those who, by authority of the state, have access to all the books of all municipal, political and industrial corporations in the state, devote their entire time to the study of statistics, observation and methods, and comparison of results, and thereby thoroughly acquaint themselves with the merits of every improvement in machinery and of every discovery of science pertaining to the industry. It is no disparagement of municipal councilmen and officials to say that they are not and can never be as disinterested in ascertaining and reporting facts which must be the basis of intelligent control as men whose lives are dedicated to the service of the public by their profession, as are the lives of army and navy officers, court judges, teachers and scientific investigators. To say these things is but to recognize the limitations within which every man must act. Control of municipal, political and industrial corporations *by municipalities* is control by the interested and incapable. In no way can disinterested and capable control of such corporations be secured, except through the judicial action of the state.

3. That state control may be impartial and capable, the

officers of the state must acquire complete and accurate knowledge of all details. This requirement renders it necessary that every set of accounts shall be kept by a uniform system, that similar items shall always be entered under specified headings and that uniform reports shall be made covering the operations of the same periods. When provided with such data the state will be able to show the inhabitants of any municipality, or the managers of any industrial corporation, wherein others obtained better results. It is not probable that any corporation will be found deficient in every particular or superior in every respect. It will be found while certain difficulties had been experienced by one management, that some new features had been developed by another management, while still other managements had been giving their best thought and energies to the perfection of other details. An analytic comparison of one with the other will show a diversity of defects and of excellencies. Most defects will be found to consist in being less good than the most excellent, just as ignorance is the absence of intelligence. The ability to show such defects can not exist without the ability to show how to overcome them. "What man has done, man can do again," is a proverb of human experience. A municipal, political or industrial corporation can not be shown that in certain details it is not realizing the best results without being shown where and how better results have been realized. This will be a genuine service of great value to citizens and corporations.

Such an analytic comparison made, year by year, between the municipalities of a state, and published for the information of their inhabitants, will show each municipality what restrictions or exactions must be removed, or what additional facilities must be granted, the better to secure industrial, commercial and social advantages equal to the best enjoyed by any other municipality. If any service rendered to a municipality is found to be not as good, or is more expensive, than a similar service rendered to another municipality, the reason why this is so could be learned from an impartial and competent source of information. Such information is a fundamental re-

quirement for learning how to secure good service at the lowest cost to users. Such information can not be obtained from the uninformed by the edicts of municipal councils or legislative enactment. One of the greatest disadvantages from which industrial corporations now suffer, in dealing with citizens, municipal or state authorities, is the fact that they can not secure proper credit for the truthfulness of their statements, because there is no impartial and competent state court, properly commissioned and equipped to investigate and publish regular reports upon the subject.

4. Every wage worker knows that a person who has access to all the accounts of a business, and devotes his entire time to its management is a more capable manager than one not so situated. Every wage worker knows that he judges of his own condition and progress by making comparisons with others similarly situated, and that such comparisons are absolutely essential for the proper guidance of an undertaking or government. Every wage worker knows that the best guide to proper municipal government will be afforded by uniformity in the accounts of municipal and industrial corporations, kept as required by the state, open to the inspection of the state, reported to the state, and published by the state for the information of all citizens.

Under such a system, it will not be enough for the authorities of a municipality to show progress made in any particular by comparison, year by year, with its own record. Progress must be shown in comparison with similar records of all municipalities in the state and country.

It is much for a wage worker if he can prove himself to be the best workman in his establishment, but it will be far better for him if he can prove himself to be the best workman in his municipality or state. It will be well for a manager if he can prove himself to be the best manager his corporation ever had, but it will be far better for him and his corporation if he can prove himself to be the best manager in his municipality or state. It is well for the managers of municipal, political and industrial corporations, if they can prove their manage-



ment to be the best in their state, but it will be far better for them and their municipalities if they can prove it to be the best in the country.

If such a system is adopted by each of the several states, the people of any municipality can know the position, on the scale of efficient management, occupied by their city when considered as a whole, or of any detail of its affairs, not only in comparison with the municipalities of their own state but the whole country. Such knowledge will not only indicate unerringly where improvement should be made, it will show where to learn how to make it. The municipality whose record is best, and the managers of the departments or corporations shown to have obtained the best results, will acquire, by such publication, in addition to the local benefit, the benefit of having the fact become known throughout the civilized world. Those not up to the mark of highest excellence will gain the benefit of being able to show why the best obtained results can not be realized under the conditions by which they are controlled.

Instead of dividing the energies and resources of a municipality by competition between corporations and citizens, this system will unite them and use them in a competition between municipalities, states and nations, for excellence in industrial, commercial and social advantages. It will substitute competition between municipalities for competition between citizens. *The standard of excellence will be the best services at the lowest cost to their users, and the lowest municipal taxation.*

5. Government without the guidance of complete and accurate statistics is government by guessing, prejudice and superstition. The science of statistics is to government what the science of navigation is to ocean travel. It must be depended upon to guide progress to the objective point. A correct observation of an untrue compass, or an unintelligent observation of a true compass, must cause an inevitable error in direction. All theories as to a proper course must submit to the arbitration of facts. Measured by ascertained facts all theories stand or fall. Those who honestly advocate and those

who honestly oppose a policy should vie with each other in enacting measures designed to secure a perfect record of the operation and results of such policy.

The judgments of truth are rendered only with a knowledge of the facts.

That the statistics of municipal, political and industrial corporations may be properly developed, it is necessary that the state shall establish and maintain, as a part of the judicial branch of its government, a *department of municipal administration*, properly organized and equipped to cover all features of municipal affairs and the industries that supply the public needs of municipalities and their inhabitants.

The difference between the results obtained by municipal corporations, guided by statistics scientifically collected, tabulated and published under conditions designed to secure continuous comparisons, not only with the records of the corporations themselves, but with all other municipal corporations for which similar records are kept, and the results obtained by municipal corporations not so guided, will be as apparent as the difference between the course of an ocean steamer guided by the most accurate knowledge and instruments of navigation and one not so guided.

When the people discard government by guessing, prejudice and superstition, and adopt government by the science of facts, they will reach that point of development where the unintelligent will secure the guidance of the intelligent, and will thereby gain advantages that are beyond the power of their unaided abilities. In no way can the state so effectually fulfill its public trust as by organizing as a branch of its judiciary a department of municipal administration for the purpose of exercising jurisdiction over the management of the municipal, political and industrial corporations created by it.

## APPENDIX No. 3.

COST OF SERVICE TO USERS AND TAXPAYERS. (1897.)<sup>1</sup>*Price is Cost to Users and Taxpayers when Services are Rendered by Private Corporations.*

When an industry is owned and operated by a private corporation the cost of the service to users and taxpayers is limited and fully included in the price paid for it. Users and taxpayers, as such, are not interested in the details of cost of construction, general expenses, fixed charges, operating expenses, and maintenance. Their interest begins and ends in all considerations which explain the price they pay for the service, and furnish a basis for establishing the reasonableness of that price. The people are right in demanding that services shall be rendered in the best manner known that has been made commercially practicable, and at the lowest fairly profitable price. In determining these points the representatives of the people, whether mayors of municipalities, or members of city councils, governors of states, or members of legislatures, can have no better guide than the facts of experience. That experience may be available and authoritative, the facts developed under it must be collected, tabulated and reported by an expert, impartial and comprehensive authority that can reach every corporation and every municipality in the whole country through its duly commissioned agents. It must make a personal investigation of all facts relating to prices charged, and of all conditions necessary to explain such prices. The results of such an investigation will guide judgment to a correct conclusion.

*Cost is Price to Users and Taxpayers When Services are Rendered by Municipalities.*

In every case, whether a service is rendered by a private corporation or by a municipality, the private user is interested

<sup>1</sup> Extracts from a paper read before the "National Conference of Mayors and Councilmen," Columbus, Ohio, September 28-30—October 1, 1897.

directly only in the price charged for it. In the case of municipal ownership and operation, however, he is also interested in the cost of production, as this will affect his taxes. The consideration offered for his vote in favor of municipal ownership is that the cost of the service will thereby be reduced, and that this reduction will become effectual in the price he is required to pay for what he gets. The struggle for municipal ownership and operation is a struggle to depress the cost of rendering services, not to raise prices for services rendered.

This is the meaning of the agitation for the municipal ownership and operation of public service industries that has taken place in almost every city and town in the United States within the last ten years, and is now rapidly reaching an acute stage of development through being made a political issue. Professor James says: "To continue the farce of allowing competition to regulate prices simply means that good and cheap gas is forever impossible."

Professor Bemis says: "The financial benefits to the community are in the shape of cheaper gas, or more revenue to the municipality. It is to be hoped that cities may be enabled to dispense with the present necessity, for revenue purposes, of charging more than cost for gas." The "Association for the Public Control of Franchises" of the city of New York, says: "What is even more important to the mass of citizens, public control of the means of transportation and illumination will lead to a similar reduction (one-half) in car fares and gas bills." Edward M. Grout says: "The question \* \* \* touches the pocket of every gas user to the extent of from twenty to forty per cent. of his gas bills."

When a service is rendered by a private corporation for the public purposes of a municipality, the price paid by the municipality limits its cost to taxpayers. When the same service is rendered by the municipality for its own account, through the ownership and operation of the industry, the price to taxpayers is the entire net cost of the service.

The "Association for the Public Control of Franchises" of the city of New York, says: "According to the most conserv-

ative authorities, half the city's revenues could be derived from its street car, gas and other franchises. In this event, taxes upon private and personal property would be cut in two." Statements similar to this cover the consideration invariably relied upon to secure votes for the approval of proposals authorizing the construction and operation of municipal works for rendering industrial public services. Every mayor and every member of a city council, every governor and every member of a state legislature, where such a measure has been discussed, is familiar with the representations made to show the economic advantages expected to result, for the benefit of private users and taxpayers, from the adoption of the policy of municipal ownership and operation.

#### A TRUE BASIS FOR COMPARISONS.

In the case of services rendered by private corporations, price is cost to users and taxpayers. In the case of services rendered by municipalities, cost is price to taxpayers, and the price charged is cost to private users as such. These facts are established by the conditions of the undertakings, beyond the power of intelligent controversy, or change by legislative enactment. To determine the relative economic advantages derived from private or municipal ownership and operation of public service industries, the price charged by private corporations and the cost of service rendered by municipal works, are, it must be seen, the only correct basis for comparisons. Price charged by private corporations can be ascertained. To ascertain the cost under municipal ownership and operation this investigation must include every item of cost involved in the rendering of the service. The facts needed should all be matters of public record. Assurance is given that they can be obtained. This will give opportunity to the municipal representatives of the people, wherever municipal works are owned and operated, to demonstrate the efficiency of their administration of the people's business. It will afford an opportunity to prove the affirmation of Professor James when he says: "The common argument against the public manage-

ment that it is necessarily more expensive than private management, is not well grounded, either in reason or fact." It is an opportunity to add the authority of experience to the inference made by Professor Bemis when he says: "The argument that cities can manage gas works successfully because they have succeeded with water-works, has been frequently made, and has force."

This investigation, by the Department of Labor, is entered upon with a full knowledge of its vital importance to all urban citizens, to all municipalities, and to all of the vast investments held in public service corporations. If it shall show that price to users and taxpayers charged by private corporations is unreasonably higher than cost under municipal ownership and operation—and what advocate of municipal ownership believes it is not?—private corporations will have no choice but to reduce their prices or to sell out to the municipalities in which they are located. To this final, crucial test private corporations must submit. This test will bring the struggle to depress cost of rendering municipal industrial services to an acute stage of development. It substitutes actual competition between private corporations and municipalities for theoretical competition between corporations within municipalities. The only difficulty in the way of making this test accurate is the want of uniformity in methods of municipal book-keeping. In measuring the prices charged by private corporations against cost of production by municipally owned and operated works, justice and the interests of the people demand that all factors of cost shall be correctly and fully included in the accounts. An understatement of costs will be unjust to vast invested interests, and will lead the people into drawing erroneous and harmful conclusions.

When a person buys an article, quality, quantity, and price are all his interests require him to consider, but when he contemplates undertaking the manufacture of an article, every item of cost, as well as selling price become of vital importance to him. In comparing price with cost, this investigation will decide for the people of many municipalities a grave question

of public policy; whether they will continue to buy the services they need from private corporations or undertake to manufacture for themselves. In this aspect of the question the accounts of every municipality owned and operated works for the supply of industrial public services becomes of national importance and should be exhibited with absolute correctness.

\* \* \* \* \*

There is not a mayor, nor a city council in the United States that has not time and again felt the urgent need of such statistics as this investigation is designed to gather and publish for the information of all the people. There have been many cases where committees of city councils have spent much time and money to secure data such as this, and have not been able to reach satisfactory results. Private corporations have been compelled to suffer heavily in some instances, and generally to experience much disquietude on account of erroneous opinions based on statements unsupported by facts, which could not be successfully controverted because of the impossibility of obtaining the facts from an impartial source which would be accepted by all parties as authoritative. In the broadest and best sense it is to the interest of the people, of municipal governments, and of public service corporations to welcome this investigation and assist its successful prosecution in every way that comes within their respective spheres of action. This is especially true because it will cause existing municipal works to perform a new function of national importance. Municipal cost will become a regulator of price.

The cost of services under municipal ownership and management, ascertained and published as described, will become a regulating force in determining the price for services that will be agreed upon as reasonable to be charged by private corporations everywhere throughout the country. If this were the only purpose of the investigation, no interest touched by it could afford to permit it to fail or even be hindered.

(Extracts from Proceedings, October 1, 1897.)

LEAGUE OF AMERICAN MUNICIPALITIES.

(Copyright.)

(By Permission from "Progressive Age," New York, November 15, 1897.)

Mr. A. H. Boardman, of Tampa, Fla.: "I would like to submit to the secretary a resolution which does not need any special commendation from me. I think the resolution expresses the idea fully as well as I can."

The resolution was read as follows:

*Department of Labor.*

WHEREAS, This National Conference of Mayors and Members of City Councils has been informed that the United States Department of Labor has undertaken an investigation of water, gas and electric lighting works, and a clear outline of the methods, form and purposes of this investigation has been given by Mr. Allen Ripley Foote, in a paper read before this conference under the title of: "Cost of Service to Users and Taxpayers, a Proper Basis for Comparison Between Private and Municipal Ownership of Water, Gas and Electric Lighting Works"; and

WHEREAS, The Hon. Carroll D. Wright, United States Commissioner of Labor, has announced that the object of this investigation is to enable municipalities and the citizens thereof to determine whether there is any economic advantage to consumers in the municipal ownership and operation of water, gas and electric lighting works; and,

WHEREAS, Such an investigation by the expert and impartial authority of the United States Department of Labor, which can reach every municipality in the United States, is sorely needed, and will have a vital and far-reaching influence in correctly guiding public policy on this question of paramount importance to all municipalities; be it



*Resolved*, That this conference cordially approves of the investigation as set forth in Mr. Foote's paper, to be made for the purpose stated by the Hon. Carroll D. Wright, United States Commissioner of Labor.

*Second*, That the delegates to this conference tender to the United States Department of Labor, and to its duly accredited agents, their co-operation in every practical way to facilitate this investigation in their respective municipalities, and to make the information collected complete and accurate.

*Third*. That it is the sense of this conference that the executive and legislative officers of all municipalities, and the managers of all public service corporations, should promptly and correctly do whatever may become necessary on their part to expedite the work of this investigation to the end that through it statistics may be secured that will be accepted by all persons as reliable basis for comparison.

\* \* \* \* \*

The chair requested a rising vote, on which the resolutions were adopted, and the chair so announced.

## APPENDIX No. 4.

### UNIFORMITY IN MUNICIPAL FINANCE.

#### *The Advantages of Administrative Control.*<sup>1</sup>

Indeed if home rule for American cities is ever to become more than a catch-word, and if a sphere of local independence is to be recognized, the reform must lie in the substitution of an administrative control in place of legislative interference. The interest of the state at large in good municipal government is so vital, and the history of the past is so burdened with the details of the abuse of extensive powers, even when under legislative checks, that absolute home rule is neither obtainable nor desirable. To be sure, constitutional restrictions upon

<sup>1</sup> Extracts from a paper by Prof. C. W. Tooke. "Municipal Affairs," New York, June, 1898.

local taxation and indebtedness, and upon special legislation, have, in part, avoided the dangers previously existing, but the problem is yet far from a successful solution.

*Is It Desired?*

An inquiry into the opinions of the mayors and controllers of our leading cities shows that in some quarters advanced ground upon this question is already taken by these officials, as would naturally be expected.

Mayor Quincy, of Boston, favors such a movement. He writes: "I have for some time believed in the desirability of establishing state boards of commissioners for cities to perform somewhat the same functions as the English local government board. I believe that the work of co-ordinating and properly supervising the work of a city, particularly upon its financial side, calls much more strongly for the creation of a state commission than many lines of work for which state commissions have already been appointed."

Mayor Black, of Columbus, says that he is heartily in favor of any legislation looking to the prevention of special legislation for municipalities and to the uniformity of all municipal laws in each state.

Mayor Maybury and Comptroller Blades, of Detroit, both recognize the desirability of uniformity in bookkeeping, but doubt the feasibility of the attempt to attain it.

Mayor Rauschenberger, of Milwaukee, says that, in his opinion, the question of exercising control over the indebtedness of cities should be entirely regulated by state laws.

The mayors of Pittsburg, New Orleans, Savannah and Denver oppose state control in any form, upon the ground of intrenchment upon local rights of home rule, but do not seem to be adverse to the creation of a board with advisory powers.

Mayor Baker, of Providence, does not favor the creation of a state board for the reason that his state is small, the number of cities very limited (only five), and their needs and interests greatly diversified.

Of the mayors of some ten other leading cities, whose replies

were non-committal, the majority refused to express any opinion because they had given little or no thought to the consideration of the question.

No attempt has been made in this article to give an exhaustive list of all the reforms in state and local administration that might have a bearing upon the problem under discussion. A fixed responsibility, a good civil service, an active public interest—all these elements will go a long way towards securing an honest, accurate and scientific administration of finance in any municipality. Indeed, it must be recognized that in the great majority of our cities efficient service is already secured in this department, and that in some few cities the financial administration leaves nothing to be desired. But there does exist a need of the means of comparison of the results attained in our larger cities and of uniformity and efficiency in the conduct of finance in the lesser municipalities of the several states. The writer believes that the few plans offered are not only of immediate desirability in most of our states, but that the measures advocated are at once conservative, practical and possible of attainment.

#### APPENDIX No. 5.

##### RESOLUTIONS OF THE LEAGUE OF AMERICAN MUNICIPALITIES.<sup>1</sup>

###### *League of Municipalities.*

The *Journal* in an editorial on Monday, August 1, under the heading: "The League's Opportunity," said:

"If the municipalities represented in the league at this convention will set before themselves the task of securing a uniform system of accounting through the requirements of state legislation, a sound foundation will be laid upon which all reforms can be based, and the securing of uniformity in accounts will in itself be a reform of such magnitude that it will amply justify the organization and work of the league. Cor-

<sup>1</sup> Extracts from an editorial: *Detroit Journal*, August 8, 1898.

rect and uniform accounting is as essential to good municipal government as a correct compass and charts are to navigation. No person who desires the public welfare to be well served can find a reason for opposing a proposal of this character.”

*The Recommendation for a State System of Uniform Municipal Accounting and Auditing Adopted.*

The convention acted upon this suggestion, and adopted the following resolutions:

WHEREAS, Municipal officers are entitled to the full credit due to the honest and capable administration of municipal affairs, and,

WHEREAS, Money collected by taxation and devoted to public use should be accounted for with all the care and regard for taxpayers' interests as are deposits in savings banks, and,

WHEREAS, A uniform system of accounting applicable to every municipality in a state, formulated and audited by the state, designed to show the entire and true costs of all public utilities owned and operated by municipalities, is the most effective check on unwise expenditures, and the most reliable guide to a correct municipal policy that can be devised; be it

*Resolved*, That the League of American Municipalities earnestly approves the enactment of state laws providing for a uniform system of accounting that will group all similar items under the same general headings and designed to show the entire and true costs of all public utilities operated by each municipality; and, be it

*Resolved*, That the law should provide for a state audit of all municipal accounts and the annual publication of a comparative statement showing the results of a municipal administration by each municipality; and, be it

*Resolved*, That this league recommend all municipal governments in each state to co-operate for the purpose of securing, at the earliest practicable date, the enactment of a law providing for a uniform system of municipal accounting, to be formulated, audited and the results published annually by state authority.

An amendment to these resolutions was offered by Mayor Black, of Columbus, which was seconded by a score of delegates and accepted by the mover of the resolutions, ex-Mayor Green, of Binghamton, N. Y. The amendment is to the effect that the system of uniform accounting called for by the resolutions shall be extended to include public service corporations. The resolutions as amended by Mayor Black were then adopted without dissent.

## APPENDIX No. 6.

### A STATE MUNICIPAL BOARD.<sup>1</sup>

#### *Administrative Supervision An Aid to Local Home Rule.*

An additional advantage might also be expected in the way of stimulus to local pride and independence and efficiency in matters purely local, thus really adding to the present scope of city home rule. The experience of England on the development of her municipal governments under the supervision of the administrative local government board argues strongly in this direction. This aid to local autonomy would be given in two ways: First, as we have seen, a chief abuse under our present system is the continual interference of the state legislature in matters purely local. If a supervisory board were established to which all new legislation proposed for cities could be referred for report before action upon it, a large part of this special legislation would be avoided. The legislation now passed that is injurious is usually put through, with little examination, on the recommendation of the member from the district concern and with his assurance that is desired. A board of specialists, conversant with the affairs of all the cities in the state, as the municipal government board soon will be, could not afford to recommend any bill without seeing its purport clearly; and in its own interest it would be compelled to expose any mere political job. Its formal reports on such

<sup>1</sup> Extracts from a paper by Prof. J. W. Jenks, "Municipal Affairs," New York, September, 1898.

matters would carry far more weight than do the words of protesting delegations in the committee rooms, and would prevent any "rushing through" of bills without a fair hearing.

In addition to thus checking state action on purely local matters, the board would stimulate local independence and interest by giving to each city full information regarding the experience of others thus encouraging a spirit of rivalry among the cities besides putting into the hands of any citizen material for criticising his local rulers if the work done in his city compared unfavorably in cost or excellence or method of performance with work of the same kind in another. Under our present system, when a small city wishes to start a new improvement, or to try some new plan of management, it is not uncommon for a committee to go on a "junketing tour" to visit one or two other cities in order to get the benefit of their experience. The reports of a municipal government board would give much information of the kind always sought, would give it completely and accurately and impartially, and would give it for all the cities concerned in the state. They might in part obviate the necessity of some of the visits of inspection; but they would certainly be of use in determining the places to visit, the questions to ask, the special things to see. It might well be expected that one of the chief benefits of such a board would be the advancement of the principle of local home rule. To enable the state, therefore, to care for its own interest in the different cities, as well as to further the development of the principle of local autonomy, besides our present legislative and judicial control, it is seen that we need an administrative supervision.

\* \* \* \* \*

### *Summary and Conclusion.*

A municipal government board then would tend: (1) to make clear the true relations between the functions of state and local governments; (2) to secure the efficient performance of state functions by local officials; (3) to furnish to the public information regarding the performance of local

functions in such comparative form that it would be of great service to local officials; (4) to do supervising work of such a nature that it would check continual interference in local affairs by the legislature without checking the legislature in the making of needed general laws; (5) to stimulate by publicity and encouragement local pride and activity in affairs purely local and to develop the spirit of local home rule; (6) to guide, by accurate and full information, public opinion on the various questions arising in connection with city government.

It is hardly too much to say that every authority on municipal government in this country and Europe favors a central administrative supervision of local governments along the lines here laid down. The demand for the reform of the evils of our city governments, and for the lessening of legislative interference with them is strong; the best remedy seems to be the one suggested.

There is every reason to believe that from the money saved to the state and municipalities by the supervision of the board the expense of its administration would be paid many times over, while the general excellence and efficiency of the government would be greatly increased. It is not to be expected that any new board would work a revolution in our municipal politics and give us an ideal system; but it does seem probable that no other improvement, ordinarily suggested in our methods of city government would be likely to yield so large favorable immediate results as would the establishment of a municipal government board.

## APPENDIX No. 7.

### INTRODUCTION TO OFFICIAL MESSAGES TO BOARD OF COOK COUNTY (ILLINOIS) COMMISSIONERS.<sup>1</sup>

The state legislature should also provide for a department of audits, and it would be an advantage in governmental science

<sup>1</sup>By D. D. Healy, President of Cook County Commissioners, Chicago, September 15, 1898.

if the system was made uniform and applicable to all municipalities alike. At any rate the new common council should provide for an auditing department, to which all heads of departments should furnish a daily accounting, and in which a complete system of checking accounts and keeping books would be established. If the state should adopt a system like that of the national banks, so that at regular intervals the books of each municipality could be examined the improvement would be vast. More money is lost under the present methods of book-keeping than from any other source. In fact there are no books kept other than cash books, and about the only records outside of currency records are those to be found in the printed board of council proceedings. Such a thing as obtaining any record of the vast amount of work done as of any individual case in point is an arduous task at present. Such a thing as turning at once to the proper records and producing information on the spot on any given subject is not to be thought of in public departments. Of course there are exceptions, but any one who has ever had occasion to investigate will bear out the assertion that the exception proves the rule. This is partly so because certain expert clerks employed in various departments owe their positions to the grasp of public business experience has taught them, and also because they carry in their heads all matters of routine. Upon every change of administration these men are necessary, while if proper records were kept, and a uniform system was in running order, any man of ordinary diligence and intelligence could perform whatever duty he might be assigned.

All great corporations and business establishments keep track of every item, and keep track of it in books. It is the fact that any moment a business man can strike a balance on his affairs, that he is able to progress with that power which comes of knowledge. It is because everything is accounted for that he can practice economy and make his career a success. The taxpayers of Chicago demand business methods in their public affairs, and when the new system is devolved care should be provided to furnish this prime essential.



The next county board will be called upon, beyond a shadow of a doubt, to grapple with these grave questions, and upon the wisdom, prudence and forethought of its members will depend the government of the next generation. Every encouragement should be given by the board to an intelligent exchange of opinions and ideas on the subject of a new government for "Greater Chicago," and the proposition should be agitated until the taxpayer at last is relieved of the position he now occupies as a victim of an obsolete system.

It is with a feeling that a good account has been rendered of its stewardship that the present board will end its tasks. Under its legislative reforms of the greatest consequence have been enacted, the most rigid economy has been practiced in every department, the finances of the county are in perfect shape, the poor have been fed and clothed and cared for according to the highest instincts of humanity; it has built and beautified the institutions under its care, the fee offices have been perfectly conducted without scandal, loss or deficit; the employees have been brought to a high state of efficiency, and every public duty has been conscientiously performed.

*Chicago, Sept. 15, 1898.*

## APPENDIX No. 8.

### CONSTITUTIONAL AMENDMENT.

(Proposed by committee.)

#### ARTICLE FIRST.

SECTION 1. The right to vote and registration.

SEC. 2. Secrecy in voting.

SEC. 3. Separation of city elections from state and national elections. Nominations to city office.

#### ARTICLE SECOND.

No private or local bill granting exclusive privileges, immunities, or franchises..

#### ARTICLE THIRD.

SECTION 1. A city's public places inalienable. Franchises for their use only for limited term. Stated financial reports of the grantee and right of city to inspect grantee's books a condition of their grant.

SEC. 2. Limitation of city's power to incur debt and of its tax rate.

SEC. 3. City's power to establish minority or proportional or other form of representation as to elections to elective municipal offices.

SEC. 4. Uniform methods of city accounting.

SEC. 5. City may establish minor courts.

SEC. 6. Organization of cities hereafter created must provide for mayor vested with executive power of city and appointing heads of all city departments except finance department; a council; appointments and promotions in administrative serv-

ice on the merit principle; mayor and members of council only city officers elected by popular vote.

SEC. 7. General powers of cities.

SEC. 8. Legislature shall pass a general municipal corporations act.

#### ARTICLE FOURTH.

A city having a population of twenty-five thousand or more may adopt its own charter and frame of government.

#### ARTICLE FIFTH.

##### PETITIONS.

##### CONSTITUTIONAL AMENDMENT.

#### ARTICLE FIRST.

SECTION 1. Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to vote at popular elections and for the personal registration of voters, which registration shall be completed at least ten days before each election.

SEC. 2. All elections by the citizens shall be by a secret ballot or by such other method as may be prescribed by law, provided that absolute secrecy in voting be preserved. No voter shall disclose the contents of his ballot at any polling place or within — feet thereof.

SEC. 3. Elections of city officers elected by popular vote shall occur at a different date from that of any election by popular vote of officers of the state or national government. Nominations of such officers shall be by petition signed by legally qualified voters of the city concerned. The number of the signatures to such petition shall be determined by the legislative authority of the city concerned, but in the absence of such determination fifty signatures shall be sufficient. Such petition shall be filed in the office of the mayor at least thirty days before the date of the election; *provided, however*, that in the case of the death or withdrawal of any candidate so nominated such petition may be so filed within a less period than thirty days.

The legislative authority of the city shall determine the form of the ballot to be used in the election of city officers; *provided, however,* that the names of all candidates for the same office must be printed upon the ballot in alphabetical order under the title of the office.

#### ARTICLE SECOND.

The legislature shall not pass a private or local bill granting to any private corporation, association, or individual any exclusive privilege, immunity or franchise whatever.

#### ARTICLE THIRD.

SECTION 1. The rights of every city now existing or hereafter created within the state, in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks, streets, avenues, parks, bridges, and all other public places, are hereby declared to be inalienable, except by a four-fifths vote of all the members elected to the council approved by the mayor; and no franchise or right to use the same, either on, through, across, under, or over, and no other franchise granted by a city shall be for a longer period than twenty-one years to any private corporation, association, or individual. Such grant or any contract in pursuance thereof may provide that, upon the termination of the grant, the plant, as well as the property, if any, of the grantee in the streets, avenues, and other public places shall thereupon, without further or other compensation to the grantee, or upon the payment of a fair valuation thereof, be and become the property of the city; but the grantee shall be entitled to no payment because of any valuation derived from the franchise. Every grant shall specify the mode of determining any valuation therein provided for, and shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and the maintenance of the property in good order throughout the term of the grant. Every grantee of such franchises or rights to use shall keep books of accounts and make stated quarterly reports to the financial department

of the city, which shall contain an accurate statement in summarized form and also in detail of all its financial receipts from all sources and all expenditures for all purposes, together with a full statement of its assets and debts, as well as such other information as to the financial condition of such grantee as said department may require, and said department may inspect and examine, or cause to be inspected and examined, at all reasonable hours, any books of account of such grantee.

SEC. 2. No city shall hereafter give any money or property, or loan its money or credit to or in aid of any private individual, association, or corporation; but it may make such provision for the aid and support of its poor as may be authorized by law.

No city shall become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed — per centum of the assessed valuation of the real estate within such city subject to taxation as shown by the last preceding assessment for state or city taxes; *provided, however,* that in determining the limitation of the city's power to incur indebtedness there shall not be included the following classes of indebtedness:

(1) Certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, unless the same be not paid within two years of the date of issue;

(2) Or bonds authorized by the affirmative vote of two-thirds of the members of council, approved by the mayor and approved by the affirmative vote of the majority of the voters of the city voting upon the question of their issuance at the next ensuing election of city officers for the supply of water or for other specific undertaking from which the city will derive a revenue.

All certificates of indebtedness and revenue bonds shall be provided for and payable from the taxes levied for the year in which they are issued, and shall never exceed the amount of such taxes.

Provision shall be made at the time of their issue for raising a sum of money by taxation or otherwise sufficient to pay the

interest upon all city bonds as it falls due, and to pay and discharge the principal thereof within twenty years from the date of their issue.

The amount to be raised by tax for city purposes upon real and personal property, or either of them, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year — per centum of the assessed valuation of the real and personal estate subject to taxation by such city, to be ascertained as hereinbefore prescribed in respect to the city debt.

SEC. 3. The legislative authority of any city now existing or hereafter created within the state may, as to elections to elective municipal offices, establish minority or proportional or other system of representation; but before such exercise of authority takes effect it must be approved by a majority of the then legally qualified voters of the city voting thereon at the then next ensuing general or municipal election, occurring at least — days thereafter.

On a petition therefor, signed by at least — per cent. of the legally qualified voters of the city and filed in the office of the mayor, a proposition as to elections to elective municipal office to establish minority or proportional or other system of representation must be submitted to the legally qualified voters of the city at the next ensuing general or municipal election occurring at least — days thereafter; if a majority of such voters voting upon such proposition are in favor thereof, such proposition shall go at once into effect.

SEC. 4. Every city shall keep books of account and make stated financial reports at least as often as once a year to the \* in accordance with forms and methods prescribed by him, which shall be applicable to all cities within the state. Such reports shall be printed as a part of the public documents of the state, and submitted by the \* to the legislature at its regular session next succeeding the making of such report. Such reports shall contain an accurate statement in summarized form and

\*State Comptroller or other fiscal officer.

also in detail of the financial receipts of the city from all sources, and of the expenditures of the city for all purposes, together with a statement in detail of the debt of said city at the date of said report, and of the purposes for which such debt has been incurred, as well as such other information as may be required by the \*. Said \* shall have the power by himself, or by some competent person or persons appointed by him, to examine into the affairs of the financial department of any city within this state. On every such examination inquiry shall be made as to the financial condition and resources of the city, and whether the requirements of the constitution and laws have been complied with, and into the methods and accuracy of the city's accounts, and as to such other matters as the said \* may prescribe. The \* and every such examiner appointed by him shall have power to administer an oath to any person whose testimony may be required on any such examinations, and to compel the appearance and attendance of any such person for the purpose of any such examination, and the production of books and papers. A report of each such examination shall be made, and shall be a matter of public record in the office of said \*.

SEC. 5. Cities may establish minor courts which shall have exclusive civil and criminal jurisdiction in the first instance for the enforcement of ordinances of the corporation and of punishments and penalties for violations thereof. Such courts shall have such further or other jurisdiction as may be conferred by the legislature, subject to the other provisions of this constitution, but they shall not have any equity jurisdiction nor any greater jurisdiction in other respects than is conferred upon \*. The justices of such courts shall be appointed and may be removed by the mayor. No one shall be eligible to appointment as such justice unless he has been \*\*\* for at least five years. Such justices shall be subject to the same liabilities, and their judgments and proceedings may be reviewed in

\* State Comptroller or other fiscal officer.

\*\*\* An attorney and counselor-at-law of the state, or some equivalent expression appropriate to the particular state.

the same manner and to the same extent as is now or may be provided by law in the case of \*. Except as otherwise in this constitution provided, all city judicial officers shall be appointed and may be removed by the mayor thereof.

SEC. 6. In the organization of every city hereafter created provision shall be made:

For a council, the members of which shall be elected by the people;

For a mayor elected by the people; the chief executive officer of the city shall be the mayor, who shall appoint and remove all heads of departments in the administrative service of the city, except the head of the Finance Department; and who shall appoint and remove all other officers, agents, and employees in the administrative service of the city and fill all vacancies therein, provided, however, that appointments and promotions in the administrative service of the city shall be made solely according to fitness, which shall be ascertained, so far as practicable, by examinations, that, so far as practicable, shall be open competitive examinations.

All persons in the administrative service of the city, except the mayor, shall hold their offices without fixed terms.

The mayor and members of the council shall be the only city officers elected by popular vote.

SEC. 7. Within its corporate limits, every city within the state shall have the same powers of taxation as are possessed by the state. It may license, tax, and regulate all trades, occupations, and businesses, and shall be vested with power to acquire, hold, manage, and control property, perform and render all public services, and with all powers of government, subject to such limitations as may be contained in the constitution and laws of the state, applicable either to all the inhabitants of the state or to all the cities of the state, or in such special laws applicable to less than all the cities of the state, as may be enacted in the manner hereinafter provided.

\*Some lower court recognized as a regularly constituted part of the state's judiciary system.



Such special laws shall require the affirmative vote of two-thirds of all the members of the legislature, and shall not be valid in any city unless they receive the formal approval of its legislative authority within sixty days after the passage thereof by the legislature, or, within thirty days after disapproval by the legislative authority of the city, shall again be passed by the legislature by the affirmative vote of two-thirds of all the members of the legislature, which two-thirds shall include three-fourths of the members of the legislature from districts outside of the city or cities to be affected. The failure of the legislative authority of the city to take formal action approving or disapproving a special law shall be deemed a disapproval thereof. The laws repealing such special laws may be passed in the manner provided for the passage of general laws.

SEC. 8. The legislature shall pass a general municipal corporations act applicable to all the cities in the state which shall, by popular vote, determine to adopt it.

#### ARTICLE FOURTH.

Subject to the constitution and the laws of the state, applicable to all of the inhabitants or all the cities thereof, and to such special laws as may be passed in the manner hereinbefore provided, any city having a population of twenty-five thousand or more may adopt its own charter and frame of government in the following manner:

The legislative authority of said city may, and when requested by a petition filed in the office of the mayor signed by — per cent. of the legally qualified voters thereof must, provide by ordinance for an election not less than — nor more than — days after the passage of such ordinance, at which the legally qualified voters of said city shall elect a board of not less than fifteen and not more than — members, who for at least five years preceding said election shall have been legally qualified voters therein. Each member of said board shall be a householder within said city. It shall be the duty of said board to convene upon the — after said election, and thereafter and within — days to prepare



# LAW OF INCORPORATED COMPANIES OPERATING UNDER MUNICIPAL FRANCHISES

---

## WHAT IS THOUGHT OF IT

---

(From the *Legal Intelligencer*. Review by EDWARD P. ALLINSON, Editor.)

The above work is a bulky one in three volumes. The subject is one of gravest importance. The book has been compiled with exhaustive labor and at immense expense, and is edited with great skill. It has seldom been our province to call the attention of our lay and professional readers to a work more worthy of their careful study, whether as lawyers or citizens. In speaking thus warmly we desire, however, to be credited with deliberately weighing all that we say, and we conclude our exordium by reference to the work itself as vindicating our claim that "this we are ready to verify."

This book ought to receive attention, not only from judges and lawyers, but from officers and shareholders of the public service corporations of every kind, from bankers and brokers, from the officers of State and municipal governments, and from members of the State legislatures and municipal councils. Every city and State could well afford to buy a copy for every member of the legislature and councils, if they could have any assurance that such members could be induced to read the first 258 pages and the chapter on their respective State. The book is so clearly written that even the average member could not fail to get far more than one new idea on a subject upon which he is called almost daily to help legislate. A knowledge of underlying principles, such as members must acquire from a study of this work, would go far to save the public from much crude and costly legislation. It might not be amiss to amend the oath of office so as to include an affirmation that the member-elect has read the first 258 pages of Foote on the Law of Incorporated Companies.

THIS BOOK IS DUE ON THE LAST DATE  
STAMPED BELOW

MAY 13 1916

FEB 21 1919

JAN 27 1970 '75

RECEIVED

JAN 31 '70-12AM

LOAN DEPT.

ER

DR—

Principal Councils.  
Legislatures.

ons.

wer, Telephone

T  
PUBLIC SERVICE  
THIS BOOK.

T  
in Law Sheep.

30m-1,'15

Receipt of Price.

THE ROBERT CLARKE COMPANY, Publishers

31-39 E. Fourth St.

CINCINNATI, - - OHIO.

78270  
.F  
Foote

164291

