

PROBLEMS OF  
CITY GOVERNMENT

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ROWE







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By

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TO THE MEMORY  
OF  
MY FATHER  
THIS VOLUME IS AFFECTIONATELY  
DEDICATED

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## P R E F A C E

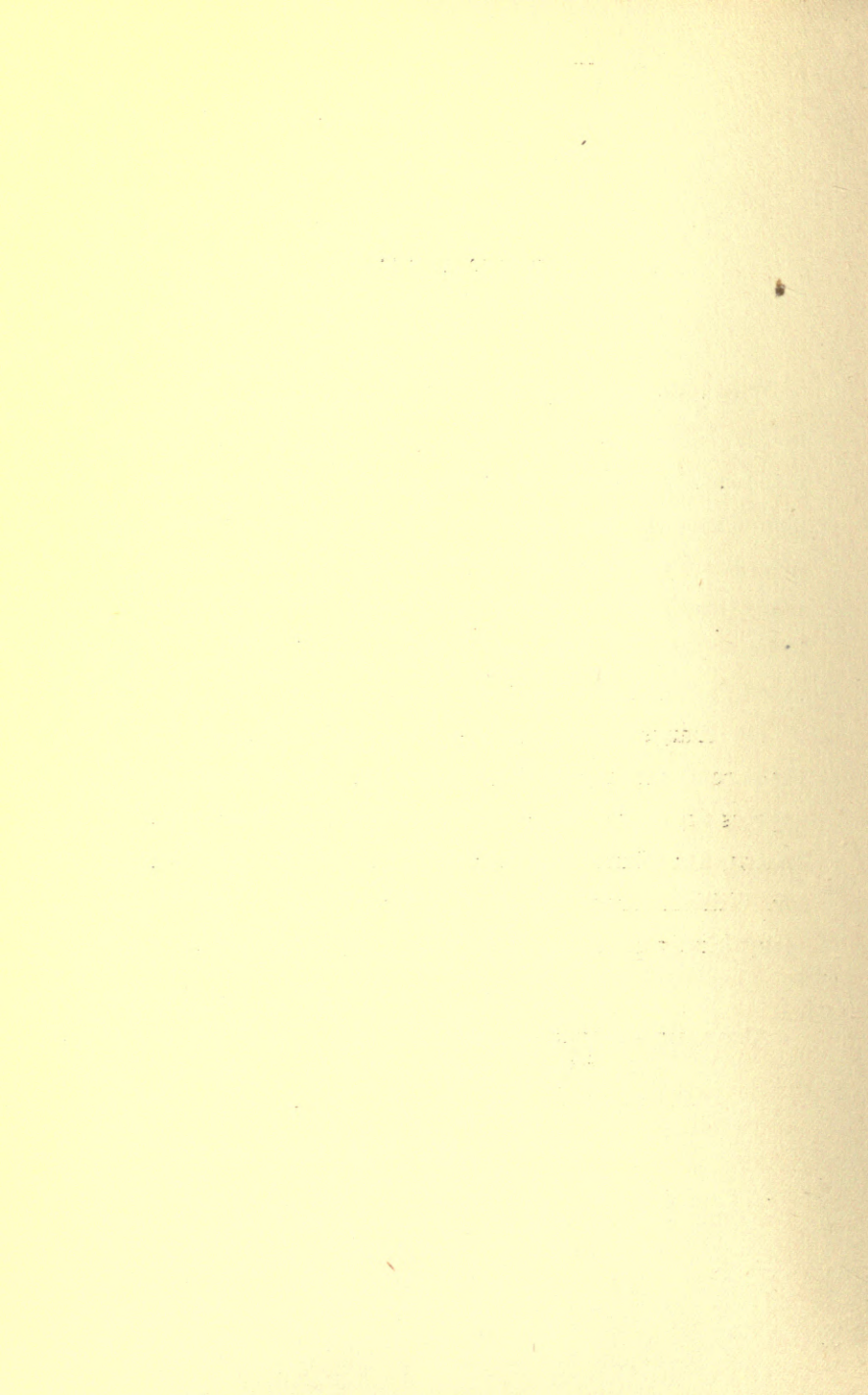
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THE purpose of this volume is to present an analysis of the general principles involved in city growth. The rapid development of our large cities has a far deeper significance than the administrative problems which they present. Profound changes in social structure are directly traceable to the increasing aggregation of population. In this volume an attempt has been made to ascertain the nature of these changes.

My thanks are due to Mrs. Morris Jastrow, Jr., for the careful reading of the manuscript. I also desire to express my obligation to my colleagues, Dr. Simon N. Patten, Dr. Emory R. Johnson, Dr. James T. Young, Dr. William Draper Lewis, and Mr. Murray Gross, for many kindly criticisms and stimulating suggestions.

L. S. R.

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## INTRODUCTION

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THE historian of American political institutions will probably designate the last quarter of the nineteenth century as the period of municipal experimentation. The history of municipal institutions during this period negatives many of the accepted views of Anglo-Saxon conservatism. Changes of a radical nature have been accepted with an ease and readiness departing widely from the traditions of our political life. Any attempt to explain this seeming paradox with the statement that American people are more open to change in their municipal than in their State and national institutional life, begs rather than answers the question. An analysis of the conditions of city life will show the presence of causes, deeply rooted in our political system, which fully explain the prevailing uncertainty as to the most effective organization of the municipality, as well as the great divergence of opinion on some of the fundamental questions of municipal policy. We have reached a point at which further progress has become dependent upon the clear recognition of these causes. To determine their nature and, if possible, suggest the line of progressive evolution is the purpose of this book.



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# PROBLEMS OF CITY GOVERNMENT

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## CHAPTER I

### THE CITY IN HISTORY

IN every system of social philosophy from Aristotle to Spencer the relation of city growth to national progress has occupied an important place. While the diversity of interpretation becomes less marked with the more recent writers, we are still far from a consensus of opinion.

The interest of the philosophers, as that of the people of ancient Greece and Rome, was centered in the city. Beyond its limits life was stunted and incomplete. With the simpler concept of life which ushers in the Middle Ages a reaction against the conventionality and artificiality of city life makes itself felt. The city is looked upon as the center of vice and crime rather than as the focus of the elevating and ennobling pleasures. "Return to nature," which had been the cry of the eighteenth century as well as of the sixteenth, expresses the revolt against the excesses to which the temptations of city life had led. Not until the changes accompanying the industrial revolution had demonstrated that economic

progress and city growth were connected as cause and effect do we find a marked change of attitude. With the evolutionary philosophy of the present century the city is again given a position of importance among the factors of advancing civilization.

If we turn from the interpretation of philosophers to the facts of historical development, it is evident that concentration of population is a primary requisite to advancing civilization. The temptations and dangers which city growth involves are those incident to progress. That nations have succumbed to such temptations is merely an illustration of the fact that every change in the conditions of life brings with it a new strain upon national character requiring increased self-control and discrimination.

Throughout the history of civilization we can readily trace the close relation between the concentration of population and the development of the arts and sciences. The close association of city life first makes possible division of labor, and with division of labor comes increased productive power. Every advance in productive power creates new wants and involves new possibilities of enjoyment. In the earlier civilizations menial duties were performed by slaves, thus permitting the development of an artisan class to supply the wealthy and leisure classes with comforts and luxuries. The possibility of leisure, which becomes a reality through division of labor, opens new avenues of intellectual

development. We speak of the country as the best place for meditation and reflection, but constantly lose sight of the fact that it is "the crowd, the hum, the shock of men" that sharpens the intellect, develops inventive genius, stirs commercial activity, and arouses the spirit of coöperation.

The primary incentive to intellectual advance comes from the city. For the mass of the population a constant stimulus is necessary to assure even a small amount of intellectual activity. Left to himself the individual rapidly sinks to the intellectual stagnation characteristic of isolated rural districts. The constant contact of mind with mind, which can be obtained only in the city, is necessary to any general intellectual advance. The social life of our modern cities clearly shows that in the great majority of cases the incentive to intellectual effort comes from without; the desire to imitate some person or group of persons who have acquired a commanding position in the social circle to which they belong. It is only within recent years that we have come to appreciate the full importance of this principle of imitation in progressive as well as in regressive evolution. The growth of custom is but one of its applications. Bagehot was the first clearly to perceive the far-reaching importance of this factor in making possible concerted action and in establishing social order.<sup>1</sup> But custom presupposes the close association of a con-

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<sup>1</sup> Bagehot, "Physics and Politics," Chap. V.

siderable number of persons, whether it be the primitive family or the more highly organized modern community.

The limitations of a civilization devoid of cities are well illustrated in the history of the early Aryans, of which Ihering<sup>1</sup> has given us a masterly analysis. Their slow advance was due to peculiar economic conditions, distinctly unfavorable to city growth. A people of shepherds cannot found cities; their occupation is inconsistent with the concentration of population necessary to city life. The fact that the parent stock of the Indo-Europeans did not reach even the agricultural stage explains their inability to advance beyond the village as the highest form of social organization. Even as late as the time of Tacitus the Teutons had not advanced to the city stage. Ihering truly says that no progressive people that has once made this tremendous stride toward a higher civilization would take the step backward to a lower type of organization. The word "city" is unknown to the Sanskrit tongue. Its nearest equivalent—*vastu*—means "abode, domicile, place of habitation." Furthermore, each of the Indo-Germanic tongues has a different term for "city." Urban growth, therefore, must have been subsequent to the splitting of the parent stock into separate nations.

We are apt to underrate the importance of the transition from the village to the city economy. It consti-

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<sup>1</sup> Ihering, "Evolution of the Aryan."

tutes the most important, and, to the minds of many, the final step in the progress of civilization. In all the nations of Western Europe the city represents the highest type of social organization. The nature of the forces determining this transition from the village to the city economy has been the subject of endless dispute among historians. According to one school, led by Fustel de Coulanges,<sup>1</sup> the closer association necessary to the development of city life was made possible through the adoption of a common religion. Community of religious worship constituted the basic civic bond. "The tribes that united to form a city never failed to light a sacred fire and to adopt a common religion." Another and more recent interpretation is that advanced by Ihering.<sup>2</sup> According to this view, the city was originally the fortified place which served as a refuge for the surrounding agricultural population in periods of danger.

From our present knowledge of the conditions of life in primitive communities, it is evident that Ihering's explanation strikes closer to the root of the problem. Community of religious worship was the result of certain definite economic and social needs; a necessary incident to the closer coöperation which city life demanded. While common religious ties usually accompanied the

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<sup>1</sup> Fustel de Coulanges, "The Ancient City," English edition, p. 167.

<sup>2</sup> "Evolution of the Aryan."

founding of the city, it is not the cause to which concentration of population is to be ascribed.

The early history of the Semites furnishes abundant testimony—most of which is cited by Ihering—that the fortified center always accompanied increasing density of population, and that in a great many instances it was within the walls of the fortified inclosure that the city first developed. Just as the towns of the tenth and eleventh centuries grouped themselves under the protection of some fortified castle, so the cities of the early Semites were nothing more than walled inclosures to which men, women, and children fled, and in which household goods were stored and cattle corralled at the signal of an approaching foe. From a mere place of refuge this walled inclosure gradually became a place of residence; at first for a few artisans, then for all those whose estates were nearest the fortifications.

This explanation throws light on the institutional changes accompanying increased density of population, but gives no clew to the nature of the forces determining such aggregation. Upon this point the researches of Geiger furnish most valuable information.<sup>1</sup> His study of the Avesta people shows that to the early Iranians fixed habitation was “the beau ideal of good fortune, of rest and of peace.” Until the transition from the nomadic state to one of fixed settlement was

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<sup>1</sup> Geiger, “Civilization of the Eastern Iranians in Ancient Times,” vol. i, Chap. IV.

effected, the growth of towns was out of the question. Stability of settlement is not sufficient, however, to account for city growth. With it there must be combined certain physical conditions favorable to proximity. Mountainous regions, for instance, are distinctly unfavorable to concentration of population. The land fitted for cultivation is restricted in extent, while individual holdings are usually separated from one another by regions of forest and pasture. On the other hand, under the conditions of primitive civilization, perfectly flat country is hardly less unfavorable to city growth. It is particularly adapted to the cattle raising of nomadic tribes.

The combination of physical conditions favorable to town growth is well illustrated by the early town communities of eastern Iran. They occupied the oases on the banks of streams with the mountains on one side and the desert plains on the other.<sup>1</sup> Land thus situated is fertile and requires little draining. Extending along the river valleys it is sufficient in extent to support a large population. Furthermore, the exposure to the inroads of the nomadic tribes of the steppes was a constant menace to the safety of the agricultural popula-

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<sup>1</sup> "Andkhūi, Shibarghan, and more particularly Mero, are towns which owe their existence to oases. The tracts between the flat land and the mountains are held by Kunduz, Khulin, Balkh, and Sarakhsh. Siripūl, Mairxane, and Herāt lie in broad and easily accessible river valleys, and indeed, just in parts where the valleys begin to narrow." Geiger, *op. cit.*, vol. i, p. 236.

tion, and made coöperation and closer association for mutual protection absolutely necessary. These fertile areas along the river valleys soon became the foci of trading routes which contributed considerably to their growth. This was also true of the communities of Greece, where the " agora " constituted the central feature of the town.

In the Iranian communities, however, commerce with other districts was unimportant. The main occupations were cattle raising and agriculture. As Geiger says: " Towns where houses are ranged one close to the other in regular streets, where the profession of tradesmen is held in the same honor as that of agriculturists, yea, even surpasses the latter, and where commerce and mercantile pursuits flourish; such were unknown to the Avesta people. . . ." If, on the other hand, we define the town as an inclosed and fortified settlement, constantly inhabited in all its parts, of larger extent and with more numerous inhabitants, the existence of townlike settlements among the Avesta people is at least probable. In that case the fortified village and the town properly so called differ only with respect to their dimensions.<sup>1</sup>

Ihering's explanation thus serves to supplement and enrich that offered by Geiger. The one gives us the stages in the development of town life, the other an analysis of the forces determining such development. There is abundant evidence that the agricultural com-

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<sup>1</sup> Geiger, *op. cit.*, vol. i, p. 240.



munities endeavored to protect themselves against the inroads of unfriendly tribes by building towers and walled inclosures, and that these walled inclosures ultimately became the habitation of a large portion of the population. In some cases the walled inclosure was a short distance from the village, in others a portion of the village itself was separated by intrenchments. The transition from village to town was usually accompanied, however, by the definite marking off of a particular area within a fortified inclosure.

It required many centuries to make fully apparent the radical changes which this new form of association was destined to work in the conditions of national life and thought. The fundamental political ideas upon which modern governmental organization rests, the characteristic features of our economic activity, the higher standards of social intercourse which distinguish modern from primitive society—all are based upon conditions for the development of which the growth of the city was a prerequisite.

The idea of territorial attachment, which is at the root of our modern idea of patriotism, was greatly strengthened by the influence of city life. It is true that the origin of the idea is found in the changes incident to the transition from the pastoral to the agricultural stage. We are prone to forget, however, that one of the most important factors in the development of agriculture was proximity to the city. Until new

market possibilities are developed the amount of labor expended upon the soil is comparatively small, and the attachment to any particular locality is correspondingly weak.<sup>1</sup> Strong territorial ties are largely dependent upon "the memory of long and hard struggles, upon the consciousness of effort expended in the past and willingness to make further sacrifice in the future." No such feeling seems to have moved the early agriculturists. With the city, however, an entirely new basis for the development of economic and social relations was offered. In the purely agricultural stage each household was sufficient unto itself; everything necessary to the daily routine of life was manufactured in the home. Division of labor among different groups of occupations was unknown. With the certainty of a ready market comes the possibility of specialization in trade and industry; relatively complex relations of service and counter-service soon develop, which strengthen the territorial tie. The city comes to mean the territorial unit within which the activity of the artisan has its limits, as well as the center of social amusement for the well-to-do landed proprietor. Thus the new economic relations, combined with the social pleasures which never fail to arise when population becomes dense, give a new meaning to the idea of residence. Citizenship, with the feeling of loyalty and attachment to the territory itself, becomes a reality. It is important to note

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<sup>1</sup> Ihering, "Evolution of the Aryan."

that the feeling of attachment is no longer limited to the property owned by the individual, as is the case in the agricultural stage. The whole territory of the city, as the center of new economic opportunities and the theater of social pleasures, becomes the "home" of the individual. He is no longer the inhabitant of a small piece of ground, but the resident of the city—in short, a "citizen."

Another important result of this development of economic and social relations is the influence upon social manners and customs. Language has here recorded the accumulated experience of the race with great accuracy. The Latin *homo rusticus* and *homo urbanus*, which indicate the contrast between city and country bred, were used to describe also the difference between the boorish, the unrefined, the vulgar, and the cultured, the polished, the courteous. The influence of city life upon the individual took some time to make itself felt in the cities of the earliest historic time. The principle of social imitation already referred to shows itself with peculiar force in the growths of the customs, forms, and ceremonials which constitute the outward signs of the refining of social relations. The great landowners, who were as a rule the heads of the oldest families of the town—those who were regarded as the founders of the city—were the first to develop the more refined forms of social intercourse. They were at the same time the political leaders, a fact which gave to all their actions additional

prestige and authority. To appreciate the influence of such leaders we need only glance at the conditions of social life in modern society. Each class—in fact, every social set within each class—has its leaders, those who set the standards of social intercourse. The constant search for “*the thing to do*,” the uncertainty as to whether a particular form is correct until sanctioned by a social leader, are among the most interesting illustrations of the law of social imitation. Although the attempt of each class to imitate the forms of social intercourse of that just above it appears at first sight to be one of the weaknesses of human nature, viewed from the sociological standpoint, it is one of the great forces making for progress. Its influence as a unifying force extends far beyond the limits of the city. Social classes in different cities are constantly taking from one another new standards of conduct and intercourse. This is particularly true of the relation of the capital city to provincial towns. Thus in ancient times the customs of the Athenian citizens were copied throughout Greece; the patricians of Rome were the models to the ruling classes in other cities of Italy; just as to-day the man of leisure of Lyons imitates the *boulevardier* of Paris. The more polished manners of the wealthy and leisure classes gradually filter from stratum to stratum. With each class the form of intercourse is modified, until some traces of the refining influence are to be found even in the lowest classes. Babylon, Athens,

Rome, Constantinople, each in turn served as a model for the provincial towns, just as Paris, Berlin, and London serve at the present time.

With these primary results of city growth in mind we can readily appreciate the significance of city life in the history of civilization. It creates new economic activities, new political ideas and ideals, new forms of social intercourse, new possibilities of interchange of ideas. Discussion, the contact of mind with mind through which the general level of intelligence is raised, becomes one of the prominent factors in the political life, first of a class, then of the whole people. A constant and ready audience is furnished to the orator, the poet, and the philosopher. Although it required centuries to develop all these possibilities, they were in process of formation from the time the inclosing walls of the first cities were built.

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## CHAPTER II

### THE ANCIENT, THE MEDIÆVAL, AND THE MODERN CITY

#### THE CITIES OF GREECE

THE records of Greek civilization begin and end with its cities; no other nation has so completely concentrated its life and thought upon the perfecting of city life. To the Greek mind the history of the race begins with the founding of the city. The facts of historical development are made to harmonize with this view by means of a kind of social-compact theory, according to which primitive tribes were brought together by some supernatural power, and as the result of their union the city was formed. Though this explanation of the origin of the city may lack foundation in fact, it is interesting as an indication of the dominant position occupied by the city in the thought of the time. This early form of the social-compact theory was used at a later period to explain the origin of Rome and of the other cities of Italy.

The rise of Athens furnishes one of the best instances of the influence of environment upon urban growth. The city is situated in the center of a plain surrounded

by mountains on all sides except on the south, where it approaches the sea. This protected position offered a resting place for the more advanced clans and tribes, especially those who were prepared for the settled pursuits of agriculture. The introduction of the olive, which requires great care and attention, served to strengthen the attachment to the soil, and thus assured a relatively stable population.

In the immediate vicinity of Athens, furthermore, the greatest variety of soil and climate was to be found.<sup>1</sup> Within a short radius of the Acropolis the grape, the olive, and the staple agricultural products were raised with comparatively little difficulty. Mineral resources of considerable importance were within easy reach, clay pottery offered employment to a large number, while close proximity to the sea opened the seafaring careers to the population. Another important element in the situation of Athens was the abundance of water due to nearness of the mountain ranges. The deification of these springs and the important position ascribed to the water nymphs, such as Agrauleon, Nysa, and Krene, are indications of an early appreciation of the necessity of husbanding these resources with the greatest care. The fact that the first settlement of the native tribes was not made immediately on the seacoast is not surprising when we bear in mind the constant exposure to attacks of marauding pirates. In ancient times the seacoast was

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<sup>1</sup> Cf. Curtius, "Stadtgeschichte von Athen."

the haunt of robber bands rather than a place for permanent settlement.

With such a combination of physical and economic conditions, the rapid growth of Athens is readily explained. In fact, the country districts of Greece never developed a distinctive life of their own. Citizenship meant membership in the body corporate of some one of the "city-states." Not only was everything planned to meet the demands of the city, but the soil itself was owned by persons living within the city walls. Agriculture was carried on by slaves, and the produce sent to the city. To be compelled to live in the country was a mark of social degradation. Citizenship of Athens was the goal of civic ambition.

We have some difficulty at the present time in picturing to ourselves the conditions resulting from the complete absorption by the city of all the political and social interests of the community. At a time when political, social, and religious institutions were still undifferentiated, when the city concentrated within itself the ties which to-day are scattered over an ever-increasing area and among an indefinite number of institutions, it is not surprising that an intensity of city life was developed which has not again been attained. For this reason, the social and civic life of the cities of Greece is of far greater interest to us than the form of governmental organization and administration.

The identity of state and municipality makes com-



parisons with modern conditions misleading rather than helpful. Athens seems to have lacked the nice coördination of authority which characterizes our modern system.<sup>1</sup> During the early history of the city-states, kinship seems to have been the guiding principle in administrative organization, and this accounts for the growth of an aristocracy of birth that monopolized public office. Coincident with the increase of the privileged class came the first clear differentiation of governmental functions. The king was induced to delegate certain of his powers to his immediate advisers, an act that marked the first step in the transition from the early "king-priest" form of government, in which all power, civil and ecclesiastical, was vested in one person, to the aristocratic and oligarchic systems. Those whom the king called in as advisers soon came to regard their office as a proprietary right. A narrow aristocracy of magistrates was thus formed, which in Athens absorbed all political power, and gradually degenerated into an oligarchy of the worst type. Most of the other cities of Greece went through the same stages of development.

The transition to democracy in Athens was preceded by important economic changes which completely altered the class relations within the community. The primary cause of these changes was the increasing industrial importance and consequent social power of the artisan

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<sup>1</sup> Boeckh, "Staatshaushalt der Athener."

class. This element arose in response to the higher and more refined wants of the governing and wealthy classes. Selected at first from among the dependents, because of special aptitudes as handicraftsmen, they gradually acquired social privileges which became more important as they rose in the industrial scale.

The imitation of the fashions set by the social leaders of Athens aroused a constantly increasing demand for the better class of products. Economic independence brought with it gradual social emancipation. It required long years of struggle before this condition of fact was recognized in law. This inherent contradiction between legal and social relations was a fruitful source of discontent and a constant menace to the peace and safety of the community. The drastic legislation of Solon sought to reestablish harmony between law and fact. The first step was to give to those who had acquired economic independence the right to participate in the political life of the community. To make civic emancipation complete, all outstanding debts on land and person were abolished. The entry of a relatively large class of former serfs and slaves into the political life of the community led to the formation of the first popular assembly. From this time until the Athenian democracy reached the height of its development we have a series of assemblies comprising an ever-increasing percentage of the population. The best authorities seem to agree that at no time did the citizen body exceed one tenth

of the total population of 200,000. To this general assembly of citizens all important questions were submitted. A standing committee or council of 500, elected from the larger body, was intrusted with the general administration of public affairs. That Athens was able to make this rapid extension of rights without bringing about political anarchy represents her most important contribution to the development of political institutions.

The ideals which dominated the period are so different from our own as to make the contrast both suggestive and profitable. In Athens, as in most of the cities of the ancient world, the individual was completely subordinated to the community. His welfare had no existence independent of the welfare of the city as a whole. The Greeks could not conceive of an opposition of interest between the individual and the group, or, if such opposition did arise, there was no question as to which should prevail. Ideas of imprescriptible, inalienable rights were foreign to Greek thought until the time of the Stoics. Adjustment of individual activity to the harmony of communal life seems to have been the guiding principle of social conduct. The contrast between the splendor and attractiveness of social life and the relative crudity of family life is difficult for us to grasp at the present time. This is largely due to the fact that in modern communities the welfare of the family rather than that of the community commands the best energies

of the individual. With us the common, inexclusive pleasures of communal life play a very small part compared with the intense pleasures of home life. In the cities of Greece, however, these public pleasures strengthened the feeling of local attachment which found expression in the highest type of local patriotism.

#### ROME AND THE CITIES OF ITALY

The fact that the conditions of soil, climate, and immediate physical environment were less favorable to Rome than to Athens was far outweighed by the commanding position of Rome in the Italian peninsula and its more favorable geographical relation to the other countries of the Mediterranean. Although the plain of Latium—in which Rome occupied a strategic position—did not offer the variety of soil and climate of the central plain of Attica, it was sufficiently fertile to attract and support a large population. With the Sabine Mountains to the east, the Volscian to the south, the hill lands of Etruria to the north, and the sea to the west, its position combined to a remarkable degree security with accessibility to other portions of Italy, Europe, and Africa. The desire to protect themselves from the attacks of pirates, which led the early settlers of Athens to remain at a distance of some five miles from the sea, was equally powerful in the case of Rome. At a distance of some fourteen miles from the mouth of the Tiber the series

of surrounding hills furnished a readily defensible position most favorable to permanent settlement.

The founding of the city has been lost in a mass of legend and tradition. It is quite certain, however, that a number of separate tribal settlements existed on the several hills long before the formation of a unified city. The division of the city into wards, known as *tribus rusticæ*, long after such unity had been attained, is conclusive evidence of the nature of the constituent factors in the formation of the city. The explanation now generally accepted is that the necessities of common defense forced the tribes into closer relationship, which ultimately developed into political unity. The first organization of the *populus romanus* is in the three tribes—the Ramnes, the Tities, and the Luceres—which were probably the original tribal settlements.

The government of Rome presents comparatively little of real interest to the student of local institutions, owing largely to the lack of differentiation between state and local administration. During its early history, when territorial dominion did not extend beyond the city limits, the government was organized on the principle of the patriarchal family and clan. For administrative purposes the city was divided into thirty wards or *curiæ*, each of which enjoyed separate legal existence and retained for a long period separate assemblies and festivals. The logical application of the *patria potestas* to the organization of the city government de-

veloped the monarchical system of the earliest period of Roman history, a system analogous in many respects to the early organization of Athens. The elders of the constituent clans formed a body of councilors which afterwards developed into the Senate, while the body of the people was consulted only when the king wished to introduce an innovation into the public law. As against both king and popular assembly the Senate, as guardian of the constitutional system, exercised a veto power. The transition from monarchy to aristocracy, thence to democracy and oligarchy brought Rome to the period of the extension of its dominion beyond the limits of the city. The organization of the government loses its local character, adapting itself to the larger problems of empire. An examination of this period belongs to the history of the state rather than to the city.

The cities of ancient Italy, while lacking the charm of high artistic development which characterized some of the cities of Greece, mark a distinct advance when viewed from a political standpoint. The Greek concept of restricted city territory was ill adapted to the larger view of political relations developed by the Romans. Furthermore, the growth of a world empire made it necessary to give a broader interpretation to citizenship. Roman citizenship was conferred upon the leading citizens of conquered districts, even when their actual residence was at a great distance from the city.

This intangible political relation marked a long step toward the idea of nationality.

Of all the cities of the Italian peninsula of this period Rome is the only one which commands our attention because of her enormous influence upon western civilization, the magnitude of the municipal problems with which she had to deal, and the striking analogies with modern urban growth. In her history one can detect the presence of most of the forces which explain the increase of urban population in recent times. In advancing beyond the "city-state" and developing the idea of world empire she created the conditions requisite for the growth of large centers of population. The extension of political influence to distant countries led to the development of an elaborate administrative system with its center in Rome. The conquered countries, instead of being reduced to a condition of complete subjection, were permitted a large measure of local self-government. Political centralization brought with it well-developed means of communication between province and capital, and a system of police protection to life and property. Thus freedom of migration was for the first time made possible and resulted in the influx of the country population into the cities. The economic opportunities offered by a city of the size of Rome, combined with the fascination of the spectacular display of court life, proved irresistible to the most energetic and capable of the inhabitants of the rural

districts. The constant tension of interest and excitement which the city offered made poverty there seem more desirable than comparative ease in the rural districts. The metropolis was open to every new idea and eagerly welcomed every invention and discovery. Men of science, philosophers, and poets all sought the approval of Rome. The disbanding of the armies served to increase still further the population of the capital city.

With all these influences at work, it is not surprising that the population soon approached the million mark. Owing to the absence of a census the exact number is not known, the estimates varying from 750,000 to 2,000,000. The best authorities place it at about 800,000.<sup>1</sup> There is abundant evidence that when this point was reached all the phenomena of overcrowding made their appearance, for although the walls of the city embraced a comparatively large territory and were being continually moved farther from the original limits, the lack of means of transportation led to the concentration of population in the central districts. Everyone wished to be near the center of social life and amusement. The *clientes* had to be at the door of the patron early in the day, and were unwilling to take the risk of a long journey from the peripheral or suburban districts.

The narrow streets, characteristic of all the ancient

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<sup>1</sup> Cf. Beloch, "Bevölkerung der Griechisch-römischen Welt."



Italian cities, added to the difficulties of the situation. In Rome we can see clearly the relation of the standard of life of a people to the question of overcrowding. It is true that most of our modern cities contain districts far more densely populated than any quarter of Rome, but owing to the low standard of life of the poorer classes and the lack of effective sanitary supervision, the resulting conditions in Rome were far worse. Fortunately, the habits of the people led them to spend the greater portion of their time out of doors, which counteracted, in part at least, the unwholesome effects of the conditions of housing. This love of street life, which contrasts so strongly with conditions in our American cities, led to the congestion of the thoroughfares to such a degree that Cæsar found it necessary to issue a decree prohibiting the passage of wagons through the central districts during the ten hours after sunrise. The strict enforcement of this regulation was made imperative by the great number of traders' booths that were erected along the sidewalks. Not until the time of Augustus was any systematic attempt made to regulate the building of dwelling houses. Their height was then limited to seven stories, and some elementary sanitary requirements were prescribed.

It is curious, and at first sight rather surprising, that the municipality of Rome—and the same is true of all the ancient cities—while neglecting the regulation of private sanitation, gave considerable attention to

everything connected with public convenience and comfort. Great public baths, a magnificent water supply, and splendid public places were provided with a munificence which has not since been equaled. By such means the emperors gained the support of the masses. To make way for such public improvements whole sections of the city were torn down, thus increasing the congestion in adjacent districts.

In short, the municipal activity of Rome was directed mainly toward the development of the social amusements of the city. The regulation of individual health and welfare was largely lost sight of. In modern times the tendency is in exactly the opposite direction. The great, and probably the only, lesson which Rome has to teach modern municipalities, *quâ* municipalities, is the importance of the rôle of the public authority in providing healthful recreation for the citizens. Our strong individualistic instincts have led us to develop only those sides of municipal activity that contribute directly to individual welfare; we are still far from accepting the idea of the social rôle of the municipality. It is clear to every student of our industrial and social conditions that we must sooner or later give due weight to this more positive view of governmental power, and in the readjustment which is gradually being effected the experience of the ancient cities will be of value.

## CITIES OF THE MIDDLE AGES

With the breaking up of the Roman empire, Europe enters upon a period of disintegration which finds expression in the most extreme forms of political decentralization. The feudal system, while containing the germs of city growth, did not permit the free movement of population necessary to the growth of large centers. Settlement was dependent upon the will of the feudal lord. The earliest towns grouped themselves around the feudal castles, mainly to enjoy the protection afforded by the fortifications, while others owed their origin to special market privileges granted by the feudal lords. To one or the other of these causes, or to both combined, the growth of the mediæval towns may be traced. None of the early towns could boast of more than a few thousand inhabitants—hardly larger than a modern village; in fact, the largest English borough of the thirteenth century contained but 5,000 inhabitants.<sup>1</sup> At the beginning of the fifteenth century London itself had a population of but 40,000. The three primary requisites for city growth were lacking:

1. A large territory from which to draw population.
2. An advanced state of commercial and industrial

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<sup>1</sup> Mrs. J. R. Green, "Town Life in the Fifteenth Century," *op. cit.*

development offering opportunity for remunerative employment to large numbers.

3. A strong central government guaranteeing freedom of migration from district to district, thus permitting the city to exercise its full powers of attraction upon the country population.

The absence of these conditions places the social life, the economic activity, and the position of the mediæval city in the loosely coördinated political system of the time in striking contrast with modern municipal institutions.

We have become so accustomed to regard the city as an administrative subdivision of the state, enjoying certain subordinate powers of government, that we have great difficulty in picturing to ourselves the town life of the twelfth, thirteenth, and fourteenth centuries. The greatest differences relate to the activity rather than to the form of city government. The mediæval town was primarily an economic unit, the modern city is mainly a political and administrative division. A study of the town life of the Middle Ages leaves the impression that we have to do with great commercial corporations, exploiting special economic privileges. The monopoly of market rights, the power of regulating trades and industries, the complete control over every economic activity, all rights wrested from the temporal or ecclesiastical feudal lord, are the most important factors in the development of town institutions. Those who participate in the struggle for these privileges

share equally in their enjoyment. When we stop to consider that all our modern ideas of political and civil rights, patriotism, and national allegiance were as yet undeveloped, it is not at all surprising that the early burghers looked upon the town as a complex of economic privileges, and that the town life of the period should receive its character from this principle. The exploitation of the tangible property and of the intangible rights of the town is the key to the institutions of the period.

The main problems with which the mediæval towns had to deal were connected with the enjoyment of these property rights. Not until late in their history was any attempt made to develop the distinctively municipal services with which we associate the modern city; no public water supply, no public drainage or lighting system, no sanitary regulations—in a word, nothing to remind us of the purely public or governmental side of the city's activity. On the other hand, innumerable regulations concerning trade and industry, prescribing with great minuteness every detail in the industrial life of the individual, occupied the attention of the local authorities. Those who were fortunate enough to be parties to the original privileges were naturally anxious to assure exclusive enjoyment to themselves and to their posterity. Active participation in the benefits of these privileges was the mark of citizenship; strangers were admitted as a matter of grace. The idea of polit-

ical right was the product of a much later period. The city authorities not only regulated the trade and commerce of the town, but were the leading spirits. In many cases the city had the first option on all goods offered for sale. A curious trait of the policy of the mediæval towns was the strong desire to protect the consumer against the exactions of the producer. The price, time, and place of sale were fixed for every class of goods. The few foreign merchants who were permitted entry into the city markets were carefully watched, the supervision of the public authority often extending to the assignment of their dwelling places.

The contrast between mediæval and modern citizenship is readily explained when we keep in mind that the former carried with it certain specific economic advantages, quite as definite as membership in the modern business corporation. It is no wonder, therefore, that citizenship became a marketable, inheritable property right. In some cases it could be acquired by ownership of land within the limits of the town or by serving an apprenticeship in one of the trades under guild regulation. But in every case the extension of citizenship was under the control of the town authorities. The usual methods of acquiring full membership in the community were, first, through inheritance; second, gift from the municipality; third, purchase.

The desire of the citizen body to retain the exclusive enjoyment of the town privileges explains the form of

government of the mediæval towns. It is but natural that those who had participated in the early struggles with the feudal lords should share in the advantages accruing from the results of the conflict. In the early history of many of the towns the market rights furnished the economic basis for city growth. Equal participation in these advantages and political equality went hand in hand. The democratic movement of the Middle Ages was checked as soon as the original settlers or their descendants had established the rule of exclusive enjoyment. After the twelfth century distinct traces of a nascent oligarchy are to be found, which become well marked at the beginning of the fourteenth. "The English borough in its first condition, and probably during a considerable part of the twelfth and thirteenth centuries, realized the ideal of a true democratic community."<sup>1</sup> The forces that undermined the early democracy were twofold—first, the denial of equal economic opportunity to newcomers, which led to their political subordination; second, the social ascendancy of the more prosperous trades, which gave to certain classes the leadership in political affairs.

The first of these requires little explanation, as the monopoly of economic and political privileges which the founders of the towns had secured for themselves was inherently inconsistent with the principles of democracy. The second is closely connected with the

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<sup>1</sup> Mrs. J. R. Green, "Town Life in the Fifteenth Century."

growth of the guilds which were, at first, conglomerate associations of employers and employees—the organization of producers as against consumers. Within each guild, rank was determined by individual skill and efficiency; inherited privileges were unknown. Democracy within the guild continued to exist long after democracy in town government had disappeared.

The intimate relation between the guilds and the town government, which developed very gradually, was due to the fact that the main function of the public authority was to guard the economic privileges of the town and to further its industrial prosperity. Constant consultation with the trade organizations and their active coöperation were necessary for the efficient performance of this function. It is but natural that they should be called upon for advice in the solution of purely commercial questions, in much the same way as municipal authorities call upon chambers of commerce at the present time. In the mediæval city, moreover, municipal activities were almost exclusively concerned with questions of trade, commerce, and industry. With organizations so well equipped to deal with commercial questions as were the guilds, it was only a matter of time when their advisory power would develop into real authority over this branch of municipal activity. The absorption of the most important public functions by the trade organizations gave them a strength of political power which resulted in the subservience of all other public



authorities to their will. This shifting of public power completely changed the character of the city government.

The consciousness of acquired power reacted upon the guilds, transforming them into aristocratic associations of the most pronounced type. The temptation to use this power to secure monopolistic control over the trade and industry of the city was irresistible. Membership in one of the guilds was made a prerequisite to the exercise of a trade. Thus there was a twofold incentive to withhold membership from newcomers: First, to prevent the overcrowding of trades; and, second, to maintain the high value of guild membership. Thus the same economic forces, which in the early history of the mediæval towns were instrumental in creating a democratic society, became destructive of this form as soon as the desire to retain exclusive possession of market and trade privileges began to show itself.

It was not long before the guild aristocracy degenerated into an oligarchy, due in part to the exceptional power enjoyed by the leaders of the guilds, but mainly to the decreasing interest in town affairs incident to the expansion of commercial relations. As is the case with all such associations, the affairs of the guilds were carried on by a comparatively small number of officials who naturally enjoyed the political power connected with their position. Thus a small fraction of the total guild membership became the real rulers of the town.

That this assumption of power aroused no great opposition is due to the fact that at the time when it took place the economic and political interests of the citizen were beginning to extend beyond the limits of the town. At the close of the fourteenth century the English towns had reached the height of independent development. "With the ages of restless growth lying behind them, and with their societies as yet untouched by the influence of the Renaissance or the Reformation or the new commercial system, the boroughs had reached their prosperous maturity."<sup>1</sup> During the succeeding century England passed through her first industrial revolution. From a cloth-importing she became a cloth-exporting country. The establishment of commercial relations with foreign countries carried the interest of the citizen beyond the territorial limits of municipal control. The spirit of independence and assertive individualism thus created reacted unfavorably upon local institutions, while local ties, being largely economic, were weakened with the disappearance of economic dependence upon the community. So soon as the citizen began to appreciate the possibilities of individual activity independent of the coöperation and sanction of the public authority, the vigor and intensity of town life began to decline.

With the fifteenth century we enter upon a period of political development which was destined to destroy

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<sup>1</sup> Mrs. J. R. Green, "Town Life in the Fifteenth Century."

the importance of the town as a political unit, reducing it to the condition of a subordinate administrative subdivision of the state. The growth of national life proved fatal to town independence in England, as well as on the Continent. In England, however, the period of local autonomy was considerably lengthened by the failure of the feudal lords to extend their political power at the expense of the crown. Before reaching national unity the countries of continental Europe passed through a period of territorial integration, in which the small but independent sovereignties were in a state of constant conflict with the towns.

In France the necessities of war developed a strong central government as early as the twelfth century, cutting short the period of municipal independence. In England the centralizing policy of Henry VIII and Wolsey demanded the subordination of the towns to the purposes of the king. The crown saw clearly that independence of local policy develops political ties and political ideas inherently antagonistic to a strongly centralized system. The necessity of obtaining control over the towns was made imperative by the desire of the king to maintain his supremacy in Parliament through the manipulation of the borough representation. In order to assure to the crown the support of this important element of parliamentary representation, a system of electing members was devised, to which the peculiar development of borough government lent ready

aid. As the concentration of municipal authority in the hands of a few guild representatives grew more pronounced, it became the custom, in adjusting inter-municipal relations, to identify these individuals with the municipality. The corporate concept, which was just making its appearance in the English law—having been first applied to ecclesiastical and eleemosynary institutions—furnished a ready means of effecting the purpose of the crown. The essence of the corporate idea is the legal personification of a collection of individuals. If, by any means, the crown could make its own nominees the corporate body, there would be no difficulty in controlling the parliamentary representation of the borough. This was done by issuing writs of *quo warranto* and substituting for the charters forfeited under this proceeding a form of organization in which those constituting the corporate body (i. e., the returning parliamentary organ) were specifically named.

Such proceedings would have aroused a storm of opposition, even a revolution, at an earlier period, when the citizen body was in closer touch with municipal powers and prerogatives, but, as has been pointed out already, the growing industrial independence had greatly weakened local ties. With the exception of the larger cities, such as London, little opposition was encountered. The people were too much absorbed in exploiting the new commercial and industrial opportunities to pay much attention to changes in the mechanism

of local government. Furthermore, the increasing importance of national affairs absorbed the political energies of the people. Thus a change, which at first glance would seem to violate the fundamental political principles of a liberty-loving people, took place without violence, and almost without opposition.

In granting the new charters the crown appointed the members of the corporation, giving to these appointees power to fill all vacancies. As a result, the community as a body of citizens and the borough as a corporation became distinct entities. Under such conditions it is not surprising that the civic life of the boroughs of the sixteenth and seventeenth centuries possesses little of interest to the student of local institutions. Town life does not again offer a fruitful field for investigation until the appearance of the new urban centers, which owe their rise to the industrial changes of the end of the eighteenth century.

### THE MODERN CITY

The mediæval system of independent town units was succeeded by a period of political development in which the city was given a position fundamentally different from that which it occupied during previous periods. The change affected not merely the relation between city and state, but also profoundly influenced the attitude of the population toward the city and its government.

With the Reformation period the transformation of political ideas and ideals becomes distinctly apparent; a movement which was hastened by the radical changes in territorial relations throughout Europe.

In the cities of the ancient and mediæval world the individual in all his personal and property interests was subordinated to the community. The *communitates* occupied first place in the political thinking of the time; political ideals were grouped about the city. Individual welfare was so closely bound up with the city's activity that this interpretation of the relation of the individual to the community was not only logical but necessary. Every relation of trade, industry, or commerce was dependent upon the public authority. In the mediæval towns, membership in the political community was a prerequisite to the exercise of any trade or calling. In consequence the attention and interest of the population were centered in the city.

The new and distinctly modern spirit first asserts itself in an intense individualism which completely changes the concept of government. The idea of the individual as an end rather than as a means begins to dominate political thought. England of the seventeenth century gives clear evidence of the influence of the new political principles. The rôle of government, which in the mediæval cities had been construed to include the regulation of every field of individual activity, receives a new and distinctly negative interpretation.

Ideas of inherent and imprescriptible individual rights obtain general acceptance, while government is regarded as the guarantor and protector of these rights rather than as a positive factor in industrial activity. The settlement of America gives to these ideas a new and wider environment in which to develop. There they receive definite formulation in law. The bills of rights and the prohibitions upon government of the early compacts are dominated by a spirit of individualism which was fostered by the industrial evolution of the last century. In a country of unexploited resources the opportunities for individual initiative and enterprise are so great that a feeling of independence toward government inevitably arises.

Due, in large part, to the combination of these forces, the negative view of government which limits the public authority to the protection of individual rights, received its fullest development in the United States. It has met with no such counteracting political forces as has been the case in England. Not only the conditions of economic growth, but the character of our political life have fostered these individualistic tendencies. The political issues which the present generation has had to face have made prominent individual rather than national interests. The manufacturer desires a tariff to increase his profits; the workingman to raise his wages; the debtor advocates a silver standard; the creditor a gold standard. In none of these questions have the interests of the

nation, as such, been made prominent. It is taken for granted that public and individual interests are essentially identical.

That this attitude toward government has strongly influenced the civic life of our cities is evident to every observer of American political conditions. To one section of the community the city government is a necessary evil designed to avoid the greater evil which would result from the clash of individual interests. To another it is akin to a great business corporation, justifying the use of the ordinary standards of commercial morality in obtaining favors and privileges. No civic or social duty is violated if franchises are obtained by questionable methods; transactions of this character are judged by the prevailing standards of business life. It is assumed that if the municipal authorities are unable to safeguard the city's interests, they deserve to be out-classed in the commercial struggle, as would any incompetent business man. The city's interests are rarely, if ever, identified with those of the public, and in taking advantage of incompetent or corrupt officials there is no thought of depriving the public of rights to which it is entitled. So long as such a view of the city and its interests obtains we cannot expect any permanent improvement in the civic morality of individuals or corporations seeking special privileges from the government.

Another important influence in strengthening this



negative attitude toward the city is closely connected with one of the strongest traits of American national character—the high development of the domestic virtues and the resulting intensity of home life. While no one can deny the great service which these qualities have rendered to our national life, we must recognize that upon our civic life their influence has been distinctly negative. The concentration of effort upon the exclusive pleasures of the home has retarded the growth of the distinctive civic ideals. The feeling of social solidarity and civic responsibility, so necessary to the maintenance of high standards in public life, has remained undeveloped. Administrative efficiency has been attained only in those departments—such as the police and fire services—which directly affect the safety and integrity of the home.

In European cities, on the other hand, those municipal activities which contribute most to the inexclusive and social pleasures are more highly developed. The street-cleaning, highway-construction, and architectural services of Paris furnish a striking illustration of this principle. In the life of the French capital the outdoor pleasures play a most important part, pleasures which are dependent largely upon the degree of care given to the streets. As a result, the failure to maintain high standards is immediately felt by the population and arouses violent opposition. In our American cities the streets are regarded as means of communication and nothing more; and the mass of the population remains

satisfied so long as such communication is made easy and rapid. Not that the people do not desire clean streets, but the fact that dirty streets do not arouse resentment sufficiently strong to give rise to positive action makes such opinion as does exist ineffectual. Standards of efficiency in government are determined by the dislikes rather than by the desires of the population.

The problem of city government involves more than the question of governmental organization or reorganization. Its successful solution requires not merely the most efficient administrative machinery, but such a change in the life and thought of the people as will bring an increasing number of city services into organic, vital relation with the daily life, the pleasures, and the recreations of the population.

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## CHAPTER III

### THE NATURE OF THE MUNICIPAL PROBLEM

THE institutional history of ancient and modern communities has shown that the vigorous growth and healthful functional activity of any political system are dependent upon the close adjustment of three factors—political ideas, political forms, and political problems. A lack of harmony between any two of these soon becomes a source of weakness in the body politic. Real progress, as distinguished from temporary expedients, is to be measured by the degree of adaptation of these factors to one another.

The lack of definite civic standards and ideals, the absence of an intense city life, the failure to develop a distinctive form of municipal government and to establish definite relations between the municipality and the state constitute the main counts in the indictment against our existing system. Whatever may be the proximate causes of these shortcomings, a close analysis will show at the basis of each a lack of adjustment among these three factors.

The relation between the *form* of city government and the *nature* of city problems is the first to demand

our attention. Instead of organizing our municipalities with reference to the problems with which they have to deal, we have applied analogies taken from our state and national governments. The attempt is made to separate the executive from the legislative, on the ground that the plan has worked well in other parts of our political system. The legislative organ is then divided into two branches, with a view to obtaining a system of self-acting guaranties against hasty or ill-advised action. In doing this we do not stop to think that city problems are primarily of an administrative rather than of a political character; that the conditions demanding an independent executive and justifying a bicameral legislature are wanting. When, as in England of the eighteenth century, a system of guaranties to personal and property rights was being developed, the maintenance of the line of division between the executive and the legislative was essential to political progress. Where fundamental civil and political rights were at stake the "*checks and balances*" of a bicameral legislature constituted one of the elements of political strength. The adoption of these principles of organization in our state and federal systems may be justified by the same considerations.

In our city governments, however, none of these conditions is present. Neither the mayor nor councils can encroach upon the civil and political rights of the citizen. Furthermore, city conditions do not offer the

possibility of a bicameral system in which each house shall be organized through different constituencies. Yet this is the basic idea of the bicameral principle. The result is that we get two branches of the local legislature of much the same makeup, in which there is a constant shifting of responsibility. The situation is further complicated by the introduction of another generally accepted canon of political organization, viz., that of district representation. From the petty bargaining between local interests we expect to develop a progressive municipal policy.

The most cursory examination of municipal problems will show that they must be considered from the standpoint of the community as a whole, and that the governmental machinery must be such as to favor rather than to impede positive action. The greatest danger in our present municipal system is the lack of continuous and effective responsibility. The enforcement of responsibility at election periods is wholly inadequate to guarantee an efficient and economical administration of municipal affairs. In order to make such responsibility effective it must be constantly enforced by the watchfulness of public opinion. To endeavor to pit the different governmental bodies against one another is the surest means of destroying real responsibility, and thereby courting the introduction of the baneful influences that have marred our municipal history.

Another instance of a complete failure of adjustment, and one closely connected with the preceding, is to be found in the relation existing between our political ideas and methods of political reasoning and the form of municipal government. The idea of popular government, which for a long time was consistently applied throughout our municipal system, furnishes an excellent illustration of this fact. We proceed on the assumption that the best means of insuring responsibility is through popular vote, completely ignoring the fact that for offices requiring preparatory professional and technical training, popular opinion cannot apply the proper standards nor popular vote enforce responsibility. The evils to which this abuse of the elective principle led have compelled us to modify the system. But what is the nature of the change we have made? The elective principle, it is true, has been sacrificed in certain cases; a system of appointment of departmental heads by the mayor has been adopted, but instead of recognizing that from the very nature of departmental work these officials must enjoy fixity of tenure, we have taken analogies from our federal system. The heads of departments, it is argued, must be in political harmony with the mayor; they should constitute his cabinet. The sweeping changes made after each mayoralty election are regarded not only as justified, but as one of the means of registering the will of the people. A little reflection will show that what is demanded of heads of

departments is the ability to plan large public improvements, and to execute in the most economical and efficient manner the policy of the local legislative assembly. This is practically impossible under the system of short tenure, which prevents the acquiring of that intimate knowledge of departmental work so necessary to efficient service, and acts as a deterrent to the adoption of plans for great public improvements, the execution of which requires a long term of years.

The root of the evil lies in a mistaken concept of the nature of administrative responsibility as applied to municipal affairs. That individual responsibility of some kind must exist requires no argument; but it is equally true that the responsibility in the administration of municipal departments is different from that which must obtain in the administration of national affairs. In local affairs, few broad questions of political policy are involved. Details of departmental administration in our cities can never be made the subject of an intelligent judgment by the mass of electors. The usual result of the attempt to pass upon such details at popular elections is that the efficiency of a departmental head is gauged by one or two subordinate facts which happen to attract public attention. What form, then, shall departmental responsibility take? The direction in which we have been moving, viz., appointment of heads of departments by the mayor and responsibility to him, is giving satisfactory results, but needs



to be supplemented by a more permanent tenure of office.

This relation between municipal organization and municipal progress was impressed upon me with peculiar force in the course of a conference with the Charter Board of Kansas City. The members of this board, known as the Board of Freeholders, were elected by their fellow townsmen to frame a new charter. Under the provisions of the Missouri Constitution<sup>1</sup> all cities with a population of 100,000 or over may frame their own charters through the agency of a local charter convention, and such charter when accepted by the people takes effect immediately without any action on the part of the state legislature. The only requirement is that such charter shall conform to the general laws of the state. The relation thus established between the community and its organic law has exercised an influence on the civic life of the people which carries a lesson of far-reaching importance. The fact that the responsibility for the framing of a new charter rests not with the state legislature, but with the people of the community, has aroused an intensity of civic spirit which makes itself felt in every department of the city government. Every literary and scientific organization in the city was discussing the question of the new charter, and the Board of Freeholders, to which was intrusted the function of framing this charter, was receiv-

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<sup>1</sup> Art. IX, Sec. 16.

ing dozens, yes, hundreds of propositions for changes in existing organization. Every municipal service was being subjected to the closest scrutiny, and through this discussion there was developed a more definite as well as a higher standard of efficiency which the people of the community were prepared to require of their officials. Entirely independent of the plan of municipal organization that may be adopted, the manner of its adoption illustrates how governmental machinery may be so constructed as to foster and develop civic alertness.

Although we have given lip-service to the principle that governmental machinery reacts on civic life, we have failed to observe it in the actual conduct of municipal affairs. In most American communities the purpose seems to have been to construct a self-acting mechanism which would guarantee good government and secure honesty. By pitting the executive against the legislative authority, by electing one official to exercise control over another, and by making official terms as short as possible, we have beguiled ourselves with the illusion that it is possible to construct a machinery of government which only requires the attention of the people at stated election periods. Our statute books are filled with definitions of malfeasance in office and with penalties for derelictions of duty. These national characteristics all point to the fact that we are a people with unlimited faith in machinery in government as well as in industry.

It is not surprising that this search for self-acting machinery of government has proved fruitless. We are simply trying to relieve ourselves of an obligation which we cannot throw off. The history of municipal government in the United States has proved that one of the primary tests of efficient municipal organization is the extent to which such organization not only develops, but demands the alertness and watchfulness of the people. Any form of government which arouses in the people the belief that they have constructed a self-acting mechanism not only tends to lower the standard of civic effort, but relieves the government of that salutary control of public opinion without which efficient government is impossible.

New York City has advanced to a clearer perception of this truth than has any other large city of the Union. The abolition of the bicameral legislature, the concentration of appointive power in the mayor, the relatively long terms of heads of departments, have marked the successive stages toward the realization of this truth. In this process the representative assembly of the city has been reduced to a position of relative significance. Although we may criticise the form of government which has resulted, the instinct that has guided the public has been a healthy one. Under the present form of government the power vested in the mayor is so great that the community feels the necessity of watching his policy at every step. The form of government

demands alertness, and the people have responded to this demand. The very fact that this concentration of executive power involves dangers has exercised a powerful influence on the attitude of the people toward the government.

Before we can secure good government in our American communities it is not only necessary to abolish this fetichism of governmental machinery, but so to construct that machinery as to make the control of public opinion both easy and effective. We have too long clung to the belief that popular government means the election of a large number of public officials. Tempted by this belief we have stretched the elective principle far beyond its possibilities, and in many instances have made it a source of governmental weakness. There is no reason in the nature of things why the city attorney, solicitor, treasurer, or receiver of taxes should be elected by the people. The application of the elective principle to these offices tends to divert the minds of the people from the really important executive offices, and so divides responsibility that its enforcement becomes increasingly difficult. Here, again, we must modify beliefs which we have inherited from a period when the appointment of local officials was an indication of monarchical or despotic power. The essence of popular government is such popular control as will enforce certain definite standards of efficiency in the administration of public affairs. That control can best be exercised when

it is directed toward one or at most two or three executive officials.

There is every indication that we are gradually adapting our political beliefs to the manifest requirements of our municipalities. In this process of adaptation we must be prepared to make many changes, both in the organization of our government and in our attitude toward that government. Whatever these changes may be, anything that tends to diminish the alertness of the population will to that extent lower the tone of its civic life. The relation between city and state and the organization of the city government must be arranged so as to foster this alertness, and the mechanism of government must be so adjusted as to make both the control of public opinion and the enforcement of responsibility easy, ready, and effective.

The discussion up to this point has had to do mainly with the organization of our municipal institutions. A question of far greater complexity remains to be considered. The proper adjustment of civic and political standards to the conditions of city life is a matter of such fundamental importance that upon it the whole municipal problem may be said to rest. Viewed in this light, municipal reform becomes something more than a governmental problem. It assumes the proportions of a great social question upon which the future of the race depends. That the city is something more than a mere aggregate of individuals requires no demonstration,

but that the peculiar conditions developing out of such close aggregation demand a change in our civic and political standards is a fact which has not received such general recognition. An examination of the conditions of city life, especially in the large centers of population, will show the far-reaching effects of two leading characteristics:

First.—The close interdependence of the units, and the sensitiveness of the whole body politic to the standards of individual action.

Second.—The artificial character of the city environment.

The simple and elementary fact of the concentration of population within a comparatively small area brings with it the necessity of adapting individual conduct to such new conditions. A new concept of individual responsibility and of the possibilities of organized action must be developed. But what, it will be asked, is the nature of these higher civic standards; and what circumstances or forces are to contribute to their development? The usual answer to this question may be summarized as follows: Once get the people to appreciate the fact that good city government pays, that the material advantages to be derived from the efficient performance of services will more than compensate for the energy expended, and your problem is solved. While no one would deny the importance of this factor in certain specific cases, it is equally certain that this utili-

tarian calculation does not and cannot furnish a permanent basis for civic progress. Such advance must come, if it comes at all, from new standards of action, created through the recognition of the full meaning of a better city environment and from the belief that the city contains within itself the possibility of the highest type of social life. Under such conditions civic activity results, not from the balancing of effort and return, but rather from the new meaning which the city, as an organic and, in many respects, ideal unit has attained.

If we stop for a moment to consider the motives underlying the devotion to national honor and dignity and the ever-ready and willing sacrifice in the interest of the "home," the tremendous power of this civic force will be apparent. As yet, however, no such traditions and associations have clustered themselves about our American cities. We are continually asking ourselves whether it pays to take an hour from business activity or from family comforts to be devoted to the good of the city. So long as the city represents little more than an ordinary private corporation, furnishing police protection, drainage, water, etc., a negative answer is to be expected. Examine for a moment the attitude of the great middle class. The tidiness of the household interior is a matter of great pride, but no æsthetic or moral sense is disturbed by filthy streets, or if so, the disturbance is but momentary. The garden or small back yard, enjoyed in the seclusion of the fam-

ily, is placed in the balance as against a public-park system, resulting in indifference to the latter. A public supply of pure water is balanced with the possibility of purchasing a filter. The discomforts of the overcrowded street car do not weigh heavily, because the ride represents the comparatively short period between the exclusiveness of the business and the isolation of the home. Although these facts imply many admirable qualities of domesticity, they also show grave defects in our civic life. To remedy these defects is at present the primary problem of American city life. Is it possible for the community to adopt a policy favoring the growth of the new civic standards, or are we entirely dependent upon the play of natural forces, the slow process of the struggle for existence and the survival of the fittest?

The answer to this question would necessitate an exhaustive examination of the conditions of the city environment, the process of natural selection, and the probability of the survival of a higher type through the operation of this process. Whatever future investigation may show, our present knowledge of the process of social evolution points to possibilities in municipal activity which have been completely neglected in most American cities. By far the strongest force at the disposal of the municipality is the influence of organized effort on the standard of life of the community. When combined with this we have the clear recognition by the



citizen body of the influence thus exerted, an irresistible force making for civic progress is at work. The experience of the cities of England and Scotland is of special value to us, because of the similarity in environmental conditions. Even the casual observer cannot help feeling that the British town population is developing a new concept of municipal activity, that the people have begun to realize that upon the concerted action of the community depends to a very large extent the kind of life which the mass of the community shall lead. The first glimpse of the truth of this fact brings with it a new attitude toward the city.

The civic activity of the community may be divided into two classes :

First.—Those efforts directly modifying the environment, and thus indirectly influencing the standard of life.

Second.—Those directly affecting the standard of life through the offering of new services or commodities.

In the animal world the adaptation to purely natural conditions and the unrestricted struggle for existence may be necessary to preserve “the speed of the antelope undiminished and the sight of the eagle undimmed,” yet the moment we enter the field of human society we have the struggle modified at many points, due to the development of social instincts and class feelings. And it is well that it is so, for, as Huxley has shown, evolution does not necessarily mean progress,

nor is the cosmic process necessarily identical with the ethical process. With the growth of social relations incident to the development of city life man becomes to an increasing extent the product of social as distinguished from purely natural forces. His mental and moral traits are determined largely by his environment, but it is an environment furnished him by the community rather than by nature. This view of the subject carries with it a new element of responsibility. If the city environment is to determine the character of the city man, the importance of making the environment favorable to the development of the highest type becomes apparent. The fullest utilization of this power of the community is made all the more necessary by reason of the improved condition both as regards the wages and the hours of labor of the working classes.

For the first time in the history of modern countries, leisure has become a possibility not to a privileged circle, but to all classes. This is particularly true in the large cities, where we have combined the highest average income with a comparatively short working day. While this increase of income has been dwelt upon by many writers, little attention has been given to the use made of the consequent leisure. We have hardly begun to realize the extent to which its use is dependent on the opportunities offered by the community, and how closely it is bound up with the character of the environment. With an unfavorable environment leisure inevitably

becomes the source of racial degeneracy and social disintegration. Under favorable conditions, on the other hand, it constitutes one of the strongest forces making for progress. At a certain stage in social evolution the possibility of leisure becomes the condition requisite for further progress. The manner of its use will determine whether the community is to take the next step in progressive evolution or whether the temptations which leisure brings with it will lead to retrogression and ultimate decline. Viewed in this light, the judicious distribution of parks, play and recreation grounds, the adjustment of street-railway fares with a view to promoting travel, the creation of a system of municipal theaters offering the best that dramatic literature affords—all these institutions, and many more, acquire a new significance. When the failure to provide a proper environment leads to the development of forces endangering the future of the race, the question of municipal activity becomes one of fundamental importance. When the creation of new municipal institutions means a new mode of life, and a new view of life for the mass of the community, the attitude of the population toward the city and its government becomes a matter of vital importance.

The city is no longer regarded as a necessary evil; it is recognized as the accompanying factor of all civilization. Only under the conditions of city life can the possibilities of human development be realized. This

does not mean that the city should be a monotonous succession of narrow and depressing thoroughfares, that every available open space should be covered with glaring signs, that at every street corner there should be a saloon, and that every individual should be permitted to give free range to his fancy in the erection of dwellings. Through the construction of parkways, the erection of imposing public buildings, a change in the immediate environment of the poorer classes, and, finally, the acceptance of the social standard in the performance of municipal services, a new concept of municipal activity and of city life will be attained.

The question of greatest interest in this connection is the ultimate effect of this view of municipal services on the civic standards and activities of the community. The great problem of the social reformer, it has been said, is to get the people to use their imagination. John Stuart Mill put this in another form when he said that "one person with a belief is a social power equal to ninety-nine who have only interests." Belief in the possibility of a higher type of civic life can come only from the creation of new ideals. The primary elements of such ideals must be found in existing conditions. The citizen is then in a position to make new combinations, to add new elements to such combinations, and, finally, to picture to himself an ideal city environment. The first effects of this change will be of a negative character. The community

will no longer tolerate methods of action which are now regarded with indifference. A new sensitiveness which is the necessary condition to higher standards will be developed. The overcrowded street car, the advertisement-covered fence, the filthy alleyways will arouse the active condemnation of the community. Opinion will thus reach its true position as a great social force in city life. From these more negative standards there will be a gradual advance to positive standards. The new civic standards based upon distinctively city ideals will assure that devotion to the public good upon which the future of American city life and the efficient working of all forms of government must ultimately depend.

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## CHAPTER IV

### THE SOCIAL CONSEQUENCES OF CITY GROWTH

THE migration of the country population into the cities, while not the most important, is certainly the most striking of the social phenomena incident to city growth. The violent opposition which this movement first aroused was the expression of a deeply rooted moral antagonism to city life. That the city is a necessary evil, the center of vice and the nursery of crime, pervades the theological literature of the eighteenth century. To avoid its temptations was one of the first precepts of Puritan morality. The cry of the French philosophers—"return to nature"—was largely a reaction against the conventionalities of city and court life. Under the circumstances, it is not surprising that the political philosophy of the present century should take a pessimistic view of the future of a civilization which is building up its cities at the expense of the country districts.

A broader grasp of the process of social evolution, supplemented by a more thorough analysis of the conditions of city life, has considerably modified this view of our social development. It is true that the conditions

prevailing in the cities of the eighteenth century and the first half of the nineteenth century justified the pessimistic predictions as to the future of a civilization which was building up its cities at the expense of the rural districts. Until the beginning of the nineteenth century the urban death rate was so high that migration from the rural districts was the only means of city increase. It was evident to the social philosophers of the eighteenth century that if this excess of deaths over births was a necessary accompaniment of city life, the nations of western Europe were condemned to gradual extinction.

This reasoning, which was based on conditions of a bygone age, has perpetuated itself in our modern philosophy and is responsible for much of the opposition to city growth. The conditions upon which it is based, however, have totally changed. The extraordinary advance in urban sanitation has made the cities not only self-sustaining but is rapidly placing them in a more favorable position than the rural districts, owing to the fact that, as a rule, the birth rate in cities is higher than in the country.

France is the only country in which the conditions which were universal during the eighteenth century still obtain to a certain extent. Of the twelve larger cities six are unable to maintain their present population through natural increase.<sup>1</sup> Of the total growth of ur-

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<sup>1</sup>Weber, "Growth of Cities," p. 239.

ban population eighty-seven per cent is due to migration from the rural districts. Professor Lagneau,<sup>1</sup> in an interesting comparative study of the population of France and of the Department of the Seine, has shown the influence of reduced vitality upon the population. The following table shows the average number of survivors of every ten thousand infants born in France as compared with the same number in the Department of the Seine:

AGE.	OF 10,000 INFANTS BORN THERE ARE SURVIVING IN	
	France.	Department of Seine.*
From 0 to 5 years.....	7,035	4,897
From 5 to 10 years.....	6,620	4,675
From 10 to 15 years.....	6,392	4,561
From 15 to 20 years.....	6,111	4,313
From 20 to 30 years.....	5,452	3,567
From 30 to 40 years.....	4,880	2,918
From 40 to 50 years.....	4,227	2,288
From 50 to 60 years.....	3,353	1,588
From 60 to 70 years.....	2,163	847
From 70 to 80 years.....	714	247
From 80 to 90 years.....	61	22

\* The Department of the Seine contains Paris and two small communes.

According to the same author, 10,000 native-born Parisians leave only 5,996 descendants. So rapid is the

<sup>1</sup> Lagneau, "Essai de Statistique Anthropologique sur la Population Parisienne." Cited by Meuriot, *op. cit.*



decline that with the eighteenth generation the entire population would disappear.

In Germany, Sweden, Austria, and Hungary from twenty-five to fifty per cent of the total growth of urban population is due to natural increase, namely, excess of births over deaths. In England the death rate in the towns is higher than in the rural districts, but the birth rate is also considerably higher. The natural increase in population is the same in both rural and urban districts. In the United States the improvement in the conditions of sanitation has been such that the cities now show a larger natural increase than the rural districts.

Thus the old doctrine that a civilization which rested on urban conditions was doomed to extinction has no longer a foundation in fact. The experience of the last few decades has shown that it is within the power of the community so to adjust the conditions of city life that instead of reducing vitality and producing racial degeneracy and decay, they shall tend to eliminate the causes of disease and strengthen rather than reduce vitality.

Whether we regard the phenomenon of rural migration as contributing to social progress or retarding it, an examination of the causes determining the change will show that the movement is one which legislation cannot check. The forces at work in modern society have not only increased the attractiveness of city life, but have also weakened the economic and social ties of the rural

population. The economic history of Europe during the last thirty years has shown that we are in the midst of a period of falling agricultural prices. While there may have been a temporary rise in prices in one section or another, the general trend has been downward. A large part of the change has been due to the opening up of new resources, of new possibilities in the production of food. In the readjustment of productive forces it is evident that the farmers in the less favored districts must suffer. Only those who are in the vanguard of improvement will be able to maintain the struggle with the new conditions. Complaints will probably increase with each year in all those sections that have not a distinct world advantage in the raising of food products. It is a significant fact that in England between the years 1870 and 1891 the acreage of cultivated wheat land decreased 47.67 per cent. The constant increase in the average size of the farm has lessened the possibilities of profitable employment and contributed in no small measure to the rural exodus. In Great Britain and Ireland 12,477 persons own two thirds of the land.

The uniformity and monotony of country life must also be taken into account as one of the social causes making it distasteful. The influence of this factor will probably be seen more clearly in an examination of the social attractions of the city. As Mr. Pearson has well said: "To the country yokel the city is an unend-

ing romance.”<sup>1</sup> The variety of pleasures, the excitement, and constant change characteristic of city life, the gratification of the social instincts which these conditions afford, prove an irresistible attraction to those who have been brought up under rural conditions. Then, too, most of these pleasures are enjoyed without cost. Whatever or whenever the hour of leisure, the inhabitant of the city is sure to find unlimited opportunities for indulgence in social pleasures. When to this we add the higher rate of wages and the shorter hours of labor in cities as compared with country districts, the attraction of urban centers is readily explained. The great social demand of modern times is leisure, and in the choice of employment we find those occupations given the preference in which the amount of leisure time is the greater, even if the choice involves a lower rate of wages. It is only necessary to contrast the position of the shopgirl with that of the domestic servant to be convinced of this fact.

In addition to this social cause there are a number of economic reasons that tend to increase the inducement to migrate from the country into the cities. The city offers a variety of industrial opportunity, which makes it possible to utilize every special capacity or talent. It is not surprising, therefore, to find the most energetic and the most capable migrating to the cities, where the division of labor and the possibility of spe-

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<sup>1</sup> Pearson, "National Life and Character."

cialization are greatest. The greater educational advantages of the city constitute another inducement to leave the country. Not only the thoroughly organized elementary-school system, but also the development of technical schools, of museums, libraries, and public lectures constitute a powerful attraction to the more intelligent of the country population.

On the continent of Europe we find an additional cause, absent in American communities, namely, the universal military service. It is the custom to place the recruits from the country districts in cities for the period of military service. After enjoying the pleasures of city life for a number of years, few are willing to return to the country. As a result, there has been a constant accretion to the city population, due to the continued residence in the city of those who have completed their military service.

With such a combination of forces at work, it is easy to account for the failure of the attempts that have been made through legislation to counteract the effect of this movement. In the countries of continental Europe, where the paternal eye of government has looked upon the change as involving serious dangers, these attempts have proved futile. During the last twenty-five years most of the countries of Europe have reorganized their local rural institutions, with a view to increasing the vigor of local political life. The Prussian reforms of 1872 and 1876, the English County

Council Act of 1888, and the Parish Councils Act of 1894 were intended to give to the local rural divisions a more democratic form of government. It was hoped that the increase of political interest would tend to strengthen the attachment of the population to such local districts.

Again, the attention which has been given in recent years to the development of educational facilities in the country districts has, in part at least, been dictated by the desire to strengthen local ties. Another class of measures attempts to counteract the movement by direct coercion. For instance, in Germany the Poor Law authorities have the power to repatriate inhabitants from the rural districts who are likely to become charges upon the community. The system of labor colonies is designed to relieve the pressure of population in the cities. As late as 1891 a proposition was made and seriously considered in the Prussian Diet to limit the freedom of change of domicile in such a way as to prevent migration from the rural districts of those whose equipment and economic condition did not warrant the change. It must be remembered that the right of unrestricted migration from one part of the kingdom to another was not recognized in Prussia until 1867, and it seems likely that its present recognition will be modified in order to check the depopulation of the rural districts. The lessons of this varied experience make it clear that the movement from the country districts into the cities

is one of those great social changes which we cannot hope to counteract. While it involves certain definite dangers, they are dangers incident to progress.

Individual as well as racial progress involves an endless series of adaptations to environmental conditions. Every change in the conditions of life makes new demands upon the individual. Failure to meet new requirements carries with it a corresponding disadvantage in the struggle for existence. For the individual and the class this means gradual elimination from the community through the manifold agencies of natural selection, such as disease and vice, or of artificial selection operating through the criminal code and the poor law.

An excellent instance of the process of elimination acting upon the classes unable to resist the temptations of city life is to be found in the application of the criminal law. It is usually assumed that the city population shows a distinctly lower moral tone than the population of the rural districts, and in support of this view the greater number of misdemeanors and crimes committed in the cities is usually cited. If the figures alone are considered the contention seems justified. Thus in a comparison of ten agricultural and industrial counties of England, we find in the former 0.71 crimes and 13.84 misdemeanors per thousand inhabitants; whereas in the industrial counties the percentage is 0.90 crimes and 23.81 misdemeanors per thousand inhabitants. Again, in the rural districts of France the number of criminal

accusations amounts to 0.7 per thousand inhabitants, whereas in the urban centers the proportion is 1.4.

Further analysis discloses the fact that so far as offenses against the person are concerned, the proportion is nearly the same in rural and urban districts; whereas there is a wide discrepancy in favor of the rural districts in the offenses against property. This fact must lead us to quite a different conclusion as to the moral tone of the country as compared with the city, for in the offenses against the person we have a very much more effective test of moral strength than in the offenses against property. It is evident, even to the casual observer, that the opportunities and temptations to violate property rights are far more numerous in the city than in the country districts. The mere fact of increased density of population brings individuals into relations with one another which require far greater self-control to avoid encroachment upon property rights than is the case in the rural districts. For instance, the temptations to business dishonesty of different kinds, such as the adulteration of food products, fraudulent bankruptcies, and the like, are infinitely greater in the larger cities. Furthermore, the greater division of labor in the urban centers leads to the introduction of large numbers of persons into the household performing minor services, and thus increases the temptations to petty thefts. We must therefore be extremely careful in drawing conclusions as to the moral standards of city

life from criminal statistics alone. This situation, when viewed from the broad standpoint of social evolution, points to the conclusion that under the conditions of city life those who lack the moral fiber necessary to withstand these additional temptations are temporarily or permanently eliminated from society; peopling our houses of correction, jails, and prisons. While, therefore, to the individual, lack of self-control means elimination from society, it involves gradual extinction for the community unless new and better elements are constantly introduced from without. This increase in temptation to wrongdoing is but one of the indications of the radical change in environmental conditions incident to the transition from country to city life. We are only beginning to appreciate its full significance.

The mere fact of concentration of population means a degree of interdependence between the individuals of the community unknown to country life. With increasing density of population the points of contact between individual activity and social welfare become more numerous. The facts of every-day experience offer many illustrations. In the country districts the sanitary condition of the home is a matter of individual concern in which the community at large has but an indirect and remote interest, but in the city the situation is radically changed. Every unsanitary dwelling is a direct menace to the welfare and safety of the community; neglect to fix the standards of sanitation means reduced vitality



and diminished industrial efficiency. The heaviest burdens of such neglect fall upon those classes least able to bear the strain. This is particularly true wherever the working classes are housed in tenements. Escape from the influence of neighbors becomes impossible, and as we descend the scale of income the degree of interdependence becomes greater. The manner of performing the ordinary routine of household duties directly affects the comfort and often the health of a whole district. Even where the tenement-house system is the exception, as in Philadelphia, there is no escape from the ignorance and selfishness of neighbors.

The use to which the back yards of our city dwellings are usually put furnishes an excellent illustration of the influence of the city environment upon individual conduct. In the country, the management of the farm is determined by the choice of the individual owner, and with the exception of a few unimportant restrictions the community does not attempt to limit freedom of choice. To permit anything like the same liberty of action in a densely crowded community would involve the most serious dangers. In a city like Philadelphia, for instance, with its hundred thousand workingmen's dwellings, we find the back yard used as a dumping ground for refuse matter. Adaptation to the city environment has not advanced sufficiently to develop a feeling of social responsibility or to show the necessity of enforcing higher standards of individual action.

As the more progressive elements in the community begin to appreciate the type of conduct required for the fullest utilization of the opportunities of city life the feeling of social responsibility begins to appear. This stage once reached, the final step will be to enforce the new standards upon the less progressive elements through legal enactment. At the present time only a very small section of the community ever stops to think of the reactive influence of individual conduct upon social welfare. The enforcement of new standards of conduct seems to imply, at first glance, a serious encroachment upon the domain of individual liberty. In a country such as ours, in which the fundamental principles of government have been framed with a view to securing personal and property rights, the problem of effecting a modification of political standards in the direction of greater governmental regulation is peculiarly difficult.

A careful analysis of the situation will show that adaptation to the city environment implies a modification of the concept of liberty rather than an actual narrowing of the field of free choice. We have become so accustomed to identify "liberty" with "freedom from restraint" that any increase of regulative control is regarded as a step toward governmental tyranny. To the average citizen, liberty is an absolute term—a definite and unchangeable series of individual choices. While the tyranny of social custom is not

looked upon as a real restriction of personal liberty, every increase of legal regulation is so regarded. Even in the philosophical discussions of the subject we rarely find a recognition of the fact that the range of choice in a progressive society is constantly increasing. Differentiation of wants, and diversification of opportunity for their satisfaction, are the very essence of social progress. The intellectual and industrial stimulus developed by concentration of population finds expression in the greater variety of wants, the constant diversification of industry, and an increasing variety of choices in consumption. Striking illustrations of this fact may be drawn from the food supply, the clothing, the occupations, the amusements, recreations, and intellectual opportunities of the city. In all of these the possibilities of choice are immeasurably greater than in the country districts. While this wider range of choice is one of the conditions requisite to progress, it begets new dangers, both to the individual and to the community.

The community has a very definite interest in the kind of choices which the individual may make, and the dangers of a wrong choice increase with the rise in the rate of wages. With every increase in income the range of choice is widened. So long as the selection of occupation, food, or amusement which the individual may make does not injuriously affect broader social interests, regulation through law is not only unnecessary, but

positively oppressive. To make the right choices, however, presupposes a degree of self-control and discrimination which is to be found in only a small fraction of the population. The bitter lessons of English experience during the early decades of the last century have demonstrated for all time that unregulated development brings with it the most serious evils, endangering the health and safety of the community. The food supply of the population must be carefully inspected in order to protect the housekeeper against the allurements of mere cheapness, which usually means adulterated or otherwise unwholesome food. In the regulation of the liquor traffic the community endeavors to minimize the temptations to drunkenness and crime. The building laws and tenement-house regulations are designed to protect the population against the consequences of unsanitary surroundings. Trade regulations exclude certain occupations from the field of choice, and in the case of unwholesome trades determine where and under what conditions they shall be carried on. This extension of governmental control, which registers with considerable accuracy the gradual adaptation of the population to the city environment, has not been effected without a struggle. The eighteenth-century interpretation of individual liberty had to give way before the pressure of existing evils. A century's experience has taught us that the process of adaptation is far from being complete. On all sides we have evidence of wide

discrepancies between individual conduct and social welfare, but the emphasis on individual rights has obscured the new relation of the individual to the community.

In the United States the belief in absolute individual rights makes it possible for the citizen to take refuge behind the Constitution in the attempt to enforce his will or pleasure against the best interests of the community. It is this attitude toward the freedom of the individual that encumbers our sidewalks with all sorts of obstructions, enables the soap manufacturer to burden our streets with blazing advertisements, and makes it possible for the individual to ruin the architectural effect of an entire section of the city. The city environment demands an essentially different type of conduct, and consequently a different type of morality from that of the rural districts. In the city the individual must clearly visualize the reactive influence of his acts upon the welfare of the community. Communal welfare must become an important factor in the motives that determine individual action.

As civilization advances from a condition of rural isolation to the close association of city life, a marked change takes place in the degree of dependence upon purely physical conditions. The mere fact of increasing density of population involves the gradual development of an artificial environment to replace natural physical conditions. The plotting, grading, and paving of streets, the construction of wharves, the public water

supply, and drainage system—in short, every public work—supply needs which natural conditions fail to meet. Every increase in municipal functions marks another step in the development of this artificial environment.

This power over the environment carries with it far-reaching consequences, for it places upon the community a large share of the responsibility for social advance. For the greater portion of the population the question of an elevating or degrading environment is decided by the community in its organized capacity. That we have failed to recognize this fact in our American cities has been due to one of the defects of our strongest virtue—the intensity of home life.

The development of the home and of the instincts and feelings which group themselves about the home ideal has been and still is the leading characteristic of our social life. It is the phase of American character which impresses itself most forcibly upon the foreigner. Our individualism, intense as it is, stops short of the family group. Devotion to the family and to family interests occupies so high a place in public opinion that it can readily be used to cloak fraud and dishonesty in business relations. Business reputation will stand many shocks if well padded with domestic virtues. Offenses against family integrity, on the other hand, are visited with punishment which is often cruel in its severity. No one will deny that this high development of home

life has played a most important part in the formation of American character, and that it has been one of the strongest safeguards against the excesses which usually accompany rapid material progress. But in spite of their great social value in other directions, our home ideals have retarded rather than promoted civic advance. This does not mean that there is a necessary and inherent antagonism between home instincts and civic activity, but rather that modern social development has placed a premium upon the domestic virtues. Family responsibilities stimulate those industrial qualities which make for economic progress, whereas civic zeal is often a real hindrance to business success.

The women of this country must bear part of the responsibility for the failure of the home to contribute toward the development of civic action. The influence of the average woman in the United States, especially in the middle classes, has been distinctively unfavorable to the participation of the head of the household in public affairs. There is a strong feeling in the vast majority of American homes that time given to public affairs is time lost. With relatively few exceptions the wife has discouraged the participation of the husband in public life, because of the fear that such participation would take the husband away from home, and that it would encroach upon the time that should be given to the support of the family. Combined with this there has been a deeply rooted feeling of repugnance against the par-

icipation of the husband in political struggles. No influence has been more potent in keeping voters not only from the polls, but also from more important activity in the local political associations and committees. The root of the difficulty is to be found in the defective training of the women of the country. Their education in the home and in the school has been of a character which has fostered the strongest individualistic tendencies.

There is in fact no inherent antagonism between domestic virtues and civic usefulness, but the mistaken interpretation which the women of the country have placed upon the domestic virtues has served to create a fictitious antagonism which has done and is still doing incalculable harm to the civic advance of our American communities. Thus, the powerful economic forces that contributed toward the isolation of the home have diverted the attention of the community from the enormous power which the city in its organized capacity does and must always wield for good or evil. It is a mistake to suppose that a passive attitude means a neutral one, for the mere fact of concentration of population necessarily involves a change of environment. The only question at issue is whether this environment shall be consciously modified by the community with a view to developing new moral qualities and stimulating higher ideals, or whether unregulated development shall be the course adopted. The answer to this question is



not a difficult one when we stop to consider the nature of the interests at stake—the physical vigor and moral tone of the community.

The exercise of the community's power over individual conduct is largely dependent upon one of the most important of the laws of social choice, that of "minimum cost." In the selection of food, of recreations and amusements, the individual seeks a maximum of enjoyment for a minimum outlay. Changes in habits and mode of life in order to be permanent must rest upon this basis. When, therefore, the transition from country to city life makes necessary radical changes in the standards of conduct, the modification of environmental conditions may be made to contribute toward this end. The conditions of life in our great cities offer striking instances of the power which the community may exercise. The improvements of the last few years in street construction have already changed the habits of large sections of the population. Rapid and easy communication between different parts of the city has been made possible; the electric railway has become an instrument for recreation as well as a means of transportation. The local environment of the individual has been enlarged, and with this enlargement of environment there will come a broadening of civic interest.

Again, the influence of the saloon is largely to be explained by the fact that in most American cities it is the only center of social intercourse and amusement

readily accessible to the laboring classes. Little or no attempt has been made to develop institutions which will serve all the purposes of the saloon without its degrading influences. The success of the few disconnected efforts of private associations to offer counter attractions is but an indication of the possibilities of the wider and more efficient action of the community in its organized capacity. No one who has studied the influence of institutions, such as Toynbee Hall and the People's Palace, can have failed to be impressed with their influence upon the habits and morality of the population.

At the present time the attractiveness of the saloon is greatly enhanced because of the uninviting and oft-times positively repulsive appearance of the streets. We are only beginning to appreciate the fact that permanent improvements in city life are dependent upon institutional changes, upon better opportunities for recreation and enjoyment rather than upon argumentation and agitation. The distinction between good and bad citizenship runs parallel with the line of division between the wholesome and injurious use of leisure. Unless the opportunities for the use of such leisure are abundant, healthful, elevating, and readily accessible, the population will hold to its inherited tastes and instincts. Instead of many and varied pleasures there will be a few violent and exhausting indulgences, such as drink and debauch, which eventually sap the vitality of the popu-

lation. Private associations may be able to reach small groups, but to exert a lasting influence the action of the community as a whole is required.

The condition of the water fronts of America as compared with those of European cities furnishes one of the most striking illustrations of this fact. With rare exceptions we have permitted our water fronts to be utilized as best suited individual convenience. The result has been not only to destroy any natural beauty which they may have had, but to make these districts less attractive than any other portions of the city. It is only necessary to call to mind such superb harbors as New York, Boston, and Philadelphia, which, as regards natural beauty, rival, if not outrank, the cities of the old world. Compare, for instance, the waterfront of Paris with that of Chicago, or Philadelphia's treatment of the Schuylkill with Berlin's splendid avenues along the Spree. We have proceeded upon the assumption that commercial convenience is incompatible with cleanliness and artistic beauty, and as we were determined to obtain the former, the latter has been sacrificed.

The failure to make the most of environmental possibilities involves much more than the loss of æsthetic training. It affects the moral tone and industrial efficiency of the community, and greatly reduces its possible enjoyments. Instead of making the water-front districts the most attractive promenades and recreation places, they have become the haunts of the very worst

elements. As generation after generation is brought up under the same unfavorable surroundings, the moral fiber, the vitality, and the industrial qualities of the population of these districts tend to decline. Thus are formed the breeding spots of disease, vice, and crime, which are the great obstacles to social progress.

It is instructive to note the contrast between two such great ports as Havre and New York. The French have succeeded in combining the two principles of commercial utility and artistic beauty. Instead of permitting every individual to assert what he believes to be his economic interest—which in such cases usually means cheap and unsightly structures—the community undertakes the management of its riparian rights and requires that warehouses and other buildings conform to one general plan. The result has been that in Havre, as in most of the cities of France, the quays are not only fully equipped for all commercial purposes, but are made popular recreation centers. In most cases they serve all the purposes of great public parks, brilliantly illuminated and readily accessible—a constant source of civic pride and a powerful stimulus to civic patriotism.

The history of Paris furnishes abundant evidence of the influence of the city environment upon the character of the population. The artistic reconstruction of large sections of the city during the Second Empire has been one of the forces contributing to develop that keen appreciation of the beautiful which distinguishes the

population of Paris from that of the other large cities of the civilized world. It has, furthermore, aroused that devotion to the city which constitutes the most inspiring element in the life of the French capital. Whatever may be the shortcomings in the political life of the French nation, there is a sensitiveness and alertness of public opinion to everything that affects the well-being of the city which arouse the admiration of every observer. The environment, as formed by the community in its organized capacity—the splendid avenues and boulevards, the dignified and imposing public buildings, the judicious distribution of parks, etc.—has contributed largely to this end.

The activity of the English and Scotch cities under the "Housing of the Working Classes Acts" furnishes numerous striking instances of the influence of objective environment upon civic effort. In Glasgow, Birmingham, and London, great districts have been remodeled and rebuilt by the municipality, thus creating new surroundings for large classes of the population; surroundings which have reacted with great force on the everyday life of the people and on the civic ideals of the community.

Take, for instance, the Bethnal Green Improvement undertaken some years ago by the London County Council. In this district of the East End, an area of some fifteen acres of closely built-up slum property was expropriated, the buildings demolished, and a generous

plan of reconstruction executed. Streets sixty feet wide arranged upon the radial plan, model tenement houses complete in every detail, a common laundry, reading rooms, and other social institutions were provided. In short, the possibility of a new and higher mode of life was offered to the population. The environment called for higher standards of living to which the population readily responded. The laying out of parks and playgrounds exerts a similar influence. Instead of the gutter or alley, with the kind of amusements which they permit, a new and wider freedom is given to the child, and for the adult the saloon need no longer furnish the only cheerful recreation center.

In the administration of city services, especially the municipal industrial enterprises, similar ends must be kept in view. In our American cities the gas and street-railway services have never been viewed in the light of their possible social functions. Private lighting, while in some instances under direct municipal management, has been controlled by purely financial considerations, while public transportation has been uniformly managed by private corporations. Here, again, the recent experience of English cities is extremely significant. The street-railway systems of Glasgow and Sheffield, which are under direct municipal management, are being used as a means of effecting a better distribution of population. The rates of fare are so adjusted as to offer direct inducement to the laboring classes to move into outlying

districts instead of congregating in the central and already overcrowded portions. The one- and two-cent fares during the early morning and evening hours have been the means of bringing large numbers into a new environment. Recently, Glasgow has decided to go one step farther in offering model tenements in the suburban districts. This may seem a dangerous extension of function, and yet it is the logical outcome of a recognition of the true relation of the community to its environment. In the administration of the gas service, similar ends have been kept in view. In order to extend the use of gas in the homes of the working classes the price was gradually reduced, until at the present time: Glasgow offers gas at 50 cents per 1,000 cubic feet, Manchester at  $54\frac{2}{3}$  cents, Leeds at 54 cents, and Birmingham at 44 to 60 cents, according to the amount consumed. As an additional inducement penny-in-the-slot meters have been introduced in most of the cities. Leeds has 1,300 of these meters in operation, Birmingham 2,000, and Manchester 11,500. A similar policy is now being adopted in the electric-light service.

From this analysis of the relation of the individual to the environment, it is evident that the morality and civic standards of all classes can be profoundly influenced through changes in the conditions of life which are within easy reach of the community. That the advance in this direction has not been more rapid in the United States has been due to three influences which

have weighed heavily on civic progress — inheritance, inertia, and ignorance. The first of these — inherited ideas and standards of conduct—is by far the most important, as it is at the root of much of the inertia and ignorance of which we hear constant complaint. It is comparatively easy to show the points of maladjustment between the environment and the habits and customs of the population, but to determine the nature of the forces which make for adjustment is far more difficult.

In the many and varied agitations for political reform, so characteristic of the last two decades, one can readily discern a common principle which seems to actuate them all—an unbounded faith in the efficacy of an appeal to individual reason and utilitarian calculation. It is taken for granted that so soon as the population begins to appreciate the fact that this or that form of administrative organization means greater economy or efficiency, reform is at hand. The agitation for clean streets, pure water, sanitary drainage, and so forth is based upon the same class of arguments. City government is likened to a great business corporation, the same instincts and motives determining success in both. It is assumed that the desire for individual gain, which is the determining force in private business relations, is equally powerful in public life.

The failure of these appeals to bring about the desired results has been the *pons asinorum* of reformers. Discouraged by the meager success of their efforts, they



have attributed the lack of responsiveness to the low moral standards of the city population, to the evils of universal suffrage, to the massing of foreigners in our cities, and to a number of other equally irrelevant causes. They have failed to grasp the fact that the effectiveness of individual activity in public affairs is dependent upon concerted action. Until the time is ripe for such coöperation, individual effort fails to exert any real influence.

Again, the returns from civic effort are usually more or less remote and always uncertain. These two causes alone explain why the response to such utilitarian appeals is so feeble. On the other hand, the advantages to be derived from unswerving devotion to private affairs are readily calculable and usually immediate. Under ordinary circumstances the citizen will not hesitate in his choice between the public interest and private advantage if a "dollar-and-cents" calculation is the only factor determining his conduct. The possibility of a general response under any such conditions presupposes an ability to appreciate future results and a readiness to coöperate for purposes other than immediate personal gain. An analysis of the motives to groupal action in politics discloses the fact that utilitarian calculation is one of the subordinate factors in the determination of civic action. To make the individual labor and struggle for the welfare of a larger social unit requires the influence of forces sufficiently powerful to emancipate

him from narrow, selfish interests. These forces are to be found in the civic ideals of a community—that “combination of feeling and belief which we call loyalty.”

Although the development of the modern city has not as yet reached a point to make possible the determination of the ultimate content of the distinctive city ideals, we are in a position to analyze the nature of the forces contributing toward their formation. In the home, the church, and the club—to mention but three of an ever-increasing number of institutions—we have instances of social groupings which readily command the best energies of the individual without the expectation of a *quid pro quo*.

Again, if we stop to analyze the home, it is evident that the group of pleasures which we associate with it may be enjoyed by the individual in other relations. It is the grouping and blending of these pleasures in the family relation which give to the home its power over the individual, calling forth unlimited sacrifice and devotion. But family life tends to isolate the individual from the community; the family instincts and pleasures are essentially individualistic. Civic instincts—in the broadest sense of the term—are not aroused until the inexclusive pleasures of a larger social grouping begin to play an important part in the life of the individual. Whatever the exact nature of this larger unit may be, it will require of the individual a readjustment of his activities. Historically, the larger social unit was first

the family, based on kinship, then the political unit, formed to meet the necessities of defense and aggression. Contemporaneous with the political and often identical with it was the religious grouping.

In all of these relations the individual was taken beyond the limits of the family in the modern sense of the term. But political organization once effected, new groupings within the community are soon formed with a view to satisfying wants which cannot be satisfied in isolation. The development of the social instincts and the increase in social ties are the prerequisites to civic advance. So long as the individual remains content with the pleasures and satisfactions of family life, he is unwilling to sacrifice time and energy in the interests of a larger group. With the growth of the city, however, new social possibilities and new social wants make themselves felt — wants which can be satisfied only through the coöperation of large groups. The possibility of satisfying these social cravings constitutes the essential distinction between city and country life. All the primary physical wants, such as pure air and wholesome food, can be better satisfied in the country, for there each householder has full control over both.

So soon as we get beyond these primary physical wants, however, and enter the field of social desires, the limitations of the country are immediately manifest. Social pleasures in the rural districts are restricted to the meetinghouse, the tavern, and an occasional circus.

Social relations such as these can never develop the broader civic instincts. The possibility of new pleasures, which require for their enjoyment the presence of large numbers of persons, forms one of the chief attractions of city life. The social club, the theater, the various literary, scientific, and musical societies cannot become an integral part of the life and activity of the individual until he has come under the influence of city conditions. With each new tie his readiness to labor in the interest of a group larger than the family becomes increasingly evident. What at first seemed a loss of time and possible loss of profit becomes an instinctive impulse until it reaches its full fruition in a spirit of devotion to the interests of the community as a whole.

It will be seen, therefore, that the growth of the civic instinct is but part of a larger movement involving all the distinctively social relations of the individual. In social organizations, such as the church, the club, and the university, those standards of efficiency are first developed which are afterwards extended to every department of the city's activity. The splendid results of concerted action in these fields are constant object lessons in social coöperation. The influence of the university furnishes a striking illustration of this principle. In many of our larger cities the university has made a model city of the district over which it has jurisdiction. The splendid walks, the artistic arrangement of buildings, the spacious athletic grounds, all contribute to the

general effect. The dormitory system, with its highly developed social life and spirit of coöperation, modifies the habits and standards of conduct of everyone coming under its influence, and is not without its lessons to the community. Finally, the elimination of all debasing influences completes the group of factors which give to the university sections of American cities their distinctive character.

Along somewhat different lines the church and the club contribute toward the development of civic instincts. They both foster the feeling of loyalty, and impress upon the individual the possibilities of coöperative action. The coördination of these various social institutions with the city concept is the first step in the development of distinctive city ideals. As yet they are isolated groupal relations which have not been correlated with the city environment. The incentives to unselfish devotion which they foster are distinct contributions to the development of a broader civic spirit. As the object lessons of environmental changes produced by these social institutions become more numerous and prominent, the elements will be furnished from which the individual will be able to construct a picture of an ideal city environment. The life of the individual must be brought into organic and vital touch with the life of the community. The citizen must think of the city as far more than a protector of person and property. In his mind, the city must be associated with a large group of services

upon the efficiency of which the maintenance of his standard of life depends.

All this involves a wide extension of municipal functions: the creation of a new city environment. The city dweller must associate the city in its organized capacity with those pleasures and recreations which he now can secure only through the club or some other form of private organization. The extension of municipal functions which this involves, while it may constitute a danger, is one of the dangers incident to progress. The city of the future will be associated with all the social pleasures, now isolated and exclusive. Instead of expecting a mechanism of government to maintain a high standard of public service, these standards will be furnished by the public opinion of the community. Inefficient government will mean the curtailment of a great mass of pleasures which are at present offered only by the exclusive social and athletic clubs. The city democracy toward which we are approaching will be a democracy of pleasures and enjoyments rather than a democracy of the suffrage.

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## CHAPTER V

### THE POLITICAL CONSEQUENCES OF CITY GROWTH

UNTIL recently the attention of students of municipal affairs has been directed chiefly to the administrative aspect of the municipal problem. But this aspect is superficial; underlying it are the deeper forces of city life—the real influences, political and social, which determine municipal progress.

It is possible to examine the political influence of cities from several different points of view. We may inquire into the effects of city life upon the political thought and action of the population; or we may trace the influence of cities upon the political life of the nation. These two questions may best be examined separately, as they deal with essentially different problems, the one requiring a psychological inquiry, the other an examination of political relations.

As regards the first question, it is evident that we have to deal with the influence of the environment upon the feelings, instincts, and desires of the individual and of the group. An analysis of the conditions of city life gives evidence of certain definite influences which will ultimately develop a type of thought and action



clearly distinguishable from that of the rural districts. That the process of differentiation is not further advanced is due mainly to the fact that the traditions and habits of thought of modern nations have been developed under the conditions of rural life. It is necessary, therefore, to counteract this social inheritance before the process of adaptation to the conditions of city life can proceed. Many, if not most, of the defects of modern city life are directly traceable to the lack of harmony between the instincts and standards of conduct of the individual and the conditions of the environment. A comparison between the inhabitants of the country and of the city at the present time, while it gives evidence of certain marked differences, shows merely the beginnings of a far more radical transformation through which coming generations of city inhabitants must pass.

It is evident that the mere fact of a change of environment from rural to urban conditions is certain to work profound changes in political ideas. The disintegrating effect of a new environment upon accepted traditions and standards of conduct is one of the fundamental laws of social change. The transition from rural to city life has acted as a solvent of this kind. So powerful has been its influence in this direction that many thinkers have ascribed to city life a purely destructive rôle, undermining all accepted ideas, traditions, and beliefs. While such a generalization is both

hasty and premature, it is explained readily by the fact that up to the present time the conspicuous function of city life has been to break down the social and political standards developed under rural conditions. To take a concrete instance—during the early period of our national development the conditions of rural life strengthened that negative attitude of the American people toward government which we inherited from the struggle with the British crown. We have been accustomed to regard protection of property rights as the real and usually the only legitimate field of governmental action. Beyond these limits state activity is called state “interference”—an encroachment upon the liberty of the individual.

It is comparatively easy to explain this attitude when we consider the character of the early settlers. In any new country the pioneers are, by a process of natural selection, the most energetic and independent. They constitute a population trained to depend upon themselves and with little sympathy for schemes involving governmental coöperation. With them, intense individualism finds unquestioned acceptance.

With increasing density of population new standards of governmental action are forced upon the community. One of the first effects is to make apparent the necessity of regulation in the interest of the public health and morals. The patent facts of everyday life demonstrate the evils of unrestrained individual

liberty, which is the first step toward a broader interpretation of the regulative function of government. The closer interdependence of the individuals of the community, the fact that the activity of each affects the welfare of the whole at so many points, must necessarily influence the standards of individual liberty. This is the first and the most important point of contact between the political ideas and the social activity of the community.

The political principle of noninterference with individual activity, so dear to the Anglo-Saxon, cannot receive the same acceptance in the city as in the country. A change of attitude toward governmental activity is forced upon the community by the conditions of city life. The evils resulting from unregulated development are so numerous and press with such weight upon all classes that the modification of political ideas takes place with relatively little friction. It first finds expression where the pressure for the extension of governmental control is greatest, viz., in the matter of sanitary regulations.

The next step in the development of a new concept of governmental action begins with the undermining of faith in the effectiveness of free competition as a guarantor of efficient service and a regulator of progress. No one who has followed the trend of opinion in the large cities of the United States can have failed to observe the gradual awakening to the limitations of free

competition. The facts of corporate combination and consolidation, particularly in such quasi-public services as the street railway, gas, and water supply, have done more to bring about a truer appreciation of the relation of the community to industrial action than any amount of discussion. American communities at first dealt with every one of these services on the basis of free competition. Under this plan, short periods of low prices and indifferent service soon led to combination or consolidation, with the high cost incident to inflated capitalization. Lessons such as these have profoundly influenced the political thought of our urban communities. There is no longer the same distrust of all positive governmental action so characteristic of the early decades of the last century.

A further step in the development of political thought directly traceable to the influence of city life is closely connected with the growing appreciation of the nature of the city environment and of the reactive influence of such environment upon the population. The conditions of city life are capable of indefinite modification through the action of individuals or through the concerted action of the community. The history of every large city bears testimony to the possibilities of radical changes in environmental conditions, changes which have profoundly affected the health, morals, and welfare of the community.

The general appreciation of the tremendous power

at the disposal of the community exerts a powerful influence upon the political ideas of the urban population. The rapid extension of municipal functions during the last few years is an indication of a marked change of attitude toward the municipality. This does not necessarily mean that we are approaching a period of municipal socialism in the ordinary acceptation of the term. Ultimately, the industrial activity of the municipality may be relatively less than it is at the present time. The change in political ideas will be in the direction of demanding of the municipality the physical conditions for the best utilization of the industrial possibilities of the individual and for the gratification of his æsthetic tastes. Perfect sanitation, a good water supply, and a cheap and efficient system of transportation will be regarded as rights rather than as mere desiderata.

While these changes in the attitude of the population toward government constitute the most important of the consequences directly traceable to the influence of city life, there are unmistakable indications of important modifications in our ideas of governmental structure due to the same set of causes. The organization of our government—national as well as state—has been determined by a political philosophy inherited from the English Whigs of the eighteenth century. The central thought of this philosophy is the belief in a governmental mechanism acting through “checks and balances” and designed to prevent the abuse of

power. Concerted action among the various organs of government was what the English middle class of the eighteenth century feared most. It was felt that the individual could be protected from the tyranny of government only by allowing one organ of government to counteract the action of another. Division of power was regarded as essential to the preservation of individual liberty.

To these political ideas and standards the American colonists fell heir. When we consider the characteristics of the first generation of Americans and the nature of their environment, it is not at all surprising that these principles should have been applied with a logical consistency even surpassing that of the English Whigs. At the time the states began to construct their systems of municipal government upon this basis, English political sentiment was undergoing a change in favor of concentrated authority and concentrated responsibility.

In the period immediately following the adoption of the Constitution the faith in the system of "checks and balances" seemed to gain rather than to lose in strength, due in large part to the grievances against the English crown. The oppression from which the colonists had suffered was ascribed to a lack of proper adjustment of checks upon legislative and executive action. It is not surprising, therefore, to find this theory determining the organization of our state and national governments. At first the traditions of English borough

government prevented its application to the cities. The "close corporate" organization, modeled after the English borough of the eighteenth century, soon proved itself not only inadequate to solve the problems of the rapidly growing towns, but was also out of harmony with the prevailing democratic ideas. The dissatisfaction which resulted furnished the opportunity for the application to city government of the political principles which had already been applied to the state and national systems, and which were regarded as necessary to the preservation of free institutions.

The popular faith in the efficiency of this form of government was so great that the unsatisfactory working of the system was ascribed to imperfections in the mechanism rather than to any inherent defects of operation. Instead of subjecting the system to a thorough examination to ascertain whether it was adapted to the kind of problems with which the city has to deal, attempts were made to patch defects by means of minor changes in organization.

It is only within the last decade that we begin to find an awakening distrust of this system of divided power and divided responsibility. Industrial development, particularly the management of private corporations, has impressed upon the country the advantages of concentrated power when accompanied by individual responsibility. The analogies between the administration of municipal departments and certain forms of cor-

porate enterprise are so numerous that the application to the former of experience obtained in the latter is dictated by the most elementary political reasoning. In fact, municipal government is often spoken of as a kind of business undertaking. The traditions of concentrated power developed in business life have had a distinct influence upon that portion of our political system which it most closely resembles, viz., the organization of city government. The decline of the local legislative assembly which has accompanied the concentration of power in the mayor marks one of the turning points in the development of political ideas. We have begun to realize that individual liberty is no longer dependent upon the "reciprocal struggles of discordant powers," and that the progressive development of municipal policy demands the coöperation of all the organs of government rather than their mutual distrust. To insure efficiency in administration, it is necessary to give to individual officials full authority to carry out the policy determined upon by the legislative organ.

The change in popular opinion regarding the structure of city government is beginning to show its influence upon our state and national life. The tendency to curtail the powers of the state legislatures has become so marked that they have already been reduced to a position of subordinate importance. The governor's powers, on the other hand, have been constantly increasing. The great number of executive commissions sub-



ject to his power of appointment and removal has given him an effective control over the administrative policy of the state. This concentration of power has resulted in a concentration of responsibility which makes the gubernatorial election the popular verdict on party policy.

Changes in the problems and structure of government do not, however, exhaust the political consequences of city growth. Besides the direct influence of environmental changes upon political ideas, there is an important indirect influence traceable to the conditions of intellectual life in densely settled communities. The intellectual stimulus which results from the close contact of mind with mind has been clearly set forth by Bagehot, Maine, Pearson, and Giddings. The weight of custom and tradition, which rests as a pall upon all early civilizations, cannot resist the spirit of analysis and criticism fostered by the discussions of the forum and the market place. While the limits of such discussion are comparatively narrow, the possibility of free criticism develops that healthful variation in political thought upon which progress depends. The constant interchange of ideas which concentration of population, particularly in periods of undeveloped transportation facilities, makes possible is the entering wedge for the growth of political toleration. The discussions within the "sacred precincts" of the ancient cities, of the market place in the mediæval towns, and the constant criticism to which

every political movement is subjected in our modern cities, constitute the great solvents in the political life of modern nations. This fact has led many writers to the conclusion that the influence of cities is destructive rather than constructive.

In support of this proposition, it is argued that while the great revolutions in political thought have proceeded from the cities, they have failed to furnish the constructive principles of new institutions. The influence of Paris upon the political life of France is cited as a case in point.<sup>1</sup> In no other modern country has one city developed such power over the political life of the nation, due in part to the centralization of French administration, but mainly to the fact that Paris, as the political and intellectual capital of the country, attracts the best talent in every field of activity. The provinces look to Paris for their standards in political as well as in social life. The history of the country during the last century points to the conclusion that "while the fundamental principles upon which French institutions rest have been upheld by the conservatism of the provinces, the great catastrophic forces have been directed from Paris." It seems more than probable that were Paris to have full control over the political policy of France, political instability would be even greater than it is at the present time.

To explain this influence of the city we must picture

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<sup>1</sup> "The Influence of Paris." *Spectator*, November 5, 1898.

to ourselves the effects of a change of environment upon individual thought and action. The inhabitant of a country district moving into the city finds himself confronted with new conditions of life which immediately react upon the ideas inherited or acquired in the country. Until adaptation to the new conditions has been effected, the undermining of the old standards of thought and action is apt to find expression in a form of political radicalism, negative rather than constructive. Furthermore, the great contrasts in social conditions, in political power, in intellectual capacity, which are part of the everyday experience of a city population, tend to undermine his faith in equality and to weaken the belief in the reality of democratic ideals. Social discontent, which is so closely connected with the awakening desire for economic betterment, tends to strengthen the reaction against accepted ideas and traditions.

With these forces at work it is not surprising to find the intellectual impetus to revolutionary movements coming from the cities. This certainly has been the case in France during the present century. In Germany the cities are furnishing an ever-increasing number of adherents to the anti-governmental parties; while in England and the United States the cities have long been centers from which the most searching criticism of existing conditions has proceeded.

This rather negative rôle which has been assigned to the city by recent writers must be regarded as char-

acteristic of a period of transition from a country to a city civilization. The stability and further progress of our institutions depend upon the growth of habits of thought and action in harmony with the conditions of city life. These must be just as definite and positive as those which country life developed. When we have grasped fully the demands which a higher type of city life makes upon the individual, and have become clearly conscious of the form of government adapted to meet city problems, the more positive part which the city has to play in the development of political thought will be accomplished.

If the effects of city life upon political ideas are of the nature indicated, it is evident that the gradual transition from rural to urban conditions is fraught with far-reaching consequences. With the gradual increase in urban population there is introduced into the body politic a new influence which acts as a dissolvent of political standards, and which may react unfavorably, at least for a time, upon national life. Openness to new ideas, which characterizes the city population, usually means the absence of profound conviction on any fundamental question.

The great political parties in all countries have long recognized this fact, which explains their desire to prevent the cities from obtaining a controlling influence in political life. The dominant party feels that the forces which it has most to fear emanate from the city,

and this accounts for measures which otherwise would be inexplicable. Thus it would seem that when the movement of political opinion in the cities is favorable to a party, it would do everything to give to the cities an influence at least proportionate to their population, but the instinct of self-preservation dictates an essentially different course. It is tolerably certain that from the constant criticism and analysis to which party policy is subjected in the cities, a movement unfavorable to the dominant party will gradually develop.

We have, therefore, the curious spectacle of the dominant political party refusing to give to the cities their proportionate share of representation, in spite of the fact that such a change would increase party power—for a time at least. The distrust of the stability of political opinion in the cities leads both parties to hold them to a minimum of representation. This fact explains, in part, the readiness to insert in state constitutions provisions setting definite limits to urban representation in the legislature. It is a significant fact that this prohibition is directed almost exclusively against the largest cities, in which the oscillations of political opinion are most frequent. Thus the Constitution of Pennsylvania<sup>1</sup> provides that “no city or county shall be entitled to a separate representation exceeding one sixth of the whole number of senators.” The Constitution of New York<sup>2</sup> provides that “no county shall have more than one

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<sup>1</sup> Art. II, Sec. 16.

<sup>2</sup> Art. II, Sec. 4.

third of all the senators; and no two counties, or the territory thereof, as now recognized, which are adjoining counties, or which are separated by public waters, shall have more than one half of all the senators." This latter provision is directed against the Greater New York. Such provisions are not peculiar to Pennsylvania and New York. They are found in the constitutions of many of the other states. The following table will show the discrepancy between the population and representation of the larger cities as compared with the representation of the total population:

CITY.	Estimated Population of City, 1908.	Estimated Population of State, 1908.	Relation of City to State Population.	Actual number of Representatives in State Senate.	Total membership of State Senate.	Number of Representatives if fully represented.	Actual number of Representatives in Lower House.	Total membership of Lower House.	Number of such Representatives if fully represented.
			Per cent.						
New York . . .	4,285,435	8,476,427	50.55	20	51	26	58	150	76
Chicago . . . . .	2,483,641	5,590,000	44.43	17	51	23	51	153	68
Philadelphia . . .	1,491,161	6,900,000	21.61	8	50	11	41	207	45
St. Louis . . . . .	750,000	3,885,989	19.3	6	34	7	16	142	28
Boston . . . . .	607,340	3,173,487	19.13	8	40	8	50	240	46

While we do not find constitutional limitations preventing the cities of European countries from enjoying their full quota of representation, the same influences have produced similar results. With the constant shifting of population, resulting in the growth of urban cen-

ters at the expense of the country districts, it is evident that the more rapidly growing sections fail to obtain the representation to which their population entitles them,<sup>1</sup> unless a constant revision of electoral districts be made.

In Germany, for instance, the electoral districts have not been thoroughly revised since 1871, when the unit of representation for the Reichstag was fixed at 103,000 inhabitants. The growth of population since that time has caused the unit of representation to rise from 103,000 to 131,000, a change mainly due to the growth of cities. Thus Berlin was given one representative for every 138,000 in 1871; in 1897 the unit of representation for the city was 280,000, whereas it has now advanced to 350,000. From these figures it will be seen that the discrimination against Berlin dates from the foundation of the empire, and that the phenomenal increase in population of the capital city has intensified the discrepancy in representation. So far as its representation is concerned, Berlin has occupied a position of diminishing importance in the national legislature.

For the whole of Germany, it is interesting to note that at the time of the founding of the empire the cities were given proportionate representation in the Reichstag. In 1871 the cities of over 100,000 inhabi-

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<sup>1</sup> For the statistics of urban representation in European countries, I am indebted to the work of Professor Meuriot on "Des Agglomérations Urbaines dans l'Europe Contemporaine."

tants contained 6.9 per cent of the total population and were given 6.8 per cent of the total number of representatives. By 1897, however, the percentage of urban to total population had increased to 13.9 per cent, whereas relative representation had remained unchanged. As the growth of urban population is far more rapid in the northern than in the southern sections of the empire, it is evident that this discrimination against cities gives to the south a disproportionate share of political representation, and since this is the section of marked particularistic or "states' rights" sentiment, it follows that the decentralizing political forces are given undue strength.<sup>1</sup>

In France the urban centers enjoy representation in the national legislature nearly proportionate to their population. The twelve larger cities, which include 11.9 per cent of the total population of France, are given 11.3 per cent of the total representation. The senatorial divisions, however, combine urban and rural districts, and thus prevent the urban centers from having a distinct representation.

England furnishes another instance of the unwillingness of political parties to adjust national representation in accordance with the changes in the distribution of population. During the first decades of the last century the agricultural counties of the south of England dominated the political life of the country. The small bor-

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<sup>1</sup> Meuriot, *op. cit.*



oughs which controlled the representation in the House of Commons were concentrated in the district south of the Trent. Until the changes brought about by the Reform Acts of 1832 and 1834 the region north of the Trent elected but 131 out of a total of 449 members of Parliament. Even at this time the south was given greater political influence than its population warranted. The north had one representative for every 135,000; the south one for every 128,000. It required a long struggle, extending over the greater portion of the century, to assure to the northern counties their due proportion in the national representation. The Reform Act of 1832 was the first important step in this direction, but even after the passage of this act the southern counties continued to enjoy a favored position in the national legislature. The Reform Acts of 1867 and 1884 were both important measures in effecting a more equitable distribution of representation. The representation of the counties south of the Trent, which had been fixed at 298 in 1834, was reduced to 228. The northern counties, on the other hand, increased their quota from 136 to 170; while London, which had always been unfairly treated, found its representation increased from 22 to 62.

If such, then, is the influence of city growth upon political thought and action, it is evident that with the gradual transition from rural to urban conditions profound changes both in the constitution and in the activity of government are inevitable. Until our habits of

thought and standards of conduct have become adjusted to city conditions, we may expect to find an element of instability in our political life directly traceable to the undermining of accepted traditions and ideas. Every step toward such adjustment finds ultimate expression in the attitude of the population toward government. We have entered upon a period of development in which the extension of municipal powers is receiving increasing emphasis. The evils resulting from unregulated competition have given rise to a strong movement in favor of strengthening the regulative powers of the city government. A new equilibrium between governmental activity and individual freedom is being established.

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## CHAPTER VI

### THE POSITION OF THE CITY IN THE AMERICAN POLITICAL SYSTEM

THERE is probably no other question in American administrative law that has attracted so much attention and presented so many difficulties as the relation between the municipality and the state. The great diversity in the relations between city and state, and the uncertainty of many of these relations, have added to the difficulty of treatment and have complicated the problem of formulating general principles applicable to all parts of the country.

Two distinct aspects of the question present themselves for consideration: the legal and the political. In the discussions of recent years, whether in judicial opinions or in scientific treatises, emphasis has been laid on purely legal relations. The danger of this method of treatment lies in the fact that it creates the impression, if not the presumption, that the problem involves nothing more than an adequate formulation of legal relations, and that therefore no distinction need be made between the legal and political aspects of the question.

In the struggle to obtain for the municipality a more

definite place in the political system of the state, to assure to it a certain field of autonomy, and to prevent the state legislature from constantly interfering with local affairs, recourse has been had to constitutional amendments. The belief has been quite general that through a mere change in statutory provisions it will be possible so to shape the relation between state and municipality as to limit each to its proper sphere of action.

In order to understand the position which the municipality occupies in our political system, it is necessary to take a rapid glance at certain principles of the private law, which have had a far-reaching influence upon the development of the public law. The law of municipal corporations is but a branch of that larger system of corporate jurisprudence which has its roots in the Roman law. It must be remembered that while the corporate idea in the common law was first applied to institutions of a quasi-public nature, such as charitable and ecclesiastical foundations, it was not until the industrial companies began to play an important part that the principles of modern corporation law became firmly established. The law of private corporations was developed into a coherent and logical body of rules long before the legal relations and obligations of municipal corporations were determined. These clearly formulated rules of the law of private corporations were in many cases carried over to the law of public corpora-

tions, and thus resulted a confusion of thought from which we are still suffering.

Corporations, for the purposes of this discussion, may be divided into two broad classes, private and public; the former being again divided into two subclasses—private corporations in the strict sense of the word and private corporations affected with a public interest. Public corporations include likewise two great classes, namely, public institutions, such as state banks, of which the whole interest is in the public, and those corporations which are created for the purpose of exercising governmental powers. It is with these governmental corporations that we have to deal.<sup>1</sup>

Our system of law recognizes two distinct classes of public corporations created for governmental purposes—first, the public quasi-corporation, which is a local subdivision of the state, created for the purpose of participating in the administration of civil government, and which for this purpose is vested with certain of the characteristics of corporate existence, such as the right to sue and to be sued. Counties, townships, school districts, poor-law districts, and the like, are instances of this class. As was said by the court in *Hamilton County vs. Mighels*:<sup>2</sup> “Counties are at the most but local organizations, which, for the purpose of civil government, are invested with a few functions characteristic of corporate exist-

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<sup>1</sup> Dillon, “Law of Municipal Corporations.”

<sup>2</sup> 7 Ohio, 109.

ence. They are local subdivisions of the state, created of its own sovereign will, without the particular solicitation, consent, or concurrent action of the people who inhabit them.”

It is evident that corporations which are created for one, or at most for two or three specific purposes, and whose powers are absolutely restricted to such purposes, are unable to meet the requirements of a densely populated area. A county, for instance, cannot provide a system of public drainage, nor can a township undertake to supply water to its inhabitants. In other words, for all the functions of distinctly local concern there is needed an authority, whose legal powers enable it to meet the demands which necessarily arise in densely populated districts. The modern municipal corporation, which combines the characteristics of the public quasi-corporation with the broader powers necessary to meet every local need, is the result of these economic and social necessities. It may be defined as an incorporated subdivision of the state—created partly as an agency of the state in the administration of civil government, and partly to administer the local and internal affairs of the area incorporated. Enjoying greater powers than the public quasi-corporation, it is vested with commensurate responsibilities.<sup>1</sup> In the adjustment of these responsibilities the courts have borrowed many of the principles of the private law, and have not hesitated in

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<sup>1</sup> Dillon, “Law of Municipal Corporations,” vol. i, Chap. I.

a number of cases to hold the municipality to the same measure of liability as the private corporation.

The existence of a body of constitutional provisions, protecting the personal and property rights of individuals and the more recent constitutional amendments designed to protect public corporations against the interference of the state legislature, have led to the development of a system of law regulating the powers and duties of municipal corporations, for which we find no parallel in any country of Europe. European municipalities, although given a definite political status, have no legal rights as against the state governments. They are subject to the unrestricted will of the central authorities: That they have been able to obtain for themselves a wide measure of home rule has been due to the self-control and forbearance of the national legislatures. For this reason the problem of municipal home rule presents itself in an entirely different form to the European mind than to the American. In France, for instance, the movement toward decentralization is one which is being effected through a recognition on the part of the state legislature of the advantages of such a system. No attempt is made to place further constitutional restrictions on the central government, and indeed such restrictions would have no binding force. In the United States, on the other hand, the natural tendency to appeal to the courts to remedy every abuse, combined with the growing distrust of the state legisla-

tures, has led to the belief that through constitutional restrictions it is possible to force upon the state legislatures a policy of non-interference with the internal affairs of municipalities.

The judicial interpretation of the rights and obligations of municipalities has passed through two distinct stages. During the first period ending, roughly speaking, with 1870, the state constitutions contained comparatively few provisions relating to municipalities, thus giving to the legislatures wide discretionary power in determining the relation between city and state.

The use made of this power soon reduced the cities to a condition of absolute dependence upon legislative will. The larger cities in particular became the football of party politics. The temptation to use the power over municipal expenditures for personal and party ends proved irresistible. The Tweed Ring in New York and the Gas Trust in Philadelphia are striking instances of this fact. Furthermore, as has been well shown by Professor Goodnow,<sup>1</sup> our decentralized government, under which so many local officials are elected, makes it necessary for the dominant party in the state legislature to control the elections in municipalities. The struggle for party supremacy thus increases the tendency toward state interference.

The rules of law developed by the courts have favored rather than retarded the policy of state inter-

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<sup>1</sup> Goodnow, "Municipal Problems" and "Municipal Home Rule."



ference. One of the fundamental principles of American corporation law is that, while the charter of a private corporation is a contract between the state and the corporation, which the state is prohibited from impairing by Article I, Section 10, of the federal constitution, the charter of a public corporation is in no sense a contract. Such a charter is rather in the nature of a public privilege, revokable at all times and subject to the discretionary power of the state legislature.

The courts recognized the danger to the unity of political life which any other interpretation would involve. Municipalities would be able to enforce their will even when in conflict with the interests of the state at large. The unqualified application of this rule, on the other hand, placed the municipalities at the complete mercy of the state legislature and gave rise to the conditions which have called forth the movement for municipal home rule.

Municipal home rule, as it is usually understood, is the power of the municipality to determine local policy in all matters of distinctly local concern without interference from any outside authority, whether it be the state or any subdivision thereof. It also involves the power to determine the means and methods to be pursued in the administration of those functions of more general or state concern which are delegated to the municipality by the state; subject always to those powers of state control which in the interests of the state

at large may prescribe a minimum standard of efficiency. The main purpose of the struggle for municipal home rule has been to prevent the state legislature from substituting its will for the will of the local authorities. The tendency on the part of the state legislature to encroach upon local powers is explained by the peculiar historical conditions accompanying the growth of municipalities in the United States. The various influences and forces that have contributed to produce the present situation are so closely interwoven that it is difficult to separate them into their constituent parts.

Municipal home rule does not involve so much a change in our political system as a change in the attitude of the city population toward local affairs. It is important to emphasize this fact, because there is a natural tendency in our American political life to regard every shortcoming as capable of being easily remedied by a change in governmental organization, which has led to the belief that constitutional prohibitions can so modify the policy of the state legislatures as to guarantee to cities wide freedom of action.

The history of the constitutional amendments intended to guarantee municipal home rule furnishes one of the most interesting chapters in American history, because it illustrates the danger of attempting to crystallize into constitutional provisions a political relationship which must, from the very nature of the case, be constantly changing. The purpose of these constitu-

tional amendments was to establish a fixed relationship between the state legislature and the cities of the state.

There is no other instance, either in our federal or state constitutional history, which illustrates so clearly the futility of trying to obtain by constitutional amendment that which can be secured only through the constant alertness and watchfulness of the people. After years of fruitless effort we are gradually beginning to realize that municipal home rule cannot be secured through this means. The endeavor to prevent the state legislature, by means of constitutional prohibitions, from interfering with the local affairs of municipalities constantly involves the danger of restricting its authority in matters in which its action is not only helpful, but absolutely necessary. Probably the best instance is to be found in the constitutional amendments which first became general throughout the United States, and whose primary purpose was to prevent the state legislature from constantly tampering with the governmental organization of cities of the state. Within a comparatively brief period twenty-two states<sup>1</sup> adopted

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<sup>1</sup> Arkansas Constitution, Chap. XII, Sec. 3.  
 California Constitution, Chap. XI, Sec. 6.  
 Illinois Constitution, Chap. IV, Sec. 22.  
 Indiana Constitution, Chap. XI, Sec. 13.  
 Iowa Constitution, Chap. III, Sec. 30.  
 Kansas Constitution, Chap. XII, Sec. 1.  
 Kentucky Constitution, Secs. 56, 59 (17).  
 Louisiana Constitution, Sec. 46. (This excepts the city of New Orleans and levee districts and parishes.)

amendments forbidding the incorporation of cities by special act.

In some cases these amendments took the form of prohibitions against special charters, in others of positive requirements for general incorporation acts. Their purpose was the same: First, to prevent the legislature from interfering with the local affairs of the municipalities by forcing new charters upon them; secondly, to discourage practices which had become deeply rooted in the habits of the inhabitants of our larger cities, namely, the constant appeals to the state legislature for charter amendments whose purpose was not always in the interest of the municipality; and finally, to relieve the state legislature from the overwhelming burden of dealing with the mass of purely local problems involved in the granting and amending of local charters.

The first amendments to be passed were those prohib-

Mississippi Constitution, Sec. 178.

Missouri Constitution, Chap. IV, Sec. 53.

Nebraska Constitution, Chap. III, Sec. 15.

North Dakota Constitution, Sec. 69, p. 33.

Ohio Constitution, Chap. XIII, Secs. 1, 6.

Pennsylvania Constitution, Chap. III, Sec. 7.

South Dakota Constitution, Chap. III, Sec. 23.

Tennessee Constitution, Chap. XI, Sec. 1.

Washington Constitution, Chap. II, Sec. 28 (8).

West Virginia Constitution, Chap. VI, Sec. 39.

Wisconsin Constitution, Amendment IV, Sec. 31.

Wyoming Constitution, Chap. III, Sec. 27.

Minnesota Constitution, Chap. IV, Sec. 3 (7, 9).

Texas Constitution, Chap. XI, Secs. 4, 5.

(Goodnow, "Municipal Home Rule," p. 56.)

iting the incorporation of cities by special charter and forbidding the legislature from interfering with the internal affairs of the municipalities by means of special laws. They were intended to put an end to that long series of local and special laws prescribing the execution of public works and the expenditure of public moneys, which had worked great harm to the finances of American cities, and furthermore to prevent the revocation of city charters for the purpose of legislating existing officials out of office. This latter device was commonly used whenever the political complexion of the city administration differed radically from that of the state legislature.

Soon after the passage of these amendments the difficulties presented by their enforcement became apparent. Constitutional amendments, no matter how specific in terms, cannot overcome the traditions of legislative practice. These were such as to make impossible the enforcement of the constitutional requirements in the spirit in which they were intended. From the earliest period of our history the practice of state legislatures has been to prescribe minutely both the form of municipal government and the sphere of municipal activity. This alone makes it impossible to frame general municipal corporation acts which will at once meet the needs of the larger and smaller cities. If in drafting such acts the needs of the smaller cities be taken as the standard, the development of the larger cities will be hampered by reason

of the inadequacy of the governmental machinery. A city of 25,000 does not require the same number of executive departments nor as wide a range of function as does a metropolitan center of one or two million.

Two possible plans presented themselves for the solution of this difficult problem: one involved a complete change in the method of incorporating municipalities; the other was to permit the classification of cities. As to the first, it is evident that had the state legislature, instead of adhering to the traditional plan of prescribing minutely the form of government and enumerating in detail the functions which the municipality may exercise, simply provided a general framework of government and made a general grant of municipal powers, then the constitutional amendments could have effected the purposes for which they were intended. But this would have meant a complete change in legislative policy.

If, for instance, the legislature in the general municipal corporation act had provided that municipalities shall be organized with an elective mayor and council, with as many executive departments as the authorities might determine, and endowed with all powers not inconsistent with the law of the state, it would then have been possible to make one general law for all the cities of the state.<sup>1</sup> So radical a change in legislative policy

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<sup>1</sup> See model charter contained in "Municipal Program," published by the National Municipal League.

could hardly be expected, and it is not surprising, therefore, that the state legislatures soon resorted to the policy of classifying cities, and that the courts gave sanction to this practice. The early decisions of our state supreme courts with reference to classification were dictated by the necessities of the situation, as is well illustrated by a number of Pennsylvania cases. In *Wheeler vs. Philadelphia*,<sup>1</sup> the question presented to the court was whether Section 7, Article III, of the constitution of Pennsylvania prohibited the classification of municipalities. This section provided that "the General Assembly shall not pass any local or special law—regulating the affairs of counties, cities, townships, wards, boroughs, or school districts . . . incorporating cities, towns, or villages, or changing their charters." The Act of the Legislature of May 23, 1874, divided the cities of the commonwealth into three classes. The decision of the court is based mainly on the principle of expediency. "If the classification of cities is in violation of the statutes," says the court, "it follows of necessity that Philadelphia as a city of the first class must be deprived of the legislation necessary for her present and future development, or that the smaller inland cities must be burdened with legislation wholly unfit for their needs."

With the choice thus presented there was no alternative but to uphold the validity of classification. This

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<sup>1</sup> 77 Pennsylvania, 338.

decision immediately raised the question whether classification might be continued indefinitely; a question finally settled in Ayar's appeal, which involved the constitutionality of the Pennsylvania statute of May 24, 1887, dividing the cities of the state into seven classes. The Act of 1874 dividing the cities of the state into three classes was sustained because it was within the spirit if not within the letter of the constitution. In Ayar's appeal<sup>1</sup> the court said: "It is impossible to suggest any legislation, that has or may hereafter become necessary for any member of either class, that cannot, without detriment to other members of the same class, be made applicable to all of them. If classification had stopped where the Act of 1874 left it, it would have been well; but it did not. Without the slightest foundation in necessity, the number of classes was soon increased to five, and afterwards to seven, and, if the vicious principle on which that was done be recognized by the courts, the number may at any time be further increased until it equals the number of cities in the commonwealth. The only possible purpose of such classification is evasion of the constitutional limitation; and, as such, it ought to be unhesitatingly condemned."

This tendency toward minute classification has been far more pronounced in those states in which the courts have not drawn the line as strictly as in Pennsylvania.

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<sup>1</sup> 122 Pennsylvania, 266.



In California a division of cities into six classes has been approved. The Supreme Court also upheld a law in which the state legislature divided forty-eight counties of the state into forty-five classes. In Ohio, prior to the recent decision of the Supreme Court declaring the system of classification unconstitutional, the cities of the state were divided into two classes, each subdivided into several grades.

In short, the net result of the experience of the various states has been that if municipal home rule is to be secured constitutional amendments do not furnish the means to this end. The necessary changes relate rather to the policy of the legislature and to the attitude of the people of the city toward local affairs. These changes cannot be brought about through the mandate of the lawgiver, but must await the development of a clearer appreciation on the part of the people that city problems are to be worked out through their own efforts rather than by an indefinite increase of prohibitory statutes.

Repeated attempts at evasion of constitutional prohibitions on local and special legislation have compelled the courts to develop a number of tests for the purpose of determining whether legislation, which purports to be general, is in reality special.<sup>1</sup>

First.—All classification must be based upon substan-

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<sup>1</sup> Charles Chauncey Binney, "Restrictions upon Local and Special Legislation in State Constitutions."

tial distinctions which make one class really different from another. In general, it may be said that the courts have regarded differences in population as the most important, if not the only basis for substantial distinctions, although in some cases they have admitted geographical situation as a proper basis. As regards the degree of difference necessary to distinguish one class from another, there has been great diversity of opinion.

Second.—The basis of classification must be germane to the purpose of the law. This rule has acted as an effectual check upon indiscriminate classification for all purposes. The courts require that there shall be a direct relation between the basis of classification and the purpose of the law; in other words, a logical and reasonable justification for making a distinction. Thus a law dividing cities into classes on the basis of geographical situation for the purpose of prescribing different methods of electing the mayor would violate this rule; inasmuch as there is no direct relation between the situation of a city and the manner of choosing local officials.<sup>1</sup>

Third.—Classification must not be based upon existing circumstances nor upon those of limited duration, except where the object of the law is itself a temporary one. This rule is designed to prevent the legislature from making a class which shall exist for a short period,

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<sup>1</sup> Goodnow, "Municipal Home Rule," p. 76.

and which shall manifestly evade the constitutional provision against special legislation.

Fourth.—To whatever class a law may apply, it must apply equally to every member thereof, except where its application is affected by the existence of prior unpealed local or special laws. The evident purpose of this rule is to prevent the legislature from making special classes of certain cities by exempting them from the rules applicable to all the cities of their class.

Fifth.—If the classification be valid, the number of members in a class is wholly immaterial. The adoption of this rule has permitted the legislatures in many of our states so to classify cities as to leave but one city in a class. Thus in Pennsylvania, cities of 1,000,000 inhabitants or over are placed in one class. As Philadelphia is the only city of such size, general legislation for cities of the first class is in reality special legislation for Philadelphia.<sup>1</sup>

Because of these limitations which the courts have seen fit to place upon their original interpretation of the meaning of general and special laws, it may be said that the constitutional prohibitions have failed to effect the purposes for which they were designed. This failure cannot be ascribed to a lack of good will, either on the part of the legislature or the courts. The most that can be said is that the legislatures have established

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<sup>1</sup> The decision of the Supreme Court upholding the Greater Pittsburg law will add another city to this class.

methods of municipal incorporation incompatible with a strict interpretation of the constitutional prohibitions.

The general recognition of the failure of absolute prohibitions upon local and special legislation, combined with a growing appreciation of the necessity of special legislation under certain circumstances, finds expression in the more recent constitutions. New York adopted the plan of incorporating a scheme of classification into the Constitution. The cities of the commonwealth are divided into three classes. General city laws are defined to be those that apply equally to all the cities of a class; special city laws, those which apply to less than all the cities of a class. The Constitution does not prohibit special legislation, but simply provides that whenever a law is made applicable to less than all the cities of a class, it shall be submitted to the mayor, or mayor and council of the cities affected. If disapproved by the local authorities, it is returned to the House in which it originated, and must be passed by a two-thirds vote of both Houses, and is then subject to the approval or veto of the governor. The constitutional convention which framed this provision recognized that the increasing diversity of municipal conditions incident to the growth of the great cities makes special legislation necessary. By giving to the cities affected a voice in the passage of such legislation the interests of both city and state are subserved.

The next step in this movement to secure municipal

home rule was to prevent the legislature from placing matters of local concern in the hands of state commissions. The experience with such commissions in a number of cities has been disastrous. The impossibility of holding them strictly accountable to local public opinion led to extravagant expenditures, and in a number of instances resulted in a burden of debt, which for a time prevented the execution of much-needed public improvements. The classic instance of the evils of the system is the construction of the City Hall in Philadelphia, which was placed in the hands of a commission appointed by the governor, with power to requisition councils for such funds as it might require. The powers of this commission threatened for a time to destroy the control of the council over local finances.<sup>1</sup> The extravagance incident to the construction of this municipal building led the constitutional convention of 1873 to insert a provision forbidding the legislature from<sup>2</sup> “delegating to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.” Similar provisions have been inserted in the constitutions of a number of other states.

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<sup>1</sup> The act of the legislature was sustained by the Supreme Court of Pennsylvania in the case of *Perkins vs. Slack*. 86, Penna., 283.

<sup>2</sup> Art. IX, Sec. 16.

The most recent step in the movement for municipal home rule consists in giving to cities the right to frame their own charters; thus placing the city charter in the same relation to the inhabitants of the city as the state constitution to the inhabitants of the state. The State of Missouri took the lead in this respect. The constitutional convention of 1875 inserted a clause, giving power to cities with a population of more than 100,000 to frame their own charters through a locally elected board of thirteen freeholders. It was provided that charters so framed should go into effect without being submitted to the legislature, but subject to amendment by the general laws of the State. St. Louis took advantage of this provision in 1876, Kansas City in 1890.

In December, 1904, a Board of Freeholders was again elected in Kansas City to frame a charter for the city. This charter was submitted to the people of the city at a special election, but was rejected. The Board of Freeholders is now at work framing another charter which is to be submitted to the people in the fall of 1908.

In 1879 California adopted a similar plan, but required that the charter be submitted to the legislature after adoption by the city. The legislature, however, is compelled to adopt or reject the charter as a whole. This privilege, which was first restricted to cities of 100,000 or over, has been gradually extended, until in 1890 all cities with a population of 3,500 or over were

included. The cities of Los Angeles, Oakland, Stockton, San Diego, and Sacramento have adopted charters under the constitutional provision. San Francisco, after two unsuccessful attempts under this freeholders' clause of the Constitution, finally succeeded in adopting a home-rule charter, which went into effect in January, 1900, and to which amendments were made in February, 1903.

In 1889 a constitutional convention of the State of Washington inserted a similar provision, giving the right to frame charters to cities with a population of 20,000 or over. The Missouri rule was adopted which permitted city charters to go into effect without ratification by the state legislature. Seattle and Tacoma, the only cities of the required size, both adopted charters under this provision. Provisions of a similar character are contained in the constitutions of Minnesota, Colorado, and Wyoming.

The fact that all these charters are subject to general state laws makes it possible for the state legislature, if it cares to use its power, to nullify the home-rule privileges. Up to the present time, however, these charter-framing privileges have had a salutary restraining effect upon the state legislatures.

The attempts that have been made to assure to cities a certain freedom of action without danger of interference from any extraneous authority show that the real difficulty is to obtain a change of policy in the state legislature. Experience has shown that in any system

of government, discretionary authority must be lodged in some organ of the body politic. To attempt to prescribe a limit to legislative discretion through constitutional prohibitions, while it may remedy one particular abuse, usually gives rise to a series of evils quite as great as those at which the prohibitions are aimed. Students of municipal government are beginning to recognize that the solution of the problem of municipal home rule involves a change of attitude on the part of the state legislature, an attitude of self-control and self-restraint, but with the possibility of interference where interference is really necessary. This change must come, in the last analysis, from the electors themselves. In other words, the standards of public opinion must force upon the legislature a policy of non-interference. The difficulty of developing such standards in our American communities is due largely to the fact that our constitution so thoroughly protects the personal and property rights of the individual that the interest and watchfulness of the average citizen are greatly diminished. The feeling of security is so strong that it is difficult to arouse public interest to an appreciation of the dangers of the situation.

In closing this discussion it only remains to suggest a few changes in legislative policy, which would doubtless contribute to the development of a more healthful relation between city and state. It is important to bear in mind that no form of government can absolutely



assure such a relation; the most that can be done is to facilitate its development. To bring about a large measure of local self-government at least two changes in legislative policy are necessary: First, the method of municipal incorporation should be so changed that the powers of the municipality, instead of being minutely specified, should be conferred by a general grant to exercise all powers not inconsistent with state laws. At present, the municipality must look to its charter for every power which it wishes to exercise, and such power must be either specifically granted, fairly implied, or essential to the declared objects and purposes of the corporation in order to make its exercise possible. This means that whenever the city is contemplating an extension of its functions an appeal is made to the state legislature for further powers. These constant appeals constitute one of the influences strengthening the tendency toward legislative interference. The legislature is fully conscious of the fact that municipal activity is dependent upon its will, and is, therefore, always ready to direct such activity. If, instead of minute delegation of functions, the state were to give to the municipalities the right to exercise all powers not inconsistent with the state laws, one of the incentives to legislative interference in local affairs would disappear.<sup>1</sup>

A second change in legislative policy involves the

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<sup>1</sup> Report on Municipal Program of the National Municipal League.

recognition of a distinction between state and local functions. No one will deny that in the exercise of those functions which concern the state at large, such as the management of the roads, the administration of the poor law, the administration of justice, etc., the control of the state should remain unimpaired. On the other hand, as regards functions of distinctly local concern, the municipality should be permitted to develop its own policy in its own way and on the basis of its own social and economic conditions. The recognition of this distinction by the state legislature would do away with much of the confusion which now exists regarding the degree of central control which should be exercised over cities.<sup>1</sup>

In order to make the foregoing changes effective, it will be necessary to develop a system of administrative control distinct from legislative control. At the present time, with our decentralized system of administration, the only really effective responsibility to which local officials are subject is the control exercised at the polls and by the law. The former is only effectively enforced at stated intervals. If local officials in the exercise of discretionary power cause inconvenience or even positive harm to a citizen, there is no redress. The control which the legislature exercises through its committees, or through changes in legislation, cannot be

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<sup>1</sup> Cf. Goodnow, "Municipal Home Rule," and "Municipal Problems."

effective, because it is impossible for so large an elective body to "inform itself of the conditions and needs of particular localities." Furthermore, the fact that the legislature in most of the states meets biennially, and that it is a body subject to constant changes, tends to diminish its efficiency as a supervising organ. The responsibility of officials to the courts, it must be borne in mind, can only be enforced in cases of actual malfeasance or criminal negligence. This means that in cases of inefficiency not resulting from either of these causes there is no redress.

The only form of effective supervision over lower administrative officials is through the control of higher administrative officers or boards. This is particularly true of those local officials who are performing functions which concern the welfare of the state at large. In such cases the possibility of appealing from the decision of a lower to a higher official is a means of control, which no other system can provide. We have a constant demonstration of this fact in our federal service and in the civil service of every European country.

As was pointed out before, the adoption of all these changes, which it will be noted are changes in legislative policy and do not involve an increase of constitutional prohibitions, can at most facilitate such an adjustment of the relations between city and state as will maintain the unity of the political life of the state, and at the same time assure such a degree of local self-government

as will stir civic activity and enlist the interest and energies of the population in the solution of local problems.

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## CHAPTER VII

### THE LEGAL POWERS OF THE MUNICIPALITY

THE question of the scope and limits of municipal powers is but one phase of the broader question of the relation of the municipality to the state. The problem presents two aspects which require independent treatment: First, it is necessary to ascertain the principles that have determined the interpretation of municipal powers; and, second, an examination must be made of the efforts of the courts to secure to the municipality a certain definite sphere of local action in which it shall be free from the interference of the state legislature. The preceding chapter explained how the powers of the legislature over municipalities have been gradually restricted by means of constitutional amendments. Independent of these amendments, and in many cases supplementing them, the courts have formulated rules of law which are intended to secure to the municipality a certain measure of control over its own affairs.

The discussion of municipal powers belongs to the subject of general corporation law; in fact, the relation between the law of public and private corporations

is so intimate that a study of the powers of the municipality presupposes an acquaintance with the general principles of the private law. As regards scope and limit of powers, the general principles of interpretation have been essentially the same for both private and public corporations, although in recent years a tendency toward a more liberal construction of municipal powers has made itself felt. The general judicial doctrine was well expressed by Chief Justice Shaw, of the Massachusetts Supreme Court, in the case of *Spaulding vs. Lowell*:<sup>1</sup> "They (i. e., municipal and public corporations) can exercise no powers but those which are conferred upon them by the act by which they are constituted, or such as are necessary to the exercise of corporate powers, the performance of their corporate duties, and the accomplishment of the purposes of their association."

Judge Dillon has formulated the same principle in his three well-known canons of interpretation which are constantly cited by the courts. A municipal corporation possesses and can exercise the following powers and no others:

1. Those granted in express words.
2. Those necessarily or fairly implied in or incident to the powers expressly granted.
3. Those essential to the declared objects and pur-

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<sup>1</sup> 23 Pick, 71 (74). Cited by Dillon, "Law of Municipal Corporations," vol. i, pars. 89 and 90.

poses of the corporation—not simply convenient but indispensable.<sup>1</sup>

These strict rules of interpretation lend special significance to the system of granting municipal powers. If, as in the United States, the legislature undertakes to enumerate with great minuteness the powers to be exercised, it is evident that the cities must constantly be petitioning for authority to meet new problems. The European method of granting municipal powers presents a marked contrast with our own. There the city enjoys the right to exercise all powers not inconsistent with state laws. A rigid system of administrative control gives to the central government all necessary authority to maintain harmony between state and local interests.

The exercise of municipal powers in the United States involves two fundamental legal questions:

1. The interpretation of the express and implied powers of the municipality.
2. The legal and constitutional limitations to which their exercise is subject.

The courts have shown themselves extremely reluctant to recognize anything but the expressly granted powers, although they have admitted from the earliest cases that municipalities may exercise all the powers “within the fair intent and purpose of their creation, and which are reasonably proper to give effect to the

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<sup>1</sup> Dillon, *op. cit.*, vol. i.

powers expressly granted." While adhering closely to this general doctrine, the decisions of recent years give evidence of a more liberal interpretation of the powers incident to express grants. The extension of municipal authority under the police power furnishes the most striking illustration of this tendency. Thus the courts have held that under the power to make police regulations a city may "establish fire limits,<sup>1</sup> prevent the erection of wooden buildings,<sup>2</sup> regulate the mode and removal of ashes,<sup>3</sup> and make any other reasonable regulations to prevent and extinguish fires."<sup>4</sup> Carrying the interpretation one step farther, the establishment of a public water supply has been placed under the police power.<sup>5</sup> In *Johnson vs. Philadelphia*,<sup>6</sup> the levying of a street-railway license tax of \$30 per car was justified as a valid police regulation. One of the more recent cases illustrating the same general principle is *City of Crawfordsville vs. Braden*,<sup>7</sup> in which the right of a city to furnish electricity for private lighting was justified as an exercise of the police power. The court, in the course of its opinion, said: "The corporation possessing, as it does, the power to generate and distribute through-

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<sup>1</sup> *Douglass vs. the Commonwealth*, 2 Rawle (Pa.), 262.

<sup>2</sup> *Wadleigh vs. Gilman*, 12 Me., 403.

<sup>3</sup> *Filbey vs. Combe*, 2 M. & W., 677.

<sup>4</sup> *Dillon*, op. cit., vol. i, par. 143.

<sup>5</sup> *Hale vs. Houghton*, 8 Mich., 458.

<sup>6</sup> 60 Pa. St. 445 (1869).

<sup>7</sup> 130 Ind., 149.



out its limits electricity for the purpose of lighting its streets and other public places, we can see no good reason why it may not also at the same time furnish it to its inhabitants to light their residences and places of business. To do so is, in our opinion, a legitimate exercise of the police power for the preservation of property and health. It is averred in the complaint that the light which the city proposes to furnish for individual use is the incandescent light. Here, again, is a fact of which we are authorized to take judicial knowledge. A light thus produced is safer to property and more conducive to health than the ordinary light. Produced by the heating of a filament of carbon to the point of incandescence in a vacuum, there is nothing to set property on fire, or to consume the oxygen in the surrounding air, and thus render it less capable of sustaining life and preserving health.”

Finally, in the case of *Oren vs. Pingree et al.*,<sup>1</sup> the court, although refusing to justify the municipal operation of street railways as an exercise of the police power, said: “ All the things mentioned (public parks, waterworks, lighting plant, fire department, drains, and sewers) are authorized and defended because it is a proper exercise of the police power. . . . Nothing so affects the health of the community as the character of its water supply. Drains and sewers and parks are all

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<sup>1</sup> Attorney-General en rel. *Barbour vs. Pingree*, 120 Michigan Reports, 550 (1889).

needed in the interest of public health. Lighted streets tend to the prevention of crime.”

The mode of exercise of corporate powers brings up the question of the ordinance-making authority of the municipality, and the legal and constitutional limitations to which such power is subject. Under the term “ ordinance ” is included all “ acts or regulations in the nature of local laws, passed by the proper assembly or governing body of the corporation.”<sup>1</sup> Such rules occupy a position distinctly inferior to state laws. In case of conflict, the local ordinance must give way. Furthermore, the courts will not hesitate to inquire into the motives which may govern the city council in the enactment of an ordinance. Thus, in *State vs. Cincinnati Gas Company*<sup>2</sup> the question arose whether the city council of Cincinnati could use the power of determining the price of gas—a power granted to it by state law—for the purpose of driving the company to a sale of its plant and franchises. The court, in maintaining its right to inquire into the motives of the council, said: “ It is clear that a city council is to be distinguished in many respects from the law-making power of a sovereign state. . . . The ordinance under consideration is not one of a general character, but operates on the defendant alone, and was passed under the special au-

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<sup>1</sup> Dillon, *op. cit.*, vol. i, par. 307.

<sup>2</sup> 18 Ohio State, 262 (1868), cited by Dillon, *op. cit.*, vol. i, par. 312.

thority of the Act of 1853. The intention of the legislature in the thirtieth section of that act was to require incorporated gas companies, over whose charters it had the power of absolute control, to dispose of the gas which they might furnish for public or private use at fair and reasonable prices. . . . The discretionary power given by the act to city councils might have been vested elsewhere, but wherever vested, the gas companies, whose property interests are so vitally affected by it, have a right to demand that it shall be honestly exercised for the purposes for which it was given. . . . Both public and private rights are to be protected, and for that purpose we must recognize the fact that a municipal as well as a private corporation can do wrong.”

Where a specific duty has been placed upon the municipality, the court will go so far as to mandamus the city council to pass the resolutions or ordinances necessary to meet the statutory obligations. In the case of *The People vs. Guggenheimer*, the Supreme Court of New York issued a mandamus to the members of the Council of the City of New York to vote the issue of \$570,000 of bonds to pay for the franchise and plant of the Long Island Water Company. The State Legislature had authorized<sup>1</sup> the purchase of the works, and directed the proper officers of the city to issue water bonds in payment therefor. The lower branch of the municipal assembly refused to authorize the issue. In

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<sup>1</sup> Chap. 481, Laws of 1892, amended by Chap. 669, Laws of 1893.

ordering the recalcitrant members of the council to issue these bonds the court said:

“ The council is an inferior body, unlike the state legislature, which represents the sovereignty of the state, and is the mere creature of the legislative will, with power to pass by-laws in the form of ordinances and the like, and is not exempt from judicial supervision and control.

“ The main distinction between public and private corporations is that over the former the legislature, as the trustee or guardian of the public interest, has the exclusive and unrestrained control; and acting as such it may create, or it may modify or destroy, as public exigency requires or recommends, or the public interest will be best subserved. The right to establish, alter, or abolish such corporations seems to be a principle inherent in the very nature of the institutions themselves; since all mere municipal regulations must, from the nature of things, be subject to the absolute control of the government. . . . If the respondents had been given a discretion in the matter, the power of the court would be limited to compelling them to exercise their discretion, and could not direct them to vote for or against the measure. But where the duty is mandatory, and no discretion is vested, its performance and manner of performance may be compelled by mandamus.”

Municipal ordinances must conform to certain standards, the most important of which are as follows:

1. *Ordinances must be reasonable.*<sup>1</sup>

A case decided by the Supreme Court of Michigan<sup>2</sup> in 1886 furnishes a striking instance of the readiness of the courts to declare oppressive ordinances void, particularly if they be passed in pursuance of the general police power of the municipality. A man named Frazee was arrested under an ordinance of the city of Grand Rapids intended to put a stop to the demonstrations of the Salvation Army. "The ordinance is unreasonable," said the court, "because it suppresses what is in general perfectly lawful, and because it leaves the power of permitting or restraining processions to an unregulated official discretion, when the whole matter, if regulated at all, must be by permanent legal provisions, operating generally and impartially."

Another excellent illustration of the same principle is the case of Commissioners of Northern Liberties *vs.* Gas Company.<sup>3</sup> The Board of Commissioners of Northern Liberties had been intrusted with the general supervision of the highways of the city. In pursuance of this power an ordinance was passed prohibiting the Northern Liberties Gas Company from opening a paved street for the purpose of laying pipes from the main to the opposite side of the street. In declaring this regulation to be unreasonable, and therefore void, the court said: "The effect of the ordinance is to compel the company

<sup>1</sup> Dillon, *op. cit.*, vol. i, par. 319.   <sup>2</sup> 63 Mich., 396 (1886).

<sup>3</sup> 12 Pa. St., 318 (1859).   Dillon, *op. cit.*, vol. i, par. 320.

to construct two mains, one on each side of the street, instead of one, thereby materially increasing the expense to the company, and consequently enhancing the price of the gas to the inhabitants of the district. This, we think, an unreasonable exercise of authority, and consequently not within the power of the board. A by-law must be reasonable and for the common benefit; it must not be in restraint of trade, nor ought it to impose a burden without an apparent benefit."

The case of *Red Star Steamship Company vs. Jersey City*<sup>1</sup> is an instance of the length to which the courts will go in their examination of the reasonableness of an ordinance. The Board of Public Works of Jersey City was empowered to regulate the use and distribution of water, and to fix the cost to the consumer. In the exercise of this power the board passed a resolution that "all parties using metered waters be charged the full value of the meter in use." While there was no question in the mind of the court as to the power of the board to prescribe the use of meters, it denied the right of the city to impose the cost of these expensive devices upon the consumer. It held that the only duty of the consumer spoken of in the charter is the payment of rent for the use of the water, and the city may not, therefore, without the consent of the consumer, supply fixtures for the distribution or use of water and charge him with the cost. It is important to note, however, that the courts

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<sup>1</sup> 45 N. J. Law (16 Vroom), 246.

will usually refuse to inquire into the reasonableness of a city ordinance, if the power under which the ordinance has been passed is one which is expressly delegated and carefully defined. The examination of the reasonableness of an ordinance is usually restricted to those passed under powers "expressed in terms general and indefinite."<sup>1</sup>

2. *Ordinances must not be oppressive.*<sup>2</sup>

In *Mayor vs. Winfield*<sup>3</sup> the court was called upon to determine the validity of an ordinance of the city of Memphis, instructing the watchman to arrest all free negroes who might be found out after ten o'clock within the limits of the city and lodge them in the calaboose, there to remain until next morning; and that all free negroes so offending should be fined \$10 for the use of the corporation. In deciding against the validity of the ordinance, on the ground of its oppressive character, the court said: "It is an attempt to impair the liberty of a free person unnecessarily, to restrain him from the exercise of his lawful pursuits, to make an innocent act a crime, and to exact a penalty therefor both by fine and imprisonment without trial before any tribunal. . . . We think this ordinance is both unnecessary and oppressive."

Again, in *Baltimore vs. Radecke*<sup>4</sup> an ordinance of the city of Baltimore giving to the mayor the power to

<sup>1</sup> 50 N. J. Law, 55 (1887).

<sup>2</sup> 8 Humph. (Tenn.), 707 (1848).

<sup>3</sup> Dillon, op cit., par. 321.

<sup>4</sup> 49 Md., 217.

revoke permits for steam engines and boilers was declared void because it clothed a single individual with uncontrolled and arbitrary power. "It commits to the unrestrained will of a single public officer the power to notify every person who now employs a steam engine in the prosecution of any business in the city of Baltimore to cease to do so, and by providing compulsory fines for every day's disobedience of such notice and order of removal renders his power over the use of steam in that city practically absolute, so that he may prohibit its use altogether. But if he should not choose to do this, but only to act in particular cases, there is nothing in the ordinance to guide or control his action. It lays down no rules by which its impartial execution can be secured or partiality and oppression prevented."

3. *Ordinances must not make special and unwarranted discrimination.*<sup>1</sup>

They must be fair, impartial, and general.

This rule is well illustrated in the case of *New Orleans vs. Blineau*.<sup>2</sup> By resolution of the municipal council, approved by the mayor, the Blineau soap factory was directed to be removed within twenty days unless put into such condition as not to be a nuisance. Failure to comply with the resolution carried with it a fine of \$50 for every infraction in case complaint should

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<sup>1</sup> Dillon, *op. cit.*, vol. i, par. 322.

<sup>2</sup> 3 La. Annual Reports, 688 (1848).



be made within a certain period by three inhabitants under oath. The court, in declaring the ordinance void, said: "An ordinance imposing a fine is in every sense a penal enactment, and by its essence must be general in its operation. . . . To designate one individual or one establishment, and subject its owners to punishment, appears to us to be entirely inadmissible and contrary to common right. . . . It has more resemblance to an imperial rescript than a rule for the conduct of citizens under a government of laws, exacted by a body possessing mere powers of administration."

4. *While ordinances may regulate, they may not restrain trade.*

This rule involves the important question of the power of the municipality to grant exclusive privileges and to create monopolies. It is evident that the general police power of the city gives it far-reaching powers of control and supervision over those trades and occupations which involve danger to the public health and safety. The extent of the power depends upon the nature of the trade or occupation. It is important in the first place to distinguish between those occupations which are inherently dangerous to the public health or morals, such as gambling, prostitution, etc., and such as are lawful and useful under ordinary circumstances. The former may be prohibited, the latter regulated.

The power to prohibit the former class is closely connected with the power to suppress nuisances, which is

usually conferred in express terms, or if not, is construed as part of the general police power of the municipality. The limit which the courts have set to the exercise of this authority is well illustrated in the case of *Yates vs. Milwaukee*,<sup>1</sup> where the question arose whether the city of Milwaukee, acting under the authority of a state law "to establish dock and wharf lines upon the banks of the Milwaukee River, etc.," could fix such lines wherever it deemed fit, and order the removal of a wharf, which in no way interfered with navigation, as a public nuisance. In declaring the ordinance void, the court said: "The mere declaration by the city council of Milwaukee that a certain structure was an encroachment or obstruction did not make it so, nor could such declaration make it a nuisance unless it in fact had that character."

In the recent case of *Grossman vs. City of Oakland*<sup>2</sup> the doctrine was carried one step farther. The charter of the city gave it power "to prevent and restrain nuisances, and to declare what shall constitute a nuisance." Acting under this power, the city prohibited any railroad company from fencing its track in the plotted portions of the city, and declared such fence to be a nuisance. In spite of the express power "to declare what shall constitute a nuisance," the court held this ordinance void on the ground that the city cannot arbitrarily declare any particular thing a nuisance which has not

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<sup>1</sup> 10 Wallace, 497 (1870).

<sup>2</sup> 30 Oregon, 478 (1895).

heretofore been so declared by law or judicially determined to be such. "An ordinance of the city cannot transform into a nuisance an act or thing not treated as such by statutory or common law."

The courts have, furthermore, attempted to discourage the more stringent remedies for the suppression of nuisances. Thus, in prohibiting an offensive trade, the courts will not permit the city to order the destruction of the building. The regulation cannot go beyond the particular purpose to be attained. The Supreme Court of Pennsylvania<sup>1</sup> refused to issue an injunction to restrain the erection of a bone-boiling establishment, although it recognized the fact that the industry is a public nuisance, which the public authority may suppress if established in the midst of a densely populated area. The erection of the buildings, however, cannot be regarded as a nuisance.

The power to regulate as distinct from the power to prohibit covers a far larger number of subjects. There is probably no occupation which in some form or other does not come under one or more of the regulations prescribed by the municipality for the carrying on of industrial pursuits. Certain classes of industries, however, because of their peculiar relations to the public or because of other special circumstances under which they are pursued, are subject to particularly rigid supervision and inspection. Thus ordinances regulating

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<sup>1</sup> Czarniecki's Appeal, 11 *Atlantic Reporter*, 660 (1887).

markets and providing for the inspection of food products of all kinds come within the general police power of the municipality. In fact, under a specific grant of authority from the state legislature, the city may make the carrying on of certain trades dependent upon the procuring of a license. Every extension of the license principle must be justified by paramount considerations of the public health and safety; otherwise the regulation will be void, because it may act in restraint of trade. Milk dealers, butchers, peddlers, pawnbrokers, and liquor dealers may be required to take out a license. It is important to distinguish, however, between the use of the licensing power as a means of police regulation and the use of the same power as a means of raising revenue. To come within the police power, the license fee should not exceed an amount necessary to reimburse the city for the expense incurred in inspecting and controlling the business. Thus in *Mankato vs. Fowler*,<sup>1</sup> the Supreme Court of Minnesota declared that where the plain intent of the charter provision granting the power to license auctioneers is to control and regulate the business rather than to tax it, a fee of \$200 per annum is "unreasonable as a regulation and unauthorized as a tax." The high license fees exacted from liquor dealers should in reality be regarded as coming within the power of taxation justified by the peculiar relation of the business to the public morals.

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<sup>1</sup> 32 Minn., 364.

As a rule, the conditions under which liquor licenses may be granted are prescribed in the general state law dealing with the subject. Where, in the absence of a state enactment, the city charter gives to the local authorities power to regulate and license liquor dealers, the courts will permit the levying of fees to almost any amount. Thus in *Perdue vs. Ellis*,<sup>1</sup> a license fee of \$500, and in *Marion vs. Chandler*,<sup>2</sup> a fee of \$1,000 were held to be within the competence of the city authorities.

The most important question involved in this discussion is the power of municipal authorities over those industries, such as street railways, gas works, etc., which, because of their very nature, require the granting of special privileges, such as rights of way above, over, or under the public highways.

The subject is one fraught with very great difficulties, owing to the lack of harmony in the decisions of the courts. It is necessary in the first place to distinguish between a monopoly and an exclusive privilege. A monopoly is a privilege in derogation of common right, and involves the exclusion from a particular pursuit of those entitled under ordinary circumstances to engage in it. An exclusive privilege, on the other hand, may relate to a class of industries which requires the grant of special rights as a condition prerequisite, industries which are not open to the public at large. The construction of bridges and the establishment of ferries

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<sup>1</sup> 6 Alabama, 899 (1844).

<sup>2</sup> 18 Georgia, 586.

are instances of exclusive privileges which recur most frequently in the early English common law. They were not regarded as monopolies opposed to public policy. In every such instance the public is supposed to have a direct interest in the service which gives it a quasi-public character. The offering of a service of a public nature is construed as a sufficient consideration for the exclusive privilege granted.

When the state constitution contains no specific provision to the contrary, there is no doubt as to the power of the state legislature to grant exclusive privileges to individuals or corporations, provided always that considerations of public good and public service can be shown to exist. In the class of industries above referred to, the grant of exclusive privileges does not deprive others of preëxisting rights, and does not therefore violate the provision of the Federal Constitution that "No state shall deprive any person of life, liberty, or property without due process of law."

The authority of municipalities to grant exclusive privileges is subject to very definite limitations. Unless expressly delegated by the state legislature, the courts hold that it does not exist. As was said in *Long vs. Duluth*:<sup>1</sup> "The authority conferred upon such governmental agencies of the state (viz., cities) to grant exclusive franchises or privileges must be as explicit and free from doubt as would be required if the franchise were

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<sup>1</sup> 49 Minn., 280.

created directly by the legislature.” And, again, in *Jackson County Horse Railroad Company vs. Interstate Rapid Transit Railway Company*,<sup>1</sup> Justice Brewer, in passing on the contention that the general control of the streets vested in the municipality of Kansas City gave it the power to grant exclusive street-railway privileges, said: “Let me in the outset formulate two or three unquestioned propositions: (1) The legislature has, as the general representative of the public, the power, subject to specific constitutional limitations, to grant special privileges; (2) It may, with similar limitations, grant the like power to municipal corporations as to all matters of a purely municipal nature; but, (3) As the possession by one individual of a privilege not open to acquisition by others apparently conflicts with that equality of rights which is the underlying principle of social organization and popular government, he who claims such exclusive privilege must show not only clear warrant of title, but also probable corresponding benefit to the public. . . . The legislature has not in terms given the city the power of granting an exclusive privilege of occupying the streets with railroads; it has not in terms given to it the right to contract away its continuous control of the streets. . . . It is doubtless true, as counsel says, that capital is timid, and will not undertake such enterprises without abundant guaranties and undoubted security. But this suggests matters of policy,

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<sup>1</sup> 24 Federal Reports, 306 (1885).

and presents considerations for the legislature. It does not aid in determining what powers have been granted, or in the construction of charters or ordinances. When the legislature deems that the public interests require that cities should be invested with power to grant exclusive privileges, it will say so in unmistakable terms, as it already has in some instances. Till then the courts must deny the possession of such power.”

The strict construction of all grants of privileges in favor of the public has led the courts to deny an exclusive character to franchise grants unless they are specifically so declared. Where, however, the city has been given power to grant exclusive privileges, the grant of such privileges constitutes a contract between the city and the grantee, and will prevent the granting of similar privileges to another company. All such grants enjoy the protection of Article I, Section 10, of the Federal Constitution, that “No state shall pass any law impairing the obligation of contracts.” It will not, however, debar the city from entering upon the conduct of similar enterprises, although as to this point there has been some difference of judicial opinion.

The Pennsylvania courts, for instance, have wavered between two opposing doctrines. In the Lehigh Water Company's appeal,<sup>1</sup> the Supreme Court adopted the general rule that a franchise grant to a water company, which stated that “no other company shall be incor-

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<sup>1</sup> 102 Pa., 515 (1883).



porated for that purpose until the said corporation shall have from its earnings realized and divided among its stockholders during five years a dividend equal to eight per centum per annum upon its capital stock," was exclusive only as against other water companies, and did not preclude the municipality from erecting a water plant of its own. Although the value of the company's franchise may thereby be impaired, they have no legal cause for complaint. In this case the court treated the water company and the municipality as creatures of the state legislature. "No contract has been shown between the water company and the state," said the court, "by which the latter is precluded from granting to the borough of Easton the privilege of erecting works to supply its citizens with water." The same rule was followed in Howard's appeal.<sup>1</sup> In *White vs. Meadville*,<sup>2</sup> the court reversed the decision in the Howard case, and held that "a municipality has no power to erect works for the supply of water except by virtue of a legislative grant, and where by virtue of such a grant it enters into a contract for the supply thereof by another person, it is bound by its contract and the terms of the law authorizing it, the same as would be a private individual." In this case the court had before it two acts of the legislature, one authorizing water companies to introduce water into cities and boroughs; the other authorizing cities to construct their own plants for the supply of water or to

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<sup>1</sup> 162 Pa., 374 (1894).

<sup>2</sup> 177 Pa., 643 (1895).

make contracts with any person, company, or association to supply the same. The evident determination of the court to protect the water companies led it to the conclusion that a city may either erect its own works or make a contract for the supply of water, but having once adopted the latter plan, it cannot proceed to erect its own works, and thereby destroy the value of the water company's plant. The only course open to the city in case it desires to furnish water is to purchase the plant of the company. In *Metzger vs. Beaver Falls*,<sup>1</sup> the court held that where the city had entered into a contract with a private company for the supply of water, it was debarred from constructing a plant until the expiration of the franchise period fixed by the state law.

It is evident that while this interpretation tends to safeguard private rights, it seriously hampers the municipality in dealing with public-service corporations; in fact, practically makes the latter the masters of the situation. Fortunately, the views of the Pennsylvania courts have not as yet received general acceptance in other states.

From the discussion up to the present point it is evident that in granting franchises, whether exclusive or otherwise, the discretionary power of the city is limited by the contractual obligations arising from such grants. The general rule of interpretation is that with

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<sup>1</sup> 178 Pa., 1 (1896).

the exception of powers expressly reserved and subject always to the exercise of the general police power of the municipality, the local authorities can do nothing that will in any way diminish the value of a franchise privilege. It is also a settled doctrine of law that no governmental agency can divest itself of its power to protect the health, comfort, and welfare of the community;<sup>1</sup> but the city cannot, "under pretense of regulation, take from a corporation any of the essential rights and privileges which the charter confers. They must be police regulations in fact, and not amendments in curtailment of the corporate franchise." The most interesting cases illustrating the exercise of this power are to be found in ordinances regulating the street-railway traffic. In most American cities the general police power of the municipality is reënforced by an express grant of power to make ordinances regulating the construction and operation of street railways. In the exercise of this power of control a city may regulate the speed of cars,<sup>2</sup> require cars to stop at designated places,<sup>3</sup> prescribe that the tracks be watered by the company,<sup>4</sup> prohibit smoking on the cars.<sup>5</sup>

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<sup>1</sup> *New Orleans City and Lake R.R. Co. vs. New Orleans*, 11 So. Rep., 77.

<sup>2</sup> *Hanlon vs. South Boston Horse R.R. Co.*, 129 Mass., 310 (1880).

<sup>3</sup> *No. Birmingham St. Ry. Co. vs. Calderwood.*, 7 So. Rep., 360 (1890).

<sup>4</sup> *City & Suburban Rwy. Co. vs. Savannah.*, 77 Ga., 731 (1886).

<sup>5</sup> *Louisiana vs. Heidenlain.*, 42 La. Ann., 483 (1890).

The power of the municipality in the absence of an express reservation in the charter to fix the rates of fare to be charged by street-railway companies has not been definitely passed upon by the courts. It seems hardly likely that the courts will extend the doctrine of *Munn vs. Illinois* to municipal corporations, but will rather follow the rule that in a matter of this kind the right must either be expressly reserved by the municipality in the franchise grant or it must receive specific authorization from the legislature, which authorization must be anterior to the making of the grant.

Where the authority to fix fares has been expressly reserved, it must be exercised in a reasonable manner, and not confiscate the property of the company under cover of such regulation. The case of *Milwaukee Electric Light and Transportation Company vs. Milwaukee*<sup>1</sup> illustrates the principle here involved. An ordinance of the city attempted to compel the company to sell six tickets for twenty-five cents and twenty-five for a dollar, which would have involved a reduction of nearly twenty per cent from the prevailing five-cent fare. In declaring the regulation repugnant to the Fourteenth Amendment—which forbids a state from depriving any person of life, liberty, or property without due process of law—the court said: “The improved

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<sup>1</sup> Michie's "Municipal Corporation Cases," vol. i, p. 442. 95 Wis., 39.

service received by the public, with the universal system of transfers, is well worth the five-cent rate charged therefor. The company has not received earnings in excess of an equitable allowance to the investors for the means necessarily invested in furnishing such service. Enforcement of the ordinance would deprive complainants of property rights by preventing reasonable compensation for its service."

The restrictions on municipal powers considered in this chapter result from two causes: (1) From the fact that the city is a subordinate governmental agency, the creature of the state, and dependent upon the legislature for its authority, and (2) from the protection of vested rights under the state and federal constitutions.

The existence of such limitations upon the authority of the municipality makes it all the more necessary to exercise the greatest care and foresight in the granting of franchises. The mistake of one generation is perpetuated, and often carries with it serious and irreparable financial consequences. It is far more difficult to correct mistakes of legislative or administrative policy under our constitutional system than it is in Europe. The constitutional safeguards to vested rights, and the broad interpretation of such rights, place the local authorities in a position of trusteeship not only for the present generation, but also for the generations to come.

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## CHAPTER VIII

### THE ORGANIZATION OF THE MODERN MUNICIPALITY

IN all matters affecting form of government, the American people enjoy a reputation for conservatism which lacks real justification when examined in the light of municipal development during the last twenty years. In fact, the readiness with which we have accepted sudden and almost revolutionary changes in municipal organization might lead the casual observer to conclude that political radicalism finds its most congenial atmosphere in the United States. This condition of political unrest with its resulting instability is traceable to a lack of adjustment between the form of municipal government and the functions which the city is called upon to perform.

The apparent willingness to make frequent and radical changes in municipal organization is strengthened by the abiding "faith in mechanism," which, as was stated in a previous chapter, is one of the leading traits of our national character. It fosters the belief that political abuses are to be remedied by changes in governmental organization. It is a remarkable fact that while the form of municipal government in conti-

mental Europe has remained almost unchanged during the last century, the cities of the United States have been passing through at least three distinct stages, in each of which an essentially different form of municipal organization has prevailed. Europe has been endeavoring to perfect the operation of a given system, while in the United States we have been searching for a form of government so perfect in its adjustment as to assure efficiency without the necessity of the constant vigilance and active coöperation of the population.

The history of municipal development in the United States may be divided into three periods, in each of which the attempt has been made to remedy administrative inefficiency through changes in governmental organization.

In the first period we find municipal powers concentrated in a local elective assembly, which not only determined the policy of the municipality, but appointed all administrative officials, and in many cases elected the mayor. For instance, in Philadelphia the mayor was for a long time little more than the presiding officer of the city council. It was not until he was elected directly by the people that the office acquired real importance as one of the organs of the city government.

In the second period the powers of government are distributed between a popularly elected mayor and a council; in the third, the mayor acquires a dominant



position, while the elective council is gradually stripped of its more important functions.

In spite of the fact that the different periods merge into one another by insensible gradations, the dominant tendencies in each are sufficiently distinct to justify the classification above outlined. Thus we may still be said to be in the midst of the second period, although the concentration of power in the mayor represents a distinct tendency, particularly marked in our larger cities, and leads to the conclusion that the third period of development has begun in certain portions of the country.

The form of government which prevailed during the first period was a direct inheritance from the English system. The fact that the English people have been able to develop a high degree of efficiency under a system which we have become accustomed to regard as the worst possible form of governmental organization, throws an interesting side light on the relative importance of governmental form as one of the factors in the municipal problem. The period during which council supremacy prevailed in the United States furnishes abundant illustration of the weakness of any form of government, where the lack of positive standards of public opinion permits a representative assembly to conduct public affairs without any effective responsibility. The population of our American cities, absorbed in the exploitation of the resources of the country, was

interested primarily in the protection of personal and property rights. Beyond this, interest in government did not extend. So long as the council provided a fairly good police system, the people did not concern themselves as to whether the individual councilors were deriving personal profit from the public treasury.

It is not surprising, therefore, that the elective assemblies, thus emancipated from popular control, should yield to the temptations which beset the disbursement of public funds. Given the conditions of commercial and industrial life during the first four decades of the last century, the student of American political life is surprised to find that corruption and inefficiency were not far greater. Had the council confined itself to mere jobbery and log-rolling, it is probable that the system would have remained unchanged for a longer period. The attempt on the part of the council to use every municipal office for political purposes and to direct every detail of administrative activity proved a constant menace to administrative stability, and made continuity of municipal policy impossible. As soon as the evils incident to this condition of affairs reached the departments affecting the personal and property rights of the citizens, a radical change of some kind was inevitable.

The most effective remedy would have been to send a better class of representatives to the city council, as was done in England under similar conditions. This would have required a larger amount of civic energy than the

population was prepared to expend. The line of least resistance was to experiment with changes in governmental organization. In making these changes, the people turned naturally to the state and national governments, which, within their respective spheres, had proved themselves capable of coping with complex political and social problems. It was felt that the concentration of power in the council was no longer in harmony with the principles which our political experience had demonstrated to be of unquestioned validity. Petition after petition was sent to the state legislatures, requesting that the form of city government be remodeled after the pattern of the state and national governments.

The response to these petitions brings us into the second period of municipal development, in which an elective and independent mayor, vested with an executive veto, is given a position coördinate with the council. This form of government was adopted very generally throughout the country, and under it the majority of our cities are now organized. The effect of the change was to place the control over the police service in the mayor, and to hold him responsible for the efficiency of the service. In this second period American cities passed through the same experience as in the preceding epoch. The municipal departments directly affecting protection of life and property were fairly well administered, while the services further removed from the daily life and economic interests of the people did not

call forth any serious or concerted protest against wastefulness, extravagance, or even inefficiency. In the larger cities, however, where social problems are at once more complex and more pressing, the shortcomings of local government aroused sufficient discontent to raise anew the question of a remedy through administrative reorganization.

The lack of definite administrative responsibility resulting from the division of power between the mayor and the council aroused the same kind of dissatisfaction as prevailed during the period of council supremacy. It was felt that greater efficiency would be secured if responsibility could be definitely fixed. The readjustment of our municipal system which resulted increased the powers of the mayor at the expense of the council. In Philadelphia, Brooklyn, New York, and especially in the Greater New York, this tendency has found most distinct expression.

With these three forms of municipal government before us, it becomes necessary to examine which, if any, is best adapted to meet the problems that confront our municipalities. It is hardly profitable to devote much time or attention to the form of organization which obtained during the early period of our history. It is quite evident that we have discarded definitely and irrevocably the supremacy of the council in local affairs.

The second plan of organization, namely, that modeled after our national and state governments, is the

prevailing type at the present time, and deserves, therefore, more careful consideration. Briefly outlined, it consists of a popularly elected mayor, whose power of appointment is restricted to a few heads of departments, and is subject to the advice and consent of the higher branch of councils. He exercises over legislation a suspensive veto of exactly the same character as that enjoyed by the governor of a state and the President of the United States. The local legislature is often bicameral, and is usually elected on the district plan, exercising in its upper branch concurrent powers of appointment with the mayor, and vested with the power of determining local legislative and financial policy. Heads of departments who are not appointed by the mayor are elected by popular vote. Of these, the most important are the city comptroller or auditor, and in some cities the city treasurer, the receiver of taxes, and the city solicitor. As soon as we get beyond this mere outline of organization, however, the greatest diversity appears, particularly in the relations existing between such heads of departments and the council.

The final test of every form of governmental organization is the adaptation of structure to function. In subjecting the prevailing form of city government to this test we must consider the executive in the narrower and in the broader sense. As regards the former—the mayor—there is but little doubt that this office has been relatively the most satisfactory part of the system. It

is interesting to note that the United States is the only country in which the mayor is elected by popular vote. In England, Germany, France, and generally throughout the continent of Europe, he is either the appointee of the council or of the central government. So thoroughly are we committed to the elective system, however, that any practicable scheme of municipal reorganization must accept this principle as an unchangeable factor. Nor is there any valid reason for discarding it, for the sense of dignity which comes to the official elected by the community at large and the sense of responsibility which comes with the enjoyment of political power have assured a higher standard of ability in this office than in any other portion of the municipal system.

The organization of the executive in the broader sense, namely, the administrative departments considered as a unit, is in a far less satisfactory condition. Experience has shown that stability and continuity of policy are the primary requisites for efficiency in municipal departments, particularly in those cases in which technical knowledge and preparation are required. The popular election of such officials as the city treasurer and the receiver of taxes tends to prevent the continuity of policy which the administration of these departments requires. In these offices real responsibility is not enforced through popular election, for, as a rule, they have little to do with directing the general policy of the

municipality. Honesty in administration, a thorough grasp of every detail of the financial system, and a well-trained ability to adapt this system to the increasing complexity of city functions, constitute the qualities necessary to success. Popular judgment, no matter how enlightened, is unable to furnish the standards to which the administration should conform. The short term of office and the relative certainty of a change of incumbent at the close of each term remove the incentive to improve departmental organization. In our larger cities many months must elapse before the comptroller or auditor can acquaint himself with the complexities of municipal accounting. When, finally, he becomes familiar with the details of his office the close of his term is so near at hand that he usually deems it inadvisable to make any radical changes.

As regards the other heads of departments, viz., those appointed by the mayor with the advice and consent of councils, even greater difficulties present themselves. The power of confirming or rejecting appointments vested in the upper branch inevitably leads to the interference of that body with the details of departmental policy. This has been one of the most fruitful sources of jobbery and corruption. In addition, the mayor is able to shirk responsibility for his appointments on the plea that he had to consult the wishes of councils before selecting the heads of departments. Whatever may be the justification for this plea, it is certain that

this impression is created in the community, and results in the shifting of responsibility. Finally, given conditions such as exist in most of our municipalities, it is tolerably certain that with the mayor and councils coöperating in appointments, each incoming administration will make a clean sweep of the higher official class, and will only be restrained by rigid civil-service rules in the lower administrative service. This has been the experience in every city in which the system has been tried. As we shall presently see, to remedy this defect will require a twofold change—first, the concentration of the power of appointment in the mayor, and a different distribution of powers between the executive and the legislative from that which exists at the present time.

Before examining these necessary changes let us turn to the organization and powers of the legislative department. It has already been pointed out that the bicameral council grew out of the application of our national political ideas to local government. Its main virtue was to prevent hasty and ill-considered action, particularly when the result of such action might endanger the political and civil rights of the individual. To the founders of the republic this system represented one of the "checks and balances" through which individual rights were to be guaranteed. They were willing to sacrifice ease and rapidity of legislative action to what seemed to them the main purpose of government, namely, the protection of individual rights.



As the dissatisfaction with the working of the system of municipal government has increased, the question has naturally arisen whether the nature of city problems is such as to justify the application of the political principles which obtain in our national and state governments. It is clear at first glance that the protection of the fundamental civil and political rights rests with the national and state governments rather than with the municipalities. Whatever the advantages of such a system in contributing to the security of individual rights, there is always attached to it the grave danger of a dissipation of political responsibility. Where, therefore, the problems of government have no direct relation to the security of individual rights, the dangers incident to a lack of political responsibility are greatly increased. Municipalities have few if any distinctively political problems to deal with. Good government requires that responsibility for the decisions on local legislative policy be quickly and readily enforced. The experience of every American city shows that under a bicameral system such enforcement is almost if not quite impossible. Whenever the opposition or resentment of the public is aroused by reason of some mistaken or suspicious act, each chamber endeavors to throw the odium upon the other, and in the resulting popular uncertainty both escape censure.

Another principle of considerable importance is that a bicameral system presupposes a different unit of rep-

resentation in each house. Under our present municipal system territorial extension and population constitute the only differences between the units of representation of the upper and lower houses. In both branches we find petty sectional interests giving the tone to legislation. The position of each member is dependent upon the number of special favors he can secure for his special district. In this constant bickering of petty interests the broader and more permanent interests of the municipality are lost sight of.

But this is by no means the most important violation of sound principles of governmental organization. The work of a municipality may, from one point of view, be classed under two distinct heads: First, the determination of the general policy in the various departments which must naturally rest with the legislative authority; and secondly, the execution of the details of such policy, which must be assigned to administrative departments, if the highest standards of efficiency are to prevail. In but few cases has there been anything approaching a recognition of these principles by our municipal legislatures. The desire to control every administrative detail has too often resulted in a subordination of the city's interests to the personal profit of a group of councilors, and in every case to the great detriment of the service.

Before drawing any definite conclusions from these lessons of experience, it will be well to examine briefly

the third form of city government to which we have referred, namely, that in which the council is shorn of its most important powers, giving to the mayor the commanding position in the city government.

The process of reducing the council to a subordinate position in the city government has passed through two distinct stages: First, to deprive it of its independent as well as of its concurrent powers of appointment, and secondly, to take from it its more important financial powers. The first change was dictated by a recognition of the impossibility of fixing responsibility with a divided power of appointment. The popular distrust of local legislative bodies has become so deeply rooted, however, that the further step of depriving the council of many of its financial powers is now being taken. In the larger cities, particularly in the Greater New York, the council has been deprived of these powers which in its earlier history furnished the main reason for its existence. In fact, until quite recently the principle that financial policy should be directed by the representative assembly was one of the unquestioned tenets of governmental organization in the United States. Instead of attempting the more thoroughgoing remedy of enforcing a higher standard of capacity and integrity in the city council, the simplest plan seemed to be to take from the council those powers which it had shown itself incompetent to administer.

In the recent charter of the Greater New York this

tendency has found its most distinct expression. The framing of the budget is intrusted to a Board of Estimate and Apportionment, made up of the mayor, the comptroller, the president of the Board of Aldermen, and the presidents of the five boroughs, into which the city is divided. The budget, as framed by this board, is submitted to the Municipal Assembly, which can only reduce the amount assigned to each item, but has no power to increase any appropriation. Furthermore, any such reduction is subject to the approval of the mayor, and if vetoed by him must be passed by a majority of five sixths of the assembly. In making the transfer of financial powers to the Board of Estimate and Apportionment, it was argued that such a change would enable the citizens to hold a few persons to strict accountability for the financial policy of the city. It is not surprising, therefore, that local elections have come to mean a verdict on the policy of the mayor rather than on that of the council.

The lessons to be derived from the practical working of the two types of government which have prevailed since the beginning of the last century are sufficiently definite to guide us in the formulation of a system of municipal government which shall conform to the standards of popular government in legislation, and at the same time facilitate continuity of administrative policy.

Any scheme of municipal reorganization, in order to

be practicable, must conform to the accepted political standards of the American people. Any attempt to remodel our system after the pattern of the English or continental forms is quite certain to meet with little response. Our political ideas have moved too far from the system of council supremacy to make a change in that direction probable or even desirable. It seems equally certain that any attempt to encroach upon the principle of universal suffrage will arouse the most violent opposition. Furthermore, the concentration of appointive power in the mayor is rapidly becoming an accepted principle in the organization of municipalities. It is a system dictated by sound principles of administration, and is in harmony with present tendencies in American industrial and political methods.

Given these factors, what is the form of organization best adapted to meet the problems of city life? So far as the legislative department is concerned, we have seen that, however justified in the state and national legislatures, city conditions do not furnish the basis for a bicameral system. The kind of business which a council is called upon to perform, being of an essentially non-political character, calls for a small representative assembly which will assume the full responsibility for the general policy of the municipality.

Within recent years a new tendency in the organization of American municipalities has begun to make itself felt. It is true that this new movement has not as yet

assumed large proportions, but it is so significant and is fraught with such far-reaching consequences to the future of local institutions in the United States that it deserves the most careful attention.

We have hitherto proceeded on the assumption that in the organization of municipalities the same care must be observed in the division of executive, legislative, and judicial functions as in the organization of state and national governments. The failure of this organization to give satisfactory results has gradually undermined popular faith in this division of powers. As a further influence in the same direction we must take into consideration the growing importance which the analogy between the municipal and the business corporation has assumed in the popular mind. The doctrine that municipal administration is essentially and primarily a business matter, to be managed in the same way as large corporate enterprises, has deeply influenced the attitude of the public toward municipal affairs, and has prepared the way for a form of organization based upon business analogies in which the older doctrine of the separation of powers has been completely set aside.

Another fact in this connection which deserves consideration is the gradual change of opinion with reference to the character of public control over municipal affairs. For a long time it was the accepted belief throughout the United States that the control over the activities of local government could best be secured

through a form of governmental organization in which the different organs of government controlled one another. The division of the city council into two branches, and the complete separation of the executive from the legislative authorities were intended to serve this purpose. Through such a mechanism the people thought to relieve themselves of the necessity of constant alertness and watchfulness.

That this plan has failed to produce the results anticipated is a fact that is gradually impressing itself on the American people. There is a growing conviction that the only effective control over administrative work is to be found in the standards set by public opinion. Instead of making governmental work as difficult as possible through a system of "checks and balances," the line of progressive development is to be found in giving to the city authorities wide powers, in holding them to strict legal accountability in the exercise of these powers, and in maintaining a high standard of administrative efficiency through a well-organized public opinion. All these influences combined have served to bring about a change of attitude toward municipal affairs which has found expression in a new type of municipal organization. Under the name of the "Galveston" and "Des Moines" plans a new principle is gradually finding acceptance.

The genesis of the idea is to be found in the organization of the District of Columbia, which is governed

by a board of commissioners appointed by the President. In 1900 the Legislature of Texas framed a new system of municipal organization for Galveston. Under the original plan as first submitted the government of the city was vested in an appointive board. In the course of the discussion an amendment was introduced combining the appointive and elective principles by making three members appointive and two elective. This plan was declared unconstitutional on the ground that it did not conform to the requirements of a democratic organization of municipalities.<sup>1</sup> Before this decision was

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<sup>1</sup> *Ex parte Lewis*. Court of Criminal Appeals of Texas, March 25, 1903. 73 Southwestern Reporter, 811.

In declaring unconstitutional the law providing for the appointment of a municipal commission the court based its opinion on Section 2, Paragraph 1 of the Bill of Rights, which reads as follows: "All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government," etc. Also Section 2, Article II of the Constitution which provides: "All qualified voters of the State herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town, shall have the right to vote for mayor and all other elective officers; but in all elections to determine the expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes in said city or incorporated town."

In interpreting this article the court said: "We believe if the clause confers the right on the voters in cities to vote for mayor and other elective officers, it is effective, no matter where it may have been placed by the Constitution builders. The language of said provision is not dubious. It is clear and unequivocal. The terms used are strong. The language is that the elector 'shall have



handed down, however, the law was again amended, making all the members of the board elective. This form of organization has been extended to Houston, Dallas, Fort Worth, and El Paso.

A step in the same direction was taken by the city of Des Moines in 1907. Under an act passed by the Iowa Legislature on March 29, 1907, all cities of the State having a population of over 25,000 inhabitants are permitted, upon petition signed by twenty-five per cent of the electors, to submit to the people of the city the question of adopting the plan of government provided for under the act.

The plan vests the entire executive, administrative, and legislative powers of the municipality in a mayor and four councilmen, nominated and elected at large.

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the right to vote for mayor and other elective officers.' If this right is conferred, by what power can the Legislature deny it? If they cannot do it directly, can they accomplish it by indirection? To hold that the Constitution makers undertook the task of defining qualifications of voters in cities, and providing that persons possessing the enumerated qualifications should have the right to vote for mayor and other elective officers, and then to decide, without an express provision of the Constitution on the subject that the Legislature should have the power to withhold this right to vote in cities, would, in our opinion, be a travesty on constitutional construction. Certainly after the right to vote had been conferred, it would be a strange doctrine that the Legislature, without some constitutional warrant, would be authorized to limit or deny the right of suffragans to vote in cities."

The Supreme Court of the State reversed the decision of the Court of Criminal Appeals, but before this occurred the law had been changed to its present form.

The government is divided into five administrative departments, designated as follows:

1. Department of Public Affairs.
2. Department of Accounts and Finances.
3. Department of Public Safety.
4. Department of Streets and Public Improvements.
5. Department of Parks and Public Property.

Each member of the board, or council, as it is called, is assigned to one of these departments as the administrative head thereof. It is furthermore provided that all grants of franchises to public-service corporations shall first be submitted to popular vote for approval.<sup>1</sup>

It is furthermore provided that any member of the board or council may be removed upon petition of twenty-five per cent of the electors demanding a new election for the office. The incumbent may be a candi-

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<sup>1</sup> Every ordinance or resolution appropriating money or ordering any street improvement or sewer or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges or public places in the city for any purpose, shall be complete in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges or public places in any city shall be granted, renewed or extended, except by ordinance, and every franchise or grant for interurban or street railways, gas or water-works, electric light or power plants, heating plants, telegraph or telephone systems or other public-service utilities within said city must be authorized or approved by a majority of the electors voting thereon at a general or special election as provided in Section 776 of the code.

date at such election. Opportunity is thus offered at any time to pass on the efficiency or honesty of any member of the board.<sup>1</sup>

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<sup>1</sup> The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five per centum of the entire vote for all candidates for the office of mayor cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements made therein are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city clerk shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors and, if necessary, the council shall allow him extra help for that purpose; and he shall attach to said petition his certificate, showing the result of said examination. If by the clerk's certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding the said election not less than thirty days nor more than

The act also gives to the electors of the city the power to exercise the right of initiative. If a proposed ordinance is accompanied by a petition signed by twenty-five per cent of the electors, the council is compelled either to pass such ordinance within twenty days after the filing of such petition or to order a special election for the purpose of passing on such ordinance. If the petition is signed by not less than ten nor more than twenty-five per cent of the electors, then the council is required within twenty days either to pass the ordinance without change, or to submit the same at the next general city election, occurring not more than thirty days after the filing of the petition.

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forty days from the date of the clerk's certificate to the council that a sufficient petition is filed.

The council shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared, in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes shall fail to qualify, within ten days after receiving notification of election the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The same method of removal shall be cumulative and additional to the methods heretofore provided by law.

The people are also given the power of protest and referendum. Section 20 of the act provides that no ordinance passed by the council, except when otherwise required by the general laws of the state, by the provisions of the act, or for the immediate preservation of the public peace, health, or safety, and passed by a two-thirds vote of the council, shall go into effect before ten days subsequent to the date of its final passage, and if during this period a petition of protest signed by twenty-five per cent of the electors of the city is presented to the council, the operation of the ordinance shall, for the time being, be suspended. The council is then required to reconsider such ordinance, and if the same be not repealed, it must be submitted to the electors either at a general or special municipal election, and cannot become operative unless a majority of the qualified electors vote in favor thereof. The act furthermore provides for the greatest publicity of city affairs, especially in the matter of public accounting.

The only city which up to the present time has availed itself of the provision of this act is Des Moines, but as the plan did not go into operation until the last Monday in March, 1908, it is too early to form any opinion on its actual operation. It is clear, however, that the basic idea is to assure as large a measure of public control as possible. If successful in these smaller cities, this plan will exert a profound influence on the political thought of the country. It will demonstrate that some

of our traditional ideas with reference to the organization of government require radical revision. The healthful kernel of this new movement is that it rests on an abiding faith in the efficacy of public control. It places responsibility for good government exactly where it belongs, namely, on the people themselves, and makes necessary the development of a well-organized public opinion.

The fact that this new movement has made a deep impression is attested by the efforts that are being made to secure the adoption of similar plans in different sections of the country. In Massachusetts we find continued agitation in favor of this plan; in Salem, Northampton, and even in Boston, considerable interest is being aroused. In Tennessee: Nashville and Memphis; in Missouri: Kansas City; in California: San Diego and Oakland; in Wisconsin: Madison and Sheboygan; in Texas: Austin and Beaumont, are all actively pushing for a similar system. In Chicago the agitation for a commission plan of government has assumed large proportions.

In Kansas the last legislature provided for the government of cities by commission, but as yet the new plan has not been adopted by any of the cities of the State. In Wichita the attempt to incorporate under the new act failed at a popular election. Topeka and Coffeerville are now agitating the question to avail themselves of the new type of organization.

While this dependence on public opinion as the controlling factor in local government constitutes a distinct step forward, it is evident that in order to make this control effective it must emanate from a public opinion, which is not only well organized, but which is also highly enlightened. This necessity lends a new significance to the efforts that are now being made to place the people in full possession of the basic facts concerning municipal affairs. It is not sufficient that the enlightenment of the public mind be restricted to periods of moral upheaval. In order that public opinion may exert a healthful influence on local affairs, it must be kept in constant possession of the facts, and these facts must be so presented that a judgment can readily be formed on the work of municipal departments.

The establishment of the Municipal Research Bureau in New York City marks an epoch in this process of the enlightenment of public opinion. The primary purpose of this bureau is not to ferret out abuses, but rather to place before the public in the most accessible and striking form, the facts upon the basis of which an accurate opinion of the efficiency or inefficiency of particular departments may be formed. In this way, and in this way only, may we expect permanent improvements in our city life. Agencies such as these make possible an effective control over municipal administration through public opinion.

To assure to any form of municipal organization its

highest efficiency, it will be necessary to give to the municipality a more definite place in our political system than it has heretofore occupied. The numerous constitutional prohibitions upon the state legislature, while they have remedied certain evils, have been wholly inadequate to secure to the municipality a large measure of local autonomy. It seems unlikely that any system of constitutional limitations can ever be devised which will take the place of the recognition by the legislature of the necessity of respecting municipal home rule as a primary requisite for the development of vigorous local institutions. We are now beginning to see that in many cases these constitutional limitations have developed as many real evils as they were intended to remedy, and there are indications that the faith of the American people in such mechanical safeguards is being gradually undermined. The experience of the last quarter of a century demonstrates that we must give to the state legislature wide discretionary powers. The standards of public opinion must be so well defined and the standard of capacity of the legislatures so high as to assure the continuous recognition of those principles of government upon which the successful working of democratic institutions rests, namely, confidence of the people in their representatives, combined with a degree of self-control in the state legislatures, which will enable the municipalities to determine their local policy without fear of interference from without.



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## CHAPTER IX

### CITY GOVERNMENT AND AMERICAN DEMOCRATIC IDEALS

JOHN STUART MILL opens his discussion of "Representative Government" with the remark that government "by some minds is conceived as strictly a practical art, giving rise to no questions but those of means and an end. Forms of government are assimilated to any other expedients for the attainment of human objects. They are regarded as wholly an affair of invention and contrivance. Being made by man, it is assumed that man has the choice either to make them or not, and how or on what pattern they shall be made. Government, according to this conception, is a problem to be worked like any other questions of business."

Mill here expresses a view which still dominates modern political thought, in spite of the fact that the philosophy of which it is the expression has long since ceased to color the study of institutions other than political. It is a curious fact that while the doctrine of evolution, with its leading principle of the adaptation of form to function, has profoundly influenced our reasoning on all matters pertaining to social relations, it has failed to overcome the influence of tradition upon our political

thinking. We still deal with political phenomena as if governmental organization could be made, unmade, and remade without reference either to industrial conditions or to the special problems with which government has to deal. The principal effect and the immediate danger of this attitude toward questions of civil government are that our reasoning on political affairs is usually "in harmony with what we want rather than with the conditions and problems which government has to face." The history of city government in the United States presents a peculiar interest to the student of politics, because it illustrates so clearly these general principles.

The formative period in the development of our American cities was dominated by an essentially negative view of government. During the eighteenth and the greater part of the nineteenth centuries American political thought was concerned primarily, in fact, almost exclusively, with the protection of individual rights. A minimum of government and a maximum of individual liberty represented the primary standards of political thought and action. From our present perspective we can appreciate the great service rendered by these essentially negative political ideas. They strengthened that feeling of personal responsibility and initiative which has contributed so much toward our industrial development and has served to maintain that alertness to possible encroachment upon the domain of individual lib-

erty which has been the admiration and envy of the people of continental Europe.

Furthermore, the restriction of governmental activity to the protection of person and property and the care of the dependent, defective and delinquent classes enabled the country to train the electorate at a time when the functions of government were few and the possibilities of harm due to inexperience reduced to a minimum. Local government was then looked upon as the cradle of American liberties and as the bulwark against the possible tyranny of the state and federal governments. It was expected to preserve and foster a feeling of opposition toward any extension of the positive action of government.

Viewed in the perspective of the last hundred years, the contrast between the conditions out of which our ideas of local government developed and the circumstances which now confront us is fraught with lessons which we cannot afford to ignore if we hope to build up vigorous local institutions. The menace to individual liberty from the tyranny of government is no longer a real one, and to this extent, therefore, there is justification for the essentially negative views of government. On the other hand, the concentration of population and the growth of great industrial centers have brought into the foreground a mass of new problems which the community is compelled to face. Many of them come directly within the legitimate sphere of

government, but so strong is the hold of the political ideas of the eighteenth century that in most of our cities we must depend upon private effort for their solution.

The widening gap between the life of the community and the activities of our city government is impressing itself on every student of American city life. The first step in the development of greater civic vigor is some method of bridging this gap, which shall include, primarily, such an extension of municipal functions that the community can grapple with the problems which can be solved only through organized action; and secondly, such a readjustment of the machinery of government that positive action will be fostered rather than made increasingly difficult, as under our present system. The ideas of governmental organization, which we have borrowed from an earlier period, are no longer applicable to the conditions that prevail in our cities.

If we examine the history of city government during the last fifty years, we find that slowly and with great reluctance we are beginning to acknowledge, in fact if not in theory, that the political ideas which have dominated our reasoning for more than a century are no longer adequate to meet the complex conditions of modern city life. We continue to reason as if the political principles of the eighteenth century had lost none of their force, but the pressure of circumstances has nevertheless compelled us to make certain compromises, the full import of which we have hardly begun to realize.

Our inherited ideas of democratic government have dictated a form of city organization in which the local representative assembly or city council occupies an important position. The same political traditions dictate that the higher administrative officials of the city, no matter what their functions, shall be chosen by popular election. It is a significant fact that this tenacious adherence to what we regard as the essentials of democracy has been contemporaneous with a totally different movement in other branches of administrative activity. The management of great business enterprises is being concentrated in the executive heads of industrial corporations. The responsibility for the conduct of the affairs of educational and charitable institutions is likewise drifting from the board to the single executive head. Even in the management of the affairs of the church this tendency toward the concentration of executive power is apparent. Wherever the form of board management is still preserved, the actual control and responsibility are vested in one individual, whether he be called the president of the board or the chairman of the executive committee. However we may regard this tendency, there is every indication that it is not merely a passing phase, but that the immediate future will witness a strengthening of its influence.

Tendencies so clearly marked in American business and institutional activity are certain to exert an influence on the administration of public affairs. We cannot

hope permanently to preserve the illusion that political organization can be kept free from the influences which are dominant in every other department of our national life.

If the concentration of power in the mayor represents a permanent tendency in American administrative policy, the question immediately presents itself whether we can reconcile these changes with our views of democracy. No one will deny that the increase of executive power as well as its concentration has been accompanied by a marked increase in efficiency. The choice presented to our American communities, therefore, takes the form of an apparent opposition between democracy and efficiency. Thus presented, there is little doubt as to the ultimate choice of the American people, who, above all other peoples of western civilization, are worshipers of efficiency. The establishment, therefore, of a harmonious relation between democracy and efficiency, both in thought and in action, becomes a requisite for the maintenance of those institutions which we are accustomed to regard as the distinctive products of American civilization.

If this analysis of the present situation be correct, the outlook for the municipal council is anything but encouraging. While the analogy between a business and a municipal corporation may be faulty in many respects, it is of real value when viewed from the standpoint of the organization of city departments. Whether

or not we agree with this analogy, we cannot disregard the fact that the popular view with reference to the administration of the city's executive departments is moving toward the standards which have proved so successful in the management of great corporate enterprises. This means that the people are prepared to accept the same administrative standards in municipal affairs as those which prevail in the business world. The recent proposal to give to the police commissioner of New York a term of ten years, or possibly a life tenure, would have been received with scorn and indignation fifty years ago. To-day it is regarded by many as the best means of securing an efficient administration of this service.

Similarly, the increasing limitation of the powers of the municipal council is not due to any decline in the character of its membership, but rather to a growing appreciation of the difficulty of enforcing responsibility against a large assembly. The repeated failure of the efforts to enforce such responsibility is accountable for the steady decline of popular interest in the work of the council.

It is significant that even in those cities in which years of effort have finally secured an improvement in the character of the men serving in the local legislative body, the betterment of the administrative service is in no sense commensurate with the amount of effort expended. The vital interest of the citizens lies in



strengthening the administrative service rather than the legislative body. The gradual appreciation of this fact has led to the transference of what were formerly regarded as legislative functions to administrative officers. Although the movement is by no means uniform, the general trend of institutional development in this country is to reduce the power of the council to a control over finances, and by means of constitutional and statutory limitations to set definite limits even to this control. The council is gradually assuming the position of an organ of government to prevent the extravagant or unwise expenditure of public funds. It is thus rapidly becoming a negative factor in our municipal system. To an increasing extent the American people are looking to the executive not only for the execution, but also for the planning of municipal improvements. Even the freedom of discussion in the council is being subjected to statutory limitations by provisions requiring that the vote on financial and franchise questions shall not be delayed beyond a certain period.

This decline in the power of the council involves no loss of popular control. In every city in which the mayor has been given independent powers of appointment, and has been made the real head of the administrative organization of the city, the sensitiveness of the government to public opinion has been considerably increased. Rightly viewed, this change involves possibilities of popular control which we have hardly begun to

realize. Almost every city in the country offers a number of instances in which the mayor, when supported by popular opinion, has been able to withstand the combined influence of the council and any machine organization that attempted to direct his action.

The lessons of this experience have left their impress upon the political thought of the American people, and explain the tendency to look to the executive rather than to the legislative authority for the solution of difficulties. Popular control over the city government will become more effective as public opinion becomes more thoroughly organized. At present we must depend upon a great number of voluntary organizations, representing different elements in the community, but which cannot from the nature of the case represent the opinion of the community as a whole.

The danger involved in this tendency toward concentration of executive power is that the council will be divested not only of its administrative, but of its legislative powers as well. The desire for greater administrative efficiency may lead us to a type of government in which the determination of executive policy will be left exclusively to the mayor and his heads of departments. This form of organization is certain to give us better government than does our present large and unwieldy council. The accumulated experience of American cities has shown that unless the council is reduced to a single chamber, with a small membership, responsi-

bility cannot be enforced. The choice that presents itself is clear and simple. We must either make the council a small body of nine or eleven members, elected by the people, having complete power over the finances of the city, or we shall inevitably be driven to a system in which the council will disappear, and all power will be lodged in the mayor and his heads of departments.

The reconciliation of the idea of popular government with the concentration of executive power represents the first step toward a better adjustment of our political thinking to the conditions of city life. A second and no less important step involves some further modifications in our ideas of municipal organization. American cities are organized as if they were the small towns and villages of fifty years ago. We have proceeded on the assumption that an aggressive and progressive municipal policy can be developed out of the compromise of conflicting district interests. As a matter of fact, our present plan of district representation clogs positive action and prevents the systematic planning and economical execution of great public improvements.

Placing the mayor as a check upon the council and the council as a check upon the mayor has served to strengthen that most baneful of political superstitions—the belief in a self-acting governmental mechanism which will carry on the work of government without the need of watchfulness and alertness on the part of the people. For every evil, no matter what its nature,

we recur to the statute book. There is a widespread belief throughout the country that for every abuse there is a legislative remedy. This belief in the moralizing power of the law is one of the most insidious as well as one of the most corrupting influences in our public life. It leads us to place unenforceable laws on the statute books, and the disregard of these laws becomes the instrument of blackmail and bribery.

The same political superstition pervades the organization of our city governments—to construct a self-acting mechanism which will secure honesty and guarantee efficient administration. By pitting the executive against the legislative authority, by electing one official to exercise control over another, and by making official terms as short as possible, we have beguiled ourselves with the illusion that it is possible to construct a mechanism of government which requires the attention of the citizens only at stated election periods. It is not surprising that this search for a self-acting governmental machine has proved fruitless, for it represents an attempt to relieve ourselves of a responsibility which we cannot throw off. The complexity of organization that has resulted from this attempt to secure efficiency and honesty through statutes rather than through men has done more to retard municipal progress than any other influence.

The problem presented by city government in the United States is not merely to construct a well-balanced mechanism of government, but so to construct that gov-

ernment that it will require the alertness and watchfulness of the people. The situation in Philadelphia is an instructive instance of the effect of so organizing the government as to leave the people under the impression that officials are so encompassed with statutory limitations that they have little power for evil. With a bicameral council, a mayor whose appointments are subject to the approval of the upper branch of the local legislative body, and such important services as the control of education vested in a board appointed by the local judiciary, authority is split to such an extent that the people believe that no one official or group of officials enjoys sufficient power to work much harm. We fail to appreciate the fact that this splitting of authority means that harmony can be secured only by gathering these loose threads in the hands of some person or group of persons, who, while not officially recognized in the organization of government, exercises the real governmental power.

The foregoing discussion has shown that industrial and social organization in the United States is tending toward an increasing concentration of executive and administrative power, and that this movement has been accompanied by a corresponding increase in efficiency. In the government of our municipalities the fear of absolutism has led us to offer considerable resistance to a plan whose value is no longer questioned in other departments of organized effort. The half-hearted recog-

dition of this principle has led to a series of makeshifts, which have failed to give satisfactory results.

Instead of giving the mayor complete control over the administrative work of the city, we have, in most cases, hampered his powers of appointment, making them subject to the approval of the council. The unfortunate compromises which this system has compelled the mayor to make have been laid at the door of the council, and have served further to weaken faith in local representative assemblies. If this feeling continues to increase in intensity, it is likely to carry us to a form of city government in which the mayor and the heads of executive departments will exercise not only the administrative, but also the legislative functions of the municipality.

The alternative that presents itself to the American people is clear and unmistakable. If we wish to preserve the council, we must be prepared to make three changes: First, to deprive it of all participation in the appointment of executive officials; secondly, to transform it from a bicameral organization to a single chamber, and thirdly, to reduce its membership. Unless this is done, it is safe to predict that we shall gradually move toward a system in which both executive and legislative powers will be vested in the mayor and the heads of executive departments.

It is important for those who are interested in the betterment of city government to realize that while in the organization of government compromises may be

attempted, the actual operation of any system is determined by deep underlying forces over which the individual has little control. The compromises that have been dictated by our unwillingness to accept the consequences of certain fundamental canons of political organization have placed our city governments at the mercy of a small group of men who understand these principles more clearly than we, and who are able to manipulate this organization for their own ends.

The traditional fear of absolutism need not deter us from making the mayor the real executive head of the city government. Correctly interpreted, this plan offers possibilities of popular control which our present system lacks. At all events, it is well for us to understand that the demand for efficiency, which the American people place above their desire for democratic rule, will inevitably lead to this concentration of executive power. The real alternative is, therefore, whether this concentration of power will be accompanied by the destruction of the city council, or whether the city council will survive as an organ of government restricted to purely legislative functions.

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## CHAPTER X

### THE RELATION OF THE CITY TO PUBLIC UTILITIES

IN the discussion of the relation of the municipality to quasi-public works, the water, gas, electric-light, and street-railway services present the most important questions for consideration. While each involves problems peculiar to itself, they have certain characteristics in common, due in part to the exceptional relation which they occupy to the public and also to the peculiar conditions under which these industries are conducted.

The English common law early in its development recognized the necessity of protecting the public against extortionate exactions and unfair discrimination in certain classes of industry. To justify exceptional powers of control, the courts invoked three principles, which have withstood the test of the industrial changes of the last two centuries, and still remain the basis upon which the relations between the so-called "industries affected with a public interest" and the government are adjusted.

The determination of the status of ferries furnished the first occasion for a definite formulation of the rules upon which the modern doctrine rests. In the earliest



cases the courts dwelt on the fact that ferries can be advantageously established only in certain places, and that the public is consequently placed in a position of peculiar dependence on the regularity of the service and on the reasonableness of the price charged therefor. The English courts also emphasized the fact that the operation of ferries and public conveyances is dependent upon the use of public property, such as navigable streams or public highways.

In these earliest cases may be found all the elements that in more recent times have placed gas and electric-light works, water works, and street railways in a special category. In taking this position the courts also have been strongly influenced by the peculiar relation which industries of this class occupy toward the public. Everyone, no matter what his trade or occupation, is dependent on the transportation, gas, and water services. They are essential to the routine of everyday life, and no adequate substitutes are available. The fact that these services are indispensable to the great mass of the community, that the health and industrial efficiency of the population depend to so large an extent upon their efficient performance, has weighed heavily with the courts in giving to the public authority exceptional powers of control.

In addition to these two elements of "monopoly" and "dependence" there is a third factor that gives to these industries an exceptional position, viz., that the

price of service cannot be regulated by the ordinary rules of competition. Competition in the same territory is practically impossible. In the case of the street railways, for instance, endless confusion would result if two companies were granted franchises over the same highway. It is true that there may be competition between parallel lines, but such competition is never fully effective. Furthermore, competition in this class of industries, when it does exist, is destructive rather than regulative. Self-preservation demands consolidation, and periods of competition are therefore followed by combination. That consolidation is inevitable is attested by the history of the gas, electric-light, water, and street-railway companies throughout the country.<sup>1</sup>

Because, therefore, of the inherently monopolistic nature of these industries, the peculiar dependence of the public upon the services which they perform and the fact that competition with regard to them is destructive rather than regulative, the rules that determine their relation to the public authority are essentially different from those that govern ordinary business pursuits. It must, furthermore, be borne in mind that in these industries competition usually results in discriminating charges which involve the gravest injustice to those who are unable to secure the most favorable rates.

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<sup>1</sup> "Relation of Modern Municipalities to Quasi-Public Works." Publications American Economic Association. Vol. ii, No. 6, 1888.

The exceptional position occupied by industries of this class is further emphasized by the fact that they cannot be carried on without the grant of some public privilege. The granting of such privileges presents a far more complex problem in the United States than in any of the countries of Europe, because under our political system these grants are safeguarded by a number of constitutional provisions which prevent the public authority from revoking them at will, whereas in Europe a franchise once granted is nothing more than a license or privilege revocable at the will of the franchise-granting authority. The provisions of the Federal Constitution forbidding a state to impair the obligation of contracts, or to deprive any person of life, liberty, or property without due process of law, have been constantly invoked to prevent the public authority from resuming control of public rights and privileges. The first effect of these constitutional provisions was to place the municipalities of the country at the mercy of corporations exercising functions of a quasi-public nature, because franchises when once granted were viewed as contracts between the corporation and the municipality. Any attempt on the part of the municipality to place additional duties on the public-service companies was construed as an impairment of the obligation of such contract.

The inconvenience and dangers resulting from this situation led most of the states to insert in their con-

stitutions provisions which give to the state legislatures the power to alter, amend, and repeal all charters granted to private corporations. Under this reserved power a state may terminate a monopoly or it may revoke an exemption from taxation which has been granted.

The concept of monopoly which the courts have had in mind has not been monopoly secured by combinations of individual manufacturers, but monopoly that grows out of natural or physical conditions. They have recognized the fact that there are certain industries carried on under conditions which will not permit of competition, industries in which the physical conditions under which the services are offered are such that rivalry in the same territory is practically impossible. As the court said in *Munn vs. Illinois* :<sup>1</sup> " When one devotes his property to a use in which the public has an interest, he in effect grants to the public an interest in that use, and must submit to be controlled by the public for the common good to the extent of the interest that he has thus created."

The street railway, the gas, and the water services are monopolistic because of the physical conditions under which these industries are carried on. The public authority has the power to fix the charges which the companies shall be permitted to make. The doctrine in its earliest form as laid down in *Munn vs. Illinois* was that the legislature has the right to fix the charges, and its

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<sup>1</sup> 94 United States, 113.

decision is not subject to review by the courts. This doctrine was subsequently modified in *Stone vs. the Farmers' Loan and Trust Company*,<sup>1</sup> the Supreme Court of the United States holding that the regulation of charges cannot be used as a cloak for the confiscation of property; in other words, the regulation must be reasonable. Endless difficulties have presented themselves as to what constitutes a reasonable charge; in fact, the enforcement of this doctrine has compelled the courts to constitute themselves examiners of the accounts of railroad and other public-service corporations.

The greatest difficulty that presents itself in the judicial determination of the reasonableness of rates is to do justice both to the public and to the stockholder. If the courts accept the nominal capitalization of these companies, they often will be led to permit a higher charge than a fair return on the actual investment would require. On the other hand, if the actually invested capital of the enterprise be made the basis of calculation, a large number of innocent stockholders will find the value of their stock considerably reduced.

Neither the state legislatures nor the local authorities have made wide use of this power, due in part to the far-reaching influence of the public-service corporations in local politics. The Legislature of Illinois in 1891 prescribed the maximum water rates to be charged in cities. In the same year the New York Legislature

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<sup>1</sup> 116 United States, 307.

fixed the price of gas for public lighting and vested in a state commission the power to prescribe the price for private lighting.

The power of municipal authorities over the charges of public-service corporations has been curtailed by the fact that in many instances the franchise grant specifies the cost of service. When this is done the courts are inclined to regard such charges as an essential element of the contract, preventing subsequent reductions without the consent of the company. Thus in many of the cities of Pennsylvania the original street-railway franchises stipulated not only the rate of fare, but also required the companies to do a certain amount of street paving and to pay a license fee for each car. The Supreme Court of Pennsylvania has taken the view that the return which the companies were required to make was prescribed with the understanding that they were to be permitted to charge a certain rate of fare, and therefore any attempt to place additional burdens upon the companies, either by lowering the rate or by the imposition of further obligations, is in violation of the contract between the companies and the state.

When, therefore, franchises are granted to companies engaged in industries of a quasi-public nature, and no further stipulations are inserted, the public authority enjoys the right to fix the charges with the limitation that the charges so fixed shall be reasonable. Where, however, in return for the franchise the com-

pany agrees to perform certain services or to make certain money payments, and it is specifically stated that the right to charge a certain rate is granted in return for such services or money payment, a contractual relation between the public authority and the company arises which cannot be impaired by subsequent legislation.

Leaving aside for the moment the question of municipal ownership and operation, let us consider briefly the relation of the city to these services when performed by private corporations. It is clear that the mere fact of the grant of public privileges, whether it be the right to occupy the public highway, to lay pipes under the highway, or to place wires overhead, entitles the public to some return, either financial or otherwise, and the first question which local authorities are called upon to decide is the form which this return shall take.

This question may be viewed from two different standpoints—the fiscal and the social. Shall the community exact a money return or shall it demand that the return be made in improved service and in lower cost of service to the consumer? This question is too often discussed with sole reference to the money return for public franchises without regard to the larger question involved in the effect of the service on the social life and industrial efficiency of the community.

In the adjustment of the relation between corporations performing quasi-public functions and the municipi-

pality, two purposes have been kept in view, first to secure a financial return for the franchise, and secondly to maintain control over the service. In some cases an attempt has been made to limit the profits which these corporations may secure and to require a division of profits with the municipality. This plan is now but rarely used in the United States. It was most common in the early grants of street-railway franchises in Philadelphia, which provided that whenever the profits of the companies exceeded six per cent they should pay into the city treasury six per centum of the excess. The cardinal defect of any system involving a participation in profits is the lack of adequate control over the accounting of public-service corporations.

A provision common to franchise grants both in American and European cities is the determination of the maximum charge to the consumer. The grave defect of this plan, unless the charges are subject to periodical revision, is that at the outset the charge must be sufficient to enable the company to make a fair profit. With each improvement in operation this maximum charge becomes an increasing burden to the consumer and gives rise to a demand for further regulation of price, which in some cases is made difficult by reason of constitutional limitations.

The most perplexing problems that have confronted American municipalities in the regulation of charges are traceable to the lack of effective control over cor-



porate capitalization. The moment the door is opened to inflated capitalization, charges cannot be reduced without confiscating the property of innocent holders of stock. The close connection between these two forms of control—control over capitalization and control over charges—has led some of our states, notably Massachusetts, to establish careful supervision over the capitalization of public-service companies. It is true that this step was taken after a long period of unregulated capitalization, and of course the system can have no retroactive effect, but it has established a basis for future regulation which will guarantee to the public better treatment than is possible under the system of unregulated capitalization.

Another factor in strengthening the control of the public authorities over public-service corporations is the reserved right of purchase of the plant. This plan has failed to produce the best results, owing to the limitations on the borrowing powers of municipalities, which in most cases prevent the large expenditure which the purchase of a street railway, gas, or water system involves. For instance, had the city of Philadelphia decided in 1907 to take over the gas works from the company to which it is at present leased, it would have had to pay for all improvements plus simple interest. During the ten years since the leasing of the works the gas company has spent over \$15,000,000 in extensions and improvements, the payment of which

would have carried the city beyond its constitutional debt limit.

The gradual shortening of franchise terms has also contributed toward strengthening the control of the local authorities by permitting at stated intervals a complete readjustment of the relation between the city and the companies. The earliest grants were made for indefinite periods, and were therefore practically perpetual. This system presented the very grave difficulty that the public authority could not impose new obligations, such as the extension of lines or the lowering of the cost of service. To remedy this evil the duration of franchise grants has been gradually reduced until in some states, notably in New York, the maximum grant for street railways is twenty-five years for surface lines and fifty years for underground lines.<sup>1</sup>

#### THE GAS SERVICE

The wide extension of municipal ownership and operation of gas plants in Great Britain renders possible some instructive comparisons between public and private management. The testimony published by the Municipal Ownership Commission of the National Civic Federation shows that the total average receipts per thousand cubic feet of gas sold in 270 municipal

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<sup>1</sup> Cf. "Charter of the Greater New York," Chap. III, sec. 73.

plants reporting for 1905-06 were 76.4 cents as compared with 83.9 cents for the 482 private companies. The figures for 27 municipal and 36 private plants in 1905-06 were 72.1 cents and 78.9 cents per thousand cubic feet respectively, a result which, after deducting one fourth the gross receipts for residuals and miscellaneous receipts, shows an advantage of municipal over private management of 5.1 cents per thousand.<sup>1</sup>

Private companies in London furnished gas at from 58 cents to 88 cents per thousand cubic feet, and in Liverpool at 60 cents per thousand cubic feet. In Birmingham, where the gas works are municipally owned and operated, gas is furnished to the consumer on a sliding scale ranging from 44 cents to 60 cents per thousand cubic feet, according to the amount consumed. The municipal plant of Manchester furnishes gas of 17.6 candle power at 54½ cents, and Glasgow provides gas of 18.2 candle power at 50 cents per thousand cubic feet. The only private plant which furnishes gas at a low rate is in Sheffield, where gas is furnished on a sliding scale ranging from 28 cents to 36 cents per thousand cubic feet, according to the amount consumed.

In 1906 there were 270 towns in Great Britain owning

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<sup>1</sup> "Municipal and Private Operation of Public Utilities," Part I, vol. i, National Civic Federation Report, 1907, p. 212, quoting Field's "Analysis."

and operating gas works, an increase of 122 since 1882. That the municipal undertakings are in favored positions is indicated by the fact that the 270 municipal undertakings sold 57,754,403,956 cubic feet of gas to 1,945,777 customers, whereas the 482 private companies sold 93,923,289,511 cubic feet to 2,385,348 customers, that is to say, there are nearly twice as many private companies as municipal undertakings, but the number of consumers is but 30 per cent greater.

The experience of British cities has shown that under municipal management it is possible to keep certain broader social ends in view, adjusting the price of gas not merely to secure the largest possible financial return, but also to secure improvement in the social condition of the community. To appreciate the extent of the service performed by the town authorities, it is necessary to bear in mind that the use of gas by the working classes in Great Britain is far less general than in the United States. British municipal works have done much to extend its use through the introduction of the slot meter. In the larger cities private companies have also introduced this system on a large scale. The extension of the use of gas for lighting, and especially for cooking purposes, works far-reaching changes in the habits of the people. One of the most noticeable effects is on the standard of living. The gas stove becomes the means of introducing a larger variety of cooked foods into the diet of the people.

In the United States there are twenty-five municipalities that are furnishing gas through municipal plants. Since the leasing of the Philadelphia gas

MUNICIPAL GAS PLANTS IN THE UNITED STATES, 1906<sup>1</sup>

	OUTPUT (FEET)
Holyoke, Mass.....	136,970,000
Middleboro, Mass.....	1,874,600
Wakefield, Mass.....	25,000,000
Westfield, Mass.....	18,150,500
Norwich, Conn.....	40,000,000
Bellefontaine, Ohio.....	40,000,000
Hamilton, Ohio.....	73,000,000
Escanaba, Mich.....	1,200,000
Duluth, Minn.....	151,000,000
W. Minneapolis, Minn.....	1,594,450
Dell Rapids, S. Dak.....	1,838,000
De Smet, S. Dak.....	2,000,000
Rich Hill, Mo.....	3,000,000
Gilroy, Cal.....	4,000,000
Alexandria, Va.....	44,000,000
Charlottesville, Va.....	19,000,000
Danville, Va.....	42,000,000
Fredericksburg, Va.....	8,834,000
Richmond, Va.....	410,000,000
Wheeling, W. Va.....	116,000,000
Cartersville, Ga.....	6,300,000
Dalton, Ga.....	9,000,000
Talladega, Ala.....	5,000,000
Henderson, Ky.....	23,000,000
Total.....	1,182,761,550

works, the largest city operating a gas plant is Richmond, Va., where municipal operation was established

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<sup>1</sup> Report of Municipal Ownership Commission, National Civic Federation, Part I, vol. i, p. 146.

in 1852. Although the experience with this plant has been satisfactory in most respects, the policy of the local council is open to the same criticism as was the Philadelphia management. There is a constant tendency to use the profits for the reduction of the tax rate rather than for the improvement of the plant. A report of expert accountants, on the basis of an audit of the books in 1906, showed that not only had the works been paid for out of earnings, but that a surplus of \$1,500,000 had been turned into the city treasury.<sup>1</sup>

#### THE ELECTRIC-LIGHT SERVICE

Municipal ownership and operation has made more rapid advance in the electric-light service than in the gas service. Much interesting information on this point is contained in the special report of the United States census on central electric-light and power plants published in 1902. The figures there given show that 22.5 per cent, or 815 out of a total of 3,620 electric-light plants, are publicly owned and operated. It is, furthermore, a significant fact that of the 574 electric-light plants established before 1899, but 68, or 11.4 per cent, were municipal, while of the total of 1,502 plants established between 1899 and 1906, 318, or 21.2 per cent, are publicly owned and operated.<sup>2</sup>

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<sup>1</sup> Report of Municipal Ownership Commission, National Civic Federation, Part I, vol. i, p. 148.

<sup>2</sup> *Ibid.*, p. 161.

The movement for municipal ownership of electric-light plants is more noticeable in the smaller towns than in the larger cities. Thus the census shows that 82.3 per cent of the municipal plants are located in towns of less than 5,000 inhabitants, whereas but 72.8 per cent of the private plants are located in cities of this size. Furthermore, but 28 per cent of the total number of municipal plants are in cities of 25,000 or over, whereas 84 per cent of the private plants are located in such cities. In the 84 cities with a population of 50,000 or over, but 7 have municipal plants, namely, Chicago, Allegheny, Detroit, Columbus, Seattle, Nashville, and Grand Rapids. Of these Seattle is the only city in which the electric-light plant does commercial as well as public lighting. In the 67 cities having a population of more than 30,000 and less than 50,000 inhabitants, there are but 8 municipal plants. Of these Holyoke and Taunton, Mass., Jacksonville, Fla., and Tacoma, Wash., do commercial as well as public lighting, whereas the municipal plants of Springfield, Ill., Lincoln, Neb., Galveston, Texas, and Joplin, Mo., confine themselves to public lighting. In the 151 cities of over 30,000 inhabitants, there were in 1904 but 15 municipal plants. The remaining 800 were all situated in cities of less than 30,000.<sup>1</sup>

The relative importance of the municipal and the

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<sup>1</sup> Report of Municipal Ownership Commission, National Civic Federation, Part I, vol. i, p. 163.

private plants is shown in the accompanying table, in which the dynamo capacity of each group is indicated.

HORSE POWER CAPACITY OF DYNAMOS	TOTAL		PRIVATE STATIONS		MUNICIPAL STATIONS	
	Num- ber	Per Cent	Num- ber	Per Cent	Num- ber	Per Cent
Total.....	3,620	100.0	2,805	100.0	815	100.0
Under 200.....	2,262	62.5	1,650	58.8	612	75.1
200 but under 500.....	864	23.9	700	24.9	164	20.1
500 (under 1,000).....	226	6.2	201	7.2	25	3.1
1,000 (under 2,000)....	137	3.8	126	4.5	11	1.4
2,000 (under 5,000)....	83	2.3	81	2.9	2	0.2
5,000 and over.....	48	1.3	47	1.7	1	0.1

The tendency of municipal plants to furnish light and power for commercial as well as for public purposes is far more marked in the smaller towns than in the large cities. Of the 815 municipal plants, all but 77 are selling current to private consumers.

The following table shows the distribution of municipal plants<sup>1</sup> in cities of different size in 1902:

POPULATION OF PLACES IN WHICH LOCATED	TOTAL		PRIVATE STATIONS		MUNICIPAL STATIONS	
	Num- ber	Per Cent	Num- ber	Per Cent	Num- ber	Per Cent
Total.....	3,620	100.0	2,805	100.0	815	100.0
Under 5,000.....	2,714	75.0	2,043	72.8	671	82.3
5,000 but under 25,000	675	18.7	554	19.8	121	14.9
25,000 but under 100,- 000.....	128	3.5	115	4.1	13	1.6
100,000 but under 500,000.....	73	2.0	67	2.4	6	0.7
500,000 and over.....	30	0.8	26	0.9	4	0.5

<sup>1</sup> Report Bureau of the Census on "Central Electric Light and Power Stations," p. 10.



## THE STREET-RAILWAY SERVICE

*(a) British Experience*

In the adjustment of the relation between the municipality and the street-railway service, the experience of the British cities during the last twenty years contains much of interest and value.<sup>1</sup> The rapid extension of municipal ownership and operation is not traceable to any preconceived theories regarding the proper sphere of municipal action, but to the difficulties encountered in the attempt to secure efficient service from private companies. The short-term franchises made it difficult, if not impossible, for the British street-railway companies to undertake improvements on a large scale. With each demand for the extension of the service to the suburban districts the question presented itself whether such extension could be made to pay, in view of the comparatively short duration of the franchise. Endless controversies arose between the municipalities and the companies, which finally forced a clear-cut issue—either to permit the companies wider freedom of action and longer franchise terms, or to accept the alternative of municipal ownership. The traditions of rigid public control over private companies were so strong, and the reluctance to grant long-term franchises so great, that municipal ownership was adopted as the only solution of the difficulty.

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<sup>1</sup> For discussion of the experience of German cities, see Chapter XIII.

During the last ten or twelve years this movement has acquired great momentum. In 1894 but three British cities owned and operated their street railways; in 1906 the number had increased to 123. Fifty-seven per cent of the street railways of the United Kingdom are now operated by public authorities.<sup>1</sup> In spite of the criticism of the opponents of municipal ownership, there is no doubt as to the general feeling of satisfaction with which the people of the cities concerned view the results accomplished under municipal operation, not only because of the improved service, but mainly because of the important contributions which the local authorities have been able to make to the social welfare of the working classes through the extension of the service into outlying districts. For reasons already stated it seemed impossible to secure this end under private management.

In judging of the success of municipal management in Great Britain, this is the most important factor to be considered. British municipalities have suffered severely from the congestion of population incident to the lack of adequate transportation facilities. In securing a more equable distribution of population through a readjustment of street-railway fares and a liberal policy in the extension of lines, British municipalities have not only improved the health, but have also in-

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<sup>1</sup> "British Tramways," by Prof. Frank Parsons, National Civic Federation Report, Part I, vol. i, p. 261.

creased the industrial efficiency of the population. The Board of Trade returns, according to the report of Professor Parsons, show that the annual rate of extension of lines under municipal operation has been from five to fifty times greater than under private operation.

The financial results have also been most satisfactory. Immediately after taking over the street-railway system, Glasgow reduced fares thirty-three and one third per cent and increased the length of rides.<sup>1</sup> In all cities in which municipal operation was introduced the minimum fare has been reduced from two cents to one cent. Comparing the average distance that may be traveled for two cents, we find that under municipal management the distance varies from two to two and a half miles, whereas under company management it is but one mile. Municipal authorities have also made great

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<sup>1</sup> National Civic Federation Report, Part I, vol. i, p. 267.

“In Glasgow fares were reduced about thirty-three per cent soon after the city took the lines, and fifty per cent a few years later. In Manchester public management reduced fares fifty per cent, in Leeds about forty per cent, in Sheffield sixty per cent, in Liverpool fifty to sixty-six per cent, and on long routes much more than this. The company fare from the center to the suburb was twelve cents, while the city made four cents the maximum fare on the same routes. In Glasgow the average distance for one pence is two and one third miles against one mile for the company. Sheffield gives an average of two and one half miles for one pence. The shortest penny route is two miles and the longest three and a half miles. Under the company régime the fare was one pence a mile. The traveler gets more for two cents on the municipal trams than he would have had to pay five cents for on the company's cars.”

improvements in the service, especially in the frequency with which cars are run.

It has often been charged that the system of street-railway accounting in British cities is defective, and tends to show a fictitious rather than a real surplus. In every case these charges have been proven to be untrue. The accounts of municipal street-railway undertakings are made to conform to all the requirements of sound business management. Not only do the cities make provision for the ordinary depreciation of the plant, but also for the contingency that constantly faces these enterprises, viz., the substitution of new and more economic methods of traction which may render the old plant obsolete. In fact, municipal accounting conforms

DEPRECIATION, RENEWALS, AND RESERVES <sup>1</sup>

	DEPRECIATION AND RENEWALS FUND	RESERVES AND SURPLUS	TOTALS
Glasgow.....	\$3,888,185	\$162,950	\$4,051,135
Manchester.....	925,430	318,370	1,243,800
Liverpool.....	1,355,095	220,945	1,576,040
London, C. C.....	320,255	35,270	355,525
Total.....	\$6,488,965	\$737,535	\$7,226,500
London United.....		\$80,580	\$80,580
Dublin, United.....	\$12,500	140,535	153,035
Norwich.....		23,975	23,975
Total.....	\$12,500	\$245,090	\$257,590

<sup>1</sup> Cf. Report National Civic Federation, Part I, vol. i, p. 276.

more closely to sound business standards than corporate accounting. Few private companies in Great Britain make adequate provision for depreciation and renewal.

British cities are required to provide for the repayment within thirty years of any indebtedness contracted for the purchase or construction of lines, an obligation which does not rest upon the private companies. The law furthermore requires cities to pay on street-railway lines owned by them the same taxes as private companies. The amounts thus paid in 1904 were as follows: <sup>1</sup>

Leeds.....	\$253,058
Liverpool.....	156,122
Salford.....	58,398
Hull.....	55,965
Manchester.....	243,325
Nottingham.....	63,265
Glasgow (to Common Good Fund).....	196,437

In spite of all these fixed charges the municipal street-railway lines paid large amounts into the respective city treasuries, which served considerably to reduce the burden of taxation. The amounts thus paid in 1906 ranged from \$126,500 in Liverpool to \$250,000 in Manchester. The question has been raised and is now being seriously discussed whether it would not be better policy to avoid any surplus by giving the community the benefit of lower fares. The influence of the taxpayers in local

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<sup>1</sup> Cf. Howe, "The British City," p. 97.

affairs is so strong that the adoption of this policy has not as yet been possible.

The reduction in the tax rate which the surplus from the street-railway lines has made possible fully refutes the assertion so often made that the extension of municipal ownership has burdened the British cities with abnormally heavy tax rates. A comparison of the cities which have embarked upon this policy with those in which public utilities are owned by private companies discloses the significant fact that as municipal ownership advances the tax rate declines.

Municipal operation has also contributed toward improving labor conditions. The working day has been

HOURS AND WAGES OF MOTORMEN AND CONDUCTORS<sup>1</sup>

	HOURS PER WEEK	SCALE OF PAY		
		PER WEEK	PER HOUR	
			Maximum	Minimum
Glasgow.....	54	\$7.44	11.2 cts.	13.9 cts.
Manchester.....	54	7.44	11.24	13.74
Liverpool.....	60	7.50	11.0	12.50
London, C. C.....	60	9.00	11.5	15.0
Municipalities.....	57	7.84	11.23	13.78
London, United.....	70	9.24	10.80	13.20
Dublin, United.....	70	6.78	7.80	10.50
Norwich.....	70	6.72	8.26	9.50
Bristol.....	70	6.12	8.06	8.74
Companies.....	70	7.22	8.73	10.48

<sup>1</sup> National Civic Federation Report, Part I, vol. i, p. 280.

reduced. Under municipal management, motormen and conductors work from fifty-four to sixty hours per week, whereas they are compelled to work seventy hours under corporate management. Wages also have been increased. The average wage under municipal operation ranges from  $11\frac{1}{4}$  to  $13\frac{3}{4}$  cents per hour, as compared with  $8\frac{3}{4}$  to  $10\frac{1}{2}$  cents under private management.

(b) *American Experience*

Street-railway development in the United States has far outstripped that of any of the European countries. The total trackage in the United Kingdom in 1902 was but 2,336.7 miles, or about one ninth of the trackage in the United States. The number of fare passengers in the United States during the same year was 4,774,211,904, as compared with but 1,586,830,271 in the United Kingdom. The greater frequency of travel on street railways in the United States is shown by the fact that the number of rides *per capita* in urban centers of 4,000 inhabitants was but 54 in the United Kingdom, as compared with 168 in the United States.<sup>1</sup> The contrast with Germany, Italy, France, and Austria is even more striking, indicating the extraordinary development of the street-railway service in the United States.

In the United States the relation between the munic-

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<sup>1</sup>Special Census Report on "Street and Electric Railways," 1902, p. 149.

ipality and the street-railway service has been treated as if it were a part of the general railway problem. The real analogy is with the omnibus line rather than with the railroad. The street railway is in reality nothing more than a kind of omnibus.<sup>1</sup> It uses a highway that has been prepared for it by the public, and in the view of the law the highway remains the property of the public. It is true that at times the companies purchase their right of way in suburban districts, but this is the exception rather than the rule.<sup>2</sup>

In the adjustment of the relation between the municipality and the street-railway service, one of four possible plans may be adopted: First, private ownership and operation; second, public ownership of the track and private ownership and operation of rolling stock; third, public ownership and operation of track and rolling stock; and finally, public ownership of track and rolling stock with private operation. Throughout the United States the general rule is the private ownership of both the track and the vehicle. In some of the German and English cities the municipality maintains the ownership and control of the highway and the track,

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<sup>1</sup> This analogy is fully discussed in the report of the Massachusetts Railway Commission appointed in 1894 to report on the status of the street-railway problem.

<sup>2</sup> As the electric roads have pushed into suburban and rural districts they resemble more nearly the steam railroad. In many cases they are now purchasing their right of way.



leaving the operation of the road to a private company. Instances of the third relationship are to be found in a number of German cities.

In the granting of street-railway franchises there is noticeable an increasing number of constitutional and statutory limitations designed.

First, to prevent the state legislature from granting such franchises without the consent of the local authorities of the district in which the lines are to be constructed. Thus the Constitution of Pennsylvania provides that no rights over the highways of any municipality shall be granted by the State Legislature without the consent of the local authorities.

Secondly, statutory requirements guaranteeing to municipalities a certain minimum return for street-railway franchises. The laws of Kentucky, Virginia, California, and Nevada require that franchises be offered at public competition, although no indication is given as to the basis for such competition. The legislation of New York and Louisiana furnishes such basis by requiring that the bids be based on percentage of gross annual earnings.<sup>1</sup> The system which best meets modern requirements is that adopted in Ohio, under which competition is made to inure to the benefit of

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<sup>1</sup> The charter of the City of New York exempts the city from this provision of the General Railroad Law, but maintains the applicability of § 95 of the Railroad Law, which requires every grantee of a railway franchise to pay three per cent of the gross receipts during the first five years and five per cent thereafter.

the people by requiring that franchises be granted to the bidder who submits the lowest rate of fare.

The system of awarding franchises by public competition has not fulfilled expectations. This is due mainly to the fact that franchises are at present sought for the extension of existing lines, and, as a rule, such extensions can only be made profitable to the company controlling such lines. Where the extension is valuable to competing companies the percentage bid is usually advanced to a point which makes the construction of the line practically impossible. Thus in one case in New York City the bidding resulted in an offer of seventy times the gross receipts of the proposed new line. In another case one hundred per cent was offered. At the present time there is but one line in New York City—the Metropolitan Crosstown Railway—which has been constructed under a competitive franchise. This line is paying eight per cent of the gross receipts into the city treasury.

Third, statutory provisions assuring to the people some control over the granting of franchises. In Montana, Nebraska, and Arizona the law requires that all grants be first submitted by the local council to popular vote. In Utah, South Dakota, Colorado, Indiana, and Iowa, franchises must be passed upon by the people if a certain proportion of the qualified electors make formal demand by petition.

Some of the states require that the consent of the

abutting owners, or at least a certain proportion thereof, shall be secured before street-railway franchises are granted. In Missouri, Louisiana, Nebraska, New Jersey, Ohio, and in cities of over 40,000 in Kansas, the consent of the owners of more than one half the frontage must be secured. The New York law requires the consent of the owners of more than fifty per cent in value of the frontage, but in case such assent is refused, appeal may be taken to the courts.

As regards the form of compensation for such franchise privileges, a number of different plans have been adopted. The earliest and most usual method was to exact a license fee for each car. In New York and Chicago this fee is fixed at \$50 and in St. Louis at \$25. Until recently the license fee in Philadelphia was \$50 per car, but under a recent agreement this license fee was abolished in consideration of the payment of an annual lump sum by the company. Another form of return that has been quite usual has been to require the companies to pave, repair, and clean the streets over which their lines are run.

The plan which is at present meeting with most favor is to exact a certain percentage of the gross receipts. The law of New York requires that such payment shall be a minimum of three per cent during the first five years and five per cent thereafter. In Richmond, Providence, and Newark five per cent is exacted, in Cincinnati six per cent and in Baltimore nine per

cent. But little attempt has been made to secure compensation in the form of lower fares, although it is becoming increasingly evident that this form of return is of far greater value to the people of the community than money payments into the city treasury.

In a surprisingly large number of instances the street-railway companies have succeeded both in evading the money payments to the city as well as the other services which their contracts prescribe. This evasion has been made relatively easy by the lack of control over the capitalization and accounting of the companies. The abuses growing out of these conditions have led some of the states to establish more careful control over the capitalization of street-railway companies. In Massachusetts the approval of the State Board of Railroad Commissioners is necessary before any securities may be issued by a street-railway company. The law furthermore provides that new stock must be offered to stockholders at present market value in order to avoid the distribution of stock dividends. Massachusetts also attempts to secure to the people participation in the profits of the street-railway companies by providing that "any street-railway company which has from the beginning of its corporate existence paid in the aggregate dividends equal to six per cent on its capital stock, and which is now paying more than eight per cent, shall pay a tax equal in amount to one half the excess of dividends over and above eight per cent."

A further step toward assuring compliance with the contract requirements of franchise grants has been taken in providing for the publicity of corporate accounts. The most notable effort in this direction has been made by the State of Ohio. Provisions providing for a similar form of control are contained in the charters of San Francisco and Portland, Ore.

As regards the duration of the franchise, the most diverse systems prevail. The early method was one of perpetual franchises, and this plan still prevails in New Jersey, Missouri, and Indiana. This plan suffers from the serious defect that the local authorities cannot secure adequate control over the companies until they apply for new privileges. This system is being rapidly abandoned, and is giving way to a plan for limited franchises ranging from ten years, as in Wyoming, to ninety-nine years, as in the State of Louisiana. In Arizona, Idaho, in the second-class cities of New York, and in the city of Cincinnati, the limit of franchise grants is fifty years. In Michigan, Virginia, Alabama, and Florida the limit is thirty years; in Ohio and in the cities of Iowa which are under special charter, as well as in San Francisco, St. Paul, and Portland, Ore., twenty-five years, and in the cities of Illinois, Kentucky, Nevada, South Dakota, and Montana, twenty years. The most peculiar plan is that adopted in Massachusetts, in which franchises are granted for indefinite periods, revocable at any time, although such revocation

must be approved by the State Board of Railroad Commissioners.

The interests of the municipalities are best subserved by a relatively short franchise grant with periodical renewals. The original grant must be for a period sufficiently long to induce capital to embark upon the enterprise. Under present conditions a period of thirty years is fully adequate to offer this inducement, provided the grant contemplates a renewal at the end of this period, with the possibility of revising the terms of the grant. In New York grants may be made for twenty-five years, with a renewal of twenty-five years at the expiration of the original period. In the city of Cincinnati grants are made for fifty years, with the reserved right of the city to change the rates of fare after the expiration of the first twenty years, and at the expiration of fifteen years thereafter.

In any discussion of the principles that should govern the granting of franchises, it is important to remember that these principles must change with changing conditions. Thus the rules which we to-day regard as of unquestioned validity would have greatly retarded the development of the street-railway system had they been applied forty or fifty years ago. For instance, there is at present a growing sentiment throughout the United States that franchises should not be granted for a period exceeding twenty-five years, but it is extremely doubtful whether the street-railway companies would have been

willing to make the extensive improvements which recent years have witnessed if the franchise period had been a short one. The long-term franchise contributed in no small measure toward giving to our American communities a fairly efficient transportation service long before such service was enjoyed by the people of European cities.

Briefly summarized, the principles that should govern the granting of franchises may be formulated as follows:

(1) The power to determine the charges of public-service corporations is of little value unless there is combined therewith careful control over capitalization.

(2) Control over capitalization cannot be made effective unless it is combined with public supervision over the accounting of such corporations.

(3) In order to prevent the payment of stock dividends new stock should not be issued at less than its market value.

(4) No universal rule can be established with reference to the length of franchise terms. Such terms should range from twenty-five to forty years, depending on the size of the city and the probable annual net return from the use of such franchise.

(5) The city should exact compensation in the form of lower charges rather than in large financial returns.

(6) At the close of the franchise term the physical

property of the company should revert to the city at its appraised value.

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## CHAPTER XI

### THE MUNICIPALITY AND THE GAS SUPPLY, AS ILLUSTRATED BY THE EXPERIENCE OF PHILADELPHIA

IN 1897 the mayor and councils of Philadelphia decided to lease the city's gas works to a private company. This marked a change of policy of more than local importance. That the third largest city in the United States should decide to relinquish the control of one of its public works, after over forty years of quasi-municipal management, and ten years of complete municipal ownership and operation, was construed as a confession of the inability of public authorities to administer public works successfully, or at least as an acknowledgment of the superiority of private over public management. For this reason, if for no other, the conditions under which the change took place deserve more than passing notice. A further element of interest presents itself in the fact that the abandonment of municipal management illustrates, with great clearness, the attitude of the population of our large cities toward municipal affairs.

The friends, as well as the opponents of the lease, were agreed that the results of municipal management

of the gas works were not encouraging. This conclusion was reached, however, without a careful examination of the history of this municipal enterprise. It was deemed sufficient to point out one or two manifest shortcomings to settle the question. This attitude of many who were opposed to leasing contributed greatly toward strengthening the hands of the corporation bidding for the franchise.

To form a correct opinion of the success or failure of any municipal undertaking is by no means a simple operation. It involves an insight into the past and a discounting of the future, rare in any community, particularly in those in which the interest in public affairs is undeveloped. Factors of great future importance but minor present interest must be considered. A constant comparison of the relative advantages and disadvantages of public and private management must be made, and the tendencies manifested by each kept in mind.

It is not surprising, therefore, that the immediate advantages connected with the company's offer should have proved an irresistible temptation to the people of Philadelphia. The comparatively weak opposition encountered by the leasing proposition was regarded by many as one of the most discouraging symptoms in our civic life. It would be difficult to justify this criticism. The interest of the population in the administration of the gas works is limited to the quality and price of the gas supplied. As regards quality, there had been just

cause for complaint. Although gradually improving, the illuminating force had not risen above nineteen candle power. To ascertain the real causes of this defect required more careful study and discrimination than are usually given to public affairs, where the population is concerned with results rather than with causes. Tangible results furnish the basis for an easy judgment of existing conditions; the ascertainment of causes requires careful analysis and far more time and thought than the average citizen is willing to take from his private affairs. It is true that the opposition to the lease, carried on by a few public-spirited men, had begun to arouse the public to a consciousness of the fact that motives other than the mere desire to escape from the shortcomings of city management would determine the policy of the city. This feeling was not given time to express itself. The lease was hurried through councils, discussion was systematically blocked, and the ordinance was signed by the mayor without a moment's delay. Within a week of the signing of the ordinance the whole question had practically dropped from the public view.

The question first to be considered is whether municipal management was really a failure. The answer to this necessitates a review of certain facts in the history of the works. By far the most important point to be kept in mind is that Philadelphia had but ten years of responsible municipal management of the gas works. When the city in 1835 first embarked upon the manufac-

ture of illuminating gas, it was in the form of a combination of public and private ownership and management. In 1841 the city became sole owner, but the management was intrusted to a board elected by councils, which was to have full charge of the property and funds, and to act as trustees of the gas loan. No part of the profits from the works was paid into the city treasury. Soon after the creation of this body, which was known as the "Gas Trust," a conflict arose with the city councils. The trustees denied the right of councils to interfere with their management of the works. In this they were sustained by the courts, which held<sup>1</sup> that neither councils nor any other city authority could interfere with the trustees until the maturity and payment of all the gas bonds placed under their charge. Not until July, 1885, was it possible to free the works from this irresponsible body, for not until then did these bonds mature.

The period of responsible city management may be said to begin with the new city charter, known as the Bullitt Bill, which went into effect on April 1, 1887. By the ordinance of April 4, 1887, councils organized the Bureau of Gas as a part of the Department of Public Works, thus placing this service under the control of an official directly responsible to and removable by the mayor. The era of gas-trust administration is of

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<sup>1</sup> *Western Savings Fund Company vs. Philadelphia.* 31 Pa. State Reports, 175.

importance in judging the period of responsible city management, for it throws considerable light on the nature of the difficulties with which the city authorities have had to deal. Various investigations into the administration of the gas works, notably that of 1881, have thrown a flood of light upon the corruption, fraud, and mismanagement which flourished under gas-trust control. During the closing years of this irresponsible body, especially between 1875 and 1885, the plant was permitted to deteriorate; improved methods of production were ignored, mains and service pipes were allowed to rust and rot, and no attempt was made to adapt the distributing system to the increase in production and consumption. The works gradually became filled and overfilled with the political subordinates and henchmen of the board. This was conclusively shown by the attorneys of the Committee of One Hundred, a body which aided the city in the prosecution of the trustees.

In 1887 the city fell heir to this mass of systematized corruption, together with an antiquated gas plant. The tests of efficiency in the public management of the works must in fairness be restricted to the period since that date. That municipal management started out under the worst possible conditions is a fact not to be overlooked in judging of its success or failure.

The ten years between 1887 and 1897 give evidence of continuous and concerted effort to overcome the obstacles to improvement which the period of gas-trust

management had accumulated. In the face of these difficulties the profits steadily increased, notwithstanding the fact that the city was no longer paying for the gas used in public lighting, as had been the case prior to 1887. That the amount consumed in public lighting was by no means insignificant is shown by the following table:

YEAR	Amount of gas consumed in public lighting, i.e., gas unpaid for	Value at current price	Value at estimated cost of production and distribution
1887.....	506,499,881	\$759,749.82	\$683,774.84
1888.....	536,158,081	804,237.12	723,813.41
1889.....	521,401,101	782,101.65	702,891.49
1890.....	551,459,572	827,189.36	744,470.42
1891.....	587,398,328	881,097.49	792,987.44
1892.....	594,203,605	891,305.41	793,174.87
1893.....	602,392,714	903,589.17	813,230.25
1894.....	623,313,751	623,313.75	488,651.00
1895.....	638,494,005	638,494.01	480,795.20
1896.....	674,031,512	674,031.51	539,225.21

In 1894 the price of gas was reduced from \$1.50 to \$1.00 per thousand cubic feet, which caused a sudden decline in gross profits.

The relative amount expended for salaries and wages was being gradually reduced by the city authorities. Thus, in 1870, in the manufacture of 1,240,485,000 cubic feet of gas, \$941,740.40 were expended in salaries and wages; in other words, nearly seventy-six cents per thousand cubic feet. By 1890 the amount had been reduced to twenty-seven cents per thousand, and in 1896 to twenty-two cents.

An examination of the reports during this period

gives unmistakable evidence of improvement in organization and businesslike administration, within the comparatively narrow limits in which such improvement was possible. We are here brought face to face with the real source of weakness in the municipal management of the gas works, viz., the policy of councils. In this respect Philadelphia furnishes a striking instance of a governmental weakness characteristic of American cities. The universal experience has been that if local representative bodies are permitted to direct the details of administrative policy, unbusinesslike methods are sure to result. In Philadelphia the local assembly still retains complete control over the city's finances, which enables it to interfere with the details of departmental administration. If, in these circumstances, the city council had allowed itself to be guided by the recommendations of the technically trained heads of departments businesslike management of the works would have been possible. Two influences immediately made themselves felt in the policy of the council: First, the desire to reduce the rate of taxation, regardless of the needs of municipal industrial enterprises, and, secondly, the temptation to use the control over public works for political purposes. Both of these influences were productive of much harm during the ten years of municipal management.

It is generally supposed that the attempt to use the works for political purposes, i. e., to have friends

of councilmen placed upon the payroll, was the most serious obstacle to efficiency. As a matter of fact, this was a small evil compared with the shortsighted financial policy of councils. As we shall have occasion to see, the amount expended in wages and salaries was excessive; but while this evil was gradually being remedied, the financial policy of councils gave but little evidence of improvement. The most elementary business principles were disregarded. In every well-managed manufacturing enterprise it is the custom to charge a certain amount each year to depreciation or to adopt some other plan to provide for constant renewal. This involves the expenditure of a certain percentage of gross profits to prevent actual deterioration. In any well-ordered account this item constitutes a fixed charge to be met before gross, not to speak of net, profits can be said to exist. In the case of the Philadelphia gas works, however, gross profits were used to diminish the tax rate rather than to maintain the plant at a high standard of efficiency. Between 1887 and 1897 nearly \$8,000,000 would have been available for the improvement of the plant. Hardly a sixth of this sum was used for this purpose. Year after year the Director of Public Works urged upon councils the necessity of improved methods of production and distribution. With equal regularity councils continued to use the profits from gas making to defray general city expenses. The accompanying table illustrates the financial results of this policy:



YEAR	Gross profits	Expenditure for permanent improvement on works	EXPENDITURE FOR EXTENSIONS		Excess of profits used for other city purposes	Excess of extensions and improvements over profits
			New mains	Service pipes		
1887..	\$684,356.90	\$93,175.00	\$85,021.82	\$81,322.07	\$424,838.01	.....
1888..	781,012.80	128,568.32	163,576.36	91,059.71	397,808.41	.....
1889..	1,240,403.15	276,386.39	140,848.59	96,779.68	726,388.49	.....
1890..	1,331,019.41	136,642.17	258,150.63	105,580.70	830,645.91	.....
1891..	1,441,308.61	91,550.68	256,121.30	100,675.83	992,960.80	.....
1892..	1,425,789.12	133,629.00	149,305.34	100,932.40	1,041,922.38	.....
1893..	1,459,069.37	202,243.47	111,608.51	107,575.03	1,037,642.36	.....
1894..	192,310.81 <sup>1</sup>	324,616.12	102,364.97	118,905.52	.....	353,575.80
1895..	284,589.56	3,100.00	115,773.03	113,873.11	51,843.42	.....
1896..	352,988.80	242,309.53	80,637.88	117,981.87	.....	87,940.48
Totals.	\$9,192,848.53 <sup>2</sup>	\$1,632,220.68	\$1,463,408.43	\$1,034,685.92	\$5,504,049.78	\$441,516.28

<sup>1</sup> Price reduced from \$1.50 to \$1.00.

<sup>2</sup> During the decade 1887-97 the excess of gross profits over expenditures for improvements and extensions was \$5,010,890.08.

The inevitable consequences soon made themselves felt both in the manufacturing and in the distributing departments. The former showed an unusually high cost of production; the latter an inordinately high percentage of leakage. While the estimates of the cost of production, exclusive of the cost of distribution, differ somewhat, it is certain that it was not below forty-five cents per thousand, and probably nearer fifty. It was comparatively easy for private companies to offer gas to the city at a price far below this figure. The great improvements in the water-gas process had brought about a complete change in methods of production, a mixture of coal and water gas having been generally adopted by the more progressive companies. Instead of making the changes in the works necessary for this purpose, the city entered into a contract with the Philadelphia Gas Improvement Company to furnish water gas at thirty-seven cents per thousand cubic feet. These purchases, small at first, gradually increased, until in 1896 over thirty-eight per cent of the total gas used was purchased from the company. The purchases for each year are given in the accompanying table.

While at first glance the purchase of gas at thirty-seven cents seemed advantageous to the city, the real effect was to retard improvement. The increased consumption of each year was being met largely through the purchase of water gas from a private company, thus removing the greatest incentive to the improvement of

YEAR	Coal gas manufactured, cubic feet	Water gas, cubic feet	Amount expended for water gas
1889.....	1,310,869,000	919,640,000	\$299,985.64
1890.....	2,042,059,000	1,134,922,000	425,283.75
1891.....	2,065,444,000	1,326,443,000	490,784.08
1892.....	2,233,238,000	1,351,351,000	500,000.00
1893.....	2,261,550,000	1,541,756,000	570,449.96
1894.....	2,803,838,000	1,306,563,000	557,428.38
1895.....	2,538,065,000	1,699,687,000	600,000.00
1896.....	3,021,570,000	1,891,891,000	700,000.00

the city's works. Furthermore, as was shown by expert testimony before the committee to which the question of leasing had been committed, water gas could then be manufactured at twenty-five cents per thousand, which means that the city was paying to the gas company a clear profit of fifty per cent on the gas thus purchased.

Another direct result of the failure to expend a certain percentage of gross profits on improvements is shown in the cost and conditions of distribution. The Chief of the Bureau of Gas repeatedly called the attention of councils to the fact that the gas-holders were not sufficiently numerous, nor were they so distributed as to secure the best results. In order to carry the gas to great distances, it was necessary to force it through the pipes at high pressure. The resulting friction robbed it of a part of its illuminating power, caused condensation and greatly increased leakage. The evil was further aggravated by the fact that the mains had not been

enlarged to accommodate the increased volume of gas. It is not surprising, therefore, that the item "gas unaccounted for" increased with each year, until in 1896 it amounted to nearly one fourth the total amount manufactured. This alone meant an annual loss of over \$1,000,000. Comparison with a few well-managed city or private enterprises, for which figures are obtainable, is of interest in this connection :

WORKS	Amount of gas manufactured 1896	Leakage and gas unaccounted for	Percentage
Philadelphia.....	4,913,461,000 <sup>1</sup>	1,132,646,138	23.9
Manchester.....	3,762,570,000	116,560,000	3.1
Glasgow.....	4,525,000,000	425,500,000	10.0
Boston Gas Company.....	1,130,189,700	32,692,630	2.89
Brookline Gas Company...	753,824,000	58,590,067	7.77
Lowell Gas Company.....	315,073,000	20,232,700	6.42

Further evidence of the unfortunate influence of councils upon the administration of the gas works is to be found in the abnormal annual expenditure for wages and salaries. We have already seen that this constituted one of the great abuses during the period of gas-trust management. Although the worst evils were remedied under responsible city control, much still remained to be done. In the first place councils had fixed a rate of wages far above the market rate. The Director of Public Works published a statement in which he pointed

<sup>1</sup> Including water gas purchased from Philadelphia Gas Improvement Company.

out that instead of paying the 1,700 laborers \$1.75 per day he could obtain equally competent men for \$1.25. Whatever may be said in favor of "trades-union wages" in city employment, it must be remembered that this excess of fifty cents per day above the market rate involved an additional annual outlay of nearly \$275,000. The payroll was further increased through the addition of many laborers under the elastic account of "repairs." Comparison with the accounts of private and municipal gas works shows the drain of this item upon the resources of the Philadelphia works:

WORKS	Amount of gas consumed in private and public lighting cubic feet	Price of gas per 1,000 cu. ft.	Total expenditure
Philadelphia (1896).	3,619,427,312	\$1.00	\$2,852,103.11 <sup>2</sup>
Glasgow (1896).....	4,062,500,000	.52 $\frac{2}{3}$	2,449,553.47
Manchester (1896)..	4,300,165,000	.54 $\frac{2}{3}$	2,222,903.00
Birmingham (1896).	4,152,652,000	.54 $\frac{2}{3}$ <sup>1</sup>	2,364,238.93

WORKS	Expenditure for coal	Expenditure for wages and salaries	Expenditure for wages and salaries per 1,000 cu. ft.	Relation of wages and salaries to total expense
Philadelphia (1896).	\$1,049,969.29	\$1,194,191.00	\$0.32 $\frac{2}{10}$	Per cent 41.8
Glasgow (1896).....	1,320,300.22	622,393.00	0.15 $\frac{3}{10}$	25.4
Manchester (1896)..	1,120,058.47	473,890.00	0.11	21.3
Birmingham (1896).	1,054,862.91	463,350.00	0.11 $\frac{1}{10}$	19.6

<sup>1</sup> Seventy-four cents for small quantities.

<sup>2</sup> Exclusive of \$700,000 expended in purchase of gas from private company.

While, therefore, it is evident that the real weakness in city management lay in the policy of councils, there are distinct indications of minor evils due to the internal administration of the works. The most important of these relate (1) to the purchase of materials, and (2) to the receipts from residual products.

During the period between 1887 and 1897 the city paid between \$3.11 and \$3.14 per ton for coal, whereas it is a well-established fact that responsible firms were prepared to furnish the same quality at \$2.95. The bids of the firms offering coal at \$2.95 were invariably ignored. In this one item alone the department could have effected an annual saving of between \$75,000 and \$100,000.

The failure fully to utilize residual products affected even more unfavorably the profit-and-loss account. The receipts from this source averaged during the last few years of municipal operation about 30.6 per cent of the cost of coal, the main item in the expense account. That this percentage is far below the amount which careful business management would give is shown by comparisons with private companies in the United States and with municipal gas works in England. The report of the Massachusetts Board of Gas and Electric Light Commissioners for 1896 gives full information on this point for the companies within that State. In the larger companies the percentage of the outlay for coal, realized

through the sale of residual products, ranges from 45 to 51 per cent. The average of 47 companies is 43.89 per cent. In the gas works of the cities of Manchester, Glasgow, and Birmingham the percentage ranges from 43 per cent in the former to 56.2 per cent in the latter. Compared with these figures, the 30.6 per cent obtained in the Philadelphia works makes but a poor showing. The real cause of the difficulty is to be found in the fact that certain persons, either councilmen or other local politicians, enjoyed the monopoly of the purchase of residual products at prices considerably below market rates. Here, as in so many other cases, the influence of the local assembly was at the root of the difficulty. It is to be noted, however, that the period of responsible municipal management gave evidence of increasing economy in the utilization of by-products as compared with the "gas-trust" period. In 1870 the percentage was but 15.4; in 1875, 17; in 1880, 21.9; in 1896, 30.6 per cent.

Our analysis thus far tends to prove that the most serious defects connected with city management are traceable to evils inherited from a period of corruption and incompetency. During the decade of responsible city control we find abundant indication of improvement in every direction. That such improvement was not more rapid is to be attributed to the shortsighted policy of councils rather than to defects in the administration of the gas department.

Before entering upon a discussion of the broader questions of public policy which are involved in the relation of the municipality to the gas supply, it will be well to consider the conditions under which the lease was effected.

Some years before the expiration of the gas-trust period, combinations of capitalists began to speculate on the possibility of obtaining a monopoly of the gas supply. In 1883 the first definite offer was made—\$10,000,000 for the plant and an exclusive franchise. During subsequent years new offers were forthcoming, which usually met with vigorous opposition in councils, as well as with the public. When in September, 1897, the mayor transmitted to councils the offer of the United Gas Improvement Company, it soon became evident from the disposition of councils to stifle discussion and hasten action, that the plans for the leasing of the works had been carefully laid. It is not our purpose to enter into an analysis of the influences which proved irresistible in securing the acceptance of the company's proposition. It must be said, however, that whatever the nature of these influences, they were greatly aided by the attitude of a large portion of the business community. The prospect of securing gas of a better quality at a lower price overshadowed for the time being all other considerations. As a result, the permanent interests of the city were lost sight of. The gas works were handed over to the company whose proposals alone received serious consideration



from councils, notwithstanding the fact that other and more favorable offers had been made by responsible parties. In granting an exclusive privilege to this corporation the most elementary business principles were disregarded. It seems a commonplace to say that the consideration in return for a franchise should be determined by the value of the privilege. In this case, however, the only question which seemed to interest the public was whether the company was prepared to give better gas at a lower figure than the city; if so, no further conditions seemed necessary to safeguard local interests. Had the terms of the lease been formulated with reference to the possibilities of profit to a company enjoying a monopoly of the gas supply, the results would have been very different. There was evidence on all sides that the population was gradually awakening to this fact; but so rapidly was the lease hurried through councils that no opportunity was given to make such awakening effective.

The lease, as finally signed, gave to the company a monopoly of the gas supply for a period of thirty years. At any time prior to July 1, 1907, the city might have terminated the lease on condition of reimbursing the company for all improvements, plus six per centum simple interest on the amounts thus expended. It was quite clear at the time of the signing of the lease that the option thus given was one which the city would not be able to exercise, owing to the constitutional limitations

on municipal indebtedness. In return for the privilege the company agreed:

First.—To furnish gas of twenty-two candle power at \$1 per thousand cubic feet.

Second.—To pay into the city treasury upon all gas sold prior to January 1, 1908, all sums received in excess of ninety cents per thousand cubic feet; after December 31, 1907, and prior to January 1, 1913, all sums in excess of eighty-five cents per thousand; from December 31, 1912, to January 1, 1918, all sums in excess of eighty cents per thousand, and from that time until the expiration of the lease (December 31, 1927) all sums in excess of seventy-five cents. Council is given the power to reduce the price at the dates above mentioned to ninety, eighty-five, eighty, and seventy-five cents respectively, in which case the city will receive no money rental.

Third.—To light, free of charge, all public buildings and lamps, and to provide for the lighting of 300 additional lamps each year. All public lamps to be lighted, extinguished, cleaned, and repaired at the expense of the company.

Fourth.—To expend within three years \$5,000,000 in alterations, improvements, and extensions, and at least \$15,000,000 for the same purposes during the thirty years of the lease.

Fifth.—At the expiration of the lease, December 31, 1927, the city is to receive the works "without charge or cost in the condition of alteration, improvement, and

change in which the same shall then exist, and the same shall be so maintained as to be then in first-class order and condition.”

It would seem, at first glance, that these provisions assure to the city a large return for the franchise. To judge of this, however, one must enter upon an examination of the possibilities of profit which the company enjoys. It is to be noted that if the price of gas is successively reduced from one dollar until it reaches seventy-five cents, the city will receive nothing from the company except free light for public lamps and the plant at the expiration of the lease. The contract, therefore, amounts to this: The city places the gas works in the hands of a private company for thirty years, in return for which the city is to receive a certain amount of gas for public lighting free of charge. During these thirty years the people of the city will be compelled to pay \$1 per thousand cubic feet, or if the city council avails itself of the power of reducing the price of gas to 90, 85, 80, and 75 cents during the periods as specified in the lease, such reductions will have to be made at the expense of the city treasury. The agreement to expend \$15,000,000 in extensions and improvements cannot be regarded as a burden upon the company, as it represents nothing more than a profitable investment of capital, such as every business man would be compelled to make in order to utilize fully the opportunities of his business.

In the discussions in councils and in the public press the cost of service to the citizens of Philadelphia has been largely lost sight of. An examination of these rates will show the great value of the franchise to the company as well as the inadequacy of the return to the city. One of the most striking facts in the history of gas-making has been the great improvements in methods of production that have taken place during recent years. During the last three years of municipal operation the price of gas was reduced from \$1.50 to \$1 per thousand. In this connection the experience of British cities is of interest. In Glasgow the gas works came under municipal control in 1869. During the first five years of city management the price was gradually reduced from \$1.35 to \$1.14 per thousand cubic feet. With each improvement in production the price was lowered until gas of 18 candle power was reduced to 52½ cents in 1896, and recently has been fixed at 50 cents. Manchester began to manufacture its own gas as early as 1807, which was reduced to 54½ cents per thousand in 1896, where it at present stands. In Birmingham, where the city took over the gas supply in 1874, the price ranges from 60 to 44 cents per thousand cubic feet, according to the amount consumed, the price diminishing as the amount used by the individual consumer increases. In almost every case, whether at home or abroad, a reduction of from 33½ to 50 per cent has taken place during the last thirty years. Compared with these figures, the price

which the Philadelphia company is receiving is excessive. Unless the company sees fit to do so for purely business reasons it will be impossible to effect a reduction of more than 12 per cent during the next twenty years.

But, it will be said, British cities are able to offer gas at a low price because of cheaper materials and the lower rate of wages. As regards the former, the price paid for coal is about 20 per cent below that paid in Philadelphia. A comparison of the rate of wages will show that while the average wage was 30 per cent higher under municipal management in Philadelphia than in Glasgow, Birmingham, or Manchester, the difference was due largely, if not wholly, to the fact that councils had fixed the wages of employees far above the market rate. It is to be noted, furthermore, that the Philadelphia management was paying an unusually high price for coal, which the United Gas Improvement Company has reduced considerably.

It is clear, therefore, that there is no such great difference in the cost of production as is generally supposed. With the price of gas nearly 50 per cent lower

WORKS	Price of gas per thousand cubic feet	Gross profit exclusive of amount debited to depreciation	Amount paid to sinking fund to liquidate gas loan	Net profits
Glasgow.....	\$0. 50	\$98,395	\$158,670	\$60,275 <sup>1</sup>
Manchester.....	.54 <sup>2</sup>	527,140	219,070	308,070
Birmingham.....	60 to 44 <sup>2</sup>	445,550	187,920	257,630

<sup>1</sup> Deficit.

<sup>2</sup> According to amount consumed.

than in Philadelphia, the profits of municipal gas works of British cities in 1905 were as shown on page 261.<sup>1</sup>

According to the terms of the lease the people are debarred from participating in the benefits of improved production during the next two decades. The testimony of experts before the finance committee of councils was to the effect that it was possible in 1897 to manufacture gas of 22 candle power at 25 cents per thousand, and that the cost of distribution should not exceed 10 cents. It is beside the question to say that Philadelphia under municipal management of the gas works was not able to produce gas at this price. In determining the return for the grant of this monopoly, the question as to what the city can or cannot do in performing the same service is a matter of secondary importance. The only sound basis of negotiation is the value of the franchise to the party seeking it; in other words, the possibilities of profit which the company will enjoy.

The first ten years of the company's management of the gas works expired in 1907. Under the terms of the contract the city was given the option to terminate the lease on condition of reimbursing the company for all expenditures for extensions and improvements. The statements filed by the company showed that during the first nine years of the lease they had expended \$11,354,-919.77 for these purposes. This statement of the company was not and could not be verified, inasmuch as the

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<sup>1</sup> National Civic Federation, Part I, vol. i, p. 414.

system of accounting of the company is in no way controlled by the local authorities. In any case it would have been extremely difficult for the city to have taken over the works, inasmuch as on January 1, 1907, the city was within \$8,836,959.80 of its constitutional debt limit.

Owing to the satisfactory service which the company was giving there would have been little or no desire on the part of the people to terminate the lease had the company refrained from submitting any proposition for a further extension of the term. In May, 1905, a communication was sent by the company to the mayor, proposing an extension of the lease until December 31, 1977. In return for this extension the company was to pay to the city the sum of \$25,000,000, and was to undertake also a progressive reduction of the price of gas. The plan thus submitted passed both branches of councils, but was vetoed by the mayor, who was supported by an aroused public opinion. The gas question was made the basis of a vigorous reform campaign, which swept the then political leaders from power. It looked for a time as if this agitation would lead to the termination of the lease in 1907, but when the time arrived public sentiment had quieted down, and the financial condition of the city was not such as to justify the payment of the large sum due the company for improvements and extensions. The gas works will, therefore, remain in the company's hands until December 31, 1927, when they will revert to the city.

Having examined the lease as a purely business relation between the city and the company, there still remains to be considered the abandonment of this municipal function from the broader standpoint of general municipal policy. The attitude of the population to this phase of the question may be regarded as typical of our American communities, and furnishes a striking instance of the lack of civic ideals in our city life. Throughout the discussions of the subject little thought was given to the influence of such a curtailing of city functions upon the civic life of the community; nor was the possible social function which the city might perform in the administration of the gas service considered worthy of attention. This attitude of the population accounts for the feebleness of the opposition and the boldness of councils in stifling discussion.

We have already seen that from a purely financial point of view the contract with the United Gas Improvement Company can hardly be said to have given due recognition to the interests of the city, or to those of the population as consumers. Furthermore, that the ten years of municipal management, far from giving evidence of financial failure, show steady improvement in organization and management. Such shortcomings as existed were due to clearly assignable causes that might readily have been remedied. In abandoning the control of the gas works, the valuable experience acquired during the period of municipal management was



thrown away. There is no easy and direct road to efficient public administration. In every department efficiency is gradually attained through slow and laborious accretions of small improvements. When, therefore, twenty years hence the city again comes into possession of the gas works it will be compelled to meet difficulties equal to if not greater than those of the ten years of municipal management.

Furthermore, in parting with the gas works the city deprived itself of the power of performing an important social service. Until recently financial considerations have ruled supreme in determining the sphere of municipal activity beyond the minimum of protection to life and property. We are beginning to see that social standards should be given some weight in municipal policy. The many points at which municipal activity touches our industrial and social life give it a far-reaching influence for good or evil. In the relation of the gas supply to the standard of life and the industrial efficiency of the population we have a most conspicuous instance of these possibilities. Here, again, we must turn to the British cities for enlightenment.

That the use of gas is playing an important part in the economy of modern life requires no demonstration. Neither will anyone doubt that it is destined to play an increasingly important part for some years to come. At the time the gas works were placed under municipal control in Glasgow—and the same statement applies to

the other cities of Great Britain—the use of gas was limited to the well-to-do classes. After careful study and inquiry the municipal authorities came to the conclusion that a great social end was to be accomplished in securing its introduction for cooking and illuminating purposes by the working classes, particularly in the thickly settled tenement districts. The wastefulness of the coal stove, and the comparatively high cost of its maintenance, had given to uncooked foods an important place in the standard of life of these classes, a fact that seriously affected their industrial efficiency and physical vigor. The widespread use of alcoholic drinks was to be explained largely by the crude diet of the laboring classes. It was evident that the introduction of a new element into the standard of life could only be effected by the city through a temporary subordination of financial considerations. In order to facilitate the use of gas for illuminating purposes automatic penny-in-the-slot meters were introduced. For two cents a large burner could be supplied for a period of five hours. Furthermore, the city inaugurated the policy of renting gas stoves, making all connections free of charge. At first the use of automatic meters was small, but with each year the number has increased until they have become almost universal in the larger British cities. With each year the number of gas stoves rented by the city is increasing.

The influence of this more general use of gas is

evident to anyone examining the standard of life of the working classes in Great Britain. The use of cooked foods is far more general than was the case ten years ago. That this change has had an influence upon the health and industrial efficiency of the population is attested by the testimony of the local sanitary officers. Furthermore, through the low price of gas, the city has been able to exert an influence upon industrial conditions. The introduction of the gas engine to replace the steam engine has given a new lease of life to the small manufacturer.

In pursuing this policy in the administration of the gas works the British cities have been carrying out a general principle which pervades the management of all their quasi-public works. The municipal street-railway systems are being used to effect a more equable distribution of population; the municipal water supply furnishes hydraulic power at low rates; and the municipal gas supply is contributing to the improvement of the standard of life and of the industrial efficiency of the population. The municipality for this reason represents a far more positive force in the life of the British city than in the United States. That American municipalities must in time perform the same functions is evident to anyone who has followed the course of municipal development in this country. To relinquish public works means simply to postpone the period when such service is to be performed.

From whatever point of view the change of policy in Philadelphia be examined, the conclusion that it marked a retrograde movement is unavoidable. This is particularly true when examined from the standpoint of civic progress. The recent history of American municipalities has shown that the inability of our city governments to maintain control over private corporations performing quasi-public functions is the greatest danger to American local institutions. It is scarcely an exaggeration to say that these corporations have succeeded in intrenching themselves as the real power behind the constituted authorities in all matters affecting their interests.

We usually take for granted that the most effective means of eliminating corruption is to reduce to a minimum the functions which the municipality performs, and are surprised to find that this method in reality increases the evil. The cause lies on the surface. With every diminution of city functions we increase the influence of irresponsible corporate bodies. The real problem before us is to eliminate such corporate influence. Until this is done all efforts for more efficient administration are almost certain to fail of their purpose. The classes that should furnish leaders in our civic life are bent upon maintaining the supremacy of private interest over public welfare. Attachment to the city is not sufficiently strong in American communities to withstand the temptation of private gain. The absence

of city ideals makes the citizen feel that the responsibility for the safeguarding of public interests rests with the constituted authorities rather than with himself. To those who have studied the growth of our large cities, the introduction of a new and powerful corporation into the public life of the community means another obstacle to civic advance. As regards Philadelphia, the danger has been increased by the fact that the monopoly of the street-railway and the gas and electric-light services is vested in the same combination of individuals.

At a time when the true relation between municipal activity and social progress is finding acceptance with a constantly increasing percentage of our population, it seems peculiarly unfortunate that Philadelphia should offer so discouraging an example to American cities. In England and Scotland some 270 and in Germany over 335 municipalities own and operate their gas works, with an efficiency which private corporations would find difficult to equal and certainly could not surpass. Whether the cities of the United States will develop an equally efficient administration remains to be seen. Whatever be the steps in the process, it is certain that no single and sudden change will effect the desired end. The population must be prepared to meet temporary discouragements and to withstand the temptation to throw off the burden of public service in favor of private agencies. Until this is done, until we are able to discriminate more clearly between the temporary and perma-

ment interests of our municipalities, the road to good city government will remain closed. Though logical deduction and *a priori* reasoning may furnish all sorts of simple remedies the order of historical development is more complex, encountering difficulties that must be consciously met by every progressive society. Temporary expedients may postpone but they cannot avoid the necessity of facing fairly and squarely the vital problems of governmental activity. Their successful solution soon becomes the requisite for civic advance.

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## CHAPTER XII

### FUNDAMENTAL PRINCIPLES INVOLVED IN MUNICIPAL OWNERSHIP

THE discussion of the relation of the municipality to quasi-public works has been obscured by the desire to find some one general principle of universal applicability which will furnish a ready solution for every question affecting the relation of the municipality to public utilities. The futility of this plan is attested by the fact that the principles thus formulated have been so vague that they have furnished no real guidance. The failure of these attempts at sweeping generalization is gradually developing a more healthful attitude toward this question. We are beginning to see that the most that we can hope to accomplish is to arrive at some agreement on certain fundamental principles which govern the industries that are "affected with the public interest." The application of these principles to concrete problems must depend on the peculiarities of local conditions.

Viewing the subject from the broad standpoint of the social interests of the community, it is important to bear in mind that in all these industries—street rail-

way, gas, electric light, or water—the consideration of primary interest to the community is the kind of service which it enjoys. The industrial efficiency, the social welfare, and the general well-being of the population depend to so large an extent upon the efficient performance of these services that every other consideration must be subordinated to this end. It is assumed by the opponents of municipal ownership that no city can hope to offer these services with anything like the same degree of efficiency as the private corporation. This contention is quite as wide of the mark as the statement of the advocates of municipal ownership that under all conditions the city is able to offer better service.

In so far as experience may serve as a guide, the results accomplished in the cities of Great Britain demonstrate not only the possibility of offering efficient service, but the actual superiority of municipal over private management, especially in accomplishing those larger social purposes which constitute the highest function of communal life. The contribution which the British cities have made to social and industrial progress is the brightest chapter in the history of modern city development. In lowering street-railway fares, in fostering the extension of the gas service, in striving constantly to improve the water service, the British cities have given to the world a valuable lesson in the possibilities of organized action in improving social conditions. All the indictments that have been brought



against municipal ownership and operation in Great Britain must be quashed when tested by the services which these municipalities have performed in improving the city environment, in making city life more healthful, in removing many of the causes of disease and of reduced vitality, and in opening a new horizon of the possibilities of communal action in raising the plane of city life.

There is a widespread belief that the lessons of European experience in general, and British experience in particular, are of little or no value to our American cities. The tremendous social significance of the movement for the municipalization of public utilities is dismissed with the statement that the conditions in the United States are totally different from those in Europe. That there are important differences in social organization, in the attitude of the population toward government, and in the traditions of the public service, no one will deny; but in spite of these differences the fact remains that the municipalities of Great Britain and of Germany have become positive factors in the betterment of social conditions. Sooner or later American municipalities must place themselves in the same vital relation to the life of the community. In fact, the people have a right to demand that the street-railway, the gas, the electric-light, and the water services shall be so performed as to further the larger ends of social welfare. How shall these ends be attained? In answer-

ing this question there are certain facts of American experience which deserve careful consideration.

It is generally agreed that the overwhelming need of our American communities is the development of a distinctive city spirit. Whatever the dangers involved in the extension of municipal functions it is clear that this spirit will develop in proportion as the municipality becomes a vital factor in the life of the individual. Some may be willing to postpone the development of this civic spirit, others may think it bought too dearly, but we cannot expect it to gather strength until the municipality is affecting the life and the conduct of the individual in so many different ways that he associates the city with the maintenance of his individual and family welfare.

Furthermore, although we may do full justice to the spirit of enterprise which most public-service corporations in the United States have shown, we cannot close our eyes to the fact that they have exerted an unfortunate influence on the civic life of American communities. There is hardly a city in the country which has been free from that degrading influence which is produced by the desire of public-service corporations to control local policy. We have attempted to cover up the situation with many neat phrases, and have even condoned the action of these corporations with the explanation that they did not desire to control local policy, but were compelled to do so for their own protection. It is

not necessary, in this connection, to weigh the rights and wrongs of the situation, but it is a matter of the deepest concern that the public-service corporations have undermined the civic life of many American cities.

If we are to retain our present system of private management, the most serious question confronting American municipalities is the elimination of corporate influence from their political life. Various plans for the accomplishment of this purpose have been suggested. Some pin their faith to the publicity of corporate accounts as the most effective means of preventing the more insidious forms of corruption. Others have advocated the public sale of all franchises, while others regard the control over capitalization of public-service companies as the most effective remedy. No doubt each of these will contribute something, and their combined influence will certainly make more difficult the kind of bargaining which has disgraced so many of our American communities.

In the last analysis, however, the only permanent safeguard is an alert public opinion, sensitive to every influence that tends to undermine the well-being of the community. The events of the last few years prove conclusively the sensitiveness of corporate management to the slightest stirrings of public opinion. In their relations with the public authorities—federal, state, or municipal—public-service corporations will no longer permit themselves the practices that were common five years

ago. The education of public opinion in municipal affairs, which has been pushed with such vigor during the last few years, must now be systematized and made general throughout the United States. Every community in the country stands in need of agencies such as the Municipal Research Bureau of New York City, to place the public in full possession of the facts concerning municipal services.

✓ The same forces that have developed this sensitiveness of public opinion to the corrupting influences of public-service corporations have also led to a demand for greater regulative control, which is likely to produce far-reaching consequences. With the education of public opinion the demand for improved service becomes more urgent. If the companies were normally capitalized, these demands could be readily met without endangering the profitableness of the enterprise. The great difficulty, however, is that almost every municipal public-service corporation in the United States is highly overcapitalized. The tendency toward further regulation will soon reach a point at which these companies no longer can be carried on at a profit. In fact, the increasing demands of public opinion for more careful regulation are likely to force the issue sooner than we expect. The situation of a great number of public-service corporations in American cities, and especially the street-railway companies, is such that any attempt at adequate regulation is likely to prove embarrassing

and may even force some into bankruptcy. Their enormous overcapitalization has burdened them with fixed charges which cannot be met if the public authorities either demand any considerable reductions in the cost of service or far-reaching improvements in the character of the service. Companies such as the Interborough-Metropolitan of New York or the Rapid Transit Company of Philadelphia cannot at the same time meet the requirements of an advancing public opinion and pay dividends on their inflated capitalization.

Fortunately, we no longer look with the same distrust on the possibilities of municipal ownership and operation. The bugbear of socialism has given way to a more rational view of the possibility of promoting social welfare through the improvement of these services under municipal management. We are beginning to see that the old-time fear, that the increase of municipal functions would lead to an inordinate increase of city officials, is a danger certainly no greater than the interference of public-service corporations in municipal politics. The dispassionate and unbiased consideration of British experience has weakened many inherited prejudices and misconceptions. We now fully appreciate the fact that while municipal ownership and operation may involve some dangers, there are also many incidental advantages. The cities of Great Britain and of Germany present the picture of municipal services adjusted so as to improve the social welfare of

the community. A reduction of from fifty to seventy-five per cent in street-railway fares, such as occurred with the change from private to public ownership in Great Britain, possesses a significance far greater than any profits which the management of the enterprise might show. It means the extension of the habitable city area, better housing conditions, and new possibilities of recreation and enjoyment. The influence of an improved water supply is shown in the declining death and sickness rates. It is a significant fact that those British cities which have a municipal water supply enjoy the lowest typhoid rate. Similarly the reduction in the price of gas has raised the standard of life of the working classes, not only by the introduction of gas as an illuminant, but by its wider use for cooking purposes.

This record of accomplishment indicates that in Great Britain and Germany the city means something more than the protector of property. Its activities are in vital touch with the life and welfare of the people. The life of the community has been so deeply influenced through the municipal operation of public utilities that there is no thought of a return to private management. It is a remarkable fact that the extension of municipal activities both in Germany and Great Britain has not been accompanied by any increase in taxation. In fact, many of the services undertaken have contributed toward a reduction in taxation, but even if taxation had

been increased it would be no conclusive argument against municipal operation, for in both the British and the German cities the returns looked for have been rather in the improved health and efficiency of the community than in large profits. It is true that municipal indebtedness has grown, but the productive enterprises upon which the cities have embarked are able to take care of the interest and liquidation of this indebtedness.

Public opinion in the United States with reference to municipal activities is rapidly advancing. We are beginning to appreciate the fact that the city in its organized capacity is called upon to play an important part in the struggle for the elimination of poverty, the increase of individual efficiency, and the improvement of moral and physical vigor. Furthermore, we can no longer tolerate the opposition of interest between public welfare and private gain which has so long existed in American municipalities. Incalculable harm has been done to our city life by the reluctance of the stockholders of public-service corporations to participate in any movement that might result in a reduction of the profits of such companies. The elimination of this opposition of interests through municipal ownership will mean a great moral gain to the community, and will prepare the way for the development of that broader civic concept which will give to the modern city the same hold on the energies, loyalty, and affection of the

people as was exercised, in their day, by the cities of Greece and Rome.

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## CHAPTER XIII

### MUNICIPAL OWNERSHIP AND OPERATION OF STREET RAILWAYS IN GERMANY

THE introduction of the electric railway marks a turning point in the history of street-railway development in Germany. It inaugurated a movement toward municipal ownership and operation which is sweeping over the empire, and which includes not only the larger cities, such as Munich, Frankfort, Cologne, and Nürnberg, but small towns, such as Bonn, Trier, Colmar, and Graudenz. The radical change in public opinion, as well as in the attitude of the town authorities toward the question of municipal ownership and operation, is due in part to the feeling of antagonism toward the street-railway companies; an antagonism traceable to the never-ceasing struggle to secure from them something approaching efficient service. A further factor which has exerted no small influence is the fact that the introduction of electricity simplified considerably the conditions of street-railway management, and made the town authorities less reluctant to assume the burden of this new function. It is a significant fact that during the entire horse-railway period but two towns, both of less

than 10,000 inhabitants—Wiesloch and Friedrichshagen—owned and operated their street-railway systems.

The communalization of street railways began in Great Britain at a much earlier date than in Germany. As early as 1897 forty-two British towns had acquired title to their street-railway systems, and eight of these (viz., Glasgow, Hull, Huddersfield, Blackpool, Leeds, Sheffield, Plymouth, and Birmingham) had embarked upon municipal operation. Not until 1898 did one of the larger German cities—Frankfort—commit itself to the principle of municipal ownership and operation.

It may seem surprising at first glance that while the movement for the municipalization of gas plants of German cities began in the early sixties, there seemed to be little or no desire to take over the street railways. In 1902 fifty-six of the seventy-three cities, with a popula-

## OWNERSHIP OF GAS PLANTS

CITIES WITH POPULATION OF	1868		1885		1895	
	Private	Munic.	Private	Munic.	Private	Munic.
Under 5000.....	90	34	88	36	70	46 (28) <sup>1</sup>
Between 5,000-10,000.	74	69	71	102	83	111 (89)
Between 10,000-20,000.	66	45	81	74	55	99 (61)
Between 20,000-50,000.	16	17	33	41	33	76 (40)
Over 50,000.....	12	10	17	29	13	35 (16)
	258	175	290	282	254	367 (234)

<sup>1</sup> Figures in parentheses represent the number of cities in which the gas supply was made municipal at the time of its introduction.

tion of 50,000 and over, owned and operated their gas plants. The course of development is shown in greater detail in the foregoing table.<sup>1</sup>

The municipal gas plants were successful beyond the expectation of the advocates of municipal ownership. The influence of these municipal plants was not confined to the cities concerned, but also raised the standard of service in those communities in which the gas supply was still in the hands of private companies. In fact, between 1850 and 1890 the efficiency of the most important municipal services, such as water supply, lighting, sanitation, and poor relief, was raised to a point which placed the cities of Germany in the vanguard of municipal improvement.

In the midst of this general betterment of municipal conditions, urban transportation remained in a most primitive state. In fact, it was not until 1865 that the first street-railway line was built—a short experimental line between Berlin and Charlottenburg. Not until 1872, twenty years after the introduction of street railways in the United States, was the construction of street-railway lines on any considerable scale begun. Hamburg had no street railways until 1866, Stuttgart until 1868, Munich until 1876, Cologne until 1877, and Nürn-

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<sup>1</sup> For this table, as well as other assistance in the preparation of this chapter, the author begs to acknowledge his indebtedness to the work of Dr. Hugo Lindemann, "Arbeiterpolitik und Wirtschaftspflege in der Deutschen Staedteverwaltung," Stuttgart, 1904.

berg until 1881. As late as 1900 there were still nine cities with a population of 40,000 and over without street railways.

The backwardness of this service was due in great part to the small area of the German cities. The concentration of population within the old city walls made the problem of urban transportation of relatively little importance. Furthermore, the fact that in the German cities of the '70's and '80's the residence and business sections were not separated, tended to reduce the necessity for improved transit facilities, and delayed the development of a true appreciation of the bearing of rapid transit on the improvement of city conditions. It was not until the cities of Germany began to extend their areas through the incorporation of suburban districts that the problem began to assume vital importance. When the city authorities were awakened to the tremendous social value of a well-developed transportation system, they found their hands tied in the attempts to secure it. The franchise grants of the '70's and '80's were generally made for a term of at least twenty-five, and in some cases for forty and fifty years. Under the terms of these grants the street-railway companies could not be compelled to extend their lines into the suburban districts. The companies were not disposed to take any chances, inasmuch as the original franchise grants imposed heavy financial burdens which would permit of the construction of lines only in the more densely popu-

lated sections. The efforts to secure an extension of service from the street-railway companies led to long negotiations, and gave rise to considerable bitterness of feeling. The only possible solution seemed to be the expropriation of the lines, but this involved expenditures which would have taxed the credit and resources of the larger cities to the utmost, and would have been entirely beyond the reach of the smaller cities.

Fortunately, the necessity for better service became acute at a time when the street-railway companies throughout Germany were applying for the right to change their motive power from horse to electric traction. The new system was so much more efficient and at the same time so much more economical that no company could afford to forego its use. The city authorities found themselves therefore in an entirely new relation to the companies. Instead of being petitioners for favors, they held the key to the situation. The position of the companies was further weakened by the fact that in most of the larger cities the franchises granted during the '70's had but comparatively few years to run.

The negotiations between the city authorities and the street-railway companies during the period of 1890-1900 constitute one of the most interesting chapters in the history of German municipalities. The main purpose of the negotiations, so far as the cities were concerned, was to secure the construction of additional lines in re-

turn for the new privileges. Only after long-continued negotiations had demonstrated the impossibility of arriving at an amicable understanding was the desirability of municipalization seriously discussed.

The experience of Frankfort, Munich, Cologne, and Nürnberg is typical of the difficulties encountered in bringing about an adjustment to the new conditions, and also explains the rapidity with which the movement for municipalization of street railways has spread through the cities of Germany.

#### FRANKFORT-ON-THE-MAIN

In 1880 the city of Frankfort granted to a Belgian company the right to operate a railway over certain specified streets. The duration of the franchise was limited to twenty-five years, but the city reserved the right to terminate the contract at the expiration of twelve years and take over all the company's lines. If the city availed itself of this right, the company was entitled to receive, until the expiration of the franchise in 1904, an annual sum equal to thirty per cent of the average gross income during the three years, 1890, 1891, and 1892. If the city preferred, this annual payment was to be capitalized at six per cent, and the entire amount paid in one lump sum. In return for the franchise the company was compelled to pay to the city five

per cent of the gross receipts from all lines. As the expiration of this first twelve-year period approached it became evident that the sentiment in favor of municipalization was not sufficiently strong to lead to a termination of the contract. On March 24, 1891, the city entered into a new contract with the company. Under its terms the city agreed to extend the franchise until December 31, 1914, but reserved the right to terminate the contract and take over the lines either on January 1, 1898, or on January 1, 1906. The annual payment by the company to the city was fixed at six per cent, with the exception of certain of the new lines, which were classed as suburban, and from the gross receipts of which the company was only compelled to pay three per cent. The contract provided, furthermore, that the company pay the following sums into the city treasury :

During the first two years of the franchise.....	\$7,500 annually
During the following three years of the franchise.....	10,000 annually
During the following five years of the franchise.....	12,500 annually
During the following five years of the franchise.....	15,000 annually
During the following five years of the franchise.....	17,500 annually
During the following five years of the franchise.....	20,000 annually

In addition, if the company's accounts showed a net profit exceeding ten per cent, the city was entitled to one half of such excess; if the net profits exceeded sixteen per cent, the city was entitled to receive two thirds of the excess.

The rapid growth of the city during the first five

years of the life of this contract<sup>1</sup> clearly demonstrated that while the city was receiving a fair return for the use of its streets, the existing lines were totally inadequate to meet the needs of the newer sections of the city. Both branches of the local legislative assembly—the council and the “Magistrat”<sup>2</sup>—determined to use the right to terminate the contract as a weapon to compel the company to construct much-needed lines in the outlying districts of the city. Although the possibility of placing the street-railway system under municipal operation was discussed, the sentiment was not sufficiently strong to make this step seem probable. The negotiations between the company and the city were prolonged but fruitless. The situation was complicated by the fact that the company was anxious to change its motive power from horse to electricity, for which privilege the city was also determined to exact a *quid pro quo*. The only solution for the deadlock which ensued was the termination of the contract between the city and the com-

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<sup>1</sup> According to the census of 1900, the population of the city proper was 288,989, but including the suburban districts within a radius of six miles from the center of the city, which in reality form part of the city, the total population dependent upon the street-railway lines of the city amounts to over 400,000 (436,792).

<sup>2</sup> The “Magistrat” of the Prussian cities is one of the organs of local government combining executive with legislative functions. The individual members are the heads of administrative departments. As a legislative body the “Magistrat” occupies a position similar in some respects to that of the upper branch of the American town council.



pany. On November 10, 1896, the city gave notice that it would take over the lines on January 1, 1898. The reluctance of the city authorities was all the greater because the decision involved a heavy financial burden, as, under the terms of the contract, the city had agreed that in case it decided to take over the lines it would pay to the company, until the expiration of the franchise in 1914, an annual sum equal to thirty per cent of the average gross income of the years 1895, 1896, and 1897.

Although the street-railway lines became the property of the city on January 1, 1898, the authorities were unwilling immediately to assume the burdens involved in municipal operation. The "Magistrat," in a report submitted to the council, laid special emphasis on the difficulties incident to the change from horse power to electricity, and pointed out that no matter how carefully the change was planned it would certainly cause considerable inconvenience. In these circumstances municipal operation would be introduced under the most unfavorable auspices. In order to avoid this, the city adopted a plan which other German cities have followed, viz., to lease the lines for a brief period to the same company to which the contract for the construction of the electrical equipment was awarded. In 1898 a contract was made with two electrical engineering firms for the transformation of the horse railway into an electrical system, and for the construction of a number of additional lines. Under the terms of this con-

tract the operation of the entire railway system was handed over to the construction companies for a term of five years, with the reserved right on the part of the city to terminate the contract prior to the expiration of the five-year period by giving one year's notice.

### MUNICH

The successive steps leading to the municipalization of the street-railway system of Munich<sup>1</sup> are of peculiar interest, owing to the many difficulties and discouragements which the municipal authorities had to face, both in their dealings with the company during the period of private ownership as well as during the first years of municipal ownership.

In 1882 the city granted to the Munich Street Railway Company the exclusive right to operate street railways within the city limits. Under the terms of this franchise, the company was required to pave, repair, maintain, and clean the section of the street between the rails and sixteen inches on either side thereof. The city reserved to itself the right to do all such paving, repairing, and cleaning, and to charge the same to the company. The rates of fare to be charged by the company were minutely specified. The lines were divided into sections of three fifths of a mile each. For each

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<sup>1</sup> According to the census of 1900, the population of Munich was 499,932.

section the charge was not to exceed one and one quarter cents, but the company was permitted to fix a minimum fare of two and one half cents, no matter how short the distance traveled. In return for this franchise the company was compelled to make the following annual payments to the city treasury :

1. Of the first \$250,000 gross receipts, two (2) per cent.
2. Of the succeeding \$12,500 gross receipts, two and one half ( $2\frac{1}{2}$ ) per cent.
3. Of all receipts above \$262,500, three (3) per cent.

The contract with the company had not been in operation five years before controversies arose between the city and the company relative to the construction of new lines. The desire on the part of the authorities to relieve the congestion in the central sections of the city, combined with the rapid growth of the population, made the extension of existing lines imperative. The company was unwilling, however, to incur the expense unless the city was prepared to grant terms more favorable than those of the original contract. Negotiations with the company extending over a period of four years having proved fruitless, the "Magistrat"<sup>1</sup> and council decided

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<sup>1</sup> In the Bavarian cities the "Magistrat" occupies the same position as in Prussia, viz., exercising both executive and legislative functions. The members of the "Magistrat" are elected by the council subject to the confirmation of the central government. The members of the council are elected by the people through restricted suffrage.

to build the new lines. They were not prepared, however, to take over the operation of the new lines, and therefore entered into a supplementary contract with the street-railway company on February 17, 1892, under which the new lines were handed over to the company to be operated for the account of the city. Under this arrangement the company was permitted first to deduct the cost of operation from the gross receipts. The remainder of the income was then divided as follows: The city first to receive four per cent on the cost of construction, two per cent depreciation charge, and a sum equal to three per cent of the gross receipts. The remainder, if any, was then to be divided between the city and the company in the ratio of three to one. This contract of February 17, 1892, had been in operation but a short time when the question of the electrical equipment of the entire system arose. Further negotiations with the company resulted in the signing of the contract of October 25, 1897, according to the terms of which the entire street-railway system became the property of the city. Instead of taking over the operation of the system, it was stipulated that the Munich Street Railway Company should continue to run all the lines until the termination of the original franchise period, viz., July 1, 1907. Owing to the fact that certain sections of the system were built by the company and certain others by the city, the adjustment of the financial relation during the period 1897-1907 was fraught

with considerable difficulty. The agreement, as finally reached, provided:

First.—Inasmuch as the introduction of electricity made much of the old rolling stock worthless, it was necessary to make a large outlay for new equipment and cars. Instead of making these purchases from city funds, the contract stipulated that all such purchases be made by the company after consulting the city authorities, and that the city return to the company each year the amount thus expended. For the renewal of equipment the contract provided for a "Renewal Fund," which should receive at least six per cent of the gross receipts.

Second.—The gross receipts from lines built by the city must be paid into the city treasury, in return for which the city guaranteed to the company a sum sufficient to pay all operating expenses.

Third.—The gross receipts from lines built by the company were to be paid into the city treasury. In this case the city guaranteed to the company not only all operating expenses, but agreed to pay to the company annually, until 1907, a sum equal to the gross profits of the year 1896-97, viz., \$230,804.76.

Fourth.—The contract further stipulated that the company was to receive twenty-five (25) per cent of the net profits.

As we shall see when we come to consider the financial results of municipal ownership, the contract of the

city of Munich with the street-railway company, while most profitable to the company, had been a constant drain on the resources of the city. Since 1897 the stockholders have enjoyed a guaranteed dividend of eleven per cent, with the possibility of a larger dividend if a net profit remained after deducting all fixed charges. Until the close of the fiscal year 1904-5 the city treasury was compelled each year to meet a considerable deficit. The amount of this deficit, and the causes thereof, will be considered in a subsequent section.

#### COLOGNE

The duration of the original franchises granted to the Cologne Street Railway Company ranged from twenty-five to thirty years, but were made at different periods. The first of these expired in 1902, another will expire in 1916, and still another in 1924. Early in the nineties the city authorities suggested to the company the prolongation of certain existing lines and the construction of a number of new ones, but met with no encouraging response. As in Frankfort and Munich, the situation was further complicated by the desire of the company to secure the right to equip the system with electricity. The popular clamor for improved transportation facilities became so strong that the city decided in 1896 to undertake the construction of five new lines on its own account, and to equip the same with

electricity. Here a new difficulty presented itself. The original franchises gave to the company the exclusive right to run cars on certain streets. As soon as the resolution of the city council became known, the company gave notice that it would contest the right of the city to construct any lines which would directly or indirectly compete with the existing system. To make this threat effective, the company immediately applied for an injunction to restrain the city from building the new lines. In a long and carefully reasoned opinion the court held that the city could not, without violating the terms of the franchise, construct any new lines which would compete directly with the existing lines of the company. An appeal was taken by the city to the Supreme Court of Prussia, and finally to the Imperial Supreme Court, but with the same result. These decisions placed the city in a most difficult position. The choice lay between a policy which meant a complete surrender to the company, and one which, by delaying the change from horse-power to electricity, would work great harm to the social and economic welfare of the city.

In view of these difficulties, the city council, by resolution of March 31, 1897, decided to take over the entire street-railway system, provided an agreement could be made with the company. A commission was appointed to report a plan. The commission presented a report favorable to city ownership and operation, and on Janu-

ary 2, 1900, a contract with the Cologne Street Railway Company was signed, under which the city became owner of all the company's lines. It is true that the city had to make great financial sacrifices in order to become master of the situation, but it was felt that a continuation of the antagonism between the company and the city would work incalculable harm to the economic and social welfare of the community. Under the terms of the contract the city agreed to take over all the real estate and rolling stock of the company; the former at an appraised value of \$661,795.60, the latter at an appraised value of \$333,995. In addition, the city agreed to pay to the company in return for the cancellation of the franchises the following sums:

*First.* From January 1, 1899, to June 30, 1913, annually, \$250,000

*Second.* In addition the following sums:

For the year 1903.....	\$6,250
For the year 1904.....	12,500
For the year 1905.....	18,750
For the year 1906.....	25,000
For the year 1907.....	31,250
For the year 1908.....	37,500
For the year 1909.....	43,750
For the year 1910.....	50,000
For the year 1911.....	56,250
For the year 1912.....	62,500
For the half year January 1, to June 30, 1913....	34,375

The contract was given retroactive effect in providing that the lines were to be regarded as belonging to the city from and after January 1, 1899, but that the com-



pany should continue to run the same for the city's account until such time as might be necessary to perfect the organization under city operation. On April 1, 1900, all the lines were placed under city management. The city was given the privilege, under the contract, to fulfill all its financial obligations toward the company at once by capitalizing the annual payments and making payment of one lump sum. Of this privilege the city has not as yet availed itself.

The first problem confronting the city was to equip the entire system with electricity. In fact, Cologne was the last of the larger German cities to retain horse power, and the city authorities therefore felt a special obligation to make the change with all possible speed. Before the close of 1901 the four principal lines were equipped with electricity. The city immediately began to plan the construction of a number of new lines not only within the city limits, but also to connect the city with the smaller suburban towns. During the fiscal year 1902-3 five new lines within the city limits were constructed, the following year a number of existing lines were lengthened, and during the year 1904-5 the city took over three existing suburban lines.

### *Nürnberg*

In Nürnberg, as in Frankfort, Munich, and Cologne, the municipalization of the street-railway system was

forced upon the community because of the impossibility of securing from the street-railway company the kind of service which the rapidly growing city required. The original franchises were granted in 1881 for a period of forty years. In 1897 the Nürnberg-Fürther Street Railway Company applied for permission to substitute electricity for horse power. On August 13, 1897, a new contract was entered into under which the company was given this privilege. In view of the great expense involved in the introduction of the new system the company made a strong plea for an extension of the franchise period beyond 1921. The city finally agreed to an extension of five years, viz., until 1926, provided the company would undertake the construction of three new lines.

Within a comparatively short time after the signing of this contract the city authorities began to realize that they had made a serious mistake. Nürnberg was rapidly acquiring a position as one of the leading industrial cities of Germany. Its population was increasing at an extraordinary rate. In 1899 a number of suburbs had been incorporated into the city limits, and in the immediate vicinity were a number of smaller towns, which in fact formed part of the municipal aggregate, although not legally a part of the city. It was evident that in order to relieve the congestion of population in the city proper an elaborate system of urban and interurban railways would be necessary. Negotiations were opened

with the company with a view to securing such extensions. The company in its reply expressed a willingness to make all the extensions desired, provided the city was willing, first, to extend the original franchises beyond 1926, and secondly, to guarantee to the company a net profit on all new lines equal to the average net profit on the lines included in the original franchises.

The apparent onesidedness of this proposition aroused considerable feeling against the company, which was aggravated by differences growing out of the interpretation of the contract of August 13, 1897. Before the close of 1898 the city authorities were convinced that the only possible solution of the problem lay in the construction of the new lines, either by some other company or by the municipality itself. Negotiations were opened with another company, but led to no definite results. The authorities were convinced by this time that the city would have to build the new lines, and be prepared to take over their operation. In December, 1901, application was made to the Bavarian Minister of Internal Affairs for leave to construct and operate certain lines both within and without the city limits. Soon thereafter the necessary permission was granted, but objection was immediately filed by the company on the ground that the new lines planned would compete directly with existing lines, and were, therefore, in violation of the terms of the franchise. The city, in its reply, not only contested the right of the company

to make any objection to the proposed lines, but submitted a more elaborate plan, involving the construction of a far greater number of lines. In deciding upon this larger plan the city council was influenced mainly by the fact that the territory incorporated within the city limits in 1899 was without adequate transportation facilities. It was hoped that cheap and sanitary workmen's dwellings would be constructed in these quarters, and in order to encourage this larger social purpose the city extended the water, gas, and drainage services. It was evident, however, that property owners would not be willing to build until an efficient and relatively cheap transportation system was provided.

On July 7, 1902, the Bavarian Government gave permission to the city to construct the larger system, with the understanding that all questions affecting the rights of the company be settled by the courts. The company had already filed a bill to restrain the city from building the lines, but the suit was brought to a sudden close by the announcement that the city had decided to purchase all the company's lines, and that an agreement to this effect had been reached. Under the terms of this agreement, which was ratified by the company on October 20, 1902, the city agreed to pay to the company for the real estate, rolling stock, and franchise \$2,835,000, i. e., \$525 for every share of stock (par value \$250). The payment was made in city bonds, bearing three per cent interest. The bonds began bearing inter-

est in January, 1903, but for the year 1902 the city agreed to guarantee to the stockholders a dividend of eight per cent. The net profits of the year 1902 not being sufficient to pay this dividend, the city was obliged to make up the deficit of \$6,605.

On June 6, 1903, the entire system passed into the hands of the city. Work on the extension of the lines was immediately begun. Before the close of August, 1903, two of the most important lines had been extended to the suburbs of the city. During the fiscal year 1903-4 over \$80,000 were expended on new lines. The city also reduced the fares on certain lines for the purpose of relieving the congestion of population in the central districts. Thus, after a long struggle extending over seven years, the city authorities found themselves complete masters of the transportation situation.

## THE CONDITIONS OF MUNICIPAL OPERATION

### (a) FINANCIAL RESULTS

In considering the results of municipal management, it is important to bear in mind that in all the German cities which have adopted this policy, and particularly the four cities now under consideration, the street-railway administration is struggling under exceptionally heavy financial burdens, due in part to the necessity of large outlays for the construction of new, and, in the

main, unprofitable lines, but mainly owing to the large indemnities which these cities were compelled to pay for the unexpired franchises. A further fact which has had considerable influence is the reaction against over-speculation, from which many of the German cities are at present suffering. It is not surprising, therefore, that the first years of municipal management do not show brilliant results.

*Frankfort-on-the-Main*

Of the four larger cities that have embarked upon municipal operation of street railways, the financial situation of the Frankfort system is the most favorable. At the close of the fiscal year 1903, after paying all operating expenses, there remained a surplus of \$576,574.25. Out of this the following fixed charges were paid:

<i>First.</i> Annual payment to street-railway company (to be paid each year until the expiration of the original franchise in 1914).....	\$82,080.00
<i>Second.</i> Interest and liquidation charges on street-railway loan.....	140,666.72
<i>Third.</i> Depreciation and renewal fund.....	56,250.00
<i>Fourth.</i> Contribution to general administrative expenses of the city.....	16,816.93
	\$295,813.65

From the remaining \$280,760.60, the city contributed \$15,805 toward the pension fund for employees,

\$4,057.50 toward the pension fund for orphans and widows of employees, and \$36,250 toward the repaving and widening of streets, leaving a net profit of \$224,648.10. This is by far the most favorable showing since the beginning of municipal operation, the net profits of the preceding years being as follows:

## NET PROFITS

1899.....	\$85,921.65
1900.....	108,190.59
1901.....	126,677.25
1902.....	122,190.95

These results are not due to exceptionally favorable traffic conditions, but are traceable directly to careful and economical administrative methods. During the period between 1899 and 1903 the cost of operation per car mile<sup>1</sup> was reduced from 13½ to 8¾ cents, while the percentage of gross receipts required for operating expenses was reduced from 68.29 per cent to 54.9 per cent. This compares very favorably with the situation in the United States, where the relation of operating expenses to gross income for all the electric lines is 57.3 per cent. The accompanying tables will give a clearer idea of the efficiency of municipal management.

The receipts per car mile have also declined, but this is due to circumstances which indicate improvement of

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<sup>1</sup> The term "car mile" means the total cost of operating reduced to a unit standard, i. e., the cost of operating each car over a distance of one mile.

## STREET RAILWAYS. FRANKFORT-ON-THE-MAIN

## RECEIPTS 1899-1903

SOURCE OF INCOME.	1899	1900	1901	1902	1903
Fares.....	\$747,829.99	\$882,616.70	\$864,619.39	\$985,880.20	\$1,072,505.24
Commutation tickets.....	100,610.07	123,282.59	130,443.75	158,624.62	170,910.08
Forwarding mail.....	.....	.....	7,763.58	7,800.97	7,857.65
Miscellaneous.....	8,285.73	14,642.93	16,676.43	15,036.22	28,073.61
Total.....	\$856,725.79	\$1,020,542.22	\$1,019,503.15	\$1,167,342.01	\$1,279,346.58
Receipts per car mile.....	20 cents	19 cents	15½ cents	15 cents	15¼ cents



## STREET RAILWAYS. FRANKFORT-ON-THE-MAIN

## EXPENDITURES 1899-1903

ITEM.	1899	1900	1901	1902	1903
Total operating expenses . . .	\$581,667.57	\$620,493.87	\$633,257.31	\$688,570.10	\$702,772.57
Relation of operating ex- penses to total receipts (in per cent) . . . . .	68.29	60.8	56.6	59	54.9
Operating expenses per car mile . . . . .	13½ cents	11½ cents	8¾ cents	9 cents	8¾ cents
Gross profits . . . . .	\$270,058.21	\$400,048.84	\$486,245.84	\$478,771.92	\$576,574.25
Net profits . . . . .	85,921.65	108,190.59	126,677.25	122,190.95	224,648.10

service rather than decline of traffic. During the five years of municipal operation from 1898 to 1903 the city has constructed a number of new lines in relatively sparsely settled districts, from which no surplus can be expected for some years to come. Although they are certain ultimately to prove profitable, the city has had primarily in view the possibility of influencing the settlement of outlying districts.

### *Munich*

We have already had occasion to examine the unfortunate financial situation of the Munich system, due in large part to the extraordinarily heavy payments which the city had to make each year to the street-railway company as indemnity for the canceling of the unexpired franchise. The deficit for the fiscal year 1904-5 amounted to \$32,747.03, but this is not surprising when we stop to consider that the budget was burdened with the annuity payable to the street-railway company, amounting to \$230,804.76. Inasmuch as all lines belonging to the city were operated by the company until 1907, the period of municipal operation is too short to draw any conclusions with reference to its efficiency.

### *Cologne*

In considering the municipal railway system of Cologne, it is necessary to distinguish between the dis-

tinely urban and the suburban lines. During the first few years of municipal operation, especially in 1901 and 1902, the street railways of Cologne, as of all the cities of Germany, were affected by the general economic depression from which the country was suffering. The receipts were further reduced by the temporary disturbances of traffic caused by the change of equipment from horse power to electricity.

The fiscal year 1901-2 showed a net loss of \$12,145.54; in 1902-3 there was a net profit of \$21.51, and in 1903-4 a net profit of \$130,816.06. In considering this profit-and-loss account we must take into consideration that the city is compelled to pay to the street-railway company an annuity of \$314,319.15. During the last four years the city has been able steadily to reduce the operating expenses.

The city owns and operates three suburban lines, one to the neighboring town of Frechen, another to Königsforst, and a third to Ehrenfeld. Under the Prussian law any community operating railway lines occupies a legal position very similar to that of a private corporation. It may seek franchises from neighboring communities for the operation of such lines, and is held to the same measure of obligation as a private company. In 1903 the city of Cologne entered into a contract with the town of Frechen to take over the line constructed in 1893. Under the terms of the contract Frechen is to receive an annuity of \$12,500, which is to be increased

annually by \$250 until it reaches \$15,000. Cologne agreed furthermore to pay into the treasury of Frechen one third of the net profits, and to equip the line with electricity with the least possible delay. The line

## MUNICIPAL STREET RAILWAYS OF COLOGNE

	1900-1901		1901-1902	
	Gross receipts	Per car mile	Gross receipts	Per car mile
Receipts .....	\$751,486.50	cts. 20 $\frac{1}{2}$	\$801,350.75	cts. 20
Operating expenses.....	434,207.75	12	484,793.50	12
Surplus.....	317,278.75		316,557.25	
Relation of operating expenses to gross receipts (in per cent).....	.....		60.50%	

	1902-1903		1903-1904	
	Gross receipts	Per car mile	Gross receipts	Per car mile
Receipts.....	\$1,021,433.00	cts. 16 $\frac{1}{2}$	\$1,249,536.75	cts. 15 $\frac{2}{5}$
Operating expenses..	621,611.00	11 $\frac{1}{2}$	706,461.25	8 $\frac{9}{10}$
Surplus.....	299,822.00		543,075.50	
Relation of operating expenses to gross receipts (in per cent)	60.85%		56.54%	

is of considerable importance for freight as well as passenger traffic; in fact, since 1900 the income from freight traffic has been more than double that from passenger traffic. The city authorities of Cologne were

anxious to acquire the line because of its importance to the industrial growth of the city rather than the possibilities of profit involved. During the first year of municipal operation, after paying the annuity of \$12,500 to the town of Frechen, there remained a net profit of nearly \$1,000.

The second of the Cologne suburban lines, viz., from Cologne to Königsforst, is the first section of a network of suburban lines on the right bank of the Rhine which the city decided to build. As this line passes through three towns—Kalk, Vingst, and Merheim—it was necessary first to enter into agreements with the local authorities of these towns. The agreements entered into are as follows:

First.—In return for the use of its streets the town of Kalk is to receive an annuity depending on the net profits of the section running over its highways. It is provided, however, that in no case shall the annuity be less than \$2,125 nor more than \$6,750.

Second.—The town of Vingst received a lump sum of \$1,250 to be expended for certain street improvements, and in addition is to receive an annuity depending on the number of inhabitants, and graded as follows:  $2\frac{1}{2}$  cents per inhabitant per year so long as population remains under 10,000;  $3\frac{3}{4}$  cents per inhabitant per year for population between 10,000 and 15,000; 5 cents per inhabitant per year for population between 15,000 and 19,999;  $6\frac{1}{4}$  cents per inhabitant per year for

population between 20,000 and 29,999;  $7\frac{1}{2}$  cents per inhabitant per year for population over 30,000.

Third.—The town of Merheim granted the right to use one of its streets for \$750, a sum sufficient to make a few minor repairs.

The third suburban line operated by the city is intended mainly for freight traffic. The city is doing everything in its power to encourage the establishment of new industries. The Cologne-Ehrenfeld line was acquired mainly with a view to improving the freight connection with the state railways.

### *Nürnberg*

The city of Nürnberg did not come into full possession of its street-railway system until June 6, 1903. During the brief period of municipal management the city authorities have shown a degree of business capacity which promises to place the system in the front rank of the German street railways. As soon as the city obtained complete control of the situation, the construction of the new lines which the city had failed to obtain from the street-railway company was begun. Before the end of August two of the main lines were extended into outlying wards. The influence of the improved service in relieving congestion in the older portions of the city was immediately apparent. Two new lines to suburban towns were also begun without delay. The following

year (1904) the belt line, encircling the entire city, was completed through the construction of a section connecting the terminals of two existing lines.

The financial results of the first two years of municipal operation have been satisfactory. It must be remembered that the street-railway account is burdened with the interest and liquidation charges on the loan contracted for the canceling of the company's franchise. This means an annual outlay for thirty years of about \$138,000. In spite of this fixed charge, the street-railway department turned over to the general city treasury a net profit of \$13,669.89 in 1903 and \$38,263.91 in 1904. During the first year the expense per car mile was reduced from 13 $\frac{1}{3}$  cents to 12 cents, and the percentage of total receipts used for operating expenses was reduced from 48.7 to 47.2 per cent. As regards economy of management, the city can easily hold its own when compared with company management. The street-railway accounts under the two forms of management give ample evidence of this fact.

#### (b) FARES

The most difficult problem confronting the German cities which have embarked upon the municipal operation of street railways has been the adjustment of fares. During the last five years this question has been in the foreground of public attention. Unfortunately, the pur-

poses and policies which the city authorities had in mind at the time the street railways were taken over have had to be considerably modified, owing to the necessity of avoiding a deficit. In almost every instance one of the considerations, which was of no small influence in bringing popular sentiment to favor municipal ownership and operation, was the possibility of so adjusting fares as to subserve social as well as financial ends. It was constantly pointed out that with municipal operation the city would be able so to adjust fares as to influence migration from the densely populated central wards to the outlying districts. Unfortunately the movement for municipal operation came at a time of economic depression in Germany, which was also felt in the street-railway traffic. The first attempts to readjust fares with a view to influencing the distribution of population were followed by a marked decline in gross receipts. These two circumstances were immediately associated as cause and effect, and led most of the cities to return to the system of fares in force prior to the period of municipal management.

The two plans with which the German cities have experimented are:

First.—The uniform rate under which the same fare is charged, no matter what the length of ride.

Second.—The zone tariff, i. e., a system under which the rate of fare increases with the length of ride.

Prior to the period of municipal operation the zone



tariff was practically universal. This system, although sound from the standpoint of the financial interests of the companies, retarded the development of the suburban districts. In the agitation for municipal ownership much stress was laid on the possibility of introducing a uniform fare. Of all the cities that have tried this system, Nürnberg is the only one that has been able to retain it. Munich, Düsseldorf, Barmen, and Königsberg have tried it, but felt compelled, for financial reasons, to revert to the zone system.

The experience of Munich is particularly instructive. As soon as the lines became the property of the city a radical revision of the system of fares was undertaken. A uniform rate of  $2\frac{1}{2}$  cents was introduced for all distances within the limits of the older city—a maximum distance of 6 miles. With this fare the right to one free transfer was given. Beyond the old city limits the fare was 5 cents with one free transfer. We have already had occasion to point out the heavy financial obligations of the city toward the street-railway company which, combined with the fact that at the time of the beginning of city ownership the community was in the midst of a period of financial depression, explain the deficit of the first few years. The municipal authorities felt that the uniform fare was at least one of the causes of the unfavorable showing. A commission was appointed which recommended that the uniform fare be retained at  $2\frac{1}{2}$  cents for week days, but that on Sunday the fare be

increased to  $3\frac{3}{4}$  cents. It was furthermore recommended that commutation tickets be adjusted to the zone system. Monthly cards, valid for a distance not exceeding 2 miles, were to be sold for \$1.25, while cards permitting of a 3-mile ride were to cost \$1.87 $\frac{1}{2}$ . This plan was put into operation in July, 1903, but did not fulfill the expectations of increased income. The number of persons using the cars on Sundays dropped from 10,408,833 in 1902 to 6,933,450 in 1903. The people evidently were unwilling to pay the higher Sunday rate. The question was again referred to a commission, and in 1904 the city council decided to abandon the uniform fare and to substitute therefor a zone tariff. On October 16, 1904, the new system went into effect. The lines were divided into sections called "units," each  $\frac{2}{3}$  of a mile in length. The rate of fare for each unit was fixed at  $1\frac{1}{4}$  cents, with a minimum fare of  $2\frac{1}{2}$  cents. The fare for the maximum distance was fixed at  $6\frac{1}{4}$  cents. Free transfers on all lines are issued. In order to make the change more acceptable to the working classes, it was provided that from May 1st to October 15th the fare prior to 7 A.M., no matter what the distance, should be  $2\frac{1}{2}$  cents, and from October 16th to April 30th the same fare should obtain prior to 7.30 A.M. Monthly commutation tickets, valid for a specified "two-unit" ride ( $1\frac{1}{3}$  miles), are sold for \$1.50, for a "four-unit" ride, \$3. The holders of these cards may travel over these units as often as they desire.

Monthly cards good for the entire system are sold for \$3.75.

During the first nine months of the new system the financial results were relatively satisfactory. The gross receipts during this period increased \$16,156.60. Although the gross receipts were larger, the total number of passengers carried declined considerably. As compared with the nine months of the preceding year the decrease was nearly half a million (458,626).

Frankfort also has a zone-tariff system similar in some respects to the Munich system. The gradation of fares is as follows:

For $1\frac{1}{2}$ miles or less.....	2½ cents
Over $1\frac{1}{2}$ and less than $2\frac{1}{10}$ miles.....	3¾ cents
Over $2\frac{1}{10}$ and less than 3 miles.....	5 cents
For every $\frac{2}{10}$ of a mile over 3 miles.....	1¼ cents

Frankfort has done more than any other German city to encourage the migration of population to the suburban districts. In 1904 a special system of fares was introduced for apprentices, workingmen, and artisans whose income is less than \$500 per year. Cards for the six week days and entitling the holder to the use of a single section not exceeding  $1\frac{1}{4}$  miles are issued for 7½ cents. These cards must be used before 7.30 A.M.; at least the ride must be begun before that hour. Weekly cards, good for a morning ride over any portion of the system before 7.30 and a return ride in the evening,

are issued for 20 cents. Monthly commutation cards for unlimited use of a section not exceeding  $1\frac{1}{2}$  miles are also issued to workingmen for \$1.25. The city of Mannheim, imbued with the same desire to favor the housing of the working classes in the outlying districts, has adopted a plan which has proved most successful. Workingmen's <sup>1</sup> tickets, good for a  $2\frac{1}{10}$  miles' ride, are sold for  $1\frac{1}{4}$  cents, but these tickets can only be used from the suburban sections to the old city wall. A further ride must be paid for at the regular rate.

In Bielefeld special workingmen's cars are run during the early morning and evening hours. The fare is  $1\frac{1}{4}$  cents, no matter how long the ride (maximum ride  $5\frac{3}{8}$  miles). In Mühlheim on the Rohr workingmen's monthly commutation tickets are issued for \$1, good for the morning ride to and the evening ride from place of work.<sup>2</sup>

Cologne has recently introduced a new zone-tariff system, arranged as follows:

Fare for $1\frac{1}{2}$ miles.....	$2\frac{1}{2}$ cents
Fare for $3\frac{3}{8}$ miles.....	$3\frac{3}{4}$ cents
Fare for $5\frac{3}{8}$ miles.....	5 cents
Fare over $5\frac{3}{8}$ miles.....	$6\frac{1}{4}$ cents

With every fare exceeding  $2\frac{1}{2}$  cents a free transfer is issued. Four classes of tickets are sold:

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<sup>1</sup> These tickets are sold only to persons whose income does not exceed \$300 per year.

<sup>2</sup> Cf. Lindemann, *op. cit.*, p. 273.

First.—Monthly tickets over the entire system, \$3.25.

Second.—Monthly tickets over definite sections of the lines are arranged as follows: The entire system is divided into 81 “unit sections.” The charge for monthly tickets over three contiguous sections is \$1.25; for five sections, \$1.75; for seven sections, \$2.

Third.—In order to furnish workingmen with cheap transportation facilities, tickets good for use before 7 A.M. in summer and before 7.30 A.M. in winter are issued at the rate of six for  $7\frac{1}{2}$  cents.

Fourth.—Tickets for school children are issued for  $1\frac{1}{4}$  cents, good for any distance.

In Cologne, as in the other cities, holders of commutation tickets may use the lines as often as they choose. Nürnberg and Darmstadt are the only large cities of any size that still retain the uniform rate in their municipal railway system. The fare is  $2\frac{1}{2}$  cents. In the issuance of commutation tickets Nürnberg has departed from the uniform rate. Monthly tickets for two-mile sections are sold for \$1.50; monthly tickets for the entire system cost \$2.50. In Darmstadt the uniform fare of  $2\frac{1}{2}$  cents is only departed from on one line, on which the fare is  $3\frac{3}{4}$  cents.

The experience of some of the other cities in which the street railways are under municipal management is worthy of attention. Düsseldorf took over the street railways and immediately introduced the uniform fare of  $2\frac{1}{2}$  cents with right to one free transfer, and  $3\frac{3}{4}$  cents

with right to two transfers. Monthly commutation tickets for the entire system were sold for \$1.50. A special rate of \$1 was made for school children. The first year of municipal operation showed a deficit of \$33,963. After careful consideration the city authorities decided to abandon the uniform rate and adopted a zone tariff. This seemed to have no immediate effect, as the real cause of the deficit was the general economic depression. The attempt was then made to remedy the financial situation by diminishing the size of the zone unit. The increase in price, combined with the improvement in the industrial situation of the community, placed the system on a paying basis.

In Barmen the uniform  $2\frac{1}{2}$ -cent fare with free transfer was also introduced immediately after the municipalization of the street railways. Monthly commutation cards good for all portions of the system were issued at \$1.25. The maximum length of ride without transfer was  $4\frac{1}{2}$  miles. Under this system the street-railway accounts showed a chronic deficit amounting to \$220 in 1897, \$9,849 in 1898, \$5,312 in 1899, \$3,729 in 1900, and \$4,026 in 1901. In December, 1903, this system was replaced by a zone tariff under which the lines were divided into five zones of  $2\frac{1}{6}$  miles each. The rate for each zone was fixed at  $1\frac{1}{4}$  cents, with a maximum fare of  $2\frac{1}{2}$  cents.

In Königsberg the uniform fare system was in force during the first years of municipal management. In

April, 1903, the city authorities, in order to increase the receipts, introduced a combination of the uniform rate and zone tariff.<sup>1</sup> Within the limits of the city the uniform 2½ cent fare is retained; beyond the city limits 3¾ cents is charged.

#### CHARACTER OF SERVICE UNDER MUNICIPAL MANAGEMENT

It requires but very brief observation of conditions in German cities to be forced to the conclusion that "rapid transit" in the sense in which that term is used in American cities is unknown in Germany. Its absence has added greatly to the burdens of the municipal authorities, especially in increasing the difficulties of the housing and other sanitary problems. The failure to develop a system of rapid transit is not traceable to the shortcomings of municipal management. In fact, under municipal management conditions have been greatly improved.

The marked difference between American and continental cities in the efficiency of the service is traceable directly to the conditions of business life. Until comparatively recent years there was no definite line of demarcation between the business and residence sections of German cities. This condition is directly traceable to the industrial characteristics of the mediæval city in which the artisan's workshop and residence were in the

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<sup>1</sup> Cf. Lindemann, vol. ii, p. 266.

same building. Another factor of considerable importance is the relatively small area of the German as compared with the American cities. The incorporation of suburban districts which has taken place within the last ten years has greatly diminished the contrast, but the standards of traffic have not been made to conform to the changed conditions. The system of urban transportation in Germany fails to meet the requirements of the great industrial centers that have developed in recent years.

In most of the German cities the day cars are run at intervals of from four to eight minutes. On some of the most important lines the interval is reduced to three minutes, but more frequent traffic is unknown. After midnight the service is usually suspended until 5 A.M. The speed of the cars is from one third to one half less than in the United States.

It is true that greater care is taken of the comfort of the passengers, the number of persons permitted in each car being carefully designated. Nevertheless, the advantage of this attention to detail is relatively unimportant when compared with the disadvantages incident to the absence of a well-developed system of rapid communication which, by favoring a more equable distribution of population, would considerably simplify the most pressing social problems of the cities of Germany.



## LABOR CONDITIONS UNDER MUNICIPAL MANAGEMENT

One of the most notable achievements of municipal operation in Germany has been the betterment of labor conditions. The German cities undertook without delay to readjust the hours of labor so as to bring them within the ten-hour limit, and so to arrange the schedules that this ten-hour service should be as continuous as possible. This constituted a great improvement over the older schedules, under which the employees worked three and four hours at a time, and were thus compelled to be on duty considerably beyond the ten-hour period. Compared with the United States the wages seem surprisingly low. In the larger cities of Germany the average wage of motor men is 80 cents per day; of conductors, 75 cents per day. In Cologne conductors receive from \$22.50 to \$30 per month; motor men from \$29.50 to \$37.50, depending on the length of service. In case of disability arising from any cause, an annuity of \$175 is assured during the period of such disability. Munich pays the motor men and conductors 75 cents per day, which is gradually increased until, after five years of service, the maximum rate of \$1.25 per day is reached. This represents the wage condition in most of the cities in which the street railways are under municipal management. The hours of labor in all the cities are adjusted on a ten-hour scale.

In judging this comparatively low wage scale, it

must be borne in mind that the "fee" system still prevails in most of the German cities. Many of the passengers in paying their fare give to the conductor 5 pfennigs ( $1\frac{1}{4}$  cents). The motor man is entitled to a certain percentage of the fees received by the conductor—usually about 35 per cent. In this way motor men and conductors receive from 30 to 40 cents per day in addition to their regular wage.

Even with these additions the wage seems low compared with American conditions. The results of a special inquiry undertaken by the Census Bureau in 1902 show that 14 per cent of the conductors on electric surface railways in cities of over 100,000 receive from \$1.75 to \$1.99 per day, 62.1 per cent receive from \$2 to \$2.24, and 13.6 per cent receive from \$2.25 to \$2.49. Of the motor men, 12.9 per cent receive \$1.75 to \$1.99; 59.8 per cent receive from \$2 to \$2.24, and 19.8 per cent receive from \$2.25 to \$2.49. Although in Germany the wages of street-railway employees under municipal and private management are practically the same, there is considerable difference in the treatment of employees in case of sickness, disability, or death. In all the German cities special funds have been established, toward which the city treasury contributes each year a sum equal to a certain percentage of the employees' salaries. Cologne and two or three of the other cities have even undertaken to build dwellings for their employees.

## COMPARISON AND CONCLUSION

Any attempt to determine the success or failure of municipal management of street railways in Germany must be based upon a comparison of public with private management. A careful review of the experience of German cities will show that private control has been singularly unprogressive. This has been due, in part at least, to the onerous conditions under which the original franchise grants were made. The companies did not feel justified in incurring the risks involved in making improvements on a large scale or in extending the service into the outlying districts of the city. Impressed with the lessons of this experience we find the more recent franchise grants specifying minutely the streets over which the service must be extended.

The relation between the city and the street-railway corporations in Germany seems to be exactly the reverse of that in the United States. Here the companies are constantly seeking the right to extend their lines into new districts, whereas in Germany the municipal authorities are engaged in a constant struggle to secure from the companies an extension of the service. This difference in the attitude of the companies toward the extension of the service is due in part to the broader spirit of enterprise of American corporations, but the main reason is to be found in the fact that the German companies are aware that every new grant from

the city is accompanied by a demand for so large a percentage of gross receipts that net profits are considerably diminished. It is not surprising, therefore, that the German companies have shown a conservatism which is usually interpreted as lack of enterprise and inability to discount the future.

We have seen that the movement toward municipalization was largely determined by the antagonism between the cities and the street-railway companies, growing out of the desire of the city to secure a more rapid extension of the service. If, at the time they applied for the right to substitute electricity for horse power, the companies had more fully appreciated the value of the privilege, it is likely that they would have been more willing to accede to the wishes of the city authorities.

The process of municipalization was greatly facilitated by the fact that under the German law the accounts of public-service corporations are subjected to careful public control. The amount expended by each

COMPANY	Total capitalization	Length of line, including double-track railways	Capitalization per mile of road
Cologne Street Railway Company.....	\$1,368,625	50.5	\$27,101.48
Nürnberg Street Railway Company.....	1,570,000	29.0	54,138.28
Munich Street Railway Company.....	1,500,000	63.0	23,809.52

company for the construction and equipment of the lines is easily ascertainable. Every dollar of capital represents actual investment. The total capitalization of the companies whose lines have been recently municipalized is as given in the foregoing table.

The net capital liability per mile of track of the electric surface railways of the United States is \$92,114. In the cities with a population of 500,000 and over, the net capitalization per mile of track reaches the enormous sum of \$182,775. In New York City the capitalization per mile of track is \$259,542; in Chicago, \$109,537; in Philadelphia, \$165,085; in St. Louis, \$198,647; in Boston, \$97,353; in Washington, \$186,416; in Pittsburg, \$185,170, and in San Francisco, \$140,985.

The influence of this wide difference in capitalization on the expense account of street-railway lines under American and European conditions is readily apparent. The percentage of total income expended by American companies for interest and liquidation charges, and for the payment of guaranteed dividends to subsidiary companies, is considerably larger than that of the German companies. The table on the following page presents some data relating to Frankfort, Cologne, and Nürnberg. Accurate figures for the larger American companies are not obtainable.

Any attempt to review the results of municipal ownership would be incomplete without some reference to the effect on the civic life of the communities under

CITY	Interest and liquidation charges	Percentage of total expenditure
Frankfort.....	\$112,066.04	10.6
Cologne.....	204,000.00	17.0
Nürnberg.....	138,063.00	28.7

consideration. The introduction of electricity as a motive power greatly increased the possibilities of profit, and led the companies to exert the strongest possible pressure to secure a renewal of their franchises, combined with the right to use electrical power. In the struggle to secure these new rights one can detect the first traces of the insidious forms of corruption which have done so much to undermine the civic life of American communities. In a number of instances members of the town council were retained as attorneys for street-railway companies, and in one case an influential alderman of one of the larger cities was made a director of a street-railway company at a time when the company was seeking important privileges.

On the other hand, in those cities that have municipalized their street-railway systems there is no indication of corruption traceable to the large increase in the number of city employees. The civil-service system is so highly organized that the danger of political influence is reduced to a minimum.

Viewing the situation broadly, it may fairly be said

that the municipalization of the street railways has protected the German cities from the dangers involved in the desire of private corporations to secure control of local administration for the purpose of securing special privileges. In 1890 but few of the companies were declaring large dividends. In fact, the large return which they were compelled to make for the franchises under which they were operating made it necessary to exercise the greatest economy in order to make a fair profit on the capital actually invested. The new franchises, in offering to the companies far larger possibilities of profit, correspondingly increased the temptation to secure control of local policy. It is too early to predict whether the cities in which the street railways are still in the hands of private companies will be able to withstand the temptations which now beset them.

Are these lessons of German experience of any real value to our American municipalities? The answer to this question is a matter of far more than theoretical importance. Partly because of the feeling of irritation aroused by the corrupting influence of public-service corporations on the civic life of American communities, but mainly owing to a general awakening to the possibilities of improved service in urban transportation and in gas- and electric-light services, the public mind is anxiously turning to municipal ownership and operation as a possible solution.

In any comparisons with German conditions, it is important to bear in mind that the American public demands more rapid service than the German. The present unrest of American public opinion is due to the fact that the requirements as to the standard of service are being raised with such rapidity that the overcapitalized corporations are unable to maintain the pace to which they have been forced during recent years.

Although the discussions in favor of municipal operation are being grouped about the possibility of large financial returns to the city treasury, it is not likely that this argument will stir the American people to any drastic measures. To secure united action, appeal must be made to the desire for improved service. Whatever may be said against American street-railway corporations, no one will deny that they have given far better service than the German companies. It is true that they have been given greater freedom in the development of the service, and also that the public demands, especially as regards the rapidity of the service, have been considerably higher than in Germany. In any case, however, municipal operation in the United States would have to bear the test of a higher standard of service than in Germany. Any attempt to apply the lessons of German experience which does not keep this difference in mind is certain to be misleading rather than helpful.



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## CHAPTER XIV

### MUNICIPAL OWNERSHIP AND OPERATION: THE VALUE OF FOREIGN EXPERIENCE

IN all matters affecting municipal organization we have now reached a point at which it is possible to secure a calm, dispassionate discussion of the elements entering into the present situation, but the moment we enter upon questions connected with municipal activities, we seem unable to eliminate traditional prejudices. Whenever the experience of foreign cities with municipal ownership and operation is discussed, the only question in which we seem to be interested is whether this experience proves or disproves the desirability of this policy for American cities. We are not satisfied unless we can find some general principle applicable to all conditions and in all circumstances.

It is clear that we cannot hope to arrive at any sound conclusion in this matter unless we are willing to apply the same methods that have gradually worked their way into the discussion of questions of municipal organization. We must be prepared to accept as final that there is no one general policy applicable to all the cities of the United States, and that the most we can do

is to make a dispassionate analysis of the different elements that must enter into the final judgment on any local situation.

The experience of foreign cities is certainly one of the elements to which consideration should be given, but the way in which foreign experience is now being used bids fair so to confuse the public mind that, unless we are willing to deal with it in an entirely different spirit, its use is likely to do more harm than good. The advocates as well as the opponents of municipal ownership are constantly citing European conditions, and each side is able to array a group of facts to support its position.<sup>1</sup>

The advocates of municipal ownership point with enthusiasm to the reduction in the burden of taxation, the lowering of charges to consumers, the greater economy of operation through lower interest rates, the improved condition of employees, and the broader social policy directly traceable to the substitution of public

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<sup>1</sup> The morning this chapter was begun I received two publications which illustrate the difficulties involved in the use of foreign material. A work entitled "Municipal Ownership in Great Britain," by Prof. Hugo Richard Meyer (340 pages, Macmillan Company, 1906) is devoted to proving the thesis that municipal ownership and operation in Great Britain has been a failure from almost every point of view. On the other hand, a monographic study by Frederic C. Howe, entitled "Municipal Ownership in Great Britain"—which is the result of a special investigation conducted under the auspices of the United States Bureau of Labor—is replete with evidence pointing to exactly the opposite conclusion. This monograph is published in the Bulletin of the Bureau of Labor for January, 1906.

for private ownership and operation. They emphasize the impossibility of securing from private companies the improvements that were carried out as soon as the cities took over these quasi-public services, and they point with much satisfaction to the better coördination of municipal policy directly traceable to this extension of functions and the record of achievement in improving the social well-being of the population.

On the other hand, the opponents of municipal ownership point to the terrific burden of local indebtedness under which the cities which have adopted this policy are now staggering. They endeavor to prove that instead of relieving the burden of taxation, the actual effect has been to increase it; they maintain that, owing to a faulty system of accounting, the profits reported are fictitious rather than real, and finally they draw a lurid picture of the extravagant increase in municipal employees since the inauguration of this policy. No wonder that the average citizen turns wearily from this mass of conflicting testimony, convinced that no guidance can be secured from these real or supposed facts, and resolved to settle the question without reference to foreign conditions.

It seems unfortunate that the self-interest and prejudice which have obscured the real issues involved in this great question should prevent us from availing ourselves of the mass of valuable experience that both British and Continental cities have accumulated during the last

twenty-five years. To make this experience helpful, however, it must be used with the greatest care and discrimination. The best introduction to a proper estimate of its value is an analysis of the causes that have led to the present movement for municipal ownership in European countries. It is both an interesting and a significant fact that the same combination of causes is everywhere apparent. The movement for the municipal ownership of gas and electric lighting, but particularly of street railways, is directly traceable to the failure of private companies to furnish the kind of service which the inhabitants of the cities demanded, and had the right to expect. Particularly in Germany, the history of the relation between municipalities and public-service corporations is one long story of crimination and recrimination.

The indictment against the public-service corporations was none too strong, and fully justified the step taken by the leading municipalities in these two countries. In order, however, properly to interpret the situation, we must know something of the conditions under which these private companies were operating. The original franchise grants were made for relatively short terms, ranging from twenty-five to forty years, and were usually accompanied by the requirement for payment into the city treasury of from three to eight per cent of the gross receipts. The relatively large financial return, combined with the comparatively short fran-

chise period, discouraged the companies from taking any large risks, especially in extending the service into new and relatively sparsely settled sections of the city. This natural conservatism has been interpreted as an indication of the inability of the companies to meet the requirements of the local service.

The faith in private ownership was further weakened by the reluctance of the companies to make the change from horse to electrical power. In both Great Britain and Germany, but particularly in Germany, the introduction of electrical traction came toward the close of existing franchise grants, and it is not surprising that the companies refused to make the large capital investment which the change required unless they were assured either of an extension of the franchise period or of adequate reimbursement for the capital outlay. It is, therefore, manifestly unfair to ascribe all the shortcomings of corporate service to defects inherent in corporate management. In fact, the most important are directly traceable to the stringent conditions under which franchises were held, and the unwillingness of the municipalities to make further concessions to the companies. This experience contains a valuable lesson for American municipalities, and furnishes an indirect and somewhat unexpected argument for the advocates of municipal ownership. The universal experience of European countries has been that as the terms of franchise grants are made shorter, and the financial pay-

ments for such grants increase, the service performed by private corporations deteriorates, while the initiative and enterprise which lead them to experiment with new methods and devices are stunted, if not totally destroyed. The willingness of American corporations to take great risks, and even to sacrifice considerable invested capital for the purpose of ultimate economy, is due very largely to the fact that until recent years they have been permitted to plan for a service upon which no time limit was placed.

If the reform in the method of franchise grants becomes general, as it bids fair to do, we are likely to experience a marked change in the policy of the public-service corporations. The short-term franchise to the highest bidder assures to the city an adequate money return for the privilege granted, but tends to discourage the companies from incurring large risks in the extension of the service. It is not unlikely that municipal ownership will come all the more quickly because of the difficulties and antagonisms that are certain to grow out of this more careful safeguarding of public franchises. From these facts several lessons may be drawn:

First.—In the adjustment of the relation between public-service corporations and municipalities there is constant danger of overemphasizing financial considerations to the detriment of the larger social ends which all these services should perform. This does not mean a reckless granting of franchises, but rather a clearer

perception of the fact that money payments are not the only, and in fact not the most important form in which a community may receive an adequate return for franchise grants. European cities have overemphasized the financial return, and the same danger confronts American municipalities. It is true that our American communities have received a totally inadequate money return for the valuable privileges which they have granted, but it is equally true that the inhabitants of our cities have profited to no small degree by the spirit of enterprise and the readiness to make sweeping improvements in equipment which have characterized the policy of the larger public-service corporations in the United States.

Second.—Inasmuch as most American cities are now committed to a policy of short-term franchises, the experience of every European city teaches the necessity of inserting in the grant a reserve power on the part of the municipality to require the companies to make certain definite extensions of service each year, or at least to fix the minimum requirements for such extensions.

Third.—Even with all these precautions, it is more than likely that American cities will repeat the experience of European communities. The antagonism between the local authorities and the public-service corporations, arising out of the interpretation of the reserved power of the municipality, will develop to such



a point as to make municipal ownership the only possible solution. The numerous controversies between the city of New York and the Interborough-Metropolitan Company illustrate this danger.

Another series of lessons to be drawn from European experience relates more particularly to the effect of municipal ownership on local finance. Much has been said and written on this question, and the testimony presented by the advocates and opponents of municipal ownership is of the most conflicting character. The opponents of this policy have drawn a depressing picture of the extraordinary increase in municipal indebtedness and the inordinate increase in taxation in those countries in which municipal ownership has been tried. As a matter of fact, in all the European countries in which municipal ownership has received general recognition, particularly in Germany and Great Britain, the increase in municipal indebtedness caused by the adoption of this policy does not represent a real burden on the community, as both the interest and the sinking-fund charges of this portion of the debt are defrayed, with very few exceptions, from the receipts of the various services. The increase in taxation is traceable to public improvements, such as the betterment of school facilities, repaving of highways, improved organization of police service, etc., from which no direct money return is secured.

The failure to distinguish between the two types of

municipal services—the financially productive and the financially unproductive—has befogged the real issue, and has in some cases prevented the consideration of the question of municipal ownership on its merits. The experience of the European countries points to the necessity of distinguishing between that portion of the city's indebtedness which represents investments in reproductive enterprises and that portion which is used for financially unproductive services. The constitutional limitations on local indebtedness, because of the failure to make this distinction, are hampering the normal growth of American municipalities. They served their purpose in checking that spirit of speculation and wild-cat enterprise which for a time threatened the stability of our system of local finance. This danger is now happily past, but the perpetuation of the old restrictions is a real obstacle to progress and places our municipalities at the mercy of the public-service corporations. It will be difficult to secure the repeal of these constitutional limitations, but it is imperative, if this question of municipal ownership is to be dealt with on its merits, that a distinction be made between productive and unproductive enterprises, and that the limitations on that portion of indebtedness incurred for reproductive enterprises be removed. This plan was proposed by the Committee on Municipal Program of the National Municipal League, and the wisdom of this proposal is making itself more apparent each day. In modified form

it has been inserted into the State Constitution of New York.

The most serious objection advanced against the policy of municipal ownership and operation in the United States is the lack of an administrative organization, and particularly of a civil-service system adequate to bear the additional burden which such extension of function would involve. The picture of extravagance, corruption, and misrule which is held up to us as the inevitable accompaniment of the extension of municipal powers has done more than anything else to check the spread of sentiment in favor of municipal ownership. On this point the experience of the municipalities of Great Britain and Germany is particularly suggestive and valuable.

The first thing that is impressed upon every student of foreign municipal institutions is the small number of elective administrative officers and the relative permanence of tenure of the heads of executive departments. In the United States we have proceeded on the assumption that popular government means short term of office and, to a certain extent, rotation in office. We are but beginning to appreciate the fact that there are certain portions of our political system in which the plan of popular election and short tenure defeats rather than promotes the real intent and purpose of popular government. Considerable sections of the country have already become convinced of this fact, so far

as the election of judges is concerned, and in our largest cities the application of the elective principle to heads of administrative departments is being gradually restricted, although in no case have we as yet reached the point at which the management of a great city department is looked upon as a career to which a man may give the best years of his life with the assurance of permanent employment. Under our present system the term of office is so short that the head of a municipal department hesitates to propose large plans for improvement, because of the relative certainty that he will be unable to carry these plans to successful conclusion.

The American people must, sooner or later, develop a new concept of popular government, in which the prominent factor will not be the election of officials, but rather that control of organized public opinion over the administration of public affairs which is, after all, the essential element of a vigorous democracy. On this point the lessons of foreign experience are clear and unmistakable. The administration of executive departments in the German, and particularly in the English cities, shows a sensitiveness to every stirring of public opinion, which is in marked contrast with the apparent indifference so often shown in similar departments in our American municipalities. The fact that a head of a department is staking his career on the successful management of one branch of the public service makes him eager to meet every public demand. It is clear,

therefore, that if our American municipalities are to extend their functions through the management of such quasi-public services as street railways, gas, and electric light, we must be prepared to accept an administrative organization under which the heads of executive departments will hold office during good behavior.

It is also evident that if these services are to be efficiently performed we must develop an organization of the civil service on a basis similar to that of European cities. That there is no insuperable obstacle to the attainment of this end is sufficiently attested by the rapid strides of the civil-service reform movement in most of our large cities.

It is important in this connection to examine the experience of foreign cities on one of the points most strenuously urged against municipal ownership and operation. We are told that this policy means a dangerous increase in the number of municipal employees. The danger that is pointed out is twofold. In the first place, the increase in employees introduces an element of political danger because of the activity of these officials in the civic life of the community. Although foreign cities have suffered to a very slight extent from this cause, it must be kept in mind that the immunity has been due largely to the fact that their civil service has been organized on a permanent basis and administered under the merit system.

The opponents of municipal ownership also lay

much emphasis on the fact that the extension of municipal functions will mean not only a corresponding increase in the number of offices, but that the extravagance which characterizes municipal operation will lead to the addition of a great number of unnecessary employees to the city's payroll. It is often charged that this has taken place in the British cities, but all the available evidence shows conclusively that this charge is unfounded.

A third and equally serious question connected with the municipal employment of labor is the influence of organized labor in securing from municipalities better conditions than they can secure from private corporations and individuals. It is pointed out that unskilled labor under municipal ownership enjoys a position of special privilege which is unfair to the great mass of the laboring population.

The experience of every European city shows that the change from private to public ownership and operation has always been accompanied by a betterment of labor conditions, and that this improved condition has set a standard to which other enterprises of a similar character have been gradually forced to conform. This sensitiveness to the demands of labor organizations may place municipal industries at a certain disadvantage when in competition with private companies, but the ultimate effect on the general labor situation is salutary rather than otherwise. In but few instances have unrea-

sonable demands been complied with, and even where this has occurred the situation has usually corrected itself by subsequent readjustments.

Another lesson of equal if not greater importance, and as to which foreign experience speaks with no uncertain voice, relates to the system of municipal accounting. In every British and Continental city each public work is regarded as a separate industrial enterprise, and the accounts are kept accordingly. In fact, if not in law, the accounts of the municipal undertaking are kept in exactly the same way as if the enterprise were under private management. Until all the charges for repairs, depreciation, interest, and liquidation are met there is no thought of profits. The result has been that the industrial enterprises in both German and English cities have been maintained at a high point of efficiency. The besetting danger of municipal operation in the United States has been the desire to reduce the tax rate through the profits of industrial enterprises. This temptation has been so great that in a number of instances the efficiency of the municipal plant has been destroyed by the desire to make a large part of the gross income available for general city purposes. The most notable instance is the Philadelphia gas works, whose decline was not due so much to technical mismanagement as to the refusal on the part of the city council to permit it to be managed on a business basis. Gross profits, which should have been used

for repairs and renewals, were used for general city purposes. The city council persistently refused to make the appropriations necessary to keep the plant in good condition. Unless our American municipalities are prepared to make the system of accounting of their industrial enterprises as businesslike as that of European cities, there is little or no hope that municipal ownership and operation can be successfully carried out.

A final lesson of a negative rather than of a positive character relates to the policy to be adopted in fixing the cost of service to the consumer. It has been pointed out time and again that the industries usually referred to as public-service industries occupy an exceptional position because of the special franchises or privileges necessary for their operation. While this is true, a far more important fact is often lost sight of, namely, that these industries are capable of subserving certain broad social purposes, and that it is within the power of the municipality so to adjust the cost of service that these larger social ends will be attained. It is one of the commonplaces of social economy that the transportation service is the best means of relieving congestion of population, and that the gas supply can be made one of the most effective means of influencing the habits and customs of the people. In the transportation service the plan adopted in most of the large European municipalities has been to adjust the fares under a zone tariff, thus increasing the cost of service



with the increase in the length of ride. Although this has given satisfactory financial results, it has prevented the municipalities from performing their greatest service to the social well-being of the community, namely, to induce the population to move into outlying and less congested sections of the city. It is true that the uniform fare of our American cities is relatively high, and is no doubt a considerable tax on the short-distance passenger, but it is a tax which ultimately redounds to the social welfare of the community in contributing to that more equable distribution of population so necessary to social advance.

As regards the gas supply, it is evident that a reduction in the price of gas so as to permit the substitution of the gas stove for the coal stove is certain to have a far-reaching influence on the diet of the poorer classes. In this respect the British municipalities have done splendid service. The readiness with which food is heated on the gas range as compared with the effort to start a coal fire makes it possible to introduce a far larger proportion of warm, cooked food into the workingman's diet. The record of achievement of the British cities is an indication of the tremendous power of the city in furthering social welfare.

These are but a few of the many instances in which the municipality in the management of its public-service industries is able to influence profoundly the industrial efficiency, the social welfare, and the general well-being

of the community. Although the sum total of actual achievement in American cities is meager, the general principle involved is one of the highest importance; the full import of which we have but begun to appreciate.

Whatever lessons may be drawn from foreign experience—and they are numerous and important—no one will contend that this experience can do more than throw an interesting side light on the problems that confront our American cities. The final choice between private and public ownership and operation must be made on the basis of our own peculiar conditions. In this choice, factors which are entirely absent in European countries will play an important part. We must recognize, in the first place, that the attitude of the American people toward the city is totally different from that which prevails in the countries of Europe. With us city government is a negative rather than a positive factor. We look to it for the protection of life and property, but it is with considerable reluctance that we accept any extension of function beyond this limited field. In Europe, on the other hand, the city is a far more positive force in the life and thought of the people. The inhabitants of European cities look to the community in its organized capacity for the satisfaction of new commercial needs as they arise. With us in the United States the presumption is against any extension of municipal functions, and it requires con-

siderable pressure to induce the population to accept an increase in municipal powers.

The immediate bearing of this contrast on the question under consideration is that municipal ownership in the United States is regarded as a last resort, to be used only after all efforts to secure efficient service through private management have been exhausted. This of itself is an assurance that any experiments that may be made will be conservative. Whatever our attitude toward the question of municipal ownership and operation, the country as a whole is interested in having such experiments made. It is a grave mistake—especially on the part of the representatives of the public-service corporations—to decry such movements as socialistic and as foredoomed to failure.

We must also bear in mind that in most of our large cities municipal ownership is practically impossible. Given the numerous constitutional restrictions, the financial resources of our cities are now so limited that the repurchase of franchises belongs to the field of academic discussion rather than to practical politics. It is possible that we shall find a way out of this difficulty through constitutional amendments which shall distinguish between unproductive and reproductive enterprises, but it is evident that the sentiment of our American communities is still so strongly opposed to an increase in municipal indebtedness that even this plan is not likely to receive very general acceptance.

In spite of all these difficulties and dangers, there is every indication that the sentiment in favor of municipal ownership, and even of municipal operation, will acquire increasing force with each year, due primarily to the influence of one of the factors to which little attention has been given, namely, the opposition to monopoly. We are not concerned in this connection with the justification for this feeling. That it is an important factor in the situation is attested by the popularity of every political platform that emphasizes opposition to monopoly. In order to gauge the strength of this feeling at its true value we must always bear in mind that the American people, in inheriting the traditions of the English common law, also inherited that opposition to special privilege upon which some of the most distinctive features of the common law rest. This feeling has been intensified in the United States by the gradual consolidation of competing public-service corporations. Unless the signs of the times are fundamentally misleading, there is every indication that this opposition to monopoly will force some of our American communities to override all the difficulties and dangers of municipal ownership and operation. Whether justified or not, there is a growing body of opinion that the people of our cities will in no other way escape the tyranny of local monopolies.

While it is true that the experience with municipal ownership and operation in the United States has not

been uniformly encouraging, it is also true that any experiments that may be made now will be carried on under more favorable conditions than at any previous period. Our cities are far better organized than they were fifty years ago. Their administrative system is more stable, and public opinion is far more exacting in its control over administrative departments. Municipal operation of the public-service industries involves some dangers and many new responsibilities, but it is not at all unlikely that in the effort to meet these new responsibilities we shall place the civic life of our American cities on a higher plane. Civic improvement in the United States has always followed in the wake of new responsibilities, and there is every indication that the experience with municipal ownership will prove no exception to the rule.

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