

PRESENT-DAY PAPERS.

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THE GOVERNMENT OF CITIES IN THE UNITED STATES.



THE question of city government divides itself naturally into two parts. First, what ought a city to undertake to do? Secondly, under what form of organization ought it to try to realize the purposes of its existence? The first of these questions is pertinent, because in the eye of the law a city is altogether an artificial creation. It is in fact what it is sometimes called, a municipal corporation. Nothing is better settled in every State in the Union than that the legislature of the State, unless it be limited by the State constitution, has absolute and arbitrary control over a city's charter. The State may grant a city charter or revoke it. The State may enlarge the powers granted to the city or it may diminish them; it may assign duties under the city charter to officers elected by the people, or to officers named by the governor, or designated by itself. In other words, the municipal corporation is the creature of the legislative power of the State precisely as any other corporation is; though it must be admitted that powers are usually granted to municipal corporations as agents of the State different in kind from powers granted to other corporations. Both of these characteristics must be borne in mind because many of our misconceptions concerning cities have arisen from the absence of close thinking concerning their nature. It has been customary in popular thought to emphasize the aspects of a city in which it is merely an agent for the State almost to the exclusion of those aspects of the city in which it is merely a corporation organized to attend to its own business. In consequence, our cities have been organized as though they were, in themselves, little states. The business side of their activity has been almost lost sight of both in the framing of the charter and on election day. It is important, therefore, to remember that a city has not a single attribute of sovereignty. The legislature of the State has unlimited authority as representing the sovereignty of the people,

except where the authority is limited by the people speaking through the State constitution or through the Constitution of the United States. In other words, there is not the slightest resemblance between a city and the work which it is called upon to do under its charter, and the governmental work either of one of the States or of the United States.

A BOARD OF DIRECTORS.

It would clear away much misconception if the popular body in cities, instead of being spoken of and thought of as a local legislature, could be looked upon and considered as a board of directors. One of the most important grants wherein the powers of such a body in cities seem to pass beyond the functions of a board of directors is the right to adopt ordinances which are enforced by the police; but even as to this power it is to be borne in mind that city ordinances have no original authority. They are constantly declared invalid by the courts because they contravene statutes of the legislature or deal with matters not covered by the grant of power to the city corporation. The inferences to be drawn from this discussion are two. First, that the whole question as to what ought to be the business of the city, and as to the best method of conducting this business, is fairly open to discussion; second, that the question is one involving good judgment only. It does not involve the liberties of the people or touch any of the inherent rights of citizenship.

ATTITUDE OF LEGISLATURE.

MANIFESTLY there are three attitudes which the legislature may hold as towards the government of cities. It may devolve upon the people of the city, through their charter, complete control of all their affairs, including the right to borrow money, to undertake public

works, to carry on, as part of the business of the municipality, water-works, gas-works, street railroads, or, for that matter, anything which the broadest interpretation might conceive to be properly municipal business. A striking illustration of the extent to which a legislature has been willing to go in granting to a city unusual powers of a business character is afforded by Cincinnati. The city of Cincinnati, under the authority of the legislature of the State of Ohio, has constructed a railroad, the Cincinnati Southern, three hundred miles long, across the States of Kentucky and Tennessee from Cincinnati to Chattanooga, so that, of the whole road, a single terminus only is in the State of Ohio. Naturally the city of Cincinnati was obliged to comply with the railroad laws of Kentucky and Tennessee in securing the right of way and the like, precisely as any other corporation would have done; but the striking fact is that an Ohio city was authorized to expend eighteen or twenty millions of dollars outside of the limits of Ohio simply to enlarge its business facilities. Plainly this was a grant of business, not of governmental, powers. Again, the legislature may give to the city the smallest possible control of its local affairs, interfering arbitrarily in the details of its action, compelling the undertaking of public works by mandatory acts, appointing special officers or commissions for the discharge of local duties, and the like. In Tennessee the city of Memphis has surrendered its charter, and the business and governmental work of the former city are carried on by a State commission having charge of what is known as the Memphis taxing-district. Or yet again, the legislature may seek to find between these two extremes some mean which, taken as a whole, promises the best results. In Europe, both in England and on the continent, still another method has been resorted to. The local authorities have been given extensive powers the use of which is subject to review by a central administrative board. So far as I am aware, the American objection to centralization has prevented any resort here to this method.

It probably is a safe generalization to say that early American charters gave to the cities a large measure of home rule; in some cases, apparently, including the right to borrow money without specific authorization, and generally to control their local affairs pretty much as they pleased, though the business activities of such cities, so far as public works are concerned, were limited, for the most part, to the conduct of water-works and public markets. But these in the early days were almost the only business enterprises into which cities were likely to be tempted. No one will deny that a charter with large powers is the ideal charter, to be worthy

of which every city ought to strive. But it must not be forgotten that this type of charter has been largely abandoned in the United States, because experience has shown that under the conditions actually existing, certainly in our large cities, the city government has not shown itself worthy to be trusted with powers so extensive. The great failure, which has made every other possible, has developed in the popular body which men are so apt to speak of as the city legislature. Should men learn to think of the common council as a board of directors rather than as a legislature, much would be gained. The moment this name is given to the body it becomes apparent why the business of cities has been so frequently mismanaged. No business within the city could be successfully managed by the bodies to whom has been committed oftentimes the oversight of city affairs. Often they have been found wanting both in intelligence and in integrity, and until some way is discovered to procure for cities a popular body for the conduct of their business which will command public confidence and regard, it seems to be idle to claim that enlarged inherent powers should be intrusted to them. It is claimed, I know, that better men would be selected for these bodies if the work committed to them was of sufficient importance to be attractive to better men. There is doubtless an element of truth in this proposition. But the Biblical rule would appear to be the sound rule for cities as for individuals; one must be faithful over a few things before he is made ruler over many things; and until our American cities demonstrate their capacity to do a few things well, it would seem to be clearly unwise to enlarge their inherent powers upon the theory that because they have not done a little well they still would be able to do a great deal well.

HOME RULE FOR CITIES.

NEVERTHELESS the demand for home rule for our cities, within well-determined limits, is undoubtedly based upon experience, and ought to prevail. When city government first failed to give satisfaction, the earliest and not unnatural appeal of the inhabitants of the city was made to the State. Most of our States — perhaps all of them — have tried to remedy the miscarriage of city government in three ways. They have created special commissions having their authority directly from the State, to do local work which under a proper city government would be performed by city officials. The States have passed mandatory laws compelling localities to undertake public works whether they wanted to or not, and they have interfered generally in the details of city action

to an inconceivable extent. Sufficient experience has been had of each of these remedies to make it perfectly clear that the remedy is worse than the disease. It is distinctly worse, because, while it has worked no benefit in the long run to the cities, it has carried into the legislature, and spread measurably throughout the State, the corruption which might otherwise have been limited to the locality. These three points, therefore, appear to be clear: first, when unusual work is to be done which cannot readily be carried forward by the ordinary officials of the city, the city and not the legislature should determine the men by whom the work is to be carried on; secondly, the State constitution should prohibit the legislature from passing mandatory laws to compel a locality to undertake public works to be paid for by the locality; and thirdly, the legislature should not be permitted continually to interfere to suspend or alter the city charter. A commission appointed by the legislature is responsible to nobody but the legislature; neither the governor, nor the mayor, nor any other authority, can call it to account, and therefore a State commission for any purpose other than inquiry is one of the most dangerous of bodies, for the reason that it exercises authority unchecked by any effective responsibility. But while it seems clear that the legislature ought not to interfere in the details of city management, it seems equally clear that the power of the purse intrusted to cities should be closely limited and clearly defined. The commission on cities appointed in New York State by Governor Tilden called attention to the strange anomaly that, whereas in the town meeting money could not be borrowed without a vote of the taxpayers, the moment a town was converted into a city, and its borrowing capacity thereby increased, all checks and hindrances upon the exercise of the borrowing power were immediately abandoned. In other words, there appears to be necessity, under existing conditions, of limiting the amount of debt which a city may legally incur. I know of no better form for this limitation to take than a percentage on the assessed valuation, though the objections to this form are manifest and not without force. There is indeed the recourse which has been successfully practised in some places of permitting the creation of debt only after an affirmative vote by the people. In some communities this provision probably would stint more than the other, but there appears to be no other objection to it. It is a very difficult thing to convince an immense population of the necessity for a great public work, especially when, as is almost always the case, some parts of the city inevitably will benefit more directly from the undertaking than other parts. I am in-

clined therefore to favor rather, under existing conditions, the limitation of the city debt to a percentage on the assessed value for the purpose of taxation. But even within that limit it is not sure to be safe to give to the local authorities a free hand. Certainly they ought to be free to provide adequately for all the current and ordinary business of the city. But there will be times when public works of great desirability, not within the ordinary scope of the charter, must be authorized to be undertaken. In such cases, subject to the limitations upon the legislature already indicated, there appears to be no better way at present available than to secure from the legislature the special authority needed. Laws granting such powers ought always to be permissive, and should lodge with some authority within the city, which authority should be directly responsible to popular control, the duty of deciding whether or not action should be taken under the law.

It is not the purpose of this paper to discuss the question whether a city should or should not manufacture its own gas, and either build or conduct its own street railroads. These matters are altogether questions of expediency. The city surely is fortunate which is competent to do things of this sort for itself; but few American cities have manifested so great competency in other directions as to justify a very strong inference that they would administer successfully business of this kind. Yet the ideal doubtless is that they should do so. A city can borrow money so cheaply that the temptation is great to take the risk. The chief obstacle to movement in this direction is the spoils system, which makes even a messenger's place in the municipal service depend upon party victory. Selections for fitness and permanency of tenure based upon faithful service must become the rule in city employment, as it is in private employment, before cities can be wisely charged with duties on behalf of the public not absolutely essential. So much may be ventured as to the general powers to be intrusted to the municipal corporation.

FORM OF ORGANIZATION.

ATTENTION is asked now to the form of organization under which cities in the United States may hope to realize the best results in the conduct of the affairs committed to them. It is proposed to speak in particular concerning the financial and executive sides. All efforts to secure a common council composed of men who by character and experience are competent for the duties which ought to be committed to them thus far have been singularly unsuccessful. Aldermen have been elected on general tickets, on district tickets, and on

ward tickets. They have been elected to serve without pay and with pay, but under no system have satisfactory results been permanently achieved. Honorable exceptions there always are, but I speak of the bodies as a whole. It is easy to say that better results might be achieved if the representative were not compelled to reside in the district he represents, but it is not easy to point out an effectual remedy in the presence of American political habits for the restrictions which this demand imposes. Neither is it at all clear that under existing conditions men widely different in type from those to whom we are accustomed could be secured here by such a change. It has been suggested that a large body, say of one hundred members or thereabouts, might prove better than a small one, provided that none other than deliberative duties were demanded of it. The decision of such a body on matters requiring discussion might be more free and more intelligent, and less easily subject to manipulation from outside, than the decisions of a smaller body similarly composed. On the other hand, any attempt to secure good executive work from such a body would be worse than fruitless. This body ought, however, to have unlimited powers of inquiry, and the mayor and all other city officials ought to be obliged to answer any questions concerning the public business which such a body might be disposed to ask. It probably would work well to make it the duty of the mayor and of all other executive officers to attend the sessions of this body, to give to it such information as might be helpful in the conduct of its business, and to answer questions.

FINANCIAL METHODS.

ON the financial side of organization a system has been devised for New York and Brooklyn which has successfully overcome many of the evils from which those cities formerly suffered. At one time the common council had substantially complete control of the accounts. They could transfer balances from one account to another; they could increase appropriations at any time during the year; and they could authorize the incurring of debt with a free hand. The result was that favorite departments of the city government would be gorged and those not on good terms with the aldermen would be starved. The power to increase appropriations at any time resulted in wasteful extravagance, and the authority to borrow money was used to keep the tax rate down, while postponing the payment of current expenses through the issue of bonds. At the present time, in these two cities, there is a board of estimate consisting of three or four of the principal officers of

the city. This board annually prepares a budget for the ensuing year. The meetings of the board of estimate are public, and they have authority to summon before them for explanation of any estimate all city officers. This budget when prepared cannot be increased by the common council. In New York that body has no authority over it whatever. In Brooklyn the common council may reduce any item, but they cannot enlarge any item, neither can they introduce any new items. Obstruction of the public business, which the council, in former times, was inclined to resort to, by declining to approve any budget at all, has been made impossible through the provision that unless the common council act by the first Monday in October, the budget stands finally as submitted by the board of estimate. All authority has been taken from the common council to transfer money from one account to another, and all funds raised for administrative purposes are under the control of the head of the department without interference on the part of the common council; neither is there any power left anywhere to provide for current expenses otherwise than through the tax levy. The operation of this system has been good at every point. It has shown, among other things, that a very large part of the annual tax levy in these cities arises from items beyond the reach of a board of estimate, such as interest on the city debt, the State and the county taxes, although the provisions of the same system have been extended to the details of estimates for the two counties. On the other hand, as to those parts of the budget which are within the control of the board of estimate, a wholesome sensitiveness prevails that no extravagance shall be justly charged to the members of that board. The principle of responsibility has been brought to bear here with most wholesome effects. The board of estimate in Brooklyn, for example, consists of the mayor, the comptroller, and the city auditor, with two others representing the county, all of whom are elected officials, and every one of whom in case of renomination is liable to be compelled to defend his attitude in the board of estimate. Another good effect has been largely to relieve the executive departments from a kind of interference on the part of the common council which tended only to a division of responsibility and a loss of efficiency. This system and the beneficent results which have followed it are a striking commentary on what has been already said as to the failure of the representative body in cities to show itself worthy of any considerable deposit of power. It is to be remembered that this situation has grown up, not by intention, but by taking away from the common council, one after another, powers which it had abused. In Brooklyn only

two considerable powers of a financial character are left with that body: the first is the duty of ordering unusual work to be done, such as the extension of the water-works, or the erection of a building after the money has been raised for that purpose; the second is the right to grant franchises. In New York City the common council has been shorn of almost every power, in part even of this last. Since the scandal concerning the Broadway railroad it is now the law that all charters shall be sold at public auction. It is not entirely clear that either city would suffer, under existing conditions, by the abolition of its common council. It is certainly pitiful that this should be so, because the useful functions which such a body might discharge, if only it were competent and trustworthy, are many and various. In the matter of city franchises one radical change ought to be made. At present the attitude of the city in granting franchises is entirely negative. The city is allowed to give or to withhold consent to something which somebody wants to do. The proper attitude for the city is just the reverse of this. Its officials should determine what the city's interests demand, and be enabled to offer at public auction a perfected right to supply that demand. Such a sale should be, in fact, a lease for a term of years not exceeding twenty. The new Rapid-Transit bill for New York happily illustrates the proper course. It is mournful to reflect upon the opportunities for relieving the tax levy which have been lost in all our cities through the system of parting permanently with public franchises. It may be too late to remedy the evil as to franchises already granted, but it is not too late to change at once the policy of our cities for the future.

EXECUTIVE METHODS.

THE organization of the city on the executive side ought to proceed on parallel lines to those which prevail in other successful business organizations. The two principles bearing on this question which appear to be sustained by human experience are these: first, that responsibility must go with power; second, that for executive work one man is better than three men or any larger number. The second principle is merely a detail of the first. The reason why one man is more efficient in executive work than a larger body is that the one man can be held entirely responsible, while as to a larger number responsibility cannot be fixed. It is a curious and instructive fact that in the largest cities of the country the original charters have been in this respect the most radically changed. At first the effort was made to govern these cities through representative bodies to which were given great powers, while the mayor was made

little more than a figurehead. With the passage of time the mayor has become an officer of very great power, while the process which has already been described has stripped the representative body of its most important functions. The power of appointment lodged in the mayor was everywhere subject until recent years to confirmation by the common council. Theoretically such a check might have been expected to produce good results; practically, it has developed, very generally, if not everywhere, either dead-locks or deals; that is to say, the confirming power has either obstructed public business or it has demanded a share at least in the right of nomination. The result has been a loss of responsibility on both sides, the mayor claiming that he nominates the best men who can be confirmed, and the confirming body on the other hand claiming that they could confirm no better officials because none others were nominated. In the presence of this experience, pretty uniformly developed, the city of Brooklyn and some other cities have given to the mayor the absolute power of appointment. With this power ought also to go the power of removal. Certainly these are great powers, but if they are bestowed under such conditions as to maintain side by side with the power a corresponding responsibility, the result is believed to be safer than the situation that preceded it. For another strangely significant fact has been characteristic to a greater or less extent of every large city. Through the operation of party machinery one man from time to time has become so dominant in the councils of the majority party as really to be not merely the dictator of nominations but actually the controller of city officials. As a consequence there has been often seen in our cities the singular spectacle for democratic communities of one man entirely irresponsible to the citizens becoming in fact complete master of the city officials. In more cities than one the people have come to feel, in the presence of this persistent fact, that if under popular suffrage a single man must needs exercise so great power, that man had better be the mayor of the city and responsible to the people than some one entirely out of their reach. It may be claimed that even under this system the mayor may suffer himself to be guided in all important matters by the party autocrat. This is true; but in that case the responsibility of the mayor for such a failure to realize what is becoming cannot be shaken off upon somebody else, and through the mayor the autocrat can be dethroned. The mayor, under this system, is responsible for the administrative side of the city government. But it is important to the successful application of this principle that it should be followed logically to its conclusion.

In New York City the mayor is given the absolute power of appointment, but the officials he appoints serve for terms longer than his own. Such a system gives power without responsibility, and through its incompleteness is open to just and severe criticism. In Brooklyn, on the other hand, the mayor appoints absolutely all the executive officers of the city for a term coterminous with his own. As a consequence, every incoming mayor has an opportunity to make a city government in sympathy with himself, for which he not only may be asked to be responsible, but for which he must be responsible. This situation achieves another result of the utmost consequence to successful administration; it compels the city government to be operated as a unit. The importance of this will be made clear by a single illustration. The police department is expected to enforce ordinances which are essential to the effective administration of the department of city works, the health department, the fire department, and the building department. These departments, therefore, ought to work in harmony with one another. If the heads of these departments are appointed by the mayor, and are all responsible to him, this result follows as a matter of course. Under other systems every city has felt the loss of efficiency springing from feeling, which may range all the way from indifference to open hostility, between the different departments of the city administration. This is one of the great reasons why heads of departments should not be elected; because officials who receive their authority from a direct vote of the people are inclined to feel entirely independent of one another, and to look upon the popular vote as to a certain extent an authority to do what they please. The so-called "boss" sometimes has been the only force in a city to compel coöperation between the different city departments. It is far better that this coöperation should depend upon a common responsibility to the responsible head of the city than upon the unifying power of an irresponsible party magnate. In other words, the granting to the mayor of the power to appoint absolutely all the executive officers of the city for terms coterminous with his own has in substance no other effect than this, that it gives to a man who is responsible to the citizens the powers which have been exercised over and over again through other forms by individual men who were not responsible to the citizens.

POPULAR CONTROL.

THIS system also places the city government under the control of the people to an extent not otherwise attainable. Under such a charter, when the mayor is to be elected, the people

understand that they are determining the whole character of their city government. The incoming mayor has an opportunity to make the city government, on its administrative side, completely in harmony with himself. Under the usual system the people may elect a mayor, and yet succeed in accomplishing very little besides changing the incumbent of the mayor's chair. In the city of New York last year had Mr. Grant been defeated for reëlection, a number of the largest executive offices within the city would still have remained for several years under the control of Tammany Hall, and out of sympathy in that event with the executive elected by the people. Under the system pursued in Brooklyn, on the other hand, no such miscarriage can follow an election by the people. Their will as expressed on election day is effective not only in the mayor's office but through every executive office within the city. Experience has demonstrated, furthermore, that while there are certain things which a public vote can do, there are other things which it cannot do. It is mighty to overthrow any official, no matter how firmly he may be entrenched, but it is not capable of electing one officer after another through a long series of years with a consistent movement towards a definite end. In other words, questions to be decided by the vote of an immense mass of men must be simple questions. The best informed men in the city, outside of those directly concerned with politics, have almost no knowledge of the bearing of one election upon another. The same system, therefore, which produces unity and responsibility of administration on the part of the mayor when he is elected, brings the entire city government into a more genuine responsibility to the people than any other system. The old idea in American communities was that safety is to be found at the hands of government through division of power. As applied to great cities it is not too much to say that this idea has broken down completely. One reason for the breakdown clearly is that the work of the city is in fact business more than it is government. The division of power has developed a loss of efficiency. On the other hand, it has been demonstrated over and over again that under any conceivable division of power there has been power enough left to do harm, even though there has not been sufficient positive power anywhere to accomplish much good. In other words, the absence of responsibility has shown itself more harmful and more dangerous under the conditions existing in large cities than the contrary policy which is here advocated. It may be urged that the experience of the new system is not extended enough to justify final conclusions. Possibly not; but this at least would

certainly be borne out by any intelligent citizen of Brooklyn, where the system has prevailed for eight years, that no one would willingly return to the former methods of city administration. It is not pretended that under any conditions perfection has been attained, but it will not be denied that the new system has shown a capacity for benefiting the city that could not possibly have been found under the old system; neither has the city realized evils as great or as burdensome as those which befell it when both power and responsibility were divided in the search for safety.

HONESTY IN EXPENDITURE.

ONE great problem before every city is to secure a dollar's worth for every dollar that is spent. To this end the system of giving large power to the executive, under conditions which compel him to accept corresponding responsibility, is an immense step forward on the line of correct organization. On the other hand, it must be remembered that the community at large is responsible for some of the evils which betray themselves in city government. So long as the city chooses its officials on party lines, it must expect to have officials with whom the interest of the party is first and the welfare of the city second. It is not reasonable to suppose that men who, as candidates, have found the citizens themselves completely indifferent to the city, but warmly interested in party success, can, as officials, successfully adopt and act upon precisely the opposite view. The best city government is not to be had until in the minds of all officials the city is the first thought. The spoils system, as applied to the administration of the city, is fatal to any high degree of efficiency. It is frequently said that the police force and the fire force in the city of New York are notable for their efficiency; certainly they have never failed the public in an emergency. It is worth while noting that in those two forces the tenure of place is secure. No man can be removed from the police force or from the fire force except upon charges and conviction on trial. It is pitiful to witness efficient clerks discharged from the service of the city because of their opinions. The spoils system is merciless. Not only clerks, but office-boys— all places that carry salaries—are considered fair game for the victors at the election. In pretty much every department some one man will be

kept whose training is essential to the performance of any sort of work by the department. But except for some such reason as this, no one is spared; not even the sick and the feeble and the destitute escape the consequences of this system. Nurses and physicians and matrons, storekeepers, and every one else hold their places not by reason of efficient service rendered to the city but by the chance of being on the winning side at the election, and it may even be added, on the further chance of being in with the dominant faction of the successful party. It is not reasonable to expect more than passable results in a business conducted under a system like this. Our people must be willing to accept longer tenure of office for subordinates, and security of position in return for faithful discharge of duty, before employees of the city will look upon the city government as an object of regard, entitled to their willing and best service.

CIVIL SERVICE REFORM.

THERE are many in these days who think that the range of municipal action could be beneficially extended; who believe that a bad tenement-house system deserves the consideration of the municipal authorities; that many evils connected with this system, and many other abuses, can be removed only by the agency of municipal authority. In every direction the opportunity for a city to benefit its citizens by a government able to command complete popular confidence is beyond description. All who so think, and all who believe that a city government unworthy of trust is a demoralizing influence in the community, ought to join hands in demanding the abolition of the spoils system in its application to the inferior places in the city departments. The heads of departments, and, if they wish it, their deputies, might reasonably change with the change of mayor; but changes carried below that point are certain to do harm unless they are changes made for cause. The day may even come when successful administrators at the head of a department will be rewarded by reappointment at the hands of a new mayor; but whether that day should come or not, the political evils of the system would be reduced to small proportions if the effects of victory were to be shown only in changes in positions such as these.

Seth Low.

