

though a part was due to the bounties given to volunteers in the Civil War, much must be set down to extremely lax and wasteful administration, and much more to mere stealing, practised by methods to be hereafter explained, but facilitated by the habit of subsidizing, or taking shares in, corporate enterprises which had excited the hopes of the citizens.

VII. The disease spread till it terrified the patient, and a remedy was found in the insertion in the Constitutions of provisions limiting the borrowing powers of State legislatures. Fortunately the evil had been perceived in time to enable the newest States to profit by the experience of their predecessors. For the last thirty-five years, whenever a State has enacted a Constitution, it has inserted sections restricting the borrowing powers of States and local bodies, and often also providing for the discharge of existing liabilities. Not only is the passing of bills for raising a State loan surrounded with special safeguards, such as the requirement of a two-thirds majority in each house of the legislature; not only is there a prohibition ever to borrow money for, or even to undertake, internal improvements (a fertile source of jobbery and waste, as the experience of Congress shows); not only is there almost invariably a provision that whenever a debt is contracted the same Act shall create a sinking fund for paying it off within a few years, but in most Constitutions the total amount of the debt is limited, and limited to a sum beautifully small in proportion to the population and resources of the State.¹ Thus Wisconsin fixes its maximum at \$200,000 (£40,000); Minnesota and Iowa at \$250,000, Ohio at \$750,000; Wyoming at one and Idaho at one and one-half per cent of the assessed value of taxable property, Nebraska and Montana at \$100,000; prudent Oregon at \$50,000; and the great and wealthy State of Pennsylvania, with a population now exceeding 5,300,000 (Constitution of 1873, Art. ix. § 4), at \$1,000,000.²

¹ Debts incurred for the purpose of suppressing insurrection or repelling invasion are excepted from these limitations.

² New York (Constitution of 1846, Art. vii. §§ 10-12) also names a million of dollars as the maximum, but permits laws to be passed raising loans for "some single work or object," provided that a tax is at the same time enacted sufficient to pay off this debt in eighteen years; and that any such law has been directly submitted to the people and approved by them at an election. Similar provisions permitting increase by special popular vote are frequent in recent Constitutions.

In four-fifths of the States, including all those with recent Constitutions, the legislature is forbidden to "give or lend the credit of the State in aid of any person, association, or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever for the payment of the liabilities present or prospective of any individual association, municipal, or other corporation,"¹ as also to take stock in a corporation, or otherwise embark in any gainful enterprise. Many Constitutions also forbid the assumption by the State of the debts of any individual or municipal corporation.

The care of the people for their financial freedom and safety extends even to local bodies. Many of the recent Constitutions limit, or direct the legislature to limit, the borrowing powers of counties, cities, or towns, sometimes even of incorporated school districts, to a sum not exceeding a certain percentage on the assessed value of the taxable property within the area in question. This percentage is usually five per cent (*e.g.* Illinois, *Constit.* of 1870, Art. ix. § 12), sometimes (*e.g.* Pennsylvania, *Constit.* of 1873, Art. ix. § 8) seven per cent; New York (*Amend.* of 1884), ten per cent; Wyoming (except for water or sewerage works) two per cent. Sometimes also the amount of the tax leviable by a local authority in any year is restricted to a definite sum—for instance, to one half per cent on the valuation.² And in all the States but seven, cities, counties, or other local incorporated authorities are forbidden to pledge their credit for, or undertake the liabilities of, or take stock in, or otherwise give aid to, any undertaking or company. Sometimes this prohibition is absolute; sometimes it is made subject to certain conditions, and may be avoided by their observance. For instance, there are States in which the people of a city can, by special vote, carried by a two-thirds majority, or, a three-fifths majority, or (in Colorado) by a bare majority of the tax-payers, authorize the contracting of a debt which the municipality could not incur by its ordinary organs of government. Sometimes there is a direction that any municipality creating a debt must at the same time provide for

¹ Constitution of Missouri of 1875 (Art. iv. § 45), a Constitution whose provisions on financial matters and restrictions on the legislature are copious and instructive. Similar words occur in nearly all Western and Southern, as well as in some of the more recent Eastern Constitutions.

² See the elaborate provisions of the Constitution of Missouri of 1875.

its extinction by a sinking fund. Sometimes the restrictions imposed apply only to a particular class of undertakings — *e.g.* banks or railroads. The differences between State and State are endless; but everywhere the tendency is to make the protection against local indebtedness and municipal extravagance more and more strict; nor will any one who knows these local authorities, and the temptations, both good and bad, to which they are exposed, complain of the strictness.¹

Cases, of course, occur in which a restriction on the taxing power or borrowing power of a municipality is found inconvenient, because a costly public improvement is rendered more costly if it has to be done piecemeal. The corporation of Brooklyn was thus recently prevented from making all at once a great street which would have been a boon to the city, and will have to spend more money in buying up the land for it bit by bit. But the evils which have followed in America from the immixture both of States and of cities in enterprises of a public nature, and the abuses incident to an unlimited power of undertaking improvements, have been so great as to make people willing to bear with the occasional inconveniences which are inseparable from restriction.

“A catalogue of these evils would include the squandering of the public domain; the enrichment of schemers whose policy it has been first to obtain all they can by fair promises, and then avoid, as far and as long as possible, the fulfilment of the promises; the corruption of legislation; the loss of State credit; great public debts recklessly contracted for; moneys often recklessly expended; public discontent, because the enterprises fostered from the public treasury, and on the pretence of public benefit, are not believed to be managed in the public interest; and finally, great financial panic, collapse, and disaster.”²

The provisions above described have had the effect of steadily reducing the amount of State debts, although the wealth of the country makes rapid strides. This reduction was between 1870 and 1880, about 25 per cent in the case of State debts, and in that of county, town, and school district debts about 8 per cent. In the decade ending with 1890 the

¹ In a Note to Chapter LI. *post*, placed at the end of this volume, I have given some specimens of the constitutional provisions which restrict the borrowing powers of local authorities.

² Cooley, *Constit. Limit.* p. 266.

reduction in State debts was \$67,218,760 (nearly half of this, however, due to scaling down of debts of Southern States); but county debts rose from \$124,105,027 to \$145,048,045, and the school district debts from \$17,580,682 to \$36,701,948. In cities there was, within the decade 1870–80, not only no reduction, but an increase of over 100 per cent, possibly as much as 130 per cent. In 1890 the total debt, less sinking fund, of municipalities exceeding 4000 inhabitants is returned at \$646,507,644 against \$623,784,262 in 1880, but owing to the growth of population the amount *per capita* which was \$45.06 in 1880, had fallen in 1890 to \$31.69.¹

This striking difference between the cities and the States may be explained in several ways. One is that cities cannot repudiate, while sovereign States can and do.² Another may be found in the later introduction into State Constitutions of restrictions on the borrowing powers of municipalities. But the chief cause is to be found in the conditions of the government of great cities, where the wealth of the community is largest, and is also most at the disposal of a multitude of ignorant voters. Several of the greatest cities lie in States which did not till recently, or have not even now, imposed adequate restrictions on the borrowing power of city councils. Now city councils, as we shall see presently, are not only incapable administrators, but are prone to such public improvements as present opportunities for speculation, for jobbery, and even for wholesale embezzlement.

¹ I take these figures from the Bulletin No. 176 of the census of 1890.

² In some parts of New England the city, town, or other municipal debt is also the personal debt of every inhabitant, and is therefore an excellent security.