

difficult to ascertain just what statutes are in force at any particular time. The uncertainties arising from such multiplied and conflicting legislation lead to incessant litigation with its expensive burdens, public and private.' . . . But this is not all nor the worst. It may be true that the first attempts to secure legislative intervention in the local affairs of our principal cities were made by good citizens in the supposed interest of reform and good government, and to counteract the schemes of corrupt officials. The notion that legislative control was the proper remedy was a serious mistake. The corrupt cliques and rings thus sought to be baffled were quick to perceive that in the business of procuring special laws concerning local affairs they could easily outmatch the fitful and clumsy labours of disinterested citizens. The transfer of the control of the municipal resources from the localities to the (State) capitol had no other effect than to cause a like transfer of the methods and arts of corruption, and to make the fortunes of our principal cities the traffic of the lobbies. Municipal corruption, previously confined within territorial limits, thenceforth escaped all bounds and spread to every quarter of the State. Cities were compelled by legislation to buy lands for parks and places because the owners wished to sell them; compelled to grade, pave, and sewer streets without inhabitants, and for no other purpose than to award corrupt contracts for the work. Cities were compelled to purchase, at the public expense, and at extravagant prices, the property necessary for streets and avenues, useless for any other purpose than to make a market for the adjoining property thus improved. Laws were enacted abolishing one office and creating another with the same duties in order to transfer official emoluments from one man to another, and laws to change the functions of officers with a view only to a new distribution of patronage, and to lengthen the terms of offices for no other purpose than to retain in place officers who could not otherwise be elected or appointed."

This last-mentioned cause of evil is no doubt a departure from the principle of local popular control and responsibility on which State governments and rural local governments have been based. It is a dereliction which has brought its punishment with it. But the resulting mischiefs have been immensely aggravated by the vices of the legislatures in a few of the States, such as New York and Pennsylvania. As regards the two former causes, they are largely due to what is called the Spoils system, whereby office becomes the reward of party service, and the whole machinery of party government made to serve, as its main object, the getting and keeping of places. Now the Spoils system, with the party machinery which it keeps oiled and greased and always working at high pressure, is far more potent and pernicious in great cities than in country districts. For in great cities we find an ignorant multi-

tude, largely composed of recent immigrants, untrained in self-government; we find a great proportion of the voters paying no direct taxes, and therefore feeling no interest in moderate taxation and economical administration; we find able citizens absorbed in their private businesses, cultivated citizens unusually sensitive to the vulgarities of practical politics, and both sets therefore specially unwilling to sacrifice their time and tastes and comfort in the struggle with sordid wire-pullers and noisy demagogues. In great cities the forces that attack and pervert democratic government are exceptionally numerous, the defensive forces that protect it exceptionally ill-placed for resistance. Satan has turned his heaviest batteries on the weakest part of the ramparts.

Besides these three causes on which the commissioners dwell, and the effects of which are felt in the great cities of other States as well as of New York, though perhaps to a less degree, there are what may be called mechanical defects in the structure of municipal governments, whose nature may be gathered from the account given in last chapter. There is a want of methods for fixing public responsibility on the governing persons and bodies. If the mayor jobs his patronage he can throw large part of the blame on the aldermen or other confirming council, alleging that he would have selected better men could he have hoped that the aldermen would approve his selection. If he has failed to keep the departments up to their work, he may argue that the city legislature hampered him and would not pass the requisite ordinances. Each house of a two-chambered legislature can excuse itself by pointing to the action of the other, or of its own committees, and among the numerous members of the chambers—or even of one chamber if there be but one—responsibility is so divided as to cease to come forcibly home to any one. The various boards and officials have generally had little intercommunication;<sup>1</sup> and the fact that some were directly elected by the people made these feel themselves independent both of the mayor and the city legislature. The mere multiplication of elective posts

<sup>1</sup> In Philadelphia some one has observed that there were four distinct and independent authorities with power to tear up the streets, and that there was no authority upon whom the duty was specifically laid to put them in repair again.

distracts the attention of the people, and deprives the voting at the polls of its efficiency as a means of reproof or commendation.<sup>1</sup>

To trace municipal misgovernment to its sources was comparatively easy. To show how these sources might be dried up was more difficult, though as to some obvious remedies all reformers were agreed. What seemed all but impracticable was to induce the men who had produced these evils, who used them and profited by them, who were so accustomed to them that even the honest sort did not feel their turpitude, to consent to the measures needed for extinguishing their own abused power and illicit gains. It was from the gangs of city politicians and their allies in the State legislatures that reforms had to be sought, and the enactment of their own abolition obtained. In vain would the net be spread in the sight of such birds.

The remedies proposed by the New York commission were the following:—

(a) A restriction of the power of the State legislature to interfere by special legislation with municipal governments or the conduct of municipal affairs.<sup>2</sup>

(b) The holding of municipal elections at a different period of the year from State and National elections. This has been again taken up and pressed within the last year or two (1892) and seems to have a chance of being carried.

(c) The vesting of the legislative powers of municipalities in two bodies:— A board of aldermen, elected by the ordinary (manhood) suffrage, to be the common council of each city. A board of finance of from six to fifteen members, elected by voters who had for two years paid an annual tax on property assessed at not less than \$500 (£100), or a rent (for premises

<sup>1</sup> Mr. Seth Low remarks:—"Greatly to multiply important elective officers is not to increase popular control, but to lessen it. The expression of the popular will at the ballot-box is like a great blow struck by an engine of enormous force. It can deliver a blow competent to overthrow any officer, however powerful. But, as in mechanics, great power has to be subdivided in order to do fine work, so in giving expression to the popular will the necessity of choosing amid a multitude of unimportant officers involves inevitably a loss of power to the people."—*Address on Municipal Government*, February 1885.

<sup>2</sup> The constitutions of many States now prescribe that cities shall be incorporated by general laws. This prohibition of special legislation has generally worked well, though it is sometimes evaded. See pp. 537 and 553, *ante*.

occupied) of not less than \$250.<sup>1</sup> This board of finance was to have a practically exclusive control of the taxation and expenditure of each city, and of the exercise of its borrowing powers, and was in some matters to act only by a two-thirds majority.

(d) Limitations on the borrowing powers of the municipality, the concurrence of the mayor and two-thirds of the State legislature, as well as of two-thirds of the board of finance being required for any loan except in anticipation of current revenue.

(e) An extension of the general control and appointing power of the mayor, the mayor being himself subject to removal for cause by the governor of the State.

To introduce all of these reforms it became necessary to amend the constitution of the State of New York; and the commission drafted a series of amendments accordingly. These went before the State legislature. But the birds saw the net, and naturally omitted to submit the amendments to the people. The report, in fact, fell to the ground. But in the recent legislative charters of several cities, and notably of Brooklyn (as to which see next chapter), some of the commissioners' suggestions have been adopted, and with excellent results. The most novel of them, however, and the one which excited most hostile criticism, that of creating a council elected by voters having a tax-paying (or rent-paying) qualification, has never been tried in any great city. It is deemed undemocratic; practical men say there is no use submitting it to a popular vote.<sup>2</sup> Nevertheless, there are still some who advocate

<sup>1</sup> This was to apply to cities with a population exceeding 100,000. In smaller cities the rent was to be \$100 at least, and no minimum for the assessed value of the taxed property was to be fixed.

<sup>2</sup> Though, as the commission pointed out (Report, p. 33), the principle that no one should vote upon any proposition to raise a tax or appropriate its proceeds unless himself liable to be assessed for such tax, was one generally applied in the village charters of the State of New York, and even in the charters of some of the smaller cities. The report repels the charge that this proposal is inconsistent with the general recognition of the value of universal suffrage by saying, "No surer method could be devised to bring the principle of universal suffrage into discredit and prepare the way for its overthrow than to pervert it to a use for which it was never intended, and subject it to a service which it is incapable of performing. . . . To expect frugality and economy in financial concerns from its operation in great cities, where perhaps half of the inhabitants feel no interest in these objects, is to subject the principle to a strain which it cannot bear. All the friends of the system should unite in rescuing it from such perils."—Page 40.

it, appealing to the example of Australia, where it is said to have worked well.

Among the other reforms in city government which I find canvassed in America are the following:—

(a) Civil service reform, *i.e.* the establishment of examinations as a test for admission to posts under the city, and the bestowal of these posts for a fixed term of years, or generally during good behaviour, instead of leaving the civil servant at the mercy of a partisan chief, who may displace him to make room for a party adherent or personal friend.

(b) The lengthening of the terms of service of the mayor and the heads of departments, so as to give them a more assured position and diminish the frequency of elections.— This has been done to some extent in recent charters— witness St. Louis (see last preceding chapter) and Philadelphia.

(c) The vesting of almost autocratic executive power in the mayor and restriction of the city legislature to purely legislative work and the voting of supplies.— This also finds place in recent charters, notably in that of Brooklyn, and has worked, on the whole, well. It is, of course, a remedy of the “cure or kill” order. If the people are thoroughly roused to choose an able and honest man, the more power he has the better; it is safer in his hands than in those of city councils. If the voters are apathetic and let a bad man slip in, all may be lost till the next election. I do not say “all is lost,” for there have been remarkable instances of men who have been sobered and elevated by power and responsibility. The Greek proverb “office will show the man” was generally taken in an unfavourable sense. The proverb of the steadier headed Germans, “office gives understanding” (*Amt gibt Verstand*), represents a more hopeful view of human nature, and one not seldom justified in American experience.

(d) The election of a city legislature, or one branch of it, or of a school committee, on a general ticket instead of by wards.— When aldermen or councilmen are chosen by the voters of a small local area, it is assumed, in the United States, that they must be residents within it; thus the field of choice among good citizens generally is limited. It follows also that their first duty is deemed to be to get the most they can for their own ward; they care little for the general interests of the city,

and carry on a game of barter in contracts and public improvements with the representatives of other wards. Hence the general ticket system is preferable.

(e) The limitation of taxing powers and borrowing powers by reference to the assessed value of the taxable property within the city.— Restrictions of this nature have been largely applied to cities as well as to counties and other local authorities. The results have been usually good, yet not uniformly so, for evasions may be practised. The New York commission say: “The apparent prohibition, both as to taxation and the percentage of debt, could be readily evaded by raising the assessment. Such restrictions do not attempt to prevent the wastefulness or embezzlement of the public funds otherwise than by limiting the amount of the funds subject to depredation. The effect of such measures would simply be to leave the public necessities without adequate provision.”<sup>1</sup> And Messrs. Allinson and Penrose observe—

“By the Constitution of 1874 it is provided that the debt of a county, city, borough, township, or school district shall never exceed 7 per cent on the assessed value of the taxable property therein. This provision was intended to prevent the encumbering of the property of any citizen for public purposes to a greater extent than 7 per cent. In its workings it has been an absolute failure. In every city of the State, except Philadelphia, the city is part of the county government. The county has power to borrow to the extent of 7 per cent: so has the city: so has the general school district: so has the ward school district—making 28 per cent in all, which can be lawfully imposed, and has been authorized by the Act of 1874. But there is still another cause of failure to which Philadelphia is more peculiarly liable. In order to evade the provision of the Constitution limiting the power to contract debts to 7 per cent, the assessed value of property in nearly every city of the State was largely increased—in some instances, incredible as it may seem, to the extent of 1000 per cent. It is therefore clear that no sufficient protection against an undue increase of municipal debt can be found in constitutional and legislative provisions of this kind.”— *Philadelphia, a History of Municipal Development* (1887), p. 276.

Nevertheless, such restrictions are now often found embodied in State constitutions, and have usually, so far as I could ascertain, diminished the evil they are aimed at.<sup>2</sup>

<sup>1</sup> Another disadvantage is that such restriction may sometimes compel a public improvement to be executed piecemeal which could be executed more cheaply if done all at once. See Chapter XLIII.

<sup>2</sup> See note in Appendix at the end of this volume.

I must not attempt to discuss the interesting question of the results of entrusting to city governments the supply of water, gas, and electricity, perhaps also street railways, because American cities are accumulating such a mass of experience on the subject that it could not be dealt with save at considerable length, while the wise still differ as to the general conclusions to be formed.<sup>1</sup> The objections to placing this function in the hands of such men as rule most municipalities are obvious. One group of these objections will be found illustrated in a later chapter, describing the Gas Ring in Philadelphia. There are, however, some reformers sanguine enough to believe that when city councils obtain functions whose exercise has a strong and obvious interest for the citizens, the latter are roused to a more active and watchful control, and may be counted on to eject corrupt politicians from power. Nor must we forget that the plan of leaving the function to private corporate companies is open to evils scarcely less patent than those which flow from dishonest management, because these companies when they prosper and grow large bring their wealth to bear upon the municipal authorities, and have even been known to scatter bribes widely among the voters for the sake of retaining or extending their monopoly. It is not the least among the many mischiefs entailed by the pollution of city governments that citizens who resent the high prices charged and poor supply given by private companies often prefer to bear these hardships and to wink at the impure methods which some companies employ rather than face the risk of throwing to the Rings that control the larger municipalities the additional mass of patronage and additional material for jobbery which the business of water and gas supply carries with it.

The question of city government is that which chiefly occupies practical publicists, because it is admittedly the weakest point of the country. That adaptability of the institutions to the people and their conditions, which judicious strangers have been wont to admire in the United States, and that consequent satisfaction of the people with their institutions, which contrasts so agreeably with the discontent of European nations, is wholly absent as regards municipal administration. Where-

<sup>1</sup> Of about 160 cities with a population exceeding 20,000, water supply is in 59 left to private corporations, and in 101 belongs to the municipality.

ever there is a large city there are loud complaints, and Americans who deem themselves in other respects a model for the Old World are in this respect anxious to study Old World models, those particularly which the cities of Great Britain present. The best proof of dissatisfaction is to be found in the frequent changes of system and method. What Dante said of his own city may be said of the cities of America: they are like the sick man who finds no rest upon his bed, but seeks to ease his pain by turning from side to side. Every now and then the patient finds some relief in a drastic remedy, such as the enactment of a new charter and the expulsion at an election of a gang of knaves. Presently, however, the weak points of the charter are discovered, the State legislature again begins to interfere by special acts; civic zeal grows cold and allows bad men to creep back into the chief posts; Federal issues are allowed to supersede at municipal elections that which ought to be always deemed the real issue, the character and capacity of the candidates for office. All this is discouraging. Yet no one who studies the municipal history of the last decades will doubt that things are better than they were twenty-five years ago. The newer frames of government are an improvement upon the older. Rogues are less audacious. Good citizens are more active. Party spirit is still permitted to dominate and pervert municipal politics, yet the mischief it does is more clearly discerned and the number of those who resist it daily increases. In the increase of that number and the growth of a stronger sense of civic duty rather than in any changes of mechanism, lies the ultimate hope for the reform of city governments.