

toric past which ministers to civic pride, and in the presence of many thousands of new-comers at every election, this effect is especially valuable. It may also be said that under present conditions the voting is more intelligent than formerly. The issue is so important, yet so simple, that it can be made clear even to people who have lived but a short time in the city. The same influences tend to secure for the city the services, as mayor, of a higher grade of men, because under such a charter the mayor is given power and opportunity to accomplish something. It appeals to the best that is in a man as strongly as it exposes him to the fire of criticism if he does not do well.

In undertaking to administer this charter, as the first mayor to whom such powers had been committed, the writer adopted two principles which he believed to be essential to success. In the first place, he determined to hold each head of department responsible for results within his department; and in the second place, he determined to hold himself entirely aloof from the use of patronage, except in so far as the charter of the city, in express terms, made it his duty to make appointments. The effect of this attitude towards his appointees was to leave them entirely free in the choice of their subordinates. Being free, they could justly be held responsible, to the fullest extent, for results. Further than that, being free from pressure from the mayor, they were much stronger to resist pressure as to patronage from outsiders, than otherwise they would have been. Another effect of the mayor's attitude with reference to patronage, was to secure for himself the confidence of the community, without regard to party, to an unusual extent. Any alarm there might have been, as to the use of the great and unusual powers committed to the mayor by the charter, was quieted at once.

The duties of the mayor under the charter may be considered under three heads. First, in his relation to the executive work of the city; second, in his relation to the common council or local legislature; third, in his relation to the legislature of the State.

The successful use of the power of appointment, in the selection of efficient heads of departments, of course underlies the success of a city administration on its executive side. The

heads of departments having been appointed, it was the custom of the writer to hold a meeting in the mayor's office with all his executive appointees, once every week, excepting during the summer when the common council was not in session. This meeting served several purposes. The minutes of the common council at their previous meeting were laid before this informal gathering, and the mayor received the advice of the officer whose department would be affected by any proposed resolution or ordinance, as to its probable effect. When a question was brought up of general interest to the city the whole company discussed it, giving to the mayor the advantage of their experience and judgment. These weekly councils were of great value to the mayor, in determining his attitude on the various questions raised during his term by the common council of the city, every resolution of which body had by law to be passed upon by the mayor, and receive either his approval or his veto. These gatherings of the executive officers of the city were useful in other ways than this. They made all heads of departments personally acquainted with each other, and converted the machinery of the city government, from separate and independent departments, into one organization working in complete harmony and with singleness of aim. The mayor's oversight of the executive work of the city, in its current aspect, was further maintained by quarterly reports submitted from each of the large departments. The mayor's office, in an American city, is in receipt of daily complaints touching this or that matter affecting citizens. The receipt of all complaints was immediately acknowledged to the persons who made them, if they came by mail, and the complaints were forwarded at once to the proper department for action or explanation. The reply was made to the mayor's office, and was communicated without delay to the maker of the complaint. If remedy was available, this method secured its prompt application. If the matter were beyond reach of remedy, the citizen had at least the satisfaction of knowing why. The multiplicity and character of these complaints gave the mayor a daily insight into the efficiency of the departments. By these methods, the mayor was able to keep himself almost as well informed as to the work in each department of the city as the head of a great business house is

informed as to the departments into which his business is divided. Nor need the comparison stop there. The mayor was able to bring the power and influence of his office to bear, to remedy abuses or to suggest improvements in methods, with the same directness and efficiency.

The mayor's duties in relation to the common council of the city, are chiefly in connection with the obligation, laid upon him by the charter, to approve or disapprove every resolution passed by that body. The mayor's veto is fatal, unless overridden by a two-thirds vote of all the members elected to the council. For three years out of four during which the writer served as mayor, the common council was politically antagonistic to him, half of the time in the proportion of fourteen to five. Notwithstanding this, only two vetoes were overridden in the whole of his four years of service. Two influences probably contributed to this result. First, the care with which, under the advice of his appointees, the mayor took up his positions: and second, the mayor's refusal to implicate himself, in any way, with the use of patronage. Partisan opposition largely disappeared, before a spirit manifestly free from self-seeking and from partisanship. The same influences led to unusual co-operation, on the part of the common council, in forwarding the plans of the mayor in the direction of positive action. The harmony between the executive and the legislature of the city was scarcely less complete, during this interval, to the great advantage of the city, than was the harmony between the different executive departments themselves.

The relation of the mayor to the legislature of the State proved to be important to an extent not easy to be imagined. The charter of a city, coming as it does from the legislature, is entirely within the control of the legislature. Just as there is no legal bar to prevent the legislature from recalling the charter altogether, so there is no feature of the charter so minute that the legislature may not assume to change it. In the State of New York there is no general law touching the government of cities, and the habit of interference in the details of city action has become to the legislature almost a second nature. In every year of his term, the writer was compelled to oppose at Albany, the seat of the State legislature, legislation seeking to make an increase in the pay of policemen and

firemen, without any reference to the financial ability of the city, or the other demands upon the city for the expenditure of money. Efforts were made, also, at one time, to legislate out of office some of the officials who had been appointed in conformity to the charter. New and useless offices were sought to be created, and the mayor found that not the least important of his duties, as mayor, was to protect the city from unwise and adverse legislation on the part of the State. It is a curious circumstance that most of these propositions had their origin with members of the legislature elected to represent different districts of the city itself. The same influences which made the administration strong with the common council, at home, made it also strong with the legislature at Albany, so that, although for one or two years the power to make changes rested with a majority at Albany politically antagonistic, no law objected to by the mayor, during this interval, was placed upon the statute-book. The city itself is compelled at times to seek legislation for the enlargement of its powers; that is to say, the powers committed to a city are strictly limited to those defined by the charter or granted by special acts of the legislature. Consequently, when an unforeseen situation is to be dealt with, calling for unusual methods or powers, it is necessary to secure authority to this end from the legislature of the State. The writer found the same general attitude, which has been referred to so often, effectual in this regard also, so that almost every bill which he desired in the interest of the city, was enacted into law, and this alike by legislatures politically in sympathy with the city administration and by legislatures politically antagonistic to it. It is not too much to say, however, that the greatest anxieties of his term sprang from the uncertainties and difficulties of this annual contest, on the one hand to advance the interest of the city, and on the other to save it from harm in its relations to the law-making power of the State.

Imitating this charter of Brooklyn, the city of Philadelphia, still more recently, has obtained a new charter involving a great departure in the same direction from old methods. Boston and New York both have moved partly along the same line, each with admitted advantage to the city, although neither has gone so far as Brooklyn or Philadelphia. Several smaller places

have obtained charters of the same kind. It is not to be supposed that this new form of city charter is the result altogether of abstract thinking. It has grown out of bitter experiences. When the inhabitants of a city found that they did not receive, as matter of fact, the good government which they desired, it did not at first occur to them that the trouble was to a large extent fundamental in their form of charter; or, if it did, the first effort at remedy led to worse mistakes than before. Starting with the theory that the path to safety was through division of power, they resorted to all manner of expedients which would compass that end. They established, for instance, police boards and fire boards, which at different times were made to consist of three members, and at other times of four, the latter being known in American parlance as non-partisan.¹ It was supposed that a single individual might be tempted to use his department unfairly in the interest of the party to which he belonged, but that by associating him with others of different parties this tendency would be overcome. It turned out, however, that the moment no one in particular was to blame, partisanship took complete possession of the administration of every department. When one reflects that in the Government of the United States the immense administrative departments, like the Treasury and the Post-Office, have, from the beginning of the Government, been committed to the care of a single man, it seems strange that, in their cities, Americans should have been so unwilling to proceed upon the same theory. The reason probably is that the city, as above pointed out, has been evolved from the town by the simple process of enlargement. In the town the theory of division of power has been acted upon with substantial uniformity, and in small communities has worked well. The attempt to act upon the same lines in the great and rapidly-growing cities of the country has, in the judgment of many, been as instrumental as any other one element in causing the unsatisfactory results which have marked the progress of many American cities. For the purposes of this chapter it is not necessary to enlarge further upon this thought. It is emphasized thus far for the purpose of showing that all the large

¹ Non-partisan practically means that the two great parties are equally represented upon it.

class of difficulties which American cities have been obliged to face by reason of faulty charters are not irremediable. The actual process of change from one system of charter to another has been marked incidentally by one unfortunate effect. The city charter, coming as it does from the legislature, lies entirely within the control of the legislature. The many appeals to the legislature for charter amendment of one kind and another have bred a habit in some of the States, if not in all, of constant interference by the legislature with the local details of city action. This interference, though often prompted by a genuine desire to relieve a city from pressing evils, has tended very greatly to lessen the sense of responsibility on the part of local officials, and upon the part of communities themselves. It is one of the best effects of Brooklyn's charter, that it has helped to create in that city a very decided spirit of home rule, which is ready to protest at any moment against interference on the part of the State with local matters.

It remains to be said that the one organic problem in connection with the charters of cities, which apparently remains as far from solution as ever in America, is that which concerns the legislative branch of city government. In some cities the legislative side is represented by two bodies, or houses, known by different names in different cities, and presenting the same general characteristics as a State legislature with its upper and lower house. The most conspicuous instances of this kind are furnished by the city of Boston and the city of Philadelphia. In all the cities of New York State, the legislative branch consists of a single chamber indifferently spoken of as the Board of Aldermen or the Common Council. But whether these bodies have been composed of one house or two, the moment a city has become large they have ceased to give satisfactory results. Originally these bodies were given very large powers, in order to carry out to the utmost the idea of local self-government. As a rule they have so far abused these powers that almost everywhere the scope of their authority has been greatly restricted. In the city of New York that tendency has been acted upon to so great an extent as to deprive the common council of every important function it ever possessed, except the single power to grant

public franchises. How greatly they have abused this remaining power is unfortunately matter of public record. The powers thus taken away from the common council, are ordinarily lodged with boards made up of the higher city officials. Even in the city of New York it has seldom been the case that the mayor of the city has not been a man of good repute and of some parts. As a general proposition, it is found in American cities that the larger the constituency to which a candidate must appeal, and the more important the office, the more of a man the candidate must be. What may be the outcome of this difficulty as to the legislative body in cities, it is impossible to say. Sometimes it seems almost as though the attempt would be made to govern cities without any local legislature. But, on the other hand, there are so many matters in regard to which such a body ought to have power, that thus far no one has ventured seriously to take so extreme a view. It may fairly be said to be, therefore, the great unsolved organic problem in connection with municipal government in the United States. That it is so, illustrates with vividness the justice of the American view that it is a dangerous thing, in wholly democratic communities, to make the legislative body supreme over the executive.

Thus far in this chapter, the shortcomings of the American city have been admitted, and the effort has been made to show the peculiar difficulties with which such a city has to deal. It ought to be said that, despite all of these difficulties, the average American city is not going from bad to worse. There is substantial reason for thinking that the general tendency, even in the larger cities, is towards improvement. Life and property are more secure in almost all of them than they used to be. Certainly there has been no decrease of security such as might reasonably have been expected to result from increased size. Less than a score of years ago it was impossible to have a fair election in New York or Brooklyn. To-day, and for the last decade, under the present system of registry laws, every election is held with substantial fairness. The health of our cities does not deteriorate, but on the average improves. So that in the large and fundamental aspect of the question the progress, if slow, is steady in the direction of better things. It is not strange that a people conducting an experiment in city govern-

ment for which there is absolutely no precedent, under conditions of exceptional difficulty, should have to stumble towards correct and successful methods through experiences that are both costly and distressing. There is no other road towards improvement in the coming time. But it is probable that in another decade Americans will look back on some of the scandals of the present epoch in city government, with as much surprise as they now regard the effort to control fires by the volunteer fire department, which was insisted upon, even in the city of New York, until within twenty-five years. As American cities grow in stability, and provide themselves with the necessary working plant, they approximate more and more in physical conditions to those which prevail in most European cities. As they do so, it is reasonable to expect that their pavements will improve and the condition of their streets be more satisfactory. American cities, as a rule, have a more abundant supply of water than European cities, and they are more enterprising in furnishing themselves with what in Europe might be called the luxuries of city life, but which, in America, are so common as almost to be regarded as necessities. Especially is this true of every convenience involving the use of electricity. There are more telephone wires, for example, in New York and Brooklyn, than in the whole of the United Kingdom. The problem of placing these wires underground therefore, to take in passing an illustration, of another kind, of the difficulties of city government in America, is vastly greater than in any city abroad, because the multiplication of the wires is so constant and at so rapid a rate that as fast as some are placed beneath the surface, those which have been strung while this process has been going on seem as numerous as before the underground movement began.

It may justly be said, therefore, that the American city, if open to serious blame, is also deserving of much praise. Every one understands that universal suffrage has its drawbacks, and in cities these defects become especially evident. It would be uncandid to deny that many of the problems of American cities spring from this factor, especially because the voting population is continually swollen by foreign immigrants whom time alone can educate into an intelligent harmony with the American system. But because there is scum upon the surface of a

boiling liquid, it does not follow that the material, nor the process to which it is subjected, is itself bad. Universal suffrage, as it exists in the United States, is not only a great element of safety in the present day and generation, but it is perhaps the mightiest educational force to which the masses of men ever have been exposed. In a country where wealth has no hereditary sense of obligation to its neighbours, it is hard to conceive what would be the condition of society if universal suffrage did not compel every one having property to consider, to some extent at least, the well-being of the whole community.

It is probable that no other system of government would have been able to cope any more successfully, on the whole, with the actual conditions that American cities have been compelled to face. It may be claimed for American institutions even in cities, that they lend themselves with wonderfully little friction to growth and development and to the peaceful assimilation of new and strange populations. Whatever defects have marked the progress of such cities, no one acquainted with their history will deny that since their problem assumed its present aspect, progress has been made, and substantial progress, from decade to decade. The problem will never be anything but a most difficult one, but with all its difficulties there is every reason to be hopeful.

APPENDIX

NOTE TO CHAPTER III

ON CONSTITUTIONAL CONVENTIONS

IN America it is always by a convention (*i.e.* a representative body called together for some occasional or temporary purpose) that a constitution is framed. It was thus that the first constitutions for the thirteen revolting colonies were drawn up and enacted in 1776 and the years following; and as early as 1780 the same plan had suggested itself as the right one for framing a constitution for the whole United States.¹ Recognized in the Federal Constitution (Art. v.) and in the successive Constitutions of the several States as the proper method to be employed when a new constitution is to be prepared, or an existing constitution revised throughout, it has now become a regular and familiar part of the machinery of American government, almost a necessary part, because all American legislatures are limited by a fundamental law, and therefore when a fundamental law is to be repealed or largely recast, it is desirable to provide for the purpose a body distinct from the ordinary legislature. Where it is sought only to change the existing fundamental law in a few specified points, the function of proposing these changes to the people for their acceptance may safely be left, and generally is left, to the legislature. Originally a convention was conceived of as a sovereign body, wherein the full powers of the people were vested by popular election. It is now, however, usually an advisory body, which prepares a draft of a new constitution and submits it to the people for their acceptance or rejection.² And it is not deemed to be sovereign in the sense of possessing the plenary authority of the people, for its powers may be, and now almost invariably are, limited by the statute under which the people elect it.³

¹ It is found in a private letter of Alexander Hamilton (then only twenty-three years of age) of that year.

² The only recent exception to the now unvarying rule that conventions merely draft constitutions was furnished in 1890 by the State of Mississippi, where a convention, convoked under a statute, not only prepared, but actually enacted, the present Constitution of the State. The circumstances were peculiar, and the same thing would not happen in any Northern State. As to Kentucky, see p. 433.

³ The State Conventions which carried, or rather affected to carry, the seceding Slave States out of the Union, acted as sovereign bodies. Their proceedings, however, though clothed with legal forms, were practically revolutionary.