

shall be imprisoned or disseized of his freehold, but by the lawful judgment of his peers or the law of the land." This memorable provision, which was from the first embodied in all of the State Constitutions, has been carried into the Federal Constitution,¹ thereby placing the rights of life, liberty and property, as against invasion by the States, under the protection of the national authority.

§ 9. In general, all of our AMERICAN cities, towns, and counties are public corporations, full or quasi. They are created by the legislature, and are invested with power to decide and control local and subordinate matters pertaining to their respective localities. The number and freedom of these local organizations, whereby political power is exercised by the citizens of the various local subdivisions of a State who have a right to vote and to regulate their own domestic concerns, constitute a marked feature in our system of government.² They are simply the administrative form of the fundamental American idea of government, viz., that the people are the source of all political power and have the right to exercise it. This is with us no mere rhetorical declamation, but a foundation principle upon which our political institutions rest. As local matters can better be regulated by the people of the locality than by the central power, we provide that each road-district, each school-district, each city and each county shall, as to its local concerns, be self-governed. These organizations are, of course, subject to the legislature of the State, and their acts, if in violation of law or where they affect private rights, are also subject to judicial cognizance and judgment. They are under the law and are bound to obey it. The policy of creating local public and municipal corporations for the management of matters of local concern, runs back to the earliest period of our colonial history, is exhibited in all our legislation, and expressly or impliedly guaranteed in our State constitutions.³ "It is a fundamental principle in this State, recognized

¹ Amendment XIV.

² "In all quasi corporations, as cities, towns, parishes, school-districts, membership is constituted by living within certain limits." Per *Shaw*, C. J., *Overseers of Poor, &c.*, v. *Sears*, 22 Pick. 122, 130; *Hill v. Boston*, 122 Mass. 344, 356 (1877); s. c. 23 Am. Rep. 332. *Post*, sec. 40. "When a man," says Mr. Justice *Morton*, *Oakes v. Hill*, 10 Pick. 333, 346, "moves into a town, he becomes a citizen thereof (if possessed of the requisite qualifications as to age, &c., and if he remains

the requisite length of time) whatever may be the desire of himself or the town." See *post*, chaps. ii. and iii.; *People v. Canada*, 73 N. C. 198; s. c. 21 Am. Rep. 465. *Post*, sec. 195.

³ *Kent*, Com. 275; *Cooley*, Const. Limit. chap. viii. See also this learned author's opinion in the Supreme Court of Michigan, in the *People v. Hurlbut*, 24 Mich. 44, (1871); *State v. Noyes*, 10 Fost. 30 N. H. 292; *Bow v. Allentown*, 34 N. H. 351; s. c. 9 Am. Rep. 103, and in *People v. Detroit*, 28 Mich. 228; s. c. 15 Am. Rep.

and perpetuated by an express provision of the Constitution, that the people of every hamlet, town, and city of the State are entitled to the benefits of local self-government."¹

The elective franchise is not, as was the case until the comparatively recent reform legislation in England, a privilege dependent upon custom or usage, or confined to certain classes, but is uniform and universal, extending to all of the adult male citizens. Old Sarums and rotten boroughs, as well as property qualifications, are unknown. The effect of this policy of establishing cities, towns, and districts of country into bodies politic, and investing the citizens thereof with the power of self-government in respect of their local affairs, has, upon the whole, been most happy. One of the most philosophical and fair of foreign observers² was much struck

202. *Post*, secs. 58, 73. Text approved. *Luehrman v. Taxing Dist.*, 2 Lea (Tenn.), 425. *Caldwell v. Justices, &c.*, 4 Jones (N. C.) Eq. 323; *Comw. v. Roxbury*, 9 Gray, 503, 510, 511, note written by Mr. Gray, afterwards the Chief Justice of the Supreme Judicial Court of Massachusetts, and now one of the Justices of the Supreme Court of the United States; *Webster v. Harwinton*, 32 Conn. 131; *People v. Albertson*, 55 N. Y. 50 (1873). *Post*, sec. 58. In Mr. Quincy's *Municipal History of Boston*, chap. i., will be found an interesting historical account of the constitution of towns in Massachusetts, and of their mode of organization and operation, particularly of the town of Boston. *Post*, sec. 28.

¹ Per *Cooley*, J., in *People, ex rel. Park Comm'rs* (Detroit Park Case), 28 Mich. 228 (1873); s. c. 15 Am. Rep. 202, referred to *post*, secs. 72, 73.

² M. De Tocqueville, *Democracy in America*: "Local assemblies of citizens constitute the strength of free nations. Municipal institutions are to liberty what primary schools are to science; they bring it within the people's reach; they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty." M. De Tocqueville's *Democracy in America*, chap. v. *Post*, sec. 28, note.

"From time immemorial," says one of the ablest of American common-law judges, "the counties, parishes, towns, and territorial subdivisions of the country have

been allowed in England, and, indeed, required, to lay rates on themselves for local purposes. It is most convenient that the local establishments and police should be sustained in that manner; and, indeed, to the interest taken in them by the inhabitants of the particular districts, and the information upon law and public matters generally thereby diffused through the body of the people, has been attributed by profound thinkers much of that spirit of liberty and capacity for self-government, through representatives, which has been so conspicuous in the mother country, and which so eminently distinguishes the people of America. From the foundation of our government, colonial and republican, the necessary sums for local purposes have been raised by the people or authorities at home. Court-houses, prisons, bridges, poor-houses, and the like are thus built and kept up; and the expenses of maintaining the poor, and of prosecutions and jurors, are thus defrayed, and of late (in North Carolina) a portion of the common-school fund, and a provision for the indigent insane, are thus raised, while the highways are altogether constructed and repaired by local labor, distributed under the orders of the county magistrates. When, therefore, the Constitution vests the legislative power in the General Assembly, it must be understood to mean that power as it had been exercised by our forefathers, before and after their migration to this continent." Per *Ruffin*, J., in *Caldwell v. Justices, &c.*, 4 Jones (N. C.) Eq. 323 (1828).

with the institutions of New England towns; and considered them as small independent republics in all matters of local concern, and as forming the principle of the life of American liberty existing at this day.¹ Not only the New England towns, but the underlying and universal prevalence of local government and administration, rural and urban, throughout the United States, and its effect upon the general life and well-being of the American people, have been not only noticed but intelligently described and enforced in a late work of great interest and value, by a distinguished English writer, who criticises freely indeed, but with no conscious bias and with no unfriendly spirit.²

§ 10. The *value of our system of municipal institutions*, to which we have thus alluded, may be seen on comparing the political condition of the people of the United States with that of the people of modern France,—selected as a fair example of a government without municipal freedom. France is a highly centralized government. The state there is everything. Municipal institutions, with the power of independent local self-government, belong there to the past. The central power governs and regulates everything. It provides amusements; constructs roads, bridges, internal improvements; controls trade; inspects manufactures. The effects of this system are thus described: “Develop in the slightest degree a Frenchman’s mental faculties, and he flies to a town as surely as steel filings fly to a loadstone. From all parts of France men of great energy and resource struggle up, and fling themselves on the world of Paris. There they try to become great functionaries. Through every department of the eighty-four, men of less energy and resource struggle up to the provincial capital. All who have, or think they have, heads on their shoulders, struggle into town to fight for office which the government alone can confer. The whole energy and knowledge and resource of the land are barrelled up in the towns: all between towns is utter intellectual barrenness.” Such are the withering effects of a centralized despotism.³ How

¹ *Post*, secs. 28, 29, and notes.

² Prof. Bryce’s *American Commonwealth*, 1888, vol. I. chaps. 48–51. See also the useful and valuable monographs on Local Government in the several States, in the Johns Hopkins University Studies.

³ But under the laws of 1866, 1871, and 1884, the French municipalities have a large degree of independence. The *commune* movement of 1871 was the natural

result of a popular uprising against centralized power. But it went to the other extreme, and contemplated, *without a national compact*, a league of 36,000 independent *communes*. Their declared scheme was this: “France shall no longer be one and indivisible, empire or republic; she shall form a federation, not of small states or provinces, but of free cities, linked together *only* so far as shall be consistent with the most absolute decentralization and local

different with the decentralized system of government in the United States, where each local constituency chooses its own officers; each road-district, school-district, village, town, city, and county administers its own local affairs by the people and for the people.¹

§ 11. To *civil territorial divisions*, erected into corporations full or *quasi*, with defined powers of local administration, and the extension of the right to vote for officers to all who are to be affected by their action, are due that familiarity with public affairs, that love of liberty, that regard for private rights and property, and that universal reverence for and obedience to law, which are characteristic of the best government in Europe,—Great Britain, and the best in America,—the United States.²

government.” (*Journal Officiel de la Commune*, April, 1871.) But a scheme which made cities, and not the nation, practically the sovereign, is radically defective, and open to all the objections which M. Mazini has so forcibly pointed out against it. (*Contemporary Review*, 1871; reprinted *Littell’s Living Age*, July, 1871, p. 112.)

¹ *Barrett v. Brooks*, 21 Iowa, 144, 151. By constitutional provision in New York, “it belongs exclusively to the local power to fill the offices, either by election or appointment, as the legislature may direct.” *Met. Bd. Health v. Heister*, 37 N. Y. 661, 667; *People v. McDonald*, 69 N. Y. 362 (1877); *People v. Supervisors*, 112 N. Y. 585 (1889); *People v. Lynch*, 51 Cal. 15 (1875); s. c. 21 Am. Rep. 677. Opinion of *McKinstry*, J. See also Constitution of *Illinois*, art. ix. sec. 5; construed *People v. Chicago*, 51 Ill. 17 (1869); s. c. 2 Am. Rep. 278; Constitution of *California*, art. xi., entitled “Cities, Counties, and Towns,” secs. 13, 15. Provisions exist in most, if not all, of the State constitutions, which place the right of local government, and to some extent the autonomy of municipalities, beyond the power of legislative destruction. Constitutional provisions as to qualification of electors and the right of equal representation held to apply to municipal corporations. *People v. Canaday*, 73 N. C. 198 (1875); s. c. 21 Am. Rep. 465.

Speaking of the power of creating debts and expending money by the city of Philadelphia, under the Consolidation Act of 1854, in a case where it was held that

this power had been vested in the legislative department, and not with subordinate officers, *Agnew*, J., observed: “It is manifest that the city government is founded, in its leading thought, upon the American idea of a popular representative government, its immediate prototype being the form of the State government. The right of supervision and control is therefore vested in the councils as the immediate representatives of the popular will, which exerts and enforces its determining power by means of constantly recurring elections. Subject to this primary power the affairs of this people, great in numbers, wealth, intelligence, and influence, are conducted by departments and officers.” *Philadelphia v. Flanigen*, 47 Pa. St. 21 (1864).

“What,” inquired the Abbé Sièyes, in a book which gave a powerful impulse to the public mind at the beginning of the French Revolution of 1789,—“What is the *tiers état*?” And he answered, “Nothing.” What ought it to be? “Everything.” Thiers, *French Rev.*, vol. I. p. 27; Guizot, *Hist. Civ. Lect. VII.* On this popular foundation rests not only our national government, but as well all of our State governments and municipal institutions. *People v. Detroit*, 28 Mich. 228; s. c. 15 Am. Rep. 202 (1873). *Post*, secs. 58, 72, 73.

² After alluding to the antiquity of this system in England, Mr. Justice *Brown*, in the important case of the *People v. Draper* (15 N. Y. 532, 562), says: “Wherever the Anglo-Saxon race have gone,

But the picture is not without its shadows. The usefulness of our municipal corporations has been impaired by evils that are either inherent in them or that have generally accompanied their workings. Some of these may be briefly indicated: 1. Men the *best fitted* by their intelligence, business experience, capacity, and moral character, for local governors or counsellors are not always, it is feared, — it might be added, are not generally, — chosen. This is especially true of populous cities. 2. Those chosen are too apt to merge their *individual conscience* in their corporate capacity. Under the shield of their corporate character, men but too often do acts which they would never do as individuals. The public, as if

wherever they have carried their language and laws, these communities, each *with a local administration* of its own selection, have gone with them. It is here that they have acquired the habits of subordination and obedience to the laws, of patient endurance, resolute purpose, and knowledge of civil government, which distinguish them from every other people. Here have been the seats of modern civilization, the nurseries of public spirit, and the centres of constitutional liberty. They are the opposites of those systems which collect all power at a common centre, to be wielded by a common will and to effect a given purpose, which absorb all political authority, exercise all its functions, distribute all its patronage, repress the public activity, stifle the public voice, and crush out the public liberty."

"Whoever," says *De Tocqueville, Œuvres Complètes*, VIII., "travels in the United States is involuntarily and instinctively so impressed with the fact that the spirit of liberty and the taste for it have pervaded all the habits of the American people, that he cannot conceive of them under any but a Republican government. In the same way it is impossible to think of the English as living under any but a free government." After quoting these words, Prof. *Dicey*, in his work on the Law of the Constitution, says (2d ed., 1886, p. 173) that "they point in the clearest manner to the *rule, predominance, or supremacy of law* as the distinguishing characteristic of English institutions"; institutions which we have fully inherited or adopted. What is meant by absolute supremacy of the rule of law in England and America,

how it permeates the whole political system, and how it protects and secures the individual man in all of his fundamental legal rights, viz., that no man shall be punished except for a breach of law, and that all classes are subject to the ordinary law of the land administered in the ordinary law courts, with no immunity from liability of any officer or official however high (the King only excepted) who violates the legal rights of any other man, however humble, are so clearly set forth in the instructive work just cited, that it gives us pleasure to commend it to our readers.

"The city corporations," remarks a modern jurist, "which have grown up in modern times, are of infinite advantage to society; they bind men more closely together than does any other form of political association. But that which most remarkably distinguishes them from the close corporations which formerly existed, is the general spirit of freedom which has been breathed into them. More especially is this the case with town corporations in America, which are as different from those of England as the latter are from similar corporations in Scotland and Holland." Per *Grimke, J.*, *Rosebaugh v. Saffin*, 10 Ohio, 31, 37; see also *State v. Noyes*, 10 Fost. (N. H.) 292; and the opinion of *Allen, J.*, in *People v. Albertson*, 55 N. Y. 50, 57 (1873), where he says: "The right of (local) self-government lies at the foundation of our institutions." *People v. Supervisors*, 112 N. Y. 585. *Post*, secs. 45, note, 58, 72, 73, 183; *People v. Detroit*, 28 Mich. 228 (1873); s. c. 15 Am. Rep. 202.

to retaliate, acts *towards* corporations in the same spirit. The notion, though not avowed, is quite too much acted upon, that all that can be obtained from a public, or, indeed, from any corporation, is legitimate spoil. Against these, men, usually honest and fair in their dealings, do not scruple to make demands which they would never make against an individual.¹ 3. As a result, the administration of the affairs of our municipal corporations is too often *unwise* and *extravagant*.

§ 12. Municipal corporations are *institutions designed for the local government of towns and cities*; or, more accurately, towns and cities, with their inhabitants, are, for purposes of subordinate local administration, invested with a corporate character. To clothe them with powers to accomplish purposes which can better be left to private enterprise, is unwise. Their chief function should be to regulate and govern in respect of local affairs, which can be dealt with better by the people concerned than by the distant central power. To invest them with the powers of individuals or of private corporations, for objects not pertaining to municipal rule, is to pervert the institution from its legitimate ends, and to require of it duties which it is not adapted satisfactorily to execute. Some of the evil effects of municipal rule have arisen from legislation unwisely conferring upon municipalities, at the suggestion often of interested individuals or corporations, powers foreign to the nature of these institutions, and not necessary to enable them to discharge the appropriate functions and duties of local administration. Among the most conspicuous instances of such legislation may be mentioned the power to aid in the building of railways, to incur debts, often without any limit or any which is effectual, and to issue negotiable securities.² The result has too often been that debts are incurred so large that they press with disastrous weight on the municipality and its citizens. Extraordinary and extra-municipal powers have been too often incautiously or unwisely granted, and the charters or constituent acts carelessly worded and loosely construed. The remedy suggested by experience consists, in part, in constitutional provisions prohibiting the granting of special charters, and requiring all municipal corporations to be

¹ These effects are not confined to this side of the Atlantic. "It is a familiar fact," says Mr. Herbert Spencer, "that the corporate conscience is ever inferior to the individual conscience—that a body of men will commit, as a joint act, that which every individual of them would

shrink from, did he feel personally responsible." *Essays*, No. VII. p. 261, Am. ed. 1865; and see *Ib.*, *Essays* No. 5, for a description — perhaps too highly colored — of the unsatisfactory working of the English reformed municipal corporations. ² See *post*, secs. 117, 153.

organized under general laws. The legislature ought also to be prohibited from allowing municipal corporations to engage in extra-municipal projects, or to incur debts or levy taxes for such purposes. The powers granted to such corporations, and especially the power to levy taxes, ought to be more carefully defined and limited, and should embrace such objects only as are necessary for the health, welfare, safety, and convenience of the inhabitants.¹ The amount of indebtedness that may be incurred, even for municipal purposes, ought also to be limited beyond the power to be evaded.²

§ 12 a. Unrestrained power in the central legislative authority to bestow valuable franchises affecting cities and property therein, without the consent of the municipal authorities and of the property owners who are injuriously affected, necessarily makes the city and such owners the sufferers from inconsiderate grants. Administered on business principles, a city ought to derive large revenues from the use of wharves, from railways occupying streets with their tracks, from gas, water, and other companies to which are given the right to lay mains in the streets and public places. Effective

¹ "The great increase of corruptions in municipal bodies, growing out of the ability to create by taxation a fund which may be squandered, has made many thinking men doubt the wisdom of endowing them with the power." Mr. Justice Miller, in *Rusch v. Des Moines County*, 1 Woolw. C. C. 313, 322 (1868). And note the striking observations of Mr. Justice Agnew on the abuses which attend the administration of finances by municipal bodies and officers, and the too prevalent frauds in the procurement and execution of public contracts. *Philadelphia v. Flanigen*, 47 Pa. St. 21; *Hague v. Philadelphia*, 48 *Ib.* 527. In the Pennsylvania case first cited, the suggestion of the text as to the wisdom of strictly guarding and limiting the power to create debts is well enforced by this learned judge. He truly says: "A valid contract is uncontrollable, demanding its performance at the hands of the judiciary, and calling to their aid the whole power of the government. If an appropriation for its payment is not made this year, it must be in the next or some following." *Agnew, J.*, 47 Pa. St. 21. The gigantic and astounding frauds and corruption perpetrated by what is known as the "Tweed ring," which were

revealed in 1871, in the local administration of the affairs of the great city of New York, have awakened public attention to the necessity of more efficient checks upon the misuse of municipal powers. The legislation which was thereupon enacted to prevent frauds in the future, cannot be said, in view of disclosures in 1886 in reference to the Broadway railway franchises, to have been adequate to the end proposed. It was judicially established that a large majority of the board of aldermen had been guilty of accepting bribes. *People v. Jaehne*, 103 N. Y. 182; *People v. O'Brien*, 111 N. Y. 1 (1888). Legislation based upon the principles suggested in the text (secs. 13-15) would, it is believed, have prevented these shocking and scandalous corruptions. The mayor was without real power in the matter of the granting of these franchises by the common council. His veto was overridden.

² As we shall hereafter see, nearly all of the States which have revised or adopted Constitutions since the above was written, have ordained provisions limiting the power of the State legislatures and of municipalities in respect of each of the four important subjects referred to in the text.

organic limitations on the power both of the legislature and of the local authorities to make grants of this character ought to be devised, and the proprietary rights of adjoining property owners protected. Accordingly in late years several States have ordained constitutional provisions of this character.¹ And generally it may be said that experience has shown the necessity of organic provisions more exactly defining and limiting the power of the legislature to enact laws which affect the local and private or distinctly corporate rights of chartered cities, and which involve expenditures of money, the creation of debts and consequent pecuniary burdens, without the consent, or against the will of the local authorities of the municipality or the people thereof.²

§ 13. Experience with us has also demonstrated the necessity of more power and more responsibility in the executive head of our municipal institutions. Too often the duties of the mayor or executive officer are only nominal, and to these he gives but little attention, — a natural result of his want of importance, and of his inability to control the administration of municipal affairs. If the office were clothed with dignity and real authority; if the mayor were invested with the veto power, if he had the sole right to appoint and the unrestricted power to suspend or remove subordinate officials or heads of departments, then the citizens could justly demand of him that he should be individually responsible for the proper conduct of the concerns of the municipality, and if griev-

¹ By the amended Constitution of New York, which took effect January 1, 1875, it is provided (art. 3, sec. 18) that "the legislature shall not pass any private or local bill granting to any corporation, association, or individual a right to lay down railroad tracks, or any exclusive privilege, immunity, or franchise whatever. The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which, in its judgment, may be provided for by general laws; but no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of the street or highway upon which it is proposed to construct and operate such railroad, be first obtained." Several other States have simi-

larly amended their constitutions. *Post*, chap. xviii., on Streets.

The legitimate sources of revenue that may be thus opened to cities is well illustrated by the case of the city of Berlin. In that city, it is stated on good authority that the street railway company not only paves a portion of all the streets it occupies, but pays a percentage of its receipts to the city, whose revenue from this source is about \$250,000 a year; and in 1911 the street railway, with all of its equipment, will become the property of the city. Municipal gas-works yield about 18 per cent of the entire annual expenditure of the city as profit; the water-works also yield an annual profit of about \$220,000; and even the great sewerage system produces something like a net revenue of the same figure through the annual rates imposed upon householders for the use of sewers.

² Mr. Low, describing his experience as

ances exist, they would know to whom to apply for remedy, or upon whom to fix the blame.¹

§ 14. Municipal corporations, as they exist in this country, it may be further observed, are of *exceedingly complex character*. Not here to allude to the legal complexity which inheres in their *corporate* nature, we may mention that which arises from the exceedingly diverse character of the multiform duties which are confided to their agency and management, requiring the delegation of corresponding powers and provisions for their execution.

mayor of Brooklyn (1 Bryce, Amer. Commonwealth, chap. lii.), says: "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 [as mayor] the writer was compelled to oppose at Albany unwise and adverse legislation on the part of the State. No law objected to by the mayor during this interval was placed upon the statute book. 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."

¹ Extended observation of the workings of our municipal institutions has satisfied the author that the views expressed in the text are sound, and he is glad to find them confirmed by the Hon. Josiah Quincy, in his *Municipal History of Boston*, published in 1852. Mr. Quincy was mayor of the city of Boston from 1823 to 1828, inclusive, and his opinions are entitled to great respect, not only from his known ability, but large experience in municipal affairs. It is interesting to observe the striking coincidence of his views with the recommendations of the "Committee of Seventy," of New York, respecting municipal administration and the importance of efficient executive superintendence, control, and responsibility. *Municipal History of Boston*, chap. v. And to the same effect is Mr. Charles Nordhoff's interesting article in the *North American Review* for October, 1871, entitled "The Misgovernment of New York,—A Remedy Suggested." This vigorous writer sketches the defects in the ordinary mu-

nicipal charters with a masterly hand, and shows great familiarity with the subject of which he treats. Many of his suggestions may be profitably studied by the legislator. It may be observed that in England, under the reformed municipal system, the right to a voice in municipal management is not universal, but is restricted to occupiers of houses and taxpayers, and yet we have, as we have seen, complaints of municipal extravagance, corruption, and abuse. In the existing system of municipal government in Great Britain, the function of the mayor, as we shall point out in a subsequent chapter, is in many respects essentially different from the function of the corresponding officer in our American municipalities. There the actual work of municipal administration is in effect carried on by the councils and committees, upon whom, rather than upon the mayor, rests the responsibility of the success of municipal rule. *Political Science Quarterly*, vol. iv., 215 *et seq.*

The charter of the city of Brooklyn which went into effect January 1, 1882, and which has been declared by the highest authority to be such a "vast improvement" on any system of government which the city had tried before, "that no voice is raised against it," is based in its reform features essentially upon the principles suggested in the text. See on this subject chap. lii. vol. I. Bryce's *American Commonwealth*, written by the Hon. Seth Low (the first mayor of Brooklyn under this charter), entitled "An American View of Municipal Government in the United States." It is replete with that wisdom and instruction that come, and can only come, from careful study combined with practical experience.

Some of these powers are civil or political, and not peculiar to the people of the municipality; others are purely local, of which some concern all the inhabitants, and some affect only, or mainly, the property owners, on whom exclusively or largely the burden of their exercise or administration falls. In the ordinary municipal charters, the essential differences between these powers have not been sufficiently regarded, and in consequence *adequate* checks upon their abuse have not been provided.

§ 15. The *general right of suffrage* will remain, and in the author's judgment, ought, at least, as respects the popular branch of the municipal council, to remain as extensive in the municipality as in the state; and all schemes of municipal reform, whatever their merit, based upon restricting it within narrower limits than those here suggested, are simply impracticable.¹ But if special or extra-municipal powers be granted, not affecting civil, political, or other rights which concern all, but which involve directly the expenditure and payment of money, it is but just that the project should be required to have the support of a majority in value of

¹ The observations upon this subject of Mr. Seth Low in his chapter in Bryce's work, before referred to, are sound and weighty. We extract one or two sentences: "Every one understands that universal suffrage has its drawbacks, and in cities these defects become especially evident. . . . As it exists in the United States, it is not only a great element of safety, but is perhaps the mightiest educational force to which the masses of men have ever been exposed. In a country where wealth has no hereditary sense of obligation to its neighbors, 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." 1 Bryce, *Am. Com.*, 634, 635.

Mr. Bright gave eloquent expression to similar sentiments in the peroration of his speech in the House of Commons, March 24, 1859, on Lord Derby's Reform Bill: "I have endeavored to stand on the rules of political economy, and to be guided by the higher rules of true morality; and when advocating a measure of reform larger than some are prepared to grant, I appear in that character, for I believe that a sub-

stantial measure of reform would elevate and strengthen the character of our population; that, in the language of the beautiful prayer read here every day, it would tend 'to knit together the hearts of all persons and estates within this realm.' I believe it would add to the authority of the decisions of Parliament, and I feel satisfied it would confer a lustre, which time could never dim, on that benignant reign under which we have the happiness to live." And later, in 1865, he exclaimed to a Birmingham audience: "Who is there that will meet me on this platform, or will stand upon any platform, and will dare to say, in the hearing of an open meeting of his countrymen, that these millions for whom I am now pleading are too degraded, too vicious, and too destructive to be entrusted with the elective franchise? I, at least, will never thus slander my countrymen. I claim for them the right of admission, through their representatives, into the most ancient and the most venerable Parliament which at this hour exists among men; and when they are thus admitted, and not till then, it may be truly said that England, the august mother of free nations, herself is free."