Municipal history and present organization of the city of ...

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MUNICIPAL HISTORY AND PRESENT ORGANIZATION OF THE CITY OF CHICAGO

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PREFACE.

There are certain inherent difficulties in the preparation of a monograph of this character. In the first place the vast accumulation of materials that form the basis of such a study, renders it exceedingly difficult to secure system and to trace definite tendencies in the midst of the ceaseless change that is, and ever has been manifest throughout the municipal history of Chicago. The unsatisfactory state of knowledge concerning the American city is chiefly due to the fact that a careful study of the sources of municipal government has been confined to a very few cities, and to a still smaller number of the state systems. Not until the monographic period of investigation has yielded its slow and painstaking results will the subject of municipal government be placed upon a firm and safe basis for generalization. The question of selection and emphasis therefore becomes of primary importance and affords a wide latitude for differences of opinion. In the midst of a vast accumulation of codes, special laws, charters, ordinances, etc., we were gradually led to the view that the purposes of this study would be best conserved by the presentation of the outlines of the institutional development and present structure of the city to the exclusion of a treatment of the many important problems of the current administration.

In order to assist in a more minute study of special phases of the city administration, as well as to relieve the body of the text from an accumulation of footnotes, a carefully prepared bibliography of the primary sources has been made.

In the second place the determination of what materials were organic in reference to the municipality and what were supplementary, has not always been an easy task. Many legislative

enactments affected as deeply the organization of the city as the change from charter to charter. This problem became still more complicated in pointing out the organic relation existing between the institutions of the city and its varied social and administrative needs.

After the manuscript had passed to the printer the legislature in special session for 1897–98 passed two acts which have modified two important sources of the municipal weakness of Chicago. These acts reorganized the system of taxation, and prescribed the methods of making party nominations. Some of the defects of the former system have been removed by this legislation. These changes will be noted in the appendix.

In the preparation of this monograph I have received helpful suggestions from Professors Richard T. Ely and Frederick J. Turner, both of the University of Wisconsin; Judge M. F. Tuley of the Cook County Circuit Court of Illinois also kindly consented to read the manuscript.

It must however be borne in mind that the writer assumes all responsibility for any error in the statement of facts and of conclusions.

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MUNICIPAL HISTORY AND PRESENT ORGANIZATION OF THE CITY OF CHICAGO.

CHAPTER I.

INTRODUCTORY.

The metropolitan city occupies an exceptional administrative position among the municipalities of the world. Wherever a uniform municipal organization obtains in the modern state, with but few exceptions, special provisions are made for the great urban center. Its political, commercial and social importance has given it a unique place in the administrative system of the state. Furthermore, the more important of the metropolitan cities are passing through a transitional stage of institutional organization. The administrative county of London is a tentative substitute for the amorphous conditions that prevailed in the Greater London prior to the law of 1888. The score of local *mairies* and central prefects that have diffused executive power in the city of Paris exhibit an important struggle between the forces of centralization and decentralization in the large city. The question of the reorganization of Paris is under consideration. The Greater New York begins a new epoch under the provisions of a charter, embodying the principles of territorial and administrative consolidation. The conditions prevailing in the city of Chicago must find their ultimate solution in a consolidated and simplified charter, which will subordinate all the varied administrative interests, scattered among towns, parks and municipality, under one central responsible organ.

The transitional phase of the American municipality renders it exceedingly difficult to point to definite processes in its evolu-

tion. In the midst of varied kinds of charter organization, broad outlines are discernible, although at times effaced in reactionary tendencies, or in retarded development.

The charter evolution of the city of Chicago typifies in brief the changes that have followed in the history of the American municipal development in general. The common council was the central organ in the few cities that existed before the American Revolution. In the first charter of the town of Chicago, the town board was the only organ that was instrumental in ministering to the wants of the village. Furthermore, slight traces of an aristocratic nature appeared in the freehold qualifications of the suffrage. Thus as a result of Eastern models, as well as of the prevailing elementary conditions, the common council absorbed all administrative and legislative functions. Gradually executive power has issued from this elementary town board, and its successor, the common council. The first consideration in this evolution is the principle of popular sovereignty which followed with the widespread use of the suffrage in the election of local officers. In Chicago, as elsewhere, the election of the mayor passed from the council to the people and became the starting point in the separation of executive and legislative functions, and gradually vested the mayor with the elements of administrative power and direction. With each succeeding charter, the position of the mayor was strengthened by the addition of new powers taken from the council. Although the common council remains today as the central fact in the municipality of Chicago, the theory of executive concentration has been consistently followed out until the mayor is possessed of the responsible powers of the direction and supervision of the administration, as well as of appointment and veto. He has been given many financial and legislative powers formerly exercised by the council, which places this body in a weakened position before the municipality, shorn of many of its venerable privileges. The chasm that separates the mayor and council is partially bridged on the one hand by the executive veto of the ordinances of the municipal legislature, and on the

other hand by legislative confirmation of the appointments of the executive. These checks, designed to create harmony in administration and to restrain hasty action in appointment and legislation, have reared two almost independent organs appealing for popular favor. Where responsibility was expected, irresponsibility has resulted. Widespread distrust of the representative organ of the city has started strong tendencies toward executive concentration, which has been consistently worked out in the Chicago system. The mayor and his heads of departments stand in almost complete separation from the council. The personal relation is only maintained in the presence of the mayor as the presiding officer of the municipal legislature and in the confirmation of executive appointments, and in his veto over the city ordinances.

A second fact of general significance appears in the changes that have been noted. But few American municipalities have escaped the era of boards. Special legislation has been the responsible factor in this wide diffusion of administrative functions among nominally independent authorities. Particular problems have been met by the creation of specific boards with only partial control exercised by the municipality. Responsibility and administrative coherence were lost in disintegration and confusion. During the early years of the city of Chicago, special legislation created a number of quasi-public boards for the discharge of important administrative services. Thus special legislation brought to the city its full measure of abuses, and left its traces in administrative chaos and disorganization. The continuous appeal to the state legislature for amendatory legislation was checked by the Constitution of 1870, which provided for a general charter law for the cities of Illinois. Since the acceptance of the law in 1875, by the city of Chicago, a more systematic correlation of administrative functions and organs has resulted.

The history of the municipality of the Middle West has been characterized by rapid and transitory changes due to the presence of a mobile population and rapid material expansion. As

the western town-county system represents a distinct epoch in Anglo-American local administrative history, so the western city completes the thread of institutional continuity by appropriating the Eastern type derived from English models. Custom and early transitional forms have exerted but little force in the institutional evolution of the western city, while, on the other hand, the freedom of movement that has characterized western life has imparted its rapid and unqualified changes in the structure of the city.

Furthermore, the history of the American municipality brings into prominence one fact, that back of the vast variety of municipal legislation there appears no well defined theory of charter organization, which could be designated as general throughout the states. Crude workmanship, excessive legislative control, and the absence of a clear vision into the needs of urban life and organization, have resulted in a vast variety of forms of charter organization with few prevailing types. The process of development in Chicago and elsewhere has tended to draw the municipality from the traditional basis of local self-government toward submission to a strong control over the locality by the state legislature; this development has resulted moreover in a wider separation of the elements of executive and legislative power, in a more extended use of the suffrage in the city, and particularly in the election of the mayor by the people, and also in vesting him with the important powers of veto and appointment. The corporate history of Chicago affords ample proof of these changes.

CHAPTER II.

EARLY MUNICIPAL LEGISLATION IN ILLINOIS.

The ordinance of 1787 was not concerned with municipal institutions in the stricter sense. The creation of municipal institutions was reserved to the individual states carved out of the Old Northwest, when urban conditions arose. Chicago reflects not only the municipal development in the state of Illinois, but likewise the essential outlines of its quasi-municipal institutions. In its local administrative development the western state has preserved a curious and illogical mixture of rural and urban institutions operating within the same jurisdiction. Previous to the organization of the town of Chicago, the statutes of the state of Illinois preserved a pioneer act relating to village organization.[1] The historical value of this act lies in the fact that it was the first attempt in Illinois toward state regulation of village life through an orderly corporate existence. The act of 1814 was as simple as the village life which it was to regulate. It provided a brief and effective process by which the small village groups could assume the rights and immunities of corporate life. The county system prevailed at this period as the unit of local government in the territory. At its head stood the county court, a legislative and administrative body. It was made the agent of the legislature in the extension of municipal privileges to the village communities, and could vest any particular tract of land in a board of trustees, upon their application, for the purpose of establishing a village or town.

The villages were organized as proprietary institutions. They were, in their inception, close business corporations. The board of trustees occupied an intermediate position between the

[1] Act of December 19, 1814.

inhabitants and the owners of the village site. Rudimentary legislative and administrative powers resided with this body. The board, however, was more than the mere agent for the sale of lots; it possessed power to regulate the inner life of the village through the exercise of ordinance power. The membership of the board was determined by coöptation until the population counted fifteen freeholders, when the principle of the popular suffrage was to be substituted.

In these simple, rudimentary beginnings of the municipal life of the state are to be discerned the germs of subsequent development. The village was given its organic connection with the central territorial government through the county court, while with the village board resided all corporate powers, legislative and administrative.

A trading French population had followed the fur traders and missionaries into the Northwest from Canada, and planted along many streams and shores of lakes a mediaeval community, so characteristic of the French local life during that century. In Michigan, Indiana, Wisconsin and Illinois, at the period of territorial organization many of these villages possessed a flourishing and thrifty population living in the midst of common village holdings. The centralized administration in Paris touched with vigor the remotest of these village communities. The organization of territorial government found already in existence a rudimentary urban life, the outgrowth of special charters which had been granted previous to the act of 1814. The charter of the city of Vincennes may be taken as a fair type of the special legislation of this early period. A board type of organization prevailed, the board consisting of a chairman and nine assistants. The assistants were divided into three classes and each class was elected annually.[1] The board perfected its own organization by electing a chairman and clerk, and controlled the purchase of lands, markets, etc.[2] An important instance of

[1] Ibid, Sec. 5.

[2] Act to incorporate borough of Vincennes, November 19, 1806. Secs. 3 and 4.

legislative control is found in the provision that all by-laws and money accounts, receipts and expenditures in detail must be presented to the territorial legislature.[1] The principles of organization employed in the special charters did not depart materially from those set forth in the general act of 1814. Simple conditions demand simple forms. These were found in the models of legislation which followed from the eastern commonwealths.

The state legislature did not attempt further general legislation with reference to the municipalities until the act of March 1, 1831. The act of 1831 was designed to extend the corporate powers of those villages already incorporated, which possessed at least 150 free-holders of twenty-one years of age. The initial step toward incorporation was a public meeting, organized with a president and clerk who remained as corporate officers until their regular successors were elected.[2] When the question of incorporation was decided in the affirmative, a second meeting of the voters elected a board of trustees which was to consist of five resident freeholders.[3] The board determined its own organization by electing a president from its own membership.[4]

The president of the board of village trustees was a mayor in embryo, if measured by his relation to the board and to the administrative work of the village. Although possessing no positive powers other than those of a presiding officer, he naturally became the responsible head in the direction and supervision of the work of the board. The board organization implied the presence of dual factors, the president and its remaining members.[5]

The president and trustees were empowered "to make, ordain, establish and execute ordinances" in harmony with the con-

[1] Ibid, Sec. 7.
[2] Act of March 1, 1831, Sec. 1.
[3] Ibid, Sec. 3.
[4] Ibid, Sec. 4.
[5] Ibid, Sec. 5.

stitutional and legal enactments of the state.[1] The scope of the powers of the board were sufficiently ample to compass the simple village life of the period. The familiar category of village regulations appeared in the enumerated lists of the general act. Gambling and disorderly conduct were the subject of restraint and prohibition; shows were licensed, and markets established and regulated; wells were to be sunk for village water supply; streets and alleys were constructed and repaired by special assessments.[2] When necessity required, the board was authorized to organize a fire department.

The tenure of the board was fixed at one year, and all vacancies were to be filled by it.[3] Full publicity was guaranteed to all the board sessions and all ordinances ordered published.[4] Care was also taken to guard against unwarranted appropriations of public funds by the board, by limiting it to those purposes which came under its jurisdiction and control, and no others were considered as legitimate objects for appropriation; and further restriction was found in the required current accounting of all financial transactions with a maximum taxing limit of fifty cents on one hundred dollars.

The importance of this general act lies in the fact that the corporate life of the city of Chicago issued from its provisions. The special feature of the organization, which will appear more definitely as we proceed, is found in the relation of the president to the remaining members of the board.

It will be observed that the act of 1831 differed from that of 1814 in this slight but significant fact, that the board of 1831 was not a corporate body until its organization was perfected by the election of a president, when it was considered as composed of two factors; the president and trustees. In this we find the basis of the modern organs of mayor and council.

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[1] Ibid, Sec. 5.
[2] Ibid, Sec. 5.
[3] Ibid, Sec. 7.
[4] Ibid, Sec. 7.

CHAPTER III.

CHICAGO UNDER THE TOWN CHARTER.

The beginnings of great cities are generally clouded in myth and tradition. Those of the western continent have not been entirely liberated from the uncertainties of conjecture. The exact date of the settlement of Chicago does not concern us. It is significant, however, that the site of the city was a favorite fishing resort for the Indian, and was known to the fur trader as the lake station on the principal portage between the Great Lakes and the Mississippi system. Physiographically the military and portage village occupied a site of peculiar importance. The commercial supremacy[1] of the city, which dates its beginning from the construction of the Illinois and Michigan canal, which sought to utilize the natural advantages of this portage by connecting the two great water systems; and still later the Illinois railway systems directed the resources of the Mississippi valley to its markets. Out of this natural location grew an interesting controversy of some political and commercial importance with reference to the future city. It arose with admission of the state of Illinois in 1818, and assumed a more bitter form with the admission of Wisconsin in 1848. The ordinance of 1787 made provision for the formation of "one or two states in that part of said territory which lies north of an east and west line drawn through the southerly bend of Lake Michigan." With the petition for statehood on the part of Illinois Territory in 1818 came the proposition from her territorial representative that the northerly boundary line of the state be pushed north to 40° 30′, instead of the southern point of Lake Michigan. A sweep of fifty miles of lake shore would fall to the new state. The argu-

[1] *Executive Documents*, Vol. IV., 15 Cong., 2nd sess.

ment upon which the proposition was based was unique. Historically, the campact of 1787 had been broken when Indiana was admitted as a state. To secure a port of entry to the Great Lakes within the state was the desire of the territorial delegate. The argument was twofold: in the first place, it was assumed that great enterprises in internal improvements were confined to individual states, and the prospective connection of Lake Michigan with the Mississippi would be assured only in case the natural route came within the state. The second argument was based upon the first, and was the favorite argument of the period that lines of communication tended to stimulate and develop the spirit of nationalism.[1] The stress placed upon this consideration, in the light of the subsequent development of Chicago and the controversy arising with Wisconsin in 1848,[2] is best stated in the words of Judge Moses: "Had the line originally proposed (1818) by the committee been adopted, Chicago would not have grown into the imperial city she now is, because the building of the Michigan and Illinois canal and the Illinois Central railroad, which have contributed so largely to her progress and prosperity, and which were wholly the offspring of Illinois enterprise and statesmanship, would never have become accomplished facts."[3] Whatever historic truth may be attached to these strong words of Judge Moses, it seems fair to assume that the prospective building of the canal and presence of the port have conditioned largely the early growth and development of the city, but the most significant factor in its growth is its position at the head of the Great Lake system, and further its position as the principal center of an area of vast extent and resources, which includes many states with their network of rivers bordering on the state of Illinois. It is in the obliteration of state lines, commercially, that we are to seek the cause of the growth of the industrial importance of the city of Chicago, and not alone in the 'accomplished facts' that the

[1] Ford, *Illinois*, pp. 22–23.

[2] Sanford, *American Historical Association Report*, 1891.

[3] Moses, *Chicago*, p. 278.

Michigan and Illinois canal and the Illinois Central railway systems were the results, in origin and construction, of Illinois capital.[1] Chicago has been the natural gateway for the trade between the East and the West. It unites in a special manner the elements of a port for lake traffic. The metropolitanism of Chicago can not be explained by provincial arguments.

The manifest commercial spirit of the growing village found expression as early as December 4, 1829, in a request for a Congressional appropriation for the conversion of Chicago river into a harbor. The appropriation did not follow till 1833, when the liberal sum of $25,000 was granted for the dredging of the river.[2] The canal commissioners caused a survey of the village and its division into lots in 1830.[3] It was the first attempt to introduce system and order into village improvement. After 1830 the carrying trade of the Chicago port grew with great rapidity.[4] The New England and New York stream of immigration had reached the Illinois and Wisconsin lands at this period.

The environs of Chicago were surveyed into government sections and county organization followed in 1823.[5] The jurisdiction over the village was transferred from Fulton to Peoria county in 1825. In 1830, the Chicago precinct polled 31 votes within a radius of 21 miles, and the village proper possessed a population of 98. The rapidity of the influx of settlers from the east soon necessitated the reconstruction of county lines. The broad sweep of Peoria county was reduced on January 15, 1831, when the village of Chicago became the county seat of the newly organized county of Cook.[6] In 1833,

[1] Bross, *Chicago*, pp. 1–2.

[2] Dresbach, *Illinois*, p. 174.

[3] Blanchard, *Illinois*, p. 90.

[4] In 1831, four vessels discharged their cargoes, and in 1835 the number increased to 276.

[5] Blanchard, *Illinois*, p. 89; also, Andreas, *Chicago*, p. 147. The county tax levy in 1823 was $11.42 upon personal property. In 1825 there were 14 dwellings and a tax list of $79.72.

[6] Bennet, *Politics*, p. 26.

the village counted 350 inhabitants which was 200 more than was necessary to incorporate under the act of 1831, for the organization of villages.[1] An intense rivalry had sprung up among the lake cities for the control of the lake trade, and this rivalry stimulated and developed the commercial spirit of their citizens. If we examine the internal structure of the village before 1833, we are confronted with a mere accumulation of lots and venturesome speculators and frontiersmen, attracted by a prospective rise in land values which would inevitably follow with the completion of the canal. The administrative control of the county did not weigh heavily upon the village. There was a demand for concentration. Corporate life had become a necessity. This followed in August, 1833,[2] and on September 4, the town board had its first meeting and perfected its organization by the election of a president and a treasurer. The board soon appointed a street commissioner, tax collector and corporate counsel, while the offices of assessor and surveyor were united in one person.[3] The town board was the repository of all powers, legislative and administrative. The president was a member of the board and possessed no independent powers, other than those delegated to a presiding officer. The territorial jurisdiction of the corporation did not include the lake front which was still possessed by the United States government. The limits were again extended in 1834. The population had rapidly increased from 350 in 1833, to 3,264 in 1835, and the town had suddenly become the center of a wild speculation in land and lots by the location of the government land office there in 1835.[4] From 1835 to 1837 was the era of bogus or paper cities, and the traffic in lots with no corporate or prospective existence[5] for the town. Chicago shared in this whirl-

[1] Andreas, *Chicago*, I., p. 174.

[2] Bennet, *Politics*, p. 29.

[3] Andreas, *Chicago*, I., p. 175.

[4] The statistics of the office will illustrate the feeling of period. Its sales were in 1835, 370,000 acres; 1836, 202,000 acres; 1837, 15,000 acres. The office was discontinued in 1846.

[5] Davidson and Struvé, *History of Illinois*, p. 434.

wind of speculation. In 1830, lots sold at $25 to $100; in 1836–37 the prices ranged at as many thousands of dollars.[1]

The simple privileges of the act of 1831 were not modified till 1835. With this act a series of special laws upon every conceivable urban subject were directed toward the city of Chicago, and it may well be said of the period that it has scarcely a parallel in the history of municipal legislation. Exorbitant claims were made upon the time and energy of the state legislature. The consideration of special laws crowded important business from the legislature, and filled its committee rooms with municipal lobbyists. It is readily conceded that the unprecedented growth of Chicago demanded summary treatment at the hands of legislative authority. Special legislation is further in harmony with the extreme statement of the principle that municipal problems are state problems, and as such are subject to detailed regulation on the part of the legislature.[2]

By the first amendment to the charter of 1833, the board of trustees was increased from five to nine.[3] The powers of the board under the charter of 1833 were limited and were little more than those of supervision. By the amending act of 1835, it was given full power to manage the corporate real and personal property. The board was renewed annually with only freeholders as eligible electors. The powers of the board were greatly enlarged over the general administration of the town, and were in most respects commensurate with an expanding municipal life and included the main powers of internal control and regulation.[4]

[1] *Chicago American*, August 15, 1835.

[2] *Chicago American*, January 31, 1837: "The interests of our town required a charter. The constant example of the Eastern cities will justify us in altering it at every session until it meets the wants of a large commercial town. However much we may have neglected our privileges under our charter, we certainly have availed ourselves of that of altering it at every session, until it has become like the old lady's stocking, 'darned so much that none of the original remains.'"

[3] Act of February 11, 1835.

[4] Act of 1835. Sec. 6.

The taxing power of the board was limited to one-half of one mill on assessed values for general municipal purposes, but the principle of special assessments was an early feature of the Chicago financial system. The principle of special assessments was applied to the raising of funds for the grading of streets and construction of sidewalks, but was modified by requiring a petition of two-thirds of the lot owners before constructions were begun.[1] The levying and collection of revenues and their expenditure are further modified by the peculiar physiographic features of the city, and show plainly how these influences may assert themselves in dividing the interests of a population which is otherwise compact. An examination of the map of Chicago will reveal the basis of this geographic division of the city into its natural districts.

At the period of incorporation as a town, Chicago was separated into two divisions by the Chicago river. The expansion of the city followed the canal to the west, until the two branches of the Chicago river furnished a third division. By the act of 1835, these three natural divisions afterwards known as the north, south and west divisions, were made the basis of the financial administration. The taxes of each division must be expended in the same district in which they were levied, thus creating a triple tax system within the corporate limits. These natural divisions have been prominent in the whole administrative history of Chicago, and have furnished a basis for the organization of the municipal machinery. This system has furnished the basis upon different occasions of an intense sectionalism, rivalry and jealousy.

The element of financial sectionalism was weakened by the election of the municipal officers on a general ticket. The administration of the city was conducted as a unit as far as the peculiar financial arrangement would permit. The administrative officers were appointed by the board of trustees by the charter of 1833, but the more important were made elective by the amending act of 1835.

[1] Act of 1835. Sec. 7.

Special provisions were made for the organization of a fire department on the volunteer principle. These hook and ladder companies possessed the privilege of perfecting their own individual organizations, and had certain exemptions and privileges for their members.[1] By the act of 1831, the legislature had provided for the organization of such companies in all the towns and villages of the state. The town board made provision for a company in 1833.[1] The office of fire warden was established in 1834 for each ward, and the town divided for such purposes into four wards. On November 4, 1835, the department was organized on the basis of the provisions of the act of February 11, 1835. The members of the board of trustees were ex-officio fire wardens.[2] These wardens were empowered to appoint a chief of the department, two assistants and additional wardens if necessary. Each house-holder was required to keep "one good, painted leathern firebucket" for the service.

Questions of revenue and expenditure made occasion for the act of 1836, which was essentially definitive and restrictive. The taxing power of the board was limited,[3] but the rights of the city to the wharving privileges pertaining to certain portions of the frontage along Chicago river were defined by this act. The leases had been discretionary in their time limits, but were now fixed for five years.

We have recounted in a preceding paragraph the land and lot speculations which followed the location of the United States land office in the town of Chicago. The canal was nearing completion, and a sentiment was developing which had in view incorporation as a city. The board of trustees had begun certain municipal constructions, organized a fire department, inaugurated a system of water works under the auspices of the hydraulic company. The population of the town in 1835 was estimated at 3,265 persons while the territorial limits of the corporation had increased to an area of 2.55 square miles. In

[1] Act of 1835. Sec. 13.

[2] Moses and Kirkland, *History of Chicago.*

[3] Act of January 15, 1836. Sec. 2.

the earlier part of the year 1836 the population had increased to 4,000, and likewise the rapid development of the material interests of the city necessitated an extension of corporate powers and privileges. These reasons furnished the basis of the agitation for a city charter.[1] On November 18, 1836, the trustees ordered that "the president invite the citizens of the three districts to meet in their respective districts and select three suitable persons to meet with the board of trustees on Thursday (November 24) and consult on the expediency of applying to the legislature of the state for a charter, and adopt a draft to accompany such application."[2] In pursuance to this order a call was made for the delegates of the three districts to meet with the board of trustees for the carrying out of the provisions of the order.[3] The meeting was called for January 23, 1837.

The limited financial powers of the municipality under the charter of 1833 with the further restrictions of the act of 1836 were essential elements of weakness in the old charter. Financial limitations became then the principal question for consideration in the formation of the new municipal charter. The prevailing speculative atmosphere suggested an unrestricted use of the city's credit. An intense optimism in the city's future material development was the central fact of the business environment that prevailed. The power to create unlimited corporate debts found many supporters, but, fortunately, a wiser sentiment prevailed, and a maximum limit of indebtedness was fixed. The maximum limit of $100,000 seemed ample for that early period.

It will be observed that the provisions of the laws and charters which formed the basis of the corporate life of Chicago from Feb. 11, 1833, to March 4, 1837, were as simple in their outlines as the requirements of a town engaged principally in the creation of homes and bank accounts, rather than in the

[1] Bennet, *Politics and Politicians*, p. 34; *Chicago American*, January 21, 1837.

[2] Quoted by Andreas, *Chicago*, p. 176.

[3] *Chicago Tribune*, April 12, 1875.

outlining of elaborate programs for municipal government. The organization, in fact, was simpler than the conditions over which it presided. The board was supreme over the affairs of the town in legislation and administration. It contained the germ from which must later differentiate the parts of the present system. From this point will be traced the process of differentiation by which this original institutional organization—the board of trustees—has evolved into its related parts; it will be shown how the dignity and power of the mayor became more and more recognized in its relation to the council; it will be shown how certain functions of the latter became more prominent and emphatic and gradually assumed the role of administrative departments, working under the direction of the mayor; and how, lastly, the common council became the immediate successor of the board of trustees in matters purely legislative. In short, we are to trace the story of the municipal development of Chicago as a growth. This evolution has not always been continuous and direct; spasmodic changes, and frequent reversions to primitive forms have occurred, but still a product has resulted that is natural to the ceaseless, rapid change and unco-ordinated elements of sixty years of municipal life.

CHAPTER IV.

CHARTER ACT OF MARCH 4, 1837.

Two tendencies appear in the charter of 1837, viz.: the extended use of the suffrage in the increase of elective offices, and the tendency of the mayor and council to divide functions. The first tendency was in harmony with the doctrine of popular sovereignty, in its theoretic aspect, a product of the eighteenth century political philosophy; the second is an American product, the result of conditions peculiarly our own.

Beginning with the council as the basal germ, administrative necessity has carried the principle of division of labor into charter considerations. Chicago early made use of these two principles, but with a larger emphasis upon the suffrage than the principle of division of legislative and executive functions. The extended use of the suffrage begins with the town charter, in the election of the board of trustees and subsequently of other corporate officers who possessed discretionary powers and who were considered especial guardians of the municipal finances.

The town charter of 1833 prepared the way for the city charter of 1837; it was conceived in harmony with accepted principles of Eastern types. Chicago was still, however, in structure a rural community and administrative needs had not as yet enforced any considerable use of the principle of division of labor and little elaboration of administrative machinery had followed. Municipal interests must guide the gradual unfolding of corporate vitality. During the fourteen years of municipal life under the charter of 1837, special laws supplemented the errors of omission of previous legislation. These supplementary acts inaugurate the reign of quasi-municipal boards, in response to the pressure of new problems, and the assumption by the public administration of services which were in the beginning under the control of private administration. The violence of this unsys-

tematic legislation broke out madly under the charter of 1851, and its chaotic traces have been perpetuated in the charter law of 1872.

The principle of popular suffrage as the basis of the new charter of 1837 must first demand our attention. The elective principle was vital. But the traces of the privileged suffrage were still preserved. In fact the property qualification as a test generally prevailed throughout the states at this period. Unrestricted manhood suffrage did not prevail in the charter of 1837, but a property test was required. This restriction was not excessive, but sufficient to identify the suffrage with the interests of municipal expenditure. The charter seized upon the proper form of the property test by applying it through taxation. A nominal tax of three dollars paid within one year before the election entitled the resident to the privileges of the suffrage.[1] This restriction must be considered sensible and wise in the midst of a population of diverse elements, when a transient vote was proportionately large.

This property test was of short duration and was abolished in 1841, when the electorate was placed upon the basis of universal suffrage. As a corollary to a property suffrage the charter of 1837 required the governing body, the mayor, aldermen and assessors, to be freeholders, but this passed away with the removal of the property test for the suffrage.[2] Popular administration has been preserved and fostered in the American municipality to the exclusion of a trained service, by the extension of the suffrage to many offices which, in their nature, require previous preparation. A free and unrestricted use of the suffrage, which followed at this period continually emphasized the popular phases of administration.

The aldermanic body of the new régime, with the exception of the freehold qualification, preserved none of the outlines of the close corporation of the pre-revolutionary or colonial period

[1] Charter of 1837, Sec. 9.

[2] Act of March 1, 1841. Sec. 1.

of the American municipality. The aldermen were the lineal successors of the town trustees. The ward system was made the basis of representation in the council, and the state election system provided the basis for the selection of the aldermen, although the council was free to provide special rules and regulations. In 1841, the number of aldermen was increased from twelve to eighteen, and divided into two classes in order to preserve legislative continuity. This principle has been closely followed since that year. The ordinance power of the council was gradually expanded, making it commensurate with the growth of the administration.

It has been noted how the board of trustees of the town of Chicago became the aldermanic factor of the common council. The transition from the president of the old town board to the mayor of the city is no less interesting. Although there is no evidence of any conscious and direct attempt to create the office of mayor from the powers of a town president yet the transition is plainly marked. But the board of trustees of the town were instrumental in framing the charter of 1837, and preserved the outlines of the board as the basis of their work. The position of the president of the board was emphasized by the charter of 1837 to the degree of recognizing a different source of tenure, and by endowing the office with the dignity of the title of mayor. He was still, however, but little more than a presiding officer with few, if any, essentially independent powers. The fundamental point of departure was placing the mayor upon an elective basis and fixing his responsibility to the people. Administratively, his position was unimportant. The principle of checks and balances rescued the office from the complete monotony of the parliamentary procedure of a council sitting, by requiring his signature to all warrants drawn upon the corporate exchequer. His term was for one year, and at a salary of $500. This immemorial custom of clothing the mayor with the ermine of a justice of peace has received but a wavering recognition in the organic laws of Chicago. While the char-

ter of 1837 made such provision by creating the mayor's court, the act of Feb. 15, 1839, abolished this tribunal, but retained for him the power of a justice; and by the act of March 16, 1847, the discharge of judicial functions by the mayor was made optional. It will be observed that the mayor's independence under the charter of 1837 was principally judicial, but an important fundamental change is apparent in the fact that he is no longer dependent upon the council for his tenure.

The mayor and aldermen were the constituent factors of the common council. Although all legislation proceeded from them in conjunction, the mayor was not a vital factor. He was only a presiding officer. He did not appoint the committees of the council. He possessed no veto power. It was an administration by the council. It was supreme in all essential matters. The old town board had perpetuated its own importance in framing the provisions of the new charter. It framed its own rules and exercised those powers over its members and organization usual to a legislative body. Those safeguards were absent, which are so universally employed in the modern American charter and which are generally so meaningless and ineffective in their practical results. Financial interests of the city officers, in contracts in which the city was a party, were legally put under the ban, but these interests were doubtless evaded at this time, as they have been generally evaded in Chicago and elsewhere in later years. The supreme position of the council in the charter of 1837 naturally gave it complete control of the municipal patronage. It elected annually a numerous array of administrative officers, who possessed more or less discretionary authority, subject finally to the will of the council. The act of 1847 introduced a sweeping change into the charter that affected mainly the source of tenure of the more important administrative officers. This was in accordance with the tendency already noted to increase the functions of the electorate. By this act the city attorney, city collector, treasurer and one police for each ward were made directly responsible to the electorate: a radical step toward popular administration. The unrestrained

control of the city patronage by the council received a further modification by limiting the right of removal to a two-thirds vote of its members, which removal could follow after the presentation of sufficient cause. The "natural divisions" were made the basis of the distribution of many of the corporate offices. The ordinance power of the council covered all the needs of administration. The powers of the municipality are essentially summarized in those of the common council. The charter prepared the way for a separation of administrative and legislative functions by removing the mayor from the control of the council in his tenure, but in the development of his power it did not radically follow out the division of powers at the time. The management and control of the municipal finances, the administration of the corporate property was given to the council. The ordinance power included the right "to make, establish, publish, alter, modify, amend, and repeal ordinances, regulations, rules and by-laws." This general and inclusive grant was defined by the application of the principle of enumeration of powers. The thirty-four specific counts of the charter may be grouped under the following heads. The council controlled and regulated:

1. All phases of crime, games and selling of liquor.
2. The granting of licenses for various purposes, a police and revenue provision.
3. Problems of health and sanitation.
4. The street traffic, public works, finances and revenue.
5. Protection of life and property through police and fire administration.
6. The duties and qualifications of corporate officers.

Although the discretionary control of the municipal finances was lodged with the common council, in order that adequate administrative checks might restrain that body in the levying and expenditure of funds, as well as to insure an orderly conduct of financial business, the charter made provision for a treasury department. The connecting link of the department with the council was established through its finance committee. An or-

der of payment must bear the proper signature and specify the purpose of the expenditure before it could be honored by the city treasurer, who was the head of the department and keeper of all the municipal funds and accountant of all receipts and expenditures. Full publicity of the departmental work was required through publication preceding the election of the council. The finance committee of the council exercised a vital control over the financial administration. It examined the assessment rolls of the assessor and brought its information to the notice of the council. The financial powers of the city received three important limitations through the charter of 1837:

1. The municipal levies could not exceed one-half of one per cent. upon all assessed real and personal property.

2. The borrowing powers of the council were fixed at $100,000 per annum, as a maximum sum, to be applied to the liquidation of the municipal debt.

3. A further limitation appeared in the administration of the city funds. For all public improvements, directly local in their character, viz.: streets, drains, sewers, etc., the council was required to spend annually, in each ward, such proportion of these funds as would correspond with the amount of the assessed value of the property of the ward. The era of the "script" began with the financial administration under the charter of 1837, and ushered in financial disorders which became chronic in later years. These restraints outlined were necessarily crude, but were in harmony with all that the experience of the American municipality of that period had to offer in financial control. The proportionate expenditure of the city revenue for local purposes in each ward may lead to an equitable distribution of public moneys and suggest to the council the desirability of uniform development of certain interests, but administratively considered it has little to commend its retention. It is a kind of control that issues from the spirit of municipal sectionalism and ends in administrative disorganization. Physiographic features have presented peculiar conditions that have suggested and invited the use of this financial check by the city of Chicago, until the

local fund became a favorite one before the organization of the city under the general law of 1872. No sewerage or water system could be effectively constructed by such hard and fast methods of money distribution. During these first years of the financial administration of the city, the territorial expansion of the building area called for many improvements in streets and sanitation, until the revenues were sorely pressed and the taxing power of the council placed under severe demands.

The act of March 15, 1847, extended the principle of benefit assessment for public improvements so as partially to relieve this embarrassment. Fines of various kinds were resorted to for supplementary revenues. The collection of the state and local taxes has always been a county function in Illinois, but with the organization of the township system this service has been further decentralized. Before the inception of the township system, wherever municipalities had been organized they were permitted to do their own collecting within their territory. During the early years of the charter of 1837, the collectors were elected by the people, but were made appointive by the act of 1841.

An effective police administration in a city composed of adventurous elements is second only to a vigorous financial policy. No custodian of the police succeeded the military rule of the United States government and during the years 1833–35, the police functions were discharged by the city collector. The office of high constable was created in 1839, but was soon abolished and a nominal police force maintained. The gradual transition from a village to an urban system of administrative organization is best followed in the evolution of the police and fire departments. The council was the central organ of police supervision. The city marshal—a village survival—became the supervising agent of the Chicago police system by the act of February 27, 1841.[1] The administrative supervision exercised

[1]This was made an executive department by the act of February 16, 1861. See Flinn, *History of Chicago Police*, p. 94.

through the office of the city marshal was supplemented by the police court. The simple system provided by the charter of 1837 proved inadequate for the severe tests of a rapidly growing western city. These provisions were in force as late as the police act of 1847, when the whole service was reorganized. The mayor has long been considered as the police agent of the state in the municipality. In accordance with this principle the mayor was made to share in police supervision although the council still retained its administrative control through its ordinance and appointing powers. The responsible active chief officer was the city marshal, and the direction and supervision of the whole service passed to the mayor. Another village survival of little meaning appeared in the provision that all members of the council should act as conservators of the peace within their wards. We can discern in the act of 1847 a gradual shift of police functions to the administrative officers with a tendency to vibrate towards the mayor as the possible responsible representative of administrative direction and supervision. This position was further strengthened through the establishment of a closer financial control over the police service by making the mayor an auditor of the police accounts. These meager grants of power to the mayor were significant steps. The legislation of this early period as well as that of later periods was in danger of becoming a mere accumulation to the exclusion of system.

In a city of wooden buildings an efficient fire service is scarcely less important than a virile police administration. The charter recognized the old village associations when it made the members of the council conservators of the peace, school commissioners and fire wardens. These are to be treated as village survivals. The fire department was provided for all villages of the state by the act of 1837. As early as 1832, a volunteer company had offered its services to the village of Chicago, but it was not until the year following its incorporation as a town that the board of trustees formally made provision for

the department. A fire warden was appointed in 1834 for each of the four wards. It was not, however, till November 4, 1835, that the fire department was given a chief, with two assistants. The department was organized upon a volunteer basis and the old formula, which human and administrative experience has found to be highly unsatisfactory, was fully recognized, viz.: that which is everybody's business is nobody's business. Responsibility was sacrificed in the organization of numerous volunteer companies which became a refuge for a thriftless class. These persons burdened the service, and immeasurably crippled its efficiency and threatened complete disorganization. The charter of 1837 and the amending act of February 13, 1839, strengthened somewhat central control, but did not disturb the volunteer basis. The department had gathered to itself so many chaotic elements that reorganization was thoroughly necessary. The act of 1847 designed especially to fix responsibility. The central features of the old system were retained with a more generous and absolute control over the personnel of the various companies by the chief of the service, who in turn w sastrictly accountable to the council. There was no fire service in the present sense. The history of the Chicago fire department presents a radically different phase of organization from that of the other departments. Its history is consolidation, rather than differentiation. It had its inception in extra municipal efforts often supported by private assistance and business interests, while a full municipal service was a gradual process.

The municipal assumption of the school administration presents a still different process. Previous to the charter of 1837, the public school system of Chicago was not under the control of the village authorities, but remained an integral part of the school township system. The act of 1835 created the system of school inspectors and placed the common schools in their charge. The township was divided into districts, and each elected annually three trustees who levied and collected the

taxes voted by the people, and employed the instructional force.[1] The charter of 1837 identified the school administration more closely with the municipality.[2] The early history of the organization of the school administration is one of transition from the school township to that of the municipality. It was consolidation of a different nature from that of the fire service. Consolidation had its initiative in the charter of 1837 by making each alderman ex-officio a school commissioner. The administrative interests of the municipality were thus largely emphasized in legislation. In connection with these beginnings in administrative consolidation, we are to consider that their meaning is weakened by the fact that the council did not control the school lands and fund, but all the taxes for school purposes were collected by the school township authorities and all warrants drawn by the council upon themselves as school commissioners.[3] Confusion was the logical result of this treatment of the school administration by the charter of 1837. The schools were the battle ground of two sets of authorities, the one in control of the purse strings, and the other in the control of the direction of the schools, a curious anomaly of divided authority. The act of March 1, 1839, was designed to correct this confusion. The extra functions of school commissioners grafted upon the council was abolished, and the council given direct control of the school fund and empowered to levy taxes for school purposes. Under the preceding arrangement the inspectors and trustees were elected by the people, but the act of 1839 made them appointive by the council. This piece of

[1] Johnston, *Schools of Chicago*, pp. 3, 6.

[2] In 1833, the school section was divided into 142 blocks and sold at auction for the consideration of $39,619. This sale was made immediately preceding the rapid rise in city property, and thus lost to the schools of Chicago a material increase in the school fund. The school section represents today a value of more than $100,000,000! See Johnston, *Schools of Chicago*, p. 3; and Kirkland, *Story of Chicago*, p. 154.

[3] Johnston, *Schools of Chicago*, p. 12.

legislation completed the process of consolidation by placing the council in control of the material resources of the school administration, as well as the appointment of the administrative service.

The elements which were to build the different administrative departments were rapidly organizing. The police, fire, and school administrations were well started on their way towards definiteness and system. Those elements which were to form the department of public works had not approached such definiteness. The charter of 1839 provided a street commissioner, but the different services were scattered. They received their effective treatment by the charter of 1851. A board of health, composed of the members of the council, was created by the charter of 1837.

The organization of the administration under the charter of 1837 was an elaborated expression of the tendencies started during the four years under the town charter of 1833. A town charter was clothed with the dignity of a city charter. In so far as the principle of division of powers had begun to operate it had followed by stress of administrative business, rather than in response to any conscious attempt to apply a principle. The mayor was little more than a presiding officer of the council; a dignity rather than a positive factor in the administration. If he possessed influence at all, it was because of his personality. The administrative officers were in no way responsible to the mayor, but were compelled to look to the council for credentials, directions and criticism. The omnipotence of the town board was assured by the new council. Governmental and political powers compatible with a local body crowded its grant of privileges. Its control over the administration was expressed in the direct responsibility of the whole official régime to the council, not only by appointment, but in the strictest directions over its details. The principle of popular sovereignty was in force, but little recognition given to the separation of powers. In many respects the amendments

to the charter of 1837 were more far reaching than the charter itself, although its outlines were followed. A process of decentralization in functions, rather than in the control, marked these series of supplementary acts.

Administrative consolidation and differentiation were gradually being asserted. While the mayor received only incidental attention the elements of executive control were gradually building. The charter of 1837 was the government of the council.

CHAPTER V.

PERIOD OF LEGISLATIVE AND EXECUTIVE DIFFERENTIATION.

Eighteen years of corporate life had run their course since Chicago was a village, and fourteen years, since full municipal privileges and immunities had been conferred. The period of the most rapid change had not yet been ushered in. It was the formative period when the forces and elements were gathering and tendencies starting, which were to work their greatest transformations under succeeding charters. Rapid and marked changes begin with the charter of 1851. Special laws and enactments for Chicago crowded the statute books of the state and encroached upon the legislative energy of the state legislature to such a degree that it logically resulted in the city of Chicago formulating its own legislation and receiving the formal sanction of the state. This accumulation of special laws forced periodic revision. The charter of 1851 was little more than a codification of that previous legislation, that had been passed for the government of the city of Chicago. Economic, social and political forces shape the nature and structure of administrative organization. The degree of correspondence between these forces and the administrative institutions furnishes the fundamental basis of a vital and efficient administration, and constructs a correct perspective for subsequent development. For the exactness with which these principles of administrative organization are reflected in the Chicago of this period, the charter of 1851 must answer. The organic law was a well ordered and digested one, considered in the light of the technique of character construction.

Not only did the rapidly expanding municipal life threaten to break uncontrolled from the legal restraints of an inadequate

charter, but its territorial limits were crowded. These were extended by the charter of February 14, 1851, but the division into nine wards was retained. The federal government had retained possession of the lake shore, but relinquished its right to this land in 1854.

Localism was quite marked under the charter of 1851, and furnished a conscious basis for the organization of the administrative service. Upon this basis of local interests, the more important municipal officers may be divided into three groups:

1. Those officers whose duties extend to the whole city.
2. Those who represented the three natural divisions (street commissioner and assessors).
3. A class appointed to act within, or represent the various wards.

The elective offices of the first group were quite extended, and included the mayor, city marshal, treasurer, collector, surveyor, attorney, chief and two assistant engineers, while each ward elected two aldermen, a police constable, and each division a street commissioner and other officers. This whole list was elected annually, with the exception that the council was divided into two classes.

A noticeable feature of the charter of 1851 was its more liberal attitude toward the mayor. The tendency to enlarge the executive power outlined in the previous charter, was strengthened by the one under consideration. He was made responsible for the proper enforcement of the laws of the state and the ordinances of the council. He must "devote as much of his time to the duties of his office as an efficient and faithful discharge of these duties may require." His growing importance is suggested by the fact that he was required to give information, from time to time, to the council and recommend such measures for its consideration as the demands of the administration might require. He was no longer a perfunctory signing officer, but the important weapon of the veto made him a factor to be reckoned with in municipal legislation. Although all ordinances and resolutions of the council must re-

ceive his sanction, it must be observed that his veto power amounted to a mere delay in legislation, a reconsideration of the measure, since it required only a majority vote to pass the measure over his veto. His salary was increased from $500 to $1,200 per annum. Any vacancy occurring in the office of mayor was filled by the council from its own membership. The "acting mayor" possessed the full power of the regularly elected mayor. The omnipotence of the common council passed with the charter of 1851.

The constitution of the common council remained unchanged and its general character was outlined in language similar to that of the charter of 1837. To the thirty-four specific counts of this charter were added thirty-one, which indicates the extended scope of municipal legislation and points to a complicated municipal life. It must not be inferred from the previous observation upon the position of the mayor that the council had been so weakened in its former position as to destroy its ascendency over the administration. It was still supreme in final authority. An examination of the specific powers of the council will reveal the fact that they were principally regulative. The license was fast becoming a favorite instrument for the purpose of police regulation and of supplementary revenue.

There is nothing in the organization of the council under this charter that is not in harmony with the modern municipal legislative body. There is one point, however, that must be noticed in reference to the previous charter. The committee system has assumed some importance in the work and organization of the council. Under the charter of 1837 the committees were elected by the council, but the charter under consideration transferred their appointment to the mayor.[1] The importance of this change is inherent in the nature of the committee system of the modern legislative body. Heretofore, the mayor has been a silent factor in the council, but with the appointment of its committees he became at once a controlling

[1] Rule of Council, No. 33.

element in shaping the policies of legislation. The appointment of the eight standing committees effectively reënforced the veto power. These eight standing committees possessed more power than the ordinary committee of the council and performed quasi-administrative functions. The degree of legislative differentiation is indicated by the presence of the eighteen committees whose membership varied from three to seven.

The charter of 1837 gave the council full control over the municipal patronage. For twenty years this power remained undisturbed except in minor and exceptional offices. The charter of 1851 opened the way for executive control of the civil service in the interest of effective administration. It provides for the removal of certain officials by the mayor or marshal for cause and by the consent of a two-thirds vote of the council. During the first years of the charter, the mayor was strenuously guarded from participating in the appointment of the administrative service. The patronage was rapidly becoming an important factor. The act of Feb. 14, 1857, was a tribute to executive power. By it the mayor came in possession of the appointment of the important executive officers with the approval of the council. In the treatment of the municipal civil service, Chicago was now in line with the national tradition and experience. This change came as a result of previous financial and administrative disorders, particularly in the treasury department. To secure executive responsibility was obviously the controlling motive, and this could only be accomplished by a more definite separation of legislative and executive functions. While in the beginning the mayor was confined in his appointment to the chief discretionary officer of the treasury department, it was a recognition, however slight, that the head of the department should be primarily responsible to the mayor as the embodiment of executive powers, and his responsibility, if any, to the council should be secondary. It was the first important recognition of the personal responsibility of the mayor in the administration. It completed the overthrow of the complete domination of the

council, and clothed the mayor with a power which, in after years, was destined to make him one of the worst victims of the spoils system known to municipal history. Conditions were now favorable for a rapid concentration of executive power. Executive concentration has never been complete in the American municipality. The principle of checks and balances has prevented this, but has operated to clothe the executive with power in a system where the council previously enjoyed full and unrestrained authority.

Historically, executive concentration and administrative control have begun with the financial administration, and Chicago offers no exception to this generalization. The treasury was the first administrative department to be organized. It has, moreover, been a single commissioner department from the first, although under the charter of 1837 the treasurer was made and has since remained an elective officer. He possessed no discretionary powers in outlining a financial policy. The charter of 1851 was directed toward better financial accounting, and was the first attempt to fix financial responsibility. The most important powers of the corporation touched the question of taxation. Associated with the usual per cent. limitation upon the amounts to be raised upon assessed values, there was the further one of limited amounts that could be levied for specific purposes. In the first place a contingent fund for general expenses was created through a three and one-half mill tax upon real and personal property, and was designed as a basis of expenditure for current administration. A second fund of two mills was established for school purposes, and a third of one-half mill for the interest on the bonded debt. Certain other special funds were provided for occasional objects of expenditure that covered a variety of items. The spirit of localism of the previous charter animated the financial administration of the present one. The three natural divisions were made tax districts for the levying and expending of certain funds, while three-fourths of specified taxes must be expended within the districts taxed. A peculiar and interest-

ing feature of the financial administration of this period related to physiographic influences. The charter implied two classes of expenditure, viz.: those objects of a general nature, and those of a local significance. In order that the inequalities of expenditure for the second class might be prevented, a system of equalization was provided so that when all local expenditures were not proportional to the tax contributions of any district, the council was authorized to increase or decrease its taxes for the succeeding year until the proper balance was struck. A special levy of one-tenth of one per cent. within any division for any purpose made optional with the council further emphasized the financial localism. Special assessments were largely employed in the construction of public works, and a desire for a more equitable adjustment of these assessments resulted in the creation of a board of commissioners, for the purpose of assessment supervision. The division of the revenue into funds so generally employed by the charter of 1851, obviously, had two objects in view: first as a check upon the taxing power of the municipality and second for purposes of financial accounting and security. It grew out of the financial disorders of the previous charter. The fund system was made more pliable by permitting the clerk to unite two or more funds that affected the whole city; or they could be united in any division upon the designation of their character.[1] By the act of February 28, 1854, the administration of special assessments received a specific review. The office of superintendent of special assessments was created and given full charge of all such levies. The importance of the act of 1857 has been noted in another connection. It was one of those pieces of legislation that bears the leaven of organization in the midst of disorganization. By it, the financial system assumed the dignity of an administrative department. The outlines of the new department were obviously sketched from those found in the national and commonwealth systems of financial organization. This was the first departmental organization for the city. Its outlines have remained

[1] Act of February 14, 1853.

essentially unchanged. It is furthermore significant that this first executive department should be organized upon the lines of concentration. The comptroller was a discretionary head of the department. It is an important fact that discretionary powers in certain financial matters passed to the department. The control of the department extended to the general management of the various municipal funds, and what is far more essential, to the inspection and revision of the accounts of the other branches of the administrative service. A serious and palpable error in the previous financial operations had permitted the expenditure of funds before specific appropriations had been made by the council. The correction of this loose method of expenditure was a decisive step in the direction of financial control. It was further strengthened by relieving those officers concerned with public construction from the formation of contract. The treasury department was brought into close relations with the mayor by the right to appoint the comptroller. This officer was in a position of influence in the financial transactions of the city. He had the collection and disbursement of the revenues, and was the fiscal agent of the city in making loans and contracts. His supervision extends to all subjects which related to city finances, revenues and property. The connection of the department with the common council was established through a system of detailed statements of estimates of the various branches of the city service. The annual appropriations were made upon this report. The council passed upon all warrants honored by the treasury, through its financial committee. For some time after the organization of the city government in 1837, the official service of the treasury department was an unsystematic body of clerks of the council, but the more important were made elective in 1847, and remained undisturbed in their position until 1857, when the treasury department was created with the comptroller at its head.

We have explained the enlargement of the power of the council over the schools in 1837, and the creation of a board of inspectors in 1841, and that their excessive demands upon the

city treasury for funds for building purposes led to a curtailment of their powers in 1846 until they occupied a position of mere agents of the council. The charter of 1851 retained the old board of inspectors with additional provisions for three school trustees of each school district within the city. The fiscal matters of the school administration were turned over to the newly created functionary—the school agent. The charter of 1851, therefore, stands for system in the school administration as well as in the financial. A system founded upon the coördinate responsibility of three distinct authorities, viz.: school agent, inspectors and trustees. The organizing vigor of the act of 1857 affected the school system. The council had created the office of superintendent of schools in 1853. He was concerned with the instructional phase of the school work. The fifteen inspectors provided by the act of 1847 had exercised general administrative control under the direction of the council. The act of 1857 organized these inspectors into a board of education. It was made a perpetual body by dividing its members into three classes of five each; one class was renewed annually. With organic directness matters were further simplified by abolishing the trustees of the school districts. The council appointed the board. The administrative significance of the school board lies in the fact that it is the first important use of the board type in the Chicago system. Two important departments of the city administration, education and finance, were organized under the charter of 1851, by the use of the two representative types of administrative organization, the board and single-commissioner methods. Conditions prevailed favorable for the board type, which gradually asserted itself throughout the administrative service, with the exception of the financial department.

The volunteer basis of the fire administration was perpetuated by the charter of 1851. The council remained in undisputed control over the appointment of the service as well as the organization and government of the companies. It prescribed fire limits for wooden buildings.

The health administration received its first independent organization under this charter. The board type of organization was employed, the three commissioners were appointed by the council, and the organization of the board was perfected by the presence of the mayor ex-officio as its chairman. This established the personal relation of the mayor with the administrative work of the board. The board was empowered to control, in a general way, all matters pertaining to health and sanitation, but its administrative independence was not complete.

The public works department had its organic beginning by the act of February 15, 1851. This was not the charter act of 1851. It was not made an executive department till a later period. The act of 1851 created a quasi-municipal corporation for the specific purpose of water-supply, with only nominal administrative control on the part of the city. The Chicago Hydraulic Company was organized as a quasi-municipal authority with a board of three commissioners in general charge. The board could employ the credit of the city to the amount of $250,000 but must account for such loans to the proper authorities. All water assessments, collections, and constructions were under their direction. The financial security of the board was guarded by providing for the investment of all surplus in excess of $500 in stocks, or upon real or personal securities approved by the judge of the Cook county circuit court. The commissioners could not be interested parties in any contract and were removable by the court upon petition of the common council showing malfeasance in office. This act did not meet all requirements and soon received important modifications which were largely in the form of checks upon the action of the board. The act of February 28, 1854, made the board elective and continuous by electing one member each year, while the act of February 15, 1855, permitted a division of duties among its members. The same act made the council a party to the consent to issue bonds, and limited their amount to $300,000. A more careful system of accounting was introduced and made subordinate to the finance committee of the

council. The force of these financial arrangements was to establish a closer administrative control over the board than that instituted by the act of 1851. It bore the impress of administrative unity.

Analogous to the act which incorporated the Hydraulic Company in 1851, was that which created the board of sewerage commissioners. The "natural divisions" were here utilized for the purpose of board organization. The board was in the beginning appointed by the council, but by the act of February 14, 1855, the voters of each division elected one commissioner who should be a freeholder and a resident of the district. The board was given ample control over the drainage of the city and was empowered to employ such scientific help as the service might require. The natural divisions were organized as three sewerage districts, with the central control lodged with the sewerage commissioners. A financial control, similar to that exercised by the council over the water commisisoners, was maintained over the sewerage board. The bonded debt was apportioned to each district and a sinking fund created for discharge of these bonds. The members were removable upon petition of a majority of the city council to the Cook county court, or without further procedure by a two-thirds vote of the council. In its administrative capacity the board enjoyed considerable freedom, but found its principal checks in financial provisions and the possibility of charges that might be preferred for the mismanagement of public business.

The charter of 1851 and its amending enactments were fundamentally organic. Consolidation and differentiation were carried further than at any other period of the same years. The activity of the mayor was extended, but was still conditioned by the action of the council. The changes that followed with the amendments to the charter of 1851, intensified administrative organization. These are among the most important acts given to Chicago. The act of 1857 marked especially an era of change when it ushered in a series of definitely organized

administrative services. The particular feature of these acts that strengthened the personal relation of the mayor with the work of administration must be reckoned as of fundamental importance. Administrative organization was moving toward a vantage point where the personality of some directing power could unify and supervise. The vigor of organization was everywhere manifest. While new services were demanding and receiving proper organic recognition, old ones were being clothed with the dignity and power becoming their importance and their work. All this emphasized the degree of separation of legislative and executive functions. There was a more even balancing of the power of the mayor and council. The council was now a legislative body.

CHAPTER VI.

CLOSING PERIOD OF SPECIAL LEGISLATION FOR CHICAGO.

Special legislation for a great and growing municipality means periodic revision. In legislative revision temporary and organic acts are held of the same importance. Principles are sacrificed to the treatment of details. So this summary form of special legislation had not always conduced to the symmetry and harmony of the administrative development of Chicago. To guide and direct this development, to bring definiteness out of confusion, system from accumulation, were the primary reasons for successive charter revision, supplemented by ordinances of the common council.[1] This was the plea for the charter of 1863. The act of February 14, 1857, laid the foundations for this charter.

The relations of the mayor and council remained essentially the same. The veto power of the mayor was qualified by the right of the council to reconsider and pass the measure over his disapproval by a two-thirds vote. His appointing power received a severe check by transferring the appointment of important officers to the council.[2] On the other hand his administrative functions were emphasized on the lines laid down by the amending act of February 14, 1857.[3] While the council was now more properly a legislative body, it still participated in administrative business.

There is no well defined principle employed by this charter to determine which officers shall be appointed or which shall be elected. The elective list had been constantly extended

[1] Mayor's Inaugural, May 5, 1862.

[2] *Council Proceedings*, May, 1865.

[3] Mayor's Inaugural, May 3, 1865.

until it included the mayor, aldermen, city attorney, treasurer, collector, chief of police, chief and first and second assistants of the fire department, certain constables, and commissioners of public works. There seems to be no definite reason for selecting certain officers of this elective list and excluding others. Again an analysis of the appointive list reveals the same confusion. The mayor and council both participated in this privilege which at once indicated the absence of a uniform plan for the renewal of the civil service. In the previous charter, the mayor had been dealt with more generously in respect to his appointing power. A comparison of the powers and duties of the corporate officers under the charters of 1851 and 1863 reveals little essential change. This was a period of elaboration in the administrative system.

The fiscal demands of the city required a constant extension of the machinery of the treasury department, which resulted in a larger use of the system of checks and balances in control of the independent financial transactions of individual officers of other departments. The fiscal affairs of the various departments were now centered in the treasury department. No change was made in its structure, but a more careful system of auditing and accounting strengthened its efficiency. A committee of general supervision over the city funds was composed of the mayor and the finance committee of the council. Its decision upon all disputed points was final, unless the council intervened. The principal of financial checks was not confined to the treasury department alone, but the council was required to employ system in its annual appropriation bills. The comptroller was required to submit an annual estimate for the fiscal year, and no appropriation could follow except upon a specific statement presented by this estimate. On the other hand, no items of expenditure could be increased except for public improvements under certain conditions. System in taxation was likewise a commendable feature of this charter. The taxing power of the municipality has never been adequate to meet the demands of the administra-

tion. Although excessive at times, and doubtless crippling in their results, the restraints upon the taxing power have, on the whole, been wisely instituted. Enforced economy and carefulness has resulted in the use of system. These restrictions will appear more clearly in the detailed statement: The council could levy an annual tax of not more than:

1. Four and one-half mills on assessed valuation of real and personal property to defray the contingent and other city expenses. The receipts from this source constituted a general fund.
2. Two mills for school purposes.
3. Two mills for the department of police.
4. One mill for the reform school.
5. Two mills for street lighting.
6. A sufficient tax to meet interest on the sewerage debt and to provide a sinking fund for the liquidation of the debt and sewerage repair.
7. A tax sufficient for the interest on bonded and water debt.
8. Two and one-half mills for a permanent improvement fund, which required a vote of a majority of all aldermen.
9. A tax sufficient to defray any debt contracted during the preceding year.

Restrictions on the taxing power in the form of exact per cents. are not sufficiently pliable to accomplish the purpose for which they are designed. A restraint upon lavish and unwarranted expenditure on the part of the municipal authorities can be more effectively secured by the creation of some central board of control than by the hard and fast limitation of statutory per cents. An equitable assessment and an economical collection of taxes are not enviable achievements in the administrative history of Chicago. The fruits of an ill devised system have perpetuated their kind into the present time, leaving unwholesome traces in inadequate revenues and a crippled administration, as well as in acts of corruption of the most open and compromising nature.

By the act of March 3, 1867, it was sought to correct this looseness by a system of co-ordination and concentration through the creation of the office of tax commissioner to be named by the mayor, while the council appointed one collector from each district.[1] The assessors were organized into a board that had general control of assessments under the direction and supervision of the treasury department.[2] The amelioration of the unsanitary condition of the city required more extensive financial powers than the corporation then possessed. The financial administration under the charter of 1863 was efficient and energetic when measured by the almost insurmountable obstacles that beset the territorial and material development of the city. The fund system prevailed as a basis of economic and proportionate distribution of revenues. A point in illustration is afforded by the public works department. The fund system had split the stream of revenue into numerous branches. The general fund was a nucleus fund around which clustered the more special ones.

The administrative departments remained unchanged in their organization. This board type of administrative organization had found gradual recognition in all branches of the service. The board of public works had been created upon this basis; so the police, health, school, fire, and tax administrations. The public works, police, fire and financial departments bore the severest strain of the municipal work of this period. Preceding the charter of 1863, the growth of the city had been rapid, but during this period its expansion in area, wealth and population was phenomenal. Sand dunes were gradually covered with a forest of wooden buildings, which brought menaces of fire and unsanitary areas. The mixed population that crowded into the city on its way to the Mississippi valley demanded a police vigilance of more than ordinary watchfulness and severity. The public works department was compelled to grapple with the

[1] *Council Proceedings*, February, 1867.

[2] Ibid., January 20, 1865.

improvement of a widely extended territory with limited financial resources. These difficulties were in a measure lessened, but, by act of 1867, a closer scrutiny was established over the financial transactions of the board. All services of public construction were subordinated to the board and considerable power was given it in the formation of contracts in the construction of public works.

The police department remained as organized by the police act of 1861. The city was first divided into police precincts in 1863. The fire and health administration was directly under the supervision of the police board. The superintendents of the police and fire service were responsible to the board. By the act of February 16, 1865, the health administration was given a separate and independent organization and was later placed upon a board basis, with the appointment of the members completely removed from the municipality and lodged with the judges of the superior court. The motive for this isolation is not quite apparent, unless it be to escape the uncertainties of political tests and popular judgment. While the board type organization prevailed, the source of tenure was not uniform. The elective principle had been used at the sacrifice of both the council and the mayor. The mayor was given a personal relation with the various boards in an official capacity, but this relation was later severed with some of the more important ones.

With the charter of 1863 and its amendments, closes the era of special legislation for the city of Chicago. Two events had occurred at the beginning of the seventies that made the charter of 1863 and its successor of peculiar importance, not only to the municipal history of Chicago, but to the state and country at large. One was sealed in disaster and destruction; the other conceived in order and construction. The one had reduced the outward city, reared in so short a period under so many difficulties, to ruins and ashes, and from these ruined homes and business hopes was created the Chicago of to-day;

the other event laid the foundation of a new municipal régime in the firmer provisions of a general organic law for the municipalities of the state. The treatment of these epoch-making events for the city of Chicago will be reserved for another place; but the significance of the state constitutional convention of 1870 to the charter of 1863 should be noted here. The convention placed the municipalities in the category of those subjects that could no longer be regulated through special legislation. Chicago was then suddenly severed from all hope of special treatment by the state legislature, and it became only a question of a few years when it must accept the provisions of a law in common with the smallest rural city of the state. In this connection it should be noted that the new institutional life of Chicago began with its material renaissance. The charter of 1863 ends an epoch in the institutional and material development of the city, which is separated from the present by a chasm darkened by the ruins of the conflagration of 1871, and by the institutional transformations that followed the acceptance of the general municipal law of 1872. These events close an epoch of less than forty years, fraught with the momentous problems and struggles of a city favored in location, but menaced with multitudes of changing and shifting humanity. As we glance back over the institutional development of these years we may follow certain lines of perspective at times drawn with the unmistakable directness of order and system, while in other years they are dimmed with indecision and confusion. It must be observed that each charter and revision is linked by no uncertainties with its predecessor. In the closing years of the old municipal régime, we must search for the degree of administrative differentiation that ended with the charter of 1863. From the simplest institutional beginning, issued an elaborate and complicated system. The board of trustees, with its slight aristocratic traces of the colonial period of American municipal development, was the one governing body. It was the repository of all corporate power. Administrative necessity

produced a division of labor and created administrative departments for specific branches of the service. Differentiation upon the one hand, and consolidation upon the other, have marked the institutional history of Chicago, and have made it typical of the evolution of the American municipality. Gradually, the mayor assumed dignity and position as the personal embodiment of executive power, while the council was restrained more particularly in its legislative duties. This separation was not complete. The council was the essential fact of the administration. The administrative departments, with the exception of the treasury department, were organized according to the board type. The physiography of the city was an unmistakable factor in determining the structure of certain departments, and this led to the development of a localism often bitter, and cherished until broken down by the growth of a larger municipal consciousness. The board type of departmental organization in its representative phase was easily adapted to the presence of the natural divisions of the city. Although a spirit of consolidation had been working throughout this period, yet Chicago was not free from its era of conflicting boards. Characteristically true of municipal history at large, those boards brought their season of chaos and of patchwork systems,[1] until the administration proved unequal to the tasks imposed upon it. The hope of relief in special legislation had proved no remedy at all.[2] It produced, on the other hand, a municipal lobby too often prompted by other motives than a symmetrical institutional development.[3] Each new piece of legislation bore the promise of order and system which were too often shattered before the tests and rigors of administration. The hope of better administration was crushed in the confusion of changing institutions; in their weak efforts to correspond to new conditions. Administratively, innovation should bear the credentials of experience and reason-

[1] Report of Council, December 3, 1866.

[2] *Council Proceedings*, September 25, 1866.

[3] *Chicago Times*, April 8, 1872.

able correspondence to historical elements and existing environment. The first period of institutional history, then, closed amid material disaster of the great fire, which has proved the beginning of a grander era in the history of the city. With characteristic energy, upon material ruins has been fashioned a splendid realization of the possibilities and opportunities inherent in the location of the city and the temperament of its people. In this material renaissance, institutional development has been sadly neglected. No such architectural skill has been employed upon the municipal institutions as has been lavished upon those business palaces and fairer homes which fringe its lake shores and spacious boulevards.

PART II.

PRESENT ADMINISTRATIVE ORGANIZATION OF CHICAGO

CHAPTER VII.

RE-INCORPORATION UNDER THE CHARTER LAW OF 1872.

The constitutional convention of 1870, for the state of Illinois, declared against special legislation for the municipalities of the state.[1] This provision enforced upon the state legislature a task it was little prepared to meet. Few states had broken away from the practice of special legislation in the regulation of their municipal life. But few general laws were in operation, and special legislation had left a patch-work system of many years of accumulation, from which must be shaped a general organic law that would satisfy the varied wants and needs of many municipalities. The general law received executive approval April 10, 1872. The status of the incorporated cities was not disturbed by the presence of this legislation, which was framed especially for those localities which would assume the responsibilities of a municipality, and ultimately for all cities of the state.[2] The city of Chicago was organized nine years under the charter of 1863, and the amending act of 1867. A constantly growing complexity in the increased social and economic structure of the city had demanded more frequent revisions in its organic law. Extraordinary conditions prevailed in Chicago at the time of the formulation of the act of 1872. A destroyed city necessitated a more liberal charter of financial

[1] Constitution of 1870, Art. IV., 22.

[2] Chi. P. &. P. & Co. v. Chicago, 88 Ill., 224.

powers before the adequate means for re-construction could be secured. Two years, however, passed before any serious discussion was begun for a change of charter. This agitation soon revealed a positive and decided opposition to the general law of 1872. Although expressing minority views, the influence of the opposition was vital and important. The main argument of the opposition is found in the structure of the general law, fashioned from a multitude of rural, village elements, gathered from the municipal life of the state, many of which were foreign to metropolitan conditions. It was urged that Chicago was unique and exceptional in its growth, and demanded an especial and exceptional treatment at the hands of the legislature. Three distinct currents of feeling found embodiment in more or less definite propositions upon this question of the future structure of the city government. The Civic League took a position of extreme conservatism and opposed the law of 1872 and the substitute act of 1875, and urged the maintenance of the present status of government until more generous legislation could be secured.

An organized movement of some strength found expression in an act of exceptional interest, avowedly designed for Chicago, although framed according to constitutional provisions requiring a general law for the whole state. It was framed in Chicago and supported at Springfield by a strong Chicago constituency. The friends of the substitute bill hoped to secure its passage by the legislature, and its acceptance by the people, before the friends of the general law of 1872 could induce incorporation under its provisions.[1] The substitute act received executive approval April 8, 1875, only five days before the city voted to incorporate under the law of 1872, and thus the lobbyists, fresh from the legislature, wasted their energies in a fruitless attempt to defeat incorporation under the above law. Two hopes, however, stimulated the opposition to persist in its efforts: first, to defeat incorporation under the law of 1872;

[1] *Council Proceedings*, March 15, 1872.

and, second, if the people accepted that law, to create conditions that would compel its rejection by the courts. Both methods were employed and both signally failed.

Although the substitute act of 1875 was never accepted by the people of Chicago, its direct connection with the re-incorporation of the city compels an outline of its principal features. In its structure, the act differed radically from the law of 1872, as well as from the charters of the previous years for the city of Chicago. The unicameral legislature had been persistently maintained throughout the municipal history of the city. The law of 1875 proposed the bicameral legislature, composed of a board of councillors and a board of aldermen. These chambers were to be distinct and separate, copying faithfully the outlines of our national and commonwealth legislatures. Fifteen aldermen were to constitute the upper branch, to be elected upon a general ticket with no restriction of residence; while the lower house was to be composed of three aldermem from each ward. Each body possessed a concurrent and negative vote upon all matters of legislation, with one exception, which was in full harmony with accepted modern legislative precedents; all important appropriation bills, and all ordinances imposing a tax, were to originate with the board of aldermen, but through the power of amendment the board of councillors were enabled to effect radical changes. A still more radical feature appeared in the form of a mayor's cabinet. The council's power was to be shattered in the "checks and balances" of a bicameral system, and in an institution of cunning structure in the form of the mayor's cabinet. This completes an exact copy of the federal system.[1] The constituent factors of the cabinet were to be the heads of the administrative departments and the principal corporate officers. The cabinet incorporated many elements of

[1] "It is believed that no charter for a great city ever received more earnest, careful, laborious and studious attention than that which grew into the Charter of 1875." Franklin MacVeagh, in Report of Citizens Association for 1874–76, p. 21.

strength, if properly restricted in its power. The opposition engendered against this system is founded upon a wrong theory of its relation to the other organs of the municipality. Consultation is the essential purpose of the cabinet. The law of 1875 proposed to endow that body, not only with powers of advice upon the current administration, to offer and to suggest measures for the promotion of the general interests of the city, but with the power of contract for all sums above five hundred dollars. The dangers of the cabinet idea appeared in this proposition. The formation of contract is an executive function and is almost universally lodged with the mayor, or certain heads of departments, but the memories of the Tweed ring of New York city were still vivid, and they at once clouded the cabinet feature in an atmosphere of suspicion. The cabinet was to be constituted so as to merge individual and collective responsibility. The safe-guard proposed to prevent the cabinet from becoming the basis of a "ring" appeared in the restrictions upon the re-election of its members. The concentration of political patronage made it still more an object of odium.[1] The city council aroused in its own defense, recorded its emphatic objection to the substitute measure by a vote of 32 to 3.[2] Popular disapproval in the form of mass meetings attempted to arouse a sentiment that would secure its defeat in the legislature, but proved of little avail, unless it was to crystallize public opinion in favor of the law of 1872. The law of 1872 was a tribute to the common council, while the substitute act of 1875 was constructed in the interest of executive concentration It was significantly pointed out that while the mayor was powerless to prevent and to correct abuses under the act of 1872, there was still compensation in the fact that he would be as powerless to foster and to promote elements of disorganization in the interest of personal aggrandizement.[3] The substitute act

[1] *Chicago Tribune*, March 16, 1875.

[2] Ibid.

[3] *Chicago Times*, March 18, 1875.

created an irresponsible mayor, shielded by an irresponsible cabinet.

These three distinct propositions were open to the people of Chicago: to continue the municipality under the provisions of the patchwork charter of 1863, with its inadequate delegation of powers, or to cast their lot with either the law of 1872, or the law of 1875. Conditions demanded a more liberal charter. The two measures open to immediate acceptance represented radical differences upon the question of executive and legislative concentration. The relative merits of the two systems became the central point of discussion in the campaign before the city. The arguments were concrete and apropos to the plans under consideration. The supporters of the substitute measure pointed out the dangers that would surround the council should it be given unlimited control on the one hand, over the municipal patronage through the appointment, the creation, and the abolition of offices, and on the other hand, over taxation and the voting of the budget, combining, in a confused manner, legislative and executive functions. Furthermore, the common council of the American municipality did not present an unimpeachable record, a fact which was attributed to its unrestricted powers. It was contended with much justice that the law of 1872 had purposely sacrificed the mayor in the exaltation of the common council.[1] The elimination of the principles of checks and balances made way for a legislative despotism, unrestrained except by its own discretion. In words clearly prophetic, it was intimated that the position of the common council made possible sweeping abuses, and converted the councillor's seat into a glittering prize.[2] However, it was contended that a record of many years of concentration of power in the common council had been fairly characterized by honesty and economy. On the other hand, the structure of the city government outlined by the law of 1875 presented an untried experiment in the field

[1] *Chicago Tribune*, April 26, 1875.

[2] *Chicago Tribune*, April 27, 1875.

of municipal legislation, while especial opprobrium was attached to the mayor's cabinet. The framers of the law of 1872 had designedly enlarged the functions of the council in the hope of attracting to it a better talent and wider experience.[1]

April 23, 1875, was the day appointed for the submission of the organic law of 1872 to the people of Chicago. At the same election the people were called to pass upon the important question of minority representation. For reasons, both patent and concealed, the election notices made no mention of minority representation, which doubtless contributed to its defeat by the people. There was also general indifference manifested by the citizens upon the whole question of incorporation.[2] The character of the opposition and the feelings of the council point to palpable and intended omission as the most effective method of defeating the measure,[3] while on the other hand, it was claimed that the measure was defeated but counted in.[4]

The friends of the substitute act of 1875 at once began quo warranto proceedings against the city on the grounds that the election had been irregular and illegal through the neglect of the council to insert the clause for minority representation as required by the incorporating clause of the act. The lower courts sustained the demurrer and gave judgment of ouster.[5] The corporation appealed to the supreme court of the state, which reversed the decision of the lower court on the ground that an election for the adoption of a city charter could not be invalidated by quo warranto proceedings, and further that the

[1] Mayor's message, *Council Proceedings*, July 1, 1872.

[2] The following table of votes will indicate the civic interest upon these questions, as compared with the vote upon one of the principal municipal officers. *Council Proceedings*, April 14, 1875.

	Aff.	Neg.	Total.
Incorporation	11,714	10,281	21,995
Minority Representation	1,550	5,554	7,104
City clerk in 1876	.....	.....	50,822

[3] *Council Proceedings*, May 12, 1875.

[4] Report of Citizens Association, 1874–76, p. 21.

[5] Chicago vs. People, 80 Ill., 499; also, *Council Proceedings*, May 3, 1875.

omission of the call to vote on minority representation did not invalidate the choice to re-incorporate under the act of 1872.[1]

This decision of the supreme court of the state closes the career of the municipality of Chicago under the régime of special legislation.[2] The internal development of the city during this later period must be largely sought in the ordinances and regulations of the common council, as they issue from the general provisions of the act of 1872 and subsequent amending laws of the state legislature.[3] The council began a new lease of life as the central fact of the new charter.[4] Thus the principles of the charter of 1837 were reëxamined.

[1] Chicago vs. People, 80 Ill., 497.

[2] Potwin vs. Johnson, 108 Ill., 73. But recent decisions of the supreme court have practically reversed its former rulings, and annuled the constitutional provisions for general legislation, by holding that a law, passed for cities of 50,000 and more, was general in the meaning of the constitution. The law was sustained on the ground that it was uniform in operation upon all persons and subject matter in like situation: Cummings vs. Chicago, 144 Ill., 563. In a letter dated Jan. 27, 1898, Judge M. F. Tuley writes: "Necessity appears to have demanded a radical repeal of the limitations [upon special legislation]. I see now no barrier to a flood of local laws for Chicago."

[3] Guild vs. Bross, 101 Ill., 478.

[4] Law of April 10, 1872, Art. III; also, King vs. Chicago, 111 Ill., 68.

CHAPTER VIII.

THE COMMON COUNCIL.

The municipal history of Chicago has emphasized at least one fact, viz.: the supremacy of the common council during more than half a century of municipal activity. In the development of the council is crowded much that is essential to the corporate history of the city. The general law of 1872 records a triumph of the council. It is the special recipient of all delegated functions, and, broadly speaking, exercises all powers not conferred upon other organs. It is endowed with a creative force inherent in legislative bodies, and is explicitly given the right to re-delegate those powers contained within its charter.

Although the separation of executive and legislative functions, and the recognition of their separate spheres have become well established, yet these relations are by necessity close and mutual.[1]

The council is the creative organ in the elaboration of the internal institutions of the city under the fundamental provisions of the charter law of 1872.[2] The mayor is the responsible agent in the enforcement of its will. In the composition and structure of the council is epitomized its life history. The dual factors of the charter of 1837 remain as the structural elements of the present council. For all legislative purposes the aldermen are the principal factors, while the mayor assumes the position of its parliamentary leader, with no power in legislation, except

[1] Mayor's Message for 1893. "Corporate authorities of Chicago are the Mayor and the Common Council. Broadly defined their fields are separate. But their relations and duties are closer than indicated by the line usually drawn. They so interweave and blend that they are practically one."

[2] Crook vs. Peope, 106 Ill., 242.

to cast a tie vote.[1] Although the mayor is a legal factor in the council, his position has been gradually reduced to that of a presiding officer.[2] His executive functions are sufficiently exacting to demand a release from this useless relation to the council.[3] Unity in legislation and administration is the main argument that sustains the relation of the mayor to the council. Administratively this argument has little basis in its practical results, which could be realized by a more effective relation than the discharge of the routine business of a presiding officer. Viewed from a legislative standpoint, upon last analysis the aldermanic element is the common council.

The ward system of representation for the election of the aldermen has always prevailed in Chicago. The law of 1872 provides a choice of two methods for the election of the council, either a majority or a minority representation. The latter plan was rejected at the time of the adoption of the present law, both through the neglect of the council in making the proper publication of the election notices, and through public indifference.[4]

The plan of minority representation proposed by the act of 1872 was outlined from the provisions of a similar law for the lower house of the state legislature. The object of this plan is two-fold: in the first place it enlarges the territorial basis of representation, and in the second place it permits the representation of minority parties in the council. The enlargement of the territorial basis of representation is a step towards the destruction of the narrowness of the ward system, which easily permits the division of the voting population upon lines determined by peculiar residence conditions. It will be observed, that, upon final analysis, the ward system divides the voting population into social and economic groups upon a narrow territorial

[1] Carrolton vs. Clark, 21 App., 74.
[2] King vs. Chicago, 21 App., 74
[3] Mayor's message for 1893.
[4] Chicago vs. People, 80 Ill., 496.

basis, preventing the organization of public opinion upon broader principles of interest in its relation to the city as a whole. The tendency of this system is to localize representation, to create small representative areas and to draw lines within the council that emphasizes the ward relation of social and economic forces within the city in their most antagonistic form. Crime and poverty group themselves in unfavorable quarters, while the well-to-do seek the more desirable portions of the city. This simple but fundamental fact increases the dangers surrounding the ward system of representation. These divisional interests clash in the council. The politician follows the path of greatest interest, and while party differences are ultimately determined by economic and social laws, these are seriously perverted by a system of representation which prevails in Chicago. The choice of men of talent by this system is necessarily restricted to individuals who dwell within a narrow territory. While minority representation has not resulted in all that its advocates have desired, it is at least a step towards the elimination of those disturbing factors which have enslaved our city councils, and despoiled them of much of their efficiency and usefulness, and have emphasized the worst features of our party system. Although minority representation was defeated in 1875, it is still open as a possible basis for representation in the council. The plan provided by the original law of 1872 has been materially modified.[1] The charter law provides for a special referendum, and if once rejected there was no provision for again submitting the question to the people. This defect has been remedied.[2]

A certain latitude of choice is open to the council in fixing the ratio of representation, should the minority plan be adopted. The law proposes the districting of the city on the basis of a ratio determined by dividing the whole population by a number from two to six. The plan proposed is the "three cornered

[1] Law of April 11, 1883.
[2] Ibid.

system," with the cumulative method of voting. Each district selects three representatives, and the voting is so arranged as to permit of the "plumping" of votes upon any candidate. Each voter is entitled to as many votes as there are representatives from his district to be elected.

The experience of the state at large in the use of the cumulative plan is that it has not yielded the results its friends had promised.[1] The beneficial results that might accrue from the adoption of this plan for Chicago would doubtless be weakened by excessive party organization. The uncertainties of party strength makes the manipulation of the party vote a series of guesses, and consequently leads to the supremacy of the party boss. The limited number of persons from each district destroys the possibility of a large field of choice for candidates. The final result in practice would seem to indicate that not only do minority parties go unrepresented, but that the uncertainty of party strength leads to excessive "plumping" and consequent loss of voting energy. The adoption of this plan would only prove a shiftless palliation for the real remedy. There is then little possibility of the adoption of a plan that the friends of representative reform can fully support, although the people of Chicago are great sufferers under the present system.

The failure of the citizens to accept the provision for minority representation threw the council upon the immemorial ward basis, with its narrow localization of forces to be represented. The ward system was evolved from simple conditions that gave full recognition to the territorial basis of economic and social interests. But those conditions have changed with the complexity of urban life. Political habit prevents the destruction of an obstacle that obstructs the use of rational forms of representation, that seeks to encourage the grouping of interests upon a broader basis than that of mere locality. The law of 1872 provided a numerical basis of classification for the municipalities of

[1] Summarized by Commons, *Proportional Representation*, p. 93.

the state, and fixed a maximum limit of 36 aldermen in all cities of over 100,000 inhabitants.[1]

This restriction has, however, been modified by later legislation.[2] The maximum number of 48 aldermen was fixed for all cities of 350,000 inhabitants, with the provision that, with any addition of territory, there shall be added to the council two aldermen for every 25,000 inhabitants, and two for every fraction of more than 15,000 persons.[3]

While this law affects the whole state, it was ostensibly passed for the city of Chicago, in order to bring the council into proper relation to the extensive territorial additions that were made at that time. When the city has grown in population so as to entitle it to a representation of seventy, it shall be divided into a maximum number of 35 wards.[4] Chicago has reached the limit. This legislation enabled Chicago to escape the limitation of the original law, and provided it with a council of sufficient size for purposes of representation and legislation. The city is divided into one-half as many wards as there are aldermen,[5] and shall be of "compact and contiguous" territory. In the hands of the modern legislator, the above words have a varied meaning, and have been given a liberal interpretation by the aldermen of Chicago. The council is a continuous body, which is not however in theoretic harmony with a representative government, but it preserves more closely legislative unity, and insures administrative continuity. The details of the mu-

[1] Law of June 4, 1889. Charter III., 2. The general scheme is presented in the following table:

Population.	Aldermen.
Cities not exceeding 3,000	6
Cities, 3,000 to 5,000	8
Cities, 5,001 to 10,000	10
Cities, 10,001 to 30,000	14
Cities, over 30,000, for every 20,000 inhabitants	2

[2] Law of June 4, 1889.

[3] Law of June 4, 1889.

[4] Ibid.

[5] Law of June 17, 1887.

nicipal elections are governed by the general election laws of the state. The presence of the township system in the corporate territory connects closely the municipal election with the local elections of the state.[1] The Australian ballot system has received full recognition, and in its general features is in harmony with the legislation of other states that have adopted ballot reform.[2] The restrictions upon the electorate are so unessential as not to affect, materially, universal manhood suffrage. On the other hand, the conditions of naturalization are so easily complied with that they have introduced into the body of the electorate a large untrained foreign vote, which becomes an easy subject upon which to exercise the party whip. The nature and character of the common council is determined largely by the method of nominations.

The problem of the primary is yet unsolved.[3] In Chicago the abuses of nominations become a menace to good government. Representative government stands defeated before the rule of the unfit, with all the accessories of ward politics. The result is a complete travesty upon democracy. Any party desiring to enroll its candidates upon the ballot must possess a polling strength of two per cent. of the entire vote cast at the preceding election. This restriction upon the freedom of party formation operates to restrain reform movements. The state legislature seems either unwilling or incapable of correcting this wrong by direct legislation, and this feeling is supported by general public indifference. The registration act of June 18, 1891, is designed to prevent "repeating."

The conditions which affect the return of aldermen to the common council are these: a narrow territorial district, a ma-

[1] The city council formerly acted as canvassing board. New legislation places this with the canvassing board, consisting of county judge, city attorney and election commissioner. *Council Proceedings*, April 12, 1886.

[2] Law of January 22, 1891.

[3] The special session of the state legislature of 1898 provided for a system of nominations. See Appendix.

jority vote composed of a large suffrage, of every shade of national and political faith and tradition, the discipline of excessive party organization, badly protected primaries, but with fairly effective methods of voting through the requirements of registration, and through the use of the Australian ballot. This presents a natural, logical chain. The council cannot rise above its source: in the absence of proper regulation the source of representation often becomes excessively polluted.

The aldermanic standard of Chicago is essentially political popularity. Any class of nominees may be returned. There is little restraint upon the return of the worst candidates. That all men are eligible to official position is a fundamental proposition of democracy. The qualifications of aldermen fixed by law are so general that there is practically no exclusion. Certain business relations operate to exclude persons from the council, as an interest in contracts, and direct purchase of city bonds.[1] He must never have been convicted of a crime, bribery or corrupt practices.[2] The council decides all matters pertaining to aldermanic qualifications.[3]

High official standards are not created by legislative enactments, but issue from the moral relations of the community. The standard of business integrity will be the ultimate factor in fixing and determining the nature of the public service.[4]

The charter law imposes but few restrictions upon the council in the details of its own organization. The mayor is the presiding officer, but the rules of procedure of the council determine finally the character of its organization. The courts have held that the charter requirement of the presence of a majority of the members of the council for a business quorum cannot be defeated by the legislative absurdity of refusing to vote when present, and that a majority of members will make any business

[1] Sherlock vs. Winnetta, 68 Ill., 530.

[2] Hilrett vs. Heath, 1 App., 609.

[3] Keating vs. Slack, 116 Ill., 191; also, *Council Proceedings* April 12, 1886.

[4] Launtz vs. People, 113 Ill., 142.

valid although they refuse to vote.[1] Furthermore, the individual responsibility of the aldermen is emphasized by a required yea and nay vote upon all ordinances and propositions creating a municipal liability or making an appropriation. City property cannot be alienated except by a two-thirds vote, while a majority vote carries the sanction of a permit to use the streets for railway purposes.[2] In order to rescind an act of the council as many members must be present at the second consideration as at the time of its original passage, but this provision does not prevent the council from ratifying an act of a prior meeting.[3]

An analysis of the specific powers of the council presents many difficulties. The general law of 1872 bears the impress of a compilation. The cities of the state yielded to the law all that was peculiar to their administrative experience. But in the special charter of 1863 for Chicago must be sought the main source of the powers granted to the council by the law of 1872. The position of Chicago demanded from the framers of the law an extensive grant of powers to the council, in order to meet the demands of administration in a large city. In this way was established an intimate connection with the special charter of 1863. The council is the central organ of administration under the provisions of the present law, which was particularly true before special legislation came to reconstruct the scattered elements of the mayor's power. The corporate activity of the city is fairly summarized in the substantial delegation of power to the common council. The council is the source of institutional development and its specific grants are widened by the addition of implied powers; but the legal obligation of the city must be sought in this charter.[4]

The powers lodged with the other organs of the city are de-

[1] Commiss. vs. Baumgartner, 41 Ill., 255.

[2] Ch., D. & C. Co. vs. Garrity, 115 Ill., 161; also, St. L., A. and T. H. R. R. Co. vs. Belleville, 25 App., 580.

[3] Schawneetown vs. Baker, 85 Ill., 563.

[4] Trustees vs. McConnell, 12 Ill., 138.

pendent upon the action of the council for any vital influence they may exert upon the administration.[1] The ninety-six charter grants of power to the council are not vested rights, but subject to repeal or amendment according to the fundamental proposition that the municipality is created by the state for administrative purposes.[2] The municipality represents the interests of the people, and holds in trust the administrative powers conferred upon it, which must be exercised through the council by appropriate ordinances.[3] This decisively implies that the council is the source of administrative legislation within the limits of the power and jurisdiction of the charter.

The analysis of the scope and purpose of the ordinance as the recording instrument of the council's will on the one hand should reveal the nature of legislative procedure, and, on the other hand, should draw the line between executive and legislative functions. But on the contrary little attempt is made to employ a principle in determining structure and subject matter of the city ordinance. It assumes four forms: 1. The ordinance as a legislative enactment. 2. An order. 3. A resolution. 4. An appropriation bill.

If these ordinances could be made to contain certain specific subject matter, and receive legislative treatment according to their form and nature, municipal legislation would be characterized by more definiteness. The ordinance in its legislative use is broad, creative, organic, and is properly concerned with problems of a general nature which touch the whole municipal life.

The order is likewise organic, but more specific in its scope. Its function is special.

The instruction approaches the order in its general nature, but more properly is an instrument of executive will and control in the regulation of the details of administration.

The resolution mainly expresses an opinion on a particular

[1] After April 1, 1898, the salary of the aldermen are fixed at $1,500.

[2] Mt. Carmel vs. Wabash Co., 70 Ill., 69.

[3] Zanone vs. Mound C., 103 Ill., 555; also, Chicago vs. Wright, 69 Ill., 318.

subject, without commanding action that would lead to administrative change.

The appropriation bill has in Chicago that special and favored place that it everywhere holds in the category of legislative enactments. It must be prepared in a definite manner, before a stated time receive special consideration by the council, subject to a special veto, passed once during the fiscal year, and before a stated time. The nature of the administration of the budget is minutely determined by the council. The appropriation ordinance of Chicago is subject to the above processes. Supplementary budgets may be voted only under extraordinary conditions and must receive the sanction of a popular approval, through a referendum. The interests of economy and financial responsibility have demanded this special treatment by the council; but this treatment does not distinguish Chicago from the legislative bodies of the modern city or state. This procedure in financial legislation has logically followed with the growth of legislative sovereignty. The policy and course in legislation are in the hands of committees which present their reports and information generally in the form of ordinances. These committees suggest a natural, but somewhat crude, classification and grouping of legislative materials. A detailed statement of the powers of the council must be sought in the charter.[1]

A sufficient survey of the content of aldermanic power in Chicago may be obtained from the following broad classification. The most important legislative power of the council is financial. The activity, efficiency and vitality of the municipal government are conditioned by a well-ordered and vigorous financial policy and administration. The central question of a modern charter resolves itself into this: With which organ is lodged the essential element of financial control? The executive or legislative concentration of power is concerned ultimately with this question. The growth of representative government

[1] Charter law of April 10, 1872, V, Sec. 1.

has universally recorded one answer. The once exclusive control exercised by the executive over the finances of the state in all its divisions, has been shattered by the advance of popular government. In financial control rests the power of the modern legislature. The purse strings of Chicago from the inception of corporate life have been securely taut in the hands of the common council; but this control has received its restrictions and limitations by constitutional provisions and through legislative enactments and inadequate assessments. The fundamental nature of the financial position of the council is at once revealed in the grant of exclusive control over the finances and property of the corporation. The council sanctions all expenditures, which are of two classes: current expenses and debt liquidation. It controls the revenue and taps its varied sources. The control imposed by the state upon the council in the exercise of its borrowing and taxing powers means in practice little vital control. No system of financial administration has a right to exist whose presence is a constant menace to official honesty and to the morals of the community. At this point, confusion and chaos enter the financial administration of the city. The financial powers of the council are essentially those of revenue. The corporation is evidently restricted in the acquisition of property for purposes of revenue.

This brief survey of the financial position of the council emphasizes the original proposition that the municipal legislature is supreme over the financial administration of the municipality, except in the assessment and collection of taxes. If its ordinance power was concerned with no more extensive matters, this control alone would be sufficiently comprehensive to regulate the entire city administration.

The police ordinance power of the council in the regulation of business interests is necessarily extensive. In its broadest sense police power is governmental.[1] Private rights must submit to its dictates. The municipality exercises this function as

[1] *American and English Encyclopedia of Law*, Article on Police.

a delegated power of the commonwealth in the interest of public health, good business and general welfare. The difficulty of an exact definition of police power has led the United States supreme court to avoid it, and to restrict its interpretation to specific cases.[1] Police power is based upon discrimination.[2]

The license power of the council is closely connected with its exercise of police functions. It is essentially regulative in its character.

Theoretically, the mayor represents the police power of the state within the jurisdiction of the municipality; practically, the council controls the ultimate exercise of these functions, except in extraordinary circumstances when the police power becomes military in its nature and scope. In the ordinary course of the police administration the ordinance power of the council is both regulative and prohibitive over those agencies that threaten the moral, economic and social welfare of the community. Police power is primarily restrictive and preventative; but the effective exercise of this power often assumes a regulative character. All the possible exigencies of police power in the regulation of the varied interests of a metropolitan life are fully provided in Chicago by charter grants. The suppression of disintegrating forces that poison the moral atmosphere of the community does not alone absorb the full attention of the police power, but it is also concerned with the protection of the social and economic interests as well.

In close relation with the exercise of police functions stands the license power of the council. Essentially it becomes an instrument of police regulation, and incidentally a source of revenue. The license ordinance imposes specific restrictions upon certain businesses. The constitution imposes no restrictions upon the council, but these reside in the nature of the problems and conditions to be controlled. Although in theory the police power is one of legislative delegation, yet in the creation of administrative institutions it rests with the council to make free

[1] Stone vs. Mississippi, 101 U. S., 814.

[2] Chicago vs. Case, 126 Ill., 282.

use of its implied powers. In the consideration of the specific objects of the license it will appear later that its essential nature has been perverted as an instrument of police regulation, and that it has been extensively employed as a gatherer of municipal revenues.

A radically different set of powers, which pertain to public construction, has fallen to the council. This phase of administration absorbs a large measure of the municipal activity and is closely connected with the creation of municipal revenue. The general outlines of the policy of municipal construction is found in the ordinances of the council. The task imposed upon the council is reflected in a system of public works, reconstructed upon the ruins of the great fire of 1871. The work carried on by the city and the park boards, in the midst of discouraging conditions approaches in extent the brilliant transformations of Paris, or the labored and studied street expansion of Berlin and other cities of the continent. Peculiar physical conditions and bad administrative methods have imposed civic burdens upon Chicago, that few municipalities have been called upon to meet. In the expenditure of the millions of revenue required to put into operation this costly system of public works, it is not strange that suggestions of misappropriations of funds should be associated with the council. The council possesses full control over all construction, and the regulation of those works which are carried on by private parties for quasi-public purposes.

An ordinance power of great importance, and one of recent legislative discussion, is concerned with the granting of municipal franchises. This power of the council has long been subjected to a popular referendum.

It lies within the power of the council to permit, to regulate or to prohibit the location, construction or laying of tracks in the streets of the city for a period not to exceed twenty years. The popular veto takes the form of a petition which represents one-half of the abutting property owners of the street. The absence of proper restraints and the feelings of indifference on

the part of the council have deprived the city of the just participation in valuable franchises, which would supplement in an important manner the ordinary revenues. The nature of the petition reduces the popular referendum to a mere matter of form, and makes it of little consequence as a restraint. The position of the council toward the revenue phases of the franchise has no defense. Mistaken judgment will not condone it. The want of shrewd business ability upon the part of the council will not explain away the loss of important revenues. The burden of proof for its adopted policy upon the question of franchises falls heavily upon the council. Its wholesale voting away of valuable and just rights has done much to discredit before the people the institution that should stand as the preserver of their privileges and interests. The council has started, on the one hand, tendencies of the first magnitude, and it has crystallized them in law, while, on the other hand, they are protected by that keen business ability, which the private corporations in Chicago can command.

These facts summarize the essential ordinance power of the council, although a variety of subjects still augment and emphasize the supreme position of the municipal legislative over other phases of the city administration. These miscellaneous acts are not always purely legislative, but often encroach upon the executive functions. The law of 1872 left the common council in a freer control over the internal organization of the city. The charter provided in each case the outlines of departmental organization, but left to the council the elaboration of the administrative machinery. The grants of the charter are effectively supported by a provision of implied powers which enables the council to issue any ordinance necessary to supplement its specific delegation. This provision practically removes all restraint within the territorial jurisdiction of the corporation, and permits the council the full exercise of its ordinance power. This examination of the grants to the common council empha-

[1]See Appendix.

sizes the fact that this body is the repository of all the essential powers of the corporation. It touches and controls all administrative details; institutes municipal policies; opens up sources of revenue and directs streams of expenditure. The council has ever been, and is the central fact in the municipal system, although the growth of executive concentration has modified its former absolute position.

CHAPTER IX.

THE MAYOR AND HIS FUNCTIONS.

The organic law of April 10, 1872, was virtually silent upon the subject of the mayor. His functions were largely prescribed by the common council. Two facts serve to explain this attitude of the law of 1872 toward the chief executive of the city: In the first place it was designed for newly organized cities and for those that chose to re-incorporate under its provisions; and in the second place, special legislation existed for all the mayors of the state. A tentative measure of two years' limitation was passed at the same session of the legislature that gave to the state the general municipal law of 1872.[1] Hence upon March 9, 1874, this two years' experimentation with uniform legislation for the mayors of the state came to a close by the limitation of the statute itself, and the cities were thus suddenly despoiled of all effective mayoral powers. Chicago had not yet accepted the law of 1872, but still operated under the charter of 1863. The common council of Chicago developed strong and bitter hostility to the re-enactment of the "Mayors' Bill" of March 9, 1872.[2] It recorded its emphatic rejection of the measure by a vote of 34 to 2.[3] It was a struggle between the friends of the executive and the council. The defeat of "this most obnoxious law" for Chicago meant the

[1] Law of March 9, 1872.

[2] The council of Chicago has always jealously guarded its own interests and power. This has not always assumed the form of unselfish motive to further the interests of the corporation, but rather to protect the council as an institution for the exercise of personal power and influence.

[3] *Council Proceedings*, 1873. The words of the resolution reflect most strongly the feeling of the council: "We are unalterably opposed to to the enactment of any law which shall continue in operation for one second that pestiferous relic of the Medillian era, the 'Mayors' Bill.'"

return of the council to its former control over the civil service and the mayor to a more limited form of the veto as provided by the charter of 1863. The friends of the council system succeeded in defeating the re-enactment of the "Mayors' Bill," which expired March 9, 1874. At the time of the adoption of the general law of 1872 by the city of Chicago, a modified form of the "Mayors' Bill" was re-enacted by the state legislature.[1] It has been elsewhere noted that the municipal law of April 10, 1872, was a tribute to the council by making it the depository of all powers. Two facts appear in the clause of acceptance, that explain the presence of these two separate legislative enactments.

The "Mayors' Bill" of April 10, 1875, was supplementary to the general law of April 8, 1872. It was a partial re-enactment of the "Mayors' Bill" of March 9, 1872, and plainly bears the impress of the resolutions of the council upon the question of the restriction of executive power.

The appointing power of the mayor remained unchanged but certain restrictions upon his power of removal and veto were imposed. By the provisions of the former act, the mayor's power to remove officers of his own appointment was only restricted by the presentation of a written statement of his reasons for removal; while the appointing power under the modified act of 1875 was materially weakened by requiring the consent of the council, which could in time prevent a removal through a two-thirds vote. The veto was subject to the same restriction.[2] The friends of legislative concentration scored a triumph over the mayor by imposing a standing challenge to the unrestrained exercise of his privileges upon matters of removal and veto. If executive concentration was sought by this act, it defeated its purpose by the above provision, and introduced at once the principle of "checks and balances" which virtually transferred the power to the council.

[1] Law of March 9, 1872.

[2] Law of April 10, 1875.

The power of the council to prevent the mayor from removing those officers, who would endanger the unity and harmony of administration, has long been held incompatible with executive responsibility and administrative efficiency. The discretionary officers responsible for the shaping of policies should be accountable either to the council or to the mayor, and not to both organs. The mayor's bill of April 10, 1875, remained in force until May 28, 1879, when its repeal destroyed the basis of the mayor's power in Chicago, and forced him back upon the limited grants of the organic law of 1872, and upon the still more meager concessions of a triumphant and reluctant council. During the process of the re-organization of the administrative departments, after 1875, the appointing power of the mayor received constant change, and especially was this true of those departments changed from the board to the single commissioners system. The first years of the new council were employed in the elimination of the board system from the departmental administration. The mayor was the creature of the council in this period of the destruction of boards and the creation of new officers. The charter right conferred upon the council the power to create new officers, and to stipulate the manner of their appointment.[1] These ordinances were an important source of the mayor's power, and after 1875 must be employed more largely in the interpretation of his place in the administrative system. Before the repeal of the act of April 10, 1875, the question of the right of the mayor to veto all acts of the council was raised, upon the technical construction of the word "order." The corporation counsel held that the veto power extended to all ordinances, resolutions and orders of the council which were in content the same and only varied in form.[2]

[1] *Council Proceedings*, June 17, 1878.

[2] *Council Proceedings*, November 19, 1872. The same opinion also held that the mayor's bill of April 10, 1875, did not repeal all of the grants of the charter of 1863, was only a supplementary act and that this charter was still in force and was not repealed by the charter law of

Shortly before the repeal of the provisions of the act of April 10, 1875, the question of the interpretation of the mayor's veto over the appropriation bills was raised by his veto of the entire budget for the fiscal year of 1879.[1]

The amending act of May 28, 1879, repealed section 1 of the mayor's bill of April 10, 1875. This was not due, obviously, to any direct hostility to any power of the mayor, but in order to make it a part of the general municipal law of the state.

This brief survey of the more important legislation concerning the mayor reveals to us an interesting struggle between those persons, on the one hand, who sought to concentrate responsible power with the mayor, and those, on the other hand, who struggled to place this power in the body of the council. By these series of acts the mayor was clothed with dignity and power, and in particular instances he was given a dangerous control over certain vital questions, especially in the absence of efficient civil service regulations. By a gradual process, two distinct bodies of legislation were harmonized and became in fact one general law.

The qualifications of the chief executive of the city are couched in the most general terms, but approach a more specific statement concerning his financial powers and those of veto and appointment.

In the selection of the mayor the American municipality furnishes no precedent of the choice from another city of a successful mayor who has mastered the business of city government. Men of no training or experience will present themselves for offices of responsibility so long as the public demand no other qualification. In the selection of the mayor of Chicago, the pliable standards fixed by public opinion are the only qualifica-

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April 8, 1872; and since the veto power had been exercised over all legislative acts of the council, the charter power of 1863 was in force in all particulars.

[1] *Council Proceedings*, March 17, 1879. "He [mayor] cannot veto a part of an item that he may consider excessive or unnecessary."

tions considered. The office of the mayor is a prize to be contested for by all the methods known to our political system, which tends constantly to emphasize the least essential feature of his position, and to minimize the qualities necessary to a vigorous and scientific treatment of the problems of municipal government. His political position dominates his administrative position. It is largely a party responsibility.

Several causes have operated in the history of Chicago to differentiate legislative and executive functions. Begun during a period in which the council was not so reluctant to surrender its charter powers, this tendency has gathered momentum with the years, until it can be traced in a definite manner. The current view that the growth of executive power has followed through public distrust for the council, should be given some weight, and especially in recent years; but it should be noted that this process of differentiation started at a time when the charges of corruption against the council were not so prominent. Historical considerations point to administrative necessity as the essential factor that started this tendency toward the separation of executive and legislative functions. On the other hand, municipal corruption is explained by reasons more deep-seated than the shifting of power from the council to the mayor. The transfer of administrative functions from the council to the mayor has not robbed the former of its position as the central fact in the municipality of Chicago.

The mayor of Chicago embodies all essential executive power. In the broader sense, he represents the general police power of the state, within the limits of the municipality, in the interest of peace and good order. This is an emergency power, and links the municipal police with the military power of the state.[1]

At what point then does the mayor's administrative control

[1]Strike of 1895. An interesting survival of the direct police control of the mayor appears in the four "mayor's police" directly appointed by him and subject to his orders without interference on the part of the council.

begin? The position of the city executive to the administrative work of the city is generally measured by his power to appoint and to remove the heads of the administrative departments, and consequently to control over the whole civil service. The appointing power of the mayor of Chicago is stated in general terms, and includes all offices not otherwise provided for by the charter law. This ultimately means that all corporate officers not elected by the people are directly or indirectly named by the mayor.[1]

The elaboration of the administrative system since the adoption of the law of 1872 has prodigiously increased the appointing power of the mayor over the personnel of the service.[2] But the control over the civil service is never complete without the supplementary power of removal. The appointing power of the mayor, however, is not unrestrained; but limitations are imposed through the advice and consent of the council.[3] The charter law of 1872 is silent upon the question of the mayor's power to remove, but it has been defined in supplementary legislation.[4]

The arbitrary method of the removal of officers by the executive received a check in the requirement that the mayor shall inform the council of intentions and reasons for removal within a stated period; and a failure to render such an account invalidates the dismissal. A second check in the form of a two-thirds' vote which prevents removal fixes more closely the control of the council over the civil service. The position of the mayor has been recently modified by the civil service law of March 20,

[1]The governor of the state cannot appoint municipal officers. People vs. Hoffman, 116 Ill., 594.

[2]The council may create any office necessary to the life of the municipality.

[3]After April 5, 1898, the mayor may appoint a secretary for each ward at a salary of $1,500.

[4]Law of April 10, 1875. This act was repealed by the law of May 28, 1879, and incorporated into the general municipal law by the amending act of May 31, 1879.

1895, designed for all cities of the state. A non-partisan board prepares the lists and conducts the examinations. It is universally recognized that the non-partisan board, upon ultimate analysis, becomes partisan in its nature. The commission is composed of three persons appointed by the mayor. One member is appointed annually with a tenure of three years. The powers of the commission are important, but are not so extensive as the friends of civil service reform desire. The methods of preparing the classified list are similar to those employed by the national civil service commission. The commission frames the rules which shall govern all appointments within the scope of the act. The restrictions imposed upon it pertain to those officers whose tenure is provided and fixed by law, and those who are especially exempt from the jurisdiction of the commission. The heads of the city departments are rightfully exempt from the provisions of the act so long as the theory of executive responsibility prevails. The act of 1895 has been given high rank as a model for similar legislation for other cities of the United States. The law provides for promotions from the lower ranks of the service upon basis of a competitive examination. The method of appointment leaves little discretion with the heads of departments. Upon a vacancy the commission furnishes the name at the head of the list in that particular branch of service. The service is, however, protected by a probationary period and the head of the department may also remove for sufficient reasons. The commission is given certain final powers over all cases of dispute.

The result of this important legislation in a field too little protected from the chicanery and abuses of party politics, is dependent upon the honesty of its execution by the executive officers and by the commissioners. The possibility of political favoritism is not wholly eliminated. The act went further than to establish standards of qualification, but considered in great detail the possibility of destroying the enforcement of party

fealty through political assessment and work. The result of the law depends upon the honest and untiring endeavor of responsible persons to enforce its provisions. The spirit of its acceptance by the people of Chicago establishes a hope in the ultimate success of the reform. Concerning questions of reform it is not so much the position that is occupied at a given time, as the direction of the movement. If conditions are judged rightly, Chicago is moving in the desired direction—toward a permanent, professionally trained civil service, so essential to an administrative system characterized by the intensity and complexity of its organization, and by the technical nature of the problems that must be considered. The law was obviously passed for Chicago, since it affects only those cities above 100,000 persons. It must be observed that the law of 1895 materially alters the relation between the mayor and the heads of departments, in the selection of the subordinate service, as well as in the relation between the council and the mayor in matters of confirmation. The mayor has thus been relieved of much political responsibility by this act. Its result is to make his position one of more administrative significance.

The charter law of 1872 did no more than merely sketch the administrative position of the mayor in the municipal system. The supplementary act of 1875, previously noticed, elaborated his power of appointment and veto, but left to the council the absolute power of fixing his administrative position through its ordinances, as soon as necessity suggested administrative expansion and elaboration. Upon the broad outlines of general legislation, the council has filled in the details of an elaborate system in direction and supervision exercised by the mayor over the whole administration. With the reorganization of the administrative departments, the power of the mayor has constantly grown. In this re-construction of the administrative department, the council has followed with general consistency the principle of executive concentration and responsibility, by placing at the head of each department a single commissioner who

is appointed by the mayor.[1] The council may re-delegate power given it by the state legislature. The law assumes that all administrative functions should reside with the mayor in so far as they are separable from legislative functions, and do not endanger the unity and harmony of administrative work.[2]

The administrative control and direction of the mayor are attained through the various devices of personal supervision, inspection and examination of the progress of the municipal work. The position of the mayor makes him the chief source of information concerning the current administration which is embodied in the form of annual and special messages and recommendations of a timely and urgent nature. In a request for information the council often assumes a critical attitude toward the administrative acts of the executive.[3] The veto message becomes a valuable source in the interpretation of the position of the mayor upon delicate problems of the current administration and on the charter powers.

The official responsibility of the mayor does not only appear in the specific statement of his powers but also issues from the subtler relation that results from his personal connection with the heads of the departments. The definition of legal responsibility avails but little unless that subtler force of personal honesty pervades the whole administrative work. According to the organic law, the mayor becomes responsible for acts of omission as well as acts of commission. In a system where administrative power centers in the person of the mayor, the acts of omission are as confusing in their result as plans ill devised and executed. The problem of an open interest in city contracts so easily solved by charter restrictions is as easily avoided in prac-

[1] *Council Proceedings*, May 12, 1879. Mayor temporarily vested with power of commissioner of public works.

[2] New duties delegated to officers by legislature do not operate as an appointment. Kilgore vs. Drainage Com., 116 Ill., 350.

[3] *Council Proceedings*, February 14, 1881. In question of the mayor's right to interfere in the construction of certain public works; also, *Council Proceedings*, May 10, 1880.

tice.[1] The charters may fix their limitations but they can in no wise erect a standard of right in official action. The point where private and public interest in business divides is not so easy of determination. The courts have, however, attempted to institute such a dividing line by holding that where a pecuniary interest attaches to any public business, it is a cause for action.[2] If legal and administrative safeguards against corruption were final against this well recognized phase of our municipal weakness, the purity of the administration of Chicago would pass unchallenged. Administrative organization has its essential and central purpose in the creation of a system that will conserve the moral forces of a community, prevent administrative waste, and make difficult the development of destructive tendencies; in short to create conditions that will best foster and preserve the elements of civic strength. The administration must utilize those high standards of right and honesty which issue from the home, the church and the school; it cannot create them. The framers of an administrative system have a right to assume, that the home, the church and the school effectively discharge their functions in the creation of ideals and standards of integrity, that will become part and parcel of public and private life.

In another place the relation of the mayor to the council has been suggested. It was pointed out that by virtue of the organic law, the council was composed of two factors: the mayor and aldermen. A clearer separation of executive and legislative functions has tended to restrict the direct personal relation of the mayor to the council to that of a presiding officer. Previous to the adoption of the present law this position carried with it much power.[3] The present position of the mayor in the council is purely parliamentary, and possesses no further power than

[1] *Council Proceedings*, January 3, 1881, resolution of council directions to the department of public works.

[2] Sherlock vs. Wennetka, 68 Ill., 530.

[3] *Council Proceedings*, December 4, 1871. "The duties devolving upon a presiding officer are onerous, the office itself being second only to

that of a tie vote.[1] He appoints no committees and influences in no manner the organization and policy of the council, except as this can be done through his rulings. It has been contended that the mayor is not a necessary legal factor of the council for the transaction of business.[2] His position as president of the council emphasizes on the one hand the influence that he may exercise over the debates of the council, and on the other hand the feelings that would lead him to form a biased judgment. While this view would not be universally conceded, it is obviously true that the present arrangement is the most cumbersome and meaningless that could well exist between the council and the mayor. If there could be assigned no other reason than the element of time required to the discharge of these duties, and to restrain the violent breaches of the parliamentary code, and to pass upon personal differences—all these would warrant a complete separation or a more effective relation. That the mayor should be present at the sessions of the council we hold to be a position unassailable, but not in the capacity of mediator in parliamentary strife, in the routine work of a presiding officer. The veto power establishes the strongest tie between the executive and the council. The veto which has gained so complete a recognition in our political system, both federal and local, may be said to be peculiarly American. In the case of those cities, where the single legislative chamber prevails, the mayor's veto exercises a check upon hasty legislation, not imposed by the presence of a second chamber. Drawn from the provisions of the federal constitution, it has had a natural and logical application to local government. In the absence of the parliamentary cabinet, the executive veto was the only logical solution of the proper check to be imposed upon the local legislature.

The mayor's bills of 1872 and 1875 clothed the mayor in the

that of the mayor within the gift of the municipality." Address made before the passage of the mayor's bill.

[1] Carrolton vs. Clark, 21 App., 74.

[2] Mayor's address, April 18, 1892. Mayor Washburn accepted this view and followed it out.

state of Illinois with the important power of veto. The executive approval is necessary to all acts of the council, and may follow in two ways: by direct approval, or by lapse of time. The veto extends to the whole ordinance except in the case of an appropriation bill. All acts of the council are considered as ordinances, and as such must bear executive approval. In order that the objectionable features of the appropriation bill may be reached without endangering the validity of the whole act, the mayor is permitted to affix his signature of disapproval to specific items. The exceptional treatment of the appropriation ordinance by the council has been noted.[1] The financial veto follows in the interests of economy by striking out unwarranted and suspicious items that may find their way in the budget. Since the revenue ordinance must be passed before a given date and voted but once, the special financial veto prevents the introduction of unnecessary items or excessive individual expenditure. The mayor is thus provided with an important weapon in the interest of hasty financial appropriation, but his objections must pass the scrutiny of a two-thirds vote of the council. The interpretation of this special veto is obviously open to differences of opinion, and the courts have handed down a number of decisions that have attempted to define the financial relations of the council and the mayor. The exceptional treatment of the appropriation bill has led the courts to take the view that the mayor is distinct from the council in the passage of appropriation ordinances.[2] In 1879, the mayor vetoed the entire appropriation bill on the ground that he possessed no power to veto a portion of any one item, but must veto the item as a whole.[3] The item was excessive, but necessary, and led to the veto of the entire bill in order to insure the insertion and modification of the item.[4]

[1] King vs. Chicago, 11 Ill., 66. See page 75 ante.

[2] King vs. Chicago, 111 Ill., 66.

[3] *Council Proceedings*, March 17, 1879; also April 7, 1884.

[4] Council passed a separate bill for the Health Department; also, Fairfield vs. People, 94 Ill., 245.

In 1881, specific items providing for future services and materials were vetoed on the ground that the council was encroaching upon the discretionary power of the mayor, since those subjects were administrative rather than legislative in character.[1]

The clothing of the mayor with magisterial power is a familiar precedent in Anglo-American practice. The mayor of Chicago at different periods has been encumbered with judicial powers but the organic law of 1872 has shorn him of the trammels of an out-grown tradition and judicial power no longer resides with him.[2] The council cannot delegate judicial powers since none such have been conferred upon it by the charter law of 1872. The mayor thus stands out clearer in his administrative capacity, but this position, on the other hand, tends toward his isolation from the council, and there remains the executive veto and legislative consent to his appointments as the only ties that make for harmony in the city government. The further consideration of this relation will be reserved for another place. The progress of the city under the law of 1872 has resulted in establishing the position of the mayor as a vigorous fact in the administration. Special powers have been conferred upon him by the council, as well as those implied by the organic law. On all sides his discretionary powers have been elaborated until a vigorous mayor has abundant opportunity to impress his personality upon the life of the municipality; but, on the other hand, an evil, designing and inefficient executive possesses the same opportunity for the effective perversion of good administration. The relation of the mayor and council in the Chicago system suggests obvious criticism. It has evolved from crude conditions. A closer relation should be established. The council still remains as the central fact in the city of Chicago; but it remains unquestioned that the trend of events has conspired to impart a new vigor and vitality to the executive, which stands ready to absorb all elements of strength that have not been conferred upon the other organs of the city.

[1] *Council Proceedings*, April 11, 1881. Veto message of the mayor.

[2] Beeman vs. Peoria, 16 Ill., 848.

CHAPTER X.

ADMINISTRATIVE DEPARTMENTS.

Since the adoption of the law of 1872, the administrative departments of Chicago have been organized upon an uniform basis. The evolution of these departments is traceable in the changing conditions which have forced the rejection of old types of organization in their readjustment under the present charter. Unguided by a clear vision into the needs of institutional development, the city of Chicago has repeated a well-known chapter in American municipal history. In the organization of the administration under the previous charters, the state and municipal legislatures have constructed a patchwork system, characterized by administrative confusion and chaos, which has followed by the creation of administrative authorities in the same territorial jurisdiction in the absence of the necessary co-operation and subordination. The efficiency of administrative organization is measured by the degree of correspondence of functions to social and economic environment. The law of differentiation means the close and intimate connection between institutional organs and functions. Specific institutions should perform a specific service. Specific organs should discharge specific functions. So the logical process in administrative evolution is that, with the appearance of new functions, a new organ should be created. On the other hand, the multiplication of administrative organs, without the increase of functions, leads to administrative waste. The failure to recognize this fundamental principle has led to the mistaken identity of organs and functions in the growth and development of municipal institutions. Chicago has suffered, with other cities, by the multiplication of organs following with wonderful rapidity.

We have pointed out with sufficient clearness, in the historical sketch, that the board was the prevailing type of depart-

mental organization. In most instances it embodied the principle of partial retirement. The present material development of Chicago dates from the great fire of 1871, while the present administrative system begins with the adoption of the general law of 1872. The departmental re-organization proceeded along the lines fixed by general legislation which permitted a wide latitude of discretion on the part of the council. The mayor's bill of 1875 furnished a working basis for the introduction of the single commissioner system. The spirit of executive concentration had fairly begun to pervade the municipal system at this period, and the mayor was henceforth to be the center of administrative forces. It was generally argued that the board type was antagonistic to executive concentration as suggested by the mayor's bill. The re-organization of the departments was begun immediately after the adoption of the general law of 1875. With the exception of the school administration, the board type of organization has been wholly supplanted by the single commissioner system. The board type still exists in this important phase of city administration, and affords an opportunity to compare the two systems of administrative organization. The single commissioner type prevails where administration is most vigorous and successful. A consideration of the relative merits of the two systems will be reserved for another place. In the first place a badly conducted board administration with quasi-legislative powers, and in the second place the fact that it was not in harmony with the theory of executive concentration, led to the repudiation of the board type in the city departments of Chicago.

Broadly speaking, the departmental administration, previously to 1876, was conducted by boards composed of three members. It was an era of boards. These boards had their beginning in an attempt to make them representative of local interests in the city administration. This localism was especially strengthened by the presence of the three natural divisions of the city; but with the growth of municipal consciousness this

localism has been merged into a closer administrative structure. While a feeling of localism is discernible in North, West and South Chicago, the administrative compactness of the municipality checks the expression of this feeling. On the other hand, the presence of the park boards and towns, as well as the traditions of the municipalities merged into the greater Chicago in 1889, stimulate a localism that is expressed in the social structure of the city, rather than in its administrative arrangement. The fire and police departments were organized under the board system during the earlier charters; the health administration by the charter of 1851; the water service by the act of February 15, 1851; the sewerage system by the act of February 15, 1855. These boards were all composed of three commissioners, representing the three natural divisions. The school administration has always been organized upon a board basis, but was nominally separated from the municipality in 1857. The source of tenure of the boards was not uniform. In some instances the council named the members, while in other instances they were elected by the people. During the years 1861-67 the departmental administration was thoroughly representative of popular will, since all the boards were elected directly by the people. In 1867, the power of appointment was transferred to the mayor, which may be taken as the beginning of executive concentration.[1]

The board system of this period continued almost uniformly till the year 1876. It must be noted that the financial administration, from its inception, has been organized according to the single commissioner plan, although discretionary power was not lodged with the departments, until the adoption of the present charter. The principal reason for the presence of this form of organization for the financial administration is to be sought in the uniform types employed by federal and state financial systems. The change to the single-commissioner system was begun with the department of public works.[2] The remaining depart-

[1] *Council Proceedings*, March 15, 1883.

[2] *Council Proceedings*, September 8, 1876.

mental boards were gradually transferred to the single-commissioner system.

Scarcely had this change been accomplished when a notable attempt was made to re-instate the board system.[1] The arguments for executive concentration were strongly stated in the minority report, and were in full sympathy with the movement in Chicago and elsewhere. The inefficient board administration of the previous years, as well as the fear of a divided responsibility made possible by such a system, were vigorously set forth. The fatal error was championed and sustained that, in municipal administration vigorous action is more essential than the consultation, which was embodied in the board system. The limitation upon official discretion and authority was emphasized as a correct guiding principle. The theory of executive responsibility and accountability triumphed.[2] Chicago administration is thus in line with the movement worked out in other large municipalities. This type of organization is not in harmony with the best traditions of our administrative institutions; and, although the representative features of our local administrative systems have often proved unsuccessful and their history is too often written in corruption and mal-administration, yet the principle of excessive executive concentration can only be considered as a tentative solution of the problems of departmental organization. It is too clearly bureaucracy. The tenure of the heads of the departments is conterminous with that of the mayor; each serves two years. The civil service regulation in no wise affect the heads of the departments, who are appointed by the mayor and confirmed by the council. The head of each department appoints his subordinate service with the approval of the civil service law of 1895.

The relation of the heads of departments to the mayor is per-

[1] The committee made a majority report in favor of a return to the board system, but the council failed to sustain it. The minority report was followed. *Council Proceedings*, March 15, 1883.

[2] *Council Proceedings*, May 10, 1880.

sonal; there is no trace of the cabinet feature in the relation of the mayor to his heads of departments. In considering a line of policy the mayor may consult the heads of the department particularly concerned; but there is nothing legal or compulsory that will insure open, mutual consideration of plans and conditions before a given policy is projected.

The heads of departments are confirmed by the council; but this is doubtless becoming a useless form, since political courtesy and practice permits the mayor to elect his personal advisers without serious scrutiny upon the part of the council. This position of the council, in so far as it be considered as a settled principle, is wholly voluntary, but it is no less essential to the theory of executive concentration. It tends to exclude more clearly legislative interference from the work of administration, which should follow so long as the city adheres to the theory of executive concentration. So long as the work of the mayor and the council does not pertain to political matters of the more objectional nature, there seems to be a more limited use of the veto and the right of the council to object to executive appointments. The most effective control over the administration of the city by the council is exercised through its right to define the powers and duties of the officers and heads of departments, and to control the broad outlines of the administration through legislation. The ordinance power of the council amounts to one of regulation. Since the differences are not drawn between the legislative ordinance and the executive order, either in form or in subject matter, it rests wholly with the council to limit its own action upon all questions of municipal policy. It lies within the power of the council to shape and to control all essential matters of administration through the ordinance. This is not in harmony with executive concentration, and has led, and always may lead, to conflicts, until a settled field for executive initiative is established by the courts, or by the state legislature. The mayor and heads of departments possess a control over the administration by means of the executive order. But

the point where the executive initiative begins, through the order or instruction, is uncertain. It is obvious that the scope of the supplementary and instructional ordinance is extensive, and opens to the mayor and heads of departments a wide control which materially strengthens their position over the administration of the city. It may be observed that the relation of the heads of departments to the mayor and council is yet in its transitional stage, with certain tendencies that operate to establish larger spheres of influence for the executive in formulating the policies for the government of the city.

CHAPTER XI.

THE ADMINISTRATION OF FINANCE.

One of the most important investigations to be made in the field of municipal activity will deal with the financial problems of the city. The intimate relation of the budget to the whole administration makes this particular field one of primary importance to many of the problems of current discussion. In close connection with the local and state financial system, lies the fundamental problem of the redistribution of administrative functions between the state and local units.

The financial administration of the localities is protected by certain safeguards, not known and considered necessary to other departments of administration. The state constitution is the point of departure in determining the limitations imposed upon the financial organs of the local units. The constitution of 1870, restrains the state legislature from imposing any tax upon a municipal corporation for corporate purposes; but, on the other hand, protects the credit of the municipality by holding all taxable property within the city limits subject to taxation for any debt, created by contract, with this exception, that private property cannot be sold for corporate debts.[1] Furthermore, municipal indebtedness cannot exceed 5 per cent. of the value of the taxable property.[2] The constitution provides still further that for each act of indebtedness there shall be provided a direct tax sufficient to meet the annual interest, and to discharge the principle in twenty years.[3] The general use of the fund system in the financial administration of Chicago since 1870 is

[1] Constitution of 1870, IX., 10.

[2] Ibid. Sec. 12.

[3] Constitution of 1870, IX., 10.

intimately connected with this constitutional provision. By special constitutional amendment the city was empowered to increase its bonded indebtedness for purposes of the Columbian Exposition.[1] In these constitutional provisions appear nothing materially different from the treatment accorded the municipalities of other states. It is a kind of financial check almost universally employed in the American system. The exact per cent. relation of indebtedness to taxable property, and maximum per cent. limitation upon revenue are checks that have little to commend them when viewed from their results in practice. Combined with other features, these restrictions have led to hampered revenues and have brought to the city bad financial methods. The structure of the financial administration of Chicago is suggested by the charter law. No branch of the city administration has been so generally modified by the development of the other city departments as that of finance. The financial power of the common council has been outlined. The control of the council centers in the annual budget. The council alone creates municipal indebtedness, votes bonds, levies taxes and provides for expenditure. The relation of the financial administration to the mayor appears in two ways: in the exercise of an important financial veto and also in the appointment of the head of the financial department. The mayor's relation to the head of the department is direct and personal. The council and mayor are not, however, to be considered as constituent factors in the departmental organization, but rather agents of creation and control.

The discretionary head of the department of finance is the comptroller, who may be considered the most important administrative functionary below the mayor, if measured by the responsibilities of his position. Immediate, discretionary financial supervision centers in the person of the comptroller. The annual budgetary statement establishes his close and important relation with the council. Under the direct supervision and

[1] Amendment of November 4, 1890.

control of the comptroller are organized the clerical forces of the department. A detailed consideration of the discretionary powers of the comptroller must be sought in the ordinances of the council. In the enumeration of his powers, appear all the fiscal services of the city which are administrative in their nature. He is the fiscal agent of the city; an important factor in the formation of contra ts, in the sale of bonds, and in the solution of those questions of a discretionary nature, which require definite responsibility.

The instruments of financial control centering in the office of the comptroller enable him to exercise a personal check upon all items of expenditure. His signature is necessary to all warrants authorizing an expenditure. The joint session of the financial committee of the council with the comptroller for the purpose of comparing the reports and statements of the financial bureau, brings the department into closer personal relation with the council. There are important possibilities in this arrangement. His signature is necessary to all contracts above $500. The important discretionary powers lodged with the financial department, imply an executive of business ability and tact. The energy and vigor of the financial administration is largely the energy and vigor of the head of the department. The budgetary statement representing the multitudinous services and ramifications of the whole administrative system, enables the department to shape its financial policy in accordance with the fiscal needs of the city.

The remaining factors, constituting the financial organization of the city, possess little discretionary power, but are so constructed as to form a system of checks.

The treasurer was, in the earlier years of the municipality, the responsible head of the fiscal administration. He was early elected by the people. The triumph of the principle of executive concentration has set over the treasurer, the discretionary office of the comptroller, and has thereby reduced the treasurer to a clerical position. The city treasurer stands for system in

public accounts.[1] Upon the itemized statements of the treasury office, the budgetary forecasts are made. Through this office flow all revenues and from it issue all expenditures. The numerous checks provided against unwarranted expenditure leaves the treasurer with little power to influence the work of the department.

His powers and duties are concerned with the arrangement of a system of accounting. Upon all questions of dispute between the treasurer and the comptroller, the financial committee of the council is the court of appeal, subject to the revision of the council.

The revenue branch of the treasury department is directed by the city collector. He supervises the machinery for the collection of revenues and serves as a check upon the treasury office. His powers begin with the warrant of collection. His duties are wholly clerical and require great personal care and honesty.

Viewed as a whole two causes have operated to extend the machinery of the financial department: the first is found in the financial demands of the city, and the second in the principle of checks and balances. The checks appear largely in the constitutional forms already noted; and in the provision that the municipal revenues shall be assessed and collected according to the tax system of the state. Special assessments are available for certain public works, and if sanctioned by a popular referendum, the city may give assistance to quasi-public corporations. The modern municipal charter is constructed largely upon the theory of checks and balances, and especially does this appear in the structure of the financial administration. The modern charter usually presents a strange anomaly of a number of competing responsible organs in a so-called system of concentration.[2] In the financial administration, concentration, theoretically, stands

[1] Smith vs. Woolsey, 22 App., 185.

[2] The most notable example of the use of this principle in charter construction is found in the Greater New York charter.

for vigorous action: the principle of checks may operate to stultify the energy of the administration. Checks for the sake of checks have little place in administrative organization. It embodies a mechanical principle which may break down in the weight of its machinery. The system is efficient when the correspondence between organ and function is correctly worked out. The principle affords an administrative makeshift which leads to the duplication of organs in order to serve the purpose of a check, and ultimately defeats its end through its own complications. All the requirements of financial safety are fulfilled, when the point is reached which insures the protection of financial agents against fraud and imposition, and beyond this point duplication begins, and results in the loss of directness in administration. If the principle of checks and balances is any guarantee against mal-administration, the municipality of Chicago is amply protected. The application of this principle to the treasury department is forcibly illustrated by the fact that any warrant for expenditure must bear the signature of the mayor, the comptroller, the city clerk, three members of the finance committee, and a voucher for each certificate must be placed upon file in the office for inspection.[1] Warrants of expenditure are elaborately "checked" by a system of record in various offices. The first check appears in the signature of important financial officers; the second in the duplication of warrants; the third in a series of reports and statements of the comptroller; a fourth is in the system of accounting; a fifth in the use of the special "fund" which flows from certain definite taxes, and which follows certain specific expenditures; the sixth and final is the annual budget. The budget is the summary check upon all others, and presents a graphic picture of the financial condition of the city at the end of each fiscal year with reference to future requirements.

The outline of the financial administration of Chicago is incomplete without a consideration of the administrative entangle-

[1] Report of 1875 to the council.

ment of county, town and parks and their authorities. Only their financial relation to the municipality can be considered in this place.[1] In the tax system of Chicago is to be found the only important and intimate connection between the town-county system and the city. The constitution of Illinois provides for a uniform system of taxation, into which is fitted and adjusted the revenues of the various local units. An outline of the state system is therefore necessary in order to present a correct view of the position of the city in the general scheme of taxation. The tax assessments of the state are apportioned by two boards of equalization.

The state board of equalization is elective, each congressional district returning one representative for a term of four years. In its annual session it considers separately the following classes of property: personal, railroad and telegraph, lands, and town and city lots.[2] The powers of the board are more comprehensive than tax equalization, but are extended so as to include original assessments on "railroad tracks" and "rolling stock." The immediate subject matter, reviewed by the state board, is the reports of the county boards. The aggregate assessment for the state cannot be reduced nor can it be increased beyond one per cent. There is a tendency for the country members of the state board to shift a disproportionate amount of the taxes upon city values. The city in turn attempts to escape this burden by adjusting its assessments so as to avoid such discrimination. It is, however, in the county that the inefficient nature of the board of equalization appears. Cook county is special in its whole organization. The mixture of rural and urban elements vastly increases the difficulties in Cook county. The values, returned by the assessors, can in no instance, be reduced except for purposes of equalization nor can they be increased, except to meet the revenues considered as necessary. A separate rate for each class of property is fixed by the county board, with the exception

[1] See appendix for recent legislation.

[2] Hurd, *Revised Statutes*, p. 1290.

of "railroad tracks" and "rolling stock."[1] The work of the board is based upon the return of the town assessors, and the important powers lodged with it gives it a position of great administrative importance. The difficulties of the position of the Cook county board appear in the economic and administrative structure of the territory which it reviews. The board may compel new assessments to be made by a town. Cook county is composed of thirty-three towns, seven of which are wholly, and five partially, within the municipal territory. In this connection must also be considered the three park districts and the Chicago drainage district. The complications arising from these superimposed tax areas are obvious, while the problem is made still more intricate by the absence of system or standard of valuation employed by the town assessors.

The county board of equalization stands for the principle of central control over local assessment, but the method it is compelled to employ has induced and encouraged a pernicious rivalry on the part of the various town assessors, not only between the towns within the city but also between the urban and rural units. It is tacitly understood that one of the desirable qualifications of a town assessor is an active and watchful care in the return of low assessment values. Honesty in assessments, and uniformity in tax values for the whole city are, therefore, lost in local rivalries and tax evasions.[2] The injustice of this system appears in the neglect of the county board to enforce a better standard of valuation, or to institute changes. Up to this point the municipality has little connection with the system. It establishes its right to participate in the revenues from the personal and real property within the city through the appropriation ordinance of the council.[3] Here, however, the power of the municipality ceases, and the work of the town-county system commences. The administrative structure of the city places

[1] Hurd, *Revised Statutes*, p. 1279.

[2] Chicago vs. Larned, 34 Ill., 203.

[3] Taylor vs. Thompson, 42 Ill., 9.

this important task upon the weakest part of the tax system, and enables the spirit of rivalry to vitiate the whole financial administration. A single corps of officers assess and collect the revenues. Complications in the assessment of personal and real property have arisen from the use of a system instituted before the present property values in the city had assumed their importance and complexity. Values have largely changed from the tangible and real personal property of a less complicated economic community, to the intensified form of stocks and bonds, which are difficult to reach by the ordinary taxing power, and which is practically impossible by the methods employed by the assessors of Chicago. A system of undervaluation of property is a result which has forced the city to confront a condition of meagre revenues, in the midst of rich resources in real and personal property. The system of abnormally low assessments has resulted in inadequate revenue and has forced the city upon miscellaneous list of indirect taxes, such as licenses, fees, fines, etc., in order to meet the growing demands of administration. Not only has chaos and evasion resulted, but also a system of injustice in the levies of the city. Inadequate revenues from direct taxes have forced the municipality to incorporate indiscriminately every possible source of indirect revenue.[1] A reform of the financial system must advance in two directions: in the first place, a better grouping and classification of the sources of revenue, and in the second place, a readjustment of the machinery of assessment and collection. While the two phases of the question are closely related, the incidence of taxation does not fall within the field of administrative organization. The discussion of the second point will be deferred until the administrative relation of the towns to the municipality is considered. The logical solution of this perplexing problem lies in the redistribution and classification of the sources of revenue, so that the state and local units shall possess so nearly as possible their own sources of taxation and objects of expenditure. The towns are

[1]Labor report of 1894, for Ill.

the basis of tax assessment and collection, and derive their importance in Chicago from this fact alone. The bungling manner in which they perform this work is the most conclusive argument against their right of existence. Administratively, the towns of Chicago have long forfeited their right of existence by a failure to perform the essential work for which they are retained. Reorganization of the financial administration is demanded. The state recognized in a limited way the failure of the town system by providing state assessments of "railroad track" and "rolling stock." The economic forces within the modern state have assumed a different significance than at the period when the tax systems of most of our commonwealths were formulated. In the adjustment of the rates of taxation, the state recognizes three distinct claims of revenue, based upon a territorial division. The state revenues are built up by advancing a certain rate by the localities. The intermediate administrative unit, the county, may extend its revenue to an aggregate of seventy-five cents per one hundred dollars of valuation, while a popular referendum is necessary for an increase in the rate beyond this amount. The county is the basis of tax distribution, and the law provides that the cities and towns shall certify annually to the county authorities the amount of taxes they severally require to be raised.

It has been shown that the organ of certification for the city of Chicago is the common council. This power is based upon its control over the material interests of the city, and the fundamental consideration that all appropriations must flow from the municipal legislature.[1]

What are the primary sources of revenue provided by the state of Illinois? These sources are considered as direct, and in no manner pertain to that board group of revenues provided by the exercise of police regulation.

1. All real and personal property.

[1] Act of May 3, 1873. Also, Chicago vs. People, 78 Ill., 570; Thatcher vs. People, 79 Ill., 593.

2. All moneys, credits and bonds, and other investments *in transitu* held and controlled by persons living within the state.

3. Capital stock in bonds.

4. Capital stock of companies incorporated under the laws of the state.

The administration of these primary sources of revenue is lodged with the towns in accordance with the general scheme of assessment and collection. But in addition to these primary sources, the municipality is empowered to create a vast list of supplementary revenues.[1] The relation of these supplementary revenues to those which are to be considered as primary emphasizes strongly the inequalities of the tax levies for the city of Chicago, and affords patent reasons for a reform in its tax system. The most important supplementary revenue assumes the form of a direct special improvement tax, available for all local units.[2] The remaining secondary sources of revenue are peculiarly municipal. Causes already noted have tended to prevent the municipality from coming into possession of its proper revenues from the direct sources of real and personal property. Tax evasions and low assessments have compelled the municipality to replenish its revenues from other sources to meet the current demands of administration. The general result has been an unwarranted and disproportionate use of varied means to supplement the direct revenues of the city. Insufficient revenues have not been the most pernicious results that have followed for the people of Chicago, but the moral effect of its financial system is the most vital argument for reorganization. It stands as an open invitation for the practice of all species of chicanery, and poisons the business interests of the city, and consequently affects the whole life of the community. Furthermore, it not only invites, but creates, conditions which make the practice of dishonesty in tax assessments almost a positive necessity. An honest assessment of the market value of real property would

[1] Braun vs. Chicago, 110 Ill., 190.

[2] Enoch vs. Springfield, 113 Ill., 70; also Wright vs. Bishop, 88 Ill., 302.

work financial ruin in a modern competitive system, and especially in the intensified form that it assumes in Chicago.[1] The relation of the supplementary sources of revenue to the primary sources can best be shown through a brief classification.

One of the most important of these secondary sources is the license. Theoretically the license is an instrument by which the police authority is able to reach and control certain business interests. Its revenue features are secondary, but this view has been too frequently reversed, and its revenue features given a first consideration. This would be especially true of a city that possesses so little control over its primary revenues. The council possesses full license power in all its details.

The license power has been minutely extended by the council until it touches most of the business interests of the city.[2] It extends not only to those businesses of a public nature in the form of entertainments and exhibitions, but to those varied interests that pertain more particularly to the economic welfare of the city, and especially those businesses which endanger the health and morals of the community, and afford opportunities for fraud and questionable dealings with the public. The business license has widened its scope with the growth of a complex economic life.

Fines and penalties approach more closely a police measure than does the business license. Designed to enforce obedience to the ordinances of the council, it assumes the form of a municipal revenue, unless otherwise prescribed.[3] The importance of fines, as a contributing source to the municipal revenues, depends upon the efficiency of police regulations within the city. It has been customary in the treatment of this form of revenue

[1] Whitten, *Journal of Political Economy*, V. 175: It is here pointed out that in the central business districts the taxable values are 9% of the real values, and the rate of equalization as low as 11%.

[2] Kingsley vs. Chicago, 124 Ill., 360.

[3] Mt. Carmel vs. Wabash Co., 50 Ill., 69.

to set apart certain fines to the support of some specific branch of public administration. Fines imposed for negligence in the performance of duty in the fire and police services constitute an important part of the relief funds of those departments.[1] In accordance with this time honored practice the schools of the city derive an important support from fines. The fine becomes a pliable instrument, and in times of financial distress has been known to afford the principal support of the current administration.[2]

The fee system attached to the offices of the various superimposed areas has long been known for the flagrant abuses connected with it. The contributions to the revenues of the city through fees are not so important as its bearing upon the salaries of certain favored officials. The abuses of the fee system appear largely among the rural units within the city, although certain important financial officers are made sharers in its unequal advantages. To these secondary sources must be added the revenue flowing from the water rates and the meager contribution from the city franchises.

The sum total of the supplementary sources build a very important part of the whole municipal revenue. As the enormously increased administrative demands have severely tried the tax-paying power of the city, so the secondary sources have become of an ever increasing importance. In the use of those various secondary sources of revenue the council has followed no system or theory which would differentiate the police nature of the license, fee and fine, but has freely employed them whenever there was promise of revenue, from the payment of the privilege to use bricks in the construction of a home to the exactions placed upon those vilest traffics which are practiced in great cities. The financial administration of Chicago is thus

[1] Act of June 23, 1883.

[2] See Allison and Penrose, *Philadelphia, Johns Hopkins University Studies*, II., 113.

ripe for radical reform.[1] It is questionable whether any other municipality of equal importance has incorporated in its revenue system so many patent abuses and inequalities. The whole system is founded upon tax evasion, upon the part of the citizens, and unequal exactions upon the part of the municipality.

[1]See Appendix.

CHAPTER XII.

DEPARTMENT OF PUBLIC WORKS.

In close relation to the financial administration stands the department of public works as the principal expending department of the municipal administration. The department was recognized as a branch of the administrative service as early as 1861.[1] This step had in view the co-ordination of the six services connected with public construction, and those closely related services. At the head of the department at this period was the board of public works, and operating under its supervision were the co-ordinate services of the water, sewerage, parks, streets, river and harbor, and public buildings. This step was significant not only in the co-ordination of those related branches, but also in the destruction of a number of boards which were formerly at the head of the various branches that constituted the new department. Simplification and co-ordination were the distinct services rendered the administration of public works by the institution of the new department.[2] The report of the commissioner points to a gain not only in rents, salaries and economy in construction, but also to a more orderly and systematic control over the financial operations of the whole department. Measured by its subsequent results, this act of consolidation was one of the most important administrative changes in the departmental services of the city. It has furnished the basis for the organization of the various administrative departments.

Peculiar burdens have fallen to the department of public works since the destructive fire of 1871, which left few traces

[1] Report of Commissioner of Public Works, February 24, 1862.

[2] The significance of this change is emphasized by a saving of $3,000.00, made in rents and salaries. Commissioner's Report of February 24, 1862.

of the previous work of construction, and confronted the department with the task of a system of streets and public works to be wholly reconstructed. It has been shown that the organic act of 1861 made the board elective, but the act of 1867 not only changed materially its powers, but also made it appointive. The organization of the department remained upon this basis till 1876, when the board organization was abolished and the single commissioner system instituted.[1] The mayor was made the temporary head of the department, till May, 1879, when a commissioner of public works was provided.[2] The department of public works was the first department to be organized in accordance with the theory of executive concentration. The commissioner was made the responsible head, and successor of the old board. His powers extended to the control and management of all business connected with public construction. His power of appointment and removal of the subordinate service, with the consent of the mayor, and under the present civil service regulations, has placed him in a position to supervise and to direct the various services of his department. The office of commissioner of public works is one of great financial importance, because of its close relation to the formation of contracts and because it is the most extensive disbursing department of the municipality. Vigilance, efficiency and integrity are qualities which should characterize the work of the commissioner. In 1881, the council defined more specifically the relation of the department to the city council, and the relation of the several bureaus to the whole department.[3] In 1893, the bureau of street cleaning was transferred from the health department to that of public works. The financial powers lodged with the commissioner of public works extend to the collection of dues

[1] *Council Proceedings*, September 18, 1876: This change encountered some difficulty in the two-thirds vote required to alter the organization of the department.

[2] *Council Proceedings*, September 19, 1881: The Board system had bred sectional rivalry upon the basis of divisional representation.

[3] Ibid.

and licenses that are directly connected with the use of the water and sewerage systems.

In the construction of public works, the principle of the lowest responsible bidder is employed as a basis of contract for all sums over five hundred dollars. In all amounts below this sum the commissioner may exercise his discretion without the approval of the mayor; or, upon a two-thirds vote of approval by the council, the commissioner may enter into a contract for public works without the consent of the mayor. However, in instances where the contract price must be met by special assessments, one-half of the revenue must be paid into the city treasury before the contract can be concluded by the commissioner unless the council has given its consent, which requires a two-thirds vote. A specific check is placed upon the commissioner for all contracts for work or supplies by requiring the consent of the council, except in cases of necessity or where the contract price falls below five hundred dollars.

In connection with legislation upon the subject of contract, the council has provided protection for the workmen employed in the construction of the public works of the city. This legislation is designed to protect the employees and sub-contractors in certain contingencies. The commissioner is authorized to incorporate into the contract a provision that if there is reason to believe that the contractor has neglected to discharge his obligation to his employees or sub-contractors, that he shall delay all further assessments and payments until the commissioner is satisfied that all obligations have been fully discharged. The municipality further protects the workmen, sub-contractors and employees by reserving a fund of fifteen per cent. of the contract price to meet all neglected payments due from the contractor. Where neglect is apparent, the commissioner is authorized to give proper notice to the contractor to discharge all payments due his employees, and upon the failure to regard this order within a period of ten days, all payments by the city to the contractor cease, and are applied directly by the municipality to

the unpaid employees and sub-contractors. If rightly enforced, this provision amply protects all parties against the neglect, or fraudulent intent upon the part of the original contractor. The ordinance does not, however, permit the department to stipulate the conditions of the wage or length of the labor day. The only possibility of such regulation appears in those lesser constructions where the department may employ its own force; and any attempt to fix a standard of fair wage would prove inefficient under the limited power of the city to construct its own public works. But in 1889, the council fixed the legal working day at eight hours for all persons employed directly upon public places.

The formation of contract opens to the department a source of temptation of the subtlest nature. It is at this point that all legal restrictions and checks fail, unless supported by official honesty and integrity. The solution of this question depends essentially upon the latter element. The laws may demand that the officer shall not participate in the profits of contract; may provide that any official who disregards these regulations shall be deprived of the emoluments of his office; but unless these are supported by a deep sense of official honesty, they will prove of no avail. The atmosphere of contract formation is too exclusive and concealed; it invites fraud and bribery. While these words do not apply particularly to Chicago, it is a well known and conceded fact that it is at this point that much of official corruption and unwarranted expenditures enters the municipal administration. Various remedies have been proposed to relieve the officers of the municipality from criticism that must necessarily be closely associated with any municipal business of so exclusive and concealed a nature as the formation of contracts. Besides the various checks that are instituted by requiring the signatures of important municipal officers, it has been proposed to bring the contract under a more open criticism by subjecting it to a popular referendum, which would shield the honest official from the taint of false public criticism, and

check, upon the other hand, much that would scarcely bear the scrutiny of an honest public inquiry.

In order that the expenditures of the department may be as fairly and as equitably distributed as the nature of the work will permit, its revenues are separated into a series of funds to which all the expenses of the department are charged, with the exception of the item of special assessment. The warrant of expenditure must stipulate to what fund the particular item is charged. The revenues attached to the department fall into four funds, namely: general fund, water fund, sewerage fund and special assessment fund. As the names of these funds indicate, each is available for certain expenses of the department. The general fund covers all general expenses of the departmental work; while the special assessment is a localized fund, and does not apply to all parts of the city. Their purpose is to serve as a check upon all disproportionate expenditure. They afford, also, a means for an easy and accurate classification of the departmental accounts. The other checks upon the administration of the department of public works are those usual to such departments. They appear in the commissioner's accounts and reports rendered to the city council, and the information imparted to the mayor and comptroller, which is an important element in the structure of the financial policy of the municipality, and particularly in its attitude toward the department.

The office of deputy-commissioner was created in 1892 upon lines of confused responsibility. Logically, the theory of responsibility would have subordinated this important office to the commissioner of the department who is the responsible appointee of the mayor, but the ordinance broke this chain of responsibility by placing the appointment of the deputy with the mayor. His duties shall then be determined by the commissioner, a condition that leads to a curious confusion of the source of tenure and determination of functions.

Among the various bureaus, that of engineering bears a pe-

culiar significance to the whole of the department. It is the initial bureau, and controls more largely the efficiency and results of the departmental administration than the remaining bureaus. Its technical nature has placed the office of engineer upon a professional basis.[1] The duties of the city engineer bring him into the most intimate relations with the work of the whole department. The work of the department of public works has fallen heavily upon the bureau of streets. The territorial expansion of the city has taxed the energy of this bureau and has led to rapid execution, rather than to well considered and matured plans of street improvement. The result has been excessive expenditure without corresponding results. The work of the bureau of streets has been relieved of much of the more important phases of street construction by converting the main avenues into boulevards and placing them under the jurisdiction of the park boards. The problem of street cleaning was originally under the control of this bureau, but by a recent ordinance this service has been erected into a separate bureau, and given an independent position.[2] This independence was so strongly expressed that the chief of the bureau was soon subordinated to the commissioner of the department instead of the mayor, as was the evident intention of the original ordinance.[3] By provisions of the original ordinance the superintendent of street and alley cleaning possessed the power to form contracts, but this important discretionary function was transferred to the commissioner of public works, which further enforced the principle of the subordination of all services connected with the department.

The history of the present system of water supply of the city of Chicago begins with the act of April 15, 1873, which enabled the cities of the state to construct and to maintain their own sys-

[1] The city engineer has been considered the logical successor of the head of the department.

[2] *Council Proceedings*, March 13, 1892.

[3] *Council Proceedings*, May 20, 1893.

tems. Previous to this act the water supply of Chicago was in the hands of quasi-public corporations under the control of the city authorities. By virtue of this act the city could begin necessary construction and could provide a special tax for that purpose. A separate fund was created to meet the expenses of the new service. The water fund and light tax was created by act of June 21, 1883. The "water fund tax" is levied by the council, and is a direct tax of one mill on the dollar upon the personal and real property. The problem of water supply of the city is closely connected with the problem of sewage and drainage. It has been doubly complicated by the fact that Lake Michigan is the place of sewage disposal and also of water supply. The solution of this problem led to the organization of the Chicago sanitary district, the results of which will be noted in another place.

The activity of the department of public work has been recently extended in the direction of municipal lighting and the control of the electric system of the city. The telegraph bureau has charge of the electrical appliances used in the various branches of the municipal service and possesses great opportunity of proving the feasibility of direct municipal control of electric lighting.

The history of the administration of the department of public work reflects the material growth and expansion of Chicago as would be visible in the work of no other department. While the most splendid achievement in the creation of the magnificent system of parks and boulevards has no connection with the city of Chicago, the less noticed work of public construction in streets and water and sewerage systems has developed the vitality and vigor of the department. In the midst of great difficulties its work has advanced with the rapid territorial expansion of the city, and while charges of ineffective expenditure and bad street construction may carry their weight of truth, this department at least does not stand alone in the charges of abuse brought against the city administration. Chicago may be the poorest

paved of the larger American municipalities, yet there is some apology for this condition of affairs in the fact that the city has been compelled to reconstruct its entire street surface since the great fire of 1871. The materials and methods of street structure had scarcely entered the stage of experimentation. The soil of the Chicago street was not well known. It is only recently that general attention has been given to the best kinds of street surface for the traffic that is to move over it. This is not a truth that is unique to the experience of Chicago, but is general in its application.

It is, however, significant that Chicago is able to point to a fact that does not often appear in the history of American municipal government. It is with considerable regret that the student of municipal conditions is compelled to appeal to the foreign city for examples of long and continued service of trained men, and to point to a developed and efficient administrative work closely identified with the career of one man. The public works department of Chicago furnishes at least one such an example. The development of this department is closely associated with the public career of Dewitt C. Cregier. His thirty-two years of close relation with the engineering phases of the departmental work links his name with the history of the vital period of public construction since 1872. Passing from a subordinate position he became the head of the department in 1882, and was instrumental in organizing it upon its present basis.[1] His advancement to the office of chief executive of the city establishes a line of promotion which has been unusual in the history of the American municipality.

[1] *Report of the Department of Public Works*, for 1882.

CHAPTER XIII.

INSTITUTIONS FOR PROTECTION AND EDUCATION.

The police, fire and sanitary administration differs essentially from the remaining administrative services in the fundamental fact that they are institutions for protection. They have in view the preservation of law and order as opposed to the destructive forces of immoral tendencies, and for the protection of the material work of other departments from destructive elements, as well as the protection of the citizen against the inroads of disease, issuing from unwholesome sanitary conditions. Great emphasis has been placed upon these phases of the activity of the American city to the exclusion of other work of a more creative character. The immoral conditions prevailing in a western municipality have necessitated an efficient and vigorous constabulary and fire departments, until they have absorbed public attention and have furnished the standards for measuring the efficiency and the vigor of the whole city administration.

Police.

The police power is a state function. It is military in its character and issues logically from state executive authority, preserving theoretically the organic connection between the state and the municipality. The great police problems of the state center in the city, and this has led to the close relation of the police system of the larger municipalities with the executive authorities of the state. This connection has been principally established by control over the appointment of the chief police officers and boards, and in a partial separation of police interests from the control of the municipality. The courts have tended to confirm this position. In the police system of

the larger European cities this distinction is clearly made, leaving to the locality its police whose functions are non-political. This separation has not followed in Chicago, but its police power resides ultimately with the council.[1] It regulates the police of the city, and issues the necessary police ordinances. This broad grant of powers would seem to indicate an unqualified control of the council over the police administration, but this power assumes the form of legislation while the governor of the state possesses contingent control, and the charter has conferred substantial obligations upon the mayor and chief of police. The courts have held that this grant of legislative power is incident to regulation, and carries with it arbitrary power in the closing of certain businesses, and in the regulation of traffic and labor on Sundays.[2] The courts have tended to strengthen this charter grant to the council in all matters of police legislation, and have confirmed its authority over police regulation and control.[3] Police organization is delegated to the council as the central fact in the municipality.

The territorial jurisdiction of police passes beyond that of the city and is coterminous with Cook county.[4] But for current administrative purposes the police area is more limited. Specific police regulation is made effective, and danger is prevented by encircling the municipality with a territorial belt into which police authority may be extended as contingencies arise. Current police jurisdiction, then, ends with the territorial limits of the city. The growth and elaboration of the police service measures the intensity of the municipal organization. The city of Chicago, by its position, commercial importance, and unprecedented growth, has been called to consider police problems of a serious nature. Elements of disorder have been constantly struggling to assert themselves.

The charter law of 1872 commits the council to no definite

[1] Sheridan vs. Colvin, 78 Ill., 237.

[2] Chebanse vs. M'Pherson, 15 App., 311; also 114 Ill., 49.

[3] Ibid.

[4] Law of May 13, 1887.

system of police organization. The police board passed away during the period of departmental reconstruction, and a superintendent of police was substituted as the responsible administrative head. The superintendent of police controls the service of his department under the civil service law of 1895.[1] The service is by this act placed upon a different personal relation with the superintendent than in the period when the entire qualifications were political.

The police administration is closely connected with the whole administration of the city. It stands upon a basis of assistance to the remaining departments in the enforcement of all regulations of a police character. Particularly the health, fire and public work administration make heavy demands upon the police force. In extreme cases the patrol service has been employed in the distribution of relief funds provided by the privately organized charities of the city. With its efficiently equipped ambulance service, timely assistance is afforded the hospital work. An interesting village survival appears in the mayor's police, who cannot exceed four in number and who shall "look after and prosecute any persons who shall vend or dispose of any article" before obtaining the proper permit.

By the ordinance of December 4, 1882, a branch of police service was instituted which possesses some possibilities in an important field of work. The mayor is directed to provide such police division stations as he may deem necessary with a matron to supervise the wants of female prisoners.

The work of the Chicago police administration in the regulation and control of the varied, transient and conflicting forces of an expanding and heterogeneous community has been one of peculiar difficulty. Control of such conditions must be attended with imperfect results, yet as a rule a fair basis of efficiency has characterized the police administration of the city.

[1] The personnel of the police service is coming rapidly under the provisions of the act of 1895. On March 21, 1898, the entire police service, with the exception of the lieutenants, were placed on a civil service basis.

It must, however, be noted that there has been no serious attempt to differentiate the police service according to the nature of the work to be done. Differentiation has been largely mechanical and not with due regard to the nature of the material of police administration. A better and more efficient service would result from the use of a more scientific basis of police classification and differentiation. The social structure of the city indicates the localization of police problems. Disorderly elements seek specific quarters of the city and lead to special police areas. This affords the territorial basis of classification ordinarily employed. The special police area for the disorderly element leads to more definite control, but does not afford the most efficient and permanent results when applied to the whole police administration. A more pliable principle for the classification of police functions is to be found in the nature of the problems of police administration. This principle is employed by the best foreign municipal police systems. In the policing of a large city there are two tolerably clear fields which require two bodies of men of different temperament and training. These fields of work in their intensive nature tend to assume a territorial basis. The first, if not the most important, function of the police is directly concerned with the regulation of the open street traffic and the protection of the person and property of the citizen from violence and destruction. For purposes of convenience these may be designated watch or political police. Their duties extend to the larger questions of maintenance of order in the current life of the city. Their work ends in the protection of that which already exists.

A second category of police services takes a more creative vew of the use of the police power, and does not stop with the mere readiness to provide protection for the person and property of the citizen, but seeks to create conditions through inspection and control of sanitary conditions and of the immoral influences that threaten the community with subtler dangers than open physical violence and crime. The character of this

work with the developed position of inspection and sanitation demands a body of trained men. This branch of the police service would become an efficient auxiliary of the general administration, and would tend to economize the service of the city, by rendering it more vigorous through simplification. Furthermore, the police service of the city is not thoroughly consolidated, but bears the impress of town governments where the constables are elected by the people.[1]

The police administration of Chicago is creditable and efficient, yet it suffers by the absence of a consolidated system built upon a thorough basis of classified functions.

Fire Administration.

The history of the Chicago fire department is unique and instructive. It has passed through all the stages incident to the fire administration of most cities, from the primitive volunteer system to that of a completely organized department of the municipality. During the days of the volunteer service it became the place of refuge for a floating, shiftless class, too often of a criminal tendency, which brought excessive abuses into the administration. These conditions gradually enforced stricter municipal control, as the fire dangers of a modern city increased, until the conflagration of 1871 swept away the greater portion of the existing city.

The charter law of 1872 brought reorganization to the fire department, with the council as the central organ of control. The executive head of the department is the fire marshal, who has "sole and absolute" charge of its administration, and who bears the authority to organize and to discipline the service. The fire administration of Chicago is one of recognized efficiency. The aids of modern invention have been freely used to facilitate rapid and effective concentration of the service. Operating within a territory of such wide extent, the demands of the department will be much lessened by a vigorous enforce-

[1] Gage, Administration of Chicago, *Open Court*, April, 1897.

ment of efficient building regulations and control over the location of factories. The absence of the proper regulation of these matters has proved a costly negligence to Chicago, in the vast expenditure necessary to maintain a system of such vigor and energy. The department has become a model of organization, equipment and energy, and has been sought out as such by the municipalities of both continents. A further consideration of the organic phase of the fire administration would incorporate details foreign to an outline treatment.

Police and Fire Fund.

Following the reorganization of the police and fire departments, a series of acts have provided protection to the personnel of the service and their families by organizing a fund available under certain contingencies. These funds are so united as to bring the two departments into closer relation and sympathy. The element of personal danger and sacrifice is so clearly a part of the police and fire service that they become a unifying force, that brings these services into more than a mechanical relation which so characterizes that of the other administrative departments. Personal fidelity in the midst of peculiar and imminent dangers is stimulated by social legislation touching the police and fire services.

Previous to the organization of the funds some scattering legislation had provided incidental protection to each department, but these were revised and incorporated in the act of May 24, 1877, and the amending act of May 10, 1879. This repealed all charter provisions touching the building of the funds from insurance rates.[1] The close relation of insurance rates to these services do not embody a new fact; it is historic. The fire departments upon their voluntary basis were largely supported by insurance companies, not only in Chicago but elsewhere. This fact accounts for the close relation of the municipal revenues derived from insurance rates to the fund attached

[1]Benevolent Association vs. Farwell, 100 Ill., 199.

to the police and fire departments. It is a lingering survival of the volunteer principle. The relief fund for disabled police and firemen was organized upon its present basis by the act of June 23, 1883. This fund possesses its definite sources of revenue, which are drawn mainly from those business interests that desire a stable and efficient fire and police service. The most important source of the relief fund is one-half of all the rates, taxes, licenses, fees paid by the insurance companies to the city treasury; to this is added one-fourth of all the dog taxes; all the fines imposed upon the members of the two departments; and finally all the moneys derived from the sale of unclaimed and stolen property. The revenue flowing from these sources is steady and certain, and affords an ample basis for the relief of those entitled to its benefits. The administration of the fund is controlled by a board of trustees, composed of the principal administrative officers of the departments concerned, and of the officers of the city. Its membership is made up of the mayor, superintendent of police, chief of fire department, chairmen of the council's committees on police, fire and water, the city comptroller and city treasurer. This board possesses exclusive control and administration of the relief fund. By the act of May 10, 1879, the beneficiaries of the fund are determined by the board. In general the beneficiaries are the members of the two forces who have seen constant service for a period of ten years. Injury is made the basis of distributing the benefits of the fund. Permanent disability entitles the settlement of six hundred dollars upon the widow, or a child under sixteen years. The relief fund, therefore, assumes the form of an insurance, and is in no manner connected with discharge, or old age. Provision was made for a system of pension covering this phase of disability by the act of April 29, 1887, which authorized cities with a population of 50,000 to create and maintain a police pension fund. During the same session of the legislature a firemen's pension fund was provided for the same class of cities with a paid

fire department. These acts are parallel.[1] Definite sources of revenue are set apart for each fund and the manner of administration is similar. The principle of identity of interest is employed in determining the nature of the source of these funds, by setting apart those sources that would stimulate an active interest in the execution of the city ordinances and the suppression of certain vices. The organization of the boards in the control of the administration of the pension funds is essentially the same as the board in charge of the relief fund with some change in the personnel. The beneficiaries of the police fund must have served the city for a period of twenty years and have reached the age of fifty years, when retirement or disability entitles a member of the police force to a pension of one-half the amount of his salary.

The act creating the firemen's pension fund permits the accumulation of $200,000, the income of which shall be devoted to the purposes of the fund. The beneficiaries of the firemen's fund include those persons who have retired after twenty-two years of service upon an amount equal to one-half of their salary at the time of retirement.

This series of acts opens up a fruitful field for municipal legislation, and affords an easy transition to the principle and practice of civil pensions for the entire municipal service. Although the element of personal danger associated with the fire and police services is obviously the controlling motive in this system of municipal pensions, the struggle for permanency of service with a lessened salary has, in foreign cities, and will doubtless in the American cities, extend the civil pension to many branches of the municipal service. Permanency of tenure, protected by a careful recognition of civil service rules, affords a natural step toward the recognition of civil pensions as a means in economizing municipal salaries. The civil pension has no hold upon the

[1] Police Pension Fund act of April 29, 1887; Firemen's Pension Fund act of May 13, 1887.

American municipality. We have demanded no technical training and have given no essential guarantee to a permanent tenure, two fundamental facts, in the development of a system of civil pensions.

Health Administration.

The modern city has become absorbingly interested in sanitary problems. The chosen dwelling place of so large a percentage of the population of the modern state, the unsanitary conditions that generally prevailed, have been a constant menace to the health and pleasure, not only to the citizens of a particular city, but to society at large. The discoveries of science in the treatment of disease germs have enabled the municipality to cope with conditions that have so seriously threatened the life of its citizens. It is obvious that the serious phases of sanitation are local, and grow mainly from the geology of the city, increased or lessened by the structure of the buildings and other material constructions. The comparatively low levels prevailing in Chicago, and the rapidity of the city's expansion in territory and population has brought to the sanitary administration problems of the severest nature. But with an effort that is unparalleled in the history of local sanitation the people of Chicago and the surrounding suburbs have seized upon conditions and embodied their results in the form of the drainage canal. The relation of the drainage canal to the sanitation of the city will be reserved for later consideration, but the more direct internal health administration undertaken by the municipality must first be outlined.

In sanitary administration, the safety of the public health is the only standard. The grant of important powers to the council is thus anticipated in the nature of the sanitary problems and conditions prevailing in the city. Wide and ample provisions for the solution of those problems have been liberally construed by the courts.[1] The subject matter of the health administration

[1] Kingsley vs. Chicago, 124 Ill., 360.

pertains to all questions promoting the public health. The history of the organization of the health administration in England and the United States points to the board as the favored type. This condition is doubtless due to the consultative element in the solution of these questions and the necessary concensus of expert opinion. The work of sanitation is so closely a police function, and although its problems are local in their setting, they become so general in their consequences, that the subordination of the local health administration should be made over to the central administrative authority in the interests of a more efficient and sanitary regulation. Chicago, however, offers an exception to the board type of organization. The board of health was replaced by the commissioner of health in the period of departmental reorganization. The remains of the consultative feature of the old board is preserved in associating with the commissioner, the superintendent of police, and the city physician. This establishes the organic relation between the health and police administration, and suggests the classification of police functions so that the execution of the orders of the commissioner of health shall be undertaken by the sanitary police of the regular police department. The duties and powers of the commissioner are summed up in the phrase, public health, and extends from professional advice and information to the forceable entry of drains and sewers, at any time from "the rising to the setting of the sun."

Disease and crime dwell with dirt and foulness. The localization of these menacing and destructive elements is one factor in their control, but often diffusion becomes a necessary step in the solution of these problems. "Dubious districts" gather poisoned elements that start destructive tendencies in the more orderly districts. They become a patent menace to the health and morals of the city. Chicago possesses no distinctively slum quarters, but districts are present that demand the energy and vigilance of an efficient health administration. Public health bears so intimate a relation to the problem of street

cleaning, garbage, and effective police administration that no adequate results are attainable until these services are effectively co-ordinated and developed. Many services may, by nature, fall under the jurisdiction of two or more departments. Previous to 1893, the scavenger work of the city was removed from the jurisdiction of the health department and transferred to the department of public work.[1] Doubtless the element of contract, as well as other administrative considerations, was a controlling argument in this transfer. This frees the health commissioner from great financial responsibilitites, but in no manner releases him from the care of the inspection, and enforcement of the removal of the street garbage. The activity of the department in other directions extends until its work of inspection reaches the social and economic life of the citizen. Health is made the motive of this control. The sweater's business is made the subject of control by a recent ordinance. The ordinance defines the work-shop as a place for making and repairing goods for wear, and includes certain other articles. The open object of the ordinance is the cleanliness and regulation of these places, and if properly enforced enables the removal of the worst external features of the sweating system. Under the jurisdiction of the commissioner of health has been brought the regulation of child labor.[2] This legislation supplements the compulsory school law of the state by exempting all children of 14 years from factory labor. These two ordinances, concerned with the regulation of work-shops and child labor, have a wider significance than the problem of sanitation, and they commit the council to a line of legislation that will strengthen its control over such matters of social and economic importance.

Food inspection in the Anglo-American city is not considered as a serious need when viewed from its active administration. Many ordinances have followed in attempts to institute a con-

[1] *Council Proceedings*, March 13, 1893.

[2] *Council Proceedings*, Ordinance of June 26, 1890.

trol over the adulteration of foods and the prohibition of diseased meats from the markets, but the inspection has been inadequate to meet the demands of the problem. More recent interest has followed the advance in bacteriological studies in their tracing of sickness to careless food inspection. Unquestionably the most fruitful source of food adulteration is associated with the sale of milk. The abuse became so alarming in Chicago that a special "milk division" was organized for the testing and control of this particular food.[1] The health administration presents some traces of an illogical application of the theory of executive concentration. At least two important exceptions appeared in the appointment of the chiefs of the milk division and the city physician, both of whom are named by the mayor, a method of appointment that breaks the chain of executive responsibility as it is worked out in the other administrative departments. However, this illogical view was partially corrected by a later ordinance, which abolished the office of deputy commissioner of health, who had charge of the milk division and subordinated it to the authority of the health commissioner.[2]

It will be observed that the active interest in many of the more important phases of sanitary administration falls within recent years. Municipal sanitary science has assumed its importance in the last quarter of a century. Upon the completion of the drainage canal, the city of Chicago will have taken the most important step in its relief from unwholesome conditions in the history of any modern municipality.

School Administration.

The school administration of the American states is traditionally a local function. The state has, however, organized the school system according to a general plan, and recent legislation has tended to establish closer relations with central authority.

[1] *Council Proceedings*, Ordinance, November 21, 1892.

[2] *Council Proceedings*, Ordinance October 2, 1893.

The school administration has been considered special and apart from the ordinary administrative activity of the local unit, due in the Middle West to the peculiar relation of the public domain to the schools as a source of revenue, as well as to the territorial basis of their administration. These facts bore their fruit in Chicago, and in the transition from the rural system of administration to that of the urban system, the school section and the rural type of organization projected their lingering traces into village and urban conditions.

The present status of the school system of the state of Illinois rests upon the act of May 21, 1889. The law recognizes three grades of schools, and provides each with its individual organization. The basis of classification is that of population. The board type of an organization is strictly adhered to although the source of tenure is both elective and appointive. Chicago stands in the category separate from the above divisions of the school system. The administrative identity of the schools with the municipality has been the result of a slow process. The law of 1889 separated the Chicago system from the third class on the basis of tenure of the board of education. The school board of the cities of the third class is appointed by the governor with the consent of the council. The Chicago board is named by the mayor with the consent of the council. Two facts establish a close control of the city over the school administration. The first lies in the appointment of the board of education and its confirmation by the council; the second fact appears in the financial relation of the council to the board. The annual budget of the school board must be voted by the council, and subjected to the financial veto of the mayor. Administratively, the board is subjected in no manner to the authority of the council or the mayor, but in the facts above noted the city may exercise a controlling influence over the policy of the school board. The powers of the board are directly delegated by the legislature. The ordinances of the council are thus excluded from the regulation of the school administration only in so far as affected by

the annual budget. The powers of the board extend to all matters of school administration in material equipment and employment of instructional force. The efficiency of the school administration is largely dependent upon the financial attitude of the council.

CHAPTER XIV.

TOWN AND COUNTY GOVERNMENT IN CHICAGO.

The founding and history of local government in the West are not isolated phenomena, but they must be treated as one stage in the evolution of local institutional life begun in the earlier centuries of English history. Three facts are fundamentally associated with the planting of local administrative institutions in the Northwest Territory. The first is related to their legal form and structure provided by the Ordinances of 1785 and 1787; the second to the physiographic features of the section; the third pertains to the character, and to the local administrative and political education of the settlers.

Local units were not created by the Ordinances of 1785 and 1787, but they rather provided certain possibilities of choice on the part of the settlers. The Ordinances were the outcome of a congressional compromise, which permitted the development of the system of local institutions that prevails throughout the Middle West. The force of physical environment suggested then the adaptation of a local institutional organization to broad territories and sparseness of population, which would combine effectively these scattered factors into some unit of control for local administrative purposes. The Middle West was peopled in order and system; its valleys and prairies were fructified, not by inundations of population, but by well marked streams and movements which were started across the continent, and which bore on their currents the traditions, customs, and local institutional practices of their Eastern sources. Into the valleys and prairies of the Northwest flowed two characteristic streams of tendencies, which were later destined to test their strength in those states that lay across their channel. The first was com-

posed of elements from the South and Middle sections of the East. It came down the Ohio valley, into Kentucky, Southern Ohio, Indiana, and Illinois, organizing those territories and admitting them as states as early as 1818. Pennsylvania and Virginia tendencies predominated.

The second stream was constituted largely of New England settlers and, recruited as it passed up the valley of the Mohawk by settlers from New York, moved into northern Ohio, followed the southern shores of the lakes into Michigan about the year that Illinois was admitted as a state. Had these two movements affected separate territories alone, the planting of local institutions would have slowly modified, in a new environment the forms of their eastern homes. But these states lay directly across these currents, and prepared the way for one of the most interesting and instructive struggles for the maintenance of local types in the whole range of American administrative history.

The location of the state of Illinois affords a typical illustration of the struggle that resulted from mingling of the two streams of tendencies and political traditions, flowing from the two sections of the East. The settler from New England and New York found the state organized with the county as the only unit of general local administration, with the school district as a growing vital fact of the local life of the people. From the point of view of the settlers, fresh from the little communities of New England, the town-meeting was the only effective organ of local administration. The clash of New England and Southern ideas upon this question was inevitable. The representatives of each section were prepared to defend that type which they had learned and believed to be efficient. Illinois territory was entered from the South, principally by the men of Virginia and Pennsylvania. They framed the state constitution in 1818, and planted the Pennsylvania three-commissioner county system. In Illinois, the Ordinances of 1785 and 1787 bore especial fruit. The congressional township as a result of the Ordinance of 1785 became the unit of school administration. "As the New Eng-

land township life grew up around the church, so Western localism finds its nucleus in the school system."[1] The school township, so vital in its nature, slowly became the basis of other administrative services. Chicago was the gateway to the northern portions of the state, and its rapid growth after 1833, points to the vigor and rapidity with which the New England element passed into the possession of these lands. These settlers could not readily adapt themselves to the county system already established. The agitation was an important factor that led to the constitutional convention of 1847. The result of the work of this convention was the recognition of New England's cherished institution—the town meeting. It was a compromise constitution on the question of local administration. Upon the centralized Pennsylvania county was grafted this democratic institution of New England. The new constitution of the state required a general township law, referring the question of its adoption to the people of each county. The location of New England sentiment is shown in the rapidity with which northern counties of the state availed themselves of the law, while the strongholds of southern sentiment have been gradually invaded until the township with its town meeting prevails in all parts of the state, with the exception of a few of the extreme southern counties. The constitutional revision of 1848 was the outcome of a struggle on Illinois soil, for the perpetuity of local institutions understood and valued by men of New England and the South.

The essential structure of the local administrative system of Illinois has changed but little since the constitution of 1848. The most radical change has been in the substitution in the county, of the New York supervisor system for the Pennsylvania three-commissioner system—a further triumph of northern ideas and types of local organization. Viewed by the best standards of administrative criticism, this system is the most effective

[1] Shaw, in *Johns Hopkins University Studies*, I., 10.

and advanced type yet developed by American experience to meet the demands of local rural administration.[1]

The importance of this brief outline of the founding of local rural institutions in Illinois, lies in the fact that the county-town government still plays an important role in the administration of the city of Chicago. The county is the principal unit in the local system, while the township performs important functions under the county supervision. The laws which pertain to the organization of the state are uniform with the exception of Cook county. The Constitution provides that Cook county shall be governed by a board of county commissioners,[2] which is a modified form of the New York supervisor system which prevails in those counties with the township system. The mingling of rural and urban elements upon a representative basis has led to this modification of Cook county. The constitution relieved the legislature of the task of constructing the Cook county board by explicitly outlining its constituted parts. The importance of the urban elements appears in the fact that the city possesses ten members of the board of commissioners, while rural representation is no more than five.[3] This is an open recognition that the interests of Cook county are emphatically urban. The powers lodged with the board of commissioners are those of the other counties of the state with additional provisions.

The board exercises both legislative and administrative functions. Its powers, however, are essentially confined to the control of the administrative machinery of finance. It is the organ of tax apportionment among the several towns, which levy and collect the revenues according to the provisions of the county orders. The expenditures of the county are confined mainly to the care of the poor, and to the maintenance of the county machinery for tax supervision and control.

Recent legislation has tended to make the Cook county board

[1] Howard, *Local Constitutional History*, p. 438.

[2] Constitution of 1870, Art. 10, Sec. 7.

[3] Ibid.

of commissioners still more exceptional in its organization.[1] Its powers have been extended, and the term of its tenure of its members changed to two years, with the important administrative provision, that the elector shall designate on his ballot a person who shall serve as president of the board. In the creation of the office of president of the county board, we have an interesting and unique application of the principle of executive checks upon the legislative power of the commissioners. In the sessions of the board, the president possesses no tie vote, but is permitted to cast a regular ballot as the representative of his constituency. But in addition to this regular vote, he possesses a further control over the county legislation through the special right of veto. This veto power assumes the form of a special financial veto and reaches the separate items of the appropriation bill. The veto is not absolute, but is protected by the formidable strength of four-fifths of the board with an aye and nay vote.

The changes provided by the act of 1893 are concerned essentially with the financial powers of the commissioners. In addition to the checks, instituted by the financial veto, the board cannot delegate its powers to a committee when such power involves the expenditure of $500; furthermore, the expenditure of sums above that amount, must receive the sanction of a two-thirds vote of the board; and still further, the commissioners were asked to provide an annual appropriation bill with a full and specific statement of the objects and ends of expenditure, and that no other appropriations can be passed during the fiscal year except by a four-fifths vote. The law further provides a special committee upon finance and public service. The superintendent of public service is appointed by the board, with the consent of its president, and is charged with the purchase and distribution of county supplies. It then appears that publicity, system, and responsibility, were primary aims sought by the act of 1893. The business of the county centers in its board

[1] Act of June 15, 1893, for Cook county.

and the remaining county officials possess few discretionary powers, since the policies dominating the county administration are outlined by the commissioners.

Previous to the passage of the Civil Service law of the state,[1] the appointment of the county civil service was lodged with the president of the board. In accordance with the provisions of this act three commissioners are appointed by the president with the powers outlined by the Civil Service act of 1895. The civil service of the county is one of the most important negative reasons for the existence of the county government in the municipal area of Chicago. The most important business of the county, except in the supervision of revenue collection, is that of the care of the poor. This is an evident weakness in the position of this rural unit in the city, since the problems of charity are urban. Furthermore, the county does not reach the real problems of charity, as is evidenced by the active private philanthropy in the form of organized charities which stand in closer relation to the city authorities than to those of the county.

A conception of the nature of the rural machinery operating in Chicago is not complete without an outline of the township organization. The persistence of rural types of local organization in the midst of urban conditions is emphasized in the presence of the towns within the city area. The central fact in the town government in Illinois is the old New England town meeting, the creation of the constitution of 1848. But New England has abundantly demonstrated the uselessness of its cherished democratic institution in coping with the problems of the larger urban centers.[2] Designed for small areas of limited population, it remains a useless appendage in the thickly populated towns of Chicago, and serves as an effective instrument in the concealment of many questionable acts, under the garb of popular approval. The town meeting is the legislative organ of the township, and may exercise a full control over the town business.

[1] Act of June 26, 1895.

[2] Bostor abolished the town-meeting by the charter of 1822.

The laws of the state impose special financial limitations upon the town meeting within the area of incorporated cities. In these cities it cannot raise money by taxation, but the county board assumes the exercise of this power. The town meeting is then reduced to an assembly for the election of town officers. These present a vast array of local offices, as supervisor, clerk, assessor, collector, justice of peace, constable, etc. The population of the townships of Chicago multiplies these offices and sinecures to a needless extent. The administrative importance of the towns lies in their relation to the machinery of revenue. It is the active unit in the state machinery of taxation for the assessment and collection of all direct revenues, both state and local, levied upon personal and real values, with the exception of railroad property and its rolling stock. The relation of the town to the city is thus of vital importance. The point of contact between the two systems is the ordinance of the council providing for the appropriation of funds for the current expenses of administration.[1] This specified statement is filed with the county clerk, who ascertains the rate of per cent. necessary to produce the amount appropriated by the city, and issues his orders to the town assessors and collectors. The manner of collecting is identical with that of the county and state taxes. The whole question of valuation lies practically with the town assessors, the only remedy provided by law being the towns and county boards of equalization.[2] The city is powerless in the valuation of its taxable property and in the collection of its direct revenues. The towns, in the administration of assessments and collections, afford the only point at which all various administrative interests of the locality meet. In the town machinery center the sources of the weakness and abuses prevailing in the administration of the finances of Chicago. It remains an undisputed fact that the town assessors are either powerless to return correct valuation lists, or that they are willing

[1] Law of April 15, 1872. Art VIII., 1.

[2] See Appendix.

tools of corrupting influences. It is openly asserted, and scarcely disputed, that the assessors are competing officials in the return of low values, and are elected for that purpose. The assessment of direct taxes then becomes a menace to order and good administration. The town assessor determines the valuation which never approaches the cash value; but is, on the contrary, but a small per cent. of the real value of the property. After assessment lists are prepared they pass under review by the town board, and are further reviewed and equalized between the towns by the county board of equalization, and between the counties of the state by the state board. The work of the local boards is universally recognized as of the most inefficient and farcial nature. The powers lodged with the board are exercised only in a limited manner and never to correct the low assessments of the town authorities. The result of this open and direct mal-administration is inadequate revenue for the city, which forces it to resort to supplementary and indirect revenues in order to meet the expenses of the current administration. Competitive assessments has led to inequality in taxation and to under valuation. Corruption is encouraged by lax enforcement of existing laws, which stands as an open menace to public morality.

CHAPTER XV.

THE PARK ADMINISTRATION.

Reference has already been made to the tendency of the American state legislatures to create within the municipal area other administrative institutions endowed with limited municipal functions, and subjected in many instances to no control by the city in whose territory they are organized. New problems, incident to urban centers, have demanded revenues beyond the taxing power of the municipality, and at the same time the territorial significance of these problems has been broader than the limits of the municipal corporation. A further contributing factor in the rise of the administrative boards, not controlled by the regular city authorities, is obviously a general public distrust with the management of affairs by the city, and the general charter weakness in matters of taxation especially. To escape these weaknesses and abuses new areas have been created with their governing bodies, and their independent powers of taxation, to meet new problems that demanded excessive expenditures and careful administration. This fact has characterized Anglo-American local administration and has inaugurated a system of administrative diffusion, rather than one of simplification and consolidation. Administrative waste must necessarily characterize such disorganization, which has resulted from the superimposing of new areas upon those already existing, without due regard to the factor of control or that of the duplication of organs, where those already constituted might efficiently perform the work. A chaos of administrative areas and authorities has been the result in many of our localities, and especially our cities.

Chicago presents an interesting instance of duplication of ad-

ministrative organs and confusion of administrative areas. Limited financial power granted by the charter has been one important factor in the creation of quasi-public bodies to carry on phases of the administrative work, that should be logically performed by the regular city authorities. In the earlier history of the municipality, the existence of the special boards for the administration of particular problems was noted, and how these services gradually became integral elements of the later municipal organization. The relation of these services, however, did not involve the special administrative area, nor were they entirely severed from the municipal control.

The park administration of Chicago in its more important phases bears no administrative relation to the municipality. The tendency has been to transfer to the park boards, the entire park system and the connecting boulevards, which transfer has taken from the city an important factor in stimulating public interest in the current administration. The citizen observes the park boards providing him pleasure and beautifying his city by the construction of vast parks and magnificent boulevards. This separation has been, without question, an important element in divorcing public interest in the regular municipal administration.

The park boards of Chicago must be treated as separate municipal institutions. Recent decisions of the courts seem clearly to establish the claim of the park boards to this position.[1] This case grew out of an effort of the city to levy a tax upon the real estate embraced within the jurisdiction of the park boards. The assessment was for the purpose of improving the adjacent streets. In reviewing the case the court took occasion to define the nature of the park districts and their general legal relation to the city of Chicago. The court held that the West Chicago park commissioners are a municipal corporation, created for the purpose of laying out, establishing, improving and maintaining certain parks and boulevards within the territorial limits of the city of Chicago; and that they are given full and exclusive

[1] West Park Com. vs. Chicago, 152 Ill., 392.

power and authority, not only to lay out and improve, but also to govern, regulate, manage, control and direct the administration of these parks; and, that furthermore, their power and authority in this respect are plenary and exclusive of the corporation of Chicago.) This raises the question as to whether the park boards are full municipal corporations. The earlier cases had considered them as quasi-municipal corporations.[1] But the question of limitation of powers does not invalidate the corporate standing of the park boards; this being a matter of legislative discretion. The municipal corporation is limited in powers and territory, and two bodies created by the legislature should not operate within the same territory with reference to the same subject matter.

Since the park boards were operating within the territory of Chicago, the basis of separation must be one of subject matter. (The park boards, as full municipal corporations, possess full jurisdiction over the parks and boulevards of their districts, with exclusive right of assessment of the taxable property for purposes of street improvement.) The city possesses a jurisdiction over the park property, but within the provisions of the law organizing the park boards, the latter are independent of the powers of the city. The conclusion of the court is that the city and park commissioners are two co-equal, independent municipalities, each vested with exclusive jurisdiction over public grounds for specifically stated purposes. The position of the court that the city of Chicago possesses no legal right to enjoy the revenues flowing from the property within the park districts for street improvements is not based upon the ground of no benefit, but rather of want of administrative jurisdiction for improvement purposes. At this point it may be inquired whether legislation has not changed the nature of authority so as to divorce it from the public spirit which would compel the community as a whole to participate in the burdens of park administration and not the people of the park areas alone. The im-

[1] Champaign vs. Harman, 98 Ill., 491.

portance of this decision is the interpretation of the exact relation of the park boards to the city of Chicago from an administrative point of view. And in this relation they are administratively independent for purposes of park administration.

The park boards of Chicago received their organization previous to the adoption of the charter of 1872. The park areas are a natural, logical product of the physiographic features of the city, and the three park systems correspond to the three "natural divisions" which have so clearly modified and determined many phases of the administrative organization of the city.

The powers of the park boards, like all municipalities, are special as to territory and subject matter. The jurisdiction of the common council over the streets, parks and public places is inclusive and extends to all phases of public construction and maintenance of streets, etc., not expressly delegated to other bodies. Special legislation has enabled the municipality to escape the more costly phases of this work by the creation of the park system. Over the construction and maintenance of this system the municipality possesses no power whatever. The park areas are tax-gathering and expending areas for park purposes. Several legislative acts have facilitated the consolidation of the several towns in and near Chicago into park administrative areas with full powers of taxation for park purposes.[1] Later acts have enabled the city council to transfer any public ground to one of the boards for administrative purposes.[2] The transfers affected by these acts are conditioned by two restrictions: the consent of the city council and park commission, and that of a majority of property owners. This two-fold division of city and park jurisdictions enables the separation of the streets and parks upon the basis of traffic and pleasure. The parks represent that

[1] West Park act of February 27, 1869; South Park act, February 24, 1869.

[2] Act of April 11, 1885. Recent transfer of Lake Front to South Park Commissioners under this act.

phase of public works concerned with the pleasure of the citizen and the embellishment and beauty of those streets and thoroughfares not designed for heavy traffic. The power of transfer is unlimited, depending wholly upon the attitude of the city and the park commissioners and property owners. A later act strengthened this power to set apart certain streets for pleasure and the recreation of the citizen and to protect them accordingly.[1]

The type of organization is general for the three park systems. In fact, the plan is general for the whole state. The South park system of Chicago was organized before the legislature had made general provisions for the park administration of the whole state. The first legislative act upon the question of park organization in accordance with the provisions of the constitution of 1870 was the act of June 16, 1871. The purpose of this act was consolidation. It was engaged in the task of reducing legislation to one single organic law for the state. All park boards of commissioners were made corporate authorities and quasi-municipal corporations for park purposes.[2] In accordance with the principle of financial control established over the localities, the county board of supervisors through the towns attend to matters of taxation.

The relation of the park boards to the county is essentially the same as that of the city of Chicago. The towns assess, equalize, and collect the amounts levied by the park boards. The park commissioners are thus empowered to levy, collect, and expend the funds necessary for the construction and maintenance of the park system. Their power does not stop at this point, but extends to the appointment and support of a park patrol, and to the general management of the park administration.

The members of the park boards receive their appointments from the governor of the state for a period of five years. Pre-

[1] Act of March 27, 1889.

[2] Kedsie vs. West Chicago Park Commission; also, West Park Commission vs. Chicago, 152 Ill., 392.

vious to this provision, the park commissions had been named by the judges of the circuit court. It must be noted that the park administration is in no sense within the control of the locality except in ordinary judicial procedure. The only element of popular control appears in the election of the governor of the state, which results in the elimination of any effective control on the part of the public. The result is that the park boards are removed from the power of the suffrage, and still, they have proved a popular phase of the Chicago administration. The courts were restrained from exercising this executive function and removed the appointment of the park commissioners from the control of the locality.[1] The abuses of local political methods are eliminated except as they operate in the election of the governor and influence his appointments. On the whole, better appointments should result where the source of tenure is removed from the petty bickerings of local politicians, and experience has shown that the appointment of the park boards of Chicago has been uniformly good, and has enrolled in their membership many of the most active supporters of the best interests of local administration. Furthermore, the office is honorary, no salary being attached, and only the item of personal expense is met by the public. The honor is the salary. The fact that the removal of the source of tenure from the body of the suffrage, and that the creation of the position of park commissioner as an honor office, should be associated with the best results in the administration of Chicago is certainly significant. The exact reasons why the governor should appoint the park boards of the state and not the regular municipal officers, would doubtless prove a difficult matter for the friends of state appointment to formulate. The parks are local and have no closer relation to the general state administration than the remaining localities. The obvious reason of central appointment was the removal of the park boards from the direct control of the popular will, and local politics. It is a centralizing tendency, which

[1] Act of May 30, 1881.

has increased enormously the appointing power of the governor in a field where its administrative sanction could be justly questioned, although the practical result of the administration have been most efficient. Recent legislation has modified the source of tenure for the park boards to be organized in the future, providing for their election by the people.[1] This places the park administration upon a completely popular basis, but in no manner affects the park areas of Chicago. The areas of taxation for park purposes is theoretically confined to the town, but the courts have held that a park tax is not illegal because it affects an adjoining town. The power of indebtedness is fixed at five per cent. of aggregate valuation of all property subject to a park tax; while the maximum limit of taxation was placed at two and one-half mills on the dollar.[2] A later act empowered a town coterminous with the park limits to issue bonds to the amount of $1,000,000 for the maintenance and improvement of the park.[3] The active interest in the park administration has led to the increase of the financial powers of the park commissioners. The park tax levy has been increased,[4] and improvement taxes have been enlarged.[5] These measures were the outgrowth of the active work of construction outlined by the park boards of the larger cities of the state, particularly of Chicago.

The last quarter of a century has inaugurated a brilliant era in park administration in all countries where urban life has been most active. The result of the administration of the park boards of Chicago is one of especial pride. The attractiveness and extent of its parks and boulevards are scarcely surpassed in any modern municipality. In the midst of conditions little assisted by natural beauty, there has arisen this system of pleasure grounds and drives and boulevards that circle the city; and

[1] Act of June 24, 1895.
[2] Act of May 2, 1873.
[3] Act of June 12, 1891.
[4] Act of June 7, 1895.
[5] Act of June 24, 1895.

the crowning work of this brilliant era is near at hand in the creation of a park of magnificent proportions to be planted in the waters of Lake Michigan, and in the conversion of uninviting shores into pleasure grounds of health and beauty. No single phase of the Chicago administration receives the vigorous support of public sentiment as the park administration, and its brilliant history has doubtless been a strong factor in leveling at the administration of the city itself much adverse and bitter criticism. The park boards have developed valuable experiences in the matters of direct public construction and in the development of full equipments for a complete system of park administration. Vigor, foresight, and efficiency characterize the work of the commissioners, and the result has been a splendid tribute to the board type of organization for this particular phase of local administration.

CHAPTER XVI.

THE CHICAGO SANITARY AND DRAINAGE DISTRICT.

The sanitary history of Chicago would reveal some facts of unique interest. Situated in a basin of low levels, the problems of drainage and sewage have been beset with difficulties of an unusual nature. Again the city has been confronted by a condition that has, in recent years, been a constant menace to its health and has created an active interest in the consideration of the problems of sanitation. In times of heavy rainfall, it is not unusual that the drinking water of the city is weighted with mirky, germ-ridden evidence of the fact that the lake is the place of sewage deposit and the source of water supply. Although the charter law of 1872 conferred upon the council ample powers to control and to develop a sewerage system that would meet all the needs of an efficient sanitary administration, its efforts were defeated by the presence of geological conditions that prevented the natural drainage area from coinciding with the area of the city. This patent fact has prevented the treating of the problem of sanitation in that broad view that the future growth of the city would demand. A more comprehensive treatment of the problem was a necessity. The only relief was in seizing upon the natural conditions of drainage, and in the organization of an administrative area that would correspond to prevailing geological conditions. Extra legislation was therefore necessary. A general law followed enabling the cities of the state to organize such areas for the purposes of drainage and public health. The drainage district of Chicago was first organized under the act of June 6, 1887. In a past geological age, the waters of Lake Michigan doubtless poured into the rivers that feed the Mississippi. But nature had reared a barrier of rocky strata that separated the two great water systems. The traces

of their past connecting waterway has provided a basis for the organization of the Chicago drainage district. By piercing this natural barrier the waters of Lake Michigan can once more be turned through the dirty, sluggish Chicago river, and the purity of the city water supply be indefinitely assured. In the midst of stupendous engineering and financial difficulties, the work has been prosecuted towards completion, and the drainage canal promises to assume an importance in the future history of the city upon a broader basis than that of drainage alone. The law of 1887 was not sufficiently comprehensive to meet the necessities of the undertaking, and the legislature was asked to extend the provisions of the original act. This was accomplished through the organization of the drainage basin into an administrative district for sanitary purposes.[1] The limited amount of sewage that the city could discharge into the southern rivers by the act of 1887 would not warrant a serious prosecution of the work of drainage. These series of acts organizing the sanitary area is designed to give the city relief from the unsanitary conditions that have always prevailed, but which have assumed a more aggravated form in recent years through the extension of sewerage system. The immediate object is the solution of the sanitary problems connected with Chicago and the suburbs to the west and to the south, but the mediate and ultimate object of the construction of the drainage canal has a wider basis of interest, if not a more vital one.

Before Chicago had become of any importance as a settlement, the Indian tribes, trappers, and traders had used the Chicago river as an easy portage between Lake Michigan and the streams that flowed into the Mississippi system. This is the beginning of the commercial importance of this geological fact, and has ever stimulated a desire upon the part of the active business interests of the city to seize upon this natural opportunity, and to convert it into a waterway that would amply fulfill the promises of the commercial destiny of Chicago. Unused canal

[1] Law of May 29, 1889.

beds at various points present tangible evidence of a commercial hope of uniting the two water systems of the great lakes and the Mississippi. The Michigan and Illinois canal was one of the earliest of these projects, and unquestionably it has vitally assisted the commercial beginnings of Chicago. The construction of the present drainage canal upon outlines of great magnitude has in view the full realization of the earlier canal schemes in the opening of a waterway that would permit the traffic of the two water systems to mingle freely without the necessity of transfer.

The history of the legislation leading up to the organization of the Chicago sanitary district points to the unquestionable influence of the cities lying along the valleys of the Des Plaines and Illinois rivers, in formulating certain provisions of the organic law. Furthermore, the outcome of comprehensive legislation for the canal project depended upon the representatives of the interest of the valley cities in the state legislature. From a sanitary point of view their position was one of unquestioned opposition. The water supply of these cities is drawn from the very rivers that would be utilized to carry the heavily polluted discharge that would flow from Chicago and other cities of the drainage basin. On the other hand, they viewed with favor the commercial possibilities that would result from the construction of the canal on lines that would float traffic between the lakes and the Mississippi river. Before the opposition of the middle cities could be broken down it was necessary to show two facts: in the first place, that the sewerage of the city would be purified before reaching those cities that drew their water supply from the rivers receiving the discharge of the canal; and in the second place, the law must make provision for the conversion of the canal into a water highway if desired.

Upon the basis of a common understanding the co-operation of the valley cities was assured, but their interests have been carefully guarded by the organization of a league composed of those cities lying along the valleys of the various rivers that

would be affected by the opening of the canal. The occasional representative assemblies of this league of some thirty cities, watching jealously all the details of the construction of the canal with reference to their vast economic and sanitary interests, carries with it the suggestion of the city leagues of other times. The possibilities of a league of such interests influencing the legislature of the state stands unquestioned.

By the act of May 29, 1889, the Chicago sanitary district took final form as an administrative area with the full municipal powers within the provisions of this act. The modus operandi for the organization of the district is fully outlined. In this law the principles of general and special legislation meet. It is a general act for the whole state designed especially for the sanitary problem of Chicago. The territorial limits of a drainage area cannot pass beyond the bounds of a county which is the unit for the administration of the local finances. In accordance with the general practice, the initiative was left to the people of the several corporate bodies concerned. Upon a presentation of a petition bearing the signatures of a thousand voters, the county judge was authorized to call to his assistance two circuit judges who are to constitute a board of commissioners to consider the petition and all conflicting claims and questions that arise, to determine the boundary lines and to submit the question of organization to a vote of the people of the district. The first step in the formation of the territory is a judicial process.

The district does not assume an administrative character until the work of the judicial board has been accepted by the people, when a board of nine trustees are selected to constitute the sole administrative authority. The board type of organization is thus adopted; and, in harmony with the latter legislation with reference to park organization, the source of tenure is lodged with the people rather than with the governor of the state. A further innovation in the tenure of local boards appears in the application of the cumulative system of voting which is in

vogue in the return of the members of the state legislature. Nine members are elected for a term of five years. Each voter of the district may distribute his votes among not less than five-ninths of the candidates to be elected, leaving four votes to concentrate as he may desire. This secures a minority representation upon the board in case partisan interests enter in the contest, or in the effort to select especially fitted candidates. The election of the president of the board converts it into a corporate body for the purpose of administration with full powers to manage and to control the property of the district, and to carry on the construction of the canal. The board completes its organization by the election of a clerk, treasurer, chief engineer, and attorney. It possesses full ordinance power, and many other municipal rights.

The financial tasks incident to an undertaking involving the expenditure of such vast sums made new legislation necessary. This resulted in the act of 1889 which fixed the maximum bonded indebtedness at $50,000,000, or five per cent. of the taxable values of the property of the area. The constitution required a direct tax sufficient to meet the interest on the bonded indebtedness and discharge the principal within a period of twenty years. For purposes of construction the tax limit is placed at one and one-half per cent. The administrative work of levying and collecting the taxes is a part of the regular revenue systems of the state, and places the matter of assessment with the towns of the district.

The element of contract is at once placed beyond the sphere of theoretic discussion, by providing that all pieces of work where the contract price passes beyond $500 shall be given to the lowest bidder. A shifting attempt to protect home labor appears in the requirement that all employees upon the canal shall bear at least papers of declaration of citizenship.

The continuous flow of water of the canal must maintain a volume of at least 300,000 cubic feet, with a current not to exceed three miles per hour. In order to fulfill these require-

ments the channel must possess a depth of 14 to 18 feet, with a width of 160 feet. In case the federal government undertakes to prepare the streams that connect the canal with the Mississippi for purposes of navigation the volume of flow may be increased to 600,000 cubic feet.

The canal is passing through its second stage of organization, which is its period of construction. The first stage has been noted as a judicial adjustment of claims and fixing of boundaries. The third stage begins with the completion of the canal, when the governor of the state shall appoint a board of three persons, who with a competent engineer shall pass upon the fitness of the canal to receive the flow from Lake Michigan. This commission shall represent the whole water-way to the Mississippi.[1]

The sewerage system of Chicago, so far as it flows into the Chicago river and its branches, will not be affected when the stream reverses its accustomed course. The solution of the problem of sewage disposal is largely a local one. Those larger municipalities that are situated in the basin of porous soils have almost invariably adopted the land treatment in the form of the sewage farm. By this process, a certain revenue is derived from a heretofore barren source. The soils of the suburban districts of Chicago are those well adapted for sewage farm purposes. But a possibility of greater moment was involved in the construction of the drainage canal. The problem of sewage disposal is not one of revenue, but one of public health. The motives that led to the selection of the canal and rivers to the south instead of other methods were doubtless a product of the commercial forces that center in the city of Chicago, and which sought to strengthen their position by connecting Lake Michigan with the Mississippi river and its tributaries. The motive of drainage has carried the construction over its initial and difficult

[1]One member shall represent the territory between Joliet and La Salle, a second between LaSalle and Peoria, and a third between Peoria and the mouth of the Illinois river.

stages, when the commercial features of the work may receive their proper tests. The administrative relation of the drainage district to the municipality of Chicago is one of complete separation, except in territorial jurisdiction. At this point it is only a partial relation. Although the interests of Chicago are those mainly involved, yet an administrative connection with the city could not be properly established. The drainage district is an administrative area for specific municipal purposes, and in this respect stands in the same relation to the city as the park districts.

CHAPTER XVII.

THE RECONSTRUCTION OF MUNICIPAL CHICAGO.

The attitude of the public mind toward the American cities is one of reform and reorganization. This view becomes more critical upon a closer examination into the organic relations of the institutions of the city, and into the policies that dominate the administration. Elements of disturbance and weakness are prominent, and general administrative confusion threatens a uniform and harmonious expansion of the municipal life and institutions.

The historian of municipal institutions is not unprepared for this discovery. Below the chaos that has characterized American municipal development is discerned the struggle of forces, which, in the absence of systematic control, have expressed themselves in disorganized and discordant facts. Silent and unnoticed the dynamics of modern society have wrought their changes in the institutional structure of the city. The American cities have been the great sufferers from the expansive and mobile nature of western life; they have been planted and developed in response to industrialism and in the absence of a deep concern for the problems incident to urban centers.

The industrial location of Chicago has brought to the city a full measure of these threatening conditions. Eliminating from the present consideration the abuses of mal-administration and suggestions of municipal dishonesty, the development of the institutional life of the city has created administrative chaos and confusion in many of their most chronic phases. The problem of the organic reconstruction of the administrative institutions within the municipal area is presented in the following facts: Partially or wholly within the municipal area of Chicago are operating as independent administrative authorities, the county

of Cook, twelve townships, three park boards, the drainage district, and the corporation of Chicago. With the exception of the towns all these authorities have independent powers of taxation and expenditure. In fact, the people of Chicago possess too much government. Harmony and symmetry have been sacrificed in the creation of new administrative authorities and in the maintenance of rural institutions within the corporate jurisdiction of the city.

In considering the problem of reconstructing the administrative institutions of Chicago, two sets of conditions, which are quite distinct, must be discussed. The first pertains to the relation of the city to the state; and the second to the question of charter organization.

The relation of the city to the state involves the problem of central control. In order that a proper sphere of activity may be fixed for the central and local administrations there is need of a redistribution of administrative functions. The instruments of control, developed by the modern state over the locality, as well as over the whole administration, are these: judicial, legislative, and administrative. Our law has placed the municipality upon a private legal basis in order to insure its responsibility before the courts and the people. While the view narrows the position of the municipality in its public relations, it enforces its responsibility through the ordinary judicial procedure. The citizen is thus enabled to question the financial policies of the city in tax assessment and expenditure. The position of the municipality as a private juristic person enables the development of a strong judicial control over the acts of the administrative officers.

It is, however, in the nature of legislative control that the relation of the locality to the state central authority appears. In the American commonwealth legislative control, which early received its confirmation by the United States Supreme Court,[1] presents the locality in complete subordination to the power of

[1] U. S. vs. Baltimore & Ohio R. R. Co., 17 Wallace, 322.

the legislature. The municipality is a corporation for administrative purposes and, as such, is subject to specific regulations by the sovereign authority of the state. The charters of incorporation implied special privileges and immunities, and brought their varied forms of organization. In the absence of administrative control the era of special legislation, with its persistent interference with the affairs of the city, was the natural result of the extreme doctrine of legislative sovereignty. This extreme tendency toward legislative centralization has led to excessive administrative decentralization. City charters have become statutory enactments, and as such are subject to the easy processes of ordinary legislation. General municipal legislation has been provided by the constitutions of a number of states as a check upon extreme legislative interference. This severed the only element of control possessed by the state over the locality, and naturally led to systematic evasion of the provisions of the general legislation, by excessive classification of the cities in order to establish more specific control.

The first years of the municipality of Chicago were characterized by the abusive features of special legislation, and the legislature became the place in which the triumph of local policies was contended for through a system of municipal lobbies, that the city was compelled to send to Springfield to guard its interests and secure new legislation. Here lies the cause of much of the administrative confusion that has characterized the municipal development of the city. The constitutional convention of 1870 placed Illinois in the list of those states requiring general legislation for the municipalities. The general law followed in April, 1872, and was accepted by the city of Chicago on April 23, 1875. Since its adoption the council has become more active in ordinancing the affairs of the city, and it has enjoyed a larger freedom from legislative interference. The city of Chicago has, however, occupied an exceptional position before the legislature since the adoption of the general law. Extraordinary conditions have forced legislation of a special nature. Control must be

exercised by the state in some form. The legislature is the only organ of central control developed by the American states. On the other hand, an overt attempt has been made through general legislation to loosen the restraining power of the legislature, without the substitution of a system that would enforce responsibility upon the part of the locality.[1] The element of a more pliable control is undeveloped. The disorganized condition of the local finances, the wide-spread and rapid increase of municipal indebtedness and expenditure are demanding the creation of a central administrative authority as the agent of the legislature, in the supervision and control of the local administration. No healthy sphere of local autonomy for the cities of Illinois can be assumed before this essential instrument of control is instituted. The administrative experience of England, Germany, and France have indisputably established the fact that administrative control is necessary in order to assure harmony and uniformity, as well as economy, in local administration. This will tend to establish the proper relation of the rural and urban units to the central administrative authority of the state, and to change the character of legislative centralization by the creation of a firm, yet elastic, control not permitted by the present system.

In the solution of the problem of local autonomy, the redistribution of administrative functions in order to determine the proper spheres of the local and the central administrative authorities becomes a question of great importance. The decentralized nature of the administrative system of the American commonwealth has thrown the burdens of administration upon the local units. All the needs and activities of the state have been considered local. No general effort has seriously been made to differentiate the administrative activities of the state upon the basis of general and local needs.

However, tendencies are discernible toward the creation of a

[1] The decisions of the Supreme Court make it possible for a return to special legislation.

sphere of central administrative control over those problems that are general in their significance. Centralizing tendencies are at work which are slowly constituting a sphere of central administrative activity. This tendency recognizes that the locality possesses its problems of a local setting. The essential factors in this distinction are being recognized, while the local officers have attended to both local and state business. Their position is dual; as agents for the state for general administrative purposes, and as organs of the locality for local needs. The centralizing tendencies are gradually creating central administrative institutions, which have in view the relief of the locality from the administration of those problems which are general in their character. The solution of the question of the redistribution of administrative functions lies in the distinction between local and state needs. The evidences of administrative centralization appear in state boards and institutions of education, of charity and corrections, of health and sanitation, of tax equalization, of prisons and asylums, and the appointment of local officers and boards by the central state executive, where their work is considered of general importance, as in the police and park boards of the cities, or in the appointment of local town and school officers, which prevails in some of the southern states. The growth of central administration is closely linked with the source of revenue and objects of expenditure. The assumption of these general problems by the state will necessitate the classification of the state revenues and expenditures upon the basis of local and general needs. Tax reforms and the redistribution of administrative functions must be parallel movements. The confused status of the revenue laws of Illinois upon the sources of revenue and the methods of assessment and collection is the greatest barrier to the development of a healthy central and local administrative activity. The state has made one advance in the recognition of the distinction between local and general revenues in the provision for the state assessment of railroads and their rolling stock. It also becomes evident that no exact theoretic line

can be drawn that will fully satisfy the conditions for the differentiation of these two sets of problems, but that administrative experience must determine the principles of separation.

The correct solution of the relation of the locality to the state, and likewise the first step in municipal reform, depends upon the development of central administrative control over the local units, and in the creation of a central sphere of administrative activity. These are lines of development that are gradually commanding the attention of the public.

The above considerations pertain to the external relations of the city. The second step in municipal reform is concerned with charter reorganization. In discussing the elements of charter organization, a sphere of local municipal autonomy is to be assumed. The needs of a closer consideration of the technique and machinery of municipal government stands unquestioned. In reference to the particular needs of the city of Chicago, there are two problems of special importance to be considered in its administrative reconstruction. The first problem is of the most pressing nature. It is the need of the consolidation and simplification of the independent administrative authorities operating within the municipal area. The second problem considers the organic relations of the various municipal organs created by the charter.

The vast array of competing, tax gathering, and expending authorities, operating independently within the municipal area has militated against the progress of municipal reform in Chicago. The abolition of this conglomeration of superimposed areas and competing authorities of the county, towns, and parks must eventually be accomplished. The weightiest argument for the persistence of present institutions is historical. These accumulated tendencies have, however, no very trenchant historical setting. In discussing the territorial consolidation of the administration of the city it must be assumed that the constitution of the state offers no barriers to administrative reform. The first vulnerable point in the present system is the presence of the

rural towns in the municipal area. The towns perform two administrative functions of great importance to the city, viz.: the assessment and collection of its direct revenues from personal and real property. The slovenly and inefficient manner of the administration of this important service has been pointed out in another place. The presence of a large patronage associated with the towns affords a political basis for their existence. The municipality has largely absorbed the business of the town and county in all matters except charity and taxation. The position of the towns as a part of the general state system of taxation involves the substitution of some organ that would consolidate the municipality into one area for purposes of assessment and collection of revenues. A central board of assessors would insure more uniform values and destroy the competition in assessments, that so characterizes the present system. It centers responsibility and retains its representative features. One assessment for county and city would eliminate two disturbing forces which appear in the competition for low valuations between the towns within the city and between the urban and rural towns of the county. The abolition of the towns by popular referendum would in no manner correct the evils of assessment, nor would it eliminate the county from the jurisdiction of the city. This elimination must proceed along the lines of financial administrative reform. With the passing of the towns and the county, the elimination of the distinctly rural institutions within the city is accomplished, and a rational basis is found for the building of a municipal system according to the accepted principles of experience and practice. The work of territorial consolidation is not complete. The three park boards and sanitary district remain wholly, or partly, within the municipal area. Any suggestion to merge the park boards into the regular municipal service would arouse hostility upon the part of those persons most interested in good administration. Viewed from the point of administrative consolidation, simplification and symmetry, and in the best interest of the future municipality, the park

boards should find a place under the jurisdiction of the municipal charter. The administrative difficulties attending the consolidation of the park boards with the city administration are apparent. They have been created as municipalities for park purposes. Their separation from the city affords a larger revenue for park administration. An argument in favor of park consolidation lies in the consideration of the support of the park administration. A service so universally enjoyed by the citizens of the whole city should be a common burden. The separation of the parks from the city administration will not carry the weight of administrative sanction. It should become a department of the city government. One area for revenue and expenditure for the people of Chicago should be the basis of reorganization. But so long as the city administration is lax and indifferent in many phases of its work, and so long as the park administration is characterized by such vigor and efficiency, any attempt to disturb the present basis of park organization would meet with a just measure of hostility.

The sanitary district presents a somewhat different problem. Its territorial jurisdiction could not easily coincide with that of the municipality. As a problem of administration, it tends to assume a state, rather than a municipal importance.

The relation of the city to the county presents a problem of some difficulty. The constitution defines the minimum size of the county, which would seriously interfere with the consolidation of the county and the city. The organization of Cook county is treated in a special manner by the constitution of 1870, and by later legislation. The town-county systems embody the idea of tax assessment and collection, and the care of the poor. The problems of charity are urban, and those of the assessment and collection of revenue can find a more rational solution in a more centralized system. The energies of the municipality have tended to absorb the administrative business of the county. The city of Chicago should then be placed on the basis of an administrative county. This should not affect the municipal

character of its organization, nor the administrative relation of the city to the machinery of taxation. The processes of consolidation would thus be completed, and the confused results of competing authorities and tax levies would be abolished.

Although the question of administrative consolidation remains in an unsolved condition, the problems of charter organization will admit of discussion. The organization of the city of Chicago presents uniquely the elements of an effective reconstruction without radical interference with its present organic relations. The theory of the present organization is one of checks and balances. Although the council stands as the central fact in the system, and possess the initiative in legislation, and votes the municipal budget, the executive has been clothed with the important power of veto and appointment. A decided tendency toward executive concentration has characterized the municipal organization since the adoption of the law of 1872. Each department, after 1875, has been reconstructed in accordance with this tendency to cluster the elements of executive control around the person of the mayor. Upon this basis has been developed the outlines of executive responsibility. The civil service law of 1895 will tend to place this responsibility upon a more secure and more rational basis.

In discussing the problems of charter reorganization, the principle of democracy must be accepted as a fundamental working basis. The American local administrative system is representative, with the chain of executive independence and responsibility fairly established. The theory of checks and balances has reared two competing organs for popular favor—the mayor and council, which tends to weaken the fact of responsibility when viewed from the system as a whole. To the electorate, the mayor and council both appeal. What then should be the structure and relation of these organs in order that the element of popular administration might be brought into proper harmony with the professional character which these authorities should assume? Three essential factors should enter into the

structure of a well ordered local system. The work of these three factors may be discharged by one organ, but this too often leads to confusion. Every local system represents in some form the legislative, executive and consultative phases of a well rounded organization. It is in the relation of these fundamental facts to each other that characterizes and distinguishes the structure of the modern local administrative systems. The city of Chicago presents in clear outline two of these elements, viz.: the executive and deliberative. The norms of the consultative or cabinet feature are preserved in the scattered heads of the administrative departments.

Historically, the best traditions of our political development, as well as the important modern states in Europe, have recognized the representative system as the foundation stone upon which must be reared the administrative edifice. Popular suffrage has attained this in all states where administrative science has made significant advances. Different methods have been utilized in the organization of the suffrage, but its representative institution has exerted a constant influence over the administration. The city of Chicago, within the theory of its charter, presents the common council as the most widely representative fact in the municipality.

The defeat of minority representation in the council in 1875 was a result of public indifference, and omission of the proper election notices. The un-representative nature of the council is the greatest hindrance to proper municipal organization, and has tended constantly to weaken its position in confidence of the people. The council, as the express instrument of popular control, would assume a more vigorous hold upon the forces to be represented, if the ward basis of representation could be eliminated. The council would gradually find its traditional position of vigor and efficiency, and would tend to preserve the essentials for a popular administration.

The principle of popular sovereignty has widely extended the basis of the suffrage, and its control over a number of offices

which are administrative rather than legislative in their character. Two motives have operated to further this movement: the enforcement of the direct responsibility of the administrative officer to the people, and an effort to control these officers as factors in a system of political patronage. In connection with the city one fact has been universally recognized and asserted—the right of the people to elect its chief executive officer. This fact is purely the product of American experience, and exists in no other important modern local system. The theory of checks and balances is largely responsible for this isolated position of the mayor. Machine politics have seized upon these conditions, and reduced the office of the mayor to a political, rather than an administrative position. Executive responsibility has come to mean political responsibility, and the office of the mayor has become a political prize. The same forces tend to make his appointment of the head of departments accord to party considerations. Administrative responsibility is considered as of a secondary importance. It is readily admitted that the heads of departments should not depend upon the suffrage for their tenure. Where then should the source of tenure be placed? Executive concentration makes one answer: with the mayor. England, Germany and France, in many respects with a more popular representative administration than obtains in American cities, has given the emphatic answer: with the council.

It stands unquestioned, that so long as the mayor is elected directly by the people upon the principle of executive concentration, he should appoint those persons immediately associated with him and directly responsible to him. But the tendency to build up the position of the mayor from the element of dictatorial powers is open to serious question. The element of absolute power is no assurance of efficient administration, nor does it make for unity and harmony in the whole administrative activity of the municipality. On the other hand, absolute and positive power is not a necessary fact in the creation of a strong and vigorous executive, but experience points quite con-

clusively to the tact and personality of a strong mayor, thoroughly familiar with the problems of the city, as of weightier consideration, than the elements of dictatorial power. Unity and harmony in administration would follow were the mayor made responsible to the council. This change would eliminate the principle of confusion and the arraying of the council against the mayor, a result which the theory of checks and balances has brought to the American city. This change would mean that the heads of departments would emanate from the council and would assume the dignity of a cabinet, possess a place in the sessions of the council with the power of debate; many of the preparatory measures could be formulated by the cabinet and presented to the council for consideration.

This new relationship would secure personal connection of the council and executive, and enforce a definite responsibility upon the council as the organ of final revision. Public sentiment is not prepared for the transfer of the mayor into the hands of the council. However, tendencies are starting strongly toward the cabinet idea and a closer personal relationship between the mayor and his heads of departments. Still further there is a feeling, which finds expression in the latest municipal charters, that the cabinet should find a closer relationship with the city council. Realizing the radical nature of a proposal to transfer the source of tenure of the mayor of Chicago from the people to their representative institution, the city council, a proposition to increase the term of his tenure, and to organize the heads of the city departments into a mayor's cabinet has both foreign and recent American experience to rob it of its radicalism. If the position of the mayor were not on a political, rather than on an administrative basis, the proposition of the change of his source of tenure to the common council would not meet such party disapproval. It seems fundamental that if this important administrative office is to be rescued from its position of political bondage, and placed upon a professional basis, the popular suffrage must be relieved of the burden of his

direct election. The experience of the American cities in the selection of their chief executive sustains this conclusion. Besides, experiences of greater value point to a relief of the people from the discharge of this function.

In order to avoid the suggestions of radicalism, concessions must be made to the political adherents of popular election of a mayor with the full power that the theory of executive concentration brings him; but some relief would come with the increase of the term of his office. Its political importance would be weakened and tend to place it upon the basis of administrative fitness, and to develop a more unified and continuous policy.

The position of the heads of the city departments affords an excellent basis for the working out of the cabinet idea in Chicago, maintaining the mayor with his present responsibility to the people. Before the nature of the mayor's cabinet can be theoretically or practically settled, the question of the type of organization that shall characterize the departments must be determined. The consideration of the board or single head type of organization involves the question of a professional or popular tenure for control of the city departments. The type of organization is to be determined after a decision is reached upon the desirability of the change of the heads of the departments with the change in the person of the mayor. Civil service regulations do not have in view the application of the merit system to the heads of departments; and, furthermore, the theory of executive concentration for purposes of responsibility does not permit an interference with the personal control of the departmental appointments by the mayor. The nature of the municipal business, the interests of continuity in good administration, the separation of politics from the personnel of the departments, the hope of building up a departmental administration on a profesisonal basis,—all these considerations demand a continuous tenure for the heads of the city departments. The change of the heads of the departments with the change of the

mayor implies a new policy which never occurs, and could not occur in the nature of municipal business. The principle of executive concentration has little basis, in fact, in its application to municipal business. A service built upon a familiar understanding of the problems of administration, and upon a tenure during a wise and efficient management of the departmental work is pre-eminently of more importance to the welfare of the municipality than the political changes that follow the election of a new mayor. For reasons of the weightiest character, already enumerated, the departmental tenure should be continuous. This enables a selection of the type of organization that will ensure this principle of continuity upon a professional basis. The board type of organization seems to present elements that would preserve the best interests of a continued administrative policy and admit of the presence of a technically prepared service upon a widely representative basis. The elimination of the political elements from the service and the fear of bi-partisan boards have little weight. The board system in Chicago is not new. It must be admitted that the history of their administration is not entirely free from criticism, but their tenure was during a period of great administrative confusion for which the boards were not alone responsible. But in order to avoid any suggestion of radical change, theoretic considerations and outside experiences must give way before the accepted conditions that prevail in the city of Chicago. The single commissioner system prevails throughout the departments, and a movement toward a change to the board type of organization would meet with decided opposition, although the sentiment in this regard is not centered entirely on the side of the present system. The single commissioner system has its strongest argument in direct, effective personal responsibility to the mayor. The existence of the heads of the departments so closely associated with the mayor permits of the use of the consultative feature in administrative work, a feature which American experience has

so continuously neglected, and which the later charters are but tardily recognizing as an essential fact in good administrative organization.

The present departmental organization of Chicago affords an admirable basis for the introduction of the cabinet feature without any material change in their charter structure. The city is free to institute these changes and provide for a closer relationship between the heads of departments for purposes of consultation. The mayor's cabinet emphasizes the personal relation in administrative work, a fact which American experience has only preserved in the form of executive appointment and veto. The proposals for the creation of a mayor's cabinet in order that the city of Chicago may come into possession of the consultative feature in administrative work, upon a thoroughly organic basis, has then, the experience of not only the German and French systems, but also the best results of the most recent experience in the charter organization of the American city.[1] The failure of the cabinet idea in the American city has been largely due to its close association with rings and financial extravagance. But this was rather a perversion of the cabinet idea. It is not compatible with the cabinet to grant it power of veto on legislation, which has been the reason for the position of disrepute that it has occupied before the public. The cabinet idea is not new to Chicago. It was the primary fact of the substitute act of 1875, but it met disfavor through the liberal powers of contract and legislation granted it. The principle of unity and harmony in action is secured by bringing the heads of departments together in a regularly appointed cabinet around the person of the mayor, for the free discussion of plans and problems of administration. The usefulness of the cabinet is but half realized until it is brought into closer relation with the council, by permitting it a place in

[1] Charters of Greater New York and the city of Cleveland. Mayor's cabinet of the city of Boston is composed of leading representatives of the business organizations of the city, but has no legal basis.

the session of the council for purposes of debate, in order to secure information upon the details of the current administration. By this method the executive and legislative organs would act in closer harmony in the best interests of the city. Mere accidents, which have been considered as organic facts, have lost the American city this useful feature, but administrative necessity is compelling its recognition, and an open and enlightened public policy demands a larger use of this consultative institution in the interests of system and unity. By the present system the departments are compelled to go before the council committee and lobby in the interests of their departmental work. It forces the heads of the departments and the mayor of the city to assume the undignified and secret rôle of lobbyists, instead of the open and statesman-like discussion of plans and measures before the whole council for its sanction or rejection. The cabinet feature must come if the best results in municipal administration are secured. The council would be in no manner disturbed in its position of power and control over the administration and legislation of the city. But, on the other hand, it would be relieved of many details that are theoretically and practically administrative rather than legislative.

The trend of this discussion has led to this conclusion, that the council should represent the popular elements, and basis of administration and, upon it, as the foundation, as the fundamental fact, representing the people should be built the professional factors of the administration. This preserves the democratic traditions of the American city, and secures the presence of a professionally trained administrative service upon the principle of continuous tenure. But it may be seriously questioned whether the administration of the American city could not broaden its basis of information and activity, and popularize its methods usefully by enlisting the active interest of the citizens in its work. In every city a large body of public spirited men are organized into civic unions for the purposes of furthering the policies of good administration. They stand

primarily, at present, toward the city in a position of critics. Let the city of Chicago institute a system by which the lay element may assume some of the responsibilities of the administration, instead of wasting its energies in controversy and discussion. A committee system could be inaugurated that would bring to the service of the city a vast body of non-professional persons who would lend it valuable aid, and raise the standard of civic interest. Such committees would be composed of members of the city council and citizens who are actively interested in the problems of current administration. The German city has found a solution to this question by admitting to the membership of the committees of the council a large body of citizens who serve without compensation. A closer relation is thus established between the public and the council.

There are a large number of citizens in every city to whom the emolument of office forms the least attractive element, but who would willingly do an honorary service that would give a dignity and character to our municipal administration, of which there is such recognized need. The professional officers and laymen would act as healthy restraining and stimulating forces. Such a system would operate to turn the severe and often just criticism of the civic unions into more effective and useful channels.

The steps in reorganization indicated above are suggested not only by the trend of American municipal government and European experience, but are particularly applicable to the prevailing conditions in the city of Chicago. The elimination of that chaos of competing areas, authorities, and tax assessments, the introduction of a system of primaries for the nomination of the members of the city council, the application of the principle of proportional representation for that body, a closer union of the executive and council through the cabinet system, longer tenure of the heads of the departments upon a basis of especial fitness and training, the infusion into the administrative work of a lay class through the non-salaried office—in other words,

simplification and consolidation according to the best results of administrative experience at home and abroad, will give the municipality of Chicago an administrative position among the cities of modern times, that the enterprise of its business men has given it in the industrial world.

BIBLIOGRAPHY.

No attempt has been made to compile a complete bibliography on the city of Chicago. But one aim has been followed: the presentation of the sources pertaining to the institutional history and organization of the municipality in their relative importance. Only those laws, treatises, and documents that have directly assisted in the preparation of this monograph will be cited. In order that the sources may assume their proper relation, they have been classified and arranged upon the basis of primary and secondary sources. The primary sources are mainly the state laws and city ordinances, and from these sources the essential materials have been drawn. The secondary sources have assisted but little. They have served as guides to the primary sources, which have been examined in all instances. The cases have been selected with reference to the interpretation of important powers in the organic relations of the municipal organs, especially since the adoption of the charter law of 1872.

The classification may afford a guide to the sources pertaining to the municipal institutions from the point of view of their organization. Nothing more has been attempted.

A. PRIMARY SOURCES.

I. LAWS.

1. *Organic.*

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Act of January 21, 1843. Amending the Charter of 1837.

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Act of February 15, 1855. Cases transfered to other courts.

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Act of February 22, 1861. Reform school.

Act of February 12, 1863. Borrowing power extended.

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APPENDIX.

The state legislature in the extra session of 1898 passed two important acts which are intended to correct two serious defects in the administrative system of Chicago. One act dealt with the problem of party nominations.

There is general interest manifest in many quarters looking toward the protection of the people in the selection of their party candidates. The Illinois primary law, while taking more advanced ground than most legislation in the other states upon this question, bears two important limitations. In the first place its application is limited to the cities of the state, and in the second place the law does not proceed to the real source of the trouble, the party caucuses. The people may be stimulated to take a more active part in the selection of party candidates. Yet the law will never be thoroughly successful until its provisions are extended to the party caucus.

The execution of the law is placed in the control of the election board. The law specifically fixes the number of precincts in the primary districts, the population of these districts, the qualifications of the judges and clerks, and the number of delegates for any primary district. In a recent opinion given by Judge Carter upon some of the doubtful provisions of the law it is pointed out that the election commissioners are relieved from the exercise of discretionary powers, but they are confined to the specific statements of the act. The formation of the primary districts is, therefore, chiefly in the hands of the party committees. The commissioners have limited revisory powers over the action of these committees.

The fundamental purpose of the law is to permit the people freely to participate in the selection of their party candidates. And while there may be certain possibilities open to the "gang"

to pervert the provisions of the law, yet the limitations upon the party managers are such as to give the people a fair opportunity to select their party nominees. The effectiveness depends upon the people. They must enforce it. The recent tests have been attended with good results.

The second important act passed at the extra session of the Illinois state legislature was directed toward revenue reform. The city of Chicago has been struggling for many years with inadequate revenues resulting from systematic tax evasions made possible by outgrown methods of the assessment of property. While the constitution requires general legislation for the whole state, the present law was passed primarily as a relief for the city of Chicago. The defects of the old system have been noted in detail in another place. The law of 1898 is the result of years of discussion and contains the digested points of numerous schemes.

The general provisions of the bill as they affect Chicago are as follows: For all counties with a population of 125,000 inhabitants a board of five tax assessors is provided. Each assessor receives a salary of $3,600. Especially for the city of Chicago a second board of three commissioners is created for the purposes of a review of the work of the first board. The tenure of the members of the last board is two, four and six years. The board is empowered to raise, lower and equalize the assessments of either individual or district. The members are elected by the people.

The chief changes to be noted are found in the destruction of the system of town assessors, the double columns of cash and assessed valuations, the publication of the assessment rolls in a pamphlet, a copy of which is to be mailed to each taxpayer, the five per cent. limitation on assessed values, and a board of review for the purposes of equalization.

In the destruction of the town assessors the act bears the outlines of consolidation so much needed in the administrative sys-

tem of Chicago. That was the main source of weakness in the former system. The towns of Chicago are doomed to pass away. Their lingering influences should not be permitted to vitiate the results of an administrative system already complicated by the presence of other independent authorities.

The double column plan is a special feature of the law and should be effective in its results. In one column is to be placed the cash valuation at voluntary sale and in the second column is inserted one-fifth of the cash value which is to be designated the "assessed valuation." The valuation of real estate is to be made every four years and revised yearly with references to improvements and unusual loss. This reference back to the voluntary selling values of real estate furnishes a uniform and equitable basis for the comparison and the adjustment of assessed valuations.

Another provision of equal importance as a check upon the faithful and honest return of property by the citizens and assessors is the publication of the assessment rolls in the form of a pamphlet, and a copy mailed to each taxpayer. This publicity will doubtless check any serious attempt to make false returns of property valuations.

The five per cent. limitations upon the assessed valuation as the maximum limit of taxation is equivalent to one per cent. of cash valuation, and will place the city in possession of an ample revenue for the current administration. Since 1871 Chicago has been compelled to shape its administrative work to inadequate revenues. The present law should yield a revenue beyond $20,000,000.

The organization of the new system has been noted. The last of the town assessors are elected in April, 1898. They are succeeded by the board of five assessors for Cook county and the board of review of three commissioners for the city of Chicago. Measured by the difficulties in the way of reform in the tax system of Chicago, the revenue law of 1898 is a decided step

in the right direction and outlines a system that is sufficiently concentrated and simple that it should yield good results. The revenue act of 1898 must however be considered as a tentative solution of the problem of assessment for Chicago. The ultimate solution must be one assessment for the whole city instead of five as provided by the new legislation.

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SAMUEL EDWIN SPARLING, PH. D.

Assistant in Political Science.

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