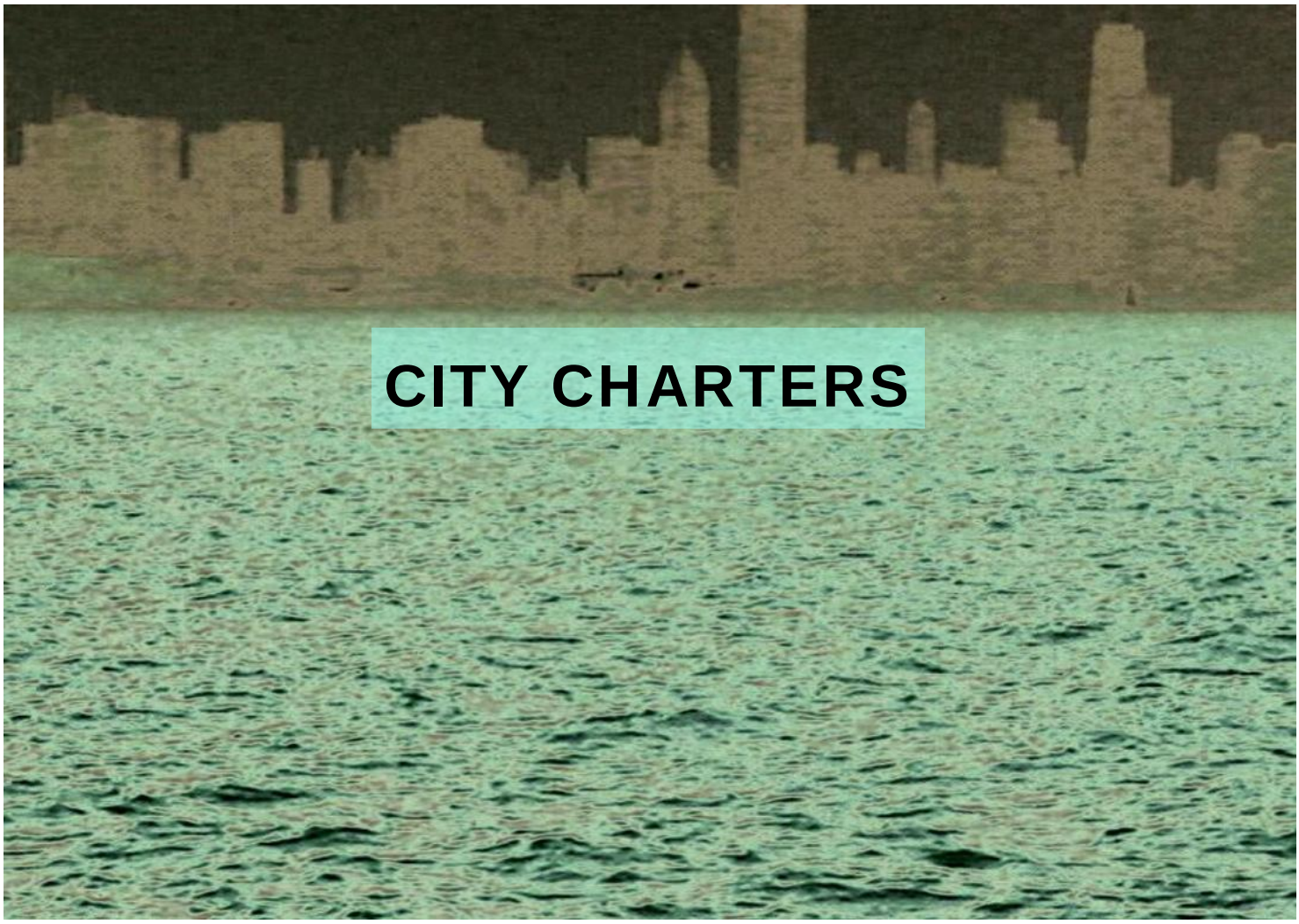
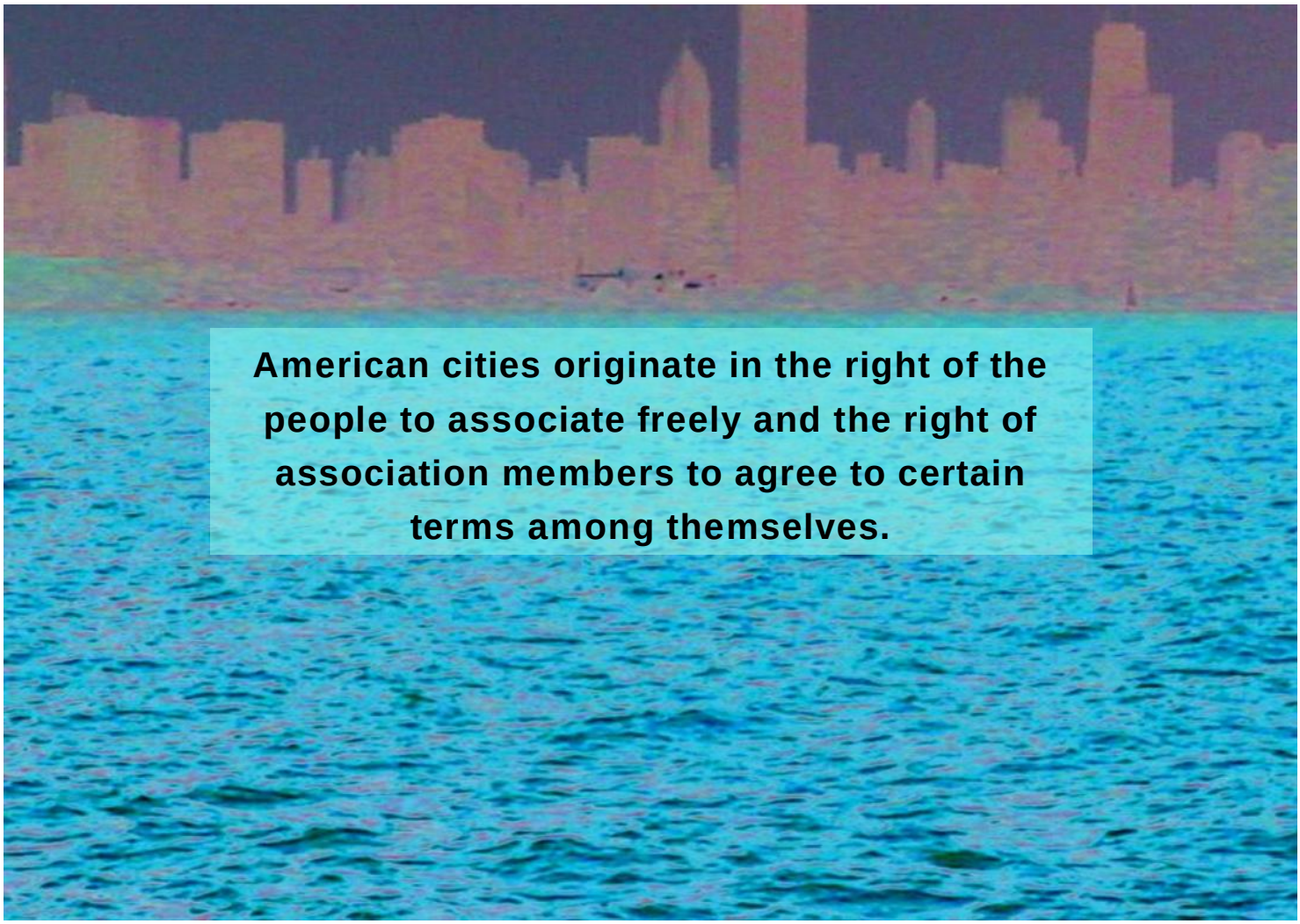
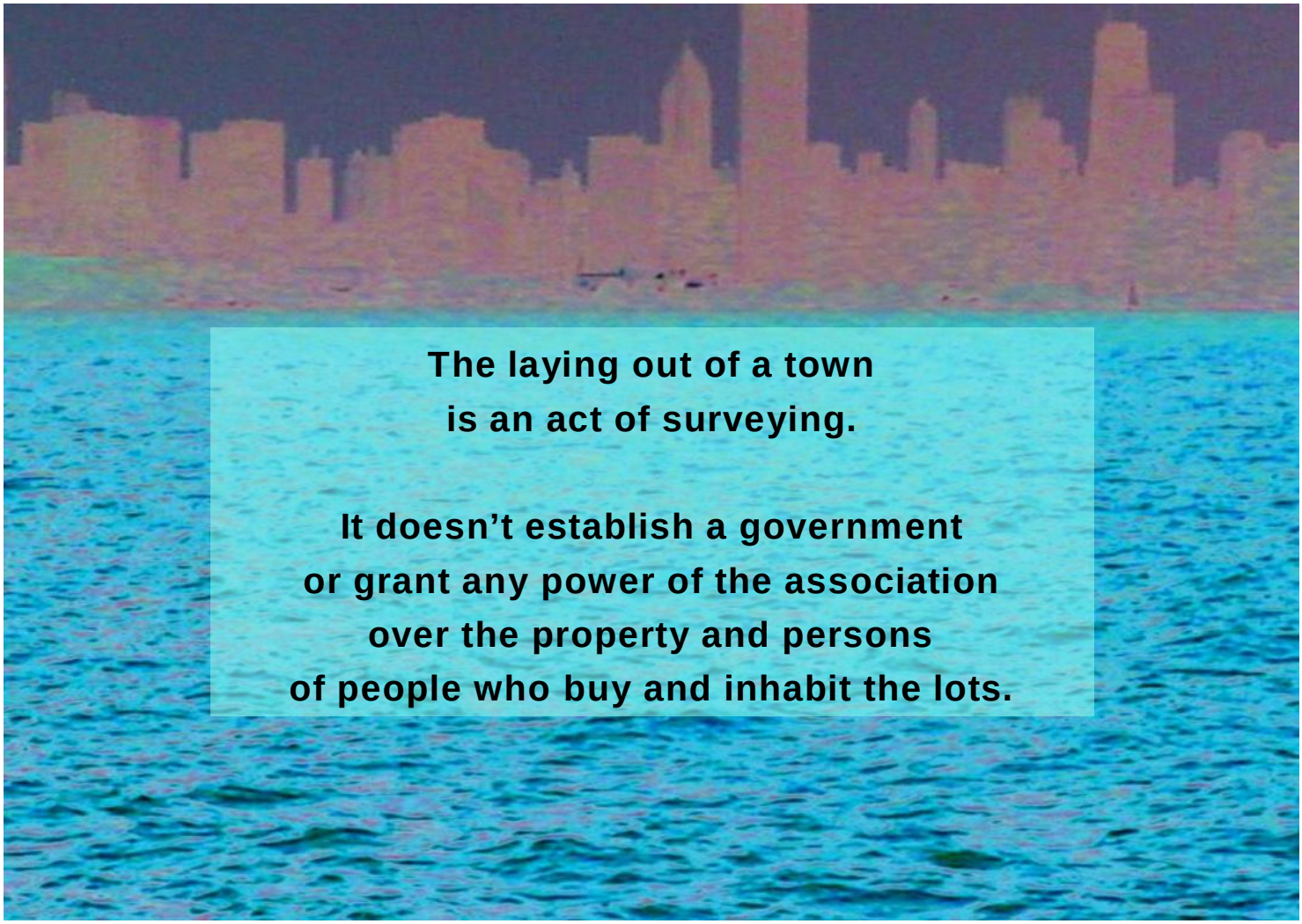
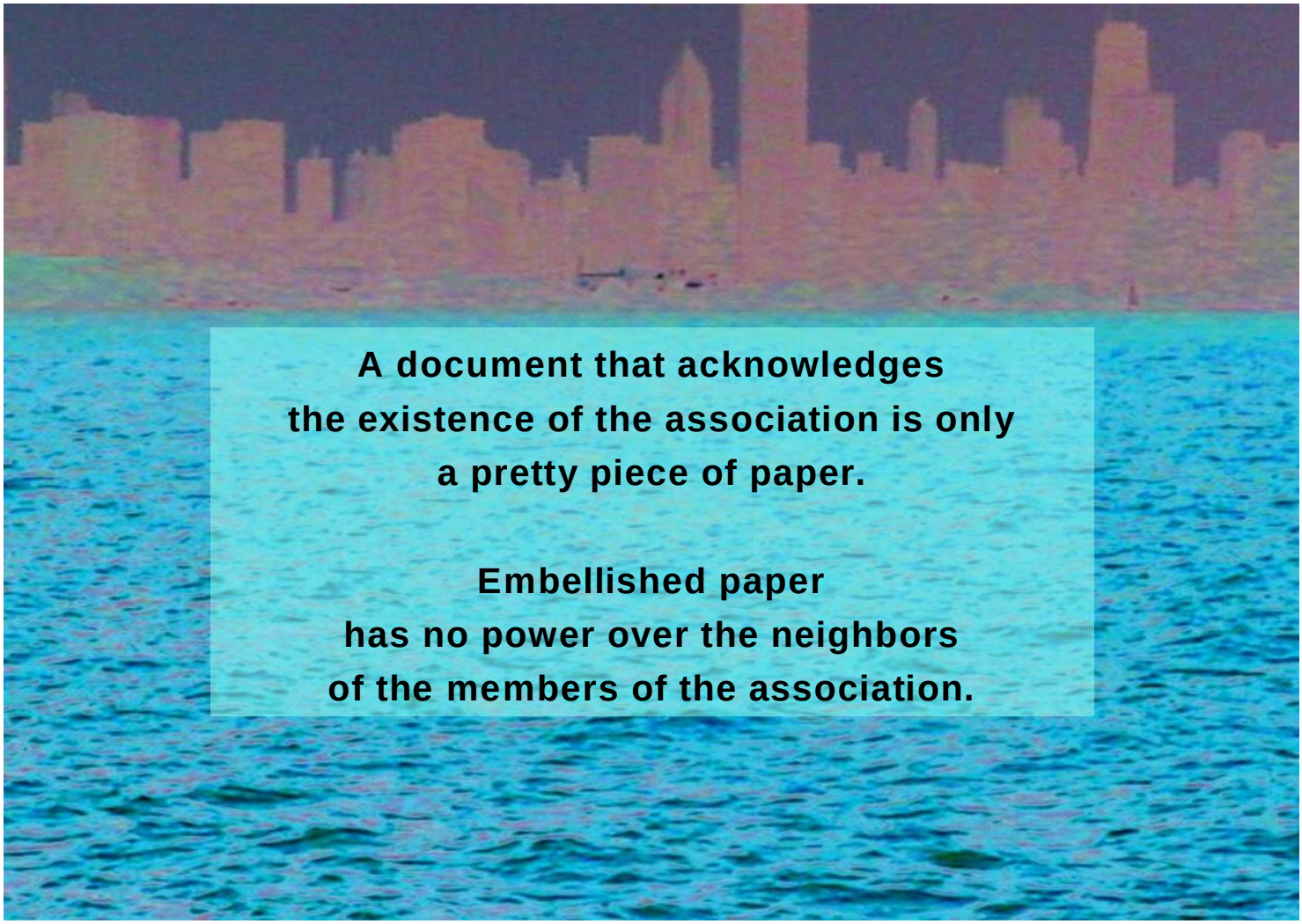


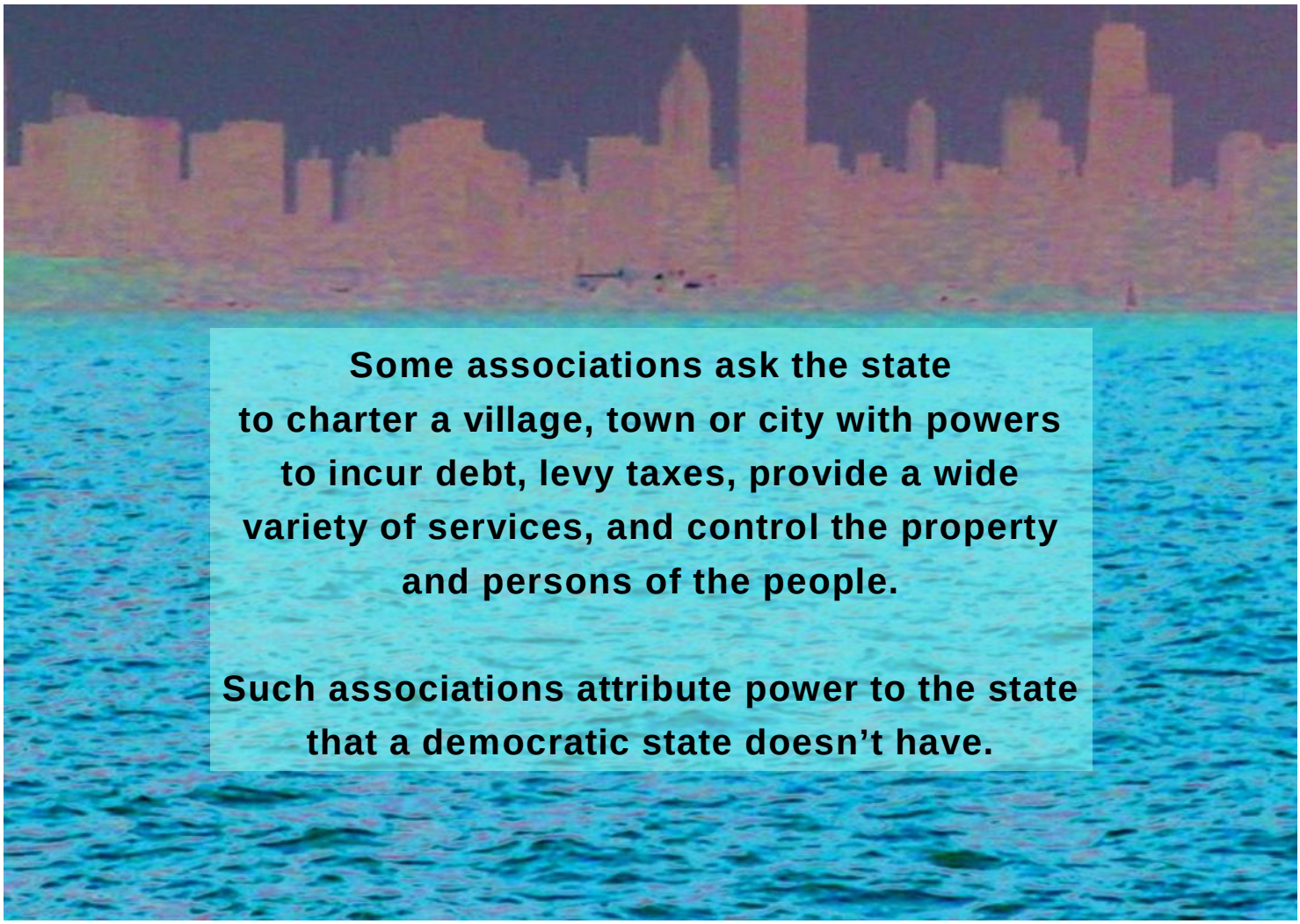
Background: Chicago skyline from Planetarium promontory.

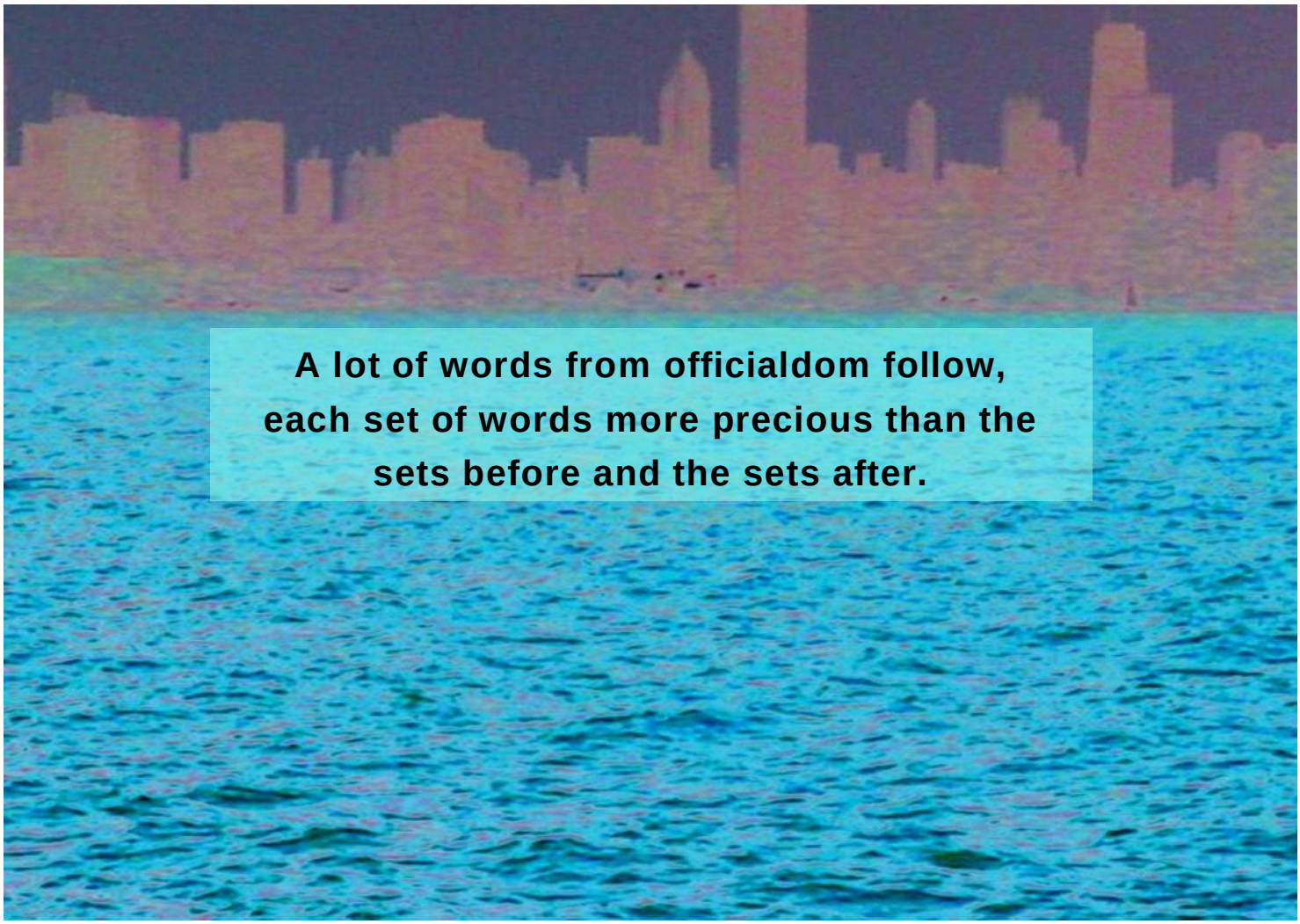
Lord Blue. LOT_344C. Broderbund Click Art 750,000. Riverdeep Interactive Learning Limited (2002).

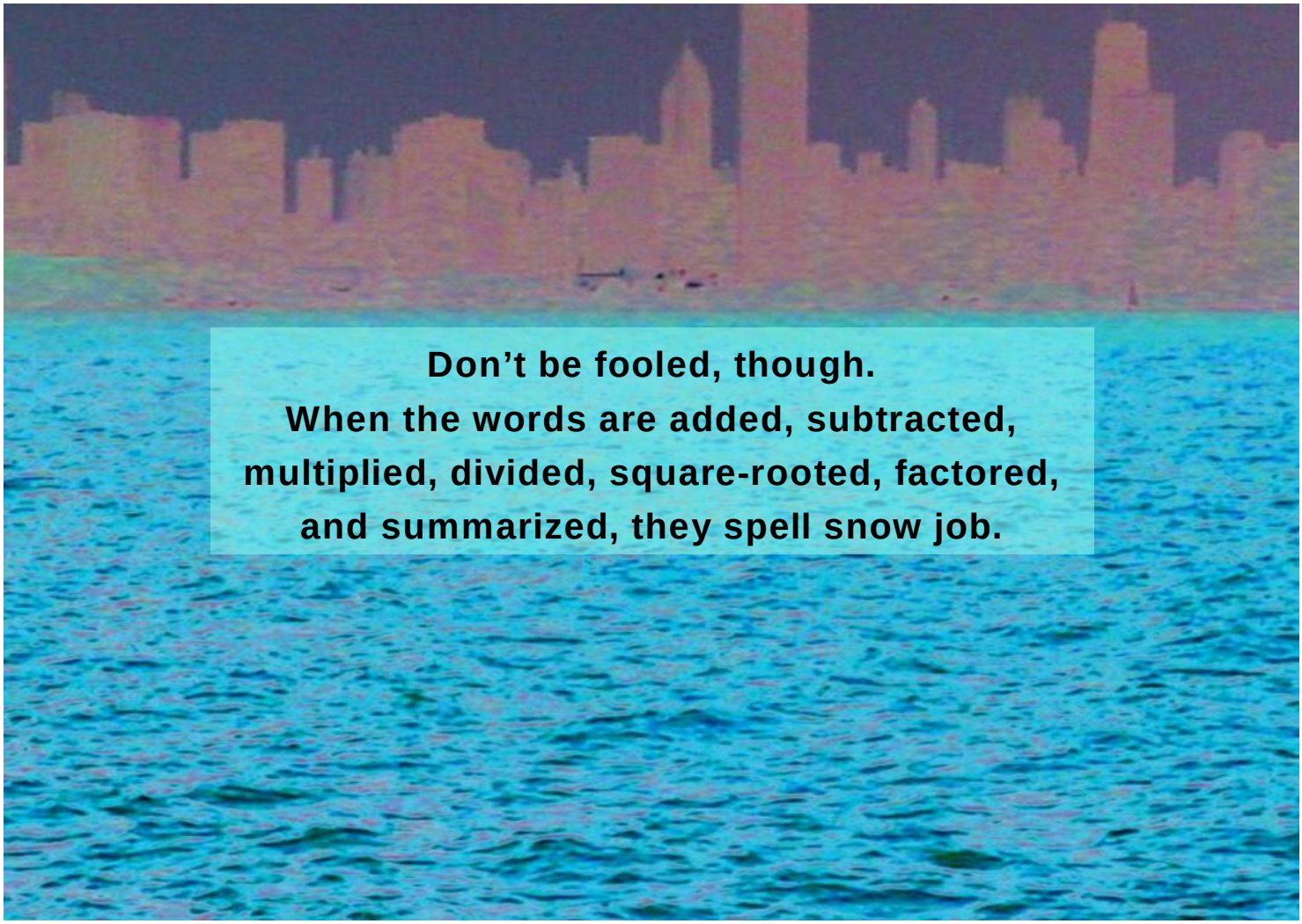


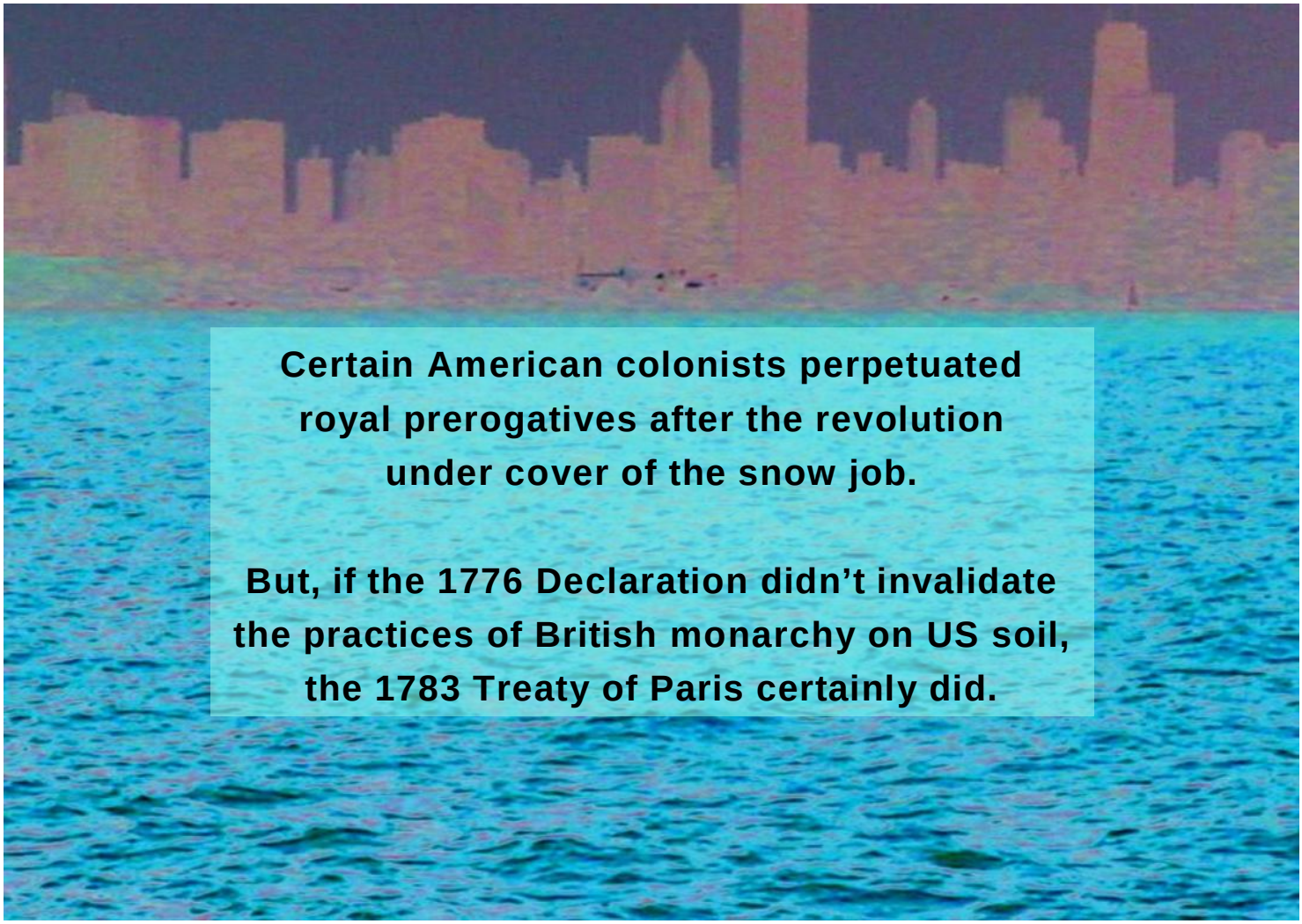


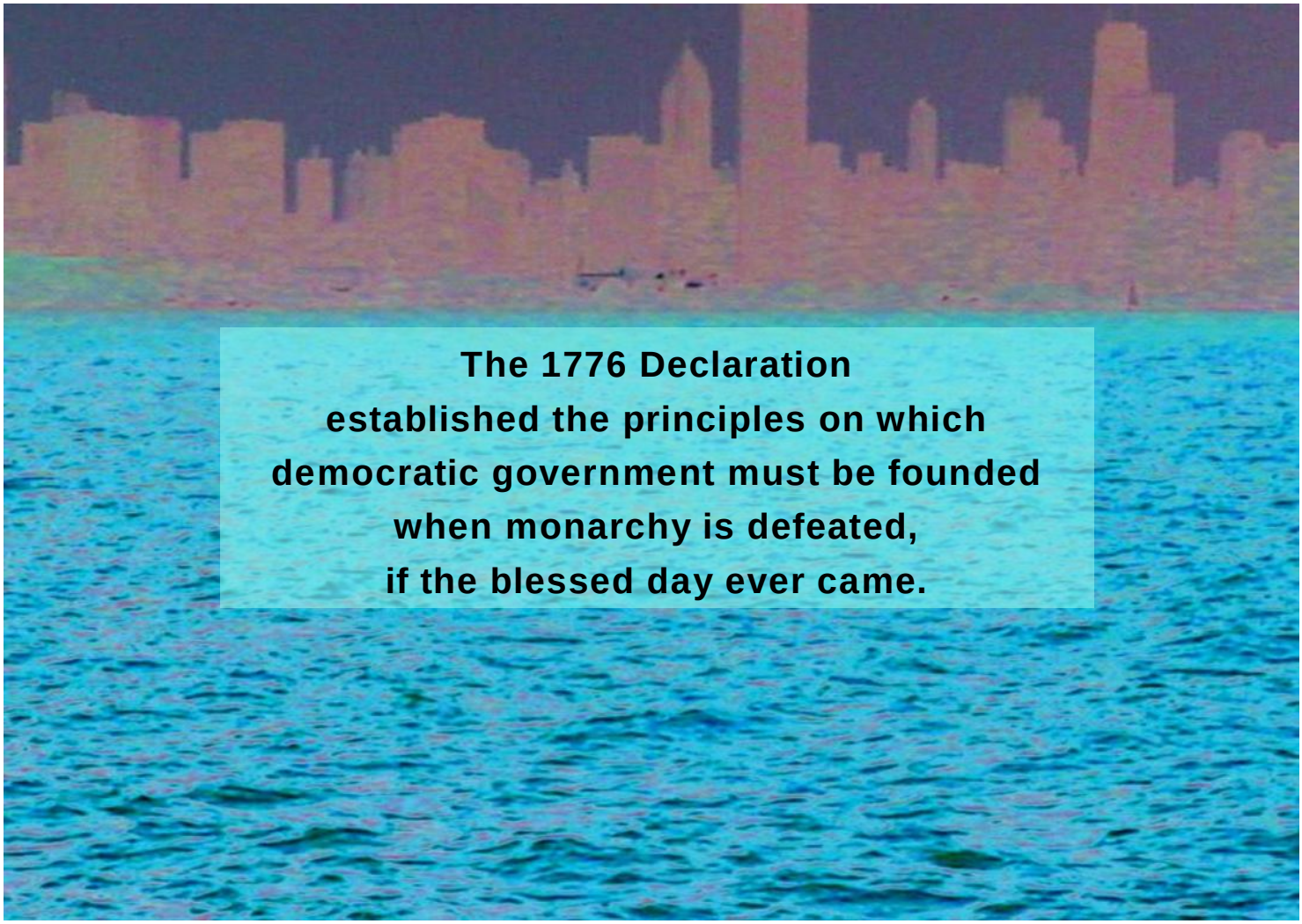


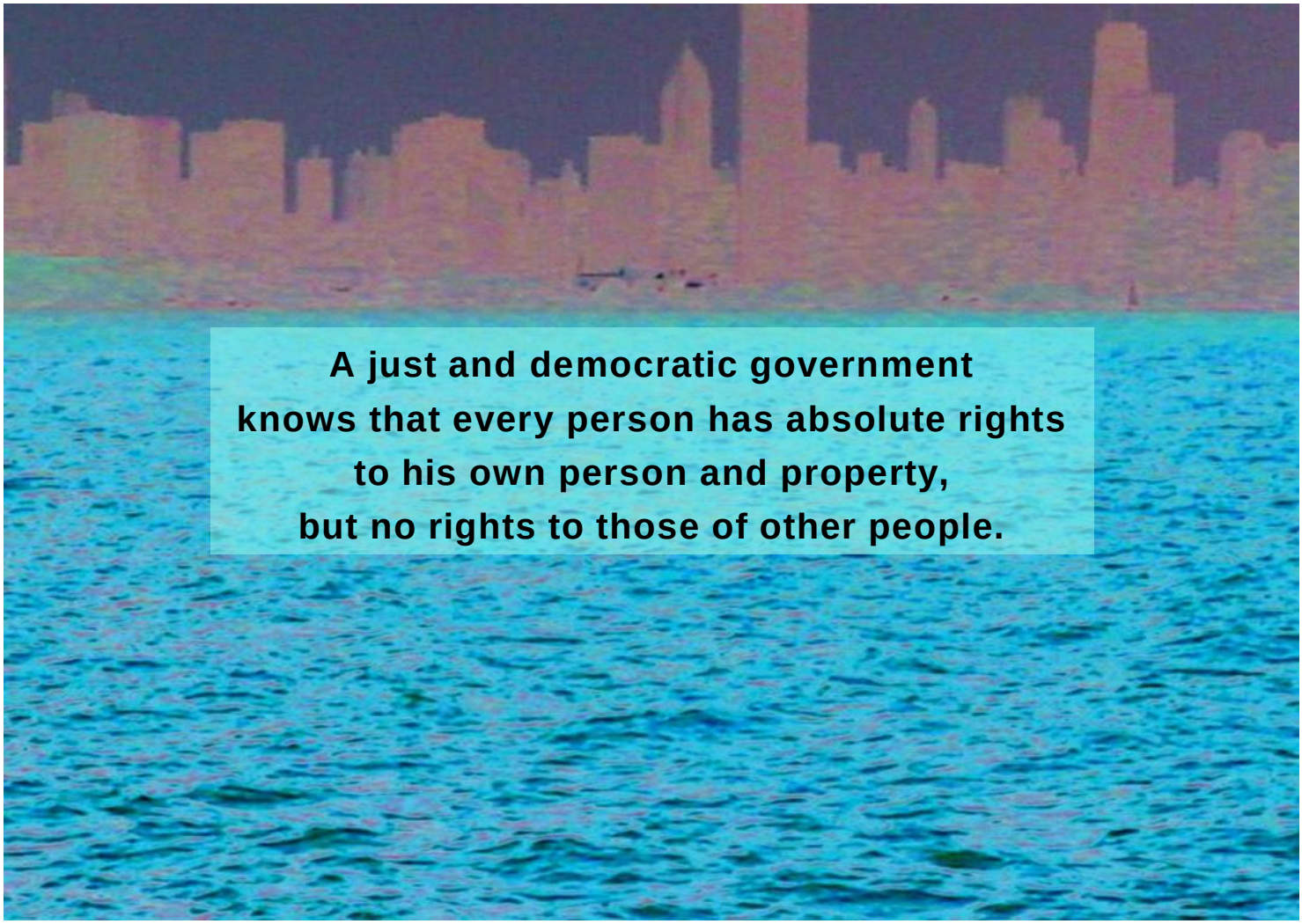


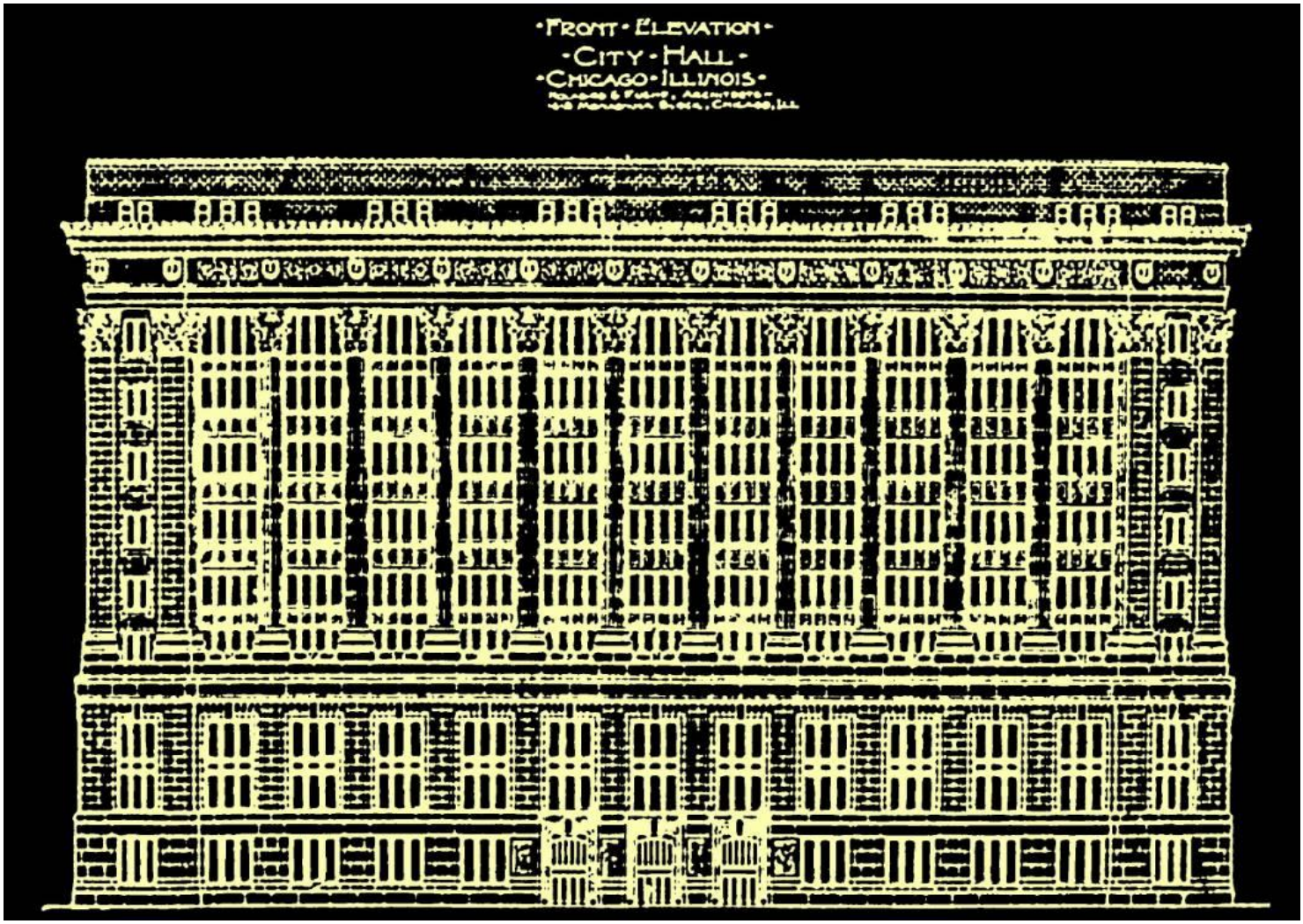






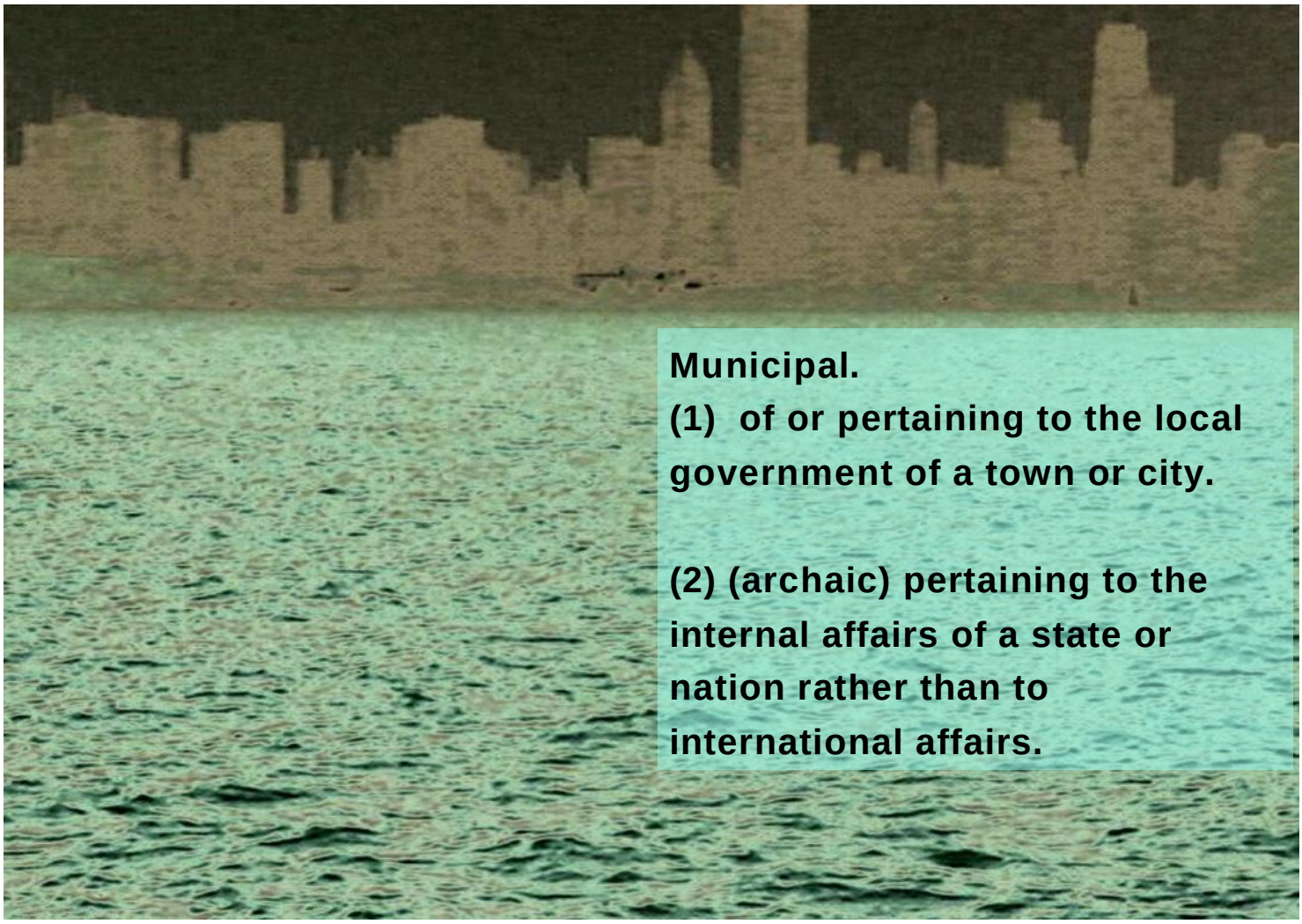






Chicago City Hall, 121 North LaSalle Street, Chicago, Cook County, IL (initial construction 1910, subsequent work 1958, 1972).
Historic American Buildings Survey #HABS IL-1128, Library of Congress, Prints and Photograph Division, Washington, D.C. 20540 USA

1. Hedrich-Blessing Ltd,photographer, 1981 (?), view from northwest corner of LaSalle and Randolph Streets
2. Hedrich-Blessing Ltd,photographer, 1981 (?), LaSalle St. entrances
3. View from Washington St. showing portion of Richard J. Daley Civic Center and plaza,City Hall to left
4. View of first floor lobby at LaSalle St. entrance, 1981 (?), courtesy of Graphics and Reproduction Center,City of Chicago
5. Council Chamber,1981 (?),courtesy of Graphics and Reproduction Center,City of Chicago
6. Mayor's office,1981 (?),courtesy of Graphics and Reproduction Center,City of Chicago
7. Architect's rendering,LaSalle,Washington,Clark and Randolph Streets, Courtesy of Jerome R. Butler,FAIA,Commissioner of Public Works,chicago
8. Drawing,front elevation, published in 'The New York Architect', Vol. 3,October 1909,page unknown,courtesy of the Art Institute of Chicago
9. First floor plan,published in 'Architectural Record',Vol 31,No. 4, April 1912,p 356,courtesy of the Art Institute of Chicago,permission to duplicate courtesy of'Architectural Record'
10. Fifth floor plan,published in 'Architectural Record',Vol 31,No. 4, April 1912,p. 356 (?),courtesy of Art Institute of Chicago, permission to duplicate courtesy of 'Architectural Record'
11. Narrow elevation of sixth (predecessor) Chicago City Hall,new county building in rear,August 18, 1908
12. Long and narrow elevations of sixth City Hall,August 18,1908
13. Roof of sixth city hall,new county building visible,
14. Elevated view of sixth city hall,new county building visible
15. Demolition of sixth city hall,showing upper stories of new county building,Oct. 5,1908
16. Demolition of sixth city hall,showing crane mounted on railroad ,and upper stories of new county building
17. Demolition,elevated view,showing new county building
18. Demolition,down to first floor,showing new county building
19. Demolition,detail showing columns,wall details,and new county building, Oct. 16,1908
20. Demolition showing first and second floors,Oct. 14,1908



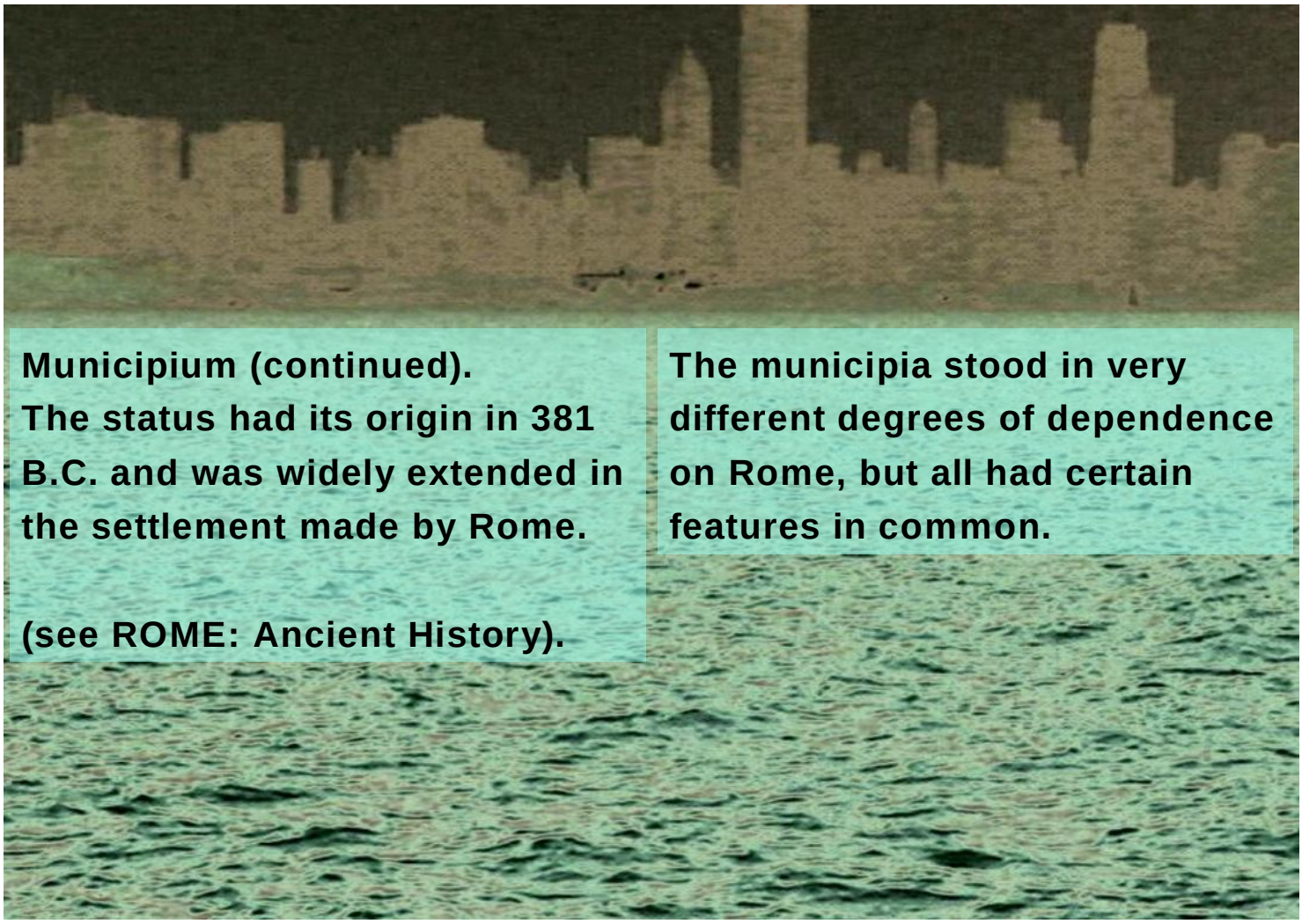
Municipal (page 941). in Stein, Jess (Editor in Chief). The Random House Dictionary of the English Language. New York: Random House (1967).

(continued from previous slide)
21. Demolition down to ground floor,showing skylights and upper stories of new county building,Nov. 17.1908
22. Workmen clearing debris
23. Demolition down to basement,showing skylights,facade and lower stories of new county building,Nov. 28,1908
24. Demolition,showing debris being conveyed to horse-drawn carts,and edge of new county building visible,Nov. 28,1908
25. Demolition,showing steam powered railroad crane
26. Demolition site,showing new county building,Dec. 1,1908
27. Detail of foundations
28. Shoring site for new construction,good view of new county building, Jan. 12,1909
29. Pouring caissons,date Jan. 12,1909 appears on negative
30. Close-up of platforms for pouring caissons,Jan. 18,1909
31. Demolition in foreground,caissons being poured in background,county building to right,Feb. 22,1909
32. Concrete mixer,Feb. 22,1909
33. Hoist,Feb. 22,1909
34. Caisson tubes in place,county building visible in upper right,Ap. 14,190
35. Caisson tubes and metal caps,county bldg visible to right,Ap.15,1909
36. Close-up of caisson,county bldg in background,Ap. 15,1909
37. First floor skeleton erected,county bldg in background
38. Elevated view showing first and second floors,county bldg visible
39. Third floor of skeleton being erected,upper stories of county bldg visi
40. Detail of upper floor skeleton

amaxgraph (photographer). Municipio Sassacorvaro, Marcha, Italy. 2008 July 27.
Found at www.flickr.com/photos/24437979@N08/2800256429

(continued from previous slide)
41. Ground level photograph of two floors of skeleton complete with 3rd and 4th floors being started,upper floors of county bldg visible
42. Ground level photograph showing skeleton completed through 4th floor
43. Elevated view showing work beginning on 5th floor skeleton
44. Cornerstone ceremony,July 20,1909
45. Cornerstone ceremony,elevated view
46. Cornerstone flanked by men,July 9,1909
47. Construction up to 8th floor, some cladding on first floor, August 4,1909
48. Construction up to 8th floor,August 11,1909
49. Substantial amount of cladding on first floor,county bldg in background August 24,1909
50. Another corner of construction and county building in rear,Aug. 24,1909
51. Photograph dated Sept. 13,1909
52. Photograph dated Oct. 3,1909
53. Photograph dated Dec. 1,1909
54. Photograph dated Dec. 21,1909
55. Photograph dated Feb. 10,1910
56. Photograph dated March 15,1910
57. Cladding nearly completed,date obstructed
58. Workmen and others on roof,topping off ceremony (?)

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).



Municipium (continued).
The status had its origin in 381 B.C. and was widely extended in the settlement made by Rome.

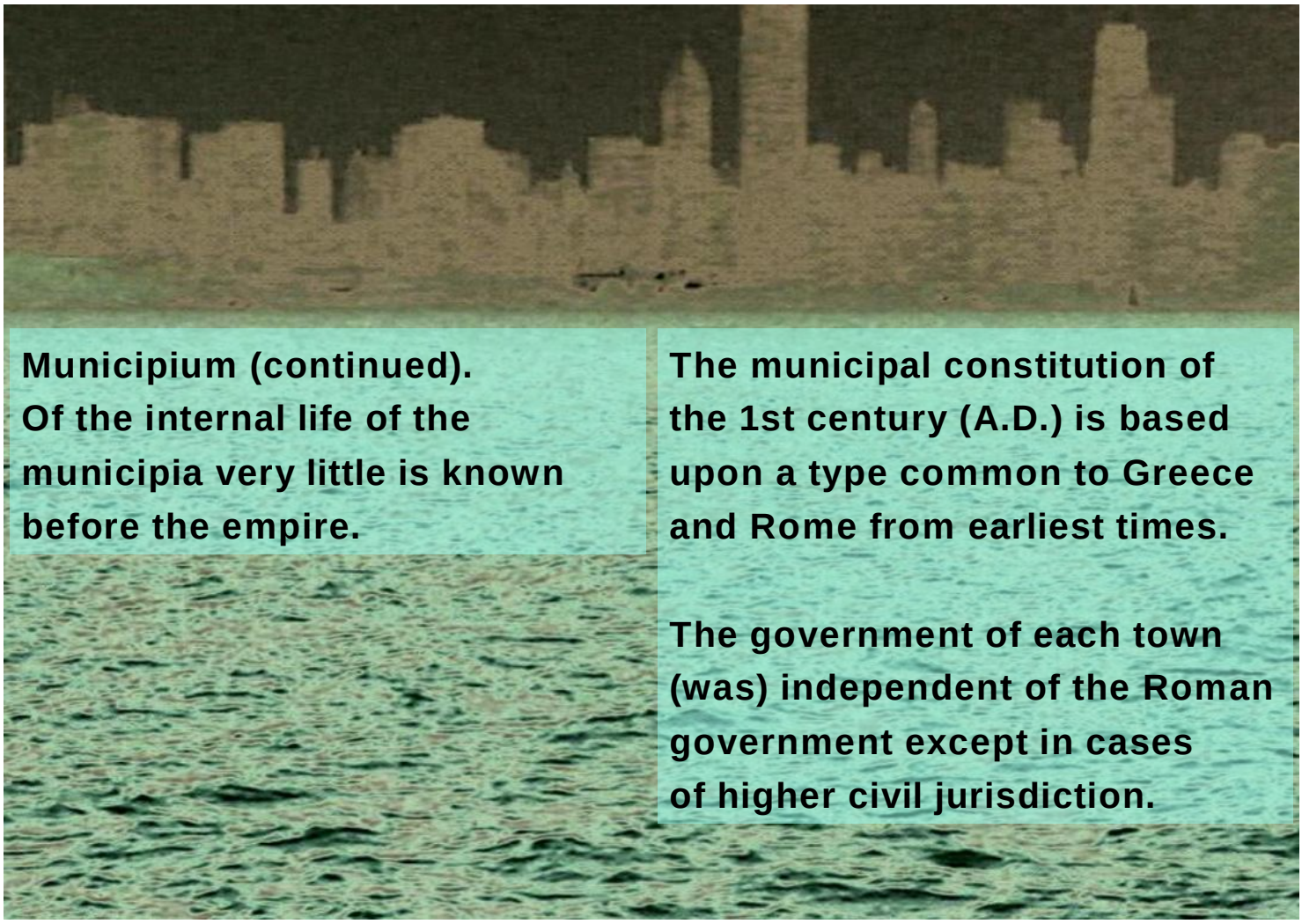
(see ROME: Ancient History).

The municipia stood in very different degrees of dependence on Rome, but all had certain features in common.

Municipium (continued).
Their citizens were called upon to pay the same dues and perform the same service in the legions as full Roman citizens ...

But had not the right of voting in the comitia (ius suffragii) or of holding Roman magistracies (ius honorum).

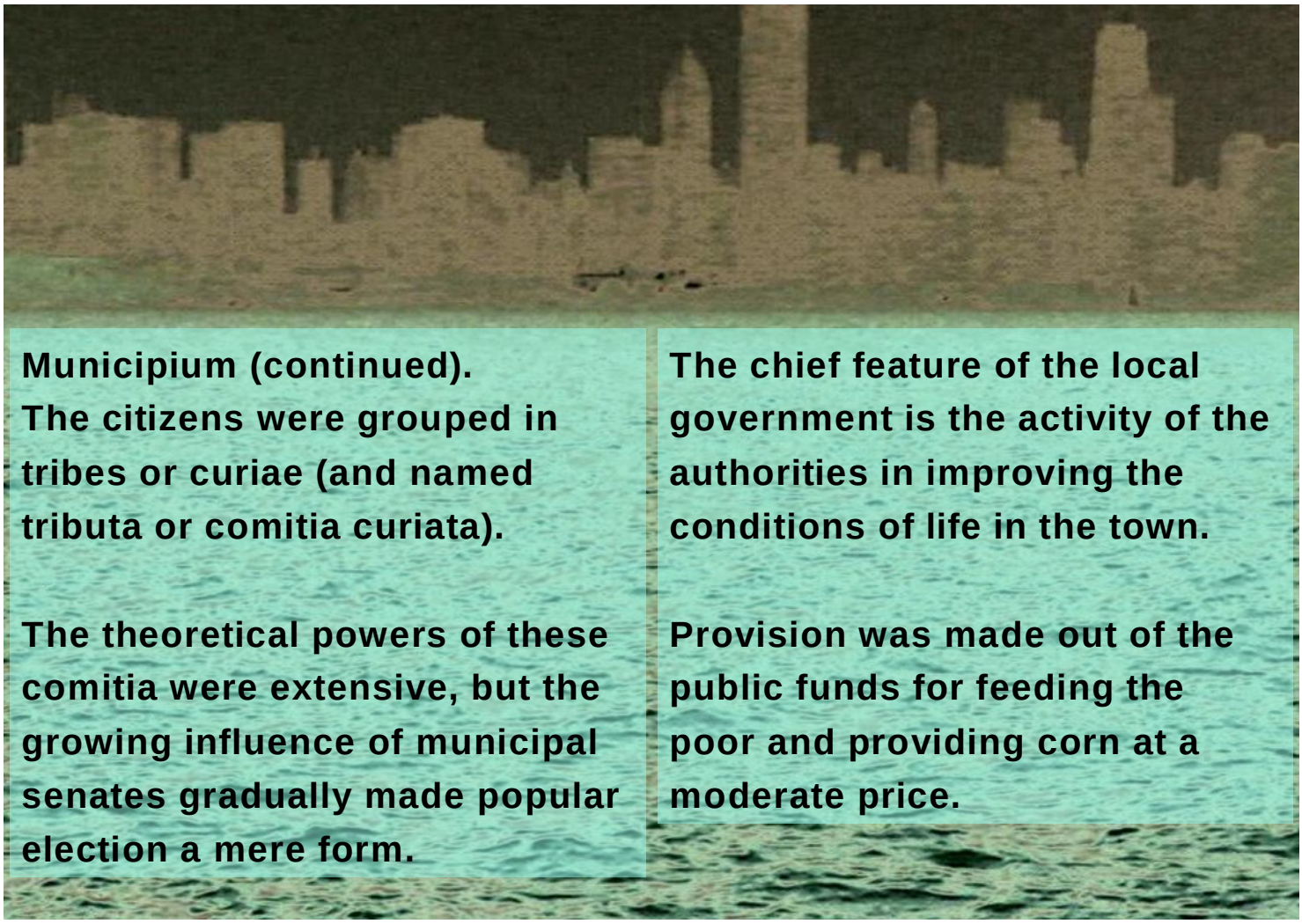
Municipium must therefore have been more a burden than a privilege.



Municipium (continued).
Of the internal life of the municipia very little is known before the empire.

The municipal constitution of the 1st century (A.D.) is based upon a type common to Greece and Rome from earliest times.

The government of each town (was) independent of the Roman government except in cases of higher civil jurisdiction.

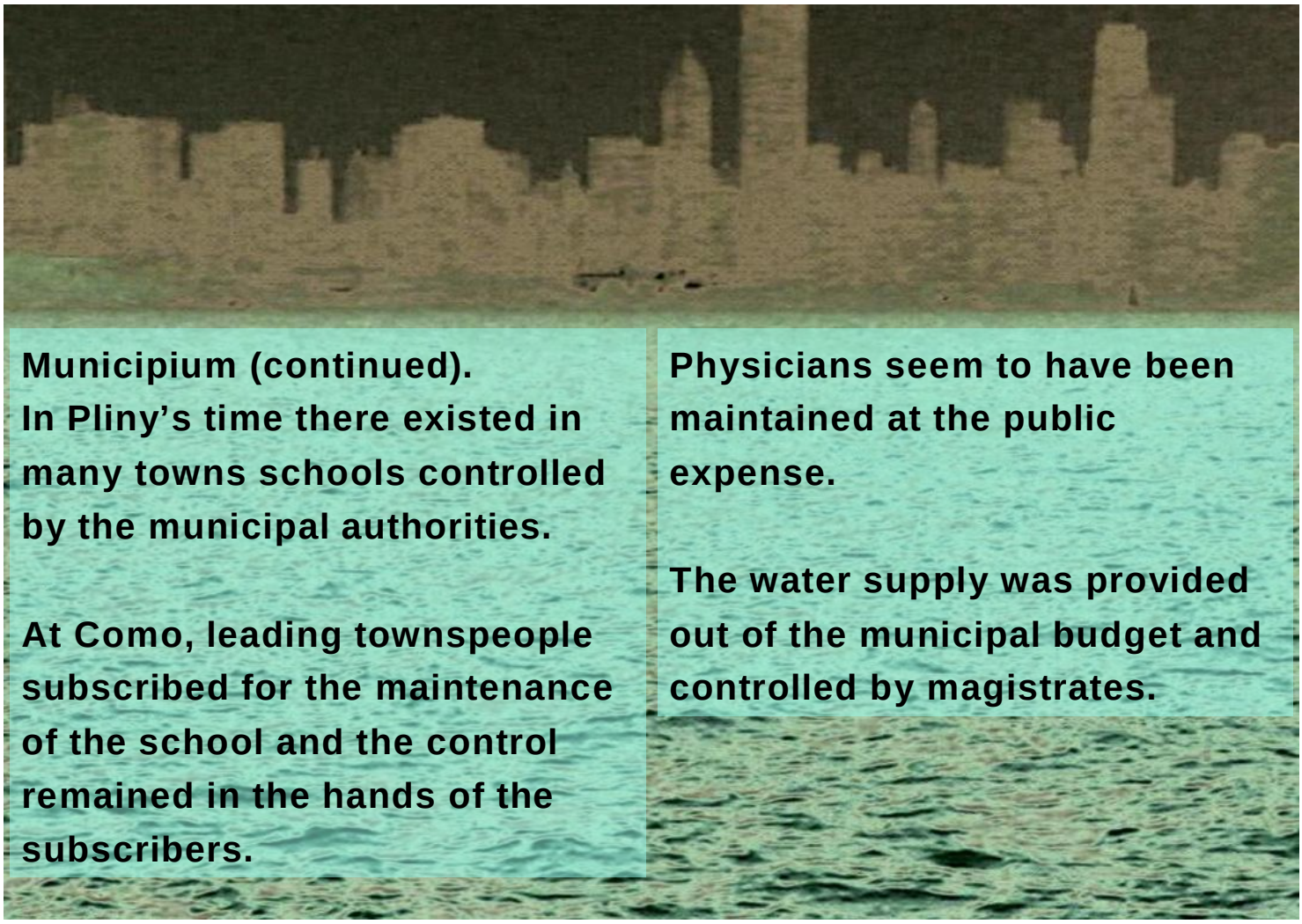


Municipium (continued).
The citizens were grouped in tribes or curiae (and named tributa or comitia curiata).

The theoretical powers of these comitia were extensive, but the growing influence of municipal senates gradually made popular election a mere form.

The chief feature of the local government is the activity of the authorities in improving the conditions of life in the town.

Provision was made out of the public funds for feeding the poor and providing corn at a moderate price.

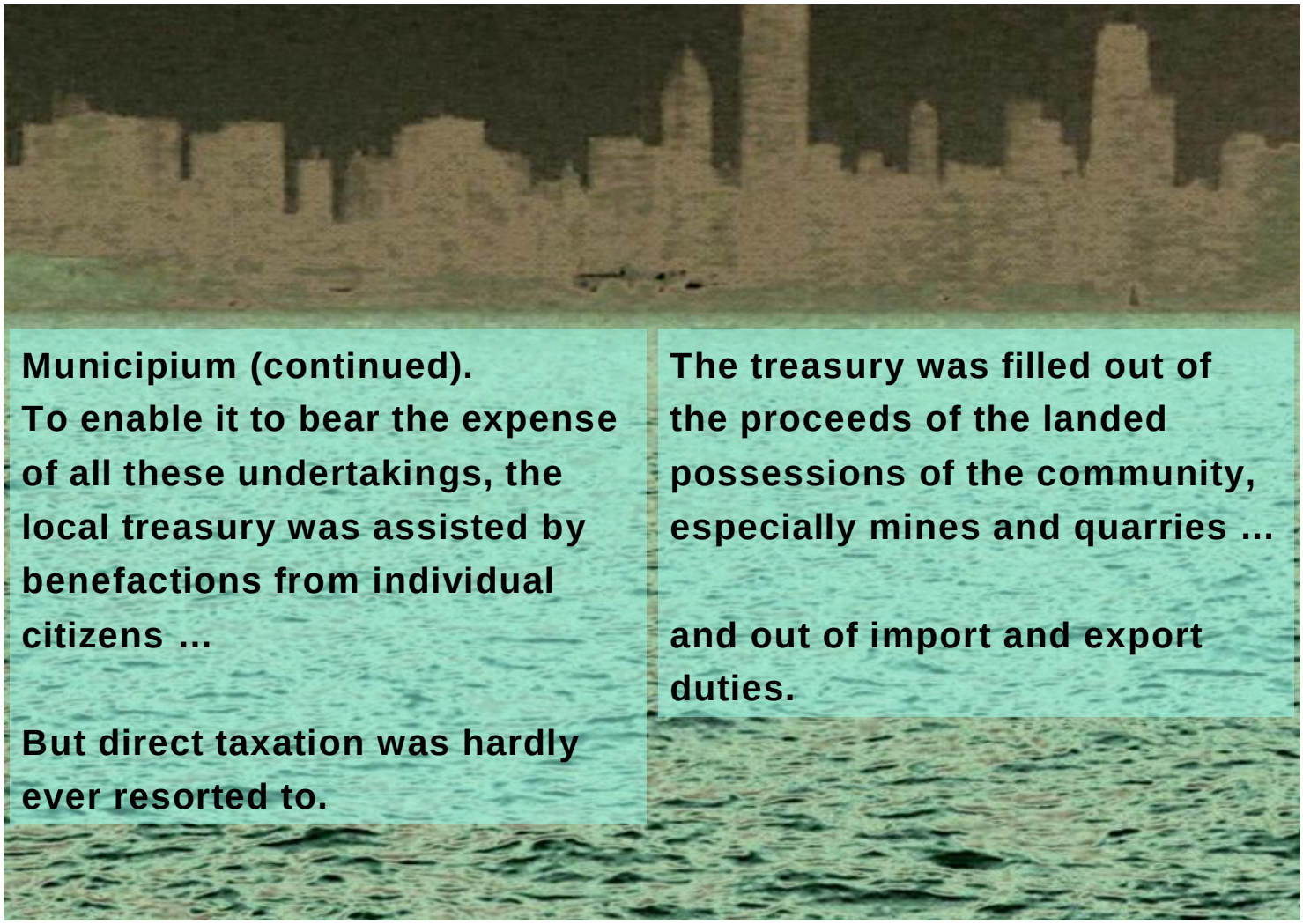


Municipium (continued).
In Pliny's time there existed in many towns schools controlled by the municipal authorities.

At Como, leading townspeople subscribed for the maintenance of the school and the control remained in the hands of the subscribers.

Physicians seem to have been maintained at the public expense.

The water supply was provided out of the municipal budget and controlled by magistrates.

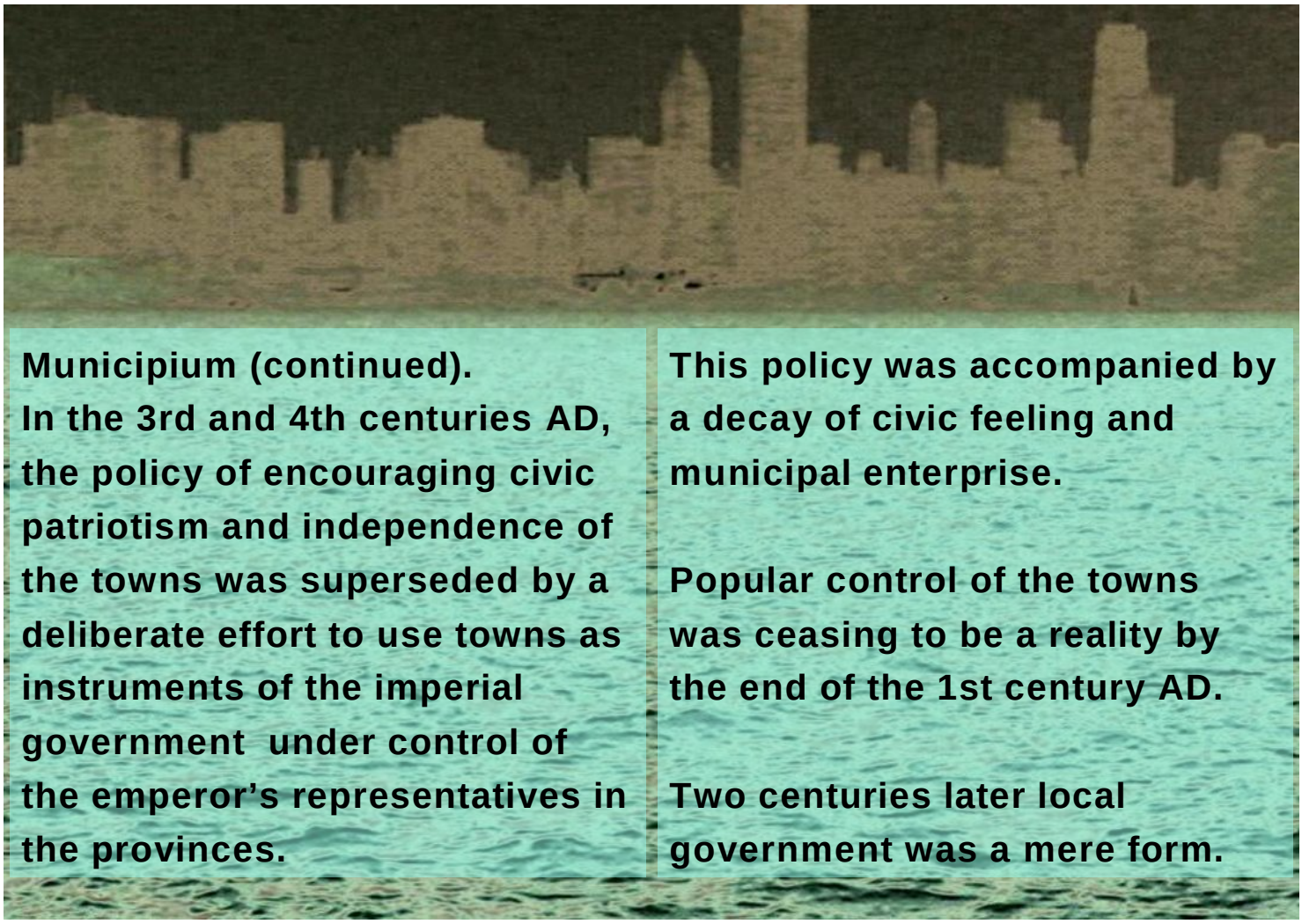


Municipium (continued).
To enable it to bear the expense of all these undertakings, the local treasury was assisted by benefactions from individual citizens ...

But direct taxation was hardly ever resorted to.

The treasury was filled out of the proceeds of the landed possessions of the community, especially mines and quarries ...

and out of import and export duties.



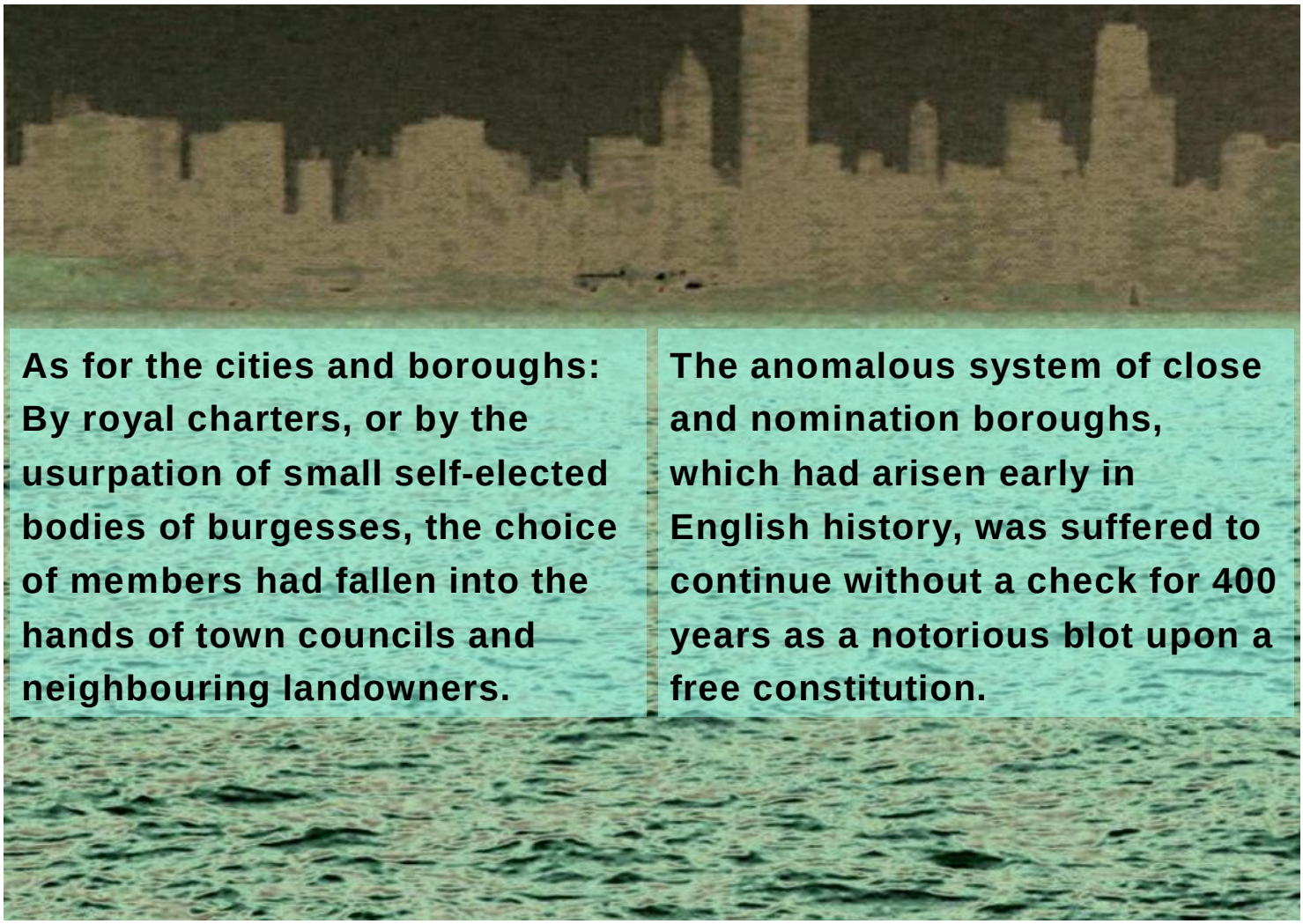
Municipium (continued).
In the 3rd and 4th centuries AD, the policy of encouraging civic patriotism and independence of the towns was superseded by a deliberate effort to use towns as instruments of the imperial government under control of the emperor's representatives in the provinces.

This policy was accompanied by a decay of civic feeling and municipal enterprise.

Popular control of the towns was ceasing to be a reality by the end of the 1st century AD.

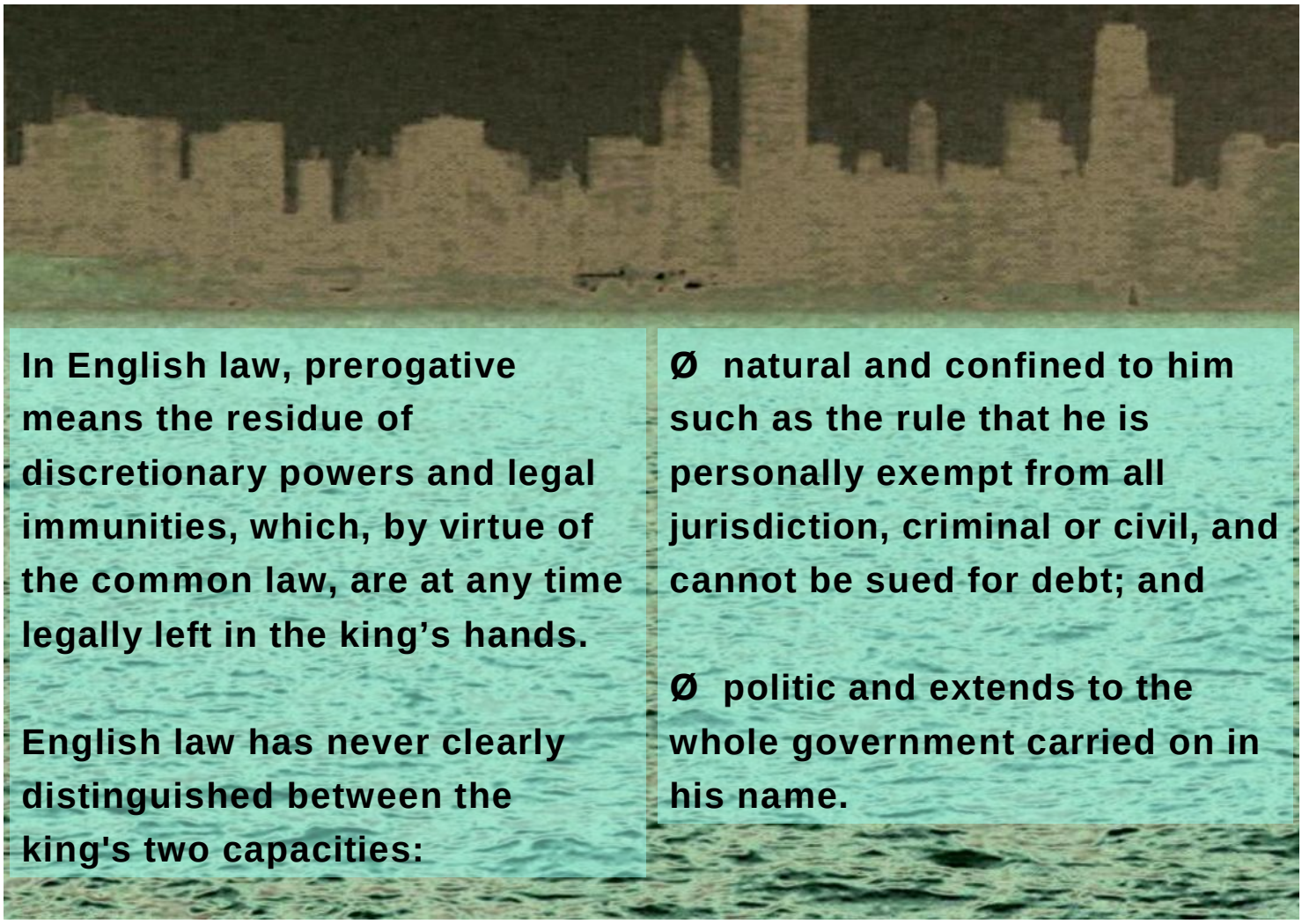
Two centuries later local government was a mere form.

The Indian at the bus stop (2008). Grant Park. Michigan Avenue at Randolph. Chicago, Illinois.



Faculties of the Universities of Chicago, Oxford, Cambridge & London. Parliament (p. 315). in Encyclopaedia Britannica (Volume 17: P to Planti). Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1957).

Miller, Olive Beaupre (1920). Buckingham Fountain (p. 432). in A Happy Day in the City. in Story Time: Part Two of In The Nursery of The Little Book House. Chicago: The Bookhouse for Children.

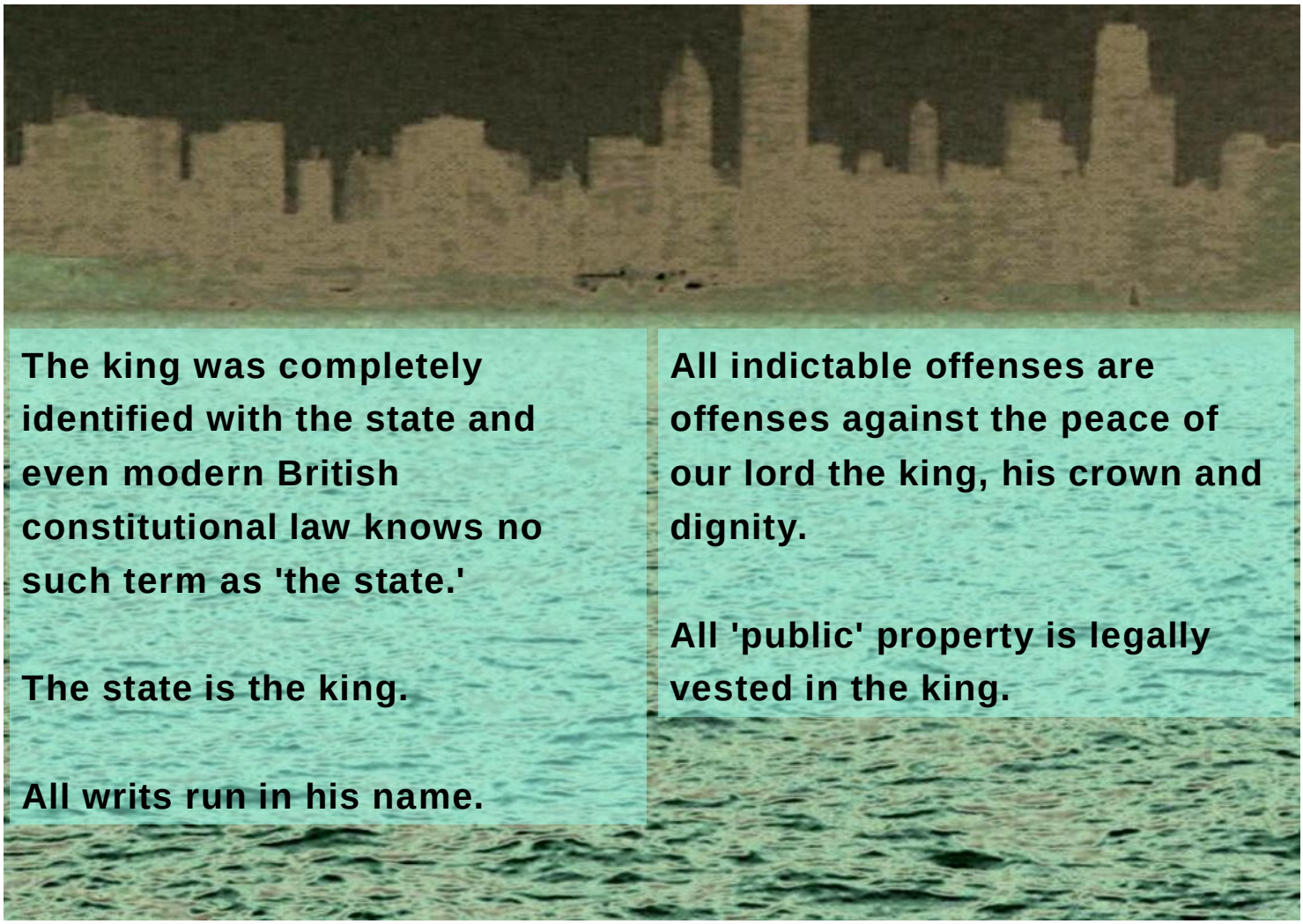


In English law, prerogative means the residue of discretionary powers and legal immunities, which, by virtue of the common law, are at any time legally left in the king's hands.

English law has never clearly distinguished between the king's two capacities:

- **natural and confined to him such as the rule that he is personally exempt from all jurisdiction, criminal or civil, and cannot be sued for debt; and**
- **politic and extends to the whole government carried on in his name.**

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Prerogative (p.438E). in Encyclopaedia Britannica Volume 18: Plants to Raymund of Tripoli. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).



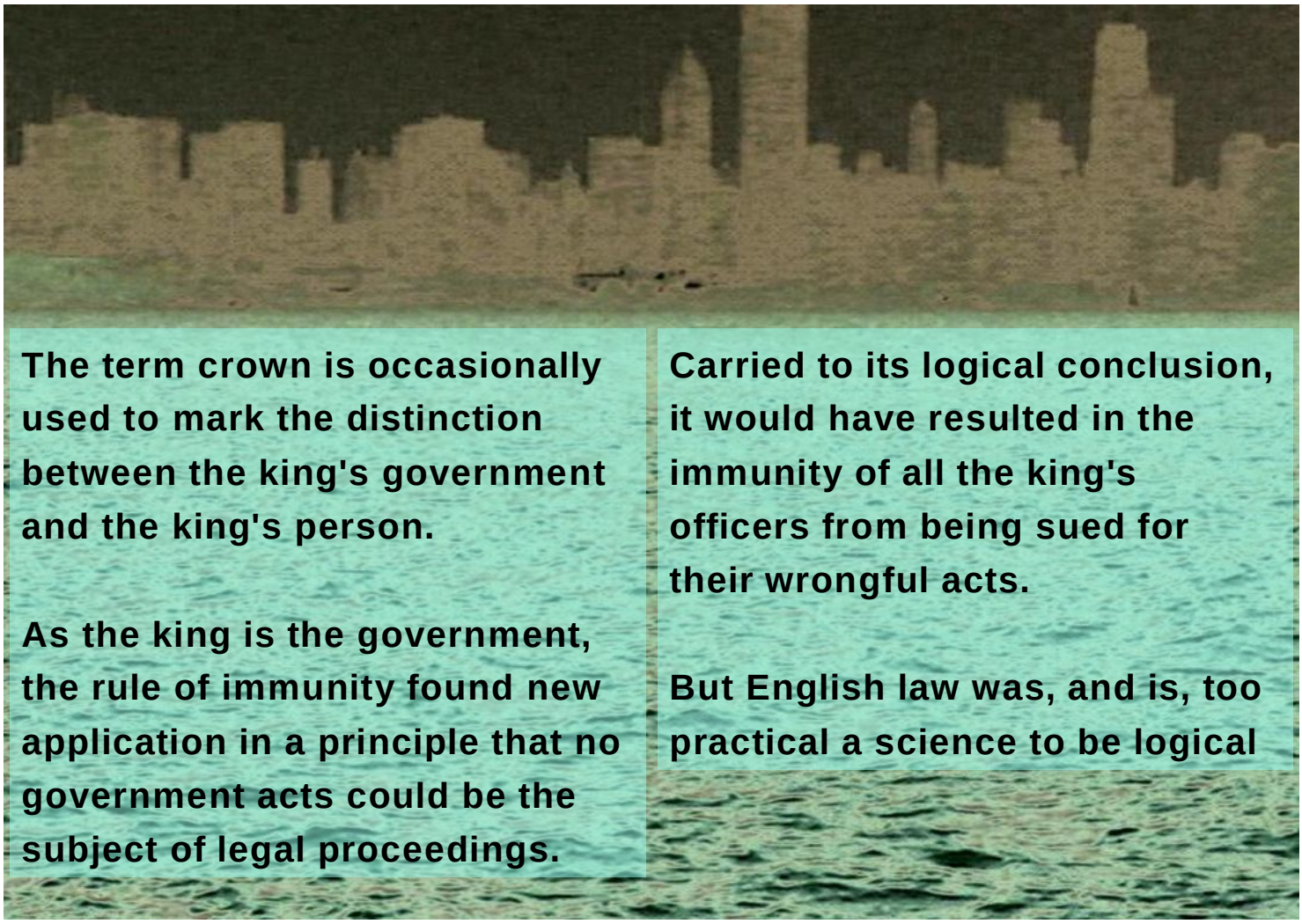
The king was completely identified with the state and even modern British constitutional law knows no such term as 'the state.'

The state is the king.

All writs run in his name.

All indictable offenses are offenses against the peace of our lord the king, his crown and dignity.

All 'public' property is legally vested in the king.



The term crown is occasionally used to mark the distinction between the king's government and the king's person.

As the king is the government, the rule of immunity found new application in a principle that no government acts could be the subject of legal proceedings.

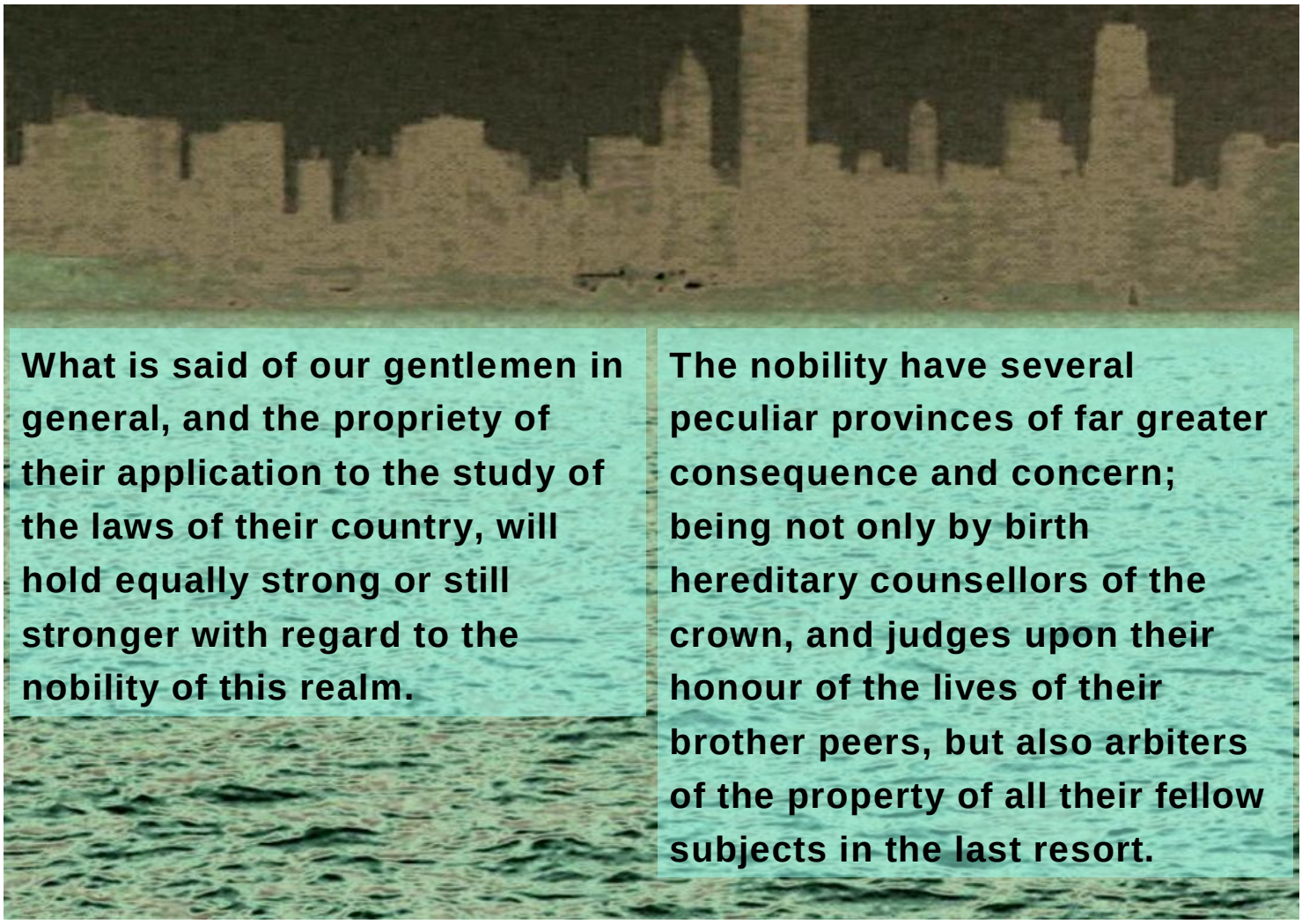
Carried to its logical conclusion, it would have resulted in the immunity of all the king's officers from being sued for their wrongful acts.

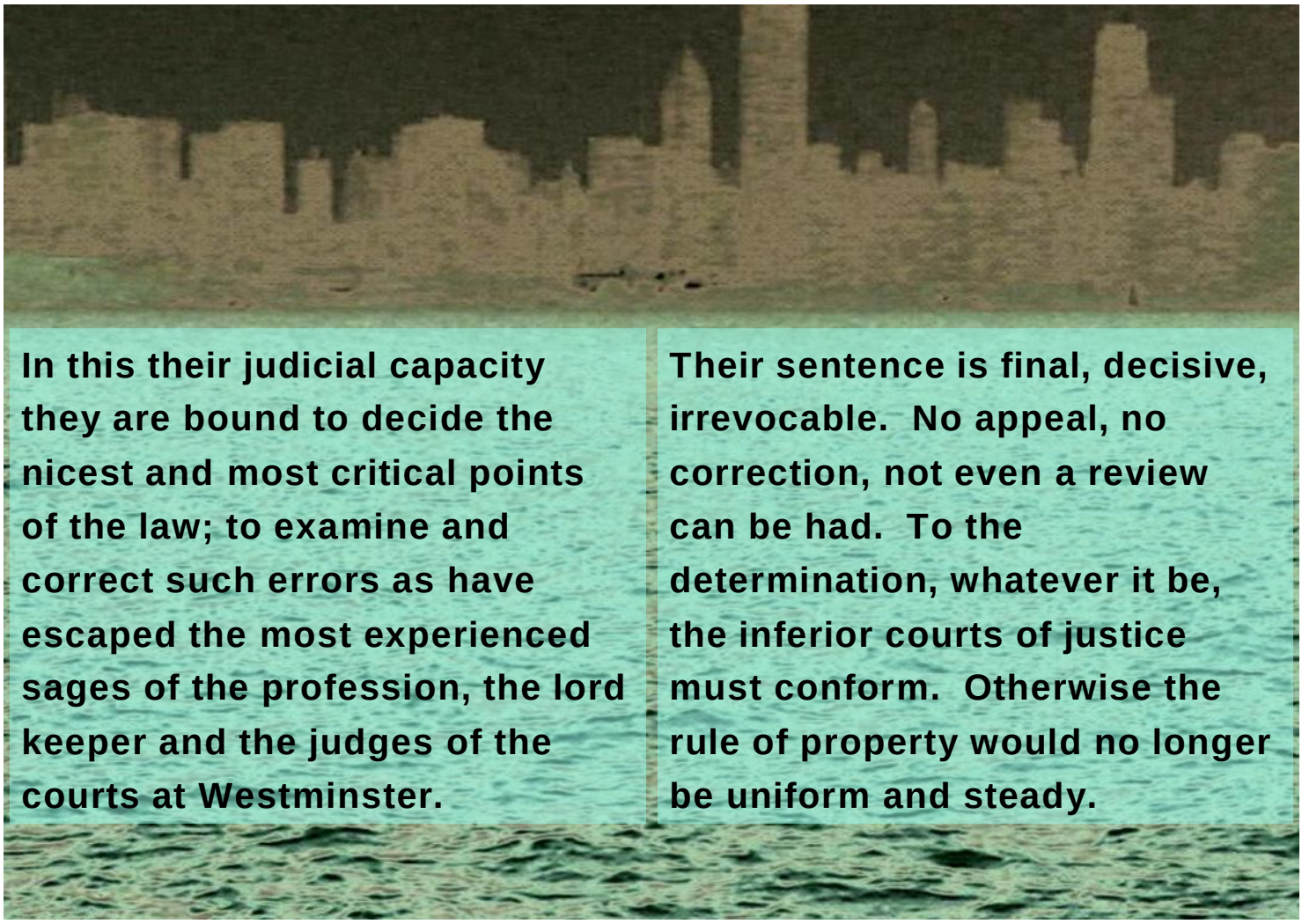
But English law was, and is, too practical a science to be logical

De Thulstup, T. (artist). Where Representative Politicians of All Parties Gather - A Scene in the Foyer of the Auditorium Hotel, Chicago, Illinois. Harper's Weekly (1896 October 31, 1896).

Found at www.printsoldandrare.com/chicago/220ch.jpg

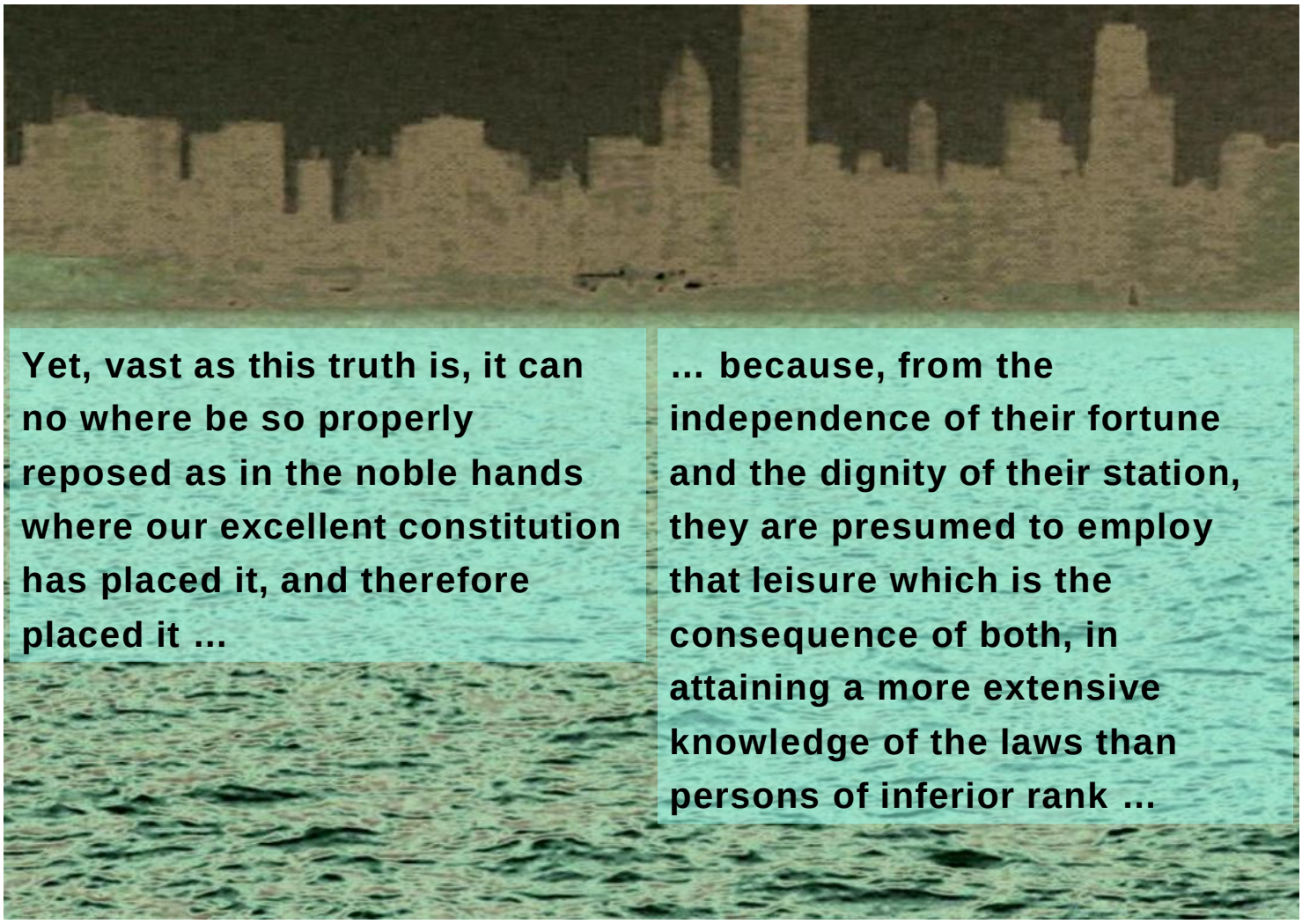
Blackstone, William (1765). Commentaries on the Laws of England. Vol.1 Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

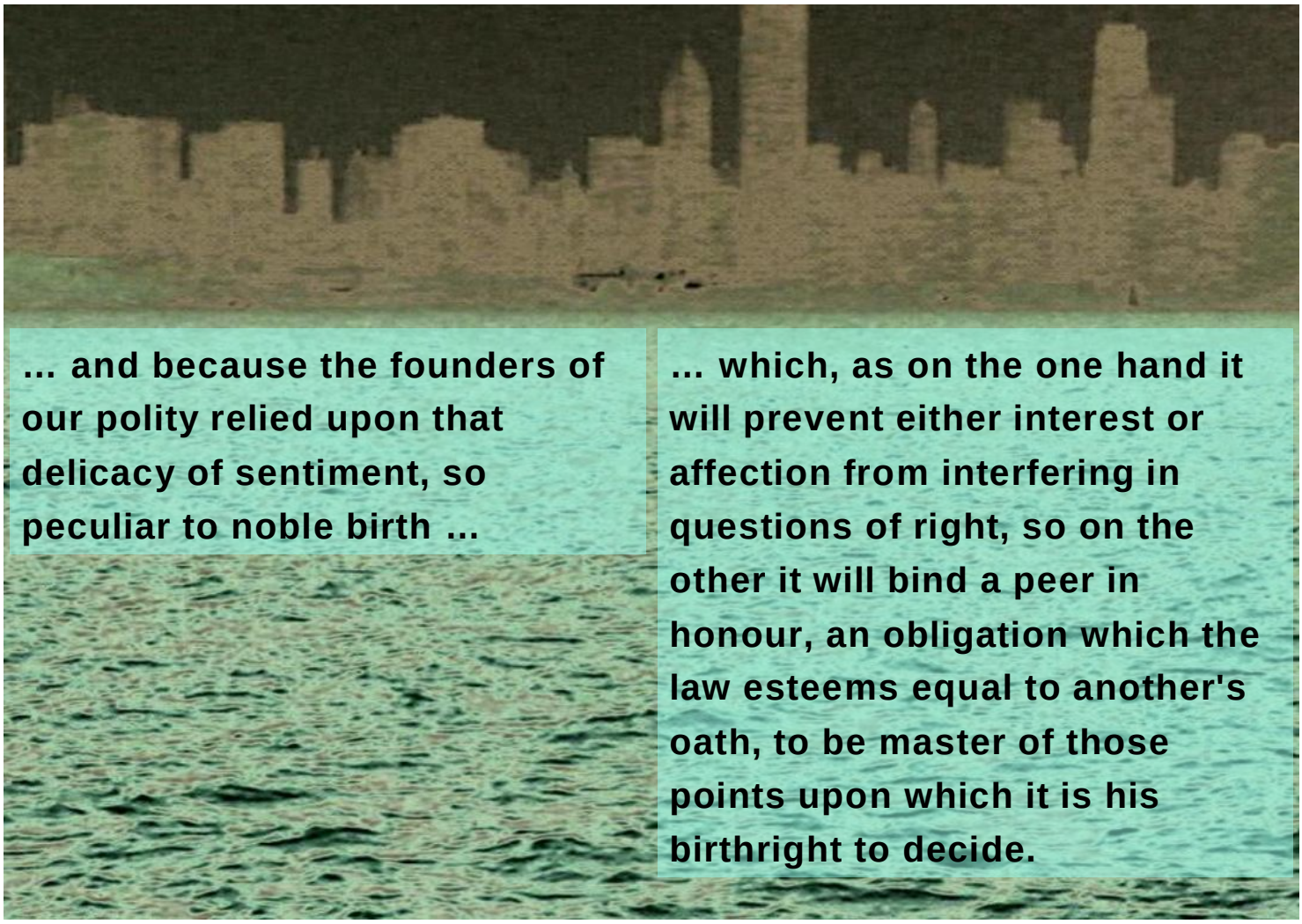


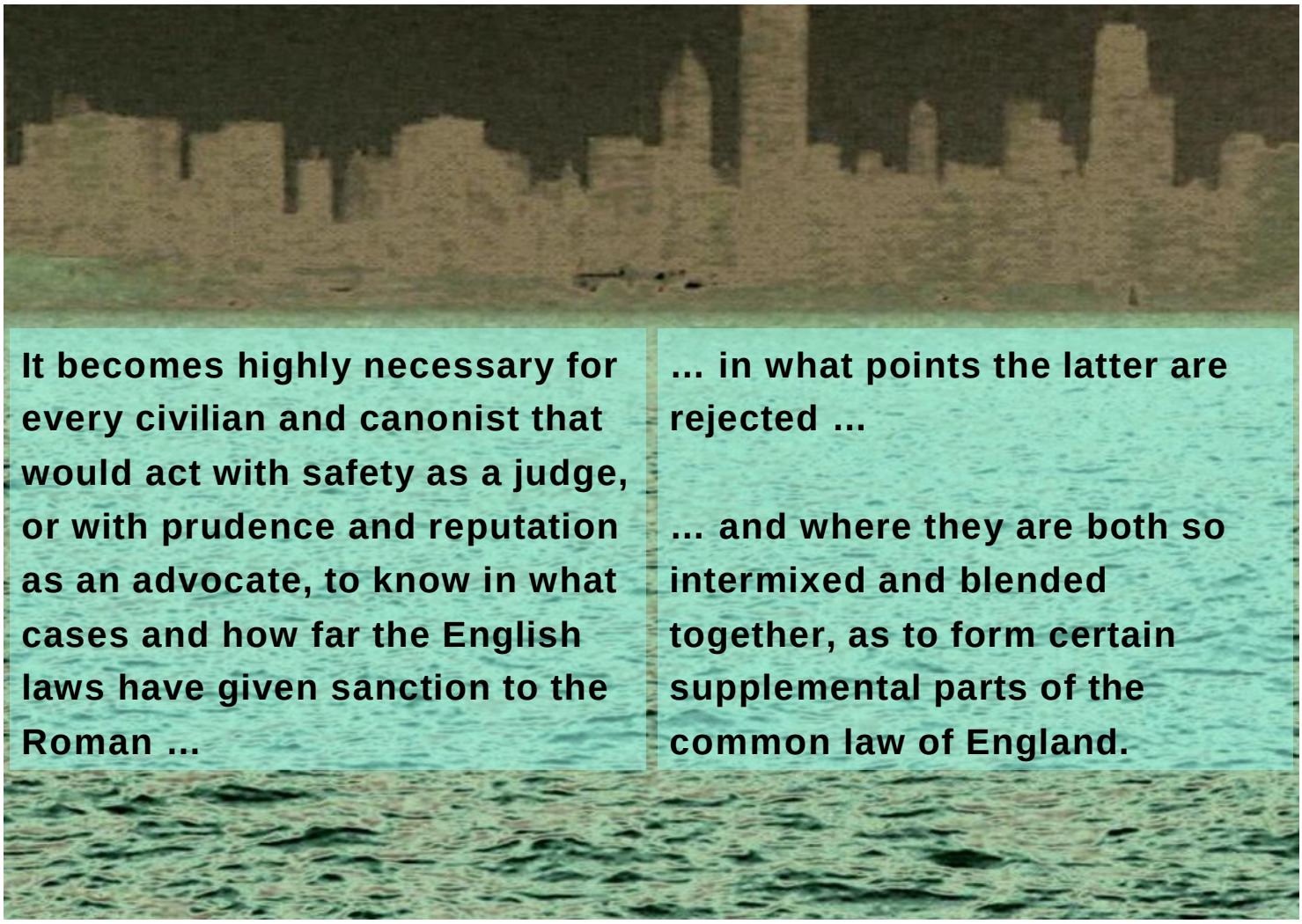


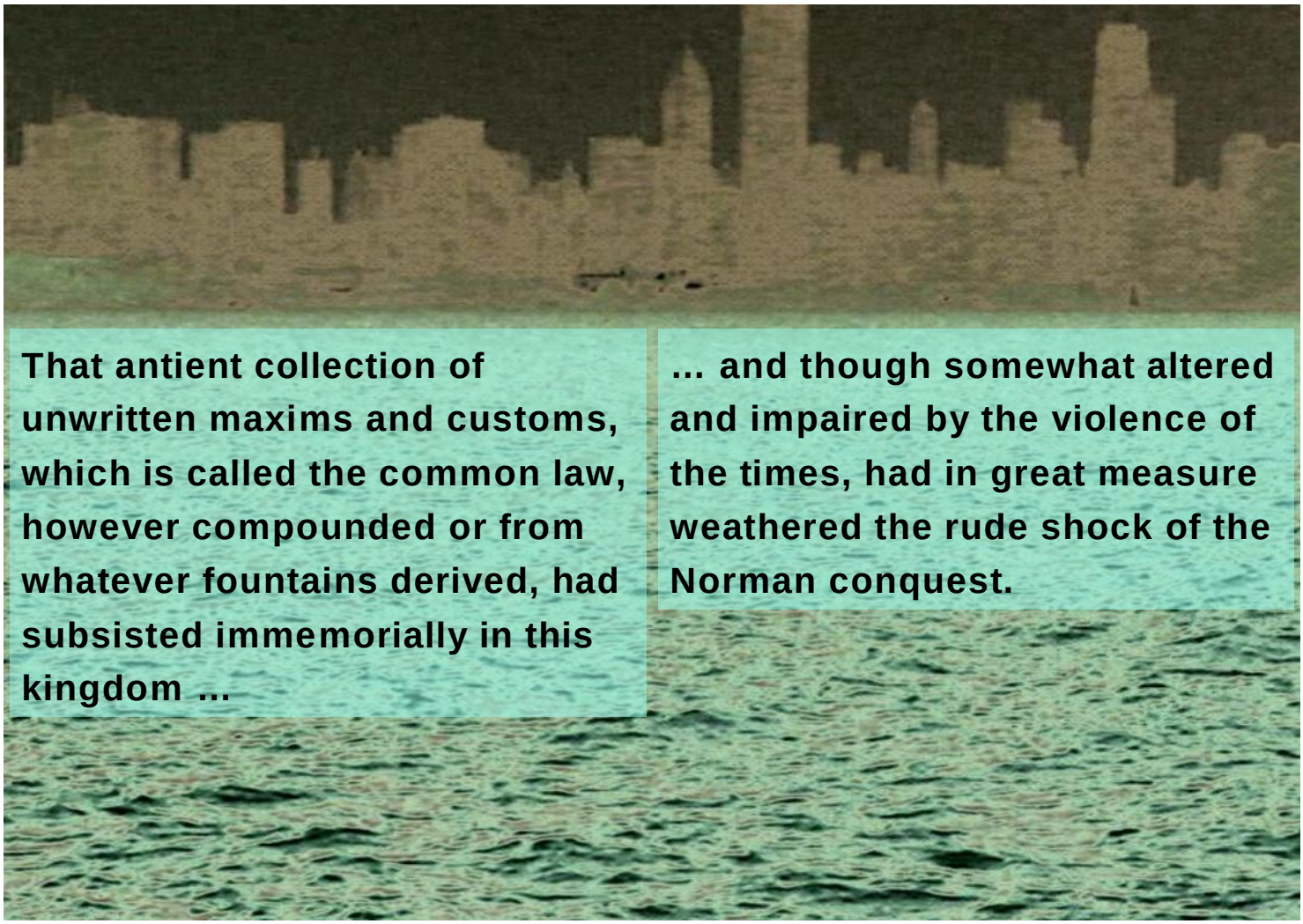
In this their judicial capacity they are bound to decide the nicest and most critical points of the law; to examine and correct such errors as have escaped the most experienced sages of the profession, the lord keeper and the judges of the courts at Westminster.

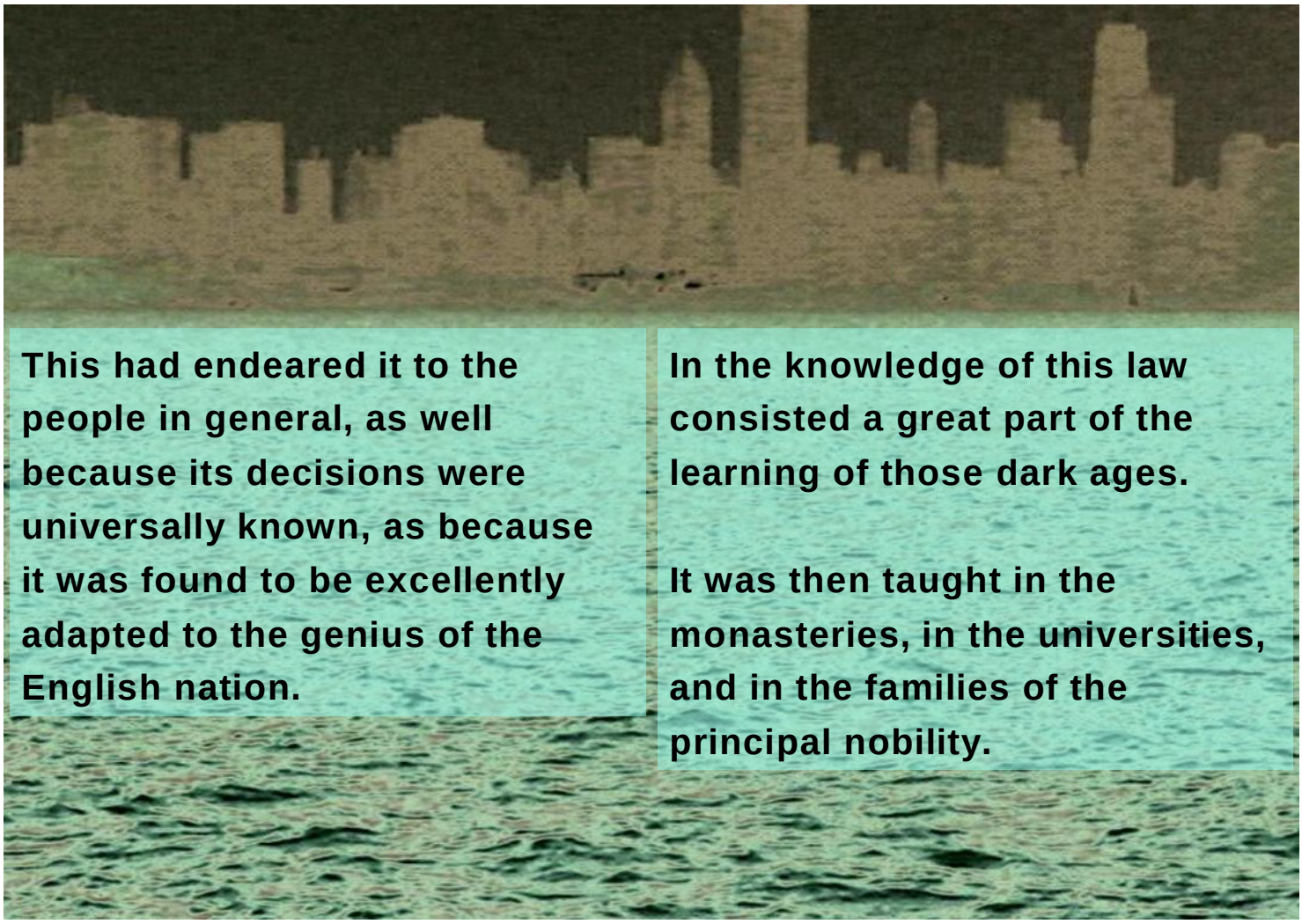
Their sentence is final, decisive, irrevocable. No appeal, no correction, not even a review can be had. To the determination, whatever it be, the inferior courts of justice must conform. Otherwise the rule of property would no longer be uniform and steady.







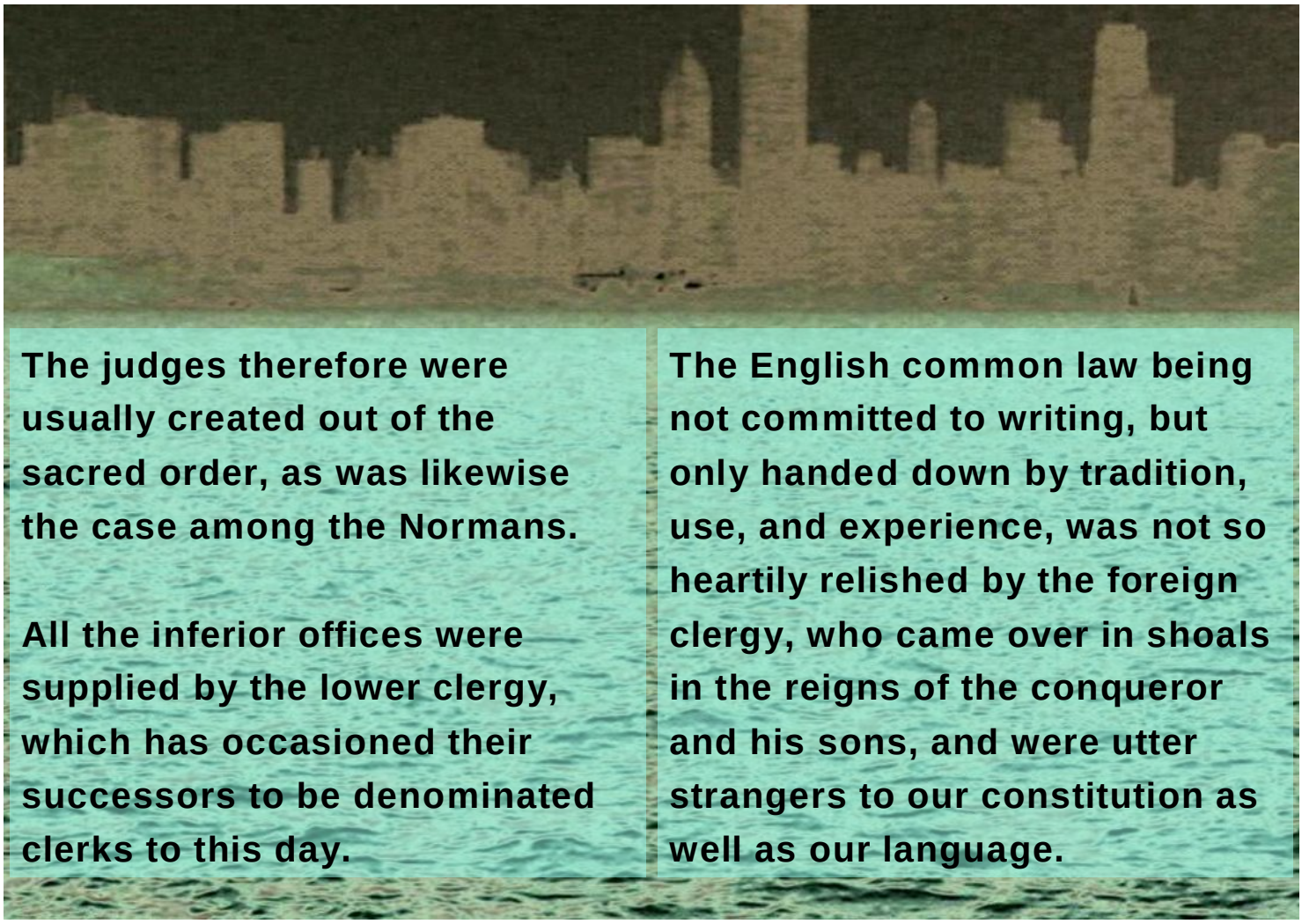




This had endeared it to the people in general, as well because its decisions were universally known, as because it was found to be excellently adapted to the genius of the English nation.

In the knowledge of this law consisted a great part of the learning of those dark ages.

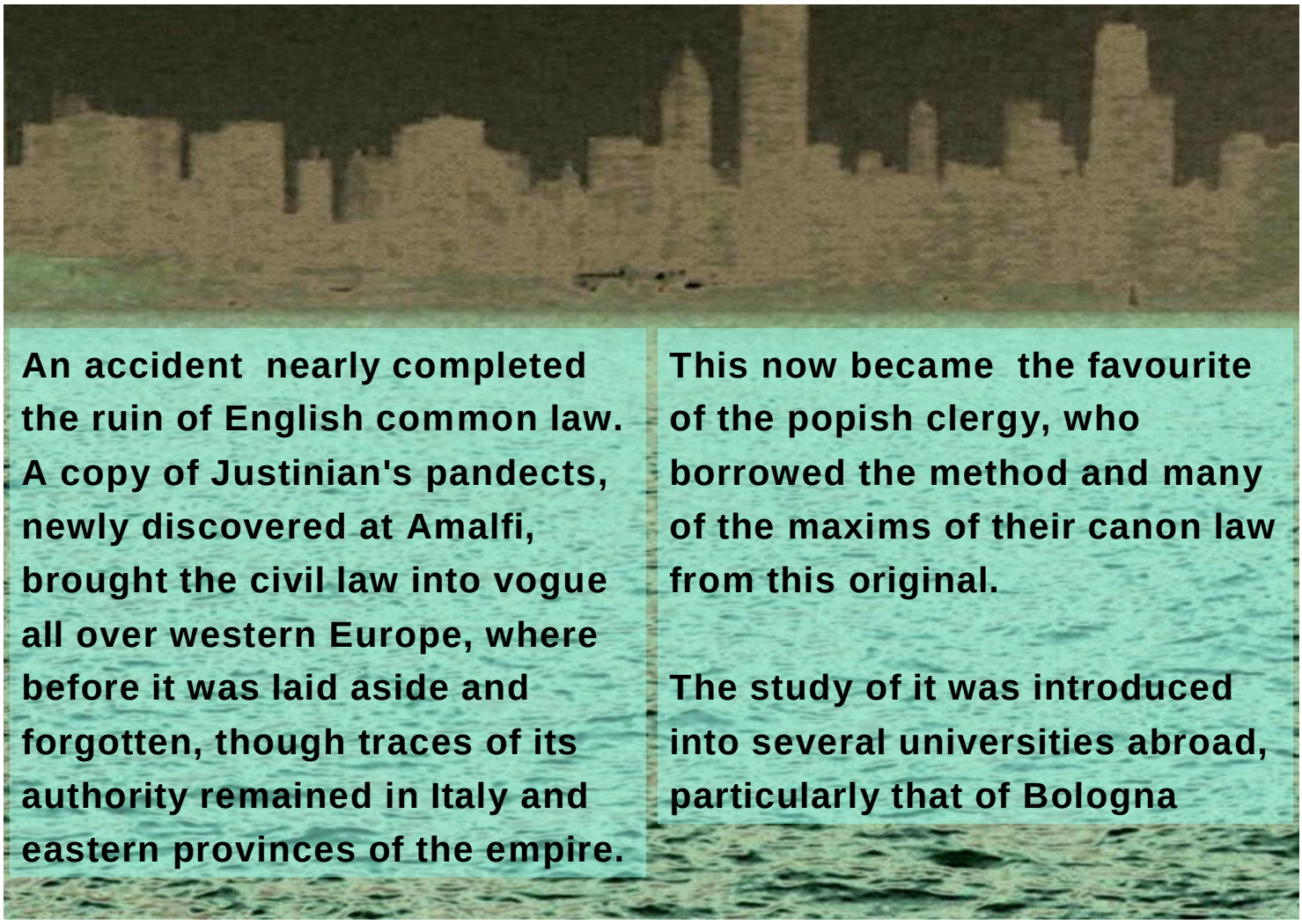
It was then taught in the monasteries, in the universities, and in the families of the principal nobility.



The judges therefore were usually created out of the sacred order, as was likewise the case among the Normans.

All the inferior offices were supplied by the lower clergy, which has occasioned their successors to be denominated clerks to this day.

The English common law being not committed to writing, but only handed down by tradition, use, and experience, was not so heartily relished by the foreign clergy, who came over in shoals in the reigns of the conqueror and his sons, and were utter strangers to our constitution as well as our language.



An accident nearly completed the ruin of English common law. A copy of Justinian's pandects, newly discovered at Amalfi, brought the civil law into vogue all over western Europe, where before it was laid aside and forgotten, though traces of its authority remained in Italy and eastern provinces of the empire.

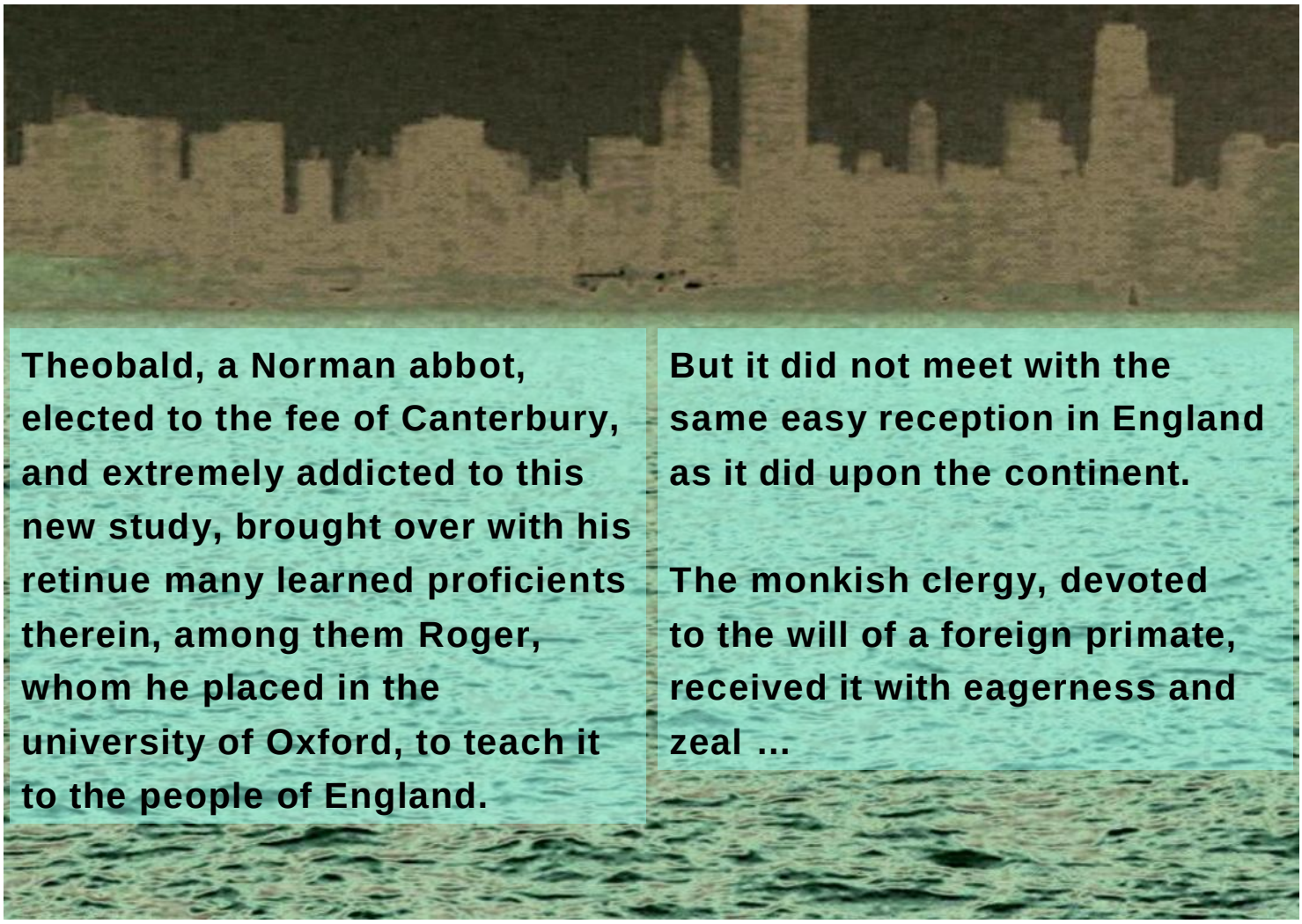
This now became the favourite of the popish clergy, who borrowed the method and many of the maxims of their canon law from this original.

The study of it was introduced into several universities abroad, particularly that of Bologna

Many nations on the continent, just then beginning to recover from convulsions consequent upon the overthrow of the Roman empire, and settling by degrees into peaceable forms of government, adopted the civil law as the basis of their several constitutions ...

... blending and interweaving it in their own feodal customs.

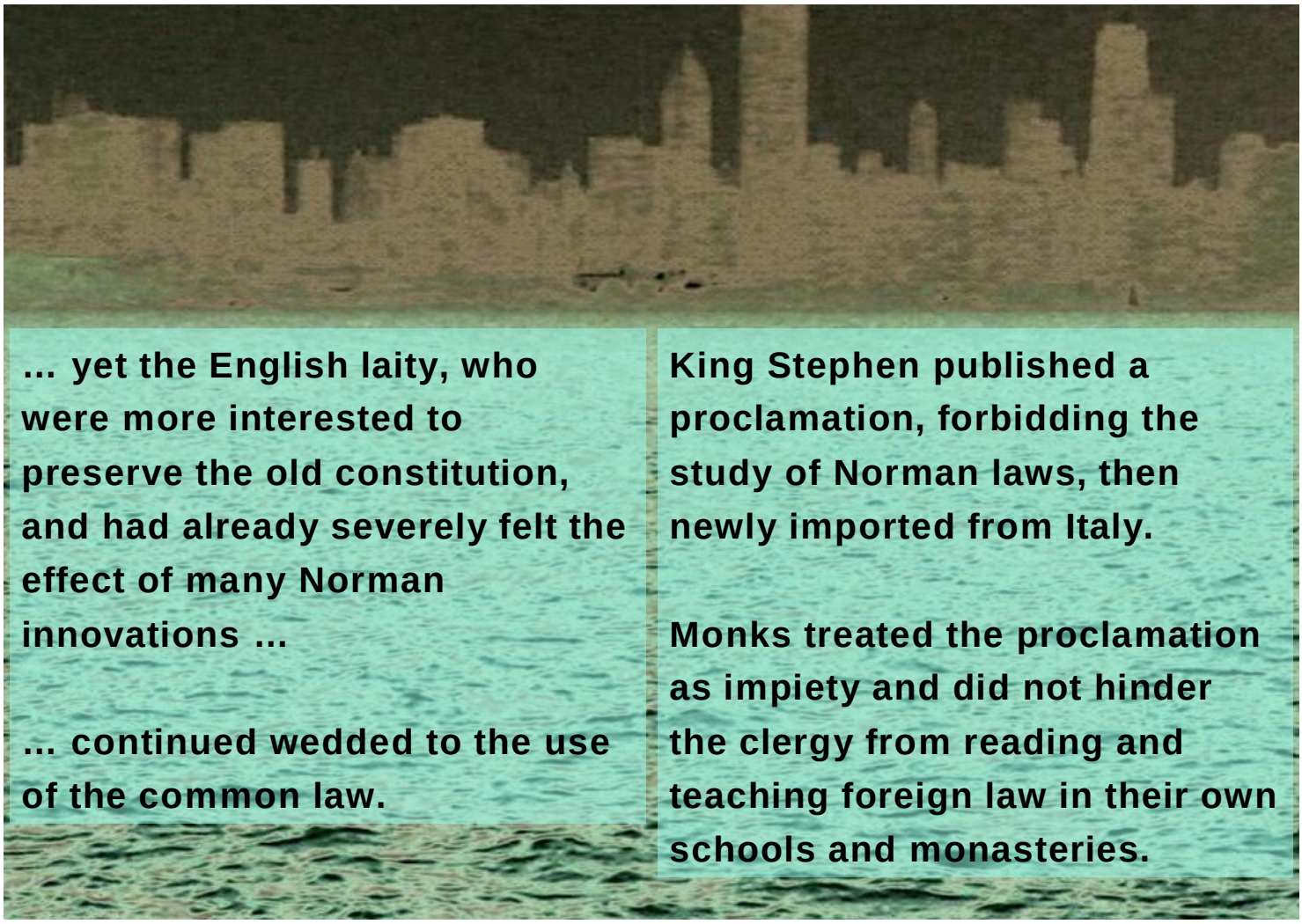
Nor was it long before the prevailing mode of the time reached England.



Theobald, a Norman abbot, elected to the fee of Canterbury, and extremely addicted to this new study, brought over with his retinue many learned proficients therein, among them Roger, whom he placed in the university of Oxford, to teach it to the people of England.

But it did not meet with the same easy reception in England as it did upon the continent.

The monkish clergy, devoted to the will of a foreign primate, received it with eagerness and zeal ...

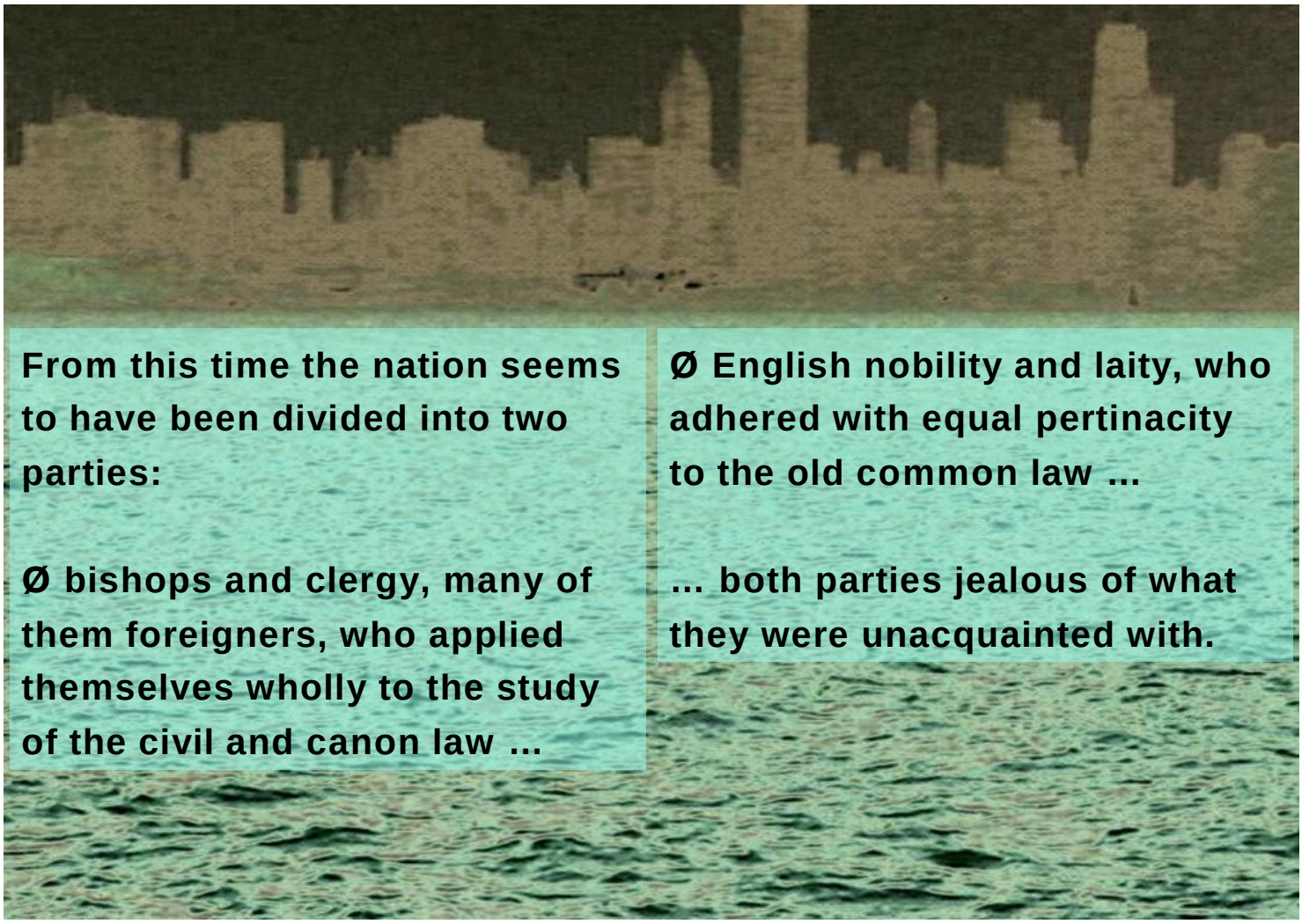


... yet the English laity, who were more interested to preserve the old constitution, and had already severely felt the effect of many Norman innovations ...

... continued wedded to the use of the common law.

King Stephen published a proclamation, forbidding the study of Norman laws, then newly imported from Italy.

Monks treated the proclamation as impiety and did not hinder the clergy from reading and teaching foreign law in their own schools and monasteries.

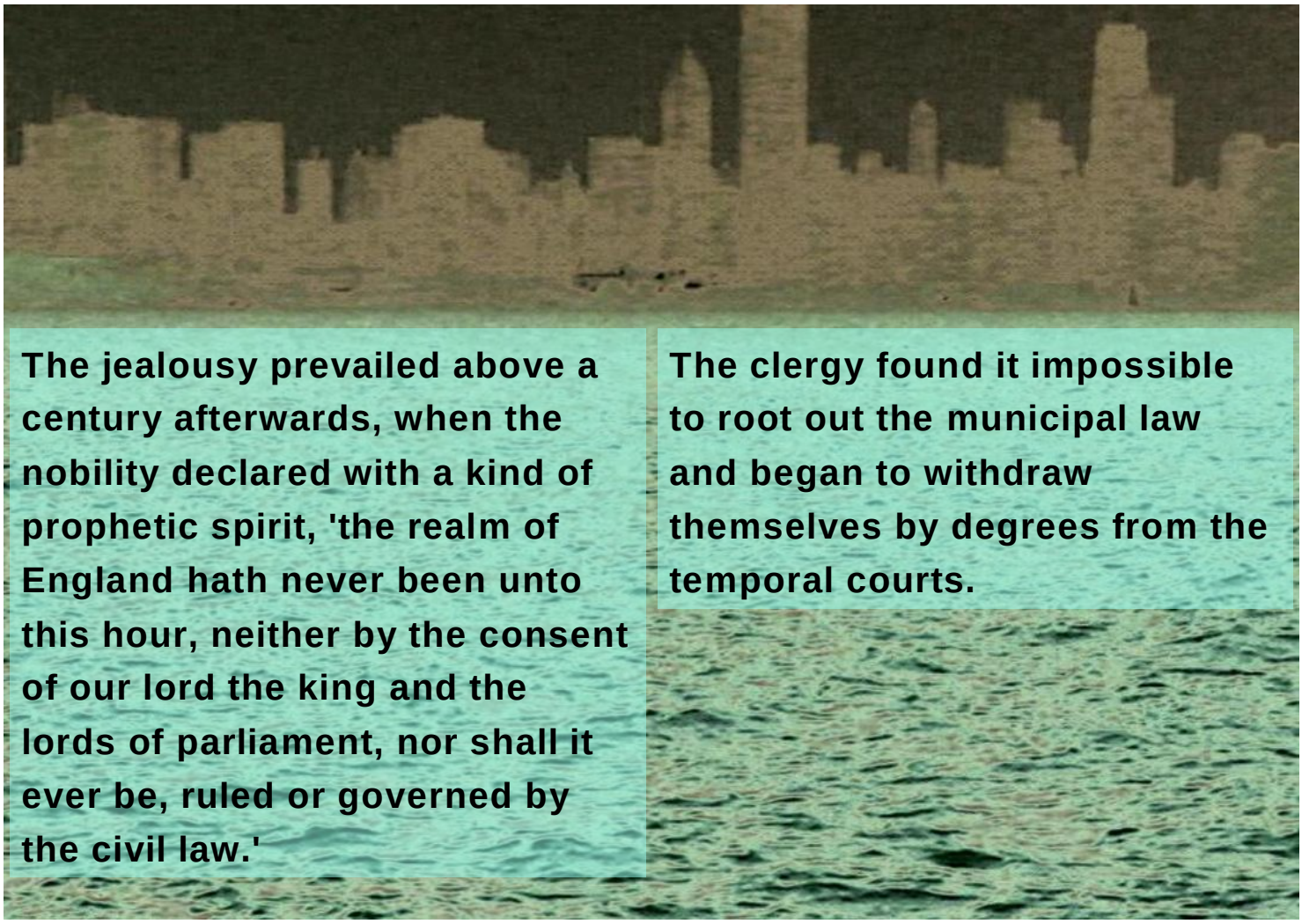


From this time the nation seems to have been divided into two parties:

Ø bishops and clergy, many of them foreigners, who applied themselves wholly to the study of the civil and canon law …

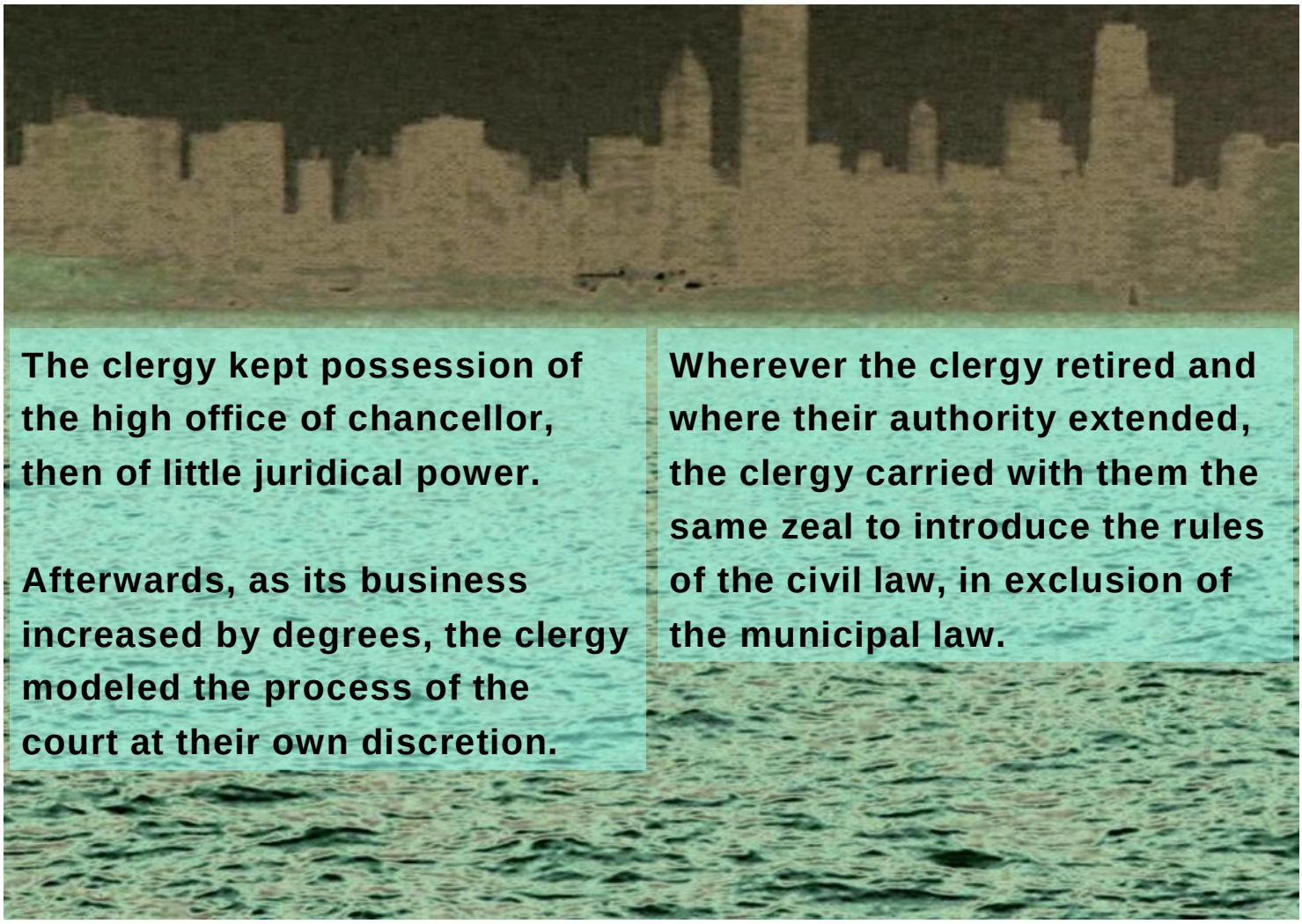
Ø English nobility and laity, who adhered with equal pertinacity to the old common law …

… both parties jealous of what they were unacquainted with.



The jealousy prevailed above a century afterwards, when the nobility declared with a kind of prophetic spirit, 'the realm of England hath never been unto this hour, neither by the consent of our lord the king and the lords of parliament, nor shall it ever be, ruled or governed by the civil law.'

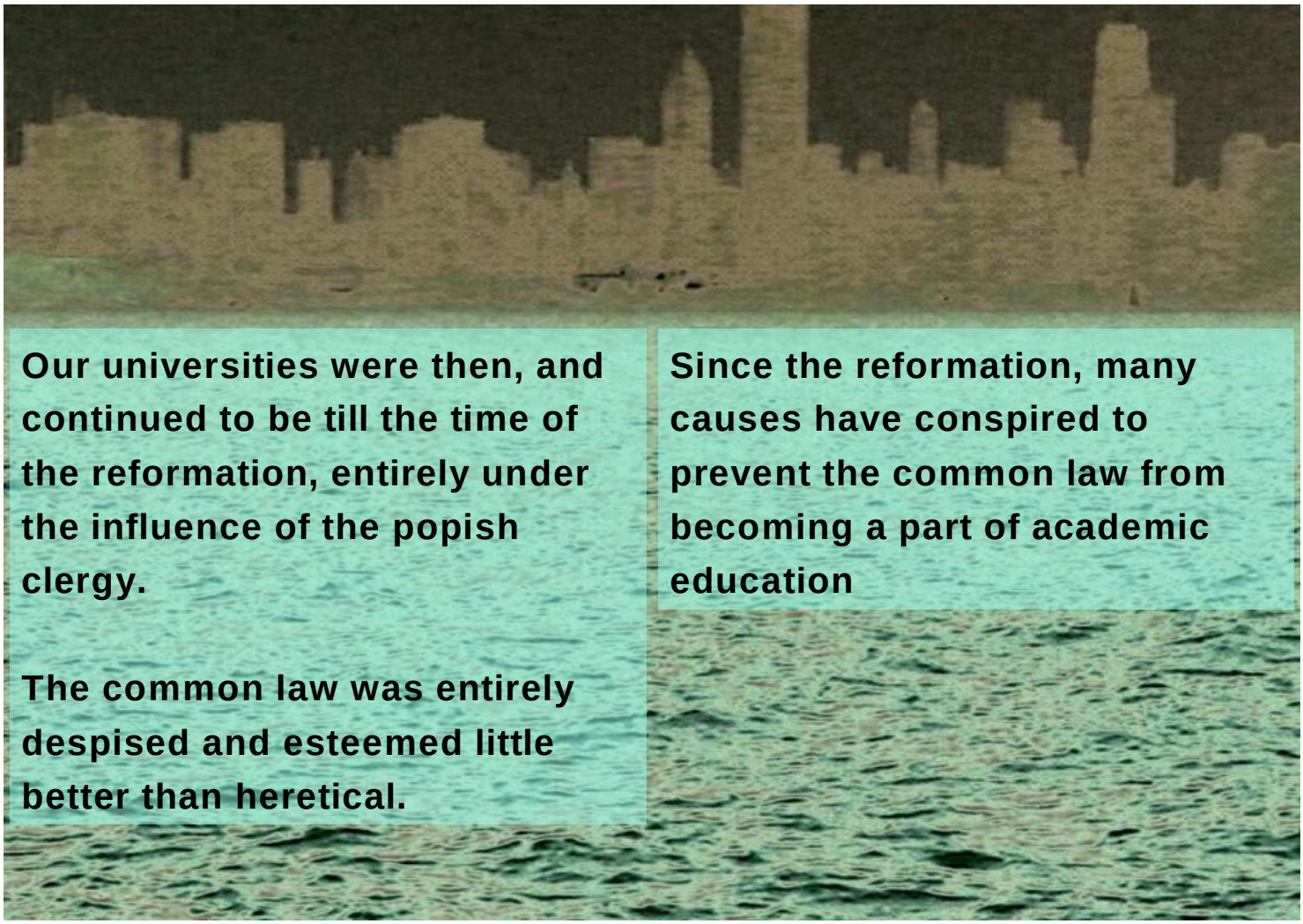
The clergy found it impossible to root out the municipal law and began to withdraw themselves by degrees from the temporal courts.



The clergy kept possession of the high office of chancellor, then of little juridical power.

Afterwards, as its business increased by degrees, the clergy modeled the process of the court at their own discretion.

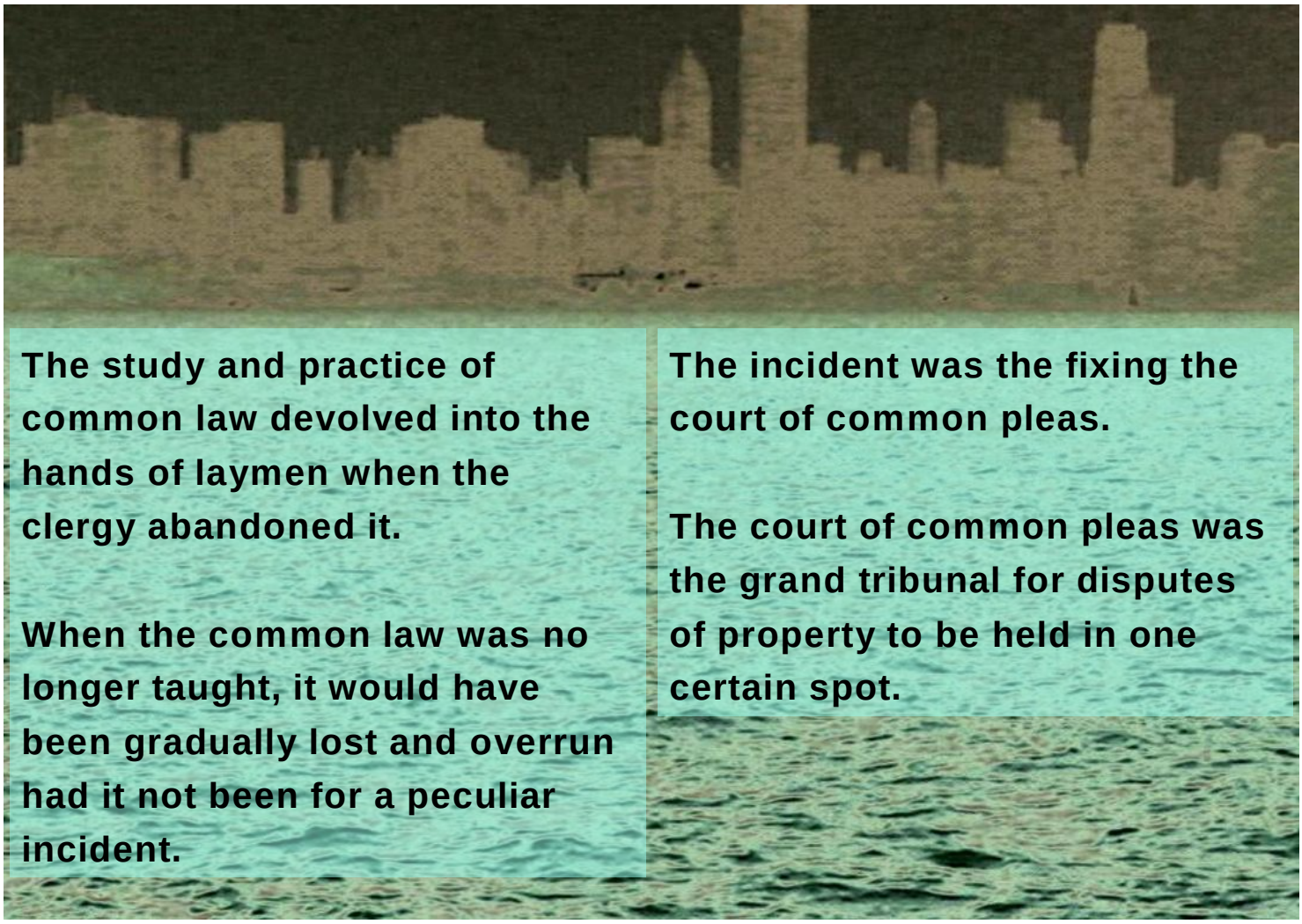
Wherever the clergy retired and where their authority extended, the clergy carried with them the same zeal to introduce the rules of the civil law, in exclusion of the municipal law.



Our universities were then, and continued to be till the time of the reformation, entirely under the influence of the popish clergy.

The common law was entirely despised and esteemed little better than heretical.

Since the reformation, many causes have conspired to prevent the common law from becoming a part of academic education

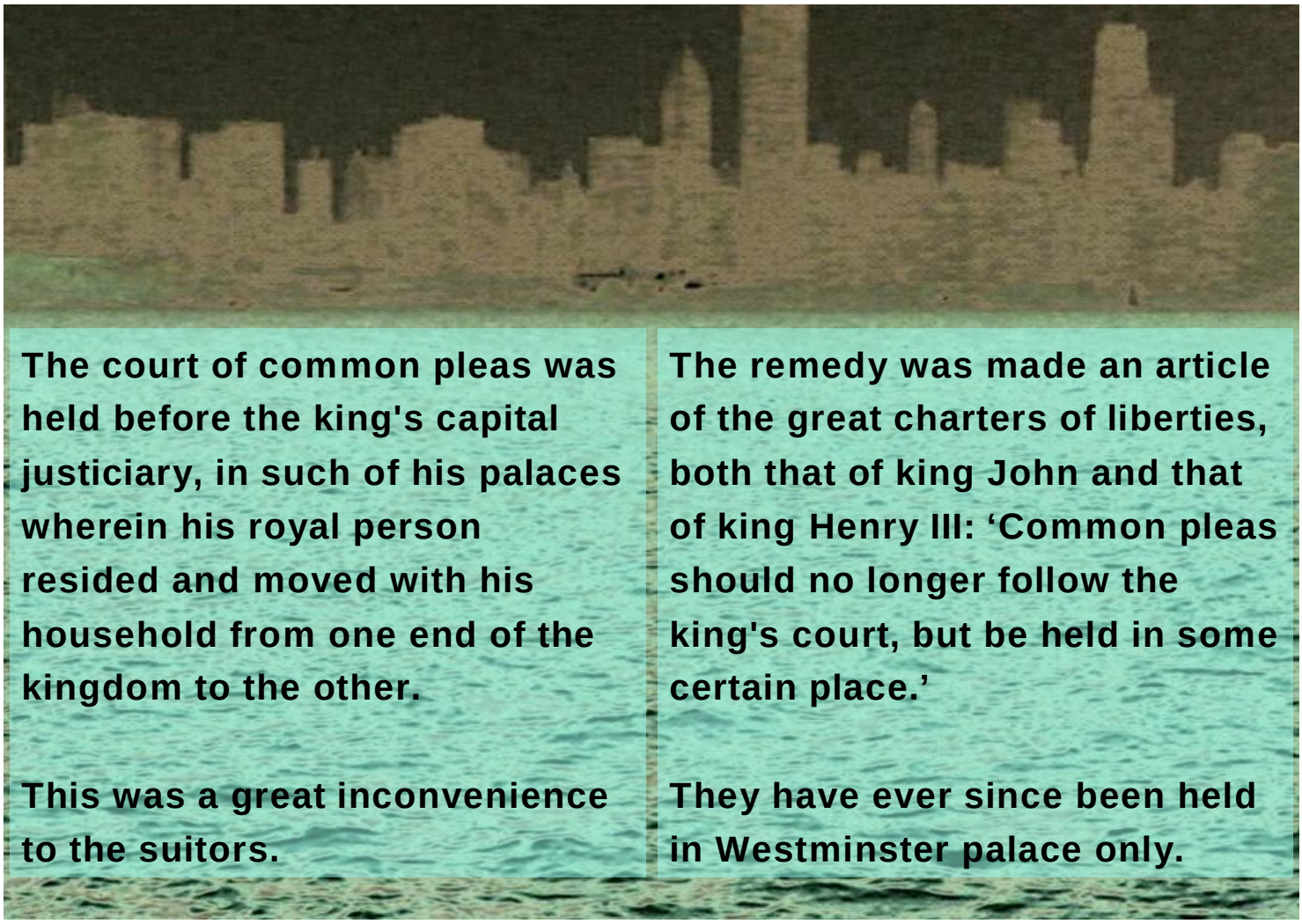


The study and practice of common law devolved into the hands of laymen when the clergy abandoned it.

When the common law was no longer taught, it would have been gradually lost and overrun had it not been for a peculiar incident.

The incident was the fixing the court of common pleas.

The court of common pleas was the grand tribunal for disputes of property to be held in one certain spot.



The court of common pleas was held before the king's capital justiciary, in such of his palaces wherein his royal person resided and moved with his household from one end of the kingdom to the other.

This was a great inconvenience to the suitors.

The remedy was made an article of the great charters of liberties, both that of king John and that of king Henry III: ‘Common pleas should no longer follow the king's court, but be held in some certain place.’

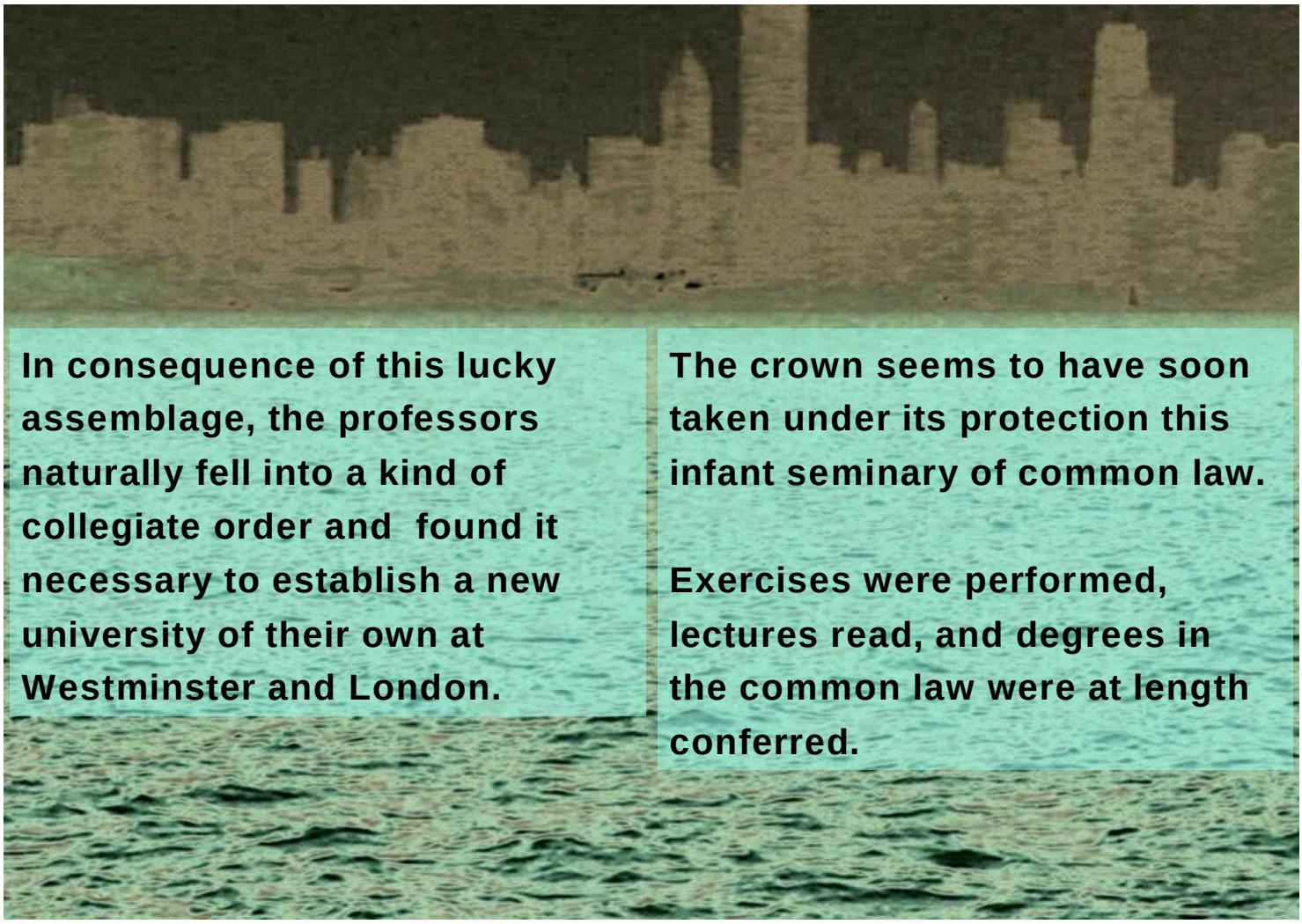
They have ever since been held in Westminster palace only.

Professors of the municipal law were dispersed about the kingdom before.

The permanent location of the court formed them into an aggregate body, and a society was established of persons who addicted themselves wholly to the study of the laws of the land.

The professors soon raised the laws to a pitch of perfection.

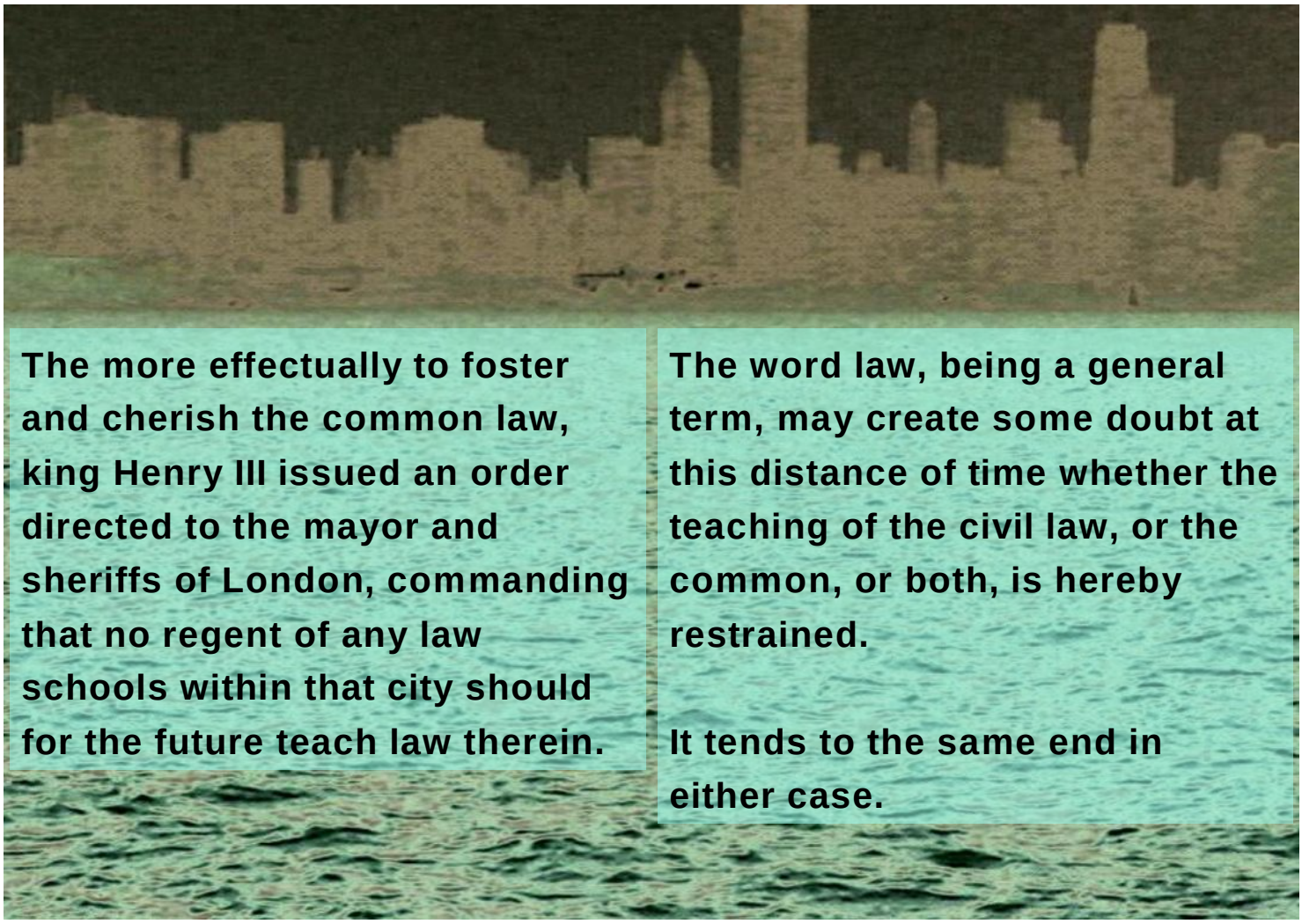
English laws were no longer considered a mere subordinate science.



In consequence of this lucky assemblage, the professors naturally fell into a kind of collegiate order and found it necessary to establish a new university of their own at Westminster and London.

The crown seems to have soon taken under its protection this infant seminary of common law.

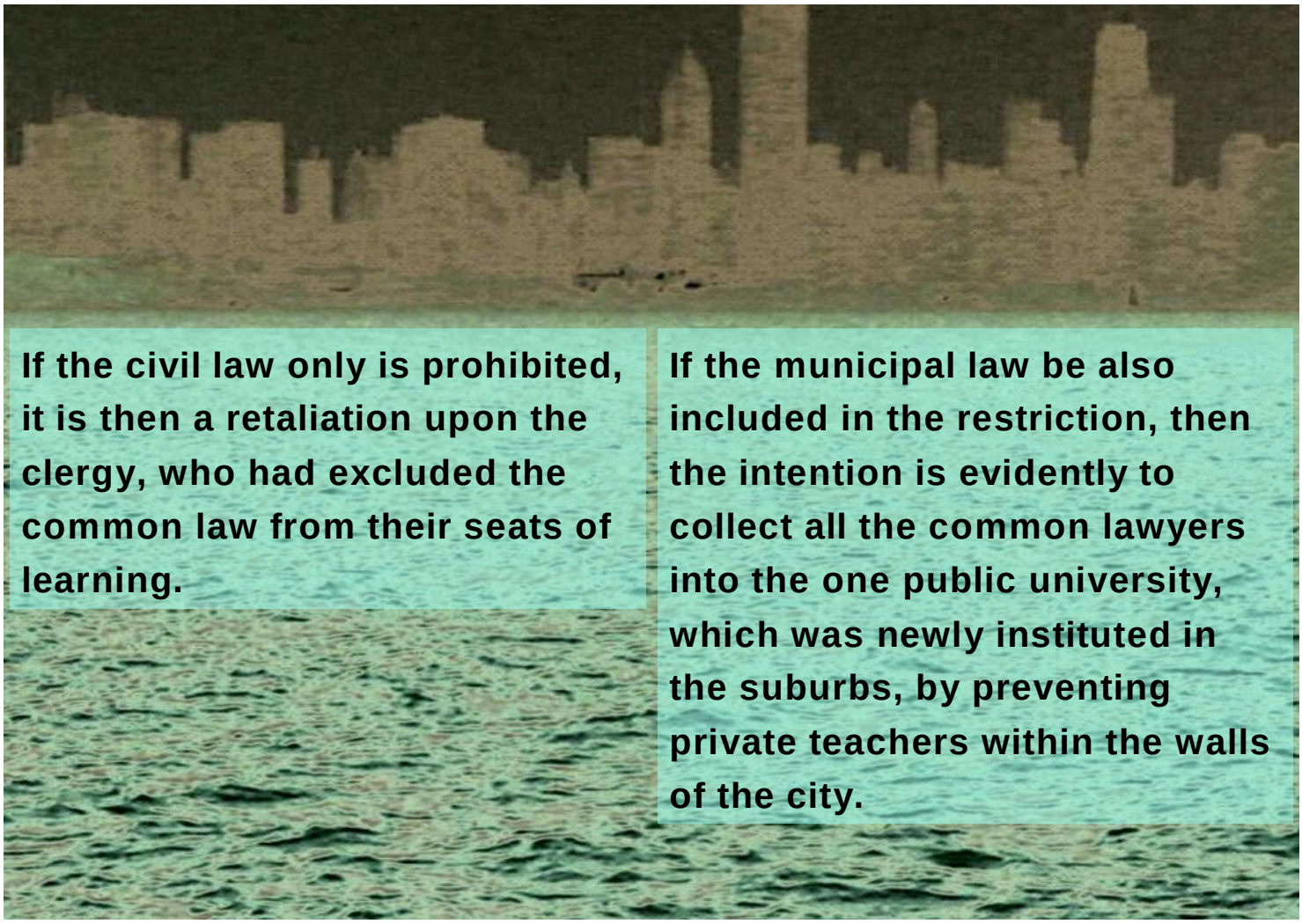
Exercises were performed, lectures read, and degrees in the common law were at length conferred.



The more effectually to foster and cherish the common law, king Henry III issued an order directed to the mayor and sheriffs of London, commanding that no regent of any law schools within that city should for the future teach law therein.

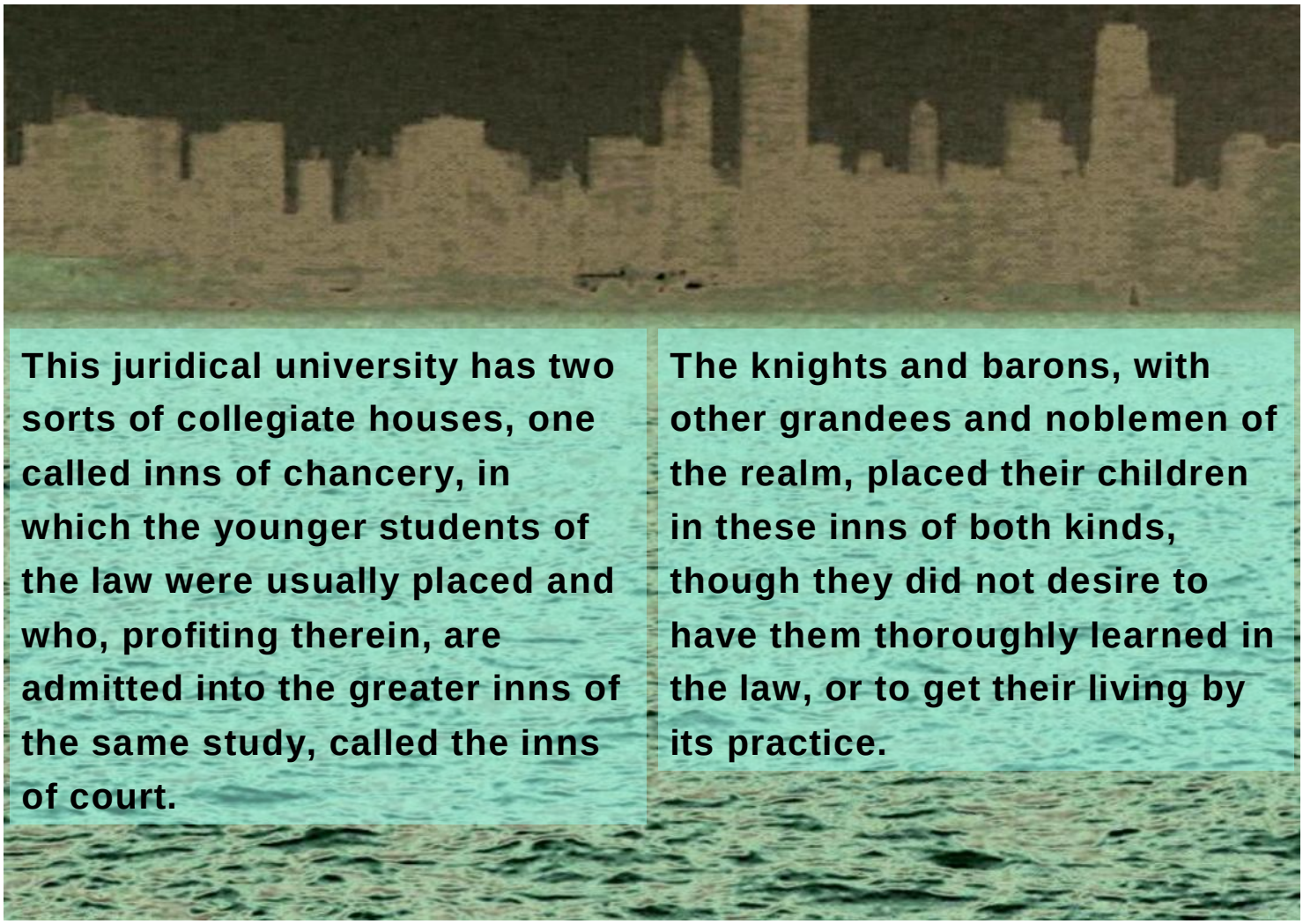
The word law, being a general term, may create some doubt at this distance of time whether the teaching of the civil law, or the common, or both, is hereby restrained.

It tends to the same end in either case.



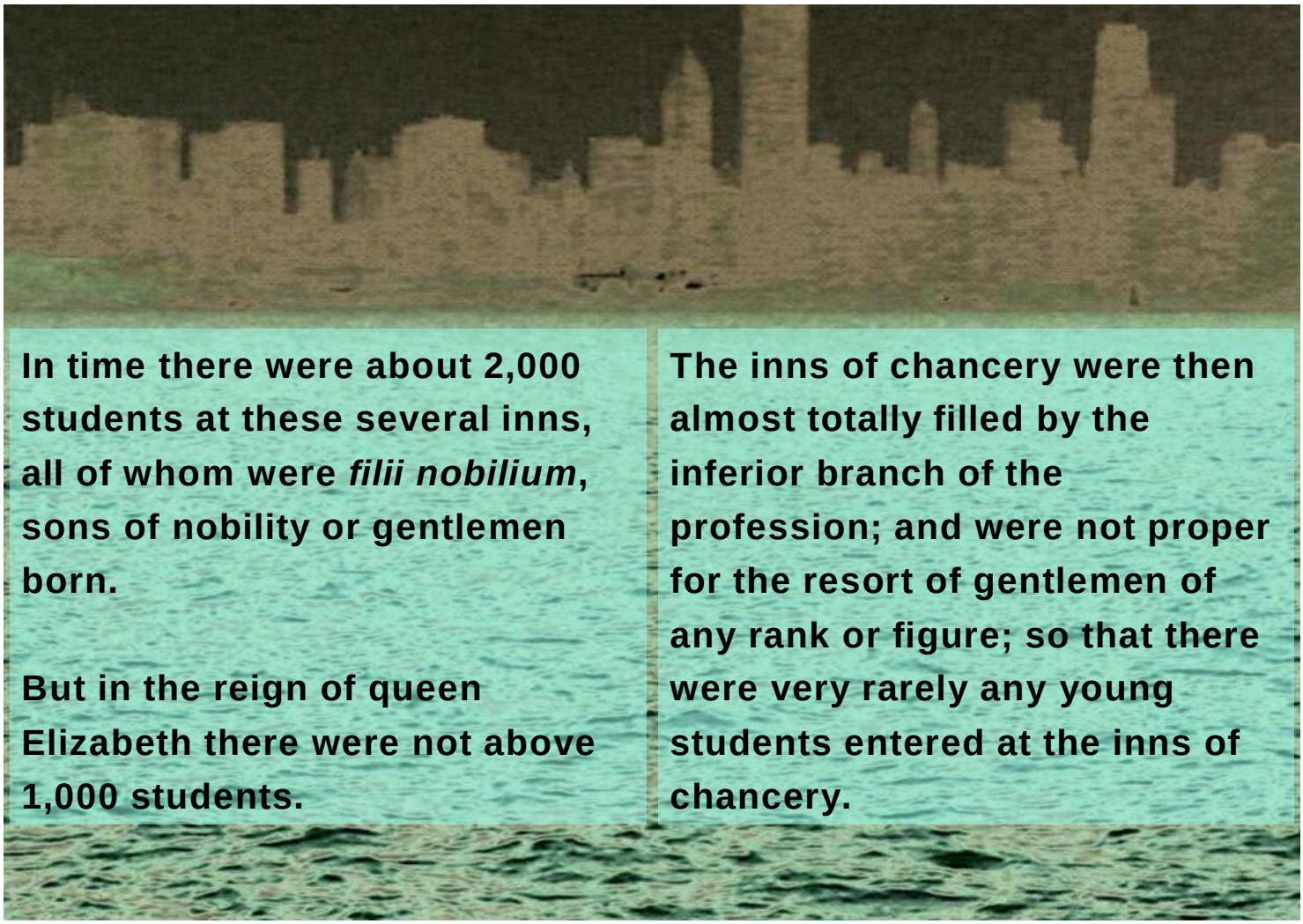
If the civil law only is prohibited, it is then a retaliation upon the clergy, who had excluded the common law from their seats of learning.

If the municipal law be also included in the restriction, then the intention is evidently to collect all the common lawyers into the one public university, which was newly instituted in the suburbs, by preventing private teachers within the walls of the city.



This juridical university has two sorts of collegiate houses, one called inns of chancery, in which the younger students of the law were usually placed and who, profiting therein, are admitted into the greater inns of the same study, called the inns of court.

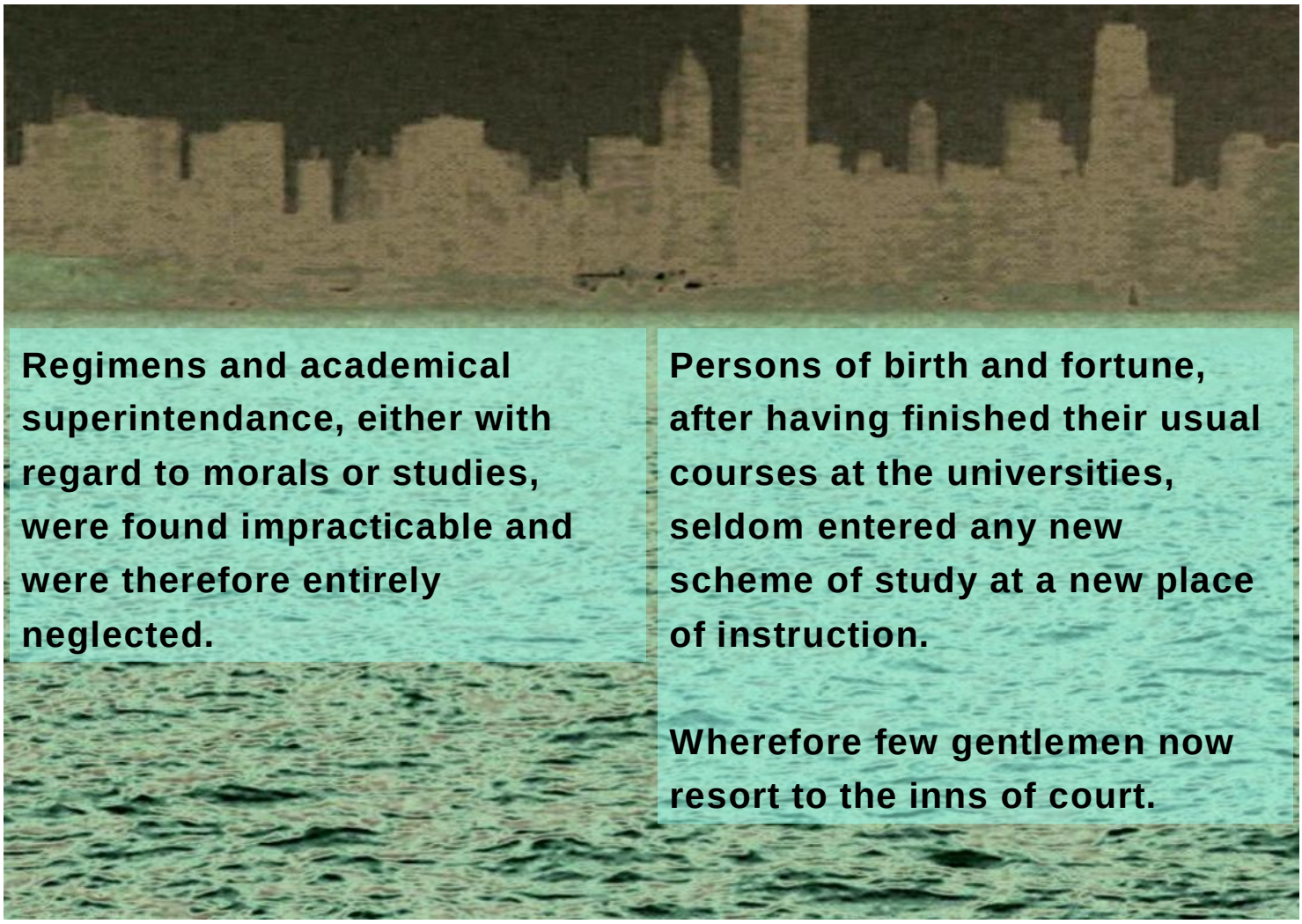
The knights and barons, with other grandees and noblemen of the realm, placed their children in these inns of both kinds, though they did not desire to have them thoroughly learned in the law, or to get their living by its practice.



In time there were about 2,000 students at these several inns, all of whom were *filii nobilium*, sons of nobility or gentlemen born.

But in the reign of queen Elizabeth there were not above 1,000 students.

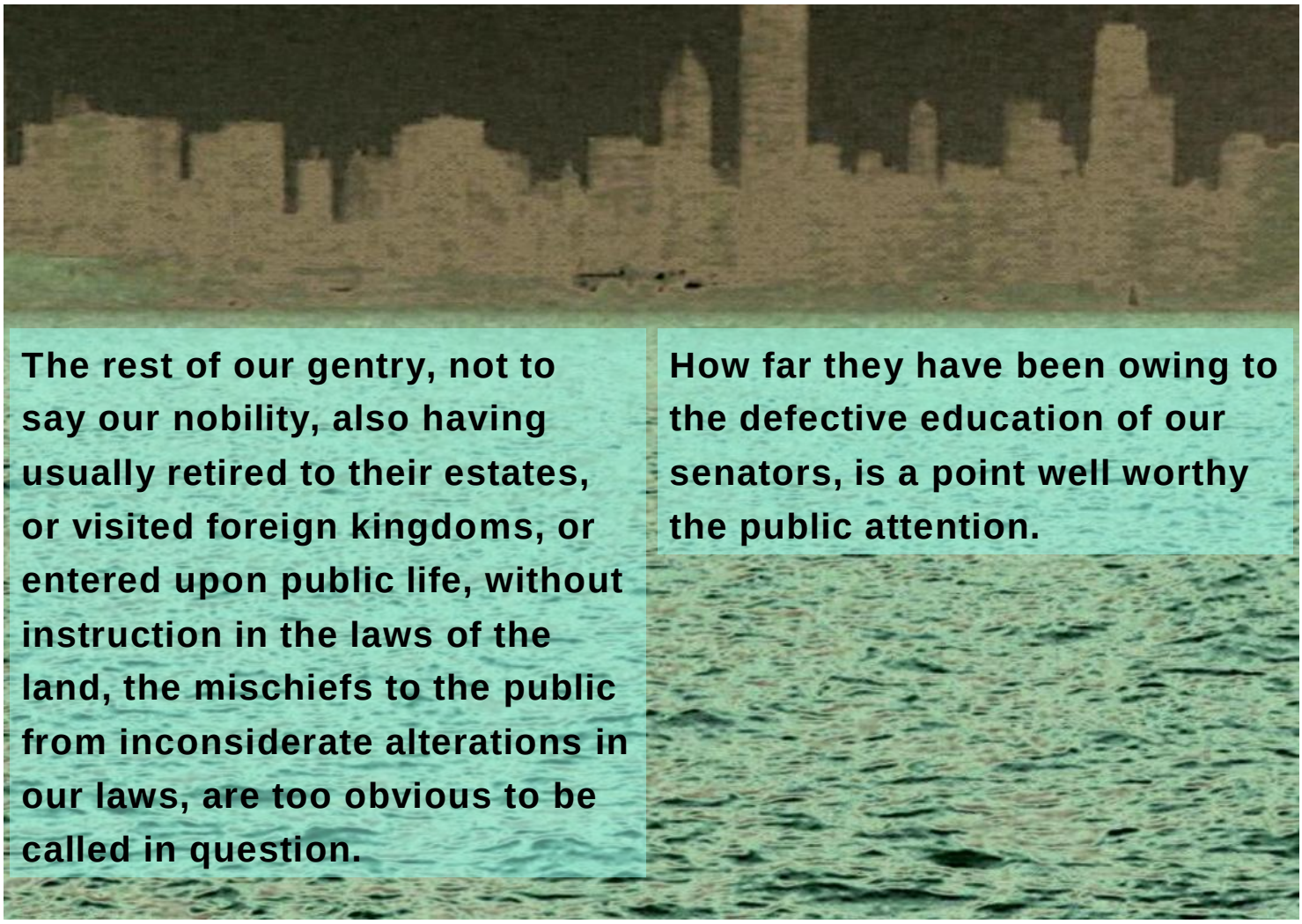
The inns of chancery were then almost totally filled by the inferior branch of the profession; and were not proper for the resort of gentlemen of any rank or figure; so that there were very rarely any young students entered at the inns of chancery.



Regimens and academical superintendance, either with regard to morals or studies, were found impracticable and were therefore entirely neglected.

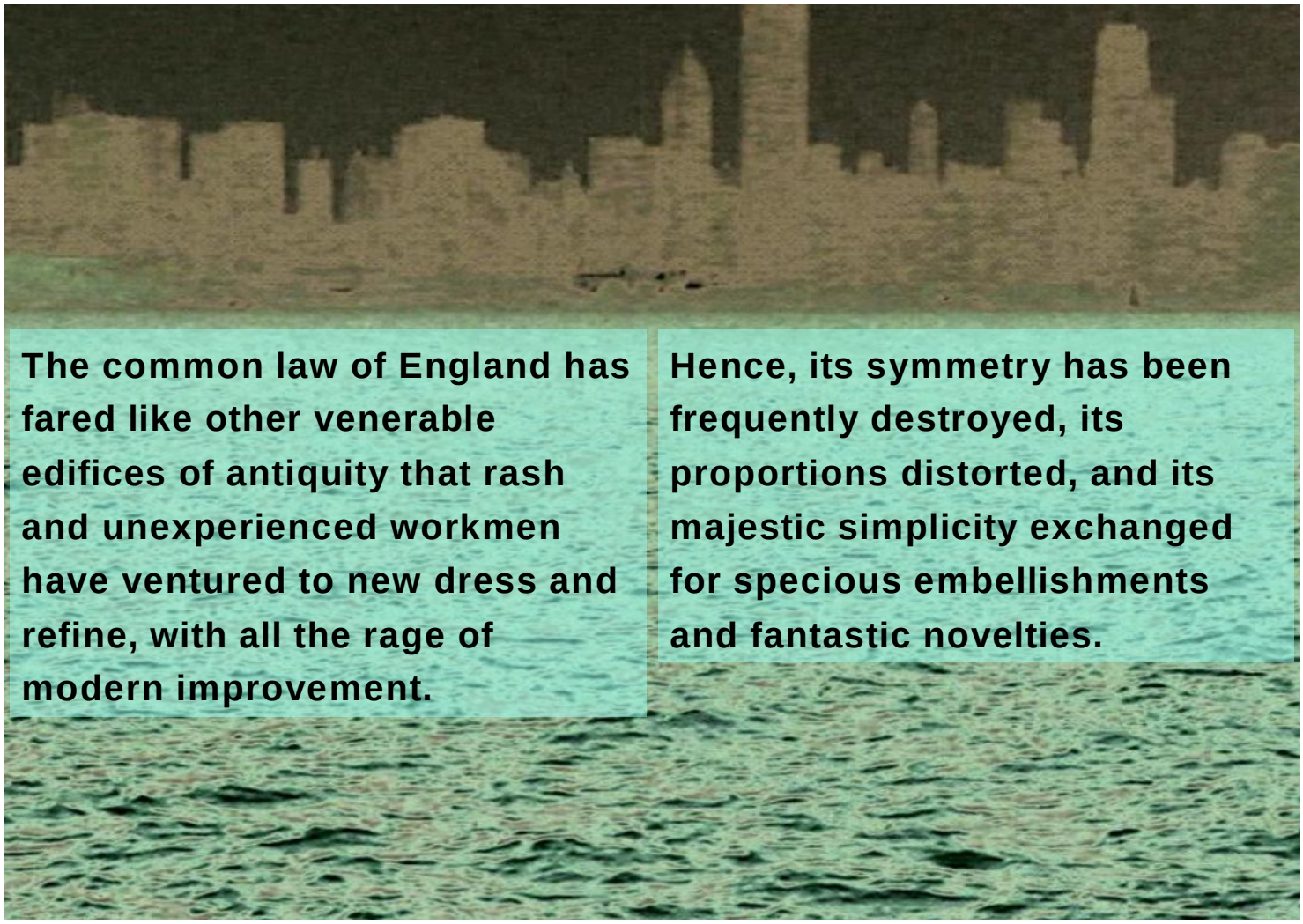
Persons of birth and fortune, after having finished their usual courses at the universities, seldom entered any new scheme of study at a new place of instruction.

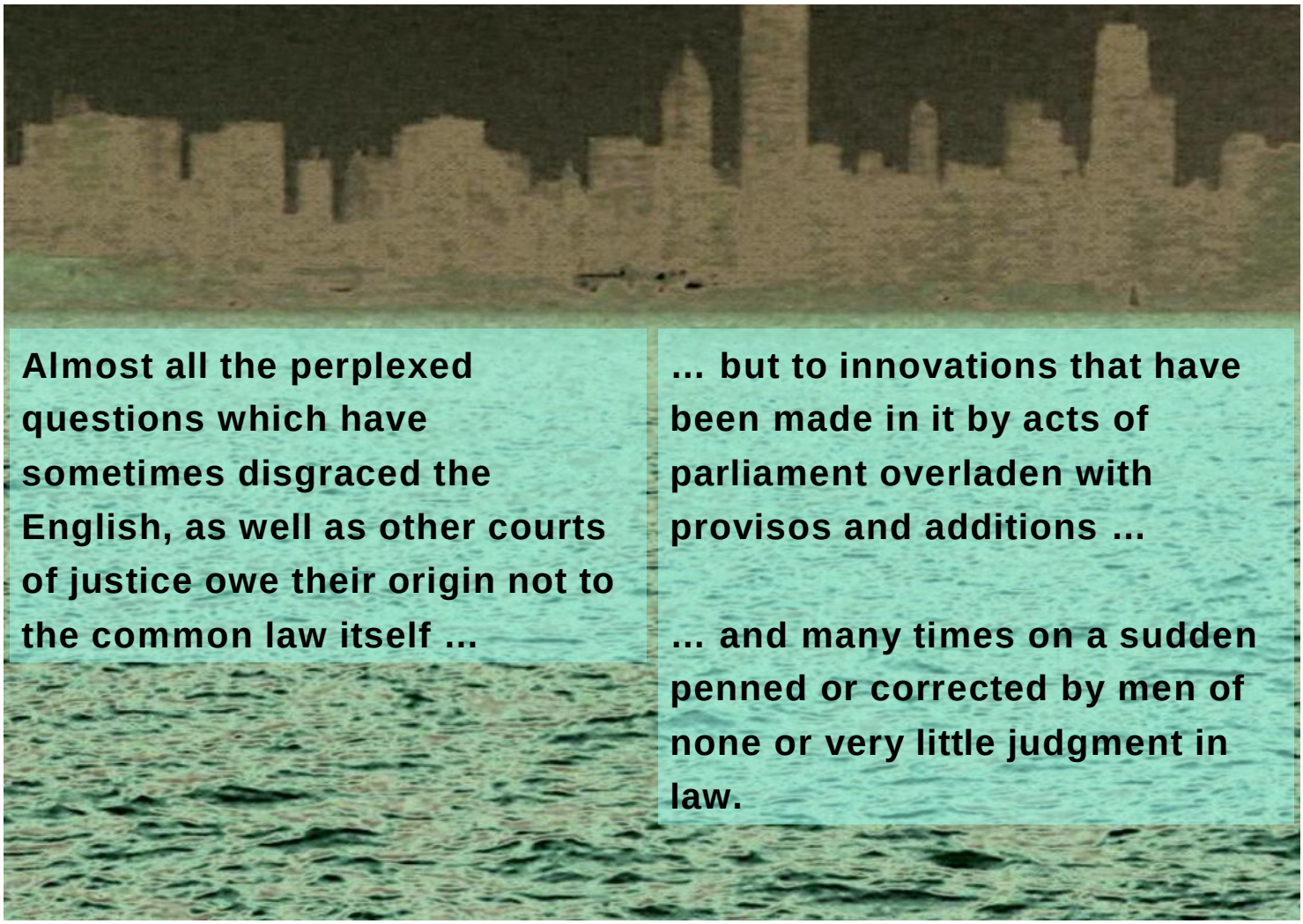
Wherefore few gentlemen now resort to the inns of court.

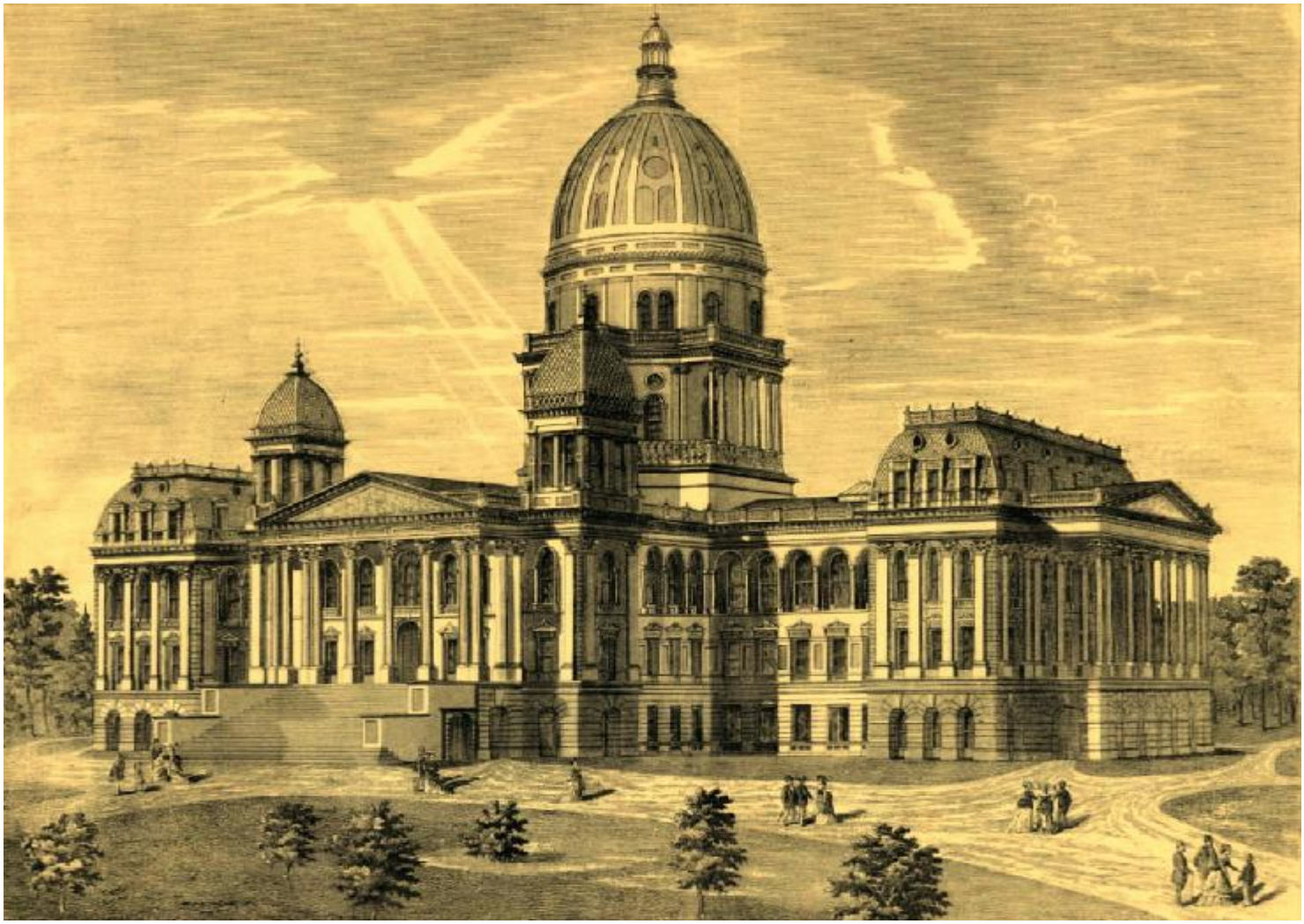


The rest of our gentry, not to say our nobility, also having usually retired to their estates, or visited foreign kingdoms, or entered upon public life, without instruction in the laws of the land, the mischiefs to the public from inconsiderate alterations in our laws, are too obvious to be called in question.

How far they have been owing to the defective education of our senators, is a point well worthy the public attention.







Illinois Capitol, Springfield, Illinois. in Atlas of the State of Illinois to which are added various general maps, history, statistics and illustrations. Chicago: Union Atlas Co., Warner & Beers, Proprietors. Lakeside Building Cor: of Clark & Adams (1876)

Published in:
Phillips, 1513; LeGear Atlas of the United States, L4062; Phillips Maps of America, p. 330.

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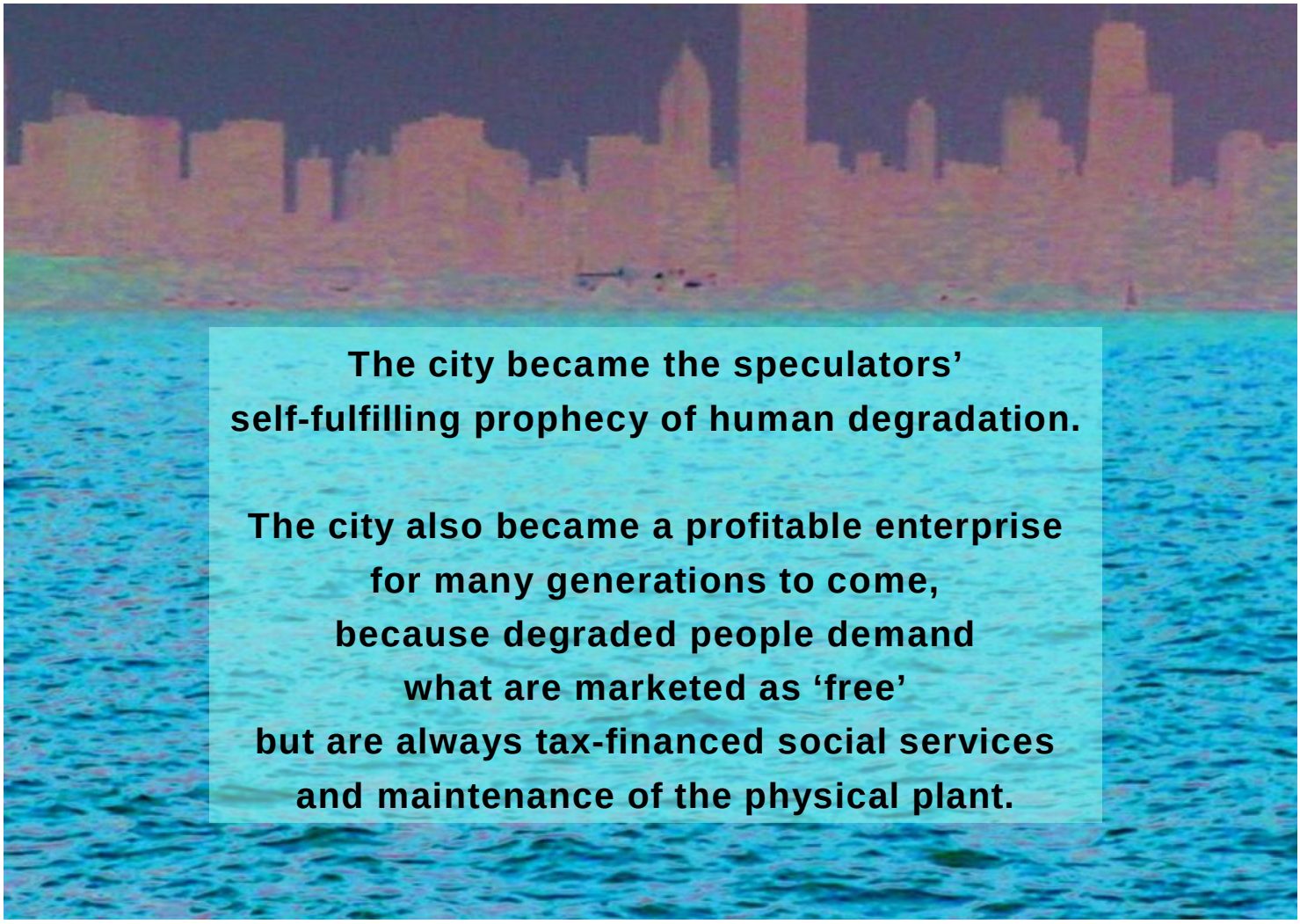

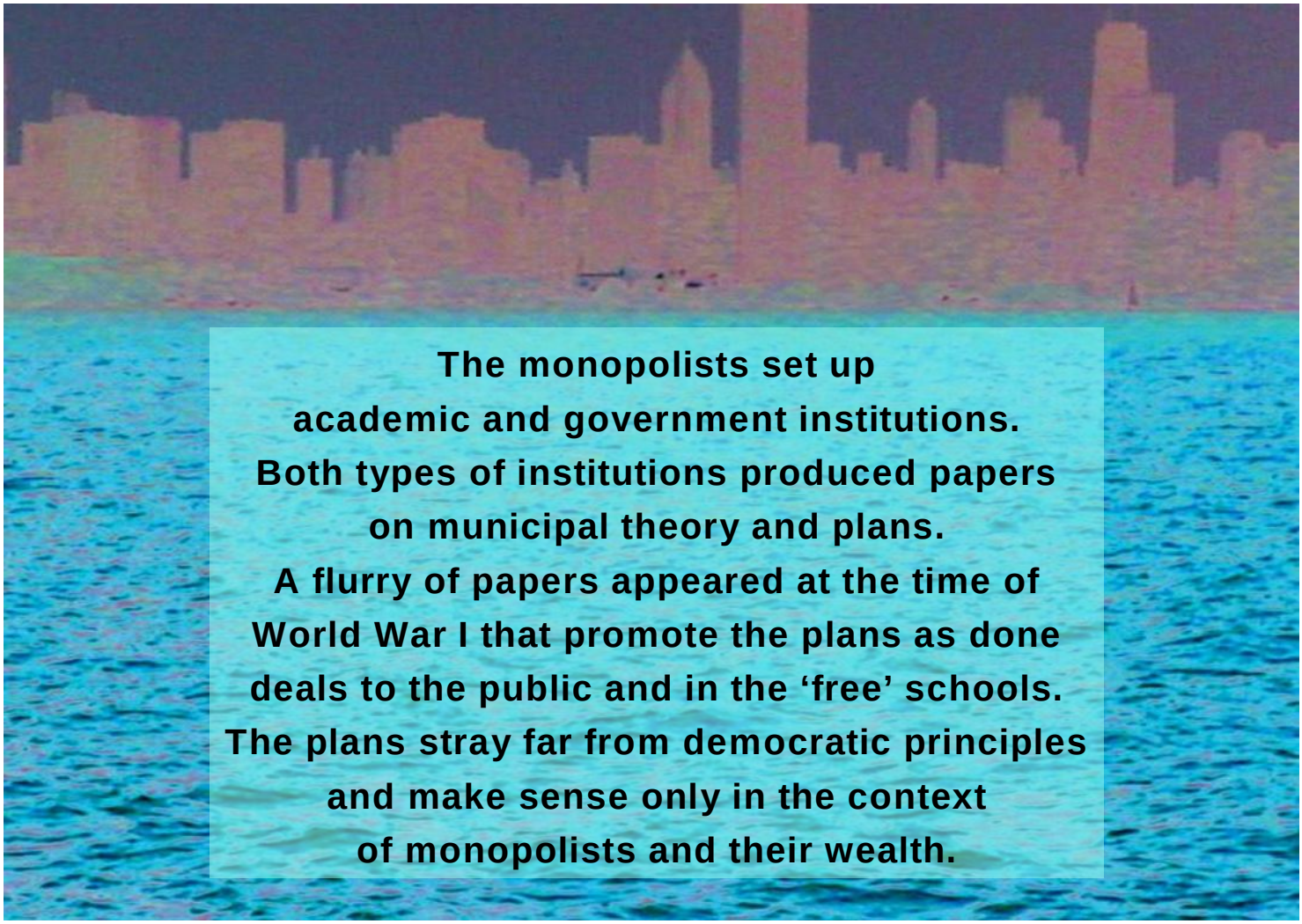

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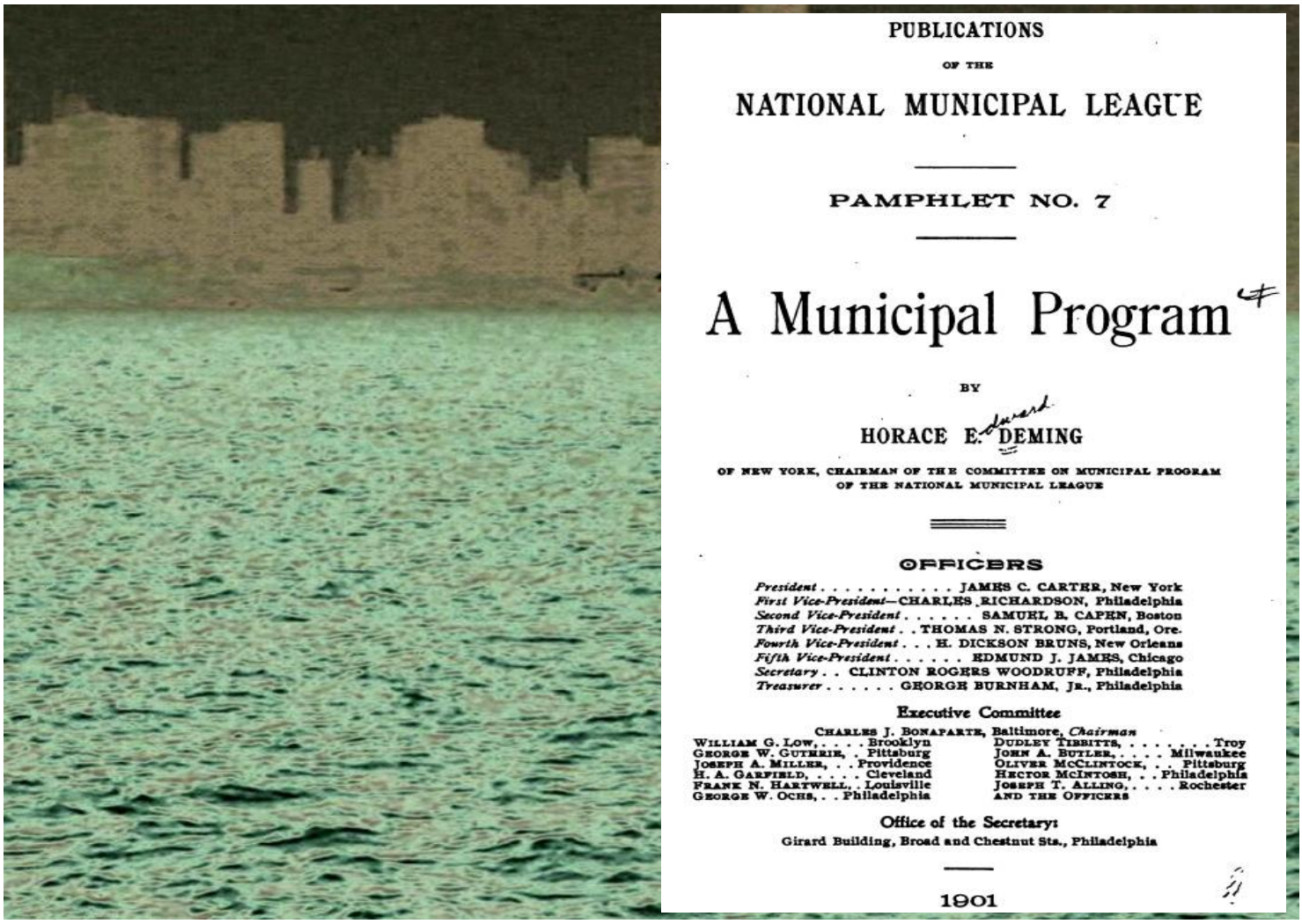

PUBLICATIONS

OF THE

NATIONAL MUNICIPAL LEAGUE

PAMPHLET NO. 7

A Municipal Program

BY

HORACE E. Edward DEMING

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Deming, Horace Edward. A municipal program. National Municipal League (1901).
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A MUNICIPAL PROGRAM.[1]

In January, 1894, a Conference for Good City Government, held in Philadelphia, was attended by a goodly number of representative men, mainly from the Eastern states. Out of this Philadelphia Conference grew the National Municipal League, organized in New York City in May, 1894, and embracing in its affiliated membership the leading municipal reform organizations and, in its associate membership, students of municipal government throughout the United States. From 1894 to 1897 the League gathered information as to actual municipal conditions in typical American cities in every part of the country, from Boston to San Francisco, and from Chicago to New Orleans. From these cities of every class, whether a huge cosmopolitan city like New York, a small city of homogeneous population like Indianapolis, a bustling manufacturing city like Pittsburg, whether one of the older cities like Baltimore or Albany, or one of recent growth like Portland, Oregon, came the report that the local government was unsatisfactory, extravagant, inefficient and all too frequently that it was corrupt. It was plain that, tested by any standard of what such a government ought to be, city government was a failure in the United States.

This showing was appalling, and the League at its meeting in Louisville, in May, 1897, appointed a committee "to report on the feasibility of a Municipal Program, which will embody the essential principles that must underlie successful municipal government, and which shall also set forth a working plan or system consistent with American industrial and political conditions for putting such principles into practical operation." The committee made a preliminary report at the Indianapolis meeting of the League in 1898,

[1] *A Municipal Program.* Report of a Committee of the National Municipal League. Pp. 246. Price, $1.00. The Macmillan Company.

and its final report at the Columbus meeting in November, 1899, when the League unanimously adopted the recommendations of the committee. This final report, published by the Macmillan Company under the title "A Municipal Program," is the subject of this paper.

The historical origin of American municipal government is in the chartered boroughs or municipal corporations of the Colonial period, when charters were granted by the provincial governors. The powers of the local government and its methods of administration were enumerated in the charter. Usually the governor appointed the mayor, who, however, had no special charter powers of great importance. From time to time the Colonial Assemblies granted additional powers for special purposes; and, since the municipality had no authority to levy a tax, whenever it wished to enter upon any undertaking involving taxation, it was forced to apply to the Colonial Assembly for the special authority. Toward the end of the Colonial period there were no municipal charters from the provincial governors, and the Colonial Assembly had come more and more to be regarded as the proper authority to control the local administration, not, however, so as to interfere with the powers already contained in the charter.

After the Revolution, municipal charters were simply legislative statutes and, as such, subject to change by later legislative statutes; and the charters granted by the provincial governors in Colonial times were now regarded as equally subject to the power of the state legislature. As the cities grew in number and population, this supremacy of the legislature continued. The legislature decided whether an additional power should be given to the municipality, or an old one taken away or modified, or a completely new schedule of powers should be granted. The legislature also decided what should be the scheme of city governmental organization to exercise the powers granted and altered the scheme whenever it saw fit.

The powers granted to cities, however, in Colonial times and for many years after the Revolution, were few in number. The public affairs of cities were on the whole matters of petty housekeeping, not calculated to arouse great public interest. A very small proportion of the population of the whole country lived in cities. As late as 1810 the public expenditures of New York City, with a population of 100,000, were only $100,000. "In 1820 there were but thirteen towns in the United States with 8,000 population, and their combined population was less than five per cent of the entire population of the country." There was little, if anything, to create local political parties, *i. e.*, parties divided upon local questions. The active political interests of the citizens were centred in national questions, and contests for local office were a part of the strife in national politics, local appointive office early becoming the spoils of partisan politics. New York's mayor, for instance, at that time appointive, was changed nine times between 1801 and 1823, as often, that is, as the Council of Appointment changed its political complexion; in the Colonial period, although the mayor's nominal term was one year, he frequently retained the office for ten years.

By 1850 there were eighty-five towns in the United States with populations of 18,000 and upwards, and their combined population was approximately 3,000,000, about 12½ per cent of the population of the country. New York City then had a population of 500,000, Philadelphia 400,000, Boston and Baltimore 200,000 each. During this period of growth the cities were of necessity undertaking additional functions and, since the state legislatures were the source of municipal powers and legislative statutes were the means of granting them and regulating their exercise, special and local acts of state legislatures became increasingly frequent. The Ohio Legislature, in its session of 1849-50, passed 545 such acts.

Already, in 1850, the forces were clearly visible which

were massing population in centres of trade and manufacture; and, even then, discerning men could have foreseen the evil consequences of continuing the temporizing and little-considered methods of meeting the growing needs of municipalities. Only a few years earlier in England, when the city problem began to be of importance, there was, first, a careful investigation of the facts, and then, in 1835, a general Municipal Corporations Act passed by Parliament, so sound in its principles and so adjusted to the varying local needs of cities large and small throughout the kingdom, that, with comparatively unimportant changes, it has remained the fundamental law to this day under which the British cities have developed models of progressive and efficient municipal government adapted alike to their political traditions and their local needs. In this country, at the very time when there was most need of similar provision and wise preparation, almost the entire public political interest was necessarily centered in national questions. In the intensely exciting decade before the Civil War, during the war itself and during the years of reconstruction, the cities were left to grow and multiply without any well thought out plan for their government, with indeed scarcely any consideration of the principles which should underlie healthy and efficient municipal development. The struggle for national life and the ever-increasing effort of the people to become effective and direct participants in the control of national affairs, in spite of the obstacles imposed by the rigid framework of constitutional checks and balances, were the most marked political factors in the political growth of the country down to the close of the reconstruction period. The Civil War and Reconstruction settled the question of national life. That public attention should then begin to be directed more effectively to questions of local government was inevitable. It was equally inevitable that the same line of political development which tended to give the people a more direct and effective control in the public affairs of the nation should

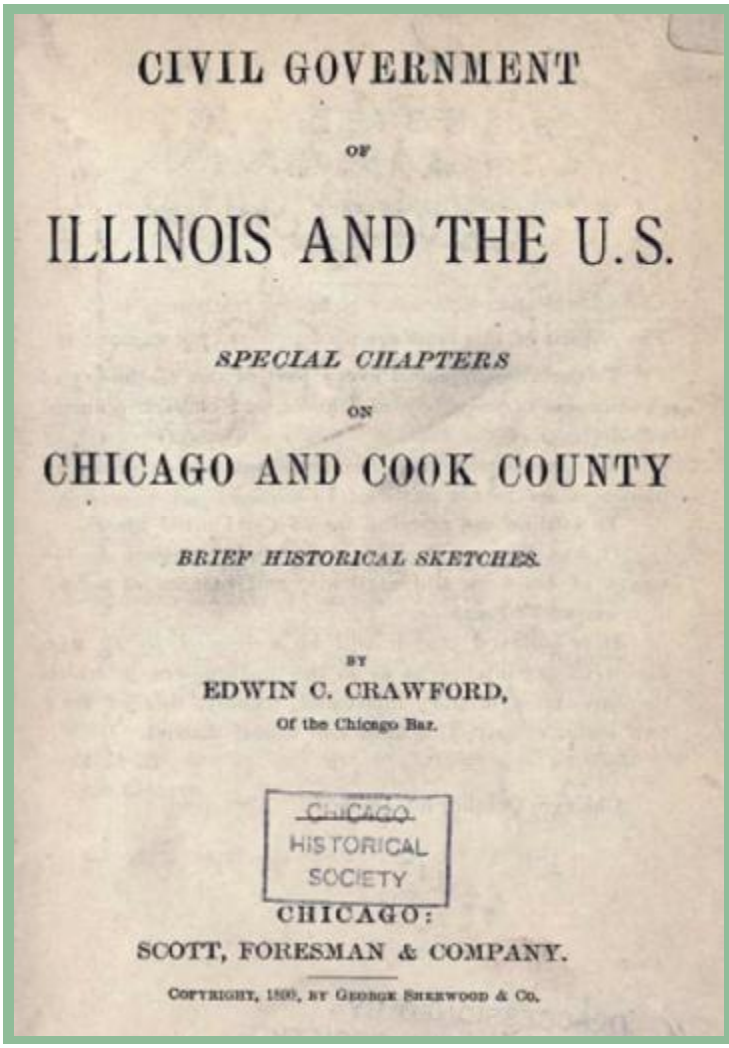
now and for similar reasons begin to manifest itself in the field of local government. During the last two decades the efforts to improve municipal government have been directed more and more plainly toward securing effective responsibility to the people of the locality on the part of those charged with the satisfaction of their local needs or the control of their local public affairs.

In a country like ours, permeated with the democratic spirit, the problem of securing honest, progressive, efficient government is at bottom essentially the same whether considered as a national question or as one relating to a single city like Columbus or Philadelphia. In both cases, the first requisite is that the government shall be the product of and conform to the will of the governed when that will is deliberately expressed; shall be evolved from and responsible to the people it governs, not imposed by some outside authority. No other government can be good government according to the American democratic ideal, and the struggle to attain the realization of that ideal is the most potent and most permanent factor in our political development.

It is because until the closing years of the nineteenth century but slight public attention had been directed in this country to municipal government, and because the people, absorbed in other public questions, had left the cities to increase in population and multiply in number while applying only haphazard, makeshift and temporizing governmental methods to local public affairs, that we have a "Municipal Problem." The failure of city government in the United States has not been a failure of democracy. The brief outline we have given of our municipal history has shown, and a more detailed and thorough examination would but emphasize, the truth of the statement, that from the beginning there has not been a single city with a government based upon fundamental democratic principles and adequately equipped to apply those principles in the practical conduct of its public business. There has been in the popular mind no

concept of a city as government. No city has had adequate power of local government. Every city has been obliged to apply to some outside authority for grant of power to meet local needs. Taking New York as an example, even so recently as in 1870, its annual tax levy was laid by the state legislature. Even now, by far the largest portion of its huge annual budget, amounting to almost, if not quite, $100,000,000, to be raised by local taxation, consists of expenses under mandatory acts of the state legislature; and to these must be added many millions more spent annually, the proceeds of bonds issued under legislative orders and to be paid by taxes upon city property. Whatever else such a city government may be, it is not a government of the city by its citizens or responsible to them. Its charter is a congeries of session laws covering hundreds of pages, changed in many respects, and attempted to be changed in many more, at every session of the legislature. New York but typifies upon a larger scale the conditions of city government generally.

To the superficial observer this condition sometimes indicates that political traditions in this country are against the application of democratic principles to the conduct of city affairs. A deeper insight and wider knowledge disclose a constant and growing popular unrest and discontent at the failure to apply these principles and a continual effort on the part of the cities to assert their rights to independence and to attain an assured and definite position in our governmental system. For now nearly half a century, that is, practically ever since cities began on account of their growing population and needs to assume much importance, there has been a slow but sure awakening to the fact that the city in the United States has been made the victim of forces which did not express the will of the people of the city, and that the means for expressing or enforcing that will as to matters of local public policy have been very imperfect, or practically non-existent.



CIVIL GOVERNMENT

OF

ILLINOIS AND THE U.S.

SPECIAL CHAPTERS

ON

CHICAGO AND COOK COUNTY

BRIEF HISTORICAL SKETCHES.

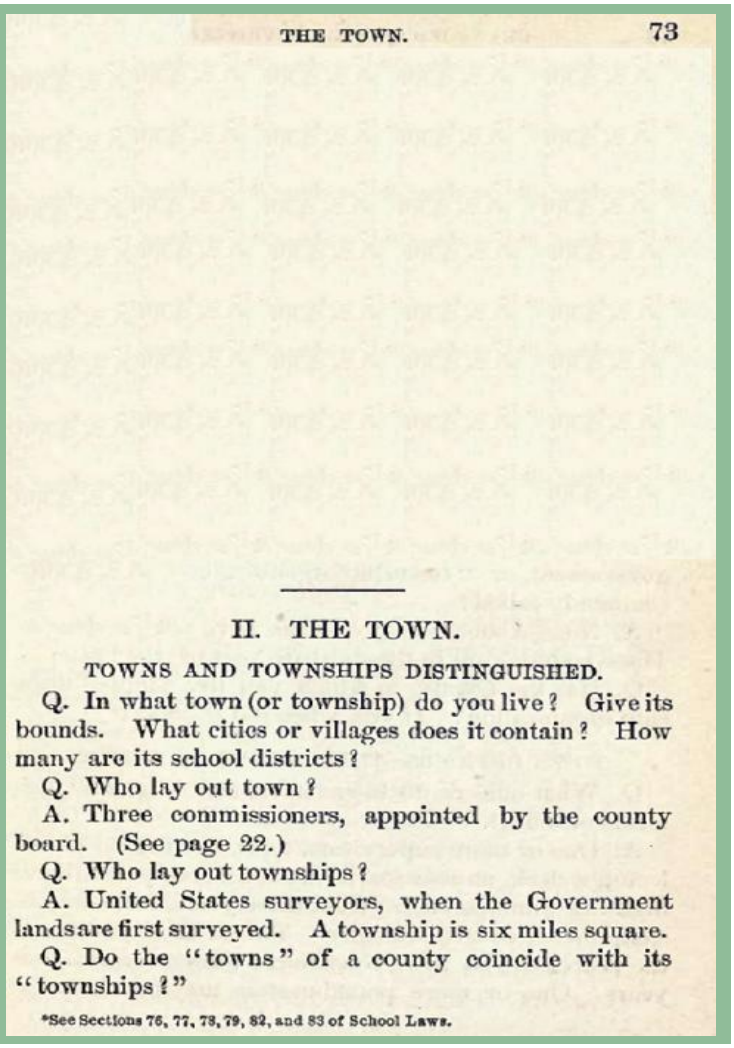
BY

EDWIN C. CRAWFORD,

Of the Chicago Bar.

CHICAGO:

SCOTT, FORESMAN & COMPANY.



II. THE TOWN.

TOWNS AND TOWNSHIPS DISTINGUISHED.

Q. In what town (or township) do you live? Give its bounds. What cities or villages does it contain? How many are its school districts?

Q. Who lay out town?

A. Three commissioners, appointed by the county board. (See page 22.)

Q. Who lay out townships?

A. United States surveyors, when the Government lands are first surveyed. A township is six miles square.

Q. Do the "towns" of a county coincide with its "townships?"

*See Sections 76, 77, 78, 79, 82, and 83 of School Laws.

Crawford, Edwin Corydon (b. 1845). Civil government of Illinois and the U.S., special chapters on Chicago and Cook County, brief historical sketches. Chicago : Scott, Foresman & Co. (c1890).
Call number: 5403152
Contributor and digitizing sponsor: University of Illinois Urbana-Champaign
Found at http://www.archive.org/details/civilgovernmento00craw

A. Not always. But it is the duty of county boards to so lay out towns that they will coincide with townships, if possible.

Q. What is the chief difference between "towns" and "townships."

A. Towns govern themselves in all local matters. Townships govern themselves in school affairs only. In all other local matters they are governed by the county boards.

Q. What is the origin of "town government" in Illinois?

A. In 1848 a new State constitution was adopted, which provided that town government might be organized in all counties where a majority of the people voted for it. The constitution adopted in 1870 contains a similar provision.

Q. Have all the counties in the State accepted town government, or "township organization," as it is more commonly called?

A. No. About twenty counties have not yet done so. These counties are in the southern part of the State.

Q. Has the county in which you live adopted township organization? If yes, when did it do so?

Other officers elected by the people are clerk, attorney, treasurer, police magistrate, and sometimes city judge.

Besides these, the council may provide for the election by the people, or the appointment by the mayor, with the consent of the council, of a collector, marshal, or superintendent of police, superintendent of streets, corporation counsel, and such other officers as the council may deem necessary.

Q. What are the council's duties?

A. To enact such ordinances and levy such taxes as are necessary for the city's welfare.

To approve or reject the mayor's appointments of city officers.

To take some action on the mayor's suggestions.

To receive petitions of citizens.

Q. What is an ordinance?

A. A law passed by a city council.

Q. What are the mayor's duties?

A. To preside at the meetings of the council.

To see that the measures passed by the council are executed.

To appoint, with the council's consent, certain officers.

He may veto measures passed by the council, but if the council afterward pass the same by a two-thirds majority, they become laws.

Q. State the principal duties of the other city officers.

A. The *clerk* keeps a record of the acts of the council.

The *marshal* has command of the policemen, and with them preserves public order, by arresting and putting in jail all disorderly persons.

The *superintendent of streets* keeps the streets and sidewalks in repair.

The *comptroller* prevents the city from being robbed

by its officers, by examining the accounts of all officers who collect, pay out, or receive any of the city's money.

The *corporation counsel* is the chief officer of the law department of the city.

The *police magistrate's* duties are the same as those of a justice of the peace. (See page 83.)

The *attorney*, *treasurer* and *collector* perform about the same duties for the city as the corresponding officers do for the county.

Q. What can you say about the pay of city officers?

A. It is fixed by the council.

Q. What can you say of the government of cities under special charters?

A. As each has its own charter, no two such cities are governed exactly alike, but all are more or less similar in their government to cities organized under the general law.

VI. VILLAGES.

Q. What can you say of the government of villages?

A. Under a general law of the State, villages as well as cities may organize and have a government separate from that of the township in which they are located.

Such village government consists of a president of the village, elected annually, a board of six trustees, three of whom are elected annually, and such officers as the trustees may appoint.

The president and board have about the same powers and duties as mayor and council have in cities.

V. CITIES.

THEIR GOVERNMENT.

Q. What other political units are there in Illinois besides towns, townships, and counties?

A. Cities and villages.

Q. How many kinds of cities are there?

A. Two.

Q. State the difference between them?

A. One is organized and governed according to a general law made by the legislature for the benefit of such cities as may vote to organize under it.

The other is organized and governed in accordance with a special charter granted to it by the legislature.

Q. What is a charter?

A. It is a grant of certain privileges, and is, besides, intended for the government of the corporation to which these privileges are given.

OFFICERS AND THEIR DUTIES.

Q. Describe the government of the first kind of cities?

A. Its legislative department consists of a body called the common council. The city is divided into a certain number of parts called "wards." Each of these elects two members of the council for a term of two years.

The chief executive officer is a *mayor*, elected for a term of two years.

HOW DISTRICTS MAY BE DIVIDED.

Q. Who lay out townships in school districts?

A. The trustees.

Q. How can the boundaries of districts be altered?

A. The trustees may alter them when petitioned so to do either by a majority of the voters of the district or districts affected, or by two-thirds of the voters of the territory involved. Within ten days from final action upon a petition by trustees, an appeal may be taken from such action to the county superintendent. The county superintendent may grant or refuse the petition on appeal.*

TRANSFERRING PUPILS.

Q. How may pupils be transferred from one district to another?

A. By getting the written consent of a majority of the directors of both districts.

THE PUBLIC SCHOOLS.

BOARD OF EDUCATION.

The Public Schools of Chicago are under the management of **the Board of Education.** The Board consists of twenty-one members, appointed by the Mayor, with the consent of the Council, and holding office for a term of three years. They receive no pay.

The Board of Education does not have **power to levy taxes** for school purposes. Neither can it buy or sell school lands, or erect school buildings, except with the consent of the Council.

But, after the Council has appropriated money for school purposes, or after the city's share of the State school fund, or any other school money, has been paid to the City Treasurer, then the **Board has absolute control** of all such funds, having power to expend them for school purposes, free from the control of the Council, except as above stated.

The Board also has power to appoint a **Superintendent, Assistant Superintendents, Principals, Teachers,** and other employés; to divide the city into school districts; to furnish the schools with necessary supplies of all kinds; to expel unruly pupils, and to discharge inefficient teachers.

It is the duty of the Board to take entire control

of the schools; to cause candidates for Teachers to be examined; to establish rules for the government of the schools; to prescribe the course of study, and to enact ordinances necessary to carry into effect all the Board's powers and duties.

The officers of the Board are elected, annually. They are President, Vice-President, and Secretary; the first two being members of the Board, and the last being the Superintendent of Schools.

The President presides at the meetings. The Secretary keeps a record of the acts of the Board, and examines and signs the pay rolls of the Teachers and other employés of the Board.

The employes of the Board, besides those above-named, are: **Supervisor of Evening Schools, Architect, Attorney, School Agent, Supply Agent, Chief Engineer, Clerk, Auditor, and Foreman of Repairs.** All employes of the Board are elected annually.

The **Superintendent** has supervision of all the public schools of the city, their equipment, apparatus and libraries, and also of Teachers and pupils.

Some of **his duties** are, to observe the teaching and discipline of the schools, and to aid Teachers with his advice, to report to the Board the names of those whose work is not satisfactory, and to keep office hours and hear requests relating to the Public Schools.

The **Assistant Superintendents** aid the Superintendent in the performance of his duties, and are subject to his direction.

Principals are required to have charge of the schools in their respective buildings, supervise the work of their Teachers, examine pupils for promotion,

attend to cases requiring special discipline, and to give careful attention to the health and comfort of their pupils.

Assistants to Principals have immediate supervision of the four lowest grades of the schools.

Teachers are of two classes—Regular and Special. Special Teachers are employed to teach certain branches only, as German, drawing and music. Such Teachers are under the immediate supervision of the superintendent of their specialty.

Each **Regular Teacher** has charge of one division of pupils, and is held responsible for the progress of such pupils in their studies.

The **Architect** is required to superintend the erection and repair of school buildings, and to see that all work upon such buildings is done properly and at a reasonable cost.

The **Attorney** attends to the legal business of the Board.

The **School Agent** has the custody of all bonds, notes, and other securities belonging to the Board; collects the rents of school lands, and the interest on such school funds as are loaned; keeps the accounts of the Board's funds, and pays the Teachers their wages, monthly.

The **Supply Agent** purchases and distributes supplies for the schools, and prepares the pay-rolls of Engineers, Janitors, Mechanics and Laborers employed by the Board.

The **Chief Engineer** visits all the school buildings to ascertain what repairs and alterations are necessary

in the heating and ventilating apparatus, and superintends the making of such repairs and alterations.

The **Clerk keeps a record** of the proceedings of the Board, and **prepares pay-rolls** of Superintendents, Teachers, and other employes of the Board, except those whose pay-rolls are prepared by the Supply Agent.

The **Auditor keeps records** of all the financial transactions of the Board, and of all the funds and sources of income belonging to the Board.

It is also **his duty** to inspect all bills against the Board, and take care that none are paid, except those which are just and legal.

The **Foreman of Repairs** superintends the workmen employed in making repairs and improvements on school property, and has custody of the tools, shops and materials used in such work. It is his duty to visit every school building as often as possible, examine its condition, and recommend to the Board necessary repairs and alterations.

Besides the usual Janitor's duties, **Janitors of the Chicago schools are required to display the National flag** belonging to each school building, on the building on all legal holidays, and during the morning session of school on every Monday of the school year.

ELECTION OF SCHOOL BOARD EMPLOYES.

Superintendents, Teachers, Engineers and Janitors are elected by the Board annually, at the first regular meeting after the close of the summer term.

All Principals and Teachers not charged with unsatisfactory work during the year, are together

declared elected by the Board;—an example of "Civil Service Reform" worthy of imitation in all branches of government.

Superintendents and Assistant Superintendents are elected by ballot.

SALARIES.

As soon as possible after January 1, every year, the City Council appropriates such sum as it deems proper for one year, for the use of the Board of Education; and as soon as possible after such appropriation, the Board fixes the salaries of all its employes for the current year.

TEXT BOOKS.

Text books in use in the Schools can be changed only at or before the last regular meeting of the Board in June of each year. Changes in the course of instruction can be made only in the same manner.

EVENING SCHOOLS.

Evening Schools are supported by a special appropriation made annually by the City Council. They are under the general control of the Board, and the immediate care of the **Supervisor of Evening Schools.**

They open on the first Monday evening of October, and continue till the Board decides to close them.

OTHER SCHOOLS.

The Board also supports a Manual Training School, and Schools for Deaf Mutes.

CIVIL GOVERNMENT

OF

ILLINOIS AND THE U. S.

SPECIAL CHAPTERS

ON

CHICAGO AND COOK COUNTY

BRIEF HISTORICAL SKETCHES.

BY

EDWIN C. CRAWFORD,

Of the Chicago Bar.

CHICAGO:

SCOTT, FORESMAN & COMPANY.

CONSTITUTION OF THE STATE OF ILLINOIS.

MISCELLANEOUS.

§ 25. The general assembly shall provide, by law, that the fuel, stationery, and printing paper furnished for the use of the State; the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let by contract to the lowest responsible bidder; but the general assembly shall fix a maximum price; and no member thereof, or other officer of the State, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the governor, and if he disapproves the same there shall be a re-letting of the contract, in such a manner as shall be prescribed by law.

§ 26. The State of Illinois shall never be made defendant in any court of law or equity.

§ 27. The general assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

§ 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

§ 29. It shall be the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

§ 30. The general assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

§ 31. The general assembly may pass laws permitting the owners or occupants of lands to construct drains and ditches, for agricultural and sanitary purposes, across the lands of others.

§ 32. The general assembly shall pass liberal homestead and exemption laws.

§ 33. The general assembly shall not appropriate out of the State

ARTICLE VIII.—EDUCATION.

§ 1. The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common-school education.

§ 2. All lands, moneys, or other property, donated, granted, or received, for school, college, seminary or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such grants were made.

§ 3. Neither the general assembly, nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund, whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State or any such public corporation, to any church, or for any sectarian purposes.

§ 4. No teacher, State, county, township, or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used or to be used, in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

§ 5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation, and time and manner of election, and term of office, shall be prescribed by law.

ARTICLE IX.—REVENUE.

§ 1. The general assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and

corporation shall pay a tax in proportion to the value of his, her or its property—such value to be ascertained by some person or persons, to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, inn-keepers, grocery keepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express interests or business, venders of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates.

§ 2. The specification of the objects and subjects of taxation shall not deprive the general assembly of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

§ 3. The property of the State, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

§ 4. The general assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments for State, county, municipal or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive State and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

§ 5. The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate for a period of not less than two years from such sales thereof. And the general assembly shall provide by law for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.

§ 6. The general assembly shall have no power to release or discharge any county, city, or township, town or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

§ 7. All taxes levied for State purposes shall be paid into the State treasury.

§ 8. County authorities shall never assess taxes, the aggregate of which shall exceed 75 cents per $100 valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

§ 9. The general assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.

§ 10. The general assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

§ 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation shall be eligible to any office in or under such corporation. The fees, salary or compensation of no municipal officer who is elected or appointed for a definite term of office shall be increased or diminished during such term.

§ 12. No county, city, township, school district, or other municipal corporation shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness. Any county, city, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall, before, or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and

discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school district, or other municipal corporation from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this constitution in pursuance of any law providing therefor.

ARTICLE X.—COUNTIES.

§ 1. No new county shall be formed or established by the general assembly which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than 400 square miles; nor shall any county be formed of less contents: nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

§ 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

§ 3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for, and obliged to pay, its proportion of the indebtedness of the county from which it has been taken.

COUNTY SEATS.

§ 4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years to a vote of the people. But when an attempt is made to remove a county seat to a point nearer to the centre of a county, then a majority vote only shall be necessary.

COUNTY GOVERNMENT.

§ 5. The general assembly shall provide, by general law, for township organization, under which any county may organize when-

officers, shall terminate with the terms, respectively, of those who may be in office at the meeting of the first general assembly after the adoption of this constitution; and the general assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the general assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the general assembly of the power to reduce the fees of existing officers.

§ 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

ARTICLE XI.—CORPORATIONS.

§ 1. No corporation shall be created by special laws, or its charter extended, changed or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State, but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

§ 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

§ 3. The general assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

§ 4. No law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

Chicago Daily News, Inc. (photographer) (1903 April 18). Frederick William Blocki (1868-1919) (middle) and Charles A. Doherty , superintendent of streets (right), standing on the sidewalk of a commercial street talking to an unidentified man in Chicago, Illinois. These men were attending the Democratic Judicial Convention at Turner Hall.

This photonegative taken by a Chicago Daily News photographer may have been published in the newspaper.

Preferred citation: DN-0000657, Chicago Daily News negatives collection, Chicago History Museum.
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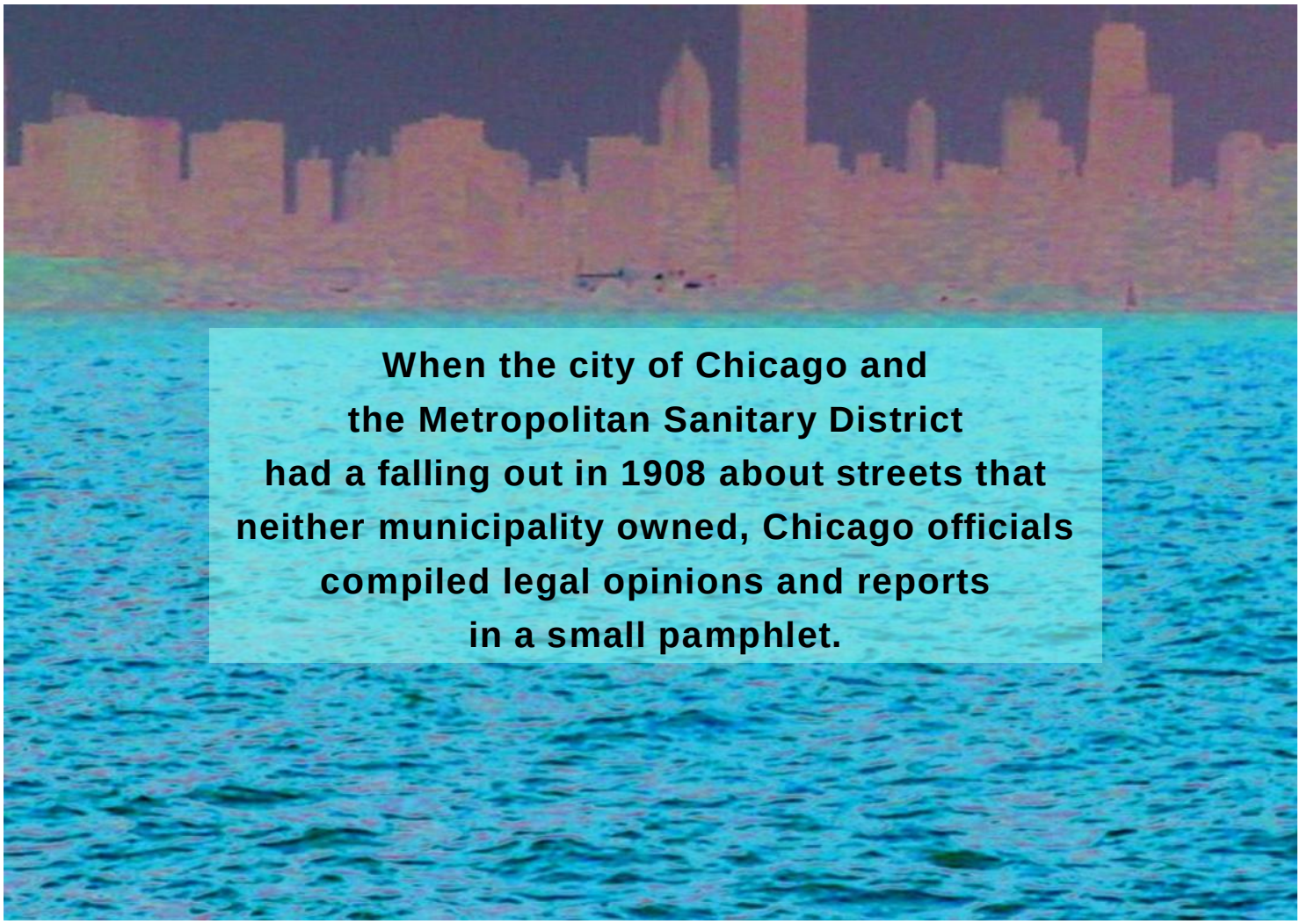
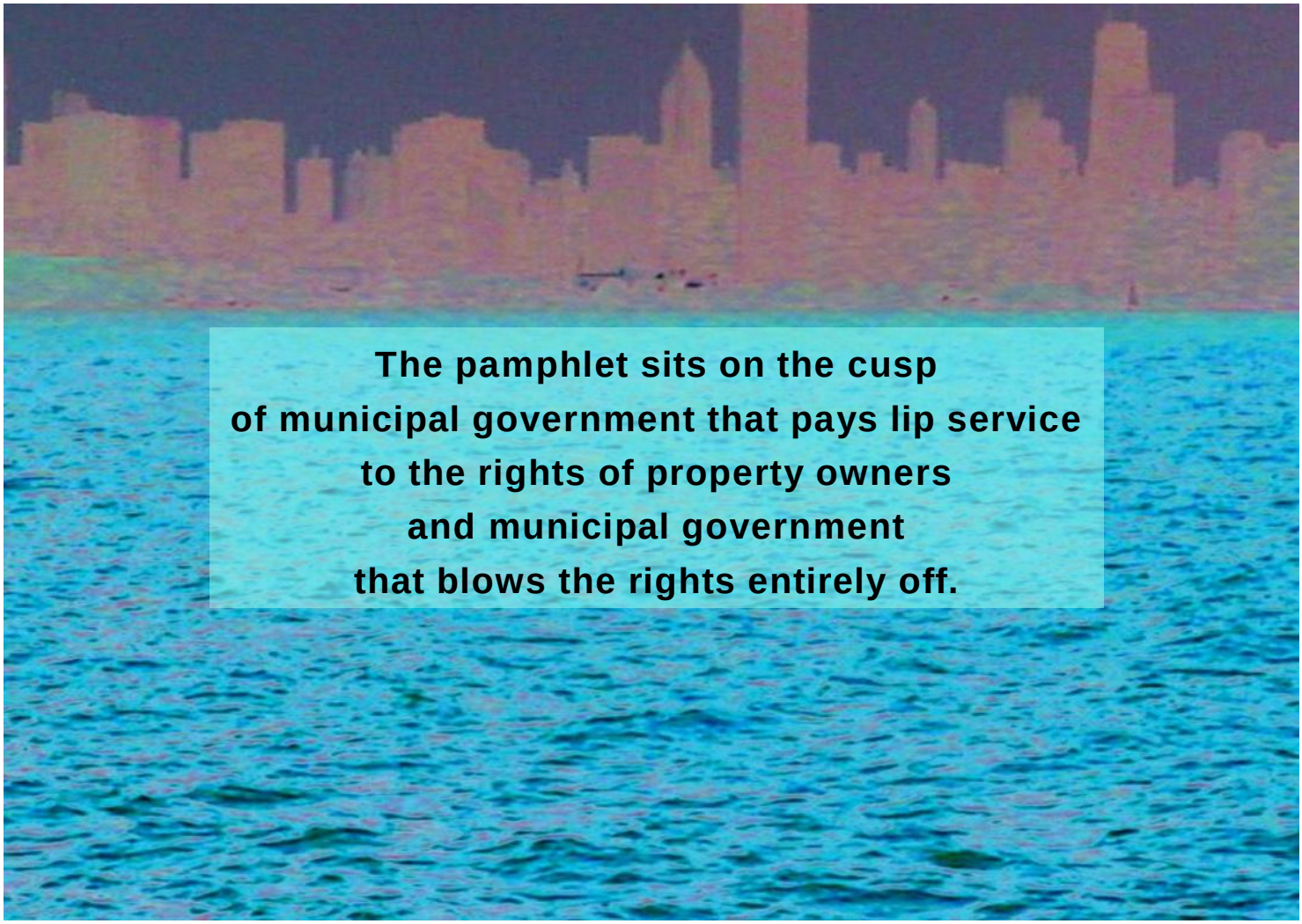
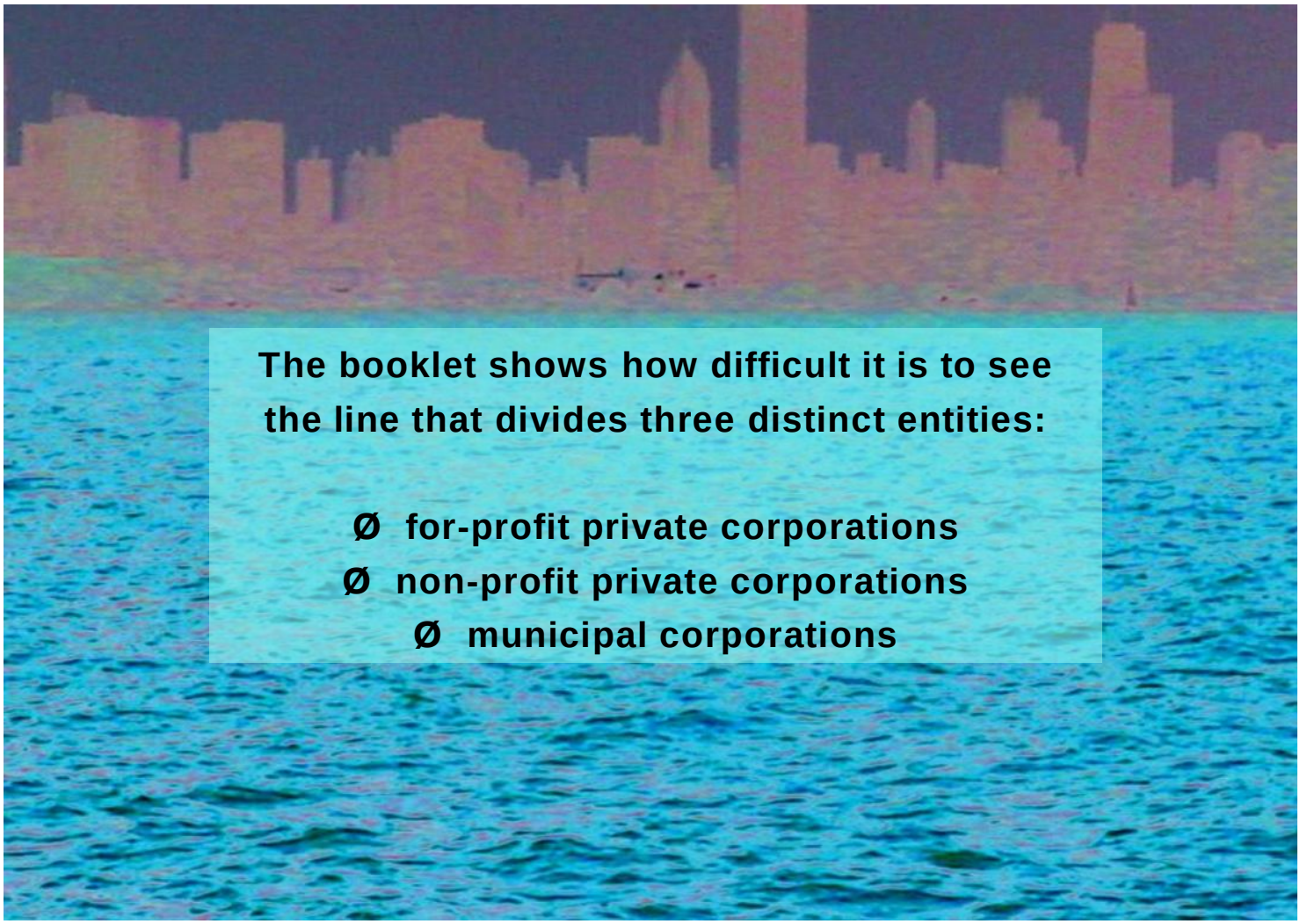
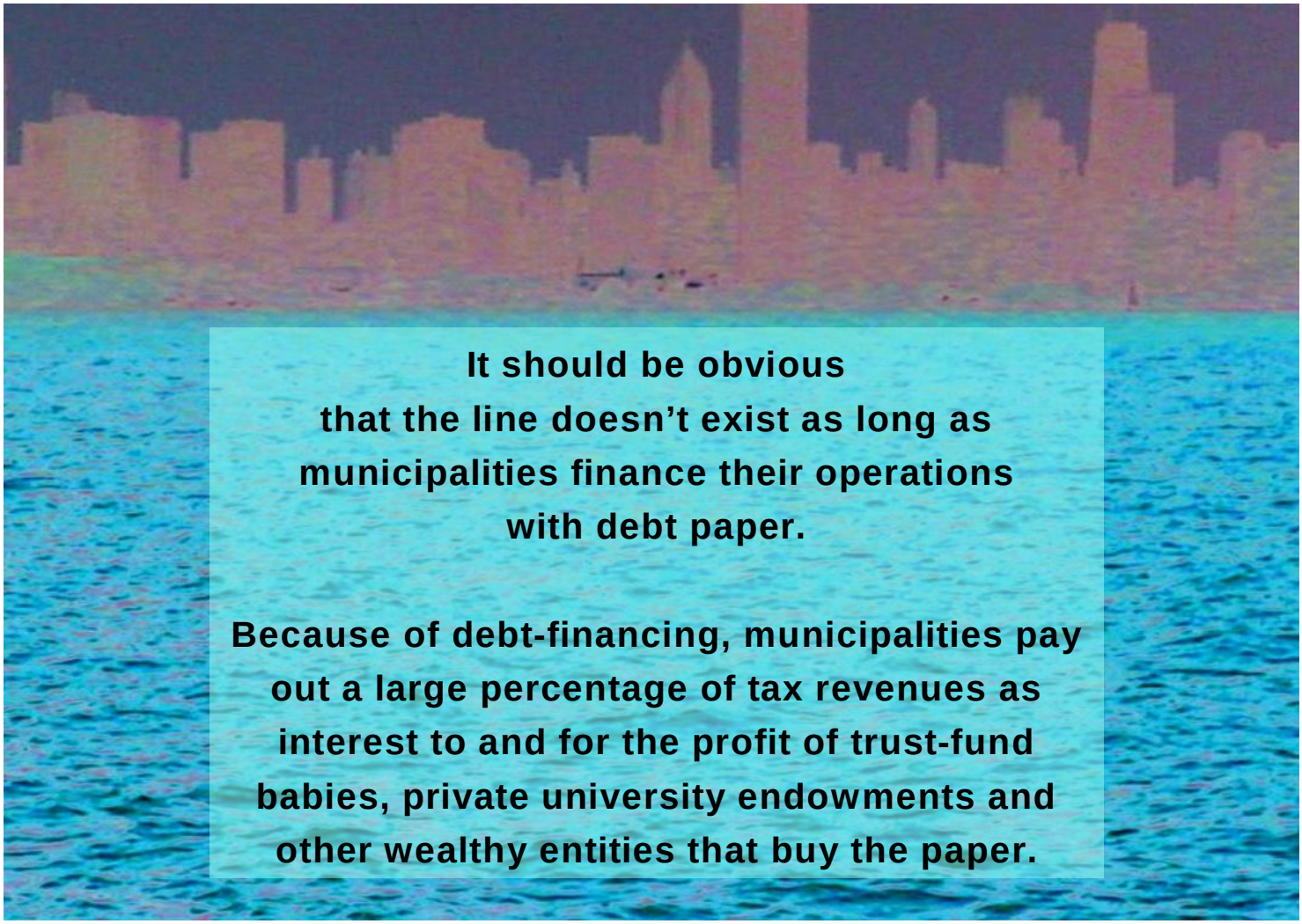
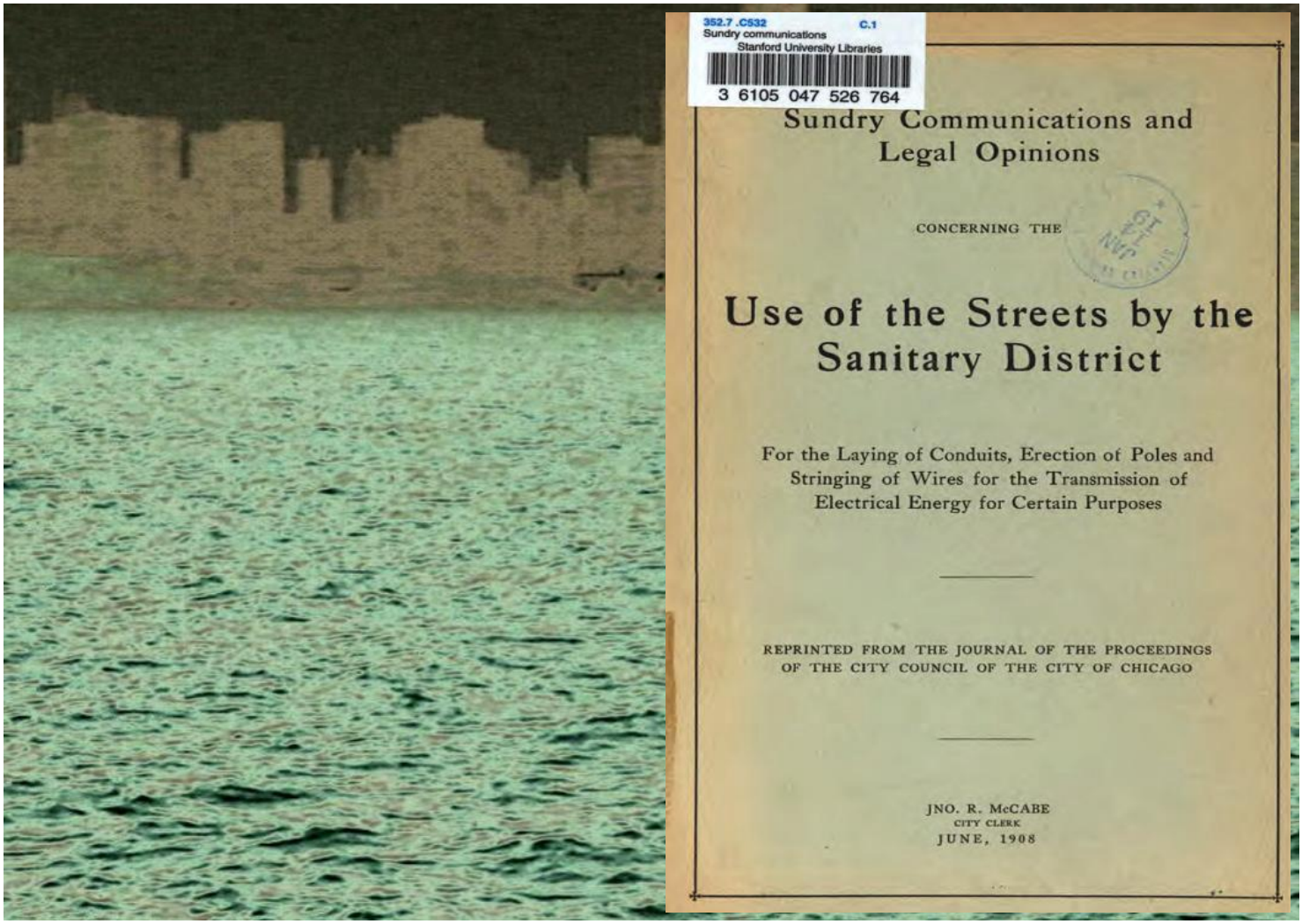










McCabe, J. R. (City Clerk). Sundry Communications and Legal Opinions Concerning the Use of the Streets by the Sanitary District for the Laying of Conduits, Erection of Poles and Stringing of Wires for the Transmission of Electrical Energy for Certain Purposes. Reprinted from the Journal of the Proceedings of the City Council of the City of Chicago (1908 June).

COMMUNICATION FROM HON. FRED A. BUSSE, MAYOR, TO THE CITY COUNCIL OF THE CITY OF CHICAGO.

MAYOR'S OFFICE,
CHICAGO, June 8, 1908.

To the Honorable, the City Council:

GENTLEMEN—I transmit herewith copies of correspondence with interested departments of the City of Chicago, and copies of various legal opinions bearing upon questions at issue between the City of Chicago and the Sanitary District of Chicago, and respectfully recommend that these documents be printed in the Journal of the City Council for the information of the members of the City Council, City officials and the general public.

I take this means of putting the facts on record, because statements have been made from time to time in various newspapers and elsewhere, which might give the public the impression that the Sanitary District of Chicago is meeting with unfair treatment or discrimination at the hands of the City government in the District's efforts to sell and distribute electrical energy. Many, if not all, of the statements so made have been, I believe, misleading.

Communications from the Commissioner of Public Works and from the City Electrician transmitted herewith, will show you that the City has at all times stood ready to co-operate with the Sanitary District in its effort to distribute electrical current; that it has not discriminated against said District; that it has permitted said District to set some thirty-three miles of poles and to string nearly one hundred miles of electrical conductors without permits; and that it has tried to accommodate the District even to the point of winking at the law as construed by the City's legal advisers. In this connection, I may be pardoned for reiterating that the City government and its various departments must follow the law as construed by the City's law department until that law department's construction is proven to be wrong.

The communication from the City Electrician will further show you in detail the amount of work done by the Sanitary District in setting poles and stringing wires, and the character of such work in respect to its conformity to the ordinances and regulations of the City of Chicago, framed and enforced for the protection of life and property; and also an estimate of the amount of power which the Sanitary District has now available, and the amount which it may expect to have at some future time when the maximum flow of water is being discharged through the Drainage Canal. These estimates, I am informed, are figured on the basis usually adopted by practically all competent electrical engineers. I take the liberty of calling your attention particularly to that portion of the City Electrician's report, which shows that the Sanitary District has disregarded both the spirit and letter of the City Code in putting up electrical construction and in violation of the regulations covering electrical wiring in a manner that ought not to be permitted to any corporation, public or private.

On the question of whether the Sanitary District should be required to secure frontage consents before setting poles and stringing wires, I submit copies of th different opinions prepared at different times by three different members of law department all bearing upon this question and all in substantial agreement to the law. In this connection, I desire to make clear one point: I am informed the law department that the Sanitary District was invited about a year ago join in a test case that would determine this question, but failed to do so. Theref the law department, following what it believed and still believes to be the l advised the Commissioner of Public Works not to issue any permits to the Sanit District to set poles and string wires without securing frontage consents, beca if poles and wires were thus put into the streets under authority of the C government and damage should result from said setting of poles and stringing wires, the City of Chicago would have been liable for damages. The Commissio of Public Works has followed this advice from the law department in declining leave the City liable for damages by reason of the work done by the Sanitary D trict, but he has, as shown by his communication transmitted herewith, shut eyes to the setting of some thirty-three miles of poles and the stringing of nea one hundred miles of transmission wires when no complaint was made by prope owners.

The City has at no time on its own initiative stopped the setting of poles a stringing of wires by the Sanitary District. If that part of the Sanitary Distric work has been interrupted, the interruption has been due entirely to the action individual citizens.

Respectfully submitted,

FRED A. BUSSE,
Mayor

COMMUNICATION FROM HON. FRED A. BUSSE, MAYOR, TO MR. WM. CARROLL, CITY ELECTRICIAN.

CHICAGO, June 4, 1908.

Mr. William Carroll, City Electrician:

DEAR SIR: With a view to clearing up various questions that appear to at issue between the City of Chicago and the Sanitary District of Chicago, I wi you would inform me on the following points:

Has the Sanitary District set any poles in the City of Chicago and strung ove head wires for transmission of electrical current or placed conduits for undergrou transmission? If so, please state the extent and location of this work, size of pole distance apart, etc., and how many wires and how much current said poles carr

Has the Sanitary District ever applied for, received or been denied permits fo placing poles, conduits, etc., in the public streets?

What voltage does the Sanitary District overhead wires carry, and how doe this compare with voltage carried overhead on other wires?

What is the character of overhead construction and distributive facilities pu up by the Sanitary District? Is it safe, and does it conform to City regulation imposed upon all other classes of overhead electrical transmission wires?

Has the Sanitary District ever submitted a comprehensive or co-ordinated plan or even an outline of what it desires to do in the way of setting poles, placing con duits, stringing wires, etc., for supplying electrical current to private consumers so

that the Sanitary District and City Officials might co-operate in having said poles, etc., placed where they would be least objectionable to property owners and to the public as street obstructions?

What are other producers of electrical current permitted to do in the way of setting poles, placing conduits, stringing wires, etc., subject to ordinances and rules of the City that the Sanitary District is not permitted to do?

Yours very truly,

(Signed) FRED A. BUSSE,

Mayor.

REPORT OF MR. WILLIAM CARROLL, CITY ELECTRICIAN, TO HON. FRED A. BUSSE, MAYOR.

CHICAGO, Ill., June 5, 1908.

Hon. Fred A. Busse, Mayor:

DEAR SIR—Replying to yours of June 4th, I beg leave to state that Sanitary District has set poles in the City of Chicago and strung overhead wires for transmission of electric currents as shown by the following statement:

	Height of Poles. Feet.
Forty-eighth avenue, from West 39th street to West 41st street, east side of street	35
Forty-eighth avenue, from 12th street to Kinzie street, east side of street	40
Kinzie street, from 52nd avenue to Hamlin avenue, north and south sides of street	40
Hamlin avenue, from Kinzie street to Potomac avenue, east side of street	40
Potomac avenue, from Hamlin avenue to Kedzie avenue, south side of street	40
Alley west of Hamlin avenue, from Potomac avenue to North avenue, west side of street	40
Alley south of North avenue, from Hamlin avenue to Lowell avenue, north side of street	35
Lowell avenue, from North avenue to Wabansia avenue, west side of street	35
St. Louis avenue, from Potomac avenue to North avenue, east side of street	35
Alley east of Ballou street, from North avenue to Bloomingdale road, west side of street	35
Bloomingdale road, from Lawndale avenue to Ashland avenue, north side of street	35 and 40
Alley east of Ashland avenue, from Bloomingdale road one block south.	
Twelfth street, from 53rd avenue to 42nd court, north side of street	40
Forty-fifth court, from 12th street to Fillmore street, east side of street	35
Fillmore street, from 45th court to 43rd avenue, south side of street	35
14th street, from 46th avenue to Avers avenue, south side of street	40
Avers avenue, from 14th street to 16th street, east side of street	40
Sixteenth street, from Avers avenue to Albany avenue, south side of street	40
Rockwell street, from 32nd street to 16th street, west side of street	40
25th street, from Rockwell street to 40th avenue, south side of street	40
40th avenue, from 25th street to 26th street, east side of street	40
26th street, from 40th avenue to 46th avenue, north side of street	40

	Height of Poles. Feet.
Turner avenue, from 25th street to 30th street, east side of street	40
21st street, from Campbell avenue to Washtenaw avenue, south side of street	40
19th street, from Rockwell street to Washtenaw avenue, south side of street	40
Twenty-third street, from Rockwell street to Western avenue, south side of street	40
Western avenue, from 31st street to 43d street, west side of street	40
Western avenue, from 43d street to 103d street, west side of street	35
Forty-third street, from Western avenue to Ashland avenue, north side of street	40
Ashland avenue, from 43d street to 35th street, east and west sides of street,	40 and 50
Thirty-ninth street, from Ashland avenue 1 block east	40
Thirty-seventh street, from Ashland avenue one block east	40
Total number of miles of poles	31.62
Total number of miles of wire	97.90
Approximate number of poles	1,415

They are using wooden poles, varying in length from 35 feet to 50 feet, and are set about 40 to the mile. There are in most places three wires on each pole route. The total horse power to which they have made wiring connections in the city up to May 23, 1908, including motors and 882 incandescent lamps, is 1,057 H. P. Current is distributed at a pressure of 12,000 volts. The Sanitary District has not placed any conduits in the public streets. No permits of any kind have been issued for the work they have done. Applications were made for permits to set poles which I was informed were not issued on account of the opinion of the City Law Department that the city could not legally issue such permits without the Sanitary District first obtaining the frontage consents required by law.

You ask what is the character of overhead construction and distributive facilities put up by the Sanitary District? Is it safe and does it conform to city regulations imposed upon all other classes of electrical overhead transmission wires?

The District is distributing by overhead circuits, at 12,000 volts' pressure from their terminal stations at Western avenue near 31st street, and have wired to serve 26 customers, to 15 of whom it is proposed to furnish incandescent light, and to 22 of whom it is proposed to furnish power for motors. The service is to be given to these companies through transformers, located on poles, and stepping down from 12,000 to 220 volts.

This class of service comes under the head of extra high potential systems, and according to the rules of the Department of Electricity and National Board of Fire Underwriters, the secondary wires leading from these transformers into the buildings, and throughout the buildings, should be installed under the rules for high potential systems, which rules would prohibit entirely the use of incandescent lamps.

The present method of distributing current and serving customers employed by the Sanitary Trustees is in violation of the rules of the Department of Electricity, which are a part of the City Code, and also a violation of the rules of the National Board of Fire Underwriters. All other electric light and power companies operating inside the city limits are required to comply with these rules, which were compiled and put in force to protect life and property.

I have been asked, "Is it not true that the transmission wires of private cor

porations, even though carrying a lower voltage, are equally dangerous to life if a person comes in contact with them?" This would depend upon the manner of contact. A person might be partially insulated from the earth and come in contact with a low voltage wire with no disagreeable results, while under the same conditions, contact with a high voltage wire would destroy life. As a general proposition it can be safely said that the lower the voltage the less the danger to life and property and the higher the voltage the greater the danger. In my opinion, the present distributing system of the Sanitary District is unsafe.

On April 2 I notified the electrical engineer of the Sanitary District that my attention had been called to the fact that he was preparing to furnish current for buildings for power and incandescent lighting and called his attention to the rules referring to extra high potential systems. On April 3, I received a letter describing their system of distribution and containing the following statment:

"This arrangement we have adopted temporarily until such time as we can get some idea of the distribution of our load and can design and locate such stations at the proper points."

On May 29th I caused the chief electrical inspector of this department to notify the Sanitary Trustees that they were operating in violation of the rules and regulations of the Department of Electricity which are a part of the City Code. On June 1st Mr. Ellicott answered this notification with a letter claiming in substance that the system which he was using was practically safe and complied with the rules and stated there are "A large number of users of current furnished by our competitors where the same rule is not now and never has been observed." After careful inquiry I cannot find any place in the City of Chicago where a corporation manufacturing and distributing electricity is not complying with the rules.

I wish to state that the electrical inspectors and electrical engineers in this department, the electrical engineer of the Board of Fire Underwriters, and all other electrical engineers in the city (except the engineers of the Sanitary District) with whom I have consulted agree with me that the present method of distribution and service of the Sanitary District is unsafe to life and property.

In answer to your next question, the Sanitary District has never submitted a comprehensive or co-ordinated plan of what it desires to do in the way of setting poles, placing conduits, stringing wires, etc., for supplying electrical current to private consumers so that the Sanitary District and City Officials might co-operate in having said poles, etc., placed where they would be least objectionable to property owners and to the public as street obstructions.

You ask what are other producers of electrical current permitted to do in the way of setting poles, placing conduits, stringing wires, etc., subject to ordinances and rules of the city that the Sanitary District is not permitted to do?

Practically the only companies that set poles, string wires and place conduits in this city are the Commonwealth Edison Company, the Chicago Telephone Company and the Traction Companies.

When the Commonwealth Edison Company wishes to set poles or string wires or place conduits in the street they make written application in triplicate, addressed to the proper officers of the City of Chicago, stating what work they are required to do and giving a plan showing the proposed locations of the poles, whether in streets or alleys. This application must have the approval of the Law Department, the Engineering Department, Superintendent of Streets and the City

Electrician before the permit is issued by order of the Commissioner of Public Works and signed by the Superintendant of Streets and countersigned by the City Electrician. They pay the sum of $2.00 for each permit so issued; 152 permits were issued during the month of May.

The applications of the Chicago Telephone Company to set poles are approved by the City Electrician, Corporation Counsel, Commissioner of Public Works, Superintendent of Streets and both aldermen of the ward in which the poles are to be located before the permit is finally issued. The ordinance does not require that these permits be sent to the aldermen of the ward, but the Telephone Company prefers to have it done in order to avoid subsequent friction.

It has been the custom for this department to maintain friendly relations with the companies maintaining poles and conduits in the City's streets. Under these relations the department gets quite a few privileges for the City in the way of help during storms when it is imperative that the City's fire alarm and police telegraph systems be kept in as good working order as possible, and under these relations the City is using 1,073 of the Commonwealth Edison Company's poles and the Commonwealth Edison Company have wires on 462 of the City's poles. The Commonwealth Edison Company is not occupying any of the City's conduits, neither is the City occupying any of the Commonwealth Edison Company's conduits. The ordinance of the Commonwealth Edison Company provides that the City shall have the use of one cross-arm on the company's poles, but in a great many places the City is using more than one cross-arm of the Company's poles without compensation.

The Sanitary District maintain about 33 miles of three-phase transmission lines, overhead, at 12,000 volts, and no underground. The Commonwealth Edison Company maintain about 17 miles of three-phase transmission lines overhead at a voltage of 5,000 and under 12,000, and about 274½ miles of underground.

The City maintains 12¼ miles of aerial three-phase transmission lines operated at 6,600 volts and 2 miles underground. Also, 4 8-10 aerial operated at 12,000 volts, and 11½ miles underground.

The voltage used on the old City lighting circuits vary from 5,000 to 11,000. The voltage on all City lighting circuits built during the years 1906 and 1907 and planned for future work is 4,250. These transmission lines are used for conveying electrical energy to sub-stations and from there distributed for street lighting. They are not used for interior lighting.

In a communication to the Finance Committee, which is printed in the Council Proceedings of June 1, 1908, on pages 437, 438, 439 and 440, I called attention to the comparatively small amount of power which the District has to sell and the large area over which it is proposed to distribute. The statement that they have about 1,500 horse power to deliver at Western avenue has been disputed and called misleading. I beg leave to state that the estimate is based on the amount of water the Government will allow the District to take from the Lake, the head at the power plant and the unavoidable losses in turbines, generators, lines and transformers. With a full flow of 600,000 cubic feet a minute in the District's Canal when the Calumet Channel is finished, the District will be able to deliver at the City Limits approximately 23,000 horse power and distribute to customers a little less than 19,000 horse power. The estimate as to this follows:

ESTIMATED ELECTRICAL HORSE POWER TO BE DELIVERED FROM LOCKPORT WHEN THE CALUMET CHANNEL SHALL HAVE BEEN COMPLETED AND THE FULL FLOW RUNNING THROUGH THE DISTRICT CANAL—ESTIMATE BASED ON DELIVERY IN CHICAGO.

Low water Lake Michigan assumed		1.5 ft.
Flow through canal, 600,000 cubic feet per minute	600,000	cu. ft.
Elevation of water in forebay		7.5 ft.
Maximum elevation of water in pool at Joliet		36 ft.
Fall from power house to pool		.75 ft
This data will make the head		27.75 ft.
To be liberal we will assume a head of		30.00 ft.
$\frac{600{,}000 \times 30 \times 62.5}{33{,}000}$ = 34,091—gross horse power	34,091	
Losses in water wheels deducted, 22%	26,591	
Deduct losses in generators and step-up transformers, 5.5%, equals	25,128	
Deduct losses in line and step-down transformers available at City limits, 8.6%, equals	23,017	
Deduct line and transformer loss for distribution through City estimated at—		
Line and feeder, 10%	20,715	
Transformers, 9.8%	18,684	
Leaves power that can be delivered to consumers		18,684

The Calumet Channel is not yet completed. The United States Government limits the amount of water that may flow through the river now to 250,000 cubic feet per minute. This flow would develop at Lockport only 14,200 horse power. Add to this the additional power that would be furnished by the flow from the 39th street pumping station and make the necessary deductions for unavoidable losses in transmission, etc., and it will be seen that my estimate of power available at the present time and in the near future is very liberal.

Respectfully submitted,

(Signed) WILLIAM CARROLL,

City Electrician.

REPORT OF MR. WILLIAM CARROLL, CITY ELECTRICIAN, TO HON. FRANK I. BENNETT, CHAIRMAN COMMITTEE ON FINANCE.

CHICAGO, Ill., May 27, 1908.

Hon. F. I. Bennett, Chairman Finance Committee:

DEAR SIR—In response to your request for a report showing the location of conduits in which the City has vacant duct space and pole lines that might be available for the joint use of the City and Sanitary District of Chicago and any other facts bearing on the proposal of the Sanitary District to distribute their power throughout the City of Chicago for commercial power and lighting, I beg leave to submit the following facts and figures, some of which are well known but will bear repetition as they are pertinent to the question:

The City of Chicago has an area of 190.6 square miles and a population of about two and a half million people. There is in this City an available electrical

power, exclusive of the City's municipal plant and the Hydro-electric power of the Sanitary District of about 397,000 horse power. To the best of my information, the Sanitary District has about 15,000 horse power to deliver at Western avenue and 31st street, less than four per cent of the present available power. The City is now using 4,000 horse power of the Canal current for night service, and within ten days will be taking 7,000 horse power. If as much money is expended on the Municipal lighting plant during the year 1908 as was expended during 1907, the City would at the end of the year probably be taking all the power for night service that the Sanitary District could or would allow. This service is for eight hours in the summer and fourteen hours in the winter, so that practically all the power the District will have to sell will be during the daytime and the time will vary from 10 to 16 hours per day. The City may later decide to build a few supplementary electrically operated pumping stations to operate during the time of the maximum use of water, and if so will be able to take nearly all the power allowed it for twenty-four hours a day, and in that event the District would have practically no power to sell for commercial use in Chicago.

It appears to me that it would have been better policy for the District to have sold their surplus power within the limited area and give the entire population of Chicago the benefit of the profits in reduced taxes, rather than attempt to spread over the entire 194 square miles of the City to give the benefit of low prices to a comparatively few people.

The District has now set about 38 miles of pole lines and have 28 commercial installations containing 280 horse power in motors, five arc lamps and 882 incandescent lamps, a total of 1,027 horse power. The current is delivered in these places through transformers (located on poles), that step down from 12,000 to 220 volts. The installations that operate incandescent lamps under these conditions operate in violation of the Department Rules and are dangerous. A great many of these poles were set without the knowledge of this Department and the current was put into the buildings without the current permits required from other corporations and in violation of the Department Rules which were compiled by the Electrical Engineer of the Drainage Board when he was City Electrician.

During the past two years it has been the policy of this Department to reduce the pressure on the street lighting circuits and to do everything practicable to reduce the danger from electrical circuits. Also it has been the policy of the City for some time to underground wires as fast as practicable. The present policy of the Sanitary District is in direct opposition to this. The danger to life from electrical circuits should not be overlooked in a proposition of this kind. There have been over seventy persons killed in this City during the past seven years from high potential wires and apparatus, and the spreading of 12,000 volt aerial transmission lines through the City as they are being spread by the Sanitary District officials will certainly not decrease the death rate.

I may be going outside of your instructions in this communication, and if so I crave your indulgence, but I feel that this subject in all its bearings is such an important one that it should be looked at from every angle. The water will probably be flowing through the Drainage Channel for several hundred years, and it is better that the question be settled right than wrong, even though it take some time to become familiar with all the details.

The accompanying tables show approximately the electrical horsepower available in the City from all sources, the customers to whom the Sanitary District have made wiring connections up to date, the locations where the City own

conduit systems containing more than two ducts, also the locations where the City owns one and two duct conduit systems. The large map shows the conduits containing more than two ducts and the pole lines that would be fit to carry additional high potential feed wires without being rebuilt. The two duct systems were built, for the most part, for the purpose of undergrounding the City's wires on streets to be repaved, one duct being placed for the Fire Alarm and Police systems and one duct for electric street lighting. The City has not placed the wires underground in all cases on account of lack of funds, and where the list shows vacant ducts the wires are still aerial. None of the City conduits were built for joint occupancy with other corporations, and only the systems having more than two ducts and built in recent years are fit for joint use, the manholes being too small for heavy cables. It has heretofore been the policy of the City, as it has been the policy of the other large electric corporations, to keep their underground work as much apart as practicable. Especially is this true with manholes, where joint conduit systems have been built they have been provided with separate manholes. For example, the City owns two ducts in a joint system built by the Chicago City Railway Company on Archer avenue, from State street to Ashland avenue, and each corporation having separate manholes. The City owns eight ducts in Blue Island avenue, from Harrison street to 18th street, in a joint system built by the Chicago Telephone Company, each corporation having separate manholes. I have not shown any of the two duct systems on the map, as I believe it would be poor policy to share their use with the Drainage Trustees under any circumstances.

Nearly all the City pole routes not shown on the map, which have not been rebuilt as joint lines by the Commonwealth Edison Company or the Chicago Telephone Company were built to accommodate from one to six small wires and are unfit to carry heavy feed wires and would have to be rebuilt as joint lines if used by the Sanitary District. A great many of these poles have been set on streets where the property owners and Aldermanic consent was obtained on the representation that the poles were to be used for street lighting only, and that only from one to two No. 6 wires would be maintained on them. A large part of the City's pole lines and conduit systems were built for the use of the Fire and Police Alarm systems and I try to keep the Fire and Police wires as far as possible from high potential circuits, and I would not approve any plan which provides that high potential wires should occupy the same pole lines with the Fire and Police wires on account of the danger during wind and sleet storms.

With suitable arrangements it might be advisable to allow the Sanitary District cables to be placed in some of the unoccupied ducts shown on the map, but the size and kind of cables, thickness and quality of insulation, voltage and current carried, and all other essential qualifications of the insulation, together with the work of placing and maintaining them, should be subject to the approval and supervision of the City Electrician, and the District should pay to the City its proportionate cost of the conduit used immediately upon beginning its use, and annually thereafter its proportionate cost of the maintenance of the conduit so used. The same rules should apply to the joint use of pole lines.

The small map attached shows where the Sanitary District have installed pole lines inside the City limits. The small section of the City shown in the small map, shaded in red and bounded by 22d street and Blue Island avenue on the north, the Chicago River on the south and east and Western avenue on the west, is shown merely as an indication of the area in which it might be possible to sell 15,000 electrical horse power, provided the price and continuity of service were satisfactory.

In this district I am informed that reaper works, planing mills and other manufacturing concerns use about 20,000 mechanical horse power daily. Referring to the Canners Can Company, 225 West 45th place, near Wentworth avenue, where I understood electrical apparatus had been installed to be operated with Canal power, I find there is no record in this Department of any electrical work having been done in the building. The law directs that persons or corporations before commencing or doing any electrical construction work of any kind whatever, either installing new electrical apparatus or repairing apparatus already in use must file an application for a permit to do such work with the City Electrician and a permit be obtained. As there has been no such application filed, I take it for granted that no work has been done.

It is estimated that it would cost the District approximately $6,000.00 to extend its service to this plant from 35th street and Centre avenue, provided permission was obtained to use the City conduit on Wentworth avenue and City pole line on 35th street, and the estimate does not include any charges for the duct in the conduit or for space on the pole lines.

As I understand the subject, it was the intent of the law requiring frontage consents to prevent just such work as the District officials have been doing and wish to continue such as setting poles and stringing wires in front of property which is not benefited in any way. For example: The poles and 12,000 volt wires placed on Western avenue, from the Canal to 87th street, do not benefit the Western avenue property owners so that they can notice it, but probably does help the town of Morgan Park and a few manufacturers east of Western avenue. This part of the subject is not appreciated by the citizen whose property is not affected, but is by the property owner in front of whose houses the poles have been set or are to be set.

Tables and maps are forwarded herewith.

Respectfully submitted,

WM. CARROLL,
City Electrician.

REPORT OF MR. JOHN J. HANBERG, COMMISSIONER OF PUBLIC WORKS, TO HON. FRED A. BUSSE, MAYOR.

CHICAGO, June 5, 1908.

Hon. Fred A. Busse, Mayor:

MY DEAR MR. MAYOR: In answering yours of yesterday I beg to make the following report in relation to the question asked as to what permits, if any, the Sanitary Board had for erecting poles and stringing wires in the various streets named in your communication:

The Sanitary Board have no permits for any kind of work in connection with the erection of poles or the stringing of wires in the streets and alleys of the city for the reason that the City Law Department advised this Department that there was no authority vested in the Commissioner of Public Works to issue permits for such work for the reason, first, that the State law did not permit it, and second, that there was no city ordinance permitting such erection. The Sanitary Board nevertheless have erected about thirty-three miles of lines, consisting of about 1,520 poles varying in height from forty to fifty-five feet, upon which wires are strung. The reason that these violations have been possible is due to the fact that when the Department found it could issue no permits under the law the writer upon consulting with Your Honor ascertained that it was your desire to have the city authorities co-operate to the fullest extent with the Sanitary Board, inasmuch as the City and said Board practically represented the same constituency, and not to interfere with the work of the District excepting upon complaint of property owners by themselves or through their representatives. In a number of cases such objections were made, principally on account of lack of judgment in selecting the proper places for the erection of poles. In such cases the Department was compelled to interfere, and in most cases the differences were adjusted by placing the poles either in the alley or in such places where the property owners could and would offer no objection.

Respectfully submitted,

(Signed) JOHN J. HANBERG,
Commissioner.

SUNDRY OPINIONS OF THE LAW DEPARTMENT.

IN RE RIGHT OF SANITARY DISTRICT TO LAY CONDUITS IN WESTERN AVENUE AND OTHER STREETS OF THE CITY OF CHICAGO FOR THE PURPOSE OF TRANSMITTING ELECTRICITY FROM ONE DIVISION OF ITS WORKS TO OTHER DIVISIONS THEREOF.

May 15, 1908.

John C. Williams, Esq., Attorney, Sanitary District:

DEAR SIR: Your favor of 6th inst. addressed to Mr. Emil C. Wetten, First Assistant Corporation Counsel, has been referred to me for reply.

As I understand the situation, the Sanitary District is desirous of laying a conduit in Western avenue and other streets of the city for the purpose of transmitting electricity from the sub-station of the Sanitary District at Thirty-first street and Western avenue to a new pumping station of the District to be erected at Wilmette, near the lake, and your contention is that inasmuch as this is necessary to enable the District to carry on the work which it was organized to do, the District is acting therein in its public capacity as distinguished from what has

been termed in previous opinions from this Department its private capacity, which it has been held to occupy in the supplying of electrical energy to private consumers, and that by reason of such work being public in character, as aforesaid, the District has the right to lay conduits in such streets as it may designate or select for that purpose, the only qualification being that the public use is not unnecessarily interrupted or interfered with and the property is restored to its former usefulness as soon as practicable.

In order to arrive at a proper solution of the questions involved it will be necessary to consider and determine the powers and duties of the City of Chicago and the Sanitary District, both with respect to their relations and duties to the general public and their relations and duties to each other. The only power of a municipality directly involved in the questions at issue is as to their respective rights in and to the use of the streets of the city.

The City of Chicago and the Sanitary District are separate and distinct municipal corporations and they each possess separate and distinct purposes, functions and powers.

See: Wilson v. Board of Trustees, 133 Ill., page 447.

Both municipalities are absolute creatures of the Legislature and can exercise such powers only as are expressly conferred or necessarily incident thereto. It is further conceded that the paramount authority over the streets of the city exists in the Legislature, and that in the absence of any constitutional prohibition the Legislature has absolute control over municipal corporations, to create, change, modify or destroy them at pleasure.

As to the City of Chicago:

The City of Chicago is a municipal corporation proper, and as organized constitutes the local government, including both territory and inhabitants, subsidiary to that of the state.

The Cities, Villages and Towns Act, the provisions of which have been adopted by the City of Chicago, and under which it is organized and exists, and particularly Clauses 7 and 9 of Article V thereof, expressly vest the City of Chicago with the care and control of its streets.

With particular reference to the question of the control of streets as between different municipalities, see Kreigh v. City of Chicago, 86 Ill., page 410 of opinion:

"The authority to establish and open streets and improve and keep them in repair, as the public necessities require, is *vital* to the well-being of municipal corporations."

It will be admitted, I take it, that the express delegation of this power with reference to streets by the Legislature to the City of Chicago charges the City with a duty in regard thereto, and the scope and limits of such duty is clearly prescribed by the provisions of the Cities and Villages Act, and that there is therefore an express delegation of power with reference to an express subject, to be exercised in a manner clearly prescribed; and that thereby the City becomes the trustee of the general public in the care and control of such streets, subject only to the continuing power of the Legislature with respect thereto.

As to the Sanitary District:

The Sanitary District was organized for a governmental purpose, but not for a purpose like to that or those of a city or ordinary municipality. In this respect the Sanitary District may be likened to a park municipality. With reference to

the status of the Sanitary District our Supreme Court, in the case of Wilson v. Board of Trustees, above cited, says:

"The District was organized pursuant to an affirmative vote of the electors within its limits as a municipal corporation for sanitary purposes, entirely distinct from and independent of the government of the City of Chicago, and of that of every other municipal corporation, and it has municipal authorities of its own, elected by the electors within the district pursuant to the requirements of its charter, whose functions are in no wise connected with any other municipal government."

The acts of the Legislature under which the Sanitary District is organized and operates clearly set forth its powers, functions and duties, and it thereby becomes charged with a duty to the public to carry out the purposes for which it was organized.

Therefore, it seems clear that the two municipal corporations are each organized for separate and distinct purposes and possess separate and distinct governmental functions in their relations to the public, and that such functions are so essentially distinct and different that each may operate within its own particular field, as designated by the Legislature, without in any manner interfering or conflicting with the other. Bearing this in mind, we will now consider their respective rights in and to the streets of the city.

As above stated, the Legislature has clearly, under the Cities, Villages and Towns Act, vested the City of Chicago with an express power and duty relative to its streets, and until the contrary appears such control must be admitted to be an exclusive one. See, again, Kreigh v. City of Chicago, supra, wherein the Supreme Court, in referring to the question of the control of streets as between a park board and the city, page 410 of opinion, says:

"and it is never to be presumed that the Legislature, having invested them with this power, has, at the same time, authorized them to surrender it to others over whose acts they can exercise no control. It devolves on those who assert the existence of such an extraordinary authority to prove it by the clear letter of the law."

It must be remembered that the Sanitary District has been defined to be a separate and distinct municipality over the acts of which the municipality of the City of Chicago can exercise no control.

As opposed to this express delegation of power and authority by the Legislature to the City of Chicago with respect to streets I am unable to find anywhere in the act under which the Sanitary District is organized, or the acts amendatory thereof, any express delegation to it by the Legislature of any power over streets.

As I understand your position, you do not contend that the Legislature has expressly delegated to the Sanitary District any control of or right in the streets of the city, but that such right in the District exists by implication, by reason of Section 6 of your act, reading as follows:

"That the power made available by the works constructed under the provisions of this act shall be converted into electrical energy and shall be transmitted to the various cities, villages and towns within said Sanitary District, or adjacent to the main channel of said Sanitary District, and may be used in lighting of said cities, villages and towns, or parts thereof, or for the operation of pumping plants or machinery used for municipal purposes or public service, or may be disposed of to any other person or corporation upon such terms

and conditions as may be agreed to by said Sanitary District; *provided, however, that it shall be the duty of said Sanitary District to utilize so much of said power as may be required for that purpose to operate the pumping stations, bridges and other machinery of said Sanitary District.*"

and that, owing to the fact that the duty is imposed by the Legislature upon the District "to utilize so much of said power as is required to operate its own machinery," under the rule that statutes containing grants of power are to be construed so as to include the authority to do all things necessary to accomplish the objects of the grant, the Legislature must have intended, by implication, to confer upon the District the right to occupy streets with conduits and wires necessary to transmit such electrical energy from one point of its works to another.

The act of the Legislature, as I understand it, whereby it is assumed such power is granted, is the Sanitary District Act, which was passed subsequent to the Cities, Villages and Towns Act.

In order that such power shall exist by implication it must be that the latter act relied upon to confer such power is so inconsistent with the former act that they both can not stand, and that thereby the latter act operates as a repeal of the former act in this respect.

As to repeals by implication our Supreme Court has said:

"It is the duty of the courts to construe them (statutes) so as to avoid repeal, if such a construction can be given, and a statute will never be held to be repealed by implication if it can be avoided by any reasonable hypothesis."

Village of Ridgeway v. Gallatin County, 181 Ill., page 525 of opinion, and numerous cases there cited.

It is therefore clear that the necessity which compels us to resort to the doctrine of repeal by implication is the clear inconsistency between the two acts, and I can not see wherein such clear inconsistency appears, inasmuch as the Sanitary District, as any other distinct and separate corporation, can acquire the privilege it desires by compliance with the statute and ordinances of the city relative thereto, and that thereby both acts can stand and both be enforced by the courts.

It must be conceded, I take it, that if there is any express provision in the Drainage Act whereby the District is directed to do this work in any particular manner, such direction must be observed and followed by the District in exclusion to any other, and this notwithstanding the fact that compliance with such provision may, in the judgment of the officials of the District, involve what may be considered by them useless expense and delay. This, of course, would also remove any question of a resort to repeal by implication.

Recurring to your statement and contention that the laying of this conduit is necessary in order to permit the District to carry on its work of a public character, I would respectfully refer to Section 17 of the Act, which provides:

"When it shall be necessary in making any improvement which any district is authorized by this act to make, to enter upon any public property or property held for public use, such district shall have the power so to do and may acquire the necessary right of way over such property held for public use in the same manner as is above provided for acquiring private property, and may enter upon, use, widen, deepen and improve any navigable or other ways, waterways, canal or lake; provided, the public use thereof shall not be unnecessarily inter-

rupted or interfered with, and that the same shall be restored to its former usefulness as soon as practicable; * * *"

It appears to me that Section 17 covers and applies to the situation now before us, and if so it is well settled that when a municipal corporation is vested with a certain power or authority, and the mode for the exercise of such power or authority is prescribed, such mode so prescribed must be followed to the exclusion of any other.

It further follows, therefore, that the Sanitary District, being a municipal corporation, and the mode in which it shall exercise its powers being expressly prescribed, such mode must be followed by it, and that the City of Chicago, being also a municipal corporation, the same rule would apply to it, and following this rule to its logical sequence it must be clear that in the event of there being no power conferred upon the City of Chicago to permit the use in question—and I can find none—the City of Chicago has no right to grant to the Sanitary District the privilege to occupy the streets in question except upon compliance by the Sanitary District with the provisions of the Cities, Villages and Towns Act and the Sanitary Act relative thereto.

It may be suggested that the City of Chicago should grant this privilege upon a consideration of public convenience, but with reference thereto it has been well said by our Supreme Court, in the Kreigh case above referred to, page 407 of opinion.

"A municipality can not by its acts alone invest itself with a power not conferred or divest itself of a power which the charter confers."

I am therefore constrained to express myself of the opinion that the city has no right to grant to the Sanitary District the use of the streets requested in your letter, except upon compliance with the conditions above set forth.

Yours respectfully,

(Signed) OSCAR H. OLSEN,
Assistant Corporation Counsel.

Approved:

(Signed) EMIL C. WETTEN,
First Assistant Corporation Counsel.

IN RE SANITARY DISTRICT—FURNISHING ELECTRICAL ENERGY TO CITY.

June 1, 1907.

Hon. John J. Hanberg, Commissioner of Public Works:

DEAR SIR—In the matter of the application of the Sanitary District of Chicago to erect poles and wires upon certain streets named in said application, for the purpose of transmitting electrical energy to the villages of Evergreen Park, Morgan Park and Blue Island, I beg to advise you that I do not consider the application in legal form, and you are therefore not justified in granting the permit.

The Revised Municipal Code provides (Section 2166):

"No person or corporation shall erect, construct, maintain or use any pole, line or wire, or electric conductor of any description whatever, within the city, without first having obtained a permit therefor under a valid and existing ordinance, from the Commissioner of Public Works, which permit shall be countersigned by the City Electrician, under a penalty of one hundred dollars for each and every offense; and each and every day any such telegraph pole, line or wire, or electric conductor, shall be maintained or used after the first conviction shall constitute a new and separate offense."

No such "valid and existing ordinance" has been passed, and neither can it be passed except by a full and complete compliance with Section 186, Chapter 24, Cities and Villages Act (Starr & Curtis Revised Statutes), which provides:

"That the City Council in cities, or the President and Board of Trustees in villages and incorporated towns, shall have no power to pass an ordinance granting to any person or corporation the right or privilege to lay any gas pipes for the distribution of inflammable gas for fuel or lighting purposes, or to pass an ordinance granting to any person or corporation the right or privilege to lay in or on the ground, or string on poles any wires on, over or by which electricity for lighting purposes is to be used, conveyed or distributed in any street, alley or public grounds in any such city, village or incorporated town, except upon the petition of the owner of the land representing more than one-half of the frontage on the street or alley, or so much thereof as is sought to be used for the purposes above mentioned, or any or either of them, and when the street or alley, or part thereof sought to be used shall be more than one mile in length, no right or privilege to lay pipes, or lay or string wires for lighting purposes, shall be granted, unless a petition therefor shall be presented to the City Council of the city . . . . in which such right or privilege is sought, signed by the owners of the land representing more than one-half of the frontage of each mile, and of the fraction of a mile, if any, in excess of the whole mile, measuring from the initial point named in such petition of such street or alley, or of the part thereof sought to be used for the purposes above mentioned, or either of them."

You will therefore note that it is impossible for you to issue a permit unless a "valid and existing ordinance" has been passed by the City Council authorizing the location of the poles, and further, that the City Council is without authority to pass such an ordinance without a petition, attached to the application for such ordinance, of the owner of the land representing more than one-half of the frontage on the street or alley upon which the poles are to be placed.

In this connection I am advised, however, that the Sanitary District contends that, in view of the fact that they are a municipal corporation, the provisions of said Clause 186, Chapter 24, do not apply to them and that they are entitled to the permit without the passage of the ordinance. If they are entitled to the permit without the ordinance, they are undoubtedly entitled to proceed without the permit. But I am positive that in this contention they are in error.

Section 63, Chapter 24, Clause 90, Cities and Villages Act, grants to the City Council the power to regulate the use of the streets, which would seem on its face to give the City Council full and complete power to provide by ordinance for the use of the public streets in any manner they saw fit, provided there was not an abuse of that power, and provided, further, that the grant of such use did not deprive the inhabitants of the city of the right of free passage over, upon and across such streets. But our Supreme Court has held that Paragraph 9, granting to the City Council the right to regulate the use of the streets, has had a definite limitation placed upon it by Clause 90 of Section 63, Chapter 24, which reads as follows:

"The City Council or Board of Trustees shall have no power to grant the

use of or the right to lay down any railroad tracks in any street of the city to any steam, dummy, electric, cable, horse or other railroad company, whether the same shall be incorporated under any general or special law of the State now or hereafter in force except upon the petition of the owners of the land representing more than one-half of the frontage of the street or so much thereof as is sought to be used for railroad purposes." (Chicago Dock and Canal Co. v. Garrity, 115 Ill., 155.)

The Sanitary District, when engaging in the business of selling superfluous electricity, must be held to be acting as a private corporation, and not as a municipal corporation, on the same principle as the City of Chicago when engaging in the business of supplying water to its inhabitants. Being engaged in a private business, the fact that they are a municipal corporation does not give them any greater or better rights than if they were a private corporation, and if it should be held that the Sanitary District has a right to place poles upon and along the public streets of the City of Chicago, under a permit which is not authorized by a "valid and existing ordinance" passed by the City Council in accordance with Section 186, Chapter 24, Cities and Villages Act, then the Sanitary District would have a perfect right to build a steam, dummy, electric, cable, horse or other railroad upon the streets of Chicago under a like permit, and without securing the necessary frontage consents as provided in Clause 90, Section 63, Chapter 24, Cities and Villages Act, in order to sell the superfluous stone which is located along their right-of-way and which is not necessary in order to operate and maintain the canal, and be able to deliver that stone to their customers within the city limits of Chicago, or, perchance, to some suburban town beyond the limits of the City of Chicago.

I do not think the Sanitary District will contend for a single moment that they would have the right to build such a railroad, even if the Legislature had passed an enabling statute; and yet Clause 90, Paragraph 63 of Chapter 24 and Paragraph 186 of Chapter 24 are framed along identical lines and absolutely prohibit the City Council from passing the necessary ordinance until they have the frontage consents—the only difference being that in Paragraph 186, relative to electric light poles, it specifically provides that the owner of any lot fronting on any street or alley may enjoin a person or corporation from using such street or alley unless proper frontage consents have been secured.

I am not now prepared to agree with the contention of the District that, because the statute empowering the Sanitary District to develop electrical energy authorized that it "shall" be transmitted to the various cities, it meant to give to the District carte blanche authority to violate any and all existing statutes in order to transmit their electrical power with as little trouble and expense as possible.

I do not think that Section 186 has been repealed by implication, because it is not inconsistent with the act authorizing the District to sell their superfluous electrical energy, and both might well stand without any great harm or injury coming to the Sanitary District.

Repeals of statutes by implication are not favored by law, and a later statute will never be held to operate as a repeal of an earlier statute unless the two are so inconsistent or repugnant that they cannot be reconciled, and it becomes the duty of the courts to so construe them as to avoid such repeal by implication in all cases, if such a construction can be reasonably adopted. (Hunt v. Chicago Horse & Dummy Railway, 121 Ill. 638.)

I am therefore forced to conclude that if the Sanitary District has the power

they contend for under the statute, they do not require a permit of any kind from the city, but if they do require such a permit, then the City of Chicago has "no power" to grant such a permit without a "valid and existing ordinance" passed on the petition of the owner of the land representing more than one-half of the frontage on the street or alley or so much thereof as is sought to be used for the purposes above referred to.

With sincere regards I am,

Yours very truly,

EMIL C. WETTEN,

Approved: GEORGE W. MILLER, *Assistant Corporation Counsel.*
First Assistant Corporation Counsel.

IN RE SANITARY DISTRICT—FURNISHING ELECTRICAL ENERGY TO CITIES, TOWNS, ETC.

August 6, 1907.

Hon. John J. Hanberg, Commissioner of Public Works:

DEAR SIR—Under date of May 13th last there was presented to you an application by the Sanitary District of Chicago to erect poles and string wires thereon on certain main streets in the City of Chicago for the purpose of furnishing electrical energy to the villages of Evergreen Park, Morgan Park and Blue Island.

Section 1 of an act entitled "An Act to regulate and prescribe the conditions for the granting of rights and privileges for lighting and heating purposes by cities, villages and incorporated towns, and providing a remedy by the property owner where such conditions have not been complied with," approved June 5, 1897, and in force July 1, 1897 (Starr & Curtis' Revised Statutes, Vol. 4, p. 218), provides in part as follows:

"The City Council in cities . . . . . shall have no power to pass an ordinance granting to any person or corporation . . . . the right or privilege to . . . . . string on poles any wires on, over, or by which electricity for lighting purposes is to be used, conveyed or distributed in any street, alley or public grounds in any such city . . . . except upon the petition of the owner of the land representing more than one-half of the frontage on the street or alley or so much thereof as is sought to be used for the purposes above mentioned. . . . . Any person being the owner of or being interested in any lot fronting on any street or alley or part thereof as is sought to be used for any or either of such purposes, shall have the right, by bill in chancery, in his or their own name, to enjoin any person or corporation using such street or alley or part of street or alley for either of such purposes under any grant by the City Council . . . . which is not made in conformity with the provisions hereof, and the sufficiency of the petition herein required shall be ascertained by the court in which such bill in chancery may be filed."

No petition of consenting property owners, as required by the section thus quoted, has been obtained; nor has the City Council attempted, by ordinance, to authorize the Sanitary District of Chicago to erect poles and string wires in the streets included in the application for a permit.

The question raised by the application for the permit is, whether the act of 1897 applies to the Sanitary District of Chicago, for if it does, it follows from the

statement previously made that the City has no authority to grant the permit requested, nor has the Sanitary District any right to erect poles and string wires thereon in the streets enumerated.

This same question arose under an application heretofore made for such a permit, and under date of November 1st last Mr. William D. Barge of this Department rendered an opinion to the then Commissioner of Public Works advising him that the frontage act in question applied to this case and that he had no authority to issue the permit applied for. Under date of the 26th of that month Mr. James Hamilton Lewis, then Corporation Counsel, reviewed the question, and in an opinion addressed to the then Commissioner of Public Works expressed a contrary conclusion to the one announced by Mr. Barge.

Upon the receipt of this present application the question was investigated by Mr. Emil C. Wetten of this Department, and in an opinion of some length he agreed with the conclusions announced by Mr. Barge. It appears also that the Sanitary District invited an opinion from Mr. P. C. Haley, a distinguished member of this bar, upon this same subject, and upon a line of reasoning different than that adopted by Colonel Lewis he reached the opinion that the frontage act of 1897 did not apply, and that under the statute authorizing the Sanitary District to dispose of its surplus electrical energy, it had the right, even without securing a permit from the City, to erect poles and string wires thereon in the public streets of Chicago.

With this contrarity of opinion upon the question, I have, personally, examined the statutes involved and authorities throwing light upon the question itself, and beg to announce to you my conclusions:

Section 5 of "An Act in relation to the Sanitary District of Chicago to enlarge the corporate limits of said District and to provide for the navigation of the channels created by such District, and to construct dams, water wheels and other channels necessary to develop and render available the power arising from the water passing through its channels and to levy taxes therefor," approved March 14, 1903, in force July 1, 1903 (Hurd's Rev. Stat., 1905, p. 371), reads in part as follows:

> "The said Sanitary District of Chicago is hereby authorized to construct all such dams . . . . . as may be necessary or appropriate to develop and render available the power arising from the water passing through its main channel and any auxiliary channels now or hereafter constructed by said District."

Section 6 of the same act provides in part as follows:

> "The power made available by the works constructed under the provisions of this act shall be converted into electrical energy and shall be transmitted to the various cities, villages and towns within said Sanitary District or adjacent to the main channel of said Sanitary District, and may be used in the lighting of said cities, villages and towns or parts thereof, or for the operation of pumping plants or machinery used for municipal purposes or for public service, or may be disposed of to any other person or corporation upon such terms and conditions as may be agreed to by the Sanitary District."

In connection with the sections of the Statutes quoted supra, attention should be called to Article V of the Cities and Villages Act (Chapter 24) dealing with the powers of City Councils, and, particularly, to Clauses 9 and 10 of Section 1 of that article (Starr & Curtis, Vol. 1, p. 694). In speaking of the power and control of cities through City Councils over public streets, Clause 9 provides: "To regulate

the use of same," and Clause 10, "To prevent and remove encroachments or obstructions upon the same."

The Sanitary District of Chicago is a municipal corporation. (Reddick v. The People, 82 Ill. App., 85.) As such its powers may be divided into two classes: (1) those which are governmental or political; and (2) those which may be described as proprietary or private.

In the exercise of the latter class of powers, it stands precisely as an individual or a private corporation, and has to be governed and controlled accordingly.

Dillon, in his work on Municipal Corporations (Vol. 1, Section 66) makes this division of power, and speaking of such corporations acting in their proprietary or private character, says:

> ". . . . . and as to such powers, and to property acquired thereunder, and contracts made with reference thereto, the corporation is to be regarded *quo ad hoc* as a private corporation, or at least not public in the sense that the power of the Legislature over it or the rights represented by it is omnipotent."

The same author in the next succeeding section says:

> "This division of the powers of a municipal corporation into two classes, one public and the other private, has been before alluded to, and is well established."

A leading case on this subject is Bailey vs. The Mayor, etc., 3 Hill 531, where the City of New York under acts of the New York Legislature and ordinances of the City erected a dam in connection with its efforts to supply the city with pure water, and where, by reason of the negligence in the erection of the dam, damages resulted to the property of a citizen. The Court, in a suit brought to recover the damages, had occasion to mark the distinction between these two classes of powers, and in the course of its opinion said (539):

> "To this end regard should be had, not so much to the nature and character of the various powers conferred, as to the object and purpose of the Legislature in conferring them. If granted for public purposes exclusively, they belong to the corporate body in its public, political or municipal character. But if the grant was for purposes of private advantage and emolument, though the public may derive a common benefit therefrom, the corporation, *quo ad hoc*, is to be regarded as a private company. It stands on the same footing as would any individual or body of persons upon whom the like special franchises had been conferred."

It was held that the construction of the dam by the City in the course of its efforts to create a system of water works which would supply the inhabitants of the city with water was done, not in the exercise of its governmental powers, but in its private or proprietary capacity, and that it was therefore liable in damages.

The same doctrine is applied to the City of Philadelphia in re Western Savings Fund Society vs. City of Philadelphia, 31 Pa. 185, in connection with the manufacture and sale of gas. The Supreme Court of Georgia recognized and applied the same doctrine in the City of Augusta vs. Hudson, 88 Ga. 599, where the City controlled a bridge constructed across the Savannah River and collected toll from those using the bridge. The suit was one for damages brought by reason of injuries

received by Hudson in crossing the bridge. A single sentence may be taken from the opinion (605):

> "So far as keeping and maintaining this bridge for gain is concerned, this corporation entered the State of South Carolina to engage in a private business and enjoy the profits thereof."

See also,

Bullmaster vs. City of St. Joseph, 70 Mo. App. 60.

Bodge vs. Philadelphia, 167 Pa. St., 492.

In this latter case it was held that the Electrical Bureau of the City of Philadelphia was controlled and operated by the City, not in its governmental capacity, but, in its private capacity, and it was pointed out that it derived a revenue from this source which went into the City Treasury.

An examination of the statute under which the Sanitary District is authorized to dispose of its surplus electrical energy will disclose that it may furnish this electrical energy to cities, villages, towns, or to any individual or private corporation "upon such terms and conditions as may be agreed to by the said Sanitary District."

It is thus plain that the District may prescribe terms and conditions under which its surplus electrical energy will be furnished, and so far as individuals and private corporations, at least, are concerned, may stipulate the price, the manifest purpose of the act being to save this available water power and convert it into a thing of value by vesting in the District power by the construction of dams, to generate, not only such electrical energy as may be needed by the District in carrying out the purposes of its creation, but a surplus which might be a source of revenue to the District just as the water works of Chicago afford a source of revenue to this City. This grant of power, in so far as it relates to the municipal corporation known as the Sanitary District of Chicago, of necessity must be held to be of private advantage and emolument; and if it be replied that this source of income is also of benefit to the public at large included within the territory comprising the District, it may be answered in the language of the Bailey case, supra, that "if the grant was for purposes of private advantages and emolument, though the public may derive a common benefit therefrom, the corporation *quo ad hoc* is to be regarded as a private company."

I am of the opinion, therefore, that in the exercise of this power to the District to generate electrical energy and to furnish the same to cities and villages, persons or private corporations, the District does not act in its governmental capacity, but in its private or proprietary capacity, and that it must be treated precisely the same as would any private corporation applying for a permit to erect poles and string wires thereon in the streets in question.

It has been argued on behalf of the District that the State, through the Legislature, may control the public highways, and that although by act of the Legislature control of the streets of the city may have been vested in the city, yet, power remains in the State through its Legislature to repossess itself of that control; that where the State by act of its Legislature has granted a power or charged a corporation with the performance of a duty, there follows by implication the right to do all things necessary to exercise that power or to discharge the duty; and the argument is that the Legislature, by the act of 1903, above referred to, not only authorized, but made it the duty of the District to both generate electrical energy and to supply its surplus to cities, villages, towns and other persons and

corporations, from which it is insisted there followed by necessary implication the right to do all things necessary to carry out that power and discharge that duty; and upon this line of reasoning, it is insisted that it was the intention of the Legislature that the frontage act and the provisions of the City Charter giving to the City of Chicago the control over its public streets, must be held not to apply to the Sanitary District in this particular instance, but that it must be held to have the right, without procuring frontage consents, and although a permit is here applied for, the position is taken, without a permit to erect poles and string wires thereon in the City's public streets.

In this connection Sections 5 and 6 of the act of 1903 in question may be examined for the purpose of ascertaining whether the provisions in question are mandatory or permissive. In construing these two sections they are to be read as a whole and so construed that effect is to be given to all their provisions. It will be noted that by Section 5 the District is authorized to construct dams, etc. This is not the language of a command, but rather is a vesting of authority, a grant of power. In Section 6 the provision is that the power "shall be converted into electrical energy, and shall be transmitted to the various cities," etc. There then follows the enumeration of cities, villages, towns or parts thereof and other persons or corporations as the classification of those to whom the surplus electrical energy may be furnished.

An examination of this section will disclose, first, that while the word "shall" is used both in connection with converting the power into electrical energy and the provision as to its being transmitted, the transmitting of the power must depend, first, upon whether there is a city, village, town or other person or corporation desiring to take and use the energy in question; and second, whether the terms will be agreed to by the Sanitary District. If it be assumed that the Legislature by the use of the word "shall" in the fore part of Section 6 intended to make it mandatory on the Sanitary District to furnish this energy, it is impossible to understand why the Legislature would vest in the District power to control absolutely the terms upon which the electrical energy should be furnished, and thus by stipulating unreasonable terms nullify the previous provisions of the section.

It is a familiar rule of construction that the words "may" and "shall" are often used in statutes interchangeably, and that where it seems necessary, in order to give effect to all of the provisions of the sections, the word "may" will be construed to mean "shall" or the word "shall" will be construed to mean "may."

Reading these two sections as a whole, I am of the opinion that it was the intention of the Legislature to vest in the District authority to generate and transmit this surplus energy, and that it was not intended that the language of Section 6 should be mandatory, and so construing these sections the word "shall" should be construed to mean "may." If I am right in this construction of these sections, it to a very considerable extent destroys the force of the argument heretofore suggested as having been made on behalf of the District concerning the implied powers growing out of the language of these sections.

Furthermore, these two sections of the statute must be read in connection with the two clauses quoted from the Cities and Villages Act and with the Frontage act of 1897. It is perfectly manifest from a reading of the Cities and Villages Act that it was the intention of the Legislature to give to the City Council of cities adopting that act control of their public streets, subject, of course, to such legislation as might from time to time be enacted to limit that right.

The frontage act of 1897 is a limitation upon the power of the City Council over its public streets, and that limitation is in behalf of the owners of abutting property. An examination of the act of 1897 will disclose that it was the intention of the Legislature to vest in the owners of abutting property power to determine whether the City Council might by ordinance authorize the use of public streets for certain enumerated purposes, one of which was the erection of poles and stringing of electric wires thereon. Believing as I do that the Sanitary District in the generation and transmission of its surplus electrical energy must be treated as a private corporation, there appears to be no reason why it should not be held to come within the provisions of the frontage act referred to, unless it is to be held that in so far as the District is concerned, the frontage act has been repealed by Sections 5 and 6 of the act of 1903.

There is no express repeal of it—in fact, the act of 1903 makes no mention of the frontage act. Therefore, if the act of 1903 operates to repeal the act of 1897, it must be by implication. Repeals by implication are not favored in the law. Our Supreme Court said in Village of Hyde Park v. Cemetery Association, 119 Ill. 145, 147:

> "In the construction of statutes it is a rule of law well settled that a repeal by implication is not favored, and where two acts are seemingly repugnant, they should, if possible, be so construed that the latter may not operate as a repeal of the former by implication."

Again, in Village of Ridgeway v. Gallatin County, 181 Ill. 521, 525, the Court said:

> "A repeal of the act of 1872 can only result on account of such inconsistency between the two acts that they cannot both stand. Such a repeal is not favored in the law, and a later statute will never be held to repeal an earlier one, unless they cannot be reconciled. It is the duty of the Court to construe them so as to avoid repeal, if such a construction can be given, and a statute will never be held to be repealed by implication if it can be avoided by any reasonable hypothesis."

Under this familiar rule of construction it becomes necessary to so read the frontage act of 1897 and the act of 1903 as to reconcile them, if indeed there be any inconsistency between their provisions. There is no difficulty in holding that, although authorized by the act of 1903 to generate and transmit electrical energy, yet, when in its private capacity the Sanitary District embarks in an enterprise as a private corporation, it must submit to being governed and controlled by the same laws which under similar conditions govern and control other private corporations.

No ordinance has been passed by the City Council authorizing the use of the streets in question by the Sanitary District for the erection of poles and stringing of wires. Section 2106 of the city ordinances (Revised Municipal Code of 1905) provides that—

> "No person or corporation shall erect, construct, maintain or use any pole, line or wire, or electric conductor of any description whatever within the city without first having obtained a permit therefor, under a valid and existing ordinance, from the Commissioner of Public Works . . . .".

You will note that your right to issue a permit for such a purpose depends upon the existence of a valid and existing ordinance. There is no such ordinance, hence, no right to issue such a permit.

From these conclusions, it follows, I am of the opinion, that you have no right to issue the permit in question, and I so advise you.

Respectfully submitted,

(Signed) GEORGE W. MILLER,
First Assistant Corporation Counsel.

IN RE STATUS OF SANITARY DISTRICT IN SALE OF POWER TO MUNICIPALITIES DRAINED BY DISTRICT—AMOUNT TO BE CHARGED THEREFOR, ETC.

CHICAGO, May 22, 1908.

Hon. Frank I. Bennett, Chairman Committee on Finance:

DEAR SIR—In replying to your favor of 8th inst., addressed to Hon. Edward J. Brundage, Corporation Counsel, wherein you ask for an opinion upon various questions relative to the sale of power by Sanitary District, I will take up the questions separately.

First—As to an interpretation of the law covering the sale of power to municipalities drained by the District, in relation to the amounts to be charged said municipalities.

This subject is covered by Section 6 of the Sanitary District Act of 1903, reading as follows:

> "That the power made available by the works constructed under the provisions of this act shall be converted into electrical energy, and shall be transmitted to the various cities, villages and towns within said Sanitary District or adjacent to the main channel of said Sanitary District, and may be used in the lighting of said cities, villages and towns, or parts thereof, or for the operation of pumping plants or machinery used for municipal purposes or for public service, or may be disposed of to any other person or corporation upon such terms and conditions as may be agreed to by the said Sanitary District; provided, however, that it shall be the duty of said Sanitary District to utilize so much of said power as may be required for that purpose to operate the pumping stations, bridges and other machinery of said Sanitary District."

From a reading of this act it seems clear that the matter of the sale of electrical energy by the Sanitary District to municipalities or others is placed upon a private contract basis; that is, the price to be charged is a matter of mutual agreement between the parties.

It might further be suggested that a reading of the act will also disclose the fact that no municipality thereunder could compel the Sanitary District to furnish such power; that it is optional with the Sanitary District after "utilizing so much of said power as may be required for the purpose of operating the pumping stations, bridges and other machinery of said Sanitary District" to dispose of the surplus either to municipalities within said Sanitary District or adjacent to the main channel, or to dispose of the same to any other person or corporation, leaving it entirely within the discretion of the Sanitary District to dispose of the same only upon such terms as they are willing to accede to.

Second—What items should be considered in arriving at the cost of such power?

The answer to the first question covers this, inasmuch as the price to be charged is purely a matter of mutual agreement between the parties.

Third—An opinion as to the necessity for frontage consents for transmission lines.

This question has heretofore been the subject of careful investigation by this office, and I attach hereto copy of opinion rendered by Mr. George W. Miller of date August 6, 1907, and copy of opinion rendered by Mr. Emil C. Wetten of date June 1, 1907, which go into this question exhaustively, and you will note they both arrive at the conclusion that such frontage consents are necessary.

Fourth—As to the right of the city to take over power obtained from the Sanitary District and dispose of it commercially.

The city has no power to do this. The city would undoubtedly have the right in the event of its ownership of a city lighting plant to dispose of any energy produced by said plant in excess of that required for City purposes, but I am clearly of the opinion that the city has no right to go into the market, purchase a commodity and traffic in the same at a profit.

Yours respectfully,

(Signed) OSCAR H. OLSEN,
Assistant Corporation Counsel.

Approved:

(Signed) EMIL C. WETTEN,
First Assistant Corporation Counsel.

REPORT OF THE COMMITTEE ON FINANCE.

Concurred in by the City Council June 8, 1908 (page 578, Journal of the Proceedings of the City Council).

CHICAGO, June 1, 1908.

To the Mayor and Aldermen of the City of Chicago in City Council Assembled:

Your Committee on Finance, to which was referred a request from the Sanitary District of Chicago in re installation of cables in city conduits and upon city poles for the purpose of transmitting electrical energy, submitted certain questions therein involved to the City Electrician, and respectfully transmits herewith a report from him covering such subjects. It also transmits herewith sundry opinions from the Corporation Counsel's Office, bearing upon the same questions. The Committee respectfully requests especial attention to the report of the City Electrician.

After a careful consideration of the subject, your Committee has come to the conclusion that it should be the policy of the City of Chicago,—That where the City has existing conduits or poles which can, in the judgment of the City Electrician, be granted for the purposes required by the Sanitary District, the requests shall be complied with, the Sanitary District to pay a reasonable compensation therefor, and in each case to make a specific request of the City Electrician for such privilege. He shall investigate the same and report his conclusions to the Finance Committee, for such action as it may deem proper in the premises.

That no new conduits shall be installed, or new poles set, unless a permit is first obtained from the appropriate city department, and before such permit is issued, the aldermen in or through whose wards such conduits or poles are to be installed shall receive notice of the application. If there is any objection on the part of all or part of such aldermen, the application shall be referred to the City Council for its action.

It would appear that the Sanitary District of Chicago should not be permitted to tear up or set poles in the streets of the City of Chicago without the consent of the proper city authorities, whom the people look to for the preservation and care of the city's streets.

Upon the legal question, whether the District is required to get frontage consents, the Committee respectfully refers to the accompanying opinions from the Law Department.

The Sanitary District of Chicago has already set a large number of poles in the streets of the City of Chicago without permits, your Committee is advised, from the City of Chicago, or knowledge of the aldermen representing the respective wards in which the poles were set, and it is for the purpose of controlling this that the policy above outlined is recommended.

It has been suggested that the amount of horse-power developed by the Sanitary District does not justify the stringing of high potential wires all over the City of Chicago, and that it might be a better policy to sell the power thus developed within a limited area, as near the point of initial distribution as possible. Even on the poles where high potential wires now exist, a multiplication of them should, wherever possible, be avoided.

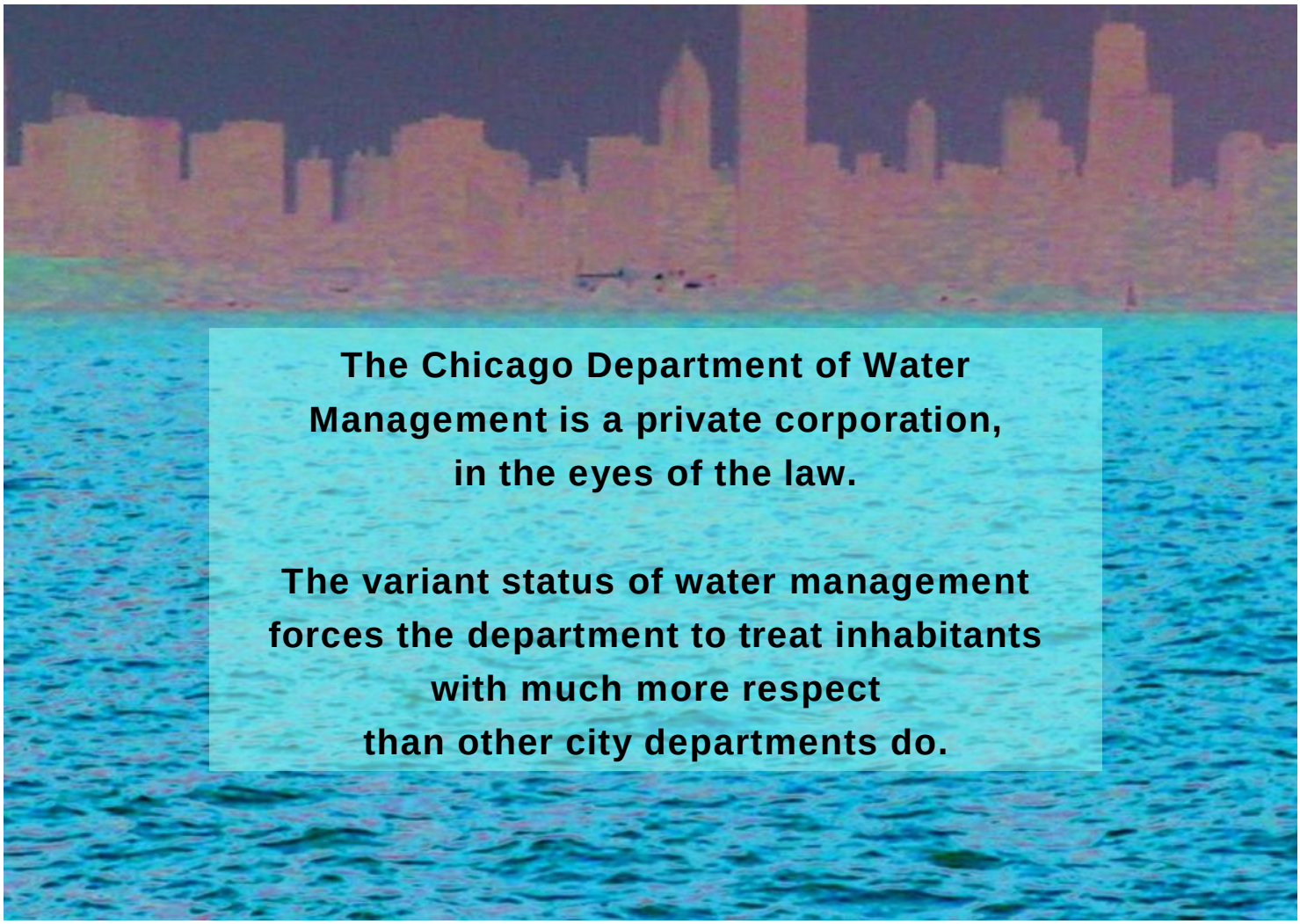
The City Electrician reports to your Committee that within two years 95 per cent of the night power generated by the Sanitary District of Chicago can be used for street lighting by the City of Chicago. It is the opinion of the Committee that, inasmuch as the City of Chicago supplies practically all the taxes which go to sustain the Sanitary District of Chicago, that this power should be reserved for this highly desirable use.

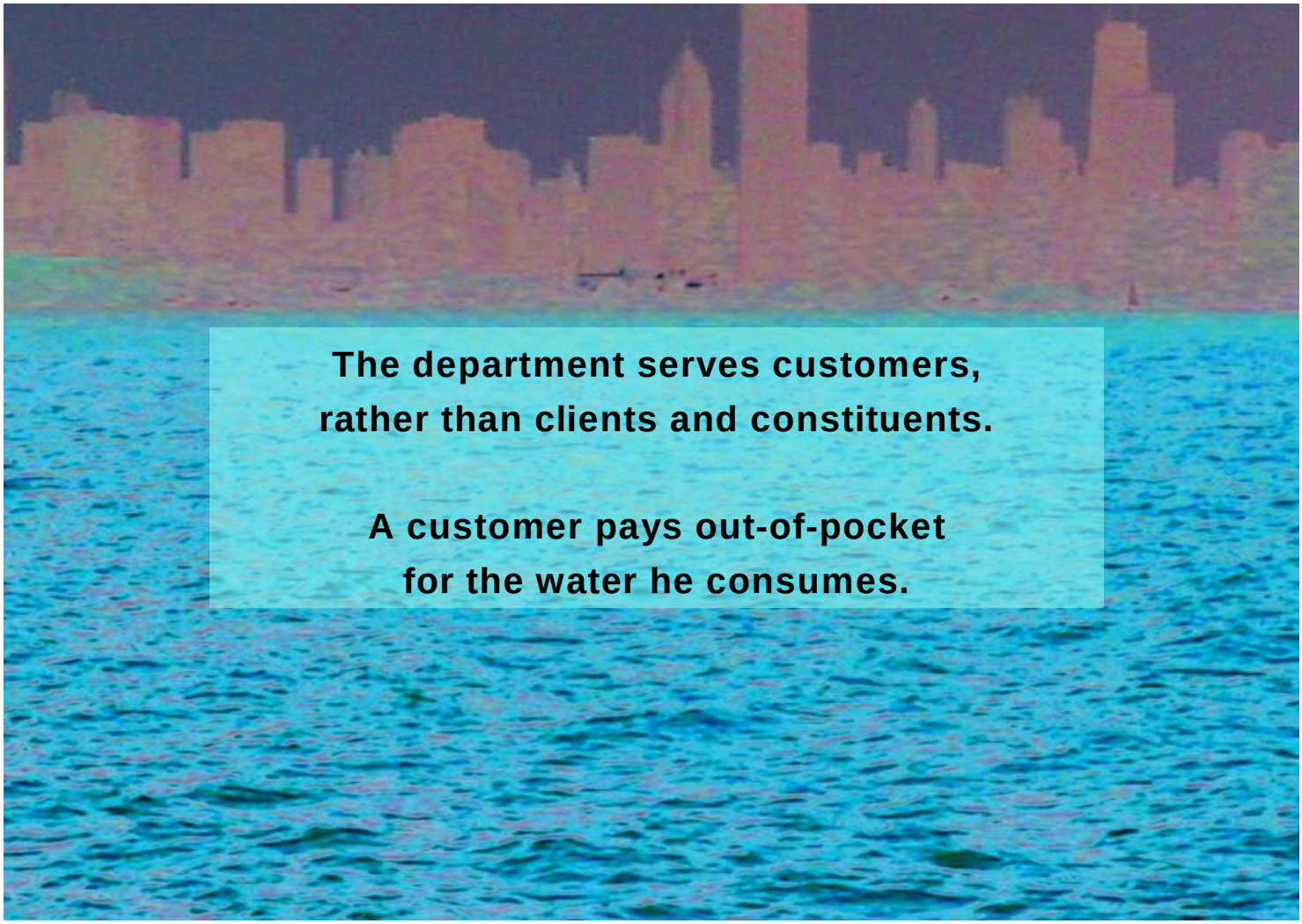
An appropriation of $500,000.00 was made by the City Council in the last appropriation bill for an extension of the electric lighting plant, and the City Electrician reports that if this appropriation is made immediately available, probably two-thirds of the night power generated by the Sanitary District can be used during the current year for this purpose, and the Committee is strongly of the opinion that every effort should be made to place the funds at his disposal for this purpose.

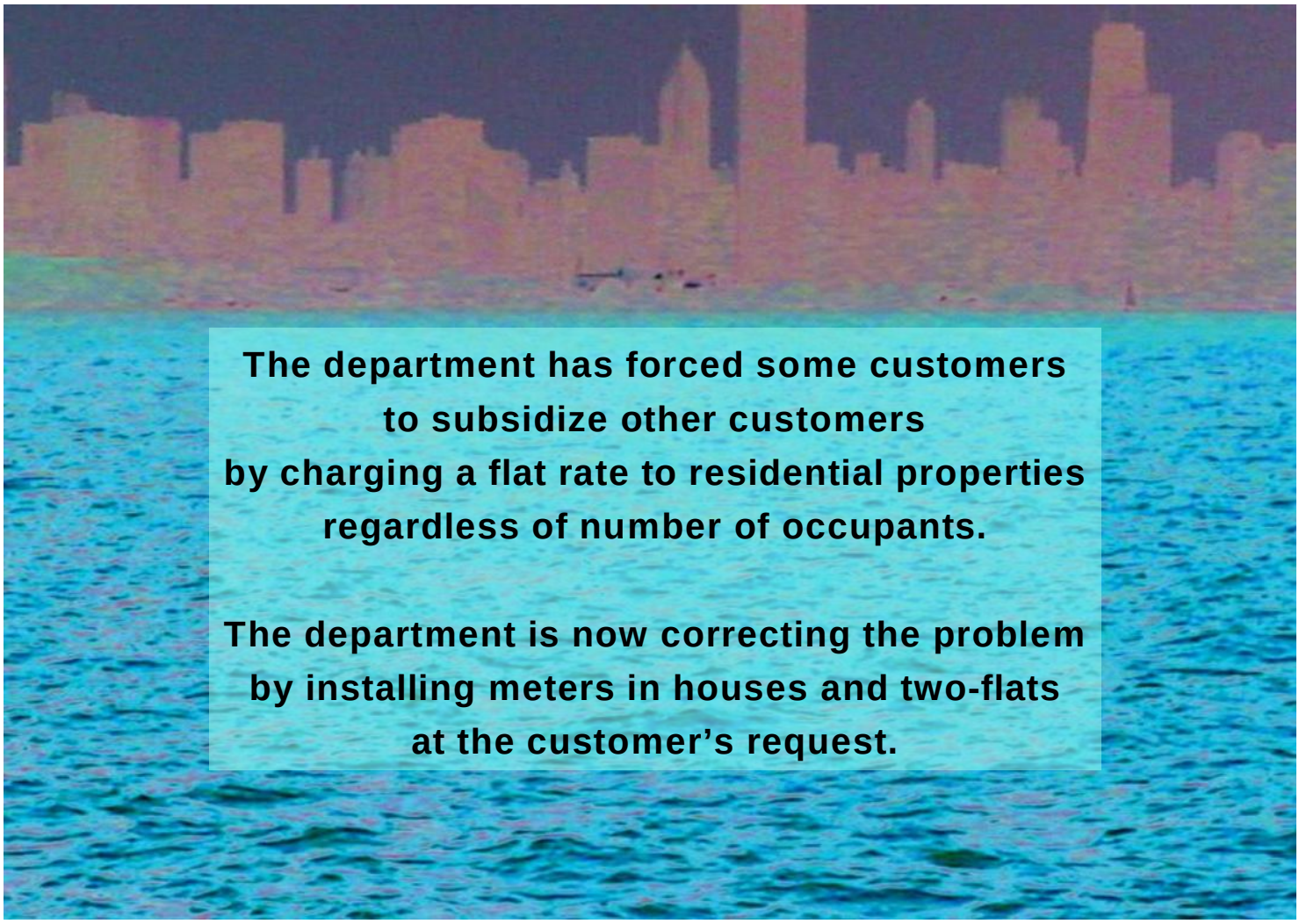
In view of the above, it is the suggestion of the Committee that such contracts as are made by the Sanitary District of Chicago be for short terms, to the end that it be in a position to supply the City of Chicago with adequate power as fast as its requirements develop.

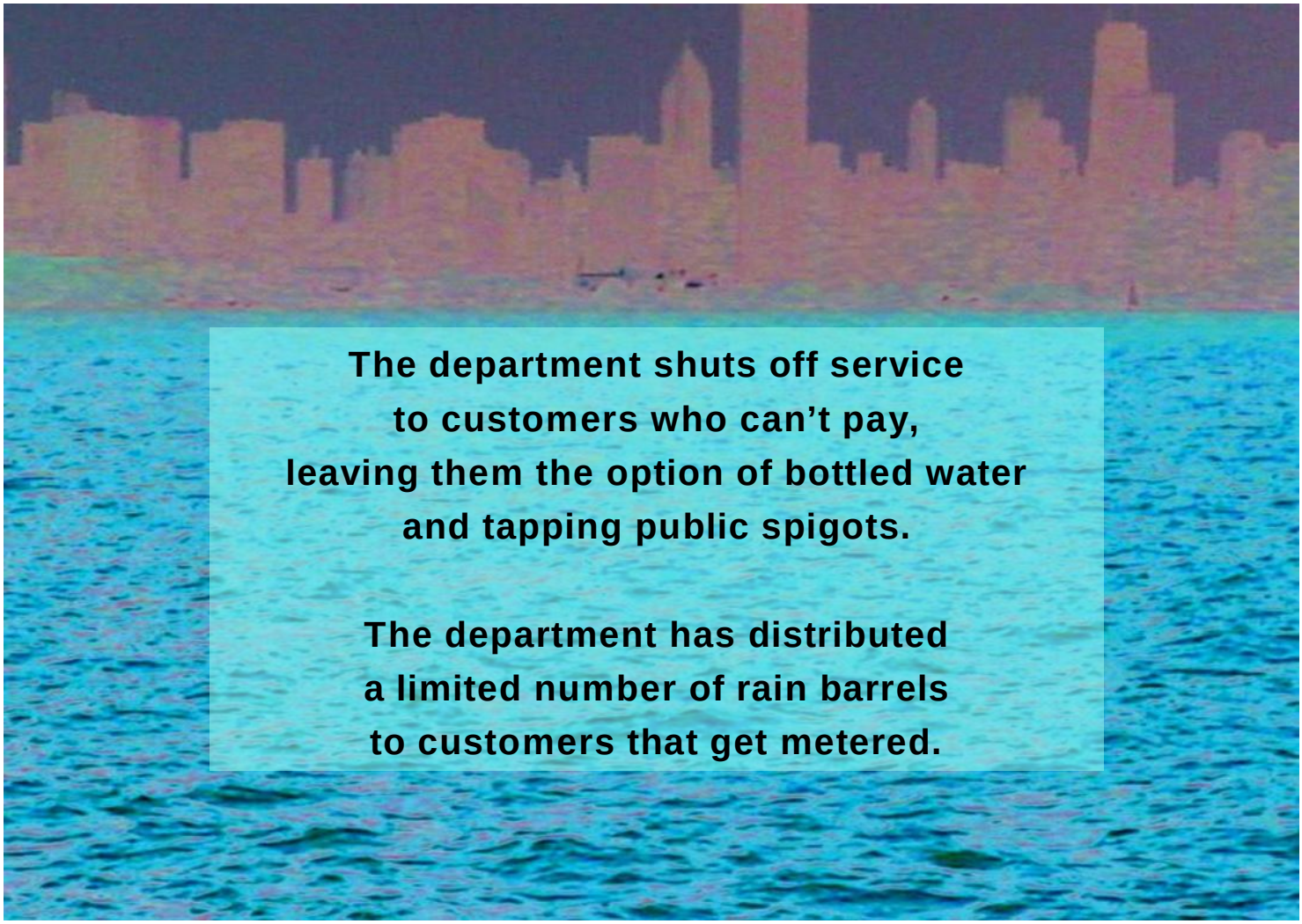
Respectfully submitted,

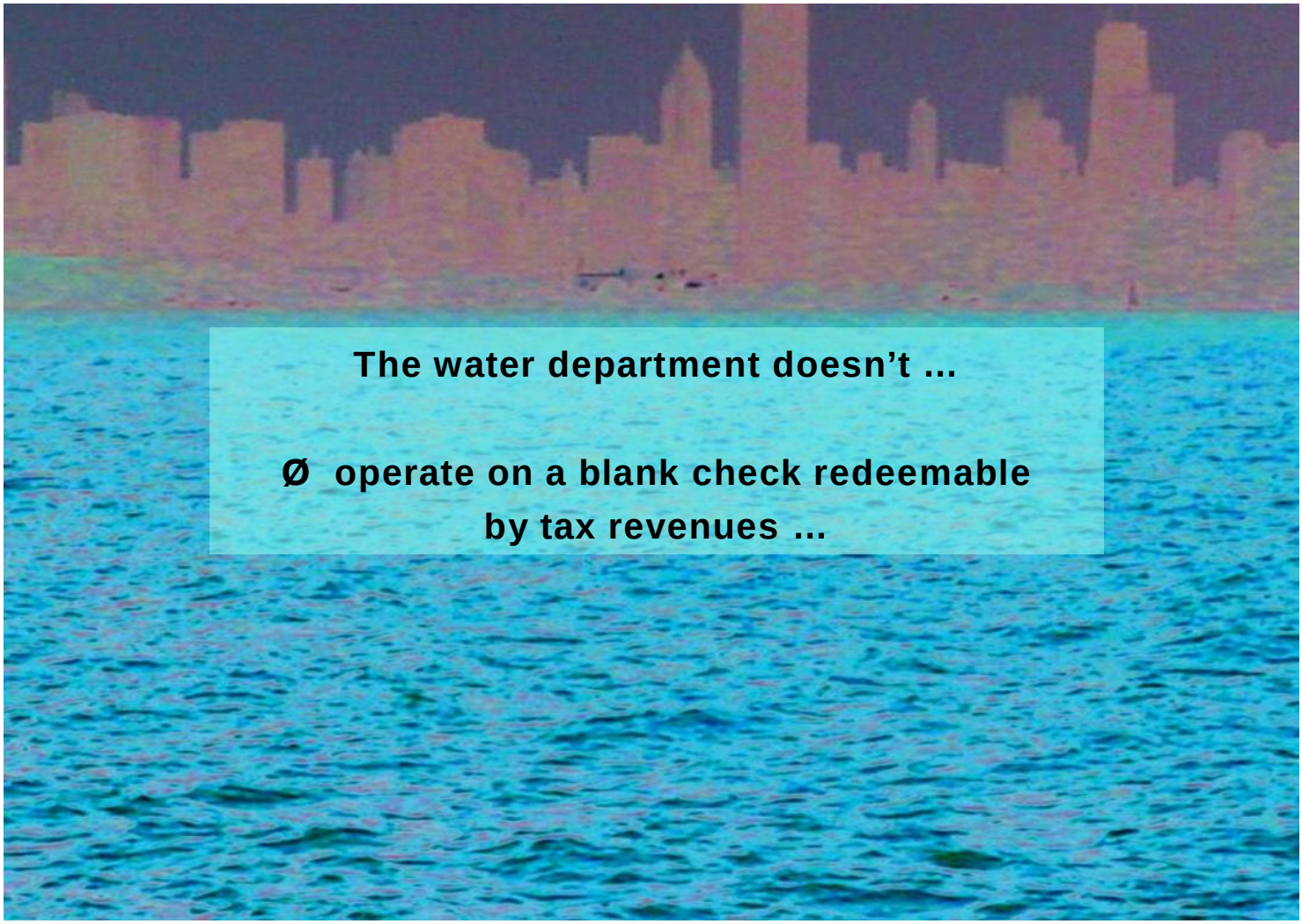
MILTON J. FOREMAN,
Acting Chairman.

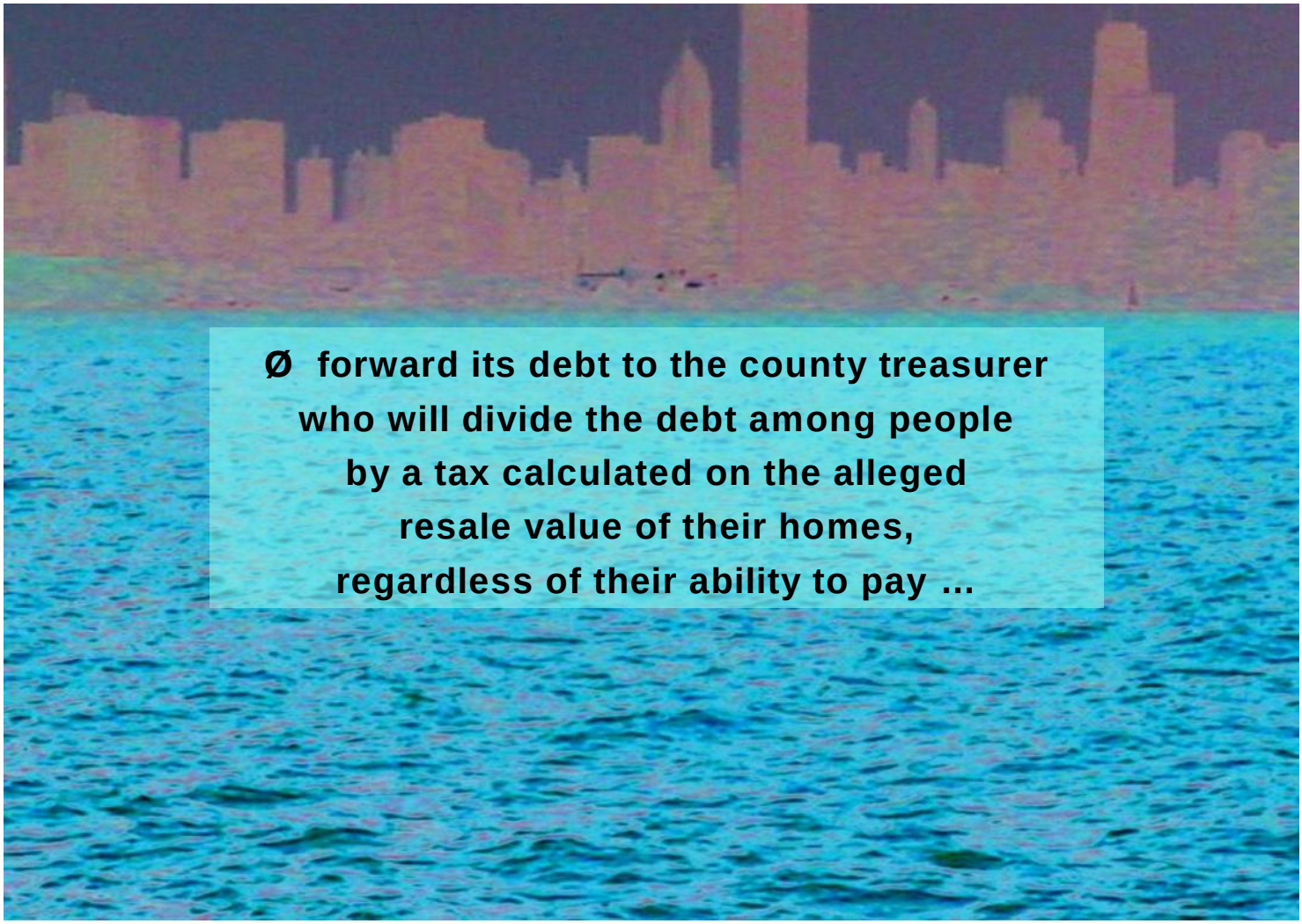


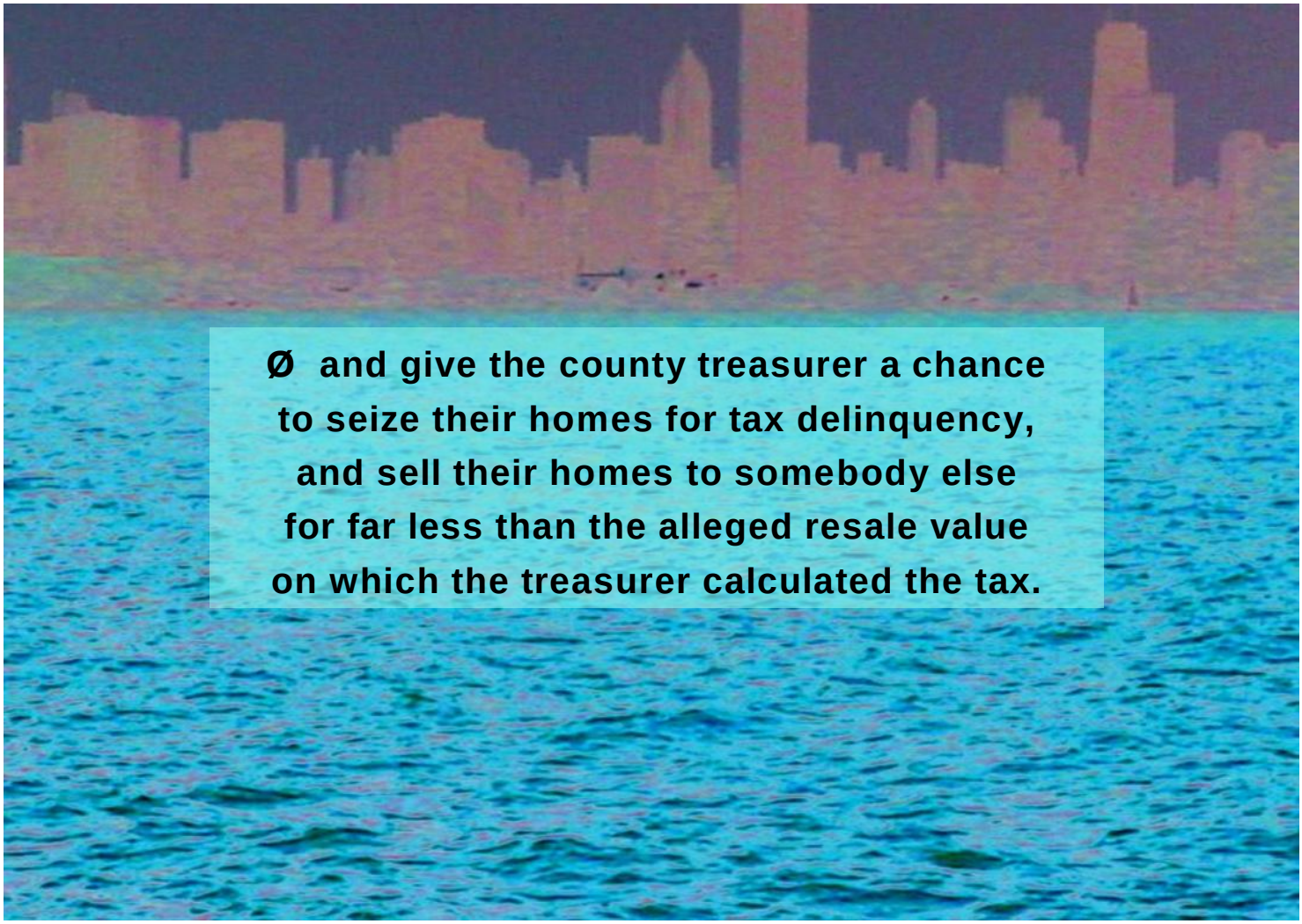


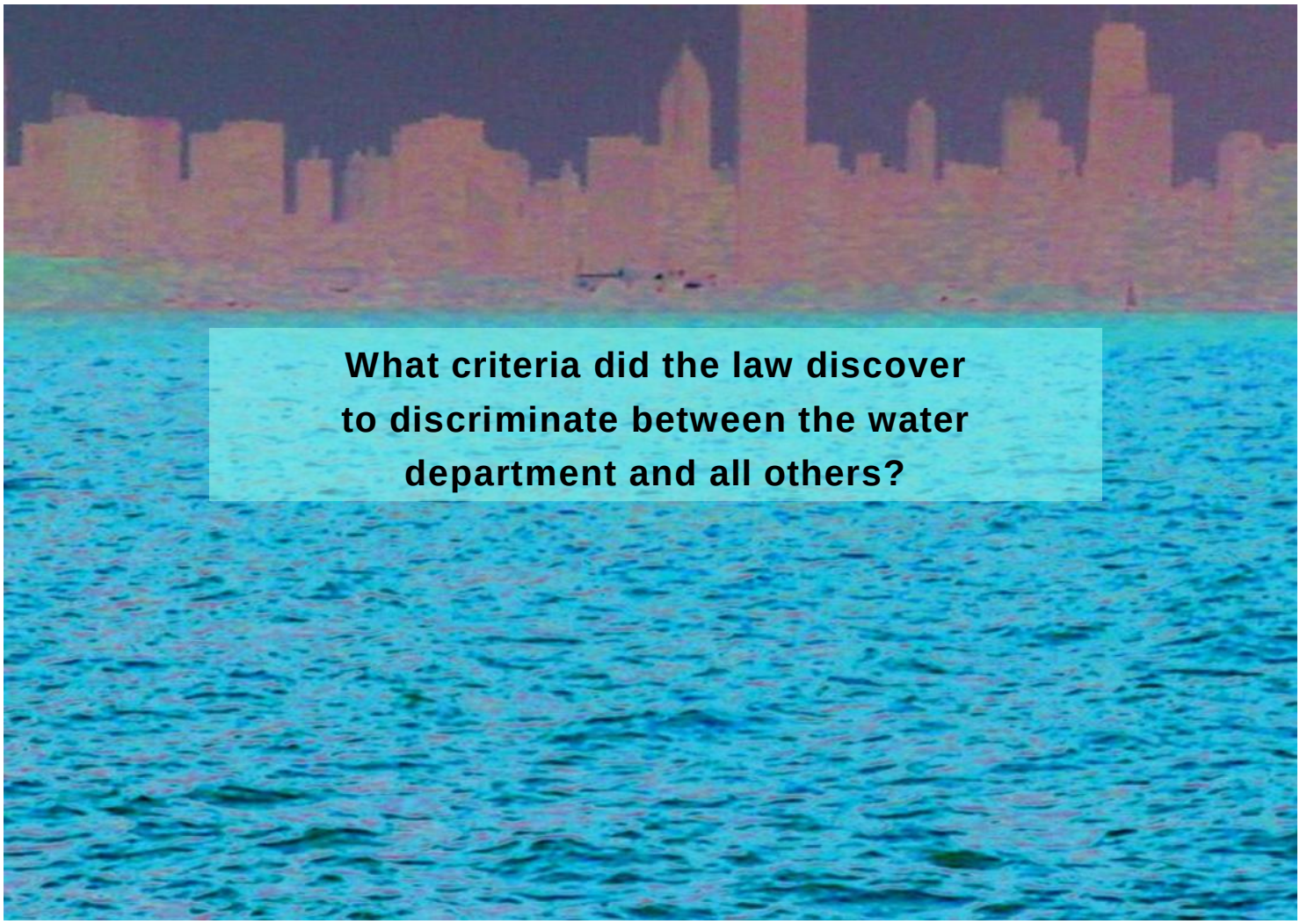


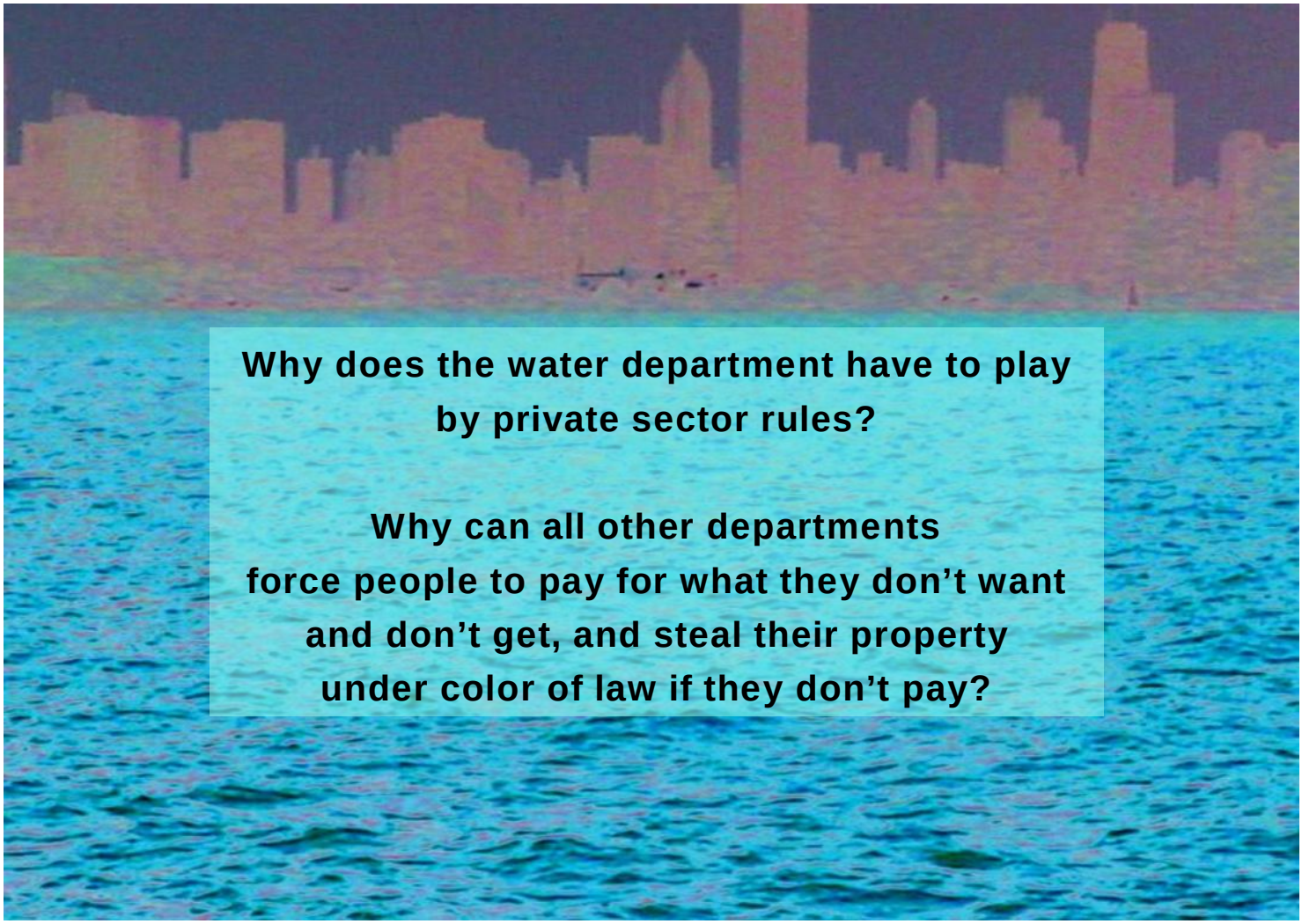


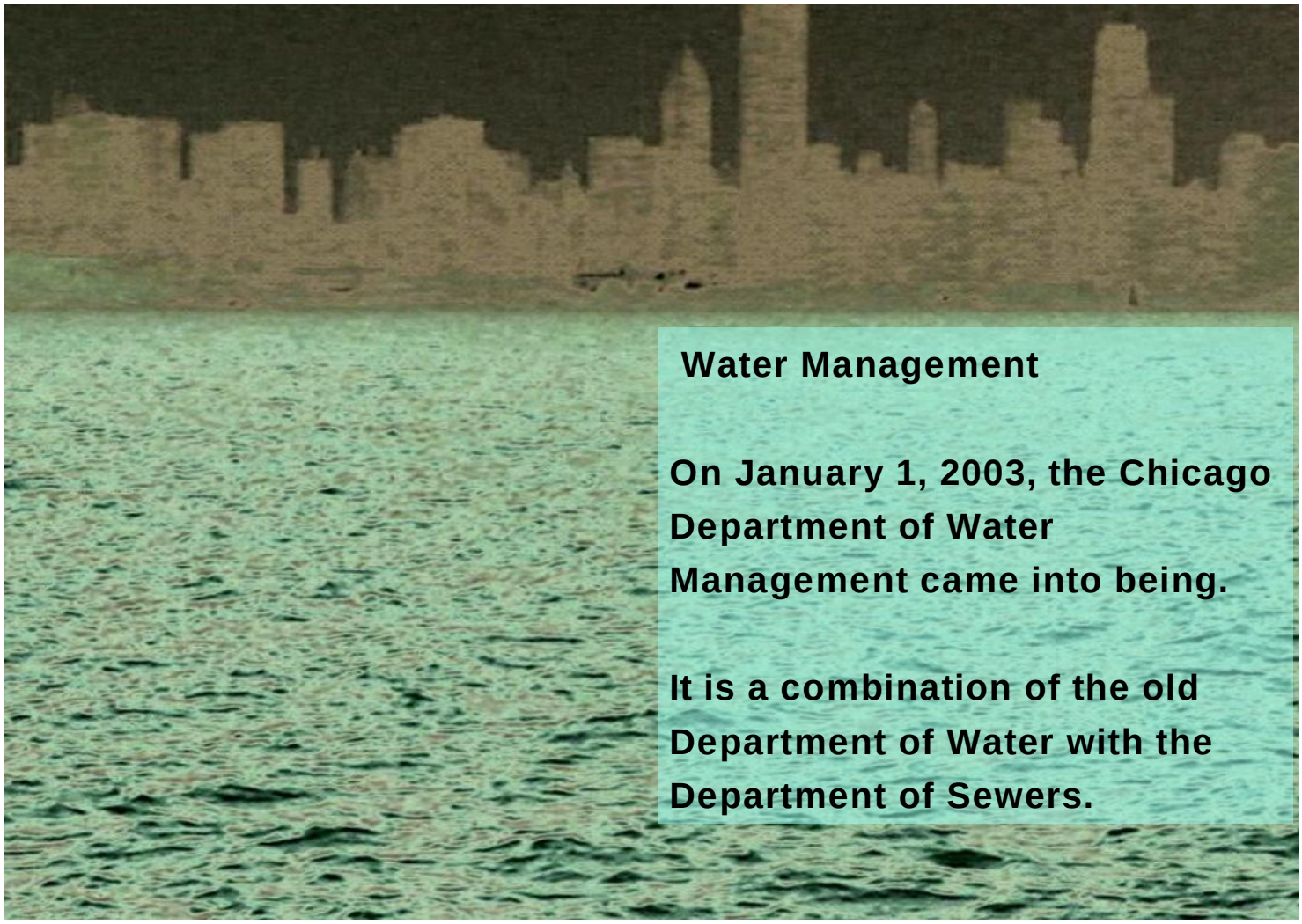




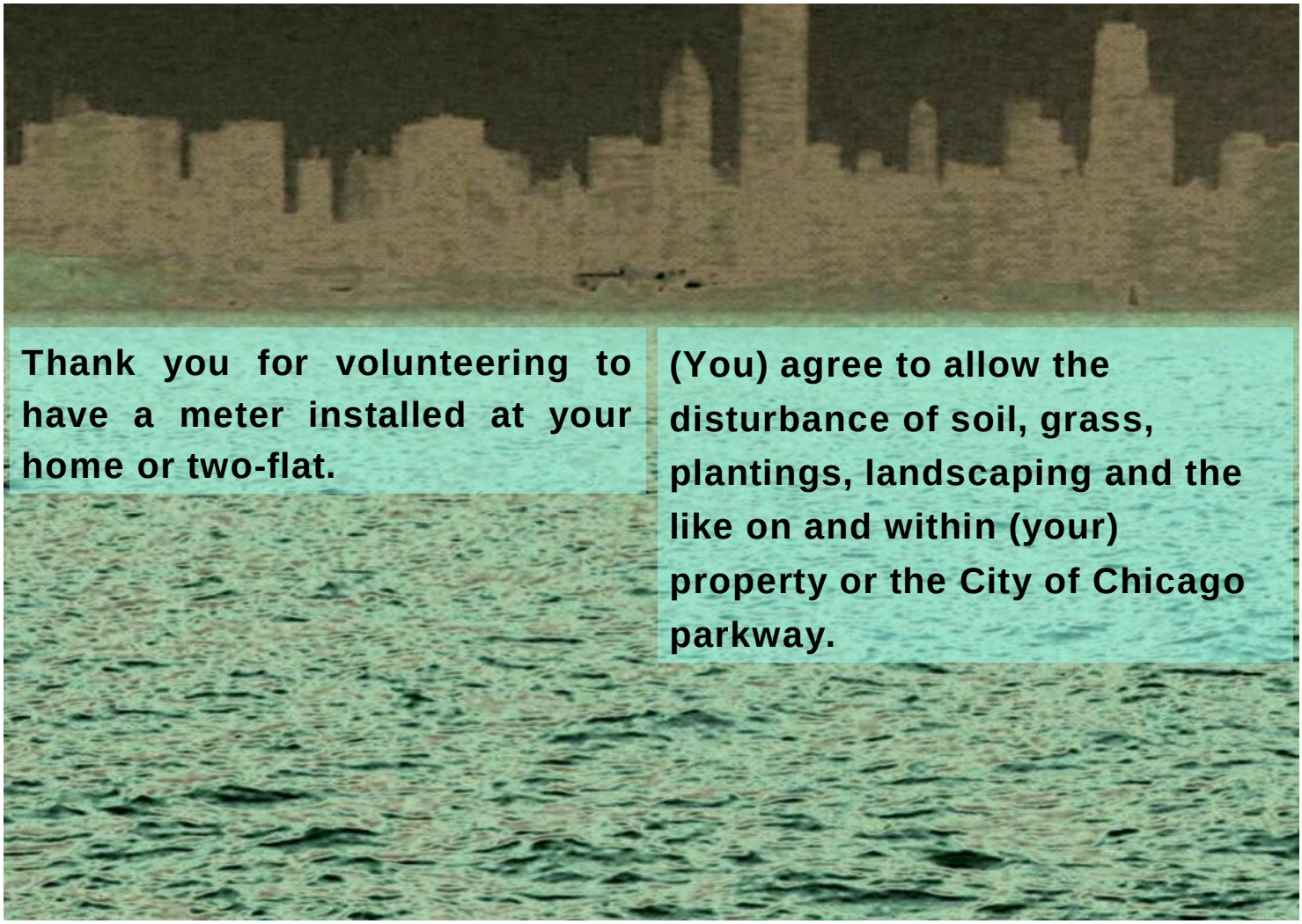






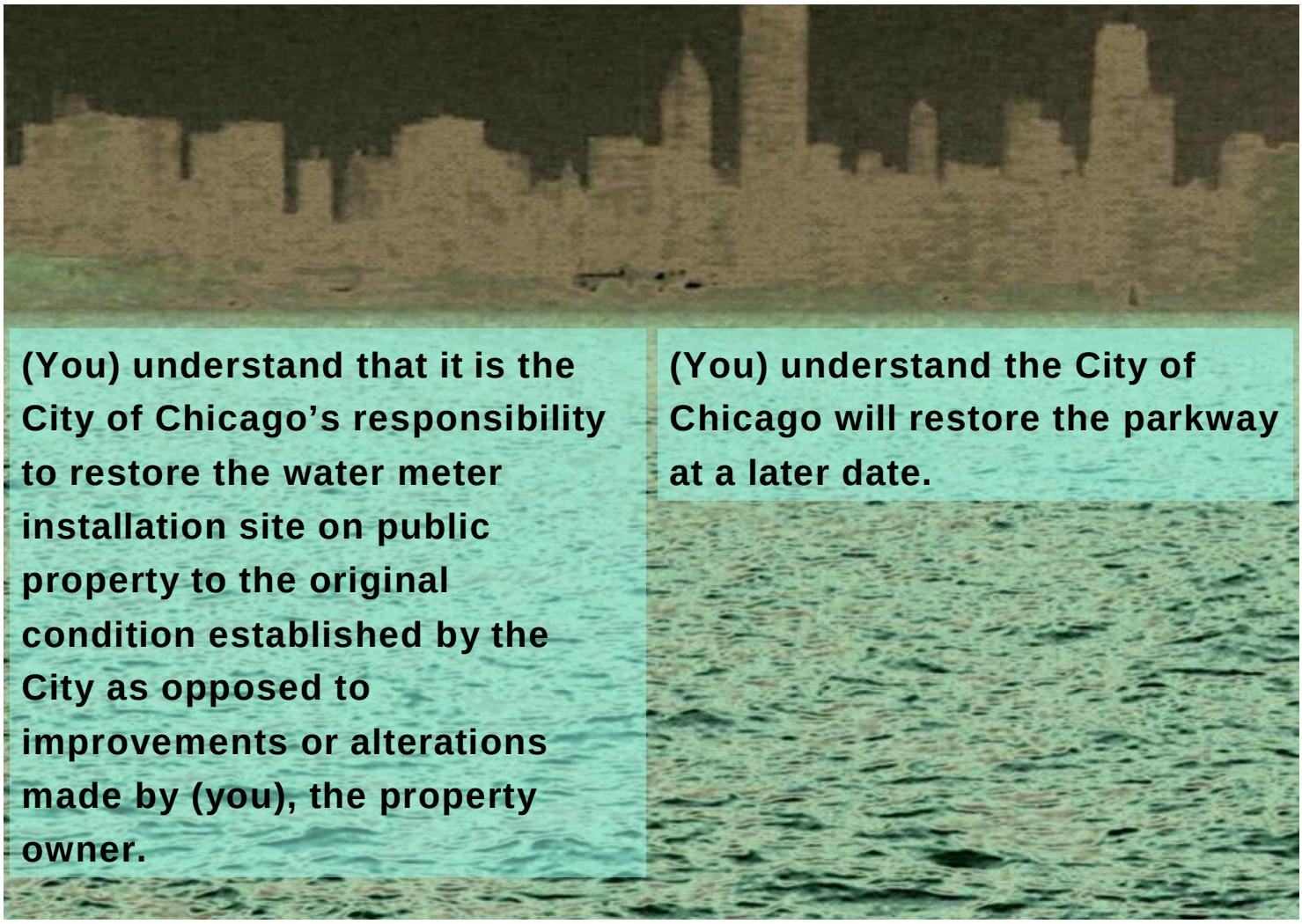


City of Chicago/ City Departments.
Found at
http://egov.cityofchicago.org/city/webportal/portalDeptsProgramAction.do?BV_SessionID=@@@@1108335238.1256242108@@@@&BV_EngineID=ccceadeijfdmgflcefecelldffhdfho.0&logObsToolBar=true&topChannelName=HomePage
Found at
http://egov.cityofchicago.org/city/webportal/portalCategoryTreeAction.do?BV_SessionID=@@@@1108335238.1256242108@@@@&BV_EngineID=ccceadeijfdmgflcefecelldffhdfho.0&categoryPath=%2FCity+Agencies%2FCity+Departments%2FWater%2FFAQ+Categories&success=FAQ&contentType=COC_FAQ&topChannelName=Dept&entityName=Water&deptMainCategoryOID=-536892336



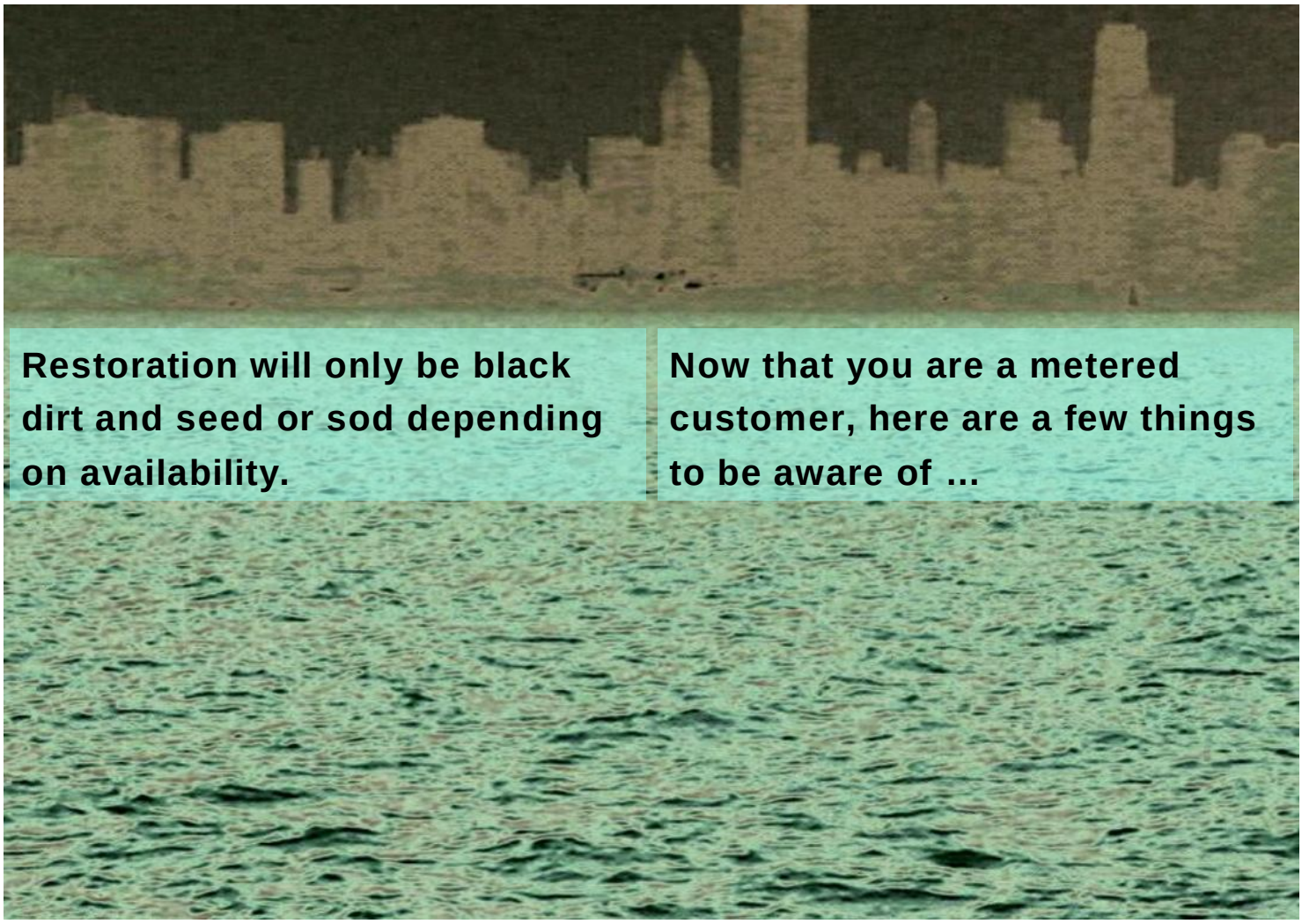
Owner's permission form and customer information sheet, MeterSave Program. City of Chicago Department of Water Management (2009).

background: Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois



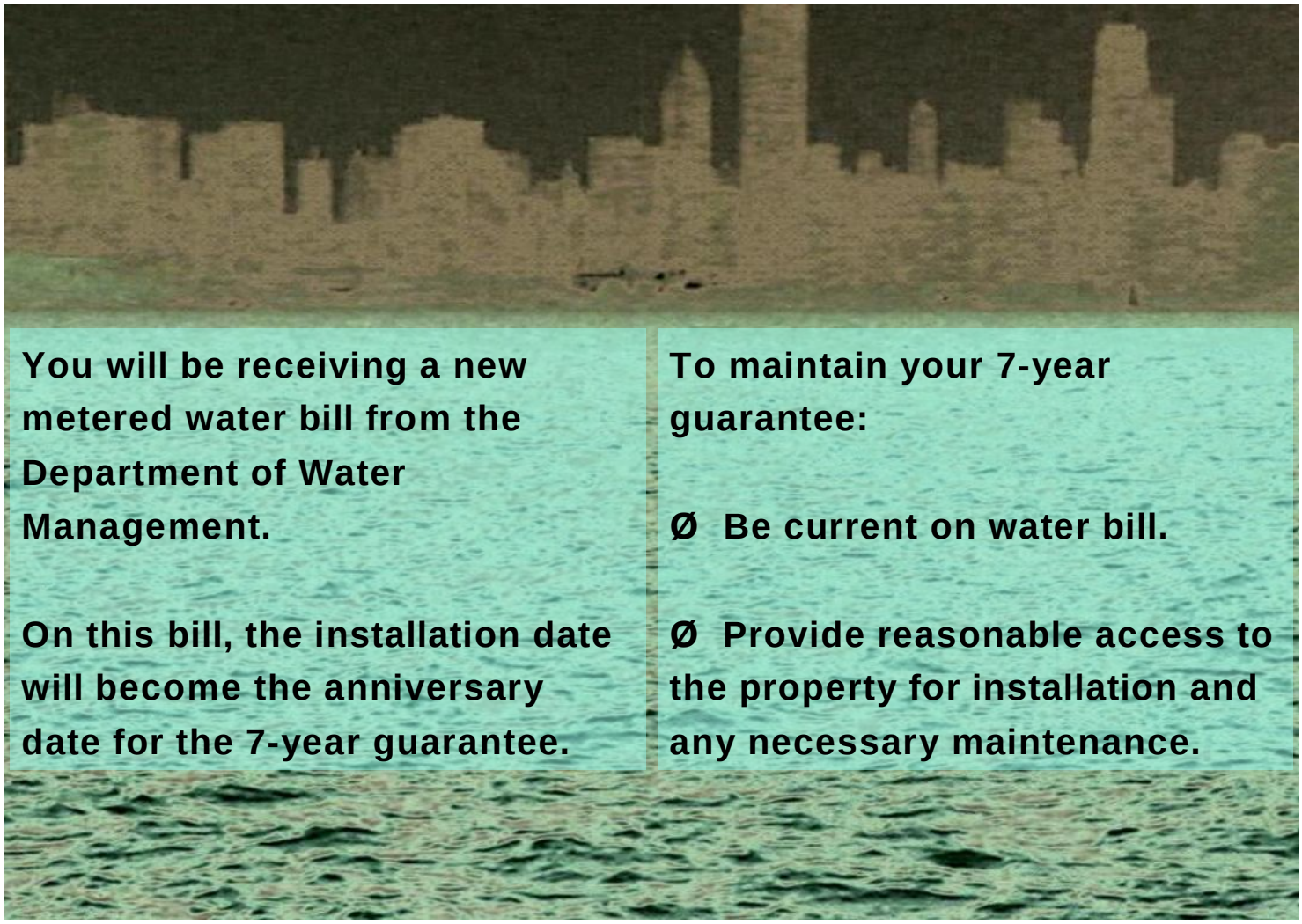
(You) understand that it is the City of Chicago's responsibility to restore the water meter installation site on public property to the original condition established by the City as opposed to improvements or alterations made by (you), the property owner.

(You) understand the City of Chicago will restore the parkway at a later date.



Restoration will only be black dirt and seed or sod depending on availability.

Now that you are a metered customer, here are a few things to be aware of ...



You will be receiving a new metered water bill from the Department of Water Management.

On this bill, the installation date will become the anniversary date for the 7-year guarantee.

To maintain your 7-year guarantee:

- **Be current on water bill.**
- **Provide reasonable access to the property for installation and any necessary maintenance.**

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City Council of the City of Chicago ("City Council") finds that the provision of water service to the residents and businesses of the City is essential to the general health, safety and welfare of the City; and

WHEREAS, the City Council finds that it is useful, necessary and desirable for the City to acquire certain improved real property commonly known as 9536 S. Genoa Avenue, Chicago, Illinois and legally described on Exhibit A attached hereto, ("Property"), for the public use and public purpose of providing a permanent location for the south side operations of the City's Department of Water Management; and

WHEREAS, the Commissioner of the Department of Water Management and the Commissioner of the Department of General Services (each, a "Commissioner") have determined that the acquisition of the Property is useful, necessary and desirable for such public use and public purpose; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The City Council hereby finds that it is useful, necessary and desirable that the City acquire the property for the public use and public purpose of providing a permanent location for the south side operations of the City's Department of Water Management, and such other public uses and public purposes as may be useful, necessary and desirable.

SECTION 3. The Commissioner of the Department of General Services ("DGS") is hereby authorized to undertake negotiations on behalf of the City, for the acquisition of the Property, subject to the subsequent approval of the purchase price by the City Council.

SECTION 4. In the event that the Commissioner of DGS is unable to negotiate or come to terms with the owner(s) of the Property as to the purchase price, or in the event the owner(s) is unable to convey clear title to such Property, or interests therein, or if the owner(s) cannot be found, then the Commissioner of DGS shall report such facts to the Corporation Counsel who is hereby authorized to institute proceedings in eminent domain to acquire said Property, or interests therein, in accordance with the laws of the State of Illinois.

SECTION 5. The Commissioner of DGS is authorized to execute such documents as may be necessary to implement the provisions of this ordinance, subject to the approval of the Corporation Counsel.

SECTION 6. If any provision of this ordnance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 7. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

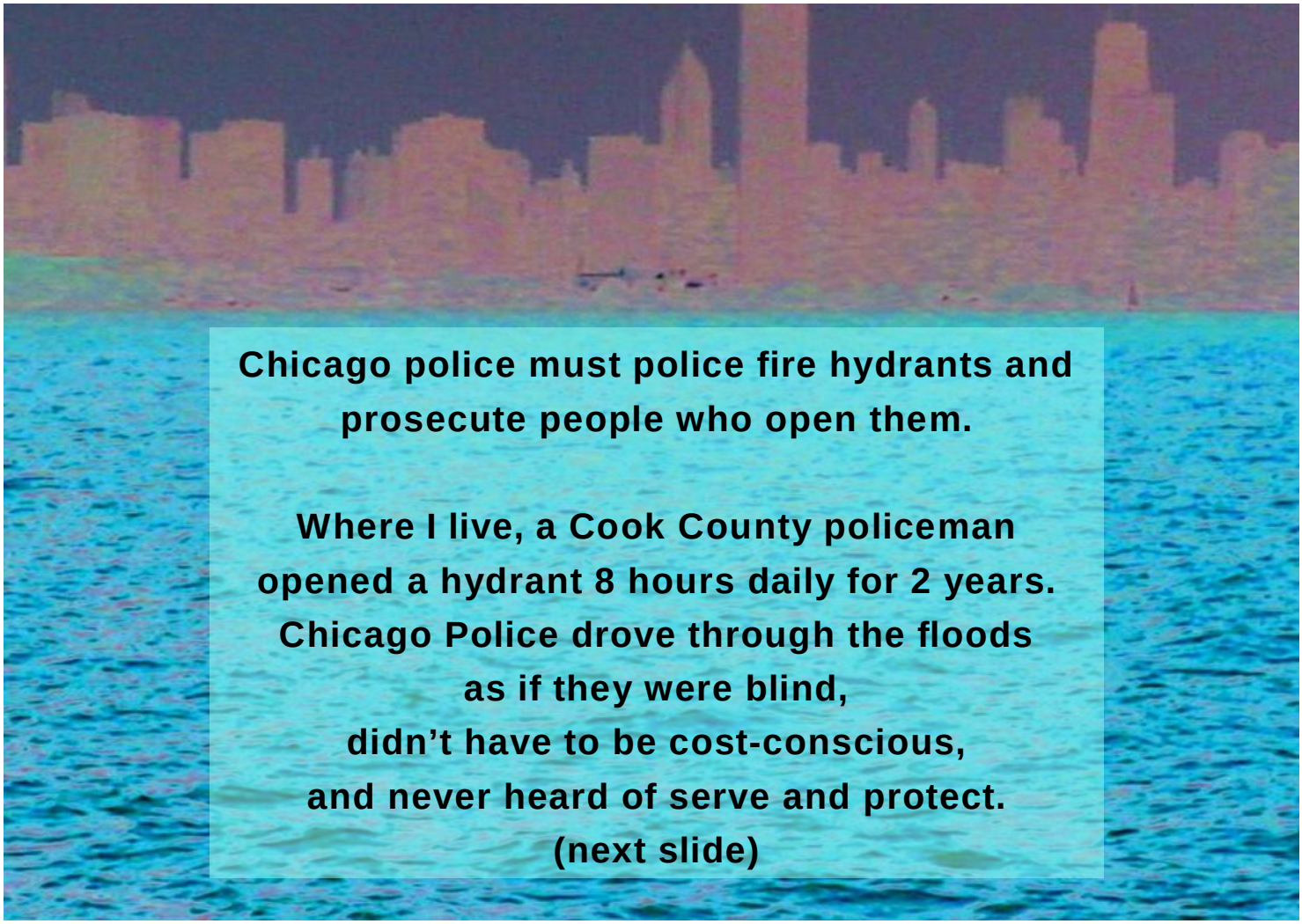
SECTION 8. This ordinance shall take effect upon its passage and approval.

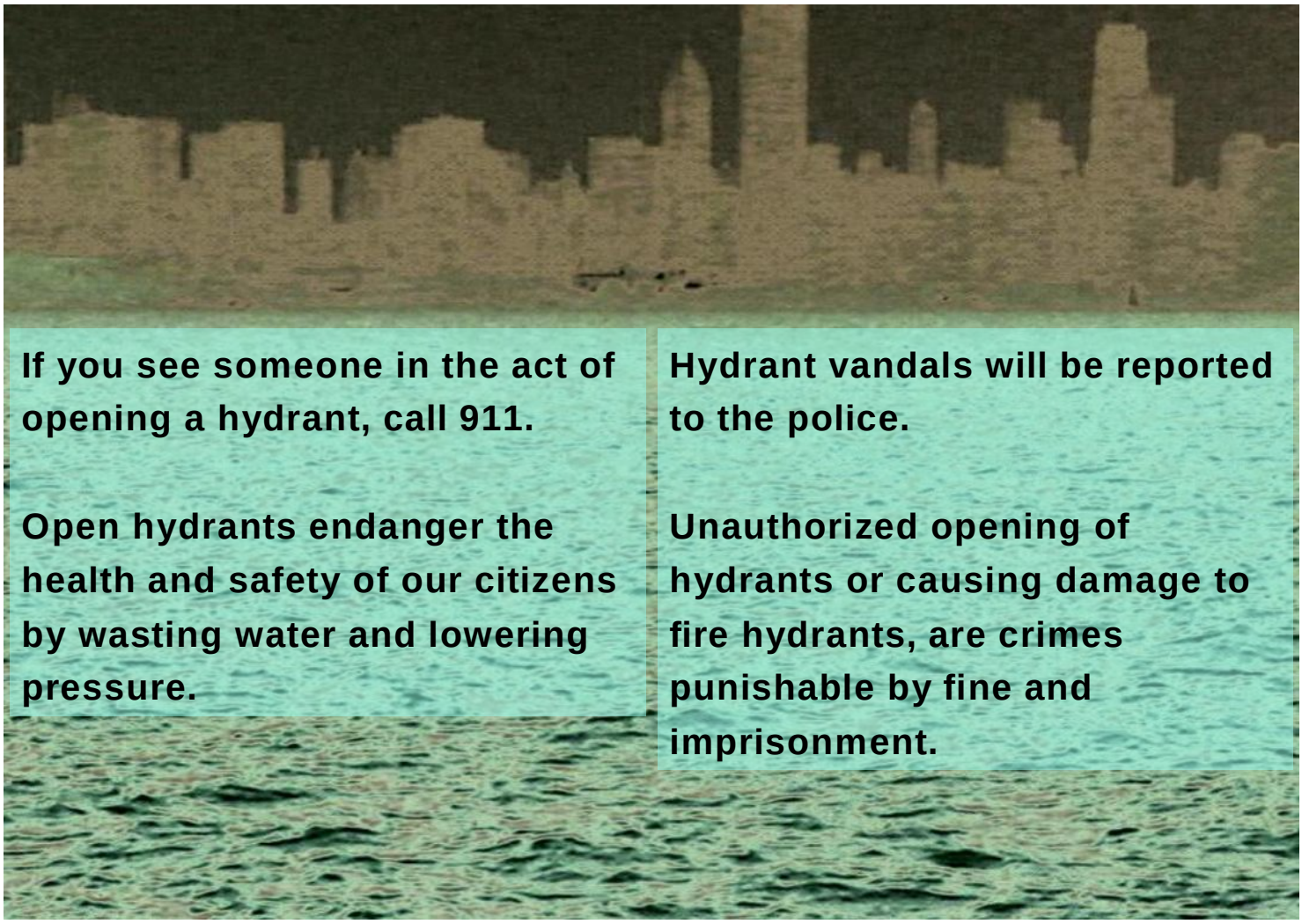
EXHIBIT A
LEGAL DESCRIPTION
(Subject to Final Title and Survey)

9536 South Genoa
Chicago, Illinois
Index Numbers 25-08-202-007 through 012

Negotiations for the purchase of property. HOUSING. City of Chicago Mayor's Office.
Found at http://egov.cityofchicago.org/webportal/COCWebPortal/COC_ATTACH/acquisitionauthority9536Genoa.htm

At the request of the Commissioner of General Services, I transmit herewith ordinances authorizing negotiations for the purchase of property.

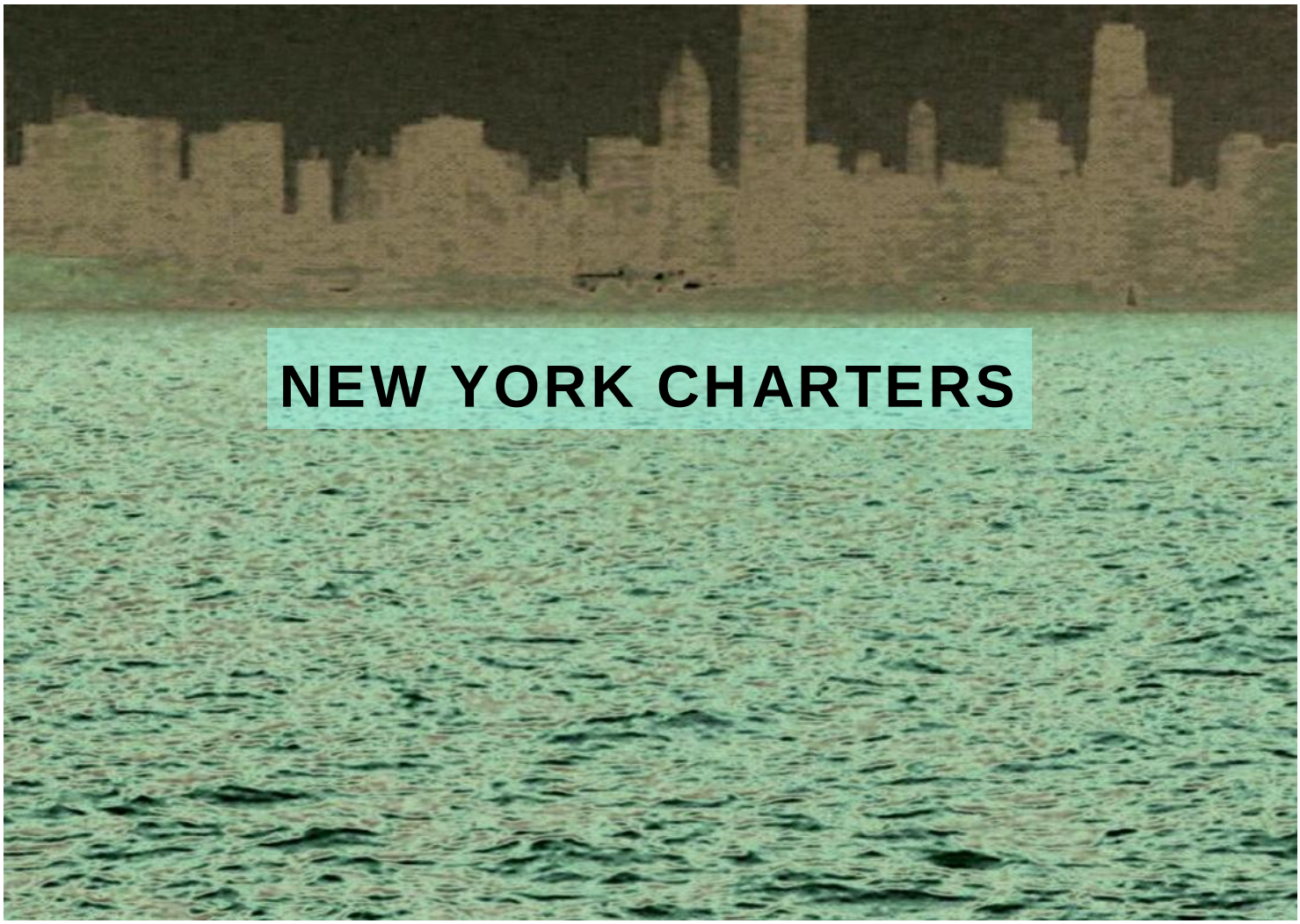




FAQs. City of Chicago Department of Water Management (2009).
Found at
http://egov.cityofchicago.org/city/webportal/portalCategoryTreeAction.do?BV_SessionID=@@@@1108335238.1256242108@@@@&BV_EngineID=ccceadeijfdmgflcefecelldffhdfho.0&categoryPath=%2FCity+Agencies%2FCity+Departments%2FWater%2FFAQ+Categories&success=FAQ&contentType=COC_FAQ&topChannelName=Dept&entityName=Water&deptMainCategoryOID=-536892336

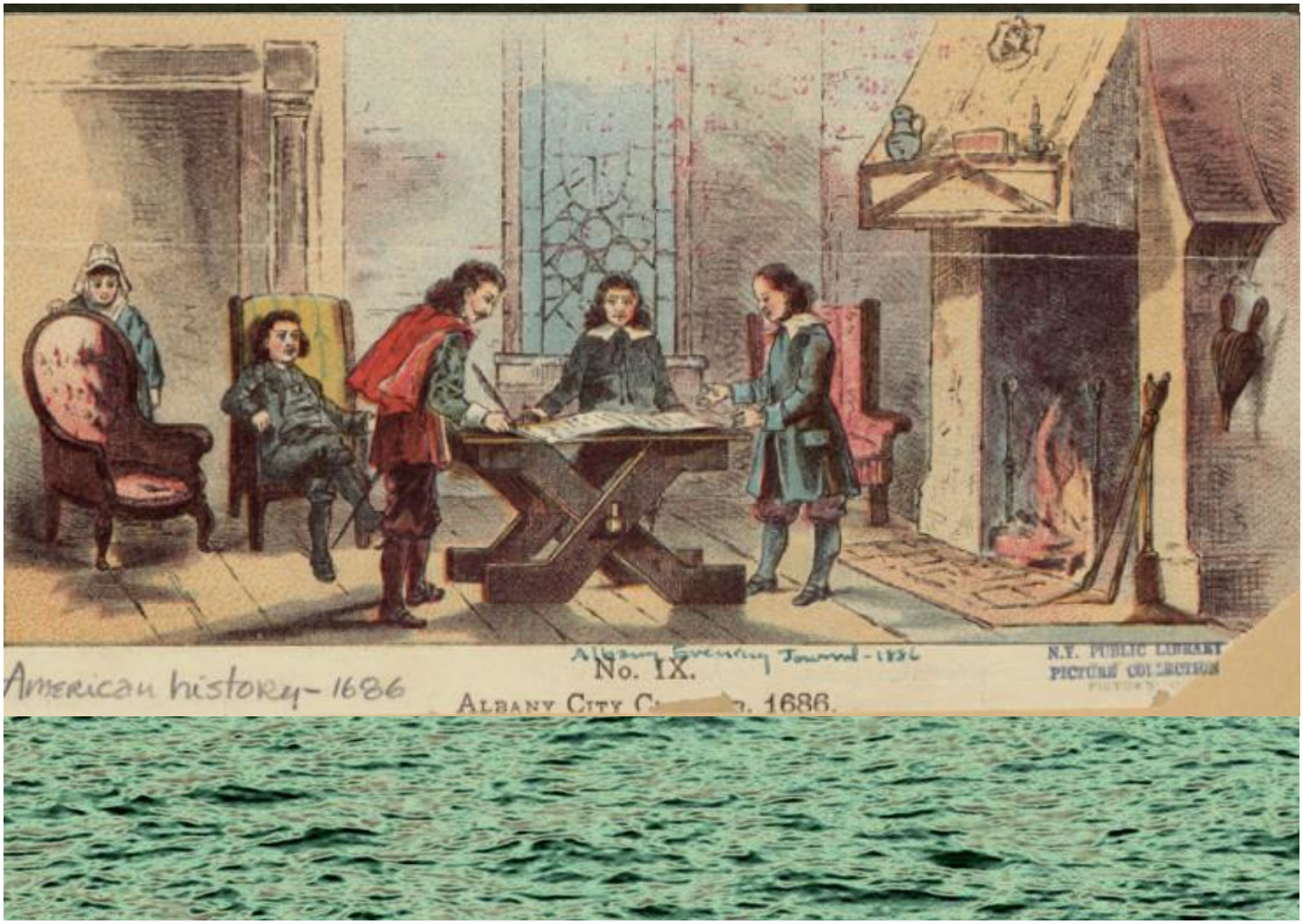
Lund, A. G. Peter Stuyvesant and his counsel preparing the charter for the city of New York in 1652 / A.G. Lund

Reference
EM 10472, Emmet Collection of Manuscripts Relating to American History. Booth's History of New York, Volume 1.
Emmet, Thomas Addis (1828-1919) (collector).
New York Public Library, Stephen A. Schwarzman Building, Print Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs
Catalog #MEZP, digital ID #421953, record ID #166144
Published: 9-3-2004; updated 7-11-2008
Found online at digitalgallery.nypl.org/nypldigital/dgkeysearchdetail.cfm?strucID=166144#_seemore



The Duke of York's Charter, 1664 (Plate No. VIII)
"Albany Evening Journal - 1886." written on border.

New York Public Librar, Mid-Manhattan Picture Collection, American history -- 1680s
Catalog #PC AME-168, digital ID #808252, record #701044, published: 10-28-2005, updated 1-16-2008.
Found online at http://digitalgallery.nypl.org/nypldigital/dgkeysearchdetail.cfm?strucID=701044#_seemore

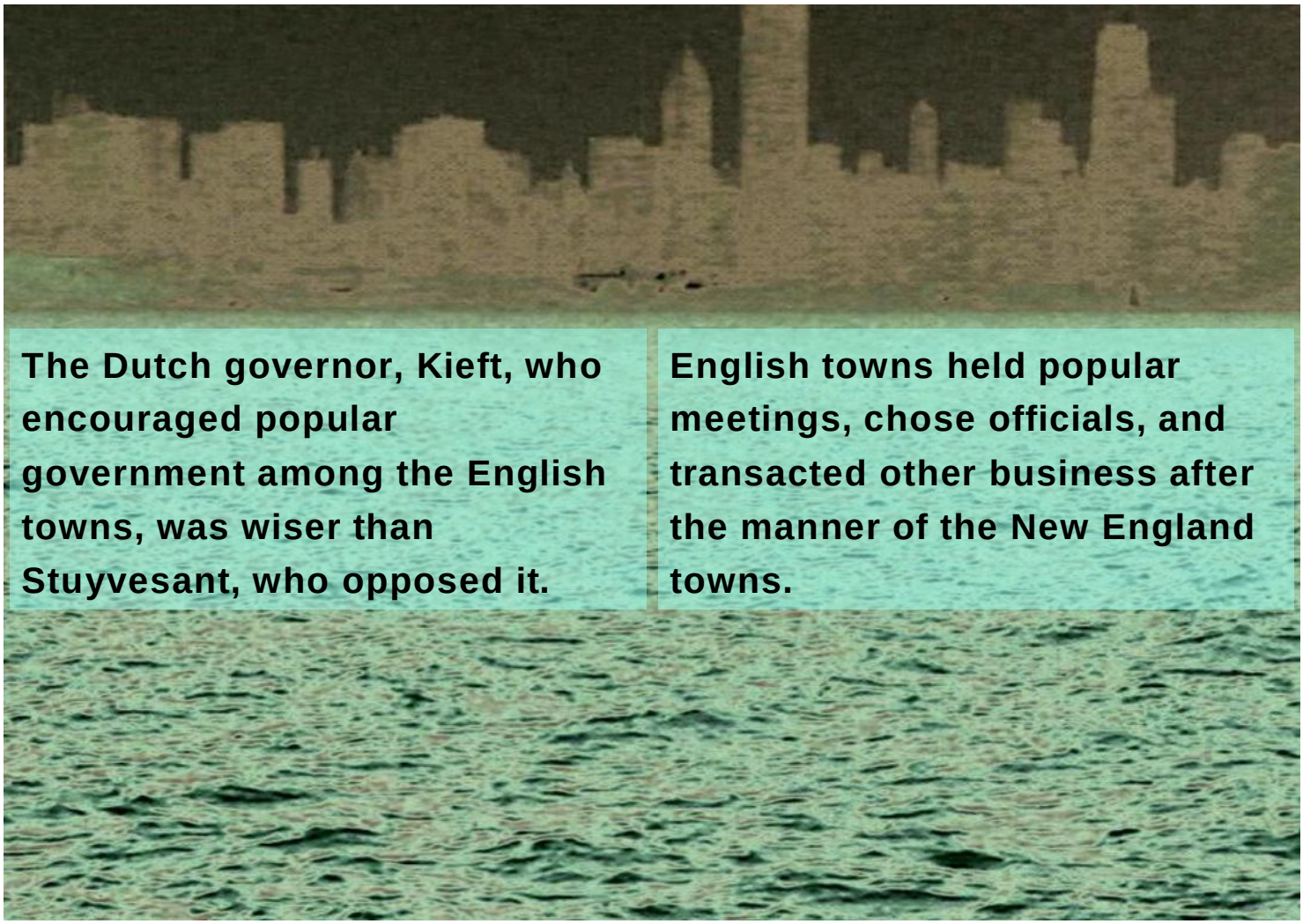


Albany City Charter, 1686 (Plate IX).
"Albany Evening Journal - 1886." written on border.

New York Public Librar, Mid-Manhattan Picture Collection, American history -- 1680s
Catalog #PC AME-168, digital ID #808252, record #701044, published: 10-28-2005, updated 1-16-2008.
Found online at http://digitalgallery.nypl.org/nypldigital/dgkeysearchdetail.cfm?strucID=701044#_seemore

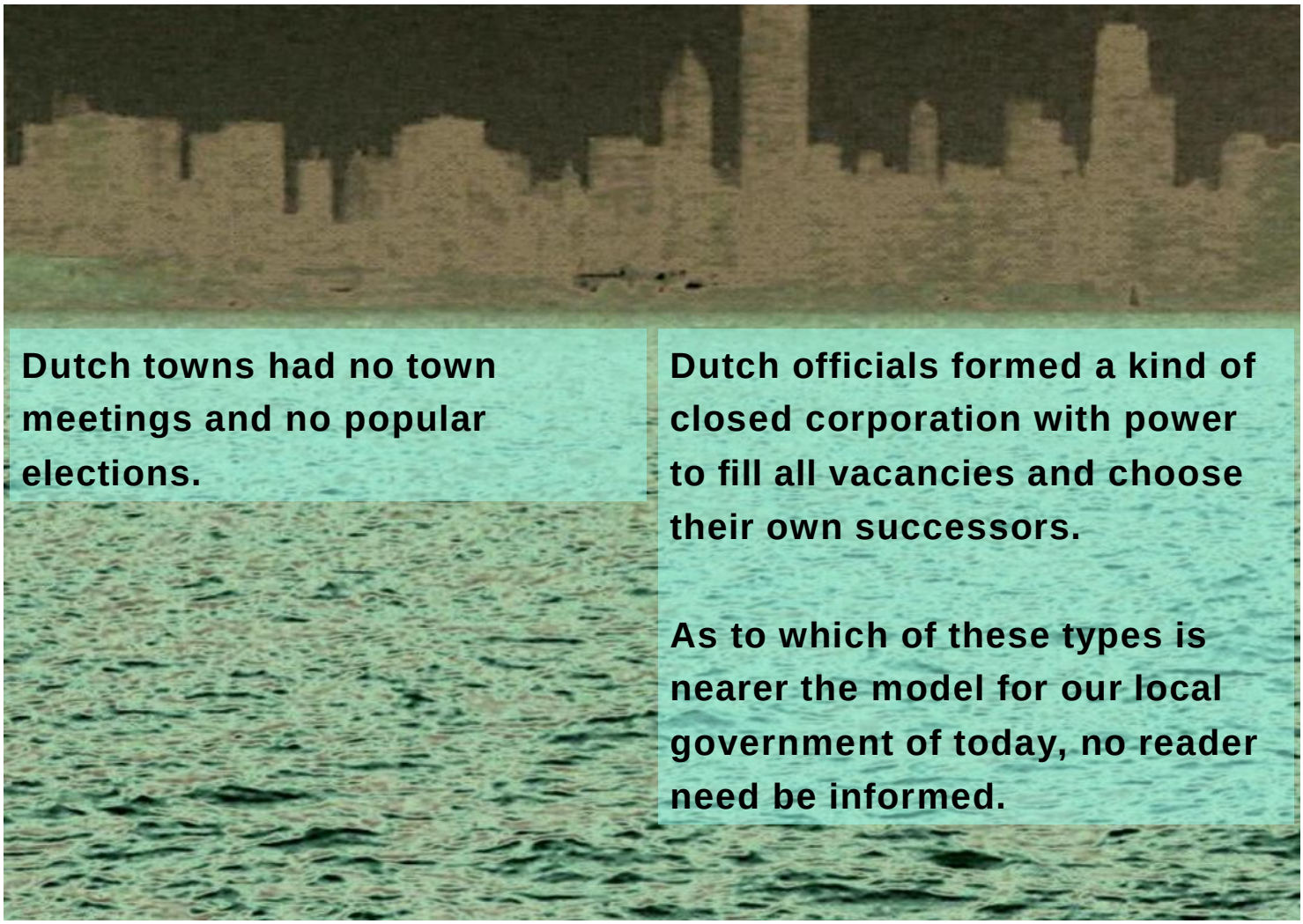
Elson, Henry William. History of the United States of America, Chapter VII (pp.138-146). New York:The MacMillan Company (1904).

Transcribed by Kathy Leigh.
Found online at http://www.usahistory.info/colonies/New-York.html



The Dutch governor, Kieft, who encouraged popular government among the English towns, was wiser than Stuyvesant, who opposed it.

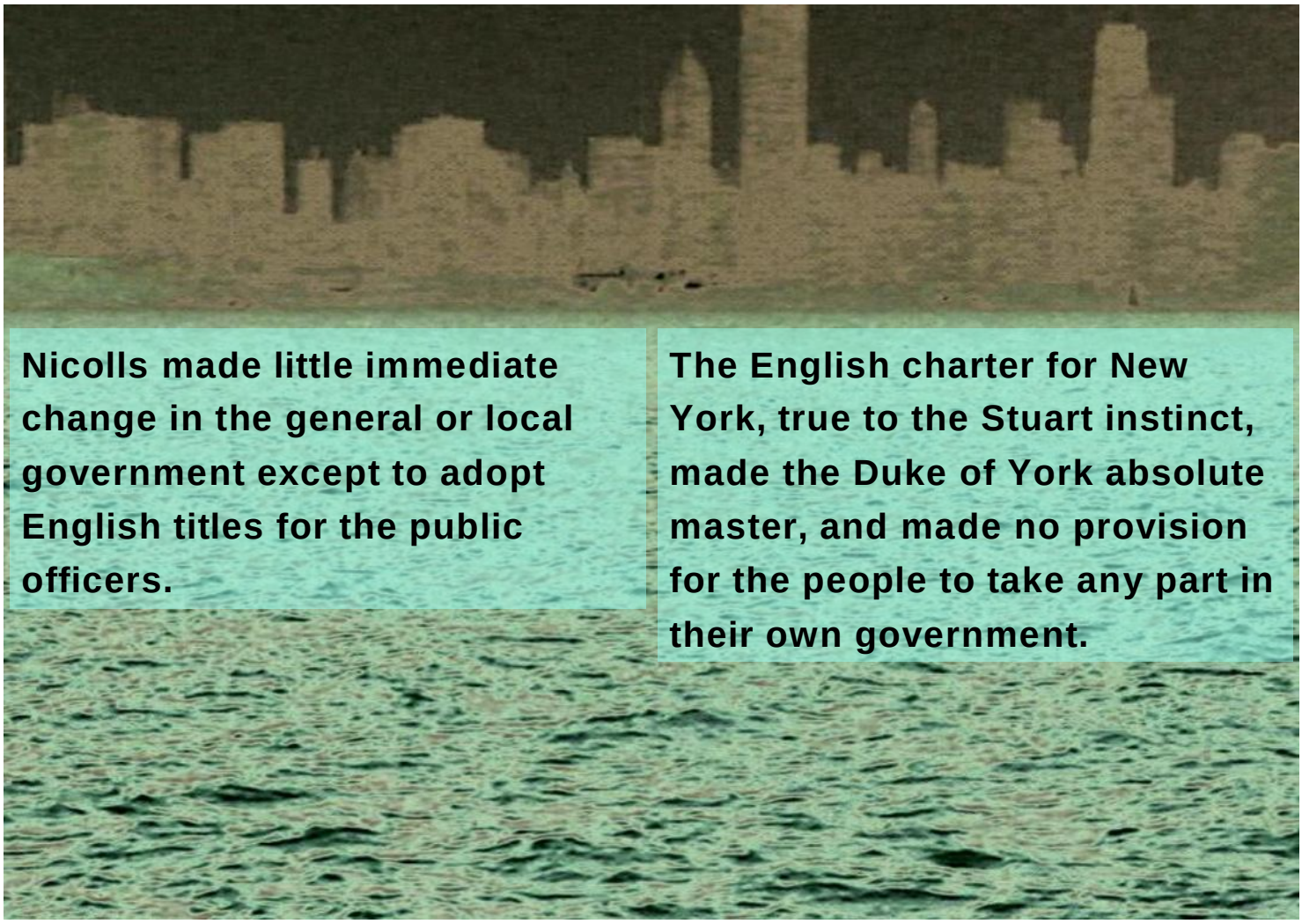
English towns held popular meetings, chose officials, and transacted other business after the manner of the New England towns.



Dutch towns had no town meetings and no popular elections.

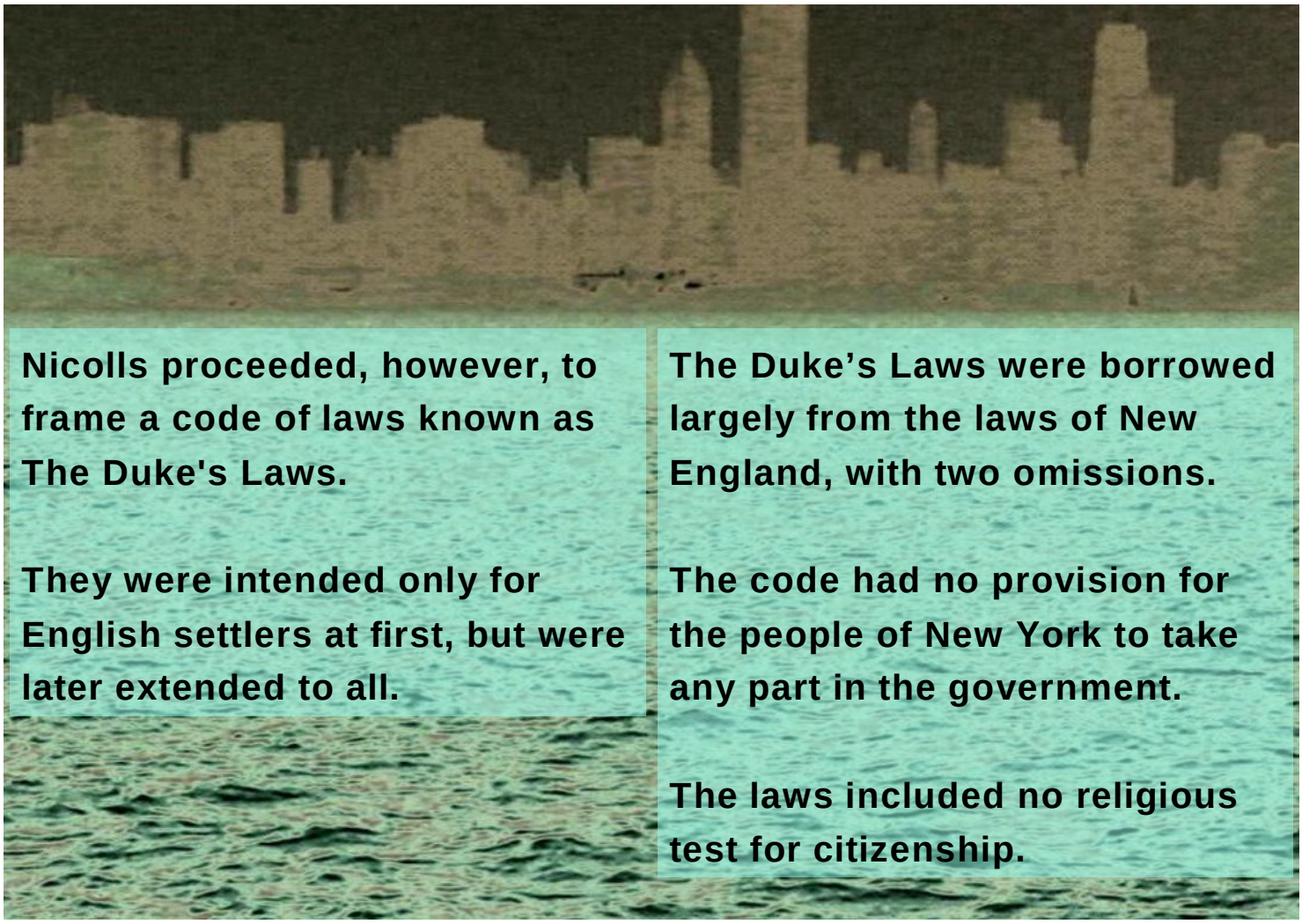
Dutch officials formed a kind of closed corporation with power to fill all vacancies and choose their own successors.

As to which of these types is nearer the model for our local government of today, no reader need be informed.



Nicolls made little immediate change in the general or local government except to adopt English titles for the public officers.

The English charter for New York, true to the Stuart instinct, made the Duke of York absolute master, and made no provision for the people to take any part in their own government.



Nicolls proceeded, however, to frame a code of laws known as The Duke's Laws.

They were intended only for English settlers at first, but were later extended to all.

The Duke's Laws were borrowed largely from the laws of New England, with two omissions.

The code had no provision for the people of New York to take any part in the government.

The laws included no religious test for citizenship.

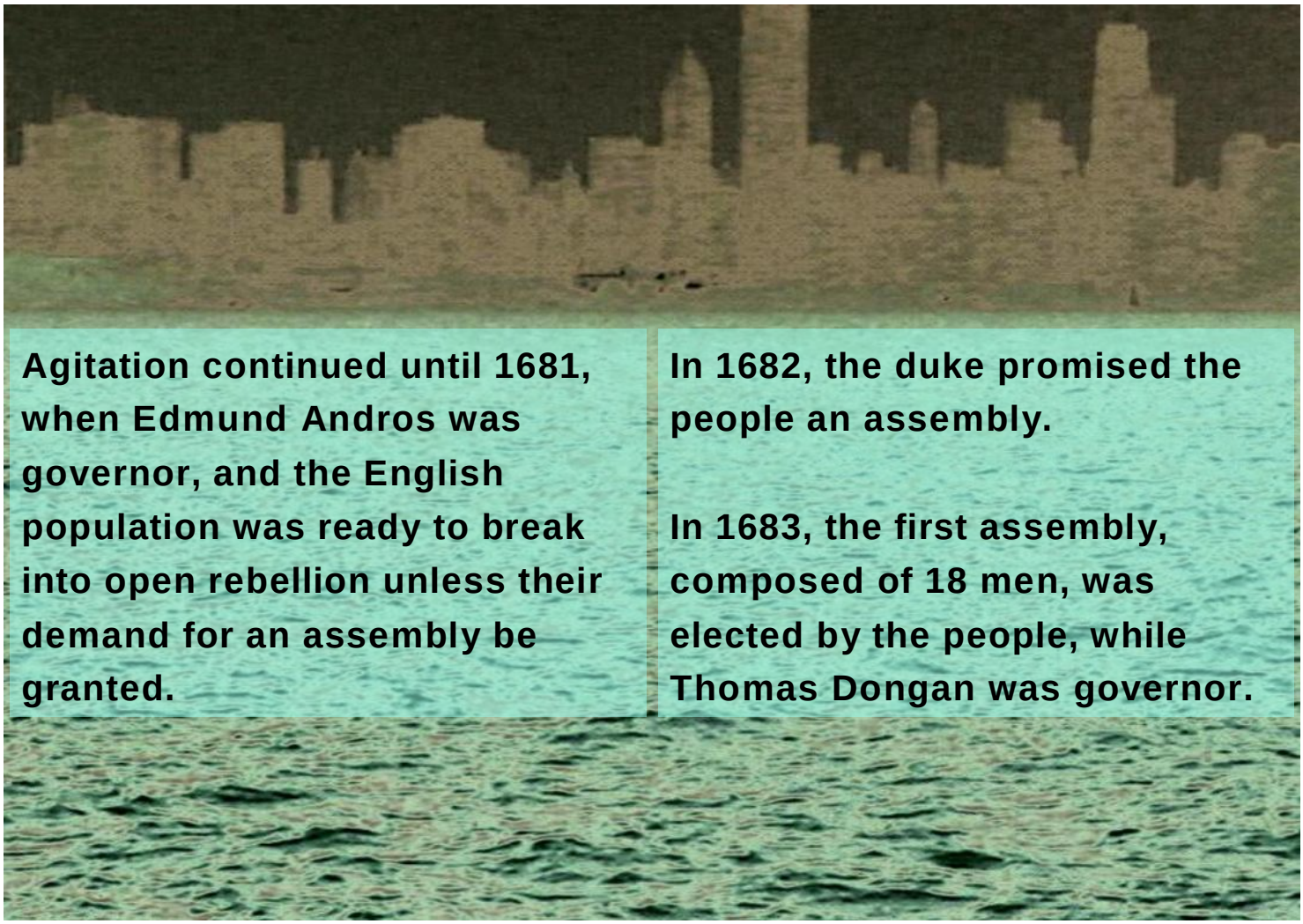
The Duke's Laws retained many Dutch features, and introduced a few new features.

The code assigned legislative and judicial power to the Court of Assizes (governor, council, sheriff and justice).

But the royal governor appointed the sheriff and justices; and there was no popular government in the plan.

Nicolls' plan didn't last.

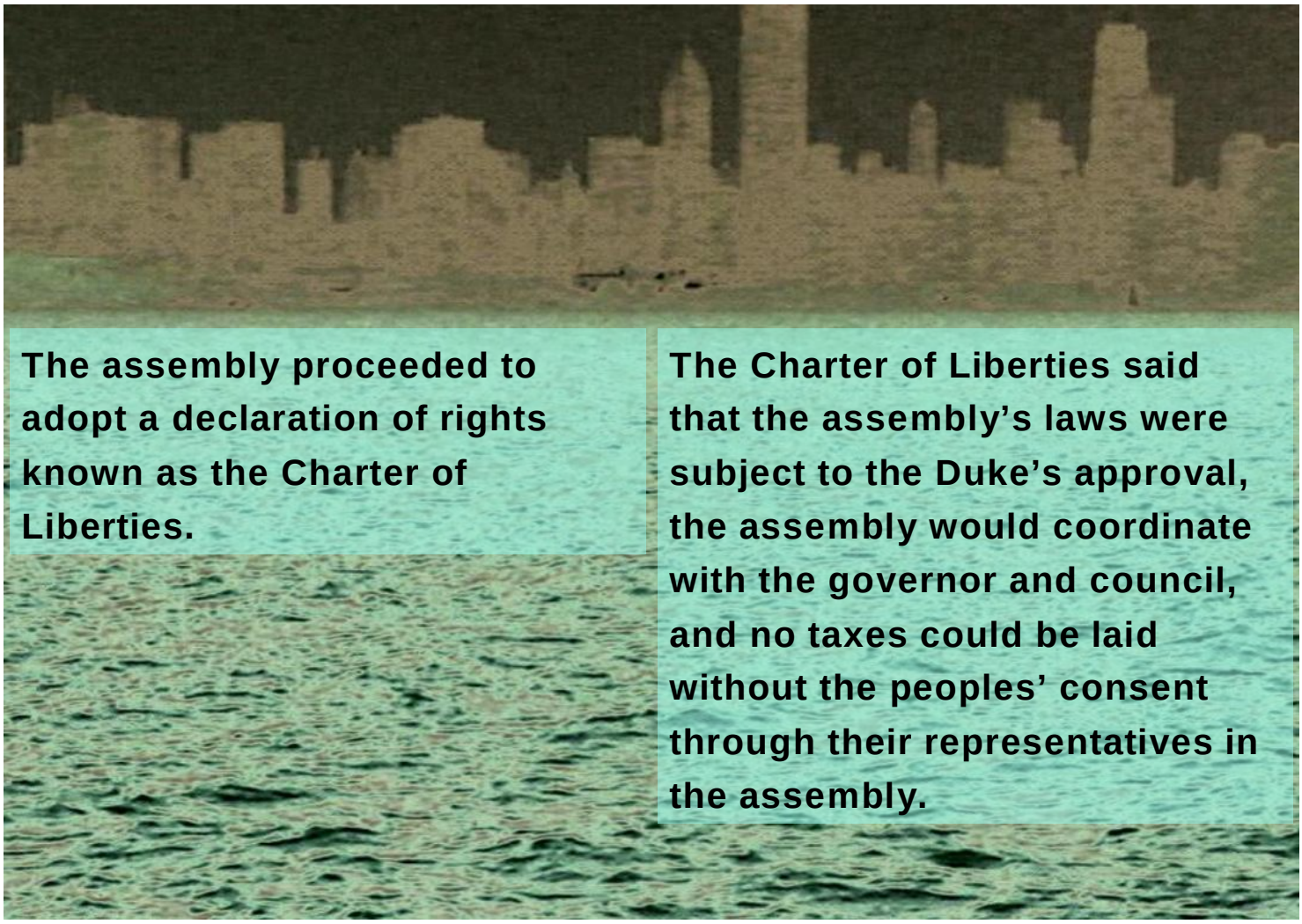
English settlers clamored for representative government.



Agitation continued until 1681, when Edmund Andros was governor, and the English population was ready to break into open rebellion unless their demand for an assembly be granted.

In 1682, the duke promised the people an assembly.

In 1683, the first assembly, composed of 18 men, was elected by the people, while Thomas Dongan was governor.



The assembly proceeded to adopt a declaration of rights known as the Charter of Liberties.

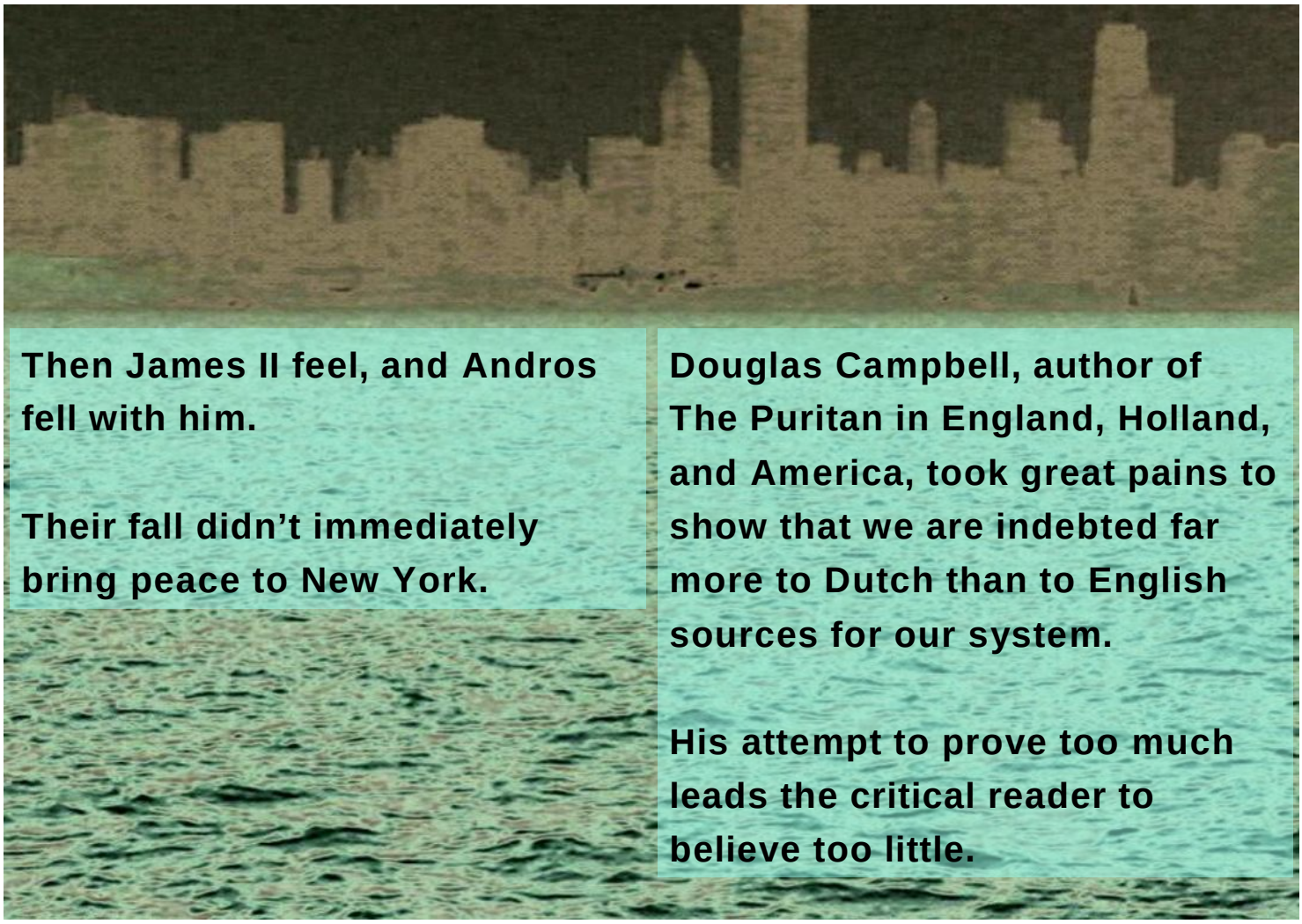
The Charter of Liberties said that the assembly's laws were subject to the Duke's approval, the assembly would coordinate with the governor and council, and no taxes could be laid without the peoples' consent through their representatives in the assembly.

The duke suddenly became king of England, as James II, when his brother died suddenly of a stroke of apoplexy.

New York became a royal colony; and the new king, who at heart despised popular government, refused to sign the Charter of Liberties.

James II abolished the New York assembly, and consolidated New York with New England and New Jersey.

The king appointed Andros to govern the 9 colonies, as a conquered province, with a council of 7 men.



Then James II feel, and Andros fell with him.

Their fall didn't immediately bring peace to New York.

Douglas Campbell, author of The Puritan in England, Holland, and America, took great pains to show that we are indebted far more to Dutch than to English sources for our system.

His attempt to prove too much leads the critical reader to believe too little.

The English race is more nearly related to the Dutch than to any other.

The English language resembles the Dutch language more than any other.

The Netherlands preceded England in securing religious liberty and in establishing free public schools.

The textile industry developed in Flanders earlier than in England.

The textile industry developed in England largely through the migration of skilled workmen from the Netherlands.

Many thousands of Dutchmen and Flemings, driven from their country by religious wars, made their permanent home in England.

The influence of Netherlands institutions on English civilization must have been great.

The Dutch influence on American civilization was also great, because the Dutch immigrants to England nearly all became Puritans.

There's no doubt that Dutch blood coursed in the veins of a large percent of the New England Puritans.

No doubt also, the Pilgrim Fathers absorbed something from the Dutch during their sojourn in Leyden.

But it must be added that English popular self-government was ages in advance of the same in the Netherlands in the 1600s.

No better proof of this is needed than a glance at the colony of New York.

English towns under Dutch jurisdiction, demanded and received a large measure of self-government.

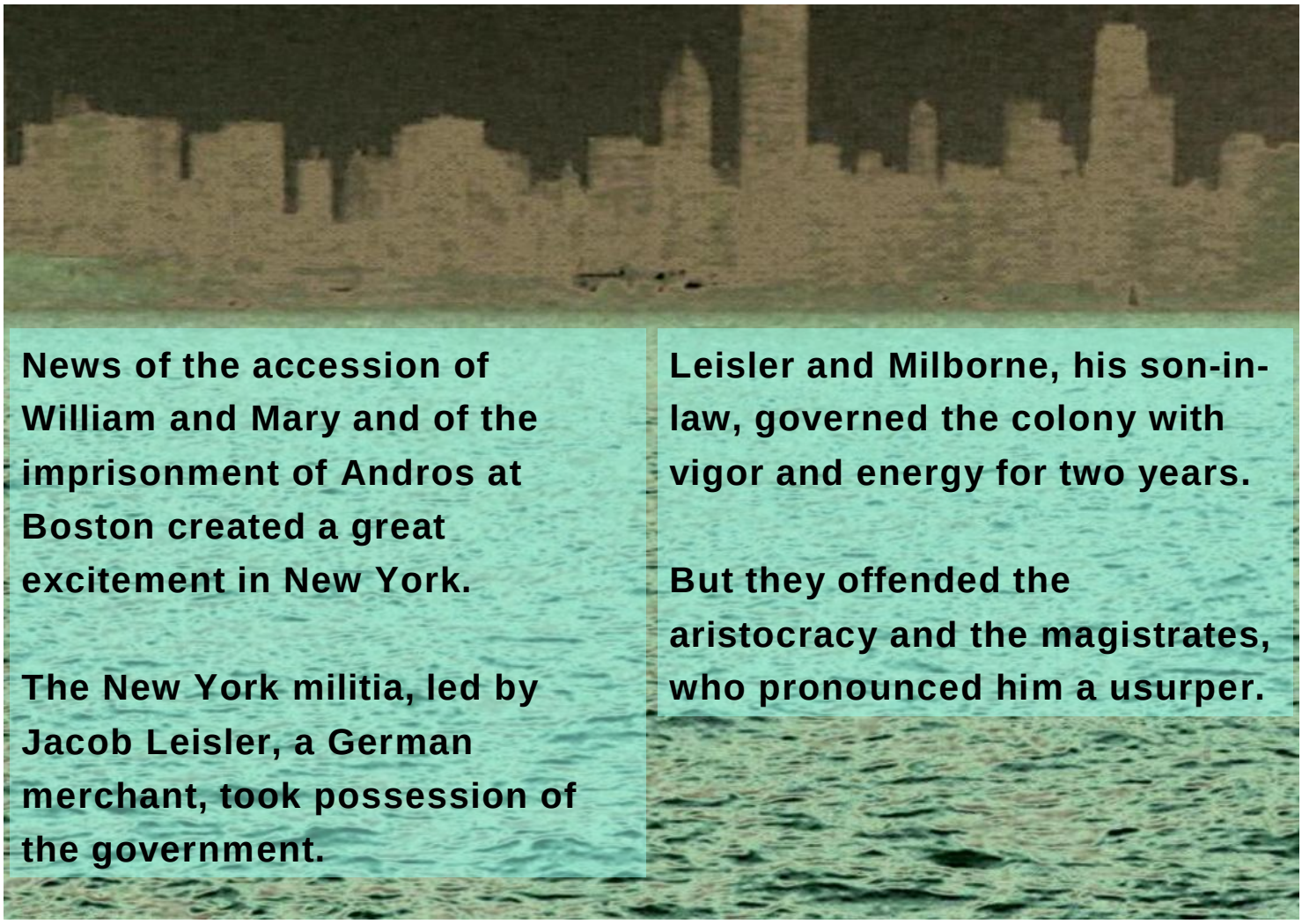
The first English governor gave the jury system, a great bulwark of Anglo-Saxon liberty, to Dutch settlers, who shunned it at first as a fearsome thing.

The English population of the colony clamored for their birthright, an assembly and the power of taxation.

During this period Dutch settlers in the main were passive in matters of popular government, and but for the coming of the English and the overthrow of Stuyvesant and his nation, New Netherland might have remained as despotic a government as was New France.

Moreover, the New England free school system grew, not from Dutch models, but from the inherent character of the Puritan religion.

In the face of these facts, how can anyone contend that our institutions are derived from Dutch sources?

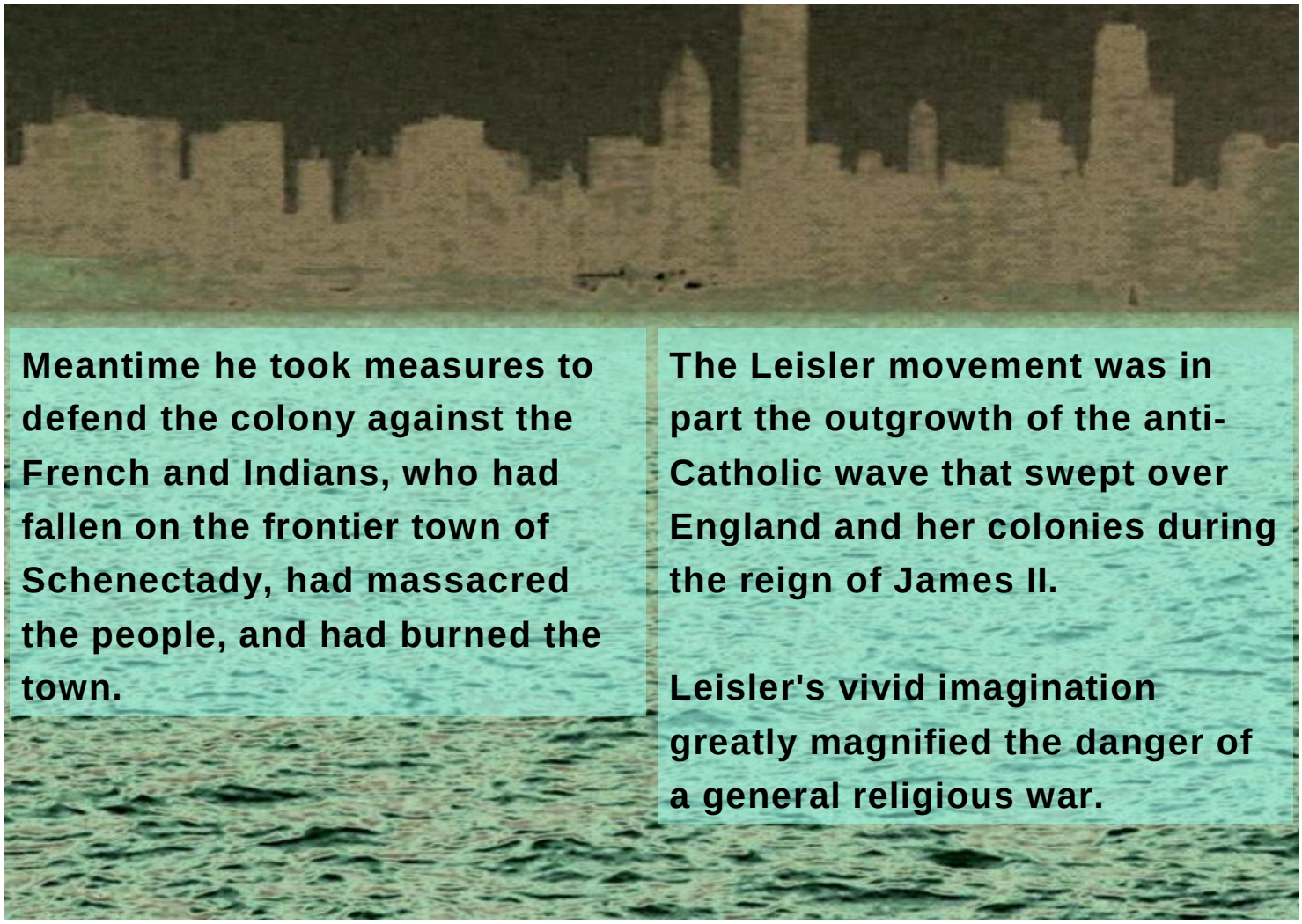


News of the accession of William and Mary and of the imprisonment of Andros at Boston created a great excitement in New York.

The New York militia, led by Jacob Leisler, a German merchant, took possession of the government.

Leisler and Milborne, his son-in-law, governed the colony with vigor and energy for two years.

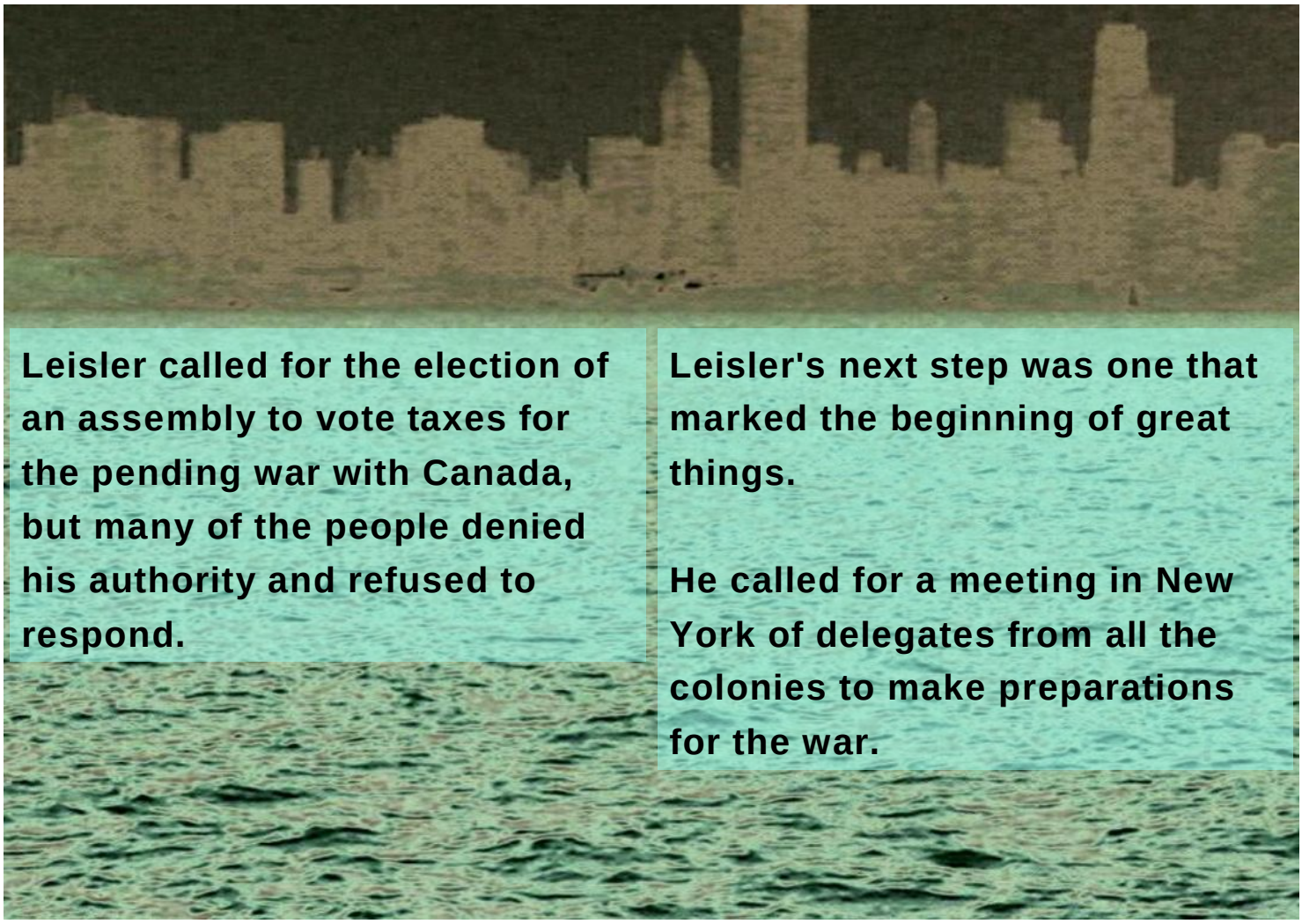
But they offended the aristocracy and the magistrates, who pronounced him a usurper.



Meantime he took measures to defend the colony against the French and Indians, who had fallen on the frontier town of Schenectady, had massacred the people, and had burned the town.

The Leisler movement was in part the outgrowth of the anti-Catholic wave that swept over England and her colonies during the reign of James II.

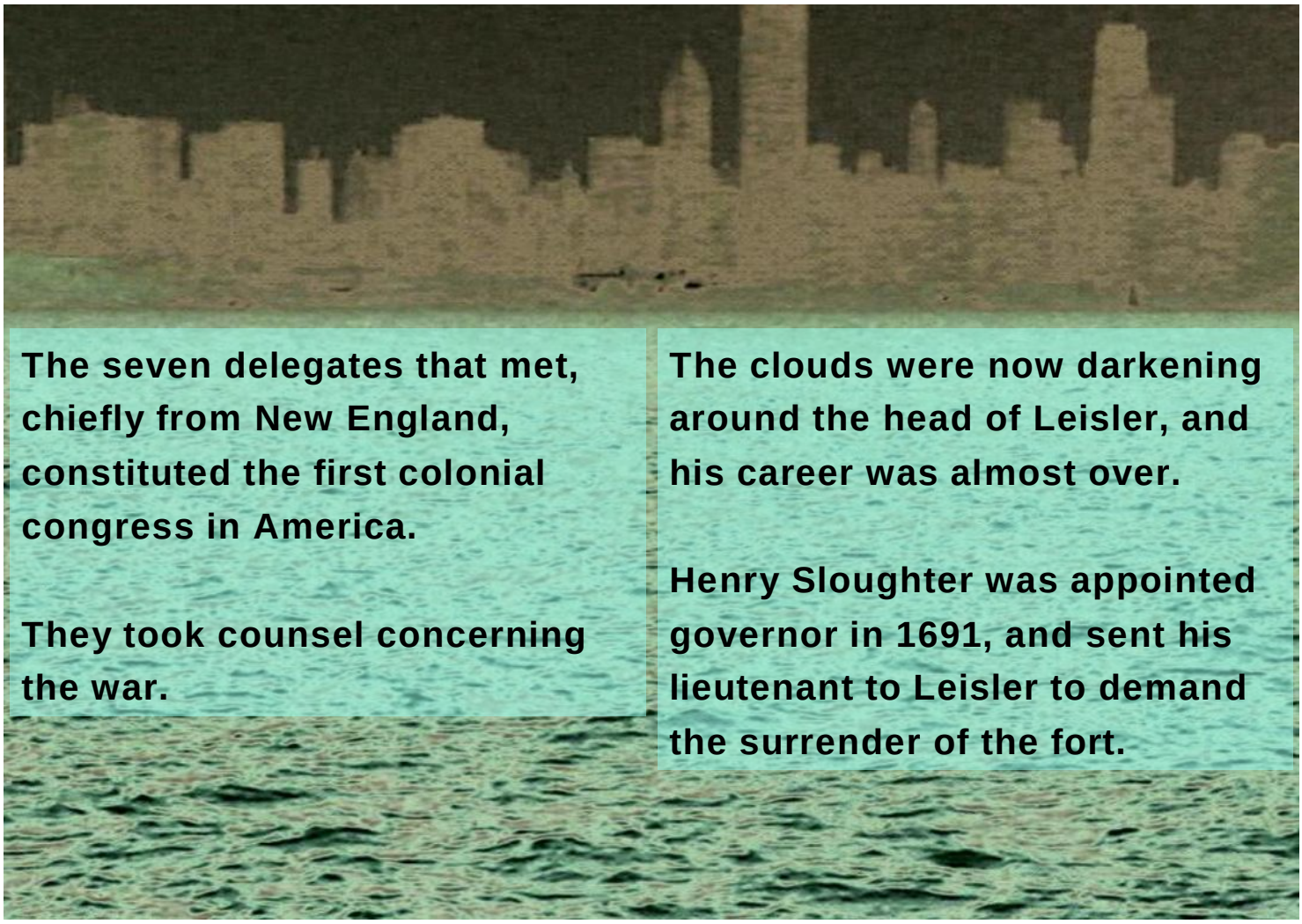
Leisler's vivid imagination greatly magnified the danger of a general religious war.



Leisler called for the election of an assembly to vote taxes for the pending war with Canada, but many of the people denied his authority and refused to respond.

Leisler's next step was one that marked the beginning of great things.

He called for a meeting in New York of delegates from all the colonies to make preparations for the war.

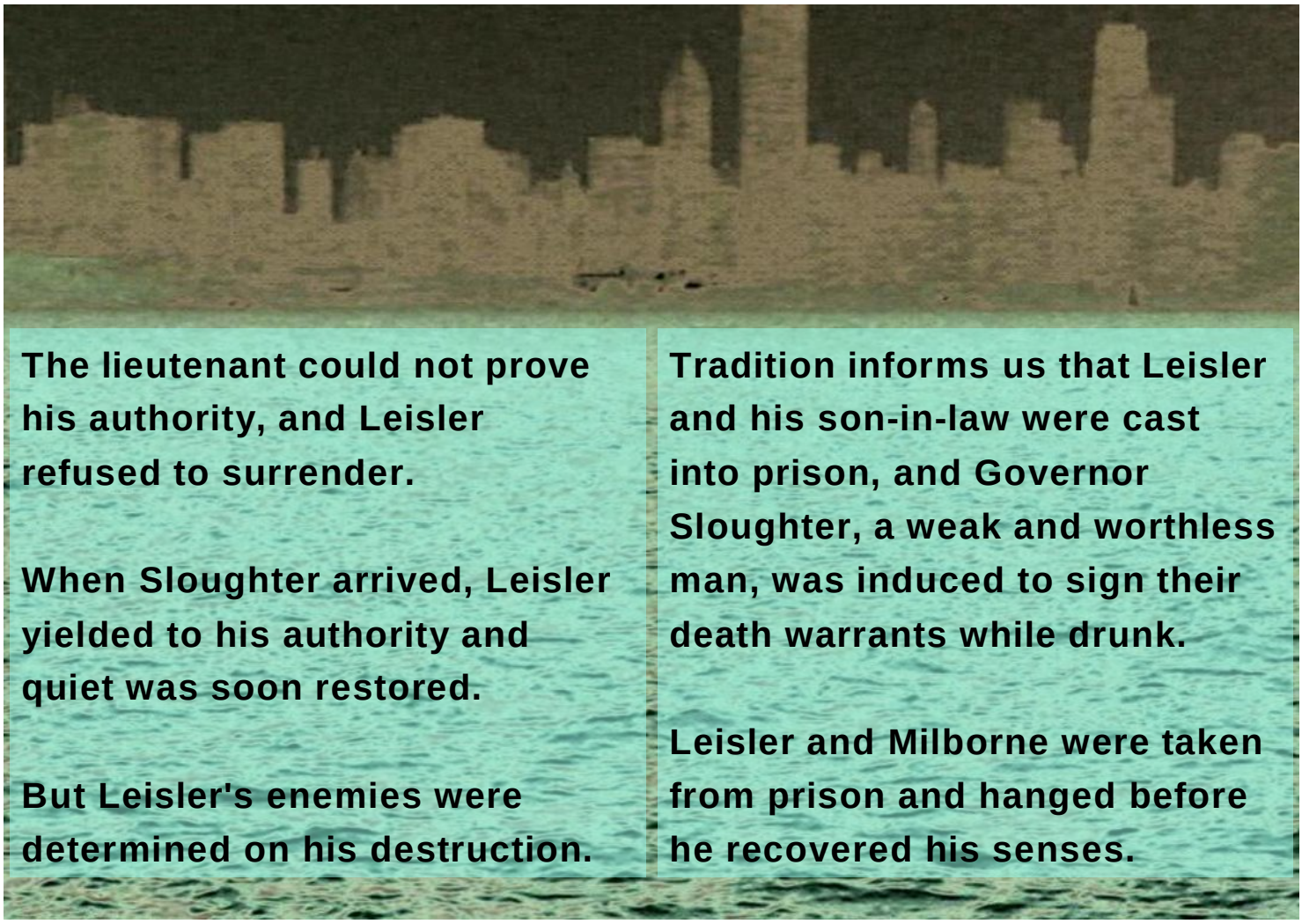


The seven delegates that met, chiefly from New England, constituted the first colonial congress in America.

They took counsel concerning the war.

The clouds were now darkening around the head of Leisler, and his career was almost over.

Henry Sloughter was appointed governor in 1691, and sent his lieutenant to Leisler to demand the surrender of the fort.



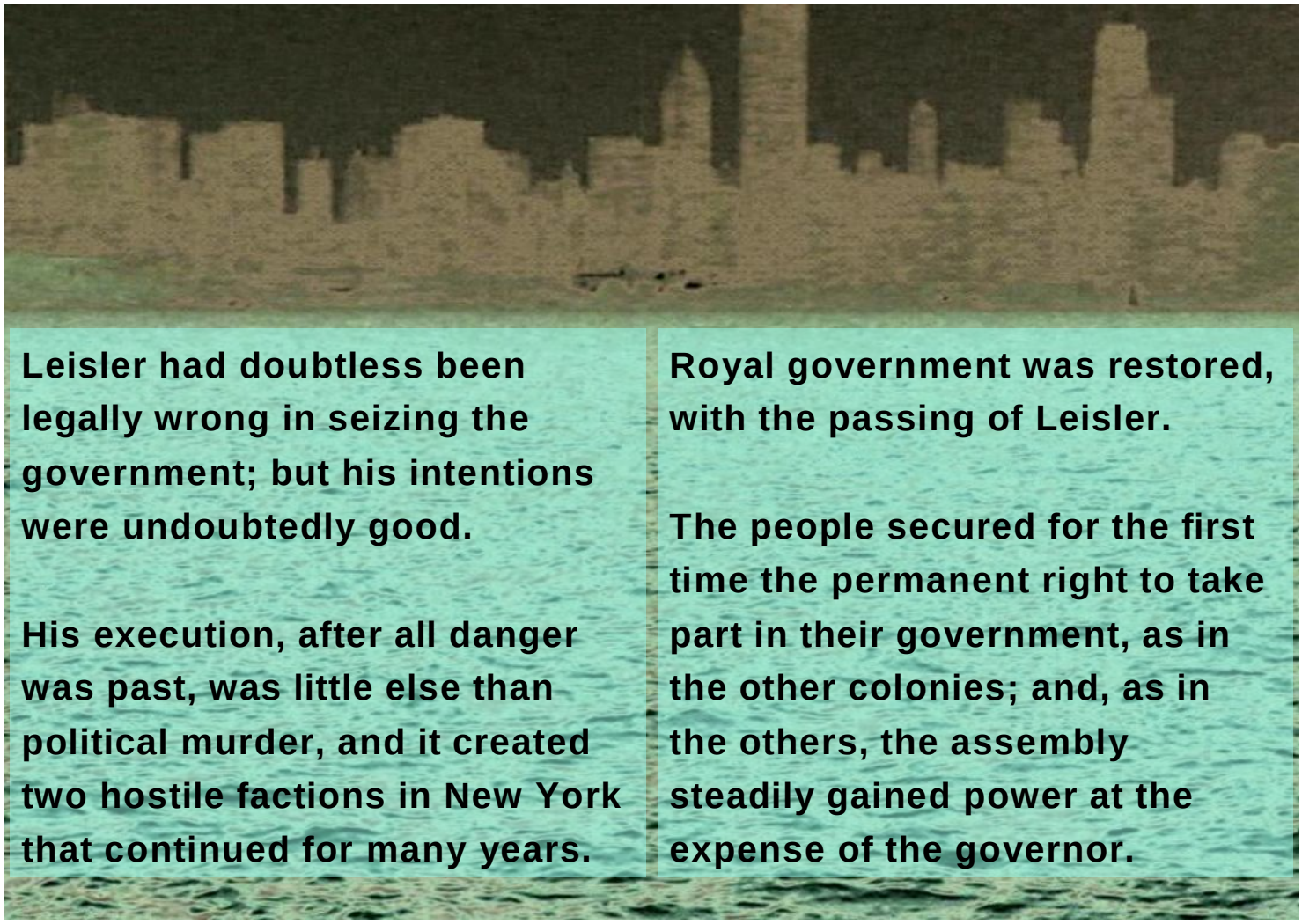
The lieutenant could not prove his authority, and Leisler refused to surrender.

When Sloughter arrived, Leisler yielded to his authority and quiet was soon restored.

But Leisler's enemies were determined on his destruction.

Tradition informs us that Leisler and his son-in-law were cast into prison, and Governor Sloughter, a weak and worthless man, was induced to sign their death warrants while drunk.

Leisler and Milborne were taken from prison and hanged before he recovered his senses.

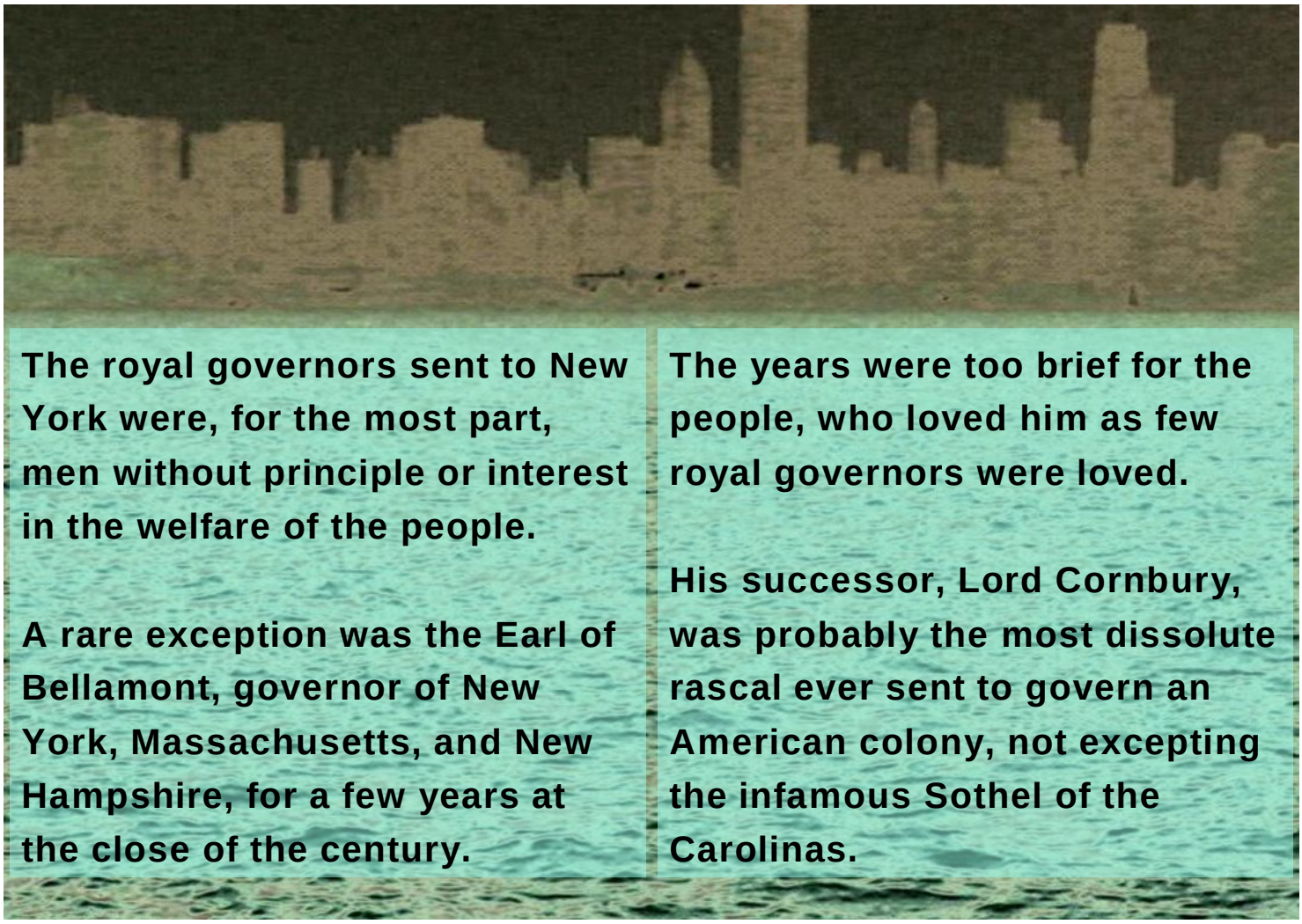


Leisler had doubtless been legally wrong in seizing the government; but his intentions were undoubtedly good.

His execution, after all danger was past, was little else than political murder, and it created two hostile factions in New York that continued for many years.

Royal government was restored, with the passing of Leisler.

The people secured for the first time the permanent right to take part in their government, as in the other colonies; and, as in the others, the assembly steadily gained power at the expense of the governor.



The royal governors sent to New York were, for the most part, men without principle or interest in the welfare of the people.

A rare exception was the Earl of Bellamont, governor of New York, Massachusetts, and New Hampshire, for a few years at the close of the century.

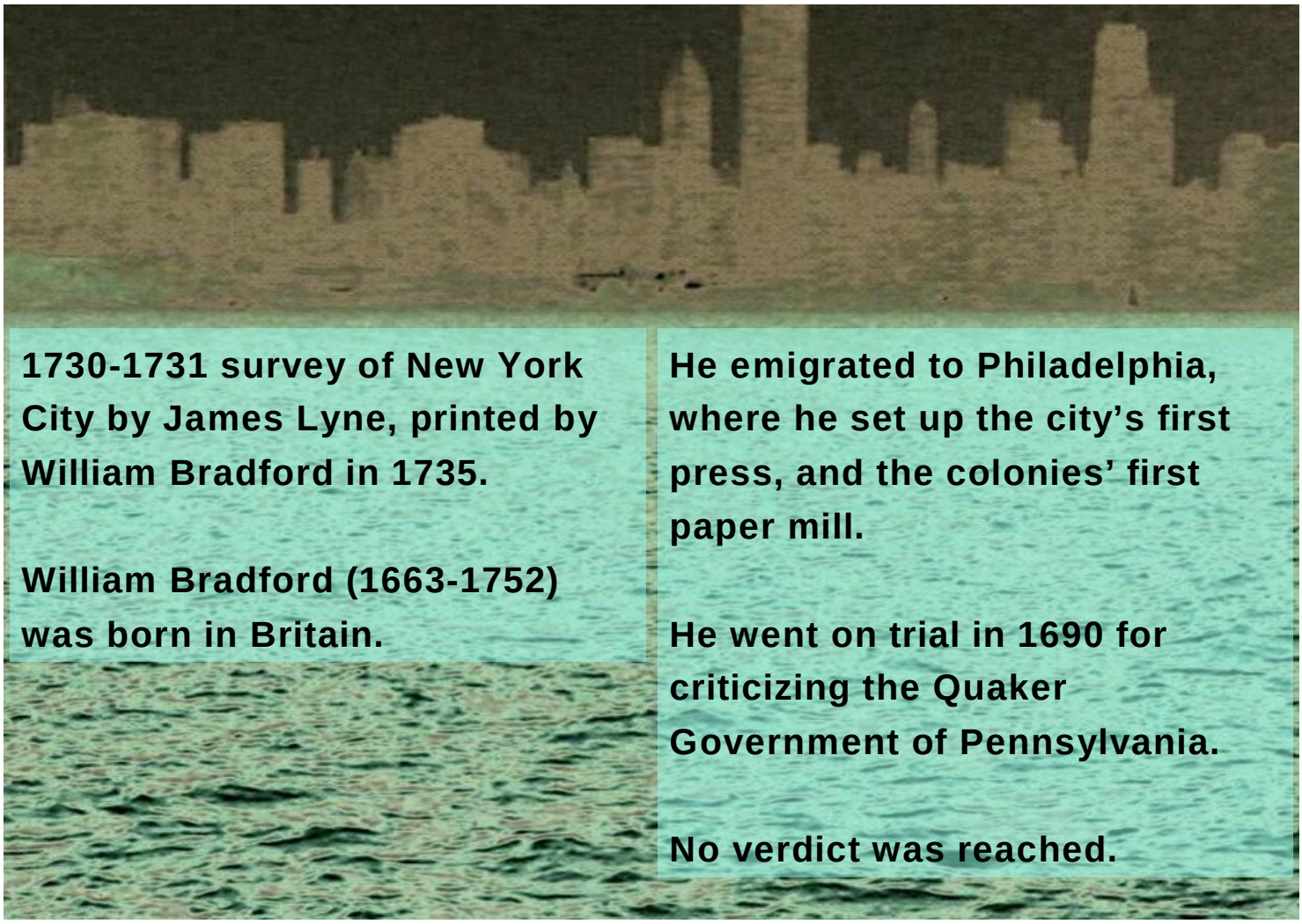
The years were too brief for the people, who loved him as few royal governors were loved.

His successor, Lord Cornbury, was probably the most dissolute rascal ever sent to govern an American colony, not excepting the infamous Sothel of the Carolinas.

Stanford, John (artist) (1828). Facsimile of Plan of the City of New York from an actual survey. James Lyne (cartographer) and William Bradford (printer) (1735).

1828 copy by John Sanford for the New York City Mayor and Common Council.

Found at www.georgeglazer.com/archives/maps/archive-nyc/ancientny.html



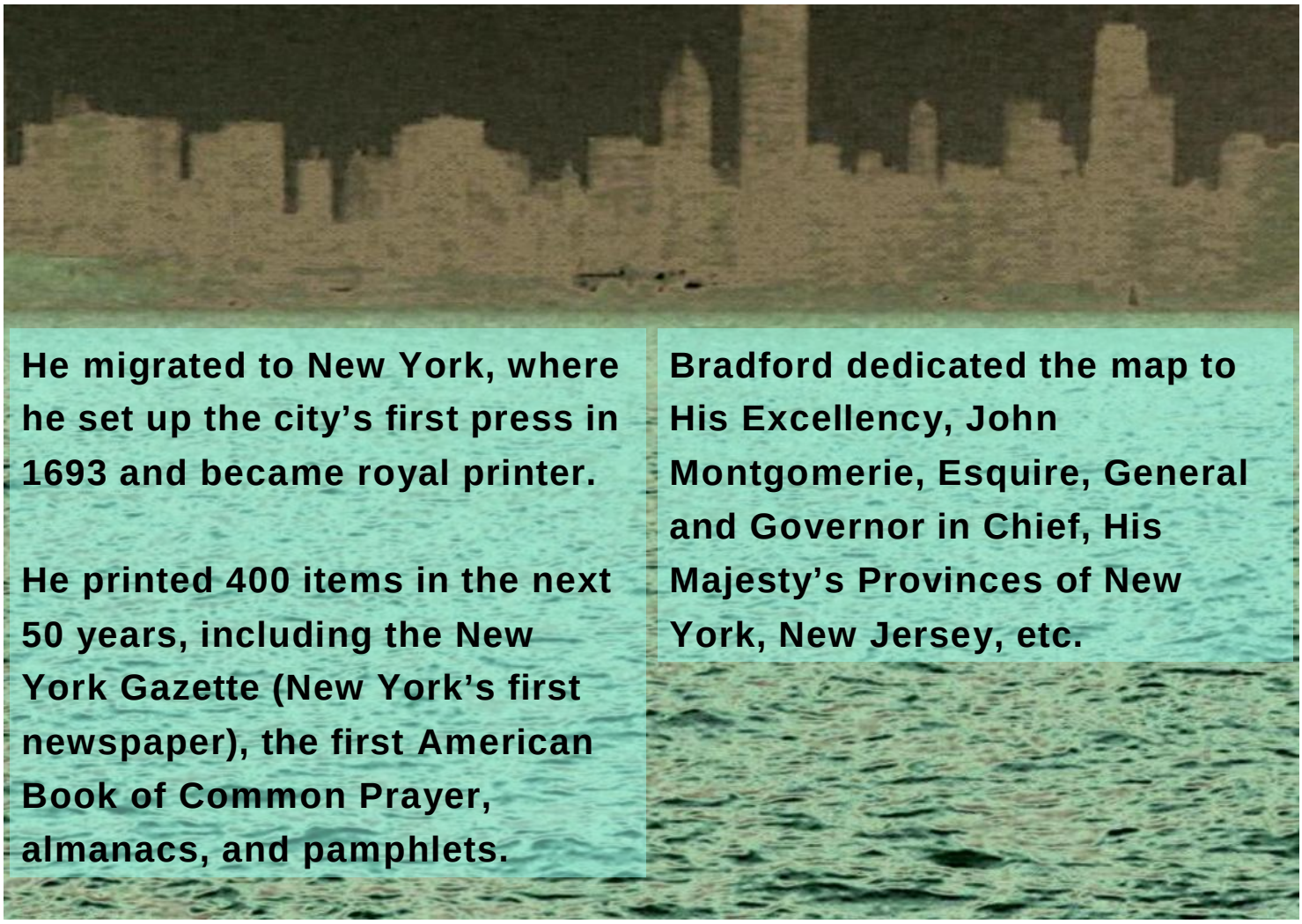
1730-1731 survey of New York City by James Lyne, printed by William Bradford in 1735.

William Bradford (1663-1752) was born in Britain.

He emigrated to Philadelphia, where he set up the city's first press, and the colonies' first paper mill.

He went on trial in 1690 for criticizing the Quaker Government of Pennsylvania.

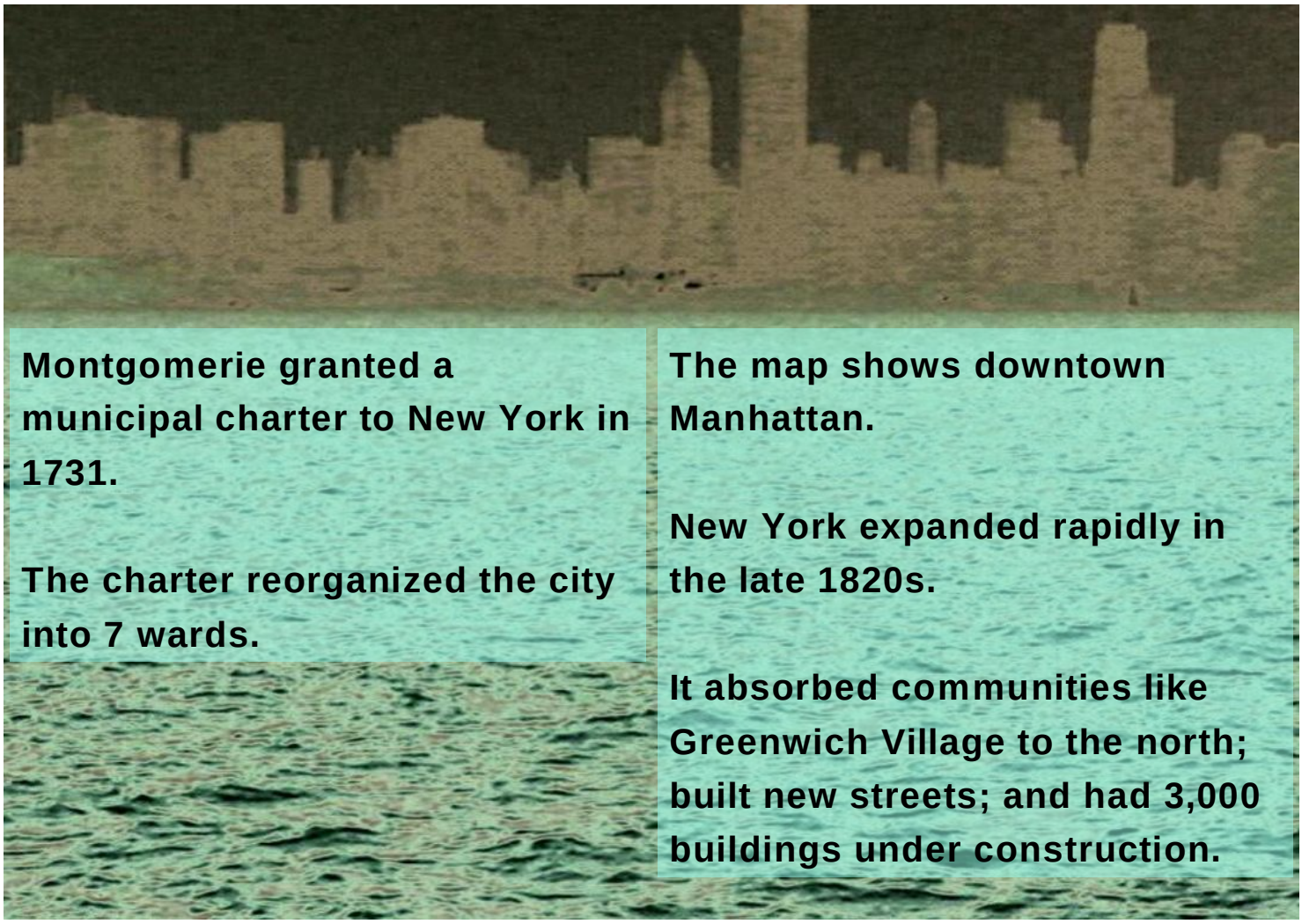
No verdict was reached.



He migrated to New York, where he set up the city's first press in 1693 and became royal printer.

He printed 400 items in the next 50 years, including the New York Gazette (New York's first newspaper), the first American Book of Common Prayer, almanacs, and pamphlets.

Bradford dedicated the map to His Excellency, John Montgomerie, Esquire, General and Governor in Chief, His Majesty's Provinces of New York, New Jersey, etc.



Montgomerie granted a municipal charter to New York in 1731.

The charter reorganized the city into 7 wards.

The map shows downtown Manhattan.

New York expanded rapidly in the late 1820s.

It absorbed communities like Greenwich Village to the north; built new streets; and had 3,000 buildings under construction.

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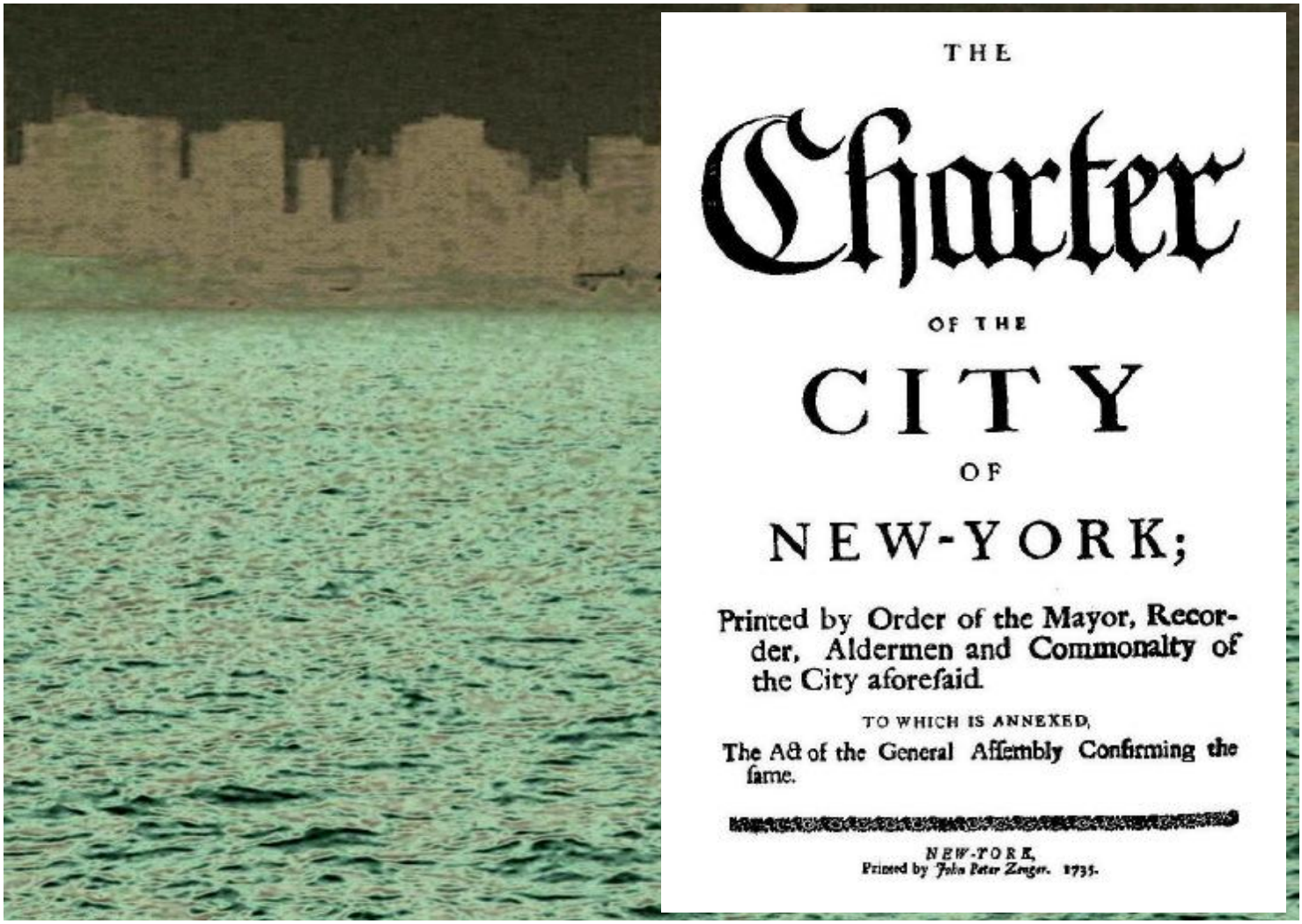


THE

Charter

OF THE

CITY

OF

NEW-YORK;

Printed by Order of the Mayor, Recorder, Aldermen and Commonalty of the City aforesaid.

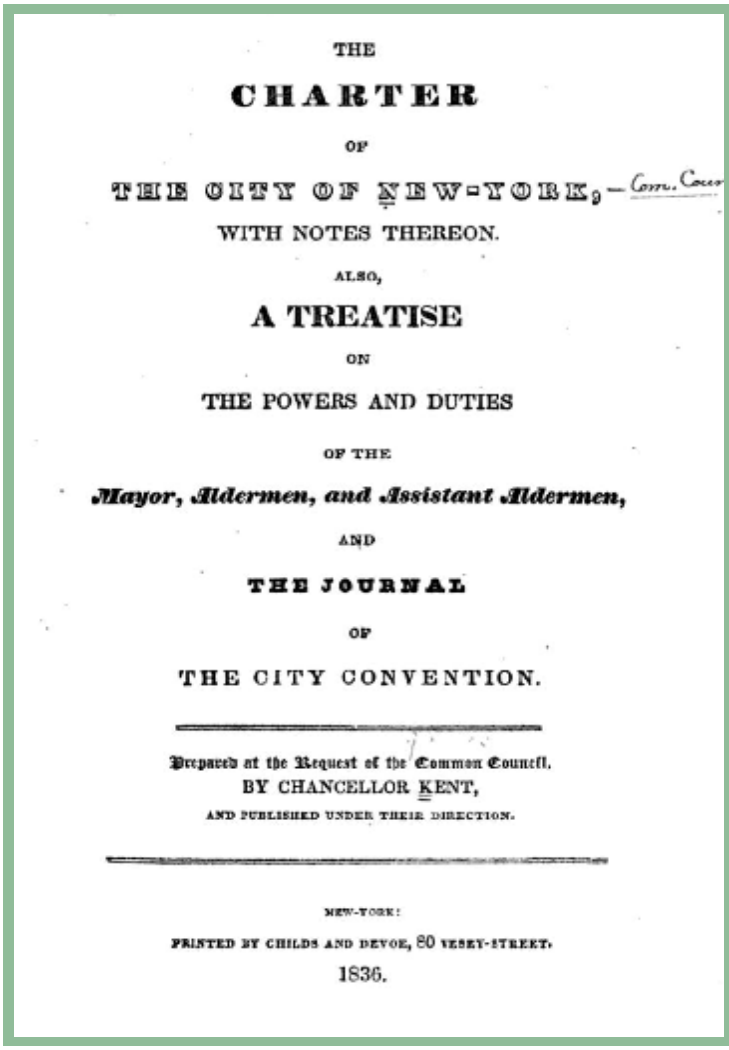
TO WHICH IS ANNEXED,

The Act of the General Assembly Confirming the same.

NEW-YORK,
Printed by John Peter Zenger. 1735.

Hildeburn, Charles R.
Title: Sketches of Printers and Printing in Colonial New York.
Citation: New York: Dodd, Mead, & Company, 1895.
Subdivision: Chapter II.

http://www.dinsdoc.com/hildeburn-1-2.htm



THE

CHARTER

OF

THE CITY OF NEW-YORK, — Com. Coun

WITH NOTES THEREON.

ALSO,

A TREATISE

ON

THE POWERS AND DUTIES

OF THE

Mayor, Aldermen, and Assistant Aldermen,

AND

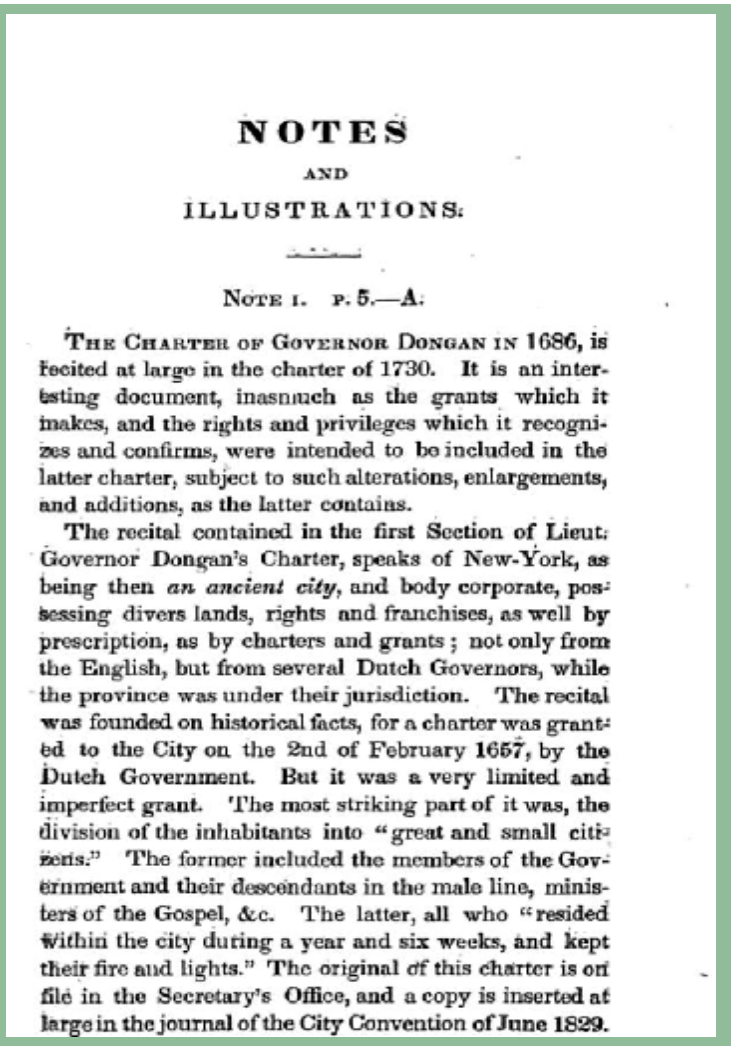
THE JOURNAL

OF

THE CITY CONVENTION.

Prepared at the Request of the Common Council,
BY CHANCELLOR KENT,
AND PUBLISHED UNDER THEIR DIRECTION.

NEW-YORK:
PRINTED BY CHILDS AND DEVOE, 80 VESEY-STREET.
1836.



NOTES

AND

ILLUSTRATIONS.

NOTE 1. P. 5.—A.

THE CHARTER OF GOVERNOR DONGAN IN 1686, is recited at large in the charter of 1730. It is an interesting document, inasmuch as the grants which it makes, and the rights and privileges which it recognizes and confirms, were intended to be included in the latter charter, subject to such alterations, enlargements, and additions, as the latter contains.

The recital contained in the first Section of Lieut. Governor Dongan's Charter, speaks of New-York, as being then *an ancient city*, and body corporate, possessing divers lands, rights and franchises, as well by prescription, as by charters and grants; not only from the English, but from several Dutch Governors, while the province was under their jurisdiction. The recital was founded on historical facts, for a charter was granted to the City on the 2nd of February 1657, by the Dutch Government. But it was a very limited and imperfect grant. The most striking part of it was, the division of the inhabitants into "great and small citizens." The former included the members of the Government and their descendants in the male line, ministers of the Gospel, &c. The latter, all who "resided within the city during a year and six weeks, and kept their fire and lights." The original of this charter is on file in the Secretary's Office, and a copy is inserted at large in the journal of the City Convention of June 1829.

Col. Nicoll, the first English Governor of New-York, also granted, in 1665, a charter of incorporation to the inhabitants under the administration of a Mayor, Aldermen, and Sheriff. The Dutch name of incorporation was that of Schout, Burgomasters, and Schephens, of the city of New-Amsterdam.

The charter of Dongan appears to be quite singular, when we consider, that at the date of it, under the arbitrary sway of King James 2nd, there was a general attack on the part of the Crown, of all chartered rights and privileges throughout the King's dominions. While Governor Dongan was granting liberal charters to New-York and Albany, and a free constitution to the province, his master was waging war upon the New-England charters. This marked partiality may be imputed in part to the personal character and influence of the Governor, who was a man of integrity and moderation, and in part to the partiality of the King for a province, of which, as Duke of York, he was the proprietary. Indeed, the civil privileges of the *town of Manhattans*, as New-York was then called, were essentially confirmed in the very liberal articles of capitulation granted to the Dutch by Col. Nicolls, on the first surrender of the colony to the English in 1664. The charter mentioned among other rights and property which this ancient city then possessed, the City Hall, two market houses, the wharves and docks with their appurtenances, a cemetery, and one settled and established ferry from the city to Long Island.

NOTE II. P. 7.—B.

The general granting clause in the 2nd Section, was made by the Governor by virtue of his royal commission and upon the petition of the Corporation. It granted and confirmed to the Corporation of the city, all the

rights and franchises which they *anciently* held and enjoyed; provided that none of them were "inconsistent with, or repugnant to the laws of England, or of the General Assembly of the province." It also confirmed to them their right and title to the City Hall and the ground belonging to it, the two market houses, the wharves and dock, burial place, and the Long-Island ferry, with its rents and profits.

A grant was likewise made of all the existing streets, lanes, highways, and alleys within the city, for the use of the Corporation and inhabitants; and with power to the Corporation to establish, make, lay out, amend, and repair all streets, highways, alleys, lanes, water courses, ferry and bridges in and throughout the city, necessary and convenient for the inhabitants. The grant was accompanied with the proviso, not to take away any person's right of property, without his consent, *or by some known law of the province*. The restriction on the laying out of new streets and highways, if laid out over private property, without the consent of the owner, or without some known law, was a provision that did honor to the character of the charter. Private property must, however, be subservient to public necessities, and the Legislature have the right, even against the owner's consent, to assume private property for necessary public uses, on making just compensation. A law of the province would probably have been deemed of itself, sufficient at that day, but the security of private right has been greatly increased, and the value of that security highly exalted since that period. "A known law of the Province" would not now be sufficient, without something more. The language of the Constitution is, that "private property cannot be taken for public use without just compensation."

The corporate power for regulating buildings, streets, lanes, wharves, docks and alleys, was enforced and en-

larged by the Colony act of October 1, 1691, Ch. 18, which authorized the Common Council to appoint a Surveyor to regulate the same under their orders. If private ground was taken for streets, reasonable compensation was to be fairly assessed and paid to the owners. This was a noble provision and much better than the check on corporate authority, contained in the charter. The charter power on the subject of streets and highways, was continued and confirmed by the charter of 1730, as see *post*, Sec. 16, and note H. H.

NOTE III. P. 8.—C.

The grant in the 3rd section to the Corporation, of all the waste, unpatented and unappropriated lands within the city and on Manhatten Island, extending to low water mark, together with all rivers, rivulets, coves, creeks, ponds, waters and water courses, in the City and Island, not before granted, was, doubtless, a valid grant; and the rights of property thereby acquired, could never thereafter have been lawfully devested without the consent and act of the Corporation, or due process of law.

It may not be amiss to state here, once for all, that it is an acknowledged and settled principle, that no vested right of property, whether it belongs to private individuals, or be in the shape of a corporate franchise, can ever be lawfully taken away without some default or forfeiture, to be ascertained upon a fair trial and pronounced by judicial decree. The English statute of *Magna Charta* established as a great principle, the sanctity of rights and privileges, then existing or thereafter to be lawfully procured; and that principle was intended to be of general and perpetual application. It provided that the city of London and *all other cities* should have all their liberties and free

customs; and that no *freeman* should be disseized of his freehold, or liberties, or free customs, but by lawful judgment of his peers or by the law of the land. Corporate franchises in this country rest on a basis which ought to be at least as solid as *Magna Charta*, for they are founded on grants which are *contracts*, and "no state," says the constitution of the United States, "can pass any law impairing the obligation of contracts."

The Section contains also a grant of the "Royalties of fishing, fowling, hunting, hawking, &c. appertaining to the city and island." But I apprehend that the royal franchise of the chase and game was never practically applied to the colonies, and was never introduced. The right to take and appropriate all unreclaimed animals *ferœ naturæ*, belongs to every man of common right, and exclusively, upon his own soil, and to every member of the community as a common right in the public unpatented domains, except in those special cases in which the right is restrained by positive law. Statutes have frequently been passed from the early colonial history down to this day, prohibiting the killing of certain species of game, in certain seasons of the year, or the obstructing of the course of fish, or taking or destroying of fish, in certain waters, in certain seasons. (N. Y. Revised Statutes, vol. I. 687-689.) The statute prohibitions go to prevent the destruction of game by a man on his own land. The Act of April 21, 1818, ch. 253, and the *Revised Statutes*, vol. I. 702, prohibit the killing of certain game on this Manhattan Island or city and county of New-York, in certain seasons of the year. These are benevolent regulations, intended for the preservation and growth of migratory game, to be finally applied to the use and benefit of all classes of the people, who have a common interest in their protection and nurture. The corpora-

tion by their citizens would have had the right to take game, even without the special grant in the charter of the "Royalties," in the waste and unpatented lands so granted, subject, however, to the restraints of the by-laws of the corporation, so long as they retained their property in the lands, and subject also to all statute prohibitions for the better preservation of game. There is no pretext for any claim, by any persons whomsoever, to enter and take game upon another man's land without his consent. It would at all times be a palpable trespass.

The grant of the vacant lands is simply to the Mayor, Aldermen and Commonalty, whereas, the grant of the royalties is to them and *their successors forever*. But there is no ground for any distinction in the case; a grant to a corporation aggregate is a good grant in fee, without adding the words "and to their successors forever." Every grant to such a corporation will last as long as the corporation endures, unless the subject of it be in the meantime, aliened or forfeited. The grant in the charter includes all *rivers* as well as rivulets and water-courses on the island. This must have arisen from the redundancy of description usual in such instruments; for though the streams or rivulets on the island were probably much more copious when the island was covered with woods than they are at present, it could not have afforded nourishment for rivers, properly so called, at any period since the flood.

The reservation of the annual quit rent of one beaver skin, or the value thereof in money, was expressly confirmed in and by the charter of 1730. See Sec. 38 and Note D. D. D.

NOTE IV. P. 9.—D.

This section declares that the limits and jurisdiction

of the city shall extend to low-water-mark in and throughout the Island of Manhattan; and that the corporation shall quietly hold and enjoy all their rights and franchises before granted and confirmed, without let or hindrance on the part of the government.

The limits and jurisdiction of the city were more amply defined in the charter of 1730, as see infra. sec. 2. of that charter.

NOTE V. P. 10.—E.

This fifth section designates the city officers, but though the title and character of the officers have been generally retained, others have been added, and the whole made subject to a new organization, as will be seen hereafter. This section has, therefore, been essentially superseded.

NOTE VI. P. 11.—F.

The sixth section contains the usual words of incorporation of the city, and gives it a name, and the corporate capacity of perpetual succession, and to purchase, hold, sell, give, and demise in their discretion lands and chattels of any kind, and to sue and be sued, and to have, make and alter a common seal.

All these powers and capacities were re-granted in and by the charter of 1730, sec. 1, and they remain undiminished, except that by a subsequent section of Dongan's charter, sec. 12, the yearly value of the lands which the corporation could take and hold was limited to £1000 per annum, and which, by the charter of 1730, sec. 96, was enlarged to £3000 per annum. See my observations on this limitation in the note annexed to sec. 96, and designated as B. B. B.

NOTE VII. P. 14.—G.

The officers under this charter were appointed by name, and the section creates and defines the composition of the Common Council of the city, and its power to make, enforce and repeal laws and ordinances for the rule and government of the city, and with the cautious proviso that those laws and ordinances should remain in force for three months only, unless confirmed by the Governor and Council.

The whole of this section has become obsolete, being superseded by new and more enlarged provisions in the charter of 1730, as see section 14, of that charter, and the note F. F.

NOTE VIII. P. 16.—H.

The eighth section provided among other things, that the Mayor and Sheriff should be annually appointed upon the feast day of St. Michael. That day for the appointment of charter officers was continued until the year 1800, as see infra. note B. B. The Recorder, Town Clerk and Clerk of the Market were otherwise appointed, but the whole arrangement has been done away by new and different provisions. This will be noticed hereafter. The provision that the Mayor or Recorder and any two Aldermen might, as justices of the peace, hold general sessions of the peace to hear and determine and punish misdemeanors, and offences under the degree of grand larceny, remains in some respects, though it has undergone essential alterations, as will be seen hereafter, in note R. R., and the whole section may be passed over as wholly superseded.

NOTE IX. P. 18.—I.

The provision in the ninth section was for the election of Aldermen and Constables annually, and for the due commitment of offenders by the Mayor, Recorder and Aldermen as trustees of the peace.

This section has also become useless and obsolete by new and more specific regulations, which cover and change the whole subject.

NOTE X. P. 19.—K.

The tenth section of Governor Dongan's charter gave to the Mayor, (and it was declared to be according to usage and custom) the right to grant tavern licenses, and for selling by retail all sorts of exciseable or strong liquors, and the license fees were declared to be for the use of the corporation. This provision was adopted and confirmed in and by the charter of 1730, as see sect. 25, and note Q. Q., where the subsequent modifications of the power are noted.

NOTE XI. P. 21.—L.

The Eleventh Section authorized the Mayor, Recorder and Aldermen, or the Mayor and any three Aldermen, to make free citizens of the city, on their paying for the use of the Corporation, a pecuniary compensation not exceeding £5. The same power was conferred by the charter of 1730. See Infra. Sec. 20, 21 and my observations upon it, in Note M. M.

NOTE XII. P. 21.—M.

The general capacity of the Corporation to purchase and hold lands in fee, had been already confirmed by

the 6th Section of this charter, as see *ante*, p. 10. Here that capacity is more explicitly defined, and it is restricted in amount to lands, whereof the yearly value should not exceed £1000 per annum. The sum was enlarged by the charter of 1730, to £3000 ster. per annum, as see *Post*. Sec. 36, and note B. B. B. The same lands the Corporation are authorized to demise, grant and dispose of at their pleasure. The power and right of unlimited purchase and sale of all property, real and personal, is incident to all corporations, vested with the usual general capacities, unless the power be restricted and defined by the charter, or by statute.

The general power to take and possess lands excluded of course, acquisition by devise or will, for all corporate bodies were incapacitated from being devisees by the statute of wills of 32, Hen. 8, and that restriction has been continued in every revision of our statute code

NOTE XIII. P. 22.—N.

The 13th Section authorized the corporation to hold three market days in every week of the year. This power was enlarged by the charter of 1730, as see *Post*. Sec. 17 of that charter. Note XXXII.

NOTE XIV. P. 22.—O.

In this Section there was a plain grant of power to the corporation, to fill, make up and lay out the lands in and about the city and island, and to build up and use the same in any way or manner, which to them should seem expedient, and as far into the rivers as low water mark.

This power would have been implied from the circumstance that the corporation was seized in fee of the

lands to which the authority applied, and which was held by them in their public corporate capacity as trustee for the inhabitants. The provision must have been inserted for greater caution, and it may be considered as absorbed in the more ample powers conferred by the charter of 1730.

NOTE XV. P. 23.—P.

This Section gave to the Mayor, Recorder and Aldermen, or to any three of them, whereof the Mayor or Recorder was to be one, the power to hold courts of Common Pleas, for personal and mixed actions on every Tuesday of every month in the year. The authority was confirmed and enlarged by the charter of 1730, as see *Post*. Sec. 27, and note XLI. S. S., and this Section may be considered as entirely superseded.

NOTE XVI. P. 24.—Q.

We have in this 16th Section, a confirmation to the corporation, of all the privileges, franchises, and powers, not inconsistent with the law of the land, which they had enjoyed, or were entitled to within twenty years preceding, under any former charter, grant, prescription, custom or usage. The retrospect carried the grant back to the year 1666, soon after the capitulation of the city and province by the Dutch Governor, to the English arms. It covered, of course, all the rights and privileges secured to the city by the liberal terms of the capitulation in 1664, and by the charter of Col. Nicolls, in 1665. It saved, however, to the crown and its officers, certain lands, and among others, the Governor's garden by the gate of the Fort, and the King's farm and the swamp next to the fresh water, and the quit rents

reserved in former grants. All these grants and reservations became merged to the subsequent charter, and in the more specific and better defined rights and powers which it contained.

NOTE XVII. P. 24.—R.

The last clause in Lieut. Governor Dongan's charter, saves all grants of lands and chattels before made for pious and charitable uses. What grants of the kind were alluded to, does not appear; but whatever they were, they were confirmed, whether in the hands of the corporation, or of any of the citizens.

In reviewing this charter, we have perceived many things in it, denoting a wise and liberal policy. It may be said to have laid the basis of a plan of government for a great city. Its broad foundations have been built upon, enlarged and improved, the better to meet with success, the exigencies of the most commercial metropolis on this side of the atlantic. When we consider the time when, and the power from whom this charter emanated, we cannot but admire the enlightened sense which it displays, of the sanctity of corporate and private rights, the cautious manner with which they are treated, and the provident guards enacted for their security.

NOTE XVIII. P. 31.—S.

CHARTER OF 1708.—This charter was granted by Governor Cornbury, for a special purpose. It was made upon the petition of the Corporation of New-York, in which they set forth their vested right, under former grants and charters, in and to a certain Ferry between the city and Long Island, called *the Old Ferry;* and they prayed for a confirmation of it, together with all the vacant and unappropriated land between high and low water mark on Long Island, between the Wallabout and New-York.

The charter followed the petition, and conformed to it entirely. It granted to the corporation the Old Ferry on both sides of the East river, as the same was then held and enjoyed, together with the fees, rents, and profits thereof, and all the vacant and unappropriated ground on Long Island, between high and low water mark, fronting the city of New-York, from the east side of the Wallabout to the west side of the Red Hook. The charter has much of the form and language of an ordinary conveyance in fee, and the franchises and lands were to be held in free and common soccage, as of the manor of East Greenwich, in England, and under a quit-rent of five shillings per annum.

It likewise granted to the corporation, and their successors, leave and license to set up, establish, and maintain one or more ferry or ferries, as the corporation should from time to time see fit, within the limits and bounds aforesaid, for transporting passengers and chattels between New-York and Long Island, under such reasonable rates as have been usually received, or may be established, with the consent of the Governor and Council; and with power to make and change, in their discretion, by-laws for the more orderly keeping and maintaining the ferry already established, or any ferry or ferries which might thereafter be set up within the bounds aforesaid, so as the same be not contrary to law.

This ample grant of the old ferry, and this right to establish new ferries between the city and Long Island, and of the shore between Wallabout and Red Hook, on Long Island, were renewed in the charter of 1730, as see *Post*, sections 15 and 37, and see Note

XXX, G.G., for observations on the ferry rights of the corporation. The grant of the shore on Long Island, between high and low water mark, and between Wallabout and Red Hook, is confirmed, and is an indefeasible grant in fee of property existing in full force to this day.

NOTE XIX. P. 37.—T.

CHARTER OF 1730.—This is the charter upon the foundation of which the city of New-York is at present governed. The two prior charters of 1686 and 1708, may be considered as merged in this. They are recited at large in it, and all the grants and franchises contained in them are repeated and confirmed and enlarged, with the addition of other powers, rights, and privileges. This last charter is entitled to our respect and attachment, for its venerable age, and the numerous blessings and great commercial prosperity which have accompanied the due exercise of its powers. It has withstood the shock of the American Revolution, which for a time suspended its functions, and it was confirmed by the Constitution of 1777, and again by the Constitution of 1821. It remains to this day with much of its original form and spirit, after having received by statute such modifications, and such a thorough enlargement in its legislative, judicial, and executive branches, as were best adapted to the genius and wants of the people, and to the astonishing growth and still rapidly increasing wealth and magnitude of the city.

The recital, in the charter of 1730, admits that the inhabitants of New-York, as a corporate body, had anciently held, or claimed to hold, sundry lands, rights, privileges, franchises, and powers, as well by prescription as by grant, and not specified in the preceding

charters; and that the corporation had by petition prayed for a grant of confirmation of all their rights and privileges so held and enjoyed; and also, for a grant of the soil 400 feet beyond low water mark, on the Hudson river, from a certain creek or kill, southward to the fort, and the same number of feet round the fort, and so along the East river as far as the north side of Corlaer's Hook; and also for a grant of other needful powers and privileges.

The 1st section accordingly ordains that the city of New-York shall remain a free city, and be one body corporate and politic, by the name of the *Mayor, Aldermen, and Commonalty of the city of New-York*, with perpetual succession, and the capacity to sue and be sued, and to purchase, take, and hold real and personal estate of every kind, description, and extent, and with power to demise, assign, and sell the same at pleasure, and to have and change at pleasure a common seal.

NOTE XX. P. 42.—U.

The 2d section describes the extent of the city and its division into wards.

The boundary line begins at the mouth of *Spuyten Duyvel* creek, on the Westchester side thereof at low water mark, and runs on the Westchester side at low water mark, to the East river, which it crosses, to Long Island, to low water mark there, including Great Barn island, Little Barn island, and Manning's island; and from thence along Nassau Island shore at low water mark, to the south side of the Red Hook; and from thence across the North river, so as to include Nutten island, Bedlow's island, Bucking island, and the Oyster island, to low water mark on the west side of the North river, *or so far as the limits of the*

province extends, and so to run up along the west side of the river, at low water mark, *or along the limits of the province*, until it comes opposite to the creek aforesaid, and thence to the place of beginning.

Every revision of our statute laws contained this same boundary line, as the limits and jurisdiction of the city, and with the same reservation as to the west bounds on the Hudson river, and leaving the west bounds of the state along the city line in uncertainty. But the vexed and litigated point concerning the boundary line between this state and New-Jersey was happily settled by commissioners mutually appointed by each state, in 1833. The boundary line as now established between the two states, from a point in the middle of Hudson's river, opposite the point on the west side thereof, in the 41st degree of north latitude to the main sea is, so far as concerns the city of New-York, the middle of the said river and of the bay of New-York. But this state and consequently this city retains its jurisdiction over Bedlow and Ellis's Islands; and the state and this city to the extent of its chartered rights, have exclusive jurisdiction over all the waters of the bay of New-York, and over all the waters of Hudson's river lying west of Manhattan Island, and to the south of the mouth of *Spuyten Duyvel* creek, and of and over the lands covered by the said waters, to the low water mark on the westerly or New-Jersey side thereof, subject nevertheless to the following exceptions, viz: the state of New-Jersey has the exclusive right of property in and to the land under water, lying west of the middle of the Bay of New-York, and west of the middle of that part of Hudson river which lies between Manhattan Island and New-Jersey. She has also the exclusive jurisdiction of and over the wharves, docks and improvements made or to be made on the shore of New-Jersey, and of

and over all vessels aground on said shore, or fastened to any such wharf or dock, except that such vessels are to be subject to the quarantine or health laws of the state of New-York, and laws now or hereafter made in relation to passengers. New-Jersey has also the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, provided that the navigation be not obstructed or hindered. See the Act of this State, of Feb. 5th 1834, ch. 8.

The residue of this second section consists of the division of the city into seven wards, with their boundaries specified. This division has been superseded by new boundaries and new wards adapted to the increase of the city. Thus in 1791 the boundaries of the wards were altered, so as to correct the inequalities, and apportion the extent of the wards to the population. In 1803 the boundaries of the wards were re-modified, and the wards were increased to nine. This increase of the wards, and consequently of the number of Aldermen and Assistants, was a material alteration in the chartered organization of the Common Council, and it was done without their application or consent. It became therefore a question in the Council of Revision whether the alteration, without such assent, ought to be made. But the objection raised and reported by one of the members of the Council, was overruled, and the bill passed without any, and became a precedent for future alterations of the like kind. In 1808 the wards were increased to ten. In 1817 the Legislature were again under the necessity of equalizing the wards without increasing them. In 1825 the wards were increased to twelve; in 1827 to fourteen, and in 1832 to fifteen wards,—the number into which the city is at present divided.

NOTE XXI. P. 43.—X.

The third Section directs that there shall be forever

thereafter one Mayor, one Recorder, seven Aldermen, seven Assistants, one Sheriff, one Coroner, one Common Clerk, one Chamberlain, one High-Constable, sixteen Assessors, seven Collectors, sixteen Constables, and one Marshal ; and with authority to the Mayor, to appoint one of the Aldermen his deputy to act in his stead, during his sickness or absence, or in case of his death until a new Mayor shall have been duly appointed.

This Section remains in force as to the designation of the officers, and with such an increase in the number of Aldermen, Assistants and other city officers as was required by the increase of the wards and of the population. The authority given to the Mayor to appoint a deputy is superseded by the provision in the act of 7th April, 1830, ch. 122, amending the charter. See next Section, and see also *post*, Note XXV. B.B.

NOTE XXII. P. 44.—Y.

This Section related entirely to the Deputy Mayor, and it authorised him to do the duties appertaining to the office of Mayor, to all intents and purposes, while acting as deputy.

The amended charter (Act of April 7th, 1830, ch. 122. Sec. 16.) in like manner supersedes this provision, by vesting the President of the Board of Aldermen with all the right and power of the Mayor, during the continuance of a vacancy in the office of Mayor, or during his absence or inability.

NOTE XXIII. P. 44.—Z.

This Section respecting the appointment of Recorder, and the tenure of his office is entirely superseded by subsequent alterations of the charter. By the constitution of the state as amended in 1821, (Art. 4, Sec. 7) the Recorder is appointed upon the nomination of the Governor, and with the consent of the Senate. He holds his office (*Ibid.* Art. 5, Sec. 6.) for five years, but may be removed by the Senate on the recommendation of the Governor for causes to be stated by him. By the act of the Legislature of the 7th of April, 1830, ch. 122, amending the constitution, he is no longer a member of the Common Council ; and by the act of Feb. 27th, 1821, ch. 72, establishing a Court of Common Pleas in the city, and providing for the appointment of a first Judge of the court, the Recorder is a member of that court, but it is made his special duty to hold the Court of General Sessions of the Peace. He was made a salary officer, with a salary, to be paid quarter-yearly by the corporation, not less than $1500, nor more than $2,500 per annum in the discretion of the Common Council.

NOTE XXIV. P. 47.—A. A.

The 6th, 7th, 8th and 9th Sections of the charter were mostly temporary in their provisions, and soon ceased to operate.

The provision in the 9th Section, directing all Sheriffs thereafter to be appointed, to give bond with sureties in at least £1000, for the due execution of the office, was superseded by subsequent laws. As the law now stands (*Revised Statutes*, Vol. 1, 378) every sheriff, within twenty days after notice of his election, must give a bond to the people of this state with two sureties, who shall be freeholders, in $20,000, for the faithful execution of his trust. Though chosen for three years, under the direction of the constitution, his security is, by the statute, to be annually renewed, and the amended constitution authorised laws for such re-

newed security to be passed. (Const. Art. 4, Sec. 8.)

NOTE XXV. P. 50.—B. B.

The 10th Section of the charter has undergone great alterations.

It provided that the Governor with the advice of the Council of the province, should appoint annually on the feast day of St. Michael, the Mayor, Sheriff and Coroner of the city. That mode of appointment continued until the Revolution, when the power of appointing those officers was, by the constitution of 1777, vested in the Governor and Council of Appointment, and was to continue there until otherwise directed by the Legislature. The power remained in the Council until the amended constitution of 1821, when the Mayor was directed to be appointed annually by the Common Council, and the Sheriff and Coroner, as well as the Register and Clerk of the city, to be chosen triennially by the electors in the city. (Const. Art. 4. Sec. 8. and see also R. S. Vol. 1. 112.) The Mayor continued to be appointed by the Common Council until the Act of March 3d, 1834, ch. 23, directed that he be annually elected by the electors of the city, qualified to vote for charter officers.

The Aldermen, Assistants, Assessors, Collectors and Constables were by the charter directed to be annually elected on the feast day of St. Michael (29th September) by the freemen of the city being inhabitants, and by the freeholders of each ward respectively, from among themselves. This provision continued until the act of March 21st, 1800, ch. 35, when the time for the election of charter officers was, on the petition of the corporation, changed from the 29th of September to the 3d Tuesday in November. The time for charter elections was again changed by the act of April 7th, 1830, ch.

122, amending the charter, to the 2d Tuesday in April annually, where it still remains.

The act of 1800 confined the qualifications of electors to those prescribed by the charter; and to guard against abuse and fraud, the act required the freehold elector to have been one for a month next preceding the election; and the elector who voted as a freeman of the city, to have been admitted as such at least three months previously, and to have actually resided in the ward for which he voted, at least for one month before the day of election.

But further and essential inroads upon the charter were made by the act of April 5th 1804, chapter 62. Those officers who were to be appointed annually by the council of appointment on the charter day, might be appointed at any time during the session of the legislature in each year. The qualification of the electors, instead of being confined to freeholders and freemen under the charter, was enlarged so as to include every male citizen of 21 years of age and upwards, who should have resided in the city for the space of six months preceding the election, and rented a tenement of the yearly value of $25, and have paid taxes.

This act was passed without the application or consent of the Mayor, Aldermen, and Commonalty of the city, and it was objected to in and by the council of revision, but was passed notwithstanding their objection. The objection was drawn by the elder Governor Clinton, and supported by him and a majority of the council, on the ground that no strong public policy or necessity indicated the measure; and that it had been considered as a settled and salutary principle in the government, that charters of incorporation, containing grants and privileges, were not to be essentially affected without the consent of the parties, or without

due process of law. In confirmation of the fact, many previous statutes since the revolution, relative to the corporations of the cities of New-York, Albany, and Hudson, were referred to, in which alterations in their charters had been made upon the application of the corporations, or with a saving of rights held by their charters.

The section now under review further directed that the Chamberlain and High Constable of the city, should be annually appointed by the Mayor and four or more Aldermen and Assistants in Common Council. The appointment of those officers remains in the Common Council, where the charter had placed it, and the Chamberlain is the County Treasurer, with the responsibilities attached to that office. (R. S. vol. 1, 370.) The provision in the charter that the Mayor, Sheriff, and all other officers, were to continue in office until other fit successors were respectively appointed and qualified, is now by law extended to all officers duly appointed, except the Chancellor, Judges of the Supreme Court, and Circuit Judges. (R. S. vol. 1, 117.) It was further provided by the charter that in case the Mayor, Sheriff, or Coroner, should die within the year, the Governor and Council of the province were to appoint a successor for the remainder of the year.

The mode of supplying vacancies under the charter was plain, but the present law on the subject does not appear to be in all respects sufficiently so.

As to the office of Mayor, the act of April 7th 1830, chapter 122, amending the charter, directed the President of the board of Aldermen to act as Mayor whenever there should be a vacancy in the office, or the Mayor should be absent from the city, or be prevented by sickness, or any other cause, from attending to the duties of the office. He was to act during the continuance of such vacancy, absence, or disability. There is no provision by law for a special election of a new Mayor within the year, in case of his death. The President of the board of Aldermen supplies his place for the residue of the year. Here is no difficulty.

As to the office of Sheriff, the act of April 24th, 1823, chapter 268, provided for a special election in the case of a vacancy in that office, as well as in that of Register or Clerk of the city, happening within the prescribed term of service. But all such special elections were done away by the *Revised Statutes*, unless the right of office of the person elected should cease before he commenced his service. (Vol. 1, 126, sec. 6, 8.) They declare that *all vacancies* in those offices were to be supplied at the next *general* election; and vacancies in the office of Clerk or Register, otherwise than by death, were to be supplied by the Governor, who is to appoint some fit person to execute the duties of the office, until the vacancy is supplied by an election. (R. S. vol. 1, 124, sec. 49.) There does not appear to be any specific provision for supplying the vacancy occurring by *death* in the office of Register or Clerk, until the next general election thereafter for the city officers. The statute (R. S. vol. 1, 379, sec. 72. Ibid. 380, sec. 78) provides that the under Sheriff shall supply the Sheriff's place whenever a *vacancy* in the office occurs. The vacancy here must mean by death or removal from office, but if the Sheriff be otherwise totally disabled to execute the office, the provision for the case does not seem to be explicit. There appears also to be a want of explicitness or provision for the case of the death of the Coroner. There is no provision for supplying a vacancy arising from that cause, prior to the next succeeding general election, unless in the rare occurrence that a vacancy proper to be supplied at a general election was not so

supplied, and then there is to be a special election. (1. R. S. 128, sec. 9.) The act of April 12th, 1822, Sec. 4, followed the charter and directed only one Coroner to be elected in New-York; and by the *Revised Statutes* (vol. 1, 122) he is directed to be elected at the same *general* election as Sheriff, In the case of the absence or inability of the Coroner, any Alderman or special Justice may perform the duties of the office, during such absence or inability. (R. S. vol. 2, 743, sec. 9.) Still the occurrence of his death within the year, does not seem to be provided for.

NOTE XXVI. P. 52.—C. C.

The 11th Section provided for supplying vacancies happening within the period of the regular appointment or election, in the office of Alderman, Assistant, Collector, Constable, Chamberlain, and High Constable by a special election or appointment. The provision is supplied by new statute regulations. Thus by the act of the 7th of April, 1830, Ch. 122, a special election is to be ordered by the Board of Aldermen or Assistants as the case may be, for supplying within the year, the vacancy in the office of Alderman or Assistant, by death removal from the city, resignation or otherwise.

The act of April 8, 1813, Ch. 86, Sect. 13, provided that if any of the Aldermen *or other officers of the city*, chosen by the people, as charter officers, should refuse to serve, die, or remove out of the city before his time of service expires, and the office becomes vacant, the Common Council were to order a special election to supply the vacancy. The same provision was in the act of Feb. 23d, 1787, regulating the election of charter officers, and it applied specially to Aldermen, Assistants, Assessors, Collectors, and Constables.

There is no other provision that I am aware of, for

supplying vacancies by death or otherwise, happening within the year in the office of Assessor, Collector, or Constable, but that contained in the act of 1813, and which has not been repealed, nor introduced into the Revised Statutes, and I presume it therefere remains in force. The charter made adequate provision for the case, and the act of 1813 may be considered as an affirmative or cumulative provision of more specific direction.

NOTE XXVII. P. 53.—D. D.

This Section imposed a penalty not exceeding £15, for the use of the Corporation, which might be assessed by the Common Council upon every person elected Alderman, Assistant, Assessor, Collector, or Constable, or appointed High Constable who should on due notice neglect or refuse to serve.

I have not seen any Statute abrogating this provision and I presume it remains in force. It is analagous to the policy of the law in respect to town officers throughout the state. Thus a fine of $62 50, was formerly imposed upon every Supervisor, Town Clerk, Assessor, Collector, Commissioner of highways, Overseer of the Poor, and Constable, who should refuse to serve in the office to which he was elected. (Act 27th of March, 1801, Ch. 78. Act March 19th, 1813, Ch. 35.) The fine reduced to $50 is still continued against the town officers, except the Collector and Constables, who are required to give security, which it might be inconvenient or impossible to be procured, and the fine for not serving is withdrawn. (R. S. Vol. 1. p. 346, 347.)

NOTE XXVIII. P. 54.—E. E.

The 13th Section provides for the case in which the

election should fall on Sunday. This necessity arose from fixing on the 29th of September yearly, or the feast day of St. Michael the Archangel. The law now prevents any such difficulty, by naming as the day of election, another day in the week of the month designated.

NOTE XXIX. P. 56.—F. F.

The 14th Section relates to the Constitution and power of the Common Council, and it was materially altered by the Act of 7th April, 1830, Ch. 122, amending the charter.

Neither the Mayor or Recorder are any longer members of the Common Council, and instead of a single chamber, composed of the Aldermen and Assistants acting together, as one indivisible body, the Aldermen and Assistants meet in separate chambers, with equal rights and concurrent power, and no act, ordinance, or regulation can pass without the assent of each House or Board, nor until it has been presented to the Mayor and received his approbation, or returned with objections, and then reconsidered and passed in each Board by a majority of the members elected thereto. The Common Council as now organized, resembles in the order of its proceedings, and in the checks imposed, a regular legislative body; and considering the great interests confided to its care, and the large discretionary powers with which it is invested, it was fit and proper that its laws and ordinances should pass with similar deliberation and solemnity.

I apprehend that the general powers of the Common Council, as described in this Section of the charter, remain in full force. The amended charter of 1830, superseded certain other powers and checks, in respect to the borrowing and appropriation of monies, and the annual publication of detailed statements of receipts and

expenditures, during the year preceding, and in respect to the establishment of distinct executive departments, and providing for the accountability of officers and persons entrusted with the city funds. The general power under the charter, was to make, ordain and establish, from time to time, laws and ordinances, such as to the Common Council should "seem to be good, useful or necessary for the good rule and government of the body corporate, and of all officers, inhabitants and residents of the city, within the limits thereof;" and for "the further public good, common profit, trade, and better government and rule of the said city;" and for governing and disposing of the corporate property, real and personal. These broad and latitudinary powers were given to be exercised with sound discretion, and with a liberal spirit commensurate with the growing wants and prosperity of a great commercial metropolis. The courts construe powers liberally, for such purposes. Thus in the case of the *Mayor and Aldermen of Memphis v. Wright*, in 6 Yerger, Rep. 497, when the town of Memphis, in Tennessee was laid off on the banks of the Mississippi, there was a public promenade set apart, and the corporation, under the authority in its charter, "to do all things necessary to be done by corporations," diverted the promenade to a different use, by converting it into wharves and landings for Steam Boats and Flat Boats; and it was held by the Supreme Court of Tennessee in 1834, that the corporation had authority to do so, and to enforce the regulation by penalties, and that the power was included in the words above quoted.

The Common Council were authorized also to ordain and enforce penalties for breaches of their laws and ordinances, and to collect the same by the summary process of warrant and distress and sale of the delinquents' goods, or by action of debt. The By-Laws were not to be repugnant to the statute or common law of the

land, and they were to remain in force for a year and no longer, unless allowed of and confirmed by the governor and council, of the province. The counsel was abrogated by the revolution, and no substitute on this point provided. The By-Laws were therefore not deemed valid beyond the year, unless renewed by the Common Council, and it became the practice after the peace of 1783, for the Council annually to renew the By-Laws of the preceding year, in one entire collection with little or no alteration, and this practice continued until the statute of April 9, 1813, Ch. 86, Sect. 274, declared that all laws and ordinances of the Corporation might remain in full force for three years, unless sooner repealed by the Council, or originally limited to a shorter period.

The city code of ordinances was formerly distinguished for its brevity and paucity of regulations. But when we approach the present times, the code assumes a new character, in the number and diversity of its regulations, better adapted to the wants of the city, arising from the great increase of business, population, wealth and extent. Though the charter would seem to contain a grant of ample powers, sufficient for all the purposes of a well-ordered police, and for the good government of the city in its complicated concerns, yet the Legislature has been in the practice of granting more specific and detailed powers, sometimes upon the application of the Common Council, and more frequently without it. I do not here allude to those regulations respecting the exports and commerce of the city, in which the state at large has a general if not an equal interest, such, for instance, as those which relate to the inspection or regulation of *flour and meal, pot and pearl ashes, sole leather, hides and skins, lumber, culling of staves and heading, beef and pork, public health, fish, distilled spirits,*

harbor master, and master and wardens of the port. In these and like cases the statute regulations have been numerous, cumulative, and subject to excessive mutations. These are more peculiarly matters of state or general concern. But I allude particularly to a series of statute regulations clearly within the powers of the charter, and on matters peculiarly belonging to the city, and the comfort and safety of the inhabitants. Such for instance are the laws regulating *the rate of ferriage* to and from Long-Island, concerning which a great many laws have been passed from 1717, when the colonial assembly first interfered, down to the last regulation of the 17th April 1822. These laws were passed as auxiliary to the corporation right of ferriage which was always recognised. Such also are the numerous statutes regulating the opening, laying out, and repairing of the *streets and highways and sewers* in the city. They were generally made in aid and confirmation of the general corporate powers on the subject, and sometimes with the avowed wish and consent of the corporation. Such are also the laws relating to *wharves, slips and wharfage,* and to the *alms house, bridewell, city prison and penitentiary, hackney coaches, butchers, gaming houses,* &c. In all these and in many cases of the like kind, the statutes act as auxiliary to the powers and duties of the Common Council, and confer upon them, precise and adequate authority. The act of January 23d, 1833, ch. 11, being one of the most recent, may be referred to particularly as containing a grant to the corporation of powers which were undoubtedly in most respects covered by the general powers contained in the section of the charter now under review. It authorises the punishment of persons intoxicated, or riding with undue speed in the city; and it authorises the Common Council to pass ordinances regulating the sale of arti-

cles of food by hawkers and petty dealers, and the regulation of work-shops, and pawnbrokers, and victualling houses, and dirt carts, and the firing of arms, squibs, rockets, &c.

Amidst such a multitude of statute regulations, it becomes difficult to know how far an ordinance of the Common Council rests upon the authority of the charter, and how far upon the authority of some special statute. When the latter exists, the exercise of the power is of course to be referred to the statute as the more certain and paramount authority. The city ordinances sometimes act concurrently with and in aid of the statute power, though much more frequently the statute law comes in and carries out to a definite and precise extent, the authority which lies dormant in the comprehensive powers of the charter. If we take up and run through the ordinances of 1833, and now in force, we shall find many of them to be the exercise of charter powers simply; others are the exercise of charter and statute powers combined; and others again rest solely on the statute grant of authority. There is no doubt that when any of the ordinances alluded to cannot be referred to the grant and power by any express statute revision, the general and unlimited grant of ordinance power in this section of the charter is sufficient to uphold and warrant it. The efficient checks against any abuse of such enlarged discretion, are public opinion, the elective franchise, and the established principles of the constitution and of recognised common law. In addition to these checks, all corporations are liable to legal process in behalf of the state, for non-user or misuser of their rights and powers.

But to proceed with the 14th section of the charter,—the summary conviction and process of distress for the collection of penalties, was not abrogated by the constitution. That instrument only declared that trial by jury *as before used in the colony*, should be inviolate, and summary convictions for petty offences and misdemeanors were continued and sanctioned in many instances by statutes passed subsequent to the Revolution. Thus, for instance, by the statute of 4th May, 1784, for regulating highways, persons neglecting or refusing to work on the highways were liable to be fined promptly by the overseers of the highway, and to have the fine levied and collected by distress and sale of the delinquent's goods. The same summary process for collecting penalties was retained in the highway acts of 1801 and 1813, but with some mitigation in the latter act, by requiring the overseer not to assess the fine himself, but to make his complaint to a justice of the peace, and he was to do it on summons of the delinquent, and by summary conviction and distress warrant. The same power under the same mitigation is in the R. S. Vol. 1, 510. Summary convictions and warrants of distress were also prescribed by statute for breaches of the act to suppress immorality, and for the due observance of Sunday, and in and by the act for apprehending and punishing disorderly persons, and for assessments on regulating streets. (Acts of 9th Feb. 1788, and 9th April, 1813.)

But though the power to assess and levy fines summarily, be a power still dormant in the charter, it has long since grown into disuse, as not being quite congenial with the spirit of our institutions. The ordinance of May 1793, directed that all fines, penalties, and forfeitures, imposed in and by any of the laws of the corporation, should be recovered and levied by and in the name of the Chamberlain of the city. This would seem to have contemplated a recovery by regular suit at law, and the ordinance of 1834, chapter 48, puts an end to all summary process, for it directs that

all fines, penalties, and forfeitures, imposed by any law or ordinance of the corporation, be sued for and recovered, with costs, in the name of the corporation, in any court having cognisance thereof.

The power conferred by the charter to disfranchise delinquents of the freedom and privileges of the city, instead of punishing them by fine and amerciament, is altogether abandoned. I presume there is no instance, at least since the revolution, of such a punishment inflicted by the corporation. The great constitutional principle is, that no man is to be disfranchised, unless by the law of the land, or the judgment of his peers. The further provision in this section, that the Common Council shall have the sole power of determining on all elections of corporate officers, is still valid; subject however to the qualification of that power by the act of April 7th 1830, chapter 122, which makes each board the sole judge of the qualifications of its own members.

NOTE XXX. P. 58.—G. G.

The 15th section authorizes the Common Council to fine members who are absent without reasonable cause. The act of 1830, amending the charter, supersedes this power, by conferring the same and larger powers for the same purpose, and with more efficient effect, on each board separately. It gives them the authority to compel the attendance of absent members, to punish members for disorderly behaviour, and to expel a member, with the concurrence of two-thirds of the members, elected to the board. In what way, and by what means, the board is to *compel* the attendance of absent members, and to *punish* them for disorderly behaviour, is not defined. I presume that each board may compel and punish by fine, and if the disorder

be grievous, by imprisonment. The most efficient punishment is expulsion, and as that is the only one specifically stated, it is very appropriate when admonition fails to awaken in the breast of the offender a sense of duty and propriety. A delinquent may be brought in by an officer of the board, by compulsory process from it, in like manner as each House of Congress may compel the attendance of absent members, in such manner, and under such penalties, as each House may prescribe. (Act of April 7th, 1830, chap. 122, sec. 8.—See *Post*, p. 101.)

The residue of the section confers a very important power, right, and privilege, on the corporation, by authorizing the Common Council, with sole and exclusive power to establish as many ferries round Manhattan island, for transporting people, cattle, and goods, &c., to and from Nassau island, and from Manhattan island to any of the opposite shores all round the same, and in such and so many places as to the Council shall seem fit, and to let and dispose of all or any of the said ferries; and the rents, ferriages, and profits thereof, are fully and freely granted to the Mayor, Aldermen, and Commonalty of the said city, and their successors forever, to be taken, held, and enjoyed, to and for their own use.

This ferry grant is also mentioned and confirmed, as see *Post*, sec. 37. The section last referred to contains a grant and confirmation to the corporation, and their successors, forever, of the ferry and ferries on both sides of the East river, and of all other ferries then or thereafter to be created and established all round Manhattan island, and the management thereof, and all fees, ferriages, and perquisites, to the same belonging; and also all the ground and soil between high and low water mark, on Long Island, from the east side of the place called Wallabout, to the west

side of Red Hook; and to make laws and rules for governing the ferries then established, or thereafter to be established round Manhattan island: saving to the inhabitants between Wallabout and Red Hook, the right of transporting themselves and their goods only in their own boats, from and to their respective dwellings and plantations without paying ferriage. The ferries then and thereafter to be established, and the right of ferriage, are connected with the grant and confirmation of lands within the city of New-York, and on Manhattan island, and they are all equally granted with the regular *Habendum* clause, appropriate to the grants of estates in fee.

The rights of the corporation in respect to the establishment, license, and regulation of ferries between the city of New-York and Long Island, has, within a recent period, been ably and zealously discussed, both in and out of the Common Council. It seemed to be conceded that the grant of the old ferry beetween New-York and Brooklyn, (and which was specially granted and confirmed by the charter of 1708, as see *ante*, p. 29, and Note S.) was an absolute grant of vested property, or an estate in fee, which could not be lawfully questioned or disturbed, except by due process of law. The colony act of 14th October, 1732, regulating the rates of ferriage, admitted that the corporation was "legally and solely seized" of the ferry. The same statute declared that the corporation might keep "one or more ferries" between the city and Nassau island, and that no other persons than the corporation of New-York, should erect and keep a ferry "between New-York and Nassau island." But the grant of a right to establish other ferries, and to appropriate the profits, was said to be the grant of a sovereign legislative power, of a public legislative character, and liable to be recalled at the pleasure of the legislature. I do not

perceive that there is any solid ground for such a distinction on this point, between the grant of the old ferry with its rents and profits, and the grant of the right to establish other ferries, when needed, with their rents and profits. They are equally grants of corporate franchises, partaking of the nature of private property. They are made in the same terms, and in the same connexion with the grant of lands.

They confer on the inhabitants of New-York, vested and valuable interests arising from the rents and profits of every ferry established and to be established under the charter. Whether a new ferry in any given case be wanted, and whether it would be a burden or a benefit to the citizens, was intended to be and was properly left to the discretion of the Corporation, as all such grants must necessarily be left to be exercised according to sound discretion. The grant was founded on the two fold consideration, as a source of revenue to the city and an accommodation to the public; and in the latter view, the Corporation are amenable to the judicial tribunals for the abuse of their discretion, and the omission of a due exercise of the power. A corporate body is capable of taking the grant of a ferry, or of the right to establish one, and it is a freehold right and as much beyond the reach of a gratuitous legislative resumption, as any other franchise or property held by grant or charter. The ferry franchise is not the grant of political power, strictly speaking, any more than the grant of any other franchise or any other use of property. It certainly is not more so in respect to the right to establish new ferries, than the grant of the old ferry, and that is admitted to be an absolute irrevocable grant in fee. The grant of political power is exclusively a matter of public and general concern, but the ferriage grant was for the benefit of the grantees, and the rents, issues, and profits were given exclusively to the in-

habitants of the city. The inhabitants in their aggregate corporate capacity, have as vested an interest in the entire grant of the old ferry, and of the right to establish others, as they have individually in any government grant of lands, tenements and hereditaments. Nor can such a grant be lawfully revoked, any more than the grant of any other hereditament, except for non-user or misuser, to be ascertained by a judicial proceeding. There is no danger that the power of establishing ferries in discretion, will be abused to the prejudice of the inhabitants of the city, or of its neighbors, considering the popular foundation of the council. Its sympathies with the feelings and judgment of its constituents must be lively, active and incessant. The power is more likely to be used to the best interests of the city, and with discretion and judgment, than if it was recalled and deposited elsewhere and exercised by any other body of men whatever; for it is to be presumed that the citizens of New-York, in matters that concern their local interests and convenience, are sufficiently sharp-sighted, liberal and persevering. The act of March 4th, 1814, Ch. 29, relative to the establishment of steam ferry boats on the old Brooklyn ferry, was passed upon the application of the Common Council, for the purpose of having the rates of ferriage increased, in order to encourage the establishment of steam ferry boats, and with power to prevent the interruption of them by ships or other vessels. This act does not, therefore, in any degree impair the previously vested right of the Corporation in the ferry, except so far as it was done by their own act and contract.

NOTE XXXI. P. 59.—H. H.

The 16th Section gave to the Common Council, power to establish, direct, lay out, alter, repair and

amend streets, lanes, alleys, highways, water courses, and bridges throughout the city and island.

This is a grant of a public nature without any private interest or property or revenue connected with it, and it has always continued with the Common Council, under free and active exercise; subject nevertheless at all times to legislative interference and direction. The Legislature interferes with the power in their discretion, and I think there can be no question as to the right of the Legislature to do so, for the power is not exclusive in the Corporation, nor irrevocable, nor in the nature of the grant of private right. The Common Council exercise it consistently with legislative directions, and in other cases where the statute law is silent. The statute laws are not intended to alter or control, (except in the given cases) the charter on the point, but the object is generally to give additional, specific, and subsidiary relief, and the Corporation have frequently applied for legislative authority, and have preferred to exercise the power under that sanction, though the general terms of the charter gave it to them. Thus the colony acts of 7th, November 1741, Ch. 712, of November 25, 1751, of 4th May, 1754, of October 20th, 1764, and of March 9th, 1774, conferred powers or gave directions, in respect to the public roads on the island, and the city streets. So the act of March 21, 1787, Ch. 61, made the Common Council, Commissioners of high-ways, with ample powers; and the act of April 3, 1807, Ch. 115, prepared the way for the great avenues and regular cross streets, from the then settled parts of the city, to the northern parts of the island. The proceedings of the Commissioners appointed under that law, were upon a large and liberal scale, and their map and plan were made matter of record. That plan was declared by the statute, to be final and Conclusive, as well in respect to the corporation, as

to individuals. It has nevertheless been occasionally altered in unessential parts, as in the instances afforded by the Acts of April 15th, 1814, Ch. 175, and of April 11th, 1815, Ch. 152, and of Jan. 23d, 1824, Ch. 10, and of April 25th, 1829, Ch. 269, and of April 23d, 1831, Ch. 253, and of April 5th, 1832, Ch. 89, and of April 10, 1832, Ch. 101, and of May 11th, 1835, Ch. 268.

The map and plan of the Commissioners, laid out the highways on the island upon so magnificent a scale, and with so bold a hand, and with such prophetic views, in respect to the future growth and extension of the city, that it will form an everlasting monument of the stability and wisdom of the measure.

The Acts of June 16th, 1812, Ch. 174, and of April 3rd, 1813, Ch. 86, conferred powers upon the Corporation, to make By-Laws relative to draining, pitching and paving the streets, and altering, amending and cleansing them, and relative to laying out and opening streets, avenues and squares. The Statute of April 9th, 1813, Ch. 86, Sect. 193—197, also declared, that the Common Council should continue to be Commissioners of highways, to regulate and keep them in repair, and this act is still in force. Under this general power, they are specially authorized to build bridges and causeways, and make ditches when necessary, through any person's land, and to appoint Overseers of the high ways, and to keep them in repair and to enforce penalties for the causing obstructions in the highway, and the Overseers are charged to remove nuisances and obstructions. The act of April 20th, 1818, Ch. 213, passed upon the application of the Common Council, authorized them to close streets, roads, lanes, and alleys, wherever they should judge proper, upon the terms and in the mode therein prescribed. So the Act of January 31st, 1817, Ch. 25, authorized the Common Council to make public cisterns in any of the

streets, whenever they should deem it expedient; and the Act of April 9th, 1813, Ch. 86, Sec. 200, gave the Common Council the like power, as to wells and pumps to be made in any of the streets.

The statute powers have become so ample, so various, and so full of direction, that the charter power seems to be in a great measure, absorbed and lost in the new statute powers; but whenever and wherever the statute provisions do not supply precise and adequate authority in the given instance, the Common Council can always resort to the never failing powers under the charter, which gives broad and large authority, commensurate to every case. The charter powers have been so frequently and so fully confirmed, defined, enforced and specially applied, by legislative acts, that there seems to be no want of jurisdiction from the one source or the other, for every exigency; and the Common Council have, by ordinances now existing, created the Street Commissioner's department, and the department for cleaning streets with much detailed regulation. The *Revised Statutes*, Vol. 1, 526, relative to the highways, bridges, and ferries, save and except all the rights which the Corporation of New-York before enjoyed. The charter says nothing in particular, in the section before us, relative to rules for making and maintaining partition and other fences, and the Common Council might have resorted for that purpose, to the general power, to make By-Laws, as see *ante*, p. 54, and note F. F. But even this power is supplied by the act of March 27th, 1801, Ch. 78, Sec. 17, and the ordinance of 1833 for regulating fences and walls, is in pursuance of that authority.

NOTE XXXII. P. 59.—I. I.

This 17th Section relates solely to the power granted

to the Corporation to establish and keep markets at five specified places, on every day in the week, except Sunday; and they were authorized also, to have, hold and keep such and so many other markets, at such and so many other times and places as they should think fit.

On this general authority, the power rests to this day. Though the charter would seem to be imperative as to the five specified places, yet the direction has been suffered to fall gradually into oblivion. Under the great change in localities which the growth and commerce of the city has produced, the adherence to the specification would have been idle and absurd. And notwithstanding the fulness and explicitness of the grant, legislative assistance have been occasionally afforded, and probably asked. Thus by the act of April 9th, 1813, Ch. 86, Sect. 272, the Common Council are authorized to pass ordinances, to regulate or prohibit the sale of goods, fruits, meats, &c. on Sunday; and to regulate the butchers, and assign the places for their business, and to prohibit any persons except licensed butchers, from carrying on their business. And by the act of March 22d, 1822, Ch. 101, the Corporation were empowered to cause public markets, if they should find it necessary, to be erected and kept over the waters of the East and North rivers, adjoining to any of their docks or wharves. Again by the act of April 25th, 1829, Ch. 267, they were also authorized to erect a public market and lay out and open a public street in the Eleventh Ward.

The ordinance of June 1833, contains a very full specification of the regulations, of which the authority contained in the charter was susceptible, and of which the wants, competition, trade and luxury of an immense population stood in need.

NOTE XXXIII. P. 60.—K. K.

The grant in this Section is of the assize and essay of bread, wine, beer, ale, and all other victuals and things whatsoever, set to sale in the city, and with authority to amend and correct the assize, and to lay and levy fines and forfeitures concerning the same, to the use of the Corporation.

The power to assize or fix the weight, measure and price of articles sold in the market, remains unchanged, and it has been exercised in several particulars by the Common Council, to the present time. The object was, originally, to prevent extortion by means of a monopoly, as, for instance, on the part of the bakers, in the *science* of making bread; and it was continued to prevent frauds and imposition upon the ignorant and unwary in the sale of articles of the first necessity. The assize of bread was formerly, in the colony of New-York, extended to the weight and price of loaves, of the finest flour. Thus in 1768 the assize was regulated by the price of flour at 18-6 per cent. In 1771 at 22-9, and in 1773 at 24 per cent.

After the Revolution, the establishment of prices was dropped, but the ordinances of the Common Council for many years required the initials of the baker's name to be marked or stamped on every loaf of bread, and the bread was to be of good and wholesome flour or meal, and inspectors were appointed to examine the quality of the bread, and to see that the same was of due weight according to the assize. Now the ordinances only require that the bread be of good and wholesome flour or meal, and sold by averdupois weight, with penalties for breaches of the ordinance.

The ordinances no longer interfere with the prices and qualities of other necessaries in the market, but they regulate the sale of articles, and the modes of

dealing in articles, where the trafic in them might easily lead to impositions not accessible to ordinary observation. Thus, for instance, there are ordinance regulations for pawnbrokers, dealers in second-hand articles, and keepers of junk shops, and for the sale of coal in respect to measure and weight, and for the sale of firewood, lime, hay, &c.

The ancient English statute of 51, Hen. 3d, in the year 1366, fixed the assize of bread and ale, and required the name of the owner to be marked on every loaf of bread. The baker was bound to see that his assize, weight and price of bread corresponded with the market price of wheat; and the brewers of ale and the vintners of wine were equally bound to see that their articles also bore the true relation to the quality and price in the market of barley and wine. These regulations would be evidence of a very civilized police, if it were not for the penalties subjoined, and which subjected bakers and brewers for repeated breaches of the assize, to disgraceful corporeal punishment. The statute was amended in 1709, as to the price and assize of bread, by the act of 9, Anne, ch. 18, and which was continued down to 1757. It prescribed a new table for the assize of bread, and which would seem to have been the precedent for the colonial ordinances of the corporation of this city on the subject. But owing to the increasing knowledge of the community in the science of political economy, and a sense of the folly of undertaking to regulate prices of marketable commodities, which, under free competition, in large trading cities, will naturally regulate their own value, the setting an assize as to price was gradually relinquished, and the statute of 55 Geo. 3. c. 99, finally abolished the practice in London. The assize is, however, continued, and regulated by law as to the ingredients to be used in making bread, and as to the sale by averdupois

weight. Bakers may now sell in London and elsewhere, where an assize is not set, bread of such weight and size as they think fit, subject only to the statute regulations as to ingredients and weight; and this is the ground on which the New-York ordinances now stand.

The setting an assize as to wine, beer, ale, "and all other victuals and things whatsoever," though within the charter power, has been finally and wisely abandoned.

NOTE XXXIV. P. 61.—L. L.

The 19th Section conferred upon the corporation the office of ganger of all gaugeable liquors and vessels; and of measurer of salt, grain, and all measurable merchandises; and of surveyor and packer of bread, flour, beef, and all other provisions and merchandises to be surveyed or packed in the city; and the office of cartage and portage of all goods to be carted and carried in or through the city; and the garbling of all merchandises and things to be garbled, together with all the fees and perquisites arising therefrom.

These powers have been gradually assumed, encroached upon, or disturbed by statute regulations, and of which it will be proper to take some notice.

The act of April 14th, 1832, ch. 141, regulates the *measuring of grain* in this city, and directed the appointment of a Measurer General, and between ten and twenty measurers of grain. The act so far does away the corporate power in the charter, and declares that no persons, except those appointed under the act, should measure any grain in New-York for hire or reward. A question arose, and was decided in the Superior Court of the city, in the case of *Satterlee* v. *Sutton*, whether the statute provision was sufficient to destroy the char-

ter power on that subject, and to supersede a measurer of grain appointed under the corporation. Ch. J. Jones, who delivered the opinion of the court, held, that the grant to the corporation to appoint measurers, was a grant of political power, coupled with no interest, save the fees as a compensation for measuring; and that the grant in question was not to be considered in the light of property, or intended as a source of revenue; and that the legislative act was valid, and the grant in the charter so far controlled.

If this be the true construction of the power of the legislature over the charter, the same rule would seem to apply to every other part of this section, for the whole rests upon the same principle. And indeed if the test of the inviolability of a charter franchise be the grant of some special pecuniary interest, or matter of private property in the grantee as an individual or aggregate corporate body, like the case of a grant of land, or of the emoluments of a ferry, then there are very few provisions in the charter that can stand the test, notwithstanding that the act of 1732, confirming the charter, declared that the corporation and their successors "should and might forever thereafter, peaceably have, hold, use and enjoy, all and every the rights, gifts, charters, grants, powers, liberties, privileges, franchises, customs, immunities, markets, duties, tolls, lands, &c. before granted by any letters patent or charter," and notwithstanding the Constitution saved the charter from the effects of the Revolution. It is not my intention, nor would it be proper in this place, if I had the inclination, to gainsay the decision in the case alluded to. My object is merely to show its general applicability. Most of the statute provisions in relation to New-York have been auxiliary to or in extension of charter powers, but the act referred to goes directly to destroy the corporate office of measurer of

grain. It is therefore a strong case to show the dependence of charter franchises on legislative discretion, except in those cases in which the franchise is a matter of private interest.

The statute of March 31, 1818, ch. 70, for the appointment and regulation of gaugers and inspectors of fish oils, and the *Revised Statutes*, Vol. 1, 535 to 574 interfere largely with some of the powers contained in the section under review. They provide for the inspection of flour, meal, beef, pot and pearl ashes, fish, oil, lumber, staves and heading, flaxseed, sole leather, hops, distilled spirits, leaf tobacco; and for weighing and branding butter-firkins, and the packing and sale of pressed hay. The charter does not expressly grant any power to the corporation respecting weighmasters, and yet the Common Council, by ordinance in 1834, prescribe for the appointment, and they regulate the duties of *weighmasters* as well as of measurers of the city. This was in pursuance of the act of March 21st, 1800, ch. 35, which was passed upon the application of the Common Council, and the substance of the act was renewed April 9th, 1813, ch. 86, sec. 238. But the act of May 1st, 1835, ch. 183, withdrew this power in a very essential degree from the Common Council, for it provided that the Governor and Senate should appoint the Weigher General and the weighers of merchandise, and it declared that no persons, except those so appointed, should weigh any merchandise in New-York for hire, *except merchandise intended for the use or consumption of the city*. This act left the weighmasters appointed by the Common Council to exist, but with very reduced and subordinate powers, and they were bound to account monthly to the Weigher General, of the kinds of merchandise weighed, and the amount of fees received. The act does not apply to the weighers of anthracite or mineral coal.

The office of *garbling* merchandize, I presume was done away with, at least essentially, by the act for the culling of staves and heading, and the office of *cartage and portage*, seems to be the only one mentioned in this section of the charter, which remains untouched by legislative regulations.

NOTE XXXV. P. 63.—M. M.

The 20th and 21st sections gave to the Mayor and four or more Aldermen, the power to make free citizens of the city, on payment of a fee not exceeding £5, to the use of the corporation. This was only a repetition of the power conferred by Governor Dongan's charter, as see *ante*, p. 19, and Note L.

The power contained in these two sections was formerly of momentous importance; for the charter, while it granted the power, at the same time prohibited all persons, other than such free citizens, to use any art, trade, mystery, or manual occupation, within the city, saving in the times of fairs; or to sell or expose to sale, any manner of merchandize or wares whatsoever, by retail, when no fair was at the time kept in the city, under a penalty for each offence. It was further provided that no person should be made free as aforesaid, but native born, or naturalized, or denizated subjects.

This chartered power has ceased to be of any importance, and is used only as a testimonial of respect or gratitude, on the part of the corporation, towards persons in high stations, or who may have entitled themselves to the honor by personal merit, or some distinguished service. There are instances in the annals of the corporation, of this species of reward. But the admission to the freedom of the city, was, at the date of the charter, not only a token of honor, but

a grant of substantial benefit. By making a person a freeman of the city, he became entitled to all its municipal privileges; and among others, to the right of voting for, and of being voted to corporate offices, and which right belonged only to corporate freemen and to freeholders, until the charter was altered by statute, in 1804, as see *ante*, Note B. B.

But although the exclusive privileges formerly conferred on the inhabitants of chartered towns and cities, of pursuing commerce and exercising the mechanic arts, have fallen into discredit in Europe, among men of enlarged views and liberal policy, as being impolitic monopolies, which restrain competition, damp the spirit of enterprise, check the free circulation of labor, and raise the price of commodities; and although such monopolies are utterly reprobated and abandoned in this country, yet they were originally introduced in Europe, and afterwards cherished during the disorder and violence of the middle ages, as invaluable barriers against the insecurity and oppression of the feudal system. They were ardently desired, and frequently granted by the benevolence or policy of princes, during the 12th and 13th centuries, who confirmed local usages and enabled the inhabitants of towns and cities to possess common property, and to have their feudal Exactions either abolished or defined and limited, and to enjoy the inestimable privilege of being amenable only to their own municipal jurisdictions. Those incorporations conferred freedom on the feudal Serfs who escaped into them unless duly reclaimed. They were *cities of refuge* to the oppressed. This was the case in France and Germany, as well as in England. If a villain, says Glanville, b. 5, ch. 5, remained for a year and a day, in any privileged town, which had franchises by prescription or charter, he became thenceforward a free member of

the corporation. Manumission, said lord Coke, (Co. Litt. 137, 6,) among other significations, meant "the incorporating of a man to be free of a company or body politic, as a freeman of a city, or burgess of a borough."

We are therefore not to be surprised that this ancient privilege (so tenacious is established usage) should continue to be cherished long after the occasion for it, and the reason of it had ceased: nor that it should have been inserted and continued by our ancestors in the early charters of New-York. There has been, until recently, something dear and sacred attached to the very mention of *chartered rights and privileges*. We perceive ample proofs of this sentiment and feeling in all the early proceedings of our revolutionary patriots and statesmen.

Note xxxvi. p. 63.—N. N.

The 22d section is only a specific detail of the powers granted to the corporation by the 19th section, as see *ante*, p. 60. It has therefore been in a very considerable degree abridged by successive acts of the legislature. We have seen, in the examination of the subject in note L. L., that the authority hereby given to appoint surveyors, measurers, gaugers, and garbles, has been superseded by legislative regulations incompatible with the exercise of the like power by the corporation. But the authority of the Common Council to appoint beadles, bellmen, watchmen, Bridewell-keepers, or keepers of houses of correction, and almshouses, cryers, and bell-ringers, has not been disturbed. The Common Council may appoint and dismiss, and add to and diminish, at pleasure, all such police agents.

The control and regulation of the city watch, like

the appointment and regulation of cartmen and porters, is a very interesting and valuable deposit of municipal power, and one essential to the peace, security, and good government of the city. The same remarks apply to the regulation of the alms-house, penitentiary, city prison, and Bridewell, and the appointment of the keepers to them respectively. The ordinances on these subjects form a minute, well digested, and valuable code of alms-house and prison discipline.

Note xxxvii. p. 65.—O. O.

The 23d section authorized the corporation to erect and build one or more bridewells, houses of correction, and work-houses, for offenders, as well as an alms-house for the relief of the poor. It also authorized the Mayor, Recorder, and Aldermen, or any one of them, to arrest vagabonds, and idle and suspicious persons, and commit them to the work-house, for a term not exceeding forty days, or else to bridewell, to receive such punishment, not extending to life or limb, as they may direct. The corporation were further authorized to provide one or more gaols, and appoint the keepers, who were to receive all persons charged with crimes and offences and committed to their custody.

The powers in this section have been enlarged, modified, restricted, and better defined, by successive statutes. The Mayor, Recorder, and Aldermen, are *ex-officio* justices of the peace, and authorized to hold courts of general sessions of the peace, and courts of special sessions. (*Revised Statutes*, vol. 2, 216, 223.) Corporal punishment, otherwise than by imprisonment and at hard labor, is prohibited. (R. S. vol. 2, 697, sec. 40. *Ibid.* 701, sec. 16.) The act of March 2d, 1798, ch. 24, committed the charge of the bride-

well, or gaol for criminals, to the corporation, and authorized the Common Council to appoint the keeper, and who was to hold at their pleasure.

The jurisdiction in criminal cases conferred by the charter, seems to have been completely absorbed and merged in statutory provisions. In attending to the historical progress of the changes, we perceive that by the colony act of 1st September, 1744, ch. 767, the Mayor, Recorder, and Aldermen, or any three of them, of which the Mayor or Recorder to be one, were authorized to try summarily, offenders under the degree of grand larceny, who did not give bail within 48 hours, to appear at the general sessions of the peace; and on conviction, to order corporal punishment at discretion, not extending to life or limb. The same power was given by the act of March 24, 1787, chap. 65, and by the act of 9th February, 1788, ch. 31. Disorderly persons were defined and described, and it was made lawful for any justice of the peace to convict them summarily, and commit them to bridewell, not exceeding sixty days. And by the act of February 6, 1789, ch. 19, the Mayor, Recorder, and Aldermen or any two of them, were authorized to punish disorderly persons summarily convicted before them, by imprisonment in the bridewell at hard labor, not exceeding six months. By the new penal code, in the act of March 26th 1796, ch. 30, corporal punishment, otherwise than by imprisonment and at hard labor, in cases not capital, was, for the first time in the history of our criminal law, abolished. The court of special sessions, consisting of the Mayor or Recorder, and any two Aldermen, with the jurisdiction to try summarily, petty crimes and misdemeanors under the degree of grand larceny, was continued by the act of March 24th 1801, ch. 70, and again by the revised act of April 9th, 1813, ch. 89. By the act of April 15th,

1814, ch. 176, sec. 4, the Mayor, Recorder, and Aldermen, and the special justices, or any two of them, were empowered to convict and commit disorderly persons to the penitentiary at hard labor for six months. The *Revised Statutes*, vol. 1, 638, contained a formidable list adopted from the existing statutes, of persons described as *disorderly persons*, but they were to be dealt with less summarily than formerly. The justice before whom they were brought, was, upon evidence of the fact of their character, to require sureties for their good behaviour for a year, and in default thereof to commit them to gaol. The next court of general sessions of the peace was to take cognizance of the case, and in their discretion to discharge, or require sureties, or detain them in gaol at hard labor, for a term not exceeding six months, or for a term not exceeding thirty days, to be kept on bread and water only.

The act of January 23d, 1833, Ch. 11, defined the persons who should be deemed *vagrants*, with authority for the Mayor or Recorder, or one of the Aldermen or Special Justices, to convict them summarily and commit them in his discretion to the Alms House at hard labor, not exceeding five months, or to the penitentiary for a like period. This would appear to be the latest statute provision on the subject of the summary criminal jurisdiction, granted by the charter; and the review is sufficient to show, that the charter jurisdiction on the subject, has been long superseded.

NOTE XXXVIII. P. 66.—P. P.

The 24th Section makes the Mayor for the time being Clerk of the market and water bailiff, and conservator of the North and East rivers, and upon the banks, shores, and wharves thereof, with authority to take to

his own use, the fees and perquisites thereof. He is also authorized to appoint and license at discretion, Marshals, Porters, Carriers, Cartmen, Carmen, Packers, Cullers, Common Cryers and Scavengers, and to add to and diminish them at pleasure.

The office of Clerk of the market, with all the fees and emoluments attached thereto, was taken from the Mayor and vested in the Common Council, by the Act of April 9th, 1813, Ch. 86, Sec. 168.

It is to be presumed that this act was passed with the consent of the Mayor, for a fixed salary was at the same time provided for him. As to the office of water bailiff, I am at a loss to discover the extent and use of that authority, and I find no statute ordinance regulation on the subject. I should presume it was not at this day of any efficacy, and that as a police power, it was absorbed in the powers of the Common Council, or in the Custom House duties, under the authority of the United States. There can be no fees or perquisites attached to it, for all such things are taken away by the act, providing a salary to the Mayor. The wharves, slips, and wharfage are all subjected to statute and ordinance regulation. The ordinance of 1833, Ch. 34, regulates the lying of vessels at the wharves, and in the slips belonging to the Corporation, and the rates of wharfage. Various statutes have successively regulated the wharfage and cranage in respect to the wharves which were private property. Such were the statutes of 17th April, 1784, Ch. 32.—April 6th, 1795, Ch. 44. —April 9th, 1813, Ch. 86, Sec. 212 to 236. This last act gave to the Common Council specific and large powers on the subject of wharves, piers, and slips, and with a general authority to make By-Laws and ordinances from time to time for regulating the same.

The original object of water-bailiffs in port towns in England, was to search ships, and in London the office was once very vexatious, but it has now degenerated into one of a very subordinate and servile nature. The statute of 28, Hen. 6, c. 5, declared it to be a trespass for water-bailiffs and searchers, and their servants to levy charges and impositions upon the vessels and goods of merchants.

The authority given to the mayor to appoint marshals, cartmen, &c., remains in full force; except that by the act of April 8th, 1813, ch. 86, sec. 44, the number of marshals in the city was not to exceed sixty; and by the act of March 26th, 1832, ch. 58, they may be increased, so as not at any one time to exceed one hundred; and by the act of January 4th, 1820, ch. 1, the marshals who are to serve process of the justices court, or of the court of any assistant justice, are not to exceed thirty, and they are to be selected and commissioned by the mayor for that purpose. The cartmen, porters, &c. are under the constant supervision and regulation of the Common Council, and the ordinances of 1833, ch. 4, 8, 27 & 47, may be cited as examples. There is no power more salutary than this discretionary power in the mayor, and this power of regulation by the Common Council, of marshals and cartmen. There is none which requires the exercise of a more steady and firm purpose. The business and trade of the city, and the comfort and safety of the persons and property of all classes of citizens are deeply concerned in the good and responsible character of our marshals and numerous cartmen.

The authority given to the mayor to appoint *common cryers*, seems to be inconsistent with the like power given to the Common Council to appoint *cryers*. (See ante. p. 63.) If there be no known distinction between the two classes of citizens, and the power be concurrent in the mayor and in the Common Council, it is nevertheless too insignificant a power to produce in its exercise any unpleasant collision.

NOTE XXXIX. P. 68.—Q. Q.

The 25th section gave to the mayor exclusively the power to grant, annually, licenses to keep taverns, inns and victualling houses, with liberty to sell exciseable or strong liquors. The fees on granting licenses were to be received for the use of the corporation, and penalties were prescribed for acting therein without such license.

The power was very early assumed by the legislature, and transferred from the mayor to other hands. The colonial act of July 15th, 1713, ch. 263, in derogation of the then charter power in the mayor, (as see ante. p. 18, sec. 10) authorised and required the mayor and aldermen of the city to farm out yearly, at auction to the highest bidder, the excise on strong liquors. But this mode was abandoned after the Revolution, and by the act of March 1st, 1788, ch. 48, a commissioner of excise was directed to be appointed in New-York with a salary, and the mayor was made *ex officio*, such commissioner, and he was to grant licenses in the manner prescribed by the charter, and to determine the amount of the excise to be paid annually, not exceeding £20, nor less than 40s. in any case. He was to retain £60 as a salary per annum in lieu of his fees, and to account for the residue to the chamberlain to be applied in part for the use of the New-York hospital, and the residue under the direction of the Common Council, towards the contingent expenses of the city. The act of April 7th, 1801, ch. 164, continued the law, but authorised the Council of appointment to appoint as commissioner of excise in New-York, not the mayor specifically, *but such person as they should think proper*, thereby leaving the Council of Appointment at liberty to select some other person than the mayor. Here was at least a complete demolition of the mayor's power under the charter. At last, by the act of April 10th, 1824, ch. 215, the whole subject underwent a new modification, and on the application of the corporation, the mayor, aldermen and assistants were declared to be the sole commissioners of excise for the city. They were directed to collect the duty of excise from the venders of strong or spiritous liquors, and in their discretion to grant licenses to retail strong or spiritous liquors, or to keep an inn or tavern, public ordinary or victualling house within the city, and the monies arising therefrom were to be applied towards the support and maintenance of the city poor. The act was amended the succeeding year, by the act of April 16th, 1825, ch. 196, declaring that the mayor, and the alderman and assistant *of each ward* should be commissioners of excise for the wards respectively. A city ordinance on the basis of those statute revisions, and in furtherance of them, was passed in January, 1834, and so stands at present the law on the subject.

NOTE XL. P. 71.—R. R.

The 26th Section declares that the mayor, deputy mayor, recorder and aldermen shall be *ex officio* justices of the peace, and that any four of them, of whom the mayor or recorder to be one, shall hold Courts of General Sessions of the Peace, in February, May, August and November in every year, and with jurisdiction to inquire into, hear and determine, correct and punish crimes and misdemeanors, in like manner as justices of the peace, in their quarter sessions in England, might do. They were likewise declared to be justices of Oyer and Terminer and Gaol Delivery, and to be named in every commission thereof, and the sheriff and other officers of the city were required to execute their, and each of their warrants and commands.

The criminal jurisdiction of the mayor, recorder and

aldermen, as justices of the peace, and their authority to hold courts, rested upon this provision in the charter, during the whole course of the colonial government. But since the Revolution a succession of statute regulations have entirely superseded this section of the charter, and new-modelled the courts, and enlarged their jurisdiction. The act of January 30th, 1787, ch. 8, first interfered and confirmed their power, by declaring that any three justices should hold sessions of the peace, and that the mayor, recorder and aldermen of New-York, (omitting the deputy mayor) should have all the powers of justices of the peace. The act of February 5th, 1787, ch. 10, established the Courts of General Sessions of the Peace, on the same quarterly days as fixed in the charter, but with a prolongation of the terms, and with the express grant of power to the mayor, recorder and aldermen, or any three of them, of whom the mayor or recorder to be one, to hold those courts in and for New-York. The act of February 22d, 1788, ch. 88, also clothed the mayor, recorder and aldermen with the authority of commissioners of Oyer and Terminer and Gaol Delivery, and with power to hold such courts, along with one of the justices of the Supreme Court. The acts of March 2d, 1798, ch. 24, and of the 21st of March, 1800, ch. 35, increased the number of terms of the courts of General Sessions of the Peace to six, and established a police office in the city with two justices and a clerk, to be appointed in the character of *special justices* to that duty. The act of January 23d, 1833, ch. 11, authorised the Common Council to appoint one or more clerks to that office. Until that period the aldermen in rotation or by arrangement among themselves, kept a daily police court as justices of the peace in the city hall. These special justices were invested with the powers of justices or conservators of the peace, but the mayor, recorder and aldermen might

in their discretion be in the police office, and act therein as conservators of the peace. This establishment has been continued in the subsequent revisions of the laws. See the acts of April 9th, 1813, ch. 86, sec. 22—43, and of March 26th, 1832, ch. 58. By the last act these special justices are increased to four, and by the act of 1835, ch. 151, to five; and the constitution of 1821 (art. 4, sec. 14.) provided that they should be appointed by the Common Council, and should hold their offices for four years, but liable to be removed by the county court for due cause.

According to the revised statutes, vol. 2, 216, 217, and the act of 1834, ch. 94, the first judge and the associate judge of the county courts in and for the city, and the mayor, recorder, and aldermen or any three of them, of whom the first judge, or associate judge, or mayor or recorder is to be one, are authorised to hold the Courts of General Sessions of the Peace, and it is made the special duty of the recorder to hold those courts, and the powers of the General Sessions are enlarged, so as to be enabled to hear and determine any indictment for any crime punishable by imprisonment for life, or for a shorter period. It is made the duty of two of the aldermen, when notified or required by the mayor or recorder, to attend as judges of the said court, and the courts are to be held on the first Monday in every month, and may continue for three weeks. These regulations and improvements were first made by the act of February 27th, 1821, ch. 72, on the application of the corporation.

By the same revised statutes, vol. 2, 204, 205, the Courts of Oyer and Terminer and Gaol Delivery, in the city, may be held concurrently with the Circuit Courts, by a judge of the Supreme Court, or a circuit judge, or the first judge of the Court of Common Pleas, together with the mayor, recorder and alder-

men of the city, or with any two of them. Though the Governor, by and with the consent of the Senate, may issue commissions of Oyer and Terminer and Gaol Delivery, whenever the occasion shall require, yet no proceeding under the commission can be had without the presence of a justice of the Supreme Court or a circuit judge.

Upon these statute foundations, and not on this section of the charter, now rest all the powers originally conferred by the section under review.

NOTE XLI. P. 72.—S. S.

The 27th Section authorised the mayor, or his deputy, or the recorder, together with any three or more aldermen, to hold a court of record for the trial of civil causes, real, personal and mixed, arising within the city, upon every Tuesday in the year, and with all the powers requisite thereto.

This provision has become wholly superseded by affirmative, cumulative and new statute regulations, changing, in a considerable degree, the organization and character of the court.

The earliest interference with the *Mayor's Court* under the charter, was by the act of February 5th, 1787, ch. 10, which enlarged the terms of the court from one to three days, if necessary, and with declaring the power of the court to hear, try and determine all actions, real, personal and mixed, arising within the city, and with authority to the mayor, recorder and aldermen of the city, (omitting the deputy mayor) or any three of them, of whom the mayor or recorder to be one, to hold the Mayor's Courts. The power to try transitory actions, not arising within the city, was given by the act of April 5th, 1787, ch. 72. Then by the act of January 3d, 1797, ch. 1, on a representation by the corporation, the charter was altered so as to allow the Mayor's Court to be held by the mayor or recorder without the presence of any aldermen, and the terms were enlarged to five days.

The Mayor's Court was early changed from a weekly to a monthly court, and by the act of February 17th, 1806, ch. 11, the terms were changed from the first to the third Monday of every month, with power to prolong each term to two weeks, if necessary.

The final settlement of the court was by the act of February 37th, 1821, ch. 72, and the provisions of which were incorporated in the revised statutes, vol. 2, 216, 217. That statute dropped the name of Mayor's Court, which had become quite inapplicable, and it declared that the court should be the *Court of Common Pleas or County Court* of the city and county of New-York. It was to have the same general jurisdiction as the Mayor's Court, and be held by the first judge of the same, who was created by the act for that purpose, and by the mayor, recorder and aldermen, or by the first judge, or the mayor or recorder alone, without the necessity of the attendance of any alderman. The evident policy of the act was to commit the charge and business of the court essentially to the first judge, and of the Sessions of the Peace to the recorder, so as to leave to the mayor the increasing, engrossing and responsible duties appertaining to the chief executive magistrate of the city. Since the revised statutes an associate judge has been created, with the like powers as the first judge, and whose duty it is equally to hold the said court. (Act of 1834, ch. 94.)

The 28th Section was nothing more than what followed of course, and as an indispensible part of the ordinary duty of the sheriff, coroner and other officers of the city, and which was to execute the precepts and process of the courts.

NOTE XLII. P. 74.—T. T.

The 29th Section authorized the Corporation to have a common Clerk of the city, who was to be the Clerk of the Mayor's court, and Clerk of the peace and of the sessions of the peace, and to take and enjoy the fees and perquisites appertaining to the same. He was to be appointed by the Governor, and to hold during good behaviour, and the Common Council were authorized to supply vacancies until a successor was appointed.

The appointment of Clerk continued with the Governor until the revolution. But under the constitution of 1777, he was thereafter to be appointed by the council of appointment, and hold during its pleasure.

This single office of Clerk of the city, was subsequently broken up into fragments, and a large share of its complicated duties distributed among other clerical departments. Thus by the act of March 27th 1807, Ch. 75, passed on the petition of the Corporation, the Clerk of the city or common clerk was discharged from acting as Clerk of the Common Council, and they were authorized to appoint their own Clerk, and the provision was incorporated in the Digest of City Laws, passed April 9, 1813, Ch. 86, See 166, and by Sect. 159 of the Act last mentioned, the duty of the city or common Clerk, as to the registry of mortgages and recording of deeds, was transferred to the office of Register in and for the city, who was to be appointed by the Council of appointment. By the amended Constitution of 1821, Art. 4. Sec. 13, the Clerk of the court of Oyer and Terminer, and General Sessions of the peace, was to be appointed by the court of general sessions of the peace, and to hold during the pleasure of the court; and by the 9th Sec. of the Constitution, all other Clerks of courts were to be appointed by the courts respectively, and to hold for three years, unless sooner removed by

the council. The Register and *Clerk of the city* (being this same common Clerk in the charter) was by the Constitution, (Art. 4th, Sect. 8,) to be chosen by the electors triennally, and as often as vacancies should happen. Under the Act of April 7th, 1830, Ch. 122, amending the charter, each board of the Common Council choses its own Clerk, but the Clerk of the board of Aldermen was to be by virtue of his office, Clerk of the Common Council. As the law stands, the common Clerk of the charter is stripped of the office of clerk to the Common Council, and of clerk of the courts of Oyer and Terminer and General Sessions of the peace, and of clerk of the peace, and as register of deeds and mortgages. He is reduced, so far as *Courts* are concerned, to the single office of Clerk of the court of Common Pleas; but he is still the *Clerk of the city and county*, and as such, is charged with many incidental duties belonging to such an office, such are his duties relative to elections, and to the board of supervisors, and to the registry of names in times of pestilence, and relative to a variety of other matters appropriate to the office of county and city clerk.

NOTE XLIII. P. 76.—U. U.

This Section affords a striking sample of professional monopoly. The charter appointed eight Attornies by name, during good behaviour, as Attornies in the Mayor's court, and with a prohibition to any other Attornies to practice therein. These named, were liable to be removed by the court with the approbation of the Governor for ill behaviour, and with permission in the court to recommend to the Governor others to supply vacancies, and whom he was to approve of and appoint. The number of Attornies was never to exceed five after the death or removal of any two of those named.

This power in the Governor, and that limitation as

to number, ceased at the revolution. The constitution of, 1777 placed in every court, the power of appointing, licensing and regulating in its discretion, the attornies of the court, and so the power has continued to this day, subject to legislative regulation. (See R. S. Vol. 1. 108, 109, and Vol. 2, 28.

NOTE XLIV. P. 78.—X. X.

The 31st Section has become entirely superseded. It authorised the Mayor, Recorder, and Aldermen, and each of them, to hear, try and determine, with or without a jury, and according to equity and good conscience, civil causes to 40*s.* value in controversy; and to administer an oath to either party at discretion; and to enforce the judgment or decree by imprisonment.

The authority of Justices of the peace in every part of the colony, to try civil causes not exceeding 40*s.*, was established by the colony act of 1737, soon after the date of the charter. Their jurisdiction was subsequently enlarged to £5, by the act of 12th March 1772, and an attempt of the colonial Legislature to increase their jurisdiction to £10, was defeated. The first £10 act since the revolution, was passed on the 11th of April 1782, and it enabled the Mayor, Recorder and Aldermen, separately as justices of the peace, to hold such courts. The Act of 17th April 1787, Ch. 89, was a regular digest of the jurisdiction and proceedings in justices courts, and to relieve the city magistrates, it authorized the appointment of *assistant justices* in New York, specially to hold such courts. It was a matter of doubt whether Aldermen as justices of the peace could hold these courts, and the Act of 21st February, 1791, Ch. 12, was accordingly passed, declaring that they could not try causes under the £10 act. Afterwards by the act of February 16th, 1797, Ch. 20, a new system was tried by the appointment of justices of the peace for the special purpose, with directions for two of them according to an order of rotation, to hold *a court of Record daily* in the city hall, and to have a Clerk and seal, and hear civil causes of £10 value and under.

This last act was repealed and a new organization of the system introduced by the act of March 24th, 1804, Ch. 27, directing the appointment of *eight justices of the* peace with exclusive power of trying causes of the *value of* $50 and under. They were to hold daily, two courts, each at a distinct place in the city, and two justices were to be present in each court; and they were to hear and try marine causes between masters and seamen, though exceeding $50 in value. This last act was amended by an act of 4th April, 1806, and then repealed, and a further scheme of holding justices courts, instituted and tried under the act of April 6, 1807, Ch. 139. By that act *an assistant justice* was to be appointed in each ward of the city, with authority to each, to hold a court for the trial of civil causes, not exceeding $25 in value. Each of these tribunals were regular *justices courts for each ward*. The same act established also as a distinct tribunal, *the justices court*. It directed the appointment and commission of three justices of the justices court, who were to hold it and to try causes between $25 and 50, and marine causes between master and mariners, though the demand exceeded $50. Two of the justices were to constitute the court. It was to be held daily, and had a seal and clerk as a court of record. This last act was amended by the act of March 18th, 1808, Ch. 58, and also re-enacted in the revision of the statutes in 1813, (act April 9th, 1813, Ch. 86, Sec. 85—149) and is now in force under some modifications. Thus by the act of

February 28, 1817, Ch. 60, the jurisdiction of the justices court was enlarged by the power of arrest of ships and vessels for marine debts; and by the act of April 15th, 1817, Ch. 249, the general jurisdiction of the court was enlarged from $50 to $100 in amount. So by the act of April 25th, 1818, Ch. 265, any one justice may hold the justices court; and by the act of March 16th, 1819, Ch. 71, the justices court is directed to be called *the Marine Court*, and the assistant justices of the several wards were not to have jurisdiction as to seamen's wages.

By the act of January 4th, 1820, ch. 1, the *assistant justices* were reduced to five, with jurisdiction as such justices over distinct and specified wards, and enlarged to causes of $50 in value. Each assistant justice was to have a clerk appointed and paid for his services by the Common Council. The bounds of their jurisdiction were altered, and the number of them increased by the act of April 14th, 1817, chap. 262, and by the R. S. vol. 1, 97, so as to consist of seven assistant justices, with a clerk to each, appointed by the Common Council. These assistant justices and their clerks were directed by the constitution of 1821, (art. 4, sec. 14, and R. S. vol. 1, 110,) to be appointed by the Common Council of the city, and to hold their offices for four years, and to be removable by the county court for cause shown. By the act of March 21st, 1823, ch. 70, (see also R. S. vol. 1, 107.) the justices of the marine court are directed to be appointed by the Governor and Senate, and they hold their offices for five years.

This is a general historical sketch of the exceedingly mutable, but now complex and stately system of civil jurisdiction over small civil cases, which has grown out of the humble provision contained in the 31st section of the charter, and which has entirely overwhelmed and destroyed it.

The 32d section was the ordinary direction to the Sheriff, common Clerk, Chamberlain, and all other subordinate officers, to be obedient to and to execute the commands of the Mayor, Recorder, and Aldermen.

Note xlv. p. 81.—Y. Y.

The 33d section related to the oaths of office to be taken by the Mayor, Recorder, Aldermen, and all other city officers, and by whom to be administered. This whole section was superseded by the act of February 8th, 1788, ch. 28, which prescribed the form of the oaths to be taken by every judicial and ministerial officer in the state, and by whom to be administered. The R. S. vol. 1, 118, 119, have declared the existing law on the subject.

Note xlvi. p. 82.—Z. Z.

The 34th section provides that none of the free citizens of New-York, shall, while inhabitants thereof, be bound against their will, to serve on any jury or inquest out of the city; nor be elected assessor, taxer, or collector of taxes, out of the city; nor be appointed or chosen constable, bailiff, or other ministerial officer, out of the city; nor be liable to fines or forfeitures for refusing to serve on any inquest or jury out of the city.

The privileges conferred by this section are valid vested rights, of which the citizens could not lawfully be divested. They are personal rights granted to each inhabitant, who, as a citizen, partakes of the corporate franchise. The grant, however, is of no moment at this day, for no town or ward out of the city would ever think of having a non-resident assessor,

collector, or constable, put over them. The law authorizing the courts to order a foreign jury when they think proper, and to award a venire to the Sheriff of the county from which the jury is to come, to summon them and return their names to the court in another county; and the power of the supreme court to order trials at bar of issues, in fact, from any of the counties, are powers which might come in collision with this franchise. (See R. S. vol. 2, 409, 410; and the same power was granted by the act of April 19th, 1786, ch. 41.) But if a citizen summoned to another county should choose to contest the right with the court, under the article in the constitution of the United States, prohibiting state laws impairing the obligation of contracts, (a case, however, not likely to occur,) I am of opinion he would be successful.

NOTE XLVII. P. 83.—A. A. A.

This section contains a grant or confirmation to the inhabitants, of all the real estate before granted to them by the government of the colony, or corporation of the city. No such title can become a matter of dispute at this day; and the quit-rents reserved by the charter, and the long arrears of which were demanded by the Comptroller of the state, on the first institution of his office, in 1797, have doubtless been extinguished by commutation; or if there be any remains of them not discharged in that way, or demanded, they are probably discharged by the operation of the statute of limitations, which commenced to run against quit-rents on 1st January, 1820. (Act of April 12th, 1813, ch. 119.)

NOTE XLVIII. P. 84.—B. B. B.

The 36th section authorizes the corporation to hold

real estate in fee simple, within and without the city, so as that the clear yearly value of the real estate so owned by them at any one time, does not exceed the clear yearly rent or value of £3,000 sterling, and the same to let and dispose of at pleasure.

The limitation of the amount of lands to be held by the corporation, means only that the value be within the sum prescribed, when purchased or taken by the corporation. If the lands should afterwards rise in value by good management, or by extraneous causes, or any means whatsoever, (as the lands of the corporation doubtless have risen in value beyond all anticipated calculation,) the title of the corporation is not thereby affected. The yearly value at the time, is all that the limitation requires. This reasonable rule of construction is founded on the common law. (2 Coke's Inst. 722.

NOTE XLIX. P. 86.—C. C. C.

The 37th section contains a general grant and confirmation to the corporation, and their successors, in fee, of the city hall and gaols, the five market-houses, the great dock, the crane and wharf, the powder-house, all the ferries then and thereafter to be established all around Manhattan Island, with power to make rules and regulations for governing the same; the ferry houses on Long Island, with their appurtenances; the land between high and low water mark, on Long Island, from the east side of the Wallabout to the west side of Red Hook; the unpatented and unappropriated lands in the city and on Manhattan Island, extending to low water mark, with the right of all docks, wharves, cranes, and slips, within the city, with the rents and profits thereof; and the rivers, creeks, ponds, waters, water-courses, fishing, fowling,

hunting and hawking, mines and minerals, and other royalties and privileges within the city and island; and all the rights, privileges, franchises, jurisdictions, powers, courts, offices, markets, ferries, fees, perquisites, rents, and real estate, granted in and by the charter of 1686, and in the charter of Queen Anne, aforesaid, or which the corporation or inhabitants hold by prescription; excepting Fort George and its appurtenances, and the governor's garden, and the king's farm, and the swamp adjoining it.

The observations naturally arising on this wide-sweeping confirmatory grant, have been already anticipated and made, when former sections on the same subjects were under review. See note B. p. 7, note C. p. 8, note D. p. 9, note Q. p. 24, note S. p. 34, and note G. G. p. 58. It becomes unnecessary to enlarge upon them here. There can be no doubt that all the grants and franchises confirmed by this section, were binding as grants of property, and could not ever lawfully be disturbed. But notwithstanding the amplitude of the charter powers, as to wharves, piers, docks, bulkheads, and shores along the East river and Hudson river, legislative and special powers have been granted on this as well as on most subjects of municipal police; and for this see the acts of April 16th, 1830, ch. 222, April 26th, 1834, ch. 186, and of April 20th, 1835, ch. 124, and the general act of April 9th, 1813, ch. 86, secs. 219—236, by which the authority to lay out wharves and slips, and to cause piers to be sunk and completed in front of the streets and wharves, and to regulate the whole subject, is amply conferred.

NOTE L. P. 89.—D. D. D.

The 38th section contains a grant and confirmation to the corporation and their successors in fee, of the

soil of Hudson river under water, extending 400 feet into the river, and containing 82 1-2 acres of land. It is described by courses and distances, and lies at the south west end of the city, adjoining the then Fort. Also of the soil of the East river, form the north side of Corlaer's Hook to Whitehall, described by courses and distances, and comprehending 400 feet, from low water mark, into the East river, containing 127 acres, with power to wharf out the same, and to build upon and use it as they, the corporation, should see fit. It excepts from its operation all previous grants of keys or wharves to individuals beyond low water mark; and also 40 feet broad, to be left towards the East and North rivers for public necessities, and reserving upon the grants made by the charter, a yearly quit-rent of 30 shillings proclamation money, besides the yearly rent of one Beaver skin, or the value thereof, under the charter of 1686, (as see *ante*, p. 8,) and of 5 shillings under the charter of Queen Anne, as see *ante*, p. 29. In the case of *Verplanck* vs. *the city of New-York*, in 2 Edw. v. ch. Rep. 220, it was observed that the consolidated act of 1813, ch. 86, sec. 224 and 225 related to the building of *piers on private property*, and that the corporation were vested with authority to direct piers to be sunk and completed at the expense of the proprietors of lots lying opposite to the places where piers shall be sunk, and then to grant to the owners of lots a community of interest in the piers in proportion to the breadth of their lots. This was a mere power, and the corporation acquire no interest or ownership in the piers, unless the individual proprietors refuse or neglect to construct the piers. In that event the corporation do the work at their own expense, and become owner, and receive the wharfage. The corporation cannot reserve or take any wharfage arising from a pier built at the expense of individuals, nor any slip-

age on the side of the pier adjacent to a public slip, but not contiguous or on a line with the side of the slip. (*Corporation of New-York* vs. *Scott*, 1 Caines, 543.) But the powers and rights of the corporation relative to sinking piers and enlarging slips, and receiving wharfage and slipage in such cases, were enlarged afterwards and confirmed and incorporated in the general act of April 9th, 1813, ch. 86, sec. 128–130, and which act is still in force.

There can be no question about the validity and indefeasible nature of those grants of property to the corporation, nor that they were equally bound to answer for the quit rents reserved, and would be still if the quit rents were not commuted or extinguished, as is understood to be the case. (See Ante. note A. A. A.)

NOTE LI. P. 92.—E. E. E.

This Section, by express covenant, assures to the corporation the full and perfect enjoyment of all their rights and privileges, free from all hindrance by information, *quo warranto*, or other process; and notwithstanding any previous default, non-user or mis-user, which are all remitted and released, together with all fines and forfeitures whatsoever. This section requires no comment.

NOTE LII. P. 95.—F. F. F.

The concluding section of the charter is a repetition of the one preceding, for it contains a covenant that the corporation shall quietly enjoy all its rights, franchises and property as contained in the charter, and which is to be taken and expounded benignly in favor of the corporation.

NOTE LIII. P. 105.—G. G. G.

The charter was explicitly confirmed in all its parts and bearings by an act of the colonial legislature of the 14th of October, 1732; and it was along with other charters, saved and confirmed by the constitution of 1777, and again by the constitution of 1821.

A city convention was chosen by the people, in pursuance of the recommendation of the Common Council, to revise and propose amendments to the charter. The convention consisted of five members from each ward, (total 65 members,) and they met in June, 1829, and after a protracted discussion, they agreed to a series of amendments, which were submitted together to the people, and approved of by them by a regular vote by ballot in the several wards. An application was thereupon made to the legislature to have the amendments ratified by law and made part of the charter. This was done by the act of April 7th, 1830, ch. 122.

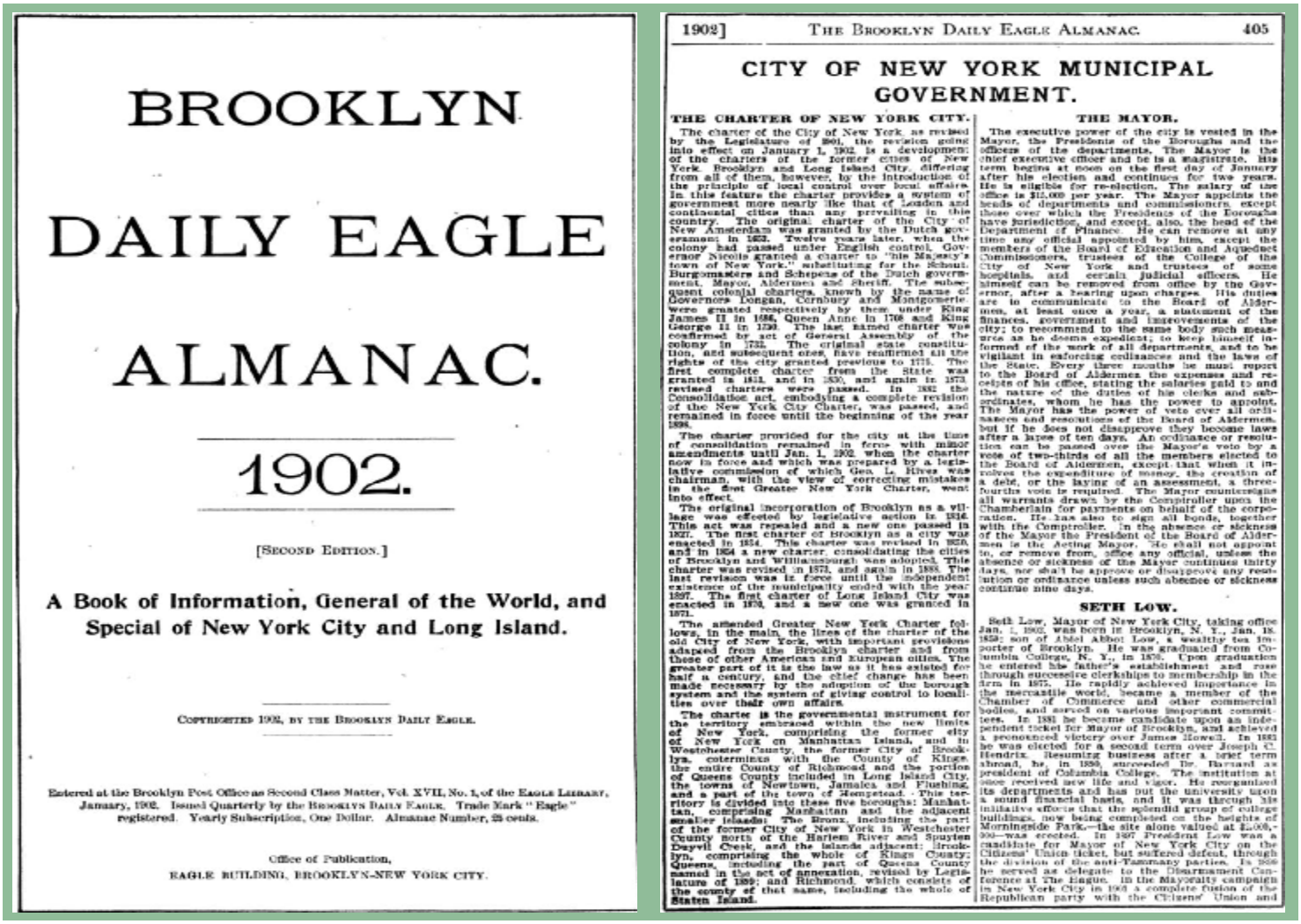
The essential alterations in the charter by the proceedings and act referred to, consist in a division of the Common Council into two boards, consisting of a Board of Aldermen and a Board of Assistants, who are to sit and act separately, with concurrent and equal powers. Every law, ordinance or resolution of the Common Council must pass both Boards, and be submitted to the Mayor before it passes, and if he, within ten days, returns the same with objections, it must be reconsidered, and pass both Boards by a majority of all the members elected to each, before it becomes a law of the corporation. The general duties of the Mayor are more specifically defined and enlarged, by requiring him to communicate to the Common Council, once a year and oftener, if need be, a general statement of the condition of the city government, finances and improvements, and recommend such measures as he

shall deem expedient; and to be active and vigilant in the exercise of the duties of his executive trust as Mayor.

As a further check to improvident legislation, no monies are to be drawn from the city treasury, but upon previous specific appropriations; and the Common Council are prohibited to borrow monies on the credit of the corporation, except in anticipation of the revenue of the year, unless authorised by a special act of the legislature; and they must publish annually, two months preceding the charter election, a detailed statement of the receipts and expenditures of the corporation for the year preceding; and provide for the accountability of all officers and others entrusted with city funds, by requiring security from them.

There is no part of the amended charter of 1830 which goes to control the exercise of the general powers contained in the original charter, (*ante*. p. 54, and note F. F.) as to the expenditure of monies by the Common Council in their sound discretion, for objects, connected with the safety, welfare, property, trade or character of the city, and of which they are the representative guardians and trustees. The act of 1830 specially authorises annual and occasional appropriations, by proper ordinances, for every branch and object of city expenditure, and as those objects are not and could not be defined, they must necessarily be left to the good sense and judgment of the Common Council. The checks against improvident expenditures, or injudicious investments of the city funds, consist specially in the mode in which ordinances are to be passed, and in the annual detailed statements of the receipts and expenditures, as well as generally in the representative character of the Common Council. When extraordinary expenses are requisite, and which the ordinary revenues of the corporation are inadequate to

meet, the Common Council are in the practice of applying for legislative aid. We have instances of this in the act of June 8th, 1812, ch. 99, authorising the corporation to create a public fund or city stock, by subscription, not exceeding $900,000; in the act of March 24th, 1820, ch. 101, authorising the creation of further stock to $400,000; and, especially, in the act of January 16th, 1836, authorising the corporation to purchase bonds belonging to fire insurance companies, duly secured by mortgage, to an amount not exceeding six millions of dollars, and to provide the requisite funds for that purpose, by the issue of corporate stock, at an interest not exceeding five per cent., and redeemable within seventeen years.



BROOKLYN DAILY EAGLE ALMANAC.

1902.

[SECOND EDITION.]

A Book of Information, General of the World, and Special of New York City and Long Island.

Entered at the Brooklyn Post Office as Second Class Matter, Vol. XVII, No. 1, of the EAGLE LIBRARY, January, 1902. Issued Quarterly by the BROOKLYN DAILY EAGLE. Trade Mark "Eagle" registered. Yearly Subscription, One Dollar. Almanac Number, 25 cents.

Office of Publication,
EAGLE BUILDING, BROOKLYN-NEW YORK CITY.

CITY OF NEW YORK MUNICIPAL GOVERNMENT.

THE CHARTER OF NEW YORK CITY.

The charter of the City of New York, as revised by the Legislature of 1901, the revision going into effect on January 1, 1902, is a development of the charters of the former cities of New York, Brooklyn and Long Island City, differing from all of them, however, by the introduction of the principle of local control over local affairs. In this feature the charter provides a system of government more nearly like that of London and continental cities than any prevailing in this country. The original charter of the City of New Amsterdam was granted by the Dutch governors in 1653. Twelve years later, when the colony had passed under English control, Governor Nicolls granted a charter to "his Majesty's town of New York," substituting for the Schout, Burgomasters and Schepens of the Dutch government, Mayor, Aldermen and Sheriff. The subsequent colonial charters, known by the names of Governors Dongan, Cornbury and Montgomerie, were granted respectively by them under King James II in 1686, Queen Anne in 1708 and King George II in 1730. The last named charter was confirmed by act of General Assembly of the colony in 1732. The original state constitution, and subsequent ones, have reaffirmed all the rights of the city granted previous to 1775. The first complete charter from the State was granted in 1813, and in 1830, and again in 1873, revised charters were passed. In 1882 the Consolidation act, embodying a complete revision of the New York City Charter, was passed, and remained in force until the beginning of the year 1898.

The charter provided for the city at the time of consolidation remained in force with minor amendments until Jan. 1, 1902, when the charter now in force and which was prepared by a legislative commission of which Gen. L. Rives was chairman, with the view of correcting mistakes in the first Greater New York Charter, went into effect.

The original incorporation of Brooklyn as a village was effected by legislative action in 1816. This act was repealed and a new one passed in 1827. The first charter of Brooklyn as a city was enacted in 1834. This charter was revised in 1850, and in 1854 a new charter, consolidating the cities of Brooklyn and Williamsburgh, was adopted. This charter was revised in 1873, and again in 1888. The last revision was in force until the independent existence of the municipality ended with the year 1897. The first charter of Long Island City was enacted in 1870, and a new one was granted in 1871.

The amended Greater New York Charter follows, in the main, the lines of the charter of the old City of New York, with important provisions adapted from the Brooklyn charter and from those of other American and European cities. The greater part of it is the law as it has existed for half a century, and the chief change has been made necessary by the adoption of the borough system and the system of giving control to localities over their own affairs.

The charter is the governmental instrument for the territory embraced within the new limits of New York, comprising the former city of New York on Manhattan Island, and in Westchester County, the former City of Brooklyn, coterminous with the County of Kings, the entire County of Richmond and the portion of Queens County included in Long Island City, the towns of Newtown, Jamaica and Flushing, and a part of the town of Hempstead. This territory is divided into these five boroughs: Manhattan, comprising Manhattan and the adjacent smaller islands; The Bronx, including the part of the former City of New York in Westchester County north of the Harlem River and Spuyten Duyvil Creek, and the islands adjacent; Brooklyn, comprising the whole of Kings County; Queens, including the part of Queens County named in the act of annexation, revised by Legislature of 1892; and Richmond, which consists of the county of that name, including the whole of Staten Island.

THE MAYOR.

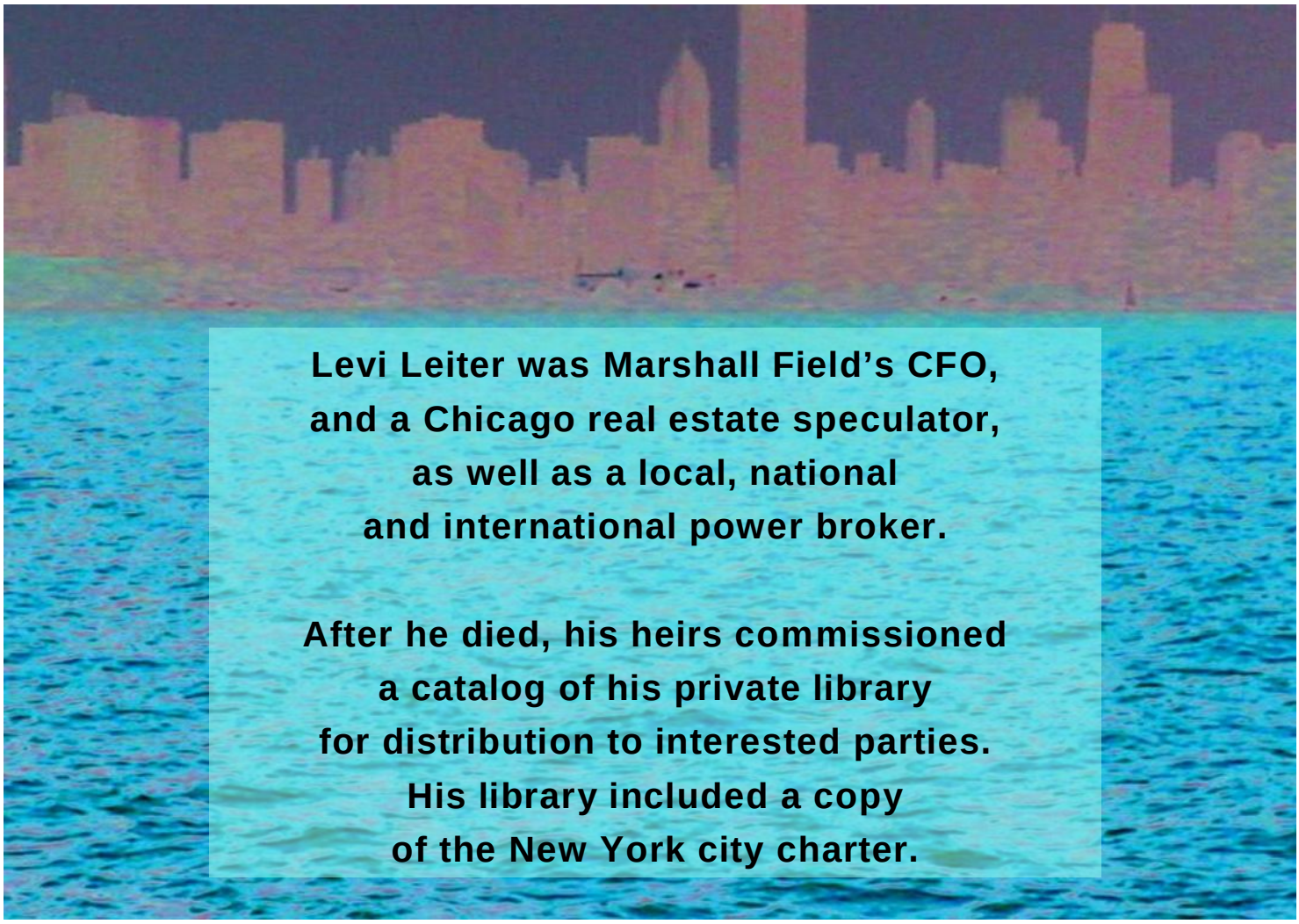
The executive power of the city is vested in the Mayor, the Presidents of the Boroughs and the officers of the departments. The Mayor is the chief executive officer and he is a magistrate. His term begins at noon on the first day of January after his election and continues for two years. He is eligible for re-election. The salary of the office is $15,000 per year. The Mayor appoints the heads of departments and commissioners, except those over which the Presidents of the Boroughs have jurisdiction, and except also the head of the Department of Finance. He can remove at any time any official appointed by him, except the members of the Board of Education and Aqueduct Commissioners, trustees of the College of the City of New York and trustees of some hospitals, and certain judicial officers. He himself can be removed from office by the Governor, after a hearing upon charges. His duties are to communicate to the Board of Aldermen, at least once a year, a statement of the finances, government and improvements of the city; to recommend to the same body such measures as he deems expedient; to keep himself informed of the work of all departments, and to be vigilant in enforcing ordinances and the laws of the State. Every three months he must report to the Board of Aldermen the expenses and receipts of his office, stating the salaries paid to and the nature of the duties of his clerks and subordinates, whom he has the power to appoint. The Mayor has the power of veto over all ordinances and resolutions of the Board of Aldermen, but if he does not disapprove they become laws after a lapse of ten days. An ordinance or resolution can be passed over the Mayor's veto by a vote of two-thirds of all the members elected to the Board of Aldermen, except that when it involves the expenditure of money, the creation of a debt, or the laying of an assessment, a three-fourths vote is required. The Mayor countersigns all warrants drawn by the Comptroller upon the Chamberlain for payments on behalf of the corporation. He has also to sign all bonds, together with the Comptroller. In the absence or sickness of the Mayor the President of the Board of Aldermen is the Acting Mayor. He shall not appoint to, or remove from, office any official, unless the absence or sickness of the Mayor continues thirty days, nor shall he approve or disapprove any resolution or ordinance unless such absence or sickness continue nine days.

SETH LOW.

Seth Low, Mayor of New York City, taking office Jan. 1, 1902, was born in Brooklyn, N. Y., Jan. 18, 1850; son of Abbot Abbot Low, a wealthy tea importer of Brooklyn. He was graduated from Columbia College, N. Y., in 1870. Upon graduation he entered his father's establishment and rose through successive clerkships to membership in the firm in 1875. He rapidly achieved importance in the mercantile world, became a member of the Chamber of Commerce and other commercial bodies, and served on various important committees. In 1881 he became candidate upon an independent ticket for Mayor of Brooklyn, and achieved a pronounced victory over James Howell. In 1882 he was elected for a second term over Joseph C. Hendrix. Resuming business after a brief term abroad, he, in 1890, succeeded Dr. Barnard as president of Columbia College. The institution at once received new life and vigor. He reorganized its departments and has put the university upon a sound financial basis, and it was through his initiative efforts that the splendid group of college buildings, now being completed on the heights of Morningside Park,—the site alone valued at $2,000,000—was erected. In 1897 President Low was a candidate for Mayor of New York City on the Citizens' Union ticket, but suffered defeat, through the division of the anti-Tammany parties. In 1898 he served as delegate to the Disarmament Conference at The Hague. In the Mayoralty campaign in New York City in 1901 a complete fusion of the Republican party with the Citizens' Union and

Herries, William (compiler). Brooklyn Daily Eagle Almanac: A Book of Information, General of the World, and Special of New York City and Long Island. (1902).
Original from Harvard University
http://books.google.com/books/download/Brooklyn_Daily_Eagle_Almanac.pdf?id=ExsrAAAAYAAJ&output=pdf&sig=ACfU3U1226VvsOsaXbtAcUSBC50fj81I2A&source=gbs_summary_r&cad=0

American Almanac Collection (Library of Congress)



A

CATALOGUE

OF THE

BOOKS MANUSCRIPTS AND MAPS

RELATING PRINCIPALLY TO

AMERICA

COLLECTED BY THE LATE

LEVI ZIEGLER LEITER

With Collations and Bibliographical Notes

BY

HUGH ALEXANDER MORRISON

WASHINGTON
PRIVATELY PRINTED
1907

PREFACE.

The collection of books and manuscripts described in this catalogue illustrates the interest taken by the late Mr. Levi Z. Leiter in American history and in rare and early printed books.

It is not often that a love for books finds a place in the life of an active business man, and still more rarely that a discriminating taste and exact bibliographical knowledge, such as Mr. Leiter displayed in bringing together this remarkably fine collection of rarities, accompany the talents which made him one of the preëminently successful business men of America. His correspondence with such scholars and bibliophiles as Dr. W. F. Poole, Rufus Blanchard, Henry Stevens, and Joseph Sabin indicates that his interest was continuous.

A perusal of the titles of the works contained in this library will indicate that it is the collection of a book-lover, that it consists of a well-balanced selection of works relating to America, and that it includes an exceptional number of rare works beyond the reach of the ordinary collector.

Among the works in geography, voyages, and travel are to be found Peter Martyr's First three decades of the new world, 1516, and the two English editions of 1612 and 1625, Hakluyt, Purchas, Thévenot, and Wytfliet.

New England is represented in the works of the Mathers, Eliot, Backus, Morton, Neal, Norton, Cotton, Hubbard, Bishope, Burrough, Byfield, Hutchinson, Josselyn, Letchford, Winthrop, and others of equal importance.

The works on New York include the rare Dutch work of Van der Donck, Horsmanden's Journal of the negro plot . . . burning the city of New York, 1744, and the rare copy of the Charter of the city of New York, printed by Peter Zenger in 1735.

Among the works relating to Pennsylvania are Penn's Letters of 1683 and 1688, his Further account of the Province, 1685, Budd's

Morrison, Hugh Alexander (born 1863) (cataloguer). The Leiter library. A catalogue of the books, manuscripts and maps relating principally to America, collected by the late Levi Ziegler Leiter. Washington: The Leiter family (1907). Levi Zeigler Leiter (1834-1904). University of California Libraries. Found at http://www.archive.org/details/leiterlibrarycat00leitrich.

Good order established, 1685 (the second issue of William Bradford's press), Thomas's Historical and geographical account, 1698. The collection of tracts relating to the province should also be noted.

New Jersey, Maryland, Virginia, the Carolinas, Georgia, and Florida are also represented by such writings as Acrelius, The Acts of Thomas Bray, 1700, Hamor, Keith, Beverly, Stith, Bonoeil, Williams, Jefferson's Notes (his own copy with marginal notes), Brief description of Carolina, 1666, Wilson's Account of Carolina, 1682, Carolina, 1682 (attributed to Thomas Ash), Oglethorpe's South Carolina and Georgia, 1732, Tailfer's Colony of Georgia, 1741, and Romans's East and West Florida, 1775.

Among the early works of Spanish and Portuguese writers are Voyages and discoveries in South America, 1698, A Relation of the invasion and conquest of Florida by the Spaniards, 1686, B. de las Casas and Zaráte.

This collection contains some of the earliest and most important books relating to the vast region of New France and Canada, such as Sagard-Théodat, Champlain, Lescarbot, Charlevoix, Hennepin, Lahontan, and Vaughan.

The literature of the French and Indian war and the American Revolution is fully represented. It would be well to note such works as the Historical account of the Bouquet expedition by Wm. Smith, Pouchot's Mémoires, the compilation by Moreau, containing Washington's Journal and Braddock's Letters, Parkman's works, a complete set of the Remembrancer, edited by John Almon, Phillips's Colonial and continental paper money, The Clinton and Cornwallis controversy, Simcoe's Journal, and the Court-Martial proceedings of André, Arnold, Lee, St. Clair, and Schuyler.

Among the other important works may be mentioned Audubon's Birds of America, the first edition of the Book of Mormon, the Confession of Faith, New London, 1710 (the first book printed in Connecticut). There are also many state and town histories.

Another very important feature of this library is the collection of books, pamphlets, and newspapers relating to the Confederate states. It is one of the largest private collections in existence today, and is nearly as complete as that in the Library of Congress. Many of these works were destroyed during the war, and

it would entail considerable time and expense to make such a collection today.

Some of the best specimens of the early American printers, such as the Bradfords, Franklin, Zenger, Jansen, and others, are contained in the collection.

Many of the books have been bound by Pratt, Bedford, Riviere, Tout, Matthews, and Zachnsdorf, and display some of their best workmanship.

The arrangement of this catalogue is in two divisions, alphabetically by authors. Part One, Americana, includes all books relating to America, or books by American authors, the literature of the Confederacy, and the original papers of David Hartley, consisting of letters and documents relating to the negotiations of the Definitive Treaty of Peace between Great Britain and the United States, 1783.

Part Two is a collection of miscellaneous literature. It includes some of the rarest works of the English writers, such as the first four folio editions of Shakespeare's works, the first five editions of Izaak Walton's Compleat Angler, the first folio edition of Spenser's Faerie Queene, the works of the Water-Poet, John Taylor, and others of equal importance.

The titles of the rare books are given in full, and in most cases line for line, with full collations and bibliographical notes. The sizes are given according to the usual method, with the measurements in centimeters (in parentheses) following. The measurements are in all cases those of the leaves and not of the bindings. In the cases of maps, however, the measurements are given in inches.

The compiler gratefully acknowledges the assistance extended to him by his associates in the Library of Congress, and more especially that rendered by his friend and colleague, Mr. George Thomas Ritchie, who has aided in the reading of the proof and by many helpful suggestions throughout the course of the work.

WASHINGTON, D. C.,
May 1, 1907.

CONTENTS.

LIST OF PLATES.

Published for the information of all sober People who/desire to know how the state of New-England now/stands, and upon what foundation the New Eng-/land Churches are built, and by whose strength/they are upholden now they are degenerated and/have forsaken the LORD./

The truth of which we are witnesses, (who by their cruel hands have suffered) { John Ross, John Copeland, Samuel Shattock } Strangers; { Nicholas Phelps, Josiah Southwick } Inhabitants.

Whereunto is annexed a Copy of a Letter which came/from one who hath been a Magistrate among them,/to a friend of his in London, wherein he gives an/account of some of the cruel suffering of the/people of God in those parts under the/Rulers of New-England, and their un-/righteous Laws./ *London: Printed in the Year* 1659.

20 pp., sm. 4°. (18 x 14 cm.) Half morocco, uncut. Brinley copy, No. 3566.

Signatures: A-B in fours, C in two.

"It contains the Laws and Proceedings of the General Court of Massachusetts, Plymouth, and New Haven, against the Quakers, 1656-59: followed by 'A true Copy of a Letter which was sent from one who was a Magistrate in New-England, to a Friend of his in London.' This is the letter of Capt. James Cudworth, of Scituate, for writing which he was disfranchised by the Plymouth Court. It was reprinted by Bishop, in *New-England Judged*, pp. 168-176. *See Palfrey's History of New England*, II, p. 533, *Deane's History of Scituate*, pp. 245-248."—*J. H. Trumbull.*

New Jersey. (Province.)

Speeches and Addresses/During the Sitting of the Assembly,/Begun at Burlington, the 28th Day of February, 1721. [Colophon]: *Philadelphia: Printed by Andrew Bradford, at the Bible in the Second Street*, [1721].

16 pp., Folio. (31 cm.) Mottled calf extra, gilt back and top edges, sides paneled, inside border, by F. Bedford. Uncut.

[Includes also:]

A Letter from the Lords of Trade and Plantations, to his Excellency Robert Hunter, Esq.; Captain/General and Governour in Chief of the Province of/New York, &c., concerning the Council's Amending of/Money Bills,/November 13, 1711, pp. 1-17; An Act for Support of the Government of New-Jersey, May 3, 1721, pp. 18-32.

pp. 18-32. (32½ cm.)

[Also:]

Journal/of the/Votes & Proceedings/of/The General Assembly of/his Majestys Province/of New-Jersey in America/[from Dec. 9 to 29, 1727]. [*Philadelphia: William Bradford*, 1727.]

14 pp., Folio 3 Nos. (32½ cm.)

New York. (State.)

Report of the Commissioners appointed by the governor under authority of a joint resolution of the two houses of the legislature of the State of New York, passed April 26, 1870, to revise the laws for the assessment and collection of taxes. David A. Wells, Edwin Dodge, George W. Cuyler, Commissioners. *Albany: The Argus Company*, 1871.

154 pp., 8°. Paper cover.

New York. (City.) *Charter.*

The/Charter/of the/City/of/New-York:/Printed by Order of the Mayor, Recor-/der, Aldermen and Commonalty of/the City aforesaid./To which is annexed,/The Act of the General Assembly Confirming the/same./ *New-York:/Printed by John Peter Zenger*, 1735./

52 pp., Folio. (31½ cm.) Contains the old wall paper cover. Sprinkled calf, sides paneled in plain calf, gilt back and edges, inside border, by F. Bedford. Fine copy.

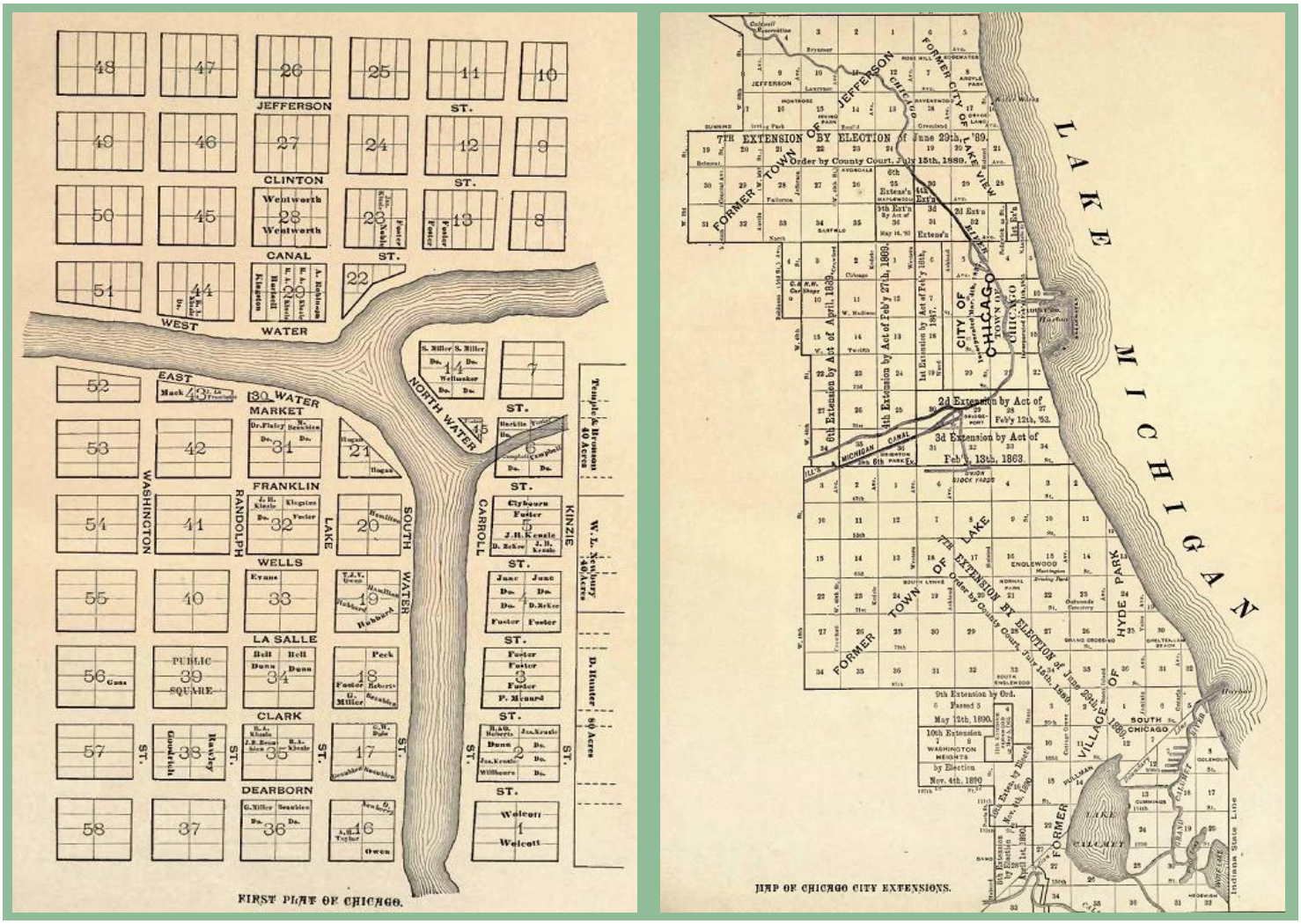
New York. (City.) *Authors' Club.*

Liber scriptorum. The first book of the Authors' Club. *New York: Published by the Authors' Club* [*De Vinne Press*], 1893.

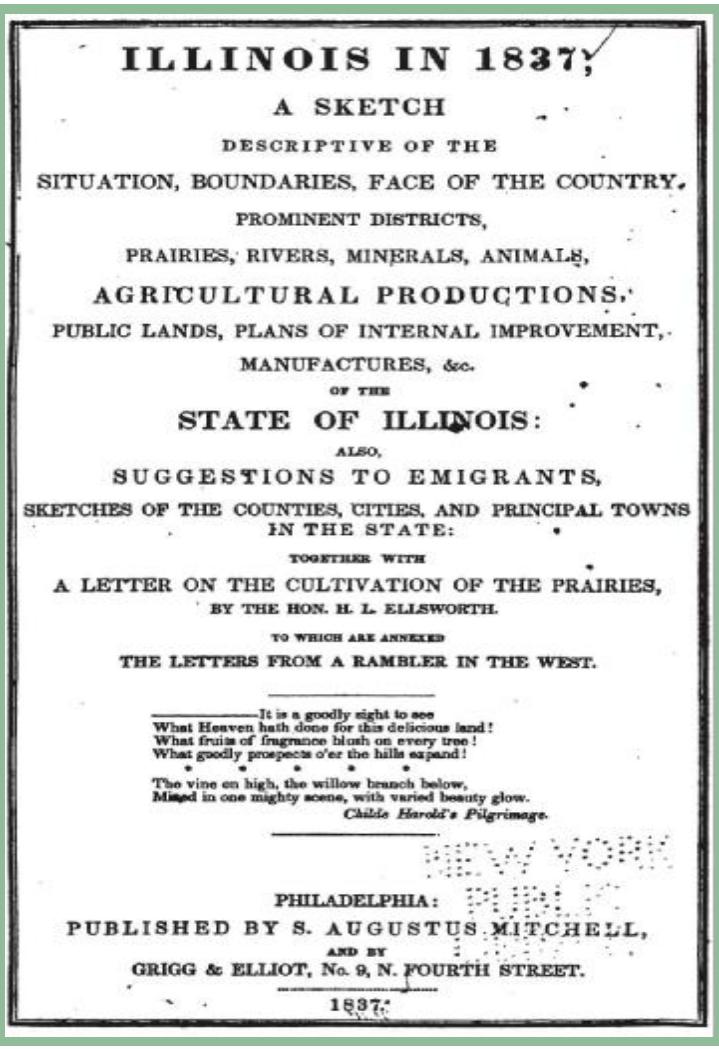
xvi pp. [1 l.], 501 pp., 4°. (32 x 22½ cm.) Full calf, blind tooling, top edges gilt. Paper specially made for the Authors' Club.

251 copies printed. 109 articles by different authors with signatures attached. This is No. 183.

Contents.—Abbey, H. To baffle time.—Adler, F. Sir Thomas Moore.—Alden, H. M. "Flammantia mœnia mundi."—Auringer, O. C. The road-builders.—Benjamin, M. A hero and a victim.—Bigelow, P. Russian rule as it is felt by ten millions of the unorthodox.—Bixby, J. T. Portals of beauty.—Black, A. The last pun.—Boner, J. N. A ball at Belvoir.—Bostwick, A. E. Credo.—Bowker, R. R. A song of nests.—Boyesen, H. H. The king's bastard.—Bridge, J. H. The gospel of over-consumption.—Brooks, E. S. Vatel.—Brooks, N. The books of an old boy.—Buel, C. C. Prayer of the practical politician.—Butler, N. M. The place of Comenius in the history of education.—Carey, W. Beethoven.—Carleton, W. The ghost of Sable island.—Carnegie, A. Genius illustrated from Burns.—Carpenter, W. H. The Southern cross.—Cary, E. An impression.—Chambers, J. Exactly zero.—Champlin, J. D. The fate



Industrial Chicago, The Building Interests, Volume 2. Chicago: The Goodspeed Publishing Company (1891).
Scanned by University of Illinois Library, Urbana-Champaign.
Found at http://www.archive.org/details/industrialchicag02good.



ILLINOIS IN 1837;

A SKETCH

DESCRIPTIVE OF THE

SITUATION, BOUNDARIES, FACE OF THE COUNTRY,

PROMINENT DISTRICTS,

PRAIRIES, RIVERS, MINERALS, ANIMALS,

AGRICULTURAL PRODUCTIONS,

PUBLIC LANDS, PLANS OF INTERNAL IMPROVEMENT,

MANUFACTURES, &c.

OF THE

STATE OF ILLINOIS:

ALSO,

SUGGESTIONS TO EMIGRANTS,

SKETCHES OF THE COUNTIES, CITIES, AND PRINCIPAL TOWNS IN THE STATE:

TOGETHER WITH

A LETTER ON THE CULTIVATION OF THE PRAIRIES,

BY THE HON. H. L. ELLSWORTH.

TO WHICH ARE ANNEXED

THE LETTERS FROM A RAMBLER IN THE WEST.

———It is a goodly sight to see
What Heaven hath done for this delicious land!
What fruits of fragrance blush on every tree!
What goodly prospects o'er the hills expand!
* * * * *
The vine on high, the willow branch below,
Mixed in one mighty scene, with varied beauty glow.

Childe Harold's Pilgrimage.

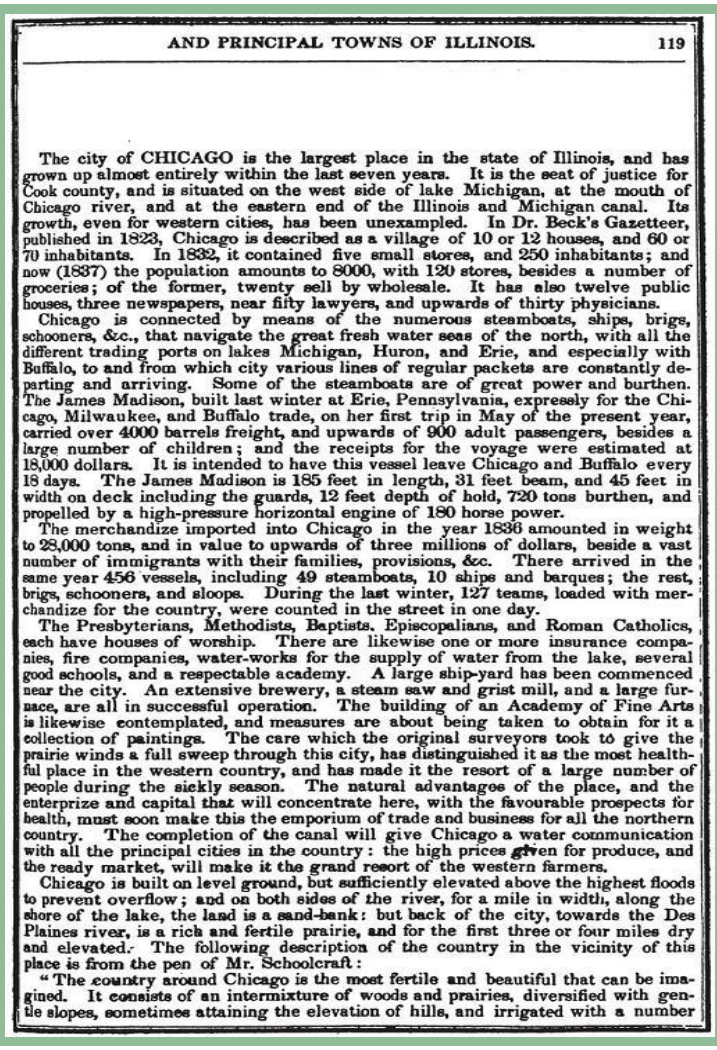
PHILADELPHIA:

PUBLISHED BY S. AUGUSTUS MITCHELL,

AND BY

GRIGG & ELLIOT, No. 9, N. FOURTH STREET.

1837.



The city of CHICAGO is the largest place in the state of Illinois, and has grown up almost entirely within the last seven years. It is the seat of justice for Cook county, and is situated on the west side of lake Michigan, at the mouth of Chicago river, and at the eastern end of the Illinois and Michigan canal. Its growth, even for western cities, has been unexampled. In Dr. Beck's Gazetteer, published in 1823, Chicago is described as a village of 10 or 12 houses, and 60 or 70 inhabitants. In 1832, it contained five small stores, and 250 inhabitants; and now (1837) the population amounts to 8000, with 120 stores, besides a number of groceries; of the former, twenty sell by wholesale. It has also twelve public houses, three newspapers, near fifty lawyers, and upwards of thirty physicians.

Chicago is connected by means of the numerous steamboats, ships, brigs, schooners, &c., that navigate the great fresh water seas of the north, with all the different trading ports on lakes Michigan, Huron, and Erie, and especially with Buffalo, to and from which city various lines of regular packets are constantly departing and arriving. Some of the steamboats are of great power and burthen. The James Madison, built last winter at Erie, Pennsylvania, expressly for the Chicago, Milwaukee, and Buffalo trade, on her first trip in May of the present year, carried over 4000 barrels freight, and upwards of 900 adult passengers, besides a large number of children; and the receipts for the voyage were estimated at 18,000 dollars. It is intended to have this vessel leave Chicago and Buffalo every 18 days. The James Madison is 185 feet in length, 31 feet beam, and 45 feet in width on deck including the guards, 12 feet depth of hold, 720 tons burthen, and propelled by a high-pressure horizontal engine of 180 horse power.

The merchandize imported into Chicago in the year 1836 amounted in weight to 28,000 tons, and in value to upwards of three millions of dollars, beside a vast number of immigrants with their families, provisions, &c. There arrived in the same year 456 vessels, including 49 steamboats, 10 ships and barques; the rest, brigs, schooners, and sloops. During the last winter, 127 teams, loaded with merchandize for the country, were counted in the street in one day.

The Presbyterians, Methodists, Baptists, Episcopalians, and Roman Catholics, each have houses of worship. There are likewise one or more insurance companies, fire companies, water-works for the supply of water from the lake, several good schools, and a respectable academy. A large ship-yard has been commenced near the city. An extensive brewery, a steam saw and grist mill, and a large furnace, are all in successful operation. The building of an Academy of Fine Arts is likewise contemplated, and measures are about being taken to obtain for it a collection of paintings. The care which the original surveyors took to give the prairie winds a full sweep through this city, has distinguished it as the most healthful place in the western country, and has made it the resort of a large number of people during the sickly season. The natural advantages of the place, and the enterprize and capital that will concentrate here, with the favourable prospects for health, must soon make this the emporium of trade and business for all the northern country. The completion of the canal will give Chicago a water communication with all the principal cities in the country: the high prices given for produce, and the ready market, will make it the grand resort of the western farmers.

Chicago is built on level ground, but sufficiently elevated above the highest floods to prevent overflow; and on both sides of the river, for a mile in width, along the shore of the lake, the land is a sand-bank: but back of the city, towards the Des Plaines river, is a rich and fertile prairie, and for the first three or four miles dry and elevated. The following description of the country in the vicinity of this place is from the pen of Mr. Schoolcraft:

"The country around Chicago is the most fertile and beautiful that can be imagined. It consists of an intermixture of woods and prairies, diversified with gentle slopes, sometimes attaining the elevation of hills, and irrigated with a number

Illinois in 1837, A Sketch. Philadelphia: S. Augustus Mitchell and Grigg &Elliot (1837).

Found at
http://books.google.com/books/download/Illinois_in_1837.pdf?id=bZwZAAAAYAAJ&output=pdf&sig=ACfU3U2Sno7yGC3hObypyLM2JE2lwxIYMg

of clear streams and rivers, which throw their waters partly into lake Michigan, and partly into the Mississippi river.—As a farming country, it unites the fertile soil of the finest lowland prairies, with an elevation which exempts it from the influence of stagnant waters, and a summer climate of delightful serenity; while its natural meadows present all the advantages for raising stock, of the most favoured part of the valley of the Mississippi. It is already the seat of several flourishing plantations, and only requires the extinguishment of the Indian title to the lands, to become one of the most attractive fields for the emigrant. To the ordinary advantages of an agricultural market-town, it must hereafter add that of a depôt for the inland commerce between the northern and southern sections of the union, and a great thoroughfare for strangers, merchants, and travellers."

Along the north branch of the Chicago, and the lake shore, are extensive bodies of fine timber. Large quantities of white pine exist in the regions towards Green Bay, and about Grand river in Michigan, from which lumber in any quantities is obtained, and conveyed by shipping to Chicago. Yellow poplar boards and plank are brought across the lake from the St. Joseph's river. The mail in post-coaches from Detroit, arrives here tri-weekly, and departs for Galena, for Springfield, Alton, and St. Louis, and for Danville and Vincennes.

The United States has a strip of elevated ground between the town and lake, about half a mile in width, on which Fort Dearborn and the light-house are situated, but which is now claimed as a pre-emption right, and is now in a course of judicial investigation.

Fort Dearborn was for a considerable period occupied as a military station by the United States, and garrisoned generally by about three companies of regular troops; but the expulsion of the Indians, and the rapid increase of settlements at all parts of this region, have rendered its further occupancy as a military post unnecessary: in consequence, the troops have been recently withdrawn. It consists of a square stockade, inclosing barracks, quarters for the officers, a magazine, provision store, &c., and is defended by bastions at the northern and south-east angles.

During the last war with Great Britain, this place was the scene of a most foul and bloody tragedy. In 1812, in consequence of the disgraceful surrender of general Hull at Detroit, it was determined to abandon the fort. A number of the troops, shortly after leaving it, were inhumanly murdered by the savages, who lay in ambush on the margin of the lake.

The following account of this affair is extracted from M'Afee's History of the late war in the western country. "On the morning of the 15th (Aug.) at sunrise, the troops, consisting of about 70 men, with some women and children, marched from the fort with pack-horses in the centre, and captain Wells with his Indians in the rear. They had proceeded about a mile from the fort, when the front guard was fired on by the savages, who were posted behind a sand-bank on the margin of the lake, and in a skirt of woods which the party were approaching; the rest of the country around them being an open prairie. At the same time, they saw a body of Indians passing to their rear, to cut off their retreat to the fort. The firing now became general, and the troops, seeing nothing but death and massacre before them, formed in line of battle, and returned the fire of the enemy with much bravery and success, as they slowly retreated in the prairie. The Indians made several desperate efforts to rush up and tomahawk them; but every charge was repulsed by the firmness of the troops, who fought with desperation, determined to sell their lives as dear as possible. Captain Wells being killed, his Indians retired from the party and joined the others. Several women and children were also killed; and our ranks were at last so reduced, as scarcely to exceed twenty effective men: yet they continued resolute, and stood together, resolved to fight while one remained able to fire. But the Indians now withdrew some distance, and sent a small French boy to demand a surrender. The boy was captain Heald's interpreter, who had run off to the Indians at the commencement of the action. He advanced cautiously; and Mr. Griffith, who was afterwards a lieutenant in a company of spies in colonel Johnson's regiment from Kentucky, advanced to meet him, intending to kill him for his perfidy. But the boy declared, that it was the only way he had to save his life, and appeared sorry that he had been obliged to act in

that manner. He then made known his business; the Indians proposed to spare the lives of our men, provided they would surrender. The proposal being made known to the surviving soldiers, they unanimously determined to reject it. The boy returned with this answer to the Indians; but in a short time he came back, and entreated Mr. Griffith to use his influence with captain Heald, to make him surrender, as the Indians were very numerous. The captain, his lady, and Mr. Griffith, were all wounded. He at last consented to surrender; and the troops having laid down their arms, the Indians advanced to receive them; and notwithstanding their promises, they now perfidiously tomahawked three or four of the men. One Indian, with the fury of a demon in his countenance, advanced to Mrs. Heald, with his tomahawk drawn. She had been accustomed to danger; and knowing the temper of the Indians, with great presence of mind, she looked him in the face, and smiling said, "Surely you would not kill a squaw." His arm fell nerveless; the conciliating smile of an innocent female, appealing to the magnanimity of a warrior, reached the heart of the savage, and subdued the barbarity of his soul. He immediately took the lady under his protection. She was the daughter of general Samuel Wells of Kentucky. The head of captain Wells was cut off, and his heart was cut out and eaten by the savages.

"The Indians having divided their prisoners, as usual in such cases, it was the fate of captain Heald, his lady, and Mr. Griffith, to be taken by the Ottawas on the lake beyond the mouth of the river St. Joseph. Their wounds being severe, they looked upon destruction as inevitable; but Heaven often smiles when we least expect it. Griffith had observed a canoe, which was large enough to carry them; and they contrived to escape in it by night. In this frail bark they traversed the lake 200 miles to Mackinaw, where the British commander afforded them the means of returning to the United States."

After the war, this fort was repaired, and again taken possession of by the American troops; since which time, it has always been, until lately, occupied by a garrison.

DECATUR, the seat of justice for Macon county, is situated on the west side of the North Fork of Sangamon river, on the borders of an extensive prairie, and on a dry, elevated, and healthful site. This place contains at present a population of about 300 or 400, and promises eventually to be one of the first inland towns in the state. Its future growth and greatness are predicated on the surest grounds. It is so far from any river towns, that it can never be overshadowed by their prosperity; while the internal improvements now going into effect, must place it in the first rank as an interior trading town.

The rail-road from the Mississippi to the Wabash, which, by the act of the last session, is to take precedence of the other rail-roads in the time of its construction, is to pass through Decatur; this place is also a point in the great central rail road, which is to connect the Ohio with the northern part of the state. Decatur, being thus at the intersection of these two rail-roads; being also far in the interior, and in the midst of a section of country fertile and rapidly increasing in population, enjoys every advantage for a first-rate trading town. It is probable that no town in the state will be more, and hardly any one as much benefited by the present system of internal improvements, as Decatur. The place too is decidedly healthy, it is in a rich and important county, and surrounded by extensive settlements.

The town contains several stores, and has a number of mechanics and professional men.

EDWARDSVILLE, the seat of justice for Madison county, is on the south bank of Cahokia creek, and is pleasantly situated on the high ground which bounds the American Bottom. It is in the centre of a fertile and healthful country, well watered and timbered, and gently undulating; presenting at once to the agriculturist a most desirable place for residence. The vicinity of the town is settled with thrifty and enterprizing farmers.

Edwardsville is composed of the old town, laid out in 1815; and the new town, which was laid out about five years afterwards. It is situated 21 miles north-east

The University of Chicago
FOUNDED BY JOHN D. ROCKEFELLER

STUDIES IN POLITICAL SCIENCE

THE CHARTERS OF THE CITY OF CHICAGO

BY

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Professor in the University of Chicago

PART I

THE EARLY CHARTERS
1833–1837

CHICAGO
The University of Chicago Press
1898

BY THE SAME AUTHOR

MUNICIPAL ECONOMY IN PRUSSIA. *The Nation, 1881.*

THE RELATION OF THE MODERN MUNICIPALITY TO THE GAS SUPPLY. *American Economic Association, 1886.*

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CHAPTER I.

Introduction to the Early Charters of Chicago.

An adequate account of the founding and growth of cities in the territory northwest of the Ohio river would be a most interesting chapter in the history of each of the five great states which have been carved out of this district. The material for such an account lies at present scattered through statute books, legislative reports, local histories, town and city records, pamphlets, newspapers, recollections of old citizens, etc., in such a way as to make it difficult for one to ascertain its whereabouts, to say nothing of utilizing it as would be necessary in order to prepare a history of this movement at once accurate and comprehensive. Much work will have to be done in detail by many different individuals, each working over the materials of his own locality, before it will be possible for anyone to present a satisfactory view of the movement as a whole.

The present pamphlet contains the texts of certain documents of importance, the legislative charters, relating to the history of one of these great city units—up to the present time, the greatest of them all. These documents are of special significance in the case of Chicago, since, taken together, they form a fairly adequate means of writing, from one point of view at any rate, the history of the city. One can trace in the charters themselves the development of city government in Chicago perhaps more completely than in the case of almost any other of the great cities in this region. Chicago began its career as a council-ruled and council-organized city; that is, the entire power of the corporation both for organization and administration was practically vested in the council. The mayor and other officials were, so to speak, mere agents of the council, subject in nearly all respects to its orders and ordinances. Even

at the present time, the council of the city of Chicago has more authority than the council of any other of our great American cities. Although the mayor has become to a large extent an independent authority, with a certain sphere of action quite beyond the control of the council, still the latter body can direct his action more immediately in many regards than is the case in New York or Philadelphia. The process of development from a council-governed city to one in which a large degree of independent action is assigned to the mayor and other executive departments is reflected in the charters themselves in such a way as to make the study of these of peculiar value to anyone interested in the evolution of municipal government.

The present pamphlet contains (1) the general law for the incorporation of towns, passed by the legislature of Illinois February 12, going into effect March 1, 1831, under which Chicago was first organized as an incorporated town August 12, 1833; (2) the first special legislative act incorporating the town (extending the powers conferred upon it by the general act), dated February 11, 1835; (3) the second special legislative act or charter incorporating the city of Chicago, bearing date of March 4, 1837; (4) two or three special acts amending the general or special acts concerning town or city powers.

Many changes were made in the act of 1837 during the next ten or fifteen years, but it was not very radically altered until after 1850, so that it fairly represents the system under which the youthful city was governed during this early period.

As an introduction to the study of the charters, a glance at the development of municipal government in the Northwest may be of interest.

Although permanent settlements had been effected by the whites at various points in the district afterwards known as the Northwest Territory, nearly or quite one hundred years before the citizens of the United States located and settled the town of Marietta in 1788, yet there is no indication that any of these settlements had acquired the dignity or importance of incorporated municipalities. This is to be explained, first of all, by

the fact that the settlements never became populous enough to demand such recognition. They were, generally speaking, mere forts, with a scattered farming or hunting population growing up about them, which, so far from civilizing the Indian population, was rather tending to become Indian itself in character and habit. France, moreover, to whom this territory belonged in the early part of the period, did not in her colonial policy favor the development of that independent spirit which is more or less the accompaniment of municipal autonomy. Her colonies were distinctly colonies of the mother country, existing for the benefit of the latter, and no tendency was permitted to develop which might threaten this relationship. The territory which was ceded to England by the treaty of Paris in 1763 was in her possession for too short a period prior to the Revolution to enable her to develop any municipal policy in connection with it; while the utterly disorganized condition of things after the Revolution down to the passage of the ordinance of 1787, so far from favoring the development of independent municipalities, threatened to put an end even to the settlements themselves.

With the permanent organization of civil government in 1788 a new era began. The settlement of Marietta, Columbia, Cincinnati, Dayton, and other places within the present state of Ohio, all within three or four years after the passage of the ordinance of 1787, testified to the attractive power of this new region to the inhabitants of the eastern states. But even so, no charters of incorporation were granted to these new villages and towns during the few remaining years of the eighteenth century. In the first place, probably because the towns themselves were still too small, and the functions of their government still too few to make it worth while to organize the machinery of village or city government. This, all the more because the system of county and township government, adopted from the beginning, made any other form of local government unnecessary for the time being.

There was probably still another reason. The Northwest

Territory had at first no representative legislative assembly in the strict sense of that term. The governor and judges were constituted a legislative board, with authority to select such laws from the codes of the older states as they might deem suitable for the new territory. It is evident that such a scheme contemplated, primarily at any rate, the adoption of general as distinct from local laws. These officials, moreover, got into a conflict almost immediately as to the scope of their powers, the effect of which was to discourage any exercise of authority not clearly conferred, which of itself would probably have acted as a bar to the granting of local charters. It was, moreover, expected that a representative assembly would soon be organized, and that the territory, or at least the eastern portion of it, would soon be admitted as a state, and there was consequently an inclination to defer everything possible to that period.

But even after the territorial assembly was constituted, in 1798, no charter of incorporation was granted until after the territory had been divided and Indiana set off as a separate territory. This took place July 4, 1800, under the act of May 7, 1800, and at the meeting of the next legislature, in the autumn of 1800 the policy of incorporating towns and cities was begun.

The town of Marietta was incorporated by an act of the territorial legislature of December 2, 1800. By a similar act, dated December 6, of the same year, the town of Athens was confirmed and established. In the month of January, 1802, three towns were incorporated, two of which were destined to become great cities. These were the towns of Cincinnati, January 1; the town of Chillicothe, January 4, and the town of Detroit, January 8. From this time on the incorporation of towns proceeded apace.

The Board of Governor and Judges in the Indiana territory, to which, following the precedent set in the Northwest Territory, was intrusted the legislative power, evidently took the same view of the subject of incorporation as their predecessors in the Northwest Territory, for they granted no charters of incorporation. But at the first session of the first general assembly of the Indiana territory, begun July 29, 1805, a charter was granted to the borough of Vincennes by an act of August 24, 1805; and by an act of a few days later the town of Kaskaskia on the Mississippi river was also granted the right to select a board of trustees.

The territory of Michigan, which was set off from Indiana January 11, 1805, preserved the simple legislative organization under which the Board of Governor and Judges made the laws for a longer period than either Ohio, Indiana, or Illinois. It was perhaps natural, therefore, that the Board of Governor and Judges found itself compelled to legislate upon the subject of village government within the boundaries subject to its jurisdiction. We find two early acts passed September 13, 1806, by this board, one of which determined the boundaries of the town of Detroit, the second of which declared the town of Detroit to be a city. This was the first act in which this term was used of a western settlement. On October 24, 1815, the original act of 1802 incorporating the town of Detroit was revived. During the period from 1806 to 1815, the mayor of Detroit seems to have been appointed by the governor, but from 1815 to 1824, when another general act was passed, there seems to have been no officer called mayor. The town was ruled by a board of five trustees, who chose their own chairman.

The territory of Illinois, organized by the act of February 3, 1809, seems likewise to have had no occasion to incorporate any towns during the rule of the governor and judges, from March 1, 1809, when their authority began, to November 25, 1812, when the first assembly met. The first assembly seems to have taken no steps in regard to the matter, and the earliest law relating to the incorporation of a town within the present limits of the state of Illinois passed by the Illinois legislative authorities was one incorporating Shawneetown. The act was dated December 8, 1814. It appointed five trustees, to serve until their successors could be elected. They were authorized to levy a tax upon the value of the land, without considering the value of houses and other improvements. This tax might not

exceed 2 per cent. on the valuation. The proceeds were to be used for surveying the town, paying the expenses of its officers, cleaning and keeping in repair the streets, and such other improvements as might be deemed expedient and necessary by the board of trustees. The latter were authorized to make such by-laws, rules, and ordinances for the good regulation of the said town as should to them seem meet, if not inconsistent with the laws of the territory or the ordinance. It was made their duty to establish a public burying ground.

On the 15th of the same month, the town of Kaskaskia was permitted to elect commissioners to lay out the town and establish a plat, from which action it would seem that the trustees whom the town had been authorized to elect under the act of 1805 had not performed this particular duty.

On December 19, 1814, the first general act was passed in Illinois for the establishment of towns. It had to do, however, rather with the condition under which persons might found and lay out towns than with the powers of the town authorities after they were once constituted. Among the last acts passed by the territorial legislature was one dated January 6, 1818, incorporating the town of Kaskaskia, giving to it essentially the same authority as had been given to the village of Shawneetown. At the same session of the legislature, January 9, 1818, a charter of incorporation was granted to the city and bank of Cairo. This act is an illustration of the policy which was to become a favorite one with the legislature of the state of Illinois, as it had been with other western states, that of incorporating an institution of some kind and a town at the same time. Thus many charters were granted providing for the incorporation of an academy, whose trustees were to serve also as town trustees until the election of their successors. There was evidently a growing belief in the necessity of towns in the country, and a willingness on the part of the legislature to grant charters to anybody who would agree to lay out and develop them. Finally, February 12, 1831, a general act was passed, to go into effect March 1, of the same year, under which the inhabitants of any

district might organize and receive the rights of an incorporated village in accordance with the provisions of the law. It was under this law that the town of Chicago was first incorporated.

The original town of Chicago was laid out as an incident to the building of a canal from the Illinois river to lake Michigan, although the importance of the present site of the city had received official recognition a generation earlier in the treaty of Greenville. By this treaty, made August 3, 1795, between the federal government and the Indians, a tract six miles square at the mouth of the Chicago river was ceded to the federal government. No use was made of this cession, however, until 1803, when the United States ordered the construction of a fort at the mouth of the river. This fort, erected in 1803–4, was called Fort Dearborn. A small settlement grew up about it, consisting of fur traders and dependents of the fort. In spite of what were in many respects unfavorable surroundings, it being at the best a mere outpost in the midst of an unbroken Indian territory, it seemed to be in a fair way to grow steadily. The outbreak of the war of 1812, however, forced the government to order the evacuation of the fort. The threatening attitude of the Indians led the entire population of the settlement to follow the garrison. Shortly after they left the fort, they were attacked by the Indians, August 16, 1812, and many of the party massacred, and for four years the region remained uninhabited. At the close of the war an additional cession of land in this region was made by the Indians to the United States in the treaty of St. Louis, concluded August 24, 1816. The tract then ceded was about twenty miles wide, and extended from lake Michigan to the Kankakee and Fox rivers. It was bounded on the south by a straight line beginning on the shore of lake Michigan, ten miles south of the mouth of the Chicago river, and running to a point on the Kankakee ten miles above its mouth. The northern boundary line began at a point on the lake shore ten miles north of the mouth of the Chicago river, and extended, with a set-off or two, parallel with the south line, until it reached a point on the Fox river ten miles above its

mouth. The city has now grown up to and even beyond these Indian boundary lines for a part of their course.

Fort Dearborn was immediately rebuilt, and a settlement began to grow up again around its wooden walls. The Indian boundary lines mentioned above were run in 1818 by the federal surveyor, and thus a large tract was secured for white settlement in the midst of what was an otherwise wild Indian country.

The admission of Illinois to the Union, with a boundary line far to the north of the lower end of the lake, instead of one running due west from its southernmost point, as had been proposed at first, revived the question of a canal to connect the waters of the Mississippi with those of the great lakes through the Illinois and Desplaines rivers. The route from the great lakes to the Mississippi, through the Chicago river to the Desplaines, had long been known. It involved only a very short portage even in dry times, and during the wet period of the spring and autumn it was quite possible to go by canoe all the way from Niagara Falls to the Gulf of Mexico. Here was evidently the place for a canal. It was so plain, and the desirability of opening this route had suggested itself to so many different people, that it is difficult to tell who proposed it first, unless the statement that Joliet proposed it in 1673 be true. It did not become, however, a serious matter for discussion until the title to the lands along the proposed route passed from the possession of the Indians to that of the United States government in 1816. From this time on the agitation of the subject did not cease, although it was more than thirty years before the canal was actually finished.

A formal report on this subject was made by Major Stephen H. Long March 4, 1817, and communicated to the house of representatives by the war department, December 28, 1819.[1] As early as March 30, 1822, Congress passed an act permitting the state of Illinois to cut a canal through the district obtained from the Indians in 1816, from the mouth of the Fox river to

[1] *American State Papers*, Miscell., Vol. XXI, p. 556.

lake Michigan, granting to the state a tract ninety feet wide on each side of the canal. It also appropriated the sum of $10,000 for preliminary surveys. February 14, 1823, the state of Illinois appointed a commission to survey the route of the canal. In the autumn of 1823, and again in 1824, exploring trips were made through this region, and the commissioners made a report in January, 1825. On the 17th of the same month the legislature passed an act incorporating a canal company. It proved impossible, however, to float the company within the next year, and the act was repealed at the next session of the legislature in 1826. The same legislature memorialized Congress, asking for a large grant of land to assist in constructing the canal, the idea being that the building of a canal would increase the value of the land lying along the route to such an extent as to enable the state to pay the entire cost of constructing it by the proceeds of the sale of such lands. It was a favorite idea with the legislatures of that date in the Mississippi valley that public improvements could be paid for in this way out of the value conferred upon the adjacent lands, an idea which was destined to bitter disillusionment at more points than one.

In answer to the petition of 1826, Congress passed an act March 2, 1827, granting a tract of land equal to one-half of five sections in width, on each side of the proposed route, each alternate section being reserved by the government. This grant included about 284,000 acres, an amount amply equal to defraying the expenses of the canal, if the anticipations of its promoters as to the rise in price of the lands should be justified, and their estimate of its cost as below $700,000 should prove true.

Finally, on January 22, 1829, another act was passed providing for the appointment of three commissioners who, in addition to the usual powers, were authorized to lay out towns along the proposed route. It was natural that towns should first be laid out at the proposed termini. Accordingly the town of Ottawa was laid out at the southern end, and Chicago was laid out at the upper end, being located around the forks of the river. The plat of the town of Chicago filed with the county commis-

sioners of Peoria county is dated August 4, 1830, and this may, therefore, be taken as the official date of the founding of Chicago.

Various obstacles arose to the building of the canal, and it was more than eighteen years after the laying out of Chicago before the first boat passed through the locks from the Illinois river to lake Michigan. The town of Chicago, however, had at any rate been located, and from this time on its future was assured, although it was destined to experience many vicissitudes.

The canal commissioners laid out the whole town on section 9, in township 39 north, range 14 east of the third principal meridian. This section includes all the land about the forks of the Chicago river, and the original plat contained the territory now bounded by State, Madison, Desplaines, and Kinzie streets. It is interesting to note that the commissioner of the general land office of the United States had proposed to Congress on March 22, 1830, that the federal government should lay off a town at the mouth of the river, on fractional section 10, which included the land lying east of State, north of Madison, south of Kinzie, up to the lake shore, *i. e.*, practically the military reservation. The commissioner argued that it would be easy for the state to extend the town to the west by laying off an addition on section 9, which was one of the canal sections. It was thus, perhaps, a mere accident that Chicago was not founded by the federal government instead of by the state canal commissioners.

An event happened soon after this which called attention to Chicago, and gave a decided impetus to its growth. Cook county was organized January 15, 1831, and its county seat was fixed at the town of Chicago as laid out by the canal commissioners. Thus it received the official recognition, a matter of no mean importance in those days, of being made the seat of government for the whole northeastern portion of the state, for Cook county included at the time of its organization all the shore line of lake Michigan within the bounds of the state,

embracing nearly all of the present Cook, Will, Henry, and Lake counties.

But even with this great advantage, the future of the little town was not assured, except to those who walked by faith instead of by sight. It was surrounded by Indian lands on the south, north, and west, and it looked as if some years might elapse before the Indians could be persuaded to cede their lands and remove to the west; while it was plain that Chicago had a future of little promise until this could be effected. Just at this time an event occurred which seemed for a while likely to give a decided setback to the growth of the town, but which soon proved to be a source of the greatest benefit. Black Hawk, an Indian chief, who had been removed with his tribe beyond the Mississippi, decided to try to regain possession of his lands in the present northern Illinois and southern Wisconsin by force. He recrossed the Mississippi early in the spring of 1832 and terrorized the whole northern portion of Illinois until August of the same year, when he suffered a serious defeat. The terror of an Indian war drove all the settlers from the outlying country into Chicago, and many left the region never to return. But, on the other hand, many persons came to Chicago from different portions of the west to take part in the military movements against Black Hawk. They became acquainted with the character of the country, became enthusiastic about its future, and as soon as the Indian war was closed, and the Indians removed beyond the Mississippi, all fear of future conflicts being over, they and their friends stood ready by the hundreds to take up the lands thus vacated by the Indians. It now became plain, moreover, that it would not be long until the Indians in the neighborhood of Chicago itself would have to cede their lands also, and in view of the evident line of development settlements in and about Chicago began to go on more rapidly than before. A long series of negotiations was carried on with the Indians, which resulted in the final extinguishment of Indian titles, September 26, 1833, and the throwing open of all the lands in and about Chicago to white settlement, thus opening the

way for the marvelous growth of the city and surrounding region.

In anticipation of the final departure of the Indians and the consequent rapid growth of the town, the inhabitants decided in the summer of 1833 that the village should be incorporated so as to take care properly of its growing interests. Following the provisions of the act of 1831 before referred to, a mass meeting of the citizens was called, probably in the latter part of July, or early in August, at which the question of the advisability of incorporation was put to popular vote. Only thirteen voters appeared, and one of them was not really an inhabitant of the town proper. Twelve votes were cast in favor of incorporation, and one against, the latter being cast by the non-resident. In accordance with this vote, a call, dated August 5, 1833, was issued by the clerk of this meeting for an election of town trustees, to be held on the 10th of August. At this date twenty-eight voters appeared, and five trustees were elected, who met for organization August 12, and decided to meet regularly the first Wednesday in each month. Thus the town of Chicago dates its legal existence from August 12, 1833.

Still another important event had occurred a little before the calling of this mass meeting, which was destined to be of infinite importance to the future of the town. On July 1, 1833, federal officials began the work of making the harbor, for which Congress had appropriated $25,000 by an act of March 2, of the same year. Up to this time the entrance to the river, which was much to the south of the present entrance, being indeed at the foot of the present Madison street, was so shallow that under ordinary circumstances only canoes and other light craft could get into the river at all. It was now proposed to cut an entrance from the main channel directly to the east through the neck of land which at that time, lying across the mouth of the river, deflected it to the south. By barring the channel to the south it was thought possible to force the water directly out to the eastward, and thus cut a deep channel by force of the current itself. The erection of two piers, one on the north side and one

on the south side of the proposed channel, was the beginning of the magnificent harbor which has since been made. With the federal government at work on the harbor, the state planning a canal, and the Indian titles to the surrounding lands extinguished, Chicago entered upon its existence as an incorporated town in the autumn of 1833.

The estimates of the population of the town at the time of its incorporation are very various, and probably all are more or less untrustworthy. It is a question whether there were the 150 inhabitants necessary for town incorporation under the law of February 12, 1831 (in effect March 1, 1831), within the area included in the the first town limits, although it is estimated that there was a population of about 350 in and immediately about this area. A town census taken in 1835 showed a population of 3,265, and the first census of the city, taken July 1, 1837, showed a total population of 4,170. The area of the city at the time of the census of 1837 was very much larger than the area of the town as first incorporated under the general act of 1831, so that the actual increase in the density of the population was probably far less than the figures above quoted would seem to show, but, at any rate, all the evidence at hand favors the view that the population was increasing during the years 1833–36 at a phenomenal rate. The year 1834 saw such a decided addition to the population of the settlement, and the prospects for a still further increase were so good, that the inhabitants felt the need of extending the powers of the town trustees to enable them to cope with the growing complexity of town problems. They accordingly applied to the legislature for an extension of powers, and an act was passed February 11, 1835, which increased the number of the trustees, enlarged their functions, and raised the area from about three-eighths of a square mile to two and two-fifths square miles. The enlarged boundaries were Chicago avenue, Halsted street, Twelfth street, and the lake, excepting the land about Fort Dearborn, which was still a military reservation. It will be seen by an examination of the text of this act that the special needs of the town of Chicago were recognized

much more fully than would have been possible under any general law. The various provisions of the charter revealed the difficult points in Chicago's government, such as the treatment of the wharfing privileges, and the peculiarities of its topography, as shown by the recognition of the three districts into which the growing community was already divided.

But the act of February 11, 1835, had hardly passed into good working order until the pressure of population and the anticipations of the future again called attention to the need of a new and more liberal charter. This time, however, the inhabitants began to talk of a city charter, and the belief in the future of the town was so strong as to command practically unanimous sentiment in favor of a considerable enlargement of municipal powers and functions. One of the newspapers suggested that Chicago could not afford to wait until it could work out an ideal charter. It must begin with the best one it could draft on short notice, and, like its counterparts on the seaboard, alter the provisions of the charter as experience might dictate, until it obtained one thoroughly suited to its needs. The city evidently took this doctrine to heart, for it has been laboring at this task ever since.

On November 18, 1836, the town trustees ordered that the president of the board should invite the citizens of the three districts of the town to meet in their respective districts and select three suitable persons to meet with the board of trustees on November 24, and consult on the expediency of applying to the legislature of the state for a city charter, and adopt a draft to accompany such application. Meetings were held, and such a delegation selected in each district. The result of the union conference was the appointment of a committee, consisting of two members of the board and one citizen from each of the divisions of the city, to draft a charter. A charter was prepared by this committee, and submitted to the people at a mass meeting for approval, Monday, January 23, 1837, at the Saloon building. After some slight alterations, the charter was approved and sent to the legislature, where, after certain amendments, it

was enacted into law on March 4, 1837. The first city election was held on May 2, from which time may be dated the existence of Chicago as a city.

The first city charter is of interest from many points of view. It was, in the first place, drafted by the city itself and proposed to the legislature as the sort of charter which the city desired, involving thus a practical recognition of local self-government on a large scale. It remained without any essential change for more than ten years, and without any very radical change until into the fifties. It was, in a certain sense, a mere expansion of the old town charter, though, from another point of view, it was quite different in many of its fundamental provisions. It would hardly have been possible to develop a government under the town charter equal to the demands of the growing community, while under the latter, adequate powers were conferred to start the young city on its remarkable career of expansion. The area of the municipality under this charter was increased from three-eighths of a square mile at date of original incorporation, and from the two and two-fifths square miles under the act of 1835, to more than ten square miles. The boundaries of the city were the present North avenue, Wood street, Twenty-second street, and the lake, excepting the same military reservation about Fort Dearborn, which was bounded by State, Madison, the lake and the river. They also included a small tract on the lake-shore just north of North avenue, used as a cemetery by the city.

Under the city charter all corporate power was vested in the council, consisting of the mayor and aldermen. The mayor was, however, little more than a figure head. He was presiding officer of the council, but had no veto, and not even a vote, unless there was a tie. Nearly all the officials of the city were appointed by the council and made subject to its immediate direction. The council not only organized the various city departments under its ordinances, but it governed the city through these departments as its own immediate agents. It formed an absolute contrast to the present government of the

city of New York, for example, in which the council has been relegated to a very subordinate position, while the various administrative departments have been largely made independent of its control. A careful study of the texts of these early charters will be worth the while of any student of municipal government.

CHAPTER II.

First Charter of the Town of Chicago.

[General law for the incorporation of towns, under which the town of Chicago was first incorporated. Passed February 12, 1831, and in force March 1, of the same year.[1] Date of actual organization of the town, August 12, 1833.]

Section 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That whenever the white males over the age of twenty-one years, being residents of any town in this state, containing not less than 150 inhabitants, shall wish to become incorporated for the better regulation of their internal police, it shall be lawful for the said residents, who may have resided six months therein, or who shall be the owner of any freehold property therein, to assemble themselves together, in public meeting, at the courthouse or other place in said town, and when so assembled, they may proceed to choose a president and clerk of the meeting from among their number, both of whom shall be sworn, or affirmed, by any person authorized to administer oaths, faithfully to discharge the trust reposed in them as president and clerk of said meeting; provided, however, that at least ten days' public notice of the time and place of holding such meeting, shall have been previously given by advertising in some newspaper of the town, or by setting up written notices, in at least three of the most public places in such town.

Sec. 2. The residents, as aforesaid, of any town having assembled as directed in the first section of this act, may proceed to decide by vote, *viva voce*, whether they will be incorporated or not, and the president and clerk, after their votes are given in, shall certify under their hands, the number of votes, in

[1] *Cf. Laws of Illinois*, Vandalia, 1831, p. 82 and ff.

favor of being incorporated, and the number against being incorporated; and if it shall appear that two-thirds of the votes present are in favor of being incorporated, the president and clerk shall deliver a certificate of the state of the polls to the board of trustees, to be elected as hereinafter provided.

SEC. 3. Whenever the qualified voters, under this act, of any town, shall have decided in the manner herein provided, that they wish to be incorporated, it shall be the duty of the clerk of the meeting, at which they may so decide, to give at least five days' previous public notice to the said voters, to assemble at the courthouse, or some other public place in such town, on a day to be named in such notice, to elect by *viva voce* vote, five residents and freeholders of such town, for trustees of the same, who shall hold their office for one year, and until other trustees are chosen and qualified; at which first election, the president and clerk of the first meeting shall preside, or in case of the absence of either of them, some suitable person shall be appointed by the electors present to fill such vacancy or vacancies. And at every succeeding election for president and trustees, the preceding board of trustees shall direct the manner in which the same shall be conducted.

SEC. 4. The board of trustees of any town elected agreeably to the provisions of this act, shall choose a president out of their own body, and the president and trustees aforesaid, and their successors in office, shall thenceforth be considered in law and equity, a body corporate and politic, by the name and style of "the president and trustees of the town of ——," and by such name and style shall be forever able and capable in law and equity to sue and be sued, to plead and be impleaded, to answer and be answered unto, defend and be defended in all manner of suits, actions, plaints, pleas, causes, matters, and demands, of whatever kind or nature they may be, in as full and effectual a manner, as any person or persons, bodies corporate, or politic can, or may do, and may have a common seal, and may alter the same at pleasure. The said president and trustees shall require their clerk to keep a fair journal and record of all their proceedings, and record all by-laws and ordinances which they may make, in a book to be provided for that purpose.

SEC. 5. The president and trustees, or a majority of them, of any town incorporated as herein directed, shall have power to make, ordain, and establish and execute such ordinances in writing, not inconsistent with the laws, or the constitution of this state, as they shall deem necessary to prevent and remove nuisances, to restrain and prohibit gambling, or other disorderly conduct, and to prevent the running of, and indecent exhibitions of horses, within the bounds of such town; to provide for licensing public shows; to regulate and establish markets; to sink and keep in repair public wells; to keep open and in repair the streets and alleys of such town, by making pavements, or sidewalks, as to them may seem needful: *provident always* that the lot in front of which any sidewalk is made, shall be taxed to pay at least one-half of the expenses of making such sidewalk. The said president and trustees shall also have power to provide such means as they may deem necessary to protect such town from injuries by fires. And for the purpose of carrying the aforesaid powers into effect, the said president and trustees shall have power to define the boundaries of such town; provided, that the same shall not exceed one mile square, and to levy and collect annually a tax, on all the real estate in such town, not exceeding fifty cents on every hundred dollars, of assessment valuation thereof.

SEC. 6. It shall be the duty of the said president and trustees, to cause all the streets and alleys of such town, and all the public roads passing from and through such town, for one mile from the center thereof, to be kept in good repair; and to this end, they are authorized to require every male resident of such town, over the age of twenty-one years, to labor in said streets, alleys and roads, at least three days in each and every year; and if such labor shall be insufficient, to appropriate so much of the tax levied on real estate, as may be necessary to keep the said streets, alleys and roads in repair; and also to appoint and prescribe the duty of all such officers, for such town, as they

may deem necessary to carry into effect the foregoing powers; the collectors of the corporation tax, and the treasurer, shall severally give bond, made payable to the president and trustees, and their successors in office, with good and sufficient securities, in such sum as may by said president and trustees be deemed advisable. And a clause shall be inserted, that if at any time additional security be required, the same shall be given: the conditions of which bonds shall be that the officer shall faithfully perform the duties of his office; and said officers shall remain in office one year (unless soon removed), and until others shall be appointed, and shall have given bonds.

SEC. 7. The said president and trustees, elected under this act, shall continue in office for one year, and until their successors shall be elected and qualified. And it shall be their duty, before their time expires, to give at least ten days' public notice to the qualified voters under this act, to meet at such place as they may name, in such town, and elect a new board of president and trustees, for such town; and all vacancies, which may happen in said board by resignation or otherwise, before their term of office expires, shall be filled by the other members of the board. The proceedings of said board shall always be public; and all their ordinances, before taking effect, shall be published for at least ten days, in a newspaper of such town, or by setting up copies of the same in three of the most public places of such town. A majority of said board shall constitute a quorum.

SEC. 8. All moneys arising from the collection of taxes, fines, penalties, and forfeitures, shall be appropriated by said president and trustees towards the erecting, improving, and regulating those objects which, by this act, are placed under their control and jurisdiction, and to none others. And it shall be their duty to have an account current of the fiscal concerns of the corporation so kept; as will at all times, show the true situation of the same to such as may desire to inspect the same: and the said president and trustees shall have full power to enforce their ordinances, by authorizing the person or persons by them

appointed to collect any tax imposed in pursuance of this act, to collect the same by distress and sale of goods and chattels of the person chargeable with the same, on giving at least thirty days' public notice of the time and place of such sale: and, if no goods or chattels of the person chargeable with said tax can be found, it shall be lawful to sell any town lot owned by such person, or, so much thereof, as will pay the tax due in arrear from any such person, upon giving at least thirty days' notice of the time and place of making such sale, paying to the owner, or owners, the overplus, if any. The president and trustees may impose fines for the breach of their ordinances; but no fine shall be inflicted on any one person, for any one breach of any ordinance, of more than five dollars, which fine may be recovered before any justice of the peace, by action of debt, in the name of the president and trustees of such town, and collected by execution, as other judgments of justices of the peace. All fines collected in pursuance of this act, shall by the officer collecting the same, be paid over to the treasury of the corporation; and, for an omission to do so, such officer may be proceeded against by the president and trustees in an action of debt for the same.

SEC. 9. Two-thirds of the qualified voters of any town, incorporated according to the provisions of this act, shall have power to dissolve the same, at any annual election for president and trustees, by voting against the incorporation, as is directed in the second section of this act.

SEC. 10. Whatever a president and trustees shall be elected for any town as herein directed, it shall be the duty of the president and clerk of the first meeting, provided for in the first section of this act, to deliver to them a certified statement in writing, of the polls at said first meeting; and it shall be the duty of such president and trustees, to deposit the same with the clerk of the county commissioners' court, of the proper county to be entered on record, in his office; and before entering upon their duty, to take an oath to discharge their duty according to their best abilities.

SEC. 11. Whenever any town shall be incorporated by this act, all other laws incorporating the same, or made to regulate in any way, the internal police of such town, shall be considered as repealed. The inhabitants of any town incorporated by this act, shall not be required to work upon any road, except as herein required. And whenever any town corporation shall be dissolved, according to this act, all persons having any funds belonging to such corporation, in their hands, shall pay the same into the county treasury; and all bonds and securities taken for the same by such corporation, shall vest in the county commissioners for the use of such county, who may have and maintain any proceedings thereon in law or equity, which might have been had by the said corporation.

SEC. 12. This act shall be considered a public act, and shall be in force from and after the first day of March next.

(Approved, February 12, 1831.)

The town of Chicago was organized under the above act August 12, 1833.

ACTS AMENDING THE ABOVE ACT.

On January 31, 1835, an act was passed extending the powers of trustees of towns organized under the act of 1831, and authorizing them to appoint constables.

On February 6, 1835, an act was passed providing for the organization of schools in Township 39 north, range 14 east of the 3d principal meridian. This was the township within which the town of Chicago was located, and which it was ere long to include.

CHAPTER III.

SECOND CHARTER OF THE TOWN OF CHICAGO.

[Second Charter of the Town of Chicago, being a special act of the legislature entitled "An Act to change the corporate powers of the Town of Chicago." Passed February 11, 1835.[1] In effect the first Monday in June, 1835.]

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That John H. Kinzie, Gurdon S. Hubbard, Ebenezer Goodrich, John K. Boyer, and John S. C. Hogan, be, and they are hereby constituted a body politic and corporate, to be known by the name of the "Trustees of the town of Chicago," and by that name, they, and their successors shall be known in law, have perpetual succession, sue and be sued, implead and be impleaded, defend and be defended in courts of law and equity, and in all actions and matters whatsoever; may grant, purchase, and receive and hold property, real and personal within the said town, and no other, (burial grounds excepted), and may lease, sell, and dispose of the same for the benefit of the town, and shall have power to lease any of the reserved lands which have been, or may hereafter be appropriated to the use of said town, and may do all other acts, as natural persons; may have a common seal, and break and alter the same at pleasure.

SEC. 2. That all that district of country contained in sections *nine* and sixteen, north and south fractional sections *ten*, and fractional section *fifteen*, in township thirty-nine north, of range fourteen east, of the third principal meridian, is hereby declared to be within the boundaries of the town of Chicago: *Provided*, That the authority of the board of trustees of the said town of Chicago, shall not extend over the south fractional section

[1] *Cf. Laws of Illinois*, Vandalia, 1835, p. 204 and ff.

ten, until the same shall cease to be occupied by the United States.

SEC. 3. That the corporate powers and duties of said town, shall be vested in nine trustees, (after the term of the present incumbent shall have expired, towit: on the first Monday of June next, and to be chosen and appointed as hereinafter directed), who shall form a board for the transaction of business.

SEC. 4. The members composing the board of trustees, shall be elected annually, on the first Monday in June, by the persons residing within said town, (qualified to vote for representative to the legislature), to serve for one year; they shall be at least twenty-one years of age, citizens of the United States, and inhabitants of said town, and shall possess a freehold estate within the limits thereof.

SEC. 5. That the board of trustees shall appoint their president from their own body; shall appoint all other officers of their board and shall be the judges of the qualifications, elections, and returns of their own members; a majority shall constitute a board to do business, but a smaller number may adjourn from day to day; may compel the attendance of absent members, in such manner and under such penalties as the board may provide; they may determine the rule of proceeding, and make such other rules and regulations for their own government, as to them may seem proper and expedient.

SEC. 6. That the board of trustees shall have power to levy and collect taxes upon all real estate within the town, not exceeding the one-half of one per centum upon the assessed value thereof, except as hereinafter excepted; to make regulations to secure the general health of the inhabitants; to prevent and remove nuisances; to establish night watches; erect lamps in the streets, and lighting the same; to regulate and license ferries within the corporation; to lease the wharfing privilege of said town, giving to the owner or owners, occupant or occupants of the lots fronting the river, the preference of such privilege; to erect and keep in repair bridges; to provide for licensing,

taxing and regulating theatrical and other shows, billiard tables and other amusements; to restrain and prohibit gaming houses, bawdy houses, and other disorderly houses; to build market houses; establish and regulate markets; to open and keep in repair streets, avenues, lanes, alleys, drains and sewers; to keep the same clean and free from incumbrances; to establish and regulate a fire department, and to provide for the prevention and extinguishment of fires; to regulate the storage of gun powder and other combustible materials; to erect pumps and wells in the streets, for the convenience of the inhabitants; to regulate the police of the town; to regulate the election of the town officers; to fix their compensation; to establish and enforce quarantine laws; and from time to time, to pass such ordinances to carry into effect the ordinances of this act, and the powers hereby granted, as the good of the inhabitants may require, and to impose and appropriate fines and forfeitures for the breach of any ordinance, and to provide for the collection thereof: *Provided*, That said trustees shall, in no case, levy a tax upon lots owned by the state.

SEC. 7. That upon the application of the owners of two-thirds of real estate, on any street or parts of a street, it shall be lawful for the board of trustees to levy and collect a special tax on the owners of the lots on the said street or parts of a street, according to their respective fronts, for the purpose of grading and paving the sidewalks on said street.

SEC. 8. That the board of trustees shall have power to regulate, grade, pave and improve the streets, avenues, lanes, and alleys within the limits of said town, and to extend, open and widen the same, making the person or persons injured thereby, adequate compensation; to ascertain which, the board shall cause to be summoned twelve good and lawful men, freeholders and inhabitants of said town, not directly interested, who (being first duly sworn for that purpose), shall inquire into, and take into consideration, as well the benefits as the injury which may accrue, and estimate and assess the damages which would be sustained by reason of the opening, extension, widen-

ing of any street, avenue, lane or alley; and shall, moreover, estimate the amount which other persons will be benefited thereby, and shall contribute towards compensating the persons injured; all of which shall be returned to the board of trustees, under their hands and seals; and the person or persons who shall be benefited and so assessed, shall pay the same in such manner as shall be provided, and the residue, if any, shall be paid out of the town treasury.

SEC. 9. All ordinances shall, within ten days after they are passed, be published in a newspaper printed in said town, and posted in three of the most public places thereof.

SEC. 10. That when any real estate, in said town, shall have been sold by the authority of the corporation thereof, for the non-payment of any tax that may have been levied upon the same, the same shall be subject to redemption by the owner or owners thereof, his, her, or their agent or agents, within one year after the same shall have been sold, on paying to the treasurer of the board of trustees of said town, double the amount of the taxes for which the same was sold, together with costs for the selling of the same. But should the said lots, or parts of lots so sold for the non-payment of the taxes aforesaid, not be redeemed within the time specified, then, in that event, it shall be the duty of the president of the board of trustees of the said town, to execute a deed, with a special warranty, signed by the president of said board, and countersigned by the clerk thereof.

SEC. 11. It shall be the duty of the board of trustees to cause to be paid to the purchasers of lots, all moneys which may have been paid to the treasurer, over the costs for selling the same.

SEC. 12. The officers of said town (in addition to the trustees) shall consist of one clerk, one street commissioner, one treasurer, one assessor and collector of taxes, one town surveyor, two measurers of wood and coal, two measurers of lumber, two measurers and weighers of grain, and such other officers as the trustees of said town may deem necessary for the good of said town.

SEC. 13. That the president and trustees of said town shall, whenever they may deem necessary, order the formation of fire engine companies, and fire-hook and ladder companies. The fire engine companies each to contain from twenty-five to forty able-bodied men, of between the ages of eighteen and fifty years, and no more. The fire, hook and ladder companies to contain each from fifteen to twenty-five able-bodied men and no more. Which companies shall be officered and governed by their own by-laws; shall be formed only by voluntary enlistment. Every member of each company shall be exempted from jury and military duty; and whenever a member of such company shall have served twelve years, he shall receive a discharge from the incorporation, signed by the president, and shall, forever thereafter, be exempted from further jury duty, and from further military duty, except in case of invasion.

SEC. 14. That the members of the board of trustees, and every officer of said corporation, shall, before entering on the duties of his office, take an oath or affirmation before some judge or justice of the peace, to support the constitution of the United States and of this state, and faithfully to demean themselves in said office.

SEC. 15. That this incorporation shall be divided into three districts, to-wit: All that part which lies south of the Chicago river, and east of the south branch of said river, shall be included in the first district; all that part which lies west of the north and south branches of said river, shall be included in the second district; and all that part which lies north of the Chicago river, and east of the north branch of said river, shall be included in the third district; and the taxes collected within the said respective districts, shall be expended under the direction of the board of trustees, for improvements within their respective districts; but all elections for trustees, in said town, shall be by general ticket.

(Approved, February 11, 1835.)

Acts Amending the Above Act.

On January 15, 1836, an act was passed limiting the power of the town of Chicago to lease its wharfing privileges and reducing its taxing power from one-half to one-quarter of one per centum upon the assessed valuation.

On January 18, 1836, an act was passed incorporating the Chicago Hydraulic Company, giving it authority to lay water mains through the streets of Chicago without reference to the consent of the trustees.

On February 10, 1837, an act was passed granting a burial lot to the town of Chicago — east one-half of southeast one-quarter of section 33, township 40 north, range 14, east, providing that it shall never be used for any other purpose.[1]

[1] This tract became subsequently a part of Lincoln Park.

CHAPTER IV.

The First City Charter of Chicago.

[Being an Act to incorporate the City of Chicago. Passed March 4, 1837.][1]

Section 1. *Be it enacted by the people of the State of Illinois represented in the General Assembly*, That the district of country in the county of Cook in the state aforesaid, known as the east half of the southeast quarter of section thirty-three, in township forty, and fractional section thirty-four in the same township, the east fourth part of sections six, seven, eighteen and nineteen, in the same township,[2] also fractional section three, section four, section five, section eight, section nine, and fractional section ten, excepting the southwest fractional quarter of section ten, occupied as a military post, until the same shall become private property, fractional section fifteen, section sixteen, section seventeen, section twenty, section twenty-one, and fractional section twenty-two, in township thirty-nine north range number fourteen east of the third principal meridian, in the state aforesaid, shall hereafter be known by the name of the city of Chicago.

Sec. 2. The inhabitants of said city, shall be a corporation by the name of the city of Chicago, and may sue and be sued, complain and defend in any court, make and use a common seal, and alter it at pleasure, and take, hold, purchase and convey such real and personal estate, as the purposes of the corporation may require.

Sec. 3. The said city shall be divided into six wards, as follows: All that part of the city which lies south of Chicago river and east of the center of Clark street, following the center

[1] *Cf.* Laws of Illinois passed at Session ending March 6, 1837, p. 50 and ff.

[2] This is evidently wrong. It should read "in township 39" instead of "in the same township."

of Clark street to the south line of section sixteen, thence following the said south line of section sixteen, to the center of State street, and all that part of said city which lies east of the center of said State street, and a line parallel with the center of said street, to the southern boundary of said city, shall be denominated the first ward of said city. All that part of said city which lies south of said Chicago river, west of the first ward, and east of the south branch of said Chicago river, shall be denominated the second ward of said city; all that part of said city, lying west of the aforesaid south branch of the said Chicago river, and south of the center of Randolph street, and by a line parallel with the center of said Randolph street, to the western boundary of said city, shall be denominated the third ward; all that part of said city which lies north of the said third ward and west of the said Chicago river, and the north and south branches thereof, shall be denominated the fourth ward of said city; all that part of said city which lies north of the Chicago river, and east of the north branch thereof, and west of the center of Clark street, to the center of Chicago avenue, and lying south of the center of Chicago avenue, to the center of Franklin street, and lying west of Franklin street, and a line parallel with the center thereof, to the northern boundary of said city, shall be denominated the fifth ward; all that part of said city lying north of the Chicago river, and east of the said fifth ward, shall be denominated the sixth ward of said city.

SEC. 4. There shall be in and for the said city, except as hereinafterwards provided, one mayor, twelve aldermen, one clerk, one treasurer, six assessors, one or more collectors, and such other officers as are hereinafter authorized to be appointed, which with said mayor, aldermen, and assessors, shall be free holders in the said city.

SEC. 5. An election shall be held in each of the wards of said city, on the first Tuesday in March in each year, after the year eighteen hundred and thirty-seven, at such place as the common council of said city may appoint, and of which six days

previous public notice shall be given in writing, in three public places in each ward by the inspectors thereof.

SEC. 6. At the first election under this act, and at each annual election thereafter, there shall be elected two aldermen and one assessor from each ward, each of whom shall be an actual resident of the ward in which he was elected, *Provided however*, That the aforesaid wards, denominated the third and fifth wards, shall be entitled to elect but one alderman for each ward, until the annual election for the year *anno domini* 1839.

SEC. 7. The common council shall appoint three inspectors of elections for each ward, who shall be inspectors of elections after the first. Such inspectors shall have the same power and authority as the inspectors of a general state election.

SEC. 8. The manner of conducting and voting at the elections to be held under this act, and the keeping of the poll lists thereof, shall be the same, as nearly as may be, as is provided by law, at the general state election, *Provided*, That the common council may hereafter, if expedient, change the mode of election to that by ballot, and prescribe the manner of conducting the same.

SEC. 9. Every person voting at such election, shall be an actual resident of the ward in which he so votes, shall be a house holder within the city, or shall have paid a city tax of not less than three dollars, within twelve months next preceding such election, and shall have resided in said city at least six months next preceding such election, and shall moreover if required by any person qualified to vote thereat, before he is permitted to vote, take the following oath: you swear or affirm that you are of the age of twenty-one years, that you have been a resident of this city for six months immediately preceding this election, that you are a house holder therein, or that you have paid a city tax of not less than three dollars within twelve months next preceding this election, and that you are now a resident of this ward, and have not voted at this election.

SEC. 10. The persons entitled to vote at any election held

under this act, shall not be arrested on civil process within said city on the day on which said election is held.

SEC. 11. The trustees of the town of Chicago for the time being, shall appoint the inspectors of the first election to be held under this act. Such election shall be held and conducted, and the votes thereat canvassed by said inspectors, and the result determined in the manner hereinbefore provided: the said trustees shall also appoint the time and place of holding such first election, which time shall be some day after the passage of this act, and on or before the first day of June next.

SEC. 12. Vacancies in the offices of mayor and aldermen occurring in any manner, may be filled at a special election called and appointed by the common council, and conducted in the same manner as an annual election; vacancies in all other offices shall be filled by appointment by the common council: all appointments to fill a vacancy in an elective office under this act, and all appointments of clerk, treasurer, attorney for the city, police constables, collectors, street commissioners, and city surveyors, shall be by warrant under the corporate seal, signed by the mayor as presiding officer of the common council, and clerk. In case of a failure to elect aldermen at an annual election, or if from any cause there shall be no alderman, the clerk shall appoint the time and places for holding a special election, and appoint the inspectors: all officers appointed or elected to any office under, or by virtue of this act, except as hereinafterwards provided, shall be appointed or elected annually, and except to fill a vacancy, shall hold their respective offices for one year, and until others are chosen, and have taken the oath of office.

SEC. 13. The common council shall appoint as many police constables as they shall think proper, not exceeding one in each ward, who shall not have power to serve any civil process out of the limits of said city, except in cases of persons fleeing from said city, and to commit on execution where the defendant shall have been arrested in the said city.

SEC. 14. The mayor for the said city shall be chosen by the

qualified electors of the said city, at the same time and in the same manner as is prescribed for the choosing of aldermen, whose term of service shall be for one year, until his successor shall be chosen and qualified. At the time of voting for aldermen, the electors of said city shall also vote in their respective wards, for some qualified person as mayor of said city, which votes shall be canvassed and certified at the same time, and in the same manner as those given for aldermen, and the person having the highest number of votes given in the several wards at such election shall be mayor.

SEC. 15. The mayor and alderman of the said city shall constitute the common council of said city. The common council shall meet at such times and places as they shall by resolution direct, or as the mayor, or in his absence any two of the aldermen, shall appoint. The mayor when present, shall preside at all meetings of the common council, and shall have only a casting vote. In his absence, any one of the aldermen may be appointed to preside; a majority of the persons elected as aldermen, shall constitute a quorum. No member of the common council shall, during the period for which he was elected, be appointed to, or be competent to hold any office of which the emoluments are paid from the city treasury, or paid by fees directed to be paid by any act or ordinance of the common council, or be directly or indirectly interested in any contract, the expenses or consideration whereof are to be paid under any ordinance of the common council. But this section shall not be construed to prevent the mayor from receiving his salary or any other fees permitted by this act.

SEC. 16. The common council shall meet annually, after the year 1837, on the second Tuesday in March, and in 1837, on the day following the election, and, by ballot, appoint a clerk, treasurer, city attorney, street commissioner, police constables, clerk of the market, one or more collectors, one or more city surveyors, one or more pound-masters, porters, carriers, cartmen, packers, beadles, bellmen, sextons, common criers, scavengers, measurers, surveyors, weighers, sealers of weights and

measures, and gaugers. If for any cause the officers above-named are not appointed on the second Tuesday of March, on the day after the election, in the year eighteen hundred and thirty-seven, the common council may adjourn from time to time until such appointments are made.

SEC. 17. If any inhabitants of said city, elected or appointed to any office in pursuance of this act, shall refuse or neglect to accept such office, and take and subscribe the oath of office prescribed by the constitution of this state, for five days after personal notice in writing from the clerk, of his election, he shall forfeit the sum of ten dollars.

SEC. 18. Every person chosen or appointed to any executive, judicial or administrative office, under this act, shall, before he enters on the duties of his office, take and subscribe, before some justice of the peace, the oath of office prescribed in the constitution of this state, and file the same, duly certified by the officer before whom it was taken, with the clerk of the city.

SEC. 19. The treasurer, street commissioner, and collector or collectors of said city shall, severally, before they enter on the duties of their respective offices, execute a bond to the city of Chicago, in such sum, and with such sureties as the common council shall approve; conditioned that they shall faithfully execute the duties of their respective offices, and account for, and pay over all moneys received by them respectively; which bonds, with the approval of the common council certified thereon by the clerk, shall be filed with the clerk of the city.

SEC. 20. Every person appointed to the office of constable, in said city, shall, before he enters upon the duties of his office, with two or more sureties, to be approved by the common council, execute in presence of the clerk of the city, an instrument in writing, by which such constable and sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constable may become liable to pay, by reason or on account of any summons, execution, distress warrant or other process which shall be delivered to him for collection. The clerk of the city shall

certify the approval of the common council on such instrument, and file the same; and a copy of such instrument, certified by the clerk under the corporate seal, shall be presumptive evidence in all courts, of the execution thereof by such constable and his sureties; and all actions on any such instrument shall be prosecuted within two years after the expiration of the year for which the constable named therein shall have been elected or appointed, and may be brought in the name of the person or persons entitled to the money collected by virtue of such instruments.

SEC. 21. The treasurer shall receive all moneys belonging to the city, and keep an accurate account of all receipts and expenditures, in such manner as the common council shall direct; all moneys shall be drawn from the treasury in pursuance of an order of the common council by warrant signed by the mayor or presiding officer of the common council, and countersigned by the clerk; such warrant shall specify for what purpose the amount specified therein, is to be paid; and the clerk shall keep an accurate account of all orders drawn on the treasury in a book to be provided for that purpose. The treasurer shall exhibit to the common council, at least fifteen days before the annual election in each year, a full and detailed account of all receipts and expenditures, after the date of the last annual report, and also of the state of the treasury, which account shall be filed in the office of the clerk.

SEC. 22. It shall be the duty of the common council, at least ten days before the annual election held under this act in each year, to cause to be published in two or more of the public newspapers in said city, a full and correct statement of the receipts and expenditures by the said common council, for the contingent expenses of the said city from the date of the last annual report, published in pursuance of this section to the date of said reports, and also a distinct statement of the whole amount of money assessed, received and expended in the respective wards for making and repairing roads, highways and bridges, in said city for the same period, together with such

other information in their power to furnish, as may be necessary to a full understanding of the financial concerns of the said city.

SEC. 23. The clerk shall keep the corporate seal, and all the papers belonging to said city, and make a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; and copies of all papers duly filed in his office, and transcripts from the records of the proceedings of the common council certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced.

SEC. 24. It shall be the duty of the street commissioner to superintend the making of all public improvements ordered by the common council, and to make contracts for the work and materials which may be necessary for the same, and shall be the executive officer to carry into effect the ordinances of the common council relative thereto, and shall keep accurate accounts of all moneys expended by him in performance of any work, together with the cause of such expenditures, and to render such account to the common council, monthly.

SEC. 25. That the city surveyor or surveyors, appointed by the said common council, shall have the sole power, under the direction and control of the said common council, to survey within the limits of said city; and he or they shall be governed by such rules and ordinances as the said common council shall direct, and receive such fees and emoluments for his or their services, as the common council shall appoint.

SEC. 26. The mayor of said city, for the time being, shall be allowed an annual salary of five hundred dollars, payable out of the treasury, and the other officers of said corporation shall be paid out of the treasury such compensation for their services, when the same are not herein provided for, as the said common council may deem adequate and reasonable.

SEC. 27. If any person after having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all the property, papers and effects of every description in his possession belonging to the

said city, or appertaining to the office he held, he shall forfeit and pay for the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver.

SEC. 28. The common council shall hold stated meetings and the mayor or any two aldermen, may call special meetings by notice to each of the members, of said council, served personally, or left at his usual place of abode. Petitions and remonstrances may be presented to the common council. The common council shall have the management and control of the finances, and of all the property real and personal, belonging to the corporation, and shall have power within said city, to make and establish, publish, alter, modify, amend and repeal ordinances, regulations, rules, and by-laws, for the following purposes:

1. To prevent all obstructions in the waters which are public highways in said city.

2. To prevent and punish forestalling and regrating, and to prevent and restrain every kind of fraudulent device and practice.

3. To restrain and prohibit all descriptions of gaming and fraudulent devices in said city, and all playing of dice, cards and other games of chance with, or without betting, in any grocery, shop or store.

4. To regulate the selling or giving away any ardent spirits, by any storekeeper, trader or grocer, to be drunk in any shop, store or grocery, outhouse, yard, garden or other place within the city, except by innkeepers duly licensed.

5. To forbid the selling or giving away of ardent spirits, or other intoxicating liquors, to any child, apprentice, or servant, without the consent of his or her parent, guardian, master or mistress, or to any Indian.

6. To regulate, license, or prohibit the exhibition of common showmen, and of shows of every kind, or the exhibition of any natural or artificial curiosities, caravans, circuses or theatrical performances.

7. To prevent any riot or noise, disturbance, or disorderly assemblage.

8. To suppress and restrain disorderly houses and groceries, houses of ill fame, billiard tables, nine or ten pin allies or tables, and ball allies, and to authorize the destruction and demolition of all instruments and devices used for the purpose of gaming.

9. To compel the owner or occupant of any grocery, cellar, tallowchandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as may be necessary for the health, comfort and convenience of the inhabitants of said city.

10. To direct the location and management of all slaughter houses, markets, and houses for storing powder.

11. To regulate the keeping and conveying of gunpowder and other combustibles and dangerous materials, and the use of candles and lights in barns and stables.

12. To prevent horse racing, immoderate riding or driving in the streets, and to authorize persons immoderately riding or driving as aforesaid, to be stopped by any person.

13. To prevent the encumbering the streets, sidewalks, lanes, alleys, public wharves and docks, with carriages, carts, sleighs, sleds, wheelbarrows, boxes, lumber, timbers, firewood, or any other substance or material whatsoever.

14. To regulate and determine the times and places of bathing and swimming in the canals, rivers, harbors and other waters, in and adjoining said city.

15. To restrain and punish vagrants, mendicants, street beggars, and common prostitutes.

16. To restrain and regulate the running at large of cattle, horses, swine, sheep, goats and geese, and to authorize the distraining, impounding, and sale of the same, for the penalty incurred and costs of proceeding.

17. To prevent the running at large of dogs, and to authorize the destruction of the same when at large, contrary to the ordinance

18. To prevent any person from bringing, depositing, or having within the limits of said city, any dead carcass or any other unwholesome substance, and to require the removal or destruction by any person who shall have upon or near his premises any such substance, or any putrid or unsound beef, pork, fish, hides, or skins of any kind, and on his default, to authorize the removal or destruction thereof by some officer of said city.

19. To prevent the rolling of hoops, playing at ball, or flying of kites or any other amusement or practice having a tendency to annoy persons passing in the streets and on the sidewalks in said city, or to frighten teams and horses within the same.

20. To compel all persons to keep the snow, and ice, and dirt from the sidewalks in front of the premises owned or occupied by them.

21. To prevent the ringing of bells, blowing of horns and bugles, crying of goods and other things within the limits of said city.

22. To abate and remove nuisances.

23. To regulate and restrain runners for boats and stages.

24. To survey the boundaries of said city.

25. To regulate the burial of the dead.

26. To direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons, and others, for any default in the premises.

27. To regulate gauging, the place and manner of selling and weighing hay, of selling pickled and other fish, and of selling and measuring of wood, lime, and coal, and to appoint suitable persons to superintend and conduct the same.

28. To appoint watchmen, and prescribe their duties and powers.

29. To regulate cartmen and cartage.

30. To regulate the police of said city.

31. To establish, make, and regulate public pumps, wells, cisterns, and reservoirs, and to prevent the unnecessary waste of water.

32. To establish and regulate public pounds.

33. To erect lamps and regulate the lighting thereof.

34. To regulate and license ferries. The said common council shall have the power to prohibit the use of locomotive engines on any railroad within the inhabited parts of said city, and may require the cars to be used thereon within the inhabited portions thereof, to be drawn or propelled by other power than that of steam. The common council may erect and establish a bridewell or house of correction in the said city, and may pass all necessary ordinances for the regulation thereof; may appoint a keeper and as many assistants as shall be necessary, and shall prescribe their duties and compensation, and the securities to be given by them. In the said bridewell, or house of correction, shall be confined all rogues, vagabonds, stragglers, idle or disorderly persons who may be committed thereto by the mayor or any alderman in said city; and all persons sentenced by any criminal court in and for said city, for any assault and battery, petit larceny, or other misdemeanor punishable by imprisonment in a county jail, shall be kept therein in the same manner as prisoners of that description are required to be kept in the county jails. The common council may, by ordinances, require every merchant, retailer, trader, and dealer in merchandise or property of any description which is sold by measure or weight, to cause their weights and measures to be sealed by the city sealer, and to be subject to his inspection, and may impose penalties for any violation of any such ordinances; the standard of which weights and measures shall be agreeable to those now established by law.

SEC. 29. The common council shall have power, from time to time, to prescribe the duties of all officers and persons appointed by them to any office or place whatsoever, subject to the provisions of this act, and may remove all such persons or officers at pleasure.

SEC. 30. The common council may make, publish, ordain, amend and repeal, all such ordinances, by-laws, and police regulations, not contrary to the laws of this state, for the good government and order of said city, and the trade and commerce thereof, as may be necessary to carry into effect the powers

given to said council by this act, and enforce observance of all rules, ordinances, by-laws and police regulations made in pursuance of this act, by imposing penalties upon any person violating the same, not exceeding one hundred dollars for any offense, to be recovered with costs, in an action of debt before the mayor or any justice of the peace of the said city; every such ordinance or by-law, imposing any penalty or forfeiture for a violation of its provisions, shall, after the passage thereof, be published for three weeks successively, in the corporation newspaper printed and published in said city; and proof of such publication by the affidavit of the printer or publisher of said newspaper, taken before any officer authorized to administer oaths, and filed with the clerk of the city, or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such ordinance or by-laws in all courts and places.

SEC. 31. The common council at their annual meeting on the second Tuesday in March, in each year, after eighteen hundred and thirty-seven, and at their first meeting in that year, or within ten days thereafter, shall designate one public newspaper printed in said city, in which shall be published all ordinances and other proceedings and matters required in any case by this act, or the by-laws and ordinances of the common council, to be published in a public newspaper.

SEC. 32. All actions brought to recover any penalty or forfeiture incurred under this act, or the ordinances, by-laws or police regulations made in pursuance of it, shall be brought in the corporate name; and in any such action it shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the by-laws or ordinances under which the penalty is claimed, and to give the special matter in evidence, and the defendant may plead the general issue and give the special matter in evidence under it. The first process in any such action shall be by warrant, and execution may be issued thereon immediately on the rendition of judgment. If the defendant in any such action have no goods or chattels, lands or

tenements, whereof the judgment can be collected, the execution shall require the defendant to be imprisoned in close custody in the jail of Cook county for a term not exceeding thirty days. All expenses incurred in prosecuting for the recovery of any penalty or forfeiture, shall be defrayed by the corporation, and all penalties and forfeitures when collected shall be paid to the treasurer for the use of the city.

SEC. 33. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant or freeholder in the city of Chicago, in any action or proceeding in which the said city is a party in interest.

SEC. 34. The common council of said city shall have power to revise, alter and correct the several assessment rolls of the different assessors of said city and to prescribe the rate of assessment, the form of the assessment roll, and to make such rules in relation thereto as they may deem expedient and proper.

SEC. 35. The common council shall have power in each year to raise a sufficient sum by tax upon real or personal estate in said city, not exceeding the one-half of one per centum upon the assessed value thereof, to defray the expenses of lighting the streets, supporting a night watch, and making and repairing streets, roads, highways and bridges in the said city and to defray the contingent and other expenses of said city; *Provided*, that the said common council shall in no case levy a tax upon lots or lands owned by the state, nor any tax for making and repairing streets, roads and highways, contrary to the subsequent provisions of this act.

SEC. 36. The said common council are hereby authorized to require every male resident of the city over the age of twenty-one years, to labor at least three days in each and every year upon the streets and alleys of said city, at such time and in such manner as the street commissioner shall direct, but any person may at his option pay at the rate of one dollar for every day he shall be so bound to labor and such labor or payment shall be in lieu of all labor required to be performed upon any roads, streets or alleys by any law of this state; and in default of the payment

of such money, or the performance of such labor, the said common council may sue for and collect such money before the mayor or any justice of the peace.

SEC. 37. The said common council shall have the exclusive power to regulate, repair, amend and clear the streets and alleys of said city; bridges, side and crosswalks, and of opening said streets, and of putting drains and sewers therein, and to prevent the encumbering of the same in any manner, and to protect the same from encroachments and injury; they shall also have power to direct and regulate the planting and preserving of ornamental trees, in the streets of said city.

SEC. 38. The common council shall have power to lay out, make, and assess streets, alleys, lanes, highways in said city, and make wharves and slips at the end of streets, on property belonging to said city, and to alter, widen, contract, straighten and discontinue the same, but no building exceeding the value of one thousand five hundred dollars shall be removed, in whole or in part, without the consent of the owner. They shall cause all streets, alleys, lanes or highways, laid out by them, to be surveyed, described and recorded in a book to be kept by the clerk, and the same when opened and made shall be public highways. Whenever any street, alley, lane, highway, wharf or slip is laid out, altered, widened or straightened by virtue of this section, the common council shall give notice of their intention to appropriate and take the land necessary for the same to the owner or owners thereof by publishing said notice for fourteen days in the corporation newspaper printed in said city, and after the expiration of the said fourteen days the common council shall give notice to the said owner or owners by publishing the same for thirty days in the corporation newspaper, that such owner or owners may file a notice with the clerk of the city of a claim for damages, on account of appropriating the land of such owner or owners for the uses specified in this section; and if such owner or owners shall within said thirty days file or cause to be filed such notice of a claim for damages as aforesaid, with the clerk of the city, the common council shall choose by ballot five discreet and

disinterested freeholders, residing in said city, as commissioners to ascertain and assess the damages and recompense due the owner or owners of such land, and at the same time to determine what persons will be benefited by such improvement, and to assess the damages and expenses thereof, on the real estate of the persons benefited, in proportion, as nearly as may be, to the benefits resulting to each. A majority of all the aldermen authorized by law to be elected, shall be necessary to constitute a choice of such commissioners. The commissioners shall be sworn by the mayor or any justice of the peace in said city, faithfully and impartially to execute their duty in making such assessment, according to the best of their ability. The commissioners shall view the premises, and in their discretion receive any legal evidence, and may if necessary adjourn from day to day. The commissioners shall before they enter upon the duties assigned them by this section, give notice to the persons interested of the time and place of meeting of the said commissioners for the purpose of viewing the premises and of making such assessment, at least five days before the time of such meeting, by publishing such notice in the corporation newspaper printed in said city. The said commissioners shall determine and award to the owner or owners of said land such damages as they shall judge such owner or owners to sustain in consequence of such street, lane, alley, highway, wharf or slip having been laid out, altered, widened or straightened, after taking into consideration and making due allowance for any benefit which said owner or owners may derive from such improvement. The said commissioners shall at the same time assess and apportion the said damages and expenses of said improvement on the real estate benefited thereby, as nearly as may be, in proportion to the benefit resulting therefrom, and shall describe the real estate upon which any such assessment is made. If there be any building on any land taken for such improvement, the owner thereof shall have ten days, or such time as the common council may allow after the final assessment of the commissioners is returned to and confirmed by the common council, to remove the same,

and in case such owner removes such building, the value thereof to the owner to remove shall be deducted from the amount of the damages awarded to the owner thereof, and such value shall be at the time of the assessment determined by the commissioners. The determination and assessment of the commissioners shall be returned in writing, signed by all the commissioners to the common council, within thirty days after their appointment by said common council as aforesaid; the common council may, if sufficient objections are made to the appointments of any of said commissioners, or if any such commissioners shall be unable to serve, by sickness or any other cause, appoint other commissioners to serve in their places, in the manner as is herein provided. And the said common council, after the determination and assessment of the commissioners as aforesaid is returned to them, shall give two weeks notice in the corporation newspaper, printed in said city, that such determination and assessment of the commissioners will, on a day to be specified in said notice, be confirmed by the common council, unless objections to such determination and assessment as aforesaid, are made by some person interested; all objections to such determination and assessment as aforesaid, shall be briefly stated in writing and filed with the clerk; if no objections are made as aforesaid, the said determination and assessment shall be confirmed by the common council. If objections are made as aforesaid, any person interested may be heard before the common council, touching the said determination and assessment of the commissioners on the day specified in the aforesaid notice, or on such other day or days as the common council shall for that purpose appoint; and the said common council in consideration of the objections made, shall have power in their discretion to confirm such determination and assessment of the commissioners, or, to annul the same, and refer the same subject matter back to the same commissioners, or appoint five other commissioners for the purposes and in the manner herein provided; and the said commissioners shall make the second determination and assessment, and return the same to the common council in

like manner, and give like notices, as they are herein required in relation to the first determination and assessment, and returns thereof, and the parties in interest shall have the like notices and rights, and the common council shall perform like duties, and have like powers in relation to the second determination and assessment of said commissioners as are herein given and required in relation to the first determination and assessment of said commissioners, and in case the common council shall confirm the second determination and assessment of said commissioners, the same shall be final and conclusive on all persons interested. But in case the common council shall annul the same, then all the proceedings in relation to laying out, altering, widening or straightening such street, alley, lane, highway, wharf or slip shall be null and void. But nothing herein contained shall authorize the said common council to discontinue or contract any street or highway or any part thereof, except for the purpose of widening and improving the rivers and making basins and slips within said city, without the consent in writing of all persons owning land adjoining such street or highway. That in all cases where the whole of any lot or parcel of land or other premises under lease or other contract shall be taken for any of the purposes aforesaid by virtue of this act, all the covenants, contracts and engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall upon confirmation of such report in the premises as shall be confirmed by the common council aforesaid, respectively cease and determine and be absolutely discharged; and in all cases where part only of any lot or parcel of land or other premises so under lease or other contract, shall be so taken for any of the purposes aforesaid, all contracts and engagements respecting the same, shall upon the confirmation of such report in the premises as shall be so confirmed as aforesaid, cease, determine and be absolutely discharged, as to the part thereof so taken, but shall remain valid and obligatory as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for, or in respect to the same shall be so

apportioned as that the part thereof, justly and equitably payable, or that ought to be paid for such said residue thereof, and no more shall be demanded or paid or recoverable for or in any respect of the same. No power is given by virtue of this act to alter, change, lay out in lots or lease that part of the town of Chicago originally laid out by the commissioners of the Illinois and Michigan canal on section nine, in township thirty-seven[1] north, range fourteen, east of the third principal meridian, as lies between the river and North and South Water streets, or is comprised within said streets.

SEC. 39. All taxes and assessments imposed, voted and assessed by the said common council, shall be collected by the collector of the said city, in the same manner and with the same power and authority as taxes in and for any county of the state are collected, by virtue of a warrant or warrants under the corporate seal, signed by the mayor or presiding officer, or by suit in the corporate name with interest and costs, and the assessment roll of the said common council, shall in all cases be evidence on the part of the corporation, and taxes or assessments, imposed or assessed on, or in respect of any real estate, within the said city, shall be a lien, on filing the roll with the clerk of the city on such real estate, and in case such taxes or assessments are not paid, the common council may cause such real estate to be sold for the payment and collection of such taxes and assessments as aforesaid, together with the expenses of the sale, in the manner and with the effect, and subject to the provisions specified in the forty-first section of this act, relative to the sales of real estate, for the non-payment of assessments or taxes: all taxes and sums of money raised and collected by virtue of this section, shall be paid to the treasurer of the city. In all cases where there is no agreement to the contrary, the owner or landlord and not the occupant or tenant, shall be deemed in law the person who ought to bear and pay every assessment made for the expenses of any public improvement in the said city; where any such assessment shall be made

[1] This should evidently read thirty-nine instead of thirty-seven.

upon or paid by any person, when by agreement or by law, the same ought to be borne or paid by any other person, it shall be lawful for the one so paying, to sue for and recover of the person bound to pay the same, the amount so paid with interest, in an action for money so paid, laid out and expended for the benefit of such defendant; nothing herein contained shall impair, or in any way affect, any agreement between any landlord and tenant, or other persons respecting the payment of such assessments.

SEC. 40. The common council shall have power to cause any street, alley, lane, or highway in said city, to be graded, leveled, paved, repaired, macadamized or graveled, to cause cross and sidewalks, drains, sewers, and acqueducts to be constructed and made in the said city, and to cause any sidewalks, or drains, sewers and acqueducts to be relaid, amended and repaired, and to cause the expenses of all improvements (except sidewalks), made and directed under this section, to be assessed upon the real estate in any ward in said city, deemed benefited by such improvements, in proportion to the benefits resulting thereto, as nearly as may be, which assessment shall not exceed two per centum per annum on the property assessed. The common council shall determine the amount to be assessed for all improvements to be made or directed under this section, except sidewalks, and shall appoint by a majority of all the aldermen authorized by law to be elected five reputable freeholders of said city, by ballot, to make such assessment. The assessors shall be sworn before the mayor or any justice of the peace in said city, faithfully and impartially to execute their duty as such assessors according to the best of their ability, and before entering upon the duties assigned them by this section, the assessors shall give notice to all persons interested, of the time and place of meeting of said assessors, at least four days before the time of such meeting, by publishing such notice in the corporation newspaper printed in said city, and they may, if necessary, adjourn from day to day. The said assessors shall assess the amount directed by the common council to be assessed, for any such improvement on the real estate deemed by them to be benefited thereby, in proportion to the benefit resulting thereto as nearly as may be, and the said assessors shall briefly describe in the assessment roll to be made by them, the real estate on, or [in] respect to which any assessment is made under this section; when the assessment is completed, they shall give like notice, and also publish the same in the corporation newspaper, and have the same power to make corrections as in the case of the assessment of taxes. They shall deliver a corrected copy of the assessment roll signed by all the assessors, to the clerk of the city, within sixty days after their appointment as aforesaid, and any person interested may appeal to the common council for the correction of the assessment: such appeal shall be in writing, and shall be delivered to the clerk or presiding officer of the common council, within ten days after the corrected copy of the assessment roll is filed with the clerk. In case of appeal, the common council shall appoint a time within ten days thereafter, for the hearing of those who are interested, and shall cause a notice to be published in the corporation newspaper, designating the time and place and object of hearing, and they may adjourn said hearing from time to time, as may be necessary, and the common council shall, in case of appeal as aforesaid, have power in their discretion to confirm such assessment or to annul the same and direct a new assessment to be made in the manner hereinbefore directed by the same assessors or by five other assessors to be appointed as aforesaid, by the common council and sworn as aforesaid, which shall be final and conclusive on all parties interested in case the common council shall confirm the same. But in case the common council shall set aside the last aforesaid assessment all the proceedings in relation to the grading, leveling, paving, repairing, macadamizing or graveling such street, alley, lane, or highway in said city, shall be null and void. If the first assessment to be made and confirmed under this or the preceding sections proves insufficient, the common council may cause another to be made in the same manner, or if too large an amount shall

at any time be raised, the excess shall be refunded ratably to those by whom it was paid. The said assessors may, if in their opinion any owner or owners of land situated on such street, alley, lane, or highway, as shall be graveled or leveled, will sustain damages over and above the benefit which may accrue to the owner or owners of such land by such improvement, assess such an amount as they may deem a reasonable recompense to such owner or owners thereof, upon the real estate in said city, deemed by them to be benefited by such improvement, in proportion to the benefit resulting thereto, as nearly as may be, and the said assessors shall add such amount to the assessment roll, which they are herein required to make and certify the said amount to the common council, at the time of filing said roll with the clerk as aforesaid. If any vacancy shall happen in the office of assessor for any of the causes mentioned in the thirty-eighth section of this act, the same shall be filled by the common council in the manner therein provided.

SEC. 41. All assessments for improvements authorized by this act, shall be made upon the real estate, and be paid to, or collected by, the collector, except as herein otherwise directed. A corrected copy of the assessment roll shall, in all cases, be filed in the office of the clerk of the city, and the assessment shall be a lien upon the premises assessed for one year only after the final corrected copy of the assessment roll shall have been filed as aforesaid. In case of non-payment, the premises may be sold at any time within the year from the time of the filing of the said assessment roll. Before any such sale, an order shall be made by the common council, which shall be entered at large in the records of the city kept by the clerk, directing the attorney of the city to sell, and particularly describing the premises to be sold and the assessment for which the sale is to be made, a copy of which order shall be delivered to the said attorney. The said attorney shall then advertise the premises to be sold in the manner and for the time required in case of sales of real estate for taxes, and the sale shall be conducted in the same manner. The proceedings may be stopped

at any time before sale by any person paying to the said attorney the amount of the assessment, interest and expenses of advertising. All sales in such cases shall be made for the smallest portion of ground for which any person will pay the assessment, interest and expenses: certificates of the sale shall be made and subscribed by the said attorney, one of which shall be filed by him within ten days after the day of sale in the office of the clerk of the city, and one in the office of the recorder of Cook county, and shall contain a description of the property, and the price for which it was sold, and state the amount of the assessment, interest, and expenses for which the sale was made, and the time at which the right to redeem will expire. If the proceedings are stopped before a sale is made, the attorney may include one dollar and no more in the expenses for his fees. If the premises are sold, the attorney may include two dollars in the amount of expenses for his fees, and no more. The right of redemption in all cases of such sales in the same manner and to the same extent, shall exist to the owner and his creditors as is allowed by law in the cases of sales of real estate for taxes. The money in case of redemption, may be paid to the purchaser, or for him to the clerk of the city. In case of no redemption, or of redemption by the creditor or creditors, the common council shall make to the purchaser or his legal representators, or the person entitled thereto, a deed with a special warranty, signed by the mayor of said city, and countersigned by the clerk of said city, containing a description of the said premises sold for taxes or assessments as aforesaid.

SEC. 42. Any person interested may appeal from any order of the common council for laying out, opening, making, altering or widening any street, alley, lane, highway, to the circuit court of the county of Cook, or to the municipal courts of said city, by notice in writing, delivered to the mayor or clerk of the city, at any time before the expiration of twenty days after the passage of the ordinance therefrom by the common council. The only ground of appeal shall be the want of conformity in the proceedings to this act. The propriety or utility of the

streets, alleys, lanes, highways or other improvements, or the correctness of the assessment of damage if made in conformity to this act, shall not constitute a ground of appeal. In case of appeal, the common council shall make return within twenty days after notice thereof; and the said circuit or municipal court shall, at the next term after the return which shall be filed in the office of the clerk of said court, proceed to hear and determine the appeal and shall confirm or annul the proceedings of the common council.

SEC. 43. The land required to be taken for the making, opening or widening of any street, alley, lane, highway, in said city, shall not be so taken and appropriated by the common council, until the damages assessed and awarded therefor to any owner thereof under this act, shall be paid or tendered to such owner or his agent or legal representative, or in case the said owner, or his agent or legal representative cannot be found in said city, shall be deposited, to his or their credit, or for his or their use, in some safe place of deposit, other than the hands of the treasurer of said city; and then, and in such cases, and not before, such lands may be taken and appropriated by the common council, for the purposes, required in making such improvements, and such streets, alleys, lanes, highways, wharves or slips, may be made and opened.

SEC. 44. Where any known owner residing in said city or elsewhere, shall be an infant, and proceeding shall be had under sections thirty-eight and forty of this act, the circuit court of the county of Cook, the judge thereof, the municipal court of said city, or any such judge of the supreme court or judge of probate for said county, may upon the application of the common council, or such infant, or his next friend appoint a guardian for such infant, taking security for such guardian for the faithful execution of such trust, and all notices and summons required by either of said sections shall be served on such guardian.

SEC. 45. All owners and occupants, in front of whose premises the common council shall direct sidewalks to be constructed or repaired, shall make or repair such sidewalks at their own cost and charges, but if not done in the manner, and of the materials and within the time prescribed by the common council, the said council may cause them to be constructed, and assess the expenses thereof upon such lots respectively, and collect the same in the manner directed by the thirty-eighth and fortieth and forty-first sections of this act, and such assessments shall be a lien upon such lot in like manner as assessments under the said thirty-eighth, fortieth and forty-first sections.

SEC. 46. The common council shall have power to order the grading, paving, graveling, raising, closing, fencing, amending, cleansing and protecting any public square or area now, or hereafter laid out in said city, and to improve the same by the construction of walks and the rearing and protecting of ornamental trees therein, and to cause such part of the expenses thereof as they shall deem just, to be assessed and collected in the manner prescribed in the thirty-eighth, fortieth and forty-first sections of this act, for assessing and collecting expenses of improvements mentioned in these sections, and to cause the sale of any real estate on which such expenses are assessed, to be sold as provided in said thirty-eighth, fortieth and forty-first sections. But nothing herein shall empower the said common council to divest or obstruct the interest of any individual in or to any such square or area.

SEC. 47. The common council shall have power to establish and regulate a market or markets in said city, and to restrain and regulate the sale of fresh meats and vegetables in said city, to restrain and punish the forestalling of poultry, fruits, and eggs, and to license under the hand and seal of the mayor annually, such and so many butchers as they shall deem necessary and proper, and to revoke such license for any infraction of the by-laws and ordinances of the common council, or other malconduct of such butchers in the course of their trade.

SEC. 48. The common council for the purpose of guarding against the calamities of fire shall have power to prescribe

the limits in said city within which wooden buildings shall not be erected or placed without the permission of the said common council, and to direct that all or any buildings within the limits prescribed, shall be made or constructed of stone or brick with partition walls, fireproof roofs, and brick or stone cornices and eave troughs, under such penalties as may be prescribed by the common council, not exceeding one hundred dollars for any one offense, and the further sum of twenty-five dollars for each and every week any building so prohibited shall be continued.

SEC. 49. The common council shall have power to regulate the construction of chimneys so as to admit chimney sweeps, and to compel the sweeping and cleaning of chimneys, and to prevent chimney sweeps from sweeping unless licensed as they shall direct, to prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers, and apparatus used in any building or manufactory, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous, to prevent the deposit of ashes in unsafe places, and to appoint one or more officers to enter into all buildings and inclosures to discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in safe condition, to require the inhabitants of said city to provide so many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in times of fire and to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fire, and to prevent the use of fireworks and firearms in said city, or any part thereof, to compel the owners and occupants of houses and other buildings, to have scuttles in the roofs and stairs and ladders leading to the same; to authorize the mayor, aldermen, fire wardens or other officers of said city, to keep away from the vicinity of any fire, all idle and suspicious persons and to compel all officers of said city, and other persons to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires, as the common council may deem expedient.

SEC. 50. The common council shall procure fire engines and other apparatus used for the extinguishment of fires, and have the charge and control of the same, and provide fit and secure engine houses and other places for keeping and preserving the same, and shall have power to organize fire, hook, hose, bag, ladder and ax companies; to appoint during their pleasure a competent number of able and reputable inhabitants of said city, firemen, to take the care and management of the engines and other apparatus and implements used and provided for the extinguishment of fires, to prescribe the duties of firemen, and to make rules and regulations for their government, and to impose such reasonable fines and forfeitures upon such firemen for violation of the same, as the council may deem proper, and for incapacity, neglect of duty, or misconduct, to remove them and appoint others in their places. And the qualified electors of said city may, at the annual election to be held for said city, choose a chief engineer and two assistant engineers of the fire department, whose term of office shall be for one year, who with the other firemen, shall take the care and management of the engines and other apparatus and implements used and provided for the extinguishment of fires, and whose duties and powers shall be defined by the common council, *Provided, however*, that if the said qualified electors, shall for any reason fail to elect a chief engineer and two assistant engineers or either of them as aforesaid, or, if any of the offices shall become vacant in any way, then such vacancy may be filled by the common council in the same manner as other officers are appointed by them.

SEC. 51. The members of the common council shall be fire wardens, and shall have power to appoint such other fire wardens as they may deem necessary.

SEC. 52. The members of the common council, hook and ladder men, ax men, and firemen appointed by virtue of this act, shall, during their term of service as such, be exempt from

serving on juries in all courts, and in the militia except in the case of war, insurrection, or invasion. The name of each person appointed fireman, hook, and ladder men, or ax men, shall be registered with the clerk of the city, and the evidence to entitle him to the exemption as provided in this section, shall be the certificate of the clerk, made within the year in which the exemption is claimed.

SEC. 53. The present firemen of the town of Chicago shall be firemen of the city of Chicago, subject to be removed by the common council in like manner as other firemen of said city.

SEC. 54. Every fireman, hook and ladder man or ax man who shall have faithfully served as such in said city or town of Chicago, or both for the term of ten years, shall be thereafter exempt from serving on juries in all courts or in the militia, except in the case of war, invasion, or insurrection; and the evidence to entitle such persons to the exemption as provided in this section, shall be a certificate under the corporate seal signed by the mayor and clerk.

SEC. 55. The common council may authorize the mayor or any other proper officer of the corporation to grant license to tavern keepers, grocers and keepers of ordinaries or victualing houses to sell wines and other liquors whether ardent, vinous or fermented, in the manner prescribed by the laws of this state; and also to license billiard tables, hackmen, draymen, carters, porters, omnibus drivers and auctioneers, and to adopt rules and regulations for their government and to impose duties upon the sale of goods at auction, and may moreover direct the manner of issuing, countersigning and registering of such licenses, and may determine upon the fees to be paid for such licenses; not less than five nor more than fifty dollars to be paid to the city treasurer, and the sum to be paid to the mayor or other officer for granting such license shall not exceed one dollar; bonds shall be taken on the granting of such license, for the due observance of the regulations of the common council in respect thereto. They shall be filed and may be prosecuted, and the

money collected shall be applied in such manner as the common council shall direct.

SEC. 56. The common council shall have power to pass such ordinances as they shall deem proper for regulating or restraining tavern-keepers, grocers, keepers of ordinaries or victualing houses, hackmen, draymen, carters, porters, omnibus drivers and auctioneers.

SEC. 57. The said common council shall be and [are] hereby authorized to appoint annually, three commissioners as a board of health for said city, and the mayor of said city or presiding officer of the common council shall be president of said board; and the clerk of said city shall be clerk of said board, and shall keep minutes of the proceedings thereof. The said common council shall at their pleasure appoint a health officer annually, and as often as the office may become vacant; and may remove him at pleasure; whose duty it shall be to visit every sick person who may be reported to the board of health as hereinafter provided, and to report with all convenient speed his opinion of the sickness of such person to the clerk of the said board of health; and it shall be the duty of the said officer to visit and inspect at the request of the president of said board, all boats and vessels running to or being at the wharves, landing places or shores in said city, which are suspected of having on board any pestilential or infectious disease, and all stores or buildings which are suspected to contain unsound provisions or damaged hides or other articles, and to make report of the state of the same with all convenient speed to the clerk of the board of health.

SEC. 58. In case any boat or vessel shall be at (or) near any of the wharves, shores or landing places in said city and the said board of health shall believe that such boat or vessel is dangerous to the inhabitants of said city in consequence of their bringing and spreading any pestilential or infectious disease among said inhabitants, or have just cause to suspect or believe that if said boat or vessel is suffered to remain at or near the said wharves, shores or landing places, it will be the cause of

spreading among the said inhabitants any pestilential or infectious disease, that it shall and may be lawful for the said board by an order in writing signed by the president for the time being to order such boat or vessel to any distance from said wharves, shores, or landing places, not exceeding three miles beyond the bounds of said city within six hours after the delivery of such order to the owner or consignee of said boat or vessel, and if the master, owner, or consignee to whom such order shall be delivered shall neglect or refuse to comply therewith, the said president may enforce such removal, and such master, owner or consignee shall be considered guilty of a misdemeanor, and on conviction shall be fined a sum not exceeding two hundred and fifty dollars, and imprisoned not exceeding three months, in the jail of the county of Cook, by any court having cognizance thereof; the said fine when paid to be applied by the said board to the support of the treasury of the city of Chicago.

SEC. 59. Every person practicing physic in the said city who shall have a patient laboring under any malignant or yellow fever or other infectious or pestilential disease shall forthwith make a report thereof in writing to the clerk of said board of health, and for neglecting so to do shall be considered guilty of a misdemeanor, and liable to a fine of fifty dollars to be sued for and recovered in an action of debt in any court having cognizance thereof, with cost, for the use of the treasury of said city.

SEC. 60. All persons in said city not being residents thereof, who shall be infected with any infectious or pestilential disease, and all things within said city which in the opinion of said board shall be infected by or tainted with pestilential matter and ought to be removed so as not to endanger the health of the city, shall by order of the said board of health be removed to some proper place not exceeding three miles beyond the bounds of said city to be provided by the said board at the expense of the said city, and the said board may order any furniture or wearing apparel to be destroyed whenever they may judge it to

be necessary for the health of the city; and the said common council shall have power to erect one or more hospitals within the said city, and to control and regulate the same.

SEC. 61. All the estate, real and personal, vested in or belonging to or held in trust by the trustees of the town of Chicago, at the time this act shall take effect as a law, shall be and is hereby declared to be vested in the city of Chicago, and the said common council shall be bound and holden in the same manner, to all persons whomsoever, for all causes whatsoever as the trustees of the town of Chicago were bound and holden under and by virtue of any law of this state.

SEC. 62. The said common council are hereby authorized and empowered to borrow upon the faith and pledge of the city of Chicago, such necessary sum or sums of money, for any term of time, and at such rate of interest, and payable at such place as they may deem expedient, not exceeding one hundred thousand dollars for any one year, and to issue bonds of scrip therefor under the seal of the said corporation, signed by the mayor and countersigned by the clerk, such sum or sums so borrowed, to be expended and applied in the liquidation of the debts of the said city of Chicago, and in the permanent and useful improvements of the said city, and to pledge the revenues accruing to the said city for the repayment of the said sum or sums so borrowed with the interest upon the same.

SEC. 63. The said common council shall in all improvements strictly local in their character, such as improving streets, making drains and sewers, expend annually in each ward such proportion of the public moneys as shall correspond with the amount of the assessed value of the property in each ward, as exhibited by the last assessment roll.

SEC. 64. The mayor of the said city for the time being, shall have power to administer any oath required to be taken by any person under this act.

SEC. 65. Any person who shall hereafter be elected to the office of mayor or alderman in said city, may tender his resignation of such office to the common council of said city.

SEC. 66. The common council of the said city shall determine the rules of its own proceedings, and be the judge of the elections and qualifications of its own members, and have power to compel the attendance of absent members.

SEC. 67. The said common council are hereby authorized to levy an annual tax upon the owner of every dog kept or owned in said city by such person, not exceeding five dollars for every dog so owned or kept by such person.

SEC. 68. That the mayor of the said city of Chicago, shall have the same jurisdiction within the limits of the said city, and shall be entitled to the same fees and emoluments which are given by the laws of this state to the justices of the peace, upon his conforming to the requirements, restrictions and directions of the laws of this state regulating the office of justice of the peace.

SEC. 69. That there shall be established in said city of Chicago, a municipal court which shall have jurisdiction concurrent with the circuit courts of this state in all matters civil or criminal, arising within the limits of said city, and in all cases where either plaintiff and defendant or defendants, shall reside at the time of commencing suit, within said city, which court shall be held within the limits of said city in a building provided by the corporation.

SEC. 70. Said courts shall be held by one judge, who shall be appointed by joint ballot of both branches of the general assembly and commissioned by the governor, and shall hold his office during good behavior, and shall during his continuance in office, reside within the limits of said city, and shall receive a salary of one thousand dollars annually, payable quarter-yearly by the common council of said city, which salary shall not be diminished but may be increased by said common council, *Provided, always*, That the said judge may and shall be removed from office by the same causes and in the same manner that the constitution of this state provides for the removal of other judges.

SEC. 71. That the docket fees now authorized and required by law to be paid to the clerk of the circuit court shall be paid

in all suits arising in the said municipal court to the clerk thereof, and shall by him be paid to the city treasurer, out of which fees together with the other revenues of said city the salary of the judge and the other expenses of said court shall be paid.

SEC. 72. That the grand and petit jurors of said muncipal court shall be selected from the qualified inhabitants of said city by the common council thereof in the same manner as other jurors are selected by the county commissioners' courts of this state, which jurors shall possess the same qualifications and shall be liable to the same punishments and penalties, and have the benefits of the same excuses and exemptions as are imposed upon and allowed by the laws of this state to other jurors, and they shall take the same oaths, possess the same powers and be governed in all their proceedings as is prescribed in the case of other jurors by the laws of this state.

SEC. 73. That the said jurors shall be summoned by the high constable of said town, in the same manner as other jurors are summoned by the sheriffs of this state, and the said jurors shall be impaneled by the officers of the said municipal court, in the same manner as jurors of circuit courts; and the judge of said municipal court shall have all the powers concerning jurors that are given by the laws of this state to judges of the circuit courts.

SEC. 74. The jurors of said municipal court shall receive, out of the city treasury, the same compensation for their services as is allowed to jurors of the circuit courts, to be paid upon the certificate of the clerk of said municipal court, which certificate said treasurer shall file as his voucher.

SEC. 75. The judge of said municipal court shall hold six terms of said court in each year, for the transaction of civil and criminal business, and shall continue each term until the business before it shall be disposed of. The said terms shall respectively commence on the first Monday of January, March, May, July, September and November, *Provided, always*, That the common council of said city shall have power to increase

the number of the terms of said court or to alter the same by giving four weeks' notice thereof, in the corporation newspaper.

SEC. 76. The clerk of said court shall be appointed by the judge thereof, and shall be qualified and shall enter into bonds as clerks of the circuit court are now required to do, and shall receive the same emoluments as are allowed to the clerks of the circuit courts for similar services, which fees shall be collected in the same manner.

SEC. 77. There shall be chosen by the qualified electors of said city, at the same time and in the same manner as is provided in this act, for the election of mayor, one high constable, whose term of service shall be for one year, and until his successor shall be chosen and qualified, who shall have and exercise all the powers and functions as an officer of said municipal court within the limits of said city, as sheriffs are allowed to exercise within the limits of their respective counties, and shall be entitled to the same fees for his services.

SEC. 78. Said municipal court shall be a court of record and have a seal to be furnished by the common council, the process of said court shall be tested by the judge, and issued in the same manner as in the circuit courts, and shall be directed to the high constable of said city, to be executed within the limits of the same, but where the defendant or defendants or either of them may reside without the limits of said city, and in Cook county, the process shall be directed to the sheriff of said county, who shall execute the same and make return thereof to the clerk of said court.

SEC. 79. The said high constable shall before he enters upon the duties of his office, execute a bond with sufficient sureties payable to the city of Chicago, to be approved by the common council in the penal sum of ten thousand dollars, conditioned as the sheriffs' bonds in this state are required by law to be conditioned and may be prosecuted in the same manner in behalf of any person aggrieved, and the said high constable shall be required to take the same oath as the sheriffs of this state are required to take as far as is consistent with the provisions of this act, before he enters upon the duties of his office, and the said high constable shall have power to appoint from among the city constables, one or more deputies who shall be qualified in the same manner, shall have the same powers under the said high constable, so far as is consistent with the provisions of this act, as deputy sheriffs have under the high sheriffs.

SEC. 80. All judgments rendered in said municipal court shall have the same lien on real and personal estate and shall be enforced and collected in the same manner as judgments rendered in the circuit courts of this state, and all appeals from any judgment rendered by the mayor of said city, or any justice of the peace within the limits of said city, shall be taken to the next circuit or municipal court, whose term shall first happen.

SEC. 81. The said common council shall have power from time to time to establish, alter, and regulate a tariff of fees to be allowed to the party or parties prosecuting or defending any suit or action in the said municipal court, to be taxed against the party failing in said suit, and to be recovered and collected in the same manner as fees are received and collected in the circuit courts of this state.

SEC. 82. All rules and proceedings of the said municipal court, not herein otherwise provided for, shall conform as near as may be to the rules and proceedings of the circuit courts of this state, and appeals from the municipal court to the supreme court, shall be taken and conducted in the same manner as is provided by the laws of this state, for the taking of appeals or writs of errors from the circuit court.

OF COMMON AND OTHER SCHOOLS.

SECTION. 1 (83.) That the common council of the city of Chicago shall, by virtue of their officers, be commissioners of common schools in and for the said city, and shall have and possess all the rights, powers and authority necessary for the proper management of said schools.

SEC. 2. (84.) The said common council shall have power to lay off and divide the said city into school districts, and from

time to time alter the same and create new ones as circumstances may require.

SEC. 3. (85.) The common council shall annually appoint a number of inspectors of common schools in said city, not exceeding twelve, and not less than five; and in case of a vacancy in the office, the common council shall, from time to time appoint others, which inspectors, or some of them, shall visit all the public schools in said city at least once a month, inquire into the progress of the scholars and the government of the schools, examine all persons offering themselves as candidates for teachers, and when found well qualified, give them certificates thereof gratuitously, and remove them for any good cause; and it shall be the duty of the said inspectors to report to the common council, from time to time, any suggestions and improvements that they may deem necessary or proper for the prosperity of said schools.

SEC. 3. (86.) That the legal voters in each school district shall annually elect three persons to be trustees of common schools therein, whose duty it shall be to employ qualified and suitable teachers, to pay the wages of such teachers when qualified, out of the moneys which shall come into their hands from the commissioner of school lands, so far as such money shall be sufficient for that purpose, and to collect the residue of such wages from all persons liable therefor. They shall call special meetings of the inhabitants of the district liable to pay taxes whenever they shall deem it necessary and proper, shall give notice of the time and place for special district meetings at least five days before said meeting shall be held, by leaving a written or printed notice thereof, at the place of abode of each of said inhabitants, make out a tax list of every district tax, which the inhabitants of said district may, by a vote of a majority present, direct at any meeting called as aforesaid for that purpose, which list shall contain the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name, which tax may be levied upon the real or personal estate of said

inhabitants; they shall annex to such tax list, a warrant directed to one of the city constables residing in the ward in which said district may be, for the collection of the sums in said list mentioned, and said constable shall receive five cents on each dollar thereof for his fees. The said trustees shall have power to purchase or lease a site for the district schoolhouse, as designated by a meeting of the district, and to build, hire or purchase, keep in repair and furnish said schoolhouse with necessary fuel and appendages, out of the funds collected and paid to them for such purposes.

SEC. 5. (87.) The trustees of each district shall at the end of every quarter make report to the school inspectors in writing, setting forth the number of schools within the district, the time that each has been taught during the previous quarter, and by whom, the number of scholars at each school, and the time of their attendance during the quarter, to be ascertained from an exact list or roll of the scholars' names to be kept by the teacher for that purpose, which list shall be sworn to or affirmed by said teacher.

SEC. 6. (88.) That it shall be the duty of the commissioner of school lands in Cook county to make semi-annually to the common council of said city a full and correct report, in such manner as they shall direct, of the state of the school fund arising from the sale or lease of school lands in township thirty-nine north, range fourteen east, in Cook county, with the interest accruing thereon.

SEC. 7. (89.) The school inspectors shall, quarterly, apportion said school moneys among the several districts in said city according to the number of scholars in each school therein between the ages of five and twenty-one, and also according to the time that each scholar has actually attended such school during the previous quarter, to be ascertained by the reports of said trustees and teachers.

SEC. 8. (90.) Whenever the said apportionment shall have been made, the school inspectors shall make out a schedule thereof, setting forth the amount due to each district, the per-

son or persons entitled to receive the same, and shall deliver the said schedule together with the report of the trustees and the lists or rolls of the teachers to the common council, and thereupon the said common council shall issue a warrant directed to the commissioner of school lands, to pay over such part of the interest of the school moneys of said township as shall be therein expressed, *Provided*, That nothing herein contained shall authorize the expenditure of the principal of any part of the said school fund.

SEC. 9. (91.) The freeholders and inhabitants of any school district in the said city, by a vote of two-thirds of the persons present and entitled to vote, at a meeting of such district, convened after notice of the object of such meeting shall have been published for one week in the corporation newspaper of the said city, and after said notice shall have been served on every such freeholder and inhabitant, by reading the same to him, or in case of his absence by leaving the same at his place of residence, at least five days previous to such meeting, determine either separately or in conjunction with any other school district or districts in the said city, to have a high school created for such district or districts, or shall so agree to unite for that purpose, and may vote a sum not exceeding five thousand dollars, to be raised for erecting a building for such high school. And on evidence of such vote, and of such notice having been published and served as above provided, being presented to the common council, they may in their discretion authorize the erecting of a high school in such district, or may authorize the several districts so agreeing, to be erected into one district, which shall thereafter form one school district, and all the property right and interest, of the several districts so united, shall belong to, and be vested in the trustees of said united districts, and the trustees thereof shall have all the powers of trustees of school districts, shall be elected in the same manner, and shall be subject to all the duties and obligations of trustees of common school districts.

SEC. 10. (92.) The common council shall annually publish on the second Tuesday of February, in the corporation newspaper of the city, the number of pupils instructed therein the year preceding, the several branches of education pursued by them, and the receipts and expenditures of each school, specifying the sources of such receipts and the object of such expenditures. That the act entitled an act to incorporate the inhabitants of such towns as may wish to become incorporated, approved on the 12th day of February 1831, and so much of an act entitled an act for the incorporation of fire companies, approved the 12th day of February 1835, and so much of an act entitled an act to change the corporate powers of the town of Chicago, and so much of an act entitled an act to amend an act entitled an act to change the corporate powers of the town of Chicago, approved January 15 1836, and all other acts and parts of acts as are inconsistent with, and repugnant to the provisions of this act, in so far as relates to the said city of Chicago, be and the same are hereby repealed.

(Approved March 4, 1837.)

AN ACT SUPPLEMENTAL TO AN ACT TO INCORPORATE THE CITY OF CHICAGO.

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That so much of the said (act) as permits the licensing of billiard tables in the said city be repealed, that all persons residing in the said county of Cook, may at their option have recourse to the municipal court of said city, and the said municipal court shall have concurrent jurisdiction with the circuit court in all matters arising within said county, that only so much of an act entitled an act to incorporate the inhabitants of such towns as may wish to be incorporated, approved on the 12th day of February 1831, shall be repealed as is inconsistent with the provisions of the act incorporating the said city of Chicago, and only in so far as the same relates to the said city of Chicago.

(Approved 4th March, 1837.)

AN ACT AMENDING THE FIRST CITY CHARTER.

July 21, 1837, an act was passed giving to the judge of the Chicago municipal court the powers of the judge of the circuit court.

The University of Chicago —
FOUNDED BY JOHN D. ROCKEFELLER

STUDIES IN POLITICAL SCIENCE

THE CHARTERS
OF THE
CITY OF CHICAGO

BY
EDMUND J. JAMES, PH.D.
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PART II
THE CITY CHARTERS
1838–1851

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DISCUSSION OF THE EARLY CHARTERS.

INTRODUCTION.

BEFORE taking up the changes which were made in the city charter of 1837 up to the time of the General Consolidation Act of 1851, it may be well to cast a brief glance by way of comparison at the provisions of the three early charters, and at certain of the actions taken by the town and city authorities under those charters. This will enable us to understand more completely than would otherwise be possible the meaning of these important provisions.

A.

THE GENERAL ACT OF 1831—THE FIRST TOWN CHARTER.

The examination of the provisions of the general act, as printed in the first part of this work, will reveal the conception of the proper sphere of town government as it existed in the minds of the men of that era.

It will be seen, in the first place, and will strike one as a matter of much interest, that there was practically no place in the life of the town organized under this general law for the town meeting. All the corporate powers of the community were vested in the board of trustees, which was, indeed, by the express words of the law itself, declared to be a body corporate.

These trustees were not, in any sense, held accountable to the town meeting. They made no report to the town meeting as such. The town meeting had no authority to discuss their actions, no authority to dictate to them what they should do, no authority even to advise them.

The ordinance power, so far as granted, was vested entirely and completely in the town board of trustees. The sole function of the town meeting as a permanent constituent in the

government was in connection with the election of the board of trustees. The town meeting was, it is true, the original means through which the community expressed its desire to become incorporated, and the first town meeting for this purpose could be called by any persons choosing to put up a sign to that effect, in at least three of the most public places, and at least ten days before the meeting.

This town meeting, which consisted of all the male white persons, twenty-one years of age and upward, who had been residents in the town for six months, or who were freeholders, was required by the law to organize by the election of a president and a clerk. The sole business, however, before such meeting, was the simple one of voting yes or no upon the question whether the town should organize under the law and become an incorporated town with all the privileges and duties of such an organization.

In case the vote was in favor of incorporation, the president and the clerk were to certify under their hands the number of votes cast for and against incorporation, and deliver such certificate to the board of trustees, who were then to be elected. It was necessary, however, that two-thirds of the total number of voters present should be in favor of incorporation, before it was considered as adopted by the meeting.

The clerk of this meeting was directed to call a second town meeting, giving at least five days' previous public notice, for the election of five trustees. After these trustees had been elected and had organized by the election of a president, all further functions were vested in them alone. They were required to file a statement concerning the fact of incorporation with the county commissioners' court, were required to take an oath of office to discharge their duty according to their best abilities, and constituted from that time on, practically, the corporation.

There is no suggestion in all this form of organization of any recognition of the right of the people to adopt their own by-laws and ordinances under which they should be governed, the feature so characteristic of the New England town meeting.

On the contrary, it was a representative government, pure and simple.

Another interesting feature, which strikes one upon the most cursory examination of the law, is the very narrow range of powers accorded to this board of trustees. The purpose of the act is indicated by the expression "incorporation for the better regulation of their internal police." It is declared that the moneys of the town should be used only for those objects which, by this act, are placed under the control and jurisdiction of the board of trustees, and for none others. It is also declared that the trustees may make such ordinances, not inconsistent with the laws or the constitution of the state, as they shall deem necessary in order to accomplish certain definite ends, which were then enumerated.

In other words, the authority of the town is not only limited and delegated, but, one may say, limited to the express grants given by the law itself.

It is true that the content of this provision can be fully appreciated only when one takes into connection with it the fact that the courts of that time construed very strictly the authority granted such towns, and in general the authority granted to all forms of local government. The mere phraseology of the act itself might have allowed a much wider extension of authority than the courts, under their narrow principles of construction and interpretation, actually permitted.

No general ordinance power was vested in these towns. They were simply anthorized to pass ordinances in order to carry out the specific functions assigned to them. In this attitude the courts were justified by two considerations: regard for the authority of the state on the one hand, and the rights of the private individual on the other. They held, on the one hand, that no presumption could be accepted in favor of recognizing any original power of action on the part of the community, as this might, to an undue extent, allow the building up of a certain local jurisdiction, which might thus impair the general state jurisdiction. On the other hand, they considered that the

private citizen had a right to protection for his person and property against any exercise of authority on the part of the local community which was not distinctly permitted or enjoined by the general state law.

We shall see, when we come to enumerate the concrete powers vested in the board of trustees, of how limited a character the jurisdiction of these towns was.

The board of trustees had certain authority in regard to its own constitution and powers, and certain duties were enjoined upon it in regard to these matters, which it may be worth while to glance at.

They were five in number, elected for the term of one year; were required to keep a journal and record of all their proceedings; their sessions must always be public. They were authorized to fill vacancies in their own number happening through resignation or death, and they were required to provide for the election of their successors by calling a town meeting before their time expired, of which at least ten days' public notice should be given. No person could be a member of the board of trustees except a resident and freeholder in the town. The quorum was the ordinary majority generally required in similar bodies. Publication for at least ten days before they went into effect was the necessary condition of the validity of all ordinances.

An examination of the authority conferred upon the board of trustees will show that it extended in general to the police regulation of the following subjects: nuisances, gambling and other disorderly conduct, horse-running, licensing public shows, markets, public wells, streets and alleys, sidewalks, fire protection, and determining the boundaries of the town.

This list represents, of course, a very limited set of functions, but the authority of the board, even in these matters, was still further limited by certain positive restrictions. They could not build sidewalks unless they assessed one-half the expense on the adjacent property. They could not extend the boundaries of the town beyond one square mile.

Their authority was still further limited by the very narrow

financial powers vested in the board. There was, in the first place, no authority to borrow money, which of itself limited very decidedly any tendency on the part of the board to invest money in extensive public improvements. In the second place, while they had the general taxing power, it was limited to the collection of a tax on the real estate of the town not exceeding one-half of one per cent. The town had, it is true, other sources of revenue. It could charge a license fee for public shows. It might charge fees in connection with the markets. It was authorized to exact three days' labor from all male residents in improving the roads and streets. It had the power of special assessment in regard to sidewalks, already mentioned. It was authorized to inflict fines up to $5 for each offense for the violation of its ordinances. But it is evident that the income from all these sources of revenue was, after all, very limited, and thus the real extent of the powers granted by the state in the enumeration of the functions which the organized town might assume, was actually far less, owing to this financial limit, than one would have supposed from a mere examination of the provisions of the law.

The burden of some other public functions might also be assessed upon the community, as the town board, in its ordinances concerning protection against fire, might require the citizens to provide certain means of extinguishing fires at their own expense, and also to take part actively in the extinguishment of fires, and thus it might avoid the necessity of providing for a public fire company, whose expenses were to be defrayed from the public treasury.

It is interesting to note that the taxing power was conferred upon this corporation, even though only a limited one, and that it was given authority to collect its taxes by distress and sale—this in spite of the opposition to granting any such power which had been long and bitter, in this country as well as in England.

The other provisions of this act do not call for any special discussion, as they relate chiefly to administrative matters, like the duty to keep an account current of the fiscal concerns of the

corporation, which should be open to such as might desire to inspect the same.

Provision was made in the law for giving up the rights of an incorporated town by the consent of two-thirds of the qualified voters of the town at any annual election. It was made the duty of the town to keep in repair all public roads passing through the town for a distance of one mile from the center thereof. In return for this the inhabitants of incorporated towns were not required to work upon public highways, except as described above, namely, three days in each year.

The board of trustees had the ordinary authority to appoint and prescribe the duty of any officers necessary to carry into effect the powers vested in the town. No enumeration of the necessary officers is given, but the clerk, tax collectors, and treasurer are mentioned incidentally. The trustees were required to demand bonds from the tax collector and the town treasurer. In case the town desired to give up its charter, all town property vested in the county commissioners for the benefit of the county.

One cannot understand fully the actual scope of the powers granted to such towns without glancing at the large number of functions, oftentimes considered local, with which they had nothing whatever to do. The whole judicial system, of course, was entirely beyond their reach. Even the fines which the board of trustees might impose for violation of their ordinances had to be collected before a justice of the peace, with whose appointment and whose powers the town had no concern. Nor did the town have any control over schools, the administration of which was provided for by a system to which the town had practically no relation. Nor was the town held responsible for the support of its poor, nor, indeed, permitted to undertake such a function. It had no authority to provide for a system of public water-works or of public lighting. Nor might the town determine the conditions of exercising the right to vote in the town meeting. The law itself determined this, and practically, therefore, determined who constituted the electoral body.

This law reveals, therefore, the very narrow scope of municipal authority which it was thought wise to invest in the smaller towns of the state. A glance at the method adopted to insure compliance with the law will also be of interest. Certain duties were imposed upon the board of trustees. In regard to most of these duties, however, there was no direct way of supervising the manner in which the trustees performed them. There was no administrative authority anywhere in the state whose function it was to oversee or control, in any way, the manner in which these local authorities performed the duties imposed upon them. There was, in a word, only the judicial remedy for a private citizen in case of any neglect on the part of the town board, and such a remedy was, of course, in many cases extremely insufficient, so far as affording any positive check upon the actions of the board was concerned.

No method was provided, for example, of ascertaining whether the town actually contained the 150 inhabitants which the law declared necessary before it could be incorporated.

There is no doubt that, if we had a complete history of the actions of these town boards, so far as they were organized under this general law, we should find that they had exercised many powers which the law, strictly construed, would not have conferred upon them, and many powers concerning which no express authority of any kind was given.

Thus the law confers upon the trustees the right to levy a tax upon the assessed valuation of the real estate, but no provision was made in this act for such assessment, and the question would arise immediately whether the town authorities were required to take the assessment, which was made for state purposes and county purposes, or whether they might appoint their own assessors, and make their own valuation. As a matter of fact, the town of Chicago appointed an assessor almost immediately who made the assessment for town purposes. The town of Chicago also established a free ferry across the river, though no authority for such action was to be found in the law, and in general the incomplete check which the system of judicial

supervision of towns establishes enabled the town authorities to exercise many powers which were not conferred by the law, and which, therefore, under the theory adopted by the courts as to the nature of municipal charters, were not conferred at all.

It will be noticed, further, that no authority was conferred upon the town trustees to grant, purchase, receive, or hold property, real or personal, either within or without the town. No authority was conferred upon them to establish or control the cemeteries, or to provide a general system of sewerage and drainage, though the right to dig drains would be perhaps necessarily involved in the right to repair the streets. No general authority over the sanitary conditions of the town was given except that involved in the power to prevent and remove nuisances. Although this act permitted the trustees of the towns organized under it to appoint such officials as were necessary to enable it to perform its functions, the conception of the powers of the town in this respect was also rather narrow, as is evidenced by the fact that an act was passed January 31, 1835, authorizing the trustees of towns organized under the act of 1831 to appoint constables. It is probable that some towns had already appointed such officers, but that, owing to a doubt as to their authority under the law, it was deemed desirable to set it completely at rest by an express provision.

So far as Chicago was concerned, no provision had been made for the organization of schools in the township in which it was situated, but on February 6, 1835, an act was passed providing for the organization of schools in that township. The most efficient check, perhaps, upon any undue extension of town authority was to be found in the unwillingness of the people to burden themselves in any way to provide the funds for the exercise of broad public functions, and in the fact that little could be done in the way of enlarging such functions without interfering at some point with the rights (either as to person or property) of private parties who were always ready to contest in the courts any interference with their sphere of liberty.

B.

THE SPECIAL ACT OF 1835 — THE SECOND TOWN CHARTER.

The town of Chicago grew rapidly after its organization under the general act of 1831, and the attempt of the trustees to keep pace in their legislation with the growing demands of the village soon made the fact very evident that the powers given under the general law were not sufficient to enable the trustees to perform properly all the public duties which the growing population and the increasing complexity of village life made desirable.

In less than two years, therefore, after the organization of the town under the general law, agitation was started to obtain a general charter from the legislature conferring additional powers upon the town. It is interesting to note that the town itself, through its representatives, applied for this act of the legislature, and that, so far as one can infer from the evidence at hand, the act was passed by the legislature exactly as it was drafted by the local people representing the wishes of the village. This, so far as I have been able to study the history of early town, village, and city legislation, was true of all the special charters. They were not imposed upon the village by the legislature, but were granted to the village upon its own request along the lines laid down by the village representatives, and oftentimes in accordance with the draft actually submitted by the community itself. This tendency, therefore, to interfere in local matters by the granting of special charters did not have its origin, as is oftentimes represented, in the desire of state politicians to interfere in local matters, but grew out of a positive desire, and, generally speaking, of an earnest request, on the part of the locality for such special privileges as the charter contained.

The first special charter, therefore, obtained by the town of Chicago was the act of the legislature passed February 11, 1835, going into effect the first Monday in June of the same year and entitled "An Act to Change the Corporate Powers of the Town of Chicago."

A comparison of this special act with the general law will

show the points at which the local authorities felt that their powers should be extended in order to enable them to cope with the local necessities of the growing town.

One can see from the very phraseology of the act that it was a special law adapted to the needs of this particular community. Thus it determined the boundaries of the town, describing its area in terms of congressional sections, including sections 9 and 16, north and south fractional section 10, and fractional section 15, in township 39 north, of range 14 east of the third principal meridian, excepting a portion of south fractional section 10, which was occupied by the United States.

It further divided the town into three districts; that lying south of the Chicago river and east of the south branch constituting the first district; that lying west of the north and south branches of said river constituting the second; and that lying north of the Chicago river and east of the north branch constituting the third district; and a striking testimony to the local feeling of the place was furnished by the provision that the taxes collected within the said districts should be expended under the direction of the board of trustees for improvements within the said districts respectively.

A further evidence of the local and specific character of this charter is to be found in the power vested in the board of trustees over ferries and wharfing privileges.

The new board of trustees had more extensive authority than the old board in the matter of accepting property which might be given to the town, and of selling or leasing property belonging to the town. The board of trustees was increased from five to nine. The electors were those persons residing within said town who were qualified to vote for representatives to the legislature. The members of the board of trustees themselves were to be at least twenty-one years of age, citizens of the United States, and inhabitants of said town and freeholders within it.

A curious reflection of the state and federal constitutions is to be found in section 5, which authorizes the board of trustees to appoint their own president, and all other officers of the

board; and to be judges of the qualifications, elections, and returns of their own members. It appears also in the definition of the quorum as a majority, and in giving to a smaller number the power of adjourning from day to day and compelling the attendance of absent members in such manner and under such penalties as the board might provide, and in the authority to determine their own rules of proceedings.

We find in this new charter a certain number of officers expressly named, though the power to appoint such other officers as they may deem good for such town is vested in the board. The officers especially mentioned are the clerk, street commissioner, treasurer, assessor and collector of taxes, town surveyor, measurers of wood and coal, measurers of lumber, measurers and weighers of grain.

The enumeration of the general powers vested in the board indicates not only an addition to the number of such powers, but a broader conception, and a consequently more general definition, of powers which were granted to the trustees under the general law. They were in general:

1. To make regulations to secure the general health of the inhabitants (a positive and broad addition).

2. To prevent and remove nuisances; establish night watches (a new authority).

3. To erect lamps in the streets, and lighting same (a new authority).

4. To regulate and license ferries within the corporation (a new authority).

5. To lease the wharfing privileges of the town, giving to the owner or the owners, occupant or occupants, of the lots fronting the river the preference of such privilege (a new authority.)

6. To erect and keep in repair bridges (a new authority, though it had been exercised by the town board).

7. To provide for licensing, taxing, regulating theatrical and other shows, billiard tables, and other amusements (an extended authority).

8. To restrain and prohibit gaming houses, bawdy houses, and other disorderly houses (an extended authority).

9. To build market houses and establish and regulate markets (an extended authority).

10. To open and keep in repair streets, avenues, lanes, alleys, drains, and sewers, and to keep the same clean and free from incumbrances (an extended authority).

11. To establish and regulate a fire department, and provide for the prevention and extinguishment of fires (an extended authority).

12. To regulate the storage of gunpowder and other combustible materials (a new authority).

13. To erect pumps and wells in the streets for the convenience of the inhabitants.

14. To regulate the police of the town; to regulate the election of town officers, and to fix their compensation; to establish and enforce quarantine laws (a new authority).

15. And, from time to time, to pass such ordinances to carry into effect the ordinances of this act, and the powers hereby granted, as the good of the inhabitants may require, and to impose and appropriate fines and forfeitures for the breach of any ordinance, and to provide for the collection thereof.

Additional powers were granted in regard to the improvement of streets, and the process of opening streets through land belonging to private parties was more accurately described. Indeed, it is a question whether any power was given under the general law to condemn property for the purpose of opening streets. The language in the first law speaks simply of keeping open and in repair the streets and alleys and the public roads passing through such town.

The second charter conferred upon the board of trustees the right to levy and collect a special tax on the owners of lots in any street or parts of a street, according to their respective fronts, for the purpose of grading and paving the sidewalks in said street, provided that the owners of two-thirds of the real estate on such street or parts of street make application for such action.

The board of trustees received in the new charter authority to open streets, grade and pave them, by making adequate compensation to private owners.

The jury, consisting of twelve freeholders of said town, were directed to take into consideration the benefits, as well as the injury, which may accrue, and estimate and assess the damages upon this basis. They were required, moreover, to estimate the benefit which other persons — adjacent property owners — would receive, and the amount which they should contribute toward the cost of opening the road. If the total cost exceeded the amount assessed in benefits, the difference could be paid from the town treasury.

The process of selling the land for taxes was, furthermore, described in some detail, and the conditions under which deeds might be given for such property.

Authority was, moreover, given to the town trustees to order the formation of fire companies, which should be formed by voluntary enlistment, and whose members should be exempted from jury and military duty.

It will be seen that the special act constituting the second charter of the town of Chicago extended very materially the authority of the town trustees. By inference, it gave the trustees authority to purchase grounds without the town for burial purposes. But it still maintained the principle that the authority of the board was a strictly limited and delegated one, and that it had only such authority as was given by the act.

The revenue powers of the town were not essentially increased under the second charter. Its power of taxation was limited to one-half of one per cent. upon the assessed value of all real estate. The act recognized the right of the town to make its own assessment by providing for an assessor of taxes. An additional source of income was to be found in the right to lease the wharfing privileges and to license ferries within the town. The broad acceptance of the principle of betterment in the opening of streets conferred practically an additional revenue power upon the trustees, and the authority given to establish

volunteer fire companies enabled the town to provide for a very necessary function in a very inexpensive way.

The history of the ordinances passed by the town during the next two years furnishes examples of the exercise of a wide range of authority, wider, perhaps, than the new act justified in some directions.

The action of the town in regard to its wharfing privileges led to an act of January 15, 1836, limiting its power over such privileges and reducing its tax power from one-half to one-fourth of one per cent. upon the assessed valuation. This act testified to the dissatisfaction of the inhabitants at the liberal way in which the trustees had interpreted their authority, and their feeling that it was easier to secure an act of the legislature, limiting the power of the board to tax, than it was to keep the board within the same limit by the exercise of their political control, involved in the possible election of an economizing board.

On January 18, 1836, an act was passed by the legislature incorporating the Chicago Hydraulic Company. And it is an interesting commentary upon the way in which public and private functions were confused and exercised by the legislature, that this act incorporating a private company gave it authority to lay water mains through the streets of Chicago, without any reference to the consent of the trustees or of the community. There is no evidence that there was any objection on the part of the community, or on the part of the board of trustees, to this granting away to a private company the right to use the public streets. The specific granting of this right by the legislature in the incorporation act of the company implied that no power was given to the board of trustees of the city of Chicago to grant such privileges over the streets of the town.

On February 10, 1837, the legislature granted a lot to the town of Chicago for burial purposes, a lot which was outside of the boundaries of the town, as constituted by the act of 1835. It was provided that it should never be used for any other purposes. Subsequently, an act of the legislature permitted this

burial lot to be dedicated to park purposes, and it became a part of the present Lincoln Park.

There is no evidence in this second charter of any wider functions permitted to the town in the matter of schools and water supply, and the support of the poor, and the exercise of authority over the courts, than was given to the trustees under the general act.

The town in the meantime grew rapidly, and the inhabitants became convinced that it should have a larger range of authority than was conceded in the existing charter. As a consequence of this agitation, the details of which are mentioned in a preceding part of this work,[1] a new charter, known as the first city charter, was granted by the legislature.

C.

THE FIRST CITY CHARTER OF CHICAGO.

The first city charter of Chicago was in the form of an act of the legislature passed March 4, 1837, to go into effect the day after the first election of city officials which was to be held some time between the passage of the act and on or before the first day of the following June. The city authorities set the election for May 2, 1837, and from that time we may therefore date the existence of the first city charter. This charter, like the preceding one, reveals the fact in almost every paragraph that it is a special charter.

The first section defines the boundaries of the city, and shows a very great extension of the boundaries from those indicated in the charter of 1835. The area under the act of 1835 had been two and two-fifths square miles; under the new charter it was more than ten square miles.[2]

The act declared that the inhabitants of this city shall constitute a corporation. It will be remembered that under the preceding acts the corporation consisted of the trustees. The

[1] *Cf.* pp. 22 and 23.

[2] See p. 23 of this volume.

usual powers were granted to this corporation, such as the right to sue and be sued, etc., and also take, hold, purchase, and convey such real and personal estate as the purposes of the corporation may require.

It will be noted that, while the preceding act limited the right of the town to hold property to such as might be acquired within the limits of the town, except cemeteries, the present act conferred upon the corporation the right to hold such real and personal estate, whether within or without the city, as the purposes of the corporation may require. The significance of this provision is seen in section 60 for example, where the city is authorized to provide some place, not exceeding three miles beyond the bounds of the city, to which all persons, not being residents of the city, infected with any infectious or pestilential disease might be removed. The power to acquire real property beyond the bounds of the city has been much extended of late in the case of other large American cities, so as to enable them to protect their water supply, provide parks, etc.

This charter contains many provisions which were little more than copies of ordinances which the city council might have passed and changed at pleasure, if they had not been incorporated within the law. Thus the city was divided into six wards, whose boundaries were determined.

The legal relation of the city to the state under this charter was exactly the same as the town under the preceding charters. That is to say that it had only such authority as was given to it by this charter. Its powers were limited and delegated, and, generally speaking, in all matters affecting the rights of persons or property the courts were inclined to give a very strict definition and limitation to city powers, permitting only such authority to be exercised as was plainly delegated — one might almost say, as was expressly delegated. This limitation was evident, in the first place, by the fact that the charter as a whole, aside from the provisions organizing the municipal government, was in essence simply a delegation of powers. In section 28 the language is that the common council shall have power to establish ordinances

"for the following purposes," which seems to imply, of course, that it cannot establish them for any other purposes. In section 30 provision is made that the council may establish such ordinances as may be necessary to carry into effect the powers given to the said council by this act. If the courts had been willing to give the same broad interpretation to this provision that the Supreme Court of the United States has given to a somewhat similar one in the constitution of the United States in regard to federal power, there is no doubt that the city might have exercised much broader powers than was possible under the decidedly narrower view which the courts have always adopted in their construction of this clause, as it relates to municipal governments.

A study of the act will show that a very broad range of powers was given to the city in the matter of organizing and administering its own government. The act mentioned, it is true, many officials, but gave the city authority to establish other offices and to prescribe the duties of their incumbents; and even where the duties of individual officers were prescribed, they were little more than a copy of what would in any case have been contained in city ordinances, and the city was permitted to add to these duties to almost any extent.

As stated above, this charter, although a special act of the legislature, was really drafted by the citizens of Chicago themselves; drafted on their own initiative and submitted to the legislature, which accepted it almost without change.[1] It is interesting to note that in this self-proposed charter the citizens did not make any provision for any direct participation in the government of the city through the medium of town meetings. It was a strictly representative government; all authority was vested in the public officials; no subject was submitted to popular vote; no town meetings were called to hear the reports of city officials, or to discuss or criticise their actions. Neither referendum nor the initiative was recognized in any form in the city at large. The only recognition in this first city charter of

[1] *Cf.* p. 23 of this volume.

any direct participation of the people in the government of the city was to be found in sections 86 and 91, where a certain authority was given to the voters, freeholders, and inhabitants of any school district to direct the levying of taxes within that district for school purposes.

It will be noted that Chicago received its town and first city charters at a time before the introduction of the system of township government into the state of Illinois, and the only units of government in the county of Cook when Chicago received its first city charter were the county, the city, and the school district.

It will be interesting to observe the functions assigned in this new city charter to the mayor of the city. It will be remembered that the only officer even remotely corresponding to the modern idea of mayor to be found in the town governments was the president of the board of trustees. He was elected by the board of trustees from their own body, and had, generally speaking, only such authority as they chose to delegate to him in that position. Thus the president of the village board under the town charters emerges into the mayor under the city charter—an official who seems to have a more independent, and, therefore, possibly a more influential, position, owing to the different method of his election. How far this is true, however, can be determined only by an examination of the powers conferred upon him.

The city charter declares that the mayor shall be elected by popular vote. He must be a freeholder, and shall be chosen for one year by the qualified electors, and shall serve until his successor is chosen and qualified. In case of vacancy by death or resignation, a special election is to be held. He is made a member of the common council, and is given authority to preside at the meetings when present, but may vote only in case of a tie. He may call meetings of the council whenever, in his judgment, it is necessary, and he is to receive a salary of $500. He may exercise the authority of a justice of the peace, upon qualifying in accordance with the state law relating to such officials, and may commit vagabonds, rogues, stragglers, idle or

disorderly persons to the house of correction. He is permitted to administer the oath of office required of officials in the city government. He is made *ex officio* the president of the board of health. It is made his duty to sign warrants for the appointment of clerk, treasurer, city attorney, police constables, collectors, street commissioners, city surveyors, and all persons appointed to fill vacancies in elective offices. He is given certain formal administrative functions. Thus he is required to sign warrants for the collection of taxes, though the presiding officer of the council *pro tempore* may perform this function in the mayor's absence. The mayor is required to sign warrants for tax sale deeds and accept notice in writing of all appeals from the orders of the common council to the courts; to license butchers in accordance with the rules prescribed by the council; he may also be authorized by the council to issue licenses to tavern-keepers and other persons whose business is regulated or taxed by means of licenses; and he may be authorized by the common council to keep away from the vicinity of a fire all idle or suspicious persons.

It is plain that this official resembles the modern mayor of an American city in very few respects except the name. He is a mere figurehead. His duties are confined to merely formal and chiefly clerical matters. He has no appointive power, no veto power, no power of supervising the administration, no responsibility for any other public official than himself; in a word, a very slightly developed president of the village board of trustees, resembling, in some respects, in his impotence the vice-president of the United States, or the lieutenant-governor of one of the states, upon which office his own is evidently to some extent modeled. He cannot even be said to have, in some respects, as much power as the president of the town trustees, since the latter, owing to his election by the board itself, must have commanded their confidence to such an extent as to be able to exercise a very pronounced influence upon the course of town government; but the mayor, being elected by popular vote, has no such relation to the council, while his limited

range of functions prevents him having any vigorous initiative or power of control. At the same time we must recognize that in this separation of the mayor from the council involved in providing for his election by popular vote we now have a possibility of that further development which was soon to begin, namely, as the council government became more unsatisfactory and finally broke down, it was an easy and natural transition to raise the supervisory powers in the mayor, and ultimately, by increasing his authority, to secure a certain centralized responsibility just in proportion as the lack of responsibility in the council government became one of the most serious evils.

The city council is, generally speaking, the sole organ under this charter through which the city expresses and carries out its will. Other officials are to a large extent not merely the agents but the mere creatures of the common council, subject not only to its general regulation, but to its specific commands, so far as they are not in conflict with the charter or the other higher laws of the state or nation.

The council is composed of the mayor and twelve aldermen, two elected in each of the six wards, except that until 1839 there should be only ten, the third and fifth wards respectively being entitled to only one alderman each. These aldermen must be freeholders in the city and residents of the wards which they represent, and are chosen by the qualified voters of the respective wards. They are chosen for a term of one year, all vacancies being filled by special election. The council is renewed integrally, that is, the term of office of all the members expires at the same time. The quorum consists of a majority of all the members elected. The council may select its own presiding officer in the absence of the mayor. It is required to hold stated meetings, the time of which it shall determine itself by ordinance, though the mayor or any two of the aldermen may call special meetings at their discretion. In imitation of the more important legislative bodies, it is given authority to determine the rules of its own proceedings, to be judge of the elections and qualifications of its own members, and to compel the attendance of absent members.

Any alderman may commit rogues, vagabonds, stragglers, idle or disorderly persons to the bridewell. The aldermen are *ex officio* fire wardens during their term of service, and are exempt from serving on juries or in the militia. They are ineligible during the period for which they are elected to hold any office the emoluments of which are paid from the city treasury, or paid by fees directed to be paid by any act or ordinance of the common council, or to be directly or indirectly interested in any city contract.

The city council is thus the all-important element of city government under this first city charter. It is almost the sole organ of administration, as well as legislation. It has comprehensive powers in the matter of organizing and shaping the city government, and prescribing the duties of officers in general and in detail, and issuing the specific demands to such officials to carry out its will.

It is not necessary here to go into detail as to the powers granted to this body. They will be found enumerated in full in the text of the charter given in the first part of this volume.

But we may note two or three important matters in which this charter differs from preceding and from subsequent charters. Extensive authority is given to the city council over the matter of elections within the limits prescribed by the charter itself. It may adopt a system of election by ballot instead of the *viva voce* method prescribed by the general state law.

The council is given authority to appoint nearly all the important officials, determine their compensation, and remove them at pleasure; it is given very extensive powers to regulate by license a large number of callings usually subject to such regulation in English and American communities. It may enforce its ordinances by the infliction and collection of fines; may carry out improvements of streets by the method of special assessments; may establish building lines, and prescribe building regulations; may establish and maintain fire departments; may establish rules of health and quarantine, erect and support hospitals, and regulate and control the schools of the city within

the limits set by the charter. This control of the schools is a distinct and important addition to the functions of the city council, as compared with the village board of trustees. The council is authorized to appoint inspectors of schools who are to examine the schools and report to the common council. It may divide the city into school districts within which the legal voters are to elect school trustees. These trustees may employ teachers, who have been examined and qualified by the board of inspectors; and have authority to build, equip, and maintain the schoolhouses. There is no authority conferred upon the common council, however, by this charter to levy any city school tax, and the school funds in the hands of the county commissioner of school lands are to be distributed among the school districts in proportion to the number of pupils at school between the ages of five and twenty-one.

Authority is also given to the school district in the city by a vote of two-thirds of the persons present at the meeting of such district properly called to establish a high school.

The charter provides for the establishment of a municipal court having concurrent jurisdiction with the circuit court of the state in all matters civil or criminal arising within the limits of said city. The powers, functions, and procedure of said court are described in some detail in the charter. The common council is given authority to establish and regulate a tariff of fees to be allowed in the said municipal court.

No power is given to the city by this charter to establish any general system of water-works, though it was given power to establish and maintain public wells; nor was the city given authority to establish any system of public lighting, such as gas-works, though it was empowered to establish and maintain public lamps.

The provisions of the charter as to the civil service of the city are worthy of a moment's attention. The following officials are mentioned in the charter in one paragraph or another: mayor, clerk, treasurer, assessor, collector, inspector of elections, attorney for the city, police constables, street commissioners,

city surveyors, clerk of the market, pound masters, porters, carriers, carters, packers, beadles, bellmen, sextons, common criers, scavengers, measurers, weighers, sealers of weights and measures, gaugers, keeper of the house of correction, damage commissioners (road viewers), firemen, chief engineers, engineers of the fire department, fire wardens, commissioners of health, health officers, municipal judge, clerk of the municipal court, high constable, inspectors of common schools, trustees of common schools, and teachers. Of these, the mayor, assessors of taxes, one in each ward, the high constable and school trustees, three in each school district, and the chief engineer of the fire department, with his two assistants, were to be elected by popular vote. The city judge, who was to name his own clerk, was to be appointed by the legislature. All other officers were to be appointed for a term of one year by the city council, and were made subject to its orders, both in general and in detail, within the provisions of the law, and were subject to removal by the council at its pleasure, except the county judge, who held office during good behavior, and his clerk, who held office during the judge's pleasure. The first four classes named were to be freeholders. The city council might establish other offices, prescribe their duties, and appoint their incumbents. The duties of many of these officials were prescribed in the charter in some detail, being the usual duties assigned to officers of that name in other municipalities of the time. Many of them were required to give bonds for the faithful performance of their duties, and one may say that in general the community relied much more upon the security for good performance offered by the bond than upon any vigorous or efficient supervision either by the council or by its appointees.

Every person appointed to any executive or administrative office was required to take the oath of office prescribed in the constitution of the state, and any person who refused to qualify for the office to which he had been elected or appointed, within five days after notice of his election, forfeited the sum of $10.

It is impossible to understand fully the exact range of powers conferred upon municipal authorities without a careful examination of those relating to taxation and other forms of revenue. No matter how extensive the powers granted to the municipality, it is certain that the range of powers actually exercised will be very small if ample revenue powers have not been granted at the same time.

It was characteristic of the city government of Chicago at this time, as of nearly all other American and English cities — indeed, of continental cities as well — that the expense of a large proportion of the functions of the city government was defrayed by the collection of fees for the performance of real or fictitious services by public officials for private individuals. The form of the fee was also used as a means of taxation, as in the license fee, and of regulation, as in the market fees and similar charges.

The revenue system of the city of Chicago was further characterized by the peculiar feature of carrying out public improvements, such as opening and paving streets, building sewers, etc., by means of a method of taxation known as special assessment; that is, levying the expenses for making such public improvements upon abutting property in proportion to some real or fancied benefit conferred upon such property.

We may discuss the revenue system, therefore, under several distinct heads as follows:

1. Taxes. — The city is authorized to levy annually a tax of one-half of one per cent. upon the assessed value of real and personal property within the city. It is authorized to levy a tax, not exceeding $5, for each and every dog kept or owned by any person in the city. The school trustees are authorized to collect a school tax of such amount as the inhabitants of the district liable to pay taxes might vote.

2. Compulsory Service. — The city council is authorized to require every male resident of the city over the age of twenty-one years to labor at least three days in each and every year upon the streets and alleys in said city, but this labor service may be commuted by a payment in cash of one dollar for every day required. The qualified inhabitants of the city are subject to jury duty in the municipal court, in accordance with the rules applied to other courts in the state. The city may require all citizens to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and require the inhabitants to provide so many fire buckets, and in such manner and time, as they shall prescribe.

3. Special Assessment. — The common council is given exclusive power to regulate, amend, and clear the streets and alleys of said city. In laying out, altering, widening, and contracting streets they must assess the damages and expenses of said improvement on the real estate benefited thereby. The manner in which this should be done, so as to protect the rights of private parties, is described in some detail in the charter. It is given further authority to pave the streets, and to construct drains and sewers, by assessing the expenses of such improvements in proportion to the benefit upon the real estate in any ward of the city, provided that such assessment shall not exceed two per cent. per annum on the property assessed. The expense of making sidewalks shall be assessed directly upon the abutting property.

This principle of making public improvements by special assessment on the so-called betterment principle was of vital importance to the city of Chicago in its early days. It would not have been possible to have made the improvements necessary in the city upon any other basis, and, while the system has been full of inequalities, it has been, speaking generally, the only feasible system for a city growing up under such conditions as characterized Chicago.

4. Fees. — The expenses of justice are very largely provided for by a system of court fees, including the justice fees and the constable fees. In the case of the municipal court these fees are turned directly into the city treasury, which becomes responsible for the salary of the judge and other expenses of the court.

Licenses, partly of a regulative, partly of a revenue character,

are demanded in connection with a large number of different callings. Thus the city council is authorized to require licenses from tavern-keepers, grocers and keepers of ordinaries or victualing houses, to sell wines and other liquors, whether ardent, vinous, or fermented; of hackmen, draymen, carter, porters, omnibus drivers, auctioneers, and owners of billiard tables. The license fees may be fixed at any sum not exceeding $50. The mayor, or other officer, granting such license may charge a fee of one dollar for issuing the same.

The common council is authorized to locate and manage markets, in connection with which it may, of course, charge a fee; may require every merchant to have his weights and measures sealed by a city sealer, and charge a fee for the same; it may regulate gauging, the place and manner of weighing and selling meat; of selling pickled and other fish, and of selling and measuring wood, lime, and coal, and appoint suitable persons to superintend and conduct the same, and may charge a fee for their service; and so of other subjects mentioned in the charter.

5. Fines and Penalties.—The city is authorized to prescribe penalties not exceeding $100 for any one offense for violating the city ordinances.

6. Loans.—Authority is given to the common council to borrow money not exceeding one hundred thousand dollars in any one year, and to pledge the revenues, accruing to the city for the repayment of the said sum. There had been a long and interesting discussion as to the desirability of conferring this power upon the city, and the suggestion made by the city in its original draft involved more extensive borrowing powers than the legislature finally granted.

7. Gifts, Grants, etc.—The state of Illinois granted to the city of Chicago, at various times, lands for public purposes from the canal lands which the government of the United States had given to the state in furtherance of the project of a canal between Lake Michigan and the Illinois river. The government of the United States had, moreover, granted the sixteenth section

in each township for the use of the schools. This would have been one of the most important sources of revenue to the schools of Chicago, if the people of that time had been far-sighted enough to retain the ownership of the whole section, instead of selling most of it, as they did, at an early date.

An interesting limitation upon the common council, in its expenditures of public moneys, is found in section 63, which declares that in all improvements strictly local in their character, such as improving streets, making drains, sewers, the city shall expend annually in each ward such proportion of the public moneys as shall correspond with the amount of the assessed value of the property in each ward, as exhibited by the last assessment roll.

It will be seen that the sources of income open to the city were not at this time very fruitful. The tendency to keep the assessment of personal and real estate as low as possible acted to diminish the revenue from taxation. The strenuous resistance on the part of the people from whom licenses might be required to the ordinances requiring such licenses was sufficient to keep the revenue from this source at a comparatively low point. But, after all, in this system of revenue are to be found the main features of the system in force at present in the city of Chicago. The same general tax upon real and personal property; the same general method of making public improvements by the system of special assessment; the same system of using the license fee as a means of taxation, carried of late to an extraordinary extent, are characteristic features of today's scheme.

It will be seen how during the next fifteen years one feature or another of the charter was altered; how the municipal court was abolished; how the school authority of the city was enlarged; how the ordinances of the city multiplied in number and increased in scope, until, when the city of 4,000 had grown to the city of 30,000, it was felt necessary to gather up all these laws and ordinances into one collection, and consolidate in one act the various provisions of the charter of 1837, the various alterations

made in that charter, the various changes which were still to be made, and the various ordinances which it was desirable to incorporate in such charter—all resulting in the consolidating act of 1851, known as the second city charter of Chicago.[1]

[1] *Cf.* Laws and Ordinances of the City of Chicago. Chicago, 1851.

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MUNICIPAL HISTORY AND PRESENT ORGANIZATION OF THE CITY OF CHICAGO

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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.

[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.[6] 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.[7] 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. 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 recognized.

[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 commisioners 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 qualifications 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.

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."

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 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.

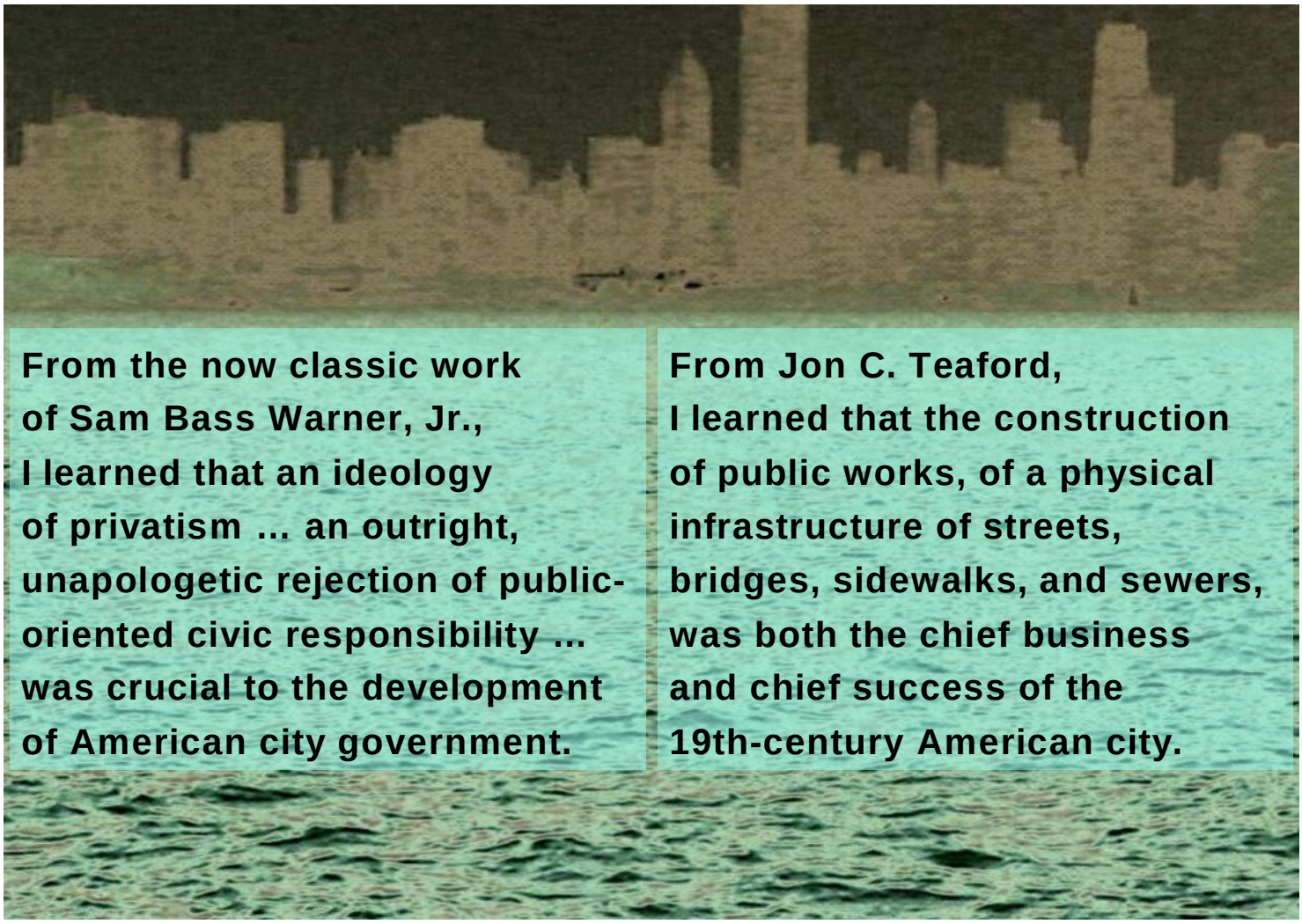
The trend of this discussion has led to this conclusion, that the council should represent the popular elements, and basis of administration and, upon it, as the foundation, as the fundamental fact, representing the people should be built the professional factors of the administration. This preserves 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.



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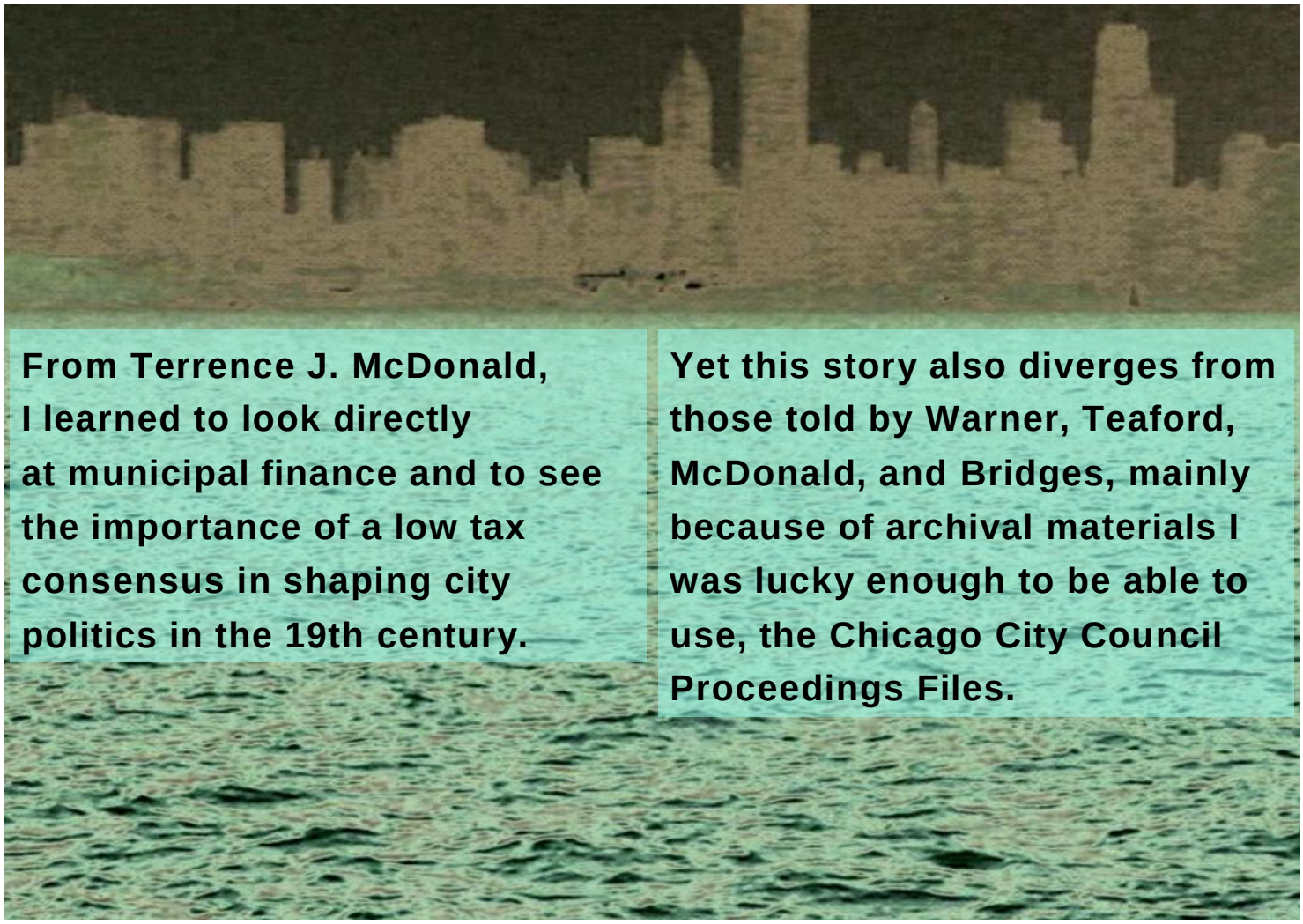

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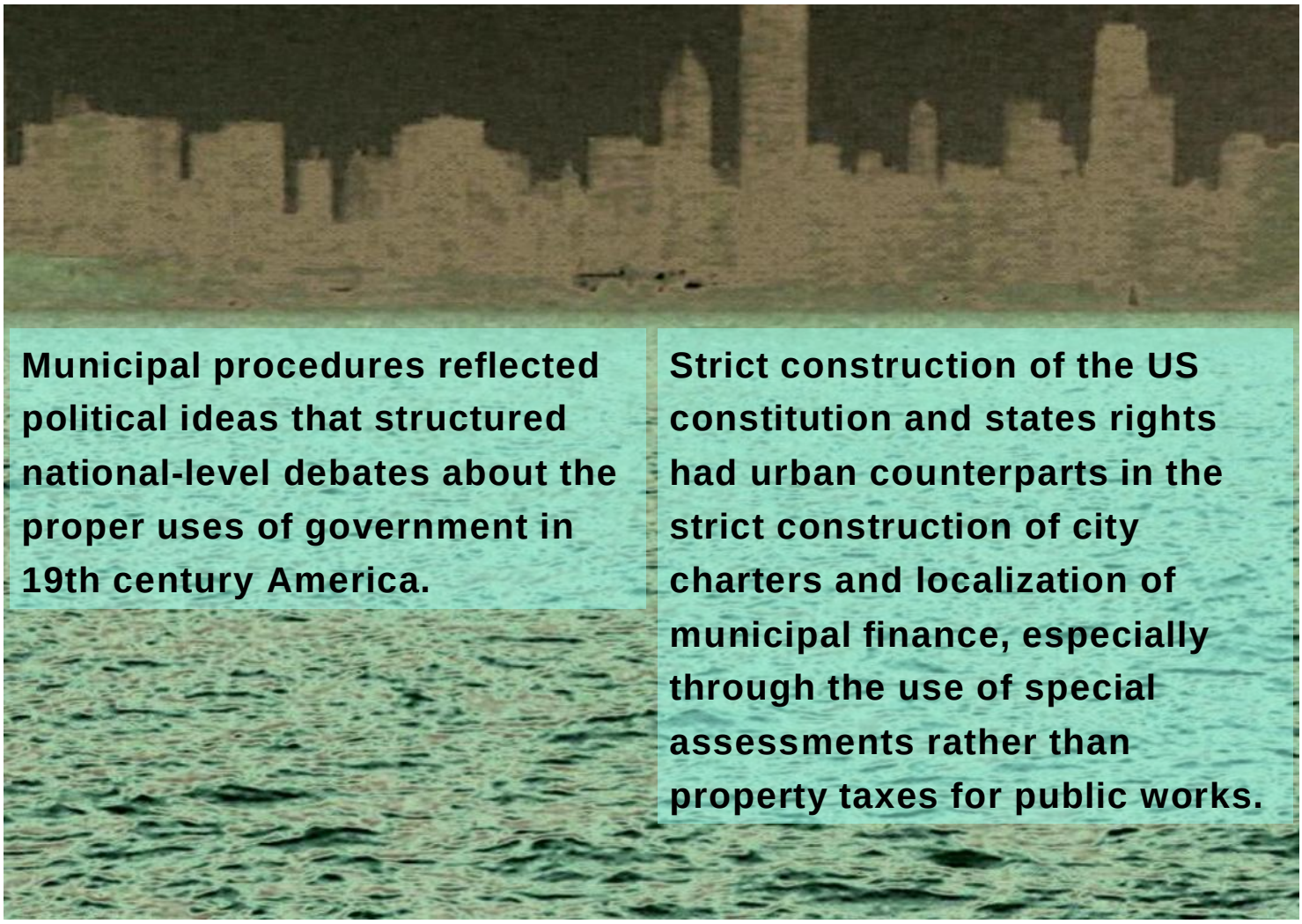

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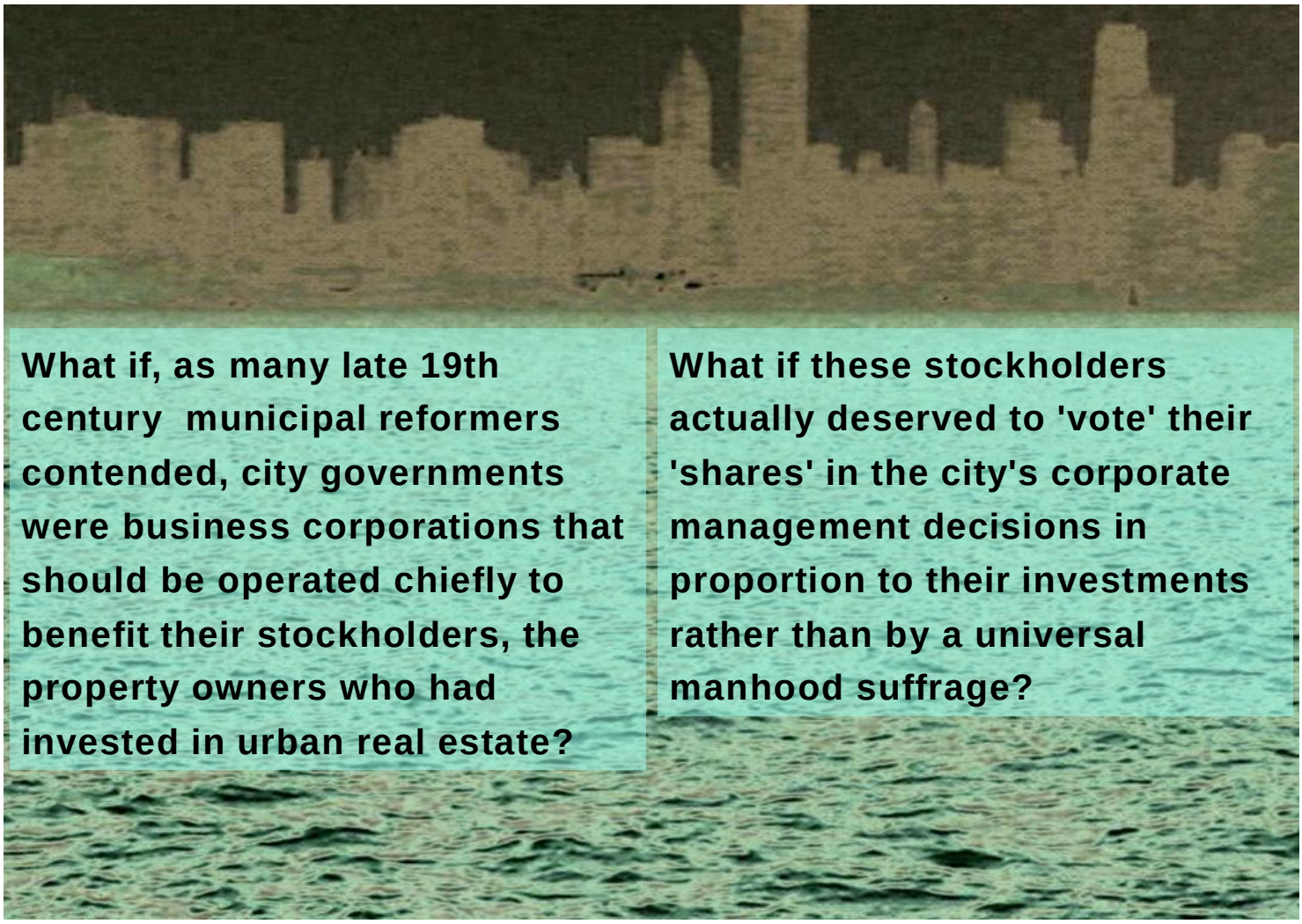

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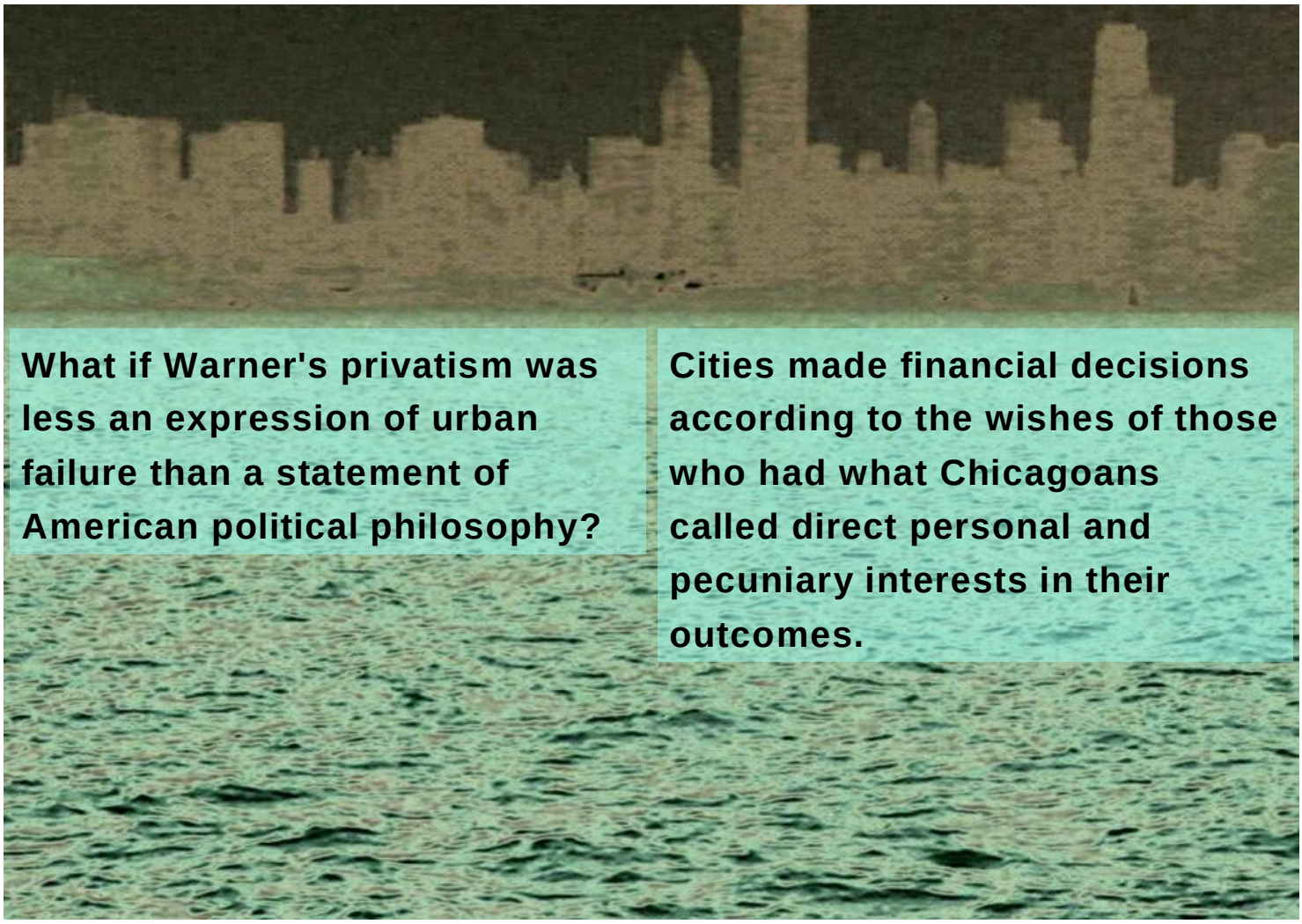

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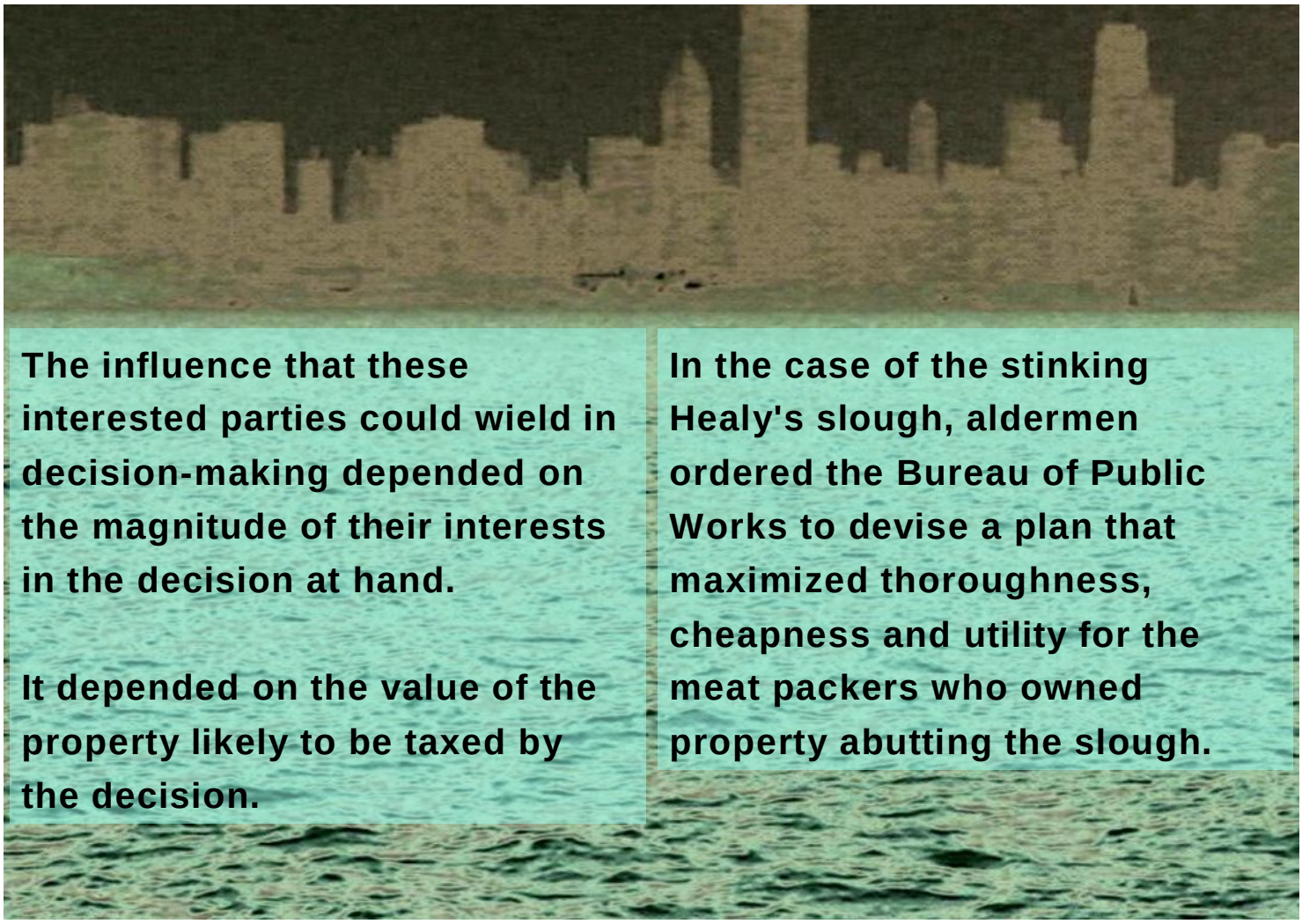

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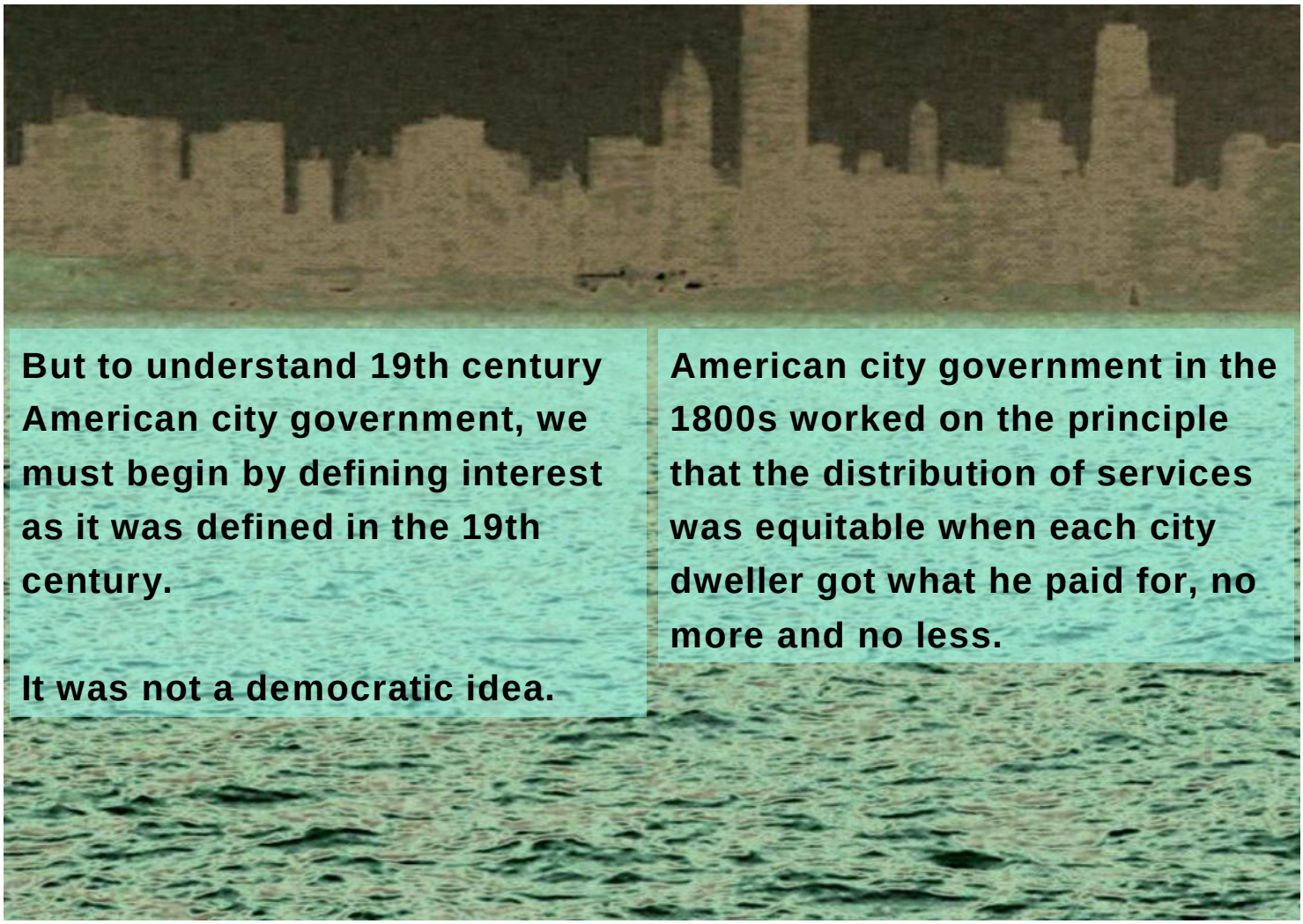

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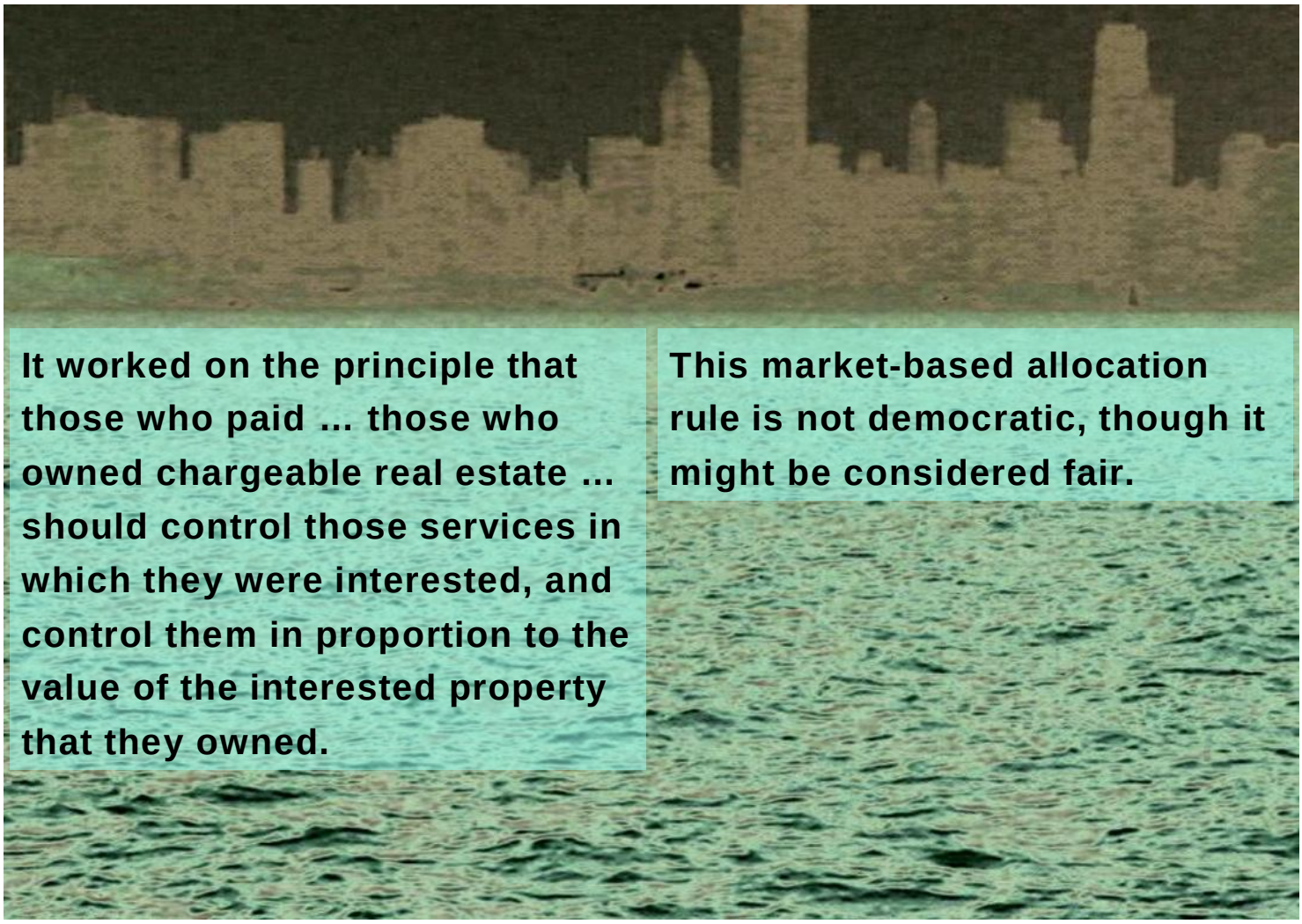

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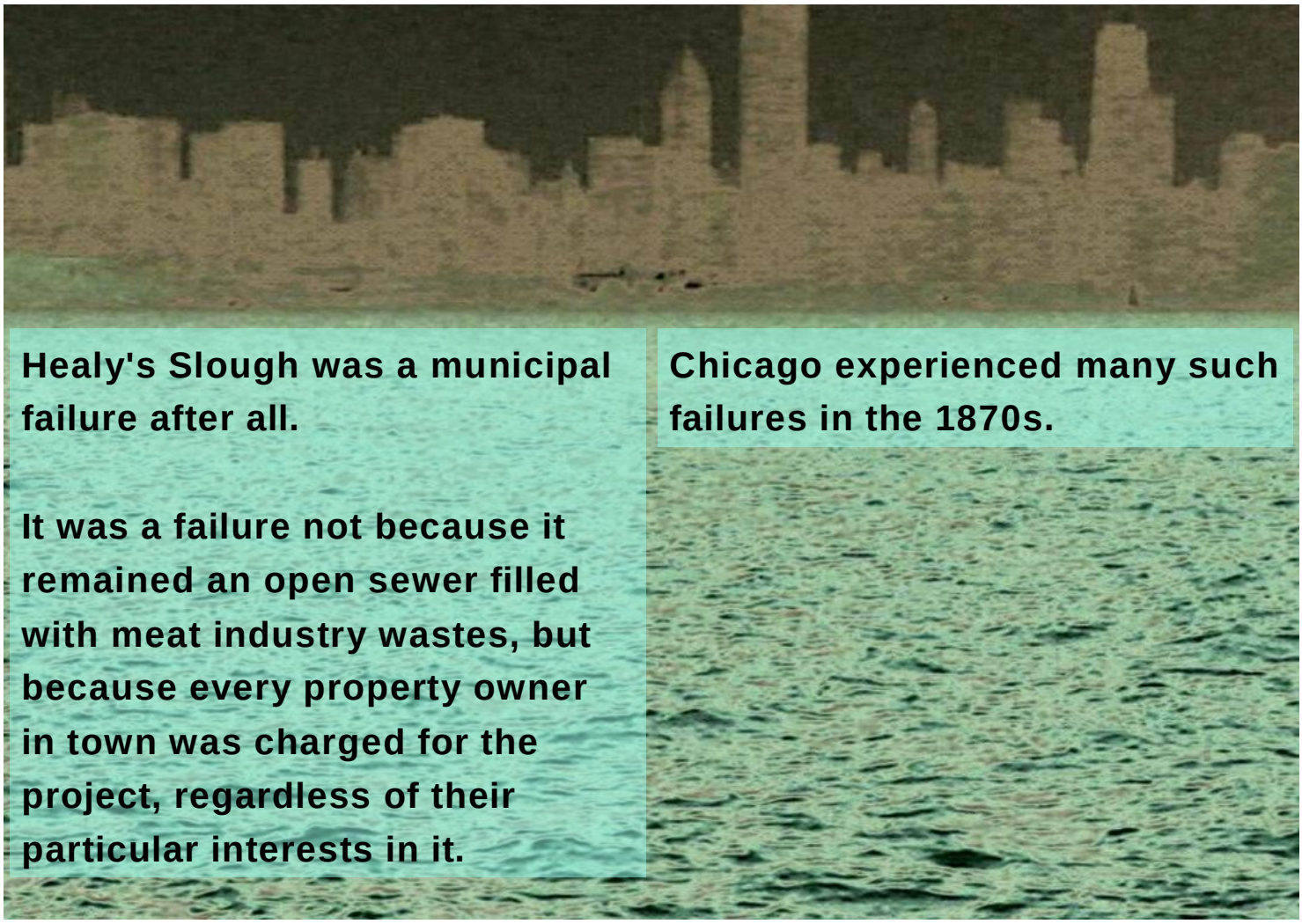

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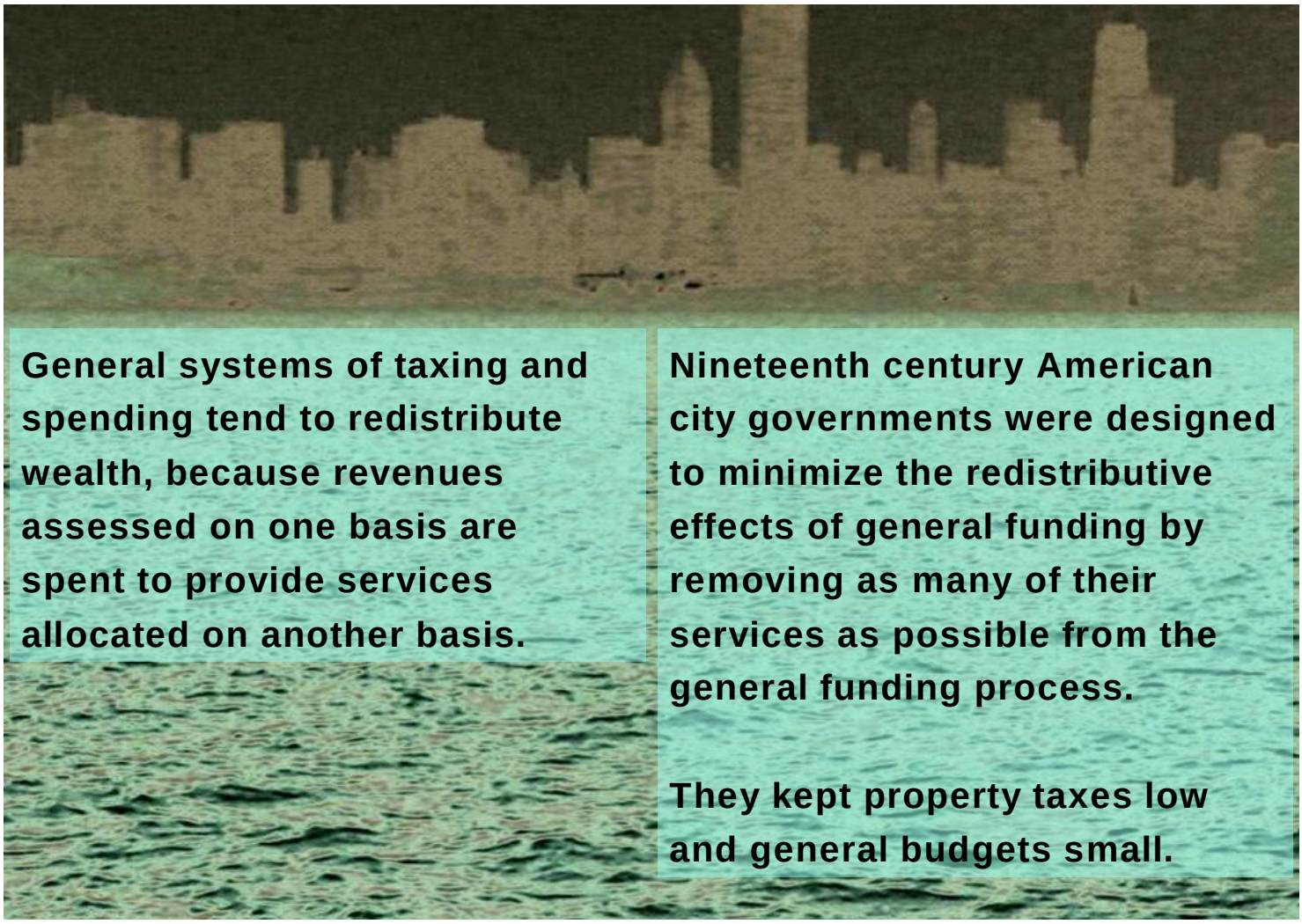

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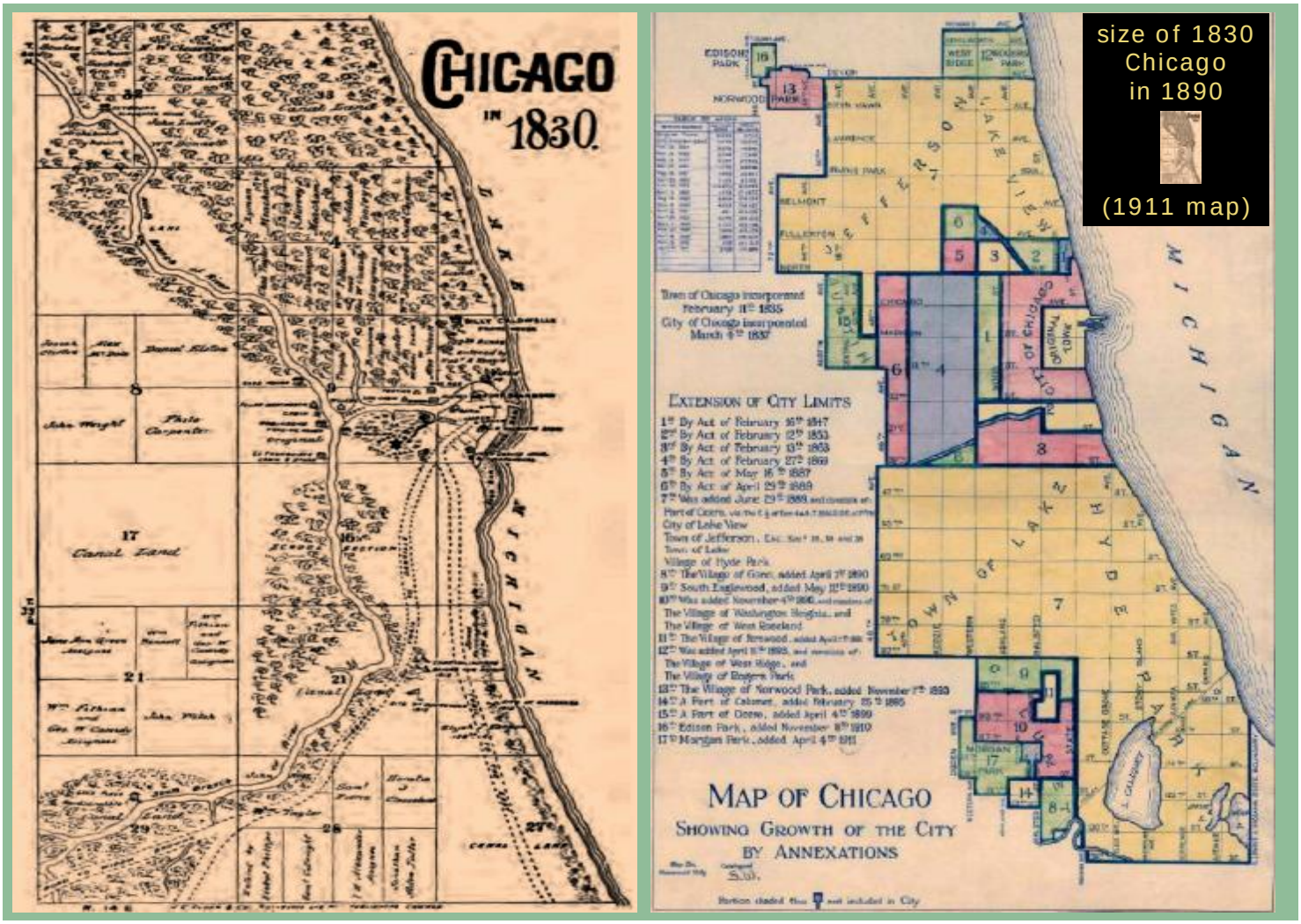

Chicago in 1830. Cregier, Dewitt C. and Department of Public Works (authors). Mayor's Annual Message and the 15th Annual Report of the Department of Public Works to the City Council of the City of Chicago for the year ending December 31, 1890. Chicago: Cameron, Amberg & Co., printers (1891). A public domain book scanned by Google from Harvard College Library. Found at http://books.google.com. Please respect Google terms and conditions.

Chicago in 1911. Map of Chicago showing growth of the city by annexations. Chicago: City of Chicago (1911).
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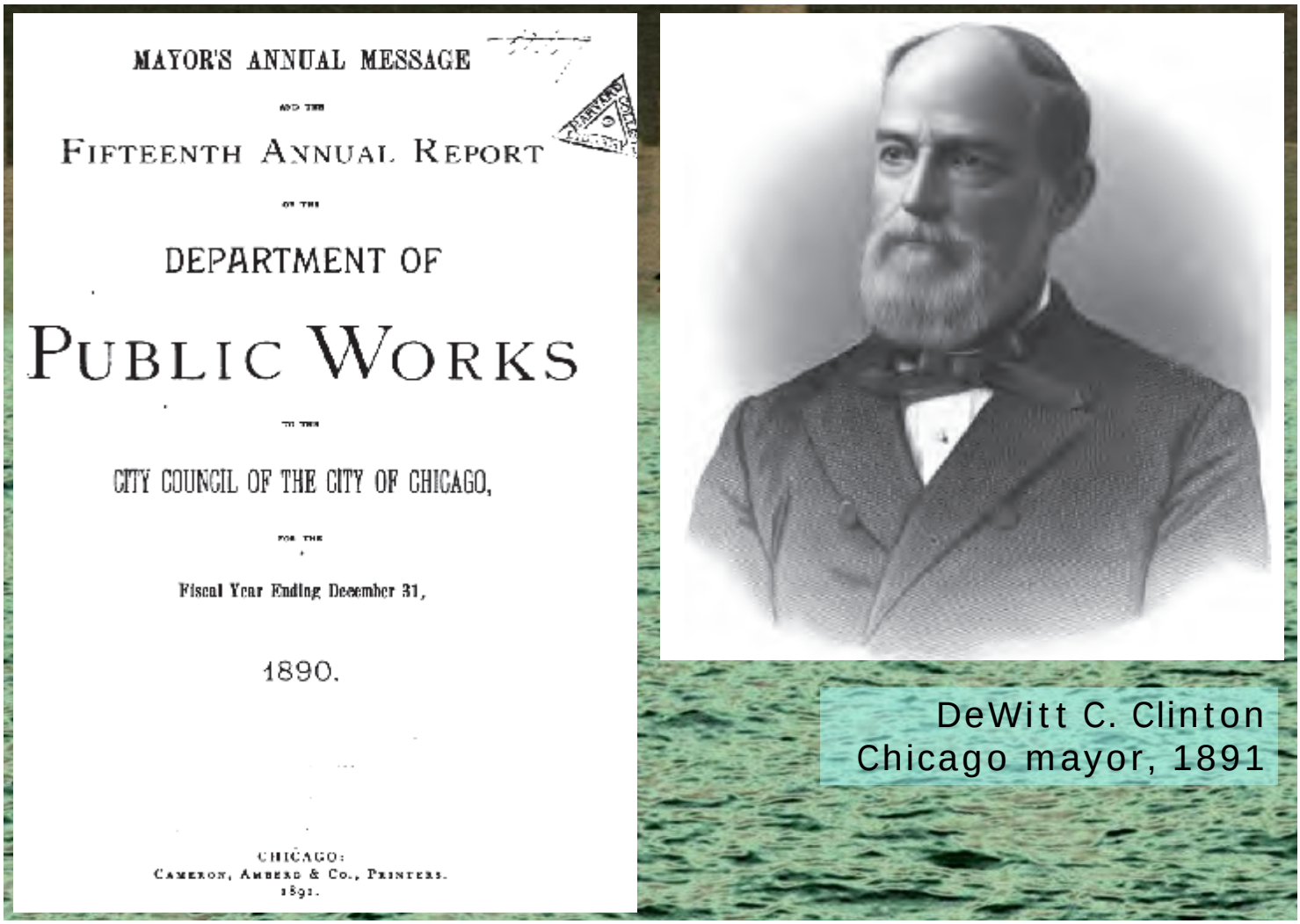

Cregier, Dewitt C. and Department of Public Works (authors). Mayor's Annual Message and the 15th Annual Report of the Department of Public Works to the City Council of the City of Chicago for the year ending December 31, 1890. Chicago: Cameron, Amberg & Co., printers (1891).

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Mr. Cregier was named after DeWitt Clinton, a governor of New York state. DeWitt Clinton was the son of George Clinton, who married the daughter of a wealthy Dutch family. George Clinton was a general in the revolutionary war. He financed his army out-of-pocket as a loan to the Continental Congress, and became a governor of New York after the war. While DeWitt was governor of New York, the state built the Erie Canal to the Great Lakes for trade between the Midwest and Europe. The state also initiated tax-financed schools during DeWitt's administration.

Alexander Hamilton, who served and advised George Washington, married the daughter of another wealthy Dutch family. Her father and George Clinton competed for elected office in New York. Alexander Hamilton's son was in the Chicago area when it was first surveyed, sold, and organized.

William B. Ogden
first Chicago mayor,
1837

INTRODUCTION.

Whatever of historic value the record in the following pages possesses consists in this, that it is derived from authentic sources, largely from Andreas' "History of Chicago," and much of it from still living witnesses of the extraordinary growth in half a hundred years of a community from a frontier settlement to a city of over a million inhabitants. Such a growth as that of Chicago is unparalleled in the history of civilization. In time to come, each and every detail of the beginning of this phenomenal development will be of interest to future generations who are apt to reap the fruit, the seeds of which were planted by the pioneers. A simple, authentic statement of the beginning of history may be worth whole romances a hundred years hence. These statistics have been compiled from accurately reported facts which have been industriously inquired into, and the material of which may become poetry and romance in another age.

The history of Chicago is a romance already; its educational system is rapidly and surely advancing onward to fine achievements; and its public improvements, which, in one generation, have risen from a flat morass, with little more than a ditch running through it, to a magnificent city of business palaces and homes of princely splendor along with those of humble comfort, surely enough attest the persistence and endurance of a race of "Conquerors of the Earth" from many climes, which all who visit the World's Columbian Exposition in 1893 will at once recognize.

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Mr. Ogden came from New York and served as agent for some of its wealthy families.

APPENDIX.

EARLY HISTORY OF CHICAGO.

The few families who had settled in the immediate vicinity of Fort Dearborn, near the head of Lake Michigan, first realized that civic authority extended to their cabin doors in 1823. It was then that the officials of Fulton County, within whose boundaries, at that time, this unorganized settlement existed, levied a tax of four mills on the dollar upon all personal property in the settlement, exempting only household furniture, as provided by law. Amherst C. Ransom, Justice of the Peace, was appointed Collector, and enriched the Fulton County Treasury by the sum of $11.42, showing the total valuation of the personal property of embryo Chicago to be $2,284.

When Peoria County was organized, two years later, Chicago, which even at this time had but a mythical existence, the name applying sometimes to the river and again to the cluster of cabins on its marshy banks, came within its jurisdiction.

The Illinois and Michigan Canal Commissioners, having at length obtained their coveted and magnificent land grant, were authorized to lay out towns upon the sections allotted to them by the terms of the grant. In accordance with this, Chicago was surveyed and a plat of it published by James Thompson, a canal surveyor, on August 4, 1830. This date marks the birthday of Chicago as a town and the disappearance of the "Fort Dearborn Settlement."

Section No. 9 fell to the canal interest and was the one upon which Chicago was platted. It was situated north of and and adjoining School Section No. 16. The line between these two sections was Madison street and their eastern boundary line was State street.

East of State street, extending from Madison street one mile north, was the tract included in the Fort Dearborn Reservation and the Kinzie pre-emption, which afterwards became additions to the town. The portion north of the river had been pre-empted by Robert A. Kinzie, and the portion south to Madison street comprised the Reservation.

Section No. 9, now called "Original Town," fortunately included the lands along the main channel of the river and surrounded the junction of

its two branches. The original limits of Chicago were Madison street on the south, Desplaines street on the west, Kinzie street on the north and State street on the east, embracing an area of about three-eighths of a square mile. The public thoroughfares running east and west, as recorded on Thompson's map, were Kinzie, Carroll and Fulton streets on the West Side, and North Water, South Water, Lake, Randolph and Washington streets, naming them in their order from the north, while those running north and south were Jefferson, Clinton, Canal, West Water, East Water, Market, Franklin, Wells, "La Salles," Clark and Dearborn streets, naming them in their order from the west. Included within these limits were the hitherto independent settlements of Wolf Point, west of the confluence of the north and south branches of the river, and what was known as the "Lower Village" on the South Side.

The year after the survey of the young town it received increased distinction by being designated as the seat of justice of the newly organized county of Cook.

The Act, passed by the General Assembly and approved January 15, 1831, organizing the county of Cook, directed that an election be held at Chicago on the first Monday in March, 1831, for the offices of Sheriff, Coroner and three County Commissioners. By a provision of this Act a ferry was established across the river, free, for the inhabitants of the county.

County organization followed in March, embracing all of what are now the counties of Cook, Lake, McHenry, Du Page and Will. The only voting place in the county at the first election was Chicago. The first Commissioners elected in Cook County were Samuel Miller, Gholson Kercheval and James Walker. William See was appointed Clerk and Archibald Clybourn, Treasurer. All the above mentioned officials resided within the limits of Chicago, except James Walker, who lived near the Du Page River.

The first business transacted by the new county organization was the issuing of two licenses to Chicago landlords, Elijah Wentworth and Samuel Miller, for a fee of seven and five dollars, respectively.

About this time the State granted to the county twenty-four canal lots, the proceeds from the sale of which were to be used for the erection of public buildings. Sixteen of these lots were sold, and the money realized was used to defray current expenses, the remaining eight lots being set aside for a public square, now the site of the present city and county buildings.

The first structure erected on this square was what was called at that time "the Estray Pen," at the contract price of twenty dollars, but for which the contractor, Mr. Miller, afterwards accepted twelve dollars as payment, thus admitting, as was charged by the Commissioners, that he did not do the work according to contract. Contractors, of course, have changed their methods since those days.

Initiatory steps were taken at this time for the establishment of two country roads, one from the town of Chicago to the house of James Walker, on the Du Page river, and the other to the house of the Widow Brown on Hickory Creek. These two highways were intended to open up communication with the southwestern portions of the county and between the voting places in the three districts which had been established. The road to the Widow Brown's was laid on what is now State street and Archer avenue, and the Du Page road on what is now Madison street and Ogden avenue, thence to Lawton's, near what is now called Riverside.

The last occurrence worthy of note in the year 1831, was the gathering in Chicago of nearly one thousand (1,000) Indians to receive their annuities, which were disbursed by Col. Thos. J. V. Owen, Indian Agent, assisted by John Kinzie and Gholson Kercheval. The payment was made in September, and was the occasion of no little anxiety on the part of the settlers as it was known that amongst the friendly Indians there were emissaries from the Sacs of Black Hawk's band, who had but recently reluctantly removed west of the Mississippi, attempting to incite the assembled tribes to make common cause with them against the whites, and to inaugurate a general war for the extermination of the settlers and the repossession of their old hunting grounds. The plot fell through, however, the payments were made and the whole affair wound up in a good drunken orgie, after which the tribes returned peacefully to their respective villages.

In 1832 rumors of a renewal of hostilities by the Indians seriously affected the tide of immigration, and the white settlers sought refuge in Fort Dearborn.

The arrival on July 10th of troops under command of General Winfield Scott and their march through the country to Rock Island, had the effect of again staying the progress of war, and on August 2d, the final battle was fought between the Indians and General Henry Dodge's forces.

This campaign proved of great value not only to Chicago but also to the surrounding country, for on their return to the East the soldiers gave such glowing accounts of the beauty and fertility of the country, that a strong tide of immigration immediately set in from the East. The first point of destination, prior to pushing beyond to the promised land, was Chicago. Consequently the immigration, which continued in increasing volumes for the next four years, brought to Chicago a transient population, from which she drew many permanent residents from those who saw brighter prospects in her future than in the allurements of the country beyond.

Many only stopped at Chicago temporarily, while some remained to swell the resident population of the embryo city.

At the close of 1832 there were few signs of outward improvement—only about a score of permanent residents had been added, but there was, nevertheless, a strong faith awakened that on account of her geographical

position and her natural advantages as a harbor, Chicago was destined to become the metropolis of a yet undeveloped and uncivilized country. Inspired by this, many of the newcomers remained.

During the Summer of 1832, George W. Dole built what was probably the first building for business purposes in Chicago—it stood at the southeast corner of South Water and Dearborn streets, where it remained until 1855. Philip F. W. Peck during the Fall of 1832 commenced the erection of a business building at the southeast corner of South Water and La Salle streets, which was completed and occupied the following May.

The two above named were certainly the first business structures built in Chicago.

The building erected by George W. Dole was the first used in the packing of beef and pork in Chicago, the cattle and hogs being slaughtered in the rear of his building near the ground which is now the site of the Tremont House. Previous to this, however, the Noble Brothers, Mark, Jr., and John, and Gurdon S. Hubbard, had driven in and slaughtered droves of cattle and hogs, but it remained for George W. Dole to inaugurate the packing of provisions for the mercantile and lake trade. He is therefore justly known as the father of the provision, the shipping, the warehouse and the elevator business of the city of Chicago, which has now assumed such gigantic proportions.

Immigration received a lively impetus in the Spring of 1833, the town almost doubling its inhabitants, and erecting nearly one hundred and fifty frame buildings during the year. Most of these buildings were built on the north and south sides of the Chicago river, east of the forks.

Several events transpired during the year which, combined, served to increase the prosperity and brighten the future prospects of Chicago. Amongst others the energetic efforts of her citizens to obtain a harbor appropriation, added to the "canal enthusiasm," spread the fame of Chicago very much to her benefit.

The Summer of 1833 found Chicago with a population of three hundred and fifty and her citizens prepared to organize under the general legislative Act for the incorporation of towns, passed February 12, 1831. By its provisions, citizens of any settlement containing a population of over one hundred and fifty were authorized to hold a meeting and decide whether they wished to be incorporated.

Accordingly, late in July of that year, a public meeting was held to decide whether incorporation should or should not be effected. Twelve votes were cast for incorporation and one against — the vote in opposition being cast by Russell E. Heacock, who lived beyond the extreme southern boundary of the proposed town, while his business interests were at the settlement. He moved into town the following year.

In accordance with the action of the public meeting, an election was held August 10, 1833, upon the call of the clerk of said meeting, upon five days' notice, for the choosing of five Town Trustees, who were to hold office for one year.

The successful candidates were Thomas J. V. Owen, George W. Dole, Madore B. Beaubien, John Miller and E. S. Kimberly. The scattering votes were divided among Philo Carpenter, John Wright, Richard J. Hamilton, James Kinzie, Dr. John Taylor Temple, John B. Beaubien, Robert A. Kinzie and John S. C. Hogan.

The first regular meeting of the Board was held two days after the election. All the members elect were present and received the oath of office from Col. Hamilton, clerk *pro tem.* and notary public. An organization was then effected by the election of Thomas J. V. Owen, president, and Isaac Harmon, clerk. It was then ordered that Board meetings would be held at the house of Mark Beaubien, on the first Wednesday evening of each month, beginning with Wednesday, September 4, 1833.

Up to 1834 Chicago could not be said to have had a *harbor;* the bar across the mouth of the river making it impractible for laden vessels to enter. Vessels were necessarily anchored outside of this bar, and their cargoes brought ashore in lighters.

The Illinois and Michigan canal project was already inaugurated by favorable legislative grants, and a harbor at this point was absolutely necessary; and Congress having already favored the canal scheme, nothing was more natural than to suppose that an appropriation would soon be made for a harbor improvement. Such an appropriation was accordingly made on March 2, 1833, and work was commenced July 1, of the same year. The amount appropriated was $25,000. During the Summer and Fall about five hundred feet of the south pier was finished, and in the following Spring the north pier was extended about the same distance. The old tortuous channel to the south being cut off, made a straight cut for the river across the sand-bar into the lake. Little dredging was done; indeed it was unnecessary, for a heavy freshet, in the Spring of 1834, cleared the new channel, permitting the entrance of vessels of large burden for the first time during the following Summer.

At this time there were four churches in Chicago, one being St. Mary's Catholic church, and the other three, Protestant churches, of the Presbyterian, Baptist and Methodist denominations. There were also four hotels; the old Wolf Point Tavern, the Sauganash, the Green Tree Tavern and the Madison house.

The bridges over the river were quite primitive and of rude construction. A foot-bridge crossed the North Branch above the old Wolf Point tavern and the other was more pretentious and crossed the South Branch between Randolph and Lake streets. The latter bridge was built at an

expense of $486.20, of which sum $200.00 was contributed by the Pottowattomie Indians, and was the only bridge across the river or its branches over which teams could travel prior to 1834.

The only manufacturing establishments at this early day, were a tannery, near the old Miller Tavern, where John Miller and Benjamin Hall were engaged in tanning hides into a rough but durable leather; and a small saw mill on the North Branch, near Clybourn's.

It may now be considered that the town was fairly born, but as yet only in its corporate infancy. Its past history and condition at that time did not warrant the extravagant hopes and the faith that the citizens had in its future development, but its subsequent history has transcended the wildest prophecies of its early friends.

About the end of the year 1833, the old log jail was built on the northwest corner of the "square," the citizens believing that something more dignified than the old "estray pen" was required. Officer John Beach, father of the late Dr. James S. Beach, was made custodian of this structure and possessed the keys of authority. From the center of the square arose a tall liberty pole.

In November, 1833, a code of laws was adopted to regulate the ordinary affairs of the town, and *The Democrat*, which made its first appearance November 26th, was designated the official newspaper.

The first financial obligation incurred by the town was the making of a loan of $60.00 in October, 1834, to be used for the purpose of draining State street, in the vicinity of Lake and Randolph streets, and redeeming a large slough which existed there. This was followed by several important measures during 1835, among which were the establishment, in June, of a permanent Board of Health; the organizing, in November, of a Fire Department; the borrowing, in June, of $2,000 with which to improve the sanitary condition of the place, in view of the threatened invasion of cholera, and the adoption, in August, of a lengthy and comprehensive code of local laws.

November 21, 1835, a seal was adopted by the Board, but neither the instrument itself nor any impression made by it is now in existence; even the few documents which survived the fire of 1871 being without an impression.

During the fall of 1835 a one-story and basement brick court house was erected on the northeast corner of the square, on the southwest corner of Clark and Randolph streets, opposite the present site of the Sherman House. The county officers occupied the basement story; the court room, which was on the upper floor, being simply one oblong apartment, capable of seating about two hundred persons. The fourth and last election under the Town System, was held at the Tremont House, June 6, 1836.

Beginning with the period about 1832, and continuing and gradually increasing, the era of internal improvements played an important part in stimulating and accelerating immigration, and at the same time it had a wonderful effect in inspiring those who had already become permanent residents of the city.

In 1837 the flourishing young town grew restive in the fetters of a mere township, and actuated by a spirit of unequalled courage, the leading citizens of the town determined upon its incorporation as a city. The preliminary steps having been taken looking to this end, it was accomplished on March 8, 1837, and the first city officers were elected May 2d following.

In the discussions of the various provisions of the first city charter, matters became very lively when the sixty-second section was reached.

This was a very important section, inasmuch as it related entirely to the power of the assumption of indebtedness by the proposed city authorities. Some of the more sanguine residents were so imbued with the progressive tendencies of the times that they favored the unlimited extension of power in that direction. A more prudent counsel prevailed, however, and the capacity of the incorporation to incur debt was limited to one hundred thousand dollars per year, with which alteration the draft of the original charter was adopted.

The result of the first city election, at which seven hundred and nine votes were cast, was as follows: William B. Ogden was elected mayor; J. C. Goodhue and Francis C. Sherman, Aldermen of the First Ward; J. S. C. Hogan and Peter Bolles, Aldermen of the Second Ward; John D. Caton, Alderman of the Third Ward; A. Purce and F. H. Taylor, Aldermen of the Fourth Ward; Bernard Ward, Alderman of the Fifth Ward, and Samuel Jackson and Hiram Peterson, Aldermen of the Sixth Ward. In addition to the Mayor and Aldermen, the other elective officers were the City Clerk and six Assessors. The annual election was fixed for the first Tuesday in March. The power was fixed in a Common Council, which was authorized to appoint constables, street commissioners, a City Surveyor, a City Treasurer and a Collector; organize fire companies, a Board of Health and an Educational Department. In fact, all of the departments were under the control of the Council and were expected to obey its orders.

The Legislature passed an Act February 14, 1851, reducing the Charter into smaller compass and creating a Board of Health, and also authorizing the Council to establish a House of Correction for juvenile offenders. An Act amendatory to this Act, approved February 28, 1854, provided that a City Marshal should be elected biennially and also authorized the Council to elect a Superintendent of Special Assessments. On February 15, 1851, by an Act of the Legislature, a Board of Water Commissioners was created and the Chicago Hydraulic Company was incorporated.

The office of Superintendent of Schools was created by ordinance, June 23, 1854.

The Board of Sewerage Commissioners was incorporated by legislative enactment February 14, 1855, and rules were laid down for the government of the reform school, and taxation authorized for the maintenance thereof on February 14, 1857.

A revision of the Charter was approved February 18, 1857, and by its provisions all the appointive power was taken from the Council and vested in the Mayor. The change was thought necessary as there was general dissatisfaction over the appointments made by the Council and it was thought also, that by this plan responsibility would be fixed. About this time a financial department was created with the City Comptroller as its head. This department had hitherto been under the control of the Council. These changes above mentioned are the most important that were made in the Municipal Government.

The first census of the city taken after its incorporation was that of July 1, 1837, which showed a total population of four thousand one hundred and seventy persons, as against the town census of 1835, which showed three thousand two hundred and sixty-five inhabitants.

Before referring to those early structures used by the corporation and by courtesy in those early days styled "City Halls," it is deemed proper to give a brief description of a noted edifice, known as the old "Saloon Building," because it was used as the first City Hall. This structure stood on the southeast corner of Clark and Lake streets, and was erected in 1836 by Captain J. B. F. Russell and George W. Dole. At that time it was not only the finest hall in Chicago, but was not eclipsed by anything of the kind in the West. It was devoted to public entertainments of all kinds, political and religious meetings, concerts, traveling shows, etc. The name of this hall would, to the casual reader of to-day, suggest a place where intoxicating beverages were sold and, consequently, not at all a suitable place for civic gatherings, not to speak of religious and literary meetings. Such an impression, however, would be erroneous, the word "Saloon" being used simply as a synonym of the French word *Salon*, meaning a grand or spacious hall. The Hon. John Wentworth, in his reminiscences, says that when it was just completed it was the largest and most beautiful hall west of Buffalo.

"Here it was," says Mr. Wentworth, "that Stephen A. Douglas made his first speech in Chicago." It was in this hall that the first joint political discussion was ever had in Northern Illinois, in 1838, between Mr. Douglas, and his competitor for Congress, John Todd Stuart. It was at this very meeting that one of the citizens, Judge Henry Brown, in a speech, became so enthusiastic over the future which, with prophetic vision, he saw in store for the young and growing city, that he made the startling prediction that the child was already born who would live to see Chicago with a population

of two hundred thousand souls. At once the speaker was greeted with the sarcastic, but good natured cry of "Town Lots," an implication that he was interested in Chicago real estate. A handsome modern building now stands on its former site. With the rapid growth of the city in size and population came the advent of theaters, halls, churches and court rooms, and the old "Saloon Building," having served its day and generation, was forced from its long-held prominence before the eyes of Chicago citizens, and soon existed only in the memories of those to whom a simple mention of its name awakens a flood tide of recollections.

In January, 1848, the Market Building on State street was erected by the city, and was the first municipal structure belonging to the city, the Common Council having heretofore rented their accommodations. The building was situated in the center of State street, fronting forty feet on Randolph street and running north toward Lake street, one hundred and eighty feet. It was built of brick and stone, two stories in height, at a cost of $11,000, John M. Van Osdel being the architect. The second story was divided into four rooms, the one on the north end being used as a library, and the one on the south end as the City Clerk's Office. The center rooms, divided only by folding doors, were used by the Common Council and for other public purposes, the Council occupying them for the first time on November 13, 1848.

In 1850, after deliberation, it was decided that the city and county should erect a combined court house and jail in the center of the public square; the Common Council agreeing to unite with the county in its construction. The corner stone of this edifice was laid on September 12, 1851, by Prof. J. V. Z. Blaney, Acting Grand Master of the Grand Lodge of Free Masons of Illinois.

The building was completed in 1853, under the superintendency of John M. Van Osdel, Architect, at a cost of $111,000, which had been borrowed on the bonds of the county, having from seven to eighteen years to run at ten per cent., interest payable semi-annually. The walls of the structure were faced with gray marble from the Lockport quarries in New York, costing $32,000. In the basement of the building was the jail and the Jailor's dwelling rooms, the Sheriff's office and the City Watch House. In the second story were most of the city offices, the armory being in the east wing. The Common Council Chamber was in the third story opposite the court room. The Court of Common Pleas first occupied the edifice, which continued to serve the city until it was swept away by the great fire of 1871.

During the existence of Chicago as a Township, her people were extremely conservative in financial affairs, so much so, indeed, that any proposition to borrow money for any purpose whatever seemed to create the greatest consternation. Some of the officials even resigned their offices

rather than sanction such seeming recklessness. One instance was that of John S. C. Hogan, who voluntarily ceased to act as City Treasurer in June, 1835, because the corporation was determined, as a sanitary measure, to borrow $2,000, in order to have the streets cleaned and the town otherwise made presentable and inhabitable. After the town people had fairly entered into the spirit of becoming a city, however, their old apprehensions gradually wore off, and after a time such measures were urged with general enthusiasm.

Immediately following the Act of Incorporation of the city, the old town organization paid over to the City Treasurer the sum of $2,814.29. With many permanent improvements to be accomplished, this was not a remarkably brilliant outlook for the young city of over four thousand inhabitants. Among other things it was found absolutely necessary that more effective means should be provided to guard the city against fire, and for this purpose two additional engines were needed. Streets required improvement, and their drainage demanded attention. It was resolved to borrow $25,000, but to resolve is not always to accomplish. The proposition was made to the Branch Bank of the State of Illinois, but was not accepted, the Bank evidently considering at that time that the burden of carrying the international improvements of the State of Illinois was sufficient, without attempting to foster the internal improvements of the city of Chicago. Consequently resort was had to the issuing of city scrip in denominations of one, two and three dollars, bearing interest at one per cent. and receivable for taxes in sums not exceeding $5,000.

In 1837, the city and county authorities did not act in harmony. The city received only $1,000 from tavern and grocery licenses, while supporting a $5,000 court, whose benefits were shared by the county, when suddenly the county refused to care for her paupers. This was one of the obstacles to be surmounted during the hard times of 1837. The city and county, however, soon came to an amicable settlement of their difficulties, and each bore a just proportion of the legal and eleemosynary burdens.

The finances of the city by the first charter were entirely in the hands of the Common Council, the Treasurer and Collector being merely clerks. The Assessors were elected, but the Treasurer and Collector were appointed by the Council. The supplementary Act of February 16, 1847, made the Treasurer and Collector elective offices, and these provisions remained in force until February 18, 1851, when the Treasury Department was created, embracing, in addition to the above officers, the City Comptroller, appointed annually by the Mayor. He was the head of the new department.

About the year 1841, the Hydraulic Mills Company was incorporated under the laws of the State of Illinois, and was a combination of a flouring mill and pumping works, situated on the northwest corner of Lake street

and Michigan avenue. Water from these mills was supplied to the territory on the South Side, lying south of Madison street and east of La Salle, by wooden pipes of three-inch bore running through the alleys.

The supply from these works was supplemented by a water cart service, with headquarters for the South Division at Van Buren street and the lake. In 1854 was established our Water System as it now exists and under the control of a Board of Water Commissioners, the astonishing growth of which is fully described in another paper in this volume, devoted entirely to that subject.

The Boards of Water and Sewerage Commissioners, established in 1851 and 1855, respectively, were, on May 6, 1861, merged into the Board of Public Works, consisting of three members, and the control of all public works was concentrated in that body. This Board continued in existence until September 18, 1876, when by ordinance of the City Council of the city of Chicago it was abolished and succeeded by the Department of Public Works, with an official known as the Commissioner of Public Works at its head, who was vested with practically the same powers as those possessed by the Board.

Under this ordinance, the Mayor, then the Hon. Monroe Heath, was designated as the first Commissioner, the future commissioners to be appointed by the Mayor with the consent of the City Council.

In March, 1862, the office of City Marshal was abolished and the Board of Police Commissioners was established, to consist of three commissioners, one from each of the three divisions of the city. This Board was itself abolished in 1875, and was succeeded by a Superintendent of Police to be appointed by the Mayor, subject to the approval of the City Council.

In August, 1875, there was established an executive department of the Municipal Government of the city of Chicago, entitled the Department of Buildings, to be composed of a Commissioner of Buildings at the head of the department, appointed by the Mayor and subject to the approval of the City Council, one or more elevator inspectors and such number of building inspectors as might from time to time be deemed necessary to cover the municipal territory, and whose duties were to be the enforcement of the provisions of an ordinance passed by the City Council governing the construction of all buildings thereafter to be erected in the city of Chicago.

This paper would be incomplete without a reference to the National "Harbor and River Improvements" Convention, held here on July 5, 1846. This was a notable gathering of delegates from every State in the nation, to deliberate on the manner and means of improving the rivers of the interior and the harbors of the Great Lakes for the purpose of promoting the interests of navigation on the great inland lakes and rivers.

From that time Chicago had steadily grown in popularity as the place for holding conventions, until now she is known through the length and

breadth of the land as "the Convention City." No convention ever held here was fraught with any more importance than the first one just mentioned. To quote from the *Chicago Evening Journal* of that date, it was "No gathering for political or temporary effect, no indignant convocation for the mere indulgence in invective; no effervescence of feeling that should expend itself in empty resolves, be the wonder of the hour and then forgotten; but it was an occasion upon which great and startling facts—facts embodied in figures that cannot lie—were presented; facts in which the farmer and the artisan, the merchant and the manufacturer, the capitalist, the sailor before the mast, and his family at home, were all proportionably and deeply interested; facts involving the history of the country, from that hour when the hardy pioneers left New York behind them, or crossed the heights and pierced the dense forests of Pennsylvania, in quest of 'the better land' that was at last disclosed to them, all cleared and ready for the furrow. On this memorable occasion there were men of every political bias, and of every sectional interest, but all acting together as some great brotherhood, speaking with one harmonious voice, and acting as one man." Up to this time this was the most powerful impetus imparted to the ambitious young city, which was taken advantage of, as evidenced by her unprecedented strides to the position which she holds to-day as the Metropolis of the West, the second city in the Union in population, and the first in extent of territory.

This necessarily brief record has merely referred to a few of the items of interest during the early history of our beautiful and world-renowned city, leaving to the papers following a more detailed account of the various public improvements.

From the incorporation of the original town of Chicago, there have been ten extensions by annexation; nine of these were added during the past two years, embracing 140 square miles. The city's limits extend from north to south on the line of Halsted street, a distance of 21⅛ miles; from east to west on the north line of Eighty-seventh street the city is 10⅛ miles wide, and on the south line of the same street the distance between the limits is 4⅜ miles. This indeed constitutes a vast area within one city. Ordinarily men and women who have resided any considerable length of time in a city, become more or less familiar with its various localities. How many of our citizens, old or young, have ever traversed over the great city of Chicago and are sufficiently familiar with different sections to point the way or even find their way throughout its length and breadth?

The experience of the older cities of the country demonstrates that contracted boundary lines, for many reasons, tend to retard progress.

Restricted limits do not now and will not for many years to come, apply to Chicago. There is abundant room for all and eligible locations for all great and important enterprises within the limits of the great metropolis, where commercial and manufacturing industries will enjoy the advantages of the best labor; an ample water supply, an adequate drainage, improved streets; police and fire protection and other indispensable public conveniences. We have reached a limit when it will be well to defer the annexation of any more territory until ways and means can be discovered for extending necessary public improvements and building up some of the waste places of the extensive area now under municipal control.

FINANCIAL.

The bonded debt of the city amounts to $13,545,400.00, bearing interest from 3½ to 7 per cent.; $983,900.00 of this indebtedness was incurred by annexation. The total annual interest paid on the present bonded debt for the past year was $825,350.40.

The bonded debt will be increased during the next two years by the issuance of 4 per cent. bonds to the amount of five millions of dollars, as authorized by an Act of the State Legislature and an ordinance of this Council, making the city debt a little more than $18,500,000.00, a much smaller debt than any other city of similar size and pretensions in the country.

During the past year it was found that a large amount of money was held by the city, on account of rebates due on special assessments, much of it running back several years. Special efforts were made to notify citizens to whom rebates were due; the result was, the city refunded nearly $796,000.00 — $300,000.00 more than any previous year for a like purpose.

MISCELLANEOUS.

The following tabulation of data not referred to in the body of this report, with approximate estimate of cost and valuations, is submitted for reference :

	Actual Cost.	Cash Value.
Water Works,	$17,000,000	$50,000,000
Sewers,	11,000,000	11,000,000
School Property,	10,000,000	11,000,000
Police Property,	550,000	844,000
Fire Property,	2,000,000	2,500,000
Public Library,	300,000	232,000
Street Lamps,	750,000	750,000
Electric Light Property,	500,000	2,000,000
Real Estate,	1,000,000	1,000,000
Buildings,	2,000,000	2,000,000
House of Correction,	800,000	1,000,000
	$45,900,000	$82,326,000
Liabilities, bonded debt,		13,545,400
Making a total (net) value of city property of		$68,780,600
Assessed valuation of real and personal property,		$219,354,368 00
Total amount of levy for city purposes,		4,397,087 36
Revenue for licenses,		3,000,000 00
Number of steam railways entering city,		35
Miles of street railway track laid,		396
Miles electric wire,		1,200
Acres in public parks,		3,290
Miles of drives,		74
Miles of streets in city,		2,300
Number of river bridges,		61
Number of viaducts,		29
Number of street lamps,		37,000
Miles of river frontage,		41
Arrivals and departure of vessels,		19,000
Vessels' tonnage,		8,744,000

Department of Public Works

CITY OF CHICAGO.

COMMISSIONER.

W. H. PURDY.

SECRETARY.

D. S. MEAD.

Heads of Bureaus.

ENGINEERING.

City Engineer,	W. R. NORTHWAY
Assistant City Engineer,	BERNHARD FEIND

SEWERS.

Superintendent,	O. H. CHENEY

STREETS.

Superintendent,	L. E. McGANN
Assistant Superintendent,	JOHN GOODWIN

SPECIAL ASSESSMENTS.

Superintendent,	H. J. JONES

WATER RATE COLLECTIONS.

Superintendent,	H. E. HAMILTON

MAPS.

Superintendent,	R. A. MANSTEIN
Department Book-keeper,	F. C. MEYER
Purchasing Agent,	J. D. C. WHITNEY
Chief Clerk Water Rates,	H. T. MURRAY
Water Rate Assessor,	T. PATTISON
Water Permit Clerk,	H. G. NAPER
Cashier,	JOHN W. LYONS
Registrar Water Rates,	B. F. JENKINS
Engineer in Charge North Pumping Works,	HENRY WELCH
Engineer in Charge West Pumping Works,	JAMES STEWART
Engineer Canal Pumping Works.	W. J. CULLITON
Engineer Fullerton Avenue Pumping Works,	A. D. HOWELL
Engineer Sixty-Eighth Street Pumping Works,	ROBERT HAWKINS
Engineer Sulzer Avenue Pumping Works,	F. D. PARKER
Superintendent Water Meters,	G. J. BAKER
Superintendent Bridge Repairs,	J. B. TOOHY

MAP DEPARTMENT.

CHICAGO, January, 1891.

HON. W. H. PURDY,

Commissioner of Public Works.

DEAR SIR:—I have the honor to submit herewith the Annual Report of the Map Department for the year 1890, accompanied by a map showing the growth of the city of Chicago through the various annexations from the original town to its present extension, and also by a historical sketch explanatory of said map:

THE GROWTH OF CHICAGO.

THE "TOWN OF CHICAGO."

(John H. Kinzie, Gurdon S. Hubbard, Ebenezer Goodrich, John K. Boyer and John S. C. Hogan, first Trustees,) was incorporated by Act of February 11, 1835. It comprised all that territory covered by sections 9 and 16, north and south fractional section 10 and fractional section 15, in town 39 north, range 14 east of the 3rd principal meridian; "Provided, that the authority of the Board of Trustees of the said town of Chicago shall not extend over the south fractional section 10 until the same shall cease to be occupied by the United States."

THE "CITY OF CHICAGO."

Incorporated by Act of March 4, 1837, comprised "the district of country in the county of Cook, etc., known as the east ½ of the southeast ¼ of section 33, township 40 north, range 14 east, and fractional section 34, township 40 north, range 14 east; also the east ½ of sections 3, 7, 18 and 19, all of fractional section 3, and of sections 4, 5, 8, 9, and fractional section 10 (except the southwest fractional ¼ thereof, occupied as a military post, until the same shall become private property), fractional section 15; sections 16, 17, 20, 21, and fractional section 22, township 39 north, range 14 east."

FIRST EXTENSION OF CITY LIMITS.

Act of February 10, 1847, provides: "That the district of country in the county of Cook, etc., known and described as follows, to-wit: All that

part of township 39 north, range 14 east, of the third principal meridian, which lies north of the north line of sections 27, 28, 29 and 30 of said township, and the east ½ of section 33, township 40 north, range 14 east, and fractional section 34, township 40 north, range 14 east, shall hereafter be included in, constitute, and be known by the name of City of Chicago."

SECOND EXTENSION OF CITY LIMITS.

Act of February 12, 1853, provides: "That the corporate limits and jurisdiction of the city of Chicago shall be and the same are hereby extended so as to embrace and include within the same the several tracts of land hereinafter described, which shall be deemed parts of the divisions of the said city named in connection therewith, as follows:

"*North Division:* All those parts of sections 31 and 32, township 40 north, range 14 east, lying east of the center of the North branch of the Chicago river, and the west ½ of section 33, in same township and range.

"*South Division:* All of fractional section 27, township 39 north, range 14 east, and so much of the shore and bed of the lake as lies within one mile east of said section, and all of that part of section 28, same township and range, lying south and east of the South branch of the Chicago river.

"*West Division:* All those parts of sections 28, 29 and 30, township 39 north, range 14 east, lying north of the South branch of the Chicago river."

THIRD EXTENSION OF CITY LIMITS.

Act of February 13, 1863, provides: "The corporate limits and jurisdiction of the city of Chicago shall embrace and include within the same all of township 39 north, range 14 east, of the third principal meridian, and all of sections 31, 32 and 33, and fractional section 34, township 40 north, range 14 east, together with so much of the waters and bed of Lake Michigan as lies within one mile of the shore thereof, and east of the territory aforesaid."

FOURTH EXTENSION OF CITY LIMITS.

Act of February 27, 1869, provides: "That the territorial limits of the city of Chicago shall be and are hereby extended as follows: That part of section 30, township 40 north, range 14 east, which lies west of the North branch of the Chicago river; sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, and that part of sections 35 and 36 lying northwest of the center of the Illinois and Michigan canal, all in township 39 north, range 13 east, shall be and are hereby added to the city."

FIFTH EXTENSION OF CITY LIMITS.

Act of May 16, 1887, provides: "That section 36, township 40 north, range 13 east, town of Jefferson, shall be and is hereby added to the city."

MAP DEPARTMENT.

SIXTH EXTENSION OF CITY LIMITS.

Act of April 29, 1889, provides: "That that part of sections 35 and 36 lying southeasterly of the center of Illinois and Michigan canal, in township 39, north of range 13, east of third principal meridian, in Cook County, Illinois."

Also, "that sections 3, 10, 15, and the east ¾ of sections 22, 27 and 34, lying northwest of the center of the Illinois and Michigan canal, in township 39, north range 13, east of the third principal meridian, etc."

Also, "that section 25, township 40, north of range 13, east of third principal meridian, etc., be and the same is hereby declared to be annexed to the incorporated city of Chicago."

SEVENTH EXTENSION OF CITY LIMITS.

July 15, 1889, an order was filed in the County Court of Cook County, declaring the result of a special election held June 29, 1889, by which the following territory, all situated in the county of Cook, Illinois, was annexed to the city of Chicago, viz.:

The east ½ of sections 4 and 9, township 39 north, range 13 east, of third principal meridian, in the town of Cicero; the city of Lake View, the village of Hyde Park, the town of Lake, and the town of Jefferson.

EIGHTH EXTENSION OF CITY LIMITS.

By election held April 1, 1890.

The village of Gano: The south ½ of section 21, all of section 28 north of the Indian boundary line, that part of section 28 south of the Indian boundary line, lying west of the east line of said village of Gano, and north of the Little Calumet river; also that part of section 33 north of the Indian boundary line, lying north of the Little Calumet river, and that part of the east ½ of the northwest ¼ of section 33 south of the Indian boundary line, lying north of the Little Calumet river, all in town 37 north, range 14 east of the third principal meridian, being 1.80 square miles.

NINTH EXTENSION OF CITY LIMITS.

By Ordinance passed May 12, 1890, sections 5 and 6, also the northeast ¼ of section 4, except the west fifty feet of the south 666 feet thereof; also the northwest ¼ of section 4, except the south 666 feet thereof; also the southeast ¼ of section 4, except the west fifty feet thereof; also the northeast ¼ section 9, except the west fifty feet thereof; all in town 37 north, range 14 east of the third principal meridian, being 2.92 square miles.

DEPARTMENT OF PUBLIC WORKS.

TENTH EXTENSION OF CITY LIMITS.

By election held November 4, 1890.

1. Village of Washington Heights: Section 7, the west ¾ and northeast ¼, northeast ¼ section 8 and the north ½ of sections 17 and 18, all in town 37 north, range 14 east of third principal meridian, being 2.80 square miles.

2. Village of West Roseland: Southeast ¼ section 9 (except the west fifty feet thereof), the east ¼ of northeast ¼ of section 20, the north ½ of section 21 and all of section 16, all of town 37 north, range 14 east of third principal meridian, being 1.80 square miles.

The city of Chicago covers now an area of 180.5 square miles, or 115,520 acres.

The following work has been performed by this department during the year, to-wit:

Prepared for—	Number of Plats.
Lamp Post Ordinances	933
Lamp Post Orders	622
Lamp Post Assessments	311
Street Improvement Assessments	607
Street and Alley Opening Assessments	68
Street and Alley Opening Ordinances	531
Sewerage Assessments	13
Street Engineers' Estimates	617
Surveys	215
Sidewalk Assessments	841
Law Department	552
Miscellaneous purposes	106
Record for Street and Alley Openings	17
Total	5,433

Respectfully submitted,

R. A. MANSTEIN,

Superintendent of Map Department.

REAL ESTATE.

The two years preceding the panic of 1837 were noted for the wide-spread fever, which attacked the coolest blood, to speculate in real estate. The rise in values were tremendous. Fortunes were made almost in a day, and when the reaction came they were lost even more suddenly. It would be impossible to give anything like a clear picture of this portion of the city's history, since all was confusion and excitement. The most that can be done is to jot done items as they have been gathered from the files of the *American*, and other sources, showing the business transacted at the Land Office, and in some cases, the comparison of prices of lots before the excitement, when the fever was at its height, and after the reaction had set in. The general reader can easily draw his conclusions from the details here presented:

In 1830, Jedediah Woolsey, Jr., bought of the Canal Commissioners, lot 9, block 44, for fifty dollars. Alexander Wolcott purchased eight lots in block 1, during the same year, paying $692; also the east one-half, northeast quarter section 9, township 39, range 14 (eighty acres), at $1.12½ per acre. John S. Wilburn bought lot 1, block 1, in 1830, for sixty dollars. John S. C. Hogan paid for lots 1, 2, 5 and 6 $116, and in 1836 bought lot 7, paying $12,000 for it with the greatest alacrity.

The above are specimens of some of the earliest purchases. In May, 1835, the land office was opened. To the close of the sale the receipts amounted to $386,500, of which about $353,500 were for lands sold at auction, and the balance under the pre-emption law. During the next month, E. K. Hubbard and W. L. Newberry advertised sales of valuable lots, the former having three hundred and fifty to dispose of. In October, A. Garrett announces in the *American*, that from January 4th to the 27th of that month he has sold $1,800,000 worth of real and personal property. He had fitted up a large room on Dearborn street, and had an "auction room equal to any in New York or Philadelphia."

In November the rate of assessment for the coming year was fixed by the town at one-half of one per cent.

A lot fronting eighty feet on the water by one hundred and fifty feet on Dearborn, purchased for $9,000 in the Spring of 1835, brought $25,000 in the succeeding Winter. Says the *American*, in April, 1836: "There is a piece of land in Chicago, costing sixty-two dollars in 1830, which has risen

in value one hundred per cent per day; it sold last week for $96,700, one-quarter down, and the remainder in six, twelve and eighteen months, at ten per cent." Charles Butler, of New York, states in a later issue, that "in 1833 one-quarter of Kinzie's addition was offered for $5,500—worth then $100,000. In 1833 forty acres of land worth $400 could not be purchased in 1836 for less than $200,000. In 1834, the 'Hunter property' was purchased for $20,000. In the Spring of 1835 it was resold for $100,000. It is now (September, 1836), worth $500,000."

Notwithstanding this tremendous rise in values of real estate, in pursuance of a notice issued by N. H. Bolles, Town Collector, that all property would be sold upon which the corporation tax of 1835 remained unpaid, September 10, 1836, a great number of lots were advertised. Of those which appear in the *American* of October 1st, one hundred and fifty-five were taxed less than $1.00; forty-two from $1.00 to $5.00; ten from $5.00 to $10.00; twenty-two between $10.00 and $25.00, and one at $39.00. In Wolcott's addition one was taxed $10.50; three between $7.50 and $10.00; the remainder less than $7.00. In the North Branch addition no tax reached $1.00. In Wabansia addition three lots which were advertised were assessed $2.50, $3.50, $7.50. In the "original town," one for $50.50; two for $30.00 each; one for 19.00; seventeen for $10.00, and eighteen less than $10.00.

The reaction from the inflation of 1835–36 was setting in. In January, 1837, the town passed an ordinance relating to the sale of lots for taxes. It provided that the assessment on all taxable lots should be made annually, and the roll returned to the Board previous to October 1. The Town Collector was to notify the public by the fifteenth of that month that he would advertise all lots for sale upon which the tax remained unpaid on February 1st. If not redeemed, the purchaser at the sale was entitled to the deed. In March, 1837, another lot of "delinquents" appeared to have forgotten the value of Chicago real estate. In the "old town" most of the lots advertised for sale were taxed at $2.50 apiece—the highest, $45.00. The highest tax upon a water lot in Kinzie's addition was $20.00; a dry lot, $47.50. The majority of lots in Wolcott's addition were assessed at $2.50; the highest one at $10.00. In Wabansia addition the highest was $5.00; the majority at $1.25. In School Section 21 the highest was $21.00; the majority at $1.00. In North Branch addition, out of three hundred and eight lots advertised for sale, the tax of twenty-four only reached $1.25, most of them being assessed at thirty-seven cents per lot. The taxes collected during the year ending May 1, 1837, amounted to $11,659.54, of which $2,661.28 was the balance assessed during 1835, and $8,998.27 the corporation taxes assessed on real estate for 1836.

The panic of 1837 brought great distress to this community, and delayed the growth of Chicago as a city. Its reaction here was principally felt

in real estate circles, it being almost impossible to dispose of land at any price during 1838. The canal improvement was really about all that sustained and encouraged Chicago for nearly ten years. Many people left the city in 1840. Although the hard times of 1837 and 1838 affected the sales at the land office as a "business institution," it was as persistently prosperous as any that can be named from May 28, 1835, when it opened, to May 1, 1846, when it closed. Witness the figures:

1835,	370,043.38 acres.
1836,	202,315.96 acres.
1837,	15,897.87 acres.
1838,	87,891.43 acres.
1839,	160,835.70 acres.
1840,	142,150.00 acres.
1841,	138,583.16 acres.
1842,	104,566.11 acres.
1843,	228,459.70 acres.
1844,	230,769.63 acres.
1845,	220,525.08 acres.
To May 1, 1846,	61,956.11 acres.
Total,	2,054,592.16 acres.

The growth of Chicago from 1842 to 1850 was slow.

In April, 1852, the city negotiated its first great loan, $250,000, payable in twenty years, through Duncan, Sherman & Co., of New York City. This was on account of the inauguration of the new system of water works.

The growth of the city from 1850 to 1855 was marvelous, and the confession is said to have been made by certain real estate men that though they did their best at representing the rise in land, the facts outstripped their stories. It was during this period that Chicago inaugurated her grand system of water works and drainage. Then, unfortunately, she experienced her great set-back, the panic of 1857. The city was so embarrassed that in September the Council ordered the issuing of $100,000 bonds. It was done, and Comptroller Hayes went to New York to negotiate them. After using his powers of persuasion for a week, he returned, entirely unsuccessful in his mission.

In the Winter of 1857 a large number of laboring men was out of employment, and the city authorities were called upon, in the midst of the most distressing times, to inaugurate public improvements and thus assist them financially. Special committees of the Common Council were appointed, who found it impossible to appropriate money from the city treasury for charitable objects without express permission from the Legislature, and especially when the whole available means of the city were required to pay

her current expenses and honorably meet her maturing indebtedness. Furthermore, the city could not, as suggested, make advances through her credit to carry on public improvements then pending, for which assessments had not been collected, because all taxes had been collected to their full extent, and were paid in so slowly that the Comptroller found it difficult to provide for the most necessary expenses. In the then state of the money market it was impossible to raise money by a loan. The filling of Washington Park, however, had been contracted for and provided employment for a great number. Most of the improvements which were ordered at that time were made upon remote streets, and the assessments upon adjoining property fell upon the poorer people. All that could be done, therefore, was for the city to hasten the construction of works for which orders had been passed and warrants issued.

EARLY STREET IMPROVEMENTS.

Previous to the organization of the Department of Public Works in 1861, the efforts made in this branch of public work was unsystematized and spasmodic; there are, therefore, no printed reports of street improvements in the archives of the city prior to that date. It is believed that the following notes of the public improvements made in the early days of Chicago will be of interest now:

The first "road" in Chicago was located in 1831 from the public square to the western county line. In April, 1832, several streets and roads were authorized; among others the first street leading to Lake Michigan was laid out. It then commenced at the end of Water street. The street was laid out fifty feet wide. The viewers believed that "the said road is of public utility, and a convenient passage from the town to the lake." In June, 1832, the County Commissioners "ordered that a road be viewed from the town of Chicago to the Du Page river, and so on to the west line of the county."

By March, 1833, the State road, leading from Chicago to the west bank of the Wabash river, opposite Vincennes, was completed, and during the Spring and Summer of that year various minor roads were laid out. Thus even at this early period Chicago was becoming a road centre. When later, plank roads commenced to be built, Chicago took the lead in the trade of the surrounding country. In August, 1833, in which the town of Chicago was incorporated, one of the first official orders of the Board of Trustees was given to the Town Surveyor to "pitch" South Water street from the United States Reservation to Randolph street, on or before April next, 1834. During July, 1834, the Surveyor was required to grade South Water street so that "water should flow from each cross street into the river." South Water and Lake streets, the two principal thoroughfares of the village at that time, were early turnpiked and graded. Plank sluices were also built across Clark street to carry the drainage to the South branch.

In 1835 the following petition was presented to the Town Trustees:

CHICAGO, July 18, 1835.

Your petitioner respectfully represents to your Honorable Body that he has graded and thrown up La Salle street, between South Water and Lake streets, in front of lots one and two, and begs to be allowed the cost and value of said work, to be deducted from the taxes of the ensuing year.

GURDON S. HUBBARD.

To the Trustees of the Town of Chicago.

The marvelous growth of Chicago is clearly attested by preceding document, as the author of it was until 1888 a hale and active resident in our midst, and has, with many others of our citizens, witnessed Chicago grow from a frontier village to its present important place among the great cities of America.

In the Fall of 1836 Canal street was turnpiked as far north as Kinzie, and Lake street similarly improved as far as Desplaines, and Randolph street from the river to the west line of Section 9.

As late as July 9, 1836, the *American* calls attention to a pool of water on Lake street, corner of La Salle, inhabited by frogs. "It smells strong now, and in a few days will send out a horrible stench." By the Winter of 1836 the leading thoroughfares were turnpiked. In the Spring of 1837 proposals were invited for "clearing, grubbing and grading" Market street, Franklin street, Chicago avenue, La Salle, Clark and Dearborn streets; also Union, Desplaines, Peyton, Canal, Harmon, Hamilton, George, Maria, Webster, Spring, Elizabeth and Catherine (West Fifteenth) streets, and one-half of Division street, making in all fourteen and one-half miles of streets.

In 1842 North Branch street, from Kinzie to Desplaines street, was graded, and in 1844 Lake street was planked from State to Dearborn streets, which is believed to be the commencement of planking the streets.

For several years the work of grading, grubbing, and rudely improving the streets went on, but it was not until 1849 that the authorities commenced to generally plank them. As a rule this work amounted to less than nothing, for when the teams broke up the planks and wet weather came, this primitive pavement was a dangerous and active weapon, flying up in the horses' faces and splashing foot passengers with mud. As late as 1868 relics of the broken plank could be seen on Blue Island avenue, and as late as 1859 West Madison and State streets were laid with this planking.

Prior to 1849 the attention of the citizens had been called to the fruitlessness of using stone pavements upon the streets of Chicago. It did not seem a profitable investment for the city to lay down a pavement which would sink out of sight in one or two years. The experiment of laying plank roads had proved a success in Canada and New York, and accordingly in 1849 the Common Council determined to plank the principal streets of Chicago. In 1849-50 Market, State, South and North Clark, La Salle, Wells, East and West Madison and West Randolph were treated to a coat of this material, nearly three miles of pavements, at a cost of $31,000.

Soon after commenced a general numbering of the streets. In the Spring of 1848 Clark street was numbered from South Water to Randolph. In July, 1850, the Common Council ordered that North Water, Kinzie and Michigan streets be numbered from the eastern termini to Franklin street, and that Wolcott (now North State), Dearborn, Clark, La Salle and Wells, (now Fifth avenue), numbered from North Water to Ontario; also that the names of these streets be posted up in large letters on each of their corners.

In 1855 the first pavement composed of limestone blocks was laid on South Water street, between Wabash avenue and the tracks of the Illinois Central Railroad. In the following year, Wells street (now Fifth avenue), was macadamized from Van Buren to Congress streets, and cobblestone pavement laid on Lake street from Michigan avenue to the river.

In the Fall of 1856 the first "Nicholson" or pine block pavement was commenced on Wells street (Fifth avenue), between South Water and Lake streets. The work was completed in the Spring of 1857. During the year, cobblestone was laid on State between South Water and Lake, and on Randolph from the river to Clark, and on Washington street from La Salle to Clark.

From this time to 1859, a period of seven years, over fifteen miles of pavement was laid. There is no record showing any pavement to have been laid in 1860, and from 1861 to 1865, a period of five years, 9.69 miles were laid. From 1865 to 1871 little except pine block pavement was laid. In 1875 cedar blocks were substituted for pine, and from that time to the present date have been extensively used.

In 1880 the first compressed asphalt block pavement was laid. Sheet asphalt and granite blocks were laid in 1882.

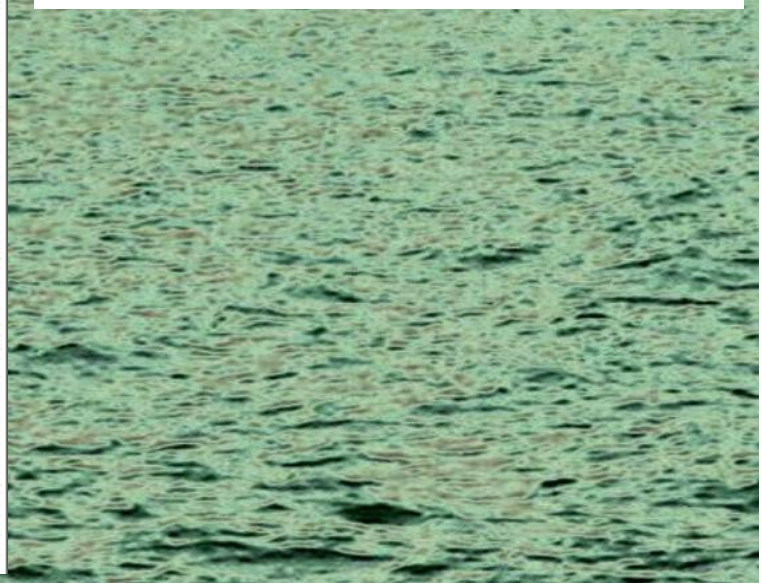
Up to 1851 fifty miles of plank roads had been built, leading from Chicago to various points north, south and west, at a total cost of $150,000.

As the railroads centering in Chicago came into general use, affording a new and more desirable system of commercial arteries, the plank roads were abandoned. That these plank roads were not abandoned without a protest, but on the contrary were highly regarded as a means of developing the country, the following communication from the *Chicago Daily Democrat* February 16, 1848, will attest:

Will you be so kind as to allow me to say a few words through your paper, showing the very many advantages our country derived by the introduction of plank roads over that of railroad communication? The former can be brought into every street and alley, to every warehouse and manufactory in our city; in the country all sections are alike benefited by them. They do not enhance one man's property and depress that of another. The farmer can take his produce to market when his time is of little or no value. When a sudden advance in the staples of the country takes place, there is no railroad directory to reap the benefits of it, by refusing to carry only that which they may be interested in. Such have been the operations in a neighboring State. Do railroads give the same facilities for traveling that plank roads do, even to those living by the side of them? Their stations are generally ten or twelve miles apart. They will only take in and put out passengers at these places. Our plank road passengers travel at the rate of ten miles an hour, which is as fast as they are conveyed (and with ten times the safety) on the Michigan Central Railroad. The charges made by the railroad for the transportation of produce are more than it would cost the farmer by plank roads, and very little less than common roads. On the Michigan Central Railroad they charge sixty-two and one-half cents per barrel for flour, fifty cents per hundred pounds for merchandise, between Kalamazoo and Detroit, 140 miles. On a plank road a two-horse team will have three and one-half tons, two and one-half miles per hour,

for ten hours out of fourteen, which experience has proven to be the most economical rate of speed teams with heavy burdens ought to travel. From an examination of the statistics, it would appear that the whole number of teams arriving in our city during the past year was not far from 70,000. Now, in place of the railroad now agitated, construct 300 miles of plank road, divided to the best advantage, say northwest and southwest. This will not cost more than $500,000 (about what it will cost to build a good railroad to the Fox river), for which the annual receipts for the next ten years could not be less than $300,000, supposing the average number of teams arriving per annum to be 180,000 (a calculation not large, as the population of Northern Illinois doubles in about six years), which at $1.50 per team, would give that sum, sufficient to keep the roads in repair, divide thirty per cent. dividends, and when the road is worn out (ten years hence), we would have a city containing 70,000 inhabitants. Then we might talk of a railroad. One of the reasons urged with those in favor of the proposed railroad to Fox river, is that if we don't build one Milwaukee will. The people of that city are not able to build a railroad of any length; if they were, they are not so simple.

This short sketch of Chicago street making in early days gives only a faint conception of the difficulties which beset the pioneers in their courageous efforts to build a city in a morass.



BUREAU OF STREETS.

CHICAGO, January 1, 1891.

HON. W. H. PURDY,

Commissioner of Public Works.

DEAR SIR:—I have the honor to submit herewith the Fifteenth Annual Report of the Bureau of Streets for the year ending December 31, 1890. It embraces in detail a review of the work accomplished during the year under the supervision of this bureau, with the amount expended. Also, the street railway extensions made by the different street railway companies, the work done by the several railroad companies under the ordinance of March 26, 1890, and data in connection with the telegraph and telephone companies, together with a report of the condition and repairs of all street lamps within the old city limits and annexed territory.

The amount paid contractors for street improvements by special assessment was		$2,280,875 79
For sidewalks built by the bureau under special assessment		65,860 00
For sweeping and cleaning improved streets:		
By contract	$110,594 89	
By department	60,677 41	
	$171,272 30	
For cleaning macadamized roadways	27,567 98	
		198,840 28
For repaving and repairing improved streets		150,756 14
For grading, ditching, building, and repairing aprons, culverts, crossings, etc., on unimproved streets		233,873 82
For sidewalk intersections	$41,808 57	
For sidewalks, general repairs	68,760 88	
		110,564 45
For city parks		9,173 80
For city hall operation and maintenance		88,301 35
For constructing and operating gasoline lamps	$88,508 60	
For erecting posts and signs	10,107 62	
For gas lamp repairs	11,213 90	
		104,880 12
TOTAL		$3,388,074 20

Table showing total miles of improved streets, with percentage of each class of pavement:

PAVEMENT.	MILES.	PER CENT.
Cedar Block	410.33	61.27
Macadam	226.67	33.85
Medina Stone	2.58	0.38
Granite	20.48	3.07
Sheet Asphalt	5.09	0.76
Asphalt Block	4.11	0.62
Brick	0.38	0.05
TOTAL	669.64	100.00

The total number of miles of pavement laid each year, from the introduction of street paving in 1855 to the present date, is given in the following review, the number of miles of paved streets in the annexed towns of Hyde Park, Lake, and Lake View being added to the total of 1889.

Year.	Miles.	Year.	Miles.	Year.	Miles.	Year.	Miles.
1855	1.72	1864	2.40	1873	10.19	1882	24.95
1856	.36	1865	2.03	1874	9.07	1883	29.49
1857	2.62	1866	8.87	1875	11.49	1884	34.52
1858	7.20	1867	11.37	1876	10.50	1885	38.06
1859	5.70	1868	5.46	1877	12.29	1886	43.66
1860	....	1869	18.32	1878	11.01	1887	38.75
1861	.69	1870	19.96	1879	6.83	1888	54.88
1862	2.57	1871	25.68	1880	16.84	1889	254.22
1863	3.00	1872	1.82	1881	24.53	1890	99.72
						TOTAL	840.06

Of this amount 170.42 miles have been repaved during the same period, which reduces the actual amount of paved streets within the corporate limits on January 1, 1891, to 669.64 miles, to which may be added 1,567.22 miles of unimproved streets, making a total of 2,236.86 miles of streets in Chicago at this date; less 1.15 miles of viaduct approaches, making a grand total of 2,235.71 miles.

REPAVING.

The amount of repaving done by the division foremen in repairing improved streets; the replacing of pavement where openings were made by gas companies, water, sewerage, fire alarm, and telegraph departments, bureau of light, etc., and on account of street permits and general repairs; also the amount of repaving done by contractors for gas companies under the supervision of this department, and the expense of same paid by the companies interested, is given in the following table, by divisions of the city:

FOR WHAT PURPOSE.	North Div.	South Div.	West Div.	Total.
	Square Yds.	Square Yds.	Square Yds.	Square Yds.
General Repairs	11,048	58,914	51,059	123,019
Gas Companies	21	301	75	397
Water Department	1,621	4,824	4,401	10,846
Sewerage Department	243	143	150	536
City Engineer's Department	188	1,108	1,003	3,299
Fire Alarm Telegraph Department	28	132		185
Street Permits	3,024	3,033	6,266	13,523
Bureau of Light		441		441
Totals	17,370	69,500	63,454	150,224

Total number of square yards..... 150,224

To which is added the amount of repaving done by contractors for gas companies, bureau of light, etc..... 65,091

Grand total repaving done, square yards..... 215,295

For the proper maintenance of macadamized roadways a system of repairs for worn-out or broken spots at their first appearance should be in vogue. The fund for this purpose has been far too small for the requirements; the result being that only the worst places receive attention and the streets are soon destroyed.

UNIMPROVED STREETS.

In the work of grading and ditching the money at the disposal of this bureau, for that purpose, has been judiciously expended in keeping unimproved streets in good, passable condition. The total length of streets graded and ditched by the division foremen amounts in the aggregate to about 712 miles.

The extension of the unsewered territory of the city by late annexations will necessitate an appropriation for the purpose of ditching new streets and keeping old ditches free from stagnant waters.

An outlet for the surface drainage of Grand Crossing and vicinity, and that of the territory east of it and adjacent to Seventy-ninth street has been provided for by the construction of a box drain, with inside dimensions of $4\frac{1}{2} \times 5\frac{1}{2}$ feet, along the latter thoroughfare, connecting with the ditch at the crossing of the B. & O. Ry. and leading east into the lake. The cost was borne by a special assessment on the property benefited.

CLEANING OF THE IMPROVED STREETS.

The work, as heretofore, has been done partly under two contracts, viz.: the "sweeping" with machinery all improved streets in the First ward, which was awarded on April 2d to J. S. Cooper at $4.49 per mile, and the "sweeping and cleaning" of all improved streets (macadamized excepted) outside the First ward, which was also awarded to J. S. Cooper at $25.00 per mile. Under the former contract there was 1,767.94 miles "swept" at a cost of $7,938.04, and under the latter 3,949.86 miles were "swept and cleaned" at a cost of $102,650.85, making a total of $110,584.39 paid to contractor.

The work of collecting and disposing of the sweepings in the First ward was done by department employing men at $1.50 per day and carts at $3.00, the same being done at night. Previous to April 3d whatever sweeping was required was done by agreement at $5.49 per mile; the rate of last year's contract for the same work. The total number of miles swept and cleaned under "sweeping" contract and by department was 2,266.78, at a cost of $49,766.31 (this amount includes cost of sweeping). The nature of the work with cost and average for each month will be seen from appended tabulated statement, marked "Class A," or First ward.

In addition to the regular street cleaning programme the department has employed men and carts to keep all the principal intersections and viaducts free from snow, slush, and all accumulations consequent to wet or soft weather, and especially was this required in the Spring and Fall of the year, the cost for the same being $9,595.50. An additional corps of men and carts was put on day work during the Summer months to keep the business section free from all debris, such as paper, the sweepings of stores,

sidewalks, etc., which was done after night corps had finished, the cost for such service being $2,419.25. Another item of expense was the levelling of the lake front dump, at a cost of $1,172.00, making a total of $62,953.06 spent in connection with cleaning the First ward, and bridges and viaducts leading thereto. Eight hundred and sixty-eight miles of macadamized roadways were cleaned by district foremen of the department, at a cost of $27,567.93, making the total cost of sweeping and cleaning the paved streets and alleys of Chicago for 1890 $198,840.23; classified as follows:

CLASS A.

The department swept and cleaned by hand 498 miles, and cleaned 1,767 miles, making a total of 2,266 miles, at a cost of	$ 55,015 02
Sweeping by contract 1,767 miles, at $4.49	7,938 04
Total	$ 62,953 06

CLASSES B, C, D AND F.

Sweeping and cleaning by contract 3,949 miles, at $25.99	$102,656 85
Cost of inspection	5,662 89
Total	$171,272 80
For cleaning macadamized roadways	27,567 93
Grand total	$198,840 23

PERMITS FOR OPENING STREETS.

Seventeen hundred and eighty-seven (1,787) permits were issued to sundry persons to open improved streets. A cash deposit covering cost of replacing pavements, etc., to their original condition, was made on each permit.

Sixteen hundred and five (1,605) openings were made on improved streets by gas companies and sundry other corporations under general deposit, the work of replacing the pavements being done by contractors, subject to inspection and acceptance of the department.

Total number of openings, 3,392.

FOR OPENING STREETS FOR THE CORRESPONDING YEARS 1889–1890.

MONTH.	Number of Permits Issued in 1889.	Number of Permits Issued in 1890.	MONTH.	Number of Permits Issued in 1889.	Number of Permits Issued in 1890.
January	64	58	August	139	184
February	28	73	September	161	196
March	90	122	October	130	201
April	133	142	November	84	165
May	135	140	December	83	122
June	125	167			
July	126	201	TOTALS	1,298	1,787

	—1889.—	—1890.—
Average number of permits issued each month	107	149
Number of permits issued for opening of streets on which deposits were made (not including openings by gas companies and other corporations under general deposits)	1,298	1,787
Number of permits issued for opening unimproved streets	5,401	8,905
Totals	6,694	10,692

Amount of cash deposits made	$36,822 50	$36,353 00
Amount retained for cost of repaving and inspection	12,891 51	9,459 82
Amount rebated to depositors	18,265 99	20,044 18
Amount retained on permits not settled	5,665 00	7,060 00
Average amount of cash deposit	28 47	20 35
Average amount retained for costs	9 97	5 29

SIDEWALKS.

The number of miles of sidewalks, new, rebuilt, and repaired, including wood, stone, and concrete, is shown in the following table:

DIVISION.	MATERIAL.			Total Miles.	Sidewalks Repaired.	Grand Total Miles.
	Wood.	Stone.	Concrete.			
South	129.65	12.15	27.65	169.45	40.76	204.21
West	184.45	9.85	8.45	202.75	125.14	327.89
North	43.35	10.05	18.15	66.55	13.20	79.75
TOTAL	351.45	32.05	49.25	432.75	179.10	611.85

Of the above, 97.35 miles of plank walks have been built by the city under special assessment.

The total number of miles of sidewalk under the control of the city of Chicago, South, West, and Lincoln Park Commissioners, at the close of the year, is given in the following summary:

OBSTRUCTIONS.

Street obstruction permits	2,092
Complaints of obstructions	1,362
Notices served	1,194
Cases in court	114
Number of convictions	88
Obstructions investigated	4,906

I respectfully present for your consideration the following data with a view toward such legislation as would be effective. The cost per square foot of the different kinds of sidewalks as ordinarily laid in the residence portions of the city is, wooden 5c.; Portland cement, 18c.; and four-inch stone flags, 40c.; or in the proportions of 1, 3.6, and 8; while the average life (dating from the time of construction to the period when defects appear for the first time) of each is respectively about 5, 25, and 25 years, or as 1, 5, and 5. At all places where the bed of the walk is thoroughly compact and protected by side banks of earth or sod, cement walks should be laid, because they are economical, practically monolithic, easily repaired, and do not wear smooth. Slight defects in the bed of flag-stone walks have a tendency to cause the panels to tilt, strains are brought to bear and the stones are soon broken. Wooden walks become dangerous to pedestrians chiefly through lack of proper care in building, the use of inferior materials, atmospheric action, and delayed repairs.

Judgments in twenty-four cases, amounting to $24,900.00, have been obtained against the city in the past year, due to injuries received from defective sidewalks.

In conclusion I would recommend that the districts in which the building of wooden sidewalks is forbidden be extended as rapidly as the growth of the city will permit.

Respectfully submitted,

JAMES O'BRIEN,
Superintendent of Sidewalks.

STREET LAMPS.

At the close of the year there were, including those on bridges, viaducts, parks and boulevards, 1,025 oil lamps, 6,080 gasoline lamps, 20,230 gas lamps, and 1,092 electric lights in the city

BUREAU OF SPECIAL ASSESSMENTS.

CHICAGO, December 31, 1890.

HON. W. H. PURDY,

Commissioner of Public Works.

DEAR SIR:—I submit herewith in tabular form a statement of special assessments made in this department during the past year, with a summary of the estimated cost of the same; also the amount of special assessments made in each year during the past thirty years. The aggregate for the period last named is $47,694,099.70, the average amount for each year being $1,589,803.32. During the year just closed the amount levied on abutting and adjoining property for all descriptions of street improvements was $6,987,155.48, or about $6.50 per capita of population. As compared with the previous year it shows an increase of $2,766,285.55, or 65 $\frac{3}{10}$ per cent. The willingness with which the property owners imposed upon themselves this enormous amount of special taxation is the best evidence of their material prosperity and their unbounded faith in the commercial destiny of our city.

Since the annexation of the towns of Lake View, Jefferson, Lake, Hyde Park, and a large strip of Cicero, the labors of this department have increased fully 100 per cent., and the prospects are that this ratio of increase will prevail for the next five years, if not for a longer period—the more assuredly so should the municipal legislature determine that the street cleaning and sprinkling be done by special assessment. In view of these conditions it is evident that some steps should be taken during the next (present) session of the State Legislature to secure an amendment to the existing special assessment law, whereby its machinery may be so simplified that the present tortuous system of issuing rebates may be avoided and the rapidly increasing volume of book-keeping dispensed with. That the former is a growing burden upon the people, no one who has closely examined the operation of the present law will deny. In my judgment it should be so amended that the assessment for each improvement shall be based on its actual cost. This would entail no hardship on the contractor, for he would not be required to wait for his pay for a longer average period than one

year, and he could make his financial arrangements that at the end of the time specified he would receive his money. The difference in cost to the property owner would not amount to more than bank interest, and for all practical purposes, so far as he is concerned, the transaction would be the equivalent of a cash one. In addition, the property owner would be relieved, to his perfect satisfaction, from the annoyance and trouble of looking after his rebate, as is the case at present.

In the matter of improvements ordered on the "five year plan," the amendment I have suggested would save an almost infinite amount of perplexing labor. The existing law demands that one-fifth of the rebate shall be allowed on the payment of each installment, and this necessitates complicated book-keeping, not only in this department, but also in the offices of the City Collector and County Treasurer; and as this system of ordering improvements seems to meet with growing favor at the hands of the public, the complications and possibilities of errors are bound to grow in similar ratio.

The promiscuous ordering of improvements, evidently without the knowledge or concurrence of the property owners, and afterwards staying or annulling them, should be stopped at once, not only in the interest of those who would be directly affected, but also in the interest of public economy. It would, besides, relieve this department of a large amount of unnecessary labor.

I would recommend, in the interest of a more economical administration of the bureau, that the law be further amended so that the cost of "publication of notice" be reduced from 60 to 80 per cent. Each separate assessment now requires the publication of a mass of legal verbiage, which would be equally if not more efficacious were it used but once, followed by the list of improvements—in this wise:

SPECIAL ASSESSMENT NOTICE.

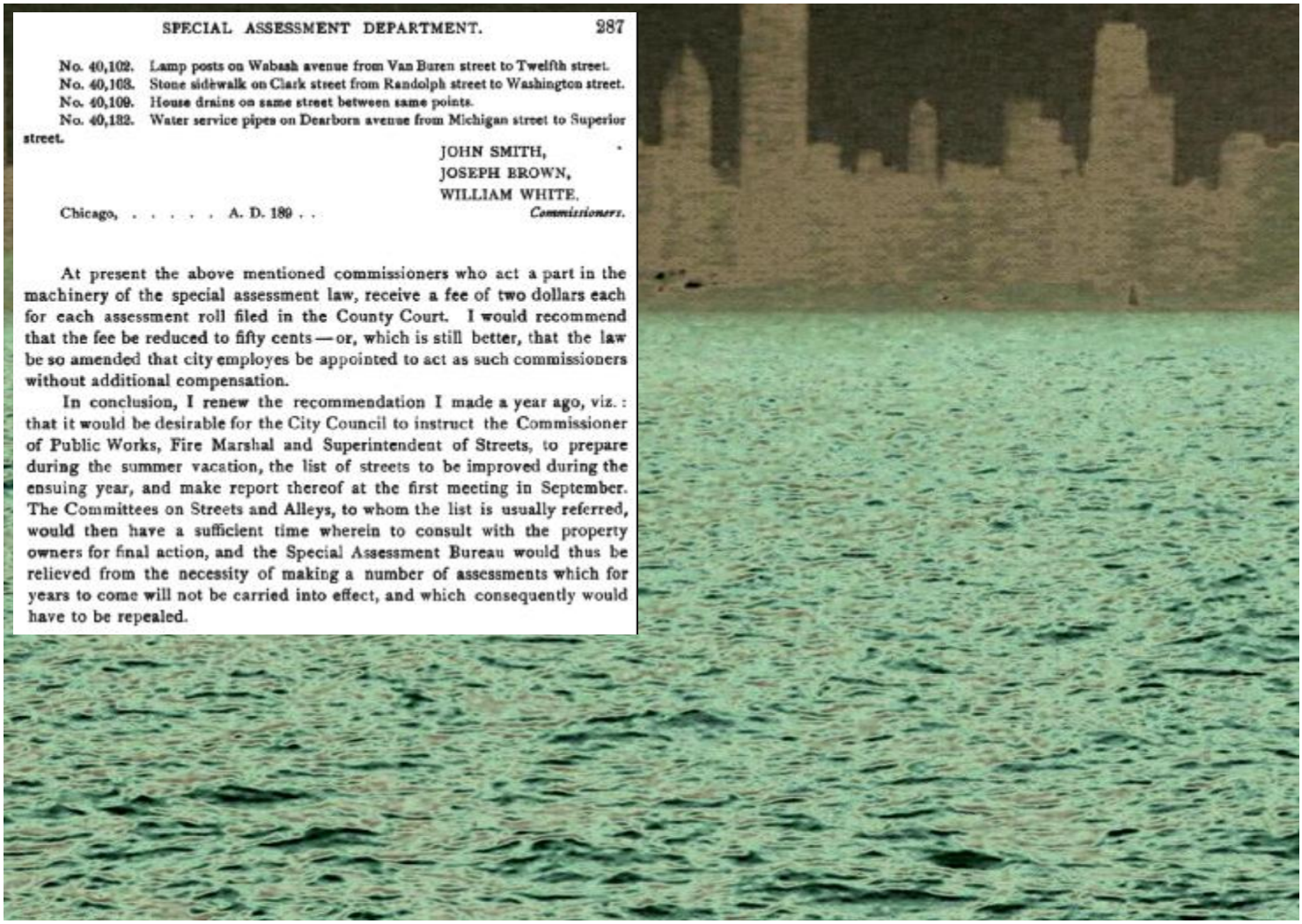
Notice is hereby given to all persons interested, that the City Council of the City of Chicago, having ordered that the following improvements be made in accordance with Article nine (9) of an Act of the General Assembly of the State of Illinois, entitled "An Act to provide for the incorporation of Cities and Villages," approved the tenth day of April, A. D. 1872, the ordinances for the same being on file in the office of the City Clerk, has applied to the County Court of Cook County for an assessment of the cost of said improvements according to benefits, and an assessment thereof having been made and returned to said Court, the final hearing thereon will be had at the . . . . . term of said Court, commencing on the . . . . . day of . . . . . A. D. 189 . .

All persons desiring may then and there appear and make their defense.

IMPROVEMENTS.

No. 40,100. Curbing with curbstones, filling and paving Lake street from Clark street to Michigan avenue.

No. 40,101. Sewer in Ashland avenue from West Madison street to West Harrison street.



No. 40,102. Lamp posts on Wabash avenue from Van Buren street to Twelfth street.
No. 40,103. Stone sidewalk on Clark street from Randolph street to Washington street.
No. 40,109. House drains on same street between same points.
No. 40,182. Water service pipes on Dearborn avenue from Michigan street to Superior street.

JOHN SMITH,
JOSEPH BROWN,
WILLIAM WHITE.
Commissioners.

Chicago, ... A. D. 189 . .

At present the above mentioned commissioners who act a part in the machinery of the special assessment law, receive a fee of two dollars each for each assessment roll filed in the County Court. I would recommend that the fee be reduced to fifty cents — or, which is still better, that the law be so amended that city employes be appointed to act as such commissioners without additional compensation.

In conclusion, I renew the recommendation I made a year ago, viz.: that it would be desirable for the City Council to instruct the Commissioner of Public Works, Fire Marshal and Superintendent of Streets, to prepare during the summer vacation, the list of streets to be improved during the ensuing year, and make report thereof at the first meeting in September. The Committees on Streets and Alleys, to whom the list is usually referred, would then have a sufficient time wherein to consult with the property owners for final action, and the Special Assessment Bureau would thus be relieved from the necessity of making a number of assessments which for years to come will not be carried into effect, and which consequently would have to be repealed.

STATEMENT OF ASSESSMENTS FOR WOODEN BLOCK PAVEMENT—CONTINUED.

No. of Warr'at	NAME OF STREET.	FROM	TO	AMOUNT.
11054	Ashland avenue	Graceland avenue	Sulzer	$ 18,738 80
11055	Fuller	Archer avenue	Cologne	26,781 73
11089	Fifty-fifth	Lake avenue	Cottage Grove avenue	28,843 72
11090	Dudley	Hervey	Asylum place	6,569 65
11091	West Superior	Rockwell	Washtenaw avenue	4,874 46
11094	Dania avenue	North avenue	Bloomingdale road	11,464 96
11095	The street	Bickerdike	Armour	2,160 90
11096	Kedzie avenue	Central Park avenue	Augusta	28,216 31
11097	Shelby court	West Nineteenth	West Twentieth	3,181 20
11098	South alley	Block 6	Wright's addition	1,236 56
11099	Alley	Block 85	Wolcott's addition	1,313 90
11100	Alley	Sub-block 3, Block 80	C. T. subdivision fract'l section 29, 39, 14	618 44
11101	Alley	Block 50	C. T. subdivision section 21, 39, 14	2,111 01
11102	Alley	Twenty-third to Twenty-fourth	between State and Dearborn	1,987 41
11103	Alley	Twenty-fifth to Twenty-sixth	between State and Dearborn	2,348 78
11104	West, north and south alley	Barber and Wright	Halsted to Union	548 54
11105	Alleys	Noble to C. & N.-W. Ry	West Division to Sloan	1,625 82
11106	Alley	Sub-block 2, Block 10	C. T. Subdivision W. ½ section 5, 39, 14	2,585 65
11107	Alley	North Centre avenue to Noble	West Chicago avenue to Fry	4,245 55
11108	Alley	S. Block 1, Block 18	W. ½ section 5, 39, 14	2,217 35
11109	Alley	S. Block 2, Block 18	W. ½ section 5, 39, 14	2,558 87
11110	Alley	Block 22	Elston addition	2,210 05
11111	Bonfield	Archer avenue	Hickory	12,012 65
11112	High	Western avenue	Fullerton avenue	12,213 89
11113	Rice	Wood	Lincoln	4,901 78
11114	Nassau	West Jackson	West Van Buren	4,116 43
11116	Loomis	West Fourteenth	West Sixteenth	6,099 58
11175	Turner avenue	Ogden avenue	West Twenty-first	10,479 09
11177	Clarinda	Ashland avenue	Wood	7,368 84
11207	Owasco	Rockwell	Washtenaw avenue	4,720 23
11218	Montana	Racine avenue	Lincoln avenue	11,330 61
11221	West Twelfth	Douglas Park boulevard	Crawford avenue	14,588 04
11222	Ruble	West Eighteenth	Canalport avenue	5,686 44
11223	Laflin	West Fourteenth	West Sixteenth	9,956 40
11224	Greenwich	Robey	Leavitt	12,062 58
11225	Alley	Block 15	Elston addition	2,656 41

STATEMENT OF ASSESSMENTS FOR MISCELLANEOUS STREET AND ALLEY IMPROVEMENTS.

No. of Warr't	IMPROVEMENT.	NAME OF STREET.	FROM	TO	AMOUNT.
10518	C. G. and Macad.	Roscoe	Evanston avenue	Halsted	$ 4,870 11
10531	Curbing and Filling.	Julian	Ashland avenue	Wood	12,297 75
10535	Granite.	Couch place	Franklin	Market	8,060 48
10537	Granite.	Calhoun place	Franklin	Market	8,071 05
10538	Granite.	Calhoun place	Clark	Fifth avenue	6,195 46
10550	Curbing and Filling.	Dean	Brigham	Paulina	1,805 94
10560	Curbing and Filling.	Ashland	Robey	Olive	7,977 82
10592	Curbing and Filling.	Flournoy	California avenue	Francisco	4,009 86
10617	C. G. and Macad.	Charlton court	Ridge avenue	Northern terminus	5,793 66
10618	Grading and Macad.	Ninety-third	Stony Island avenue	Jefferson avenue	1,128 79
10619	C. F. and Macad.	Cleveland	Wallace	Winter	2,866 81
10628	Sheet Asphalt.	Fulton	Kedzie avenue	Homan avenue	20,826 70
10629	C. F. and Macad.	Byron	Sheffield avenue	Halsted	9,159 56
10634	C. F. and Macad.	Grace	North Clark	120 feet west of Lake Michigan	22,092 28
10645	Grading and Macad.	Erie	Eighty-seventh	Ninety-first	16,878 81
10649	C. G. and Macad.	Forty-second	Cottage Grove avenue	Langley avenue	6,003 54
10676	Curbing and Filling.	Whipple	Colorado avenue	West Van Buren	3,859 58
10679	C. G. and Macad.	Sulzer	Sheffield avenue	Halsted	5,577 12
10680	C. G. and Macad.	Sheffield avenue	North Clark	Addison	6,415 05
10825	Grading and Macad.	Seventy eighth	Railroad avenue	Easterly terminus	2,387 48
10826	Grading and Macad.	Sixty-ninth	State	Indiana avenue	2,157 78
10827	C. F. and Macad.	Sixty eighth	Wentworth	Yale	1,985 51
10838	C. G. and Macad.	Fortieth	Langley avenue	Vincennes avenue	8,773 20
10839	Grading and Macad.	South half Fullerton avenue	North Clark	North Park avenue	2,095 35
10871	Grading and Macad.	Ninety-third	Ashkenn avenue	Anthony avenue	2,724 38
10872	Grading and Macad.	Buffalo avenue	Eighty-seventh	Ninety-second	15,900 56
10881	Grading and Macad.	Stony Island avenue	Ninety-second	Ninety-fifth	3,223 98
10884	C. F. and Macad.	Windsor avenue	Sheffeld avenue	Halsted	6,247 29
10901	Curbing and Filling.	West Seventeenth	Ashland avenue	Wood	14,662 82
10921	C. F. and Macad.	Aberdeen	Evanston avenue	Sheffield avenue	5,817 21
10924	C. G. and Macad.	Forty-second	Langley avenue	Vincennes avenue	10,680 75
10938	C. G. and Macad.	Argyle	Evanston avenue	Eastern terminus	7,780 30
11004	C. G. and Macad.	South Park avenue	Fifty-first	Fifty-fifth	11,856 47
11949	Granite.	Third avenue	Jackson	Polk	15,701 55
11960	Granite.	Adams	State	Michigan avenue	8,661 64
11981	Granite.	Couch place	Clark	Fifth avenue	5,986 54

12160	C. G. and Macad.	Ainslie	Evanston avenue	Eastern terminus	12,185 60
12165	C. G. and Macad.	Sheffield avenue	Graceland avenue	Evanston avenue	7,897 98
12206	C. G. and Macad.	Sixty-first	Wallace	West line Lot 11, etc	4,729 34
12239	Grading and Macad.	West half Lake View avenue	Diversy	Wrightwood avenue	2,208 28
12245	C. G. and Macad.	Kimball avenue	Forty-eighth	299 feet south of Forty-eighth	2,963 30
12283	C. G. and Macad.	Wright	Sixty-fifth	Sixty-seventh	8,681 05
12285	Curbing and Filling.	Ninetieth	The Strand	Manistee avenue	25,401 12
		TOTAL			$688,840 15

STATEMENT OF ASSESSMENTS FOR CONSTRUCTING SEWERS.

No. of Warr'nt	IMPROVEMENT.	NAME OF STREET.	FROM	TO	AMOUNT.
10498	Tile Pipe	Emerald avenue	Egan avenue	Fortieth	$ 981 23
10663	Tile Pipe	Rokeby	Nellie avenue	Addison	946 85
10688	Tile Pipe	Forty-third	Drexel boulevard	Illinois Central R. R.	1,468 00
10689	Tile Pipe	Forty-fourth	St. Lawrence avenue	125 feet E. of Vincennes avenue	872 39
10690	Brick and Tile Pipe	Jackson avenue	Fifty-fifth	Fifty-ninth	5,092 84
10736	Brick and Tile Pipe	Exchange avenue	Eighty-seventh	Ninety-first	5,442 10
10737	Brick and Tile Pipe	Commercial avenue	Eighty-seventh	Ninety-first	5,442 10
10738	Tile Pipe	Ninety-third	South Chicago avenue to Houston avenue	And in Houston ave. to Ninety-second st	1,200 98
10744	Tile Pipe	Lincoln	Sixty-third	Sixty seventh	2,478 58
10760	Tile Pipe	Clarence avenue	Grace	Nellie avenue	1,884 00
10796	Brick and Tile Pipe	Ingleside and Wharton avenue	Fifty-sixth	Fifty-fourth	3,825 00
10852	Tile Pipe	Ontario avenue	South Chicago avenue	Ninety-third	2,108 79
10853	Tile Pipe	Byron	Sheffield avenue	166 feet east	188 20
10854	Tile Pipe	Windsor avenue	Sheffield avenue	Halsted	1,676 36
10855	Tile Pipe	Belmont avenue	Oak place	Sheffield avenue	415 80
10909	Brick	Ninety-fifth	Calumet river to South Chicago avenue	And in S. Chicago ave. from 95th to 87th sts.	32,728 00
10910	Brick	The Strand and Ninetieth	Calumet river	Marquette	27,046 00
10911	Brick	South Park avenue	Fifty-fifth	Sixtieth	12,258 00
10914	Brick and Tile Pipe	Sixtieth, Vernon avenue, etc	Park End avenue	Vernon avenue	8,702 80
10928	Tile Pipe	Melrose	Southport avenue	Racine avenue	2,093 00
10929	Tile Pipe	Goodwin	Lawrence avenue	Ainslie	1,287 50
10930	Tile Pipe	Winthrop avenue	Lawrence avenue	Ainslie	1,287 50
10931	Tile Pipe	Otto	Southport avenue	C. and E. R. R.	2,097 00
10932	Tile Pipe	School	Southport avenue	Racine avenue	2,248 00
10933	Tile Pipe	Herndon	16 feet north of Roscoe	125 feet S. of Melrose	1,854 00

STATEMENT OF ASSESSMENTS FOR LAYING WATER SERVICE PIPES.

No. of Warr't	NAME OF STREET.	FROM	TO	AMOUNT.
10496	West Twenty-sixth	Western avenue	Lawndale avenue	$ 9,392 50
10497	West Chicago avenue	Lenvitt	Kedzie avenue	21,187 50
10498	West Chicago avenue	Kedzie avenue	Crawford avenue	12,340 50
10499	Dashiel	Thirty-first	Egan avenue	4,677 10
10502	Forty-second	Cottage Grove avenue	Vincennes avenue	598 00
10503	Langley avenue	Forty-second	Forty-fourth	1,012 00
10504	Rockwell	West Twelfth	West Twenty-second	8,307 50
10507	Napoleon place	Stewart avenue	Wallace	470 00
10508	Spring	State	Wentworth avenue	224 00
10509	Western avenue	West Chicago avenue	North avenue	8,668 50
10515	Root	State	Halsted	4,787 02
10516	Emerald avenue	Egan avenue	Forty-seventh	6,360 12
10518	Oakley avenue	West Division	West North avenue	1,564 00
10519	Auburn	Thirty-first	Douglas avenue	2,047 00
18520	Albany avenue	Colorado avenue	West Twelfth	1,771 00
10561	Troy	Fillmore	West Twelfth	795 40
10566	Jefferson	West Harrison	West Fifteenth	477 90
10567	Laflin	West Fourteenth	West Twenty-second	828 00
10568	Campbell avenue	West Polk	West Twelfth	1,064 75
10571	West Seventeenth	Ashland avenue	Lincoln	181 40
10572	West Sixteenth	Ashland avenue	Wood	1,248 60
10727	Rockwell	West Division	West North avenue	2,366 00
10728	Commercial	West North avenue	Armitage avenue	1,688 00
10729	Potomac avenue	Western avenue	California avenue	1,472 00
10730	Rockwell	West North avenue	Armitage avenue	1,334 00
10731	Seymour	West North avenue	Armitage avenue	575 00
10732	Dickson	West North avenue	Bloomingdale road	589 00
10733	Edgar	West North avenue	West Clybourn place	805 00
10734	Keely	Archer avenue	Thirty-first	672 00
10735	Hoyne avenue	Armitage avenue	Asylum place	966 00
10750	Belmont avenue	North Clark	Lincoln avenue	4,321 50
10751	Florence avenue	Diversy	Wrightwood avenue	1,430 00
10752	Fulton	Kedzie avenue	Homan avenue	2,668 00
10753	West Sixteenth	Halsted	Throop	561 00
10754	Norwood avenue	Kedzie avenue	Homan avenue	1,386 00
10755	Hervey	Wood	Robey	690 00

12857	Fillmore	Western avenue	Rockwell	490 00
12858	Central Park avenue	West Twenty-second	West Twenty-sixth	2,780 00
12859	Calumet avenue	Forty-second	Forty-third	840 00
12860	Western avenue	Blue Island avenue	I. & M. Canal	3,257 75
12861	Twenty-eighth	Stewart avenue	Halsted	345 00
12862	Sheridan avenue	West Twelfth	Fillmore	714 00
12863	Drake avenue	Central Park boulevard	West Ohio	580 50
12864	Wabansia avenue	Western avenue	Milwaukee avenue	1,953 00
12865	Columbia place	West Lake	West Kinzie	861 00
	TOTAL			$490,698 86

STATEMENT OF ASSESSMENTS FOR LAYING PRIVATE DRAINS.

No. of Warr't	NAME OF STREET.	FROM	TO	AMOUNT.
10501	South La Salle	Archer avenue	Twenty-second	$ 160 00
10505	Emerald avenue	Egan avenue	Forty-seventh	3,100 00
10506	Root	State	Halsted	2,593 00
10517	Oakley avenue	West Division	West North avenue	1,685 25
10521	Davis	West Division	West North avenue	2,268 00
10522	Auburn	Douglas avenue	Thirty-first	1,624 00
10523	Lincoln	West Twelfth	Blue Island avenue	496 00
10549	Troy	Fillmore	West Twelfth	420 00
10563	Laflin	West Fourteenth	West Twenty-second	450 00
10564	Campbell avenue	West Polk	West Twelfth	582 00
10565	West Seventeenth	Ashland avenue	Wood	126 00
10623	Fulton	Kedzie avenue	Homan avenue	1,860 00
10624	Whipple	Colorado avenue	Van Buren	899 00
10625	Albany avenue	Colorado avenue	West Twelfth	1,005 00
10626	Richmond	West Chicago avenue	West Division	3,535 75
10627	Keeley	Archer avenue	Thirty-first	416 00
10660	Early avenue	Evanston avenue	Southport avenue	784 00
10661	Charlton	Ridge avenue	Its northern terminus	1,024 00
10768	West Sixteenth	Halsted	Throop	432 00
10769	Wood	Sixteenth	Blue Island avenue	175 00
10770	Twenty-eighth	Wentworth avenue	Wallace	660 00
10772½	Belmont avenue	North Clark	Lincoln avenue	8,587 50
10773	West Seventeenth	Loomis	Wood	170 50

STATEMENT OF ASSESSMENTS FOR LAYING PLANK SIDEWALKS.

No. of Warr't	Side of Street.	NAME OF STREET.	FROM	TO	AMOUNT.
10570	Both	Wallace	Thirty-first	Egan avenue	$ 6,200 23
10594	Both	Kedzie avenue	West Twenty-fourth	West Twenty-seventh	745 09
10597	Both	Pleasant place	Perry	Hoffman avenue	178 71
10598	Both	Harvard	Western avenue	Campbell avenue	485 46
10599	West	Michigan avenue	Fifty-ninth	Sixty-first	318 84
10600	Both	Lake avenue	Forty-fifth	Forty-seventh	881 50
10602	South	Humboldt avenue	Columbia avenue	Howard avenue	181 12
10604	Both	Francisco	West Lake	Colorado avenue	226 50
10605	Both	Weld	Everett	Williams	47 50
10606	Both	Park avenue	Montrose boulevard	Willis	406 13
10609	Both	Leavitt	West Harrison	West Madison	99 20
10610	Both	Broom	West Indiana	West Ohio	105 45
10611	Both	West Superior	Lincoln	Western avenue	483 12
10612	Both	Oakley avenue	North avenue	Wabansia avenue	90 00
10613	Both	Girard	North avenue	Armitage avenue	768 66
10615	Both	Laurel	Thirty-first	Douglas avenue	523 82
10636	South	Thirty-first	State	Lake avenue	150 00
10640	East	Langley avenue	Forty-first	Union Stock Yards R. R	66 00
10641	West	Indiana avenue	Forty-seventh	200 feet north	77 14
10642	Both	Fifty-sixth	Cottage Grove avenue	Drexel avenue	248 33
10644	West	Indiana avenue	Fifty-first	Fifty-fifth	432 78
10693	Both	Buffalo avenue	Eighty-seventh	Ninety-second	416 50
10694	East	Drexel avenue	Seventy-seventh	Seventy-eighth	170 48
10695	West	Ewing avenue	Hundred and third	Hundred and sixth	516 57
10696	Both	Exchange avenue	Ninety-seventh	Ninety-eighth	221 26
10697	South	Eighty-ninth	The Strand	Ontario avenue	194 40
10698	Both	Ninety-ninth	Avenue "J"	Eighth avenue	177 84
10699	North	Ninety-fifth	South Chicago avenue	The bridge	207 82
10700	North	Ninety-third	Houston avenue	Harbor avenue	151 62
10701	North	Hundred and third	Indiana avenue	L. S. & M. S. Ry	135 00
10702	North	Hundred and thirty-fourth	Parnell avenue	South Chicago avenue	100 00
10703	North	Hundred and Sixth	Muskegon avenue	Torrence avenue	364 00
10704	East	Stony Island avenue	Sixty-ninth	Seventieth	160 96
10705	North	South Chicago avenue	Commercial avenue	Manistee avenue	363 84
10706	West	Sixth avenue	Ninety-ninth	Hundredth	143 40
10707	East	Superior avenue	Eighty-seventh	Eighty-eighth	136 00

12341	Both	Keeley	Archer avenue	Thirty-first	365 69
12342	Both	Ohio	Market	Kingsbury	515 57
12343	Both	Superior	Franklin	Market	340 00
12344	Both	Thirty-fourth	Halsted	Laurel	779 95
12345	Both	Shields avenue	Twenty-sixth	Thirty-first	528 50
12346	Both	Wabansia avenue	Robey	Coventry	691 04
12347	Both	Lawndale avenue	Sixteenth	Douglas boulevard	598 88
12348	Both	Olive	West Taylor	West Twelfth	108 00
12349	Both	Bonfield	Archer avenue	Thirty-first	1,298 12
12350	Both	Butterfield	Thirty-seventh	Thirty-ninth	179 36
12351	Both	Farrell	Archer avenue	Hickory	457 90
12352	Both	Homan avenue	West Twenty-third	West Twenty-fifth	735 80
		TOTAL			$239,856 06

STATEMENT OF ASSESSMENTS FOR ERECTING GAS LAMP POSTS.

No. of Warr't	No. of Posts.	NAME OF STREET.	FROM	TO	AMOUNT.
10646	3	Recs	Halsted	Dayton	$ 95 75
10647	15	West Monroe	Kedzie avenue	Homan avenue	453 75
10648	30	Washtenaw avenue	West Division	North avenue	877 50
10663	2	Pearson	North Wells	Eastern terminus	165 00
10667	4	Forty-second	Ellis avenue	Drexel boulevard	123 50
10668	4	Deering	Cologne	South branch Chicago river	123 50
10669	2	Chicago avenue	600 ft. E. of Pine	To its eastern terminus	65 50
10670	5	Kenwood court	Forty-eighth	Forty-ninth	151 25
10671	4	Calumet avenue	Thirty-seventh	300 feet north	123 50
10677	13	Oakenwald avenue	Forty-fifth	Lake avenue	393 25
10682	16	Homan avenue	Ogden avenue	C., B. & Q. R. R.	484 00
10688	6	Whipple	Colorado avenue	West Jackson	181 50
10685	5	McReynolds	Ashland avenue	Paulina	151 25
10686	8	Wabansia avenue	Ashland avenue	C. & N.-W. Ry	242 00
10687	12	West Clybourn place	Commercial	Robey	363 00
10986	28	Oakley avenue	West Division	North avenue	819 00
11024	2	Lytle	West Harrison	Vernon Park place	65 50
11029	22	Wolfram	Halsted	Racine avenue	655 50
11030	31	Thirty-second	Laurel	Benson	680 25
11038	5	Forty-first	Cottage Grove avenue	Champlain	151 25

STATEMENT OF ASSESSMENTS FOR STREET AND ALLEY OPENING AND WIDENING.

No. of Warr'nt	IMPROVEMENT.	NAME OF STREET.	FROM	TO	AMOUNT.
10527	Opening.	St. Lawrence avenue	Forty-ninth	Fifty-first	$25,388 97
10528	Opening.	Alley	Robey to Hoyne avenue	West Huron and West Superior	2,499 85
10529	Opening.	Langley avenue	Forty-fourth	Forty-fifth	5,214 60
11058	Opening and Extending.	Everett	Lincoln avenue	Greenwood avenue	1,010 60
11115	Opening.	St. Lawrence avenue	Forty-sixth	Forty-seventh	4,870 55
11491	Opening and Widening.	Walnut	Drake's subdivision	Central Park avenue	6,490 74
11492	Opening.	Alley	Wood street	Lincoln	1,656 25
11493	Opening.	Alley	Through lot 4, block 10	Rockwell's addition	1,815 27
11494	Opening.	Alley	Through lot 7, block 10	Rockwell's addition	609 87
11495	Opening.	Alley	N. W. ¼, block 6	Elston addition	977 89
11496	Opening.	Fulton	Homan avenue	J. D. Parker's subdivision	5,524 36
11497	Opening.	Fake	Northern terminus	Bonaparte	1,952 66
11771	Opening.	Hoyne avenue	Across right of way of	C. & N.-W. Ry.	373 21
11772	Opening.	West Twelfth	Albany avenue	S. W. Boulevard	4,821 17
11773	Opening.	Euclid avenue	Homan avenue	East line J. D. Parker's subdivision	8,484 36
11774	Opening.	Garden avenue	California avenue	Morrison avenue	276 48
11775	Opening.	West Division	Homan avenue	Central Park avenue	3,038 80
11776	Opening.	Albany avenue	Twenty-third	Twenty-fourth	1,154 98
11777	Opening.	Asylum place	Across	C. & N.-W. Ry.	310 00
11778	Opening.	Forrestville avenue	Forty-ninth	Fifty-first	28,858 00
11934	Opening.	Alley	In lots 87, 88, 89	Ellis East addition	3,081 22
11961	Opening.	Alley	Green and Peoria	Sixty-first to Sixty-second	865 50
12084	Opening and Extending.	Hoffman avenue	Diversy avenue	Belmont avenue	6,509 90
12085	Opening.	Alley	Thirty-seventh	97 feet north of Egan avenue	5,875 08
12217½	Opening.	Forrestville avenue	Forty-first	Forty-second	10,150 99
12336	Widening.	Cottage Grove avenue	Forty-third	South Chicago avenue	31,201 50
12366	Widening.	Kemper place	Larrabee	Orchard	2,000 00
12367	Straightening.	Tracy avenue	Through block 8	Margaret Johnston's subdivision	1,344 91
12368	Opening.	Tracy avenue	Through block 2	Jackson & Weages' subdivision	2,041 71
12369	Opening.	Hampden court	Southern terminus	Deming court	12,041 97
12370	Opening.	Alley	Winter and Wallace	Dexter avenue and Forty-seventh	1,098 22
		TOTAL			$169,969 01

SUMMARY.

Total Assessments for Wooden Block Pavement:		
North Division	$ 678,651 75	
South Division	1,092,150 06	
West Division	2,127,856 21	
		$3,898,658 02
Total Assessments for Constructing Sewers:		
North Division	$138,571 81	
South Division	340,863 83	
West Division	552,526 77	
		1,031,961 90
Total Assessments for Miscellaneous Street and Alley Improvements:		
North Division	$133,689 66	
South Division	495,960 74	
West Division	59,189 75	
		688,840 15
Total Assessments for Laying Water Service Pipes:		
North Division	$ 76,771 60	
South Division	194,610 96	
West Division	219,316 30	
		490,698 86
Total Assessments for Laying Plank Sidewalks:		
North Division	$ 22,687 98	
South Division	111,687 96	
West Division	104,630 15	
		239,356 09
Total Assessments for Laying Private Drains:		
North Division	$48,816 00	
South Division	97,505 55	
West Division	92,261 06	
		238,584 61
Total Assessments for Street and Alley Opening and Widening:		
North Division	$ 21,561 87	
South Division	115,433 91	
West Division	32,973 23	
		169,969 01

Total Assessments for Laying Stone Sidewalks:		
North Division	$22,922 29	
South Division	73,900 87	
West Division	35,885 09	
		$131,708 65
Total Assessments for Erecting Gas Lamp Posts:		
North Division	$13,704 79	
South Division	25,596 10	
West Division	47,317 75	
		86,617 64
Total Assessments for Erecting Boulevard Lamp Posts:		
North Division	$3,052 00	
South Division	6,578 50	
West Division	4,879 00	
		14,509 50
Total Assessments for Erecting Gasoline Lamp Posts:		
North Division	$3,411 75	
South Division	1,676 00	
West Division	5,903 00	
		9,991 05
Total Assessments for Making Lamp Post Connections:		
North Division	$357 00	
South Division	119 00	
West Division	482 00	
		958 00
Total Assessments for Erecting Dyott Lamps:		
North Division	$393 00	
South Division	.....	
West Division	.....	
		393 00
TOTAL		$6,987,155 48

The following list shows the total of assessments made in each year since 1861:

For the year ending April 1, 1862	$ 42,685 49
For the year ending April 1, 1863	46,498 67
For the year ending April 1, 1864	389,169 31
For the year ending April 1, 1865	103,576 85
For the year ending April 1, 1866	802,574 56
For the year ending April 1, 1867	317,306 18
For the year ending April 1, 1868	1,854,486 48
For the year ending April 1, 1869	2,395,688 03
For the year ending April 1, 1870	2,886,852 48
For the year ending April 1, 1871	2,359,885 89
For the year ending April 1, 1872	62,222 25
For the year ending April 1, 1873	
For the year ending April 1, 1874	749,460 27
For the year ending April 1, 1875	738,254 43
For the nine months ending January 1, 1876	60,585 79
For the year ending January 1, 1877	1,516,081 07
For the year ending January 1, 1878	134,498 48
For the year ending January 1, 1879	264,900 45
For the year ending January 1, 1880	588,963 44
For the year ending January 1, 1881	980,895 50
For the year ending January 1, 1882	1,227,189 71
For the year ending January 1, 1883	1,396,373 98
For the year ending January 1, 1884	2,282,757 04
For the year ending January 1, 1885	2,857,908 28
For the year ending January 1, 1886	2,889,544 80
For the year ending January 1, 1887	3,807,587 99
For the year ending January 1, 1888	3,160,474 67
For the year ending January 1, 1889	3,655,956 78
For the year ending January 1, 1890	4,330,869 98
For the year ending January 1, 1891	6,967,155 43
Total for thirty years	$47,694,099 70

Respectfully submitted,

H. J. JONES,

Superintendent Special Assessments.

JEFFERSON FUND.

RECEIPTS.

From January 1 to April 30, 1890.

Water service cocks	$ 215 00	
House-moving permits	12 00	
From Comptroller	13,367 18	
		$13,594 18

EXPENDITURES.

From January 1 to April 30, 1890.

Water Office expense	$ 4 00	
Water pipe extension	261 53	
Miscellaneous expense account	39 05	
Unimproved streets	10,819 79	
Sidewalks, intersections	840 00	
Sidewalks, general repairs	1,032 25	
Lumber	597 56	
		$13,594 18

TRIAL BALANCE.

LEDGER, DEPARTMENT PUBLIC WORKS, CHICAGO, DECEMBER 31, 1890.

	Dr.	Cr.
Appropriation Fund	$ 240,448 21	
Inspection accounts		$ 1,042 50
C., M. & N. R. R. Co		376 44
Rapid Transit & Bridge Construction Co		33 34
Western Paving & Supply Co		200 00
Simmons & Gordon		75 83
Public benefits	1,879 56	
Special assessment expense	2,749 27	
Canal pumping works		51,187 68
Weed street bridge		8,075 50
Ninety-fifth street bridge	2,180 00	
Thirty-fifth street bridge	36 83	
Permit depositors		12,489 89
R. A. Smith, Cashier	1,500 00	
Deficiency in collection of taxes		1,928 87
Taylor street bridge		8,222 84
Canal street bridge		15,715 42
Webster avenue bridge		4,047 67
Western avenue (N.) bridge	2,109 95	
Madison street bridge		113,311 18
Washington street bridge		24,197 21
Morgue		10,000 00
Sewerage fund	133,171 96	
Annexed territory		2,614,224 75
Sewer construction by special deposits and assessments		599,900 34
Sewerage surplus account		5,500 00
Sewers, North Division	2,161,397 16	
Sewers, South Division	4,248,277 59	
Sewers, West Division	4,555,995 23	
Sewer pipe	1,496 36	
Carried forward,	$ 11,351,242 12	$ 3,470,528 91

Brought forward,	$ 11,351,242 12	$ 3,470,528 91
Sewer brick	111 98	
Wooden covers	4,856 81	
Iron covers	5,044 15	
Cement	15 86	
Sand	90 00	
Sewerage, private work		500 00
Sewerage loan bonds, 4 per cent		845,000 00
Sewerage loan bonds, 7 per cent		1,288,000 00
Sewerage loan bonds, 4½ per cent		489,500 00
Sewerage loan bonds, canceled		377,500 00
Sewerage fund, general taxes		5,037,366 74
General fund	382 55	
Suspense account	111,548 77	
Sewerage maintenance account	50,492 16	
Sewerage stock account	8,000 00	
Galena & Chicago Union R. R. Co		382 55
Chicago Malleable Iron Co		900 00
Board of Education		4,677 50
George A. Seaverns		75 00
Presbyterian Theological Seminary		1,397 50
Chicago Gas Light & Coke Co		330 00
S. W. Roth		500 00
John Tyrrell		500 00
R. Schlosser		331 00
Sidney A. Kent		493 00
Cook County Building & Loan Association, Lake View		600 00
J. L. Cochran		1,820 00
Oscar Charles		1,360 00
Daniel F. Bacon		418 00
Eben Ryder		105 00
Graceland Cemetery Co		924 00
Maurice J. Healey		607 70
Thomas J. Divan		150 00
Vopicka & Kubin		213 00
Carried forward,	$ 11,531,784 40	$ 11,524,179 90

Brought forward,	$ 11,531,784 40	$ 11,524,179 90
Hardin, Hoffland & Carson		592 00
John N. Young		1,840 00
A. J. Drexel		1,348 00
David Bain		66 50
John E. Crate		66 50
Mrs. E. L. Young		66 50
J. N. Cunning		470 00
Union Mutual Life Insurance Co		2,950 00
Ole Johnson		130 00
Baird & Bradley		75 00
Water Fund	9,829 07	
Water Works	16,902,190 28	
Water Works income		25,193,724 15
Water Fund general taxes		2,713,878 53
Annexed territory		197,875 48
Water loan bonds, 6 per cent		132,000 00
Water loan bonds, 7 per cent		2,847,000 00
Water loan bonds, 4 per cent		150,000 00
Water loan bonds, $3\frac{65}{73}$ per cent		333,000 00
Water loan bonds, 3½ per cent		493,000 00
Water loan bonds, canceled		859,000 00
Hyde Park bonds, 5 per cent		50,000 00
Hyde Park bonds, 7 per cent		384,000 00
Town of Lake bonds, 5 per cent		179,900 00
Town of Lake bonds, 7 per cent		222,000 00
Lake View bonds, 4 per cent		50,000 00
Lake View bonds, 5 per cent		23,000 00
Lake View bonds, 7 per cent		75,000 00
Water loan interest	7,012,759 34	
Water Works expense and repairs	9,865,160 97	
American Exchange National Bank, N. Y	133,230 94	
M. Moriarty, clerk	100 00	
J. W. Lyons, cashier	1,691 88	
W. S. Maher, clerk	50 00	
Meter department, stock	13,765 30	
Carried forward,	$ 45,470,562 18	$ 45,435,162 56

Brought forward,	$ 45,470,562 18	$ 45,435,162 56
Water Works shop, stock	4,659 60	
Tapping department, stock	4,879 26	
Water pipe and special castings	103,694 47	
Brick account	40 00	
Sewer pipe account	209 30	
Lead account	1,908 00	
Michigan avenue city property	725 38	
Cement account	118 75	
Water Works shop		492 42
Hydrant wrenches		1,390 00
Ogden, Sheldon & Co		610 68
John Tyrrell		150 00
West Chicago Park Commissioners		1,130 57
S. H. Wheeler		250 32
C. J. L. Meyer		200 00
William D. Kerfoot & Co		4,232 24
Julia F. Porter		185 90
Adele F. Adams		638 10
Conrad Seipp		431 00
Baird & Bradley		2,568 26
Little Sisters of the Poor		500 00
J. U. Borden		1,179 28
C. & G. W. R. R. Co		882 00
Lamsen Bros		682 83
Estate C. H. McCormick		60 00
S. E. Gross		2,146 85
J. Stiles		1,240 00
J. K. Cochran		646 42
Barber Asphalt Paving Co		200 00
L. B. Otis		499 17
Augustus Jacobson		325 00
B. F. Weber		2,936 66
J. L. Lombard		966 00
J. L. Cochran		6,098 72
A. J. Drexel		1,101 22
Carried forward,	$ 45,586,796 94	$ 45,466,906 30

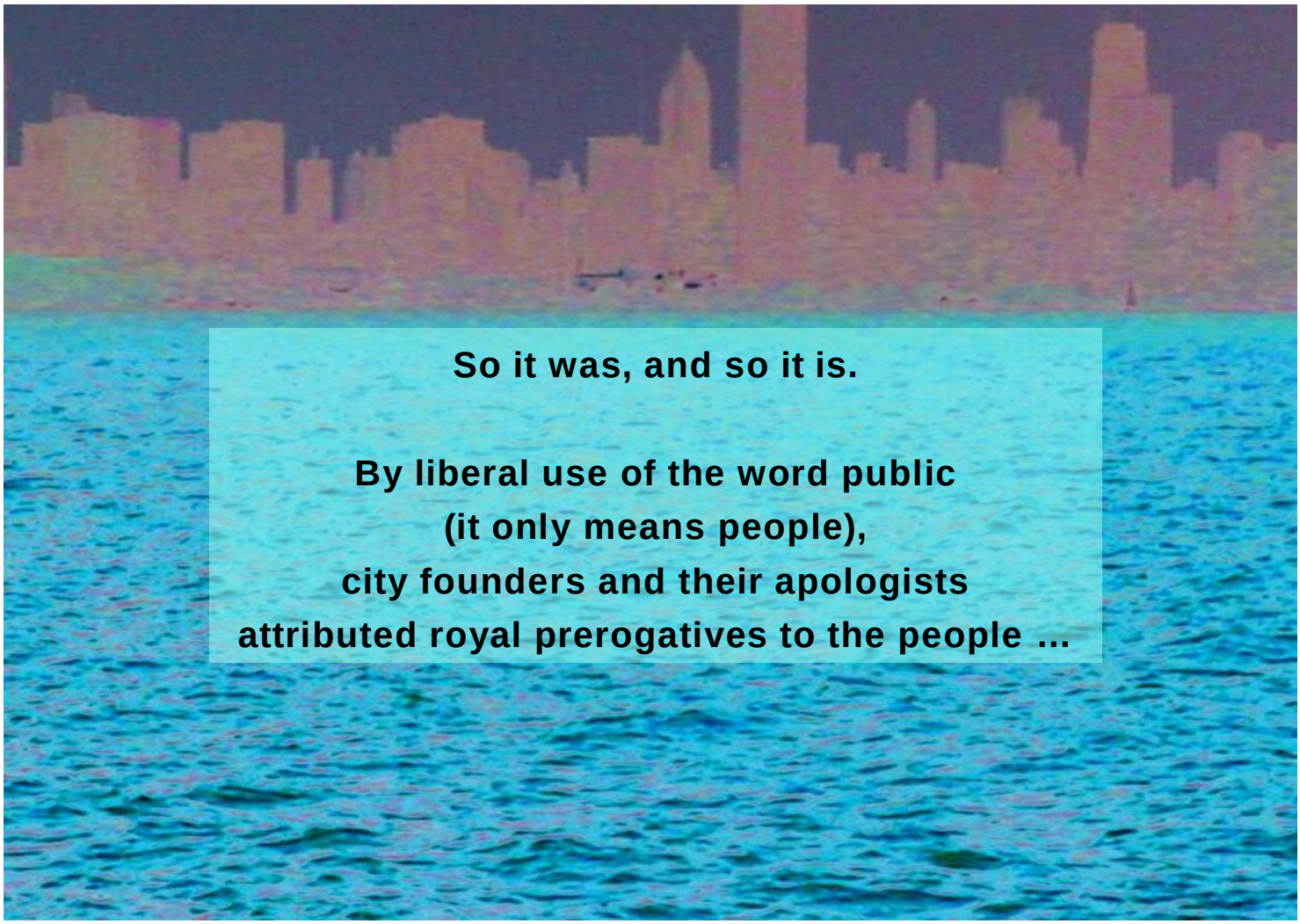
Brought forward,	$ 45,586,796 94	$ 45,466,906 30
Crocker & Sweet		1,353 85
C. L. Hammond		4,419 44
Union Mutual Life Insurance Co		700 00
Dewey & Cunningham		7,146 81
Travelers Insurance Co		500 00
J. N. Young		442 85
Hardin, Hoffland & Carson		442 85
W. H. Colvin		781 26
Helen Culver		1,178 10
C. B. Shedd		747 32
James Barrell		653 90
Benjamin Allen		453 65
Graceland Cemetery Co		4,976 75
George Cleveland		1,785 61
B. F. Cronkrite		812 62
White & Coleman		7,720 87
John M. Brown		524 94
J. W. Chisholm		372 34
Bryan Lathrop		157 82
George D. Holton		98 88
J. H. Snitzler		78 88
R. W. Bridge		105 71
C. & W. I. R. R. Co		600 00
Calumet and Chicago Land & Dock Co.		4,887 00
D. S. Place		7,164 35
E. A. Cummings & Co		22,662 84
George H. Rozet		534 27
James R. Mann		2,009 94
F. J. Bennett & Co		2,440 00
A. B. McChestney		283 00
Lincoln Brook		497 00
James Rood, Jr		1,314 53
Potwin & Morgan		778 09
Bogue & Hoyt		21,506 44
Eggleston, Mallette & Brownell		5,849 43
Carried forward,	$ 45,586,796 94	$ 45,572,867 64

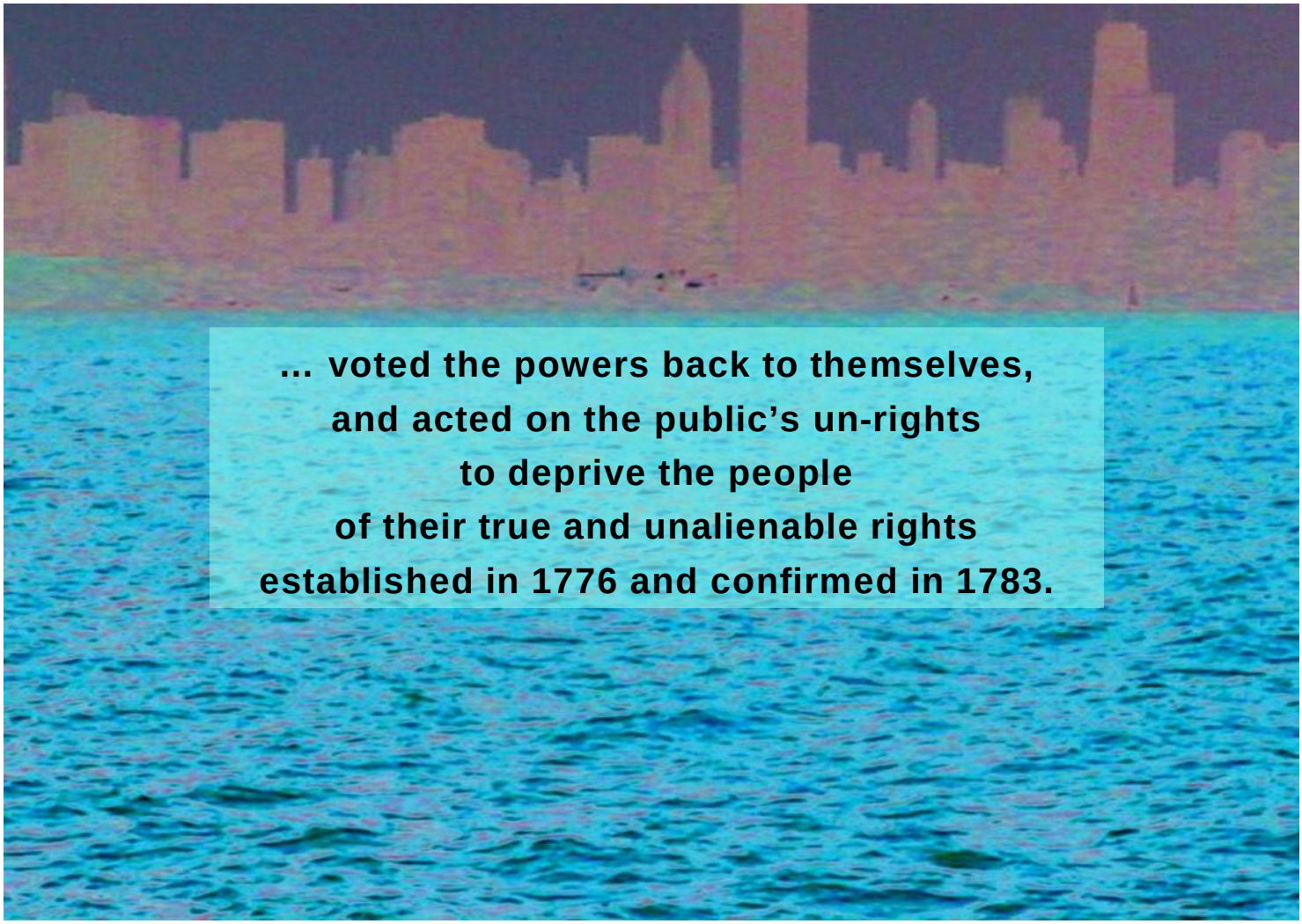
Brought forward,	$ 45,586,796 94	$ 45,572,867 64
Axel Chytraus		1,234 40
C. J. Ford		1,175 49
Wm. V. Jacobs & Co		5,099 51
James Darlow		350 00
J. H. Ludden		83 33
B. Halley		166 67
A. J. Toolen		125 00
F. H. Clark		125 00
C. B. Parson		1,289 75
C. S. Schoenman		800 00
Ed. Mendel		435 74
C. & N.-W. Ry. Co		131 30
Clara F. Bass		1,195 80
Board of Education		1,592 56
J. Q. Adams		124 69
City Hall Fund	3,468 29	
City Hall appropriation		1,715,956 10
Board of Education		3,897 18
City Hall (cost of)	1,716,989 99	
	$47,306,650 22	$47,306,650 22

Respectfully submitted,

F. C. MEYER,

Book-keeper.





Harris & Ewing (photographer) (1911-1917). Thompson, mayor of Chicago. No known restrictions on publication.

Date based on date of negatives in same range.
Gift; Harris & Ewing, Inc. 1955. Harris & Ewing Collection. Library of Congress Prints and Photographs Division Washington, D.C. 20540 USA.
(digital file from original negative) hec 07050 http://hdl.loc.gov/loc.pnp/hec.07050.

Harris & Ewing (photographer) (1911-1917). Thompson, mayor of Chicago. No known restrictions on publication.

Date based on date of negatives in same range.
Gift; Harris & Ewing, Inc. 1955. Harris & Ewing Collection. Library of Congress Prints and Photographs Division Washington, D.C. 20540 USA.
(digital file from original negative) hec 06610 http://hdl.loc.gov/loc.pnp/hec.06610

Inauguration of Mayor Busse, Council Chamber, City Hall, Chicago (1907 April 15). Chicago/ New York/ Washington: Geo. R. Lawrence Co. (1907). No known restrictions on publication.

Panoramic photographs. Library of Congress Prints and Photographs Division Washington, D.C. 20540 USA. (digital file from intermediary roll film copy) pan 6a34881 http://hdl.loc.gov/loc.pnp/pan.6a34881.