



1899

MUNICIPAL GOVERNMENT AND ITS DEMANDS UPON GOOD CITIZENSHIP

Follow this and additional works at: <http://digitalcommons.law.yale.edu/ylj>

Recommended Citation

MUNICIPAL GOVERNMENT AND ITS DEMANDS UPON GOOD CITIZENSHIP, 9 Yale L.J. (1899).
Available at: <http://digitalcommons.law.yale.edu/ylj/vol9/iss2/1>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in Yale Law Journal by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

YALE LAW JOURNAL

Vol. IX.

NOVEMBER, 1899.

No. 2

MUNICIPAL GOVERNMENT AND ITS DEMANDS UPON GOOD CITIZENSHIP.

The problems which come before the governing bodies of our large cities are as intricate and difficult of correct solution as those which come before our federal or state governments. Many of them involve perplexing business and engineering difficulties which require practical and technical treatment and demand a quality of talent quite different from, but in no way inferior, to that required in the law-making functions of these and other legislative bodies. While there is comparatively little demand in municipal government for what we call statesmanship, there is a most urgent demand for business sagacity and that practical common sense which is essential in all governments, and without which even so-called statesmanship becomes a snare and a delusion.

A brief consideration of some of the important problems of city government will call to our minds, not only the high order of ability required for their satisfactory solution, but the great importance both to life and property that such ability should be provided and such solution should be secured.

The first in importance are those which relate to public health, morals and education. It is the business of city governments to furnish good water for the people to drink; a thorough and safe sewerage system; good ventilation for school-houses and other public buildings; precautions against the spread of infectious and contagious diseases; proper inspection of milk and other food. It suppresses all forms of vice so far as possible, and especially protects the young from its contamination. It must provide the best educational facilities; the most modern and scientific methods of instruction; the best text books and most capable teachers.

A second problem, scarcely less important, is found in the fire and police protection which a city government is bound to provide. Up-to-date fire apparatus and the best possible police efficiency save lives as surely as bad water and germ laden milk destroy them.

A third problem of great importance and considerable difficulty is found in the grading, paving and care of streets and alleys. Public health demands that they shall be kept clean. The best and most durable pavements must be ascertained; good judgment is needed in determining the streets upon which new pavements should be laid and the most suitable kinds of pavements for different localities. Great diligence must be used to keep pavements in repair. A new brick or two, a new cedar block here and there, or a few shovelfuls of broken stone from time to time not only keep streets constantly in good condition, but greatly prolong the life of pavements and are as great a saving to the people as the constant repair of fences and buildings are to the farmer.

A fourth problem is found in the granting of franchises. Public necessity requires street railroads, telephones, gas and electricity. Private corporations are always ready to supply these demands, but in order to do so must have some sort of franchise extending over a period long enough to make the investment profitable. It rests with the city government to either protect the interests of the people by a wise franchise adjustment which shall insure low charges, good service and perhaps a share in the profits of the business, or to ignore the interests of the people by giving away these valuable rights and establishing pernicious monopolies. Municipal ownership, especially of lighting and water plants, furnishes another problem of no small difficulty. The propriety of municipal ownership of street railroads within the limits of the municipality is now receiving considerable public attention, and involves a question of policy which must be settled by the city government.

It is plain that the best business ability and the utmost conscientiousness to be found in the community are none too good to cope with these and other problems arising in the government of a city.

Sweeping charges of corruption and incompetence in the government of almost all our larger cities are frequently made and rarely if ever denied. Occasionally the general public experiences a violent shock from the exposure of some gigantic fraud or the bribery of some public official, but after a few days

or few weeks relapses into its chronic condition of lethargy. In the city in which I reside the president of the board of education recently charged a book publishing company with an attempt to bribe him to withhold a veto which he intended to file disapproving the action of the board in adopting a certain text book. The company demanded an investigation. A majority of the investigating committee found that the charge was substantially sustained, but a majority of the members of the board of education, without having an opportunity to hear or read the testimony, voted to adopt a whitewashing report made by a single member of the investigating committee. The newspapers then took the matter up, published all the testimony and without mercy criticised the action of the board. Citizens were surprised and shocked to learn that book publishing companies sometimes furnish money to secure the election of members of the board, pay their expenses to attend board meetings and entertain them with champagne suppers, and that while they do not always use direct bribery, they often with great ingenuity reach members by other influences which are scarcely less pernicious. It is barely possible that the public resentment against its disloyal representatives on the board may last until the next school election, but it is only a question of months at the longest when the whole matter will be forgotten. There can be no doubt but that similar iniquitous methods are common in other cities and even in small villages. The great corporations which publish school books have a strong motive in procuring their introduction. It is not merely a question of profits which may be made from the first sale, but they anticipate a continued profit from year to year as long as their books shall remain in use. The general apathy of the people with regard to the election of members of school boards renders it easy and inexpensive for the book companies to start at the very foundation and elect members in their own interest. The extent to which boards of education are thus controlled and influenced by book companies whose interests are in conflict with those of the public ought to so thoroughly alarm every citizen and taxpayer that a persistent effort would be made to correct the evil. Two important lessons may be learned from these developments: First, that not only members of school boards, but members of common councils and public officers generally, have too low a standard of morality with respect to their duty to the public. What is customary seems to them right. They forget that frequent repetition of a bad practice merely multiplies the wrong. They do not stop to think that interested

parties would not part with their money, even the small sums required for entertainment, or traveling expenses, without expecting some return, and that the only return the school trustee can make involves a sacrifice of that absolute freedom from bias which should characterize all official action. Second, that the petty corruptions which receive little or no attention are more insidious and on the whole more pernicious, because more perpetual and far reaching, than the occasional frauds of greater magnitude.

The incompetency which characterizes most of our city governments is too apparent to require much discussion. A mere glance at the business occupations of the aldermen and other officials in most of our cities should satisfy us that we are not securing such experience or ability as are necessary for good government. Many of them are mechanics and laborers who are working for day wages. Not a few are saloon keepers. They are not men whose occupations call for much mental training exercise. They are not men of business habits or experience. They are not men who would be placed upon the boards of directors of private corporations, but often are employees of such corporations. To expect such men to grapple successfully with the great problems of city government is absurd. We send a boy to do a man's job.

As to the dishonesty, inefficiency and generally deplorable condition which prevails in the government of most of our cities there is no difference of opinion. There is, however, a well defined difference of opinion among thoughtful people as to the remedy. Those who have given up all hope of material improvement under the more democratic methods which now prevail advocate the radical remedy of substituting government by small administrative boards, similar to the boards of health and boards of public works now found in most of our cities. In order to secure the full benefit of experience it is deemed advisable that the terms of office of members of these boards should not be less than four or five years, and so arranged that one member should retire each year and that his place should be filled by a new member appointed by the mayor, thus making the board practically continuous. Great stress is laid upon the character and ability of the members of these boards. It is assumed that the mayor of a large city is usually a man of more than ordinary prominence and ability, and that a sense of personal accountability and a regard for his own reputation would generally induce him to appoint men who are not wholly unfit. It is claimed that upon the board of education he would

naturally appoint men who are themselves educated, who take an interest in educational matters, and who would in an intelligent, businesslike manner conduct the business of that board; and that on the board of public works, the board of health, and the board of fire and police commissioners, he would appoint men of practical and professional experience and recognized ability. It is claimed that such men are not averse to serving the public where they are associated with others of like calibre, when the positions come to them unsought and free from the annoyance of political campaigns. It is claimed that the board system would secure the service of business men rather than politicians, and that this is both right and desirable, as there should be no politics in city government. To clinch the argument the advocates of the board system point to cities like St. Paul, which have largely adopted this plan, as examples of the good results which attend it. It must be admitted that there is much force in all of these claims, and yet the array of arguments against the board system is by no means insignificant. Briefly summarized the objections are:

1st. The danger of bad appointments. The mayor is usually a politician and is liable to use these appointments as a means of paying off political obligations.

2d. The impossibility of getting rid of bad appointees within a reasonable time.

3d. The want of direct accountability to the people, who are the real parties in interest.

4th. The concentration of power in the hands of a small number who, if disposed, may use it unworthily.

5th. The greater danger from bribery or undue influence because of the smaller number.

6th. A loss in democracy, which more than offsets the gain in efficiency.

7th. A diminution in popular interest in, and discussion of public affairs and loss of the educative influence of such interest and discussion.

8th. That the mayor of a city should not have power to create a public official whose term of office should extend beyond that of his creator.

9th. That, as in a general government, we prefer a republic to an absolute monarchy, although the latter may be and in the right hands is more efficient, so in city government democracy should not be sacrificed for efficiency.

10th. That the original membership of these boards has often been provided for in the legislative acts creating

them, and is of a higher character than can be expected from subsequent appointments of the mayor, and that consequently the good service at first rendered by these boards will not be permanently maintained.

11th. That the granting of franchises, the adoption of ordinances and legislative matters generally, are entirely beyond the scope of these boards and must necessarily be left to a legislative body to be chosen by the people.

12th. That a resort to board government is "a device of despair and admission that we are not competent or willing to do the work of governing ourselves."

The National Municipal League is, at the date of this writing, in session at the city of Columbus, Ohio. A scheme of city government has been presented by a special committee previously appointed for that purpose, which embodies some ideas of practical value. It provides for the nomination of city officers by petition signed by a certain number of qualified voters. An official blanket ballot, with the names of the candidates arranged in alphabetical order under the title of the office, obliges the voter to vote separately for each candidate. Municipal accounts are placed under the general supervision of the city comptroller. "The city government consists of a mayor elected by the people for a two years' term, a council to be elected by a general ticket for a six years' term, one-third of the members being elected every two years at the time of the election of the mayor. The details of the municipal organizations are to be fixed by the council, with the exception that the council is to elect a comptroller, that all of the other city officers are to be appointed by the mayor, without a fixed term, but subject to removal by him on charges for reasons other than a political character, and that all appointments in the subordinate administrative service of the city shall be made, where practicable, as the result of a competitive examination conducted under the direction of a civil service commission, whose members are appointed by the mayor."

The nomination of candidates for city officers by the petition of voters has been tried in England and found more satisfactory than nominations by the caucus plan. It is not entirely unheard of in this country. I remember an instance, a number of years ago, when both of the leading parties nominated for the office of police judge candidates who were utterly unfit for the place. The incumbent at the time was a man of excellent character and fair ability, who failed of a renomination because of unpopularity with the liquor element and want of leniency

to criminals. A petition requesting him to stand as an independent candidate was largely signed by the business and law abiding portion of the community. This petition and his letter of acceptance were published in the newspapers, and he was elected over both of the regular candidates. It must be confessed that the nomination to city office by party caucus, in this country, has been a failure. Whether nomination by the petition of voters will succeed any better can only be determined by experience. It depends entirely upon the people. Systems will not run themselves any more than machines. The best element in the community seems to have a special dislike to attending a nominating caucus or convention. To a man of large affairs these duties seem unimportant and almost repulsive. He therefore stays away. This renders it easy for the man of little ability or unworthy motive to secure a nomination for himself. Nominations by petition would be a change, and for a time at least would work better than the present system.

The election of council members by general ticket rather than on ward tickets, as is customary, would doubtless result in securing a better grade of ability. There are some outlying wards in nearly every city in which there is scarcely an inhabitant who possesses qualities needed for good city service. The best material is usually concentrated in one or two wards. Under the plan proposed, these wards would naturally have more than their proportionate representation, while others would have none at all. This is contrary to our general representative system, and will doubtless meet with considerable opposition, especially by those who are too narrow to look beyond the limits of their ward. The idea of continuity of the common council is in the direction of efficiency, but there are serious objections to terms of office lasting so long as six years. The tendency to add to the power of the mayor is objectionable, but seems to be unavoidable in any feasible scheme to increase the efficiency of city government. It would seem, however, that the recommendation of the committee of the National Municipal League goes too far in this direction, although the civil service feature in the subordinate offices ought to meet with general approval.

In most American cities at the present time a combination of what may be called popular rule and administrative board rule has been adopted with varying degrees of success. The question is really one of *men*. The relative value of the different methods depends very largely upon their tendency to

secure the services of honest and competent officials. In the right hands we will have good city government under any of these plans, and without good management all of them will fail. No one doubts for a moment that in every city there is an abundance of men of brains and integrity. Why is it that they are so little in evidence in the city government? Is there a disposition on their part to shirk these responsibilities? It is claimed that their business and professional duties are such as to leave them little time for public service; but when we see how frequently they accept positions as directors of banks, private corporations and social clubs, and as trustees and vestrymen of churches, and how much time even the busiest of them often give to the duties of these positions, we are forced to look for some other reason for their absence from official positions in city government. I am inclined to think that they have no disposition to shirk these duties, but rather an indisposition to do the work necessary to secure nomination and election to city offices. In European cities men of this class readily accept offices in city government and render excellent service. For the most part they are elected and not appointed, the European plan of city government in general being rather more democratic than that which at present prevails in this country. A great many of our most capable business and professional men take very little interest in local politics, and even in national politics some of them take but little interest. The selection of candidates for city office is commonly made by political organizations. It naturally follows that these men of independence and brains, who acknowledge little or no party authority, should not be chosen. It is the fashion for young men who have political aspirations to look for positions in federal or state government and to regard municipal office with contempt. Viewed solely from the standpoint of their own interest, it seems to me they make a serious mistake. If they would wrestle with difficult problems; if they would acquire valuable personal experience; if they are influenced by a high sense of duty, or even if they have no better motive than a desire for public applause, they should not scorn municipal service. Careful study and sound judgment are necessary to the enactment of wise city laws as well as wise state laws. Many a great statesman has received his first law-making experience on the common council of his native city. If under present conditions there is no honor connected with the office of alderman, the young man who is made of the right stuff will find a way to put it in. The public appreciates good service and honors the man who renders

it. Good citizenship means something far higher than the mere gratification of personal vanity or the serving of personal interest. It may mean the sacrifice of personal interests to the public good. It often means the sacrifice of popular applause to the maintenance of self-respect and the approval of one's own conscience. If city government involved only questions of business interest the heavy taxpayer might justify himself by saying that he would prefer to be robbed rather than to give the necessary attention to his public duties; but other and higher interests are involved. The physical, mental and moral well-being of citizens, especially of the young and the poor who are incapable of self-protection, are at stake. Statistics show that thousands of young children die annually from the use of impure milk. Your city government has assumed the duty of milk inspection, but your neglect to properly perform your duty as a citizen has contributed to place this department of your city government in such inefficient hands that it would be far better for the public if the city government would abandon even the pretense of providing such inspection. You pay a heavy school tax and your city government professes to provide first-class educational advantages, but it furnishes inefficient teachers and provides text books which are not intelligently selected on their merits, but are adopted at the dictation of some publishing company whose motive is merely one of personal gain. Your city government professes to furnish a supply of good drinking water and sells to its citizens an article which is impregnated with filth and disease. Your city government professes to suppress or, at least repress, vice and to guard the morals of its citizens. In reality it permits the grossest immorality to walk boldly upon its streets. It is not enough for you to recognize these blots upon your city government; it is not enough for you to sit back in your easy chair and find fault with city officers who may possibly be doing their best and whose activity in public matters you might well emulate. Good citizenship demands something from all of us besides croaking and fault finding. It demands a little of our time, some of our activity. It may require us to devote a portion of our time for a year or two to some municipal office. If so, the demand should be honored. We owe it to ourselves and to posterity to overcome all obstacles and maintain sound democratic government in our cities.

EDWIN F. SWEET.