



CHAPTER XI

THE CITY CHARTER

FOR the best part of a century we have been endeavoring to secure good government by legal enactment. We have a childish confidence in paper forms. In this respect our belief in authority is almost primitive. For two generations we have been tinkering with our charters and have worked out paper systems as perfect in their adjustment as were the constitutions of the French revolutionists. Laboriously we have wrought out the most admirable laws and then left the government to run itself. This has been our greatest fault.

In the quest for relief by some royal road that does not involve labor, all sorts of nostrums have been tried. And in this pursuit we have abandoned most of our political traditions. From the simplest form of a democratic charter, with a council of large powers, we have swung to the opposite extreme and thrown ourselves into the arms of an executive possessed of almost patriarchal authority. In such recent charters as those of New York, Boston, Philadelphia, Pittsburg, Baltimore, and elsewhere this form prevails.

But only the public and the reformer have been

deluded by the model charter. The person against whom it was directed is not. The boss understands that government is a very human thing. And as the forms were altered he merely changed his ground. When power was shifted to the executive, he left the lobby of the council chamber and took his seat beside the mayor. In time, the same influences that organized the council controlled the executive as well. Reform does not come by such "Morrison's Pills," any more than virtue can be brought about by an act of Congress. And the boss and privileged interests are as indifferent to the means which they employ as they are to the party which they control.

But while the charter is not the main thing, it is important. In protecting the city from itself, it may be so crippled with restrictions as to limit its power for good as well. Our charters have been drawn on the assumption that all officials were to be distrusted, rather than that all officials were to be held to account. The charter should be drawn to invite efficiency, and the responsibility for its working be accepted by the public.

In the matter of charter-building we now have the experience of two-score commonwealths upon which to draw. We are as richly endowed with plans as is the architect whose models adorn the world. And we have been wisely eclectic in this matter. In adapting our forms to the ends of

administration we have manifested that common sense that characterizes the Anglo-Saxon in his business relations. This has been especially true in the more recent charters, in which a disposition has been shown to fix attention upon the end to be attained and the objects desired. We have learned that there is no sanctity about the formulas of the federal constitution, with its division of responsibility, checks and balances, and the like. The two-chambered legislature-assembly is being generally abandoned. The double chamber involves divided responsibility, with indifference on the part of the members as well as ignorance on the part of the people. Under the bicameral assembly, legislation is removed from public scrutiny in the open chamber to the secret session of a joint conference committee sitting behind closed doors. The uniform result of secrecy is log-rolling and barter and sale in legislation. In consequence the upper chamber is being generally abandoned and all legislative authority vested in a single body.

This change has been accompanied by a reduction in the size of the council. In city legislation there is neither wisdom nor safety in numbers. When the council is large, whatever honor there may be in the office of alderman is too widely distributed to invite the talent of the city.

Along with this has gone a tendency to elect the

members of the council on a general ticket. It is believed that a higher sort of ability comes forward, or is put forward by the parties, on a general ticket than on one elected by local districts. Some years ago the National Municipal League recommended in its model charter that the legislative body of the city should be single-chambered, with all of the members elected at large.

Experience has also demonstrated that a single executive of large powers, elected directly by the people, is more suited to our present needs than an executive commission, or a mayor of the English type, chosen by the council and limited in his duties to the giving of dinners and the representation of the city on official occasions. Attention can be focussed on a single official, whereas it is difficult to follow boards, commissions, or a large council, each member of which is seeking to shift the burden of responsibility on to some one else. Our political sensitiveness is not sufficiently trained to do much more than this. But the voter can tell whether the city is dirty or clean, whether our persons and property are adequately protected, whether the spoils system prevails, whether vice has been controlled, and honesty or dishonesty characterizes the administration. With a single-headed government, we can place the finger on the sore spot and protest. We can even rebel at the polls. And political reform has progressed

but little beyond this point. We are satisfied with the patriarchal mayor, with large powers, for he is both responsible and responsive. He cannot shift the blame. And when he is given the power to appoint and remove the heads of all departments, the public can secure accountability in every branch of the service. Moreover, capable men will not be attracted to an executive office that is shorn of power. There is so little honor in public office that men will not seek it for the dignity which it offers. Men of action will not leave a professional or business career for an official position that offers no chance of achievement.

The recent American charters are much more logical than the English, where the executive as well as the legislative power is lodged in the council and the council committees. For city government is administration, not legislation. And good administration requires single-headed responsibility. Commissions, boards, or council committees do not easily get beyond the stage of discussion. A second-rate man, loaded with responsibility, is likely to prove a more efficient executive than a body of first-rate citizens whose responsibility is divided.

The city council is the weakest point of our present municipal system. There corruption breaks out, there ignorance and monopoly thrive. This

condition is partly traceable to the fact that the council is lacking in power and responsibility. It is a sort of political *vermiform appendix*, a survival whose functions have been assumed by the executive departments. Moreover, city ordinances are more like decrees than legislative acts. They are rules of conduct rendered necessary by the intimate life of the city. They relate to the public health, to the administration of the police and fire departments, to the management of markets, water works, and parks, to the building of streets and sewers, to the administration of schools, libraries, and correctional institutions. All of these are executive matters requiring special training or scientific knowledge of the work to be done.

The decay of the council has been still further promoted by the constant interference of the legislature with the city. In the majority of our states the large legislative powers of the city have been assumed by the state assembly. In consequence the council has become a registering, recording, occasionally a protesting body, the executive branch of the city being the real seat of the government. The mayor and his associates formulate the city's policy, make up the budget, distribute the city patronage, and, through the latter means, control the members of the council. And the tendency to strengthen the power of the mayor is but

a recognition of existing conditions and in harmony with the essential functions of city administration.

Such being the essential character of the city, the people should be called upon to elect as few officials as possible. A council of twenty or, at most, thirty members is sufficiently large for any city. From one-fourth to one-half of them should be elected at large. And the council, together with the mayor, comptroller, and treasurer, comprise the official personnel, which should be directly chosen by the people. All other officers, including the city solicitor, police-court magistrates, directors of public works, streets, parks, police, fire, health, and charities, should be nominated by the mayor and hold office at his will. Inasmuch as the comptroller and treasurer are designed to check and supervise the actions of the other officials, they should not be under obligations to them. Their positions should be independent and responsible to the people alone. By such a plan, all of the executive responsibility is lodged in one man. There can be no overlapping of functions, no shifting of responsibility. The mayor alone is accountable for the administration of affairs, and for this he must answer directly to the people.

Still further effectiveness, although at some loss of independence to the council, is attained by allowing the mayor and the heads of all depart-

ments a seat in the council chamber with the privilege of the floor, but not of voting. Such a provision existed in the "Federal Plan" charter in Cleveland, and is now found in the Ohio municipal code. In Chicago the mayor is the council's presiding officer, and thus enjoys this privilege. By this means the advantages of the American as well as the English cabinet system of government are secured. An easy means of criticising the administration is open to the council, while at the same time the executive department is able to work out its policy in the public discussion of the council chamber rather than through the slower process of committee conference.

In all legislation the mayor should be allowed a veto power, subject to being overruled by a two-thirds or three-fourths vote of the council. In matters affecting the budget, the veto should be of a discriminating sort. The mayor should be able to veto parts of an appropriation ordinance without vetoing the entire measure. By such a plan the council is deprived of the power of coercing the mayor into signing improvident expenditures through its ability to retaliate upon necessary appropriations.

It may be urged that such a plan reposes too much power in a single official, that through official patronage the mayor would be able to create a political machine and thus retain control of the

city. For through the right of appointment and removal the mayor would be in a position to command allegiance from all minor officials and employees, through them rule the party, its caucuses and conventions, not to speak of city elections as well. Undoubtedly this is the great danger in such a charter and a probable result of such a concentration of power. But the dangers of such control have been greatly exaggerated. They are limited almost entirely to party matters. For while the spoilsmen may dominate primaries and control them in the interest of the organization, their real influence at elections is insignificant. In the first place, the officials of the city form a relatively small proportion of the voters. They do not exceed from three to five per cent. of the electorate. And to an increasing extent, especially in the police, fire, and health departments, the employees are protected by the classified service. Probably one-third of the city employees take no more interest in elections than does the ordinary citizen. The balance of them, while influential in primaries, exercise but little power at the general election.

But the advantages from such a centralization far outweigh the evils. The boss appears under any system, whether the government be lodged with the mayor, the council, with boards, or commissions. But under a system of centralized responsibility, the boss becomes responsible. He

must come before the people for vindication. Under any other system the boss is an outside influence, responsible to no one, and inaccessible to the wrath or approval of the public. If our cities must be governed by a boss, it is most desirable that he be an elective one.