

**COUNCIL GOVERNMENT  
VERSUS MAYOR  
GOVERNMENT, PART I (PP. 426-  
451), PART IV (PP. 675-709)**

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Council Government Versus Mayor Government, Part I (pp. 426-451), Part IV (pp. 675-709) by  
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MAYOR GOVERNMENT

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Prof. T. N. Carver

COUNCIL GOVERNMENT *VERSUS* MAYOR GOVERNMENT. I.

I.

THE most striking tendency in the recent history of American municipal government is that toward increasing the power and responsibility of the mayor. There is scarcely an important city which has not modified its charter in this direction within the past quarter-century. The practically exclusive control which the city council formerly exercised over the executive administration has been by gradual steps almost completely taken away ; while even what have always been considered essentially legislative functions, especially those pertaining to the finances, have been in no small measure transferred to the city executive. At the same time, there has been a rapid centralization of the executive power itself. Heads of departments were formerly for the most part placed in office, or at least retained there, regardless of the will of the incumbent mayor ; but by the most modern charters they are nearly all made appointive and summarily removable by him. In New York, Boston, Chicago, Cleveland and several other leading cities, the right of confirming appointments, the last remaining means by which the council could exercise some direct control over the *personnel* of the executive, has now been abolished, while in other municipalities it is retained only as a concession to tradition and conservative influences.

This great change in municipal organization, moreover, has not been, like so many others, brought about simply by thoughtless, partisan or corrupt legislative tinkering. While in many cases such influences have doubtless shared in the movement, it has yet met the approval—though in differing degrees and according to different lines of reasoning—of very many of those who have disinterestedly sought better muni-

cipal government. It has the sanction of such names as those of Seth Low, Gamaliel Bradford, Edmund J. James and Frank J. Goodnow. The latest and most authoritative utterance as to the relation of the council to the mayor is to be found in the report of the municipal program committee of the National Municipal League, published with the approval of the League in 1899. The committee does, indeed, maintain the desirability of rehabilitating the decaying city council, but urges that this body be confined strictly to legislative functions; while the probability is that the suggested methods of increasing its influence would prove relatively ineffective in practice. The proposed general municipal charter provides that the mayor shall have the sole power of appointing and removing all executive officers except the comptroller; and that he shall be given also the exclusive right to initiate appropriation measures, leaving the council only the authority to reduce items of the estimates submitted.

Had the increase in the prerogatives of mayors not been accompanied by a very great weakening, often by the almost complete annihilation, of the power of our city councils, it would perhaps call for less comment. Could it be considered as having merely introduced that separation of powers which is the main principle of our constitutional law; had city legislatures retained a prominence corresponding to that still possessed by Congress and state legislatures, — we should have no new problem in the science of politics. We should have simply the old question, whether or not this system, with its checks and balances, is after all more advantageous than that which gives the ultimate control and responsibility to the representative body alone; with the additional inquiry whether, granting the desirability of the separation of powers in the higher grades of government, it is equally feasible and desirable in the city. But the actual standing of the city council is far different from that of our state and national legislatures. Already in many cities either the council has been deprived directly by statute of all save relatively insignificant powers, or in practice, despite the legal form of authority, its real influence

has dwindled almost to zero. In both New York and Brooklyn, prior to their consolidation, we saw "a local elective legislature with practically no power"; while under the Greater New York charter the sphere of the council is apparently increased by little more than "certain obstructive powers," which are scarcely likely in actual working to restore it to a position of influence.<sup>1</sup> The council still retains in most cities the relatively unimportant function of making ordinances concerning the conduct of citizens — as to nuisances, use of streets, *etc.* It still grants franchises, though often the executive participates very largely in this power. It still has some control over expenditure, although, under the new practice of giving the initiation of financial measures solely to the executive, the council has often ceased to have much real weight in determining the budget.<sup>2</sup> Other powers than these, as regards either the broad policies or the details of administration, the council in many cities has almost none: the state legislature or the municipal executive has absorbed them all. Unless there shall be a turning in the tide, the once all-powerful city council seems likely to become a mere useless fifth wheel in the American municipal chariot.

Some, indeed, of the friends of good city government have watched this emasculation of the council with regret and apprehension and have advocated measures, usually rather ineffective, for restoring some of its pristine vigor. But others have seen in this process only the steady withdrawal of power from dangerous hands to place it in safer ones. The council is widely discredited. The name of alderman is used as if synonymous with "boodler" and "ward-heeler." "It is not entirely clear,"

<sup>1</sup> H. E. Deming, "The Legislature in State and City," Louisville Conference for Good City Government, p. 91.

<sup>2</sup> In New York City before the consolidation, the law itself had taken from the council all but merely advisory control over the expenditures, and its advice was so invariably disregarded that in despair it ceased to volunteer any whatever. It is also noteworthy that, though the Greater New York charter gave to the Municipal Assembly the right to reduce the estimates submitted, the tradition of inactivity was so strong that that body in 1898 passed without the reduction of a single dollar in any item a budget presented to it which carried the enormous sum of ninety-five million dollars. — New York City Record, 1898, p. 5157.



says Seth Low, speaking of New York and Brooklyn, "that either city would suffer under existing conditions by the abolition of its common council."<sup>1</sup> Mr. Low utters this with something of a tone of regret, but others have boldly and cheerfully advocated this very step. Says one recent writer :

Because legislative bodies are always inefficient administrators, it does not follow that administrators are poor legislators. . . . It has yet to be shown that aldermen have ever filled a useful function in a modern American city.<sup>2</sup>

Doubtless this last is the position of an extremist, which would meet little endorsement. Nevertheless, the conspicuous facts of the great reduction of the power of the council, of the progressive degeneration of its character, of the growing distrust with which it is viewed, challenge consideration. They appear to demand a thorough study of the arguments which have been advanced in favor of the transfer of the centre of gravity of municipal administration from the council to the mayor. They confront us with such questions as these : Is this transfer of power consistent with democratic principles? If not, are we yet forced to it by the unripeness of our city populations for democracy? Is the movement a temporary or a permanent one? If we have gone too far in taking a large part of properly legislative work from the council and giving it to the executive, can we partially retrace our steps and secure a practicable division of the legislative from the executive sphere? Can we prevent the council from swallowing the mayor, to use Dr. Albert Shaw's phrase,<sup>3</sup> if we attempt to check the mayor in his process of engorging the council? If this balance of powers be found impossible, is not perhaps the logical and democratic solution to be found in making a numerous representative body, rather than a single individual, the controlling and responsible authority in municipal government? We shall best be able to

<sup>1</sup> Seth Low, "The Government of Cities in the United States," *The Century*, XX, 730.

<sup>2</sup> H. DeF. Baldwin, "Municipal Problems," *Municipal Affairs*, III, 3.

<sup>3</sup> Shaw, *Municipal Government in Great Britain*, p. 63. He thinks that the one result or the other is inevitable.

consider these questions, if we take up, one after another, the arguments which have been brought forward in favor of increasing the power and responsibility of the mayor.<sup>1</sup>

## II.

We are first of all confronted with the argument from our own municipal experience. We are told that the American city council has proved itself in practice unfit to be trusted. Its powers have been taken away only because it has abused them. Whatever methods of election or of organization have been tried, it has been found impossible to secure good councilmen. The system of council rule worked well enough in the early days, with simple administrative problems and a comparatively high qualification for the electorate. But with the introduction of universal suffrage, the influx of foreign immigrants, the intrusion of party politics and the growth of municipal functions, the system broke down completely. These statements are usually made as if they were self-evident commonplaces of history. Seldom is any detailed study brought to their support. But historical evidence must be handled with the greatest care in order to be conclusive. Failure rightly to analyze causes and effects and to take account of differences in conditions is apt to vitiate our reasoning. Not yet have we sufficient knowledge of municipal history or sufficient outlook into the future to justify dogmatic conclusions as to the relative success of council rule and mayor rule. A few considerations may be presented, however, which show how comparatively weak is this argument in favor of the mayor system from our experience in city government.

It is very generally admitted, nor need we stop to prove, that up to the end of the third or fourth decade of this century

<sup>1</sup> These arguments have been presented by so many different writers and are so generally familiar that it has not seemed necessary, in most cases, to quote exact phraseology or to give references to specific authorities. I have tried to state the various arguments in favor of the mayor system as clearly and forcibly as possible, and have not consciously omitted any point that appeared to have weight.

American cities, which were then usually under the practically absolute control of the council, were more honestly and, in proportion to the technical advancement of the time, more efficiently governed than they are to-day. Indeed, the influence of the example of our federal Constitution must be looked upon as probably the chief explanation of the movement to withdraw executive powers from the council. In 1829 New York was already a very considerable city, having a population of more than 200,000 inhabitants. The city convention which met at that time was unable to advance charges against the municipal administration in the faintest degree comparable to those which are made every day against the government of our present cities possessing equal population. Nevertheless, some evils were found; and the natural remedy seemed to the charter framers, imbued with the principles of our national and state constitutions, to separate the executive from the legislative powers. But we have not the slightest proof that they correctly diagnosed the disease or prescribed the right remedy. From that time on, in fact, both council and administrative officers degenerated rapidly; and while this may be partly explained by the general lowering of the tone of politics and by the great influx of foreigners, no small share in the demoralization of the council, at least, was doubtless due to the weakening of its powers. After the still greater reductions in its authority by the charters of 1849 and 1857 and by the growing interference of the state legislature, the council fell yet more markedly in character. Each abuse of some remaining function was made the signal for the transfer of that function to the state government or to an independent commission.<sup>1</sup> There was no attempt to concentrate the powers thus taken away from the council in the hands of the mayor, or indeed to establish in any way harmony of policy and centralized responsibility for action. The result was a municipal government so disorganized that inefficiency and corruption could not but

<sup>1</sup> For fuller description of the process by which the council in New York was deprived of its powers and of the effects of that deprivation, see the writer's *Finances of New York City*, chaps. iii and iv.