

THE  
GOVERNMENT OF EUROPEAN  
CITIES

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To

W. S. M.

Comrade of student days

## PREFACE

THE purpose of this volume is to explain, in a general way, the structure and functions of city government in three European countries, and to contrast these, wherever they may be appropriately compared, with the structure and functions of city government in the United States. It has been my aim to describe who the city authorities are, how they are chosen, what they do, and how they do it; but not to examine in detail the physical operation of municipal services or the minutiae of municipal administration. Considerable attention has been devoted to the relations of the civic and state authorities in each of these countries; for the writer believes that this is one of the most important of all the phases of local administration.

The book is intended to afford an introduction to the study of European city governments, and no attempt has been made to deal in exhaustive fashion with any aspect of the subject. To bring the narrative within reasonable compass it has been necessary to omit many matters of some importance, and to deal in a paragraph with other things which might well have a page. With this in mind an endeavor has been made to indicate in the footnotes convenient sources from which further information may be drawn by readers who may become interested in any part of the general field.

In the task of preparing the volume I have received generous and valued assistance from many quarters. To Professor H. Berthélemy of the University of Paris and

to M. Léon Morgand I am greatly indebted for their kindness in giving careful scrutiny to that portion of the volume which describes the government of French cities. Dr. Hugo Preuss of Berlin and Judge Walter Neitzel of Strassburg have given me much-appreciated assistance in the revision of the chapter relating to Prussian city government; while that part of the book which deals with the government of English boroughs owes considerable to the helpful suggestions made upon its proof sheets by Mr. Percy W. L. Ashley of the Board of Trade and by Mr. F. W. Hirst of London. It is only fair to these gentlemen to add, however, that they are in no way responsible for the expressions of opinion which the book contains. To my kind friend and senior colleague, Professor A. Lawrence Lowell, I am extremely grateful for assistance and encouragement at all stages of the work. In routine matters connected with the publication of the book, Miss A. F. Rowe of Cambridge and Miss Magdeleine Carret of Wellesley College have given me much useful aid.

**WILLIAM BENNETT MUNRO.**

January 5, 1909.

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# GOVERNMENT OF EUROPEAN CITIES

## CHAPTER I

### THE GOVERNMENT OF FRENCH CITIES

THE student of contemporary municipal administration in France finds it hardly necessary to pursue the course of civic development farther back than the period of the Revolution; for this great political upheaval created in the sphere of local government, as in the other domains of French administration, an almost complete break in the continuity of institutional history. Prior to the Revolution France had practically no system of local government; in the various provinces the cities were administered in widely different ways, the centralization of powers in the hands of the royal authorities being much more nearly complete in some places than in others. Even within the bounds of a single province, moreover, the form as well as the spirit of communal administration showed considerable variation. There was, indeed, no approach to uniformity save in the fact that local autonomy was almost everywhere absent, and that in no part of the kingdom was there any security against the captious interference of some higher authority in affairs of purely local concern.<sup>1</sup> The

The Revolution and the reform of local government.

City government during the old régime.

<sup>1</sup> Details concerning the administration of the larger communes, or cities, during the century preceding the Revolution may be found in Albert Babeau's

turmoils of the Revolutionary era left the physical boundaries of the communes without any important alterations; but communal administration carried over into the new régime scarcely a single heritage of the old.

One of the first undertakings of the Constituent Assembly, on the threshold of the Revolution, was to destroy, root and branch, the old methods of local government and to supplant them by a system that should be democratic, uniform, and symmetrical. In this reorganization, effected in 1789, the 44,000 or more traditional local units known as the *paroisses*, or *communautés d'habitants*, were utilized as irreducible areas of local self-government, and were provided with a uniform framework of administration. According to the provisions of the law of 1789, each commune was thenceforth to have a mayor and council chosen by the citizens upon a basis which came very close to manhood franchise; for only the very poorest among the citizens were excluded by the small property qualification prescribed.<sup>1</sup> It was, indeed, the design of the law to treat the communes as miniature republics, with power to select their own local rulers, and with authority to manage their own affairs free from any interference on the part of the higher officials. The striking feature of the law of 1789 was, therefore, the provision which it made for a system of local government at once democratic and

Work of  
the Con-  
stituent  
Assembly  
in 1789.

*La ville sous l'ancien régime* (Paris, 1880). See also Amédée Gasquet's *Précis des institutions politiques et sociales de l'ancienne France* (2 vols., Paris, 1885); Achille Luchaire's *Les communes françaises* (Paris, 1890); Adhémar Esmein's *Histoire du droit français* (8th ed., Paris, 1908); and H. Berthélemy's *Traité de droit administratif* (5th ed., Paris, 1908), especially pp. 179 ff.

<sup>1</sup> *Décret sur les municipalités* (December 14, 1789). The terms of this decree may be found in J. B. Duvergier's *Collection complète des lois, décrets, ordonnances, règlements, avis du conseil d'état* (107 vols., Paris, 1834-1907), I. 63-67; and in F. A. Hélie's *Les constitutions de la France* (Paris, 1880), I. 59-72. An English translation is printed in F. M. Anderson's *Constitutions and other Select Documents illustrative of the History of France* (Minneapolis, 1904), 24-33.



decentralized.<sup>1</sup> During the years 1789–1790 this plan was applied to all the communes of France, large and small.

Like most of the legislation of the Constituent Assembly, the decree reorganizing the system of municipal government attempted a step too advanced for the actual conditions of French political life at the time. The new plan intrusted too much unsupervised power to a people almost entirely unaccustomed to the art of managing its own local affairs. In obedience to the Revolutionary passion for equality and uniformity, the framers of the decree of 1789 seem to have lost sight of the important differences in needs and problems between urban and rural communities; for they sought to apply to all alike a framework of administration which hardly sufficed for the former and was much too complex for the latter. The most cardinal defect of the system, however, lay in its almost entire abolition of effective central control over the municipalities, a step that deprived the authorities at Paris of the powers necessary to check the local disorders with which France was convulsed during the next four or five years.<sup>2</sup> Indeed, even after the passing of more than a century the French people have not proved themselves fitted either by temperament or by experience to carry out smoothly a plan of local self-government such as that which the Assembly sought to establish in 1789.

The reorganization of 1789 too sweeping.

Its chief faults.

The lapse of a few years served amply to disclose the inherent defects of the new law, for the system which it established proved quite unequal to the strain and stress put upon it during the stormy days of the Terror. Hence,

Changes made by the Directory in 1795.

<sup>1</sup> By the law of 1789 the *communautés*, which had hitherto been in no case more than personal agglomerations, became recognized territorial units, though some of them contained only two or three houses.

<sup>2</sup> On the working of this system during the period 1789–1795, see E. Lavisse and A. Rambaud's *Histoire générale du IV<sup>e</sup> siècle à nos jours* (12 vols., Paris, 1896–1908), VIII. 79 ff.

when the Directory intrenched itself in control of the national administration in 1795, it lost little time in devising a plan of local government which should endeavor to eliminate much of the spirit of democracy and decentralization that had characterized its immediate predecessor. In its new constitution, therefore, it inserted a number of provisions dealing with the organization of local government.<sup>1</sup> The principle of permitting citizens to elect their own local officials was retained, but the control of the central authorities over these officers was greatly strengthened. Under the new arrangement the canton replaced the commune as the basal unit of local government. Every urban community of any considerable size was made a canton, with its administration vested in the hands of a cantonal directory of from five to nine members elected by the citizens; and the smaller communes (including all those of less than 5000 population) were grouped into cantons, thus losing their autonomy and becoming mere administrative divisions of the larger areas. The three largest cities of France — Paris, Lyons, and Marseilles — were each divided into three or more municipalities, with a special administration designed to insure the possibility of stricter supervision by the national Directory.

Chief  
features of  
the new  
system.

The new  
system an  
improve-  
ment.

Although the arrangements of 1795 had their undoubted merits in that they rendered easier the task of maintaining local peace and order, the new system was not generally popular. The canton was a purely arbitrary division, with no historical traditions and no homogeneity of feeling. The commune was the only local unit to which Frenchmen owed any sentimental allegiance; and in failing to utilize it as the basis of local administration the

<sup>1</sup> *Constitution du 5 fructidor, de l'an III* (August 22, 1795), in Duvergier's *Collection*, VIII. 223-242; printed also in Hélie's *Constitutions*, I. 466-493, and Anderson's *Constitutions and Documents*, 212-254.

national authorities seriously impaired the effectiveness of the new policy. Although the plan of 1795 affords some evidence that a spirit of constructive statesmanship was beginning to make itself felt in official circles at Paris, the whole arrangement is characterized too prominently by marks of a tendency to experiment. The inauguration of the new scheme was, however, a tacit confession that communal autonomy could not safely be continued, and that the decree of 1789 had too greatly weakened the lines of central control.

The system of municipal government established by the Directory remained in existence until 1800 only, when the advent of Napoleon Bonaparte to the executive headship of French affairs as first consul dictated a further change.<sup>1</sup> In some respects the Napoleonic reorganization may be looked upon as a development of the system of 1795; for it elaborated and in some measure strengthened the lines of national control over local officers, and it went a step farther than its immediate predecessor by setting aside entirely the elective principle in local government. In some other respects, however, it reverted to the arrangements made in 1789, for it made the commune again the fundamental unit of local administration. The cantonal divisions were retained; but they became, under the Napoleonic system, merely judicial districts. It was arranged that every commune, large or small,<sup>2</sup> should thenceforth intrust the administration of its affairs to a mayor and one or more adjoints, associated with a municipal council of ten, twenty, or thirty members according to the population of the municipality; but, since in all cases the

The law of  
1800.

Characteris-  
tics of the  
Napoleonic  
system.

<sup>1</sup> *Constitution du 28 pluviôse, de l'an VIII* (February 17, 1800), printed in Duvergier's *Collection*, XII. 78-116; Hélie's *Constitutions*, I. 611-626; and Anderson's *Constitutions and Documents*, 283-288.

<sup>2</sup> By the elimination of the smallest ones, the number of recognized communes was now reduced from 44,000 to 36,000.

mayor, adjoints, and councillors were to be appointed either by the central government or by its departmental agents, the elimination of local election was about as nearly complete as it had been under the old régime.

Adminis-  
trative cen-  
tralization.

The pre-  
fects.

The sub-  
prefects.

Permanence  
of the  
Napoleonic  
system.

The most striking feature of the Bonapartist system of communal government was the establishment of effective machinery by means of which the strictest sort of control and supervision might be exercised from Paris over all the organs of local administration. To this end the departments (administrative districts into which France had been divided by the Revolutionary government) were each provided with an executive official directly appointed by the national authorities and responsible to them alone. These officers, thenceforth known as prefects, differed but little either in method of appointment or in the wide scope of their powers from the much-maligned intendants of the Bourbon era; and their elevation to rank as the strongest link in the chain of Napoleonic administration affords an interesting illustration of the way in which a violent reaction against administrative centralization succeeded, in the long run, only in securing the reestablishment of an old office under a new designation. Each department was, moreover, by the law of 1800, parcelled out into new administrative divisions called *arrondissements*, each with a subprefect, who was vested with jurisdiction substantially similar to that possessed by the subdelegates of the old dominion, and who now became local deputy of the prefect. Through the prefects and subprefects the hand of the central government was able to hold the municipalities with a tight rein: the whole arrangement combined simplicity and symmetry with extreme centralization.

The Napoleonic system of local administration deserves more than a passing mention; for not only have many if not most of its salient features been retained in France

down to the present time, but its influence upon the local-government policies of other countries — of Italy, Belgium, Spain, Greece, Japan, and the South American republics, for instance — has also been marked. Judged by its qualities of permanence and by its influence abroad, the law of 1800 is one of the best examples of Bonaparte's creative statesmanship, taking rank with the Code and the Concordat among his enduring non-military achievements. If, in the nineteenth century, England has been the mother of parliaments and has exercised a dominant influence upon the evolution of national governments, France has had an equally important rôle in moulding systems of local administration among the nations.

Its influence  
outside of  
France.

The fall of the Napoleonic Empire did not bring about any important changes in local government; for, although the restored Bourbons now resumed charge of French national affairs with a sweeping curtailment of the old royal prerogatives, their parliaments authorized no important concessions to the principle of local autonomy. The Napoleonic system of strict prefectoral supervision over the municipalities, and of appointive local officers, was retained intact; it was, indeed, only after the upheaval of 1830, when the Bourbons gave way to the Citizen King of the Orleanists, that the first substantial departure from the imperial policy was effected. By an act passed in 1831, provision was made that the municipal councillors should thenceforth be elected indirectly by such citizens of the commune as possessed certain prescribed property or educational qualifications. The mayors and adjoints were to be appointed, as before, by the national authorities upon recommendation of the prefects; but they were to be chosen only from among the membership of the municipal councils. No lessening in the strictness of central control over municipal affairs was provided for

Changes  
during the  
period 1815-  
1848.

in this enactment; but some six years later a limited amount of independent jurisdiction, especially in the matter of initiating local projects, was intrusted to the councils of communes.

Local gov-  
ernment  
under the  
Second Re-  
public.

When France again became a republic in 1848, the new republican constitution made explicit provision that in all municipal elections the principle of manhood suffrage should have full recognition.<sup>1</sup> Accordingly, in all the communes councillors were for the time being elected by the adult male citizens; and, as a further step in the direction of decentralization, the municipal councils in communes of not more than 6000 inhabitants were permitted to select their own mayors and adjoints without any interference on the part of the prefects. In the larger municipalities these officials continued to be appointed from above,—always, however, from the ranks of the local councils. By these arrangements municipal government received very substantial concessions in the direction of democracy and autonomy; but its newly-acquired privileges proved of short duration, for in less than five years the Second Republic had become the Second Empire, and the change in the spirit of national administration soon reflected itself in the domain of local government. In 1852 the smaller communes lost the privilege of choosing their own mayors; and in the same year the national government abolished the practice of restricting its choice of mayors and adjoints in the larger municipalities to the membership of the councils.<sup>2</sup> It is true that throughout the period of the Second Empire (1852–1870) elections in all the municipalities were conducted upon what was,

The Second  
Empire.

Changes  
made by  
Napoleon  
III.

<sup>1</sup> *Constitution de la République française* (November 4, 1848), § 79, in Duvergier's *Collection*, XLVIII. 560–609; Hélie's *Constitutions*, II. 1102–1129; and Anderson's *Constitutions and Documents*, 522–538.

<sup>2</sup> *Constitution du 14 janvier 1852*, Titre VIII. § 57, in Hélie's *Constitutions*, II. 1171.

in theory at any rate, a basis of manhood suffrage; but the trend of development during this era was, on the whole, very distinctly in the direction of renewed centralization. The powers of the municipal council were, indeed, somewhat extended in 1867, but hand in hand with this expansion went a stiffening of the prefectural control over this local organ. In fact, throughout the Second Empire the prefectural system was infused with a new vigor and vitality, and the office of prefect became the real pivotal point of all local administration. The municipal councils did little more during this period than approve the local budgets which were submitted to them each year by the administrative authorities; for, although they were technically entitled to the exercise of a free hand in dealing with municipal funds, they were really subservient to the higher officials, whose constant and effectual interference in the conciliar elections served to make the latter mere travesties, and secured, in the larger cities at least, the selection of councillors who responded readily to the requests of the imperial agents. In the realm of national government the era of the Second Empire witnessed the all but complete extinction of free political life, and the same decadence manifested itself in the areas of local administration. During the late sixties, to be sure, when the empire was tottering to its fall, the baneful effects of a policy which had served utterly to repress the principle of local self-government became so apparent even to the emperor himself that a hastily planned movement along the paths of decentralization marked the closing years of the imperial régime; but in spite of this concession the municipalities of France found themselves in 1870 as completely under the hand of the central authorities as they had been at any time since 1830. The intervening forty years, an epoch of striking economic advance and of

Increased  
central-  
ization.

Extinction  
of local  
autonomy.

the most substantial progress in the modernization of the French cities, had been marked by no important improvements in the system of local administration.

The National Assembly that in 1871 assumed charge of the political affairs of France, which had been so badly disorganized by the German invasion and the fall of the empire, found that a revision or a recasting of the whole municipal system was one of the urgent matters demanding its attention. As it was not, however, in a favorable position to proceed with the elaboration of any new and comprehensive municipal code, it decided, as a temporary expedient, to revive, with some few changes, the plan established in 1848.<sup>1</sup> Among the alterations effected the most important was that which permitted the councils in the smaller communes to select their own mayors and adjoints. In cities of over 20,000 population, and in the chief towns of departments and *arrondissements*, these officials were to hold their appointments, as before, from the higher authorities. Local terms of office were also shortened, both mayors and councillors being restricted to three-year terms.<sup>2</sup> This plan of 1871 seems to show that, in a large measure, centralization of local government in France had come to stay. To the grant of a large measure of communal autonomy the Assembly was on principle very favorable, but there were those among its leaders who feared to carry the principle into practice.

The temporary arrangements made in 1871 may be said to have served their purpose in compromising matters until the new republican government should have become firmly intrenched. During the decade following the establishment of the Third Republic, however, the central au-

Local government under the Third Republic.

Tentative measures of 1871.

Centralized features retained.

<sup>1</sup> Cf. above, p. 8.

<sup>2</sup> *Loi du 14 avril 1871*, in Duvergier's *Collection*, LXXI. 71-79, and Anderson's *Constitutions and Documents*, 612-618.



thorities found their policy of supervising the affairs of the larger cities often difficult to enforce. The spirit of municipal home rule asserted itself, and the national government frequently forestalled trouble only by a tame compliance with its demands.<sup>1</sup> Under the presidency of McMahon the republican ministry showed a disposition to check this drift toward municipal independence effectually; for in 1874 the National Assembly concurred in the passage of a law reviving the right of the president to appoint the mayors and adjoints in the smaller municipalities.<sup>2</sup> The general elections of 1876, however, established in power a national administration more favorable to communal autonomy, and the legislation of 1874 was at once repealed.<sup>3</sup> Eight years later the government followed with the additional concession of permitting every commune, large or small (with the exception of Paris), to select its own administrative officers without interference from outside.<sup>4</sup>

The law  
of 1874.

Its speedy  
repeal.

About this time important difficulties in the way of a proper and exact administration of municipal affairs were continually arising from the fact that there had not since 1837 been any thorough revision and codification of local-government law.<sup>5</sup> Every enactment relating to civic administration had been in the nature either of an amendment to the laws immediately preceding, or of a revival of some arrangement belonging to an even earlier period; hence the whole system rested upon a bewildering mass of laws and decrees made and revised by monarchi-

Disorga-  
nized con-  
dition of  
the laws  
relating to  
municipal  
adminis-  
tration.

<sup>1</sup> On the workings of the system, see Gabriel Hanotaux's *Contemporary France*, I. 235 ff.

<sup>2</sup> *Loi sur les maires* (January 20, 1874), in Duvergier's *Collection*, LXXIV. 2-4.

<sup>3</sup> *Loi relative à la nomination des maires et des adjoints* (August 12, 1876), *Ibid.* LXXVI. 268-271.

<sup>4</sup> *Loi relative à la nomination*, etc. (March 28, 1882), *Ibid.* LXXXII. 116-118.

<sup>5</sup> The codification of 1837 had been somewhat revised in 1867.