

Verfassung und Verwaltungsorganisation der Städte



Siebenter Band: England – Frankreich – Nordamerika



Duncker & Humblot *reprints*

Schriften

des

Vereins für Socialpolitik.

123. Band.

Verfassung und Verwaltungsorganisation
der Städte.

Siebenter Band.

England. — Frankreich. — Nordamerika.



Leipzig,

Verlag von Dunder & Humblot.

1908.

Verfassung
und
Verwaltungsorganisation
der Städte.

Siebenter Band.

England. — Frankreich. — Nordamerika.

Mit Beiträgen von

F. W. Hirst, H. Berthélemy, Frank I. Goodnow,
Delos F. Wilcox.

Im Auftrag des Vereins für Socialpolitik
herausgegeben.



Leipzig,

Verlag von Duncker & Humblot.

1908.

Alle Rechte vorbehalten.

Pierersche Hofbuchdruckerei Stephan Geibel & Co. in Altenburg.

Inhaltsverzeichnis.

I.

England.

	Seite
Municipalities in England. From F. W. Hirst	1
Introduction on English local government generally	3
Municipal Government in England.	12
The Town Clerk	19
The Committee System	22
Bye Laws and Standing Orders	26
The Course of Business	29
The Control of Municipal Finance.	31
Municipal Finance	39
Government contributions to the Relief of Rates	44
London. From F. W. Hirst.	47
Preface.	49
<i>Part I. Historical.</i>	
I. Roman London	49
II. Saxon London	52
III. Norman London and the London charters	55
IV. Plantagenet London 1154—1485 A. D.	57
Tudor and Stuart London 1485—1688	64
The Existing City of London and its Corporation	69
Area population and wards 70. Constitution of City Corporation 71. City Police 74. City Estates 74. Markets 75. Public Health 75. Parks and Pleasure Grounds 75. Education Museums etc. 75.	
The London Police	77
Public Health in London	86
The City Streets	88
The City and the Thames.	88
The Reform of Metropolitan Government	90
The Metropolitan Boroughs	98
The London County Council	101
Voting	108
The London County Council's Committees and their Procedure.	109

	Seite
London County Council Finances. Total Receipts and Expenditure on Accounts affecting the County Rate 1905/6	123
Some Books and Authorities on London Government	124
The City of Leeds. From F. W. Hirst.	127
Its Municipal History and Modern Organization	129
The Present Borough and its Organization.	145

II.

Frankreich.**Les institutions municipales de la France.**Leur évolution au cours du XIX^e siècle.

Par H. Berthélemy,
Professeur à l'Université de Paris.

<i>Introduction.</i> Considérations générales sur la Décentralisation en France	153
Notions historiques. Traits essentiels de l'ancien régime municipale	156
Le régime municipal après la Révolution française	158
Les principes modernes du droit municipal.	161
Le régime exceptionnel de la Ville de Paris	163
<i>Chapitre I. Le Personnel Municipal.</i>	165
L'administration délibérante. — Application du régime électif . . .	165
Observations sur le caractère politique des assemblées délibérantes .	170
Les municipalités (administration active)	172
Les auxiliaires rétribués des services municipaux.	174
Les établissements publics municipaux	175
Les services publics concédés	176
Les Chambres de commerce	178
<i>Chapitre II. Les Fonctions Municipales.</i>	180
Historique de la loi, de l'an VIII au régime actuel	180
Le régime actuel. — Attributions de police	182
Mesures relatives à la sécurité publique	185
Mesures relatives à la commodité de la voirie	186
Mesures relatives à l'hygiène publique	187
Attributions Administratives	189
Administration du domaine privé	189
Les communaux	190
Entretien et affectation des bâtiments communaux	192
Aménagement et entretien des voies publiques.	193
Services publics communaux.	193
Enseignement public	194
Rapports des communes et des églises	197
Services communaux d'assistance	200
Services de défense contre l'incendie	203
Halles marchés. — Abattoirs	203
Services industriels-Eau-Éclairage-Transports.	204

	Seite
Administration financière	205
Centimes additionnels	206
Octrois	207
Ressources extraordinaires. — Emprunts	209
<i>Chapter III. Des pouvoirs municipaux et de la tutelle administrative</i>	210
Définition de la „tutelle administrative“	210
Les recours juridictionnels, distincts de la tutelle administrative	211
La tutelle administrative jusqu'à la loi de 1884	212
L'exercice de la tutelle administrative dans le droit actuel	213
Mesures à l'égard des personnes	213
Mesures à l'égard des corps	214
Mesures à l'égard des actes	215
Règles spéciales à la Ville de Paris	221
Conclusion	221

III.

Nord-Amerika.

The Position and Powers of Cities in the United States.

From Frank J. Goodnow.

<i>Chapter I.</i> The Position of the City in the United States	*3
<i>Chapter II.</i> Recent Changes in the Relation of the City in the United States to the State Government	*13
<i>Chapter III.</i> The Political Party and the City	*17
<i>Chapter IV.</i> The Organization of the City in the United States	*25
<i>Chapter V.</i> The Functions of Cities in the United States	*31

The Government of Great American Cities.

By Delos F. Wilcox Ph.-D.

Detroit, Michigan U. S. A.

	*51
I. Introductory Statement	*53
Constitutional Limitations	*55
Control Exercised by State authorities	*58
National Municipal League Program	*61
Proposed Constitutional Provisions	*62
Proposed General Municipal Corporations Law	*65
Great Cities Chosen for Description	*70
Certain Smaller American Cities which are Conducting important Municipal Experiments	*71
II. Washington	*76
III. New York	*96
Constitutional Limitation in New York State	*97

	Seite
Legislative Control over New York City	*100
The Charter of Greater New York	*102
The City Council	*105
The Granting of Franchises	*110
The Executive Departments	*112
The Mayor's Duties	*112
Department of Finance	*113
Board of Estimate and Apportionment	*115
Law Department	*117
Police Department	*118
Department of Water Supply, Gas and Electricity	*119
Department of Street Cleaning	*120
Department of Bridges	*121
Department of Parks	*121
Department of Public Charities	*122
Department of Correction	*123
Fire Department	*123
Department of Docks and Ferries	*125
Department of Taxes and Assessments	*126
Department of Education	*128
Department of Health	*130
Tenement House Department	*132
The Courts	*135
Wealth and Financial Transactions of New York City	*135
IV. Chicago	*142
The First City Charter — 1837	*143
The Second City Charter — 1851	*145
The Third City Charter — 1863	*149
Chicago Under Cities and Villages Act of 1872	*150
Provisions of the Constitution and Laws of Illinois affecting Chicago	*153
Present Organization of Chicago City Government	*156
Chicago's Great Municipal Problems	*168
V. Philadelphia	*178
The Gas Works	*182
Street Railway Franchises	*186
The Water Works	*190
Public Health and Charities	*191
The Public Schools	*194
Constitutional Status of the City	*196
The Philadelphia Charter	*197
VI. Saint Louis	*208
Constitutional Provisions Affecting Cities in Missouri	*211
Organization and Powers of the City Government	*213
The Finances of the City	*219
VII. Boston	*222
Organization of the City Government	*231

	Seite
The Legislative Department of the City Government	*238
Finances of the City	*239
VIII. Baltimore.	*243
Organization of the City Government	*245
The Finances of the City	*255
IX. Cleveland.	*258
The City's Finances	*267
X. San Francisco	*270
XI. New Orleans	*285
XII. General Remarks and Comparative Financial Tables	*294

Berichtigungen.

Corrections to be made in the forms of Prof. Goodnow's article on "The Position and Powers of Cities in the United States".

Page 4, line 16; should read "population of about one hundred thousand", not "population of about fifty thousand inhabitants".

Page 5, line 22; the 3rd word should be "associations", not "assotiations".

Page 8, line 30; the 7th word should be "to", not "tho".

Page 9, line 17; the fifth word should be "forty-six", not "forty-five".

Page 10, line 7; after the word "discharging" the word "functions" should be inserted.

Page 10, line 32; the 3rd word should be "result", not "rsult".

Page 12, line 13; the last word should be "legislature", not "ligislature".

Page 13, line 1 of Chapter 2; the 5th word should be „that”, not "their".

Page 14, line at end of 1st paragraph; the second word should be "latter's", not "latters".

Page 16, line 6; the word "and" should be omitted after the word "Washington".

Page 16, line 28—29; the word "constitutional" should be divided "constitution-al", not "constitutio-nal".

Page 18, line 1; the 1st word should be "interest", not "niterest".

Page 18, line 3; the 1st word should be "to", not "in".

Page 18, line 29—30; the word "Republicans" should be divided "Repub-licans", not "Repu-blicans".

Page 19, line 11; the 1st word should be "to", not "io".

Page 19, line 15; the figure at the end of the line should be "1", not "3".

Page 19, line 16; the figure at the end of the line should be "2", not "4".

Page 20, line 2; the 4th word from the end should be "statute", not "state".

Page 21, line 6 from the bottom; after the word "making", insert the word "two".

Page 23, line 19; the 1st word should be "proper", not "droper".

Page 24, line 8; the 1st 3 words should read "not been adopted", instead of "been adopted not".

Page 25, line 7 and 8; the word divided between these lines should be "certainty", not "certanity".

Page 26, line 18; after the word "regarded", should be the word "as", not "a".

Page 26, line 22; the 1st 3 words of the new sentence should read "Therefore, and again", not "Therefore and again,".

Page 30, line 18; the 1st word should be "what", not "whit".

Page 30, line 23; the last word should be "with", not "whith".

Page 32, line 6; the 1st word should be "if", not "it".

Page 33, line 5; a comma should be inserted after "not", so that the last 4 words will read "do not, it must".

Page 35, line 6; the word in the middle of the line should be "monthly", not "montly".

Page 36, last line; strike out the word "on", after the word "catch".

Page 38, line 14; after the word "right", insert the word "to", so that it will read "right to sell".

Page 39, line 2 from bottom; the 1st word should be "is", not "are".

Page 43, line 18; the word after "who" should be "would", not "whould".

Page 45, line 17; the last words of the sentence should be "naturally varies a good deal", not "varies naturally a good deal".

Page 45, line 20; insert the word "the" before the word "rural".

Corrections to be made in the forms of Mr. Wilcox's article on "The Government of Great American Cities".

On the title page; "Detroit, Michigan U. S. A." should be changed to "New York City".

Page 57, line 23; instead of "per cent", the word should be "percentage".

Page 59, line 4; the 1st word should be "centrally", not "enterally".

Page 63, last line of paragraph 13; the 10th word should be "years", not "yeares".

Page 68, line 2 from bottom; the 2nd word should be "speaking", not "speeking".

Page 69; the dash (—) at the end of the 2nd line should be taken away and placed at the end of the 1st line, after the word "cities".

Page 78, line 6; the 4th and 5th words should be "doubtful whether", not "doubtful wheter".

Page 84, line 15; following the words "water mains" should be "a special tax", not "opecial tax".

Page 85, line 4 from the bottom; the last words should be "buildings, grounds", not "buildings grounds".

Page 87, line 17; the last word should be "laborer,", not "laborer.".

Page 89, line 16; instead of the words "the latest report", put "this report".

Page 91, line 8; the 4th and 5th words should be "that steps", not "thats teps".

Page 100, line 1 of second paragraph; the 6th and 7th words should be "legislative control", not "legisl ativecontrol".

Page 101, line 7; after the word "state" insert the word "of".

Page 101, line 11; the last 4 words should be "tunnel, gas and electric", not "tunnel gas and electric".

Page 101, line 3 from bottom; insert "and" before the words "has authority".

Page 104, line 19; instead of "three larger boroughs", put "three more populous boroughs".

Page 105, line 1; at the end of the line should be "in the less populous", not "in the small".

Page 107, line 11 and 12; the word "unanimous" should be divided "unan-imous", not "un-animous".

Page 107, line 12 and 13; strike out the words "the granting of a franchise".

Page 111, line 4 of last paragraph; the words should read "for navigation and the commerce", not "for the navigation and commerce".

Page 112, line 13; strike out the 1st word, "as".

Page 122, line 2; the 3rd word should be "conformation", not "confirmation".

Page 121, line 4 of 2nd paragraph; after the word "control", insert the word "of".

Page 126, line 7; the line should begin "including the speed of the boats", not "including the of the speed boats".

Page 126, line 28; the 3rd word from the end should be "apart", not "appart".

Page 127, line 22; the 6th word should be "taxpayer's", not "taxpayers".

Page 129, line 21—22; the word "elementary" should be divided "element-ary", not "elemen-tary".

Page 130, line 29; the 4th word should be "separate", not "seperate".

Page 130, line 30; the 4th word should be "Mayor", not "Mayer".

Page 133, line 8; the 3rd word should be "Department", not "Commission".

Page 134, line 7; the line should begin "plovees' work", not "plovees, work".

Page 135, headline; the words should be "Great American Cities", not "Grea Americant Cities".

Page 135, line 2 from bottom; in place of the words "street franchise utilities", put "street railway, gas and electric franchises".

Page 136, line 11; the line should begin "taxation — churches", not "taxation, churches".

Page 136, line 22; the last words of the line should be "shrunk to a little more", not "shrunk into a little more".

Page 138, line 3 from the end of middle paragraph; the last words should be "are wells", not "all wells".

Page 140, line 17; the next to the last word should be "of", not "oft".

Page 142, Chicago, line 5; the 2nd word should be "general", not "genersl".

Page 144, line 17; the 4th word should be "throughout", not "troughout".

Page 144, line 20; at the end of the line should be "\$ 1.00", not "1,00".

Page 146, the headline should be "Delos F. Wilcox", not „Delos J. Wilcox".

Page 146, line 20; the 4th and 5th words should be "however, although", not "however although".

Page 154, line 2; the 5th word should be "authorize", not "authorized".

Page 154, line 26; the 7th and 8th words should be "parks, which", not "parks which".

Page 154, line 30; the 3rd word should be "were", not "ware".

Page 155, line 12; the 3rd word should be "to", not "for".

Page 158, the headline should be "Delos F. Wilcox", not "Delos J. Wilcox".

Page 158, line 18; the 1st word should be "them", not "hem".

Page 158, line 32; the 5th word should be "to", not "te".

Page 163, line 4 from the bottom; words should be "subject to the approval", not „subject, to the approval".

Page 164, line 29; the 8th word should be "reduced", not "rduced".

Page 166, line 4 from bottom; the 3rd word from the end should be "employed", not "emyloyed".

Page 169, line 19; the 6th word should be "estimated", not "extimated".

Page 170, line 1; the 8th word should be "under", not "udner".

Page 170, line 4 from bottom; the last word should be "ineffectual", not "inneffectual".

Page 174, line 5 from bottom; the 10th word should be "based", not "pased".

Page 178, line 9 from bottom; the sentence should begin "A citizens'", not "A citizens".

Page 181, line 8 from bottom; the line should end "removed.", not "removed".

Page 183, line 11; the 8th word should be "rights", not "righths".

Page 183, line 13, it should be "\$ 1.00", not "\$ 1,00".

Page 183, line 14; the next to the last word should be "thereafter", not "there after".

Page 183, line 9 from bottom; words should be "pearls before", not "pearls be fore".

Page 188, line 25; the figures should be "\$ 30,000,000", not "\$ 30,0000,000".

Page 189, line 5; the 1st word should be "successful", not "succesful".

Page 196, line 24; the 9th word should be "forms", not "foums".

Page 197, line 9 from bottom; the 8th word should be "reform", not "referm".

Page 200, line 15 from bottom; the 4th word should be "real", not "raal".

Page 202, line 10; the 7th word should be "of", not "for".

Page 203, line 11 from bottom; the 1st word should be "Two" not "The". And the 5th word should be "together", not "altogether".

Page 204, line 6 from bottom; the line should end "Sheriff," not "Sheriff".

Page 206, line 13; the 3rd word should be "public", not "public".

Page 206, line 25; the 11th word should be "Citizens'", not "Citizens".

Page 207, line 10; the 4th word should be "committee", not "committed".

Page 206, line 28; the 3rd word should be "Christian", not "christian".

Page 214, line 15; the 8th word should be "maintenance", not "maintainance".

Page 216, line 3 from bottom; the last word should be "all", not "al".

Page 219, line 2 from bottom; the 5th word should be "nevertheless", not "nevevertheless".

Page 220, line 17; the figures should be "\$ 0.55", not "\$ 55".

Page 230, line 11 from bottom; the 3rd word should be "development", not "developement".

Page 232, line 15; the 1st word should be "schools", not "schoools".

Page 232, line 23; the 2nd word should be "Quincy", not "Luincy".

Page 233, line 12; the 1st word should be "Consumptives'", not "Consumptives,".

Page 233, line 3 from bottom; the 1st word should be "Sanitary", not "Sanitery".

Page 234, line 3; the 1st word should be "Soldiers'", not "Soldiers,".

Page 236, line 1; the 4th word should be "convenience", not "convinience".

Page 236, line 7; the last word should be "a", not "an".

Page 236, line 12 from bottom; the 1st word should be "paying", not "payming".

Page 236, line 11 from bottom; the 3rd word should be "subway", not "subways".

Page 236, line 10 from bottom; the 2nd word should be "maintenance", not "maintence".

Page 243, line 4 (Baltimore); the 2nd word should be "square", not "equare".

Page 244, line 5; the last word should be "uselessly", not "uselessey".

Page 244, line 12; strike out the last word, "people".

Page 247, line 9; the 1st word should be "neighboring", not "neighbouring".

Page 248, line 11 from bottom; the 2nd word should be "departments", not "deparments".

Page 249, line 9; the 4th word should be "of", not "for".

Page 254, line 2—3; the word "established" should be divided "estab-lished", not "esta-blished".

Pages 254, line 6; the 7th word should be "Manufacturers'", not "Manufacturers,".

Page 256, line 10 from bottom; the 8th word should be "aside", not "asside".

Page 259, line 7; the 8th word should be "be" not "de".

Page 259, line 9 from the bottom; strike out the 6th word, "has", after "Johnson".

Page 267, line 2 of paragraph on "City's Finances"; the figures should be "\$ 27,785,903", not "27,785,903".

Page 274, line 2 from bottom; 7th word should be "California", not "Colifornia".

Page 277, line 13 from bottom; the 7th word should be "measure", not "amendment".

Page 279, line 3; the 8th word should be "contain", not "contsin".

Page 282, last word of 1st paragraph; should be "inevitable", not "inevitible".

Page 283, line 5; the 5th word should be "administrator", not "administratur".

Page 283, line 13; the 2nd word should be "Public", not "Pnblic".

Page 283, line 14; the 4th word should be "public", not "puplic".

Page 285, (New Orleans) line 10; the 2nd word should be "valleys", not "vallays".

Page 287, line 6; the 8th word should be "brought", not "hrought".

Page 287, line 8; the 9th word should be "speaking", not "speeking".

Pages 287, line 9 from bottom; figures should be "1893", not "1896".

Page 288, line 5; the 6th word should be "city", not "City".

Uncorrected pages 289—299.

Page 290, line 24; the 1st word should be "committee", not "cemmittee".

Page 291, line 1; the 2nd word should be "remaining", not "remaning", the 11th word should be "and", not "end".

Page 291, line 18; the 10th word should be "sewage", not "sewerage".

Page 291, line 9 from bottom; the 9th word should be "Board", not "Bord".

Page 292, line 11 from bottom; should begin "nine-tenths per cent, or \$ 2.90", not "mine-tenths per cent, or \$ 2,90.

Page 293, line 4; the 3rd word from the end should be "unpaid", not "un-paid".

Page 293, line 9; the 4th word should be "financial", not "financials".

Page 294, line 2; should begin "in the", not "insthe".

Page 294, line 10 from bottom; the last word should be "though", not "tough".

Page 294, line 8 from bottom; the 3rd word should be "up-to-date", not "upto-date".

Page 194, line 2 from bottom; the last word should be "States", not "Stated".

Municipalities in England.

From

F. W. Hirst.

Introduction on English local government generally.

The history of local administration in England previous to the great Reform Bill of 1835 is tortuous and in some respects obscure, though through all its deviations and incongruities threads of continuity may be traced from Anglo Saxon if not from Roman times. The idea of local self-governing communities urban or rural was never wholly lost, being preserved in towns by charters and guilds, in the country districts by the parochial institutions fostered by the Roman Church. Under the centralising rule of the Norman Kings local institutions and local jurisdictions were enfeebled by the appointment of royal officers and judges, and the establishment of Justices of the Peace in the 14th century by Edward the Third placed the administration of the laws and the ultimate control of all rural life in the hands of landed proprietors who, though local residents, were nominated by the King. From a social point of view the institution of Justices of the Peace is perhaps the most important event in the history of the English nation. The towns however were considered as distinct communities more or less free according to circumstances from the jurisdiction of the County Justices, and in the fifteenth century nearly all the towns of England were held to possess (by grant or by implication) charters of incorporation conferring various customary privileges and rights of self government. From this time until the termination of the Stuart dynasty by the Revolution of 1688 the history of English local government so far as it can be disentangled from the particular circumstances of particular localities is part of the great struggle between parliament and the King, or between the law and the Crown. Already in the 14th century parliament had begun to receive petitions from boroughs and shires against administrative and judicial

grievances, and these petitions gradually took the modern form of public and private (or local) bills which become public and private (or local) Acts after they have passed both Houses of Parliament and received the King's assent. This activity of the House of Commons, though it certainly developed a new form of central control over local administration, was also highly favourable to local autonomy. But under the strong rule of the Tudors the progress of parliamentary authority was checked. The House of Commons lost much of its independent bearing, and allowed the sovereign to develop a new administrative power which soon threatened to sap the independence of the judges, to upset the rule of law, and to put an end to parliamentary control over public taxes, expenditure and administration. The privy council was reorganised, administrative orders and regulations unauthorised by statute were issued to justices of the peace. A judicial committee called the Star Chamber was formed for the purpose of hearing cases of administrative law, and it seemed quite possible that the whole stream of English life and government might be turned into a continental channel. Fortunately (as we think) the Stuart Kings were unsuccessful in their attempts to carry on the Tudor system. Though the defeat of Charles in the Civil War was not quite final, the expulsion of James put an end (for a time) to the struggle between King and Parliament, established the control of the House of Commons over public expenditure, and fortified the rule of law by the impregnable rampart of an absolutely independent judiciary. The curious thing is that for nearly a century and a half no reforms were introduced into the system of local government. So far as legislation was concerned the edifice of local government in England continued to rest until 1834 upon two statutes — the Act of Edward the Third providing for Justices of the Peace & the Act of Elizabeth providing for a poor rate. The first conferred an almost absolute dictatorship of rural life upon the landlord class, who were at once administrators & judges. The second supplied the machinery for defraying the expenses of the poor laws by means of a poor rate. The Act of Elizabeth still remains on the Statute books, and is the basis of the English law of rates, by means of which most of the revenue required in town and country for local purposes is raised to this day. The necessity for a landed qualification for the office of a County Justice was only repealed last year, and the administration of rural government was only withdrawn

from Quarter Sessions in 1888. It will be interesting to see whether the new attack (by land taxers) upon the principles of a rating system established in the reign of Elizabeth will prove successful. If so it will probably take the form of a proposal to rate land and houses separately and to throw the land rate upon the owner of the land while the house rate continues to be paid by the occupier of the house.

No doubt the long era of legislative indifference to the needs of localities lasting from 1688 to 1834 is to be explained by the continued predominance of the territorial oligarchy in parliament, and this again was mainly due to the permanent results of the Tudor and Stuart policy, deliberately adopted, of perpetuating and extending the system of rotten boroughs. Political and municipal corruption went hand in hand. It was the policy of the Crown to put „a select body“ as it was called in control of a town with the double object of stifling local autonomy and of restricting the franchise to the so called „freemen“, who alone was allowed to vote. It was impossible for an unreformed parliament to reform local government. Consequently with the enormous growth of manufactures and trade from 1750 onwards new towns and suburbs grew up whose only government was the antiquated rule of the lords of the manor or the primitive organisation of parish vestries.

At last in 1832 the Reform Bill was carried, and the Government of England passed into the hands of the middle classes under the fairly capable and sympathetic leadership of a Whig Aristocracy. The first tasks of the new parliament were the reform of the poor laws and the reform of municipal corporations. The first was successfully carried in 1834, the second in 1835. The Poor Law Amendment of 1834 and the Municipal Corporations Act of 1835 have stood the test of time and criticism, and though the former has already received substantial modifications and may require to be completely recast in the near future no one doubts that it represented a great advance of statemanship. It was the first large and successful application to the most difficult of social problems of a system combining a popular elected local body with a central authority composed of permanent officials controlled by parliament. The reform of Municipal Corporations has proved satisfactory in all its main features and the Municipal Code of 1882 only differs in comparatively trifling details from the original measure. Since 1834—5