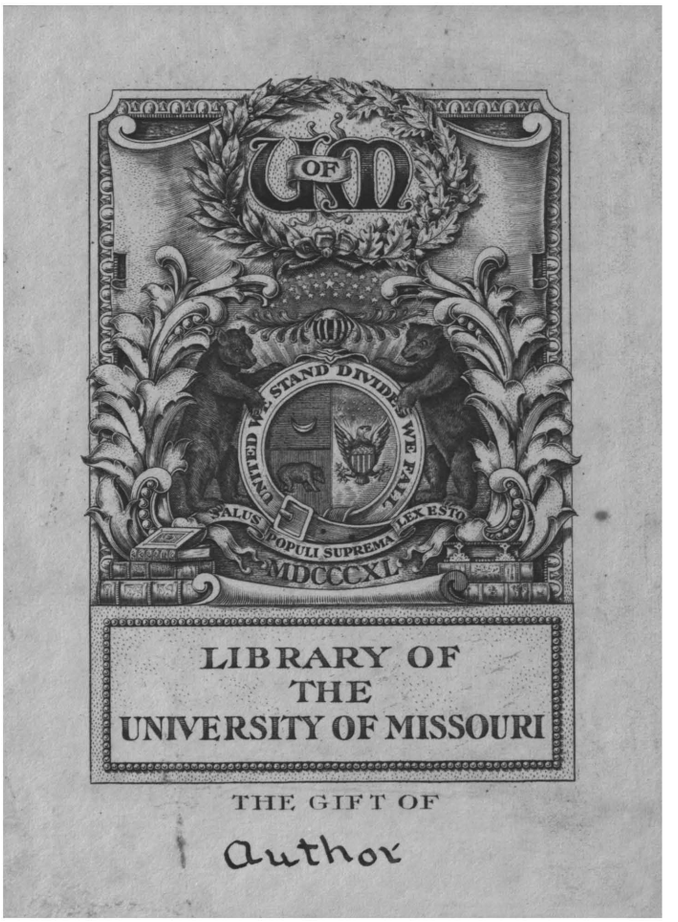

MUNICIPAL ORGANIZATION IN MISSOURI;
AN HISTORICAL STUDY OF THE LEGISLATION AFFECTING CITIES AND TOWNS

by

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INTRODUCTION.

It is the purpose of this study to trace the development in organization of Missouri towns and cities by considering the general and special acts of the legislature affecting such organization. This development falls into periods whose division lines are marked by significant changes. The first period extends from 1808 to 1875; it has its beginning with the first general act regulating towns (Act of June 18, 1808, see Territorial Laws, Vol.I, p.184) and its ending with the going into effect of the constitution of 1875. The most striking and at the same time most important development of this period is connected with the special acts regulating cities. Since this development does take place, this period may be properly called the period of special legislation.

The second period extends from 1875 to the present time. This is the period during which most of the cities of Missouri are governed by general acts. The documentary evidence of this change is to be found in the constitution of 1875 (See Art.IV, sec.53; Art.IX, sec.7.) Article IV, section 53 contains the following provisions: "No local or special laws shall be passed regulating the affairs of counties, cities, townships, wards or school districts ... in corporating cities, towns or villages, or changing their charters ... creating offices or prescribing the powers and duties of offices in counties, cities, townships, election or school districts ... reg-

ulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables ... nor shall the General Assembly indirectly enact such special or local law by the partial repeal of the general law, but laws repealing local or special acts may be passed. Article IX, section 7, reads thus: "The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four, and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to and be governed by the general laws relating to such corporations." We thus see that the constitution of 1875 prohibits special legislation except as to repealing special laws, requires the General Assembly to provide general laws for governing towns and cities, and permits any city or town to choose to be governed by the general law instead of by its special charter. The constitution of 1875 makes some exceptions to these rules, especially as regards the larger cities (See Article IX, sections 15, 16, 17). This second period will involve, (1) a consideration of the general laws passed in 1877 as required by the constitution of 1875; (2) the modification of these laws from 1877 to the present time together

with repeals of special acts.

It will be seen that while the constitution restricts the number of classes of cities and towns to four, the General Assembly did not consider that this prevented it from making other classes for special purposes, so long as the acts providing for such classes were general in form. This liberal interpretation has been sustained by the supreme court; hence, it has been possible for the legislature to enact laws applying in form to a general class but in fact to only one city.

Naturally the real setting of our problem is found in the first period (1808-1875), so it is well to make some general statements about this period before beginning its detailed study. As noted above this was a period of special legislation. During this time 1021 acts were passed regarding towns and cities, only 46 of these being general acts. The majority of these acts were amendments of preceding acts, and in many cases apply only to a single matter. The special acts are concerned with 186 towns and cities. The number of acts concerned with each city or town varies from one each for 63 municipalities to 165 for St.Louis. (See Appendix I.)

Up to 1845, the special acts on towns and cities, passed at each session of the legislature were not numerous. The number varies from 1 to 10 for each meeting of the legislature. Beginning with 1845 there is,generally speaking, a marked increase in the number. The highest number was reached in 1859. During that year 82 acts were passed relating to towns and cities. The number was fewer during the Civil war.

After the Civil war no general rule can be observed as to increase or decrease in numbers. The smallest number (19) was passed in 1867, the largest number (54) in 1872 and during the last year of the period of special acts 37 were passed. (See Appendix II.)

It is thus clear that the constitution of 1865 did not check, to any great degree, the passage of special acts, even though it did provide (Article VIII, section 5) that "no municipal corporations, except cities, shall be created by special act; and no city shall be incorporated with less than 5000 permanent inhabitants, nor unless the people thereof by a direct vote upon the question shall have decided in favor of such corporation". The constitution also says--"The General Assembly shall pass no special law for any case for which provision can be made by a general law". This had little effect because the legislature itself determined whether a general act was applicable. It can be observed, however, that with a very few exceptions, the acts after 1865 were amended acts.

During the period from 1808 to 1875 the general act of 1808 relating to towns referred to above was revised five times, (1) January 26, 1825 (See Rev.Stat.1825, p.764); (2) March 11, 1835 (See Rev.Stat.1835, p.600); (3) February 12, 1845 (See Rev.Stat. 1845, p.1047); (4) November 23, 1855 (See Rev.Stat. 1855, p.1523); (5) in 1865 (See Rev.Stat. 1865, p.239 or Wagner's Rev.Stat.Vol.I, p.495). These revisions are fundamentally repetitions of the act of 1808. They will be discussed in connection with the special acts. In using the term "general acts" these alone are meant unless otherwise specified.

In taking up the more detailed study of the period of special legislation we shall consider (1) the organization of the council; (2) the organization and principal powers of the chief executive; (3) the organization and principal powers of the administrative officials.

Because of the very limited number and lack of importance of the acts passed during the territorial period, it is not necessary to consider that period separately--hence the figures that will be given apply from 1808 to 1875. On account of the large number of acts it will not be practicable to give specific references to each act. In the appendix will be found two lists containing references to all of the acts passed during the period. One table is arranged alphabetically by cities showing under each city all the special acts enacted during the period affecting such city. The other list is arranged chronologically, giving all acts, general as well as special, enacted at each session of the General Assembly.

It should be noted that while the total number of acts passed during this period aggregate 1021, the facts used in this discussion are drawn almost entirely from 244 acts. The remaining acts are concerned very slightly with this discussion.

PERIOD OF SPECIAL LEGISLATION.

I. The Organization of the Council.

At the beginning of our study and well on into the period of State government (until 1839) the council of every town or city in the state was unicameral in form. This is also the case when special legislation for cities and towns ceased. In the interval between these two times there are a few exceptions found to this rule, but only a few. St.Louis represents the most changes in this respect. From the time of her first charter (1822) to 1839 she had the unicameral system, but by the charter of 1839 the bicameral system was adopted which remained in force for twenty years. In 1859 there was a return to the unicameral system which was in operation until 1866, when the bicameral system was again accepted. Finally in 1867 the unicameral system went into operation and remained until the period of special legislation ceased. The only other exception to the rule as to the form of the council is found in Kansas City, but she had the two house council for less than one year, during a part of the year 1859.

The question of the number in the council is not nearly so simple as to its form, except as to the general acts in-corporating towns; here in each case it is provided that the number shall be 5 unless, according to the general act of 1865, the population reached 2500, then the number was to be increased to 9. According to all the general acts spoken of above, the mayor, or chairman of board of trustees as he is called,

is one of the number. In most cases the special charter fixes the exact number of councilmen, though there are some exceptions. Of the 244 charters examined with reference to this matter (this includes all the acts dealing in any form with the organization of the council), 1 provided for a council of 3 members, 3 for a council of 4, 84 for a council of 5, 34 for a council of 6, 40 for a council of 7, 7 for a council of 8, 13 for a council of 9, 9 for a council of 12, 1 for a council of 20, 1 for a council of 22, 3 for a council of 24, 1 for a council of 30, while the rest made no provision with regards to the number or will come under the exceptions noted below. It is thus clear that the prevailing numbers were 5, 6 and 7. Of these three numbers 5 has the lead, and this does not seem unnatural when we consider that the general acts for the incorporation of towns provided for a council of 5.

The exceptions to the rule of an exact number being fixed by the charter are somewhat varied. In 7 of the charters minimum and maximum limits are set, the exact number being left to be regulated by ordinance; 4 of these charters provide that the number shall not be less than 6 nor more than 12, 1 provides the number shall not be less than 5 nor more than 9, still another that the number shall not be less than 8 nor more than 12, and yet another that the number shall not be less than 4 nor more than 8.

In 6 of the charters the exact number is fixed, but the number may be increased up to a fixed maximum at the discretion of the council. In two of the cases, the number could be in-

creased from 5 to 12, in two other cases from 5 to 7, in one case from 6 to 7, in another case from 7 to 12. In 4 of the charters the number of councilmen is made dependent upon the number of wards, with the exception that there shall be a certain number from each ward. The determination of the number of wards is left to the council. In two of these cases the number from each ward is fixed at 2 and of the other two cases there are to be 3 from each ward in one instance, and 1 from each ward with a councilman at large in the other instance.

Only 1 charter provided that the number of councilmen should be absolutely dependent upon the number of inhabitants, in this case there was to be one councilman for every five hundred inhabitants. In one other instance, however, the number in the council was to be increased from 22 to 24 when the population of 2 of the wards of the city became sufficiently large.

2 other charters provided that when the number of wards reached a certain limit the number of councilmen from each ward was to be reduced. In two cases the number from each ward was to be reduced one when the number of wards were increased to 6 and 4 respectively.

Let us now consider the qualifications and disqualifications of councilmen. The most usual qualifications as given in both the general acts on towns and special charters have to do with age, property, residence and citizenship, though often a number of other things come in, such as sex for example. The usual disqualifications have to do mostly with residence,

personal interest in city contracts or arrears in taxes.

In all of the general acts the age is fixed at twenty-one. In the large majority of cases in the special charters, where the age is fixed there is the same age qualifications. Out of all the charters or amended charters examined (244 in all) 128 specify that the age shall be twenty-one; 13 that it shall be twenty-five; 3 that it shall be twenty-four; in 3 of the St.Louis acts, that the age of one board shall be thirty and of the other twenty-five. 6 of the acts provide that the members of the council shall be qualified voters of the state, 3 that they shall be qualified to be members of the legislature, 1 that they shall be qualified voters of the city. The remainder of the acts make no provision as to age. All of the general acts provided for a property qualification, in one case taxable property of any kind, in the other cases the councilmen were to be householders. In the majority of the special charters no property qualification was demanded. This is true for 156 of the acts. Of the others, 34 provided that the councilmen should be householders, 12 that they should be freeholders, and 19 that they should have taxable property. In two cases the property qualification was the same as for members of the legislature and in two cases there was a minimum land property qualification.

The residence qualification for councilmen varies all the way from two years immediately preceding the election to residence without reference to the length of the period. All the general acts dealing with this matter provide for a resi-

dence qualification in the town of one year immediately preceding the election, 97 of the special acts, a majority of those containing a provision on this point, also follow this rule; 17 require two years residence, 6 of which require in addition, residence in a ward; 3 require one year's residence with residence in a ward which in one case must be six months; 20 required six months residence, one of which required also sixty days in a ward; 5 required three months, 3 one month, while 7 required residence without stipulating the period, the residence in one case being required in the ward while in the other cases residence in the town was sufficient. In some cases residence in the state was also required; in one case it was three years in the state and residence in a ward while in another it was one year in the state, six months in the city and sixty days in the ward. In one charter, which required the bicameral system, the provisions were different for the two houses, two years residence in the city being required in one and one year in the other, residence in the ward being required in both cases. The rest of the special acts examined make no mention of the residence qualification.

The question of citizenship is involved in most of the general acts and the special acts, though 76 of the special acts say nothing of color, sex, citizenship or freeman qualifications. 2 of the general acts provide the councilmen shall be free white males and 4 of the general acts provide they shall be free white male citizens of the United States, while 24 of the special charters follow this latter rule only 5

follow the former. Most of the special charters (80 in all) where provision of this kind is made, merely require citizenship of the United States. 12 of the special charters state that the councilmen shall be citizens of the United States and qualified voters of Missouri; 9 of them that they shall be citizens of Missouri; 6 that they shall be citizens of the United States and qualified voters of the city; 6 that they shall be qualified voters of the state of Missouri, 4 that they shall be free white male citizens of Missouri; 5 that they shall have the qualifications of members of the legislature; 2 that they shall be citizens of the United States and of Missouri; 2 that they shall be male citizens; 1 that they shall be free white citizens of the United States; 1 that they shall be male citizens of Missouri; 1 that they shall be qualified voters of the State and free white male citizens of the United States; 1 that they shall be legal voters of the town. We thus see that in a majority of cases a definite minimum age is required of councilmen and that that age is twenty-one; that in the majority of cases no property qualifications is required but that, when it is, the householder qualification is the most usual; that in the majority of cases residence qualification obtains and that it is usually a residence in the city or town of one year immediately preceding the election; that in a majority of cases the councilmen must be citizens of the United States.

The general acts on towns provide for no positive disqualifications for councilmen; this is also true for a very

large majority of the special acts. In a few instances arrears in taxes and interest in a city contract disqualify. In a number of cases removal of residence from the city or ward vacates the office.

So much for the qualifications and disqualifications of councilmen; let us now consider their manner of election. All of the general acts and practically all of the special charters have provisions on this matter. There are about 12 exceptions. The former provide for the general ticket plan as do a slight majority of the latter. As seems natural, in very few cases, where the general ticket plan applies, is there any provision for dividing the city into wards. Only 7 charters were found which divided the city into wards and at the same time made provision for the general ticket plan; 10 charters providing for the general ticket plan, allowed the council to divide the city into wards if it saw fit. As indicated above nearly half of the special charters provide for a single ticket plan. This naturally gives rise to a division of the city into wards. The actual division of the city into wards was usually left to the council, though in about one fifth of the charters the charter made the actual division. When the charter made the actual division, it usually specified how many councilmen were to be chosen from each ward, and in a few cases permitted the council to create new wards or re-arrange the old. When the matter of division was left to the council, as it usually was, it was empowered in most cases, to apportion the councilmen among the several wards either in

proportion to the qualified voters or population in each ward, though sometimes the apportionment was made on the basis of the number of free white males in each ward. In some few cases the charter specified the number each ward was entitled to, (the number was usually either 1 or 2) but required the council to so divide the city that each ward would have practically the same population or same number of qualified voters. 4 charters provided for both the single and the general ticket plan--the general ticket plan applying to the councilman at large.

Naturally both the general acts and the special charters specified what the term of the councilmen should be. All of the general acts fixed the term at one year and a very large majority (about 190) of the special acts followed the same rule. Only about 35 provided for a two year term, but beginning in 1872 there is a distinct tendency in favor of the two year term. There are eight cases in which part of the councilmen served for two years and a part for one; five of these apply to St.Louis and Kansas City at the time when the form of the council is bicameral, the other three apply where a councilman at large is elected. No charter fixes the term of councilmen at three years, but two of them fix it at four years.

All of the general acts, save one, and a majority of the special charters (about 140) make no provision for the compensation of councilmen. Most of the other special acts and 1 of the general acts leave the matter of compensation to be

determined by ordinance. A few leave the matter to be determined by ordinance after fixing a maximum limit for each year or for each day of service. In about an equal number of cases (8) the charters fix definitely the compensation.

It might be well to remark in passing that in every case the members of the council were to be elected by a direct vote of the people.

The methods of organization and proceedure of the council need no special attention, since they are usually the same. One particular exception to this will be noted when we examine the relation of the mayor as a presiding officer to the council. In most cases a majority of the council constituted a quorum, but a smaller number could adjourn from day to day and compel the attendance of absent members; the council usually determined its own rules of procedure and might expel its own members; it also determined the election returns and qualifications of its own members and was given the power to keep a journal.

II. The Mayor.

Just as with the council the chief qualifications of the mayor have to do with age, property, residence and citizenship. By the provisions of all the general acts the mayor (chairman of the board of trustees) has the same qualifications as members of the council, in fact he is one of their number and chosen by them.

Of all the special acts which dealt with the qualifications of the mayor in any respect (about 217 in all 57 made no statement about age, 69 fixed the age at twenty-one, 3 at

twenty-four, 72 at twenty-five, and 16 at thirty. We thus see that the prevailing age qualification is twenty-five and twenty-one respectively.

A majority of these same acts (114) fixed no property qualification for mayor. However, 71 of the acts required that the mayor should be a householder within the city limits, 15 that he should be a freeholder, 14 that he should pay a city tax and 3 that he should own not less than 2000 square feet of land within the city. Therefore when property qualification obtains, it is usually the householder qualification.

In contrast with the property qualifications just examined, a majority of the special acts examined provide for a residence qualification--quite a number do not contain such a provision. 8 require residence with no specification as to the period; 2 require one month immediately preceding the election; 1, two months; 6, three months; 18, six months; 99, one year; 37, two years; 1, four years. It is thus clear that the prevailing residence qualification is one year in the city immediately preceding the election.

It was usually required that the mayor should be a citizen of the United States, though in a number of cases nothing was said about citizenship.

Summarizing, we see that in a large majority of cases the special acts do provide an age qualification for the mayor, about half of them a property qualification, a large majority a residence qualification, and most of them a citizenship qualification.

Very few of the special charters provide for any positive disqualifications for the mayor. About a dozen say that he shall not hold any office of trust or profit in the United States. Nearly the same number make arrears in the payment of taxes a disqualification. Some 40 provide that if the mayor removes his residence from the city his office shall become vacated.

All the general acts on towns and practically all the special acts on towns and cities examined designate how the mayor shall be chosen. In all of the general acts indirect election applies, that is, the mayor is elected by the council from their own number. This same rule is followed in about 70 of the special acts. All the other acts provide that the mayor shall be elected directly by the people

In none of the acts, where indirect election applied, was anything said about the removal of the mayor from office. The same thing is true of most of the other acts; about 50, however, make provision for this. In most of these cases some criminal act on the part of the mayor is to be the cause of the removal, and the actual power of removal was left to the city council, though in a number of cases the power of removal was left to the circuit court of the district in which the town or city was located. Generally to remove the mayor from office, two-thirds of all the councilmen elected must vote for such removal.

We might properly remark in passing that a vacancy in the office of mayor, where direct election applied, was usually to be filled by a special election, and that a tie or a contest

for the same office was usually determined by the city council.

Naturally, because of its great importance, most of the charters fixed the term of the mayor. This is not definitely stated in all the acts where indirect election applied, but it seems reasonable that the one year term should apply in these cases, since the councilmen serve for that time and there is no positive provision made for the removal of their chairman. Still it seems reasonable that the council might remove its chairman (the mayor) any time it saw fit.

Having considered these reasons, the conclusion has been drawn that, where the term of the mayor was not definitely stated, it is to be considered a one year term, providing the council is empowered to elect its own chairman. All of the general acts provide for a one year term; the same is true of nearly 200 of the special acts. 23 special acts provide for a two year term. A few acts make no statement either directly or indirectly of the term of the mayor.

All of the general acts, save one which left the matter to be determined by the council, make no provision as to the salary of the mayor; The same thing is true of more than half the special acts. Most of the other acts (112 in all) leave the matter to be determined wholly by ordinance. Only three cases were found in which the charter fixed definitely the salary of the mayor. In eight instances the charter fixed the maximum salary, in thirteen cases it was provided that the salary should not be increased or diminished during a mayor's term. In four cases the mayor's salary was not to exceed a

certain amount for the first two years of the charter's operation and in another case for the first five years of the charter's operation.

As a usual rule all charters, both special and general, provided that the mayor should be the presiding officer of the city council. There are 35 exceptions to this rule. It will be recalled that all of the general acts provided that the mayor should be chosen by the council from their own number. As a member of the council he has all the powers and privileges of members of that body and in addition the powers of a presiding officer. 60 of the special acts follow this rule of the general acts. 116 of the special acts provide that the mayor shall be ex-officio the presiding officer of the council but shall vote in that body only in the case of a tie. 5 special acts specify that the mayor shall be ex-officio the presiding officer of the council, but do not give him any power of voting in that body. A very large majority of the charters gave the mayor the power to convene the council but 4 of the general acts and about 40 of the special made no mention of anyone convening the city council.

It is interesting to note what power the mayor had over legislation. None of the general acts gave the mayor as such any power over legislation. This is true also for a majority of the special acts, still about 90 of the special charters required the mayor, when he thought necessary, to give information to the council and recommend measures to them, and slightly over 100 gave the mayor the veto power. In most cases

it was the suspensive veto, but in about 20 instances it was the absolute veto. 19 of the acts provided that the council could override the mayor's veto by a simple majority, 36 by an absolute majority, 21 by a two-thirds majority of all the members, 6 by a three-fourths majority of all the members, while 2 left the veto power to be determined by ordinance, and 1 made it the same as the veto power of the governor of the state.

Just as with the general acts so with a large majority of the special acts, the mayor had no power of appointment. There are about 60 exceptions to this. In 42 cases the mayor was given the power, by and with the consent and advice of the council or board of aldermen as the case might be, to appoint all officers whose appointment was not otherwise provided for. 10 charters specified that the mayor was to appoint all officers whose appointment was not provided for in the charter, 7 designated certain special officials the mayor might appoint with the consent of the council, while 1 provided that the mayor should appoint all officers with the consent of the council.

All of the general acts and most of the special gave the mayor no power to fill vacancies. Here again we have about 60 exceptions. About 30 of the charters provided that the mayor was to fill all vacancies (except in the council) until the end of the session of the council occurring next after the vacancy. 20 others followed the same rule giving the additional power of filling vacancies in the council. 10 charters gave

the mayor the power to fill any vacancy, with the consent of the council, until the next general election. Only 36 of the special acts, and none of the general acts, gave the mayor the power of removal. 22 of these provided that the mayor could remove, with the consent of the council or board of aldermen as the case might be, any person whose office was created by ordinance, 5 provided that with the same consent, the mayor might remove any city official; 2 others followed this same rule with certain specified exceptions, while 7 permitted the mayor to remove all officers save those elected by the people.

We might remark in passing that 25 of the special charters required the mayor to sign the commissions of all city officials.

In striking contrast with the mayor's powers of appointment, filling vacancies, and removal, is his power of seeing that all laws are faithfully executed. Such power is given him by 4 of the general acts and about 160 of the special charters. In order to make this power effective, he could, according to 25 charters, call on every male over eighteen to aid him; according to 4 charters any male over twenty-one; according to 12 he might call out the militia; according to 4 he might summon a posse; and according to 4 he might call upon any male to help him. 34 of the special acts gave the mayor the power to call upon any city official to exhibit his official books and papers to the city council and mayor; about half that number gave the mayor the power to superintend and inspect the official acts of the subordinate city officials. In one case the mayor was made ex-officio member and president

of all boards and committees.

None of the general acts gave the mayor the power to grant pardons, reprieves and commutations, remit fines, forfeitures, penalties or stay executions. 85 of the special acts gave the mayor the power to grant reprieves and pardons and remit fines and forfeitures; 24 gave him the power to remit fines, forfeitures and penalties; 21 gave him the power to remit fines, commute imprisonment for labor and labor for imprisonment; 9, the power to remit fines and forfeitures and penalties by the consent of the council; 5, the power to remit fines and forfeitures; 3, the power to remit fines; 3, the power to remit fines with the consent of the council; 2, the power to grant reprieves, commutations and pardons; 2, the power to remit fines and penalties and grant reprieves; 2, the power to remit fines and forfeitures, punishments and penalties; 1, the power to commute fines for labor on the streets; 1, the power to commute imprisonment or punishment to labor; 1, the power to remit fines and stay executions. We thus see that in the majority of cases the mayor is given the power to remit fines and forfeitures, but that in the majority of cases he is not given the power to grant reprieves, pardons and commutations.

There are certain other powers of the mayor, of considerable importance, that should be noted at this point. 126 of the special acts provided that he should be conservator of the peace; 105 special acts and 1 general act provided that the mayor should be ex-officio justice of the peace; 79 special

acts provided that he should have jurisdiction in all cases arising under the charter or an ordinance. When there was a recorder the mayor usually had no judicial power of any consequence.

79 special acts and 1 general act provided that the mayor should make an annual statement of all money received and expended by the city during the year, while 3 others and 2 general acts provided that the statement should be made semi-annually. 45 special acts provided that the mayor should give notice of elections and 20 special acts gave the mayor the power to set aside inquests, where private property was being taken for public use; 19 special and 3 general acts made it the duty of the mayor to see that all the laws and ordinances of the city were published. A very few of the special acts prescribe certain other minor duties or give certain minor powers which are not worthy of special attention.

III. Administrative Officials.

In the discussion of the administrative officials it is the intention to confine the matter chiefly to the organization of the following offices--clerk, marshall, recorder, assessor, collector, treasurer, auditor, engineer, attorney, and street commissioner. Little will be said about the powers of these officials, because the powers of each one are fundamentally the same throughout the period. Outside of the acts pertaining to St.Louis, Kansas City and St.Joseph, there are few instances of a charter providing for any other

administrative officials than those mentioned above. In as much as others have covered the ground included within the exceptions, it is not necessary to discuss the matter here. This will simplify the present discussion and not lessen in any degree its general value. It should be noticed, however, that almost every charter gave the council the power to create besides those provided for in the charter, such other offices as it saw fit.

Of all the administrative officials of a town or city, none seems more necessary than a clerk. Mention of this official is lacking in none of the general and few of the special acts.

147 of the special and all of the general acts provided that the clerk be chosen by the council; 36 specified that he be appointed by the mayor with the consent of the council or board of aldermen, as the case might be, while 29 acts provided that the clerk should be elected directly by the people.

All of the general acts and a majority of the special acts (127) either did not fix the term of the clerk or left it to be determined by the council; however, 66 charters fixed the term at one year and 7 at two years.

Nearly 200 of the special and all of the general acts either made no mention of the clerk's qualifications or left the matter to be determined by the council. 8 acts provided that he should have the same qualifications as members of the council. Only in a very few cases did the charter attempt to fix any age, residence, property or citizenship qualification

for the clerk.

Three cases were found in which the recorder was to be ex-officio, the clerk, and one case in which the attorney was to be ex-officio the city clerk.

The usual powers of the clerk are those of keeping the official records of the mayor and council and other city records and documents not otherwise provided for. The council was usually given the power to give additional duties to the clerk as it saw fit.

The office of marshall or constable was established in most of the towns and cities. For convenience this official will be referred to as the marshall. In the organization of this office the principle of direct popular election gained wider acceptance than with the clerk. The first two general and a few of the special acts make no provision for the office of marshall. 4 of the general and 111 of the special acts specify that the marshall shall be chosen by the council; 21 state that he shall be appointed by the mayor with the consent of the council, while 83 provide that he shall be elected directly by the people.

86 of the special and 4 of the general acts either leave the term of the marshall undetermined or to the council; 113 fix the term at one year and 14 at two years. The fact that so many of the acts fix the term of the marshall is no doubt due to the fact that he is so often elected directly by the people.

4 of the general and a majority of the special acts (134)

either say nothing about the marshall's qualifications or leave the matter to the council. However, 36 charters provided his qualifications should be those of the councilmen; 18 that he should have his residence within the city or town. Just as in the case of the clerk only a very few of the acts fixed definitely an age, property, residence or citizenship qualification for the marshall, yet it can be observed that the marshall's qualifications are slightly higher than those of the clerk.

A great number of the special acts (88) provided that the marshall should be ex-officio collecter and a few made him ex-officio assessor. One cannot help but notice the close similarity of the connection between the marshall and collector and the county sheriff and collector. Quite a number of acts gave the marshall the power to appoint deputies, and a few provided that there should be a marshall for each ward.

The usual powers of the marshall were the same as the township constable and in addition he had the power to serve and return processes for the mayor, council, recorder, and sometimes other specified officials. As in the case of the clerk the council was usually given the power to give additional powers or duties to the marshall as it saw fit.

All of the general and most of the special acts made no provision for a recorder. The powers and duties exercised by this official were usually given over to the mayor. As noticed above these powers and duties were of a judicial or semi-judicial nature.

However about 50 acts provided for the office of recorder. With only 4 exceptions the recorder was to be elected directly by the people--in one case he was to be appointed by the council and in 3 cases the mayor was to appoint him with the consent of the council.

With very few exceptions the term of this official was also fixed by the charter--in about two-thirds of the acts at one year and in the rest at two years.

About half the acts provided the qualifications of the recorder should be the same as the mayor, and about half that they should be the same as for members of the council, only a very few leaving the qualifications to be determined by the council.

In 3 cases the recorder was made ex-officio city clerk. The powers of the recorder were mentioned sufficiently in the discussion of the powers of the mayor.

A good majority of the special and 4 of the general acts provided for the office of assessor. The 4 general acts and 110 of the special charters provided that this official should be chosen by the council, while 43 acts gave the people the power to elect the assessor and 21 gave the mayor, with the consent of the council, the power of appointing him.

80 of the special acts and the 4 general acts either left the term of the assessor undetermined or to the council, but a few more than this combined number fixed the term--83 at one year and 7 at two years.

The qualifications of the assessor, like the other administrative noted above, were in most cases either not determined or left to the council. This is true of 145 of the special and the 4 general acts. 13 of the acts, however, provided that the qualifications should be the same as for councilmen and a very few specified the exact qualifications. The assessor's office was rarely combined with another office--three cases were found in which the marshall was the ex-officio assessor.

The duties and powers of the assessor were almost invariably left to be determined by ordinance; when specified, the most important power was that of assessing all property both real and personal.

As noticed above 88 of the special acts provided that the marshall should be ex-officio collector. Nearly as many special (75) and 2 general acts provided for a separate office of collector. Of these, the general acts provided that the collector should be chosen by the council; 52 of the special acts made the same provision, 14 gave the people the power to elect directly, while 9 gave the mayor the power to appoint the collector with the consent of the council.

A large majority of the special acts (54) and 2 of the general acts either made no statement of the collector's term or left the matter to be determined by the council. However, 18 of the special charters fixed the term at one year and 3 at two years.

As has been indicated of the other administrative officials either nothing was said about the qualifications of the collector or the matter was left to the council. A few of the special acts provided that the collector's qualifications should be the same as those of the councilmen. Only a very few acts gave specific qualifications.

Three special charters provided that the treasurer should be ex-officio collector. With very few exceptions the powers and duties of the collector were left to be determined by ordinance. His usual duties, where specified, had to do with the collection of taxes.

A slightly greater number of acts provided for the office of treasurer than for assessor, but only two of the general acts made provision for this office. 136 of the special and 2 of the general acts specified that the council should elect the treasurer; 37 provided for direct election by the people, while 19 acts gave the mayor, with the consent of the council, the power to appoint the treasurer.

It is thus seen that the council more frequently controls the tenure of the treasurer than of the assessor. The same thing is true of the terms of the two officials. 117 of the special and the 2 general acts either specify no term for the treasurer or leave the matter to the council, while 59 of the charters fix the term at one year and 12 at two years.

As in the case of the assessor most of the charters either provide no qualifications for the treasurer or permit the council to fix them. 16 of the special acts made the qualifications

of the treasurer the same as the councilmen, while a very few specified the exact qualifications. 2 charters made the treasurer ex-officio collector. Just as in the case of the assessor the office was rarely combined with another office.

The duties of the treasurer were usually determined by ordinance. The most important duties, as provided for in a number of charters, were to receive and keep all the money of the municipality, and pay out the same when ordered to do so by the proper authorities.

Only 18 of the special and none of the general acts provided for the office of auditor. A majority of the acts providing for this office pertained to St.Louis and Kansas City. There would seem to be no particular necessity for such an official in the smaller municipalities.

Half the acts just mentioned provided that the auditor should be elected directly by the people, 5 left his tenure to the city council, and 4 gave the mayor, with the consent of the council, the power to appoint him.

From the nature of the tenure it is natural that, in most cases, the term should be fixed by the charter; such was the case, 11 provided for a one year term, 4 for a two years' term, and only 3 left the matter undetermined or to the council.

Following the rule of the other administrative officials, the qualifications of the auditor were either not mentioned or left to the council. 2 of the acts made the qualifications those of the councilmen, while only one gave specific qualifications.

Only one case was found where this office was combined with another, in that case the treasurer was ex-officio auditor. The auditor's duties and powers were usually fixed by the charter. His most important functions were the superintending of all accounts and the drawing of warrants on the treasurer when money was to be paid out. These powers alone would seem to make the auditor the most important financial official of the municipality, just as the state auditor is of the commonwealth.

30 special but no general acts provided for an engineer. In the majority of cases (16) he was to be appointed by the mayor with the consent of the council. 10 acts gave the council the power to elect this official, while only 4 provided for his direct election by the people.

About two thirds of the acts fixed the term of the engineer, 16 at one year and 5 at two years; The others either made no provision or left the matter to the council.

Likewise the qualifications of the engineer were in most cases either left undetermined or to the council. In a few instances his qualifications were made the same as those of the councilmen, and in a very few cases his qualifications were definitely fixed. Only one charter was found which combined any other office with that of the engineer, in this case the engineer was made ex-officio street commissioner.

The powers and duties of the engineer were usually left to be determined by ordinance. When determined by the charter his most important functions were superintending the construction of all public buildings, the surveying of streets, and the superintending of all public

works. In all of these cases, however, he was subject to the control of the council.

Another official, evidently of considerable importance, was the attorney. About 125 of the special, but none of the general acts provided for this office. More than half (76) left the tenure of the attorney to the council, 37 provided for direct election and 14 empowered the mayor, with the consent of the council, to appoint the attorney. In the majority of the acts (68) the term of the attorney was either undetermined or left to the council, but 48 provided for a one year term, and 9 for a two years' term.

Following the general rule, a large majority of the acts either made no provision for the qualifications of the attorney or left the matter to the council; however, about 20 made the qualifications the same as for members of the council, and a few gave specific qualifications, among which was that the attorney must be learned in the law.

The powers and duties of the attorney were usually left to be determined by ordinance; when defined in the charter, the most important were the powers to prosecute all violations of the charter or city ordinance, to defend the city in all suits and give legal advice to all the city officials when called upon to do so. No cases were found in which the attorney's office was combined with another office.

83 of the special but none of the general acts provided for a street commissioner. In a very large majority of cases (70) his tenure was controlled by the council, but 8 of the

charters provided for his direct election by the people and 5 for his appointment by the mayor with the consent of the council.

63 of the acts left the term of the street commissioner undetermined or to the council, while 19 provided for a one year term and 1 for a two years' term.

As is the case with all the other administrative officials, nearly all the acts either made no provision for the qualifications of the street commissioner or left the matter to the council. A few, however, provided the qualifications should be the same as for councilmen and a very few gave specific qualifications. In 1 case the mayor was made ex-officio street commissioner, in 3 the constable was made so, and in 1 the engineer.

The powers and duties of the street commissioner were usually left to be determined by the council. When given in the charter the most important were those of the superintending and the opening up of streets.

APPENDIX I.

Alphabetical by Towns

Athens (Gentry Co.)

Feb.	8, 1853,	Laws (adj.sess.)	p. 583.
Mch.	3, 1855,	Laws	p. 701.
Feb.	17, 1857,	Laws	p. 345.
Nov.	17, 1857,	Laws (adj.sess.)	p. 305.
Nov.	21, 1857,	Laws (adj.sess.)	p. 127.
Mch.	10, 1868,	Laws (adj.sess.)	p. 188.
Mch.	29, 1872,	Laws (adj.sess.)	p. 312.

Athens (Clark Co.)

Nov.	23, 1857,	Laws (adj.sess.)	p. 275.

Alexandria.

Feb.	22, 1851,	Laws	p. 719.
Feb.	27, 1851,	Laws	p. 393.
Dec.	5, 1855,	Laws (adj.sess.)	p. 151.
Dec.	15, 1859,	Laws (adj.sess.)	p. 274.
Feb.	5, 1864,	Laws (adj.sess.)	p. 451.
Mch.	9, 1872,	Laws (adj.sess.)	p. 311.

Arrow Rock.

Mch.	19, 1861,	Laws	p. 236.
Mch.	23, 1861,	Laws	p. 242.

Albany.

Feb.	26, 1873,	Laws (adj.sess.)	p. 206.

Augusta.

Mch.	3, 1855,	Laws,	p. 28.
Mch.	13, 1867,	Laws	p. 14.

Bellefontaine.

Mch.	14, 1859,	Laws,	p. 441.

Bethany.

Jan.	6, 1860,	Laws (adj.sess.)	p. 327.
Mch.	3, 1869,	Laws	p. 93.
Jan.	17, 1870,	Laws (adj.sess.)	p. 239.
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Jan.	12, 1874,	Laws (adj.sess.)	p. 295.
Mch.	12, 1875,	Laws	p. 153.

Belmont.

Mch. 5, 1855, Laws p. 208.
Dec. 9, 1859, Laws (adj.sess.) p. 479.

Berlin.

Oct. 26, 1857, Laws (adj.sess.) p. 332.

Bloomfield.

Feb. 6, 1847, Laws p. 190.
Feb. 4, 1851, Laws p. 716.
Jan. 24, 1853, Laws (adj.sess.) p. 254.
Mch. 2, 1855, Laws p. 700.
Feb. 5, 1859, Laws p. 271.
Jan. 6, 1860, Laws (adj.sess.) p. 301.
Mch. 25, 1870, Laws (adj.sess.) p. 240.
Mch. 27, 1874, Laws (adj.sess.) p. 295.

Bolivar.

Dec. 13, 1855, Laws (adj.sess.) p. 285.
Mch. 4, 1857, Laws p. 497.
Feb. 21, 1861, Laws p. 255.

Boonville.

Feb. 8, 1839, Laws p. 294.
Feb. 15, 1841, Laws p. 306.
Feb. 24, 1843, Laws p. 167.
Mch. 8, 1845, Laws p. 156.
Feb. 13, 1847, Laws p. 183.
Feb. 28, 1851, Laws p. 720.
Feb. 23, 1853, Laws (adj.sess.) p. 257.
Mch. 5, 1855, Laws p. 350.
Nov. 21, 1857, Laws (adj.sess.) p. 280.
Mch. 14, 1859, Laws p. 259.
Dec. 5, 1859, Laws (adj.sess.) p. 370.
Mch. 20, 1861, Laws p. 251.
Mch. 13, 1867, Laws p. 15.
Feb. 18, 1868, Laws (adj.sess.) p. 191.
Mch. 23, 1868, Laws (adj.sess.) p. 190.
Mch. 25, 1868, Laws (adj.sess.) p. 189.
Mch. 4, 1870, Laws (adj.sess.) p. 247.
Mch. 14, 1872, Laws (adj.sess.) p. 313.
Mch. 8, 1873, Laws p. 207.

Boonsborough.

Feb. 14, 1851, Laws p. 717.

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Feb. 12, 1857, Laws p. 479.

Bridgeton.

Feb. 27, 1843, Laws p. 380.
Mch. 10, 1859, Laws p. 443.
Mch. 21, 1863, Laws p. 246.

Brunswick.

Jan. 26, 1847, Laws p. 158.
Feb. 28, 1851, Laws p. 420.
Mch. 7, 1870, Laws (adj.sess.) p. 861.
Mch. 1, 1871, Laws p. 136.
Mch. 28, 1872, Laws (adj.sess.) p. 314.
Mch. 30, 1872, Laws (adj.sess.) p. 316.

Buffalo.

Feb. 24, 1843, Laws p. 382.

Butler.

Jan. 26, 1849, Laws p.
Jan. 4, 1860, Laws (adj.sess.) p. 342.
Mch. 21, 1868, Laws (adj.sess.) p. 192.

California.

Nov. 14, 1857, Laws (adj.sess.) p. 364.
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Mch. 12, 1859, Laws p. 379.
Jan. 10, 1860, Laws (adj.sess.) p. 476.
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Mch. 27, 1861, Laws p. 426.
Mch. 21, 1863, Laws p. 99.
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Camden.

Mch. 10, 1859, Laws p. 252.

Cambridge.

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Camden Point.

Mch. 27, 1861, Laws p. 434.

Canton.

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Cape Girardeau.

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Mch. 2, 1857, Laws p. 274.
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Carrollton.

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Mar. 13, 1867, Laws p. 159.
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Charleston.

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Mar. 16, 1875, Laws p. 178.

Churchville.

Jan. 29, 1847, Laws p. 349.

Clarksville.

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Claysville.

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Cole Camp.

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Mch. 25, 1868, Laws (adj.sess.) p. 286.

Emerson (Houston).

Mch. 3, 1857, Laws p. 421/436.

Farmington.

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Feb. 27, 1849, Laws p. 639.

Farmers City.

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Fayette.

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Mch. 12, 1845, Laws p. 166.
Mch. 5, 1855, Laws p. 691.
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Mch. 8, 1861, Laws p. 381.

Forest.

Mch. 12, 1861, Laws p. 229.
Feb. 20, 1865, Laws p. 409.
Feb. 18, 1868, Laws (adj.sess.) p. 194.

Frankford.

Mch. 7, 1859, Laws p. 247.

Fremont.

Feb. 24, 1855, Laws p. 308.

Fulton.

Mch. 16, 1849, Laws p. 176.
Mch. 4, 1857, Laws p. 265.
Mch. 14, 1859, Laws p. 264.
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Gallatin.

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General Acts Incorporating Towns.

June 18, 1808, Ter.Laws Vol.I, p. 184.
Jan. 17, 1814, Ter.Laws Vol.I, p. 320.
Dec. 23, 1818, Ter.Laws Vol.I, p. 624.
Jan. 26, 1825, Rev.Stat.of 1825, p. 764.
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