

THE HISTORY OF THE COMMON COUNCIL

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You have given me my subject, the history of the Common Council, and I have approached it with the words of Francis Bacon, the 17th century philosopher, ringing in my ears. He wrote:- "If a man will begin with certainties, he shall end in doubts: but if he will be content to begin with doubts, he shall end in certainties". Doubts there certainly are in the early development of the Common Council and certainty only when it finally became the governing body for this City.

The doubts stem from the interconnection of the development of the Court of Aldermen, the Common Council and Common Hall whose roots are inextricably mixed. Historians have differed over whether the Saxon Folkmoot was the forerunner of Common Hall or of Common Council. I believe both views to have truth in them.

The division of the City into wards had developed by the millenium and by 1100, and probably much earlier, each was being run by an Alderman who gave his name to the ward. By 1127, however, a property roll of St. Paul's lists some twenty of those wards under names that can be identified with the present wards and with some Aldermen's names as well. Folkmoots took place in St. Paul's Churchyard and Wardmotes in the wards bringing citizens into touch with their governors.

Then came the breakthrough to real civic government when in 1189 we gained the right to have our own Mayor and, in October 1191 when John and the barons granted the citizens the right of the Commune. So we had in place a Mayor running the City with the Aldermen and with a vociferous citizenry behind them. The Folkmoot had been a form of direct contact with the people which had led, through the Court of Husting, which was attended by commoners representing each ward, to this new position which evolved into Common Council. This was because the Oath of the Commune, set down in 1193, confirmed the right of commoners to be consulted. It said that worthy citizens might from then on be associated with the Mayors and échevins (french for Aldermen) for the good rule of the City. So here were the Mayor, Aldermen and Commoners proposing to sit together, as they do today, albeit at that stage for consultation only.

There was no compulsion on the Mayor to call people for consultation and at first it was people from particular wards being consulted over some local problem. This gave way to consultation with people from all the wards on matters of common concern. A pattern emerged during the following century of the numbers from each ward being related to its size. In 1285, for example, forty men were summoned; one to four from each ward. Articles of Association were drawn up in 1319 for the government of the City. These provided for the imposition of taxes by common consent and for the custody of the Common Seal to be by two Aldermen and two Commoners.

When the charter of 1215 gave the right to elect the Mayor annually, citizens assumed a part in that process, and Common Hall was beginning to emerge, but it was not until 1406 that this was formalised. In 1322 a "great commonalty" agreed that two persons should be elected by each ward who should make ordinances for the whole commonalty. This is the first real evidence of ward elections of commoners. Over the next few decades meetings of citizens, variously called an immense commonalty, a great commonalty, a great congregation - varied the numbers - passed the election of commoners from the wards to the guilds - and decreed that the council should meet twice a quarter. From 1376 this elected executive arm of the great congregation became known as Common Council and in 1384 it reverted to being elected by the wards on an annual basis in the ratio of six, four and two depending on the size of the ward.

The great congregation, which became known officially as Common Hall only in 1738, although informally called that for very many years before, moved in the opposite direction during the 15th century. It moved from comprising of worthy men of the wards, then to a mixture from the wards and the guilds; until it settled in 1475 as the liverymen of the guilds - and remains so today. However, although Common Hall had, in effect, spawned Common Council as its executive arm, it retained the selection for Lord Mayor and the election of Sheriffs and others, and retained the right to discuss any matter of major concern to the citizens, which right it still holds. Thus at many points in our history Common Hall has petitioned the Crown or Parliament separately from the Common Council. A good example of this arose out of the American War of Independence.

In early 1775 Common Council entered a protest before both the Lords and the Commons on behalf of the colonists. In April 1775 Common Hall drew up a remonstrance to the King against the policy being pursued by his advisers. War then broke out and in June 1775 Common Hall drew up a further remonstrance in terms so strong the King refused to accept it, and in October of the same year Common Council submitted addresses to both Houses of Parliament calling for a cessation of hostilities. There are many similar

instances.

Common Council assumed "legislative" functions during the 14th century and this was confirmed to it in that important charter of Edward III in 1341, on which we still rely today to pass Acts of Common Council. This said that if any of the customs of the City became defective or new matters arose, the Mayor and Aldermen, their heirs and successors, with the assent of the Commonalty, could apply a suitable remedy. This has been one of the most important reasons for Common Council having survived over the centuries, because it has reformed itself gradually to meet changed circumstances. The advice of cautious lawyers has prevented its use in recent years to change some aspects of our constitution that changed circumstances have rendered defective and difficult to defend; which is sad.

Common Council also adopted financial powers along the lines of those set down in the agreement of 1319. But again, Common Hall retained important financial powers itself. It appointed the Chamberlain; it had the accounts of City's Cash and Bridge House Estates submitted to it in Common Hall where the Common Council's custodianship of the citizens' wealth could be challenged; and it appointed the auditors. Only the last of these powers survives with the auditors submitting a formal report, although the appointment of the Chamberlain only passed to Common Council when the present incumbent was appointed in 1983. From the time that rate-borne local government developed, Common Council maintained separate committees for rates and City's Cash and the latter committee was very conscious of its responsibility to Common Hall. The two committees were merged as relatively recently as 1968.

So the system of government evolved and for centuries the Court of Mayor and Aldermen governed consulting Common Council on its policies and reliant on its approval of the necessary local taxation. Common Council legislated on the customs but the Aldermen had the power of veto on those changes. It was a system of checks and balances requiring a large measure of agreement between the two sides. The main body of the citizens kept a frequently vocal check on the whole process through Common Hall and through the annual elections to Common Council.

It was inevitable that the larger body, Common Council, should resent the power of the caucus, the Court of Aldermen, and should seek to strengthen its own role. Disputes between the two Courts became more frequent and litigious. Genuine differences, such as during the Stuart period when the Aldermen were mainly Royalist and the commoners mainly for Parliament, inflamed the situation. The parlous state of the City's finances towards the end of the 17th century, brought about in large part by the mis-management of the

Orphans' Fund by the Aldermen and the Chamberlain, leading to the annual interest on the debt becoming greater than the Corporation's entire income for all its services, causing it to default, strengthened the Common Council's hand. With the inevitability of gradualness, this power and that duty moved across from the Aldermen until the Common Council finally became the governing body for the City's local government with the separate Court of Aldermen retaining the other powers that it has today. No one can put a precise date to the conclusion of the process but reference to certain important events in the Common Council's history will indicate a probable time near the end of the 18th century.

For example the Aldermen were still in full control in 1688 when, hearing of the flight of James II, a deputation of the House of Lords came to Guildhall to meet the Court of Aldermen at which meeting it was agreed that the throne should be offered to William and Mary of Orange. The Lord Mayor summoned a Common Council and they agreed with the Aldermen and approved an Address to the Prince of Orange.

In 1719 a dispute arose between the two Courts over an Alderman's ruling on voting rights in an election in Tower Ward. It was taken to law right up to the House of Lords who ruled that the Common Council's claim to jurisdiction over the election of commoners was invalid, and it censured the Common Council for wasting public funds on cases between citizen and citizen within the City's government.

Following further similar litigation, Parliament prepared a Bill to regulate City elections. In general the Aldermen supported it and the commoners opposed it but Parliament carried the Act in 1725. Amongst other things it defined the charges included in "paying scot", the cause of many of the disputes as to the right of electors to vote, and, more importantly for the point I am making, it confirmed the ancient right of the Aldermen to veto Acts of Common Council.

As late as 1782 Common Hall's final address to George III regarding the war against the American colonists was resolved to be presented to the King by the Lord Mayor, the Court of Aldermen and 10 liverymen - not the Common Council.

Yet in 1788 it was the Common Council who petitioned Parliament to abolish the slave trade. Again in 1789 it was the Common Council who addressed Parliament in opposition to Pitt's introduction of income tax - said, incidentally, to be a temporary tax to pay for the war against the French.

These are not conclusive evidence of the change but by 1817 it appears clear that full power resided in the Common Council because in order to prevent the sending of a congratulatory address to the Prince Regent with which they

disagreed the Aldermen were forced to the device of none of them attending and the Common Council was declared inquorate and unable to act.

Turning now to matters of detail that may be of interest to you, from 1574 prayers were said before meetings of both Courts; usually by one of the chaplains. But in 1944, when a prayer specially written by the Dean of St. Paul's for this purpose was submitted to Common Council, it was rejected and the Court resolved that the Lord Mayor be requested to open proceedings with our motto - "Domine Dirige Nos". Two thoughts occur to me on that:-

the first is that at each Lord Mayor's first Court, we wait to hear how he will pronounce those words - and I would never have thought it possible for there to be so many variations of stress and accent as I have heard over the years.

The second thought is of President Ceausescu of Romania's State Visit in 1978. He annoyed us all by demanding that as he was an atheist there should be no saying of grace. The Corporation was minded to cancel the invitation but then felt that if the Queen was going to comply, we should too. We agreed that there should be no grace before the Banquet. But the presentation of the Address of Welcome in the Old Library is made at a short meeting of the Court at the start of which the Lord Mayor said, "Domine Dirige Nos", and the chorus of "Amen" nearly lifted the roof. Our honour was saved to the discomfiture of so disagreeable a guest.

For many centuries meetings of Common Council were private. This was strictly enforced and by resolution in 1428 the penalty for a breach of secrecy was the liability to lose one's Freedom - a severe penalty indeed when one considers that it conferred the right of a man to exercise his trade. It would appear that it was not until the early years of the 19th century that the public were admitted to Common Council.

An Act of Common Council in 1620 required members to wear their livery gown to meetings of the Court, and a fine was imposed for failure to do so - the proceeds going to Christ's Hospital. That Act was repealed in 1761 and a resolution ordered that gowns should all be of mazarine blue silk. It is not clear when the practice of having to wear gowns at all meetings ended but possibly in 1761 because the resolution on the new gowns was silent as to penalties.

Time defeats me so let me close by saying that the Common Council has had a long history and of great moments there have been many. But what could have been more dramatic than that Court meeting on the 5th January 1642 when, in the midst of its business, the doors of the chamber opened and King Charles I strode in with a small retinue. Having failed to apprehend five parliamentarians, Pym, Hampden, Holles, Hazlerigg and Strode, at Westminster

the day before and hearing that they had fled to the City, the King told Common Council that he had come to demand the surrender of the five, accused of high treason, so that they might be brought to trial. He was prepared to redress grievances and to preserve the privileges of parliament, but those present must assist in bringing the five to justice.

After a stunned silence a member cried - "Parliament - the privileges of Parliament" and another "God bless the King" and these cries were taken up by others.

When he could be heard again the King asked that a spokesman make known their wishes. One member rose and said:- "It is the vote of this Court that Your Majesty hear the advice of your Parliament", and another leapt up to say:- "It is not the vote of this Court: it is your own vote", and the cries began again.

When order was restored, the King calmly made a reply; exchanged pleasantries with the Lord Mayor; invited himself to dinner that evening with one of the Sheriffs and withdrew, and one can but imagine the release of tension; the boiling over of dispute; but above all the overwhelming sense of having been present at a great moment in City history.

We also have been a part of that history.