

THE COURT OF ALDERMEN

REFERENCES to Aldermen can be traced to the Saxon period and are earlier in the country at large than in the City of London. Their original natural pre-eminence by birth seems to have developed a political side and they appear to play an important rôle in the growth of cities and boroughs as well as in the organisation of trade guilds. Through them communities were able to develop aside from the general feudal system and to escape feudal services. By the time we meet them in the City of London their power of territorial administration has generally superseded their authority as owners of hereditary lordships. Even so, various members of the family of Farndon continued to bequeath their aldermanry until 1334 and the Prior of Holy Trinity remained *ex officio* the Aldermen of Portsoken Ward till 1532.

The first mention of an Alderman of London by name appears in the year 1111 and we read of the place-name Aldermanbury in 1128. It is a moot point as to whether the ward divisions preceded the Aldermen or the territorial jurisdiction of the Aldermen set the ward boundaries. It is difficult to account for the extraordinary shape of some wards, for example, the detached portion of Farringdon Within, except as the result of property areas or *sokes*. We must be satisfied that the earliest substantial records confirm such a division of the City and, apart from the splitting of Farringdon in 1394 and the creation of Bridge Without in 1550, the number of wards and Aldermen has remained unchanged since the end of the 12th century.

The early proprietary rights of the Aldermen are perpetuated in the 12th and 13th centuries by the lack of any permanent nomenclature for the wards. Identification of a ward was possible only by reference to the Alderman—the ward of Godwin, the ward of Osbert and the ward of Henry de Coventre. In 1228 Cheap ward is described both by its local name and by the name of its Alderman, but the first full list of wards under permanent local names, such as Dowgate, Langbourn and Cornhill, is dated 1285. It is strange that the ward of Nicholas de Farndon was formerly called both Fleet Street Ward and the Ward of Ludgate and Newgate before receiving the modern personal appellation of Farringdon Ward. The name *Bassishaw* also had a personal derivation—a "*haw*" or "*haga*" being an enclosed dwelling place in the case, probably of the Basings—Basings-haw.

The roots of municipal government in the City are to be found in the activities of the Aldermen within their wards. In the 13th century such public services as existed were performed mainly by the wards, or sub-divisions of the wards, under the direction of the Aldermen. No doubt that had been in the habit of consulting

together on matters of general interest and had surrendered some of their freedom of action to such consultations. Indeed, they met together weekly in the Court of Husting, and it is generally considered that the Court of Aldermen developed from the administrative side of this pre-Conquest Court. Many of the earliest references to Aldermen are as witnesses to conveyances of land within their wards. For this service they received a fee of 2s., no inconsiderable sum in the 13th century. So soon as there is any written evidence of their activities as local administrators they are shown to be exercising functions which are part of their normal work in later centuries. They are supervising the watch and defence systems, they are intimately connected with legal matters and the preservation of the peace and they are presiding at ward meetings for raising men, money and arms and for answering inquisitions, royal, legal and municipal. The Aldermen were the tap-root of the municipal tree.

The City of London is peculiar in that the Aldermen are elected by the Wards and not appointed by the Council itself. In this respect the City may be considered more democratic than other Boroughs. The earliest recorded instance of the election of an Alderman by men of the ward is that of Alexander le Ferrun, who was chosen for Walbrook in 1249. Good men of the Ward of Farndone appeared at the Husting in 1357 and elected John de Chichestre to be Alderman in place of Richard Lacier, who had resigned his aldermanry into the hands of the Mayor. This election seems to have terminated the hereditary nature of that aldermanry. The tenure of an Alderman of the City is peculiar in yet another respect. Apart from a short period in the 14th century an alderman, once elected, holds office for life, subject only to resignation or removal for reasonable cause. A charter of 1376 provided "that all and every alderman of the said city, every year, for ever, on the feast of St. Gregory the Pope, from the office of an Alderman utterly and precisely shall cease and shall not be chosen again, but that, instead of those removed, other aldermen shall be chosen every year, for ever, out of the discreet citizens of good fame, by the said wards." In the following year an Ordinance was passed by the Mayor and Alderman and representatives of the principal companies that persons retiring under the operation of the new law should be re-eligible after a year's interval. Thus for a few years during the period of annual elections we have the spectacle of Aldermen serving alternate years. In 1384 the Mayor, on his own motion, disregarded the existing law and allowed immediate re-election. The King, commending his desire to improve the government of the City, issued Letters Patent permitting re-election "to avoid the inconvenience arising from an entire change of Aldermen." Annual elections continued for only 17 years, from 1377 till 1394. In March of the latter year an Act of Parliament sanctioned a revision to the old custom whereby an aldermanry was tenable for life and this law has remained in force for more than 5½ centuries.

There is ample evidence that the main functions of civic government were originally organised by the Aldermen, either individually or in co-operation, in some respects under the supervision of the Sheriffs and the Justices. Their joint powers grew as the corporate unity of the City developed and the recognition of the Mayoralty was the keystone of their Court. Thereafter their powers were immense and they exercised functions both judicial and administrative. The greater part of the legal work came to be held in the Outer Chamber of the Guildhall, which received the shorter designation of Mayor's Court. Administration was debated in the Inner Chamber, the modern Court of Aldermen.

The origin of the Common Council, which later supplanted the Court of Aldermen as the arbiter of civic government can be traced to the 13th century innovation of appointing one or more of the wiser and discreeter persons from each ward to assist and advise the Aldermen. In 1285 forty persons were sworn to consult with the Aldermen, which number was increased from time to time, until in 1346 it was ordered that each Alderman should cause to be elected in his ward "eight, six or four of the better men of his ward, according as his ward be great or small, to be at the Guildhall of London as often as they may happen to be summoned, to treat of the arduous affairs affecting the Commonalty." This appears to be the result of the first real attack on the monopoly of the Aldermen in civic government. Further attacks followed until the Commoners secured a permanent footing in the municipal government of the City.

Nevertheless for centuries the Common Council met perhaps four or five times a year, while the Alderman met almost daily. In the year 1600 the Courts of Aldermen totalled 105, and in 1700 their Minutes covered 620 pages of the Repertory as against 44 pages entered in the Journal of the Common Council. Despite the work of the Aldermen it is remarkable how seldom they are mentioned in the early City Charters. More and more powers and privileges are conferred upon, and more duties imposed on the Commonalty and Citizens. Even then the Aldermen acted as the executive of the Commonalty and it was some centuries before the tide of local government turned in favour of full active participation of the Commoners. The decline of Aldermanic administration was accentuated by the control exercised by the Common Council in financial matters. By charter the Commonalty and Citizens owned the City Lands, and it was to them tolls and duties were granted. With the birth of the modern ratepayer and the centralisation of services formerly performed by the wards the more important functions of local government came finally within the province of the Common Council. The wheel has turned full circle, instead of the Commoners being called occasionally to assist the Aldermen, the more mature experience of the Aldermen is available to help the Commoners. This is so not only in the Court of Common Council, but also in every Committee of the Corporation. A single volume of the Repertory may now

cover 10 years, a period requiring 20 volumes of the Journal of the Common Council.

The Court of Aldermen is summoned and presided over by the Lord Mayor, whose presence cannot be dispensed with except by the appointment under his hand of a *locum tenens*, who must be an Alderman who has passed the Chair. The business to be considered is under his control and he has power to dissolve the Court. Although there is no standing order as to quorum, twelve Aldermen besides the Lord Mayor must be present to constitute a Court. This number was the majority of the Court as required by ancient custom and was not altered when the Ward of Bridge Without was created.

The functions of the Court have never been accurately defined but have developed and contracted concurrently with, and complementary to, those of the Common Council. There have been disputes between the two Courts, particularly in relation to drawing on the Chamber from City's Cash, and Aldermen have been known to depart from a Common Council so that a particular matter should not be debated. These tactics were adopted at Court after Court on some occasions and in 1727 the City Election Act confirmed to the Aldermen the right to negative Acts of Common Council. A bitter struggle over the Negative Voice of the Aldermen resulted in its abolition by Statute in 1746. Considering the possibilities of conflict, such disagreements have been surprisingly rare. At one time the Court of Aldermen exercised considerable legislative power by means of Orders and Ordinances, regulating prices and trades and controlling supplies and workmanship with even greater detail than modern parliamentary legislation. For centuries the Common Seal of the City was in the custody of the Court of Aldermen, and Commoners attended in that Court to witness the sealing of leases, bonds, and other corporate documents. The last occasion when the seal was used by order of the Court of Aldermen was in the year 1722, when the Recorder's salary was assured to him under the common seal.

The modern business of the Court may be summarised roughly under four heads—Elections, Freedoms, Companies, Justice—though odd surviving trifles of former jurisdictions arise from time to time. Powers in respect of Elections, resulting directly from the ancient jurisdiction of the Aldermen within their wards and in the Court of Husting, have since been confirmed by Statutes and Legal decisions. The final choice of the Lord Mayor, as between the two candidates nominated in Common Hall, is decided by scrutiny in the Court of Aldermen. This Court also decides on the suitability of persons elected in the wards for the office of Aldermen and can itself make an appointment after three successive rejections. In 1877 Sir John Bennett was thrice rejected and the Court proceeded to elect Mr. Edgar Breffit for Cheap Ward. In practice a candidate whose return has once been vetoed does not usually offer himself again for election. (This happened in 1935.)

The Court of Aldermen has cognizance of disputed elections of Common Councilmen and any Voter may oppose a return by petition to the Aldermen. All elections in Wardmotes can be questioned and adjudged in this way. In 1928 evidence was taken on oath in a disputed election of a Ward Beadle and the decision of the Court was announced by the Recorder. The resignation of a Common Councilman is reported to the Court of Aldermen under Sec. 59 of the Act of 64 Vict. c. 228 and the Lord Mayor is instructed to issue his precept for a new election. The precept for Common Hall elections was amended in 1927 to permit Livermen to attend without their Livery Gowns, thus acknowledging a state of things that had existed for very many years. Precedent in the City is so strong that courage is needed to make such an amendment to a formal document. This is an illustration of the fact that civic government keeps abreast of the times but changes are often hidden by the retention of ancient forms.

On Plow Monday the Court of Aldermen meet in the Grand Court of Wardmote to receive the annual returns of the elections of Common Councilmen together with any other presentments from the Wardmote Inquests. Formerly many complaints were received from the Wardmotes, but in modern times it requires some such fundamental change as the introduction of a one-way street to stir the Wardmotes into action. It is still usual on Plow Monday to admit by declaration certain extra-constables for the year ensuing. Till 1800 this was the only method of increasing the inadequate number of constables customarily elected in the wards. The City Police Act, 1839, placed the election of ward constables in abeyance, but the City Marshal, Beadles, Officers of the Justice Rooms, of the Markets and of some other public establishments such as the Bank of England have continued to be sworn as extra-constables. The aforementioned Act conferred certain powers on the Court of Aldermen in relation to the Regulation and Establishment of the new Police Force. In 1923, for example, the Court sanctioned an increase in the number of Serjeants. The Police Act also authorises the Court of Aldermen to make orders for the regulation of Traffic, which authority was supplemented by the Street Traffic Act, 1909. Under these powers the Court has made orders in recent years creating one-way streets and gives the necessary instructions for clearing the streets on ceremonial occasions, such as the Lord Mayor's Show, Temple Bar Ceremony and Proclamations of Kingship or Coronation. The Court also orders the Clearing of the Hustings for election purposes, that those who are not entitled to vote be excluded. It may be mentioned here that on the demise of the Crown the Lord Mayor and Court of Aldermen attend the Privy Council and sign the Proclamation declaring the Successor to the Throne. The Court of Aldermen enjoy an unquestionable right to present petitions to the Throne, and by the hands of the Sheriffs, to the House of Commons.

The considerable work of the individual Aldermen as Justices

of the Peace I do not propose to deal with in this paper, but is reflected in the control exercised by the Court of Aldermen over officials of the Justice Rooms and Old Bailey. The Court elects the Recorder and appoints and admits the Steward of Southwark, the Clerk and Cashier at the Guildhall Justice Room and the Assistant Clerk to the Lord Mayor, together with various Gaolers and Summoning Officers. Under the Promissory Oaths Act, 1868, many of the more important City Officers, such as the Chamberlain, Town Clerk, Common Serjeant, Judge of the Mayor's Court and Remembrancer, make their Declaration of Office in the Court of Aldermen, which is also the venue where the Sheriffs elect execute bonds to take office. Mr. Remembrancer reports to the Court on all Bills in Parliament relating to the Administration of Justice, Licensing and other subjects affecting Justices of the Peace. In 1932 the Court resolved to establish a separate Juvenile Court at Guildhall and throughout the centuries has endeavoured to preserve the ancient privilege that none other shall be Justice over the Citizens of London.

The control exercised by the Court of Aldermen over the Livery Companies arose partly as a result of the recognition of the Companies in the 14th century to a share in the government of the City and partly by reason of civic regulation of the freedom apprenticeship and trade. The Court of Aldermen have always had cognizance of admission to the freedom through the Companies and oversight of matters relating to apprenticeship. On the other hand it was decreed as early as the 14th century that strangers to the City should be admitted to the freedom only before the Commonalty in full Husting, now the Commonalty in Common Council. The authority of the Court of Aldermen over the Companies rested on custom but was strengthened by an Act of Parliament of 1437 which provided that all Letters Patent should be registered before the Justices of the Peace of Counties and Governors of Cities and Town and that no ordinances should be made except they be approved by the said Justices and Governors. A further Act of 1504 requires all ordinances made by Fellowships of Crafts or Misteries to be examined and allowed by the Chancellor and Chief Justices. The result is that to-day the terms of Charters of Incorporation are approved by the Court of Aldermen before submission to the Privy Council to ensure that they do not infringe City Customs and all ordinances of City Companies have no legal force until sanctioned both by the Aldermen and by the Lord Chancellor and other Justices mentioned in the Act. During the last 10 years the Court has considered the draft of five Charters and an equal number of Ordinances, and has frequently exercised its power to amend the same.

The wearing of a livery became of the greatest civic importance when in 1475 attendance at Common Hall was restricted to liverymen. From 1560 onwards a Company wishing to adopt a livery had to obtain the consent of the Court of Aldermen. Quite recently two new Companies were granted liveries by the Court,

namely, the Master Mariners and the City Solicitors. Such grants after the year 1712 have always limited the number of liverymen to be admitted by the Company, with the result that Companies created after that date have need to petition the Court for any increase above the number of the grant. In recent years the Court has entertained many such petitions, indicating a revival of interest in the Livery Companies. When granting a livery a stipulation has often been added setting the amount of the livery fine. As the value of money has decreased the Companies one by one have petitioned for permission to increase their livery fine and the Court has adopted a practice of setting a minimum fine, perhaps in contemplation of further inflation.

An order of the Court requires all such petitions by the Companies to be referred to the General Purposes Committee for consideration and report. The three other Standing Committees of the Court rarely meet, but the Aldermen take a full share in the work of all the Common Council Committees. It appears that the very ancient connection of the Aldermen with the Governorship of the Royal Hospitals may soon be severed. The charity known as Emanuel Hospital for the benefit of the aged poor of Westminster, Chelsea and Hayes is administered by the Court of Aldermen, who also appoint the trustees of Morden College, Blackheath, six Almoners to Christ's Hospital, six Governors of the United Westminster Schools and six Members of the Visiting Committees to the Prisons of Brixton and Holloway.

Perhaps the most significant aspect of the constitution of the Corporation is the continuity of the Court of Aldermen, not only as a separate chamber but also as a part, and an essential part, of the Common Council. In 1824 the Law Officers gave their opinion that originally the presence of a majority of the Aldermen was requisite to form a Common Council, but that the practice of the last two centuries in requiring the attendance of any number beyond one had established a sufficient custom. Members will be familiar with the names of two Aldermen on the Rota printed at the head of the modern Common Council Summons.

In 1847 the Town Clerk argued that if the presence of 12 Aldermen and the Lord Mayor was necessary to constitute a Court of Aldermen, then, *a fortiori*, as that Court was an integral part of the Common Council, thirteen Aldermen must be present at a Common Council. Long usage, since continued, was held to defeat his argument. Nevertheless, prior to the War of 1939-45, the Summons to the Aldermen to attend at a Court of Common Council continued to be headed:—

“Your Worship is desired to be at a *Court of Aldermen on.....*”

“N.B.—A Court of Common Council will be holden.”

I mention this not that I wish the ancient custom of the attendance of the majority should be re-introduced but rather, like the Aldermen of the 15th century who protested to the Commonalty that they *too* were Citizens of London, to stress the continued responsibility of the Aldermen in the civic constitution.