CHAPTER XVIII

SOME CONFLICTS IN STATE GOVERNMENT

There is no use in our spending much time here in a detailed description of the various departments of the state and what they do. You can always get that much better out of the last Wisconsin Blue Book than we can give it. There is one very interesting thing, however, which you cannot get from the Blue Book. That is the struggle which is going on constantly between state and local government. Large cities are always trying to escape from the control of the state in the matter of rate-making and taxation. They can afford to hire their own experts to study the costs of street railway service, gas, electricity and water. They feel that they could make a better bargain with the companies furnishing these things than the state makes for them.

The cities also resent the collection of taxes within their borders to be used for roads, schools and other purposes outside. They want to spend their money for themselves and to suit themselves or not at all. In other words, they want "home rule."

Some people in the rural communities feel just the same way. They want no interference from the state; no marketing regulations, no requirements as to the kinds of teachers and schools. Of course, some one must have wanted every state service at some time or it would not have been started. A great many people wanted them all, in fact. In most cases, these services were only assumed by the state after years of discontent and discussion. But the trouble is that if the state is to do things, it must do them through individuals employed to do them. Those individuals have to be paid. When they get out into the state, they, like other human beings, do some wise and some unwise things. They are bound to irritate some one.

It is quite natural that public opinion should veer back and forth on the question of what services it wants the state to perform. A person might very reasonably want something done but draw back when he saw the disadvantage of having some one try to do it, or when he saw the results of trying to do it, or when he saw the cost of doing it. It is easy to say "There ought to be a law to stop that." When we get the law, however, and find out how many people the state has to employ to do the stopping, we are liable to lose our enthusiasm. That is what happens in the case of our state boards and commissions.

We can see many other conflicts besides the one between the state and the local community. There are sometimes bitter struggles between the state and the nation for power. There is a struggle between those who would have the nation keep all the power it now has and those who would like to see the nation give up some of its power to an international organization like the League of Nations.

Within the State of Wisconsin, just as within every other state and nation, there is a constant struggle for power going on between the executive and the legislature; between the legislature and the courts; between the legislature and the administrative departments it created; among the administrative departments themselves; between the people and their legislators; between the people and the administrative commissions.

These struggles are not bad and wicked. They are natural and in the main rather healthy. They arise because the governor, the legislature, the boards and commissions and the people themselves are alive and energetic; full of ideas and enthusiasm for performing their duty; eager to take responsibility and push ahead. In doing things, they run into the plans of others and have to stop and come to some agreement before
they go on. We cannot take time to go over the whole history of the changes that have taken place in the relations of the various departments of government in Wisconsin, but we ought at least to see something of how we stand at present.

During the first twenty-five of the forty years we are studying, there was a steady trend toward state regulation of our comings and goings. During the last fifteen years there has been a reaction against state interference in what are considered local affairs. The reaction is not however, a very violent one. The so-called Home Rule Amendment of the constitution was a very mild affair granting cities home rule except in matters of state wide concern, but leaving to the supreme court of the state the duty of deciding what are state and what are local affairs. In the main the legislature has extended the services of the state very cautiously. In the legislature itself, and in the minds of the individual members there is always a conflict between the sentiment for local independence and the sentiment for state regulation. A large percentage of state legislators have been or are now members of local governing bodies: town boards, county boards, and city councils. Most legislators do not set up a slogan like "Home rule" or "State control" and cling to it at all costs, but use moderation and common sense, and try to find the best thing to do on each question which comes up.

A good example of the home-rule versus state conflict is the law regarding the county nurse. The legislature of 1919 required every county to employ one or more registered nurses to look after the health of school children and others. At every session since then there was an attempt to make optional the employment of the county nurse, until, in 1927 it was made optional with the various county boards to employ or not to employ.

The struggle between the executive and the legislature is not so evident in Wisconsin as in some states. In some other states, those who believe in a strong centralized government have secured for the governor control over the various departments by means of the "Executive budget" and the veto of items in appropriation bills. In those states, the governor usually recommends to the legislature one big appropriation bill containing his recommendations for all the state departments. If the legislature changes the bill in a manner which he does not approve, he has the power to veto the items of which he disapproves to approve the rest of the bill.

In Wisconsin a State Board of Public Affairs of which the governor, the secretary of state, the president pro tem of the senate, the speaker of the assembly and the chairman of the Joint Finance Committee from each house with three others appointed by the governor are members, study the needs of the various departments and recommend the appropriations for the next two years. A bill is introduced for each department so that the legislature considers each case separately. When the legislature, after making such amendments as it sees fit, passes an appropriation bill, the governor can either approve or disapprove it. He can not approve of parts of it and throw out others. Thus in Wisconsin the legislature has retained much of the power to control departments by determining their appropriations.1

One institution which keeps the legislature from discontinuing hastily without careful consideration the work of any department which a previous legislature has established, is the continuing appropriation. When most of the important departments are established, the legislature grants them a certain sum of money annually.

With a continuing appropriation, as this arrangement is called, a department does not have to ask succeeding legislatures for money unless it wants something more than

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1 Since this chapter went to print, the legislature has abolished the State Board of Public Affairs and provided for a Director of the Budget, and for one big appropriation bill prepared by him according to the wishes of the Governor.
the continuing appropriation. Of course the legislature can repeal the continuing appropriation, but in order to do so it is necessary to have a majority of those elected to both houses and it is not easy to get that for a repeal.

We have not in Wisconsin, had as many instances of the courts declaring invalid measures passed by the legislatures as in some states. This is partly because the legislature has been careful in the drafting of measures. Laws making fundamental changes have often been the result of months of study by committees with the assistance of trained draftsmen in the Legislative Reference Library.

It is strange that there should be any struggle between the legislature and the boards and commissions which it has created. But until lately the legislature had little control over these bodies after it created them. They were appointed by the governor, as a rule, and could be removed by the legislature only after an impeachment trial in which some misdeed could be proved.

Recently, by a gradual process, the legislature has taken to itself more control over these bodies. In 1913, in his book “The Wisconsin Idea,” Dr. Charles McCarthy of the Legislative Reference Library, predicted that the time would come when the legislature would assume more control over the administrative bodies. In 1915 when the state conservation commission was established a new feature was inserted. The members of the commission were to be subject to be called before the two houses to answer such questions as might be put to them. This process is called “interpellation.” In 1917 the provision for interpellation was made to apply to all appointive officers of the state. In 1919 the Division of Markets was created in the Department of Agriculture. This time a stronger clause was inserted. The new director was to be subject not only to interpellation, but in addition to removal by a majority vote of the members elected to each house. In 1923 the final step was taken when all appointive state officers were declared to be subject to removal by this method.

The legislature has at last asserted its powers over the various administrative departments. It leaves the appointing power with the governor, but it can remove if it sees fit.

In taking this step, the Wisconsin legislature has set up a new precedent in the United States. The law making body of Wisconsin can do to the administrative officials what the law making bodies of England and the other Parliamentary bodies of the world can do to their cabinets. The principal difference is that in the Parliamentary countries there is a prime minister heading up these departments and directing their policies but like them removable by Parliament, while in Wisconsin there is a governor elected by the people whom the legislature cannot touch so long as he conducts himself honestly and decently.

Another conflict is that between the people and their legislators. It seems strange that there should be any such conflicts because the legislature is elected by the people. But the people, while they trust one man enough to vote for him as senator or assemblyman, often distrust the whole body of representatives when they all get together. Legislators, when they get down to Madison, meet others who have been there year after year, and sit in committees day after day. They are inclined sometimes to see things differently from the way they saw them back home.

Some of the people, distrusting their legislators, have urged that the constitution be changed so that they can recall legislators who do not satisfy them. They have also demanded the right to initiate laws by petition and to pass them by popular vote or referendum, without reference to the legislature. Two legislatures, those of 1901 and 1913 passed proposals for the initiative, referendum and recall, but all three were turned down by the voters in 1914. Provision for recall however, was passed again
by the two houses in 1923 and 1925, and was adopted by the people in November, 1926. These are some of the conflicts that are all the time going on in state government. There is no reason to believe that they will ever stop or that it would be a good thing if they did stop. We shall all keep on taking sides. Sometimes we shall find ourselves with some of our friends; sometimes with others.