

## THE LEGISLATIVE REFERENCE MOVEMENT

During the past decade two pronounced movements have characterized American Democracy. In the first place, there has been a determined effort to bring government and administration nearer to the people. This is true at least of the forms if not of the substance of our political institutions. The most conspicuous result of this movement has been the provisions for nominations by direct primaries, while the initiative and referendum are other illustrations of the same tendency.

In the second place, the growing complexity of our social, political, and industrial life has made imperative the organization of expert boards, bureaus, and commissions in order to collect and systematize those facts without which intelligent and rational legislation is impossible. In the popular mind the tendency of late has been to magnify the importance of the former movement and underestimate the necessity of the latter. Both, under present conditions, seem to be essential in the evolution of American Democracy and should, therefore, be wisely directed toward the accomplishment of their common purpose, which is the realization of efficient popular government.

The establishment of expert boards and commissions has not been confined to any single phase of our political life nor to any particular unit of government. Indeed, the movement has become quite general in city, state, and nation. The existence of tax commissions in a number of our States is a convincing argument for expert knowledge in the difficult field of Public Finance. Any well informed man who is without bias will admit that genuine fiscal reform in any American Commonwealth is impossible without

an efficient non-partisan tax commission. Railroad commissions also exist in a majority of our States, and the powers of these commissions are being enlarged and more specifically defined. At Washington the Interstate Commerce Commission, the Bureau of Corporations, the Bureau of Immigration (in fact the whole Department of Commerce and Labor) may be added to the list. Moreover, the idea of a permanent tariff commission has many able and influential advocates. The recent Public Utility Commissions of New York and the one in Wisconsin are examples of the latest and most mature thought in this significant movement for expert knowledge in the administration of public affairs. Nor should voluntary bodies such as the Bureau of Municipal Research in New York City be overlooked in this connection.

It is in the light of this logical and perhaps inevitable tendency to establish expert bodies that one discovers the origin and growth of the so-called Legislative Reference Department; for it is evident that such a department is not a separate and distinct institution either in growth or purpose. Besides having had organic correlation with State libraries and State historical societies in our various Commonwealths, its growth is but a part of the larger movement to which we have referred.

Legislative reference work may be defined as that particular form of scientific research and publication which makes the materials of State libraries, historical societies, and allied institutions available, with the minimum of effort, to the legislator and to the public at large. It involves first, the collection of current and historical data from other States, and also from foreign countries, together with expert evidence from every possible source; and secondly, it implies the thorough classification of this material, or what is far better the preparation of scientific mono-

graphs whereby all the facts, historical, industrial, constitutional, etc., may be made the basis of legislation and therefore of social progress.

The writer, being personally acquainted with the Wisconsin Legislative Reference Department since its inception in 1901 and thoroughly appreciating the admirable work of that Department, has been much impressed with the desirability of the adoption of its fundamental principles by other States and more especially by Iowa. Before preparing this brief statement, an investigation of the facts was undertaken, and letters, pamphlets, and other data bearing upon the question under consideration were received from practically all of the States. The results of this investigation may be briefly summarized.

The States in which organized legislative reference work is being carried on at present are:

Alabama	Michigan	South Dakota
California	Nebraska	Virginia
Connecticut	New York	Wisconsin
Indiana	North Dakota	
Massachusetts	Rhode Island	

In most of these States the work has been organized within the past two or three years. Indeed, in six States such departments were provided for at the legislative session of 1907. Furthermore, it appears that plans are now being made to enact laws providing for legislative reference work in Oregon, Maine, Kansas, Kentucky, Ohio, Minnesota, Pennsylvania, and Georgia. It is apparent that it is only a question of a short time when such departments will be established in a majority of our States. (It should be particularly noted that the movement is especially pronounced in the States of the Upper Mississippi Valley.) With legislative reference work already in progress in North Dakota, South Dakota, Wisconsin, Michigan, In-

diana, and Nebraska, and with Minnesota and Kansas preparing to enter the list, Iowa will be quite alone unless definite steps are soon taken to provide for this simple and inexpensive method of securing rational and at the same time progressive legislation.

The question naturally arises, where and when did the legislative reference movement originate? As with so many other movements, it is not possible to secure data as to the absolute origin of this work. It has been a growth, the beginnings of which are not easy to find. A very important step was taken by the State Library of New York in 1891 when Melvil Dewey began the publication of *Bulletins on State Legislation*. Excellent work has been done by the New York Library; yet as late as 1903 the statement is made in one of their own bulletins that "As yet, however, little more than a beginning has been made toward proper organization of the resources of the library for this purpose."

Just ten years after the work was commenced in New York by Mr. Dewey, the Wisconsin legislature made the modest appropriation of \$1500 for reference work. The Department was placed in the hands of Dr. Charles McCarthy, under whose efficient management it has experienced a remarkable development. In Wisconsin the Legislative Reference Department is now recognized as a necessity. The letters received from Wisconsin State Senators and other high officials afford eloquent testimony of the usefulness of legislative reference work in the State where it has attained its highest development. The rapidity with which the general movement has grown during the last five years has in no small degree been due to the efforts of Dr. McCarthy.

If it is true that one can not fix any definite date for the beginnings of legislative reference work, the reason seems

to be that, in theory at least, the State Library itself has in a sense always been a legislative reference department. Furthermore, it may justly be affirmed that the various State libraries and the State historical societies do in a measure exist for the purpose of collecting and publishing materials useful in legislation. The State Librarian of Massachusetts writes that "this State Library is organized, as I believe all State libraries should be, as a legislative reference department."

But often times theory is one thing and practice quite another. And so, while State libraries and State historical societies should from the nature of things perform this high office, the truth is that such institutions quite generally contain merely so much latent material from the standpoint of practical legislation. How to make this material available to the legislator has come to be recognized as an important problem during the past decade. The Legislative Reference Librarian has a necessary part in this work. But the task can not be performed by him alone. The State Library and the State Historical Society should direct a part of their energies toward the realization of the same end.

It follows from these observations that legislative reference work should not form a separate and distinct institution but should be organically correlated with the work of the State Library or the State Historical Society or with both. In Wisconsin legislative reference work is, nominally at least, under the Wisconsin Free Library Commission. In Nebraska and South Dakota it is officially connected with the State Historical Society. In Alabama it is treated as a function of the Department of Archives and History. And in Indiana it is a department of the State Library. Be the official connections what they may, the fact is that all of the institutions mentioned are or ought to be one in

purpose. Only in this way can duplication of material and official staff be avoided and the State be given the maximum of expert service at the minimum of cost.

The history of legislative reference work in the American States may be divided into three distinct periods. The first period is that in which State historical societies and State libraries perform their duties in a perfunctory manner as regards practical legislation (the writer does not refer to State law libraries). Their collections represent so much dead material save to the trained student of research. Legislative reference work is done only in theory. Not more than one-third of the States have gone beyond this stage.

The second period is illustrated by the States that have organized Legislative Reference Departments as quasi distinct institutions in which the ordinary library rules of arranging and cataloging material are not used. Under this plan there is necessarily much duplication of material, official force, and expense. All the States that at present do reference work, with the possible exception of New York and Massachusetts, belong in this class. That much excellent and useful work has been accomplished in these States in this way, no well-informed person will deny. The only criticism found in the letters I have received may be attributed to that over-enthusiasm which often results by divorcing such an institution too much from the solid facts of history.

If the legislature is to pass sound and at the same time progressive measures — laws that will work and stick — it is quite as essential to survey the historical background of our State as it is to collect and tabulate the frequently ill-digested laws of neighboring States. There is nothing which prevents ultra-radical action and doctrinaire views from becoming the basis of legislation like a careful and

thorough appeal to the facts of history. This is in my opinion the one weak point in the legislative reference movement as it has thus far developed in the American States. Thus far Legislative Reference Departments have been to a large extent bureaus merely for the collection and organization of *current material*. They have not given enough attention to the far more important problem of scholarly *historical research* and publication. It is this more than anything else that is now needed to give ballast and dignity to the movement—especially when one reflects that in these later days it is quite as essential to safe-guard legitimate business as it is to protect the so-called interests of the public.

The third period may be characterized as that in which the State Library, the State Historical Society, and legislative reference work are so correlated, or at least so administered, as to effectively coöperate in the purpose and effort of sound legislation. The New York State Library is perhaps the nearest approach to this ideal. Under the coöperation suggested all State institutions would in fact, if not in organization, form one great bureau of research and publication in which materials and efforts are not duplicated. The Legislative Reference Expert is a necessary part of such a bureau; and in my judgment his functions should be as follows:

1. To collect current laws and other data necessary for preparing the last chapters in a long series of historical monographs. In this way his services are indispensable to the State Library and the State Historical Society.
2. To act as a medium between the legislature and trained research work everywhere in the State and along all lines which in any way touch legislation.
3. To aid legislators in finding material. If this material has not been worked over and carefully written up by

a competent research man, it is the business of the Reference Expert to see that it is at least arranged in a manner so that it may be easily studied.

4. The Legislative Reference Expert should be a medium between the legislature and the best expert evidence wherever such evidence may be found. He should see that all interests are represented. In this connection he should not be a so-called "lobbyist of the people". He should represent the public at large and not any particular class or institution. This function is well illustrated by the method of passing the Wisconsin Public Utility Law, concerning which Hon. M. S. Dudgeon of Wisconsin said: "A somewhat unique situation thus developed. Here were legislators, experienced draftsmen, eminent economists of the University, high priced legal counsel and experts representing special interests affected, state and city officials, as well as public spirited lawyers and other citizens interested in behalf of the public, all centering their efforts and contributing their best thought toward the forming of a single law. That such a situation developed was in a large degree due to the legislative reference department."

5. The Legislative Reference Expert should not be an agitator or propagandist. He should in every legitimate way be a servant of the people's representatives, but in no case should he aspire to be a legislator. Nor should he be directly engaged in the framing of bills, a function which properly belongs to the legislature itself or to experts appointed by it and therefore directly under its authority as in New York. In this way there can be no possible danger of usurping power which can be safely trusted only to the chosen representatives of the people. Says C. B. Lister of the New York State Library: "In New York the bill drafting work is done through an entirely separate organization under the direct control of the Legislature. This bill draft-



ing feature has been prominent in the work of the western departments and has always proved very popular. It is, however, something which I personally think should be under the control of the legislature and in hands different from those controlling the reference work, but the two should be carried on in the very closest connection in order that the one may supplement the other."

In conclusion it is hardly necessary to state the self-evident fact that legislative reference work should be strictly non-partisan, and that the office of Legislative Reference Expert should not be a political one. The Expert should be appointed on the basis of merit only; he should be a trained student of history, economics, and political science; and he must necessarily be a good "mixer", a man of tact and sound judgment.

Legislative reference work thus organized is universally recognized to be a necessity in the States where it has been established. It is considered to be a *sine qua non* of well conceived legislation. The writer is convinced that the average American legislator of to-day has both the honesty and the ability to enact wise laws after he is in full possession of the facts. Too much has been said of late from Chautauqua platforms and elsewhere in way of crimination and recrimination on this point. The sphere of legislative reference work is to furnish facts — the legislator himself not only can but should be trusted in the actual work of law making.

Is it too much to hope that the State of Iowa will organize legislative reference work along the lines described as representing the third stage in the development of this kind of work? Mr. Johnson Brigham of the State Library has investigated the problem and is thoroughly familiar and in sympathy with the importance of such work; and as regards reference materials a substantial foundation has al-

ready been laid in our State Library. On the other hand, as regards scientific research in the field of the historical, political, and economic conditions of our Commonwealth, it appears that The State Historical Society of Iowa, under the direction of its Superintendent, Professor Benj. F. Shambaugh, has not only outlined and directed such investigations but has already taken up the work of publication.

It should also be noted that the Thirty-second General Assembly went on record as endorsing the value of legislative reference work when it appropriated \$2,000 (for the biennium) for the salary of a "legislative reference and general assistant" in the State Library.

A good beginning having already been made in our State, the problem of providing for legislative reference work with a competent Legislative Reference Expert ought to be comparatively simple. If our State Library, State Historical Society, and allied institutions are made one in purpose they will in fact all together constitute a Greater Legislative Reference Bureau engaged in collection, research, and publication, doing all the things which legislative reference departments in neighboring States are endeavoring to accomplish. In this way through correlation and concentration of effort the State can receive the maximum of expert service at the minimum of cost and be afforded an institution based on the solid foundation of historical facts. Such an institution will, in a very real sense, be the means of rational progress — a progress not tempered too much by reaction.

JOHN E. BRINDLEY

IOWA STATE COLLEGE OF AGRICULTURE  
AND MECHANIC ARTS  
AMES