

TALK FOR ARCHBISHOP AT CHARTER HEARING

Grout and Philbin as His Counsel Take Mr. Bruere and Research Bureau to Task.

CONTROLLER'S INQUIRY HIT

Debate Over Old Order Affecting St. Malachy's Home—Funds Said to Have Gone to an Official.

Charity and the charter were both forgotten in the heated discussion that ensued at the hearing on the Cullen-Foley New York City Charter bill in the Aldermanic Chamber at the City Hall yesterday. The provisions relating to the Charities Department were taken up for consideration. Hearings are being held before the Cities Committees of the Senate and Assembly, preliminary to arranging the bill for final passage at the deferred session of the Legislature, which will open on Sept. 5. So bitter became the controversy that, as it was drawing to an end, an excited individual who declined to give his name, rushed in front of the rostrum where the two committees were seated, and throwing his hands wildly into the air, exclaimed:

"I object to this. This is supposed to be a hearing on the New York City charter, but it has degenerated into an acrimonious quarrel between the Catholic Church and the Bureau of Municipal Research."

Former Controller Edward M. Grout, representing Archbishop Farley; ex-District Attorney Eugene A. Philbin, representing the Catholic charities; Charities Commissioner Michael J. Drummond and Dr. William H. Allen and Henry Bruere, Directors of the Bureau of Municipal Research, held the centre of the stage while the Charities Department was under discussion.

Apparently by prearrangement the investigation ordered by Controller Prendergast some time ago of the accounts of certain Catholic charities receiving aid from the city, which led to such a storm of indignant protest, was brought up through a question of Assemblyman Hoey, who is a member of the Cities Committee in the lower house. This gave the cue, and during the next hour or so the discussion went far astray from the subject of the proposed new charter. Incidentally, there was an echo of the scandal that followed the intimation that the Controller's investigation had disclosed concerted action on the part of several charitable institutions receiving city aid to join in a fund collected for the purpose of helping out of financial straits a man who still holds office under the Gaynor administration, but whose name was not mentioned.

The Report to Come Out.

This matter was investigated at the time by Commissioner of Accounts Fosdick, whose report the Mayor has not made public. Threats were made by the representatives of the Bureau of Municipal Research that the report would be made public when the Controller returned from his vacation.

Henry Bruere of the Research Bureau was the first speaker after Senator Chien of Kings, Chairman, at the hearings announced that provisions relating to the Charities Department in the proposed new charter would be taken up for consideration. Mr. Bruere objected to the provisions in Sections 82 and 84 of giving the Charities Commissioner audit that shall be "final and conclusive" in the case of all moneys paid by the city charitable institutions caring for dependent children, and giving him also sole and discretionary power of supervision of private charitable institutions receiving city aid.

Mr. Bruere held that the Board of Estimate which makes the appropriations for these institutions should have supervisory powers as well as the Charities Commissioner, and that the final audit of city money paid out in aid of such institutions should rest with the Controller.

"The arguments which apply to any other disbursements of city funds," said he, "would seem to apply with equal force and effect to disbursements made by the City of New York to private charitable institutions in aiding them in their work. These disbursements now reach the great sum of \$5,000,000 a year. You should not take from the Board of Estimate the power to find out whether the conditions under which it has made the appropriations are complied with. I do not know what reasons and motives led up to the suggestion that the Charities Commissioner should be burdened with all the power with respect to these private institutions, except I assume and I know there has been a good deal of opposition to the investigation now being carried on by the Board of Estimate committee. I am not here to suggest that you have any provisions which will infringe on the privacy of these institutions, but merely that you should not set up barriers against frank relationships between these institutions and the city. I think that, at least, you should permit the Board of Estimate to find out the estimated per capita cost at which the children sent by the city are maintained in these institutions."

"How far do you think that investigation ought to go to find out the estimated cost of each child per year?" asked Assemblyman Foley, Chairman of the Cities Committee in the lower house.

Looking Into the Charities.

"I think it ought to be an actual audit of their expenses for the maintenance of those children and should include both the income and the expenses," Mr. Bruere replied. "Where the institution itself is paying for part of its service out of its private funds it receives from contributors and part out of public funds, I think the city ought to learn what all its services cost and what its entire income is."

At this point Assemblyman James J. Hoey picked up a typewritten sheet and turning to Mr. Bruere asked if he thought the investigation of the Controller ought to go as far as the order which the Controller and President Mitchell of the Board of Aldermen as the committee from the Board of Estimate which investigated the private institutions had issued to their examiners contemplated. Mr. Hoey read from the document:

You are directed to proceed at once to this institution (St. Malachy's Home) and to make an investigation and examination of all books and accounts and check books of the institution, whether relating specifically to funds paid to such institution by the city or not, and to report all unexplained or suspicious items, as, for example, items for special counsel fees, missionary masses, conscience funds, &c. Particularly all drafts drawn to any of the following: Mgr. Mooney, Mgr. Lavelle, Mgr. McMahon, and D. C. Potter. Dr. Potter is head of the Ambulance Board, but at that time was connected with the Charities Department.

Examine the accounts, check books, and other records of this institution from June 30, 1905, to June 30, 1907. Report at once to President Mitchell any obstacles placed in the way of your investigation of the institution which you are directed to visit. You are expected to complete the investigation examination of the institution to which you have been assigned on or before June 27, at which time you will report to Mr. Mitchell at the office of the President of the Board of Aldermen for reassignment. The investigation is strictly confidential in every respect, and must not be discussed with any person whatsoever.

Doubts Order Was Issued.

Mr. Bruere replied that he would leave it to Mr. Prendergast and Mr. Mitchell to answer Mr. Hoey's question, but that he believed it was of the utmost importance to the city to know where funds of institutions receiving its aid were being used for illegal or improper purposes. Mr. Bruere added that he doubted whether either Mr. Mitchell or Mr. Prendergast had issued any such order, because, he thought, they would have accepted such matters as missionary masses and conscience funds.

"I think there is nothing so dangerous or contemptible as to drag into a discussion of the care of the city's wards matters which involve religious prejudices," he added with some heat.

"Since you have raised this question,"

he added, "let me say one thing—that investigation was made, because last Summer there was brought to the Controller's attention by one of his examiners a check drawn on the so-called private funds of an institution, funds gathered all over the land, I suppose, by appeals to aid this institution in the performance of its charitable work. Upon that check was found an indorsement drawn for special counsel fees, and on the back of it it was said that this check was drawn and cashed, and understood to be for the purpose of helping a certain public official intimately related to these institutions out of financial straits, that the money was paid over to the Treasurer of the institution, and so far as the person making the indorsement, who was an official of the institution, knew was given to the person for whom it was intended. The Treasurer of that institution testified under oath that he had contributed this money for that purpose, and that, so far as he knew, like contributions had been made by other institutions, and the same information was received from another source, the character of which I do not know. It was subsequently denied by that officer and the man who was supposed to have acted as intermediary, but it was conceived by Controller Prendergast and Mr. Mitchell a proper subject to investigate."

It was shortly after this statement had been made by Mr. Bruere that ex-Controller Grout was accorded the privilege of the floor.

"I appear here as the representative of his Grace, the Archbishop of New York," said Mr. Grout. "Incidentally I represent the thirty-eight Catholic institutions. I have nothing to say as to whether or not any of these proposed revisions in your new Charter should or should not be adopted, that is a question upon which we do not presume to express any opinion, but I do want to say a few words to correct the many misstatements made here by the representatives of the Bureau of Municipal Research."

"Mr. Bruere ventured some suspicions as to an alleged check indicating a diversion of money, but he carefully refrained from saying at any time that money received from the city was to be paid to any public official, and neglected to inform you that these charges were sent by the Mayor to his Commissioner of Accounts, were by him fully and completely heard, and that he had by force of the testimony to report to the Mayor that the charge of bribery or attempted bribery was not sustained."

Research Bureau the Investigator.

Following this charge, following this investigation which was performed not by city officials but by representatives of the Bureau of Municipal Research, as to whom I have a doubt whether the Controller had any right to delegate his powers, and which investigation as has been intimated by the reading of this letter was conducted in the most offensive way that ingenuity could devise, the Archbishop employed a great accounting firm who have had a force of twenty-five or thirty men at work on the books of these institutions at an expense of over \$70,000 in order that the Archbishop might know that his institutions were being conducted honestly."

"I venture to suggest," said Dr. William H. Allen of the Bureau of Municipal Research, who asked for the privilege to answer Mr. Grout, "I venture to suggest that if your honorable body—a committee of the Legislature—should ask his Honor the Mayor for a copy of that report of the Commissioner of Accounts on the investigation which ex-Controller Grout has mentioned—it will be refused."

Mr. Grout and other gentlemen who are here to-day will urge various reasons why these particular records are not public records. Mr. Grout has not quite stated the true significance of the report Commissioner Fosdick made. It is true he did not find the goods on this particular city official, but that was about all he didn't find. By that relation and by that report Controller Prendergast before leaving the city referred to it as an unholy alliance. He promised upon his return to the city to state the full facts if still necessary in order to clear up the full significance of the provisions in this Charter which would exempt from the Controller's audit expenditures to aid private institutions."

Philbin Speaks for the Church.

Eugene A. Philbin, whose turn to speak came next, said that he with ex-Controller Grout and ex-Judge Morgan J. O'Brien constituted a Committee of Counsel to look after the questions raised by the Bureau of Municipal Research.

"I have probably a little more of personal feeling in this matter," said Mr. Philbin, "because I belong to an element in this community which has been charged with nothing less than fraud, that has been charged with obtaining the money of the taxpayers and using it for personal benefit and to the detriment of the city. Therefore, I am not prepared to speak calmly of the attitude that has been taken by the Bureau of Municipal Research and by the Controller."

Mr. Philbin then went over briefly the ground which had been covered by ex-Controller Grout, adding that as soon as the Archbishop had learned of the charges made by the Controller he had called upon him in a letter for facts to aid him in starting an investigation of the institutions involved, but that the Controller had not even shown the courtesy of replying to this request. He recalled that Archbishop Farley through counsel said that if the reception of Catholic institutions of children sent there for care by the city involved the investigation of the private accounts of these institutions the city had better withdraw its children.

Mr. Bruere referred in his speech here to the fact that the institutions had been visited by city officials," said Mr. Philbin. "That was done. They were allowed to send sometimes seven or eight into the homes of the Sisters. You know how sacred these homes are to them and with what reluctance they receive strangers in them, especially when they are of another faith. But these men were permitted to stay there from 9 in the morning until 9 at night if they wanted to, and what were the questions they asked? They would walk in and say in some instances at least: 'How much money have you given to the Pope?' or 'How much money have you contributed to the Church out of the City funds?' That was the spirit all through this investigation."

Sharp Talk to Mr. Bruere.

"Furthermore, with reference to this so-called Fosdick report, I should like to say that no one that I know of connected with our institutions had ever seen that report; but so far as we are concerned we are perfectly willing that the report should be shown to Mr. Bruere or to Mr. Allen or to any other man who considers he is superlatively or exceptionally honest."

After Mr. Philbin had finished, Mr. Bruere asked him if it was not a fact that some of the city's contributions to Catholic institutions had been used for the payment of principal on mortgages or for indebtedness not primarily relating to the care of the inmates.

"To my knowledge," said Mr. Philbin, "that is not a fact. I will say that in every case where the city has paid so much per capita there has been a dependent of the city cared for to the amount paid. My quarrel with you, Mr. Bruere, is that you have attempted to charge us with fraud—you have attempted to charge us with an attempt to bribe a public official."

This ended the controversy. The rest of the afternoon hearing was occupied with a discussion of the chapters in the proposed new Charter dealing with the Tenement House, the Building, City Engineering, City Architect's, and the City Hospital Departments. The three last are created by the Cullen-Foley Charter, and to all there was more or less objection.

Theodore L. Frothingham appeared to register the objections of the Charities Aid Association and Dr. Lewinski Corlies to get on record a protest on behalf of the Academy of Medicine against creating a single-headed Hospital Commission to take the place of the Board of Bellevue and Allied Hospitals, against which board both speakers said there had been no criticism.

Frank W. Smith, former head of the Bookkeeping and Accountants' Division in the Controller's office, whose resignation was accepted by Controller Prendergast some time ago and who now is Clerk of the Court of Special Sessions, got an opportunity in the forenoon to criticize the Bureau of Municipal Research, the Chamber of Commerce, Dr. Lyman Abbott, Controller Prendergast, and the civic organizations which have opposed the new Charter. He denounced all as fakers who for selfish reasons appeared in opposition to it. He seriously suggested an amendment to the Charter placing such organizations under the regulation of the City Government.

Mrs. Harriet Stanton Blatch, the suffragist leader, was on hand to point out that a woman had attained the position of Registrar in the Tenement House Department, under the Civil Service system, and urged that in the new Charter provision be incorporated to give women a chance for this competitive employment. Robert S. Binkerd, Secretary of the City Club, filed a formal application on behalf of the club for a public hearing when the Charter has been perfected by the committee.

The hearings will continue this fore-

noon, when the provisions relating to the new Department of Education will occupy the attention of the committee at both the forenoon and the afternoon sessions.

THE MAYOR TO DR. ABBOTT.

He Complains of Unfairness in Editorial Criticizing Charter.

In the form of an open letter to Dr. Lyman Abbott, editor of The Outlook, Mayor Gaynor last night made reply to an editorial attack on the proposed new charter which was printed in the current issue of that periodical. The Mayor taxes the venerable editor with gross misstatement of facts with reference to some of the more important provisions. The Mayor's letter says:

"My feeling on reading your editorial is one of discouragement. Why not give me a fair show? Why mass every irresponsible falsehood to embarrass me, instead of helping me? I have stayed here all Summer principally to help in this charter matter. I want to do what is exactly right. That I know. Do you not know it also? Have you the least doubt of it?"

"I did not start any charter. I found it in the Legislature about to pass when I became Mayor, and I had it held up for a year for discussion and examination which is now going on. Why cannot the facts be stated? I am here helping only because I want to do what I can to have a reasonably good charter. I have no political bias or feeling about the government of this city. Why should any honest person have any? Away with all this petty political bigotry. I have hated it for a generation, and hate it to-day worse than ever. I only want to have things honest and decent here."

"You say 'the powers of the Mayor have been enormously increased.' In what respect, pray? I find no increase, except that, following the Ivins and Hammond charters, it is proposed to give the Mayor a suspensive veto over the resolutions of the Board of Estimate for the expenditure of money. I did not ask for it; but such a veto power is common all over the country. It enables a loose law or resolution to be suspended by veto until reconsidered and repassed. It is taken literally from the Ivins and Hammond charters. Do you not know that? Mr. McAneny drew it. How is it that it was not denounced then?"

"Again you say of the Mayor: 'The limitations upon his appointing power imposed through the Municipal Civil Service Commission are removed, because the municipal civil service is no longer to be supervised by the State Civil Service Commission.'

"There are not now and have not been for many years any limitations on the Mayor's appointing power. The notion that the Civil Service Commission ever had any power over the Mayor's appointing power is really surprising. Who conceived it? No change in respect of the Mayor's appointing power is being made. "There is a provision in the new Charter that the acts of the City Civil Service Commission shall no longer be subject to the State Civil Service Commission."

"This is home rule. Even now a resolution of our City Civil Service Commission concerning an appointment in a department is held up until the head of the department agrees to appoint a man selected by certain politicians. That use of the State Civil Service Commission has grown familiar. I have seen enough of that sort of thing since I became Mayor."

The Mayor challenges a statement in the editorial to the effect that by creating a small, paid Board of Education the Mayor's power in educational matters has been increased. The Mayor points out that under the present Charter he has the power to appoint and remove members of the Board of Education, and that the change to a smaller board was in conformance with a provision in the late Ivins and Hammond Charters. To pay the members of the proposed smaller board, the Mayor thinks, is sound.

The letter continues: "You say the power of removal by the Governor of city officials is done away with. Not so. Such power of removal is not given in the case of any other city of the first class. The matter was, therefore, held open for public discussion. The committee has yet to report where it will vest such power—whether in the Governor, or in the Supreme Court, or elsewhere. The current statement that the power of removal is to be abolished is a pure invention. Can we not have an honest and fair discussion of such a matter?"

The Cullen-Foley bill does contain a clearly intentional omission of any provision for the removal of the Mayor, or any other elective city official, or a Borough President for dereliction of duty."

DOUGHERTY ATTACKS CHARTER.

His Principal Objection Is That It Confers Irresponsible Power.

J. Hampden Dougherty addressed the City Club last night on the proposed city charter, pointing out what he considered the objectionable features.

"The first, the cardinal fault of this bill," said Mr. Dougherty, "is that it violates this primary canon of government—it confers irresponsible power. It does this by rendering all the chief elective officers irremovable, whatever their faults, or even crimes, in the administration of their duties."

Another objection pointed out by the speaker was that the charter gave the Mayor the power of delegating for sixty days all his power to another official, with the exception of the power of appointment and removal, a provision of Article 101 in the charter.

"I know the only plausible reason that may be assigned for this section," said Mr. Dougherty. "Mayor Gaynor, a great, brave, splendid official, the victim of an attempted assassination, has since his return from the Hoboken hospital worked unremittingly at his post, early and late, without vacation. He needs rest, and it is urged that in order to obtain it he should not be compelled to relinquish his office to his natural successor, who has no affinity to policies to which the Mayor is honestly and earnestly devoted."

The extension of the Mayor's power over franchises was another objection. The proposed charter gives the Mayor a veto power, said the speaker, that might be conducive to disastrous results and is as un-American as it is dangerous.

The final objection, which was dwelt upon at length, was that the proposed charter confers irresponsible power in the issue of special revenue bonds. This, he thought, was one of the worst features of the bill. Under the charter, he said, there would be no check on the issue of bonds for special purposes.