# ESSAYS ON
# LOCAL GOVERNMENT

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# PREFACE

THE essays in this book arose out of the interest taken by some of the members of Nuffield College, and by many of those associated in the last few years in College discussions, in the future of local government. In the course of these discussions, conducted by a Committee which organized two private conferences of the College on the problems of finance and areas, a number of papers were prepared by Research Assistants of the College. It has been thought worth while to publish a selection of these which fill *lacunae* in the existing literature of the subject. I wish to express my thanks to the Warden and Fellows of Nuffield College and to the members of the Committee who contributed so much to the discussions.

As regards my own essay on The Foundations of Local Government I have to thank the Proprietors and Editor of *The Times* for permission to use some of the material which I have contributed in recent years to that journal.

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September, 1947.

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# THE FOUNDATIONS OF LOCAL GOVERNMENT

AT a private conference held at Nuffield College, on the subject of Local Government Finance, it was said of a paper presented by the present writer, that 'the whole argument was based on a political principle that local government was worth preserving—a judgment of value which was taken for granted'. Perhaps there is ultimately nothing else one can do with a judgment of value except take it for granted, or not take it at all. But, not to stand on that fine position, there was a legitimate demand in this criticism for a defence of local government, for a statement of the grounds upon which it was thought to be valuable. In other words, what is the political theory of local government, in the double sense of theory as a statement first of the ends and purposes to be served by local institutions, second, of the regulative principles which govern the working of these institutions?

There are two sufficient reasons why such an essay should be attempted now. The first is that the literature, the book literature of local government, is surprisingly barren of writing of this kind. Although there are a great number of meritorious works on local government, and many extensive treatments of the functions and powers of authorities, and of their history, a great majority of these works do indeed assume that the subject is worth the writing about, and make no attempt themselves to inquire wherein that worth consists. The consequences of this omission, regularly to refer back the machine to its principle, are two-fold. First, the resulting work becomes all too frequently a dull accumulation of facts and classifications. Since John Stuart Mill, who contrived at the very beginning of the modern period in local government, to say almost everything that was fundamentally important about the institution, hardly a major work on local government has thought it important to rehearse the main principles, constitutive and regulative which govern the system. The best attempts during that time have been in speeches and minor writings, notably in connection with the great measures of 1888 and 1894. The second consequence of the omission of the political theory is that writers have often shown themselves unable to measure their arguments and solutions against well-established ends and criteria. They have not known for example, whether what they sought was an improvement in the standard of the services performed by local authorities, or whether it was the efficient registration of local consent in administration, or whether it was the development and expansion of political responsibility among local electors and local councillors. Sometimes it would seem as if they were scarcely aware that each of these was a possible aim or purpose of local government, and that there are more besides.

The second sufficient reason for attempting to restate the political theory of local government is that the institutions themselves are being submitted to thorough-going reorganisation. The great increases in the functions of local authorities, caused by the war and by the acceleration of social reform since the war, have affected in detail and in whole the character of English local government. The variety and kind of administrative development associated with these changes is yet only partially outlined but it is already clear that every fundamental aspect of local government is involved—the size of units themselves, the degree of responsible discretion which they may exercise, their status as agents of central authority, their financial standing, their relations to one another and to central government departments, the electorates on which they are based. The combined effect is likely to unsettle a large part of the established system, and by changing the regular channels of administrative business to impose on some considerable part of the system an increasingly futile and perfunctory role. The effect of each proposed reform, in education, in public health, in planning, in transport and communications, could be separately estimated from this point of view. But it is the less easily estimable cumulative effects, the changes in general structure and in the general importance of local affairs which need to be brought before the attention. For however desirable the substantive reforms may be, the political life and constitution of the communities of town, village and shire are a subject of distinct and fundamental importance which ought not to be omitted from public consideration despite the complexity of the field. In a characteristically wordy but telling phrase, Mr. Gladstone, in a debate on the Bill of 1888, observed of local government that it would be hard to find a subject in which there was ' greater difficulty in bringing into a focus such a multitude of topics, so necessary to be connected and yet presenting so many difficulties in establishing a connection '. The best method will be to place, very briefly, the development of local government in a historical perspective, then to analyse the problems of contemporary change into their chief elements. This double procedure will open the way for a consideration of the fundamental political purposes of the system.

*The Nineteenth Century Achievement*

Local government as we now know it is the product of a comparatively short and recent development. Although the roots of local administration in county and town reach back into a remote past, the representative institutions of popular local government are the creation of the nineteenth century, systematised and consolidated in the first three decades of the present century. Two main political objects were pursued in this development. The first was to repeat in the field of local administration the achievement of popular self-government which had been begun in national government by the Reform Act of 1832. The second was to simplify the chaos of existing local authorities by their reduction to a series of general and uniform organs of local affairs—the phrase is Lord John Russell's in 1835.

The demand for popular local government, nourished by each successive extension of the parliamentary franchise, was in part aimed, as the national movement had been, at the removal of patronage and corruption. It was also however a demand for political responsibility and political education for the wider classes of citizens to whom these had hitherto been denied by the established oligarchies, municipal or county. In 1835 the towns obtained their popular government and in 1888 the counties. In 1894 the urban and rural districts and parishes were brought into line and the whole structure was consolidated by the legislation of 1929 and 1933. The resulting pattern is a loose hierarchy of elected councils descending from the counties to the urban and rural districts and the non-county boroughs and thence to the parish councils and parish meeting. Outside the hierarchy, possessing all the powers of the counties and districts combined, is the powerful order of county borough councils.

The desire to have a series of uniform and compendious authorities in place of the jungle of existing local bodies grew steadily in force throughout the nineteenth century, and by the present century it appeared to have established itself as a dominant principle of reform, determining the distribution of areas and function. It was a principle which both theory and experience seemed to attest as reasonable. On the side of administrative efficiency the haphazard distribution of functions over a great number and variety of authorities separately constituted and many of them *ad hoc* bodies, afforded a perfect forcing-bed for administrative abuse and mismanagement. A writer on the Bill of 1888 instanced his own county of Somerset where there were '497 parishes, 11 boroughs, 22 unions, 10 local government districts, 17 rural sanitary districts, 66 school board districts and numerous highway districts, each division being governed by a separate body with distinct powers and elected by separate constituencies with separate modes of voting and elected at different times of the year'. On the side of political responsibility the diffusion of authority over so many units allowed its exercise to escape both central and local control. From both standpoints, administrative and political, the same conclusion was reached—to establish local government as a system of single authorities each with a defined jurisdiction, the major authorities in town and county to be so far as possible compendious in character, gathering to themselves all the functions to be performed within their area and submitting the administration of the whole to the judgment and direction of popularly elected councils.

There can be no doubt that what the nineteenth century was doing was deliberately creating a structure of responsible government in its local institutions, and that this is the prime object which these bodies were intended to serve. The superior importance of the self-governing aspect was to some extent masked by the fact that in the nineteenth century there were really two processes developing alongside each other. One was the construction of local representative bodies, the other was the construction of local administrative units for the enlarged conceptions of government which began to prevail from the middle of the century onwards. Those who had their eyes most firmly fixed on the second—Chadwick for example—would willingly have dispensed with the first; but they were defeated, at least for that century. Bagehot, writing in 1865 on the failure of Mr. Chadwick's Health Commissioners, thought that the administrators had been defeated for good—an unduly optimistic judgment. But, although administrative developments from 1870 onwards steadily transformed the traditional conceptions of the relative spheres of government and private initiative, the process of extending self-government to local areas continued steadily, even when it seemed, as in our own day, that the reasons for it had been largely forgotten.

The movement towards a compendious and uniform administration and a unified political responsibility, arising largely in response to popular and utilitarian theories of government, came not at all too soon for the realisation of the enlarged conceptions of State action which the nineteenth and twentieth centuries made current. From Gladstone's first administration of 1868 until our own day, there has been no appreciable pause in the development of the public services, either by the addition of new services or by the reform and extension of the old. The apparatus of government necessary for the execution of these demands has involved the creation of a large central civil service under responsible ministers and of a large municipal service responsible to the elected councils. Had the basic reforms of local government not taken place such developments would have been impossible. As it is it cannot be asserted that structural reform kept pace with the demand for enlarged performance. Rather has there been a constant pressure upon the existing establishment of local government to come up with legislative advance and adapt itself to a steadily rising level of public expectation in respect of all the social services. The history of that pressure and of the adaptations that have taken place in response to it is traced in more detail in later essays in this book.

One other fundamental aspect of this hundred years of local government history remains to be noticed. Alongside the spread downwards of the ideas and practices of responsible representative government, there developed also a tendency towards greater central administrative control. This was in part an effect of Benthamite teaching, in part a concomitant of the financial control made necessary by the spending and taxing power of the new local authorities. At the very beginning of the period, in 1834, the Poor Law Act had established a high-water mark by giving to the Commissioners almost complete central control. Attempts on the other hand to confer similar power upon the General Board of Health failed decisively. 'England' as *The Times* put it on the occasion 'might desire to be clean but she would not be washed by Mr. Chadwick'. The process, however, was not arrested but only slowed down and as the turn of the century passed and the present age advanced the tide crept steadily again up towards the mark of 1834.

The legislation of 1929 and 1933 was widely looked on as setting a final seal upon the reforms of the preceding period. 'At last,' wrote the authors of one of the bestknown textbooks 'local government has been rationalised. There are now both the beginnings of a consistent code of local government law and a uniform hierarchy of local authorities constituted in accordance with uniform principles.'[1] The local authorities despite a variety of particular criticisms, hopefully regarded the Act of 1929 as a more or less definitive settlement of their outstanding questions and looked forward to settling down to work the new machinery secure in the belief that Parliament would use the existing, and thus newly perfected, instruments for any functions for which local administration was necessary. Yet even in the short period before the outbreak of war these hopes were already seen to have an uncertain foundation. The war, with its enormous administrative activity as well as the changes which it wrought in national purposes and opinions, so altered the position and prospects of local government that the local authorities' associations themselves were to be found by the end of it jointly petitioning the Government for an 'impartial inquiry to ascertain the best local government units' with a view to their own fundamental reform.[2]

## *The Contemporary Problem*

The local authorities' petition for an impartial inquiry into their position arose from two main causes. The first was the profound aversion they had conceived for the wartime expedient of Regional Commissioners. This system, based upon a division of the country into large-scale defence regions, had necessarily to be imposed upon the existing structure of local government, establishing its working relations with the local authorities partly by the exercise of superior authority, more largely by the exercise of tact and by friendly co-operation. The merits of the system for the purposes for which it was conceived are not here in question. What is important is the universal rejection of the system as a prototype for a civilian regional organisation. The local authorities found three things chiefly to distrust. One, the authority was not elective or representative. It

[1] Hart and Hart. *Introduction to the Law of Local Government and Administration*, 2nd edition.

[2] See Appendix A, which gives an analysis of the great variety of views on the future of local government being put forward at this time.

enhanced, therefore, the tencencies to increased central control of local affairs. Two, it represented the supersession of the existing local authority areas by an area much larger in size. Three, the larger area was based not upon historical or local considerations, but solely upon the needs of the service to be performed.

The second cause of the petition was the rapidly growing uneasiness of the local authorities over the various Departmental proposals for post-war administrative machinery in connection with domestic reconstruction programmes. Acting, as far as might be seen, without concert, imbued in some cases with the zeal of a reforming minister, supported in all cases by a public opinion of obviously large, if unknown, magnitude, these Departments—Health, Trade, Planning, Transport, Education, Agriculture—had already proposed or were in act to propose regional administrative units whose only common characteristics were that they envisaged a larger area than that of existing local authorities and a larger degree of central administrative control. Some of the schemes proposed to obtain the larger areas required by joining existing authorities while others favoured the eighteenth century device of the *ad hoc* authority, though the distinction between a joint authority for special purposes and the old-fashioned *ad hoc* body is perhaps more apparent than real.

Reviewing these omens, the local authorities consulted among themselves and prepared to make their sacrifices to the new leviathan. If at first the consultation was not general but confined to the separate classes of authority this was the more convenient as, it transpired, each group of authorities trusted to save the day by sacrificing the others. The counties called for the reduction of the county boroughs. The municipal corporations, supported by the local government officers asked for the abolition of the counties. The rural districts, distrustful of both, proclaimed the saving benefits of better rural districts. This internecine phase, however, soon gave way to the pressure of events. As each successive White Paper added its unrelated contribution to the redrawing of the administrative map the various local authorities' associations combined to make a common head against dangers now perceived to be general and cumulative. They presented their joint petition.

The petition was refused by the Coalition Government upon the ground that the measures desired by the Departments and by the public could not be postponed until the exhaustive researches of another Royal Commission on local government had been completed and assimilated. But the Government promised to keep themselves informed of the effects of the measures upon the general structure of local government. There matters stood until the appearance of the Coalition White Paper on *Local Government in England and Wales during the Period of Reconstruction*.

The White Paper, which represented the agreed opinion of the two main political parties after prolonged conversations with the leading local authority associations, pronounced firmly against any radical recasting of the local government structure. It admitted the force of the arguments for wider administrative areas but of the three alternative methods of obtaining these—by nationalisation of services, by regionalisation of local authorities, by greater use of joint authorities—it dismissed the first two and expressed the opinion that with an extension of the system of joint authorities and adjustment of areas within the existing system of primary authorities, local government in its present form would be adequate to the discharge of the new functions which were likely to be imposed on it. In enumerating the alternative methods by which wider areas could be obtained the White Paper did not clearly notice the possibility of an increase in the use of *ad hoc* authorities of a kind not organically related to local government at all but possessing either an independent status, or a status as agents of central departments.

In what it had to say on the adjustment of areas between existing authorities, the White Paper offered two conclusions of fundamental importance. In the first place, it suggested that it should prove possible to establish 'minimum requirements, in the absence of which there would at least be a presumption that the area was not a suitable unit for local government purposes'. As examples of such requirements it instanced 'such factors as population, rateable value, product of a penny rate and so forth'. The value of this suggestion was, however, considerably diminished by the qualification that it was to apply only to the creation of new units and not to existing authorities. In the second place, it suggested that the time had come to link town with countryside in new areas of administration on the ground that their interests are not diverse but complementary. This would mean among other things, the probable extension of some borough boundaries to include the surrounding countryside. These and other considerations the White Paper recommended as general directions to a Local Government Boundary Commission whose establishment it foreshadowed.

The Bill to set up the Boundary Commission was almost the last measure to find its way to the Statute-Book under the Coalition Government and it hung fire for some time after the new Ministry came in. Then, in December, 1945, the names of the Commissioners having already been announced, Parliament approved regulations laying down general principles for the work of the Commission. The leading principle was expressed, rather heavily, in the statement: 'The object of all alterations in status of local government authorities and of all alterations in the boundaries of local government areas is to ensure individually and collectively effective and convenient units of local government administration'. The Regulations then enumerated some of the main factors which should assist in determining the Commission's assessment of 'effective' and 'convenient' areas, but these were listed alphabetically and neither Parliament nor the Minister ventured to establish any order of priority among the considerations. There was silence in the Regulations on the White Paper's suggestion of 'minimum requirements' for an authority and as regards town and countryside, refuge was taken in the unhelpful suggestion that the Commission should regard their interests as 'not necessarily either diverse or complementary'.

This brief historical sketch, supported by the closer analysis of the essays offered later in this book, brings into perspective the main problems which concern the present and future position of local government. Since December, 1945, the Boundary Commission have been at work and it will be for a later period to describe and assess the work they are doing. But whatever changes are imposed on the existing system of local government, they must either conform or depart from the fundamental principles, administrative and political, upon which that system is built. Before these principles are examined one aspect of the area question must be distinguished as possessing special contemporary importance.

The problems of local government may be classified as problems of area, of authority and of function. The last named is, for the purposes of this essay, of subordinate interest and need only be touched on slightly. Here the important questions are, not what services it is thought fit to call public services and to provide by public authority, but what kind of authority should provide them and for what area. The need to define right areas of administration for local authorities is not a new one. It has been a felt and expressed need throughout the period of reform, from 1835 to the present day. Its new urgency derives from the great contemporary expansion in the public services and from the changed public conception of the field of central government as compared with voluntary enterprise or local initiative. These causes have produced a demand for local administration over areas wider than those of the established local authorities. At the present stage of reform legislation and proposals the various new areas asked for are not all clearly defined. But as far as definition goes the important fact is that they are all different. This was expected and it is in a sense inevitable. The needs of public health, education, town and country planning, or agriculture, for example, considered technically, must differ, sometimes abruptly, in respect of their area of most efficient operation and in respect of the administrative arrangement best suited to their separate objects. Indeed, looked at purely as services it would be hard to name any two main functions of local government which operated perfectly with exactly the same area and exactly the same form of administrative unit. The problem, therefore, is this. Should the present tendencies to mark out large administrative areas, for each main service, proceeding on purely technical considerations, be permitted to go unchecked, or should an attempt be made to find a single compromise area of large size which would serve tolerably well for the administration of all or most of the extended services?

If, for the argument, it were assumed that some form of new large-area authority was desirable, the questions of the constitution and powers of such authorities would at once arise. There appear to be three chief alternatives in the matter of constitution. The authority may be an *ad hoc* authority, a joint authority or a compendious primary authority of the type of existing local authorities. Furthermore, the authority may be elective or nominated, or both, and it may exercise either executive or advisory powers. The possible combination of these alternatives are not few, and an authority could be set up which incorporated almost all of them. It might for example be a primary authority discharging all the functions necessary to the area, composed partly of elected representatives sent up from the smaller authorities and partly of members nominated by Government or outside bodies, and it might possess executive authority in respect of some functions and advisory in respect of others. But it could not then be called an *ad hoc* body. The first decision, therefore, must be between compendious and limited, or *ad hoc*, authorities. Where between these should the choice lie in respect of the new developments?

It will be apparent that the ground of the discussion has insensibly shifted from local government properly so-called, that is, government in a 'locality', to a field of what may be called intermediate government lying between the centre and the locality. Intermediate government is no new thing in British administrative history. From the turnpike trusts and development commissions of previous centuries to the special areas and joint bodies of the present, there has always been a vast unorganised amount of intermediate government, largely unexamined and unclassified by students of our political affairs.[1] *It is the special mark of the age that is now beginning* that the tasks of government proposed require us to see this intermediate area as a distinct political sphere whose organization and relations to centre and locality must be separately determined and consciously systematised. The normal discussion of local government reform resolves itself too readily either into advocacy of full-fledged regional democracies, with consequent decay of minor institutions, or into embattled defence of existing local authorities against further encroachments. There are even partisans also of devolved central government through regional offices. As against any of these solutions the new legislation gives some preference to the joint authorities or the special authority as appropriate organs for the intermediate field of government—as for example in educational and public health reform. To distinguish 'intermediate government' as a separate field of government and to propose its systematic organization may prove to be the most constructive approach. A settlement of questions so important as these must be based upon first principles.

### *The Foundations of Local Government*

The fundamental principles of the system can only be discerned in its fundamental purposes or ends. These purposes, or rather the statement of those purposes, are always very near the surface of

[1] Some analysis of the role of joint authorities in the recent past is attempted in the essays.

public attention at times of great constitutional reform or acute political controversy. In a speech to the National Association of Local Government Officers, in July, 1946, Mr. Charles Key, then Parliamentary Secretary to the Ministry of Health, declared that 'one of our greatest problems to-day is to settle for ourselves whether or not the existing machinery of local government is going to be efficient enough to meet the problems of the next ten years'. 'Democracy,' he went on to say, 'cannot be served by outworn and outdated bodies; we must be prepared to scrap the obsolete in order to make tools for the new job.' In this familiar rhetoric of the reformer the perception of desired change is made to depend on vague assertions of effeteness in present institutions. In a common phrase it is demanded that institutions should be made appropriate to the new age they have to serve. This is emotive language—the substance behind it is the assertion that institutions have fundamental purposes, that these purposes change, and that the changes should be allowed to impose a corresponding transformation on the forms of the institutions themselves. What are the fundamental purposes of the English local government system?

In the light of the brief period of relevant history which we have outlined, two sets of purposes can be distinguished, one political, the other administrative. The political purposes are those involved in the general objective of democracy, expressed in the establishment of central and local representative institutions. The administrative purposes are subordinate to and consequent on the political; they are the canons of working efficiency demanded by democratic political ends. There are, of course, administrative canons of a narrowly technical or economic character—such as division of labour, specialisation of function, minimum cost and the like—but these are universally applicable to all administrative operations and are not the clue to the distinctive character of any particular organization. That clue can only be found in the wider ends which the organisation serves and in terms of which its real efficiency is measured. In local government administration these ends are political. It will be proper therefore to begin with the discussion of the political purposes of local government. When these are clear the way will be open for the examination of the administrative requirements.

The defence of democracy in local government must in part be the same as the defence of democracy in general, and the general purposes of democracy as a form of national government must in part be operative at the level of local institutions. But it is not self-evident that national democratic institutions *entail* local democracy. It is perfectly possible to conceive, or so it seems at first sight, a system of national self-government administering its local affairs through the agencies of a central departmental civil service. Indeed it might seem almost a confusion of thought which leads to a conception of citizens as possessing a double political personality—one person an elector of a national government and another elector of a local government —the two personalities not infrequently at war with one another, pursuing separate objectives, subject to separate and sometimes conflicting duties, paying tax to two separate fiscal systems; such systematic employment of the principle of *zwei Seelen in einer Brust* seems to require some explanation. The explanation must lie somewhere in the central doctrines of democracy or in some necessary corollary attached to these.

The central doctrines of democracy have been subjected to fresh analysis in recent years by our leading political writers—a revision long overdue.[1] For the statement of these doctrines is always a difficult business, by reason of the many divergent elements in the theory which need to be reconciled, and by reason also of the fact that there is no general agreement upon any single statement of the theory as a canon of orthodoxy. Indeed, it is a question not for the novice in political theory but for the seasoned student to say who are the representative exponents of democratic theory in the long history of political ideas. The truth of this statement will be apparent to anyone who reads the works mentioned in the note below. The present essay is not the place to attempt a contribution to these all-important discussions—the most that can be attempted, and for our purposes at least this much must be attempted, is to seize the central thread in the theory and follow it through sufficiently to show that the purposes of local government are fundamentally determined by it.

The central thread of democratic theory is to be found in its doctrines of the person. For it seems clear that the many views of democracy have this in common—that their point of departure is the

[1] The outstanding works have been the late Professor Collingwood's *New Leviathan*, Professor Barker's *Reflections on Government*, Lord Lindsay of Birker's *The Modern Democratic State*, *Vol. I*, and Professor Brogan's essay on *The Free State*.

individual person. From their view of the nature of the person develops their view of the state, and not the other way about. Other political philosophies may establish their systems by the contrary process, they may begin by exploring the nature of kingly power or monarchical state, of sovereignty or *imperium*, of peace or justice, of law or force and then go on to erect a conformable individual whose nature reflects the requirements of these pre-established ends. Democracy on the other hand starts with the man, and with theories about his nature.

In the development of these democratic theories of the nature of man among the many influences which history has brought to bear two have preponderant importance, the Greek and the Christian. The first of these contributed the opinion that men possessed a capacity to reason and that this should determine their character as citizens: the second held that men were creatures of God and that this was their title to consideration. The Christian view, because it could perfectly embrace a doctrine of the rationality of man, and because it was, further, universal and non-exclusive in its application to men, developed into the decisive influence upon Western political ideas. It furnished, what the Greek view did not, a theory of equality. If all men stood equally in need of deliverance and salvation, as all were equally the possible objects of God's grace and mercy, was this not sufficient ground for an equality, in some basic sense to be determined, in their human societies? Historically it certainly proved efficacious in producing the demand for equality, but the course of reflection and experience encountered a capital difficulty in translating the demand into actual social practice and institutions. While it might be true that men were born all equally God's creatures it was no less evident that they were born with nature's inequalities stamped upon them. It was precisely here that the marriage of Greek and Christian views proved most fruitful in finding a solution. Under various expressions, conformable to the political capacity and constitutional experience of the peoples who professed them, equality came to mean for Western democracies two things, first a basic consideration or tolerance for all men, irrespective of capacity, expressed in law and political practice, second a theory of equality of opportunity by which essentially was meant the establishment for all men with the rational capacity to employ them of access to the various instruments of public action and individual self-expression—notably education and some minimum economic provision. Both meanings of equality were essential. The second alone, given the facts of initial natural inequality, would unchecked, produce a radically inegalitarian society. It needed to be complemented by the first meaning of equality which corrected the operation of natural inequality by the consideration shown to every person irrespective of rational capacity. In constitutional practice this basic equality of consideration came to be expressed in institutions like universal suffrage and, most important of all, in special forms of protection for minority interests and opinions.

Alongside these theories of equality, and sometimes indistinguishable from them, there is a theory of freedom. Starting from the nature and status of man which has been described, democracy conceives the individual as entitled, within the limits of action not harmful to his fellows, freely to will and determine his own public and private activities. The qualification that his actions must not harm his fellows is a cardinal one and in the construction which each age places upon it is to be found the specific content of political freedom. That content may vary from the observance of a minimum number of obvious prohibitions to the multitudinous enactments of a collectivist society where men are held to harm their fellows if they do not mutually confer a high level of specific benefits upon one another. These limitations upon freedom are enforced by two main sanctions—the binding compulsion of the positive law and the variable constraints of customary opinion. These latter may, as in Victorian society, be the more pervading and more comprehensive sanction of the two.

Between them these theories of freedom and equality, but especially the two meanings of equality just noticed, combine to establish the characteristic attitude of man to man which distinguishes democratic societies. That attitude is one of tolerance or consideration, expressed negatively in the refusal to impose any but common constraints upon each other, and positively, in the acceptance of the right of each to share in the determination of matters which are of common concern. Matters of common concern are held to be matters of common responsibility. If, sinning against the light, some deny or evade that responsibility the fundamental tolerance of their society will protect them against the retributive censure of their fellows. But every great writer on these questions will be found to maintain that the participation of every citizen of a democracy in his government, at some level of the political process and to the degree of his capacity, is not only a right but also a duty which at some time in his adult life he must discharge.

In terms of political method, this requirement of sharing or participating in government entails a preference for a particular way of taking political decisions—the way of discussion followed by the register of consent. The principle of majority decision which here comes into play represents an empirical and expedient limitation of the abstract idea of universal consent.

Expressed as constitutive principles for a machinery of government the foregoing considerations on the ends, the spirit and the methods of democracy may be stated as follows. One: political decisions must be taken by a system in which all citizens *can* share. Two: political decisions must be taken by discussion and vote. Three: political decisions should be so taken that a process of continuous public political education goes on. Each of these constitutive principles needs separate comment and examination in its bearing on local government. But it may be said generally that in highly developed societies, where universal discussion and consent are out of the question, representative institutions of a parliamentary character are empirically the best method of satisfying the principles. Of this general conclusion two observations may be made. Firstly, it should be repeated, what the foregoing account of the central argument of democracy was designed to exhibit, that the final form of government is altogether founded on a particular understanding of the nature of man, that it reflects that understanding and is not properly comprehensible without it, and that it can never properly be worked except in the spirit of toleration and rational consideration for the opinions and interests of others to which that understanding gives rise. Secondly, this final form of government is empirically the most difficult and burdensome of all forms of government to work, because it can only move within the framework of the majority consent of all those by whom it is elected and whose lives are regulated by it. The manufacture of that consent is the most subtle and complex of all political processes, a process that probably no one is ever quite satisfied has been adequately achieved. At the same time, in proportion as it is adequately done the government it sustains is superior in stability, historical permanence and moral achievement to any other kind of government. It is among possible governments the best government.[1]

If the general effect of the constitutive principles is to demand parliamentary representative institutions, two at least of these principles—participation and education—clearly demand the establishment of such institutions in the locality as well as at the centre, and it is probable that the principle of discussion and consent does too. To take participation first, the opportunities for citizens to take an active part in the central government of their country are not confined to membership of Parliament though this is the major form of participation under this head. There is in addition an ever-increasing number of opportunities for the co-operation of citizens in government undertakings of all sorts, ranging from service on bodies like the War Agricultural Executives or the Working Parties to service on a consultative committee or a Royal Commission. But the number of these occasions of participation is dwarfed by the roll of service in local government authorities. And this is true even if to service on central government bodies we add the possibilities of responsible political experience in the various bodies in the field of intermediate government. It remains true that as far as central government is concerned the vast majority of citizens, always excepting national elections, are patients not agents of its political activity. If we confined the comparison only to elected representatives, in any year 615 (now 640) persons acquire political experience in Parliament and its committees, but in local government some 50,000 persons serve on councils and their committees.[2]

If a system of government is to work by discussion and consent, it is still a matter for deliberate choice how often that consent shall be registered and at what levels effective political discussion shall take place. The field here is too vast to be considered in this essay. It is complicated too by the presence of the great assemblage of active political organizations, parties, professional and voluntary propaganda associations whose political activities are an essential

[1] These are expressions of opinion, which cannot in this essay be lengthily defended. To those who would like to see a brilliant defence of them, Professor Brogan's book (cited p. 13) can be commended. On the permanence of the main opposed type of government, the holocaust of autocracies which our own age has witnessed is a lesson more instructive than all the textbooks on comparative politics.

[2] It is worth noting that in the present Parliament an unusually large number of members seem to have obtained their political training in the local government field.

element in that process of selecting, contesting and stating issues which is the real meaning of political discussion in the broad sense. These organizations, many of them, operate at the local level (often with distorting effect upon local affairs). As regards political discussion in the narrower sense of debate by responsible representatives, the debates of local councils are, at least in domestic policy, an essential element in national deliberation and decision. Of this something more will be said later.

When we come to the principle of political education, what John Stuart Mill called public education, the case for local representative institutions emerges at its strongest. What is meant by political education? Political education is, in the first place, an education in the possible and the expedient; in the second place, it is an education in the use of power and authority and in the risks of power; in the third place, it is an education in practical ingenuity and versatility.

The first object of a political education is to dispel in the citizen's mind the manifold Utopian notions of man's nature and of the nature of his world with which most persons emerge from the arduous experience of adolescence. He has to learn that men are moved not only by principle but by interest, that their actions are aimed not only at the discharge of duty, but also at the satisfaction of passion, appetite and unreflecting habit. He has to learn that the world in which he acts is a world of scarcity and that all the resources at his disposal are limited, both the material resources of wealth and the immaterial ones of time and political support. He must learn that all these resources have alternative uses between which he must choose and that generally his choice is irrevocable. The world with which he has to deal in fact is a world not of the perfect and desirable but of the possible and the expedient, where the vital data are actual not hypothetical situations and where reflection, though it can provide conceptions of end and purpose, must be informed and qualified by factual knowledge and experience. Such knowledge and experience can, of course, be acquired in a great many other fields of practice beside politics, but in most of those other fields the instruction is limited and partial, whereas in politics, which deals with the relations of all activities and mutually regulates all these relations, experience is at its most comprehensive.

The second object of political education is to teach the citizen the use and the risks of power, and of authority, which is legitimate power. And here the first lesson, conformably with the fundamental view of government which, as has been said, is the view of democracy, is that the power the citizen is concerned with *is* legitimate power, fiduciary power, power held in trust. The use of such power within the terms of the trust is what is meant by responsibility ; the risk is irresponsibility or arbitrary use. Properly to grasp and understand this dependence of power upon authorisation, that is, in the democratic case, upon consent, and having understood to know how to enforce it is an indispensable qualification for the citizen, who is both agent and guarantor of the process of delegation. What it means to use power within the terms of a trust and what it means to abuse it can in part be learnt at second-hand and by reflection on the history of politics, but here again nothing teaches the lesson so well as actual contact with men in office and responsibility, nothing so well as acting with them in concrete measures and projects.

These lessons in power and actual possibilities, as well as the lessons of practical ingenuity in the devising of remedies and solutions, are all education in political capacity, which is the sense of what is expedient and possible and within the terms of the trust. Without this capacity men are children in politics, that is, in the organised common life of their society, children or anchorites. To the extent that they fail to develop political capacity they are governed but not self-governing. Nor is this all. In the process of exercising responsibility men fit themselves to what they learn; they grow to be at home in what they know. The world of politics and public affairs becomes intelligible and familiar to them. So they can stand up to strain and to the tides of national fortune with stability and fortitude—they develop a political resilience which is a national asset of supreme importance, absent in rigid autocracies, only present in those constitutions where political capacity is deeply and widely nourished by organs of local self-government.

It is undoubtedly one of the greatest virtues a state can possess that its structure, its operation, its policies should be intelligible to its citizens. To possess that virtue a state must deliberately and systematically associate the citizens in the general working of government at all levels. It must, however, do more than this. It must make its machinery such that it *can be* intelligible, that is, capable of being understood in terms of its principles and underlying conceptions. Any large development of arbitrary, that is, unprincipled, planless confusion in its methods or structure hinders the acquisition of understanding by its citizens. This danger is most liable to develop in democratic societies which are always more complicated and subtle in their working than autocratic societies. In this country, as will be said again later, it is in the field of intermediate government that the danger of unintelligibility is greatest. Unfortunately, this danger is at its greatest just when the need for intelligibility is most urgent, namely when the state is taking a larger part of the nation's life out of the field of private enterprise and putting it into government.

So far, the argument on the value of local representative constitutions has gone to show mainly the advantages which these institutions confer upon the citizen, though it is not really possible to divorce the citizen's advantage from the general national advantage. But there is one specific advantage to central government which arises from local government institutions. That is the contribution of local information. By itself this function of local government is not sufficient to support the whole weight of the defence of local institutions as it is sometimes made to do. Yet it is a function of very great importance. The services which are administered by local government vary from those in which there is absolute uniformity in application as between area and area to those in which there is the maximum diversity. In all the services where uniformity is not essential the recruitment of local knowledge for the purpose of suiting a service to its object and recipient is best done in the locality itself and by, or assisted by, those who live in the locality. Local knowledge can be acquired by persons sent to an area from the central departments to acquire it but the information so acquired is inferior to that which can be provided by those who have not only knowledge but interest, the local residents themselves. This is the intimate and first-hand knowledge which makes administration concrete and relevant. And it is needed not only for the successful administration of the local area itself but by the central government where, assembled, collated and reflected on, it provides the data for national domestic policy.

To sum up the foregoing considerations, local representative institutions are designed to meet the fundamental requirements of participation, discussion and education. They do provide, on the largest scale, an opportunity for the citizens to share in public decision and administration, they do provide the machinery of discussion and vote to elicit his consent, they do provide, in the only possible way, for the political education of the people. It is their additional merit that they also serve the administrative purposes of central government as channels of local intelligence and agents of local executive action. Theoretically speaking, the most important of these effects is that the citizen is given a chance to share in the political process, for that participation is the expression of his fundamental status as a member of his society. But practically speaking, the most important effect is the political education the citizen receives. It is this that makes his society intelligible to him, so that he knows it not only with his theoretical reason but also with his practical reason, that is to say, is able not only to entertain an understanding of it but is able to act in it.

### *Conclusion*

On a final view, then, what is desirable in local government should be determined by the fundamental political objects of men as these are understood in our society and as they bear on local affairs. This is not the approach to local government reform most commonly adopted. More common, and easier, is a narrowly administrative approach where no question of a fundamental character is raised but the entire discussion is conducted on a level of minutiae such as indices of hospital requirements, water distribution, sewage disposal and the like. Not that these are not important. All these things are what politics is about. But in a discussion touching the major reform of political institutions they are of subordinate importance; the attractive facility with which they lend themselves to practical manipulation must not be allowed to obscure their dependence on essential political decisions. In the last resort the relation of the political to the administrative considerations will be settled by the strength of the perception in the minds of citizens that the political considerations have primacy, that the administrative considerations fit into not over the political. If men are clear that what they hope to get out of local government is not only sweeter drains, roomier buses, greener parks but an exercise of their own adult civic responsibility and political education then the foundation of local government is sound, and soundly understood.

The 19th century, with well-meaning logic, interpreted this view of local government to mean popular authority for the smallest rural parish. It was anticipated by the enthusiasts that the vital force would beat most strongly in the smallest 'cell' of democracy. But the small parish was powerless to support any important functions of government. Yet, if the unit had to be larger it still must be a 'local' unit and this requirement is still indispensable. The strength of local government comes from the possession and knowledge of common needs and interests. Only in such localities can there be found the necessary reservoir of persons able and willing to give their service because it is to their own community. It follows, therefore, that whatever experiments of enlarged local authority may be embarked upon, local government, in the sense which has been advanced above, must continue to find its main expression through authorities whose areas do not substantially depart from the boundaries of natural community and corporate interest. This is not to deny that the growth of communications and the spread of development have made the areas of community larger than they were.[1]

Given that local government must continue as the government of local communities, the contemporary expansion of public services and the increased central government activity connected with that process present the local authorities with an acute problem to which two solutions are available. Either local authorities can remain roughly as they are, with that amount of moderate reform which is represented by small boundary extension or rectification, and allow the new or enlarged services to be administered for larger areas by joint or *ad hoc* authorities, or they can undergo a major reform into larger units. For the period just after the Coalition White Paper it seemed as if the first alternative would be preferred. With the advent of the Labour Government, however, the balance of official pronouncement and decision has seemed to foreshadow a development in the second direction. The Boundary Commissioners in their decisions up to the time of writing have so far reflected both influences. In their decisions for Plymouth and Hull, for example, they have followed traditional practice of extending county borough boundaries at the cost of county districts. In the decisions foreshadowed for

[1] The local government map, as it stands, only imperfectly corresponds to the division of communities as they are now developed; part of the work of the present Boundary Commission is to adjust the areas to correct accumulated defects of this kind.

Liverpool and Manchester, on the other hand, they appear to contemplate the creation of a new large unit—the urban county.

From the standpoint of the distinctive character of local government it is hard to say in the light of these facts what course is now preferable. The value of developing joint authorities depends on the development being systematic, that is, on their being reasonably comprehensive in the scope of their functions and on their being properly related to the primary local government structure. A mere proliferation of special authorities, regional boards, district executives and the like is positively harmful. Such a development lowers the intelligibility of the world of intermediate government, reduces the effectiveness of local control, breaks power into fragments, creates very awkward financial problems and is very wasteful of manpower. Its one certain result is to increase central control. Yet this is what is happening. It would appear, therefore, that despite its dangers the major reform of local authorities is now preferable.

What are these dangers? For the most part they have been indicated in what has already been said about the fundamental principle of local government. In brief, the danger is that local government will lose its distinctive self-governing character. The increase in the size of the areas and the electorates and in the size of the administrative responsibilities will tend to reduce the effectiveness of local control and responsibility[1] as well as the opportunities open to citizens to take part in government. This tendency will be much diminished if two conditions are observed. One, that the new areas are not constructed merely on the basis of administrative convenience but correspond as nearly as possible to areas of genuine common interest and local individuality. Two, that delegation of responsibility to subordinate authorities is effectively provided for and does not remain a dead letter as with the counties and their districts under the 1894 Act.

Given these safeguards major reform of the local authorities is probably the only way in which we can now avoid the palpable dangers of increased decentralised control from Whitehall (some English prefectoral system) and the new jungle of specialised intermediate bodies. All will depend on those responsible for the reforms

[1] It must be remembered when considering the effect of these increases in the size of authorities that only a minority of citizens in any area are active in local government affairs, even to the extent of voting. The very low figures of participation in municipal elections are an index of this.

remembering that they are dealing first and last with a system of self-government. If they do this they will of course be accused of 'reaction' by those whose whole attention is fixed on the administrative question. These latter gentlemen are the really simple-minded among us. If they should succeed in shaping local government solely from the standpoint of administrative convenience they will dissipate by an act of outstanding political folly the slow gain of centuries of political experience.

## DEVELOPMENT OF AREAS AND BOUNDARY CHANGES (1888–1939)

### A. *Introductory*

DURING the period 1888–1939 the local government structure established by the Acts of 1888 and 1894 remained basically unchanged. It did however undergo some modification through an adjustment of the relative parts played by the different types of authorities within it, and the strains caused by certain incompatibilities—which perhaps had not been fully foreseen—were clearly revealed. During the period, the following were the chief factors in the development of the problem of areas in English local government:

(1) The sharp contrast—established by the Acts of 1888 and 1894—between units of urban and of rural administration was brought out into the field of practical politics and debate. The conflict was present at the district level within the county, though obscured by the general impression that it was merely the smallness of so many districts that was at fault. But the antithesis between the county and the county borough was so vociferously proclaimed that it became, after the first German war, the crucial issue in local government.

(2) Local authorities became more 'compendious' by the absorption of services still administered by *ad hoc* bodies—notably education in 1902 and public assistance in 1929. On the other hand, a limited but noticeable tendency to set up new *ad hoc* bodies was observable after 1930; this was due to the inconvenience of organizing certain services on the lines of the local authority areas either because of the unsuitability of local government boundaries, or because it precluded the cost of the service being met by a charge borne equally by all areas in the county as a whole.

(3) Within the structure itself there was considerable redistribution of functions between types of area, resulting in the transference of some from the smaller authorities inside the county to the county itself.

(4) The need for a revision of local government boundaries—to meet changes in the movement of population or to clear up anomalies

still remaining—was recognized and revision was carried out on an extensive scale during the years 1929 to 1938; it was, however, a rectification of boundaries or alteration of units within the classes of authorities, rather than a recasting of the structure of local government areas, since the principles of the system were not disturbed, even though the volume of change was extremely large.

B. *Counties and County Boroughs*

When the Act of 1888 was passed it was appreciated that urban development and movements of population would necessitate future adjustment of the balance thus struck between units mainly rural and those mainly urban. First, county boroughs might find it desirable to apply for an extension of their boundaries at the expense of a neighbouring county, in order to include new suburbs, which could fairly be described as 'outgrowths' of the county borough. Secondly, a municipal borough which had attained the minimum requisite population (50,000) stipulated by the Act, might apply for the status of a county borough, thus reducing the area of the county in which it was situated.[1] Constitution and extension of county boroughs could be achieved by the promotion of a Local Act, or by a system of orders made by the Local Government Board (later Ministry of Health). The County Borough presented a memorial to the Minister, stating the change desired and the effects upon other local authorities. The Minister could after initial examination refuse to entertain it further; for instance between 1903 and 1915, after a visit by an inspector, the applications of Burslem (1903), Hanley (1903), Crewe (1905), West Hartlepool (1909) were turned down.[2] If the application was allowed to proceed further, a local inquiry, as required by sec. 54 of the Act of 1888 was held by an inspector of the Local Government Board. Since sanitary questions played a considerable part in the determination of the question, the inspector was a member of the Engineering Inspectorate of the Local Government Board or Ministry of Health. The inspector received a detailed brief from the Department on the background to the application, and, before opening his inquiry, he spent a few days visiting the area in company with representatives of the local authorities con-

[1] Para. 54, of the Act of 1888.

[2] Royal Commission on Local Government: M. Gibbon Mem. 210 (I.85); Norton Q. 4882-3 (II.322).

cerned. Following the evidence given verbally and in writing during the inquiry itself, he made a report to London, giving all the relevant information, maps, statistics, etc. It was on this report that the decision of the Minister was based.[1] If the decision was to grant the application, either completely or in a modified form, it was embodied in a Provisional Order and submitted to Parliament.

What were the questions which the inquiry sought to elucidate, and which affected the decision of the Minister?

In the case of the constitution of a new county borough it was essential to make sure first that the population was in fact the 50,000 required by the Act, that the previous administrative record of the borough was good, whether it would need an extension of its boundaries if it became a county borough, and what the effect of its new status would be on the county or counties concerned. In the case of a proposed extension similar questions were asked. Again the past administrative record of the borough was examined; then, could *the area if enlarged continue to be efficiently and economically* administered? This involved the question of the extension of existing sewage plant and other public services. The effect on the services and rateable value of neighbouring authorities concerned also had to be estimated. The wishes of the inhabitants in the area to be incorporated in the county borough had also to be ascertained, though it was not generally held that their wishes should be the dominant feature.[2]

Another consideration was whether the area to be annexed to the county borough was an 'outgrowth' of it and whether there was a 'community of interest' between them, as shown by the sharing of a common water supply, or the use of the same tramway or sewage system. Again, attention was given to the provision of shopping and entertainment facilities by the county borough, which were used by the inhabitants of the portion it was proposed to include; similarly there might be common economic interests, both areas having the same trade or industry.[3]

Finally, the whole problem had to be reviewed in the light of financial considerations. It might be the case that workers in the

[1] R.C.L.G.: Evidence of Mr. Hetherington and Col. Norton.

[2] For instance in 1920 Parliament passed a Local Act for the extension of Edinburgh against the 'clamorous' opposition of the inhabitants of Leith, the area affected. See Gibbon M.22 (3) (I.99): Q.2496–9 (1103); Q.2505 (1103).

[3] Gibbon Q.2808 (I.116), Q.2515–6 (I.103), Q.2822–3 (I.117).

county borough went out to work in a factory in the area proposed for extension, and the county borough could not otherwise profit by the high rateable value of this factory; conversely, there might be high-class residential property outside the county borough, whose occupants came into the county borough to work but escaped the county borough rates in their homes.[1]

The following table shows the number of proposals made on the two methods of procedure both for the constitution and extension of county boroughs between 1889 and the appointment of the Royal Commission on Local Government in 1922:—

| | *Constitution of C.Bs.* | | *Extension of C.Bs.* | |
|---|---|---|---|---|
| | *Provisional Order* | *Private Bill* | *Provisional Order* | *Private Bill* |
| Proposals made .. .. .. | 29 | 4 | 104 | 61 |
| " withdrawn .. .. | — | — | 12 | 5 |
| *Stages Before Parliament* | | | | |
| Rejected without statutory local inquiry .. .. .. | 3 | — | 7 | — |
| Sent for local inquiry .. .. | 26 | — | 85 | — |
| (Opposed at .. .. .. | 14) | — | 75) | — |
| (Unopposed at .. .. .. | 12) | — | 10) | — |
| Refused at .. .. .. | 3 | — | 13 | — |
| Provisional Orders made .. .. | 23 | — | 72 | — |
| (Complete extension granted .. | — | — | 25) | — |
| (Partial extension granted.. .. | — | — | 47) | — |
| *Parliamentary Stages* | | | | |
| Bill opposed .. .. .. | 14 | 3 | 44 | 30 |
| " unopposed .. .. .. | 9 | 1 | 28 | 31 |
| " rejected .. .. .. | 3 | 1 | 8 | 10 |
| " confirmed .. .. .. | 20 | 3 | 64 | 46 |
| (For complete area of extension .. | — | — | 59) | 29) |
| (For modified area of extension .. | — | — | 7) | 17) |

(Report p. 164)

Thus during the period 1889–1922 23 new county boroughs were contributed; as two were merged with other county boroughs (Hanley in Stoke-on-Trent and Devonport in Plymouth), this made the net increase 21. This figure should be added to the 61 county boroughs created by the 1888 Act, making 82 in 1922: the area taken away by these means from the counties amounted to 100,000 acres, with a population of about 1,300,000 and a rateable value of £6½ million.[2] As regards extensions to county boroughs, the 109 made resulted in the transfer from county councils to county boroughs of about 250,000 acres, with a population of about

[1] See First Report of Royal Commission, pp. 166ff.

[2] Para. 373 p. 136 of Report.

1,700,000 and nearly £8 million of rateable value.[1] Added together this meant a total loss to the counties of 350,000 acres, with a population of 3 million and about £14½ millions of rateable value. These changes affected 27 out of the 61 counties outside London, and the percentage of the (1921 census) population and rateable value transferred was 22.8 and 20.8 respectively.[2] To take individual counties, Lancashire lost 667,000 population, Staffordshire nearly 400,000, the West Riding 360,000.

This continued expansion of the county boroughs was persistently opposed by the county councils, and it was really due to their efforts that the whole question was submitted to the Royal Commission under the chairmanship of Lord Onslow. Towards the end of 1921 they proposed to the Ministry of Health that a Royal Commission be appointed to investigate the question, but at first the Minister (Sir Alfred Mond) tried to settle the matter without such a lengthy process by conferences between the County Councils Association and the Association of Municipal Corporations at the Ministry. Although the case was fully argued on both sides no agreement on policy between the two bodies seemed possible and, as they both accepted the idea of the appointment of a Royal Commission, the Minister decided that this should be done as soon as the Royal Commission on London Government, then sitting, had concluded its work. In the meanwhile the situation was 'frozen' and the Minister declared that as far as the Ministry was concerned 'no contentious proposals for the extension of boroughs and the creation of new County Boroughs will be entertained by the Ministry'.[3] The Royal Commission was appointed on February 14th, 1923, and as originally constituted comprised (apart from the chairman), Lord Strachie, Sir George Macdonogh, Sir William Middlebrook, Sir Ryland Adkins, Sir Lewis Beard, Sir Walter Nicholas, Sir W. R. Buchanan Riddell, Bart., Mr. C. H. Lloyd, K.C., Sir A. M. Myers, Mr. (later Sir) Harry G. Pritchard, Mr. (later Sir) Edmund Turton, and Lt.-Col. (later Sir) Seymour Williams; on Sir Ryland Adkins' death in 1925 he was replaced by Mr. Samuel Taylor; on Sir Walter Nicholas' death in 1926 he

[1] Para. 374: see Mem. of Evidence. Gibbon App. LXIII Tables B and C (Vol. I, p. 82): C.C. Assoc. (Dent) App. LXIII Tables C and D (Vol. III, p. 484); Keen App. LXX (Vol. IV, p. 724).

[2] C.C.A. (Dent) Mem. 23 (Vol. III 452) App. LXIII C and D. (Vol. III, p. 484).

[3] Sir Alfred Mond: *Hansard*, June 13th, 1922; Vol. 155, col. 307.

was replaced by Mr. John Bond, and on Sir Arthur Myers's death in 1926 he was replaced by Mr. H. C. Norman.[1] The Commission's first report on August 7th, 1925, dealing with the extension of county boroughs, was put into effect by the Act of 1926. On August 4th, 1926, the terms of reference of the Commission were extended to cover relations between all local authorities, including parishes, and the making of recommendations as to their constitution, areas and functions. Their second report on this wider subject was published on October 9th, 1928; much of this was the basis of the Act of 1929; their third report, dealing with various other questions—including the problem of the local government civil service—which had been referred to them, was published on November 12th, 1929.

C. *Constitution of New County Boroughs*

The whole question of the constitution and extension of county boroughs was exhaustively examined by the Royal Commission. On the question of procedure, it was put to them by representatives of both county councils and urban districts that county boroughs should be constituted only by Private Bill procedure, if, after inquiry, it was found that the application was opposed on a matter of principle.[2] It was generally agreed that the inspectors of the Ministry were both competent and fair, and that it was only right that they should be experts on engineering, rather than legal arbitrators, in view of the technical questions involved.[3] The evidence of the two

[1] The following were the connections of members of the Commission with the different types of local authority.

*Boroughs:* Sir Lewis Beard (Town Clerk of Coventry and Blackburn), Sir William Middlebrook (ex-Lord Mayor of Leeds), Sir Harry Pritchard (Hon. Secretary of A.M.C.).

*Counties:* Sir Ryland Adkins (Chairman of Northants C.C. and of Executive Committee of C.C.A.), Lord Strachie (County Alderman of Somerset, Vice-President C.C.A. and R.D.C.A.), Sir Edmund Turton (Chairman of N. Riding Quarter Sessions and Licensing Committee) ; Mr. Taylor succeeded Sir Ryland Adkins,

*Urban Districts:* Sir Walter Nicholas (Clerk to Rhondda U.D.C. and member of U.D.C.A. executive committee), later succeeded by Mr. Bond.

*Rural Districts:* Sir Seymour Williams.

The 'neutrals' were Lord Onslow (Lord Chairman of Committees), Mr. Lloyd (Recorder of Chester), Sir George Macdonogh (ex-Adjutant-General), Sir W. Buchanan Riddell (Principal of Hertford College, Oxford) and Sir Arthur Myers (New Zealand ex-cabinet minister and Mayor of Auckland), who was later succeeded by Mr. Norman (Diplomatic Service).

The strengths of the parties were thus : Counties 3, Boroughs 3, Urban District 1, Rural Districts 1, 'neutrals' 5.

[2] Dent, M.71–72 (III. 629); Postlethwaite, Q.22427–22474 *passim* (VI. 1331–1334).

[3] Gibbon, M.212 (I. 185), Q.2271 (I. 93).

Inspectors[1] showed that they had had the opportunity of acquiring other qualifications—such as the technique of holding legal inquiries and weighing evidence—and that in view of the trouble taken the cost of the inquiry was not excessive. This had been one great cause of complaint, especially as in the case of the Plymouth application it had amounted to £20,000.[2] On the other hand, the County Councils Association claimed that the procedure did not enjoy the full confidence of the counties; they thought that too much attention might be directed to technical questions, like the provision for the sewerage of the area included in a proposed extension—rather than the general problems of county administration as a whole.[3]

The borough making the application had to show that its administrative record in the past had been a good one. The representatives of the boroughs had no difficulty in showing the high level maintained by them, and they claimed that a population of 50,000 entitled them to gain the administration of such services as they did not already administer by becoming county boroughs. Indeed, they urged that the high standard obtained by existing county boroughs was due to the concentration of all services in the hands of a single authority, operating over a compact area, resulting in an efficient and economical administration, and a relatively keen public interest in the work of the local authority. There was a considerable divergence of interest between the counties and the large non-county boroughs within their areas. This divergence of interest was traditional, and could be traced back to the long-standing desire for municipal independence.[4] Yet it was not only a question of tradition, but of practical interest. The urban ratepayers thought they were not properly represented on the county council, and if there were only one or two boroughs in the county, they would be in a permanent minority.[5] 'The urban representatives were on the whole more inclined to undertake the expenditure required for new or developing services, and the representatives of such areas had on the whole a minority of the membership of the county councils.'[6] The sort of expenditure, which was vital to a borough—particularly

[1] Norton, M.12 (II. 313); Hetherington, Q.5745–5749 (II. 370).
[2] First Report, paragraphs 477–9, pp. 172–3. Cf. A.M.C. Evidence, M.51 (VI. 1261), Q.21,215–223 (VI. 1261).
[3] Dent, M.71 (III. 629), Q.10,145–53 (III. 630).
[4] Collins, M.5 (IV. 751).
[5] *Ibid.*, Q.14,973–5 (IV. 920).
[6] First Report, p. 399. Cf. Collins, Q.16,020–24 (IV. 977).

when it was a health resort or tourist centre—might be overlooked or neglected in the mass of county expenditure.[1] The borough naturally felt that it was being neglected, and its inhabitants generally considered that the county council elections and county administration as a whole were too remote from them, and they would only be really interested if they had complete control of their own affairs.[2]

It was sometimes possible to come to a working arrangement. In Lancashire, for instance, the county council had shown a desire to meet the boroughs and had made arrangements to cover their special needs.[3] It was even possible to secure agreement on the vexed question of main roads. The point here was that the county council could 'main' district roads previously paid for by their own district councils, and thus put them to the charge of the county as a whole. The boroughs were always complaining that the county councils mained too many rural roads and not enough urban roads. The boroughs were thus paying more than their fair share, and Torquay, for instance, claimed that it was being charged £18,000 too much in respect of roads alone,[4] whilst the County Council was unwilling to keep the roads in the Borough at the standard necessary for urban, though possibly unnecessary for rural, roads. Yet, where there was goodwill, even this problem could be surmounted by an arrangement such as that in Lancashire, where the County Council had agreed to main certain roads running through towns, and to maintain them at a higher cost than the rural roads. The trump card of the boroughs was the argument that the 'wishes of the inhabitants' should be of dominant importance. This would operate even where the effect upon the County would be extremely serious, such as in the proposed constitution of Cambridge as a County Borough in 1913. This would in fact be, as the Chairman of the County Council termed it in a letter to *The Times*,[5] 'A bill for destroying the Administrative County of Cambridge'. Yet, said Sir Robert Fox[6] on behalf of the municipal corporations, if Cambridge wanted to separate from Cambridgeshire then its wishes should prevail over the objections of the County Council. A similar problem

[1] Collins, Q.16,002–8 (IV. 977).
[2] Nicholson, M.2 (V. 1127), 34 (V. 1143).
[3] Collins, Q.12,314 (IV. 756).
[4] Mitchell Winter, M.28 (VI. 1231), Q.20,591–620, *passim* (VI. 1230).
[5] Letter from Sir H. G. Fordham, March 4th, 1913.
[6] Q.7434–9 (III. 495).

arose in Bedfordshire, where the only two urban areas of any size, Bedford and Luton, both wished to become county boroughs. It was further pointed out that the rateable value per head of many boroughs was below that of the county in which they were situated, and, therefore, their separation could prove profitable to the county concerned. If the county still felt that its resources would be inadequate, it should join with other administrative counties, or be recouped at the expense of the national taxpayer.[1]

The counties' case was that they had built up their services, and could only organize them in the future, on the area of the county as a whole. If great areas were torn out of the county, it would be impossible for them to run their services on a proper basis; for education, highways, police, and health services, and institutional provision for mental deficiency and tuberculosis, it was essential to have *continuous* tracts of country. Further, even if it were possible for urban 'islands' to run proper services for themselves, the figure of 50,000 *was too low to allow of adequate police services, educational provision* or public health institutions. For instance, for specialized treatment of tuberculosis in institutions, a minimum population of 150,000 was estimated to be essential.[2] The educational and public health institutions could only be built to provide both for the inhabitants of the town in which they were situated and the surrounding countryside. The West Riding County Council regarded Doncaster as the proper centre at which to provide treatment in a tuberculosis dispensary not only for the town itself but for 70,000 to 80,000 people living in the surrounding districts; the proposed constitution of Doncaster, as a county borough would thus upset their arrangements.[3] If these towns were taken out of the county, arrangements could, indeed, be made to share the institutions. This could be done either by the formation of a joint committee, or by a contractual agreement whereby the authority owning the institution allowed it to be used by other authorities at a fixed cost per head. But the prospect of this might be uncertain, it could be cumbersome, and, if it were effectively arranged, then the new county borough would be as tied to the county in respect of the service in question as it had been previously.[4]

[1] Fox, Q.7439–40 (III. 496); Smith M.47 (V. 1652).
[2] Taylor Q.13 556–578 (IV. 840–41).
[3] Vibart Dixon Q.10,619–50 (III. 840–1); Musgrave, Q.12,552–62 (IV. 796).
[4] Marks, M.26–30, QQ.13,432–78 *passim* (IV. 830–34); M.54 (V. 1011); Q.16,634 (V. 1013); Keen, Q.15,396–403 (IV. 938).

The way in which, in the view of the counties, the legitimate aspirations of the boroughs could be met was by the sort of arrangement (*e.g. re* main roads) that had been made in Lancashire or Bedfordshire; further, the county councils were already operating a system of delegation, both for educational and highway administration. In Essex, for instance, 'in order to facilitate the local administration of secondary education, the County Council had formed in Ilford, as in other County Districts, a district sub-committee, composed of local residents, who were members of the County Council or District Council. This was in effect an Ilford committee, comprising Ilford people, and there was no difference of opinion between the local authority and the County Council . . . The sub-committee was given so large a discretion in the matter of expenditure, subject to the annual approval of their estimates by the County Council, that they had almost perfect freedom; and so far as secondary education was concerned, the Urban District Council would not be any better off if it were constituted into a County Borough, because the district sub-committee practically did what they liked, and paid for it within the approved estimates and the County Council did not interpose.'[1]

The crucial case was raised by the proposal—embodied in a draft order of the Local Government Board in 1913—to constitute Cambridge into a County Borough. The Borough of Cambridge comprised nearly half of the total population of Cambridgeshire, and its separation from the County would have had a disastrous effect upon the administration of the latter's services. 'The geographical relation of the proposed new County Borough and Administrative County are without precedent; the very centre is taken out of an area, the remainder of which becomes thus extremely weak in administrative character and poor in relation to its boundaries. The main roads radiating from the County Borough in its centre will continue to be used largely by Borough traffic, and this traffic will, undoubtedly, increase as time goes on. This will throw (subject to a comparatively short-term compensation) a greatly preponderating burden in the shape of expenditure for the maintenance of the main roads upon the rural and poor County, while the rich and urban County Borough will enjoy, as heretofore, a large share of the

[1] First Report, para. 902, pp 320–1.

benefit from the users of these roads.'[1] The main points at issue were the responsibility of the Borough for contributing to the cost of the main roads and the secondary educational system of the County. It was pointed out by the County Council that it was only fair that the Borough of Cambridge should contribute to the cost of the main roads, and that the entire population of the existing County (just over 120,000) was barely sufficient to maintain a complete educational system. If the latter were divided between two separate units, both would suffer.[2] If Cambridge were separated from Cambridgeshire, it would not be possible for the County, left with a mere string of rural villages, to continue as an independent administrative unit. Various alternatives were propounded—to amalgamate Cambridgeshire with the Isle of Ely and possibly with Huntingdonshire also, or to split the County up between the neighbouring Counties, Caxton and Arrington going to Huntingdonshire, Melbourn to Hertfordshire and Cottenham and the Fen villages going to the Isle of Ely.

The county councils accordingly proposed that the whole question of the constitution of county boroughs should be reopened on the basis of the original figure adopted by the Government in 1888—150,000 being the intended minimum population for county borough status. Since, however, the whole population of the country had increased from 21 millions in 1881 to 38 millions in 1921, they thought that 250,000 (or perhaps 200,000) would be the equivalent figure under the changed conditions.[3] The urban districts' and rural districts' representatives were prepared to raise the figure as far as 100,000 only. It was suggested that once the higher figure had been adopted, the borough applying for county borough status should first have to attain it, prove that it was efficiently governed, that its constitution as a county borough would not prejudice county administration (according to the county council's interpretation) and that the inhabitants of the borough would gain a definite advantage that would more than outweigh the disadvantage to the county.[4] In assessing these considerations, special attention should be paid to the cost of the provision of main roads, higher education and public

[1] County Councils' Association Official Gazette, April 1913.

[2] See letter from Sir H. G. Fordham to the Vice-Chancellor of Cambridge University, dated 8th February, 1913.

[3] Dent, M.67 (III. 549); Taylor, M.32 (IV. 839); Long, M.5 (III. 563). See also QQ.6548–52, 8604–6, 10,141, 13,578–612.

[4] Postlethwaite, M.6 (VI. 1326); Pindar, M.30 (VI. 1376).

health institutions.[1] The town councils rejected the argument of the counties, drawn from the general increase in the population, but said that, even if it were considered, it would raise 50,000 only to 60—70,000.[2] Indeed, there was a case for giving even smaller boroughs than those with 50,000 population full powers, if they could efficiently exercise them, or if special circumstances demanded them.[3] To raise the limit would rob existing boroughs, which had reached the 50,000 population limit, of their chance of independence, whereas if they had to wait till they reached 250,000 then their excision from the county at that stage would really be a crippling loss.[4] In the last resort, the wishes of the inhabitants of the area in question should predominate.

The Royal Commission recommended the raising of the minimum population for the constitution of a county borough to 75,000,[5] and that to prevent differences between county councils and other authorities within the county with regard to main roads (1) the urban authorities should have a right of appeal to the Ministry of Transport against a county council's decision not to main a road in their area[6] (2) the county council should consider contributing, as provided under Section 11 (10) of the Local Government Act of 1888, to the cost of roads in urban areas which had not been mained;[7] and (3) that differences about the cost of maintaining roads should be referred to the Ministry of Transport.[8]

D. *Extensions of County Boroughs*

"Since the passing of the Act of 1888, County government has developed in an extraordinary degree, and its whole complexion is changed—and the Boroughs can no longer regard the County area as so much new material with which to satisfy their acquisitive appetites."[9] The following table[10] shows the volume of extensions to which the County Councils took such exception :

[1] Vibart Dixon, Q.10,446–54 (III. 644).
[2] Fox, Q.7382 (III. 493); Smith, Q.17,091–100 (V. 1046).
[3] Collins, Q.12,338–41 (IV. 757); Winter, Q.20,456–76 (VI. 1225); Smith, 1.17,123(V. 1047).
[4] Collins, M.20–22 (IV. 968), Q.16,386 (IV. 997).
[5] First Report, paragraphs 1259–1263, pp. 470–471.
[6] Paragraph 1251, p 468.
[7] Paragraphs 1252–4, p. 468.
[8] Paragraphs 1255–8, p. 469.
[9] Sir J. C. McGrath, *Journal of Public Administration*, 1925, p. 304.
[10] Dent, M.18–19 (III. 451). Appendix LXIII, Table A (III. 481).

| Date | *Extensions* No. | *Under* 500 *acres* No. | % | 500—1,000 No. | % | *Over* 1,000 No. | % |
|---|---|---|---|---|---|---|---|
| 1888–98 .. | .. 37 | 17 | 45.95 | 5 | 13.51 | 15 | 40.54 |
| 1899–1909 | .. 33 | 10 | 30.3 | 4 | 12.12 | 19 | 57.58 |
| 1910–1919 | .. 28 | 8 | 28.57 | 6 | 21.43 | 14 | 50.0 |
| 1920–1922 | .. 11 | 2 | 18.18 | 2 | 18.18 | 7 | 63.0 |
| | 109 | 37 | | 17 | | 55 | |

Typical extensions are exhibited in the following table[1] which shows the handling they received at various stages in their passage from the original resolution to confirmation by Parliament.

| *Date* | *County Borough* | *Application* | *Provisional Order* | *As confirmed by Parliament* |
|---|---|---|---|---|
| 1909 | Birmingham | 30,338 | Slight reduction | 30,123 |
| 1919 | Nottingham | 39,579 | Refused by Minister | — |
| 1919 | Sheffield | 107,158 | 6,686 | 6,686 |
| 1920 | Leeds .. | 32,818 | 16,521 | Rejected |
| 1920 | Bradford | 30,453 | 10,149 | Rejected |
| 1920 | West Bromwich | 12,569 | Postponed. | |
| 1920 | Walsall .. | 13,640 | | |
| 1921 | Wolverhampton | 12,989 | Withdrawn by Minister. | |

This table shows that although the original suggestions made by the county boroughs were considerable, they were greatly reduced by the time they came into effect. Indeed, only four times did extensions finally exceed 10,000 acres—1898, Bolton (12,922 acres by Local Act); 1899, Bradford (12,088 by Provisional Order); 1911, Birmingham (30,123 by Provisional Order); 1918, Swansea (16,598 by Provisional Order).[2]

It is not necessary to go into a detailed exposition of the arguments raised for and against the extension of county boroughs, but it is interesting to note that the positions taken up by counties and county boroughs with regard to extensions were to some degree the exact reverse of those they took up with regard to the constitution of county boroughs. It was now the turn of the county councils to claim that the wishes of the inhabitants should be decisive, if the inhabitants of the area to be transferred were against the proposal to extend the county borough. 'It should be accepted as a principle that if the wishes of the inhabitants of a proposed added area were opposed to the inclusion of their area in a county borough, their opposition should 'subject to an overwhelming case of public interest' be a conclusive ground for the rejection of the county

[1] *Ibid.*, M.20.

[2] Evidence of Ministry of Health (given by Sir Gwilym Gibbon), Appendix XXIII, Table B (I.182).

borough's proposal to include that area.'[1] On the other hand, the county boroughs now recanted from the standpoint they had previously taken up with regard to the wishes of the inhabitants in relation to the constitution of county boroughs. Then, if the inhabitants of a borough wished to become a county borough, it had been argued, they should be granted their wish, whatever be the effect upon the county; *fiat justitia ruat coelum* was the attitude of Sir Robert Fox with regard to Cambridge and Cambridgeshire. But, if the inhabitants of an urban district, which it was proposed to include in a county borough, objected, then it had to be remembered that, in the words of Sir David Brooks, ex-Lord Mayor of Birmingham, 'It is the common fate of many a new proposition (whether concerned with borough extension or not) to be met by a body of opinion based on prejudice or vested interests, which have little to do with the merits of the innovation'.[2] Or again, 'I submit that although the express will of the people is entitled to full consideration, the manner in which it is formed, and the reasons on which it is founded, must in every case be examined and weighed against the advantages of the scheme to the community as a whole, in order that the opinions and prejudices of the then present body of inhabitants, founded on considerations such as I have referred to, may not enure to the permanent injury of the future local government of the entire area'.[3] These sentiments might well have been uttered by representatives of a county council objecting to the creation of a new county borough.

In a similar way, it was now the turn of the town councils to plead the advantage of the administration of services over an extended area. By expanding their boroughs, they could benefit the inhabitants of both the original and the added areas. There would be the economy of pooled services and efficiency through unified management. Indeed, the representatives of the town councils thought that this unification of areas could go on till the county borough had a population of a million,[4] or, in the view of Sir David Brooks, of two millions.[5] They did not think that the L.C.C. two-tier system

[1] See the judgment of Lord Kintore in the Birkenhead case, 1920; also Dent M.64 (III. 549), and Holland, M.33 (V. 1120).

[2] Brooks, M.11–12 (IV. 882–3).

[3] *Ibid.*

[4] Fox, Q.7544-51 (III.506).

[5] Brooks, Q.14,679–792 (IV. 904–7).

could be applied in the very large county boroughs, as this would remove the concentration of interest which had so greatly increased the efficiency of the county borough system of administration. The county councils were so struck by the continued erosion of their areas, even if each individual extension was not so large, that they advocated that future extensions should be limited to boundary changes only and, where more considerable extensions were suggested, they should not be carried out when they would have a damaging effect upon the administrative integrity of the counties concerned.[1] The county boroughs were parcelling out the administrative counties into spheres of influence of their own, and though each individual change might be small, the counties had to consider the cumulative effect.[2] The latter could not plan for the future so long as the integrity of their own areas was uncertain. Further, it was necessary to get really large areas for the planning, if not for the execution, of such services as water, gas, electricity, transport and town planning. Even the greatest reasonable extension would be inadequate to provide areas for these; the solution should be joint committees. But the counties were afraid to form joint committees under existing circumstances—or to arrange for a district near a county borough to be provided with public utility services by it—because they feared that it would be used as an excuse for county borough extension.[3] One instance is that of Gosforth, which pumped its sewage up 90 feet into another watershed, in order to avoid pumping it through Newcastle, and thus giving the latter a pretext for annexing it.[4]

The county boroughs said that their boundaries should be extended as far as would enable them to catch all the persons who slept outside the borough but came into it to work. To do this would involve a chase across more than one county.[5] Nor could 'the continuous built-up area' be adopted as the criterion, since, in an industrialised county, that would mean including great tracts merely because their buildings were continuous with those of a county borough. In regard to this question of the 'continuous area'

[1] Dent, Q.6720–1 (III. 453); Q.8437–44 (III. 550).

[2] *Ibid.*, M.20 (III. 451).

[3] Taylor, Q.10,014–5 (III. 621).

[4] Report of the Commissioner on conditions in Durham and Tyneside, 1934, p. 87 (Cmd. 4728).

[5] Dent, M.43 (III, 526).

and the advisability of joint authorities, there was again an antithesis between the evidence given by the opposing sides, when testifying as regards the creation and as regards the extension of county boroughs. Thus, while when opposing the constitution of county boroughs it was the counties who stressed the necessity for a continuous area with a balanced community, it was the boroughs who put this in the forefront of their case when appealing for their own extension. 'I think the whole question of a County involves the idea that within the area, which is generally a large one, there shall be a variety of population—that in the poor districts, comparatively thickly populated, and that in the thinly populated districts—and the cost of the services for the whole County are spread over the whole, and in fact the richer people do assist the poorer.'[1] On the other hand the boroughs also said: 'It comes to this, that unless you have a balanced community of good-class property and poor-class property, the district suffers badly on the rateable question? I think that puts it excellently. It must be a well-balanced district or you get very high rates.'[2]

With regard to joint authorities and schemes, the county council representatives had previously opposed their use, when it was suggested that they might be brought in to overcome any difficulty caused by the constitution of new county boroughs. 'If it be suggested that some sort of joint scheme should be made by which the County Council and Doncaster can enter into partnership, I have to point out that any scheme of this kind might leave the ultimate financial responsibility with the two Councils, and at best would be an imperfect restoration of the previously existing administration.'[3] But when it came to the extension of county boroughs, the joint authority was pointed to by the county councils as the way out. 'No ground for extension is constituted by the fact that a county borough supplies various services, such as gas, water, electric light, sewage disposal, and transport to outside authorities. In fact, the establishment of joint arrangements is, as has been pointed out, the proper method of providing for such common administration of a particular service. . .'[4] 'If a district requires certain services from the county borough, and they are agreeable to

[1] Dent Q.7163 (I. 475).
[2] Marks Q.16,720 cf. also Smith M.23 and Fox Q.7434.
[3] Vibart Dixon M.12 (III. 641).
[4] Dent M.65 (III. 549).

supply those services, then those services should be paid for, and it simply means, instead of all this unrest and constant disturbances of local government, that they put their heads together and in the case of two neighbouring authorities, they agree that a certain payment should be made for certain services rendered. I do not consider that any of the points that are put forward could not be arranged in that way.'[1]

To these arguments, the town councils replied with ones similar to those used by the county councils in regard to the constitution of new county boroughs. When stressing the need for balanced communities, they stated that they needed a rateable value averaging at least £18—possibly £25—per house—and in order to obtain this they should be able to include the richer residential or commercial quarters, which might well be outside the county borough boundaries.[2] Joint committees were a makeshift, and direct, unified administration was the more desirable alternative for the provision of services for the whole of a great conurbation :[3] ' It is much easier to control a thing yourself, or by people you appoint than to have half a dozen people with different interests trying to control the same thing . . . You cannot obtain by means of special arrangements the same control and the same uniformity of working as you can by means of an extension. We have had experience of that. . . .'[4] The negotiations and contractual relationships gave rise to friction between the authorities concerned, when they had to try and run a service jointly.[5] In one case, a county district had refused to join in a town-planning scheme, and a rapidly developing area could not be planned. The town councils reviewed all the services, to show that in each case a useful administrative area would be to the advantage of all, and urged that the county borough, to effect economical sewerage, should be extended to cover the whole of the watershed area in which it stood, and that this had been the object of the 1918 Swansea extension, and that proposed for Leeds in 1920 ; the latter would have taken in two whole municipal boroughs and the whole or part of 11 urban and rural districts.[6]

[1] Hinchliffe Q.8905 (III. 573).
[2] Collins, Q.15,869–99 (IV. 969–71).
[3] Brooks M.8 (IV. 880).
[4] Brooks QQ.14,201–213 and *passim*.
[5] Howitt M.25–6, QQ.21,531–43 (VI. 277–8).
[6] Fox QQ.8006–8012 (III. 528); Lang-Coath Q.19,741 (VI. 1191).

How were the Royal Commission to adjudicate between these conflicting contentions? Composed as it was largely of representatives of the interests concerned, it did not come to any really decisive judgment either way. It recommended that the wishes of the inhabitants of the areas affected should be given considerable weight, and should not be overruled, unless 'it is shown that there are considerations of public advantage, which in the opinion of the proper authorities are more weighty and of greater importance than the objections of the inhabitants.'[1] They also recommended that offers of a lower differential rate, made by the county boroughs to inhabitants of areas they proposed to include within their boundaries, should be regulated so as not to constitute a bribe to the districts concerned, but should only be made for valid reasons—*e.g.* if the county borough could not for a number of years offer full services to the newly included area.[2] The Commission thought that in general all arguments, for or against extension, should be admitted into consideration, and be examined on their intrinsic merits[3]—except that they did not hold that arguments based on the existence of common trading service provision should be considered as grounds for extension, unless there were special circumstances, nor that the fact of co-operation of two authorities in a joint town-planning scheme should be considered as evidence that an extension was either desirable or unnecessary, and that factors affecting education should be considered in relation to the provision of education over the area as a whole; in this, they accepted to some extent the submissions of the county councils.

## E. *From the Royal Commission Report to* 1939

All the above recommendations, together with provisions for financial adjustments (a subject not treated here) were incorporated in the Local Government (County Boroughs and Adjustments) Act of 1926. By an examination of the changes which have taken place since 1926—and more particularly since the Local Government Act of 1929—it is possible to assess to some extent the effect which the recommendations of the Royal Commission have had upon the county-county borough relationship, and in what way the situation since their report in fact differs from that preceding it. It is first,

[1] First Report, para. 1269, p. 472.
[2] Paras. 1270–1274, p. 473.
[3] Para. 1275, p. 474.

however, necessary to review briefly the amended procedure established by the Act of 1926. This provided that :—

(1) No municipal borough could be created a county borough by Provisional Order—but only by Private Act. This was a much more expensive method and would act as an automatic deterrent.

(2) No municipal borough could promote a bill for this purpose unless it had a minimum population of 75,000.

(3) When a county borough applied for extension of its boundaries all other local authorities likely to be affected had to be notified and could give notice of objection. If no objections were made—or, if made, withdrawn—the Minister could make a Provisional Order embodying the county borough's proposals. If objections were made, the Provisional Order could not be made, and the matter could only be proceeded with by way of a Local Bill.

(4) In all cases covered by the Act, the Minister was to see that adequate financial adjustments were arrived at to cover any losses of rateable value suffered as a result of boundary changes. These provisions were repeated in the consolidating Local Government Act of 1933 (Section 139). In addition, the provisions of Section 140 of the same Act, included the following provisions affecting county boroughs :

A county council could propose to the Minister the union of the county with a county borough.

A county borough could propose to the Minister its own incorporation within a county.

Under Section 143, a county council and a county borough could make a joint representation to the Minister for a mutual adjustment of their boundaries. In addition, the County Review Order procedure (cf infra) has sometimes involved the ceding of small areas to county boroughs.

Since the 1928 Act, no major changes in the status of county boroughs has come about. Only one new county borough, Doncaster, has been created; no county boroughs have been merged with counties. But the number of piecemeal extensions has been very large. During the period 1929 to 1937 the boundaries of 50 county boroughs (out of a total of 83) have been altered, and 49 of these have received extensions. There were 154 changes involving extensions of the county borough areas, and 26 involving their diminution. The total extent of the former was 111,616 acres, of the latter 771 acres—a net gain to the county boroughs of 110,845 acres. This, it may be noted is twice the area of the County Borough of Birmingham, and much larger than that of the Isle of Wight. The total population in the area transferred to the county boroughs was 151,424; the total lost by them was 982—a net gain of 150,442—more than the population of Brighton or Birkenhead, and considerably more than that of Cambridgeshire. The average gain in population to each county borough extended was about 3,000, but 19 of the 49 gained more than this figure :—

| *Name* | *Area (acres)* | *Population* |
|---|---|---|
| Bournemouth ... ... | 4,668 | 3,990 |
| Bradford ... ... ... | 4,530 | 5,708 |
| Bristol ... ... ... | 5,689 | 6,963 |
| Chester ... ... ... | 1,279 | 4,307 |
| Coventry ... ... ... | 6,310 | 11,043 |
| Huddersfield ... ... | 1,315 | 7,209 |
| Hull ... ... ... ... | 5,049 | 3,636 |
| Leicester ... ... ... | 8,398 | 10,146 |
| Manchester ... ... | 5,596 | 5,552 |
| Newcastle ... ... ... | 2,636 | 3,099 |
| Newport (Mon.) ... ... | 2,845 | 9,244 |
| Northampton ... ... | 2,732 | 4,205 |
| Nottingham ... ... ... | 5,240 | 7,388 |
| Rochdale ... ... ... | 3,110 | 5,264 |
| Rotherham ... ... ... | 2,011 | 5,536 |
| Sheffield ... ... ... | 5,432 | 6,500 |
| Southend ... ... ... | 3,229 | 9,668 |
| Wolverhampton ... ... | 2,011 | 5,536 |
| York ... ... ... ... | 2,679 | 9,253 |

A comparison of the figures for this period with those for the period before the 1926 Act shows that, whereas the changes effected each year decreased the number of persons lost to the counties, their average annual loss of acreage increased. Thus in the earlier period the rough annual average loss of population was 46,000 and, counting the creation of new county boroughs, over 80,000. During the 1929-1937 period it was only about 17,000 annually. On the other hand, the acreage figures for the earlier period averaged 6,700 or, with the new county boroughs included, about 10,000. In the more recent period, however, the annual average transfer of acreage rose to about 12,300. Some explanation of this fact can be found in the piecemeal nature of the post-1926 changes, which were numerous, but mainly concerned with little strips of territory. This is confirmed by the discovery that some county boroughs had their boundaries extended two of three times in so short a period as ten years. The changes were in no sense comprehensive, but intended purely to deal with some local problem. While an attempt was made to incorporate each suburb as the town expanded, the problem of the relation of the area as a whole to its urban centre was not settled. No solution was sought for the whole question of the relation of county to county borough. The changes made were essentially local and even opportunist, nor was any plan evolved in these changes for the integration of the city with its dependent countryside.

### F. *Areas within the County : From* 1894 *to the Royal Commission*

Just as the period from 1888 to the appointment of the Royal Commission on Local Government was one of continual encroachment by the county boroughs upon the areas of the counties, the position within the counties was of an analogous character. Thus urban districts and municipal boroughs were constantly obtaining rectifications of their boundaries. Between 1888 and 1926 the areas of 107 municipal boroughs, 297 urban districts and 134 rural districts were altered ;[1] and in most cases, this involved an extension of the urban areas. But even more important was the creation of new urban areas. This took the form of the constitution of new urban districts and the promotion of urban districts to become boroughs. The desire to become a borough was prompted not merely by a desire to gratify aspirations to a higher dignity and civic status, but *also to obtain certain functions which were confined to boroughs*; further to become a borough was an essential step on the road to county borough status.

The procedure for applying for a Charter of Incorporation was regulation by §210–218 of the Municipal Corporations Act of 1882 and §56 of the Local Government Act of 1888. The application had to be submitted to the Privy Council by a majority of the householders both in number and rateable value; evidence must be adduced about the growth of the town and the development of its industries; it must be shown that the town was already well administered, had the proper equipment for municipal administration and possessed the necessary elements of a distinct civic life. In general, a population of 10,000 at the last previous census was insisted upon and between 1889 and 1926 only two ancient towns—Fowey and Abergavenny—

[1] Gibbon, M.194 (I. 81)

were granted charters, when their population was less than 10,000. Fifty-three others received charters during the period. Four (Aylesbury, Hemel Hempstead, Morecombe and Pudsey) had populations between 10 and 15,000 when they submitted their applications. Eight (Bridlington, Brighouse, Burton, Dukinfield, Haslingden, Ossett, Redcar and Stourbridge) between 15 and 20,000, six (Colne, Lytham St. Anne's, Rawtenstall, Thornaby-on-Tees, Todmorden and Whitehaven) between 20 and 30,000, ten (Aldershot, Blyth, Bromley, Gosport, Llanelly, Nelson, Richmond, Torquay, Twickenham and Worthing) between 30 and 40,000, nine (Chatham, Eccles, Hove, Leigh, Mansfield, Nuneaton, Wallsend, Watford and Widnes) between 40 and 50,000 and seven over 50,000 (Acton, Ealing, Gillingham, Hornsey, Ilford, Swindon and Wimbledon). In addition, there are, not included in this list, six which became county boroughs (Bournemouth, East Ham, Merthyr Tydfil, Smethwick, Southend, Wallasey) and one (Aston Manor) ceased to exist.[1]

The formation of urban districts was even more striking. Between 1889 and 1927, 270 had been formed. With the exception of Penge, (which was specially formed under the Local Government Act of 1888) urban districts could be formed by the promotion of a Local Act, or an application of the ratepayers to the Minister under §272 of the Public Health Act of 1875, or by a county council, subject to the confirmation of the Minister, under §57 of the Act of 1888. The operative cause was the provision concerning the levying of special rates. The Public Health Act of 1875 provided that where water supply or sewage or similar works were carried out by a rural sanitary authority for the benefit of a particular part of the district, then a 'special' rate should be levied on the area benefiting from the works. This principle was subsequently re-enacted right down to §190 of the Local Government Act of 1933. Under it, water-supply, scavenging, sewage, etc., were thus charged on the parish benefiting (or a 'special drainage district' defined under §277 of the 1875 Act). Thus, as a village increased its population and required special sanitary services, it had to pay for them; but the control rested with the rural sanitary authority or later the rural district council. In order, therefore, to get control of the services from which it alone benefited, and for which it alone had to pay, the village would seek

[1] R.C.L.G. IX 1815 App. CIII.

incorporation as an urban district. 'There has been a constant tendency for the component parts of a rural district to break away, and this tendency is accentuated by the policy of retaining the incidence of parochial charge for many of the services rendered by the local authority. It is only natural that when the charges for water-supply, sewerage, sewage disposal, scavenging, street-lighting and other works are borne entirely by the parish, the ratepayers will begin to move for severance from the rural district as soon as they think there is a prospect of attaining an independent status.'[1] There was, of course, the 3,000 limit imposed under the Act of 1863, by which no parish under 3,000 population could be incorporated as an urban district without special permission of the central department. Still '. . . when they get to anything like a population of 3,000 or 4,000 they begin to work up a little agitation. 'We are all paying for our own services. Why should we not have our own council to control them?' '.[2] Not only, therefore, were numerous urban districts formed (270 between 1888 and 1926) but many of these were very small. On April 1st, 1927, there were 16 urban districts under 1,000 population, 63 between 1 and 2,000, 72 between 2 and 3,000, 74 between 3 and 4,000, 77 between 4 and 5,000. In all 302 (out of a total of 785) urban districts had less than 5,000 inhabitants. There were 222 with between 5,000 and 10,000 and 178 between 10,000 and 20,000. In other words, 524 out of 785 were under 10,000 population. The figures with regard to rateable value and the product of a penny rate were similar. Of the 782 urban districts in 1921 (there were three more in 1927) 83 had a rateable value of less than £10,000, 150 of between £10,000 and £30,000, 125 of £20,000 to £30,000, and 161 of £30,000 to £50,000. Thus 519 out of 782 urban districts had less than £50,000 of rateable value, the equivalent of 10,000 population, taking the common contemporary reckoning of an average of £5 rateable value per head of the population.

These small urban districts were not to be regarded as capable of becoming independently workable units. Their existence as islands in the middle of rural districts constituted an administrative problem for the rural district councils. 'In many rural districts there is a number of small urban islands, dotted about their areas,

[1] R.C.L.G. W. B. Pindar M.41.

[2] R.C.L.G. Pindar Q.29,887 (X. 1871).

most of which have to be traversed by the rural council's officers in the course of their duties, and such a state of things does not conduce to convenience of economy in adminstration. There are 300 of them with a population of less than 5,000. They are for the most part nothing more than large rural villages . . . local government in rural districts would be improved if all, or nearly all, of these very small urban districts were de-urbanised and became constituent parts of the surrounding rural districts,'—thus the testimony of a spokesman of the rural districts.[1]

The rural districts themselves, however, showed a similar number of small units and here too there was an historical reason for their appearance. In about 181 cases the old rural sanitary districts—based on the poor law unions—overlapped the county boundaries, and the Local Government Act of 1894 (Section 361) provided for bringing them all within a single county. County councils had already been required to deal with such overlapping under Section 57 of the Local Government Act of 1888.[2] In some cases the county councils made orders between 1889 and 1894, dividing the rural districts into two or more separate districts along the lines of the county boundaries. Between the passing of the Acts of 1894 and 1927, 118 new rural districts were created, and, in all except 3 of these cases, the formation of the new district was due to the fact that the county boundary cut across the old rural sanitary districts. 45 of these new rural districts had populations of less than 3,000 at the census of 1921, and at that time 58 rural districts altogether were below that figure in population. It follows, therefore, that over three-quarters of the rural districts with populations of less than 3,000 came into existence as a result of the provisions of the 1894 Act, designed to restrict rural districts to a single county. Of course, this splitting of the rural districts tended to make the average size of all rural districts smaller, because in each case where a small new rural district was created, the original rural district was itself correspondingly lessened. The method adopted in splitting the rural districts along the county boundary lines followed the general pattern that had been proposed by the Boundary Commissioners appointed under the Local Government Boundary Commission Act of 1887. But whereas the Commissioners had tried to get areas with

[1] Pindar M.47 (X. 1872).

[2] See R.C.L.G. Robinson App. C. (IX. 1816).

some community of interest, and suggested numerous adjustments and rectifications of the county boundaries, little of this was done in the changes subsequent to the Act of 1894. Here the motif was much more the automatic principle of splitting the rural sanitary district along the lines of the county boundary, without alteration to meet the needs of local circumstances. Further, it must be remembered that when the Boundary Commissioners recommended the formation of a new 'Contributory Union' for poor law purposes by splitting a poor law union along the county boundary line, they intended that it should remain in close association with the rest of the original union across the county boundary, by sharing the workhouse and so on. On the other hand, the new rural districts had no continued administrative connection with the former partner district across the county boundary.

Even with the operation of this rule, it was not however possible in every case to get the rural districts all within a single county. In a few cases, county councils exercised the discretion given them by the Act of 1894 to keep a rural district in more than one county. Thus in 1921 there were still 8 rural districts overlapping the county boundaries; it is true that three of these were on the borders of Gloucestershire, Warwickshire and Worcestershire, where the chaotic fragmentation of county areas made this unavoidable. Faringdon R.D. had 55,726 acres and 10,098 population in Berkshire, with 3,870 acres (pop. 1,048) in Gloucestershire; Holsworthy R.D. had 79,518 acres (pop. 6,690) in Devonshire and 5,302 acres (pop. 344) in Cornwall; Stow-on-the-Wold 42,203 acres (pop. 6,205) in Gloucestershire, 2,289 acres (pop. 295) in Worcestershire; Tetbury R.D. 26,300 acres (pop. 3,528) in Gloucestershire, and 3,271 acres (pop. 370) in Wiltshire; Tewkesbury R.D. 28,366 acres (pop. 4,687) in Gloucestershire and 10,019 acres (pop. 2,143) in Worcestershire; Winchcomb R.D. 55,529 acres (pop. 8,912) in Gloucestershire and 1,560 acres (pop. 107) in Worcestershire; Oundle R.D. 8,611 acres (pop. 1,020) in Huntingdonshire and 58,677 acres (pop. 6,524) in Northamptonshire; Thrapston R.D. 36,836 acres (pop. 10,289) in Northamptonshire and 10,448 acres (pop. 818) in Huntingdonshire.

A similar device was to form a new and small rural district in one county, but allow it to be administered by the larger part of the original rural sanitary district in an adjoining county; the two areas were still associated in the same poor law union till 1929.

Thus 4 English and 4 Welsh rural districts all administered small rural districts in neighbouring Counties. Shardlow R.D. in Derbyshire administered a Nottinghamshire R.D. composed of the Parishes of Kingston-on-Soar and Ratcliffe-on-Soar (2,466 acres, 400 pop.); Newent R.D. in Gloucestershire did the same for the Worcestershire Parishes of Redmarley D'Abitot and Staunton (5,305 acres, 1,043 pop.); Barnack R.D. in the Soke of Peterborough administered the R.D. of the Parish of Sibson-cum-Stibbington (1,542 acres, 408 pop.) in Huntingdonshire; Shifnal R.D. in Shropshire administered a Staffordshire R.D. comprising the Parishes of Blymhill and Weston-under-Lizard (5,462 acres, 689 pop.). In Wales, Rhayader R.D. (Radnorshire) administered Llanwrthwl Parish and Rural District in Brecknockshire (20,169 acres, 372 pop.); Neath (Glamorganshire) the Brecknockshire Parishes of Ystradfellte Upper and Lower (19,355 acres and 649 pop.), Conway R.D. (Carnarvonshire) had the Denbighshire Parishes of Llanelian y Rhos and Llan Santffreid Glan Conway (8771 acres, 1,723 pop.), while Machynlleth R.D. in Montgomeryshire administered two R.D.s—that composed of the Parish of Ysgubor-y-Coed (1,043 acres, 418 pop.) in Cardiganshire and that of Pennal Parish in Merionethshire (8,814 acres, 773 pop.). In several of these cases the arrangement was merely a makeshift substitute for the suggestions made by the Boundary Commission of 1887 that the County boundary should be altered to keep intact the Union area (Newent, Barnack—the old Stamford Union, Shifnal, Rhayader, Neath, Conway). A typical case of the need for this was provided by the example of the Ystradfellte Parishes, separated from the rest of Brecknockshire by a range of mountains, and which could only be administered by Neath R.D., to whose Rural Sanitary District they had formerly belonged; two members represented Ystradfellte on the Neath R.D.C.[1]

The main feature of the structure as it struck observers at the time of the Royal Commission was that there was a great variety in the area, population and rateable value of authorities within the same class and that many of them appeared to have so small a size and financial capacity as to make it *prima facie* unlikely that they could efficiently execute the duties laid upon them by Parliament. If the disparities in the sizes of counties (from Rutland to the West Riding) or in county boroughs (from Canterbury to Birmingham) be

[1] R.C.L.G. Windsor Williams M.65; QQ.31,037 (X. 1939).

passed over, the position as regards county districts was remarkable enough, as the following tables demonstrate. In 1927, there were 1,698 county districts—255 non-county boroughs, 785 urban districts and 658 rural districts. Their populations—1921 census—were:

| *Population* | *Boroughs* | | *Urban Districts* | | *Rural Districts* | |
|---|---|---|---|---|---|---|
| Under 1,000 | 1 | | 16 | | 10 | |
| 1,000—2,000 | 13 | | 63 | | 17 | |
| 2,000—3,000 | 19 | 66 | 72 | 302 | 29 | 126 |
| 3,000—4,000 | 20 | | 74 | | 28 | |
| 4,000—5,000 | 13 | | 77 | | 42 | |
| 5,000—10,000 | 40 | | 222 | | 216 | |
| 10,000—20,000 | 53 | | 178 | | 229 | |
| 20,000—30,000 | 33 | | 45 | | 67 | |
| 30,000—50,000 | 50 | | 28 | | 15 | |
| 50,000—100,000 | 12 | | 6 | | 5 | |
| Over 100,000 | 1 | | 4 | | — | |
| *Rateable Value* | | | | | | |
| Under £10,000 | 19 | | 83 | | 9 | |
| £10—20,000 | 34 | 79 | 150 | 358 | 27 | 76 |
| £20—30,000 | 26 | | 125 | | 40 | |
| £30—40,000 | 16 | | 91 | | 58 | |
| £40—50,000 | 13 | | 70 | | 47 | |
| £50—60,000 | 17 | | 47 | | 49 | |
| £60—70,000 | 13 | | 51 | | 55 | |
| £70—80,000 | 9 | | 20 | | 57 | |
| £80—90,000 | 6 | | 21 | | 47 | |
| £90—100,000 | 10 | | 24 | | 48 | |
| Over £100,000 | 90 | | 100 | | 226 | |

The financial capacity of the 594 authorities with populations under 5,000 was weak. In only one of them—a Rural District—did a penny rate raise over £200, and in 8 between £150 and £200; in all the others it was less than £100; £50—£100: 33 boroughs, 132 urban and 65 rural districts; £20—£50: 28 boroughs, 107 urban and 32 rural districts; Under £20: 4 boroughs, 25 urban and 6 rural districts.[1]

What this low product of a penny rate means is most vividly expressed by a story told by Mr. Lewis Silkin in the House of Commons on the Second Reading debate upon the Boundary Commission Bill in 1945. 'I remember in one town, with which I am familiar, a boy who had been sent to the University by the Local Authority, was seen walking about, and the mayor was heard to say "There goes a fourpenny rate" '.[2]

[1] *Ibid.*, Robinson (IX. 1717-1716).

[2] House of Commons Official Report May 9th, 1945, c. 1958.

Bound up with this question of financial incapacity and variations of size between authorities of the same legal status was that of the inequitable distribution of powers and duties between classes of authority. It was pointed out that a rural district with a population of, say, 50,000 was excluded from functions that could be performed by a borough with 15,000. The problem was described by the Ministry of Health as being one of 'asymmetry of function' resulting from the number of authorities of differing origin, population and rateable value in the same legal class, and this diagnosis was accepted by the Royal Commission on Local Government.[1] The remedies proposed for it can be broadly classified into two groups—those concerned with the general structure of local authorities and their areas, and those concerned with a redistribution of functions between the different classes of authority—and the present study is directed mainly to the former group.

On the main remedy there was a substantial and general agreement. Previously, changes in areas and boundaries had been carried out piecemeal; county councils prepared orders for the changes relating to urban and rural districts and parishes under Section 57 of the Local Government Act of 1888, but each case was generally dealt with individually as it arose; borough councils applied direct to the Minister for orders making changes in their boundaries. It was accepted that there should be some general review—county by county—thus ensuring that changes recommended would follow a plan covering a wide area, and would obviate the difficulties involved in a series of individual, and perhaps sometimes conflicting, adjustments. The County Councils' Association suggested to the Royal Commission that the county councils—as authorities principally responsible for making orders under Section 57 of the Act of 1888—should be entrusted with the review; that the non-county boroughs should consent to waive their right to individual treatment, and that the county councils should then present schemes for a general review to the Minister of Health.[2]

To this the boroughs assented, although they agreed to waive their special privileges only if there was a proper consultation of interests affected and not a 'cut and dried' plan; all district councils, and county boroughs also, should have the right to propose alter-

[1] Royal Commission, IInd Report, p. 8, para. 23.
[2] Dent, Hinchliffe and Holland (X. 1980 *sqq*).

ations, and if the scheme did not find complete acceptance, there should be a local inquiry; of course, the boroughs made it clear that they were waiving their privilege only for the specific purpose of the County Review.[1] Substantial agreement was also forthcoming from the urban districts and the rural districts[2] through their respective associations, though they too stressed the need for full consultations of all local authorities whose interests were involved. The Royal Commission accordingly recommended that there should be a periodical general review of county districts and parishes, within a specific period after the passing of the necessary legislation. It should be in accordance with the following procedure. The county council would submit a plan of review, which would provide for the alteration of areas or their amalgamation, the conversion of an urban into a rural, or a rural into an urban, district, the transfer of the whole or part of a district to another district, or the formation of a new district; there would also be power to alter parochial boundaries.[3] Any county borough within the geographical county should be consulted, and a county borough and a county could make a joint application for the alteration of mutual boundaries. If a county council were not to make the representations for alterations within the time limit specified, then the Minister should act in its place. If any local authority objected to the county council's plan, the Minister should hold a local inquiry.[4]

The general objective of the County Review, as conceived by the Royal Commission was the reform of the local government structure as expeditiously and as conveniently as possible. The county councils would be the instrument, because they had originally been so selected by the 1888 Act, when the Government looked to the county councils as 'great engines of reform',[5] and because they were near enough at hand to have full knowledge of local conditions.

The rural districts were very much concerned at the continual 'erosion' of their areas caused by the formation of new urban districts and they proposed that no new urban district should be created unless it had a population of at least 10,000 and a rateable value of £50,000.[6] On the other hand, they recognized that the

[1] Jarratt QQ.1795–98, (XI. 2070).
[2] Pindar (X. 1877).
[3] The special object here was to get all parishes within a single county.
[4] R.C.L.G. Second Report, pp. 15–19. Paras. 39–46.
[5] Speech of C. T. Ritchie in the House of Commons, June 7th, 1888.
[6] Pindar M.54 (X. 1878).

inhabitants of an urbanized parish could legitimately complain of not being able to manage for themselves the local services which they paid for by their own special rate. To meet this, the rural districts suggested that the existing system of parochial committees should be made more widespread, in order to provide the opportunity of local management, and that steps should be taken to spread the incidence of charge for all local services over a wider area, so as to offer an additional inducement to the urban parishes to remain in the rural district. Under Section 202 of the Public Health Act of 1875 and Section 15 of the Local Government Act of 1894, the rural district council had the power to set up a parochial committee for any 'contributory place', *i.e.* for any rural parish or any district upon which was a special rate levied. The use made of this power by rural district councils was very uneven. The National Council of Social Service carried out a survey of a number of counties about 1925 and this showed that in one county 8 out of 300 parishes had parochial committees, in another 1 out of 271, in a third 14 out of 129, in a fourth 87 out of 395 (including two entire rural districts).[1] The composition of the parochial committees was also varied. Sometimes they comprised the rural district councillors for the parish, sometimes the parish councillors, sometimes a combination of the two. The functions which they exercised related to the collection of house refuse, sanitation, scavenging, and, occasionally, sewerage, drainage and water supply. In general, they acted for the rural district council as the local managers and inspectors of the work done in the parish by the R.D.C.'s staff and equipment. Their accounts and estimates had to be sanctioned by the rural district council, but they enjoyed often quite considerable discretion in the engagement and suspension of staff, the hearing of complaints, the making of suggestions and so on.[2] The Rural District Councils' Association suggested that the appointment of a parochial committee should be compulsory for the R.D.C. in any parish with over 3,000 inhabitants, if the parish council applied for it.[3] The Royal Commission agreed that the parochial committee was an interesting device and might prove valuable; the Local Government Act of 1933 (Section 87) repeated the provisions for the parochial committee and added that

[1] See R.C.L.G. Minutes XIII. pp. 2310–2312.

[2] For Parochial Committees in Wrexham R.D. cf. Price M.7 (e), in Easington cf. Longden M.35, in Wallingford cf. Slade Q.31,119, in Yeovil cf. Rodber M.2 (q).

[3] Pindar M.55 (3).

there was to be an appeal to the Minister by the parish council against the refusal of the rural district council to establish a parochial committee.

The Royal Commission also considered the whole problem of spreading the incidence of charge. Under the Public Health Act of 1875 (Section 229) it was necessary to levy a special rate for the provision of water supply and sewerage upon the parish (or special rating district) specifically benefiting. This had two consequences; first, that work could not be undertaken unless the parish or small district could itself afford it alone; secondly, the parish would demand the complete management of the services for which it alone paid, and claim to become an urban district. Hence the rural districts wanted to amend the operation of this principle by allowing the rural district council to contribute to the cost of works otherwise chargeable solely on the individual parishes, or even, with the consent of the Minister, to assume the entire expenditure as a responsibility of the whole rural district.[1] This was opposed both by the Association of Municipal Corporations and by the Urban District Councils' Association. Their argument was that such a step would penalize the parishes which had already provided their own services by making them pay for those of their less provident neighbours.[2] This dual aspect of the problem of spreading the incidence of charge arose in an acuter form in the analogous request by the county councils, that they should be permitted to make a contribution to a district's expenditure on district services. This issue raises a fundamental and recurrent problem in local government. It is whether there is an obligation upon an area, whose financial position is good and which has already provided itself with adequate local services, to contribute towards the provision of those services for a less favourably placed neighbour; and—if this principle is valid—over how wide a geographical area it should apply. It is true that the question is somewhat deflected by the consideration that the services most in view are those of public health—water supply, sewerage and the like—and that these are of indirect interest to the neighbours of their direct beneficiaries, because, if a district has no proper drainage or water supply, disease will probably arise there, and become epidemic, infecting a wide area. It is therefore necessary for all in the wider

[1] Pindar M.55.

[2] Postlethwaite, etc., XI. 2156–2160.

area to help a small authority to provide itself with the basic environmental health services. The analogy from the general practice as regards meeting the cost of public social services seems clear also; everyone has to pay to provide certain social services, even if they do not themselves actually benefit from them. The point is brought out when comparison is made between the relative positions of individual and local authority.

(Mr. Taylor). 'This difficulty is exactly the same with an individual in a district. Many individuals in rural districts have put in their own water supply, and they have to contribute to the rates of the locality as well for their supply, do they not? It is exactly the same with an authority who have already provided their water. You cannot get away from that difficulty?—(Sir Arthur Robinson, Permanent Secretary of the Ministry of Health): 'Certainly in one way the individual has got a complaint and a grievance; in another way he has not. I think the answer is both yes and no; that is the real truth of it.'

(Sir George Macdonogh). 'But surely that runs through all problems of Local Government. For instance, one man sends his boy to Eton and pays for him and at the same time he has to contribute to the education of the rest of the community in Council Schools?—You have to call upon him to take a wider interest.'

'Otherwise you would have no local government at all?—That is so.'

The last observation leads on to what the Royal Commission found to be the crucial point. In many cases, the alternative to spreading the area of charge would be no service at all, since the only other source of aid—the Exchequer would not be likely to assist, and the remedy suggested by the Urban District Councils' Association—that districts should be allowed to raise loans in excess of the stipulated limit of two years' assessable value—would be of limited application. The parishes would still be left without adequate means of providing—each for itself—the basic sanitary services. The retention of the parochial incidence of charge would be 'equivalent in financial effect to an enormous increase in the number of small urban districts, struggling with inadequate means to provide and maintain essential services.'[1] The Royal Commission accordingly recommended the right both of county councils to assist district councils and of rural district councils to make the whole or part of a local scheme a district responsibility, with the consent of the Minister. They held that this was merely the application of a 'principle already recognized in other services *i.e.* that the rates should not be payments for direct and personal benefits, but should be spread over

[1] R.C.L.G. Minutes. Pindar, *loc. cit.*

the widest area in which there is a common interest in the provision of the services in question.'[1] The Local Government Acts of 1929 (Section 56) and of 1933 (Section 190) accordingly gave permission to rural district councils to contribute all or part of the expenses of a parochial scheme, and to county councils to contribute to the expenses of non-county borough or district councils, for hospital accommodation, sewerage, sewage disposal or water supply[2] (see also Public Health Act of 1936: Section 307), and towards the expenses incurred by other authorities in lighting county roads (Road Traffic Act 1934: Section 23); the Acts of 1933 and 1936 made rather broader the original principle contained in the Act of 1929.

G. *The County Review Orders*

The Acts of 1929 and 1933 put into effect the general recommendations for the holding of County Reviews. The objectives, as defined by the Ministry of Health, were:

1. That proposals for change should be directed to encouraging the confidence of the inhabitants in their representatives and to stimulate interest.
2. Due regard should be paid to the prestige and tradition of local government of the areas affected, and the sentiment of their inhabitants.
3. The aim should be to ensure that authorities were both willing and able to discharge the functions laid upon them by Parliament, and to carry them out with energy and efficiency.[3]

Section 46 of the Local Government Act of 1929 provided that county councils should review the boundaries of all non-county boroughs, urban districts and rural districts within their county areas, and should submit proposals for change to the Minister of Health by March 31st, 1932. The Minister could then seek confirmation of the county councils' proposals by submitting them to Parliament in the form of Provisional Orders. During the period 1929–1932 21 counties submitted proposals covering the whole of their respective areas, and 5 for part of their areas. The next step

[1] R.C.L.G. IInd Report, p. 22, para. 53.

[2] Section 6 of the Rural Water Supplies and Sewerage Act, 1944, made expenses in respect of sewerage, sewage disposal and water supply a charge upon the general rate and no longer upon special parish rates.

[3] Robinson M.239–241 (IX. 1767).

taken was by the consolidating Local Government Act of 1933, which, while continuing the provisions of County Review (Section 46), laid down that these were not to be undertaken at less than decennial intervals. In addition, other powers were restated; by Section 140, a county council could propose the alteration of the boundaries of any county district, and by Section 141, it could propose the creation or abolition of urban and rural districts and civil parishes. A municipal borough could propose alterations in its own boundaries, or its union with another borough, or the inclusion of a district within the borough. All these proposals required the consent of the Minister, who would promulgate them in a Provisional Order. Thus the Act put the county councils firmly in the position they had held since 1888 of being the ' engine of reform ' in local boundary changes. By using the various provisions of the Act, they were empowered to review all areas within the county, propose the creation and abolition of districts and parishes, and the alteration of all boundaries within the county; the only thing they could not do was to propose the abolition of a municipal borough.

What use was made of these powers in the ten-year period during which the County Reviews were carried out—1929–1938? Leaving aside changes involving county boroughs and inter-county changes, there were between 1929 and 1938 about 1,300 boundary changes. These changes were effected by Local Act, individual Provisional Order, or County Review Order, the last being the most important. Only two counties (Radnor and Rutland) did not submit proposals for a County Review. Among the 256 municipal boroughs existing at the start of the period, 189 had their boundaries altered. 206 urban districts were abolished, 49 were created. 236 rural districts were abolished and 67 created. Thus there were 159 less urban and 169 less rural districts than before the changes. On the other hand, the extent of the majority of individual changes was generally quite small. Except when districts were being amalgamated, the usual area involved in a change was in most cases part of one civil parish, containing a few acres and a small population. These changes rectified anomalies in local authority boundaries and were intended to ease administration, and the number of districts abolished and created gives a fair picture of the scope of the whole work.

What were the objects of these 1,300 changes, as they appear from an analysis of the changes themselves ?

1. The removal of anomalies. To smooth out and adjust the obvious awkwardness of so many boundaries, to cut off the tiny detached 'islands', the projecting corners, etc. This was even carried some way towards remedying the defects in the county boundaries also.

2. The second object was to reduce the number of urban districts in the great urban areas. Substantial numerical reduction was achieved in Lancashire and the West Riding, and it was in these areas that the number of small and adjacent urban districts was the greatest. In the West Riding, for instance, 34 urban districts were eliminated by a Review Order in 1937, and 24 more in 1938. But there was no power to touch municipal boroughs, and the problem was to that extent only lessened, leaving numerous small units in areas which constitute in fact a single conurbation. Indeed, there seems to have been a general policy of building up a ring of new boroughs around the great conurbations. The result is that both the London County Council area and the areas of the county boroughs in the Midland and Northern industrial areas are now hemmed in by a ring of municipal boroughs, many of them recently promoted urban districts. This, under the provisions of the Act, made it difficult for the county boroughs to expand further, since a municipal borough, whose existence is not at the discretion of the county council or even the Minister, is a formidable obstacle.

3. The reduction of the numbers, and the increase in the average size of the rural districts was a third objective. Most counties substantially reduced the number of rural districts within their areas; in most cases careful study, investigation, and consultation of all interested bodies resulted in the recasting of the rural areas of the county; rural districts as a result were rendered fewer and larger than they had previously been. Yet their original character remained unchanged; they were still 'remnants'—what was left of an area after boroughs and urban districts had been excluded. When first created in 1872, a rural (sanitary) district, was the poor law union less the urban areas; after the County Review orders, a rural district became the remnants of perhaps two poor law unions instead of the remnants of one. In the process the shape of the old union areas has often disappeared. A clear example is afforded by the reorganization of rural districts in South Oxfordshire, effected by the Oxfordshire Review Order of 1932. The part of the County of

Oxford lying to the south-east of Oxford City was originally comprised in five poor law union areas. First, there were three taking in the valley of the Thames from Oxford to Reading; from north to south, these were the Unions of Abingdon, Wallingford and Bradfield. In each case the Union stretched across the valley of the river, the greater part being in Berkshire, but a considerable part being on the Oxfordshire bank. The three Unions (and their corresponding rural sanitary districts) thus evidenced the fact that a river like the Thames is a unifying rather than a separating factor, and should be the centre line of an area and not a frontier between separate areas. Similarly the two Unions of Thame and Henley—with their rural sanitary districts—spread into two counties, because though the majority of parishes in each were in Oxfordshire, they also comprised the Buckinghamshire parishes, which used the markets of Thame and Henley respectively. After 1894, the Oxfordshire parishes of Abingdon Union and Rural Sanitary District were formed into the Culham R.D., those of Wallingford into the Crowmarsh R.D., and those of Bradfield into Goring R.D.—the Oxfordshire parishes thus being separated from their normal local centres of Abingdon, Wallingford and Reading respectively. Similarly the majority of the Thame and Henley Unions and Rural Sanitary Districts became the Oxfordshire R.D.'s of Thame and Henley, but their Buckinghamshire parishes were formed into the two new and small Buckinghamshire R.D.'s of Long Crendon and Hambleden. Thus in S.E. Oxfordshire there were 5 small R.D.'s each comprising only a part of the original union area—their populations ranging from 2,651 in Henley R.D. to 6,138 in Crowmarsh R.D. The Review Order combined them in two large R.D.'s—Bullingdon and Henley. Goring R.D., the southern part of Crowmarsh R.D. and Henley R.D., formed the new Rural District of Henley. The Culham R.D., the northern parts of Crowmarsh and Henley R.D.'s, Thame R.D. and most also of Headington R.D. formed the new R.D. of Bullingdon. Thus while the 1894 Rural District preserved in some form the outlines of the original union areas, even if the latter had been bisected, the new recasting of areas caused them to be entirely broken up. In Wiltshire, twelve rural districts were reduced in number to six by the expedient of combining them in pairs; this doubled the size of the districts but did not necessarily provide more compact units, representing natural groupings of the population. It may be perhaps deemed rather unfortunate that this change of rural district areas should so often completely have obliterated the old union areas. They represented both a grouping together in one unit of town and country, and the conscious adoption of some practical criterion for the delimitation of areas (in this case, the radius of a market town's influence). Modern contemporary practice is returning to principles of this kind, and in the mapping out of new areas the old union areas might sometimes have provided a convenient guide.

4. The extension of the boundaries of boroughs and urban districts was also accomplished in a routine manner during the County Review Orders, as well as by individual Acts and Orders. As stressed above, the extension generally involved only a small area in each case. The aim seems always to have been to include any new building that was an 'outgrowth' of the borough or urban district. In some cases, a few acres may have been included which were ripe for development. But while accepting the Ministry of Health's statement, in the Annual Report for 1936–1937, that 'boundaries have been delimited to provide the necessary room for development', as meaning that towns have been able to incorporate present or future suburbs, there was still no approach under the Review Orders to the problem of the wider area dependent upon the town, extending beyond the continuous built-up area into the open countryside and neighbouring villages.

5. In 42 cases small urban districts were incorporated in the surrounding rural districts. This has a special significance for the solution of the problem of the urban 'islands' in the rural areas; it shows the emergence—on a restricted scale—of a unit with both urban and rural components. In the various discussions before the County Review Orders commenced, it appears that a new type of local authority was at least contemplated as possibly resulting from them. This would evolve from the necessity of providing for the government of rural or semi-rural areas, where local authorities would have to be amalgamated. In such cases, however, it might prove impossible, for geographical reasons, to join urban to urban or rural to rural authorities, and thus urban and rural authorities would have to be cast into one whole to form a new unit. The fusion of urban and rural districts would be possible under the provisions for review envisaged, but many of the small urban authorities in the rural areas were in fact non-county boroughs, often of long

standing. Hence, the question arose as to whether it would be possible to fuse such a borough with a rural district. The evidence submitted to the Royal Commission on Local Government shows that the county councils were prepared for such a development :[1]

(Chairman): 'Your scheme, I think, might very likely alter the status of a very small non-county borough, because it would become the Borough and District of so-and-so ? It would alter the method of obtaining an extension. What would happen would be this. You would have a Borough of 4 or 5,000 inhabitants, an ancient Borough, surrounded by a large rural area; that would become the Borough and District of X ?—Yes.

And for local government purposes the Mayor would be Chairman of the Council. I suppose ?—Yes, I see no reason why he should not be the Mayor of a large area.

But would that large rural area come into the Borough ?—I see no reason why it should not. It would be a reconstituted county district which would include the Borough.

And that rural area would be governed as though it were part of the Borough ?—Yes.'

Even the representative of the Association of Municipal Corporations (Mr. Ernest Jarratt) considered the suggestion 'very reasonable'.

(Sir Seymour Williams): 'What would be the attitude of your Association, and of those whom you represent, to a possible amalgamation of a fairly good-sized non-County Borough with a surrounding area, so as to make one District of it ?—I think it a very reasonable proposal. Of course it would have to be considered in the light of local circumstances by the proper tribunal.'[2]

In fact, however, it was not possible to take such drastic steps, but 42 urban districts were incorporated in the surrounding rural districts. The following table shows them, and gives an idea of the average size of the urban districts thus treated :—

| *County* | *Urban District* | *Rural District* | *Population of U.D.* |
|---|---|---|---|
| Cheshire .. | .. Tarporley | Northwich | 2,452 |
| Cumberland | .. Arleton & Frizington | Ennerdale | 4,328 |
| | Egremont | Ennerdale | 5,681 |
| | Cleator Moor | Ennerdale | 6,017 |
| | Holme Cultram | Wigton | 4,743 |
| | Wigton | Wigton | 3,521 |
| | Millom | Millom | 7,405 |
| Derbyshire .. | .. Hurston & Boulton | Shardlow | 3,280 |
| | Baslow & Bubnell | Bakewell | 654 |
| | Brampton & Walton | Chesterfield | 2,323 |
| Devonshire | .. Brampton | Tiverton | 1,392 |
| | Ivybridge | Plympton St. Mary | 1,609 |
| Durham .. | .. Stanhope | Weardale | 1,746 |
| Gloucestershire | .. Awre | E. Dean-W. Dean | 1,033 |

[1] R.C.L.G. QQ.32,884–887.
[2] *Ibid.*, QQ.33,331.

| *County* | *Urban District* | *Rural District* | *Population of U.D.* |
|---|---|---|---|
| | Coleford | W. Dean | 2,717 |
| | Newnham | Gloucester | 1,035 |
| | Stow-on-the-Wold | N. Cotswold | 1,266 |
| | Tetbury | Tetbury | 2,237 |
| | Westbury-on-Severn | Gloucester | 1,746 |
| Kent .. | Wrotham | Dartford : Malling | 4,500 |
| Lancashire .. | Croston | Chorley | 1,934 |
| Leicestershire | Quorndon | Barrow-on-Soar | 2,604 |
| | Thurgaston | Barrow-on-Soar | 2,695 |
| Lincoln-Holland | Holbeach | E. Elloe | 6,112 |
| | Long Sutton | E. Elloe | 2,902 |
| | Sutton Bridge | E. Elloe | 2,839 |
| Kesteven | Ruskington | E. Kesteven | 1,101 |
| Lindsey | Crowle | Isle of Axholme | 2,833 |
| | Roxby-cum-Risby | Glanford Brigg | 548 |
| | Winterton | Glanford Brigg | 1,958 |
| Northumberland | Rothbury | Rothbury | 1,255 |
| Oxfordshire | Wheatley | Bullingdon | 1,268 |
| Somersetshire | Wiveliscombe | Wellington | 1,262 |
| Surrey .. | Windlesham | Bagshot | 5,257 |
| Surrey (East) | Battle | Battle | 3,491 |
| | Uckfield | Uckfield | 3,555 |
| Westmorland | Kirby Lonsdale | S. Westmorland | 1,372 |
| | Shap | N. Westmorland | 1,228 |
| York (E.R.) | Pocklington | Pocklington | 2,642 |
| (N.R.) | Kirtlington-cum-Upland | Bedale | 249 |
| | Masham | Masham | 1,995 |
| Merionethshire | Mallwyd | Dolgelly | 679 |

During the period there were also considerable changes in the boundaries between counties; this was generally done by a special Local Act, but the Acts of 1929 and 1933 provided for it being done under a review or similarly by mutual agreement between the counties concerned. The 1933 Act (Section 140) also provided for the union or division of administrative counties, but nothing of the kind was achieved. There were altogether between 1929 and 1937 some 58 boundary changes between counties—22 counties being involved. The total acreage affected was 80,403 with a population of 25,302. Quite the largest single change was that effected on the borders of the three Counties by the Gloucestershire, Warwickshire and Worcestershire Act of 1931, involving 51,490 acres, with a population of 10,530, and remedying the chaotic conditions in that area. It will be recalled that a large peninsula of Gloucestershire stretched up from the N.E. corner of its own County into the S.W. corner of Warwickshire, being bounded on the west by the S.E. corner of Worcestershire; that this peninsula contained within itself islands of Worcestershire territory (Blockley, Daylesford, Cutsdean, Evenlode) and that eastwards of the peninsula and westwards of the main block of Warwickshire territory lay two long strips, running north and south, of Warwickshire and Worcestershire (respectively from west to east). The Act gave the northern part of the Gloucestershire peninsula (the R.D. of Marston Sicca) to Warwickshire (Stratford-on-Avon R.D.). Then an eastern part of the Gloucestershire peninsula (round Quinton), the north to south Warwickshire strip which adjoined Quinton (the Ilmington area), and the north-to-south Worcestershire strip again adjoining to the east of Ilmington (Shipston)—all three went to the Warwickshire Rural District of Shipston, still further eastward. The remaining islands of Worcestershire in the Gloucestershire peninsula (Blockley, etc.) were incorporated in Gloucestershire, thus becoming part of the newly created Gloucestershire North Cotswold R.D. Similar adjustments, though on a much smaller scale, were made between Leicestershire and Cheshire by the Leicestershire and Cheshire Act, 1933; on the mutual borders of Ely, Norfolk and Holland by the Ely, Holland and Norfolk Act 1933; the Whalley Bridge area on the borders of Derbyshire and Cheshire was cleared up by Provisional Order in 1936. But most of the changes were small, and many of the really difficult, though less glaring, cases were not dealt with. For instance, the position of Newmarket or Leighton Buzzard, for which the Boundary Commissioners of 1887 suggested drastic alterations, were not handled. Nor was the detached part of Flint lying between Denbighshire, Cheshire and Shropshire dealt with, though it remains the only noticeable county outlier.

The general opinion on the County Review and similar orders is that they were a qualified success. 'The success of the procedure was admittedly uneven. Some county councils undertook the work with vigour and the resulting system of county districts and parishes was satisfactory and probably calls for little, if any, revision in a general review. Others met with strong opposition from interests concerned to maintain the *status quo*, and the proposals put forward were inadequate '[1] As the then Minister of Health (Mr. Willink) put it on the Second Reading of the Boundary Commission Bill, 'in some Counties the job was well done; in others there was considerable apathy'.[2] On the other hand, even when the recasting of areas was

[1] White Paper on Local Government Reconstruction 1934, Cmd. 6579, p. 11.

[2] It is interesting to note that a year after the County Boroughs Adjustment Act

thorough, the units emerging were not necessarily ideal, though larger than those which preceded them. The actual effect on the number and size of authorities in each class can be seen from the fact that 783 urban districts were reduced to 572 in 1940, 652 rural districts to 475, though 33 urban districts were upgraded to become municipal boroughs, the latter reaching a modern peak figure of 309. The following table shows the position of the county districts in 1939—after the changes had been carried out:

| *Population* | *Boroughs* | | *Urban Districts* | | *Rural Districts* | |
|---|---|---|---|---|---|---|
| Under 5,000 | 63 | (66) | 149 | (302) | 37 | (126) |
| 5,000—10,000 | 32 | (40) | 150 | (222) | 112 | (216) |
| 10,000—20,000 | 51 | (53) | 159 | (178) | 209 | (229) |
| 20,000—30,000 | 38 | (33) | 67 | ( 45) | 74 | ( 67) |
| 30,000—50,000 | 78 | (50) | 34 | ( 28) | 39 | ( 15) |
| 50,000—100,000 | 36 | (12) | 11 | ( 6) | 4 | ( 5) |
| Over 100,000 | 11 | ( 1) | 2 | ( 4) | 0 | ( 0) |
| *Ratcable Value* | | | | | | |
| Under £10,000 | 14 | (19) | 30 | ( 83) | 12 | ( 9) |
| £10—20,000 | 21 | (34) | 78 | (150) | 39 | ( 27) |
| £20—40,000 | 37 | (42) | 126 | (216) | 110 | ( 98) |
| £40—60,000 | 20 | (30) | 76 | (117) | 97 | ( 96) |
| £60—80,000 | 21 | (22) | 68 | ( 71) | 69 | (112) |
| £80—100,000 | 13 | (16) | 42 | ( 45) | 39 | ( 95) |
| Over £100,000 | 173 | (90) | 152 | (100) | 109 | (226) |

of 1926 an act with very similar provisions was passed in Germany. This was the Prussian *Gesetz über die Regelung verschiedener Pünkte des Gemeindeverfassungsrechts* of 1927. The Prussian legislation was due to the problem of the large County Boroughs (*Stadtkreise*) especially in the Rhenish-Westphalian industrial area. These wanted to expand their boundaries by taking in the suburban populations living outside their areas in the great conurbations. This was opposed both by the Counties (*Landkreise*) and their communes. The 1927 Act made a clear distinction between boundary changes involving a change of boundary between Counties and County Boroughs, and those which did not. The latter could be achieved by simple administrative order, but the former must be embodied in a measure passed by the Prussian Parliament (*Landtag*). Any agreements relating to annexations made between the County Borough and the areas to be absorbed. (*Eingemeindungsverträge*)—stipulating the provision of special services, differential rating, etc.—must be submitted to Parliament for approval. Finally, restriction was placed on the creation of new County Boroughs. Previously a town could become a County Borough on the attainment of a population of 20,000 (30,000 in Westphalia, 40,000 in the Rhine Province). The 1927 Act stipulated that such separation from the County was not to be automatic, that no population figure gave the right to such *Auskreisung*, and that it must be passed by Parliament on the grounds of public policy. For all such boundary changes, the public advantage was to be the criterion, and changes could be enforced on local authorities on these grounds, even if they were reluctant to accept them. A parallel to the English Review Orders was the comprehensive Act of 1929—*Gesetz über die kommunale Neugliederung der Rheinisch-Westfalischen Industriegebiets*—which recast governmental areas in the Rhenish Westphalian industrial area: about 3,300 square miles and 6,300,000 population were affected. The number of County Boroughs in the area was reduced from 30 to 26; of 22 Counties, 7 were retained, 15 abolished and 5 new ones formed.

The above table has been adapted from the NALGO report on the 'Reform of Local Government Structure' and shows the 1939 figures, with the corresponding 1927 figures bracketed beside them. It will be seen that though the number of rural and urban districts with populations under 5,000 has been considerably lessened, the numbers of boroughs—for obvious reasons—is almost unaltered. Even so, the table still gives nearly 300 urban and 150 rural districts with populations of less than 10,000, comprising over half all the urban and a third of all the rural districts. Hence, though the changes made by the Review Orders in eliminating small units was considerable, there were still a very considerable number of quite small authorities unaffected. From the point of view of any fundamental alteration in the structure of areas and authorities, and the problem of the relationship between town and countryside, they left the situation virtually unchanged.

# THE LOCAL GOVERNMENT ACT OF 1929 AND SUBSEQUENT LEGISLATION

THE Local Government Act of 1929 was undoubtedly intended to take its place beside the Acts of 1888 and 1894 as one of the fundamental measures governing the status and functions of local authorities. It was designed to clear the ground for the future development of local government by abolishing the last major survival of the *ad hoc* authority, by transferring the functions of some of the lesser authorities to the counties and county boroughs, by strengthening the supervising and co-ordinating functions of the counties over their districts and by placing the financial relations of local authorities and central government on a permanent and rational footing. The monumental work of consolidation which preceded and followed the 1929 Act in the Poor Law Acts of 1928 and 1930, the Local Government Act of 1933 and the Public Health Act of 1936 was intended to form a clear and solid legislative basis for future enactments, by codifying the multitudinous statutes governing the functions and status of local authorities which preceding generations had accumulated.

In introducing the Bill to Parliament Neville Chamberlain made this intention obvious by setting the Bill against the historical development of local government in the previous century. After referring to the Acts of 1888 and 1894 he went on to say:

'Since those two Acts, passed respectively 40 and 34 years ago, there has been no serious or radical attempt to reform local government. Yet consider what gigantic changes have taken place since then! The population of England and Wales has increased from 29,000,000 to 39,000,000 and its distribution has altered very considerably . . . New services have been developed, and the expenditure of Local Authorities has gone up from about £30,000,000 in 1891 to nearly £250,000,000. The means of communication have been enormously facilitated by the development of the telephone . . . the means of transit and transport have been so revolutionised that distances which in the old days took a whole day to traverse may now be done in the course of an hour. All these things have profoundly modified local conditions throughout the country, yet there are the same Local Authorities, the same areas practically as there were, all unaltered and unchanged. It would be a miracle if it were not found that this stereotyping of the old conditions of government had not resulted in a widespread friction, in a widespread loss of efficiency and inability to perform the functions which were given to them in such different circumstances.'

'It seems to me that Local Government to-day cries aloud for reform and in this measure which I am presenting to the House this afternoon we have a great scheme which is divided into various parts, some of which seem to have little reference to one another, yet they are all parts of a whole and in their turn each of them will do something to oil the wheels, to ease the way and to bring up the output of the machine both in quantity and quality to something far superior to what we are able to get to-day.'[1]

Yet, although the promoters of the Bill presented it as a truly radical solution to the problems which beset local government, and contemporary opinion accepted it as such, it now appears to mark the end of an epoch rather than the beginning of a new period of stability, and seems more like an administrative tidying up which left the main problems of the relations of area to function in local authorities unsolved. Much of the substance of the Bill was based on the deliberations of the Royal Commission on Local Government and on the recommendations and deliberations of other bodies from the Poor Law Commission of 1905 onwards. Its provisions, therefore, had been evolved after a long period of discussion, during which a large measure of agreement had been reached on certain necessary measures of reform. The immediate occasion of the Act, however, arose from economic circumstances outside the sphere of local government. The root cause was the attempt to tackle Britain's post-1918 economic difficulties by a return to the gold standard and an internal monetary deflation. The burden of rates were considered to be one of the main difficulties of the staple industries, and it was hoped that an easing of this burden would enable them to offer more competitive prices at home and abroad. It was, therefore, the derating of productive industry which formed the peg on which the rest of the legislative reforms were hung. In the White Paper explaining the proposals of the Bill it was expressly stated:

'The first element in the Government's plan is the relief to productive industry'; the Government's proposals to revise the basis of rating for agriculture would involve 'important changes in the machinery of Local Government' and 'In considering the effect of these changes it must be realised that the rating relief and the changes in the machinery and finance of Local Government are connected parts of one single policy'.[2] Paradoxically, it was precisely those parts of the Act—the financial reforms which were designed to face an emergency arising outside the bounds of local

[1] Hansard 1928–9, Vol. 223, c. 66ff.
[2] Cmd. 3134–1928.

government—which proved its most permanent and satisfactory contribution. The adjustments made in the powers and status of the local authorities as a consequence of the financial arrangements, seem to have offered only a temporary respite against forces which have been mining at their foundations since the beginning of the century.

*Influences for Change in the Local Government Structure*

The Acts of 1888 and 1894 completed the main structure of local government in the form we know it to-day with the one-tier compendious county boroughs as the main urban authorities and the administration of the rest of the country divided between the counties, the non-county boroughs and the urban and rural districts. Parallel with this was the separate Poor Law system with its boards of guardians, the school board system and a few other *ad hoc* bodies created by private bill for drainage, water supply and other public utilities. The local authorities absorbed the school boards in 1902, leaving the guardians as the only national *ad hoc* system, and from that date education became and has remained by far the largest local service. This marked the decisive turning point which divides the nineteenth century local authority which administered services such as lighting, paving, drainage, sewerage, police and public utilities, mainly directed towards the benefit of the neighbourhood and protecting and maintaining property, from the twentieth century authority which is in addition the agent for numerous personal social services initiated and controlled on a national level.

The growth of the social services which gained impetus in the decade before 1914, the development of the engineering services, the increasing urbanisation of the population and the development of communications, all combined to modify the structure of local authorities. The growth of the social services required a full range of specialised staff and of specialised institutions for education, health, the care of mother and child, the aged, the blind, the tuberculous and the mentally defective and insane. The maintenance of national standards in these services—and it is generally felt to be intolerable that those in need of them should suffer in any way because they are resident in one district rather than another—required that their administration should be concentrated in the larger areas, and in many cases even these appeared to have insufficient population and inadequate resources.

The development of the engineering and trading services tended to transcend the boundaries of the existing local authorities in a variety of ways. Services such as land drainage can only be efficiently based on watersheds and the boundaries of their administration should be determined by physiographic considerations. The existence of a large number of unco-ordinated drainage boards, each creating problems for authorities further down the watershed by their operations in their own territory, became manifestly out of keeping with the needs of good administration. In water supply roughly similar conditions define the logical area of control and the far-flung water supply operations of the great conurbations who invaded the territory of other authorities for their sources, also outgrew the boundaries of the legal authorities. Gas and electricity supply provided instances where the economies of large-scale operation might require a market larger than the owning authority, or where the relative advantage of situating the generating plant near the source of fuel or near the distribution outlet required to be settled on technical or economic grounds rather than by local boundaries. Another effect of the development of these large-scale trading and engineering services was the increasing discrepancy between the services available in the towns and in the county. The trading services require densely populated areas as a market to run at the most economical scale and also require the raising of large amounts of capital. It was typically the large county boroughs who had successful trading services; the counties and their rural districts relied on the whole on supplies from other public undertakings or from private works, or, as was frequently the case, they went without.

The third outstanding development was the growth of the great conurbations whose edges were constantly creeping out into the surrounding countryside by the expansion of suburban housing estates. This spreading process was the result of the improvement in the means of transport which enabled people to live further and further from their work. Contributing factors were the appreciation by wider and wider circles of the intolerable conditions of urban congestion and the provision through building societies of means of realising private dreams of a home and garden, which induced the great migration of black-coated workers to the fringes of the towns. Another factor was the extension of local authority housing activities. These had begun in a small way during the ninteenth century, but gained impetus after the war of 1914–1918. The Housing and Town Planning Act of 1919 opened up an expanding local government activity which culminated in the present state of affairs when the preparation of a local plan is the most publicised and exciting of civic activities.

In addition, however, to raising problems of planning, the development of the great conurbations led to a sharpening of the conflict between urban and rural authorities. The growth of the urban units carried with it extensions of their administrative boundaries and a constant whittling away of the areas of the surrounding administrative counties and county districts and a diminution in their rateable value. The need for some planning unit to transcend and co-ordinate the interests of both urban and rural communities became correspondingly urgent.

Closely connected with the previous factor was the expansion of transport and communications. The most obvious result of the growth of motor transport was of course the obsolescence of the old system of highway administration based on the local nature of the road traffic. The repair and maintenance of highways was in the main a function of the minor local authorities through whose area they passed. Only main roads were maintained by the county. The engineering problems of the long distance motor road were, however, beyond the resources of either. A more subtle but more far-reaching effect of the revolution in transport and the development of telephone and wireless was the intermingling of town and country and the extension of the boundaries of the real community, a process which created the possibility of a larger unit of local government which might still be as sensitive to the procedure of democracy as the smaller areas.

All these forces were already at work before 1914. The war hastened the development of the social services and when the Fisher Education Act of 1918 and the Housing and Town Planning Act of the following year inaugurated what appeared to be an endless stream of new powers and duties for local authorities, there was widespread anxiety that the existing structure would not be able to bear the strain. There were two main grounds for disquiet: financial and administrative. There were doubts in many quarters whether the rate system would stand up to the increased expenditure—an increase magnified by the rise in the general price level. The solution of increased grants-in-aid was condemned in several quarters on the ground that it would undermine both the financial autonomy of the central government and the administrative responsibility of the local authorities. There was also much doubt as to whether the administrative structure of local authorities was adequate for the new tasks they had to perform and whether the balance between urban and rural government would not be seriously upset by the growth of the urban areas and the consequential nibbling away of the territory of their administrative neighbours. The financial aspects of the problem are dealt with elsewhere,[1] and it is mainly the solutions provided by the 1929 Local Government Act for the administrative problems that concern us here.

*The Local Government Act of* 1929

The administrative provisions of the Local Government Act of 1929 cover a large variety of different fields.[2] The changes in the administration of the Poor Law had been discussed since 1888 and had been the subject of reports by the Royal Commission on the Poor Law set up in 1905, and of the Maclean Committee which reported in 1917. The bulk of the remaining administrative provisions were the subject of advice from the Royal Commission on Local Government set up in 1923 under the Chairmanship of Lord Onslow. The terms of reference of the Commission were ' to enquire as to the existing law and procedure relating to the extension of County Boroughs and the creation of new County Boroughs in England and Wales, and the effect of such extensions or creations on the administration of the Councils of Counties and of non-County Boroughs, Urban Districts and Rural Districts; to investigate the relations between these several Local Authorities; and generally to make recommendations as to their constitution, areas and functions '.[3]

[1] See Essay on the Development of the Grant System, p. 113.

[2] The full title of the Act indicates the variety of its contents, viz :—An Act to amend the law relating to the administration of poor relief, registration of births and deaths, and marriages, highways, town planning and local government; to extend the application of the Rating and Valuation (Apportionment) Act, 1928, to hereditaments in which no persons are employed; to grant complete or partial relief from rates in the case of the hereditaments to which that Act applies; to discontinue certain grants from the Exchequer and provide other grants in lieu thereof; and for purposes consequential on the matters aforesaid.

[3] For a more detailed discussion of the setting up of the Royal Commission and its treatment of boundary changes see Lipman. *Development of Areas and Boundary Changes*, 1888—1939, p. 25.

The first Report of the Royal Commission dealt exclusively with the problem of the constitution and boundaries of county boroughs and recommended that in future county boroughs should only be created by Private Act and that no borough with a population of under 75 thousand inhabitants could promote such an Act. Boundary changes, unless agreed by the other districts affected, should also be made by Private Act. These recommendations were enacted in the Local Government (Boundary Changes) Act of 1926. It was felt in many quarters at the time that this measure did not really get to the root of the matter and this opinion was summed up during the debate on the Bill by Lieut.-Col. Freemantle who said:

> 'It is, however, appropriate to emphasise one's general feeling that this is only a provisional measure and no final solution of the problem of the interrelation between town and country. In fact, things are pointing in the other direction. It is quite true that some 50 years ago it seemed natural, when life was more concentrated on certain centres, that those centres should be independent when they got to a sufficient size, but we have, during the last 25 years, seen a radical change in life, a change of which we are still only at the beginning, owing to the introduction of the internal combustion engine and the development of motor cars and road transport. The result is that towns are seeking life in the country and country facilities in the towns, and it is entirely arbitrary and unnatural, and in many ways, uneconomic and impracticable, to separate the government of town and country.'[1]

After the issue of their first Report in the summer of 1925 the Commission proceeded to the consideration of the second and more general part of their terms of reference. Meanwhile, however, proposals for reform in the administration of the Poor Law and for the derating of industry, and for the consequential changes which would be necessitated in the structure of local government all came to the boil together. The discussions between the Associations of local authorities and the Ministry of Health which preceded the framing of the new legislation tended to interrupt the orderly progress of the Commission's work. In 1928, after the Chancellor of the Exchequer had announced that a Local Government Bill was impending, the Commission received suggestions from the Minister of Health as to certain specific questions within the scope of its terms of reference which could be considered with a view to embodiment in the Bill. These questions concerned the reorganisation of areas, measures to assist or to stimulate authorities who were unable or unwilling to discharge their functions, the distribution of functions between

[1] *Hansard*, Vol. 195, col. 1131.

authorities and their grouping for certain purposes which they could not singly accomplish. The conclusions of the Commission on these subjects were set out in their Second Report[1] and formed the basis of many of the provisions in the 1929 Act.

In considering the administrative provisions of the Act it would perhaps be most useful to take each service affected separately and to see what modification in the structure and functions of local government its development brought about and afterwards summarise the general tendency of the changes.

### (a) *The Poor Law*

The transfer of the functions of the guardians to the counties and county boroughs had long been advocated. As early as 1888, when the county councils and county borough councils were brought into being, Joseph Chamberlain had urged that they should take over the powers of the guardians of the poor. In the debate on the second reading of the Bill he had said :

> 'I think there is a great deal to be said for the inclusion of Poor Law administration in the work to be given to the new county councils; otherwise you will have a state of things anomalous in a high degree, which no-one can look upon as permanent. You will have, on the one hand, thoroughly representative popular councils dealing with Local Government, sanitation and other important matters, and their work would constantly increase—for, of course, there will be a tendency to throw all new work on the councils and, on the other hand, you will have a body, elected by an antiquated process, dealing with a considerable expenditure and an important branch of local administration. Therefore, very shortly after the passing of the Bill, I think there will be an overwhelming demand for greater simplicity and unification.'[2]

The same policy was recommended by both the majority and the minority reports of the Poor Law Commission of 1908 and it was again strongly supported by the Local Government Sub-Committee of the Reconstruction Committee under Lord Addison, set up during the last war. This Sub-Committee, under the chairmanship of Sir Donald Maclean, pointed out in its Report that the popular dislike of the Poor Law had resulted in Parliament being unwilling to trust the guardians with the administration of the new services which had been accumulating before the war. As a result, many overlapping agencies existed in the field of the social services. No less than five

[1] Second Report of the Royal Commission on Local Government. Oct., 1928, Cmd. 3213.

[2] *Hansard*, 3rd Series, Vol. 324, 1888, c. 1360.

bodies dealt with maternity and child welfare, six with the mentally defective and insane, five with the able-bodied unemployed, four with sick persons and three with children of school age and with the aged respectively. The transfer of the functions of the guardians to local authorities was recommended by the committee in order to do away with the need for two sets of staffs and institutions for those who were and those who were not technically destitute. Another important consideration was, of course, the financial difficulty caused by having at least two separate rating authorities in each area, and the Maclean Committee stated : ' We have adopted for our guidance the principle of concentrating as far as possible in one Local Authority for each area the administration of all expenditure from public funds.'[1] The Committee proposed that counties, county boroughs and urban authorities with populations exceeding 50,000 should take over the administration of the Poor Law. These recommendations were not immediately implemented, but agitation in their favour was increased by the financial difficulties experienced after the last war. The proposals of the Government on this long overdue reform were published in 1926. In announcing that the Government proposed to bring in legislation on the subject, Neville Chamberlain made it clear that the decision to abolish the guardians was taken on administrative and financial grounds rather than as part of a policy designed to deal with the Poor Law as a whole. Replying to a motion by Sidney Webb, one of the signatories of the Minority report, he said :

> ' I think we could probably approach the subject in a more practical manner if we began by transferring administrative functions without, perhaps, altering the law as it stands. I do not mean that the law would not have to be altered, but I think it very possibly might be more easily dealt with if we had, first of all, some experience of the effect of transferring the administrative functions. We might then, perhaps, have schemes submitted to us which could be tested a little bit in practice, for the unification of the services, and in time we should be able, I think, to deal with the more thorny and difficult problem of the revision of our legislation, which otherwise, I am afraid, would be such a stupendous task as possibly to jeopardise the whole reform itself.'[2]

The main importance of the change lay in the abolition of overlapping authorities, the concentration of powers in the major local government bodies and the consequent widening of areas of adminis-

[1] Report on Transfer of Functions of Poor Law Authorities in England and Wales (Cmd. 8917–1918).

[2] *Hansard*, 1924–5, Vol. 184, c. 1520.

tration and charge. Six hundred and thirty-five boards of guardians gave way to sixty-one counties and eighty-three county boroughs. Under the new Act, local authorities were obliged to delegate certain of their public assistance functions to guardians' committees, nominally for the purpose of preserving continuity of interest and personnel between the new system and the old. This system of delegation of powers to an *intermediary authority not related to the minor authorities* of the existing two tier system, was an extremely interesting feature of the 1929 Act, and the first large-scale introduction of an innovation which may have formed the model for recent provision for delegation in education and health. In a circular to the new public assistance authorities the Ministry of Health pointed out that it was preferable that their administrative schemes should require the guardians' committees to supervise a larger area than that supervised by the old boards of guardians. Eight small counties secured consent for the county to be treated as a single unit for the purpose of setting up a guardians committee and only eight of the county schemes finally retained the old areas for this purpose. The choice of the other counties generally fell on the assessment areas as of appropriate size.

The break-up of the Poor Law itself as the second stage of the process of eliminating the overlap between competing services within the new authorities was begun rather than carried through by the new Act. An opportunity was given to the new Poor Law authorities *to make schemes containing a ' declaration ' of their intention to* deal with functions such as maternity and child welfare, care of the blind, care of the insane and mentally defective and education under other parallel public Acts and to ' appropriate ' existing Poor Law buildings for these purposes.

The report of the Minister of Health for 1930, the year in which the Act came into operation, showed however, that the break-up of the Poor Law and the distribution of its functions to other branches of local government would still be a very slow process. The report stated :

' It has always been intended that the changes effected by the Act should in time make it possible for the medical, surgical and educational services of the Poor Law to be absorbed in the public health administration and the services of local education authorities. The immediate possibilities in this direction are, however, limited by the fact that few councils have at present sufficient non-Poor Law provision, especially in the way of institutional accommodation, to make it possible for them to cope with all the cases at present dealt with under the Poor Law. In these circumstances it is gratifying to record that 16 county councils and 49 county borough councils found it possible to make immediate declarations in their schemes, that certain Poor Law services for which parallel provision has been made under the special Acts, should be provided exclusively under those Acts instead of by way of poor relief.'[1]

Other authorities, who for some reason could not make an immediate declaration, provided that certain functions, for some of which special Acts did not yet exist, should be delegated to some other committee of the council not associated with the Poor Law under the general direction of the public assistance committee. This was expressly permitted by the Poor Law Act of 1930 which re-enacted the Consolidation Act of 1927 together with the emendations necessitated by the transfer of the guardian's functions contained in the 1929 Act.

Although some of the more progressive authorities were able to break up the Poor Law and successfully remove the administration of the majority of their personal services from its taint, there were too many who did not take advantage of the permissive clauses of the 1929 Act, either from poverty or from inertia. The mixed workhouse with its wretched collection of inmates—the aged, senile, chronic sick and mentally afflicted—herded together with unmarried mothers and unwanted children, still exists in some places despite its emphatic rejection by public inquiry and public policy since the Poor Law Commission of 1905.

### (b) *The Reorganisation of the Areas and Functions of Local Authorities*

The recommendations of the Royal Commission on the questions set before them by the Minister of Health were concerned mainly with the system of county government. It was in this field that the existence of a large number of very small authorities called for some measure of rationalisation, and where adjustment in the respective powers of the major and minor authorities seemed most urgent.

### (i) *Reorganisation of the Sub-County Areas*

When the Royal Commission began its consideration of the matter there had been no comprehensive re-organisation of the areas of local government within what later became the administrative county since the Public Health Act of 1872. There was a tremendous varia-

[1] Annual Report of the Minister of Health, 1930.

tion in the size of county districts. While 96 non-county boroughs, 83 urban districts and 87 rural districts had populations of over 20,000, and of these 28 had populations of over 50,000, comparing in size with the smaller county boroughs, at the other end of the scale there were 66 non-county boroughs, 302 urban districts and 126 rural districts which had a population of less than 5,000 and no less than 27 authorities had populations of under 1,000. Of the 494 districts with a population of under 5,000, 430 also had a penny rate of under £100.[1] Many of the small urban areas had come into existence owing to the fact that in 1862 and 1863 the inhabitants os some quite small areas had adopted urban powers under the provisions of the Local Government Act of 1858 in order to avoid the inclusion of their parishes in Highway Districts formed under the Highway Act of 1862. Other parishes had obtained urban powers in order to secure administrative control of water supply and sewage disposal for which they were primary areas of charge. Some urban and rural districts had been eaten into by the expansion of county boroughs, and some had been divided to bring them wholly within the boundaries of an administrative county. The counties had by the Local Government Act of 1888 been endowed with the power to alter the boundaries of county districts and parishes after inquiry and subject to the confirmation of the Local Government Board—later Ministry of Health. If the alteration was objected to by one-sixth of the electors in the district affected the Minister was bound to hold a further local inquiry. The procedure was, however, piecemeal and the object of the recommendations of the Royal Commission was to secure a general review of all county districts to ensure that they were adequate to the functions they were called upon to perform and to ensure that they were subject to further periodical reviews in the light of future developments.

The provisions affecting the re-arrangement of county districts were contained in Part IV of the 1929 Act (Sections 46, 47 and 48). These gave the counties power to formulate a scheme for altering district and parish boundaries, for transferring parts of districts to other areas, for changing urban districts into rural districts and *vice versa*, and forming new districts and parishes. The scheme could include proposals for the transfer of part of a non-county borough to an adjacent district, or of part of a district to a borough. The

[1] Royal Commission on Local Government, 2nd Report. Cmd. 3213 1928.

boundaries of county boroughs could also be altered if their consent were secured, but on the whole boroughs were protected from drastic alteration or demotion. These schemes had to be submitted to the Minister by 1932. On receipt of the scheme, the Minister, if he approved, made a County Review Order embodying a part or whole of the county's suggestions, provided objection was not made by any district affected, in which case a public inquiry had to be held. The Minister also had power to make a review on his own initiative if the county failed to do so. The review could be repeated at intervals of not less than ten years.

Between 1929 and 1939 the numbers of rural districts were reduced from 652 to 475 and urban districts from 783 to 572 by County Review Orders. The vigour with which counties used their powers varied considerably from one part of the country to another and the difficulty of merging urban and rural areas under one authority is illustrated by the fact that only in 43 cases were urban and rural districts merged, while municipal boroughs, whose charters were inviolable under this procedure, remained untouched; indeed the tendency was to promote urban districts in the vicinity of large cities to municipal status thus bringing their boundaries outside the direct control of the county.[1]

*(ii) Redistribution of Functions within the County*

The reorganisation and enlargement of the sub-county areas was not by itself sufficient to secure their adequate functioning. Even the reorganised areas would in some cases be too small for the administration of certain services which they had hitherto undertaken, and the need for an assisting and co-ordinating power over other of their functions was increasingly obvious. The county councils had come before the Commission with far-reaching proposals for the concentration of powers in their own hands over all services which required an extended area of administration, or the maintenance of institutions, or the use of quasi-legislative or quasi-judicial powers which might involve proceedings for penal offences and whose exercise might, in the smaller areas be subject to undue pressure and influence. The county councils were also opposed to the existence of concurrent or alternative powers between themselves and their districts. The municipal boroughs and urban districts, however,

[1] Cf. Lipman. Development of Areas and Boundary Changes p. 25.

were strongly in favour of the acquisition as of right, and not merely by delegation, of concurrent or alternative powers as soon as their population resources and staffing warranted it. The urban districts were in favour of all powers exercised by boroughs or by some urban districts being given as of right to all districts fulfilling certain standards. The fact that the municipal boroughs and urban and rural districts admitted that legal status was an insufficient test for the acquisition of functions and that other considerations, such as population, financial resources and efficiency, were also valid criteria, reflected an attitude which had, for some time, been held by Parliament. Out of the various proposals put forward, two types of solution emerged. The one, instanced by the case of highways, was the transference of financial responsibility and the larger part of administrative control to the county, subject to delegation in certain cases to the minor authority. The second, instanced mainly by the public health services, was to extend the planning and co-ordinating functions of the county councils and enable them to give financial assistance and undertake administration in default, while leaving the service in the hands of the minor authorities.

1. *Highways*. A reform in the administration of highways was already acknowledged to be long overdue. In the days of horse-drawn transport the bulk of traffic was local and the through traffic was carried on the turnpike roads. The development of railways in its turn removed much of the traffic from these, and as the old trusts became bankrupt their roads naturally passed into the hands of the local authorities. By the Highway and Locomotives (Amendment) Act of 1878 all roads disenturnpiked after 1870 were classified as main roads and half the cost, and after 1888 the whole cost, was borne by the county through whose areas they passed. This arrangement was not unworkable until the development of motor transport, and even then, before the war of 1914–1918, the administration of highways was not an intolerable burden to the local authorities. It was after the last war that the increase of traffic, including goods transport and pleasure traffic into rural districts, made the maintenance of adequate standards in road repair an increasing burden further accentuated by the great disparity in resources of rural districts. In urban districts, where the bulk of the traffic remained local in character, the position did not become so acute. Many country districts, however, had their

resources taxed to the utmost and were subject to major fluctuations in their rates as repairs and improvements fell due. The total abolition of rates on agricultural land led to a position where a major reform was essential and the opportunity was taken of shifting the burden of road maintenance to the authorities with the widest resources and areas.

The changes brought about in highway administration are contained in Part III of the 1929 Act. This provided that county councils should become the highway authority for all classified roads and main roads in their area hitherto administered by urban and rural districts. Urban districts with a population exceeding 20,000 could claim to exercise maintenance and repair on county roads in their area. If this claim was exercised the county council was obliged to make payments towards the maintenance and improvement of the road to the full extent of the ascertained cost. Rural districts were enabled to apply to the county council for the delegation to them of powers to deal with roads and bridges in their area under the general supervision of the county council and the county council was compelled to grant this application in so far as it applied to unclassified roads unless the interests of efficiency and economy would be prejudiced by such an arrangement. The rural district council had the right to appeal to the Minister if its application for delegation was refused. As regards classified roads the county councils had unfettered discretion on matters of delegation.

The aim of these sections of the Act was not so much to concentrate the administration of actual road works as to concentrate financial responsibility in the larger authorities. This was, of course, a natural corollary of the financial reforms of the Act. Otherwise, the disappearance of agricultural rates and the merging of the grants for unclassified roads in the counties in the block grant would have involved some mechanism for increasing the allotment of the county apportionment of the block grant to those minor authorities which retained financial responsibility for their highways. This would have made the administration of the block grant unworkably clumsy. The concentration of financial responsibility in the hands of the counties and county boroughs who received the block grant weighted by the sparsity formula which was designed to take account of the relation of population per mile of road was obviously the most satisfactory solution.

2. *Public Health.* When the Royal Commission reviewed the position, the legal authorities for the administration of the main environmental health services, sewerage and sewage disposal, water supply, the provision of infectious diseases hospitals and the appointment of medical officers of health, were the county and municipal boroughs and the county districts which had inherited their areas and powers from the old sanitary districts. Within the county districts the provision of water supply and sewerage for an individual parish was chargeable under the Section 229 of the Public Health Act of 1875 to that parish. It was clear that the concentration of powers in such small areas and the imposition of the burden of charge on the smallest ones of all, was fantastically out of keeping with the technical needs of the health services. Moreover, the fact that sanitary improvements were chargeable to the parish benefited was an inducement to such parishes to apply for urban district powers in order to be able to control the service for which they were charged. This inevitably resulted in the multiplication of small urban areas and the weakening of the administrative and financial basis of the rural areas from which they were withdrawn. To remedy this state of affairs, the Ministry of Health proposed in a memorandum of evidence before the Royal Commission that county districts should be enabled to contribute to the cost of public health services otherwise chargeable to individual parishes, that the cost of water supply and sewerage should be chargeable to the rural district as a whole and not as heretofore to the parishes, and that the county councils should be empowered to contribute towards the exercise of public health functions by councils of county districts.

These proposals were supported by representatives of the county councils and the rural districts, and inevitably, opposed by the representatives of the municipal corporations and the urban districts, who, having already provided health services out of their own resources, saw no reason why they should in addition contribute through their share in the general county rate to the provision of these services in other parts of the county. The Royal Commission appreciated the force of these objections and recommended that the powers of the counties to contribute to the health services of districts should be confined to water supply and sewerage and should not apply as proposed by the Minister to all health services indiscriminately. With this limitation the three proposals were enacted in Sections 56 and 57 of the 1929 Act respectively.

In addition to districts which were unable because of their limited resources to perform their functions, there were others who failed because of inertia or inefficiency. To deal with them and provide sufficient incentive to the maintenance of common standards, the question of the revision of stimulus and default powers was also placed on the agenda of the Royal Commission. The existing provisions of the Public Health Act of 1875 and the Local Government Acts of 1888 and 1894 enabled the county councils to make representations to the Minister if it appeared to them from a report of the district Medical Officer of Health that any district was not discharging its public health duties. The Minister of Health proposed to extend these powers by providing that the county councils could make representations to the Minister in general terms independent of the report of the District M.O.H., that the Minister should have the statutory duty of considering such representations and should be empowered to hold a local inquiry. If such an inquiry established that the district in question had not maintained the necessary standard in its health services and took no satisfactory action to remedy the situation, then there should be statutory power for the district council, with the approval of the Minister, to relinquish its powers to the county council, or the county council should be enabled to undertake the necessary work charging the cost to the district, or the entire responsibility should be transferred to the county council by Order of the Minister. These default powers were intended to cover only duties laid upon district councils and not matters within their discretion.

On the whole the Associations of local authorities accepted these proposals. The County Councils Association regarded them as the minimum reorganisation necessary to meet the new conditions facing local authorities. The Association had, as we have seen, advocated a much more extensive scheme of concentrating powers in the county councils with powers to delegate functions to selected county districts of sufficient size and resources. The default and stimulus powers suggested were embodied in Section 57 of the Local Government Act with slight variations, the most important being that the power for a district voluntarily to relinquish public health functions to the county by agreement was not subject to proof of default or local inquiry but could take place at any time and subject to any agreed provisions.

It had long been obvious that any real advance in rural sanitary conditions was dependent upon an adequate staff of full-time medical officers of health and sanitary inspectors. In 1927, only in 505 out of a total of 1,686 county district councils who were obliged by statute to appoint medical officers of health, did he give his whole time to public health work. 385 out of the 505 districts who enjoyed a full-time officer, shared him with one or more other districts or with the county. It was clear that combining the districts together for purposes of sharing a medical officer was the only practicable solution short of transferring the whole service to the county.

The County Councils Association had proposed that a solution should be sought in appointing the Medical Officer of one or more districts as county assistant Medical Officer, but some districts were of the opinion that the divided loyalty induced by the dual appointment would probably be resolved in favour of the larger authority who would thereby secure *de facto* control over all public health services. In the Act of 1929 the county council was given the duty of making a scheme in consultation with its districts, whereby through combining two or more districts or otherwise all subsequent appointments to the post of medical officer of health should be made subject to the condition that no private practice should be undertaken. The Minister was given powers to dispense with this condition on the representation of a county district if he saw fit, and also to make a scheme and put it into operation for any county which failed to do so itself.[1]

Similar scheme-making duties in respect to the provision of accommodation for the treatment of infectious diseases were given to the counties by Section 63 of the Local Government Act, with the added proviso that arrangements made for the reception and treatment of patients suffering from infectious diseases by authorities outside, but adjacent to, the county could be included in the scheme. The Minister was again given powers of approval and of default.

A further concentration of services within the county was brought about by the provision in the Act (Section 60) that the services under the Maternity and Child Welfare Act of 1918 should be transferred from districts which were not education authorities to those which were on the application of the latter if the Minister of Health was satisfied that this would prove a more efficient arrangement.

One of the fiercest debates before the Royal Commission concerned

[1] Local Government Act, 1929, Section 53.

the supervision of midwives. The municipal boroughs and urban districts urged that it was most convenient that such a service should be administered by the urban areas which it mainly served instead of by a more distant centre, and that it should be administered in conjunction with maternity and child welfare services where such existed. On examination by the Royal Commission the representatives of the municipal boroughs were gradually shifted from the application of a population standard (20—30,000) which had at first been their main criterion for the acquisition of these powers to the admission that administrative factors, such as the appointment of a full-time medical officer of health were more important.[1] The counties maintained their position that concurrent powers other than delegated powers were undesirable.

The provisions of the 1929 Act reflected this controversy. They allowed boroughs and county districts which had a maternity and child welfare committee and a full-time medical officer, to apply to the Minister for powers under the Midwives Acts. Before granting such powers the Minister was to consult with the county council, and if asked by the county, to hold an inquiry. The grant of powers could also be revoked by the Minister and retransferred to the county council if the Minister saw fit.

Although these alterations in the administration of the health services did not go as far as the representatives of the county councils had urged in the direction of concentrating powers in the hands of the county with provision for discretionary delegation to minor authorities, they did represent a compromise between the need for larger areas and the concentration of powers and the sturdy independence of the small authorities. The county councils gained scheme-making and co-ordinating powers, powers of financial contribution, powers of acting in default and powers to take over services voluntarily surrendered by county districts.

*(d) Town and Country Planning*

The provisions of the 1929 Act with regard to town planning reflected the same general trends towards extending the supervisory and co-ordinating powers of the county as in the services of highways and public health. They were not, however, the subject of recommendation by the Royal Commission. Legislation to enable local

[1] Royal Commission on Local Government. Evidence Vol. XI, 2083, 2099, 2108–9.

authorities to purchase and clear slum areas and to take on the task of building working-class houses began in the middle of the nineteenth century and planning at least as regards the lay-out of slum clearance schemes was implied in these powers. The first Act to deal with planning as such was passed in 1909, but progress was slight and was interrupted by the war of 1914–18. After the war the preparation of planning schemes was made compulsory for all urban authorities with a population greater than 20,000 by the Housing and Town Planning Act of 1919. 1929 was fixed as the date by which all plans were to be submitted for approval.

An initial spurt in the preparation of schemes took place during the first flush of the post-war reconstruction, but the planning activity of local authorities then died away to a trickle. In 1929, 69 of the total of 262 authorities who had a duty to prepare schemes had not yet done so. There were, however, several interesting, if embryonic, developments during the period. The most important of these was the development of joint planning apparatus in which several authorities over a large area combined. Joint planning committees were either advisory or executive, and the latter variety had power to prepare a scheme binding on its members. By 1929 there were 51 joint advisory and 17 joint executive committees in existence. It was then possible for the whole of the area of a county to be covered by a joint committee on which the county council had no representation as of right. This was obviously a flagrant anomaly and caused much trouble and delay in the preparation of schemes. Among other things the laying-out of new roads for developing areas might carry with it a menace to the county rate, should any of them become main roads and thus become a charge on the county as highway authority. More important, however, was the changed nature of much development. The growth of building societies favoured a great increase in the numbers of black-coated workers who purchased their own dwellings. The advance in motor transport enabled more and more people to travel to and from work and to aspire to enjoy in their homes the amenities of country life. Suburbs straggled out in all directions from the great conurbations. The small urban and rural areas needed the backing of their counties against the territorial invasion of the great county boroughs. It became obvious that the planning of cities could not be divorced from the planning of the countryside.

The 1929 Act sought to remedy this state of affairs by associating the major rural authorities with planning. Town planning changed to town and country planning. Counties were given the right to be represented on joint committees planning the whole or part of their area, to take the initiative in forming a joint committee for planning purposes with any other authority, and to become the appointed authority for carrying out an agreed scheme by enforcing the observance of development provisions or executing any planned works. Moreover, any district might by agreement relinquish its planning powers to the county council.[1] These provisions were in line with the powers of co-ordination under the health clauses described above.

In addition, the Minister of Health obtained the power to constitute a joint planning authority by Order if it appeared desirable, subject to holding a local inquiry if the authorities did not assent.[2] The date for the submission of compulsory plans which should have been submitted by January, 1929, was postponed to 1934 with a possible extension to 1938.

### *The Effect of the* 1929 *Act on Local Administration*

Although the administrative provisions of the 1929 Act seem miscellaneous and scattered, it can be seen that they accomplished much in perfecting the system laid down in 1888 and 1894. The last of the important *ad hoc* bodies had gone with the abolition of the guardians. The county boroughs became the single all-purpose authority in their areas. Inside the administrative counties there was a shift towards centralisation in the concentration of the guardian's powers in the county, and in the transfer of highway powers subject to delegation and ' claiming '. The counties also acquired enlarged powers of scheme-making, supervision and assistance for the purpose of co-ordinating and improving the work of ' their ' districts in the field of public health and planning. Indeed, the Act of 1929 can almost be said to mark the peak point in the development of the major authorities, for although the process of concentrating powers in their hands, with occasional provision for intermediate forms of delegation has continued, the process of transferring powers from them to the central government or its agents has also grown *pari*

[1] Local Government Act, 1929, Sections 40, 42 and 43.
[2] *Ibid.*, Section 41.

*passu* and it is with the weighing of the relative importance of these two trends that the second part of this essay is concerned.

### *The Concentration of Powers in the Hands of the Counties and County Boroughs*

The first process—that of concentrating powers in the counties and county boroughs—is most conspicuously illustrated by legislation which has been enacted since the outbreak of the 1939–45 war. The first example is the Education Act of 1944 which abolished the old Part III authorities for elementary education on the grounds that the basis for their constitution—the attainment of a certain population in the census of 1901—was anomalous and unrelated to their present needs. The process of creating new Part III authorities had already been stopped by the Education Act of 1931. Furthermore, it was felt that the general control of both elementary and secondary education should be concentrated in the hands of a single authority. At the same time the importance of preserving and encouraging local interest was recognised and a system of divisional executives formed from county districts or combinations of county districts was devised to replace the old Part III authorities, thus creating a form of sub-county administration distinct from the district framework and somewhat analogous to the guardians' committees constituted under the 1929 Act. Some counties, such as Essex, which had large urban areas like Ilford within their boundaries were already operating schemes for area committees in the 1920s.[1] In the Ministry of Education's original proposal[2] the divisional executives were only endowed with powers of general supervision and of making recommendations to the county education committee. Subsequently strong representations from the larger urban districts and boroughs and the original Part III authorities secured provision in the Act[3] that the divisional executives should exercise delegated administrative powers on behalf of the county and that those areas which were large enough (*i.e.* which had a population of 60,000 in all or 7,000 schoolchildren at the last census before the Act) should constitute excepted districts and should formulate their own schemes of delegation and submit them to the Minister through the county council.

[1] Royal Commission on Local Government Minutes of Evidence, p. 796, Q.12,545–12,562.
[2] Educational Reconstruction Cmd. 6459, 1943.
[3] Education Act, 1944. First Schedule, Part III

This scheme for concentrating powers in the hands of the major authorities and substituting divisional executives for the old Part III authorities was severely criticised during the debate on the Education Bill. It was pointed out that several counties and county boroughs were actually smaller than former Part III areas and some even had smaller populations than that proposed for a divisional executive. Provision for amalgamating the smaller counties and county boroughs by means of joint education boards, however, was included in the Act to overcome this difficulty[1] and in his speech concluding the debate on the third reading of the Bill, the Minister of Education pointed to the system of delegation within counties as a new invention which those who wished to reform Local Government would find it useful to consider.[2]

Indeed the system of delegation under the Education Act formed the model for that proposed in the National Health Service Act of 1946. The Act concentrated the personal health services in the hands of the counties and county boroughs and removed from those non-county boroughs and the district councils who previously exercised them their powers with regard to the supervision of midwives and maternity and child welfare. As the association of these powers with the school medical service has long been established as a principle of good administration, it was only logical that the system of delegation to district executives corresponding to those in the Education Act and providing the same rights for minor authorities, should be followed.[3]

The Police Act of 1946, and the Planning Act and Fire Services Act of 1947, all continue the process of selecting the counties and county boroughs as their main instruments. The Police Act embodied changes which had been adumbrated as long ago as 1920 when the Desborough Committee in their Second Report recommended:

> 'That in England and Wales all existing separate forces in non-county boroughs should be merged in the county forces on terms to be approved by the Secretary of State; that no new force should be established in any non-county borough, and that the consent of the Secretary of State should be required for the establishment of any new force in a county borough, which consent should not be given unless the Secretary of State is satisfied

[1] The amalgamation of Canterbury, the smallest county borough with Kent is an illustration of the working of their scheme. The chief education officer for Canterbury is now education officer for a Divisional Executive of Kent.

[2] *Hansard*, 1943–44, Vol. 399, Col. 2261.

[3] National Health Service Act, Section 22.

that for some exceptional reasons the establishment of a separate force would afford some definite administrative advantage.'[1]

The Committee had reached this conclusion after prolonged discussion as to a suitable size of area and population for police administration and although the Committee inclined to the view that populations 100,000 and upwards formed the most effective size for police areas, it in the end decided that it was most convenient administratively to take the counties and county boroughs as the basic units even if a few of them had populations below that level.

The Select Committee of the House of Commons which again investigated the subject of amalgamation of police forces, also reached the conclusion that the counties and county boroughs were the most convenient units on which to concentrate police powers. In their Report the Committee said:

> 'The trend of recent legislation has been to prescribe county and county borough councils as a class, and without reference to either population or area as the authorities for the administration of the more important local services. Police administration differs in many respects from the other services administered by Local Authorities, but your Committee do not consider that this is a sufficient reason for singling it out for special treatment.'[2]

The Committee considered a proposal that the smaller counties and county boroughs should be made to relinquish their police powers, but inclined against it because:

> 'Your Committee are not aware of any precedent for depriving a county borough, however small, of any powers which it already possesses.'[3]

The Police Act which was passed in the spring of 1946 carried out the main proposals of the Desborough Committee which had reported 26 years previously and deprived 47 non-county boroughs of their police forces and merged them with the county police force.[4] This process was made less revolutionary by the fact that amalgamation of the police forces in certain areas was carried out by Order in Council as a temporary measure for military reasons during the war. To overcome the difficulty of the existence of counties and county boroughs with populations smaller than some of the non-county boroughs who were being deprived of their forces, Clause 2 of the Police Act provided for voluntary constitution of a combined police

[1] Second Report of the Desborough Committee on the Police Service, 1920.
[2] Report of the Select Committee of the House of Commons on Police Force Amalgamation 1932, para. 43.
[3] *Ibid.*, p. 12.
[4] Police Act, 1946, Clause 1.

authority by two or more counties and county boroughs, and Clause 3 provided for the contingency of failure to produce a voluntary combination where one was necessary in the interests of efficiency by enabling the Secretary of State to constitute a compulsory joint authority by Order in Council preceded by a public inquiry if one of the authorities concerned objected.

It was this latter clause which caused the major part of the controversy over the Bill. Several M.P.s objected to compulsion over the counties and county boroughs and wished at least that counties and boroughs which reached a certain minimum population should not be amalgamated without their consent. Some M.P.s considered that a population of 100,000 both as the figure mentioned by the Desborough Committee and that fixed by the Local Government (Boundary Commission) Act of 1945, for the entertainment of applications for county borough status, should limit compulsory combination; others considered a population of 60,000 was a more appropriate figure. Ultimately, the Secretary of State accepted an amendment that no county or county borough of a population of 100,000 or over should be compulsorily combined with an authority larger than themselves for police purposes.

The Planning Bill introduced early in 1947 once again adopted the counties and county boroughs as the principal authorities. The reasons for this change from the previous practice which had always associated planning with housing powers was vividly stated by the Royal Commission on the Geographical Distribution of the Industrial Population in its Report published in 1940 (the Barlow Report). In discussing the question of urban expansion, the Commission stated:

'. . . special difficulty in formulating a plan for the coherent development of an urban area is apt to occur where the area extends into the districts of a number of planning authorities which are severally planning their districts independently of one another. This difficulty arises from the structure of Local Government; for planning under the Town and Country Planning Act, 1932, is a function of Local Government. It is a function which may be, and is, exercised independently by county boroughs, boroughs urban districts and rural districts in England and Wales and by counties and large boroughs in Scotland.

'While the large industrial concentrations have been growing, the network of Local Government areas has, despite substantial modification of boundaries in many cases during recent years, retained the main outlines of the structure established at the end of the last century in conditions vastly different from those of to-day. With but rare exceptions, the important industrial towns have long outgrown their boundaries as Local Government units. From them urbanisation has spread over an even wider area and over more and more of the surrounding Local Government districts. Greater London stretches beyond the county of London into the counties of Middlesex, Essex, Kent, Surrey and Hertfordshire, and in all extends over or into the areas of no less than 118 Local Authorities, most of which are local planning authorities. The Manchester conurbation as defined by Professor C. B. Fawcet includes parts of the counties of Lancashire and Cheshire and of the West Riding of Yorkshire and altogether 53 Local Authorities, including county councils, are concerned in administration in the West Yorkshire conurbation. . .'[1]

The counties and county boroughs themselves, however, do not necessarily constitute the best planning units. Indeed, the existence of independent urban planning authorities in the midst of the areas of rural planning authorities might easily make the inevitable clash of interest between expanding towns and eroded countryside more acute if planning powers were concentrated in the powerful all-purpose authorities. Provision was, therefore, made for compulsory amalgamation of planning areas into a united district with a joint planning board, subject to a public inquiry if one of the affected authorities objected. This power had existed since the 1929 Local Government Act, but had remained largely unused until the war.

The question of which authority should have power to consent to interim development was discussed during the debate on the Bill. Under the clause appointing the counties and county boroughs planning authorities, these also became interim development authorities. The union of planning and interim development powers in one hand is obviously a more convenient arrangement than that previously obtaining whereby the interim development authorities were the county and non-county boroughs and urban districts even when a joint planning authority was in existence. The licensing of any interim development has to be very carefully fitted in with the needs of good planning and, therefore, cannot properly be divorced from planning powers as such. Nevertheless, it is clear that minor forms of development are more suitably dealt with by an authority to which the conditions of the locality are familiar. This point was several times urged in the debate and the relevant clause of the Act (S 34) lays it down that:

'34. (1) The Minister may, after consultation with such local authorities or associations of local authorities as he considers appropriate, make regulations for authorising or requiring local planning authorities to delegate to

[1] Royal Commission on the Geographical Distribution of the Industrial Population. Report, 1940, p. 75.

the councils of county districts in their areas, with or without restrictions any of their functions under this part of this Act, and such regulations may be made so as to apply generally to all local planning authorities (other than the councils of county boroughs) or to such of those authorities as may be specified in the regulations.'

The policy which will guide the Minister in the use of these powers of regulation is not yet apparent, but the possibility of following the precedent of the Education and Health Acts and using an intermediate authority such as a divisional executive for the exercise of delegated powers, is clearly ruled out by the wording of the clause as it stands. Interim development powers can, therefore, only be delegated to other local authorities.

The Fire Services Act also follows the now familiar mould. The counties and county boroughs are made fire authorities, and the Secretary of State is armed with powers to join fire authorities into combined authorities if it should be expedient.[1] The Secretary of State is also empowered by the Act to promote compulsory arrangements for co-operation between independent authorities short of creating a new joint authority. Powers to delegate some or all of their duties as fire authorities to another fire authority, or other persons who maintain a fire engine, are mentioned in the Act, but it was made clear that this was intended to refer to industrial concerns who have their own apparatus and not to other local authorities.

The Fire Services Act was bound to take account of war experience, and the limitation of fire service to the larger authorities was indicated, not only by the trend of development in local government, but also by the needs of the service. The large numbers of trained personnel and the latest machinery and devices for fire fighting cannot be conveniently or economically provided by the small authority.

The four instances cited all illustrate the tendency towards the concentration of powers in the hands of the major authorities. Together with this trend, the Education and Health Service Acts also show a tendency to seek some larger unit of sub-county government than the existing county districts. All four measures also provide for the combination of major authorities into joint or combined authorities if it seems in the interests of efficiency that a larger area of administration should be constituted. Such provisions were

[1] Fire Services Act, Clause 6.

necessitated by the unequal size of the major authorities, some of which are smaller in resources and population than the non-county boroughs and county districts which have been deprived of their powers. The creation of these joint authorities is a necessary compromise between the urgent need for larger areas of administration for certain services and the choice of the existing major authorities as the executive instruments in preference to creating a single regional authority. It is to be noticed that the powers of compulsory combination contained in the Acts cited provide for the creation of joint executive authorities with corporate existence and not for joint committees which can be dissolved on the initiative of its members. Arrangements of the latter nature can always be made under the Local Government Act of 1933.

*Joint Authorities*

The history and nature of joint authorities is discussed elsewhere in this book,[1] and it is, therefore, sufficient to refer to them briefly as one of the forms which the search for a larger area of administration and charge has taken. The first major instance of compulsory institution of joint authorities to administer a service for which the existing local government boundaries were irrelevent was the creation of Catchment Boards to co-ordinate and administer land drainage operations over complete watersheds. The administration of land drainage was one of the few remaining examples of the survival of a large number of *ad hoc* authorities side by side with the counties and county boroughs. The only efficient technical unit for the administration of land drainage is the area of a watershed from high ground to the sea. Piecemeal administration could, and frequently did, result in chaos when the drainage boards higher up the watershed, by improved drainage schemes, increased the flow of water with which those lower down had to deal.

The form taken by the new Catchment Boards did not resemble in all respects what is usually understood by a joint authority. They were composed of representatives appointed by the counties and county boroughs within the catchment area, as to two-thirds of the membership divided between the counties and county boroughs so that the representation of the county boroughs did not exceed that of the

[1] E. Howard, Joint Authorities, p. 204.

counties. The remaining membership was appointed by the Minister to represent the old *ad hoc* drainage boards, now internal drainage boards of the catchment area. In addition, there was an independent member appointed by the Minister. The Catchment Boards are, therefore, a kind of hybrid between the joint authority composed of representatives of local government bodies and an intermediate organ of government for the regional administration of a national policy. On the whole, the element of local government may be said to be the stronger because the bulk of the revenue of the Catchment Boards is obtained by precept on counties, county boroughs and drainage boards. The central government, however, was empowered to make grants out of national funds to stimulate the carrying out of major works at the Minister's discretion. The projected River Boards have extended powers but do not differ substantially in constitution.

*Nationalisation of services previously administered by Local Authorities*

The tendency towards the choice of the major authorities as the instruments of local administration is paralleled by a tendency to remove many services from the purview of local government, either as a whole or in part, and entrust them to organs of the central government. There are several reasons for this latter tendency. In the first place, the nature of certain services has changed so that their local administration is an anachronism, the case of the relief of the able-bodied unemployed and the maintenance of trunk roads, are instances of this. In the second place, there are services which require a wider area of administration and charge, though not necessarily one divorced from local control, and if these are nationalised the reasons are not necessarily logically inherent in the technique or needs of the service but arise from the inflexibility of the existing local government structure and the strong objection of the existing authorities to the creation of a regional body above them. In these circumstances, the only alternatives may be the universal creation of compulsory joint authorities, a policy which has grave disadvantages, or the nationalisation of the service in question and its administration by a local organ of the central government. A third reason for the removal of the services from local control has recently been brought into prominence by the introduction of large scale nationalisation projects for public utilities in which bodies are to be set up to receive and administer both privately and municipally owned concerns.

*Unemployed Assistance*

The first major service to be removed from local authority control since the 1929 Act was the outdoor relief of the able-bodied unemployed. The transference of the functions of the Poor Law guardians to the counties and county boroughs had spread the incidence of charge, but the continuous large scale unemployment after the last war had already proved a disproportionate burden on local resources even before the slump of 1930 brought the numbers seeking relief to a new peak. The strained finances of the unemployed insurance scheme could not cover the increase and more and more of the unemployed went out of benefit and began to seek help from the rates. The local authorities, through their Associations, kept up a constant pressure to have the relief of the able-bodied unemployed transferred from a local to a national basis. The Royal Commission on Unemployment Insurance appointed in 1930 leant ear to these representations. In their final report the Commission stated:

> 'The Associations of local authorities have unanimously pressed upon us the view that the cost of unemployment should be a national and not a local charge. We have much sympathy with their view. The causation of unemployment is a difficult and complex subject, but it will be agreed that widespread dislocations are likely to be due to national rather than to local conditions. Often enough, indeed, they are due to world wide causes which are beyond the control even of the national authority. National policies, as for example in foreign, fiscal and monetary questions, have a more direct bearing on the couise of employment than action which is within the competence of any locality, and, in so far as unemployment is the result of extra national causes, it is reasonable that so far as possible the burden of it should spread over the larger unit of the nation rather than fall upon the particular areas which may happen to be particularly effected.'[1]

In August, 1934, the National Government accepted the principle that unemployment relief should be a national charge. The chief reason cited by the Minister of Health for accepting this principle was the fact that by subsidising the payment of transitional benefit beyond the period for which normal insurance could cater, the government already bore by far the major part of the cost of unemployment relief and it should, therefore, be responsible for the entire administration. According to him the most mischievous feature was 'the divorce between responsibility for spending the money and responsibility for raising it.'[2] The principle that whoever

[1] Report of the Royal Commission on Unemployment Insurance, 1932.
[2] *Hansard*, Vol. 276, Col. 2587ff.

supplies the bulk of the funds should control the service is, of course, one of the classic arguments of British politics. It is, however, in this instance, a purely superficial one, because the fact that the bulk of the funds for unemployment had to come from the national Exchequer was an effect and not a cause of the national nature of the problem.

The Unemployment Act of 1934 which was introduced to embody the policy recommended by the Royal Commission set up the Unemployed Assistance Board to administer the new service. The Board appointed six regional officers and created appropriate area machinery. Only in a few cases where it was inconvenient or uneconomic to establish a separate administration was the Public Assistance Officer of the local authority appointed Acting Assistance Officer of the U.A.B. As a whole the national machinery was quite distinct from that of the local authorities. Yet public assistance was a function which touched on many interests and required public confidence and support. Moreover, it was necessary that the service should be dove-tailed with other services still administered by the local authorities. To deal with these problems the Assistance Board set up 126 advisory committees, the number in each of its administrative districts varying from one to three. Membership of these committees was generally limited to twenty and members were nominated as to half their number from candidates suggested by counties, county boroughs and local Employment Committees, and as to the rest from those with a special knowledge of local conditions or those active in the voluntary social services. These committees could not advise as to particular payments to particular cases for which a special appeal tribunal was constituted, but they could advise on other relevant matters of local interest.[1]

This method of associating local interest, local feeling and special local knowledge with the work of a governmental agency was already established in kindred fields. The council of every borough and urban district with a population of 20,000 at the latest census and for the remaining areas the council of the county used to appoint a local Pensions Committee to assist the Pensions Officers chosen by the Treasury from among the officials of the Board of Customs and Excise. The Committees did not necessarily consist of members of the appointing authority, though the clerk was generally the clerk to

[1] First Report of the Unemployed Assistance Board.

the council. In the case of juvenile employment, the field was for some time divided. In some areas, including most of the county boroughs, juvenile employment services were conducted by the education department of the local authority under the Choice of Employment Act 1910. In others, the work was carried on by the Juvenile Employment Committee on which the local education authority was represented, together with members of the trades unions and employers. In 1927 all such work was transferred to the Labour Exchanges of the Ministry of Labour, and the Juvenile Employment Committees were universalised. The local authorities' Pensions Committees will lapse when the National Insurance Act comes into force. Under the new Act the Minister of Pensions is empowered to refer matters to local advisory committees composed of representatives of employers, insured persons or both.[1] Local authority participation is not mentioned.

The administration of supplementary pensions was transferred by the Old Age and Widows Pensions Act, 1940, to the Unemployment Assistance Board which was, for this purpose, re-christened the Assistance Board. In October, 1947 a Bill was introduced to Parliament to transfer to this body the bulk of the remaining work of the Public Assistance Committee of the local authorities and bring the Poor Law to an end.

It can be seen from these examples that the earlier tendency to associate the representative local authorities with the administration of some statutory social services is in many cases falling into disuse. Instead national agencies are taking over the services and the functions previously performed by local councils are becoming the province of nominated advisory committees on which the local authority is represented, if at all, as only one of the interested bodies.

### *The Creation of Trunk Roads*

The nationalisation of the administration of certain through highways took rather a different form. The changing nature of road traffic which was already rivalling the railways for medium and long hauls, as well as for local transport, made the boundaries of counties as irrelevant as those of county districts to the administration of the trunk highways. As the maintenance of high engineering

[1] National Insurance Act, Section 42.

standards on the through traffic routes became more important, the grants given by the central government towards their upkeep tended to increase. Local authorities were constantly complaining that the grants given out of the road fund were inadequate and their complaints were sustained by the road users in whose eyes the inevitable tendency of the Chancellor of the Exchequer to amalgamate all sources of revenue by diverting the road fund for general purposes was a major political crime. The scale of grants originally amounted to 50 per cent of expenditure on Class I roads and 25 per cent on Class II. These were later increased to 60 per cent and 50 per cent respectively and scheduled but unclassified roads became eligible for a grant of 25 per cent. This increase in grants was one of the arguments used in support of nationalisation of the trunk roads, but, as in the case of Public Assistance, this is putting the cart before the horse. The grant scale for roads which remained in the hands of local authorities after the trunk roads were nationalised now ranges from 50 per cent for Class III roads (the former scheduled roads) to 75 per cent for Class I. The trunking of a road is considered in the light of the weight of traffic and its importance as an arterial highway and not on the expenses of its upkeep.

The Trunk Roads Act of 1936 made the Ministry the highway authority for 4,500 miles of trunk roads, with full financial responsibility. The actual work of maintaining the roads could be delegated to local authorities with 100 per cent reimbursement of expense. This enabled the local authorities to keep up a more efficient technical machine than might otherwise be possible for the maintenance of the roads still under their administration. The arrangements made by this Act have proved so convenient in practice that the Trunk Roads Act of 1946 left their substance untouched, the main new provision being the addition of 3,685 miles to the existing trunk roads and the endowment of the Minister with power to use provisional order procedure for the transference of any further highways into the category of trunk roads.

### *The Transfer of certain local authority functions in the field of Agriculture*

Although less conspicuous because legislated for in separate stages, the transfer of some of their agricultural powers from the counties and county districts to the Minister of Agriculture is among the most interesting and important of examples of the trend towards national administration. During the 1914–18 war county agricultural committees were set up to deal with problems involved in the expansion of home food production and these were made permanent committees of each county council by the Agriculture Act of 1919. All matters relating to agriculture were to stand referred to them and through them the counties exercised powers with regard to diseases of animals, insects and pests, fertilisers and feeding stuffs, small holdings and allotments, etc. The first of these powers to be removed were those relating to diseases of animals by the Agriculture Act of 1937. The main reason adduced for the setting up of a national veterinary service was irrelevancy of local boundaries to the incidence and spread of disease, together with the inadequacy of the existing local administration of the service.

During the war of 1939–45 the county agricultural committees were by-passed in favour of nominated county War Agricultural Executive Committees as an alternative local instrument. Two further services—namely, the agricultural advisory services and the supervision of the clean production of milk were transferred from the local authorities in 1946. The nationalisation of the agricultural advisory services was in pursuance of the recommendations of the Luxmoore Committee.[1] Prior to the war the counties had had the powers to run agricultural advisory services in connection with their agricultural education schemes, and these were subsidised with a 60 per cent grant. The county advisory schemes were supplemented by a specialist service based on universities and agricultural colleges each serving a province consisting of several counties. There were 13 of these provinces. The Luxmoore Committee recommended that they should be reduced to six and that the general and specialist advisory services which had been amalgamated under the county War Agricultural Executive Committee, should remain united and should be administered centrally. The Committee also recommended that farm institute education should be brought under the Ministry of Agriculture, but this suggestion was rejected on the grounds that agricultural education should remain part of general education which was a locally administered service.

The transfer of advisory services was not actively opposed by the

[1] Report of the Luxmoore Committee on Post-War Agricultural Education in England and Wales, 1943, Cmd. 433.

local authorities concerned. More anxiety was shown in the debate on the Bill as to the possibility of a divorce between the new national advisory service and the agricultural departments of the universities which conducted research and who also remained responsible for advice on economic and accountancy matters.

The Food and Drugs (Milk and Dairies) Bill, however, aroused widespread opposition to its provision for the national inspection of the cleanliness of milk at the point of production. The inspection of cowsheds and milking sheds had hitherto been part of the public health duties of the county districts. The inspection of the health of the dairy herds, on the other hand, as we have seen, had been made a function of the national veterinary service in 1937. In defence of the extension of national control it was argued that clean milk was of national interest, and that the development of a national scheme for inspecting the conditions under which it was produced would ensure a uniform standard unobtainable if powers of inspection remained in the hands of a large number of minor authorities. In addition, the fact that milk was drawn for many miles around to supply the great urban centres of consumption meant that the inhabitants of the area in which the milk was produced were in many cases not directly interested in its cleanliness, while those who were interested had no power to supervise the conditions under which it was produced. The supervision of the production of clean milk was, therefore, a function which transcended local boundaries and was accordingly properly supervised at a national level.

The inspection of dairies and the retailing of milk, on the other hand, could logically be left in the hands of the public health authorities of the areas in which the milk was sold and consumed. Another factor mentioned in the debate was that the officers of some of the smaller local authorities sometimes found it difficult to be independent because important milk producers in their area might be members of the council which they served.[1]

Against the nationalisation of the service it was argued that the fact that there was a national interest in the production of clean milk did not necessarily mean that it should be taken out of local authority control were local authorities otherwise qualified to administer the service. Education and police were equally matters of national interest. Local authorities could not be accused of failing to maintain

[1] *Hansard*, Vol. 400. Cols. 473 and 503.

a national standard of cleanliness because no standard had been nationally laid down. If such a standard could be established, and local authorities provided with sufficient funds to secure adequate staff, and if defaulting authorities were rigorously called to boot, the existing local machinery would perform the task satisfactorily. Some advocates of local authority control admitted that it might be advisable to transfer the service from minor to major authorities, a suggestion which would also attenuate the charge of undue influence to which the smaller authorities might be subject with regard to the initiation of judicial proceedings. The debate was full of interesting arguments concerning the proper demarcation of national and local functions, and there was a fairly strong case made out for both points of view. The defendants of the local authority case were, however, defeated. The Ministry of Agriculture is, therefore, continuing to build up its own local machinery.

The County Agricultural Executive Committees which functioned during the war, were made a permanent part of the machine by the Agriculture Act of 1947. Each committee has twelve members, all of whom are nominated. One has to be a member of the county council in whose area the committee is established, three are selected from persons nominated by representatives of farmers, two from persons nominated by representatives of farm labourers and one chosen from nominations by representatives of landowners. The remaining four are discretionary nominations. Here again we have the substitution for administration by elected authorities of administration by branches of a central department aided by nominated committees. The County Agricultural Committees, however, differ from purely advisory bodies in that they still have a considerable amount of executive power.

### *The Health Services*

One of the most important of all the measures which have recently transferred powers from local authorities to the central government was the Health Service Act of 1946. The co-ordination of the divers hospital systems has long been the aim of progressive medical opinion and it is, of course, the *sine qua non* of a really national health service. Prior to the establishment of the Emergency Medical Service during the war little or no progress had been made in this direction. On the one hand, there were the local authority hospital services evolved out of the Poor Law institutions appropriated under the terms of the 1929 Act. A few of the big county boroughs and the L.C.C. ran hospital services which were second to none; elsewhere the hospital services varied, hampered by unsuitable and obsolete buildings and lack of money. On the other hand, there were the voluntary hospitals varying from the brilliant teaching hospitals to far from brilliant small local institutions living from hand to mouth. There was little co-ordination among the voluntary hospitals except that promoted by private foundations, such as the Nuffield Provincial Hospitals Trust which did excellent work against considerable odds.

In the prolonged discussions carried out by the various medical associations and by other interested parties, three main solutions to the problem emerged. There was the possibility of adopting the counties and county boroughs as hospital authorities with the creation of joint authorities where areas were too small. This suggestion was naturally advocated by the local authorities themselves. Then there was the possibility of creating mixed joint authorities composed of representatives of both local government and voluntary hospitals. This was the suggestion adopted by the White Paper on a National Health Service published in 1945 by the coalition government. A third solution was the creation of a national authority to run the hospital system. This was the solution which was adopted by the Health Service Act of 1946. As, however, the hospital service is naturally closely linked with the centres of population and could not in its day-to-day administration be conducted from Whitehall, provision was made for the constitution of regional hospital boards composed of members nominated by the Minister of Health after consultation with various interested bodies including local authorities. The boards were charged with the administration of the hospital services under the general direction of the Minister. These bodies, like the County Agricultural Committees, were an important innovation in social administration, not so much because they covered wider area than that of existing local authorities, but because they were constituted *ad hoc*, thus reversing the trend away from *ad hoc* bodies which had led to the constitution of compendious local authorities, and because they were nominated rather than elected, thus departing from the representative principle which has become an established part of local government.

It was not so much because local government as such was unsuitable for dealing with the hospital service, as because the existing local government units were too inflexible in their area structure, that the hospital service was nationalised. This was made very clear by the Parliamentary Secretary to the Minister of Health in his reply to the debate on the second reading of the Bill in which he said :

'. . . On the other hand, it was been asked ' Why not take over the local authority hospitals ? Why not use the local government geographical distribution, the local government managerial machine, for what, in fact, would become a greatly improved local government service ? '

I answer: Because of existing geographical areas and functional distribution that is administratively impossible. I have been a keen participator in local government for many years, and yield to no one in my admiration for its services and my desire to see them extended, but we must not blind ourselves to the fact that, whatever else has been done in local government, as an administrative machine, particularly in so far as its area basis is concerned, it has not kept pace with developments in communications and transport. We have not made its sphere of operations grow with the character of the services we have developed, nor with the means and needs for wider areas of administration. This, however, is not the time to deal with the reorganisation of local government.

What we have to consider is the proper planning and provision of a hospital service, and I say, definitely, that the present local government machine cannot provide that service. The areas are normally not adapted to it. We need much wider catchment areas, now that specialised institutions and consultant services are to be made available to the people. The present separation of the county and county borough services, particularly the separation of the county borough services from those of the county in which it is situated, means that in any hospital service, based upon existing areas of local government, the real focal centre of such a hospital service for the county would not be readily available because it would be under separate and definitely segregated county borough control. It is said that by the creation of elected joint hospital boards these difficulties can be overcome. I do not agree at all. Greater difficulties would in fact be created because of all bodies the indirectly elected joint board is in my opinion administratively the most useless . . .

. . . As I say, local differences, local jealousies, local rights and claims are intensified by joint boards. Unified needs, unified advantages are minimised by them. The attention of the members is centred purely on local interests and not upon the general development of a wider service. People appointed to the regional hospitals boards will not be there merely as representatives of local authority interests, but will be selected for their knowledge of hospital needs and hospital problems and will, therefore, be interested in hospital development and not retarded all the time by considerations of a local character, particularly the incidence of local taxation.

That leads me to a further most important point. This hospital service is to be a national service, available to all and to develop such a service dependent, if administered through the local government machine, at least in part upon local taxation, would either place an undue burden on those areas where the needs for this service are greatest—the most poverty stricken, the most highly rated, and the most lowly assessed areas in the country—or it would be ensuring that in those areas the standard of service provided would not be equal to that in the more financially favoured districts. To that we cannot agree. We are pledged to a general national service, available to all upon equal terms, irrespective of individual needs or local financial ability.

Geographically and administratively, functionally and financially, the local government machine is not equal to our task. Hence our need to make one which will fill the big purpose which we have in view. What ultimately will become of the local government set-up I do not know, but of this I am perfectly convinced, that we cannot allow our hospital service to be crippled by making it conform to the present restricted areas of local administration, nor can we make its evolution wait on some, as yet undetermined, reorganisation of local government.'[1]

These words might *mutatis mutandis* be applied to almost any of the major services which local authorities still conduct. They do not, however, absolutely exclude the possibility that should local government be remodelled at some future date the hospital service might be reintegrated with the rest of the health services which, together with the new ones imposed by the Acts remain in the hands of the major local authorities.

*The Nationalisation of Public Utilities*

The public utilities provide a special case in this tendency towards nationalisation. There is absolutely no question that centralised national administration is best wherever the technical needs of the industry make the country as a whole the efficient unit. This is obviously the case with the generation of electricity and with rail haulage and goods haulage by road. It is not so clear what the area should be for the distribution of electricity and for road passenger transport. The legislation now projected reflects this problem in an interesting fashion.

The generation of electricity has long been controlled on a national scale by the Central Electricity Board set up in 1926. The British Electricity Authority created by the new Electricity Act will inherit much of its organisation. Under the old scheme electricity was purchased through the grid and distributed by a large number of small privately owned and municipal concerns. Under the new scheme area boards are to take over these functions and for our purposes it is these area authorities which provide the interest in the new organisation. The choice of regions which the area boards will administer is primarily based on the regions of the old central

[1] *Hansard*, 422, p. 209, May 1st, 1946.

electricity grid with a few modifications. There will be 14 areas, including the North of Scotland District in the new scheme, as against the 10 areas of the grid. An attempt has been made to pick out cohesive geographical and social units. According to the White Paper on Electricity Supply Areas: 'Electricity supply is a service of social and economic significance and the areas for distribution of electricity should as far as possible be natural areas, with strong local outlook and interests . . .[1] The factors which were taken into consideration when fixing their boundaries were 'geographical, sociological, administrative and technical.'[2] These areas will be provided with administrative boards appointed like the central electricity authority by the Minister from persons he considers suitable. The area boards are, however, to be assisted by consultative committees which have a fairly strong representative element in them. *The committees, like the boards, will be appointed, but half* their members are to be chosen from a panel of members of local government authorities submitted by 'such associations as appear to the Minister to represent those authorities.'[3] The consultative committees will have powers to consider any matter relevant to the supply of electricity in their area and to make representations to the area board. The area board must consider their representations and must keep the consultative committees informed of its plans.[4]

The nationalisation of transport does not affect the local authorities who run their own transport systems as immediately or as drastically as the nationalisation of electricity. The British Transport Commission, set up by the new Act is to be empowered to make a scheme for passenger transport in any area approved by the Minister after consultation with any local authority whose area or part of whose area is within that to which the scheme relates. The scheme may constitute or designate the body or bodies who are to carry on passenger transport within that area. It is, therefore, possible and even likely that many local authorities may retain their passenger transport services within the framework of such a scheme. Under the Act a central transport consultative committee is to be constituted for Great Britain, and for 'such other areas as the

[1] Electricity Supply Areas. Cmd. 7007.
[2] *Ibid.* [3] Electricity Bill. Section 7 (2) (*a*).
[4] The Gas Bill, introduced in 1948, provides for 12 nominated area boards and 12 consultative committees nominated from local authorities and other interested parties.

Minister may from time to time direct'. The Act provides that if such committees are constituted, there should be a central one for Scotland and for Wales, but whether these committees will evolve into regional bodies like those attached to the Electricity Authority is left an open question. Their members are to be appointed after consultation with 'such bodies representative of the interests concerned as the Minister thinks fit, to represent agriculture, commerce, industry, labour and local authorities.'[1]

*Arguments for and Against Nationalisation*

As these examples show, the tendency to remove duties and powers from local authorities and place them in the hands of agents of the central government is by now well established. The White Paper on *Local Government in the Period of Reconstruction* states:

'The Government are not prepared to rule out altogether the possibility of transferring certain other functions, if on merits a good case can be shown for this course. . .

'The Government are, however, opposed to any general policy of centralising services hitherto regarded as essentially local.'

This formulation is obviously and probably advisedly ambiguous. Exactly what merits a case has to have before a decision is taken to remove the service concerned from local control is not made very much more clear by a comparison of these services which have been nationalised and those which have been left in the hands of local authorities. The arguments in favour of nationalisation can be summed up under four main heads: that local authorities are too numerous to permit of the maintenance of a single national standard of administration, (the figure of 'over 1,400 local authorities' was frequently cited during the debates on such diverse subjects as fire services and clean milk); that local authorities have unevenly distributed or inadequate resources; that their areas are too small or otherwise unsuitable; and that the division between town and country embodied in the county and county borough system is an enemy of efficient planning.

The argument that is impossible to maintain a national standard with a very large number of autonomous executive agencies has some force. It has usually been met by the selection of the major authorities of whom there are less than 150 for the administration of services in which there is a strong national interest. It is assumed that these

[1] Transport Bill, Part I, Section 6.

authorities are capable of maintaining national standards for they are entrusted with education, the personal health services, and the police and fire services in all of which the maintenance of a national standard is as important as in, let us say, the agricultural services which have been nationalised.

The financial argument is generally based on the classic political doctrine that responsibility for direction of a service should be with those who pay for it. This doctrine was adduced to support the nationalisation of assistance to the able bodied unemployed and the nationalisation of trunk roads, but it has recently fallen out of fashion and indeed the assimilation of the local government to the general franchise with the consequent lapse in the distinction between tax-payers and ratepayers has deprived the argument of much of its force. Now that the necessity for equalising local resources by means of grants has become an established practice, grants varying between 35 and 75 per cent of expenditure incurred are paid out without in any way altering the political status of the local authorities concerned. If the local authority is otherwise a suitable agent, the financial difficulties involved in local administration of a service can usually be overcome. It can be argued that the separation of the large urban centres as administrative units from their surrounding country is one of the chief elements in creating differences in financial resources and that this should be modified before the grants system can become fully effective.

The argument that the existing areas of local authorities and even those of the major authorities are unsuitable for the administration of several of the functions they have undertaken in the past is probably the strongest argument of all. Areas may be unsuitable in several ways. In the first place, they may be irrelevant to the service. Diseases of animals, for instance, take no account of county boundaries in their incidence and spread. Milk is frequently consumed outside the area in which it is produced. Rivers and drainage areas follow physiographic contours. Nevertheless in all these cases the relevant services if nationally administered, would yet have to have a certain minimum of devolution, on an area basis, and local devolution means drawing boundaries between the areas chosen in order to promote economy and avoid overlapping. Such boundaries will always have inconveniences and illogicalities, but they are nevertheless indispensable. The irrelevancy of local boundaries, therefore, resolves itself into the second consideration, namely, that it is not boundaries as such, but the boundaries of the existing local authorities that are unsuitable. The areas as they now exist, may be too small to provide a full and adequate range of specialised institutions and an economic use of specialist staff, together with adequate prospects of promotion for that staff. These are strong arguments and they bore heavily in favour of the nationalisation of the hospital services and of the agricultural advisory services.

Besides nationalisation, however, two other solutions have been propounded to meet these problems. Joint authorities and regional authorities. Joint authorities, as already described, are the chosen method for dealing with the special problem created by the small authorities with the status of counties and county boroughs. As a general expedient, however, few have a good word to say for them. The scathing condemnation of joint authorities by the Parliamentary Secretary to the Ministry of Health has already been quoted. 'Too much joint, and not enough authority' was the comment of the Minister of Defence in introducing the Fire Services Emergency Provision Bill in 1941.[1]

The opinion in favour of regionalism is that of an unofficial minority. The only important organised body advocating regionalism is the Labour Party, which published a pamphlet *Local Government and the Future* in 1943. This pamphlet, however, probably only represents the opinion of an informed minority in the Party influenced by the Fabian studies of this subject.[2] Regionalism formed no part of the considered policy of the Labour Party and was not reflected in the White Paper produced by the coalition government.

The associations of local authorities unanimously reject administrative regionalism, which is illogically linked in their minds with the system of regional commissioners established during the war. The Association of Municipal Corporations under the influence of the great county boroughs, advocates the universalisation of the one tier all-purpose authority consisting of a suitable mixture of urban and rural areas. The County Councils Association advocates the universalisation of a two tier system similar to the existing county system with areas enlarged and the county boroughs eliminated. The National Association of Local Government Officers at first decided

[1] *Hansard*, Vol. 371. Col. 1415.

[2] Cf. *The Case for Regionalism*. Regionaliter. Fabian Research Pamphlets.

in favour of the all-purpose one tier authority, but then added a tier above in the shape of regional planning authorities without executive powers and a tier below of smaller district authorities to which powers might be delegated. The Association of the Urban and Rural Districts wish things to be left as they are.[1] The proposals of the coalition government, contained in the White Paper on *Local Government in the Period of Reconstruction*, accepted the existing structure of local government, modified by the creation of joint authorities for services requiring larger areas than those existing, and redrawing of boundaries, and the elimination of the smaller and weaker authorities in each class by an independent commission.

A Boundary Commission was set up in 1945 to carry out this revision, but its final proposals are not available at the time of writing.

Whatever the likelihood, in face of the opposition of existing authorities, of the creation of a regional form of local government. There are serious objections to regionalism. In the first place, the introduction of a third tier on top of the existing structure might make it unmanageable. It is possible that it would reduce local interest, and local feelings of community and would lose to public life the services of many valuable citizens unable to serve on a body far removed from their residence. The framing of policy might fall into the hands of the permanent officials as it frequently does in the larger counties at the moment. In the second place, the technical needs of the services, which need a larger area are so diverse that it would be unlikely that any one area would suit them all. Yet it can be argued, the technically ideal area for many services is an abstract concept which the existing distribution of population and economic and administrative structure already modify in hundreds of ways. The relevance of these non-technical factors is illustrated in the choice of electricity supply areas.[2]

The most important idea underlying regionalism is that the preservation of representative institutions is as important as considerations of technical efficiency and that both should be weighed in deciding on the unit of administration. If the existing structure of local authorities is unsuitable for the administration of many of the new and important services undertaken by government, the alternative should be to create a new system based on wider areas or regions.

[1] See *Digest of Proposals for Reform*. Appendix A.

[2] See p. 105, above.

If this solution is rejected what alternative remains? Already the process of creating intermediate forms of government has gone very far. There are already in the field: the Minister of Health with his regional hospital boards; the Minister of Agriculture with his local officers and the county agricultural executive committees; the Ministers of Labour and of National Insurance, with their local officers and local consultative committees. There is the Assistance Board with its local officers and their advisory committees. The British Electricity Authority with its area boards and their consultative committees and the British Transport Authority with its regional officers and probably its consultative committees. There seems no likelihood that the proliferation of government agencies, each with its train of nominated consultative bodies, should stop there.

The existence of these various advisory and consultative committees is at once a concession to and the negation of democratic representation. No one would deny the value of advisory or consultative bodies as such. The use of advisory bodies either permanent or *ad hoc* is an essential way of bringing certain kinds of expert and informed opinion to the assistance of various branches of government. When, however, such bodies are constituted on a regional or local basis, a function other than expertness in topics within the terms of reference of the committee, is clearly required from its members, and that is expertness in local conditions and knowledge of local needs. In short, they are required to act in a representative capacity. Now whatever the merits of nominated advisory councils, they are for this purpose no substitute for elected representative bodies.

Perhaps the most signicant contribution made to the structure of local government in the ninteenth century was the association of the development of public services with the development of representative institutions. The extension of the franchise and the establishment of popularly elected local bodies went hand in hand with the gradual elimination of the *ad hoc* authorities and the creation of all-purpose local administrations. The Local Government Act of 1888 marked the culmination of these two processes. From that date the form of local government as we know it to-day, with its concentration of powers in the hands of directly elected authorities, took final shape. Once these bodies were created, the transference to them of most locally exercised functions was merely a matter of time.

Education was quickly assimilated in 1902, the Poor Law not until 1929. When the 1929 Local Government Act consummated this process, it strengthened the county and county borough system and provided the means for securing it adequate financial resources.

Since that date, however, the process of development has gone into reverse. The increasing activities and duties undertaken by the government in the interests of welfare has led once more to the creation of numerous *ad hoc* agencies, each with their own local offices and organisations. Although the representative principle has been maintained at the centre in Parliament, it has been lost at the circumference and attempts have been made to find a substitute in the creation of nominated advisory bodies. There is as yet no firm indication that these tendencies have set in so permanently or are so inevitably part and parcel of the new activities of government that they cannot be altered. The evidence in the main tends to show that the need for swiftly fashioning an executive instrument for new social policies has combined with the rigidity of the existing structure of local government to bring about a situation which was never contemplated and is even now rarely envisaged as a whole. How far this process will continue until the tide turns once more towards a compendious co-ordination of administration on a local basis under representative bodies, is a matter of speculation, but it cannot be a matter of indifference. It would be bold indeed to assume that a central parliament is a sufficient check on the activities of all these governmental agencies or an adequate court of appeal for the citizen affected by them, or that it can sufficiently reflect the varying local conditions relevant to policy and administration, Yet Parliament is and will remain the only directly representative institution which can claim to supervise and control the ramified governmental activities created by developing social policies until such time as a new balance can be struck between efficient administration and representative institutions on a local basis.

## THE DEVELOPMENT OF THE GRANT SYSTEM

BEFORE the industrial revolution when land was the most important form of wealth it was natural that realty should bear the main cost of local services administered by the community. The industrial revolution brought with it a complete change in the predominating form of property together with a rapidly increasing urban population with its attendant squalor and disease. These changes in turn brought about the breakdown of the old Poor Law. A new Poor Law and new public services became urgently necessary at a time when the old rating system based mainly on real property was undermined by the relative decline of real estate as a form of wealth. The rapidly rising rates also tended to penalise agriculture more than other forms of production owing to the relatively large amount of land required per unit of output. At first, then, the demand for relief of rates came mainly from the countryside, for the growing urban areas had an expanding rateable value to call upon for their needs, although the lengthy and expensive business of reassessment let many industrial hereditaments off scot-free for a considerable period.

In the 1830s Select Committees were set up by both Lords and Commons to investigate the substance of petitions brought before Parliament such as that emanating from the *Grand Jury of the County of Carmarthen complaining of the Land Taxation paid by the Agriculturalists of England and Wales, and praying their Lordships for Relief.*[1] The committee of the Lords gave the following analysis of the causes of the increase in the rate burden:

> 'It appears, upon a Comparison of the County expenditure, taken at decennial Periods from 1792 to 1832, that the Increase has been both progressive and considerable. The County Rates in 1792 amounted to £315,805, and in 1832 to £783,441, being an Increase of 148 per cent; and as the Heads of this Expenditure have throughout remained unaltered, the Committee have had little Difficulty in ascertaining, by an Analysis of the Returns which have been laid before them the Causes to which the Increase may be attributed; and in forming their Judgement as to the best mode in which any Saving may be effected. From this Analysis of the Returns it appears that a large Portion of the increased Amount of County Rates has been occasioned by Causes connected with and dependent upon what may be

[1] Report from the Select Committee of the House of Lords appointed to inquire into the charges of the County Rates in England and Wales, 1835.

deemed in themselves Evidences and Results of the growing Population of the Country, and of general Improvement in its Condition. The great Extension during the period above referred to, of improved means of Communication throughout the Country, has naturally called upon the Counties for increased Contributions for the Erection of Bridges; an urgent Necessity has at Times existed of having recourse to extraordinary Expenses in preserving the Public Peace; the great Increase of County Business generally has swelled the Demand for Legal Charges; and various other incidental Items have also added to the general Mass of County Expenditure.'[1]

The select committee of the Commons had analysed the distribution of this increased charge among the various forms of property in their Report of 1834. The contribution from sources other than realty was negligible, and of realty by far the greatest share fell on land as the table below shows:

*Share of the Rate Charge Falling upon Different Types of Property in 1832.*

| | £ | s. | d. |
|---|---|---|---|
| Land | 5,434,890 | 7 | 0 |
| Dwelling Houses | 2,635,257 | 11 | 0 |
| Mills, Factories, etc. | 352,479 | 10 | 0 |
| Manorial profits, navigations, etc. | 183,874 | 1 | 0 |
| | 8,606,501 | 9 | 0 |
| To which realty contributed | 8,070,147 | 18 | 0[2] |

A Royal Commission was set up in 1835 to investigate the position further and make recommendations. The Commissioners rejected the direct taxation of personalty as a means of easing the burden on real estate because of 'the difficulty (amounting to an impossibility) of raising a fund except out of land and buildings by the taxation of stock in trade, or of profits of trade, or of funded property'.[3] The Commission did, however, consider that the burden might be alleviated by a more thorough assessment covering the recently created forms of real wealth in the shape of industrial properties, and reported that by reassessment:

'great relief to the agricultural interest has been afforded in Lancashire and the West Riding of Yorkshire at an expense not exceeding £800 or £900 and in Lancashire £1,000. It has relieved the landed interest to the extent of one third of the local charge having brought the large towns and manufacturing districts to pay a full equivalent for the charges they bring upon the country. The mode of producing this desirable effect has been by

[1] Report of the Select Committee of the House of Lords appointed to inquire into the charges of the County Rates in England and Wales, 1935.

[2] Report of the Select Committee of the House of Commons appointed to inquire into the charges of the County Rate, 1834.

[3] Preliminary Report of the Commissioners appointed to inquire respecting County Rates, 1835.

rendering liable property in mills, factories, etc., which either never contributed before or did not pay a just proportion.'[1]

The fact that both the select committees and the Commission found most striking was:

'the undeniable hardship of charging on the realty all the expenses attending on the invasion of personal property. Thefts are necessarily of chattels; the costs of prosecution being taken out of the Poor's Rate fall entirely on real property.'[2]

Although reassessment would mitigate the burden on realty it would not alter the fundamental injustice of taxing one section of the community to pay for benefits accruing mainly to another and the committee of the Lords therefore concluded that the county rates 'which have hitherto been submitted to with passive Indifference have been rendered liable to many Payments which in Principle and in Analogy should be charged to the general Funds of the Country.'[3] As a consequence of these reports, the first grants in aid to be given to all authorities uniformly throughout the country were instituted in 1835 when half the cost of criminal prosecutions and assizes was taken over by the national exchequer.

The problems which faced Parliament with regard to local finance more than a hundred years ago were in substance the same as those which underly the grant system as it exists to-day, namely, the inequity of charging one class of property owners with services beneficial to the community, and the impracticability of taxing certain forms of property locally. The solution adopted in distributing the charge through a contribution from the national exchequer which is fed from the general property of the country has become an accepted feature of local finance.

*The Use of Grants as Instruments of Progress*

The initiation of social reforms which began in the first half of the nineteenth century carried with it a further use of grants in aid. What had begun as a measure of equity to relieve landed property gradually became an instrument for securing the co-operation of local authorities in the maintenance of national standards.[4] In 1845 the newly reformed Poor Law Unions received half the salaries of

[1] *Ibid.* [2] *Ibid.*

[3] Select Committee of House of Lords on County Rates Report, 1835.

[4] It would be a mistake to ante-date this change. In the early stages of the grant system neither the policy nor the machinery of the central government was sufficiently developed to control local administration.

their medical officers and the whole of the salaries of the teachers and industrial instructors in workhouses. Ten years later, in 1856 was added an item which was to form over half the total of grants from the Exchequer for some years. This was the institution of a police force still administered locally but conforming to certain minimum national standards. The government undertook to pay a quarter of the pay and clothing costs of any approved force. A few miscellaneous grants were introduced between 1856 and 1870—one for metropolitan fire brigades in 1865, another for public vaccinators in 1867. The proportion of grants from the central government to total rate and grant borne expenditure rose from 2.7 per cent in 1842–3 to 5.4 per cent in 1852–3. The increase in the volume of grants carried with it the necessity of a stricter supervision of the method in which they were spent. Local audit was preferred to a more centralised system but the poor law auditors received their salaries from the exchequer to secure their independence in supervising the new Poor Law expenditure after 1845.

*Developments after* 1870

The greatest development came, however, after 1870. In that year elementary education was made a local government obligation. School Boards were set up to administer it, and substantial education grants were introduced. Hitherto the government grants in aid of education had gone exclusively to private societies. The main public grant was originally distributed according to examination results, but very shortly afterwards the number of children in average daily attendance was made the basis of distribution. A new feature in the grant system which subsequently became of great importance was the introduction of a special grant for poor areas aimed at equalising the rate burden. The grant was given to those districts where a threepenny rate produced either less than £20, or less than 7s. 6d. per school child. The actual sums distributed under this grant were quite small. In 1891–92 the scholar grant amounted to £1.5 million and the equalising grant to only £8,000, but later revisions increased its importance until in 1911–12 it accounted for nearly a quarter (24.3 per cent) of the elementary school grants. In this way from quite small beginnings equalisation became a firmly-established principle in the distribution of grants.

From 1870 onwards the impetus towards administrative progress was constantly increasing. In 1872, local authorities were required to appoint medical officers of health and inspectors of nuisances and a grant equal to half their salaries was introduced. In 1874 the county and county borough police grant was increased from a quarter to one half of expenditure on pay and clothing. In the same year a new grant of four shillings per week for pauper lunatics was instituted. Registration of births and deaths became compulsory in 1874 and in the next year the government started to make payment towards local registration expenditure. In 1876 the government increased grants for the maintenance of children in industrial schools and introduced a special school grant for sparsely populated areas. In 1887 it finally took over the entire cost of prisons. In 1882 the first general highway grant of £250,000 was given to meet one quarter of the cost of main roads. This figure was doubled in 1887. In 1887–8 grants in aid exceeded £4 million and amounted to 13.6 per cent of local revenues from rates and grants taken together. Moreover, the national government had taken over the administration and support of some functions entirely, thereby relieving local authorities of further burdens. Expenditure thus transferred was estimated at £2.7 million in 1887-88.

All the grants given in 1887 were for specific functions, *i.e.* 'allocated' grants. Most of them were apportioned on the basis of actual expenditure, a few on what has come to be called a 'unit' basis, such as the number of schoolchildren, the number of pauper lunatics, etc. Only in the case of the education grants was special attention paid to the relative needs of different areas. Percentage grants which were the most usual form tended to raise local expenditure by offering in some cases as much as pound for pound of authorised expenditure but central supervision and the stipulation that expenditure had to be 'approved' to qualify for grant served to prevent any serious extravagance.

### *The Goschen Reform*

Although grants had increased so markedly, local expenditure had increased even faster. Most of the grants had been made conditional upon the acceptance of new duties and at best they covered half the cost and in most cases much less. Local rates increased threefold from 1835–1887, but as rateable values were also increasing rapidly, the cost as spread over the country as a whole was not great, although agricultural districts undoubtedly suffered. In 1842–43 local rates amounted to approximately 14 per cent of rateable values, they were 18 per cent in 1885–86. Nevertheless, by 1887 the sums spent on grants had increased to such proportions that the whole question of the financial relations between central and local government was thought ripe for reconsideration. The solution evolved was largely the work of Viscount Goschen, the Chancellor of the Exchequer in Salisbury's ministry of 1886 and was embodied in the Local Government Bill brought before Parliament by the President of the Local Government Board in 1888. The principle underlying the reform was the theory that national and local finance should as far as possible be separated and that local authorities should have an independent source of income, instead of receiving subventions directly from the consolidated fund.

The substance of the proposal was the discontinuance of direct payment from government funds of most of the principal grants-in-aid except the education grants, including the grants towards dis-enturnpiked and main roads, salaries of teachers in poor law schools, salaries of poor law medical officers, salaries of medical officers of health and inspectors of nuisances, fees of registrars of births and deaths, maintenance of pauper lunatics, conduct of criminal prosecution, salaries and clothing of police, expenditure of poor school boards and awards to public vaccinators. In all these amounted to £2,600,000. In lieu of these grants the local authorities including the counties set up by the same Act, were to receive the proceeds from licences collected in their own areas, partially by the local authorities themselves—in the case of licences for the sale of intoxicating liquors and those for dealing in game to the amount of £1,378,143—partially by the Inland Revenue, in the case of taxation on dealers in beer, wine, spirits, sweets and tobacco, refreshment house keepers, carriages, armorial bearings and male servants, dogs, game and gun licences, appraisers, auctioneers and house agents, pawnbrokers and plate dealers, the whole amounting to an annual total of £1,591,730. Other licences amounting to £800,000 were added to this and local authorities were given a share in the probate duties amounting to about £1,800,000. In all, the new revenue was about £5,600,000. The taxes collected nationally were paid into a separate local taxation account.[1]

[1] Local Government Act 1888. Part I. s20–27.

This scheme brings out several different aspects of the problem of securing sufficient revenues for the expanding duties of local authorities without resorting to grants in aid. Two methods of raising additional local revenue are illustrated—one by increasing the number of local taxes collected locally, and the second by the assignation of local taxes collected nationally for reasons of convenience but distributed locally in accordance with their produce in each area. In addition there was the assigned revenue proper—in the shape of a fixed percentage of a national tax paid over for local purposes. The probate duty was selected as a means of making personalty contribute to the local budgets in addition to realty whose relatively heavy burden had been the subject of constant criticism.

Out of the local taxation account were paid the grants attached to specific services on the basis previously obtaining and in proportion to the amount received in the financial year before the passing of the Act of 1888. The grants were paid to the counties who were responsible for distributing them to the guardians and the minor authorities. The basic grant to the boards of guardians was a *per capita* sum in respect of each indoor pauper. During the debate when this method of distribution was under attack as an indifferent measure of need and as a bribe to guardians to increase the number of indoor paupers the President of the Local Government Board defended the proposal by stating that the Board had considered using population and rateable value as alternative tests, but were persuaded that as the poor rate was the largest single item of expenditure, it formed a truer estimate of needs. One member in the course of the debate put forward a scheme for using a combination of population and rateable value which he said would avoid the more startling inequalities under the governmental proposals. This is of interest because it shows that the elements of the famous formula of the 1929 Block Grant—namely population, sparsity, rateable value and number of unemployed—were already under consideration as separate factors as early as 1888.

The system of distribution of the grant as between services and authorities was exceedingly elaborate. The Royal Commission on Local Taxation of 1895 condemned it roundly in their final report:

'We have come to the conclusion that the existing system of Exchequer Contribution Accounts should be abolished. The complexity of the system under which the produce of the assigned revenues is passed through one account after another—being redistributed at each stage on several different principles—is such that only those whose official duty it is to be constantly threading the maze are able to carry in their memory the clue to its intricate convolutions.

'In particular, the plan of making County and County Borough Councils, as it were, the bankers for the Authorities within their areas has enormously added to the difficulties of computing and understanding the already sufficiently voluminous Local Taxation Returns. The whole receipts and expenditure on account of subventions appear twice over, first in the Exchequer Contribution Accounts of the Counties and county boroughs, and secondly either in other accounts of these authorities, or in the accounts of other Authorities. Under these circumstances an elaborate system of adjustment is, of course, inevitable.

'The overlapping of accounts caused by:

(1) The fact that assigned revenues cannot be fully paid over in the year in which they are collected;

(2) The retention of the money for varying periods in the Exchequer Contribution Accounts of the Councils;

(3) The time actually occupied in the transfer of moneys from one account to another, or from the second to a third;

makes it impossible to give an accurate and consistent account of the application of the subventions either *during* any one year or *in respect of* any one year, and it makes comparisons of the amounts assigned in successive years either to any given service or to any given authority in all cases dubious, and in many cases deceptive.'[1]

### *Breakdown of the System of Separating Local and National Finance*

The setting up of the local taxation account did not fulfil expectations of bringing about a final separation of national and local finance, nor a final settlement of the sources of local revenue. At first the new revenue was more than sufficient to compensate for the loss of the old grants and further new income was assigned to the local authorities from surtaxes on beer and spirits in 1890. This was primarily for the purpose of meeting superannuation for the police services but the surplus which proved to be substantial could be used to reduce rates or to improve technical education. Between 1887–88 and 1891–92 grants from the Consolidated Fund for specific purposes dropped from 13.1 per cent of the total income from rates and grants to 6.2 per cent, but in the years that followed new grants were introduced and the old ones increased while the revenue from the new local sources remained almost stationary.

The 1888 reform was scarcely in operation before these new grants began to appear. In 1890 the national government undertook to meet part of the indemnity to diseased cattle slaughtered by government order—the remainder coming from the local taxation account.

[1] Royal Commission on Local Taxation. Final Report 1901, par. 638, p. 30.

The school grants were increased in 1891 and again in 1897. In 1896 rates on agricultural land were cut by one half and the central government made good the loss by a grant from general revenue equal to one half the 1895–96 rates from such property.

Controversy on the relations between national and local finance was renewed and the efficacy of the Goschen plan was called in question. Complaints of the narrowness of the basis of local taxation and the insufficiency of government help, led to the appointment in 1896 of the Royal Commission on Local Taxation referred to above, under the chairmanship of Lord Balfour of Burleigh. The terms of reference of the Commission were 'to inquire into the present system under which taxation is raised for local purposes and report whether all kinds of real and personal property contribute equitably to such taxation, and if not, what alterations in the law are desirable in order to secure that result'.

The Commission issued three reports of which the first two do not concern us here. The final report was divided into a majority and a minority report, the chairman, Balfour of Burleigh, being among the minority. Both reports accepted the rating system with modifications as to methods of valuation, assessment and collection as the basic source of revenue for local authorities, but felt that the contribution of other forms of property was inadequate. According to figures quoted in their report, 88.9 per cent of local expenditure was financed from taxes on real property, and only 11.1 per cent from other sources. Both reports considered that the best way of making forms of property, other than realty, contribute to the expenses of local government, was through subventions from the national Exchequer, though the transfer to local authorities of a few minor sources of independent revenue was also advocated. In deciding how subventions from the Exchequer should be paid to local authorities both reports agreed on the division of services into national and onerous and local and beneficial. Onerous services comprised those which local authorities were compelled to administer as instruments of national policy and which were mainly of benefit to persons, and local and beneficial services were those which were optional or of direct benefit to the property taxed for their provision. Both reports agreed in classifying poor relief and the other services maintained by the guardians, asylums for pauper lunatics, police, prosecutions and the maintenance of prisoners, main roads and education as national and onerous services, which should be supported in the main out of the national income as a whole. The Commission considered that funds for national services should be raised in accordance with ability to pay and that hence it followed that the ideal system would be for the exchequer to bear the whole cost. The Commission, however, took for granted that this would involve removing the services from local to national administration and therefore recommended that the cost should be shared more or less on a fifty-fifty basis.

It was in the exact measures for administering grants that the majority and the minority differed. The Majority Report advocated the retention of a modified system of assigned revenues. They suggested that the estate duty grant, the beer and spirit surtaxes, and the local taxation licence duty should continue to be applied in aid of rates and that the last mentioned duty should be supplemented by stamp duties and an inhabited house duty. These revenues would be paid into the local taxation account, but instead of the grants being distributed to the counties and county boroughs as intermediaries, they should be made direct to the authorities administering national services, and that the residue only should be distributed to the major authorities in accordance with the area of collection of the revenues which could be localised. The majority also wished to retain as a check on economy and good administration, the itemised payment of grants in respect of the various branches of one service, *i.e.* separately within the poor law services towards the salary of union officials, pauper lunatics, the sick and infirm, teachers in poor law schools, other educational expenses of poor law children, etc. In brief, the Majority Report made a compromise between the existing system and the thoroughgoing adoption of national financial responsibility for onerous services.

The Minority Report is in many ways more interesting because informed with a consistent and logical policy. The minority recommended that grants for the national services should be charged on the Consolidated Fund and paid from that fund into the local taxation account. The grants should in the main be based on fifty per cent of the total expenditure on a given service and should be 'block'[1]

[1] In the Minority report 'block grants' means those given for a service as a whole and not calculated from the sum of the grants on individual grant attracting items. This should not be confused with the later use of the term 'block grant', which adopted the fixing of the amount for a period of years as its main feature.

rather than itemised grants. The minority considered that itemisation of the grant led to rigidity of administration, and that economy and efficiency would better be insured by increased powers of inspection. The amount of each grant was to be fixed for ten years, ensuring that the expense of any new developments or the advantage of any economies should accrue to the local authorities. Perhaps the most interesting suggestion of the minority was that for an introduction of a needs formula to equalise the financial position of the poorer and better off authorities. The formula was to include expenditure on the service, the necessities of the area as determined by population and its ability to pay as determined by rateable value.

Although the recommendations of these reports were not immediately implemented, they served to crystallise informed opinion on the issues involved in the relation between central and local finance, and several of their main suggestions subsequently had their effect on policy.

In the first decade of this century the assigned revenue system began to break up under the pressure of two different trends, the first towards the creation of more grants from the Exchequer as the social services began to expand, and the other towards the absorption of more and more sources of revenue by the Exchequer as the expenses of government increased. The most important event in the expansion of the social services was the transfer of public education from the school boards to the all purpose local authorities, and the absorption of the voluntary schools in the national system which took place in 1902. When this was done the education grant was revised to include an equalising payment of 1½d. per scholar for every 2d. by which the product of a penny rate fell below 10s. per scholar in average attendance. This introduced the measure of ability to pay recommended by the Minority Report of the Royal Commission on Local Taxation. The total amount of grant was also increased and the assigned revenue known as whisky money was definitely earmarked for secondary education without the previously existing alternative of applying it in aid of rates generally.

In 1906 another education grant for overburdened areas was added and in 1908 and 1909 provision was made for discretionary grants towards roads, small holdings and allotments and drainage purposes. The same period also saw the introduction of old age pensions (1908) and national unemployment and health insurance

(1911), which promised to relieve the poor rate. In 1911 the campaign for a reduction in turberculosis brought with it a capital grant for the construction of sanatoria and dispensaries and a percentage grant of one half the expenditure (including loan charges) of local authorities on the treatment of this disease.

The Royal Commission on Local Taxation had recommended the extension of road grants and the Development and Road Improvement Funds Act of 1909 set up a Road Board with powers to provide for the construction and improvement of roads and a revenue from the petrol tax and the surplus proceeds of the motor and carriage licences after stereotyped amounts had been paid to local authorities.

The stereotyping of the amount of grant to be paid into the local taxation account from the proceeds of motor vehicle licences was one of a series of blows suffered by the assigned revenue system. The first was dealt by the Finance Act of 1907 which provided that the assigned revenues should, instead of being paid direct into the local taxation account be paid into the Exchequer, an equivalent amount being paid into the local taxation account year by year. An Order in Council made under the Finance Act of 1908 transferred to the councils of county boroughs the right to levy the duties on local taxation licenses which under Goschen's scheme had been collected nationally. The work of collection was done by the local post offices, the amounts being handed over periodically by the Postmaster-General. In addition, a fixed grant towards the administration of these licences was made to the councils. The Finance Act of 1910 introduced the stereotyping at their 1908–9 yield of certain assigned revenues, previously payable to the local taxation account. The taxes affected were the carriage and motor car licence, the duties on intoxicating liquor licences and the local taxation (customs and excise) duties. This deprived the local authorities of the most resilient proportion of the assigned revenues and frustrated the intention of Goschen that the growth in the yield of these revenues should keep pace with the growth of local authority expenditure. This action of the Chancellor of Exchequer could be paralleled in many other countries, because the expansion of the functions of government and the attendant expenditure always mean that the central government will attempt to broaden its tax basis and no lucrative and resilient source of revenue is likely for long to remain unappropriated. Much of what was done in the three finance Acts mentioned was in the interests of simplicity and clarity of public accounts, but whatever their merits, the measures made hay of the assigned revenue system .

Meanwhile the expenditure of local authorities had risen phenomenally under the pressure of public opinion towards improved social services. Even had the assigned revenues remained intact, they would not have sufficed. Expenditure from rates and grants on the main grant aided services—those classified as ' national ' by the Royal Commission—rose from £18 million in 1889 to £54.9 million in 1911. The clamour of the poorer authorities for increased grants led to the opening up once more of the whole question of the relation between imperial and local taxation and a Departmental Committee was set up in 1911 to re-examine the proposals of the Royal Commission in the light of the events which had taken place in the interval and to make recommendations. In 1912 the Committee was further required to go into the question of securing greater uniformity in valuation, and their terms of reference as regards rates and grants were broadened. In his letter to Sir John Kempe, Chairman of the Committee, Lloyd George wrote :

> ' The second question is the question of the various difficult problems both in the actual incidence of local rates and in the allocation of grants, which have arisen owing to the inequalities of Local Government rating areas. The existence of sharp divisions between adjacent boroughs of the rich and the poor, such as Manchester and Salford, or Hove and Brighton, or Newcastle and Gateshead, has resulted in the creation of necessitous areas which have been continually pressing the Treasury for many years for special grants adequate to their special needs. The whole action of the various Governments which have attempted to deal with the matter has been tentative and provisional, and it would seem to be essential that, whether in the consideration of the purely local question of rating or the nature and amount of assistance which should be given by the Central Authority, some clear principles should be laid down by some expert body concerning the unit of assessment and benefit. Large numbers of speculative suggestions have been advanced to meet the problem, including (1) the enlargement of areas of rating, to include both the poor and the wealthy districts of what is one centre, (2) the compulsion upon a wealthy borough to contribute to the rates of the poorer borough in the same district, (3) the differentiation of the amount of service or grant which will be provided from the central funds, or (4) the unification of larger districts for particular services while retaining separation and autonomy for others. The subject was not fully dealt with by the Local Taxation Commission, and the changes of population and wealth during the succeeding decade have undoubtedly resulted in making the problem more acute, owing to the apparently advancing tendency for the division of large masses of population into cities of the poor on the one hand, and cities of the well-to-do on the other. It is doubtful

if any transfer of services from local to national bodies on the one hand, or any modification of the sources of municipal revenue on the other, can remedy the injustice which is increasingly felt under the present system, and it seems to me that this question of areas stands in the forefront of any question of legislation dealing with the relation of local and imperial taxation.'

The Departmental Committee was circumspect in accepting this invitation to suggest a remodelling of the areas of local government and contented itself with recommending that the counties and county boroughs should be made the areas of administration and rating for all the major grant aided services and that if the areas thus afforded were too small in some cases joint areas should be created for those services which needed them.

The committee considered that their recommendations as to grants would, if put into operation, bring about considerable equalisation between the financial burdens of different areas. They rejected the classification of grants into national and onerous and local and beneficial as too artificial and proposed another category—that of semi-national services in which both the central government and the local authority were interested as distinct from those services mainly of interest to the nation and those of exclusive local interest. They considered that these categories were fluid, because many services which began by being purely local tended to become national as communications improved and public opinion became more unified. In respect of the semi-national services, the committee recommended that the amount of money paid from the national Exchequer should be substantially increased and that the assigned revenues system should be abolished and the grants made directly from the Consolidated Fund through the government departments concerned. These departments should be given enlarged powers of inspection and powers to withhold part of the grant if the service was not satisfactorily administered. The committee distinguished two main prevailing forms of grant—the grant based on units of expenditure and the grant based on a percentage of expenditure, and while considering the former had its uses, they expressed a general preference for the latter in their detailed working out of schemes for the separate semi-national services, *i.e.* education, poor relief, pauper lunatics, police, main roads, criminal prosecutions, mental deficiency and public health. Public health was their main addition to the category of semi-national services. The Royal Commission had classified it as purely local. In the main the recommendations of the Minority Report seem to have had most weight with the Kempe Committee.

*Changes in the Grant System subsequent to the war of* 1914–18.

The Committee's report was published in 1914 and the outbreak of war prevented many of their recommendations being carried into effect. The war and the post-war period brought numerous new grants into being. In 1915 the first grants were given for maternity and child welfare. This was followed in 1916 by grants for treatment of veneral diseases and for the care of mental defectives. In 1918 were added grants for the registration of electors, and the school grants were revised and enlarged and the police grants increased. 1919 brought grants for county agricultural committees and housing grants were also introduced. In 1920 grants were given for care of the blind, and another grant for port sanitary authorities. In 1921 there were further grants for the care of tuberculosis and in 1923 there were fresh grants in compensation for further derating of agricultural land. Housing expenditure grew rapidly in the post-war years, grants from the Road Fund to local authorities increased continually and, mainly as an emergency measure to cope with unemployment, substantial subsidies were granted in 1920 for land drainage, sewerage systems and parks and open spaces.

The growth in the proportion of grants to local revenues from both rate and grants can be seen from the following table :—

*Grants as a Percentage of Rate and Grant Income £ millions.*

| 1<br>*Year* | 2<br>*Rate and Grant Income*<br>*£ m* | 3<br>*Grants*<br>*£ m* | 4<br>3 *as* % *of* 2 |
|---|---|---|---|
| 1842—43 | 9 1 | 0.2 | 2.7 |
| 1852—53 | 10.5 | 0.6 | 5.4 |
| 1872—73 | 19.7 | 1.1 | 5.6 |
| 1887—88 | 31.5 | 4.3 | 13.6 |
| 1891—92 | 373. | 8.8 | 23.6 |
| 1903—04 | 69.0 | 16.1 | 23.3 |
| 1913—14 | 94.4 | 23.1 | 24.5 |
| 1918—19 | 113.6 | 28.9 | 25.0 |
| 1919—20 | 153.9 | 48.2 | 31.6 |
| 1921—22 | 247.5 | 76.6 | 31.0 |
| 1923—24 | 221.6 | 78.3 | 35.1 |
| 1925—26 | 233.2 | 84.6 | 36.2 |
| 1927—28 | 256.7 | 90.1 | 35.3 |

The tremendous growth in local authority expenditure which more than doubled between 1914 and 1921 brought with it a rise in both rates and grants which caused bitter complaint of insufficient resources by the local authorities and continual demands for economy in national expenditure from those anxious about the economic position in the country as a whole. The bulk of the rise reflected the rise in the general level of prices rather than the expansion of local services, but nevertheless the demand to cut down expenditure and in particular to limit national commitments was insistent. As both the Royal Commission on Local Taxation and the Departmental Committee had recommended an increase in percentage grants, those interested in economy had to promote a fresh start. In 1922, in accordance with a recommendation of the Geddes Committee set up to suggest means of curtailing government expenditure, a Treasury committee was appointed to 'report what system of Exchequer grants in respect of locally administered services assisted from the Exchequer can be substituted for the percentage grant system and to what extent and with what exception, if any, an alternative system can be applied'.[1] Among the members of the committee were Arthur Henderson, Sidney Peel, W. Graham, John Hinds, J. Stanley Holmes, James Kidd and Sir Harry Haward. Lord Meston was appointed chairman. The Committee met and considered evidence placed before it for about a year and reached some provisional conclusions, but its progress was interrupted in March 1923 before a report could be drafted. The two general elections which took place during the life of the Committee had deprived it of the services of several Members of Parliament who were not officially replaced. When asked on June 5th, 1924, whether the Committee was still in being, the Chancellor of the Exchequer replied 'It is difficult to say either "yes" or "no"'[2] and was non-committal about the publication of its report, if any. Questions were raised in the House about the publication of the report in November 1925. The Financial Secretary of the Treasury replied that the delay in the report had been 'the great difficulty which the chairman has found in giving attention to it from time to time', but that the draft report was ready but had yet to be submitted to the Committee.[3] In December 1925, Mr. Snowden elicited from Mr. Churchill that Lord Meston had completed his report but to avoid further delay he was not going to submit it to the committee. In February 1926 a further question

[1] *Hansard*, Vol. 152, col. 2019.
[2] *Hansard*, Vol. 188, col. 1588.
[3] *Hansard*, Vol. 191, col. 832.

elicited the reply that the draft report had not yet been submitted to the Committee,[1] but according to Sir Harry Haward, the draft was circulated to members of the Committee but they were not called together to consider it.[2] In fact the report was never published and the matter was allowed to drop.

From evidence provided from other sources, however, it seems probable that apart from the chairman's preoccupations and the difficulty of calling the Committee together, one of the main reasons for the non-publication of the report was the fact that the bulk of the evidence submitted to the Committee during its short working life bore against the policy which the Government and the Chancellor of the Exchequer, Churchill, with backing from the Treasury, had determined to pursue, namely the introduction of a block grant designed to limit the commitments of the Exchequer over a period of years.

The first announcement of the Government's design to overthrow the old percentage grant system was the issue to local authorities, by the President of the Board of Education, of the ill-fated circular No. 1371 in November, 1935. This circular condemned the old percentage grant and proposed a new system of block grants fixed for three yearly periods. A tremendous outcry was raised against the proposed innovation from the teachers' organisations and from the local authorities. The President of the Board had to face stormy questions in the House and a motion deploring the policy which had been adopted. During the debate on this motion, Mr. Fisher, architect of the Education Act of 1918, described how he had adopted the percentage grant system pursuant to the report of the Murray Committee of 1914, and Mr. Trevelyan, who was the mover of the censure demanded that the House should be made conversant with the results of the Meston Committee's work on grants, adding, 'the general rumour is that 90 per cent of that evidence was hostile to the block grant and that there was only one Government department in favour of the system which the Rt. Hon. Gentleman is trying to foist upon the country.'[3]

Many speakers of all parties attacked the proposal, Viscountess Astor voicing a fairly general opinion that the President of the Board

[1] *Hansard*, Vol. 191, col. 832.
[2] *Haward*. The London County Council from within.
[3] *Hansard*, Vol. 189, col. 1699ff.

had been 'had' by the Treasury. Finally the outcry in the country was so strong that the circular and the block grant policy had to be withdrawn.

The parliamentary correspondent of *The Times* reported that the bad reception given to the Board of Education proposals had not damped official enthusiasm for the block grant and said: 'there is no intention of dropping the proposal of the Board of Education to substitute for the present percentage grant system a block grant system of expenditure as soon as a suitable moment presents itself. Efforts are now being made to devise a formula which will create a block grant acceptable both to the Board of Education and to the local authorities'. He went on to give a pirated account of the Meston Committee's draft report. According to *The Times* correspondent the draft report had five main general propositions.

1. That Parliament should be able to decide year by year what total subsidy it would pay for each locally administered national service.

2. That the measure of state aid should vary with the popularity of the service (*Note:* the context does not make it clear whether this is the basis of the percentage grant system smuggled in by the back door).

3. That the grant should be related to the normal cost of the service according to a national standard of efficiency.

4. That the local authorities should be grouped into homogeneous classes according to factors affecting the cost of their services and that extra grants should be given to necessitous areas.

5. That central supervision of local expenditure should be restricted to a minimum in order to encourage local responsibility, the Committee being of the opinion that supervision had in the past gone beyond what was necessary and expedient.

The draft report, in *The Times* version, proposed a transitional period between relinquishing the percentage grant system and introducing the new unit system during which areas were to be classified, and a thorough costing of the local services undertaken in order to establish units of efficient expenditure. During this period the staffs of Government departments were to be reduced to an establishment sufficient to ensure national standards of efficiency.[1]

It is, of course, invidious to judge these proposals from the outline

[1] *The Times*, Tuesday, March 16th, 1926, p. 18.

given but they show some evident difficulties, and the proposal that the amount of grants should be subject to annual variation by Parliament would obviously make impossible any consistent local planning. It was, however, a point frequently raised in Parliament during the various post-war economy campaigns. The establishment of standard units of expenditure is also an extremely complex problem though the education grant has contained elements of unit costing in its formula for a considerable period.

Although the block grant system received such strong and almost unanimous resistance when applied to individual services, Mr. Churchill continued undaunted to promote the general principle involved. This determination was the consequence of the economy drive following upon the deflation necessary to support the return to the gold standard accomplished the previous year.

Mr. Churchill returned to the charge on the Second Reading of the Economy (Miscellaneous Provisions) Bill, March 18th, 1926,[1] and gave a general outline of the Government's attitude on the question:

'I come to the second category—the grant services . . . all these grants which we pay and others spend are on a percentage basis or related to the scale which certain services allow. All of these grants are under the effective control of the House of Commons. The House can, by legislation, reduce most of these grants, but of course at every stage they will encounter the opposition of the local authorities and the powerful interests—perfectly honourable interests, but marshalled and organised interests which are accustomed to benefit by these grants, which would rally to their defence. At every stage too, we are confronted by the argument that a reduction in the Exchequer grant means a transference from taxes to rates, and the laudable desire to Members of Parliament to effect economy comes very often and very early into collision with that scarcely less respectable resolve to keep their seats.

The grant services under all headings amount to over £90,000,000.[2] This is a very unsatisfactory field for the Exchequer. The grants are, as I say, mostly based upon the percentage system. More than half the money is supplied by the Treasury in accordance with Acts of Parliament. Nearly the whole administration is in the hands of the local authorities, subject to Government regulations, inspection, audit, etc. In consequence, the expenditure, apart from legislation to alter the scale of grants, is largely uncontrollable. The local authorities call the tune and it only remains to calculate the percentage upon which the Exchequer pays the piper. I think I am justified in saying it is a very unsatisfactory field. It is the considered policy of His Majesty's Government to convert the system of percentage

[1] *Hansard* 193, c. 285.

[2] This figure included subsidies to industry and services, the amount paid to local authorities was £84.6 million.

grants into a system of block grants, that is to say, to pay definite sums instead of percentages to the local authorities, to give those authorities increased discretionary powers, to make them responsible for any extravagance or any unduly bold enterprise to which they may commit themselves, and to give them 100 per cent of any economies they may themselves be able to effect.'

Mr. Churchill did, however, admit that the substitution of block for percentage grants would not reduce the volume of Exchequer contributions :—

'To sum up. In this second category where over £90,000,000 of expenditure is involved, there is no practical expectation of substantial reduction, and, upon the whole I would say, nor ought there to be. If the mental, moral and physical welfare of the population is to progress, there is no effectual reduction to be made in this field whatever may be said by uninstructed critics, or whatever abuse may be hurled at our heads afterwards by those who have already assented to this expenditure, and who would be the first to cry out were it diminished. No, sir, the only aim which the Government have is to protect the Exchequer from an indefinite and an uncontrolled increase in the future in this sphere. . .'

In the debate on the subsequent Finance Bill Mr. William Graham attacked the block grant policy as outlined by the Chancellor of the Exchequer. He had been one of the members of the Meston Committee and confirmed some aspects of the draft plan as outlined in *The Times*.

'That Committee, of which some of us were members took a great mass of evidence. It is common knowledge that 85 per cent of that evidence was against any serious modification of the percentage grant system . . .'

'Over and over again we have made proposals to the Chancellor of the Exchequer which we believe would safeguard the percentage system, improve it very largely, protect the position of the local authorities, give a very much better return for the money and avoid the controversy, or a large part of it, which will be involved in the right hon. Gentleman's scheme.

'What is our proposal? We have drawn attention to the very great variation in the price which is paid for services in different localities. Undeniably there is certain inefficiency in the percentage system as it now operates, and we have argued that if we could adopt a different method, by arriving at a unit of cost, which would give us an effective comparison area by area, we should then find out not only how we could get a far better return for the money but how we could make the service much more efficient than in many cases it now is. That proposal was put very clearly before the Meston Committee by competent witnesses and I suggest that that is the true method of dealing with the difficulty in this connection.'[1]

Nevertheless in the end Mr. Churchill and his advisers had their way. An opportunity to revise the whole basis of local finance was provided by the derating of agriculture and the partial derating of

[1] *Hansard* 196, c. 291.

industry in 1928, and the block grant formed the most important part of the financial section of the Local Government Bill introduced in that year.

The details of the scheme were contained in the White Paper entitled *Proposals for Reform in Local Government*,[1] published in June, 1928. This document pointed out that the compensation for loss of rates in the shape of an Exchequer grant would seriously increase the proportion of grants to rates in the finances of local authorities.

'So large an increase in the Exchequer grants-in-aid of rates necessitates some reconsideration of the grant system, and the more so because reforms in regard to certain parts of that system had long been accepted as necessary.'

The White Paper then set out the principles behind the changes proposed. In the first place arrangements should be made to meet the case of necessitous areas by taking needs into consideration in allotting government grants. Secondly, no scheme for providing an alternative source of revenue for local authorities could take the form of a grant varying from year to year with the expenditure of individual authorities and there should, therefore, be no extension of the percentage grant system. Thirdly, arrangements should be made to obviate the difficulties of those authorities whose finances were on too narrow a basis by changes in area or in function. The first two principles were at the basis of the proposal to introduce a block grant calculated on a formula of needs.

The money to be distributed on the formula was to be made up not only of the estimated losses of rates, owing to derating under the Rating and Valuation (Apportionment) Act of 1928, but also from grants given in lieu of:

| | £ |
|---|---|
| 1. The assigned revenue grants other than those specifically applied to the education and police services .. .. .. .. | 4,501,300 |
| 2. The agricultural rates grants (Acts of 1896 and 1923) .. .. | 4,733,095 |
| 3. The health percentage grants for maternity, tuberculosis, venereal disease and certain grants for mental deficiency and blindness .. | 3,907,621 |
| 4. The classification grants for Class 1 and Class 2 roads in London and the county boroughs and the maintenance grants for scheduled roads in county districts .. .. .. .. .. .. | 3,137,690 |
| 5. An additional sum of new money to be voted periodically by Parliament (estimate for first period) .. .. .. .. | 5,000,000 |
| | 21,279,706 |
| Add estimated loss on rates .. .. .. .. .. .. | 22,292,203 |
| | 43,571,909 |

[1] Cmd. 3134.

The White Paper described the formula as follows :

'It is proposed that the whole of the new grant-in-aid should in the first place be apportioned among counties and county boroughs, this apportiontment being ultimately according to a formula based on general characteristics independent of actual expenditure. In deciding what characteristics should be adopted and what weight should be given to each, the aim has been so to adjust the distribution of this new revenue as to make the assistance vary with the need for local government services in any area in relation to the ability of the area to meet the cost. After a careful examination of a wide range of possible factors, a combination of population, the proportion to the total population of children under five years of age and the rateable value per head of population, has been taken as the main framework of the formula.

'To these factors of general application have been added two further factors of a special character, the one to allow for the additional burden thrown upon certain areas by abnormal unemployment, and the other for the considerable variations in the cost of certain local government services arising in administrative counties from the differing density of the population. For the first purpose the proportion of unemployed insured men to total population, according to Ministry of Labour returns, has been adopted, and for the second, the population per mile of public road as determined by the Ministry of Transport.'[1] [2]

The grant to county districts on the other hand was to be distributed at a flat rate *per capita*, rural districts receiving one-fifth of the amount allotted to urban districts.

To smooth the transition period to the full working of the formula, its application was spread over three periods of five years in which the formula would be applied to only 25 per cent, 50 per cent and 75 per cent of the block grant respectively. Further provisions to smooth the way were contained in a series of additional and supplementary grants and guarantees to spread and diminish the losses of those areas who lost by derating and received light weighting because of wealth. An overall general guarantee was also embodied in theBill, providing that the ratio of the block grant to total rate and block-grant-borne expenditure should be stabilised at 23.18 per cent., the proportion for the first fixed grant period, in all further revisions of the amount of the block grant, so that the grant would rise in proportion to expenditure.

## *The Attitude of Local Authorities*

The local authorities received the new proposals with moderate enthusiasm. The main point of principle at issue between them and

[1] Cmd. 3134, para. 21, page 14.
[2] The actual formula is set out in Appendix B.

the Government was that, while not objecting to the use of a needs formula, the majority of local authorities considered that they should be directly compensated for their loss of rates and that the formula should only apply to that part of the block grant made up of the loss on assigned revenues and discontinued grants. This point of view was expressed in a memorandum to the Association of Municipal Corporations by Mr. Arthur Collins and Messrs. R. Watson and Sons.

'We have already indicated our definite view that it is impossible to devise a satisfactory formula on the principles propounded by the Government, because the monies to be distributed thereunder consist partly of grants in recoupment of losses sustained by the Government's policy of relieving industry from rates, and partly of grants towards the expenditure of public services. These two grants fall into two entirely different categories, and we do not see how they can logically be distributed under one and the same formula.'[1]

The Government, however, refused to consider the separation of the loss of rates from the loss of grants on the grounds that if compensation for loss of rates was stereotyped on a standard year, the amount paid would cease to have any relation to resources or needs If, on the other hand, compensation was recalculated periodically, the calculation would have to consider changes in the rate poundage, thus contravening the basic principle that Government money should not be awarded on the basis of expenditure.

In taking up this attitude the government was strongly influenced by the experience of the two Agricultural Derating Acts of 1895 and 1923. The first of these had provided a fixed amount of compensation based on the loss incurred the year the Act came into force. Changes in population and rateable value soon divorced the compensation from any relation to the losses incurred by the operation of the Act. The further measure of derating which took place in 1923 was compensated by a sum which varied in each rating period in proportion to the amount by which the yield of the rates of each authority were reduced by the provisions of the Act. Under this scheme higher assessments or increased poundages attracted increased compensation. The concurrent existence of both systems of compensation added to the confusion and to the conviction in official circles that all subventions should be made on a unified scheme.

[1] Quoted in *Hansard*, Vol. 223, col. 149.

As the Rating and Valuation (Apportionment) Bill, which contained the provisions for derating agricultural and industrial hereditaments, had already passed into law, however, the enactment of the new measures in one form or other became urgent, and, after a series of deputations and conferences with the Minister, local authorities decided to accept the scheme subject to certain modifications.

The main factor which made the local authorities dubious about the formula was the impossibility of forecasting how it would in fact work out, seeing that the data available for calculating it did not exist. They therefore pressed very strongly for an experimental period, after which the whole thing could be reconsidered. The Government consented that the first five-year period should be superseded by a seven-year stage divided into two periods of three and four years respectively, during both of which the loss of rates and grants would be made up to the extent of 75 per cent. In the second of these periods use would be able to be made of the latest census figures. They also agreed that the census should be taken every five, instead of every ten years, so that the latest figures would be available for each recalculation of the grant and that at the end of the first two periods, the Minister should make an investigation in consultation with the local authorities as to the working of the formula. Two further concessions were also made, namely, that the Bill should include provision to the effect that, if Parliament should add to the duties of local authorities, it should provide them with extra resources, and that all local authorities, whether losing or gaining under the formula, should have a share in any increase in the total grant.[1] These alterations, together with some concessions on the transitional provisions, were introduced into the Local Government Bill in the Committee state of its reading and in his third reading speech, the Minister of Health (Mr. Chamberlain) was able to say that he had secured the approval of almost all the major local government associations.[2]

*The Revision of the Formula*

The investigation into the working of the block grant system during the first and second fixed grant periods which the Minister of Health

[1] Local Government Bill, 1928, Amendments to Part VI, Cmd. 3257.

[2] The Rural District Councils Association was not among those mentioned by Mr. Chamberlain as approving the scheme.

was required to make and lay before Parliament, under Section 110 of the Local Government Act, 1929, was begun in the autumn of 1935 and its results were published in a White Paper in February 1937, The investigation was conducted by the Ministry of Health in co-operation with financial advisers appointed by the County Councils Association, the Association of Municipal Corporations, the Urban District Councils Association, the Rural District Councils Association, the London County Council, the Metropolitan Boroughs Standing Joint Committee, the Institute of Municiple Treasurers and Accountants and the County Accountants' Society. The financial advisers worked as a joint conference to which financial officers of necessitous areas were co-opted. The representatives of the various bodies reported back to their organisations or authorities, who submitted their observations to the Minister.

The main questions the conference had under review were five: how far the distribution of the grant in the first and second grant periods was in accordance with the original intention of the Act; whether the experience so far gained suggested that the needs of the poorer areas, and in particular of the distressed areas, were met under the existing method of distribution to the extent of the original intention; whether the variation between period and period in the amount of grant consequent on a rise or fall in population, etc., fairly reflected, as intended, the variation in the needs of the area or whether some modification was desirable; whether the alterations to be made under the existing law in the method of distribution in the third grant period would still further assist in carrying out the original objects of the scheme, and how far the method of division of the grant inside the county was fair on the whole to the various classes of authority, having regard to their respective responsibilities.

During the investigation allowances had to be made for changes which had taken place since 1929, including a sharp increase, followed by a progressive decline, in the number of unemployed, a considerable movement of population, a decline in the birth-rate, a quinquennial revaluation, a revival of industry in some areas and continued depression in others. Major legislative measures which affected the issue were the removal of responsibility for the maintenance of able-bodied unemployed from the local authorities to the central government (Unemployment Act 1934), the removal of the responsibility for trunk roads to the Ministry of Transport and the bringing of agricultural workers into the scheme of unemployment insurance. The first two measures affected the composition of the grant because the Ministry of Health proposed that the financial adjustment involved should be made by deduction from the £4,000,000 new money due to be voted by Parliament under the guaranteed ratio of grants to rate-borne expenditure. The total block grant falling to be distributed in the third fixed grant period was, therefore, approximately £45,000,000.

With regard to the questions posed by the Minister of Health, the financial conference reached the conclusion that while the formula for distributing the block grant had, on the whole, worked in accordance with the original intention in the first and second fixed grant periods, it did not fully meet the needs of the distressed areas and in the third fixed grant period would cease to reflect the needs of the areas owing to changes which had occurred in the weight of the factors. The most striking change was due to the fact that the increase in population, combined with the decline in the number of children under five and the general increase in rateable values, tended to increase the proportion of the grant attracted by the basic factor, that of population, as follows :—

| | *Grant Period* | | |
|---|---|---|---|
| | *1st* | *2nd* | *3rd* |
| Population | 39.0 | 36.9 | 44.6 |
| Children under five | 24.0 | 17.7 | 17.6 |
| Rateable value | 15.0 | 13.8 | 14.8 |
| Unemployment | 8.3 | 19.8 | 10.0 |
| Sparsity | 13.7 | 11.8 | 13.0 |
| | 100.0 | 100.0 | 100.0 |

This tendency worked to the advantage of the richer authorities who received comparatively light weighting, and to the disadvantage of the poor authorities, who received a heavy weighting. Another fact apparent from this table is the great reduction in the weighting for unemployment in the third as compared with the second fixed grant period. This was due to the reduction of the multiplying factor from 10 to 6 at the end of the first grant period, as provided in the Local Government Act of 1929.

During the course of the review of the formula, some forty tests of various proposed modifications were carried out. The inclusion of new factors such as the number of old-age pensioners, the number of persons in receipt of poor relief, the infantile mortality rate and the number of children of school age, was found to be either impracticable or to make very little difference to the final result. Alteration in the rateable value factor not only gave unsatisfactory results, but was opposed on the grounds that until the government took steps to secure a method of assessment which resulted in greater uniformity throughout the country, it would be undesirable to give additional weight to a factor which might be manipulated by individual local authorities. After all the tests had been investigated by a process of elimination, two principal tests were left for final consideration: Test D3 Modified and Test C.

*Test D3 Modified*

The chief variations of this test when compared with the existing formula were:

(*a*) The unemployment multiple was retained at a figure of 10 for the third fixed grant period.

(*b*) Additional weighting for unemployment was to be given by employing a further multiple of 5 where the rate of unemployment expressed as a percentage of the population was over 5 per cent.

(*c*) The weighting for unemployment was added to the population, weighted for children under five and rateable value, to form a second intermediate weighted population.

(*d*) The weighting for sparsity was increased in all counties with a population per mile of road of under 200.

(*e*) The weighting for sparsity of population was then calculated on the second intermediate weighted population.

*Test C*

Under Test C the existing unemployment multiple of 10 and all the other factors were increased by a standard 50 per cent, population remaining unchanged.[1]

Test D3 Modified and Test C gave very similar results, with the exception that the latter gave a slightly increased amount to industrial and high rate poundage areas. The similarity of result is probably due to the fact that both tests made use of the fact discovered by the statistician of the County Accountants' Society, that the combinatory

[1] Report of the County Accountants' Society to the County Councils Association, 17th November, 1936.

factor introduced by using the intermediate weighted populations for further weighting instead of calculating all the weightings on the base population was an important element in the formula and could in fact be separately ascertained.[1]

Test D3 modified made use of this in introducing a second intermediate weighted population, a similar result was achieved in Test C simply by increasing the primary factors which automatically increased the combinatory factor.

Ultimately, however, Test C, although strongly pressed, by the County Accountants' Society and the County Councils' Association, was rejected in favour of Test D3 Modified, on the grounds that:

'An increase of 50 per cent in the weightings of the existing factors was empirical, that the additional grants were increased by approximately £260,000, as compared with D3 Modified, and that it did not enable sufficient reasoned arguments to be presented to Parliament and to the local authorities, as compared with the arguments which could be advanced for the increase of the unemployment factor in the distressed areas and the increase of the sparsity factor in certain rural counties, as provided for in Test D.3 Modified.'

1. *Table showing Value of Combinatory Factor*

| | *Existing Formula* | *Test D3 Modified* | *Test C* |
|---|---|---|---|
| | % | % | % |
| Population .. .. .. .. .. | 44 6 | 39.3 | 29.7 |
| Children Under 5 .. .. .. .. | 17.6 | 15.5 | 17.5 |
| Rateable Value .. .. .. .. | 14.8 | 13.1 | 14.8 |
| Unemployment .. . .. .. .. | 5.2 | 9 1 | 9.2 |
| Sparsity .. .. .. .. .. .. | 7.1 | 6.9 | 7.1 |
| | 89.3 | 83.9 | 78.3 |
| Combinatory Factor due to multiplication .. | 10.7 | 16.1 | 21.7 |
| | 100.0 | 100.0 | 100.0 |

*Distribution within Counties*

A much criticised feature of the block grant continued to be the distribution within the areas of administrative counties. In the first distribution period there were some surprising anomalies; Okehampton in Devon and Godmanchester in Huntingdon, for instance, received a sum by way of capitation grant greater than all their rate and grant expenditure in 1932–3. Neither of these small boroughs supported police or education services. A more important borough

[1] Report of County Accountants' Society to the County Councils' Association, 17th November, 1936.

which gained substantially from the new block grant was Richmond in Surrey. This town lost little from derating; its rateable value increased considerably during the first block grant period, yet, with the capitation grant, its receipts from grants rose from 16 per cent of rate and grant income in 1928–29 to 28 per cent in 1932–33 and it was enabled to reduce its rates from 11 shillings in 1928–29 to 8.6 shillings in 1932–33. This was in spite of the fact that the removal of the 50 per cent minimum guarantee in 1931 reduced Richmond's education grant from 50 to 25 per cent.

The areas receiving the capitation grant—municipal boroughs and urban rural districts—were generally sharply divided into gaining and losing areas and it was proved difficult to provide any alternative scheme which would rule out the worst anomalies and would satisfy the majority of the smaller authorities concerned.

Although, therefore, the existing method of distribution within the counties by means of a flat capitation grant was strongly criticized from all sides at the conference on the revision of the grant, and the Rural District Councils Association represented that the proportion of 5:1 in the share of the capitation grant between urban and rural districts was unfair, it was difficult to reach any agreed solution. If the total amount of the block grant remained the same, any redistribution in favour of the county districts and non-county boroughs entailed an increase in the county precept which in many areas more than offset the increased capitation grant. A general increase in the share of county districts (the ratio of 5:1 between urban and rural districts remaining the same) tended to be disadvantageous to both urban and rural districts with high rateable value, only the poor districts gaining. Any considerable alteration of the proportion of 5:1 between urban and rural districts in favour of the rural districts resulted in gains to the poorer areas and in losses to the rich areas. The same result obtained if the proportion was altered in favour of the urban areas—the poor authorities gained and the rich ones tended to lose. As the representatives of both urban and rural districts let it be mutually known that either would oppose any change to the advantage of the other at their own expense, and as any proposal was to the disadvantage of a body of districts sufficiently large to concert their opposition, no change in the existing system of distribution could be agreed. The White Paper summarized the attitude of the local authorities as follows:

'Whilst recognising inequalities arising from the present methods of internal distribution, we are disposed to the view that all the practical alternative methods which have been investigated produce results which would be less generally acceptable than those shown by the continuance of the existing basis of distribution.'

The conclusion was subject to minor reservations by some representatives and a general reservation by the Adviser to the Rural District Councils Association, who considered that there should be some alteration in favour of rural districts. It was improbable that any formula would meet the anomalous cases and the only means of eliminating the worst of these would have been the stipulation of minimum and maximum figures with some reference to expenditure or rateable value, both factors which might be subject to manipulation.

*Development in the Grant System since* 1929

In the ten years that followed 1929, the block grant confirmed itself as an essential part of local finance. It had been intended that more and more of the percentage grants should be amalgamated with it as their initial function of establishing the service which they subsidized was accomplished. This, however, did not come about. The only percentage grants which the block grant embodied were the highway and health grants originally included in it. Recollecting the opposition roused by the proposal to substitute block for percentage grants in the case of education, it seems doubtful whether the health grants would have been absorbed had they been tackled separately instead of being included as a minor portion of a large and complex measure. Even so, the proposals to abolish the percentage grants for health, and especially those for maternity and child welfare, were strongly opposed in Parliament, and Mr. Chamberlain was forced to say that he would not have introduced such a measure had he anticipated any check in the development of these services.

Whether the removal of the health services from the percentage grant basis did have a bad effect on their development is a matter for controversy. The advent of the depression in 1930 and the subsequent policies of economy and retrenchment might have led to a slowing up of progress in any case. The figures for the maternity and child welfare services show a flattening out after 1929 of the thitherto steeply rising curve of expenditure, and most authorities seemed to be content, once the stimulus of the grant was removed, to maintain their services on much the same level as before 1930–31.

An interesting contrast was provided by local expenditure on hospital services. The provision in the 1929 Act for local authorities to appropriate Poor Law institutions and use them to develop a general hospital system stimulated expenditure despite the economy campaign. This expenditure was not grant aided, but possibly it provided a greater adjunct to civic pride than the maternity services. The expenditure on maternity and welfare services did not begin to rise until the Chief Medical Officer of the Ministry of Health started to put pressure on local authorities in 1934–35. The Ministry's conception of what an efficient maternity service should be had been circulated to local authorities in 1930, presumably to counteract any tendency towards slacking off that the removal of the percentage grant might have caused. In his 1934–35 Report the chief M.O.H. was at pains to deplore the number of areas in which the maternity service was neither complete nor satisfactory and observed that 'There are few, if any, in which there is not scope for further improvement'.

It was at about this time that public attention was drawn to the failure of the maternal mortality rate to fall in accordance with the trend in most advanced countries. In an attempt to remedy the situation the Midwives Act of 1936 was passed, imposing the duty upon local authorities of providing directly, or through the agency of voluntary associations, for a comprehensive midwifery service. In introducing the bill Sir Kingsley Wood admitted that under existing arrangements small progress had been made in reducing maternal mortality, and instanced West Ham (more usually held up to contumely owing to extravagance) as one of the few areas that had been able to reduce maternal mortality well below the national average, despite the acute poverty of the population, by relatively lavish expenditure on a domiciliary and institutional maternity service. This Act reintroduced the percentage grant into the health services. This was partially because the midwifery service was made mandatory and a promise had been given at the time of the introduction of the block grant that new duties would be accompanied by increased subventions, and partially because the results of amalgamating the maternity and child welfare grants in the block grant might be said to be reflected to some extent in the need to introduce the compulsory provisions in the Midwives Act. Had ante-natal services been well developed the maternal mortality rate would have been significantly reduced. The introduction of a percentage health grant was intended to be temporary and it was stated at the time that the new grant would be merged in the block grant at its next revision, which was, however, postponed because of the war.

One very interesting feature of the new grant for midwifery was the use made of the block grant formula in its calculation. The basic rate was 50 per cent of expenditure, varied for each authority in the same proportion as its weighted population under the block grant formula bore to its estimated actual population, compared with the average proportion of weighted to estimated population in the country as a whole.[1]

The Midwives Act was the only measure introducing a new percentage grant in the years between 1929 and 1938. There was legislation which enabled the Minister concerned to give grants, but in general only on a discretionary basis and not in relation to any fixed proportion of expenditure. The Land Drainage Act, in 1930, and the Physical Training and Recreation Act in 1937 both provided grants of this kind towards the initial capital expenditure and, in the case of Catchment Boards and drainage authorities, the maintenance expenditure, involved in the carrying out of their provisions.[2] In 1937 came the first of the series of measures designed to use the local authorities as agents of the central government for carrying out policies in connection with the national emergency. The Air Raid Precautions Act of that year included provision for grants varying between 60 and 75 per cent of approved expenditure. The formula determining the percentage of grant was, like that in the Midwives Act, based on the weighted population as ascertained for purposes of the block grant. The Act provided that the ratio of the weighted population to the estimated population should be calculated, and that where the proportion between weighted and estimated population was less than the proportion of 1.5, the grant should be 60 per cent, when it was more than 1.5 but less than 2.5 it should be 65 per cent, where more than 2.5 but less than 4.0, 70 per

[1] Midwives Act 1936, First Schedule.

[2] Although these grants were discretionary they tended to approximate to percentage grants once their regulation had been decided. Grants to Catchment Boards for land drainage varied between 15 and 75 per cent of approved expenditure. Other local authorities obtained 33⅓ per cent of approved expenditure on maintaining the courses of streams and 50 per cent on constructional work. The capital grants under the Physical Training and Recreation Act of 1937 were settled at 50 per cent.

cent, and where more than 4.0, 75 per cent. Any additional expenditure in excess of a penny rate would be compensated at the rate of 75 per cent for authorities already receiving up to 65 per cent and at 85 per cent for those receiving more.[1]

During the war the civil defence services were vastly extended and the local authorities were used as agents by several government departments. A major portion of these new services was grant aided at 100 per cent of approved expenditure. The expenses of food control, the capital cost and losses incurred on revenue for British Restaurants, the supply of milk and meals in schools, the administration of the Fuel and Lighting and Coal Retail Prices Orders, the training of the civil nursing reserve, the evacuation services, the maintenance of war reserve police, the provision of day nurseries, the pay of whole-time A.R.P. and A.F.S. personnel, the rent of premises taken over for civil defence work and the expense of the dismantling and reinstatement of such premises, the clearance of debris, the collection of salvage, the institution of emergency water supplies, and several other services, were reimbursed at cost. Most of these services were purely for the duration of the war and the grants would normally cease to be payable when hostilities ceased. The grants for school meals and milk and for the maintenance of tuberculous persons were the principal ones which were continued permanently. The grant for day nurseries was assimilated into the general education grant.

The effect of the experience of the reimbursement at cost of agency services and that of the block grant formula is clearly visible in the creation of new grants and the revision of old grants which have taken place during and since the war. One hundred per cent grants have not proved as ruinously extravagant as pessimists predicted and this has weakened the objection to raising grants above the fifty per cent level. The principle of equalization instanced in the block grant is so firmly established that almost all government subventions have to have their equalizing formulae.

The education grant remains by far the largest grant and its very size has made it a more potent instrument for equalization than the block grant itself, once the guaranteed minimum 50 per cent had been withdrawn in 1931. As a result of war-time experience, during which grants were stabilized at the percentage received by each authority in

[1] Air Raid Precautions Act of 1937, Schedule.

the year 1937–38, while grants for special services such as school milk and meals reached levels approaching 100 per cent, the first post-war grant was simplified. It had three main elements: (*a*) the main grant, fixed arbitrarily on the basis of the proportion of grant received for elementary and higher education combined in the standard year 1938–39 together with 5 per cent additional grant to meet the raised cost of teachers' salaries, (*b*) the additional grant, an equalizing grant consisting of 3s. per child in average attendance of each unit or part of a unit by which the number of children in average attendance per mile of road fell short of 12 in the year 1945, and a further grant of 6s. per child for each penny or part of a penny by which the product of a penny rate fell short of 36d. per child in the standard year. These equalizing provisions were accompanied by the stipulation that in no case should the total grant receivable by any authority exceed 75 per cent of its total expenditure and that the additional grant should only be payable to those authorities whose main grant was less than the excess of net recognizable expenditure over the product of a 45d. rate. (*c*) The third main element was less a percentage grant than a reimbursement of the costs of an agency service. The provision of school milk and school meals was enormously expanded in war-time as part of the national food policy which concentrated on supplying special supplements through canteens for those in need of them, while keeping the normal civilian ration at the minimum. The success of this policy led to the retention of the compulsory provision of school milk and meals as part of the national programme for health and social welfare, and to secure its full and rapid implementation, grant levels have been maintained at 100 per cent of the cost of providing milk, and at 100 per cent of the overheads of providing meals (excluding rent of premises and with some modifications for special classes of schools).

In its original version the new health grant under the National Health Service Act of 1946 followed the general principles of the education grant. It was to be based on a 'weighted 50 per cent basis, with no local health authority receiving more than three-quarters or less than three-eighths of their expenditure.'[1] The structure of these two grants has, however, been considerably modified as a result of the Local Government Bill introduced in November,

[1] National Health Service Bill. Summary of the proposed new service, 1946. Cmd. 6761.

1947, which substituted the new exchequer equalization grant for the block grant. The education grant has been increased and its formula simplified. The overall contractual proportion of expenditure to be borne by the Treasury has been raised from 55 per cent to 60 per cent, and the main body of the grant will be distributed at the rate of 120s. per child in average attendance subject to the deduction of the product of a 30d. rate.[1] At the same time the health grant was returned to the old 50 per cent basis for all authorities. This is ostensibly because the increased emphasis on equalization in the new block grant renders it less necessary for the allocated grants to contain equalizing features, but the difficulty of devising a formula to suit expenditure dependent on the variable incidence of disease may have also provided some difficulty.[2] There is no equalizing formula in the Fire Service grant. It will be based on a maximum contractual payment of 25 per cent of recognized expenditure to each fire authority. There is no mention in the Act of the needs or resources of the fire authority being taken into account in variations below that percentage. The new grant appears therefore to be more closely related to the police grant which is still maintained in its time-honoured 50 per cent basis.

Although housing forms a special case in the relations of central and local finance, rather outside the main part of the grant system, it is interesting to note that here also the needs formula has been brought into operation. The share in the subsidization of low rent dwellings borne by the rates and by the Exchequer has been drastically revised to increase the share of the central government, which is now 3 : 1 for standard urban houses, and approximately 8 : 1 for standard rural housing, the share of the local authorities being divided equally between the county and its districts. In addition, for urban areas where the average rents are exceptionally low, and an undue strain would be placed on the rates if they had to bear their normal share in the subsidy, the subsidy is given at the rural rate. Further high rates of subsidy are given for development on high cost sites. On top of all this there is a special provision for 'areas where, because of low rateable value, high rate expenditure, and a particularly serious housing problem, expenditure upon housing would be abnormally burdensome.'[3] In areas where the general rate poundage

[1] Ministry of Education Grant Regulations, No. 1. S.I. 1948 No. 334.
[2] Local Government Bill, Section 7.
[3] *Hansard*, Vol. 420, col. 347.

is 25 per cent higher than that of the local authorities in the same category, *i.e.* urban districts compared with urban districts, rural with rural, and where the rate levy for housing expenditure is double the average for similar authorities, the share of the rates in the housing subsidy can be reduced by any amount up to 50 per cent.[1]

The new grants from the Exchequer for the payment of compensation and the acquisition of land for purposes of town and country planning are also an innovation. Certain grants for the redevelopment of areas of blitz and blight, were introduced in 1944 based on the reimbursement of loan charge on the acquisition of land, diminishing as the new estates were developed to the point of yielding a return.

The financial provisions of the Town and Country Planning Act replace these grants by the general power of the Minister of Town and Country Planning to make grants in respect of expenditure incurred in connection with the acquisition and clearing of land required for redevelopment of areas of extensive war damage or areas of bad lay-out, or obsolete development, or for the relocation of population or industry, or the replacement of open spaces undertaken in the course of redevelopment. The Act also provides that the Minister may vary the rate of grant during the period for which it is payable and may pay such grants 'at different rates to different local authorities according to the general financial position of those authorities '[2] and according to the burden placed upon them by redevelopment expenditure.

The general lines of development of the grant system are clarified by the examples cited. In the first place there is a tendency for the contractual percentage of grant for the quasi-national services to operate more as determining the share to be borne by national finance as a whole in partnership with local revenue as a whole, rather than that between the national government and each local authority. This tendency is the result of placing increased emphasis on the equalization of the resources of different authorities by means of formulae which take needs into account.[3] Two schools of thought deplore this tendency; the first composed of those local authorities whose high rateable value and low poundage classes them

[1] Housing (Financial and Miscellaneous Provisions) Act, 1946, Section 7.

[2] Town and Country Planning Act, 1947, Section 93.

[3] This tendency may have received a check as the result of the new exchequer equalization grant. The strengthening of the equalizing tendency in the general grant may lead to less emphasis in equalization in the grants attached to individual services.

with those who stand to have their share in grants seriously reduced by the abolition of a strict percentage share in grants and the application of equalizing means tests. These authorities think that this method of grant distribution is the equivalent of a rating pool which taxes the richer authorities for the benefit of the poorer. The second and more important school of thought which condemns this change is composed of those who consider that if any local authority cannot finance at least fifty per cent of the cost of the services which it administers, there is a *prima facie* case for it ceasing to be an independent authority. It is perfectly reasonable that adequate resources should be considered an important part of the effectiveness of a local government body, and the grant system cannot, and should not, be used to maintain in existence authorities whose resources are so narrow as to impair their administrative efficiency. There is a good case on financial and other grounds for reconsidering the areas of the weaker members in each class of local authority and by absorption and amalgamation producing a more effective unit with a broader financial base. Such changes, however, would not fundamentally alter the fact that the tax basis of local authorities is narrow in relation to the wealth of the country as a whole, nor the accompanying fact that wealth is unevenly spread geographically and that any locally levied tax would reflect this uneveness by an unequal yield. The case for the retention of contributions from other forms of taxable wealth would still stand whatever changes are made in the areas of local authorities, and such alteration would probably not substantially reduce the amounts required.

In connection with arguments based on the proportion of grant to rate-borne expenditure it must be noted that a great deal of difference in the weight to be attached to the proportion of local income formed by grants is made by the method of calculation. If grants are expressed as a proportion of rate and grant income only, the proportion of grants is high. In the last year of peace, grants expressed as a proportion of rate and grant income amounted to approximately 43½ per cent. If on the other hand income from rents, fees and other forms of recoupment was added to local authority income, the proportion sank to 36½ per cent, and if income from all sources, including trading services and special funds, and excluding transfers from one account to another,[1] was included, the proportion of grants to total

[1] *e.g.* transfers from rates in aid of trading services.

income was reduced to 26 per cent. The latest comparable figures available, those for 1942–43, give similar results. Grants for emergency services, many of which were 100 per cent reimbursements, raised the proportion of grants to rate and grant income considered alone to approximately 55 per cent; if the specific income of local authorities from other sources was added, the proportion sank to 47 per cent and if the total income, including that from trading services was considered, the proportion diminished to 35 per cent. It must also be remembered that the proportion of grants to grant and rate income varies between the different classes of authorities. In the last pre-war year fifty per cent of the net expenditure of county councils was financed from grants, 40 per cent of that of the county boroughs and only 30 per cent of the expenditure of the L.C.C. This reflects the differences in the rateable value of the different types of area and indicates the extent to which the counties suffer by the abstraction of the great towns and the loss of rates on agricultural land. On the whole it seems fairer to consider the financial activities of local authorities in their entirety when judging their fitness for survival. Even so, however, the trend towards an increased proportion of grants is unmistakeable, although the absolute figures may not yet be as alarming as some schools of thought make them out to be.

Those who find cause for alarm in the increasing proportion of grant to rate-borne expenditure, can be divided roughly into two parties; those who consider that as a matter of principle the administration of a service should revert to the control of whoever finds the bulk of the money, and those who consider that as a matter of practice either grants will promote extravagance, or the control and inspection which accompany their payment may ultimately undermine the independence of local authorities, whatever intentions to the contrary are expressed. Presumably the doctrine that local authorities should not retain their independence unless they can finance the major portion of their expenditure is the converse of the classic political maxim that there should be no taxation without representation. As such, it had a certain amount of validity as long as the ratepayers' and taxpayers' franchise were different, but since they have been assimilated by the Representation of the People Act of 1943, it has lost much of its strength. It no longer seems so obvious, now that the burden of both national and local taxation is so heavy, that the local citizen is bound to be less responsible or economical in the expenditure of the money he contributes as a taxpayer, than in the expenditure of the money he pays as rates, because it circulates by a somewhat different route. Nor does it seem so probable that the taxpayer through his representatives in Parliament should think fit to deprive himself of the right to administer some of his affairs locally because he pays more towards them from one pocket than another. It is true that the argument that the central government should administer directly services of which it bore the major part of the costs was used in support of the nationalization of relief to the able-bodied unemployed and of the trunk roads. An examination of these two cases will show, however, that the fact that the major part of the expenditure was nationally borne was an effect, not a cause, of the national nature of these services. In none of the recent measures nationalizing services hitherto administered by local authorities has the financial argument been considered of importance. In each case administrative and technical reasons were predominant. It seems, then, that there is a tendency in official quarters to dismiss the allegedly sinister implications of the mounting percentage of tax revenue in rate and tax borne expenditure, and to consider the suitability of local authorities as administrators of certain services more in the light of democratic tradition and administrative convenience and efficiency rather than in the light of the money collected within particular local boundaries.

This last point throws light on another aspect of the problem. The bulk of government grants are allocated to services in which the nation as a whole has an interest, either contingent as in the case of the police and fire services[1] in which the national government is more concerned in times of emergency than in normal times, or intrinsic as in the case of health and education services which form part of the welfare policy of the central government. There are, then, certain services whose maintenance at requisite standards is a national interest. Some of these services have been transferred to national administration, either in whole or in part; some remain

[1] It would be a theoretically neat distinction to say that this is the reason why the strict percentage basis is kept for both these services without equalising elements, and why the new fire service grant is only 25 per cent. If the underlying principle really was that in normal times the fire service is local and beneficial to property, this point was not made during the parliamentary debate, and it was unblushingly implied that Treasury stinginess determined the figure.

in the hands of local authorities. To distinguish between those which have been nationalized and those which have not on grounds of principle, would be difficult, if not impossible. It would be hard to maintain that education and health are less matters of national concern than trunk roads or clean milk production. The fact is that the local authorities provide a convenient administrative machine already to hand which it would be uneconomic to supersede with a new national apparatus, and the existence of popularly elected councils, representative of local interest and opinion, provides a more convenient, not to say more democratic, means of consulting the citizen at large, than the inevitable nominated advisory committee which accompanies the nationalized service. Democratic traditions of local self-government and considerations of administrative convenience, therefore combine to preserve local authorities as the chosen instruments in the administration of many predominantly national services. In considering how the cost of these services should be borne, the conclusion of the Royal Commission on Local Taxation that they ought in principle to be paid for out of the general wealth of the country as a whole is inescapable. In principle, then, the contribution of rates should be adjusted to the contributions of all other forms of property in such proportion that the total burden should be progressive in relation to income, and should not inflict heavier burdens on one section of the community than on another. The application of this principle, therefore, necessarily entails the use of equalizing formulae in the distribution of the grant in order that communities whose high rateable value is an index of the wealth of their citizens should pay proportionately more than poor communities, and that no citizen should be unduly penalized by heavier taxation because of geographical domicile. The equalizing element which is now so pronounced is, therefore, the logical outcome of the principle that national services should be borne out of the general wealth of the country as well as the practical outcome of the impossibility of otherwise securing an adequate and uniform standard of service.

Both the Royal Commission and the Departmental Committee accepted the principle that if national or semi-national services were locally administered, the revenue of the local authority should contribute substantially towards expenditure in order to secure local interest in economy and efficiency. A half share, subject to equalization of resources was considered the appropriate proportion. This proportion seems to be based on conventional considerations rather than on principle. At the time that the Royal Commission on Local Taxation was set up, the income received by the local authorities from rates was just under half the income received by the Exchequer from taxes. Rates were still the most lucrative tax levied. In such circumstances the contribution by the Exchequer of a half of the cost of national services would seem generous. Now, however, the yield of rates is less than one-eleventh the size of national revenue from general taxation. Duties and excise on beer, wine, spirits and tobacco alone yield three times as much as rates, and income tax yields more than four times as much. Local authorities have no other significant source of revenue but rates, and the amount they can raise from rates is limited, not only by the derating of agriculture and the partial derating of industry, but by the distortion in assessments brought about by rent control. Consequently, the principle that the cost of national services should be paid out of the general wealth of the country, would now entail a proportionately greater share to be borne by taxation than in 1895. If these arguments are accepted, it is obviously unfair to express the grants paid for quasi-national services as a proportion of rate and grant income, and to draw from that conclusions endangering the independence of local authorities as such.

The school of thought which considers a high percentage of grant dangerous because either local authorities will be tempted to extravagance, or they will be subject to such rigid inspection and control as to lose their independence, also has a certain amount of validity. An inspection of what actually happens, however, does not on the whole bear out their fears.

It is true that the higher the proportion of grant to rate-borne expenditure on important services which bear heavily upon the rates, the less the possibility of a local authority being able to defy the central government in any case of dispute because the alternative of throwing the whole expenditure on to the rates is not practicable. The wealth of the authority in question, however, is equally relevant, for an authority where the yield of the penny rate is high might if it chose dispense with a grant of 50 per cent, while an authority where the yield was low might find itself unable to do without a grant of 25 per cent. The threat of withdrawal of grant is usually potential rather than actual. The recent case of the threat to Salford that its police grant would be withdrawn if they persisted in appointing a chief constable of whom the Home Office disapproved illustrates its use (and many would say, abuse). The stir caused by the dispute however points to the rarity of such occurrences.

A substantial financial interest of the administering authorities may be contributory to economical administration, but the exact proportion which will ensure such an interest is less easy to determine with precision. The general pressure of rate poundages is now so great that it is likely that every penny will be returned before it is spent, regardless of the amount of other pennies its expenditure may attract from the central purse. Only approved expenditure ranks for grant and this requires a central scrutiny of the way in which the money has been spent. It would be difficult to prove that the audit necessary for a grant of under 50 per cent should be less thorough than for a grant of more than that amount. The central inspection and audit should be capable of ensuring efficiency at any rate of grant. The feeling that the inspection and control which grants carry with them might in the long run tend to paralyse local independence and initiative, may in some cases be justified. Many authorities, however, seem to feel more cramped by the limited nature of Exchequer contributions which may throw such a burden on rates as to reduce authorities to complying with the strict letter of their obligations, rather than venturing experiments of their own. There also seems to be evidence that the larger grants have become, the less minute and interfering the control tends to be. When new services were being initiated and new expenditures were being incurred and the local authorities themselves were fairly new creations, it was natural that control should be stringent. Once services were established, standards created, the financial reputation of the authorities established and their ability to work in partnership with central departments proved, a general control appears all that is necessary in most cases. The Board of Education in the evidence they placed before the Meston Committee made this point about the education grant. Their memorandum stated:

'At one time the grant administration involved a scrutiny and appraisement of the work of each child, and not merely his work as a whole, but in detail for each of the important subjects. This gave way to a system under which the grant was assessed upon each school; but since April 1st, 1919, the grant to each Local Education Authority for elementary education has been assessed upon the area as a whole. For secondary education the change over to the area basis began a little later, and has only now been completed. For the year 1922–23, for the first time the Board have been able to dispense with the requirement that each Local Education Authority should submit annually for each of its secondary schools a statement of accounts, and the Board are able to be satisfied with a single general account of the Local Education Authorities' income and expenditure on Secondary Education, and this is not rendered as a separate return but is contained in the general education account of the Authority. Thus the same document which has to be prepared for the district auditor, serves also for the assessment of grant.

'The powers of financial control given to the Board by a system of grant based on recognition of expenditure are so strong as to be capable in theory of destroying the responsibility of the Local Education Authority.

'One large Local Education Authority (without apparently any intention of a *reductio ad absurdum*) began to submit for the Board's approval proposals involving petty expenditure (as for instance for a payment to a part-time evening school teacher delayed by a fog). Occasionally questions may be put in the House of Commons which by implication advocate a greater minuteness of control by the Board than exists in practice. The Comptroller and Auditor General also, being entitled to call on the Board to justify any part of the Board's expenditure might, if he pressed his powers to the extreme, require the Board to explain and justify in detail all the expenditure of the local authorities.

'In practice the Board find themselves able to resist any such pressure to interfere in matters of expenditure which involve no question of important principle or financial moment. The Board consider that reasonable financial criticism may be applied to the expenditure of local authorities without injury to their sense of responsibility and without interference with petty detail.'[1]

The arguments in favour of percentage grants at a high proportion of expenditure and differentiated by formulae designed to take account of needs are very strong and have not in substance changed since they were considered by the Royal Commission on Local Taxation. It is remarkable how the conclusions of the Minority report have been carried into effect by the logical development of the system away from a detailed and itemized grant towards a more broadly calculated subsidy modified by a measure of needs.

The block grant, however, is a general subsidy in aid of rates, and as such cannot be supported by the same arguments that can be used in favour of percentage grants for quasi-national services. Are there any other grounds besides prescriptive ones on which its continuance can be justified? The bulk of the block grant was in substitution for rates lost by derating and for the discontinuance of the assigned revenues and taxation licenses designed by Goschen to form an

[1] Cmd. 2571, 1926.

independent source of revenue for local government in addition to rates. Rates are a remarkably buoyant tax; there have been few years, if any, since 1601 in which they have not been a subject for complaint, yet assessments and poundages have continued to rise and yield an increasing revenue. As has been pointed out earlier, in 1895 rates yielded more than any other single tax, but since that date the position has radically changed. The rate of growth of the national income and the rise in yield of national taxes have both outstripped the growth of rates. Furthermore, the derating of agricultural land, the partial derating of industrial hereditaments, and the effect of rent control on the valuation of property have all narrowed down the tax revenue of local authorities in pursuance of national policies, and clearly therefore it was not only necessary, but just, at each stage to endow them with some revenue in lieu of what they had lost.

There is a school of thought which considers that derating should be reconsidered in the light of the recovery of agriculture and industry, and the assumption of responsibility by the government for maintaining this recovery. In the case of agriculture, the case for derating rested, not so much on the decline of agriculture as on the magnitude of the area needed in relation to productivity. It would obviously be unfair to rate agriculture to the same extent as other industries. In the case of industry, derating was originally introduced in the hope that it might lower prices and thus contribute to the recovery of the competitive power of British industry. It is, however, easy to make out a strong case to prove that while the derating of industrial hereditaments had a negligible effect on the cost of production or on the price of the finished article, on the other hand, increased rate poundages levied on the commercial and distributive side of the economy and on the ordinary consumer may very likely have had an effect upon the market for consumers goods which more than offset any beneficial effect the derating may have had. The increased pressure on commercial premises and private houses by its depressing effect upon the high rate districts probably contributed as much to the flight of industry from the depressed areas as a high-rate poundage in itself. This would prove the case especially in industries who did not undertake their own distribution.

The strongest economic objection to rates as a tax on industry is that its incidence is discriminatory as between different locations.

On the other hand, it seems fair that industry should contribute something towards the services it enjoys directly, such as water supply, sewage, etc., and towards the social cost it lays upon the community by way of housing, health and other services influenced by the congregation of industry. Uniform rates in the pound for industrial hereditaments, instead of uniform derating might be one solution.[1] Even if this solution or that of straightforward re-rating was adopted, it could not solve the problems raised by the narrowness of the local authorities' financial basis compared with that of the central government, nor would it remedy the variations in local wealth which are one of the chief obstacles to the maintenance of adequate standards of service. Indeed it is likely to strengthen, rather than weaken, these inequalities.

Other solutions proffered for the problem of the narrow local tax basis include either handing over to local authorities of some other lucrative source of revenue, or the reintroduction of assigned revenues. Both these solutions have attendant difficulties. The levying and collection of taxes by the local authorities themselves is wasteful, because the richer areas will under-exploit and the poorer ones will over-exploit them, probably raising a lesser total sum and emphasizing the undesirable feature of territorial discrimination in local tax incidence. Exactly the same objections apply to a tax levied locally, but assessed and collected nationally and redistributed to local authorities in accordance with the yield in each area. Yet once a departure is made from the principle of local levy and distribution according to yield, we are back with the grant system and distribution according to need.

The principle behind the block grant is that there should be some contribution from national funds in compensation for local revenues lost through the implementation of national policies. Alternative means of providing additional revenues each have grave objections. To place the grant on a purely compensatory basis by stereotyping it in direct proportion to the amount lost in each area would take no account of changes in population, area or status. Even should the grant begin by being purely compensatory, it would in the interests of justice and efficiency have to be recalculated periodically. Such

[1] A beginning has been made in the uniform assessment and rating of industrial hereditaments by the Local Government Bill of November 1947, whereby railway hereditaments and electricity supply hereditaments pay an adjusted global sum distributed to individual authorities in accordance with their rateable value.

recalculation would have to take account of the general characteristics of the local areas and the changes which have occurred in them, *i e.* it would have to take place in accordance with some formula relating to needs. The blocks grant, therefore, seems the most convenient instrument yet devised for the purpose.

The war prevented the recalculation of the grant for the third fixed grant period, and the 1929 formula, therefore, never came into full operation. During the war the grant was stereotyped on the basis of the second fixed grant period and at the end of hostilities an interim arrangement was made whereby the grant was increased and the increase distributed after deduction of a standard figure of the penny rate, which provides a rough index of wealth.

The war made a great difference to the factors on which the old block grant formula was based. There were changes in the distribution of population and wealth, a virtual cessation of unemployment and an increase in the number of children under five years of age. These changes by themselves would have entailed the reconsideration of the formula even had the mass of new legislation redistributing the administration and finance of certain services between central and local government not made it immediately essential. The new block grant was introduced in the autumn of 1947 in a Local Government Bill which, like its predecessor in 1929, embraced a large number of different objects. The block grant was rechristened the Exchequer Equalization Grant and amounted to £33 millions of new money added to a book-keeping credit of £6 millions created by offsetting the £63 millions of expenditure transferred to the central government by the National Health and National Assistance Acts against the old block grant which amounted to £57 millions in 1946–7. The total of £39 millions is to be distributed in accordance with a simplified formula which employs the main elements of the old formula combined in different proportions and without the mathematical complications of its predecessor. Rateable value per head becomes the keystone of the new method of distribution and the danger of local authorities ' determining the size of the spoon by which they will be eating out of the national pool.'[1] is obviated by the removal of the function of valuation from the local authorities to the department of Inland Revenue. Rateable value per head will be ascertained by dividing the rateable value of each

[1] *Hansard*, 1947.

authority by its weighted population which is determined by counting each child under fifteen as two persons and, in administrative counties, by adding one-third of the number necessary to bring the population per mile of road up to seventy. In all cases where the rateable value per head thus calculated is less than the average for the country as a whole, the Treasury will pay rates upon the deficit. In the first year, the Treasury will pay on sixteen per cent of the actual local rateable value and it is proposed to keep this proportion constant by making a nominal increase in the average rateable value should the number of authorities below the average diminish owing to a more even distribution of wealth.

The share of the county districts is calculated by dividing half the population of a non-rural district and a quarter of the population of a rural district by the population of England and Wales excluding London and expressing the result as a fraction of the total Exchequer Equalization Grant. The amount due to the districts is payable by the county out of its share in the grant and if this is not adequate the difference is made up by precept, a device which compels the more prosperous districts to contribute to those less well off. It is estimated that the new grant should, on the existing level of expenditure reduce the average rate for administrative counties from 15s. 9d. to 13s. and that of county boroughs from 16s. 5d. to 13s. 9d. The most spectacular reductions are in the administrative counties 13 of which should receive the equivalent of a rate of 10s. or over, with Cardigan receiving no less than 23s. Only two county boroughs, St. Helens and Merthyr Tydfil, benefit to the amount of 10s. or over, Merthyr's rate dropping from 30s. to 14s. 5d.

The new grant ingeniously attempts to tackle the problem set by the natural and legislatively imposed narrowness of the local taxation system and the geographical unevenness in the spread of wealth reflected in differences of rateable value. So far its effects can only be estimated speculatively and only in the long run, when the effects of the new social services, the rehabilitation of the former depressed areas and the beginning of planning of the location of industry and of urban development have had time to modify contrasts in wealth and population, will it be possible to judge its adequacy as a contribution to local government finance.

The continuous increase and elaboration of grants shows that the grant system as developed over a long period of years is an extremely serviceable instrument for directing a contribution from the general wealth of the country to the local authority in such a way as to promote the development of the services in which the nation as a whole has an interest and to maintain standards of administration which might otherwise be threatened by inequalities inherent in the levy of a local tax whatever its nature. Both percentage and block grants have firmly established themselves. The experiments in abolishing or reducing percentage grants have foundered on the fact that they are much too potent an instrument for developing and maintaining local services at the requisite standard to be relinquished. The percentage element which is of importance in initiating a new service, however, has tended to give way to equalizing elements which are more important once the service is established, and parity in standards between different areas becomes a prime consideration. In this development the block grant, which it was hoped would supersede the percentage grant, has served as a model. It is theoretically possible that at some future date the growing resemblance between the percentage and block grants may cause them to merge into a single block grant, but it seems improbable. In the foreseeable future it is likely that both types of grant will remain distinct but complementary means of increasing the resources of local authorities from the national income as a whole.

# THE CONTROL OF LOCAL AUTHORITY BORROWING BY THE CENTRAL GOVERNMENT

THIS essay has a strictly limited purpose. It does not set out to investigate the course of capital expenditure by local authorities, but only to study the development of control by the central government over this branch of local finance and to discover how the exercise of this control has been varied or modified by the changes which have taken place in the constitution and powers of local authorities and in their relations with the Government in the last 150 years.

The borrowing powers of local authorities prior to the first great measure of local reform, the Municipal Corporations Act of 1835, were as chaotic as the system of local administration in general and almost as loose and undefined as the powers of the multitudinous authorities. Central control was on the whole non-existent, or very weak and was exercised almost exclusively by Parliament, which did not, however, attach any importance to uniformity in the legislative checks it imposed on borrowing and exercised its powers mainly in respect of local acts for special objects.

During the nineteenth century borrowing by local bodies could be roughly divided into four classes, (*a*) uncontrolled borrowing subject to no supervision of any sort, (*b*) borrowing from the central government or its agents such as the Local Loans Commissioners—an innovation introduced to combat the widespread distress consequent upon the Napoleonic Wars, (*c*) borrowing under private act which was subject to a fitful and inconsistent control by Parliament, and (*d*) borrowing under general statutes—a form which was comparatively rare until the middle and end of the nineteenth century.

## (*a*) *Uncontrolled Borrowing*

Before the Municipal Corporations Act of 1835, municipal corporations like other corporate bodies could legally pledge their property and income by bond or mortgage and no central supervision was exercised over the debts thus contracted. Although many corporations conscientiously used these powers for the benefit of their township or at least for the benefit of the burgesses, and most of them probably observed fairly businesslike conditions, the system was liable to abuse. Several such cases came to light during the investigations of the Royal Commission on Municipal Corporations in 1833. The burgesses of the Corporation of Berwick, for instance, preferred to raise rates and borrow for the purposes of general expenses and keep the income from Corporation property as a perquisite to be divided among themselves.[1] Another case emerged during the same investigation when the committee tried to find out why the Corporation of Denbigh had given up their public dinners. The minutes of evidence read as follows :—

Q. Have you any debt due by the Corporation ? Have you raised any money upon bonds ?

A. Yes, the members of the Corporation have.

Q. Chargeable upon the funds of the Corporation ?

A. No. I laid out the funds myself being an officer. I did it of course with the knowledge and approbation and the direction, for ought I know, of the capital burgesses and preparatory I must say to an election. There were not less than 100 or 200 or 300, for ought I know, burgesses made then, of course; it was impossible to say whom they would vote for, but we were in hopes that they would vote for our own friend Mr. Biddulph and when the money came to be paid, the capital burgesses borrowed money upon bond and several of us signed a bond to that effect.

Q. Have you any Corporate seal ?

A. Yes.

Q. Was that affixed to this bond ?

A. No, this is a private bond. Whether we are entitled to repay ourselves out of the Corporation money I do not know.

Q. How has that been repaid ?

A. If it has been repaid at all it has been out of the funds of the Corporation.

Q. Who pays the interest on the sum that is due ?

A. I suppose the Corporation.

Q. That is the cause of your having given up those dinners ?

A. That is one cause.

Q. Did you find that those 200 or 300 persons whom you made burgesses voted as you expected ?

A. No we did not.[2]

However, even in the case of municipal corporations the beginnings of the doctrine of *ultra vires* were occasionally invoked by the courts in regard to financial expenditure provided such a case was brought to their notice. For instance in the case of Richter *versus*

[1] Minutes of Evidence before the Select Committee on Municipal Corporations, 1833, paras. 3254–3260.

[2] Minutes of Evidence before the Select Committee on Municipal Corporations, 1833, paras. 3851–3867.

Hughes, 1824, the court decided that if a municipal corporation borrowed under an Act of Parliament for some purpose mentioned therein, it was illegal for it to borrow any sum greater than that mentioned in the Act or on any terms not specified therein regardless of the powers of the corporation to raise money by loan for any other purposes.

The Municipal Corporations Act[1] of 1835 introduced a limited form of financial control over borrowing by the reformed corporations. Clause *xciv* made it unlawful for the corporations to sell, mortgage or alienate their corporate property or to lease it for a period of more than thirty-one years unless any *bona fide* arrangement to the contrary had been made before the Act came into force. The clause went on to say that if it was desirable for any council to demise or lease their lands for a longer period,

'it shall be Lawful for such Council to represent the Circumstances of the Case to the Lords Commissioners of His Majesty's Treasury, and it shall be Lawful for such Council with the Approbation of the said Lords Commissioners or any Three of them, to sell, alienate and demise any of the Lands Tenements or Hereditaments of the said Body Corporate in such Manner and on such Terms and Conditions as shall have been approved by the said Lords Commissioners; Provided always, that Notice of the Intention of the Council to make such Application as aforesaid shall be affixed to the outer Door of the Town Hall or in some public and conspicuous Place within the Borough one Calendar Month at least before such Application, and a copy of the Memorial intended to be sent to the said Lords Commissioners shall be kept in the Town Clerk's Office during such Calendar Month, and shall be freely open to the inspection of every Burgess at all reasonable hours during the same.'[2]

The Act also instituted the general borough fund into which the revenues from corporate property and other sources were to be paid for the general expenses of the corporation, and rates were to be levied if the corporation income was insufficient to cover its outlay. The publication and audit of accounts were also made obligatory. The measure of public control over the finance and borrowing powers of municipalities initiated by this Act was not, even apart from its limited nature, particularly onerous. Indeed the General Board of Health had some derogatory observations to make on the desultory way in which the Treasury discharged its obligations under the Act in respect of borrowing.[3]

[1] 5 and 6 Geo. IV c. 76.
[2] 5 and 6 Geo. IV c. 76.
[3] See below, p. 183.

The Justices of the Peace who managed the affairs of the counties were in a somewhat different relation to the central government from that of the municipal corporations. In the management of the judicial and penal system they were largely agents of the central government and for purposes connected with their judicial functions such as the repair and construction of court buildings and prisons they were empowered to borrow on mortgage of the county rate both by general and local acts. Some of the local acts limited the sum to be borrowed for the purposes specified therein, but for the most part the Justices were given a free hand as to the amount borrowed and the terms of repayment.

County borrowing without reference to powers conveyed by general or local acts was, however, not infrequent. In the returns given by county treasurers to the Select Committee on the Expenditure of County Rates of 1825 there was frequent mention of the practice whereby the treasurer would advance money to the Justices in anticipation of revenue and charge interest for the loan.[1] Several cases were mentioned of borrowing for the general purposes of the county. In 1801 Staffordshire borrowed £2,000 without specified security for general purposes, Northumberland contracted a similar debt of £3,500 on the personal security of the treasurer. Borrowing on promissary note by the treasurer, the Chairman of Quarter Sessions or the Clerk of the Peace without a specific mortgage of rates was fairly common. The amounts borrowed were generally very small and on the whole county administration was remarkably free from debt.

### (*b*) *Borrowing from the central government—the Local Loans Commissioners*

The creation of a statutory body to administer the loan of public money to local bodies for works of various kinds had its origin in the widespread unemployment and distress which existed in England after the Napoleonic Wars, and which were more or less endemic in Ireland during the whole century. The first steps were taken in 1817 when Parliament authorised the issue of up to £1,750,000 in Treasury Bills:

> 'to be lent by Commissioners in Great Britain and Ireland respectively, under certain Regulations and Restrictions, for the carrying on of Works

[1] Select Committee appointed to inquire into the Expenditure of County Rates. Report 1825.

of a public Nature, commenced or which may hereafter be commenced under Authority of Parliament; or for the encouragement of the Fisheries, or the support of Collieries or Mines in the United Kingdom; or for the employment of the Poor in the Parishes of Great Britain; upon due security being given, in all such cases for the Repayment of the sums so advanced within a time to be limited.'[1]

The Act was intended to be a purely temporary measure and the twenty-one Commissioners who were nominated to administer it under the general supervision of the Treasury were instructed in considering applications for loans to bear in mind, in the first place, the utility of the project from the point of view of increasing the employment of the labouring classes and, secondly, the ultimate security afforded by the rates or tolls yielded.

The Act contained some curious provisions as to the security demanded. The primary form of security was a personal bond on behalf of a guarantor and the rates, tolls or other income of the work were regarded as collateral. In Ireland the Commissioners were empowered to lend without personal security but only to bodies politic or corporate, the loan to be secured directly on mortgage of rates with interest at 6 per cent and redemption by a 6 per cent sinking fund. In England the Commissioners could also waive the personal security if they were satisfied that the work concerned would produce an income which would not be less than double the amount of interest payable (in this case 5 per cent) and would provide a sinking fund of equal amount unless other satisfactory arrangements were made for repayment in less than ten years.

A local check on borrowing was provided by the fact that parishes were not allowed to apply for loans without the consent of the majority of ratepayers by number, a two-thirds majority by property value and the additional consent of the Justices of the Peace. Further safeguards were provided by the stipulation that no advance could be made to any parish of a sum greater than half the poor rate of the previous year, and a rough means test was instituted by the clause that no parish might obtain a loan unless its poor rate was more than three-quarters or less than one-half as great as the average of the three years preceding 1816. The whole amount was to be payable within two years of 1818. The Commissioners were, however, permitted to defer the date of payment provided that a sinking fund accumulating at not less than the avaerge rate of interest was provided.

[1] 57 Geo. III c. 34.

Subsequent Acts—there were no less than 17 between 1817 and 1842—were mainly concerned in extending the powers and length of tenure of the Commissioners, increasing the amount of Treasury Bills which could be issued and empowering the Commissioners to extend the time within which the loans became payable. The enlargement and repair of Oxford colleges[1] and the maintenance and construction of Bishops' palaces[2] were added to the useful public works worthy of the Commissioners' support. By far the most significant feature of the extended powers of the Commissioners was their power to lengthen the period of loans. Loans unsecured by sinking fund were prolonged from three to eight years,[3] and those so backed to twenty years,[4] and later to an even longer term at the discretion of the Commissioners.[5] Other variations in the terms of loans were permitted with the consent of the Treasury, and local bodies were also allowed to borrow to pay back debt to the Commissioners.[6] As the Commissioners became a permanent body they began to be mentioned in general acts as sources for loans for works imposed by public policy such as the construction and repair of gaols and town halls, the enlargement of workhouses, or the emigration of the poor. The Act of 1842, which authorized the issue of money to the Loan Commissioners out of the Consolidated Fund at the rate of £360,000 p.a. was the penultimate step in recognizing that the institution had come to stay.[7]

It was not, however, till the Public Works Loans Act of 1875 that it was given a definitive form. The Act of 1871 set up a body of 18 Commissioners chosen from bankers and prominent members of the business community who were by statute prohibited from receiving either salary or fees for the discharge of their duties. The Board was to be reappointed every five years by Act of Parliament, and its financial transactions were made the subject of an annual Act. The Board had its own staff, but was not properly speaking a government department. Its report was presented to Parliament by the Financial Secretary to the Treasury who also answered any questions concerning it raised in the House. The Board was endowed with absolute discretion to refuse any loan regardless of whether the authority applying had power to undertake the capital expenditure in question

[1] 5 Geo. IV c. 37. [2] 7 Geo. IV c. 30. [3] 3 Geo. IV c. 86.
[4] 1 Geo. IV c. 60. [5] 7 and 8 Geo. IV c. 47. [6] 3 Geo. IV. c. 86.
[7] 5 and 6 Vict. 121.

by Act of Parliament or by sanction of a government department. Prior departmental sanction of a project was of course obligatory as in the case of authorities who raised their loans by other means.

By the National Debt and Local Loans Act of 1887 a Local Loans Fund was set up which was credited with the interest and repayments of principal on loans already made. The fund could be supplemented by the issue of Local Loans Stock by the Treasury. The terms under which loans were made by the Board were under the strict control of the Treasury who were also responsible for fixing the rate of interest payable. The principle adopted in fixing this rate was to grant terms similar to those currently obtained by the Government with an addition sufficient to cover the expenses of the Board. One disadvantage of this arrangement was that local authorities were discouraged from borrowing in the open market to repay the Commissioners if the rate of interest should fall below that at which the Board had lent, by the imposition of the rule that repayment should be made not at the figure at which the money had been lent, but at the current value of the Local Loans Stock if it should be above par, as it would be if money cheapened.

The Board did not as a rule lend to local authorities with a rateable value greater than £200,000 and the rates of interest fixed by the Treasury increased with the length of period for which the loan was made. It was also the practice of the Board to discourage long borrowing periods by stipulating that loans for thirty years or more should be repayable by equal yearly or half-yearly instalments of principal with interest on the outstanding balance. The use to which the money borrowed from the Public Works Loans Board was put was made subject to the supervision of the Local Government Board who were entitled to receive an annual return of such expenditure from the local authorities concerned. Up to 1945 there was no further significant change in the constitution or functions of the Public Works Loans Board. The amount of money it lent expanded considerably in the years following the war of 1914–18, but in comparison to the expansion of capital expenditure of local authorities generally the amount remained insignificant. The Board was subject to a great deal of criticism for the conservatism of its loan policy and the rigidity of its conditions of repayment which loaded the smaller and weaker authorities, which it was designed to help, with a heavier burden of redemption and interest in relation to their capital expenditure than that borne by many of the stronger authorities, who were capable of fending for themselves in the money market.

### (c) *Borrowing Under Private Act*

Until comparatively recently, by far the greater part of local authority borrowing was done under private act. These acts covered a multiplicity of subjects, mainly, highways, drainage, lighting and paving, and harbours and markets. The number of different authorities set up for each specific object was also large and varied. Nearly all acts setting up improvement commissioners, or enabling existing authorities to deal with such services, especially with large capital works such as bridges, roads and harbours contained provisions for the pledging of rates, revenues or tolls which the commissioners were authorized to raise for their expenses. Very little uniformity of practice was apparent in the conditions laid down for such borrowing. There were certain provisions which occurred very frequently, however: limitation of the sum to be borrowed, statement of the rate of interest, fixing of the term of the loan (though adequate provision for repayment is rarely stipulated) and giving a certain voice to rate and toll payers in the determination of borrowing policy. Some of these aspects are illustrated in an early Highway Act 'for repairing the Highways between the City of London and the Town of Harwich in the County of Essex' (1695). The Act provided Surveyors responsible to the Justices of the County and endowed them with the right to levy a toll.

'And forasmuch as the Monies so to be collected by such Receipt of the same Toll will not at present raise such a Stock or Sum of Money as may be sufficient for the speedy repairing of the Premises, it is hereby further Enacted that the said Surveyors or the more part of them, are hereby enabled by Order of the said Justices, to be made at the Quarter Sessions and not otherwise to engage the Profits arising by the said Toll for such Sum or Sums of Money by them to be borrowed for that Purpose, and by Indenture under the Hands and Seals of the said Surveyors for the time being or the more part of them to transfer the said Profits of the said Toll and to grant and convey the same for any time or term not exceeding Fifteen Years unto any Person or Persons that shall or will upon that Security advance any Present Sum or Sums of Money so Lent with Interest for the same after the Rate of Six Pounds *per cent per annum* for every Hundred Pounds which said Money so to be advanced shall be distributed by the Justices at the Quarter Sessions in the Proportions and for the Purposes aforesaid and not otherwise.'

Besides the limitation of the term of the loan and on the rate of interest this example provides a kind of local 'sanction' in the consent of the Justices of the Peace. Another Act dated six years later for 'Repairing Widening Turning and Altering the Road from Farringdon to Burford,' however, vested the control of the new scheme in Trustees independent of the Justices of the Peace and placed no limit either on the amount to be borrowed or on the rate of interest or on the term of the loan (apart from the 21 years of validity of the Act). The only limitation placed on the power of the Trustees was the provision that they could only borrow at their first meeting unless on subsequent occasions they gave fourteen days' notice of intention to borrow by fixing an announcement to each turnpike. This provision presumably gave an opportunity for some control by complaint or petition by the toll payers over the Trustees' borrowing activities.

A similar provision was included in an Act of the same year concerning the road from Witney to Clanfield. The provisions as to the raising of the loan were equally vague, authorizing the Trustees appointed to carry out the Act to raise such sums as they saw fit at 'legal or less interest' for 'any term during the continuance of this Act'. The Act, however, did contain a model mortgage form. Another Act of the same year for repairing the road from Burford to Banbury provided that the Trustees should not borrow without ten days' written notice posted on the turnpikes, either at their first or subsequent meetings, and limited the period for which tolls could be farmed or mortgaged to three years. These three private acts, all enacted in 1701 and all concerned with the same purposes and dealing with closely contiguous areas, all show differences major and minor in the borrowing provisions and illustrate the extent of the variation there must have been over the country as a whole.

It was not surprising, then, that financial trouble dogged the heels of the Turnpike Trusts. Many of them borrowed recklessly at high rates of interest without making any proper provisions for liquidating the debt. In some cases the Trustees themselves advanced the money and regarded the tolls as an ordinary revenue to be divided among themselves and only the bare minimum was used for the repair and maintenance of the highway with which they were entrusted. In other cases the owners of mortgages used to distrain on particular tolls and sometimes divert them to their own use over and above the repayment of their debt. Practices such as these strengthened opinion that there should be some standard general enactment or some model provisions for inclusion in particular Turnpike Acts to regulate the financial activities of the Trusts. Several bills were promoted to this end but none were passed. The Bill introduced in 1842 'To continue Local Turnpike Acts and to provide for the Discharge of the Mortgages and Debts on Turnpike Roads in England' was probably a fairly typical example of the type of control advocated. It provided that it should not be lawful for Turnpike Trusts to borrow without the consent of 'one of Her Majesty's principal Secretaries of State . . . anything in any Act or Acts of Parliament to the contrary thereof in anywise notwithstanding'. In 1848 a select committee of the House of Commons took the matter up and reported :—

(1) That, in the opinion of Your Committee, improvidence in the creation of debt, laxity of management with respect to the expenditure, and other evils, have arisen from the absence of an enactment (as well in the Local as in the General Turnpike Acts) requiring Trustees of Turnpike Roads to pay off annually a fixed proportion of the monies borrowed by them on the security of the tolls.

(2) That, in the opinion of Your Committee, the power of borrowing money upon the security of the tolls, conferred on the Trustees of Turnpike Roads by Section 81 of 3 Geo. IV cap. 126, has, in certain cases, been improperly exercised, and that it ought to be restrained by a general enactment. Your Committee deem it worthy of consideration whether it might not be expedient to enact that no mortgage debt should be created by Trustees of a Turnpike Road without the previous consent of the Secretary of State, or other competent authority unconnected with the Trust.[1]

In fact, no such general enactment was ever passed. By 1871 opinion had hardened against the continuance of the Trusts to such an extent that a Parliamentary Committee was set up in that year to examine the Turnpike Acts as they came up for renewal. The committee leaned heavily in favour of refusing renewal and those Acts which were continued were subject to stipulations reducing the payment of interest and providing for the extinction of debt. This committee in effect exercised something of the control of a sanctioning body with regard to the diminishing number of Trusts.

The example of financial maladministration and reckless borrowing set by the Turnpike Trusts could not fail to influence the attitude of Parliament and the departments of government in favour of a strin-

[1] Report of the Committee on Group No. 19 of Private Bills, July 16th, 1848.

gent control over borrowing by local bodies. The ideas of a statutory provision for debt liquidation and the limitation of the amount borrowed by reference to a fixed proportion of total revenue and the fixing of a term of years for repayment were well established as possible means of control by the middle of the nineteenth century.

At first, the numerous private acts dealing with drainage, sewage, paving and water supply showed little more trace of a consistent policy towards borrowing than the Turnpike Acts examined above, but in this province Parliament began to introduce general measures of control somewhat earlier. The method used was to pass a general act governing groups of services in general demand containing model clauses which could then be adopted by private act when a local body sought powers to administer them. The most important of these measures was the Commissioners Clauses Act of 1847,[1] which set out model provisions for the constitution and powers of Improvement Commissioners. Clauses 75 to 88 of the Act, which regulated the borrowing powers of such commissioners, contained most of the standard conditions now familiar. They provided for the registration and transfer of mortgages, the conversion of debt if the rate of interest should become more favourable than that prevailing when the original loan was contracted, and for the creation of a sinking fund into which should be paid annually an amount which should either be prescribed in the private act which the clauses were intended to govern, or which should be equal to one-twentieth part of the borrowed sum, thus extinguishing the loan in a fixed upper limit of twenty years. The Act also provided that this sinking fund should be invested in government securities and accumulated at compound interest or otherwise, and that the debt could be extinguished in instalments as soon as enough money had been accumulated. The Act, however, did not mention any sanctioning authority to review the actions of the Commissioners. No appropriate body yet existed.

### *Government Departments and Private Bill Legislation*

The creation of a sanctioning authority to exercise discretionary powers outside the control of Parliament and the specific provisions of statute law, although frequently advocated in connection with the Turnpike Trusts, was not viewed with much favour by Parliament

[1] 10 Vict. c. 16.

and the storms aroused by delegation of regulatory powers in the field of public health showed how strong public opposition was to the growth of the powers of the executive. The convenience of associating government departments with their expert staffs and continuity of policy with the framing of private acts would probably seem more apparent now than in the middle of the nineteenth century when the machinery of government was more embryonic and the press of public business was comparatively less. Whatever the reason, Parliament showed itself very jealous toward any encroachment of government departments into the province of legislation even in the interests of expert advice and uniformity of policy.

The increasing complexity and technicality of local legislation, however, persuaded the House of Commons in 1846 that government departments might be of assistance in establishing the merits of local projects by holding preliminary inquiries on the spot. This procedure was recommended by a Committee of the Commons under the Chairmanship of Mr. Hume. An Act was passed in the following session 'For making preliminary inquiries in certain cases of application for local Acts '.[1] This Act directed the Commissioners for Woods and Forests in the case of all bills promoted for the establishment of waterworks or for paving or lighting or otherwise improving any town to send inspectors to hold a local inquiry after which the Commissioners were to report to Parliament. The Lords of the Admiralty were authorized to make a similar inquiry in the case of bills affecting directly or indirectly any port, harbour, tidal water or navigable river.

Within a year of their constitution, experience had shown that these preliminary inquiries were not going to live up to expectations. One abuse was that opponents of the bill in question would refuse to state their case to the departmental inspector and would then go before the Parliamentary committee appointed to consider the bill with the advantage of knowing the promoters' case without disclosing their own. This was inevitable as long as all evidence could be reopened in Parliament. Parliamentary committees at this period were not satisfied to decide by means of printed evidence only any issue raised in private bills which might affect public policy or private interests and were generally disposed to make their own inquiries in addition. In 1848 therefore the Act was repealed and a new one took its place

[1] 9 and 10 Vict. c. 106.

giving the departments concerned a discretionary power to waive an inquiry when they considered it superfluous and attempting to make inquiries, when held, more final and complete. This attempt was not a success and repeated complaints led to the appointment of another Committee in 1850.

This Committee reported the complete failure of the system. It stated that in very numerous cases Committees on Private Bills decided against the recommendations of the departmental inspector who conducted the local inquiries. In no instance was the evidence taken by these inspectors 'judicially received by the Committee in proof of any matter'. In some cases minutes of evidence and even reports were returned to the Department of Woods and Forests with the seals unbroken. This lack of respect for departmental reports was mainly due to the fact that as neither the promoters nor the opponents of the bill were in any way bound by the evidence given before the local inquiry, no more was offered than suited their purpose, reserves being kept in hand for the contest in Parliament, The departmental inspector's reports were therefore through no fault of his own incomplete and therefore misleading.[1]

The Committee was of the opinion that:—

> 'In order to render any system of local inquiries effectual it would be necessary to delegate to other tribunals much of the authority of Parliament. At present the inspector's position is anomalous and the exertions of the parties who appear before him without results. If his functions are to be useful, the evidence taken before him must be made final before the committee as regards the points to which it refers.
>
> Your Committee does not recommend to the House so extensive a delegation of its authority. While they are of opinion that every facility should be given to the public of availing themselves of the operation of general acts for local improvements yet when an application is made to Parliament for extraordinary powers, your Committee believe that no tribunal is generally so satisfactory as one constituted by Parliament itself.'[2]

Accepting the report of this Committee, Parliament in 1851 discontinued all preliminary inquiries by the Commissioners of Woods and Forests but left the power of inquiry with the Admiralty upon bills which interfered with tidal waters. In 1862 these powers of the Admiralty were transferred to the Board of Trade, the Admiralty retaining the right to be informed of impending schemes and to institute an inquiry if they believed the interests of the navy to be involved.

[1] Commons Committee on Local Acts (Preliminary Inquiries) 1850.
[2] *Ibid.*

Similar experiments in departmental inquiry preliminary to legislation on local projects were made by the Railway Department of the Board of Trade in 1847:

'Of both experiments,' said the Speaker's counsel in 1863, 'the result was unsuccessful and for the same cause. The Committee to which the Bills were referred declined to be guided by the conclusions of the preliminary inquiries. The reports carried no authority and had even less weight than in some instances their intrinsic merit entitled them to. The two tribunals, Parliamentary and Departmental, did not work together. It may be anticipated that any other plan based on the same principles would meet with similar failure. If the auxiliary inquiry is to be regarded as conclusive, the proceeding in Parliament becomes an empty form; if it is not to be binding, it is useless. In practice the interests of the parties to whom the preliminary report may have been adverse conspire with the jealousy of Parliament to set aside the judgment of the inferior tribunal.'[1]

Although the attempts to institute preliminary departmental inquiries came to nothing, another suggestion by the Committee of 1846 that bills should be subject to departmental supervision with reference to matters of general policy was implemented to an ever-increasing degree. Before 1846 the Board of Trade exercised a general control over bills which related to docks, harbours, piers, canals, navigations and gasworks. Private bills concerning any of these were examined to see that they contained no clauses which might upset public policy or injure public interests. With a view to extending this system proposals were laid before the Committee of 1856 allocating various classes of bills to other departments for similar supervision. The practice of referring bills to government departments was incorporated into the Standing Orders of both Houses of Parliament at a much later date (1887) when the rule was made that copies of all bills had by a certain date to be lodged at the Treasury and General Post Office and other appropriate departments. Docks, harbours, piers and ports remained with the Board of Trade, local courts and cemeteries with the Home Office, turnpikes, highways and bridges with the Local Government Board and bills affecting the boundaries of school districts or the jurisdiction of any school board with the Education Office.[2] By other Standing Orders of both Houses any report by or under the authority of a public department stood referred to the committee on that bill.[3]

[1] Commons Committee on Private Bill Business, 1863.
[2] Lords and Commons Standing Order No. 33 Session 1887.
[3] Lords and Commons Standing Order No. 212 Session 1887.

Parliament also made efforts by means of appointing select committees and devising standing orders to secure more consistency in the provisions of private bills. The practice of granting powers in excess of, and at variance with general statutes, was nibbling away at general statute law to such an extent that in 1882, when eight major private acts with special sanitary and police clauses were before Parliament, a hybrid committee was set up to examine them, and it became the custom to appoint such a committee to examine bills with police and sanitary clauses in each session. This enabled certain traditions of policy to be built up. In their first report the Committee emphasized that 'some steps should be taken to secure more uniform and stringent supervision of unopposed clauses in private bills'.[1] In pursuance of the practice of this Committee Standing Orders were framed in 1882 to compel committees examining private bills with police or sanitary clauses to make a special report to Parliament on these clauses, to make a further special report on how they had dealt with the reports of any government department which had submitted evidence, and to refuse any application for a loan redemption period of longer than sixty years.[2]

Another aspect of private bill legislation with which government departments came to be concerned was in the drawing up of model clauses for inclusion in private acts which involved borrowing powers. In 1882 the number of local authorities which were seeking powers to issue stock led to the framing by the Local Government Board in consultation with both Houses of Parliament of model clauses covering the issue of stock. The clauses provided for the issue of redeemable or irredeemable stock, and the creation of a consolidated loans fund for the payment of dividends and the extinction of the issue. Accounts of the transactions of this fund were to be submitted annually to the Local Government Board. Model clauses governing the creation of sinking funds appeared in 1894. The provision that a return was to be made to the Local Government Board of all expenditure of money borrowed under private act was included in the Schedule of Model Bills and Clauses (House of Lords) amended in 1903.

It is clear from these developments that although Parliament retained its *de jure* independence in matters of private bill legislation,

[1] Commons Journal, March 13th, 14th, 1882.
[2] See *Hansard*, 3rd Series, Vol. 273 c. 1130–5, 1498–1506.

the control of government departments had been accepted *de facto* by the end of the 19th century. It would be wrong, however, to assume that this left no room for local initiative. One of the most interesting features in the history of local government finance in this period is the degree of initiative taken by the larger local authorities in securing increased powers by private act before such powers were considered a normal part of the equipment of the major authorities. This development was especially noticeable after the Local Government Act of 1888 which created the counties and county boroughs. It was this impulse from the larger and more progressive authorities to rationalize their financial affairs and free themselves from the irritating variety of restrictions contained in the large number of private and public acts which governed the exercise of their borrowing powers, that provided the occasion for the formulation of the rules applicable to private act procedure just mentioned. Moreover, many of these rules did not remain in model clauses and standing orders, but later found their way into general legislation.

*Development of borrowing powers contained in Private Acts*

Among the most interesting innovations introduced by private acts were the power to issue stock, the consolidation of loans funds and the use of sinking funds to finance new capital expenditure. The issue of stock in the exercise of borrowing powers was first undertaken by the Metropolitan Board of Works which in 1863 secured the authority of Parliament to create, with the sanction of the Treasury, a capital stock to be called the 'The Metropolitan Consolidated Stock' for raising any of the loans which they were authorised to contract. It was provided in the Act that the stock should be issued 'in such amounts and manner, at such price and times, on such terms, subject to such conditions as the Treasury before the creation thereof may from time to time approve.' The Board began with an issue of £2,638,674 at 3½ per cent in 1869 at an average price of £94 14s. 10d. Of the eight subsequent issues floated between then and 1880, all except one obtained a higher price than its predecessor, and after another eight years the reception of Metropolitan stocks continued to be so favourable that the London County Council, which succeeded to the Board of Works, ventured to put upon the market stock bearing a dividend of only 2½ per cent. In 1896, the London County Council obtained Parliamentary sanction by their

Money Act of that year to issue a $2\frac{1}{2}$ per cent London County Consolidated Stock redeemable at the County Council's option subject to one year's notice in the *London Gazette*. This alteration was an improvement as the option to redeem without securing an agreement with the stockholders enlarged the authority's financial freedom.

Encouraged by the success of the Metropolitan Board of Works' stock issues other large authorities took up the initiative. Manchester obtained powers to issue stock by Private Act in 1872,[1] Leeds in 1877,[2] Leicester in 1878,[3] and Blackburn in 1879.[4] In 1880 the Corporations of Lancaster, Liverpool and Nottingham followed suit. Many of the private acts, however, contained defective provisions. A very common feature was the prescription that stock should not be redeemable except by agreement between the corporation and the stockholders. The provision of a sinking fund for the redemption of securities whose value was constantly fluctuating and whose principal was repayable out of different funds, rates, tolls and revenues constituted another difficulty. This was the reason why the Model Clauses governing the issue of stock were drawn up in 1882.

The issue of these Model Clauses gave an increased impetus to the use of stock as a mode of raising capital and many more corporations sought this power by private act till 1890. In that year Parliament passed the Public Health Acts (Amendment) Act, section 52 of which provided that any corporation or local board which was an urban authority could with the consent of the Local Government Board exercise their borrowing powers by the issue of stock on such terms and in such manner as the Board might prescribe. The Board in exercise of their powers under this Act issued Stock Regulations which were laid before Parliament and confirmed by Order in Council. These regulations were amended from time to time and authorized the creation of redeemable stock only, which could be repurchased at par (within a period not exceeding sixty years) at any date fixed by the Order of the Local Government Board consenting to the creation of the stock. Twenty years was the usual period fixed. Although the issue of stock by counties did not in itself require the Board's approval, the details of the issue were made subject to the supervision

[1] Manchester Corporation Waterworks and Improvement Act, 1872.
[2] Leeds Improvement Act 1877.
[3] Leicester Corporation Gas and Water Transfer Act, 1878.
[4] Blackburn Improvement Act 1879.

of the Board, who issued County Stock Regulations under the Local Government Act of 1888.

Another method of borrowing which a few local authorities were able to make use of was the issue of bills for short periods. This power was conferred upon the Metropolitan Board of Works in 1877 and devolved later upon the London County Council. The Corporations of Glasgow, Leeds, Nottingham and Liverpool all obtained permission to issue bills by means of private acts, most of them passed by Parliament in the sessions between 1899 and 1902. The granting of these powers was subject to close definition including limitation of the maximum amount of bills that could be outstanding at any one time and the prescription that the bills could only be issued for twelve months or less and should not normally be for a less sum than £1,000 each. The Treasury, however, jealously watched the granting of these powers owing to the danger that, if too many local authorities were allowed to make these short term issues the market for Treasury Bills might be upset. Further extension of this form of short term borrowing met with official discouragement.[1]

The consolidation into a single fund of all the separate loans funds of a local authority was the natural consequence of powers to issue stock. Although provision was made for the consolidation of certain corporation debts, should the corporation so choose, as early as the Corporation Mortgages Act of 1860, such powers were not commonly exercised until the practice of creating stock to finance the borrowing of large authorities made the issue of large quantities of stock at once preferable to the separate issue of smaller amounts under the various sanctions received. The City of Edinburgh and the City of Liverpool led the way in 1894. The Liverpool Corporations Loans Act of 1894 enabled the City which had an outstanding debt of nearly £4,000,000 (leaving out water supply undertakings) comprising a great many mortgages with separate redemption funds and a large quantity of corporation stock for the extinction of which a loans fund

[1] Another form of short term floating debt came into use after the 1914–18 war in the shape of Housing bonds. These were issued under the Housing (Additional Powers) Act 1919. These securities were in fact short term registered stock rather than bonds and were issued at a rate of interest determined by the Treasury for periods of five, ten or fifteen years. The Treasury refused to allow a shorter period. Large sums of money were raised by this means between 1920 and 1935, but it is now little used. Several authorities have obtained powers to issue similar securities known as 'Corporation Bonds' beginning with Coventry in 1927, but few have used them.

had been set up, to amalgamate these loans and mortgages. The Act prescribed that a sum of £92,000 should be set aside annually towards their repayment and either used for the redemption of mortgages or the extinction of stock or invested and accumulated at interest until the corporation was ready to apply it. The Leicester Corporation Act of 1897 contained even fuller provisions which became the model for subsequent powers under Local Acts. Consolidation under Provisional Order by the Local Government Board under the Public Health Act of 1875 took place in the case of Manchester in 1893, Barrow-in-Furness in 1897, followed by several other corporations and urban districts.[1]

The most significant feature of such consolidation of loans was that it completely divorced the period of the loan from the period of the sanction. It had of course been possible to borrow for, say, twenty years at a time under a loan sanction prescribing redemption within sixty years, and, indeed, the provision for reborrowing to repay loans which was contained in most sanctions made the desirability of this procedure obvious. With a consolidated loans fund however, the stock operations of a local authority could be related more closely to its general financial position and to the state of the money market, although borrowing could not exceed the amount of sanctions in hand at any given time. Consolidation also did away with the narrow interpretation of sinking fund policy. Once the separate sinking funds were abolished the annual sinking fund contribution became a means of measuring the annual provision required to liquidate capital expenditure in accordance with the principle that all expenditure of local authorities should sooner or later be provided out of revenue and did not necessarily bear a direct relation to specific borrowing sanctions.

The third innovation made possible by the consolidation of loans funds, was the practice of using sinking funds to finance new capital expenditure. The usual sanction was needed for the project, but the use of its own sinking fund enabled the authority to do without recourse to the money market for less considerable items. The first body to obtain powers for internal use of sinking funds was the Metropolitan Board of Works. In 1881 the Board was given the

[1] The modern form of loan consolidation was initiated by Leeds in 1927 by Private Act. This Act formed the basis for the model scheme of loan consolidation drawn up by the Institute of Municipal Treasurers and Accountants in consultation with the Ministry of Health and published in 1929.

power to advance money to other metropolitan authorities out of sinking fund monies for periods not longer than thirty years. In 1884 the restriction limiting the loan to thirty years was removed and further extension of the practice was permitted by Parliament in the following year, the main condition imposed on the issue of such monies for capital purposes being that the loan had to be repaid before the time when the money would be required for redemption purposes. The first corporation outside the metropolis to obtain the power of borrowing from the loans fund for new capital purposes was Birmingham by the Birmingham Corporation Water Act of 1892. This Act stipulated that the consent of the Local Government Board should first be obtained. The modern practice of transferring stock from the account of one borrowing power to another was contained in the Liverpool Corporation Loans Act mentioned above. In 1898 St. Helens Corporation obtained powers from Parliament enabling them to use for new borrowing redemption funds established for the redemption of stock under the Local Government Board's Stock Regulations, and in 1901 the Board altered these regulations and made it possible for local authorities generally to make use of their stock redemption funds in the exercise of borrowing powers. The consent of the Local Government Board was required in the case of most local authorities, but outside London there was generally no provision for the repayment of the monies transferred from one account to the other, the transfer being regarded as redeemed for the purpose of the fund from which the transfer took place and re-created in respect of the fund to which the money was transferred.

The practice of using redemption funds in the exercise of new borrowing was reviewed by a Select Committee which reported in 1909. The Committee stated in its report that it considered that this practice was 'if properly safeguarded, financially unobjectionable'. They recommended the adoption of the London practice that the permission of a government department should always be sought as a necessary precedent to such borrowing and also stated the opinion that amounts withdrawn from any fund should be replaced by the date the stock was due to be extinguished unless the Local Government Board permitted otherwise. The Committee further recommended that the Local Government Board should prescribe whether transfers should take place at par, and was of the opinion that loans funds set aside in respect of irredeemable stock could be properly used for new borrowing. The Committee excepted from this practice, however, all funds set aside under the Local Loans Act of 1875 and mortgages earmarked for specific borrowing powers for specific revenues.

In spite of the advantages offered by consolidation of debt, however, only the larger and more progressive authorities have sought such powers. The Government did not thrust this improvement on other bodies although the Local Legislation Committee continually recommended it to those authorities who enjoyed powers under numerous local acts. It is probable that the financial skill involved in the manipulation of large-scale consolidated loan operations was thought to be better represented in the larger authorities.

Before leaving the subject of borrowing under private acts it is necessary to mention the special case of the metropolitan authority. The position of London as the seat of government and as an abnormally large urban area with a population and wealth greater than that of some European states, all provide reasons why it should present special problems which need special solutions. The fact that during the 19th century London was the biggest money market in the world, a market to which not only the British Government but many foreign governments had recourse for the floatation of loans, rendered it necessary that the metropolitan authority's financial operations should be brought very closely under the control of the department which operated in the money market on behalf of the government. For this reason the Treasury retained control over the borrowing of the London County Council, and the L.C.C.'s Annual Money Bill is introduced into Parliament by the Exchequer as a quasi-governmental measure in the guide of a private bill. The L.C.C. also has power to sanction the loans of the metropolitan boroughs. It is interesting to compare the considerations governing its use of this power with that of the Ministry of Health stated below. The main financial criteria used were the general financial position of the applicant, the nature of the work and whether its cost should be spread over a period of years and whether the loan period asked for was commensurate with the durability of the investment.[1]

### (*d*) *Borrowing under General Act*

In a discussion of the 19th century it is natural to spend more

[1] Haward. The London County Council from Within, ch. xix.

time in the consideration of borrowing under private act than borrowing under general act, because the former was by far the more important at the time. It was under general acts, however, that the borrowing sanction, as we know it to-day, came into being. General acts which conveyed borrowing powers fell into two categories—those which endowed local authorities as such with general borrowing powers and those which gave borrowing powers in connection with the administration of certain services. The latter sort were and are by far the more important, for the former variety were for the most part framed to generalize or make more uniform powers already created in the exercise of particular functions.

It is in the poor laws and the laws governing public health that the power of central departments to control borrowing by local authorities first emerged in the familiar form. The earlier poor laws placed little restriction on the power of the guardians to borrow money. The first Poor Law of the reign of George III provided that visitors and guardians of the poor should be able to borrow on the security of the poor rate if the expenses for the enlargement or upkeep of their workhouse should exceed £100. No limit was placed on the term of the loan and it was even provided that when the principal was called for the money could be reborrowed from other persons. It was stated that loan should be paid off from savings in the poors' accounts, but no sinking fund was specifically stipulated.[1] The Poor Law passed in 1819 placed much more rigid limits on the borrowing power of guardians by stipulating that no sum more than one shilling in the pound of annual value in any one year could be raised for purchasing or repairing buildings or acquiring land without the consent of a majority of those in the parish who were assessed to the poor rate and without the written consent of owners and occupiers representing two-thirds of the local assessed value. Annuities were the form of loan favoured by the Act, which laid down that these should be ' for any life of lives not being under the age of fifty years ' or for any term not exceeding 15 years. The whole sum borrowed should not exceed 5s. in annual assessable value.[2] This latter provision restricting loans to a certain proportion of assessable value became a popular feature of policy which was only dropped at a comparatively recent date.

[1] 22 George III c. 73.
[2] 59 George III c. 12.

It was not, however, till the famous Poor Law of 1834 that the real loan sanction was introduced. The issue of sanctions implies the existence of a central body responsible for policy and the supervision of administration, and the 1834 Poor Law created such a body for the first time in this important field of local administration. The Poor Law Commissioners were endowed with hitherto unheard-of powers, and among them the power to control borrowing in much the same form as we know it to-day. The powers of the local guardians to dispose of and mortgage their property or pledge their rates was placed 'under the control and subject to the rules, orders and regulations of the said Commissioners'. The Commissioners did not, however, have a free hand in the regulation of borrowing by their subordinate local authorities because the powers conferred on boards of guardians by the two Acts just cited were continued and other limitations were placed by statute directly on the local guardians. Among other things the Act of 1834 provided that in raising money for the building of workhouses the guardians could not borrow more than the average product of the rates in the three years before the preceding Easter, that loans for repairs should not be more than one-tenth of this annual average and the loans in aid of emigration not more than one-half. The consent of the Commissioners was required before money could be borrowed from the Exchequer Loan Commissioners. The money borrowed had to be repaid by annual instalments of one-tenth. The Commissioners methodically prepared forms for applications for loans, forms conveying sanction and all the documentary formulae which have since become familiar.

The Public Health Act of 1848 also gave power of sanction over mortgages to the General Board of Health in cases where money had to be raised for sewage and other works connected with sanitation. The Board took these powers seriously and with their usual self-righteousness could not resist congratulating themselves on the superior way they exercised their functions compared with the desultory enforcement of their powers by the Treasury with regard to municipal corporations.

'With respect to the important trust imposed upon us of examining works before sanctioning mortgages of rates . . . it is to be observed that the practice of the Treasury has been to cause notice to be given in the locality that it was proposed to undertake such and such new works; and if no local objections were raised, to issue the consent. Information has been communicated to us respecting cases where consent has been given under circumstances which prove the entire insufficiency of this procedure to ensure the protection intended—where, for instance the townspeople have been wholly unaware of the nature and expense of the works in question which competent inquiry must have elicited. We are satisfied from our experience that the examination of plans for works ought to be extended rather than diminished and both the responsibility under which it is done and the power of doing it increased.'[1]

The General Board of Health was an unpopular body at a time when the existence of departments of government armed with wide powers of delegated legislation in the form of rule and order making was an innovation. The Board was dissolved and an attenuated version of its powers devolved upon the Public Health Department of the Privy Council. In 1871, however, the Local Government Board was created and the new department gathered up the powers of the Public Health Department, the Local Act Department of the Home Office and the Poor Law Board. The concentration of the various bodies which had hitherto supervised local government activities and expenditure in their respective fields provided a department of government on to which the control of local authority borrowing naturally devolved. Most of the general enactments concerning local authority functions from that date specify the Local Government Board as the sanctioning authority for loans. Even after the creation of the Board, however, the Treasury remained the sanctioning department for all borrowing by municipal corporations not specifically referred to other departments for their approval, and also the specific sanctioning authority under the Burial and Baths and Wash-houses Acts.

This anomalous position was perpetuated by the Municipal Corporations Act of 1882 whose borrowing provisions were unsatisfactory in several respects. This Act limited the maximum period for which corporations could borrow to thirty years, and continued the peculiarly cumbersome provisions for the management of sinking funds contained in the Corporation Mortgage Act of 1860 by which loans were placed under stringent control by the Bank of England and the Treasury. If, for instance, sinking funds were invested in government annuities these could only be transferred 'with the consent in writing of the Treasury addressed to the Chief Accountant of the Bank of England.'[2]

[1] Report of the General Board of Health on the Administration of the Public Health Act and the Nuisance Removal and Diseases Prevention Acts from 1848–1854, p. 53.

[2] 46 and 47 Vict. c. 18.

The remnants of Treasury control, however, were removed by the Local Government Act of 1888[1] without debate, the Local Government Board being substituted for the Treasury throughout Section V of the Act of 1882. Even this was not the end of the matter and as late as 1905 another Act[2] had to be introduced to transfer the remaining powers of the Treasury as regards Burial and Baths and Washhouse Acts and to make clear that this transfer was intended to apply to all local and general acts although the Treasury was to be judge of particular cases.

The reorganization of the structure of Local Government which took place in the measures of 1882, 1888 and 1894 gave an opportunity to consolidate the borrowing powers of both the existing and the newly-created authorities. The Local Government Board was installed as the general sanctioning authority. Parishes wishing to borrow were required to secure the sanction of their county authority as well. In other respects, however, the Acts of 1882 and 1888 show considerable differences in the powers conferred. The Municipal Corporations Act placed no limit on the sums to be borrowed by reference to rateable value while the Local Government Act of 1888 stipulated that wherever the loan raised by a county council should exceed the amount of one-tenth of the annual rateable value the amount could only be borrowed by a Provisional Order duly laid before Parliament. The period for the repayment of the loan was fixed at thirty years for counties but sixty years for municipal corporations. More discretion was left in the hands of the sanctioning authority as to the terms of such repayments in the case of municipal corporations than in the case of county councils. An irksome feature of the Act of 1888 was the provision that if county councils borrowed by the issue of stock they could not also borrow by mortgage for terms longer than five years. This provision proved a nuisance and was repealed in 1909.

The most important general measure under which local authority borrowing took place during this period was the Public Health Act of 1875 which consolidated and simplified clauses in the numerous Sanitary Acts governing the exercise of borrowing powers. The Act provided that borrowing should be for permanent works only, or those which in the opinion of the Local Government Board should

[1] 51 and 52 Vict. c. 41.
[2] Local Authorities (Transfer of Treasury Powers) Act 1905.

have their cost spread over a period of years; that the sum borrowed together with the balances of all outstanding loans contracted under this Act or previous Sanitary Acts should not exceed the assessable value for two years of the authority concerned; if the sum proposed to be borrowed should, with any outstanding balances, exceed one year's assessable value, the Local Government Board should hold a local inquiry, and not give their sanction until their inspector had reported. The money could in any case not be borrowed for a period of more than sixty years, and should be paid off by means of a sinking fund. The sinking fund could be used to discharge any portion of the loan as it became due provided it continued to receive the interest which would have accrued on the portion thus repaid. Local authorities could borrow to repay a loan provided the total period for which the loan was sanctioned was not exceeded without the consent of the Local Government Board, and provided the ultimate limit of sixty years was not exceeded. This Act made an exception of borrowing on mortgage of sewage works which local authorities were allowed to pledge without sanction and without counting the loan thus raised as part of their debt for purposes of the assessable value limitation.

This Act was the most popular of those providing general borrowing powers and many other acts for purposes not in any way connected with public health made the borrowing provisions of this Act applicable for other objects. Among them were the Electric Lighting Act of 1882, the Allotments Act of 1887 and the Museums and Gymnasiums Act of 1891. Other important acts made the borrowing provisions applicable with certain modifications. The Education Act of 1902 was an instance of this sort. It authorized urban district councils to borrow for the purposes of the Elementary Education Acts 1870 to 1902 as for the purposes of the Public Health Acts, but the monies so borrowed were not to be reckoned as part of the debt of the urban districts for purposes of the limitation on assessable value laid down by the Public Health Act, and the loans should fall upon the poor rate which was not applicable for purposes of public health.

Oddly enough, the year 1875 also saw the passing of the Local Loans Act which was a highly unsatisfactory measure which very few authorities cared to use. The Act had the aim of consolidating the general provisions concerning borrowing, especially borrowing by means of the issue of debentures, debenture stock and annuities, but it proved full of defects and ambiguities. It authorized borrowing by debenture stock only in cases where the local authority was already authorized to make use of this method by some other act, and authorities so empowered preferred to exercise such powers under the provisions of their own acts rather than under the disadvantageous terms of the Local Loans Act. One of the principal of these disadvantages was the prescription that debenture stock issued under its authority should be of a nominal amount not exceeding the exact amount of money authorized to be raised, so that any local authority who had obtained power to borrow a definite sum could not issue debenture stock under this Act below par without losing part of the borrowing power; but to attach such a high dividend to stock as to ensure that it would not be issued below par would be extremely uneconomical in many cases. The provisions of the Act regarding repayment of loans were also far from satisfactory, the limit for the period of repayment being only 20 years unless otherwise provided by another enactment, and no general provisions were made for a sinking fund unless already prescribed in some other measure. This omission was remedied by the Local Loans Sinking Fund Act, 1885. The Local Loans Act although mentioned in nearly all subsequent acts conferring borrowing powers was very seldom used.

To sum up: at the end of the 19th century uncontrolled local borrowing had ceased to exist (the minor exception of ability to mortgage sewage works without sanction was an inconsiderable exception). The Public Works Loans Board had assumed its permanent form. The statutory control of local borrowing still contained anomalies and still embodied restrictions more appropriate to *ad hoc* bodies with limited resources than to the counties and county boroughs in which local powers were concentrated by the measures of local government reform at the end of the century. The amalgamation of the diverse departments concerned with the supervision of local administration in the Local Government Board provided a sanctioning authority capable of evolving a consistent policy with regard to local borrowing, not only in those matters for which it was directly appointed, but also by means of advice and the framing of model bills and clauses in the field of private act legislation. This set the stage for the shift from direct statutory control to discretionary departmental control which continued apace during this century.

*Developments in this Century*

At the beginning of the century certain aspects of Parliamentary and departmental control over local authority borrowing were reviewed by a Select Committee of the House of Commons appointed to inquire into the statutory and other conditions limiting the period for the repayment of loans and to report whether any uniformity in these conditions could be attained and whether any relaxation in the limitations normally fixed were desirable. The Committee dealt almost exclusively with loan periods, and the restrictions on the amount to be borrowed with reference to specific amounts of rate income or assessable value fell outside its terms of reference. At the time of the Committee's appointment local authority indebtedness in England and Wales had undergone a rapid rise from approximately £93 millions in 1874—5 to £293 millions in 1899—1900, an increase of 215.05 per cent. During the same period, rateable value increased by only 51.5 per cent from £119 millions to £180 millions.[1] The major county boroughs, and many smaller boroughs and urban districts were embarking on ambitious plans of capital investment in public utilities and other improvements and some of them were irked by the restrictions placed upon them by government departments, by general statutes and by parliamentary practice with regard to private act legislation. The latter was, however, considered the most favourable to local authorities' claims and the larger local authorities used not infrequently to seek borrowing powers by private act which were already available under public statute under the control of a sanctioning authority. On the whole, the administrative counties were not unduly irked by restrictions placed upon the time of repayment, although some of them objected to the anomalous position whereby the general borrowing powers of administrative counties were subject to a thirty-year limit while those of municipal corporations under the Act of 1882 and or urban sanitary authorities under the Public Health Act of 1875 were only subject to a limit of sixty years. This was specially awkward when joint works were undertaken by counties and urban districts or corporations as in the case of some lunatic asylums and fever hospitals.

In their evidence before the Committee, most of the representatives of the municipal corporations pressed for longer terms of

[1] Report of the Select Committee on the Repayment of Loans by Local Authorities, 1902, Appendix I.

repayment. It was natural that the existing ratepayers should try and shift as much as possible of the burden of borrowing to future generations. This was not primarily the result of narrow selfishness, but of the unshakeably optimistic view taken by the representatives of the large corporations, both of the durability and permanent utility of the works and buildings in which they were investing and of the future growth of the population and prosperity of their district. The representatives of the Local Government Board, on the other hand, felt it necessary in the interests of future generations to take a narrower view both of the durability of the works and of the future needs and resources of particular areas. In the Board's evidence cases were cited where the physical durability of the assets had been less than the period of the loan sanction, either through faulty workmanship, unforeseen accidents, unforeseen changes in technique or changes in population and rateable value. The general principle governing the periods set by the Board for the repayment of loans was that debt should as far as possible be extinguished in a generation, i.e. in between thirty and forty years from the time in which it was incurred. Only in the case of the most durable asset of all, land, was it the practice of the Board to allow a longer period of up to sixty years for repayment.[1] The second main principle governing the Board's loan sanction policy was consideration of the durability of the works undertaken. Durability was not confined to actual physical durability, but to durability in face of changing techniques and changing needs and standards. Although the Board felt entitled to take a cautious view of the trend of population and prosperity in any individual area, they were in no doubt that the tendency of public opinion and social development was toward a constantly rising standard of service which would not only render many works which proud municipalities considered the last word in perfection totally obsolete, but would entail vast new and increasing expenditures which would demand resources as free from inherited burdens as possible. In arriving at the period for a loan sanction, then, the upper limit was generally set by the principle of making each generation pay its way and, within that limit, individual items were considered in proportion to their durability. When the sanction included items of widely differing durability, it was the practice of the Board to allot a separate term to each item and to

[1] *Ibid.* Evidence of Mr. Kershaw 1–12.

arrive at an equated period for the whole.[1] In cases where the sums involved in each category were considerable and the local authority concerned expressed a wish for separate sanctions these were generally granted.

The Committee did not find that the Board's caution in fixing the period of repayment was excessive. Only in the case of capital expenditure for the rehousing of slum dwellers and the acquisition of land for this purpose did the Committee feel moved to recommend an extension of the period of repayment to eighty years, and this was qualified by the recommendation that the actual period to be allowed in each case should be separately determined within this upper limit at the discretion of the Local Government Board. The Committee also recommended that the Board should be given power to specify the mode of repayment, whether by sinking fund or by instalments of principal with interest on the outstanding balance or by equal annuities of principal and interest combined. The Committee were very much impressed by the advantages of the second method which was the one generally used in Scotland and in England by the L.C.C. because it reduced the total burden of interest, although it made the burden of repayment heavier in the earlier years.

The problem of securing uniformity of practice in the term to be fixed for loans under borrowing powers sought by private bill was considered in detail. At the time the Committee was appointed about half local authority borrowing was under private act, and the periods granted by Parliament for repayment were on the whole more generous than those allowed by the Local Government Board. In

[1] The equated period was calculated by multiplying the cost of each item by the time for repayment, adding the results and dividing by the estimated cost of all the items together, *e.g.*

| *Item* | *Cost* £ | *Repayment Period* | *Weighted Cost* £ |
|---|---|---|---|
| A | 20,000 | 40 | 800,000 |
| B | 30,000 | 20 | 600,000 |
| C | 10,000 | 10 | 100,000 |
| D | 1,000 | 5 | 5,000 |
| | 61,000 | | 61,000)1,505,000(24.6 |
| | | | 1,22 |
| | | | 285 |
| | | | 244 |
| | | | 410 |
| | | | 366 |

Equated period—25 years

the House of Commons, private bills passed through three different channels of procedure. Since 1882, all private bills containing clauses on police or sanitation went before a select committee specially set up to deal with them.[1] This committee had been fairly severe in cutting down the periods of repayment demanded by local authorities in private bills; instances of cuts in the neighbourhood of 50—60 per cent were not uncommon. In its report the committee professed to be guided by the same principles as regards limited terms of repayment and the durability of the assets acquired as was the Local Government Board.[2] Bills which did not contain police or sanitary clauses went before the Committee on Private Bills which also commonly reduced the periods asked for repayment of loans, but was slightly more liberal than the Committee on Police and Sanitary Legislation. A third category of bills, those which did not contain police or sanitary clauses and which were not opposed, went before the Unopposed Bills Committee of the Chairman of Ways and Means. These bills received some examination by the Chairman and the counsel to the Speaker, but only an extremely cursory examination by the Committee.[3] In all three cases the periods granted for loans tended to be longer than those allowed by the Local Government Board and the Select Committee were unable to ascertain any principle underlying the terms granted.

The Standing Orders which had been elaborated to control this aspect of private legislation were not always strictly observed. Standing Order No. 150 which required the committees examining private bills to state their reasons for dissenting from the recommendations of the department advising upon them was not always adequately followed. Standing Order No. 173A which fixed a maximum period for the repayment of loans of sixty years had been set aside in four cases since the Order was framed, without the formality of a special resolution of the House, though with its subsequent approval. In another case the backdoor method of postponing the payment of the first instalment of repayment for ten years had been used to lengthen the term of the sanction to seventy years. This apparently passed unnoticed in the House.[4] Standing Order No. 172A (d), which

[1] Select Committee on the Repayment of Loans by Local Authorities. Evidence 5186, 5188.
[2] *Ibid.* Appendices 8 and 9.
[3] *Ibid.* Evidence 628–631, 5203, 5206.
[4] *Ibid.* Evidence 5222, 5231, 5530, 5538.

provided that powers which were available under general statutes subject to departmental inquiry and Provisional Order should not be included in private bills was frequently ignored. The Order was not prohibitive and counsel for the promoters of a private bill could and did maintain that access to Parliament for any matter whatsoever could not be denied by Standing Order. Standing Order No. 172, which provided that the estimates of the cost of all works for which powers were sought under private bill should be stated in the bill and proved before the committee which examined it, unless they were made subject to the sanction of the government department concerned, was almost useless.[1] Neither the committees which examined the bills nor the Chairman of Ways and Means were provided with independent advice on questions of engineering or cost-accountancy, nor did they commonly hold special inquiries which would enable them to check such estimates in detail. The sole proof of the estimates was provided by the *ex parte* evidence of the promoters of the bill and its opponents, if any. Any specialist advice was generally provided by the Local Government Board or other interested department, and then only out of their general knowledge of the authority concerned, and not from a departmental inquiry into the specific scheme for which private act powers were being sought.[2] The fruitlessness of preliminary departmental inquiries has been described earlier. The committees of Parliament, therefore, were not provided with sufficient evidence on which to determine the length of time necessary for loan redemption with regard to the durability of particular items of investment. Witnesses who appeared before the Select Committee on Repayment of Loans agreed that it would be impracticable to enforce the inclusion of more detailed estimates owing to the impossibility of checking them in Parliament and there was also general agreement that the most reasonable solution would be for the private act to confine itself to fixing the upper limit of repayment for the project as a whole, while the detailed periods for the separate items should be left to the Local Government Board.[3] In its report the Select Committee recommended accordingly.[4] This suggestion was not an innovation for clauses leaving the

[1] The Standing Orders governing the grant of loans are still substantially the same. In the 1945 revision of the Standing Orders of the House of Commons they are numbered SO.144, 158, 156.

[2] *Ibid.* Evidence 617, 618, 5222–5231.

[3] *Ibid.* Evidence 612–613, 5562, 5577.

[4] *Ibid.* Report XV, XVI, XVII.

terms of loans to be settled by the Local Government Board had not been infrequent in private acts since 1882. After the report of the Select Committee, however, it became a usual practice, to which exceptions were increasingly rare. The Select Committee also recommended that the statutory limit over the period of loans raised by county councils should be increased to 60 years to end the illogical differentiation between them and municipal corporations and urban districts.

The recommendations of the Select Committee marked a stage in the movement away from specific legislative controls towards departmental discretionary control which was increasingly prominent, even in the field of private legislation. The years following the war of 1914–18 saw further reductions in the sphere of statutory control and a corresponding increase in the responsibility of the Local Government Board, transformed in 1919 into the Ministry of Health.

The relations of the Ministry of Health with the Parliamentary Committees charged with the examination of private bills was generally amicable. Only in relatively few cases was the Standing Order limiting the period for the repayment of loans set aside, and then only in special cases when the magnitude and durability of the works seemed to justify this step. It is, of course, precisely in such exceptional cases when the works to be undertaken are of an unusual character that private bill procedure is most appropriate. Relations with other government departments were on the whole equally good, but from time to time there was a disagreement on policy.

On one occasion the Committee had a difference of opinion with the Treasury on the expediency of granting further powers for the issue of short-term bills to the Corporations of Bootle, Warrington and Salford in 1920, and the Committee was compelled to beat an undignified retreat. Somewhat ruffled they stated in their report:

> '... After hearing full evidence, your Committee decided that the powers sought should be granted in view of the present state of the money market. These provisions were at a later stage of the Bill withdrawn at the instance of the Treasury. Your Committee when considering the matter were not aware of the Treasury's objections and its decision was over-ruled without its having the opportunity of hearing both sides of the case.'[1]

The opposition of the Treasury to the establishment of further municipal banks on the lines of the Birmingham bank set up in 1919

[1] Special Report of the Select Committee on Local Legislation, 1920.

combined with the opposition of banking interests represented in the House to negative all such developments although several authorities applied for such powers in the post-war period. Several savings banks had been set up which lent mainly or wholly to local authorities under the Municipal Savings Bank Act of 1916, which was designed to facilitate small savings during the last war, but these were independent bodies. Finally a Select Committee was appointed to consider the matter and reported against any extension of municipal banking in 1928. One of the reasons given by this Committee for their decision was the danger of municipalities regarding their banking establishment as a source of cheap money to the possible detriment of its financial soundness.[1]

*The Relaxation of Statutory Controls*

The relaxation of the statutory controls over local authority borrowing since the war of 1914–18 was hastened by the great and progressive increase in their capital expenditure. The growth of educational and social services and the increase of expenditure on housing and the provision of public utilities added their quota to the swelling total. Between 1920 and 1938 expenditure on revenue account grew from £289.3 millions to £532.8 millions, a rise of approximately 84 per cent. Of this total the amount spent on loan charges rose from £37.7 millions to £109.4 millions, a rise of 190 per cent bringing loan charges from 13 per cent of total revenue expenditure to nearly 20 per cent. During the same period total net outstanding debt rose from £555.1 millions to £1,538.9 millions, a rise of over 177 per cent.

There were three stages in the reduction and rationalization of statutory control. The first step was the relaxation of the formerly strict prohibition on borrowing by overdraft for the provision of working balances; this was accompanied and followed by a continuous undermining of the statutory limitation on borrowing with reference to assessable value until it was finally abolished as a result of the industrial and agricultural derating measures of 1928; and finally, the variegated series of acts governing borrowing powers were reduced to order by the consolidating measure of 1933.

[1] Cardiff and Birkenhead did, nevertheless, obtain powers to set up municipal banks in 1930, helped by the change in the composition of Parliament.

*The Legalization of Overdraft Borrowing*

Prior to 1921 the legal position as to overdraft borrowing was uncertain. The practice was not uncommon among authorities whose accounts were not subject to district audit, and this fact was mentioned in the evidence before the Select Committee on the Repayment of Loans.[1] On the other hand there were several judicial decisions which held it to be illegal.

That any overdraft constituted a loan was laid down by judicial decision in the case of Cunliffe Brooks and Co. *versus* the Blackburn and District Benefit Building Society (1884), and that any loan without a specific sanction by Parliament or by a minister was *ultra vires* was maintained in other cases including Richter *versus* Hughes, already quoted, and the Attorney General *versus* the Tottenham Urban District Council (1910). The courts disagreed as to whether a local authority could raise a loan without a specific mortgage or engagement of rate or revenue, the Court of Kings Bench holding that it was illegal but the Court of Appeal reversing their decision. In the case of the Attorney General *versus* the Corporation of West Ham (1910), the Corporation was prosecuted for using an overdraft on their general account for financing certain works connected with their electricity undertaking while having powers under the Act setting up their electricity concern to borrow for its expenses. The Court decided that it was *ultra vires* for the Corporation to transfer such money from their general to their electricity trading account, and to borrow on their electricity account without the specific sanction of the department concerned was also *ultra vires*. The only piece of legislation introduced prior to 1921 to allow overdraft borrowing for the provision of working balances was the Education (Provision of Working Balances) Act of 1903.

The Local Finance (Temporary Provisions) Act of 1921 allowed local authorities to overdraw in anticipation of revenue to meet general contingencies but only with the sanction of the Minister of Health. The overdraft was to be paid out of the current year's revenue with the exception that in special cases the Minister could authorize an extension of the period of repayment up to ten years in the case of loans contracted before 1923. The loans thus authorized were to be deemed an addition to the borrowing powers already

[1] Report of the Select Committee on the Repayment of Loans by Local Authorities, 1902, p. vi.

enjoyed for purposes of any limitation of debt by assessable value. The Act also provided that in all cases where a local authority borrowed for some revenue producing work which was not likely to yield any substantial returns for the first few years, the authority might with the consent of the Minister of Health postpone the creating of a sinking fund to redeem the loan concerned for a maximum of five years. Another section of the Act provided for the suspension of the inquiries prescribed by the Public Health Act of 1875 in all cases where the total debt of any borrowing authority exceeded one year's rateable value. The provisions of this Act were continued by an Act of 1923 and subsequent Acts in 1924, 1926 and 1928. Although not intended as permanent legislation the Acts taken together constituted a considerable modification and relaxation in the terms governing local borrowing powers.

It must be observed that the placing of sanctioning powers in the hands of the Ministry of Health did not in all cases ensure adequate control of authorities who were insolvent either through exceptional diminution of resources, unusually heavy burdens or extravagant expenditure or a combination of all three. In the cases of three Boards of Guardians which it was found necessary to supersede, overdraft borrowing had become so heavy that the Ministry of Health had to make special loans in order that the principal and interest of the debts already incurred might be paid.[1]

*The Relaxation of the Statutory Limits on Total Debt*

The statutory limit on the amount of debt any local authority could incur with reference to its assessable value was one of the oldest and most long-lived of the provisions governing borrowing powers. In practice the principle had became increasingly tenuous as successive measures of legislation excepted the debt likely to be incurred in the operation of their provisions from the total debt for purposes of the limitation. Allotments, education, electricity undertakings and housing were among the enterprises thus exempted. The imposition of such a limitation was made finally impossible by the derating provisions of the Rating and Valuation (Apportionment)

[1] Reports of the Board of Guardians, Chester le Street, 1926 (Cmd. 2818), 1926–7 (Cmd. 2937), 1927 (Cmd. 3072).

Reports of the Board of Guardians, West Ham Union 1926 (Cmd. 2786), 1926–7 (Cmd. 2900), 1927–8 (Cmd. 3142).

Reports of the Board of Guardians, Bedwellty Union 1927 (Cmd. 2976), 1928 (Cmd. 3141).

Act of 1928 which deprived local authorities of 75 per cent of their industrial rateable value and of the remaining 25 per cent of their agricultural value. The Local Government Act of 1929 therefore contained among its numerous provisions the following clause:

'74 (1) So much of any enactment as imposes any limit on the borrowing powers of any local authority by reference to the value for rating purposes of hereditaments within their area shall as from the appointed day, cease to have effect.

(2) Paragraph (3) of section two hundred and thirty four of the Public Health Act 1875 (which subject to the suspension thereof of the Local Authorities (Emergency Provisions) Acts of 1921 to 1928 prohibits the Minister from sanctioning a loan in certain cases until one of his inspectors has held a local inquiry and reported to the Minister), is hereby repealed as from the appointed day.'

Paragraph 53 of the same section of the Act also prescribed that the provisions of the Municipal Corporations Act of 1882 and the Local Government Act of 1888 should be construed as though a sixty-year limit on the period of loans was substituted for the thirty-year limit. This was a long-overdue reform which as we have already seen had been recommended by the Select Committee reporting in 1902. The Act of 1929 also repealed the provisions of the Municipal Corporations Act of 1882 as to the publication of notices and correspondence with respect to the approval of sales, loans and other financial arrangements. The repeal of these important statutory limitations on local authority borrowing cast an even greater responsibility on the sanctioning department on whose discretion the burden of attaining the same ends as the legislative sanctions had intended now devolved. The task of the Minister was, however, made easier by the consolidation of the law on local authority borrowing which was the result of the labours of the Chelmsford Committee to codify local government law.

*The Local Government Act of* 1933

This Act gave all local authorities a general power to borrow for authorized purposes applicable in any case where an Act of Parliament might confer fresh powers, and provided a uniform code of procedure governing the exercise of these borrowing powers.

In the first place (Section 195 of Part IX) the consent of the sanctioning authority, and in the case of parishes the consent of the county council in addition to that of the Minister concerned, was required before borrowing took place, the only exceptions being that county councils could borrow to lend to parish councils and that all sanitary authorities could continue to mortgage their sewage works without sanction as under the Public Health Act of 1875. The sanctioning department was the Ministry of Health in all cases except that of electricity undertakings where the sanctioning authority was the Electricity Commissioners and those of tramways, omnibuses and light railways which remained within the province of the Ministry of Transport.[1] All other capital expenditure, including that on Education remained under the supervision of one department which was thereby enabled to assess the position of the local authority as a whole in considering applications for loan sanctions, a power rendered more important by the lifting of the rateable value limits on borrowing in 1929.

Three methods of borrowing were generally authorized: borrowing by mortgage (and in the case of parish councils mortgages only); the issue of stock subject to the consent of the Ministry of Health; or the issue of debentures under the Local Loans Act, 1875. The only limitation specified was the provision that debentures should not be for any amount under five pounds (Section 196). All borrowed monies were to be chargeable indifferently on all revenues of the borrowing authority except in the case of overdrafts borrowed without security. This struck another blow at the separate pledging of different revenues which had to a certain extent survived even the Rating and Valuation Act of 1925. The limitation on the period for which loans could be contracted was made subject to a maximum of sixty years, with certain exceptions mentioned in the eighth schedule, namely an upper limit of eighty years in the case of allotments, small holdings and housing, an upper limit of thirty years in the case of tramways and 'such period as the Minister of Transport might sanction' in the case of highway loans contracted under the Road Traffic Act, 1930. A comprehensive return of all borrowed monies showing the provision made for repayment was to be made available to the Minister of Health at any time at one month's notice (Section 199) and the Minister was empowered to make directions to remedy any misapplication of borrowed money.

The local authority was allowed by Section 202 to use for any other sanctioned capital expenditure the unexpended balance of any loan,

[1] The enactment of the current measures on Electricity and Transport may leave the Ministry of Health in sole possession of the sanctioning power.

subject to the consent of the Minister, and in the case of money borrowed from the Public Works Loan Commissioners the consent of the Commissioners. The Act provided for the issue of stock regulations and itself prescribed fairly detailed conditions for the registration, transfer and repayment of mortgages including provisions for sinking funds (Sections 204 to 214). The permission to contract overdrafts, allowed for the first time as a temporary expedient in 1921, was given final sanction in Section 215 which permitted overdrafts in anticipation of revenue and also in anticipation of sanctioned borrowing without any special sanction of the Minister. Borrowing to repay loans already contracted within the period of their currency was also permitted without sanction (Section 216).

This consolidating measure marked the end of a long period of development in which the powers of local authorities to borrow had been steadily enlarged in scope, and the control to which such borrowing had been subject had changed from a detailed legislative control to a flexible discretionary control exercised by the departments of the central government and in particular by the Ministry of Health.

The fundamental principles guiding the Ministry of Health in the exercise of its sanctioning power probably do not differ greatly from those enunciated before the Select Committee on the Repayment of Loans in 1902. There seems to be some evidence that the Ministry is not so hostile to the creation of permanent debt as the departmental witnesses then professed to be, provided that the authority concerned has the resources to service it and maintain a loans fund for the payment of principal and interest. The debt of many of the larger authorities is almost as permanent as the national debt and is managed in much the same way. The sinking funds provide additional security and a resource for financing capital expenditure. The addition of superannuation funds to those available for internal investment has provided a valuable source of capital outside the public money market. The rigidity with which the examination of individual capital projects are scrutinized probably varies with the department of the Ministry of Health concerned, some going minutely into each detail, others paying more attention to the financial position of the authority as a whole. It is likely that the wealthier authorities who are accustomed to the management of big investment projects will pass scrutiny more easily than the smaller and less experienced authorities.

*The Extension of Departmental Control over Borrowing since 1933*

The extension of the area of government control over local authority borrowing to the control of access to the money market originated partly in the experience of the depression in the thirties and partly out of the exigencies of war finance. It was the depression of the thirties that bred the current theories of the importance of governmental action in preventing violent fluctuations in investment with the consequential unemployment and distress. Local authority investment after the last war became a major proportion of total investment. The vast post-war housing programmes served to emphasize this tendency. Like private investment, local authority investment tended to fluctuate violently between times of prosperity and depression. Bad times would create a psychological reluctance on the part of many local authorities to embark on large-scale projects and this was generally increased by official discouragement. During the depression of 1921–23 the central government pursued the extraordinary policy of trying to encourage relief works on the one hand while attempting to curtail local investment on the other. In 1931 the public works policy and local investment were curtailed simultaneously. The curtailment of local authority capital expenditure was not mandatory and was mainly effective in so far as it accorded with the feelings of the local authorities themselves. An authority bent on expenditure could generally get the necessary sanctions by making its representations sufficiently urgent. The majority of the authorities, however, mirrored the outlook of the government and the business world, and local capital expenditure was reduced in tune with investment in the private sector of the economy. Nothing more contrary to the theory that public investment should be expanded to take up the slack of unemployed men and resources during a business recession could be imagined.

In the thirties, however, the notion that a steady rate of investment was more desirable (and more efficient) than large-scale fluctuations began to take root. In 1934 the Ministry of Transport led the way by asking highway authorities to budget their Highway expenditure five years in advance. In 1938 the Ministry of Health requested local authorities to draw up and submit within nine months a statement of the amount and objects of proposed capital expenditure during the five years from 1938–9 and 1942–3, and its proposed annual distribution.[1] Many local authorities were already in the habit of budgeting their capital expenditure for several years ahead, but this was the first attempt to centralize this information for the purposes of the government. War intervened to put a virtual stop to all local authority investment, but this forward budgeting of capital expenditure is now in the process of becoming an established feature of financial policy, both in the interests of the local authorities' financial stability and of national economic programmes.

The final step in linking local authority capital expenditure with national economic and financial policy was taken by the Local Authorities Loans Act of 1945 which centralized the control of access to the money market. This type of control began during the war of 1914–1918 when the large-scale financial operations of the government in connection with the floatation of war loans made it inevitable. The amount of capital expenditure undertaken by local authorities was, of course, cut down to negligible proportions during the war, but even afterwards the advice of the Governor of the Bank of England and a small expert committee under the chairmanship of Mr. W. H. N. Goschen was used to secure an orderly approach to the money market.[2] This control over local issues continued unofficially, but effectively, during the whole of the inter-war period and was especially strict during the latter half of the depression of 1931 when the Government was endeavouring to maintain a policy of cheap money.

During the war of 1939–45 the Government was endowed with the control of capital issues of all sorts through section 6 of the Defence (Finance) Regulations, 1939, which prohibited the issue of securities by local authorities subject to certain minor exceptions. In July 1944 the Chancellor of the Exchequer announced that it was the intention of the Government to continue the control of local authority issues in the post-war period in order to prevent the scramble for capital which would inevitably take place should all the numerous projects for reconstruction be financed competitively and at the same time.

Although the principle of rationing access to the money market was not new, the method proposed by the Local Authorities Loans Act passed by Parliament in 1945, namely, that of centralizing all borrowing in the hands of the Public Works Loans Board and issuing

[1] Ministry of Health Circular, No. 1687.
[2] Ministry of Health Report, 1921.

the necessary stock through the Local Loans Fund was a complete innovation. The first article of the Act prohibited borrowing by any local authority from any source other than the Public Works Loans Board without the consent of the Treasury, with the exception of certain cases defined in regulations issued by the Treasury and laid before Parliament. The Chancellor of the Exchequer outlined the exceptions in his speech on the second reading of the Bill. They included borrowing by mortgage and certain short-term securities, provided the amount outstanding at any one time should not exceed the highest amount outstanding between April 1st, 1939, and August, 1945; borrowing by overdraft for temporary accommodation; borrowing from superannuation and other internal funds; borrowing from other authorities who might have the power to lend and re-borrowing for the replacement of stock which any authority had the option to redeem.

The normal borrowing procedure was provided with two extra steps. The application of the local authority after obtaining the usual sanction goes before the Capital Issues Committee for consideration in the light of any rules laid down for the general control of capital issues, and then before the Public Works Loans Commissioners who have the duty of satisfying themselves about the proposed loan from the point of view of the security of the Local Loans Fund. To simplify procedure the same application backed by the same detailed memorandum is used for each stage and the bodies concerned announce their decision simultaneously. Any disagreement between them is settled by means of a joint committee.

The period for which loans can be granted is the same as that specified in the Act under which borrowing took place. The rate of interest charged is the current market rate obtainable on government securities on all short-term loans with a slightly higher rate on long-term borrowing. The Local Loans Fund is fed by issues from the Consolidated Fund, mainly from the proceeds of general Treasury borrowing. The alternative of issuing Local Loans Stock remains, but is not intended to constitute an important resource. No limit is placed by the Act on the amount of loans issued from the fund but the annual Public Works Loans Bill affords Parliament the opportunity of exercising monetary control.[1]

[1] Local authorities like other bodies are also subject to the regulations made under the Borrowing (Controls and Guarantees) Act 1946.

Looked at from the point of view of loan sanctions, the Act adds two more sanctioning bodies to those already existing and also endows Parliament with an increased control over the total quantity of local authority borrowing by means of an annual act. From the point of view of the smaller and medium-sized authorities the scheme has definite advantages in enabling them to do their borrowing at the cheap rates available to the Government. In the case of authorities of all sizes the ability to proceed with capital expenditure without having to wait on market conditions would not be a negligible factor. The larger authorities whose securities enjoy a national and sometimes a world market do not benefit so clearly and although representatives of the local authorities agreed to the scheme in principle there were clear elements of misgiving in some quarters. This misgiving was enhanced by the fact that the Public Works Loans Commissioners were made administrators of the new scheme, for the conservatism of their policy backed by the caution of the Treasury in the years after the last war has frequently been subjected to criticism. It was probably to allay this apprehension that a provision was included for the review of the working of the scheme four years after the close of hostilities.

In surveying the history of control over local authority borrowing, it can be seen to fall into three phases. The first is typified by the enactment of statutory restrictions designed to check extravagance and the irresponsible imposition of burdens on posterity. Then as the machinery of central government developed and departments capable of exercising supervision over the several aspects of local authority expenditure came into being; and as the structure of local government evolved out of the chaos of *ad hoc* bodies into a unified system, control was gradually taken over by government departments, who were able to exercise a discretionary supervision within the limits of statute law. Bit by bit the discretion of the sanctioning departments was enlarged and the general statutory controls were whittled away. Control over local borrowing became less minutely detailed and more flexible. Finally the process has been completed by the harnessing of local borrowing to the general financial and economic policy of the Government, thus establishing control over local capital expenditure as a whole, as a complement to the supervision previously exercised over each individual authority.

# JOINT AUTHORITIES

THE attention drawn by the Coalition White Paper on Local Government to the possibility of extending the employment of Joint Boards and Joint Committees, while it has not met with the response which it deserved, serves as a reminder that the literature of local government has very little to say on the history of this type of body. It lies in the field of 'intermediate government' and is capable of a great variety of forms of development. The present essay is not an exhaustive review of the experience available about these bodies but is rather an attempt to draw together a variety of points upon the place and problems of the joint authority in order to exhibit its peculiarities as an institution.

### *Use of Terms*

The typical joint authority is set up, under Statute or under Order, when two or more local authorities see an advantage in combining to operate a service over their joint area or over part of it. It is, normally, as its name says, a federal body whose membership is composed of representatives of the constituent authorities of the combined areas. It has two main forms, the distinction between which is of the first importance, that of joint board and joint committee. For the purposes of this essay, the term joint board is used to describe the joint authority which is a body corporate, with perpetual succession and a common seal, power to sue and be sued, and power to hold land for the purposes of its constitution without licence in mortmain. A joint board has the power to raise loans, either itself, or, under recent statutes, through its constituent authorities. It can issue precepts upon its constituent authorities to meet its revenue expenditure, in so far as this is not met by the receipts of the undertaking it administers. In short, the joint board, once created, is an independent authority over which its constituent bodies have little or no control. Such a definition includes certain authorities usually described as joint committees: *e.g.* Joint Committees for River Pollution, the Mersey Tunnel Joint Committee and, before the passage of the Public Health Act, 1936 S8(3), Joint Committees for Tuberculosis.

The term joint committee refers to those authorities which, whether created by statute, order or the will of the authorities concerned, have no corporate existence independent of their constituent authorities. Whether executive or advisory, both their constitution and powers are controlled by, and in the majority of cases, their existence may be terminated by, their constituent authorities.[1] This subordination, together with their inability to raise money by loan or to issue precepts upon their constituent authorities are the chief factors which differentiate them from the joint board.

*Present Scope of the Field Covered by Joint Authorities*

TABLE I

*Showing Numbers of Joint Authorities of all Types in Existence in England and Wales*, 1943–4

| | | |
|---|---|---|
| *Education:* | Elementary Education | 7 |
| | Higher Education | 18 |
| | Libraries | 2 |
| *Public Health:* | Sewers and Sewage Disposal | 40 |
| | Scavenging | 1 |
| | Tuberculosis Hospitals | 8 |
| | Venereal Diseases Hospitals | 2 |
| | Infectious Diseases Hospitals | 201 |
| | Maternity and Child Welfare | 2 |
| | Parks, Gardens and Open Spaces | 14 |
| | Baths and Wash-houses | 1 |
| | Port Health Authorities | 24 |
| | Prevention of Disease | 1 |
| | River Pollution Prevention | 4 |
| | Mortuary | 1 |
| | Other Health Services | 26 |
| | Mental Hospitals | 3 |
| | Mental Deficiency | 17 |
| *Town and Country Planning* (1937–8) returns | | 129 |
| *Agriculture and Fisheries* | Allotments and Small Holdings | 2 |
| | Catchment Boards | 49 |
| | Diseases of Animals | 1 |
| | Sea Fisheries | 10 |
| *Trading Services:* | Gas | 4 |
| | Water | 56 |
| | Electricity | 4 |
| | Transport | 4 |
| | Harbour | 51 |
| | Cemeteries | 8 |

[1] An exception to this general practice is provided by joint committees formed for the purpose of the appointment of a Medical Officer of Health for one or more authorities. If these are formed by Provisional Order of the Minister of Health under S.286 of the Public Health Act, 1875, they may be dissolved by Provisional or by Special Order.

| | | |
|---|---|---|
| *Miscellaneous* . | Tunnels | 1 |
| | War Memorials | 2 |
| | Highways and Bridges | 4 |
| | Fire Brigades | 54 |
| | Police | 1 |
| | Street Lighting | 1 |
| | Administration of Justice | 4 |
| | Welsh Education | 77 |
| | A.R.P. | 11 |
| | Ferries | 2 |
| | Miscellaneous | 4 |

The figures here given to illustrate the extent to which joint authorities have been set up are taken from the Ministry of Health Local Taxation Returns, 1943–4.[1] It is at once apparent that although the variety of services covered is wide, the number of authorities of any one type is in most cases inconsiderable. By far the largest group of joint authorities are those set up under the Public Health Acts 1875–1936 to deal with Hospitals for Infectious Diseases: of these there were 201. Table I shows for the different services the number of joint authorities which had financial dealings in 1943–4. It is possible that a few very small authorities—*e.g.* Joint Committees of Parish Councils—have been omitted.

The table is for the most part self-explanatory. The joint authorities for Elementary Education consisted of three Managers of Industrial Schools and four of Schools for the Blind, Deaf, Defective or Epileptic. Those for higher education were formed usually for the management of various types of technical college. The 26 joint authorities grouped together as 'Other Health Services' included 19 joint committees for the provision of ambulances, 4 for the appointment of an M.O.H. and one for the cleansing of shellfish. The 4 miscellaneous authorities were East and West Ashford Joint Committee, Ledbury Parish Property, the Western Valleys (Monmouthshire) Omnibus and Travelling Committee and the Northwich Salt Compensation Board. This last is of interest in that it is the only joint authority which has power to levy a direct rate—and this in spite of the fact that it is not composed entirely of members of its constituent authorities. Section 3 of the Brine Pumping (Compensation for Subsidence) Act, 1891, enabled a Provisional Order to be made on the application of any owner or owners of land in any county of a rateable value in the aggregate of not less than £2,000 claiming subsidence and praying that a Compensation

[1] We are indebted to the Statistical Branch of the Ministry of Health for allowing us to consult these unpublished returns.

District be formed. Under this clause the Brine Pumping (Compensation for Subsidence) Provisional Order Compensation Act, 1896, was passed and the Northwich Salt Compensation Board was established. Of its 9 members, one-third were to be appointed by the Cheshire County Council, one-third by the sanitary authorities within the district (2 by Northwich U.D. and 1 by Northwich R.D.) and the remaining third were to be elected by the brine pumpers. In 1940–1 the Board levied a rate of 1d. per 1,000 gallons of brine estimated to be pumped or raised: the rate realized £7,258.

*The History and Development of Joint Authorities*

Co-operation between authorities for the administration of a particular service is no new phenomenon in local government history. The principle was first given general statutory recognition by the Public Health Act, 1875. Previously, there had been isolated examples of such co-operation. Not unnaturally the field of Poor Law administration provides the earliest forerunners of the present day joint authority. An Act of 1722[1] gave parishes the power to combine for the maintenance of the poor—an attempt to meet the difficulties which confronted small parishes in the administration of the Elizabethan Poor Law. Faced with these difficulties, Bristol had, in 1696, promoted a Local Act which replaced the overseers of the 19 crowded city parishes of the city by a new 'Corporation of the Poor'. This corporation covered the whole city and consisted of the Mayor and Aldermen and the churchwardens of the parishes together with 4 persons elected by a public meeting of the inhabitants of each ward.[2] Here we find the local authorities—the urban parishes—combining to form, not as to-day an indirectly elected authority, but one based mainly on direct election. During the next 15 years, the example of Bristol was followed by 13 other towns, and the passage of private acts providing for the union of urban parishes continued throughout the 18th century. Not in every case, however, was the constitutional innovation of the Bristol experiment repeated. Usually the Guardians were such by virtue of their office in the town or parish, or else, as in the case of Shrewsbury, they consisted of all the owners of freehold or copyhold property within the city worth £30 per annum.

[1] 9 Geo. I C.7 S.4.
[2] Webb. *Statutory Authorities for Special Purposes*, p. 114.

During the 18th century similar experiments were being made in the rural counties. John Cary had pointed out that the only way to maintain workhouses in the county districts was to incorporate an area larger than the parish.[1] He himself suggested that the Justices of the Peace and all the freeholders should be constituted the Poor Law authority for the whole county. John Locke had proposed the establishment of workhouses in the several hundreds or unions of hundreds. Both proposals were included in several bills which, however, failed to pass Parliament. In 1756, a local Act was passed, setting up in the two Hundreds of Colneis and Carlford in Suffolk a new local government body empowered to erect a workhouse and to take over practically all their Poor Law functions from the 28 parishes concerned. Here we have a union of parishes for a particular purpose administered by an *ad hoc* body consisting of some 50 of the squires and clergy concerned. So successful did the experiment appear to be that by 1785, throughout the greater part of Norfolk and Suffolk the administration of the Poor Law had been withdrawn from the parish officers and invested in 14 new bodies of Incorporated Guardians of the Poor. Whether they were in part elective, as in the case of Bristol, or consisted of all those possessing a certain qualification, the Incorporated Guardians of the Poor were organically connected with the existing local government structure. Like the joint authorities of to-day, they were a development of the existing structure rather than entirely new creations as were the Turnpike Trusts and the Improvement Commissioners of the 18th century.

The Poor Law Act, 1834, followed the same precedent, in that the administration in the localities was in the hands of *ad hoc* Boards of Guardians functioning over unions which were for the most part formed on the principle that parishes which used the same market town should be in the same union. The Act, which replaced some 15,000 parishes by 600 unions, introduced a considerable measure of improvement in the rural areas. In the cases of certain populous areas, however, there might be several unions covering what was in fact a single large town. Thus in Manchester there were four separate unions and this arrangement was criticized by Chadwick himself. 'The City of Manchester, suburban as well as urban, is really cut up into four independent districts and administrations for relief,

[1] *Essay towards regulating the Trade and Employing the Poor of this Kingdom*, by John Cary, 1700.

each separate Board acting without any necessary contact with the other, or for action in any common principle with the others, and being too small to effect at a moderate expense those executive arrangements of paid officers and means of providing and superintending work for meeting promptly extraordinary as well as ordinary destitution.'[1]

The Poor Law unions themselves were on occasion combined. Chadwick recommended that they, rather than the municipalities, should be used as sanitary districts, on the grounds that they could be easily combined for any common administrative purpose:

> 'as they have been for district schools (*i.e.* districts of unions) with the highest success of any local administrative measure, as it has given a far higher order of teaching or training power at a lower order of cost.'[2]

Chadwick's picture was somewhat highly coloured. In their third annual report,[3] the Poor Law Commissioners had expressed their concurrence with the policy of removing children from the workhouses and placing them in District Schools, but they were unable for several years to obtain power for Boards of Guardians to combine even optionally for the purpose. When in 1844 Parliament granted the power[4] very few Boards were found willing to incur the capital expenditure involved or to part with the children from their own workhouses. The cholera epidemic of 1849 compelled the formation of three School Districts for the Metropolitan parishes, and a little later the South Metropolitan and North Surrey Districts established their own schools. Three similar school districts were formed among rural unions.

Not all the efforts of local authorities to combine were successful. In 1808, following an attempt to set up a Joint Stock Company to control the town's water supply, the Police Commissioners of Manchester gave their support to a plan whereby the town's water supply was to be organized as a public service under the joint management of the churchwardens and overseers, the Police Commissioners and the surveyors of the highways.[5] Had the plan proved successful, a combination of local authorities for the joint administration of a service in another field would have been the result. As it was, the

[1] Chadwick. *Comparative Results of the Chief Principles of the Poor Law Administration in England and Wales Compared with Scotland*, 1863, p. 8.

[2] Chadwick. *County Government*, p. 48.

[3] *Third Annual Report of the Poor Law Commissioners*, 1837, p. 34.

[4] 7 and 8 Vic. C.101 S.40.

[5] Redford. *History of Manchester*, Vol. 1, p. 235.

scheme proved impracticable, and, in 1809, in spite of the opposition of the Police Commissioners, the Manchester and Salford Waterworks Company obtained its private Act of Parliament.[1]

Most important of the 19th century examples of joint authorities both at the time and from the influence it has exerted on subsequent development in this field is the Metropolitan Board of Works. Created under the Metropolis Management Act, 1855, which was largely based on the recommendations of the Royal Commission on the City Corporation of the previous year, the Metropolitan Board of Works consisted of 45 members. Three of these were elected by the Common Council of the City of London, two by each of the six largest vestries, one each by 15 other vestries, one by the Woolwich Local Board of Health and the rest by the District Boards. The Metropolitan Board of Works was an indirectly elected joint authority responsible primarily 'for the better management of the metropolis in respect of the sewerage and drainage and the paving, cleansing, lighting and improvements thereof.'[2] In part it was doubly removed from the electorate in that the district boards were also indirectly elected authorities consisting of representatives of the vestries of the smaller parishes. In 1885, the number of vestries was increased and the number of members raised to 59.

In 1867, the Metropolitan Poor Act empowered the Poor Law Board to combine into districts the unions and parishes of the metropolis for the purpose of establishing asylums for the reception and relief of the sick, insane and infirm or other classes of the chargeable poor. In pursuance of these powers the Poor Law Board set up the Metropolitan Asylums Board consisting of 55 members elected for 3-yearly periods by the guardians of the several unions together with 18 members nominated by the Poor Law Board. Here probably, we find what is the first example of a joint authority which includes in its membership representatives of both the local and central government.

By 1870 it was still the case that every joint authority, with the exception of a small number of Poor Law unions which had combined under an Act of 1844[3], to provide a 'barrack school', had been set up by a specific Act of Parliament. In 1875 the Public Health

[1] 49 Geo. III, c.192.
[2] Preamble to the Metropolitan Management Act.
[3] 7 and 8 Vic. c.101 s.40.

Act was passed—the first general recognition that it was desirable that local authorities should be able to combine for certain purposes. Under Section 279 of this Act, the President of the Local Government Board might, if it seemed advantageous to the districts concerned, constitute them a united district for any of the purposes of the Act.[1]

'The governing body of the united district shall be a joint board consisting of such *ex-officio* members and of such number of elected members as the Local Government Board may, by Provisional Order forming the district, determine.'

It was in line with the adoptive character of the Act that the initiative was left with the local authorities; the Minister could not act until he received an application from any of the councils of the boroughs or districts concerned.

Since 1875 a number of statutes have been passed providing for joint action among local authorities. Sea Fisheries Boards were set up under the Sea Fisheries Regulation Act, 1888. The Libraries Act, 1892, empowered library authorities to combine for the purposes of the Act. A wide variety of joint boards and committees were set up under Fowler's Act, 1894: these ranged from Burial Boards to Joint Fire Brigades Committees and included a Joint Steam Roller and a Joint Hearse Committee. The Housing Acts, Fisher's Education Act, the Mental Deficiency Act, 1913, the Electricity (Supply) Act, 1919, the Rating and Valuation Act, 1925, the Poor Law Act, 1930, and the Town Planning Acts are some of the Acts which contain clauses enabling authorities to combine. Yet comparatively little use has been made of these powers. Table II shows the number of authorities for different services set up either by private act or by provisional order for 5-year periods since 1875. The table does not include those authorities set up by special order nor those joint hospital boards set up by orders not requiring the confirmation of Parliament under S.315 of the Public Health Act, 1936. It will be seen that the largest number of authorities were formed between 1890–1905. There were, naturally enough, very few joint authorities set up during the war years 1914–18, yet after the cessation of hostilities the renewal of activity which one would expect is apparent only in the case of Water Boards.

[1] These purposes include sewerage and drainage: scavenging and cleansing: water supply: regulation of cellar dwellings and lodging houses: nuisances, off and streets: provision of meat: infectious diseases and hospitals: highways ensive trades, unsound public pleasure grounds: markets and slaughterhouses.

TABLE II. *Number of Joint Boards set up or repealed by Local Act or Provisional Order for 5-year periods from 1875–1939.*

| Year | | 1875–9 | 1880–84 | 1885–89 | 1890–94 | 1895–99 | 1900–4 | 1905–9 | 1910–14 | 1915–19 | 1920–24 | 1925–29 | 1930–34 | 1935–9 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Water | L.A. | 3 | — | — | 1 | 4 | 7 | 1 | 2 | — | 6 | 2 | 4 | 5 | 35 |
| | P.O. | — | — | — | 1 | — | — | 1 | — | — | — | — | 1 | 1 | 4 |
| Sewerage | L.A. | 2 | — | 1 | — | — | 1 | — | 1 | — | — | — | — | 2 | 7 |
| | P.O. | 3 | 4 | 2 | 5 | 5 | 2 | 2 | 3 | 1 | — | 1 | — | 1 | 27 |
| Gas | L.A. | 2 | — | — | — | 1 | — | 2 | — | — | 2 | — | — | — | 7 |
| | P.O. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Transport | L.A. | — | — | — | — | — | 1 | — | — | — | — | 1 | — | — | 2 |
| | P.O. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Electricity | L.A. | — | — | — | — | — | — | — | — | — | — | 1 | — | — | 1 |
| | P.O. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Dock and Harbours | L.A. | — | — | — | — | 1 | — | — | — | 1 | — | 1 | — | — | 3 |
| | P.O. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Inebriates | L.A. | — | — | — | — | — | 1 | — | 1 | — | — | — | — | — | 2 |
| | P.O. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| Isolation Hospitals | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| | P.O. | 1 | 9 | 7 | 18 | 18 | 20 | 5 | 6 | 3 | 3 | 4 | 5 | 12 | 111 |
| Smallpox Hospitals | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| | P.O. | — | — | — | — | 1 | 5 | 5 | — | — | — | — | 1 | — | 12 |
| Cemetery | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | 1 | 1 |
| | P.O. | — | — | 1 | 1 | — | — | 1 | 2 | — | 1 | — | 1 | — | 7 |
| Electric Lighting | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| | P.O. | — | — | — | — | — | — | — | — | 1 | — | — | — | — | 1 |
| M.O.H. | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| | P.O. | — | — | — | — | — | — | 2 | 2 | 1 | — | — | — | — | 5 |
| Port Sanitary Authority | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | — | — |
| | P.O. | 1 | 4 | — | — | — | — | — | — | — | — | — | — | — | 5 |
| River Pollution | L.A. | — | — | — | — | — | — | — | — | — | — | — | — | 1 | 1 |
| | P.O. | — | — | — | 2 | — | — | — | — | — | — | — | — | — | 2 |
| Misc. | L.A. | — | — | 2 | — | — | — | — | — | — | — | — | — | — | 2 |
| | P.O. | — | — | — | — | 1 | — | — | — | — | — | — | — | — | 1 |
| Repeal | L.A. | — | 1 | | — | — | 1 | — | — | — | — | — | — | 2 | 4 |
| | P.O. | — | — | 1 | — | 2 | 1 | — | 2 | — | 3 | 4 | — | 1 | 14 |
| Total | L.A. | 7 | 1 | 3 | 1 | 7 | 10 | 3 | 4 | 1 | 8 | 5 | 4 | 11 | 65 |
| | P.O. | 5 | 17 | 11 | 27 | 28 | 28 | 16 | 15 | 6 | 7 | 9 | 8 | 14 | 190 |

Alongside the general statutes enabling local authorities to combine there are on the statute book a number of local acts permitting co-operation by particular local authorities for a specific purpose. In many cases these overlap, and it is open to the local authorities desiring to form a joint authority to proceed by way of application to the Minister for an order under the general statute or by promoting a local act. Thus, we find Joint Sewerage Boards or Joint Water Boards set up both under the general provisions of the Public Health Acts or by local acts. From the point of view of the Government, powers obtained by local act are less satisfactory, because apart from cases where the act confers specific powers upon the Minister (*e.g.* to authorize additional powers or to revise charges) he has no adequate power of supervision. Under the Public Health Acts his powers are more extensive: he can sanction borrowings and authorize the compulsory acquisition of land and he has default powers,[1] although these in fact were never brought into use.

*The present legal position governing the formation of Joint Authorities*

The majority of existing joint boards are set up under the Public Health Acts, 1875–1936. Under Section 6 of the 1936 Act, the Minister may by order constitute a united district of such districts or parts of districts as he thinks could be advantageously combined. No factors are here enumerated which should guide the Minister in delimiting the area. In other cases, the statute lays down factors which should be taken into consideration. The Electricity (Supply) Act, 1919, enables the Electricity Commissioners provisionally to determine that any district in the United Kingdom shall be constituted a separate electricity district for the purposes of the Act. Areas should be grouped in 'such a manner as may seem to the Commissioners most conducive to the efficiency and economy of the supply of electricity and to the convenience of administration'. The Rating and Valuation Act, 1925, is more precise in dealing with the constitution of Assessment Areas. Section 15 states that regard should be had to the population and rateable value of the areas within it and to the desirability of having an appropriate administrative centre convenient for the persons concerned. The expression 'catchment area' is not defined in the Land Drainage Act, 1930, but it has reference to the area drained by the main river and its tribu-

[1] Cf. White Paper on the Nation's Water Supply. Cmd. 6515.

taries. The boundaries of the 47 catchment areas specified in the Act follow the natural features of the watershed of their respective rivers. Similar are the provisions of the Act of 1888 dealing with River Pollution Prevention Committees. In this case a joint committee may be constituted of the representatives of all the administrative counties through or by which a river or any specified portion of a river or its tributary passes. Under the new Education Act, areas for the establishment of a divisional executive must have a sufficient population to constitute a reasonable educational unit for the purposes of primary and secondary education. They should also possess sufficient community of interest or should offer prospects of developing before long such community of interest, and they should possess one conveniently accessible administrative centre within the area or adjacent to it. They should not be so large as to prejudice the possibility of securing the values that the scheme is designed to secure, namely the bringing to bear upon local administration of local knowledge and interest.[1]

Under most of the enabling statutes, although the Minister makes the order establishing the joint authority, the initiative remains in the hands of the local authorities. In the majority of cases the local councils apply to the Minister for the issue of an order: he then gives notice of his intention to the local authority of every district, the whole or part of which it is proposed to include in the combined district, also to the county council.[2] Similar arrangements are set out in other enabling statutes, *e.g.* the Mental Deficiency Act, 1913, the Housing Act, 1925. There are some variations on this procedure. Under the Electricity (Supply) Act, 1919, the Commissioners may hold an inquiry if they think that the supply of electricity in any district might be improved. They shall also give 'authorized undertakers, County Councils, Local Authorities, railway companies using or proposing to use electricity for traction purposes, large consumers of electricity and other associations or bodies within the district which appear to the Commissioners to be interested', an opportunity to submit a scheme effecting improvement. The scheme may include proposals for alteration of boundaries and for the formation of a Joint Electricity Authority for the district. Under the

[1] *Local Administration of Educational Schemes of Divisional Administration*, Circular 5. Ministry of Education.

[2] Public Health Act, 1936, S.6(4).

Land Drainage Act, although the Act constitutes the catchment areas, the Catchment Boards may be set up by order of the Minister on the application of or after consultation with the councils of the counties and county boroughs concerned. The case of Sea Fishery Boards is rather different from the usual. On the application of the councils of the county or county boroughs concerned, the Minister of Agriculture may by order create sea fishery districts. If two or more councils are interested, a joint committee is set up. So far the procedure does not differ from the normal. If, however, 20 inhabitant ratepayers interested in sea fishery apply to the county council or the borough council for the creation of a sea fishery district and such council refuses or neglects to make the appropriate application, those ratepayers are entitled, within a period of 12 months, themselves to apply to the Minister for an order. The county council is required by the Rating and Valuation Act to consult with the rating authorities in their area and then to submit to the Minister schemes for the constitution of Assessment Areas consisting of one or more rating areas. The Minister is given power, in case of the failure of the county council to submit a scheme, to make a scheme himself.

*The Constitution of Joint Authorities*

This section will confine itself to those authorities whose constitution is set out in the statute or order creating the joint body. It will not therefore deal with the joint committee.

In the first place, a distinction may be drawn between those authorities whose membership is confined to members of the constituent authorities and those without such a qualification. The vast majority of joint authorities fall within the first class. Most statutes and orders state the number of representatives which each constituent authority may elect and state also that these representatives must be members of the appointing authority and shall cease to be members of the joint authority if, during their tenure of office, they cease to be members of the primary local authority. In a few cases, however, it is stated that not all the representatives need be members of the appointing authority. If the county council is represented upon the board, this stipulation applies to their representatives. The Hertfordshire County Council (Colne Valley Sewerage, etc.) Act, 1937, states that 'a member of the Board need not be a member of the authority by whom he is appointed, so long as one-half are members of appointing authorities'. Occasionally, where a joint authority is formed to take over the concern of a private company, provision is made for the co-option of persons who have been directors of the company on to the joint board for a maximum period of years—never more than 10.[1] In one or two cases also the board is enjoined to elect its chairman from outside the membership of the board.[2] Apart from these few cases, there are no statutory provisions for the co-option of members on to a joint authority.

More numerous among the joint authorities whose membership is not confined to local authority representatives are those with central government representation. It is difficult to gain information as to the extent of such representation upon joint committees with advisory functions. Representatives of the Board of Education co-operated with those of the Local Education Authorities in setting up the West Midlands Advisory Council for Further Education and H.M. Divisional Inspector, together with H.M. Inspectors in charge of districts attend meetings of the Council and its sub-committees in an advisory capacity. Similarly the Board's Inspectors, together with the Directors of Education and the School Principals attend meetings of the Southern College of Art Council (which links all Art Schools in Southern Hampshire and Dorset). Among joint boards, the case of the Metropolitan Asylums Board has already been mentioned. One member of a Catchment Board is appointed by the Minister of Health, but is given no instructions as to how he should act. One third of the remainder is appointed by the Minister, but these members have, by statute, to represent the 'lowland areas' and are only nominated by the Minister after consultation with the Internal Drainage Boards. Similarly, Board of Trade representatives on Boards of Conservators have, by statute, to be local people.[3] The Welsh Intermediate Education Act, 1889, set up Joint Education Committees for every Welsh county and for Monmouth. These consisted of 3 persons nominated by the County Council and 2 persons 'being persons well acquainted with the conditions of Wales

[1] Cf. Durham County Water Board Act, 1920, Ch. xcvi.

[2] Cf. Oakengates and Dawley Joint Water Board Act, 1904. Ch. ccxxxviii, where however the Chairman, although not a member, must be qualified to be a member.

[3] Cf. King's Lynn Conservancy Act, 1897, Ch. cxcvi. where it is stated that the Board of Trade representatives 'shall be persons residing or having places of business in the borough or within seven miles of it'.

and the wants of the people, preference being given to residents within the County'. These last were nominated by the Lord President of the Privy Council. Moreover any of the Assistant Commissioners of the Charity Commission could attend any meeting of the Joint Education Committee and were able to take part in the proceedings, but had no right to vote.

This raises an interesting point. One of the chief characteristics of the English administrative system is the fact that it is 'local' government. The administration of the localities rests in the hands of representatives of the locality as distinct from the representatives of the State. This is as true of administrative history before the reforms of the 19th century as it is to-day. The question of whether the local administrators are elected by the inhabitants of the localities or are nominated from among the inhabitants is, in this context, secondary.[1] For the reduction of the local administrator to a position of dependence upon the central government does not depend upon appointment alone; the exercise of control over such matters as pay, promotion, dismissal and disciplinary action are equally important. On the Continent central control of the local personnel is introduced in two forms: firstly, through the existence as partners in local government of resident agents of the central executive completely subordinated to the department; secondly, through a certain amount of control, by means of powers of approval and dissolution, over even that part of the local authority which is locally elected. In this country, however, the maintenance of the national interest is ensured, not by central administration, but by the central supervisory control of local administration. This control is exercised in a variety of ways, but the radical distinction, pointed out by John Stuart Mill, between controlling the business of government and actually doing it, remains. Nevertheless, there are exceptions. The Ministry of Agriculture has the right to appoint a proportion of members—not more than one-third—on the agricultural committee and its sub-committees of any county council.[2] In evidence before the Royal Commission on Local Government, the County Councils' Association strongly objected to this procedure, not on the grounds of its practical results, but because of the constitutional principle involved.[3]

[1] Justices of the Peace of the 18th century were nominated by the Crown, but there was a residential qualification attached to the position.

[2] 9 and 10 Geo. 5 C.91 S.7(4).

[3] Royal Commission on Local Government, Evidence X, pp. 1968–1970.

Before the passage of the Local Government Act, 1929, the Minister of Health had power in cases where the elected members of a rural council were less than 5 to appoint as many additional members as were needed to bring the number up to the required minimum. After the boundary reviews such powers were no longer necessary. In the field of intermediate government there are more, and more important, examples of exceptions which colour the generally accepted picture, and some of the new proposals, which envisage the inclusion of external professional, or expert, elements in the membership of the joint authority, or provide for compulsory consultation with an external panel, suggest that the exceptions will increase considerably in number.

Related to the question of central government representation on intermediate authorities is the representation of particular interests. The representation of ' lowland areas ' on Catchment Boards referred to above is one example. More noteworthy perhaps are the examples provided by such bodies as Harbour Boards, River Conservators, etc. The latter are set up by provisional order of the Minister of Agriculture and Fisheries under the Salmon and Freshwater Fisheries Act, 1907. They are corporate bodies and normally consist of representatives of the local authorities affected, together with representatives of private fisheries elected by owners of private fisheries assessed at a minimum total yearly value of £50. Such owners may exercise one vote per £25 assessable value. The constitutions of Harbour Boards vary. The Whitby Port and Harbour Act 1879 provides a normal case. Here the Harbour Trustees consist of the Lord of the Manor of Whitby for the time being: 4 persons appointed annually by the Whitby District Local Board: 1 person appointed annually by the Board of Guardians of the Whitby Union: 2 persons appointed from time to time by the Board of Trade: one by the North Eastern Railway Company: and finally 4 persons annually elected by registered ship-owners. The representation of Brine Pumpers on the Northwich Salt Compensation Board has already been mentioned. The Littlehampton Harbour and Arun Drainage Outfall Board consists of representatives of the County Council and other local authorities concerned, together with one appointee of the Southern Railway and 2 members elected by the traders of the vicinity. The representation of ' consumer interest ' on Welsh Joint Education Committees has already been referred to.

In an act setting up a joint authority, the allocation of members is usually stated in the act itself. In an order, the representation is dealt with in a schedule to the order. In the earlier acts and orders, the Chairman or Mayor, as the case might be, of the constituent authority was an *ex-officio* member of the joint authority. More recently this practice appears to be dying out. It is difficult in every case to ascertain what is the principle underlying the allocation of representatives between the constituent authorities. In certain of the more recent acts and orders, power is given to the Minister to alter the representation between the authorities; in some cases, the basis for this altered representation is stated. Thus, in five confirmed provisional orders forming Joint Hospital Boards,[1] in one Water Act,[2] in one Electric Lighting Order Confirmation Act[3] and in one Crematorium act[4] the Minister is empowered to alter the representation to conform with a changed distribution of population. Section 6 of the Mortlake Crematorium Act, 1936, states that the representation of the constituent councils is to be according to one member per 30,000 population, with a quinquennial revision of representation upon the same basis. Provision for the alteration of the representation on one Hospital Board,[5] one Sewerage Board,[6] one Omnibus Board,[7] and six Water Boards[8] is subject to change on alteration of the assessable values of the constituent districts. In the case of two hospital districts,[9] the factor concerned is a combination of population

[1] Ministry of Health Provisional Orders Confirmation (Aylesbury Joint Hospital District and Stretford and District Gas Board) Act, 1931, Ch. xxxviii: Ministry of Health Provisional Order Confirmation (County of Holland Joint Hospital District) Act, 1935, Ch. ix. Ministry of Health Provisional Order Confirmation (Hunts. Joint Hospital District) Act, 1935, Ch. xi: Ministry of Health Provisional Order Confirmation (Bedford Joint Hospital District) Act, 1936, Ch. viii: Ministry of Health Provisional Order Confirmation (Lindsey and Lincoln Joint Small-pox Hospital District) Act, 1932, Ch. xxv.

[2] Rhymney Valley Water Act, 1921, Ch. lxxxiii.

[3] Electric Lighting Order Confirmation (No. 5) Act 1915, Ch. lxxxv.

[4] Mortlake Crematorium Act, 1936, Ch. lxxi.

[5] Ministry of Health Provisional Order Confirmation (Weymouth and Portland Joint Hospital District) Act, 1934, Ch. lxiv.

[6] Rhymney Valley Sewerage Board Act, 1912, Ch. lxxxviii.

[7] Mynyddislwyn U.D.C. Act, 1926, Ch. lxxv. (Western Monmouth Omnibus Board).

[8] Higham Ferrers and Rushden Water Board Act, 1902, Ch. xii: Stourbridge and District Water Board Act, 1909, Ch. xci: Pontypridd and Rhondda Water Act, 1910, Ch. cxx: Abertillery and District Water Board Act, 1910, Ch. cxxv: Mid-Glamorgan Water Act, 1920, Ch. cxxvii: North Lindsey Water Act, 1934, Ch. xci.

[9] Ministry of Health Provisional Order Confirmation (Ottershaw Joint Hospital District) Act, 1935, Ch. lxxix: Ministry of Health Provisional Order Confirmation (South Middlesex and Richmond Joint Hospital District) Act, 1934, Ch. lxvii.

and rateable value: the representation on one Gas Board[1] and one Water Board[2] is according to user. Among these examples are two authorities covering much the same area and including almost the same constituent authorities, yet with representation based on different factors. To multiply secondary authorities—with different constitutions and with different financial arrangements—is to add to the difficulties of making local government a comprehensible system of government.

In almost every case, the members of a joint authority hold office for three years. Sometimes the joint authority itself may make its own rules for the tenure of office of its members—within the limits laid down by the statute or order. The usual formula runs—'The members of the Joint Board may hold office for a period of from one to three years as the Joint Board may determine'. Occasionally, the act sets a limit of one year to the period for which a member may serve without re-election. Three of the five acts which make this stipulation are acts forming Gas Boards. Given that a member is eligible, he may, at the end of his one or three years as the case may be, be re-elected and he may continue to serve until he dies, resigns or becomes disqualified for re-election. One act enacts that a constituent authority may elect three members to the joint board, of whom a named gentleman 'if he consents thereto shall be one'.[3] In one or two recent provisional orders it is stated that one-third of the members of the joint authority shall retire annually.[4] Recent acts and orders state that if a member is absent from meetings of the joint authority for a period of six months without 'leave of absence', he shall cease to be a member of that authority.

Apart from the few exceptions already referred to, the chairman of a joint board is normally elected from among the members of the board. In the earlier acts and orders, three years was usually stated as the longest period during which a chairman might hold office without re-election. More recently one year has been the usual period. Occasionally, it is stated that the chairman shall be elected from among the representatives of the most important constituent

[1] Hebden Bridge and Mytholmroyd Gas Board Act, 1895, Ch. xxxiv.

[2] Taf Fechan Water Supply Board Act, 1921, Ch. lxxxix.

[3] Cockermouth and Workington Water Act, 1878, Ch. lxxiii.

[4] *e.g.* Ministry of Health Provisional Order Confirmation (Mid-Staffs. Joint Hospital District) Act, 1938, Ch. v: Ministry of Health Provisional Order Confirmation (South Staffs. Joint Hospital District) Act, 1939, Ch. vii.

authority; more often provision is made for him to be chosen from each authority in turn. Often it is laid down that the chairman and vice-chairman shall not be chosen from the representatives of the same constituent authority.

The practice concerning the officers of a joint authority varies. Usually, the joint authority must appoint a Clerk, a Treasurer, a Medical Officer or Surveyor as the case may be and their terms of service are as much within the control of the employing authority as they would be if employed by a local authority. Sometimes, the joint authority employs its own staff, sometimes the staff of one of its constituent authorities upon a part-time basis. Opinion varies as to the better course.

As joint boards are constituted either by Act of Parliament or by order, they can only be dissolved by rescinding the order or repealing the act. In other words, unlike the joint committee, the constituent authorities have no power to dissolve the joint board. Dissolution is, in fact, rare. Fifteen provisional orders and four acts dissolving joint boards are all that have been passed from 1875–1939, and a number of these were consequent upon a readjustment of local authority boundaries.

*Reasons for Combination of Authorities*

Joint action of the type that has been considered is the result of three main causes. These are related and to some extent overlap: all are in part the result of the administrative inconvenience of many local government areas.

In the first place, where the service to be provided is of a specialist nature, the capital expenses involved in its provision are likely to be high—often too high to be borne by a single authority. Moreover, if the number of persons to be provided for is small, as in the case of specialist hospitals for small-pox, tuberculosis, etc., the majority of local authorities would have difficulties in running the service alone economically. Therefore, in the provision of certain services where the costs are high or where the use made of the service although highly necessary is intermittent or small, authorities tend to combine. Sometimes one authority retains the control over the provision and maintenance of the service while its neighbours make payments on the basis of use to the providing authority. In other cases the authorities will appoint a joint board or committee to administer the service.

A recent example is the formation of a joint committee for the treatment of cancer in the geographical counties of Devon and Cornwall. The scheme is to be administered by a joint committee consisting of representatives of the two County Councils and of the County Boroughs of Exeter and Plymouth. Looked at from this angle, it will be seen that similar factors underlie the formation of the 19th century ' District Schools ', the modern Joint Hospital Board or a Joint Parish Councils' Committee for the provision of a hearse or a steam roller.

Secondly, technical considerations may point to the necessity for joint action. The public utility services are a clear example. The natural area for water supply or transport takes no account of local government boundaries. The prevention of river pollution becomes a farce if a riparian authority fails to co-operate with its neighbour up-stream. Sheer inability to provide an essential site may provide a reason for joint action. For instance, in 1881, when the provision of a main sewerage system for Accrington was under consideration, trouble arose over the absence within the borough boundaries of a site suitable for constructing an outlet for the sewering system. The presence of a suitable site at Church raised the whole question of the amalgamation of the two districts. This was turned down by Parliament in 1882, but the Accrington Improvement Act provided for the formation of a Joint Sewerage Board for Accrington and Church which was duly formed two years later.

The Committee on Local Expenditure, 1932, pointed out that a good deal of unnecessary expenditure on sewerage schemes was incurred by local authorities who provided their own services when by combination with neighbouring authorities they could avoid expensive multiplication of small schemes and would secure that disposal works were centralized so far as was economically and technically sound.[1] The Ministry of Health has continually emphasized the necessity for co-operation in this field. In the Annual Report for 1927–8, it is pointed out how the disposal of the sewage of neighbouring areas should be determined by the physical characteristics of the area rather than by their administrative boundaries. Where possible the sewage should be dealt with at a common outfall and not at a separate outfall for each area. As consequent advantages,

[1] Report of Committee on Local Expenditure (England and Wales) 1932, Cmd. 4200. Par. 142.

the report mentions the reduction of the possibility of nuisance or pollution of rivers, and the reduction of the automatic restrictions on building development which sewage works tend to impose.[1]

The adequate planning of a given area often requires that industrial, residential, commercial and community needs should be regarded as a whole over a wide area. There can be little adequate planning when an urban district can prohibit industrial development on one side of a by-pass, while the adjoining rural planning authority is willing to permit such development on the other. Faced with the immense problems of replanning an area very largely destroyed by the war, the local authorities of the Plymouth area, on both sides of the Tamar, combined to form a Joint Committee under Section 3 of the Town and Country Planning Act, 1932, for the purpose of planning the City and a fairly considerable area around it. The formation of the Plymouth Committee was but one example of a process which took place in many different areas all over the country.

Finally, and closely allied to the technical considerations which point to the need for joint action are the overlapping, duplication, inefficiency, which too often result from too small areas of supply or from the presence of private and municipal enterprise in the same field. Examples are numerous : a few must suffice. A vivid description of unco-ordinated activity is quoted by F. A. Brasier from a paper given by the Chairman of the N.W. District of the Institute of Municipal Engineers to the Annual Conference of the Lancashire Urban District Councils. Describing the Mersey and Irwell Drainage area, the speaker pointed out that in the area there are no less than 134 sewage disposal works owned by local authorities and, in addition, a large number serving industrial concerns. Many are in close proximity to each other, some only being separated by a boundary brook or fence. Certain valleys have sewage works spaced at intervals along their whole length, occupying sites which would have been valuable for industrial uses, and consequently the siting is having a deterrent effect on the profitable use of neighbouring land.[2]

In many cases, a joint committee has been formed as a result of the failure of individual authorities to provide the service required. The Mersey and Irwell Joint Committee came into existence because

[1] Ministry of Health Report 1927–8, pp. 11 and 12.

[2] Major Thesis presented by F. A. Brasier to the University of Manchester *Co-operation Between Local Authorities With Special Reference to S.E. Lancashire.*

out of a total of 41 towns abutting on the Irwell and its tributaries, 18 were without any sewerage scheme at all and only 12 had effective schemes in operation. Of 26 towns abutting on the Mersey, 14 had no scheme even contemplated, 7 had schemes in operation and 5 under consideration.[1] The preamble to the Higham Ferrers and Rushden Water Board Act, 1902, states that as the Company formed under an Act of 1900 to provide water to the district had done nothing to exercise its powers, it had been found expedient to form a Joint Water Board consisting of representatives of the two councils. The preamble to the Western Valleys (Monmouth) Sewerage Board Act, 1903, states that a Joint Board is created because 'the arrangements in regard to sewerage and drainage . . . are of a most unsatisfactory character and the polluted and filthy condition of the river Ebbw or the tributaries resulting therefrom is injurious and prejudicial to public health and urgently requires improvement.' Similar descriptions are found in other acts. In other cases the preamble makes the bald statement that 'whereas existing sources of supply are inadequate it would be of local and public advantage if a Water Board were constituted.'[2]

Co-ordination may also be achieved in an attempt to overcome the duplication and consequent lack of economy and possible inefficiency arising from a state of affairs where two or more authorities are providing the same service in the same or adjacent areas. The history of the public utility services in London is full of such examples. A recent case from the provinces comes from Plymouth. Within the City, the City Council ran a considerable service of motor omnibuses, and in the adjoining County, and, to a very limited extent, in the City itself, a service was provided by the Western National Omnibus Company. For many years these two bodies were at loggerheads, and every year disputes between them were being adjudicated by the Traffic Commissioners. In 1941, agreement was arrived at between the two transport undertakings for a co-ordination of their services, and the results have been eminently satisfactory for all concerned. Under the agreement, each undertaking manages and controls its own employees and equipment, but the necessary services are agreed jointly and shared on a pre-war basis. The result has been the elimination of uneconomic running and the filling of

[1] Local Government Board Inquiry, 1890.

[2] Cf. Cheltenham and Gloucester Joint Water Board Act, 1936, Ch. cxxix.

seats which, owing to the artificial protective conditions in licences, could not hitherto be occupied.[1]

In certain cases, where local authorities have acquired privately-owned trading undertakings, management by joint board or committee has been the obvious method of control, in that the private undertaking was unhampered by the limitations of local government boundaries. Similarly the Local Government Act, 1894, provided for the appointment of a joint committee in certain cases where there was, at the time the Act came into force, an existing authority whose area cut across the ordinary local government boundaries.[2] Thus, the 1919–20 returns showed 200 Joint Burial Committees for areas formerly under the aegis of Burial Boards.

*Attitude to Joint Authorities*

We have seen that the reasons underlying the formation of joint authorities were in most cases those arising from difficulties of administration. At the same time, there exists a strong dislike of the joint authority. The dislike undoubtedly arises, in part, from civic pride and local patriotism. The Royal Commission appointed to consider local government on Tyneside considered that provisions for combination among local authorities had never proved popular.

> 'From our observation we think it would be a truism to say that local authorities zealously regard the rights which have been conferred upon them to administer certain services.'

Closely allied to this fear that association with other local authorities would entail a loss of a measure of self-government is the fear on the part of certain smaller authorities that co-operation is but the prelude to amalgamation. The Minutes of Evidence tendered by counsel for the Manchester Corporation in the initial stages of the Manchester Extension Acts provide some justification for this opinion. In almost every case agreements for the supply of services were cited in favour of incorporation. This matter is referred to in the report of the Committee on Local Expenditure, 1932, which pointed out that co-operation (in order to avoid the setting up of numerous independent sewage disposal works) between unequal authorities should not in itself be regarded as an argument for the absorption of the smaller area.[3]

The reports of the Electricity Commissioners are instructive

[1] Information supplied by Mr. C. Campbell, Town Clerk of Plymouth.
[2] Local Government Act, 1894, S.53 (2).
[3] Report of the Committee on Local Expenditure, Cmd. 4200, Par. 134.

concerning the attitude of electricity authorities towards joint action. Created under the Electricity (Supply) Act, 1919, one of their primary tasks was to encourage the formation of Joint Electricity Authorities. Owing to pressure from the House of Lords during the passage of the Bill through Parliament co-operation was not compulsory. In their annual reports, the Commissioners stress the advantages to be gained from joint action: they even go so far as to say that 'it was only by the establishment of a central body such as a Joint Electricity Authority, endowed with adequate executive and financial powers, that a comprehensive scheme of development could be carried out.' Yet, in spite of this encouragement, there are to-day only 3 Joint Electricity Authorities. Initial lack of progress was in part due to the absence in the original act of any statutory powers for conferring financial powers upon Joint Electricity Authority. But this restriction was removed by the Electricity (Supply) Act, 1922. The 1919 Act had provided that J.E.A.'s must be representative of the authorized undertakers within the district, and therefore precluded the creation of a J.E.A. against the wishes of a majority of the existing undertakers. Moreover, as the Commissioners themselves pointed out 'comprehensive schemes of reorganisation (*e.g.* the creation of J.E.A.'s) involve capital expenditure in advance of requirements and the finance of such schemes must be mainly dependent upon the support of the various undertakers. Even where adherence is secured to a scheme of reorganisation involving a Joint Authority, *the financial lever remains in the hands of the constituent bodies in* the district, and it is only by their co-operation and willingness to give adequate financial support that the functioning of the machinery of re-organization can be ensured.' The Commissioners found that re-organization was 'materially influenced by the pronounced desire on the part of the majority of undertakers to retain the ownership and control of their generating stations. There was also a marked desire on the part of many undertakers to be allowed to continue to develop independently . . . and to extend their generating stations up to the limit of the capacity of the sites, whether well adapted or not for modern methods of generation, in preference to taking bulk supplies.' In short, during the years prior to the creation of the Central Electricity Board, the Commissioners found that in most districts mistrust and political feeling had militated against co-operation even between local authorities themselves.

There appears to be a considerable measure of doubt as to the proper part to be played by indirectly elected joint authorities in a democratic community. To quote again from the Royal Commission on Local Government on Tyneside, the Commissioners held the view which was shared by many of the witnesses who appeared before them that:

> 'difficulties would be created by the constitution of a number of *ad hoc* authorities; whereby the democratic character of English local government might be seriously affected.'

In effect, the Commissioners have here touched on the root problem raised by attempts to extend the use of joint authorities. Joint boards and committees are in many cases necessary: first, because local authority areas take no cognizance of the needs of the service to be administered; second, because many authorities are too poor in financial and other resources to administer certain services adequately; third, because the planning of some services needs areas far larger than the majority of the present local authority areas. The combination of primary local authorities for the administration of certain services is dictated by arguments of expediency and efficiency. As against this the whole trend of local administrative history of the 19th century was away from the *ad hoc* authority towards the compendious authority. This was not only true of areas administered to-day by all-purpose authorities—the county boroughs. The same development can be seen in county government where numerous *ad hoc* authorities—commissioners, trusts, boards and so forth were gradually replaced by a clearly-defined hierarchy of authorities, none of which was dependent for its existence upon the administration of any one single function. But important as were these authorities from the point of view of educating the ordinary citizen in popular self-government, many were incapable of coping with the increasingly complex administration of the services in their hands. Therefore, alongside the movement for the consolidation of local government services in the hands of the primary elected authorities, there was an increasing tendency for those authorities to combine together for the administration and planning of those services which had high capital costs, or whose needs were wider than the areas of the authorities.

Difficulties of administration forced local authorities to combine. Authorities from different parts of the country promoted local acts to enable them jointly to administer certain services. As experience showed that the formation of a secondary authority provided a possible solution to some of the problems engendered by unscientific local authority areas, Parliament stepped in and gave some slight encouragement to the development by the inclusion in acts such as the Public Health Acts, the Housing Acts and the Electricity Acts of clauses permitting authorities to combine for the creation of a joint board of committee. But it was a cautious approval. And, as the development of joint authorities has shown, local authorities themselves have made comparatively little use of their powers. Only one joint authority, and that a comparatively small one in North Wales, was formed under the Housing Act. Indirectly elected authorities have been regarded with distrust in this country, and the failure of the greatest of the earlier of this type of administrative organ—the Metropolitan Board of Works—did little to enhance their prestige. Administrative necessity has not solved the democratic problem involved. It is claimed by the opponents of the joint authority that indirect election entails a diminution of responsibility which runs counter to the essential characteristics of English local government. Experience has proved that, on the whole, the members of a joint authority tend to regard that authority as their primary loyalty and to lose any marked tendency towards parochialism of outlook. The forty years' experience of the Metropolitan Water Board lends force to this contention. It has been remarked that 'each member of that Board takes a central view of the problems that arise and does not allow their effect on his own area to intrude into their consideration.' And again, 'the representatives of the L.C.C. go to the Metropolitan Water Board not as a bloc to represent the interests of the L.C.C., but as persons chosen for their capacity to act in the public interest without any special mandate from their appointing body.' In order to induce a corporate outlook in a Joint Vagrancy Committee, members were invited to visit according to a rota the wards in areas other than those which they themselves represented. As a result, when the time came to prepare a reorganization scheme the members of the joint committee had come to regard themselves as an entity and not as delegates from their local authorities. The draft proposals went so far as to abolish more than half the then existing casual wards, depriving some authorities of any casual ward at all. In spite of this the authorities which would have had no ward to administer agreed to remain members of and to continue to pay their quota towards the expenses of the joint committee. Wholly admirable as such a development is from the point of view of the joint authority, it does tend to widen the gap between it and the electorate. To help bridge this gap, it has been suggested that every nominee should be obliged to make an annual report to his appointing authority. This suggestion, combined with the proposals of the Joint Meeting of the War Emergency and Public Health Committees of the County Councils' Association that joint authorities should be obliged to submit to their constituent councils an annual report of their proceedings and also three-year estimates of their capital and revenue expenditure for approval, should do something to close the gap.

The policy towards the joint authority pursued by Parliament throughout the period is most clearly stated in the Public Health Act, 1936—the section in question deals only with joint boards representative of county and county borough councils, but it is indicative of the spirit in which Parliament has viewed the whole development. Section 8 of the Act empowers the Minister ' to make by order such provisions as appear to be expedient for enabling any two or more such councils to discharge through a Joint Board such of those functions as may be specified in the order : provided that *no such order shall be made except with the consent of the Councils concerned* '. Very occasionally a local act forming a joint authority might be passed forcing recalcitrant authorities to become constituent authorities, but normally, Parliament went out of its way to leave the initial move in the hands of the local authorities concerned. On the other hand, the White Paper on a *National Water Policy*, while recognizing that ' the ultimate responsibility for the efficiency and vigour of the country's water supply must rest with the democratic bodies—at the centre with the Minister responsible to Parliament and at the circumference with local authorities responsible to their electorates', yet admits that in the interests of more efficient management and wider spreading of costs there is a strong case for the furtherance and speeding up, if necessary by compulsion, of the process of amalgamation.

' Amalgamation of undertakings is *prima facie* desirable in the public interest where units are so small that they cannot afford sufficient skilled supervision, or where their continued existence involves waste of resources or excessive cost. Moreover, serious failure of supply in times of difficulty usually arises in small undertakings which lack the financial resources to secure themselves against the risk of drought.'

Joint authorities are a device for rendering workable an admittedly imperfect system. The official attitude towards them differs according to whether or not it is thought desirable to carry out a complete reconstruction of the local government structure or part of it. Thus the Coalition White Paper on Local Government Reconstruction proceeded on the basis that it was not possible to carry out a reform of areas and authorities. Therefore to make the existing system work, and able to carry out its increased responsibilities, in spite of its structural defects, the remedy was an increased use of joint authorities. In these circumstances, it is the conveniences rather than the failings of joint authorities which receive attention. 'The Government consider that where co-ordination of services between two or more areas, whether counties or county boroughs, is necessary, it should be sought by the established procedure of joint boards or joint committees. To this procedure there are admittedly objections. . . . The Government have no desire to underrate these objections; but they do not believe that the difficulties are so great as to cause delay in the working out of the reconstruction programme. . . . The Government believe it to be inexpedient to contemplate drastic innovations, such as the constitution of regional bodies, in reshaping the Local Government system to fit post-war needs. They prefer to rely on the existing structure based on the county and county borough, with appropriate machinery, where necessary for combined action.'[1] When it came to putting these principles into practical effect, the joint authority was the means adopted by the Coalition Government. Thus the first proposal for the National Health Service Bill envisaged joint boards where it was necessary to get an area of administration larger than that of the individual county or county borough. But the Labour Government were willing to venture a fundamental reform of the administrative structure of the Health Service. Accordingly they were aware more of the failings than of the advantages of joint authorities and rejected them as an administrative device in their scheme. 'Local differences, local jealousies, local rights and claims are intensified by joint boards. Unified needs, unified advantages are minimised by them. The attention of the members is centred purely on local interests and not upon the general development of a

[1] Cmd. 6579. Local Government in England and Wales during the period of Reconstruction, p. 6.

wider service' (W. A. Key, House of Commons Official Report 1 May, 1946, col. 210). In the various schemes put forward—by associations of local authorities and by others—for the reform of local government, joint boards receive importance of place only in those which, basically, leave things as they are, with the existing structure of areas and authorities virtually unchanged. Those, however, like that of N.A.L.G.O., which make a number of changes in the classes of authorities, but still adhere to the separation of town and countryside—the central feature of the existing system—do have to bring in some measure of joint planning and consultation, in order to secure the co-operation of urban and rural authorities; the provincial councils of the N.A.L.G.O. scheme are thus joint authorities for the planning of large scale services.

Two external factors also affect the future of joint authorities. Mention has been made of the use of the joint authority to secure a unified public service, *e.g.* for Electricity or Passenger Road Transport, in an area where the service is partly in public, partly in private, ownership. If these public utility services are nationalized and taken out of the ambit of local government, this role of the joint authority will consequently disappear. Secondly, the use of the joint authority is often bound up with the recognition of a need for organizing a particular service on an *ad hoc* basis. This is often because it requires an area of a particular type that cannot be brought within the scope of a compendious authority. Hence if it is ultimately decided that the technical requirements of the different local government services are so diverse, that they can only be met by organizing each service separately, with its own most technically suitable area, then an increased number of joint bodies may be set up, each to administer one of these special service areas. On the other hand, it may be ultimately decided that the advantage of the compendious type of authority is so great, that any disadvantages for particular services of having to use a common area must be set aside. In this case, the number of joint authorities may be substantially reduced, as their functions are taken over by new local authorities operating each over a single large area. It follows that the future of joint authorities may be decided, not so much on their intrinsic merits or demerits, but on the nature of the whole local government system of which they form a part.

# APPENDIX A.

## DIGEST OF PROPOSALS MADE BY LOCAL AUTHORITIES ASSOCIATIONS AND OTHERS FOR THE REFORM OF LOCAL GOVERNMENT PUBLISHED 1940–1945

### *Introduction*

In the early stages of the discussion of local government reform, the problem was ventilated chiefly in articles in and letters to the Press, platform speeches and the like. When, however, it became clear that the problem had become one of immediate concern, and Mr. Arthur Greenwood, then Minister Without Portfolio, invited the Solicitor-General to undertake a preliminary survey of certain problems of local government, which were likely to arise in the course of reconstruction work, the associations of local authorities and other interested bodies hastened to put their own views before the public and the Minister concerned. It is the object of this note to bring out the main differences and similarities of these reports.

### *Reports considered*

Those here considered are the Final Report of the Executive Council of the County Councils' Association, February, 1943; the Report of the Special Committee of the Association of Municipal Corporations adopted by the Association on 23rd July, 1942; the Report of the Urban District Councils' Association on the Reorganization of Local Government—a Memorandum of the Executive Council of the U.D.C.A. on the Place of Urban Districts in Local Government dated 17th July, 1942; the Memorandum of the Executive Council of the Rural District Councils' Association on the Place of Rural District Councils in Local Government, May, 1942; the Interim Report of the N.A.L.G.O. Reconstruction Committee on the Reform of Local Government Structure, February 1943; the Report on the Future of Local Government of the Labour Party Central Committee on Reconstruction; the Final Report on Reconstruction of the Incorporated Association of Rating and Valuation Officers issued in June 1944, and the Proposals for Local Government Reform as it affects rural parishes issued by the National Council of Social Service in 1945. The last two deal only with partial and specialized aspects of reconstruction and are therefore less important for the purpose of this digest than those first mentioned.

*Attitude to reform*

A fundamental difference of opinion is apparent at the outset—a difference which divides the reports into two classes. It arises from the way in which the writers of these reports regard the subject of reconstruction in general and of local government reconstruction in particular. The majority, while recognizing the valuable part played by local authorities, yet realize that the present structure conforms to the modern needs neither of administration nor of democracy. They believe, moreover, in the imperative necessity of so reforming the local government structure of the country that it is able to cope with the problems of post-war reconstruction. The minority, on the other hand, start from the assumption that the present is no time for making any change or even for contemplating change. In their opinion the emergency is regarded by 'small but active groups of people . . . as a heaven-sent opportunity for getting their pet nostrums on the Statute book'. The Government, by its action in inviting opinions on the subject was diverting energies from the main task of winning the war or getting on with urgent tasks of reconstruction. Arguing on these lines, this minority contemplates no new structure, but rather confines itself to pointing out the advantages of its own particular type of authority and the proper method of correcting defects; for these authorities recognize that there is a case for reform—their quarrel is with the time chosen for advancing it. The Reports of the U.D.C.A. and the R.D.C.A. are less documents on reconstruction than reviews of the work performed in peace and war by their respective types of authority and a statement of their belief that this record alone should ensure their continuance. Where there are still authorities manifestly incapable of coping with the tasks entrusted to them these should be either strengthened or, if this is impossible, abolished by the extension of the machinery of County Review.

*Agreed assumptions of reform*

Nevertheless, despite the diametrically opposed positions from which the two types of report start, there are certain fundamental principles accepted, explicitly or implicitly, by them all.

As has been stated, there appears the fairly universal feeling that although much can be, and is, said in praise of the present system and the way in which it has reacted to war conditions, there is yet room for improvement and a strong case for reform, even though the present may not be regarded as the ideal time for the consideration of change.

There is the belief in the essential value of the democratic nature of local government. Whatever form the proposals may take, whether it be the setting up of virtually new authorities, exercising new powers over entirely new areas, or merely the strengthening of the present structure by the removal of defects, the proposals all recognize that post-war local authorities must be directly responsible to the local electorate, must be in close touch with their constituents to realize and to fulfil their needs, and must be such that the community can take an active interest and participation in the government.

Among the reports issued by those bodies having a practical experience of local government, there is a severe condemnation of regional government, as exemplified by the system of regional commissioners. This wartime regional organization was undemocratic in that it had no direct contact with the electorate, and although it might be justified as a wartime innovation, it had nothing to commend it as a post-war solution of local government problems. Even were the civil defence areas made the basis of regional local government by the creation of democratically elected local councils these would be far too large to provide a suitable area for local self-government.

Dislike of the regional organization gives rise to the fourth substantial point of agreement shown by these reports. Wartime regional organization was primarily devolutionary in character. Regional headquarters of various Ministries were set up to take control in the case of the central organization being temporarily put out of action. In the meantime, they were in many cases interposed between local authorities and Whitehall. Whatever the form of post-war local government, local authorities are agreed that they must have direct access to the central government. There should be no local Whitehalls to act as fifth wheel to the coach.

There is finally a fair measure of agreement on the factors which must be taken into consideration in determining local government areas. The factors upon which all reports agree are most specifically enumerated in the report of the County Councils' Association IV. 16.

'The cardinal factors to be borne in mind in determining the size and types of authorities to which the administration of local government should henceforth be entrusted are :—

(*a*) Area;

(*b*) Population;

(*c*) Rateable Value;

(*d*) Maintenance of local interest;

(*e*) Convenient access to an administrative centre;

(*f*) Community of interest,

and it is obvious that due weight must be given to all these considerations. As regards the rateable value factor, such government grants as will be received in future must not be overlooked.'

The A.M.C. report deals in greater detail with these factors and adds that the area should be such as to ensure 'the specialisation of institutions where this would be advantageous as, for instance, in the case of hospitals, higher education establishments, etc.' (Appendix. Memorandum on Reorganization of Local Government. 10 (c).) N.A.L.G.O. add that there should be no needless sacrifice of tradition.

*Urban and rural : divided opinion*

On one important matter of principle, however, the reports are divided. The present administrative separation of county boroughs from their surrounding county and the division of administrative counties into county districts sets up what is often felt to be an artificial separation between town and country. The recommendations of the C.C.A., the A.M.C. and the Labour Party set out to overcome this division by the grouping of urban and rural elements within the areas of their various authorities. N.A.L.G.O., the U.D.C.A. and the R.D.C.A. on the other hand consider that the material and psychological differences between urban and rural dwellers, are so fundamental that they could be amalgamated only at the risk of the predominance of the one partner and the sacrifice of the interests of the other. A belief in the justice of the separation of urban and rural areas, together with a disinclination to admit the necessity for reform at the present time, dominates the reports of these last two associations.

*Local Government at the 'regional' level*

It is fairly generally recognized that certain services demand, for their efficient administration, an area larger, with possibly a few exceptions, than most at present existing. The problem arises how best to combine this undoubted administrative necessity with the maintenance of democratic and local self-government. The issue on this question is confused by the unpopularity of the emergency regionalism of the war.

The proposals of the Labour Party are the most far-reaching. While condemning regional devolution of the responsibilities of the central government as a substitute for local government, the report proposes the creation of a 'Regional or Major Authority', with resources adequate for the efficient performance of large-scale services and for coping with the task of reconstruction, but yet not so large as to submerge common interest in its government. Such authorities may well be based on 'adaptations of the existing administrative county areas, provided that present boundaries, many of which were determined by historical conditions which bear no relation to modern needs, are not regarded as sacrosanct or unalterable. Where necessary, amalgamations and absorptions of existing authorities should take place to achieve a satisfactory unit.' Its area must be such that the region is 'reasonably capable of meeting the cost of its services without entailing excessively high rates or unjustifiable disparities of rate-burden', between the regions. The part played by grants-in-aid in minimizing such disparities is taken into account. The powers of these regional or Major Authorities are not discussed in the report itself.[1]

The N.A.L.G.O. Reconstruction Committee also recognizes the need for planning and co-ordinating certain services over a wide area, although it questions the necessity of setting up an executive authority at this level. In the place of the directly elected Major Authority of the Labour Party's proposals, it suggests Provincial Councils composed of representatives of the constituent authorities within the area. The function of these Provincial Councils 'should be solely to secure efficient planning and co-ordination of the services remitted to their consideration'. They would possess no

[1] An Appendix to the Report includes the Division of Powers and Functions between Regional and Area Authorities as listed in the Provisional Proposals issued in July, 1942. See note 2.

executive or administrative powers, but their recommendations, subject to the approval of the government departments concerned, would be mandatory upon all the local authorities within the province. These authorities would, however, possess the right to appeal to Whitehall. The services over which the Provincial Council would exercise its planning and co-ordinating functions would include:

Town and Country Planning,
General hospitals, Specialist hospitals, Mental hospitals and certain Public Assistance Institutions,
Major Highway Developments,
Provision of Specialist and Technical Education,
Main Drainage and Sewage Disposal,
Provincial Library Provision,
The Development and Co-ordination of Public Utility Services; and any other services whose adequate provision requires a larger population than the local authorities in the area can provide individually, or which would benefit from broad planning and co-ordination over wide areas.

The areas of these Provincial Councils would be those most suitable for the planning of the service in question. It might, therefore, be necessary for constituent authorities to send delegates to more than one Provincial Council exercising planning powers over their area. 'In general, however, it should be the aim to concentrate as many services as possible under one Provincial Council.' N.A.L.G.O., too, make the addition that neither the functions nor the areas of their Provincial Councils would be comparable with those of the Civil Defence Regions.

The C.C.A. condemns not only the system of Regional Commissioners but also such regionalism as is implied in the grant of supervisory powers over a wide area or in the extension of present local government areas. Both these latter types of regionalism violate two cardinal principles of local government, namely the full maintenance of local interest and the prescription of areas sufficiently compact to be administratively convenient. Yet, it is recognized that there are certain services for which a rigid limitation of size would be impracticable, for instance the public utility services, certain branches of the education service, and some institutional aspects of the public health services. In these cases, the Association contemplates an extension of the system of joint authorities and joint committees.

Where necessary, local authorities should be placed under an obligation to take joint action.

The A.M.C. considers that its reconstituted areas will generally fulfil the needs of those services which demand an area larger than they at present enjoy. It makes no provision for any authority either planning or executive on this level, and, further, considers that '*ad hoc* bodies for administration of particular services . . . and joint committees of local authorities are as a broad generalisation an undemocratic form of organism and to be avoided unless particular services make it imperative'.

There is thus seen to be a fairly general agreement that certain services require for their efficient administration an area larger, with possibly a few exceptions, than most at present existing. To solve this difficulty, the C.C.A. proposes an extension, where necessary, of the system of joint committees; N.A.L.G.O. a planning and co-ordinating council; the Labour Party, an executive authority exercising powers over a fairly wide area. The area of all these types of authority would be determined primarily by the needs of the services in question, although, in the case of the executive authority, the community of interest, which makes responsible local government possible, would also have to be safeguarded. All these reports point out that the present regional areas are totally unsuited for any local government purpose. The differences of opinion on this level are not therefore so much differences as to the size of the new authority, as differences as to its constitution and powers.

*Local government at the level of the present counties and county boroughs*

At this level, too, proposals range from strengthening the present organization to the setting up of new authorities covering the whole country.

The Labour Party visualizes a series of Area Authorities within each region, administering purely local services and others delegated to it by the Major Authority. Their size and number should be determined by the accepted principles governing the delimitation of a local government area (see page 3); they should be as few as will make democratic government reasonably possible. Wherever possible they should be based on existing county boroughs. Again there is no precise pronouncement in the report itself on the functions of the Area Authority, 'their powers and duties . . must be such as will give them a status, and their powers such an importance as will attract the right type of person as members.'

Both the A.M.C. and N.A.L.G.O. consider that past experience has demonstrated that the most satisfactory type of local government is that in which all powers are concentrated in the hands of one authority. The extension of this principle to cover the whole country involves a major reorganization of local government.

The A.M.C. regards its all-purposes authority as the primary and indeed in the majority of cases the only local authority in an area. The A.M.C. recognizes that special provision would have to be made for the government of the great conurbations, areas with large tracts of rural land and small towns with ancient charters. In all other cases it should include both urban and rural lands, containing a well-balanced grouping of all classes in the social scale, and a reasonable spread of industry, commerce, residence and agriculture. There could and should be no standard size for these authorities, for local conditions would have to be taken into consideration. It is hoped by the Association that the setting up of a series of all-purposes authorities, covering the whole country and concentrating all local government powers in their own hands, would go far to equalize rate burdens, improve the standards of administration in rural areas and generally provide a far more satisfactory type of local government than the present.

N.A.L.G.O. considers it undesirable to lay down any precise standards of population and financial resources for the proposed all-purposes authorities, but suggests that a population of 250,000 might be regarded as a workable average, and that in the general run of cases the population of the all-purposes authority should not exceed 500,000 nor fall below 100,000. It, too, excepts the conurbations and sparsely populated rural areas from this recommendation. As in the case of the A.M.C. all-purposes authority, the N.A.L.G.O. authority would possess all the powers of local government, although above there would be the Provincial Council with co-ordinating powers.

The A.M.C. proposal for a one-tier system of local government with all powers concentrated in the hands of all-purposes authorities is unpopular with the other associations of local authorities. The reports of the C.C.A., the U.D.C.A., and the Labour Party all make the same criticism—namely that in sparsely inhabited districts the area would be far too large, and, in the absence of any smaller authorities, would result in the lessening of vital interest. There is the further fear that in many areas, there would be urban domination and the virtual disappearance of the adequate representation of the rural interest, while in others, urban areas would suffer as a result of the predominance of the rural vote. There is the doubt expressed whether the elected representatives as distinct from the officials could exercise a reasonable measure of control and supervision over so extensive a range of subjects. The same criticisms are implicit in the further recommendations of the N.A.L.G.O. report for the reconstituting of smaller authorities.

The C.C.A. recognizes that some of its own members are too small and too poor to fulfil the needs of modern administration. A population of 100,000 is in the majority of cases the minimum below which a county council would find it difficult to maintain an adequate standard. Where county councils fail to reach this standard, a local inquiry should be held with a view to their amalgamation and rearrangement under a joint title designed to preserve the historical associations and local interest of the separate units. The boundaries of those counties with populations exceeding the minimum should also be reviewed in order to remove administrative and geographical anomalies and to ensure that the principles governing the delimitation of local government areas are realized so far as is possible.

Commenting on the wide range of population, rateable value etc. shown by the statistics for the present bounty boroughs, the Association points out that nothing substantially less than a population of 75,000 can be regarded as adequate. But while accepting 75,000 as the minimum for the continuance of present county boroughs, the C.C.A. regards 125,000 as the minimum for future application for county borough status. To prevent continuous extension of urban areas at the expense of the surrounding authorities, there should be a 15-year moratorium immediately following the passage of the reform bill, followed by periods of at least 10 years between successive extensions.

*Smaller local government authorities*

The C.C.A. recognizes two main defects in the present organization of County Districts. 'Many cannot by any stretch of the imagination be regarded as efficient units of administration'; and moreover the present system involves undue separation of urban and rural interests to the disadvantage of the latter. The Association considers the remedy suggested by the U.D.C.A. and the R.D.C.A., but maintains that the method of County Review has proved 'contentious, dilatory and cumbersome', and that some more effective solution must be found. Accordingly it recommends that all non-county boroughs and urban districts whose areas have populations not exceeding 10,000 persons, together with all rural districts, should cease to be known as such; that the areas now governed by these authorities should be subject to suitable regrouping and amalgamation; and that the single title of County District should be applied to the areas so formed. They should possess sufficient economic resources and should represent a reasonable mixture of urban and rural interests. Present boroughs and urban districts with a population exceeding 10,000 would retain their existing identity, the boroughs their present titles and charters; their function would in every respect be the same as the proposed County Districts. The 10,000 population level should not be regarded as an immutable limit, but county councils would be empowered, subject to the approval of the Ministry of Health, to exempt non-county boroughs and urban districts with populations below the limit from merger in exceptional cases. Boroughs which possess ancient charters should be allowed to retain them for purposes other than local government.

In the areas of predominantly urban all-purposes authorities, N.A.L.G.O. does not visualize any lesser authority, but in mainly rural areas the problem is different. Here, the wholesale abolition of the councils of the small boroughs incorporated under ancient charters and in many cases possessed of a high degree of civic spirit and local patriotism would entail the loss of qualities and interests all too rare in local government—a loss which would not be compensated for by the increase in general administrative efficiency.

Several alternative solutions to the problem of the small borough were considered by N.A.L.G.O. The 'historic boroughs' themselves have urged that they should be left intact with all their existing rights and privileges;[1] others that they should be so enlarged by the

[1] On October 1st, 1942, representatives of small county towns with ancient charters met the Chairmen of the General Purposes and Law Committees of the A.M.C. and passed the following resolution:

'That this conference is of opinion that in any local government structure the smaller boroughs should be definitely retained and strengthened, and where possible extended.'

inclusion of surrounding rural areas as to justify the conferment upon them of the status of all-purposes authorities: others have suggested that they should be administered as district councils of the all-purposes authority. N.A.L.G.O. considers that none of these alternatives would be universally practicable. 'The first would leave many of the "historic" boroughs as relatively impoverished "islands" and thus less efficient local government units within a reformed system; the second would, in many cases, enforce a "marriage" between urban and rural communities whose interests are incompatible, whilst the third would be administratively impracticable in the smaller areas which returned only one or two members to the all-purposes authority.'

The Association recommends, therefore, that in the area of a predominantly rural all-purposes authority, the existing borough, urban and rural district units should be regrouped to form suitable administrative units. Where such a unit is based on an existing borough or urban district with a population, after regrouping, of 20,000 it should retain its own directly elected council, and if not a borough should be created one. The all-purposes authority should be required to delegate to these borough councils such functions as are purely local in character or are best managed locally in the unit. Each remaining unit, after regrouping, should be constituted a district with its own directly elected district council acting as a District Committee of the all-purposes authority.

The borough council should have the power to administer its service in its own way, and should have the power to levy a rate if it desired to improve the administration of its services. The borough council should be empowered to appoint its own officers, but all such appointments should be subject to conditions as to qualification, salary, tenure and conditions of service, laid down by the all-purposes authority. The proposed District Committees on the other hand would have far less power and would act purely as local committees of the all-purposes authority performing, under supervision, such functions as were delegated to it.

Neither the A.M.C. nor the Labour Party visualizes the existence of any authority below the level of their all-purposes and area authorities. The U.D.C.A. and the R.D.C.A. rely, as has been stated, upon the County Review procedure to remedy defects.

*Local government at the parish level*

Among the main reports, only those of the C.C.A., the U.C.D.A., and the R.D.C.A. visualize the continuance of the present Parish Councils and Parish Meetings. The C.C.A. recognizes the usefulness of the Parish Councils where active, but acknowledges the fact that lamentably few have displayed any activity in the past. It hopes, however, that its suggested reorganization of County Districts will make Parish Councils even more necessary as a local rallying point than hitherto. It proposes, therefore, that Parish Councils should be set up in de-urbanized areas and that their present functions should be overhauled and should be made into duties.

As Parish Councils have as yet no organization of their own their interests are taken up by the Central Parish Councils' Committee sponsored by the National Council of Social Service. In their proposals this Committee set out the desirability of retaining the Parish Council as an essential element in local democracy. They propose that the Parish Council should be strengthened by abolishing Parish Meetings except for the purpose of electing members to the Parish Councils and discussing parish affairs, by making it obligatory to elect Parish Councils and if necessary to group parishes for this purpose, and to secure democracy by substituting a ballot for election by show of hands in parishes with under 2,000 electors. The Committee also proposes that County Councils should be empowered to appoint a clerk to one or several Parish Councils and pay his salary out of a general or special county charge, that the Parish Councils should be enabled to appoint such other officers as appear necessary and that the maximum rate for Parish Councils should be raised. The Committee does not propose any extensive addition to the power of Parish Councils but suggests that some functions of higher authorities might be delegated if found convenient. Perhaps the most immediately important proposal which is in the process of being carried into effect is that for the formation of a National Association of Parish Councils to speak for and represent parishes nationally among the other local government associations.

*Local government in Wales and Scotland*

The reports of the A.M.C., N.A.L.G.O. and the Labour Party consider that their proposals could be adopted in Wales with the minimum of alteration. The C.C.A. maintains that geographical and population factors in Wales make it almost impracticable for a large part of the country to conform to the principles and standards laid down for England. The report suggests, therefore, that a special commission should be set up with power to consider what solutions can be evolved. The Welsh Reconstruction Advisory Council also suggests a special inquiry in its First Interim Report.[1]

The Labour Party, alone among these reports, seeks to extend to Scotland the principles which it believes to be suitable for England and Wales. But beyond postulating the necessity for a two-tiered structure if local democracy is to play its full part in post-war reconstruction, it gives no indication of how this is to be achieved.

*Local government in London*

All the reports, with the exception of the Labour Party's, consider that the problems of London government are such that they should be investigated and tackled separately.

*Finance*

Although Finance is a question of first moment in the creation and alteration of local government areas, the reports considered, with the exception of that of the Labour Party and the specialist report of the I.A.R.V.O., devote very little attention to it. There appears to be general agreement that the present system of rates supplemented by government grants is adequate in principle and a few changes in the direction of emphasizing equalizing factors in the grants should fit it to the post-war tasks of local authorities. The Labour Party Report considers that the major authorities should be the main recipients for grants and that inequalities in the resources of the areas should be ironed out by an alteration in the precepts of the major authorities. The Labour Party Report also considers that the area authorities should, in the main, borrow from the major authorities who should be enabled to float loans directly or with the aid of the Public Works Loans Board.

The Interim and Final Reports on Reconstruction of the I.A.R.V.O. deal in detail with the reform of the rating and valuation system. The Reports reject the replacement of rates as the basis of local finance by a local income tax or by the taxation of rate values, though they consider that the latter should be a useful supplement

[1] Published by the Office of the Minister of Reconstruction, H.M.S.O., 1944.

to the present system. On the question of financial relations between central and local government, the Final Report advocates the separation of the functions into those which are beneficial, *i.e.* beneficial to property, and those which are onerous, concerned with personal services, the first being most appropriately financed exclusively by rates, and the second in large part by national taxes. I.A.R.V.O. considers that grants should be standardized as fixed sums or a fixed proportion of expenditure so that the main burden of any increase in expenditure should be locally borne. The Report also advocates reviving the road fund as the main source of finance for highway expenditure.

On Rating and Valuation both the Labour Party and the I.A.R.V.O Reports agree that the existing assessment areas are too small. The Labour Party Report assigns the function of valuation to its major authorities; the I.A.R.V.O. suggests a population of 50,000 as the lowest limit which could afford a whole-time qualified valuation officer and would leave him free from parochial influences. Both the Labour Party and I.A.R.V.O. consider a greater degree of nationally imposed uniformity of valuation is necessary; the former suggests a greater statutory definition of rules and regulations, the latter a strengthening of the powers of the central Valuation Committee.

*Summary*

This note does not purport to include a full summary of the proposals for reform, but rather to point out the main similarities and differences.

*Similarities*

(*a*) There is seen to be a wide measure of agreement on the fact that there are defects in the local government system.

(*b*) There is equally a wide agreement that wartime regionalism can be no basis for peace-time local government.

(*c*) Those reports which recognize the need for the planning of certain services over an extensive area (C.C.A., N.A.L.G.O., Labour Party) reach a substantial measure of agreement on the factors which should govern its delimitation. The Labour Party states explicitly that in many cases the area of its Major Authority will not differ very much from certain present administrative county areas.

(*d*) Similarly, in those reports in which provision is made for smaller areas, there is agreement on the factors which should determine their size.

*Differences*

(*a*) The proposals differ widely on the proper distribution of powers and functions between authorities.

(*b*) The three proposals for provision for the needs of the large-scale services differ considerably in the type of authority they envisage. The Labour Party proposes an executive authority; N.A.L.G.O. an advisory planning body; the C.C.A., an extension, where necessary, of Joint Authorities.

(*c*) Among the proposals for the reform of County Districts, there is a difference of opinion as to the appropriate population level.

(*d*) The most fundamental difference of opinion concerns the proper treatment of urban and rural areas.

*Note 1. Proposals for Reformed Structure of Local Government.*

*Present Local Government Organization.*

*U.D.C.A. and R.D.C.A.*

- Parliament
  - County Councils
    - Boroughs
    - Urban Districts
    - Rural Districts
      - Parish Councils
      - Parish Meetings
  - County Borough Councils

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*C.C.A.*

- Parliament
  - County Councils
    - Boroughs and County Districts (over 10,000 pop.)
    - County Districts (less 10,000 pop.)
      - Parish Councils
      - Parish Meetings
  - County Borough Councils

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*A.M.C.*

- Parliament
  - All-purposes authorities

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*N.A.L.G.O.*

- Parliament
  - Provincial Council (planning and co-ordinating powers)
    - Urban all-purposes authority
    - Mixed all-purposes authority
    - Rural all-purposes authority
      - Boroughs (regrouped Boroughs and Urban Districts of pop. over 20,000)
      - Districts

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*Labour Party*

- Parliament
  - Regional or Major Authority
    - Area Authority
    - Area Authority

# APPENDIX B.

## THE BLOCK GRANT.

Let P = population as estimated by Registrar-General
Let C = number of children under 5 per 1,000 of estimated population
Let R = rateable value per head of the population
Let U = percentage of unemployment
Let S = population per mile of road
Let I = First Intermediate Weighted Population
Let W = Second Intermediate Population

| *Original Block Grant Formula (1929)* | | *Revised Block Grant Formula (1937)* | |
|---|---|---|---|
| 1. To the estimated population (P) are added | $P$ | 1. As in original formula | $P$ |
| (a) a weighting of 2 per cent for each unit whereby the number of children under 5 per thousand of the population exceeds a normal figure of 50 per thousand. | $+ P\frac{(C-50)}{(50)}$ | | $+ P\frac{(C-50)}{(50)}$ |
| (b) A weighting of ten per cent for each £1 by which the rateable value divided by the population is less than the normal figure of £10 per head. | $+ P\frac{(£10-R)}{(£10)}$ | | $+ P\frac{(£10-R)}{(£10)}$ |
| The sum of the population and the weightings for children and rateable value constitute the First Intermediate Weighted Population (I). | $= I$ | | $= I$ |
| 2. (a) First Intermediate Weighted Population (I) is then further weighted by 10 per cent for each unit whereby the average number of unemployed insured men plus one-tenth of the unemployed insured women exceeds a normal figure of 1.5. | $I\frac{(U-1.5)\ 10}{100}$ | 2. (a) The multiple of 10 per cent which it was intended to reduce gradually was maintained. | $I\frac{(U-1.5)\ 10}{100}$ |
| | | (b) An additional weighting of 5 per cent is added for each unit whereby U exceeds 5 per cent | $+ I\frac{(U-5)\ 5}{100}$ |
| 3. | | 3. The First Intermediate Weighted Population weighted for unemployment constitutes the Second Intermediate Weighted Population (W). (Note the effect of this is to increase the value of the sparsity weighting) | $= W$ |
| 4. In administrative counties other than London I is weighted for sparsity by two alternative formulas | | 4. In administrative counties other than London W is weighted for sparsity by two alternative formulas | |
| (a) If the population per mile of road (S) is less than 100 I is weighted by ¼ of 1 per cent for each unit whereby S is less than 200 | $I\frac{(200-S)}{200}$ or | (a) If the population per mile of road (S) is less than 100 W is weighted by 1/3 of 1 per cent for each unit whereby S is less than 300 | $W\frac{(300-S)}{300}$ or |
| (b) If S is more than 100 I is weighted by the proportion of S bears to 50 | $I\frac{(50)}{5}$ | (b) If S is more than 100 W is weighted by dividing W by one fortieth of the figure by which S exceeds 100. | $W\frac{(40)}{(S-40)}$ |