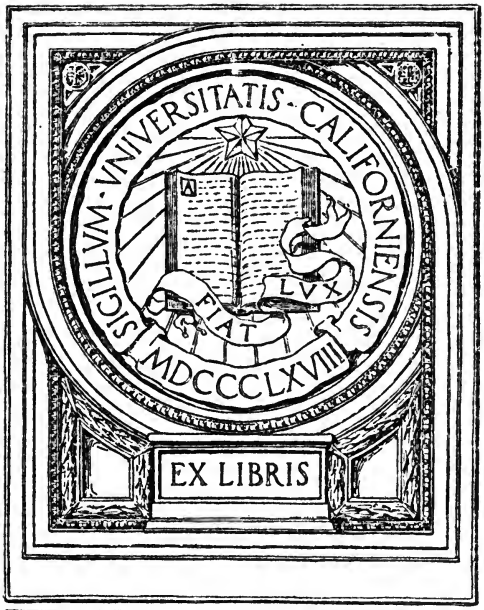
Problems of Local Government

G. Montagu Harris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PROBLEMS OF LOCAL GOVERNMENT

BY

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PREFACE.

I HAVE attempted, in the following pages, to give a general idea of the contents of the papers submitted to the first International Congress on the Administrative Sciences and of the proceedings at the Congress itself.

It is obvious that no survey of this kind can do full justice to the numerous papers under consideration. A large proportion of these, strictly limited as they were to a fixed number of words, are already so concise in form and so packed with information that any attempt to make a *résumé* of them would merely mean the omission of certain details more or less important. It must, therefore, be understood that this volume does not profess to concentrate all the information supplied in the papers and in the proceedings of the Congress. It is intended, rather, as an attempt to gather together the main points touched upon by the various writers and speakers and, by the inclusion, in each chapter, of some notes on the position in England, and on the bearing which the foreign papers or discussions have upon it, to show how useful to English administrators a further study of these questions as they are dealt with in other countries would prove. Especially must it be observed that there is no pretence of giving further information with regard to foreign systems than is supplied by the Congress itself. This information is naturally not complete, and, for those who may be inspired to

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FIRST PART.

A

Survey of the Papers and Proceedings

OF

The First International Congress

ON

The Administrative Sciences.

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Survey of the Papers and Proceedings

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The First International Congress

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The Administrative Sciences.

CHAPTER I.

SCOPE OF THE CONGRESS.

THE first international congress on the administrative sciences was undoubtedly one of the most important of the many held at Brussels during the exhibition year of 1910. Its English title, however—the official and literal translation from the French—was, from the English point of view, not happily chosen and led from the outset to a misunderstanding of the scope of the Congress. What, it was naturally asked, are those administrative sciences? and the Congress itself supplied no answer to the question. A better title would appear to be "The Science of Administration," which, it would be readily understood, must have a number of branches and must be looked at under a number of various aspects. Even

then, however, many would be found to ask " what is the science of administration and to what purpose should we take part in an international congress in order to discuss it ? "

To this question it is easier to find an answer. M. Cooreman, President of the Congress, in his admirable opening speech—a speech which well deserves to be read in its entirety, but from which, owing to the multitude of other matters which have to be dealt with in this volume, it is only possible to quote some of the most important passages—gives the following definition : " By administration, we understand three things which are closely connected and yet distinct : (1) The powers and duties of the executive authority ; (2) the exercise of these powers and duties ; (3) the body of officials." It is true that in this country the word " administration " is not commonly used in these three senses and we shall, perhaps, arrive better at understanding the scope of the Congress if we say that it was designed to deal with the forms and methods of administrative government, local and central, and their relations to one another.

That this is a subject which can be usefully discussed in an international congress can scarcely be denied except by such as are of opinion that our existing system is not only perfect in itself for our present needs, but even in the future will require no modification to suit altered circumstances. Even they may consider a comparative survey of foreign institutions a matter of interest from many points of view, while, to those who see any imperfections in the constitution or working of our various authorities, a study of the successes and failures of other systems, with their causes and their effects, must be of enormous assistance in formulating any reforms in our own.

It was not by any means in the minds of those who organised or who took part in the Congress, that what is good for one country is good for all. " In the vast domain of administrative questions," said M. Cooreman,

" there are points of view peculiar to each country, to each region, to each municipality ; these special aspects must be left to the sagacity of the national, regional or local administrations, although, at the same time, they may be of interest to others. But there exist also general elements, universal principles, common rules which no frontier bars or confines, and which it would be useful to place in strong relief, perhaps even to codify." Again " if in the sphere of administration, as in that of all human activity, there are gaps to be filled, improvements to be introduced, reforms to be attempted, a congress such as that which we inaugurate to-day, offers to these labours most valuable support and assistance."

That, in our present-day complex existence, good and economical administration is a matter of the utmost importance to the well-being of the whole community goes without saying. " The powers and duties of the executive authority," says M. Cooreman, " as we now conceive them, have for their object the maintenance of internal order, the security of the person, the guarantee of the free and equitable use of public property, the management of the public funds, the execution of the law, the preparation and the carrying into effect of measures for the common good . . .

" In the national life of prosperous peoples there are continually arising new requirements, moral and material, intellectual and artistic, economic, social and financial. The need for instruction grows and spreads ; professional and technical education is demanded by ever more and more numerous branches of the public ; provision for the future necessitates forms adapted to most diverse situations, in addition to relief for those misfortunes which preventive measures have failed to check ; the contest between capital and labour demands constant attention and is ever extending over a wider field ; the intensity of industrial production and of commercial activity implies the command of an amount of plant which never

ceases to multiply; the indefinite development of the traffic of men and things appears to render the problem of means of communication incapable of any final solution; public works involve the erection of factories and yards without number; the general system of sanitary and other regulations is obliged to extend its area and enlarge its scope; the direction of colonial affairs opens to many countries a special field of activity, while the growing inter-communion of peoples necessitates more and more the elaboration, organisation and control of international measures of varied kinds and characters. And all this, it is clear, cannot go on without the creation of ever-increasing financial resources and the piling up of enormous capital.

"It is the play of national life, the expansion of progressive forces, the blossoming of civilisation, but it is also, by the logic of things, the uninterrupted development of all the mechanism of administration."

Some of these words of M. Cooreman's are emphasised by a point of view expressed in a paper by M. Léonard, who says that "the central administrative institutions of former times, taken as a whole, had above all things a political or moral character; nowadays, there is to be seen in them a distinct evolution towards economic and material considerations;" and the same point was dwelt upon by M. Tibbaut in his closing speech. Any such change must necessarily carry with it a change in methods, if not in forms, of government, and all countries have to consider how best to adapt their administration to the new order of things.

M. Cooreman sketches out with remarkable lucidity the general principles upon which the subject is to be considered. Administrative science, he says, is complex in its elements. It embraces, first, the knowledge of the law; secondly, the technical science relating to each branch of administration—financial, economic, social, sanitary, commercial, engineering, æsthetic and so forth;

thirdly, the science of government. " The fundamental principle of the matter is that, administration existing not for itself, but solely for the general good, a strict relation between the two must be established and maintained. The social necessity of administration legitimises its existence, but it also limits the extent of its jurisdiction. The law of the equilibrium between the public interest and administrative action sums up the whole of the governmental science of administration." This law, he says, condemns officialism, formalism and bureaucracy, ordaining that " a wise and fruitful decentralisation shall stimulate the circulation of life in all the veins of the social body, to every degree of the administrative hierarchy, to the most remote grouping of the population in the country, at the same time that it gratifies the citizens with the widest measure of individual liberty compatible with the good and peaceable conduct of public affairs. The governmental science of administration would lack a basis without a true understanding of social facts, an exact knowledge of the mentality of the people, a just appreciation of their ideas of discipline and order, a faithful estimate of their powers of contribution and of their taxable resources. It is, in short, important that the administration should be in a position to judge scientifically of the extent to which its intervention is legitimate, necessary and tolerable, according to the degree of economic development, of civic morality and of intellectual culture of the masses subjected to it."

M. Cooreman undoubtedly made out a strong case for the recognition of a science of administration and for the necessity for its study. This being once admitted, it would seem obvious that the collection for this purpose of facts, experience and opinions from those who have been concerned with administration in different countries is rendered more valuable by the actual meeting together of those who have provided the material and by mutual criticism and cross-examination.

The opportunity offered by this first international congress was very widely appreciated. Members of thirty different nationalities took part in the Congress, twenty-two governments being officially represented by 120 delegates. It is much to be regretted that, while the membership from Great Britain was noticeable both in number and in the importance of the representatives, the British Government declined to give any official cognisance, and this although the Speaker, the Chairman of Ways and Means, the Under-Secretary of State for Foreign Affairs, and the Under-Secretary of State for the Home Department were among the patrons of the British Committee. There can be little doubt that it is the influence of the permanent officials which determines this attitude of the British Government towards, not this Congress alone, but international congresses in general. At the present moment, when it is understood that the long over-due question of the relation between Imperial and local taxation is really to be taken in hand in the near future, and the Chancellor of the Exchequer has in terms invited those specially interested to study the systems of other countries; when the question of Poor Law administration is actually in the melting-pot; when Boards and Commissions, which are practically new government departments, are just coming into existence, and when the functions of administration, both central and local, are being indefinitely enlarged and the relations between the two materially altered, it might have been supposed that this particular Congress deserved special attention by those engaged in settling the lines of all these new developments. It would seem, however, that the English method of "muddling along somehow" has been raised to a fetish by some, if not all, of our government departments, whose attitude towards anything like a science of administration was well expressed by a high official who was asked, in connection with this Congress, whether there was no-one in his department who took a general interest

in questions of government outside the groove of his own daily work. " Oh," was the reply, " there might be one or two young men who have just come into the office."

Fortunately, there are instances of a wider view. The Board of Agriculture and Fisheries, it is well known, discards the use of red tape in a courageous and effective manner, and Sir Thomas Elliott, the permanent secretary, gave a signal instance of this by contributing a valuable paper on the organisation of his department. Were similar papers forthcoming on the other branches of our central administration, they would throw much useful light on the mysteries of those circumlocution departments which, unfortunately, we still possess.

The other papers sent in from Great Britain, all of which are set out in full in the second part of this volume, cover the greater part of the field of local government and were contributed by writers thoroughly conversant with their subjects, but it was unfortunate that a paper on rural district councils which was offered by a well-known district council clerk, did not come to hand, as was also the case with two papers on the Poor Law which had been promised by eminent authorities whose views on the subject are opposed to those of Mr. Sidney Webb.

The total number of papers contributed to the Congress was no less than 116—mostly in French, but some in English, German, Italian, Spanish, and Dutch. It may well be imagined that these papers covered a wide field of inquiry. The programme originally sent out by the Belgian Committee gave an opening for papers on almost every conceivable point relating to central or local administration, and the result has been a collection of vast and varied information from Austria, Belgium, France, Great Britain, Holland, Italy, Prussia, Spain, the United States of America and Brazil. It is a great pity that no paper was contributed on the *mir* and *zemstvo* system in Russia, while a serious loss to the Congress was the very slight part taken in it by representatives from Germany.

It is understood that this was due to a dissatisfaction of the Germans with the lines upon which the Congress was organised. It is true that the very wide choice given by the Belgian Committee in the matter of papers made it obvious from the outset that only a very small proportion of the questions raised could be discussed at all. This, however, in the first Congress of the kind, was perhaps unavoidable and at any rate the modest reasons given for this state of things by M. Tibbaut in his closing address, serve to disarm criticism.

" It could not lie with us, Belgians," said M. Tibbaut, " to determine narrowly the scope of the Congress by limiting its activity to questions which, though they might be of importance in Belgium, would be of less interest to other countries. To meet this difficulty, we thought it right to leave to the collaborators in this first Congress the greatest latitude in the choice of subjects. The work of the committees was therefore confined to tracing a broad outline within which the most varied matters might be classified. The work of the Congress was to make known the current of ideas and interests prevailing in the different countries, and to indicate a subject for study which would be of really international concern. The first Congress became therefore a sort of prefatory congress, an initiative congress, a congress to explore the immense area of administrative inquiry and, by placing certain points in relief, to give the opportunity of directing towards them the attention of future congresses."

The necessity of confining the work of any future congress on the science of administration to the consideration of certain definite questions, and of forming an international committee for this purpose was the subject of a unanimous resolution. Excepting those on the subject of documentation, the number of resolutions passed was not large; there being a substantial agreement with the view well expressed by M. Jacquart in his general report to the first section.

"We are not gathered together," said M. Jacquart, "to pass resolutions concerning the organisation of local administration in the different countries, and, if one were to attempt to give to the conclusions of the contributors a more general term, a wider expression, the result would only be to transform them into vague formulæ, inconsistent and ineffectual. I am not inclined to submit to you conclusions of this kind: 'communal autonomy is an excellent system of administration—the intervention and control by the central authority should be restricted to the minimum, which is absolutely necessary—citizens should be given guarantees against the arbitrary action of independent local authorities.' To my mind, it would diminish the value of the papers which have been received on the first question, to attempt to reduce them to conclusions of such an abstract character. Their interest and value are of another kind. First, in the clear and concise account which they give us, for a certain number of countries, of the organisation of local administration so far as communal autonomy is concerned, these papers constitute a very monument of comparative law and administrative practice. Secondly, these papers serve to remind us of the essential truth that communal autonomy, like every organisation of local administration, like every essential part of the administrative system of a country, is not independent of the political organisation and customs, of the social condition, of the national temperament and of certain facts in the historical development of each country."

M. Jacquart's words, though directed only to the papers on one question in one section of the Congress, apply equally to all, and serve to illustrate the difficulty of dealing with such a varied mass of material in one volume. There is also a special difficulty in dealing with it from an English point of view. Broad as the classification of subjects was, it was based on the systems of administration in force in the Latin countries on the continent of

Europe. These systems are, generally speaking, based on the commune as the unit of area, while in England the area of the parish—which is the nearest parallel to the commune—occupies but a very unimportant position, the most generally recognised areas being those of the geographical counties and the ancient boroughs. It was chiefly due to this fact that it was found so difficult to arrange the English papers within the framework of the Brussels Congress.

The Congress was divided into four sections, to the first of which was assigned the "Communal Administrations," to the second the "Administrations intermediate between the State and the Communes," and to the third "General Organisation of the Public Services." The fourth section dealt with "Documentation." Confusion necessarily arose from the fact that, while any description of our county or district councils would seem to fall naturally within Section II., questions of police and hygiene, public assistance and education, being on the Continent for the most part the business of the communes, were included in Section I. In view of our clearly-marked distinctions between county boroughs, boroughs, urban districts and parishes, it is difficult for us to grasp a system under which, in principle, the government of a large city is the same as that of the smallest village. For this reason no attempt has been made to follow, in this volume, the classification made by the Congress Committee, and it is hoped that the arrangement which has been adopted will prove satisfactory to English readers.

The following pages, then, contain a résumé of the various foreign papers and the discussions, together with some notes as to the main points in the existing English system which seem to require reform and as to which a consideration of foreign principles and practice may help to a wider view and possibly even to some definite suggestions for improvement. It is, no doubt, gratifying to the self-complacent Briton to find that in an international

congress this country is frequently referred to as a land in which all ideals of local self-government are realised, but it is only the owner of the foot who knows where the shoe pinches. As regards the general question, there are probably few Englishmen outside our Government Offices who desire further centralisation in this country. No political party, certainly, would go to the country with a declared policy of restricting the power of our local authorities. It is therefore all the more surprising that we should appear to be drifting towards a system of complete subjection of the local authorities to the central permanent departments, and of the latter bodies' independence of both Parliament and the judiciary, a system which is altogether alien to the character and genius of the nation. The fact is, no doubt, that the general public do not sufficiently realise the danger or appreciate what would be the result.

A comparison with the systems of other countries would assist greatly towards a better understanding of the subject. In some respects, no doubt, these foreign systems would serve as a "horrible example," in showing the disadvantages of centralisation, but the study may have many positive as well as negative advantages, for it would be absurd to suggest that even the most completely centralised system possesses no good characteristics. To impart any such characteristics directly into our system would perhaps be impossible, but many may be found which, with some alteration and modification, might be made to suit our own case and help to solve some of the difficulties with which we are confronted.

Thus, the question of what is a suitable area for the provision of the various public services is one which in this country, with its vast congeries of local authorities of all sorts and sizes, is constantly to the fore, and an examination of the areas marked out in other countries and the views of those concerned as to the advantages and disadvantages of the existing areas, could not fail to be

of service. The desirability of maintaining historical and sentimental associations on the one hand, and the convenience of establishing new areas of a uniform and workable size on the other, receive copious illustration from the experiences of other countries.

The powers and duties of the various local authorities in the different countries form a subject for an interesting comparison, and in the region of finance especially much may be learned. The British principle that local authorities may exercise only such powers as are definitely conferred upon them by law is not completely recognised in any other country, while in some the contrary principle, that the local authorities may do anything which the law does not expressly prohibit, is carried out to its full extent. At the same time there are other checks to complete local autonomy. Of these checks the chief is the financial one, the manner in which it works being explained in the chapter on Finance. Here, too, will be found an account of the very varied methods by which foreign local authorities obtain their funds, as compared with the one English rate on land and buildings, supplemented by Government grants.

The second great check on local autonomy on the Continent is to be found in the existence of officials attached to the local authorities, but appointed by and under the control of the central government. The English objection to such a system is, as will be shown, shared by many who are obliged to live under it, and the opposition to it is growing in force in most countries. On the other hand, the English amateur mayor or chairman, elected for one year only, would not by any means be looked on with favour, the desirability of having a trained professional head of the administration, who could to some extent ensure a continuance of policy for a number of years, being generally recognised.

This question is a part of the larger one of the relations between local authorities and the central government,

and evidence of the revolt against the preponderant influence of the latter is overwhelming. Most interesting in connection with this are the views expressed on the working of that which is altogether unknown to this country—a system of administrative law and separate administrative courts. The ordinary English view that this is a system established solely to ensure the supremacy of the bureaucracy is the very reverse of the truth, and those who fear an undue increase in the powers of officials, whether local or central, in this country should lose no time in studying the working of the French *Conseil d'Etat*.

As already stated, the programme of the Congress whose work is here described, covered so much ground that even the complete official reports, and, *a fortiori*, this brief résumé, can only serve to draw attention to some of those points which require further consideration and to indicate to some extent the sources from which useful information can be obtained.

From France we may learn much as to the effects of a complete and arbitrary rearrangement of local government areas, the working of a definite system of administrative law, a detailed organisation of the highways of the country, the growing opposition to centrally-appointed local officials and, generally, the gradual tendency of public opinion in a highly centralised country in favour of some form of decentralisation.

Belgium and Holland are both countries which possess a centralised system, within which there is scope for a large measure of local autonomy, which is most jealously guarded by the communes. There appears to be in Belgium an ardent desire for administrative reform, and a study of the various measures advocated will show where the weaknesses of the existing system lie. Among these may be specially mentioned the evil effects of an official having to serve both central and local authorities, and the defenceless position of the private individual in the face of an abuse of power by a local authority or

official. The question of the actual machinery of office organisation is one in which the Belgians appear to be particularly interested and on this by no means unimportant detail they show themselves prepared to make a number of practical proposals, which will apply as well to a decentralised as to a centralised form of government.

Switzerland is a mine of information in itself owing to the varieties of communal organisation in the different cantons. Here we have examples of *ad hoc* bodies for all sorts of purposes, varieties of rates of all kinds, instances of the same public service being undertaken in one part by the canton, in another by the commune, and of the tendency of certain services, originally supplied by private initiative, to be taken over first by the commune, then by the canton and eventually by the Federal Government. The differences between the French and German cantons is great, but, taken as a whole, it may be said that the principal factor in Swiss local government is an inclination towards the most complete local freedom compatible with the supreme interests of the State.

In Italy there is obviously a strong and organised opposition to encroachments by the central government on the local authorities, and the activities of certain municipalities, and especially the very complete and co-ordinated sanitary administration of the city of Milan, are well worthy of notice. Spain is more instructive in her aspirations than in her existing institutions. The conclusions which some of her representatives have come to as to the lines on which her local government organisation should be reformed, after a close investigation into the systems of other countries, are a most valuable contribution to the study of the subject.

In Austria and Hungary the local authorities are exceptionally free from central control and pride themselves upon their ancient traditions. In no country has municipal trading been carried to such lengths, the city of Vienna being especially conspicuous for the number and

variety of its municipal undertakings. Mention has already been made of the regrettable fact that Germany stood almost entirely aloof from the Congress. Prussia, especially, in view of the recent changes in her local financial systems, could have provided some most useful information, but the very few references made either in papers or discussions to German local government are not sufficient to form the basis for any general observations.

The county system in the United States serves to show what might have been our fate had it not been for the legislation of 1888 and 1894, and is a serious warning against apathy in local government affairs. As no paper was contributed on American city government, no comparison between their methods and ours in that respect can be entered upon here.

It is greatly to be hoped that at the next Congress, the date and *locale* of which are not yet fixed, no important country will be unrepresented. There can be no doubt that all who took part in the proceedings at Brussels fully appreciated the interest and value of such an institution as a periodical international gathering to discuss these questions, and the experience then acquired, together with the labours of the permanent bureau which has now been established, will enable the organisers of the second Congress to make it even more effective than the first.

CHAPTER II.

LOCAL GOVERNMENT AREAS.

THE area to be adopted for purposes of local administration has seldom been fixed from the point of view of convenience alone. History and local prejudice have almost always exercised a preponderating influence. As regards the larger administrative areas, at any rate, it is strongly urged by Señor Eduardo Giménez Valdivieso, in one of the most informative papers submitted to the Congress, that it is upon these lines alone—" natural " lines, as he calls them—that these larger divisions should be made, and that all completely artificial divisions should disappear. Such arrangement has, however, its inconveniences. If it is asserted, for instance, in England, that the county area is the most convenient for a certain administrative service, the objection naturally arises—if the area of Rutland is suitable, it must surely follow that that of the West Riding of Yorkshire is not, and *vice versa*. Moreover, the artifical creation of departments in France cannot be said to have been a failure, although, as will appear later, there is a strong movement at present in favour of a larger area than the department for certain purposes.

COMMUNES.

It will be convenient, however, to deal first with the smaller areas. It has been already mentioned that the administrative unit of area in most continental countries is the commune. As M. Castadot put it, " the commune is the primary entity of the territory and of the life of peoples worthy of the name. Such as it is, such is the nation. It is its cradle. It is its future."

The commune is, as a rule, the unit of area for all purposes, but a striking exception to this is found in

Switzerland. There, whereas each canton makes its own regulations regarding the communes and there is consequently infinite variety, Herr Schoch informs us that "the majority of the Swiss cantons, and especially the cantons of German Switzerland, do not possess a single unified type of commune. Within the same area exist different communes for different purposes. The most important is the political or *inhabitant* commune (*Einwohner-Gemeinde*). . . . . in addition to this, *church*, *school* and *citizen* (*Burger*) communes are widespread. One church commune covers as a rule in the rural districts the area of several political communes; in the towns, on the other hand, the political commune that of several church communes. School communes frequently exist in large numbers in widely separated political communes with a central institution. The areas of the different types of commune may of course coincide, so that within that of one political commune are to be found one church, one school and one citizen commune. It is, however, more usual for the different communes to overlap one another in various manners."

It is true that in France the rapidly growing powers of the department are by degrees eclipsing those of the commune, but even there the latter, owing to its historical traditions, to the hold which it has upon the instincts of the people, and to the special position of the mayor, to which further reference will be made later, looms the largest as a local administrative area in the public eye, while its independence, such as it is, is jealously upheld. Indeed, in the words of M. Le Fur, "for the very reason that their financial autonomy is so restricted, it is only natural that they should defend with all the more tenacity the few rights which the law allows them."

It is in Belgium, however, that the idea of "communal autonomy" is found carried to its furthest extent. This is, in the main, a question of control over the inferior by the superior authority, which will be dealt with in its proper

place, but it is at the same time very closely connected with the subject of administrative area. The inefficiency of the small rural communes to provide the necessary public services is widely recognised in Belgium, France, and other countries, but this extreme view of the importance of "communal autonomy" bars the way to the most obvious and necessary reforms in the direction of extension of area, since, even for their own benefit, the communes are unwilling to combine with one another in order to provide, jointly, services which, separately, they are too poor to undertake.

The desirability of such *intercommunal unions* is urged by a number of Belgian writers, and M. Castadot contributes a review of what has been done and attempted in the matter in a number of countries. In France, laws of 1884 and 1890 have provided for three kinds of intercommunal unions, namely: (1) *Intercommunal conferences*, which may be arranged by any municipal councils, but which can have no executive powers, their resolutions being submitted to the component councils; (2) *Commissions syndicales*, to take the place of councils in respect of undivided property; (3) *Syndicates of Communes*, which may be established by decree of the Council of State on the application of any communes, for purposes of an intercommunal nature, and be administered by a committee elected by the communal councils, on which the *Conseil général* (county council) may always be represented, obtaining resources by contributions from the communes, and having no power themselves to levy a rate. Scarcely any syndicates of this kind, however, have been set up, a point to which M. Barthélémy also draws particular attention. "Is the reason for this," he asks, "the instability of these organisations which can be destroyed by a decree? Is it the consequence of an exaggerated local egoism? It is difficult to determine. Whatever be the reason, the communes are unwilling to have recourse to this procedure; private individuals

do not think of encouraging it by voluntary contributions. The law of 1890 introduced a theoretic reform ; in fact, it has not answered to the hopes of the legislator."

To return to M. Castadot, he tells us that in Prussia a law of 1891 authorised combination, committees for the unions being elected as for the communes, but having no power to rate. A certain number of communes have combined under this Act for roads, railways, hospitals, gas, electricity and other purposes, but the tendency in Prussia is rather towards fusion into larger districts than union of mutually independent communes. In Holland there is a power to group with the sanction of Parliament, but this is not much used, there being rather a tendency towards taking shares in an undertaking to such an extent as to obtain a preponderating voice. In Roumania communes are obliged to combine for certain purposes, and may do so for others, a committee of two delegates from each commune allocating the charges on the various communes.

The question of the legal and constitutional powers of the Belgian communes to combine is a very vexed one and is discussed in several reports. Their disinclination to do so, however, is very marked and their opposition to any coercion in this direction would be considerable. Doctor Macar does not appear to consider this such a serious obstacle as other writers, but is of opinion that the object could be attained by passing a general law authorising such unions, in place of the present system of requiring a law to be passed for each individual case. M. Dezuttere, however, says that " it is not sufficient to give the communes a discretionary power to form unions ; it is necessary that they should be formed obligatorily when the general interest requires." It is clear that there would be an even stronger objection to the creation of larger areas which would absorb the communes, than to intercommunal unions. M. Delattre, who strongly advocates the formation of unions, says that " their

greatest advantage in our eyes consists in the fact that the communes thereby preserve their independence."

A lively discussion took place on this branch of the subject, the main point at issue being whether there should be a general law either empowering or enforcing the combination of communes where desirable, or whether a special law should be passed in each case. M. Henrard summed up the pros and cons of the two systems very concisely and came to the conclusion that, while a general law appears theoretically to be the best, the difficulty of passing such a law would indefinitely delay any reform, and special laws would better meet the diverse conditions. He, as all Belgian writers and speakers, was anxious that the independence of the communes should be fully safeguarded, and it is to be observed that even the forming of the communes composing one large town into a single local authority is, in Belgium, according to M. Castadot, strongly opposed. Sir George Fordham explained the working of parish and district councils in England under the general law. Several speakers from different countries were disposed to think that the English system was an admirable one—for England, and that it could not well be applied elsewhere. Signor della Volta expressed himself in favour of special laws, and MM. Delattre, de Royer de Dour and Vandervorst of general permissive legislation.

The following resolutions were passed :—

(1) Seeing that union is strength, intercommunal unions or the formation of communes into districts are of decided convenience and of undeniable utility.

(2) Hygiene, public assistance, education, social services are spheres appropriate to intercommunal activity.

(3) The legislator, therefore, cannot ignore the intercommunal union. If he does not draw up a charter (general law), he must be careful to pass special laws according as they are required.

(4) Laws on the subject of intercommunal unions should include: (*a*) Limitation of the object; (*b*) Conditions under which the law may be utilised, in order to avoid complications; (*c*) Drafting of model statutes, in order to facilitate the utilisation of the law; (*d*) The intervention of the superior authority as a member of the union, and power for such authority to be affiliated *ex officio* to an existing union where this appears to be required in the general interest and is not prohibited by the laws of the constitution.

(5) The law should not on the one hand give such powers to the union as to bring about a slow but sure diminution in the status of the commune, nor should it on the other hand be such as to require continual appeals to the communes themselves. As a counterpoise to intercommunal autonomy, powers of control should be given to the central authority.

The question is not without interest for this country. It is true that many of the services for which intercommunal unions are desired on the Continent are carried out by our county, borough, or district councils. The rural district is very much in fact, though not in form, an *intercommunal union*, while the Poor Law Union is so, not only in fact and in form, but even in name. None the less, combinations of local authorities are required for many purposes, and it must be confessed that our own parish and district councils—indeed, our town and county councils also—show something of the same disinclination to combine that is manifested on the Continent. Joint hospital districts are common, and district councils often combine in the appointment of a District Medical Officer of Health, while there are a number of instances of joint water or sewage undertakings. It is probable, however, that the existing powers of combination between local authorities might with advantage be much more widely exercised, if local prejudice did not often stand in the way.

The question of combination, however, is not so prominently before us in this country as that of the enlargement of the administrative area. For Poor Law purposes such an enlargement seems to be demanded by all who have no vested interest in the existing system, and any such reform would necessarily affect the district and parish councils established by the Act of 1894, the success of which, as Mr. Willis Bund points out in his paper, is exceedingly problematical.

Putting aside, however, for the moment the consideration of our *district* areas, which are peculiar to this country, the question resolves itself into the desirability of the *county* or similar division as a local government area, and for this we must return to the paper by Señor Valdivieso. He is, as has been already mentioned, a strong partisan of the adoption of "natural" lines of demarcation for provincial divisions. Such "natural" lines he finds are followed in the *states* of North America, the *cantons* of Switzerland, the *counties* of England, the *provinces* of Prussia and the Argentine, the *territories* of Austria, Denmark, and Norway.

It will be noticed that in this classification the states of North America are placed in the same category as the counties of England. The United States, however, have their own counties, whose administration, as Prof. Fairlie points out, is based on the system of county administration in England in the seventeenth century. "There are," he says, "about 3,000 counties in the United States. Most of the larger states have from 60 to 100 counties each. At one extreme, Texas has 243 counties; at the other, Rhode Island has 5 and Delaware 3. In area and population the counties show great differences; but for the most part American counties are much smaller both in area and population than counties in England, departments in France, and provinces in Prussia, Belgium, Italy

or Spain. Nearly two-thirds of the counties contain from 300 to 900 square miles; and the most usual areas are from 400 to 650 square miles. More than half the counties have a population of 10,000 to 30,000; but in the North Atlantic States more than half the counties have over 50,000 population, while in the Southern States and still more in the states west of the arid plains, many counties have less than 10,000 population.* Nine-tenths of the counties are distinctively rural in character; but a considerable number of counties contain important cities, and the most important counties are those where the largest cities are located—as New York City (which includes four counties), Chicago, Philadelphia, St. Louis, Boston, Baltimore, San Francisco and Denver. In some of these cases the county administration is partly absorbed in that of the city."

For the purposes of Señor Valdivieso's classification, however, these North American *counties*, especially in view of their system of administration, which will be described in another chapter, are, no doubt, rather administrative districts than provincial divisions, and do not, therefore, fall within either of his categories of "natural" or "artificial," while neither the states of North America nor the cantons of Switzerland, being component parts of a Federal Government, can be properly treated as administrative divisions. Señor Valdivieso characterises as "artificial" the *departments* of France and the *provinces* of Spain, Belgium and Italy, and these, in his opinion, are divisions which should be altogether abolished.

The "natural" divisions, on the other hand, should be more fully recognised as local government areas than they are in most Continental countries. "Among the Latin races," says Señor Valdivieso, "there has been, and there still is, a genuine resistance to the full recognition of these

* These figures may be compared with the statistics for England on pp. 167–170.

divisions, owing to the influence of the Roman law, which limited the conception of the State to the Capital of the the Empire, the provinces (from *pro* and *vincere*, to acquire by conquest, or according to others from *pro-ventus*, produce, rent) being considered as properties susceptible to exploitation, absolutely subjected to the rule established by the Senate, or through delegation, by the magistrate to whom the government had been entrusted. The principle on which the French system is based, that of looking on the territorial administrative divisions as capable of being created and suppressed at the free will of the central government, is a survival of this attitude of the Roman law."

The right view, urges Señor Valdivieso, is the precise contrary of this. "The administrative divisions intermediate between the State and the Municipality are an integral part and the essential basis of the politico-administrative organisation in modern States ; they have a real legal personality and should be recognised by the law as possessed of public and private rights."

The position claimed by Señor Valdivieso for the provincial governments seems to be fully realised by the *Comitats* of Hungary. On this subject some most interesting information was supplied by MM. de Vinczchidy and De Buday. The history of these provincial organisations goes back for no less than 900 years. Originally formed in order to safeguard the Constitution, they are now both political and administrative in character and are by far the most important local government divisions in the country. " In contradistinction," says M. de Vinczchidy, " to the French and Belgian situation, the departmental institutions in Hungary have far more importance than the communal." Looking upon the *comitat* system as thoroughly sound and successful, he is strongly in favour of the large administrative division as against the small. " It is incontestable," he says, " that regional autonomy is favourable to the development

of the civic spirit. Not only does it satisfy the needs of the citizens, but it has also an educative influence upon them. It supplies a wider horizon, a just appreciation of general interests, a certain degree of altruism. Communal autonomy is incapable of taking its place. The worthy *bourgeois* is convinced that the centre of the world is at Tarascon, and he has no interest for anything which does not affect his own little affairs. The affairs of the *comitat*, of the department, of the province on the contrary, do not as a rule touch the private interests of members of the council. By taking part in deliberations on these questions, the citizen who labours prudently, conscientiously and without egoism for the public good, develops qualities which, again, the hot passions of parliamentary parties are apt to destroy."

In France, M. Barthélémy reports, there is in certain quarters so strong a desire for large areas of government that there is even a movement in favour of creating new divisions which would suppress or absorb the department. This movement, however, he does not think likely to succeed, at any rate, for some time to come. " If, indeed, the action of the central authority has been rendered easier by the development of means of communication, it has at the same time been made infinitely more complex by the multiplication of the functions of the State. . . . In the second place, the *regionalist* campaign is still very superficial ; it does not coincide with the aspirations of the people. The remembrance of the ancient territorial divisions has been altogether wiped out, and has given place to a genuine departmental patriotism. Moreover, *regionalism* comes up against the opposition of the representatives of Paris, whose situation as sole capital would be threatened, and also against that of the towns to which the revolutionary organisation gave an administrative position which is far from being without an effect on their economic prosperity. This does not, however, mean that there is nothing to be done. It is desirable

to encourage combinations between departments for the establishment of institutions or services which are beyond the respective needs or resources of each."

This is returning to the question of combination, which, as far as this country is concerned, is certainly all that can be required for administrative divisions of this type. Except for such services as require to be nationalised, and, perhaps, for a purpose of such a special character as the conservation of the water supply, no larger division in England than the county is conceivably desirable. The question of the moment is rather whether certain services at present performed by minor authorities, and especially those connected with sanitation, highways, and public assistance, should not be transferred to or placed under the supervision of the larger. Enough, perhaps, has been said in this chapter as to the advantage of large areas, which means, in this country, those of the county councils. In this connection the county and the large municipal boroughs need not be considered, for there is no question as to their suitability as administrative areas for all purposes. As between the counties on the one hand, however, and the small boroughs, the urban and rural districts, the Poor Law unions and the parishes on the other, it is most decidedly a moot point whether the existing areas are the best fitted for all the services which devolve upon their respective authorities, and attention may be drawn to one curious fact, which somewhat complicates the matter when looked at scientifically, namely, that there are a number of rural districts which are larger both in area and population than some counties.

Arguments in favour of the county area will be found in the papers by Mr. Willis Bund, Mr. Hobhouse, Mr. Copnall and Dr. Fremantle. It is unfortunate that no paper was contributed setting out the case for the other side, but it may fairly be said that most of the objections to the county area may be met by the sub-division of that area for executive purposes, The selection of a

large area for a certain administrative object does not by any means imply that the central authority of that area shall directly carry out all the executive work. From the point of view of efficiency, as well as from that of local interest, knowledge of local needs and civic education, the desirability of local committees in some form or other is generally recognised. This, however, is rather a subject for the two following chapters.

Alteration of Boundaries.

One point of extreme difficulty in this country is the continual variation of local government areas owing to the creation or extension of urban districts and county boroughs. While the object of every such change is to provide a more suitable form of government for the areas concerned, it is obvious that the mere apprehension of such constant changes must seriously affect the administration of the rural district or county council, as the case may be, while the actual loss of area, when it takes place, means a very serious financial disturbance and, in almost every case, if no adequate financial adjustment were to take place, the throwing of a largely increased burden of rate on the population which remains in the denuded rural district or county. No light, however, is thrown upon this problem by the experience of those countries in which the communal system holds sway. All communes, whether urban or rural, large or small, having theoretically the same powers, there is never any question of a rise in status of a local authority, while owing to the limited powers of the provincial or departmental governments as compared with the English county councils, together with the indestructibility of the commune as an administrative unit, an alteration in the boundaries of a local government area seldom takes place, and, if it does, involves none of the serious considerations which arise in this country.

CHAPTER III.

CONSTITUTION OF LOCAL GOVERNMENT BODIES.

THE British Committee for the International Congress made arrangements for papers to be contributed giving, for the information of foreigners, a full description of the constitution, powers and duties of the various local authorities in this country, together with a table which served as an index to the different reports. This procedure was greatly approved by the Congress, and it was felt that it would have been more satisfactory if something of the same kind had been done for other countries. As it was, no complete description of the system of local government was given for any country except Switzerland, and any general survey must therefore be based, in many cases, on fleeting allusions rather than on detailed statements. Probably, however, this will be sufficient for our purpose, as it would not be possible to set out here the details of the systems in force in each country.

Among the nations on the continent of Europe there is a strong family likeness in their local government institutions, due largely to the laws of the French Revolution and of the Napoleonic era, and these all differ fundamentally from the English system in that the real executive power resides almost invariably in an official (prefect, sub-prefect, or mayor) appointed by and answerable to the central government, the elected councils being mainly consultative and having at present little real power. The prefect and mayor are, it is true, the servants both of the State and of the local authority, and in some countries the tendency is growing towards rendering their responsibility to the latter the more important. In France, the post of mayor has been elective

since 1882. The difficulties of his position in having to serve two masters and, generally, the relations between the local and central authorities are dealt with elsewhere, as also are the duties of officials whether centrally or locally appointed.

Besides these official heads of the various local bodies, there are usually permanent committees and executive officers appointed by the local councils, since the latter often have only one or two meetings during the year. It is usually the rule that the persons composing these committees shall be members of the local councils, but even this is disapproved of in some quarters, M. Van Brakel contributing a paper in which he argues that it should be possible to fill these posts from outside the councils. Commenting on this, M. Jacquart says: "I see only one inconvenience, one difficulty in the solution proposed by M. Van Brakel; it is that, in order to carry it into effect, it will be necessary that a conviction of their incapacity to fill the posts of *échevins* shall penetrate practically the whole body of communal councillors. This is a great deal to ask of human nature, even in Holland."

In Switzerland, as may be supposed, from the general character of its constitution, the case is quite different from that of most of the other countries. The communes appoint their own administrative bodies, the most important of these, the *Gemeinderat*, being elected by the general assembly of the commune, if necessary, by ballot. The president is elected by the general assembly and no superior authority has any representative upon the council.

In Spain, in spite of the influence of French legislation, the municipal authorities are not so greatly dominated by the mayors, and the representative bodies, which are elected directly by the people, occupy, therefore, a more important position. They meet every week and not, as in France and Belgium, only twice a year. They do not

therefore require, as in these other countries, permanent executive committees, such committees as they appoint being purely consultative. Unfortunately, as we are told in a paper emanating from the municipal council of Valencia, the backwardness of the population in the villages and the small towns renders the liberal provisions of the Spanish municipal law to a great extent nugatory.

Communal Organisation.

If, however, we have not much to learn from the existing system of local administration in Spain, the Congress has served to show that there is an active movement among leading Spanish administrators and professors for a reform of local government in their country, and the proposals which they are putting forward, based as they are on the study of the systems existing elsewhere, are of very great interest and importance. Thus, Señor Garcia presented the following project for communal organisation :—

(1) The administrative corporations of towns, called councils, communes or municipalities, should be formed by the inhabitants of the town itself, elected by popular vote in number proportionate to the population.

(2) The law should fix the various expenses to be incurred, the duties to be undertaken, the committees into which the municipality should be divided ; but the corporation alone should elect the members.

(3) Half of the members of the councils, communes or municipalities should retire every four years ; but all such members, or persons nominated on any committees, should be eligible for re-election.

(4) Councillors, once their election approved, should never be liable to be deprived of their office

or to have their functions suspended, except by a decree of a Court of Justice. The superior authorities in the administrative scale should have power to inflict fines and punishments for faults committed.

(5) In each commune there should be a delegate of the government, who should perform the duties of mayor or prefect of the commune. This official should belong to the administrative profession; he should be able to show proof of his capacity and should follow the regular steps in the administrative career. He should commence his service in the smallest towns, passing on successively to the more important, each in order of priority.

(6) The mayor of the commune, delegate of the government, should have power to take part in the meetings of the municipality, but without the right of voting. He should merely direct the debates and see that the decisions arrived at are carried into effect.

(7) Every commune should have a secretary, to authenticate the decisions of the council and the acts of the mayor delegate of the government.

(8) The secretary should be appointed by the commune, after a meeting and production of a certificate of fitness for the post, and subject to conditions fixed by regulations, in which his functions, rights and duties should be laid down. The regulations should fix the form and scale of punishments and the conditions under which dismissal may be resorted to in case of serious misconduct.

Provinces, Counties, etc.

Turning to the constitution of the governing bodies of the larger or "provincial" areas, we are again greatly assisted by Señor Eduardo Valdivieso, whose classification may well be quoted at some length.

His first class, which he names the federal system, includes the *canton* of Switzerland, the *province* of the Argentine, and the *state* of North America. These bodies, however, he points out, are themselves so independent that they do not properly come under the definition of provincial governments subordinate to a sovereign state.

His second division includes those countries which have adopted the system of centralisation, namely, France, Italy, Belgium, Holland, Spain and Portugal. In these six countries, he says, there is one simple system of organisation, which consists in establishing as the governing body of these provincial areas: (1) a delegate of the central government, endowed with the superior authority in the politico-administrative sphere; (2) an assembly of elective origin, representative of the province or department concerned; and (3) a committee formed out of this assembly to represent the latter when it is not in session and to act also as a consultative body. The delegate of the central government is called *prefect* in France and Italy, *governor* in Belgium, Spain and Portugal, and *Royal Commissioner* in Holland. The provincial assembly is known by the name of *council general* in France, *provincial council* in Italy and Belgium, *general junta* in Portugal, *provincial deputation* in Spain, and *provincial state* in Holland. The committee of these bodies is called a *departmental committee* in France, a *permanent deputation* in Italy and Belgium, an *executive committee* in Portugal, a *provincial committee* in Spain, and a *college of deputies of the provincial state* in Holland. In France, Italy and Portugal there exists in addition a consultative body attached to the prefect or governor, called respectively *prefectoral* or *district council*, but this body is entirely subject to the national government.

In Señor Valdivieso's third class Germany stands alone, as does England in his fourth. As regards Germany, Señor Valdivieso says that "its federal constitution has

respected the form of administration adopted by each state, but the system established in Prussia has spread considerably, being identical throughout almost the whole Empire. The peculiarity of the German administrative divisions consists in a combination of the bureaucratic and technical elements with the elective, and in the balance between central control and local self-government. In each of the provinces there is a delegate of the central government called *President Superior*, who has at his side the *provincial council*, presided over by him, and consisting of an administrative official and five members appointed by the provincial committee. The representation of the province rests in the *provincial diet*, composed of deputies elected by the diets of rural *circles* and by the assembly of delegates of those towns which themselves constitute *circles*. The diet elects in its turn the *provincial committee*, which has the administration of finance and of all the local institutions; but at the same time it appoints a technical official, the *director of the province* (whose nomination has to be approved by the government), whose duty it is to see that the ordinary work is carried on, to execute the decisions of the diet and the provincial committee, to represent the province in legal proceedings and to carry on business subject to the control of the committee."

The Hungarian *comitats* are not included in either of Señor Valdivieso's classes. These *comitats*, as M. de Vinczchidy tells us, are governed by councils which are very large bodies, numbering from 120 to 600 members according to the population. One half of the members are elected by the parliamentary electors and one half by those inhabitants who pay the most in direct taxes. They hold office for six years. These councils, while very independent as regards the central government, appear to be largely dominated by their own elected officials, the chief of whom, the *alispan*, "not only directs all the administration, but also decides and executes."

Another important official is the *föszolgabiro*, who has direct administrative control of all the communes. It is true that there is also a representative of the central government, named the *föispan*, who sits as president of the council, has rights over certain employés and much influence in the appointment of officials, but he has none of the powers outside the council possessed by prefects or governors in more centralised systems. Although this system of the *comitats* appears on paper to be very democratic, it is pointed out by M. de Buday that it is not so in fact. Originally, the nobles alone had the right to vote, and, although during the nineteenth century the administration of the communes fell into the hands of the small landholders, the middle and lower classes could not and did not wish to take part in the *comitats*. There is practically, no *bourgeois* class in Hungary, and the question is therefore as to the participation of the peasants " Although," says M. de Buday, " the committees of the council have a democratic organisation and their members are elected by ballot, thus making it possible to increase the representation of the peasant element, less rather than more advantage is taken at the present day of this opportunity."

For the purposes of county administration in the United States of America there is no body of any kind resembling a county council, except in Indiana, as to which Professor Fairlie says that " this separation of powers is as yet exceptional, and so far does not seem likely to become a general system." It is true that there is usually a *county board* of three to five members which levies taxes, but it has little control over officials. It is these locally elected officials, who are at the same time agents of the various state governments, who are responsible for all the county administration, and to the election of these officials, as a rule, according to Professor Fairlie, comparatively little public attention is paid.

Sub-Divisions of Counties.

As regards the constitution of bodies intermediate between the communal and provincial councils, little information was given in the Congress papers. Señor Valdivieso enumerates, in addition to the districts and unions of England, the *arrondissements* and *cantons* of France and Belgium, the *circondari* and *mandementi* of Italy, the *counties* of the United States, the *bezirke* of Germany and Austria, the *kreis* of Prussia, the *departments* and *districts* of Chili and the Argentine Republic and the *districts* of Spain. Some of these, however, would seem to be analogous to our counties rather than our districts, while most of them—and certainly the *arrondissements* of France—are of very little administrative importance.

The advantage of large areas for the general administration of local government has already been dwelt upon. The difficulty, however, in these days of manifold and complex public services, of carrying out all executive work from one centre in a division so large as our average-sized counties, as well as the desirability of keeping up local interest and of making use of local knowledge in the administration of public affairs, render it most necessary, if all the work is not to be done by officials, to have some local bodies for minor areas in the large agricultural districts. The constitution of such bodies is a matter of considerable importance and it is a question which crops up in several of the English papers, whether the Act of 1894 provides a satisfactory solution of the difficulty. The existence of independently elected bodies for artificially created areas covering precisely the same ground as the counties, such bodies having no organic relation to the county councils, does not seem such a practical method of combining the advantages of large areas for general administration, and small ones for actual executive work, as the Scottish system, described by

Mr. Munro, under which the *district committees*, composed of the county councillors from the particular area with one representative of each parish council in the district, must conform to general regulations made by the county council and must report their proceedings to the council. These district committees, as may be learned from Mr. Munro's paper, may again delegate certain of their functions to local sub-committees.

It will be observed from the contents of this chapter, that Great Britain stands alone, among the countries under consideration, in the representative character of its local government institutions. Although in many countries a desire exists for a greater measure of freedom from central control, this does not show itself in any strong movement in favour of reform in the constitution of the local bodies, or of the complete abolition from them of a representative of the central government.

CHAPTER IV.

POWERS AND DUTIES OF LOCAL AUTHORITIES.

It is well known that in Great Britain the powers of local authorities are strictly limited to such as have been definitely conferred upon them by Statute. The matter is not so clear on the Continent, and in many countries local authorities are theoretically capable of doing anything not prohibited to them by the State, but the practice does not by any means always follow the theory.

The state of the law in France on this subject seems to be a moot point, on which such authorities as MM. Nézard, Bouvier and Barthélémy are at issue. The point was discussed in connection with the subject of municipal trading,* M. Nézard stating that the French Conseil d'Etat is now in the habit of basing its judgments with regard to the industrial undertakings of municipalities partially on the principle of the *speciality* of the powers of these bodies, that is to say, the English system of their limitation to such powers as the law specifically assigns to them. This attitude of the Conseil d'Etat is supported by M. Barthélémy, but is strongly contested by M. Nézard, who argues with great force that the principle of *speciality* only applies to public institutions such as hospitals, bureaux for public assistance, universities and so forth, and not to the organs of general administration, namely, the State, the departments and the communes, which are entrusted with wide powers of administration within a definite geographical area, powers, that is to say, of providing for all the collective needs which may arise therein. M. Nézard therefore pronounces against the rigid theory of *speciality* set up by the Conseil d'Etat and his opinion is shared by a large number of French jurists and notably by M. Emile Bouvier.

* See pp. 60–63.

The doctrine of *speciality* is, according to M. Brees, upheld in Belgium and appears in the form of a principle of constitutional law, but it does not seem to be largely acted upon, the opposite principle, that "the communal council regulates everything which is of communal interest," being found as a part of the communal law and having more force in practice. In Austria and Switzerland the liberty of local authorities to do anything not prohibited to them by law is fully acted upon, but in other countries where the theory is recognised, the practice appears to be otherwise, especially when the question of municipal trading comes into consideration, as will be observed in the section of this chapter which deals with that subject.

Many public services in the centralised countries are carried out by the local authorities or by their State-appointed officials as mere agents of the central government. In France and most other countries there are a number of "obligatory" services, which must be carried out by the local authorities before they may raise any money for those which are voluntary, while, as regards these voluntary services there is, as a rule, a strict limit to the amount of money which may be raised for the purpose, and this constitutes a very strong practical check on the liberty of local authorities, whatever may be the law or the practice on the point of *speciality*.

The foreign papers contributed to the Congress are singularly lacking in any general account of the powers and duties of local authorities in any country. It is therefore impossible to compare generally the allocation of public services between the central and local authorities or between the different classes of the latter in the various countries. It may, however, be said that as a rule, outside England, the position is much the same as in France, where, as M. Barthélémy says, "it is not the departments which bear the heaviest burden of the expenses . . . it is the communes. It is on them that

weigh most heavily the expenses of elementary education and medical assistance; the support of the aged constitutes for the communes a charge all the heavier in that the authorities which supply it are too near to their public to exercise any serious control over their demands." In Hungary, according to M. de Vinczchidy, the departmental institutions have far more importance than the communal, but the extensive powers and duties appertaining to county councils in Great Britain are unknown to the governing bodies of the larger areas in other countries. As is shown in another chapter, there is in France and elsewhere an active movement for reform in this respect.

The one paper dealing with this part of the subject on general lines is that by Herr Schoch on Switzerland. "In looking at the historical development of public life," he says, "the fact cannot be denied, that large areas of human activity have been removed from the domain of private competition and have in the interests of the community been transferred to the sphere of public services. This development pursues its course in all countries; in some it has made more progress, in others less. To give a few instances of services, which were formerly private and are already in many countries of a public nature, if we confine ourselves to the means of communication, we may mention streets, railways, tramways, post, telephone and telegraph. Again, there is the business of insurance, which is becoming more and more a public service. Insurance of buildings and cattle is a State concern in many cantons, a federal sickness and accident insurance is under the deliberation of the Federal Parliament. In some cantons the insurance of moveables is undertaken by the State, and it is being considered in others. Thus, before long, many more functions, which are now fulfilled by private organisations and public companies, will pass over to the State and the communes.

"Very frequently the evolution develops in such a manner that, first, public companies step into the place of purely private undertakings; these organisations then sue for public subventions; these subventions grow larger and larger, until finally the commune takes over the service altogether; the commune then in its turn demands subventions from the State; and if, in spite of these, the services become too much for the smaller authority, the State itself must step in. These developments do not always evolve uniformly. Much depends upon the extent of the service. The railways, for instance, went over direct from private undertakings to the Federal Government; the shoulders of the communes and the cantons would have been too weak for these great concerns. At the same time there are cantonal railways and communal tramways. We may also see in different spheres the various forms of development side by side; for instance, in the care of the sick, we have purely private undertakings, organisations under associations, communal hospitals and polyclinics, also district hospitals, cantonal hospitals and a federal military hospital."

Herr Schoch then proceeds to describe the different branches of the public service, which will be mentioned in this chapter under the subsequent heads, together with such information as is forthcoming from other countries. It is to be regretted however, that this information is so scanty, and it is to be hoped that for the next Congress, as was suggested during the discussions, there will be provided an outline of the actual conditions in each country on a uniform system, to serve as a guide for future debate.

A.—Police.

An interesting paper on the police system in France was contributed by M. Politis. In theory, he says, since the Revolution, the municipal police have been looked

upon as a local matter. Modifications of this theory are, however, necessary in practice. "The maintenance of order in the localities is, to an extent which varies according to the importance of the towns, the guarantee for the safeguarding of the public peace throughout the country as a whole." In Paris, Lyons and Marseilles, the police are now directly under the central government. In the rest of the country there are three classes of municipal police, viz.: (1) *Commissaires de police*—for towns over 5,000 population. These are appointed and dismissed solely by the chief of the State. They are paid by the commune and in them the mayors possess auxiliaries, to whom they can give orders, but over whom they have no disciplinary power; (2) *Agents;* and (3) *Gardes champêtres*, both classes appointed by the mayor with the sanction of the prefect or sub-prefect. In practice, the superior authority seldom appoints any of these otherwise than in accordance with the wishes of the commune. In the opinion of M. Politis, yet more centralisation is necessary. He considers that the police should be a national service, directed solely by the State, supported by general funds to which each commune should contribute in proportion to its importance and population. He bases this opinion mainly upon the alleged political character of the mayor.

In the course of a discussion on this subject, M. Berthélémy remarked, with reference to the question whether the police should be under the control of the central or local government, that there were in France partisans of both systems. "Those," he said, "who pay more regard to security than to liberty would place all the powers in the hands of the State. Those who prefer liberty to security, of whom I am one, are of the contrary opinion. In France an intermediate and hybrid solution has been adopted." M. Barthélémy, on the other hand, says at the conclusion of his paper, "as regards the police, I believe that it would be best to take a step

backwards and resolutely place them in the hands of the central power."

The question as it arises in Belgium was discussed at some length by MM. Leschevin, Brees and Vauthier. M. Leschevin stated that more than two years ago a Bill was introduced into the Belgian Parliament, which would have preserved the *garde-champêtre*, a communal police official, as the basis of the organisation of rural police, but would have made him subordinate to a *brigadier champêtre*, whose jurisdiction would be over a group of communes. To M. Leschevin's mind, this is not sufficient. He desires to see a cantonal *commissaire de police*, who should, from the chief town of the canton, exercise control over the police of the rural communes, and over him, again, a committee for rural police comprised of the *commissaire* of the arrondissement and the *juges de paix* of the cantons. M. Brees, while stating that the administration of the police by the burgomasters and communal councils is satisfactory in the large towns at any rate, agrees that the rural police require re-organising and reinforcing, but is opposed to their being placed under the superior authority. M. Vauthier looks upon the establishment of a system of national police, both in town and country, as a necessary evil which must come before long, but need not, he thinks, seriously affect the autonomy of the communes.

M. Michoud raises in his paper a special question which is connected with police organisation, namely, that of the liability of either the State or the commune to compensate those who have suffered damage in consequence of a riot. He argues the matter from a jurisprudential point of view, which cannot be detailed here, and comes to the conclusion that the State should be held liable where the police are directly under the central government, and that elsewhere the commune should be primarily liable up to a certain number of *additional centimes*, the State

supplementing these where necessary and thus coming to the assistance of poor communes.

In Switzerland there are both cantonal and communal police. The latter are primarily responsible within their sphere, but the cantonal police, while they have no control over them, have sometimes to act in their default. The organisation of the communal police depends of course on the size and importance of the communes. "Small country communes," says Herr Schoch, "are content with a single policeman, who frequently is not even a whole-time man, and usually has had no special training. Everyone knows the figure of the *Nachtwächter*, if it is only from the comic papers. In the towns, on the other hand, we find a carefully trained police corps, organised on military lines, often with special corps for certain branches of the service, which require a special training, such, for instance, as the sanitary police." It will be understood, from this last expression, that the term *police* here includes, not only the force responsible for keeping law and order, but also inspectors of various kinds and even such services as the fire brigades.

On the various merits of a local or centralised system of police, Herr Schoch presents some interesting considerations. "As the centre of gravity," he says, "of all police activity rests with the local police, the autonomy of the communes in this sphere is a matter of great importance. Since the police, in the exercise of their functions, must constantly encroach upon the personal freedom and private property of individuals, it is clear that they must possess sufficient authority to represent effectively the interests of the community as against those of the individual. Now it is admitted that the State police will have greater authority over the individual than the communal. On the other hand, it must not be overlooked, that the welfare of a state is not to be found merely in a strict police government. There are considerable advantages to be found in a system in which the

individual need not feel himself at every step to be a subject. And it cannot be denied, that he finds it easier to tolerate the necessary encroachments of the police on his private sphere, when it is a matter of agents of his own commune, than of the central power of the state. The local police will as a rule act with more forbearance and be less 'high and mighty' than those of the State. The *citizen* feels his personal freedom less cramped, and therefore has greater confidence in the public administration than the *subject*, who is afraid of the power of the State and at the same time mistrusts it."

The police system in England is described in the papers by Mr. Pickmere, Mr. Willis Bund and Mr. Bushell. Little dissatisfaction is found with it, apart from the financial question of the proportion of the expense which should be borne by the central authority. It is one of the services which was described by the Royal Commission on Local Taxation as "preponderatingly national," and it would therefore seem that the National Exchequer should bear the greater part of the expense. At present, however, grants are given only for one half of the cost of their pay and clothing, and a fixed sum towards the pension fund. This latter sum, when first fixed, was enough to cover the expense on that item, but as the amount of the expenditure grows automatically from year to year, there is now an enormous deficiency on this account which has to be met out of the rates. For these reasons, a much larger contribution is demanded from the State. It is sometimes suggested that it would be better if the State were to take over the whole expense and the entire control, as has been the case with the prisons, but this does not seem at all consonant with the spirit of the English people.

B.—Hygiene.

The Swiss Federal Legislature makes laws relating to the public supervision of food and of diseases. Their

administration is the business of the cantons, which, however, in their turn usually hand it over to the minor authorities. Moreover, the general laws merely direct that which is absolutely necessary and the communes are free to extend their care more widely if they think fit. "We may mention," says Herr Schoch, "as spheres of communal activity—the laying out of parks, the building and management of slaughter-houses, the regulation of markets, the cleaning of streets, water supply, communal hospitals, public baths, public lavatories, sewerage, funerals, etc. It is especially desirable that the regulations with regard to infectious diseases should be carried out by the communes. In all these spheres the communes issue independent orders and regulations. Sanitary administration requires special expert knowledge. For this reason we usually find that it does not form a part of the work of the regular communal authorities, but is carried out by expert committees which are either independent or subject to the communal council. In the larger towns, such as Zürich, we find a sanitary staff specially trained and separate from the rest of the communal officials and inspectors."

Apart from the above information and from the English contributions, only one paper was submitted to the Congress on the subject of sanitary administration. This was an account by Professor G. B. Uffreduzzi, Chief Medical Officer of the City of Milan, of the sanitary administration in that town. It would have been extremely interesting to compare similar accounts from other places, but, lacking these, it would certainly seem worth while to devote some space to the details of this administration, which appears to be very complete and well organised.

All the services of public health and sanitation for the town of Milan are centred in one building, which is under the sole direction of the chief medical officer. This building contains, on the ground floor, rooms for public

vaccination (a waiting-room, a room for men, another for women and children, and a room for the administrative business), a room for visits and for urgent cases, and chemical and bacteriological laboratories. On the first floor are the various sections of the office and also a room for meetings and conferences and a visiting room. On the second floor are the rooms of the chief medical officer and the section of sanitary engineers.

The Office of Hygiene is divided into the following sections, namely: (1) infectious diseases; (2) sanitary inspection of food and drink; (3) medical inspection of schools; (4) medical assistance; (5) sanitary engineering; (6) veterinary service.

Immediately upon the notification of an infectious disease, a doctor proceeds to the patient's home to give directions as to isolation, etc. If the disease is small-pox, scarlet fever or diphtheria, the patient is removed, if the family consents, to the isolation hospital. If the patient remains at home, a notice is placed on the door and a special controller visits the house periodically to see that the isolation is properly carried out. If this is not done, a municipal agent remains permanently in the house at the expense of the family. The municipal office supplies special clothing for doctors and attendants and a sack for soiled linen which is removed every six or seven days to the establishment for disinfection. Disinfection of the houses, after a case of infectious disease, is carried out gratuitously.

In the chemical and bacteriological observatories attached to the department for the inspection of food and drinks, analyses of all kinds are carried out in the same way as in the similar institutions in this country, a very low charge being made to private persons who send examples for analysis. The names of persons who have transgressed the laws or regulations relating to food supply are published in the papers, but, in the case of retail dealers, only on a repetition of the offence.

The six school medical inspectors see to everything relating to the health of the school children, including the school dinners which are provided by the commune, free to the very poor and at cost price to those who can afford to pay, and the shower baths which are established in every recently erected school. In addition to these inspectors there are three specialists (one for infants, one for diseases of the eye and a third for diseases of the ear, nose and throat) who visit all new scholars in the first months of the school year.

The system of medical assistance to the poor appears to be very complete, the commune of Milan being divided into sixty-one sections for this purpose, with an equal number of ordinary general practitioners, and eight supplementary in case of emergency, while there are a number of municipal specialists for different purposes. All medicines are provided free and chronic invalids are regularly visited, whether at their homes or in the hospitals. A municipal ambulance is also provided and is connected with all public or private hospitals or other institutions of the kind.

The department of sanitary engineering covers a great deal of ground. It is composed of doctors, expert engineers and technical assistants, and deals with matters of sanitary inspection of all kinds, except such as relate to animals, which come under the veterinary department.

All these services of public hygiene in Milan are governed by suitable " regulations for local hygiene," which embody the general law, adding to it those other special requirements, which are not included in the laws, but which are appropriate to the particular circumstances of the town or communal area.

C.—Public Assistance.

The system of public assistance in Italy is described by Signor Platner, who states that the municipalities, provinces and other authorities are obliged to supply four

main forms of public assistance. It is to be observed that the funds for this purpose are to a large extent provided by charitable institutions under compulsion of the law.

(1) *Care of Foundlings.*—Properly speaking, this would, of course, include only children whose parents are not known, but the provisions of the law relating to the matter have been so extended, that one-third of the income of charitable institutions, if not specially allocated to other purposes, is to be spent on other poor children. The age up to which these children may be supported varies in the different provinces, but does not as a rule go beyond twenty-one. The child is sometimes kept in a hospice and sometimes boarded out. The expenses of this service are allocated to the communes and the provinces in proportions fixed by the Council of State after consultation with the councils general.

(2) *Assistance to Sick Paupers.*—This may be either (*a*) domiciliary, or (*b*) institutional. Domiciliary treatment is obligatory on every municipality, who must keep one or more doctors, surgeons and midwives. The poor are entitled to gratuitous treatment and no repayment is required from other communes. In urgent cases, institutional treatment may be supplied by the mayor and the representative of the central authority, and in this case, if the patient is a stranger, the expenses may be recovered from the commune of domicile, which is usually fixed by five years' residence.

(3) *Lunatics.*—The provinces are obliged to find asylums for all pauper lunatics found in their area, and to provide for their maintenance, being, however, reimbursed by the State in the case of foreigners. The communes have only to pay the expense of removal to the asylum.

(4) *Incapables.*—This term is applied to persons of either sex who are prevented by a chronic infirmity or by incurable physical or mental defects from providing

for themselves the means of subsistence. Children under twelve are also included. For those incapables who possess no means of subsistence and have no relations legally bound to maintain them, the communes must either find a refuge, or pay a small sum as out-relief. The funds are to be supplied, in proportion to their resources, by charitable institutions, religious fraternities, and similar establishments. Where these are not sufficient, the commune must supplement them, if it can do so without raising a rate for the purpose ; otherwise, the cost will be met by the State.

In Switzerland the care of the poor is for the most part a matter for the commune of domicile ; only in Berne and Neuenburg is the commune of residence responsible. The communes obtain the funds for this purpose by means of a special poor rate, the amount of which is fixed by each commune according to its needs. Poor-houses and orphanages are almost always communal establishments. At the same time the care of the poor is on the road to becoming a State concern. Many communes are obliged to levy high poor rates, a State subvention becomes necessary and the cry for a State system is repeatedly heard. The administration is carried out sometimes by the communal authorities themselves and sometimes by special bodies. If the latter, they are chosen by the commune and not by the State. The State has merely a power of supervision. The business of public guardianship is, says Herr Schoch, one of the most important branches of communal administration in Switzerland. Only in a few cantons is it an affair of the courts, in the majority it rests with the communal councils or with special committeees appointed by them under the supervision of a State authority, which has merely powers on appeal.

M. de Schopf contributes a paper on the system of public guardianship in Hungary. It is exercised, he says, under a law of 1877, which entrusted the entire tutelary

jurisdiction in the first place to the *comitats*, the municipal boroughs and other towns, and, in a few exceptional instances, to communes, who act through tutelary courts, consisting of a president (who is always the burgomaster in a town and the mayor in a commune), a deputy or president of the senate, not less than two assessors, a notary, and the municipal solicitor. Legal qualifications are required of at least one of the assessors and also, in *comitats* and municipal boroughs, of both assessors and president. It is to be observed that this is an administrative body and that the judiciary has no jurisdiction whatever in the matter of guardianship. M. de Schopf does not describe all the functions of these tutelary courts, but it seems that, generally speaking, they are concerned with the education and management of the property, not only of orphans, but of all minors and other persons incapable of managing their own affairs.

M. Tybaldo-Bassia gives an account of a Bill to deal with public assistance which he introduced into the Greek Chamber in November, 1909, and which was unanimously approved by a Parliamentary Committee. The Bill proposes the creation of a *caisse*, to control all charitable institutions of every kind, who are to submit their budgets annually to it. The *caisse* is to have power to grant subsidies to any philanthropic institution or body as it may think fit, and to create and maintain new establishments where needed. It is to obtain its funds from a number of different sources, which will include voluntary contributions, additional centimes on certain taxes, the estate of anyone dying intestate and leaving no relatives nearer than the eighth degree, and the contents of unclaimed letters. The *caisse* is to be under the Minister of the Interior and is to consist of six members, nominated by Royal decree to sit for four years, each to receive 10 francs per ordinary sitting.

M. Delleur, in the very short discussion which took place on this subject, urged the desirability of an administrative control of charitable institutions, or, at any rate, a requirement that they shall publish a statement of accounts. M. Baudet agreed with the latter proposition, but M. Vauthier considered it impossible, and M. Berthélémy, from the chair, also opposed it and discouraged a continuance of the discussion, which accordingly dropped.

A special aspect of the question of public assistance is dealt with by M. de Quéker, who contributes a paper on "assistance by work." In no country, he says, except England, has the duty of supplying public assistance by the provision of work been imposed upon the public authorities, systematically, by a general law. In most of the larger countries, however, assistance of this kind has been attempted by the municipal bodies, and it has been the general conclusion that distress works should only be looked upon as a temporary expedient. The difficulties as to creating out-of-works in other directions and as to the amount of pay, are mentioned by M. de Quéker, but no solution is suggested. The cost of labour colonies he looks upon as too heavy for private initiative. The public authority should bear the chief expense and should have adequate control, but "should leave the more immediate direction to private initiative, in which is to be found that devotion and spirit of invention which is necessary for the success of such an enterprise." Labour exchanges, he thinks, should not be hampered by too narrow administrative regulations, but should call in representatives both of employers and employees to assist in their management. Generally speaking, for all organisations of this kind, the administrative authorities should make use of any voluntary resources which are available. Where such fail, the local authorities should take the matter in hand, and in this case all the services should be absolutely gratuitous.

D.—Highways.

In England, as is made clear by Mr. Copnall's paper, the central government has practically no concern with the highways, which are left to the care of a bewildering number of authorities. On the Continent, on the other hand, there is in almost every country a special Government department, which deals directly with the principal roads and which supervises the management of the rest.

The position in France is shown by the statistics supplied by M. Ledoux, who gives the following figures showing the extent and cost of the various classes of roads into which the highways of France are divided :—

	Total Length. 1904.	Total Length. 1907.	Average width.	Cost of Maintenance.		Cost of staff.
				Total.	Per running metre.	
	Kilom.	Kilom.	Metres.	Francs.	Francs.	Francs.
Routes nationales -	38,192	38,200	—	29,113,894	0·689	7,546,600
Routes départementales	15,578	14,564	11·77	7,162,616	0·496	742,319
Chemins de grande communication - -	167,152	234,436	10·21	62,084,950	0·370	9,770,055
Chemins d'intérêt communal - - -	78,876		8·85	21,371,550	0·347	
Chemins vicinaux - -	270,000	283,000	6·44	69,525,424	0·163	—

The French national roads are maintained directly by the engineers of the *Ministère des Ponts et Chaussées*. These engineers are also often employed by the various local authorities to maintain their roads, and M. Ledoux takes pains to show that this system of highway management is the most economical. Thus, out of the twenty-one departments which possess departmental roads, seventeen employ the Government engineers, two the *agents voyers*, and two both systems simultaneously; while for the other classes of roads the Government engineers are employed in forty-four departments, and *agents voyers* in forty-three. M. Ledoux calculates that the cost of the work by *agents voyers* is higher than that

by the Government engineers by 20·17 per cent. in the case of the departmental roads, 7·26 per cent. in that of the *chemins de grande communication,* 10·63 per cent. in that of the *chemins d'intérêt communal,* and 17·10 per cent. in that of the *chemins vicinaux ordinaires.*

E.—Education.

Little attention was paid in the Congress to the subject of the administration of education, and the papers of Professor Sadler and Mr. Alexander practically stand alone. We have, however, again the information by Herr Schoch as to Switzerland. He tells us that "by the Federal Constitution the cantons are obliged to provide for elementary education. Consequently, cantonal laws have been passed, under which the communes are bound to maintain one or more elementary schools within their areas. This duty is usually undertaken by special *school communes.** Moreover, in many cantons the communes are obliged to erect secondary schools. The canton itself then takes over the higher education, gymnasia, technical and trade schools, high schools and also special schools for agriculture, etc. We also find in many communes, which are strong enough to maintain them, communal middle schools such as gymnasia and communal special technical schools. As a general rule, the canton undertakes and organises higher education; it obliges the communes to erect elementary schools and eventually secondary schools, and subsidises them, but the communes appoint the teachers. All other schools are built by the communes independently. Thus we find infant schools in many communes, and in the towns communal middle schools, technical schools, higher girls' schools. . . . The care of the children's health is a matter entirely for the communes, the larger ones having school baths, doctors, dentists, holiday colonies, banks, etc. A special school rate is levied by each school commune.

* See p. 17.

Every school has its own body of managers, chosen by the commune. The State appoints a supreme supervising authority."

F.—Town Planning.

The paper by M. Buls on town planning deals with the subject from the architectural and æsthetic points of view and not the administrative.

Signor Cattaneo describes the provisions of the Italian law of 1865, which fixes the conditions of town planning in Italy. Under this law, communes with a population of not less than 10,000 can, for a public benefit determined by an actual need to make provision for health and necessary communications, make a plan in which shall be laid down the lines to be followed in the reconstruction of the inhabited area for which the bad arrangement of buildings necessitates a new design. Communes in which a real necessity for extending the inhabited area is shown, can adopt a plan for extension. If, in carrying out an extension plan, the commune requires to proceed with the construction of public ways, the owners are compelled to give up the necessary land. The plans, after they have been published, must be transmitted to the Government, who alone can render them executive, either by a special law or by obtaining a royal decree. Signor Cattaneo considers the law of 1865 satisfactory on the whole, but is of opinion that further facilities should be given to the communes to carry out the plans themselves and especially that the provisions with regard to betterment should be amended.

The question of expropriation of land, while not exclusively associated with that of town planning, appears to fall most conveniently under that heading; but in so far as it merges in the subject of betterment, it is touched upon in the next chapter. From the jurisprudential point of view, the right of any government to acquire land compulsorily is dealt with at considerable length by

Professor Viveiros de Castro, a Brazilian delegate. At the end of his paper he quotes the laws and regulations of Brazil on the subject, which cover no less than twenty-two pages. Under these laws, *expropriation for purposes of public utility* may be resorted to: (1) for the construction of public buildings and establishments of any description; (2) for the foundation of colonies, hospitals and charitable or educational institutions; (3) for the construction, widening or extension of roads, streets, squares and canals; (4) for the construction of bridges, fountains, aqueducts, harbours, dikes, quays, pasturages and establishments of any kind, destined for the convenience or service of the public; (5) for the construction of works for public decoration or sanitation.

M. Lucion states that it is one of the articles of the Belgian constitution that "no one can be deprived of his property except for a purpose of public utility, in such cases and in such manner as is established by law and on previous payment of equitable compensation."

The preliminary question, whether a certain work is or is not an object of public utility, is, in countries in which administrative law exists, one for the administrative courts. The question of the amount of compensation to be paid is usually one for the ordinary tribunals. M. Lucion raises objections to the Belgian law, which enacts that this matter must be decided by the courts and may not be the subject of agreement or arbitration. Both M. Lucion and Professor de Castro go into considerable detail on the subject of compensation and other points connected with the compulsory acquisition of land, for which it is unfortunately impossible to find space in this survey.

G.—Industrial Undertakings.

The question of municipal trading was the subject of some of the most interesting papers and discussions of the Congress, the various schools of thought being well

represented by Dr. Weiss for Austria, MM. Nézard, Berthélémy, Bouvier and Duguit for France, MM. Brees and Vauthier for Belgium, Señor Gascon y Marin for Spain, and various speakers for other countries. For this part of the Congress' labours, the admirable *rapport général* of M. Brees is of the greatest value as a guide, and no apology seems needed for offering a translation of a considerable portion of this as the best précis of the various papers, especially as M. Brees deals with the matter from precisely the point of view which seems appropriate to this survey. As no English paper was contributed on the subject, M. Brees' references to the practice in this country will also be given for purposes of comparison.

M. Brees commences by saying that it seems out of place to dwell here upon the arguments for or against the desirability of municipal trading, as to which a mass of literature exists in every country. The question has, however, been much less discussed from the legal point of view, and it is to this that he directs his attention, finding that the powers of the communes with regard to commercial and industrial undertakings are governed by very different rules in the various countries.

"In England," says M. Brees, "the municipalities, as well as the public companies, are obliged to obtain the sanction of Parliament to the erection and working of industrial undertakings. Every application for such sanction forms the subject of a Bill or a Provisional Order, which must go through both Houses of Parliament. England possesses no general legislation on the subject, but very important [Private] Acts relate to various kinds of undertakings, such as water, gas, electricity, tramways, etc. These Acts, while they do not neglect the interests of the consumer, are, taking them as a whole, very favourable to the municipalities. They, quite as much as the general tendency of the public mind, have contributed to the wide scope of municipal trading in

England, which country is, in this respect, far ahead of all others. Thanks to these Acts and to the constant support of Parliament and of public opinion, the British municipal enterprises have been able successfully to resist the various attacks directed against them, notably the great inquiries of 1900 and 1903.

"It is to Italy that belongs the honour of the first organic legislation on the municipalisation of the public services. The law of March 29th, 1903, contains excellent provisions relating to the economic and commercial organisation of these undertakings, which are constituted autonomous bodies with separate budgets and accounts. At first sight, it appears very liberal, especially as to the nature and multiplicity of the services which the communes are authorised to carry on without intermediaries, but it subjects them to a central committee, which emanates from the superior authority. Thus, when a communal council decides to create an industrial or commercial service, its resolution is submitted to the consideration of the provincial authority and the prefect. The central committee gives its opinion in the last resort, and it is finally this body which decides whether the resolution of the communal council should be submitted to a referendum of the electors.

"This system, in conjunction with the ideas which prevail in English governmental circles, might be favourable to direct management, but with a committee animated by unfriendly views, it is obviously capable of checking any movement towards municipalisation. This is what has happened in Italy, where the inclinations of the central power have intervened to destroy the hopes which the partisans of direct management had founded on the law of 1903. Since that date, there has been scarcely any extension of municipal undertakings."

Dealing with Dr. Weiss' papers, M. Brees points to the fact, already mentioned, that in Austria the communes may legally exercise any powers which are not

forbidden them by law, and continues: "The law not excluding industrial undertakings, it follows that these may be carried on by the communes. With the exception of certain towns which possess special statutes, the law requires in the communes in most of the Crown territories a previous consultation with the electors, who are to decide, by a referendum, whether it is desirable to raise the loans necessary for the creation and working of the industrial undertakings. The intervention of the central power in the matter of the competence of *initiative* in the communes is only exercised to insure compliance with the law; the actual management by the communes is controlled, to the extent of a mere supervision, by the communal organisms of the higher degree. Austrian legislation, therefore, permits the communes freely to develop industrial undertakings."

M. Brees' summary of Dr. Weiss' papers may be supplemented by some further particulars given by Dr. Weiss as to the actual development of municipal undertakings in Austria. "For the whole of Austria," he says, "I have, unfortunately, no statistics at my disposal for recent years. I can, therefore, only state that, as early as 1906, out of the forty-nine gas works mentioned in the return of the Union of Gas and Water Employees, thirty-two were municipal; that in the same year there were in the larger towns of Austria nineteen municipal electric works, not including the small communal electric works in the Alpine regions where water power is employed; and that in the year 1906, out of fifty-seven light railways, eleven were directly run by the communes."

Dr. Weiss devotes a separate paper to the industrial undertakings of the city of Vienna, which are very considerable, and which include a warehouse, a fodder store on the central cattle market, the decoration of graves, the *Rathauskeller*, electric works, tramways, a brewery, funerals and hackney carriages. Besides these, the

municipality carries on certain services which are managed as industrial undertakings, but which are not intended to show any profit. These include insurance establishments (for life, old age and sickness), cattle and meat exchange, and a central savings bank. As regards their organisation, the undertakings of minor importance are incorporated in the general administration, while the larger ones have a more independent status, their directors having a certain freedom of action within a limited sphere, the general control being still retained in the central administration. Their financial position is dealt with in the next chapter.

To return to M. Brees' *rapport général*, he tells us that a situation as favourable as that in Austria, and one based on similar principles of public law, exists for the industrial undertakings of the communes in Switzerland, Holland and the Scandinavian countries.

"France," says M. Brees, "is, of all the nations, the one which places most obstacles in the way of the attempts of the communes at municipalisation. Whereas the communes of the German countries enjoy the widest freedom of action, and those of the Anglo-Saxon countries are subject to a system of authorisation favourable to municipalisation, we find ourselves here in the presence of an almost complete prohibition. Not only does France possess no general legislation on the subject, but the *Conseil d'Etat* displays with respect to the industrial undertakings of the communes an absolute and persistent hostility.

"The jurisprudence of this exalted body is based on motives both economic and legal. From the economic point of view, the *Conseil d'Etat* considers that the communes have no commercial capacity, that industrial undertakings present grave risks, that directly managed they are exposed to political influences, etc.; it repeats, in short, the classical arguments of the opponents of municipalisation. From the legal point of view, the

Conseil d'Etat brings forward three arguments. The first rests on the principle of the *speciality* of legal persons. The communes are only concerned with administrative affairs, and their capacity is limited to the powers which the law assigns to them. This view is supported by the fact that the municipal law of 1884, which enumerates the subjects on which the municipal council may pass resolutions, does not mention industrial undertakings. Again, the *Conseil d'Etat* asserts that the communes are not organised on economic lines, and that the acts of municipal authorities are not subjected to the legal responsibility which rests on the directors of commercial bodies. Finally, the creation of communal monopolies is contrary to the principle of free competition and freedom of trade laid down by the law of 1791.

"For these various reasons, the *Conseil d'Etat* allows direct management only with regard to the monopolies recognised by law—markets, slaughter-houses, funerals, etc., and in the case of the absence or insufficiency of private initiative. There exist in France, apart from the supply of water, which is tolerated from the point of view of public hygiene, only a few municipal undertakings, whose formation is due to special circumstances. The jurisprudence of the *Conseil d'Etat* even runs counter to the effects of the law of 1890 on syndicates of communes. The most serious check sustained by municipalisation in France is the rejection by the Senate, in 1905, of the direct undertaking of the gas supply in Paris, in spite of the favourable opinion of the Government and the Chamber of Deputies. . . .

"M. Henry Nézard affirms in his paper the weakness of the municipalising movement in France. He attributes it, very justly in my opinion, to the essentially conservative spirit of the country, due to the distribution of wealth and to the strict governmental control to which the communes are subjected, a control whose

effect is to paralyse their initiative. May I be permitted to add another factor, namely, the great predominance still existing, in France as in Belgium, of the ideas of the Manchester School, which confirm the public in the conviction, contrary to the opinion which is widespread in the German and Anglo-Saxon countries, that private initiative is alone capable of efficiently conducting industrial services." M. Brees then alludes to M. Nézard's arguments against the principle of *speciality*, which have already been set out in this chapter, and adds: "In conclusion, M. Nézard thinks that in order to give the commune the economic organisation which it lacks, French legislation should take example from the Italian law of 1903."

So far M. Brees on M. Nézard, but some more space may be allowed here to the latter's arguments, which tend to show how even the strict views of the *Conseil d'Etat* may be—and, to some extent, actually are—bent to the extension of municipalisation. This is no mere exposition of legal subtlety, but is a considerable assistance to arriving at a principle upon which the powers of local authorities to carry on industrial enterprises are to be based. The grounds of the *Conseil d'Etat's* objections to municipal trading have already been stated, and it is to be observed that the *Conseil* recognises three cases in which its prohibition against the creation of industrial enterprises by municipalities may be relaxed, namely: (1) for the carrying on of a monopoly; (2) when no private initiative is forthcoming for the particular service; (3) when such private initiative is insufficient, imperfect or disadvantageous.

Now it is obvious that the working of a monopoly already established is no derogation from the principle of free competition, and there are certain monopolies, the creation of which is permitted by law, namely, markets, weighing and measuring, slaughtering, and the provision of funerals. These monopolies are, however, very

strictly interpreted. In addition to these there are certain monopolies which come into existence from the necessity of the case, such as water supply and lighting. These could not be left open to free competition, as that would mean an unlimited interference with the highway. A monopoly in such matters is therefore unavoidable, and, a monopoly once created, there is nothing to prevent the local authority from managing it directly.

The second exception, the absence of private initiative, opens another door to municipal enterprises. Thus, for instance, where there is in a commune no doctor or midwife, the municipal council may subsidise one, and, if a commune were in want of bread, no objection would be raised to the establishment of a municipal bakery.

The third exception—insufficiency or imperfection of private initiative—carries us even farther. Certain services, such as water supply, are a necessity, and, if they are not provided by private enterprise or if they will only be so provided on unreasonable conditions, no obstacle will be placed in the way of direct management by the municipality. "Thus," says M. Nézard, "the commune can run theatres in the interests of art or popular education, when private individuals only do so with a view to profit; it can install hygienic washing places, when those of ordinary proprietors are merely remunerative enterprises; it can establish public baths, when the private bathing establishments are, in consequence of their high charges, not accessible to the people."

M. Nézard, on the other hand, objects to the proposition of the *Conseil d'Etat* that the fact that a certain municipal service is supplied gratuitously exempts it from the objections to municipal trading. The commune may be carrying on a trade even if it does not make a profit, and in any case it is interfering with free competition. The only exemptions of this kind which M. Nézard considers permissible, are when either social

hygiene, public safety or public assistance are in question, and in these cases the other exceptions mentioned above come into play.

As regards the extent to which the communes in France have exercised such powers as they possess or can obtain in the matter of municipal trading, M. Nézard states that the monopolies are almost always directly managed. Municipal water supply, formerly prohibited by the *Conseil d'Etat*, is now almost invariably authorised. Out of the 500 French towns with a population of more than 5,000, 300 manage their own water supply. The municipal supply of gas was also objected to, and even now Paris has only got so far as a *régie intéressée*, which means that the manager is not a servant of the municipality, but is a private individual paid in proportion to the profits realised. In the provinces, however, a number of towns possess directly-managed gas undertakings. Very few, on the other hand, have yet undertaken the supply of electricity. In 1887 and 1894 the *Conseil d'Etat* refused the communes power to run a tramway and although, in the opinion of M. Nézard, this would now be possible, it has not yet been attempted. Public baths with low charges have been established in many towns and the service of disinfection in the majority, while numbers of villages subsidise a doctor or a midwife.

In Holland, in the opinion of M. Bruins, the local authorities require a much stricter control than exists at present in the matter of industrial undertakings.

For the position of municipal trading in Belgium, we must turn again to M. Brees, who tells us that Belgium has no general legislation on the communal undertakings, and that, as already mentioned, the doctrine of *speciality* has some force. "It is, at the same time, to be recognised," he says, "that in Belgium the central power has never placed any serious obstacle in the way of the formation of communal industrial undertakings. Important towns, Brussels in particular, have for long

directly managed water, gas and electricity works, and have even supplied neighbouring localities. The Government never showed the slightest hostility. . . . It is only in the last few years that the superior authority has adopted a different attitude." Instances are given of refusals to grant powers, and especially of a royal decree, which "reproduces the arguments of the French *Conseil d'Etat* as to competition with private enterprise, and looks to the case where the latter proves incapable or insufficient." M. Brees hesitates to prophesy as to the future course of the Belgian Government in this respect, but he goes so far as to observe that "the public spirit of this country does not easily accept decisions, however justifiable they may appear in law, which are directed against that autonomy which is the glory of its local institutions."

The conclusion to which M. Brees comes is that "it is desirable that the legal position of the commercial and industrial enterprises of the communes should be regulated by organic legislation. This legislation, the details of which would vary according to the public law of each country, should have as its aim the endowment of communal undertakings with an economic organisation suitable to their objects."

With this may be compared the suggestions of Señor Gascon y Marin, who states that some law on this subject has been long awaited in Spain. The general laws now in existence leave the matter in uncertainty, and certain royal decrees have laid down conditions for municipal undertakings in a few instances. In 1905 a Bill was introduced, which divided the communes for this purpose into three classes, the towns with a population of over 20,000 to be free to municipalise the services of water, lighting, tramways, telephones, street-cleansing, funerals, bakeries, slaughter-houses, markets, baths and washing-places, night refuges, motive power, advertisements, bull rings, theatres and circuses; towns with a

population of over 10,000 to have power to municipalise bakeries, slaughter-houses, markets and lighting, while in other cases the authorisation of the Minister is required. Señor Gascon y Marin is of opinion that a general law on this subject should embrace the following points :—

(*a*) Classification of the communes according to their importance in order that they may be endowed with greater or less powers of carrying on directly industrial undertakings.

(*b*) Power to small adjoining communes to establish joint services for certain purposes.

(*c*) Specification of the services which may be carried on as monopolies.

(*d*) Obligation to set up a separate organisation for each service with a special fund and with separation of the functions of administration and control.

(*e*) Procedure to be followed for the creation and working of a service, establishing a *referendum*.

(*f*) Limits of administrative control.

(*g*) Procedure and conditions required for the buying up of services previously conducted under concessions.

In the course of the discussion on this subject an interesting speech, not in accord with the views of the majority, was made by M. Berthélémy, who defended the French *Conseil d'Etat* against the charges of obstruction levelled against it by M. Nézard, supported the principle of *speciality* with regard to the powers of the communes, and expressed a strong preference for concessions as against direct management, on account of the financial risks and also the possible abuses which may accompany the latter.

The English system, besides being alluded to by M. Brees, was described by Mr. Konstam, who characterised it as thoroughly unpractical, and it certainly appeared that the members attending this section of the Congress were largely in favour of general legislation in each

country, which would grant considerable liberty in this matter to the local authorities, qualified, however, by the condition that the services to be municipalised should be closely connected with the collective needs of the areas. It was not found possible, however, to carry anything so definite with that unanimity which was desired, and the resolution which was eventually passed merely expressed the view that "legislatures and governments should present no obstacle—beyond that supervision which is indispensable—to the industrial undertakings of municipalities, at least provided that those directly managed are in direct and close relation with the public administration of the commune."

CHAPTER V.

FINANCE.

THE subject of finance is one with which it is especially difficult to deal in a limited space. It is fairly simple to state in broad lines the differences between the English and the Continental systems, but, when one comes to examine the various financial systems of other countries, it becomes a matter of great and intricate detail, which requires volumes rather than a single chapter for anything resembling a proper presentation of the subject.

Accustomed as we are in this country to what is practically a single tax for local purposes—namely, a rate upon land and buildings—supplemented by grants from the Imperial Exchequer, the financial resources of the local authorities in Continental countries appear to us bewildering both in their number and in the conditions under which they may be resorted to. For the great difference between these systems and ours is that whereas in England, with few exceptions, the larger local authorities can raise any amount of rate they choose, but are strictly confined to one source, in most Continental countries the local authorities, while given more freedom as to the sources which they may tax, are limited in every direction as to the amount of rate which they may raise.

Owing to the prevalence of the method of *additional centimes*, which will be described in a moment, combined with the position of the local authorities as for many purposes mere agents of the central government, it is difficult to draw a hard and fast line between national and local taxation. In fact, as M. Delpech puts it, " between the different budgets there is, especially from the point of view of revenue, a *solidarity* so close that without

a simultaneous and separate examination of the national and local finances, it would be difficult and dangerous to reckon the incidence of the charges which these budgets entail and the increased burden which might be laid upon them." This "solidarity," of which M. Delpech speaks, is emphasised by the practice in some countries of requiring all local budgets to be submitted to the Parliament.

Revenue of Local Authorities.

A large part of the revenue of local authorities on the Continent is obtained by the method of *additional centimes*. By this is meant the addition by the commune or other local authority to certain *direct* State taxes of a percentage of the amount raised for central purposes, the amount of centimes which may be so added for each local purpose being strictly limited by law. It must be explained that the expressions *direct* and *indirect* taxes, as understood on the Continent and as they will be used in this chapter, have a different signification from that which we are accustomed to attach to them, a *direct* tax meaning one which is levied upon a person in consequence of his name being included in the register or *cadastre*, whether it be in respect of his land, his income, his business or anything else.

The *additional centimes* cover practically the whole ground both of our Exchequer contributions and of our general rate, for an additional centime to a general income tax might be said to answer to the former, and an additional centime to a land or buildings tax to the latter. As regards other resources of the local authorities, there are in all countries a number of miscellaneous taxes from which they can raise revenue and which answer for the most part to what we in this country term *licences*. Specific instances of these will be given later.

Another source of revenue is the possession of private property, which, of course, varies considerably among the different authorities. In France, says M. Basdevant, the private property of certain communes is very considerable, while many others have none at all.

Prestations for the maintenance of roads are customary, while special rates are usually levied for sewerage, water supply and similar services, where these are municipally supplied.

Several writers have dwelt upon the point that it is often attempted to draw a distinction between rates levied for services rendered and those which are merely for general purposes of government. M. Basdevant states that in France the distinction is recognised by the use of different words, the latter being an *impôt*, while the word *taxe* is used for the former. The *taxe*, however, is further to be distinguished from payments for services of which the private individual may or may not take advantage, as he chooses, such as payments for water, gas or electricity. "The *taxe* and the *impôt* have the common characteristic of being levies exacted by the public authority; the citizen cannot evade them as he could evade a payment for gas supply, by not consuming any; from the *impôt* it is obvious that there is no means of escape; neither can he escape from the *taxes*, whether they are levied as required for the carrying out of an obligatory public service, or for the normal use which is made of public property, a use which, in fact, the citizens are unable to do without. The *taxe* and the *impôt* fall upon the citizen in different ways: the *taxe* affects each in proportion to the advantages which he reaps from certain public services; the *impôt* in proportion to his competence or wealth."

M. Vauthier, however, looks upon this distinction as an empty one—"a fragile and questionable theory," he calls it, "accidentally admitted originally by our (the Belgian) supreme court, but which has ended by firmly

establishing itself in our administrative law. A fragile theory, I say, because the question of an equivalence between the service rendered and the amount of the tax is one which lends itself very readily to arbitrary distinctions. A tax for sewers and a tax for pavements were held to be 'remuneratory,' but a tax for roads was not."

None the less, M. Vauthier admits that the principle of taxation for services rendered may be properly applied and especially in the case of roads. These taxes cannot, he says, be given up. "They are indispensable and they are just. They do not cease to be just, even where they propose to obtain for the communes a portion of the increment which accrues to certain areas of land by the execution of works of public utility. But it is important that they should be so calculated as not to absorb, either at one stroke, or by a succession of levies, the value of the private property—a difficult calculation, it is admitted, and one which requires foresight as well as honesty, but a calculation which it is absolutely necessary to undertake, if it is desired to arrive at an equitable solution."

Increment Value.

This brings us to the general question of the justice and expediency of taxing increment value, which is discussed at length by M. Bouvier. The taxation of "unearned increment" is not recognised by law in France and neither this nor the practice in relation to *direct plus-value*, which means the increase in value directly brought about by improvements carried out by private associations, is enlarged upon. Taxation of *indirect plus-value*, however, or in other words *betterment*, has been the subject of law in France, and is defended by M. Bouvier on the ground that as the increment arises from public works, to the expense of which every individual should contribute in the same proportion, it follows that, if some persons

reap a special and exceptional benefit, they practically contribute less than the others, and it is therefore only fair that some part of this gain should be recovered from them for the benefit of the community. The law of 1807, which governs this matter, provided that the *plus-value* must be appreciable in amount for the administration to claim against the betterment owners, and that the amount claimed must not be more than half the advantages gained.

As a matter of fact, however, direct action by a municipality for recovery of *plus-value* no longer exists in practice in France and the principle is only used as a set-off when a private individual brings an action for damages, which may occur in cases of expropriation, of temporary occupation or of permanent damage by public works. M. Bouvier is of opinion that the French system, though apparently very rational if considered theoretically, is not so in practice. This is chiefly due to the abandonment of direct action, which results in nothing being recovered in the shape of *plus-value* from those whose property suffers no sort of damage. Moreover, no claim can be made unless the *plus-value* is immediate, so that those who may profit largely by public works are not forced to make any special contribution, if the profit is not realised for some time after their execution. Another difficulty is that the individuals charged must be shown to benefit to the exclusion of all others, a point which it is by no means easy to establish. M. Bouvier therefore desires to see the law revivified and amended, so that it shall be brought to bear equally on all who realise any special benefit from works which are carried out at the cost of the whole community.

The Italian law on this subject does not, in Signor Cattaneo's opinion, allow the communes to obtain as much profit from betterment as they are fairly entitled to. "It is evident," he says, "that the execution of a town plan, while it is a heavy burden on the communal accounts,

involves in most cases a very considerable increment of value for the area comprised in the plan ; the opening of streets, which must always be accompanied by the supply of public services, such as water, sewerage, the extension of tramways, etc., causes a great rise in the value of the adjoining land and it is therefore only equitable that the proprietors should be called on to reimburse the community, in the form of a contribution, with a portion of that gain which accrues to them exclusively from the action and sacrifice of the community itself.

" To have made the power of the communes to exact such a contribution subject to their obtaining a special law, is a measure of excessive and mistaken caution. It is not always, indeed it is very rarely, that Parliament is in a position to appreciate fully the special circumstances in which a commune may be placed and to come to a decision with a complete understanding of the question ; moreover, it is evident that an Act of Parliament requires a preparation and procedure of much longer duration than a simple royal decree. The practical inconveniences of such a provision very soon made themselves felt and have been found so serious and so difficult to overcome, that in not a few instances the communes have not availed themselves of their right to a contribution under the provisions of the law, but have attempted to attain their ends by agreement with the individuals concerned or by indirect means.

" It is worth while in this connection to draw attention to the line followed by the larger Italian communes in the compilation of town plans, in making a wide application of the powers granted by law, limited indeed though they are, of *expropriation by zones.*

" Art. 22 of the law of 1865, provides that expropriation may apply, not only to the property indispensable to the execution of the public work, but also to that adjoining, within a certain defined area or *zone,* the occupation of which directly affects the main scope of

the proposed work. In this provision the communes were not slow to see an indirect means of obtaining, without all the troublesome formalities prescribed by law, for the benefit of the community, a large part of the profits to be derived from the public work, thus diminishing to a considerable extent the burden on the communal funds.

" In fact, in the towns in which a distinct and progressive economic development and increase in the population make it certain that the land adjacent to the new streets will be very soon coveted by private speculators for new factories, the communal authorities are tending to become themselves the owners of such land, in order to resell it to third parties at a price which will include, in addition to the cost of purchase, the increment value which has accrued to it from the works which have been carried out."

It is, however, necessary to obtain government sanction to an *expropriation by zone* and of late years the government has been very loth to grant this permission.

M. André deals with the same question as regards Germany and Belgium. He says that in Berlin and other German towns, town-planning leads to block dwellings on the outskirts and to a consequent rise in land values. The taxes on this plus-value fall eventually on the tenants to an extent which is limited only by their capacity to bear them, and the fact that in Germany the tax is on the revenue of built and cultivated land only, favours land monopoly and speculation.

In Belgium the tax is on the assessed value of the land. There are, says M. André, no block dwellings, no town-planning and no land speculation. As regards taxation of the unearned increment, M. André considers it unworkable, especially if, as he argues, it must be admitted that this cannot be tolerated without compensation for decrement. He would prefer the system of *expropriation by zones.*

A discussion took place on this subject in the Congress, there being, apparently, a wide sympathy with the view that the communes should have power to levy a tax on *plus-value*, provided that it was not allowed to go so far as to amount to confiscation. The system of *expropriation by zones*, on the other hand, found many supporters, especially where a commune grows very rapidly and finds itself obliged suddenly to establish a complete system of roads, sewerage and water supply, the expenses of which could not possibly be borne without a loan. To meet this case, it is suggested that the commune should have power compulsorily to purchase land, a loan being raised for the purpose, which should be paid off year by year by the sale of the land at the enhanced price which it might be expected to command. Objections were of course raised by some speakers to this species of municipal land speculation and, as no vote was taken on the point, it is not possible to say which view predominated.

Municipal Trading.

The extent to which municipal trading may be looked upon as a source of revenue for local authorities depends, of course, in the first place, on the amount of liberty which is allowed in each country to the municipalities to carry on industrial undertakings, and particulars as to this point have already been given in a previous chapter. It may, however, be pointed out that whereas, in this country, the primary reason for the municipalisation of any service is almost always alleged to be the advantage to those who will make use of it, and the question of any profit arising from it is looked upon as a secondary matter, in those countries on the continent where municipal trading is carried on to any large extent, it is frankly stated that the object is the raising of revenue.

In France, as we have seen, municipalisation is kept within very strict limits, but M. Berthélémy states that this is entirely for financial reasons, with a view to

prevent the local authorities from entering upon any undertaking which might entail a loss. So far, however, as these undertakings have gone, M. Nézard produces figures to show that they are a success. Thus, the town of Grenoble in 1902 established a water supply, the initial cost amounting to 3,785,000 fr. The receipts for the year 1902 were 313,478 fr. and the expenses 21,400 fr. making a net profit of 292,078 fr. or 12 per cent. on the capital. The same town established a gas supply in 1866, has paid off the whole of its original capital and makes an annual profit of more than 83,000 fr. Among smaller towns, Villeneuve-la-Guyard spent 25,200 fr. in 1885 on the construction of gas works, and has made an average annual profit during the years 1897–1902 of 3,449·20 fr., or 13·68 per cent. on the capital.

Dr. Weiss gives tables of statistics to show the financial position of the industrial undertakings of the city of Vienna, the following figures giving the total results on the finances of the municipality :—

	Millions of Kronen.		
	1906.	1907.	1908.
Total receipts of the town - -	154·4	175·7	213
Including { Ordinary - - -	126·7	132·9	138·3
Including { Extraordinary - -	27·7	42·8	74·7
Of the ordinary receipts the amount from the communal rates - - - - -	65·83	70·264	72·45
Net profits from industrial undertakings transferred to general fund - - - - -	8·94	9	10·87
Percentage of trading profits to ordinary receipts - - -	7·05	6·77	7·5
Percentage of trading profits to communal rates - - -	13·58	12·8	186

It is to be observed that the larger undertakings of the city are kept, both financially and administratively, quite distinct from the ordinary affairs of the municipal council, only the net profit or loss appearing in the general accounts. In the case of the smaller concerns, such as the fodder market and the decoration of graves, these appear in the general accounts. The same system is followed in the other towns of Austria.

The financial aspects of municipal trading in Great Britain are touched upon by Mr. Collins in his paper, while instances were given in the course of discussion of the relief to the rates afforded by municipal trading in Belgium, Spain and Portugal, and there can be no doubt that the large majority of the members of the Congress looked upon this as an eminently satisfactory method of adding to the revenue of local authorities.

Switzerland.

A special example of the varied methods which may be adopted in the matter of local taxation is to be found in Switzerland, where every canton has its own system, and it will be interesting to reproduce, as shortly as possible, the information which Herr Wettstein has given as to local taxation in that country.

Whereas, says Herr Wettstein, the powers of the communes vary considerably in the different cantons, there is an increasing tendency to attach direct communal rates to the State system of taxation (*i.e.*, the principle of *additional centimes*), while there is no recognised principle as to the relation between the cantonal and communal systems of indirect taxation. In the French cantons, the communes have, with regard to the latter, largely independent powers, while in the German cantons it is rather the practice to give grants out of the produce of the cantonal taxes, or, in some cases, to assign certain of these to the communes. In many cantons,

communal rates are raised according to the benefit received—sometimes over the beneficial area, sometimes on special categories of ratepayers. Nowhere is the system of taxation of unearned increment in force as yet, although it is contemplated in some parts.

Herr Wettstein classifies the *direct* taxes which are raised by the local authorities in Switzerland in the following manner :—

(1) Property tax and one or more poll-taxes, in three cantons and the country communes of Zürich.

(2) Property tax, supplementary industrial income-tax and poll-taxes, in ten cantons and in the towns of Zürich.

(3) Property tax and supplementary industrial income-tax, in two cantons.

(4) General income-tax, supplementary property tax, personal and household tax—country communes of Basle.

(5) General income-tax and supplementary property tax—town of Basle.

(6) A number of special taxes in the other communes.

Some of the cantons specifically mentioned above, as well as those in the sixth class, levy various *direct* taxes, which include taxes on land, wages, rent, capital, sale of land and certain trades. In one canton only do the communes independently rate public-houses and the sale of alcohol, in most they receive a contribution from the cantonal taxes of this nature. Pedlars' and hawkers' licences may be treated as additions to the cantonal taxes.

" In view of the increasing needs of the communes," says Herr Wettstein," and the consequent necessity of proportioning the direct taxes as far as possible to their economic capacity, the most primitive systems, such as for instance, the combination of a property tax with poll-taxes, must tend to disappear. In certain cantons,

especially in Zürich, these have already been carried to intolerable lengths."

The system of *indirect* taxes in the different cantons is, generally speaking, very incomplete. In seven cantons the communes can themselves levy transfer and death duties; in the French and a few of the German cantons, the communes can raise *additional centimes* to the cantonal taxes of this nature, while in others they receive grants. Dog taxes are a very general form of revenue, while bicycle, motor, hunting and fishing licences very frequently form part of the local resources. Many other varieties of *indirect* local taxes are to be found, especially in the French cantons, among which may be mentioned taxes on servants, horses, carriages, billiard-tables and tobacco, and the various forms of registration fees.

As a rule, *direct* local taxation is only to be resorted to after all other sources of revenue, including *indirect* taxes, have been exhausted. There is no fixed proportion between the direct and the indirect, but the different direct taxes are proportioned, in many cases by law. This is, generally speaking, on the basis that every franc levied in the way of poll-tax on the adult man, the active citizen or the household, corresponds to one per cent. property tax. "It is constantly attempted," says Herr Wettstein, "in different cantons where rates are high and where, in consequence, the above rule casts an excessive burden on the financially weakest classes of the people, to modify this burden by a maximum limit to the poll-tax. In many cantons such a limitation of the communal powers is applied to all direct taxes, or, at any rate, the raising of the rate above a certain figure is not permitted without the sanction of the superior authority."

The liability for payment of the two principal *direct* local taxes—the property and income taxes—is examined by Herr Wettstein from what he calls the *subjective* and *objective* points of view. The *subjective* liability rests

upon persons domiciled, possessing landed property or carrying on business in the commune. The matter is complicated by the existence of the various local authorities in the same area, described in Chapter II. Thus, the Poor Law communes as a rule rate only natives, and power to rate "legal persons" is only exceptionally granted to them by law. The church communes rate only their congregations. The State is always exempt from these local taxes and many institutions are also rate-free. As regards *objective* liability to rates, "moveable property and the income arising therefrom, salaries and wages are liable to rates according to the place of habitation of the ratepayer or his place of business, land and its produce in the commune in whose area it lies. Should the private dwelling and place of business or situation of the land be in different communes, there must be an adjustment."

As might be expected, the difficulties of fairly adjusting both an income tax and a property tax are considerable, and various methods are in vogue in the different cantons. It is Herr Wettstein's opinion that the best solution of the difficulty is that of Basle, where the income tax is the main source of revenue, the property tax being only resorted to as a supplementary tax on "funded" income. He does not, however, think that many cantons are likely to change their practice as to these taxes in the near future.

The limit of exemption—the "tax-free minimum for existence"—varies considerably in the different cantons. In some the income tax is not payable on incomes below 300–500 francs, in others this limit is from 800–1,500 francs for single persons, and 1,200, 1,500 and even 1,800 for families with small children. In some cantons the exemption is for certain categories of persons (widows, orphans, unemployables), and in others no exemption exists.

Graduated taxation by the communes is not permitted in many cantons, but, where it exists, the scales vary to

an extraordinary extent. The maximum rate of income tax is reached in some communes by incomes over 10–16,000 francs, and only in a few cases does this limit rise higher—to 24,000, 55,000, 75,000 francs and more. The maximum limit for the property tax varies between 200,000 and 1,400,000 francs. The scale of graduation for the industrial income tax is in some cantons very small, the difference between the lowest and highest rate being only 1 : 1·25, while in others the maximum is four or five times the minimum, and in Geneva nearly twenty times, For the property tax, the scale never rises to more than five times the minimum.

Valuation and assessment for the purpose of the communal taxes are usually on the cantonal basis. The communes fix the rate, but this is often subject to the sanction of the canton or at any rate to the cantonal audit. The collection of the local taxes is almost always carried out by the communes themselves.

France.

The system of local taxation in France is described by M. Basdevant as clearly and as fully as the limits of the Congress papers allow. Local authorities, he says, can only levy such rates as are authorised by law, *i.e.*, *both* (*a*) by general law which makes such a rate legal, *and* (*b*) by the annual Finance Act, which authorises the laying of the rates proposed in the local budgets for that particular year. The general law on the subject, however, does not go into great detail and sometimes only indicates the nature of a rate which would be legal. In 1897 a certain amount of initiative was granted to local authorities to raise new types of rate with the consent of Parliament, but the concession does not go very far.

The principal rates allowed by law are, for the Departments, *additional centimes* to the direct taxes, and for the communes, *additional centimes*, various special rates,

such as market tolls, weighing dues, etc., octrois and levies for the maintenance of roads. It is also to be remembered that many communes possess a considerable amount of private property. The local authorities are, however, subject to further limitations, besides the annual vote in Parliament, in respect of the rates which they may levy. Thus, for the Departments, a maximum limit to the number of *additional centimes* which they may impose is fixed by the annual Finance Act, and the sanction of the *Conseil d'Etat* is required before this limit may be exceeded.

The details of the communal rates are exceedingly complicated. M. Basdevant sets out the main heads as follows :—

(1) 8 centimes per franc of the *patentes* (or trade licences) and one-twentieth of the horse and carriage tax is paid directly into the communal fund, and is therefore in reality a State subvention in the shape of "assigned revenues." These two subventions amounted in 1908 to 8,115,005 francs and 825,364 francs respectively.

(2) 5 centimes additional to the land tax and to the personal tax, and the whole of the dog tax, are levied expressly for the communes. The municipal council may, however, refuse to levy the former, while it may fix the rate of the dog tax between certain limits.

(3) The municipal council may vote further additional centimes (called *extraordinary* centimes) up to a maximum fixed each year by the Council General, which is itself bound by the limit laid down in the Finance Act.

(4) The municipal council may also levy rates on its own responsibility for certain services specified by law, *e.g.*, medical assistance, relief to families of reservists, roads, salaries of *gardes champêtres*. The amount of rate which may be levied for these purposes is alsc sometimes limited.

(5) It is possible on occasion to go beyond some of the limits named with the sanction, sometimes of the prefect, sometimes of the President of the Republic, sometimes of the Council General.

As regards borrowing, M. Delpech tells us that the *conseils généraux* have final powers in respect of departmental loans up to a period of thirty years, but that for longer periods the sanction of the *Conseil d'Etat* is necessary. In the communes, the municipal council has power to borrow within a limit of charge fixed by the *conseil général* and including all the additional centimes. For loans exceeding this amount, the sanction of the *préfet* is necessary, or that of the *Conseil d'Etat*, if the period for repayment is to exceed thirty years. M. Delpech points out that there are very few communes in which the ordinary resources are not already exhausted, so that they are unable to take advantage of their powers to borrow without sanction of the superior authority.

Cognisance of the financial proceedings of local authorities in France by the general public is secured by the fact that the meetings of the municipal council are open to the public, a report of the proceedings, which may include a statement of accounts, is posted every week, and any inhabitant or ratepayer may take copies of the minutes or accounts. In communes with a revenue of 100,000 francs and over, all accounts must, and in all other communes they may, be printed. Ratepayers may notify any irregularity to the *préfet*, who may annul them. This, however, does not appear to M. Laferrière to be any real protection to the ratepayers, which is rather to be found in the system of *recours pour excès de pouvoir*, which is dealt with in a later chapter.

The control of the central government in France over the finances of the local authorities is, says M. Laferrière, very considerable, since the communal budget, supplementary credits, extraordinary contributions and loans exceeding certain periods, octroi taxes and other financial

matters require the sanction of the superior authority before they can become effective. At the same time it is only the legality of the proceedings of the municipal council with which the central power is concerned; it has no authority to judge of their expediency.

Some interesting statistics of local finance in France are furnished by M. Ledoux, who points out the enormous difference which exists between the produce of the communal *additional centimes* in the various departments. In the poor departments the value of the communal centime averages about 40 francs, falling to under 30 francs in Hautes Pyrénées and in Corsica, while in the Bouches-du-Rhone it rises as high as 874·13 francs. In the exceptional case of the department of the Seine, the value of the centime is 11,019·18 francs and, even without Paris, it amounts to 1,537·50 francs.

The average number of communal centimes levied per department varies between 15 and 183; in Corsica, however, amounting to as many as 274. The average charge on the ratepayer under the head of additional centimes varies between 1.11 francs and 15·73 francs, except in the department of the Seine, where it amounts to 18·85 francs. The total produce of the communal centime, reckoned by department, varies between 7,674·36 francs and 195,987·88 francs, this minimum and maximum, however, not including Corsica, where the produce is only 6,792·78 francs, nor the department of the Seine, where it amounts to 859,496·40 francs.

The number of *additional centimes* levied in the communes increases every year. Indeed, between the years 1894 and 1908, while the number of communes levying less than 15 centimes and of those levying 15 to 30 centimes, has fallen from 4,122 to 2,963 (or more than 28 per cent.) and from 7,789 to 5,328 (or more than 31 per cent.) respectively, the number levying from 51 to 100 centimes has risen from 10,981 to 12,959 (or 15·26 per cent.) and those levying more than 100 centimes from

4,475 to 6,401 (or 30·10 per cent.) The communes levying from 31 to 50 centimes have remained practically the same in number, so that the average number of centimes levied per commune has risen from 55 in 1894 to 65·87 at the present time, an increase of 23·40 per cent.

The number of communes in France possessing an octroi was 1,514 in 1908, which is precisely the same number as existed in 1895. The total produce of this source of communal revenue has, however, fallen from 324,125,232 francs in 1895 (out of which 155,962,423 francs went to Paris), to 290,304,202 francs (Paris, 111,513,274 francs) in 1908. The rate of the octroi duty has risen in those years in Paris from 6·17 per cent. to 11·10 per cent., and in the remaining communes from 8·73 per cent. to 11·27 per cent. The fall in the produce of the tax, in spite of the increase in the rate, is due partly to the law of 1897, which exempted hygienic waters from octroi duty, and partly to the increase in the salaries and pensions of octroi officials.

It is a pity that M. Ledoux was unable to give similar statistics relating to all the resources of the communal authorities, for the above figures do not give any means of judging the total burden of the rates in the different parts of France, the amount of *additional centimes* levied depending, of course, to a large extent on the other resources of the commune.

Audit.

The general principles of local government finance in Belgium were not described in any paper, but M. Genot dealt in detail with the question of audit. This is carried out, for the communal accounts, by the *députation permanente*, which is a committee of the provincial council, and M. Genot considers this audit altogether illusory and valueless, on the ground that accounts are only examined after the payments have been made and that irregularities under this regime are not only possible

but very frequent. The audit consists really in little more than seeing that the proper signatures have been affixed to the various documents, and the only weapon which the *députation permanente* has at its disposal is the rejection of orders for payment which are irregular in form. M. Genot further points out that the *députation permanente* has been described as "a body which is essentially political, and which, even more than the government, is subject to the influence of local coteries and of party conflicts." What M. Genot wishes to see is something very much more than an audit, namely, a superior official authority whose previous sanction shall be required to all payments. "It is desirable," he say, "to set up *cours des comptes* for the communes; one for each province would be sufficient, were they to be given at the outset no further power then to attach a certificate prior to payment, to all orders for payment made by the communal authorities. . . . The payer would be practically the *cour des comptes*, since the *receveur communal* (say, *treasurer* of the commune) would no longer be able to part with any funds without its consent."

M. Genot's proposal was supported by several speakers in the Congress, while it was opposed by others on the ground that it would be a limitation of communal autonomy. As regards the existing situation in other countries, M. Berthélémy stated that the control of the *cour des comptes* in France is fairly effective, but that that of the prefectoral committee is of no value whatever. Señor Lon stated that the control in Spain is thoroughly efficacious, and Señor Gascon y Marin said that, in the Spanish communes, the mayor is solely responsible, as the official who orders the expenditure and the head of the administration. The treasurer has merely the right of warning the mayor that the credits are exhausted. "The modification of our municipal legislation," he added, "is an order of the day in Spain, and public opinion has expressed itself in favour of audit by

persons outside the communal administration." M. Van Brakel informed the Congress that, in Holland, the treasurer (*receveur*) cannot exercise any control over expenditure regularly ordered, and the control is only exercised by the communal council, which is of little value, especially in the large towns where the budget is considerable. What is necessary, in his opinion, is to establish a *chambre des comptes* which would be entirely independent of the executive power. For each large commune there should be a separate *chambre des comptes*, and for the small ones there should be district chambers.

This question of the audit of the accounts of local authorities is one which requires very careful consideration in this country, and as to which reform in several respects is most necessary. The important paper by Professor Dicksee in the latter part of this volume covers most of the ground, while some useful comments are to be found in Mr. Collins' paper, and it is only necessary here to allude to the outstanding points, which may be said to be (1) the unsatisfactory system still prevailing in almost all boroughs, of elective auditors, with, on the other hand, the not unnatural objection of these towns to the Local Government Board auditors on the ground that they are not chartered accountants; (2) the uncertainty as to how far the Local Government Board auditors are entitled to look to the expediency, as distinct from the legality, of any expenditure; (3) the unfairness of the system of surcharge of individuals; (4) the lack of uniformity in the manner in which the accounts of local authorities are presented, and the incomprehensibility, to the ordinary ratepayer, of the published statement.

Imperial and Local Taxation in Great Britain.

The great problem, however, in this country in the matter of local government finance is the question of the relations between Imperial and local taxation. That

these relations urgently require readjustment is a commonplace, and the broad lines upon which such readjustment should be based are by general agreement to be found in the Report of the Royal Commission on Local Taxation, to which every subsequent government has referred with approval, but upon which no government has yet shown any disposition to act. The present system is roughly outlined in Mr. Collins' paper, and almost every English paper contains some allusion to the heavy and ever-increasing burden on the rates and the necessity for some form of relief That this relief should come in the form of further grants from the Exchequer towards services which are described as "preponderantly national" is the usual view and, no doubt, the simplest solution, provided that any Chancellor of the Exchequer can be induced to act upon it. It is possible, however, that some more complete reorganisation might be more satisfactory, that some of the services now carried on by local authorities might be definitely taken over by the State, that others (which might be described as semi-national) might be more liberally supported by the Exchequer, and that the remainder, which would be purely local, should be financed entirely from local sources.

The question of which services can best be administered centrally and which locally is not one for this chapter, in which we have rather to consider how, when the distinction is made, the different services are to be financed. With the purely national services we are not concerned, but as regards those "preponderantly national," which are, nevertheless, administered by local authorities, the proper proportion of Government aid and the lines upon which that aid should be given are problems of the greatest difficulty urgently requiring solution. It is probable that no one principle can be applied to all services. In one case the extent of area will be the most important factor, in another the density of population,

in another the class of industry, in another the rateable value; while the extent to which the local or central authority is interested will always be a variable and, no doubt, a disputed point. On these questions the Congress affords little assistance. The relations between the central and local authorities in the Continental countries are so different from ours, that in this matter their practice can be, for us, of little more than academic interest.

When, however, we come to the question of what resources the local authority can tap for purely local services, a consideration of the methods in force elsewhere may bring to light some useful suggestions. There can be no doubt that the present system of rating bears hardly on many. The case of the farmer is specially recognised by the Agricultural Rates Act, which, however, is admitted to be merely a temporary expedient. The residence of a ratepayer does not by any means necessarily represent his financial position, and, as the burden of rates grows heavier, any inequalities tend to be more acutely felt. To those who are casting about for new means of raising revenue, the particulars given above as to the experience of other countries may be of some value, and it is to be hoped that, at a future Congress, detailed information of this kind from a larger number of countries will be available.

One important point connected with this part of the subject is the question whether rating authorities should have a freer hand as to their modes of raising revenue. As has been mentioned already, the choice is as a rule much wider on the Continent, although the amount is strictly limited. In matters of municipal trading, in particular, it would seem that the authorities of our great cities should be considered capable of judging whether or not one of a certain category of services should be undertaken by the municipality, without having to incur the expense and other inconveniences of a Private Bill

or a Provisional Order on each occasion. This, indeed, is a part of the yet larger question whether, if a proper audit by the central authority of the accounts of all local authorities were established, which would check any action contrary to law, the larger local authorities should not then be left a very free hand to carry on the government of their area in the way they judge best; but this is trenching on the subject of the next chapter.

CHAPTER VI.

RELATIONS BETWEEN LOCAL AUTHORITIES AND THE CENTRAL GOVERNMENT.

THE principle of an administrative hierarchy, which is the basis of all centralised systems of government, sharply differentiates them from a decentralised system such as ours and places the question of the relations between local authorities and the central government on an entirely different footing. Indeed, the control of the central government over the various local bodies in many of the Continental countries is such that they can scarcely be said to possess any local government, in our sense, at all. This control is largely exercised by a local agent of the central power, such as the prefect in France, and the extent to which it is carried in these centralised countries so far as the provincial bodies are concerned, as well as the tendency of recent legislation, in spite of the widespread desire among the general public for decentralisation, is well summed up by Señor Eduardo Valdivieso.

" If we examine," he says, " the arrangements for the working of the provincial administration in the countries named (*i.e.*, the *centralised* countries, France, Italy, Belgium, Holland, Spain and Portugal), we shall find the same kind of similarity as there is in their organisation. The law of 1871, which lays down regulations for the French departments, the Belgian provincial law of 1836, the Dutch law of 1850, that sanctioned by King Victor Emmanuel II. in Italy, the Spanish law of 1882, and the Portuguese Administrative Code of 1886, appear to be the work of a single legislator, animated with the desire of suppressing every germ of autonomy in the provincial bodies and of absolutely subordinating their functions to the central authority.

"The first limitation placed on the development of the provincial councils and assemblies is that of restraining their right of meeting, only exercisable twice a year, by requiring special applications for power to hold extraordinary sessions. In the second place, all these bodies can be suspended or dissolved by the central authority, and their resolutions suspended and revoked by administrative power on the initiative of the prefect or governor. Moreover, many of their decisions require, before they can come into effect, the approval of the superior authority; and, lastly, no resolution of the provincial assembly can be carried out without the sanction of the representative of the State. This last rule is enough in itself to destroy every trace of individuality in the intermediate organisms and is certainly definite enough in all the statutes. The governor is alone charged with the execution of the resolutions passed by the Council or the Committee in Belgium. The actions of the province, whether by way of claim or defence, will be carried out by the Committee at the instance of the governor (Art. 124 of the Belgian provincial law). The Royal Commissioner in Holland signs all documents emanating from the States or their Committees, receives and opens all documents addressed to them and executes their decisions. In the matter of actions at law, in which the province is concerned, he appears in court in the name of the States as plaintiff or defendant, and the judgments of the court are pronounced and executed in his favour or against him (Arts. 30 and 33 of the Dutch provincial law). The president of the junta in Portugal has to deliver to the governor on the day following each session a résumé of the decisions adopted or an authenticated copy of their text if the governor requires it, he being obliged to communicate them to the Government with a report as to those resolutions which he considers to be illegal or contrary to the public interest (Portuguese Code,

Art. 48). The records of the proceedings of the Italian provincial councils have to be submitted in full to the prefect, who can annul them within twenty days. The prefect represents the province before the courts, presides at the sittings and signs the orders or documents which relate to the interests of the provincial administration (Arts. 181, 190 and 192 of the law on administrative unification in Italy). In France, the prefect accepts or renounces gifts or legacies made to the department; enters into contracts in its name; defends and represents it in all legal proceedings; prepares and presents the departmental budget, and revises all its resolutions with a view, if he thinks fit, of suspending them or recommending the Government to annul them (Arts. 47, 49, 53, 54 and 57 of the law of 1871); and in Spain, the governor presides at the sittings and executes or suspends the resolutions of the provincial bodies, for which purpose they have to be communicated to him in full within three days (Arts. 79 and 80 of the law of 1882)."

From the paper contributed by the Municipal Council of Valencia, it appears that in Spain the communal authorities have, in law, far more independence than the provincial, but that, owing to the backwardness of the population, little advantage is taken of this, at any rate, in the small towns and villages.

The position in France as regards the whole question was very fully stated from different points of view by MM. Berthélémy, Le Fur, and others. To take first M. Berthélémy's statement of the case—in French law, which, as he says, is the prototype of several neighbouring legal systems, "centralisation is, in the first place, recognised as the basis of the administrative organisation. It is only little by little, by successive steps, that the communal liberties have developed, by endowing the communal officials with a certain amount of independence, certain functions and certain powers. And even that is only admitted with important reserves.

There has always been a fear, and it has been felt in France, as elsewhere, that municipal bodies, if possessed of too much freedom, might be tempted to encroach upon the national authorities; that elective bodies, if allowed to be too powerful, might abuse their power and tyrannise over those persons who might be suspected of lukewarmness or opposition with regard to the councillors; and there has also been a fear of negligence or inefficiency in those local administrative bodies to which too much responsibility may have been entrusted. It is to obviate these dangers that administrative control has been instituted."

This central control in France is described by M. Berthélémy as being exercised, firstly, with respect to persons, secondly with respect to administrative acts. As regards the form, the Council of Ministers can by decree dissolve a municipal council, and in such a case new elections must be held within two months, any urgent matters being in the meanwhile carried out by a temporary committee of three to seven persons. The superior authority can also suspend a municipal councillor for general ineligibility, for absence without sufficient reason from three successive sessions of the council, or for refusing to carry out some function. The mayor and his *adjoints* can similarly be suspended, for three months by the Minister of the Interior, for one month by the prefect. The consent of the central authority is required to the appointment and dismissal of most of the communal officials.

Control over the acts of the communal authorities has relation to either their legality or their expediency. Every resolution of a municipal council which is in violation of a law or a regulation is *ipso facto* null, and may be so declared or alleged at any moment. The nullity must be certified by order made in the prefectoral council. The prefect may also declare a resolution null on the ground that a councillor interested in the question has voted upon it.

As regards the expediency of the acts of a communal council, the municipal law sets out certain categories which require the sanction of the superior authority, the chief of these being: (1) any resolutions which would seriously affect the communal property either in its composition or its application (*e.g.*, mortgages, sales, etc.); (2) resolutions relating to the highway system (*e.g.*, classification of highways, creation or suppression of promenades, streets, public places, building lines); (3) resolutions as to financial matters (*e.g.*, budget, supplementary credits, loans, creation of octrois); (4) establishment of fairs and markets. The authority whose sanction is required for these various matters is either the prefect, alone or in prefectoral council, or the council general, or the chief of the State, or even sometimes the legislative power. The prefect, though he can annul, cannot amend any resolution of the communal council, nor can he, as a rule, act in the place of the mayor, but to this there are a number of exceptions.

The actual procedure with regard to these sanctions, which is laid down in the law of 1884, is instructive: "1. With regard to the acts of the municipal councils, the mayor is obliged to send the resolutions within a week to the prefecture. An acknowledgment is delivered to the mayor; this acknowledgment fixes the commencement of the period of one month, after which the resolution comes into effect. Until the expiration of this period, or until the prefect declares that he raises no opposition, which he can do at the end of a fortnight if there has been no objection, the execution of the decision is suspended. 2. With regard to the acts of municipalities, the mayor is obliged to transmit immediately every order, whatever its object or scope. Those orders which contain a permanent police regulation shall not have effect until one month after the deposit of the duplicate certified by acknowledgment from the subprefect. Nevertheless, in a case of urgency, the prefect

can authorise their immediate execution" (Art. 95, L., April 5th, 1884).

An interesting sequel to M. Berthélémy's description of the present legal position in France is supplied in the paper by M. Barthélémy (the similarity of name is confusing) on the tendency of French legislation and public opinion on the subject. As regards legislation, he finds there are tendencies in both directions. That in favour of giving further liberty to local authorities is exemplified by the power given to the departments in 1899 to elect their presidents; by the laws of 1882 and 1908, of which the former made the mayor elective, while the latter more completely freed him from dependence on the central government; by the general extension of the powers of local authorities and especially the wider choice given to communes since 1884 in the matter of local taxes; by a reduction in the category of resolutions requiring the sanction of the superior authority (*e.g.*, abolition in 1901 of necessity for prefect's sanction to contributions to public institutions, in 1905 of necessity for sanction to legal proceedings, in 1899 of necessity for ministerial sanction to departmental budget); and by the granting of further facilities for departmental and communal loans.

M. Barthélémy, however, looks upon this tendency as very superficial. True, he says, the powers of local authorities have been extended, but this is often only *pari passu* with an extension of central powers and is therefore not genuine decentralisation, while a direct tendency towards a restriction of local liberty is shown by a continual increase in the obligatory functions cast upon local authorities, and by their deprivation of powers of which they have shown themselves incapable. "The characteristic," he says, "of our social legislation from the point of view of decentralisation, is that the State forces expenses upon the local authorities, and that no increase in the liberty of raising funds corresponds to

an increase in these charges"—a striking parallel to the situation in this country. Legislatively, therefore, in the last twenty-five years there has been in France a theoretic increase, but an actual decrease in local liberties.

When he turns, however, to the trend of public opinion, M. Barthélémy admits that this is almost unanimous in favour of decentralisation. Party cries are each one more decentralising than the other. Numberless propositions have appeared in the press and in Parliament, and an inter-departmental committee of 1907–1909 made definite recommendations for giving more freedom to the local authorities. M. Barthélémy himself is not carried in this direction. He admits that there is much to be said for further decentralisation, but he sees in it many dangers. The continual increase in the communal expenses and debt makes him tremble at what might be the consequence if the communes had a freer hand. "I admit," he says, "that this inflation of the local expenditure is due to the policy of intervention by the State, in other words, to centralisation. But it arises largely from faulty management of local finance, waste, improper expenditure and extravagance. In any case, I see no necessity for allowing local bodies to add their despoiling activities to those of the State." He considers, in short, that the extension of decentralisation has gone far enough in France for the present, that, though the existing system is by no means perfect, it "corresponds to the present state of education of the democracy, of our customs and our political passions." It is obvious, however, from M. Barthélémy's own words, that very few of his compatriots are in agreement with this opinion.

The other view is strongly argued by M. Le Fur. "It is clear," he says, "that decentralisation would be nothing but a name if the action taken by the decentralised bodies could be, apart from any question of

illegality, annulled or altered by the agents of the central power." The great difficulty in France, which has already been mentioned, is that the prefects and mayors, who are responsible for the executive work, are agents both of the central and local authorities. In so far, however, as they act in the latter capacity, they are, says M. Le Fur, "invested by law with powers which they exercise in the name of the local authority, under the *supervision* perhaps, but not under the *authority* of the superior power. It is necessary, therefore, that in this they shall be protected against possible encroachments, otherwise the central power can use this right of supervision for the very purpose of violating the law; it can make it serve so as practically to take back from the local authorities all the powers which had been entrusted to them by the law, or at least it can force them to exercise their powers in conformity with its own will, and not with that of the local community."

Such protection can only, says M. Le Fur, be afforded by some person or body in an independent judicial position. "From the very fact that the judge is charged to ensure respect for the law by all persons, he must be impartial; a person actually engaged in administration cannot be impartial; it is not possible to combine, especially with regard to the same subject, the functions of administrator and judge; hence arises the necessity for a tribunal, administrative or otherwise, but in any case acting in virtue of a power of its own and not in the name of the administrative government; and this is what was brought into being by the law of November 24th, 1872, which reorganised the *Conseil d'Etat*." The *Conseil d'Etat* has wide powers of its own, though it is by no means clear how far these powers extend. The question whether the *Conseil d'Etat* can itself annul the actions of local authorities on the ground of inexpediency is hotly contested. The different views on this point are set out in the chapter on "the protection of the

private individual," since the functions of the *Conseil d'Etat* cover the relations of the local authorities with their constituents as well as with their superiors. Whatever be precisely the powers of this important body, it is M. Le Fur's opinion that these powers are exercised with absolute fairness and in a manner which is satisfactory to all concerned, and he confidently asserts that " the *Conseil d'Etat*, rightly or wrongly from the point of view of positive French law, exercises a sort of prætorian power, which has enabled it to extend its competence in a most satisfactory manner for the protection of the rights both of the local authorities and of private individuals, which is the final aim of the law. And," he goes on to say, " if this movement continues, the *Conseil d'Etat* becoming more and more a real tribunal, administrative if you like, but independent of the administrative departments, which is the essential point, our country will in time approach, after a long détour, the situation of those more favoured countries, England, Belgium, and some others, where, thanks to the principle of the separation of powers, exact in itself and not directed, as with us, against the normal powers of the courts, the public found themselves early in their history endowed with a jurisdiction strongly organised, competent not only in the conflicts between citizens or local groups, but also in those in which they may have to engage with the superior administrative authority."

Whether or not M. Le Fur is justified in so describing the situation in England at the present moment, will be discussed later. As regards Belgium, M. Jacquart remarked in his *rapport général*, that " this appreciation is perhaps too flattering, for administrative tribunals do not exist with us, and it happens that the one Belgian contributor who has dealt with the question of communal autonomy seems to regret the non-existence in Belgium of a jurisdiction before which appeals might be brought against administrative bodies for exceeding

their powers." The Belgian contributor alluded to is M. Victor Genot, who, though he says at the outset that "our customs render the control of the superior authorities less necessary than in other times and places," is one of those who consider that the communal autonomy, so highly appraised in Belgium, is carried too far. "There is," he says, "evidently one gap in our legislation—it creates for certain subordinate authorities an independence which is carried to excess and which may be the source of the gravest abuses." It may be said that M. Jacquart showed a strong inclination to contest M. Genot's opinions on this point and only refrained on the ground that it was a domestic subject, not suitable for an international meeting.

It was sufficiently obvious, from many Belgian speeches during the Congress, that M. Genot was correct in saying that " in Belgium, communal independence is worshipped almost as a fetish," and, in another paper, " in Belgium, perhaps more than anywhere else, there is, among local administrators a tendency, whether conscious or otherwise, to escape from all control; the cult of absolute independence is such that any restriction of it is borne with the utmost impatience." He admits that Art. 107 of the Belgian Constitution provides that " the courts and tribunals shall only apply such general, provincial and local orders and regulations as are in accordance with the law," but he says that the disputes raised on this article are such that the judicial power is almost helpless in the matter. This helplessness of the judicial authority and the absence of any administrative tribunals means that practically the only check to communal autonomy in Belgium is the financial one.

It will have been observed that Señor Valdivieso places the provincial governments of Belgium in the same category as those of France, but from M. Victor Genot's paper it would seem that the former are far more independent than the latter, the Belgian *governor*

having considerably less power than the French *prefect.* The governor represents exclusively the central power and is its confidential agent, but he does not in any sense carry on the business. This is done by the provincial council itself and by its permanent committee (*députation permanente*), which is at the same time an organ both of the central and the provincial authorities, and which, although appointed by the provincial council, is quite independent of it. In the provincial council, the governor has only a consultative position, but his influence is nevertheless very great. At the permanent committee he presides, has all the powers of deputies, and in some cases a preponderating vote.

In Holland, according to M. Bruins, the commune occupies a position, as regards the measure of independence, similar to that in Belgium—less independent than the Austrian commune, but much more so than the Prussian. It is possible, it is true, for any of the acts of a council, on the application of the *députation permanente,* to be annulled by the Sovereign as being contrary either to the law or to the general interest, but the latter ground is seldom alleged. In the matter of finance, the superior authority has a general right of approval of the communal budget and accounts, and also a power of supervision in the interests of the preservation of communal property, a power which seems to tend towards a general supervision of the communal financial administration. M. Bruins is inclined to think that the existing relations between the central and local authorities are satisfactory, except that more control is required in the matter of industrial undertakings.

Although, as has already been explained, the systems of local government in Switzerland vary very widely from canton to canton, it may be said generally that the freedom of the communes is considerable, though somewhat less so in the French cantons than in the German. The general principle is that definitely laid down in the

Constitution of Zürich, Art. 48: "The communes are empowered to act with complete independence within the limits of the constitution and the law." In the matter of finance, Herr Schoch states that: "The State (*i.e.*, canton) usually sees to the conservation of the communal property and supervises the keeping of the accounts; in the matter of the raising of revenue and the objects of expenditure the communes are entirely independent." One exceptionally strong instance of their independence is that in many cases the communal councils have power to appoint, not only all their own officials, but also the State officials who act within their areas, such as registration officers and even justices of the peace. It is obvious, therefore, that in Switzerland the control of a superior authority over the communes is at a minimum, and, according to Herr Schoch, the results are eminently satisfactory.

"As against the administration of public affairs through the organs of the central authority," he says, "an extensive communal autonomy offers great advantages. The inhabitants of the communes have not that feeling, which is such an obstacle to activity in public life, that they are simply ruled from the chief town. They have more interest in their local affairs; a whole store of capable energy, which would otherwise remain apart from public affairs, is offered willingly and freely for the service of the community. Moreover, considerable importance must be attached to the fact that the communal burdens are borne with greater readiness by the ratepayers when they have laid them upon themselves, than when it is simply the State which commands. The initiative of communes which possess an extensive autonomy becomes much more active in every direction, in the establishment of public works as in care for the public weal; a healthy competition takes place between the different communes. Activity with regard to local affairs forms an admirable political schooling for the

modern citizen. In a certain sense, therefore, the commune may very well represent a state within a state. The supervision of the State should go no further than is necessary to secure co-operation between all the communes of the same state and in the interests of all to prevent an attitude of hostility on the part of the individual communes towards one another. The working of communal autonomy in the majority of the German-Swiss cantons satisfies these conditions and may be described as answering the purposes of the special circumstances of Switzerland and as an example for other countries whose circumstances are of a similar kind."

In Austria and Hungary the local authorities enjoy a large measure of independence. It is true that the councils of the *comitats* in the latter country are presided over by a governor (*főispan*) who is a representative of the central government, but he is, as a rule, appointed from the locality and very frequently the nomination falls upon the prefect (*alispan*), who is elected to that office by the council itself. "Both the development and the whole existence of the Hungarian *comitats*," says M. de Vinczchidy, "supply an argument for decentralisation. Indeed, if this system of the *comitat* has not resulted in particularism and dissension in a country like Hungary—where, in consequence of numerous immigrations, the inhabitants of certain regions have spoken foreign languages for centuries past—it is certain that nations fortunate enough to possess a single language have nothing to fear."

The question of central control of administrations intermediate between the communes and the State formed the subject of some rather general expressions of opinion by the Second Section of the Congress, as follows :

"The Second Section, after an exchange of views on the legislation of several countries relating to the

administrative areas named departments, provinces, counties, *comitats*, etc., affirms that, as far as the question of centralisation or decentralisation is concerned, this legislation and its applications are greatly influenced by the historical and political conditions of each individual country.

"The Second Section declares itself in favour of the creation and maintenance of provincial and departmental institutions, endowed with a separate legal existence; it considers, indeed, that the existence of these autonomous institutions is a guarantee of political liberty. Without taking sides as between the various systems adopted in the different countries, the Section raises no objection to the existence, by the side of the departmental and provincial institutions, of representatives or agents of the central power, whose function it is to see that they do not exceed their powers, and that they do not act in a manner contrary to the general interests of the nation.

"The Section is of opinion that, if the departmental and provincial institutions must be, to a certain extent, placed under the control of the central government, it is inadmissible and contrary to the rules of good administration that the representatives of the central power attached to them and their agents should be made subject to them in however slight a degree.

"The Section is of opinion that the staff of the departmental administration and that of the Government representative attached thereto should be absolutely independent of one another, especially with regard to appointment, salaries and allowances, and discipline.

"The Section is of opinion that legislation relating to the authorities intermediate between the State and the communes should establish co-ordination and the necessary subordination between the various manifestations of social life which constitute the personality of the State."

As regards central control of municipal bodies some more definite suggestions were made by the Municipal

Council of Valencia in a series of resolutions to the following effect :

"Municipal autonomy should be the ideal of all civilised peoples ; it is a necessary condition of their good government. Municipal autonomy necessitates the limitation of State action to :

(1) Requiring of the municipalities the necessary conditions for their existence, *i.e.*, sufficient population and area and the resources necessary to meet the expenses of the public services, such as education and hygiene, and, in short, all those needed for social life.

(2) Requiring that these services are properly carried out, without interfering in their organisation.

(3) Fixing the form of organisation of the commune, by determining the minimum and maximum number of councillors, establishing a due division of powers, requiring budgets, accounts, etc., leaving at the same time considerable freedom so that, without going outside this general form of organisation, each commune may be able to organise itself by means of its municipal ordinances.

(4) Receiving notification of these ordinances and annulling those only which are contrary to the general law of the country, no State approval being required for ordinances not contrary to the law.

(5) Guaranteeing the rights of the inhabitants against abuse of power on the part of the municipal councils, by granting them powers of appeal before the courts, and requiring in addition to the sanction of the council the direct vote by the electors by means of a *referendum* for the settlement of certain important matters, such as alienation of property, cession of rights, approval of accounts, etc.

The Municipal Council of Valencia lays special stress on the point that the appeals mentioned in the last resolution should be to the ordinary courts and not to

any administrative department, for the hearing of such actions by the administrative authority, the State itself, is, they say, one of "the means of which Governments avail themselves to subject to their good pleasure the will of the municipal councils." The outstanding importance of this point was recognised by many writers and speakers, and especially by M. Le Fur, whose words have already been quoted, and England was always alluded to as the one country in which this ideal is realised. This being the case, it is curious that at the present time there should be so many searchings of heart as to whether the principle is so safely established in this country as is generally assumed.

The Congress was fortunate in having the cardinal principle of the English administrative system presented by so able an exponent as Mr. Edward Jenks. His paper on "The Rule of Law" leaves nothing further to be said on the principle as it has been recognised and acted upon throughout the whole of our legal history up to only a year or two ago, and in one sentence he hints at the danger which is at present threatening that principle and, with it, the whole of our boasted system of representative local government. "It must, however, be admitted," he says, "that the [Education] Act of 1902, by relegating a question in dispute to the decision of a Government office, is not in accord with the principles of English law." But Mr. Jenks might have gone much further than this. Since 1902, and especially in the last five years, the Local Government Board, the Board of Education and the Board of Agriculture have been given practically the powers of a final Court of Appeal in many questions as to which they stand in the position of both party and judge, and only the strenuous resistance of the highest legal authorities has prevented, in one instance at least, the elevation of a permanent Government Department not only over the Courts of Law, but over Parliament itself. Time and again judges

of the High Court have drawn attention to this anomaly, which constitutes a growing danger not only to the freedom of our local government institutions, but to their efficiency, for the free service of our best local administrators, of which we in this country are rightly proud, will not continue to be given if all sense of responsibility is withdrawn from the local bodies and they are reduced to that position of dependence on the central bureaucracy, from which the peoples of other countries are now trying to liberate themselves.

The actual system of central control of local authorities in this country is described in some detail in the paper by Mr. Bushell, supplemented on specific branches of the subject by Professor Dicksee's paper on Auditing, Mr. Collins' on the Finance of Local Authorities, those by Dr. Fremantle and Dr. Porter on Sanitary Administration and those by Professor Sadler and Mr. Alexander on Education.

Mr. Henry Hobhouse discusses in more general terms the question of Local Government and State Bureaucracy in Great Britain, drawing attention to the unfortunate fact, already dwelt upon, that "the bureaucratic instincts, not only of Government officials, but of Members of Parliament, who do not take any large part in local administration, but wish to exercise control over local bodies through the medium of the Central Department, have tended of recent years towards a considerable reaction against the progress of free local government in this country." Although this important paper is set out in full in the second part of this volume, Mr. Hobhouse's conclusion may be quoted here as summing up the matter as concisely as possible.

"The control of the Central Department is necessary in really important matters of finance or principles of administration, or where uniformity throughout the Kingdom is essential, or where the matters dealt with are in dispute between several local authorities. As an

arbitrator, as a guide, as a guardian of the public against corruption or gross irregularity or extravagance, the action of the central authority is not only useful, but essential. But when it forsakes its proper sphere of general control, and encumbers itself by constantly interfering with the details of local administration, it assumes functions which are not only unnecessary, but in the long run are injurious to the public spirit and local freedom of the community."

One point yet remains to be touched upon before this chapter is concluded, namely, the methods of opposition to the encroachments of the central power on the liberties of the local authorities. In England every type of local authority has its own association to defend its interests, and some description of their working is given in the paper on p. 409. So widespread a system of organisation is not to be found in other countries, but M. Le Fur draws attention to the strike of the southern municipalities of France in July, 1907, and to the recent federation of the mayors of France, who are now formed into a national association to resist the excessive pressure of the central power. Signor Greppi contributes a lengthy paper giving an account of the history and working of the Association of Italian Communes, a body in comparison with which, as regards numbers, any one of our local government associations pales into insignificance. No less than 1,600 communes are inscribed on the list of membership, and although, as Signor Greppi says, even this number is only a small proportion of the 8,300 communes of Italy, and although it appears that many of the members are not so ready with their contributions, either in cash or in information, as might be wished, it would be obvious, even without the particulars of the successes achieved given by Signor Greppi, that so extensive an organisation, which includes all the provincial capitals without exception, must be able to exert an enormous influence on the legislature.

Pressure of this kind, exercised on the responsible heads of the Government by means of deputations and otherwise and also on Members of Parliament, either individually or in the mass, with the assistance of a free Press and enlightened public opinion, would appear to be the only way of influencing fresh legislation. As regards resistance to undue coercion by the central executive under existing laws, the security of the local authorities rests in England with the ordinary courts, so far as they are not ousted by recent legislation, and in other countries, as a rule, with special administrative courts, of which the French *Conseil d'Etat* stands out as the most firmly established and the most independent. One question which continually arises before these tribunals is that of *locus standi*. The rules on this point are construed very liberally by the French *Conseil d'Etat*. In England the strict rules of law and the cost of proceedings place many obstacles in the way. An act of tyranny by a Government Department applied to local authorities generally or to local authorities of a particular class, is often endured for a long time with only informal protests, owing to the disinclination of any one authority to incur the expense of an action at law and the difficulty, or rather, in the case of most classes of local authorities, the impossibility under the existing system of these bodies combining to pay the expenses of a test case.

CHAPTER VII.

OFFICIALS.

THE immense extension of governmental activities, both central and local, which is one of the great characteristics of the present era in most countries, and not least in Great Britain, necessarily involves an enormous increase in the number of executive officers required by the authorities to carry out their orders and to see that their laws and regulations are obeyed. The Englishman who labours under the impression that the Continental countries suffer under a bureaucracy from which we are comparatively free, can scarcely be aware of the extent to which our life in this country is permeated by officials, nor can he realise how greatly he would suffer were this not to be the case. Without in the least degree decrying the value and importance of representative institutions, it is obvious that it is quite impossible for the functions of these bodies in modern times to be fulfilled without a regular army of paid employees of all grades. The first question to be considered is, not whether or not we are to have officials, but what precisely should be their relations to the representative bodies to which they are attached, and other considerations will then arise as to the number and type of officials required, as to the manner of preparation for the administrative career, as to their remuneration and so forth.

But, although it is the fact that in this country, as well as in others, the existence of a large number of officials is absolutely necessary to our social life, anyone having even the most superficial knowledge of the ordinary system of centralised government must realise that, in this matter, there are three main points in which such a system differs fundamentally from that in force in this

country, of which the first two are: (1) that many of the local government officials are appointed and paid by the central government; (2) that certain local officials have powers altogether independent of and to a large extent superior to the local bodies to which they are attached. It is the position of these latter officials that makes it peculiarly difficult to compare the *personnel* concerned with local government under the centralised and decentralised systems. In England the very term "official" is taken to mean a paid servant under the orders of a representative body. The persons farthest removed from that designation, perhaps, are the chairman of a county council or the mayor of a town. In France the *préfet* and the *maire* are executive officers, though the latter is unpaid, and they possess infinitely more power than our chairmen or mayors, in addition to the fact that they are appointed for long terms instead of annually. It is a matter of great complaint by both French and Belgian writers, that these appointments are largely political and that very considerable evils arise from that fact and greatly hinder and corrupt local administration.

There is another evil of this system which is not an evil merely to English eyes. The difficulty of serving two masters—the State and the local authority—which is the task of both *préfet* and *maire*, is a very real one and is very widely recognised. M. Le Fur points out how seriously this position, in France, complicates every question of the relations between the central and local authorities, of the right and power of the inferior body to appeal against any act of the superior, and of the very distinction between the services properly appertaining to either, in consequence of the frequent uncertainty as to whether the *préfet* or the *maire* is acting in the one capacity or the other. M. Genot, speaking for Belgium, draws attention to another difficulty caused by this dual personality, namely, that of the position of the

subordinate officials. Up to 1887, the officials of the provincial governments were appointed and dismissed by the governor, in his absolute discretion, and paid by the State. There has been, however, a gradual change, and at present the chief officials of the provincial governments, while remaining nominally under the exclusive authority of the governor and financially at the charge of the State, actually hold their appointment both from the *députation permanente* and the central power. The governor can appoint none but the candidates of the *députation permanente;* if none of these please him, he has no course but to leave the post vacant and to entrust the carrying out of the duties to a minor official. Thus, the officials are subject to the goodwill of the *députation permanente* or its most influential members, while at the same time the governor remains legally their chief. Moreover, the *députation permanente* can add to the State remuneration of employees and may use this as a lever. The result, in the opinion of M. Genot, is a continual danger of conflict between the central and provincial authorities and ruin to the employee. The tendency, however, of the legislator as well as of the provincial authorities, is to remove these local State officials from absolute subordination to the governor and to place them more and more under the control of the *députation permanente.*

It would undoubtedly be interesting, were it possible, to compare the number of public officials employed in the different countries. M. Fernand Faure made the attempt and, finding out the hopelessness of any approach to accuracy, makes an earnest appeal for a proper system of statistics in each country of the number of officials, central and local, and the particular branches of the service in which they are employed. He gives a number of statistics which he has gathered for France, and even a few figures for other countries, but he admits that they must all be taken with the greatest reserve.

There is first the difficulty of defining an official, and this he does for his own purposes by stating that public officials are "all civilians whom the State, the departments, or the communes employ, or have employed, on a permanent footing, and whom they pay, whether wholly or in part." Taking this as the definition, he gives the following figures for France:

	January 1st, 1906.		January 1st, 1909.	
	State.	Departments and Communes.	State.	Departments and Communes.
Finance - -	132,312	326	133,603	310
Justice - -	12,303	1,067	12,335	1,067
Public Worship -	36	—	40	—
Foreign Affairs -	952	—	915	—
Interior - -	5,432	218,812	6,971	238,052
War - - -	37,066	—	28,993	—
Navy - - -	30,678	—	28,891	—
Public Instruction	127,036	13,118	131,420	13,849
Fine Arts - -	1,523	—	1,578	—
Trade - - -	2,376	—	3,272	—
Labour - -	327	—	444	—
Colonies - -	1,093	—	1,242	—
Agriculture - -	7,149	3,390	7,665	3,490
Public Works -	20,713	1,076	19,435	1,060
Post and Telegraphs - -	94,105	11,706	108,872	13,172
	453,101	249,495	486,676	271,002
	702,596		757,678	

The figures given by M. Faure with regard to officials in the public service in different countries are merely taken from the censuses of 1889 and 1901, and there is

no indication of what they include. They are given here, however, for what they are worth :

	Total.	Number of Officials per 10,000 Population.
France - - - -	700,000	176
Great Britain - - -	305,530	73
Germany - - -	714,860	126
Italy - - - -	444,061	136
Austria-Hungary - -	569,685	125
Belgium - - - -	134,366	200
Switzerland - - -	46,475	140
United States - - -	864,740	113
Russia - - - -	575,980	62
Denmark - - - -	33,449	136
Norway - - - -	25,200	112
Sweden - - - -	67,286	131

It is only fair to Belgium to point out, as M. Boogaerts did in a special communication, that the large proportion of officials in that country is partly due to the fact that almost all the railways are in the hands of the State, and that there is proportionately a far greater length of railway lines in Belgium than in any other country. Consequently, the large number of employees of every grade required for this service very considerably swells the total number of government officials.

The desirability of obtaining, in every country, statistics of public officials based on a uniform system of classification was expressed by the Congress in a resolution.

The third great point of difference between the position of officials in most Continental countries and of those in Great Britain is that the relations of the former to the general public and to their superiors in the hierarchy of the public service are subject to a special body of law,

administered by special courts. More will be said on this subject in the next chapter, but it will be easily realised that many of the questions relating to officials, and especially in the matter of their freedom of action in forming associations and so forth, must be looked at from a very different point of view, according as to whether they are subject to the ordinary law of the land or whether there exists a special administrative jurisdiction.

Preparation for and Advancement in the Public Service.

At this moment, when a strong movement is taking place in this country in favour of a more definite system of instruction and preparation for the public service, and when the National Association of Local Government Officers is actually establishing an examination board, this matter is of particular interest, and it happens to be one of the few which were discussed at the Congress in great detail, and the discussion of which resulted in definite resolutions.

The papers on the subject were chiefly from Belgium, but that is by no means to be regretted, as it is in that country that it is being seriously considered in governmental as well as in independent quarters. Of course, it has to be remembered that Continental peoples, in considering the question of instruction and preparation for the public service, class together central and local officials, whereas in this country, while the system of examination for all classes of the State civil service is definitely established, it is, except with regard to certain technical offices, non-existent for the local authorities. This, however, does not really affect the bearing which the papers and discussions may have on the problems with which we have to deal, for there is no essential difference between the qualities required of a clerk of the same grade in the one office or the other.

For the purposes of a survey and comparison of the various papers, it will be convenient in the first place to make use of M. Huisman's *rapport général.* "At a time," he says, "when, for most of the branches of social activity, the necessity of a systematic and scientific training is fully appreciated, when doctors, engineers, officers, professors, merchants, agriculturists, labourers and artisans can acquire, in special institutions, the professional knowledge which they will later on apply in practice, it is astonishing that the administrative career should be perhaps the only one for which there exists in our country (Belgium) no kind or grade of special instruction, either public or private. The same is the case, I believe, in many other countries.

"The inconveniences which result from this absence of an apprenticeship schooling for public officials and employees are brought to light in the paper by MM. Genot and Orban. They demand a reorganisation of administrative studies, or rather the creation of a system of instruction answering to the necessities of the moment, which they sketch in broad lines. For the higher branches, the preparation should be entrusted to the universities, but the programme should give a large place to practical courses; for this purpose, the authors recommend the establishment of an *administrative bureau*, a sort of laboratory in which the aspirants to official posts would be initiated into the practical conduct of business, the drafting of documents, the classification of *dossiers*—in short, into the life of the profession. As for the candidates for inferior posts, they would receive instruction of a secondary type, equally professional, as living and concrete as possible, calculated to prepare them appropriately for competitions and examinations."

The detailed suggestions of MM. Genot and Orban on this part of their subject may be found of interest. Their idea is that as there are attached to certain secondary schools, agricultural, industrial and commercial

sections, so there should be attached administrative sections. The programme of these sections should include, in addition to the national languages and general knowledge of political economy and accounting, "an elementary instruction in administrative matters (to which no fine names or university methods should be applied), as well as some ideas of legal history. Reading and explanation of the constitution and of the provincial and communal statutes should come at the beginning, and it should be possible to introduce some ideas on financial institutions, rates and taxes, budgets and accounts, the judicial power, the militia, public assistance, the highway system, registers of the population, the inspectorate of buildings and industries, etc. This programme should be amply sufficient to fill one or two special years, the first of which might, as is the case for the agricultural or commercial sections, be combined with the third year of the secondary school. The teaching should preserve the tone of this type of school. . . ."

M. Macar appears to be largely in agreement with MM. Genot and Orban. He considers that a probationary period is altogether unsatisfactory and that it is not possible to pick up the requisite knowledge in one's daily work. He demands, as M. Huisman summarises his paper, "for the employees of the administrative and police departments an education which shall be professional, rational, capable of providing a higher type for the public services and of combating the proverbial administrative routine."

"This confidence in the virtues of a special preparatory education," continues M. Huisman, "does not seem to be shared by M. Léonard, to judge at least by the qualities which, according to him, should be combined in an ideal official. These qualities may be summed up in the term 'initiative.' To develop initiative and to encourage personal effort would be the best way to improve the administrative staff. How is this to be brought

about ? In the first place, the training of the *débutant* is a charge which falls properly on his immediate chief, and should be directed towards the most diverse forms of work, while pains should be taken to sharpen the power of judgment, the spirit of observation. Once made acquainted with the general work, the employee should be shifted from one post to another, so as to prevent the falling into a groove and excessive specialisation. M. Léonard prefers to leave to those who are directly concerned the task of training themselves and preparing themselves for higher and general posts ; he has no faith in the fetishism of university degrees ; he is rather inclined to believe that the best central staff would be composed of persons possessing in conjunction with certain natural qualities (firmness, honesty, common sense, a healthy philosophy) a fund of knowledge acquired by work and experience.

" These, then, are the two systems advocated by those who are seeking the best means of preparing a staff of good officials. Closely connected with this question is that of the system of promotion.

" MM. Gilmont and Léonard suggest in this respect certain amendments in the administrative machine, with the special view of arriving at a genuine selection. Both writers are opposed to theoretical examinations at fixed dates. In the opinion of M. Gilmont, actual practice and the ordinary day's work are the best means of judging capacity, but it would be useful to set the officials, unexpectedly, special tasks, which should be examined by a superior council. M. Léonard considers that the selection should be entrusted to those chiefs in the administrative hierarchy who are responsible and directly interested in the good working of their department."

The papers by M. Bonnard and Dr. Radnitzky deserve somewhat fuller treatment than was accorded to them by M. Huisman. The former, describing the system of

appointment and discipline of officials in France, says that formerly there was a strict hierarchic subordination of inferior to superior, but that there is a gradual tendency to guarantee officials against a system of favouritism and therefore to limit the power of the administrative superior, though not to abolish it entirely. He examines the question from the point of view of complete liberty of choice of an employee by the superior official or authority. This complete liberty may, he says, be limited in one of four ways :—

(*a*) By a list of candidates, out of whom the selection must be made, being presented by another authority—this is the method chiefly used in the case of the transfer of an official from the central to a local authority, or *vice versa*.

(*b*) By making the possession of a degree or other qualification essential—this, says M. Bonnard, has long been the usual method, but the multiplication of these qualifications has latterly been so great, that the area of choice is becoming almost unlimited.

(*c*) By requiring a competitive examination—the method adopted in most recent regulations.

(*d*) A combination of (*a*), (*b*) and (*c*).

As regards selection for purposes of promotion, this may be either by age (which M. Bonnard condemns as altogether bad) or by choice, this being limited by a table of officials eligible for promotion, drawn up, not by the authority having the right to promote, but by a council composed of high officials and, often, of some members elected by officials of the lower ranks.

Dr. Radnitzky describes the conditions of preparation for admission into the public service, whether central or local, in Austria. The elected officials at the head of the local administrations are not required to have had any definite training, but for the many minor functionaries the same training is required as for the State service. The training differs according to the branch of the service

and the importance of the post. Dr. Radnitzky gives details of the requirements for candidates for the higher posts, but it is unnecessary here to give these details at length. It will be sufficient to say that a four years' course at an Austrian university is essential, with a very wide-embracing curriculum, and that a very thorough practical examination has also to be gone through. In recent years there have also been added extension courses, which include visits to industrial establishments and other institutions and tours in foreign countries.

The discussion on these papers was opened by M. Ritschir, who directed his remarks especially to the proposals by MM. Genot and Orban with regard to administrative sections attached to secondary schools. M. Ritschir argued that by attracting the attention of young people to the administrative career, by obliging them to make their choice at the moment of entering upon the ninth year of their studies, that is to say, at the age of fourteen, and by granting certificates which would appear to give them a right to a post, the specialisation of secondary education in the sense proposed would undoubtedly have the result of leading a larger number of young persons to choose this career. In view of the movement towards checking the tendency of too many parents to wish to make their sons public servants and towards rehabilitating in their eyes employments such as those connected with the applied arts, it may well be asked whether this is an opportune moment to enter upon this new path. It is unnecessary, he said, to give statistics to show that the supply for the public services is enormously greater than the demand. Moreover, such specialisation would detrimentally affect the general culture of these young people, which already leaves much to be desired.

M. Ritschir, therefore, recommended that those young people who propose to enter upon an administrative career should be encouraged to acquire a more complete

general culture, and, if there is to be a professional education of the kind sketched out by MM. Genot and Orban, it should be commenced two years later than they propose.

M. Errera, head of the University of Brussels, mentioned that the Belgian universities have made a certain effort in the direction of a preparation for the higher grades of the public services, by establishing courses in the schools of political science annexed to them. The best organisation is that which requires, first, the obtaining of a certificate of theoretic knowledge, to be followed by a practical probationary period, at the end of which, again, a certificate is to be obtained.

M. Larnaude (France) said that, at Paris, diplomas in administrative science are awarded to those who have attended certain courses given, not only by legal professors, but also by members of the Council of State. That, however, was not really a technical and professional education. In France, the lawyer's probation is altogether illusory; the probationers need do no more than sign an attendance book once a week. The German system seemed to him to combine the *desiderata* of theoretic and professional education. Once the university degree obtained, the young men pass a probationary period in several administrations successively. It is not in the universities that administrative practice can be learned, but only from the actual administrators in close collaboration with them.

M. Teissier (France), a former member of the Council of State, had a better opinion of the French system than M. Larnaude. The French School of Political and Administrative Science, at which he is professor, was founded with the object of forming a bridge between theoretical and practical education. It is based on the idea of directing young persons, who have already received the necessary superior instruction, towards the practice of diplomacy, administration, finance, etc. The

courses are given by experts who have, in practical experience, had to deal with real and not hypothetical difficulties. In his opinion, the greatest success of the School has arisen from the conferences for practical application. In these the scholars are confronted with *dossiers*, legal points, diplomatic questions of a practical nature, a financial programme, estimates and so forth, and they are required to extricate themselves from the difficulty as though they were actually engaged in the business. During the last twenty-five years, M. Teissier considers that this School has done much to raise the level of the higher branches of the French administration.

M. Novent (Belgium) considered that a certificate of administrative capacity should be established which would have an official character, and would replace the existing examinations. The candidate who obtains this certificate should then have to enter upon a probationary stage, which would prove whether or not he was fitted to undertake administrative duties. It is only during the last twenty-five years that entrance examinations have been generally adopted in the Belgian administrations, and it is true that the intellectual level of officials and employees has risen in consequence, but political and other reasons render it desirable to abolish this system of examinations.

Sir George Fordham was afraid of carrying specialisation to an extreme. He quite understood, in view of the large number of officials employed in Belgium, the desire to improve the system of preparation for the public services, but he considered it most necessary to begin by giving the young people an excellent general education, which should aim above all things at making them good citizens. There is a danger in placing them too early on a road which requires them, in order to succeed later on, to follow a narrowly defined course. In England it is necessary, at the outset of the career, that the

candidate shall pass an examination to show that he possesses certain capacities, but the main idea is that he shall learn the career in the career.

M. Orban (Belgium) fully agreed with Sir George Fordham as to the principle, "general instruction before all." But it had to be remembered that in the upper classes of the elementary schools there are many scholars who do not complete their general education, and it had to be considered what was to become of them. Some specialisation was necessary for them, but no privileges should be granted to diplomas. Nothing should be allowed to prevail over practical instruction by practical experience. The French School of Political and Administrative Science only provided for the very highest class of officials. With the same object as that School, the Belgian Universities had established a degree in administrative science, but neither at Liége nor at Ghent has anyone ever presented himself for it. The doctors in law are not inclined to lose a year in obtaining a special diploma which would only give them access to posts for which they are sufficiently qualified by their law degree. M. Orban repeated some of the views already quoted from his paper and said that he had every reason to believe that there would soon be established at Liége a degree in political and administrative science, which would not require the previous possession of a university degree, but merely a certificate of secondary education, while the course would include practical features.

M. de Girard (Switzerland) was of opinion that in most countries the general secondary education urgently needed reform, before any question of specialisation is added to it.

M. Huisman questioned whether university professors take account of the necessities of the administrations. A different education is required for officials in the railway department and for those in the Ministry of Foreign Affairs.

M. Novent struck a new note of warning against the tendency to train only superior officials. It is essential, he said, that all, whether possessed of degrees or not, should be able to aspire to every post in the adminstrative career. Elimination would take place in the natural course of events, but no one should be deprived of the possibility of advancement.

M. André urged the desirability of a preliminary practical instruction before entering the administration, on the ground that officials in the public service cannot give their time to instructing pupils in the same way as barristers and doctors, whose time is their own.

M. Capelle, the Chairman at this meeting, in summing up the discussion, said that there appeared to be a general agreement that a practical professional apprenticeship was the chief thing necessary for the training of officials. Such a practical apprenticeship was of course highly specialised, and it was no doubt desirable that, before entering upon it, the official should have received a very complete theoretic preparation, which would be useful to all citizens. It had been very rightly remarked that all officials should not be cast in the same mould, that the different employments demand different capacities and that it would therefore be difficult to organise a system of secondary or higher education which should be uniformly imposed on all candidates for official posts. The real question is that of the kind of preparation for the higher ranks of the profession, for which specially strict entrance conditions may be required. It would be difficult to require so much for the ordinary functions of administration.

The following resolutions on this branch of the subject were eventually passed :—

> That the Congress considers it desirable to reserve at the end of the secondary courses and in the curricula of higher education, a place for questions connected with the organisation, position, powers

and duties of the public administrations, without prejudice to the practical period of probation which is necessary and which should be kept quite distinct from the preparatory and theoretic studies.

That, in the opinion of the Congress, these courses should be open to existing officials.

Most readers will probably agree that even the abbreviated account of the discussion which has been given here shows a much greater inclination to deal with the question of preparation for the minor posts in the public service than would appear from the Chairman's summing-up or from the resolutions.

Salaries and Pensions.

The only paper touching on this point is that by M. Léonard, who develops some interesting ideas on this subject, so seldom considered on any broad view of principle. "The employee in a public office," he says, "is in the position of one who is under an agreement for life. It is therefore logical that the scale of salaries should be regulated according to the needs of existence. These needs make themselves felt on arrival at the normal age for marriage, that is to say, early in the career, and they increase with the birth and growth of children. They reach their maximum at about the age of forty and from then tend to diminish by small degrees. From fifty years the needs of the officials are much less, because the children are either married or are able to earn money themselves; and they continue to diminish, since the physiological and other necessities decline with age."

M. Léonard therefore considers that salaries of employees in the same position should follow this natural law, rising up to forty years, decreasing slightly from forty to fifty, and more rapidly thereafter. The idea that an older man may be called to a position of greater responsibility and authority, which would entitle him to higher pay, is rejected by M. Léonard on the ground that

a younger man should be preferred to an older for such a post. He, therefore, suggests a definite scale for the ordinary salary based on these lines, but he suggests that there should in addition be an annual distribution of bonuses according to the quality and amount of work done by each official during the year. These bonuses should only be given to employees above twenty-five years of age and, for the purposes of comparison, these should be divided into groups of a dozen or so persons employed in similar work. The essential part of this suggestion is that the bonuses should be differential, so as to induce a spirit of emulation which would be profitable to the service as a whole.

In connection with this, it would be necessary, says M. Léonard, that the law as to pensions should be revised. He does not give any details of the lines which, in his opinion, this revision should follow, but merely says generally that "at the present time, the law encourages officials to remain in the service as long as possible, because the pension increases in proportion to the number of years of service and to the amount of the latest salaries. In an administration of an economic nature, the law as to pensions should, on the contrary, oblige the old employees to retire in order to make room for the more active elements and for minds more open to progressive ideas."

Organisation.

The question of the organisation of officials in public offices is one which is touched upon by M. Léonard. To his mind, there are two main defects in the large administrative bodies, namely, (1) the existence of too many intermediaries between the supreme head and the units at the bottom of the scale; (2) the division of labour, which introduces into decisions on the various points a *particularist* spirit, which is not in harmony with the general interest. "The central administrative

authorities of former times," he says, and his remark would appear to be equally applicable to the local bodies, "taken as a whole, had above all things a political or moral character; nowadays, there is a distinct evolution towards economic and material questions." Under the old régime, consideration of those who had grown old in the service was natural. Under the economic system, what is required is activity and faculties open to new ideas, two qualities which disappear with age. From this he concludes that "as between two officials of equal value, promotion should be given, not to the elder, but to the younger, the one who shows promise of the greatest activity and energy, whose mind will, by the law of nature, be the most open to progressive ideas, who, in the new position, will be able to act for the longest period. . . . A short term of office is an excuse for the absence of new enterprises, or for the existence of defects which should be abolished."

M. Léonard also recommends the establishment of what he calls a "general co-ordinating authority" at each stage of the administrative edifice. In other words, there should be in every locality an official (he suggests that the *juge de paix* might occupy this position), invested with general authority regarding questions in dispute between different administrative officials, with a director-general of the *regional* area to act as a final court.

A very detailed description of the working of public offices in Prussia is given by Herr Michalski. Most of this, however, comes rather under the head of Documentation, and in the matter of the organisation of officials Herr Michalski confines himself to some suggestions for the establishment, in every large administration, of a standing committee, consisting of one superior official and at least two subordinates, whose duty it should be to undertake an investigation into the whole organisation at least once a year, and especially be prepared to receive

suggestions of improvements from any of the staff. He further suggests a similar institution for the larger areas with a view to better co-ordination, but this, of course. could only be applied to a completely centralised system,

Status of Officials.

A short paper by M. Capelle raises the interesting question as to what part officials should be allowed to take in public life. "It cannot be denied," he says, "that complete abstention (from public appearance) is the more convenient and is less upsetting to the customs usually adopted ; is it well, however, for this reason alone, to deprive the public in numerous instances of the experience laboriously acquired by capable officials, who only ask to be allowed to confer upon the country in as large measure as possible, the benefit of that knowledge which they possess ? A certain number of governments have thought not ; they allow the higher officials of the public administrative bodies to take part in national or international meetings where they discuss freely, without departing from a correct discretion, the principles of administration and their practical application. Some go yet farther ; for certain important debates they invite competent officials to defend before Parliament or parliamentary committees the propositions in which they have collaborated."

England, undoubtedly, is one of the countries in which this custom is becoming increasingly prevalent. While the responsibility of the parliamentary heads of departments is in no way lessened, the permanent secretaries are by no means such veiled prophets to the general public as they were but a generation or so ago, and the names and personalities of many even of the minor officials are well known throughout the country. The opinions of these on points of administration, as expressed before parliamentary committees and otherwise, have certainly

been long available to those who knew where to find them, but the Blue-Books in which they were buried were not likely to be widely resorted to. The popularisation of such publications, if one may so speak of it, seems to be rapidly coming into force, and is assisted by the attention paid to them by the public Press, while the appearance on non-political platforms of officials of both central and local authorities is becoming a common occurrence.

M. Capelle welcomes this tendency for several reasons. "It is incontestable," he says, "that the adoption of measures tending to increase the responsibility of officials especially towards public opinion and Parliament, would have a profound effect on administration itself: (*a*) the recruiting of the higher administrative staff would take place under more satisfactory conditions, the new duties and responsibilities being of a kind to eliminate certain undesirable candidates; (*b*) the officials would be likely to show more care and interest in elaborating propositions which they might find themselves in a position to be obliged to justify publicly in person; (*c*) the nation would be in a position to appreciate the value of the different permanent heads of the administrations; (*d*) the discussion of technical questions would gain in breadth and in precision by the intervention in debate of competent officials." M. Capelle looks upon it as necessary that the officials should be able to take such public action only under the authorisation of the administrations under which they serve, but thinks that arrangements could easily be made to prevent any abuse of the liberty which he proposes.

M. Capelle's views received a considerable amount of support in the course of discussion. M. Romieu mentioned that in France officials could, in special circumstances, assist a minister in parliamentary debate, while M. Huisman said that there was nothing in Belgian law against this practice. The question of the establishment of consultative committees to assist the various

administrations was discussed in close connection with this subject and was warmly supported, the following resolutions being eventually passed :—

> That in order to stimulate the zeal of officials and to encourage initiative of a fruitful kind, it is desirable to place Parliaments and public opinion in a position to take account at all times of the working of the administrations and of the part played personally by the officials who direct them.
>
> That it is desirable to utilise all the active forces of the nation, especially by the establishment of consultative committees of a technical character, which should work with the administration either temporarily or permanently.

The liberty of public officials to combine in the same way as any other group of individuals is so completely recognised in this country as to be looked upon as practically outside discussion. It is true that the officials in the Government Departments in Whitehall do not, as a matter of fact, form associations, but the existence of the Postmen's Federation and similar bodies is sufficient to establish the principle. In the sphere of local government the practice goes much further. Not only is there a great Municipal Employees' Association, but a society exists for almost every type of local official—clerks of the peace, municipal treasurers and accountants, medical officers, directors of education, surveyors, land agents, school teachers of every grade. It is, however, far otherwise in those countries which possess a centralised form of government.

M. Rolland, in his paper on associations and strikes, points out the difficulty in France of reconciling the two ideas : (1) that administrations are created by law for the public good, and their functions must therefore not be interfered with ; and (2) that the official is also a citizen and, in the democratic systems of modern times, is therefore himself one of the rulers. He rejects the

idea that there is a contract between the State and its employees, analogous to that between an employer and his workmen. "Between the general spirit of French administration," says M. Rolland, "and the recognition of the officials' right to form associations and to strike with impunity, there is complete opposition." At the same time he realises that it is necessary that the official should possess some genuine guarantees against tyranny on the part of his superiors and that he should not be altogether deprived of his rights as an ordinary citizen. The idea, consequently, which tends to prevail in France concerning associations of officials is that they should be permitted, but not so freely as in the case of other citizens. The law of 1901 prohibited only associations having an unlawful object, contrary to the laws or to good manners, or calculated to infringe the national territory or the republican form of government, and the Council of State has held that under this law associations of officials may be formed. Government measures have been introduced in 1907 and 1909, which would give large powers of forming associations to officials, but limiting them to officials in the same service. The power of officials in different services to combine might, it is feared, tend to the setting up of a rival authority to the State. It is clear, says M. Rolland, that at the present day a strike of officials is contrary to French administrative law. The public service is a duty imposed and regulated by law and, therefore, to abstain from performing it is an offence which the law must punish. M. Rolland suggests that should a strike be organised by an association it might be well, instead of fining managers or directors, or dissolving the association, to hold the funds of the association itself liable to a heavy fine.

In the course of discussion it appeared that in Belgium associations of officials may be formed subject to the approval of the administration. The presumption of a

contract between the State and the official as the basis for argument was supported by M. Romieu, but hotly contested by M. Larnaude, who characterised it as an English idea, which is charged with grave perils to the State.

Professor Viveiros de Castro, in a paper which was only published subsequently to the Congress, after examining the views of jurists of various nationalities, comes to a conclusion which draws a sharp distinction between associations and *syndicats* (trade unions). Public officials should, he considers, have full liberty to join the former, but the interests of the administration forbid the formation of the latter, the distinction being that in associations the members retain their personality and have a complete liberty of action in the exercise of their respective professions, while in a *syndicat* the will of the individual member is entirely merged in that of the corporation as a whole. *Syndicats* of public officials are not permitted in Brazil, and Professor de Castro is of opinion that this is the only possible course in all countries similarly governed.

This paper of Professor de Castro's deals in the same way with a number of points relating to officials, which, when taken together, lead to the general conclusion that it is most desirable that in every country the laws should definitely fix the *status* of the public officials, enumerating their rights and duties, regulating the system of promotion, rendering their responsibility effective and at the same time guaranteeing them full protection. This view was strongly supported by the Congress and formed the subject of a resolution.

An essential part of it is the question of security of tenure, a point mentioned by several writers and speakers and especially by Señor Tomás Valdivieso, according to whom such security is seriously lacking in Spain in the case of the secretaries to the municipal councils. Further, Señor Valdivieso shows how close a connection there is

between a proper preparation for the public service, security of tenure and official responsibility. "Without requiring of an official a certain fitness for his office, it is impossible to grant him security of tenure; but without security of tenure, a real responsibility cannot be expected of him, for one who is at the mercy of the council which he serves will not give his true opinion, but that which the council requires of him. In order to make him responsible in giving an opinion, he must be assured of a certain amount of independence." The exact form which such independence should take is definitely laid down by Señor Valdivieso so far as concerns one branch of the public service. "The secretaries to municipal councils should enjoy security of tenure. They should not be subject to dismissal without the drawing up of a case, against which the person inculpated should be heard, when it is a question of an offence previously recognised as such by law. No resolution dismissing a secretary should be valid unless passed by two-thirds of the councillors; and there should be an appeal against such a resolution to the administrative courts."

It must be again pointed out that the particular forms and methods here recommended have little or no bearing in a country where administrative law does not exist, but there are nevertheless many points connected with the position of officials in this country, which, *mutatis mutandis*, a comparison with the customs of even the centralised systems may help to elucidate.

One among the many which deserve consideration is the question of *initiative*. Some allusion has already been made to this point both in this section of this chapter and under the heading of Preparation for the Public Service, but it will not be out of place to return for a moment to M. Léonard, who has ventured to lay down what in his opinion are the qualities of an ideal official. Physically, he should have a healthy constitution, capable of endurance. Morally, he should at the

same time be respectful and obedient in service and resolute in action. Intellectually, he should be possessed of acquisitive faculties and a good memory, of a creative imagination, reasoning powers and common sense. All this, says M. Léonard, may be summed up in the one word *initiative*.

The lack of this quality under the ordinary system is shown by M. Macar. " Instead of reasoning and applying the laws," he says, " it is the custom to search the *precedents*, that is to say, the files in which their predecessors have dealt with similar points, to draw up the report or letter keeping as closely as possible to the text of the old file, and thus to treat the matter without any attempt at improvement, without any concern with the special circumstances which it presents. Consequently, whenever any question arises which is out of the ordinary groove, the officials are unable to deal with it."

While it is, of course, impossible to disregard precedents, and while entirely independent and original action on the part of every official with respect to every point which comes before him would lead to administrative chaos, there is certainly some truth in the picture which M. Macar draws, and there is considerable danger of sterility and endless delay in public offices if the spirit against which he raises his protest is allowed too much sway.

To submit to be ruled by permanent paid officials is one extreme. To treat these officials as merely so many wheels in a machine is another. Either of these is fatal to satisfactory administration. As to the former, much is said in different parts of this volume, and the danger of such a possibility has been pointed out. But, in order to escape that danger, it is not necessary to rush to the other. Perhaps there is little fear of that. The power exercised in the background by the permanent officials, whether central or local, is necessarily immense, and, as exercised in this country at the present time, it will

probably be agreed that it is on the whole well exercised, but the vast and increasing number employed render it most essential that not only the members of the representative bodies whom they serve, but the public generally, shall constantly keep their eyes on the numerous problems arising in connection with their employment, a few only of which have been touched upon in this chapter.

CHAPTER VIII.

THE PROTECTION OF THE PRIVATE INDIVIDUAL.

THE question of the protection of local authorities against undue encroachments by the central government has been dealt with in Chapter VI. The protection of the private individual against administrative bodies is a parallel one and, to a large extent, stands upon the same footing. It may seem, theoretically, somewhat curious that in a country in which representative institutions are so striking a feature, the general public should require protection against the bodies which are composed of their direct representatives. It is, however, undoubtedly the case that some such protection is required. In the first place, it is quite possible that these representative bodies may be guilty of an actual breach of the law. In such a case, in this country, the private individual can always avail himself of the ordinary law of the land, provided he is prepared to incur the expense, often so great as to be prohibitive.

It is, however, frequently the case that the exactions or oppressions of which the ordinary man complains involve no breach of the law whatever. The individualist or anarchistic element in every one cries out against the coercion by public authorities which, for the good of the whole community, is, to a certain extent, essential in every populous state, and which the very individualist or anarchist himself is the first to demand when it is a question of protecting his own person or property or ministering to his own convenience. It is all a matter of degree, and when the citizen finds that either the central departments or the local authorities which he has himself helped to elect, either directly or through their

officials, are—perhaps from an undue attachment to red tape—administering the law in a manner which appears to him oppressive, he wants some body to which he can appeal. In England there are for many purposes powers of appeal from local authorities to the central departments, especially the Local Government Board, but these bodies are, very naturally, themselves suspect. It is often enough not the act of a local authority which is complained of, but that of a Government Department, or perhaps an act forced by a Government Department on the local authority, and it is most regrettable that the question of the expediency and equity of such an act is, by recent legislation, so largely left to the Government Department itself, which is thus placed in the position of judge in its own cause, a state of things the viciousness of which is well expressed by M. Le Fur in words which have already been quoted. From this point of view, then, there is something to be said for the administrative courts from which English people thank heaven daily that they are free. Of course, any general adoption of a system of administrative law in this country is unthinkable, but there is reason to feel that all is not quite satisfactory here in this respect and that, although the continental systems as they stand are out of the question for us, there may be some elements in their codes of administrative law and its practice which it may be well worth our while to take into consideration. At the same time there is strong evidence that even though in theory the administrative courts might appear to present many advantages, they do not everywhere supply that protection to the private individual which is desired.

In Belgium there are no separate administrative courts, and MM. Genot and André have much to say in their papers of the tyranny of the Belgian official and the defenceless position of the ordinary citizen. The power of the burgomaster of a Belgian commune appears to be practically unlimited and to be exercised

frequently in a most arbitrary manner. His private spite may be indulged in or his private interests furthered by acts done in his official capacity, such as the closing of houses alleged to be insanitary, the diversion of a highway, the filling up of a well, the fixing of a building line. Against acts of this kind the citizen has practically no remedy. It is true that he can bring a civil action against any official who can be proved to have caused him damage by exceeding his powers, but "when it is a case of *abuse* of power, of false interpretation or false application of the law, of violation of the rights of citizens (other than their civil rights) by acts which are within the powers of the administration, no appeal is possible."

The position of the ordinary citizen is rendered all the worse from the fact that, according to M. Genot, "the tendency, especially in high places, is to appreciate the value and zeal of the police according to the number of charges for which they are responsible. Little notice is taken of the value, in themselves, of these charges or even of whether or not they are followed by prosecutions. No observations are made to the policeman who is continually bringing charges for trivialities and thus disturbing the tranquillity of peaceable citizens. . . . On comparing the statistics of charges brought by the local police, for instance in neighbouring communes, one is struck by the differences in their number and also in the figures showing their results. Within the jurisdiction of the Court of Appeal of Liége, there were classified as without result in the year 1907–8, 17,820 charges out of 41,041; and in the year 1908–9, 19,088 out of 43,673." As regards matters on which the administrative body itself can adjudicate, it does so, except in a few special cases, without being obliged to notify or to hear the individual interested, even when the administration itself is both party and judge.

The above are only a few out of the many points on which, according to MM. Genot and André and many

speakers in debate, reform is sorely needed in Belgium in order to protect the individual against oppression and tyranny on the part of the local authorities and their officials. Unless something is done, says M. Genot, the citizens will find themselves obliged to form private associations to defend their rights and privileges, which are threatened by the public administrations.

The position in France is described by M. Jèze as follows. The *recours pour excès de pouvoir* is a formal appeal to the *Conseil d'Etat* against certain acts of an administrative body or one of its agents, but not against the administration itself or any individual. The act may be one of commission or of omission, but must have been capable of inflicting injury on someone. The appeal may be brought by any private individual having an interest and no other means of obtaining satisfaction. The appeal follows ordinary legal procedure, but the costs to the appellant are extraordinarily small—only a 6d. stamp if there is no counsel and the appeal is successful. If unsuccessful, the appellant has to pay 100 francs as costs of registration. The *Conseil d'Etat* is obliged to give judgment, and against that judgment there is no appeal. The only question for the *Conseil d'Etat* is that of the legality of the act, not its expediency. It can only annul the act generally and cannot grant damages, but an ordinary action for damages can be brought against the State or any administrative body, where financial loss has been sustained owing to an act which the *Conseil d'Etat* has annulled as illegal.

It will be observed that M. Jèze states that only the legality and not the expediency of an act can be called in question in this procedure, but one of the forms of illegality which may be alleged and which is very frequently the subject of appeal is that certain legal powers have been used with a purpose other than that for which these powers have been conferred. This is called *détournement de pouvoir*, and it is easy to see how near this

may come to a question of abuse of power and consequently to a means of appealing against any sort of official tyranny or oppression, though it is to be observed that M. Jèze adds that the rules as to proof of such a charge are very technical and so strict that appeals on this ground are very apt to fail. M. Le Fur, as already stated, takes up a contrary position to that of M. Jèze and asserts that the *Conseil d'Etat* can directly deal with the question of the inexpediency of the acts of a local authority.

The quotations from M. Le Fur's paper in Chapter VI. apply there to the action of the *Conseil d'Etat* in defending the local authorities from encroachments by the central government. They apply equally to the protection of the private individual against an overbearing local authority or official. In this department of its work as well as in the other it is not only M. Le Fur's opinion, but, apparently, that of everyone who spoke at the Congress, that the *Conseil d'Etat* is completely successful and has the full confidence of all parties.

The position as regards administrative law in Italy, described by Signor Pisanelli, is somewhat peculiar. It seems that the matter has developed without any definite idea as to which line it was intended to follow, and consequently, at the present time, the ordinary and the administrative courts have, in many respects, concurrent powers, and there is considerable uncertainty as to their respective jurisdictions. Without going into the whole of the previous history, which, however, is exceedingly interesting, it may be said that the law of 1889 took a decided step in the direction of strengthening the administrative side by adding to the consultative sections of the Council of State a Fourth Section for administrative justice, composed, like the others, of a president and eight councillors with three *referendari*, the president and councillors being appointed annually by royal decree, not less than two, and not more than

four, being changed every year. To this Fourth Section are entrusted two classes of functions: (1) the hearing of appeals against the acts of administrative authorities on the ground of incompetence, acting *ultra vires*, or breach of the law, when such appeals are not within the jurisdiction of the judicial authority or of any special bodies; (2) the power of substituting a measure of its own for a measure of an administrative authority disallowed on appeal, together with various other powers which have been added by subsequent laws. A law of 1890 gave corresponding powers to a *Provincial Administrative Giunta* for each province, composed of the prefect, president, two prefectoral councillors and two members elected by the provincial council. This provincial body has jurisdiction over the acts of mayors and other communal authorities, there being an appeal from it to the Fourth Section of the Council of State.

These laws appeared to be somewhat of a reaction against previous legislation, which had upheld the ordinary courts and, in 1865, had thought to suppress altogether the *contentieux administratif*. Signor Pisanelli, however, points out that this jurisdiction "was reborn with a spirit and an intent entirely different from those of the old *contentieux*. The spirit was no longer distrust of the judicial authority, but a conviction, acquired by experience, that that authority could not, in the complicated relations of public life, satisfy the need of justice which is so keenly felt in modern society. The intent is no longer to affirm the independence of the administrative authority, but to insure, under parliamentary rule, justice in the administration, especially in the field in which the administrative authorities exercise a discretionary power, free from the control of the judiciary."

Further modifications were introduced by a law of 1907, when a Fifth Section of the Council of State was created, the functions of the Fourth Section being divided between the two. In spite of this, however, there were,

at the end of the year 1909, 1,393 appeals waiting to be heard by the Fourth Section and 2,319 by the Fifth. Consequently, the number of members of the Sections have been increased and the Sections are enabled to sit in divisions. It is now proposed to form these two Sections into a supreme and independent administrative tribunal, but this would be a direct reversal of the law of 1865, under which it is still within the competence of the ordinary courts to determine the legality of official acts when a question of private right is concerned, but their jurisdiction is strictly limited to the case before them and to the protection of the individual appellant. They have no power to annul or deal generally in any way with the act of the administrative authority or official, this function being reserved for the administrative courts.

The debate on this subject was one of the best sustained in the whole Congress, but it was almost entirely confined to French and Belgian speakers, the latter expressing almost unanimously a desire for the establishment of a system similar to the French. Although so much of the Belgian law is derived from the same source as the French, the Belgian constitution provides for no *Conseil d'Etat* and any *recours pour excès de pouvoir* must go before the ordinary court, the *Cour de Cassation*, which court, moreover, has not considered itself competent to deal with questions of *détournement de pouvoir*. M. Errera, keeping within the terms of the constitution, was of opinion that all the powers of the French *Conseil d'Etat*, including that of dealing with questions of abuse of power, should be conferred on the Belgian *Cour de Cassation*, but several speakers, and especially M. Duguit, pointed out that the great advantage of the French *Conseil d'Etat* is that it consists of magistrates, who are not only learned in the law, but have also had practical experience of administrative service.

The general sense of the debate appeared to be distinctly in favour of appeal to a purely administrative

court. The point was most strongly put by M. André, who, in his paper, commended the authors of the Belgian constitution for having "thoroughly understood that there exists, side by side with the civil law, a domain in which the administration must be supreme and that to subject it, in this respect, to the control of the ordinary courts, would be to introduce anarchy." Moreover, Mr. Goodnow, the only speaker in this discussion who was not a Frenchman or a Belgian, said that many American lawyers were of opinion that it is desirable to create administrative courts, since in so many cases a citizen could not obtain justice in the ordinary courts. There was a tendency in this direction in the United States, a court of the kind having been established in connection with the customs, and the creation of a similar court to deal with the relations between the government and the railway companies being under consideration.

The last speech in the debate was made by M. Eeckhoudt, who said that the striking feature of this question was the immense impulse which the French *Conseil d'Etat* had given to the formation of a body of law on the subject. In Belgium administrative law was amorphous, a very difficult and complex science. In France, on the contrary, administrative law had made much progress and was becoming positive. This was due to the specialisation brought about by the *Conseil d'Etat*.

Undoubtedly an appreciation of the French system from every point of view was the outstanding feature of the debate, and it is surprising to find that the only resolution passed under this head, on the motion of M. Errera, takes an entirely different line. This resolution was as follows :—

> The Congress is of opinion that the administration is subject to the rules of law ; that citizens should have a legal appeal wherever the law is violated and that it is desirable to surround this appeal with guarantees of justice in form and substance.

CHAPTER IX.

DOCUMENTATION.

THE sense in which the word *documentation* was used in the Brussels Congress is one which has not hitherto been altogether recognised in either the French or the English language, but as no other word appears to exist which properly expresses the requisite meaning, it is used here as signifying the dealing with documents in any sort of way from their preparation to their destruction.

This may be looked upon as too dull, too technical, too material a branch of the subject to hold a place with the other problems of local government which we have been discussing, but by those who are actually concerned with the business of administration it cannot be considered unimportant. Upon a good system of documentation depends to a large extent the easy and economical working of an administration, the capacity of councillors and officials to understand their work, the facilities to the general public for appreciating what is being done, the possibility of deriving from the labours of the authorities and of their agents results of scientific and economic value. The best shape and size for administrative documents; the most convenient manner of drawing up minutes, reports, orders or by-laws; the methods of publication; all the many points of detail which are embraced in a proper filing system; the arrangement of technical libraries; the question of the preservation of important records and of the destruction of useless documents; these are only a few of the many sub-heads of this great subject, which could not possibly be ignored at such a Congress.

The papers on documentation contributed to the Congress deal so largely with practical details that any

summary of them within the limits of a single chapter is impossible. Herr Michalski, for instance, gives an abstract of the Prussian regulations, made in August, 1897, for the simplification and co-ordination of the office systems under the State and communal authorities. These regulations prescribe every conceivable detail of the organisation, including such matters as the form of every written, typed or printed document, the manner of address, the methods of communication, verbal, written, telephonic or otherwise, between the different departments of the same office, the use of typewriters, post cards, even half sheets of paper. Herr Michalski adds many suggestions of his own for further simplifying and improving the work in an office. While this information and these suggestions would be of the utmost value to an expert committee in preparing a report, they cannot possibly be adequately dealt with here.

The same may be said of the other papers, which will therefore only be mentioned here with a brief statement of their contents. M. Zaalberg dealt with the system of account-keeping and the control of the finances in Holland, and especially in the commune of Zaandam, giving a detailed description of the working of the mechanical cash register there in use. M. Masson contributed a note on the administrative archives of the Belgian Ministry of Railways, Post and Telegraphs, the application of the decimal system to the classification of documents being particularly interesting. M. Faure acclaimed the merits of the card index system and gave some instances of the vast number of applications of which it is capable, which he illustrated in the exhibition referred to later. M. Géron presented a uniform scheme for account-keeping which had been adopted by the International Union of Tramways and Local Railways at their Congress in London in 1902, and in Vienna in 1904, and a Monthly Report of working results for electric tramways, which was also adopted by the Vienna Congress.

The Committee of the Section being of opinion that the administrations have much to learn in the matter of office methods from commercial firms, invited M. Bollinckx, the head of a large firm in Brussels, to contribute a paper, which gives information as to filing and other details. M. Cuvelier wrote on "the necessity of periodically transferring administrative documents to the State archives"; M. de Wendrich on "Service at the rear of an army—military and commercial operations"; M. Elias on filing by means of the decimal system, as practised in Holland. An extensive bibliography of French works on administrative law and other French official publications was drawn up by M. Guillois. Major-General Ceulemans contributed a paper on the part played by documents in the army; H.M. Stationery Office sent a small note on Official Documents in England; a very similar note on the French National Printing Office was supplied by the Directors. M. Victor Genot wrote a paper on the creation of a permanent committee of the International Congress on the administrative sciences, Señor Codorniu on filing and card indexing generally, and M. A. Valley on the use of shorthand.

A paper by M. Otlet on "Documentation in Administrative Matters" was published with the final reports after the Congress. It is, however, very slight, and it is a pity that M. Otlet did not contribute a paper on this subject, which could have been studied prior to the meetings, setting out the line which it was proposed that the discussions of the Fourth Section, of which he was Chairman, should take. In this matter M. Otlet occupies a quite exceptional position. He is the Director of the International Institute of Bibliography, established at Brussels (1, Rue du Musée), and made a public office by royal decree of the 12th September, 1895. The object of this Institute is declared to be "to perfect and unify bibliographic and documentary methods; to organise scientific international co-operation with a view to

facilitate combined action and especially the making of a universal bibliographic index; to establish an international centre of co-ordination and preservation; to grant the use of the collections and indexes to all genuine students; for this purpose, to extend in all countries the services of documentation and bibliography." The work which has been done by the Institute under the direction of M. Otlet since 1895 renders it probable that there is no man living with the same experience on this subject.

The great desire expressed by M. Otlet throughout the discussions over which he presided was to devise an international system of documentation. He affirmed that identical rules with regard to such matters are just as important as an identical gauge of railway line on both sides of a land frontier, and he instanced a way-bill as an extreme instance of a document which ought to be uniform in form in all parts of the world. Many members of the Congress, however, questioned whether M. Otlet was going the right way about to reach the object he aimed at. "The method of documentation," said M. Pinart, "must be scientific, it will then become international." "We should not insist too much," said M. Faure, "on the word *international*; administrations differ according to the traditions and customs of the various countries. There cannot be absolute uniformity in documentation, but it is desirable to make a comparison between the methods of each country and choose what is the best in each, and thus arrive at internationalism." In short, to borrow the terms of logic, M. Otlet advocated a deductive, MM. Pinart, Faure and others an inductive method, and it will probably be generally agreed that the latter will be far the more practical.

It is unnecessary to describe all the discussions on the many motions which were put to the meetings. They were not such as to give rise to great difference of opinion, but mention may be made of some of the views expressed

as to the access of the general public to official information. The question arose out of the proposition to form in all countries administrative libraries. M. Otlet stated that: "In our project, four kinds of organisms are contemplated: (1) services of documentation attached to the large administrations, which would include, in particular, administrative libraries, the books to be liberally distributed among the offices, and the services to be joined to a central organisation; (2) publications intended for administrative studies; (3) national bureaux of documentation, such as already exist at Berlin and in Holland; (4) an international bureau of administrative documentation."

Upon these proposals M. Stainier pointed out that there are often in existence administrative libraries which are little known, even by officials, and, further, that from the point of view of the general public, information on administrative questions is very difficult to obtain. He was therefore of opinion that as far as possible free access should be given to the general public to all such libraries. M. Faure considered that if this were to be done, the libraries would become a nuisance. M. Otlet recommended the system of the national library of Washington, which, he said, is in relation with all the administrative services and has centralised a number of administrative libraries and formed a general catalogue of them. M. Stainier stated that the Auskunftsbureau der deutschen Bibliotheken at Berlin has a similar orgnisation. Señor Buylla considered that all citizens should be given the opportunity of becoming acquainted with the working of the administrations, and that for that reason all libraries should be open to the public, as is the case in Spain. M. Pinart opposed this, and M. Faure, while again asserting that so large a policy is impossible, said that it is very desirable to have a larger number of institutions similar to the Musée Social at Paris, but that these institutions should not be too official. M. Van Overbergh also praised

highly the Musée Social, saying that the example set by it should be followed everywhere, while M. Van Oppen mentioned that the idea of a *musée administratif* was in course of realisation at Maestricht, and Signor Sitta stated that something of the kind had also been established in Italy, after the Milan exhibition, by the Societa Humanitaria.

Generally speaking, it was considered most desirable that both public and private efforts should be encouraged in the direction of forming libraries of this kind for the information of the general public. The fact that this is actually being done in England appears to be surprisingly little known. Comparatively few people are aware even of the existence of the British Institute of Social Service, which is doing such admirable work on similiar lines to the French Musée Social, or of the Library of the Board of Education, which is a most commendable attempt to give persons interested the opportunity of obtaining the information which they need. It would be perhaps too much to hope that something of the kind should be started by the Local Government Board, but such an institution attached to that department would undoubtedly facilitate to a great extent the work of local administrators, especially if it could be the means of making all local bodies acquainted with the decisions given by the department from time to time to individual administrations.

The conclusions come to by the Fourth Section were very numerous and the substance of them will now be set out at length.

(1) *Administrative Documentation.*

All theoretic and practical knowledge relative to documentation in general should be gathered together and co-ordinated.

Each country should establish, as a distinct organisation, either independent or attached to a body of a more

general character, a group for the study of questions of administrative documentation.

The result of the labours of these groups should be submitted periodically to the International Congress on the Administrative Sciences. The groups should assist in forming documentation bureaux as hereinafter described and should keep in constant touch with them.

Courses and conferences should be held on the principles and methods of administrative documentation.

A keeper of records on a scientific system should be attached to every large administration.

(2) *Methods of Administrative Documentation.*

A general method of administrative documentation should be established.

This method should include all the various operations connected with documents—*format*, wording of formal parts, preservation, classification, communication, publication, deposit in the archives, etc.

In view of the ever increasing relations between the administrations of different countries and the similarity of the services organised by the large administrations, this method should be made as far as possible international.

Arrangements should be made for the publication of monographs describing the documentary system of the large administrations. These monographs would form most valuable material for the study of the best methods to be adopted.

(3) *Books and Registers.*

The use of loose-leaf files and card indexes should be extended, since they have many advantages over bound volumes, but they should not be used without strict precautions being taken to ensure the security of the entries, and rules must be laid down to make all the publications of one administration a co-ordinated documentary organism.

(4) *Relations Between Current Documents and Archives.*

Definite relations should be established between current administrative documents and the archives, and, in particular, arrangements should be made for the periodical transfer by the great national administrations to the State archives of such of the documents, which have become useless for the current service, as are selected by a commission composed of officials of the administrations and of the archives of the State.

(5) *Shorthand, etc.*

Shorthand should be generally made use of in the administrations, and advantage should be taken of all the most recent mechanical and other inventions for improving and quickening up office work.

(6) *Plan of Publication.*

A general plan and co-ordinated system should be applied to all publications emanating from one administration, and even from similar administrations under the same authority.

(7) *International Exchange.*

Steps should be taken for the revision of the International Convention relating to the service of International Exchange.

(8) *Periodical Publications.*

The rules adopted by the International Congress of the Periodical Press and by the International Institute of Bibliography for periodical publications in general should be applied to official periodical publications.

(9) *National Bureaux.*

A national bureau of administrative documentation should be established in each country in connection with an international bureau.

(10) *International Bureau.*

An International bureau of administrative documentation should be established.

The object of this bureau would be to form a central collection of documents and to organise a permanent service of information on all administrative questions.

Special attention should be directed to :—

(*a*) Development of the methods of documentation, propaganda with a view to uniformity, and the preparation of schemes of organisation for such administrations as may desire them.

(*b*) The formation of a central library to contain publications relating to the administrative sciences and the publications issued by the various administrative bodies.

(*c*) The elaboration of an international bibliography of administrative questions.

(*d*) The formation of documentary files kept posted up on these questions.

(*e*) The establishment of a comparative museum of administration, a central and permanent institution combining the elements brought together in the administrative exhibitions.

The international bureau should be in constant relation with the World Congress of International Associations and by this means be kept informed of the resolutions and proceedings of those associations and congressses which are of a kind to affect the progress of administration.

It would be desirable that the International Institute of Statistics should co-operate in the study of questions relating to administrative documentation.

A committee on means of transport, as to which a special report was received, should be created.

The report as to a Committee on Means of Transport, thus referred to, was submitted by M. de Wendrich, and,

being adopted by the Congress, is an evidence that it is intended that the institutions to be established shall do a great deal more than collect and distribute information. The object of this Committee would be mainly to facilitate the conveyance of goods between different countries by bringing pressure to bear on the Governments, where necessary, the requisite information which would have to be laid before them being collected by the international bureau. This, it must be admitted, seems to be somewhat outside the question of administration, but it shows what practical use may be made of an international collection of information on administrative subjects.

The Committee of the Fourth Section drew up, after the Congress, a report embodying all the above resolutions and containing also a number of suggestions as to points which might be considered at the next Congress. It would seem that many of the proposals already made require further consideration in detail, and, if they are ever to be acted upon, this must be done by technical experts from each country. A few persons of one or two nationalities, however able, cannot possibly devise schemes of organisation which would be suitable everywhere, unless they receive carefully prepared reports showing the application in the different countries of the general principles which they enunciate. No doubt this is the line upon which the Brussels organisation will act, when it definitely comes into existence, and it is to be hoped that it will find that co-operation in the different countries which is absolutely necessary to render this idea, which seems to promise so well, of real and lasting value.

It is very much to be feared that this part of the work of the Congress, although the most practical in its results, is not likely to have much attraction for English administrators. As this volume is nominally confined to problems of local government, this is not the place to enlarge upon the question of documentation in the offices of the central

government. As regards local authorities, some sort of system is of course established in each case, sometimes good and sometimes bad, but usually built up as occasion arises, and presenting very often the appearance of a structure which was originally a small and convenient cottage, to which have been added innumerable wings in every style of architecture, according to the fancies of the different persons who have come to inhabit them, and the different purposes to which they have been put, with practically no co-ordinating principle except a more or less inconvenient passage leading from one to the other. The latest inventions in files or card indexes are frequently, though by no means invariably, used, but it is seldom that any other than an alphabetical system is even thought of. Were any administrative body to come to the conclusion that the time had arrived to devise a completely new system, and were it prepared to face the trouble and expense which a thorough re-organisation would necessarily entail, it would still be confronted with the difficulty of finding the requisite advice. Practically the only experts in such a matter are persons who are directly interested in some commercial concern, and even if it could be shown that some one authority had established a better system than others, the *amour propre* of the less progressive would be a bar to their willingness to accept advice.

And yet this is a matter which lies at the base of all good organisation and it is one which would well repay most careful consideration. A thorough and scientific system of documentation in its widest sense might not only save a vast amount of time, trouble and expense within each administration, and facilitate useful comparisons with others, but might even in itself automatically lead to conclusions of the greatest importance. Thus, if one of the principles advocated by Mr. Marshall Bruce Williams, the pioneer in this country of a science of organisation, namely, that of the 10 per cent. fit, the

80 per cent. average, and the 10 per cent. unfit, were applied to the filing of all information relating to, say, schools, or children, or streets from the point of view of good or bad housing, or roads, or general sanitary conditions of districts, there would lie to hand at any moment a comparative survey of each of these subjects within the jurisdiction of the particular administration. This is but one example of what might be done were the ordinary hand-to-mouth system to be departed from.

If, however, it be difficult to bring about a scientific re-organisation within an administration, it would be almost hopeless to expect the various local authorities to work in these matters on identical lines. There are, of course, some points on which uniformity of action is so necessary that it is enforced by the central government, while there are others as to which it is so desirable that it is brought about by agreement, either through their respective associations or otherwise; but, generally speaking, office organisation or documentation does not come within either of these categories. Each thinks its own fashion the best, and consequently anyone who has to study the documents of a number of authorities has to deal with papers of every size and shape, with minutes and reports of councils, committees and sub-committees, sometimes printed one after the other in chronological or other order, sometimes interspersed with the resolutions of the various bodies who consider them. Professor Dicksee refers, in his paper, to the confusion occasioned by the diverse methods of presenting the accounts, which has led to the appointment of a Departmental Committee which strongly recommended more uniformity in that particular department, but no Governmental action has followed.

Without going so far as to suggest that any *Internationalism* such as is proposed by M. Otlet is even possible, it might well be worth while for those concerned to consider whether the public convenience and the

interests of knowledge might not be served by some more scientific and more uniform system of documentation than exists at present, to take note of what is being done in different administrations both in this country and abroad, to avail themselves of the services of the International Bureau established by the Brussels Congress, and to assist the organisers of that bureau and add to its usefulness and importance by supplying it in their turn with information and suggestions.

In connection with the work of the Fourth Section of the Congress, it was proposed to hold an exhibition of administrative documents and documentary methods and appliances used in different countries, but the response to the appeal for exhibits was very small. The Spanish Government supplied a remarkably fine and complete exhibition of documents of all sorts used in their central administration, and the admirable manner in which they were arranged showed surprisingly how interesting such an exhibition could be made. The British Committee were able to contribute a number of examples of administrative documents used in this country, the exhibitors including the Board of Agriculture and Fisheries, the Central Midwives Board, the London County Council, the Cambridgeshire, Kent and Surrey County Councils, the Liverpool Town Council and the County Councils Association, and maps were also provided showing the administrative divisions of the country. Apart from these, the only exhibits shown in the Congress buildings were a few filing cabinets, but it must be remembered that the Institut International de Bibliographie formed an exhibition in itself.

CHAPTER X.

THE FUTURE.

It has already been mentioned that the First International Congress on the Administrative Sciences is intended to be the precursor of periodical congresses of a similar kind, and that a permanent body has been formed to act as an international bureau dealing with all matters relating to administration and to prepare for the next Congress. The resolutions adopted for the creation of this body were as follows :—

(1) The First International Congress on the Administrative Sciences, held at Brussels, in July, 1910, hereby establishes a Permanent International Commission of Congresses on the Administrative Sciences.

(2) The objects of this Commission are, in particular :—

(*a*) To carry into effect the resolutions of the Congress.

(*b*) To take the necessary steps for the preparation of the next Congress.

(*c*) To collect and classify documents relating to the administrative sciences and to place them at the disposition of persons interested, etc.

(3) The Commission shall be composed of active members, of whom each country shall be empowered to be represented by not more than five. These shall be appointed by the successive congresses on the administrative sciences organised by the Commission or under its patronage. One half of the members shall retire at each congress, but shall be eligible for re-election. Casual vacancies shall be filled by co-optation.

The Commission shall include in addition to the delegates of governments and of public administrative bodies, corresponding members chosen by the Commission and a permanent secretariat. The Commission shall appoint two general secretaries and a treasurer, who shall constitute the permanent secretariat.

The President appointed by the Congress on the Administrative Sciences shall continue in office until the following Congress, which shall appoint the new president.

The permanent secretariat shall be stationed in Belgium. The International Institute of Bibliography shall be asked to undertake the organisation of the documentation.

(4) The Commission shall have power to appoint honorary members.

(5) The funds of the Commission shall consist of grants, donations, subscriptions, etc.

The Commission shall meet, as far as possible, at the same times as the International Congresses.

(6) The Commission shall decide on all measures necessary for the realisation of its objects. The permanent secretariat shall see to the carrying-out of these decisions and shall deal with the current business.

(7) The Committee of the Congress is instructed to take all the steps necessary for carrying these resolutions into effect.

The Commission shall immediately put itself into communication with similar organisations already existing and with the governments.

There can be little doubt that a permanent body of this description and a periodical International Congress are complementary and necessary one to the other. The proceedings of a congress would be quite ephemeral without some standing executive to carry its resolutions

into effect, and each succeeding congress would have to begin the work all over again if there were no organisation to tabulate the results of the past and to obtain the information essential for the future. On the other hand, a permanent institution collecting statistics would soon become altogether sterile if it had no means of bringing into the light of day the results of its labours, and no means could be so effective for this purpose as an International Congress, under the auspices of some government.

These twin institutions, if properly used, should prove of very great value to those who are aiming at reforms in administration in any part of the world. The necessary reforms, of course, differ very widely in the various countries, but M. Tibbaut, in his closing address, was able to point to one general feature of the situation which is to be found, to a greater or less degree, in all of them. "Every age," he said, "has its own mentality, which affects every department of life. Our century is profoundly influenced by the atmosphere of intense activity which has been created by industrialism. The administrative power cannot escape from it, in spite of the distance which separates administration from industry, in spite of the natural differences of their organisation and their procedure.

"Industry looks for success in the perfecting of its work and in the constant lowering of the cost price. It is necessary, in every sphere, to obtain the maximum of return with the minimum of effort; to watch over the formation of fellow-workers in whom one has to fear the dead weight of an initial incompetence; to simplify this mechanism and to give to the direction such an impelling force as will make itself felt unhindered to the extremities of the organism; to establish sure and rapid methods of account, writing and documentation. In one word, it is necessary, by every means, to realise that ideal which the founder of the Institut Solvay judiciously named *Productivism.*

"Does a similar spirit exist in administration? The labours of the Congress lead one to doubt it. Members have extolled the vitality of certain administrations, their direct contact with the public, their force of propulsion, the judicious selection of their *personnel*. But much more has been said about the dust on wandering files so often late in arrival at their destination, and about officials deprived of any inclination for initiative by the dread of responsibility. And the Congress has been unanimous in desiring that administration shall follow the current of the age, that it shall constantly renew its life and shall seek for its organisation and its work those improvements and those stimulants which are appropriate to its social mission.

"Administration is in possession of an enormous power and is capable of exercising a decisive influence on the destinies of the country and on its economic and social progress. If, in its direction and in all its mechanism, it shows a spirit of initiative, if it provokes, assists and encourages action in all directions, it becomes a motive force which is beneficial and which does honour to its country. If, on the other hand, it is inert, slow, hampered by red tape, animated by a spirit of routine, hypercritical or vexatiously meddlesome, it becomes sterile and harmful. Not only does it fail in its mission, but it drags with a dead weight on the march of progress."

M. Tibbaut, however, was speaking only of reform from within the administration. In Balzac's quaint tale of "les Employés," M. Rabourdin, an able and conscientious chief clerk in a Government Department, devised a grand scheme for greater economy and efficiency, of which the essential principle was that a small number of high-class officials at good salaries would do much better work than a large number of inferior men, badly paid. His scheme, however, becoming known to his fellow-officials, led only to his own downfall, in spite of the fact that one and all recognised it to be sound. It would necessarily

have meant not only the introduction of new methods, but the discharge of a number of existing officials, and the personal interests thus attacked were too strong for the reformer.

This little parable shows how essential it is to disabuse the general public of the idea that the only persons who need concern themselves with these questions of administration are the administrators. It is most strange that in this country, of all others, where there exist at the same time a real pride in our representative councils and a hatred of officialism, this attitude of mind should so largely prevail, yet that it does so is obvious both from the number of votes polled in any local government election and from the amazing ignorance of our local government system which prevails among even the well-educated sections of the population. One is apt to hear on all sides an outcry against rates, a protest against the increase of officials, a general complaint that local authorities are not doing all they should or are doing much that they should not, yet those who cry the loudest usually understand least the conditions of which they complain, and are the last to lend a hand to effect any reform. It is this attitude, and not the increase of officials, which leads to bureaucracy. Every official may have in him the making of a bureaucrat, but he can never become a bureaucrat unless the *administrees* (to adopt a word from the French), by shirking their part, cast upon him the whole burden of government.

The time for this, happily, has not come yet. As pointed out in the paper printed later in this volume,* the activity of voluntary organisations in this country is considerable, and it seems possible that a greater stimulus than has been known for some time will be afforded by the Agenda Club, which has come into existence since that paper was written, while another new organisation, the Rural Development Society, is directing its energies

* P. 409.

specially to arousing interest in the work of the county councils. It cannot be denied that this stimulus is wanted to overcome the apathy which is very general and which, as shown by Professor Fairlie in his paper, has had such a bad effect on local government in the United States.

Citizenship is a subject which has of late years been introduced into all our schools and has even made its way into our pulpits. It is a subject, however, which cannot be learned merely by the study of text-books. As Sir George Fordham shows in his paper on "Local Administration as a School of Citizenship," it is practice and experience that is required, and the more the general public make themselves acquainted with the actual conditions of their surroundings and with the laws of their country, the more they take an active interest in the concerns of their parish, district, town or county as members of a community, the less likely are they to be subjected to an administration which takes the form of a bureaucracy.

Administration is, as was many times pointed out in the course of the Congress, not an end in itself, but only a means to an end—the end of good government and order. The less machinery that is required to attain that end, the better. "When, as in France," said Herbert Spencer, writing in 1873, "the administrative agencies occupy some 600,000 men, who are taken from industrial pursuits, and, with their families, supported in more than average comfort, it becomes clear enough that heavy extra work is entailed on the producing classes. . . . The evils are not removed, but at best only re-distributed." But if administration is in itself an evil, it must be admitted that in our present state of existence, it is a necessary evil. The anarchism of a Kropotkin, or a Tolstoi, as probably most people who have studied it will agree, would be the ideal form of state organisation were human nature and our conditions of existence other than what they are. Unfortunately in our complex civilisation, for the sake of

liberty, liberty must be restricted; in other words, administration is essential to our comfort, and, recognising that fact, it is necessary to see that it is as efficient and economical as possible, and that it applies the minimum of restraint to the liberty of the individual compatible with the good of the community as a whole.

These conditions can only be fully satisfied if every member of the community recognises that it is directly his concern, but his concern as a member of the community, not merely as an individual. If narrow personal interests come into play, the last state will be worse than the first; but, if a broad view be adopted, a general understanding be acquired, a genuine interest be taken in local government elections, members and officials of the local councils will be encouraged in their work and will, at the same time, be deterred from arbitrary action.

It is one of the objects of this volume to suggest that the study of what is going on in foreign countries will help greatly to this broader view and that those who undertake it may be enabled thereby to realise what it is that they would aim at, to formulate a local government policy. It is not proposed to attempt to frame any such policy here and now. Hints as to one or two directions in which reform seems desirable have been given in the foregoing chapters, but, in the opinion of the writer, the greatest need of all may be summed up in the one word —organisation. It is in this direction above all others that efficiency and economy of administration should be sought. The hand-to-mouth policy leads to overlapping and waste of every kind—overlapping of authorities, of officials, of voluntary institutions. On the one hand, the conditions of civilisation change so rapidly that the old instruments become soon out-of-date. On the other hand, so great and so increasing are human activities, and knowledge and experience are being acquired every day in such vast proportions, that new methods are urgently needed to bring that knowledge and experience to the

notice of those to whom they would be of service, but who have no time to seek them out for themselves. For all this, organisation is necessary, and organisation not based on the systems of half a century or more ago, but on the requirements of the present day.

Such organisation can, however, never be accomplished without some general principles upon which to base it. If there are, in this country, some few students of the subject who have worked out any for themselves, it is certain that no such principles have uniformly guided legislation in the past or are generally accepted at the present day. There does, however, appear to be, in the papers of local administrators which follow, collected though they were from very diverse sources, a noticeable similarity in point of view, a remarkable agreement as to the best lines for administration to follow, from which the recognition of certain principles may fairly be implied.

If we endeavour to formulate one or two of these principles, the first will undoubtedly be (to use the words of a Royal Commission) that local government is the business of the local authorities, and that all that the central department has to do is to give them information and guidance—to apply the whip or the brake. Complete independence of the central government is certainly not desired or desirable. In the region of finance, especially, central control is most necessary. Local authorities, however, should be freer than they are at present to make experiments—even to make mistakes. Continuous meddlesome interference by the central department hampers good government, delays progress and destroys the sense of responsibility, and this, in turn, discourages the best men from taking part in local administration. The English people, of all races, show a remarkable capacity for self-government, and the assumption in some quarters that the talent of governing is only to be found in the offices in Whitehall is devoid of any foundation. The functions of the central and

local authorities are distinct, and it is of the utmost importance to the good government of the country that they shall remain so. The former must look to the good of the country as a whole and must see that the local authorities are carrying out their duties. Apart, however, from any question of actual breach of the law, this supervision should only deal with the broad aspects of the matter. The local authorities are much better able than the central departments to attend to the details and to adapt their government to the particular circumstances of their districts. As time goes on and education is wider spread, the discretion of the local authorities should be gradually extended rather than diminished.

Another principle on which all believers in self-government must agree is that it is most desirable that the general public shall take an active and continuous interest in their local institutions, and it follows from this that every effort must be made to render the proceedings of the local authorities easily comprehensible and generally known.

To insist upon efficiency and economy in local government would be merely to enlarge upon a platitude, but it must be observed that one of the essential factors of this part of the problem resides in the selection and treatment of officials. The elementary principles which govern this branch of the subject are clearly that the right man must be found for each post and that, being found, he must be treated with confidence and given every opportunity of exercising his intelligence and—although it must be admitted that this is a somewhat more debateable point—his initiative. On the other hand, he must not be allowed to develop into a bureaucrat. To prevent this, at the same time that full advantage is taken, for the benefit of the community, of his ability and experience, will require both assiduous attention on the part of councillors to their own part in the business and their abstention from interference with the functions of the officials, beyond seeing that they are properly fulfilled.

The last general principle which will be mentioned here is that it is the business of the local authorities, so far as in them lies, to see generally to the well-being of that part of the community which they at the same time govern and serve. This does not mean that they should attempt to swallow up all voluntary organisations. On the contrary, they may best serve the community by encouraging and working through such voluntary organisations as are mentioned in Paper XXI. This view is urged for Belgium by M. Hennebicq, while M. Genot refers in the same connection especially to the collaboration of chambers of commerce with the public authorities. How far the local authorities should be free to act, whether directly or through other organisations, is the subject of our first principle, but the fact that in many directions a local authority is debarred by the jealousy of the central government from doing good work for the benefit of the community should not blind one to the other fact that many even of the best local authorities do not take full advantage of the powers which they possess. In this country, generally speaking, the larger local authorities, at any rate, carry out most efficiently and most thoroughly the duties which are laid upon them, but they are at the same time very coy about exercising permissive powers. It is such a spirit as this, which, more than anything, leads to that further dictation to them by the central departments and that increase of obligatory services which the local authorities are so apt to deplore.

These few principles—and others which are touched upon in various parts of this volume—appear to be fully confirmed, either positively or negatively, by the experience of foreign countries, as expressed at the Congress. They are not put fully into practice in this country to-day, and, in so far as they are not, our local government needs reform. Other countries are in the same position and need advice and example for guidance in their particular difficulties. We can, in some degree at any rate, supply

them with such advice and guidance, if they will accept it. They can, in some degree, do the same for us. The first International Congress on the Administrative Sciences has given to the world an object lesson of such an exchange of ideas and experience. The establishment of the international bureau at Brussels and the organisation of a series of congresses in the future form an institution which appears to offer, to all countries which care to avail themselves of it, a valuable means of working out the best, the safest and the most enduring lines on which to improve their forms and methods of government.

SECOND PART.

PAPERS

ON

Local Government in England, Wales and Scotland,

Submitted to the Congress through the British Committee; together with

Papers on the organisation of Departments of Agriculture in Great Britain, Holland and the United States.

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I.

A TABLE OF THE LOCAL GOVERNMENT SYSTEM IN ENGLAND AND WALES.

With References to Subsequent Papers.

A. *County Councils.*

The principal local authorities for the *administrative counties; i.e.*, the geographical counties (which are however, in some instances divided) without the largest towns, which are called *county boroughs*. The *municipal boroughs* and the *urban districts* form part of the administrative county, but possess certain powers independent of the County Council. London is the only town which possesses a County Council.

Number.—68, including the County of London.

Area.—From 53,464 acres (Soke of Peterborough) to 1,673,473 acres (West Riding of Yorkshire).

Population.—From 19,709 (Rutland) to 1,389,176 (West Riding of Yorkshire) and 4,536,429 (London).

Chief Powers.—Main roads and bridges; lunatic asylums; education, elementary and higher; verification of weights and measures; administration of Food and Drugs Acts; diseases of animals prevention; small holdings; supervision of midwives; registration of motor-cars; prevention of the pollution of rivers.

The organisation of the police is under a "Standing Joint Committee" of members of the County Council and Justices of the Peace.

See Papers II., IV., VI., VII., IX., X., XII., XIV., XV., XVIII.

B. *County Borough Councils.*

Number: 74.

Area: From 1,946 acres (Bootle) to 23,662 acres (Sheffield).

Population: From 24,899 (Canterbury) to 704,134 (Liverpool).

New county boroughs are not created with a population of less than 50,000.

Chief Powers: The same as County Councils and, in addition, police and the sanitary powers of an Urban District Council.

See Papers III., IV., VI., VII., X., XI., XIV., XV., XVIII.

C. *Municipal Borough Councils or Town Councils.*

Number: 255.

Area: From 85 acres (Cowbridge) to 22,657 acres (Wenlock).

Population: From 674 (Winchelsea) to 140,000 (East Ham). 67 have a population of less than 5,000

Chief Powers : All those of an urban district. Also, in many cases, police ; and, if the population is above 10,000, elementary education.

See Papers III., VI., VII., XI., XIV., XVIII.

D. *Urban District Councils.*

Number : 785.

Area : From 45 acres (Stow-in-the-Wold) to 25,582 acres (Masham).

Population : From 219 (Childwall) to 114,811 (Willesden).

Chief Powers.—Public health, including sewers ; sanitary regulations, water supply, etc. ; building bye-laws ; highways (except main roads) ; public parks, libraries, baths, museums, burial grounds etc. ; housing of the working classes, etc.

And, if the population is above 20,000, elementary education.

See Papers II., III., IV., VI., IX., XII., XIV.

E. *Rural District Councils.*

Number : 680.

Area : From 2,500 to over 150,000 acres.

Population : From 1,800 to 57,000.

Chief Powers : Public health, building bye-laws and roads, much as urban district councils. Can obtain any urban district powers by consent of Local Government Board.

See Papers II., IV., IX., XII.

F. *Boards of Guardians.*

Number : 657.

Area : From 192 acres (East Stonehouse) to 195,186 acres (Llanfyllin).

Population : From 2,265 (Welwyn) to 580,396 (West Ham).

Powers : Administration of the Poor Law ; assessment ; registration ; vaccination.

See Papers II., IV., XII., XIII., XVIII.

G. *Parish Meetings and Parish Councils.*

Every rural parish has a Parish Meeting, which is the assembly of all the electors.

Every rural parish with a population of 300 or more has a Parish Council, and any rural parish with a population between 100 and 300 can have a Parish Council by order of the County Council.

Number of Rural Parishes : 13,093, of which 7,310 have a Parish Council.

Population : About 2,000 parishes have each a population of less than 100, and about $\frac{9}{10}$ of the total contain less than 1,000 inhabitants.

Chief Powers : Maintenance of footpaths and rights of way ; lighting, public baths, burial grounds, libraries, etc., if the Parish Meeting adopts the necessary Acts ; provision of allotments ; power to make representations to the County Council, if the Rural District Council makes default in highway or sanitary matters, etc.

See Papers II., IV., VI., XII.

For the relations between the local authorities and the Central Government, *see* Papers VI., VII., XVIII., XIX.

For the Rule of Law, *see* Paper V.

For the basis of rating, *see* Paper VIII.

For Scotch Local Government, *see* Papers XVI., XVII.

For the relations between social life and administration, *see* Papers IV., XX., XXI.

For the organisation of Boards of Agriculture, *see* Papers XXII., XXIII., XXIV.

II.

ENGLISH LOCAL ADMINISTRATION.

By J. W. Willis Bund.
Chairman of the Worcestershire County Council.

If one feature characterizes Local Administration in England more than another it is the utter want of symmetry or system under which it is carried on. This is emphasized by the fact that different authorities use different methods to do the same work, that large departments of work are without any central control, that bodies entrusted with the same work are often elected in different ways dependent not on any principle, but on the special area for which they are elected, that while the accounts of one set of authorities are most strictly audited by Government auditors, the accounts of another set are not submitted to Government audit although they often deal with far larger sums than the accounts so audited. . . . There is also great overlapping in the work of the authorities, great confusion in their areas, greater in their powers. Numberless cases might be cited where from this confusion no authority has any power to act and so nothing is done. After such a statement it might be thought that England possessed no real local administration ; yet it does exist, and in spite of all these anomalies and difficulties, can favourably compare in the manner in which it is carried out with the local administration of any other country. This result makes the English method one of the most interesting studies for students of local government.

To aid in doing this it is proposed in this paper to give an outline of the system, enumerating the chief bodies engaged in local government and stating what different work belongs to each.

The confusion which appears in the English method is the result of continually giving new powers to existing bodies as occasion arises for the exercise of such powers.

It is only when some matter becomes pressing and requires to be dealt with that a new authority is created to deal with and carry out the new work. This is often done by setting up the new authority in the same or partly the same area as the old, trusting that the loyalty of the two will be strong enough to enable them to work together without jealousy or friction. Wonderful to say, as a rule the two authorities do work well together.

The only way this extraordinary state of things can be understood is by reference to the history of these different governing bodies.

Up to 1832 all local government was carried on by the nominees of the crown. In counties by the county justices, gentlemen with a landed qualification of a certain value appointed by the crown to act during their lives. There were, it is true, some subordinate officers appointed in local courts,but nearly all these courts were, or professed to be, the result of a royal charter; the others professed to be the survivals of a still older state of things and to be meetings of the landowners of the locality. Thus the coroner, an officer who still survives, an officer whose duty it was and is to see that the rights of the crown are not infringed, was elected by the freeholders of the county, to secure an independent officer to act between them and the crown. These exceptions, however, only serve to prove the rule that in the counties the persons who carried on local government were either appointed directly by the crown or by the nominees of the crown.

The same rule prevailed in the towns. They either had charters from the crown, under the terms of which certain officers named in the charter nominated the members of the governing body, or the town was part of some manor the lord of which held his manor by a grant from the

crown, and so was entitled to appoint the town officers in his own court.

Thus in the towns and in the counties the Crown had either directly or indirectly the control of all Local Government in England. In 1835 came a change. The Reform Act of 1832, 2 & 3 Will. IV., c. 88, had democratised Parliament and the reformed Parliament at once proposed to extend democratic government to the localities. The first step was to set up in all the more important towns a new body elected by the ratepayers to whom were transferred not merely all the old powers possessed by the old nominees of the Crown but also very large, new, and important rights and duties connected with Local Government. These bodies were created by the Municipal Corporations Act 1835, 5 & 6, Will. IV., c. 76, and they have been the model on which the county elective bodies have been formed.

Then came a new authority which had jurisdiction alike over town and county in the matters it was set up to manage; the relief and control of the poor. The Poor Law Act 1834, 4 & 5 Will. IV., c. 76, created this new Authority who were called Poor Law Guardians. The country was divided into areas known as unions and placed under the control of a Board of Guardians elected by the ratepayers of the different parishes in the union. The duty of the Guardians was to look after and relieve the destitute poor. On the basis of these two Acts, the Municipal Corporations and the Poor Law, the modern Local Government of England has been built up. Whenever in a borough new duties were given or powers required to be exercised, they were handed over to the Corporation appointed under the Municipal Corporations Act. Whenever in a county new duties were given or powers entrusted to localities, they were for the most part given to Boards of Guardians, although some were assigned to the Justices in Quarter Sessions.

So far there was something like a principle in dealing with the different duties of Local Government. As far as

possible they were given to the newly elected Authorities on the idea that as the ratepayers paid for them, they should have the management of their money. In the "forties" a new system was created. It had been found that in the workhouses mentally defective persons did not receive either proper or adequate treatment. The condition of pauper lunatics in England and Wales was considered by Parliament, and the management and control of certified lunatics taken from the Guardians and given to the Justices in counties and town councils in boroughs who had to provide proper places for their reception and treatment and to manage them by a committee of their number, called a Visiting Committee. A little later an outbreak of cholera called attention to the inadequate methods that existed to secure a proper state of sanitary administration. In 1848 an Act, the Public Health Act 1848, 11 & 12 Vict., c. 63, placed the powers and duties in reference to public health in towns under the Town Councils, in counties under the Boards of Guardians. In 1870, Parliament took up the question of Education. It considered that neither Justices, Town Councils, nor Boards of Guardians were the proper Authority to deal with it, so set up a new Authority—the School Board—specially charged with the service both in town and country. These bodies thus created had their own areas, their own elections, their own rates. Each year duties of minor importance were given to one or other of the existing Authorities, the principle of selection being whether the cost of carrying out the duties should be borne by a limited or by a wider area.

If the former, the duty was given to the Guardians and the money raised from the poor rate which was levied only in the particular unions; if the latter to the Justices, when the charge was spread over the whole county and the money raised by the county rate.

In 1875 Sanitary Authorities were set up throughout the country. In 1862 new Authorities for managing

highways were appointed, and this duty was divided between the Justices in Quarter Sessions, who were responsible for the main roads, as they were charged over the whole county, and the Highway Boards, which supervised the local roads, the cost of which was borne by the localities. So year by year increased wants led to either increased Authorities or increased duties of existing Authorities. These led to increased confusion and the tangle was becoming hopeless. Some change was essential. This came in 1888. Following the lines of the borough legislation of 1835, Parliament set up in each county an elective council and transferred to it most of the duties in respect of Local Government which were done by the Justices in Quarter Sessions, other than the administration of Justice and the preservation of the peace. So closely were these new bodies moulded on the model of the Borough Councils that a large number of the provisions of the Acts regulating such Councils were applied wholesale to the County Councils even if unsuitable. Thus the whole procedure as to calling meetings, although well adapted to a body residing in a restricted area, is not applicable to a body spread over a wider area like a county; yet these provisions as to towns were inserted wholesale in the County Act. There are differences in their powers and duties but the differences are not enough to affect the statement that the County Councils are the Town Councils applied to the country districts.

The system set up in 1888 was carried a step further in 1894 by the establishment of District and Parish Councils. Practically the District Council is in rural districts the same body as the Board of Guardians, but from the Boards of Guardians have been taken nearly all their duties except those relating to the administration of the Poor Law and relief of distress, and these duties have been handed over to the District Councils. These duties are mainly the maintenance of the highways other than

main roads and the administration of the sanitary laws in their areas. Very recent legislation has given them further duties, such as the housing of the working classes and the schemes for the development of towns on definite lines. The trend of legislation at the present time is to give increased power to District Councils.

Parish Councils are an elective body also created by the Local Government Act 1894 in every parish with a population of over 300.

Leaving out of consideration certain Authorities that only exist in particular localities and have only special and limited jurisdiction, the English system consists of the following bodies :—

1. The parish is taken as the unit of Government and in every parish in the country there is a Parish Meeting or assembly of parochial electors, that is, the persons whose names are entered on the registers of electors as voters either for members of Parliament or for County Councillors. These electors meet at least once a year. There is a great difference between the two lists of electors. For County Councillors, all duly qualified ratepayers, members of the House of Lords, and women are entitled to vote. For Parliament neither members of the House of Lords nor women can vote.

If the parish is small and has a population of under 300, then the parish affairs are discussed by the Meeting, and they have power to make representations to the District Council or the County Council. They also appoint overseers and parish officers, trustees of parish charities, and decide whether the parish will adopt the different Acts giving powers to light the village, to provide baths and washhouses, cemeteries and public libraries.

2. If the population of the parish is over 300, then a Parish Council can be elected. This Council is elected by the Parish Meeting. The number of members is not less than 5 nor more than 15 ; they may be men or women.

Their powers are more extended than those of the Parish Meeting, for in addition to what a Parish Meeting can do, a Parish Council can build public offices, acquire land for recreation grounds, apply to the Board of Agriculture to make schemes for regulating commons, manage any village green or open spaces in their area, use any spring or stream to obtain a water supply, fill up or deal with any pond, ditch or stagnant water likely to be a nuisance, acquire rights of way, accept gifts of property for the benefit of the parish, execute any works for the benefit of the parish on any parish property, let any parish land or building, acquire lands by agreement, or if they cannot do so apply to the County Council to acquire land compulsorily for them, and hire lands for allotments.

It would seem from this list of powers that the Parish Council was a very important Authority. There are, however, two very important limitations on their powers : (1) They cannot without the leave of the Parish Meeting incur any expense which would involve borrowing money ; nor (2) can they spend in any year more than will be met by a rate of 3d. in the £. To show what a restriction this imposes, an actual case may be cited. A county contains 202 parishes, of these 95 have Parish Meetings, and 107 Parish Councils, but in the whole 202 in no less than 177 a 3d. rate brings in under £100. As a Parish Meeting is always complaining of the cost of Local Government it will be at once inferred that the work done by Parish Councils is not excessive. The Parish Council has another power which it is more fond of exercising. It can represent to the District Council that an encroachment is made by inclosing land adjoining a highway or inclosing an open space, or that a public road or footpath is stopped up or diverted ; and if as often happens the District Council is not inclined to take any action in the matter, the Parish Council can then complain to the County Council who have the power to act. A District Council may delegate certain of its powers under the Public Health

Act to a Parish Council, but this power is not largely acted upon. The Parish Council is also the legal custodian of all the deeds and documents relating to the parish, other than those of an exclusively ecclesiastical nature. It is the duty of the County Council to see that the deeds are properly looked after and preserved. In some counties the County Councils have had a list made of all parochial papers and have those checked with the list from time to time to prevent anything being lost.

It will be seen from what has been stated that it was the intention of Parliament to make these Minor Local Authorities influential bodies, but after sixteen years work it has been found in practice that as a rule they are of very little importance, mainly from the fact that the class of persons who compose them are so unwilling to spend even the small sums which they are legally entitled to lay out, and so far these bodies, from which a great deal was expected, have not come up to the expectation of the authors.

3. Next to the Parish Councils come the District Councils. These are of two kinds, Urban and Rural. The classification is arbitrary, as Urban Councils are found occasionally in purely country districts, while some Rural Councils have areas which are certainly semi if not entirely urban. The distinction between the two is mainly in their powers; the powers of the urban being more extensive than those of the rural, especially as to the supervision of new buildings and sanitary matters. A further distinction is that a Rural Council consists of a certain number of parishes each of which has at least one representative. An Urban Council has such number of members and is divided into such number of divisions as the County Council determine. Possibly the most important difference is that of late years there has been a tendency in Parliament to give to the larger Urban Districts concurrent powers with County Councils, thus seriously interfering with the principle of one governing body for

the whole county. An Urban District Council with a population of over 20,000 is the Authority for elementary education within its area. It has also powers under various Acts of Parliament to make bye-laws for the regulation of certain matters in its area, and these often differ from those of the rest of the county. In fact at the present time the Urban District Council with a population over 20,000 is a sort of anomalous body between the Municipal Borough and the County Council.

The Rural District Council consists of the same men as the Board of Guardians. While the Urban Councils are usually inclined to spend money, the Rural Councils are inclined to economise often to a point verging on neglect. The reason for the difference lies in the different men who compose the two bodies, the urban being formed of men whose assessments as a rule do not exceed £200 a year, and who therefore do not feel the pinch of the rates, the rural of the large farmers who are assessed at from £100 to £800 a year, and whose contributions to the rates are therefore very considerable.

4. The County Councils which are supposed to be the supreme Authority in the counties are formed on the model of the Municipal Corporations ; Councillors elected by the ratepayers, Aldermen elected by the Councillors. The Councils are a union of the Urban and District Councillors, and the policy of the Council to a great extent depends on which of the two classes predominates, the Urban or the Rural element. If the former the Council is usually a progressive body carrying out and exercising all the powers the law has given it, whether such powers are optional or compulsory ; if the latter, only the compulsory powers are carried out, and often in a very half-hearted way. If the powers of the County Councils are fully carried out the amount of the work is very large and the number of subjects very numerous. Roads, sanitation, weights and measures, small holdings, midwives,

housing the working classes, education, lunatics, are only some of the numerous subjects they have to deal with.

One great distinction between the bodies created by the older legislation of the thirties and the more modern legislation since the eighties remains to be noticed. The old bodies are not subject as a rule to Government Audit; the new bodies are. Thus the large Boroughs, such as Birmingham, Liverpool, Manchester, Leeds have not to submit their accounts as a whole to any independent audit although dealing with millions. Yet County Councils and District Councils who deal merely with thousands have all their accounts most strictly audited by independent Government Auditors. This produces one of those curious anomalies which abound in English Local Government. A district adjoining a large Municipal Borough has its accounts strictly audited, as long as it remains outside, but if the Borough extends its boundaries and absorbs it, then the strict audit is a thing of the past, and the accounts are audited by persons appointed by the Authority. It would occupy too much space to point out numerous other anomalies which have arisen according to the different ideas which prevailed when different Acts were passed and as the result of the English system of piecemeal as opposed to comprehensive legislation. Yet with all its shortcomings the system works fairly well, due to a great extent to the English feeling that the Government has to be carried on and the best must be made of the materials that exist.

A word should be said on some of the other bodies engaged in Local Government. The administration of Justice is entirely in the hands of the Magistrates who are gentlemen exclusively appointed by the Crown, although the Chairmen of the County Councils and the District Councils have been made by statute Magistrates by virtue of their office and continue to act as long as they hold it. The control of the police is vested in a body called the Standing Joint Committee composed of equal numbers

of Justices and County Councillors. It is an independent body and can spend what money it considers necessary, and the County Council have to pay whatever the Committee ask for. What is perhaps a more startling fact is that this body appoints the person who acts as Clerk to the County Council, so that while all the inferior Authorities are able to appoint their own Clerk, the superior Authority, the County Council, has its Clerk appointed for it.

Another body already mentioned, the Poor law Guardians, carry out the whole system of poor relief and dealing with the aged sick and infirm poor, a very heavy and onerous duty. It is also their duty to provide for the maintenance of pauper lunatics, and here another anomaly is found. The management of the lunatics is one of the duties of the County Council which has to provide the asylums in which the lunatics are maintained, but the cost of keeping the lunatics in the asylum is paid by the Board of Guardians who have to pay without question within certain limits such sum as the Visiting Committee of the Asylum may fix.

Another body has lately been set up to administer the Old Age Pensions Act. This Committee is nominated by the County Council, but, all the funds for the pensions and the cost of administration are found by the State.

Other bodies might be mentioned and other anomalies pointed out. The whole system is full of them, yet probably in no country are better results achieved in Local Government than under the anomalous system prevailing in England.

III.

MUNICIPAL GOVERNMENT AND ADMINISTRATION IN ENGLAND.

By E. R. Pickmere, M.A., Town Clerk, Liverpool.

It will be convenient to open this paper with a short reference to the constitution of the Local Authorities mentioned hereinafter.

Borough means a Corporate town, with a properly organised Municipal government.

If it sends a representative or representatives to Parliament, it is a Parliamentary Borough; if not, it is only a Municipal Borough.

County Borough.—To certain Cities and towns, the Sovereigns of England have, out of special grace and favour, granted the privilege to be Counties of themselves, and not to be comprised in any other County.

These Boroughs, being Counties Corporate of themselves, were, together with Boroughs containing a population of not less than 50,000, constituted administrative Counties of themselves by the Local Government Act, 1888, and the Local Government Board by Provisional Order may constitute any Borough with that population a County Borough. In addition to having the ordinary powers of a Borough Council, they are for most purposes treated as being separate and distinct from the County in which, geographically, they are situated.

Urban Sanitary Districts and Rural Sanitary Districts. These are the Districts into which England (except the Metropolis) was divided for Public Health purposes by the Public Health Act, 1875.

Every Municipal Borough is such an Urban District, and every Borough Council has the powers and duties of an Urban District Council. But besides Boroughs, there

are other local Districts, generally more scattered in area, and less important than Boroughs, which are constituted Urban Districts, and the Councils of such Urban Districts have also the powers and duties relating to Public Health under this Act.

Rural Districts comprise those Districts which are not coincident in area with or actually included in an Urban District, and a Rural District Council can only exercise many of the powers conferred by the Public Health Act, with the sanction of the Local Government Board.

Basis of Municipal Government.

The statutory basis of Municipal Government in England is the Municipal Corporations Act, 1835, which was passed to abolish the system of close corporations which had hitherto obtained, and the jobbery, corruption and other evils attendant thereon, and which set up the excellent organization which has been thoroughly tested and proved by time, and is even now the bedrock of the Municipal system. For though the Municipal Corporations Act 1882 repeals the Act of 1835, still, it re-enacts its most important provisions without substantial alteration.

The leading features of this Statute were as follows :

1. It swept away all previous charters, usages and rights inconsistent with itself, and placed the constitution and the powers of Municipal Corporations upon a simple, uniform and popular basis. It abolished the great absence of uniformity with reference to the title of Corporations, by providing that the body Corporate, should in all cases be called " Mayor, Aldermen and Burgesses " ; " Citizens " being substituted for " Burgesses " in the case of Cities.

2. To ensure that the Council representing the local Municipal community should be elected by, act for, and be responsible to the inhabitants of their districts. The aldermanic system, however, was retained.

3. The election of Councillors was to be direct by the Ratepayers, and each qualified Ratepayer was to have a vote; the special right of the freemen to exercise the Municipal franchise was abolished.

4. Justice was separated from Municipal administration.

5. The general scheme of the Act was that of "local autonomy," *i.e.*, as a general rule there is no central department to interfere with Municipal administration, *e.g.*, Municipal elections, and Standing Orders made by the Council are not subject to central sanction or control; nor can a Municipal Corporation be dissolved by any central department, though in certain cases there may be incorporation of one or more towns. In some few instances control by Government Departments was introduced, *e.g.*, the consent of the Treasury being made requisite to the raising of loans and selling of Municipal property, which state of things still exists under the Municipal Corporations Act, 1882, except that the Local Government Board is now the controlling Government department.

6. The sphere of Municipal Government was restricted within somewhat narrow limits; the chief functions of the Council being the administration of local revenues and finance, passing of byelaws for the good government of the Town, and Police administration.

Functions of Municipal Government.

Police Administration.

The Act of 1835 placed Police administration under the control of the reformed Corporations, by directing the Council to appoint a sufficient number of their own body, not exceeding one-third of the Members of the Council, with the Mayor, to form a Watch Committee. The Committee is to appoint a sufficient number of constables for the Borough, has the power to suspend and dismiss

them, to award, suspend and rescind the grant of pensions under the Police Act, 1890; it is empowered to make regulations for the management of constables, and is generally responsible for the preservation of peace within the Borough. But though the Committee appoint the constables, yet, as the Council is under the liability to find the wages for constables, it therefore has a corresponding right to fix the authorised strength of the Police Force, which it has to maintain.

The Police Act, 1893, authorises the Council of a Borough to delegate to the Watch Committee its powers of making provision against fires in the Borough or neighbourhood, by providing fire engines and appliances and employing firemen, &c., and the Watch Committee is further authorised to employ constables as firemen.

His Majesty's Treasury, on receiving from the Government Inspector a certificate of efficiency, make a subvention towards the cost of Police administration. The amount of this subvention is generally roughly about one-half of the cost to the Town.

The Police Acts passed subsequently to 1835 have always encouraged a partial consolidation of the Police Forces of the Boroughs with those of the Counties in which they are situated.

Since 1877, no new Borough with less than 20,000 inhabitants has been allowed to establish a separate Police Force; and the Local Government Act, 1888, went a step further by extinguishing the Police Force of every Borough with a population according to the census of 1881 of less than 10,000.

Public Health.

The Public Health Act, 1875, is the basis of the excellent code of health now obtaining in England.

Under the Act, a Town Council was, as I have said, created the Urban Sanitary Authority for the purpose of carrying into effect the enlarged scheme of Public

Health administration instituted under that Act. Many of its provisions are permissive, others compulsory, the latter comprising the enforcement of precautions indispensable to Public Health.

The following is a short outline of the powers and duties of Urban District Councils under the Act as amended and supplemented by subsequent Acts.

1. Duty to provide a proper system of sewerage, and to enforce the drainage of houses and the provision of proper sanitary conveniences.

2. Power to provide their district with water for public and private purposes, to acquire waterworks, or, if there is no private Company able and willing to supply water for all reasonable purposes required by the Council, to construct and maintain them ; or the Council may contract for that purpose.

It is obligatory that the supply be pure and wholesome, but it is discretionary whether constant high pressure shall be maintained.

To meet expenses, the Council may levy a water rate on all premises supplied with water ; in addition, they may agree to supply water either by charging water rent (based, like water rate, on assessment) or by charging by measure.

3. It is their duty to make inspection of their districts for the detection of nuisances, and to put in force, as occasion may arise, the powers with which they are invested, so as to secure the proper sanitary condition of all premises within their districts. They have summary powers for the abatement of nuisances (including the prevention of overcrowding in houses and of the emission of smoke in excessive quantities from buildings other than dwelling houses). It is their duty to prevent the pollution and choking up of streams and the use of unwholesome drinking water. They are required to afford facilities for drainage from manufactories into their sewers.

4. They may provide Hospitals and means of conveyance for infectious patients, and cause premises to be purified and disinfected, and they have other powers to prevent the spreading of infectious diseases.

5. Urban District Councils are responsible for the maintenance, improvement and repair of streets and highways, and may provide for street scavenging and watering; they may take over and adopt new streets, thereby making them repairable by the inhabitants at large, and may compel the sewering, paving, &c. of streets which they have not taken over. They also have powers with regard to the making of new streets, and the position and construction of new buildings, and may make byelaws regulating these matters.

They may also, if authorised by the Local Government Board, make Town Planning schemes in respect of any land which is in course of development or appears likely to be used for building purposes, with the general object of securing proper sanitary conditions, amenity, and convenience in connection with the laying out and use of the land, and of any neighbouring lands.

6. They may enter into contracts for the illumination of streets, markets or public buildings; if there is no Company supplying gas, the Urban District Councils may themselves undertake the supply for public and private purposes within their district; if there is a Company supplying gas, the Council may agree to purchase the undertaking with the consent of the Local Government Board, but can only acquire the undertaking compulsorily under Act of Parliament. They can also supply electricity with the sanction of the Board of Trade under the Electric Lighting Acts.

7. They have powers with respect to obstructions and nuisances in streets, and with respect to fires, places of public resort, hackney carriages, and public bathing.

8. They may provide market places and slaughter houses, and may purchase or lease and lay out land to be

used as public walks or pleasure grounds, and may support or contribute to those provided by other persons.

9. They have powers with regard to inspection and regulation of cellar dwellings and lodging-houses.

10. The Housing of the Working Classes Acts make provision for the demolition of houses, courts or alleys unfit for human habitation, and for the summary closing and the taking of proper steps to put right premises dangerous or injurious to health, and for the improvement of unhealthy areas ; in a word, for the displacement of slums and the erection by the Council of houses for those or part of those so displaced.

The expenses of District Councils in the discharge of these public health duties, are met by a " General District Rate." The other part of municipal expenditure is in the main borne by the rate known as the " Borough Rate."

Other Sources of Municipal Work.

Other sources of Municipal Work are :

Firstly. The adoption of certain adoptive Acts, which, when adopted, are as fully binding as a general statute of the land.

This is one of the means adopted by Parliament for legislating for such local authorities as may wish to avail themselves thereof, without at the same time applying to other districts and local bodies legislative provisions which, in the particular cases, may be undesirable or unnecessary.

The most important of these are Acts amending the Public Health Act ; Acts which when adopted, give power to provide public libraries, art galleries, etc., and to levy a penny rate therefor ; to provide Museums and Gymnasiums, and levy a halfpenny rate for each. Baths and Washhouses may be similarly provided by adoption of the appropriate Acts.

Secondly. The making and enforcement of byelaws. Under the Municipal Corporations Act, the Council may

make byelaws for the good rule and government of the Borough, and for the prevention and suppression of nuisances not already punishable in a summary manner by virtue of any Act in force throughout the Borough, and may thereby appoint such fines, not exceeding in any case £5 for the prevention and suppression of offences against the same.

But such Byelaws must be made by a majority of two-thirds of the Council present and voting, advertised, and sent to a Secretary of State, and the Privy Council may disallow any such byelaw. Further, they must be reasonable, *intra vires*, *i.e.*, within the powers of the Corporation, and lastly, compatible with the general laws of the land.

Byelaws may also be made by a Council acting as an Urban Sanitary Authority under the Public Health Act, 1875, in relation to Health matters, etc. These have to be submitted to the Local Government Board, and approved by them before coming into operation; Byelaws can also be made under other Statutes, and in many cases under private Acts dealing with matters of a most heterogeneous character.

Thirdly. Another means of extending the sphere of Municipal operations is rather an expensive luxury, viz., Private Bill legislation.

A private Bill promoted by a Municipal Authority usually makes provision for all the needs and requirements of the Borough not met by any other means which have arisen since its last local Act was passed, and in such a case the Bill is termed an "Omnibus Bill," dealing as it does, with powers of a widely varying description.

Local Acts are often passed, to supplement the provisions of General Statutes in their application to districts where circumstances so require. Many Municipalities indeed have a separate code of their own in many domains of local government. Moreover, the earlier Public Health Acts were, for the most part, founded on local Acts which enterprising Authorities had obtained.

In addition to Private Bills, Local Authorities may obtain increased powers by means of Provisional Orders of Central Departments of the Government (more particularly of the Local Goverment Board and the Board of Trade). These Orders are at the end of every Session of Parliament, embodied in one Bill and approved by Parliament, and then become of full statutory efficacy. Examples of the use of Provisional Orders are, to provide Gas or Electricity, work and lay out Tramways and to carry out Street Improvements.

Education has been another source of work falling to the lot of Municipal Councils. Previous to 1870, education was not a matter of local government concern, but was left to the voluntary action of private persons or societies, aided by grants from the Government. The Elementary Education Act 1870 ensured the proper provision of elementary schools and efficient education therein by means of School Boards. But the Act of 1902 made (*inter alia*) the Council of a County Borough the local Education Authority; compelled it to appoint an Education Committee to which it must refer, and may delegate with or without restriction, all educational matters (except the power of raising a rate or borrowing money).

I have now briefly outlined the more important functions of Municipal Authorities. There are other classes of work undertaken by them, largely matters of detail, which I have not time to deal with. In their Report recently issued, the Poor Law Commissioners advocate the transfer of Poor Law Administration from the existing Boards of Guardians to new authorities which they propose should be set up and which would be largely composed of members of Municipal Councils and to a very great extent under their control.

In concluding this part of my paper, let me say that the policy of modern English legislation appears to be to throw on Municipal bodies more and more the

administration of affairs which are, to say the least, to a certain extent national in their character, subject to a certain amount of control by a Central Government Department, and without there being made adequate provision out of Imperial funds for the services so rendered.

Municipal Revenue.

The Sources of Municipal Revenue are threefold :

(1) Rates.

(2) Income derived from municipal investments, property and undertakings.

(3) Grants in aid from Imperial Exchequer.

Municipal Administration.

Turning to the procedure of Municipalities, a Municipal Corporation can transact business through the Borough Council, and through the Borough Council only. In the words of the Municipal Corporations Act, 1882, "The Municipal Corporation of a Borough shall be capable of acting by the Council of the Borough, and the Council shall exercise all powers vested in the Corporation by this Act or otherwise."

The Council is required to hold four Quarterly Meetings in every year for the transaction of public business. One of these Meetings must be held on the 9th November, at noon, and the other three Quarterly Meetings before the 1st November following on such days and at such hour as the Council may determine. It is customary to fix the dates for these Meetings on the 9th November, and by the Standing Orders to fix monthly meetings ; otherwise, such is the magnitude of the business of the Councils, the quarterly meetings would be quite inadequate to dispose of it.

Three clear days at least before the Meeting is held, a summons to attend the Meeting signed by the Town Clerk must be sent to each Member, and the summons must

specify the business proposed to be transacted at the meeting. A third of the whole number of the Council must be present to form a quorum, and questions are generally decided by a majority of those present and voting, but in some cases it is provided by different statutes that the majority must be an absolute majority of the whole number of the Council or of that proportion of the Council which have to be present and vote in accordance with the terms of the statute in that behalf.

It is obvious that in the case of a large number of Municipal Boroughs, the Council itself would be too large and unwieldy to carry out in businesslike manner the work of administration entrusted to it. Provision is accordingly made by the Act of 1882 "that the Council may from time to time appoint out of their own number such and so many Committees, either of a general or a special nature, and consisting of such number of persons as they think fit, for any purposes which in the opinion of the Council would be better regulated and managed by means of such Committees; but the acts of every such Committee (except the Watch Committee) shall be submitted to the Council for their approval."

It will be observed that this is simply an enabling power, and no rule is laid down that any Committees shall be formed, *i.e.* Committees are not obligatory (except only the Watch Committee).

The Watch Committee is the only Committee which is required by the Act to be appointed, and the Proceedings of this Committee (differing from those of any other Committee) need not be submitted to the Council for their approval, so long as it is dealing with the duties imposed upon it by the Municipal Corporations Act, except, however, in respect of matters relating to Finance, which must be submitted for the Council's approval in the ordinary way.

Some few towns have, however, by private Act, obtained power to absolutely delegate specified matters to

Committees ; a power which is most useful where despatch of business is desirable.

There are also certain public Statutes which either permit or direct the formation of a Committee to deal with certain matters arising under such Statutes, and the acts of such Committees do not appear to require confirmation by the Local Authority, unless this condition is imposed by the Local Authority when the Committee is constituted.

Just as the number of Committees the Council may appoint is unlimited, so there is no statutory regulation as to the proportionate number of Aldermen and Councillors to be placed on any Committee (though this proportion is sometimes fixed by the Standing Orders).

It is, of course, the general rule that Members of Committees appointed by the Council shall be Members of the Council, but certain Statutes give power to strengthen the Committees appointed to carry out the purposes of such Statutes by the co-option of citizens not Members of the Council, *e.g.*, Libraries Committee, Education Committee, Distress Committee, Small Holdings Committee, Old Age Pensions Committee.

The number of Committees appointed by a Council depends on the size of the Borough, the extent to which administration is differentiated, and lastly upon the number of local and adoptive Statutes under which the town is governed.

There is generally a Standing Committee appointed :—

(*a*) For each separate branch of Municipal work imposed by different statutes, *e.g.*, Sanitary, Water.

(*b*) To administer Municipal undertakings embarked upon with the consent of, but not imposed by Parliament, *e.g.*, Tramways, Electric Lighting, etc.

Special Committees are also frequently appointed for some temporary purpose, and a Council often has the power of appointing representatives on Joint Committees or Boards, *e.g.*, Liverpool appoints thirteen representatives on the Lancashire Asylums Board.

Further, in large towns, Sub-Committees are often appointed, and in some cases, there are Standing Sub-Committees appointed by a Committee at the commencement of the Municipal Year.

The Committees vary in size, and, as already stated, very often the Standing Orders provide for there being a proportionate number of Councillors and Aldermen on each Committee.

The Chairman of each Committee is elected at its first Meeting, and his duties of guiding the Committee, and superintending the management of its affairs are always arduous, and sometimes irksome.

In the case of the larger Boroughs, a weekly or monthly epitome of the proceedings of each Committee is sent to the Members of the Council. As directed by the Act, their proceedings come up for confirmation by the Council, the more important and special matters being set out separately on the summons sent to Members of the Council, general matters of less importance being grouped on the summons under the heading of " General proceedings " of that Committee.

Minutes of the Committee and Council proceedings are, of course, kept, and are open to inspection by ratepayers of the Borough on payment of the small fee fixed by statute ; these minutes are generally, under the provisions of Standing Orders, open to inspection by Members of the Council free of charge.

Under the Act " the Council may, from time to time, make Standing Orders for the regulation of their proceedings and business " and this without the necessity of any rectification or confirmation by the central authority.

The Standing Orders are usually made at the first Meeting of the Council in each Municipal Year, with such alterations of the previous year's Standing Orders as may be deemed necessary ; and provide regulations for such matters as motions and notices thereof, order and conduct of debate, voting on motions, etc., byelaws,

Committees and their composition, vacancies in Committees, Epitome of Committees, Officers and Servants of the Council, etc.

The Officers of the Borough directed to be appointed by the Municipal Corporations Act, are the Town Clerk and Treasurer, but the Act enables the Council to appoint such other officers as have been usually appointed or as the Council think necessary, while other statutes (*e.g.*, the Public Health Acts) in some instances require the appointment of certain officials to carry out the objects of such statutes.

The Town Clerk and Treasurer must not be Members of the Council, and they hold office during the pleasure of the Council.

The Town Clerk is the legal adviser of the Council and its Committees, has charge and is responsible for the charters, deeds, records and documents of the Borough, the conduct of elections, etc., and all legal notices are issued by him.

Vacancies in the offices of Town Clerk and Treasurer must be filled within twenty-one days of occurrence, and they cannot be held by the same person.

IV.

THE EXECUTIVE IN ENGLISH LOCAL GOVERNMENT.

By Sir Herbert George Fordham, Barrister-at-Law, Chairman of the Cambridgeshire County Council.

(*Translated from the French.*)

When one commences the study of the *role* and position of executive functions in relation to the various councils which constitute the local administrative and governmental machinery in England, the most striking feature of the situation is, at first sight, the difficulty of distinguishing these functions from those of the administration regarded as a whole. This results, probably, from the jealousy of the bureaucracy which, from the earliest times has existed in England. In Local Government especially the idea has always been dominant that neither the administrative power itself nor all the executive details should be given over to the permanent staff—the officials.

Thus, when looking for the executive body, in order to distinguish its powers, and to bring it into a clear position, all one can find is a number of officials, who are all dependent either on an administrative Council, or on one of its committees, and are always in the hands of administrators, themselves the creatures of popular representation.

To illustrate this situation in a general way, I would point out that English Local Government presents nothing similar to the great prefectoral machine which exists in France, and which works, if I understand the matter completely, entirely outside the administrative system of

the Departmental Councils. In the same way, the chairman of a Parish Council in England presides over the sitting of his council, manages the business of such sittings, represents the parish more or less in public ceremonies, but has not in any form executive powers like those attributed to the mayor of a French town.

Having established this species of distinction as one of general application, I propose to show shortly for each grade of English Local Government what the machinery of the executive system amounts to, following up the more important duties imposed by the law on the representatives of the people forming the various councils.

I.—In the small rural parishes, of a population below 300, there exists for the parish government a general meeting of the electors which appoints each year, in the spring, a chairman and two parish officers who are still called, as they are first named in an Act of Parliament of the beginning of the sixteenth century, the overseers of the poor, although from 1832 their principal duties have passed to the Guardians of the Poor, forming a board as established at that time in districts constituted for the purpose. So much as exists of executive duties in a small rural parish is associated almost entirely with these officials. They are required to prepare the valuation list of real property and to revise it from time to time; but all this work is reviewed and corrected if need be by a committee appointed for that purpose in the district before which all parties interested have a right to be heard. On the basis of the valuation list thus framed the local rates are collected by the overseers to satisfy the various demands made upon them by the different local spending authorities. They prepare also the lists of persons liable to serve on juries, which are then submitted to the Justices of the Peace, by whom they are finally approved. These powers, it will be seen, are rather those of initiative than of execution. If there is anything else to be done in the parish of an executive character, it is ordinarily relegated

to a committee appointed specially by a general meeting of electors, on which it is absolutely dependent, and to which it presents, for approval or revision, a report.

It is clear that official bureaucracy has very little hold on the ordinary government of a small rural parish in England.

II.—In rural parishes of a population of 300 and upwards a Parish Council is nominated triennially in the general meeting of electors of the parish, followed, if a demand is duly made, by election by ballot on a subsequent date. It consists of from five to fifteen persons, according to the population of the parish. There are also some parishes of a less population, in which under special circumstances a council is elected. This privilege depends, as do many other arrangements in respect to rural parishes, upon a decision of the County Council, formulated in an order. The Parish Council thus appointed elects in its turn a chairman, a clerk and the overseers of the poor, these last-named officers being appointed in every parish whether urban or rural throughout the Kingdom. But here again the executive functions are not too clearly defined. The chairman presides over the general meetings of the electors of the parish as well as over the meetings of the council. He arranges the business of these meetings. He is the public representative of the parish. Everything which is necessary as an act of executive authority, in a rural parish in which a Parish Council is appointed, is done either by the council itself, or by committees elected from among the members of the council, dependent entirely on the council, and strictly controlled by that body. The clerk alone acts as an executive officer, but always under the directions of the council or of one of its committees.

In the urban districts, in the towns and in the large towns of more than 50,000 inhabitants, which latter alone are completely autonomous, the parishes which still exist as civil divisions have no longer any administrative

capacity. They are preserved for financial and quasi-judicial business as remains of the organisation of the past, but these remains are beginning to disappear, by a process of amalgamation. All the parishes of a town, for example, are merged in a single new parish. In the ancient City of London, a hundred or more of tiny parishes have been recently merged in a single administrative or civil parish, while there has been abolished in consequence, not without difficulty, an enormous number of small officials, all, no doubt, well remunerated from the public purse.

III.—Let us pass now from the parish to the district. The districts exist everywhere, with District Councils substantially as established by the general law of the year 1875, for the supervision of sanitation and public health. They have been slightly re-arranged by an Act of 1894, and are constituted of an urban parish, or of a group of urban or rural parishes. Although set up by a sanitary law they have had placed upon them from time to time other duties than those relating to public health. For example the District now manages the District roads. In the larger towns and in County Boroughs the functions of the District Councils relating to Public Health are merged in the general duties of the municipal councils.

In considering the executive functions of the administrative system of a district, the first point to notice is that the Chairman of a District Council, like the Chairman of a Parish Council, has no executive duties. An official class begins, however, to appear, even in the less populous districts. The clerk, sanitary and medical inspectors, road inspectors, directors of hospitals and asylums, and other official personages of this kind, form the executive mechanism of the district.

But they all depend very closely on the council and on the committees charged with the control of its various public duties. The executive responsibility is not easily distinguishable from the administrative responsibility,

and, in its turn, everyone is responsible to public opinion, enlightened more or less completely through the discussions which take place *coram populo* in the councils. It must be added that the committees of District Councils also are selected (with very few exceptions) exclusively from amongst the members of the councils themselves.

Before leaving the analysis of the system of government of the district, a moment should be given to the Boards which are associated with it, created for the special purpose of giving assistance in a variety of ways to the paupers, the sick, the maimed, and to all that mass of defectives which weighs upon modern life. The Boards of Guardians of the Poor, which raise the necessary revenue for the expenditure they authorise through claims on the local taxation, exist side by side with the District Councils properly so-called, and contain in a large part the same personal materials. They manage the whole of the local public charity, which may be divided between the assistance given in the homes themselves of the poor, in kind, in medical attendance, and so on, and the care of individuals in asylums of different kinds: those for lunatics, for the weak-minded, for orphans, and children affected with constitutional diseases, &c., and in workhouses. Here appears naturally a small amount of bureaucracy, in the staff of the different institutions and in the machinery for distributing assistance in the home.

Perhaps the administrative control on the part of the Boards of Guardians is not sufficiently severe in the large towns and especially in London. In the country districts and in the smaller towns, it is the custom to follow very closely in the Boards the whole of the work of the officials, which is generally very well done. In some parts of the country committees of women, organised outside the Boards of Guardians, and holding an advisory rather than an administrative position, are of great use, above all, in watching closely the system of boarding-out children in private houses.

IV.—The higher one mounts in the system of Local Government, the more pronounced one expects to find the bureaucratic influence.

While it is true that this influence may very well exist and even flourish, I should be surprised if one could find in any part of England an executive which is not sufficiently subject to the control of the administrators and of the general administration.

The highest form of Local Government is divisible into two classes: (*a*) The Councils of Counties, which have below them the whole series of councils which I have just dealt with; (*b*) the Councils of towns of more than 50,000 inhabitants, and the Council of the County of London. The towns of a less population included in the areas of administrative counties have also a large share of autonomy. For each of these three areas there is a council presided over by a Chairman or a Mayor or Lord-Mayor as the case may be. The councils in these counties and county boroughs are endowed with the general Local Government of their areas, and this involves the existence, naturally, of a strong executive, composed of a considerable number of officials.

But here again this executive is directly dependent on either the councils themselves, or on committees set up to control the various departments of their work. In obedience to the general law on the subject, a budget is prepared every year in advance, and the different committees are strictly limited in their expenditure under the various heads to the amounts so approved by the council. Besides, the working of each executive department is brought up, in the form of reports, month by month, or quarter by quarter, to be revised and criticised by the councils themselves. It is usual, for the police, to create a department of its own under the direction of the chief officer of the police, whether county or borough, a necessity of the case in order to ensure direct control of public order, as well as the maintenance of the quasi-military

discipline of the police force itself. For the management of public roads, for the control of public health, for education, and for other branches of county government this question of discipline does not arise at all in the same degree. The chairman of a County Council, the Mayor of a town have none of the executive functions of a French prefect or mayor. On the other hand, of the clerks and secretaries, the chief constables, the medical and other inspectors, and the other officials who form together the body of the highest executive in Local Government, each is engaged in his own special work, and there is no strong official bond of union amongst them which would create a centralised department entirely in the hands of a principal official. Divided for the most part into departments placed under the administrative control each one of a committee appointed for that purpose, the executive is, so to speak, scattered, and can never dominate the general policy of the council under which it serves.

It may be worth while to refer in passing to the local system of administration of public education set up in England by the Act of Parliament of 1902. Throughout the country there have been appointed, based upon a prescribed model constitution, which is varied within certain limits according to the circumstances of each locality, committees formed in part of members of the County and Borough Councils, with the addition almost in every case of women and expert educationists taken from outside these Councils. The result is a rather patchy combination, which represents a variety of knowledge and experience often of the greatest value in the task of dealing with the vast subject of human education.

To these committees certain executive powers are usually delegated, in order that they may maintain the continuity of functions of the administrative machine. These powers are, in practice, divided between the committee and its officers. But there is always a certain feeling of jealousy, and any effort in the direction of

limiting the absolute and final control of the administrative body is carefully watched.

Although the general and final responsibility, and, above all, the financial responsibility, remains with the Council itself, which receives and studies detailed reports on the administrative work delegated to its Education Committee, and decides, in the last resort, all cases of difficulty or of principle, there is, necessarily, devolved upon the Committee nearly the whole of the powers of the Council connected with this department of its work. Necessarily also, the Committee appoints a large group of officials who form a special and highly specialised office. All the same, this *bureau* adapts itself to the general system, acting, as it does, under the control of the Education Committee and its sub-committees, and is never in a position to become a dominant executive.

In examining thus in a very summary manner the framework of Local Government as it exists to-day in England, one is able to conclude that the executive is never strong enough in itself to become fixed as a solid organism within the great machine of this administrative system. This state of things is in accord with the idea of individual responsibility which dominates the public and political life of our country. Indeed, neither the uniform nor official autocracy have any hold on the Anglo-Saxon imagination.

In order to restrain, without loss in the working of Local Government, the abnormal growth of the bureaucracy, of the official and bureaucratic executive, it is essential to find everywhere an enormous amount of goodwill, of individual initiative and of vigour in civic life.

It is under such conditions alone, while there is, naturally, much to be said also as to the great value of a highly centralised executive, that the local vitality of a nation can be maintained in a condition of real health and strength.

V.

THE RULE OF LAW IN ENGLISH LOCAL ADMINISTRATION.

By Edward Jenks, M.A., B.C.L., Principal and Director of Legal Studies, Law Society.

The administrative system of England is dominated throughout by the principle, that no power can be exercised unless it has been conferred by law, no obligation imposed on any citizen except by law, and that if the exercise of discretion has been entrusted to any official or department of the central government, or to any municipal body, this discretion must be exercised strictly according to the rules of law, which law will, in case of dispute, be interpreted by the ordinary courts, not by an administrative tribunal.

This principle, considered from the point of view of local administration, may be examined in three of its manifestations—(1) the creation of local authorities and of their powers; (2) the exercise of these powers by administrative regulations; (3) the execution of these powers by local authorities and their officials.

I.—The Creation of Local Authorities and their Powers.

All the local authorities at present acting in England have been created by comparatively recent Acts of Parliament. County Councils were created by the Local Government Act, 1888. Urban and Rural District Councils existed, under other names and by virtue of other statutes, when the Local Government Act, 1894, was passed; they were adopted and established by that Act. Parish Meetings and Parish Councils were, for the most part, created

directly by the same Act; the remainder have been since created by administrative Orders of the County Councils, in conformity with the provisions of the same Acts. The Borough Councils are created by Royal Charter; but only under the authority of the Municipal Corporations Act, 1882, in conformity with the advice of the Privy Council, and subject to the sanction of the Local Government Board, which is the central department charged with the supervision of municipal affairs. The borough charters are on uniform lines; unless they are created by a special Act of Parliament. The Boards of Guardians were created by the Poor Law Amendment Act, 1834, or were adopted by that Act under the provisions of an Act of the year 1782. The Overseers of the Poor, who are now merely executive officials, owe their existence to a statute of Queen Elizabeth. The local committees and officials for public education were created by the Education Act, 1902.

The same may be said of the numerous powers conferred on these local authorities and officials to enable them to fulfil their duties. The powers of County Councils, of Urban and Rural District Councils, of Boards of Guardians and Overseers of the Poor, and of Local Education Committees, are purely parliamentary. The slightest attempt to exercise a function which has not been actually conferred by Parliament would be immediately suppressed by the ordinary courts of law; as may be seen from the famous *Cockerton's Case* of the year 1900. It is true that, in some of the old municipal boroughs which had enjoyed privileges for hundreds of years before the Acts of 1835 and 1882 were passed, there remain a few traditional powers which have never been conferred by Parliament; but the exercise of these ancient powers is regarded with extreme jealousy by the ordinary law courts, and it may be observed that the power of granting new municipal charters, accorded to the Crown by the law of 1882, is described in the Act itself as "the power of extending to

such and such a municipal borough and the inhabitants thereof the provisions of the Municipal Corporations Act." Any attempt by the central government to increase or diminish the function of a local authority altogether passes the imagination.

II.—The Exercise of these Powers by Administrative Regulations.

This aspect of the Rule of Law is naturally divided into two parts, namely: (*a*) administrative regulations of a department of the central government; (*b*) by-laws of local authorities. The former are habitually addressed to the local authorities themselves; the latter to the individual citizens.

(*a*) *Regulations of the Central Government.*

Everyone knows that much of the work formerly discussed in Parliament itself is now transferred to the government departments. This arises from the impossibility of finding in the House of Commons the time necessary for dealing thoroughly with legislative proposals. The choice between the principle and the details is invariably decided by Parliament itself; and the distinction is not very clear. But the large volume of *Statutory Rules and Orders* published every year by the official press, shows how wide is the field traversed by the administrative Regulations of the central government. These Regulations are, as a matter of fact, the Regulations of the Parliamentary Chief of the service in question; for, although they are in theory made by the King with the advice of the Privy Council, they are not discussed by the Council, and the consent of His Majesty is merely formal. In many cases, even this formality is not necessary; and the Regulations are merely signed by the head of the department and one of his officials. The existence of these Regulations therefore appears at first sight to be absolutely opposed to the Rule of Law.

But the most superficial study of a volume of *Statutory Rules and Orders* is enough to dissipate this illusion; for, excepting the rare cases of the Prerogative Orders in Council, which are concerned as a matter of fact mainly with the Royal Fleet and with Crown Lands, every Regulation is made ostensibly with the permission, or under the direction, of an Act of Parliament. Thus, for instance, the important Regulations made in the year 1908 for the distribution of Old Age Pensions, were declared to be made by virtue of the powers conferred on three departments of the central government by the provisions of the Old Age Pensions Act, 1908. Again, the Regulations published in the same year for the suppression of the importation of diseased meat were made under the provisions of the Public Health Act, 1896. The same may be said of every Regulation as we run through the volume; and above all of the Regulations concerning local administration. Again, it cannot be denied by anyone acquainted with the principles of English law, that the slightest attempt to exercise an administrative Regulation, even when made by a department of the central government, if it were not fully justified by the provisions of the law in conformity with which it purports to be made, would be treated as *ultra vires* by the ordinary courts.

The administrative Regulations of the central government are, therefore, in no way opposed to the principle of the Rule of Law; on the contrary they are an excellent example of it. They are mere delegations of legislative power by the supreme legislative authority.

(*b*) *By-laws of Local Authorities.*

The majority of the local authorities in England enjoy the legal power of making by-laws, regulations, and other administrative orders for the purpose of carrying out their duties and powers. These orders, too, are not incompatible with the Rule of Law, and for three reasons.

In the first place, no local authority ever dares to make such orders, except under the precise provisions of an Act of Parliament. It is true that the old boroughs formerly exercised a certain amount of prerogative in this respect; but the exercise of this prerogative was always strictly examined by the royal law courts, and it is now only tolerated in rare cases, and under the head of "prescription," or "ancient custom." Naturally, the modern by-laws of municipal authorities are made under the provisions of the Municipal Corporations Acts of 1835 and 1882, the Public Health Act of 1875, or some other similar statute.

It must be added, that although the powers thus conferred are in many cases apparently considerable, their scope is strictly limited by the rule, that every by-law of a local authority, before it can have any executive force, must be approved by a department of the central government, usually the Local Government Board, or, in the case of boroughs, the Home Office. As a matter of fact, the by-laws of local authorities follow as a rule the models published by the central government; and thus they acquire that uniformity which is especially characteristic of a legal system.

Again, no local assembly punishes a contravention of one of its by-laws by mere executive process. Moderate penalties for such contraventions are imposed by the by-laws themselves; but these penalties—pecuniary or corporeal—are only enforced by process before the ordinary courts, either the Justices of the Peace or the civil tribunals. The Justices of the Peace, being appointed (with few exceptions) solely by the King, are independent of municipal influence; the judges of the civil courts are nominated solely by the King. Consequently, in case of contravention, there is always absolute impartiality between the plaintiff and the accused; in fact, even when the process is in form criminal, it is really carried on like an ordinary civil action, except that there is always, in accordance with the universal rule of English law, a presumption in

favour of the accused. Finally, the court can declare the by-law in question invalid, as being *ultra vires*, and can refuse to hear evidence. It is true that the inferior tribunal, that is to say the Justices of the Peace, may hesitate to make such a declaration concerning a by-law approved by the central government; but the superior tribunal, the High Court, to which there can always be an appeal on questions of law, does not show the slightest hesitation in disallowing such by-laws. A well-known instance is that of Croydon in the year 1885; an attempt by the municipal council to prevent a band playing in the open air having been disallowed by the High Court as unreasonable. Equally well known is the case of the Salvation Army at Weston-super-Mare, in the year 1882.

Thus it is clear, that the institution of local administrative by-laws, and the system of regulations of the central government, are not incompatible with the Rule of Law. Moreover, in the rare cases when officials can undertake some work on the default of a private individual, they must conform strictly to their legal powers, at the risk of being made liable for damages, or even for a criminal action for assault or for trespass.

III.—The Execution of Administrative Powers.

When the local authorities, constituted according to law, exercise their powers also according to law, there can be no question as to the Rule of Law. But there are two possibilities which may raise such a question. For instance, a local authority may refuse to exercise the powers or to fulfil the duties entrusted to it or imposed upon it; or the authority may attempt to exercise its legal powers, or to perform its duties, in an illegal manner.

The question of a local authority neglecting its duties is not always a question of law. Perhaps it is a mere question of opinion; and there is a tribunal at hand for such a question. But this is not a legal tribunal nor a government department; it is the electorate at the elections.

All the local administrative authorities in England are now elective, with the exception of the Licensing Committees; and, provided that the negligence of a local authority does not consist of ignoring a legal duty, which would be a violation of the law, there is only one remedy for the injured citizens, and that is to attempt to replace the delinquent councillors by others more worthy of confidence, at the next election. Examples of such negligence are—excessive but not illegal expenditure, lack of enterprise, delay, general inefficiency of administration. These evils cannot be attacked directly, either by a tribunal or by a department of the central government; although a government department can sometimes indirectly bring about progress by withholding a grant payable conditionally on the efficiency of a particular function, as for instance the police. Still, as a rule, the funds of the authorities come from local sources, and cannot be touched by the central government.

But when the offence of a local authority or of an official is a refusal to fulfil a duty imposed by law, such a refusal is a breach of the law, and, if it were tolerated, it would be incompatible with the Rule of Law. Such a refusal can, therefore, be dealt with in one or two ways. In the first place, the injured citizen can appeal to the High Court for a Mandamus directed against the authority or official in question, requiring him, under penalty of the confiscation of his goods, or even of bodily restraint, to fulfil the duty which he has neglected. Naturally such an order is not issued without serious deliberation. As a matter of fact, an action at law takes place between the injured citizen and the accused authority, before the actual issue of the Mandamus. Thus, in the well-known and recent case of the West Riding County Council, the High Court decided that the Education Act, 1902, had imposed on that Council the duty of paying to the managers of an elementary school certain expenses of administration; and the Court issued a Mandamus to the Council to pay

the money. The judgment of the High Court was overruled by the Court of Appeal; but the House of Lords affirmed the Mandamus of the High Court, and the Council was compelled to obey. All the proceedings were strictly legal; they resembled almost exactly an ordinary action between two citizens. It is possible, perhaps, to cite in opposition the case of the Northamptonshire County Council, in which the High Court decided that the question in dispute was within the discretion of the Board of Education. But to do so would be a mistake; for the judgment of the Court was based entirely upon the seventh section of the Education Act itself, which conferred upon the Board of Education the power to decide such a dispute. Thus the decision of the High Court was in strict conformity with the Rule of Law. It must be admitted, nevertheless, that the Act of 1902, in referring a disputed question to the discretion of a department, is not in accord with the principles of English law. And indeed the clause in question was severely criticised in Parliament.

When the refusal of a local authority or official to fulfil a duty results in depriving a citizen of a right to which he is entitled, it is not even necessary to move for a Mandamus. The injured citizen can simply bring an action for damages against the accused—an entirely private action, without any public formality. For it has been decided, on a famous precedent of the eighteenth century, and the precedent has been often followed, that the injured person in such a case, although he has not suffered pecuniary loss, can obtain damages from the accused in an ordinary private action. If the execution of the duty in question requires the exercise of discretion, then the plaintiff must prove the existence of malice in the defendant; if the exercise of discretion is not required, it is not necessary to prove malice.

Finally, in the execution of its powers the local authority is perhaps guilty of absolutely illegal acts against

individuals. Thus, for instance, it seizes the goods of an innocent citizen to pay the local rate payable by another; or it commences to destroy a private building in order to facilitate a public improvement, before the necessary formalities have been gone through. Such a mistake will cost it dear, since for every illegal act a local authority and its officials and agents can be made liable, just as though they were private citizens and by the same procedure; and no plea of good faith or public interest will assist them. Such is the absolute principle of English law; and the exceptions are so rare, that they merely serve to make the principle more clear. In fact, the only privileged person is the ordinary constable, and that only when he acts in good faith and under the authority of a magisterial order which is regular on the face of it. But, even in such a case, the magistrate is not exempt; which is much more important for the citizen than the exemption of the constable. Also it is true, that the citizen who wishes to bring an action against a local authority or against a public official, for a breach of law committed in the excercise of their official duties, must give previous notice to the accused; in order that they may, if they wish, offer compensation. And actions of such a kind must be brought within six months, instead of, as in the ordinary case, within six years, of the commission of the offence. But it is clear that the limited existence of such exceptions brings out, all the more vividly, the general responsibility of the public official before the ordinary courts—a responsibility which has been expressly affirmed by statute, and is not seriously questioned by any competent lawyer.

VI.

THE ADMINISTRATION OF LOCAL GOVERNMENT FINANCE IN ENGLAND AND WALES.

By Arthur Collins, A.S.A.A., Deputy-Treasurer of the City of Birmingham.

1.—*Introductory.*

Historians recording the story of the evolution of the modern English system of Local Self-government must have perceived the restrictive effect of the oppressive bonds of finance, for schemes of administrative expansion or development are measured not only by their merit, but by the capacity of the faithful ratepayer to bear the burden of the cost, and when financial burdens become too oppressive, progress is retarded until there has been a re-adjustment of the burden of debt, and the ability to bear it ; then does the forward movement recommence.

Recollection of these facts impels one to the belief that amongst so many admirable subjects for discussion at the first International Congress on the Administrative Sciences, a prosy paper on the question of finance may appear to be a bold or perhaps painful intrusion, which might with advantage to the promotion of the idealistic in administration, have been deferred till a more opportune time.

Financial considerations, however, are not an unimportant factor in a scheme of Local Government, and therefore one's aim is to set out as lucidly as is possible within the confines of a paper of this length, a synopsis of the financial administration of the affairs of Local Authorities in England and Wales and generally to outline the characteristic features of British Local Government finance.

2.—*The relationship between Imperial and Local Authorities.*

In order clearly to comprehend the boundaries of local, as distinguished from national financial administration in England and Wales, it is necessary to become acquainted with the general scheme of delegation from the Imperial Parliament to the Local Councils, and to observe (*a*) the powers and duties which are wholly delegated to Local administrators, (*b*) those powers which are primarily administered locally, with supervision by the Central or Government Authority, and (*c*) those powers which are retained by the Central Authority, and exercised locally by Government officials and departments.

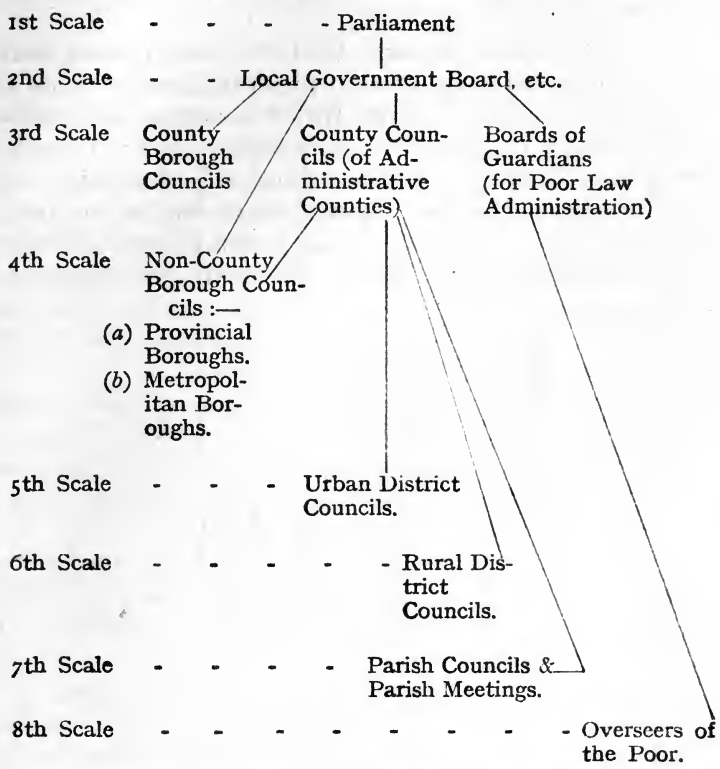
In these essential respects the British system of Local Government differs materially from those obtaining in many European countries, and naturally the financial machinery follows the channels defined by the country's legislation and general scheme of delegation.

The writer would therefore pray in aid the information afforded on these points by eminent essayists in the British section, and would limit himself to questions of finance arising thereon.

It may be understood, however, at the outset, that local administrative responsibility in England is coupled with power to incur and to make financial provision for the administrative expenses, and so long as a Local Authority incurs only such liability as is authorised by the law under which it acts, it is free to dispose of Government grants-in-aid and local contributions by the community, almost without restriction. Government approval of the local budget is not required.

Viewed financially, the field of Local Government in England and Wales may be represented diagrammatically by the following table, which shows the links between Parliament and the Local Authorities, and the scheme of devolution of financial powers and duties.

The Devolution of Financial Powers in English Local Government.



It will be observed that the authorities on Scale 3 are accountable directly to the Local Government Board ; those on Scale 4, partly to the Board and partly to the County Council in whose area they are situate ; the authorities on Scales 5, 6 and 7 are in varying degree subject to the primary control of the County Council, with right of appeal on disputed points to the Local Government Board. Rural District Councils, on Scale 6, are also the Guardians of the Poor of their parish, and the Overseers of the Poor on Scale 8 are, theoretically, the

parochial agents of the guardians, but are in fact important agents of the several councils in raising revenue, as will presently be shown.

The Poor Law Branch of the Local Government service, the relative position of which is shown on Scale 3, is specially treated by other British essayists, and therefore not set out at length in this paper. It has hitherto been kept distinctly separate from all other local administrative authorities, though there are not wanting signs of the Poor Law work being linked up with all other Local Government machinery under one comprehensive management.

3.—The Administrative Functions of Local Authorities.

The technical distinctions between the variously-designated English Local Authorities are very puzzling to Continental Local Administrators, but these distinctions regulate their respective financial functions, as the subjoined comparative tables show :

1. *The Major Authorities.*

An illustrative table showing comparison of financial operations and powers of County Councils and "County Borough Councils."

Descriptive Particulars.	County Councils.	County Borough Councils.
1. How created -	By the Local Government Act, 1888, superseding the administration of the County Justices in Quarter Sessions.	By the same Act, which conferred additional "County" powers on Boroughs previously existent as such.
2. Area of Government.	The whole geographical County, excluding County Boroughs.	Suitable Cities and Boroughs exceeding 50,000 in population.
3. Number of authorities existent.	57, fixed, with one County Council for London.	61 created in 1888, and a further 11 since, as towns grow beyond 50,000 population and are considered suitable.
4. Subsidiary Authorities.	Non-County Borough Councils, Urban District Councils, Rural District Councils, Parish Councils and Meetings, } Within the County area : (see tables II and III).	None ; the Council have sole control within their area.

3.—THE ADMINISTRATIVE FUNCTIONS OF LOCAL AUTHORITIES.—*cont.*

1. *The Major Authorities.*—cont.

Descriptive Particulars.	County Councils.	County Borough Councils.
5. Powers and duties	Vested in the County Council : Provision and maintenance of : Courts of Justice, Police (except London County Council), Main Roads, County Buildings, Lunatic Asylums, Reformatories, Bridges, Small Holdings, etc., Education (in Boroughs under 20,000 and Urban Districts under 10,000 and all Rural Districts), etc. No power, usually, to carry on Trading Undertakings. London County Council does operate Tramways.	All the functions of Local Government (except Poor Law work) in their area. Fullest powers to work Trading Undertakings.
6. Form of keeping accounts.	None prescribed by Local Government Board. Form of annual financial statement prescribed, and made to the Board.	Position similar to County Councils.

7. Financial powers :		
(*a*) Provision of capital.	Loans must be sanctioned by Local Government Board ; borrowing powers restricted to one-tenth of rateable value without special sanction.	Loans sanctioned by Local Government Board as in Counties, but total borrowing powers unlimited.
(*b*) Provision of current funds.	By precept on numerous rating Authorities within the County—not by separately collected County Council Rates, but included in Poor Rates collected by overseers.	Partly by precepts on Overseers of Poor, but largely by separately collected Council Rates — unlimited in amount.
(*c*) Division of expenditure.	(*a*) General ; and (*b*) Special expenses. (*a*) Attributable to whole county ; and (*b*) only to certain districts in the County, according to the status and powers of the subsidiary authority ; *e.g.*, education expenses defrayed by the County in Rural areas, but not in the larger Urban Districts or non-County Boroughs.	No division into districts usually.
8. Audit of Accounts	By Government Auditor for all purposes.	By locally-elected auditors principally, but by Government Auditors for Education Expenses only.
9. Publication of Treasurer's accounts.	To be made up half-yearly and published, by law, annually.	As in Counties.

3.—THE ADMINISTRATIVE FUNCTIONS OF LOCAL AUTHORITIES.—*cont.*

2. Intermediate Authorities.

An illustrative table showing comparison of the financial operations and powers of Non-County Boroughs (Provincial)—Non-County Boroughs (Metropolitan)—Urban District Councils.

Descriptive Particulars.	Provincial (Non-County) Boroughs.	Metropolitan Boroughs.	Urban District Councils.
1. How created -	By ancient charter, or by the Municipal Corporations Acts, and not yet of sufficient status to become County Boroughs.	By the London Government Act, 1899; London County Council the only "County" Authority.	By the Public Health Act, 1875 as "Urban Sanitary Authorities," constituted "Urban District Councils" by the Local Government Act 1894; may become Boroughs.
2. Number existent -	About 250.	28.	About 800.
3. Powers and duties	(*a*) All Public Health duties.	(*a*) Most Public Health duties, except main drainage managed by London County Council.	(*a*) Public Health duties: Scavenging and refuse removal and destruction. Infectious Diseases Hospitals and treatment.

		Food, drink, drugs, etc., maintenance of purity. Baths and washhouses. Abattoirs. Main drainage. General sewerage. Sewage disposal and treatment, etc., etc.
(*b*) Streets and Roads maintenance.	(*b*) Streets and Roads maintenance.	(*b*) Streets and Roads maintenance.
(*c*) Main Roads—subject to County Council's Control.	(*c*) Main roads, part control with County Council.	(*e*) Main Roads—subject to County Council's control.
(*d*) Fire Brigade.	(*d*) Fire Brigade provided by London County Council.	(*d*) Fire Brigade.
(*e*) Police Force (in few instances).	(*e*) Police Force provided by Government direct.	(*e*) No police powers—County Council.
(*f*) Education (elementary) if exceeding 10,000 population. Education (higher) concurrently with County Council.	(*f*) No education powers—London County Council provide.	(*f*) Education (elementary) if exceeding 20,000 population. Education (higher) concurrently with County Council.

3.—THE ADMINISTRATIVE FUNCTIONS OF LOCAL AUTHORITIES.—*cont.*

2. *Intermediate Authorities.*—cont.

Descriptive Particulars.	Provincial (Non-County) Boroughs.	Metropolitan Boroughs.	Urban District Council.
3. Powers and duties —*cont.*	Trading Undertakings of all kinds Gas, Water, Electricity, Tramways, Markets, etc.	Electricity-trading only, by Borough Councils. Gas supply—Companies, Water—Metropolitan Water Board, Tramways— London County Council.	Trading Undertakings of all kinds.
4. Financial powers : (*a*) Provision of capital	Local Government Board sanction borrowing ; facilities almost equal to County Boroughs. No control of loans by County Council.	Borrowing powers restricted by the two superior authorities—the Local Government Board and the London County Council, *e.g.*, no power to raise moneys by issue of stock.	Position almost similar to Provincial Boroughs : No restrictions by County Council.
(*b*) Provision of revenue.	Two accounts kept—Borough Fund (Municipal Corporation Purposes)	One fund only—General Fund, and one rate —General Rate—levied	One fund only, the General District Fund ; General District Rate levied.

	and General District Fund (Public Health Purposes). Precept on Overseers assists Borough Fund (including Education); separate General District Rate assists District Fund.	and collected by the Metropolitan Borough Council, covers the expenses of all Metropolitan Authorities.	If the Council are Education authority, separate fund kept, and assisted by precept on the Overseers.
5. Form of Accounts -	Position similar to County Boroughs.	As in Provincial Boroughs.	Form of account-keeping prescribed 1880, and annual returns to Local Government Board as in Boroughs.
6. Audit of Accounts -	Procedure similar to County Boroughs.	By Government Auditors, wholly, annually.	By Government auditors, wholly, annually.
7. Publication of Treasurer's Accounts.	As in County Boroughs	Law and practice is similar to that of Provincial Boroughs.	To be made up and published annually, in a local newspaper; also the larger Urban Districts issue full abstracts of accounts, as in Boroughs.

3.—THE ADMINISTRATIVE FUNCTIONS OF LOCAL AUTHORITIES.—*cont.*

3. *The Minor Authorities.*

An illustrative table showing comparison of the Financial operations and powers, etc., of Rural District Councils, Parish Councils and Parish Meetings.

Service, etc.	Rural District Councils.	Parish Councils.	Parish Meetings.
1. Created by - -	Local Government Act, 1894 (succeeding "Rural Sanitary Authority" under Public Health Act of 1875).	Local Government Act, 1894. Compulsory where population above 300, optional below 300.	Local Government Act, 1894—small hamlets.
2. Number of authorities existent.	About 680.	About 14,500 of whom only 6,500 have financial transactions.	Included in Col. 3.
Duties (broadly) -	Public Health administration. Subject largely to County Council's control. Housing of working classes; Electric lighting, etc. May obtain urban powers for specific purposes.	Parochial matters and Adoptive Acts-optional powers, *e.g.* Libraries. Representations to Rural District Council and County Council. Appointment of overseers.	Appointment of Parish Council. If no Parish Council - appointment of overseers. By order of County Council, all powers of a Parish Council.

4. Form of accounts -	No form prescribed by Local Government Board	No form prescribed.	Financial Statements prescribed.
5. Financial powers. (*a*) Provision of capital.	Local Government Board must first sanction and borrowing powers limited to twice assessable-value of district.	Control by Local Government Board, after receiving approval of County Council and Parish Meeting. Borrowing powers limited to one-half the assessable value of Parish.	If no Parish Council, same position as Parish Council. Similar to Parish Council.
(*b*) Provision of current funds.	No limitation; expenses recovered by precept on Overseers of constituent Parishes, not by separately collected Council Rates.	Limited to 3d. rate annually, or with Parish Meeting's consent, 6d., exclusive of Adoptive Acts.	Limited to 6d. rate annually, including Adoptive Acts.
(*c*) Division of expenditure.	(*a*) General; and (*b*) special purposes; (*a*) Applicable to whole district; (*b*) only to contributory places or sections of the district, *e.g.*, water supply to a particular parish.	Only general parochial expenditure; no special.	Similar to Parish Council.
6. Audit -	Government auditors, half-yearly audit.	Government auditors—yearly audit.	Government auditors—yearly audit.
7. Publication of accounts.	To be made in local newspaper.	Accounts are to be submitted to Parish Meeting.	

4. *Current Expenses of Local Government.*

Having regard to the contents of the preceding tables and to the Agenda of this International conference, there will, it is thought, be little further need to dilate on the subject matter of the expenses of British Local Government. Details apart, they may thus be indicated :—

Authorities in England and Wales :	Millions sterling per annum.
County Councils expenses	21
Borough Councils expenses	52
Urban District Councils expenses	10
Rural District Councils expenses	4
Poor Law Authorities expenses	15½
Miscellaneous Authorities expenses	9
	111½
Scottish Local Authorities	15
Irish Authorities	6
Millions sterling	132½

These disbursements represent current expenses and interest and redemption of debt (debt service) apart from capital sums borrowed each year for capital works and purposes which are operative for many years, and therefore not defrayed out of any one year's revenue.

5. *Expenditure on Permanent Works and Purposes. "Capital Expenditure."*

In British Local Government finance, as in Continental, a clear distinction is drawn between everyday expenditure —" current expenses," *e.g.*, refuse removal—and expenditure on assets more permanent such as a refuse destructor which may, in fact, serve several generations. Current expenses are always to be covered by annual or half-yearly levies on the contributors—the " ratepayers,"—but for capital expenditure Local Authorities are permitted to borrow capital which is to be repaid within prescribed periods, as will be shown later.

There is no power in English Local Government finance corresponding either with the German procedure of building up funds in advance, out of current revenue, for anticipated capital expenditure such as new schools, contingent on the growth of the population; or the recovery (except by consent) of any special contribution from a particular section of the local trading community, for instance, towards capital outlay which, while incurred for common use, benefits that section particularly.

Local Authorities can only levy on the ratepayers charges expected to be incurred during the currency of the rate, or incurred within the six months preceding it; consequently if capital monies be borrowed and expended, only the loan charges, as they accrue periodically, are recoverable in the current rate from the general body of ratepayers. In law it is competent for a local authority to defray all capital expenditure at once out of revenue, and not borrow, but of course, such a practice is inexpedient.

As an indication of the extent to which Local Authorities have raised capital monies for permanent expenditure, in 1906, the date of the last complete Government returns, there was outstanding local debt totalling £567,000,000 (as compared with a national debt of £755,000,000) made up as follows :—

Loan debts of Local Authorities :	Millions sterling.
English Local Authorities.	
County Councils	71½
Borough Councils	251
Urban District Councils	34½
Rural District Councils	5½
Poor Law Authorities	15½
Miscellaneous Authorities	105
	483
Scottish Local Authorities	64
Irish Local Authorities	20
Millions sterling	567

The outstanding debt of Local Authorities in England and Wales has increased from 93 millions sterling in 1874–5, when the codifying Public Health Act was passed, to 483 millions in 1905–6, but it is important to remember that over 255 millions of the outstanding debt is represented by trading undertakings operated by Local Authorities, to which attention is presently directed.

6. *Financial Provision for the Acquisition or Construction of Permanent Works and Undertakings.*

Local Authorities although not bound to borrow at all, are nevertheless not permitted to borrow at will for capital expenditure. They may secure the power by the direct authority of Parliament in a Local Act, or must obtain the consent of Departments of State—usually the Local Government Board, but also the Board of Trade (for Tramways) or the Board of Education—who enquire into the Local Authority's proposals, sanction specific amounts for the expenditure contemplated, and supervise the items on which the money is expended, the means by which it is raised, and the steps taken annually to provide for the repayment of the borrowed money.

In these respects considerably greater uniformity is observed than in the corresponding practices of continental nations.

Local Authorities raise monies for the purposes of capital expenditure by several methods, of which the principal are :—

(*a*) The issue of stock.
(*b*) Annuity certificates.
(*c*) Mortgages on corporate properties and revenues.
(*d*) Bills of Exchange (pending permanent borrowing by (*a*), (*b*), or (*c*).

With prudent management there has always been and will be a ready response by investors to the invitations to lend monies to Local Authorities for purposes of capital expenditure—the average rate of interest being

about 3½ per cent.—and smaller authorities especially receive great assistance by a Government institution (the Public Works Loans Commissioners) formed to facilitate the exercise of Local Authorities' borrowing powers.

All Local Authorities, in raising moneys by way of loan, are subject to the prescribed regulations of the Local Government Board which deal with all the various incidents arising in the practice of borrowing, and form a very effective model of administrative machinery.

7. *The Amortisation of Loan Debt.*

It is now the practice of the Local Government Board and in accordance with the usual Continental practice, always to stipulate that local loan debt shall not be permanent, but that provision shall be made out of current revenues for its amortisation.

The relationship between the period of amortisation and the life of the asset acquired involves many complicated questions with which space forbids one to deal, but speaking generally, care is taken by the Board to ensure that there shall be a fairly close relationship between the two factors of asset life and loan-redemption, so that posterity shall not be burdened with debt for purposes wholly benefiting the present or preceding generation.

It will be obvious that the converse principle is abrogated in respect of assets which appreciate with time, such as land and buildings in central positions, but this does not violate the practice which is that, notwithstanding, no debt shall be permanent, and this being an essential feature of Local Government finance, one may briefly state the various methods by which amortisation is secured, namely:

(*a*) By annually repaying to lenders: (1) Equal amounts comprising principal money and interest;

(2) unequal amounts, comprising equal instalments of principal money, with interest on the reducing balance outstanding.

(*b*) By contributions to a departmental "sinking fund," which, accumulated at compound interest, will by the due date produce the principal money borrowed, interest being meanwhile paid on the whole loan.

There is no essential difference between the systems operating in England and on the Continent in these respects, but for the comparison of the relationship maintained between the asset-life and loan-redemption period in England, and that observed by Continental nations—the average annual charge for amortisation in England is about $2\frac{1}{2}$ per cent., or with interest 6 per cent.

8. *The Current Revenues of Local Authorities.*

Local Revenue is derived from many sources, and the details are innumerable. Local Authorities possess many corporate properties producing income, and private services are rendered to individuals by the public departments at a separate charge—over and above the common services.

Income of this nature, together with income from trading undertakings, comprises about one-third of the total revenue of Local Authorities in England and Wales; one-sixth is furnished by Government subsidies in respect of national or quasi-national duties performed by Local Authorities, and the remaining one-half is raised by rateable contributions levied on the community of the districts benefiting by the common expenditure. In Scotland and Ireland the fractional parts differ, but not materially.

Thus to meet the annual expenditure of 132 millions sterling to which reference has been made, there was available the following income, excluding credit balances:

Sources of Revenue.	Millions sterling per annum.
Government contributions - - -	24
Trading Undertaking revenues - -	32
Rentals and other miscellaneous income	11
	67
Local Rates - - - - -	65
Millions sterling per annum - -	132

It is therefore proposed to review very briefly the incidence of these respective classes of income.

9. *The Relationship between Imperial and Local Charges and Revenues.*

In British Local Government the distinction in principle between Imperial and local services is not clearly or permanently drawn, and the Imperial Government shows a tendency to entrust to Local Authorities more and more of such administrative functions as have been termed by a Royal Commission "predominantly-national," such as Police and Criminal Prosecutions, Pauper Lunacy provision, Education and Main Roads, in addition to Poor Law Relief, which has also been extended from time to time to embrace more fully the duties of the nation towards the needy individual.

Those responsible for the administration of Local Government have, naturally, manifested some concern as to the financial burdens thus placed upon them, and although the devolution of these powers has been proved to be advantageous to the community, and the Local Councils have abundantly justified and indeed welcomed the administrative trust placed in them, keen disappointment has been exhibited that the financial aid afforded from the National purse has not been commensurate with the burden of cost.

This is perhaps the most important phase of Local Government finance to which the attention of National

and Local administrators alike can be directed, and striking indications of the fact have been furnished by financial officers of towns and cities in England and Wales. With the permission of the Controller of the London County Council, the following extracts are reproduced from a report made by him on the subject at the 1909 Conference of the Municipal Treasurers and Accountants.

Cost of local services "preponderantly-national" (described above) in the administrative County of London.

Year ending 31st March	Total Cost.		How defrayed.			
	Amount.	Equivalent rate in £.	Local rates.		Imperial aid.	
			Amount.	Rate in £.	Amount.	Rate in £ would be.
	£	d.	£	d.	£	£
1891 -	5,868,951	44·3	4,335,043	32·7	1,533,908	11·6
1906 -	11,171,617	64·3	8,578,725	49·4	2,592,892	14·9
Increase in cost.	5,302,666	—	4,243,682	—	1,058,984	—
Increases are in :						
Rate cost equivalent		20 d.		d.		
Local rates required		- - -	- - -	16·7		d.
Imperial rate aid -		- - -	- - - - - -		- - - -	3·3

Local rates have increased 5 times as much as Imperial aid.

Nothing could be more conclusive than these figures which crystallize into facts the effect of this tendency of recent government action.

A vital distinction is made both in the definition and the character of local imposts levied for Imperial and local purposes respectively. A national impost is always a "tax"; a local common impost is a "rate." There was, until 1909, no connection whatever between the machinery by which "rates" and "taxes" were assessed,

levied, and collected in the provinces, and there is only co-operation between Government officials and local officials in one respect, namely, that in London the Surveyors of Taxes (Imperial) co-operate with the Local Authorities' Officers in arriving at uniform valuations of the annual rental value of occupied properties, on which local rates and certain national taxes are assessed, but there was no co-ordination of the national and local machinery for collection.

In 1909, for the first time, the Government handed over to Local Authorities the collection of Local *Taxation* Licences payable in respect of the possession or user of carriages, men servants, dogs, and general establishment licences, &c., and instead of these revenues being received by the Local Authorities as a Government contribution as hitherto, they are now recovered directly from persons locally liable thereto by the Councils of Counties and County Boroughs.

These features and others will be made perfectly clear by those British essayists who deal with the whole relationship between Central and Local Government.

10. *The Incidence of Local Rates.*

In England the sole basis of assessment to Local Rates is still that established in 1601, by which the contributions imposed for the relief of the poor should be levied according to the "ability" of the parish inhabitants. Until 1836 this "ability" was measured by many different rules, but finally it was generally found that the readiest and most practicable standard was that of the annual rental value of the house or land of which the person liable to be rated was deemed to be in beneficial occupation. The two elements in the assessment and rating for all purposes in England and Wales were simply "beneficial occupation" and "rental value," and very minor are the exceptions which still prove these fundamental rules.

These exceptions are : (*a*) that agricultural land should be rated at one-half only of the rate levied for expenses other than public health, and also that agricultural land, together with railways, canals, tithes, market gardens, &c., are to pay only one-fourth the rateable amount payable by house and other property towards the expenses of the preservation of public health.

Further, (*b*) property owners undertaking to pay rates for their tenants on their cottage properties during the whole period of the rate, whether the property be occupied or not (in which case, of course, no rate would ordinarily be payable) are also allowed certain percentage reductions — " compounding allowances " — from the full rates payable.

The alleviation of the burden on these properties is therefore secured without any deviation from the usual standard of assessment, namely, beneficial occupation and rental value, but in equity some regard is had in (*a*) to the lesser benefits derived by this class of property from the common expenditure, and in (*b*) to the simplification of the process of rate collection. In rating no regard is had to the greater or lesser personal benefits derived from common expenditure by any class of the community.

By comparison with continental local surtaxes on national taxes, octroi duties, trade taxes, prestations, realty taxes, and many other diversified forms of local or communal taxation, the English system would seem to typify simplicity, and when the London assessment and rating procedure, introduced in 1900 only, is perfected and applied to the provinces, as it undoubtedly will be in the course of the next few years, instead of the antiquated collection of assessment and rating provisions dating back to 1601, there will be but one basis or valuation for assessment, one local rate for all local purposes, and one staff and process for the collection of the local rate.

There is, however, still scope for the infusion of new principles into the English local rating system, to secure

that, as on the continent, a direct personal assessment reaches the inhabitant who is not a householder—*e.g.*, a lodger, and also to secure some contribution from many classes of workers whose day-life is spent in central commercial areas, but whose rateable property—the home—is beyond the reach of central-area charges; into these problems, owing to the limits of this paper, one is reluctantly unable to enter.

11. *Municipal Trading—its Financial Aspects.*

Public opinion is apparently decided, that within limits the Local Council should provide and maintain such public services as are usually comprehended by the term "trading undertakings," and the tendency towards public ownership has had a very marked effect upon the financial operations of Local Authorities.

It has been pointed out that there is a debt of about £255,000,000 incurred by Local Authorities in England and Wales for the purpose of trading concerns, which may be analysed thus :—

	Millions sterling.
Water	119
Gas	24
Electricity	28
Tramways	28
Markets	8
Harbours and docks	44
Baths and washhouses	3
Miscellaneous	1
	255

The wisdom of the financial policy of Local Authorities in this direction has often been questioned, but speaking purely as a financial officer, one should point out that the full effect of the policy is not yet visible; its pursuit is only comparatively recent, and few (if any) of the English Local Authorities have had possession of their undertakings for a sufficient number of years to have fully

redeemed the loans borrowed for the acquisition of the undertaking. In course of time, after the complete amortisation of the debt, the prices charged for public commodities provided by these undertakings must inevitably be reduced, and meanwhile any surplus of revenue over expenditure is being retained for the benefit of the general public.

Attention should be directed to one particular aspect of municipal trading, namely, that commodities are supplied at cost, whether " profits " or " losses " be made in the departmental revenue accounts.

Personally the writer attaches no financial importance to what are called " profits " or " losses " on municipal trading. In his view, the sole standard of comparison with privately-owned monopolies is that of prices charged, on which these profits or losses are wholly resultant.

If the charge be greater than the whole expense of supply of gas, water, tramways, &c., including debt service, then the balance remaining is convertible either into funds for the betterment or renewal of the value of the undertaking, or to the benefit of the community in the form of contributions in aid of rates. In the alternative event, namely, that the charges for the commodity are less than the total expenses of the undertaking, then cost prices are made up by transfers out of the funds provided by rates. Cost price is, therefore, subscribed by the community as a whole.

The only effect of so graduating the charges for public trading supplies as to provide assistance for or require assistance of the rates, is to vary the incidence of the trading charges on the ratepayers. Users of the trading services may provide a profit which may be shared by non-users ; or on the contrary, may, by securing services at less than cost price, throw a burden on non-users who are yet ratepayers, and this touches a complaint which may now only be mentioned and not diagnosed.

12. *Supervision of the Finance of Local Authorities.*

The diagrammatic representations of the financial sphere of English Local Government, and the contents of Tables I., II. and III. preceding, will, it is thought, sufficiently indicate the relationship existing between the Local Authorities *inter se*, and also show that all alike are subject to the jurisdiction of the Local Government Board—the chief department of State for the purpose of financial control.

Space will only permit one to deal very briefly with the control exercised by a Local Authority over its own financial operations, and with the distinctions to be drawn between the several classes of Local Authorities.

The older Acts by which Local Governing bodies were constituted made no specific provision for the local direction of the financial affairs of Local Authorities beyond the statutory appointment of a "Treasurer," and although it was generally recognised that the duty of supervising finance was worthy the sole attention of a separate committee of the Council—the "Finance Committee"—there were no statutory powers given to such a Committee by which weight could be added to the opinions it chose to express on the financial policy of the Local Authority, or of the primary control it might legitimately exercise, at the will of the Council, upon the expenditure incurred.

The Local Government Act of 1888 which constituted County Councils, and the London Government Act of 1899 which formed the Metropolitan Boroughs, gave effect to what must have been impressed upon the minds of the legislators by experience, namely, that the Finance Committee should be made a Statutory Committee, and should be the channel by which recommendations should be made to the Council for the incurring of expenditure; they are, therefore, in those cases, required by law to "regulate and control" the finances of their Local Authority.

The extension of this legislative principle to all Local Authorities could not fail to be found of great benefit, and in all probability it is in the womb of future legislation.

Almost all Local Authorities of sufficient size have organised a self-contained administrative department of Finance, directed by a chief officer—usually the statutory officer (the Treasurer), or an official designated "accountant" or "comptroller"—with an adequate staff to record the financial operations of the Council, and to advise the Finance Committee and the Council on financial questions which, with the ever-increasing volume of duties entrusted to Local Authorities, are found to demand the undivided attention of fully-qualified accountants and experienced officers; so much so indeed, that the ruling body of this section of the Local Government service—the Institute of Municipal Treasurers and Accountants (incorporated)—has of recent years instituted annual examinations in the theory and practice of Local Government Finance, the certificates of which are themselves a testimonial of administrative competence, as is evidenced by the fact that now-a-days scarcely ever is an appointment to the higher grades of the Municipal Financial service conferred upon an official who does not possess the examination certificates of the Institute.

13. *Government Control over the Expenditure of Local Authorities.*

It has been pointed out that the Local Government Board exercise a very salutary check on Capital monies, and take all necessary precautions to ensure that the prescribed regulations of the Board are observed so far as they relate to Capital expenditure. A striking difference is, however, noticeable when dealing with revenue expenditure, which lies at the root of British Local administration—in Boroughs especially.

In the case of the larger authorities, the total rates which may be levied by those Councils are unlimited in

amount, although in minor directions such as the cost of higher Education in the Counties and the cost of providing Free Public Libraries by Corporations and District Councils, the poundage of the rate for these purposes only is limited to 2*d.* and 1*d.* respectively.

A Local Council is however absolutely free as to the amount of expenditure it may include in its annual charges on the ratepayers, so long as that expenditure is *intra vires.* There is no corresponding power to that placed in the hands of French Government Officials to exercise authority on the annual budgets of Local Authorities.

For further information as to the amount of Government control and the manner of its exercise, the reader may be directed to the papers of other British essayists specialising therein.

14. *The Preparation and Publication of the Statements of the Accounts of Local Governing Bodies.*

The position of the several classes of Local Authorities in these respects is shown in Tables I, II and III preceding. It will be observed that annual returns are to be made in a prescribed form to the Local Government Board, and these returns set out a complete synopsis of the financial operations of the Local Authority during that year, and its general financial position at the year end. The local financial year in England is from April 1st to March 31st.

These returns are collated by the Board and issued annually in the form of " Local Taxation Returns," which embrace the whole field of British Local Government. To any of these returns those interested may refer for information which reveals, as no other volume does, the vastness of the realm of finance entrusted by the Imperial Government to Local Councils, and so far as these returns are comparable with those issued by other nations, the British principle of local self-government seems to involve financial operations of greater magnitude than those of any country in the world.

In addition to the returns to the Government Departments, detailed annual Abstracts of Accounts are issued for local and general use by the larger authorities in England and Wales, of which the author would be glad to furnish such examples as may be desired by any English or Foreign student of Local Government finance.

It is to be regretted that greater interest is not taken by English ratepayers in their local finance, and the experience of other nations in any successful endeavour to stimulate that interest would be especially helpful if revealed at the Conference.

15. *The audit of the accounts of Local Authorities.*

Having called attention to the outline of the English system of audit given in Tables I., II. & III., and to the fact that an eminent English professional auditor will submit his views thereon to the Conference, it will suffice to say, as a municipal financial administrator, that there has yet to be devised a system of inspection and audit of public accounts which will satisfy the demands alike of the ratepayer, the financial economist, the expert in accounts and the critic of municipal finance.

The local auditors referred to in the tables are designated "elective auditors" and their election was meant to place in the hands of the public a weapon against extravagance, corruption or laxity in the use and disposal of funds by local authorities. That the public service is remarkably free from cases of peculation or breach of trust by officials is an observation which holds good in spite of, rather than as a result of, this elective "audit," for it has disappointed its sponsors, and is often discredited.

The elective auditor has no power of surcharge or recovery of moneys irregularly disbursed, and indeed very often makes no attempt to discover items of that nature.

On the other hand the Government auditor—the "District Auditor" as he is termed—is empowered to recover moneys irregularly paid, and exercises this power

in respect of all items not expressly authorised by law, however justifiable or necessary the payments may have been. Cases of inequitable surcharge may be specially remitted by the Local Government Board, but the procedure is irritating to men of standing who may be implicated, and is often undignified.

The District Auditor fulfils his duty by law, but is often not sufficiently expert in accounts to fulfil his duty by nature, and his office was disapproved by a Parliamentary Committee in 1903, which made recommendations as to the best audit of Local Authorities, which are not yet adopted by the authorities for England and Wales, although a very similar audit—by professional auditors—is exercised in Scotland.

20. *Conclusion.*

Although there is still scope for improvement in the financial machinery of Local Government in England and Wales, it is commendable in many respects, and one deems it an honour to be associated with its operations; one's only regret is that considerations of space and deficiencies of treatment should have jointly operated to result in the presentation, to international administrators, of such an imperfect review of a noble subject.

VII.

AUDITING, WITH SPECIAL REFERENCE TO THE ACCOUNTS OF LOCAL AUTHORITIES.

By Professor LAWRENCE DICKSEE, M. Com., F.C.A.

IT is perhaps hardly necessary for me to remind my audience that auditing is a highly technical subject, and one to which it would be impossible for me to do full justice in the time available for the delivery of this paper. I propose therefore to deal with the question of auditing as connected with the accounts of Local Authorities from the point of view of fundamental principles rather than details, and I adopt this basis the more readily as it seems to me that it is upon the question of principles that more light is needed at the present time.

It goes, I think, without saying, that the object of every audit is to ensure such an inquiry into accounts as will enable those interested to satisfy themselves whether or not certain parties acting in a fiduciary capacity have properly discharged the trusts imposed on them ; but it seems to me that the efficiency of an audit is often very undesirably circumscribed by the quite unnecessary assumption that an audit is a mere verification of accounts, and that accounts in their turn are merely a mass of figures dealing with money or monetary values. It is, I think, very important to recognise that an account is not primarily a question of figures, but rather a narrative of events ; and that the verification of accounts, to be effective, should not by any means be limited to a mere verification of the arithmetical accuracy of the figures employed, but should rather be an inquiry into the real nature of the transactions engaged upon, and into their sufficiency, as representing a due discharge of

the trusts imposed on the accounting parties. There is, of course, no difficulty whatever in limiting an audit to a mere inquiry into figures; but it seems very doubtful whether such an inquiry is worth the undertaking, if no further inquiry is to be made into the nature and general adequacy of the transactions themselves.

It is probably characteristic of the growth of legislation in England that although the desirability of an audit of accounts has been frequently recognised by the Legislature, there is little or no evidence of any clear underlying idea as to what the requirements of an efficient audit are. Stated shortly, it may be said that a complete audit will involve an inquiry in three distinct directions: (1) as to the honesty of the accounting parties; (2) as to the ability of the accounting parties, and their fitness for occupying a position of trust; (3) as to the honesty of subordinates employed by the accounting parties. I disregard the question of the ability of subordinates, for that, I think, may fairly be said to be covered by the inquiry into the fitness of the accounting parties themselves, inasmuch as one of the most obvious tests of ability is the capacity to seek out and attach to one's self capable subordinates.

In the commercial world the tendency appears to have been to concentrate the audit in the first-named direction, and this is perhaps less unreasonable than might at first sight appear, on account of the exceeding difficulty in finding persons qualified to express any very useful opinion in the second direction, and on account of the great expense that would be incurred in any exhaustive inquiry under the third heading. But although the Auditors of public companies in England are not expected to criticise the policy of Directors, or to pose as expert valuers, they are expected to be able to point out anything that may be very seriously wrong in either of these directions, because it is quite practicable for the expert in accounts to do so as soon as the irregularities assume

serious proportions. And, similarly, while they are not expected to detect, and to report, all instances of petty pilfering by employees that may possibly occur, they are expected to be able to detect, and draw attention to serious irregularities which must necessarily leave their imprint on the state of the accounts of the undertaking as a whole.

In the audit of the accounts of trustees, which represent perhaps one of the earliest of the applications of the principle of the audit to accounts, auditors are expected not merely to satisfy themselves that the accounts are *prima facie* in order, but also that the terms of the trust have in all respects been duly complied with.

In connection with the audit of the accounts of Local Authorities one finds that the ideal set up by the British Legislature at different dates presents certain curious contradictions. In the case of Municipal Corporations—that is to say, roughly speaking, important urban areas which have been incorporated for a considerable period of time—the statutory provisions as to audit provide for the appointment of three auditors to examine the accounts of the Borough Treasurer. Of these two are elected annually by the ratepayers from among those entitled to be, but not actually being, members of the Council, nor the Town Clerk, nor the Borough Treasurer; while the third, who is appointed annually by the Mayor, must be a member of the Council. The duty of these three auditors is "to audit" half-yearly the accounts of the Treasurer "with the necessary papers and vouchers," and it will be seen therefore that the statutory audit is merely an audit of the accounts of the Borough Treasurer, and not an audit of the accounts of the Local Authority at all. It will be seen moreover that, unless the Borough Treasurer includes in his accounts a record of transactions other than those involving the receipt or payment of money (which, as Treasurer, he is in no way obliged to do), the inquiry is necessarily of an exceedingly limited

character. After the audit of the accounts it is the statutory duty of the Treasurer to print a full abstract of his accounts for that year; but there is no obligation on his part to print any report that the auditor may have submitted with regard thereto; nor, so far as I can see, is there any very effective provision that the abstract actually printed shall have been approved by the auditors as being a reasonable summary of the year's transactions. There is a case on record of a Borough Treasurer having issued an abstract of accounts, with the auditors signatures attached, although one of the elective auditors had never signed the accounts and had actually been refused access thereto.

In some few instances the Auditors appointed under these provisions have been thoroughly competent persons, but in the majority of cases the elective principle seems to work most unfortunately, and to result in the appointment of Auditors who are neither by their capacity nor their training in any way qualified to conduct a useful investigation into accounts. Indeed, so marked is the incapacity of the average Borough Auditor that at the present time a very large number of municipal corporations employ on their own account, at the public expense, a professional Auditor to audit and report to them on the accounts of the Borough Treasurer before they are submitted to the statutory audit at all; and rely entirely on the report of the professional Auditor, merely regarding the statutory Auditors as a nuisance that must perforce be tolerated. In the vast majority of instances it is to be feared that the statutory Auditors are either nonentities who would pass practically anything, or else political zealots who concentrate their entire attention on matters of policy, which as I have already explained are quite outside the scope of the statutory audit. I am not, of course, here saying that any inquiry into questions of policy is necessarily undesirable; but, if it is to be undertaken at all, those upon whom the inquiry rests should

at least be possessed of the requisite authority to make it and to call for all necessary capacity and experience to enable them usefully to criticise the actions or inactions of the Local Authority. In the nature of things an inquiry on these lines conducted by men of inferior capacity, who are actuated largely by political bias, can serve no useful purpose. So far as their own supporters are concerned, they are merely preaching to the converted; so far as their political opponents are concerned, whatever they may say—no matter how well it may be said—it is never likely to receive any very serious consideration.

Upon the whole, therefore, there can, I think, be little doubt that the statutory form of audit for Municipal Corporations, as embodied in the Municipal Corporations Act, 1882, must be regarded as a failure. In only a very limited number of cases does it result in the appointment of Auditors whose opinions are entitled to serious consideration, while even in those cases, being limited in its scope to an inquiry into the correctness of the accounts of the Municipal Treasurer, it cannot be regarded seriously as an audit of the accounts of the Local Authority itself.

Passing on to the question of professional Auditors voluntarily appointed by certain Local Authorites, as supplemental to the statutory audit, there can be little doubt that the Auditors so appointed have usually been wisely selected for the discharge of their duties; but as an ideal scheme of audit this is essentially unsound, as it leaves with the accounting parties the selection of the Auditor and the ultimate decision as to the scope of his inquiry. The Auditor so appointed, moreover, in the nature of things, reports to the accounting parties themselves, and they reserve the right of publishing the Auditor's report, or withholding it at their pleasure. In such circumstances it seems not unreasonable to assume that, if the audit disclosed any serious irregularities there

would at least be no effective guarantee that the interested parties would promptly be made acquainted with its contents.

Apart from Municipal Corporations, there are various kinds of Local Authorities in England duly constituted by statute, ranging from County Councils downwards. The first of these were constituted under the Local Government Act, 1888, which provides for the keeping of the "accounts of receipts and expenditure" of County Councils and of their officials, which are to be audited by the District Auditor appointed by the Local Government Board; and all subsequent Acts embodying newer forms of local authorities contain similar provisions, while under the Education Act, 1902, it was provided that the accounts of the Education Department of a Municipal Corporation are similarly to be audited by District Auditors. We have here a notable improvement, in that the law stipulates for the keeping of accounts of the Local Authority as such; but there are no statutory provisions making individual members of the Local Authority in any way responsible for the accuracy of these accounts, such as make (say) the Directors of a Company responsible for the accounts of that Company being fair and honest. There is indeed a somewhat notorious case in which a Local Authority, after its accounts had been submitted to the District Auditor and audited by him, withdrew them and afterwards recast them in an entirely different form, with the express object of rendering nugatory the report that the District Auditor had issued with regard to the first set of accounts.

There appears to be some conflict of opinion as to what are the real duties of a District Auditor. It has occasionally been insisted with some vehemence that it is no part of his duty to criticise the policy of the Local Authority; but it is beyond question that it is his duty to inquire fully into the authority on which all payments have been made, and in the absence of due authority to

surcharge such payments against the individual members of the Local Authority directly responsible therefor. It is perhaps not unnatural that a Government Department should have attached considerable importance to this inquiry into the legal validity of payments, and should accordingly have selected for appointment as District Auditors men acquainted with the law, rather than men skilled in accounts. However that may be, the facts remain that in the vast majority of instances District Auditors appear to have been selected for any reason, rather than their experience in accounts and auditing generally, with the result that the Local Government Board audit appears to be confined to a strict vouching of expenditure. In a very large number of cases it has been found quite inadequate to detect gross irregularities which have resulted in the actual receipts accounted for being far less than they should have been. Apparently no attempt whatever is made to see that adequate explanations are forthcoming as to why items legally receivable have not been brought into account; and the monies thus lost to the community during the past twenty years would certainly have gone far towards paying for an efficient audit upon commercial lines.

With regard to the power of surcharge, it is perhaps almost inevitable that the exercise of such a power should have led to considerable friction in individual cases, a circumstance which must necessarily interfere with the real efficiency of any audit. So far as I can see, however, this is a position of affairs that has been aggravated partly by the essential unfairness of the system upon which individuals are surcharged, and partly because the Local Government Board has, so far, quite failed to back up the decisions of its officials.

As to the essential unfairness of the system, it may be pointed out that, if a Local Authority has authorised a payment which it had no legal power to authorise, the responsibility for the wrongful act must in equity rest

with those who voted in favour of the authorisation. It is, however, not those individuals who are surcharged, but the actual members of the Local Authority who signed the precept on the Treasurer authorising the payment, the cheque of ordinary commerce. The responsibility for the illegality is thus cast upon those who have performed a purely administrative act, which it was really their duty to perform when once the resolution authorising the payment had been duly passed. Surcharges so made must necessarily give rise to a wholly unnecessary amount of friction, but they are even more to be deprecated in that they have in practice no deterrent effect on those who may be desirous of disposing of public monies in directions of doubtful legality.

On the question of the failure of the Local Government Board to support the surcharges of its own officials, it may be pointed out in general terms that the majority of the surcharges actually made are remitted by the Local Government Board, although usually the formality is gone through of remitting them solely as an act of grace. The whole procedure is certainly not calculated to impress those concerned with the importance of a strict administration of monies which are for all practical purposes trust monies. It must surely be admitted that the maladministration of public monies—if maladministration there be—is a far more serious matter than the maladministration of private trusts, even assuming (which is unlikely) that the same amount of money is involved in both instances.

It may of course be conceded that it is undesirable that the responsibilities of members of Local Authorities should be unduly onerous, lest it should be found impossible to induce the must desirable type of man to undertake such duties at all ; but it should surely not be impossible to find a middle course between undue strictness and undesirable laxity. In the commercial world that middle course has been found, and applied to company

directors, and I do not think that a measure of responsibility equivalent to that imposed upon the company director would be found unduly onerous by any reasonably intelligent and passably honest Councillor.

I do not wish to weary you with technical details that cannot be dealt with very convincingly in generalities, but I feel sure that you must agree with me that a mere record of the receipts and payments of any concern during a given period of time can only be a complete and accurate statement of its accounts, if all its engagements and obligations have actually crystallised so as to involve the passing of a corresponding amount of money. If income remains uncollected, or has been collected in advance; if expenditure remain unpaid, or has been paid in advance, there will be corresponding discrepancies between the record of receipts and payments and a true account showing the actual incomings and outgoings of the undertaking. If elections were to turn at all on questions of financial administration, it is clear that a mere Cash Account might prove a most misleading statement to place before the electors as a guide of administrative ability. Yet in England there is no provision for the presentation of any accounts beyond the prehistoric Account of Receipts and Expenditure: not even a Balance Sheet is compulsory.

There is, however, another very important question of account that cannot be overlooked in dealing with the auditing of Local Authorities accounts, namely the proper treatment of Loans, and of the Depreciation of Capital Assets. A Local Authority is expected to raise from year to year sufficient revenue by way of rates to meet all its current expenditure; but—subject to the approval of Parliament or the Local Government Board, as the case may be—it can obtain authority to borrow money for Capital purposes. The conditions attached to such Loans vary considerably in matters of detail, but in principle Loans are granted upon the condition that interest

thereon at the prescribed rate is paid out of current Revenue from year to year during the continuance of the Loan; that the Loan is to be paid off on some specified future date; and that in the meantime the sum then required for that purpose is to be built up out of a Sinking Fund provided by systematic charges against current revenue. Loans are also usually authorised for the purpose of renewing or replacing Capital Assets, provided due provision has been made (by way of Sinking Fund or by actual repayment) for the extinction of Loans that provided the monies out of which the assets superseded were originally acquired. Much uncertainty prevails as to the extent to which the compulsory Sinking Fund obviates the necessity for making special provision for the Depreciation of Assets. It is to be feared that the earlier Loans were authorised upon no systematic or consistent basis, but the modern practice is undoubtedly to fix the term of a Loan having some regard to the probable average life of the Assets to be acquired with the proceeds thereof.

Assuming a separate Loan to have been authorised to provide the means to enable a specific Asset to be acquired, and assuming that the Asset remains useful for a period exactly coinciding with the term of the Loan, and then has to be completely discarded and renewed, it follows that the compulsory Sinking Fund instalments would be exactly equal to, and would take the place of, proper provision for Depreciation on commercial lines. In these circumstances the Local Authority would never at any time be free from debt, for it may be continually requiring to reborrow for renewal purposes; but it would be safeguarded effectively against having Loans outstanding and unprovided for, in excess of the fair value of its Capital Assets. If the specific Assets had a working life in excess of the loan period, the compulsory Sinking Fund charge would be *pro tanto* in excess of the true Revenue charge for Depreciation, and accordingly the financial position of the Local Authority would *pro tanto* be

improving from year to year, as its Loans outstanding and unprovided for became gradually less than the fair value of its Capital Assets. And conversely, if the Loan had been authorised for a period in excess of the working life of the Asset, the financial position of the Local Authority would be getting worse from year to year during the working life of the Asset; and when renewal became necessary—inasmuch as it would be impossible to obtain authority to reborrow to an extent exceeding the amount of the Loan that had already been provided for by the Sinking Fund, in effect the whole of the Loan not thus provided for by the date when renewal became necessary would have to be charged against current Revenue, save in those rare cases where it might be practicable to postpone the date of renewal. It will be seen therefore that the question as to how far the compulsory Sinking Fund is equivalent to, and takes the place of, the proper charge for Depreciation depends in the first instance upon the skill with which the working life of the Capital Assets has been estimated in advance.

It of course goes without saying that it would be quite impossible, humanly speaking, for any Government Department—no matter how well advised—to estimate the working lives of Capital Assets so accurately that its estimates would in all cases be confirmed by actual experience; but if, upon the average, its estimates were accurate, it might reasonably be assumed that, in the long run, the result of this arrangement would be to ensure that the Sinking Fund, unaided, would provide all necessary charges by way of Depreciation. As a matter of fact, however, the system does not work out in practice on these lines, because the Local Government Board does not take this broad view of the situation when dealing with applications for leave to reborrow for renewal purposes. Moreover, separate Loans are not authorised in respect of each Asset, but Loans for large sums are authorised to enable an Authority to acquire miscellaneous

collections of Assets having widely varying estimated periods of life, which are arithmetically "averaged" for the purpose of computing the authorised term of the whole Loan. It thus follows that, long before the Loan period has expired, and the full amount of the Loan has been provided by the Sinking Fund, the necessity must arise in the ordinary course of events for certain of the less permanent Assets to be renewed. The cost of such renewal can only be provided for by reborrowing or out of Revenue. It can (under existing conditions) only be provided for by reborrowing to the extent to which provision has already been made for the repayment of that portion of the original Loan applied to this particular purpose. Therefore in all such cases an appreciable part of the cost of renewal must fall upon Revenue; and unless a Reserve has been built up in advance to meet the cost of renewal, the charges against Revenue must occasionally be so excessive as to prove extremely onerous. Hence it follows that under existing circumstances some provision for Depreciation must, in practice, be charged against Revenue in addition to the compulsory Sinking Fund charge. The precise amount of this Reserve for future renewals that cannot be provided for by reborrowing is a matter calling for the nicest calculations; but it is, I think, beyond question that the average Elective Auditor is quite incompetent to deal with the matter, and that District Auditors have taken no steps whatever to draw attention to the fact that omission to provide in advance for renewals (other than by the compulsory Sinking Fund) must from time to time lead to exceptional charges which must prove extremely onerous, and will in the meantime seriously interfere with any ideas of the cost of working that might be derived from the annual accounts. It is, I think, not overstating the case to say that both Local Authorities and ratepayers have a very distinct grievance against the Local Government Board for omitting to advise them

on this all important point, while presuming to control their finances.

To sum up them, it would seem that in the past the audit of the accounts of Local Authorities in England has proceeded upon two widely different ideals: (1) the appointment of Elective Auditors by the interested parties, and a reliance upon their reports to secure efficiency in the long run with the aid of the ballot-box; (2) the appointment of Government officials as Auditors, and a reliance on efficiency in the long run of a system of surcharge against those held to be responsible for illegalities; in each case supplemented by a central control of the exercise of borrowing powers. It must, I think, be conceded that only a very limited measure of success has attended either attempt. Official Auditors have proved incompetent to deal in a satisfactory manner with questions of account, as opposed to questions of law; while the majority of the Elective Auditors have proved quite incompetent to deal with either the legal or the accountancy aspect of the problems involved. Matters are better managed in Scotland, where Auditors are appointed by the Sheriff (a judicial officer holding a position roughly corresponding to that of a County Court Judge in England) from among the ranks of Chartered Accountants, it being the practice never to appoint an Accountant practising within the boundaries of a Local Authority to audit its accounts. It would, I think, prove most beneficial, if a similar system were to be extended to England; if the vexatious power of surcharge were to be withdrawn altogether, but due provision made for the publication by the Auditor of the accounts of the Local Authority, and of his report thereon, in such a form as to make them readily accessible to —and comprehensible to—the average ratepayer. With the latter object much might be done by providing a stereotyped form of accounts, to be adopted (subject to such variations as might be necessary) by all Local

Authorities; but the form should be one sufficiently comprehensive to enable the average business man to judge as to the financial position of the Authority, and as to the ability and success with which its finances have been conducted. There is also the question as to whether those who lend money to Local Authorities have not some right to be supplied with proper accounts, duly audited. If the facts, thus duly verified, were to be made readily available, I think that the somewhat illusory safeguard of the surcharge might well be withdrawn; but there is, I think, a good deal to be said in favour of forbidding Local Authorities to borrow, save on such terms as a Government Department may authorise. Desirable reform in this direction lies, I think, rather in the necessity of insisting that the Government Department should secure the best available technical advice, not merely on engineering and other constructional details, but also on all questions of account, and in insisting that the conditions it lays down are invariably carried out in practice.

VIII.

ASSESSMENT OF LAND IN ENGLAND TO RATES AND TAXES.

By E. M. KONSTAM, Barrister-at-Law.

EVERY nation has the defects of its qualities and the same may be said of the legal and economic systems of the nation. Although I begin with this somewhat worn-out aphorism, I hasten to say that I have not the slightest intention of insisting upon the good qualities of our English economic system. It is rather our defects that I desire to emphasize. For if we English take a pride in the truly conservative spirit of our laws, if it is our habit to found every reform upon the traditions of the past, we cannot deny that among our ancient institutions there are some that have not adapted themselves to modern conditions. And certainly, for the assessment of our taxes upon real property, we adhere to a system which entails many difficulties in matters regarding the great industries that have developed since the beginning of the nineteenth century, but were unknown to our ancestors; although the system works well enough as far as dwelling-houses and agricultural land are concerned.

This system, however, is rooted in the past; and it cannot be explained or understood without some inquiry into its history. Our laws of local rating, then, date back to the year 1601, and commence with the Statute of the forty-third year of Elizabeth, chapter 2. The dissolution of the monastic houses in England about the middle of the sixteenth century had dispersed throughout the country crowds of beggars and vagrants whom the wealth and benevolence of the monks had supported up to that time, but to whom the less generous charity and the more

restricted means of private persons left nothing but a choice between hunger and robbery. It thus became inevitable that legislation should provide by public effort for needs which had previously been satisfied by the resources of the monasteries. After various experiments, Parliament passed the well-known Statute of Elizabeth, which enacted that the poor of each parish should be succoured at the expense of the parish; that the churchwardens of the parish church with certain of the richer inhabitants should every year be appointed overseers of the poor; that these overseers should levy (weekly, if they so thought fit) a stock of material to provide work for the poor, and sums of money for the help of the aged and the incapable. For these objects, the overseers are to raise contributions from "every inhabitant, parson vicar or other as well as every occupier of lands, houses, tithes impropriate propriations of tithe, coal mines or saleable underwoods." This provision is the origin of all our taxation upon landed property. It should be observed that the Act does not mention the owner of any kind of property; if a piece of land is occupied by any person who is not the owner, it is the occupier and not the owner who is to pay the rate.

By imperceptible degrees, almost the whole burden of the minor administration of country parishes, and to a less extent of the administration of urban parishes also was put upon the overseers. Further, it has gradually come about that almost all the money necessary for local expenditure is now raised by means of the poor rate levied by the overseers under the powers conferred upon them by the Statute of Elizabeth. The county magistrates (who always had the duty of appointing the overseers) commenced this process without any statutory authority, by ordering them to raise a quota from the parish for the expense of maintaining the country roads and prisons. Afterwards this practice was legalized by Statute; and to-day the expenses of all the local

authorities established in the nineteenth century, and entrusted with the administration of police, of highways, of education, of public health and of similar matters, are levied either by means of the poor rate itself, or by various rates assessed and levied in the same manner as the rate for the relief of the poor authorised by the Statute of Elizabeth. Some of these councils levy their rates directly from the individual ratepayer, but most of them merely send precepts or orders to the overseers, who are then bound to furnish the sum assessed upon the parish; and the overseers add the amount thus demanded to that which is necessary for the relief of the poor, and raise the whole by means of the poor rate. Thus with a few exceptions (which cannot be discussed within the limits of this paper) it may be stated broadly that all our local rates are assessed upon the same basis as that which is raised for poor law purposes.

It has already been observed that the Statute of Elizabeth authorised the levy of the rate, both upon the inhabitants of the parish and upon the occupiers of lands. In the year 1633, it was decided by the Court of King's Bench that the contributions levied from the inhabitants should be assessed not only upon immovable, but also upon movable, property. But the burden of assessing the tax in a manner which rendered it necessary to prove the possession of movable property and to value it, became too heavy for the overseers who were, after all, mere amateurs. In the course of time they gradually omitted from rating to the poor, all but two kinds of property, land and stock-in-trade. In 1840, an Act of Parliament abolished the last trace of the local taxation of movable property, and nowadays local rates are assessed only upon the occupiers of land and the owners of tithes. The leasehold system obtains very widely in England, and it is only in the minority of cases that a house or a farm is occupied by the owner. Apart from public or municipal institutions, from certain country

mansions, from large factories, there are very few classes of property that are not occupied by tenants paying an annual rent. This system of tenancy is the growth of centuries; there are jurists who place its origin in the reign of Edward I., and it certainly received a considerable development after the passing of a Statute of Henry VIII. in 1529. The English courts, when they find that a piece of land is occupied by a person who pays an annual sum of money to the owner, infer from that fact the existence of a tenancy from year to year. In the same spirit, the overseers, when they saw houses or fields let to a tenant, found it easiest to assess the rates upon the yearly rent. When the land to be valued was occupied by the owner (who paid no rent), the overseers estimated the sum that a tenant would pay for the land if it were let, and when in the eighteenth century, canals began to possess a commercial value, the overseers even went so far as to estimate the rent that a tenant would pay for that part of the canal that was comprised within the limits of the parish. Lastly, in 1836, the Legislature gave its approval to the ingenious devices of these rural assessors by passing the Act to which we look to-day for the definition of "rateable value." To parody Voltaire's famous saying: "Where a tenant does not exist, he must be invented, for all England cries aloud that he exists."

The Parochial Assessments Act, 1836, directs that "no rate for the relief of the poor shall be of any force, which shall not be made upon an estimate of the net annual value of the several hereditaments rated thereto; that is to say" (subject to deductions for tenant's rates and taxes and for the expenses of maintenance and repair) "of the rent at which the same might reasonably be expected to let from year to year." Thus, in making a valuation of any kind of immovable property it is necessary to imagine a hypothetical tenant, for property is rarely found to be let at a rent to a tenant for a single

year, leases being most frequently granted for terms of years. Still, it is not very difficult to estimate the annual value of fields and houses upon this basis; the difficulties of the system are most apparent in connection with the great and complicated undertakings of our modern civilisation.

Before stating briefly the principles that have been formulated for the ascertaining of annual value, I would observe that the same basis has been adopted for Imperial taxes upon landed property as for local rates. These Imperial taxes are three in number; first, the income tax is levied upon the profits of immovable property, as well as upon those arising from trade, from employment, and from investments. As regards landed property, the income tax is imposed upon the owner and not upon the occupier; the owner who lives in his own house has to pay the tax upon the same sum as he would if he let the house to a tenant to live in. The Income Tax Act, 1842, in defining the annual value of houses, lands, etc., for this Imperial tax, uses terms very similar to those used by the Parochial Assessments Act, 1836, for the purpose of local rates. There are, however, certain exceptions in the Act of 1842 which do not appear in the Act of 1836. Thus, in the case of tithes and certain properties of a similar nature, the annual value is estimated by taking the annual average of the profits received during the several preceding years, while the actual net profits of the previous year are taken as the annual value in the case of quarries, ironworks, gasworks, waterworks, canals, docks, markets and fairs, railways and similar undertakings. As regards mines of coal, tin, iron, etc., the average annual profits of the five preceding years are taken to be the annual value.

In addition to the income tax, which is, of course, the most important of the three, there are two other Imperial taxes levied in respect of immovable property; the inhabited house duty, which is imposed upon the

occupier, and is assessed upon the same basis as the local rates (subject to there being no deduction for maintenance and repair), that is to say, upon the rent which might be expected from a tenant from year to year; and the land tax, which is a relic of the feudal dues, and in respect of which the parishes contribute amounts fixed in perpetuity in 1797, the parochial quota being levied from the owners of unredeemed lands in proportion to the annual or rateable value of the land.

It is only possible in this paper to indicate a few of the more important principles that have been laid down by the Courts in applying the definition of rateable value contained in the Parochial Assessments Act, 1836.

First, the question being to ascertain the sum that a yearly tenant could afford to give, the land to be assessed must be looked at in regard to its actual condition. This is called the rule of *rebus sic stantibus*. If land situated in a suburban area is used only as a market garden, any potential value that it may possess for the erection of buildings must be left out of consideration; a shop, or a concert-hall, must be assessed upon the value that it derives from its present use, and not upon its possible value for the purposes of a bank or a factory. This rule was formulated by one of the greatest judges of the twentieth century, in case of a cotton mill that had been closed during the course of the Civil War in the United States. It was decided that during the period when the mill stood idle, it had no greater annual value than it possessed as a storehouse for machinery; and Lord Blackburn said: "The Legislature intended that the rate should be made upon the rent which might reasonably be expected from a tenant who took the property from year to year, *rebus sic stantibus*. If there be waste land near a large city which is entirely unprofitable, it is not rateable although in after years it might become exceedingly valuable. No doubt if the mill was about to be sold, the rent that a tenant for a term

would give for it would very properly be taken into account, but not in ascertaining what a tenant from year to year would give. Deferred and reversionary prospects must not be taken into account."

Further, in imagining a hypothetical tenant, it is often necessary to take into consideration the actual occupier of the property to be assessed whether he be landlord or tenant. In the case of a provided school or a system of sewers, belonging to a municipal body, it is not permissible to treat the property as having no value, nor to attribute to it a merely nominal value, on the ground that no private person could be found to become a tenant of it. Although it cannot make a profit out of the property, the public authority if it were not the owner of the property in question, would be obliged (in order to discharge the functions committed to it) to take this or a similar property at a rent. Consequently, the annual value is measured by the sum which the authority would be prepared to pay as an annual rent in such a case. In estimating this sum, it is customary to ascertain first the capital value of the land, buildings and works included in the property; and next to apply to these capital values certain percentages; the percentages most frequently applied are, to the capital value of land, 4 per cent., and to the capital value of buildings and works, 5 or 6 per cent., according to their probable length of life. This method of valuation is based upon the theory that the body that would purchase or construct the property in question would be obliged to use a part of its invested funds for that purpose, instead of paying an annual rent to a landlord. Observe, however, that the capital values of the buildings and works must be estimated in relation to the objects for which they are in fact used. If the expenditure on construction has been excessive (or, at any rate, excessive from the point of view of a tenant from year to year) the excess should be left out of account. Disputes frequently arise upon

matters of this kind; and it is often very difficult to establish in fact that expenditure upon buildings erected in modern times for public or commercial purposes has been excessive. For the use of this method of valuation is not limited to public undertakings; it is also applied in other cases where large and costly buildings are occupied by the owners, *e.g.*, railway stations, gasworks, electric generating stations, great shops, offices of insurance companies. But it should be remarked that this method is unsuitable to the valuation of country mansions, on the erection of which large sums have frequently been spent bearing no relation whatever to the rent that a tenant could be found to pay. And it must always be borne in mind that this mode of valuation is merely one of several methods of estimating the annual value, which is applied to property of certain particular classes; in no way does it constitute an exception to the rule set up by the Parochial Assessments Act.

Even in the cases of ordinary dwelling-houses, of small shops, of farms, it is not always possible to rely on the rent paid by the sitting tenant. Where a rent has been recently fixed by means of the higgling of the market, it may of course be taken as the measure of annual value. But the rent reserved under a lease for a long term may be altogether different from that which would be paid by a tenant from year to year; moreover, there are often special circumstances which have operated to reduce the rent actually agreed upon, but which would not affect a hypothetical tenant; for example, a country landlord may often let a farm to the son of an old tenant for a smaller rent than he would accept from a stranger; a merchant may very possibly pay a higher rent to his former partner than he would agree to pay to an ordinary owner of city property. In such cases, it may become necessary to make additions to, or subtractions from, the rent actually paid, in order to ascertain the rent that might be expected from a hypothetical tenant.

Although this hypothetical tenant is a tenant from year to year, he must be assumed to have a prospect of continuing his tenancy after the end of the year. No one could be found to take for a single year only a tenancy of a factory, a railway, a waterworks, or a gasworks; and Parliament has not imposed upon the valuing authority the task of imagining a hypothetical tenant who would be certain to find himself ejected at the end of the year. Thus, when works of a size suitable for future use, but in excess of present requirements, have been constructed upon the land to be assessed, it is proper to take the whole of the works into consideration indeed, but to place the annual value at a figure somewhat lower than would be just if the whole of them were put to an active use at the moment. Circumstances of this kind often arise in connection with newly-established factories and with waterworks.

Following upon the gradual development of assessment upon immovable property, the Poor Rate Exemption Act, 1840, finally prohibited in express terms the assessment of movable property; local rates are therefore not asssesed upon the profits of trade or commerce. Nevertheless, in 1844, Lord Denman, in deciding one of the first cases that arose upon the rating of railways (then in their infancy) "Parish officers are to consider all the existing circumstances, whether permanent or temporary, wherever situated, however arising or secured, which would reasonably influence the parties to a negotiation for a tenancy, as to the amount of rent to be asked or given." Obviously, the possibility of carrying on a gainful trade upon the property holds an important place among the circumstances here described. It is such a possibility that makes a shop in a principal street much more valuable than a similar shop in a side-street. A building of which the occupier is licensed by the State to sell intoxicating liquors is worth more than an adjoining building in which nothing can be sold but groceries. A public-house at the

corner of two streets is worth more than one at the end of a blind alley. But speaking generally, it is possible either from experience or from the consideration of the terms of an actual letting, to estimate the annual value of an ordinary shop without leaving out of account the element of value just indicated. As regards licensed premises, the method of valuation is less simple, and it is often found necessary to ascertain the profits recently made, and to calculate the annual value of the property on that basis, by a rather rough-and-ready process. Brewers and licensed victuallers have strongly contested this method of assessment, but the Courts have finally held it to be admissible.

Railways, and water, gas and electricity undertakings and so on are divided, for purposes of valuation, into two portions; the portion which is directly, and that which is only indirectly, productive of profit. This division is not altogether logical; but its result in practice is that railway stations, reservoirs, gasworks, and mains, are assessed by applying a percentage to their capital values; while lines of railway, service pipes, and electric connections are valued upon a basis of the gross takings of the occupying company in the previous year. The question is, as always, to ascertain the annual value of that part of the property which is comprised within the limits of the particular parish. Thus, in the case of railway line, the first step is to ascertain (by a very complicated calculation) the gross receipts actually made on the parochial portion of the line; next, various amounts are subtracted in order to arrive at the net receipts; and then, by another artificial process, the net receipts are divided between the hypothetical landlord and tenant; finally, the portion thus left to the landlord is taken to be the annual value. The same method is applied to the valuation of canals. The directly productive portions of water and gas undertakings and so on are assessed in a more or less similar way; but in such cases the gross receipts of the whole

undertaking are taken as a starting-point and the apportionment between the parishes is made at the end of the calculation.

In this very rapid summary of certain of the methods employed in applying to various kinds of property the principle of the Parochial Assessments Act, 1836, which defines annual value as the sum which a tenant might reasonably be expected to pay, it has been pointed out, that these methods are merely different means of attaining the same end which the Courts have held not unsuitable for the solution of the problem that the Legislature has set. The form of that problem has been dictated by the practice of centuries, as well as by the social conditions obtaining in England, closely connected as they are with our leasehold system. The problem itself gives rise to considerable difficulties as regards important industrial undertakings. For such properties, various novel methods of valuation and of apportionment among parishes have been from time to time suggested, though none of these has been adopted. But although much may be said in favour of the ancient standard of annual value as applied to the simpler form of landed property, such as fields and dwelling houses, it may yet be hoped that the task of setting up a new standard for assessing the value of the very complicated and artificial kinds of property produced by our modern civilization may not ultimately be found impossible of accomplishment.

NOTE.—This paper was written and sent in to the authorities of the Congress before the passing of the Finance (1909–10) Act, 1910. A short account of the taxes sought to be imposed by Part I. of the Finance Bill, 1909, was contained in an addendum which it is not thought necessary to print at the present time. It was not suggested by the writer that this measure would assist in any way towards the solution of the difficulties pointed out in the body of the paper.

IX.

HIGHWAY ADMINISTRATION IN ENGLAND.

By H. Hampton Copnall, Clerk of the Nottinghamshire County Council.

The first road makers in England were the Romans, and the roads constructed by them were remarkable for preserving a straight course from point to point regardless of obstacles which might easily have been avoided. Four old Roman roads still remain in this country, viz., the Fosse Road and Watling Street, which traverse England north and south, and Ermine Street and Icknield Street, which cross it. They were specifically referred to in the laws of Edward the Confessor and William the Conqueror, and were described as "Royal roads." They were under the jurisdiction of the Crown and travellers along them enjoyed privileges known as the "King's peace."

Roman roads were formed for military purposes and evidently the reason they became Royal roads maintained and repaired by the King was that they were regarded as a necessity to government. A portion of the funds used by the King for the maintenance and repair of these roads was obtained probably by tolls taken from passengers along the roads.

There were many other Roman roads besides those already referred to, many of which still remain, often forming the foundation of a more modern road.

Before the Conquest in the eleventh century it is said that there was laid upon every citizen, agricultural or urban, a *Trinoda necessitas*, *i.e.*, the duty of serving in war, the repair of bridges and public roads, and the maintenance of fortifications.

By the common law of England all highways (without regard to the manner in which they originated) were repairable by the inhabitants of the parish in which they were situated as a charge upon the land within the parish, to be defrayed by the occupiers of the land for the time being.

For many centuries the roadways of this country were little more than mere footpaths and horse-tracks, and the burden of repairing was not a serious matter. Formerly people did not travel far away from their homes and if they did so they rode on horseback and were quite content with simple tracks across country. What are now country lanes were probably in those days grass tracks separating fields and forming means of access for the villagers to particular lands under cultivation.

One of the earliest laws on the subject of highways was passed in the year 1285 and directed that all trees and shrubs be cut down to a distance of 200 feet on either side of the roads between market towns to prevent the concealment of robbers in them.

The office of highway surveyor was first created in the year 1555, when an Act of Parliament relating to highways was passed. It is recited in that Act that the highways had become very noisome and tedious to travelling and dangerous to all passengers and carriages. Evidently at this date it had become necessary to do something to the highways that had not hitherto been done in order to enable the people to get to market.

The Act provided for the annual appointment of surveyors of highways within a parish to keep the highways in repair by compulsory labour. In fact the inhabitants were required to perform what was known as "Statute duty" that is to say that every person occupying plough land and every person keeping a draught or plough was to send to the place appointed by the highway surveyor a wain or cart furnished after the custom with oxen or horses and with two men with necessary tools.

In the middle of the seventeenth century the turnpike system was introduced and the greater portion of the thoroughfare or trunk roads throughout the Kingdom became what were known as "turnpike roads." They were kept in order and many of them were originally constructed under the authority of local Acts of Parliament called "turnpike Acts" (of which the first was passed in 1663), by which the management of such roads was usually vested for a certain number of years in trustees or commissioners who were empowered to erect tollgates and take tolls from passengers as a fund for defraying the expenses of repairs or improvements. With regard to these turnpike roads, however, the collection of tolls did not supersede the other means provided by law for maintaining highways. The trustees of a turnpike road were not liable to be indicted for the non-repair of a turnpike road. If the trustees became insolvent or if a turnpike road was suffered by the trustees to fall out of repair, the inhabitants of the parishes who would have been bound to repair them had there been no turnpike trust were still, in general, liable to that obligation. The parishioners were also compelled to contribute labour or "statute duty" towards the maintenance of turnpike roads.

By the Highway Act of 1773 the performance of "statute duty" by the inhabitants of parishes was continued in force. The Highway Act of 1794 made some alterations in the regulations as to "statute duty" and enabled persons liable to pay a composition in lieu of performing such duty. The "statute duty" continued until the Highway Act of 1835 was passed, when it was abolished and instead of it the cost of maintaining and repairing highways was made a charge upon the parochial rates.

The development of the highways in this country from the original footpaths and horse-tracks has been largely effected by the introduction from time to time of different

means of communication, the introduction of the stage coach forming a new era in the history of travelling by road.

Down to the end of the eighteenth century the highways of England had received little or no systematic attention. Statute duty was not a success. The highway surveyors that have been referred to merely served a parochial office that they were compelled by law to serve and the construction of roads on a scientific basis was unknown to them. Often they took care to have good roads to their own fields but neglected those that led from market to market. Such repairs as were done to the roads were carried out in a very perfunctory manner by persons possessing no special knowledge of the work.

When the Highway Act of 1835 was passed, there were two classes of public roads, viz. Highways in general and Turnpike roads. The Highways Act of 1835 only dealt with highways in general. It did not alter the parochial organization for highway administration. The highway authority for the parish was still the highway surveyor, a parochial official who was elected annually by his fellow parishioners to serve the office, but the Act enabled Justices of the Peace on the application of parishes to unite parishes into districts and to appoint a salaried highway surveyor for the united district. A single parish with more than 5,000 population was also able to have a highway board and a salaried surveyor.

Apparently it was anticipated that parishes would readily avail themselves of these powers for voluntary grouping of parishes and formation of districts for the repair of highways. But it was not so, and very shortly after the passing of the Act of 1835 a Select Committee of Parliament made a special report to Parliament upon the subject in which they regretted that the powers in the Act of 1835 had not been used and expressed the opinion that it was very desirable that the highways should be placed under a regular system, and that the surveyors

should be permanent officers. The Select Committee were of opinion that under such a system the roads would be kept in order at much less expense, and they accordingly recommended that the formation of parishes into districts should be compulsory.

After this report was made to Parliament numerous attempts were made to legislate upon the subject of highways. Everyone admitted the law to be in a most unsatisfactory state but no one was able to devise such a remedy as would be acceptable to those on whose behalf it was proposed. Year after year Bills were submitted to Parliament, but almost every scheme was condemned on the ground of centralization or of its tendency to interfere with local management. In one Parliamentary debate Sir Robert Peel expressed himself that "the true principle on which the maintenance of highways ought to be conducted is to do the business in the most perfect manner, at the least expense, and to discard every other consideration."

As time went on it was more and more evident that the non-professional highway surveyor was not a success. He was only appointed annually and changed as often. His only qualification for the office was the possession of a certain number of pounds sterling or the occupation of a house or land of a certain yearly value. "You may take a horse to the water, but you cannot make him drink." An unwilling surveyor might be elected, but he could not be made to do his duty. Work done grudgingly and unwillingly is done badly, and when it is also done by one who does not understand his business, it is not only done badly but expensively as well.

The expense of a paid surveyor in place of the non-professional highway surveyor was considered to be more than could be borne by a large proportion of the parishes under the Highway Act.

Some of the Highway Bills presented to Parliament proposed to amalgamate turnpikes and highways under

a single management, but this proposal in those days was considered to be "hopeless and impracticable."

Ultimately in 1862 a Highway Act was passed enabling the formation of highway districts, each comprising a number of highway parishes, and the powers of the highway surveyors in those parishes passed to and became vested in highway boards. Such boards were empowered to appoint and pay officials.

In 1875 a Public Health Act was passed and the country was divided into urban and rural sanitary districts, which by subsequent legislation in 1894 were designated as urban and rural districts administered by urban and rural district councils. Under the Public Health Act of 1875 highways repairable by the inhabitants within any urban district became vested in and under the control of the urban authority. Highways outside urban districts still remained under the control of highway boards where highway districts had been formed or of the highway surveyors in particular parishes not included in any highway districts.

The abolition of "statute duty" in 1835 and the falling off of their income from tolls brought many turnpike trusts into serious financial difficulties, and subsequent legislation enabled payments to be made out of the highway rate to meet the deficiency. The obligation to make these payments was a parochial obligation. For a long series of years annual Acts of Parliament were passed for the winding up and dissolution of an increasing number of turnpike trusts. When turnpike roads became disturnpiked they became ordinary highways repairable by the parish.

The abolition of the turnpike road altogether was brought about by a Highway Act of 1878, which created what are now known as "main roads," a class of roads which included all roads which ceased to be turnpike roads since December 31st, 1870 and any road declared to be a main road by reason of its being a medium of

communication between great towns or a throughfare to a railway station, etc.

These main roads are in general wholly maintained by the County Council of the County in which they are situated. Urban Authorities, however, have been given a limited option of retaining the control of main roads within their district, an annual payment being made to them in that case from the County rate. And the County Council are enabled by agreement or otherwise to delegate the control of main roads to the highway authority of any highway area, making an annual payment out of the County rate towards the cost of the undertaking.

The County Council are also empowered to contribute out of the County rate towards the cost of maintenance, etc., of any highway or footpath in the County although the same is not a main road.

The last step taken by the legislature in the direction of simplification of highway administration was in 1894 by the abolition of the highway boards and highway parishes, the duty of maintaining and repairing highways other than main roads in rural districts being transferred to the Rural District Council.

The Authorities exercising highway powers in England at the present time are therefore :

(1) County Councils ;
(2) Councils of Towns and Urban Districts ; and
(3) Rural District Councils.

The number of these authorities is very large.

In a report of a Departmental Committee on highways that inquired into the subject of highway authorities and administration in England and Wales in 1903 it was reported that at that time there were 1855 highway authorities in England and Wales, excluding London, which has twenty-eight highway authorities within its area. In the same report attention is called to the case of a road eighteen miles in length which passed through the area of twelve different highway authorities and to

the fact that the Great North Road from London to Edinburgh is divided in England for administrative purposes amongst seventy-two authorities.

This illustrates an undoubted difficulty in the present system of highway administration in England. There appear to be still too many highway authorities. The mileages of the roads of all classes which are maintained by many District Councils, both Urban and Rural, are very small. It is unreasonable to suppose that such councils can maintain those roads as efficiently and economically as highway authorities with large districts justifying the employment of properly qualified road surveyors, the provision where necessary of steam rollers and other expensive plant, and the making of very large contracts for the supply of road material. Many of the smaller District Councils should cease to exist as highway authorities and their highway business should be taken over by the County Councils.

In the development of highway administration in England as briefly summarized in the earlier part of this paper it will be seen that as road traffic has increased the area of administration has extended. In the early days the parochial area was sufficient; then when larger areas were found necessary highway or rural districts were formed. For some years as regards main roads, the administrative area has been the County. A most important question now is whether the County should not be the administrative area in regard to all the highways within it.

Before the introduction of the motor car the area administered by a highway board or by a district council was sufficient because the inhabitants who travelled by horse-drawn vehicles were only able to do so within a limited area often not exceeding the area administered by the local highway authority. Consequently generally speaking the ratepayers of the district who were rated for the upkeep of the roads were the people who used the

roads in that district. Now the case is different. What a few years ago were purely local roads are now used and damaged by motorists who travel over a much wider field than the users of horse-drawn vehicles were able to do. Consequently the ratepayers of a particular rural or urban district are not necessarily the persons who use and damage the roads, and it is unfair that local bodies who derive little or no benefit from motor car traffic should bear the full expense of maintaining the roads over which such traffic is conducted. Apparently the only way to meet this grievance is that the burden of the upkeep of the roads should be distributed over a larger area, and the area of the County would appear to be the natural area for such purpose, and the County Authority should be the general authority for all highways, whether main roads or not, within the County.

The time seems also to have arrived when a systematic classification of roads should be effected.

The only classes of roads at the present time are "main roads" and "other roads." Many of the existing main roads should not be main roads at all, and many roads that are not main roads should undoubtedly be main roads. The roads of the country maintained out of rates and taxes would better be classified under the following heads :—

(1) Trunk or national roads ;

(2) Ordinary main roads ; and

(3) District highways or local roads, divided into say, first, second, third or fourth classes.

In regard to all these roads there should be a standardisation of methods of repairing and maintenance.

Two or more County authorities might be empowered to combine or to act by means of a Joint Committee so as to insure uniformity of administration and of rating in regard to particular areas where the heavy and through traffic on the roads does not necessarily belong to any one particular County. For instance, where there is a

large mining or manufacturing district in a corner of County A, much of that traffic must necessarily pass over the roads in the immediately adjoining Counties B and C. It would not be equitable that the whole expense of strengthening and improving the roads in B and C to carry the traffic of the district of A should be borne by B and C. The creation of a Joint Committee of the three Counties in respect of this particular area would enable the burden to be more equally borne by the ratepayers.

It has been contended by many that even the County area is too small for effective and satisfactory highway administration purposes and that many of the roads should be treated as national roads and be repaired and maintained entirely under the control of a Government Department. It would appear, however, that the time is not fully ripe for this. If the suggestions made in this paper were carried into effect, they would go far to settle the present difficulties and to provide effective highway administration in England for many years to come. But it would be extremely useful and desirable that there should be a national Road Board to whom matters in dispute could be referred by the County Authorities. Such a Board could consider questions arising between two or more County Authorities; the creation of Joint Committees; the defining of the area to be administered by such Joint Committees; and the particular matters to be referred to them; the determination of claims for extraordinary traffic or damage to a road caused by individuals or trading firms using the road.

Another improvement that is wanted in regard to highway administration in England is the abolition of the procedure by way of indictment, etc., for non-repair of highways. This is an expensive and cumbrous system, a relic of the past. It is a question whether the common law liability of the parish terminated on the formation of highway districts. It is believed to be in force at the present day. It has never been taken away and

apparently the inhabitants of a parish can still be indicted for non-repair, although the duty of repairing is vested in District and County Councils. At any rate an indictment at common law does not lie against a District or a County Council. Recent legislation enables a complaint to be made to a County Council where a road is not properly repaired by a District Council and there are certain remedies, one of which is, that the County Council may take over the duties of a District Council and do what is necessary, charging them with the expense. If the County Authority become, as is suggested, the highway authority for their administrative area, the County, there must necessarily be some higher authority to whom an appeal or complaint could be made in regard to questions of repairs of highways. Such appeals or complaints might reasonably be made to the Road Board above referred to and they should be empowered to inquire into the facts and if necessary take the necessary measures to enforce the particular act of repair, etc. But this might be by a more preferable and simpler procedure than that of indictment.

The principle of grants from the Exchequer towards the maintenance and improvement of main roads is now accepted as being both desirable and equitable.

The Royal Commission on Local Taxation in their Report issued in 1901 stated :—

" The maintenance of main roads we consider on the whole to be to some extent a national service and likely to become more so owing to the increasing mobility of the population and the development of new means of locomotion."

The Commissioners further state that :—

" On the facts before us we think one-half of the expenses of the maintenance of these roads in Counties. . . . should be paid by the Exchequer."

The development of the new means of locomotion has probably gone beyond anything the Royal Commissioners

anticipated in 1901. It is to be hoped that ere long the Government of the day will make provision for the payment of the Exchequer grant recommended by the Commissioners.

To sum up, the recommendations contained in this paper are shortly as follows :—

(1) That the County or County Borough and not the Urban or Rural District should be the area for highway administration and that the County Authority should be the highway authority for the County ;

(2) That there should be a classification of roads ;

(3) That there should be a standardisation of methods of repair and maintenance ;

(4) That there should be a Road Board to whom questions may be referred from the County Authorities ;

(5) That this Road Board should determine disputes as to extraordinary traffic, etc.

(6) That proceedings by way of indictment for non-repair of highways should be abolished and a more effective and less expensive and cumbrous system provided ;

(7) That at least one-half the expenses of the maintenance of main roads in Counties should be paid by the Exchequer as recommended by the Royal Commission on Local Taxation.

X.

BRITISH ADMINISTRATIVE METHODS FOR REPRESSING THE ADULTERATION OF FOOD.

By RICHARD A. ROBINSON, Barrister-at-Law, Chief of the Weights and Measures Staff of the County Council of Middlesex.

THE purpose of this paper is to give a brief account of some of the methods by which, under the laws in force in Great Britain, the work of repressing the adulteration of food is carried on by local public authorities. I must not be understood to suggest that the British system is a perfect model. I have, however, thought that an account of some of our methods such as they are may interest this Congress, especially as the powers possessed by administrative authorities in Great Britain are in many respects less wide and less drastic than in some other countries, and in consequence much depends on the efficient exercise of the powers which they have.

Legislation dealing with the adulteration of food has three objects :—

(1) Protection of the consumer from injury to health ;

(2) Protection of the consumer from financial injury or, as it might be expressed, from injury to pocket ;

(3) Protection of honest industry from unfair or illegitimate competition.

In Great Britain the Sale of Food and Drugs Acts are intended to achieve in some measure each of these three objects. But they are only directed to the first, the protection of the public health, in so far as danger to the public health arises from the addition of adulterants to

articles of food or to drugs. The very important effect on the public health of the sale or exposure of unsound, decomposed or bacteriologically objectionable food comes within the scope, not of the Sale of Food and Drugs Acts, but of the Public Health Acts, which in many districts are not administered by the same local authorities as those administering the Sale of Food and Drugs Acts. Where the authorities are not the same, the local authority for health is usually the council of a borough or district, and the local authority for adulteration is the council of the county, in which many districts and boroughs are often included.

It is my purpose not to deal with the question of unsound or decomposed food, but only with the methods employed for repressing the *adulteration of food*, in which I include the following :—

(1) The addition to any article of food, before sale, of any ingredient which should not properly be added ;

(2) The abstraction from any article of food, before sale, of any ingredient which should not properly be abstracted ;

(3) The sale of any article of food under a name or description which should not properly be applied to it.

Administrative Authorities.

The public authorities directly and primarily charged with the task of suppressing the adulteration of food in Great Britain are certain local municipal authorities. These local municipal authorities are for the most part the town councils in the more important towns (143), and the county councils (61) in the less important towns and the more rural areas, while in London the City Corporation and the twenty-eight metropolitan borough councils are

the authorities, not the London County Council. The duties of these local authorities include the following :—

(1) To appoint public analysts ;

(2) To arrange adequately for the purchase of samples of food and drugs, and for the making of inspections ;

(3) To take any necessary action (including the institution of legal proceedings through their officers) when from the analyst's report or in some other way *prima facie* evidence of an infringement of the law has been obtained ;

(4) To defray all administrative expenses so incurred and to charge such expenses to the general rate levied in the district of the local authority ;

(5) To report regularly on their administration to the Local Government Board.

Duties of Local Authorities.

1. *Appointment of Public Analysts.*

The law does not require that any specified educational test shall be satisfied by persons before they may be appointed as public analysts. But the Local Government Board, by the exercise of its power to sanction or forbid proposed appointments, has been able to secure a high standard of efficiency in public analysts. This is an excellent instance of the wisdom of trusting to sound administration rather than of attempting to prescribe rigid conditions by legislation. A very satisfactory curriculum of instruction has been drawn up by the Institute of Chemistry, an examining body which is independent of Government control or support, and nearly all persons desiring to be appointed as public analysts undergo this course of training in approved colleges or under the tuition of Fellows of the Institute of

Chemistry, and pass the examination of the Institute. Many analysts are also graduates in Natural Science or Philosophy at British or German Universities.

Most of the public analysts are analytical chemists in private practice and conduct analyses, of samples submitted to them by the local authority, in their own laboratories. Usually they are remunerated on a scale, according to the number of samples analysed. In a very few instances only are public analysts required to give their whole time to the service of the local authority appointing them, while the number of municipal laboratories is extremely small. There are in England and Wales 233 authorities appointing public analysts, but the number of these officials is perhaps not more than 200, as in some instances an analyst holds appointments under more than one local authority. A small number of local authorities have appointed more than one analyst. A public analyst is required personally to sign a certificate of analysis of each sample submitted to him. No provision is made, as in France, for public analysts to receive the assistance of tasters or other experts and in Great Britain it would probably be deemed illegal for a local authority to incur expenditure by paying fees to such persons. The British system is probably more costly on the whole than that which has been adopted in France, where, as I understand, the work of analysing samples under the Act of August 1st, 1908, is conducted in a comparatively small number of approved laboratories, about 30 in all. And British analysts cannot "specialise" in one branch of food analysis as is possible in a large and busy laboratory such as that working for the Service de la Repression des Fraudes in Paris. Against this, however, must be set the difficulty of ensuring that all samples are placed in the hands of the analyst before there is time for decomposition or any chemical change to set in. This difficulty must be greater in proportion as the number of public analysts' laboratories is less. It may be convenient to mention

here that in Great Britain a chemical preservative is not, as in France, added to samples of milk at the time of purchase and efforts are always made to reduce as much as possible the time that elapses between the purchase of any sample and its submission to the public analysts.

In Great Britain it is not found that there is necessarily any practical disadvantage, apart from financial considerations, in the system of entrusting private practitioners with the duty of acting also as public analysts. But there can be little doubt that money would be saved if there were one approved public laboratory for the whole of London and similar economies could be effected in other parts of England if the law were suitably amended.

The great efficiency of the public analysts appointed by local authorities is well shown by the fact that in spite of the very large number of samples analysed by them annually (95,000), in 120 cases only, last year, did defendants in prosecutions exercise their right of requiring the reserved part of the sample to be analysed at the Government Laboratory, and in only 16 cases did the result of this analysis differ from that obtained by the public analysts.

2. *The Purchase of Samples and Making of Inspections.*

Within certain limitations prescribed by Statute local authorities may arrange for inspections to be made and samples of food and drugs to be purchased by, or under the direction of, any of the following officers :—

(1) Medical Officer of Health or Sanitary Inspector.
(2) Inspector of Weights and Measures.
(3) Officer of Police.

In about 140 administrative areas the work is performed by medical officers or sanitary inspectors ; in about 25 by inspectors of weights and measures ; and in about 70 by the police.

At one time it was the practice in the districts of certain local authorities for sampling officers to be remunerated

in proportion to the number of prosecutions brought at their instance before the Magistrates. This objectionable system no longer obtains, and inspectors and other officers of local authorities are now remunerated by salary irrespective of the number of convictions obtained.

The approval of the Local Government Board has to be obtained when a local authority proposes to fix or to alter the salary of a medical officer or of a sanitary inspector. No such approval is required in respect of an inspector of weights and measures. Medical officers and sanitary inspectors (in some districts only) have a certain security of tenure in that they cannot be dismissed without the assent of the Local Government Board. Inspectors of weights and measures have no such security of tenure and may be dismissed by a local authority. It is becoming recognised as desirable that all municipal officers whose duties include the regulation of trade operations—which at times must bring them in conflict with elected councillors of their authority—should have some security of tenure such as is guaranteed by a power of veto vested in a Central State Department.

The duties of the sampling officer or inspector are (1) to make purchases of samples, personally or by an agent, (2) to submit part of the article purchased to the public analyst, (3) to institute legal proceedings (with the general or specific consent of the local authority appointing him) when there appears to be evidence of adulteration.

Usually the duties of a sampling officer or an inspector include other administrative work, such as the inspection of weights and measures or the inspection of nuisances or police duties as the case may be, in addition to work under the Sale of Food and Drugs Acts. In some instances, however, local authorities find it desirable and possible to instruct certain officers to devote the whole of their time to the work of suppressing the adulteration of food. In some instances certainly, perhaps in all, this is found to

be the most satisfactory method, as an officer becomes a "specialist" in the technicalities of his work.

Inspectors have no power as in some countries to *take* samples from shops without purchasing, nor to take a sample from a cart or other vehicle, or from the basket on the arm of an errand boy while articles of food are being carried for delivery to a purchaser. For this reason it is often desirable and in many districts is now customary that purchases be made on the inspector's behalf by agents who are likely to be regarded by the vendor as ordinary customers and will not be suspected of being the inspector's agents. For the same purpose of allaying the vendor's suspicions, articles other than that which is to be analysed are often purchased at the same time. When purchases are made by such agents the practice is for the agent after paying for and receiving the article to come to the door of the shop and give a signal to the inspector, who then appears, declares himself to the vendor and proceeds to divide the sample and to seal it in accordance with the law.

During recent years it has been found necessary in some districts for inspectors to arrange for the analysis of a series of samples bought from a shop by persons acting as ordinary private purchasers, the vendor being in ignorance of the fact that the articles are to be analysed. In this way an inspector is able to find out whether regular and fraudulent adulteration is being practised and whether this practice is common to all the employees in the shop or the act of a particular salesman only. He is thus able to arrange eventually for a sample to be purchased in conditions likely to enable him to institute a prosecution successfully against the person actually responsible for the fraud. In my own district, the County of Middlesex, this plan is widely and successfully employed, especially for the suppression of the fraudulent practice of selling margarine as butter. The necessity for the series of purchases arises from the fact that some

fraudulent vendors regularly sell margarine or adulterated butter to their regular customers and pure butter to any stranger for fear lest he prove to be the agent of an inspector. When a series of purchases has been made the purchaser comes to be treated as an ordinary customer and then an adulterated article is sold to him. In due course the inspector follows his agent into the shop, divides and seals the sample, and if the sample proves to be adulterated a prosecution follows. It is to be understood that prosecutions can only result from the purchase of articles by the inspector's agent when, immediately after the purchase, the sample is divided and sealed in accordance with the Statute and the vendor informed that the article has been purchased for analysis by the public analyst.

The system of purchasing test samples without the formalities of the Statute lends itself admirably to a system of co-operation between local authorities and private residents in their districts, or between county councils and the district councils in the county. A few local authorities have publicly announced their readiness to submit to the public analyst as informal samples for analysis at the expense of the municipality samples of food which may be brought to them by private persons suspecting adulteration. It should be mentioned that any person has the right to submit samples for analysis directly to the public analyst for his district, who is entitled to charge them 10*s.* 6*d.* for each analysis, but the use made of this right by the public is extremely small. Co-operation between private consumers and local authorities on the lines which have been indicated is, however, a growing and useful practice which is capable of still more extension. There is virtually no co-operation with trade associations.

The number of samples to be purchased in any area is a matter for the discretion of the local authority. Local authorities for the most part are quite willing to arrange

for the analysis of an adequate number of samples in spite of the additional expense which is entailed. If there is any notable slackness on the part of a local authority it is the practice of the Local Government Board to suggest more active administration, a suggestion which in nearly every case is promptly adopted. If, however, a local authority is recalcitrant, the Local Government Board has power to take samples and administer the Act in the district of a local authority at the authority's expense. This is a power which it is rarely necessary to exercise.

In the year 1908, over 95,000 samples of food and drugs were purchased by officers of local authorities in England and Wales for analysis by public analysts. The samples averaged one in every 340 of the population (as determined by the last census) for the whole country. Of these 8·5 per cent. were reported to be adulterated or not of the nature required.

3. *Consideration of Infringements.*

In England and Wales (unlike France and Scotland) there are no public prosecutors or procurators whose business it is to institute proceedings for such offences as the adulteration of food. All legal proceedings in connection with adulteration are instituted in the name of the sampling officer or inspector at whose instance the discovery of the sale of an adulterated sample has been made. The local authorities may, and in some cases do, give their officers a general authority to institute proceedings or to refrain from instituting proceedings as such officers may think fit, whenever from a public analyst's report or otherwise a sampling officer has obtained *prima facie* evidence of an infringement of the law. When legal proceedings are not instituted a written warning is often given to the person concerned. Other local authorities prefer to investigate and consider the circumstances of

every reported infringement before authorising the institution of legal proceedings. The local authority is not in any case entitled to interrogate the suspected person. In Great Britain a very clear distinction between administrative and judicial functions is observed and it is held that the proper place for any such interrogation or investigation is a court of law. It is considered improper before trial to ask questions of any suspected person unless a clear intimation is given to him at the outset that he is not obliged to reply and that his answers may be used in evidence against him at his trial.

While some local authorities regularly inform vendors of samples of the result of the analysis, whether this be favourable or unfavourable, they are under no obligation to do so, and in most districts the vendor of a sample is never informed when the analysis is satisfactory and is only informed of an unsatisfactory analysis by receiving a summons to appear before a magistrate. One advantage in informing a retail vendor that a sample sold by him has been found to be adulterated lies in this, that he then has the opportunity of asking the sampling officer to take samples of the article as supplied to him by the manufacturer or wholesale merchant. Most sampling officers are willing, although not compelled by law, to make this investigation, and many frauds have been traced to their authors by this voluntary co-operation between traders and officials. In Great Britain, help is not commonly given to local authorities by associations of tradesmen.

The principle involved in the *expertise contradictoire* which has been adopted in France is quite unknown in British administration. The result is that while sometimes an innocent person is put upon his trial and is under the disagreeable necessity of satisfying the magistrates of his innocence, his case is never prejudiced before it goes into court by statements which have been wrung from him in a preliminary inquiry.

Some abuses have been known to result from the system adopted by some local authorities of considering infringements in a semi-judicial manner before authorising a prosecution, as the members of the local administrative councils are not infrequently either vendors of food themselves or friends or trade rivals of the tradesmen in the district. This abuse cannot exist if, as in the case of the county council which I serve, the members of the committee considering the infringements always remain, by their own wish, in ignorance of the identity of the suspected person.

The system of giving sampling officers a full general authority to institute prosecutions or not as they think fit, is found sometimes to work well, but clearly it places a very heavy responsibility upon the officer and its success must entirely depend upon his good sense and integrity.

When from the analyst's report it appears that an adulterated sample has been sold, or when it appears to the sampling officer (or the local authority, as the case may be) that there is sufficient *prima facie* evidence to justify, not the conviction of the suspected person, but the investigation of the case by a magistrate in a court of criminal jurisdiction, the officer, or a solicitor acting on his behalf, describes the facts in a few words to a local magistrate, who then issues a summons calling on the suspected person to appear before him on a stated date. At the hearing, the sampling officer sometimes acts as his own advocate. Sometimes he is represented by a solicitor or barrister. The officer gives evidence of the facts and hands in the certificate of the public analyst.

If the public analyst's analysis is disputed, the hearing of a prosecution may be adjourned at the request of the defendant, in order that a reserved portion (third part) of the sample may be analysed at the Government Laboratory.

Sampling officers, although they have usually had little or no education or training in the principles and practice

of the law, readily acquire in many cases considerable legal knowledge and skill. On the whole, it is probably fair to state that sampling officers and inspectors succeed remarkably well in placing their case before the magistrates. If a prosecution seems likely to present some special difficulty, the inspector is usually represented in court by a solicitor or barrister.

4. *Payment of Expenses of Administration.*

The local authority has power to incur necessary expenses for the administration of the Sale of Food and Drugs Acts and (subject to qualification in exceptional cases) the general statement may be made that these expenses are raised and paid for through the rates levied in the administrative area. The chief expenses are the following :—

(1) Salaries of inspectors or sampling officers.

(2) Salary or fees of public analyst.

(3) Cost of purchase of samples, bottles, tins, labels, seals and the like.

(4) Travelling expenses.

(5) Office expenses, stationery and general expenses of administration.

(6) Cost of obtaining summonses, and other legal charges.

As a set-off against the above expenses it is usual for magistrates when convicting persons charged with adulteration to order them to repay to the prosecuting authority the analyst's fee, the costs of the summons, and other necessary costs of the prosecution. In addition, the fines imposed by magistrates in such cases are in some circumstances payable indirectly to the administrative authority. It is impossible to state with any accuracy the total expenditure incurred by local authorities in Great Britain in the administration of the Sale of Food and Drugs Acts, for the reason that the greater number of the officials engaged are paid a salary which includes a number of

other duties. With respect to travelling expenses and general expenses of administration, some local authorities make allowances to their officers to cover all such expenditure. This practice is not found to give universal satisfaction and obviously it has the disadvantage that an officer is encouraged to arrange his work in such a manner as will permit him to derive the greatest personal advantage from his allowances. When officers are reimbursed their actual expenses there is no danger that efficiency will be impaired by any such motive.

5. *Reports on Administration.*

Public analysts are required to report regularly in a specified form on their work to the local authority appointing them and local authorities are required to report yearly to the Local Government Board. The Local Government Board collects and collates the statistics with which it is furnished by local authorities, and annual reports are presented and issued by that Department to the public. From time to time interesting and valuable reports on special aspects of their administrative work under the Sale of Food and Drugs Acts are prepared and issued by some local authorities.

Duties of Central Authorities.

The duties and powers of the central departments of the State include the following :—

(1) To sanction or to forbid proposals by local authorities for the appointment or dismissal of public analysts (Local Government Board).

(2) To purchase samples, or to make inspections, in the district of a lax or negligent local authority and to recover the expense from that authority (Local Government Board).

(3) To make certain inspections, *e.g.*, of margarine factories, which local authorities are not authorised

to make, (Board of Agriculture or Local Government Board).

(4) To collect statistics and publish reports bearing on the adulteration of food. These reports have no statutory or legal effect (Board of Agriculture or Local Government Board).

(5) To make regulations for the guidance of public analysts and magistrates with respect to the constituents of milk, butter and cheese (Board of Agriculture).

(6) To make analyses when the analysis of the local public analyst is disputed (Government Laboratory under Board of Inland Revenue).

(7) To take for analysis samples of imported dairy produce at the ports of the entry (Board of Agriculture and Commissioners of Customs).

The central departments of the State have virtually no power to amplify the law or facilitate its administration by means of regulations. Thus they have no power to fix standards of purity or quality, or to frame definitions, or to prohibit the presence of any ingredient, or to allow or forbid any process of manufacture, or to prescribe the conditions of sale, or the terms of any declaration which may be made on a label or by advertisement. Nor have they any power to prescribe methods of analysis nor to pronounce authoritatively on the question whether or not any given article is injurious to health. In each and all of these matters the local authority and its officers are required to exercise their judgment and in the event of a prosecution the magistrates hearing the case are expected to determine the merits of each prosecution according to the evidence submitted. Reports on food adulteration are from time to time compiled and published by the Local Government Board; but these reports, while furnishing valuable information, have no statutory force.

The absence of legal definitions or standards has had this result, that in Great Britain milk and butter (for

which regulations have been made by the Board of Agriculture, *vide supra*) form an exceptionally large proportion of the samples of food taken for analysis. Thus, in 1908, out of over 95,000 samples taken, approximately 45,000 or 47·37 per cent. were milk, and 20,700 or 21·37 per cent. were butter, the remaining 29,300 samples including all other articles of food and drugs.

XI.

SANITARY ADMINISTRATION IN TOWNS IN ENGLAND.

By Charles Porter, M.D., B.Sc., M.R.C.P., Edinburgh, Barrister-at-Law, Medical Officer of Health, Metropolitan Borough of St. Marylebone.

Great Towns and Smaller Towns.

The Registrar-General of England, part of whose duty it is to keep statistical records regarding the births, deaths and marriages in the country, always considers separately the figures for London, the great towns, and the smaller towns. Of great towns he estimates there are 76, and of smaller 142. The population of the towns in the former group varies from 53,000 to nearly 600,000, and in it are included such towns as Newcastle, Manchester and Liverpool in the North ; Birmingham, Leeds and Sheffield in the Midlands ; and Bristol, Portsmouth and Southampton in the South.

The towns embraced in the group of 142 smaller towns have populations of from 20,000 to 60,000, and Lincoln, Cheltenham, Blackpool and Chester may be named as examples of the class.

Scheme of the Paper.

The experience of the writer of this paper has been mainly in towns classed as great, viz. : Sheffield and Leeds, and it is his intention to consider here chiefly the methods of sanitary administration obtaining in such districts. In all of them, it may be at once said that, though there may be differences in detail, the system of

administration in vogue is, in the main, the same, and what is stated as being the case in one is practically the case in each of the others.

Local and Central Authorities.

The scheme of the legislature of England and Wales is to place as much as possible of sanitary administration in the hands of the Local Authority, a general supervision being maintained by certain departments of the Government.

The Local Authority of each district is the Council of that District; the Government department which supervises generally is what is known as the Local Government Board. This in law is supposed to consist of a number of high government officials, presided over by a President, who is one of the most important members of the Government which happens to be in power at the moment.

The Local Government Board, it is understood, has never once met since it was created a considerable number of years ago, and its duties are carried out by the President who is assisted by a large staff of permanent officials, legal and scientific—medical men, engineers, etc.

The chief duties of the Board, so far as public health is concerned, seem to be the issuing of instructions to the local authorities or acting as a Court of Appeal for the local authorities or parties who have come in conflict with them regarding measures of sanitation, housing of the working classes, and so on.

Duties of Local Authorities.

The duties of the Local Authorities in connection with sanitation are the carrying into effect of the special Acts of Parliament relating to this, and of the instructions as to the protection of the public health issued by the Local Government Board. As in a great town the Local

Authority has a multitude of other duties besides sanitation, it is almost the invariable rule to form a Committee known either as the "Sanitary Committee" or the "Public Health Committee." To this is given the responsibility of administering locally certain Acts of Parliament, and of carrying out certain duties. This Committee meets usually once every two or four weeks, and to it come for consideration the reports of Sub-Committees which it may have been found necessary to form to deal with special matters, and of the executive officers.

Executive Officers of the Local Authority. The Medical Officer of Health.

The chief executive officer reporting to the Sanitary Committee is the Medical Officer of Health. This officer is invariably a medical man who, in addition to the ordinary medical qualifications recognised in England, possesses and is bound to possess special qualifications in sanitary science, obtained either as a result of training or experience. Appointed by the Local Authority, the Medical Officer of Health belongs chiefly to them, and his duties are performed almost entirely in the district for which he acts. At the same time, however, he is regarded as being responsible in many ways to the Central Authority, the Local Government Board, and is made one of the army protecting the health of the country as a whole.

Relation of the Medical Officer to the Local Government Board.

That the Local Government Board exercise a considerable amount of supervision over him is evidenced by the fact that in 1891, they issued regulations relating to the appointment and duties of the Medical Officer of Health.

With regard to his appointment, it may be said that a Local Authority may not appoint an officer till the

Board have approved. The duties laid down by the Board for the Medical Officer refer to inspections to be made by him of his district; to matters regarding which he is to give advice to his Local Authority; to the action which he must take in connection with the prevention of disease, and the detection and removal of nuisances; to offensive trades and unsound food; and to the making of reports for submission to the Local Authority and the Local Government Board.

The majority of these duties are carried out under the supervision of the Medical Officer of Health by officers named Sanitary Inspectors or Inspectors of Nuisances. These officers are appointed by the Local Authority, but are to some extent under the control of the Local Government Board. Their duties are prescribed by the Board, and they are required to give attention to nuisances, offensive trades, unsound food, etc.

Relation of the Inspector to the Medical Officer.

In the matter of the relation of the Sanitary Inspector to the Medical Officer of Health there is some divergence in the practice obtaining in the various large towns. In some the Inspectors are directly under the control of the Medical Officer, report directly to and take their orders from him; in others one Inspector is appointed over the remainder and acts as an intermediary between them and the Medical Officer. This Inspector placed over the others is known as the Chief Inspector of Nuisances, and usually has a department of his own or is head of a sub-department of the Medical Officer's Department. In most districts the Chief Inspector is a layman possessing only the qualifications recognised as necessary or advisable for a Nuisance Inspector; in some few towns the Chief Inspector is a medical man possessing the qualifications demanded of a medical officer, who acts not only as chief of the inspectorial staff but as assistant to the Medical Officer of Health as well.

This latter arrangement is one which works admirably, and is strongly recommended by those who have experience of it as preferable to either of the others, which have as objections, first that the Medical Officer himself is given a multitude of details to attend to which could be as well looked after by one less highly placed and qualified, and secondly that there is a division of authority between two heads who are apt to be out of sympathy.

The appointment of a Medical Chief Inspector gives the Medical Officer of Health at once the chief position, with one to assist him who has the ideals of the medical profession at heart, and is imbued with that veneration for his chief which is one of the characteristics of the junior members of the medical profession.

Distribution of Duties.

The method of carrying out and distributing the duties for which he is responsible depends largely upon the constitution of the staff of the individual Medical Officer of Health.

For the purposes of inspections the town usually is divided into districts which are entrusted each to an Inspector who is expected to make himself thoroughly acquainted with it, and to examine premises for nuisances either after complaint or as a matter of routine.

The size of the district allocated to any one Inspector depends almost entirely upon local conditions, but is, of course, affected by the size of the town and the number of Inspectors upon the staff.

The basis upon which allocation is made is usually population, but regard is also had to number of houses, class of houses, and mode of occupation. Extent of area is rarely much considered, and not infrequently it happens that the inspector who has most ground to cover has the lightest district, since these larger portions generally include the parts least built upon and least populous.

In addition to inspection work, each Inspector, in his own district, usually performs certain other duties in connection with infectious diseases, making inquiries as to source of infection, contacts, condition of the home and so on, for the Medical Officer of Health who determines the action to be taken when the results of the inquiry are reported to him. Removal of infected persons for isolation and disinfection of the premises may be carried out or arranged for also by the Inspector. This work, however, along with many other duties, *e.g.*, in connection with the protection of the food supply, may be entrusted to special members of the Medical Officer's staff.

Inspectors with Special Duties.

Specialization, indeed, is rather the tendency at the moment in the larger towns. Very commonly one finds that to one set of officers the ordinary routine inspections of a district are given ; to another set the supervision of remedial work, especially in connection with drains ; to a third the sampling of food for analysis ; to a fourth supervision of food production, and the inspection of cowsheds, slaughterhouses and animals alive and after slaughter for human food, and so on.

Infectious Diseases.

The work necessary in relation to the prevention of infectious diseases is generally considerable in amount and almost invariably a special staff is required. Since the application of methods of prevention and of treatment are called for, this special staff is usually sub-divided into two. The preventive officers almost invariably are directly under the control of the Medical Officer ; those concerned with treatment may or may not be. The work of the preventive officers has been noted already ; they see to the removal of patients to hospital for isolation and treatment ; to the removal of infected clothing for

disinfection, and to the disinfection of infected premises. Treatment is carried out at the hospital or hospitals which each Local Authority has provided within or outside the boundary of their town. The staff of these hospitals consists of medical and nursing members who, in the largest of the large towns, are only indirectly under the Medical Officer of Health through a Medical Superintendent of the institution.

In the smaller of the large towns the Medical Officer of Health usually administers the hospitals of the local authority, in addition to carrying out his other duties. In towns of any size, however, it is practically impossible for him to do so, and the duties are entrusted to a Medical Superintendent who resides at the hospital, and sees to the isolation and treatment of cases sent by or through the Medical Officer of Health.

Phthisis Prevention and Medical Assistants.

Not infrequently, in addition to the special staffs mentioned above, Medical Officers of Health arrange for the inclusion of one or more officers to carry out such work as may lead to the prevention of phthisis. In some places medical men or women are appointed for this work and in others lay inspectors. If persons medically qualified are employed they are usually given other duties in addition to visiting the homes of the phthisical, enquiring and advising, *e.g.*, they may assist in the administration of the isolation hospital or in the protection of child life by supervising the work of midwives or inspecting schools and school children. Such officers are usually named Assistants to the Medical Officer of Health and specially qualified women practitioners are not infrequently found holding such appointments.

When this special phthisis prevention work is carried out by lay inspectors, men or women again may be employed, some Medical Officers of Health preferring the

former, others the latter. The results with either are equally satisfactory.

So far as the isolation and treatment of cases of phthisis are concerned, comparatively little is done directly by the local authorities in England. Occasionally in large towns a part of the ordinary hospital for infectious diseases is set aside for consumptive persons, a few authorities only having provided special accommodation.

As the question of tuberculosis is now receiving a great amount of attention, almost certainly the next few years will see more active steps taken in this direction. Most of the work done at present in connection with phthisis isolation is carried out, as a matter of fact, on the initiative of the local authorities themselves. The central bodies have passed no general measure directed to the control of the spread of the disease, but have contented themselves with permitting local authorities to obtain powers to deal with it locally. The indications are, however, that the giving of powers applicable generally will not be long delayed.

Other Professional Assistants to the Medical Officer of Health.

In addition to the professional assistance of medical men and women, the Medical Officer of Health is now, in many towns, given that of members of the veterinary branch of medicine, and many staffs now include one or more qualified veterinary inspectors. These officers, named usually Veterinary Assistants to the Medical Officer of Health, carry out many important duties in relation to food supply, examining cowsheds and milch cows, slaughterhouses, animals before slaughter and butcher's meat prior to sale and when exposed for sale. The attention given to the question of tuberculosis in animals and its transmission from them to man by means of food, has been largely responsible for the appointment

of veterinary officers. The duties they carry out are exceedingly valuable and are increasing in number day by day. Practically without exception, they have been immensely successful and the work is carried on with great smoothness and greatly to the benefit of the public health.

Women Inspectors.

That there is much work which can be performed by women in Public Health Departments is now recognised throughout England, and there are few large towns which have not appointed one or more women inspectors to the staff of the Medical Officer of Health.

The duties of the Chief Officer delegated to the female members of the department are largely in connection with infant life protection. They visit homes and advise with regard to the feeding and upbringing of children; they spread knowledge with regard to hygiene generally; they supervise the work of midwives; and so on.

In addition they have duties relating to the health of women employed in factories and workshops, and under the direction of the Medical Officer of Health see that conditions inimical to health are remedied in or removed from such places.

The qualifications required of women inspectors are similar to those called for in the case of their male colleagues, though preference is usually given to women who have had training or experience in nursing.

More recently the place of the fully qualified woman inspector has been taken to a certain extent by what are known as "health visitors." These visitors have not necessarily the qualifications of an inspector and have not the same status. Their work is mainly directed to infant life protection, though in certain towns they carry out duties in connection with disease prevention as well.

School Hygiene and Medical Inspection of School Children. The School Medical Officer.

In the majority of the large towns within the last few years attention has been specially directed to the question of school hygiene, and the medical inspection of school children. Though there was a certain amount of uncertainty as to whether or not the administrative work was to be placed in the hands of the Medical Officer of Health, or in those of a new and independent Medical Officer, there seems to be now more or less of a uniform opinion that as the former is the officer concerned with the protection of the public health, and school children form a not inconsiderable part of the public, the administrative measures necessary for the safeguarding of their health might safely be left to him.

In most towns, therefore, the Medical Officer of Health is now recognised as being also Chief School Medical Officer, and the routine work is left to more or less junior officers, male or female, who are known as Assistant School Medical Officers or Assistant Medical Officers of Health (Schools). These officers usually report to the Medical Officer of Health, by whom any powers directed by statutes or orders to be enforced by a school medical officer are carried out.

In the smaller of the large towns, not uncommonly the Medical Officer of Health carries out the school work himself in addition to the ordinary routine and other duties of his office. Altogether the introduction of this work in connection with school children has led to a tremendous increase in the activities of public health departments throughout the country, and already much good has resulted, largely as a result of the spread of information amongst the laity on matters relating to health.

The School Nurse.

One marked effect of the work in schools has been the bringing into existence and the addition to the staff of

the Medical Officer of Health of a new officer, viz: the school nurse. The duties of this officer are very numerous, and the women taking up the work have readily adapted themselves to it. The assistance they give the Medical Officer of Health is tremendous and largely in the direction of improving the condition as to cleanliness of the poorer children attending the elementary schools. In addition, however, they assist in the medical examination of the children by the school doctors, and to a certain extent in the treatment of minor ailments, cuts, bruises, skin diseases, etc.

Clerical Work.

In addition to the above more or less professional members, who in some towns number as many as twenty or thirty, excluding the nursing staff of hospitals, engineers, workmen, etc., the Medical Officer of Health has of necessity a staff of clerks responsible for the purely clerical work arising out of the duties performed by him and his assistants and inspectors. This clerical staff is not the least important, and in some towns consist of as many as eight, ten or twelve members. Some of these deal with correspondence; others with infectious diseases; others with notices regarding nuisances; and so on.

The arrangement of the work of this part of his department is a matter of great importance to the Medical Officer of Health, and on it largely depends the success of the sanitary administration of the town.

Laboratory Work.

In the larger towns it is exceptional to find the Medical Officer of Health directly responsible for the carrying out of the bacteriological and chemical investigations which play such an important part in modern public health work.

Usually the chemical analysis of foods, etc., is done by a distinct official of the local authority, known as the Public Analyst, who is appointed under a special Act of Parliament, and who reports the result of his examinations to the Medical Officer of Health, and at intervals to the local authority.

Bacteriological examinations, routine as for example in diphtheria, enteric fever, phthisis, etc.; and special as of milk, water, foods, and so on, are largely entrusted to some local bacteriologist, *e.g.*, the person occupying the chair of bacteriology in the local university or medical school, or the post of pathologist to a hospital in the neighbourhood.

Less frequently, though the arrangement is one having many advantages, the local authority appoint a bacteriologist to carry out such bacteriological investigations as the Medical Officer of Health may consider necessary. Such appointments are not uncommonly made in the less important of the larger towns, the medical man appointed acting also as assistant to the Medical Officer of Health in other matters.

When the hospital is controlled by the Medical Officer, the bacteriologist may reside there, and take part in its administration, in addition to performing the bacteriological work.

For each of the methods advantages are claimed. Probably, however, the work is better in the hands of a teacher or a hospital bacteriologist, since these men are likely to be more skilful investigators and to bear names which compel respect, a matter of some importance if any question of legal proceedings should arise.

Sewers, Sewage, Water and Scavenging.

Matters with which the Medical Officers of Health of the large towns are rarely directly concerned, though they are of tremendous importance in connection with

public health, are sewers and sewer construction, sanitation of new buildings, sewage disposal, water supply, and scavenging of streets and refuse removal.

With the exception of scavenging, these are usually placed in the hands of one or more officers who are qualified engineers, and who are appointed by the Local Authority either as engineers or, as they are named in the Acts, Surveyors.

Sometimes one officer attends to sewers, sewage and water, and is called the City or Borough Engineer. In the largest towns there may be a sewer engineer, a sewage engineer, and a water engineer, each with a large staff under him. The sanitation of new buildings, drainage, water closets, etc., is, with few exceptions, in the hands of an officer named the City or Borough Surveyor, who may attend to nothing else but new buildings, or may combine duties in connection with these with certain engineering or other duties.

The question of whether or not plans of new buildings, so far as they relate to sanitation, should be referred to the Medical Officer of Health is one frequently discussed.

The almost universal practice is to make him responsible only for the supervision of reconstructions of or alterations in connection with existing schemes in existing buildings, but this limitation is one difficult to understand and to support with sound arguments. In the few districts in which the Medical Officer of Health supervises all drainage and sanitary work, the results are excellent, and as a Medical Officer with experience in such a district one can say that the arrangement is found to work perfectly easily and satisfactorily.

The reasons for handing the control, construction, etc., of sewers and sewage and water works to engineers are easily understood, and the working of the arrangement is perfectly smooth, the engineer and the Medical Officer consulting one another and working in concert whenever necessary.

Scavenging and refuse removal, if carried out by the local authority—as is almost invariably the case—are usually supervised by an officer named the Cleansing Superintendent. This officer is generally more or less under the Medical Officer of Health, the cleansing department being a sub-department of public health. Occasionally the administration is carried out from the Medical Officer's department, the Cleansing Superintendent working under the chief executive sanitary officer.

Both arrangements work well, but it is always advantageous to have work such as this, which is so closely related to public health, more or less directly controlled by the officer whose duty is the safeguarding of the health of the public.

Alterations in Administrative Methods.

The advances which have taken place in the realm of public health in England within the last comparatively few years have made tremendous alterations in the administrative methods in the large towns, and in the amount of work to be attended to by Medical Officers of Health.

Knowledge of the infectious diseases and the means of preventing them has increased; the problems of phthisis and of infantile mortality have been more closely studied and preventive measures devised and perfected; the importance of the school and school conditions in relation to the health of children and of factory and workshop conditions in relation to the health of adults has been recognised; the necessity of directing attention to the food of the people and the cleanliness of the people and their houses has been brought out; and in innumerable other directions advances have been made.

New legislation dealing with nearly all of these matters has been passed and almost invariably the officer indicated as being the person best qualified for seeing the

statutory provisions carried out has been the Medical Officer of Health. As a result, his department has grown and new assistants have been required and have had to be provided for him in order that he might cope with the work.

Vaccination and the Sick Poor.

Very important duties with which he has never had any concern are those relating to vaccination. The chief reason for this is that this work is not in the hands of the local authority by whom the Medical Officer of Health is appointed, but is and always has been entrusted to distinct bodies, viz: the Boards of Guardians of the Poor.

To these also the duty of looking after the poor in health and sickness is given, and is carried out by a body of officers, lay and medical, in what is known as the Poor Law Service.

The actual work of vaccination is done by Vaccination Officers appointed also by the Guardians, but placed like the Medical Officer of Health and the Poor Law Medical Officer under the supervision of the Local Government Board.

The anomaly of taking the supervision of vaccination out of the province of the Medical Officer of Health is recognised by others than those actually in the public health service, and there are many who would be pleased to see much or all of the work now performed by the Guardians handed over to the Local Authorities.

The Local Authority, it is argued, is also the Sanitary Authority and should be responsible for all sanitary work. Much of the work now performed by Board of Guardians is work which should be done by the Local Authorities, who, almost without exception, have a properly organised department with a qualified sanitarian as chief officer to carry it out. This officer is fit to perform all the

duties and should be required to perform them, and the result would be immensely to the advantage of the public health.

This matter has been under investigation and discussion for some time in England and a report has been made to the Government regarding it. So far no definite steps have been taken in the direction of altering the existing arrangements and it is impossible to say that changes ardently desired by many will ever be made.

Sanitary Administration in London.

In what has gone before there has been no reference to sanitary administration in London.

On account of the great size of the capital special administrative methods are necessary and are employed. Though it might be possible to organise one department to administer the whole, its extent would be so tremendous that breakdowns would inevitably occur.

To overcome the difficulties, the Metropolis has been divided into twenty-nine parts, each of which is either a metropolitan city, *e.g.*, the City of London, and the City of Westminster; or a metropolitan borough, *e.g.*, the Borough of Holborn, the Borough of St. Marylebone, etc.

The population of these districts varies from over 300,000 (Islington and Lambeth) to under 30,000 (City of London). Each has a Council—the Local or Sanitary Authority—and practically the same organisation as is found in the large towns already described. In each there is a Public Health Department and a Medical Officer of Health with a staff of inspectors, and so on.

Exercising a certain amount of control over the Metropolitan Borough Councils, and intermediate between them and the Local Government Board, there is the London County Council. This body has also a Public Health Department, with a Medical Officer of Health, assistants, inspectors, etc., who carry out special investi-

gations and have special powers in connection with the safeguarding of the public health in the Metropolis.

Besides having a special organisation, London has also a special Public Health Act, the Public Health (London) Act, 1891; and special orders, somewhat resembling those applicable throughout England generally, have been issued by the Local Government Board regarding the appointment, duties, etc., of Medical Officers of Health and Sanitary Officers in London. All general measures relating to public health matters, with few exceptions, apply to and are administered in London either by the Borough Councils or the London County Council. In addition, however, special acts applicable only in the Metropolis have been and are passed by Parliament at the request of the County Council from time to time. These acts are usually known as London County Council (General Powers) Acts, and almost invariably contain provisions which are to be carried out by the County Council or the Borough Councils.

The dual control in matters affecting public health exercised by the Council of the County and that of the Boroughs produces remarkably little friction. The work of adjoining local authorities, one of whom may be responsible for the sanitary administration of one side of a street and the other for that of the opposite side, produces even less. There is a general recognition of the fact that the Metropolis, no matter how divided, is one big thing, and not a collection of isolated districts, and that the end of one and all is the same, viz., the safeguarding of the public health in London.

By the Medical Officers of Health these facts are very clearly recognised, and there is very little real difference between the administration and administrative methods of one Public Health Department and another. Meetings of and consultations between the Metropolitan Medical Officers are of frequent occurrence, and uniformity of action is the aim of all.

The Metropolitan Medical Officer, like his colleague in the provinces, reports annually and at intervals to his Local Authority, the Local Government Board, and central departments. He is responsible for the prevention of the spread of disease, but has no part in the administration of isolation hospitals, which are provided, controlled and administered by a special body, known as the Metropolitan Asylums Board. This body is elective, and each local authority pays to it a proportion of the sum necessary for the upkeep of hospitals.

Another respect in which London differs from the provincial great towns is in connection with work in elementary schools. At present this is carried out by special Medical Officers appointed by the London County Council, who are the Education Authority. Except he wishes to make investigations relative to a case or cases of infectious disease, the district Medical Officer of Health rarely does much school work. Medical Inspection of school children he does not carry out at all, nor has he assistants under him specially charged with this duty.

With these two chief differences, however, the Metropolitan Medical Officer of Health has duties similar to those of provincial medical officers. Some of these duties, *e.g.*, in connection with factories and workshops, food supplies, etc., may be heavier ; some may be lighter. With his provincial colleague also he is responsible for the safeguarding of the health of the country generally, and besides being a unit in the public health service of the capital of the Empire, he is a unit in that of the country as a whole.

XII.

RURAL SANITARY ADMINISTRATION IN ENGLAND.

By F. E. Fremantle, M.A., B.M., M.Ch., (Oxon), F.R.C.P., F.R.C.S., D.P.H., Fellow of the Royal Sanitary Institute, Royal Society of Medicine, Royal Institute of Public Health and Society of Medical Officers of Health, County Medical Officer of Health, and School Medical Officer for Hertfordshire, and Edward Jenner Lecturer on Public Health in the University of London.

In his notable "Traité de l'Hygiéne Publique," published some 20 years ago, Dr. Albert Palmberg, Medical Officer of Health for the County of Helsingfors in Finland, opens his first page with a tribute to sanitary administration in England. "Of all countries of the civilised world" he says "none has a sanitary code so complete or so precise as England." He points out the parliamentary, as opposed to bureaucratic, origin of the principal regulations, so that "the legislation is the work of the nation"; "The laws are respected and, as a rule, religiously observed, without objection or murmur. In the whole country the marvellous results . . . can be seen." He proceeds to show that these laws must necessarily encroach upon the proverbial inviolability of the Englishman's home, which is his castle, but "for an Englishman, Liberty is not an empty word, but signifies on the contrary everything that can safeguard the individual and free him from the inconveniences and perils adherent to life in communities."

Let us then examine this system, as it works out in the more rural parts of England.

The County Council.

Let us take for an example the county named Hertfordshire, just north of London, a tract of pastoral country and small towns, measuring some 30 miles either way and separated from London by a few miles only of suburban land. This area comprises over 400,000 acres and contains a population of nearly 300,000 persons.

Both the County Council and its Education Committee meet only for four or five days of the year, about once a quarter, when they receive and consider the reports of the various Committees and Sub-Committees by which the regular work is done. But these bodies of voluntary workers only decide upon the action to be taken and inspect the work of their employees. The actual work is performed by the officials. The "Public Health and Housing Committee" and the "Education Committee" act mainly through the Clerk of the Council, the County Surveyor and Engineer, the Director of Education, the County Medical Officer of Health, who, in Hertfordshire, is also the chief School Medical Officer, and the County Analyst. Each of these officers has a subordinate and clerical staff under him and receives a whole-time salary varying from £500 to £2,000 a year, or corresponding pay for part-time work. The County Medical Officer of Health receives £600 a year, with £200 for an Office and a Clerk and all out-of-pocket expenses.

The functions of the Council as regards public health are of increasing importance. But the primary duty of sanitation rests with the Councils of the Districts, into which the County is divided; and the County Council can only report to the Local Government Board the failure of a District Council in its duties; it has no direct authority over the District Council. The County Council is a new authority, only sandwiched in 20 years ago between the small District Councils—the so-called Local Sanitary Authorities—and the Government offices in London,

when it was found advisable and feasible to provide a centralised local authority of wider influence and outlook than the District Councils and more in touch with local life than the London offices of the national Government.

The District Council.

Within the County of Hertfordshire are thirty-three Districts, of which twenty are Urban and thirteen Rural. The Urban and Rural Districts have in general very similar systems of sanitary administration. As in the County Councils, their work is often done by committees; but the councils meet as a rule fortnightly and less responsibility and initiative is therefore left to their officials. Here we come upon the basis of sanitary administration; for besides the clerk and the surveyor, engineer, and architect (usually one and the same person), every district, urban or rural, has its District Medical Officer of Health and its District Sanitary Inspector. A word then with regard to these two pillars of the public health.

The District Medical Officer of Health was originally a local doctor, who took over the duties of this new office thirty years ago in addition to his private practice for the sum of about £10 to £50 per year. Many Districts have now combined to appoint a specialist in Public Health as the District Medical Officer of Health for ten or twelve Districts to give his whole time to his official duties; and the development of public health work in the schools under Medical Officers of Health will certainly facilitate this tendency to separate the official Medical Officer of Health from the private practitioner of medicine.

But there are still over 1,100 Medical Officers of Health in England and Wales alone, who are also engaged in private practice; and this combination will still continue for many years yet to prevail in the Rural Districts.

It is indeed open to question whether prevention of ill-health is not best secured through men who are dealing daily with the results of ill-health and the failure of preventive methods in their private practice.

But the right-hand man of the Medical Officer of Health, the prime instrument of sanitation, is that peculiarly English official, the Sanitary Inspector or, as he is often called, the Inspector of Nuisances. Every Local Sanitary Authority, as the District Council is legally termed, has a Sanitary Inspector engaged at a salary of from £60 to £150 a year. He is of the class that produces farmers, small tradesmen, school-teachers, non-commissioned officers in the Army, policemen, postmen and skilled artisans. The trained Sanitary Inspector has been through a three months' course of private instruction, for instance at the Royal Sanitary Institute, which organises practical demonstrations throughout London and holds examinations for its Sanitary Inspectors' certificate in thirty-eight centres of the United Kingdom and in fourteen cities in the British Colonies. The demand for these trained Sanitary Inspectors is rapidly increasing; there are about 800 candidates for the Sanitary Inspector's certificate of the Royal Sanitary Institute every year, beside candidates of both sexes for special certificates in meat-inspection, school hygiene, and health visiting.

The Sanitary Inspector, however, in most Rural Districts is still untrained, except by his experience. The Sanitary Inspector usually acts under the general instructions of the Medical Officer of Health; but he works mainly on his own initiative and reports directly to his District Council.

Both the Medical Officer of Health and the Sanitary Inspector in nearly every district receive from the National Exchequer, through the County Councils, a contribution towards their salaries equal to that paid by the District Councils, on condition that their appointment, regulation

and dismissal are subject to the approval of the Local Government Board. The object of this provision was that the Local Government Board might insist on higher standards of qualification and work than the Legislature was prepared to force on every District Council by Statute; District Councils if they wished to avoid these higher and more expensive standards might do so by refusing the grant from the National Exchequer. But the result has been that the District Councils with but few exceptions, have been able to secure these grants, although in many instances they still fail to satisfy the higher standards aimed at by the Local Government Board. Old standards, old habits, old methods die hard. Nevertheless the old sanitary standards, habits and methods in rural England are improving; and the wishes of the people for more efficient sanitation are gradually rising to correspond, so that the improvement is soundly based, as Palmberg noticed, on the wishes of the people, and not on the mere wishes of their rulers. The rules governing the work of these officers are with slight variations the rules laid down by the Local Government Board and adopted by the District Councils, the direct representatives by popular vote of the people, whose lives and homes they concern. No wonder then that "the laws are respected and, as a rule, religiously observed without objection or murmur," at least to a greater extent than under other more bureaucratic systems of government.

Duties and Powers of these Authorities.

Rural District Councils.—The Rural District Councils, besides their responsibility for the highways, other than the main roads, are responsible as Local Sanitary Authorities for drainage and disposal of sewage; for scavenging; for water-supply; for the prevention and treatment of infectious diseases, including the building and maintenance of isolation-hospitals: for the safety, sanitation

and cleansing, if filthy, of houses, and the closing or demolition of unhealthy and obstructive buildings; for the supervision of common lodging-houses, barges and caravans, of slaughter-houses and offensive trades, of dairies, cowsheds and milkshops and of the sale of foods; for the sanitation of workshops and for the control of nuisances. They may make bye-laws as to scavenging, public conveniences, the plans of new buildings and the prevention of nuisances. They have powers also to provide houses for the working-classes.

Urban District Councils.—The Urban District Councils have similar duties, extended in certain directions, with power to make bye-laws as to new streets and buildings, open-spaces and other matters; but these bye-laws have to be approved by the Local Government Board and any of these "Urban powers" may be conferred by the Local Government Board on Rural Districts.

County Councils.—The County Council has a general but indefinite control over the whole sanitary administration within its area, except that certain towns or boroughs have certain independent privileges, by which they are outside the jurisdiction of the County Council. This control is mostly optional and depends largely on the tact and energy of the County Medical Officer of Health. On his report, or on the complaint of residents in any district, the County Council may hold an inquiry by a few of its members or officers and may complain to the Local Government Board that the District Council is in default with regard to the carrying out of its sanitary duties. This power of intervention, however, is restricted to a report to the Local Government Board.

In certain particulars, on the other hand, the County Council has direct responsibility. It supervises the Midwives; it deals with river-pollution and the diseases of animals; it has direct powers to ensure the provision of isolation hospitals and the erection of working-class houses in the Districts; with the magistrates, who are

appointed by the Crown, through the Chief Constable of the County it controls the police force and, by special inspectors, supervises the sale of food and drugs as regards adulteration and true measure; it maintains the bridges and main roads, reformatories, industrial schools and lunatic asylums; and lastly and above all it is alone responsible for both elementary and secondary public education, including the most important measure in sanitary progress of recent times, namely the medical inspection of school children. Its educational work, including the erection and maintenance of school buildings, is carried out by various central committees, acting through local district committees, with a small body of managers for each school in the County. The Local Sanitary Authorities therefore, as such, take no part in educational administration; and the very great influence which teachers and medical officers in the schools are likely to exercise on the health of future generations is applied entirely through principles and methods laid down and administered by these larger and necessarily more far-seeing County Authorities, from which the defects of the too narrow parochialism, that hampers the work of the Local Sanitary Authorities, are noticeably absent.

Boards of Guardians of the Poor.—Certain minor sanitary powers are still in the hands of other local bodies. The Boards of Guardians of the Poor, the oldest local elective bodies in the kingdom, are historically the forerunners of the District Councils.

In Rural Districts the members elected to the Rural District Council are themselves the Board of Guardians. Primarily formed for the relief of the poor, the Guardians have also a number of other duties. Of these, that of vaccination, carried out by specially appointed medical Public Vaccinators, is essentially a sanitary duty; and the whole foundation of sanitary study and administration is essentially based on the registration of births, marriages and deaths, including the causes of death,

which is carried out by registrars, appointed by the Guardians. Their medical officers, too, are in specially close touch with the lives and homes of the poor; and it is obvious that the marked separation between these Poor Law Medical Officers, the public vaccinators and the registrars under one authority, the Medical Officers of Health and Sanitary Inspectors under another, the police and inspector of diseases of animals and of the sale of food and drugs under a third; and of the education officers, County Medical Officer of Health and Lady Inspector of Midwives under a fourth is a grave defect in English Sanitary administration.

Let us then consider in a typical rural district how this administration works out in practice. The Sanitary Inspector lives in a small town of perhaps 1,000 inhabitants in the centre of the District. At 9 a.m. he goes to his office and finds his letters, official letters from the clerks of local or national government authorities; a note from the Medical Officer of Health making an appointment to meet him at a certain dairy; a notification from another doctor of a case of scarlet fever in a cottage four miles away; complaints of a nuisance from a manure heap and of a shallow well run dry. He walks off to inspect the last cause of complaint, sees the complainant and the owner of the well and decides to report the matter for further action to his District Council. He gets into his trap and drives off to a neighbouring village and then settles in a few minutes the complaint about the manure heap. He then drives to see the child with scarlet fever; he takes down notes of the milk-supply, of which he has suspicions, and of the other facts that may lead to a discovery of the cause of infection; finding other children present in the cottage —and home isolation impossible—he gives instructions to the mother to prevent further spread of infection in the household and outside until the child is removed to hospital and the bedding removed for disinfection.

His appointment with the District Medical Officer of Health is at the dairy a mile off, which supplies this cottage with milk. The District Medical Officer of Health is there in his small motor-car, and has already heard of the case of scarlet fever in question. The farmer is out; so the cowman is called and brings in the cattle from the fields for inspection. All appear healthy; but inquiry of the farmer's wife elicits the fact that one of the milkers has a child staying away from school. The milker's cottage is visited and the child found to be suffering from a slight sore-throat and to be peeling from the hands. The infection is traced to a previous known case; and a visit to the nearest village enables the Sanitary Inspector, by telephone, to arrange for the removal that afternoon of both the children he has seen to the isolation-hospital, three miles off, in the special ambulance kept at the hospital; and for the bedding and clothing to be taken away and disinfected in the steam-disinfector at the Hospital. The Sanitary Inspector and a couple of workmen are able the next day to fumigate the infected rooms in both cottages with formalin, a few clothes, toys and books are burnt, compensation being paid by the Local Sanitary Authority, and in six or seven weeks' time or less both children will be back at home.

Let us trace up the history of the well, on which the Sanitary Inspector is preparing to make an unfavourable report. For the last six years, in his Annual Report on the health of the District, the District Medical Officer of Health has reported the insufficiency and liability to pollution of the water-supply derived from shallow wells. A copy of the Annual Report of every District Medical Officer of Health has by law to be sent to the County Council, and the County Medical Officer of Health in compiling his Annual Report for the County—a book of 100 or 200 pages, including a full statement of the vital statistics and causes of death in the county during

the year as compared with the last ten years, and his researches, comments and suggestions for the future—has previously reported this District Council to be in default in the matter of water-supply. The County Council have written on the subject to the District Council and received replies refusing to adopt the suggestion made by their Medical Officer of Health. This year he retails the story of pollution from the well in question and repeats his recommendation. A few months later the County Medical Officer of Health has endorsed his report in the Annual Report for the County; the County Council have appointed three of their number to hold a Local Inquiry; and as a result of this Inquiry the County Council three months later again decide to report the District Council as in default in not carrying out their duties of providing a proper water-supply. The Local Government Board, on receipt of this complaint, commission one of their Medical Inspectors (an expert of high qualifications and long experience in the service of the Board) to hold a public inquiry into the matter in a month's time. Notice of this Inquiry is placarded about the village a week beforehand; and on the day of the Inquiry the Inspector presides at the meeting, which is attended by members and officials of both District and County Councils and a number of ratepayers of all classes.

The Inspector then visits some of the wells, is entertained at lunch by the Chairman of the Rural District Council and returns to town. A few days later he writes for further documents, analyses of the water and engineering plans for the public supply suggested. Two months later an official letter is received from the Local Government Board by the Clerks of the County Council and District Council to the effect that the Board find that the District Council have been in default and a public water-supply must be provided without delay. The question being thus settled, the District Council lay the burden

of the necessary addition to the rates on the Government Department and set to work with a will to provide the best public water-supply possible. In a year the deep well is sunk, mains are laid and within two years the village is proud of its water, which is already inducing the local builders to erect houses for new residents.

But in many matters affecting the public health we have to consider the inter-relation of the different Counties and Boroughs to each other.

The question of milk-supply, for instance, interests the large Boroughs as consumers and the rural counties as producers. Under a recent Act, the London County Council now systematically inspects the milk arriving every morning and evening at the principal railway stations in London, takes specimens for bacterial examination, and if they contain the tubercle bacillus, sends down a veterinary inspector to the farm from which the milk was sent. Notice is previously sent to the Medical Officer of Health for the County in which the dairy is situated and he usually arranges for the County and District Veterinary Inspectors, the District Medical Officer of Health and the Sanitary Inspector and himself to meet the London County Council Inspector at the farm. The cattle are examined clinically, and if any cow is found tuberculous, the owner is informed of the fact and is prohibited from sending the milk to London. A Bill was brought before Parliament recently by Government to give further powers, and this will doubtless become law before long ; but at present much can be done by the advice given to the owner as to dealing with the infected cow ; and he generally realises, both for the good of the public and for his own credit and the health of his herd, that the advice had best be adopted. Here again voluntary action under unwritten procedure is often more effective in England than compulsion under a more complete official code in other countries.

Two movements of recent times are likely to be of capital importance to the improvement of the Public Health. The first consists in the registration and supervision of midwives and the rapid growth of the nursing profession. This subject is being dealt with at length in another paper. It is sufficient here to say that the influence of the local nursing associations of the village nurse-mid-wives, in teaching the villages the gospel and practice of health, is likely to be of the first importance.

The second consists in the medical inspection in the schools. In every county the supreme educational authority is the County Council, acting through an Education Committee, which consists partly of its own members, partly of persons interested in education. The Chief School Medical Officer is usually the County Medical Officer of Health; under him are two or four young medical men or women, engaged exclusively for the work of medical inspection of school children, or else as in Hertfordshire, a number of local medical practitioners, who are engaged in this work in addition to their occupation as District Medical Officers of Health and in private practice. These Assistant School Medical Officers visit every school at least three or four times a year, for the routine inspection of the children at three periods of their school life. Defects found are recorded and notice of the fact sent to the parent, who can then secure treatment of the defect either by his private medical attendant or by the Poor Law Medical Officer or in a charitable hospital. As yet the law provides only for the compulsory inspection of the children and not for the compulsory treatment of defects. But the result of the inspection in only two years has been the recording of such a large number of defects—defects of eyesight, of cleanliness, of breathing, of dentition and so on—that from every quarter a cry is heard for compulsory treatment of the defects found; and this, in combination with the recent monumental reports of the Royal Commission on the

Reform of the Poor Law, is likely to result before long in legislation for a complete system of medical treatment and nursing supervision of school children. The effect on the public health that such a system is likely to have in conjunction with a systematic regulation of conditions in the homes of the poorer classes can hardly be overestimated.

It will be seen, therefore, that rural sanitary administration in England is typical of English administration in general, in that it depends on the interaction of several different authorities, elected by the people, and dependent for their efficacy on the good-will and co-operation of the people; that it is ever in a state of transition and never complete; that, with the increasing apprehension by the people of the advantages of health, the time of its reform is drawing nigh; and that this reform is likely to result in the concentration of local effort and powers in the hands of the County Council, acting through local committees, and supervised, strengthened and regulated by the Government Offices in London.

XIII.

THE IMPENDING REVOLUTION IN THE ENGLISH POOR LAW.

By Sidney Webb, LL.B., Chairman of the London School of Economics and Political Science (University of London).

In England, therein differing from nearly every other country, the organisation of public assistance for the necessitous was, from the sixteenth century downwards, made a separate public service, apart from the remainder of the local administration. In 1834, when the Poor Law was reformed, the remainder of the local administration was in such an imperfect state that no one thought of uniting the whole of the public services in each locality into a single administration. This was the ideal of Jeremy Bentham and John Stuart Mill, but the absence of any decent organisation of local government made it at that date impossible.

In 1834 there existed, up and down the kingdom, no public authority to which the administration of the public provision for any class of persons could be entrusted. There was in 1834 no sanitary authority in existence charged with the prevention of all disease and with the cure of such diseases as are infectious; and having its own hospitals and medical staff. There was no service of sanitary inspectors required to discover every disease that becomes a public nuisance. There was, in 1834, no education authority charged with the schooling of all the children, and having its own elaborate network of schools and staff of teachers. There was no service of school attendance officers, visiting systematically

every home to discover whether the children are receiving efficient education. There was in 1834 (outside the Metropolis) no force of salaried police, whose duty it was to prevent the public nuisance of vagrancy. There was, in 1834, even no systematic prison organization, such gaols as existed being mere dungeons. There was, of course, no idea of curative or reformatory treatment of the persons compulsorily detained. There was, in 1834, no general public provision for lunatics, outside one or two progressive counties. There was no public provision at all for idiots, defectives or epileptics. There was, in 1834, no public authority dealing with distress from unemployment or with the curative treatment of unemployed workmen. There was, in 1834, no idea of a national service of pensions, providing superannuation for all who need it. This, and not any deliberate choice, is the reason why public assistance has, in England, continued to be a separate public service apart from the rest of Local Government. The Poor Law Commissioners of 1834 were compelled to recommend that a separate local authority should be established, to deal with all the classes for which public provision had then been made, and this provision, however diverse in character it needed to be, was governed by the only factor then common to all the classes, namely that of being in need of public aid. This was called destitution, and everything that was provided in the way of public assistance, whether it was nurture for the infant, schooling for the child, medical treatment for the sick, custody for the mentally defective, work for the ablebodied, or maintenance for the aged was all called poor relief.

The same reasons that had led to a separate Poor Law administration led to the creation of other separate administrations, when new services were undertaken. A separate Local Health Authority was set up in 1848. A separate Education Authority was instituted in 1870 (the School Board).

During the last thirty years a new tendency has been at work. The ideal of Bentham and John Stuart Mill, that there should be in each locality one public authority for all public services, and not separate public authorities for the several public services, has more and more influenced statesmen. Step by step the different local authorities have been concentrated into one, that is to say the popularly Elected Council of the town (Borough or Urban District) on the one hand, and in the rural parts the equally popularly Elected Council of the County on the other (with its subordinate Rural District and Parish Councils). Sanitation, education, and the maintenance of the roads have all been more and more absorbed by this one Local Council. Down to the present, however, the Poor Law Administration under the separately elected Board of Guardians has stood apart.

This original failure to organise one Local Government on the basis of a single authority in each locality for all public services has, by 1910, produced an amount of overlap of work and duplication of services in the same locality which is amazing. Financially, indeed, the position has become in many respects as serious as it was in 1834, though in a different way. In the present year, and annually, a sum of something like seventy million pounds is being spent in the United Kingdom, from national or local taxes, in providing maintenance, education and medical treatment for the various sections of the poorer classes. This huge amount is being expended by different local governing bodies, competing with each other, overlapping each other's operations, and duplicating each other's services. Their work was more or less supervised by half-a-dozen different departments of the National Government, acting on the most diverse principles, without consultation with each other, and often diametrically at variance with each other. The Poor Law Authorities of the kingdom are spending

nearly twenty millions a year out of the total of seventy millions, and are usually quite without knowledge of what the other local authorities are doing in the same field. In London, for instance, the Boards of Guardians are maintaining at this moment about 25,000 children of school age, three-fifths indoor and two-fifths outdoor. Meanwhile the London County Council is feeding 50,000 children of school age, or twice as many as are being maintained under the Poor Law. What is worse, in several thousand cases, the two authorities are simultaneously providing, out of the rates, for the same children, without the one knowing of the other's proceedings. The Poor Law Authorities throughout the kingdom have about a hundred boarding-schools for poor children. It is not generally known that the Local Education Authorities are themselves maintaining already fifty other boarding-schools for equally poor children. Moreover, the Home Office is simultaneously maintaining out of the taxes, through philanthropic committees, a hundred and fifty more of these boarding-schools for other poor boys and girls. All these residential schools deal with much the same class; and it is often a mere chance whether a child is under one authority or the other; indeed, quite frequently brothers and sisters from the same household are in different institutions, under different authorities, and subject to entirely different conditions, without one of the authorities knowing of the other's action. In some cases the same institution is inspected by the officers of the Board of Education, the Home Office and the Local Government Board, without the inspectors from the several departments knowing anything of each other's visits or criticisms or requirements; and without their subsequently conferring together as to their reports. Some institutions get payments simultaneously in respect of the same children from different public authorities. With regard to the sick, the Local Health Authorities throughout the

kingdom are now maintaining out of the rates more than 700 municipal hospitals, originally established for smallpox and fever, but now often taking in patients with other diseases, many surgical cases, and accidents; and are apparently now about to include in their sphere the vast range of tuberculosis. Meanwhile the Poor Law Authorities have, in every district, their own institutions for the sick; it might be only a ward in the general mixed Workhouse; it might be, as in London and other great towns, a highly organised and elaborately equipped infirmary, serving as a public hospital. Competing with both these rate-supported hospitals are the crowd of endowed and voluntary hospitals—existing, however, only in fewer than a hundred towns—which are gratuitously receiving, in many cases, patients of exactly the same class as the rate-supported hospitals of the Poor Law or the Public Health Authorities. It often depends on which doctor gets hold of the case first whether the sick person becomes a pauper, a municipal patient, or the recipient of private charity. In many a district there are now half-a-dozen different doctors receiving money from the rates and taxes, getting their instructions from half-a-dozen different public offices or departments, often doing exactly the same work, for the same class of persons, and not in the least consulting with each other. Notwithstanding this huge expenditure, this ignorant multiplication of official inspections, this unintelligent duplication of services and this wasteful overlapping of work, a large part of the provision now made by the community for the infants, the children, the sick, the mentally defective, the infirm and the aged—and for these sections under any system of society some collective provision had to be made—is scandalously deficient and inhumane. At the same time, more than 10,000 healthy, able-bodied men are at this moment rotting in the terrible general mixed workhouses of London and Liverpool, Dublin and Glasgow; whilst

literally hundreds of thousands more rose up in the morning not knowing at what work, or on what casual jobs they would that day be able to earn their own and their children's meals. So absurd a chaos led the Conservative Government of 1905 to appoint a Royal Commission to investigate and report as to what ought to be done.

That Royal Commission unanimously reported that the existing Poor Law machinery must be swept away; and that the service of public assistance must be placed in organic connection with the rest of Local Government as it is in nearly every other country. We may therefore take it as assured that the entirely separate existence of a Poor Law administration, in which England has so long differed from other countries, will now soon be brought to an end.

The majority of the Commissioners were, however, still dominated by the conception of the relief of the poor as a separate category; and they therefore framed a complicated scheme for perpetuating a separate service for relieving the poor as such, alongside of the other public services for treating specifically each class of the poor (the children under the Education Committee, the sick under the Health Committee, the mentally defective under the Asylums Committee, the aged under the Pension Committee and the Unemployed under the Committee for dealing with distress from Unemployment).

These Commissioners would have liked to have abolished all these five specialised branches of public assistance which the Town and County Councils had developed in rivalry with the Poor Law and to have had only a single undifferentiated service of public assistance; but they had not the courage to put forward such a proposal. They therefore acquiesced in a continuation of the present overlap, asking only that the seven services should all deal with identical areas, and be paid for by a common tax.

But the provision made by the Poor Law Authorities for the children, the sick, the able-bodied and the aged respectively, already forms only a fractional part of the public provision made from the rates and taxes for each of those very classes ; and a part that cannot be marked off from the rest by any significant characteristic.

Hence the minority of the Commissioners presented a separate report.

They said that it was out of the question to reverse thf whole current of legislation for the past three-quarters o. a century and put all these classes back into the Poor Lawf No Minister will dare even to propose to the House oe Commons that the child found hungry at school or the unemployed workman shall henceforth be relieved by the Poor Law Authority. On the contrary, it is clear that the tendency will go on. The sick will plainly have to be still further separated from the Board of Guardians. The Royal Commission on the Feeble-Minded has authoritatively recommended that all the lunatics and feeble-minded shall cease to be paupers and be wholly handed over to a committee of the County or County Borough Council. It is plain that, if we want to stop the present overlapping and duplication and waste, as we cannot abolish all the separate services that have grown up, *we must abolish* the Poor Law, which has become, in its very essence, obsolete.

It would, in fact, be of no use going to the trouble of abolishing the Board of Guardians merely in order to set up any new Poor Law body in their place. What we have to do is to get rid of the very notion of relief, as relief. The relief of the poor is not a category by itself at all, for which any separate body is required. The poor are either infants or children, sick or mentally defective, aged or able-bodied unemployed ; and each of these classes is being looked after by its own specialised public service. Why set up any separate service of public assistance at all ?

The whole trend of English Local Government during the last half century points to the expediency for the sake of economy as well as for the sake of efficiency, of concentrating the whole of the public provision *for each service* in any locality in the hands of its own specialised Local Authority—for instance, all the public provision for the sick under the Health Committee, and all the public provision for children under the Education Committee. Hence in the opinion of the minority of the Royal Commissioners the only practicable scheme of reform is based on the idea of transferring the several specialised services now artificially aggregated under a single Board of Guardians, to the several committees of the County or Town Council which are already dealing with those very services for the community at large.

For the able-bodied and the unemployed something more is required. Here the problem, by its very nature, transcends the powers and resources of any local body. There must be a department of the National Government undertaking the sole and entire charge of the able-bodied man in distress, whether he be vagrant, or houseless "sleeper out," or unemployed.

There is now started a National Labour Exchange at which all vacancies should be notified and all situations filled. Such a National Labour Exchange could "decasualise" casual labour and greatly mitigate seasonal fluctuations by "dovetailing" jobs. The cyclical fluctuations could be greatly remedied, if not wholly smoothed out, if the Government would arrange about five per cent., of its normal purchases (whether warships or army stores, new buildings or repairs) on a Ten Years' Programme, to be made, not annually but out of temporary loans, wholly in the lean years of the decennium, when the unemployment index number rose about four per cent. All this should be done in the ordinary way of business, merely to give a fillip to trade just when capital as well as labour was unemployed. Trade Union Insurance should as in all the

towns of Belgium be facilitated by Government subventions. For the odds and ends of men for whom, after all these remedial measures, no situations could be found, and who were reduced to distress, there must be no question of Relief Works, which were invariably costly, wasteful and fatally demoralising. The men left idle after the twelve millions of wage-earners had found work, must be regarded as in one way or another "out of condition." They should be provided with maintenance, freely, liberally and honourably, on condition that they submitted themselves, until places could be found for them, to deliberately arranged courses of physical and technical training, filling up their whole day from morning till night. The Minority Report contained, in short, a bold scheme to secure to most of the residuum of men in distress, which was a constant phenomenon, not work but maintenance under training. This could best be done by a Government Department under a Minister for Labour.

This Minority Report is meeting with widespread public approval in all parts of the country, and among all classes and political parties.

It is thus plain that English Local Government stands face to face with an impending reorganisation which cannot fail to be full of instruction. The old principles of Bentham and Mill seem at last likely to be carried out to a logical completeness, and the growing determination of the English electors to deal with social problems—the increasing desire among all classes to suppress *la misère*—bids fair to cause the adoption of new and bold devices for preventing the very occurrence of destitution instead of merely relieving it when it has occurred. Thus, we may expect to see the Poor Law abolished, and the very idea of public assistance as such, given up in favour of the newer conception of a specialised public authority to arrest, at the outset, each particular cause of destitution (neglected childhood, sickness, unemployment, unsupported senility), and thus prevent the very occurrence

of destitution. Each specialised authority (being a committee of the one local Council) will apply treatment, not give relief; though part of the treatment will in most cases be (as in hospitals) the maintenance of the patient until he is cured.

XIV.

THE INCREASE OF THE POWERS OF THE STATE AND OF THE LOCAL AUTHORITIES IN ENGLISH EDUCATION (1850–1910).

By PROFESSOR M. E. SADLER, University of Manchester, Member of the Consultative Committee of the Board of Education.

I. *The Complex Unity of the Educational Systems of the United Kingdom.*

In preface to this paper it should be explained that within the United Kingdom there are virtually four systems of national education—the English, the Welsh, the Scottish and the Irish. No single Minister of Education superintends the whole, though the English and the Welsh systems are directed by the same Minister from one office, but with separate permanent staffs. Each of the four systems has its own history, its own problems, its own psychological background. All four systems are, it is true, affected by the fiscal considerations which determine the annual Budget in common for the whole of the United Kingdom. All four systems, though in different degrees, are affected by the balance of political forces in the Imperial Parliament. All four are sensitive to the intellectual, spiritual and economic influences which shape the source of national policy. All are somewhat connected, in the more advanced stages of instruction, by the attendance of students from the various parts of the United Kingdom at the great English Universities, at the more important technological institutions and at some of the non-local secondary schools. But in the spirit of their tradition, in the balance of their

controlling influences, and in their prevailing attitude of mind, the educational systems of the four parts of the United Kingdom are very unlike. Each system makes its characteristic contribution or contributions to the educational life of the whole of the United Kingdom. But the Parliamentary statutes under which the four systems are now carried on are so different in origin and in contents that it is an advantage, for the purposes of the present paper, to isolate the case of English educational administration from its context in Scotland and Ireland.

It will not be forgotten, however, that the political and intellectual life of the United Kingdom as a whole, and of London and other great English cities in particular, is the outcome of a variety of separate educational traditions and not the result of the educational system of England alone. In all the higher positions of British life, Scotsmen, Irishmen and Welshmen, as well as Englishmen, are found exerting great influence upon public affairs, upon the movement of thought, and in the artistic life of the country. It is characteristic indeed of British life and thought to show traces at all times of two or more concurrent and diverse tendencies. But such unity of direction and purpose as does exist is the result of diversity of national temperament in education, half fused into a higher national unity.

In this paper, therefore, unless expressly stated to the contrary, the English problem alone will be considered.

II. *The Evolution of Administrative Ideas in English Education.*

The history of English education from 1800 to 1910 falls into two periods. During the first period, 1800–1850 (or thereabouts), the present modes of State action in education had their beginnings. During the second period, 1850 to the present time, State supervision over English education has steadily increased.

In the period 1800–1850 the dominant idea was Paternalism. According to the theory of Paternalism, the governing class in the nation should superintend and (so far as necessary) subsidise or provide the kind of training, practical or literary, which is required to fit each class for its assigned responsibilities in the hierarchical system of an ancient but slowly developing society. The dominance of this idea (which can be traced back to the eighteenth century) was prolonged in England partly by the terror caused by the excesses of the French Revolution; partly by the stress of war for national existence; partly by the devotion of the clergy of the Church of England (who threw themselves into the work of popular education with great benevolence and energy, but in close alliance with the landed interest); partly by the inbred distrust of governmental action which was strong in the middle classes; and partly by the immense confusion, social and economic, produced by the Industrial Revolution. The period 1850–1910 falls into two divisions. The first is from 1850 to 1884–88. In this period, the dominant idea was non-authoritarian liberalism, the most strenuous advocate of which was John Stuart Mill. This theory looked for the attainment of social justice and stability through the free play of educated personalities under conditions of industrial freedom, with proper organs of central and local administration, limited in power and representative in the main of the middle or professional classes. In the third period, 1888 to the present day, the dominant idea has been collectivism. This desires to enforce in education and in industrial and social conditions such a minimum of well-being as will diffuse comfort, lessen the waste of physical and intellectual power caused by hurtful environment, and tend to equalise opportunity of happiness.

But in each of these three periods, the dominant idea has been accompanied in England by an undercurrent of very different tendency. In the period of legislative

Paternalism (1800–1850), the undercurrent was individualism, which accomplished the Industrial Revolution and ultimately overturned the supremacy of the landed interest. In the period of non-authoritarian liberalism (1850–1884–88), which was largely individualistic in its presuppositions, the undercurrent was the idea of association, which received its moral impetus from the revolutionary movement of 1848. In the period of collectivism (1888 to the present time), the undercurrent is the desire for intellectual and religious freedom, showing itself in resistance to any attempt on the part of established authority to induce conformity to prescribed beliefs, and also in a passion for self-realisation which is conspicuous in the movement for a change in the political status of women.

Thus the foundations of each ideal which has in turn been legislatively and administratively dominant in England have been undermined by an opposite tendency which represents the other side of the truth. It is characteristic of England, and is one cause of her continuous stability through perilous change, that at no part of the nineteenth century have the upholders of the then dominant ideal attempted to repress its opposite, or failed to leave safety-valves for its relief in legislation and in administration alike.

III. *The Balance between Central and Local Government.*

Since 1850, Governmental inspection, subsidy and influence have steadily gained ground, slowly at first, but of late years with acceleration of speed, in practically all grades of instruction. But there has been no one-sided development of centralisation. Local authorities have been established, partly as a necessary counterpoise to Departmental authority, but mainly as an indispensable part of any mechanism of public supervision and control. The power of effective criticism upon the action of the

central and local authorities has also been increased, partly through the more representative character of Parliament, partly through the accessibility of the press, and partly through the strengthening of sectional associations which are wealthy enough to challenge any unwarranted exercise of power on the part of the central and local authorities and to bring disputed questions of principle before the Law Courts. There have been signs of a desire on the part of one or two central Departments (especially during recent years) to develop *droit administratif* and to constitute themselves the final court of appeal in some disputed questions of principle. But this tendency has not so far been successful in Parliament or popular with the public.

IV. *Summary of Principal Measures and of Acts of Governmental Policy which have developed the Control of the Central and Local Authorities in English Education since* 1850.

1850. Appointment of Commissions of Inquiry into the Universities of Oxford and Cambridge.

1851. Evening Schools first subsidised by Government.

1852. Parliamentary grants made on a new principle to provincial schools of art.

Department of Practical Art established by Government (a Normal School of Design had been established by Government in 1836, and Provincial Schools of Design in 1841).

1853. Establishment of a Department of Science by the Government.

Passing of the Charitable Trusts Act providing means for securing the due administration of Charitable Trusts and for the more beneficial application of charitable funds in certain cases.

1854. Act of Parliament for the reform of the University of Oxford. Religious tests removed from Matriculation

and the Degree of B.A. (except in Divinity). Reform of the administrative organisation of the University.

1855. Denison's Act enabled Boards of Guardians to pay school fees for the children of parents who were receiving outdoor relief.

In this year, the Minutes of the Committee of Council on Education since 1833 (administrative orders which, when approved by Parliament, have the force of law) were first published in a collected form and in chronological order. This was the beginning of the code for Elementary Day Schools.

1856. Establishment of the Education Department, by combination of (*a*) the Education Committee of the Privy Council with (*b*) the Science and Art Department.

Act of Parliament for the reform of the University of Cambridge. Religious tests abolished, except in Divinity, for all degress at the University.

1857. Parliamentary grants to reformatory and industrial schools extended.

Industrial Schools Act. (Between 1854 and 1857, forty-four reformatory schools were certified in England).

1859. First payment of Parliamentary grants in aid of the training of teachers of science.

1860. Certificates of educational proficiency required from boys between ten and twelve employed in mines.

Certain judicial powers given to the Charity Commissioners.

In this year, the Minutes and Regulations of the Committee of Council on Education (Education Department) were first reduced into the form of a code issued under the authority of Parliament. This Code of Regulations for Elementary Schools, which has the force of law, has been regularly issued ever since, and is now an annual publication.

1861. First general Governmental examination of pupils in science subjects. Grants paid in respect of results.

Mr. Lowe's Code, which changed the basis of Parliamentary grants to elementary schools, making them depend upon the results of individual examination of the scholars.

1861–64. Royal Commission of Inquiry into the Great Public Schools (higher secondary schools) for boys.

1864–67. Royal Commission of Inquiry into Secondary Schools (of middle grade) for boys and girls.

1868. Public Schools Act, reorganizing the government of the great Public Schools.

1869. Endowed Schools Act, establishing the Endowed Schools Commissioners (a body which was transferred to the Charity Commissioners in 1875), and laying the foundation for the reform of English secondary education.

1870. Elementary Education Act, establishing School Boards, elected by popular vote, in districts where voluntary effort was inadequate to provide the necessary school accommodation. This Act was the foundation of the modern system of local administration in elementary education. Its aim was to supplement voluntary effort by collective action.

School Boards allowed to raise a local rate.

In districts where no School Boards were set up, School Attendance Committees were established.

1871. Universities Tests Act, abolishing all religious tests at Oxford and Cambridge, except in Divinity.

House of residence for women students opened at Cambridge. This became Newnham Hall in 1875, and Newnham College in 1880.

1872. Establishment of Girton College for women. Moved in 1873 to Cambridge.

Establishment by the Government of organised science schools under the Science and Art Department. This was the beginning of the movement for the establishment of *realschulen* in England.

1875. System of payment by results in elementary schools began to disappear.

1878. Lady Margaret Hall for women established at Oxford.

1879. Somerville Hall (now Somerville College) for women established at Oxford.

1880. Elementary Education Act compelled all School Boards and School Attendance Committees to pass bye-laws requiring attendance at elementary schools. Complete attendance at school required in the case of all children under ten years of age.

1886. Royal Commission of Inquiry into the working of the Elementary Education Acts in England and Wales. The recommendations of this Commission led to the raising of the school age to eleven, to the improvement of evening schools, to the compulsory teaching of drawing to boys in elementary schools, and to the foundation of undenominational day training colleges for teachers.

1888. Local Government Act established County and County Borough Councils in every part of England and Wales.

1889. Technical Instruction Act, giving the new County and County Borough Councils the power of aiding technical (and, incidentally, certain forms of secondary) education.

1890. Local Taxation (Customs and Excise) Act, assigning to the County and County Borough Councils a large share of Parliamentary funds which might be devoted to the purposes of technical education.

1893. The age for total or partial exemption from attendance at an elementary school raised to eleven.

Elementary Education (Blind and Deaf Children) Act.

Complete revision of the grants to evening schools. Attendance of persons over twenty-one years of age recognised for Parliamentary grants. Adult education in evening schools definitely recognised by Government.

1895. Reorganization of the organized science day schools. Compulsory provision of literary instruction, combined with the science curriculum.

1897. Act of Parliament, granting Parliamentary aid to voluntary schools not provided by a School Board.

Act of Parliament, giving special grants to elementary schools under School Boards in poor districts.

Payment by results in public elementary schools finally abolished.

1899. Further legislation raising the age of exemption from elementary school attendance.

Board of Education Act, unifying the Elementary Education Department, the Science and Art Department, and the educational side of the Charity Commission. Establishment of Consultative Committee to advise the Board of Education.

Elementary Education (Defective and Epileptic Children) Act.

1900. Elementary Education Act allows school authorities to raise the age of compulsory attendance from thirteen to fourteen.

1902. Education Act, abolishing School Boards and School Attendance Committees and handing over their duties to the County Councils and the County Borough Councils, with special provision that Councils of non-county boroughs with a population of over 10,000 in 1901, and Councils of urban districts with a population of over 20,000 in 1901 should have the powers of a local education authority in their district so far as elementary education is concerned. Each Council is required to constitute by scheme an Education Committee. The Act recognises two classes of schools, viz., those provided by the local authority and those not provided by the local authority. The first are called Council Schools; the others, Voluntary Schools. In the event of the local education authority failing to fulfil any of their duties under the Elementary Education Acts, or failing to provide necessary additional public school accommodation, the Board of Education (central authority) may, after holding a public inquiry, make such order as they

think necessary or proper for the purpose of compelling the local authority to fulfil its duty. Any such order may be enforced by the Courts of Law. With regard to higher education (*i.e.*, all education above the grade of elementary) the local education authority is required by Statute to consider the educational needs of its area and to take such steps as may seem to it desirable, after consultation with the Board of Education, to supply or aid the supply of education other than elementary and to promote the general co-ordination of all forms of education. The local authorities have rating powers up to a certain limit for purposes of higher education. Their rating powers for elementary education are unlimited

1907. Education (Administrative Provisions) Act. This Act greatly increases the powers of the local education authorities in regard to the purchase or appropriation of land and as to the provision of vacation schools, play centres and other means of recreation during holidays or at other times. The Act also imposes on the local education authority the duty of providing for the medical inspection of children immediately before or on their admission to a public elementary school. The conditions of such medical inspection are laid down by the Board of Education, and the local education authority is required to conform to such conditions as are prescribed by the central authority.

1903–10. During these years the Board of Education has issued annual regulations for secondary schools, for training colleges, and for the preliminary education of intending teachers. These regulations, which have the force of law, have worked a practical revolution in the majority of public secondary schools of middle grade, and have completely changed the plan for the preliminary training of teachers.

V.—*The Law of School Attendance in England.*

The law of school attendance in England illustrates the reciprocal action of the central and local authorities

in educational administration. Parliamentary statutes lay down certain conditions. The degree to which school attendance (beyond certain minimum limits) is enforced depends upon bye-laws adopted by the local authorities and sanctioned by the central authority. The following summary shows the present state of the law of school attendance in England.

1. With the exception named in 2° below, no child subject to local bye-laws can obtain either partial or total exemption from attendance at school under the age of twelve years.

2. If the local bye-laws contain a special provision to this effect, children may be employed in agriculture at the age of eleven provided that they attend school 250 times a year up to the age of thirteen. (This provision is practically inoperative.)

3. A child between twelve and thirteen years of age can only obtain total or partial exemption from school attendance on conditions prescribed by the local bye-laws.

4. In districts where local bye-laws are restricted to children under thirteen years of age, a child between thirteen and fourteen can obtain total exemption either (*a*) on passing the fourth standard, or (*b*) on having made 350 attendances after five years of age, in not more than two schools, during each year for five years.

5. A child between twelve and fourteen may obtain partial exemption from school attendance on having made 300 previous attendances as above. But in the view of the Board of Education this exemption can only be claimed in cases where the local bye-laws themselves contain a provision for partial exemption from school attendance.

VI.—*Summary.*

In England the State controls or influences educational work by means of action 1° through Parliament, 2° through the central Departments of Government, or 3° through

the local authorities. There is a delicate balance between these three factors. The general tendency between the years 1850 to 1910 has been to increase the powers of public authority (central and local) in all grades of education. There has been an increase in the power both of the central and of the local authorities. The main reasons why the extension of the power of public authorities in public education has met with increased acceptance are as follows :

(*a*) Conception of the community as an organism.

(*b*) Increasing recognition of the economic and political necessity of better education.

(*c*) Realisation of the interdependence of the different grades of education.

(*d*) The demand, on the part of new social classes which have risen to political influence in the community, for access to better opportunities of education.

(*e*) The convenience and necessity of public action in removing educational destitution and in lessening inequalities of intellectual opportunity.

(*f*) The influence of the example of other countries, especially Scotland, some of the British Colonies, Germany, and the United States ; also Belgium, the Netherlands and Denmark.

(*g*) Humanitarian sympathy with the needs of the poorer classes.

(*h*) Recognition of the justice of the claim of girls and women to a larger share of educational opportunity.

(*i*) The belief that improved education is a necessary factor in the better environment which will give the rising generation fitting opportunity for right development.

The influence of the biologists (especially Weismann and his followers) has been strong in drawing attention to the importance of environment, but the new current of thought in biology (and especially that of the followers of Mendel) is modifying this influence.

The action of the central and local authorities in national education is from one point of view complementary; from another point of view, reciprocally corrective. Personal intimacy between (*a*) the leading members of the local education authorities and their permanent officials, and (*b*) members of the Government and the higher officials of the Government Departments causes a harmony of action between the local and the central bodies. The establishment of the County Councils Association and of other federations of local authorities has greatly added to the power of united action on the part of the local authorities. Broadly speaking, the central Government cannot go far beyond the limits set by local feeling, while, on the other hand, the local authorities cannot fall far below the standard imposed by the common will as interpreted by Parliament and the central authorities. The existence of the local authorities and their strong hold upon national opinion prevent the development of bureaucratic supremacy in English affairs. On the other hand, the increasing financial pressure upon the local rates points towards enlargement of Governmental subsidies, which will carry with them increased influence on the part of the central authority. Under the surface a struggle (half unconscious) is going on in England between the national and cantonal idea in national education. The clearness of the issue is confused by the existence in England of a very large number of semi-independent endowed schools and by the semi-independence of the Universities.

XV.

THE ADMINISTRATION OF THE LAW RELATING TO MIDWIVES IN ENGLAND AND WALES (MIDWIVES ACT, 1902).

By Sir Herbert George Fordham, Barrister-at-Law, Chairman of the Cambridgeshire County Council, a member of the Central Midwives Board.

(*Translated from the French.*)

Until July 31st, 1902, nothing existed in England in the shape of law or custom regulating the practice of midwives. After discussions in Parliament extending over a series of years, a general law of that date was at last passed, which extended to the Kingdom of England and the Principality of Wales.

The objects contemplated by the new law may be divided into three parts, viz. :—

(1) The creation and the maintenance always in a corrected state of a general register or roll of midwives.

(2) The setting up of a system of obstetrical examination, for diploma and registration—as from April 1st, 1905.

(3) The creation of a system of both general and local control of practising midwives.

For this purpose there has been established a Central Midwives Board, sitting in London, and the County Councils and the Councils of County Boroughs exercise local control within their respective area as local supervising authorities, through a statutory committee.

The Central Midwives Board is constituted of nine persons, as follows :—

Four medical men elected annually by three medical societies, and a society of midwives.

Two persons, of whom one must be a woman, appointed for a period of three years by the Minister charged with the supervision of the work of the Board.

One person appointed for three years by the County Councils Association.

Two persons elected by nursing societies.

The Board has a permanent staff of officials.

I.—Women are pretty generally found amongst the members of the local committees. Through these committees and their travelling inspectors, who are generally women holding a medical degree, or a diploma in midwifery, a constant control of the registered midwives practising in each district is enforced. Where this system works in its most complete form, lessons in the duties of maternity, on domestic hygiene and on the practice of obstetrics are given ; regular visits are made, and detailed reports on the maternity of the district are prepared. By these methods, and by enforcing the rules under which midwives are obliged to keep a register in detail of every birth, to note any serious abnormal circumstance which occurs, and to notify immediately to the local authority and to the persons in charge of the mother the necessity if it arises of calling in medical assistance, local control of a very complete kind is set up. Above all, an endeavour is made to combat puerperal fever, and blindness in the newly-born, the two most serious evils attending on maternity.

II.—The Central Board has as its first duty the setting up of the roll of midwives, which consists of two classes of women, that is to say those admitted up to March 31st, 1905, as possessing prior to that date one or other of a variety of diplomas, or as women of good character in

practice of midwifery for at least a year (these admissions having terminated on the date mentioned), and those who have since obtained the diploma of the Board after the prescribed training and examination.

In the first category there were registered on March 31st, 1905, 22,308 women, of whom 9,787 had a diploma. From April 1st, 1905 up to the examination of December 13th, 1909, the additions to the roll have numbered 7,688, all of whom possess the diploma of the Board.*

On the other hand, from the original roll have disappeared already a number of names through death, by resignation, and as the result of penal proceedings before the Board on charges of misconduct, or breach of the rules, these removals occurring for the most part amongst the women without training, often advanced in years, and feeble or incapable of adapting themselves to the new system. The second duty of the Board has been that of drawing up a large number of regulations controlling the practice of midwifery, settling the system of training and examinations, putting in form the work of the Board itself, and its methods of business, and particularly for establishing an efficient method of judicial and penal supervision of midwives.

Later the Board appointed a permanent Board of Examiners (including a certain number of women) to which is assigned the duty of holding regular examinations in London and at a number of provincial centres, and of fixing the standard of knowledge to be reached in order to obtain a diploma and admission to the roll.

The training both practical and theoretical, which must be received by candidates before they are allowed to sit for examination, is also prescribed and controlled by the Central Board, which publishes from time to time

* It is not possible to say exactly what is the number of registered midwives who practice habitually in their profession at any given time. According to the official estimate, it certainly does not now exceed 15,000.

official lists of the obstetric hospitals and medical men allowed to train pupils in midwifery, and of the persons qualified to sign the certificates of training.

The judicial functions of the Central Midwives Board remain to be considered. The Board holds, under its rules, a kind of criminal assize to investigate charges against midwives, of breach of rules, and of misconduct of various kinds, at which sittings the Clerk of the Board presents the case against the accused, who is cited to appear, with full notice of the charges and of the evidence to be adduced against her, and who can defend herself in person, and call witnesses, or appear by counsel or solicitor.

The judgment of the Board varies, according to their findings of fact, between removal from the roll, more or less severe censure or caution, and the exoneration of the accused.

The revenue of the Board is derived in the first place from fees paid on admission to the roll, and upon entry for examination, and from sales of the roll of midwives and other official papers, and secondly from the proceeds of an annual levy, based on the number of midwives practising in each district, and paid by the local authorities,

Taken as a whole, this new system works well, although, in the experience gained up to the present a certain number of amendments of the law of 1902 have been noted as necessary and now await Parliamentary sanction.

Naturally I have attempted in this statement of the situation to bring out only the more striking points of the administrative system. It is evident that if the whole subject is studied in detail, a great number of matters of interest, small and large, can be found which have numerous relations with the general study of the public health.

XVI.

THE SYSTEM OF LOCAL GOVERNMENT ADMINISTRATION IN COUNTIES IN SCOTLAND.

By Thos. Munro, County Clerk, Lanarkshire.

The primary object of this paper is to give a short account of the system of local government administered by county councils in Scotland.

There are, however, certain matters of local government with which, though not directly under their control, the county councils have intimate relations and to which a brief reference is therefore necessary.

There may be said to be three administrative units in Scotland, namely: (1) counties, (2) burghs and (3) parishes. In certain cases and for certain purposes, as is hereafter pointed out, counties and parishes may respectively be sub-divided or conjoined. Again certain burghs are for specified purposes deemed to form part of the counties in which they are situated.

For local government purposes there are in Scotland 33 counties, 205 burghs and 887 parishes.

Many of the counties are sparsely populated, though the most populous, which includes the City of Glasgow, has a population of over 1,460,000. The population of the burghs (which include cities) ranges from 317 to 775,561, and of the parishes from under 100 to over 500,000. Burghs are divided into (1) royal, (2) parliamentary and (3) police, but except where it is necessary to explain the relations of the county council to the respective classes of burghs, the distinctions are not pertinent to the purpose of this paper.

County councils in counties and town councils in burghs are each entrusted with what may be termed the administration of "municipal" government. Parish councils administer the poor law in their respective parishes and as is afterwards pointed out have a voice in the administration of municipal government in counties.

Elementary education is administered by School Boards whose unit of administration is generally the parish, a sub-division of the parish, which is competent in the cases of those partly burghal and partly urban, being now rare.

All the bodies referred to are popularly elected, the electors being practically the same in each case. Parish councils are elected along with county and town councils, each elector being entitled in all three cases to vote for only one candidate and to give only one vote. School Boards are elected by the same electors as parish councils, and on a different date, but the system of voting, which has been much questioned, is cumulative, that is, each elector has as many votes as there are members to be elected and may distribute them as he chooses.

The following matters of local government are administered by bodies not appointed by direct popular election.

1. *Licensing Courts and Courts of Appeal for granting Certificates for Sale of Intoxicating Liquors.*

Licensing Courts of the first instance and Appeal Courts are constituted by the appointment for a county district which, in the discretion of the county council, may be the whole county or parts thereof, of an equal number of representatives of (1) the county council, and (2) the Justices of the Peace for the county—a body to which reference will be made hereafter.

In burghs the Licensing Courts consist of the Magistrates of the burghs who are appointed by the town council, and the Courts of Appeal consist of an equal number of

Magistrates of the burgh and representatives appointed by the Justices of the Peace.

2. *Lunacy Boards.*

The Lunacy Boards, in whom are vested the duties of establishing and maintaining asylums for the treatment of the insane, are constituted by the appointment of representatives by (1) county councils, and (2) town councils. The proportion of representation to which each authority is entitled is based generally on the valuation of its area.

A Lunacy District is generally a fairly extensive one, and in some cases includes several counties and the burghs therein.

As will be seen from the short resumé that has been given, such matters as Poor Law, Education, Lunacy, and to some extent Licensing are dealt with by public bodies who exercise an independent or quasi independent jurisdiction in the areas which for municipal purposes are under the jurisdiction of county and town councils respectively. Except for these powers practically all other matters of Local Government are performed by county and town councils in their respective areas.

Broadly speaking the distinction between the administration of county and town councils is that one is "Rural" or "Non Burghal" and the other "Urban" or "Burghal." The second alternative description is in each case the more accurate as there are many towns which are not burghs which can in no sense be considered "Rural," and which exceed in population and importance many places which are under the Burghal system of government.

It is not within the purview of this paper to deal with the Burghal system of government, and accordingly the system of Local Government by county councils now falls to be examined.

Powers and Duties of County Councils.

Of the total population of Scotland at the census of 1901, viz., 4,472,103 there were in burghs 2,946,348 and in counties 1,525,755.

Of the population of 1,525,755 in counties it is estimated that 667,000 reside in non-burghal towns or villages of 300 and over. The largest town or urban community not under burghal government has a population of about 30,000.

The problem of Local Government in counties in Scotland is a difficult one, for it has to deal with two classes of the community who, while they have some interests in common, have many that necessitate differential treatment. The solution of the problem which the series of Local Government Acts extending from 1889 to the present date has attempted, and it is submitted successfully attained, was based upon a long series of older enactments whose root idea may fairly be stated to have been the recognition of the fact that in a community which from its nature in being partly rural and partly urban called for differential treatment as regards its requirements and consequential taxation, it was desirable that the expense of matters that were common should be contributed to by all; but that where particular or local necessities existed the expense of their provision should be exacted only from the area directly benefiting, and should not be charged on any part of the administrative area which derived no direct advantage from them.

The scheme of local government in counties had accordingly to be elastic. Its broad lines are as follows:

In each county a county council is elected triennially on a franchise which permits of practically every ratepayer, male and female, including Peers, having a vote and being elected a member. The electoral divisions are so arranged as to secure that every part of the county according to its interests has due representation. All

police burghs form part of the county, and the electors therein vote for representatives on the county council, each police burgh containing at least one electoral division. Provision is also made for the representation of all burghs within the county of under 7,000 inhabitants, and of other burghs in certain events such as their being policed by the county. These representatives are elected not by the ratepayers of the burgh but by the town council. In the county council and district committees all representatives of police or other burghs vote only on matters which affect the burgh which they represent.

To the county council is committed in the first instance the administration of all matters of local government excluding lunacy, education, and poor law administration and the control of the licensing of premises for the sale of intoxicating liquors. As regards these matters, excepting the poor law, the county councils have, however, an indirect interest, as they are called upon to appoint quotas of the lunacy boards, the licensing courts and the committees on secondary education.

The main matters which they directly administer are police, public health including water supply, drainage, control of infectious disease, hospitals, erection of buildings for human habitation, provision of slaughter houses, meat inspection, milk supply, roads, lighting, cleansing, fire brigades, diseases of animals, valuation of lands, the treatment of inebriates, weights and measures, rivers pollution prevention, food and drugs, registration of voters, explosives, etc., etc.

All counties containing six or more parishes are required to be subdivided into districts called local government districts. In such districts there is formed a district committee composed of the county councillors for the particular area with one representative of each parish council in the district. The district committee so constituted is deemed to be the local authority under the Public Health Acts and also as regards lighting and scavenging and the

management and maintenance of roads and bridges, there being reserved to the county council questions affecting the acquisition and holding of land and the imposing of a rate in connection with matters so demitted. The county council remain the authority in whom the highways or public roads and streets are vested and they have important duties under the Highways Acts. It is also to be noted that, notwithstanding the demission of powers under the Public Health Acts after referred to, the county council is constituted a sanitary authority. In this important respect county councils in Scotland differ from those in England.

A district committee must conform to general regulations made by the county council for the government of the committee and the regulation of its quorum and proceedings and must report its proceedings to the council. Ratepayers may appeal to the county council against a decision of a district committee in every case except the removal of a nuisance and the formation of a special drainage or water district, but in the latter two cases there is an appeal to the sheriff or county court Judge.

There is a further step of devolution, for while the district committee directly administer matters that are of common interest to the area over which their jurisdiction extends, such as roads, public health including the provision of hospitals and the control of infectious diseases, building regulations, inspection of cowsheds, dairies, etc., the administration of the more local necessities of water supply, drainage, lighting and cleansing and the provision of public baths is devolved upon local sub-committees composed of representatives of the district committees and inhabitants of the area affected and on which are included representatives of the parish councils as co-opted members.

These local sub-committees act within areas which are formed mainly at the initiative of the inhabitants for any or all of the purposes of (1) water supply, (2) drainage, (3)

lighting, (4) cleansing and scavenging, and (5) the provision of public baths. The ordinary procedure in the formation of such districts is that the ratepayers represent to the district committee the desirability of the formation of such a district. After public intimation in the newspapers the district committee resolve on the expediency of forming the district, delimit the boundaries and publish their determination. Thereafter they report their resolution to the county council, to whom in certain cases a direct appeal at the instance of ratepayers lies. Further, any ratepayer may appeal to the sheriff against the formation of the district.

The important fact to be noted in connection with these special districts is that they afford a very simple and expeditious method by which a community which desires to improve the sanitation of their town or village or provide further conveniences of local administration can accomplish this at their own initiative and without calling into existence any expensive municipal machinery. Further, the improvement sought to be effected can be gradually brought about, for it is competent to undertake any one or more of the local purposes and to add to them from time to time as necessity arises. An additional feature of the scheme of special districts is that the area to be formed may be made to vary according to circumstances. Thus it is often economical to form a wider area for water supply than for drainage, and that is taken advantage of to such an extent that frequently a very wide area consisting of several parishes is formed into a water supply district with corresponding efficiency and economy. The extent to which this system of local administration has been taken advantage of is shown by the fact that there are about 400 such special districts in Scotland.

Once a special district is formed, the initiation in all questions affecting it is with the local sub-committee subject to the review of the district committee, while the

county council controls matters of the acquisition of land, the raising of money by rate or loan for the purposes of this special district.

A feature of the system is the provision which it affords the community for voicing its requirements. *First*, the county council is itself a popularly elected body; *secondly*, the members of the district committee being members of the county council and the parish council are also popularly elected; and, *thirdly*, the members of the local sub-committees consist of members of the district committee with added members of the parish council.

The scheme of county government therefore resolves itself in practice into this :

First, the county council has direct control of matters which the county has in common, such as police or constabulary arrangements, diseases of animals, valuation, registration of voters, weights and measures, title to lands and property, and the imposition and recovery of rates, etc.

Second, the district committee controls directly such matters as roads, and the administration of the Public Health Acts as regards their application to infectious diseases, etc.

Third, the local sub-committee administers such local matters as water supply, drainage, lighting, etc.

The relations of these several bodies to each other is intimate. For instance, while the district committee have the duty of maintaining the roads, no new road or bridge can be constructed except by or with the consent of the county council who must also approve of the proposals of the district committees as regards annual expenditure. The county council is also the authority in all questions affecting land and the raising of rates and it furnishes the district committees with the funds necessary to carry out their duties, and those of the local sub-committees. The estimates of the district committees and through them of the local sub-committees require to be approved of

by the county council annually. Everything excepting routine matters of administration that the district committee or its local sub-committees propose to do requires in effect to be submitted to the county council.

The local sub-committees again require to report to and are subject to the control of the district committees.

There is also a further check on the county council, the district committees and the local sub-committees by the intervention of a body called the standing joint committee which is composed of members elected equally by the county council and the commissioners of supply (a body that is representative of the owners of property in the county) with the sheriff of the county. To this committee have to be submitted all questions which affect the construction of capital works or works which involve the raising of loans. Their decision is final and not subject to review.

The county system of Local Government has therefore three great merits: (*a*) it is elastic and permits of the freest expression of local initiative combined with the over power of the county council or district committee to compel, if cause exists, the provision in localities which call for it of proper sanitation and conveniences of local government; (*b*) it secures that the smallest locality has at its call the advantage of the experience of the larger body whose permanent officials are at the disposal of the local sub-committees as advisers, and (*c*) there is an adequate system of check upon ill-advised schemes: (1) through the power of the county council to regulate expenditure, and (2) by the control of the standing joint committee. The advantage of the system is great, for it is obvious that a large body such as the county council and the district committee must in carrying out schemes already in operation have acquired experience which is brought to bear upon new proposals emanating from areas which it is intended to form into special districts. New ideas can be put in force in the new districts and if these

prove successful they can again be applied in existing districts.

The system may be illustrated by two examples showing its operation in (*a*) a rural and (*b*) an urban area.

Area (*a*) is a typical county parish. It contains no populous place of any considerable size, but consists of agricultural or pastoral land with scattered dwelling houses, and a few small hamlets. Its requirements are therefore mainly adequate police protection, good roads, including foot paths where necessary, provision for dealing with infectious diseases should these occur, and such general matters of Local Government as purity of milk supply, regulation of the erection of buildings for human habitation, the inspection and control of sanitation removal of nuisances, the control of cattle disease, etc. These are provided by the county council or the district committee, the area being only rated wth the rest of the county or district for these matters alone. The necessities of the area being accordingly few, the taxation is correspondingly light.

Area (*b*) is a town of about 20,000 inhabitants. In so far as it forms part of the district in which area (*a*) is also situated it is provided with the same general conveniences as exist for that area and pays the same rate of taxation. In addition however it requires water supply, drainage, including sewage purification works, lighting and scavenging of streets, etc.

These objects are attained by the formation of special districts for water, drainage, lighting and scavenging. The primary control of these matters lies with the local sub-committees constituted as before mentioned. They resolve upon what is required in the locality, holding regular meetings for this purpose. Their minutes are reported to the district committee who can veto any of their proposals. If they desire to expend money on capital works, these after being approved by the district committee require the sanction of the standing joint

committee and the county council, who arrange the loans and provide the funds for annual maintenance.

In the particular area given as an example the various objects have been satisfactorily accomplished. The water supply is by gravitation and is ample, the drainage is thoroughly efficient, lighting is partly by gas and partly by electric light from a station erected and managed by the county council and district committee acting jointly, the scavenging is on the daily system, the refuse being disposed of in a fully equipped refuse destructor. Most of the streets have been well laid with granolithic pavements. A fully equipped fire establishment is stationed in the near vicinity of the area. Taxation for the generality of these local conveniences is limited to the area is question.

That the scheme has worked well in practice is evidenced by the admitted improvement that has taken place in all matters of Local Government in Scotland since the institution of county councils in 1889.

In short, a county council which recognises and performs its functions has the fullest power of providing a service that permits of its meeting adequately the comparatively few requirements of its rural and scattered population and providing for its concentrated or urban population everything that such a population requires as fully as if it was under burghal government, with the advantage that while such an urban population has a great deal of initiative it has at its call the experience of the larger body and is taxed only for its own necessities.

What has been said gives a general idea of the system of Local Government in counties in Scotland. It may be of interest to refer to one or two additional points of interest in relation thereto.

Rates.—The county council is the sole rating authority for all the purposes indicated. It imposes the rates once a year on estimates which include, after revision by the council, the requirements of the district committees and

the local sub-committees. The necessary rates are levied either on (1) the whole county, (2) the separate districts, or (3) the special districts according to the system above set forth. The produce of the rates is either (1) expended by the county council on the matters which they directly administer, or (2) is paid on the requisition of the district committees for (*a*) the purposes which the district committees administer or (*b*) which the local sub-committees deal with.

With the exception of a rate called the "average rate" fixed on the basis of the rates paid solely by owners of property at the date when county councils were first constituted and which still remains a burden on owners only, all county council rates are paid by owners and occupiers in equal proportions and on the gross valuation, as the system of allowing deductions in respect of different classes of property no longer prevails in counties, with the exception of the occupiers rates on agricultural lands or heritages which are assessed on 3*s*. 8*d*. of the gross valuation.

With the following exceptions the rates levied by the county council may be unlimited in amount. The exceptions are:

1. The public health rate for general purposes is limited to 1*d*. in the £.

2. The special sewer assessment and the special water assessment is limited to 3*d*. in the £, but the Local Government Board for Scotland may on cause shown authorise an increase in such rate to an extent approved by them.

3. The rate leviable in special districts for the purpose of lighting, cleansing, and public baths is limited to 9*d*. in the £, but on cause shown the county council with the approval of the Local Government Board may authorise an increase in this amount.

The county council may, if the parish councils so desire, be required to collect the poor and school rates or alternatively the county council may arrange with the parish council to collect the county rates.

Valuation.—All lands and heritages are valued by assessors appointed by the county council. These may be either the government lands valuation surveyors, or independent officers. In the event of the former being employed the expense is borne by the Imperial Exchequer. In either case a valuation roll is made up for the whole county in which are distinguished the several rating areas.

The valuation roll is the sole basis for the assessment rolls for all local rating authorities such as the county council and the parish councils and also the town councils of all police burghs.

Audit.—The audit of the accounts of a county council, including those of a district committee, is carried out by an auditor appointed by the Secretary for Scotland, and his salary when approved by the Secretary for Scotland is paid by the county council. The auditor has ample powers of surcharge under which individual members of the county council, or the district committees, or their officials, may be held personally liable for any expenditure not authorised by the statutes.

Borrowing.—Subject to the consent of the standing joint committee the county council may raise loans on the security of the rates to any amount. No central authority in the generality of cases requires to be consulted or to approve of such loans. There are exceptions where, in connection with special acts of Parliament, Government Departments such as the Scottish Office or the Local Government Board have a power of control, and also under the Electric Lighting Acts the amount to be borrowed must receive the approval of the Board of Trade.

Joint Committees.—Any county council may join with another county council or with the town council of a burgh in appointing a joint committee for any purpose in respect of which they are jointly interested. To a joint

committee so constituted may be delegated any or all of the powers of the constituent authorities except the power of raising money by rate or loan. This is a most useful provision, and a fuller adoption of its principle would in many cases be of advantage in the interests both of efficiency and economy, as there are many matters of common interest (*e.g.*, water supply, gas, electric lighting, &c.) which might be better administered by a combination of local authorities than by individual authorities the areas of whose jurisdiction are often arbitrary having regard to the interests of the general community.

County Medical Officers and Sanitary Inspectors.—The county system of Local Government provides for the appointment of medical officers and sanitary inspectors, who hold the dual appointment of officers under the county council and the several district committees, the latter bodies being in the main the administrative authorities under the Public Health Acts. This provision has been almost universally adopted with excellent results as regards the promotion of the public health and sanitation. It secures uniformity of practice and permits of the establishment of a thoroughly efficient staff. The medical officers and sanitary inspectors are in the general case not removable from office except with the consent of the Local Government Board, a provision that secures that these officers are free to exercise their important duties with independence.

Relations to Burghs.—It should be added that as regards general administration the county council has certain relations with the burghs and police burghs in the county :

(1) They may administer the roads in all burghs, if the town councils so desire.

(2) They are the authority as regards the provision of a police force and the authority under the Diseases of Animals Acts in all burghs having a population under 7,000.

(3) They are the administrative authority in regard to various matters such as the diseases of animals, registration of voters, valuation purposes, &c., in all police burghs irrespective of population.

In respect of these services the county council are recouped by royal and parliamentary burghs by annual contribution from the town councils and as regards police burghs they assess the ratepayers therein direct, the areas of the police burghs for these purposes being deemed to form part of the county and, as has been said, being represented directly on the county council.

The attached abstract has been prepared by way of explaining in a simple way the scheme of county government in Scotland.

ABSTRACT.

(1) *Royal and Parliamentary Burghs* (most of which are of old creation).

Administration of all municipal affairs (exclusive of: (1) Education (2) Poor Law, and (3) Lunacy).

Exceptions.—In Burghs of populations under 7,000 the County Council administer (*a*) the Police Force, and (*b*) the Diseases of Animals Acts.

(2) *Police Burghs* (which are of more recent creation). Administration of all municipal affairs as in Royal and Parliamentary Burghs, subject to the same exclusions and to the following additional exclusions: (1) Diseases of Animals Acts (2) Valuation, and (3) Registration of Voters and a few other miscellaneous matters which are administered by the County Council.

(3) *County Councils* with (1) District Committees, and (2) Local Sub-Committees; Administration of all matters of Local Government in Counties with exception of Licensing, Education, Poor Law, and Lunacy.

(4) *Parish Councils.*—Poor Law, Burial Grounds, Public Rights of Way, &c.

(5) *School Boards.*—Education, Elementary and Secondary: (*a*) County and Burgh Secondary Education Committees. Co-ordination of Secondary Education within their respective areas, and (*b*) Provincial Committee; the Training of Teachers.

(6) *Lunacy Boards.*—Administration of Acts relating to the Insane.

(7) *Licensing Courts and Courts of Appeal.*—The granting of Licences for the sale of intoxicating liquors.

XVII.

THE NATIONAL SYSTEM OF EDUCATION IN SCOTLAND.

By George W. Alexander, M.A., formerly Clerk to the Edinburgh School Board.

In the sense of provision based on legislative enactment Scotland has enjoyed a national system of education since the Reformation.

The landowners were required to provide a school in every parish and contribute to the salary of the teacher. The accommodation thus supplied was supplemented by the churches and by other voluntary agencies, and in 1833 Scotland began to share the education grants voted by Parliament.

The present system, however, dates only from 1872, when Parliament passed an Education Act for Scotland, which though frequently modified or extended still forms the basis of the administrative arrangements.

I. Central Authority.

The central authority consists of a Committee of the Privy Council presided over by the Secretary for Scotland, acting as Vice-President of the Council. This Committee is composed mainly of Members of the Government and consequently changes with each change of Government. Though in theory the Committee has charge of education in Scotland, in practice the Secretary for Scotland is the responsible Minister of Education and is the political head of the Scotch Education Department. The office may be held either by a member of the House of Lords or by a member of the House of Commons.

When it is held by a Peer, education so far as the House of Commons is concerned is placed in charge of the Lord Advocate, the principal law officer for Scotland.

The chief executive officer is the Secretary of the Scotch Education Department, who as a member of the Civil Service holds office irrespective of political changes and acts as permanent head of the Department. With him are associated a large administrative staff and also a staff of Government Inspectors. The headquarters of the Department are in London with an office in Edinburgh under the charge of an Assistant Secretary. The Inspectors are distributed over Scotland, which for purposes of inspection is divided into four divisions in charge of a Chief Inspector, each division in turn being divided into several districts in charge of an Inspector assisted according to the size of his district by Junior Inspectors or Sub-Inspectors.

The Education Department initiates most of the legislation dealing with education. Though it is open to any Member of Parliament to bring forward an Education Bill, no such Bill would be likely to pass unless the Department signified approval of it. It is also the business of the Department to see that Education Acts passed by Parliament are carried out. Many of the Acts empower the Department to issue regulations on matters that may require to be dealt with annually or at periods more frequent than it would be possible to do in Parliament. All such regulations are embodied in Minutes of the Department which after being submitted to Parliament have the force of law. Examples of these Minutes are the Code of Regulations for Day Schools, that for Continuation Classes, Regulations for the Training of Teachers, etc. Acting through machinery of this kind the Department distribute to school managers the amounts of money assigned by Parliament for the purposes of education in Scotland. This power of the purse is no doubt a great one, but it should be remembered

that while an Education Bill or Minute is before Parliament all interested have an opportunity of offering criticism, and public opinion here as elsewhere makes itself duly felt. The Department is responsible for the inspection of Secondary Schools in receipt of Government grants and conducts annually an examination for Intermediate and Leaving Certificates in connection with the intermediate and secondary schools of Scotland. Many private Schools not in receipt of grants avail themselves voluntarily of this inspection and examination. The Department also takes charge of the training and certification of teachers and a scheme for their superannuation. Further, it is the central authority for technical instruction of every kind. In a word, the Department may be said to have general and effective supervision of all schools other than private schools and schools of a correctional character and to be responsible for all grades of education under the level of the Universities. The estimated expenditure of the Department for the current year is £2,132,000, of which £2,068,000 are for grants to schools, and £64,000 for administration and inspection.

II. Local Authority.

The local education authority in Scotland is the School Board elected in each parish or burgh, though in some cases two districts combine to have one Board.

An election is held every three years and subject to payment of poor rates for houses under £10 of annual value all owners or occupiers of property, including occupiers of houses in virtue of employment, and lodgers in rooms of not less than £10 of annual value, are entitled to vote. The number of members to be elected varies from five to fifteen according to the population of the district, but since 1908 the number of fifteen may be exceeded with the approval of the Scotch Education

Department, and the Edinburgh School Board has twenty-one members. There are 970 School Boards in Scotland and the population of their districts varies from 98 to 623,000 and their schools from one to (in Glasgow) over 80. The total population of Scotland at the last census (1901) was 4,472,103.

A School Board has to do with all kinds of education excepting University education, and the principal duties are the following :

(*a*) *Supply of Schools.*—A School Board must provide primary school accommodation for every child of school age (that is of five to fourteen years of age) in the district. In doing this they are entitled to take into account any school not managed by them, but if any school of this kind were closed the Board would be obliged at once to provide for the children who had attended it. A Board may also make such provision as the locality requires for the education of pupils beyond the age of fourteen and may for this purpose erect intermediate or secondary or technical schools. The plans of all schools must be approved by the Scotch Education Department if Government grants are to be claimed and the Department must also be satisfied with the equipment. The cost of site and building may be met by a loan, repayment of which may be spread over a period not exceeding fifty years. In order to obtain sanction for such a loan from the Department the cost of the building, exclusive of site and any rooms of a special kind, should not as a rule exceed £12 per scholar accommodated.

(*b*) *Appointment of Teachers.*—The Scotch Education Department prescribe the qualifications for all teachers in State-aided schools and the amount of teaching staff required. Beyond this, a School Board has full liberty in the appointment, remuneration and to some extent the superannuation of teachers. Until 1909 Boards had, subject to certain rules of procedure, unlimited power of dismissal, but teachers dismissed have now a right of

appeal to the Scotch Education Department, who may, if they consider the dismissal not justified, ask the Board to reinstate the teacher, and failing this may require compensation up to the amount of one year's salary to be paid by the Board to the teacher.

(*c*) *Enforcement of Attendance.*—It is the duty of a School Board to see that every child between five and fourteen years of age, residing in the district, is receiving education. Special officers are employed to look after absent and irregular children and Boards have power to summon defaulting parents before them and if not satisfied with the reasons given for neglect of education to order prosecution. A fine of any amount up to 20*s.* with expenses also up to 20*s.* may be imposed, with imprisonment in case of the fine not being paid. Boards have power to exempt children over twelve from further attendance at day schools on such conditions as they see fit. Generally speaking exemption is only granted where the parents are in very necessitous circumstances and on condition that the child is going into beneficial employment and will attend Continuation Classes. In cases of exemption, attendance at Continuation Classes may be exacted until the age of sixteen is reached.

School Boards have also power, if they see fit, to frame byelaws requiring the attendance of young persons over fourteen not otherwise receiving education, to attend Continuation Classes up to the age of seventeen. This power has been too recently granted to be exercised as yet to any extent.

(*d*) *Regulation of Juvenile Employment.*—A considerable number of children under fourteen, especially in the large towns, are employed out of school hours mainly as message boys or girls. In order to prevent the children from being over-burdened, Boards have power to frame byelaws fixing the number of hours within which employment of children will be legal. As regards children trading on the street, parallel powers are given to Town Councils. No child

under eleven can take part in any theatrical or similar performance, and no child between eleven and fourteen can do so without a licence from the School Board.

(*e*) *Medical Inspection and Care of Neglected Children.*—School Boards are responsible for the medical inspection of the children attending all the schools in their district provided that none of these schools prefers to make separate provision. In counties, as a rule, the parish School Boards are leaving it to the Secondary Education Committees referred to below to arrange a general scheme to be taken advantage of by all the parishes instead of each formulating a scheme for itself. If in the course of medical inspection or by any other means a School Board becomes aware of children who are insufficiently fed or clothed they must make provision for such children unless voluntary agencies do so. If, however, the Board is satisfied that the neglect of the children is not due to poverty or ill-health on the part of the parent they may prosecute the parent and recover the cost of providing for the children.

(*f*) *Administration of Educational Finance.*—Excluding loans representing capital expenditure for buildings the current expenditure of School Boards is met from Government grants, rates levied on rental of property, and to a small extent from school fees and endowments. The amounts received from these sources for the financial year 1907–08 were as follows :—

	£	
Government Grant -	- 1,540,510	51 per cent.
Rates - - -	- 1,351,845	45 ,, ,,
Fees, endowments, &c.	- 117,040	4 ,, ,,
Total - - -	- 3,009,395	

It will be seen that the Government and the locality share the burden almost equally.

Of the total expenditure 78·92 may be said to go for the instruction of children, 15·21 per cent. for providing

buildings, 3·80 for administration, including the enforcement of school attendance, and the balance for miscellaneous items.

The Government grants are paid in accordance with the various Codes and Regulations already mentioned, and are chiefly based on the average attendance of pupils in the schools. Once a year each School Board frames an estimate of its income and expenditure, and after taking into account the probable income from Government grants, fees and endowments, decides the amount of deficit which must be obtained from the local rates. This amount is paid, one-half by the owners of property—lands or buildings—and one-half by the occupiers, and it is collected along with the amount required for the care of the poor by the Parish Council, the local authority for poor-law administration. The school rate in the various districts of Scotland varied in 1907–08 from 1d. to 2s. 10d. per £ of rental, and the average rate for the whole of Scotland was 12·59d. per £.

III. Management of Schools not under School Boards.

Besides the schools maintained by School Boards there are a considerable number of schools carried on under special management as endowed schools or in connection with one or other of the religious denominations as "voluntary" church schools. Most of the endowed schools rank as secondary schools, and are under bodies of managers composed of representatives of Town Councils, School Boards, &c., and others appointed in terms of the original bequests, *e.g.*, the Edinburgh Merchant Company. The voluntary schools are with a few exceptions primary in character, and the great majority of them are connected either with the Roman Catholic or the Episcopal Church and are managed by committees representing the Church to which they belong, or in a few cases not connected with a Church by a committee of the subscribers

to the funds. Both kinds of schools may receive Government grants in the same way as schools under School Boards with an extra grant of 3s. per pupil in primary schools, but they receive nothing from local rates, and any deficiency in funds must be met either from the endowments or from private subscriptions. Under the Education Act of 1908, School Boards were authorised to grant school books, stationery, &c., to pupils in any school in their district, but so far this provision has been taken advantage of to a small extent. The only points in which School Boards have to deal with schools not under their own management are in looking after their attendance and if necessary providing medical inspection.

Scotland has also a certain proportion of private schools which receive no public money of any kind, but are maintained entirely from the fees of the pupils and are managed in some cases by private companies, in some cases by the headmaster as proprietor.

IV. Secondary Education Committees.

In 1892 the first special grant for secondary education became available. In order to administer it a special Secondary Education Committee was established in each county and in the six largest School Board districts in Scotland. These Committees—39 in number—consist of representatives of School Boards, Town Councils, Managers of educational endowments and Managers of intermediate or secondary schools. They have recently had their duties greatly extended and a large share of the funds available for education is now administered through them. They do not actually manage any schools but from the funds at their disposal it is within their province, subject to the approval of the Scotch Education Department, to subsidise intermediate and secondary schools, to provide a scheme of bursaries for pupils desiring higher education, to provide organising teachers and teachers of

special subjects such as cookery, manual instruction, physical training, &c., to aid School Boards to provide special schools such as those for defective children, to assist in providing additional staff for small schools and to nominate Junior Students—students commencing a course of training as teachers—for whom as well as other bursars, Committees may maintain hostels.

The Committees in a word act as intermediaries between the Scotch Education Department and the School Boards and other School Managers and hold the balance even, in counties between the various parishes, in large towns between the schools under School Boards and those not so managed.

V. Provincial Committees for the Training of Teachers.

One other education authority of a public character remains to be mentioned. Up till 1905 the training of teachers was mainly in the hands of the Churches though the expenditure was met chiefly from Government grants. In 1905, however, the Scotch Education Department took over the Presbyterian Training Colleges and the work done by local Committees at some of the Universities, and appointed a Provincial Committee at each of the University centres—Edinburgh, Glasgow, Aberdeen and St. Andrews (including Dundee)—to take charge of the training of teachers excepting in the preliminary stage. Each Committee consists of between forty and fifty members elected by the University and the School Boards in the province, together with representatives of the teachers and the Churches which had formerly managed the Training Colleges and also a Government Inspector. The expenditure is met mainly by Government grants, partly by fees, and provision is made for training all grades of teachers and also teachers of special subjects such as Art or Domestic Science. Two of the Training Colleges—one connected with the Episcopal Church and

one connected with the Roman Catholic Church—continue to be carried on apart from the Government scheme just described, but receive Government grants.

VI.—Schools for Special Classes of Children.

(*a*) *Reformatory and Industrial Schools.*—There are in Scotland seven Reformatory Schools, thirty-two Residential Industrial Schools including one specially for Truants, and six Day Industrial Schools (Schools in which children are educated and fed during the day only, returning to their homes in the evening). These schools are for children who have committed crimes or offences, or who have no proper home or guardianship, or are living in surroundings likely to lead them to a career of vice or crime, or who for any reason require greater care and stricter control than the ordinary school affords. The kind of school to which particular children are sent depends partly on age, partly on the circumstances which have brought them within reach of the law.

These schools are under voluntary management excepting one or two which are carried on by School Boards, and the majority of the schools in Glasgow which are under a special Board of Directors elected by the Town Council which has power to levy a rate up to 1d. per £ of rental to support these schools. The income of the schools is obtained from Government grants, contributions from Town Councils or School Boards, contributions from the parents of children committed, and in some cases endowments and subscriptions. The schools are under the supervision not of the Scotch Education Department but of the Scotch Office which is charged with all matters relating to the general government of Scotland other than education, poor law and public health, and which employs special Inspectors for these schools. This is due to the connection of the schools with the administration of justice, but of recent years the educational and

remedial side of the schools has practically wiped out the penal side.

The laws with reference to schools of this class were consolidated in the Children Act passed by Parliament in 1908.

(*b*) *Institutions for Blind and Deaf-Mute Children.*—Since 1890 it has been the duty of School Boards to make provision for the education of blind and deaf-mute children, and the parents of all such children are under obligation to have their children educated. A few School Boards have made special arrangements for blind and deaf-mute children in the ordinary day schools, but most of the children are in special institutions of a residential character. All of these are under voluntary management and, in so far as their expenditure is not met by Government grants, contributions from parents, School Boards or Parish Councils, or endowments, the institutions are supported by voluntary subscriptions.

(*c*) *Schools for Defective Children.*—Several of the larger School Boards have established special schools for children who are either physically or mentally defective, and though not fitted for an ordinary school are capable of receiving education under special arrangements. The children who are unable to walk are conveyed to and from school in charge of a nurse and they receive a mid-day meal at a small charge. They are taught in classes which never exceed twenty by teachers specially trained for this kind of work. The Scotch Education Department pay grants at a special rate for these classes, and the rest of the expenditure is met from the rates as in the case of ordinary schools.

VII. Technical and Art Instruction.

The elementary stages of technical and art instruction are taught either in the intermediate and secondary schools or in the Continuation Classes. The more advanced work is provided for in central institutions

in the larger towns. Of these there are sixteen of which two are devoted to Art alone, two to Science and Trade classes and two include both Science and Art in their curriculum. In addition to these there are one Commercial College, one Nautical College, two Colleges for Domestic Science, one College for Physical Training, three Agricultural Colleges and two Colleges for Veterinary Science.

The governing bodies are composed of representatives of Town Councils, School Boards, Managers of education endowments and occasionally trade associations. The buildings have been erected, either from bequests or voluntary subscriptions or subsidies from Town Councils or the Scotch Education Department. The annual maintenance is provided from fees, endowments, grants from Secondary Education Committees and grants from the Scotch Education Department.

VIII. Universities.

Scotland possesses four Universities. St. Andrews founded in 1411, Glasgow founded in 1450, Aberdeen founded in 1494, and Edinburgh founded in 1582. St. Andrews University now includes Dundee University College founded in 1881. All the Universities are open to both sexes and degrees are given in Arts, Science, Theology, Law and Medicine; also in Edinburgh in Music. Each University has three governing bodies—the University Court, the Senatus Academicus and the General Council. The supreme governing body is the University Court which consists of the official heads of the University and representatives of the local Town Council together with certain so-called Assessors appointed by the official heads, by the Senatus and by the General Council. The Court administers the whole revenue and property of the University, appoints Professors (when not under special patronage), Lecturers and Examiners and regulates the conditions for degrees, etc.

The Senatus Academicus consists of the Principal of the University and all the Professors. Its primary function is to superintend the teaching and discipline of the University.

The General Council includes the University Court, the Senatus and all the Graduates of the University. The Council has no direct executive function, but it is free to consider all questions affecting the University and to submit recommendations to the other governing bodies. The Council elects the Chancellor, the highest official of the University Court, and the Member of Parliament for the University, women Graduates however being excluded from the latter election. The four Universities are represented in Parliament by two members, one representing Edinburgh and St. Andrews, the other Glasgow and Aberdeen. The Universities are maintained by endowments, students fees and a grant from Government. In recent years they have received large benefits from the Carnegie Trust, a Trust founded by Mr. Andrew Carnegie to administer a sum of two million pounds gifted by him for behoof of the Scottish Universities. One half of the annual revenue is devoted to payment of the fees of students of Scottish origin who apply for such assistance and one half to the further development of the Universities and the encouragement of research.

IX. General Remarks.

The limits of space have not permitted of more than a description of the system under which education is administered in Scotland, but though it is not possible to discuss the various details it may be said that the whole trend of more recent policy has been to transfer as much responsibility and initiative as possible from the central to the local authority. It is not only that the School Boards and School Managers have been given opportunities of expressing their views on new proposals of the

Department before these became law, but in many matters the Department now leave Boards, Managers and Teachers free to frame their own schemes in the light of local requirements subject only to general instructions. To quote the Department's own words: "Having satisfied themselves as to the general efficiency of a school and the adequacy of the local contribution, they desire to leave its internal economy to the teachers and managers themselves, unhampered by considerations of pecuniary results." Great as the progress in recent years has been, and admirable as the working of the present system is, there are constant demands for further change. Proposals are urged for a National Education Council to be associated with the Department in its work, for an extension of the areas of School Boards and a consequent reduction of their number, for transferring the whole cost of education to the Government, but so far there is not much prospect of the requisite unanimity being obtained for any of these. The advances of the immediate future are less likely to be in the direction of fresh Parliamentary legislation than in the more vigorous and extensive use by the local authorities of the powers now entrusted to them.

X. Statistics.

The following statistics may be of interest:

The approximate number of children from five to fourteen years of age in all day schools in Scotland is 815,408, and over fourteen years 34,265, a total of 849,673. In addition, the grant-earning schools have 11,635 children under five years of age, raising the total to 861,308.

Of these 713,279, or nearly 83 per cent., are in public schools, that is, schools managed by School Boards, 120,027, or nearly 14 per cent., in other grant-earning schools, leaving 3 per cent. in private and other schools.

of the operations of the Board of Education. The Home Office is responsible for the administration of justice and for prisons, and concerns us here as the department which supervises the local police forces.

It must be noted that not only all the local governing authorities, the Councils and the Boards of Guardians, but also the departments of the Central Government, the Local Government Board, the Board of Education etc., have been created by Parliament, and their duties and their powers have been prescribed by Parliament. Parliament could at any time abolish any one of them, or could increase, diminish, or vary their powers and duties. They are not protected against Parliament by a written constitution as is the case in some countries, as for instance the various States of the United States of America.

Local Officials.—No Local Authority has an official Chairman. One of the elected members is elected Chairman. The Chairman (called a Mayor in the large towns) presides at the Council meetings and is generally influential, but his actual power is hardly greater than that of any other member. The chief paid officer is the Clerk. As he is the man who really knows the business he is naturally influential. The Chairman and other elected members can and do come to him before Council Meetings and ask his advice, but he never takes part in debate at a Council Meeting and the local electorate do not therefore know his opinion, and are often unaware of the great importance of his position. In England all the officials, especially the chief officials of Local Authorities, are very careful to be unobtrusive and to cause it to appear that all initiative is with the members of the Local Authority and not with themselves.

The Clerk of an English County or County Borough Council has thus a less dignified position than that of a German Burgomaster or a French Prefect, who are Chairmen as well as Clerks to their Councils. So far as there is any thoughtful public opinion on these matters in

England it is to the effect that on the Continent of Europe the chief officials occupy too prominent a position, but probably those who are familiar with the excellent administration of the French Prefects and the German Burgomasters will doubt whether the official element is sufficiently strong in English local government.

There is practically no interchange between the officials of the Central Government and those of the Local Authorities. There is generally goodwill between the two classes of officials, but there certainly is a certain want of appreciation on the part of either class of officials of the difficulties, aims, and point of view of the other.

Officials of the Central Government occasionally get decorations—"Companion of the Bath," "Imperial Service Order," and so on, corresponding to membership in France of the French Legion of Honour. Officials of Local Authorities are seldom or never decorated. This seems to suggest that the consideration accorded by public opinion to the chief officials of Local Authorities is not so great as the importance of their duties would warrant.

Local Offices.—The Central Government has no single local office building in any provincial town. The office buildings of the County and County Borough Councils are not in any sense the offices of the Central Government, and do not provide accommodation for officers of the Central Government stationed in the locality. As a result of this there is often a certain want of solidarity between the officers of different departments of the Central Government who live in the same provincial town; they are sometimes barely acquainted with one another.

Audit of Local Accounts.—In discussing the machinery of central control over local government the first matter to be considered is the system of audit and the staff of District Auditors. The Auditors are officers of the Local Government Board. The Auditor audits all the education accounts of Local Authorities and all Poor Law

accounts, and, as regards most Councils, all their other accounts. But by a curious survival of old arrangements most of the Boroughs are exempt from his jurisdiction, except as regards education accounts. His duty is first of all to see that the accounts are in due order and arithmetically correct; and secondly, and this is the important duty for our present purpose, to see that no expenditure has been incurred by the Local Authority which is not authorised by an Act of Parliament or by some Regulation of the Central Government.

In England every Local Authority has been created by Parliament to perform certain duties. These duties are prescribed by Acts of Parliament and by the Regulations of the Central Government. It is the function of the District Auditor to restrain the Local Authority from doing more than it is permitted to do, to restrain it from overstepping the limits which have been laid down.

Thus the Auditor would prevent a Local Education Authority from maintaining an elementary school not recognised by the Board of Education, or would prevent a Local Public Health Authority from performing duties which properly belonged to the Local Education Authority, or would prevent a Local Authority from giving a public dinner. If he finds that illegal expenditure has been incurred, he may, and sometimes does, by process of law compel those responsible for the payment themselves to repay the money to the Local Authority.

It is the function of a Central Government exercising control, in the first place to urge Local Authorities to action in certain directions and in the second place to discourage or prevent action in certain other directions. The English system of audit is effective in preventing action in forbidden directions, for action always costs money, and the Auditor prevents the necessary expenditure, but the Auditor can not encourage expenditure in desired directions, nor is he expected to do so. His function is mainly negative.

On the whole the system works well. The visits of the Auditor are generally welcomed by the members of the Local Authority.

It may be here added that, on the whole, local government in England is financially pure, and that corruption and bribery are comparatively rare. This happy state of affairs may no doubt be largely attributed to the system of audit which checks irregularities at the outset.

Education.—The methods of central control are different in different branches of administration. It is perhaps in the domain of educational administration that the working of central control over local government will be of most interest to foreigners. The Local Educational Authorities have certain duties as to providing schools, enforcing school attendance, &c., laid upon them by Act of Parliament. These Acts are supplemented by Regulations issued annually by the Central Government, the Board of Education. For our present purpose the important point is that these regulations are in the form of conditions under which grants of money will be made by the Central Government to the Local Authority in aid of local educational expenditure. These money grants amount to about two-thirds of the total educational expenditure of the Local Education Authority.

A Local Authority controlling say 300 elementary and ten or twelve secondary schools, and spending perhaps £150,000 a year, will receive some £100,000 in money grants from the Central Government. The balance they must find from a local rate to be raised within their own area. The money grant is made up of a very large number of small grants each paid in respect of a particular school or class. The grant in respect of a particular school or class would be withheld or reduced if the Inspector of the Central Government reported the buildings, apparatus or instruction to be unsatisfactory. In some directions the regulations go into great detail. For instance, if the Local Authority propose to teach cookery to children in

elementary schools they must, at each class, conform to thirty or forty separate regulations which not only prescribe the qualifications of the teacher but limit the size of the classes and the number of hours, instruction and so forth. These deductions from grant, which are being daily enforced by the Board of Education, may be as small as a few shillings.

The schools and classes are organised by the Officers of the Local Authority. They are inspected and criticised by Inspectors of the Central Government. The fact that the Central Government employ some 300 Inspectors will show how detailed is this inspection.

This system has not up to the present been much criticised in England, but thoughtful students of public administration will see that it is open to certain objections. It involves an enormous amount of clerkly work. In order to claim the grants many forms must be filled up, and particulars checked, and consequently a very large staff of clerks has to be maintained both at the office of the Central Government and at the offices of the Local Authorities.

Further, while the Central Government very properly endeavour to frame their regulations in such a way that the highest grants will be paid when the methods of instruction are most effective, it is found that this is not very easy to do. There is a tendency for teachers and other officers as well as elected members of Local Authorities to some extent to ignore true educational aims, and to consider rather how, within the wording of the regulations, the highest money grants may be obtained. Financial considerations are apt to divert attention from real educational considerations.

Again, under this system every Local Education Authority has two competing staffs of educational advisers, its own officers and the Inspectors of the Central Government. The Local Authority appoints, and may dismiss at pleasure, its own officers, who thus are in no

sense the servants of the Central Government, and have nothing whatsoever to gain by complaisance towards the wishes of the Central Government. The existence of two staffs of advisers must always be expensive, and as there is no official bond between the two and no common interest between them conflict is apt to arise. Naturally each staff of advisers is likely to be jealous of the other.

It may be added that this system is rather apt to lead to a rapid increase of expenditure. The Local Education Authorities increase their expenditure until the local rate is very large and then urge the Central Government to increase the grant.

Poor Law.—Students of this subject, the central control of local government, will find it particularly valuable to compare the methods of control adopted in England in the educational and in the poor law services respectively. These are the two services in which central control is most complete.

The powers, duties and limitations of the Boards of Guardians (the Local Poor Law Authority) are laid down by Acts of Parliament and also by Orders issued by the Central Government (a Department of the Local Government Board). These Acts and Orders, like the Acts and Regulations relating to educational administration, are undesirably numerous and complicated ; but as they are not in the form of conditions under which grants will be paid, as is the case with the educational Acts and Regulations, they do not cause such an excessive amount of clerkly work. As in the case of education, the Auditors see that the limitations are not passed, and Inspectors from the Central Government see that the duties are performed.

But, firstly, in poor law administration the Central Government do not obtain control by paying money grants and making deductions therefrom. Certain grants are paid, but they are fixed sums and are not used so as to obtain control.

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But, firstly, in poor law administration the Central Government do not obtain control by paying money grants and making deductions therefrom. Certain grants are paid, but they are fixed sums and are not used so as to obtain control.

And, secondly, unlike the officers of the Local Education Authorities, the chief officers of the Guardians are the servants of the Central Government as well as of the Guardians: they are responsible to both. The poor law officials are indeed all appointed by the Guardians, but the Clerk, who is naturally the Guardians' chief adviser, and a few other of the chief officials cannot be dismissed by the Guardians, but are on the other hand liable to be dismissed by the Central Government, even against the wishes of the Guardians. The educational Regulations of the Board of Education are obeyed in order that money grants may be received, the Poor Law Orders of the Local Government Board are obeyed because the chief officers of the Guardians are personally responsible to the Local Government Board, and in the last resort might be dismissed by the Local Government Board if they carried out such wishes of the Guardians as might be contrary to the Poor Law Acts and Orders. All payments made by the Guardians require the signature of their Clerk, who is thus in a position to stop illegal expenditure.

The essential difference between the educational and the poor law systems of central control is subtle but very important. Elected representatives must generally be guided by their chief officers. They are probably more frequently guided by their Clerk than they would admit, or than some of them are aware. Now the Clerk and other officers of the Guardians feel that they are part of a national service as much as of a local service, and they are consequently far less inclined than a chief local educational officer to give advice which they know to be opposed to the wishes of the Central Government. On the whole there is a closer co-operation between the chief officers of the Guardians and the Inspectors of the Local Government Board than between the chief officers of a Local Education Authority and the Inspectors of the Board of Education.

The Local Government Board do not require a large staff of Poor Law Inspectors. About twenty persons suffice.

Poor Law administration was organised seventy years ago on carefully considered lines; and at that time efficiency required a reduction rather than an increase of local expenditure. Educational administration grew up later and more fortuitously, and has generally aimed at encouraging new departures involving increased expenditure. In poor law administration the machinery of control is simple, inexpensive and unobtrusive; in educational administration it has not been ill adapted to the purpose of encouraging Local Authorities to spend more money on education.

Police.—The police are maintained by the County Councils (except in the Metropolis), and by the County Borough Councils and by a few smaller Local Authorities. In the counties, but not in the boroughs, the appointment of the chief officer of local police is not valid until it has received the approval of the Central Government (the Home Office), and the chief officer himself appoints his subordinates. But in the counties as well as in the boroughs the chief officer can be dismissed without reference, or appeal, to the Central Authority.

The subordinate policemen are paid, promoted and dismissed at pleasure without reference, or appeal, to the Central Government. But all policemen take an oath of allegiance to the King, that is, to the Central Government and not the Local Authority; and the laws which they enforce are for the most part national and not local laws.

The Central Government annually repay to the Local Police Authority half their expenditure, if after inspection by an Inspector of the Central Government the Force is pronounced to be satisfactory in numbers and efficiency. In the counties the Central Government is empowered to make rules for the pay, clothing and government of the

police. But there are no highly detailed police regulations like the Board of Education's educational regulations. Nor do the Centra Government make any small deductions from their money grant. They must either pay the whole grant (half the expenditure) or withhold the whole grant. In practice it is most unusual to finally withhold the grant, but it is comparatively common to delay payment of the grant for a few months until a Local Authority have promised to rectify some defect in administration. The channel through which the Central Government pay their grant to the Local Police Authority is now such that the nominal withholding of it would be illusory as regards counties and county boroughs, and only genuine as regards the smaller Local Police Authorities.

The chief officers of police generally rely on, and cooperate with, the Inspectors of the Central Government. There is no formal regulation, as in the case of the chief poor law officials, giving them security of tenure of office based on the support of the Central Government, but in practice some such security exists, since in police administration discipline is of prime importance, and the Inspector could not report favourably on the efficiency of the police if he knew of unjust dismissals.

The Inspectors are few in number, and do not inspect very frequently, nor claim at all the same control over details as is exercised in educational administration by the Inspectors of the Board of Education. As a rule the orders and wishes of the Central Government are accepted, and both the members of the Local Authority and the Chief Officers of Police are glad to have the expert advice of the Inspector from the Central Government.

The Metropolitan Police are directly under the orders of the Central Government. They are a local police for the metropolitan area and also perform outside that area certain services of a national rather than local character.

Public Health.—Central control over local government may be divided into two kinds ; firstly, control over the

daily details of administration such as is exercised by the Board of Education over the daily teaching given in the schools, and, secondly, control over the initiation of great new enterprises, such as a new system of town drainage, or the erection of a new workhouse, or of a new school. Now at the initiation of a great new enterprise it is always necessary for a Local Authority to raise a loan; a great new enterprise cannot be paid for out of the ordinary yearly revenue; and Parliament has enacted that no Local Authority shall borrow money without the permission of the Central Government (generally the Local Government Board). When a Local Authority applies for such permission the Central Government either refuses it, or gives it subject to such conditions as it may think right to impose.

Permission may be refused because the scheme is extravagant or the details not properly considered. More often, before granting permission the Central Government will require changes to be made in the details of an architect's plan for a new school or workhouse, or in the details of an engineer's plan for a new waterworks. In this way the control of the Central Government over the initiation of great new enterprises is considerable. In public health administration as compared for instance with educational administration, the initiation of great new enterprises is of more importance than daily administration.

As regards the control of the daily details of public health administration, the control of the Central Government is less close than in the case of educational administration. There are no money grants paid, subject to deduction, by the Central Government to the Local Authority, as in the case of educational administration, nor has the Central Government so great a hold over the officers of the Local Authority as in the case of poor law administration. The duties, powers and limitations of the Local Authority are laid down by Parliament. If the Local Authority is inclined to exceed its powers, the

Auditor, wherever his jurisdiction extends, enforces the limitations. If the Local Authority neglects its duties, the Central Government (the Local Government Board) becomes aware of the fact by reading the annual report which the Chief Medical Officer of the Local Authority termed the "Medical Officer of Health" is required to make. This Officer is appointed by the Local Authority. In most cases half his salary is repaid to the Local Authority by the Central Government; but this payment is not made subject to any conditions which give the Central Government any substantial influence over the Officer himself nor over the policy of the Local Authority. It has been very widely urged especially by the Medical profession that the Medical Officer of Health ought to have a greater security of tenure and only be dismissible, like the chief poor law officials, by the Central Government. In view of the fact that the duties of his office frequently place him in opposition to powerful local interests it seems desirable that this security of tenure should be given to him. The Central Government are, however, generally able to induce him to report fairly fully on the sanitary deficiencies (if any) of his district. The Central Government can also, and not infrequently do, send their own medical inspectors to report on the administration of the public health in particular districts. Public opinion in England is fairly well educated on matters relating to the public health; and as a general rule the combined influence of the Medical Officer of Health and of the Medical Inspector of the Central Government is sufficient to cause the Local Authority to take action. But it must be admitted that, if the Local Authority refuse to act, the powers of the Central Government to compel them to do so are very slight.

Exceptional Powers.—In case of conflict the Central Government have certain powers in reserve. By a process of law known as "Mandamus" they proceed to the ordinary Law Courts and ask the Judge to issue an order

calling upon a Local Authority to perform the duties which Parliament has laid upon it, and which it is alleged to have neglected. The Judge may issue the order, after which the Councillors or Guardians, if they still refuse to act, may be imprisoned. This process is sometimes threatened, and is sometimes commenced, but has only once or twice been carried to its conclusion.

Further, Parliament undoubtedly has the power, should they choose to exercise it, by special Act, at any time to dissolve, reconstitute, or alter the powers of, any particular Local Authority.

In 1903 and 1904 the Board of Education found itself in acute controversy with some of the Welsh Local Authorities with reference to educational administration. Parliament forthwith passed a general Act giving the Board additional powers of control over all Local Education Authorities, but with the obvious intention that the powers should be used in the particular cases when the need of them had just been shown to exist; and these powers have not in fact been used in any other cases.

Lunacy, Agriculture, County Councils, etc.—The limits placed on the length of this paper prevent any discussion of central control over the local administration of the Lunacy Acts, or of the Cattle Diseases, Small Agricultural Holdings and similar Acts, and equally of the position of County Councils as Central Authorities controlling School Managers and to some extent other minor local governing authorities, all of which are branches of this subject of considerable interest. The administration of the Old Age Pension Act of 1908 is also of interest. It is apparently conducted by a Local Administrative Authority subject to central control, but logically the local pension committee is rather a court of law, and the central administrative authority acts as a court of appeal rather than as controlling executive action.

XIX.

LOCAL GOVERNMENT AND STATE BUREAUCRACY IN GREAT BRITAIN.

By The Right Hon. H. Hobhouse, Chairman of the Somerset County Council.

The development of Local Self-Government in Great Britain has during the last two generations been so continuous and extensive that we are apt to ignore the strict limits within which it is confined by the action of the State. We see popularly-elected bodies administering local affairs in every County, Borough, District and Parish, apparently with a free hand to spend the ratepayers' money on objects of which the ratepayers, through their representatives, approve. None of these Local Councils are presided over or openly interfered with by any State Official, such as the Prefect or Mayor in France ; the only officers appointed by the Crown for local purposes, such as the Lord Lieutenant, the Sheriff and the Recorder, being strictly confined to judicial or military purposes. Notwithstanding this apparent freedom, all local self-governing bodies are, as a matter of fact, subject to very strict control, and cannot, without incurring serious penalties, transgress the limits assigned to them.

It must be remembered that with the exception of certain non-elected bodies, such as the Universities, which exist by virtue of royal charter, all local corporations and authorities (subject to certain exceptions) are the creatures of the statute law, and cannot exercise any powers or perform any duties other than those defined by the statute creating them. If they exceed their powers, or make serious default in performing their duties, an appeal lies

to the courts of law for writ of "mandamus" or "prohibition" to remedy their misfeasance. If their elections are conducted irregularly, any elector, or the Crown, as representing the public, can sue for a writ of "quo warranto" to determine whether any member of the corporation is duly elected or not. If a dispute arises as to the legality of a decision by the Council, whether the Chairman has a casting vote, or whether a proper quorum was present, these questions must ultimately be referred to the decision of a judge. Otherwise local bodies would soon become a law unto themselves, instead of the creatures and servants of the supreme legislature.

But apart from the limits imposed by the statute law and enforced by judicial officers, there is a far more minute and constant control exercised from day to day by the paid officials of the central executive. An army of State inspectors and auditors is constantly traversing the country to enquire into and report on local administration, and thus enable the State officials sitting at Whitehall to supervise, and in a large measure to direct, what is supposed to be the free popular management of local affairs.

The methods employed by the Central Executive to control local bodies may be shortly summarised as threefold. First there is the yearly or half-yearly audit of their accounts, conducted by the District Auditors of the Local Government Board. This involves a minute scrutiny into the smallest details of receipt and expenditure, even the postage books and receipt stamps being examined.

The Auditors are armed with effective powers of disallowance and surcharge. Where they surcharge an official or a member of the Council with a sum of money, it can only be remitted by the Local Government Board or by a Court of Law.

Although the Auditors are supposed to confine themselves to seeing that all sums of money due have been recovered and that the money raised has been spent

legally and honestly, they are sometimes inclined to ask questions involving the policy of certain classes of expenditure, *e.g.* the payment of the travelling expenses of Councillors and Council Officials, the necessity for the feeding of school children, and the like. While their enquiries are excessively minute in certain directions—too minute where the larger local bodies are concerned—they are, as a rule, unable to deal with matters not appearing on the face of the local authorities' accounts. Sooner or later, however, the frauds or irregularities of a local official are sure to be detected by a vigilant auditor. Curiously enough, this elaborate system of Government Audit does not yet apply to one class of local bodies, the Councils of Municipal Boroughs, except as regards their education expenditure. These Councils, whose accounts are audited by three persons, one chosen by the mayor and two elected by the burgesses, have consequently a much freer hand in spending money on purposes, which, though popular in the borough, may not be strictly legal.

The second method of control is that exercised by inspection and public inquiry. No loan can be raised by a local body without the previous sanction of the Local Government Board. In the case of large loans, *e.g.*, those for town halls, lunatic asylums, sewerage and waterworks, a public enquiry is held by one of the Inspectors of the Central Authority. Moreover, in cases where a local body are complained of as not performing their duties efficiently, it is often the practice to hold a public enquiry in the locality, at which all persons interested can attend and lay their complaints before the Inspector. Loans for a particular object are sometimes refused on the ground that the local body applying are failing to perform their duties adequately in other respects, *e.g.*, a loan for a new town hall might be refused on the ground that there was no proper sewerage system in the borough. Where there is no application for a loan, the Central Authority

often have no immediate remedy for the evils found to exist locally, except, by their report, to direct the attention of the public and the ratepayers to the need for better sanitation or administration in the district. This may be an effectual check if the public opinion of the ratepayers is in favour of greater efficiency. There are, moreover many cases in which, under our recent Sanitary Laws, the Local Government Board have the power of enforcing their orders apart from financial control. In certain domains of administration, *e.g.*, the Poor Law and Education, the Central Authorities concerned have a regular and periodical system of inspection, in order to secure local efficiency. This is, however, closely connected with the third method of control hereafter mentioned.

The last and most efficient instrument for securing the due performance of their duties by local authorities is the system of Parliamentary grants in aid. This now extends to almost every branch of administration and provides the Department of the Central Government concerned with a most potent lever to raise the standard of efficiency in local administration. For example, the Home Office pays half the cost of the local police, but only when one of their Inspectors has certified that the particular body of police is being maintained efficiently in all respects. The large grants administered by the Board of Education enable them to fine a Local Education Authority for any neglect of their statutory duty to provide and maintain schools efficiently. Thus the Board has practically the control of the staffing and building of every publicly maintained school, and the functions of the Local Education Authority are substantially confined to deciding the best methods of carrying out the directions of the Board, unless the ratepayers of the locality are willing to go beyond the absolute requirements of the Board, and provide education of a quality or quantity exceeding the minimum. This system of grants has been found so efficient and so much less invidious than legal proceedings or orders of the

Central Executive, that it is sure in the future to be extended to every branch of local administration.

It will be seen from this short review of the threefold system of control exercised by the Central Executive, that Local Self-Government has by no means the scope and freedom which its name seems to imply. The bureaucratic instincts, not only of Government Officials, but of Members of Parliament, who do not take any large part in local administration, but wish to exercise control over local bodies through the medium of the Central Department, have tended of recent years towards a considerable reaction against the progress of free Local Government in this country.

From time to time schemes have been brought forward for relieving the Central Department of much of their detail work, and delegating it to the larger Local Authorities, such as the County Councils and County Borough Councils. These schemes have sometimes been defeated, and nearly always have been impaired in their passage through Parliament, either by the anxiety of the Department in question to maintain its grip over the local administration, or by the objection of the smaller local bodies to be subjected to the control of the larger local authorities. Thus, the District Councils seem actually to prefer the control of the Local Government Board which sits in Whitehall to that of the County Council which meets in a neighbouring town, and on which the ratepayers of the district, though not the District Council itself, are actually represented.

On the other hand, in recent legislation, such as the Housing Act of 1909, the Local Government Board have somewhat jealously kept in their own hands, and out of the hands of the County Council, the right of regulating sanitary and other matters in their own county, instead of reserving to the Central Authority only the right of final decision where differences could not be determined locally.

For these reasons it has become increasingly difficult to organise a proper system of Sanitation and Local Government throughout our large counties. The one striking exception has been the success of Mr. Balfour's Education Act of 1902, which for the first time created effective county authorities to supervise, and, to some extent to manage, all the schools in the county.

I will now submit a few considerations with respect to the comparative advantages of centralised and decentralised administration. In the first place, local affairs are best administered locally, because local knowledge is essential to meet the varying circumstances of the different districts. In determining what is requisite for the health and comfort of a population, its density and its wealth, its industrial character and occupation, the varieties of its soil and climate, must all be taken into account. It is not sufficient for government regulations to distinguish merely between urban and rural districts. Even in a country as small as England, the methods of building, and the habits of the population, for example, differ largely from south to north. Again, to take another instance, a different type of instruction is required in agricultural and industrial neighbourhoods. Thus the elasticity of a decentralised system of administration and its adaptability to local circumstances, are among its greatest advantages.

Great value ought also to be attached to its experimental character. Many of the most useful provisions of our Public Health Acts have been based on experiments first authorised in special areas. Some of the most fruitful methods of our Technical Instruction and Higher Education have first been tried by enterprising Local Authorities. Such experiments have the great advantage of being made on a comparatively small scale under widely different circumstances, and thus afford the nearest approach to a scientific test of the value of general legislation before it is enacted.

Among the secondary advantages of decentralisation may be included greater economy, particularly in country districts, and freedom from those political influences which are exerted, more or less, on all Central Departments by the Members of the Legislature. Some County and Borough Councils are no doubt swayed by political parties ; but in Great Britain, as a general rule, municipal politics follow somewhat different lines to those of Imperial politics.

But the greatest advantage of devolving large powers on local bodies is undoubtedly the encouragement of local public spirit. The more important the functions devolved, the more likely you are to get public spirited men to give time and money to the local administration. It has for many years past been a striking feature of English society that so many men of capacity and integrity have been found to do public work without remuneration. If this healthy custom is to continue, we must give our Local Bodies plenty of freedom to act within the limits assigned to them by law, and not allow clerks in Government Offices, unacquainted with the local circumstances, to constantly overrule their decisions.

Against the advantages of decentralisation must be weighed its disadvantages. There is no doubt that great variety in local administration often leads to anomalies and complications and consequent inconveniences. Thus it has been found intolerable that the regulations for bicycles, motor cars and locomotives should vary in every district, and uniformity in such matters has, as a rule been secured partly by making the law general throughout the Kingdom and partly by requiring the sanction of a Central Department to the regulations of each Local Authority. Another objection often urged against devolution is that experiments made by local bodies are apt to fail ; but we must remember that even Government Departments and Parliament itself are not wholly free from error, and that failures are less costly and injurious if made on a small scale than on a large one.

Again, it is contended, and with truth, that much of the work done by the chosen representatives of the people will be more efficiently performed by paid Civil Servants. The tendency of the smaller local bodies to appoint inefficient officers at a very low salary, may be kept in check by the sanction of a higher authority, such as a County Council, or, in more important matters, the Local Government Board, being required for their appointment, and it must be borne in mind that Government Officials, however efficient, cannot have the same knowledge of local circumstances as those residing in the district.

Lastly, it is urged by many critics that free Local Government is always attended by petty jobbery, if not by more serious forms of corruption. Although Great Britain has, as a rule, been free from serious shortcomings of this kind, we must admit that there have been a few gross instances of mal-administration among our minor authorities brought to light of recent years. But we have two sure safeguards against such abuses becoming general. One is found in the careful system of audit by impartial Government Officials, and the other in that wholesome publicity, and free criticism which pervades the public local life of this country.

To sum up therefore as between Local Self-Government and Central Bureaucracy. The control of the Central Department is necessary in really important matters of finance or principles of administration, or where uniformity throughout the Kingdom is essential, or where the matters dealt with are in dispute between several Local Authorities. As an arbitrator, as a guide, as a guardian of the public against corruption or gross irregularity or extravagance, the action of the Central Authority is not only useful but essential. But when it forsakes its proper sphere of general control, and encumbers itself by constantly interfering with the details of local administration, it assumes functions which are not only unnecessary, but, in the long run are injurious to the public spirit and local freedom of the community.

XX.

LOCAL GOVERNMENT AS A SCHOOL OF CITIZENSHIP.

By Sir Herbert George Fordham, Barrister-at-Law, Chairman of the Cambridgeshire County Council.

(*Translated from the French.*)

When examining closely the administration, whether general or local, of a civilised country, it is easy to lose oneself in the details themselves of a mechanism so vast and complicated.

It may, however, be useful to study the general aspects of an administrative system from an outside standpoint with a view of establishing and placing in relief the connection of such a system with the life itself of the people relative to their instruction in the duties of citizenship.

Obviously this kind of national education is imparted most simply and naturally in practice, but in a very feeble and ineffective manner through theoretical teaching.

Of course, every citizen should take an active interest, according to his means and intelligence, in public affairs, both national and local.

This is a well established duty; but in practice one finds usually that the necessary devotion to the single object of gaining a living, and perhaps some little besides, which is a burden upon all, allows on all sides government to fall more and more completely into the hands of officials, and that thus the bureaucracy grows and weighs with an overpowering influence, both on the administrative machine, and on the nation itself.

It is proposed in this trifling sketch to offer some reflections on Government, local rather than national, looked at as a school in which the people of a country can study their corporate existence and at the same time can stimulate amongst themselves the idea of civic duty, with the view of introducing into the practice of Government the personal share, more or less direct according to circumstances, of every capable man.

From the earliest times the importance of this idea has been recognised in England. It is said indeed in that country that the sentiment of personal liberty, so firmly established in the Anglo-Saxon race, has been, if not created, at least cultivated in following it out in a practical and effective manner for centuries past in the mass of the English people.

However that may be, one is justified in attributing to the exercise of the duties of citizenship in Local Government, wherever it is general in any people, the spirit of personal and national independence which contributes so largely towards nourishing the strength and greatness of a nation.

If this view is a sound one, it becomes important in shaping out the mechanism of local government in its administrative and executive elements to examine closely the working of the machine, in order to give a natural impulse and support to the initiative of the ordinary citizen.

At bottom there is in this matter a question of locality, which may be translated into one of geography.

To attract the attention and interest of the average inhabitant to local public business, it is necessary in the first place to see that local government is based on a geographical area, both natural and practical and has, so far as this aspect of the case is concerned, a species of individuality.

In the system of Local Government, so to speak, in three stages : (1) *commune*, or parish, (2) district, *canton*,

or *arrondissement*, and (3) *département*, province, county, etc., a study of the *commune*, which depends as to its extent geographically on circumstances much more natural than artificial, that is to say on the original grouping of population round a spring, on the edge of a forest, or at a spot sheltered by a mountain slope, shows that it is often based on an administrative area very much too small. When this is so, there is neither business important and interesting enough to attract capable men, nor, on the other hand, a sufficient choice of suitable materials from which to select a council representative of the general opinion of the locality, and in the result mean and personal disputes are common, for want of something better to do.

As a school of civic duty, such *communes* and their representative bodies must evidently fail to reach a useful level. If, on the other hand, an endeavour is made to combat the meanness of view and of interest which associates itself quite naturally with a too limited parochial area, by grouping together several small natural areas of administration in an artificial *commune*, or parish, it too often happens that the local jealousies between villages and hamlets, well known to all those who take part in rural administration, are brought into play. There cannot be, in fact, much to learn in the administrative business of a minute parish. Nevertheless, something may be learnt even there.

For the district everything turns also on geographical limitations, modified by means of locomotion, and the situation of the centre of administration. The business, in itself more important, of such an area of government ought to attract the *élite* of the population. Those who enter the council of a district with the idea of studying civic life, will find, in taking part in council meetings, and in working in the committees of the council a practical and varied instruction fitted for their training in the common work. That being so, the most important thing is, in my

view, detailed committee work, in order to set up in the general intelligence a decided and clear impression and knowledge of administrative duties as a whole. For this purpose it is desirable that committees should study all these details directly, with as much freedom as possible from the influence of officials. It is so easy to give too great a hold on public business to the bureaucracy, by simply leaving to officials everything which does not involve questions of principle. If this becomes sometimes an evil in public business, it is without doubt the condition which hinders most completely the student of the methods of business, who, by working directly at details is able to obtain a knowledge of the principles as well as of the system of administration.

In the provincial or departmental councils, it is always, and more than ever in Committee work, that the real school of government can be found. Much light is thrown on the whole matter, if the reports, financial statements and estimates, agenda papers and minutes are skilfully and carefully prepared and arranged.

It is hardly necessary to notice the importance of clearness, and of a suitable and simple form and method in these matters, characteristics not always sufficiently recognised. I may add that, in my opinion, the Chairman of a Council, as well as the Chairman of Committees, should give great personal attention to the distribution of the work amongst the members, in order to assign to each one a useful and interesting share. The Chairman should also supervise and guide the discussions and the work itself, in order, among other things, to stimulate the activity of each Councillor, a matter often of difficulty, but in which much may be done by tact and industry.

Of course, all these ideas are associated with the sound working of a good administrative system. From the point of view of government as a school of citizenship they are matters absolutely the most essential.

Thus, I consider that good Local Government, public work judiciously distributed, reports, minutes and other documents ably drawn up, goodwill among the officials, personal interest and a firm hand as characteristics of the Chairman, should constitute, taken together, the materials for a school of civic life suitable, and indeed the only school suitable, for the training of a citizen sound and useful to the State.

In this direction, it seems to me, there exists a value which attaches to Local Government which ought never to be lost sight of.

XXI.

THE CO-OPERATION OF VOLUNTARY ORGANISATIONS WITH THE CENTRAL GOVERNMENT AND THE LOCAL AUTHORITIES.

By G. Montagu Harris, M.A., Barrister-at-Law, Secretary to the County Councils Association of England and Wales.

It is undoubtedly a salient feature in English life that men and women are very ready to give their services freely for public purposes and also to bind themselves voluntarily into societies and associations for objects which in their opinion will be of advantage to the community in general. The Government, far from showing any jealousy of this disposition, has constantly favoured it and it is only of late years that any large sections of public work have been taken over by the State from private organisations. The result is that there are many such private organisations now existing, which undertake public services side by side with the Government institutions, many of them being to a greater or less extent officially recognised by the Government itself.

Before entering upon the question of the co-operation with the public authorities of purely voluntary bodies, it may be well to describe the working of certain organisations which may be said to stand half-way between the two, namely, the various associations of local authorities, and, for this purpose, I will deal at length with that with which I am best acquainted. The County Councils Association is a voluntary organisation in the sense that it is not a part of the public administration and that none of its constituent members are compelled to join it. On the other hand, its constituent members are the county

councils themselves, which are authorised by statute (failing which, they would be unable to do it) to pay out of the county funds an annual subscription and the travelling expenses of their members attending meetings. Each council belonging to the Association appoints four representatives, and the clerks to the Councils are also entitled to attend the meetings, but without the power of voting. Meetings of the Executive Council are held monthly and there are Standing Committees for Finance, Parliamentary matters, Education, Highways, Housing and Small Holdings, while other Committees are appointed from time to time. The Association has no executive powers, its object being, as declared in the Rules, " by complete organisation, more effectually to watch over and protect the interests, rights and privileges of County Councils, as representatives of the County Ratepayers, as they may be affected by Legislation, Public or Private, of general application to Counties ; to obtain and disseminate information on matters of importance to County Councils generally, and in other respects to take such action as may be desirable in relation to any subjects in which County Councils generally may be interested." The greater part of the work of the Association is concerned with securing amendments to Bills as they pass through Parliament and with communications with Government Departments on points on which the central and local authorities come into contact. The Association publishes a monthly Official Circular to give information to the various councils as to its own work, and to facilitate their administration. It is frequently asked to appoint persons to represent the views of County Councils on Government inquiries and for other purposes, while in the case of the Central Midwives Board, an officially constituted body, one of the representatives is required by statute to be a nominee of the County Councils Association.

The Association of Municipal Corporations, the Non-County Boroughs Association, the Urban and Rural

District Councils Associations, the Central Poor Law Conference and the Association of Education Committees are bodies of a similar nature with analogous objects, although they differ somewhat in constitution, while in most of these the official element is far more prominent than in the County Councils Association, in which that element is entirely subordinated to that of the elected representatives.

To turn now to the manner in which private voluntary organisations carry out public services, the strongest instance of this is in the sphere of education, since up to as recent a date as 1870 the whole of the education of the children of the country was in private hands, with the exception of those children which were under the Poor Law, and the assistance of the State even in the matter of funds was very slight in extent. Although a national system of elementary education has now been established there are still a large number of so-called "voluntary schools," which, while under the control of the Board of Education and the local education authorities and supported out of both rates and taxes, are on a slightly different footing from the "council schools," in view of the fact that the buildings have been provided and are maintained by voluntary subscriptions or private benefactions.

Secondary schools are to a large extent private concerns, although many of them receive grants from public funds and are inspected by Government inspectors, and, similarly, grants are given to many technical institutes, evening classes, training colleges and other educational institutions. To these may be added institutions for blind, deaf, defective and epileptic children, reformatories and industrial schools, almost all of which are private enterprises supported financially by the Government on their satisfying certain requirements.

As regards provision for the poor, an enormous amount is done by charitable and philanthropic institutions, supported by endowments or annual contributions, which

have no connection with the Government, central or local. In the administration of the Poor Law, however, Boards of Guardians frequently make arrangements to facilitate their work with the Charity Organisation Society, which is a large and highly organised voluntary association, having local branches all over the kingdom, the Salvation Army and the Church Army, while they also recognise voluntary workhouse visitors, who have the free run of the workhouses, to watch over the interests of the paupers. Similar bodies of voluntary visitors are established for prisons, especially through the Borstal Association, while prisoners after their discharge are looked after by another voluntary organisation, the Discharged Prisoners' Aid Society.

Up to quite recent times all hospitals were supported entirely by voluntary contributions and therefore stood outside the sphere of public administration altogether, and this is still very largely the case. So, too, with regard to institutions for epileptics, inebriate homes and other undertakings of a similar nature. The number of patients, however, now sent by local authorities, form a link between the public authorities and private charities.

In the domain of public health, indeed, voluntary assistance is still greatly depended upon. County nursing associations are voluntary bodies without any official status, but in very many cases they receive grants from the local authorities for training and supplying nurses and midwives. Voluntary health visitors are encouraged in several towns and their reports considered by local authorities, and a special instance of this kind of work is to be found in the Children's Care Committees established by the Education Committee of the London County Council. Dr. George Newman, now Medical Officer to the Board of Education, in "The Health of the State," says: "Some of the larger cities possess sanitary associations (as in Dublin, Edinburgh, Liverpool, and Manchester, where the Ladies' Health Society has done good

work), which carry out a large amount of sanitary work (Sanitary Aid Committees), and aim at creating an educated public opinion and stimulating the local authorities on these matters. Then at Bradford, Halifax and other towns there is in operation an excellent institution, the City Guild of Help, a society of voluntary workers on the lines of the Elberfeld system. In London there is the Mansion House Council for the Dwellings of the Poor, the Kyrle Society, the National Health Society, the Royal Sanitary Institute, the Smoke Abatement Society, the Garden City Association and many other like societies, having for their object the improvement of the sanitary condition of the people."

In connection with the feeding of school children, local education authorites are expected to make use largely of voluntary organisations, as also in the medical treatment of children who have been found by the official medical inspector to be in need of it.

Another sphere in which voluntary assistance has been recently recognised by Government is in connection with the extension of small holdings, the Board of Agriculture giving a grant to the Agricultural Organisation Society for the purpose of developing co-operation in connection with small holdings, while voluntary small holdings associations are recognised in various ways both by the central and local authorities.

Grants in aid are given by the Government to a number of societies of a semi-public character established for the purpose of scientific investigation and research, such as the Royal Society, the Meteorological Office, the Royal Geographical Society, and so forth.

The organisations above mentioned actually do, some more and some less, executive work of a public nature. In connection, however, with the subject under consideration, one must not leave altogether out of account such organisations as the Trade Unions and Friendly Societies, or the associations which exist chiefly for propagandist

purposes, and, in furtherance of the objects at which they aim, are constantly laying their views before the Government. Associations of the latter description may be said to be almost numberless. The extent to which they have any influence upon the Government depends, of course, upon many factors, including the number and standing of their members, the importance of their chief representatives and the energy of their officials. Merely to classify them would be impossible within the limits of this paper. Clerks of the peace, municipal treasurers and accountants, directors of education and many other classes of local public officials have each their central Association; so, too, have practically every professional and trade interest, while there exist innumerable societies for the defence of this or that public interest or for the furtherance of this or that reform. There can be no doubt that very great attention is paid by the central Government to the views of many of these bodies, and their influence is greatly strengthened by the readinesss of the newspaper press to publish their proceedings, even when they do not advocate their aims.

It is not pretended that the above is an exhaustive list of the private organisations which are in some way or other made use of or recognised by the central Government or the local authorities, but enough has been said to show that the ground covered by these private organisations is at the present day very extensive and has been even more so in the past.

What is likely to be the development in the future is not very clear. On the one hand, there is undoubtedly a growing feeling in favour of public services being to a much greater extent undertaken by the officially constituted authorities. Public elementary education, as has already been seen, has practically been taken out of private hands and higher education is rapidly tending in the same direction. Hospitals were, at the beginning of the last century, all private institutions, but most of those for infectious

diseases and a certain number of general hospitals are now provided by public authorities and supported out of public funds, and there is a movement in favour of the remaining great voluntarily supported hospitals being placed on a municipal footing. Recent legislation in the direction of medical inspection of school children, authorities for the inspection and training of midwives, compulsory appointment of county medical officers of health and the general strengthening and encouragement of public health administration tends to diminish the scope of public health work left open to private initiative.

Some indication of the general feelings on this point may be seen in the attitude of the public mind towards the co-option of non-elected persons on committees of the elected public authorities. The principle was introduced in the Education Act, 1902, but subsequent attempts in the same direction do not seem to have met with approval. The power given to the local authorities to adopt it in the case of small holdings committees has been but little exercised. In the case of the Old Age Pensions Act, under which the authorities were to be appointed by the County or County Borough Councils, and need not include any members of those bodies, in almost every case the Council constituted its own members as the Authority. It was proposed, during the debates on the Housing Bill, that the Statutory Public Health Committees to be set up by every County and County Borough Council should include persons co-opted from outside, but the proposal received very little support. Lastly, while it is too soon as yet to say what is the general opinion on the Reports of the Poor Law Commission, there can be no doubt of the unpopularity of those administrative proposals in the Majority Report, which would make the County and County Borough Councils nominally the local Poor Law Authorities, but without any control over the executive committees, which would consist largely of non-elected members and would be able to spend the money, which

they could compel the Councils to supply to them, through other Committees of an even less representative character.

On the other hand, there is a strong and growing movement in favour of the general public taking a more active part in the work on behalf of the community. The establishment of organisations for voluntary health service has already been mentioned. To quote again from Dr. Newman : " To help forward these and similar movements is to advance the health of the community, for the sanitary government of England does not rest wholly with local authorities or with boards of health. It is a matter of the highest general concern depending for its efficacy upon the whole body of citizens in each community." In accordance with this view, Citizens' Leagues or similar bodies are being organised and are doing valuable work in many places. The fear that the rapidly increasing duties of local authorities tend to make it impossible for the elected representatives to do the work themselves and to throw it more and more into the hands of the officials is, no doubt, a considerable factor in this movement, since the idea of " officialism " or " bureaucracy " is very obnoxious to English minds.

It may, I think, fairly be said that most thinking people realise that, whether they like it or not, the needs and conditions of modern life, and especially the problem of the poor, require that the public services necessary for the good of the community shall be more completely organised, shall be entrusted to properly constituted public authorities and shall be paid for out of rates or taxes. At the same time, the severe burden of work which these increased duties throw on the elected and unpaid representatives, the general objections to mere officialism and the growing tendency to encourage the idea of " citizenship," incline those same public authorities to make use of the public spirit which is to be found widespread in certain classes of the community, but, in doing so, to direct and control it on certain definite lines. In particular,

strong objection is felt to the expenditure of public money by any other than the directly elected representatives of those from whom the money is levied.

The direction and control of voluntary organisations are desirable, not to stereotype methods, but to avoid that overlapping and waste which are the necessary consequences of the existence of a number of independent bodies attempting to do similar work over the same ground. It would, however, be a most mistaken policy to drive these bodies out of the field altogether and that mainly for reasons given by J. S. Mill in his Essay on Liberty, where he states it to be " a principal, though not the sole, recommendation of free and popular local and municipal institutions, and of the conduct of industrial and philanthropic enterprises by voluntary associations," that they constitute " the peculiar training of a citizen, the practical part of the political education of a free people, taking them out of the narrow circle of personal and family selfishness, and accustoming them to the comprehension of joint interests, the management of joint concerns, habituating them to act from public or semi-public motives, and to guide their conduct by aims which unite instead of isolating them from one another." Again, " if we would not have our bureaucracy degenerate into a pedantocracy, this body must not engross all the occupations which form and cultivate the faculties required for the government of mankind."

One fact must not be lost sight of, namely, that when a public authority with public funds begins to take over any service which has hitherto been in private hands, the voluntary contributions which had been obtained by the private organisation will soon drop off, as is evidenced by the failure of the attempt by the London County Council to graft a system of public assistance out of the rates for the feeding of school children on the voluntary system previously existing. This, however, does not invalidate the arguments for a collaboration between

official and non-official bodies, except to the extent that public and private funds cannot be depended upon for the same service. It will not be difficult to find branches of public work which can be entrusted altogether to voluntary organisations, subject only to an arrangement for regular communication between them and the public authorities, in order to prevent that overlapping and waste, to which allusion has already been made.

On these grounds, I venture to submit to the Congress the following propositions :—

1. That in order to foster the feelings of mutual responsibility and the idea of citizenship among members of the same community, as well as with a view of giving wide scope to the possibilities of improvement in public conditions, it is desirable to encourage the activities of voluntary organisations in assisting and filling up the gaps in public administration ;

2. That, in order to prevent overlapping and waste in public services, it is desirable that all such voluntary organisations, while left free to carry out their work on their own lines, subject to the law and to the convenience of the public administration, should be brought into relation with the public authorities in a greater or less degree, according to the importance and character of their work ;

3. That no voluntary organisation should have power to spend any funds levied by any public authority, except under the immediate direction of that authority ;

4. That, in order that the Government may be kept fully informed of the trend of public feeling on matters of administration and legislation, facilities should always be given by central and local authorities to voluntary associations to lay their views before them.

XXII.

THE ORGANISATION AND WORK OF THE BOARD OF AGRICULTURE AND FISHERIES.

By Sir Thomas H. Elliott, K.C.B., Secretary to the Board of Agriculture and Fisheries.

General Powers and Organisation.

The Board of Agriculture was established by Act of Parliament in 1889 for the purpose of bringing under the jurisdiction of one Government Department the administrative work arising under the various Statutes then in force relating to agriculture and to land generally. Until then these duties had mainly been vested in the Privy Council and the Land Commissioners for England. Additional powers were at the same time conferred on the Board to enable them to undertake the collection and preparation of agricultural statistics, to promote and advance the teaching of practical and scientific agriculture, and to institute inquiries and conduct experiments and research work for the purpose of promoting agriculture or forestry. The Act constituting the Board also provided for the transfer to the Board of the Department of the Ordnance Survey, which is charged with the business of surveying the United Kingdom and the preparation and publication of maps according to the requirements of the public service. Since the passing of the Act of 1889 other duties have been added to the Board both by fresh legislative enactments and by the transfer of powers which had hitherto been vested in other Government Departments. Thus the jurisdiction of the Board was extended by Order in Council to the Royal Botanic Gardens, Kew,

and by an Act of Parliament passed in 1903 the administration of the laws relating to the Fisheries of England and Wales was transferred from the Board of Trade. This last addition made it necessary to change the name of the Board to "The Board of Agriculture and Fisheries."

Before proceeding with details as to the organisation of the Board it may be useful in the first place to explain that the Board itself, the constitution of which nominally consists of several of the principal Ministers of the Government, is really directed by the Minister appointed to be the President of the Board, who is responsible to Parliament for its policy and operations. This Minister acts with the advice of the Parliamentary and Permanent Secretaries to the Board and his principal Officers, who are able to afford him expert information on the numerous departmental and administrative matters which come before him for decision. The principal Statutes under which the Board's powers are exercised are (1) the Diseases of Animals Acts, and the Markets and Fairs (Weighing of Cattle) Acts, relating to live-stock; (2) the Tithe, Copyhold and Inclosure Acts, the Drainage, Improvement of Land, Universities and College Estates, Glebe Land, Agricultural Holdings, and the Small Holdings and Allotments Acts relating to land; (3) the Corn Returns Act, 1882, under which the Board ascertain the current prices of British corn; (4) the Fertilisers and Feeding Stuffs Act, 1906; (5) the Merchandise Marks Acts, so far as they relate to agricultural produce; (6) the Sale of Food and Drugs Acts; (7) the Destructive Insects and Pests Acts; (8) the Salmon and Freshwater Fisheries Acts and the enactments relating to Sea Fisheries, and (9) the Survey Act, 1870, relating to the business of the Ordnance Survey. The Board, as an executive machine, is divided into five principal divisions, apart from the separate establishments of the Royal Botanic Gardens at Kew, and the Ordnance Survey. These

divisions are known as (1) the Animal Division; (2) the Intelligence Division; (3) the Land Division; (4) the Statistical, Tithe, Commons and Establishment Division, and (5) the Fisheries Division.

The Land Division is under the charge of two Commissioners appointed under the Small Holdings and Allotments Act, 1907, and each of the other Divisions is in charge of an Assistant Secretary who is responsible to the Permanent Secretary and to the President of the Board for the work of his division. Each Division possesses its own special staff of officers some for indoor technical or clerical work and others for inspection and other outdoor duties. The indoor work is carried out under the superintendence of one or more heads of branches, according to the character and volume of the work to be performed, and these in turn are assisted by trained assistants and a clerical staff. The outdoor work is directed by one or more Superintending Inspectors, acting under instructions from the Head of their Division, and a staff of Inspectors graded according to the character of the duties to be performed and the requirements of the Division.

Animals Division.

The Animals Division is mainly concerned with the administration and execution in Great Britain of the Diseases of Animals Acts, including the preparation and issue of the Board's Orders thereunder. The work of safeguarding the health of the flocks and herds of the country is obviously one of the first importance and very great responsibility naturally attaches to the firm and skilful administration of the law in this matter. Serious outbreaks of contagious diseases require prompt measures to be taken to prevent their spreading, and any defects of organisation or relaxation of effort in combating a disease such as foot-and-mouth-disease, which spreads with alarming rapidity, may easily have the most disastrous results.

Acting in conjunction and co-operating with the staff of the Animals Division is the Veterinary Department directed by the Chief Veterinary Officer.

This Officer is assisted by one principal Assistant and a Superintending Veterinary Inspector and controls a staff of Veterinary and Assistant Veterinary Inspectors, besides a number of local veterinary practitioners who are specially employed to inquire into cases of disease amongst animals reported from the districts in which they are practising. Some of the Veterinary Inspectors are employed at ports at which foreign animals are landed for immediate slaughter.

The Veterinary Department is provided with a suitably equipped Laboratory and a small farm for conducting experimental work, and is thus enabled not only to advise the Animals Division on questions of diagnosis, but to undertake research work of a kind which is exceedingly useful in showing how particular operations can best be directed. The result of such experimental work has only recently afforded information of a most valuable character with regard to epizootic abortion.

The staff of the Animals Division is engaged in the operations requisite to prevent the spread of disease. These include the precautions taken at the place at which contagious disease has been found to exist and the enforcement of any necessary Regulations prohibiting or regulating the movement of animals in or from adjoining areas. The restrictions are enforced by the Local Authority, viz. : in Counties the County Council, and in larger Boroughs the Borough Council, and necessarily vary according to the character of the disease to be dealt with.

The work of the Board in combating diseases of animals during the last twenty years has achieved some notable successes. The country has enjoyed an entire immunity from cattle-plague, and sheep-pox ; foot-and-mouth disease, contagious pleuro-pneumonia and rabies have been stamped out, most of the other scourges affecting

live-stock have been brought under effective control and the losses therefrom considerably checked.

The operations against pleuro-pneumonia were commenced in the autumn of 1890 under powers conferred on the Board by a special Act of Parliament. In the previous year the disease was known to exist in 41 counties in Great Britain, and 474 fresh outbreaks affecting 1,646 head of cattle were reported. At the end of five years, that is in 1895, only one centre of the disease was detected in Great Britain. A few more outbreaks subsequently occurred, but vigorous measures were adopted and the disease was finally eradicated.

As regards rabies 340 cases were reported in 1889. A systematic effort was made to bring the disease under control and at the end of two or three years a very appreciable result was obtained, In 1901 the whole of England and Scotland remained free from the disease and only 2 cases were confirmed in Wales. Two years later, we had secured a clean bill of health in respect of that terrible scourge. The value of the work will be appreciated when it is mentioned that whilst in 1889 there were no fewer than 30 deaths of human beings in Great Britain from hydrophobia, some years now have elapsed since a death has been known to occur from the bite of a dog in this country.

As a sequel to the result obtained in the case of this disease, the Board were obliged to take stricter measures to prevent the re-introduction of the disease from abroad. The Importation of Dogs Order was accordingly issued in 1901, and in conformity with its provisions, all dogs landed from abroad are now required to undergo quarantine on veterinary premises for a period of six months. The Order naturally causes a certain amount of inconvenience to dog owners who desire to bring dogs into the United Kingdom from abroad, but its enforcement is a matter of the greatest consequence to owners of dogs at home and to the public generally.

A great effort has been made for some years past to rid the country of Swine-Fever. Special powers were conferred on the Board by Act of Parliament in 1893, and the operations of the Board have been attended with varying success. In 1905 the number of outbreaks of the disease reported was the lowest on record, but in spite of the most strenuous efforts to secure its extirpation the disease continues to assert its presence and to spread insidiously to neighbouring piggeries. Latterly, however, the position shows improvement, the returns for 1909 showing 1,651 outbreaks, as compared with 6,305 in 1895.

A carefully planned scheme of operations has also been set on foot to get rid of Sheep-Scab, and Orders have been issued requiring the compulsory dipping of sheep at certain seasons over extensive areas. The present position is by no means unfavourable, and although it is perhaps too soon to speak with confidence the Board hope to secure its eradication.

Anthrax and Glanders also claim much attention in this Division, and in the case of the latter the Board entertain sanguine hopes of the result of the operation of a new Order issued in 1907.

Intelligence Division.

The Intelligence Division is divided into four sections, viz., (*a*) the Intelligence Branch, (*b*) the Commercial Control Branch, (*c*) the Education Branch, and (*d*) the Publications Branch.

(a) *Intelligence Branch.*

The Intelligence Branch undertakes the collection of information from the Home, Colonial, and Foreign newspapers, Government Reports and Publications, and the Transactions of learned and technical Societies on matters relating to agriculture. It also prepares any reports as to the information received which may be necessary, and undertakes the translation of foreign documents.

The work under the Destructive Insects and Pests Acts, 1877 and 1907, is also carried out in this Branch, and since the Board were invested with additional powers under the Act of 1907 some very important work has been undertaken. Recent operations have been directed against American Gooseberry Mildew (*Sphærotheca mors-uvæ*), which had spread with great rapidity over the most important gooseberry growing centres of England, and threatened to render the industry unprofitable. Owing to the disease being a new comer it is not easily recognised by growers, and the task of discovering its presence as well as enforcing the regulations for its control has been carried out by the Inspectors of the Board and of the Local Authorities. The importation of gooseberry bushes from abroad is prohibited and growers are required to prune and spray as directed by the Inspectors.

The Board's action has kept the disease generally under control and has exterminated it in many gardens that were affected in 1908.

Some important work has also been done to combat a disease of potatoes known as Wart Disease or Black Scab (*Chrysophlyctis endobiotica*) which made its appearance in certain districts of Scotland and North West England chiefly in cottage gardens and workmen's allotments. Investigation and experiments were commenced to ascertain how far the disease had spread and whether any remedy existed. The result at present seems to show that certain varieties of potato resist the disease. Inquiries are also being made into the ravages of the Large Larch Saw Fly, the Felted Beech Coccus, the Frit fly, and other Insect Pests. A destructive disease of bees is also the subject of investigation.

Amongst the other duties of the Branch may be mentioned the issue of certificates required under foreign laws and regulations for the exportation of live stock and plants, and the conduct of the business and correspondence on subjects connected with economic zoology, general

practical agriculture, and foreign intelligence. A large number of specimens of destructive insects and fungi are examined every year and remedial measures suggested to correspondents.

(b) *Commercial Control Branch.*

The Commercial Control Branch is charged with the business arising under the Sale of Food and Drugs Acts so far as these Acts relate to Milk, Butter, Margarine, and other articles affecting the interest of agriculture; the Fertilisers and Feeding Stuffs Act, 1906, and the Merchandise Marks Acts.

The staff of the Branch are constantly engaged in important enquiries and negotiations relating to questions affecting the dairy industry, and the sale of agricultural products and commodities generally, including the rates charged and facilities afforded by Railway Companies for the carriage of agricultural produce.

The chief business is the investigation of complaints relating to the adulteration of articles of food which more especially affect the interests of agriculture. This frequently involves detailed and lengthy enquiry to which is frequently opposed the ingenuity and self interest of those whose malpractices are called in question. In the same way the sale, marking, and description of fertilisers and manures of all kinds, and of feeding stuffs for cattle, is kept under supervision with a view to maintaining a due compliance with the law.

(c) *Education Branch.*

The Education Branch administers and allocates a Parliamentary grant in aid of scientific and technical agricultural education in England and Wales. Claims are made by institutions which desire to participate in the grant, and these are the subject of report by a Superintending Inspector after a visit of inspection. The funds

which the Board have at their disposal for the encourage ment of Agricultural Education amount to £12,000 pe annum at the present time. By the careful administra tion of these funds the Board, acting in conjuctio with Universities and Local Authorities, have been abl to bring into existence institutions for the purpose c providing higher agricultural education and have thu materially advanced the teaching of scientific agricultur including forestry.

(d) *Publications Branch.*

Among the more important duties of the Publica tions Branch is the preparation and publication of th Journal of the Board and of Leaflets, of which more tha 200 have now been issued. The Journal, which is issue monthly, obtains a fairly wide calculation, and afforc an excellent medium whereby the Board are enabled t bring under the notice of those engaged in agricultur pursuits the latest available information on matters i which they are especially interested. By means of th leaflets, which are distributed widely amongst the farn ing community all over the country, it is possible brief to advise or warn them on subjects pertaining to the stock or crops, or on other matters of immediate concer or interest.

In this Branch is kept the Board's Library whic contains a large number of volumes and valuable recorc on agricultural subjects. Arrangements have been mac for the loan of any of these publications to members the public on compliance with certain conditions nece sary to safeguard their keeping.

Land Division.

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LAND DIVISION.

The principal business of the Land Division is the administration of the Small Holdings and Allotments Act, 1908, including the confirmation of schemes and

orders for creation of small holdings made by the Local Authorities under the Act, and the general supervision of the action taken by them to provide small holdings and allotments. This work is carried out under the direction of two Small Holdings Commissioners specially appointed under the Act, who are assisted by two Assistant Commissioners and a small staff of Inspectors, besides an indoor office staff organised on the general lines previously indicated. The unsatisfied demand for small holdings (50 acres or less) and allotments (up to 5 acres) has proved to be very considerable, and nearly 70,000 acres have been the subject of schemes and orders submitted to the Board during the last two years.

This Division is also entrusted with duties under the Universities and College Estates Acts, 1858 to 1898, relating to the sale, enfranchisement or exchange of the property of certain English Universities and Colleges and administrative business under the Improvement of Land Acts and other Statutes relating to land improvement.

Statistical, Tithe, Commons and Establishment Division.

The Statistical, Tithe, Commons and Establishment Division is divided into four Branches, viz., (*a*) the Statistical Branch, (*b*) the Copyhold and Tithe Branch, (*c*) the Commons and Survey Branch, and (*d*) the Establishment Branch.

(a) *Statistical Branch.*

The Statistical Branch is charged with the collection, compilation, and publication of the annual Agricultural Returns of the acreage and produce of crops, prices of corn, number of live stock, prices of livestock, dead meat, and many other kinds of agricultural produce; supplies of live stock at markets; imports and exports of agricultural commodities; statistics of colonial and foreign agriculture, and prices of agricultural produce abroad

It also appoints and supervises the work of a special staff of Crop Estimators, whose duty it is to collect returns of the production of crops, and also, during the summer, to supply information as to the prospects of the growing crops, a summary of which is issued to the public a week after it is collected.

The Branch also undertakes the collection, compilation, and publication of returns giving the quantity and average price of the wheat, barley and oats sold in nearly 200 markets in England and Wales.

Returns relating to diseases among animals are prepared and published weekly and annually.

Returns are also compiled supplying figures, etc., as to the International Trade in Animals, and relating to the importation of Foreign Animals.

Special enquiries of a statistical nature are undertaken from time to time, and reports published thereon, *e.g.*, upon the production of wool in Great Britain, and upon the Decline of the Agricultural Population of Great Britain. For the past eighteen months also, the Branch have been collecting and summarising special information as to the production of all kinds of agricultural produce in connection with the Census of Production Act, 1906.

This Branch also supervises the appointment and work of a special staff of Market Reporters, who attend the principal markets at which live stock and dead meat are exposed, and other agricultural commodities are offered for sale, and keep the Board informed as to the prices obtaining for the different products. This information is summarised and a weekly statement is published.

The statistics relating to the Fisheries of England and Wales are also dealt with in this Branch. This work involves the appointment and supervision of a staff of Collectors who obtain and furnish returns of the quantities and value of fish landed at the various ports and fishing stations round the Coast. The statistical investigations in connection with international fishery statistics are also

carried out in conjunction with the Fisheries Division and the data tabulated in this Branch.

(b) *Copyhold and Tithe Branch.*

The duties of the Copyhold and Tithe Branch include the business connected with the enfranchisement of copyholds and lands subject to any manorial rights and the redemption of copyhold rentcharges. It also conducts the business connected with the redemption in certain cases of perpetual rents, rent-charges, etc.

The administration of the Tithe Acts involves a considerable amount of work relating more especially to the re-apportionment, redemption, and merger of Tithe Rentcharge; the re-apportionment and redemption of Corn Rents, and conversion of Corn Rents into Tithe Rentcharge; the exchange of Glebe for other lands; the defining of boundaries of glebe and other lands, and the settlement of disputed parochial boundaries in certain cases.

(c) *Commons and Survey Branch.*

The duties of the Commons and Survey Branch comprise (1) business arising from the regulation and enclosure of commons, and the consideration of many questions connected with common land, enclosures, and open spaces generally, and (2) the preparation and examination of maps and schedules required under various Acts. This latter section also deals with boundary questions as affecting local administrative areas defined for various parliamentary or local purposes. It has the custody, and makes provision for the inspection of the numerous maps, &c., deposited with the Board under the Tithe and other land Acts, as well as a complete set of Ordnance Survey Maps on the 1-inch scale of Great Britain and Ireland, and on the 6-inch scale of Great Britain.

(d) *Establishment Branch.*

The Establishment Branch is concerned with matters affecting the Board's staff and the Offices which the Department occupies, including :

(1) The correspondence and arrangements relative to the appointment of the various officers constituting the staff of the Board ;

(2) The supervision of the arrangements made for the housing of the Board and the provision made for the individual accommodation of its officers ;

(3) The control of the Messenger Staff ;

(4) The business relating to questions of leave, superannuation, &c.

Fisheries Division.

The Fisheries Division is charged with the administrative work arising under the Acts relating to the fishing industry of England and Wales, and annual reports are presented to Parliament under the Salmon and Freshwater Fisheries Acts and the Sea Fisheries Regulation Acts, and other Statutes relating to sea and shell fisheries. The statutory duties imposed under the Acts relating to the Sea Fisheries include : (1) the creation of Sea Fisheries Districts and the constitution of Local Fisheries Committees ; (2) the examination and approval of bye-laws made by the local Committees and the collection of information for the purposes of Annual Returns ; (3) the consideration of questions relating to the pollution of estuaries and shell fish beds, and business arising under the Fisheries (Oyster, Crab and Lobster) Act, 1877 ; and (4) the inspection of trawling gear. The conduct of inquiries for the purpose of obtaining information as to the condition and prospects of the fishery industry, including investigations into the natural history and diseases of fishes, questions affecting fish hatcheries and marine laboratories, the protection of undersized fish, the effect of methods of capture, are also matters which claim the

entire vegetation of the earth, with especial regard to that of British possessions. A Library is maintained for official consultative work, to supply the basis of an accurate nomenclature throughout the establishment and as an aid to research. There are three Museums, which serve to display the aspects of vegetation more especially in the British Dominions, and the uses to which vegetable material of every kind may be put in commerce and the arts. There is also a Laboratory equipped for purposes of scientific investigation of plant diseases and other problems.

Owing to the vast variety of the methods of cultivation employed, the Gardens afford unique opportunities of professional training to young gardeners. It thus becomes a superior technical school, and young men are constantly passing through the different departments during a two years' course.

Ordnance Survey Department.

The Ordnance Survey Department employs a large staff in the work of making a periodic survey of the United Kingdom. The staff consists of officers and men of the Corps of Royal Engineers, and of Civil Assistants, under the control of a Director-General. The separate Branches of the Survey include :—

(*a*) The Head-quarters Division, which deals with the correspondence, accounts, and general administrative duties of the Department ;

(*b*) The Map Branch, which takes the custody of all the maps prepared, and superintends their disposal ;

(*c*) The Reproduction Branch, which includes the work of the photographic and the zincographic and the lithographic departments, besides work done by other processes ;

(*d*) The Examination Branch, which is charged with the examination of all manuscript plans, and also deals with boundary questions ;

(*e*) The Trigonometrical and Topographical Departments which deal with the triangulation in the field, and with the necessary computation in the Office ;

(*f*) The Engraving Branch, which has charge of the engraving work, both of outline and of hills and hill drawing. Also of the copper-plate printing and of the manuscript store ;

(*g*) The Store Branch, which deals with the purchase, and custody of all stores ;

(*h*) The Publication Branch in Dublin, which deals with the Survey of Ireland.

Besides these there are twelve field Divisions quartered at different centres in the United Kingdom, all engaged on the general fieldwork of the Survey.

The Ordnance Survey is charged with the preparation and maintenance of general maps of Great Britain and Ireland on the following scales :

1 2500 or 25 inches to a mile.
1 10560 or 6 inches to a mile.
1 inch to a mile.
2 miles to one inch.
4 — — —
10 — — —
16 — — — or 111,000,000 map.

The work of revision contemplates a complete revised survey of the country within periods of twenty years : so that no area will have been unrevised for any longer period.

It is not possible in a paper of this length to enter into a description of the numerous and remarkable processes which are now employed in map production. It must suffice to say that the most up-to-date and scientific methods are employed in all the processes with a view of obtaining a finished map of the greatest accuracy and artistic elegance, and in all respects of practical utility.

This completes what is at best but a very imperfect description of the Board's organisation and work. The diversity of duties under the various statutory powers which have been mentioned render the Board's task as an administrative Department of the State a peculiarly difficult one. Generally speaking, however, the organisation, although necessarily one of considerable complexity, is found to work smoothly and efficiently. The several divisions of the Board co-operate to the fullest possible extent and much valuable assistance is afforded by one Branch to another.

It must be left to others to judge of the general efficiency of the official machine as a whole, but it may be said that the Board strive to secure the best results for the benefit of the agricultural community, and to maintain the credit and high character of a great Public Department.

XXIII.

ORGANISATION OF THE BUREAU OF AGRICULTURE BELONGING TO THE DUTCH DEPARTMENT OF AGRICULTURE, INDUSTRY AND TRADE.

By the BUREAU OF AGRICULTURE FOR THE NETHERLANDS.

THE Department of Agriculture, Industry and Trade was established by Royal Decree on September 7th, 1905. It is divided into six sections as follows :

(1) Bureau of Agriculture.

(2) Section of Industry, comprising Sea and River Navigation, Fisheries, General Industrial Legislation, and Mining.

(3) Trade Section, comprising legislation for the benefit of the middle classes, Chambers of Commerce, Factories, Trade Intelligence, and the arrangement and management of a Library of Economic Works together with a Public Reading Room.

(4) Labour, comprising legislative measures for the benefit of workmen. It is the duty of this section to see that certain laws are carried into effect.

(5) Workmen's Invalidity and Old Age Insurance. This section is concerned with the application of the Insurance Act of 1901.

(6) Accounts.

The Bureau of Agriculture is the most independent of these six sections. It was established in its present form by Royal Decree on March 7th, 1906, No. 12. The Director-General of Agriculture is at the head and arranges the work of his staff and sends them to the different districts.

At the head of the general service is an Administrator, deputy to the Director-General assisted by officers.

The Bureau is divided into seven sections. Inspectors and other officials are placed at the head of these sections.

The division is as follows:

(1) *Instruction.*—At the head of this section is the Inspector of Agricultural Instruction, and it comprises the Royal Veterinary School, the Royal Agricultural High Schools, Gardening, Forestry, the Royal Dairying School together with the gardens necessary for carrying out the instruction. Grants are given for instruction in agriculture, gardening and forestry for the schools, winter courses, the veterinary courses, the courses in agriculture for girls and the courses for soldiers. Examinations are held in order that the pupils may obtain certificates as veterinary surgeons, and final examinations are held for those who wish to obtain a certificate for teaching agriculture, gardening and forestry.

(2) *Cattle-rearing, Gardening and Kindred Subjects.*—The Inspector of Agriculture is at the head of this section, and it comprises: Teachers and students for the teaching diploma of the Royal Agricultural and Gardening Schools; Veterinary Experts and Dairying Experts; grants for rearing cattle, pigs, sheep, goats; it takes care that the Horse-rearing Act of 1901 is put into effect; grants for horse-rearing; land banks; lands and gardens are subsidised for experiments; a model Dairy in Hoorn; grants for rearing poultry and bees; subsidies to the Royal Dutch Agricultural Committee and the Dutch Committee for Gardening; gardening matters; phytopathological service; exhibitions; butter Acts; venery Acts; provisions for enforcing the International Agreement, April 2nd, 1898, to prevent noxious insects, *i.e.*, the San José louse; Act of May 25th, 1880, relating to the protection of useful animals and the care of trees.

(3) *Veterinary Service.*—At the head of this section is the Inspector of the Veterinary Service, who is also the

Inspector of meat. This section comprises state inspection of meat; the Royal Serum Department; the attempt to exterminate tuberculosis and other diseases among cattle; the inspection of cattle for export; courses in inspection of cattle and meat.

(4) *General Laws of Agriculture and Forestry.*—At the head is an Official Adviser. This section comprises agricultural legislation and the administration of the royal forests. This administration was ordered by Royal Decree in January 8th, 1900, and is concerned with the administration of Breda, Oosterhout, Zwaluwen, Nierva art and Steenbergen.

(5) *Dairies and Laboratories.*—The head of this department is the Inspector in General Matters. It comprises the Dairying Experts who are appointed to prevent any adulteration of agricultural produce, especially butter.

(6) *Reports and Statistics.*—This department deals with the publication of agricultural and statistical reports of the harvest in Holland and other countries, and gives information with regard to agriculture and commerce and takes charge of the Library.

(7) *Secretarial.*—This department is concerned with the printed matter, has charge of the stationery, and supervises the employees.

The Bureau of Agriculture is housed in one building with the Economics Library and the Trade Intelligence Bureau. There is close intercourse between these departments.

XXIV.

ADMINISTRATIVE METHODS IN THE UNITED STATES DEPARTMENT OF AGRICULTURE.

By Dr. A. C. TRUE, Director, Office of Experiment Stations, Department of Agriculture, Washington, D.C.

WITH the very large increase in the variety and extent of the operations of the United States Department of Agriculture in recent years, it has been necessary to give the Department a more elaborate organization. The Department's work is naturally divided into three general classes: (1) Scientific and technical investigations for the advancement of knowledge, (2) the collection and distribution of information, and (3) administrative work, *e.g.*, inspection of food; prevention or suppression of animal diseases, insect pests or noxious animals; management of national forests; supervision of national funds granted to State Agricultural Experiment Stations. All of the work of the Department is done primarily for the promotion of agriculture, and its organization has therefore been based on the divisions of agriculture, considered as both an art and a science, rather than on the underlying sciences.

The chief officer of the Department is called the Secretary of Agriculture and is a member of the President's cabinet. An Assistant Secretary and certain officers are immediately associated with the Secretary in the general business of the Department and constitute the Office of the Secretary. Outside of this, the bureau has been made the chief unit of organization.

The Department is divided into 11 bureaux, as follows: Weather Bureau, Bureau of Animal Industry, Bureau of Plant Industry, Forest Service, Bureau of Soils, Bureau

of Entomology, Bureau of Biological Survey, Bureau of Chemistry (largely agricultural technology), Bureau of Statistics, Office of Public Roads, and Office of Experiment Stations. Each of the bureaux may, and most of them do, carry on work of all three classes named above. There are also three divisions which deal with business having general relations to the whole Department—Division of Accounts and Disbursements, Division of Publications, and the Library.

As chief officer of the Department, the Secretary determines its general policy, subject to the approval of the President and within the terms of the Federal laws, appoints its officers and employees, approves plans of work, publications and expenditures, issues such orders as may be required to set in operation or to enforce the laws passed by Congress relating to the Department, deals with Congress, State governments, associations and individuals on matters relating to agriculture and the business of the Department. As a rule, his attention is confined to the general and important business coming within the scope of his Department. The chief responsibility for the initiation and prosecution of the different lines of work within the Department devolves on the bureau chiefs. The Secretary, like the Minister in European governments, is necessarily a political officer representing the administration in power and ordinarily changes with the President. . . . The chief of the Weather Bureau is appointed by the President and the other chiefs by the Secretary. Most of the present chiefs have come to the head of their bureaux through promotion from the ranks of the civil service and in no case has their appointment or continuance in office been determined by political considerations. They are permanent officers whose fitness for their positions has been tested by long experience and they do not fear removal when the administration changes.

Each bureau is fully organized with reference to covering satisfactorily all the lines of work committed to its

charge. To a considerable extent practical administrative considerations, rather than logical reasons, have determined the scope of a bureau's functions and the character of its force. For example, chemists are employed in the Bureaux of Plant Industry, Soils and Animal Industry and the Office of Experiment Stations, as well as in the Bureau of Chemistry. Editors and librarians are employed in the several bureaux as well as in the Division of Publications and the Library. Each bureau has its own force of clerks, stenographers, messengers, and other subordinate employees.

Within the bureaux, divisions and subdivisions are made in accordance with the special needs of different lines of work rather than on any general departmental plan. In general, the effort has been made to organise the smaller groups of workers so as to conduct the business in hand most efficiently and at the same time encourage individual initiative and responsibility. There has been little insistence on any particular routine, even in the more formal business of the Department. The main consideration has been the rapid dispatch of routine business, freedom and accuracy of research, effectiveness of administration, and satisfactory and prompt distribution of information to the people.

Up-to-date appliances and methods to facilitate the rapid dispatch of business have been widely used. Stenography, typewriting, printing presses, telephones, telegrams, calculating machines, multigraphs, etc., have been freely employed. Formalities in correspondence have been reduced to a minimum. Printed circulars and bulletins have very largely taken the place of letters in answering inquiries. Permission to conduct official correspondence more or less broadly has been extended to numerous subordinate officers.

Closeness of touch with the people and interests on behalf of which the Department is working has been deemed very important. To this end, the employees of

the Department have been encouraged to do much of their work in the field, and a large part of the force has been stationed permanently or temporarily outside Washington. The United States being a large country, this policy has necessitated relatively large expenditures for travel. This, however, has been considered as merely an evil necessarily incidental to bigness of territory. The results have certainly justified the wisdom of getting close to the people in all quarters of our vast domain.

Explorers have been sent into foreign countries, and particularly to the more remote regions of the world, to study agricultural methods, to collect seeds and plants which may be useful in our agriculture, to secure beneficial insects or parasites on injurious insects. Co-operation has been encouraged with State Governments, State Agricultural Colleges and Experiment Stations, communities, agricultural and other organizations. A considerable share of the Department's business is now co-operative.

A free interchange of publications and information with foreign governments, institutions and organizations has also been made and cordial relations have been sought with all men wherever located who are working for the advancement of agriculture. Co-ordination of the work of the Department has been accomplished through various agencies.

To bring together the agricultural literature of the world and make it available to all workers in the Department, all books, periodicals, and pamphlets received by any branch of the Department are catalogued in the general library of the Department and are there controlled for the benefit of the Department as a whole. Such of those works as are of special use in the different bureaux are deposited there, subject to the call of the general librarian when they are needed elsewhere. Readers and students are freely welcomed to examine the contents of the Department library as a whole, as made accessible

through its card catalogue; and books are loaned to workers in the agricultural colleges and experiment stations throughout the country.

Works in the great Congressional Library and other libraries in the City of Washington are made available to Department officers through the Department Library. Bibliographies are issued on special subjects and lists and indices are prepared for many of the more important Department publications.

All the publications of the Department, except those of the Weather Bureau, are issued through the Division of Publications after being recommended by the Bureau Chiefs and approved for publication by the Secretary. This Division transacts all the Department business with the Government Printing Office, puts the manuscripts in proper form for printing, refers them to the different bureaux for criticism when their subject matter lies in the domain of more than one bureau, supervises the proof-reading, binding, &c. It also has general charge of all documents after they are printed, keeps the mailing lists and attends to the distribution, whether the requests for distribution come from the bureaux, Congressmen, or other sources. The publications are divided into several classes, as reports, periodicals, bulletins, Farmers' Bulletins and circulars.

The reports, bulletins and periodicals are usually for limited distribution. The Yearbook is intended for popular reading. It is published in an edition of 500,000 copies, and is chiefly allotted to the Congressmen for distribution to their constituents. The Farmers' Bulletins are useful popular summaries of information and are reprinted as long as the demand continues. They are distributed by the Congressmen and on individual requests to the Department. Circulars are primarily intended to answer inquiries and are freely sent to individuals applying for them. The chief periodicals are the Weather Review, Experiment Station Record, and Crop Reporter.

One of the most difficult problems before the Department is to satisfy reasonable demands for its publications and at the same time prevent wasteful distribution. To do this, it is not sufficient to classify the publications as indicated above. Mailing lists must be closely restricted and indiscriminate requests must as far as possible be eliminated. To aid in this, a monthly list of all Department publications is regularly sent to all applicants, who are thus kept informed of what the Department is publishing and urged to apply for only such things as they really need. The sale of Department documents through a general officer (Superintendent of Documents) of the Government Printing Office is also encouraged. Our people have not yet, however, become accustomed to buy public documents, and the very large free distribution made by Members of Congress prevents the rapid spread of the habit of purchase.

The Division of Publications also superintends the printing of blanks, letter heads, and a variety of leaflets and small documents required by the business of the Department. Formerly this printing was done in a branch of the Government Printing Office located in one of the Department's buildings, but has recently been transferred to the central printing establishment.

The financial affairs of the Department are conducted through its Division of Accounts and Disbursements, which deals directly with the Treasury Department. Requisitions (*i.e.*, orders for purchase) originate in the different bureaux and are sent to the Disbursing Office for approval, after which they are returned to the bureaux, from which they are mailed to the dealers in whose favour they are drawn. Bills are approved and recorded in the different bureaux and then sent to the Disbursing Office for audit, payment and transmission to the Treasury Reports of all expenditures are prepared in the Disbursing Office for submission to Congress, together with estimates of needed appropriations called for by the bureau chiefs

and approved by the Secretary. All appointments to the Department Service are made through the Appointment Clerk's Office, which transacts all business relating to appointments with the Civil Service Commission through the Secretary. Recommendations for appointment originate as a rule with the bureau chiefs.

For the scientific and technical positions in the Department special examinations are held by the Civil Service Commission. Arrangements for these examinations are made by the Commission through the Office of Experiment Stations, which in these matters represents the Department. The Secretary is, however, authorised by law to appoint experts and agents without examination for scientific work of the Department, but such appointments are subject to review by the Civil Service Commission. This arrangement, however, serves a very useful purpose by preventing delay in the prosecution of the Department's work, pending the finding of suitable candidates through examinations.

The clerical and other subordinate force is almost wholly appointed from the regular registers of the Civil Service Commission and is thus removed from personal or political influence.

Matters pertaining to the general interests of the Department are presented and discussed at monthly meetings of the Department Council, which includes the bureau chiefs and other general officers and is presided over by the Secretary. There is also a general committee, composed of the assistant chiefs and presided over by the Assistant Secretary. This committee consider especially cases in which there is overlapping of the work of different bureaux and seeks to have such matters adjusted so as to do away with duplication of effort or the intrusion of one bureau into the field of another. Similar committees exist in the several bureaux.

In general the business methods of the Department tend to approximate those of great commercial concerns.

Tedious formalities and red tape have been largely done away with. Esprit de corps is cultivated and great effort made to push the work along all lines. Government business necessarily has limitations because it is determined by statutes and a system of checks and balances must be maintained in the public service. The public funds are honestly spent, but economy of expenditure is difficult. Nevertheless, it is believed that the public gets more for its money than formerly. At any rate the Department does a large amount of business, its output of information is very great, and its influence has rapidly grown and is now widespread.

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