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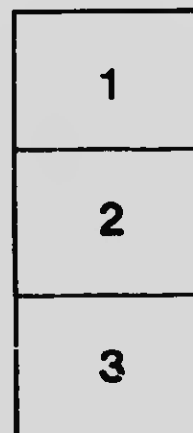
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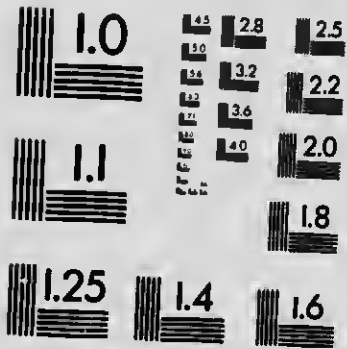
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MUNICIPAL GOVERNMENT IN ONTARIO

BY ADAM SHORTT

MUNICIPAL ORGANIZATION IN ONTARIO

BY K. W. MCKAY

BIBLIOGRAPHY OF CANADIAN MUNICIPAL GOVERN-  
MENT

BY S. MORLEY WICKETT

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PREFATORY NOTE

The following articles bearing on the Province of Ontario continue the study of Canadian Municipal Government begun last year. Especially in Ontario discussion of municipal organization, methods of taxation and control of private corporations has served to awaken renewed interest in local affairs. The opening historical article is from the pen of Mr. Adam Shortt, M.A., Professor of Political Economy and Constitutional History, Queen's University, Kingston. The next paper, giving a survey of present municipal organization, is contributed by Mr. K. W. McKay, Editor of the *Municipal World*, St. Thomas, and Secretary of the Ontario Assessment Commission, 1902. The Bibliography has been amplified and brought down to date.

S. MORLEY WICKETT.

THE UNIVERSITY OF TORONTO,  
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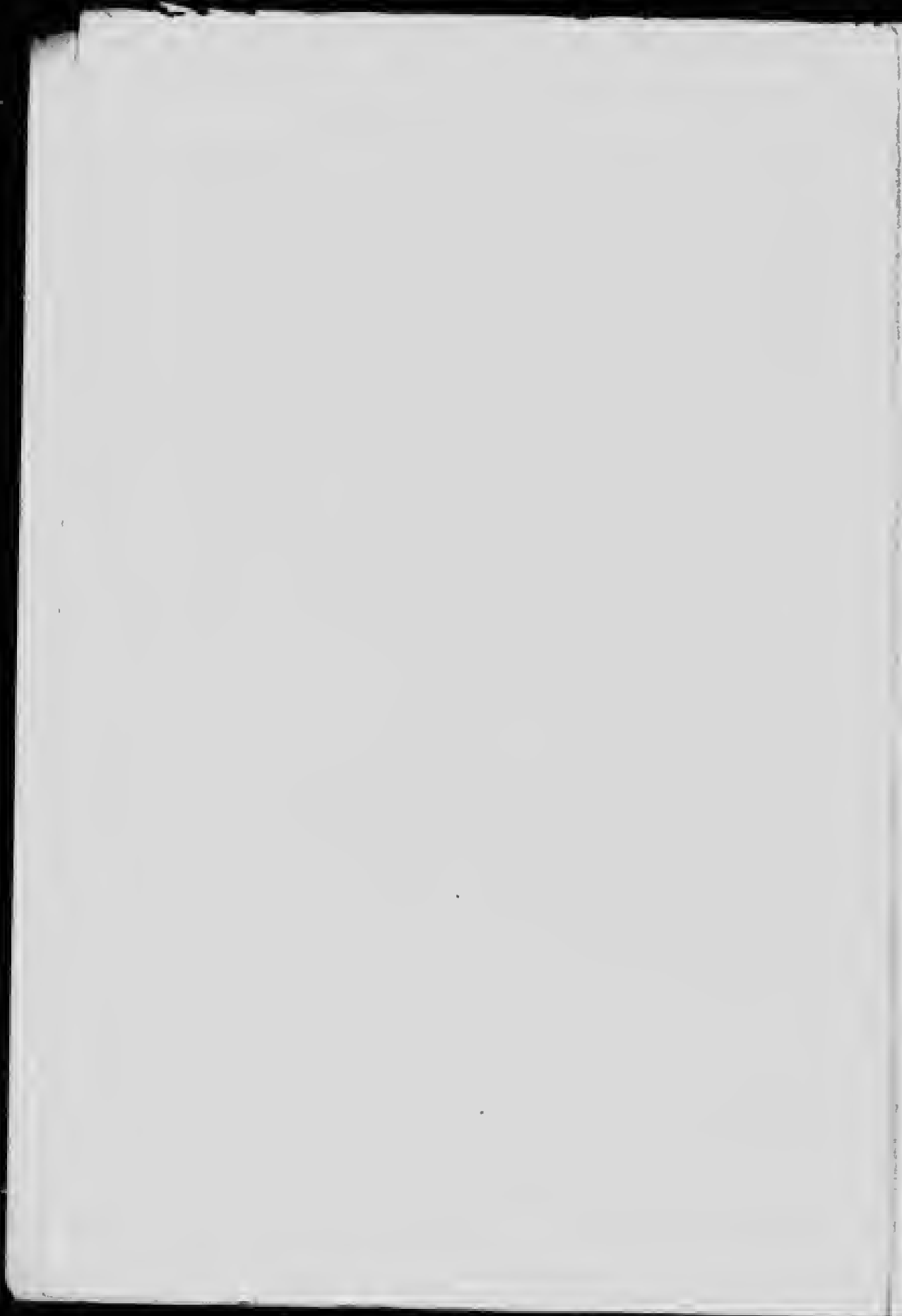


**MUNICIPAL GOVERNMENT IN ONTARIO  
AN HISTORICAL SKETCH**

B'

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MUNICIPAL GOVERNMENT IN ONTARIO  
AN HISTORICAL SKETCH  
BY ADAM SHORTT, M.A.

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The history of municipal government in Ontario is the history of an important phase of the development of responsible government in Canada. Owing to the colonial policy of Great Britain, as administered by the Canadian governors, there was long manifested a profound distrust of the principle of self-government, both general and local. Yet the Loyalists who settled in Canada had been for the most part accustomed to a considerable measure of local self-government in the colonies from which they came. Under the French-Canadian system, determined by the Quebec Act, there was no provision for municipal government. Owing to the protests of the English element already in the colony, and the numerous petitions of the Loyalists and others who came to the colony, during or after the American Revolution, it was found necessary to amend the Canadian constitution. This was effected by the Constitutional Act of 1791, which divided Canada into the two provinces of Upper and Lower Canada, afterwards Ontario and Quebec. To each was given a representative assembly and an appointed council under a separate governor.

Immediately after the arrival of the Loyalists and before the repeal of the Quebec Act, magistrates' commissions had been given to several of the loyalist officers in the western settlements, that they might preserve the peace and settle minor disputes.<sup>1</sup> At first their functions were purely legal. But in 1785 an Ordinance was passed, "for granting a limited civil power and jurisdiction to His Majesty's Justices of the Peace in the remote parts of this Province."<sup>2</sup> After receiving several

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<sup>1</sup> Canadian Archives, B. Vol. 65, p. 28.

<sup>2</sup> Laws of Lower Canada, Vol. I., p. 103.

petitions for a more extended system of local government, another Ordinance was passed in 1787 authorizing the creation of new districts and the appointment of special officers for their administration.<sup>1</sup> In accordance with this authority Lord Dorchester issued a proclamation, dated July 24th, 1788, dividing the western settlements into four districts named Lunenburg, Mecklenburg, Nassau and Hesse.<sup>2</sup> On the same day appointments were made to the following offices in each of the new districts: judges of the Court of Common Pleas, justices of the peace, sheriff, clerk of the Court of Common Pleas and of the Sessions of the peace, and coroners.<sup>3</sup>

Courts of Quarter Sessions were thus organized and began their sittings the following year. The first court for the district of Mecklenburg was held at Kingston on April 14th, 1789;<sup>4</sup> and the first court for the district of Lunenburg was held at Osna-bruck on June 15th, in the same year.<sup>5</sup> The duties of the Courts of Quarter Sessions, as interpreted and exercised, were partly judicial, as in connection with the maintenance of the peace; partly legislative, as in prescribing what animals should not run at large, or what conditions should be observed by those who held tavern licenses; and partly administrative, as in appointing certain officials and in laying out and superintending the highways.<sup>6</sup> When, therefore, Governor Simcoe came to Upper Canada to establish the new provincial government, in 1792, he found the Courts of Quarter Sessions already in operation as the only form of local administration.

The townships first laid out in Upper Canada had no connection with municipal government. They were simply territorial units, arranged for the convenience of the surveyors and the land-granting department in recording lands and arranging settlements. So little intention was there to use the townships

<sup>1</sup> Laws of Lower Canada, Vol. I., p. 121.

<sup>2</sup> Canadian Archives, Q. Vol. 37, p. 178.

<sup>3</sup> Canadian Archives, Q. Vol. 39, pp. 134-139.

<sup>4</sup> Early Records of Ontario (*Queen's Quarterly*, Vol. VII., p. 55).

<sup>5</sup> *Lunenburg, or the Old Eastern District*, by J.F. Pringle, p.47. (Cornwall, 1890.)

<sup>6</sup> Early Records of Ontario (*Queen's Quarterly*, *loc. cit.*).

as municipal units, that special instructions were issued requiring the townships to be numbered instead of named. They were not even to be referred to as townships, but as royal seigneuries.<sup>1</sup> Yet, in spite of these precautions, even before the passing of the Constitutional Act, the settlers in some of the earlier townships, such as Fredericksburg and Adolphustown, had undertaken to reproduce in Canada the local institutions to which they had been accustomed in the English colonies.<sup>2</sup>

Such being the attitude of many of the first settlers in Upper Canada, we are not surprised to find that the first bill introduced was one "to authorize town meetings for the purpose of appointing divers parish officers." But after passing its second reading it was ordered that the further consideration of the bill be postponed for three months. On the same day another bill was introduced to authorize "the justices of the peace to appoint annually divers public officers." This again was followed by a bill to authorize "the election of divers public officers." None of these, however, managed to get through the House.<sup>3</sup> In these proposals we observe the conflict of the two rival American systems, typified by New England and Virginia, the one seeking to vest in the people the election of their local officers and the regulation of their local affairs, the other seeking to confine these rights to the justices of the peace in Quarter Sessions, who again depended for their positions upon the Governor in Council.<sup>4</sup>

Simcoe, in his report on the session to the Home Government, says that the lower House "seemed to have a stronger attachment to the elective principle in all town affairs than might be thought advisable."<sup>5</sup> The following session the bill with reference to town meetings was once more introduced and

<sup>1</sup> Canadian Archives, B. Vol. 65, p. 34.

<sup>2</sup> *Early Municipal Records of the Midland District.* (In Appendix to the Report of the Ontario Bureau of Industries, 1897.)

<sup>3</sup> See Journals and Proceedings of the House of Assembly of the Province of Upper Canada, 1792. Canadian Archives, Q. Vol. 279-1, pp. 87 *et seq.*

<sup>4</sup> For a fuller account of early municipal conditions, see *The Beginning of Municipal Government in Ontario*, in Transactions of the Canadian Institute, Vol. VII., pp. 409-424.

<sup>5</sup> Canadian Archives, Q. Vol. 279-1, p. 83.

passed. Writing to the Colonial Secretary, Dundas, in September, 1793, Simcoe says that he managed to put off the bill of last session with reference to town meetings as something that should not be encouraged. But as regards the opposite measure proposed, he says that "to give the nomination altogether to the magistrates was found to be a distasteful measure." Many well-affected settlers were convinced that fence-viewers, pound-keepers, and other petty officers to regulate matters of local police, would be more willingly obeyed if elected by the householders, and especially that the collector of the taxes should be a person chosen by themselves. "It was therefore thought advisable not to withhold such a gratification to which they had been accustomed, it being in itself not unreasonable and only to take place one day in the year."<sup>1</sup>

When we turn to this Act<sup>2</sup> we find that it merely permits the ratepayers to elect certain executive town officers, whose duties were either prescribed by the Act or left to be regulated by the justices in Quarter Sessions. The first and most important office to be filled was that of town clerk. This official was required to make a list of the inhabitants of his parish or township and deliver it to the magistrates in Sessions, also to keep a record of all matters pertaining to the parish or town. Then there were two assessors for each township, whose duty it was simply to assess the various inhabitants according to the rates appointed by the legislature of the province. There was also one collector for each township, whose duty was limited to collecting the amounts assessed to each ratepayer. Again, there were the overseers of the highways, at first not less than two or more than six. Their duties with reference to the roads were prescribed by the legislature, they were also to act as fence-viewers, to pass upon the sufficiency of any fence as determined upon by the inhabitants at the town meeting. The person elected as pound-keeper was authorized to empound such domestic animals as should trespass on lands enclosed by a sufficient fence, or such as were not permitted to run at large.

<sup>1</sup> Canadian Archives, Q. Vol. 279-2, pp. 335 *et seq.*

<sup>2</sup> 33 Geo. III., c. 2.

Finally, there were two town wardens, whose function it was to take charge of the property of the township, to defend its rights and answer for its obligations. As soon as a church of England was established in the township and a parson or minister duly appointed, the parson was to nominate one of the wardens and the people to elect the other. The persons elected to these offices were to be duly sworn in by one of the magistrates. If any one should refuse to accept any of these offices, and since they involved many duties and few rights they were not sought after, he should be fined forty shillings, and the magistrates should appoint another to take his place.

Beyond the permission to fix the height of fences the town meeting had not legally any legislative function. The town officers were quite independent of each other and responsible not to those who elected them but to the magistrates. By an Act passed the following year<sup>1</sup> a slight additional legislative power was given to the town meetings, permitting them to fix the limits of times and seasons for certain animals running at large, but even this power was afterwards curtailed. This first Act, therefore while authorizing town meetings effectively strangled all interest in them except where, as in Adolphus and neighbouring townships, the limitations of the Act were to a certain extent disregarded. For years to come the Court of Quarter Sessions remained the only living centre of municipal affairs.

Recognizing the democratic tendencies of the people Simcoe reported to the Home Government that, "in order to promote an aristocracy, most necessary in this country, I have appointed Lieutenants to the populous counties which I mean to extend from time to time, and have given to them the recommendatory power for the militia and magistrates, as is usual in England."<sup>2</sup> He selected them as far as possible from the Legislative Council. However, the Home Government was even more averse than Simcoe to permitting local administration to pass

<sup>1</sup> 34 Geo. III., c. 8.

<sup>2</sup> Canadian Archives, Q. Vol. 279-1, p. 85.

out of the hands of the central government. It therefore disapproved of the appointment of lieutenants of counties,<sup>1</sup> and the system did not long survive Simcoe's administration. Almost from the first the duties of the office were limited to militia affairs.

Simcoe's successor, Governor Russell, shortly after taking office, sent a circular to the lieutenants of counties, in 1796, in which, in addition to urging them to activity in connection with the militia system, he asks them to keep him informed as to the magistrates to be appointed in their several districts and to send in names for his approval.<sup>2</sup> However, as the combination of personal and corporate interests which centred about the Executive became thoroughly organized and established connections with the various parts of the province, the object which Simcoe had in view in the appointment of lieutenants of counties was secured in a more direct and effective manner, and, being based upon immediate self-interest, remained more permanent than any artificial system that could have been devised. It was before this shrine of aristocracy that the cry for responsible government ascended so long in vain. Nothing gives to arrogance so fine a flavour as the sublime consciousness of rectitude. The aristocracy of the Compact were virtuously certain of being "most necessary" in the interests of a monarchical system. Conceiving it to be their chief duty to guard the body politic from the corrupting influences of republicanism and other plebeian forms of vice, they steadily set their faces against all efforts in the direction of so-called responsible government, whether in local or provincial matters.

Having seen what was the nature of the machinery adopted for local administration in Upper Canada, we have now to take note of its working and development. In order to provide the Quarter Sessions with the means for carrying on their functions the first Assessment Act of the province was passed in 1793.<sup>3</sup> The chief objects for which rates were to be levied are set forth

<sup>1</sup> Canadian Archives, Q. Vol. 281-2, pp. 328 *et seq.*

<sup>2</sup> Canadian Archives, Q. Vol. 282-2, p. 574.

<sup>3</sup> 33 Geo. III., c. 3.



in the introduction to the Act: "Whereas it is necessary to make provision for defraying the expenses of building a court house and gaol, and keeping the same in repair, for the payment of a gaoler's salary, for the support and maintenance of prisoners, for building and repairing houses of correction, for the construction and repair of bridges, for the fees of a coroner and other officers, for the destroying of bears and wolves, and other necessary charges within the several Districts of this Province, therefore, etc." The Act requires the assessor to classify the resident householders in eight groups, according to the value of the real and personal property possessed by each, ranging from £50 as the lowest amount to be taxed, up to £4,000 and upwards as representing the highest class. When these lists had been passed upon by two of the local magistrates, the collector was authorized to demand from the persons so listed certain specified sums in taxes, ranging from 2s. 6d. for the lowest class, up to 20s. for the highest. The district treasurer, appointed by the Sessions, received the moneys sent in by the collectors and held them subject to the order of the Quarter Sessions. After two years' experience of this rating, and after considering the assessment of the district and the need for the ensuing year, the Court might consider what proportion of the rate specified by the Act would be required to supply the needs of the district, and should declare that proportion the rate to be levied for the following year. Thus they might declare a full rate, a quarter rate, or a three-quarter rate as was thought necessary.

The roads, the most important feature in a new country, were dealt with in a separate Act,<sup>1</sup> replacing the old Ordinance of the province of Quebec. The new Act provided that the justices of the peace in their respective divisions were to be commissioners of the highways. From these commissioners the overseers of the highways, elected by the town meetings, took their instructions. The Act specifies with considerable detail the general plan to be followed by the commissioners,

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<sup>1</sup> 33 Geo. III., c. 4.

and the services required from the overseers. The highways were expected to be built and maintained by a labour tax, commonly known as statute labour.

From time to time the three Acts relating to parish officers, assessments and roads were amended, and in their amendment represented the gradual development of the province in these respects. However, other functions were added to the powers of the Quarter Sessions, covering the most important aspects of the new municipal developments, apart from roads and taxes. The assessment Act underwent numerous alterations, the most important of which was the change of system which took place in 1803.<sup>1</sup> This took from the assessors the discretion formerly allowed them in classifying the owners of property for purposes of taxation. The new Act specified certain classes of taxable property, such as cultivated or uncultivated lands, domestic animals, mills, stores, taverns, etc., and to each class was assigned a special valuation by the Act. Upon the total value of property in each district, thus determined, the magistrates were to levy such a rate as would meet the requirements of the district. The maximum rate was limited to one penny in the pound, for any one year. There was, apparently, under the old system, a natural tendency among the assessors to keep down the valuation in their respective townships, in order that this or that township might bear as little of the district tax as possible. Owing to the peculiarly rigid and artificial method of valuing property, which was the basis of the new system, the assessment Act required frequent revision in order to preserve any approximately just valuation. Under its numerous amendments and adjustments the same system remained in force until after the municipal government of the province had practically taken its present form under the Baldwin Act of 1849.

No change took place in the road Act until 1798, when the amount of statute labour required from each individual was proportioned to the assessment of his property, and ranged from six to twelve days.<sup>2</sup> In 1804 a new and important departure

<sup>1</sup> 43 Geo. III., c. 12.

<sup>2</sup> 38 Geo. III., c. 7.

was made as regards the roads.<sup>1</sup> For the first time a sum of money was voted by the provincial legislature to assist in laying out and opening new roads, repairing old roads and building bridges in the several districts of the province. It was acknowledged that the local powers and resources were inadequate to provide the roads necessary to open up certain new districts and afford a general means of communication throughout the province. The expenditure of the provincial grants and the superintendence of the work to be done, instead of being committed to the justices in Quarter Sessions, were entrusted to special commissioners appointed by the Executive Government and directly responsible to it. This principle, once acknowledged, rapidly developed, and from this time on we have two independent powers in charge of the roads of the province. In course of time there emerged a third road factor in the shape of the joint stock companies for the building and maintenance of roads and bridges, on which they were authorized to collect tolls. In 1810 an important change was made in that part of the road system which fell within the jurisdiction of the Quarter Sessions.<sup>2</sup> The justices were authorized to appoint surveyors of the highways who should, on the one hand, take their general instructions from the justices and report to them, and, on the other, have at their command the statute labour of the district superintended by the overseers of the highways elected by the town meetings. Special work on the highways might also be performed on the recommendation of the surveyors, to be paid for out of the district funds. In 1819 it was provided that statute labour might be compounded for at the rate of 3s. 9d. per day, afterwards changed to 2s. 6d. per day.<sup>3</sup>

We may now turn to trace the development of the various phases of municipal government made necessary by the growth of the province, the rise of towns, and the emergence of new social problems. In 1794 the magistrates were given the power to regulate tavern licenses, by giving or withholding certificates

<sup>1</sup> 54 Geo. III., c. 6.

<sup>2</sup> 50 Geo. III., c. 1.

<sup>3</sup> 59 Geo. III., c. 8.

upon which licenses were granted by the Provincial Secretary.<sup>1</sup> In 1797 the Quarter Sessions were authorized to regulate ferries by ordering suitable rules and regulations and assessing the rates to be charged.<sup>2</sup>

Up to 1801 the Quarter Sessions were not authorized to make any special provisions for towns or villages as distinct from the remainder of the district. Gaols and court-houses were naturally placed in the chief town or towns in the district, and in such towns special nuisances were abated, special attention paid to the roads, special grants made for the schools and for the relief of the poor. But all these were services which might have been discharged for any part of the district where need arose. In 1801, however, by a special Act of the legislature, the Court of Quarter Sessions of the Midland district was empowered to establish and regulate a market in the town of Kingston.<sup>3</sup> This was as much for the convenience of the inhabitants of the district in general as for the benefit of the people of Kingston. The location of the market, and the various rules and regulations to be observed in connection with it, were left to the discretion of the magistrates. Copies of the market rules were to be posted in the most public places in every township in the district, and at the doors of the church and court-house in Kingston. Up to this time there had been an informal market in the town. By common consent certain streets were recognized as places where country produce was to be bought and sold. No rules, however, could be enforced; there were no market hours or days appointed, or any protection against forestalling, in those days much complained of. The magistrates acted upon the authority given them, the Kingston market was duly established, and by 1811 the published rules and regulations had become very extensive.<sup>4</sup>

As early as 1792 an annual fair had been established at Newark (Niagara) by proclamation of Governor Simcoe under

<sup>1</sup> 34 Geo. III., c. 13.

<sup>2</sup> 37 Geo. III., c. 10.

<sup>3</sup> 41 Geo. III., c. 3.

<sup>4</sup> *Queen's Quarterly*, Vol. VIII., p. 150.

authority of his general commission from the Home Government.<sup>1</sup> Evidently following this precedent the people of York (Toronto) in 1802, desiring to have a market established there, made direct application to Lieutenant-Governor Hunter and the Executive Council. The following year an Order in Council was passed granting to the Chief Justice and certain other councillors a plot of ground at York to be set aside for a market, and to be held by them as a trust for the public benefit.<sup>2</sup> In 1814 authority to establish a regular market in York was given to the Quarter Sessions of the Home district, in terms practically identical with the Act to establish a market in Kingston.<sup>3</sup> Another Act specially providing for the convenience of towns was that of 1803, prohibiting swine from being permitted to run at large in the towns of York, Niagara, Queenston, Amherstburgh, Sandwich, Kingston, and New Johnstown.<sup>4</sup>

Apparently the meagre element of responsible government allowed to the town meetings was not always sufficient to maintain interest in them, for in 1806 it was necessary to provide that in case in any township no town meeting should be held, or township officers appointed, the Quarter Sessions should appoint the necessary officers and duly fine them should they decline the honour.<sup>5</sup>

Kingston being for many years the chief commercial town in Upper Canada, it was naturally there that the more important urban municipal problems first developed. While Simcoe was still Governor, the Hon. Richard Cartwright, chairman of the Court of Quarter Sessions of the Midland district, had submitted to him the outline of a plan for incorporating the town of Kingston.<sup>6</sup> The proposed corporation was to consist of a certain number of persons who might either be appointed by the

<sup>1</sup> Canadian Archives, Q. Vol. 282-1, p. 206.

<sup>2</sup> See Minutes of the Executive Council, Canadian Archives, Q. Vol. 298-1, p. 51.

<sup>3</sup> 54 Geo. III., c. 15.

<sup>4</sup> 43 Geo. III., c. 10.

<sup>5</sup> 46 Geo. III., c. 5.

<sup>6</sup> *Life and Letters of the late Hon. Richard Cartwright*, p. 142. (Toronto, 1876.)

Governor, elected by the people, or partly one and partly the other. The function of the corporation should be to regulate the police of the town, under the following heads:—Measures for preventing accidents by fire; the times and places for holding public markets; determining the price and weight of bread; regulations for improving the streets and keeping them clean; regulating the fares of carters within the limits. The corporation should also have power to administer and dispose of the public domain, and the area of their jurisdiction should be enlarged from time to time so as to include the suburbs of the town as it increased. This plan, which was in accordance with the best American experience, indicates the line along which municipal expansion in Canada was actually to move; but it was a very long time in overtaking even this simple outline. Simcoe evidently took up Cartwright's suggestion, though he enlarged on it somewhat, and gave it a more aristocratic turn. His proposal to the Home Government was to erect the towns of Kingston and Niagara into cities, each with a corporation consisting of a mayor and six aldermen, to be justices of the peace, and a suitable number of common councillors. This was a standard arrangement in Britain, as it was afterwards in the first chartered cities in Upper Canada. But the members of Simcoe's corporations were advised "to be originally appointed by the Crown, and that the succession to vacant seats might be made in such manner as to render the election as little popular as possible, meaning such corporations to tend to the support of the aristocracy of the country."<sup>1</sup> However the Duke of Portland, with more insight, discouraged the project, suspecting that it might foster a taste for self-government.<sup>2</sup> It was evidently through Cartwright's influence and initiative that the Act authorizing the establishment of the market in Kingston was obtained, and as chairman of the Quarter Sessions he was instrumental in bringing the Act into operation and regulating the market.

<sup>1</sup> Canadian Archi      Vol. 287-1, p. 164.

<sup>2</sup> Canadian Archives, Q. Vol. 281-2, pp. 328 *et seq.*

As the Canadian towns began to fill up and the streets to take shape, with buildings, mostly of wood, coming into closer neighbourhood, the danger from fire rapidly increased. In Kingston, Queenston and York this soon came to be a matter of much importance, especially in Kingston where one or two of the more wealthy of the citizens, owning stores and warehouses, had not only insured their buildings but had provided themselves with special apparatus, popularly dignified by the name of "engines", for the suppression of fire. However, the lack of any special building regulations or any corporate organization for coping with fires occasioned uneasiness to the prudent. About the beginning of 1812 a severe fire in Kingston brought the question vividly before the citizens. It was at first proposed to take up the matter through private initiative and to raise by subscription a fund for the purchase of an adequate fire-engine with hose, hooks, ladders and buckets.<sup>1</sup> A volunteer fire company, as in the American towns, was also proposed. As an inducement for the citizens to join the company it was suggested that the volunteers should be exempt from serving on juries, or being elected as parish or town officers,—another side light on the craving for such honours. However it was generally recognized that an efficient local administration, commanding the confidence of the citizens, was indispensable. Hence it was proposed that the legislature should be at once petitioned for an Act to incorporate the town and thus give to its magistrates the necessary authority to make such by-laws, rules and regulations as they might deem necessary for the benefit of the community.<sup>2</sup> But all such projects were immediately checked by the outbreak of the war. After the peace the question of civic incorporation for Kingston was again actively discussed, especially over the head of such subjects as fire-protection, improvement of the streets, and the suppression of drunkenness and vice, the legacy of war. Certain public-spirited citizens had graded the streets and laid stone foot-paths opposite their

<sup>1</sup> *Kingston Gazette*, Jan. 28, 1812.

<sup>2</sup> *Kingston Gazette*, Feb. 4, 1812.

own properties, yet there was no general or concerted action.<sup>1</sup> Thus while the town was prosperous and flourishing as regards many of the citizens, it was miserably backward in its corporate life. Lieut. Francis Hall, an English officer, who visited Canada at this time, gives the following concrete picture of the difference between an American and a Canadian town. Comparing Sackett's Harbour with Kingston he says: "It covers less ground than Kingston, and has fewer good houses; it has, however, the advantage of a broad flagged footway, while the good people of Kingston, notwithstanding the thousands expended in their town, and the quarries beneath their feet, submit to walk ankle deep in mud, after every shower."<sup>2</sup> In attempting to account for this difference, he thinks it must be due to the fact that the people of Canada are simply here to accumulate a fortune with which to retire to Britain. Though this was an unfortunate tendency in the earlier days of the colony, resulting in much impediment to Canadian progress, yet it had little to do with municipal backwardness. The real reason for the contrast was that on the American side the people were not only permitted but encouraged to improve their local surroundings by corporate self-government, while in Canada these democratic practices were regarded as "the very worst principles" of the dreaded American system.<sup>3</sup>

The people of Kingston, as of other towns, were quite alive to the great defects in their local civic life, but neither the magistrates of the Quarter Sessions nor the people of the towns had any encouragement or even authority for attempting improvements. Still they did not cease to urge their needs upon the legislature. Finally, Kingston obtained some measure of relief by the passage of an Act, the first of its kind in Upper Canada, to regulate the police within the town.<sup>4</sup> This was not really a measure of self-government. It simply gave to the

<sup>1</sup> *Kingston Gazette*, Jan. 27, 1816.

<sup>2</sup> *Travels in Canada and the United States in 1816 and 1817*, by Lieut. Francis Hall, p. 106. (Boston, 1818.)

<sup>3</sup> See Lieutenant-Governor Gore to Mr. Windham, Canadian Archives, Q. vol. 305, p. 45.

<sup>4</sup> 56 Geo. III., c. 33.



magistrates of the Quarter Sessions the power "to make, ordain, constitute and publish such prudential rules and regulations as they may deem expedient relative to paving, keeping in repair, and improving the streets of the said town, regulating slaughter houses and nuisances, and also to enforce the said town laws relative to horses, swine or cattle of any kind running at large in said town; relative to the inspection of weights and measures, firemen and fire companies." To meet the expenses of local improvement the magistrates were authorized to levy a special tax upon the ratepayers, not exceeding in the aggregate £100 in a year. With a total annual spending power of \$400, the magistrates were not likely to indulge extravagant conceptions of civic improvement. Still they immediately took advantage of their limited powers, and before the end of 1816 had drawn up and published in the *Kingston Gazette* a set of fourteen rules and regulations, which served as a nucleus for future by-laws in many Upper Canadian towns. These regulations referred to such matters as turnpiking the streets, grading and paving the sidewalks, preventing the obstruction of the streets, or furious driving thereon, regulating buildings with a view to prevent fires and to facilitate the extinguishing of fires, and the regulation of slaughter-houses and other nuisances.<sup>1</sup>

In the same year, 1816, the first public school Act for Upper Canada was passed.<sup>2</sup> This gave to the people of the different towns, villages and townships the first real measure of local self-government, in that it permitted them to meet together for the establishment of schools. The inhabitants of any section providing at least twenty scholars were authorized to build a school-house, and, having undertaken to pay part at least of a teacher's salary, they might elect three trustees to examine and engage a teacher and authorize text-books, subject only in the latter case to the veto of the district Board of Education. Thus people who could not be trusted with the power of electing representatives to look after streets and regulate carters and

<sup>1</sup> *Kingston Gazette*, Sept. 1, 1816; Reprinted in *Queen's Quarterly*, Vol. IX., p. 133.

<sup>2</sup> 56 Geo. III., c. 36.

nuisances were deemed quite competent to choose representatives who should be sufficiently wise and well-informed to qualify teachers and authorize text-books, as well as pass upon the other educational needs of the country.

In 1817 the measure of local government authorized for Kingston was extended to the towns of York, Sandwich, and Amherstburg.<sup>1</sup> The same year authority was given to the magistrates of the Niagara district to establish a market in the town of Niagara.<sup>2</sup> This was of the same nature as the authority granted for the Kingston and York markets. From time to time other places, as they rose to importance or acquired influence, were granted the privileges of a market and a local police under the conditions already given. Also, with the increase of population and the settlement of new regions of the country, the townships and districts of the province were subdivided and rearranged. But for a considerable time few additional powers were given to the justices of the peace. In 1822 the magistrates in whose jurisdiction the police towns were situated were required to render an account annually of the receipt and expenditure of the special rates levied on the towns.<sup>3</sup> In 1825 the magistrates in the police towns were required to fix the price of bread fortnightly, if necessary, the price to be regulated by the price of flour during the previous fortnight.<sup>4</sup> In 1826 an Act brought into operation the suggestion made in Kingston before the war of 1812 with reference to fire companies.<sup>5</sup> It provided for the establishment of volunteer fire companies in the several police towns, and the granting of certificates to the efficient members exempting them from militia duties during peace, and from the necessity of serving on juries, or as constables, or in any other parish or town office.

Some experience of the police town system conclusively proved that it afforded no adequate executive machinery for carrying out the regulations of the magistrates. Hence in

<sup>1</sup> 57 Geo. III., c. 2.

<sup>2</sup> 57 Geo. III., c. 4.

<sup>3</sup> 2 Geo. IV., c. 13.

<sup>4</sup> 6 Geo. IV., c. 6.

<sup>5</sup> 7 Geo. IV., c. 8.

several towns the people once more began to agitate for a regular system of self-government under a separate municipal corporation. Kingston again took the lead, and, after a couple of years' discussion, a public meeting was held in the courthouse on December 26th, 1828. The meeting resulted in the adoption of eight resolutions pointing out the inconvenience of the existing system, and the necessity for the incorporation of the town with a council whose members should be elected by ballot, every householder paying a police tax to have a vote. A committee was appointed to prepare a petition to the legislature to this effect.<sup>1</sup> The petition, as presented, contained a sketch of the proposed constitution of the town, which embodied some rather interesting features among others of a more familiar type. Thus the system of double and even triple election was brought in. The ratepayers were to elect twenty-four electors, who in turn should elect seven of their number to be town councillors, and the councillors were to elect one of their number to be the chairman or mayor of the town.<sup>2</sup>

However, another town of the Midland district, namely, Belleville, was the first actually to get a bill embodying the principle of self-government before the legislature. This was not a bill to incorporate the town, but merely to establish a police Board in it. Still it contained a new feature, that the police Board should be elected by the inhabitant householders. The measure successfully passed the Assembly, but when it came to the Council it was reported upon adversely. The grounds of opposition were adroitly though fallaciously chosen. If, it was said, the people themselves elect those who are to make and enforce the town regulations, then, since men do not like to be forced, they are pretty certain to elect only such persons as will not make effective rules or adequately enforce them; hence, in the interest of efficient civic administration, such innovations must be discouraged.<sup>3</sup> The report was accepted,

<sup>1</sup> *Kingston Chronicle*, Dec. 27, 1828.

<sup>2</sup> *Kingston Chronicle*, Jan. 10, 1829.

<sup>3</sup> *Journals of the Legislative Council of Upper Canada*, 1828, p. 51.

and the people of Belleville saved from their own rashness. Such being the attitude of the Council, it was inevitable that the more radical measure proposed for Kingston should be rejected. Accordingly, though also passed by the Assembly, it was rejected without argument by the Council.<sup>1</sup>

Notwithstanding these rebuffs, an increasing number of towns continued to send in petitions and to have bills introduced to authorize a certain measure of municipal self-government. In 1831 the people of Brockville managed to get a bill through the Assembly for the incorporation of the President and Board of Police of the town, and for the establishment of a market. During the same session the Assembly once more passed the Kingston bill for incorporation. Both measures, however, went down before the paternal vigilance of the Council. The fact of the market being introduced into the Brockville bill was seized upon as a reason for rejecting it. The following session, 1831-32, Brockville, taking the Council at its word, again had its bill introduced, purged of the objectionable market feature. This time, after passing the Assembly, it came before a committee of the Council composed of the more liberal members who, in language as conciliatory as possible towards the prejudices of their fellow councillors, recommended that the bill be passed. The majority of the Council, however, while apparently recognizing that they could not for ever stem the rising tide of democracy, yet endeavoured to mitigate its evils. As the result of a conference between the two Houses, a bill with a less democratic title was sent up from the Assembly and finally passed.<sup>2</sup> This Act marks a new departure in the municipal government of Upper Canada.<sup>3</sup> It made the Brockville town Board a distinctive body corporate under the name of the President and Board of Police of the Town of Brockville. The town was divided into two wards. The householders of each ward were to elect two members of the corporation, and

<sup>1</sup> See for this, and several other bills of the period, British Blue Books, Returns Relating to the Legislative Council of Upper Canada, 1833, pp. 15-19.

<sup>2</sup> Journals of the Legislative Council of Upper Canada, 1831-2, pp. 37-45.

<sup>3</sup> 2 Wm. IV., c. 17.

the four were to elect a fifth, though in case of disagreement the town at large elected the fifth. The five members then appointed one of their number president. The powers of the corporation, though not materially extended beyond those previously granted to the police towns, were yet much more minutely specified, since it was now necessary to distinguish between the authority of the police Board of the town and the general powers of the magistrates of the Quarter Sessions, who still retained such jurisdiction over the town as was not specifically granted to the police Board. The matters placed within the authority of the new Board in Brockville were almost identical with the new set of general police regulations appointed for the town of Kingston by the Quarter Sessions, in March, 1830.<sup>1</sup> The funds for the town were to be provided by a special rate on its assessed property, the rate not to exceed 2d. in the pound. The various town officers were no longer to be elected by the people, but appointed by the corporation. The corporation was specially prohibited from interfering with the market, which was established by special Act the following session.

The next year, session 1832-3, the town of Hamilton was granted a Board of police and a market, by an Act which combined the Brockville police Act of the former session and the market Act of that session.<sup>2</sup> In the case of Hamilton, the town was divided into four wards, instead of two, and each ward elected one member, the fifth being chosen as in Brockville. The rate of taxation also was extended to 4d. in the pound, being double the Brockville rate. The corporation was authorized to borrow £1,000 with which to build a market house, whose site however was to be chosen by the justices of the peace for the district of Gore. During the same session of 1832-3, bills to establish similar corporations in the towns of Prescott and Cornwall were passed by the Assembly, but strangled by a pocket veto in the Council.<sup>3</sup> A futile attempt

<sup>1</sup> *Kingston Chronicle*, March 30, 1830.

<sup>2</sup> 3 Wm. IV., c. 16.

<sup>3</sup> Journals of the Legislative Council of Upper Canada, 1832-3, pp. 47 and 139.

was also made to obtain an Act of incorporation for the town of York.<sup>1</sup>

The following year, 1834, the towns of Belleville, Cornwall, Port Hope and Prescott obtained Acts of incorporation of the same nature as that of Hamilton. This year also York was suddenly raised from the position of a police town, under the control of the district magistrates, to the dignity of a self-governing city, the name of which the Legislative Council changed to Toronto.<sup>2</sup> The city was divided into five wards. Each ward was to elect two aldermen and two common councillors, and these were to elect a mayor from the body of aldermen. The legislative powers of the common council were specified at considerable length. They covered not only all the municipal functions of the other town charters, and of the Courts of Quarter Sessions, but a number of new powers then for the first time specifically mentioned, though in some cases previously exercised. The rate of taxation was limited to 4d. in the pound upon assessments within the city proper, and 2d. on assessments within the liberties or suburbs attached to the city. The borrowing power was limited to the amount of the revenue to accrue within five years after effecting the loan. This charter was amended in 1837, the most important new feature being the provision of a special system of assessment for the city.<sup>3</sup> The various kinds of property liable to be assessed were specified, but in certain cases the valuation was left to the assessor, while in others it was definitely determined. The old rate of 4d. in the pound having been found quite inadequate to the needs of the city, the limit was raised to what in those days was regarded as the alarming proportion of 1s. 6d. in the pound, the suburbs to be taxed at one-fourth the rate of the city. In 1837 Cobourg and Picton were also incorporated.<sup>4</sup>

Though Kingston had been the first town to seek incorporation, it remained under the jurisdiction of the Quarter Sessions

<sup>1</sup> Journals of the Legislative Council of Upper Canada, 1832-3, p. II.

<sup>2</sup> 4 Wm. IV., c. 23.

<sup>3</sup> 7 Wm. IV., c. 39.

<sup>4</sup> 7 Wm. IV., c. 42 and c. 44.

until 1838. Then it obtained a constitution practically the same as that of the city of Toronto, though denied the title of city.<sup>1</sup> It was divided into four wards, from each of which was to be elected one alderman and one common councilman. Together these were to elect a mayor, who might or might not be chosen from the council. The rate of assessment was not to exceed 6d. in the pound, and the borrowing powers of the council were limited as in Toronto, while the assessment system was also the same as that of the capital in the amended Act of 1837.

As we have seen, under the steady pressure brought to bear upon the Government there had been a slow but certain progress towards self-government in the Canadian urban municipalities. Yet the rural municipalities remained, down to the time of the union of the provinces in 1841, almost in the position in which they were left by the first parliament in Upper Canada.

In his report on Canada, Lord Durham stated that "the establishment of a good system of municipal institutions throughout this province is a matter of vital importance . . . The true principle of limiting popular power is that apportionment of it in many different depositaries, which has been adopted in all the most free and stable States of the Union . . . The establishment of municipal institutions for the whole country should be made a part of every colonial constitution."<sup>2</sup> On this point his successor, Lord Sydenham, frankly adopted Lord Durham's recommendation, and made it an essential part of his policy in both provinces. It was his intention that the essential features of a general municipal system should be embodied in the Union Act. The necessary clauses had been sent home to England to be incorporated in the proposed Act. However, they met with considerable opposition in the British Parliament, and were dropped.<sup>3</sup> Lord Sydenham, as Lord Durham before him, did not consider it possible that the legislature in either province

<sup>1</sup> 1 Vic., c. 37.

<sup>2</sup> Report on the Affairs of British North America, from the Earl of Durham, 1839, p. 103.

<sup>3</sup> *Memoir of the Life of the Rt. Hon. Charles Lord Sydenham, G.C.B.*, edited by his brother, G. Poulett Scrope, Esq., M.P., p. 200. (London, 1843.)

could be brought to give up the power and patronage which local government entailed. Still, it was one of Lord Sydenham's special triumphs that he secured the passage of a local government Act during the first session of the united legislature. As a preliminary to this he took advantage of the suspension of the provincial legislature in Lower Canada to get his municipal Act passed as an ordinance of the Special Council.

All parties agreed that it would not have been possible to secure all at once a full measure of local self-government. But in the District Councils Act of 1841 the foundation of a general municipal system for the whole of Upper Canada, at least, was laid, and the way was naturally prepared for the more complete measure of 1849. The importance which Lord Sydenham attached to the establishment of a general system of local government is indicated in the following statement: "Since I have been in these provinces, I have become more and more satisfied that the capital cause of the misgovernment of them is to be found in the absence of local government, and the consequent exercise by the Assembly of powers wholly inappropriate to its functions."<sup>1</sup> When the measure came up for discussion in the legislature it met with opposition from the extreme members of both parties. "The Tories opposed the measure because it gave too much power to the people; the radicals because it imposed checks upon that power. And with many members the bill was most unpalatable, though they did not like to avow the real motives of their dislike, because it is a death blow to their own jobbing for local purposes."<sup>2</sup>

The Act as passed in 1841 under the title of The District Municipal Act<sup>3</sup> went into effect on the first of January, 1842. Its chief features may be summarized as follows: The inhabitants of each district were to form a body corporate, whose powers were to be exercised by a district council composed of the warden, appointed by the Crown, and a body of councillors

<sup>1</sup> Life of Lord Sydenham, *op. cit.* p. 202.

<sup>2</sup> *Ibid.* See also *Reminiscences of his Public Life*, by Sir Francis Hincks, K.C.M.G., C.B., p. 63. (Montreal, 1884.)

<sup>3</sup> 4 and 5 Vict., c. 10.



ected by the ratepayers in their township meetings. Every township was entitled to one councillor, and to a second where the number of ratepayers exceeded three hundred. The councillors were to hold office for three years, one-third of the number retiring each year. The council was to hold four quarterly meetings at which the warden should preside. The district clerk was to be selected by the Governor from three names submitted by the council. The treasurer, however, was to be selected by the Governor alone. A surveyor of the district, who must hold a certificate of efficiency from the provincial Board of Works, was to be appointed by the warden, subject to the approval of the Governor. It was his duty to superintend all public works undertaken by the council, and to report annually to the warden on the works of the district. The district councils had power to make by-laws covering the usual municipal interests, such as the building and maintaining of highways, bridges, and such public buildings as were required for the use of the corporation; defraying the expenses of administering justice within the district; the establishment and support of schools; and assessing and collecting the district taxes. The system of taxation was to conform to the assessment law then in force, and the rates levied were not to exceed 2d. in the pound. The districts were prohibited from issuing notes or acting as bankers. No public work was to be undertaken by the council before it was reported upon by the district surveyor, and if the estimated cost should exceed £300 it must be approved by the provincial Board of Works. All by-laws passed by the district councils were to be submitted to the Governor in Council, who might disallow any of them within thirty days. The Governor had power also to dissolve any of the district councils and call for a new election. Nothing in the Act was to affect the special powers granted to any incorporated city or town. But all powers with reference to towns, cities, or villages pertaining to the justices of the peace before the passing of the Act should pass to the district councils. Quite generally we may say that the Act transferred all the municipal functions of the Courts of

Quarter Sessions to the district councils, and the Sessions remained simply courts of justice.

The Act of 1841 was obviously a compromise measure, for while it practically created self-government in the rural districts it still left a considerable restrictive and regulative power in the hands of the Executive Government. Hence though the Act worked fairly well, for such a new measure, it failed to satisfy the rising popular demand for complete self-government, which was the absorbing constitutional issue during the decade which followed Lord Durham's report.

In 1843, before the rupture between Lord Metcalfe and the first Baldwin cabinet, a bill to establish complete self-government in all forms of municipal corporations in Upper Canada was brought in by Mr. Baldwin and passed the Assembly, but was suppressed by the Council. No further move was made until the second Baldwin cabinet came to power under Lord Elgin. It was altogether fitting that under Lord Elgin's enlightened administration both central and local administration in Canada should have been finally placed on that basis of self-government on which they now rest. This was accomplished in the case of municipal government by the Act of 1849, commonly known as the Baldwin Act.<sup>1</sup> The preamble to this Act sufficiently indicates the scope and purpose of the measure. "Whereas it will be of great public benefit and advantage that provision should be made, by one general law, for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada, etc." One of the most important features of the Act is that in it, for the first time, we find a serious recognition of the township as the unit of rural self-government. Taking the various municipal corporations in order, we have the following summary of their respective spheres and powers.

*Townships:* The inhabitants of each township, having upwards of one hundred resident ratepayers, are incorporated as a

<sup>1</sup> 12 Vic., c. 81.

municipality The township may be divided into rural wards for the purpose of electing township councillors, though as an alternative they might be elected at the annual town meeting. There were to be five councillors for each township. These were to elect from among themselves a town reeve, and, in townships containing 500 ratepayers or over, a deputy reeve as well. The town reeve was to preside at all meetings of the councils, or, in his absence, the deputy reeve. The council appointed three assessors and one collector. Township councils had power to make by-laws for the following purposes: The purchase of such real property as may be necessary; the building of a town hall, and the erection and support of common schools; the appointment of pound-keepers, fence-viewers, overseers of the highways, or any other officers who may be necessary to carry out the purposes of the Act; regulating the duties of the township officers, and remunerating them; the opening of drains and watercourses; the construction and maintenance of highways, streets, bridges, etc.; controlling inns and taverns; restricting animals from running at large; destroying weeds, and regulating shows and exhibitions; controlling and granting privileges to road and bridge companies; enforcing and applying statute labour; borrowing money for municipal purposes, under certain restrictions; and making general local regulations not inconsistent with the laws of the province.

*Counties:* The municipal council of each county shall consist of the Reeves and deputy Reeves of the towns and townships included in it. The county council shall elect the county warden from the body of councillors. The council shall undertake to open, improve, and maintain special county roads and bridges, though it may also give grants to township roads. In addition to the usual municipal powers, the county councils might enact by-laws for such purposes as providing for grammar schools for the county, regulating ferries, opening county drains, granting licenses to road and bridge companies, and taking stock in them.

*Police Villages:* The county council may, on petition of the inhabitants of an unincorporated village, erect it into a

police village, and provide for the election of police trustees, whose powers shall extend to such matters as regulating buildings and their contents, with a view to preventing fires; and adopting measures for the suppression of nuisances.

*Incorporated Villages:* The inhabitants of certain specified villages, or others afterwards to be authorized by the Provincial Secretary, shall be a body corporate; and, with respect to the village council, the appointment of reeves and other general powers shall be on the same footing as townships. They shall, however, have additional authority as to streets, sidewalks, etc.; the regulating of markets, weights and measures; the suppression of nuisances, and the prevention of vice; the control of taverns and licenses, and the framing of regulations for the prevention of fires, and for protecting the public health.

*Towns:* Special corporate powers are given to fifteen towns whose limits and divisions into wards are set forth in schedule B of the Act, and to all future towns which may from time to time be raised to that position by proclamation of the Governor. The corporate powers of a town are to be exercised by a council to be composed of three councillors from each ward. The mayor was to be elected by the councillors from among themselves. The mayor would act as town magistrate unless, on petition to the Crown, a special police magistrate should be appointed. The town council should appoint one of their number town reeve, and another a deputy reeve, where the town contained more than 500 resident freeholders. These would represent the town in the county council. The chief powers of the town councils were to make by-laws for the usual purposes of minor municipalities, and also for the lighting of the streets, for assessing property for local improvements, and, quite generally, for undertaking whatever may be necessary for the peace, welfare, safety and good government of a town.

*Cities:* Special corporate powers were granted to three cities—Hamilton, Kingston and Toronto, and to any others that might be constituted from towns containing upwards of 15,000 inhabitants. The corporate powers were to be exer-

cised through a council consisting of a mayor, aldermen and common councillors. Each of the wards into which a city might be divided should elect one alderman and two common councillors, and these should elect one of the aldermen to be mayor. Each city constituted a separate county with a Recorder's Court which took over the powers of the Court of Quarter Sessions. The city police magistrate and the recorder might be the same person. The general functions of a city council were to be the same as those of a town council, though exercised on a larger scale and with a fuller organization involving special powers.

A large portion of the Act deals with powers and regulations which are common to several forms of municipal corporation. Thus cities and towns may hold property for certain special purposes not incident to the other corporations. Every municipality was required to transmit to the Governor an annual statement of its debts, and, on petition of at least one-third of any corporation, the Governor in Council might appoint a commission to investigate its financial affairs. Municipalities were prohibited from acting as bankers, or from issuing any notes, bonds, or debentures to pass as money. They were given authority to contract with parties to build roads or bridges and take tolls on them, such tolls to be regulated through a by-law of the corporation.

Looking at the Baldwin Act in its historic significance we must admit it to have been a most comprehensive and important measure, whose beneficial influence has been felt not merely in Ontario, but more or less throughout the Dominion. Scarcely a session of the legislature has passed since the year of its enactment without bringing amendments, altering and enlarging, though not always clarifying its details. Yet in all essential principles its spirit and purpose are embodied in our present municipal system. Hence with it we may fittingly close this sketch of the development of responsible government in the municipal affairs of Ontario.



MUNICIPAL ORGANIZATION IN ONTARIO

BY

K. W. MCKAY





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The British North America Act of 1867 is in effect the Constitution of Canada. Section 93 gives exclusive right to the several provinces to provide for their municipal government. For purposes of local administration, accordingly, the provincial legislature has divided Ontario into counties, these again into townships, incorporated and police villages, towns, and cities. Counties are judicial and administrative areas: other municipalities only administrative. An unincorporated village and suburbs, having a population of 750, may be incorporated by the county council as a village; with a population of 2,000 the Lieutenant-Governor-in-Council may by proclamation erect the village into a town; and when it has a population of 15,000 the town may be proclaimed a city. Incorporation, however, is usually effected by special legislation; moreover, in practice 10,000 is the usual population of a new city. In Ontario there are 43 counties, 423 townships, 132 villages, 89 towns, and 15 cities. Municipalities other than cities will be more particularly the subject of this study.

Ontario municipalities vary in area even more than they do in population. The largest county (Grey) contains 1,071,642 acres, with a population of 69,590, the smallest (Brant) 196,800 acres, population 38,140. Eleven townships have an area of over 80,000 acres each, while 32 have less than 20,000. The largest (London, county of Middlesex), contains 100,011 acres, population 8,878; the smallest (Sherbrooke, county of Haldimand) 4,688 acres, population 396. Under the Municipal Act the area of villages is now limited to 500 acres. There are, however, half a dozen villages previously incorporated which spread over 2,000 acres and more. The largest village territory (L'Orignal, county of Prescott) covers 3,995 acres, population

1,026; the smallest (Garden Island, county of Frontenac) 77 acres, population 242. Of the towns, Owen Sound has the largest area with 6,120 acres, population 8,776; Napanee the smallest with 372 acres, population 3,143. Seventeen towns extend over more than 2,000 acres, and seven over less than 500 acres each. The northern districts of Muskoka, Parry Sound, Nipissing, Manitoulin, Algoma, Thunder Bay and Rainy River possess no county organization as yet. But 83 townships, 3 villages and 16 towns have already been incorporated there, and in some townships school sections have been formed and road improvement districts established. In these unorganized districts, townships are six miles square and contain 23,040 acres, including lakes and rivers. Incorporation will follow as soon as population warrants.

#### MUNICIPAL COUNCILS.

Municipal councils in Ontario are uniformly small in size. Townships and villages elect their councils, consisting of a reeve and four councillors, every year. Towns elect a mayor, and at least six councillors. The actual number of councillors is determined by the number of wards, or by the population. For example, in towns of less than 5,000 population, of which there are at present ninety-two in the province, rate-payers may divide the town into wards, and elect one councillor for each, making up the regular number of six councillors by general vote, in case the number of wards is less than six. In the same way towns of more than 5,000—there are thirteen of these at present—may provide for the election by general vote of one alderman for each 1,000 of population. If there are less than five wards, three, in exceptional cases two, councillors are elected for each, and if five or more wards, three councillors for each. Prior to the Municipal Amendment Act of 1898 ward elections were almost universal in townships and towns. In the interest of broader municipal politics the Act abolished ward elections in townships, and for two years in towns of not more than 5,000. At present the ward system is still optional in towns, though its total abolition appears advisable.

In 1902 the town councils in ninety-seven towns were made up of six to eight councillors, in six towns of nine to ten, in two towns of eleven and twelve respectively. Down to 1897 the county councils were made up of representatives from the local municipal councils. The important County Councils Act of 1896 provided for the division of counties into not less than four, or more than nine districts, the actual number being determined by county population. Each district elects two members. The "cumulative" system of voting was also introduced, under which a voter is allowed as many votes as there are members elect of the county council. Thus where two county councillors are to be elected he has the option of giving both of his votes to one candidate. The effect of this new system of "free voting" has been helpful in equalizing political influence in the elections, and securing minority representation. In the cities, councils consist of the mayor and three aldermen elected annually for each ward. An exception is Toronto, which elects four aldermen for each of its six wards.

Councillors must reside in the municipality, or live within two miles of it; they must also be rated on the last revised municipal assessment roll for at least the value of the following over and above all incumbrances: (a) in townships—freehold of \$400 or leasehold of \$800; (b) in villages—freehold of \$200 or leasehold of \$400; (c) in towns—freehold of \$600 or leasehold of \$1,200; (d) in cities—freehold of \$1,000 or leasehold of \$2,000; but in the northern districts and in the provisional county of Haliburton where land values are low the qualifications are reduced, viz., in townships and villages to freehold of \$100 or leasehold of \$200; in towns to freehold of \$400 or leasehold of \$800. A county councillor must reside in the county division which he represents, and must have the same property qualification as a town reeve. Certain officials and others, including judges, innkeepers licensed to sell spirituous liquors, school trustees, etc., cannot qualify as councillors. In any new municipality, where on account of low property value no two persons can qualify, the lower qualification of an elector

is sufficient. All persons over sixty years of age, civil servants, barristers, teachers, firemen, millers, etc., are exempt from being elected or appointed to any municipal position.

*The Franchise.* The municipal franchise is almost universal. All men, widows, and spinsters of the full age of twenty-one years, British subjects, and rated for real property (freehold or leasehold or both) for the following amounts have the right to vote: in townships and villages, \$100; in towns of 3,000 population or less, \$200; in towns of over 3,000 population, \$300; in cities, \$400. In any municipality an income assessment of \$400 also qualifies, income up to \$700 being exempt. The franchise is further extended to farmers' sons living at home. The father must own and occupy at least twenty acres for each voting member of his family. Elections are by ballot. "Vote by ballot" was introduced in Ontario in December, 1874, and adopted generally in the January elections of 1876.

#### ORGANIZATION AND ADMINISTRATION.

The powers of municipal councils subject to provincial legislation extend practically to all matters of a local nature. The machinery of administration varies little in municipalities of the same class. Each municipality has its own officials, whom it appoints to hold office during the pleasure of the council. Special departments are organized in accordance with local needs and ideas.

*County Councils.* The seat of government for the county is the "county town." The first meeting of a council is held in the county hall or court-house. A chairman, called the warden, is then selected, and holds office for one year. Standing or special committees are next struck, to which all council business is usually referred, and from which reports in the form of recommendations, etc., are made to the council. The names of these committees indicate the class of business referred to each. The usual committees are: Finance; Roads and Bridges; County Buildings; Petitions and Legislation; Printing and Contingencies; Educational; Equalization; House of Refuge; Advisory or Executive. Special committees are chosen from time to

time. By-laws of the council usually provide for the routine of proceedings and the duties of officers and committees. Parliamentary procedure is observed.<sup>1</sup> The chief officers appointed by the council, in addition to the warden, are the county clerk, treasurer, engineer or commissioner, public school inspector, auditors.

*Warden.* The warden presides over the council, signs official documents and calls special meetings. He must summon a special meeting when requested by a majority of the council. In most counties, the wardens attend all meetings of the committees of council, and have various duties under their purview, such as a general supervision of officers and business of the county, countersigning of treasurers' cheques, etc. For this they receive an annual allowance, which varies from \$50 in the county of Elgin to \$450 in Simcoe. The elections to the office of warden are often keenly contested, especially in counties where the post is recognized as a stepping-stone to political preferment.

*County Clerk.* The county clerk acts as secretary at all meetings of council and committees, keeps the minutes and by-laws and takes charge of the books in his office or in a place appointed by by-law of the council. In most counties, by custom or direction of council he has to attend to other duties than those imposed by statute. The annual salaries vary from \$250 in Dufferin to \$1,200 in York, the present average being \$577.

*County Engineer or Commissioner.* In many counties the control of work connected with the construction and repair of county roads and bridges is committed to a professional engineer or to one or more commissioners appointed by the council. In other counties this work is attended to by a committee of council, a professional engineer being on occasion consulted.

*County Treasurer.* The principal duties of the county treasurer are to receive the county rates from the treasurers of the local municipalities, to collect arrears of taxes due in respect

<sup>1</sup> Mun. Act, s. 326; Bourinot, *Procedure at Public Meetings*, p. 383.

of lands in the townships and villages of the county, and conduct sales of lands for taxes when in arrear for three years. The proceeds of the collections and sales are paid to the local municipalities entitled thereto. In disbursing moneys, he is guided by statutory enactments and by by-laws or resolutions of the county council. For the due performance of his duties each treasurer is required to give security. Salaries vary at present from \$350 in Prince Edward to \$1,600 in Middlesex, the average being \$926.

*Police Magistrates.* Where a county council passes a resolution affirming the expediency of appointing a salaried police magistrate, the Lieutenant-Governor may make such an appointment. After the expiration of one year, the council may by resolution terminate the commission of magistrates so appointed. The Canada Temperance Act requires the appointment of a police magistrate wherever and so long as it is in force. The annual salary of a county police magistrate is \$600 or such larger amount as the council may determine.

*Court-Houses and Gaols.* The most important single duty of a county council is to provide accommodation for the courts of justice and for the registrars of deeds.<sup>1</sup> York has this accommodation in the court-house and gaol of the city of Toronto, just as in the county of Wentworth the city of Hamilton controls the gaol. The council selects the gaol surgeon and provides the salary of gaol officials. Otherwise gaol appointments are made by the sheriff, a provincial appointee, the appointment of gaoler being, however, subject to the approval of the Lieutenant-Governor.

*General Duties.* The decisions of county councils are embodied at times in petitions to the legislature and to other counties for their co-operation. When the question is of special local importance, deputations are often appointed to wait upon members of the Government. Many of the bills introduced in the legislature, to amend municipal and other laws, are suggested by these discussions. The province also utilizes the adminis-

<sup>1</sup> *Mun. Act*, s. 506.

trative machinery of the counties in many ways, not only in connection with the administration of justice, but with education, expropriation of toll roads, the care of the indigent, etc.

*County Rates.* A county council may appoint valuers to assess the whole county;<sup>1</sup> or it may equalize or adjust the work of the local assessors so that the valuation of the taxable property in the different municipalities will be uniform.<sup>2</sup> The amount required is apportioned rateably amongst the local municipalities and collected with other taxes. The council also issues licenses, under regulations fixed by by-law,<sup>3</sup> for hawkers, pedlars, auctioneers, etc., carrying on business within the county.

*Auditors.* The county auditors, two in number, usually appointed at the first session of the council in each year, examine and report annually or as directed by the council upon the books and accounts of the county treasurer and all accounts affecting the corporation within its jurisdiction.<sup>4</sup> A special board, however, of which the county judge is chairman, audits quarterly before payment all accounts in connection with the administration of justice. A second examination of these accounts is made by one or more auditors appointed by the Lieutenant-Governor in Council,<sup>5</sup> for the purpose of preparing a statement of accounts for which the province is liable in whole or in part. These include accounts of sheriffs, Crown attorneys, court clerks, coroners, constables, etc., for services in connection with the administration of criminal justice.

<sup>1</sup> Municipal Act, s. 310.

<sup>2</sup> Assessment Act, s. 87-95.

<sup>3</sup> Pedlars' License Fees:

County.	Travelling with 1 horse.	Travelling with 2 horses.	On Foot.
Oxford . . . . .	\$40	\$60	\$20
Middlesex . . . . .	15	25	\$1 to \$5
Kent . . . . .	25	45	\$1 to \$12
Norfolk . . . . .	31	41	\$20
Elgin . . . . .	30	40	\$10

<sup>4</sup> R.S.O., chap. 102, s. 6.

<sup>5</sup> R.S.O., chap. 104, and Totten's *Manual on Tariffs Circulars*, pp. 12 and 13.

*Township Councils.* The system of township municipal government is direct and effective. Candidates for the offices of councillor and reeve are nominated at a meeting of ratepayers held on the last Monday in December. The poll, if one is necessary, takes place on the first Monday in January. The first council meeting is held on the second Monday in January at the township hall or other place fixed by by-law of the corporation. In most townships regular sessions of one day each are held monthly. The principal duty of township councils is the construction and maintenance of roads and bridges. Their other duties are largely statutory, and include: (1) levying and collecting school and county rates and general taxes for township purposes, such as maintenance of roads and bridges, salaries, etc.; (2) the construction of drainage and other works at the expense of the properties benefited. Other minor duties are attended to by officers appointed by the council.

*Assessors.* These are appointed annually, to enroll and value taxable real and personal property. The "roll" must include the names of all persons entitled to vote at municipal or other elections. Assessors assist in the selection of jurors, and, in union school sections, determine the proportion of the school tax to be levied for each section.

*Township Treasurer.* The township treasurer receives and disburses corporation moneys, as directed by the council or provincial statute. In the districts without county organization, he is required to perform additional duties connected with the collection of arrears of taxes.

*Township Clerk.* The chief executive officer, however, is the township clerk.<sup>1</sup> He holds office during the pleasure of the council, but is generally looked upon as a permanent official whose experience is most valuable to a council. His duties include the preparation of collectors' rolls, and statute labour and voters' lists; the registration of births, deaths and marriages and other statutory duties connected with the Acts respecting

<sup>1</sup> Mun. Act, sec. 259.



pounds, line fences, drainage, assessment of taxable property, public schools, jurors, public health, etc.

Other officers are: collectors of taxes, local Boards of Health, pound-keepers, fence-viewers, auditors, valnators of sheep killed by dogs, fruit-tree and noxious weed inspectors, and commissioners for various purposes connected with the public works of the township.

*Police Villages.* When a portion of a township becomes thickly populated, there is need for some means of undertaking local improvements to roads and sidewalks and of applying certain sanitary and other regulations that cannot be extended over the whole township.<sup>1</sup> Where the population does not justify its being formed into a separate corporation, the Municipal Act provides for the setting apart of unincorporated villages and hamlets.<sup>2</sup> This offers simply a means of commuting statute labour and of securing local improvement works within the village. A better and more advanced step is the police village<sup>3</sup>, which may be set apart by the county council on petition of the ratepayers interested and placed under the administration of three police trustees. The township council continues, however, to collect the annual taxes, though the village rate is struck in accordance with the money required by the trustees.

*Town and Village Councils.* The government of town and village municipalities is similar to that of townships. The legislature has, however, extended the powers of the councils to enable them to cope with conditions incident to the concentration of population within a limited area. The nomination of candidates and election of members of town and village councils are held in the same manner and on the same day as in other municipalities. Council meetings are held monthly in the town hall.

The duties of council multiply with increasing population. In the larger towns, control of the lighting, waterworks and

<sup>1</sup> *Municipal World*, June, 1900.

<sup>2</sup> *Mun. Act*, s. 37.

<sup>3</sup> *Mun. Act*, s. 713.

parks is usually in the hands of Boards of commissioners elected by the people, the mayor being *ex officio* a member of the various Boards. In other municipalities, committees of the council attend to these special duties, with the exception of public library administration. Under the provincial Public Library Act a public library is placed in charge of a Board composed of the reeve or mayor and three persons appointed by the council, three by the public school Board, and two by the separate (Roman Catholic) school Board, if there be any.

Town and village administration resembles closely that of township municipalities. A town treasurer differs, however, in caring for the collection of arrears of taxes and sales of land when taxes are in arrears for three years. The salaries paid municipal officials are modest. A statement prepared by Mr. W. G. Owens,<sup>1</sup> Clerk of Forests, referring to twenty-seven towns of between 1300 and 2900 population, shows that clerks' salaries vary from \$90 to \$575, treasurers' from \$40 to \$400, assessors' from \$35 to \$100, and collectors' from \$20 to \$120. In one town of 1600 population, the officials supply their own offices and the total salaries paid the four officials mentioned amount to \$175. Municipal administration in cities as an expansion of town administration calls for no special reference here.

*Boards of Health.* One of the most important local authorities is the local Board of Health, first established by the Public Health Act of 1884. A Board of Health will be found now in every municipality.<sup>2</sup> In townships, villages and towns under 4,000 population, it is composed of the reeve, clerk and three ratepayers, who are appointed for three years and retire in rotation. In towns of 4,000 inhabitants, the Board consists of the mayor and six ratepayers, appointed for three years, two of whom retire annually. Provision is made for the formation of a health district by a union of municipalities and for the appointment of county or district medical health officers. As yet no advantage has been taken of this. If a municipal council

<sup>1</sup> *Municipal World*, March, 1902.

<sup>2</sup> Public Health Act, R.S.O., Chap. 248.

neglects or refuses to nominate a Board of Health, the provincial Board may make the appointments. Councils are also required to select a medical health officer and a sanitary inspector to act as officers of the Board of Health. No provision is made for payment of any other than these two officials. The medical health officer is the more important. He possesses the same authority as a member of the Board or as the sanitary inspector, and is required to perform all duties imposed upon him by regulation of the provincial or local Board.

When the abatement of a nuisance demands special precautions, it is the duty of the local Board of Health to notify the provincial Board to investigate and report. Municipal councils may vote such sums as are deemed necessary by local Boards of Health for carrying on this work. All municipal treasurers are required in addition to pay the amount of any order given by the members of a local Board of Health or any two of them for services performed under their direction by virtue of this Act. This provision prevents interference on the part of councils with the expenditures of the Board. If any serious epidemic breaks out in a municipality the local Board is furnished with expert assistance and advice. All by-laws of municipal councils respecting systems of sewerage or water supply have to be submitted to the provincial Board for their approval before taking effect. Every local Board reports annually to the provincial Board.

*Justices of the Peace.* The head of every council and all county councillors are *ex-officio* justices of the peace, for their county or union of counties.<sup>1</sup> Justices have jurisdiction in cases arising under by-laws in municipalities in which there is no police magistrate.

*Houses of Industry.* In the care of the poor some county councils assist the local councils.<sup>2</sup> In 1869 the first poor-house and farm was instituted by the county council of Waterloo. The example was followed by other counties.<sup>3</sup> The local municipali-

<sup>1</sup> Mun. Act, s. 473-478.

<sup>2</sup> Mun. Act s. 524.

<sup>3</sup> *County Poor Houses in Ontario*, by H. A. Harper (*Mun. World*, Jan. and Feb. 1898.)

ties were thus relieved of an expensive and troublesome duty. The provincial Government has encouraged the establishment of Houses of Industry by grants not exceeding \$4,000 each, based on expenditure for buildings and land. All of the counties west and one or two of the counties east of Toronto are now provided with these institutions, and others are giving the matter their earnest consideration. Houses of Industry are by statute under control of the county council<sup>1</sup>; but in practice a special committee and an inspector are appointed for the purpose. The immediate supervision is left to a resident keeper and a matron, also appointed by the county council; and a consulting physician, who is retained at an annual salary. The typical House of Industry is a farm of from 45 to 125 acres situated within easy reach of a town. The building is, as a rule, a single structure, two or three stories high, built to accommodate from 80 to 100 inmates. Special attention has latterly been given to the complete classification of the inmates, a step which the low tone of morality among them makes necessary. The expense of maintaining inmates is met in either of two ways—(1) by a general tax to meet all the expenses of the institution; (2) by a general tax to maintain the farm and the buildings and a special assessment on local municipalities for the support of inmates sent from each. The payment of all expenses by a general tax appears more desirable. A great many inmates of these institutions are mere vagrants, of necessity committed from the municipality in which they become disabled. Efforts have been made to define eligible inmates as those who have been resident in the county or municipality for a stated period, usually two years. I believe the greatest benefit would be derived if all institutions were, under certain safeguards, open to both residents and transients. In counties where Houses of Industry have not been established, the gaols are unfortunately used as poor-houses.

#### HIGHWAYS AND STATUTE LABOUR.

The highways of the province may be classified as follows:—

1. Township roads constructed and maintained by general taxation with or without statute labour.

<sup>1</sup> R.S.O., chap. 312.

2. County roads constructed and maintained by general taxation of whole county.
3. Town and village streets constructed and maintained by general taxation and local improvement rates, paid by the property benefited.
4. Toll roads, maintained out of toll collected from persons using the road.

The problem of statute labour has been receiving much public attention of late through the demand for better roads. The opposition to statute labour has been gathering strength, and promises within a few years to make a radical change in the method of caring for roads.<sup>1</sup> The statute labour system is, without doubt, one of the best which could have been adopted in pioneer districts, and has done exceedingly good work. The Municipal Act now makes provision for substituting more suitable methods where original conditions have changed, as they have in many localities. The system of statute labour is fundamentally weak, in that it does not permit of effective control over the labour and money devoted to roads; and on account of its method of payment being too vague to satisfy the demands of finance or the exigencies of modern road-building. In February, 1894, the movement for better roads assumed definite form at a meeting held in response to an invitation issued under the authority of the Canadian Institute, Toronto.<sup>2</sup> The Ontario Good Roads Association was formed, and a systematic educational campaign was for some years carried on. In April, 1896, the Government, at the request of the Association, appointed a provincial instructor in roadmaking to take charge of the work. The many meetings held in every part of the province have resulted in the abolition of statute labour in a large number of townships, and in others in an improvement in the method of work. Roadmaking machinery is now in general use, and improved methods of construction and maintenance are being introduced. In the towns and villages special attention has

<sup>1</sup> Report 1893 of Prov. Instructor in Roadmaking.

<sup>2</sup> Reports of Association and Prov. Instructor in Roadmaking.

been directed to the benefits to be derived from improved streets, with the result that many municipalities have already expended large amounts in their construction and the purchase of the plant necessary to continue the work.

*County Roads.* A most important duty of county councils is the maintenance of bridges on boundary lines and in villages (when the bridge is over 100 feet long), and of any roads or bridges assumed by by-law. County councils have in the past been largely interested in securing the construction of railways throughout the province, most of which have been assisted by way of bouns or stock subscription. The liabilities incurred have been now, in most instances, paid.<sup>1</sup> During the past few years the tendency of legislation has been to look more to the county council for the maintenance of highways. Some counties have already taken charge of roads. The most notable instance is Hastings, in which nearly 400 miles of road are at present maintained by county council according to modern methods. In the Act of 1901, by which the Ontario legislature set apart one million dollars for the improvement of public highways, a notable feature is the provision made for the improvement of highways by county councils, and the establishment of county road systems.

*Toll Roads.* A few relics of the past, called toll roads, are still in existence. At the instance of the Good Roads Association in 1895, the Ontario Government appointed a commission to report<sup>2</sup> on each road. In 1901, an Act to facilitate the purchase of toll roads was passed. The Act provides for expropriation proceedings and for paying for the roads by taxation on the whole or part of a county or township, or by the continuation of the tolls for ten years, or until the amount required to pay for the road is collected.

*Trees on Highways.* Municipal councils have authority to regulate the planting of trees on highways, and may encourage

<sup>1</sup> The amount of county debentures for aid to railways outstanding in 1891 amounted to \$1,023,718; in 1900 this had been reduced to \$258,500 (Report of Bureau of Industries, 1902.)

<sup>2</sup> This report was not published.

the same by a bonus not exceeding twenty-five cents for each and every ash, basswood, beech, birch, butternut, cedar, cherry, chestnut, elm, hickory, maple, oak, pine, sassafras, spruce, walnut or whitewood planted.<sup>1</sup> Provision is also made for the protection, trimming and removing of trees planted on highways, when necessary.<sup>2</sup>

*Fences.* They are also empowered to regulate the erection and maintenance of fences along highways. The Snow Fences Act provides that, when fences are found to cause an accumulation of snow or drift so as to impede travel on the highway, councils may require their removal, and may pay for the construction of some other fence of approved description.

*Weeds.* The cutting of weeds on the highway is usually supervised by pathmasters. Councils are authorized to appoint inspectors to see that weeds harmful to agriculture are cut. Little special attention is paid to this duty in some districts, landowners being themselves sufficiently interested.

*Cattle at Large.* To ascertain and determine in what manner and for what periods horned cattle, horses, sheep and swine, or any of them, shall be allowed to run at large, or to resolve that they or any of them shall be restrained from so doing, was one of the first legislative powers conferred in 1793 on what was called the Annual Town Meeting. The Act respecting pounds is in force in every municipality until varied by municipal councils, who may pass by-laws for restraining and regulating the running at large of animals, establish pounds and appoint poundkeepers. The result of this is that each municipality makes its own regulations. Villages usually allow milch cows to run at large; some townships prohibit all cattle from running, though the prohibition is seldom enforced. In some townships, notably in the county of Oxford, a popular regulation,<sup>3</sup> which has been approved of by the courts,<sup>4</sup> is to

<sup>1</sup> Ontario Tree Planting Act, R.S.O., Chap. 243.

<sup>2</sup> Mun. Act, sec. 574.

<sup>3</sup> *Mun. World*, January, 1898, and October, 1900.

<sup>4</sup> *Ross vs. E. Nissouri* (Ontario Law Reports, Vol. I., page 353).

allow milch cows to run at large during the day-time from the first of May to the first of December, upon payment of a fee for a tag, usually about \$2.

*Poles and Wires on the Highway.* Up to a few years ago little attention was paid to the telegraph and telephone poles and wires along the highways. During recent years, however, the construction of electric railways has proved to be a serious inconvenience to vehicular travel, especially during the winter. Accordingly, under the present General Electric Railway Companies' Act, the erection of tracks, poles, etc., on the highway is a matter for agreement with the council. All owners of land upon a highway on which a railway is projected are to have notice before the council enters into any understanding with regard to it. Provision is made for a Railway Committee of the Executive Council of Ontario, to whom anybody may appeal against the passing of a municipal electric railway by-law prejudicially affecting his property.<sup>1</sup>

*Action for Damages Caused by Accidents.* The present highway law of Ontario practically insures against accident everybody travelling on the highways. The section of the Act making the municipalities liable was introduced in 1850 with reference to roads in cities and towns, and in 1859 was included in the Municipal Act. A new sub-section was, however, added relating to accidents arising from persons falling owing to snow or ice upon sidewalks. The control over the highways of the province was then in a transitory state. Municipal institutions were in their infancy, and it was thought that the councils would not be able to maintain the roads. This resulted in the formation of a great many toll-road companies to take charge of the main highways, which had been or were still in some cases under the control of the Minister of Public Works, and to relieve municipalities of liability for non-repair. The road mileage

<sup>1</sup> The Act respecting Electric Railways (2 Edward VII, Chap. 27), appoints a Railway Committee of the Executive Council of Ontario, composed of three members, with the Commissioner of Public Works as Chairman. This committee has jurisdiction over electric and street railways. To it have fallen also the powers conferred upon the Lieutenant-Governor-in-Council by the Railway Act, the Street Railway Act and the Electric Railway Act.



throughout Ontario has gradually increased and during recent years the municipal authorities have taken over most of the toll roads. In some localities actions for damages have under these circumstances become so numerous that public attention has been directed to the misapplication of corporation funds for law costs and damages. There appears to have been some misunderstanding in reference to precedents for the section making municipalities liable. It was no doubt copied from the laws of one of the United States and afterwards looked upon as being in accordance with English law. Mr. Biggar, editor of the *Municipal Manual*, remarks in this connection that the common law obligation of parishes in England to repair their highways did not involve the existence of a civil liability to any one sustaining injury owing to the non-repair of such highway, and that a person injured by mere non-repair of a road can sue the municipality only if the legislature gives him a right of action.<sup>1</sup> It has been suggested that persons travelling on the highway should do so at their own risk, as in England and in other Canadian provinces, and that the legislature should so amend the present law.

#### PROVISIONS FOR EDUCATION.

*Public Schools.* Each organized township divides its district into school sections, and the ratepayers of each section elect a governing body of three trustees at the annual school meeting held on the last Wednesday in December. The trustees hold office for three years and retire in rotation. Sometimes adjoining sections in different townships unite to form what is called a union section.<sup>2</sup> Each Board of trustees submits to the township council, on or before the first day of August, an estimate of the expenses of the schools under its charge, together with a requisition for the moneys required for the ensuing year. The township council levies and collects these amounts in two ways: (1) by general rate on the public school supporters of the whole township, the sum of \$150 for each

<sup>1</sup> Biggar's *Municipal Manual*, p. 833.

<sup>2</sup> Public School Act, 1901.

school that has been kept open the whole year and a proportionate amount where the school has been open for six months or over, an additional sum of \$100 being collected in the same manner for every assistant teacher engaged for the whole year and a proportionate amount for those engaged for six months or over; (2) by special rate on the property included in the school section to raise the balance required over and above the amount coming to the section from the general rate. In unorganized townships the public school inspector for the district may form a portion of a township or of two or more adjoining townships into a section, which must not exceed five miles in length or breadth. In addition to the ordinary duties, the Board of trustees appoints an assessor to prepare a roll of the taxable property in the section and a collector to collect the school rates imposed by the Board. Provision is also made, at the option of the township councils, for the management by a central Board of all schools in districts composed of more than one organized township not in a county. In towns and incorporated villages the Board of trustees is composed of at least six members elected for two years. Provision is made for election by wards, two members for each. The territory contributing to the maintenance of the school may include the town or village and parts of one or more adjoining sections. The annual school meeting is held on the last Wednesday in December, the trustees being elected by open vote on the first Wednesday in January following unless the Board has, by resolution, required elections to be by ballot.

*Separate Schools.* In addition to the public schools, the laws of the province<sup>1</sup> provide for Protestant, Roman Catholic and coloured separate schools. Protestant and coloured separate schools may be authorized by the council of a township, town or village, upon the application of five or more heads of families. On like conditions at least five persons, being Roman Catholics and heads of families resident in any school section, village, town or city, may convene a public meeting and elect trustees

<sup>1</sup> R. S. O. 1897, chap. 294.

to establish and manage a separate school. This is in accordance with section 93 of the British North America Act, which reads: "In and for each province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons may have by law in the province at the Union . . ." Notice of the election of the trustees is required to be given in writing to the head of the municipality and the chairman of the public school Board. All supporters of separate schools must reside within three miles of the school-house and be designated as separate school supporters in the assessment roll. The government of separate schools is the same as that of public schools, except that it is optional with the trustees to collect the school rates or leave it to the council of the municipality.

*Inspectors.* The inspectors of public schools are appointed by the Board of trustees in cities and separated towns and by county councils for the whole county or for each electoral division. They must hold certificates of qualification as prescribed by the regulations of the provincial Education Department, under which, in fact, all public schools are conducted. An inspector cannot have charge of more than one hundred and twenty schools or less than fifty. He visits each school once a term (twice a year) and reports annually to the Minister of Education. The Education Department or the county council may require of him certain other duties in connection with his office. He may be dismissed by the Lieutenant-Governor in Council, or by the county council on a two-thirds vote. An inspector is paid \$5 for each teacher in his district occupying a separate room and a supplementary amount by the provincial Government, besides reasonable travelling expenses as determined by the county council. Separate school inspectors are three in number, appointed for the province by the Lieutenant-Governor in Council in accordance with the regulations of the Department of Education.

*High Schools.* County councils may divide a county into districts and may, subject to the approval of the Lieutenant-Governor in Council, establish high schools in any municipality containing not fewer than 1,000 inhabitants and may in like manner discontinue any high schools already established. City councils also have authority to establish these schools. The Board of trustees for the management of a county high school consists of at least six trustees, three appointed by the county council and additional trustees appointed by the municipality or municipalities composing the district.<sup>1</sup> In cities and towns separate from the county, the council appoints the trustees. Where a high school situated in a city or town separate from the county is open to county pupils, the county is made liable for their maintenance and may appoint three additional trustees. Separate and public school Boards also have the right to appoint representatives on the high school Board. Trustees hold office for three years and perform the same duties as public school trustees. Provision is made for the union of public and high school Boards, forming what is known as a Board of Education, which has jurisdiction over all the schools in the municipality. When a high school has adequate buildings and equipment and among its teachers has specialists in classics, mathematics, sciences, modern languages and commercial studies, it may be raised to the status of a collegiate institute. The maintenance of high schools is provided for in different ways:

1. By a rate levied on the municipality or district in which the school is situated.
2. By fees, payable by pupils, the amount of which is determined by the county council or the Board of trustees.
3. By county grants.
4. By legislative grants.

There are at present 65 high schools and 38 collegiate institutes in the province.

*Legislative Grants.* The legislature makes large grants to the schools of the province as noted below. Those to public

<sup>1</sup> High Schools Act, 1901.

schools are distributed to the municipalities in proportion to population and apportioned to the schools in townships by the inspector on the basis of attendance. Provision is also made for special grants to poor schools, and schools to which pupils who have completed the public school course are enabled to continue and take up high school work. The special grants are in all cases supplemented by the local, municipal or county council. Legislative grants to high schools are apportioned on the basis of equipment, efficiency, attendance, etc., as reported by the provincial inspectors.

*School Statistics for 1900.*

Class of School.	Number.	Total Expenditure.	Government Grant.
High schools .....	93	319,368	58,565
Collegiate Institutes.....	38	399,233	44,634
Public schools:			
Counties and districts.....	5265	2,469,416	241,893
Cities .....	167	1,149,042	55,070
Towns.....	223	610,073	43,983
Roman Catholic separate schools:			
Counties and districts.....	225	98,623	11,689
Cities .....	76	185,921	11,744
Towns.....	54	74,006	5,520
Protestant separate schools.....	7	4,061	258
Totals.....	6148	\$5,309,743	\$473,356

FINANCIAL STATISTICS.

*Assessment, Assets and Liabilities.* Statistics of the assessment, taxation and financial position of all municipalities appear in the annual reports of the provincial Bureau of Industries. The report for 1902 shows that the rate of taxation in townships, towns and villages has remained practically unchanged during the past ten years; that the debenture indebtedness of counties has decreased 37 per cent., that of townships 18 per cent., while that of towns and villages has grown 65 per cent., and that of cities 35 per cent. This increase is owing to the installation of waterworks and lighting plants and the construction of sewerage systems, improved streets, etc. The fol-

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Following table gives the figures of assessment and taxation for 1901:

Municipalities.	Assessed Values.				Taxes Imposed for All Purposes.		
	Real Property.	Personal Property.	Taxable Income.	Total.	Total.	Per Head.	Mills on \$.
1901.							
Townships.....	\$456,406,084	\$2,161,826	\$ 241,036	\$458,811,926	\$4,862,630	\$1 45	10.6
Towns.....	91,000,870	7,417,856	1,502,551	99,921,377	2,380,691	7 05	21.8
Villages.....	27,849,256	1,964,180	288,546	29,819,932	589,708	4 85	19.8
Cities.....	241,842,083	18,252,086	7,520,211	247,111,371	5,558,216	11 59	22.5
Total.....	\$796,998,355	\$29,793,908	\$9,506,311	\$835,697,607	\$13,311,355	6 08	16.0

The principal items of receipts and expenditures indicate the direction of the chief municipal activities. These were for the year 1900:

Survey of Municipal Receipts for 1900.

	Counties.	Townships.	Villages.	Towns.	Cities.	Total.
Municipal and school taxes.....		\$4,812,372	\$ 582,027	\$2,206,081	\$ 5,600,710	\$13,203,140
Debenlures sold.....	\$ 77,491	316,406	95,509	1,301,755	1,417,238	3,208,399
Loans for current expenses.....	472,430	542,259	201,896	2,619,547	2,968,425	6,807,547
Licenses (liquor and other).....	15,206	41,736	27,571	94,073	143,565	322,151
Fees, rents, fines, etc.....	12,305	14,265	10,234	65,864	472,885	575,683
Water and electric light rates, etc.....			25,659			
County rates.....	1,099,357			344,298	980,039	1,319,694
Separated towns and cities for administration of justice, etc.	89,910					112,954
Prov. Government for schools.	142,954					138,685
Do. for administration of justice	134,685					
Total revenue, all sources.....	\$2,472,531	\$8,594,318	\$1,091,901	\$7,281,301	\$13,668,504	\$31,056,565

Municipal Expenditures for 1900.

Roads and bridges.....	163,110	894,104	145,915	677,624	1,881,182	3,764,935
Building and other works, etc..	78,813	390,397	10,788	81,576	197,132	618,696
Poor relief.....	103,862	54,415	6,249	42,318	199,077	405,954
Board of health.....		24,575	3,240	29,300	71,332	128,250
Administration of justice.....	433,768		8,281	82,383	560,397	1,084,909
Education.....	362,375	1,984,747	214,789	702,112	1,430,858	4,694,876
County rates.....		953,191	38,553	91,554		1,082,298
Int. paid and debent. redeemed	220,688	521,661	129,198	961,475	3,097,276	4,930,298
Loans for current cap's repaid.	505,200	558,236	188,710	2,279,028	2,003,864	5,565,038
Water works and electric light plant construction.....			55,754	659,007	644,059	1,358,820
Total expenditure all acc'ts.....	\$2,279,536	\$8,019,781	\$902,417	\$4,910,776	\$13,440,508	\$29,643,088

The assets of counties, townships and villages exceed the liabilities. In towns and cities the liabilities exceed the assets.

*Principal Assets of Municipalities in 1900.*

	Counties.	Town- ships.	Villages.	Towns.	Cities.	Total.
Cash.....	\$ 192,995	\$ 574,857	\$ 99,484	\$ 320,525	\$ 225,906	\$ 1,413,767
Taxes in arrears.....	489,635	1,265,700	110,982	643,385	2,172,564	4,742,266
Lands, buildings, etc.....	3,267,068	429,001	563,396	3,003,483	14,681,603	21,944,551
Waterworks, electric light plant.....			642,464	4,404,418	11,299,342	16,346,224
Total assets all accounts.....	\$4,997,636	\$4,422,233	\$1,572,949	\$11,820,810	\$42,973,910	\$65,196,838

*Principal Liabilities of Municipalities in 1900.*

County levy.....		\$80,827	18,606	37,959		437,344
School rates, grants.....	7,637	278,484	52,303	196,068	30,549	565,055
Debentures, aid to railways.....	254,500	609,475	31,784	528,270	2,356,821	3,680,850
Schools.....		498,915	268,727	815,272	2,349,434	4,169,348
Local improvements.....					8,695,233	8,695,233
Other purposes.....	1,458,491	1,585,747	845,424	10,818,991	26,370,985	40,818,641
Loans current.....	300,807	304,074	107,716	1,196,289	2,693,974	4,602,864
Non-resident taxes due.....						
Local municipalities.....	11,295					11,295
Total liabilities all accounts.....	\$2,104,092	\$1,717,495	\$1,410,826	\$13,320,126	\$44,300,590	\$64,940,835

The large sums and varying privileges which many municipalities have granted to commercial enterprises by way of bonus to secure the establishment of new industries cannot be classed.

The League of Canadian Municipalities has made the novel and interesting suggestion that the provincial Government should assist municipalities in selling their debentures. The suggestion is consistent with the development of our municipal system. County councils are authorized to guarantee debentures of any municipality within the county. A provincial guarantee would necessarily entail some central supervision.

THE COUNTY COUNCIL'S ACT OF 1896.

Under the old system of representation, county councils were becoming so unwieldy that it was difficult to transact business expeditiously, and the expense of holding meetings was heavy. In some cases the representation in the county council of small incorporated municipalities was out of all proportion to their interests in county taxation. The question of county council reform was considered by the legislature for a number of years. At the session of the legislature in 1886 no less than three bills relating to the subject were introduced. The main idea of the Act of 1896 is that every member of a county council shall be a representative of the whole county. This was often lost sight

of by the representatives of the local municipalities composing the county council. The Act reduced the size of county councils generally by changing the basis of representation from that of local municipalities to districts, into which all the counties were divided by a Commission, composed of county judges. The number of districts in each was determined by population. In fixing the boundaries of districts the assessed value, population and extent of territory were considered. Besides the *personnel* of the members being improved a saving was effected through the smaller size of councils of about 39 per cent. (over \$26,000) of the former expenditure for attendance at meetings and committees of the council. Under the old system, a man's conduct in the township council, with which the people were best acquainted, was the main factor in his re-election. County business was usually passed over. Now, however, ratepayers have to consider directly the duties and expenditure of the county council. The change has, in most cases, proved to be satisfactory except in counties where it was found impossible to form all of the districts out of adjoining municipalities.<sup>1</sup> A more general criticism is that the present separation of the county council from the local municipal councils lessens the importance once attached to a reeveship or deputy-reeveship. The old system, moreover, permitted members from the various local councils to come together and bring their joint experience to bear on the problems of township administration. In this way, no doubt, the development of township government was greatly assisted. A like result could still be obtained, in large measure, by a longer term of office for members of local councils. A county councillorship is now looked upon as one of the most desirable promotions to which a municipal councillor can aspire. Election by a larger district and for a period of two years makes the position especially attractive. Judging from the frequent re-elections, the smaller councils are giving satisfaction. In January, 1901, 42 per cent. of the county council-

<sup>1</sup>District No. 4 Halton is composed of Milton, town; Acton, village; and Nassagaweya, township. These are not adjoining municipalities.



lors of the province were re-elected and in 30 counties, or 70 per cent. of the whole, this percentage was increased to one-half or more. The legislature has been urged to abolish district in favour of municipality representation, with power to vote on all financial questions in proportion to equalized assessment. This is a survival of one of the arguments used when the County Councils Act was considered. It has also been suggested that the optional principle might be introduced and the ratepayers of a county allowed to decide in favour of a new system of representation and election before the present one is changed

The municipal institutions of Ontario, during their comparatively brief life, have adapted themselves closely to local requirements. As a result, though still undergoing slight local modifications from year to year, they have reached a high state of perfection. Three important changes appear to be necessary, if this enviable record is to be maintained: I. The election of members of all municipal councils for a longer term than one year; II. A more efficient audit of municipal treasurers' accounts; III. The establishment of a provincial Local Government Board.

I. The length of time for which municipal councillors are chosen should be governed mainly by considerations of securing popular control and maintaining an experienced and capable council. In the province of Quebec<sup>2</sup> the councils of parishes, townships, towns and villages are composed of seven members, who remain in office for three years, subject to the condition that two councillors must be elected or appointed two years consecutively and three every three years. The mayor, or head of the council, is elected by a majority of the council and holds office for one year. In Nova Scotia, New Brunswick, Manitoba and British Columbia, county councillors are elected yearly.

<sup>1</sup> The Ontario legislature has just (1903) adopted the optional idea. A majority of the councils of the local municipalities in a county may now decide to have their county councils composed of the various reeves and mayors. Under these circumstances the reeves and mayors have voting power on financial questions in proportion to the equalized assessment of municipality represented.

<sup>2</sup> Bourinot, *How Canada is Governed*, p. 224.

In Nova Scotian towns the mayor is elected annually and a councillor every two years. In certain Canadian cities, as noted in a former article of this series,<sup>1</sup> aldermen are already elected for two and three-year terms. The number of re-elections of municipal councillors in rural Ontario is very noticeable. At the annual elections in January, 1902, two-thirds of all councillors in office during the previous year were re-elected; in the townships alone 80 per cent. This probably indicates that legislation providing for a term of at least two years would meet with popular support. Retirement of half the council every twelve-month would secure at once that measure of continuity of municipal government which is essential, and remove a great obstacle, the turmoil of annual elections, now preventing many able men from entering the council. The County Councils Act of 1896 introduced indeed a full two-year term. A slight amendment is all that is now necessary.

II. The appointment of a provincial municipal auditor has met with general approval. But in order to establish a proper system of accounts in every municipality competent local auditors are necessary. Under the present law, local auditors are appointed annually. Capable men are, however, rarely available, either on account of the small fees usually allowed to auditors or for more potent reasons. The appointment of a municipal auditor for each county, or for a union of counties, to act with or without the auditor selected yearly by each municipal council, would enable the provincial auditor to co-operate in introducing a uniform system of bookkeeping and efficient audits throughout every municipality.

III. In Old World countries central control of municipal government has been found necessary. The Local Government Board of England furnishes a convenient example. Mr. Albert Shaw's reference to it may be repeated here:—

"The relationship that now exists between the municipal administration and the central government at many points is advantageous rather than hampering to the local corporation . . . Through the medium

<sup>1</sup>Wickett, *City Government in Canada* (University of Toronto Studies, History and Economics, vol. II., No. 1.)

of the local government board, its regular publications, its permanent staff in the London offices, and its expert visiting inspectors, the officials of one town are supplied with knowledge of the doings and experience of other towns, are deterred from harmful experiments, and are instructed in the best methods. At times it appears a needless interference with local affairs that compels a well-governed city to submit to the central authorities for inspection and approval every scheme whatsoever that necessitates the borrowing of money. If there were any lack of system in the methods by which local projects are passed upon by Westminster, or if there were any serious taint of partisanship, favouritism, or arbitrary judgment upon the processes employed, the mechanism would break down speedily and a more complete local autonomy in matters involving municipal outlay and indebtedness would have to be accorded, but the system works in the interests of justice, and its costliness in money and in time is counter-balanced by the benefits which accrue from the more thorough preliminary sifting that every scheme receives in preparation for the searching ordeal at Westminster, and from the valuable examinations which so often result from the advice that expert central officials can give." (*Municipal Government in Great Britain*, p. 68.)

Another well-known American student of municipal problems holds a like view:—

"A brief consideration of the effects of the establishment of the central administrative control in England cannot fail to force the conclusion that the frank recognition in the recent English legislation that the state as a whole has a vital interest in the performance by the local authorities of any of the functions of government entrusted to them, and the subjection of such functions of government to central administrative supervision have been among the causes which have transformed English social and political conditions during the past century. The marked improvement in English local government, the great increase of its efficiency, have been secured also without an undue centralization, without diminishing local public spirit which, as seen in the actions of the English municipalities, was at no time in English history greater than it is at present. While in America we have been extending the powers of the legislature over our cities, largely as a result of the previous decentralization of our administrative system, until municipal administration has, from the point of view of legislative interference therein, come to be regarded almost as a part of general state administration, England has turned aside from her historic administrative decentralization, her local self-government, and after continental examples has absolutely entered upon the pathway of administrative centralization wherever the needs of administrative uniformity have made such a step seem necessary. The result has been to reduce legislative interference in local government to a minimum, to increase enormously the efficiency of local government, and, by clearly differentiating the state agency of cities from their sphere of action as local organizations, to open the way for a great expansion of municipal activity to be seen in the vigorous way with which the English cities have grappled with distinctively municipal problems, such as housing of the poor, and the better care generally of the local interests of their inhabitants." (M. R. Malthus in Goodnow's *Municipal Problems*, Chap. vi.)

The idea of a system of central supervision of local authorities is not in opposition to the general plan of our municipal institutions. It has already been introduced to some extent in Ontario and has proved beneficial. The provincial Board of Health, established in 1881, is a central administrative authority, composed of experts having power:<sup>1</sup> (1) to supervise the health Boards of the province; (2) to appoint health officers; (3) to issue regulations, subject to approval of the Lieutenant-Governor in Council, for the prevention of disease, which after publication in the *Gazette*, have the same effect as if enacted by the legislature; (4) to institute proceedings for the abatement of a nuisance when the local Board refuses or neglects to act; (5) to approve of all plans for the establishment of water supply or sewage systems before they can be lawfully adopted by the councils of cities, towns or villages. The provincial municipal auditor<sup>2</sup> is an administrative officer, having the general supervision of books and accounts of the municipal and school corporations of the province, with power to frame rules respecting the manner in which the accounts of municipalities shall be kept and audited, and the number and forms of books of account to be used. After publication in the Ontario *Gazette*, these rules have the force of law. The provincial instructor in road-making is an official whose duties are largely educational and advisory. The secretary of the Bureau of Industries for statistical purposes receives annually reports in reference to assessment, taxation and financial transactions of every municipality. The Railway Committee of the Executive Council of Ontario may consider municipal by-laws relating to location of electric railways, etc. The report of the provincial Assessment Commission includes a recommendation<sup>3</sup> for the appointment of a provincial Board of Assessment Commissioners to assess the lands of railway companies and companies using the highways and to report annually in reference to the manner in which the assessment

<sup>1</sup> Public Health Act, R.S.O., Chap. 248.

<sup>2</sup> R.S.O., Chap. 228, "To make better provision for the keeping and auditing of municipal and school accounts."

<sup>3</sup> Report, 1902, page 36.

laws are enforced. The suggestion recalls the State Boards of Equalization of the United States. The Commission also refers to the necessity for a local government Board as follows :

"Municipalities would seem to be already too inclined to undertake without adequate technical knowledge local works and enterprises in the nature of permanent improvements, in the over-sanguine hope that increasing prosperity may cause the debts incurred for such enterprise to bear lightly on the taxpayer. Immediate liquidation of debts for matters not in the nature of permanent improvements should, at all events, be a rule in municipal administration, but it may be doubted whether that is a rule at all generally followed. On the contrary, it is to be feared that the debenture debt of many municipalities, if examined, would be found to include sums which should not have been carried over to swell the tax of future years.

"Some governmental supervision of contemplated permanent improvements might with public advantage be provided (as under the Local Government Acts in England) so as to require, as a condition precedent to the undertaking of such enterprises, the previous approval of a properly constituted Governmental Board."

The work of such a Board would be largely supervisory and educational, though certain powers of control would necessarily be conferred subject to legislative revision. Its benefits ought to be many. The co-opting tendencies in Ontario municipalities would thus find legitimate and helpful expression.<sup>1</sup>

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<sup>1</sup> Cf. *Municipal World*, Jan. 1903, p. 5, for a fuller presentation of the writer's suggestion in this connection; and also *The Financial Control of Local Authorities*, by Percy Ashley (*Economic Journal*, June, 1902), *The Growth of the Local Government Board*, by Sir Michael Foster, (*Nineteenth Century*, January 1903), *A State Municipal Board*, by Prof. J. H. Jenks (*Municipal Affairs*, Sept. 1898).

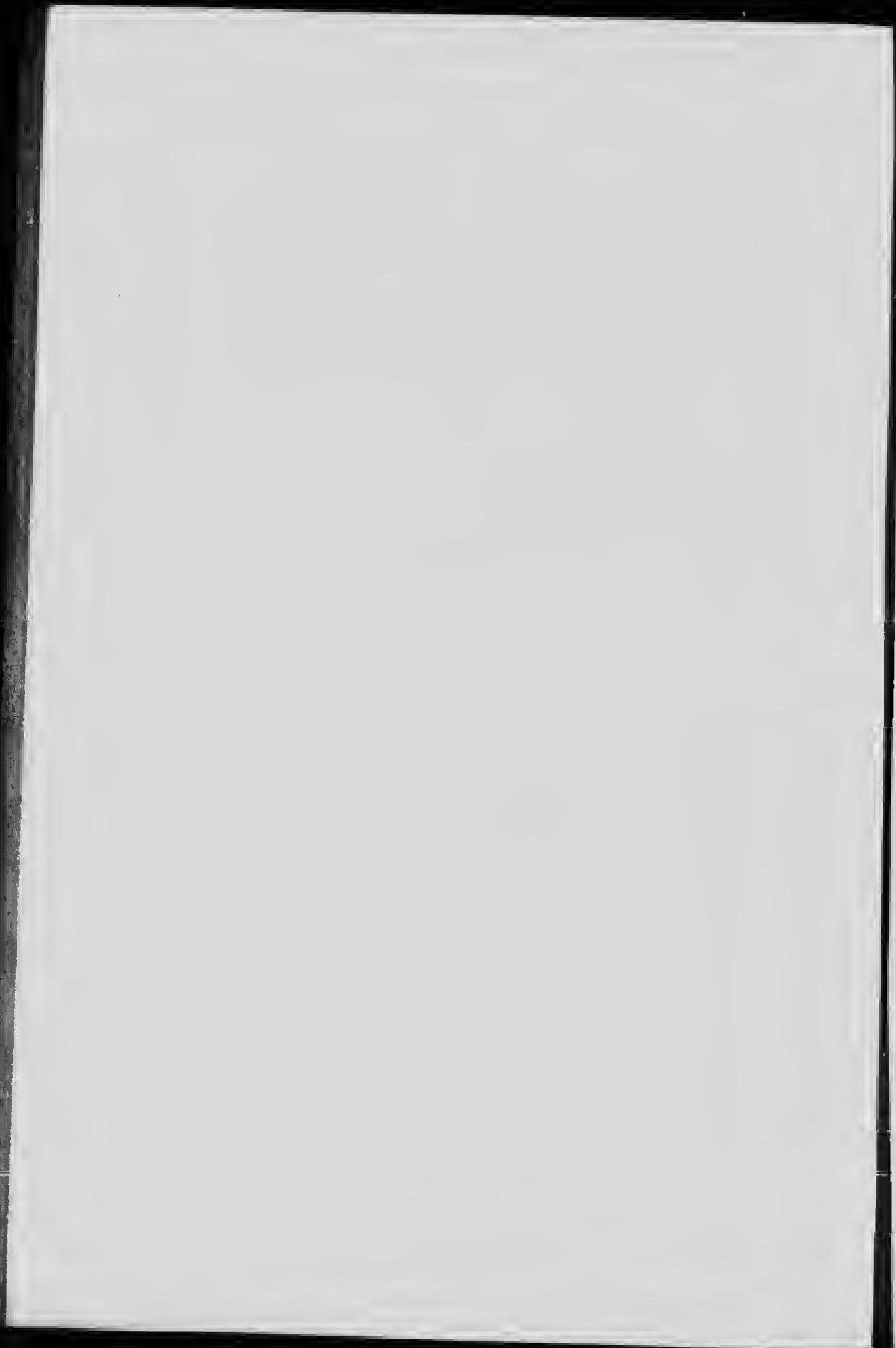


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GOVERNMENT**

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