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This is to certify that we the undersigned, as a committee of the Graduate School, have given Coleman Rogers Robinson final oral examination for the degree of Master of Arts. We recommend that the degree of Master of Arts be conferred upon the candidate.

Minneapolis, Minnesota

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THE UNIVERSITY OF MINNESOTA

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Report

of

Committee on Thesis

The undersigned, acting as a Committee of the Graduate School, have read the accompanying thesis submitted by Coleman Rogers Robinson for the degree of Master of Arts. They approve it as a thesis meeting the requirements of the Graduate School of the University of Minnesota, and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts.

Wm Anderson
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.......................1918

MUNICIPAL INSTITUTIONS IN ALBERTA

A Thesis

Submitted to the Graduate Faculty

of the

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by

Coleman R. Robinson

In partial fulfillment of the requirement

for the

degree of

Master of Arts

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The British North American Act

and its Interpretation as it Affects Municipalities.

The British North American Act was enacted by the Imperial Parliament and was assented to on March 29, 1867 and by Art. II, sec. 4 was to become effective" on and after the day for the Union taking effect in the Queen's Proclamation". Pursuant to this power of Proclamation, July 1, 1867 was proclaimed by the Queen as the date for the Union going into effect.

Section 5 provides that Canada shall consist of four provinces, named Quebec, Ontario, Nova Scotia and New Brunswick; Section 6 provides for the division of the old province of Canada into two separate provinces, that portion formerly known as Upper Canada to constitute the Province of Ontario and that portion formerly known as Lower Canada to constitute the Province of Quebec.

Section 146 of the B. N. A. Act provided that the Queen with the advice of her Privy Council, on addresses from the Houses of Parliament of Canada and the respective legislatures of the provinces of Newfoundland, Prince Edward Island and British Columbia might admit them into the Union, while Ruperts Land and the Northwest Territory might be admitted on the sole address of the Parliament of Canada. The last clause of this section provides that any order in council thereunto promulgated shall have the same force and effect as an act of Parliament. This is an important provision in view of the fact that Rupert Land, Northwest Territory, British Columbia and Prince Edward Island were later admitted by Order in Council.

Pursuant to this section, at its first session, both houses of the Canadian Parliament addressed her Majesty, praying that Rupetts Land and the Northwest Territory be united with this Dominion" and to grant to the Parliament of Canada authority to legislate for their future welfare and good government". The territorial boundaries of Ruperts Land were never accurately determined, nor is it important for the present purpose. Over this territory

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the Hudson Bay Company, under charter from Chas. II in 1670, exercised control as lords proprietors. The Imperial Government entered into negotiations with the Hudson Bay Company which resulted in an agreement whereby the Company relinquished its rights. Upon the conclusion of this negotiation, the Rupert Land Act (1868) was passed, which, by section 5 conferred upon the Parliament of Canada power "to make, ordain and establish within the land and territory so admitted all such laws, institutions and ordinances.....for the peace, order and good government of her Majesty's subjects and others therein."

This Act applied only to Rupert's Land and contained, as has been noted, a definite grant of legislative power to the Dominion Parliament.

By Order in Council, dated at the Court at Windsor the 23rd of June, 1870, it was ordered and declared by her Majesty that the Northwestern Territory, from and after July 15, 1870 "shall be admitted into the Dominion of Candaa.... and the Parliament of Canada shall have full power and authority to legislate for the future welfare and good government of the said territory."[1] It has been already noted that this Order in Council, by virtue of Section 146 of B. N. A. had the same force and effect as an Imperial Act.

In anticipation of these new accessions, the Dominion Parliament in 1869 (32-33 Vic. c. 3) provided for a government for the N. W. Territory and Rupert's Land. There was to be a Lieutenant Governor to administer the government under instructions from the Governor General. He was to be advised by a council of not more than 15 nor less than seven, appointees of the Governor General in council and the powers of the council were to be defined from time to time by Orders in Council of the Dominion Government.

At the same session the Dominion Parliament passed the Manitoba Act

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1. Set out in extenso in Dominion Statutes 1872 (pp. lxiii-lxii)

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which was assented to May 12, 1870. Its preamble recites that it is probable her Majesty would admit Rupert Land and the Northwest Territory into the Dominion and that it was expedient to provide for the organization of a part of said Territories as a Province and for the establishment of a Government therefor. The enacting clauses provided that so soon as the Territories of Rupert Land should be admitted by Orders in Council there should be formed out of the same a province, to be known as Manitoba, which should become one of the provinces of the Dominion of Canada. The Act (Sec. 1) set out the boundaries of the New Province (subsequently enlarged by 34-35 Vic. Cap. 28) provided for representation in the Senate and House, the qualification of voters, the financial arrangements between the New Province and the Dominion of Canada and a large number of other matters, not important to be detailed at this point. In the year 1871 the first legislature of Manitoba met, called together by the Honorable A. G. Archibald, Lieutenant Governor.

Subsequent to the admission of Manitoba, some doubts having arisen as to the power of the Dominion to create new provinces out the territories, the B. N. A. Act of 1871 (34-35 Vic. Cap. 28) was passed by the Imperial Parliament validating the admission of Manitoba and specifically granting the power to create new provinces for the future. It was under this express grant that Alberta and Saskatchewan were created in 1905 (See preamble of Alta, Sask. Acts 4-5 Edw. VII.

The admission of Alberta and Saskatchewan calls for but brief notice. Under the power just alluded to, the Dominion Parliament passed the Alberta Act (4-5 Edw. VII, Chap. 3, which was assented to on July 20, 1905. As pertinent portions of the Act will be examined later, only a feference to it is made here. The Saskatchewan Act (4-5 Edw. VII, was assented to on the same day as the Alberta Act.

The foregoing brief account outlines the formation of the several provinces with which we shall be concerned. We here part with that vast

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territory to the north of the three provinces whose formation and admission have been detailed. Geographically it is an ultima thule and with the possible exception of the Yukon, it is unlikely to be institutionally of large interest.

Divisions of Legislative Power under B. N. A.. It seems advisable at this point, to advert briefly to the division of legislative powers between the Dominion and the various Provincial Governments. Since municipalities are the creations of the province governments and since their powers are derived by grant from the provinces, it obviously becomes material to examine what powers the provinces themeselves possess. Nothing exhaustive can here be attempted. The whole question of the exact spheres of provincial and dominion legislative powers is easily the most vexed and litigated realm of Canadian constitutional law . Fifty years of almost continuous litigation have served to cause a few important principles to emerge into fairly clear light; yet, as soon often happens, even these principles, tho susceptible of distinct verbal statement, lead to wide differences of opinion when the attempt is made to apply them to specific cases. It is purposed to state and illustrate only the clearest and most important.

The B. N. A. Act, though an Imperial Act, was (it seems hardly necessary to say) the result of the counsels of the leaders of Canadian public life. Without giving invidious prominence to any one man, it is certain that as a group they purposely designed a federal union in which the preponderant power was to rest in the central government. It is no secret that they regarded the position of the central government in the American scheme as weak and unsatisfactory. This view is reflected in the dispositions made by the Federal Act.

Section 91, dealing with Dominion legislative powers gives to Parliament the right to make laws for the "peace, order and good government of Canada" in all matters not exclusively assigned to the Provinces. This general grant (sometimes called the "residuary clause") is followed by the enumeration

of twenty-nine classes of subjects, assigned exclusively to Parliament. It is of the first importance to note that this enumeration is expressly declared to be merely "for the greater certainty, but not so as to restrict the generality" of the residuary clause. To further fortify this statement, the enumeration of exclusive Dominion powers is preceded by a parenthetical phrase, ("notwithstanding anything in this Act"). As if this were not enough, Section 92 closes with the statement that the twenty-nine enumerated classes, given exclusively to Parliament, "shall not be deemed to come within the class of matters of a local and private nature comprised in the enumeration of subjects assigned exclusively to the Provinces." A full description of the twenty-nine enumerated subjects would serve no useful purpose at this point, especially as some of them will be commented on in detail hereafter. In the main, however, they may be characterized briefly as such powers as would naturally appertain to a central government in a Federal system, the public debt, postal service, copyrights, patents, military and naval service, etc.

Section 92 enumerates the classes of subjects with respect to which the Provincial legislatures are given exclusive power to deal. Sixteen classes of subjects are included. Among the more important are direct taxation within the province to raise revenue for provincial purposes, municipal institutions in the province, shop, saloom, tavern auctioner and "other licenses" to raise revenue for "Provincial, local or municipal purposes". Sub-section 16 of 92 reads, "Generally all matters of a merely local or private nature in the Province."

Section 93 assigns Education exclusively to the Provinces, subject to certain specified reservations. Section 95 gives concurrent powers to Parliament and the local legislatures as to agriculture and immigration, but provides that any provincial law shall be effective "as long and as far only as it is not repugnant to an Act of Parliament."

Certain patent possibilities of conflict stand out upon a merely casual

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reading.of the act. Thus, to cite but one outstanding example sub-section 12 of 92 gives the solemnization of marriage in the Province to exclusive provincial control, while "marriage and divorce" are assigned by sub-section 26 of 91 exclusively. to the parliament. But in addition to the obvious need of judicial interpretation in a case like the foregoing, it is also apparent that many perplexities lurk in other allocations of powers. Not to mention the broad Dominion residuary clause, "it is clear enough that the power to regulate commerce and trade" (Sec. 91, sub. 2) will impinge, at many points, upon "property and civil rights in the province". (Sec. 92, sub. s. 13). It is equally clear that problems emerge from the grant of the exclusive right to Parliament to raise money "by any mode or system of taxation" and from the exclusive grant to the province of "direct taxation within the province in order to the raising of a revenue for Provincial purposes". Turning again for the moment to the Dominion "residuary clause," it must be clear that the power to legislate generally for the peace, order and good government of Canada could hardly be exercised at all without affecting directly or indirectly "property and civil rights" in the Provinces. The wording of the residuary clause is certainly very broad, but it could not of course, have been intended to subsume or absorb the specific enumerated powers of the Provinces, thereby rendering the enumeration futile.

It is no part of the writer's duty to attempt to delimit accurately or fully the respective spheres of the two governments. Whole volumes have already been devoted to that subject. But a few general observations and the statement of a few rules of interpretation may not be amiss.

I. As to the enumerated classes of Sec. 91, there can be no doubt of the supremacy of Parliament. This is assured by the non-obstante clause, preceding the Dominion enumeration.[1] This supremacy supervenes otherwise intra vires legislation of the Provinces under its enumerated powers. In this field the Dominion is not only supreme, but the Provinces even in case of non-user by the Dominion

1. Tennant vs. Union B A C 31). Fisheries Case AC 700.

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of its power may not enter.

II. As to the Provincial enumerated powers, not falling within any of the powers specified in 91, the powers of the Provincial legislature are absolute[1] subject to the reservations in IV hereafter.

III. In case of conflict or overlapping between the "general welfare clause" and the "merely local" clause, the Dominion government is paramount and Provincial laws must give way[2] in case of repugnancy.

IV. In case of conflict between acts passed under the general welfare clause and Provincial enumerated powers, considerable difficulties arise. If it were conceded that under this clause the Dominion could legislate, to the exclusion of the Province and paramount to Provincial legislation, there would be an end to Provincial autonomy. Accordingly it has been held that before the Dominion can legislate upon any of these matters under the general welfare clause, its legislation must be touching some truly national concern of such dimensions as to affect the body politic of the Dominion. Thus, as Le Froy suggests, regulation of the sale of fire-arms within the Province is no doubt ordinarily a matter of local concern and therefore a subject of Provincial legislation. But in a national emergency and peril, there can be no doubt of the power of Parliament to pass acts which would supervene Provincial Acts so far as there was any repugnancy. In any given case it is the duty of the Courts to determine at what point local matters have passed over into the realm of national importance. Upon this vexed question various canons of construction have been worked out, but their discussion would lead too far afield. It may, however, be confidently asserted that where a matter is, according to the common acceptation of the terms, one of primarily local or private nature, the onus is upon the Dominion to establish that it falls under the enumerations of 91 or (a still more difficult task) under the "general welfare"clause.[3]

1. Brophy's Case AC 202.

2. Local Prohibition Case AC 348.

3. Local Prohibition Case AC 348. Manitoba Liquor Case AC 73.

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It remains to note briefly, the doctrine of the implied power of the Dominion to enact "ancillary" legislation so-called ~~in connection~~ of a national and quasi-national sort in connection with its enumerated powers, even when such laws may encroach upon intra vires Provincial legislation in the same field. Having power to deal with a certain subject and having essayed to do so, the Parliament may make its laws full-rounded and complete in the given field. Nevertheless the Courts will prevent and do prevent usurpation by the Parliament under the camouflage of ancillary legislation[1]. In short, Dominion Paramountcy as to matters of a private or local nature exists "only to the extent of enabling the Parliament of Canada to deal with matters local and private in cases where such legislation is necessarily incidental to the exercise of the powers conferred upon it by the enumerative heads of Sec. 91".[2]

It will be rightly surmised nevertheless that this power will touch a good many matters of provincial concern and it may often (and frequently does) come close home to municipal corporations. Thus, for example, the validity of Dominion Ry. legislation empowering the Board of Railway commissioners to direct municipalities to contribute to the cost of protective measures at railway crossings was upheld in the case of Toronto vs. Canadian Pacific Ry. Co. A. C. 54.

Sub-Sec. 10 of 92 calls for a brief word. It assigns local works and undertakings to the Provinces, with certain designated exceptions (Railway and ship lines, canals, etc. extending beyond the Province). Exception (c) of this sub-section is such wholly intra-~~prov.~~ provincial works as may be declared by the Parliament to be for the general advantage of Canada or two or more provinces. The effect of these three exceptions is to remove the classes of works enumerated from Provincial to federal legislative control, but in the absence of federal law upon what may be deemed ancillary topics, Provincial legislation

1. Montreal vs. Montreal St. Ry. AC 31.

2. Local Prohibition Case AC 348.

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in reference to it has been upheld. As might be expected the vast bulk of cases under this sub-section have arisen in connection with railway law. Dominion power, and the power of federal railroads under this section, are very broad and Provincial powers correspondingly slight. Thus it has been held that a Provincial act, requiring the railway to do certain fencing, was ultra vires.[1] Similarly a fire guard Act of the N. W. Territories was declared ultra vires.[2] Obviously these limitations of Provincial power would apply a fortiori to municipal ordinances. The above cases deal with the actual road-bed and physical construction of the road. Some measure of comfort from a municipal standpoint is derivable from the case of Canadian Pacific Ry. Co. AC 367 which decided that though it was incompetent for the province to prescribe the manner of her drain construction, yet a federal railway was amenable to a Provincial act requiring drains and ditches to be kept clean so as to prevent a nuisance. In the field of ancillary or incidental legislation "Provincial employer's liability" and "workmen's compensation acts" have been upheld.[3]

This review may be closed with a consideration of a few of the principles that come quite directly home to municipal corporations proper.

It should first be noted that the Provincial legislatures are in no sense the holders of powers delegated by the Parliament of Canada. To borrow the language of the Privy Council, "within these limits ~~(i.e. of Sec. 92)~~ of subject and area the local legislature is supreme and has the same right as the Imperial Parliament or the Parliament of the Dominion would have had under like circumstances to confide to a municipal institution or body of its

1. Madden vs. Nelson & S. Ry 68 L. J. P. C 54.

2. Can. Pacific Ry. vs. R. 39S. C. R. 476.

3. Can. Southern Ry. vs. Jackson 17 S. C. R. 316.

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own creation, authority to make by-laws or resolutions as to subjects specified in the enactment and with the object of carrying the enactment into operation and effect.[1] To the suggestion that by this delegation to a municipal polity, the local legislature pro tanto effaced itself, the Committee turned a deaf ear: it can destroy the agency at any time and resume its own powers.[1]

It is next appropriate to consider the effect of sub-section 8 of Sect. 92, which specifically assigns "municipal institutions in the Province" to the local legislatures. It was at one time contended that this grant endowed the Provinces with the ability to bestow powers upon its munciipal agents outside the purview of the other sub-sections of 92. This contention was founded upon the assumption that since the pre-Confederation Provinces had plenary powers, short of matters of imperial concern or regulated by imperial act, they could therefore endow their municipal agent with such of their own powers as they deemed wise. This view, so analogous to a similar line of reasoning in the United States, received its quietus from the Privy Council in the Local Prohib. Case. (A.C. 348) in which the Board said, "The extent and nature of the functions which it (the Province) can commit to a municipal body of its own creation must depend upon the legislative authority which it derives from the provisions of Section 92 other than No. 8.[2]

In closing, it would seem useful to give a general dragnet enumeration of such of those Provincial powers as come closest home to municipal corporations. The instances are grouped under the specific sub-sections, from which the powers arise and the sub-sections are indicated by foot-notes.

The following sorts of taxes and licenses by the Provinces have been sustained: license fee upon brewers,[3] an annual tax upon ferry companies,[4]

1. Hodge vs. Queen, 53 L. J. P. C.

2. On this whole subject, see Clements Canadian Cons. Chap. 39.

3. Brewers License Case AC 231 . 4. Navigation Co. vs. Montreal 15 SCR 566.

on laundries,[1] a license tax on merchants, wholesale or retail,[2] a license tax on any trade, profession or occupation".[3] The above list is not exclusive and the taxing power in this class of cases is sustained either under Sub-section 2 or 9 of Sec. 92.

Under sub-section 16 of 92 ("merely local and private nature") the following list of Provincial Acts, which do not seem reducible to any one genus, have been sustained: Acts respecting nuisances,[4] relating to ferries,[5] an Act validating an agreement between a municipality and an electric light company,[6] an Act permitting municipalities to regulate the storage of explosives,[7] an Act regulating the closingof shops.[8]

The writer, before closing this branch of the subject, is disposed to give his own estimate of the upshot of the division of legislative powers, achieved by the B. N. A. Act. The statement is often met with that the Act made a mutually exclusive field for the two governments and that within its own field, the Provincial legislatures have just as plenary powers as the Parliament. Such is the statement, yet surely the words are employed in a Pickwickian sense. The position of the Province in the "merely local" field is open to invasion under the general welfare clause. In its most impregnable position (namely under its enumerated powers) the doctrine of implied power to enact ancillary legislation affords another entering wedge against the Provinces. Nor does the matter necessarily end there. The Provinces, for

1. Lee vs. Montgomery 15 Quebec SC 607.

2.

3. Jones vs. Marshall 20 N. B. 61

4. Ex rel Pillow 27 L. C. J. 216.

5.Dinner vs. Humberstone 26 SCR 252.

6. Hull Electric vs. Ottawa Elec. AC 237.

7.R. Vs. McGregor 4 Ont. SR 133

8. Montreal vs. Beanvars 42 SCR 211.

example, are given exclusive control of the solemnization of marriage in the Province. Suppose that hasty Gretna Green marriages assumed the proportions of a truly national menace. Few who have read the adjudicated cases would doubt that a Dominion law, based on the general welfare clause, would be sustained, though it might supervene Provincial law, based squarely on Sub-sec. 12 of 92.

Such seems to the writer the bald, theoretical position. Its possibilities of the complete engulfment of all Provincial autonomy are obvious enough. But in practice nothing of the sort has happened or is likely to happen. The reluctance of the Courts to give free rein to Parliament under the headings of implied powers and also under the general welfare clasuse has been adverted to. Last, but by no means least, stands the practical sagacity of English lawmakers, a fuller acknowledgment on all hands of the desirability of Provincial autonomy within proper limits, the spirit of mutual concession and common counsels that English leaders have always exemplified.

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Municipal Institutions in Northwest Territories.

Alberta geographically was till 1905 a portion of the Northwest Territories. Though carved out of the Territories in that year and created a separate province, yet it directly inherited its municipal institutions from the Territories, for by Sec. 16[1] of the Alberta Act all Territorial laws then existing were continued till altered by competent legislative authority. It therefore becomes of immediate importance to trace the origin and development of municipal institutions in the old Territories, mother of similar institutions in Alberta.

This inquiry falls naturally into two divisions: first, an investigation of the authority pursuant to which the Northwest Territory created municipalities; second, an examination of the municipalities, actually created. The first question deals with the source and extent of the Territories' power to erect municipal governments; the second deals with the manner in which the Territories in fact exercised that power in establishing actual institutions.

Allusion has already been made to that section of the Ruperts Land and Northwest Territory Act[2] (Dominion) which provided for the appointment of a Lieutenant Governor who, with his council, were empowered to make, ordain and establish laws and institutions, subject to such conditions and restrictions as might be imposed by order in council of the Governor General. The above act, temporary in character, was continued[3] in 1870 with an amendment to the effect that the Lieutenant Governor of Manitoba should likewise be the Lieutenant Governor of the Territories. Upon the expiry of this Act in 1871, a permanent Act[4] identical in terms with the two former Acts was passed. During this early period, therefore, local legislation was in the hands of the Lieutenant Governor and council and was confined to such matters as were expressly committed and defined by Dominion order in council. Changes, not of sufficient importance to warrant attention here, were made from time to time; for the

1. Section 16, Alberta Act.
2. 32-33 Vic. C 3
3. 33 Vic. C 3
4. 34 Vic. C 16

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sake of completeness, the most important of these several Acts and Orders in Council are enumerated in a foot-note.[1] All of them were in the direction of confiding a larger measure of legislative control to the Lieutenant Governor. Thus by 1877 the Lieutenant Governor in Council had been empowered to make ordinances upon the twelve important classes of subjects, including the "establishment of municipal institutions in the Territories", licenses of various sorts, "property and civil rights", and "generally on matters of a merely local and private nature."[2]

By the Dominion Act of 1880 provision was made for converting the Council into an Assembly upon a specified number of electoral divisions having reached a specified population entitling them to a member. In 1888 these conditions were met and the Council became the assembly.

The foregoing constitutes a complete though very abbreviated statement of the several enabling enactments, from which the Territorial legislature whether Council or Assembly derived its powers. It is now in order to turn to the second topic of this chapter which will include a survey of the municipal institutions of the Territories from the earliest times to the date of the formation of the Province of Alberta. (1905).

The first truly municipal Ordinance was passed in 1883. Prior, however, to its enactment the Territories had, under the Dominion Lands Act of 1872 been surveyed, the form followed being the rectangular area of thirty-six miles square, divided into numbered sections of 640 acres each. In each township, two sections were reserved for educational endowment and later 50,000 acres were set aside by lot for the Hudson's Bay Company in accordance with its contract with the Imperial Government. The Territories were likewise divided for postal purposes into several districts. It also seems advisable at this point, to advert to several of the earliest local organizations such as fire and herd districts and which may be loosely described as quasi-municipal. Thus by Ordinance No. 10 of 1883 upon a requisition signed by two-thirds of the

1. Order in Council (Feb. 12, 1873) 38 Vic. C. 49; 40 Vic C 7, O. in C. May 11 1877.
2. Copies, of course, of subsections of Sec. 92 of the Original B. N. A. Act.

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qualified voters of a district comprising not less than four townships, the Lieutenant Governor might proclaim such townships a herd district. Thereupon under the terms of the Ordinance, owners of land within the district might distrain or impound all estray animals, might recover in a summary way before a Justice for all damage done and should such damages not be paid, the pound-keeper might sell. Fire districts were erected by Ordinance No.6 of 1886, which provided that upon petition of a majority in the district the Lieutenant Governor might proclaim it a Fire District and appoint a resident fire guardian. Each resident was taxed $4.00 a year toward the expenses of the District. These simple and unelaborated local organizations served amply the needs of the then small frontier population, but by the middle eighties, growth of population rendered advisable a more complete and modern system of municipal government.

The Ordinance of 1883[1] was the first step in this direction. Municipality is defined as a group of not less than four contiguous townships whose inhabitants become incorporated under the Ordinance. The procedure for incorporation was to be initiated by a petition of two-thirds of the qualified voters of the district to the Lieutenant Governor whose Proclamation to that effect constituted the inhabitants thereof and their successors a body corporate, capable of suing and being sued. Each municipality of four townships and not more than nine was to have five councillors and municipalities of more than nine were to have seven. The voting franchise for the first election was narrow and limited to male occupants of land, being 21 years of age, British subjects who had resided therein three months previous to the Proclamation. At subsequent elections all adult male British subjects, 21 years of age, who are assessed at $300 or over. The powersof the Council to pass by-laws are defined under 26 headings; among the more important may be mentioned the raising of revenue and the expenditure thereof, roads, bridges, poor relief, public health, morals public buildings, census, tax exemptions. Rates were

1. An Ordinance Respecting Municipalities (No. 2 of 1883).

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to be calculated at so much on the dollar on the actual value of both real and personal property but in no year to exceed two cents on the dollar, school rates not included. Exemptions included the usual governmental properties, churches and appurtenant land, not to exceed one-half actes, investments in municipal debentures within the Territories and personal property up to $200 exclusive of household effects. This enumeration was not designed to be exclusive, as subsection 24 of S. 25 specifically granted the Council power to allow exemption for the current year and the subsequent subsection permitted a longer exemption to be granted, subject, however, to ratification by the ratepayers. Provision was made for the creation of debt by borrowing. It is interesting to observe that the three first Territorial Ordinances indicate an increasing financial sobriety and caution with respect to debt on the part of the legislature. Thus the first Ordinance permits the Council to create a debt, without a reference to vote of the ratepayers, whereas the Ordinance of the following year requires that all by-laws for contracting debt or borrowing money, not repayable within the current year, must first receive a majority vote of the ratepayers.[1] Carrying this conservatism a step further, the Ordinance of 1885 provided a double check: in addition to the favorable vote of the ratepayers, all such by-laws must also receive the assent of the Lieutenanct Governor in Council.[2]

To return from this digression to the Ordinance of '83, Plainly enough, the foregoing provisions relate exclusively to a large rural municipality, embracing by its terms a district of not less than 144 square miles. Provision was also made for the incorporation of towns and cities. If the proposed town had a resident population of 300 or more and an area of not less than 320 acres not more than 2560, upon the petition of two-thirds of such residents, the Lieutenant Governor might proclaim it a town. In addition to all the powers

1. Ordinance No. 4 of 1884 see 134.

2. Ordinance No. 2 of 1885 sections 177 and Subsection 6 of S 194.

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of a rural municipality, heretofore described, the Town Council was invested with the usual powers, appropriate to town economy (fire department, fire limits, sewers, police, etc.)[1] Full provision was made for the levy of special assessments upon the property of owners benefited thereby.[2] The total rate for all purposes was not to exceed 2½ cents on the dollar.[3] Provision was also made for the erection of a Town into a City upon its attaining a population of not less than two thousand.

Such was the Pioneer Act. Though subsequently amended in important respects, yet many of its provisions and much of its phraseology survive in the present municipal Acts of the Province of Alberta. That population had not progressed to a point demadning numerous municipal units is indicated by the fact that at the close of the year 1885 only twelve districts had availed themselves of the act.[4] Of these only two, Moose Jaw and Regina, were towns, the remaining ten were rural. Nor is this remarkable when one recalls that in this whole vast territory theDominion census of 1901 returned only 132,636 whites.[5]

In the interest of a <u>pari passu</u> treatment of the whole field of early institutions in the Territories, it seems advisable to turn aside at this point to glance at the first Ordinances, respecting education. Passed in 1884[6], it reveals, in a striking way those racial and religious cleavages that have had so deep an influence upon the whole of Canadian history and institutions. It provided for the appointment by the Lieutenant Governor of a Board of Education composed of not more than 12 members, of whom six were to be Protestants and six Roman Catholics. This board was to resolve itself into two sections along religious lines, each section dealing with the schools of

1. Ordinance Nol 2 of 1883 S 147

2. Ordinance No. 2 of 1883 S. 150 et seq.

3. Ordinance No. 2 of 1883 S 155

4. Enumerated and boundaries set out in Ord. No. 2 of 1885.

5. Wickett: N. W. Territory P. 333.   6. Ordinance No. 5 of 1884.

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its co-religionists and each empowered to decide its own quorum. Obviously, in effect, this amounted to two separate boards, save upon matters strictly noncontroversial and religiously neutral- the size of that field, whether large or small depending no doubt upon the degree of bigotry of the Board's membership. Its powers, compared with those given under later Acts, were modestly limited, consisting chiefly in the arranging of examinations, licensing of teachers, selecting of text-books and appointing of inspectors. As this whole matter will be treated fully hereafter under the topic of Central Control, it is alluded to here only in passing. A school district was to consist of an area of not more than thirty-six square miles, having a school population of not less than ten such district to become incorporated upon petition to the Lieutenant Governor and thereafter an election of trustees was to be held. A detailed account of the Ordinance seems unnecessary here: the powers of the trustees were defined, taxation not to exceed five mills on the dollar was authorized upon both real and personal property, a submission to the Lieutenant Governor of all proposals for borrowing money was required and the policy, since adhered to, of conditional grants in aid out of the general revenue fund was inaugurated. This Ordinance was amended and consolidated in the following year.[1] The new Ordinance reveals a number of changes of importance. The Lieutenant Governor became chairman of the Board of Education, the Board becoming entitled to a per diem indemnity for their services. Inspectors, serving gratuitously under the former law, became salaried officers and their duties, vague and indefinite till now, were closely defined. The duties of the teacher, enumerated in seven subsections of the first Ordinance, have grown to require 17 sub-sections. Grants in aid, that potent instrument of Central Control, have not only increased in size, but the valuable principle of additional or larger grants, contingent upon school efficiency has definitely entered. Thus there was a difference of $100 in favor of a school employing a teacher with a first class certificate as compared with a third-class

1. No. 3 f 1885.

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certificate. Moreover, the small capitation grant was doubled to those schools receiving a favorable inspector's report. The salutary effect of these inducements to efficiency may be easily surmised. This Act was variously amended within the next few years. In 1887 the Board of Education was reduced to eight members and the Lieutenant Governor no longer acted as Chairman; a Board of Examiners was created to pass upon teacher's certificates; certain studies were enumerated as compulsory in all schools and the spread between grants to schools with teachers holding first class certificates and those with third class was widened.[1] Again in 1888, important changes were made: in place of the grant of a lump sum, a per centum grant on a sliding scale, starting at 75% was provided. This provision no doubt tended to encourage the employment of higher-priced and better teachers. The maximum school rate, previously 5 mills, was raised to 10 mills, four years later to 12 mills. The first separate allowance for High Schools was provided in the form of a $350 contribution toward the salary of each High School teacher employed. From the date of this Act till the creation of the province of Alberta, though the frequent amendments were made, all of them were in matters of small detail and no noteworthy trends or tendencies are discernible. The Act grew steadily in particularity and consequently in size but in fundamentals and essentials it may be said that the foundation of Alberta's educational system was well and truly laid in the Territorial legislation of the decade between 1885 and 1895.

It now remains to trace the changes in the Municipal Acts from 1885 to the creation of the Province of Alberta. Allusion has already been made to the early herd districts. Not unlike them were the statute labor districts created in 1887. The area was 144 square miles; the population not less than fifty. Assessment was in terms of days of labor, based upon a sliding scale of land ownership- this labor to be expanded upon the roads and bridges of the district

1. Ordinance of 1888 (Chap. 59).

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under the direction of an elected overseer. The following year fire and statute labor districts were combined and in 1897 provision was made for levying rates in lieu of labor. The Consolidated Ordinances and the Statute Labor districts became merged[1][2] in the Local Imporvement District now to be noted. These districts, containing not less than 12 residents and comprising at least 72 square miles, were to be created by the Lieutenant Governor.[3][2] The overseer, an elected officer, was empowered to call the annual meeting at which by a show of hands a decision was made as to what improvements would be made for the ensuing year. The small taxes, levied at the rate of $2.50 per quarter section and 62½ cents for every additional 40 acres,[3] were likewise collected by the overseer and expended by him upon raod improvement, bridge building and the eradication of noxious weeds. The following year, an Ordinance was passed permitting the creation of what was known as a large Local Improvement District, comprising an area greater than 72 square miles. The taxes in the larger district were somewhat smaller than those for the small district and were to be placed by the overseer to the credit of the district with the Territorial Government under whose direction they were spent upon improvements within the district. This act marks the low tide of local autonomy and was not destined long to survive. In 1903 another act was passed under which a far larger measure of municipal powers was delegated to the inhabitants of the district. There was to be an elected Council of not less than three members nor more than six, empowered to levy rates of from 1¼ cents to five cents per acre and to decide upon the expenditure of the local funds. It is worth while to observe that, with the passing of the period of wardship under the Territorial Government, there was no return to the picturesque simplicity of the open town meeting with its show of hands, but instead elected representatives. Probably no other causative factors of the change need be sought than the rapid growth of population, rendering the older form obselete. After the act of

Chap. 73 (1898) s. 15.

1. Chap. 73 (1898) sec. 45.
2. Chap. 73 (1898)

1903, no further legislation of importance respecting Improvement Districts was enacted till 1907, a date beyond the terminus ad quem of this chapter.

A municipal unit known as an Unincorporated town was provided for by an Ordinance of 1888 which was amended in 1893.[1] It was to consist of any portion of land, not being within a muhicipality and not exceeding 320 acres" having not less than 12 dwelling houses. In its original form and in its later evolution it followed a general course, very similar to that of the Improvement Districts. Its only officer was the overseer, elected in open town meeting. His term was two years, his salary was at first $50 a year and later $100 with a small per centum of all monies handled; he might not incur an indebtedness above $100 on account of the village and his duties were outlined by the annual town meeting. In 1895 was passed the general village Act, repealing the previous ordinance. It introduced no far reaching changes, merely conferring a larger measure of power upon the community and with minor amendments it remained in operation into the period. of Provincehood. An amendment of the Act in 1897 provided for a still smaller unit, known as a Hamlet, consisting of five or more occupied dwellings within an area of a half square miles, but the Consolidated Ordinances of the next year repealed this Amendment. A word must also be said as to cities. The amended and consolidated Ordinances of 1894 had made provision for the erection into cities of towns upon their reaching a population of five thousand. This ordinance was repealed by the Municipal Ordinance of 1897 in which no mention was made of cities, nor have the later Acts made any provision for them. As a consequence, from 1897 up to the present time, all the cities of the Province have been governed under special charters.

The foregoing sketch gives in outline the form and organization of every sort of municipality created in the Northwest Territories, prior to 1905.[2]

1. No. 3 of 1893.

2. No. 3 of 1894.

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One and all, they were characterized by an extreme simplicity and the absence of any tendency to faddism or untried innovation. The earliest forms such as the herd and fire districts, grew indigenous from the soil of the actual life of the people. The influence of eastern Canadian institutions at this date seems negligable; later both the form and the phraseology of municipal acts are so largely patterned upon Ontario that Ontario judicial decisions, based upon sections precisely identical, have had persuasive weight upon the course of Alberta interpretation. Passing comment has already been made upon the thoroughly democratic form of government in both town and rural district in the early stages: the passing of the folk mote in favor of elected representatives was but a to-be-expected evolution. The Province is one of magnificent distances and settlement has penetrated to its far corners. In 1903, the last vestiges of the prior system disappeared. The measure of local autonomy accorded seems adequate, yet no time wholly dissociated from direct Provincial control. As the topic of central control will be elaborated in a later chapter, it is enough to mention here that the germ if it is contained in the earliest acts. The enumeration of local powers contains provisions of sufficient generality to permit large scope to local legislation, while at the same time particularizing sufficiently to avoid undue strain upon the general police power. In not a few cases specific, social legislation is directly authorized in spheres in which the Courts might otherwise strangulate municipal regulation. The legislation of the period under review reveals a canny prudence in the matter of municipal indebtedness and the measures taken show a progressive increase in safeguards.[1] Nevertheless, the industrial bonus, though hedged about with a two-third plebiscite, proved an incentive to improvident bargains and the power to bonus had to be entirely taken away, though not till the Provincial period. There has been a long continued and steady agitation in favor of a

1. The assent of the Lieutenant Governor first a majority vote of the ratepayer and later a two-third vote.

uniform act for the cities, but thus far no such act has been passed. Such advantages as an Act of that nature would have are sufficiently obvious, but in the writer's opinion there are large countervailing objections. Taking the six cities now in existence, the great disparity in size between Calgary and Edmonton, having roughly 70,000 inhabitants, on the one hand and Red Deer and Wetaskiwin, with roughly 3,000 on the other, would plainly introduce some very complex problems. Even as between Calgary and Edmonton, though of approximately the same size, there are differences sufficiently marked to make operation under a uniform Act difficult. Calgary is relatively compact in territory, while Edmonton, due to the thrust of the large Hudson Bay reserve almost into the heart of the city, is scattered over an immense territory. Each has its own special problems and the Legislature has probably done well in refusing the Uniform Act. The position of the mayor- that crux of most modern plans of municipal reform- in the Territorial scheme warrants a moment's notice. No tendency is discernible in the Ordinances to exalt his position or to centralize extraordinary power in his hands. _Primus_ in the Council he undoubtedly was, but primus inter pares.

Of their public school system, the people of the present Province are justifiably proud. Tho quite inapposite to the purposes of this chapter, it may perhaps be permissible to mention that teacher's salaries- a fair gauge of the public's estimation of education- are higher in Alberta than in any of the sister Provinces and measurably higher than in the United States. Civic pride and civic responsibility- attachment to the British connection- English literature and English and Canadian history, with their lesson of freedom slowly broadening down- these are early inculcated . All the foundations of the present admirable system were well and truly laid in the Territories- conditional grants in aid, a central inspectorate, uniform texts and uniform examinations- in short, the whole organization of the school system was ready-made for the new Province.

Municipal Evolution Since Provincehood.

In 1905, Alberta became a Province and as such subject to the B. N. A. Act and the Alberta Act which created it. Section 16 of the Alberta Act specifically provided that all the laws and institutions of the old N. W. T. should be and remain in force until altered or superseded by legislation of the new legislature. Automatically, therefore, and without adoption by the new Province, the entire Territorial system was superimposed upon Alberta.

The first Provincial legislature convened in Edmonton on March 15, 1906 and sat until May 9th. The new legislature, to many of whose members lawmaking was no novelty, by reason of their having sat in the old Assembly, behaved with admirable restraint, showing no disposition to run amuck amongst the existing statutes. Several important civil acts were passed. The public service was reorganized under a general act[1] which provided for six departments, each in charge of a Cabinet Minister empowered to "oversee, direct and have general control of the business thereof". Several of these Departments were destined to have a large direct influence upon the course of municipal affairs later. But of specifically municipal legislation of a general nature there was very little. One exception to this general statement was the first Municipal Telephone Act[2] empowering all municipalities to establish local telephone systems. The chief result of the Act was to encourage over-ambitious districts to construct non-standardized, haphazard systems which later, bankrupt financially and physically, had to be taken over by the Province and welded into a uniform, Province-wide utility. The story of these unfortunate municipal ventures in telephones is described later. But tho the first legislative session was not prolific of general municipal Acts, it passed a number of highly important special or local Acts, among them being

2. Chapter 4- 1906.

3. Chapter 31- 1906.

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the first charters of the cities of Medicine Hat,[1] Wetaskiwin,[2] and Lethbridge. Of the three remaining cities that exist today, Calgary had received its charter in 1894, Edmonton in 1904 and Red Deer was to receive its charter in 1913. It will be recalled that these cities operate under special charters and that the general municipal acts do not apply to them, unless specifically mentioned.

The legislation of 1907 calls for brief mention, as it constitutes the only municipal law-making of any importance until the epochmaking year of 1912. With slight changes, the small local improvement districts were continued, still under an elective council, as provided by the Ordinance of 1903 (ante). But substantial changes were made in the large local improvement districts,[3] and these and subsequent changes will be noted here, in order that this branch of the subject may be once and for all dismissed. These large districts passed under the sole control of the Department of Public Works and after 1912 under the new Department of Municipal Affairs, which now administers their business. They are now known simply as Improvement Districts, and are usually spoken of as unorganized. The Department, (formerly Public Works, now Municipal Affairs) assesses all land upon a rate per acre, collects the tax, and expends the proceeds upon improvements within the district upon the recommendations of the department's Inspectors. Within these far outlying and sparsely settled districts, the Department also administers for the Provincial Treasury the Wild Lands Tax, the Educational Tax, the Timber Area tax and the Supplementary Revenue tax.

Before turning to the important legislation of 1912, it is perhaps advisable to recapitulate the several forms of municipal organization in existence as of this date. There were the five cities[4] operating then as

1. Chap. 11- 1907.

2. Red Deer did not become a city till 1913.

3. Chapter 3 (1911-12)

4. Chapter 4- 1911-12 Sec. 790

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now under special charters. There were the towns and villages, each under separate acts. There were the unorganized districts, administered as described above by a department of the Province and there were the small local Improvement districts.

In 1912 was passed the Rural Municipal Act[1] which with accompanying amendments of the Local Improvement Act[2], completely disorganized all the previously organized local improvement districts. The act provided for the division of the Province into territorial units eighteen miles square, starting at the Southeast corner of the Province. The task of preparing the new municipal map was devolved upon the Department of Municipal affairs[3] created at the same session. The resident electors within each of these units were empowered to decide by vote whether they should be reorganized as local improvement districts or as rural municipalities. The difference between these two forms of organization suggests the whole object and aim of this new legislation. The old local improvement districts and their successors (the new optional ones) had possessed very meager taxing powers and no authority whatever for the issue of debentures. These limitations were proving exceedingly hampering and dwarfing just at a time when population was increasing rapidly and when the agricultural portions of the Province were enjoying great prosperity. The new Department of Municipal Affairs threw the whole weight of its influence in favor of the districts reorganizing under thw more progressive form and before the close of the year 1913, 66 districts had adopted that form.[4] Nevertheless, the shift to the new form was not as rapid as might have been hoped, owing to the fear in many districts that the new debenture power might involve the community in debt. The power to issue debentures, however, was safeguarded by the provision for a referendum upon their issue and further that all issues must be first approved by the Minister.

1. Chapter 3. 1911-12 Sec. 790
2. Chapter 4. 1911-12. f Mun. Affairs- 1912 p 7.
3. Annual Rep. Dept. of Mun. Affairs- 1913- p. 11.
4. Annual Rep. 1912- p. 11.

10-20 5M

One interesting and valuable portion of the Act prescribed that the countersignature of the Minister to the debenture should constitute "conclusive evidence" that all formalities had been complied with and that the "legality of the issue should not be questioned by any Court." The effect of this provision is to prevent the spectacle, so common in the United States, of attack upon the validity of municipal bonds, often upon highly technical grounds. Its resulting effect in increasing the security of purchasers and thereby enhancing the municipal borrowing power and also in lowering the interest rate is sufficiently apparent.

But one more important step was yet to be taken with respect to the form of rural municipal organization and that was to be taken in 1918. Tho from 1912 onward the movement toward the Rural Municipal form had been fairly steady[1], yet not a few districts still held back, owing to the fear of debenture debt and the government in 1918 determined to make the transition obligatory. Accordingly the Municipal District Act[2] disorganized all the remaining small local improvement districts and each was converted into what has been since known as a Municipal District, exactly similar in its organization, government and area to the previous rural municipalities. No important changes have been made since, so that it may be said that the Act of 1911-12, forced upon all organized rural districts in 1918, is the organic municipal law of those districts today. Its important features, with later modifications, such as voting franchise, election machinery, taxation, will be given separate treatment under these respective titles in a later chapter.

The legislation respecting urban communities can be briefly brought to date. From 1898 onward, the date of the Consolidated Ordinances, towns had been governed under Chapter 70 and villages under Chapter 101, 1907, which were in turn only amplifications of the Ordinaces of 1883 which

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1. 55 total in 1912- 66 total in 1913- 84 in1914- 88 by close of 1917. Reports of Department of Municipal Affairs for respective years.

2.

may be said to have been the true pioneer in the urban field. It has already been described. The just mentioned chapter of the Consolidated Ordinances was repealed in 1912 and a new Town Act substituted. This Act with amendments continues to the present day. Similarly the Village Act of 1907 with amendments continues. These acts will be given a topical treatment in the next chapters. With the exception of such topics as will be there singled out by reason of their special importance or interest, this brings to date the present review.

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1. Chapter 2. Sec. 9- 1911-12.

10-20 5M

Chapter IV.

Voting Franchise and Elections.

The municipal voting franchise in Alberta has been progressively broadened and today stands upon a very liberal basis. It would seem to the writer to be merely tedious to extend this survey to a date previous to the Consolidated Ordinances and accordingly that date has been somewhat arbitmarily selected. In the Muhicipal Ordinance of that date[1] men, spinsters and widows over twenty-one years of age who were assessed upon personal property or income above $200 or who were owners or "occupants by any tule whatsoever" of land assessed for a like amount, were qualified. The husband of a woman assessed on land for $200 was likewise given a right to vote, but it is rather amusing to note thatthis vicarious derived right had no element of reciprocity about it. Thus voting was based squarely upon taxation, but taxation covered income and both real and personal property. By 1912, the basis of taxation had become real estate exclusively (with the exception of a few licenses) and consequently the assessors list, from which the voters list was made up[2], contained only the names of persons assessed for land- a narrowing of both the tax-paying and voting classes. All persons so assessed, male or female, aged 21, actually residing in the municipality and not in arrears of taxes, might vote. It will be noted that the absurd discrimination of the previous Acts against married women has been dropped. The Municipal District act of 1918[3] contained some rather unusual provisions. The electors, qualified to vote upon the question whether or not debentures should be issued. But for the purpose of electing councillors, and no other, and enormous extension of the franchise took place. The ballot being given to the wife, husband, son and daughter of each proprietary elector, provided of full age and a resident of the district. In the towns, since the Town Act of 1911-12, the

1. Chap. 70- Sec. 18 (1898)
2. Chap. 3- Sec. 85 (1911-12).
3. Chap. 49- (1918).

10-20 5M

voters list is made up of all those persons assessed for $50 or more, and the husband and wife, son or daughter of such, if a resident of the town and of full age. But here too, a distinction is made between electors and "burgesses" as they are called in towns, the latter alone being entitled to vote upon money by-laws.[1] The lists are made up by the Secretary, Treasurer and from his ruling an appeal lies to the council, sitting as a final court of revision[2] Though the six cities of the Province are governed under separate charters, yet there is not a great divergence between them.[3] All base the franchise upon assessments, varying from $200 to $100, all make the distinction between ordinary electors and burgesses, noted above; in some tenants of property, assessed at a given sum may also vote and in two of the cities none but British subjects may vote.[4] In none of them may persons in arrears for taxes vote; one of the diverting spectacles of a close election is the effort of candidates to assist their adherents in finding the funds to clear up arrears.

In the towns and villages nominations are made on the first Monday or Wednesday in December; in the rural municipalities on the twentieth day of February. The machinery is exceedingly simple and party politics is completely adjourned. A nomination meeting of all the qualified electors is called by the secretary-treasurer by notices conspicuously posted and this meeting is presided over by a returning officer, previously appointed by the Council. The name of any qualified person may be placed in nomination by any elector, provided that candidate has filed a written statement that he is a qualified and that he will serve if elected. If no more candidates are named than the number of offices to be filled, the nominated candidates are declared automatically elected. This simple nomination meeting is also the method used in all the cities.

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1. Chap. 2- Sec. 178 (1911-12). entitled (Chap. 44, 1920, amending Tule IV sec. 5)
4. Med. Hat Charter Title IV, Sec.1 the towns
2. Chap. 2- Sec. 84 (1911-12). and rural districts, citizenship is immaterial.
Calgary Charter, Part IV, Sec. 83.
3. In Edmonton, tenants are entitled, irrespective of value of premises occupied (Part 4- 86. In Medicine Hat, tenants and those who have paid poll tax are

The council lays out the polling divisions, and selects polling places and appoints the election officers. Everywhere there is a separate ballot for mayor, another for councilman, another for school trustees. The names of the candidates are in alphabetical order and without party designation. There are the usual provisions in the different acts and charters respecting secrecy, challenging and swearing of voters, counting of votes and the announcement of the result. Elections are conducted with great decorum; the writer, accustomed to the always turbulent and sometimes sanguinary elections, of one of our Southern States was greatly impressed with the Sabbath calm and quiet of Canadian elections. Whether this was due to inborn respect for the ballot or to the atmosphere of sweet reasonableness diffused by a thoroughly competent police, he is unable to say. If any subsequent contest arises, the several acts and charters provide for inspection of ballots, recount, and ultimately an appeal to the Judge of the District Court.

Chapter V.
Position and Powers of Mayor, Council and School Board.

Certain general observations may be made at this point respecting the position of mayor and council in the Alberta scheme and what is said here of the cities applies equally to every other municipality in Alberta. In any analysis of municipal government their status, their duties, their relations to each other, to other officials and to the electorate are of the first importance. J. A. Fairlie[1] says that the "most distinctive feature of the English system of municipal government is the all importance of the council," and the same could be said of the system in Alberta, whether rural or urban. Whereas in the United States are to be found innumerable combinations of elective and appointive boards, of many elective officers, of various allocation of power between mayor, boards, and Council, the Alberta system has adhered steadily to the old fashioned English council. At an Alberta election there is the ballot for councilmen, for Mayor (himself a member of the Council) and for school trustees. Every officer and every administrative Board in the Corporation is appointed by and responsible to the Council. In the cities of Edmonton and Calgary there are two Commissioners, the mayor exofficio making a third. Their duties are defined as the "care, management and control of the police force, fire brigade and other public services and of the public works and utilities and property, works, improvements, roads streets and other public places owned and controlled by the city." Manifestly these are highly important officials: it is not too much to say that of the work-a-day business of actual government, they are the true center of gravity. Yet it would be impossible for human language to make plainer their entire subordination to the council. They are appointed and their salaries fixed by the Council, their tenure is "during the pleasure of a majority of the whole council; by a two-thirds vote, the council may assume "any of the powers, duties or

1. Municipal Administration, p. 375.
2. Sec. 41 et seq 1913 Consolidation Edmonton Charter.

works vested in the commissioners" and "nothing herein contained shall be construed to divest the council of its authority in respect of any matters under the jurisdiction or control of the commissioners." This is strong language- apt for the purpose of centralizing the ultimate power and responsibility in the council alone- in the event of mal-administration, pointing the accusing finger with all the directness of the ancient prophet "And Nathan said unto David, "Thou art the man."

But it may be surmised that some possibility of passing the buck" is afforded the Council by the position of the Mayor or perhaps administrative boards. Such is not the case. The mayor is but one member of the Council- the most important member, no doubt, in that he presides at its meetings, may call it in special session, and is charged with the duty of submitting it special reports upon matters of moment. But he has no veto power of any sort; he appoints no one, and though he may suspend any municipal officer, yet he must report his reasons therefor to the Council who may reinstate such officer upon a bare majority vote. Thus though he looms large upon ceremonial occasions, he in no way splits up the sole responsibility of the Council. Nor do Boards (with the single exception of one School Board)The constitution of such Boards as exist will be treated later under a separate heading.) In general it may be said that, one and all, they are nominees of the Council, removable by it and strictly accountable to it.

There is a natural temptation at this point to debate the comparative merits and demerits of this council system and other systems. Recent years have seen many plans and experiments in the organization of municipal government, aiming in the main to render visible to the electorate the whole machinery of government and to place definitely the respon-

sibility for its acts. (Of the past achievement and future promise of these several schemes, this is hardly the place to speak at length, but one may perhaps be allowed to quote on this whole subject the opinion of Dr. Albert Shaw, himself a member of the memorable committee that drew up a plan of municipal organization, entitled "A Municipal Program" which was later approved and adopted by the National Municipal League. Speaking of the English and Canadian system, he observes "it is simply government by a group of men who are to be regarded as a grand committee of the corporation, the corporation consisting of the whole body of burgesses or qualified citizens. If such a local government cannot be trusted, the fault is with popular institutions. It is quite certain to be as good a government as the people concerned deserve to have. The location of responsibility is perfectly definite."[1] The all-powerful Council finds another strong advocate in E. D. Durand, who argues in the Political Science Quarterly[2] that the demoralization of Councils was a result rather than a cause of the weakening of their powers. Contrasting the experience of England, and France under the council system with those American cities having the more centralized form in which the Mayor has swallowed the Council, he concludes that the council form is more satisfactory. Into this controversial field, the "great Serbonian bog, where armies whole have sunk"- this digression may not be further pursued.

Returning to the council, its number and its length of tenure are fixed by by-law and in the cities, of course, varies in the different municipalities.[3] In the towns and rural districts, their number is six and their term two years.[4] In the rural districts, all elected at one time, the Council may divide the municipality into wards which elect a ward rep-

1. Municipal Government in Great Britain, p. 63.

2. Political Science Quarterly, XV 426 et seq.

3. There are ten councillors in Edmonton and Calgary- eight in Medicine Hat Six in the other two cities. In Lethbridge, there is a straight Commission form of government.

4. Chap. 2 s 13 (1911-12) and Sec. 47 et seq

4-21 6M

resentative. But in the towns and the cities, the ward system of election has not been followed. The nearest approximation to it is in Edmonton, the deviation being explained as follows: when Strathcona, lying south of the Sask. River was annexed to Edmonton, it was already a considerable city and the usual jealousies and rivalries existed. To safeguard the position of Strathcona, it was provided that it should never have less than three aldermen who resided and had more than half of their property on the south side of the river, and that it should always have representation in the ratio its population bore to the population of the part lying north of the River.[1] But in no other sense, administrative or otherwise, is the south side of the river a separate or distinct section of the city.

The Council's powers are given under enumerated heads. Analysing these, there isfirst the appointing power: in Càlgary and Edmonton this includes the city clerk, treasurer, solicitor, assesor and auditor and commissioners: in the other cities, these same officials excepting commissioners who are peculiar to these two cities. In Calgary and Edmonton the Commissioners appoint the Fire and Police Chief and their subordinates. In the towns and rural districts the council appoints the few officials. Thus far, the appointing power has been conferred by explicity provision of the charter itself or general act. In the case of administrative Boards, the Council's appointing power is derived from the Acts creating the special service or institution over which the Board presides. Thus, to illustrate, the Provincial Public Libraries[2] Act provides for a Board of five of whom the mayor of the municipality is exofficio one and the remaining four members of the Board are appointed by the Council.[3]

Its legislative powers call for little special comment. There

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1. See 17 Office Consol. Ed. Chart.

2. Chapter 17 (1907)

3. In cities of over 15000, the Board was increased to seven by an amendment in 1909. (Municipal Administration, p. 203. J. A. Fairlie.)

4-21 6M

is first the general grant of police power in the "peace, order, welfare and good government" clause, which is given a very sweeping interpretation. Its general by-law powers cover such headings as sewerage, drainage, water supply, parks, markets, borrowing, rating, etc. Taking the Edmonton charter as typical of the cities, these powers are defined in 22 sections, many of which contain five or six sub-sections.

We come now to the School Board. As was formerly the case in England it is entirely independent of the Council and co-ordinate with it- elected at the same time as the Council, but on a separate ballot- the general provisions of law governing elections applying to it, mutatis mutandis. The old distinction between public and separate schools is continued, distinct boards being elected for each and a separate rate for each board. The assessor is required to note upon the assessment roll from which the voters list is made up whether the taxpayer is a supporter of the one school or the other. Upon the completion of the revised assessment roll, the Boards in the country districts of both schools are required to estimate their expenses for the current year and to strike a rate therefor, which is levied and collected through the ordinary municipal agencies. In the towns and cities, the School Board has nothing to do with fixing the rates for school purposes, but simply "makes a demand upon the council of such municipality for the sum required for school purposes for the current year."[1] As might be surmised, this power to make a financial "demand" upon the Council by the Board is the cause of almost endless bickerings and recriminations between the two bodies. The following comment of the Mayor of Lethbridge in his annual report[2] is so characteristic of the milder type of these plaints that is it worth quoting: "The Province enforces full payment

1. School Assessment Act (Office Consol.) Sec. 89.

2. Reports and Financial Statements, p. 9, Lethbridge, 1918.

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of the school board's demands, whether school taxes are collected or not, with the net result that to day the audit shows that the city has paid over to the school board over $200,000 of uncollected school taxes. Financing of this kind has limitations." "Notwithstanding this rather autocratic financial power, the Board has by no means a free rein in many other respects. Its debenture issuing power is subject to the double check of the approval of the burgesses and the Public Utilities Commission. Its powers, enumerated under 27 heads[1] may be very briefly described as the ordinary management of the school selection and care of school property, discipline, employment of teachers, Among other things may be mentioned the mandatory provision that they shall cause to be erected on the school grounds a flag pole from which must be displayed the British Union Jack, not less than four feet long and two feet wide. In the exercise of their functions, the Board is subject to a large measure of control from the Provincial department of Education- a topic treated separately in a subsequent chapter.

From all that has been said in the chapter as to the general form of municipal government, the City of Lethbridge, was, at the outset, specifically excepted. Whether that exception needed to be made seems doubtful, for though Lethbridge proudly boasts of its "commission form of government," yet the difference between it and the other cities, in real fundmentals, seems more in name than in reality. The city secured its new charter in 1913[2], which became effective Jan. 1, 1914. Carving its provisions to the bone, it enacted that three Commissioners, of whom the mayor was to be one, should constitute the Council- the several departments were allotted by name to the various Commissioners, the salaries of the Commissioners were set out in the act. Title VIII provided that if 20% of the electors

1. The School Ordinance (Office Consol) Sec. 95.

2. Chapter 22- 1913.

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protest, then the council must reconsider the by-law and unless repealed intoto, the by-law must be submitted to popular vote. Title X provides that if 15% of those who voted at the last general election petition for the removal of any or all the commissioners, a vote thereon shall be had within not less than thirty or more than forty days. Now these are striking and novel provisions in a Canadian charter and undoubtedly there are also some important practical differences between this charter and those of the other cities. But in underlying essentials, in fundamentals it is closely akin to the usual Alberta type. The Commissioners are the Council: neither before this charter was enacted in Lethbridge nor in any of the other cities is there or was there any separation of legislative and administrative power. So that this charter does not, in reality, effect any change in that regard or differentiate the Lethbridge government from that of any of the other cities. Neither in Lethbridge before this charter nor in any of the other cities at any time have there ever existed any independent, elected Boards, splitting up authority and producing confusion and divided responsibility. So that in this respect no change has been made. In short, none of the maladies which the Commission form is designed to cure existed in Lethbridge or exist or have existed elsewhere in the Province. What may be said to have happened then is this: the city was suffering from an attack of municipal hypochondria and an ordinary bread pill, labelled with the name of a widely advertised remedy, was administered. To this dosage, the supposed patient has not reacted strongly, either for better or for worse. But as already intimated, these observations must not be taken to mean that no changes of importance have been made: the council or Commission, whichever one chooses to call it, is smaller in size than elsewhere; its partners are paid a salary which they will earn or not, depending on their ability. All that it is intended to imply is that the general principles and the basic framework of government is substantially the same today in Lethbridge as it was previous to this charter and as it has continued to be

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elsewhere. Nor would it seem that these remarks need to be qualified on account of the initiative, referendum and recall provisions. These measures might be equally tacked on to the charters of any of the other cities: they may or may not be valuable, but they do not touch the heart of the matter.

Chapter VI

The Activities of the Six City Governments.

To the average reader, Alberta is a terra incognita and the names of its cities, but a sound in the ears. A very brief description, therefore, of these cities may perhaps be pardoned.[1]

Calgary, which at the time of the formation of the Province was a town of about 7000 inhabitants, has to-day a population of about 72,000. It has 63½ miles of paved streets, 160 miles of concrete walks, 47 public schools and separate schools employing nearly 300 teachers and the extent of its business activity may be judged by the fact that its bank clearings in 1920 exceeded 438 million dollars.

Edmonton, the capital city of the Province and the second in size, from a population of slightly over 3 thousand in 1901 has grown to over 66,000. It is the center of five railroads, with 13 radiating lines, has 34 public schools, is the seat of the University of Alberta, its bank clearings in 1920 were over 300 million.

Lethbridge and Medicine Hat are nearly of a size, the former with a population of over 12 thousand and the latter about 11 thousand. Both own all their public utilities, including in Lethbridge an exceedingly expensive street railway system. Lethbridge is the center of one of the best domestic coal districts in the Dominion, the veins so favorably situated for mining that the city obtains its coal from a municipally owned mine at a delivered price of less than $1.50 a ton. Medicine Hat is the center of one of the world's great natural gas supplies, from which large industrial development is hoped for the future. Unfortunately both of these cities are situated in the semi-arid southern portion of the Province, where frequent crop failures adversely affect their progress.

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1. This data comes from Board of Trade pamphlets and Reports of the Department of Municipal Affairs. It has not seemed worth while to cite pages.

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Of Red Deer and Wetaskiwin, little can be said. Neither can make any pretense to being more than the thriving center of excellent agricultural districts, where rainfall is sufficient, mixed farming is general, and where the prosperity of the farming community is reflected in the substantial, if small scale, business of the town. The population of Red Deer is 3 thousand; of Wetaskiwin 2200.

1. Public Health and Safety.

(a). Police. It will be recalled that by §527 of Section 91 of the B.N.A. Act, legislation respecting criminal law except the constitution of Courts of criminal jurisdiction but including criminal procedure therein was confided to the Dominion, but the administration of justice in the Provinces both criminal and civil is allocated, by S14 of Section 92, to the Provinces themselves. From the standpoint of pure constitutional theory, this is no doubt thoroughly anomalous, but no practical disadvantages seem to have resulted therefrom. The net effect of the two provisions above was to require the Provinces to assume the administration of Criminal justice as well as to provide police enforcement of Provincial and municipal laws. Prior to the formation of Alberta into a Province, the Dominion had policed the entire N.W. Territories with the Royal N.W. Mounted Police. It is quite impossible for the writer to mention this body and pass on without comment as he lived for over five years in the largest "barracks" town in the Province and had the privilege of knowing many police officers and watching the system at close range. "Get your man" has always been the motto of the force, but it is closely coupled with the admonition to get him without either shooting or the display of firearms; and such is the prestige of the force that alleged dangerous individuals and really dangerous situations are handled commonly without force or the display of weapons. If one were to seek to illustrate

many of the finest traits of the English character, he could find his texts in the records of the Mounted Police - a Javert - like enforcement of law, the utmost steadiness in trying conjunctures, yet without expectation or indeed understanding of special commendation therefor - courage without bluster and loyalty to duty without heroics. But to return, Upon the erection of Alberta and Saskatchewan into Provinces, any proposal to disband the Royal North West Mounted Police would have been stoutly opposed and they were simply continued by arrangement between the Dominion of the Province; so that in effect they were Provincial as well as Dominion police. Of course, during this period there was also a local constabulary in the several cities and towns, appointed by the local councils. The precise relation of these local forces to the Mounted Police is not capable of statement in a lawyer-like formula: their duties and responsibilities were concurrent and overlapping with patent possibilities of conflict. But the fact is that, so far as an outsider can judge, there was complete harmony and cooperation. So matters stood until 1914. Upon the outbreak of the War, many of the officers and rank and file of the Mounted Police wished to go overseas and were permitted to go and one complete regiment, exclusively made up of the Mounties, served with distinction in France. The force in Canada was thus greatly reduced in size and though never disbanded and though they continued and still continue to have general police powers in Alberta, yet their duties were and are mainly confined to border patrols, the detection of customs frauds, immigration matters and the control of aliens. The above changes in the mounted force rendered it necessary for Alberta to provide a general Provincial Police, and in 1917 was passed The Alberta Provincial Police Act.[1] It created a force, which was not to exceed 150 in number, under the management of a Board of 3 Commissioners, appointed by Lieutenant Governor in council. The chief active officer was to be a

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1. Chapter 4 - 1917.

superintendent appointed by the Board. The three-headed Board did not function smoothly and in 1919 an amendment abolished the Board and substituted a single Commissioner, who appoints and may remove all subordinates. Here again the relations of the Provincial Police to municipal forces is not susceptible of exact definition: about all that can be said is that they work in harmony. One section of the Act gives the Commissioner authority to demand from the local force all papers and documents in any criminal case and another section requires each municipality to provide the Commissioner with the names and addresses of its police officers.

A word needs to be said as to the strictly municipal forces. In the towns, the force, consisting usually of only a day and night constable is appointed and removable by the Council, and in the cities either by the Council or by the Commissioners in Calgary, Edmonton and Lethbridge. There is nowhere a civil service examination and nowhere may an officer demand a trial under judicial or semi-judicial forms. That this system may be preverted to the purposes of party politics is undeniable, but that it has not in fact been so prostituted is due to a sound and vigorous public sentiment on the subject. The sost of the municipal force in Edmonton has averaged over the past 4 years approximately $105,000 per annum, and in Lethbridge and Medicine Hat what seems the astonishingly small sum of roughly $13,000.

Municipal Police Courts. The foregoing topic leads naturally to that of municipal police courts. In the strictest use of terms, no truly municipal police courts exist in the Province. Broadly speaking, the Criminal Code divides all offenses into two classes, indictable offenses and those punishable on summary conviction. The former class may not be tried by one Justice of the Peace beyond hearing the evidence and deciding whether the accused should be held for trial or discharged; but two justices have full jurisdiction to try all indictable offenses (felonies as we would call them) with a few

specified exceptions. The Code[1] provides that in incorporated cities or towns of not less than 2500 people a Police Magistrate shall have the same jurisdiction as two Justices of the Peace: that is, they are competent for all classes of offenses.[2] Two such magistrates sit in Alberta, one in Calgary and one in Edmonton; though competent to try all grades of offenses, the writer is informed that their uniform practice is to commit the most serious cases to the District or Supreme Court. Both of these magistrates are appointed and paid by the Province, with these two exceptions there is nothing elsewhere in the Province resembling a municipal court.

(b). Fire Departments. The members of the fire departments are everywhere appointed and removable as are the municipal police. In the four larger cities there are full time, paid departments; in Red Deer and Wetaskiwin there is a small paid force and the balance of the fire brigade is made up if call volunteers, in the smaller towns, the force is purely voluntary. The Prairie Fires Act empowers the fire warden and local police officers to summon all able bodied citizens (with a few exceptions) to assist in fire fighting. Edmonton's annual expense for the fire department over the past four years has averaged approximately $148,000 - Lethbridge and Medicine Hat approximately $28,000.

(c). Public Health. In the field of public health, the purely municipal functions and the sphere of Provincial activity are so closely related and intertwined that it is a task of the utmost difficulty to separate them. As Provincial control and Provincial services to the municipalities in health matters will be specially dealt with later, the attempt is here made to isolate so far as that is at all possible, the health work of municipalities as such. Nevertheless it must be kept steadily in mind that municipal health officers and Boards merely execute, in the main, the broad policies laid down either by

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1. Criminal Code - Sections 773-777. P 8 et seq.
2. Instructions to Police Magistrates (Issued by Department of Attorney General)

the Provincial Health Act or the regulations of the Department of Health. Section 22 of the Public Health Act[1] provides that there shall be a board of health in every city, town, village and municipal district. In cities and towns which alone are required to appoint a special medical health officer it consists of the mayor, health officer and sanitary engineer (if any) and 3 ratepayers appointed by the council, while in villages and municipal districts the council itself constitutes the Board. Under severe penalties the board must be appointed not later than the third regular meeting of the Council; it must, before the third of each month, submit to the Provincial Board returns showing all contagious and infectious diseases and also, the vital statistics; it enforces the quarantine regulations and performs all disinfections; it is empowered to close all schools, theaters and other public places in times of epidemic. The Provincial regulations contain exhaustive provisions respecting food and drink, abattoirs, dairies and every conceivable form of nuisance, dangerous to health and all of these provisions the local boards are charged with enforcing. While the various municipal Acts and charters expressly give the local council power to pass by-laws touching these same matters, yet the Provincial code is so thorough-going and all-embracing that little or no occasion exists for it to legislate in this field at all. Any by-laws it may make inconsistent with the Public Health or Resolution of the Provincial Board are expressly declared invalid. In the country districts and small towns the work of the Board is naturally not very onerous. In Calgary, the Board employs three general inspectors, one meat inspector, two dairy inspectors, one infectious disease and baby welfare nurse and one fumigating officer. These positions are filled by the Commissioners on the recommendation of the medical health officer, who is himself appointed by the Council. In Edmonton the employees are the same as in Calgary, except there is one less general inspector. Though the ultimate responsibility to the Council rests solely upon the Board

1. Chapter 17-1910.

of Health, yet, for administrative convenience purely, in the larger cities part of the actual work is done by other departments under the Board's supervision. Thus in Calgary plumbing inspection is under the city engineer's department and garbage disposal under the Public Works department - both in close conjunction with and under the ultimate control of the Board. Upon its purely health service, excluding hospital grants, the city of Edmonton has averaged over the past four years an annual expenditure of nearly $18,000; Calgary nearly $19,000 and Lethbridge and Medicine Hat slightly less than $5000 respectively. No grants are receivable from the Province in respect of these expenditures.

(d). Hospitals. The hospitals in the six cities are created either by special Act or by charter provision or under the Public Health Act. The Edmonton hospitals are fairly typical of them all. They are managed by a Board of twelve of which the mayor is ex officio a member, nine members being appointed by the Council and the rest by the University Senate. The Board has the usual managerial powers: appointment of staff, care of property, etc. For original capital outlay, the city issued debentures, totalling for the three hospitals $908,980.00. Apart from the interest charges on this debt, the operation of these hospitals constitutes a very heavy, financial drain. In only one year for the past four have patients fees been sufficient to cover 1/2 of the annual operating expense and despite grants from the Provincial Government, averaging for the past four years something over $13,000 per annum, the city, in the same periods, has been obliged to make annual grants, averaging over $72,000. Assuming the whole debenture debt bears interest @ 6%, this makes an annual charge of slightly over $2.00 per capita for every inhabitant for hospitals alone. When subjected to criticism, as it constantly is, the Hospital Board replies that Edmonton is the center of a very large rural district, with inadequate hospital facilities - that patients present them-

selves, often in extremis giving no opportunity to make financial inquiries and that loss of fees is inevitable. They also point to the fact that the other cities of the Province are having substantially the same experience. The problem is admitedly a serious one and no one has yet been able to offer a satisfactory solution.

(e). Education. A previous chapter has pointed out the position of the School Board in the Alberta scheme, the manner of its election and its somewhat autocratic powers over the council in the matters financial - a point which J. A. Fairlie considers the distinctive difference between the American and British systems.[1] In a subsequent chapter will be shown the large measure of control exercised by the Province over local education. For the present, some figures as to the financial commitments of the cities for education and the theory and practice of the schools may not be amiss. In the year 1919 (the last for which a financial report is available), Edmonton's school buildings show in the capital account $2,742,964, exclusive of real estate, side walk and fences; salaries for general management, teachers and caretakers $512,964, while the total expenditure amounted to $996,637. With the exception of the Government grants of $67,198 all of this is raised by municipal taxation making a per capita expenditure of $14.50, lacking a few cents. In Medicine Hat for the same year, the joint demands for separate and public schools amounted to $182,413 or $16.58 per capita of population. In Lethbridge the average from 1913 to 1918 inclusive was $114,446 per annum[2]

Educational theory, as such, has no place here except in so far as it touches directly the schools themselves. Courses of study in Alberta, as might be expected in a new country, tend to be strongly objective in method and practical in purpose: even the dread word "vocational" (anathema is the humanist) has no terrors. There is a decided emphasis upon agriculture

1. Municipal Administration - p 204 - A. G. Fairlie.
2. Annual Auditor's Reports of the respective cities.

itself as a study and a decided effort to correlate scientific and mathematical studies with it. The school garden is an important part of the school and daily work in it is continued into the High School and this is true in the cities as well as in the country. Great stress is also laid upon manual training for the boys and domestic science for the girls and both are faced in the direction of farm life. In Calgary and Edmonton there are Technical High Schools whose diplomas admit to the University. The Junior High School movement is also well represented in both these cities.

(f). Libraries. Public libraries are established under the Public Libraries Act of 1907.[1] It provides that upon petition of at least 1/10 of the resident electors of the municipality, the council shall pass a by-law giving effect to the petition, but such by-law shall not be effective until voted upon by the electors, three fifths of whom must vote in favor. Control is vested by the original Act in a Board of five, appointed by the Council; by an amendment of 1909, the number was raised to seven in cities of over 15,000. Upon the request of the Library Board, the council is empowered to levy a special rate, not to exceed one mill on the dollar. The Province grants $300 annually in aid for books and $50.00 for magazines, provided the local Board expends a like sum for these purposes.

Edmonton has two libraries, one on each side of the River: its assets in the 1919 statement show at $115,583, which includes buildings, furniture and books. The 1919 levy for Library purposes was $20,000; it has approximately 40,000 volumes.[2]

Calgary has about 36,000 volumes, with a circulation in 1920 of 320,000 volumes. Its levy in 1920 produced $33.865.[3]

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1. Chapter 17 - 1907.
2. Letter from Mr. Hill, Librarian.
3. " " Mr. Calhoun, " .

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Municipal Improvements. Municipal improvements may be conveniently grouped under two headings:

Group I. Those made or maintained by public taxation, such as pavements, sewers, parks, etc.

Group II. Those maintained chiefly by charges upon service or consumption, such as water supply, lighting, street railways, etc.

Group I.

Parks.

Calgary has a park area of 627 acres.

Edmonton has eleven parks comprising 322 acres.

Medicine Hat has five parks, comprising 22.8 acres.

Lethbridge has four parks, comprising 320.8 acres.

Edmonton expended 6,727.56 upon her park maintenance in 1919. Lethbridge $8,614.79, this including a large tree planting project; Medicine Hat $4,701.39.

Sewers.

Edmonton has 155.27 miles of sewers.

Calgary 208 miles of sewers.

Medicine Hat a total sewer mileage of 35.67 miles.

Lethbridge a total sewer mileage of 39 miles.

Paved Streets.

Edmonton has 48.7 miles of paved street and 50.46 miles of concrete sidewalks.

There are no paved streets in Medicine Hat; there are 18 miles of concrete sidewalks.

Lethbridge has 1.57 miles of paved street and 39 miles of concrete sidewalks.

Calgary has 63½ miles of paved streets.

Group II. (Maintained chiefly by charges upon service or consumption.

This group comprises mainly the so-called public utilities and also a few other services, maintained partly by charges and partly by municipal grants.

Alberta is wholly committed to municipal ownership of these utilities: with the single exception of natural gas supply in Calgary (piped by a private company from Medicine Hat) all the utilities in the six cities are municipally owned and operated. Of the towns, the same is also true: the writer knows of only a very few towns in the Province that get their power or light from a private company.

The questions that naturally come to mind in this connection relate to the quality of service rendered, rates charged, condition of plants, and the financial results of municipal ownership.

(a). Street Railways. There are three street railways in the Province: In Edmonton, Calgary and Lethbridge.

Physical conditions in Edmonton are bad - very bad. The cars are delapidated in repair and antedeluvian in appearance. The roadbed is so uneven that a ride affords all the sensations of a sea voyage. Derailments and consequent tie up are frequent: the real marvel is that they are not more so. Service is at long intervals and very irregular. Nevertheless this extenuation must be borne in mind: owing to a variety of causes, the city is exceedinly scattered and money that might otherwise have gone into betterments has had to go into extensions.

Four green tickets, good at all hours are sold for a quarter: five yellow tickets(for workmen) good from 5 A. M. to 8 A. M. at the same price: school children ten for a quarter - cash fares ten cents. In the 1919 statement shows a capital value of $3,130,737.72, including land, buildings, track and equipment. The deficit for that year was over $59,674, but for the two pre-

Preceding years an average loss per annum of $153,231. The depreciation allowance for the past three years is at a rate, which roughly would require a 12 years further life for the plant - which can not reasonably be expected. In short, both from the standpoint of service and finance, the situation is thoroughly discouraging and unsatisfactory. That a growth of 20 to 25 thousand in the population of the city would cure most of the difficulties is believed on all hands, but till that occurs a heavy loss each year seems inevitable.

In Calgary, the street railway situation is altogether better. The physical properties are modern and in good repair and the service of a high order. Eighteen tickets are sold for $1.00, children's tickets are 8 for 25 cents.

In Lethbridge a rather unusual situation exists. The city covers a large area and the need of a street railway was badly felt. There was never the slightest expectation that it would meet expenses: with eyes wide open, the citizens installed the system, intending to pay and paying cheerfully its anticipated deficits. This has run to an approximate average of $30,000 a year for the past several years, The service and equipment are good; the fares charged are five cents for adults and half fares for children.

Other Utilities. In the city of Edmonton, the city owns and operates the following additional utilities: electric light and power, telephone and waterworks, all of which are operating at a profit. Summarizing the results from all the civic utilities, street railway included, the year 1919 showed a net surplus from operation of $910,110 which, with capital and depreciation charges deducted, left a net surplus for the year of $147,147.
The figures for 1920 are not yet available, but it is confidently expected that an even more favorable showing will be made. That this surplus was not obtained by making extortionate charges is evidenced by the following rates:

residence telephone $2.00 a month, office telephone $4.00: electric light charge 7½ cents per K.W. hour over the whole year, with a descending scale for large users.

The city of Calgary owns its Electric Light and Power Plant, Street Railway Waterworks and a municipal paving plant. The electric light rate is 7 cents per K.W hour, descending to 3 cents for consumption of 600 K.W hours per month. For power purposes the charge starts @ 2 cents per K.W hour and descends to 1.3 cents. Lumping all the Calgary utilities for the years 1918 and 1919, they show a net profit of $25.061 for the two years.

Lethbridge owns its waterworks which showed in 1918 an operating surplus of $53,291; its electric light and power-plants, showing a surplus the same year of slightly over $70.095. The city also owns and operates a coal mine for supplying coal to its several utilities. In 1918 it mined 12,579 tons which were supplied to the Power Plant @ $1.57 a ton.

In Medicine Hat, the electric light and power plant and the waterworks show a substantial operating profit, but after deducting fixed charges of all sorts, there was a net loss in 1919 of $1057 on the two. The natural gas department, on the other hand, showed the splendid net profit of $97,868.

Reviewing briefly all these figures, it is plain that municipally owned utilities are paying propositions in Alberta. Where the contrary is true, as in the case of the street railways in Edmonton and Lethbridge, special circumstances explain the deficits. But it by no means follows that municipal ownership would be as successful in the United States. There is no disposition on the writer's part to attribute necromancy, to the council system of government, without a watchful public sentiment behind it, that system would probably be one of the worst extant. But given the following elements: a sound public opinion, a small elected body, supreme in the whole field, with full legislative and administrative competence, unshared by others and with authority to appoint

and dismiss, and you have what seems a brief formula of good municipal government. It matters not by what name such a government is called, whether council or commission. Upon that foundation can be built successful municipal ownership and administration, as Alberta has shown. But to conclude therefrom that important public services, involving millions of dollars, can be safely confided to the tender mercies of city governments, organized along wholly different lines and unscrutinized by a watchful public opinion is bad logic and even worse policy.

Telephones. The experience of the Province with telephone systems merits a few words. In 1906 was passed an Act authorizing municipalities to establish telephone systems. Already in some places, private companies were in the field, in other places, the municipalities availed themselves of the Act. Nearly all of this construction, whether private or municipal, was haphazard, unstandardized and of the cheapest material.[2] It was no uncommon thing to see wires strung from ill assorted poplar poles, the wires themselves sagging nearly to the ground. This, of course, could not continue; gradually the Provincial Government took over one system after another, standardized and linked up the various lines and to-day the Province is fully covered by a highly efficient, government owned system. One single exception exists: the city of Edmonton has steadfastly retained its own system, has brought it up to a full parity of efficiency with the Provincial lines and has annually made a substantial profit on a reasonable rate.

Exhibition Associations. The Exhibition Associations with their Spring and Fall shows which are red letter days are an important feature of the life of the Province. In number, variety and excellence of agricultural and livestock exhibits, the shows at Calgary and Edmonton compare favorably with many of the larger American shows of the same sort: indeed many of the leading American breeders are regular exhibitors. The grounds are attractively

Chapter 31 - 1906.
2. The transmitter.

laid out and are open to the public without charge except during show week. The tan bark area of the immense Exhibition Building in Edmonton is converted into a hockey rink in winter - considered one of the finest in Canada, and the corresponding building in Calgary affords 13 curling rinks.

In the smaller cities and towns, less ambitious programs ane attempted, but it must be a very small town that hasn't some sort of exhibition Association, thoug the formality of incorporation is often dispensed with in these towns. The relation of the municipalities to these Associations is as follows: the city owns the grounds and buildings and rents them to the Associations. The Associations are incorporated either by special Act or under the general Companies Act their shareholders, subscribers more from motives of public spirit than hope of gain. Management is vested in a Board, the majority of whom are appointed by the City Councils and the rest elected by the shareholders. The Provincial Government as well as the cities make grants which, with admission fees and charges for concessions, make up their revenues.

Chapter VII

Municipal Taxation.

A comprehensive account of municipal finance in general would include a consideration of methods of assessment, management of sinking funds, manner of arriving at the rate, municipal expenditure and many other cognate topics. Plainly, in order to cover all these matters, a fair-sized book would be required. Accordingly it is here proposed to single out only municipal taxation and debt as perhaps the most interesting phases of the broader subject.

Whether one considers villages, towns or cities, one soon or late sees that the tax system of the entire Province pivots upon single tax theory and practice; that the period from 1905 to 1912 may be described as one in which the Province moved toward complete single tax, reaching its climax in the latter year, and that the period since 1912 represents a steady movement away from straight land taxation toward a broader base. But unfortunately from the standpoint of brevity, these changes as they affected the different classes of municipalities did not synchronize and differed in important detail and as between various cities, single tax principles were very differently applied. Consequently separate treatment is inevitable. Yet however when applied, the causative factors in the adoption of single tax were everywhere much the same, though the relative weight of the several factors is variously appraised. Henry George's works of course come instantly to mind and that they did prepare the ground is generally admitted. But the West is not doctrinare and few believe that anything so abstract as George's theories was the main factor. The influence of the example of Vancouver which by 1910 had entirely exempted improvements was powerful.[1] Vancouver was single tax: Vancouver was prosperous. But what was undoubtedly the strongest urge arose from local circumstances. Whereas generally buildings and improvements had been erected with local capital and were locally owned, a large amount of

1. Exemption of improvements from taxation in Canada and U. S. P. 197 by R. M Haig.

unimproved land was owned, and held for speculative purposes by Eastern Canadian and English capitalists and syndicates. If the land of absentee owners were taxed and locally owned improvements were exempted, there was the pleasing hope that almost the whole burden of taxes could be placed upon the unhappy shoulders of non-residents. In Edmonton in particular the large Hudson Bay reserve seemed a heaven-sent prey and it was there that single tax ran the full gamut. That this method of taxation might set in operation economic forces, capable of defeating the purposes of the taxation and baneful in other respects, was not realized fully till later.

Taxation in the unorganized Improvement Districts. As has been mentioned previously the affairs of these districts including taxation are administered by the Department of Municipal Affairs. The tax rate is fixed at 3½ cents per acre, except upon Dominion grazing leases where the rate is three-fourths of one cent an acre. These taxes are collected by the department and expended, under its supervision, upon necessary local improvements, chiefly roads.[1]

Taxation in Municipal Districts. Prior to the important legislation of 1912, it will be recalled that taxation in the local improvement districts was levied by the district council upon land exclusively upon an acreage basis not to exceed 7½ per acre. During the transition period from 1912 to 1918 when the former small improvement district disappeared, the chief source of revenue for the rural municipalities was a tax upon land at its unimproved value. This was supplemented by licenses taxes upon dogs, pool rooms, peddlers and a few other classes. In levying the above taxation, assessment was at the "Actual cash value, as it would be appraised in payment of a just debt from a solvent debtor", exclusive of any improvements. The rate upon this assessment could not exceed ten mills on the dollar. The Municipal District Act of 1918 did not change the basis of taxation

1. Report of Department of Municipal Affairs (1918) p. 7.

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which continued to be land at its unimproved value, but it allowed an alternative method of levying the tax.[1] The council was empowered to pass a by-law, subject to ratification of two-thirds of the voters at the next regular election, requiring the assessment to be upon an acreage basis--such acreage rate not to exceed ten cents per acre, except that a higher rate might be imposed to pay debenture coupons falling due within the year, or payments due upon district hail insurance projects. Though a ten mill rate is the authorized maximum, it seldom is necessary to levy so much The average for the Province for these municipalities in 1914 was 4.50 in 1914,[1] 4.99 in 1915,[2] 6.62 in 1918.[3] To give an approximate idea of the actual sums involved in these levies and their incidence upon resident farmers, the writer has taken the first ten names of districts in the Report of the Department of Municipal Affairs for 1918 and finds that the total taxes per resident farmer for these districts figure out at a few cents less than $30 for the year.

<u>Taxation in Villages</u>.[4] At the close of the year 1918, there were 110 villages in the Province.[5] It seems unprofitable to pursue the topic of village taxation to a date prior to 1900 when the single tax principle was made optional with all villages and so it remained until the Village Act of 1907. By this Act, before a Village could adopt the single tax system, a petition signed by two-thirds of the ratepayers had to be presented to the Minister of Public Works whose consent was necessary. By the close of 1911 about one-third of the Villages had voluntarily gone over to the single tax basis.[6] In 1912, the legislature, then at the height of its single tax obsession, made land the sole basis of taxation. But unadulterated single tax had a short career in the Villhages, for in 1916 an amending Act[1] permitted

1. Report Dept. of Municipal Affairs (1914) p. 8.
2. " " " " " (1915) p. 10.
3. Report of the Assessment and Taxation Commission (1919) p. 163.
4. Villages may not be incorporated into towns until the population reaches 700. (5). Rep. of Dept. of Mun. Affatrs (1918) p. 9.
6. Report of Assess. & Taxation Com. (1919) p. 165.

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Villages to levy a tax upon a 60% assessment of the actual value of buildings and improvements. It also permitted a business tax upon all persons carrying on a business trade or profession, based upon the annual rental value of the premises occupied. By the terms of the 1916 Amendment the right to levy the above taxes was to expire on Dec. 31, 1919, but long before that date the single tax theorists were in eclipse and the permission was indefinitely renewed. Up till 1917, the total rate had been limited to 20 mills on the dollar but in 1917 this limit was removed.

<u>Taxation in Towns</u>. At the close of 1918 there were 49 towns in the Province. In the case of towns, the optional form of single tax dates back to the Territorial Ordinance of 1897,[1] but prior to 1912 only a few towns had adopted the system. As has been previously explained, in 1912 the legislature abruptly made single tax mandatory upon the towns. The results of the policy have been thoroughly analysed by Dr. Murray Haig.[2] Though his studies took a very wide range, he wisely selected for intensive examination several small towns where conditions were notably static, thus excluding as far as possible new and disturbing factors in the equation. The first outstanding result observable was (as was to be expected) an enormous increase in the assessment of land values, in some cases tripling it. But mountain high assessments were not enough: in one town studied by Dr. Haig the rate was equivalent to 4½% upon a value of land.[3] The bottom fell out of real estate activity and real estate values and there began that tendency to allow tax arrearages to pile up which has since been the chief financial problem of Alberta municipalities. It was inevitable that these difficulties and embarrassments should be pressed home to the legislature and 1913 was started the series of amendments that

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1. Northwest Territory Ordinance (1897) C 70-s 139.
2. Exemption ofImprov. from Taxation in Canada & U. S. p. 79- Haig.
3. On this whole subject see Haig's "Exemptions". p. 129 et seq.

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have effectually undone the legislation of 1912. In 1913 a business tax, based on the rental value of the premises accupied with a 20% maximum was permitted, provided the Minister of Municipal Affairs was satisfied the town required additional revenue.

In 1916, in addition to the business tax which was now lowered to 10%, a tax upon buildings and improvements was authorized at the same rate as upon land, but such improvements were to be assessed at only 60% of their value. This authorization was limited to four years, but in 1918 the time limit was removed.[1] By an Act of 1919, a general personal property tax was authorized; only a few unimportant classes of personal property were exempted. It will be thus seen that with the exception of any income tax, the towns today have as wide a field for taxation as the cities.

Taxation in Cities. Chief attention will be centered upon Calgary, and Edmonton. In the latter city, single tax received its most thorough-going trial. In its original charter of 1904, buildings and improvements were specifically exempted, but provision was made for a poll tax, an income tax, a business tax and licenses. Without going into detail, by 1912 every one of these taxes had been abolished save only licenses, from which very little revenue was derived, and the land tax. With each of these successive abolitions of other taxes, the assessment upon land inevitably rose. Thus from 1912 to 1914, it went from 123,475,070 to $191,283,970.[2] It happened, however, that these mounting assessments coincided with a rising market for real estate and there was little complaint. In fact, land owners and speculators were not averse, as the high assessments lent official color to their own extravagant valuations and the guileless were deluded. But by the end of 1913, the crest of the boom in Edmonton had passed: from causes, quite

1. Supra.

1. Chapter 50, 1919- Sec. 14.

2. Haig, p. 92.

distinct from single tax, the realty market was sagging: the city was heavily in debt: the street railway was incurring large annual deficits; tax arrearages were reaching an alarming figure; and upon the top of all this the war broke. Rightly or wrongly, single tax became the scape-goat in the public estimation and beginning in 1917 the city secured a series of charter amendments, greatly widening the basis of taxation. At the present time lands and buildings are assessed, but the latter at only 60% of their value as measured by "the amount by which the value of the land is thereby increased." The city has also reverted to its old business tax, based upon the floor space used and the character of the business, the highest rate being for loan and financial institutions. Since 1918 there has also been a city income tax, under which the minimum of income exemption is the first $1000 and the maximum of $1500. The rate is on a sliding upward scale, reaching 8% on all incomes above $10,000. The tax levy in 1919 on account of business tax amounted to $180,677.30 and on account of income tax to $147,197.45. The total for the year was $3,701,763.47 made up as follows: 12.35 mills for general municipal purposes, 11.70 mills for debentures and 11.25 for schools. This works out at a levy of $56.08 per capita, as contrasted with something over $40 per capita for city purposes in Minneapolis in 1921.[1] The tax arrears at the close of 1919 amounted to the appaling sum of $7,280,739.

The tax history of Calgary will be briefly summarized. Its original charter provided for the assessment of both lands and buildings but in 1911 a charter amendment was secured, reducing the assessment in buildings to 50% of actual value and further providing that the council might annually reduce the assessment on buildings 10%, looking to its ultimate extinction. But in no year did the Council go below 25% of the value of buildings, for by the time the assessment had gone that low, the Province-wide reaction

1. Minneapolis Charter Problems p. 21(Put by Woman's Club of Minneapolis

against single tax had set in and 1918 the Council was authorized to assess buildings at 50% of their value.[1]

In addition to the above real estate taxation, the city is authorized to levy an income tax, but up to the present has not availed itself of this form of taxation. As in Edmonton, there is also a business tax. The assessment is made upon the full annual rental value of the premises occupied, businesses are then classified into three groups on which the tax rates are respectively 6,8 and 10% of the assessment. In 1918, the Calgary business tax yielded $156,854 or approximately 6.50% of the total. In the same year sundry fees and licenses provided 2.33% of the taxes. The total revenue collected that year amounted to $2,415,410. The total levy for the year was $2,491,392 which on an estimated population of 70,000 works out at a per capita tax of $35.59. The total arrears of taxes at the close of 1918 amounted to $4,539,718.

Medicine Hat continues to assess land on its value, exclusive of buildings and improvements, but its revenue is supplemented by a business tax similar to Edmonton's. The charter also provides for a poll tax of $10 upon every adult male, not otherwise assessed, resident six months in the city. The so-called "householder's"tax is unique among the cities of the Province. A householder is defined as the occupant whether as owner or tenant of any dwelling house, room or rooms for residential purposes. The levy is at the rate of 10% of the annual rental value of the premises occupied. The taxes levied in 1917 totalled $331,415[1] and in 1918, $220,347- an average for the two years of slightly more than $55 per capita.

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1. Report of the Assessment and Taxation Commission (1919) p. 179.

2. Rep. Dept. Municipal Affairs (1917) p. 15.

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Lethbridge, like Calgary, at no time went the entire distance of exempting improvements and buildings which ever since 1913 have continued to be assessed at one-third of their value. There is also a poll tax of $3 upon all persons resident for six months and not otherwise tax. One interesting novelty is the so-called "super-assessment districts", in which land, not bona-fide used for business or residence purposes, is assessed at a higher rate than its true real estate value would justify.

There have been various appraisals of the effect of the narrowing of the tax base in Alberta. Only one city, Edmonton, ever approached anything resembling a straight single tax; and it only for a short period; the other cities never at any time wholly exempted buildings and improvements and further supplemented their revenues from other forms of taxation. So that a real experiment in single tax was not carried out. Nevertheless everywhere there was a decided narrowing of the tax base, and the problem (perhaps one may call it the riddle) is to decide just what consequences, if any, can be laid to the door of the general policy. The difficulty, in short, is to isolate the tax policy from many other possible causes of the conditions of the past few years- a task further complicated by the fact that the cities differed widely from each other in size, in geographical position, in agricultural and other economic resources. Any one of these factors alone might be enough to explain present differences between the financial status of the several cities, without resorting to the method of taxation, as the cause. Nevertheless by excluding results of which there is not tangible evidence that taxation was the cause, a few reasonably certain deductions may be arrived at. In the first place, those persons (and they are many) who tend to blame the tax system almost exclusively for the depression that followed the years 1912 and 1913 and for the present difficult financial situation have little to base their views upon. Dr. Haig has collected a large symposium of the opinion of leading

citizens; some attribute large results to the tax system while others believe it had little to do with the subsequent depression and general dislocation. It is perhaps hardly fair to the believers in the causal effect of the system to require that they bring affirmative proof that the same situation would not have come about, even without the tax changes. Yet when comparative statistics as between cities that went the whole distance and those that did not fail to show any decided differential, one is at least entitled to say that even a prima facie case has not been made out. From this comparative statistical method, Dr. Haig states that he set out with "high hopes" of making a "statistical demonstration". The following phrases suggest his later frame of mind: "Not conducive to faith in this method of treatment"; "skeptical of the soundness of comparisons between cities"; " a purely inductive study would mean nothing more than an abuse of statistics;" "results attributed to the tax system could be explained on a half dozen grounds, equally plausible." Nor has anything happened since the date of Dr. Haig's work that tends to point the finger at the tax system; differences in prosperity and growth have continued, but these differences h have not taken a single tax cleavage. Today few would seriously maintain that the system of taxation was the main, or even an important factor in bringing on the depression. That it may have had some effect- that it probably did have some effect in an indirect way will be apparent from the following observations.

It seems beyond question that it was the immediate cause of the enormously tax arrearage which has long been a serious problem. The elimination or the reduction of taxation upon property other than land inevitably threw a heavy tax burden upon land. So long as land values were advancing at a rate to take up the extra burden, no hardship was felt and taxes were paid, but when the slump came, taxes began to fall in arrears. No doubt some

arrearage would have occurred under any system of taxation; but apart from the intrinsic probabilities that concentrating the whole of taxation upon one sort of property would overload that sort of property and cause default, the statistical evidence is all one way. Edmonton went the furthest in reducing the base and in Edmonton, tax arrears piled up fastest. In Calgary which went hardly half the distance, tax arrears at no time were anything like as large as in Edmonton.[1] Corroboration is afforded by Vancouver: in eight years of single tax, the arrears went from $179,296 to $5,750,000. The experience of Victoria was much the same. This arrearage was the starting point of a vicious circle: as arrears piled up, the cities starved for funds, had to increase the burden upon those who could and did pay and this turn accelerated the very process that was causing the trouble. The real property assessment in Edmonton went from $123,475,070 in 1912 to 191,283,970 in 1914; in Calgary, from $107,464,320 to $129,150,780 in the same period.[1] The breaking point was reached, the reaction took place, the base was broadened and in 1919 the real estate assessment in Edmonton had diminished from the mark of 1914 by $111,511,440 and in Calgary by $51,811,514. Yet the annual aftermath of arrearage continues: how large a fraction of those who default today trace the beginning of the burden under which they finally succomb to that early period could only be determined by a close study of the tax records and no such study has been made. There have even been proposals that the cities wipe the slate clean back of a certain date, but the difficulties of course are apparent. Other schemes have been suggested and some are being tried; suffice it to say that the collection of arrears today constitutes the main financial problem in the municipal life of the Province.

1. Rep. of Assessment and Taxation Commission, p. 215.

Note.

A considerable portion of municipal taxation is in the form of special frontage tax. The charter provisions of the six cities, respecting this form of tax, are almost identical, as are also the provisions of the Town Act; so that a general treatment will suffice. The term "local improvement is defined in thirteen paragraphs: Mention of only the more important would include sidewalks, sewers, boulevarding, conduits, etc. It does not include the mere maintenance and repair of these works during their originally estimated lifetime. The assessment is made upon the abutting property on the basis of lineal feet, each property bearing its pro rata at an equal rate. In the case of corner lots or parcels of unusual shape, if the lineal basis would produce an unfair or inequitable result, then the assessment must be varied to yield a just proportion. Benefited property not abutting but in the vicinity is also assessed an equitable share, having regard to all other parcels benefited. The charge is spread over the estimated lifetime of the improvement in equal annual instalments. The Council determines what portion is to be paid by the municipality at large and what by special assessments, and it also hears as a final Court all appeals from assessment.

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Chapter VIII

Municipal Debt

A consideration of the topic of municipal debt should include, as a minimum, the following matters:

(1) Current borrowings, repayable within the year.

(2) Debenture issues.

(3) Sinking funds.

(4) Debenture Debt Limits.

(5) Present actual extent of debt in the various municipalities.

1. Current borrowings. The charters of the several cities and the Town Act, Village and Municipal District Acts authorize the Council, after the passing of the by-law levying the taxes for the current year, to borrow against such taxes. The amount it may borrow in this way varies from 60% in the Municipal Districts up to 80% in some of the cities.[2] As a practical matter, it would seem probable, in view of the uncertainty of tax collection, that the Banks, themselves would put the brakes on, before this maximum limit was reached.

2. Debenture Issues. It has already been been several times pointed out that the power to issue debentures is subject to a double check: the approval of the Public Utilities Commission and the approval of the electors. In all the municipalities, the form of the debentures themselves is set out in the several Acts, and as already pointed out the countersignature of the Minister of Municipal Affairs renders them invulnerable to any legal attack. In all the municipalities, other than cities, the utmost period for their redemption is set at forty years.[3] Pending the sale of authorized debentures, they may be hypothecated for loans, which must be used for the purposes for which the debentures are issued, but the lender is not required to see to the application of his loan. Neither the Acts nor Charters set any limits upon these loans. In the case of

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1. Municipal District Act Part VI s225.
2. Charter Medicine Hat Title 26-38 - Edmonton Charter S 309.
3. The Munic. Dist. Act specifies the maximum period for certain classes of debentures.

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the Municipal Districts, debentures may not carry above 6% interest; just what protection this provision affords is not easy to see, because, if the going rate is higher, the debentures will simply have to be sold at a corresponding discount.

Sinking Funds. The legal requirements regarding sinking funds are practically in identical terms in the several city charters and in the general Acts. The Council is required to provide annually by way of sinking fund a sum, sufficient with interest thereon compounded yearly at 4%, to retire the debentures and any such sum shall be added each year to the amount of the other rates and taxes and collected along therewith. Failure of the Council to provide such sinking fund renders every member of the Council ineligible for holding municipal office for two years thereafter.[1] Diverson of sinking fund to other purposes renders those voting therefor personally liable for the amount so diverted. The law allows a wide field of investment for these funds - too wide, it would seem: it includes government and municipal debentures, including those of the issuing municipality, and also first mortgage on freehold real estate within the municipality. In the Town Act, this last investment may not exceed 1/3 of the sworn cash valuation of an independent appraiser ; in some of the city charters, it may go as high as 1/2 of the valuation. In Edmonton in 1913, $679,000 out of a total of $867,397.33 was invested in real estate mortgages or over 80%; in 1915, it stood at $1,151,419.60 out of $2,247,453.64 or over 50%; by the close of 1919, it aggregated only a little more than 20% of the total funds. This form of investment seems little suited to the purposes of a sinking fund: to say the least, it is not liquid and in case of a bad depression, it might cause serious embarrassment. In Lethbridge, not a dollar is invested in mortgages and in Medicine Hat only slightly over $22,000,

1. There is a saving clause for those who can convince a Judge that they made "reasonable effort" to procure levying of the rate.

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constituting less than 3% of the total. Edmonton's 1919 Financial Statement shows a gross interest earning for the year of $277, 245 which is at the rate of 5.16% on the total.

Debenture Debt Limits

The debenture debt limits set by the Acts and Charters vary widely: in the Municipal District Act it may not exceed 5% of the assessment, in the towns and villages, 20% is the limit, as it is also in all of the cities except Medicine Hat where it is 35%. The limit is set on the basis of the actual net debt. Debentures for local improvement are excluded, save the municipalities share thereof which is , of course, included. Nor are debentures, issued against the security of the various municipally-owned utilities, included. After excluding these, there must also be deducted any sums at the credit of the Sinking Fund, in respect of the remaining debenture debt. Thus to illustrate from the Lethbridge Financial Statement of 1918: the total assessment for that year was $19, 439,995 of which 20% would be $3,887,999. The total bonded debt, after the exclusions mentioned above, was $1,773,142.95. The Sinking Fund in respect of the remaining debentures was $348,471.49. Deducting this from the $1,773,142.95 above leaves $1,424,671.46. Now deducting this from the 20% figure above leaves $2,463,327.54 which was the city's unused and available borrowing power at the close of 1918. The above illustration was given in such detail, because, unless one attends carefully to the deductions and exclusions that have to be made, he would be sure to conclude, from the ordinary official reports, that all the cities are largely in excess of their debt limits or have reached the limit. Thus, the Report of the Department of Municipal Affairs for 1918 gives Lethbridge's debenture debt at $3,282,538 which on the 20% basis would leave it practically no further borrowing power, whereas (as has been seen) it has a borrowing power of nearly 2½ million dollars.

Actual Extent of Present Debt.

The municipal districts owe little; comparatively few of them have any debentures outstanding. In 1918, the average for all the districts having any debenture debt at all, was only $9585 each - a trifling sum for districts of such size.

The position of the Villages is also thoroughly sound. Many of them in 1918 had no outstanding debentures at all; the largest debt listed for that year was $14,200 which works out at only a little more than 6% of the assessment of the village in question.

No general statement can be made to cover the towns. A few samples may be suggestive. In the 1918 Report of the Department of Municipal Affairs there are five towns listed with a population of 500. In them, the average debenture debt works out at $100.30 per capita. But by way of showing the futility of this sampling method, there are 3 towns of 1000 listed in this same Report in which the average debt is only $3.31 per capita.

Turning now to the cities, we find an enormous growth in the debt of the two larger ones, coinciding with a period of very rapid growth. In the case of Edmonton this is brought out by the following figures: in 1901, the total debt on all accounts was only $92,080,[1] by the close of 1919 it had reached $25,316,884.[2] In Calgary, the total debt in 1905 was only $649,876,[3] by 1919 it was $22,875,967.[4] These are staggering figures, but they do not tell the whole story: in Edmonton, the school debentures in 1919 amounted to $3,374,230 and in Calgary to $2,656,966. While legally these are not debentures of the cities but of the School Districts, yet as the limits of the two coincide, the practical results are the same. These figures show the dark side of the picture: but it must be borne in mind that they represent the gross debt: that

1. Exemption of Improvements (Haig) 89.
2. Report of Department of Municipal Affairs (1919) p9.
3. Exemption of Improvements (Haig) p 112
4. Report of Department of Municipal Affairs (1919) p9.

is to say with no deduction for sinking fund and with all the debentures on account of local improvements and the valuable civic utilities included. Taken, however, at their face value, they represent a per capita debt of (excluding school debentures) of $383 in Edmonton and $305 in Calgary. But in order to show the true state of affairs some analysis of the above figures is necessary. Taking the year 1913, which is covered by Dr. Haig's researches, if local improvement debentures and utility debentures are excluded, there is left of the Edmonton debt $8,468,418 out of a total of $22,251,406. As suming that this general debt would share rateably with the grand total in the Sinking Fund resources, there would be a further reduction of roughly $311,800, leaving a net debt of $8,156,618. This works out at a per capita debt of approximately $136.

Coming to a later date, the net debt in Edmonton for 1919 works out at a per capita of about $143, in Calgary at about $118, in Lethbridge at about $147 and in Medicine Hat at about $140. These figures are very high, when contrasted with American cities. Taking American cities with a population of from 30,000 to 50,000, only two show a net per capita debt of over $100 - one of them is Galveston with $113.23. The average net debt per capita of all American cities between 30,000 and 50,000 is only $44.01 while the group between 30,000 and 50,000 is only $44.01 while the group between 50,000 and 100,000 averages $45.46.[1]

1. Report Department of Commerce - Bureau of Census (1919) p 97.

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Chapter IX

Provincial Services to and Administrative Control of Municipalities.

The problem as to what measure of local- autonomy shall be given by State, Province or National Government to its creatures, Municipal governments, is one that, in different countries and at different periods, has received varying solutions. Everywhere it is admitted that the local government has no inherent right to demand a given share of power: what it receives, it gets as a gratuitous donee of the central power that may give much or little in its own unlimited discretion. Just how large shall be the grant and the measure of subsequent control, therefore, rest not upon any supposed legal rights of the municipality, but upon maxims of policy and statecraft which guide the creating power in what it grants as of its grace and withholds as of its right.

It is, then, considerations of policy alone which may be supposed to influence the central government in its decision as to how much power it will give and how much keep. Efficiency, satisfactory governmental service, the common weal - these may be assumed to be everywhere the goal aimed at; but opinions differ as to how these ends can be best attained. Is it expedient to grant large powers or small to the local unit? Shall such powers as are granted be exercised under close supervision and checked by the central government? Moreover, governmental powers are of several sorts: whether the local unit be permitted to legislate for itself in certain matters is one question; it is another question how far it be permitted to execute or administer laws, made either by itself or the central legislature. Thus it is easy to see that two lines of division of power are possible: the State might retain important administrative powers in certain fields and grant wide legislative competence, expressed in so-called "home rule" charters. Stated somewhat differently, there might be considerable legislative decentralization, coupled with administrative centralization. Or, on the other hand there might

be only very slight power, of either sort delegated. Between these several possibilities, there is evidently room for considerable variety both as to quantity of power and that sort of power that may be given or retained.

The tracing of trends or tendencies in Alberta in this matter may perhaps be made clearer by a glance at the course of events in this field in England and the United States. In the opining years of the 19th Century in England. local government was at the zenith; its by-law power was considerable and the administration of the Poor Laws and health Acts was in the hands of local officials, uncontrolled by any central supervision By 1834. shocking irregularities and waste in the administration of the Poor Laws had led to the formation of the Poor Law Board; by 1848 the Board of Health had been created; in 1871, these two Baards were merged into the Local Government Board. Its powers are simply enormous, comprising among others the right to change municipal boundaries, to audit local accounts, to prevent borrowings, to order sanitary works, etc. In the realm of education, central control is exercised by the Board of Education, also with extensive powers. So that in England, it may be said that the central government has taken over, in the last half century, very extensive administrative powers, formerly exercised by the municipalities. In the United States, if one may generalize about States, the evolution has been somewhat different. In the main, the municipalities have gained wider legislative powers, as is evidenced by the fact that States have adopted constitutional provisions, permitting "home rule" charters. Parallel though with this, there has been a considerable growth of State administrative Boards, though they are fewer in number and far weaker in power than the English administrative authorities. Alberta occupies a sort of middle ground between England and the United States. There has been no development there in the legislative field at all corresponding to the American "home rule" movement, but in administrative control, the province has gone much further

further than American States and not so far as England.

The four great repositories of Provincial control are the Department of Municipal Affairs, Department of Health, Department of Education and the Board of Public Utility Commissioners. The first-mentioned are presided over by Cabinet Ministers; the last mentioned is composed of three members, appointed by the Lieutenant Governor in Council, with a term of ten years.

Department of Municipal Affairs. As already mentioned, this Department was created in 1912,[1] taking over the functions theretofore exercised by the Minister of Public Works and the Tax Commissioner of the Department of Public Works. These functions, duties and powers were (and still are) mainly defined by the several municipal Acts, so that nearly all the powers of the Department must be sought for separately in these various Acts. In fact apart from the necessary powers, incident to the organization of the Department such as appointment of inspectors, clerks etc. and certain highly important powers with respect to municipal bookkeeping, the original Act conferred no distinctly new powers upon the Department.

The actual work of the Department starts with the very birth of new municipalities. Small communities, desiring to become villages - villages desiring to become towns - petition the Minister, setting forth their compliance with the requirement of the appropriate Acts and thereupon the Minister proclaims them such in the Alberta Gazette. From this Proclamation dates their municipal existence. Thereafter, any change of name is likewise through the Minister, similarly published. The boundaries of the rural municipalities (legally "Municipal Districts") were fixed, it will be recalled, by the original Act, but the Minister was given power to sever any portion of such districts and annex it to another and to alter and adjust the boundaries of coterminous municipalities[2] - and this without the petition or consent of the districts concerned. Nor is this change provisional upon the approval of the

1. Chapter 11 - 1911-12.
2. Section 38 - Chapter 3 1911-12.

legislature as is the case with the similar power of the Local Government Board of England. Unfortunately the too brief reports of the Department are silent as to any actual exercises of the power, nor does thd writer know personally of any such instances. But it is conceivable that situations might easily arise when the public interest would be served by boundary changes which possibly could not be amicably arranged between the districts themselves. This power does not lend itself to gerrymandering, as the electoral divisions for both Provincial and Dominion purposes do not coincide or bear any relation to municipal areas. In the case of towns and villages, adjacent land owners may, with the consent of the council, be annexed to such municipalities by the Minister and he may also annex adjacent lands, without the consent of the

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Section 38 - Chapter 3 - 1911-12.

owners, upon the petition of the Council.

These differences as respect boundaries and annexations[1] illustrate clearly some important divergencies between Canadian and American law and practice. In the United States, changes in municipal boundaries and municipal annexations would be made either by the Legislature itself directly or upon petition of the districts interested. Being a legislative power, the Legislature could not delegate its exercise to an individual, unless indeed under an Act in which the manner of the exercise were so prescribed and described as to render its execution merely ministerial. In Canada, on the other hand, no such constitutional difficulties exist: The Minister alone can act, without special authorization by the legislature and (usually) without consulting the wishes of the districts concerned.

The Department is given by the original Act wide control over municipal bookkeeping, including the right of audit and the power to prescribe standard forms and uniform methods throughout the Province. The books of every municipality in the Province are inspected not less than once a year by Departmental inspectors and more frequently if the necessity exists. In the event of an unfavorable report by the Inspector, as to the state of the municipal books, the Minister is empowered, on his own motion, to dismiss the treasurer. The Reports of the Department contain no record of any such removal: it is probable that the mere possession of the right is sufficient. This audit power extends to the cities, but all the cities maintain an independent audit by chartered accountants and the writer is informed that the Departmental inspection and audit of city books is largely nominal. In addition to this general supervision of bookkeeping, the municipalities are

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1. The Acts make no provision for annexation of one municipality by another. In the only case in which this was done (Edmonton and Strathcona) a special Act was passed.

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required to transmit to the Minister a return, whenever debentures are issued, indicating what provision is being made for sinking fund and how it is to be invested. It has already been mentioned that it is this Department whose counter signature renders debentures unassailable in the Courts.

The Department's other functions are rather miscellaneous in character. As has been frequently mentioned, it conducts all the affairs of the so-called unorganized districts, including the levying, collecting and expending of taxes. The district program of improvements is laid out upon the advice of the district inspector and contracts are let by him, subject to the approval of the Minister. The Reports of the Department indicate that a major portion of its time is occupied with this work for the unorganized districts.

The Department also does a large amount of advisory and consultative work for the various municipalities. It acts as a sort of clearing house for knotty municipal problems and its services in this connection are constantly requisitioned by municipal officials seeking advice. In the case of newly formed municipalities especially, this service must be of great value.

Such are the activities and powers of this Department. There is not, so far as the writer knows, in any State an Administrative Board having similar powers as to municipal boundaries or annexations or one charged with general supervisory control of municipal bookkeeping. This last seems a salutary power: it is admitted on all hands that uniformity makes for clearness and reduces the likelihood of peculation as does also the annual audit by a Provincial official. It keeps the Department informed of the status of municipal finance and the knowledge that the Department is so informed reacts on the local authorities. In so far as it has these results, the system seems clear gain.

Section 6 - Chapter 11 - 1911-12.

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Department of Health. The public health is peculiarly s subject in which State or Province at large is interested and in which any supposed local right to pursue a course of its own choosing must give way to the larger public safety. Accordingly it is not surprising to find that Governments, State and Provincial, exercise here a wide control, both legislative and administrative, over the local units.

The Alberta Department of Health is presided over by a Cabinet Minister, who appoints the Provincial Board of three members, consisting of the Provincial medical health officer, sanitary engineer and bacteriologist. Its powers[1] are defined in 38 sections and the very exhasutive enumerations of these sections is declared not to be taken to curtail or limit the generality of its power to make "orders, rules and regulations" regarding the public health. As a matter of course, the enumeration of its power to make regulations includes (to mention only a few of the more important subjects) the collection and tabulation of vital statistics, interment, quarantine, milk supply, garbage disposal, slaughter houses, etc. These regulations, when published in the Alberta Gazette "shall have and be deemed to have the force of law and be so recognized by all courts![2]" Pursuant to this legislative power,[3] the Board has promulgated a whole code of regulations, embracing every conceivable topic, touching the public health. Thus, the topic of "Nuisances" occupies three printed pages - définitions, steps to be taken by local authorities, reports by them to the Provincial Board, and the power in the Provinsial Board to suppress at the expense of the district, if the local authorities have been inactive. "Dairies and Milk" occupy five pages - even the specific gravity, fat and solid content are specified - a uniform milk standard for the entire Province. Waterworks and sewer construction are under the control of the Board; they may not be

1. Chapter 17 - 1910.
2. Ibid - Section 8.
3. In describing similar powers of the Local Government Board, Maltbre prefers the term "quasi-legislative". The ground of the distinction is not very clear.

built, altered or extended without the written consent of the Board, approving the proposed plans. In 1919, thirteen such sets of plans were examined, by the Board various changes and improvements suggested, and the plans as amended approved.[1] The rules of the Department respecting such municipal works occupy 11 pages and contain minute specifications as to size of pipe, grades, etc. These are only a few illustrations of the large field covered by regulations of the Board.

Plainly, the power to make regulations would be fruitless, unless coupled with an inspection system which saw to it that the regulations are obeyed. The Department keeps from three to five inspectors constantly on tour. In 1919, two hundred and sixty seven municipalities were inspected and conditions were such in 119 places out of this number as to warrant a follow up inspection. Growing out of these follow-up inspections, the Board laid fifty one informations and secured forty nine convictions in cases where their previous warning and instructions had been disobeyed.

What relation does the Provincial Board sustain to the local health Boards? In the main, it need hardly be said that the ordinary routine of health work is discharged by the district officials. Seeing that the central Board is invested with such large powers, it would almost inevitably follow that the local officials would not oppose their wishes or plans. The Reports of the Department contain no hints even of any such clashes. Should disagreements arise, however, there can be no doubt as to the paramount position of the central Board: it may investigate whether the local officials "are taking efficient measures" and if in its opinion they are not, it can "require the local Board "to take such measures as" in the opinion of the Provincial Board the urgency of the Case demands!" Should the local Board fail or refuse so to do, the central body may itself put into effect such measures at the expense of the municipality.

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1. Annual Report 1919.

In addition to its work in formulating the health code of the Province and seeing to its enforcement, the Department is active in many other lines of health work. It conducts a Public Health Nursing Branch which maintains three qualified nurses for maternity work in outlying districts. It also has a corp of nurses engaged in public school inspection, reporting children with adenoids, diseased tonsils, etc; during 1919, this Branch inspected 1260 schools. These nurses also deliver school room talks and public lectures upon health topics. The Department also maintains a laboratory service for experimentation with serums and vaccine and for the analysis of suspected drinking water, food products, patent medicines, soft drinks, etc. In 1919, a total of 1074 such analyses was made. It further maintains public health exhibits at the leading Fairs, aimed toward educating the public in sanitation and hygiene. Aided by a Dominion Grant of nearly $12,000, the Department inaugurated in 1919 a vigorous campaign against venereal diseases, the program including free clinics in three cities, free dispensary for necessary drugs and the compulsory treatment of inmates of jails and penetentiaries.

Department of Education. The Minister of Education has the "administration, control and management" of the Department of Education; the Department has the "control and management" of all "kindergarten schools, public and separate schools, normal schools and teachers' institutes."[1]

As might be expected, the Department's powers are broadly defined: there four general sections, one of which has four subsections and another has eleven. It is proposed, in the following paragraphs, to select for treatment the most important of its powers, thus derived, and to note specially the actual manner of the exercise of such powers.

[2] It is given the power to make regulations, touching a very wide range

1. The School Ordinance (Chapter 29 of 1901 and Amendments) Office Consolidation. Section 3.
2. Section 48 of School Ordinance (Office Consolidation)

of subjects: the actual enumeration of these subjects occupies four sub-sections. Yet it is worthy of remark that its General Regulations are very brief, occupying only five pages and touching in only the most general way such topics as "school grounds", "minimum school equipment", "school libraries." Whereas the Health Department may be said to have directly created itself by its own "regulations" almost the whole body of Provincial health law, yet in the case of education there exists a large body of statute law and the field left for Department "regulations" is comparatively small. The reasons for this difference of policy may perhaps be fairly accurately surmised: whereas the average legislator would feel himself fully competent to legislate about education, yet he would doubtless feel that health matters should be left to real experts. Moreover the health code would be felt to be one that ought to be elastic and capable of ready change to meet sudden emergencies and hence ought not to be written upon the statute book, thus becoming incapable of change except during legislative sessions. It is in fields, other than making general "regulations", that the real sources of its power and control must be mainly sought.

[1] In the matter of the alteration of school district boundaries, whether by adding to them, subtracting from them or dividing the, the powers of the Minister are absolute.[(1&2)] This may, at first sight, seem a large power, but one would be inclined to suppose that it could hardly be a power from which great practical consequences would probably flow. It is not infrequently used, however, as a means of bringing recalcitrant districts into line with policies that the Department deems wise for the district concerned: the threat that territory will be lopped off and the tax area reduced, thereby increasing the tax burden upon the remaining area, is naturally an effective one. This power

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1. For footnote (2) see separate page.

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has been so used. Naturally not a word of such use of the power could be expected to be found in the Department's Reports and none can be so found. But the writer knows, from personal experience, of several instances in point-instances where the Department had in view consolidated schools for the districts in question, was opposed by one of the districts, and where an intimation reached the obstructionists that unfavorable boundary action by the Department would follow continued opposition. The writer holds no brief for the political morality of such a course, but in the face of obstinate and illiterate opposition to forward-looking plans for the district, not much casuistry is needed to make out a good case. Except in cases like the above, boundary changes (though frequent among a new and shifting population) are made solely for reasons, looking toward more effective administration, with due regard to all equities.

3 <u>Audit.</u> The Department audits the books of every village, rural and consolidated school district at least once in each year, charging a fee of $5.00 to the rural districts and $10.00 to the village and consolidated districts. In town districts, the town auditor makes the annual audit, free of charge. In cities, the Board provides its own auditor.

4 <u>Inspection System and Conditional Grants in Aid.</u> The Department employs a corp of full-time inspectors - always University graduates, frequently men who have taken graduate degrees, and always men of large actual experience in teaching. Their duties are quite various. Primarily, theyare educational standards. Each school is inspected at least once a year, the inspector reporting minutely to the Department upon school discipline, demeanor of teacher, skill in questioning and in presentation and whether the general average of the classes is up to the required scholastic standards. These Reports are upon standard forms, furnished by the Department. In addition to purely educational

matters, the report covers general physical condition of the school plant, sufficiency of heating, adequacy of equipment, etc. If he deems it advisable, the Inspector is empowered to call a special meeting of the ratepayers to lay before them matters needing their attention.[1] He is also entitled to demand access to all books of account and minutes of the local Board.[2]

The importance of the Inspector's reports can not be realized till it is understood that, upon the nature of his report, hinges the amount of grant the district receives from the province. There are a few grants paid by the Province absolutely and at all events.[3] But many of the grants are conditional upon and proportionate to the grading given the school in the Inspector's report. Thus there is a grant of ten cents a day, to all rural schools that have attained at least a minimum grading "in respect to grounds, buildings, equipment, government and progress", with a sliding scale up to fifteen cents a day, depending upon the grading given the school by the inspector. In urban schools, there is likewise a grant, ranging from three cents to five cents per teacher per day, depending upon the inspector's grading. There are also numerous special grants given for approved courses in science, agriculture, household economics and commercial work, where a favorable inspector's report is a prerequisite. The effect of these provisions is two-fold: to increase the importance of the inspector in the eyes of the school community and to render them attentive to his advice: to stimulate effort to earn a high grading in efficiency, with its consequent financial reward.

<u>Uniform Texts and Uniform Examinations.</u>[5] The department prescribes the text books which are uniform in all the schools of the Province.[4] In the so-called "examination grades", it also sets uniform examinations for the whole Province. In the grades below Grade VIII, there are no departmental examinations; such tests as are conducted are given by the teachers in charge and the

1. School Ordinance. Section 80.
2. School Ordinance Section 97.
3. Such as the $15 grant upon the creation of the district and the per diem grant for every day the school is kept open under a qualified teacher.
4. See separate page.

papers are marked by them. Until 1920, all Grade VIII pupils wrote upon uniform examinations prepared by the Department using an assumed name or a symbol for identification. These incognito papers were graded by a large board of examiners, appointed by the Department from among the most competent teachers in the Province. In 1920, however, certain changes were made, whereby teachers might "recommend" competent pupils for promotion; those not so "recommended" had to write. In the High School grades, the same system prevails, except that in Grades XI and XII, all have to write. The points to notice are that the Department sets all the examinations, that they are uniform throughout the Province, that papers are submitted under an assumed name and that a special board of examiners, appointed by the Department, grades all papers.[1]

For thé purposes of contrast of the extent of central control in Alberta and the United States, Minnesota may be selected as being one of the States that has gone a considerable distance in that direction. In the field of education, Alberta has gone beyond Minnesota in its adoption of central administrative control in the following respects:

1. In the wider power over school boundaries, given the central authority.

2. In audit.

3. In the application of the principle of making grants contingent upon and proportionate to school efficiency, as rated by the inspection system.[2]

4. In the power to prescribe uniform texts and courses of study and to set uniform examinations.

The Board of Public Utility Commissioners. The powers of this Board, so far as they relate directly to municipalities are of four sorts:

[1] First and most important, the power to refuse its consent to the issue of debentures by municipalities and school districts, its prior consent

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1. See separate sheet.

2. " " "

to such issue being prerequisite.[1] Not only does it authorize or decline to authorize the issue, but it prescribes the terms as to interest rate and maturities.

[2] Second, it supervises all contracts between municipalities and public service corporations, its approval being required as to length of franchise, rates, and quality of service.

[3] Third, it has power to cancel in urban municipalities, subdivision plans, when in the opinion of the Board this is advisable. Where purchasers of lots are obdurate and refuse to sell, the Board may vest their lots in the owner of the sub-division and award the purchaser the fair value of his lot.

[4] Fourth, it has power to remove from urban limits and urban taxation property that in its opinion is not truly urban but agricultural.

These powers and the manner of their exercise require some explanation. The requirement that debenture issues first receive the approval of the Board has undoubtedly put a decided check on borrowing. But unfortunately it it impossible to determine just how many applications the Board has refused, owing to the fact that the Board does not disclose the instances when it rules adversely. The reason for this reticence is based upon the idea that publicity would adversely affect the municipality concerned and municipal credit in general.[2] Its Reports, therefore, contain no record save of its approval of issues. Taking the 1919 Report as fairly typical, it sanctioned 197 issues by school districts and 27 municipal issues. Though no figures are available, for the reasons given above, as to rejections, yet it is well known that there are many such every year and moreover that many districts are deterred from even making application by the knowledge that the Board is exceedingly conservative.

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1. Section 86 - Public Utilities Act (1915).
2. Similarly, in its administration of the Sales of Shares Act, it divulges no particulars and for the same reason.

In its 1919 Report[1] the Board delivered itself as follows: "many of the towns and villages of this Province have already a very high tax rate, and the Board has required to be shown in these cases that the increased burden of taxation can be met without becoming too burdensome to the ratepayers."

The Board's power to regulate public service franchises as respects rates, quality of service or any other part of such contract which it deems unjust or oppressive is not nearly so important or frequently exercised as would be the case with a Board of similar power in the United States. This is due to the fact that the great majority of such services are, as has been pointed out, municipally owned and as such are explicitly excepted from the Board's jurisdiction. Nevertheless in 1919, it dealt with six applications for its approval of contracts between municipalities and public service corporations. The most interesting of these cases was one in which was raised the question of the Board's jurisdiction to grant an increase in rates - a question that the Board answered in the affirmative. Upon this point the Board was reversed by the Appellate Division and an appeal was taken to the Supreme Court of Canada.[2] The appeal was still pending at the date of the last Report issued. Unless this decision is reversed,[3] it would seem that the Board's usefulness would be greatly impaired: it is as desirable that it have power to raise rates, in proper cases, as to lower them. In the other five applications dealt with in 1919, the Board approved the proposed franchises, with one or two slight modifications. But it must be understood that even when the Board approves, this does not remove the Corporation from the continuing supervision of the Board; rates approved to-day may, with altered conditions, be changed shortly after being granted. "In the first place" says the Board, "the Board's approval as to rates is not to be considered as in any way affecting its

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1. Page 4.
2. Annual Report for 1919 - p3.
3. Of course, the Act could be amended.

control over the rates of the utility which must, in accordance with the policy of the Public Utilities Act, always remain under the jurisdiction of the Board and subject to change upon complaint being made and after investigation has shown the Board that the rates in the agreement are unjust and unreasonable."[1] In short, each order as to rates is strictly _pro tempore_ and subject to revision at any time.

The Board's two other chief powers may be briefly described: namely, its power to cancel subdivisions and to remove agricultural land, though within urban limits, from city taxation. Both of these are the aftermath of the days of wild real estate speculation. Frequently, the purchaser of a few lots in a wheat field (known as a "subdivision") has refused to sell and effectually prevented the land from being cultivated. In such cases, the Board is authorized to divest the obstinate holder by awarding him the fair value of his lots. Somewhat similar is its power to remove farm lands, which in boom days were included within city limits, from city taxation. With both these classes of cases, the Board has frequently to deal each year: in 1919, it ordered 20 cancellations and made 11 separation orders.

Gauging the totality of the Board's powers, it is plain, that it covers fields not included in the scope of the activities of American utility commissions. As respects its control of public service corporations, the Alberta Act is almost identical in terms with the Acts of a number of the American States[2] and the Board's power much the same. But its unlimited discretion as to municipal debenture issues has no counterpart in any of the American Acts nor, for obvious constitutional reasons, its power to order cancellations and separations.

Conclusion. As each of these several Departments has been passed in review in this chapter the effort has been made to point out the respects in

1. Order No 865 (19th Feb. 1919) Annual Report 1919 - page 11.
2. See comments of Board as to similarity - p 6 Report 1919.

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which Alberta has carried further than American States the principle of central administrative control. Has it done well in doing so? Is there anything to show that the system is a desirable one, which might profitably be extended further in the United States? One class of argument for an affirmative answer to these questions is of a very general nature and (it must be confessed) not particularly satisfying: namely, such arguments as the probability that the central government could afford to employ higher proced officials than the local governments, that it would coordinate the whole field of health or educational activity, that its vision of needs would be longer and more expert.

One does not like to rest the case upon these wholly a priori arguments; one could wish that some objective criteria could be set up, to which the results of the system could be brought for definite testing. Yet no sooner does one such criterion suggest itself than it appears wholly insufficient. Relative expense cannot be made a proper basis of comparison or testing - an educational system may be enormously expensive and yet be cheap or conversely, the cost per pupil may be very small, yet the system costly and inefficient. Till the "products" of the system are standardized and capable of quantitative and qualitative valuation, it seems worse than useless to apply cost statistics to education as a basis of comparison. In the health field, one is inclined to turn to mortality statistics for some guidance: the 1919 rate per thousand in Alberta was only 9.34. Yet it would be only a waste of words to point out that unless places identically situated as to climate, races, occupation of people were compared, the results would be valueless. One or two epidemics in no wise attributable to health administration could throw out of line percentages for a number of years, and while such fortuitous factors would tend to balance each other over a very long period of years, yet plainly decades of statistics would be needed for reliable conclusions. Has the supervision of the Utility Commission enabled municipalities to borrow at a lower rate? One can readily

believe that its approval of the loan has weight with Eastern capital, yet it would not be easy to prove the point, statistically or otherwise. Does the signature of the Minister of Municipal Affairs to debentures, rendering them proof against legal attack, enable the municipalities to market them at a better price? Common sense would have no doubt as to the answer; but proof is a different matter. World markets, world interest conditions would have to be allowed for - a task for a highly trained financial specialist.

Reluctantly, then, the writer is forced to rest the case for central administrative control upon those general considerations already suggested; as to whether they are either trustworthy or sufficient reasons for adopting the system widely, opinions may differ. Alberta has been a leader on this continent in the movement; she believes it is an economical and efficient system, but her experience with it is not yet long enough to furnish unanswerable statistical data in substantiation of her faith.

Foot-notes.

Foot-note (3) P 78. General Statutes Minnesota S2677 prescribes that school boundaries may be changed upon petition to the county board by a majority of the freeholders of both districts.

Foot-note (4) P 80 In Minnesota, the local Boards "prescribe text books and courses of study." General Statutes of Minnesota (1913) S2746.

Foot-note (1) P 81. This enumeration is by no means complete; only the more important powers have been selected for comment.

Foot-note (2) P 81. The allotment of State aid in Minnesota is quite complicated, but for the present purpose it seems enough to say that the grants are not squarely conditional upon and proportionate to efficiency gradings as in Alberta.

"Outline of the Government of Minnesota" p 27 et seq

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